

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

for the year ended 31 March 2003

(Revenue Receipts)

Government of Karnataka

Report of the
Comptroller and Asst. Comptroller of India

for the year ended 31 March 1907

Revenue & Civil

Government of India

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P R E F A C E

This Report for the year ended 31 March 2003 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2002-2003 as well as those which came to notice in earlier years but could not be included in previous years' Reports.

PREFACE

The author of this book is indebted to the following persons for their assistance in the preparation of this work:

Mr. J. H. ...

Mr. ...

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OVERVIEW

This Report contains 50 paragraphs including two reviews pointing out non-levy or short levy of tax, interest, penalty, etc., involving Rs.1,141.96 crore. Some of the major findings are mentioned below:

1. General

(i) The total revenue receipts of the State Government for the year 2002-2003 amounted to Rs.16,168.76 crore against Rs.15,321.25 crore for the previous year. 72 per cent of this was raised by the State through tax revenue (Rs.10,439.71 crore) and non-tax revenue (Rs.1,277.67 crore). The balance 28 per cent was received from the Government of India as State's share of divisible Union taxes (Rs.2,786.20 crore) and as grants-in-aid (Rs.1,665.18 crore).

(Paragraph 1.1)

(ii) Test check of records of sales tax, state excise, taxes on motor vehicles, taxes on agricultural income, land revenue, stamps and registration fees, entry tax, professions tax, taxes and duties on electricity, other taxes and duties on commodities and services, forest receipts, mineral receipts, sericulture receipts, public works receipts, State lotteries and guarantee commission conducted during the year 2002-2003, revealed under-assessments, non-levy and short levy of taxes, interest, penalty and other receipts, loss of revenue, etc. amounting to Rs.1,250.37 crore in 2,146 cases. During the year 2002-2003, the concerned Departments accepted under-assessments, non-levy and short levy, etc. of Rs.198.63 crore in 1,649 cases of which 1,461 cases (Rs.13.64 crore) had been poifted out in audit in earlier years. The Departments recovered Rs.10.67 crore during 2002-2003 at the instance of audit.

(Paragraph 1.10)

(iii) 3,625 inspection reports issued up to December 2002 containing 7,722 observations involving revenue of Rs.692.90 crore were pending settlement at the end of June 2003.

(Paragraph 1.11)

2. Taxes on Sales, Trade etc.

(i) Granting of incorrect exemptions and concessions resulted in non-levy/ short levy of tax of Rs.1.76 crore in 37 cases.

(Paragraph 2.2)

(ii) Turnover tax of Rs.2 crore was not levied or levied short in 151 cases.

(Paragraph 2.3)

(iii) Application of incorrect rate of tax resulted in short levy of Rs.1.85 crore in 82 cases.

(Paragraph 2.4)

(iv) Failure to forfeit the excess tax collected resulted in non-realisation of revenue amounting to Rs.3.30 crore in 37 cases.

(Paragraph 2.7)

(v) Non-levy of interest for delayed payment of tax amounted to Rs.1.23 crore in 49 cases.

(Paragraph 2.9)

(vi) Ineffective pursuance of arrears of tax demands resulted in non-realisation of revenue of Rs.123.68 crore in one case.

(Paragraph 2.10)

3. State Excise

(i) Incorrect allowance of withdrawal of medium grade alcohol from the process of secondary distillation caused a loss of revenue of Rs.2.57 crore during 2001-2002.

(Paragraph 3.3)

(ii) Delay in termination of leases for non-payment of monthly rentals by arrack contractors and non-forfeiture of security deposit during 2001-2002 led to accumulation of arrears of Rs.30.06 crore.

(Paragraph 3.5)

(iii) Loss of revenue of not less than Rs.208.68 crore occurred during 2001-2002 due to the absence of stipulation on the contractors to lift at least the minimum quantity of arrack to meet their rental liabilities for securing retail vending rights.

(Paragraph 3.8)

(iv) Granting to lease of retail vending of arrack during 2001-2002 to ineligible persons due to non-verification of their status and antecedents led to non-realisation of Rs.1.97 crore.

(Paragraph 3.9)

(v) Injudicious release of bank guarantees furnished as security for obtaining lease of retail vending of arrack during 2001-2002 deprived Government of the opportunity of realising accumulated arrears of Rs.1.25 crore.

(Paragraph 3.10)

4. Taxes on Motor Vehicles

(i) Additional sum of Rs.18.03 crore due for default in payment of taxes for 1996-1997 to 1999-2000 had not been demanded from two fleet owners for 18 to 58 months.

(Paragraph 4.5)

5. Land Revenue

Demands for Rs.5.42 crore towards penal water charges for violation of cropping pattern and unauthorised use of water during 1998-1999 to 2000-2001 had not been raised by a Tahsildar, even after receipt of demand statements from the Irrigation Department.

(Paragraph 6.3)

6. Other Tax Receipts

(i) Incorrect exemption/concession of stamp duty and registration fees on two sale deeds executed by Information Technology Park Limited during 2001-2002 resulted in short levy of Rs.2.58 crore.

(Paragraph 7.2)

(ii) Education and health cesses of Rs.91.10 crore collected by 10 local bodies during 1997-98 to 2001-02 had not been remitted to Government.

(Paragraph 7.10)

7. Non-tax Receipts

(i) A Review, **Detection and disposal of forest offence cases**, disclosed the following:

The number of offence cases pending disposal increased from 32,346 at the beginning of 1997-98 to 42,737 at the end of 2000-2001 registering a rise of 32 per cent.

(Paragraph 8.2.6)

There were long delays in preparation of Enquiry Reports on the offence cases registered; during the period 1997-98 to 2001-2002, Enquiry Reports in only 10 to 16 per cent of the new cases were finalised within the prescribed time limit of 15 days.

(Paragraph 8.2.7)

Despite patrolling of 98 to 100 per cent Beats, the undetected cases formed 18 to 25 per cent of offences booked.

(Paragraph 8.2.8)

The pace of disposal of prosecution cases was very slow and showed a declining trend; during the period 1997-98 to 2001-2002. Out of 471 cases decided by Courts during this period, only 159 were in favour of Government.

(Paragraph 8.2.11)

Though damage caused to forests in cases of illicit felling and smuggling is required to be recovered from the offenders, such damage had not been assessed in any of the Enquiry Reports. The value of damages in the 15 Divisions test checked was estimated to be Rs.75.44 crore.

(Paragraph 8.2.12)

Over 92,111 hectares of encroached forest land continued to be in unauthorised occupation as of December 2002

(Paragraph 8.2.19)

(ii) A review, Working of Karnataka Computerised Network (Online) Lottery Scheme, disclosed the following:

Against the gross sale proceeds of Rs.256.13 crore realised by the Marketing Agent during the year 2002-2003 which was required to be remitted to Government on daily basis, the actual remittance amounted to only Rs.52.27 crore. On the shortfall of Rs.203.86 crore, the Marketing Agent was liable to pay interest of Rs.253.80 crore which had also not been demanded. Further, sale figures are based solely on the information given by the Marketing Agent and are not independently verifiable by Government.

(Paragraph 8.3.6)

According to the revenue sharing pattern agreed with the Marketing Agent, minimum assured revenue of Rs.62.50 crore was due to the Government till March 2003. Since the remittance was only Rs.50.14 crore, there was a shortfall of Rs.12.36 crore. Though this could have been realised from bank guarantees furnished by the Marketing Agent, the same was not done.

(Paragraph 8.3.7)

The value of prize money up to Rs.5000 each claimed to have been distributed by the Marketing Agent amounted to Rs.113.80 crore, for which no proof of payment was available. The Department had not ensured the correctness of the claim of the Marketing Agent.

(Paragraph 8.3.8)

CHAPTER I General

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Karnataka during the year 2002-2003, 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 below:

	(Rupees in crore)				
	1998-99	1999-2000	2000-2001	2001-2002	2002-2003
I. Revenue raised by the State Government					
(a) Tax revenue	6,943.04	7,744.36	9,042.68	9,853.27	10,439.71
(b) Non-tax revenue	1,469.92	1,611.29	1,659.97	1,093.42	1,277.67
Total	8,412.96	9,355.65	10,702.65	10,946.69	11,717.38
II. Receipts from the Government of India					
(a) State's share of divisible Union taxes	1,923.92	2,132.78	2,573.83	2,623.38	2,786.20 ^r
(b) Grants-in-aid	893.56	1,418.02	1,546.24	1,751.18	1,665.18
Total	2,817.48	3,550.80	4,120.07	4,374.56	4,451.38
III. Total receipts of the State	11,230.44	12,906.45	14,822.72	15,321.25	16,168.76
IV. Percentage of I to III	75	72	72	71	72

^r For details see statement No.11 – Detailed Accounts of revenue by Minor Head of the Finance Accounts of the Government of Karnataka for the year 2002-2003. Figures of "tax share 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 the state's share of divisible union taxes in the statement.

1.1.1 The details of tax revenue raised during the year 2002-2003, along with the figures for the preceding four years, are given below:

(Rupees in crore)						
Head of Revenue	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	Percentage of increase (+) / decrease (-) in 2002-2003 over 2001-2002
1. Taxes on sales, trade, etc. Of which - (a) State sales tax (b) Central sales tax	4,265.17 3,816.68 448.49	4,683.23 4,132.48 550.75	5,386.33 4,614.20 772.13	5,269.43 4,590.08 679.35	5,473.54 4,658.74 814.80	(+) 4 (+) 2 (+) 20
2. State excise	1,005.19	1,215.20	1,523.13	1,976.94	2,094.19	(+) 6
3. Stamps and registration fees	548.11	565.79	638.12	855.04	1,115.35	(+) 30
4. Taxes on vehicles	386.79	448.82	501.82	712.37	675.70	(-) 5
5. Taxes on goods and passengers (Tax on entry of goods into local areas)	273.13	337.60	473.02	498.11	516.53	(+) 4
6. Taxes and duties on electricity	140.25	155.58	162.10	171.30	172.14	-
7. Other taxes on income and expenditure (Taxes on professions, trades, callings and employment)	114.27	132.78	151.57	167.24	180.20	(+) 8
8. Other taxes and duties on commodities and services (Entertainments tax, Betting tax, Luxury tax, Education cess, Health cess, Forest development tax)	123.63	131.83	139.95	150.67	151.13	
9. Land revenue	38.00	38.73	43.16	49.54	59.61	(+) 20
10. Taxes on agricultural income	48.50	34.80	23.48	2.63	1.32	(-) 50
Total	6,943.04	7,744.36	9,042.68	9,853.27	10,439.71	(+) 6

Decrease in receipts on taxes on agricultural income was attributed to deferment of payment allowed due to fall in sale prices of coffee, as also increase in cost of cultivation.

Reasons for variation though called for in other heads of revenue have not been received (January 2004).

1.1.2 The details of major non-tax revenue realised during the year 2002-2003, along with the figures for the preceding four years, are given below:

(Rupees in crore)

Head of Revenue	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	Percentage of increase (+)/decrease (-) in 2002-2003 over 2001-2002
1. Non-ferrous mining and metallurgical industries	106.61	116.30	136.87	147.13	157.55	(+) 7
2. Forestry and wild life	107.35	94.87	108.25	100.90	101.52	(+) 1
3. Housing	8.07	7.85	9.23	10.50	67.08	(+) 539
4. Medical and public health	33.09	30.79	28.65	59.18	56.38	(-) 5
5. Other administrative services	14.90	43.26	51.30	28.14	45.27	(+) 61
6. Education, sports, art and culture	17.27	21.32	39.77	31.77	43.32	(+) 36
7. Contributions and recoveries towards pensions and other retirement benefits	12.05	16.40	29.32	28.38	34.68	(+) 22
8. Interest receipts	669.74	801.67	721.18	141.92	34.36	(-) 76
9. Co-operation	13.67	14.76	13.86	16.35	27.47	(+) 68
10. Power	69.78	46.92	43.33	36.73	27.25	(-) 26
11. Police	9.49	13.91	19.82	14.41	21.11	(+) 47
12. Major and medium irrigation	18.45	15.76	18.46	20.56	20.93	(+) 2
13. Crop husbandry	8.81	11.02	13.95	19.88	18.98	(-) 5
14. Roads and bridges	7.10	11.24	16.13	19.29	17.92	(-) 7
15. Village and small industries	24.00	22.40	23.95	21.90	17.25	(-) 21
16. Dividends and profits	6.27	6.24	2.75	5.14	14.93	(+) 190
17. Public works	8.60	13.19	11.37	14.53	11.10	(-) 24
18. Miscellaneous general services	78.11	61.27	70.70	74.38	231.42	(+) 211
19. Other general economic services	163.05	172.26	206.86	223.91	259.03	(+) 16
20. Others	93.51	89.86	94.22	78.42	70.12	(-) 11
Total	1,469.92	1,611.29	1,659.97	1,093.42	1,277.67	(+) 17

Reasons for major variations are mentioned below:

(1) Contributions and recoveries towards pension and other retirement benefits: Increase occurred under other receipts due to remittances of pension contributions in respect of employees of local bodies.

(2) **Power:** Decrease was due to less receipts of royalty from use of water for generation of hydro-electricity on account of poor monsoon rains.

(3) **Housing:** Increase was due to remittance of sale proceeds of flats at National Games Village, Koramangala, Bangalore

(4) **Dividends and profits:** Increase was due to remittance of Rs.13.25 crore by Karnataka Power Corporation Ltd on account of dividend.

(5) **Miscellaneous general services:** Increase occurred mainly under State lotteries.

Reasons for variations under other heads of revenue though called for, have not been received (January 2004).

1.2 Variations between budget estimates and actual receipts

The variations between budget estimates and actuals of revenue receipts for the year 2002-2003 in respect of the principal heads of tax and non-tax revenue are given below:

(Rupees in crore)				
Head of Revenue	Budget Estimates	Actual receipts	Variation Excess (+)/ Shortfall (-)	Percentage of variation
Tax revenue				
1. Taxes on sales, trade, etc. Of which-	6,787.19	5,473.54	(-) 1,313.65	(-) 19
(a) State sales tax	5,938.19	4,658.74	(-) 1,279.45	(-) 22
(b) Central sales tax	849.00	814.80	(-) 34.20	(-) 4
2. State excise	2,275.10	2,094.19	(-) 180.91	(-) 8
3. Stamps and registration fees	1,026.42	1,115.35	(+) 88.93	(+) 9
4. Taxes on vehicles	786.84	675.70	(-) 111.14	(-) 14
5. Taxes on goods and passengers (Tax on entry of goods into local areas)	350.00	516.53	(+) 166.53	(+) 48
6. Other taxes on income and expenditure (Taxes on professions, trades, callings and employment)	159.22	180.20	(+) 20.98	(+) 13
7. Taxes and duties on electricity	196.31	172.14	(-) 24.17	(-) 12

(Rupees in crore)

Head of Revenue	Budget Estimates	Actual receipts	Variation Excess (+)/ Shortfall (-)	Percentage of variation
8. Other taxes and duties on commodities and services (Entertainments tax, Betting tax, Luxury tax, Education cess, Health cess, Forest development tax)	210.05	151.13	(-) 58.92	(-) 28
9. Land revenue	58.28	59.61	(+) 1.33	(+) 2
10. Taxes on agricultural income	37.64	1.32	(-) 36.32	(-) 96
Non-tax revenue				
1. Non-ferrous mining and metallurgical industries	180.45	157.55	(-) 22.90	(-) 13
2. Forestry and wild life	113.66	101.52	(-) 12.14	(-) 11
3. Housing	21.02	67.08	(+) 46.06	(+) 219
4. Medical and public health	62.34	56.38	(-) 5.96	(-) 10
5. Other administrative services	53.87	45.27	(-) 8.60	(-) 16
6. Education, sports, art and culture	48.84	43.32	(-) 5.52	(-) 11
7. Contributions and recoveries towards pensions and other retirement benefits	7.91	34.68	(+) 26.77	(+) 338
8. Interest receipts	126.00	34.36	(-) 91.64	(-) 73
9. Co-operation	23.05	27.47	(+) 4.42	(+) 19
10. Power	44.68	27.25	(-) 17.43	(-) 39
11. Police	27.75	21.11	(-) 6.64	(-) 24
12. Major and medium irrigation	30.00	20.93	(-) 9.07	(-) 30
13. Crop husbandry	29.06	18.98	(-) 10.08	(-) 35
14. Roads and bridges	27.56	17.92	(-) 9.64	(-) 35
15. Village and small industries	27.02	17.25	(-) 9.77	(-) 36
16. Dividends and profits	2.70	14.93	(+) 12.23	(+) 453
17. Public works	11.31	11.10	(-) 0.21	(-) 2
18. Miscellaneous general services	589.58	231.42	(-) 358.16	(-) 61
19. Other general economic services	131.49	259.03	(+) 127.54	(+) 97

Reasons for major variations are mentioned below:

(1) **Taxes on vehicles** : Decrease occurred under receipts under the Karnataka Motor Vehicles Taxation Act, which was attributed to short payment of assessed tax by Karnataka State Road Transport Corporation.

(2) **Taxes and duties on electricity** : Decrease was attributed to less consumption due to fall in supply of electricity by Karnataka Power Transmission Corporation Limited.

(3) **Other taxes and duties on commodities and services** : Decreases occurred mainly under Entertainments tax, Betting tax, Luxury tax, Education cess and Forest development tax. Shortfall in realisation of Entertainments tax was attributed to excess target and stoppage of screening of certain films for three months. Less realisation of Luxury tax was attributed to a court stay in respect of Gutka.

(4) **Taxes on agricultural income** : Decrease was attributed to continuance of deferment scheme due to fall in sale prices of coffee, tea and rubber as also increase in cost of cultivation.

(5) **Non-ferrous mining and metallurgical industries**: Shortfall was attributed to non-payment of royalty by Hutti Gold Mines Limited due to deferment allowed and less demand for granite.

(6) **Contributions and recoveries towards pension and other retirement benefits**: Increases occurred both under subscriptions and contributions as also other receipts due to remittance of pension contributions in respect of employees of local bodies.

(7) **Power**: Shortfall was attributed to less receipt of royalty due to poor monsoon and consequent reduction in generation of hydro-electricity.

(8) **Other general economic services**: Increases occurred under cess/additional licence fee for infrastructure development as also other receipts of the Department of Marketing partly offset by shortfall in contribution from Regulated Market Committees which was attributed to Single Point Market Fee introduced during the year.

Reasons for variations for other heads, though called for, have not been received (January 2004).

1.3 Analysis of collection

Break-up of total collections of commercial taxes comprising sales tax, entry tax, profession tax, entertainments tax, agricultural income-tax and luxury tax for the year 2002-2003 at pre-assessment stage and after regular assessment and the corresponding figures for the preceding two years, as furnished by the Department, is as follows:

(Rupees in crore)

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Commercial Taxes	2000-2001	5,934.25	340.77	NA	-	6,275.02	94.57
	2001-2002	6,320.75	57.40	NA	0.85	6,377.30	99.11
	2002-2003	6,190.19	346.17	42.58	1.82	6,577.12	94.12

NA- Not Available

It would be seen from above that collection of taxes at pre-assessment stage was between 94 to 99 per cent of the total collections during the three years.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2000-2001, 2001-2002 and 2002-2003 along with the relevant all-India average percentage of expenditure on collection to gross collection for 2001-2002 were as follows:

(Rupees in crore)

Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All-India average percentage for the year 2001-2002
1. Taxes on sales, trade, etc.	2000-2001	5,413.98	49.37	0.91	1.26
	2001-2002	5,328.28	57.04	1.07	
	2002-2003	5,538.18	56.04	1.01	
2. Taxes on vehicles	2000-2001	502.28	15.54	3.09	2.99
	2001-2002	713.02	17.95	2.52	
	2002-2003	676.26	17.38	2.57	

1.5 Collection of sales tax per assessee

Year	Number of assessees	Sales tax revenue ⁸	Revenue/ assessee
		(In lakh of rupees)	
1998-1999	2,59,775	4,81,125	1.85
1999-2000	2,76,210	5,30,547	1.92
2000-2001	2,91,021	6,27,993	2.16
2001-2002	3,01,954	6,30,448	2.09
2002-2003	3,16,462	6,57,712	2.08

It can be seen from the above that revenue per assessee has shown a decreasing trend during 2001-02 and 2002-03.

1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2003 in respect of some principal heads of revenue amounted to Rs.3,389.73 crore of which Rs.459.33 crore were outstanding for more than 5 years as detailed in the following table:

(Rupees in crore)

Head of revenue	Amount of arrears as on 31 March 2003	Arrears outstanding for more than five years as on 31 March 2003	Remarks
1. Taxes on sales, trade, etc., Entry tax, Entertainments tax, Agricultural income-tax, Professions tax, Luxury tax	2,761.24#	NF	Out of the total arrears of Rs.2,761.24 crore, Rs.508.13 crore had been stayed by the Courts, Rs.70.75 crore had been covered by recovery certificates, Rs.386.98 crore had been covered by instalment facility/treated as interest free loan, Rs.20.96 crore were proposed to be written off and the balance of Rs.1,774.42 crore was under other stages of recovery.
2. State excise	615.23	459.33	Out of the total arrears of Rs.615.23 crore, Rs.0.07 crore had been stayed by the Courts, Rs.158.41 crore had been covered by recovery certificates and the balance of Rs.456.75 crore was held up due to other reasons.

⁸ Information as furnished by the Department is at variance with the Finance Account of the respective years.

(Rupees in crore)

Head of revenue	Amount of arrears as on 31 March 2003	Arrears outstanding for more than five years as on 31 March 2003	Remarks
3. Taxes and duties on electricity	6.74	NF	NF
4. Co-operation	6.52	Nil	NF
Total	3,389.73	459.33	

Provisional

NF - Not furnished

1.7 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2002-2003, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 2002-2003 as furnished by the Sales Tax Department in respect of sales tax, profession tax, entry tax, entertainments tax, luxury tax and agricultural income tax are as follows:

Head of revenue	Opening balance	New cases due for assessment during the year	Total assessments due	Cases disposed of during the year	Balance at the end of the year	Pendency percentage of column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1. Taxes on sales, trade, etc.	2,84,457	3,93,913	6,78,370	3,10,908	3,67,462	54
2. Entry tax	44,593	45,148	89,741	41,620	48,121	54
3. Entertainments tax	64,062	44,862	1,08,924	47,158	61,766	57
4. Luxury tax	1,124	1,753	2,877	1,382	1,495	52
5. Agricultural income-tax	5,095	4,706	9,801	7,353	2,448	25
6. Professions tax	89,956	38,159	1,28,115	15,501	1,12,614	88
Total	4,89,287	5,28,541	10,17,828	4,23,922	5,93,906	58

The pendency in finalisation of assessments ranged between 25 per cent and 88 per cent under various heads of revenue, thus, resulting in delay in corresponding realisation of revenue in these cases. It could be seen from the above table that the disposal rate under professions tax assessments was very poor and was only 12 per cent.

