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REPORT
OF THE
COMPTROLLER AND
AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2003

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

Presented on 8/6/04
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Prefatory Remarks

This Report for the year ended 31 March 2002 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, land revenue, taxes on motor vehicles, stamps and registration fees, other tax and non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2001-2002 as well as those noticed in earlier years, which could not be included in previous Reports.

Overview

This Report contains 36 paragraphs including 3 reviews relating to non-levy/short levy of taxes, duties, interest and penalty, *etc.*, involving Rs 493.85 crore. Some of the major findings are mentioned below:

1. General

- The total receipts of the State during the year 2001-2002 amounted to Rs 29976.53 crore of which revenue raised by the State Government was Rs 25826.30 crore and receipts from the Government of India were Rs 4150.23 crore. The revenue raised by the State Government comprised tax revenue of Rs 21287.64 crore and non-tax revenue of Rs 4538.66 crore. The revenue raised constituted 86 *per cent* of the total receipts of the State and showed an increase of 2 *per cent* over the previous year 2000-2001.

- The receipts from the Government of India included Rs 2468.76 crore on account of State's share of divisible Union taxes and Rs 1681.47 crore as Grants-in-aid, registering a decrease of 11 *per cent* and increase of 15 *per cent* respectively over 2000-2001. The decrease in the State's share of divisible Union taxes was due to decrease in share of net proceeds assigned to the State.

{Paragraph 1.1}

- While there was an increase of 14 *per cent* in the tax revenue during the year 2000-2001 over 1999-2000, the tax revenue in the year 2001-2002 showed an increase of only 8 *per cent* over the year 2000-2001. Sales tax receipts of Rs 12131 crore amounted to 57 *per cent* of the tax revenue collected during the year 2001-2002.

{Paragraph 1.1 (a)}

- As against an increase of 43 *per cent* in the non-tax revenue in the year 2000-2001 over 1999-2000, the non-tax revenue in the year 2001-2002 showed a decrease of 19 *per cent*. The decrease was due to lower collections under interest receipts (42 *per cent*) and receipts under other administrative services (43 *per cent*).

{Paragraph 1.1(b)}

- At the end of 2001-2002, the arrears in respect of some taxes administered by the departments of Finance, Home and Energy amounted to Rs 5140.68 crore of which Sales Tax *etc.*, alone accounted for Rs 5115.59 crore.

{Paragraph 1.5}

- In respect of the taxes administered by the Finance Department, such as Sales Tax, Profession Tax and Tax on Works Contracts, *etc.*, 9.36 lakh assessments were completed during 2001-2002, leaving a balance of 25.97 lakh assessments as on 31 March 2002.

{Paragraph 1.6}

- Test check of records of Sales Tax, State Excise, Motor Vehicles Taxes, Stamp Duty and Registration Fees, Land Revenue and other departmental offices conducted during the year 2001-2002 revealed under-assessment, short levy, loss of revenue, *etc.*, amounting to Rs 780.51 crore in 32174 cases. The departments concerned accepted under-assessment, short levy, *etc.*, of Rs 54.41 crore in 8701 cases pointed out in 2001-2002 and earlier years and recovered Rs 49.83 crore.

{Paragraph 1.10}

- 15399 paragraphs involving Rs 796.61 crore relating to 6040 inspection reports issued upto 31 December 2001 remained outstanding at the end of June 2002.

{Paragraph 1.11}

2. Sales Tax

- **Maharashtra Rajya Kar Vivad Nivaran Yojana, 1999**

Sales tax and other tax arrears (excluding works contract tax and lease tax) cleared under the scheme was only 12 *per cent*. Therefore, the scheme did not achieve the primary objective of liquidation of arrears.

{Paragraph 2.2.3(i)}

Incorrect computation of tax arrears due to adjustment of part payment towards tax only, resulted in under-assessment of tax to the extent of Rs 1.38 crore.

{Paragraph 2.2.4}

Extension of the benefit under the scheme to 4 dealers who had collected taxes separately resulted in irregular waiver of tax and interest amounting to Rs 6.70 crore.

