

REPORT OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 1999

GOVERNMENT OF MADHYA PRADESH

NO.1
(REVENUE RECEIPTS)

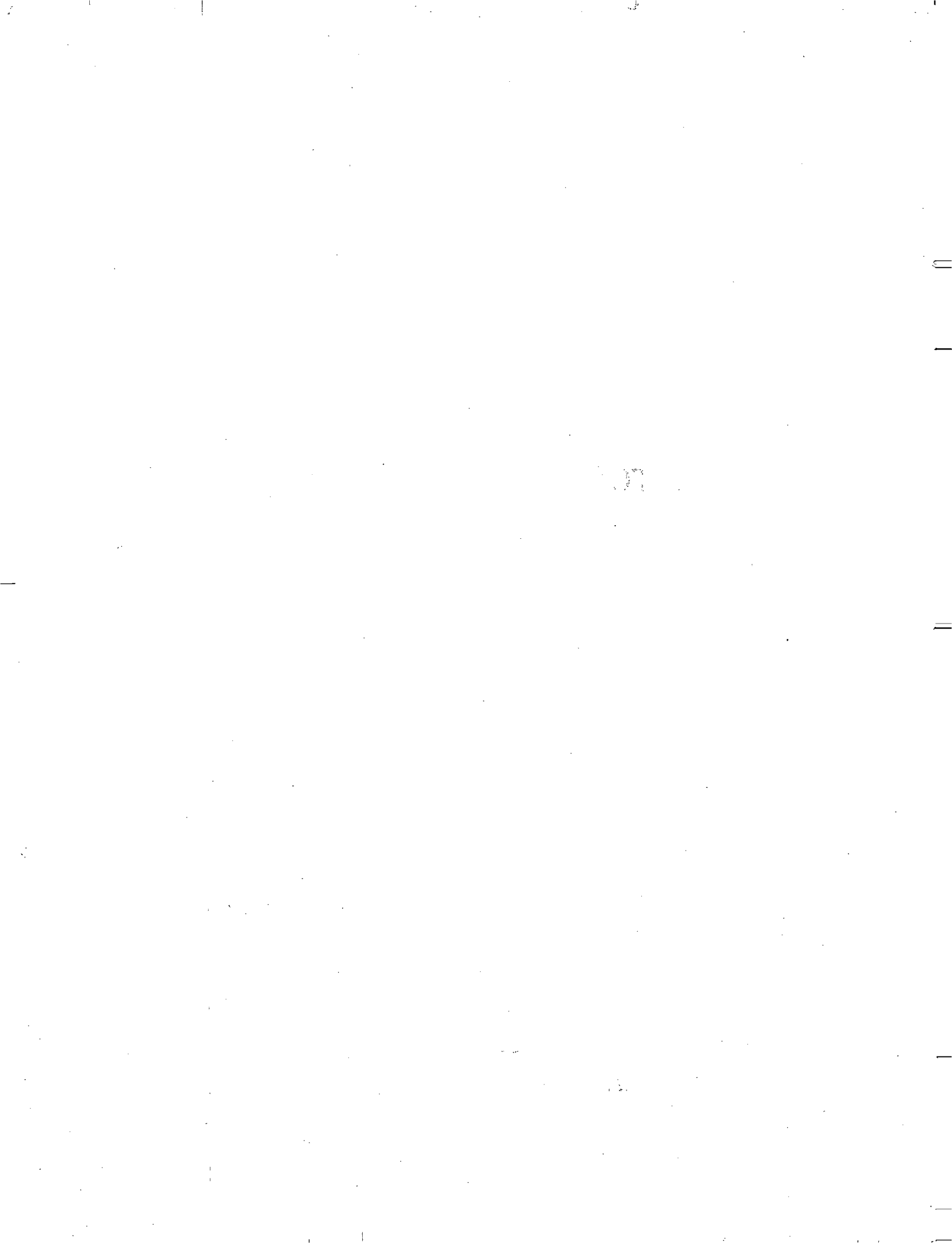


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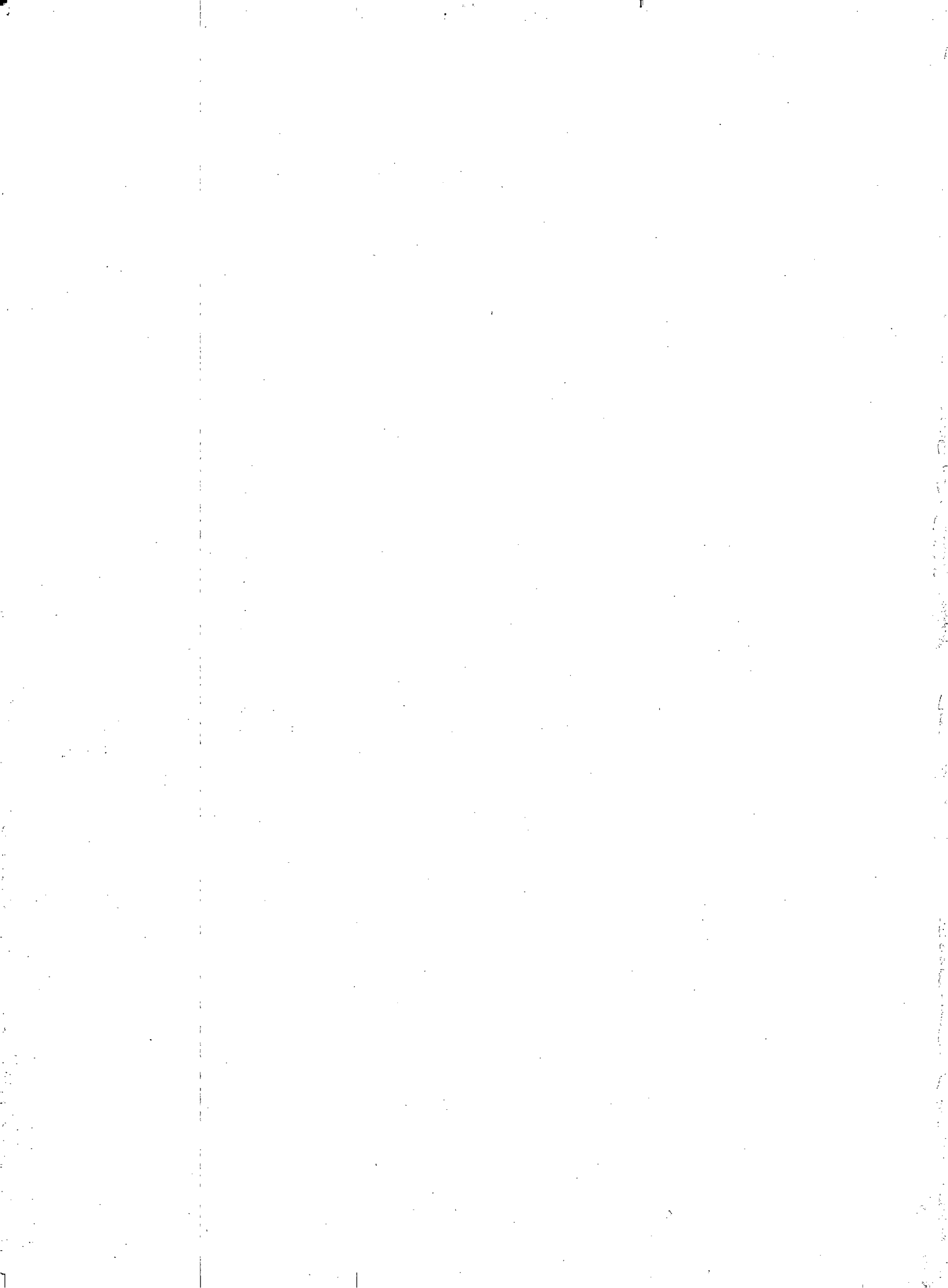
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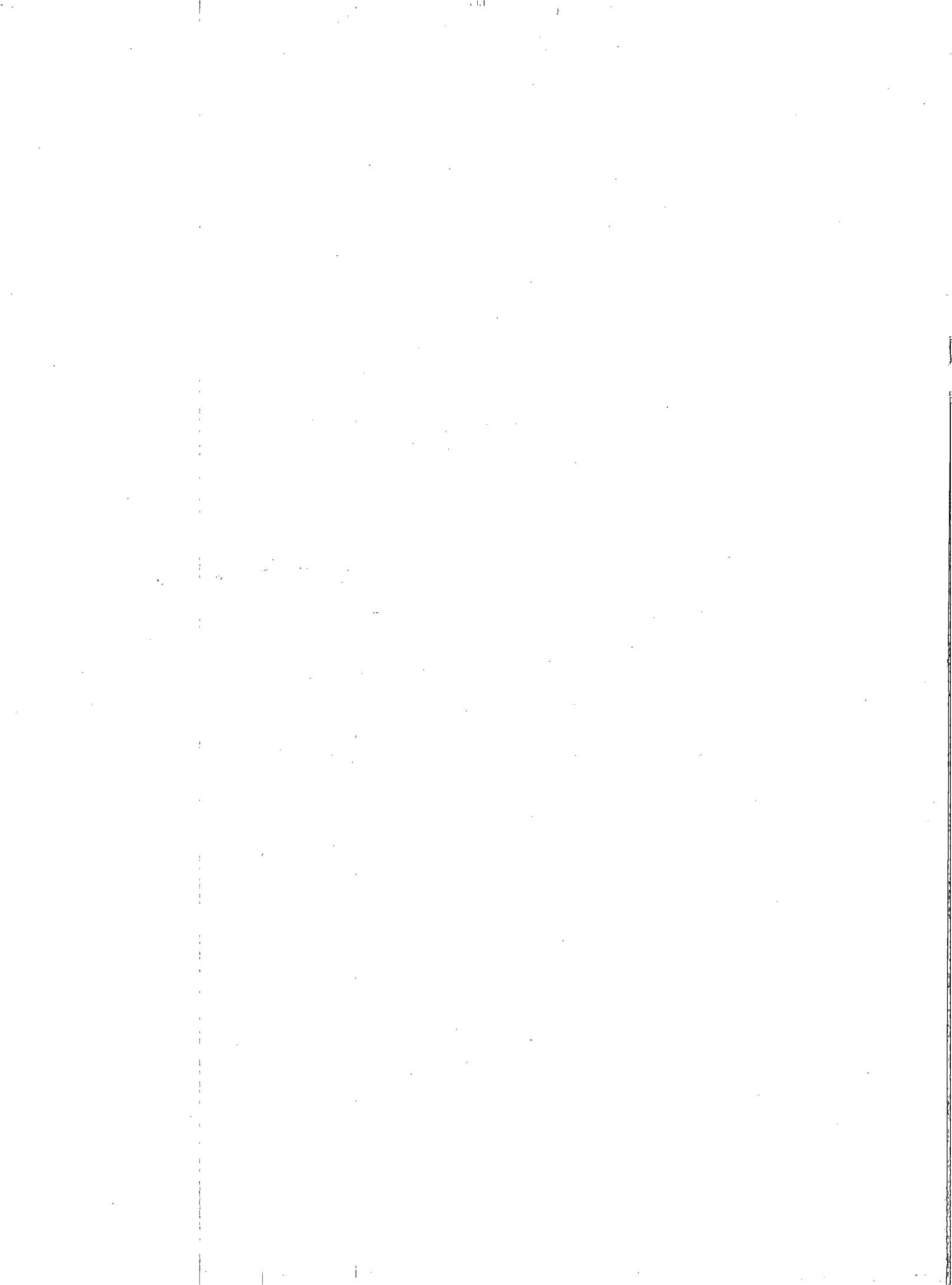
PREFATORY REMARKS

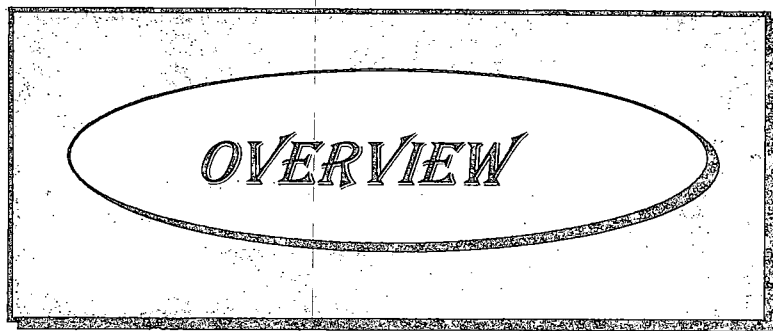
Prefatory Remarks

This Report for the year ended 31 March 1999 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

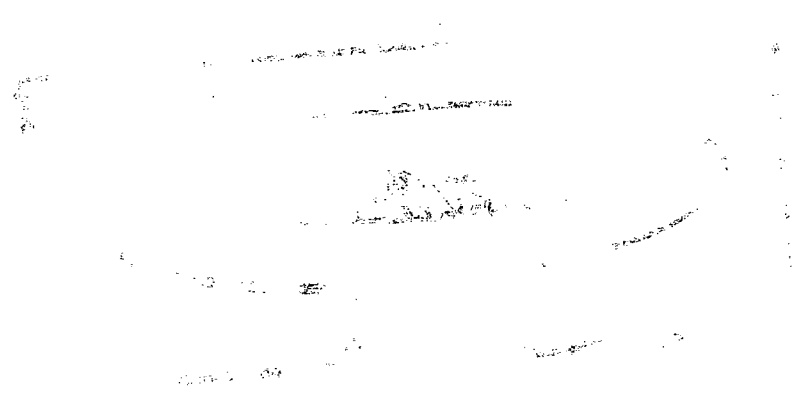
The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report represents the results of audit of receipts comprising commercial tax, state excise duty, taxes on motor vehicles,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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1998-99 as well as those noticed in earlier years but not covered in previous Reports.





OVERVIEW



OVERVIEW

This Report contains 66 paragraphs and 3 reviews relating to non/short-levy of tax, interest, penalty etc. involving Rs.625.61 crore. Some major findings are mentioned below:

1. GENERAL

(i) The Government of Madhya Pradesh raised a total revenue of Rs.6890.47 crore in 1998-99, comprising tax revenue of Rs.5108.48 crore and non-tax revenue of Rs.1781.99 crore. The Government also received Rs.4455.38 crore from the Government of India as its share of the net proceeds of divisible Union taxes (Rs.2932.13 crore) and grant-in-aid (Rs.1523.25 crore). Total receipts during the year were thus Rs.11345.85 crore. Taxes on sales, trade etc. (Rs.2297.48 crore) formed a major portion (45 per cent) of the tax revenue. Receipts from non-ferrous mining and metallurgical industries (Rs.806.43 crore) accounted for 45 per cent of the non-tax revenue.

[Paragraph 1.1]

(ii) Test-check of records of the Commercial Tax, State Excise, Motor Vehicle Tax, Land Revenue and other departments conducted during 1998-99 revealed under-assessment, losses etc. of revenue amounting to Rs.1340.73 crore in 97,224 cases. During the year 1998-99, the departments accepted under-assessment etc. of Rs.288.89 crore involved in 69,750 cases, of which 64,826 cases involving Rs.258.06 crore were pointed out in audit during 1998-99 and the rest in earlier years. An amount of Rs.23.24 crore was recovered in 4,471 cases, during 1998-99.

[Paragraph 1.9]

(iii) 6,171 audit inspection reports containing 23,056 audit observations involving a revenue effect of Rs.2781.34 crore, of which 3,376 audit inspection reports involving a revenue effect of Rs. 614.79 crore were outstanding for more than five years at the end of June 1999 for want of final replies from the concerned departments. Even the first replies had not been received in respect of 330 inspection reports issued between January and December 1998.

[Paragraph 1.10]

2. COMMERCIAL TAX

I A review on exemption/deferment of sales tax to new industries revealed that:

(i) Exemption/deferment of tax of Rs.25.34 crore was incorrectly allowed on goods not subjected to a process of manufacture, manufacture of goods other than those licensed by the industries department etc.

[Paragraph 2.2.7]

(ii) Evasion of tax of Rs.11.25 crore occurred due to suppression of purchases of raw material, production and sales of finished goods.

[Paragraph 2.2.8]

(iii) Incorrect issue of exemption certificate to oil mills and soyabean solvent extraction plant not eligible for exemption from tax resulted in loss of revenue Rs.4.64 crore.

[Paragraph 2.2.9]

(iv) Even though the industrial units closed before the stipulated period of exemption or within five years of expiry period of exemption tax amounting to Rs.8.55 crore availed as exemption and deferment was not recovered from them.

[Paragraph 2.2.10]

II. Under-assessment of entry tax of Rs.76.19 lakh occurred due to non/short-levy of tax.

[Paragraph 2.3]

3. STATE EXCISE

(i) The recovery of alcohol was lower than that recoverable from the sugar contained in the molasses by 31.26 lakh proof litres of alcohol involving a potential duty of Rs.7.50 crore.

[Paragraph 3.2]

(ii) Inadmissible shortage of 3,494 tonnes of molasses capable of producing 11.84 lakh proof litres of spirit involved a potential excise revenue of Rs.2.84 crore as the Act and Rules do not contain provision for any loss of molasses in transit, storage and otherwise.

[Paragraph 3.3]

(iii) Failure to monitor receipts of verification reports within the prescribed periods in respect of foreign liquor exported in bond resulted in non-recovery of excise duty of Rs.5.44 crore.

[Paragraph 3.8]

(iv) Application of incorrect rates of bottle fee on foreign liquor resulted in short payment of Rs.2.07 crore.

[Paragraph 3.9]

(v) Licence fee of Rs.6.60 crore realised from Restaurant Bar Licensees and Hotel Bar Licensees by municipal committees/corporations was not deposited in the Government account resulting in unauthorised assistance.

[Paragraph 3.10]

4. TAXES ON VEHICLES

(i) Vehicle tax of Rs.5.09 crore and penalty of Rs.10.18 crore on public service vehicles/goods vehicles/spare vehicles was not levied.

[Paragraph 4.2(i)]

(ii) Vehicle tax on public service vehicles operated under an agreement between Madhya Pradesh State Road Transport Corporation and the operators plying on stage carriage permits was not paid. This resulted in non/short-levy of vehicle tax of Rs.33.61 lakh besides penalty of Rs.67.22 lakh.

[Paragraph 4.2(ii)]

(iii) Vehicle tax of Rs.33.30 lakh on public service vehicles plying on All India Tourist Permits was either not paid or paid at lower rate. Besides, a penalty of Rs.66.60 lakh also became leviable.

[Paragraph 4.2(iii)]

5. LAND REVENUE

(i) Allotment of *Nazul* land at a lesser rate/inadmissible concessional rate resulted in under-assessment of premium and ground rent of Rs.12.30 crore.

[Paragraph 5.2]

(ii) Demand of diversion rent, fines and penalties of Rs.1.66 crore was not raised.

[Paragraph 5.4]

(iii) 5,473 Revenue Recovery Certificates for recovery of revenue of Rs.3.80 crore were lying unregistered in 11 tahsils for periods ranging from 1 to 10 years.

[Paragraph 5.5]

6. OTHER TAX RECEIPTS

A- Stamp Duty and Registration Fees

Under-valuation/delay in determination of market value of properties resulted in loss/non-realisation of revenue of Rs.89.34 lakh.

[Paragraph 6.2]

7. FOREST RECEIPTS

(i) Non-selection of bamboo coupes for felling due to non-implementation of working plan deprived the Government of revenue of Rs.12.54 crore.

[Paragraph 7.2(i)(a)]

(ii) Non-exploitation of bamboo coupes due for felling resulted in loss of revenue of Rs.1.04 crore.

[Paragraph 7.2(i)(b)]

(iii) Wide variations between estimated and actual yield of bamboo resulted in short-fall of revenue of Rs.3.42 crore.

[Paragraph 7.2(ii)]

8. MINING RECEIPTS

I. A review on extraction and sale of diamond in Madhya Pradesh revealed that:

(i) Non-renewal of lease deed deprived Government of revenue of Rs.63.21 lakh by way of stamp duty and registration fees, apart from continuous mining/extraction of diamonds by National Mineral Development Corporation without drawing any agreement.

[Paragraph 8.2.7(3)]

(ii) Non-disposal of Kimberlite dust even after 14 years resulted in postponement of revenue of Rs.12.25 crore.

[Paragraph 8.2.7(4)]

(iii) Mineral area development cess of Rs.432.71 lakh remained unrealised from National Mineral Development Corporation.

[Paragraph 8.2.8]

II. Incorrect remission/waiver of sale proceeds amounting to Rs.1051.12 lakh was allowed to Madhya Pradesh State Mining Corporation.

[Paragraph 8.3]

III Mineral area development cess of Rs.236.06 lakh remained unrealised from 47 lessees.

[Paragraph 8.5]

9. OTHER NON-TAX RECEIPTS

B- Water Resources Department

(i) Betterment contribution of Rs.52.23 lakh was not levied/realised on 44 irrigation schemes completed between May 1984 and June 1993.

[Paragraph 9.5]

(ii) Water charges of Rs.75.89 lakh were short recovered.

[Paragraph 9.6]

E- Co-operation Department

Non-payment of loans by cooperative societies on due dates resulted in non-levy and non-recovery of interest of Rs.58.30 lakh.

[Paragraph 9.14]

F- Finance Department

A review on assessment and realisation of interest receipt revealed that:

(i) Interest and penal interest of Rs.410.11 crore was not assessed and demanded.

[Paragraph 9.15.8]

(ii) There was loss of penal interest of Rs.9.10 crore due to failure in prescribing the terms and conditions of loans.

[Paragraph 9.15.9]

(iii) Delay in disbursement of loans resulted in loss of interest of Rs.1.55 crore.

[Paragraph 9.15.10]

(iv) Interest and penal interest of Rs.7.48 crore was assessed but not recovered from 23 municipalities.

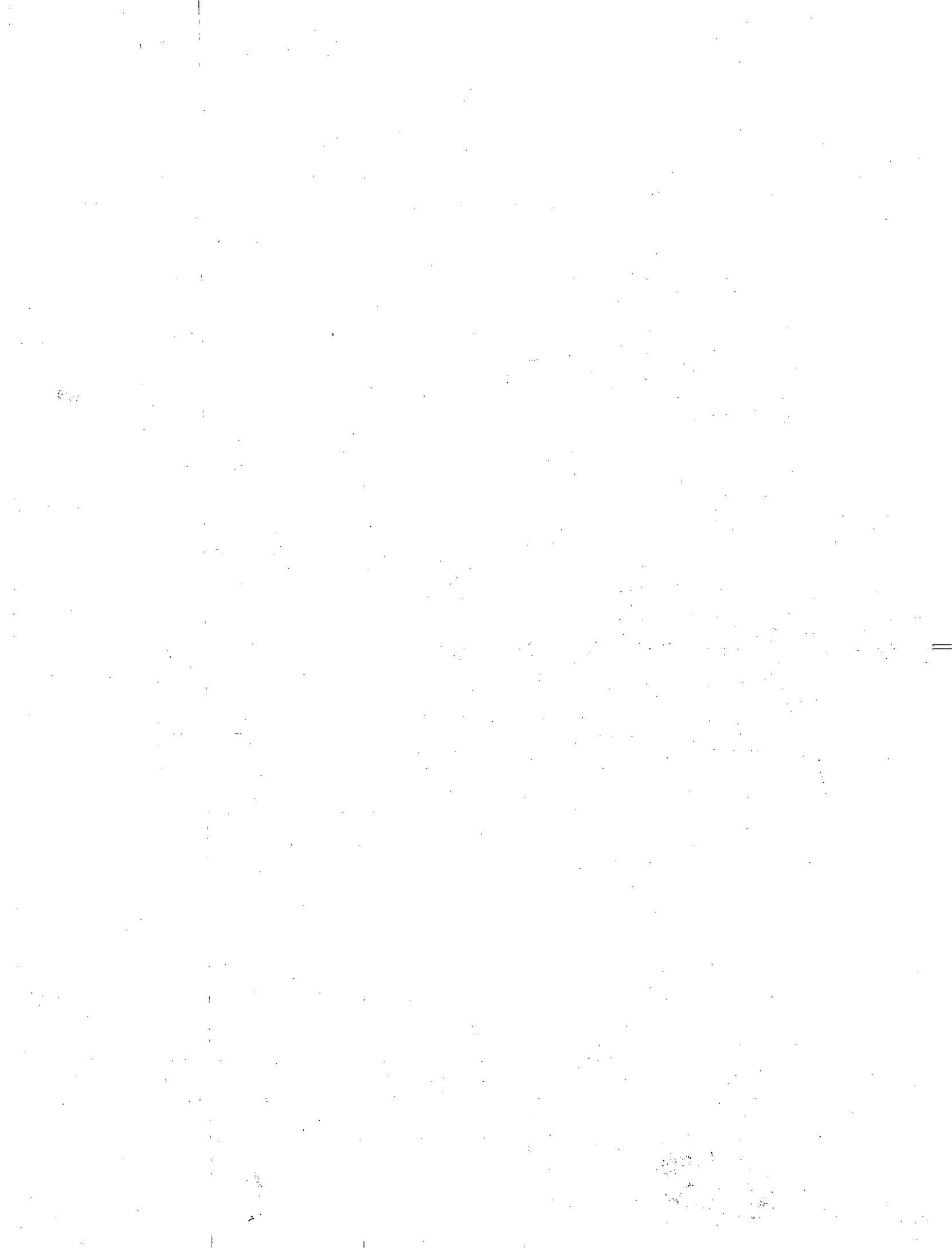
[Paragraph 9.15.11]



CHAPTER 1

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GENERAL



CHAPTER 1 : General

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Madhya Pradesh during the year 1998-99, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given in the table below:

(Rupees in crore)

S.No.	Particulars	1994-95	1995-96	1996-97	1997-98	1998-99
I	Revenue raised by the State Government					
	(a) Tax revenue	2870.61	3518.19	4103.50	4564.31	5108.48
	(b) Non-tax revenue	1615.21	1778.15	1974.94	2018.55	1781.99
	Total-I	4485.82	5296.34	6078.44	6582.86	6890.47
II	Receipts from the Government of India					
	(a) State's share of divisible Union taxes	1875.34	2194.34	2635.60	3326.64	2932.13*
	(b) Grants-in-aid	1257.12	1162.81	1300.19	1347.62	1523.25
	Total-II	3132.46	3357.15	3935.79	4674.26	4455.38
III	Total receipts of the State (I + II)	7618.28	8653.49	10014.23	11257.12	11345.85
IV	Percentage of I to III	59	61	61	58	61

(i) The details of tax revenue raised by the State Government during the five years from 1994-95 to 1998-99 are given in the following table:

For details, please see Statement No. 11 "Detailed Accounts of Revenue by Minor Heads", in the Finance Accounts of the Government of Madhya Pradesh for the year 1998-99. Figures under the head "0021-Taxes on Income other than Corporation Tax- Share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union taxes in this statement.

(Rupees in crore)

S.No.	Head of Revenue	1994-95	1995-96	1996-97	1997-98	1998-99	Percentage of increase(+) / decrease (-) in 1998-99 over 1997-98
1.	2.	3.	4.	5.	6.	7.	8.
1.	Taxes on Sales, Trade etc.	1309.99	1519.60	1731.25	2056.19	2297.48	(+) 11.73
2.	State Excise	553.96	615.67	742.54	845.29	965.40	(+) 14.21
3.	Taxes and Duties on Electricity	328.91	494.79	516.37	478.29	488.81	(+) 2.20
4.	Taxes on Goods and Passengers	171.27	245.33	297.17	318.63	413.01	(+) 29.62
5.	Taxes on Vehicles	231.72	308.71	338.16	371.38	382.25	(+) 2.93
6.	Stamps and Registration Fees	226.22	275.47	318.89	361.17	400.21	(+) 10.81
7.	Land Revenue	24.58	20.22	24.04	28.13	26.97	(-) 4.12
8.	Other Taxes and Duties on Commodities and Services	21.50	23.47	22.82	23.72	24.80	(+) 4.55
9.	Other Taxes on Income and Expenditure	0.40	11.98	108.48	76.91	104.74*	(+) 36.19
10.	Hotel Receipts Tax	2.06	2.95	3.78	4.60	4.81	(+) 4.57
	Total	2870.61	3518.19	4103.50	4564.31	5108.48	(+) 11.92

(ii) The details of major non-tax revenue received during the years 1994-95 to 1998-99 are given in the following table:

* It includes receipt of Rs.0.01 crore relating to taxes on immovable property other than agricultural land.

(Rupees in crore)

S.No.	Head of Revenue	1994-95	1995-96	1996-97	1997-98	1998-99	Percentage of increase(+) / decrease (-) in 1998-99 over 1997-98
1.	Forestry and Wildlife	523.15	573.84	559.61	625.85	507.60	(-) 18.89
2.	Non-ferrous Mining and Metallurgical Industries	588.51	800.94	847.01	816.98	806.43	(-) 1.29
3.	Interest Receipts	213.11	141.02	269.87	223.25	147.48	(-) 33.94
4.	Major, Medium and Minor Irrigation	49.06	44.23	51.80	36.02	42.63	(+) 18.35
5.	Water Supply and Sanitation	13.13	9.45	7.66	10.26	8.81	(-) 14.13
6.	Others	228.25	208.67	238.99	306.19	269.04	(-) 12.13
	Total	1615.21	1778.15	1974.94	2018.55	1781.99	(-) 11.72

The reasons for substantial variations in revenue realised in 1998-99, as compared to that in 1997-98, were reported by the concerned departments as follows:

Taxes on Sales, Trade etc.	Due to general increase of revenue receipts from government departments/undertakings and other dealers
State Excise	Due to increase in amounts of bids and regular collection thereof
Taxes on Goods and Passengers	Due to enhancement in base of tax
Stamps and Registration Fees	Due to close monitoring and increase in market value of properties
Other Taxes on Income and Expenditure	Due to receipt of arrears of earlier years
Forestry and Wildlife	Due to appropriation of gross profit on revenue realised from <i>tendu patta</i> to societies and decline in sale price due to fall in quality of forest produce
Interest Receipts	Due to short/non-recovery from Madhya Pradesh Electricity Board/State Road Transport Corporation

The reasons for substantial variations in respect of other heads, though called for, have not been received from the concerned departments (November 1999).

1.2 Variation between budget estimates and actual

The variations between the budget estimates and actual receipts for the year 1998-99, under the principal heads of revenue are given in the table below:

Head of Revenue	Budget estimates	Actual receipts	Variation Increase (+) Decrease (-)	Percentage of variation
1.	2.	3.	4.	5.
(A) Tax Revenue				
<i>(Rupees in crore)</i>				
1. Taxes on Sales, Trade etc.	2392.00	2297.48	(-) 94.52	(-) 3.95
2. State Excise	894.00	965.40	(+) 71.40	(+) 7.99
3. Taxes and Duties on Electricity	559.56	488.81	(-) 70.75	(-) 12.64
4. Taxes on Goods and Passengers	380.00	413.01	(+) 33.01	(+) 8.69
5. Taxes on Vehicles	477.37	382.25	(-) 95.12	(-) 19.93
6. Stamps and Registration Fees	417.00	400.21	(-) 16.79	(-) 4.03
7. Land Revenue	26.77	26.97	(+) 0.20	(+) 0.75
8. Other Taxes and Duties on Commodities and Services.	22.00	24.80	(+) 2.80	(+) 12.73
9. Other Taxes on Income and Expenditure	66.00	104.74*	(+) 38.74	(+) 58.70
10. Hotel Receipts Tax	4.57	4.81	(+) 0.24	(+) 5.25
Total	5239.27	5108.48	(-) 130.79	(-) 2.50
(B) Non-Tax Revenue				
1. Forestry and Wildlife	617.00	507.60	(-) 109.40	(-) 17.73
2. Non-Ferrous Mining and Metallurgical Industries	1270.00	806.43	(-) 463.57	(-) 36.50
3. Interest Receipts	234.48	147.48	(-) 87.00	(-) 37.10

* It includes receipt of Rs.0.01 crore relating to taxes on immovable property other than agricultural land.

<i>1.</i>	<i>2.</i>	<i>3.</i>	<i>4.</i>	<i>5.</i>
4. Major, Medium and Minor Irrigation	86.76	42.63	(-) 44.13	(-) 50.86
5. Water Supply and Sanitation	3.80	8.81	(+) 5.01	(+) 131.84
6. Others	214.62	269.04	(+) 54.42	(+) 25.36
Total	2426.66	1781.99	(-) 644.67	(-) 26.57

The Government reported short-recovery of Rs.87.64 crore from Madhya Pradesh Electricity Board against the estimated interest receipt as the main reason for variation.

Concrete and clear reasons for substantial variations between budget estimates and actual receipt of revenue are yet to be received from other departments despite issue of reminders (November 1999).

1.3 Additional resource mobilisation

The Government did not contemplate additional resource mobilisation in the Budget 1998-99 or in the White Paper brought out (February 1999) on State's economic and financial position.

1.4 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 1994-95 to 1998-99, along with the relevant all India average percentage of expenditure on collection to gross collections for 1997-98, are as follows:

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	
				Madhya Pradesh	All India Average (1997-98)
(Rupees in crore)					
Taxes on Sales, Trade etc.	1994-95	1309.99	24.99	1.91	1.28
	1995-96	1519.60	28.56	1.88	
	1996-97	1731.25	32.00	1.85	
	1997-98	2056.19	34.09	1.66	
	1998-99	2297.48	45.34	1.97	
State Excise	1994-95	553.96	54.47	9.83	3.20
	1995-96	615.67	64.90	10.54	
	1996-97	742.54	64.02	8.62	
	1997-98	845.29	90.88	10.75	
	1998-99	965.40	90.71*	9.40	
Taxes on Vehicles, Goods and Passengers	1994-95	402.99	6.03	1.50	2.65
	1995-96	554.04	11.36	2.05	
	1996-97	635.33	18.63**	2.93	
	1997-98	690.01	8.50	1.23	
	1998-99	795.26	20.34**	2.56	
Stamps and Registration Fees	1994-95	226.22	25.79	11.40	3.14
	1995-96	275.47	26.43	9.59	
	1996-97	318.89	11.99	3.76	
	1997-98	361.17	41.94	11.61	
	1998-99	400.21	52.07***	13.01	

* The net cost of collection is Rs.53.81 crore, after excluding cost on purchase of liquor and spirit. Based on this formula net cost of collection for earlier years works out to Rs.17.38, Rs.17.02, Rs.38.88 and Rs.45.61 crore respectively. Percentage of expenditure on collection will then be 3.13, 2.76, 5.23, 5.39 and 5.57 respectively.