1.8 Write-off and waiver of revenue

During the year 2002-2003 demands for Rs.25.22 lakh in 10 cases were written off by the Sales Tax Department as irrecoverable. Reasons for the write-off of these demands as reported by the Department were as follows:

(Rupees in lakh)

	Reasons	Number of cases	Amount
1	Whereabouts of defaulters not known	2	13.85
2	Defaulters not having any property	8	11.37

During the year, penalty of Rs.10.13 lakh involved in nine cases was also ordered for remission.

1.9 Refunds

The number of refund cases pending at the beginning of the year 2002-2003, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2002-2003, as reported by the departments are given below:

(Rupees in lakh)

	Commercial taxes		State excise		Non-ferrous mining and metallurgical industries	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
1. Claims outstanding at the beginning of the year	111	NF	317	487.10	-	-
2. Claims received during the year	71	NF	474	544.04	-	955.10
3. Refunds made during the year	114	181.81	397	465.89	-	-
4. Balance outstanding at the end of the year	68	NF	394	565.25	-	955.10

NF – Not furnished

1.10 Results of audit

Test check of records of sales tax, state excise, taxes on motor vehicles, agricultural income-tax, land revenue, stamps and registration fees, entry tax, entertainments tax, professions tax, betting tax, electricity tax, forest, energy, sericulture and other departmental offices conducted during the year 2002-2003 revealed under-assessments, non-levy/short levy of taxes, loss of revenue, failure to raise demands, etc. involving Rs.1,250.37 crore in 2,146 cases. During the course of the year 2002-2003, the concerned departments accepted under-assessments, short demands, etc. aggregating Rs. 198.63 crore in 1,649 cases of which 1,461 cases (Rs. 13.64 crore) were pointed out in audit in earlier years. A sum of Rs.10.67 crore relating to 1,273 audit observations was recovered at the instance of audit.

This Report contains 50 Paragraphs including 2 Reviews involving financial effect of Rs.1,141.96 crore. The Departments have accepted audit observations involving Rs.469.15 crore, of which Rs.5.22 crore had been recovered up to January 2004. Audit observations with a total revenue effect of Rs.332.95 crore in 274 cases have not been accepted by the Departments, but their contentions have been found to be at variance with the facts or legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (January 2004).

1.11 Outstanding inspection reports and audit observations

Accountant General (Audit) (AG) conducts periodical inspections of Government Departments to test-check the transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up with Inspection Reports (IR). When important irregularities detected during the inspections are not settled on the spot, these IRs are issued to the Heads of Offices inspected with a copy to the next higher authorities. The Hand book of instructions for speedy settlement of audit observations issued by Finance Department provides for prompt response by the Executive to the IRs issued by the AG to ensure rectificatory action in compliance of the prescribed rules and procedures and for enforcing accountability for the deficiencies, lapses, etc., noticed during the inspections. The Heads of Offices and next higher authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the AG. Serious irregularities are also brought to the notice of Heads of Departments by the Office of AG. A half-yearly report of pending IRs is sent to the Secretary of the Department in respect of pending IRs to facilitate monitoring of the audit observations in the pending IRs.

However, the time schedule prescribed by Government had seldom been adhered to, with the result that 3,625 inspection reports issued up to end of December 2002, containing 7,722 audit observations involving Rs.692.90 crore were to be settled at the end of June 2003, as indicated below, along with the corresponding figures for the two preceding years:

	At the end of		
	June 2001	June 2002	June 2003
Number of outstanding inspection reports	3,804	3,693	3,625
Number of outstanding audit observations	8,554	8,079	7,722
Amount involved (Rupees in crore)	681.41	688.89	692.90

Out of the 3,625 inspection reports pending settlement, first replies have not been received (June 2003) for 491 inspection reports containing 1,779 audit observations involving Rs.114.05 crore. The pendency of these reports was reported to Government during July-October 2003. The receipt-wise details of inspection reports and audit observations outstanding as on 30 June 2003 and the amount involved are indicated below:

(Rupees in crore)				
Department	Nature of receipts	Number of outstanding inspection reports	Number of outstanding audit observations	Amount of receipts involved
1. Finance	(a) Taxes on sales, trade, etc., Entry tax, Entertainments tax, Luxury tax, Professions tax and Betting tax	1,512	4,016	88.31
	(b) Agricultural income-tax	29	195	6.01
	(c) State excise	665	1,108	226.31
2. Energy	Electricity duty	10	16	60.94
3. Revenue	(a) Land revenue	460	809	54.05
	(b) Stamps and registration fees	311	453	48.84
4. Home and Transport	Taxes on motor vehicles	254	467	61.05
5. Forest, Ecology and Environment	Forest receipts	244	377	111.04
6. Commerce and Industries	(a) Sericulture industries receipts	62	81	7.16
	(b) Mineral receipts	44	127	18.53
7. Public Works	Public works receipts	34	73	10.66
Total		3,625	7,722	692.90

1.12 Departmental Audit Committee Meetings

In March 1968, Government issued instructions for constitution of 'Ad hoc Committees' for 10 Departments in the Secretariat to expedite clearance of audit observations contained in inspection reports. These Committees are to be headed by the Secretaries of the concerned Administrative Departments and attended by the designated officers of the State Government and a nominee of the Accountant General. These Committees are to meet periodically and, in any case, at least once in a quarter.

Ad hoc Committees had been constituted for only two Departments viz., Revenue and Home and Transport. During the year 2002-2003, only Revenue Department convened one meeting of the Committee to consider Inspection Reports relating to offices dealing with Land Revenue and Stamp Duty and Registration Fees; no meetings had been convened by the Home and Transport Department.

Thus, due attention was not being given to the procedure prescribed.

1.13 Response of the Departments to Draft Audit Paragraphs

Draft paragraphs/reviews proposed for inclusion in the Audit Report are forwarded by the Accountant General (Audit) to Secretaries of the concerned Departments through demi-official letters. According to the instructions issued (April 1952) by Government, all Departments are required to furnish their remarks on the draft paragraphs/reviews within six weeks of their receipt. The fact of non-receipt of replies from Government is invariably indicated at the end of each such paragraph included in the Audit Report.

68 draft paragraphs/review (clubbed into 50 paragraphs/reviews) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2003 were forwarded to the Secretaries to Government and copies endorsed to heads of Departments during April-June 2003. Replies were due latest by the end of August 2003.

However, replies to none of these 68 draft paragraphs/review was received within the prescribed period of six weeks. While replies to 36 draft paragraphs/review were received before finalisation of this Report (January 2004), replies in respect of the remaining 32 draft paragraphs/review had not been received despite issue of reminders for expediting them.

1.14 Follow-up on Audit Reports

According to the Rules of Procedure (Internal Working) of the Committee on Public Accounts (PAC) (as modified in September 1999), within four months (three months up to March 1994) of an Audit Report being laid on the Table of the Legislature, the Departments of Government are to prepare and send to the Karnataka Legislative Assembly Secretariat detailed explanations (Departmental Notes) on the audit paragraphs. The Rules further require that before such submission, the Departmental Notes are to be got vetted by the Accountant General.

A review of the position obtaining in this regard revealed that as of July 2003, nine Departments had not furnished the Departmental Notes in respect of 91 Paragraphs included in Audit Reports for the years 1990-91 to 2000-2001 due between March 1993 and July 2002, for vetting, the delay ranging from one year to over 10 years, as detailed below:

Sl. No.	Department	Year of Audit Report	Dates of presentation to the Legislature	Last date by which Departmental Notes were due	Number of Paragraphs for which Departmental Notes are still due	Delay (months)
1.	Revenue	1990-91 and 1992-93 to 1999-2000	December 1992 to July 2001	March 1993 to November 2001	59	124 to 20
2.	Finance	1996-97 and 1998-99 to 2000-2001	May 1998 to March 2002	September 1998 to July 2002	21	59 to 12
3.	Public Works	1998-99 and 2000-2001	March 2000 and March 2002	July 2000 to July 2002	3	36 to 12
4.	Commerce and Industries	1996-97 and 2000-2001	May 1998 and March 2002	September 1998 to July 2002	2	59 to 12
5.	Urban Development	1997-98 and 1998-99	March 1999 and March 2000	July 1999 to July 2000	2	49 to 36
6.	Co-operation	1997-98	March 1999	July 1999	1	49
7.	Energy	1993-94	March 1995	July 1995	1	96
8.	Health and Family Welfare	1997-98	March 1999	July 1999	1	49
9.	Home and Transport	1996-97	May 1998	September 1998	1	59

This indicated that there was laxity in ensuring accountability of the Executive.



CHAPTER II

Taxes on Sales, Trade, etc.

2.1 Results of audit

Test check of records of the Sales Tax Offices, conducted in audit during the year 2002-2003, disclosed under-assessments of tax, non-levy of penalty, etc. amounting to Rs.150.49 crore in 1,390 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy of tax	650	15.01
2	Incorrect grant of exemption/ concession	82	1.70
3	Non-levy/short levy of turnover tax	323	2.64
4	Non-levy of penalty	172	2.69
5	Non-forfeiture of excess tax collected	88	1.65
6	Other irregularities	75	126.80
	Total	1,390	150.49

During the course of the year 2002-2003, the Department accepted under-assessments of tax amounting to Rs.7.88 crore involved in 1,151 cases which had been pointed out in audit in earlier years and recovered Rs.6.70 crore involved in 1,013 cases.

A few illustrative cases involving Rs.136.48 crore are given in the following paragraphs. Of this, Rs.4.18 crore had been recovered.

2.2 Incorrect grant of exemption/concession

2.2.1 Under the Karnataka Sales Tax (KST) Act 1957, a dealer is liable to pay tax on his taxable turnover determined after allowing prescribed deductions from the total turnover of transfer of property in goods (whether as goods or in some other form) in the execution of works contract at rates specified in the Act. In the case of a dealer executing works contract who has

not opted for payment of tax by way of composition, the total and taxable turnover are to be determined in accordance with the provisions of Karnataka Sales Tax Rules 1957. The items of expenditure such as inter-State purchases, tax deducted at source, labour and like charges in excess of the eligible limit are not admissible deductions for the purpose of arriving at the taxable turnover.

In three^v districts, while finalising between March 2000 and March 2002 seven assessments for the years 1996-1997 to 1998-99 in respect of seven dealers who had not opted for payment of tax by composition and were engaged in civil works contracts and supply and installation of air-conditioners, tax was either not levied or levied short on a turnover of Rs.60.94 lakh due to inadmissible deductions on account of inter-State purchases, tax deducted at source, labour and like charges in excess of the eligible limit. The tax not levied or levied short worked out to Rs.6.34 lakh.

On this being pointed out, Government reported revision of the assessment in one case and creation of an additional demand of Rs.2.44 lakh. Report of recovery in this case and final replies in respect of the remaining cases have not been received (January 2004).

2.2.2 In accordance with notifications issued from time to time under the KST Act 1957 and the Central Sales Tax (CST) Act 1956, exemption from payment of tax by tiny/small scale (SSI)/medium and large scale industries is not allowed on turnovers where no manufacturing activity is involved, or in respect of sales effected beyond the eligibility period or eligibility limits, or in respect of sales effected prior to the date of expansion, or on turnovers on which tax has been collected by such units. Further, in cases of units undertaking expansion schemes, the tax exemption is to be limited to the difference between the total tax liability and the average tax liability of three years immediately preceding the year in which investment for expansion took place.

It was, however, noticed that in five districts while finalising, between November 1999 and March 2002, 13 assessments of 12 SSI/medium scale units for the years 1997-98 to 2000-2001, sales tax exemption of Rs.71.74 lakh was incorrectly granted resulting in short levy of tax of Rs.71.74 lakh, as detailed below:

^v Bangalore (Urban), Hassan, Raichur

(Rupees in lakh)

Sl. No.	District (Number of cases)	Nature of irregularity	Assessment year (Date of assessment)	Tax incorrectly exempted
1	Bangalore (Rural) (2)	The dealers had collected tax of Rs.22.02 lakh during the period covered by exemption.	1998-99 and 1999-2000 (between August 2001 and March 2002)	22.02
2	Bangalore (Urban) (1) Bellary (1)	In two cases, tax exemption of Rs.16.87 lakh was allowed, even though there was no manufacturing activity involved.	2000-2001 (between December 2001 and January 2002)	16.87
3	Bangalore (Urban) (3) Chitradurga (1) Dakshina Kannada (1)	Tax exemption was allowed beyond the eligibility limit/period or prior to the date of expansion.	1997-98 to 2000-2001 (between May 2001 and March 2002)	12.07
4	Bangalore (Urban) (2) Chitradurga (1) Dakshina Kannada (1)	In respect of three units undertaking expansion, against tax exemption of Rs.7.39 lakh admissible, Rs.28.17 lakh was allowed.	1997-98 and 1999-2000 (between November 1999 and January 2002)	20.78
Total (13)				71.74

On this being pointed out, Government reported revision of assessments in nine cases creating additional demand of Rs.61.45 lakh, and recovery of Rs.44.67 lakh in three of them. In respect of the remaining cases, final replies have not been received (January 2004).

2.2.3 Under the KST Act 1957, a dealer is liable to pay tax at the rates specified in the relevant Schedules of the Act on the taxable turnover determined after allowing prescribed deductions from the total turnover.

In four districts, it was noticed that while finalising, between January 1997 and March 2002, 17 assessments of 12 dealers for the years 1994-95 to 2000-2001, turnover of Rs.19.95 crore was incorrectly exempted / determined by omission of turnover resulting in short levy of tax of Rs.97.97 lakh, as detailed below:

(Rupees in lakh)

Sl. No.	District (Number of cases)	Period (Date) of assessment	Nature of irregularity	Turnover involved	Tax effect
1	Bangalore (Rural) (7)	1997-98 to 2000-2001 (between May 2001 and March 2002)	(1) Taxable turnover disclosed in the annual return of turnover was adopted incorrectly in the assessment concluded. (2) 'Fried gram' obtained out of tax suffered 'gram', though a distinct commodity, was incorrectly exempted from payment of tax.	207.61	7.99

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(Rupees in lakh)

Sl. No.	District (Number of cases)	Period (Date) of assessment	Nature of irregularity	Turnover involved	Tax effect
			(3) Against the effective basic rate of 4 per cent on first sales of automobile spares made to M/s KSRTC, exemption was allowed incorrectly. (4) Against the effective rate of 4 per cent on first sales of iron and steel products, exemption was allowed incorrectly.		
The Department revised assessments in 6 cases creating additional demand of Rs.7.20 lakh and recovered of Rs.5.06 lakh in 5 of them.					
2	Bangalore (Urban) (7)	1994-95 to 1999-2000 (between January 1997 and January 2002)	(1) Even though the assessee had opted for composition of tax, sales of silk fabrics was incorrectly exempted. (2) By Notification issued in November 1996, sales made to 100% export-oriented units located in the State were exempted from tax payable under the Act. Exemption from payment of tax was allowed incorrectly even on sales to such units located outside the State. (3) Against the effective rate of 10 per cent on coolants, only 3 per cent was charged. (4) Works contract for printing and block making was incorrectly exempted. (5) As per judicial pronouncement ^φ , construction of flats by a property developer was taxable when the building was constructed after entering into agreement with prospective buyers. However, works contract for construction of flats by a property developer was incorrectly exempted though, the building was constructed after entering into agreement with the prospective buyers before commencement of the construction.	1,754.26	82.02
The Department revised assessments in 5 cases creating additional demand of Rs.76.72 lakh and recovered Rs.5.22 lakh in one of them.					
3	Dakshina Kannada (2)	2000-2001 (between November and December 2001)	Tax leviable at 60% on sales effected out of opening stock of IML held as on 01.04.2000 was incorrectly exempted.	7.90	4.98
The Department revised assessment in one case creating additional demand of Rs.1.67 lakh.					
4	Raichur (1)	2000-2001 (January 2002)	Works contract for processing and supplying of photographs, photo prints and photo negatives taxable at 10% was incorrectly exempted.	24.83	2.98
Total (17)				1,994.60	97.97

^φ M/s Mittal Investment Corporation Vs. Additional Commissioner of Commercial Taxes (2001) 121 STC 14 (HC).

On these cases being pointed out, Government reported revision of assessments in 12 cases creating additional demand of Rs.85.59 lakh and recovery of Rs.10.28 lakh in six of them. In respect of the other cases, final replies have not been received (January 2004).

2.3 Non-levy/short levy of turnover tax

Under the KST Act 1957, every registered dealer, whose total turnover in a year exceeds the prescribed monetary limits, is liable to pay turnover tax (TOT) at the prescribed rate(s) on his total turnover, after such deductions as are admissible under the Act.

In 11^{*} districts while finalising, between February 1999 and March 2002, 151 assessments of 136 dealers for the years 1993-94 to 2000-2001, TOT was either not levied or levied short on the turnover of Rs.229.61 crore. This resulted in non-levy/short levy of TOT of Rs.2 crore.

On these cases being pointed out, Government reported revision of assessments in 130 cases creating additional demand of Rs.1.76 crore and recovery of Rs.1.19 crore in 87 of them.

In respect of one case involving tax effect of Rs.0.79 lakh, Government stated that 'tailoring materials' were specifically exempted from levy of TOT. The reply is not tenable as the assessee had paid tax at concessional rate as applicable to industrial inputs; as such, he was liable to pay TOT at one per cent in accordance with notification No. FD 115 CSL 2000(19) dated 31.03.2000. He was not entitled to exemption under Notification No. FD 115 CSL 2000(11) dated 31.03.2000 which does not apply to industrial inputs.

In respect of the other cases, final replies have not been received (January 2004).

* Bangalore (Rural), Bangalore (Urban), Belgaum, Bellary, Chitradurga, Dakshina Kannada, Dharwad, Gulbarga, Hassan, Mysore, Raichur

2.4 Application of incorrect rate of tax

Under the KST Act 1957, tax is leviable on the purchases/sales at the rates mentioned in the relevant Schedules to the Act. In the case of goods not specified in any of the Schedules, tax is leviable as unspecified goods. Under the CST Act 1956, tax at specified rates is levied on inter-State sale of goods.

In 12th districts while finalising, between September 1998 and March 2002, 82 assessments of 67 dealers for the years 1995-96 to 2001-2002, tax amounting to Rs.1.85 crore was levied short on the turnover of Rs.80.72 crore due to application of incorrect rates.

On these cases being pointed out, Government reported revision of assessments in 57 cases creating additional demand of Rs.1.18 crore and recovery of Rs.62.15 lakh in 34 of them.

In respect of one case involving tax effect of Rs.0.79 lakh, Government contended that the agreement entered into with M/s KSRTC by the assessee was only for sale of bus bodies as such for which the rate of tax was 4 per cent in accordance with the notification dated 30.03.1996. The reply of Government is not tenable since as per the work order issued by KSRTC to the assessee, bus bodies are required to be built on the chassis. Thus, it was a works contract and taxable at 8 per cent. Notification dated 30.03.1996 was not applicable.

In respect of the other cases, final replies have not been received (January 2004).

2.5 Non-levy of surcharge and cess

2.5.1 Under the KST Act 1957, a surcharge at the rate of 15 per cent of the tax payable on goods (other than declared goods) was leviable during April 1994 to March 1997.

In Bijapur district, while finalising May 2000/ June 2002 the assessment of a dealer engaged in the execution of civil works contracts for the year 1996-97,

[¶] Bangalore (Rural), Bangalore (Urban), Bellary, Dakshina Kannada, Dharwad, Gulbarga, Hassan, Kolar, Mysore, Raichur, Tumkur, Udupi

surcharge of Rs.5.05 lakh due on the tax of Rs.33.65 lakh was omitted to be levied by the Assessing Authority.

On this being pointed out, Government reported revision of the assessment creating additional demand of Rs.5.05 lakh. Report of recovery has not been received (January 2004).

2.5.2 Under the KST Act 1957, a cess at the rate of 5 per cent of the tax due on sales or purchases was leviable within the limits of Bangalore City Planning Area from April 1995 to March 1998. From April 1998, this cess was made applicable throughout the State.

In Bangalore (Rural) and Dakshina Kannada districts, while finalising between April and November 2001, four assessments of four dealers for the years 1995-96, 1997-98 and 1998-99, three Assessing Authorities did not levy cess amounting to Rs.8.68 lakh on aggregate tax of Rs.1.74 crore.

On these cases being pointed out, Government reported revision of assessments in all the four cases creating additional demand of Rs.8.68 lakh and recovered Rs.4.88 lakh in two cases. Reports of recovery in respect of the remaining cases have not been received (January 2004).

2.6 Non-levy of purchase tax

Under the KST Act 1957, a dealer, who purchases any taxable goods in circumstances in which no tax is leviable on the sale price of such goods and consumes them in the manufacture of other goods for sale or otherwise, is liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale of such goods inside the State. In the case of deemed exports penultimate purchases are not exempted from tax.

It was judicially held[®] in October 1997 that goods purchased from un-registered dealers and sold to exporters within the State for export outside India were liable to purchase tax.

In three districts it was noticed that while finalising, between January and December 2001, three assessments of three dealers for the years 1997-98,

[®] State of Karnataka Vs. B.M. Ashraf & Co. (1997) 107 STC 571 (SC)

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1998-99 and 2000-2001, tax of Rs.8.39 lakh had not been levied on the aggregate purchase turnover of Rs.1.08 crore, as detailed below:

(Rupees in lakh)						
Sl. No.	District (Number of cases)	Period (Date) of assessment	Goods	Purchase turnover	Tax leviable	Remarks
1	Bangalore (Rural) (1)	1997-98 (March 2001)	Herbal seeds	35.19	4.57	Herbal seeds were purchased from un-registered dealers and were sold to exporters within the State by the dealer.
2	Bangalore (Urban) (1)	2000-2001 (December 2001)	Briquette and Firewood	18.45	1.01	'Briquette' and 'Firewood' purchased from un-registered dealers were consumed in manufacture.
3	Kodagu (1)	1998-99 (January 2001)	Coffee seeds	54.07	2.81	Coffee seeds were purchased from un-registered dealers and were sold to exporters within the State by the dealer.
Total (3)				107.71	8.39	

On this being pointed out, Government reported revision of assessment in respect of sl. No. 3 creating additional demand of Rs.2.81 lakh. Report of recovery in this case and final replies in respect of the remaining cases have not been received (January 2004).

2.7 Non-forfeiture of tax collected in excess

Under the KST Act 1957, a registered dealer is prohibited from collecting any amount by way of tax in excess of that specified in the Act. Where any collection is made in contravention thereof, the Assessing Authority is required to get the tax collected in excess forfeited. The Assessing Authority is also empowered to levy penalty not exceeding one and a-half times the amount of tax so collected.