{Paragraph 2.2.5}

Government was not aware of the exact quantum of arrears available for clearance under the scheme due to non-reconciliation of the figures of arrears as per records of the divisions and at the Commissionerate.

{Paragraph 2.2.8}

- Incorrect grant of set-off under various provisions resulted in under-assessment of Rs 12.02 crore.

{Paragraph 2.3}

- Incorrect deduction of turnover of sales of capital assets from the taxable turnover resulted in under-assessment of Rs 4.04 crore.

{Paragraph 2.5}

3. Taxes on Motor Vehicles

- Failure to prefer cases of traffic offences to the Court in time resulted in loss of revenue of Rs 22.79 crore to Government.

{Paragraph 3.3}

4. Stamps and Registration Fees

- Adoption of incorrect value and incorrect classification of a document resulted in short levy of stamp duty of Rs 2.04 crore.

{Paragraph 3.4(i)}

- Incorrect classification of 15 instruments resulted in short levy of stamp duty of Rs 2.21 crore (including interest).

{Paragraph 3.8}

5. Land Revenue

- **Review on encroachment on Government land in major cities other than Mumbai**
- The review revealed the following:

Failure of the department to evict 3285 encroachments or regularise them resulted in non-levy of occupancy price of Rs 64.97 crore.

{Paragraph 4.2.5}

On regularisation of the encroachments, occupancy price, penal occupancy price, penal non-agricultural assessment and fine of Rs 0.27 crore was not recovered from four encroachers.

{Paragraph 4.2.6}

Penal lease rent of Rs 9.68 crore was not levied against unauthorised occupants of Government land after expiry of lease period.

{Paragraph 4.2.7}

Revenue free land valued at Rs 21.28 crore granted for educational purpose was misutilised by two societies.

{Paragraph 4.2.8}

Non-recovery of over due instalments of loans, sanctioned under the Sanjay Gandhi Swawalamban Yojana, as arrears of land revenue in 15 districts amounted to Rs 6.91 crore.

{Paragraph 4.3.2}

Lack of pursuance of revenue recovery certificates issued in 61915 cases to revenue authorities concerned resulted in non-collection of Rs 45.89 crore.

{Paragraph 4.3.4}

Failure to initiate action after issue of attachment order in two revenue recovery certificate cases resulted in non-recovery of Rs 1.91 crore.

{Paragraph 4.3.5}

6. Other Tax Receipts

A. Taxes and Duties on Electricity

- **Review on levy and collection of electricity duty and fees**
- The review revealed the following:

  Due to incorrect application of rate there was short recovery of duty of Rs 4.44 crore.

  {Paragraph 5.2.8}

  Electricity duty amounting to Rs 1.57 crore was not recovered on energy consumed by a unit.

  {Paragraph 5.2.9}

  Non-inspection of lifts and electrical installations not only jeopardised public safety but also resulted in non-realisation of inspection fees of at least Rs 2.98 crore.

  {Paragraph 5.2.12}

B. Education Cess and Employment Guarantee Cess

- Non-remittance of education cess and employment guarantee cess collected between 1997-98 and 2000-2001 by seven Municipal Corporations amounted to Rs 104.92 crore.

  {Paragraph 5.3.4}

C. Entertainments Duty

- Despite failure to fulfill prescribed conditions, 8 films were exempted from entertainments duty. The revenue forgone by Government during the years from 1999-2000 to 2001-2002 amounted to Rs 4.57 crore.

  {Paragraph 5.6}

D. Repair Cess

- Non-remittance of repair cess collected during the period from August 2000 to March 2001 by the Brihan Mumbai Municipal Corporation to Government Account amounted to Rs 31.78 crore.

  {Paragraph 5.8}

E. Tax on Buildings (With larger Residential Premises)

- Non-remittance of tax on buildings with larger residential premises recovered by two offices of the Brihan Mumbai Municipal Corporation during periods falling between April 2000 and March 2001 amounted to Rs 1.17 crore.

  {Paragraph 5.10}

7. Non-Tax revenue

- **Review on receipts of the Police Department**
- The review revealed the following :

Demand for recovery of cost of police of Rs 3.90 crore was not raised for deployment of police personnel.