** It includes Rs.10.15 crore and Rs.9.10 crore transferred to Road Safety Fund for the years 1996-97 and 1998-99 respectively.

*** The net cost of collection is Rs.18.08 crore, after excluding amount transferred to Reserve Fund under Non-Judicial Stamps. Based on this formula the net cost of collection works out to Rs.9.03, Rs.9.68 and Rs.15.53 crore for the years 1994-95, 1995-96 and 1997-98 respectively. Percentage of expenditure on collection will then be 3.99, 3.51, 3.76, 4.29 and 4.51 respectively.

1.5 Arrears in assessment

The number of cases due for assessment of Commercial Tax (Sales Tax) as on 1 April 1998, cases finalised and those pending as on 31 March 1999 reported by the Commissioner, Commercial Tax are as follows:

Category	Madhya Pradesh		Central Sales Tax Act, 1956	Total
	General Sales Tax Act, 1958/ <i>Vanijyik Kar Adhinyam, 1994</i>	<i>Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhinyam, 1976</i>		
Number of assessments due for completion during 1998-99				
(a) for 1998-99	2,65,629	1,36,683	54,143	4,56,455
(b) for previous years	1,92,763	94,866	45,150	3,32,779
Number of assessments completed during 1998-99				
(a) for 1998-99	95,788	52,955	20,064	1,68,807
(b) for previous years	1,39,850	72,719	34,528	2,47,097
Number of assessments pending finalisation at the end of 1998-99 (including cases for previous years)	2,22,754	1,05,875	44,701	3,73,330

Yearwise break-up of pending cases as on 31 March 1999 is given below:

Assessment year	Madhya Pradesh		Central Sales Tax Act, 1956	Total
	General Sales Tax Act, 1958/ <i>Vanijyik Kar Adhinyam, 1994</i>	<i>Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhinyam, 1976</i>		
Upto 1994-95	67	20	7	94
1995-96	7,268	2,904	1,596	11,768
1996-97	1,01,787	41,584	20,334	1,63,705
1997-98	1,06,475	58,995	21,931	1,87,401
1998-99	7,157	2,372	833	10,362
Total	2,22,754	1,05,875	44,701	3,73,330

Assessments completed in 1998-99 were less than those completed in 1997-98. It would be necessary for the department to draw up time bound plans for completing the assessments pending finalisation at the end of the year which constitute 89.76 per cent of the number of cases finalised in 1998-99.

1.6 Frauds and evasion of tax/duty

The number of cases of frauds and evasion of taxes and duties pending with the Commissioner, Commercial Tax and Forest Department, the number of cases in which assessments/ investigations completed and additional demand (including penalties etc.) of taxes/duties raised during 1998-99 and the number of cases pending finalisation at the end of March 1999, were intimated to be as under:

Department	Number of cases					
	Pending as on 31 March 1998	Detected during 1998-99	Total	Completed investigations and additional demand including penalties etc. raised		Pending finalisation as on 31 March 1999
				No. of cases	Amount of demand (Rupees in lakh)	
1. Commercial Tax	608	630	1,238	773	1793.32	465
2. Forest	27	6	33	7	2.47	26
Total	635	636	1,271	780	1795.79	491

The departments of State Excise, Energy, Geology and Mining and Registration have intimated that no case was pending for assessment as on 31 March 1999. Similar information, though called for, was not furnished by the remaining departments (November 1999).

1.7 Arrears of revenue

Arrears of revenue, as reported by the concerned departments, as on 31 March 1999 were as follows:

Revenue Head	Amount of		Remarks
	Arrears as on 31 March 1999	Outstanding for more than five years as on 31 March 1999	
	(Rupees in crore)		
1.	2.	3.	4.
Commercial Tax (Sales Tax)/ Entry Tax	197.13	126.57	Rs.182.92 crore intimated for recovery as arrears of land revenue, recoveries of Rs.5.38 crore stayed by judicial authorities/Government and recoveries amounting to Rs.8.83 crore likely to be written off.
State Excise	26.45	11.12	Rs.25.07 crore intimated for recovery as arrears of land revenue, recoveries of Rs.0.88 crore stayed by judicial authorities and recoveries of Rs.0.50 crore likely to be written off.
Taxes and Duties on Electricity	29.51	23.84	Rs.0.05 crore intimated for recovery as arrears of land revenue, recoveries of Rs.21.15 crore stayed by judicial authorities/Government. Recoveries of Rs.4.48 crore from sick cloth mills held up. Recovery of remaining arrears for Rs.3.83 crore is in progress.
Forestry and Wildlife	54.03	24.10	Rs.17.82 crore intimated for recovery as arrears of land revenue, recoveries of Rs.9.96 crore stayed by judicial authorities/Government and recoveries of Rs.1.09 crore likely to be written off. Position of Rs.25.16 crore not intimated.

1.	2.	3.	4.
Mining and Metallurgical Industries	28.75	8.61	Rs.28.50 crore intimated for recovery as arrears of land revenue, recovery of Rs.00.21 crore stayed by judicial authorities/Government and revenue of Rs.0.04 crore likely to be written off.
Co-operation	7.38	0.91	Rs.1.19 crore intimated for recovery as arrears of land revenue. Position of remaining arrears of Rs.6.19 crore not intimated.
Total	343.25	195.15	

Out of total arrears of revenue of Rs.343.25 crore, recovery of Rs. 195.15 crore, i.e. 56.85 per cent was outstanding for more than five years; no effective steps were taken for recovery (November 1999).

Similar information, though called for from the other departments, was not received (November 1999).

1.8 Pending appeals

The number of appeals filed under Madhya Pradesh *Vanijyik kar Adhiniyam*, 1994/Madhya Pradesh General Sales Tax Act, 1958 and Rules made thereunder, number of appeals disposed of and number of cases pending with the appellate authorities, at the end of each year during last 4 years ending 1998-99, as reported by the department, are given below:

Year	Number of appeals					Percentage of appeals disposed of to total
	Pending at the beginning of the year	Addition during the year	Total	Disposed of during the year	Pending at the end of the year	
1995-96	6,373	6,940	13,313	7,177	6,136	53.91
1996-97	6,136	6,501	12,637	6,337	6,300	50.16
1997-98	6,300	7,991	14,291	7,592	6,699	53.12
1998-99	6,699	7,174	13,873	6,433	7,440	46.37

The amount of revenue involved in the appeals pending disposal was not furnished by the department. The disposal of appeals is lagging behind the addition due to shortage of Appellate Deputy Commissioners as reported by the Commissioner, Commercial Tax.

1.9 Results of audit

Test-check of records of the Commercial Tax, State Excise, Motor Vehicle Tax, Land Revenue and other departments conducted during 1998-99 revealed under-assessment, losses etc. of revenue amounting to Rs.1340.73 crore in 97,224 cases. During the year 1998-99, the departments accepted under-assessment etc. of Rs.288.89 crore involved in 69,750 cases, of which 64,826 cases involving Rs.258.06 crore were pointed out in audit during 1998-99 and the rest in earlier years. An amount of Rs.23.24 crore was recovered in 4,471 cases, during 1998-99.

This report contains 66 paragraphs and 3 reviews involving revenue of Rs.625.61 crore. The concerned departments accepted observations involving Rs.7.73 crore, of which Rs.1.65 crore had been recovered up to November 1999. No reply has been received in other cases.

1.10 Outstanding inspection reports and audit observations

(i) Audit observations on incorrect assessments, short levy of taxes, duties, fees etc. and also defects in the maintenance of initial records which are not settled on the spot are communicated to the heads of the offices and other departmental authorities through inspection reports. The more important irregularities are reported to the heads of the departments and the Government. The heads of the offices are required to furnish replies to the inspection reports through the respective heads of the departments within a period of two months.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued up to 31 December 1998, which were pending settlement by the departments as on 30 June 1999, along with corresponding figures for the preceding two years are as follows.

	At the end of June		
	1997	1998	1999
Number of inspection reports pending settlement	6,401	6,405	6,171
Number of outstanding audit observations	23,467	23,136	23,056
Amount of revenue involved (<i>Rupees in crore</i>)	1800.86	2804.23	2781.34

(iii) Department wise details of the inspection reports and audit observations outstanding as on 30 June 1999 are as follows :

S.No.	Nature of Receipt/ Name of Department	Outstanding Audit observations (more than five years)	Amount involved (more than five years) (Rupees in crore)	Number of Inspection Reports outstanding	
				Total (more than five years)	Issued between January and December 1998 and remaining unreplied
1.	Commercial Tax (Sales Tax)	6,923 (967)	282.58 (29.70)	807 (335)	16
2.	Land Revenue	4,086 (1,843)	827.01 (257.58)	1,567 (833)	90
3.	Forestry and Wildlife	2,426 (1,038)	473.74 (101.14)	749 (400)	46
4.	State Excise	1,185 (399)	431.73 (36.06)	330 (170)	--
5.	Entertainment Duty	289 (160)	5.38 (2.95)	191 (111)	--
6.	Stamps and Registration Fees	2,604 (1,001)	7.61 (0.45)	1,182 (595)	105
7.	Water Resources	1,055 (805)	43.32 (0.09)	217 (153)	11
8.	Public Works	897 (521)	31.36 (16.64)	267 (192)	12
9.	Mining	473 (125)	288.37 (65.78)	142 (54)	16
10.	Motor Vehicle Tax	1,506 (943)	160.12 (40.20)	225 (164)	8
11.	Electricity Duty	204 (86)	155.25 (18.42)	62 (32)	--
12.	Others	1,408 (1,090)	74.87 (45.78)	432 (337)	26
	Total	23,056 (8,978)	2781.34 (614.79)	6,171 (3,376)	330

The matter was brought to the notice of the Government ; intimation regarding steps taken by the Government to settle the outstanding inspection reports and audit observations has not been received (November 1999).

A High Power Committee, consisting of the Secretary to the Government, the Head of the Department and the Deputy Accountant General met (February and March 1999) and settled 93 objections in respect of Forest Department.

In addition 4,903 objections were settled by the audit parties after verification of records.

1.11 Follow up on Audit Reports

The Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the year ended 31 March 1998 had been presented and laid on the table of Vidhan Sabha (July 1999). Reports up to the year 1990-91 had been discussed by the PAC* on selective basis. The recommendations of the PAC on the Reports upto the year 1985-86 and part Reports for the years 1986-87 and 1987-88 had been received (August 1999). Action Taken Notes on these recommendations on the Audit Reports for the years from 1978-79 onwards (except 1983-84) were awaited from the concerned departments of the Government (November 1999). In respect of Audit Reports 1986-87 and 1987-88, Action Taken Notes for two and three departments respectively were received.

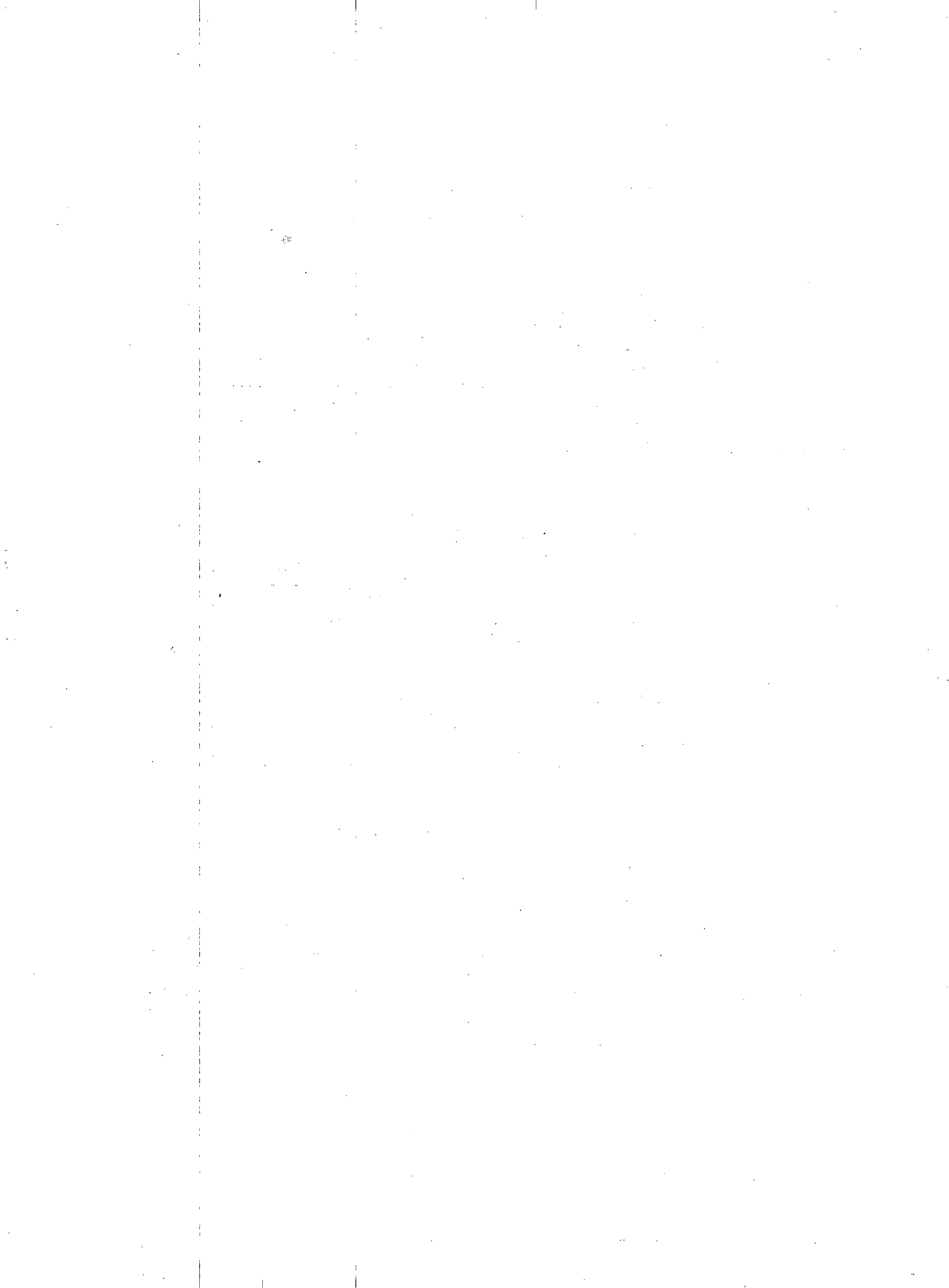
Out of 453 paragraphs included in the Audit Reports for the years 1991-92 to 1996-97, 43 paragraphs were selected for oral evidence by the PAC. Oral evidence on one paragraph from each of the Audit Reports for the years 1991-92, 1992-93 and 1994-95 was taken up (May 1999).

In pursuance of a recommendation (March 1993) of the High Power Committee appointed by the Comptroller and Auditor General of India to review the response of the State Government, the PAC in its meeting dated 12 July 1994 had decided that explanatory notes of Government on various paragraphs of the Audit Reports should be submitted by the Government within three months of their tabling in *Vidhan Sabha*. No follow up action has, however, been taken by the Government and the explanatory notes on Audit Reports are being delayed inordinately. Out of 453 paragraphs (including reviews) included in the Audit Report for the years 1991-92 to 1996-97, explanatory notes from Government were not received in respect of 136 paragraphs (November 1999).

CHAPTER 2

COMMERCIAL TAX		
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COMMERCIAL TAX



Chapter 2 : Commercial Tax

2 (a) Introduction

The levy and collection of State and Central Sales Tax and Entry Tax is regulated under the Madhya Pradesh General Sales Tax Act, 1958 (MPGST Act, 1958), Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 (*Adhiniyam*, 1994), Central Sales Tax Act, 1956 (CST Act, 1956) and Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam*, 1976 (*Pravesh Kar Adhiniyam*, 1976) and Rules made thereunder. Notifications, orders and directions issued by the State Government, Courts and Tribunals etc. also regulate State Commercial Tax (Sales Tax) and Entry Tax.

The Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 came into effect from 1 April 1995, replacing the 17 tax slab rates under the Madhya Pradesh General Sales Tax Act, 1958 to 7. Barriers/check posts along inter-State borders or within the State were abolished; manufacturers and importers with annual turnovers of up to Rs.10 lakh and other dealers with annual turnovers of up to Rs.40 lakh were brought under summary assessment scheme. Major commodities like fertilisers, pumping sets, by-products of cereals, pulses, sugar cane and agricultural implements were exempted from levy of commercial tax.

Despite rationalisation of the tax-structure and procedures and introduction of a scheme of value added tax from 1 May 1997, the Commercial Tax (Sales Tax) revenue remained constant at 3 per cent of Gross Domestic Product. There was also no reduction in administrative expenses. The annual increase in sales tax revenue over the previous year upto 1994-95 from 8 to 14 per cent and during the period from 1995-96 to 1997-98 from 14 to 18 per cent was mainly due to enhanced rates of tax on petrol, high speed diesel, raw opium, *tendu* leaves and timber sold by the Government /public sector agencies.

2 (b) Organisational set up

The Sales Tax Department, which came under Commercial Tax Department in 1995-96, functions under the overall control of the Commissioner, Commercial Tax with headquarters at Indore, assisted by Additional Commissioners at headquarters and zonal levels, Deputy Commissioners at divisional level, Assistant Commissioners, Commercial Tax Officers and Assistant Commercial Tax Officers and Commercial Tax Inspectors at circle level.

2 (c) Revenue realised

Commercial Tax is the main source of revenue in the State. Commercial Tax revenue during the year 1998-99 was Rs.2297.48 crore, constituting 33.34 per cent of the total revenue of the State.

2.1 Results of audit

Test-check of assessment cases and other records under Commercial Tax (Sales Tax) during 1998-99 revealed under assessments, non-levy/short-levy of tax/penalty, application of incorrect rate of tax etc. involving Rs.144.12 crore in 1,971 cases which broadly fall under the following categories:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Incorrect determination of taxable turnover	302	28.59
(ii)	Non-levy/short-levy of tax	174	06.02
(iii)	Incorrect grant of exemption/deduction/set-off	529	26.06
(iv)	Application of incorrect rate of tax	527	05.77
(v)	Exemption/deferment of sales tax to new industries	1	63.71
(vi)	Others	438	13.97
	Total	1,971	144.12

During the year 1998-99, the Department accepted under assessment of tax to the extent of Rs.6.67 crore in 275 cases of which 104 cases involving Rs.0.25 crore were pointed out during 1998-99 and the rest in earlier years

A few interesting cases of under assessment totalling Rs.65.94 crore are as follows:

2.2 Exemption/deferment of sales tax to new industries

2.2.1 Introduction

With a view to encouraging growth of industries in the State, attracting more capital investment, ensuring balanced regional development and providing additional employment opportunities, the Government introduced (April 1981) a scheme for exemption/deferment of tax (Sales Tax and Purchase Tax) to new industrial units established on or after 1 April 1981. The scheme was later amended in 1986 and 1992 to the extent of abolishing exemption on purchase of raw material and fixing limits for exemption of tax respectively. Two Departments namely Industries Department and Commercial Tax Department are involved in implementation of the schemes.

2.2.2 Organisational set up

The Industries Department is headed by the Commissioner of Industries with headquarters at Bhopal who is assisted by Joint Directors and Deputy Directors. There is a General Manager incharge of each District Industries Centre at the district level.

The Commercial Tax Department in respect of Commercial Tax is headed by the Commissioner of Commercial Tax, Madhya Pradesh with headquarters at Indore, who is assisted by Additional Commissioners and Deputy Commissioners, Assistant Commissioners, Commercial Tax Officers and Assistant Commercial Tax Officers.

2.2.3 Scope of Audit

Out of 13 divisions records of assessing officers of 7* divisions covering 27 districts were reviewed. For this purpose, assessment cases for the period from 1990-91 to 1994-95 having turnover of Rs.1 crore and above were test-checked between July 1998 and February 1999. Out of 465 units with turnover exceeding Rs.1 crore, 422 units were checked in audit. Irregularities noticed are detailed in succeeding paragraphs.

* *Bilaspur, Bhopal, Chhindwara, Gwalior, Indore, Ratlam and Ujjain*

The salient features of the various schemes are tabulated below:

S. No.	Year of Scheme	Category of industry		Category of areas					Ceiling of exemption
				Part-I*	Part-II**			No industry districts	
					A	B	C		
				Period of availment of benefit (in number of years)					
1.	2.	3.		4.	5.	6.	7.	8.	9.
1.	1981	(i)	Small Scale Industries	2	3	4	5	--	Whole amount of sales tax and purchase tax.
		(ii)	Industries in which capital investment is Rs.1 crore or more	3	5	7	9	--	
		(iii)	Rs.5 crore or more	--	--	--	--	9	
		(iv)	Rs.5 crore or more in growth area	--	9	--	9	--	
2.	1986	(i)	Small Scale Industries	3	5	6	7	--	(i) Whole amount of sales tax only (ii) In case of capital investment less than Rs.10 lakh, exemption of tax would be limited to 90%
		(ii)	Industries in which capital investment is Rs.1 crore or more	5	7	9	11	--	
		(iii)	Rs.5 crore or more	--	--	--	--	11	
		(iv)	Rs.5 crore or more in growth area	--	11	11	11	11	
3.	1992		Rs.5 crore or more in growth area	--	11	11	11	11	***

2.2.4(i) Targets and achievements

Targets for establishment of new industrial units, attracting capital investment and generation of additional employment were not fixed by the Government .

* Part-I - consists of 5 districts categorised as advanced

** Part-II – consists of 40 districts categorised as backward and divided into A, B and C categories in increasing degree of backwardness

*** (i) In case of Part-I and A-B of Part-II areas, exemption of tax would be limited to 100% of capital investment

(ii) In case of C of Part-II area, it is 125% of capital investment

(iii) In case of No Industry districts, it is 150% of capital investment

(ii) Trend of set up of industries

The trend of establishment of industries in the State indicates that major development was in the advanced districts like Indore and Bhopal and their neighbouring areas as is evident from the following table:

S.No.	Category of areas	Number of districts involved	Number of industries set up after 1981 but before October 1986	Number of industries set up after October 1986	Total No. of industries set up under the schemes	Average number of industries set up in each district
1.	PART-I	5	75	633	708	142
2.	PART-II-A	12	409	377	786	66
3.	PART-II-B	4	48	48	96	24
4.	PART-II-C	24	206	538	744	31
	Total	45	738	1,596	2,334	

2.2.5 System and procedure for grant of commercial tax exemptions and deferment to new industries

The Department of Industries, Government of Madhya Pradesh formulates the schemes of exemption/deferment of tax to new industries. Based on these schemes, Commercial Tax (Sales Tax) Department issues notifications under the provisions of *Adhiniyam*, 1994 (MPGST Act, 1958) for such exemptions/ deferments. To avail of the benefit a unit has to obtain eligibility certificate from the General Manager of the District Industries Centre/Commissioner of Industries depending on the size of the unit.

In the case of exemption, the eligible unit is exempt from levy of tax on its products and also on by-products for the prescribed period while in the case of deferment, the eligible unit collects the tax on its products and is allowed to retain the amount of tax for a period of ten years from the year to which the tax relates. The eligible unit which has availed the benefit of commercial tax (sales tax) deferment shall make payment of the deferred amount after the expiry of the period of ten years.

2.2.6 Highlights

- (i) Exemption and deferment of tax amounting to Rs.2456.38 lakh and Rs.78.09 lakh respectively was incorrectly allowed to 52 units in 90 cases.

(Paragraph 2.2.7)

- (ii) Evasion of tax of Rs.1125.48 lakh due to suppression of purchase of raw material, production and sales was noticed in 7 units.

(Paragraph 2.2.8)

- (iii) Loss of revenue amounting to Rs.464.01 lakh due to issue of incorrect certificate of exemption/deferment in 4 units was noticed.

(Paragraph 2.2.9)

- (iv) Non-levy and non-recovery of sales tax amounting to Rs.854.56 lakh was noticed in 41 units.

(Paragraph 2.2.10)

- (v) Undue financial benefit of Rs.165.18 lakh was granted by allowing refund of tax to 7 units.

(Paragraph 2.2.11)

- (vi) Under-assessment of tax of Rs.407.60 lakh due to non-levy of purchase tax, non-levy of tax at full rate, application of wrong rate of tax etc. was noticed in respect of 9 units.

(Paragraph 2.2.12)

- (vii) Non-determination of tax of Rs.7.70 crore was noticed in 2 units.

(Paragraph 2.2.13)

2.2.7 Incorrect grant of exemption/deferment of tax

In 90 cases of 52 units assessed (between 22 April 1993 and 27 June 1998) for the period between 1990-91 and 1994-95, it was seen that incorrect exemption and deferment of tax amounting to Rs.2456.38 lakh and Rs.78.09 lakh respectively were allowed on goods not subjected to a manufacturing process, manufacture of goods other than those licensed by the Industries Department, manufacture of goods on job work basis, manufacture and sale of goods in excess of quantity specified by the Industries Department and sales of goods beyond prescribed period etc. These cases are detailed as follows:

S.No.	Name of office	No. of Industrial Units (Cases)	Amount of Tax involved (Rs. in lakh)	Description of irregularity
1.	2.	3.	4.	5.
1.	A.C.* I and II Gwalior, 5 A.Cs of Indore	8 (9)	131.08	Exemption and deferment of tax of Rs.126.43 lakh and Rs.4.65 lakh respectively was allowed in respect of goods purchased and sold without undergoing a manufacturing process
2.	A.C. Bhopal, A.C. Gwalior, 4 A.Cs of Indore, A.C.Raipur, Circle 9 of Indore	12 (26)	950.82	Exemption was incorrectly allowed in respect of conversion of wire rod into wire, coal into coke and galvanising of HR/CR coil and GP/GC sheets which were not manufacturing process.
3.	3 A.Cs of Indore	9 (18)	278.22	Exemption and deferment of sales tax of Rs.230.35 lakh and Rs.47.87 lakh respectively was incorrectly allowed in respect of products which these units were not licensed by Industries Department to manufacture.

* Assistant Commissioner

1.	2.	3.	4.	5.
4.	A.C. Bhopal, A.C.Chhindwara, A.C. Indore, STO* VI Bhopal, STO II Gwalior	9 (13)	262.73	Exemption and deferment of tax amounting to Rs.255.36 lakh and Rs.7.37 lakh respectively was allowed without obtaining books of accounts/returns and without ensuring that they have actually manufactured the goods.
5.	A.C.Gwalior, A.C.Chhindwara, 4 A.Cs of Indore	6 (9)	570.88	Exemption was incorrectly allowed in respect of goods manufactured by other agencies on job work basis.
6.	A.C.-II Gwalior, 3 A.Cs of Indore	5 (9)	194.45	Exemption was allowed in respect of goods manufactured and sold in excess of the quantity specified by the Industries Department. Of this, demand of Rs.31.81 lakh had been raised in April 1998.
7.	A.C. Gwalior	3 (6)	146.29	Exemption and deferment of tax of Rs.128.09 and Rs.18.20 lakh respectively was allowed by the assessing officer in respect of products the sale of which was not made within the eligibility period specified by the Industries Department.
	Total	52 (90)	2456.38 78.09	Exemption Deferment

2.2.8 Evasion of tax due to suppression of turnover

Under the scheme, a manufacturer is required to maintain correct accounts and submit it to the assessing authority.

In 8 cases of 7 units assessed (between 22 October 1994 and 30 June 1998) for the period between 1992-93 and 1994-95 evasion of tax amounting to Rs.1125.48 lakh due to suppression of purchases of raw material, sales of finished goods and production was noticed as follows:

* Sales Tax Officer renamed as Commercial Tax Officer

S.No.	Name of office	No. of Industrial Units (Cases)	Amount of Tax evaded (Rs. in lakh)	Description of irregularity
1.	2.	3.	4.	5.
1.	A.C. Gwalior	2 (2)	782.16	Sales of finished goods as per quarterly returns submitted by the dealer worked out to Rs.338.01 crore against which sales were determined by assessing officer at Rs.272.83 crore resulting in under-assessment of tax of Rs.782.16 lakh
2.	A.C. Gwalior	1 (2)	274.56	Purchases of raw material worth Rs.56.11 crore was disclosed by the dealer during 1993-94 and 1994-95 in the balance sheet while as per list of purchases, such purchases worked out to Rs.99.01 crore. The sale value of finished goods against concealed purchases of raw material (Rs.42.90 crore) works out to Rs.68.64 crore (after adding 60 per cent on account of expenses and profit as disclosed by the dealer in his trading account) and tax evaded Rs.274.56 lakh.
3.	A.C. Morena	1 (1)	20.00	The production of iron and steel during 1993-94 on consumption of 2,25,144 electricity units was 1,995 MT At this rate, on consumption of 14,89,692 electricity units during 1994-95 production should have been 13,282 MT whereas only 8,654 MT production was disclosed by the dealer. Thus, concealment of 4,628 MT of iron and steel valued at Rs.5 crore escaped tax of Rs.20 lakh.
4.	A.C. Gwalior, A.C. Indore	2 (2)	4.80	Sales of finished goods worth Rs.45.87 lakh (Rs.15.91 lakh in Gwalior and Rs.29.96 lakh in Indore) were made during 1993-94 and 1994-95 but these sales were not included in the sales either by the dealer or determined by the assessing officer. This resulted in less determination of turnover by Rs.45.87 lakh involving a tax effect of Rs.4.80 lakh.

1.	2.	3.	4.	5.
5.	A.C. Bhopal	1 (1)	43.96	A manufacturer of air coolers assessed on 5 December 1997 for 1994-95 disclosed production of 7,834 air coolers while purchases of 19,058 motors were disclosed by the dealer. As one cooler needs one motor, production comes to 19,058 air coolers. Thus, production of 11,224 air coolers valued at Rs.293.06 lakh (based on disclosed sale price) escaped taxation of Rs.43.96 lakh.
	Total	7 (8)	1125.48	

2.2.9 Loss of revenue due to issue of incorrect exemption/deferment certificate

Government notification of October 1986 does not allow exemption from sales tax under the scheme to oil mills.

(i) In 3 cases of a unit for the period 1992-93 to 1994-95 assessed between 6 February 1996 and 25 June 1998 by the Assistant Commissioner, Morena, it was noticed that the dealer was allowed exemption of sales tax for 3 years during 13 August 1992 to 12 August 1995 for manufacture of oil out of oil seed and oil cake on the basis of exemption certificate. The exemption of tax of Rs.238.68 lakh allowed in respect of sales of Rs.8151.25 lakh was incorrect as manufacture of oil from oil seed falls under oil mill industry which was not eligible for exemption. Thus, issue of incorrect exemption certificate resulted in loss of revenue of Rs.238.68 lakh.

(ii) From 11 October 1990 exemption from sales tax was withdrawn in respect of soyabean solvent extraction plants. However, the notification of January 1992 provided that such industry would be eligible for exemption if substantial part of the factory building had been constructed and orders for supply of substantial part of the plant and machinery required for the industry had been placed before 11 October 1990.

In 5 cases of 3 units relating to 2 Assistant Commissioners (Indore and Ujjain), it was noticed that the dealers were allowed exemption from sales tax of Rs.225.33 lakh in respect of manufacture of oil out of soyabean seeds during the exemption period (between 2 May 1991 and 10 June 1998) for which these units were not eligible as the land for factory was purchased on 25 and 27 July 1992 and advance for supply of machinery was given on 30 September 1992 as was evident from registration for purchasing land and statement given by the proprietor (2 cases of a unit). In other 3 cases of 2 units no effective steps were taken for establishing the industry prior to 11 October 1990 as certified (November 1993) by the Zonal Industry Officer, Bhopal. This resulted in loss of revenue of Rs. 225.33 lakh.

2.2.10 Non-recovery of sales tax on closure of units before stipulated period

Under the scheme, the manufacturer shall keep the industrial unit running during the period of exemption as specified in the eligibility certificate and also for a further period of 5 years from the date of expiry of exemption.

Test-check of records of 6 Assistant Commissioners* and 16 circle offices** revealed that 41 units availing sales tax exemption and one unit availing deferment of sales tax had stopped production/closed down the industrial unit (between September 1987 and February 1997) either during the period of exemption or within five years of expiry of exemption period. The total amount of exemption and deferment availed by these units which had become recoverable worked out to Rs.854.56 lakh, but no action was taken to recover the amount.

2.2.11 Undue financial benefit to industrial units

It has been held judicially*** that the MPGST Act, 1958 does not empower the Government to refund sales tax realised by a manufacturer from the consumers on sale of its products. Further, under the MPGST Act, 1958 and CST Act, 1956 deduction on account of tax collected by a dealer is allowable only when such amount of tax is included in the turnover.

(i) 3 units of Indore and Raipur engaged in the manufacture and sale of soyabean oil had collected sales tax amounting to Rs.157.43 lakh under the CST Act, 1956 during the exemption period and had also deposited the tax so collected along with their periodical returns voluntarily. Subsequently, the assessing authority allowed refund of Rs.157.43 lakh which was undue financial benefit to assesseees.