In four^r districts while finalising, between November 1997 and May 2002, 37 assessments of 33 dealers for the years 1989-90, 1991-92 to 2000-2001, against tax of Rs.49.83 crore assessed by the concerned Assessing Authorities, the dealers had collected tax of Rs.51.15 crore. No action had been initiated to

^r Bangalore (Rural), Bangalore (Urban), Dharwad, Tumkur

get the excess collection of tax amounting to Rs.1.32 crore forfeited. In addition, penalty amounting to Rs.1.98 crore was also leviable.

On these cases being pointed out, Government reported forfeiture of excess collection of tax of Rs.1.27 crore in 36 cases and recovery of Rs.1.10 crore in 23 of those cases. In respect of the remaining cases, final replies have not been received (January 2004).

2.8 Non-levy/short levy of penalty

Under the KST Act 1957, tax payable by a registered dealer in respect of sale of any industrial inputs or raw material to another registered dealer is at concessional rate of 3 per cent (4 per cent up to 31.03.1998) or the rate specified in the Act whichever is lower, on the turnover relating to such sale, on furnishing prescribed declarations. However, if any person sells such inputs contrary to such declaration, Assessing Authority is required to impose upon him by way of penalty, a sum not less than the tax leviable under the Act. Further, if any person uses such inputs contrary to such declaration, the Assessing Authority is required to impose upon him by way of penalty, a sum of not less than twice the amount of tax leviable under the Act.

In three^o districts, it was noticed that 6 dealers had purchased rough granite valued at Rs.2.07 crore on concessional rate of tax after furnishing the required declarations that it would be used as an industrial input. However, it was sold as such after cutting and polishing which does not amount to manufacturing activity. In addition to this, 2 dealers purchased batteries and electrical goods and sold them as such. However, while finalising 12 assessments between February 2000 and February 2002 pertaining to years 1998-99 to 2000-2001, six Assessing Authorities did not levy a penalty of Rs.43.35 lakh resulting in short realisation of Government revenue to that extent.

On these cases being pointed out, Government reported creation of additional demand of Rs.27.42 lakh in 4 cases and recovery of Rs.26.42 lakh in 3 cases. Reports of action taken in respect of the remaining cases have not been received (January 2004).

^o Bangalore (Rural), Bangalore (Urban), Dakshina Kannada

2.9 Non-levy/short levy of interest

2.9.1 Under the KST Act 1957, the tax or any other amount due is required to be paid within the prescribed time which, in the case of final assessments, is 21 days from the date of service of demand notice. In case of default in making payments, the assessee is liable to pay interest^f at the rates prescribed from time to time.

In five districts, though 33 dealers did not pay the sums specified in the demand notices within 21 days of their service, interest of Rs.38.03 lakh as detailed below was not levied/levied short:

(Rupees in lakh)				
Sl. No.	District (Number of assesseees)	Period of assessment (Date of issue of demand notice)	Delay in payment of tax (Months)	Non-levy of interest
1	Bangalore (Rural) (5)	1994-95 to 1999-2000 (between January 1998 and January 2002)	1 to 43	3.01
2	Bangalore (Urban) (20)	1991-1992 to 1994-1995, 2000-2001 (between December 1996 and March 2002)	1 to 60	24.67
3	Chitradurga (1)	1998-99 (May 2000)	9	6.33
4	Gulbarga (4)	1994-95, 1995-96, 1997-98 to 1999-2000 (between January 2000 and April 2002)	1 to 16	1.57
5	Mysore (3)	1992-93 to 1994-95, 1996-97 and 1998-99 (between May 1997 and April 2000)	16 to 40	2.45
Total (33)				38.03

On these cases being pointed out, Government reported creation of additional demand of Rs.37.07 lakh in the case of 31 dealers and recovery of Rs.13.13 lakh from 10 of them. Reports of action taken in respect of the remaining cases have not been received (January 2004).

2.9.2 Under the KST Act 1957, every dealer is required to pay the full amount of tax payable on the basis of the turnover computed by him for the preceding month within twenty days of close of that month. Further, the full amount of tax payable by a dealer in advance for the year as reduced by the amount of tax already paid is to be paid within thirty days after the close of the year to which such tax relates. In case of default beyond 10 days after that

^f prior to 01.04.2001 it was termed as 'penalty'

period, the assessee is liable to pay interest^v at the rates prescribed from time to time.

In four districts, though 16 dealers delayed the payment of monthly/annual taxes amounting to Rs.4.72 crore by 1 to 46 months during the years 1997-98 to 2000-2001, interest of Rs.84.91 lakh was either not levied or levied short by 4 Assessing Authorities, as detailed below:

(Rupees in lakh)				
Sl. No.	District (Number of assesseees)	Period of assessment	Delay in payment of tax (months)	Non- levy of interest
1.	Bangalore (Rural) (5)	1997-98 to 2000-2001	1 to 46	58.42
2.	Bangalore (Urban) (3)	1997-98 to 1999-2000	21 to 34	2.31
3.	Bellary (7)	1997-98 and 1998-99	8 to 34	19.86
4.	Udupi (1)	2000-2001	10 to 16	4.32
	Total (16)			84.91

On these cases being pointed out, Government reported creation of additional demand of Rs.19.77 lakh in the case of 10 dealers and recovery of Rs.1.29 lakh from one of them. Reports of action taken in respect of the remaining cases have not been received (January 2004).

2.10 Ineffective pursuance of arrears of tax demands

Under the KST Act 1957, the tax determined as due after final assessment is to be paid within 21 days from the date of service of demand notice. On default, the unpaid dues are recoverable as arrears of land revenue or by sale (with or without attachment) of any property of the defaulter, or on an application to a Magistrate as a fine imposed by him or by recovery from any person owing money to the defaulter. The Karnataka Commercial Taxes Manual emphasises that the effectiveness of the recovery depends on the sincerity with which it is pursued.

^v prior to 01.04.2001 it was termed as 'penalty'

During the course of audit, it was noticed that Coffee Board was assessed to tax of Rs.123.68 crore for assessment periods 1980-81 to 1989-90, 1991-92 and 1994-95 to 1996-97. The demands were raised between June 1995 to February 2000 against which the Board preferred appeals with the departmental authorities. These appeals have not been decided. This is in spite of the fact that Hon'ble High Court of Karnataka while disposing of a curative petition filed by the Board for the year 1983-84 to 1986-87 and 1994-95 had directed the department to dispose of the appeals pending before the Appellate Authority within three months from the date of submission of Court's order which was September 1999. Thus, inaction on the part of department had resulted in blocking of revenue of Rs.123.68 crore.

Thus, non-pursuance of the demands raised had resulted in non-realisation of revenue for two to ten years.

The matter was referred to Government in June 2003; their reply has not been received (January 2004).

2.11 Suppression of taxable turnover

Under the KST Act 1957, a dealer is liable to pay for each year, tax on his taxable turnover of transfer of property in goods involved in the execution of works contracts at the rates specified in the Sixth Schedule. The taxable turnover is determined after allowing the specified deductions from the total turnover. However, if a dealer so liable opts to pay tax by way of composition in any year, tax is leviable at separate rates on the 'total consideration' involved in the execution of works contracts and no deductions are allowable.

Under the KST Rules 1957, every dealer shall submit annual return of turnover to the concerned jurisdictional Assessing Authority within 60 days after the close of the year to which such return relates showing the actual total and taxable turnovers for that year and the amounts actually collected by him by way of tax or purporting to be by way of tax during that year.

In Bangalore (Urban) district, a cross verification of turnovers declared by five dealers engaged in the execution of electrical works contracts with the records of 10 contractees revealed non-inclusion of consideration of Rs.26.65 crore received by them in the returns submitted to the Commercial Taxes Department for the years 1994-95 to 2000-2001. Since the assessments were finalised between October 1999 and June 2002 on the basis of returns only,

there was non-levy of tax of Rs.99.75 lakh (including surcharge, cess and turnover tax).

On these cases being pointed out, Government reported raising of demands for Rs.54.17 lakh including penalty of Rs.2.20 lakh in 11 cases out of 12 cases. Of them an amount of Rs.26.58 lakh had been recovered in four cases. Reports of recovery in the remaining 7 cases and action taken for raising the demand in the other case have not been received (January 2004).

2.12 Unauthorised collection of turnover tax (TOT) not forfeited

Under the KST Act 1957, no dealer who is liable to pay turnover tax is authorised to collect any amount by way of such tax which is to be borne by him. Where any collection is made in contravention thereof, the turnover tax collected is required to be forfeited. The Assessing Authority is also empowered to levy penalty not exceeding one and a-half times the amount of tax so collected.

In Bangalore (Urban) district, a dealer engaged in the manufacture of pre-stressed cement concrete sleepers had included the turnover relating to supplies made by him to the Southern Railway during the years 1994-95 to 1998-99 in the returns submitted to the Commercial Taxes Department. Cross verification by Audit of the returns with the payments of the claims of the dealer by the Southern Railway revealed in January 2003 that the dealer had specifically charged turnover tax of Rs.35.43 lakh on the turnover of Rs.14.08 crore in the claims made against the contractee and the same had been duly reimbursed to him in terms of the agreement. Since collection of turnover tax from buyers is prohibited under the Act, collection of such tax of Rs.35.43 lakh by him was incorrect and was required to be forfeited to Government. However, in five assessments concluded by the Deputy Commissioner of Commercial Taxes (Assessments)-12 between May 1995 and January 2002 the unauthorised collections had not been noticed, and hence no forfeiture had been made. This resulted in non-realisation of revenue of Rs.35.43 lakh. Besides, penalty of Rs.53.15 lakh could also be levied.

On these cases being pointed out, Government stated that it was seen from the sale bill produced by the assessee that he had not collected TOT separately; in the absence of clear evidence in the bills it could not be presumed. The reply is not tenable since in the supplier's bills presented to the Southern Railway, the dealer had separately claimed TOT and had been paid up by the Southern Railway.

2.13 Excess credit afforded towards tax deducted at source (TDS)

Under the KST Act 1957, the Central Government or any State Government or an industrial/commercial/trading undertaking of Central/State Government or a local authority or a statutory body shall deduct an amount at the rate of four per cent, herein called tax deducted at source – TDS, of the total amount payable to a dealer in respect of the works contracts executed for them, if he has been permitted to pay tax by way of composition.

In Bangalore (Urban) district, while finalising between November 1999 and March 2001 two assessments of a dealer for the years 1997-98 and 1998-99, TDS credit of Rs.54.53 lakh towards execution of civil works contract on behalf of the Karnataka Housing Board, Mysore Division was allowed as against the actual TDS credit of Rs.43.15 lakh to be allowed as per certificate of tax deduction (Form 50) furnished by the Division. This resulted in excess credit of Rs.11.38 lakh.

On this being pointed out, Government stated that recovery action had been initiated. Report of recovery has not been received (January 2004).

2.14 Evaluation of internal audit system

Introduction

2.14.1 The Karnataka Commercial Taxes Manual (1995) recognises the Internal Audit Wing as an essential and indispensable part of the Commercial Taxes Department. The objectives enjoined on it are –

- To have a deterrent and reforming effect in the direction of prevention of mistakes;
- To play a corrective role by pointing out mistakes and ensuring remedies without loss of time; and
- To improve the quality of the functioning of the department so as to reduce the criticism of the department by statutory audit and the Public Accounts Committee.

The Commercial Taxes Department which, *inter alia*, is responsible for administration of the KST Act 1957 and the CST Act 1956, works under the administrative control of the Finance Department at the Government level. The Department is headed by a Commissioner of Commercial Taxes (CCT). The Internal Audit Wing in each of the 13 Divisions in the Department is in overall control of a Joint Commissioner of Commercial Taxes (Administration) at each Division. In each Division, there is an Internal Audit Wing consisting of a Deputy Commissioner of Commercial Taxes (DCCT) (Audit) and an Assistant Commissioner of Commercial Taxes (ACCT) (Audit), called Audit Officers. They are assisted by two Commercial Tax Inspectors (Audit) and a Stenographer. While the DCCT (Audit) is responsible for audit of assessments made by DCCTs, the ACCT (Audit) is responsible for audit of assessments made by ACCTs and Commercial Tax Officers.

Scope of Internal Audit

2.14.2 The scope of internal audit as envisaged in the Manual includes:

- Auditing of all the offices in the Department on annual basis
- Audit Planning, i.e., prioritising the offices for audit
- Coverage in internal audit which is to include short/excess levy due to incorrect rate of tax, incorrect computation of taxable turnover, double credits and incorrect refunds, non-recovery/short recovery of penalty, incorrect grant of composition, short levy where declarations have not been produced.
- Follow up of audit by issue of inspection reports to be complied with by the auditee office.
- Watching compliance to the inspection reports by maintenance of control registers.

A test check conducted by Audit to evaluate the working of the internal audit wing in the Department with reference to the records of three[▲] out of the 13 Divisions disclosed the following points.

[▲] Bangalore Division, Bangalore City Divisions II and III

Internal audit coverage

2.14.3 According to the provisional figures furnished by the Department, the number of offices due for audit during the years 1998-99 to 2002-2003 and the number actually covered by the Internal Audit Wing are given below:

Year	Total number of offices	Number of offices due for audit during the year	Number of offices audited	Shortfall (Percentage to (3))
(1)	(2)	(3)	(4)	(5)
1998-1999	296	219	142	77 (35)
1999-2000	296	296	123	173 (58)
2000-2001	296	193	128	65(34)
2001-2002	397	326	127	199 (61)
2002-2003	379	379	102	277 (73)

Shortfall varied between 34 per cent to 73 per cent. The Department attributed the shortfall to the following:

- Several posts of DCCT/ACCT and other staff were kept vacant for long periods;
- A few of the officers of internal audit were deployed for other items of work to augment revenue collections; and
- The DCCT had been entrusted with appellate functions in addition to audit work.

This would show that adequate importance was not being accorded for internal audit and also that the independence of functioning of the internal audit wing was affected due to entrustment of regular departmental work to it.

Audit Planning

2.14.4 The Manual lays down the criteria for prioritisation of audit and its duration. Accordingly, top priority was to be given to audit of assessments made by DCCT followed by those of ACCT. The audit of assessments made by DCCT was to be conducted in two spells, the first to be done in October covering the cases finalised during April-September and the other in April

covering the cases finalised during October-March. The whole process was to be concluded before the audit by the statutory audit.

However, this was not followed in any of the Divisions test-checked. On the other hand, wherever statutory audit was concluded by the Accountant General before internal audit was taken up, those offices were excluded by internal audit coverage. Thus, in drawing the Audit Plan, the programme of the Accountant General was not being taken into account.

2.14.5 Audit of assessments concluded by CTOs was not to be programmed till all the offices of DCCT and ACCT were covered. However, 36 out of 153 CTOs' offices were covered during 2002-2003, though 160 offices of DCCT/ACCT were left unaudited.

2.14.6 Though the Manual laid down the number of files to be reviewed in a day, the duration of audit to be planned according to the volume of work involved in terms of number of assessments concluded, period elapsing from the last audit, etc., these criteria were not followed in allowing the duration of audit.

2.14.7 Priority was not being given for high revenue earning offices like Fast Track Divisions. As a result, Fast Track Divisions were not at all audited or were given the same number of days as other offices of DCCT/ACCT. Thus, the selection of offices and the time allowed were not based on any risk parameters.

Delay in issue of internal audit reports (IARs)

2.14.8 The maximum time limit allowed for issue of internal audit reports (IARs) to the concerned office is one month from the last day of audit.

Test check revealed that there was delay in issue of 19 IARs ranging from 2 to 13 months. Belated issue of IARs defeated the objective of internal audit, i.e., to ensure remedies without loss of time.

Non-coverage of certain areas in internal audit

2.14.9 Verification of remittances made into treasuries and their postings in the 'D' Register to the account of the concerned dealers are some of the important aspects to be covered by the Internal Audit. However, these were not being covered.

Non-maintenance of control registers/records

2.14.10 The Manual prescribes maintenance of a number of control registers and records for proper monitoring of the results of audit. The position obtaining in respect of a few of them is detailed below:

➤ **Internal Audit Report**

This Report is to be prepared in respect of each office audited showing in three parts the important observations, the minor irregularities and outstanding items of previous reports. The reports were not being prepared as envisaged affecting proper monitoring of the action taken.

➤ **Internal Audit Note Book**

This is to be maintained by the office inspected showing an abstract of monthly review by the head of the office, index for various category of objections, details as to date of commencement, completion and period of audit, etc. This Register was not being maintained in any of the circle offices test checked.

➤ **Register of discrepancies and defects, etc.**

This Register showing nature of discrepancies, omissions and defects noticed during internal audit was not being maintained in the Divisions test checked except Bangalore Division.

➤ **Preparation of annual review**

The Manual envisages preparation of an annual review of working of internal audit by the Divisional Heads on the basis of information furnished in four formats and also lays down the procedure for filling in details therein. However, these guidelines were not being followed and the Review was not being conducted by the Division Head.

Outstanding Internal Audit Reports and Paragraphs

2.14.11 The position of number of internal audit reports and paragraphs issued and disposed of during the years 2000-2001 to 2002-2003 is given below:

Year	Opening balance Paragraphs (IAR)	Additions Paragraphs (IAR)	Total Paragraphs (IAR)	Clearance Paragraphs (IAR)	Balance Paragraphs (IAR)	Percentage of disposal/ Total Paragraphs (IAR)
2000-2001	2,784 (301)	1,322 (124)	4,106 (425)	522 (33)	3,584 (392)	13 (8)
2001-2002	3,584 (392)	1,189 (83)	4,773 (475)	44 (5)	4,729 (470)	1 (1)
2002-2003	4,729 (470)	1,278 (102)	6,007 (572)	131 (3)	5,876 (569)	2 (1)

It can be seen from the above that disposal was tardy as its percentage varied between 1 per cent and 13 per cent during these years.

The matter was reported to the Commissioner of Commercial Taxes and to Government in October 2003; their replies have not been received (January 2004).



CHAPTER III

State Excise

3.1 Results of audit

Test check of records of the State Excise Department, conducted in audit during the year 2002-2003, disclosed non-recovery or short-recovery of duty, licence fee, etc. amounting to Rs.307.88 crore in 149 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1	Error in computation	7	20.27
2	Non-recovery/short-recovery of licence fee	12	0.30
3	Granting of excessive production loss/wastage	3	1.34
4	Other irregularities	127	285.97
	Total	149	307.88

During the course of the year 2002-2003, the Department accepted under-assessments of Rs.28.99 crore involved in 170 cases and recovered Rs.1.44 crore involved in 78 cases (including Rs.1.42 crore involved in 77 cases which had been pointed out in audit in earlier years).

A few illustrative cases involving Rs.245.56 crore are given in the following paragraphs. Of this, Rs.54.76 lakh had been recovered.

3.2 Non-realisation of excise duty on re-distillation of sedimented liquors

As per Karnataka Excise (Regulation of Yield, Production and Wastage of Spirit, Beer, Wine or Liquors) Rules 1998, no loss is admissible for redistilling sedimented liquor.

In two* districts, in respect of four distilleries, the Excise Commissioner accorded sanction between March 1997 and November 1998 for re-processing/ re-distillation of 290325.16 bulk litres (BL) of old and sedimented liquors for manufacture of current brands subject to recovery of excise duty on manufacturing and bottling losses allowed during initial distillation. The distillers carried out reprocessing/re-distillation but excise duty of Rs.9.58 lakh on manufacturing and bottling losses allowed earlier were not recovered resulting in non-realisation of revenue of Rs.9.58 lakh.

These cases were pointed out to the concerned Distillery Officers and the Excise Commissioner between January 1998 and June 2000 and reported to Government in May 2003; their replies have not been received (January 2004).

3.3 Incorrect allowance of withdrawal of medium grade alcohol

Under the Karnataka Excise (Regulation of Yield, Production and Wastage of Spirit, Beer, Wine or Liquors) Rules 1998, the distillers are permitted to withdraw spirit with the strength of lower than 166° proof (known as medium grade alcohol) from the primary distillation process for manufacture of rectified spirit from molasses up to 7 per cent. There is no provision for such withdrawal in the secondary distillation process for manufacture of extra neutral spirit from rectified spirit.

In Bidar district, a distillery withdrew 69420 bulk litres (BL) of alcohol of proof strength of less than 166° from the process of secondary distillation during 2001-2002. The withdrawal was not authorised under the Rules. It could have been utilised to produce 133656 BL of Indian-made Liquors (IML) to earn revenue of Rs.2.57 crore (by way of excise duty, litre fee and additional excise duty at Rs.192.50 per BL). The incorrect allowance of withdrawal caused a loss of revenue of Rs.2.57 crore.

On this being pointed out, Government stated in September 2003 that rectified spirit which would include medium grade alcohol could also be used for non-potable purposes like for manufacture of denatured spirit, and lower strength alcohol was bound to occur in re-distillation of spirit. The reply furnished is not tenable as the rules did not permit such alcohol to be withdrawn during secondary distillation.

Further reply has not been received (January 2004).

* Bangalore (Urban) and Dharwad

3.4 Shortfall in production of beer

Mention was made in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2001 (Revenue Receipts) – Government of Karnataka regarding shortfall in production of beer during the years 1997-98 to 1999-2000 involving monetary effect of Rs.27.67 lakh.

Under the Karnataka Excise (Brewery) Rules 1967, 'beer' means any liquor prepared from malt or grain with or without the addition of sugar and hops and includes ale, black beer, porter, stout and spruce beer. Under the Karnataka Excise (Regulation of Yield, Production and Wastage of Spirit, Beer, Wine or Liquors) Rules 1998, minimum 6500 litres of beer is to be produced for every 1000 kg of malt used as the basic ingredient/raw material. The Rules provide for manufacturing and bottling losses of seven and six per cent respectively. These Rules empower the Excise Commissioner to levy a penalty equal to the amount of duty leviable on the quantity of short production. Presently, the levy of excise duty on beer is at a uniform rate of Rs.4 per bulk litre (BL) and is not related to its alcoholic strength.

In addition to malt which is the main ingredient for manufacture of beer, rice, maize and sugar are also used as malt adjuncts/substitutes. The Rules have not prescribed their malt equivalence or the volume of beer required to be produced when they are used. However, according to a Technical Excise Manual, written by Lt. Col. C.H.Bedford, a former Director of Central Excise Laboratory in India, which is commonly referred to in the Department, 116.36 kg of rice and 101.82 kg of sugar are each equal to 12.73 kg of malt.