{Paragraph 6.2.7(a)}

Escort/guard charges amounting to Rs 131.13 crore for the period from 1996-97 to 2000-01 remained unrecovered.

{Paragraph 6.2.7(b)}

Under-assessment of cost of police of Rs 2.32 crore was noticed due to non-inclusion of elements of leave salary and pension contribution.

{Paragraph 6.2.8}

Licence fee at enhanced rate amounting to Rs 2.38 crore was not recovered from star hotels performing dance, disco and stage play.

{Paragraph 6.2.9}

CHAPTER 1 : General

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Maharashtra during the year 2001-2002, 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 two years are given below:

(Rupees in crore)

		1999-2000	2000-2001	2001-2002
I.	**Revenue raised by the State Government**			
(a)	Tax revenue	17264.95	19726.94	21287.64
(b)	Non-tax revenue[1]	3914.78	5579.94	4538.66
		(3936.87)	(5596.26)	(4655.08)
	Total	**21179.73**	**25306.88**	**25826.30**
		(21201.82)	**(25323.20)**	**(25942.72)**
II.	**Receipts from the Government of India**			
(a)	State's share of divisible Union taxes	2608.67	2781.01	2468.76
(b)	Grants-in-aid	1458.98	1462.71	1681.47
	Total	**4067.65**	**4243.72**	**4150.23**
III.	**Total receipts of the State**	**25247.38**	**29550.60**	**29976.53**
		(25269.47)	**(29566.92)**	**(30092.95)**
IV.	**Percentage of I to III**	**84**	**86**	**86**

[1] Lottery receipts included in non-tax revenue are net of expenditure on prize winning tickets.

Figures in brackets indicate gross receipts.

Note : For details, please see Statement No. 11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Maharashtra for the year 2001-2002. Figures under the head "0020-Corporation Tax, 0021 - Taxes on Income other than Corporation Tax, 0028- Other taxes on Income and Expenditure, 0032 – Wealth Tax, 0037 – Customs, 0038 – Union Excise Duties 0044- Service Tax, 0045- Other taxes and duties on commodities and services" - share of net proceeds assigned to States booked in the Finance Accounts under tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this Statement.

(a) The details of tax revenue raised during the year 2001-2002 alongwith the figures for the preceding two years are given below:

(Rupees in crore)

	Head of Revenue	1999-2000	2000-2001	2001-2002	Percentage of increase (+) or decrease (-) in 2001-2002 over 2000-2001
1.	Sales Tax				
	(a) State Sales Tax *etc.*	8853.84	10331.08	10071.89	(-) 3
	(b) Central Sales Tax	1655.18	1865.31	2059.50	(+) 10
2.	State Excise	1875.68	1779.51	1787.26	Negligible
3.	Stamps and Registration Fees	1939.83	2200.92	2442.68	(+) 11
4.	Taxes and Duties on Electricity	377.71	933.59	1034.26	(+) 11
5.	Taxes on vehicles	708.30	785.84	947.79	(+) 21
6.	Taxes on Goods and Passengers	331.94	100.23	1027.39	(+) 925
7.	Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	807.96	946.78	981.98	(+) 4
8.	Other Taxes and Duties on Commodities and Services	536.52	568.96	674.27	(+) 19
9.	Land Revenue	177.87	214.72	260.46	(+) 21
10.	Taxes on Agricultural Income	0.12	Negligible	0.16	--
	Total	**17264.95**	**19726.94**	**21287.64**	

While there was an increase of 14 *per cent* in the tax revenue during the year 2000-2001 over 1999-2000, the tax revenue in the year 2001-2002 showed an increase of only 8 *per cent* over the year 2000-2001. Sales tax receipts of Rs 12131 crore amounted to 57 *per cent* of the tax revenue collected during the year 2001-2002.

Increase of taxes on goods and passengers was due to book adjustment of passengers tax due from M.S.R.T.C. against dues payable by Government to them. Increase of taxes on vehicles was due to recovery of arrears besides normal growth. Increase in land revenue was due to more recoveries during the year.