(ii) In 11 cases of 4 units pertaining to 2 Assistant Commissioners (Gwalior and Indore) and one circle office (Bhopal circle-3) the dealers were eligible for exemption from payment of sales tax being new industries. These units were assessed to tax and were incorrectly allowed deduction of Rs.94.81 lakh from turnover. These units were as such not entitled for exemption due to non-fulfilment of conditions or having exceeded the admissible limit for exemption of tax. This resulted in short levy of tax of Rs.7.75 lakh.

2.2.12 Other points of interest

In 12 cases of 9 units assessed (between 20 December 1993 and 25 June 1998) for the period between 1990-91 and 1994-95, some other points of interest relating to non-levy of purchase tax, application of incorrect rate of tax, sales on incorrect declarations and discontinuance of

* 4 A.Cs. Indore, A.C. Ratlam and Raipur

** C.O.s Betul, V Bhopal, Burhanpur, Datia, Dewas, I Durg, II Durg, I and VIII Indore, Guna, II Gwalior, I Morena, Ratlam, I Satna, Sehore and I Ujjain

*** M/s Amrit Vanaspati Co. Ltd Vs State of Punjab (STC-1992-52-493) Supreme Court

manufacturing process etc. amounting to Rs.407.60 lakh relating to industries availing the benefits of exemption/deferment of tax are given below:

S. No.	Name of office	No. of industrial Units (Cases)	Tax involved (Rs.in lakh)	Nature of objection
1.	2.	3.	4.	5.
1.	A.C. Gwalior	1 (1)	169.00	The dealer eligible for deferment of tax under 1986 scheme purchased raw material worth Rs.42.25 crore without payment of purchase tax which was leviable.
2.	A.C. Gwalior	2 (3)	85.07	A dealer holding recognition certificate purchased raw material at concessional rates and goods manufactured therefrom were sold outside the State. The concessional rate of tax on raw material was not allowable. This resulted in non- levy of tax of Rs.85.07 lakh.
3.	A.C. Indore	1 (2)	26.06	Sale of parts of machinery worth Rs.325.71 lakh by the dealer holding certificate of eligibility for deferment was incorrectly taxed at 4 per cent as against 12 per cent.
4.	A.C. Indore	2 (2)	31.71	The dealers were allowed exemption of tax amounting to Rs.31.71 lakh on the basis of certificate of eligibility of other dealers.
5.	A.C. Indore	1 (1)	8.70	Sales of goods worth Rs.217.58 lakh manufactured from raw material purchased and consumed by the dealer were treated as tax paid after expiry of exemption period.
6.	A.C. Sagar	1 (2)	9.18	The dealer manufacturing jute was allowed exemption from tax for the period from 14 December 1991 to 31 December 1996 under exemption scheme, 1986 whereas no such exemption was admissible under the scheme resulting in evasion of tax of Rs.9.18 lakh.
7.	A.C. Indore	1 (1)	23.33	The dealer was allowed deduction on sales of iron and steel worth Rs.583.16 lakh shown to have been made to an exempted unit. The purchasing unit was however, not an exempted one. As such deduction allowed was incorrect and resulted in under-assessment of tax of Rs.23.33 lakh.

1.	2.	3.	4.	5.
8.	A.C. Indore	1 (1)	54.55	A dealer who was allowed exemption for manufacture during 1992-93 switched over to trading in 1993-94. The exemption was not allowable as he discontinued manufacturing during the period of exemption. But no action was taken to raise demand for the exemption allowed in 1992-93.
	Total	9 (12)	407.60	

2.2.13 Incorrect deduction due to taxable products treated as tax free

Under the scheme, in the case of exemption the amount of tax should be worked out to watch exemption limit, wherever prescribed as also recovery, in case of deferment.

The Commissioner of Sales Tax issued instructions in April 1991 that tyre cord fabric is taxable at the rate of 12 per cent.

(i) In one case of Gwalior division, it was noticed that a dealer was granted exemption for manufacture of tyre, tyre fabric and tyre yarn by the Industries Department. The exemption was available for the period from 15 March 1993 to 14 March 2004 or till a tax ceiling being the amount equal to 100 per cent of capital investment i.e. Rs.281.39 crore, was reached which ever was earlier. The dealer manufactured (1993-94) tyre cord fabric worth Rs.52.96 crore and sold during the course of inter-State trade and commerce and Rs.9.90 crore within State which was incorrectly treated as tax free by the assessing officer and the tax due was not worked out to watch the limit of exemption. This resulted in non-determination of tax of Rs.7.54 crore at the rate of 12 per cent.

(ii) In another case of a unit at Indore, the dealer was eligible for deferment of sales tax on diesel engines, water pumps, base plates, engine trolleys, and concrete vibrators (taxable at the rate of 10 per cent) manufactured by him. Sale of the above products worth Rs.160.43 lakh was incorrectly treated as sale of pump sets (made tax free with effect from 1994-95) and assessed to nil tax. The unit was not eligible to manufacture pump sets at all. This resulted in non-determination and non-inclusion of Rs.16.05 lakh in the amount of deferred tax.

2.2.14 Monitoring

Each commercial tax circle is required to maintain records showing details of industries which were granted exemption/deferment of tax. In case of latter, the record should include names of units against which amount is due to be recovered along with the period when due. It was seen that even these basic records were not maintained in the Commercial Tax Circles.

No periodical returns were prescribed either by Industries Department or by the Commercial Tax Department to monitor information with regard to the deferred tax due with the result that the Commissioner, Commercial Tax does not have the details available on the deferred revenue amount.

2.2.15 Conclusion

The scheme of exemption from and deferment of sales tax as concessions to new industries involves foregoing of significant tax revenue and has been in force since 1981. The Government (Industries Department and the Commercial Tax Department) could not furnish the amount of revenue forgone in the form of concessions given. The amount of deferment pending for collection as on 31 March 1999 was also not available with the Commissioner, Commercial Tax. Test-check by Audit revealed that Rs. 139.55 crore (approximate) were forgone in respect of 132* exempted industries during the period from 1990-91 to 1994-95.

No system of inspection has been prescribed by either the Industries Department or the Commissioner, Commercial Tax to ensure that the units are functioning as per provisions of the Act/Rules. No survey has been conducted by either of the two Departments to estimate the number of industrial units closed before the stipulated period after availing of the benefits under the scheme. The Industries Department has not analysed whether the benefits in terms of industrial growth and additional employment generated match the cost of the scheme.

The other objectives of the scheme, viz. generating additional employment and attracting capital investment have not been quantified and analysed to ascertain benefits, if any, resulting from the scheme.

Cases of under assessment/loss of revenue of Rs.6321.35 lakh were brought to the notice of assessing officers during July 1998 to February 1999; report on action taken has not been received (November 1999).

The matter was reported to the Department and the Government in June 1999; their reply has not been received (November 1999).

2.3 Under-assessment of entry tax

Entry tax is leviable on goods entering into a local area for sale, consumption or use as raw material or as incidental goods or as packing material or in the execution of works contract at rates mentioned in *Pravesh Kar Adhiniyam*, 1976 and notifications issued thereunder.

*Non-levy/short-levy of entry tax
of Rs.76.19 lakh*

* *The figure does not include industries where deferment of tax was granted*

Test-check (between April 1997 and February 1998) revealed that in 3 regional offices* and 3 circle offices** 6 dealers were assessed (between January 1993 and December 1996) for the periods between August 1984 to March 1995 on entry of goods valued at Rs.31.58 crore. Entry tax of Rs.76.19 lakh was either not levied or levied short. One dealer at regional office Bilaspur alone accounted for Rs.64.82 lakh.

The assessing authorities raised (between July 1997 and November 1998) demand for Rs.4.45 lakh in 3 cases. Progress of recovery and the action taken in other cases has not been received (November 1999).

The matter was reported to the Government (between May 1997 and September 1998) which confirmed the additional demand in 2 cases; their reply in remaining cases has not been received (November 1999).

2.4 Application of incorrect rate of tax

Schedule II to MPGST Act, 1958 specifies the rates at which sales tax is leviable on different commodities.

Under-assessment of tax of Rs. 70.82 lakh due to application of incorrect rate of tax

Test-check (between December 1995 and August 1998) revealed in 9 regional offices*** and 16 circle offices**** of assessments made between September 1994 and March 1997 of sales aggregating Rs.14.36 crore made by 25 dealers between July 1984 to March 1995, that tax was levied at rates lower than those applicable, resulting in under-assessment of tax of Rs.70.82 lakh. Of the total, 4 dealers alone, one each at Dewas and Gwalior and 2 at Indore, accounted for Rs.42.06 lakh.

On this being pointed out (between December 1995 and August 1998), the assessing authorities revised the assessment in 8 cases, raising additional demands of Rs.12.81 lakh and stated that action would be taken in other 2 cases. In the remaining cases the assessing authorities maintained that the goods had been correctly classified. The reply is not tenable in view of various provisions of Act/Rules and clarification issued by Commissioner, Commercial Tax.

The matter was reported to the Government (between February 1996 and October 1998) which confirmed demand in 2 cases; their reply to other cases has not been received (November 1999).

* Bilaspur, Durg and Jabalpur

** Bhopal, Gwalior and Shahdol

*** Gwalior (3), Indore (4), Jabalpur and Raipur

**** Ambikapur, Bhopal, Bilaspur (2), Dewas, Indore (8), Gwalior, Jabalpur and Ratlam

2.5 Incorrect grant of set-off

Registered dealers can claim set off of the difference between the concessional rate of tax provided in the MPGST Act, 1958 and the full rate of tax paid by them on raw materials (other than *tendu patta* and whole pulses) or incidental goods used by them in the manufacture of goods specified in Schedule II. The raw material and incidental goods should be specified as such in the registration certificate of purchasing dealer.

Set-off of Rs.35.01 lakh incorrectly allowed on purchases

Set-off is also admissible on electrical goods in terms of *mela* notification which does not include machinery. The set-off is not admissible to dealers holding recognition certificate.

Test-check (between November 1996 and May 1998) revealed that in 6 regional offices* and 4 circle offices** 10 dealers assessed (between February 1993 and January 1997) for the period April 1989 to March 1997, purchased raw material valued at Rs.7.75 crore on which assessing authorities incorrectly allowed set-off of Rs.35.01 lakh by application of incorrect rates/admitting ineligible raw material for set-off/covering holders of recognition certificate. Of the total, 2 dealers alone accounted for Rs.26.45 lakh.

On this being pointed out in Audit (between November 1996 and May 1998), the assessing authorities raised additional demand of Rs.2.49 lakh in 3 cases and stated that action would be taken in 3 cases on verification. In 4 cases, they stated that set-off has been allowed on the basis of the rate of tax paid. The replies are not tenable in view of the provisions of Act/Rules.

The matter was reported to the Government (between February 1997 and August 1998); their reply has not been received (November 1999).

2.6 Non-levy of tax due to misclassification

Under the MPGST Act, 1958 different commodities are taxable at the rates specified in the Schedule to the Act.

Test-check (between June 1996 and June 1998) of records in 2 regional offices*** and 4 circle offices**** revealed that tax was not levied for the period April 1990 to March 1994 on 6 dealers between November 1994 and January 1997 by treating mustard oil and cake as soyabean oil; fish as fish seed; cotton bandage (surgical goods) as tax free cloth and straight

* Bhopal (2), Bilaspur, Durg and Indore (2)

** Bilaspur, Itarsi, Satna and Ujjain

*** Bhopal and Jabalpur

**** Indore (2), Raipur and Ujjain

reeled as cotton hank yarn; high density poly ethylene fabrics as cotton fabrics and imported paper as tax paid paper. This resulted in non-levy of tax of Rs.27.66 lakh.

The matter was reported to the Department and the Government (between August 1996 and September 1998); their reply has not been received (November 1999).

2.7 Incorrect determination of turnover

(i) MPGST Act, 1958 and Rules require every dealer liable to pay tax, to maintain account of his purchases, sales and stocks.

Test-check (between December 1996 and September 1998) revealed that in 3 regional offices* and 4 circle offices** in respect of 7 dealers assessed (between April 1995 and December 1996) for the period 11 February 1991 to 31 March 1994, gross/taxable turnover was short determined by Rs.1.94 crore due to maintenance of incorrect accounts as these did not depict the correct figures of sales/purchases in 5 cases and incorrect debiting of inadmissible expenditure in 2 cases resulting in short-levy of tax Rs.20.48 lakh. This includes a case involving Rs.11.45 lakh of regional office, Katni where sale of non-ferrous metal and transformers valued at Rs.114.28 lakh not accounted for.

The Government intimated (October 1998) that demand for Rs.2.80 lakh had been raised in two cases. The cases were reported to the Government (between March 1997 and November 1998); report on recovery and reply in other cases had not been received (November 1999).

(ii) MPGST Act, 1958 and Rules provide deduction of sales of tax paid goods from gross turnover to arrive at the taxable turnover.

Test-check (between October 1996 and June 1998) revealed that in 2 regional offices*** and 6 circle offices**** in respect of 8 dealers assessed (between September 1994 and June 1997) for the period 1991-92 to 1994-95 incorrect/excess deductions of tax paid sales valued at Rs.1.45 crore were allowed from gross turnover. This resulted in non-levy of tax of Rs.13.33 lakh. Of this, Rs.6.54 lakh pertained to a dealer of circle office, Gwalior.

The Government to whom the matter was reported (between January 1997 and October 1998) confirmed additional demand (Rs.3.27 lakh including penalty) in 3 cases; reply in other cases has not been received (November 1999).

* Katni and Raigarh (2)

** Guna, Gwalior, Indore and Raipur

*** Bhopal and Satna

**** Gwalior, Indore, Jabalpur (2), Morena and Raipur

2.8 Non-levy of tax on transfer of goods in works contract

Under the MPGST Act, 1958 transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract is sale and taxable accordingly.

A test-check (between February 1997 and February 1998) revealed that in 2 circle offices (Gwalior and Durg), 2 dealers transferred goods valued at Rs.1.90 crore in works contracts on which tax of Rs.8.41 lakh was leviable but not levied. Of these, in one case a dealer assessed at circle office, Gwalior in August 1995 and November 1996 for the period 1992-93 and 1993-94 transferred thermit mixture of finely powdered aluminium, iron oxide, carbon, manganese and silicon valued at Rs.169.41 lakh for use in works contract with railways on which tax was leviable at the rate of 8 percent instead of 4 percent. This resulted in short levy of tax of Rs.6.78 lakh.

The assessing authority claimed that aluminium and silica sand do not exist after filling of joints in rail and cited a decision* of Hon'ble Patna High Court in which it was decided that there could not be any transfer of property in goods unless the goods themselves exist. The reply is not tenable as thermit mixture exists even after its consumption.

The Department intimated (August 1999) that additional demand for Rs.0.86 lakh has been raised in one case. The matter was reported to the Government (April 1998 and again in August 1999); their reply has not been received (November 1999).

2.9 Under-assessment of purchase tax

MPGST Act, 1958 and Rules provide for levy of purchase tax, at the rates specified in Schedule II to the Act, on the goods purchased without payment of sales tax and not sold within the State or in inter-State trade but are disposed of otherwise or used and consumed in manufacture.

Test-check (between December 1995 and May 1998) revealed that in 3 regional offices** and circle office, Shahdol in respect of 4 dealers assessed (between February 1994 and October 1996) for the period April 1990 to March 1994, purchase tax was either not levied or levied at lower rate on purchases which had not borne sales tax. Thus purchase tax of Rs.8.59 lakh on the purchase value of Rs.8.14 crore was not/short levied.

In one case the assessing authority raised the demand and recovered Rs.0.96 lakh (between April 1997 and April 1998).

* Decision of Honourable Patna High Court (Ranchi) in the case of M/s Pest Control India Limited vs. Union of India and others (1989 STC 188)

** Indore, Itarsi and Satna

The matter was reported to the Department and the Government (between February 1996 and September 1998); their reply has not been received (November 1999).

2.10 Short-levy of Central Sales Tax

CST Act, 1956 provides that a dealer is not liable to pay tax on movement of goods from one State to another if it is otherwise than by way of sale and supported by prescribed declarations. While determining taxable turnover, tax collected by dealer is deducted from aggregate of sale price.

Test-check (June 1997 and January 1998) revealed that in one case of a dealer assessed (January 1996) for the period April 1992 to March 1993 yarn valued at Rs.1.20 crore was despatched outside State without furnishing prescribed declarations. Tax of Rs.3.59 lakh was, thus leviable but was not levied. In another case re-assessed (December 1996) for the period April 1989 to March 1991 deduction of Rs. 1.90 lakh on account of tax collected was allowed although it was not collected. This resulted in short-levy of tax of Rs.5.49 lakh.

The matter was reported to the Department and the Government (between March and May 1998); their reply has not been received (November 1999).

2.11 Incorrect levy of tax on *mela* sales

Notifications issued by the Government provide for levy of tax at 50 per cent of the normal rate of tax on sales by registered dealers to consumers in the premises of *mela* (fair) being held at various places in the State, if such dealers furnish details of goods entered and those remaining unsold within three days and a separate return for sales in *mela* along with a copy of challan within fifteen days from the last day of *mela*.

Test-check (between August 1997 and July 1998) in 3 regional offices* revealed that 3 dealers assessed (between December 1995 and September 1996) for the period 1992-93 and 1993-94 sold motor cycles and parts thereof valued at Rs.1.36 crore in *mela* premises on which tax was levied at the rate of 50 per cent of the normal rate although the dealers did not furnish the prescribed returns within the stipulated time. Levy of tax at concessional rate deprived the Government of revenue of Rs.6.71 lakh.

The assessment authority, Raipur raised an additional demand of Rs.1.46 lakh (September 1998) in one case. The report on recovery and the replies in the remaining cases had not been received (November 1999).

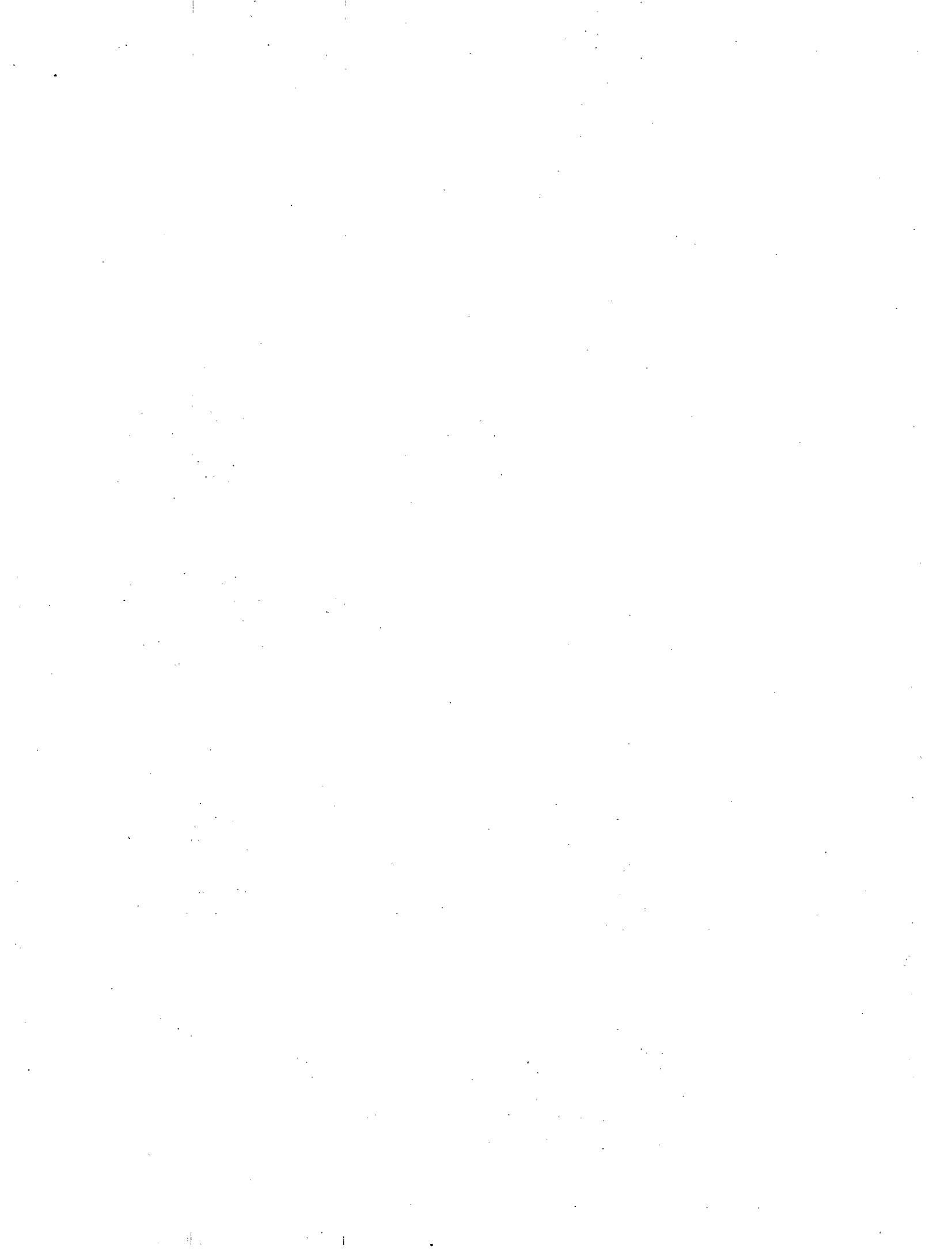
* Guna and Raipur (2)

The matter was reported to the Government (between October 1997 and October 1998). It confirmed (April 1999) raising of additional demand in one case; their reply in other cases has not been received (November 1999).

CHAPTER 3

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STATE EXCISE



Chapter 3 : State Excise

3 (a) Introduction

Excise duties and fees are levied and collected under various Central and State Acts* and Rules made thereunder. The Madhya Pradesh Excise Act, 1915 (Act) is the main Act for the levy and collection of State Excise Duty.

All liquor including country liquor and foreign liquor (brandy, whisky, rum, gin, beer etc.) form the major sources of excise revenue. For wholesale and retail sale of intoxicants, licences are issued on payment of licence fee, forming another part of the excise tax structure. The duty and tax on excisable articles are levied on the point where they are issued for ultimate retail sale to consumers. The system for regulation of control on molasses and other bases during import, transport, storage and wastages thereof has not been laid down in the Act/Rules.

During the period 1994-95 to 1998-99 the State Excise Revenue increased by 74.3 per cent though no significant increase in the rate of duty on liquor was made, whereas consumption of foreign liquor, malt liquor and country liquor increased by 152, 55 and 47 per cent respectively. Significant increase in the consumption was noticed after 1995-96 when system of adjustment of excise duty against auction amount was introduced with effect from 1 April 1996.

3 (b) Organisational set up

This Department is working under the Commercial Tax Department. The Excise Commissioner is the Head of the Department. He is assisted by Additional Excise Commissioners, Deputy Excise Commissioners, Assistant Excise Commissioners and District Excise Officers, both at the Headquarters at Gwalior and in the districts. In the district, Collector is the head of the Excise Administration who exercises powers, conferred on him, for settlement of shops for retail vending of liquor, toddy, *bhang* and other intoxicants; he is also responsible for realisation of excise revenue.

-
1. *Madhya Pradesh Excise Act, 1915,*
 2. *Madhya Pradesh Tambaku Adhinyam, 1936,*
 3. *Madhya Pradesh Opium Smoking Act, 1939,*
 4. *Medicinal and Toilet Preparation (Excise Duties) Act, 1955 and*
 5. *Narcotic Drugs and Psychotropic Substances Act, 1985*

3 (c) Revenue realised

State Excise Revenue during the year 1998-99 was Rs.965.40 crore which constitutes 14.01 per cent of total revenue and 18.9 per cent of tax revenue raised by the State Government.

3.1 Results of audit

Test-check of records of State Excise Offices, conducted during 1998-99, revealed non-assessment, under-assessment, losses of revenue and non-levy of penalties amounting to Rs.144.50 crore in 10,438 cases, which can be broadly categorised as under:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-levy of penalty for breach of conditions of licence	3,584	10.35
(ii)	Non-submission of declarations by the cultivators of poppy straw	1,123	58.61
(iii)	Loss of revenue due to low yield of alcohol	411	39.29
(iv)	Loss of revenue in resale of shops	426	06.11
(v)	Non-realisation of excise duty on unacknowledged export of spirit in bond	724	05.16
(vi)	Non-receipt of verification reports of <i>bhang</i> issued to warehouses	192	00.66
(vii)	Others	3,978	24.32
	Total	10,438	144.50

During the year 1998-99, the Department accepted under-assessment of tax of Rs. 20.59 crore involved in 1,848 cases, of which 1,723 cases involving Rs. 20.09 crore were pointed out in audit during 1998-99 and the rest in earlier years. Of these, an amount of Rs. 50.03 lakh has been recovered in 125 cases.

A few illustrative cases, involving Rs.29.01 crore, highlighting important observations are given in the following paragraphs:

3.2 Production of alcohol from molasses not in consonance with sugar content

The Madhya Pradesh Distillery Rules, 1995 (Rules) require the distillers to maintain minimum fermentation and distillation efficiencies at 84 and 97 per cent respectively. Every quintal of fermentable sugar present in the molasses or any other base as per departmental laboratory

Recovery of alcohol was lower than that recoverable from sugar contained in molasses involving duty of Rs.7.50 crore

should yield at least 52.5 alcohol litres or 91.8 proof litres of alcohol. Shortfall if any, entails cancellation of licence and forfeiture of security deposit of the distiller concerned, in addition to any other penalties leviable under the Act and Rules.

As per Indian Standard Specification (ISI)* there shall be three grades of molasses with minimum sugar contents of 50, 44 and 40 per cent and as per Technical Excise Manual** *Khandsari* has a minimum sugar content of 70.8 per cent.

(a) It was seen that molasses of grade I and II having sugar content between 51.80 and 44.20 per cent (higher than minimum sugar content as provided in ISI specifications for molasses) indicated by the suppliers and *khandsari* were received in 2 distilleries of Gwalior during November 1997 to November 1998. The distilleries used 5,77,260 quintals of molasses and *khandsari* capable of yielding 217.51 lakh proof litres of alcohol in accordance with minimum percentage of fermentable sugar as prescribed by ISI whereas only 187.90 lakh proof litres of alcohol were obtained. The shortfall in recovery of 29.61 lakh proof litres of alcohol involved a potential duty of Rs.7.11 crore.

The reasons for variations in percentage of sugar content shown by the suppliers and that shown by the departmental laboratory were not investigated by the Department.

The matter was reported to the Department and the Government (March 1999); their reply has not been received (November 1999).

(b) Test-check (June 1997 and December 1998) of records of 4 distilleries*** revealed that as per analysis reports of departmental laboratory, the production of alcohol should have been 35.02 lakh proof litres from 1.06 lakh quintals of molasses used (between May 1996 and September 1998) where as the actual production was 33.37 lakh proof litres resulting into short fall in production of 1.65 lakh proof litres. This resulted in excise duty of Rs.39.43 lakh being forgone (at the rate of Rs.22 and Rs.24 per proof litre for 1996-97 and 1997-99 respectively). Besides, penalties were also leviable.

* Issued by Indian Standard Institution (ISI), New Delhi in July 1959

** Technical Excise Manual is a reference book used in Department in their in house training

*** 2 distilleries in Gwalior and 1 each in Chhatarpur and Ratlam

The Excise Commissioner to whom the matter was referred, stated (October 1998) in respect of Chhatarpur distillery that the fermentable sugar present in the molasses used for production was 35.61 per cent and there was, therefore, no shortfall. The reply is not tenable as the molasses having fermentable sugar content at 38.11 per cent was used as per chemical analysis report of departmental laboratory. The reply in respect of other distilleries had not been received (November 1999).

The matter was reported to the Government (between April 1998 and March 1999); their reply has not been received (November 1999).

Similar observations involving subnormal yield of 13.73 lakh proof litres of alcohol for the period April 1994 to October 1997 were brought to the notice of the Government through paragraphs 3.10, 3.10, 3.13 (ii) and 3.2.6 (b) of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1995, 1996, 1997 and 1998 respectively.

3.3 Loss due to short accounting of molasses

The Act and Rules made thereunder do not provide for any loss of molasses in transit, storage or otherwise.

Inadmissible shortage of molasses capable of producing spirit with potential excise revenue of Rs.2.84 crore

Test-check (December 1998) of records in the Office of DEO* (Distillery), Ratlam, revealed that 8,007 tonnes of molasses were consigned (between September 1996 and December 1997 and again between April and November 1998) by various sugar mills to a Ratlam based distillery against which only 7,958 tonnes were reported to have been received by the distiller resulting in short accounting of 49,469 tonnes; 370 tonnes were further reduced from stock on ad hoc basis (at the rate of 1 per cent of the closing stock of each month) without assigning any reasons by the distiller/Department. Another 3,074 tonnes of molasses were shown as unfit (April 1997) and reduced from the stock by the distillery. The Department accepted the same without verification. This inadmissible shortage of 3,494 tonnes of molasses, capable of producing 11.84 lakh proof litres of spirit, involved a potential excise revenue of Rs.2.84 crore.

The matter was reported to the Department and the Government (March 1999); their reply has not been received (November 1999).

A similar para was included in the Report of Comptroller and Auditor General of India for the year ended 31 March 1997. No action to guard against leakage of revenue by exercising control over raw material was taken.

* District Excise Officer

3.4 Non-fixation of norms for yield of beer

Madhya Pradesh Brewery Rules, 1970 do not contain any norms for the yield of beer. The same are, however, provided in Technical Excise Manual. It further

Low recovery of beer involving duty of Rs.42.07 lakh

provides an allowance of 5 per cent for wastage in breweries in the process of manufacture.

Test-check (July 1998) of records of a brewery in Raisen district revealed that 33,191 and 6,849 quintals of malt/grain and sugar respectively used during January 1997 to May 1998 yielded 172.49 lakh bulk litres as against expected yield of 186.88 lakh bulk litres of wort*. This resulted in short recovery of 13.67 lakh bulk litres of beer (after allowing manufacturing loss of 5 per cent for wastages), involving duty of Rs.42.07 lakh (at the rate of Rs.2 per quart beer bottle).

The matter was reported to the Department and the Government (March 1999); their reply has not been received (November 1999).

3.5 Incorrect allowance of losses in manufacture of extra neutral alcohol (ENA)

The Madhya Pradesh Distillery Rules, 1995 do not provide any allowance for losses of spirit during manufacture of ENA.

Test-check (July 1998) of records of one distillery (Raisen district) revealed that re-distillation losses of 2.04 lakh proof litres of spirit were allowed in the process of manufacture of ENA from rectified spirit during January 1997 to March 1998. This incorrect allowance of losses deprived the Government of revenue of Rs.48.50 lakh.

The matter was reported to the Department and the Government (April 1999); their reply has not been received (November 1999).

3.6 Inadmissible wastages of spirit

The Rules allow wastages between 0.1 and 0.5 per cent on account of leakage or evaporation of spirit transported from one distillery/warehouse to another distillery/warehouse or exported. In case of blending and reducing operations during manufacture of liquor 1 per cent

* "Wort" is defined as the liquor obtained by the exhaustion of malt or grain by solution of saccharine matter in the process of brewing. It is a sugary solution, prepared from a fermentative base and water in which fermentation has not started

wastage is admissible for each operation. In case of wastages beyond permissible limit the licensee is liable to pay penalty.

Test-check (between May 1996 and January 1999) of records of 41 warehouses and 2 distilleries in 14 districts* revealed that 24.43 lakh proof litres of spirit were transported in tankers/drums to different warehouses (between May 1995 and August 1998). Further, 8.45 lakh proof litres of spirit were used by one distillery (manufacturer of foreign liquor) in reducing operations between November 1997 and November 1998. The excess wastages in transit and reduction beyond the permissible limit in these cases were 65,530.1 proof litres and 2,269.6 proof litres of spirit respectively which would have yielded excise duty of Rs.16.45 lakh. The Department accepted the wastages without ascertaining the reasons. The maximum penalty leviable in these cases worked out to Rs.21.13 lakh, which was not levied.

The DEO, Bilaspur intimated (May 1999) that penalty of Rs.0.19 lakh had been imposed in 33 out of 39 cases for effecting recovery. Position regarding recovery and replies in the remaining cases had not been received (November 1999).

The matter was reported to the Department and the Government (between March 1998 and April 1999); their reply has not been received (November 1999).

3.7 Non-recovery of expenditure incurred on Government establishment

Madhya Pradesh Distillery Rules, 1995 provide that expenditure incurred on the Government establishment at a distillery in excess of 5 per cent of the excise revenue earned from that distillery shall be realised from the distiller.

Test-check (between July 1998 and January 1999) of records of 3 distilleries** revealed that expenditure incurred on the State Government establishment in excess of five per cent of the revenue earned, amounting to Rs.26.03 lakh during 1995-96 to 1997-98 was not realised by the Department from the distillers.

The matter was reported to the Department and the Government (August 1998 and March 1999); their reply has not been received (November 1999).

* Balaghat, Bhopal, Bilaspur, Chhindwara, Gwalior, Mandsaur, Narsinghpur, Raigarh, Raisen, Rajnandgaon, Sehore, Surguja, Tikamgarh and Ujjain

** Chhatarpur, Raisen and Ratlam

3.8 Non-realisation of excise duty on unacknowledged export of foreign liquor in bond

The Madhya Pradesh Excise Act, 1915 and the Rules require the licensee to deposit the prescribed duty leviable on the full quantity of foreign liquor to be exported or

furnish a bank guarantee for an equal amount or execute a bond with adequate solvent sureties. The leviable duty is to be recovered if verification reports from importing units of foreign liquor are not furnished by the exporter within a specified period. Besides, penalties are also leviable.