In Bangalore (Urban) district, three breweries utilised 1547680 kg of malt, 276974 kg of rice and 363080 kg of sugar besides maize[‡] for production of beer during the years 1999-2000 and 2000-2001. On the basis of the norms/equivalents, 10551940.25 BL of beer were to be produced from malt, rice and sugar used. Instead, only 9996000 BL of beer were produced. After allowing manufacturing and bottling losses of 71024.367 BL, the net shortfall in production was 484915.889 BL. On actual manufacture of this quantity of beer, excise duty of Rs.19.40 lakh was leviable. In view of short production, equal amount of penalty could have been levied.

On this being pointed out in June 2003, Government stated in September 2003 that in respect of the shortfall of 137533 BL for the years 1999-2000 and 2000-2001 in a brewery with reference only to malt used, the penalty due of Rs.5.50 lakh had since been levied and recovered between November 2002 and March 2003. In respect of another brewery, Government stated that there was no shortfall considering only the malt used. Regarding additives, it stated that the norms did not prescribe minimum production standards and hence

[‡] Malt equivalence not readily available

there was no case for levy of penalty. It also stated that the additives only raised the strength of the beer and did not increase the volume and hence there would be no shortfall in production of beer. It further stated that so long as the alcoholic contents of beer were not specified in the Rules, it was open to the licensees to produce beer of any strength.

Absence of provision regarding production norms on use of malt substitutes and levy of excise duty on beer at uniform rate irrespective of its alcoholic strength or without reference to maximum retail price (in fixing which the licensee would have considered all inputs and higher profit margin for strong beer) deprived Government of additional revenue. Further reply has not been received (January 2004).

3.5 Delay in termination of leases leading to accumulation of arrears and non-forfeiture of security deposit

Under the Karnataka Excise Licences (General Conditions) Rules 1967, if the monthly rentals are not paid, the right of retail vend of arrack has to be mandatorily cancelled after a period of 45 days from the end of the relevant month. Further, under the terms of offer of retail vending, within 15 days of confirmation of acceptance of a bid, the contractor is also required to furnish a security equal to 3 and 1/10 months rent. If he fails to do so, lease may be cancelled, at the discretion of the Government.

3.5.1 In 28 cases of 12 districts, the stipulations were not adhered to resulting in non-realisation of revenue of Rs.23.14 crore during 2001-2002, as detailed below:

(Rupees in crore)			
Sl. No.	Number of Districts/ Taluks	Nature of observation	Amount of non-realisation
1	5 ⁶ /10	Licensees defaulted in paying monthly rentals between August 2001 and June 2002. The leases were determined between October 2001 and May 2002, or not terminated at all. At the end of the lease period, arrears accumulated were Rs.13.26 crore.	13.26
On these cases being pointed out, the Department replied in April 2003 that due to unhealthy competition in three taluks of Bangalore (Rural) district, bid			

⁶ Bidar, Bijapur, Bagalkot, Bangalore (Rural), Chickmagalur

(Rupees in crore)			
Sl. No.	Number of Districts/ Taluks	Nature of observation	Amount of non-realisation
rates were high and hence they could not pay the rent. The reply is not tenable since the leases were accepted by the lessees and the Department had not rejected the offers at the initial stage. In respect of the other cases, replies have not been received (January 2004).			
2	7 ^e / 18	The licensees had to furnish security of Rs.26.50 crore against which only Rs.20.42 crore were obtained. Further, the lessees defaulted in payment of monthly rentals and the arrears including interest had accumulated to Rs.9.88 crore. But the leases were not determined.	9.88
The cases were pointed out to the Department between December 2002 and March 2003; their replies have not been received (January 2004).			

These cases were reported to Government in May/June 2003; their replies have not been received (January 2004).

3.5.2 As per the provisions of the Karnataka Excise Act, no Court shall grant any permanent or temporary injunction or make any interim order restraining any proceeding which is being or about to be taken for recovery of any excise dues.

During the course of audit, it was noticed that a licensee for Gulbarga taluk did not pay monthly rentals from October 2001 onwards. Besides, he had not paid full amount of security. The Department issued a notice to the contractor for payment of the dues in January 2002, i.e., after a delay of four months against which the contractor filed an injunction application in the Court. An interim order for maintenance of *status quo* was granted by the Court in February 2002. The fact that no such injunction could be granted by the Court was brought to its notice by the Department only in March 2002 on the basis of which the injunction was cancelled. Despite this, the lease was terminated only in May 2002, after a delay of two months. An amount of Rs.5.61 crore had become due from the contractor by that time, after adjusting all bank guarantees furnished by him. Thus, inaction on the part of the Department from time to time resulted in non-realisation of excise dues of Rs.5.61 crore.

The case was pointed out to the Department between November 2002 and January 2003 and reported to Government in June 2003; their replies have not been received (January 2004).

^e Bangalore (Rural), Bellary, Chitradurga, Davangere, Dharwad, Raichur, Uttara Kannada

3.5.3 The Deputy Commissioner is empowered to allow extension of time up to one month for payment of rentals after obtaining security for one month's rentals with interest, and further 15 days extension could be allowed by the Excise Commissioner. For default beyond this period, determination of lease is mandatory. In cases of cancellation of lease, the Rules provide for forfeiture of security deposit.

In three^φ taluks of Bidar district, leases were terminated for non-payment of rentals in May 2002 by which time the lessees had accumulated arrears of Rs.5.66 crore. Security deposit of Rs.1.31 crore was not forfeited even though Department had the option to do so. Instead it was adjusted against his tax liability. Moreover, since the lessee had not sought extension of time, additional security of Rs.1.31 crore had also not been obtained.

On this case being pointed out, the Excise Commissioner stated in April 2003 that the deposit was not forfeited exercising the discretionary powers and considering that the contractors had furnished security to the full extent as required, and that the adjustment of the deposit was not opposed to the Rules. The reply is not tenable since the adjustment of security deposit led to accumulation of Government dues that remained unpaid and were not covered by any security.

The cases were referred to Government in June 2003; their reply has not been received (January 2004).

3.6 Non-levy/short levy of interest

Under the Karnataka Excise Licences (General Conditions) Rules 1967, interest at 18 per cent per annum is leviable on the outstanding amount of monthly shop rentals from the eleventh day of the month as long as it remains unpaid.

In three^τ districts, in respect of 10 taluks, arrack shop rentals for the years 1998-1999, 2000-2001 and 2001-2002 amounting to Rs.9.09 crore were paid by the lessees after delays ranging from 1 to 113 days. As against the interest of Rs.16.36 lakh leviable for the delays in payment, interest of Rs.4.50 lakh only had been realised from one lessee of Chincholi in Gulbarga district. The balance amount of Rs.11.86 lakh had not been demanded.

^φ Basavakalyan, Bhalki, Humnabad

^τ Belgaum, Bijapur, Gulbarga

On these cases being pointed out, Government reported recovery of Rs.8.38 lakh in September 2003. Reports of recovery in respect of the balance of Rs.3.48 lakh have not been received (January 2004).

3.7 Incorrect adjustment of payments leading to avoidable accumulation of interest

Under the Karnataka Excise Licences (General Conditions) Rules 1967, as amended from January 2002, when part payments are made towards arrears comprising both principal and interest, interest due till the date of such payment is to be first cleared and the balance, if any, only is to be adjusted against the principal outstanding.

In Uttara Kannada district, in respect of leases granted for retail vend of liquor in Sirsi and Haliyal taluks during the year 2001-2002 interest of Rs.6.88 lakh was outstanding against two contractors. Of this, Rs.5.42 lakh pertained to period from January 2002. In terms of the amendment, moneys received after January 2002 should have been first adjusted towards interest and the balance towards rent. This was not done resulting in avoidable accumulation of arrears of interest of Rs.5.42 lakh.

The case was pointed out to the Department between January and March 2003 and reported to Government in May 2003; their replies have not been received (January 2004).

3.8 Loss of revenue due to non-fixation of minimum sale quantity of arrack

Mention was made in the Report of the Comptroller and Auditor General of India for the years ended 31 March 2001 and 31 March 2002 (Revenue Receipts) – Government of Karnataka regarding loss of revenue of Rs.117 crore during the years 1998-1999 and 1999-2000 and Rs.153 crore during the year 2000-2001 due to non-fixation of minimum sale quantity of arrack. However, no action had been taken by the Department to fix the minimum sale quantity of arrack with the result lessees continued to lift lesser quantity of arrack resulting in further loss of Rs.208.68 crore during the year 2001-2002, as detailed below.

Under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules 1969, the sale of arrack is entrusted to the lessees on the basis of

monthly rentals offered in public auctions. The quantity of arrack required is supplied to them in sealed polythene sachets by two Government companies, Messrs. Mysugar Company Limited and Messrs. Mysore Sales International Limited, who are the sole authorised manufacturers/distributors for the State. Excise duty is collected by Government at the time of issue of permits to the lessees to lift the stocks from the distributors. The cost price payable to the manufacturers and the maximum selling price at which arrack could be sold by the lessees are also fixed by Government.

It was noticed that for the year 2001-2002, in respect of 173 taluks for which leases had been granted by the Excise Commissioner, the minimum quantity required to be lifted to meet the rentals of Rs.1009.15 crore payable by the lessees was 1914.91 lakh bulk litres (BL). Against this, the quantity actually lifted as seen from the records of the two authorised companies was only 871.50 lakh BL. On the shortfall of 1043.41 lakh BL, the excise duty realisable was Rs.208.68 crore, as detailed below:

Year	Total rentals for the year	Maximum selling price minus purchase price @	Minimum quantity of arrack to meet rentals*	Actual quantity lifted	Shortfall	Rate of excise duty	Loss of excise duty
	(Rupees in crore)	(Rupees per BL)	(In lakh BL)			(Rupees per BL)	(Rupees in crore)
2001-2002	1,009.15	85.00-32.30=52.70	1,914.91	871.50	1,043.41	20.00	208.68

@ Comprises cost of arrack including blending and sacheting, works contract tax on sacheting and excise duty.

* Based on the gross profit (selling price – cost price) of Rs.52.70 per BL assuming that there was no selling and distribution expenses.

Thus, non-fixation of the minimum quantity of arrack to be lifted by the lessees in relation to the rentals offered caused loss of revenue of Rs.208.68 crore.

It was further noticed that while the rentals increased substantially year after year during the period 1998-99 to 2001-2002, the quantity of arrack lifted remained almost constant, there being even a slight fall in 2001-2002, as detailed below:

Year	Rentals offered (Rupees in crore)	Quantity of arrack lifted (In lakh BL)
1998-1999*	582.94	881.02
1999-2000*	675.43	885.61
2000-2001*	875.18	892.85
2001-2002	1,009.15	871.50

* covers also taluks where lifting exceeded the minimum quantity to meet rentals

On this being pointed out in June 2003, Government stated in September 2003 that the revenue loss worked out by Audit was to be regarded as hypothetical for the following reasons:

- there was no stipulation in the Act /Rules requiring the contractors to lift quantity corresponding to the rentals offered ;
- the monthly rent offered was for privilege parted with by Government and was payable irrespective of whether the contractor carried out arrack sales ;
- if minimum guarantee quota (MGQ) was fixed, the loss arising from failure of contractors might not be recoverable if they had not transacted business;
- the sale of arrack would depend on several factors such as consumption pattern of the area awarded to the lessee, demand and supply position, business hours, location of shops and quality of arrack;
- declaration of holidays for preservation of public peace on several occasions like elections, riots, diseases;
- excise duty could not be recovered on quantity not actually lifted on account of judicial pronouncements;
- if MGQ was fixed, the contractors would be tempted to lower rentals to minimise the quantity to be lifted.

The reply is not tenable since the contractors would be reasonably believed to have considered all the factors cited above while formulating their rental offers. The contention of audit is that in order to meet these rentals, lessees would have had to lift a minimum of 1914.91 lakh BL. However, the actual quantity lifted was far less than this minimum resulting in real loss of revenue to Government. This phenomenon of short lifting which encompasses almost the whole State may need to be looked at in detail by Government so as to protect its interests.

Further reply has not been received (January 2004).

3.9 Grant of the right of retail vending of liquor to ineligible persons leading to accumulation of arrears

Under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules 1969, a person is to be disqualified from submitting a tender, if he has not paid the arrears of any excise dues. Further, under the Rules *ibid*, at the

time of granting certificate of registration of Excise Contractor, without which also a person is to be disqualified, the Excise Commissioner is required to have regard to, the interest of revenue generally, the status, antecedents and previous experience as also the solvency of the applicant.

3.9.1 In Chitradurga district, the granting of the leases of the right of retail vend of arrack in Chitradurga and Holalkere taluks during the year 2001-2002 was confirmed in June 2001 in favour of a contractor 'A' on monthly rentals of Rs.46.50 lakh and Rs.44.50 lakh respectively. Since he failed to furnish security to the required extent and also defaulted in payment of monthly rentals, the leases were terminated in November 2001. The leases in respect of these taluks for the balance period from 11 December 2001 to 30 June 2002 were decided afresh and confirmed in December 2001 in favour of another contractor 'B' on monthly rentals of Rs.37 lakh and Rs.31.50 lakh respectively. As against security for Rs.2.12 crore to be furnished, contractor 'B' had furnished security for Rs.0.68 crore only, the shortfall being Rs.1.44 crore. He had also defaulted in payment of rentals, the accumulated arrears being Rs.44.46 lakh up to October 2002 in respect of the two taluks.

Audit scrutiny further revealed that on the date of submission of tender on 05 December 2001, contractor 'B' in another case had already defaulted in payment of excise arrears of Rs.1.58 crore. As such, he should have been disqualified for the auction. Allowance of participation and acceptance of his tender in the said auction was incorrect and resulted in accumulation of arrears of Rs.44.46 lakh as of October 2002.

3.9.2 In Hassan district, the granting of the lease of the right of retail vend of arrack in Channarayapatna taluk during the year 2001-2002 was confirmed in June 2001. Accordingly, he was to furnish bank guarantee for Rs.1.53 crore against which he furnished security for Rs.49.25 lakh leaving a balance of Rs.1.04 crore. He defaulted in payment of rentals from September 2001. After the Deputy Commissioner of Excise, Hassan reported that the contractor was 'benami' and chances of obtaining bank guarantee as also recovering rentals were very bleak, the lease was determined in November 2001 and the loss of revenue sustained was estimated as Rs.1.53 crore in January 2002. This remained to be recovered even as of January 2003.

This would show that the status and antecedents of the contractor were not properly verified before grant of registration which resulted in grant of licence to an ineligible contractor leading to non-realisation of Rs. 1.53 crore.

These cases were pointed out to the Department between January and March 2003 and reported to Government in June 2003; their replies have not been received (January 2004).

3.10 Injudicious release of bank guarantees leading to non-realisation of arrears

Under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules 1969, the person in whose favour the disposal of the right is confirmed is required to furnish security for an amount equal to three and one-tenth of monthly rent in prescribed forms including by way of irrevocable guarantee given by a Scheduled Bank.

In Shimoga district, a lessee who was awarded the lease for the year 2001-2002 furnished six bank guarantees for Rs.3.39 crore during July/August 2001. In June 2002, all these bank guarantees were invoked demanding from the bank their value citing rental dues including interest of Rs.3.28 crore for April to June 2002.

Audit scrutiny revealed in March 2003 that the total arrears had accumulated to Rs.4.47 crore which included even part rentals of Rs.1.08 crore for February 2002. The bank honoured three guarantees and forwarded demand drafts for Rs.1.87 crore during July-August 2002 towards rentals of April/May 2002. Subsequent to invoking of the bank guarantees, the lessee paid Rs.1.52 crore which were adjusted towards the rentals of May-June 2002. Though the rentals for February 2002 continued to be in arrears, the Deputy Commissioner of Excise (DCOE) released and discharged in August/ October 2002 the other three bank guarantees for Rs.1.53 crore rendering the rental arrears of Rs.1.08 crore outstanding without any security back up. The circumstances in which the DCOE discharged the bank of its liability without making further efforts to realise the sums guaranteed were not made known.

Therefore, the release of the bank guarantees, which were specifically obtained for securing contractual obligations, was injudicious. Though notices for payment of the arrears had been issued to the contractor in November 2002, failure in pursuing the realisation of the bank guarantees and absolving the bank of its liability deprived Government of the opportunity of realising the arrears of Rs.1.25 crore, including interest.

On this being pointed out, the Excise Commissioner reported in August 2003 that a sum of Rs.27 lakh had since been recovered. Further report has not been received (January 2004).

The cases were referred to Government in June 2003; their reply has not been received (January 2004).

3.11 Non-realisation of rental in interim arrangement made for sale of arrack

Under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules 1969, where a lessee fails to furnish the required security, the vend is liable to be cancelled at the discretion of Government. Pending fresh disposal of the right, the Deputy Commissioners are empowered to continue the licence of the previous licensee.

In Gadag district, the lease of right of retail vending of arrack in Mundargi taluk during the year 2001-2002 was confirmed in favour of a bidder in May 2001 on a monthly rental of Rs.14.50 lakh. He failed to furnish the required security, but was allowed to transact business subject to payment of rentals of Rs.48,333 on daily basis. Though he failed to make daily payments, the interim arrangement was continued till 13 September 2001 by which time he had accumulated arrears of Rs.23.83 lakh.

On this being pointed out, the Department reported in September 2003 that action had been initiated in April 2002 for recovery of dues as arrears of land revenue. Further report has not been received (January 2004).

The matter was reported to Government in June 2003; their reply has not been received (January 2004).

3.12 Inordinate delay in disposal of confiscated liquors

Under the Karnataka Excise (Confiscated Articles Disposal) Rules 1967, confiscated potable liquor in sealed bottles is to be disposed of by public auction after fixing a reserve price of not less than 75 per cent of the ordinary local price of such liquor to the highest bidder who holds a licence to sell liquor under the Karnataka Excise Act 1965. In other cases, the disposal is to be made as ordered by the Excise Commissioner. The confiscated potable liquor not disposed of for value entails locking up and eventual loss of Government revenue.

3.12.1 In three* districts, 14971.780 bulk litres (BL) of liquors confiscated during 1995-1996 to 2001-2002 remained undisposed of as of March/October 2002. Thus, Rs.32.07 lakh, being the value of the liquors at the lowest price of Rs.214.20 per BL had not been realised by Government.

3.12.2 In Udupi district, 3888 BL of Indian-made Liquor (IML) was seized in December 1999 as being unauthorisedly transported, at which time it was certified to be fit for human consumption, and was duly confiscated in February 2000. Though its disposal by auction was fixed for March 2000, the sale was not conducted for administrative reasons. In March 2001, when the next auction date was fixed, there was no response. In December 2001, the liquor was certified not to conform to standards. Thus, inordinate delay in disposal of potable liquor resulted in loss of revenue of Rs.8.33 lakh.

On these cases being pointed out in May 2003, Government/Department reported in August/September 2003 realisation of Rs.12.64 lakh by disposing of 5900.140 BL confiscated in Chickmagalur and Dakshina Kannada districts. In the case of Udupi district, Government stated that the liquor seized was established as duplicate and did not conform to the standards. The reply is not tenable as the Assistant Chemical Examiner at Mangalore had certified in January 2000 that the liquor was fit for human consumption. The inordinate delay in disposal of confiscated potable liquor rendered it as non-potable causing loss of revenue to Government. In respect of Chitradurga district, final reply has not been received (January 2004).

3.13 Non-recovery/short recovery of cost of establishment

Under the Karnataka Excise (Manufacture and Bottling of Arrack) Rules 1987, the cost of establishment in respect of excise officers and staff employed in the premises of licensees for supervision and securing compliance with the provisions of the Karnataka Excise Act 1965 and the Rules is to be paid by the licensees in advance at the beginning of each quarter.

In Belgaum and Davanagere districts, as against the total amount of Rs.11.32 lakh due as cost of establishment for 56 months between August 1997 and June 2002 from two licensees, only Rs.6.30 lakh had been recovered. The balance amount payable worked out to Rs.5.02 lakh. Since the amounts due were payable in advance at the beginning of each quarter, allowing the licensees to carry on the business without clearing the dues was incorrect.

* Chickmagalur, Chitradurga, Dakshina Kannada

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On these cases being pointed out in May 2003, Government reported in September 2003 recovery of Rs.1.24 lakh due in respect of one unit. Reply in respect of the other unit has not been received (January 2004).



CHAPTER IV

Taxes on Motor Vehicles

4.1 Results of audit

Test check of records of the Motor Vehicles Department, conducted in audit during the year 2002-2003, disclosed under-assessments of tax, non-levy of penalty, fees, etc. amounting to Rs.21.05 crore in 108 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy of tax	76	1.39
2	Non-levy/non-collection of fees/penalty	28	19.62
3	Other irregularities	4	0.04
	Total	108	21.05

During the year 2002-2003, the Department accepted under-assessments in 115 cases involving Rs.21.26 crore and recovered Rs.0.60 crore involved in 38 cases which had been pointed out in audit in earlier years.

A few illustrative cases including certain cases noticed in earlier years which could not be included in previous Reports involving Rs.18.57 crore are given in the following paragraphs. Of this, Rs.0.49 lakh had been recovered.

4.2 Delay in giving effect to revision leading to short levy of fees

Under the Motor Vehicles Act 1988, all rules made under it, unless some later date is appointed, come into force on the date of their publication in the Official Gazette. By a notification published under the Act in the Gazette of India Extraordinary on 28 March 2001, the Central Government promulgated the Central Motor Vehicles (1st Amendment) Rules 2001 revising the rates of fee prescribed in the Central Motor Vehicles Rules 1989 for various services such as, registration of vehicles, issue of driving licences, fitness certificates, etc.

During the audit of 17^θ Regional Transport Offices (RTOs), it was noticed that the fee for issue and renewals of licence, fitness certificate, registration certificate, etc., continued to be collected at the pre-revised rates from 28 March to 18 April 2001. This resulted in short levy of Rs.29.99 lakh.

RTOs stated that the enhanced rates were given effect to from the date of receipt of the notification from the Commissioner for Transport. The Commissioner stated that delay in collecting the enhanced rate of fee was only due to late communication by Government and that Government had been requested to sanction write off of the loss of revenue. The reply is not tenable as the draft of the notification indicating the proposed enhancement of rates of fees had been issued in December 2000 itself. The Department was aware of the impending revision, and should have taken prompt action to implement and realise the revised rates.

The matter was referred to Government in June 2003; their reply has not been received (January 2004).

4.3 Non-levy of tax

Under the Karnataka Motor Vehicles Taxation (KMVT) Act 1957, the tax levied is to be paid in advance, for a quarter, half-year or year, within fifteen days from the commencement of such period. Non-payment of tax constitutes an offence which could be compounded on payment of penalty at 20 per cent of the arrears of tax due. The Act provides for seizure, detention and sale of vehicles in respect of which tax has not been paid, by empowered officers of Motor Vehicles Department/ Police Department. The tax dues are also recoverable as arrears of land revenue. In the case of transport vehicles, the validity of the permits for the vehicles would become ineffective during the period of default.