(b) The details of the major non-tax revenue raised during the year 2001-2002 alongwith the figures for the preceding two years are given below:

(Rupees in crore)

	Head of Revenue	1999-2000	2000-2001	2001-2002	Percentage of increase (+) or decrease (-) in 2001-2002 over 2000-2001
1.	Interest Receipts	1724.16	3161.63	1845.60	(-) 42
2.	Dairy Development	795.53	794.21	885.83	(+) 12
3.	Other Non-Tax Receipts	370.98	393.66	616.08	(+) 57
4.	Forestry and Wild Life	134.74	135.16	134.14	Negligible
5.	Non-ferrous Mining and Metallurgical Industries	266.09	350.47	347.17	Negligible
6.	Miscellaneous General[2] Services (including lottery receipts)	149.12	197.00	125.55	(-) 36
7.	Power	75.42	86.45	85.70	Negligible
8.	Major and Medium Irrigation	61.63	62.49	86.03	(+) 38
9.	Medical and Public Health	84.91	77.53	109.78	(+) 42
10.	Co-operation	49.61	58.93	71.26	(+) 21
11.	Public Works	74.99	69.33	62.71	(-) 10
12.	Police	83.55	91.38	110.78	(+) 21
13.	Other Administrative Services	44.05	101.70	58.03	(-) 43
	Total	**3914.78**	**5579.94**	**4538.66**	

As against an increase of 43 *per cent* in the non-tax revenue in the year 2000-2001 over 1999-2000, the non-tax revenue in the year 2001-2002 showed a decrease of 19 *per cent*. The decrease was due to lower collections under interest receipts (42 *per cent*) and other administrative services (43 *per cent*).

[2] Figure is net of expenditure on prize winning lottery tickets.

1.2 Variations between Budget estimates and actuals

The variations between the Budget estimates and actuals of revenue receipts for the year 2001-2002 in respect of the principal heads of tax and non-tax revenue are given below:

(Rupees in crore)

	Head of Revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Sales Tax	14822.00	12131.39	(-) 2690.61	(-) 18
2.	State Excise	1875.00	1787.26	(-) 87.74	(-) 5
3.	Stamps and Registration Fees	2400.00	2442.68	(+) 42.68	(+) 2
4.	Taxes and Duties on Electricity	1086.00	1034.26	(-) 51.74	(-) 5
5.	Taxes on vehicles	920.00	947.79	(+) 27.79	(+) 3
6.	Taxes on Goods and Passengers	1198.01	1027.39	(-) 170.62	(-) 14
7.	Other Taxes on Income and Expenditure- Tax on Professions, Trades, Callings and Employments	1000.00	981.98	(-) 18.02	(-) 2
8.	Other Taxes and Duties on Commodities and Services	624.60	674.27	(+) 49.67	(+) 8
9.	Land Revenue	92.00	260.46	(+) 168.46	(+) 183
10.	Taxes on Agricultural Income	--	0.16	(+) 0.16	--
11.	Interest Receipts	982.42	1845.60	(+) 863.18	(+) 88
12.	Dairy Development	698.00	885.83	(+) 187.83	(+) 27
13.	Other Non-tax Receipts	428.20	616.08	(+) 187.88	(+) 44
14.	Forestry and Wild Life	200.00	134.14	(-) 65.86	(-) 33
15	Non-Ferrous Mining and metallurgical Industries	363.73	347.17	(-) 16.56	(-) 5

(Rupees in crore)

	Head of Revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
16.	Miscellaneous General services				
	(i) Lottery receipts[3]	67.33	14.33	(-) 53	(-) 79
	(ii) Other receipts	132.55	111.22	(-) 21.33	(-) 16
17.	Power	421.61	85.70	(-) 335.91	(-) 80
18.	Major and Medium Irrigation	64.00	86.03	(+) 22.03	(+) 34
19.	Medical and Public Health	114.14	109.78	(-) 4.36	(-) 4
20.	Co-operation	50.84	71.26	(+) 20.42	(+) 40
21.	Public Works	71.98	62.71	(-) 9.27	(-) 13
22.	Police	89.40	110.78	(+) 21.38	(+) 24
23.	Other Administrative Services	49.95	58.03	(+) 8.08	(+) 16
	Total	**27751.76**	**25826.30**	**(-) 1925.46**	

The reasons for variations between Budget estimates and actuals in respect of some of the receipts were as under:

Land Revenue: Increase was due to more recoveries during the year.