Non-recovery of duty of Rs.5.44 crore on failure to monitor verification reports of foreign liquor exported in bond

Test-check (between April and December 1998) of records of 4 DEOs* revealed, that excise duty of Rs.5.44 crore was not recovered from 7 licensees on export of 7.17 lakh proof litres of foreign liquor and 68.88 lakh quarts of beer during July 1993 to June 1998 though verification reports had not been received from importing units even after a lapse of 1 to 61 months from the expiry of the validity period. This resulted in non-realisation of excise duty of Rs.5.44 crore besides penalties.

The matter was reported to the Department and the Government (March 1999); their reply has not been received (November 1999).

3.9 Application of incorrect rates of bottle fee

The Madhya Pradesh Foreign Liquor Rules, 1996 provide for charging bottle fee on transport of foreign liquor (other than malt liquor) imported from foreign countries at the rate of Rs.50 per quart bottle (750 ml) effective from 1 April 1996.

Application of incorrect rates of bottle fee on foreign liquor resulted in short payment of Rs.2.07 crore

Test-check (September 1998) of records of DEO, Jabalpur revealed that during the period June 1996 to August 1998 a wholesale licensee issued to the retail sale licensees 4,50,240 quart bottles of foreign liquor imported from Bhutan against payment of bottle fee at the rate of Rs.4 per bottle (applicable for Indian made foreign liquor) instead of at Rs.50 per bottle payable on foreign liquor imported from foreign country. This resulted in short payment of bottle fee of Rs.2.07 crore.

* Bhopal, Chhatarpur, Indore and Raisen

The Excise Commissioner, has directed DEO, Jabalpur (November 1999) to recover the amount.

The matter was reported to the Government (March 1999); their reply has not been received (November 1999).

3.10 Less recovery/non-deposit of licence fee in Government account

The Act and Rules provide for grant of licences in form F.L.2 (Restaurant Bar Licence) and F.L.3 (Hotel Bar Licence) for one year, renewable every year on prepayment of licence fee to the Government. Licences for municipal areas are granted by the municipal committees/ corporations concerned and in other areas by the Collector of the district. There is no provision in the rules to realise proportionate licence fee for licences granted for part of the year.

Licence fee of Rs.6.60 crore not deposited in Government account

Test-check (between October 1997 and February 1999) of records of 15 DEOs* revealed that 122 and 167 licences in form F.L.2 and F.L.3 respectively were granted/renewed by municipal committees/corporations concerned during 1996-97 to 1998-99 for a year or part of the year but licence fee Rs.6.60 crore realised (as against leviable amount of Rs.6.68 crore) was not deposited in the Government account. This deprived Government of Rs.6.68 crore as revenue.

The Government, to whom the matter was reported (between December 1997 and April 1999), inserted (April 1999) sub-rule 19 below Rule 18 of Madhya Pradesh Foreign Liquor Rules, 1996 with retrospective effect from 1 April 1996 providing for collection and appropriation of such fee in the accounts of municipal corporations/committees. This was contrary to the provisions of the Act and would result in unauthorised assistance to the municipal corporations/ committees without the approval of Legislature. Reply in respect of less recovery has not been received (November 1999).

3.11 Absence of interest provision on delayed payment

No provisions exist in the rules for levy of interest on delayed payment of excise revenue. Other States** levy interest on belated payment at rates ranging from 6.25 per cent to 24 per cent per annum.

Interest of Rs.74.76 lakh not recovered on delayed payment

* Bhopal, Bilaspur, Chhatarpur, Damoh, Gwalior, Indore, Jabalpur, Khandwa, Mandla, Narsinghpur, Ratlam, Rewa, Seoni, Sidhi and Ujjain

** (1) Gujarat 24% (2) Haryana 18% (3) Himachal Pradesh 15% (4) Karnataka 6.25% (5) Maharashtra 18.5% (6) Rajasthan 24%

Test-check (between March 1998 and January 1999) of records in the Office of DEOs Gwalior, Narsinghpur and Ratlam revealed that 409 retail liquor shops were auctioned in eight groups for Rs.93.38 crore for the financial years 1996-97 to 1998-99. The contractors failed to deposit full amount of the monthly instalments of auction money at the end of the respective months. Had a provision for levy of interest been made, the Government could have saved interest of Rs.74.76 lakh (calculated at the rate of 14 per cent) paid on borrowings.

This was also brought to the notice of the Government through paragraph 3.11 in the Report of Comptroller and Auditor General of India for the year ended March 1998. The Excise Commissioner reiterated (October 1998) that strict provisions for recovery of auction money have been made in the new excise policy, hence, provisions for levy of interest on belated payments are not necessary. The reply is not tenable because in the absence of any disincentive the licensees have continued to delay the deposit of the auction money.

The matter was reported to the Department and the Government (March 1999); their reply has not been received (November 1999).

3.12 Excess issue of liquor

The Act and Rules provide that country liquor shall be issued to a retail vendor upto the limits prescribed from time to time on payment of duty which is adjustable against the monthly instalment of auction amount. The balance of the instalment, if any, shall be deposited in cash by the end of each month. It further provides for issue of liquor without payment of duty and bottle fee in the month of February and March up to double the average monthly quantity drawn during previous months. This is adjustable against advance deposits when the total deposits by way of duty, bottle fee, cash payments and advance deposits become equal to the yearly auction amount. Any quantity in excess of above limits will be issued on payment of duty and bottle fee after allowing rebate at the rate prescribed from time to time.

Excess issue of liquor resulted in loss of Rs.1.23 crore

(a) Test-check of records (between December 1997 and December 1998) of 7 DEOs* revealed that 4.07 lakh proof litres of country liquor was issued in excess of the prescribed limit to the retail vendors in various months during 1996-97 and 1997-98. Excise duty was incorrectly adjusted against their auction amount. This resulted in unauthorised adjustment of duty of Rs.1 crore on excess issue of country liquor to the retail vendors.

The Excise Commissioner intimated (April and May 1999) that Rs.1.93 lakh for the year 1997-98 has been recovered by DEO, Dhar.

* Bilaspur, Chhatarpur, Dhar, Durg, Indore, Panna and Ratlam

As regard the limit prescribed for 1996-97, the Government to whom the matter was referred, deleted by notification (April 1999) the condition regarding regulation of issue of country spirit to retail vendors during 1996-97 with retrospective effect from 1 April 1996. Rule XXXIII of General Licence Conditions provide that the State Government are authorised to amend any condition of licence during the currency of the licence and unless otherwise directed, such amendment shall be effective as from the commencement of the licence. The deletion of the condition after a lapse of 2 years from the expiry of the licences was *ultra vires* of the above Rule .

(b) Test-check of records of DEO, Guna revealed (January 1998) that the Department issued liquor in excess of prescribed limit to retail vendors of 2 groups during February and March 1997 without payment of duty and bottle fee even when Rs.2.91 lakh was outstanding out of the auction amount. This resulted in non-realisation of auction amount of Rs.2.91 lakh and duty and bottle fee of Rs.19.62 lakh.

DEO, Guna intimated (June 1999) that Rs.2.91 lakh has since been recovered (December 1998) towards outstanding auction amount and that excess issue was made against advance deposit. The reply is not tenable as issues in excess of permissible limits were to be made on recovery of duty/bottle fee leviable.

The cases were reported to the Department and the Government (between March 1998 and April 1999); their reply has not been received (November 1999).

3.13 Non-levy of penalty on short lifting of minimum guaranteed quantity of liquor

Madhya Pradesh Foreign Liquor Rules, 1996 and Country Spirit Rules, 1995 provide for levy of a penalty on retail sale licensees of foreign/country liquor who do not lift minimum fixed quantity of liquor every month/year from warehouse/authorised licensee.

Test-check of records of 6 DEOs* (between June 1996 and August 1998) revealed that 5 foreign and 2 country liquor retail sale licensees, 19 Restaurant Bar and 6 Hotel Bar licensees not only failed to lift the minimum quantity for a month but also the quantity for the year as a whole. The quantity short lifted was 4,421.92 proof litres of foreign liquor, 14,764 proof litres of country liquor and 34,372.9 bulk litres of malt liquor during the years 1994-95 to 1997-98. Action to impose penalties of Rs.8.24 lakh was not taken.

On this being pointed out in Audit (between June 1996 and August 1998) 4 DEOs** imposed penalty of Rs.2.34 lakh in 16 cases and recovered (between October 1996 and June 1999) Rs.1.26 lakh there against. Further report in the matter has not been received (November 1999).

* Bhopal, Hoshangabad, Indore, Mandla, Narsinghpur and Rajgarh

** Bhopal Hoshangabad, Mandla and Rajgarh

The matter was reported to the Department and the Government (between April 1998 and April 1999); their reply has not been received (November 1999).

3.14 Loss in resale of retail *bhang* shops

The Act and Rules made thereunder, specify that the licence fee in respect of *bhang* shops shall be payable in twelve equal monthly instalments on or before seventh working day of the month. In case of default in payment, the Collector shall either prohibit the supply of intoxicants to that licensee or allow supply to the defaulter at the selling price. The Collector may also take the shop under his management or resell it at the risk and cost of the defaulter. The loss, if any, shall be recovered from the ex-licensee's bank guarantee/security deposit* or as arrears of land revenue.

Test-check (September 1998) of records of DEO, Rewa revealed that licence in respect of 8 *bhang* shops was granted for Rs.26 lakh for the year 1997-98. The licensee instead of making full payment of monthly instalment of licence fee, made part payment during May/June 1997 and stopped payments thereafter. Even then the Department did not prohibit or order the supply of the intoxicants at the selling price. The grants were re-auctioned (September 1997) for the residual period only when the arrears had accumulated to Rs.7.50 lakh. As the Bank guarantee furnished by the licensee on 23 April 1997 towards security deposit amounting to Rs.2.17 lakh was found to be forged, the entire amount due for recovery remained unrecovered. Non-initiation of timely action by the Department resulted in loss of revenue of Rs.9.16 lakh recoverable from ex-licensee.

The matter was reported to the Department and the Government (April 1999); their reply has not been received (November 1999).

3.15 Loss of revenue due to unauthorised trade/refund

The Act and Foreign Liquor Rules regulate the distribution of foreign liquor under a wholesale licence (form F.L.10) issued to a nominee of one or more than one manufacturer on payment of prescribed licence fee for each manufacturer. In respect of manufacture and bottling of foreign liquor under the franchise arrangement** the Rules provide for grant of special bottling licence (form F.L.9A) on payment of prescribed licence fee and bottling fee. The Act further provides that a licence granted to a licensee may be cancelled on his request but he will not be entitled to the refund of any fee paid.

* Equal to 1/12th of the bid amount obtainable before issue of licence

** Special bottling licences (F.L.9A) may be granted to such licensee who has been franchised (authorised/conferred franchised) for bottling specified brand/brands of foreign liquor by the holder of a similar/appropriate licence in any part of the country outside Madhya Pradesh

(a) **Unauthorised trade**

Test-check (July and August 1998) of records of a manufacturer's distribution licensee (form F.L.10) of Bhopal and bottling licensee (form F.L.9) of Raisen revealed that the F.L.10 licensee stored/sold foreign liquor of another manufacturer without any authorisation from him and without payment of the prescribed licence fee of Rs.3 lakh. In the case of the F.L.9 licensee, the foreign liquor relating to franchise arrangement was bottled without a bottling licence and without payment of the prescribed licence fee of Rs.20,000 and bottle fee of Rs.3.10 lakh. Thus, the total licence fee and bottling fee leviable on the unauthorised trade worked out to Rs.6.30 lakh.

On this being pointed out, the Excise Commissioner directed DEO, Bhopal (June 1999) to recover Rs.3 lakh from the F.L.10 licensee. Information in respect of the F.L.9 licensee of Raisen has not been received (November 1999).

(b) **Refund**

Test-check (July 1998) of records of DEO, Raisen revealed that the Department had refunded Rs.3.75 lakh on surrender of 5 *Ahata* licences of foreign liquor for the year 1996-97 which was not in conformity with the provisions of the Act and resulted in loss of revenue of Rs.3.75 lakh.

The matter was reported to the Department and the Government (between March and April 1999); their reply has not been received (November 1999).

3.16 Loss of revenue due to non-recovery of arrears

The Act provides for the recovery of excise revenue from the person primarily liable to pay the same or from his surety (if any) by distress and sale of his movable property or by any other process for recovery of land revenue.

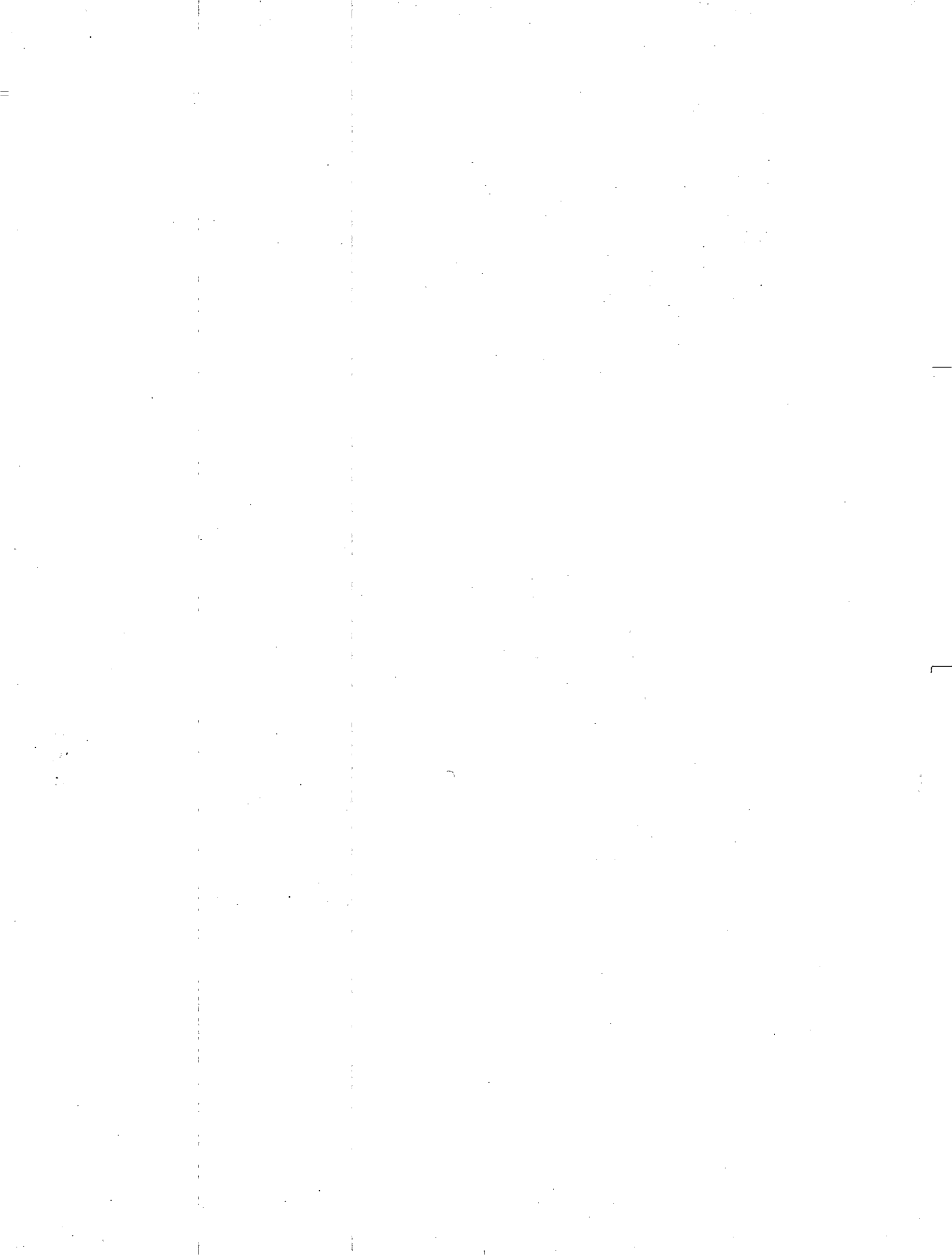
Revenue of Rs.84.81 lakh was outstanding for recovery

Test-check (between March 1996 and December 1998) of records of 3 DEOs* revealed that in five cases recovery of excise revenue of Rs.84.81 lakh for the years 1991-92, 1994-95 and 1995-96 could not be made from the defaulters even after lapse of three to six years due to wrong submission of father's name and details of property by the licensee and non-initiation of effective pursuance by the Department.

The Excise Commissioner while agreeing (July 1999) with the audit contention that no provision for details of movable/immovable property of the licensee existed in the Act, did not propose any remedial action to overcome the lacuna.

* *Dhar, Ratlam and Surguja (Ambikapur)*

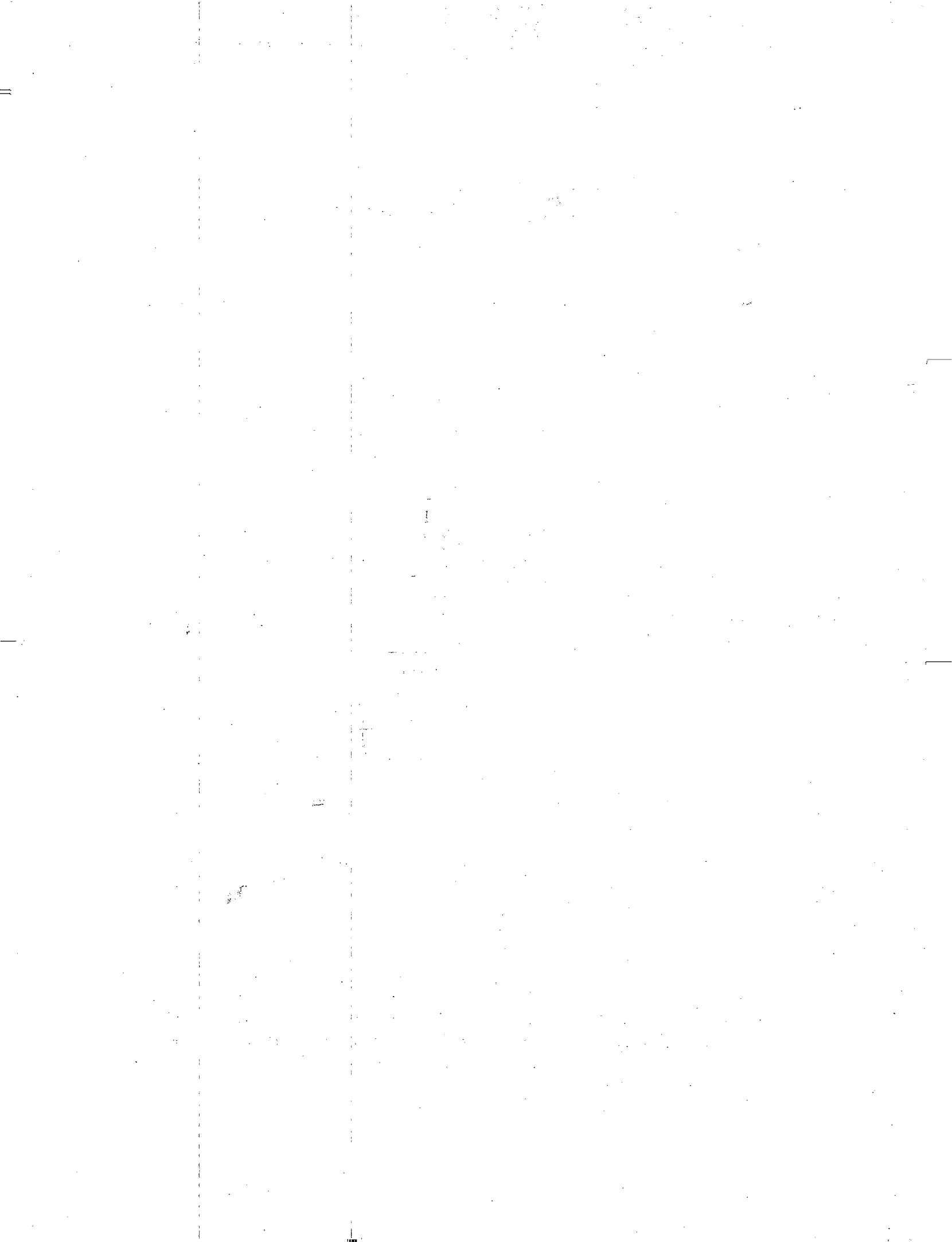
The matter was reported to the Government (between April 1996 and April 1999); their reply has not been received (November 1999).



CHAPTER 4

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TAXES ON VEHICLES



Chapter 4 : Taxes on Vehicles

4 (a) Introduction

Motor vehicles and vehicular traffic in Madhya Pradesh are covered by the following Central/State Acts and Rules:

- (i) The Motor Vehicles Act, 1988 (MV Act, 1988),
- (ii) The Central Motor Vehicle Rules, 1989 (CMV Rules, 1989),
- (iii) The Madhya Pradesh *Motoryan Karadhan Adhiniyam*, 1991 (*Adhiniyam*, 1991),
- (iv) The Madhya Pradesh *Motoryan Karadhan Niyam*, 1991 (*Niyam*, 1991),
- (v) The Madhya Pradesh Motor Vehicles Rules, 1994 (MPMV Rules, 1994) and Notifications/Instructions issued by the State Government/ Transport Commissioner from time to time.

The provisions of these Acts and Rules regulate levy and collection of taxes, penalties, fees and composition fees on motor vehicles, which are categorised as follows for taxation purposes:

- (i) Public Service Vehicles (MVs used or adapted to be used for the carriage of persons for hire or reward),
- (ii) Goods Vehicles (MVs constructed or adapted for use solely for the carriage of goods),
- (iii) Omnibuses (MVs constructed or adapted to carry more than six persons, excluding the driver),
- (iv) Private Service Vehicles (Omnibuses ordinarily used by or on behalf of the owner for the purpose of carrying persons for, or in connection with his trade or business, otherwise than for hire or reward),
- (v) Other Vehicles, not included in any class of vehicles.

Adhiniyam, 1991 repealed the Madhya Pradesh Motor Vehicles Taxation Act, 1947 and rationalised the various taxes leviable on motor vehicles in the State into a slab system. There has been increase in registration of vehicles by 11 per cent over the previous year without proportional increase in revenue. The Department has identified illegal operation of vehicles, misuse of surrender of permits and vehicles and increase in number of forged national permits as areas of leakage of revenue.

According to the provisions of *Adhiniyam*, 1991 and *Niyam*, 1991 a tax shall be levied on every motor vehicle used or kept for use in the State at the rates specified in the schedules to *Adhiniyam*, 1991. Vehicle tax is leviable in advance, monthly on public service vehicles up to 10th day of the month, quarterly on all other type of vehicles up to 15th of the quarter (except motor cars, motor cycles and invalid carriages on which lifetime tax is levied when they are registered).

Failure to pay tax by the specified date renders the owner liable to pay a penalty at the rate of one-third of the unpaid amount of tax for the default of each month but not exceeding twice the unpaid amount of the tax.

4 (b) Organisational set up

The entire process of levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner, who is assisted by 5 Deputy Transport Commissioners and 5 Assistant Transport Commissioners with headquarters at Gwalior. Regional Transport Officers and Additional Regional Transport Officers are incharge of region and sub-regions respectively. Check post/flying squads are operated by the Department to check the vehicles plying on the roads for any contravention of the Acts and Rules and to prevent leakage of revenue. The Department has an internal audit wing headed by Deputy Transport Commissioner (Finance) with headquarters at Gwalior.

4 (c) Revenue realised

Revenue realised in Transport Department during the year 1998-99 was Rs.382.25 crore which was 5.55 per cent of the total revenue of the State.

4.1 Results of audit

Test-check of records of the offices of the Transport Department conducted during the year 1998-99 revealed non-assessment/ under-assessment etc. of tax and losses of revenue amounting to Rs.33.45 crore in 6,248 cases which may be broadly categorised as follows:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-levy of tax, penalty and composition fees on public service vehicles	3,196	27.17
(ii)	Non-levy of tax and penalty on goods vehicles	3,052	6.28
	Total	6,248	33.45

The Department accepted under-assessment/losses etc. in 3,119 cases involving Rs.19.70 crore, of which 2,343 cases involving Rs.18.16 crore were pointed out in audit during 1998-99 and the remaining in earlier years. Of these, an amount of Rs.0.43 crore has been recovered in 494 cases.

A few illustrative cases involving financial effect of Rs.19.70 crore are given in the following paragraphs:

4.2 Non/short-levy of vehicle tax/penalty

Tax is leviable on every motor vehicle used or kept for use in the State at the rates specified in the First Schedule to *Adhiniyam*, 1991. If the tax due on a motor vehicle has not been paid, the owner shall, in addition to the tax, be liable to pay a penalty at the rate of one third of the unpaid amount of tax for the default of each month or part thereof but not exceeding twice the unpaid amount of tax. Where any owner fails to pay the tax or penalty or both the taxation authority is required to issue a demand notice and recover the tax due.

(i) Non-levy of vehicle tax on public service vehicles/goods vehicles/spare vehicles

A test-check of records (between July 1997 and October 1998) of 11* RTOs** and 8**** ARTOs***** revealed that vehicle tax on 3,014 vehicles***** for the period between September 1994 and March 1998, was not paid by the vehicle owners. No demand notices were issued by the Department for recovery of the tax. Failure of the taxation authorities to review the demand and collection register and list out the cases of default resulted in non-levy of vehicle tax of Rs.5.09 crore. Besides, a penalty of Rs.10.18 crore was also leviable.

Vehicle tax of Rs. 5.09 crore and penalty of Rs. 10.18 crore was not levied

The ARTO, Chhindwara and the Transport Commissioner, in respect of RTOs, Morena, Raipur, ARTOs, Ambikapur, Mandasaur and Satna replied (between May and October 1999) that an amount of Rs.33.22 lakh has been recovered in 294 cases. Besides, demand for Rs.66.97 lakh has been raised in 205 cases; reply to remaining cases has not been received (November, 1999).

The matter was reported to the Government (between September 1997 and December 1998 and again between January and April 1999); their reply has not been received (November 1999).

* Bhopal, Bilaspur, Gwalior, Hoshangabad, Jabalpur, Jagdalpur, Morena, Raipur, Rewa, Sagar and Ujjain

** Regional Transport Officer

*** Ambikapur, Chhatarpur, Chhindwara, Guna, Katni, Khandwa, Mandasaur and Satna

**** Additional Regional Transport Officer

***** 279 public service vehicles, 1,984 goods vehicles and 751 spare vehicles

(ii) Non/short-levy of vehicle tax/penalty on public service vehicles

A test-check of records (between January and October 1998) of RTO, Morena revealed that vehicle tax, in respect of 14 public service vehicles operated under an agreement between the MPSRTC* and the operators

Vehicle tax of Rs.33.61 lakh and penalty of Rs.67.22 lakh not/short-levied

plying on stage carriage permits for the period between April 1996 and March 1998, was either not paid or paid partly by MPSRTC. This resulted in non/short-levy of vehicle tax amounting to Rs.33.61 lakh. Penalty of Rs.67.22 lakh was also leviable but was not levied.

The Transport Commissioner stated (September 1999) that an amount of Rs.77,000 has been recovered in one case; reply to remaining cases has not been received (November 1999).

The matter was reported to the Government (between March and December 1998 and again between March and April 1999); their reply has not been received (November 1999).

(iii) Non/short-levy of vehicle tax on public service vehicles plying on All India Tourist Permits

Vehicle tax on public service vehicles plying on All India Tourist Permits is leviable at the rate specified in First Schedule to the *Adhiniyam* 1991. Further, where a permit is allowed to be deposited by the taxation

Vehicle tax of Rs.33.30 lakh and penalty of Rs.66.60 lakh not/short-levied

authority, for the period during which the vehicle is not in use, tax is leviable at a lower rate.

Test-check of records (between December 1997 and August 1998) of 5 RTOs** and ARTO, Guna revealed that vehicle tax of Rs.33.30 lakh in respect of 34 public service vehicles plying on All India Tourist Permits, held by 26 operators for the periods falling between February 1996 and March 1998 was either not paid or paid at lower rate*** by the owners of the vehicles. It was also not demanded by the taxation authorities. Besides, a penalty of Rs.66.60 lakh was also leviable.

The Transport Commissioner replied (between August and September 1999) that Rs.1.05 lakh has been recovered in 2 cases, in respect of RTOs, Morena and Raipur and demand for Rs.3.78 lakh has been raised in 3 cases; reply to remaining cases has not been received (November 1999).

* Madhya Pradesh State Road Transport Corporation

** Gwalior, Jabalpur, Jagdalpur, Morena and Raipur

*** As the condition that permits be accepted for deposit by the taxation authority had not been fulfilled

The matter was reported to the Government (between March and November 1998 and again between February and April 1999); their reply has not been received (November 1999).

(iv) Vehicle tax and penalty on public service vehicles plying on inter-State routes

As per *Adhiniyam* and *Niyam*, 1991 any Motor Vehicle of other State is permitted to ply in the State on reciprocal basis on payment of tax at the rate specified in the First Schedule, failing which the owner shall be liable to pay a penalty at the rate specified in the *Adhiniyam*, 1991.

Vehicle tax of Rs. 10.34 lakh and penalty of Rs. 20.68 lakh not levied

Test-check of records (between December 1997 and October 1998) of 3 RTOs* and ARTO, Ambikapur for the periods between April 1995 and March 1998 revealed that vehicle tax of Rs.10.34 lakh was not realised for periods ranging from 2 to 14 months and penalties of Rs.20.68 lakh were not levied on 35 public service vehicles plying on inter-State permits held by 28 operators.

The Transport Commissioner replied (October 1999) that an amount of Rs.16,000 has been recovered by ARTO, Ambikapur in one case; reply to remaining cases has not been received (November 1999).

The matter was reported to the Government (between February and December 1998 and again between February and April 1999); their reply has not been received (November 1999).

(v) Non-levy of vehicle tax and penalty on omnibuses

Vehicle tax on omnibuses is leviable at the rate specified in the First Schedule to the *Adhiniyam*, 1991.

Vehicle tax of Rs. 21.15 lakh and penalty of Rs. 42.30 lakh was not levied

Test-check of records (between September 1997 and October 1998) of 8 RTOs** and 6 ARTOs*** revealed that vehicle tax on 858 omnibuses for the period ranging from one to eight quarters falling between April 1995 and March 1998 was not paid by the vehicle owners nor demanded by the Department. This resulted in non-levy of vehicle tax of Rs.21.15 lakh and a penalty of Rs.42.30 lakh.

The Transport Commissioner replied (September 1999) that an amount of Rs.89,000 has been recovered in 24 cases by RTO, Morena and ARTO, Mandsaur; reply to remaining cases has not been received (November 1999).

* Gwalior, Morena and Sagar

** Bhopal, Gwalior, Hoshangabad, Jabalpur, Morena, Rewa, Sagar and Ujjain

*** Chhatarpur, Chhindwara, Guna, Khandwa, Mandsaur and Satna

The matter was reported to the Government (between December 1997 and December 1998 and again between February and April 1999); their reply has not been received (November 1999).

(vi) Non/short-levy of vehicle tax

Vehicle tax on private service vehicles/ public service vehicles is to be levied at the rate specified in the First Schedule to the *Adhiniyam*, 1991. Whenever the rates of tax are enhanced the owner shall deposit the difference of amount of tax, at the time of payment of tax for the subsequent period. Besides, penalty at specified rates is also leviable for default in payment. Further *Niyam*, 1991 prescribe lower rate of tax when permit is allowed to be deposited for the period during which the vehicle is not in use; otherwise tax is leviable at the full or original rate.

(a) Private service vehicles

Test-check of records (between July 1997 and October 1998) of 5 RTOs* and 3 ARTOs** revealed that vehicle tax in respect of 42 private service vehicles, for the periods falling between April 1994 and March 1998 was not paid and in respect of 5 such vehicles the difference of enhanced tax for the period between April 1997 and March 1998 was not paid. This resulted in non/short-levy of tax of Rs.20.61 lakh and penalty of Rs.41.22 lakh.

Vehicle tax of Rs.20.61 lakh and penalty of Rs.41.22 lakh remained unlevied

The ARTO, Chhindwara and Transport Commissioner, in respect of ARTO, Ambikapur replied (between June and October 1999) that an amount of Rs.1.64 lakh has been recovered in one case. Besides, demand of Rs.3.07 lakh has been raised in 5 cases; reply to remaining cases has not been received (November 1999).

The matter was reported to the Government (between September 1997 and December 1998 and again February and April 1999); their reply has not been received (November 1999).

(b) Public service vehicles

A test-check of records (between September 1997 and October 1998) of 4 RTOs*** and 5 ARTOs**** revealed that vehicle tax paid on 87 public service vehicles for various periods between May 1995 and March 1998 fell short of the amount due by Rs.11.96 lakh due to incorrect calculation/application of incorrect/lower rate of tax. A penalty of Rs.23.92 lakh leviable was also not levied by the Department.

Vehicle tax/penalty of Rs.35.88 lakh not levied

* Gwalior, Jabalpur, Morena, Rewa and Ujjain

** Ambikapur, Chhindwara and Katni

*** Bhopal, Gwalior, Hoshangabad and Morena

**** Ambikapur, Chhatarpur, Guna, Khandwa and Satna

The Transport Commissioner, in respect of RTO, Morena and ARTOs, Ambikapur and Satna replied (between May and October 1999) that Rs.1.84 lakh have been recovered in 6 cases. Besides, demand has been raised for Rs.1.35 lakh in respect of 7 cases of Satna sub-region; reply to remaining cases has not been received (November 1999).

The matter was reported to the Government (between December 1997 and December 1998 and again between February and April 1999); their reply has not been received (November 1999).

4.3 Non/short-levy of penalty and interest on belated payment of vehicle tax

If the tax due on any motor vehicle under the *Adhiniyam*, 1991 is not paid the owner shall in addition to the payment of tax due, be liable to pay a prescribed penalty and interest at the rate of 20 per cent per annum on the amount of tax due after the expiry of a period of six months from the date prescribed for payment.