During test-check of records of 13^θ Regional Transport Offices (RTOs), it was noticed that for 77 vehicles, tax of Rs.11.59 lakh had not been paid for different periods between September 1994 and December 2002. No action had been taken by the Department to demand the taxes and to recover the taxes due by recourse to the various procedures at its command. On

^θ Indiranagar (Bangalore-East), Jayanagar (Bangalore-South), Rajajinagar (Bangalore-West), Yeshwanthpur (Bangalore-North), Bellary, Chamarajanagar, Chitradurga, Davanagere, Dharwad, Gulbarga, Haveri, Madikeri, Mangalore, Mysore, Puttur, Sagar, Sirsi

^θ Bagalkot, Bhalki, Bidar, Bijapur, Chitradurga, Davanagere, Dharwad, Gulbarga, Haveri, Hospet, Karwar, Sirsi, Tumkur

composition of these cases, an additional sum of Rs.2.32 lakh was also realisable.

On this being pointed out, the Department reported acceptance of audit observations in respect of 14 cases of five^ψ RTOs involving Rs.1.54 lakh, of which Rs.0.49 lakh has been recovered. Reply in respect of the remaining cases has not been received (January 2004).

The cases were referred to Government in June 2003; their replies have not been received (January 2004).

4.4 Non-levy of tax on non-adherence to conditions of surrender

Under the KMVT Act 1957, motor vehicles registered in the State are exempted from payment of tax for the period during which the vehicles are not intended to be used on roads. For obtaining the exemption, the registered owner of the motor vehicle is required to furnish to the registering authority a declaration of non-use specifying the place where it is garaged along with details of payment of taxes up to the date of surrender of the documents. The said exemption is not applicable if the vehicle is removed from the garage without prior permission of the registering authority. The KMVT Rules 1957 provide for composition of the offence on payment of 20 per cent of the arrears of tax due as penalty.

In Bijapur and Gulbarga Regions, declarations of non-use of six registered motor vehicles were accepted between June 1998 and August 2000 by the Department. However, during inspection between December 1999 and June 2002, the vehicles were not found at the declared place of garage. Consequently, they had become ineligible for the exemption from payment of tax of Rs.8.61 lakh, but no action was taken to demand/recover the same. Failure to do so resulted in non-levy of tax of Rs. 8.61 lakh covering the period between July 1998 and December 2002. Besides, penalty of Rs.1.72 lakh was also leviable on composition.

These cases were pointed out to the concerned Regional Transport Officers and the Commissioner for Transport between July 2002 and February 2003 and to Government in May 2003; their replies have not been received (January 2004).

^ψ Davangere, Dharwad, Gulbarga, Hospet, Sirsi

4.5 Non-levy of additional sum for default in tax payment by fleet owners

According to the KMVT Act 1957 and the Rules made thereunder, fleet owners are to pay tax for each year in instalments not exceeding 12 as specified by the Commissioner for Transport. The tax due is based on provisional assessment at the prescribed percentage of their estimated revenue from fares and freights as declared by them before the commencement of the year. The tax due after the close of the year is determined by the Commissioner with reference to the final declaration accompanied by audited accounts. The tax due on final assessment is to be paid within 30 days from the date of receipt of the certificate of tax payable. For failure to do so, an additional sum at one per cent of such tax is to be paid, for each defaulting month. The Act provides for recovery of unpaid tax as an arrear of land revenue, and for levy of penalty.

The taxes finally due in respect of two^{*} State Government Undertakings, who were fleet owners, for the years 1996-97 to 1999-2000 were determined as Rs.297.13 crore. The notices issued between November 1997 and March 2001 after final assessment for each year did not indicate the requirement to pay additional sum in case of failure in paying the tax demanded by the due date. The additional sums due for every month of default were not demanded at the end of every month even after actual default occurred. After the non-raising of demand for additional sums was pointed out in audit in September/October 2001, the Commissioner issued fresh notices in September 2002 demanding the additional sums but without quantifying the amount due. Since the taxes paid by them were only Rs.233.86 crore, the balance taxes of Rs.63.27 crore remained outstanding for 18 to 58 months. On this, the additional sum due as on October 2002 worked out to Rs.18.03 crore. The non-raising of demands as and when they were due postponed their realisation.

Report of recovery have not been received as of January 2004.

The matter was referred to Government in June 2003; their reply has not been received (January 2004).



^{*} Karnataka State Road Transport Corporation (1996-97 to 1999-2000) and North West Karnataka Road Transport Corporation (1998-99 to 1999-2000)

CHAPTER V

Taxes on Agricultural Income

5.1 Results of audit

Test check of records of the Agricultural Income-tax Offices, conducted in audit during the year 2002-2003, disclosed under-assessments of tax, non-levy of penalty, etc. amounting to Rs.0.57 crore in 34 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy of tax	30	0.54
2	Non-levy of penalty	4	0.03
	Total	34	0.57

During the course of the year 2002-2003, the Department accepted under-assessments of tax amounting to Rs.0.19 crore involved in 36 cases which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases involving Rs.44.07 lakh are given in the following Paragraphs. Of this, Rs.4.65 lakh had been recovered.

5.2 Short levy of tax due to incorrect computation of agricultural income

According to the Karnataka Agricultural Income-tax (KAIT) Act 1957, as amended from time to time, 'agricultural income' includes any rent or revenue derived from land situated in the State and used for growing plantation crops. Under the Act, the 'total agricultural income' of a person in a 'previous year' is computed after allowing revenue expenditure laid out or expended wholly and exclusively for the purpose of deriving agricultural income.

It was noticed in three^α districts that in nine assessments of nine assessees, for the years 1994-95 to 2001-2002 finalised between September 1996 and March 2002, the assessing officers allowed inadmissible expenditure of Rs.38.91 lakh while arriving at the taxable agricultural income. The short computation of income resulted in short levy of tax of Rs.15.82 lakh. A few illustrative cases are detailed below:

(Rupees in lakh)					
Sl. No.	Name of the assessee	Assessment year/ Date of assessment	Nature of irregularity	Short computation of income	Short levy of tax
Deputy Commissioner of Agricultural Income-tax (Assessments), Chickmagalur					
1	M/s Ivor Rebellow Foundations (Doddannagudda Estate) (Trust up to 1994-95; reconstituted as Firm from 1995-96)	1994-95 10.09.1996 Recomputation order dated 17.07.2001 of the firm for AY 1995-96	As per the Act, income received in respect of a firm or association after discontinuance of its business or dissolution should be assessed as if no such discontinuance or dissolution had taken place. The status of the Trust was changed to a Firm from 1995-96. However, Rs.10.96 lakh received for the period 1994-95 was omitted to be brought to tax as Trust's income.	6.47	2.08
The Department accepted in October 2003 the omission and stated that revised assessment order had been passed.					
2	M/s Kalasa Estate (Firm)	1995-96 13.07.2001 Recomputation order dated 24.06.2002	Unabsorbed depreciation allowance of Rs.2.84 lakh for the years 1989-90 to 1991-92 was incorrectly adjusted twice, once in the assessment year 1992-93 and again in the assessment year 1995-96.	2.84	1.14
The Department accepted the short levy and intimated in October 2003 that Rs.1 lakh had been recovered.					
Deputy Commissioner of Agricultural Income-tax (Assessments), Hassan					
3	The Spices Valley Estate Ltd. Sakaleshapura (Company)	1998-99 31.05.1999	Only actual interest paid is allowable as deduction. However, expenditure of Rs.5.22 lakh towards 'Interest' was allowed without obtaining proof of actual payment.	5.22	1.25
The Department accepted the short levy and intimated in October 2003 that revised orders had been passed.					

^α Chickmagalur, Hassan, Kodagu

(Rupees in lakh)					
Sl. No.	Name of the assessee	Assessment year/ Date of assessment	Nature of irregularity	Short computation of income	Short levy of tax
4	M/s Ossoor Estates Limited (Company)	2000-2001 27.02.2002	The assessee incurred an expenditure of Rs.12.01 lakh for purchasing coffee. However, it claimed this as expenditure from its agricultural income. Since income derived from sale of such coffee would constitute trading income and not agricultural income, expenditure on purchase was not allowable but was allowed. This resulted in short computation of agricultural income by Rs.12.01 lakh.	12.01	6.00
The Department stated in October 2003 that analysis of quantitative details of coffee purchased, sold and held in closing stock revealed that no coffee income had escaped assessment. The reply is not tenable as the expenditure allowed was inadmissible under the Act.					
Assistant Commissioner of Agricultural Income-tax, Madikeri					
5	Sri M. Nachaiah Chettiappa (Karadi Koppal Estate) (Individual)	1999-2000 21.05.2001	Expenditure on depreciation was allowed twice, once while allowing total admissible expenditure and again separately as depreciation allowance.	2.49	1.00
The Department intimated passing of revised orders in October 2003 and stated that the assessee had gone on appeal after depositing 50 per cent of the tax due.					
6	M/s D.V. Vishwanath (Hindu Undivided Family)	2001-2002 19.03.2002	Additional depreciation of Rs.2.23 lakh on newly acquired pulper machine was allowed twice.	2.23	0.89
The Department intimated in October 2003 that the short levy of tax had since been recovered.					

On these cases being pointed out, Government reported creation of additional demand of Rs.8.83 lakh in seven cases and recovered Rs.3.84 lakh in three of them. Final replies for the remaining cases have not been received (January 2004).

5.3 Non-levy of interest

Under the KAIT Act 1957, where a 'person' having taxable agricultural income in a 'previous year' does not furnish the prescribed annual return along with proof of payment of tax due on that basis (advance tax) to the

Assessing Authority within four months from the end of the previous year, interest is leviable at prescribed rates.

In Chickmagalur district, in respect of four assessments of four assesseees for the years 1995-96, 1996-97, 1998-99 and 1999-2000 finalised between May 2000 and February 2002, interest of Rs.8.12 lakh due for delay in furnishing returns ranging from 7 to 33 months had not been levied by two Assessing Authorities on tax of Rs.14.32 lakh.

On these cases being pointed out, Government reported creation of demand of Rs.1.16 lakh in two cases and recovered Rs.0.81 lakh in one of them. Final replies for the remaining cases have not been received (January 2004).

5.4 Non-levy of penalty

Under the KAIT Act 1957, if an assessee fails to pay the tax demanded from him within the time mentioned in the demand notice and if a time is not so mentioned, then on or before the first day of the second month following the date of serving notice, he is liable to pay penalty at the rates prescribed from time to time.

In three^B districts, seven assesseees were due to pay tax of Rs.83.21 lakh for the years 1987-88 to 2000-2001 assessments of which were finalised between April 1997 and July 2001 by three Assessing Authorities. The taxes were to be paid between May 1997 and August 2001. However, the amounts were paid only between December 1997 and August 2002, i.e., after delays ranging from three days to over 136 months. For the delay in payments, the assesseees were liable to pay penalty of Rs.20.13 lakh which had not been levied by the Assessing Authorities.

On these cases being pointed out, Government reported in respect of one case involving Rs.9.86 lakh that the Estate was discontinued from February 1987 and hence penalty could not be levied. The reply is not tenable as the penalty was payable for belated payment of tax under the Act. In respect of the remaining cases, final replies have not been received (January 2004).



^B Chickmagalur, Hassan, Kodagu

CHAPTER VI

Land Revenue

6.1 Results of audit

Test check of records in Land Revenue Offices, conducted in audit during the year 2002-2003, disclosed under-assessments of revenue amounting to Rs.7.39 crore in 82 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy of conversion fine	10	0.18
2	Non-raising/short raising of demands for water rate/penal water rate	11	4.09
3	Non-levy/short levy of maintenance cess	15	0.24
4	Other irregularities	46	2.88
	Total	82	7.39

During the course of the year 2002-2003, the Department accepted under-assessments of Rs.1.80 crore involved in 32 cases which had been pointed out in audit in earlier years and recovered Rs.1.18 lakh involved in five of them.

A few illustrative cases including certain cases noticed in earlier years which could not be included in previous Reports involving Rs.6.28 crore are given in the following Paragraphs.

6.2 Non-raising/short raising of demands for water rate

Under the Karnataka Irrigation (Levy of Water Rate) Rules 1965, in respect of each crop or revenue year, as the case may be, one officer each from Revenue and Irrigation Departments, are required to jointly inspect and prepare a statement of survey numbers of lands to which water was supplied, made available or used for irrigation and the crops raised therein. On the basis of

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this statement, the Irrigation Officer prepares a demand statement of water rates payable by each landholder and sends it to the Tahsildar concerned for raising demand and making collections.

In six taluks of six districts, there was omission on the part of the Revenue Department to book and raise demand for water rate of Rs.36.06 lakh even after receipt of demand statements from the Irrigation Officers, as per details given below:

Sl. No.	Taluk (District)	Year/crop season to which demand relates	Date of receipt of demand statement from Irrigation Department	(Rupees in lakh)		Amount of non-booking
				Water rate demand booked		
				As per Irrigation Department	As per Tahsildar's records	
1	Bangalore (South) (Bangalore-Urban)	2000-2001	July 2001	1.84	-	1.84
		2001-2002	September 2002	1.79	-	1.79
2	Harapanahalli (Davanagere)	1998-1999	July 2002	0.45	-	0.45
		1999-2000		0.40	-	0.40
		2000-2001		1.41	-	1.41
		2001-2002		1.59	-	1.59
3	Hukkeri (Belgaum)	1998-1999	September 2000	1.68	1.00	2.51
		1999-2000		1.83		
4	Koratagere (Tumkur)	1996-1997 (Summer)	August 1997	2.56	-	2.56
		1997-1998 (Summer)	September 1998	0.65	-	0.65
5	Ron (Gadag)	1998-1999	NA	0.19	-	0.19
		1999-2000		0.36	-	0.36
		2000-2001		0.75	-	0.75
6	Shikaripura (Shimoga)	2000-2001	September 2001	21.56	-	21.56
	Total			37.06	1.00	36.06

NA – Not available

This would indicate that there was no internal control mechanism to ensure prompt raising of demands so as to ensure prompt recovery of Government dues.

These cases were pointed out to the concerned Tahsildars and Divisional Commissioner, Bangalore and referred to Government in April 2003; their replies have not been received (January 2004).

6.3 Non-raising of demands for penal water charges

Under the Karnataka Irrigation Act 1965, any person using water from an irrigation work without obtaining the required permission is liable to pay water charges at the rate to be determined by the Irrigation Officer, in addition to any penalty for such unauthorised use of water. With reference to the

demand statement received from the Irrigation Officer, demands are to be booked in the Demand, Collection and Balance Register and a copy of the demand statement furnished to the Village Accountant to serve demand notices on individual parties.

In Harihar taluk (Chitradurga district), according to the demand statements received by the Tahsildar from the Irrigation Department, penal water charges of Rs.5.24 crore for violation of cropping pattern and Rs.0.18 crore for unauthorised use of water for the years 1998-99 to 2000-2001, had been computed as due from the landholders. But the Tahsildar had not booked the amounts in his Demand, Collection and Balance Statement. Consequently, demand notices for their recovery had not been issued resulting in non-raising of demand for Rs.5.42 crore.

On this being pointed out, the Department reported in April 2003 that the demands had been accounted for in the Demand, Collection and Balance Statement. Report of recovery has not been received (January 2004).

The cases were referred to Government in May 2003; their reply has not been received (January 2004).

6.4 Short recovery of conversion fine

Under the Karnataka Land Revenue Act 1964 and the Rules framed thereunder, when any land assessed or held for the purpose of agriculture is permitted to be diverted for purposes other than agriculture, conversion fine is leviable. The rate of fine depends upon the area of the land, the place in which the land is situated and purpose for which the land is put to use.

In three⁹ taluks of two districts, conversion of 251127.839 square metres of agricultural land for residential purposes in 19 cases and conversion of 87613.9 square metres of agricultural land for non-residential purposes in eight cases were permitted between 1997 and 2002. Against the conversion fine of Rs.68.28 lakh leviable, only Rs.36.89 lakh were levied by the Deputy Commissioner/Assistant Commissioner. This resulted in short levy of Rs.31.39 lakh.

⁹ Anekal (Bangalore-Urban), K.R.Pura (Bangalore-Urban), Kushtagi (Koppal)

These cases were pointed out between December 2001 and January 2003 to the concerned Tahsildars and to the Divisional Commissioner, Bangalore and referred to Government in May 2003; their replies have not been received (January 2004).

6.5 Non-recovery/short recovery of premium/purchase price and interest from tenants/ grantees of land

Under the Karnataka Land Reforms Act 1961, all lands held by or in the possession of tenants of lands (i.e., agriculturists who cultivated personally the land held by them on lease from landlords) prior to March 1974 vest in the State Government. However, the Act entitled the tenants to be registered as occupants of such land. The Act also empowered authorised officers to grant surplus land vested in the State Government to specified class of persons. Such registration/grant was subject to payment of a premium/purchase price. The premium/purchase price was payable in a maximum of 20 annual instalments. The unpaid instalments carried interest at 5.5 per cent per annum and were recoverable as land revenue. There is no provision for resumption of land in cases of non-payment of premium/purchase price.

In Manvi taluk of Raichur district, it was noticed that 49 tenants registered as occupants of 987 acres and 12 guntas of land during 1975-1987 were liable to pay a premium of Rs.6 lakh against which only Rs.0.89 lakh had been recovered. Further, in Jewargi taluk of Gulbarga district, 236 grantees holding 1211 acres and 19 guntas of land during 1976-1988 were liable to pay purchase price of Rs.3.61 lakh against which only Rs.0.47 lakh had been recovered. This resulted in short realisation of Rs.18.77 lakh including interest of Rs.10.52 lakh. The amount had not been demanded by the Tahsildars from the occupants/grantees.

On this being pointed out, Government reported that suitable instructions had been issued to effect recovery of the amounts (January 2004).



CHAPTER VII

Other Tax Receipts

7.1 Results of audit

Test check of records of concerned departmental offices, conducted in audit during the year 2002-2003, disclosed short realisation or losses of revenue amounting to Rs.103.25 crore in 316 cases, under the following broad categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
Stamps and Registration Fees			
1	Non-levy/short levy of stamp duty and registration fees	49	0.86
2	Incorrect grant of exemption/concession	6	3.54
3	Other irregularities	22	3.71
	Total	77	8.11
Entry Tax			
1	Non-levy/short levy of tax	143	2.07
2	Incorrect grant of exemption	4	0.07
3	Non-levy of penalty	33	0.89
4	Other irregularities	11	0.16
	Total	191	3.19
Entertainments Tax, Luxury Tax and Professions Tax			
1	Non-levy/short levy of tax	38	0.21
2	Non-levy of penalty	6	0.01
	Total	44	0.22
Taxes and Duties on Electricity			
1	Short levy of electricity tax	2	0.62
2	Other irregularities	1	0.01
	Total	3	0.63
Other Taxes and Duties on Commodities and Services			
1	Non-remittances of cesses	1	91.10
	Total	1	91.10
	Grand Total	316	103.25

During the course of the year 2002-2003, the Departments accepted under-assessments of tax amounting to Rs.1.47 crore involved in 119 cases which had been pointed out in audit in earlier years and recovered Rs.1.46 crore involved in 95 of them.

A few illustrative cases involving Rs.95.24 crore are given in the following Paragraphs. Of this, Rs.29.74 lakh had been recovered.

Stamps and Registration Fees

7.2 Short levy due to incorrect exemption/concession

By an order issued in June 1999, Government exempted 50 per cent of the stamp duty and the entire registration fees leviable on instruments pertaining to sale of buildings constructed by Messrs. Information Technology Park Limited (ITPL), when transferred for the second time.

In the Sub-Registry, K.R.Puram (Bangalore-Urban district), two documents relating to sale of buildings by ITPL were registered during 2001-2002 after levying stamp duty and additional duty of Rs.2.76 crore and registration fees of Rs.220 only. Audit scrutiny revealed that these documents related to first sale of buildings constructed by ITPL and hence the concession of Rs.1.72 crore in respect of stamp duty and exemption of Rs.0.86 crore in respect of registration fees allowed was incorrect. This resulted in short levy of Government revenue by Rs.2.58 crore.

On this being pointed out, the Sub-Registrar stated in December 2002 that transfer of land by the Karnataka Industrial Areas Development Board (KIADB) to ITPL was the first transfer and subsequent sale by ITPL was the second transfer and hence exemption granted was in order. The reply is not tenable, as transfer of property to ITPL by KIADB was in the form of land and the properties transferred by ITPL were in the form of buildings constructed by ITPL and therefore, they could not be regarded as transfer for the second time.

The matter was reported to the Inspector General of Registration and Commissioner of Stamps in January 2003 and to Government in May 2003; their replies have not been received (January 2004).

7.3 Short levy due to incorrect determination of market value

Under the Karnataka Stamp Act 1957, 'market value' in relation to any property, which is the subject matter of an instrument, means the price which

such property would have fetched if sold in open market on the date of execution of such instrument or the consideration stated in the instrument, whichever is higher. Under the Act *ibid*, if the Registering Officer has reason to believe, having regard to the estimated market values published under the Act or otherwise, that the market value of the property has not been truly set forth, he may refer the matter to the District Registrar for determination of the market value of such property.

In Belgaum district, while deciding during June to September 2000, 67 under-valuation cases referred by Sub-Registrars, the District Registrar had determined the market value not as on the dates of execution of conveyances but as on the dates of agreements of sale made between May 1979 and July 1992. As a result, as against the aggregate market value of Rs.2.36 crore estimated by the Sub-Registrars at the time of referring the cases for determination of proper market value, the aggregate market value determined amounted to only Rs.0.75 crore, the reduction being Rs.1.61 crore. The incorrect adoption of the date for determination of market value had resulted in short levy of Rs.23.70 lakh.

On these cases being pointed out, the Inspector General of Registration and Commissioner of Stamps stated in May 2003 that determination of market value in the cases was made by the District Registrar in accordance with instructions issued by the Department in December 1998 according to which the market value was fixed as on the date of agreement of sale. The reply is not tenable as stamp duty was leviable on the market value on the date of execution and not on the date of agreement of sale as per the Act. This was also clarified by Government in their instructions issued in August 2000. Thus, instructions of 1998 were not in consonance with the provisions of the Act and resulted in a loss of Rs.23.70 lakh to Government.

The matter was reported to Government in May 2003; their reply has not been received (January 2004).

7.4 Short levy on lease-cum-sale agreements

Under the Karnataka Stamp Act 1957, duty on lease-cum-sale agreements executed by the Karnataka Industrial Areas Development Board in respect of industrial sheds and plots is leviable as for a conveyance. The market value for the purpose would be equal to the security deposit and the average annual rent reserved. Similar provisions exist for charging registration fees.