Dairy Development: Increase was due to normal growth.

Major and Medium Irrigation: Increase was due to more receipts under medium irrigation (commercial).

Co-operation: Increase was due to normal growth.

Police: Increase was due to receipts on account of police supplied to other Governments.

There are very large variations between budget estimates and actuals, varying between a short fall of 80 *per cent* (Power) and excess of 183 *per cent* (Land Revenue). This is indicative of poor budgeting and poor fiscal marksmanship. The State Government must look into this issue.

[3] Net of expenditure on prize winning tickets

1.3 Analysis of collection

Break-up of total collection at pre-assessment stage and after regular assessments of Sales Tax, Motor Spirit Tax, Profession Tax, Entry Tax and Luxury Tax for the year 2001-2002 and the corresponding figures for the preceding two years as furnished by the department was 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 and duties	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales Tax	1999-2000	7861.96	532.26	55.92	230.09	8220.05	96
	2000-2001	9425.45	459.62	52.03	308.68	9628.42	98
	*2001-2002	9001.34	494.29	72.79	330.83	9237.59	97
Motor Spirit Tax	1999-2000	2292.20	Nil	Nil	Nil	2292.20	100
	2000-2001	2960.71	Nil	Nil	Nil	2960.71	100
	*2001-2002	3282.18	Nil	Nil	Nil	3282.18	100
Profession Tax	1999-2000	785.99	3.68	1.20	0.29	790.58	99
	2000-2001	935.92	2.52	1.88	0.28	940.04	99
	*2001-2002	962.14	4.72	--	0.03	966.83	100
Entry Tax	1999-2000	17.02	5.36	0.06	0.05	22.39	76
	2000-2001	3.58	3.42	0.18	Nil	7.18	50
	*2001-2002	3.69	1.12	0.04	--	4.85	76
Luxury Tax	1999-2000	130.72	2.49	0.69	0.01	133.89	98
	2000-2001	176.32	3.30	0.18	0.13	179.67	98
	*2001-2002	168.42	1.76	0.11	--	170.29	99

The table above shows that collection of revenue at pre-assessment stage ranged between 76 and 100 *per cent* during 1999-2000 and 2001-2002 and 50 and 100 *per cent* during 2000-2001. The collection of entry tax at pre-assessment stage was higher at 76 *per cent* in 2001-2002 as against 50 *per cent* in 2000-2001.

1.4 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross

* Figures are unreconciled

collections during the years 1999-2000, 2000-2001 and 2001-2002 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2000-2001 were as follows:

(Rupees in crore)

	Head of Revenue	Year	Collection[4]	Expenditure on collection of revenue[5]	Percentage of expenditure on collection	All India average percentage for the year 2000-2001
1.	Sales Tax	1999-2000	10509.02	136.08	1.29	
		2000-2001	12196.39	107.94	0.89	1.31
		2001-2002	12131.39	100.26	0.83	
2.	State Excise	1999-2000	1875.68	29.48	1.58	
		2000-2001	1779.51	25.87	1.45	3.10
		2001-2002	1787.26	Awaited	Awaited	

1.5 Arrears of revenue

The arrears of revenue as on 31 March 2002 in respect of some principal heads of revenue amounted to Rs 5140.68 crore of which Rs 1919.24 crore were outstanding for more than 5 years as detailed in the following table:

(Rupees in crore)

Sr. No.	Head of Revenue	Amount outstanding as on 31 March 2002	Amount outstanding for more than 5 years as on 31 March 2002	Remarks
1.	Sales Tax *etc.*	5115.59	1908.10	(i) Stay granted by appellate authorities for Rs 3330.05 crore. (ii) Under other action Rs 1785.54 crore.
2.	State Excise	7.18	4.62	
3.	Electricity Duty	17.91	6.52	(i) Concerned District Collectors have been directed to recover the duty amount as arrears of land revenue. Further co-operative department was also instructed to deduct the amount while giving loan to concerned factories.
	Total	**5140.68**	**1919.24**	

The Home (Transport wing), Revenue and Forests, Irrigation and Public Works Departments which are responsible for collection of some of the major receipts had not furnished details of arrears of revenue (December 2002).