Test-check of the records (between July 1997 and October 1998) of 4 RTOs* and 5 ARTOs** revealed that tax on 15 goods vehicles and 109 public service vehicles, due between January 1994 and March 1998, was paid late by 1 to 27 months. Penalty and interest on belated payments was, however, either not levied or levied partly. This resulted in non-levy of penalty of Rs.11.36 lakh and interest of Rs.0.15 lakh.

The Transport Commissioner, in respect of RTO, Morena and ARTOs, Ambikapur and Satna replied (between May and October 1999) that an amount of Rs.80,000 has been recovered in 6 cases. Besides, demand has been raised for Rs.1.22 lakh in 18 cases; reply to remaining cases has not been received (November 1999).

The matter was reported to the Government (between September 1997 and December 1998 and again between February and April 1999); their reply has not been received (November 1999).

4.4 Non/short-levy of vehicle tax and composition fee on public service vehicles plying without permits

Plying of vehicles without permit or in contravention of conditions of permit, certificate of fitness/insurance/licence is an offence under the Act. The vehicle tax on

Vehicle tax of Rs.14.27 lakh and composition fee of Rs.7.78 lakh not realised

* Bhopal, Hoshangabad, Morena and Ujjain

** Ambikapur, Chhatarpur, Chhindwara, Katni and Satna

public service vehicles plying without permit shall be charged at the rate of Rs.600 per seat per month. The offence is compoundable by the taxation authority on payment of the prescribed fee for each offence.

(i) A test-check of records (between December 1997 and October 1998) of 4 RTOs* revealed that 45 public service vehicles were detected by checking agencies of the Department as plying without permit/certificate of fitness/insurance/ driving and conductor's licence on 47 occasions on 32 different dates between June 1996 and March 1998, but the Department did not recover the vehicle tax and composition fee. This resulted in non-recovery of vehicle tax of Rs.9.85 lakh and composition fee of Rs.0.44 lakh.

(ii) Test-check of records (between September 1997 and August 1998) of 4 RTOs** and ARTO, Satna revealed that 6 Public Service Vehicles were operated unauthorisedly in contravention of permit conditions between July 1995 and January 1998. No action was, however, taken either to recover the vehicle tax at higher rate or to compound the offences by the taxation authority. This resulted in non-levy of vehicle tax of Rs.4.42 lakh and composition fee of Rs.7.34 lakh.

The ARTO, Satna replied (May 1999) that demand of Rs.2.76 lakh has been raised in 2 cases.

The matter was reported to the Department and the Government (between December 1997 and December 1998 and again between February and April 1999); their reply has not been received (November 1999).

4.5 Non-levy of vehicle tax on goods vehicles of other States plying on countersigned permits

Goods carriages belonging to other States plying on permits issued by those States and countersigned by the State Transport Authority of Madhya Pradesh shall bear tax at 85 per cent of the rate specified in clause V(a) of the First Schedule to the *Adhiniyam*, 1991.

A test-check of records (July 1998) of RTO, Rewa revealed that owners of 30 goods vehicles covered by permits granted by transport authorities of other States and countersigned in Madhya Pradesh did not pay vehicle tax of Rs.2.01 lakh for the period between April 1997 and March 1998. A penalty of Rs.4.02 lakh was also leviable which was not levied.

The Transport Commissioner replied (September 1999) that an amount of Rs.35,000 has been recovered in 14 cases; reply to remaining cases has not been received (November 1999).

* Bilaspur, Gwalior, Sagar and Ujjain

** Bilaspur, Hoshangabad, Morena and Sagar

The matter was reported to the Government (between September 1998 and April 1999); their reply has not been received (November 1999).

4.6 Non-levy of composition fee for non-compliance of additional condition of All India Tourist Permits

The CMV Rules, 1989 require the holder of an All India Tourist Permit to submit quarterly returns indicating the name and residential particulars of self/hirer as well as driver and registration mark of vehicle, along with the particulars of starting and destination point with the journey time at both ends. Failure to do so renders the permit liable to cancellation/suspension. The offence can be compounded on payment of a fee of Rs.500 per quarter.

Test-check of records (June 1998) of the Transport Commissioner, Gwalior revealed that holders of 164 All India Tourist Permits had failed to furnish 1,024 quarterly returns for the period between April 1996 and March 1998. The Department had neither cancelled/suspended the permits nor compounded the offence on realising the prescribed fee of Rs.5.12 lakh.

The matter was reported to the Department and the Government (between August 1998 and April 1999); their reply has not been received (November 1999).

4.7 Loss of revenue due to incorrect classification of vehicles

The First Schedule to the *Adhiniyam*, 1991 specifies a higher rate of tax on private service vehicles as compared to omnibuses.

Test-check of records (between July and December 1997) of 2 RTOs* and 2 ARTOs** revealed that 30 Jeeps purchased by 14 different commercial organisations for their use were registered as omnibuses instead of private service vehicles by the registering authorities. This resulted in loss of Rs.4.99 lakh for the period between January 1992 and March 1997.

The ARTO, Satna replied (May 1999) that demand has been raised for Rs.0.89 lakh in all the 3 cases.

The matter was reported to the Department and the Government (between September 1997 and March 1998 and again between February and March 1999); their reply has not been received (November 1999).

* Hoshangabad and Jagdalpur

** Katni and Satna

service

WTO

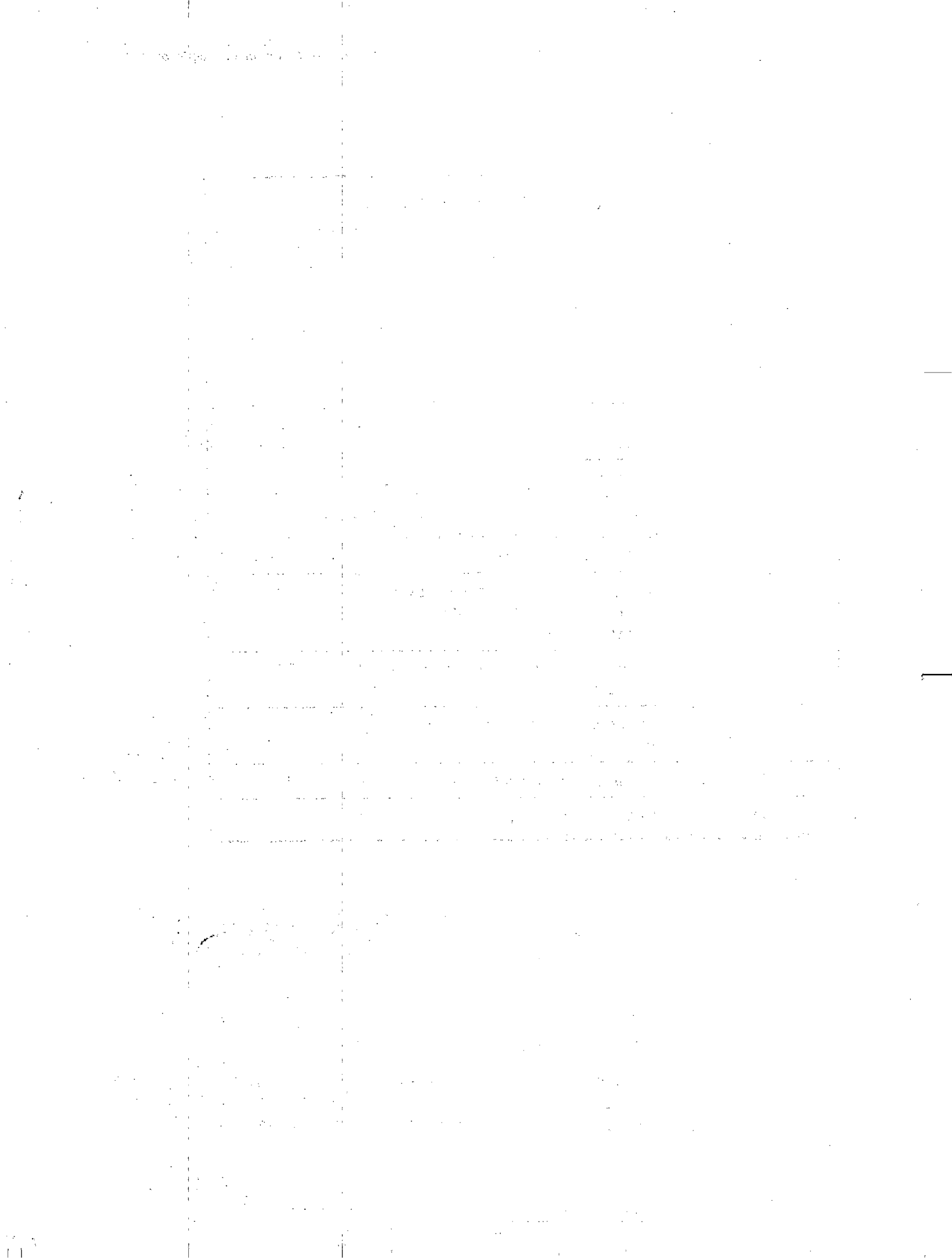
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CHAPTER 5

LAND REVENUE		
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LAND REVENUE



Chapter 5: Land Revenue

5 (a) Introduction

Madhya Pradesh is the largest State of India with an area of 4,43,446 sq km divided into 61 districts (comprising 74,860 revenue villages). It is centrally situated and surrounded by seven other States.

All land is liable to the payment of revenue to the State Government. Agricultural land is subjected to land revenue at rates determined at the time of settlement. When agricultural land is diverted to residential/commercial purposes, diversion rent and premium are assessed by the Sub-Divisional Officers. *Nazul* rent, premium and interest are levied on the Government land allotted on permanent and temporary leases. *Panchayat upkar* is also levied on land revenue in respect of land situated in *panchayat* areas. Fines, penalties, process fee and interest are also levied under the provisions of Madhya Pradesh Land Revenue Code (MPLR Code), 1959, Revenue Book Circulars (RBC) and executive instructions issued from time to time.

5(b) Organisational set up

The Revenue Department is headed by a Principal Secretary who is assisted by the Commissioner, Settlement and Land Record. Commissioners of Divisions exercise administrative and financial control over the Districts included in the Division. In each District, Collectors administer the activities of the Department. Tahsildar is the Revenue Officer who adjudges the revenue cases in the original court and arranges raising and recovery of demand and maintenance of records.

5 (c) Revenue realised

Land revenue realised during the year 1998-99 was Rs.26.97 crore, being 0.39 per cent of the total revenue of the State.

5.1 Results of audit

Test-check of records relating to assessment and collection of land revenue during 1998-99 revealed non-assessment/under-assessment etc. of revenue, non-raising of demand amounting to Rs.64.42 crore in 66,553 cases which may be broadly categorised as follows:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-assessment, delay in assessment of diversion rent and premium	1,637	6.17
(ii)	Non/under-assessment of <i>nazul</i> rent, premium and ground rent	1,064	14.79
(iii)	Non-levy of <i>panchayat</i> cess, non-revision of land revenue, non-realisation of fines and penalties	10,712	1.27
(iv)	Delay in collection of revenue against Revenue Recovery Certificates	32,756	39.81
(v)	Others	20,384	2.38
	Total	66,553	64.42

During the year 1998-99 the Department accepted under-assessment etc. of Rs.64.51 crore involved in 59,672 cases, of which 56,042 cases involving Rs.60.35 crore were pointed out during 1998-99 and rest in earlier years. Of these, an amount of Rs.4.16 crore has been recovered in 3,630 cases.

A few illustrative cases involving Rs.18.83 crore are given in the following paragraphs:

5.2 Under-assessment of premium and ground rent

The Revenue Manual Volume-II (Revenue Book Circulars) provides that Government *nazul* land can be allotted/leased out

Allotment of nazul land at a lesser or concessional rate resulted in under-assessment of premium and ground rent Rs.12.30 crore

permanently without auction. The amount of premium should not be less than the minimum price fixed by the Government from time to time and the ground rent should be recovered at the rate of 5 per cent and 7.5 per cent of the premium in case of land used for residential and commercial purposes respectively, subject to certain concessions.

Test-check of records (December 1998 and January 1999) of *Nazul* Offices of 3 collectorates* revealed that *nazul* land measuring 213 lakh square feet was allotted to 5 lessees during September 1995 to March 1998, either at a lesser premium and ground rent, or at concessional rates which were not admissible. This resulted in non-levy of Rs.12.30 crore (Rs.11.64 crore premium and Rs.0.66 crore ground rent). This includes two cases of allotment of land admeasuring 7.43 lakh square feet in favour of *Sant Asharam ji Gurukul*

* Durg, Indore and Vidisha

Ashram for Dhyam Yog Kendra and Rajput Samaj for construction of Dharamshala in Indore town without charging any premium and levying token ground rent of Re.1 per year in each case as against leviabale premium of Rs.31.76 lakh and ground rent of Rs.1.06 lakh.

The matter was reported to the Department and the Government (between February and March 1999); their reply has not been received (November 1999).

5.3 Non-realisation of premium and ground rent in respect of *nazul* land

Madhya Pradesh Government issued instructions (between 1985 and 1991) that anticipated premium is recoverable in advance

Premium and ground rent of Rs.31.69 lakh in respect of nazul rent was not realised

prior to handing over possession in respect of land approved for transfer to a local body or Government undertakings, besides the annual ground rent as fixed by the Government .

Test-check of records (December 1998) in *Nazul* Office, Guna revealed that 8.37 lakh square feet *nazul* land situated at 4 different places was transferred and advance possession was given (between September 1981 and October 1986) to the Madhya Pradesh Housing Board without charging anticipated premium and ground rent. Revenue on account of anticipated premium Rs.21.96 lakh and ground rent Rs.9.73 lakh (calculated at minimum price fixed by Government) for the period September 1981 to March 1999 at the rate of Rs.58,182 per annum was not assessed/recovered.

Proposals were sent only between January and April 1994 to the Government after a lapse of 8 to 13 years for approval of transfer of land. Final sanction on premium and ground rent has not been received. Commissioner, Gwalior stated (September 1999) that the amount would be adjusted from the cost of quarters to be built by Madhya Pradesh Housing Board in future.

The matter was reported to the Government in March 1999; their reply has not been received (November 1999)

5.4 Non-raising of demand of diversion rent, fines and penalties

According to the procedure laid down in RBC, after reassessment of rent of land which has been assessed for one

Demand of diversion rent, fines and penalties of Rs.165.66 lakh was not raised

purpose and diverted for use to any other purpose, the Revenue Authority shall intimate the same to the Tahsildar so as to incorporate the demand in tahsil records. Demand of fines and penalties is to be noted in demand and collection register of tahsil.

It was noticed (between April 1997 and February 1999) that in 19 tahsils* in 2,289 cases the demand of diversion rent of Rs.157.92 lakh and in 4 tahsils** in 6,364 cases, fines and penalties of Rs.7.74 lakh imposed between 1993-94 and 1996-97, was neither noted in register nor raised by the concerned authorities. On this being pointed out (January 1999) Tahsildar, Durg stated that demand notice for Rs.61.66 lakh on account of diversion rent had since been issued (February 1999) to Bhilai Steel Plant. In other cases no reply has been received.

The matter was reported to the Government (between November 1997 and March 1999); their reply has not been received (November 1999).

5.5 Non-registration of Revenue Recovery Certificates and inaction by the Recovery officers

Madhya Pradesh Land Revenue Code, 1959 and Madhya Pradesh Lokdhan (Shodya Rashiyon Ki Vasuli) Niyam, 1988 provide that the recovery officer shall, within fifteen days of receipt of Revenue Recovery Certificate register the case in Revenue Case Register and issue a notice of demand.

Revenue Recovery Certificates for Rs.3.80 crore were lying unregistered from 1 to 10 years

It was noticed (between April 1997 and July 1998) that in 11 tahsils*** 5,473 Revenue Recovery Certificates for an aggregate amount of Rs.3.80 crore, received between 1988-89 and 1996-97 were lying unregistered or without further action for periods ranging from 1 to 10 years.

The matter was reported to the Government (between April 1997 and March 1999); their reply has not been received (November 1999).

5.6 Loss of revenue due to non-renewal of permanent leases

The Madhya Pradesh Land Revenue Code, 1959 and Revenue Manual Vol. II provide that rent payable for a plot (*nazul* plot) in an urban area held on permanent lease, becomes due for

* Bandhavgarh (Umariya), Bhopal, Durg, Guna, Jaura (Morena), Jhabua, Kailaras (Morena), Kasarabad (Khargone), Lahar (Bhind), Manasa (Mandsaur), Mauganj (Rewa), Morena, Niwari (Tikamgarh), Porsa (Morena), Pushprajgarh (Shahdol), Rajnandgaon, Surajpur (Surguja), Susner (Shajapur) and Tikamgarh.

** Baiden (Sidhi), Guna, Ichhawar (Sehore) and Kusumi (Sidhi)

*** Chanderi (Guna), Goharganj (Raisen), Guna, Isagarh (Guna), Jaura (Morena), Kalapipal (Shajapur), Lundra (Surguja), Morena, Multai (Betul), Niwari (Tikamgarh) and Rehli (Sagar).

revision at the time of renewal of lease. The revised rent is to be fixed at six times of the rent payable immediately before the revision, provided that the use of land does not change. The revised assessment is applicable from the financial year following the year in which the assessment is made.

In *Nazul* Office, Durg 290 permanent leases became due for renewal on 1 April 1995 but the same were neither renewed and rent revised nor were eviction proceedings initiated. This resulted in loss of revenue of Rs.8.06 lakh for the years 1995-96 to 1998-99.

The matter was reported to the Department and the Government (March 1999); their reply has not been received (November 1999).

5.7 Non-execution and registration of lease deeds

The Registration Act, 1908 provides for compulsory registration of lease deeds exceeding a period of one year. Further, as per para 28 of RBC, if a lessee does not execute and gets registered the deed in respect of *Nazul* land leased out/allotted by the Government within a reasonable time he can be forced to do so through a court of law.

In *Nazul* Office, Durg and tahsil, Hatta (Damoh) it was noticed (April 1998 and January 1999) that 14 permanent leases of Government land were granted between June 1985 and January 1997 in favour of 4 lessees. The lease deeds were, however, neither executed nor registered. This resulted in non-realisation of revenue of Rs.47.61 lakh (stamp duty Rs.27.76 lakh, registration fees Rs.19.85 lakh).

The matter was reported to the Department and the Government (between June 1998 and March 1999); their reply has not been received (November 1999).

5.8 Non-assessment of *panchayat* cess

The Madhya Pradesh *Panchayat Adhiniyam, 1981* provides that *panchayat* cess is leviable, for each revenue year, on every tenure holder and Government lessee in respect of land held by him in the *gram panchayat* area at the rate of 50 paise per rupee of land revenue or rent (including diversion rent) assessed or part thereof exceeding 50 paise for each piece of land. The cess is leviable in addition to land revenue or rent.

In 6 tahsils* the *panchayat* cess of Rs.8.80 lakh was not assessed in 198 cases on diversion of Rs.17.59 lakh pertaining to *gram panchayat* area for the revenue years 1991-92 to 1996-97.

Commissioners, Gwalior and Rewa intimated (between August and September 1999) that the demand has been raised in tahsils Guna and Raghurajnagar (Satna).

The matter was reported to the Government (between November 1996 and February 1999); their reply has not been received (November 1999).

5.9 Non-levy of process expenses

The Madhya Pradesh *Lokdhan (Shodhya Rashiyon ki Vasuli) Adhiniyam, 1987* provides for process expenses at the rate of 3 per cent of the principal amount of revenue due from defaulters, to be included in the demand to be raised through Revenue Recovery Certificates.

In 6 tahsils** it was noticed (between August 1997 and April 1998) that in 4,878 cases, process expenses of Rs.10.79 lakh on principal amount of Rs.359.78 lakh were not demanded from the defaulters depriving Government of Rs.10.79 lakh.

The matter was reported to the Department and the Government (between September 1997 and March 1999); their reply has not been received (November 1999).

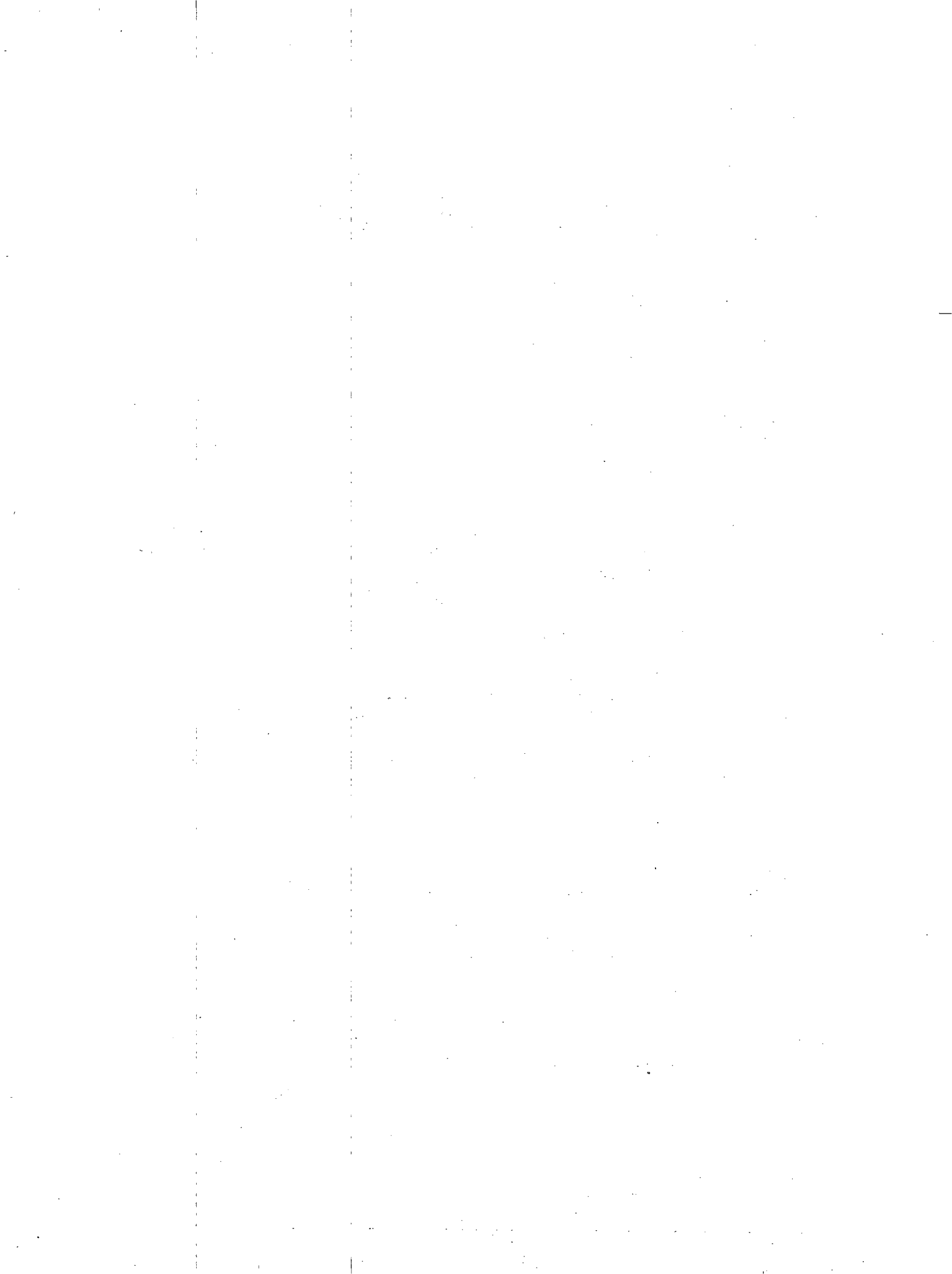
* Dongargarh (Rajnandgaon), Guna, Ichhawar (Sehore), Morena, Porsa (Morena) and Raghurajnagar (Satna).

** Ashoknagar (Guna), Begamganj (Raisen), Ishagarh (Guna), Khachrod (Ujjain), Nagod (Satna) and Susner (Shajapur).

CHAPTER 6

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OTHER TAX RECEIPTS



Chapter 6: Other Tax Receipts

A Stamp Duty and Registration Fees

6 A (a) Introduction

The receipts from stamps and registration in Madhya Pradesh (MP) are regulated under the Indian Stamp Act, 1899 (Act, 1899), the Registration Act, 1908 (Act, 1908), the Madhya Pradesh Stamp Rules, 1942 (Rules, 1942) and the notifications and orders issued from time to time by the State Government.

The Act, 1899 empowers Sub-Registrars to refer to the Collector documents for determination of market value of the property, if there are reasons to believe that the market value of the property has not been truly set forth in the document.

6 A (b) Organisational set up

The Inspector General of Registration and Superintendent of Stamps (Inspector General) is the head of the Registration Department and exercises overall superintendence and control over the working of the Department. He/she is assisted in the discharge of his/her functions by a District Registrar cum Collector of Stamps in each district. Instruments are registered at Sub-Registrar's Offices, headed by Sub-Registrars, in the tahsils.

6 A (c) Revenue realised

Rate of growth of revenue in last 10 years was 18 per cent. The main causes of leakage of revenue as reported by Department were non-registration of documents executed by local bodies, and mutation in land records by revenue authorities on the basis of documents not registered and/or not duly stamped.

Revenue in Registration Department accrues mainly in the form of stamp duty, registration fees and penalty. Revenue of Rs.400.21 crore was realised by the Department during 1998-99 which formed 5.81 per cent of the total revenue of the State.

6.1 Results of audit

Test-check of records of stamp duty and registration fees during the year 1998-99 revealed non-assessment and under-assessment of stamp duty and registration fees and other losses of revenue amounting to Rs.7.37 crore in 5,798 cases which may be broadly categorised as follows:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Short-realisation of stamp duty and registration fee due to under-valuation of properties	636	1.18
(ii)	Incorrect exemption from payment of stamp duty and registration fees	704	0.75
(iii)	Loss due to misclassification of documents	340	0.41
(iv)	Inordinate delay in finalisation of the cases	1,665	2.00
(v)	Evasion of stamp duty and registration fees due to non-execution and registration of instruments	12	0.67
(vi)	Others	2,441	2.36
	Total	5,798	7.37

During the year 1998-99, the Department accepted under assessment of tax of Rs.22.92 lakh involved in 229 cases, of which 128 cases involving Rs.11.99 lakh were pointed out in audit during 1998-99 and the rest in earlier years. Of these, an amount of Rs.10.93 lakh has been recovered in 101 cases.

A few illustrative cases involving Rs.1.67 crore highlighting important observations are given in the following paragraphs:

6.2 Loss of revenue due to under-valuation/delay in determination of market value

The Act, 1899 as applicable to Madhya Pradesh, requires the market value of the property to be specified in any deed for its

Under-valuation/delay in determination of market value of properties resulted in loss of revenue of Rs. 89.34 lakh

conveyance. This value is the basis for determining the stamp duty and registration fees leviable. The Act, empowers a Sub-Registrar to refer the documents to the Collector of Stamps for determination of market value of the property if there are reasons to believe that the market value of the property has not been truly set forth in the document. Such cases are to be finalised by the Collector within a period of 9 months, as per Government instructions (March 1977).

(i) It was seen in the office of Sub-Registrar, Indore (October 1998) that in 132 instruments registered during 1997-98, the unit value of properties mentioned was lower than the prevailing average market value of similar properties in the same *Patwari Halka/Ward*. The Sub-Registrar had neither levied the stamp duty and registration fees on the basis of prevailing average market value nor did he refer the cases to the Collector for determination of market value of the properties and duty leviable thereon. This resulted in short realisation of stamp duty and registration fees of Rs.28.46 lakh. Sub-Registrar, Indore stated (October 1998) that cases would be sent to the Collector of Stamps for proper valuation.

(ii) It was noticed (between August 1997 and August 1998) that 487 documents referred to the Collectors of Stamps by 6 Sub-Registrar's offices* (between August 1982 and October 1997) for determination of market value of the properties had not been finalised. Stamp duty and registration fees recoverable on these documents, based on the value proposed by the Sub-Registrars, worked out to Rs.60.88 lakh which remained unrealised.

The matter was reported to the Government (between September 1997 and March 1999); their reply has not been received (November 1999).

6.3 Incorrect levy of stamp duty and registration fees due to misclassification

Under the Act, 1899 stamp duty is leviable on instruments as per schedule thereto or as prescribed by the Government through notifications issued from time to time.

Misclassification of instruments deprived the Government of revenue of Rs.52.94 lakh

(i) The Act, 1899 provides that in the case of agreement to sell if the possession of any immovable property is transferred to the purchaser before execution or after execution of such agreement without executing the conveyance (sale) thereof then such agreement shall be deemed to be a conveyance.

Test-check (February 1999) revealed that Municipal Corporation, Raipur executed an agreement in January 1993 to transfer property to a beneficiary after receipt of agreed

* *Chhindwara, Damoh, Hoshangabad, Jora (Morena), Katni (Jabalpur) and Sabalgarh (Morena)*

consideration of Rs.311.11 lakh. The Corporation then handed over the possession of property (plot of land) and executed/registered a power of attorney in September 1993 empowering the beneficiary to sell space in the multi-storey complex to be constructed on the property and to keep the consideration as his/her own income. The real effect of the transaction is that of sale but the instrument was not charged with duty as leviable on conveyance (sale). This deprived the Government of revenue of Rs.42.55 lakh on account of stamp duty and registration fees.

The matter was reported to the Department and the Government (March 1999); their reply has not been received (November 1999).

(ii) In four Sub-Registrar offices it was noticed (between May 1998 and February 1999) that 57 instruments were misclassified resulting in short-levy of stamp duty and registration fees amounting to Rs.10.39 lakh as detailed below:

S. No.	Name of Sub-Registrar (District)	No. of instruments Date of execution	Nature of misclassification	Stamp Duty leviable/levied short levied (Rs.)	Registration fees leviable/levied/ short levied (Rs.)
1.	Porsa (Morena)	1 20 July 1996	Gift-cum release-cum partition deed misclassified as partition	<u>1,77,270</u> <u>51,080</u> 1,26,190	<u>19,982</u> <u>10,361</u> 9,621
2.	Raipur	1 27 October 1997	Trust-cum-settlement deed misclassified as trust deed	<u>52,500</u> <u>5 00</u> 52,000	<u>21,090</u> <u>10,545</u> 10,545
		1 25 March 1998	Partition-cum-release deed misclassified as partition deed	<u>42,120</u> <u>14,040</u> 28,080	<u>9,714</u> <u>3,953</u> 5,761
3.	Sagar	4 between 15 April 1996 and 22 January 1998	Gift deed misclassified as settlement deed	<u>1,05,074</u> <u>34,940</u> 70,134	levied correctly
4.	Dewas and Raipur	50 between May 1996 and June 1997	Bond deed misclassified as agreement deed	<u>6,07,739</u> <u>2,060</u> 6,05,679	<u>1,31,362</u> <u>575</u> 1,30,787
	Total	57	Leviable Levied Short levied	<u>9,84,703</u> <u>1,02,620</u> 8,82,083	<u>1,82,148</u> <u>25,434</u> 1,56,714

The matter was reported to the Department and the Government (between August 1996 and March 1999); their reply has not been received (November 1999).

6.4 Incorrect remission of stamp duty

The Act, 1899 provides that instruments are liable to stamp duty and registration fees at prescribed rates in accordance with the nature and value of each instrument. According to the notifications issued by the Government (September 1978 and March 1982), mortgage/hypothecation deeds for securing loans for agricultural purposes executed by (i) *bhoomiswami/lease* holders belonging to scheduled castes/scheduled tribes and (ii) other *bhoomiswami/lease* holders holding land not exceeding ten hectares, are exempt from payment of stamp duty. These exemptions are not applicable to an instrument of "further charge" on property already mortgaged and "security mortgage" executed by a surety to secure the due performance of a contract as these are categorised separately in the Schedule 1-A for levy of duty.

Further, Departmental instructions (August 1989) require all officers to ensure that the specific purpose of the loan is mentioned in the deeds and is covered by the definition of agricultural purpose.

(i) In 10 Sub-Registrar offices*, 139 instruments of "further charge" and "security mortgage" were executed (between May 1995 and March 1998) against land already mortgaged through other instruments to the same bank and to secure the repayment of loan sanctioned to other parties respectively. All these instruments were incorrectly exempted from payment of stamp duty and registration fees by treating these documents as mortgage, depriving the Government of Rs.7.56 lakh.

(ii) In Sub Registrar's Office, Raipur it was noticed (February 1999) that a party mortgaged 2 hectares of agricultural land against a loan of Rs.50 lakh. Another party executed a security mortgage pledging the same land as security against the above loan. Thus, the title of lease holder became doubtful and the grant of exemption of stamp duty of Rs. 2.50 lakh was incorrect.

In 7 Sub-Registrar offices**, 54 mortgage deeds, in which specific purpose of loan was either not mentioned or the purpose mentioned was not agricultural, were incorrectly exempted from payment of stamp duty. This resulted in loss of stamp duty of Rs.9.01 lakh.

The matter was reported to the Department and the Government (between December 1998 and March 1999); their reply has not been received (November 1999).

* Bareli (Raisen), Beohari (Shahdol), Chhindwara, Hatta (Damoh), Indore, Multai (Betul), Raipur, Sanwer (Indore), Shivpuri and Ujjain

** Beohari (Shahdol), Gariaband (Raipur), Hoshangabad, Kalapipal (Shajapur), Khandwa, Sanwer (Indore) and Ujjain

6.5 Loss of stamp duty

(i) The Act, 1899 provides that a party aggrieved by an order of the Collector where he determines market value of property, may appeal to the Revenue Commissioner. Departmental instructions (October 1996) require that appeals be filed by the aggrieved party with Commissioner if the Collector of Stamps determined the market value of the property at less than 75 per cent of proposed market value resulting in a loss of revenue of Rs.5,000 or more.