In two^ψ Sub-Registries, the market value in respect of three lease-cum-sale deeds registered during 1998-99 to 2000-2001 was Rs.1.36 crore. Against

^ψ Mysore and Ranebennur

stamp duty and registration fees of Rs.13.54 lakh leviable, only Rs.5.67 lakh was levied. This resulted in short realisation of Government revenue of Rs.7.87 lakh.

On this being pointed out, the Department accepted in August 2003 the audit observation in one case and issued notice for recovery of Rs.3.05 lakh. Report of recovery in this case and report of action taken in respect of the other two cases have not been received (January 2004).

The cases were referred to Government in June 2003; their reply has not been received (January 2004).

7.5 Short levy on lease deeds

Under the Karnataka Stamp Act 1957, duty on lease deeds for periods exceeding five years is leviable as for a deed of conveyance. The consideration on which the duty is leviable is to be computed in multiples of the average annual rent depending on the period of lease in addition to the premium or money advanced. Similar provisions exist for charging registration fees.

In the Sub-registry, Sandur, the consideration for levy of stamp duty and registration fees was incorrectly computed in respect of two lease deeds registered during May 1999 resulting in short levy of Rs.7.02 lakh.

These cases were pointed out between July and August 2002 to the Sub-Registrar and the Inspector General of Registration and Commissioner of Stamps and reported to Government in June 2003; their replies have not been received (January 2004).

7.6 Incorrect refund of stamp duty and non-levy of interest

Under the Karnataka Stamp Act 1957, a person aggrieved by the order of a Deputy Commissioner determining the market value is entitled to prefer an appeal to the Divisional Commissioner of the Revenue Division by deposit of 50 per cent of the difference in duty payable as determined by the Deputy Commissioner which would be refunded after the disposal of the appeal, if the stamp duty paid is found to be sufficient. Deficient duty as determined by the

Appellate Authority bears interest at 12 per cent per annum from the date of execution of the document.

In the District Registry, Bangalore (Urban), in respect of two appeals involving sale deeds executed in November 1998 wherein Rs.7.43 lakh had been deposited in December 2000, the Deputy Commissioner on remand of the cases had ordered in December 2001 refund of Rs.1.98 lakh, the balance amount of Rs.5.45 lakh being adjusted towards deficit stamp duty and registration fees. However, the entire amount of deposit of Rs.7.43 lakh had been refunded resulting in excess refund of Rs.5.45 lakh. Further, interest of Rs.1.19 lakh on differential stamp duty from November 1998 to December 2000 had not been demanded.

On these cases being pointed out, the Inspector General of Registration and Commissioner of Stamps reported in August 2003 recovery of the excess refunded amount of Rs.5.45 lakh. He also added that the District Registrar had been instructed to issue final orders for recovery of interest of Rs.1.19 lakh as arrears of land revenue. Further report has not been received (January 2004).

The matter was referred to Government in May 2003; their reply has not been received (January 2004).

Entry Tax

7.7 Non-levy /short levy of entry tax

Under the Karnataka Tax on Entry of Goods (KTEG) Act 1979, on entry of specified goods into a local area, tax is leviable at the rates notified from time to time.

In six⁼⁼ districts, while finalising between March 2001 and May 2002, 19 assessments of 14 dealers for the years 1996-97 to 2000-2001, entry tax of Rs.16.61 lakh due on machinery and their parts, light diesel oil, lubricants, diesel captive generation sets and raw materials used in the manufacture of other products was either not levied or levied short on the turnover of

⁼⁼ Bagalkot, Bangalore (Rural), Bangalore (Urban), Belgaum, Dakshina Kannada, Mysore

Rs.12.07 crore by 10 Assessing Authorities due to incorrect exemptions allowed, application of incorrect rate of tax, etc.

On these cases being pointed out, Government reported revision of assessments in 12 cases creating additional demand of Rs.11.19 lakh and recovery of Rs.6.51 lakh in six of them. In respect of the other cases, final replies have not been received (January 2004).

7.8 Non-levy of interest

Under the KTEG Act 1979, the tax or any other amount due is to be paid within the prescribed time which, in the case of final assessments, is 21 days from the date of service of demand notice. In case of default in making payments, the assessee was liable to pay, interest at prescribed rates.

In three districts, though 19 dealers had delayed the payment of the sums specified in the demand notices beyond 21 days of their service, eight Assessing Authorities had not levied the interest of Rs.87.08 lakh due, as detailed below:

(Rupees in lakh)					
Sl. No.	District	Period (Date of service of demand notice)	Number of assessees	Delay in payment of tax	Interest due
1	Bangalore (Rural)	1992-93 to 1997-98 (between February 2000 and January 2002)	5	18 days to 12 months	10.07
2	Bangalore (Urban)	1988-89 to 1998-99 (between June 1999 and September 2001)	13	1 to 33 months	72.07
3	Belgaum	1998-99 (November 2000)	1	11 months	4.94
		Total	19		87.08

On these cases being pointed out, Government reported creation of additional demand of Rs.17.51 lakh against 14 dealers and recovery of Rs.13.25 lakh in nine of them. In respect of the remaining cases, final replies have not been received (January 2004).

Taxes and Duties on Electricity

7.9 Non-levy of interest

Under the Karnataka Electricity (Taxation on Consumption) Act 1959,[#] every non-licensee[#] is liable to pay electricity tax at rates notified by Government for different classes of consumers in respect of energy consumed by him or supplied to others. The amount of electricity tax due in respect of every calendar month is to be credited by him into a Government Treasury within a period of 30 days from the end of that month. In case of default, he is liable to pay interest at 24 per cent per annum on the amount of tax due.

It was noticed from the records of the Chief Electrical Inspector (CEI), Bangalore in July 2001 that eight non-licensees had delayed payment of tax of Rs.1.98 crore relating to 2000-2001 by 9 to 121 days. Besides, two non-licensees had not credited tax of Rs. 11 lakh relating to July 2000 to March 2001 even as of June 2001. Though interest of Rs.6.27 lakh was leviable for non-payment/belated payment of tax, it was not levied by the CEI.

On these cases being pointed out, Government reported in November 2003 recovery of tax of Rs.1.80 lakh from one non-licensee and Rs.4.53 lakh towards interest from five non-licensees. Final replies in respect of other cases has not been received (January 2004).

Other Taxes and Duties on Commodities and Services

7.10 Non-remittance of cesses

Under the provisions of the Karnataka Compulsory Primary Education Act 1961 and the Karnataka Health Cess Act 1962 (as amended by the Karnataka (Enhancement of Certain Cesses) Act 1976), education cess and health cess are levied by the local authorities at the rates of 10 per cent and 15 per cent respectively on the property tax collected by them. After deducting 10 per

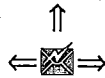
[#] a person - not being a licensee like the State Electricity Board - who generates energy for his own consumption or supply to any other person free of charge

cent of the cesses collected towards collection charges, the balance amount is required to be paid by them into the Government account.

A test check of records of the Bangalore Mahanagara Palike, the Bangalore Development Authority and eight[▽] City/Town Municipal Councils in Bangalore Urban Agglomeration revealed that out of Rs.104.96 crore collected by them on account of education and health cesses during the years 1997-98 to 2001-2002, Rs.94.46 crore were required to be deposited into the Government account. However, only two^{*} local bodies remitted Rs.3.36 crore against Rs.5.47 crore due from them. The others did not remit the amount into Government account. Thus, Rs.91.10 crore was being kept out of the Consolidated Fund of the State.

The Bangalore Mahanagara Palike stated that it was running a number of schools and colleges for which only salary expenses were being received from the Department of Public Instructions and that their maintenance out of its own funds had become a heavy burden. It also stated that it was running a number of hospitals and dispensaries for which it was not receiving any grant from Government. The other bodies have not furnished reasons for non-remittance (January 2004). The replies are not tenable as non-remittance of the cesses was contrary to the statutory provisions.

The cases were referred to Government in the concerned Departments in June 2003. Government (Education Department) reported (November 2003) that the authorities in the concerned local bodies had been reminded to remit the education cess and submit a report to Government; reply in respect of health cess has not been received (January 2004).



[▽] CMCs - Bommanahalli, Byatarayanapura, Dasarahalli, Krishnarajapura, Mahadevapura, Rajarajeswarinagar, Yelahanka and TMC-Kengeri

^{*} CMC, Bommanahalli and Bangalore Development Authority

CHAPTER VIII

Non-tax Receipts

8.1 Results of audit

Test check of records of the Forest, Mines and Geology, Public Works, Sericulture and Finance Departments, conducted in audit during the year 2002-2003, disclosed under-assessments, non-recovery/short recovery of revenue amounting to Rs.659.73 crore in 67 cases, under the following broad categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
Forest Receipts			
Review : Detection and disposal of forest offence cases			
1	Non-recovery/short recovery of lease rent and licence fee	6	7.28
2	Non-recovery/short recovery of taxes and royalty	11	3.15
3	Short collection of seigniorage rates, etc.	5	2.78
4	Other irregularities	6	100.31
	Total	28	113.52
Mineral Receipts			
1	Non-levy/short levy of dead rent	5	0.24
2	Non-levy/short levy of royalty	5	0.68
3	Other irregularities	5	0.32
	Total	15	1.24
Public Works Receipts			
1	Non-recovery/short recovery of royalty	2	5.78
2	Other irregularities	4	2.12
	Total	6	7.90

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
Sericulture Receipts			
1	Loss of revenue due to low yield of Cross Breed Disease-free Layings	10	0.50
2	Other irregularities	6	0.12
	Total	16	0.62
Miscellaneous General Services			
1	Non-recovery of guarantee commission	1	136.10
2	Review : Working of Karnataka Computerised Network (Online) Lottery Scheme	1	400.35
	Total	2	536.45
	Grand Total	67	659.73

During the course of the year 2002-2003, the Forest Department accepted under-assessments of Rs.0.27 crore in eight cases which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases involving Rs.639.40 crore including the results of two reviews, Detection and disposal of forest offence cases (Rs.95.96 crore) and Working of Karnataka Computerised Network (Online) Lottery Scheme (Rs.400.35 crore) are given in the following paragraphs. Of this, Rs.15.09 lakh had been recovered.

8.2 Review : Detection and disposal of forest offence cases

Highlights

The number of offence cases pending disposal increased from 32,346 at the beginning of 1997-98 to 42,737 at the end of 2000-2001 registering a rise of 32 per cent.

(Paragraph 8.2.6)

There were long delays in preparation of Enquiry Reports on the offence cases registered; during the period 1997-98 to 2001-2002, Enquiry Reports in only 10 to 16 per cent of the new cases were finalised within the prescribed time limit of 15 days.

(Paragraph 8.2.7)

Despite patrolling of 98 to 100 per cent Beats, the undetected cases formed 18 to 25 per cent of offences booked.

(Paragraph 8.2.8)

The pace of disposal of prosecution cases was very slow and showed a declining trend; during the period 1997-98 to 2001-2002. Out of 471 cases decided by Courts during this period, only 159 were in favour of Government.

(Paragraph 8.2.11)

Though damage caused to forests in cases of illicit felling and smuggling is required to be recovered from the offenders, such damage had not been assessed in any of the Enquiry Reports. The value of damages in the 15 Divisions test checked was estimated to be Rs.75.44 crore.

(Paragraph 8.2.12)

Over 92,111 hectares of encroached forest land continued to be in unauthorised occupation as of December 2002.

(Paragraph 8.2.19)

Introduction

8.2.1 Forests and forest produce in the State are governed under the Karnataka Forest Act 1963 (effective from June 1969) (hereafter called 'the Act') and the Karnataka Forest Rules 1969. The detailed procedures for working of the Department, including instructions for dealing with forest offence cases, are laid down in the Karnataka Forest Manual, the Karnataka Forest Code and the Karnataka Forest Account Code. The offences under the Act are classified into three broad categories, viz., offences against the forest itself^r, offences in relation to the forest produce in transit, and special offences. The detection of an offence involves direct and physical notice of the offence by the detecting agency, seizing the vehicles, tools and implements, if any, involved; and seizing the forest produce or other material involved.

Organisational set up

8.2.2 At the Government level, the general superintendence and control vests with the Forests, Ecology and Environment Department headed by the Principal Secretary. The Principal Chief Conservator of Forests (PCCF) who is the head of the Department, is responsible for the administration of forests as a whole. He is assisted by Chief Conservator of Forests (Protection and Management) and Additional Principal Chief Conservator of Forests (APCCF) (Vigilance). The Department has been divided into 13 Circles each headed by a Conservator of Forests. The Circles are divided into 98 Divisions comprising 37 Territorial, 12 Wildlife, 27 Social Forestry and 22 Others each headed by a Deputy Conservator of Forests (DCF) except 3 Wildlife Divisions which are headed by Assistant Conservators of Forests. The Divisions are sub-divided into Ranges each headed by a Range Forest Officer (RFO). The Ranges are further divided into Sections each in charge of a Forester. The Sections are again divided into Beats each looked after by a Forest (Beat) Guard. There are nine Forest Mobile Squads (FMS) under the charge of the APCCF (Vigilance) and 138 Check Posts.

Audit objectives

8.2.3 A test check was conducted with a view to ascertaining the adequacy and efficiency of the machinery for -

- (1) Detection, investigation and finalisation of forest offence cases;
- (2) Proper accounting and disposal of seized materials; and
- (3) Internal control mechanism regarding forest offences.

^r Trespass in a Reserved Forest or a Village Forest; cutting, collection and removal of forest produce and clearing or breaking up of any land for cultivation in a Reserved or Protected or Village Forest; hunting for wildlife; cattle trespass; and causing fire

Scope of audit

8.2.4 A Review was conducted from December 2002 to April 2003 by a test check of the records of 20* Divisions (15 Territorial Divisions and 5 Forest Mobile Squads) for the period from 1997-98 to 2001-2002 and a general scrutiny of the records of the PCCF. The important points noticed involving monetary effect of Rs.95.96 crore are narrated in the succeeding paragraphs.

Budget Estimates and Actuals

8.2.5 The receipts from forest offences are not separately classified in the Budget Estimates/accounts. The Budget Estimates and actual realisation thereagainst of the Department as also the total receipts, expenditure incurred on vigilance and realisation from forest offence cases (FOC) in respect of the test-checked Divisions for the years 1997-98 to 2001-2002 are given below:

(Rupees in crore)

Year	Budget Estimates	Actual	Total receipts of test-checked Divisions	Expenditure on vigilance	Receipts from FOC [∞] (Percentage of (4))
(1)	(2)	(3)	(4)	(5)	(6)
1997-1998	125.00	113.81	30.38	9.81	5.51 (18)
1998-1999	131.25	107.35	56.69	11.88	4.95 (9)
1999-2000	125.00	94.87	55.04	13.38	4.62 (8)
2000-2001	154.51	108.25	57.10	14.09	5.23 (9)
2001-2002	120.56	100.90	59.03	14.43	4.64 (8)

The receipts from FOC declined from 18 per cent of the total receipts in 1997-98 to 8 per cent in 2001-2002. While expenditure on vigilance increased by 47 per cent, there were reduction in receipts from FOC by 16 per cent over the period 1997-98 to 2001-2002.

* Territorial Divisions: Bangalore (Rural), Bangalore (Urban), Bhadravathi, Chickmagalur, Haliyal, Hassan, Hunsur, Kollegal, Koppa, Madikeri, Mysore, Sagar, Shimoga, Sirsi, Yellapur
Forest Mobile Squads: Bangalore, Hassan, Madikeri, Mysore, Shimoga

[∞] Sale proceeds of seized materials, compounding fee, fine, etc.

Status of offence cases

8.2.6 As per the Annual Administration Report of the Department, the year-wise position of booking and disposal of offence cases for the period from 1997-98 to 2000-2001 was as under:

(Rupees in crore)

Year	Opening balance	Number of cases booked	Number of cases disposed	Number of cases pending	Value recovered	Compounding fee recovered
1997-1998	32,346	24,497	22,216	34,627	2.58	2.24
1998-1999 [#]	34,627	23,079	18,033	41,290	2.16	1.31
1999-2000 [#]	39,940	21,639	18,781	42,798	2.76	1.15
2000-2001 [#]	43,087	19,135	19,506	42,737	2.45	1.31

[#] Arithmetical inaccuracies in adopting the opening balance and computing closing balances have not been reconciled by the Department.

The number of pending cases increased from 32,346 as on 31 March 1997 to 42,737 as on 31 March 2001 registering an increase of 32 per cent. The Department has not furnished (January 2004) the age-wise break-up and reasons for pendency of the cases.

Preparation and disposal of enquiry reports (ERs)

8.2.7 Under the Karnataka Forest Manual, if as a result of the First Information Report (FIR), the RFO has reason to believe that an offence has been committed, he is required to prepare an Enquiry Report within 15 days and forward the same with other records to the DCF for passing necessary orders for disposal of the case. Where a longer time is necessary to complete the investigation, a preliminary report has to be submitted to the DCF explaining the circumstances of the case and indicating when the ER would be made finally.

The number of FIRs for which ERs were due, the number of ERs prepared, balance of FIRs pending, the number of ERs disposed and balance of ERs pending are detailed below:

Year	FIRs (old + new) for which ERs are due	ERs prepared			ERs disposed of			(Numbers)
		Within 15 days (Percentage of new FIRs)	After 15 days	Total	Balance FIRs pending	ERs due for disposal	Disposals ordered	Balance ERs pending
1997- 1998	21224 (8913 + 12311)	1932 (16)	9036	10968	10256	19394*	10421	8973
1998- 1999	24798 (10256 + 14542)	1427 (10)	10302	11729	13069	20702	11901	8801
1999- 2000	23993 (13069 + 10924)	1434 (13)	9477	10911	13082	19712	11010	8702
2000- 2001	23110 (13082 + 10028)	1386 (14)	7408	8794	14316	17496	8929	8567
2001- 2002	24506 (14316 + 10190)	1490 (15)	8034	9524	14982	18091	8992	9099

* Includes opening balance of 8,426 ERs due for disposal as on 01.04.1997

ER: Enquiry Report

FIR: First Information Report

It could be seen that there were long delays in preparation of ERs and that only 10 to 16 per cent were finalised within the prescribed time limit of 15 days. Besides, no time limit had been fixed for disposal of ERs. The number of ERs pending disposal also increased from 8,426 as on 01.04.1997 to 9,099 as on 31.03.2002. In respect of delayed cases, information as to whether preliminary reports were submitted was not available.

Three cases where ERs were not drawn are indicated below:

- In Hanur Range (Kollegal Division), an offence case was booked (FOC 37/93-94) against nine police officials of the Special Task Force (STF) set up to nab Veerappan in August 1993 for illegally transporting beetle logs measuring 0.119 cubic metre in two Government vehicles. Enquiry Report had not been drawn till December 2002. Further, in 13 cases relating to the same Division for 1995-96, Enquiry Reports had not been sent so far. The value of the materials seized and details of whereabouts of the seized materials were not available for verification.
- In Madikeri Division, illegal mining of red pearls was noticed in 0.13 acres of forest land. Details of quantity of red pearl stones mined and its value were not assessed. The FOC had been pending since August 2001 and no ER was drawn.

Undetected cases

8.2.8 Where offenders involved in forest offence cases are not traced, the cases are recorded as 'undetected cases'. The property seized, if found in the forest and believed to belong to Government, is taken possession and disposed of. During the process of investigation and enquiry, any damage which might have been caused to the forest shall also be investigated and assessed. The amount of damage should invariably be recorded in the evidence report.

The number of Beats patrolled, undetected offences recorded during 1997-98 to 2001-2002 in the test-checked Divisions and FMS and the value of seized material involved are given below:

Year	Number of guards/Beats	Number of Beats patrolled (Percentage)	Total number of offences booked	Number of undetected cases (Percentage)	Value of seized material (Rupees in crore)
1997-1998	1154/ 1105	1088 (98)	12311	3033 (25)	2.70
1998-1999	1132/ 1097	1087 (99)	14542	2624 (18)	2.72
1999-2000	1129/ 1096	1092 (100)	10924	2340 (21)	2.84
2000-2001	1118/ 1096	1089 (99)	10028	2457 (25)	2.26
2001-2002	1120/ 1097	1088 (99)	10190	2476 (24)	2.46
Total				12930 (22)	12.98

As could be seen from the above table that though the Department had conducted 98 to 100 per cent patrolling of Beats, the percentage of undetected offences was high and ranged between 18 and 25 per cent indicating that the Department was not able to find or locate the offenders. Steps needed to be taken for improvement in patrolling to increase its effectiveness. Besides, only material available at the spot was recorded as Rs.12.98 crore and the actual damage caused to forest had not been assessed and valued.

Compounding of offences

8.2.9 The Act authorises the State Government to empower a Forest Officer to accept a sum of money not exceeding Rs.50,000 (Rs.5,000 up to 10 May 1998) by way of and precedent to the composition of the offence from any person suspected to have committed an offence (excluding wrongful seizure, counterfeiting or defacing marks on trees or timber, altering boundary marks and transactions involving sandalwood). When any property has been

seized as liable to confiscation, the Forest Officer is empowered to release the same on payment of the value thereof, as estimated by such officer till 10 May 1998 and as may be prescribed thereafter, but no rules of fixation have been laid down so far. Further, the Karnataka Preservation of Trees (KPT) Act 1976 also enables compounding of any offence under that Act on payment of 25 per cent of the value of the property involved.

According to the Karnataka Forest Manual, after orders of compounding are passed, the RFO shall issue a notice stating the amount of composition fee, value to be recovered for the produce involved and for the damages and the date before which it is to be paid which would be normally 30 days. If no money is paid, the only alternative would be to prosecute the party concerned.

During the course of audit, it was noticed that in seven Divisions, there was short realisation of Rs.53.09 lakh, as detailed below:

(Rupees in lakh)				
Sl. No.	Name/ of Divisions/ FMS (Number)	Period	Nature of observation	Short levy of compounding fee/value
1	DCF, Sirsi (1)	1997-98 to 2001-2002	As against Rs.10.57 crore due from compounding, during this period only Rs.10.47 crore was recovered. This resulted in short recovery of Rs.10.28 lakh in Sirsi Division. Prosecutions should have been pursued but was not done.	10.28
2	DCF, Mysore, Hassan, FMS Mysore, Madikeri (4)	1991-92 to 2001-2002	In 75 cases of compounding under the KPT Act, the value of produce was Rs.39.16 lakh. However, compounding fee and value recovered was only Rs.3.16 lakh resulting in short levy of Rs.36 lakh.	36.00
3	FMS, Bangalore (1)	1997-98 to 2001-2002	Penalty at 5 times of royalty is payable under Karnataka Minor Mineral Concession Rules 1994. However, while compounding 26 cases of illegal transport of 71.98 cum of granite involving royalty	4.00

(Rupees in lakh)				
Sl. No.	Name/ of Divisions/ FMS (Number)	Period	Nature of observation	Short levy of compounding fee/value
			of Rs.1.16 lakh, as against penalty of Rs.5.78 lakh due, only Rs.1.78 lakh was recovered resulting in short realisation of Rs.4 lakh.	
4	FMS, Mysore (1)	2000-2001	Against 11.49 cum of timber permitted, the permit holder transported 14.92 cum of timber. The timber carried in excess was not seized resulting in loss of Rs.2.81 lakh.	2.81
	Total			53.09

Prosecutions

The Forest Officer detecting an offence is required to send a copy of the FIR to the jurisdictional Magistrate. Where offenders are identified, charge sheets framed after preparation of Enquiry Reports by the RFO and orders of the DCF for prosecution are also sent to the Magistrate. If orders are to withdraw, a copy of the withdrawal order is sent to the Magistrate quoting the references of the FIR.