[4] Figures as per Finance Accounts

[5] Figures as furnished by the department

1.6 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2001-2002, 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 2001-2002 as furnished by the Sales Tax Department in respect of sales tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts were as follows:

Name of tax	Opening balance	New cases due for assessment during 2001-2002	Total assess-ments due	Cases disposed of during 2001-2002	Balance at the end of the year	Percentage of Column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Finance Department						
Sales Tax	1707203	863320	2570523	741379	1829144	71
Motor Spirit Tax	6767	1118	7885	494	7391	94
Profession Tax	621898	224021	845919	183968	661951	78
Purchase tax on sugarcane	3067	--	3067	469	2598	85
Entry tax	3945	--	3945	--	3945	100
Lease Tax	4879	1201	6080	706	5374	88
Luxury Tax	4778	1527	6305	911	5394	86
Tax on works contracts	60698	27934	88632	7770	80862	91
Total	**2413235**	**1119121**	**3532356**	**935697**	**2596659**	

It would be seen from the above that cases pending as on 31 March 2002 ranged from 71 to 100 *per cent* of the total cases due for assessments.

1.7 Evasion of tax

The details of cases of evasion of tax detected by the Sales Tax and State Excise Departments, cases finalised and the demands for additional tax raised as reported by the departments were as follows:

Sr. No	Name of tax/duty	Cases pending as on 31 March 2001	Cases detected during 2001-02	Total	No. of cases in which assessments/investigations completed and additional demand including penalty *etc.*, raised		No. of cases pending finalisation as on 31 March 2002
					No. of cases	Amount of demand (Rupees in lakh)	
1.	Sales Tax	4222	3551	7773	3020	4868.59	4753
2.	State Excise	9	8	17	9	1.24	8

1.8 Write-off and waiver of revenue

During the year 2001-2002, demands for Rs 104.61 lakh (in 1183 cases) and Rs 1.62 lakh (in 24 cases) relating to Sales Tax and State Excise respectively were written off by the departments as irrecoverable. Reasons for the write-off of these demands as reported by the departments were as follows:

(Rupees in lakh)

	Reasons	Sales Tax		State Excise	
		No. of cases	Amount	No. of cases	Amount
1.	Whereabouts of defaulters not known	818	43.01	2	0.08
2.	Defaulters no longer alive	140	3.27	9	0.71
3.	Defaulters not having any property	204	42.71	4	0.08
4.	Defaulters adjudged insolvent	--	--	3	0.17
5.	Other reasons	19	0.33	5	0.53
6.	Remission of penalty	2	15.29	1	0.05
		1183	**104.61**	**24**	**1.62**

1.9 Refunds

The number of refund cases pending at the beginning of the year 2001-2002, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2001-2002, as reported by the departments are as follows:

(Rupees in lakh)

	Sales Tax		Taxes and Duties on Electricity		State Excise		Works Contracts	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1. Claims outstanding at the beginning of the year	4276	5795.00	105	252.51	62	33.39	59	58.00
2. Claims received during the year	28572	31327.00	80	290.95	23	12.06	335	773.00
3. Refunds made during the year	28804	33083.00	71	164.31	27	17.52	334	776.00
4. Balance outstanding at the end of the year	4044	4039.00	114	379.15	58	27.93	60	55.00

1.10 Results of audit

Test check of records of Sales Tax, Land Revenue, State Excise, Motor Vehicles Tax, Stamps and Registration Fees, Electricity Duty, Other Tax Receipts, Forest Receipts and other Non-tax Receipts conducted during the year 2001-2002 revealed under-assessment/short levy/loss of revenue amounting to Rs 780.51 crore in 32174 cases. During the course of the year the departments accepted under-assessment of Rs 54.41 crore in 8701 cases pointed out in 2001-2002 and earlier years and recovered Rs 49.83 crore. No replies have been received in respect of the remaining cases.