Test-check of records (July and August 1998) of Sub-Registrars Damoh and Sagar revealed that Collector of Stamps determined the market value of the property in 21 cases at less than 75 per cent of proposed market value. Lesser valuation was done, because property sold through eight deeds, was clubbed for valuation purpose, land capable of plantation was valued at 20 to 25 per cent of market value of unirrigated land and allowances given on old houses were not uniform and reasonable. All these factors were sufficient ground for making appeal. But the sub-registrar concerned did not file the appeals against the orders of Collectors of Stamps with the Commissioner. This deprived Government of revenue of Rs.3.84 lakh.

The matter was reported to the Department and the Government (between September 1997 and March 1999); their reply has not been received (November 1999).

(ii) The Act, 1899 empowers the Collector to permit duty to be paid in cash if stamps of the required denominations are not available. The Treasury Officer or Sub-Treasury Officer, will certify by endorsement on the instruments the amount of duty so paid.

In sub-registrar office, Senwada (Datia), the executants of 27 instruments registered during May to July 1996 had paid stamp duty in cash. During the course of verification by audit with treasury records it was noticed that against duty of Rs.2,77,421 which was shown to have been deposited through various challans, the actual amount deposited into the sub-treasury was only Rs.67,059 resulting in loss of revenue of Rs.2.10 lakh. The instruments were also not endorsed by the Sub-Treasury Officer nor did the Department verify the actual deposits from treasury before registering the documents.

The matter was reported to the Department and the Government (between November 1998 and January 1999); their reply has not been received (November 1999).

B Entertainment Duty

6 B (a) Introduction

Levy and collection of Entertainment Duty and Advertisement Tax is governed under the Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936 (Act) and Rules made thereunder.

6 B (b) Organisational set up

The Excise Commissioner is the Head of the Excise Department and is also the Head of Department of Entertainment Duty and Advertisements Tax. He is assisted, in the discharge of his functions, by three Additional Commissioners and one Assistant Excise Commissioner at the headquarter located at Gwalior. For the purpose of effective administration, the State is divided into 9 divisions. Each division is under the charge of a Deputy Excise Commissioner and each district is administered by a District Excise Officer.

6 B (c) Revenue realised

Revenue realised under the head 'Entertainment' was Rs.24.80 crore, being 0.36 per cent of total revenue of the State in 1998-99.

6.6 Results of audit

Test-check of records of DEOs* relating to entertainment duty conducted in 1998-99 revealed evasion, non-recovery and short-recovery of entertainment duty and other losses of revenue amounting to Rs.60.42 lakh in 138 cases which broadly fall under the following categories:

*
District Excise Officer

(Rupees in lakh)

S.No.		Number of cases	Amount
(i).	Non-recovery of entertainment duty	15	3.28
(ii)	Evasion of entertainment duty due to non-accountal of tickets	02	39.71
(iii)	Non/short-deposit of entertainment duty by the proprietors of Video Cassette Recorders and Video Cassette Players	103	10.28
(iv)	Incorrect exemption of entertainment duty	10	3.79
(v)	Other cases	08	3.36
	Total	138	60.42

During the year 1998-99 the Department accepted under-assessment of tax of Rs.65.02 lakh involved in 151 cases, of which 132 cases involving Rs.57.33 lakh were pointed out in 1998-99 and remaining in earlier years. Of these, an amount of Rs.4.25 lakh has been recovered in 19 cases.

A few illustrative cases involving Rs.7.51 lakh highlighting important observations are given in the following paragraph.

6.7 Non-realisation of entertainment duty

(a) Short/non-payment of entertainment duty

Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936 (Act) as amended by Madhya Pradesh Act No.3 of 1991 made effective from 1 April 1991 requires every proprietor of video cassette recorder/video cassette player (VCR/VCP), providing entertainment on commercial basis in a town with population upto one lakh to pay entertainment duty, at monthly slab rates, depending upon the population in each town and size of screen. In the amended Act there was no provision for rebate of duty on revised rates in case of closure of entertainment during a particular month. Between the period June 1991 and November 1993, several proprietors of VCR/VCP challenged this amendment in the Madhya Pradesh High Court and obtained a stay order on the operation of the revised rates of entertainment duty. The High Court on 10 August 1994, however, vacated the stay and upheld the validity of the aforesaid amendments to the Act but ruled that the VCR/VCP owners would continue to be entitled to rebate on entertainment duty as before. It further ruled that if no such provision for rebate on entertainment duty was made within a period of four months from the order of the Court (10 August 1994) the proprietors would be free to pay duty at the rate prevailing immediately before the amendment (Act, 1991). Consequently,

the Act was again amended on 16 February 1995 (after more than six months) to restore the provisions relating to rebate.

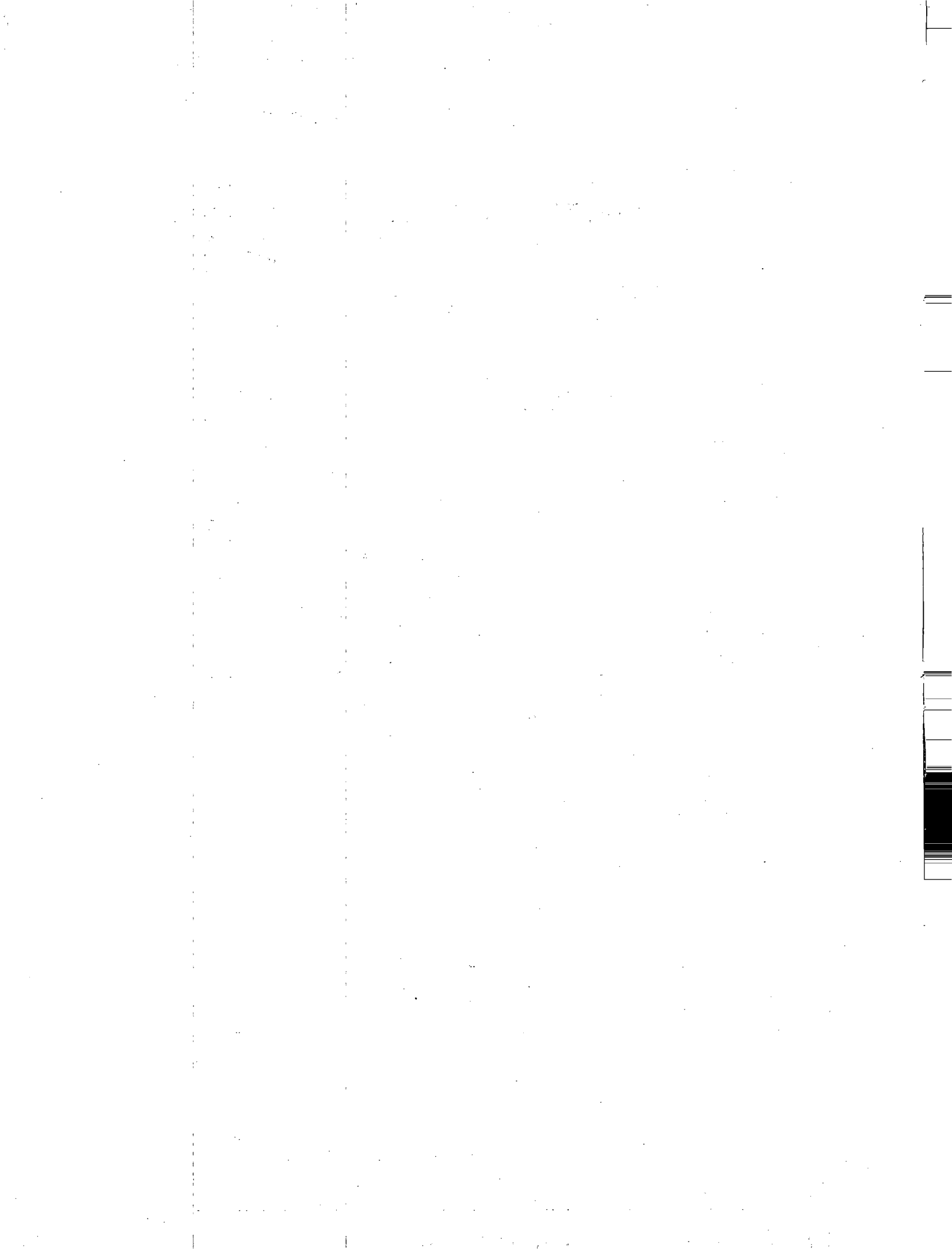
Test-check of records of DEOs Bilaspur and Shahdol revealed (August and October 1998) that 18 such proprietors of VCR/VCP either did not pay entertainment duty or paid it at incorrect rates between April 1996 and September 1998. This resulted in entertainment duty of Rs.5 lakh remaining unrealised. This includes short payment of Rs.1.92 lakh by the proprietors of 8 VCR/VCP of Bilaspur district who continued to pay duty at lower rates prevailing prior to amended Act, 1991. On this being pointed out in Audit, DEO, Bilaspur stated (March 1999), that no recovery could be effected due to failure on the part of Government to amend the Act providing provision for rebate within stipulated period of four months as ordered by the Court.

(b) Incorrect exemption of entertainment duty

Under the Act, the State Government can, by special or general order, grant exemption from payment of duty on any entertainment or any class of entertainment, subject to such conditions as may be specified therein. Government, in their notifications (28 October 1996, 21 February and 10 July 1997) exempted the proprietors of cinema houses from payment of entertainment duty on exhibition of films "Maachis", "Tamanna" and "Mrityudand", subject to the condition that rates of admission prevailing prior to the effective date of notification would be reduced to the extent of exemption granted.

Test-check (January 1999) of records of DEO, Gwalior, revealed that the films "Maachis", "Tamanna" and "Mrityudand" were exhibited in 2 cinema houses during the period from 12 to 29 January 1997, 6 to 19 March 1997 and 14 July to 6 August 1997 respectively. Though the proprietors of cinema houses did not reduce the rates of admission at all, yet the incorrect exemption of duty of Rs.2.51 lakh was granted, resulting in loss of revenue.

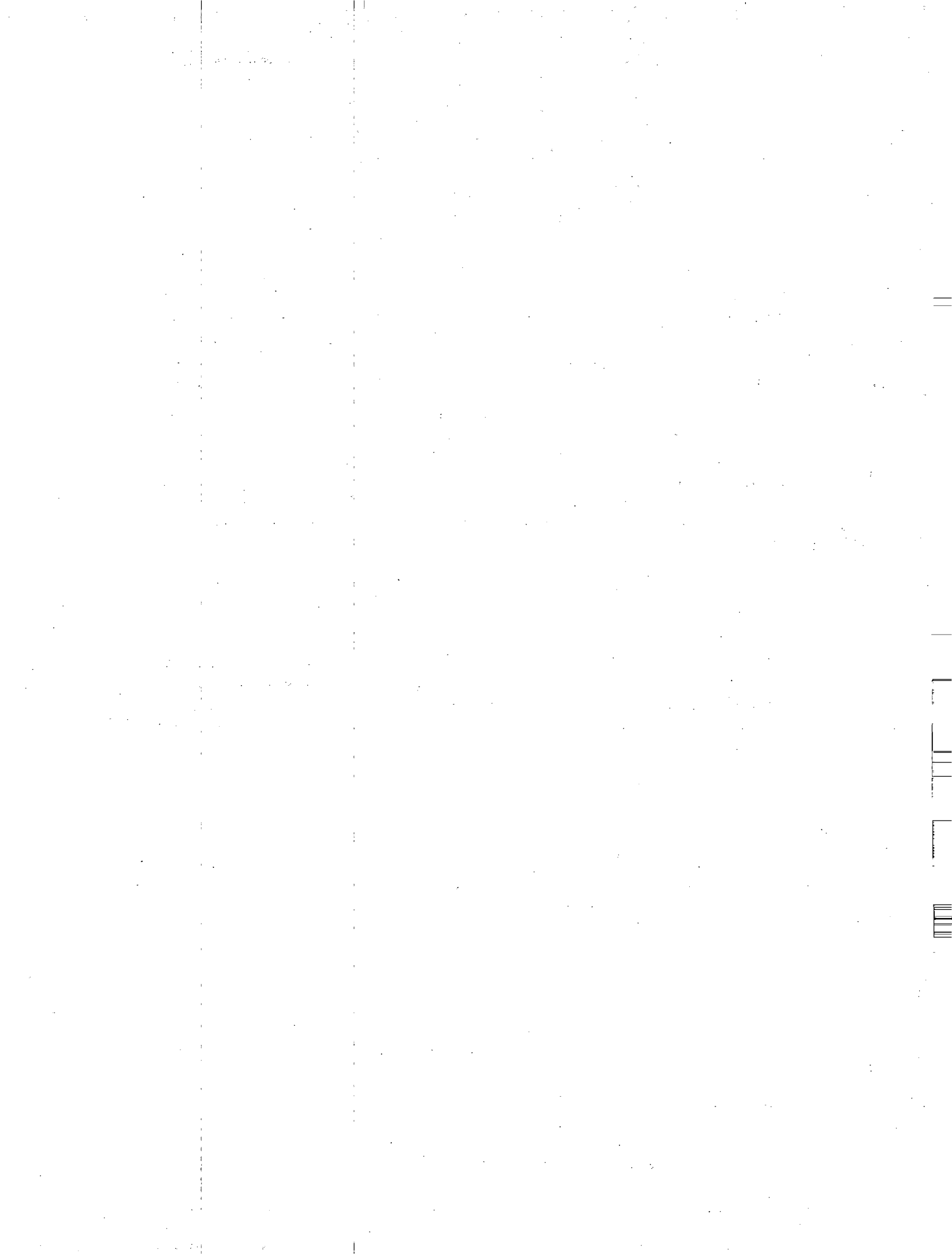
The matter was reported to the Department and the Government (between February and June 1999); their reply has not been received (November 1999).



CHAPTER 7

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FOREST RECEIPTS



Chapter 7 : Forest Receipts

7 (a) Introduction

The forest area in Madhya Pradesh reduced from 1.72 lakh sq km in 1956-57 to 1.55 lakh sq km (including 0.96 lakh sq km dense and 0.40 lakh sq km of degraded forest) in 1994-95 which is 34.80 per cent of total geographical area of 4.43 lakh sq km of the State and 23 per cent of the forest area of the country. Timber, bamboo, khair, *tendu patta*, sal seeds and other minor forest produce are the main sources of forest revenue in Madhya Pradesh.

The forest area shrunk in quality and density since independence owing to the illicit fellings, grazing, encroachments and demand for land for agriculture, mining, reservoirs/dams and various developmental works etc. The transfer of forest land has been restricted since 1980 by the Forest Conservation Act, 1980 and a ban imposed by Government on commercial fellings in 16 districts* between 1981 and 1988.

7 (b) Organisational set up

The Principal Chief Conservator of Forests is the Head of the Forest Department and is assisted in the discharge of his functions by 6 Additional Principal Chief Conservators of Forests and 7 Chief Conservators of Forests with headquarters at Bhopal who function through a number of Conservator of Forests, Divisional Forest Officers, Sub-Divisional Officers and Forest Range Officers.

7 (c) Revenue realised

Revenue under the head "Forestry and Wildlife" realised during 1998-99 was Rs.507.60 crore being 7.37 per cent of the total revenue of Madhya Pradesh, a reduction of 18.89 per cent from last year.

* Bhopal, Dhar, Gwalior, Ratlam, Rewa (1981),
Indore, Jhabua, Khargone, Rajgarh, Tikamgarh, Vidisha (1986),
Durg, Guna, Mandasaur, Narsinghpur, Satna (1988)

7.1 Results of audit

Test-check of records of forest receipts during 1998-99 revealed loss of revenue amounting to Rs.179.56 crore in 197 cases which broadly fall under the following categories:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Shortage/discrepancies in accounts	24	10.50
(ii)	Loss due to non-disposal of timber	12	0.67
(iii)	Loss due to accumulation of stores in sale depots	37	22.48
(iv)	Non-recovery of penal interest and sales tax	13	5.69
(v)	Sale of forest produce below upset price	14	1.34
(vi)	Loss of revenue due to non-exploitation of forest produce	4	111.24
(vii)	Loss of revenue due to non-transportation of forest produce	1	2.64
(viii)	Others	92	25.00
	Total	197	179.56

During 1998-99, the Department accepted losses etc. of Rs.6.89 lakh involved in 3 cases pointed out in audit in earlier years. Of these, an amount of Rs.4.48 lakh has been recovered in 3 cases.

A few illustrative cases involving financial effect of Rs.19.74 crore are given in following paragraphs:

7.2 Extraction and disposal of bamboo

The total area under bamboo was 0.17 sq km in 1994-95 in the State. The exploitation of bamboo is regulated by the Working Plan of the concerned forest division which is prepared according to Bamboo Management Rules of 1974 framed by the Forest Department. Under these Rules, a cycle of 4 years has been prescribed for felling of bamboo. Flowering of bamboo occurs naturally at intervals of 12 to 120 years. It can either be sporadic i.e. in isolated clumps or gregarious over the entire bamboo area of a locality. The flowered clumps die after shedding their seeds which grow into seedlings to form new clumps in place of the ones which have died. All flowered clumps which have shed their seeds, are required to be clear felled and extracted.

The coupes of bamboo due for felling, are selected and thereafter extraction operations are carried out. The actual production of bamboo in the State during the years 1994-95 to 1997-98 was 2.75, 2.19, 2.38 and 2.24 lakh Notional Tonne (NT) * respectively, as compared to a potential of 8 lakh NT annually. It shows that the management of forest area was poor resulting in non-realisation of full revenue potential.

Instances of irregularities in extraction and disposal of bamboo leading to losses etc. noticed in audit are discussed in the succeeding paragraphs:

(i) Non-extraction of bamboo

Departmental directions (October 1975), require all the bamboo clumps to be worked without exceptions. If it becomes necessary to abandon working of a clump due to compelling circumstances the prior sanction of the Conservator of Forests must be obtained. No control mechanism was, however, devised by the Department to ensure compliance of the above directions as is evident from the following illustrative cases:

(a) Non-selection of bamboo coupes due for felling

In 6 forest divisions ** it was noticed (between May and August 1997) that 52 coupes (area 13,404 hectare) due for felling during 1996-97 to 1997-98 were not selected for felling.

Non-selection of bamboo coupes for felling resulted in loss of revenue of Rs.12.54 crore

Thus, the Government was deprived of anticipated revenue of Rs.12.54 crore.

The DFO, *** Manendragarh, stated (February and August 1999) that after reorganisation of the division in August 1995 the coupes fell in overlapping areas and the work would be started after approval of action plan. The reply is not tenable as despite a lapse of four years after reorganisation of the division no action plan had been prepared (July 1999). Other DFOs stated that the coupes were not marked for felling as their felling was uneconomical and action for their write off was being taken. The replies are not tenable because as per departmental instructions of October 1975 all coupes were required to be worked without any exceptions unless otherwise permitted. It was further seen that no proper cost analysis to determine the economics of working of the coupes had been carried out.

* Twenty four hundred running metres of bamboo is reckoned as one notional tonne/sale unit.
** Balaghat (North), Bilaspur, Bilaspur (North), Dindori, Hoshangabad and Manendragarh
*** Divisional Forest Officer

(b) Non-exploitation of selected coupes

It was noticed (between October 1996 and September 1998) that 20 selected coupes due for felling during the years 1994-95 to 1997-98 were not felled by six production divisions*. The expected yield of bamboo from these coupes was estimated at 3,724 NT (1,634 NT commercial; 2,090 NT industrial) resulting in loss of revenue of Rs.1.04 crore.

Non-exploitation of bamboo coupes resulted in loss of revenue of Rs.1.04 crore

DFO, West Bastar Division attributed non-felling of coupes to naxalite problem; the others (excepting Rajnandgaon) attributed it mainly to unprofitability of the coupes. The reply of DFO, Rajnandgaon is awaited. The replies are not tenable because all the coupes without any exception, irrespective of density of crop, were required to be worked unless otherwise sanctioned. Besides, in case of naxalite problem police protection could have been obtained. The departmental stand for unprofitability of coupes was not based on any detailed analysis of economics of those coupes which is evident from the test-check of the case of production division North Balaghat, wherein the information furnished (22 September 1998) by the Division itself showed that out of 8 coupes, working of 4 coupes was profitable.

(ii) Wide variations between estimated and actual yield of bamboo

The estimated quantity of bamboo from the coupe is to be determined by survey and drawing sample plots in coupe. Departmental procedure prescribes (January 1984) that variation between the estimated and actual yield of timber should not exceed 10 per cent. No such norms were, however, fixed for possible variation in production of bamboo.

Short fall of revenue Rs.3.42 crore due to low yield of bamboo

Test-check of records (between April 1997 and September 1998) of 6 production divisions** revealed that 1,222 sale units of commercial and 3,445 sale units of industrial bamboo were extracted against the estimated yield of 8,430 sale units of commercial and 9,008 sale units industrial during 1994-95 to 1997-98. The percentage of yield with reference to estimated yield ranged from as low as 4 per cent to 48 per cent. Even after taking 10 per cent variation permissible as in the case of timber in to account, there was less yield to the extent of 6,365 sale units and 4,662 sale units in respect of commercial and industrial bamboo respectively valued at Rs.3.42 crore. Despite such low yield no action was taken to investigate the reasons for such wide variation and prescribe reasonable norms for variations to control production.

DFOs replied differently i.e. matter would be investigated, estimation was not based on density of bamboo in coupes, yield was less due to irregular felling of coupes. Replies are not convincing because these reflect failure of the Department in one way or the other.

* Bastar (West), Balaghat (North/South), Bhanupratappur, Hoshangabad and Rajnandgaon
** Balaghat (North, South and West), Betul (North), Khairagarh and Rajnandgaon

(iii) Deterioration of bamboo due to non-transportation from coupes to depots

Departmental instructions issued from time to time prescribe that all material produced in coupes should be

Loss of Rs. 1.08 crore due to deterioration of bamboo on account of delayed transportation

transported to depots for sale before close of the season (30 June) in order to avoid loss due to deterioration in quality. In case of bamboo, deterioration is at the rate of 50 per cent per year considering its life of two years as prescribed in Madhya Pradesh Forest Manual.

In production divisions Khairagarh and West Bastar 4,415 sale units of commercial bamboo (Khairagarh 3,068 sale units, West Bastar 1,347 sale units) and 1,359 sale units of industrial bamboo (Khairagarh 46 sale units, West Bastar 1,313 sale units) felled during 1994-95 to 1996-97 remained in coupes untransported at the end of each season. Considering 50 per cent deterioration every year loss of revenue on that account amounted to Rs.1.08 crore excluding loss of Rs.7.69 lakh on account of destruction due to fire of 189 sale units of bamboo felled in 1994-95 (16 February 1996) in Khairagarh Division.

The DFOs stated (July 1995 and January 1998) that due to naxalite problem in the area, full quantity of bamboo could not be transported. The reply is not tenable since the Department failed to take effective measures to transport the material under police protection.

(iv) Loss to bamboo in transportation

Departmental instructions (October 1975) allow maximum damage at 2 per cent of industrial bamboo sale units during transportation by trucks etc.

Test-check of records (February 1995 and September 1998) of production divisions Balaghat (South) and Khairagarh revealed that as against 5,857 sale units of industrial bamboo of 1994-95 and 1995-96 season despatched from 8 coupes to sale depots, only 4,341 sale units were shown received in depots. The remaining 1,516 sale units (26 per cent of total despatch) were accounted for as damaged without investigation as against the permissible damage of 117 sale units. Thus, bamboo damaged in excess of the permissible limit (1,399 sale units) deprived the Government of revenue amounting to Rs.17.08 lakh. While DFO, Khairagarh stated (September 1998) that for damage beyond permissible limit, recovery of felling charges (Rs.0.12 lakh) was made from the coupe incharge, the DFO, South Balaghat stated (February 1995) that the damage beyond 2 per cent would be treated as loss. Replies are not convincing as the recovery after investigation should have been made at the market rate of bamboo which was not done.

(v) Loss of revenue due to deterioration of bamboo in depots

Departmental instructions stipulate that forest produce remaining undisposed of at the end of a *nistar** season (June, 30) should be transferred from the *nistar* depots to the nearest sale depot for their expeditious disposal.

Loss of Rs.57.07 lakh due to non-disposal of bamboo

Test-check of records (between August 1995 and October 1998) of 6 forest divisions** revealed that 1,044.11 sale units of commercial bamboo and 320 sale units of industrial bamboo, valued Rs.57.07 lakh (at the average rates fixed by the Conservator of Forests), lying undisposed of in 82 depots (Nistar depots: 78; Sale depots : 4) beyond its life of two years were declared unsaleable during 1994-95 to 1997-98 due to deterioration thus resulting in loss to Government .

DFOs furnished varied replies viz. action for write off would be taken, cost of unsaleable quantity would be recovered, deterioration in quality was due to delayed transportation from coupe to depot and receipt of damaged bamboo after use in different activities. These replies are indicative of departmental lapses.

(vi) Sale below the upset price

A test-check of records (June 1998) of the DFO (Production), Raigarh revealed that in the auctions held on 5 February 1997 and 5 August 1997 in Urdara depot 172 sale units of commercial bamboo in 50 lots were sold at the sale price of Rs.0.96 lakh against the upset price of Rs.6.16 lakh resulting in short fall of revenue of Rs. 5.20 lakh. The percentage of sale price to the upset price of these lots ranged from 7 to 21. Such wide variations between upset price and sale price were required to be investigated by higher authorities which was not done.

The DFO stated that upset prices were based on the higher quality of bamboo of Balaghat division as no auction was held in the division earlier and due to increase in availability of bamboo in the market, the rates obtained in auction were lower than the upset price. In view of wide variation between the upset price and auction price, the reply is not convincing in the absence of any investigation of the matter.

(vii) Unauthorised use of bamboo for departmental works

The forest produce (bamboo) used in departmental works should be based on the estimates prepared by the division

Non-depositing cost of bamboo worth Rs.22.95 lakh used departmentally

* *Nistar-means the normal requirement of forest produce in household in the forest villages*
** *Territorial divisions, Bilaspur, Central Bastar, Durg, Hoshangabad, Rajanandgaon and production division, Bhanupratappur*

and covered by the sanction of the competent authority. The cost of such produce is to be remitted into Government accounts before utilising the produce in work.

In 3 forest divisions (Territorial Divisions: Balaghat (North), Rajnandgaon and Production division Bastar (West), 459 NT of commercial bamboo valued at Rs.22.95 lakh (including 430 NT valued at Rs.21.49 lakh of West Bastar division) was reduced in the stock register by showing it as issued for departmental use during 1994-95 to 1996-97 without depositing their value in Government account and also without sanction of estimates of the concerned works.

The matter was reported to the Department and the Government (between July 1995 and June 1999); their reply has not been received (November 1999).

7.3 Loss of revenue due to low yield of timber

As per departmental procedure, the estimated quantity of timber, poles and fuelwood to be obtained from trees marked

Low yield of timber valued at Rs. 53.02 lakh was not investigated

by territorial division for felling by production divisions are recorded in the marking register at the time of marking of trees for felling. Departmental instructions (January 1984) allow variations upto a maximum of 10 per cent between the estimated and actual yield of timber/fuel stacks. In case the variation exceeds the above percentage, the reasons are to be ascertained and results thereof intimated to Chief Conservator of Forests (Production) for regularisation/further necessary action.

During test-check of records (between June 1996 and June 1998) of 5 forest production divisions* it was noticed that the actual production during the years 1994-95 to 1996-97 was 986 cu m timber and 362 fuel stacks as against the estimated production of 2,193 cu m of timber and 1,212 fuel stacks from the felling of 36,989 marked trees of 9 coupes. The actual yield of timber and fuel stacks was thus only 45 per cent and 30 per cent respectively of the estimated yield. Even after allowing permissible variation of 10 per cent between the estimated and actual yield, the production fell short of the estimate by 987 cu m timber and 729 fuel stacks involving loss of revenue of Rs.53.02 lakh at the average market rate**. The shortfall was neither investigated nor reported to the Chief Conservator of Forests (Production).

The DFOs except DFO, Dindori stated (between June 1996 and May 1998) that the criterion of 10 per cent variation is applicable only where the land on which the trees are standing is fertile and also attributed less extraction due to marking of "dead trees", and hollowness of the trees (noticed after extraction) due to geographical or natural calamities. The reply is not tenable because the estimation must have been made taking into account ground realities.

* Balaghat (West), Dewas, Dhamtari, Dindori and Raigarh
** Timber @ Rs.5,000 per cu m and Rs.500 per fuel stack

The matter was reported to the Department and the Government (between July 1996, September 1998 and May 1999); their reply has not been received (November 1999).

7.4 Loss of revenue due to deterioration of forest produce

According to the Madhya Pradesh Forest Manual the useful life of cut timber and fuel is only 5 years. The departmental instructions accordingly provide that if the produce is not disposed of in the year of felling, it deteriorates in quality at the rate of 20 per cent per year due to vagaries of weather.

Loss of forest produce valued at Rs. 10.35 lakh due to delay in transportation

During test-check of records (January 1998) of Forest Division (Territorial), Bhanupratappur it was noticed that 274 cu m timber and 281 fuel stacks pertaining to the felling years 1991-92 to 1992-93 were not transported to the sale depots for disposal in the year of felling. Out of the above forest produce, 14 cu m timber got submerged with the closure of Dodde and Palanchur reservoir in June 1994. This could have been avoided had it been transported to the sale depot in time as prescribed in the Departmental instructions. The remaining 260 cu m timber and 281 fuel stacks were transported after delays of 3 to 4 years. The Government suffered a loss of Rs10.35 lakh due to non/delayed transportation of the forest produce.

The matter was reported to the Department and the Government (between March 1998, May and June 1999); their reply has not been received (November 1999).

CHAPTER 8

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MINING RECEIPTS

Chapter 8 : Mining Receipts

8 (a) Introduction

Madhya Pradesh ranked second in production of minerals in the country till 1995-96. Thereafter it remains at the top. The main mineral bearing areas are situated in eastern Madhya Pradesh. The State produced minerals valued at Rs.5,009* crore in 1997-98 which constitutes 24 per cent of total national production.

The State leads in the production of coal, iron ore, copper ore and bauxite and ranks second in dolomite, rock phosphate and third in manganese ore. It is the foremost in the production of diamond, China clay and fire clay. Diaspore, corundum, pyrophyllite, calcite are also found, apart from minor minerals like sand, clay, stone etc.

The mineral wise position of production and revenue realised is summarised below:

S.No.	Name of mineral	Reserves		Total production	Percentage of production to national production	Value (Rs. in crore)	Amount of revenue realised (Rs. in crore)
		(In lakh tonne)					
1.	Coal	6160	832.83	29	4041.58	694.59	
2.	Limestone	30880	265.52	26	237.00	81.56	
3.	Iron ore	96778	168.08	25	351.80	35.64	
4.	Bauxite	20	6.12	24	18.72	2.45	
5.	Copper ore	8	16.39	42	49.03	3.45	
6.	Dolomite	920	9.46	29	22.42	4.03	
7.	Rock phosphate	11	1.49	11	11.49	1.24	
8.	Manganese	120	3.73	20	48.94	1.16	

The mining policy of the State, declared for the first time in 1995-96, had, as its objectives, prospecting and exploitation of minerals based on latest techniques with capital investment and participation of local people in industries based on minerals. The administration of minor minerals having revenue realisation of Rs.20 crore was transferred (from April 1996) to

* Source: Mineral Statistics, 1997-published by Director, Geology and Mining

Panchayat. Government is not in position to ascertain the amount of revenue collected by *Panchayat.*

The working of mines is governed by provisions of Mines and Minerals (Regulation and Development) Act, 1957, Coal Bearing Areas (Acquisition and Development) Act, 1957, Mineral Concession Rules, 1960 and Minor Mineral Rules, 1961 (State) (Revised in 1996).

Mining revenue includes royalty, dead rent, surface rent, application fee and mineral area development cess on which the audit findings are based.

8 (b) Organisational set up

The Mineral Resources Department is headed by a Principal Secretary. The Director, Geology and Mining, Raipur has overall responsibility for the exploration, development and exploitation of mines. The Director is assisted in the administration of policies and regulation of various minerals by five sub-offices located at Durg, Katni, Bilaspur, Bhopal and Gwalior. Six other sub-offices deal with geological activities in the State. Collectors, with the assistance of Mining Officers, Assistant Mining Officers and Inspectors, administer the mining activities in the districts.

8 (c) Revenue realised

Mining revenue during 1998-99 was Rs.806.43 crore, constituting 11.7 per cent of the total revenue of the State.

8.1 Results of audit

Test-check of records relating to assessment and collection of mining receipts during 1998-99 revealed non-assessment/short-assessment of royalty, dead rent, non-realisation/short-realisation of sale proceeds, non-levy/ short-levy of interest and non-realisation of royalty on minor minerals etc. amounting to Rs.216.23 crore in 2,368 cases which may be broadly categorised as follows:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-assessment of royalty, dead rent	143	13.93
(ii)	Non-levy of royalty on minor minerals and non-recovery of contract money	164	00.45
(iii)	Delay in collection of revenue against Revenue Recovery Certificates	1,278	171.36
(iv)	Extraction and sale of diamond in Madhya Pradesh	1	17.61
(v)	Others	782	12.88
	Total	2,368	216.23

During 1998-99, the Department accepted under-assessment etc. of Rs. 149.11 crore involved in 2,153 cases, of which 2,111 cases involving Rs.149 crore were pointed out during 1998-99 and the remaining in earlier years. Of these, an amount of Rs.0.11 crore has been recovered in 42 cases.