8.2.10 The number of prosecutions initiated and the number of disposals during the period 1997-98 to 2001-2002 were as under:

(Rupees in crore)					
Year	Opening balance	Additions	Total	Disposals	Closing balance
	Number of cases (Value of seizures)				
1997-98	1,710 (2.97)	1,644 (2.78)	3,354 (5.74)	150 (0.91)	3,204 (4.83)
1998-99	3,204 (4.83)	827 (2.00)	4,031 (6.83)	106 (0.58)	3,925 (6.25)
1999-2000	3,925 (6.25)	726 (0.91)	4,651 (7.17)	82 (0.13)	4,569 (7.04)
2000-2001	4,569 (7.04)	714 (0.72)	5,283 (7.76)	55 (0.29)	5,228 (7.47)
2001-2002	5,228 (7.47)	634 (0.60)	5,862 (8.08)	78 (0.67)	5,784 (7.41)

It would be seen from the above that the pace of disposals had been very slow and showed a declining trend. The number of cases pending disposal as on 31.03.2002 increased by 238 per cent as compared to 1997-98. Reasons for the declining trend of new prosecution cases have not been received (January 2004).

8.2.11 Out of 471 cases decided by the Courts during the period 1997-98 to 2001-2002, only 159 cases (34 per cent) were in favour of the Government and 312 cases were in favour of the accused. The success rate of prosecutions was only about one-third of the cases disposed of, for which no reasons were furnished by the Department.

Non-levy/non-assessment of damage to forest in cases of illicit felling and smuggling

8.2.12 According to the Karnataka Forest Manual, during the process of enquiry into an offence case, any damage caused to the forest is to be investigated and assessed. The extent of damage is to be invariably recorded in the evidence report and the value thereof as estimated by the departmental officials is also to be recovered from the offender.

The quantity of material seized during the years 1997-98 to 2001-2002 as furnished by 7 out of 15 Divisions test checked and its value were as under:

Year	Quantity (cum)	Value of seized property	Value of actual damage (Approximate)
		(Rupees in crore)	
1997-1998	5,033.683	3.32	10.58
1998-1999	3,686.525	2.74	9.81
1999-2000	3,885.709	3.42	8.81
2000-2001	2,487.801	2.33	8.01
2001-2002	3,752.816	2.29	9.46
Total	18,846.534	14.10	46.67

Audit scrutiny of records of these Divisions revealed that the Enquiry Reports contained data on only seized property. The value of actual damage was not recorded. The working of the value of actual damage was therefore not based on assessments in individual cases.

On proportionate basis, the value of actual damage in the remaining eight Divisions would work out to Rs.28.77 crore, as detailed below:

Year	Quantity (cum)	Value of seized property	Value of actual damage (Approximate)
		(Rupees in crore)	
1997-1998	3,453.481	1.87	7.26
1998-1999	2,540.654	1.85	6.77
1999-2000	1,562.492	1.50	3.54
2000-2001	2,479.150	1.29	7.98
2001-2002	1,279.482	1.28	3.22
Total	11,315.259	7.79	28.77

No action was taken by the Department for its recovery from the offenders.

Transportation of seized/confiscated material to depots

8.2.13 The forest produce involved in the offence and the vehicles, tools and implements, etc. used by the offender in the commission of the offence are to be seized at once and steps taken immediately to secure the seized property from being made away with.

During the course of audit, it was noticed that there were delays in transportation of seized materials to secured places, as detailed below:

Year	Transportation of seized materials					
	Within 3 months		After 3 months but before 6 months		After 6 months	
	Number of cases	Quantity (in cubic metres)	Number of cases	Quantity (in cubic metres)	Number of cases	Quantity (in cubic metres)
1997-1998	1,668	1,661.016	767	1,158.143	2,044	2,618.730
1998-1999	3,504	1,203.716	931	558.830	2,215	1,479.671
1999-2000	1,764	1,067.562	813	766.778	1,544	1,676.484
2000-2001	1,782	1,008.447	902	730.952	1,462	1,259.392
2001-2002	1,811	1,366.803	891	916.950	1,721	2,112.329

Delay in transportation of seized materials entailed loss of revenue as the materials were exposed to the vagaries of nature.

Stock accounting of seized property in depots

Every Depot Officer is required to maintain in the prescribed form a Register of Receipts, Disposals and Balance of Timber and other produce received at his Depot and a monthly return submitted to the DCF.

8.2.14 As per the Annual Administration Reports of the Department, 235.218 tonnes of sandalwood and 36,739.57 cum of timber were seized between 1997-98 and 1999-2000 and their value were Rs.7.11 crore and Rs.13.95 crore respectively. Details of quantity of forest produce in stock relating to seized materials and its value remaining with the Department but awaiting final disposal were not furnished.

8.2.15 During the course of audit of materials seized/confiscated, the following discrepancies in the accounts for the period 1997-98 to 2001-2002 were noticed resulting in short realisation of Rs.2.29 crore, as detailed below:

Sl. No.	Number of Divisions	Period	Description	Quantity of shortages	Value (Rupees in lakh)
1.	5	1987-88 to 2001-2002	Sandalwood of 78045.69 kg was seized but only 66466 kg were accounted for by the Department.	11,579.69 kg	53.85
2.	3	1991-92 to 2001-2002	Timber of 192.839 cum was seized against which 156.566 cum only was accounted for.	36.273 cum	7.29
3.	1	1999-2000 to 2000-2001	Closing balance of teakwood in two Ranges was 156.697 cum as on 31.03.2000 against which 123.177 cum was shown.	33.520 cum	9.56
4.	6	1985-86 to 2001-2002	Shortages found during physical verification by the Departmental officers- Sandalwood: 32,553.700kg Timber: 23.222 cum no action was taken to recover the shortages.		151.37 6.70
			Total		228.77

Disposal of seized and confiscated property

8.2.16 Under the Act, when there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, vehicles or cattle or any other property used in committing such offence are to be seized by any Forest Officer or Police Officer. Where the offence on account of which the seizure has been made is in respect of timber, ivory, canes, firewood or charcoal or gulmavu, dalchinni, bark or halmaddi belonging to the State Government or in respect of sandalwood, the property, including tools, etc., seized is to be ordered for confiscation by an officer authorised by the State Government in this behalf. In other cases, a report of seizure is to be made to the jurisdictional magistrate for trial.

During the course of audit, it was noticed that 53.278 cum of timber and 4,501.71 kg of sandalwood seized between June 1986 and August 2002 were not disposed of resulting in non-realisation of Rs.30.19 lakh, as detailed below:

Sl. No.	Division	Number of cases	Period	Quantity	Value (Rupees in lakh)
1.	FMS, Mysore	8	June 1986 to October 1994	3,195 kg of sandalwood	14.86
It was stated that the cases had been disposed of by the Court but the dates of disposal were not on record. Copies of the judgements were not obtained by the Department. The quantity remained undisposed of.					
2.	DCF, Mysore	6	1997-98	6.42 cum of teak	1.63
Reasons for non-disposal were not furnished.					
3.	DCF, Bhadravathi DCF, Chickmagalur, DCF, Koppa and DCF, Sagar	44	July 1989 to October 2002	1,306.71 kg of sandalwood	6.08
The material was recorded as stolen but details of action taken were not furnished.					
4.	DCF, Bhadravathi and DCF, Mysore	NA	1983-84 to 1995-96	30.749 cum of timber	1.96
The timber had deteriorated and could not be sold. Reasons for non disposal in time were not furnished.					
5.	DCF, Yellapur	3	1997-98 , 1998-99 and 2000-2001	16.109 cum of teak	5.66
Reasons for non-disposal were not furnished.					
	Total				30.19

In addition to the above, it was noticed that in Kanakapura under Bangalore (Rural) Division, 391 granite blocks were seized during 1993-94 to 1998-99. Their valuation was not done. Out of these, 313 blocks were stated to have been handed over to Karnataka State Forest Industries Corporation. However, neither acknowledgement nor details of recovery, if any, was forthcoming.

8.2.17 Section 63 of the Act empowers a Forest Officer to release seized vehicles, boats, tools, etc. on production of bank guarantee, equal to the value as estimated by such officer, which shall be renewable from time to time till the final disposal of the related criminal proceedings.

During the course of audit, it was noticed that 3810 vehicles were seized and 1164 were confiscated by the Department during the years 1997-98 to 2000-2001. The details of seized/confiscated motor vehicles for 2001-2002 were not furnished.

The number of confiscated motor vehicles released on production of bank guarantees (BGs) and number of vehicles for which BGs were not renewed and also, the value of vehicles where FOCs were pending in Courts (both with magistrate/DCF Courts) were not furnished.

A few irregularities noticed are as under:

- In eight^a Divisions, 42 vehicles seized in forest offences registered during 1984-85 to 2000-2001 had been released under the orders of the authorised officers by obtaining BGs for Rs.21.77 lakh. However, in these cases, the BGs, the validity of which expired during 1986-87 to 2002-2003, had not been renewed and kept valid.
- 13 vehicles valued at Rs.5.03 lakh seized in Madikeri and Hunsur Divisions between 1987-88 and 2000-2001 were released on BGs/indemnity bonds between November 1996 and May 2001. In these cases, orders were passed for confiscation and disposal of the vehicles. However, the vehicles had not been taken possession of or amounts realised (March/ April 2003).

Locking up of funds due to not obtaining permission from Courts for disposal of sandalwood

8.2.18 According to the Karnataka Forest Act 1963, when an order for confiscation of any property has been passed and such an order has become

^a Bangalore (Rural), Bhadravathi, Chickmagalur, Hassan (including FMS), Koppa, Mysore, Shimoga, Sagar

final, the property or its sale proceeds are to vest in the State Government free from all encumbrances.

The Hon'ble High Court of Karnataka had opined in September 2000 that it was for the authorities to seek permission from Criminal Courts for disposal of seized sandalwood in each case as there was likelihood of damage to seized sandalwood when retained for unduly long period. Based on the above directions, both Government and the PCCF instructed in September 2001 and November 2001 respectively to make appropriate applications to the trial Courts seeking release of seized sandalwood.

In 13^y Divisions, 368486 kg of sandalwood and in Madikeri Division 219.400 kg of sandal oil seized during 1978-79 to 2001-2002 were lying undisposed of. This resulted in locking up of Government revenue of Rs.17.39 crore. However, no efforts were made by six^z Divisions to obtain permission of the Courts for disposal of the property. Loss of revenue in the sale of seized sandalwood due to efflux of time is not ruled out.

On this being pointed out, the DCF stated that concerned Ranges would be asked to obtain the necessary permission of the Courts in light of the judgement.

Encroachment of forest land

8.2.19 The Act prohibits clearing of forest land for cultivation or any other purpose. It also stipulates that any person unauthorisedly occupying any forest land is to be summarily evicted. The cost of removal of any crop, building or other work and of all works necessary to restore the land to its original condition is recoverable from the encroacher. The Act, however, provided for declaration of forests as non-reserved forests by the State Government in case a resolution to that effect was passed by the State Legislature. By an amendment to the Act effective from 27 April 1978, this requirement was dispensed with for regularisation of unauthorised occupation made prior to that date. But, with the enactment of the Forest (Conservation) Act 1980 by the Government of India, the power of ordering use of any forest land for any non-forest purpose could be exercised by the State Government only with the prior approval of the Central Government.

The position of encroachment of land and evictions made as of December 2002 as furnished by the Department is given below:

^y Bangalore (Rural), Bhadravathi, Chickmagalur, Haliyal, Hassan, Hunsur, Kollegal, Koppa, Madikeri, Mysore, Sagar, Shimoga, Sirsi

^z Bangalore(Rural), Chickmagalur, Haliyal, Kollegal, Madikeri, Mysore

Period	Total encroachment		Evicted		Balance area to be evicted	
	Number of families	Area (Ha)	Number of families	Area (Ha) (Percentage)	Number of families	Area (Ha) (Percentage)
Prior to 27.04.1978	20,814	18,378.390	1,030	1,127.205 (6) [#]	19,784	17,251.185 (94) [#]
From 27.04.1978	1,24,938	97,182.376	18,589	22,321.986 (23) [#]	1,06,349	74,860.390 (77) [#]

[#] Percentage has been worked out with respect to actual encroached area.

Thus, more than three-fourth of the area encroached after 27.04.1978 still remained to be cleared.

8.2.20 215.89 acres of land notified as Reserved Forests spread over four villages (Byaravatti, Shirgur, Masakari and Avathi) of Avathi Hobli in Chickmagalur district were awarded as land grant in 1997-98 and onwards by Revenue authorities. The FOC for encroachment of forest lands were booked in 1998-99 and the matter is pending in Court (December 2002). The grant of land in reserve forests without the approval of Government of India was incorrect and the occupants did not vacate the land inspite of being asked by the Department. Thus, the offence could have been avoided had the Department not granted land to the occupants.

8.2.21 According to the Act, any person unauthorisedly occupying any forest land may be summarily evicted.

In Madikeri Division, forest land to the extent of 2439.43 acre held under lease was being used for 'Ek Sali*' crops, rubber plantations, water channels, etc. from as far back as 1910 in 20 cases without payment of lease rent of Rs.1.67 crore. Of these, in four cases eviction had been made while in 16 cases though eviction orders had been passed in September 2001, the lands measuring 2427.93 acres were yet to be resumed even as of March 2003.

Lack of internal control

A few illustrative cases of non-exercising/lack of internal control noticed during the course of Audit Review are mentioned below:

8.2.22 The Karnataka Forest Manual prescribes maintenance of FOC Registers by the Divisions/Ranges. The Karnataka Forest Department Code provides for submission of returns that should accompany the Annual Administration

* 'Ek Sali' means one year

Report of the Department. Information pertaining to 'Breaches of Forest Laws and Rules' is required to be furnished in Form-29 circle-wise along with other information. Such returns, if received, were not made available by the PCCF for audit scrutiny.

It was also noticed that there was improper maintenance of Forest Offence Registers at the Divisions/Ranges. In six[§] Divisions, entries regarding date of submission of enquiry reports had not been mentioned in the relevant columns of the registers. In three[¶] Divisions, the opening balance of offence cases had not been brought forward in the abstracts drawn up during 1997-98.

8.2.23 As per the Act, offences involving rosewood can not be compounded. However, 2.569 cum of rosewood valued at Rs.2.20 lakh were confiscated and the offence compounded during March 1996 by recovering Rs.7000 as fine. Compounding ordered was improper and instead prosecution should have been resorted to. This indicated that there was no control in monitoring of cases involving even cognizable offences.

8.2.24 Range Officers could compound a case involving produce valued up to Rs.50 and Assistant Conservator of Forests up to Rs.500. However, 294 cases were finalised between 1997-98 and 2001-2002 by five RFOs of Bangalore (Urban) Division by realising Rs.5.34 lakh though the value of material ranged between Rs.200 and Rs.36000 and thus beyond their powers of compounding. This indicated that powers for compounding were being misutilised and there was no check at the apex level to prevent such acts.

8.2.25 In 11 cases of Yellapur Division involving 5.105 cum of jungle wood valued at Rs.0.66 lakh, compounding was done by realising Rs.0.30 lakh. In the same Division, in 27 other cases involving 46.272 cum of teak wood valued at Rs.6.38 lakh, only Rs.0.13 lakh was realised on compounding. Thus the compounding fee levied for teak wood was Rs.281 per cum much less than Rs.5877 per cum levied in respect of jungle wood. This indicated that exercise of discretion was not judiciously made.

8.2.26 In the following cases Department, had failed to realise the value of forest produce due to its inaction. No monitoring was done at the apex level to ensure timely assessment, proper maintenance and disposal of forest produce.

- In 126 cases of two[★] Divisions for the years 1997-98 to 2001-2002 involving illegal quarrying/removal of stones, jelly, boulders, etc., compounding was ordered by realising Rs.2.10 lakh. The quantity of materials extracted was not assessed for realisation of value.
- In respect of 14 cases pertaining to the period 1977-78 to 1992-93 (DCF, Kollegal), no records were available either with RFOs or with Kollegal Division and the seized materials had been presumed to be lost, thus resulting in loss of Rs.8.65 lakh.

[§] Kollegal, Koppa, Mysore, Shimoga, Sirsi, Yellapur

[¶] Kollegal, Mysore, Yellapur

[★] Haliyal, Sagar

- In HD Kote Range (Mysore Division), during 1997-98 in 5 cases (FOC No.48,49,53,57 and 62 of 1997-98), though FOC numbers were assigned, no FIRs had been filed (January 2003) and blank FIRs had been enclosed to the Mahazar Report. Details of material seized/confiscated or disposed of were not produced to audit.
- Under the Karnataka Forest Manual, reporting of an offence case is required to be made to the concerned Magistrate as soon as possible. Further, under the Criminal Procedural Code where offender is punishable with fine and imprisonment, the period of limitation for drawing up of reports for prosecution is one year from the date of filing of FIR.

It was noticed that in 31 cases pertaining to three^e Divisions involving forest produce valued at Rs.5.40 lakh, charge sheets had been submitted to Courts after delays ranging from 13 to 55 months from the date of filing FIRs and hence, these cases had become barred by limitation of time. Though requests for condoning of delay were made, orders, if any, passed by the courts were not produced to Audit.

Recommendations

Test check revealed that there was laxity in the Department in monitoring the forest offence cases from the stage of their initiation to disposal. The success rate of prosecutions was very low. There were delays in transportation of seized materials and in disposal of confiscated materials. Discrepancies were noticed in accounting of seized forest produce. Records for watching the progress of cases were incomplete.

8.2.27 Government may consider taking following steps to enhance the effectiveness of machinery for prevention, detection and proper/timely disposal of forest offences.

- Ensure the preparation of Enquiry Reports within the prescribed time.
- Fix time-frame for disposal of Enquiry Reports and eventual finalisation of the cases.
- Analyse reasons for low success rate of prosecutions and strengthen standards of evidence and presentation of cases in Courts.
- Strengthen internal control mechanism to ensure exercise of discretion judiciously in composition cases and ensure proper accounting and disposal of seized/confiscated materials.

The points mentioned above were referred to Government in June 2003; their reply has not been received (January 2004).

^e Bhadravathi, Chickmagalur, Koppa

8.3 Review : Working of Karnataka Computerised Network (Online) Lottery Scheme

Highlights

Against the gross sale proceeds of Rs.256.13 crore realised by the Marketing Agent during the year 2002-2003 which was required to be remitted to Government on daily basis, the actual remittance amounted to only Rs.52.27 crore. On the shortfall of Rs.203.86 crore, the Marketing Agent was liable to pay interest of Rs.253.80 crore which had also not been demanded. Further, sale figures are based solely on the information given by the Marketing Agent and are not independently verifiable by Government.

(Paragraph 8.3.6)

According to the revenue sharing pattern agreed with the Marketing Agent, minimum assured revenue of Rs.62.50 crore was due to the Government till March 2003. Since the remittance was only Rs.50.14 crore, there was a shortfall of Rs.12.36 crore. Though this could have been realised from bank guarantees furnished by the Marketing Agent, the same was not done.

(Paragraph 8.3.7)

The value of prize money up to Rs.5000 each claimed to have been distributed by the Marketing Agent amounted to Rs.113.80 crore, for which no proof of payment was available. The Department had not ensured the correctness of the claim of the Marketing Agent.

(Paragraph 8.3.8)

Introduction

8.3.1 In order to augment resources for developmental activities of the State, Government introduced a lottery scheme under the Karnataka State Lottery Rules 1969 (reframed in 1983). In 1998, the Central Government enacted the Lotteries (Regulation) Act, 1998 to govern lotteries in India. Though the Act empowers the Central Government to give directions to the State Governments and to make rules to carry out the provisions of the Act, so far no directions/rules have been issued. However, the State Government, as authorised by the Act, replaced the existing rules by the Karnataka State Lottery Rules 1999, effective from September 2000, in conformity with the provisions of the Act. With a view to "curbing the menace of single digit lottery and fake lottery schemes arising out of paper lottery schemes", the Karnataka Computerised Network Lottery Rules 2001, effective from 16 May 2001 and hereafter called KCNL Rules, have also been brought into force. Thus, while the existing scheme of sale of pre-printed tickets under conventional lottery scheme conducted by the State Government continued, a

computerised network lottery, popularly called online lottery, has also been brought into operation.

In the conventional system, all lottery tickets are printed with numbers in advance and sold through agents. Customers pick up a ticket of their choice out of stock with the agent and there could not be two tickets with the same number. In the online system, though tickets are generated by using computers at the time of purchase with State logo, etc., the number of customers' choice depending on the scheme, is printed at the time of sale by retail outlets with computers (kiosks) linked to a Central Computer System Server/CCS. Hence, there could be more than one ticket with the same number. Further, in the conventional system, the prize money is decided in advance and printed on the tickets. If prizes are won by unsold tickets, lots are drawn again and the results are announced at the spot of drawing the lots as also in newspapers, etc. In the Computerised Network Online Lottery system, such provisions do not exist.

Background

8.3.2 Open tenders were called for appointment of Marketing Agent for Computerised Network Lottery by the Director of Small Savings and State Lotteries in May 2001 under 'two cover bid system' viz., technical and financial, from Indian companies having net worth of Rs.2000 crore. In response, three offers were received in July 2001. While one tenderer had not produced the requisite earnest money deposit of Rs. 50 lakh, another bidder had not been incorporated as a company and both these bids were rejected. Messrs. Ultra Entertainment Solutions Pvt. Ltd. (a private company with registered office at Mumbai), the third bidder, was appointed as the Marketing Agent for the online lottery scheme in March 2002. Under the terms of the agreement concluded in May 2002, to be valid for a period of five years, the financial commitment was to commence from the date of commercial operation. The Marketing Agent also appointed in June 2002 Messrs. Playwin Infravest Private Limited (another private company with registered office at Mumbai) as its sole sub-agent for providing all forms of infrastructure facilities, appointment of retailers, distribution network and marketing of online computerised lottery for the State. The commercial operations of the Scheme called "Lucky 3" started from 14 August 2002, after the Marketing Agent furnished a bank guarantee for Rs.1 crore. Though its currency expired on 13.02.2003, it had not been got renewed.