This Report contains 36 paragraphs including 3 reviews relating to non-levy/short levy of taxes, duties, interest and penalties *etc.*, involving Rs 493.85 crore. The Department/Government have accepted audit observations involving Rs 206.13 crore of which Rs 24.57 crore had been recovered upto December 2002. No replies have been received in the other cases.

1.11 Response of Government to audit objections

Principal Accountant General (Audit)-I, Mumbai and Accountant General (Audit)-II, Nagpur arrange to conduct periodical inspection of the various offices of the Government departments to test check the transactions of tax and non-tax receipts and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed by Inspection Reports (IRs) issued to the Heads of the offices with a copy to the next higher authorities. Government of Maharashtra Finance Department circular dated 10 July 1967 provides for response within one month by the executive to the IRs issued by the Accountants General after

ensuring action in compliance of the prescribed Acts, rules and procedures and fixing accountability for the deficiencies, lapses, *etc.*, noticed during audit inspection. Serious irregularities are also brought to the notice of the head of the Department by the office of the Principal Accountant General (Audit)-I, Mumbai and Accountant General (Audit)-II, Nagpur. A half yearly report is sent to the Secretary of the Department in respect of pending IRs to facilitate monitoring of the audit observations by the Government.

Inspection Reports issued upto 31 December 2001 pertaining to offices under the Finance, Home, Revenue and Forests, Industries, Energy and Labour, Housing and Special Assistance, Urban Development, Public Works, Co-operation and Textiles, Irrigation, Agriculture, Animal Husbandry, Dairy Development and Fisheries, Public Health, Education and Employment, Law and Judiciary Departments disclosed that 15399 objections relating to 6040 IRs involving Rs 796.61 crore remained outstanding at the end of June 2002. Of these, 2606 IRs containing 5678 objections involving Rs 145.28 crore had not been settled for more than 4 years. The yearwise position of the outstanding IRs and Paragraphs is detailed in the Appendix-I.

In respect of 1525 paragraphs relating to 397 IRs involving Rs 49.37 crore issued upto December 2001, even the first replies, which were required to be received from the Heads of offices within one month, had not been received.

A review of the IRs which were pending due to non-receipt of replies, in respect of the various departments, revealed that the Heads of the offices and the Heads of the Departments (Secretaries) failed to send any reply to a large number of IRs/paragraphs indicating that no action was taken to rectify the defects, omissions and irregularities pointed out in the IRs issued by the AGs. The Secretaries of the Departments, who were informed of the position through half yearly reports, also did not ensure prompt and timely action. Such inaction would result in continuation of serious financial irregularities and loss of revenue to the Government despite these having been pointed out in Audit.

It is recommended that Government should look into this matter again and ensure that procedure exists for (a) action against the officials who failed to send replies to IRs/paras as per the prescribed time schedule, (b) action to recover loss/under-assessments in a time bound manner and (c) revamping the system of proper response to audit observations in the department.

The details of outstanding inspection reports were reported to Government in August 2002; their reply had not been received (December 2002).

1.12 Departmental Audit Committee Meetings

In order to expedite the settlement of outstanding audit observations contained in the Inspection Reports, Departmental Audit Committees are constituted by the Government. These Committees are chaired by Joint Secretary/Deputy Secretary of the concerned Administrative Department and attended among others by the concerned officers of the State Government and the Offices of the Principal Accountant General (Audit)-I, Mumbai/ Accountant General (Audit)-II, Nagpur.

In order to expedite the clearance of the outstanding audit observations, it is necessary that the Audit Committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 2001-2002 only the Home Department out of the concerned eight Government departments convened a meeting of the Audit Committee. This indicates that the Government departments have not been taking initiative in using the machinery created for settling the outstanding audit observations.

1.13 Response of the departments to Draft Audit Paragraphs

The Finance Department issued directions to all departments in July 1967 to send their response to the Draft Audit Paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The Draft paragraphs are always forwarded by the respective Audit offices to the Secretaries of the concerned departments through demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Draft paragraphs included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2002 were forwarded to the Secretaries of the respective departments between March 2002 and July 2002 through demi official letters. Replies to most of the paragraphs have not been received, 66 such paragraphs have been included in this Report.