A few illustrative cases arising out of review on "Extraction and sale of diamond in Madhya Pradesh" and other important observations involving loss of Rs.39.68 crore are given in the following paragraphs:

8.2 Extraction and sale of diamond in Madhya Pradesh

8.2.1 Introduction

Diamond is pure crystalline carbon and the hardest naturally occurring substance known. Diamonds owe their extraordinary brilliance to their very high refractive power. Diamonds are weighed in carats (1 carat = 200 milligrams) and points or cents (1 point = 0.01 carat). The value of diamonds as gem stones depends upon their clarity, colour, carats and cut, collectively referred to as the four Cs.

8.2.2 Diamond mining

India was the only country where diamonds were mined till 1721, when diamonds were discovered by gold prospectors in Brazil. Diamond mining in the Panna region of Madhya Pradesh antedates the Mughal period and is mentioned in the annals of the Bundela ruler Chhatrasal.

Diamonds are found in kimberlite pipes as well as in alluvial and glacial deposits after erosion of the original kimberlite.

Organised mining of diamond was carried out by private companies till 1965 when the mines were taken over by NMDC* by obtaining a mining lease up to July 1995 over an area of 113.33 hectares. It has proven reserves of 1.01 million carats of which 0.05 million carats only has been exploited so far.

Diamonds also occur in Panna in association with alluvial gravels. These are worked through shallow mining in the unorganised sector by individual miners called "Chilla" miners who obtain annual licences from the State Government.

8.2.3 Organisational set up

The Diamond Officer, Panna with the assistance of Diamond Inspector and Valuer supervises the mining and sale of diamonds under the overall charge of the Director, Geology and Mining.

8.2.4 Scope of audit

The review covering the period from 1994-95 to 1998-99 was conducted between October 1998 and June 1999, by checking the records of Director, Geology and Mining, Raipur, Diamond Officer, Panna, NMDC, Panna and Hyderabad and Principal Secretary, Mineral Resources Department, Bhopal. The audit scrutiny extended to verifying that adequate system and procedures exist for the assessment and estimation of revenue accruing from the commercial exploitation of diamond and ensuring that the terms and conditions of leases, licences, auction etc. are adhered to.

8.2.5 Highlights

- (i) Incorrect calculation of pit mouth value, resulted in loss of revenue Rs.15.55 lakh.

(Paragraph 8.2.7[1])

- (ii) Non-renewal of lease deed led to blockage of revenue Rs.63.21 lakh.

(Paragraph 8.2.7[3])

(iii) Non-disposal of kimberlite dust postponed collection of revenue of Rs.1225 lakh.

(Paragraph 8.2.7[4])

(iv) Non-disposal of diamonds resulted in blockage of revenue of Rs.6.34 lakh and loss of revenue of Rs.1.34 lakh.

(Paragraph 8.2.7[6])

(v) Non-realisation of mineral area development cess of Rs.432.71 lakh.

(Paragraph 8.2.8)

8.2.6 Trend of revenue

The details of production of diamond and revenue realised during the period of review are as follows:

(a) Production

Year	Production (in carats)		
	Public Sector	Private Sector	Total
1994-95	24,945	850	25,795
1995-96	29,616	441	30,057
1996-97	31,763	363	32,126
1997-98	30,816	414	31,236
1998-99	34,216	364	34,580

(b) Revenue realised

(Rupees in lakh)

Year	Target fixed	Revenue realised		
		Public Sector	Private Sector	Total
1994-95	225	212.90	12.83	225.73
1995-96	225	250.26	11.06	261.32
1996-97	275	504.81	5.43	510.24
1997-98	250	188.46	6.03	194.49
1998-99	234	229.07	4.84	233.91

Decrease in revenue during 1997-98 was due to reduction with effect from 11 April 1997 in rate of royalty leviable on diamond by Government of India from 20 per cent to 10 per cent.

(c) Reduction of rate of royalty

The Government of India reduced (11 April 1997) the royalty on diamond from 20 to 10 per cent on the recommendation of a study group consisting, *inter alia*, of the representatives of the Governments of Gujarat, Karnataka and Rajasthan. This group had no representation from the State of Madhya Pradesh, the only commercial diamond producing State in India. Reduction in the rate of royalty reduced the revenue of the State by half.

8.2.7 Extraction and sale of diamond by the NMDC, a public sector undertaking

A lease deed executed upto 15 July 1995, between the State Government and NMDC provides for, *inter alia*, the State Government's representation at any or all the stages of diamond extraction and sale viz. winning, classification, packeting, valuation, their deposit in lockers and removal therefrom and sale of diamond. NMDC is required to arrange disposal of diamond by public auction or by inviting tenders.

The diamonds obtained are weighed individually and classified quality-wise in the presence of the State Government representatives for valuation for auction and tender. The agreement requires that the pit mouth value of the diamond for the purposes of royalty be calculated backwards by deducting from the actual sale proceeds the precise amount spent on transporting (including security and insurance) the diamond from the pit mouth to the place of sale. It further provides that valuation of diamonds will be kept secret.

(1) Loss of revenue due to incorrect computation of pit mouth value

The lessee (NMDC) had collected (April 1996 to March 1999) Rs 116.62 lakh as service charges from the buyers of the diamond. As this amount formed part of sale value it should have been included in the pit mouth value of the diamond and royalty charged on it. The lessee paid royalty without including these service charges in the sale value which resulted in loss of revenue of Rs.15.55 lakh. The Department also did not take any action to recover royalty on service charges.

On this being pointed out in Audit the Government stated (August 1999) that the matter is under consideration.

(2) Loss of revenue due to reduction of stock

The Mines and Minerals (Regulation and Development) Act, 1957 requires a lessee to pay royalty on minerals removed from the leased area at the rates specified in the Second Schedule. Handling losses are not permissible.

NMDC had extracted and removed 97,533.34 carats of shale diamond during April 1996 to March 1999 from the leased area but paid royalty on the sale value of 96,916.06 carats which remained after washing in acid. Royalty on 617.28 carats lost in acid wash aggregating Rs.5,37,705 was not paid in violation of the Act, Rules and agreement. The Department had not initiated any action to levy royalty on the weight of shale diamond.

Further, it was seen (June 1999) that NMDC had deducted during the period from April 1996 to March 1999, 37.31 carats diamond from the stock on weighment after repacketing. The royalty was payable on shales extracted, whereas the lessee had paid the royalty on the diamond actually repacketed. This resulted in loss of revenue of Rs.0.32 lakh. No action was taken by Department to realise royalty on 37.31 carats of diamond.

(3) Non-renewal of lease deed leading to blockage of revenue

The NMDC applied (30 June 1994) for renewal of the lease for a further period of 20 years before its expiry on 15 July 1995. This application was sent by the Collector, Panna to the Government on 3 March 1997 i.e. 2 years and 9 months after its receipt without any justification for the delay. The lease has not been renewed (June 1999) and the lessee is continuing the mining and extraction of diamonds without drawing any agreement and without proper authority, depriving the Government of a revenue of Rs.63.21 lakh by way of stamp duty and registration fees.

On this being pointed out, the Department did not give a specific reply regarding the delay on the part of the Collector. It stated (March 1999) that the Government of India reduced the royalty on diamond from 20 to 10 percent without consulting the Government. It also stated that the Government was not satisfied with the decision of reduction in royalty and has requested the Government of India to renew the lease with the condition that over and above the royalty, NMDC should pay to the Government 12 per cent* of the sale value to compensate the loss caused due to reduction in the rate of royalty. Decision of the Government of India is awaited. The Government further stated (August 1999) that the registration fees shall be recovered after a decision is taken on the renewal case.

The reply is not tenable because the reduction in the rate of royalty was effective from 11 April 1997 i.e. nearly three years after the NMDC had applied for renewal and nearly 2 years after the due date of renewal.

(4) Non-disposal of kimberlite dust

Kimberlite dust, after separation of diamond, is dumped in the leased area. This dust contains 37.1 per cent clay, 7.1 per cent lime and 16 per cent magnesia and can be used for production of cement. The Director, Geology and Mining had constituted a committee of experts in April

* *An Indian company, in an offer for survey, exploration evaluation and subsequent exploitation and marketing agreed to pay to the Government 12 per cent of sale value in addition to the royalty*

1996 which reported that the dust (24.5 lakh tonne) was suitable for disposal as process waste. The Director, Geology and Mining referred the matter for disposal to the Government in July 1997.

The Government stated (August 1999) that due to presence of micro diamonds in the kimberlite dust, the Government is considering appointment of a high power committee consisting of representatives from Geological Survey of India, Indian Bureau of Mines, NMDC and the Diamond Officer, Panna for study before taking final decision in the matter.

The delay has resulted in the postponement of revenue of Rs.12.25 crore (calculated on the basis of an offer of purchase at the rate of Rs.50,000 per tonne in June 1984)*. Besides, the reduction in quantity and quality due to misuse, erosion and weather hazards can not be ruled out.

It was further seen that NMDC, has used the kimberlite aggregate for building walls and roads without obtaining permission from Government .

(5) Valuation and sale of diamond

The value of diamond depends upon the four Cs viz. carat, cut, clarity and colour on the basis of which diamond roughs are classified and sorted before valuation and marketing. The State Government has not prescribed any norms and procedures for valuation of diamond which solely is done by the NMDC. It has framed its own rules for disposal of diamond by tender/auction with no provision for Government representation**.

Test-check (March 1999) revealed that NMDC revalued 36 diamonds (December 1995) after 3 consecutive auctions in which they remained unsold and reduced their reserve price without any intimation to the State Government.

The Government stated (August 1999), that matter will be examined and necessary provisions will be made in the conditions.

(6) Delay/non-disposal of diamond

It was seen in audit (June 1999) that 60 diamonds weighing 212.29 carats extracted during 1996-97 remained undisposed with NMDC (June 1999). Government of India had reduced the rate of royalty from 20 per cent to 10 per cent with effect from 11 April 1997. The delay in disposal resulted in loss of revenue of Rs.1.34 lakh.

* As commented in paragraph No. 10.2.18 of the Report of Comptroller and Auditor General of India for the period ended 31 March 1992

** NMDC disposes of diamonds of higher value through pre-auction tenders from limited number of dealers

274 diamonds weighing 1,007.72 carats extracted during 1996-97 to 1998-99 remained unsold during auctions held by NMDC. The sale of these diamonds could have yielded revenue of Rs.6.34 lakh as royalty. NMDC intimated that the old unsold diamond did not attract merchants because of their physical characteristics and as last resort revaluation would be taken up. The Department had not ascertained the action taken by NMDC for the sale of these diamonds.

8.2.8 *Non-realisation of mineral area development cess*

Madhya Pradesh *Karadhan Adhiniyam*, 1982 (*Adhiniyam*) provides for the levy of cess* at the rates specified from the lessees of major minerals. The amount of cess recovered from the lessees is to be utilised in the development of mineral bearing areas. This *Adhiniyam* and the Cess Acts of the States of Bihar, Bengal and Orissa etc. were challenged by various lessees in the Supreme Court. The Supreme Court, on 4 April 1991, quashed the levy of cess and held that the Central Act [Mines and Minerals (Regulation and Development) Act, 1957] prohibits the State Legislature from levy of any tax on royalty.

The Government of India revalidated (February 1992) the Cess Acts up to 4 April 1991 through a Central Act, the Cess and Other Taxation on Minerals (Validation) Act, 1992. The Government issued instructions in September 1997 (after Supreme Court upheld the revalidation in July 1996) regarding levy of cess from all lessees treating the Act as in force up to 4 April 1991.

Thereafter, the Government did not effectively pursue with the Central Government the case for levying of cess beyond 4 April 1991, thereby depriving itself of further revenue on this account.

Cess for the period from November 1982 to 4 April 1991 amounting to Rs.432.71 lakh was not realised from NMDC which holds mining lease for extraction and sale of diamond for Majhgawan-Hinota diamond mines area in Panna district.

The Government has not taken effective steps to affect recovery of cess or to renew the lease, which expired on 15 July 1995 on fresh and more advantageous terms.

8.2.9 *Delay in exploitation of new deposits of diamond*

Kimberlite, in which diamonds occur, has been discovered in Mainpur area of Raipur district and Tokapal area of Bastar district. A survey by Director, Geology and Mining in 1991-92 revealed 4 kimberlite pipes in which the incidence of diamond was confirmed.

* *Mineral area development cess*

It was seen during audit that 129 persons were prosecuted for illicit activities during the period from 1990 to 1993. The Department has also recovered 183 pieces of diamonds from the persons prosecuted.

The Government forwarded applications of 3 private mining companies to the Government of India (September 1994) which rejected the same due to inconsistency with the Act.

Thereafter, the offer of a diamond consortium was recommended (November 1998) for acceptance on the condition that it forms a joint venture with the Government of Madhya Pradesh and the Madhya Pradesh State Mining Corporation for these works. Further progress taken in the matter is awaited (November 1999). It was seen in audit (February 1999) that 86 applications for grant of prospecting licences/mining leases (other than referred to above) were received by Mining Officer, Raipur and forwarded between 1990 to 1996 to the Government for further action. The Government could not intimate to audit the fate of these applications (November 1999).

The inordinate delay has not only resulted in royalty from likely mining activity remaining dormant but also in the possibility of illicit mining.

The Government stated (August 1999) that measures viz. barbed wire fencing, constantly patrolling of the area and posting of security guards, have been adopted to check illicit extraction.

8.2.10 System deficiencies

- (1) Non-reconciliation of remittance figures of department with the figures of treasury

Madhya Pradesh Treasury Code, provides that every Drawing and Disbursing Officer verifies the figures of the Department with the figures of treasury at the end of each month and in case of any discrepancy, these are to be reconciled immediately.

It was seen in audit that at the end of March 1999 the closing balance of the cash book in the Personal Deposit Account of the Diamond Officer showed the balance of Rs.8,39,252.51 where as the Treasury Officer had certified the balance of Rs.7,59,013.77. Instead of reconciling the difference of Rs.80,238.74 with the treasury, the Department has taken Rs.7,59,013.77 as the opening balance on 1 April 1999, in violation of the provisions of the Rules. The possibility of misappropriation of revenue can not be ruled out.

The Government stated (August 1999) that the Diamond Officer was being instructed to follow the procedure laid down in the Financial/Treasury Code.

(2) Internal audit and supervision

There is no internal audit wing in the Department to ensure the maintenance of proper records and ensure adherence to rules and procedures. There is also no manual or compilation of instructions for the guidance of the departmental officers/officials.

8.3 Incorrect remission/waiver of mining revenue

The Mines and Minerals (Regulation and Development) Act, 1957 (Section 4, Rule 31 [2]) stipulates that no person shall undertake mining operations in any area except under and in accordance with the terms and conditions of a mining lease. The Mineral Concession Rules, 1960 further provide for execution of lease deed and the date of commencement of the mining lease shall be the date on which deed is executed and registered duly stamped.

Mining revenue amounting to Rs.1051.12 lakh was incorrectly waived

Test-check of the records (March 1998) of the Mining Officer, Jhabua revealed that the Government appointed (April 1975) Corporation* as its agent for extraction and sale of rock phosphate. The conditions of agency stipulated that the sale proceeds may be deposited in the Government account after deducting the commission due to the Corporation and the sales tax paid by it. The Corporation however, did not deposit the net sale proceeds of Rs.1281.94 lakh for the period from 1993-94 to 1994-95 and 1996-97 to 1997-98 but only paid Rs.230.82 lakh and retained the balance of Rs.1051.12 lakh.

Subsequently, the Government under orders, dated 11 November 1997 (revised in March 1998) permitted the Corporation to work on payment of royalty and local development fee with retrospective effect from 1 April 1993 without any provisions for execution of lease deed. This resulted in incorrect remission/waiver of sale proceeds amounting to Rs.1051.12 lakh besides depriving the Government from levy of stamp duty and registration fees.

On this being pointed out (March 1998) the Director, Geology and Mining stated (July 1999) that the Corporation has been permitted to work on payment of royalty and development fee with effect from 1 April 1993 on the basis of Cabinet decision.

The matter was reported to the Government (between June 1998 and January 1999); their reply has not been received (November 1999).

* *Madhya Pradesh State Mining Corporation*

8.4 Non-realisation of revenue on removal of coal from colliery to rail head

Section 9 (1) of the Mines and Minerals (Regulation and Development) Act, 1957 provides for payment of royalty at the time of removal of minerals.

Royalty of Rs.616.39 lakh was not realised on removal of coal

Test-check of records (July 1998) of Mining Officer, Chhindwara revealed that 7.64 lakh tonnes coal was removed by a lessee* from the colliery to rail head without payment of royalty between January and December 1997, which was incorrectly shown as transferred to another colliery.

The Mining Officer, Chhindwara had not taken any action for the recovery of the royalty on the coal unauthorisedly removed by the lessee. This resulted in non-realisation of revenue of Rs.616.39 lakh.

On this being pointed out (October 1998) the Director, Geology and Mining stated (July 1999) that information was being collected from Collector, Chhindwara.

The matter was reported to the Government (between October and December 1998); their reply has not been received (November 1999).

8.5 Non-recovery of mineral area development cess

Madhya Pradesh Karadhan Adhinyam, 1982 for the levy of cess was quashed by Supreme Court on 4 April 1991 holding that the enhancement of royalty could only be done by the Government of India in the manner prescribed in the Act. The Cess and other Taxes on Minerals (Validation) Ordinance, 1992 issued by Government of India validated the levy of cess up to 4 April 1991. The Ordinance was challenged in the Supreme Court which upheld it in July 1996. Accordingly, the Madhya Pradesh Government issued instructions (August-September 1997) for levy of cess for the period 1 November 1982 to 4 April 1991.

Mineral area development cess Rs.236.06 lakh was not recovered

It was noticed (between March and October 1998) in 6 districts** that 46 lessees holding mining lease had not paid the cess at all and one lessee had paid part of it for the period of its validity i.e. from 1 November 1982 to 4 April 1991. This resulted in non-realisation of revenue of Rs.236.06 lakh.

* Western Coal Fields Limited

** Jabalpur, Jhabua, Mandasaur, Morena, Rewa and Satna

On this being pointed out the Department stated (between March and October 1998) that in 38 cases demand notices had been issued and in 8 cases demand notices would be issued after verification.

The matter was reported to the Government (between June 1998 and January 1999); their reply has not been received (November 1999).

8.6 Evasion/short-realisation of royalty

According to the Mineral Concession Rules, 1960 a lessee is liable to pay royalty on minerals removed from leased area during a month, by the prescribed date. In case of default the Government may determine the lease and forfeit the whole or a part of the security deposit.

Evasion of royalty on coal amounting to Rs.56.97 lakh and short realisation of 81.38 lakh

(a) A lessee* had extracted and removed 2.76 lakh tonnes of coal of different grades from 14 collieries in Chhindwara district between August and December 1997 but had paid royalty on 1.99 lakh tonnes only. The Department had not initiated any action to recover the dues. This resulted in short-realisation of revenue of Rs.56.97 lakh.

The Director, Geology and Mining stated (July 1999) that out of Rs.56.97 lakh an amount of Rs.17.77 lakh had been recovered as adjustment and action to recover the balance amount was in progress.

The above cases were reported to the Government (between April 1998 and January 1999); their reply has not been received (November 1999).

(b) In 5 Districts** 7 lessees had removed 4.79 lakh tonnes of limestone and 12,768.5 cmt of flagstone from the leased area between January 1992 and March 1998, on which a royalty of Rs.160.25 lakh was payable. Against this, Rs.78.87 lakh only was paid by the lessees. The Department had not taken any action to recover the amount or determine the lease and forfeit the security deposit. This resulted in short realisation of revenue of Rs.81.38 lakh.

On this being pointed out (between March and October 1998) the Director, Geology and Mining stated (July 1999) that Rs.73.06 lakh had been recovered in 4 districts and RRC*** issued in one district.

* Western Coal Fields Limited

** Dhar, Mandsaur, Morena, Rewa and Satna

*** Revenue Recovery Certificate

The matter was reported to the Government (between April 1998 and January 1999); their reply has not been received (November 1999).

8.7 Non-levy of interest on belated payments of royalty

According to the Mineral Concession Rules, 1960 a lessee is liable to pay royalty by twentieth of the ensuing month, failing which he is liable to pay simple interest at 24 per cent per annum from the sixtieth day of the expiry of the stipulated date until payment of such royalty.

Interest amounting to Rs.73.54 lakh was not assessed and realised

In 4 districts*, 12 lessees had delayed the payment of royalty amounting to Rs.1250.35 lakh between January 1992 and March 1998 by 1 to 51 months beyond the grace period of 60 days. The Department had, however, not taken any action to levy interest on belated payments of royalty. This resulted in non-realisation of revenue Rs.73.54 lakh to the Government.

On this being pointed out (between April and October 1998) the Director, Geology and Mining stated (July 1999) that out of Rs.73.54 lakh, Rs.19.41 lakh had been recovered in 8 cases and action for recovery of balance amount was in progress.

The matter was reported to the Government (between June 1998 and January 1999); their reply has not been received (November 1999).

8.8 Illicit extraction of minerals

Under the Mines and Minerals (Regulation and Development) Act, 1957 no person shall undertake any prospecting or mining operations in any area without a prospecting licence or mining lease granted under the Act. Further, as per Section 247 (7) of Madhya Pradesh Land Revenue Code, 1959 any person, who extracts or removes minerals from any mine or quarry without lawful authority, shall be liable to pay as penalty an amount not exceeding double the market value of the minerals so extracted or removed.

Two cases of illicit extraction of flagstone valued at Rs.22.52 lakh were detected (between November and December 1997) by the Mining Officer, Shivpuri. There was, however, nothing on record of the cases having been sent to the Collector, Shivpuri for further proceedings for imposition of penalty, the maximum leviable amount of which worked out to Rs.45.04 lakh.

* Dhar, Morena, Rewa and Satna

On this being pointed out (October 1998) the Director, Geology and Mining stated (July 1999) that cases of illicit extraction of minerals have since been registered in the Collector's court.

The matter was reported to the Government (between October and December 1998); their reply has not been received (November 1999).

8.9 Short-realisation of minimum royalty

Instructions of 10 July 1992 issued by the Government require that in case of sanction of quarry leases to educated unemployed persons for extraction of stone and crushing/polishing thereafter, the lessee shall have to pay to the Government minimum royalty on 5,000 tonnes of mineral per annum.

In 4 districts* 13 quarry leases were granted to educated unemployed persons for periods ranging from 3 to 10 years. The lessees were required to pay Rs.16.83 lakh as royalty for the period from August 1993 to March 1998 as per condition of the lease but they had paid only Rs.4.84 lakh.

The Department had not initiated any action to recover the balance amount. This resulted in short-realisation of revenue of Rs.11.99 lakh.

On this being pointed out (between April and October 1998) the Director, Geology and Mining stated (July 1999) that in 5 cases amount of Rs.0.70 lakh had been recovered in full or partly. In 4 cases RRC demand notices had been issued.

The matter was reported to the Government (between June and December 1998); their reply has not been received (November 1999).

8.10 Incorrect reduction of stock

A lessee for extraction of lime stone in Satna district had shown a closing balance of 37,661 tonnes in the monthly statement for November 1995 and the opening stock as 'nil' in the monthly statement of December 1995, but no royalty was paid on the removed stock of mineral. Though the Department issued notices for the recovery of Rs.9.42 lakh as royalty in September 1996, no follow up action for recovery was taken till pointed out in audit (June 1998). However, a fresh demand notice has again been issued (April 1999). This resulted in non-realisation of revenue of Rs.9.42 lakh.

* Bhopal, Dhar, Hoshangabad and Rewa

On this being pointed out the Director, Geology and Mining stated (July 1999) that the lessee has filed a writ petition in High Court (May 1999) against demand notice issued by Mining Officer (April 1999). As the court has granted stay over recovery, action for recovery would be taken after the decision of the court.

The matter was reported to the Government (between June and December 1998); their reply has not been received (November 1999).

8.11 Short/non-realisation of contract money

Under the Madhya Pradesh Minor Mineral Rules, 1961 and terms of the agreement thereunder, if any dues remain unpaid for more than 3 months, the Government may cancel the contract in question and take possession of the quarry and reauction it at the risk and cost of the original contractor.

In Mandasaur and Morena districts 20 trade quarries were sanctioned for different periods between April 1994 and March 1998. Though the contractors had paid Rs.1.16 lakh only against the payable amount of Rs.9.75 lakh, the Department had not initiated any action, either for recovery of outstanding amount or for cancellation and reauction of quarry. This resulted in non-realisation of revenue of Rs.8.59 lakh. The administrative control of minor minerals has now been delegated to the *Panchayat* with effect from 1 April 1996.

On this being pointed out (October 1998) by Audit, the Director, Geology and Mining stated (July 1999) that out of Rs.8.59 lakh, Collector, Morena had recovered Rs.3.31 lakh and action to recover balance amount was in progress.

The matter was reported to the Government (between June and December 1998 and again in January 1999); their reply has not been received (November 1999).

8.12 Loss of revenue due to incorrect refund

Under Madhya Pradesh Minor Mineral Rules, 1961 removal of minor minerals from mines by government departments for public works is exempted from levy of royalty, rents etc. Further, as per standard clause 37 of agreement, all quarry fees, duties, ground rent and royalty for stacking of materials by a contractor is refundable on production of certificate that the material was required for use on Government works.

Refund of royalty of Rs.2.65 lakh was allowed in Jhabua district, to a Public Works contractor on the basis of Superintending Engineer's orders of September 1995, under clause 29 of the agreement. The refund made by the Department was incorrect as the rates quoted by

the contractor as per clause in the NIT* were inclusive of tax, royalty and labour charges and the agreement did not authorise refund of royalty. As per clause 29 of the agreement the Superintending Engineer is not empowered to allow such refunds. Thus, incorrect refund of royalty resulted in loss of revenue of Rs.2.65 lakh.

On this being pointed out the Director, Geology and Mining stated (July 1999) that the construction work under reference was capital expenditure under tribal sub plan, hence the royalty was refundable. The reply is not tenable because the contractor had included the element of royalty while costing in NIT.

The matter was reported to the Government (between June and December 1998); their reply has not been received (November 1999).

8.13 Working on mines without authority

Under the Mines and Minerals (Regulation and Development) Act, 1957 no person shall undertake any prospecting or mining operations in any area without a prospecting licence or lease granted under the Act and Rules made thereunder.

Loss of revenue amounting to Rs.24.47 lakh due to non-execution of lease deed

Under the provisions of Mineral Concession Rules, 1960 the date of commencement of the period for which a mining lease is granted shall be the date on which the lease deed is executed.

The Government had permitted (without grant of lease) the Corporation to work on mines in 4 districts** on advance payment of royalty under orders issued between April and December 1997. The Corporation continued to operate the mines without the execution and registration of leases.

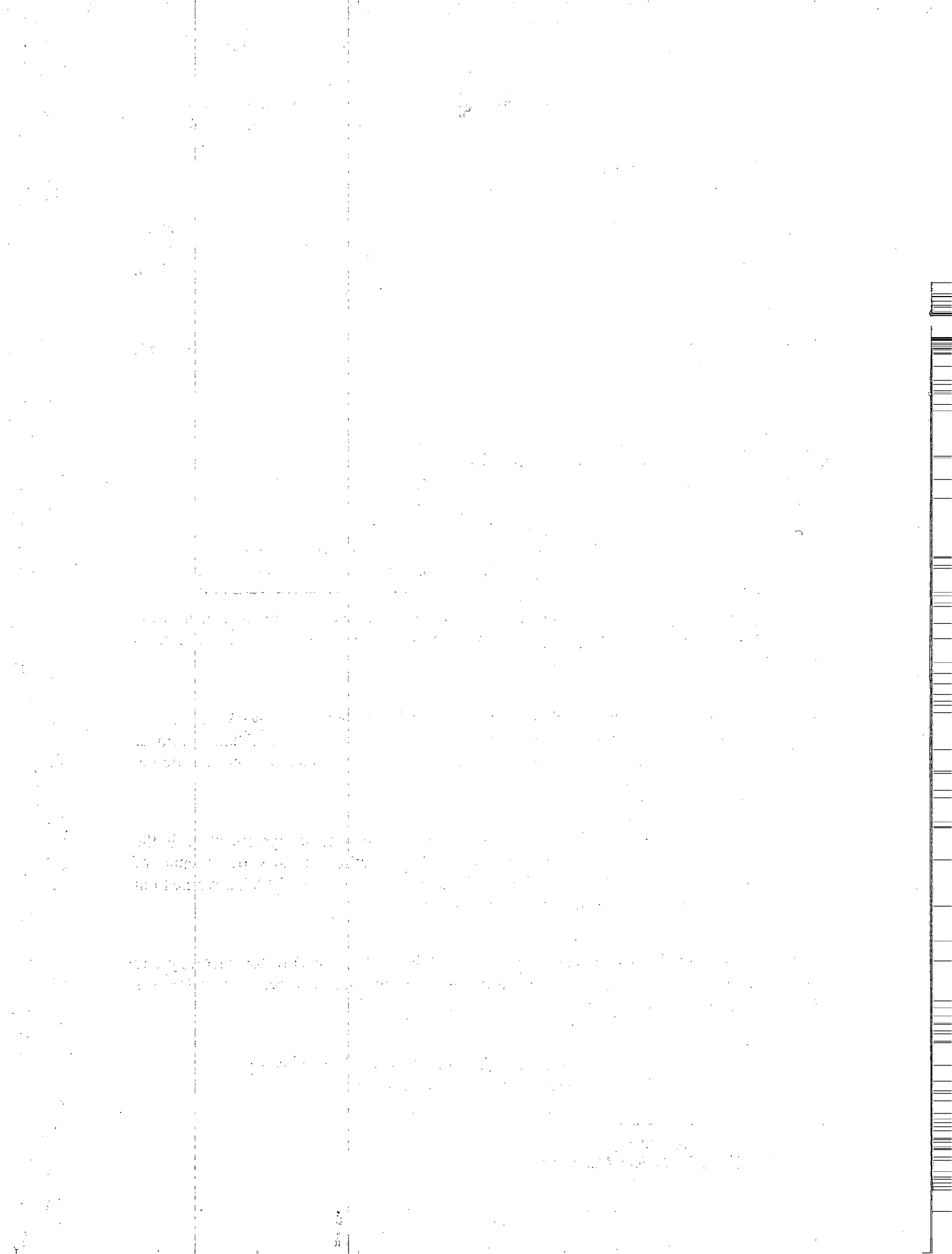
The Department neither granted mining leases/entered into a lease agreement with the Corporation nor stopped the mining operations. This resulted in loss of revenue of Rs.24.47 lakh (Stamp Duty Rs.13.98 lakh and Registration Fees Rs.10.49 lakh, worked out on the average annual royalty paid by the Corporation).

On this being pointed out (between March and October 1998) the Director, Geology and Mining stated (July 1999) that the question of loss of stamp duty and registration fee was under consideration of the Government .

The matter was reported to the Government (between June and December 1998 and again in January 1999); their reply has not been received (November 1999).

* Notice inviting tender

** Hoshangabad, Jhabua, Mandasaur and Morena



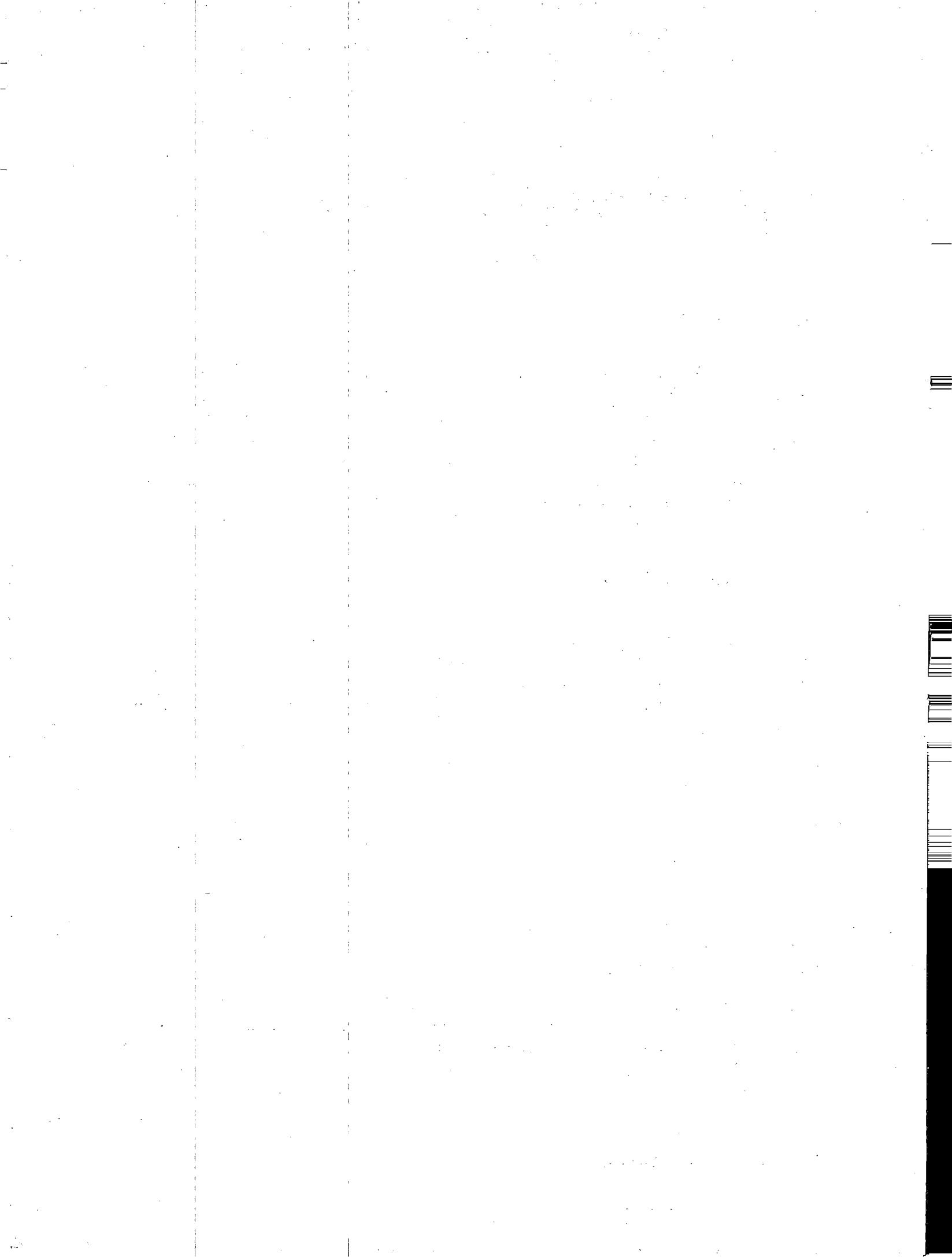
CHAPTER 9

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OTHER NON-TAX RECEIPTS



Chapter 9: Other Non-Tax Receipts**A Public Works Department****9 A (a) Introduction**

The Public Works Department is the principal agency of the Government of Madhya Pradesh responsible for architecture, survey, design, construction, improvement and maintenance of roads, bridges and public buildings (residential and non-residential) in Madhya Pradesh. The revenue of the Department is mainly derived from toll tax on bridges and ferries, licence fee of Government residential and non-residential buildings and miscellaneous receipts obtained from auction of grass, fruit bearing trees, fines and penalties. The receipts are regulated and accounted for according to the provisions contained in the Madhya Pradesh Works Department Manual, 1983.