Organisational set up

8.3.3 According to the KCNL Rules, the scheme is to be administered by the head of the Finance Department (presently Principal Secretary). It is to be implemented by the Director of Small Savings and State Lottery. The draw is

to be conducted by a Committee consisting of the head of the Finance Department (as chairperson), the Director (as vice-chairperson), a person nominated by the State Government to represent the Marketing Agent, two persons appointed by the State Government, Secretary to Government in the Department of Information Technology with the Deputy Director of State Lottery as member-secretary.

Scope of audit

8.3.4 With the objective of ascertaining the extent of compliance with the agreement by the Marketing Agent and realisation of the anticipated revenue by Government as also observance of the provisions of the Lotteries (Regulation) Act 1998, a review of implementation of the online lottery scheme was conducted by a test-check of records of the Director during April-May 2003. The results thereof involving a financial implication of Rs.400.35 crore are given in the succeeding paragraphs.

Printing of tickets

8.3.5 According to the KCNL Rules, the printing of lottery material bearing the imprint and logo of the State is to be got done by the Director at any security printing press. Such pre-printed tickets bearing the facsimile signature of the head of the Finance Department are to be used at the retail terminal where tickets are sold after printing the numbers selected by the players.

However, in practice, the entire process of printing of tickets including providing thermal paper, printing of imprint, and facsimile signature as prescribed and printing the number of the buyer's choice were all being carried out by the retail outlets set up by the Marketing Agent. This procedure was unauthorised and reduced the security checks exercisable by the State Government on the quantum of paper used and the number of tickets printed for each 'draw'.

The Director stated in January 2004 that the procedure of printing the emblem and the facsimile signature instantaneously at the time of printing the selected numbers at the retail outlet was adopted since thermal paper on which the imprint would stay only for a short period had to be used.

Since the printed lottery tickets were to be preserved by the purchasers for claiming the prize and by the Department for record in support of the payment made after the 'draw', involving considerably longer time periods, this reply is not tenable.

Payment of sale proceeds

8.3.6 Under the KCNL Rules, the Marketing Agent was required to make payments of all the sale proceeds of lottery tickets to the treasury on every day with regard to the sale transactions of the previous day. For delayed payments, interest of one per cent per day was chargeable.

The Department had not independently collected details of the number of tickets sold and proceeds realised. On the basis of the information provided by the Marketing Agent, during the period from 14 August 2002 to 31 March 2003, a total of 230 'draws' were held by which the Marketing Agent realised Rs.256.13 crore. Though the entire amount was to be remitted to Government, the actual remittances amounted to Rs.52.27 crore (including State share, prize pool account and unclaimed prize amount) only as of 31 March 2003. On the short remittance of Rs.203.86 crore, interest of Rs.253.80 crore was chargeable but had not been demanded by the Director.

On this being pointed out, Government directed the Director of Small Savings and State Lottery in January 2004 to inform the Marketing Agent to pay the interest. Further report has not been received (February 2004).

Revenue sharing pattern

8.3.7 According to the agreement, the Marketing Agent is required to pay to the State Government a 'minimum assured revenue' which would be payable irrespective of the gross income from the sale of lottery tickets achieved during each year. This is to be worked out at the agreed percentage of gross income or as a specified fixed sum, whichever is higher and is to be paid during the term of the agreement. During the first year, the minimum assured revenue to the State Government was 21 per cent of the gross income subject to a minimum of Rs.100 crore. The proportionate minimum revenue till 31 March 2003 worked out to Rs.62.50 crore (being higher than Rs.53.79 crore at 21 per cent of total sales of Rs.256.13 crore).

The Marketing Agent was also required to provide, along with the agreement, a bank guarantee (BG) for 25 per cent of the 'minimum assured revenue' per year for each quarter within 15 days from the end of the previous quarter. The Marketing Agent had furnished four BGs for Rs.20 crore by the date of commencement of commercial operations on 14.08.2002 and one BG for Rs.5 crore subsequently on 02.11.2002. Of this, one BG for Rs.1 crore was not from a nationalised bank as required. Besides, its currency expired on 30.11.2002 and had not been got renewed. The agreement provided for realising the amounts of shortfall in remittance of the minimum assured revenue from BGs furnished by the Marketing Agent who was required to always maintain them at the prescribed level.

The actual amount remitted by the Marketing Agent was Rs.50.14 crore and fell short by Rs.12.36 crore, as detailed below:

(Rupees in crore)

Quarter	State's share due	Actual remittance	Shortfall
I (August-September 2002)	12.50	3.86	(-) 8.64
II (October - December 2002)	25.00	17.77	(-) 7.23
III (January-March 2003)	25.00	28.51	(+) 3.51
Total	62.50	50.14	12.36

The Department had not invoked BGs furnished by the Marketing Agent for realising the shortfall of any quarter.

The Director stated in May 2003 that the Marketing Agent had been requested to make good the shortfall in remittances of Government share along with interest. Further report has not been received (February 2004).

Verification of tickets and payment of prizes

8.3.8 According to the KCNL Rules, the Director is authorised to make payment against the prize winning tickets. For this purpose, he is required to receive the prize winning tickets for verification of genuineness and correctness of the claim. However, the Director is authorised to make arrangements with the Marketing Agent for payment of prizes of Rs.5000 and below. Accordingly, the agreement with the Marketing Agent provided for payment of prize amounts not exceeding Rs.5000 by the sub-agent/retailer subject to submission by the Marketing Agent to Government of all prize winning tickets for necessary verification.

According to the accounts rendered by the Marketing Agent, a total of Rs.113.80 crore had been disbursed by him (through sub-agent/retailers) on tickets winning prizes up to Rs.5000, amounting to 44.43 per cent of the total sale proceeds of Rs.256.13 crore. The Marketing Agent had not surrendered any of the prize winning tickets in these cases with date and signature on revenue stamp as also name and address of the prize winners as required under the agreement. Thus, the Department was not in possession of proof of payment of Rs.113.80 crore claimed to have been paid out in prize money by the Marketing Agent.

The Director stated in May 2003 that the Marketing Agent had expressed practical difficulty in collecting prize winning tickets of less than Rs.5000 sold all over India. The Director further stated in February 2004 that it was decided at Government level that vouchers for payment of prizes above Rs.5000 only should be retained.

The Department has not, therefore, ensured the correctness of the claim of the Marketing Agent regarding payment of prizes up to Rs.5000.

Unclaimed prize money

8.3.9 Under the KCNL Rules, prize moneys are to be claimed within 90 days from the date of 'draw'. The Director is authorised to entertain claims made within 30 days after such period where delays were for reasons beyond the control of the claimant. Prizes not claimed within the stipulated time limit become the property of the State Government. Under the terms of the agreement with the Marketing Agent, only after the delay is condoned by the Director/Deputy Director, the prize money would be paid to the claimant. Under no circumstances, the sub-agent/retailers are allowed to condone the delay and make payment.

In the 230 draws held up to 31 March 2003, prizes exceeding Rs.5000 payable only by the Director involving Rs.2.06 crore were won. So far, the Directorate had received from the Marketing Agent Rs.2.01 crore for payment of such prizes. Of the winning tickets, the claims received by the Directorate and paid out were only for Rs.1.86 crore, the remaining Rs.0.20 crore (10 per cent) constituting unclaimed prizes.

According to the Department, the Marketing Agent had remitted Rs.12.55 lakh towards unclaimed prizes of lower denomination (less than Rs.5000). However, in the absence of verifiable information regarding the total number of tickets winning prizes up to Rs.5000 and those for which payments had been made on behalf of the Marketing Agent, the correctness of this could not be ascertained. If unclaimed tickets of prizes up to Rs.5000 were also taken to be to the same extent as of prizes exceeding Rs.5000, the Marketing Agent was required to remit Rs.11.38 crore. Against this, only Rs.12.55 lakh was remitted. The correctness of this amount is even doubtful.

The Director stated in January 2004 that unclaimed prize amount could not be determined on a comparative basis and in the absence of an auditor, the figures given by the Marketing Agent were being accepted.

In the absence of any alternative basis of calculation, unclaimed prize money has been estimated on the comparative position of unclaimed prizes of higher denomination tickets. Securing remittance of sale proceeds of tickets on daily basis as required by the terms of the agreement would have automatically ensured retention of all unclaimed prize money with Government.

Utilisation of Prize Pool

8.3.10 Under the terms of the agreement with the Marketing Agent, during the first year of its operation, the Prize Pool was to comprise 45 per cent of the gross income from sale of lottery tickets. Since the number of tickets to be sold for each 'draw' was uncertain, the amount of prizes that could be won could be less or more than the Prize Pool. Neither the KCNL Rules nor the agreement specified the manner in which the surplus/deficit in the Prize Pool is to be dealt with.

During the 230 'draws' held up to 31 March 2003, while the sale proceeds were Rs.256.13 crore, the prize amounts totalled Rs.115.86 crore, working out to 45 per cent. An analysis in audit revealed that only in four 'draws', the prize amounts won worked out to exactly 45 per cent. In respect of 134 'draws', the Prize Pool was utilized to the extent of 13 to 44 per cent only. In the remaining 92 'draws', the utilization of the Prize Pool ranged between 46 and 127 per cent. This showed that the prize structure was faulty.

The Director stated in January 2004 that the Marketing Agent had been requested to bear the difference amount by which the Prize Pool exceeded 45 per cent and to remit the difference amount by which the Prize Pool was less than 45 per cent.

Omission to deduct income-tax at source

8.3.11 Under the Income-tax Act 1961, where any payment is made by way of commission/remuneration to a person who is or has been stocking, distributing or selling lottery tickets, income-tax at the rate of 10.5 per cent (including surcharge) is to be deducted from the payments made to him.

In terms of the agreement with the Marketing Agent, during the first year of operation, he is entitled to a commission of 34 per cent of the gross sale proceeds. During the period up to 31 March 2003, the gross sales amounted to Rs.256.13 crore. The commission to which the Marketing Agent was entitled was approximately Rs.87.08 crore. On this, the income-tax deductible was Rs.9.14 crore. Since the Department did not ensure remittance of the entire sale proceeds to Government as stipulated in the agreement, and no payments to the Marketing Agent had been made, no deduction of income-tax at source could be made. The Department did not even insist for remittance of Rs.9.14 crore by the Marketing Agent to enable it to discharge its obligation of making deduction of income-tax at source.

The Director stated in January 2004 that since no commission was paid to the Marketing Agent by the Department, no tax was deducted at source. He further stated that the Marketing Agent would be requested to remit income-tax at the rate applicable.

Conduct of 'draws' and declaration of prizes

8.3.12 According to the KCNL Rules, the 'draw' is to be conducted by the State Government in public at a place located in the State in the presence of the Committee. The result of the 'draw' is to be announced under the signature of the Director and released to the Press by the Marketing Agent. All records, including the register in which the results are entered and attested by the Committee members are to be in the custody of the Director. Wide publicity is to be given to the results of the 'draw' including through 'live' telecast of the 'draw' process. However, publication in the Official Gazette or in other manner decided by the State Government constituted the official announcement of the results.

In practice, the 'draw' was being held at a recording studio in the presence of a representative of the Director, the process including announcement of the results being only telecast 'deferred live' on a private television channel. Thus, the process of conducting the 'draws' and the announcement of the results were in contravention of the Rules.

Non-appointment of auditors/technical experts

8.3.13 The KCNL Rules empowered the State Government to appoint a chartered accountant or any other person with requisite qualifications to conduct an independent audit of all accounts pertaining to the lottery. The Rules also empowered the State Government to appoint computer engineers or experts to conduct audit and inspection of the computer system network installed by the Marketing Agent to check and count the tickets being sold, to detect computer-related errors, mistakes, frauds, misuse, data manipulation, etc.

In order to protect the interests of the Government and the public, these appointments were to be made before the commencement of the commercial operations. However, as of February 2004, i.e., even 18 months after the commencement of commercial operations, no appointments in this regard had been finalised by the Government. Thus, the authenticity of the data/information furnished by the Marketing Agent to Government and the integrity of the system was not ascertainable.

Delay in deposit of Escrow

8.3.14 According to the agreement with the Marketing Agent, before the start-up of operation or at any time as decided by the Director, the Marketing Agent was required to deposit Escrow at Bangalore, with mutually agreed persons,

the source programmes, programme documentation, operation manuals, service manuals and written procedures along with programme source and object code of all software programmes.

Deposit of Escrow was, however, made only on 28.05.2003, over nine months after commencement of the commercial operations and turnover of over Rs.250 crore.

Monitoring

8.3.15 According to the agreement, the Marketing Agent was required to establish a Central Computer System (CCS) comprising a system of multiple computers installed for diverse functions of computing data, communication, ticket transactions, prize amount calculation, etc. The agreement did not specify the place of location of the CCS. The Marketing Agent had established the CCS at Mumbai from where all operations were controlled. The Marketing Agent was also required to locate a CCS Interface at Bangalore. As per the agreement, the area of location of the interface was to be declared as 'secure area' for the purpose of maintaining the security of the lottery. The Directorate did not make available log book for the CCS Interface with details of entries recorded, dates of inspection of the log book by the officials of the Directorate with copies of inspection notes.

- The Marketing Agent was required to provide an online system to indicate all tickets sold anywhere in the country, on day-to-day basis from the data stored at the CCS duly authenticated by the Marketing Agent. This was to be conclusive evidence of having sold those tickets to the players. These ticket lists were to indicate serial number, code number or validation number of the retail outlet, date and time of issue and the numbers chosen by the players in the same order as has been issued by the network. Such list was to be drawn up till the time and date of 'draw break'[¶]. Any prize winning ticket received for payment of prize was not to be paid, if such ticket was not found in the list.

Though an online system had been set up, no independent verification of the information furnished by the Marketing Agent was possible in the absence of an auditor/technical expert.

- According to the agreement, the Marketing Agent is required to provide a plan of retail distribution network with complete addresses of retailers both within and outside Karnataka.

[¶] 'Draw break' means the date and time at which lottery tickets of a scheme cease to be sold prior to the draw for such scheme being held.

The records made available to Audit did not show that the Directorate had made periodical inspections of the outlets to ensure compliance of the terms of their setting up.

Conclusion

8.3.16 According to the Act, the State Government was required to print the lottery tickets in such manner that the authenticity of the lottery was ensured. The State Government was also required to itself conduct the 'draws' of all the lotteries.

Since the printing of the lottery tickets and conducting of 'draws' were not being done by the Government and in the absence of an independent management information system, Government had virtually no control over the operations. Hence, the Lucky 3 Scheme operated in the State was only State-authorised and not State-organised and hence was in contravention of the Act.

The provisions in the agreement including those relating to remittances to Government of the sale proceeds and the minimum assured revenue were not complied with by the Marketing Agent. Therefore, Government also did not realise the anticipated revenue.

Recommendations

8.3.17 According to the Director, the KCNL Rules were framed well before the commencement of the Online Lotteries and proposals to amend several clauses of the Rules were pending with Government. Based on the above observations, Government may consider redrafting terms and conditions of the agreement to favour Government revenue and also put in place an effective and efficient control mechanism to ensure timely revenue collection.

The points mentioned above were reported to Government in June 2003; their reply has not been received (February 2004).

Forest Receipts

8.4 Non-levy of transport pass fee

According to the Karnataka Forest Rules 1969, the transport or movement of any forest produce (which includes all products of mines) is to be covered by a pass. Under the Rules, no pass should cover more than one load, irrespective of the mode of conveyance. The fee for issue of a pass was Rs.5 from December 1983 and Rs.15 from November 1997 for 30 cubic meter (approximately 10 tonnes) load of produce transported.

Messrs. Kudremukh Iron Ore Company Limited, engaged in extraction of iron ore on a mining lease covering 4605 hectare of forests in Chickmagalur district from July 1969, removed 90388000 tonnes of concentrate during the years 1983-84 to 2001-2002 for export. At the rate of 10 tonnes per load, 9038800 transport passes were to have been obtained by them. However, no pass had been obtained. The Department had also not insisted on compliance of the requirement. While allowing transport of minerals without pass was incorrect, it also deprived Government of the fee of Rs.6.66 crore.

On this case being pointed out the Principal Chief Conservator of Forests reported in July 2002/April 2003 recovery of Rs.50 lakh and also raised demand for recovery of the balance amount.

The matter was referred to Government in June 2003; their reply has not been received (January 2004).

Mineral Receipts

8.5 Non-recovery of royalty

Under the Karnataka Minor Mineral Concession Rules 1994 which govern the levy of royalty in respect of minor minerals, royalty is to be paid before removal of the mineral from the site. In respect of works executed on behalf of Government where minerals like metal, sand, jelly, murrum, etc. are used, royalty is required to be recovered from the bills for work done payable to the contractor. In March 1997, Government issued circular instructions duly stating the position of law that where providing material was the responsibility of the contractor and the Department provided the contractor with specified

borrow areas for extraction of the required construction material, the contractor would be liable to pay royalty charges.

It was noticed in the office of the Executive Engineer, National Highways Division, Belgaum that in respect of 50 bills passed for payment between May 2001 and March 2002 relating to 16 contractors for various works, royalty charges in respect of minor minerals amounting to Rs.32.69 lakh had not been recovered. In three other cases, Rs.1.55 lakh recovered had been held under 'Deposits' instead of being credited as revenue. Non-deduction of royalty was incorrect and resulted in non-recovery of Rs.32.69 lakh.

On these cases being pointed out, Government intimated in October 2003 recovery of Rs.15.09 lakh from 14 contractors and stated that notices for payment had been issued to the remaining two contractors for payment of the balance amount. Further report has not been received (January 2004).

Miscellaneous General Services

8.6 Non-recovery of guarantee commission

In exercise of the powers conferred by Article 293 of the Constitution of India, the State Government guarantees the repayment of loans obtained by public sector undertakings, statutory boards and corporations and certain other bodies. Under the Karnataka Ceiling on Government Guarantees Act 1999, a commission of a minimum of one per cent is to be charged by Government from the beneficiary institution in all such cases. Though the Act does not specify the manner of its computation and the periodicity of payment, according to the guidelines of Government in Finance Department issued in September 1969, the amount of commission chargeable is calculated on the actual amount of loan due and outstanding, including interest, at the end of each month and is to be paid once in six months. The Act prohibits waiver of the commission under any circumstance. Watching the recovery of the commission on the due dates is the responsibility of the concerned Heads of Departments.

Test check of records of four Departments showed that as of March 2003, guarantee commission levied at one per cent aggregating Rs.136.10 crore was outstanding for payment by five bodies, as detailed below:

Audit Report (Revenue Receipts) for the year ended 31 March 2003

(Rupees in crore)			
Sl. No.	Department/ Name of the body	Sums guaranteed outstanding on 31 March 2003	Amount of guarantee commission
Commerce and Industries			
1	Karnataka State Industrial Investment and Development Corporation Limited (KSIIDC)	346.54	0.76
Remarks : The dues of KSIIDC related to the period 1999-2000 (Rs.0.58 crore), 2000-2001 (Rs.0.16 crore) and 2001-2002 (Rs.0.02 crore). Though it had made provision for the entire liability in its accounts, it had sought from Government in May 2002 clarification as to the period over which the commission was payable. Despite Finance Department's guidelines of September 1969 which clearly lay down the periodicity of payment of the commission, clarification had not been received by it even of October 2003, and the amount remained outstanding.			
2	New Government Electric Factory Limited (NGEF)	3.53	3.08
Remarks : According to NGEF, it had incurred losses continuously, stopped production activities since December 2002 and was unable to remit the commission due to Government. As of June 2003, the dues were awaiting settlement before the Board of Industrial and Financial Reconstruction (BIFR).			
Home and Transport			
3	Karnataka State Road Transport Corporation (KSRTC)	34.80	10.22
Remarks : KSRTC had reported to Government in June 2003 of its decision to clear its liability in monthly instalments over a period of three years; orders of Government had not been received (January 2004).			
Urban Development			
4	Karnataka Urban Water Supply and Drainage Board (KUWSDB)	590.85	13.33
Remarks : In respect of KUWSDB, the guarantees related to loans obtained by it for implementation of water supply and underground drainage works. The guarantee commission was payable by the municipalities for whom the works were carried out. KUWSDB was made responsible to arrange for proper and due remittance of the commission to Government.			
KUWSDB stated that since ULBs had not paid the commission dues, it could not clear the arrears and that this fact had been reported to Government. It added that the matter would be taken up with ULBs for early settlement.			
Water Resources			
5	Krishna Bhagya Jala Nigam Limited (KBJNL)	4,044.99	108.71
Remarks : In respect of KBJNL, it was noticed that fresh guarantees were sanctioned during 2001-2002 for Rs.900 crore and during 2002-2003 for Rs.1055 crore even when commission of Rs.21 crore and Rs.57.02 crore were outstanding for 2000-2001 and 2001-2002. Government stated that there was no specific provision in the Act to deny issue of fresh guarantees in such cases. Government also stated that KBJNL's request for waiver of commission had been turned down.			
Total		5,020.71	136.10

Neither the Act nor the sanctions issued for standing guarantee specified the consequences of non-payment of the commission on the due dates, such as

levy of interest and disqualification for fresh guarantees, and hence there was no deterrence.

The matter was referred to Government in June 2003; their replies have not been received (January 2004).

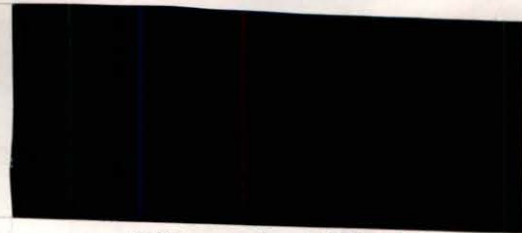
Sudha Krishnan

(Sudha Krishnan)
Accountant General (Audit)-II
Karnataka

Bangalore
The

17 JUN 2004

COUNTERSIGNED



New Delhi
The

18 JUN 2004

(Vijayendra N.Kaul)
Comptroller and Auditor General of India

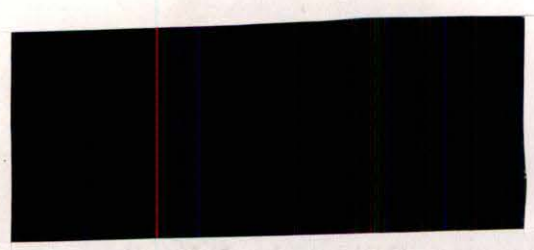
Chapter III - The State

1. The State is a political entity which is sovereign and independent.

2. The State is a legal entity which is recognized by the law.

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5. The State is a political entity which is sovereign and independent.

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