9 A (b) Organisational set up

The Engineer-in-Chief with headquarters at Bhopal is the Head of the Public Works Department. He is assisted by 6 Zonal Chief Engineers. These zones are further divided into circles and divisions each placed under the charge of a Superintending Engineer and Executive Engineer respectively. The basic records relating to receipts are maintained by divisions.

9 A (c) Revenue realised

Revenue receipts of PWD* for 1998-99 is Rs.16.11 crore forming 0.23 per cent of the total revenue of the State.

9.1 Results of audit

Test-check of records relating to receipts and refunds of 13 Divisions of the PWD, during 1998-99 revealed under-assessment and loss of revenue amounting to Rs.2.20 crore in 1,321 cases which may be broadly categorised as follows:

* Public Works Department

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-imposition of penalty for non-employment of technical staff	50	0.05
(ii)	Non-recovery/short-recovery of licence fee in respect of Government buildings and quarters	911	1.05
(iii)	Short-recovery of percentage charges on deposit works	29	0.02
(iv)	Non-disposal of asphalt drums/cement bags	9	0.12
(v)	Short-recovery of toll tax	25	0.43
(vii)	Others	297	0.53
	Total	1,321	2.20

During 1998-99, the Department accepted under-assessment of tax of Rs.0.99 crore in 1,074 cases, of which 1,072 cases involving Rs. 0.99 crore were pointed out during 1998-99 and the remaining in earlier years. Of these, an amount of Rs. 0.14 lakh has been recovered in 2 cases.

A few illustrative cases involving Rs.28.34 lakh highlighting important observations are given in the following paragraphs:

9.2 Non-recovery of lease money and interest

The terms and conditions of lease deed executed for collection of toll tax on bridges require the lessee to pay the instalments of lease money on the due dates failing which interest shall be charged.

In 2 Public Works Divisions (National Highway, Jabalpur and Building and Roads, Rewa-I), it was noticed (between July and August 1998) that 12 leases for collection of toll tax on 4 bridges for the period between 1993-94 and 1997-98 were auctioned for an aggregate amount of Rs.1.10 crore. The lease money was payable in 79 instalments against which the lessees paid 50 full and 7 part instalments amounting to Rs.1.04 crore, after the due dates, (delays ranging from 1 to 1,653 days) leaving 22 unpaid and 7 partly paid instalments totalling Rs.5.40 lakh in 8 cases. Besides, interest of Rs.2.17 lakh on delayed/unpaid instalments was also not levied and recovered. Thus, non-enforcement of conditions of lease deed resulted in non-recovery of revenue of Rs.7.57 lakh. No action was taken by the divisions to recover the amount as arrears of land revenue.

The matter was reported to the Department and the Government (between September 1998 and June 1999); their reply has not been received (November 1999).

9.3 Non-recovery of licence fee

According to the provisions of the Madhya Pradesh Works Department Manual the licence fee in respect of Government quarters allotted to Government servants or private persons is recoverable at the prescribed rates depending upon the category of the quarters. Government orders (1 July 1990) clarified that uncategorised accommodation allotted to senior officers were to be categorised on the basis of plinth area and licence fee recovered accordingly. Licence fee in respect of public buildings leased out to private persons, clubs, local bodies etc. involved higher rate of rent.

*Licence fee of Rs.20.77 lakh
not recovered*

(a) In 2 Public Works (Buildings and Roads) Divisions (Gwalior-I and Indore-I) it was noticed (between August and September 1998) that licence fee for 45 residential buildings allotted to senior officers was assessed and recovered at lower rates between July 1990 and March 1998 due to non-categorisation of buildings on the basis of plinth area. This resulted in short levy of licence fee depriving Government of Rs.2.27 lakh.

(b) In Public Works (Buildings and Roads) Divisions, Indore-I and Rewa-I it was noticed (between July and September 1998) that 15 buildings were leased out between April 1988 and March 1998 to private persons, clubs, local bodies etc. but no licence fee in these cases was levied by the Department. This resulted in non-recovery of Rs.18.50 lakh.

The matter was reported to the Department and the Government (between October 1998 and June 1999); their reply has not been received (November 1999).

B Water Resources Department

9 B (a) Introduction

The Water Resources Department is the principal water conservation agency of the Government of Madhya Pradesh and is responsible for utilisation of water resources for irrigation in MP. The revenue of the Department is derived mainly from water supplied for irrigation (agricultural purposes) and from water supplied to towns and industries. The receipts are regulated and accounted for according to the provisions of the Madhya Pradesh Irrigation Act (Act), 1931 and Rules made thereunder.

9 B (b) Organisational set up

The Engineer-in-Chief with headquarters at Bhopal is the Head of Department. He is assisted by Zonal Chief Engineers. These zones are further divided into circles and divisions each under the charge of a Superintending Engineer and Executive Engineer respectively. The basic records relating to levy and recovery of water rates and irrigation cess are maintained by divisions.

9 B (c) Revenue realised

Revenue receipts of WRD* during 1998-99 were Rs.42.63 crore, which were 0.61 per cent of the total revenue of the State.

9.4 Results of audit

Test-check of records relating to receipts and refunds of 11 Water Resources divisions during 1998-99 revealed under-assessment and losses of revenue amounting to Rs.7.84 crore in 503 cases which may be broadly categorised as under:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-levy of betterment contribution	45	0.17
(ii)	Non-imposition of penalty for non-employment of technical staff	13	0.03
(iii)	Short-levy of water charges due to incorrect assessment	15	1.10
(iv)	Non-levy of water rates and irrigation cess	1	0.03
(v)	Non-recovery of outstanding dues of water charges	2	5.32
(vi)	Others	427	1.19
	Total	503	7.84

During the year 1998-99 the Department accepted under-assessment of tax of Rs.20.83 crore in 88 cases, of which 87 cases for Rs.3.13 crore were pointed out in 1998-99 and the remaining in earlier years. Of these, an amount of Rs.17.70 crore has been recovered in 1 case.

* *Water Resources Department*

A few illustrative cases involving Rs.128.12 lakh highlighting important observations are given in following paragraphs:

9.5 Non-levy of betterment contribution

The Madhya Pradesh Irrigation Act, 1931 provides for levy of betterment contribution at the rate of Rs.140 per acre payable in lump sum or at the rate of Rs.224 per acre payable in 20 annual instalments* from the permanent holders of land benefited by a new canal, constructed after 1 April 1951. The betterment contribution is leviable on canal constructed at a cost of Rs.5 lakh or more or having a command area of 1,000 acre or more. The contribution is recoverable from such date as may be notified by the Government but not earlier than three years from the date of commencement of operation of the canal.

Betterment contribution of Rs.52.23 lakh was not levied

In 5 water resources divisions** it was seen (between April and December 1998) that 44 irrigation schemes were completed (between May 1984 and June 1993) at a total cost of Rs.23.48 crore. The Department neither notified the dates from which betterment contribution would be leviable nor specified the command area. This resulted in non-realisation of revenue of Rs.52.23 lakh (calculated at the rate for payment in lumpsum).

The EE,*** Khandwa contended (October 1998) that the cost of canal was less than Rs.5 lakh after excluding the cost of construction of tanks and irrigated area was less than 1,000 acres. This is not tenable as Section 3 of the Act provides that canals include tanks also. Non-levy of betterment contribution by the EE, Shahdol on the grounds that most of the cultivators were from scheduled tribes and below poverty line, is also not acceptable as the Act does not exempt any class of cultivator from levy of contribution.

The matter was reported to the Department and the Government (between June 1998 and June 1999); their reply has not been received (November 1999).

9.6 Non/short-recovery of water charges

The Madhya Pradesh Irrigation Act, 1931 and Rules made thereunder provide for supply of water for industrial, urban or other purposes not connected with

Water charges of Rs.75.89 lakh not recovered

- * (i) Rs.8 per acre per year for the first five years
(ii) Rs.12 per acre per year for the next fourteen years
(iii) Rs.16 per acre for the twentieth year.
- ** Durg, Hoshangabad, Khandwa, Sagar-I and Shahdol
- *** Executive Engineer

agriculture, provided the consumer concerned executes an agreement in the prescribed form and pays the prescribed water charges on due dates. The consumer is also required to furnish security deposit for a sum equal to water rates for the quantity of water to be drawn in six months. If the consumer fails to pay the water charges, the agreement can be terminated and water supply disconnected. The unpaid amount of water charges is required to be adjusted against security deposit and balance recovered as arrears of land revenue. Further, drawal of water without execution of agreement is unauthorised and attracts levy at penal rates.

(i) In Tendula Water Resources Division, Durg it was noticed (April 1998) that 81.13 lakh cubic metre water was supplied to SADA*, Bhilai between March 1995 and June 1997, under an agreement executed in April 1995 without obtaining security deposit of Rs.17 lakh. A bill for Rs.51.11 lakh was raised for water charges for industrial purposes. SADA made part payment of Rs. 8.09 lakh leaving a balance of Rs.43.02 lakh. The Department did not take any action either to terminate the agreement/disconnect the water supply or recover water charges of Rs.43.02 lakh.

The matter was reported to the Department and the Government (between June 1998 and June 1999); their reply has not been received (November 1999).

(ii) In Water Resources Divisions Guna, Sagar and Tendula (Durg) it was noticed (between April and December 1998) that 916.11 million cubic feet water was drawn by the 3 municipalities** from irrigation works during 1993-94 to 1997-98 without executing agreements. The water charges were thus leviable at penal rate amounting to Rs.32.98 lakh but only Rs.11.73 lakh were levied at the normal rates. The Department had, however, actually recovered Rs.0.11 lakh only, resulting in short realisation of revenue of Rs.32.87 lakh. The Department did not take any action to recover the dues.

The matter was reported to the Department and the Government (between June 1998 and June 1999); their reply has not been received (November 1999).

C Public Health Engineering Department

9 C (a) Introduction

The Public Health Engineering Department is the principal agency of the Government of Madhya Pradesh responsible for preparation and execution of the water supply and sanitation projects in the State, maintenance of which may be done either by itself or through local agencies/bodies.

* Special Area Development Authority

** Ashok Nagar (Guna), Deori (Sagar) and Rajnandgaon

9 C (b) Organisational set up

The Engineer-in-Chief with headquarters at Bhopal is the Head of the Public Health Engineering Department. He is assisted by Chief Engineers, Superintending Engineers and Executive Engineers at Zonal, Circle and Divisional levels respectively. The basic records relating to receipts are maintained by the divisions. In cases where the work has been delegated to local bodies the records are not susceptible to audit scrutiny.

9 C (c) Revenue realised

Revenue receipts of PHED* for 1998-99 were Rs. 8.81 crore forming 0.13 per cent of total revenue of the State.

9.7 Results of audit

Test-check of records relating to receipts and refunds of PHED during 1998-99 revealed under-assessment and loss of revenue amounting to Rs.1.42 crore in 153 cases which may be broadly categorised as under:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-recovery of miscellaneous Public Works advances	16	00.78
(ii)	Non/short-recovery of percentage charges of deposit works	10	00.48
(iii)	Non-imposition of penalty for non-employment of technical staff	57	00.11
(iv)	Others	70	00.05
	Total	153	1.42

During 1998-99, the Department accepted under-assessment of tax of Rs. 1.36 crore involved in 67 cases, of which 66 cases involving Rs.1.35 crore were pointed out during 1998-99 and the rest in earlier years. Of these, an amount of Rs.0.06 lakh had been recovered in 1 case.

An illustrative case involving Rs. 27.73 lakh highlighting important observations is given in the following paragraph:

* Public Health Engineering Department

9.8 Non/short-levy of percentage charges on deposit works

Madhya Pradesh Works Department Manual, 1983 provides that percentage charges at the rate of 20 percent over and above the cost of construction are to be levied and recovered on deposit works undertaken by PHED on behalf of institutions, corporations and local bodies etc.

Percentage charges of Rs.27.73 lakh on deposit works were not levied

Test-check of records (between May 1998 and January 1999) of 2 Public Health Engineering Divisions (Guna and Raisen) revealed that 5 deposit works (on behalf of 5 local bodies) valued at Rs.1.90 crore were undertaken and completed between 1987-88 and 1997-98 on which percentage charges amounting to Rs.38 lakh were leviable. The percentage charges of Rs.10.27 lakh only were levied and recovered in two cases that too at lower rates and not levied at all in the remaining cases. This resulted in non/short-levy of percentage charges of Rs.27.73 lakh.

The matter was reported to the Department and the Government (between June 1998 and June 1999); their reply has not been received (November 1999).

D Food and Civil Supplies Department

9 D (a) Introduction

The Food Department is responsible for managing and operating Public Distribution System of foods grains, kerosene oil etc. Under Essential Commodities Act, 1955 the revenue of the Department is mainly derived from the sale proceeds of confiscated goods, ration card charges and other administration charges. The receipts are regulated and accounted for according to provisions of the Essential Commodities Act, 1955.

9 D (b) Organisational set up

The Director of Food and Civil Supplies with headquarters at Bhopal is the Head of the Department. The Food Controller at each district headquarters is incharge of Food Officers. The basic records relating to realisation of revenue are maintained at district food offices.

9.9 Results of audit

Test-check of records relating to receipts and refunds of Food and Civil Supplies Department during 1998-99 revealed under-assessment and loss of revenue amounting to Rs.0.99crore in 324 cases which may be broadly categorised as follows:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-disposal of confiscated goods	81	00.56
(ii)	Non-recovery of interest due on belated payment of advances	01	00.10
(iii)	Others	242	00.33
	Total	324	00.99

During 1998-99, the Department accepted under-assessment of tax of Rs. 0.90 crore involved in 296 cases, of which 267 cases involving Rs.0.79 crore were pointed out during 1998-99 and the rest in earlier years. Of these, an amount of Rs.0.11 crore had been recovered in 29 cases.

A few illustrative cases involving Rs.30.23 lakh highlighting important observations are given in the following paragraphs:

9.10 Non-disposal of confiscated goods

The Essential Commodities Act, (Act) 1955 empowers the Collector of a district to seize food grains and essential commodities of licensed dealers in the event of suspected breach of the provisions of the Act. On the offence being established, the seized/confiscated goods are, after the orders of the court (Collector), required to be auctioned and sale proceeds credited to Government accounts.

Test-check of records (between May 1998 and January 1999) revealed that in 5 Food Offices* the perishable food items like edible oils and food grains etc. valued at Rs.10.70 lakh were seized/confiscated from 64 dealers between September 1988 and March 1998 and forfeited to the Government between October 1990 and August 1998 under the orders of the Court. However, the goods remained undisposed for periods ranging from 5 to 100 months (as on 31 January 1999).

The matter was reported to the Department and the Government (between June 1998 and June 1999); their reply has not been received (November 1999).

* Morena, Raipur, Rewa, Sehore and Shajapur

9.11 Non-levy of interest on belated repayment of loan

Food and Civil Supplies Department granted loans to various District Central Cooperative Banks of the State during the years 1993 to 1998 for

Interest of Rs.17.01 lakh was not levied on belated repayment of loan

storage and distribution of food grains in inaccessible areas, to be repaid by 31 October of the same year. In case of default, interest was leviable at the rate of 18 per cent per annum with effect from 1 November of the same year to date of payment.

Test-check (between September 1998 and January 1999) of records of 3 Food Offices (Bhind, Raipur and Shahdol), revealed that loans of Rs.3.53 crore were paid to 3 Central Cooperative Banks (between May 1993 and May 1998) for procurement and storage of food grains in inaccessible areas. The repayment of these loans was made by the banks after a delay ranging from 3 to 249 days. However, interest leviable was not levied, depriving Government of Rs.17.01 lakh.

The matter was reported to the Department and the Government (between October 1998 and June 1999); their reply has not been received (November 1999).

9.12 Short-recovery of administrative charges

Government orders (April 1970) require recovery of the administrative charges from the owners of fair price shops at the rate of Re.1 per quintal in respect of food grains released for distribution to fair price shops/cooperative societies for sale to the public.

Test-check of records of the Food Officer, Bhind (October 1998) revealed that 2.72 lakh quintals of food grains (wheat and rice) were released during the years 1995-96 to 1997-98 for sale through fair price shops/cooperative societies. The administrative charges of Rs.2.72 lakh were recoverable from the dealers, but Rs.0.20 lakh only were levied and recovered, depriving Government of Rs.2.52 lakh.

The matter was reported to the Department and the Government (between December 1998 and June 1999); their reply has not been received (November 1999).

9 E Co-operation Department

9 E (a) Introduction

Under Cooperative Societies Act, 1960 the Department is responsible for auditing the accounts of various Cooperative Societies at least once a year. Audit fee at prescribed rates for each category and class of societies is leviable and recoverable. The receipts are regulated and accounted for according to the provisions of Act and Rules made thereunder.

9 E (b) Organisational set up

In the Co-operation Department there are two wings namely Audit and Administrative wing since 1984. At State level at Bhopal, the Department is headed by the Chairperson. Audit Board who is also the Commissioner and Registrar of Cooperative Societies. The Audit Boards at Divisional and District Level are under the charge of Joint Registrar, Deputy Registrar and Assistant Registrar, Cooperative Societies respectively. The Chairperson, Audit Board, the Joint Registrar and the Deputy Registrar not only supervise the audit work of subordinate offices but also conduct audit of accounts of those societies where the sphere of activities extends beyond the district.

9.13 Results of audit

Test-check of records relating to receipts and refunds of 16 Offices of Assistant Registrar, Cooperative Societies (Audit and Administration) during 1998-99 revealed underassessment and loss of revenue amounting to Rs.4.06 crore in 1,133 cases which may be broadly categorised as under:

(Rupees in crore)

S.No.		Number of cases	Amount
(i)	Non-recovery/short levy of audit fee	671	0.32
(ii)	Non-declaration/non-payment of dividends by the Cooperative Societies/Banks	5	0.05
(iii)	Non-recovery of instalments of outstanding loan and interest	32	1.30
(iv)	Others	425	2.39
	Total	1,133	4.06

During 1998-99, the Department accepted under-assessment of Rs.3.27 crore involved in 771 cases, of which 747 cases for Rs.3.23 crore pertained to 1998-99 and the rest for earlier years. Of these, an amount of Rs.0.03 crore had been recovered in 24 cases.

An illustrative case involving Rs.58.30 lakh is highlighted below:

9.14 Non-recovery of interest

Loans sanctioned to cooperative societies by the Government for specific purposes are repayable along with interest in instalments on due dates. Penal interest is also leviable for belated payments. The recovery officers are required to watch timely recovery of instalments of loan and interest.

Non-levy and recovery of interest of Rs.58.30 lakh on loans

Test-check of records of 4 Deputy/Assistant Registrars, Cooperative Societies*, (between April and December 1998) revealed that in 15 cases loans of Rs.97.48 lakh were sanctioned and paid to 8 cooperative societies between 1978-79 and 1995-96. An amount of Rs.88.65 lakh (principal Rs.41.17 lakh and interest Rs.47.48 lakh) was payable by the societies during the period from 1979-80 to 1997-98. The societies, however, paid only Rs.16.72 lakh (principal Rs.4.31 lakh and interest Rs.12.41 lakh) leaving an unpaid balance of Rs.84.96 lakh (principal Rs.36.86 lakh and interest Rs.48.10 lakh including additional interest of Rs.13.03 lakh calculated on principal amount remaining unpaid) as on 31 March 1998. This resulted in short-recovery of interest of Rs.48.10 lakh besides penal interest of Rs.10.20 lakh.

The matter was reported to the Government (between June 1998 and March 1999); their reply has not been received (November 1999).

9 F Finance Department

9.15 Assessment and Realisation of Interest Receipts

9.15.1 Introduction

'Interest Receipts' constitute a significant part of the non-tax revenue of Government and comprise interest chargeable on loans and advances granted to various public sector

* Balaghat, Hoshangabad, Sagar and Satna

undertakings, local bodies, cooperative societies etc. and individuals including Government employees.

The position of outstanding loans and advances of Government during 1993-94 to 1997-98 is as follows:

(Rupees in crore)

S.No.	Particulars	1993-94	1994-95	1995-96	1996-97	1997-98
1.	Opening Balance	3064	2791	3143	3439	2897
2.	Amount advanced during the year	224	387	333	318	467
3.	Amount repaid during the year	497	35	37	860	794
4.	Closing Balance	2791	3143	3439	2897	2570

(The information about the position of interest under default is awaited from the Departments concerned.)

The loans repaid during 1996-97 and 1997-98 included adjustment of Rs.775.71 crore against subsidy payable by Government for the years 1993-94 to 1995-96 and Rs.700 crore by conversion to share capital respectively pertaining to the Madhya Pradesh Electricity Board.

The Government sanctioned a sum of Rs.1729 crore (during 1993-94 to 1997-98) as loans to various public sector undertakings, local bodies, cooperative societies etc. Out of these, Audit selected 3 Departments* which granted loans of Rs.1296.77 crore.

9.15.2 Procedure

Loans usually bear interest at rates fixed by the sanctioning authority on the basis of instructions issued by the Government from time to time. The rate of interest ranges from 9.25 to 19.5 per cent per annum, depending on the nature and purpose of the loan and the period of repayment. Penal interest is also chargeable on instalments of principal and interest not paid on due dates as per the terms and conditions specified in the respective sanction order.

9.15.3 Trend of revenue

The trend of revenue of interest receipts for the last five years, is detailed follows:

* Energy (Rs.1166.91 crore), Local Self Government (Rs.106.36 crore) and Transport (Rs.23.50 crore)

(Rupees in crore)

Year	Revised budget estimates	Actual receipts	Variation (+) increase (-) decrease	Percentage of column 4 to 2 (decrease)	Total non-tax revenue	Percentage of interest receipts to total non-tax revenue
1.	2.	3.	4.	5.	6.	7.
1993-94	221.89	215.95	(-) 5.94	2.68	1403.73	15
1994-95	232.74	213.11	(-) 19.63	8.43	1615.21	13
1995-96	274.85	141.02	(-) 133.83	48.69	1778.15	8
1996-97	232.08	269.87	(+) 37.79	--	1974.94	14
1997-98	239.40	223.25	(-) 16.15	6.75	2018.55	11

The reasons for variations in budget estimates and actual receipts though called for (March 1999) were not received from the Finance Department.

9.15.4 Organisational set up

Requests for loans are processed by Heads of Department and if recommended, are considered for sanction by the administrative departments, with the concurrence of the Finance Department.

The responsibility for recovery of loan, interest and penal interest leviable thereon rests with the concerned Head of the Department.

9.15.5 Scope of audit

A review of interest receipts in respect of loans granted by the Departments of Energy, Local Self Government and Transport was conducted during January to May 1999.

9.15.6 Highlights

- (i) Interest and penal interest of Rs.410.11 crore was not assessed and demanded

(Paragraph 9.15.8)

- (ii) There was loss of penal interest of Rs.9.10 crore due to failure in prescribing the terms and conditions of loans.

(Paragraph 9.15.9)

- (iii) Delay in disbursement of loans resulted in loss of interest of Rs.1.55 crore.

(Paragraph 9.15.10)

- (iv) Interest and penal interest of Rs.7.48 crore was assessed but not recovered from 23 municipalities.

(Paragraph 9.15.11)

9.15.7 Lack of control over recoveries of principal, interest and penal interest

The Madhya Pradesh Financial Rules require the Heads of Departments to work out, at the end of each year, the amount of outstanding loan, interest and penal interest due from each loanee and to communicate the same to him for his acceptance. The Finance Department issued instructions in May 1978 and again in January 1990 prescribing formats for maintaining records to watch the recovery of instalments of principal, interest and penal interest.

Test-check of records in all the 3 Departments revealed that the records were not maintained in any of the Departments in the prescribed formats. None of the Departments had maintained the Loan ledgers or Demand, Collection and Balance Registers or submitted periodical returns to the Finance Department. No action was taken by the latter to ensure submission of the prescribed information periodically by these Departments. As a result, complete information regarding the position of overdue principal and interest was not available either with the administrative or the Finance Department. The Finance Department was thus not in a position to monitor the loan position of the State.

9.15.8 Non-assessment and non-raising of demand of interest and penal interest

Each drawing and disbursing officer is required to assess the amount of yearly instalment of repayment of principal, interest leviable thereon and penal interest, if any (in case of default of timely repayment of principal and interest at the end of each year), so as to communicate the same to the loanee in the form of demand notice every year till the amount is finally recovered.

In 3 Departments* it was observed that the loans in 96 cases aggregating Rs.1250.25 crore were sanctioned and disbursed to various loanees during 1993-94 to 1997-98 but the amount of interest and penal interest leviable was not assessed, resulting in non-raising of demand and non-recovery of interest amounting to Rs.400.55 crore and penal interest Rs.9.56 crore (calculated upto December 1998). Of this, Rs.393.77 crore as interest and Rs.8.84 crore as penal interest pertains to Madhya Pradesh Electricity Board (Energy Department) alone.

In Local Self Government Department it was noticed in Audit (September 1999) that Rs.41.90 lakh was adjusted towards principal amount against the octroi compensation payable to 10 municipalities**. The Department did not, however, have sanction wise/year wise details of the recoveries effected in the absence of which the actual recoverable amount of interest and penal interest could not be worked out.

9.15.9 Loss of penal interest due to failure in prescribing the terms and conditions of loan

The sanctions to payment of loans to various institutions accorded by the Government should contain the terms and conditions for repayment of loan such as the number of instalments for repayment of principal and interest, date and year of commencement of first instalment, rate of interest/penal interest chargeable. Penal interest chargeable on the overdue instalment of principal and interest outstanding should be specified separately.

The Madhya Pradesh Financial Code provides that the authority which sanctions a loan should enforce a penal rate of interest not less than 2.5 per cent upon all overdue instalments of amount of principal and interest.

Scrutiny of records in Energy Department revealed that during 1993-94 to 1996-97, 16 loans aggregating Rs.46927.06 lakh were sanctioned to Madhya Pradesh Electricity Board without specifying the rate of penal interest chargeable. This resulted in non-assessment and non-recovery of penal interest amounting to Rs.9.10 crore. which was worked out at the rate of 2.5 per cent (as per Financial Code) on the outstanding instalment of interest only. The amount of penal interest chargeable on the over due instalment of principal could not be computed as the due date of its repayment was also not specified in the sanction order.

* Energy, Local Self Government and Transport

** Betul, Bhandar, Khandwa, Mandla, Mandsaur, Multai, Narsinghpur, Panna, Shivpuri and Timarni

9.15.10 Loss of interest due to delay in disbursement of loans

The loans sanctioned by the Government and drawn by the concerned department should be paid to the loanees immediately without undue delay so as to avoid the loss of interest to the Government .

Test-check of record of 2 Departments* revealed that in 7 cases, loans aggregating Rs.50.95 crore were drawn during the years 1992-93 to 1995-96 and kept under the Head 'Civil Deposits' for periods ranging from 3 to 14 months before being disbursed. The delay in disbursement of loan resulted in loss of interest of Rs.155.08 lakh at the rates specified in the sanctions. Had the Departments, which drew the amounts of loans from the treasury against the sanctions issued by the Finance Department disbursed the same to the eligible loanees immediately after drawal, the Government could have earned interest on loans.

9.15.11 Non-recovery of interest and penal interest

Interest on loans is chargeable from the date of disbursement at the rates and on the terms and conditions specified in the sanction. If the due dates of repayment of instalment of principal and interest are not adhered to by the loanees, penal interest at the specified rate should also be charged.

Test-check of records in Local Self Government Department revealed that 82 loans amounting to Rs.1304.73 lakh were sanctioned and paid to 23 municipalities** of different districts during the period from 1986-87 to 1997-98. Interest at the rate of 7.5 per cent to 13 per cent and penal interest at the rate of 2.75 per cent to 3 per cent on overdue instalments of principal and interest was to be charged and recovered. The Department reassessed the interest and penal interest on the above loans up to 1998-99 but the local bodies did not deposit the recoverable amount in Government account. No further action was, however, taken to recover the amount of Rs.683.49 lakh as interest and Rs.64.83 lakh as penal interest. Of this, the *Nagar Palika Parishad*, Hoshangabad owed Rs.67.10 lakh as interest and Rs.11.40 lakh as penal interest and *Nagar Palika Parishad*, Neemuch owed Rs.51.67 lakh as interest and Rs.4.36 lakh as penal interest.

9.15.12 Non-reconciliation of figures of departmental receipts with those of treasury

The Madhya Pradesh Financial Code requires the Drawing and Disbursing Officers to prepare at the end of each month a statement of amounts credited into the treasury on account of recoveries of loans and advances and interest thereon and to get it verified by the Treasury Officer concerned. Discrepancies noticed, if any, are to be reconciled.

* *Energy and Local Self Government*

** *Betul, Bhandar, Bhind, Chhatarpur, Hoshangabad, Jaora, Khandwa, Kota, Mandla, Mandasaur, Multai, Mungawali, Narsinghpur, Neemuch, Panna, Raigarh, Ratlam, Sagar, Satna, Sehore, Shivpuri, Tikamgarh and Vidisha*

Test-check of records revealed that the above statements were not prepared and got verified from treasury records by any of the 3 Heads of Departments, who were the Drawing and Disbursing Officers. Thus, the authenticity of figures could not be verified.

9.15.13 Grant of recurrent loans

While processing and sanctioning second and subsequent loans, the position of previous outstanding loans along with interest/penal interest should be ascertained and reviewed.

Test-check of records of the 3 Departments covered in the review revealed that second and subsequent loans were granted to the loanees without ascertaining and reviewing the recovery of previous loans and interest and penal interest thereon. Madhya Pradesh Electricity Board was granted recurrent loans without taking into consideration the previous outstanding loans and interest due thereon. Scrutiny of sanctions for release of subsidy and conversion of loans into equity during the years 1996-97 and 1997-98 respectively revealed that while an amount of loan of Rs.775.71 crore granted during the year 1978-79 to 1987-88 was adjusted from the payable subsidy for the years 1993-94 to 1995-96 and Rs.700 crore of loans granted during the years 1982-83 to 1996-97 was converted into equity in the year 1997-98, no action for assessment and recovery of interest/penal interest was taken by the Energy Department. The reasons for non-recovery were called for from the administrative departments but no reply was furnished.

9.15.14 Conclusion

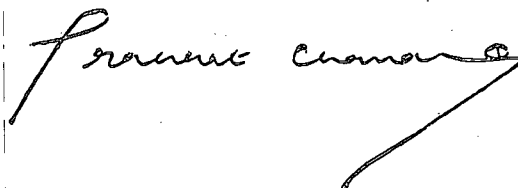
The Heads of Departments neither maintained nor furnished to the administrative departments records of the requisite information on outstanding loans. They also did not reconcile the figures with the treasury. The administrative departments did not initiate measures to recover the substantial arrears of outstanding loans and interest receipts. No system to watch repayments of outstanding loans and enforce recovery was operative in the Departments test checked. The Finance Department too did not obtain any age wise analysis of the amount of arrears of interest receipts, which form 11 to 14 per cent of total non-tax revenue of the State. This inaction makes the prospects of recovery of the total loans outstanding in 1997-98 of Rs.2570 crore and the recoverable interest and penal interest in respect of 3 Departments alone (as computed by Audit for the last five years) which amounted to Rs.408.93 crore and Rs.21.13 crore respectively very bleak.

If the Government had taken effective steps to recover the loans as well as interest and penal interest thereon, the financial position of the State would have improved considerably and the Government could have avoided resorting to ways and means advances and overdrafts on which the Government had paid an interest ranging from Rs.4 crore to Rs.7 crore and from Rs.1 crore to Rs.4 crore respectively during 1993-94 to 1997-98.

A review on the same subject was reported in the Report of the Comptroller and Auditor General of India, Government of Madhya Pradesh for the year ended 31 March 1992, but none of the Departments including the Finance Department had taken any steps to improve

the situation. There is a need to institute a mechanism to strengthen the coordination between the Department (Secretary) which sanctions the loans and the authority responsible for recovery (Head of the Department) as also the Finance Department which monitors the financial position of the State to redress the alarming situation of large outstanding loans and interest receipts.

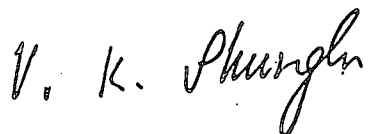
The matter was reported to the Government (July 1999); their reply has not been received (November 1999).



Bhopal
The

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