1.14 Follow up on Audit Reports-summarised position

According to instructions issued by the Finance Department, all departments are required to furnish explanatory memoranda duly vetted by audit to the Maharashtra Legislative Secretariat in respect of paragraphs included in the Audit Reports within one month of their being laid on the table of the House.

Review of outstanding explanatory memoranda on paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) as on 31 August 2002 disclosed that the departments had not submitted remedial explanatory memoranda on 31 paragraphs for the years from 1996-97 to 1999-2000 (Appendix II).

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee lays down in each case the period within which action taken notes (ATN) on its recommendations should be sent.

The Public Accounts Committee had discussed 116 selected paragraphs pertaining to Audit Reports for the years from 1986-87 to 1995-96 and given their recommendations on 72 paragraphs which have been incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th, 14th and 18th

Report (1996-97), 21st Report (1997-98) and 5th Report (2000-2001). However, action taken notes have not been received in respect of 38 recommendations of the Public Accounts Committee from the concerned departments as detailed in Appendix III.

CHAPTER 2 : Sales Tax

2.1 Results of audit

Test check of records of sales tax conducted during the year 2001-2002 revealed under-assessment/short levy/loss of revenue amounting to Rs 120.29 crore in 1755 cases, which broadly fall under the following categories:

Sr. No.	Category	No. of cases	Amount (Rupees in crore)
1.	Non-levy/short levy of tax	635	19.93
2.	Incorrect allowance of set-off	502	15.57
3.	Non-levy/short levy of interest/penalty	141	31.96
4.	Omission to forfeit tax collected in excess	10	0.15
5.	Other irregularities	466	44.26
6.	Review on Maharashtra Rajya Kar Vivad Nivaran Yojana, 1999	1	8.42
	Total	**1755**	**120.29**

During the course of the year 2001-2002, the department accepted under-assessments of Rs 4.83 crore involving 588 cases, of which 36 cases involving Rs 8.23 lakh had been pointed out during 2001-2002 and the rest in earlier years. Of these, department recovered Rs 26.14 lakh.

A few illustrative cases involving financial effect of Rs 10.28 crore and a review on Maharashtra Rajya Kar Vivad Nivaran Yojana, 1999 involving financial effect of Rs 8.42 crore are given in the following paragraphs:

2.2 Maharashtra Rajya Kar Vivad Nivaran Yojana, 1999

2.2.1 Introduction

The Maharashtra Rajya Kar Vivad Nivaran Yojana, 1999 (MKNY) was introduced by the Government of Maharashtra vide resolution dated 26 April 1999 with a view to liquidate arrears of taxes, interest and penalties aggregating to Rs 3990 crore as on 30 September 1998 under various Acts[6] administered by the Sales Tax Department.

The scheme in respect of sales tax dues was operative in two phases. The first phase was operative from 1 June 1999 to 31 July 1999 and the second phase from 1 August 1999 to 30 September 1999, which was extended upto 30 November 1999.

A separate amnesty scheme for dues under the Works Contract (Re-enacted) Act, 1989 and Lease Tax Act, 1985 was announced vide Government resolution dated 25 November 1998. This scheme was operative from 1 December 1998 to 30 June 1999 and extended from time to time upto 31 March 2000. Dealers desirous of availing of the benefit under the scheme were required to:

(i) apply within one month after making payment as per amnesty scheme separately for each year and for each enactment, to the assessing authority in the prescribed proforma and

(ii) submit xerox copy of acknowledgement of the appellate authority alongwith the application for MKNY indicating unconditional withdrawal of the appeal.

2.2.2 Salient features of the scheme

(A) Sales tax and other Acts.

(i) The scheme was applicable to registered dealers as well as unregistered dealers and assessment orders relating to any periods passed upto 31 March 1998 and other statutory orders such as rectification orders, re-assessment orders, revision orders and appeal orders related to those assessment orders passed prior to 1 May 1999.

(ii) The scheme was applicable to outstanding arrears as on 31 May 1999. During the 1st phase of MKNY 1999 the declarant was required to pay tax (not collected separately) at 50 *per cent* and during the 2nd phase at 60 *per cent*.

(iii) Where arrears comprised interest and penalty the declarant was required to pay 10 *per cent* of interest and penalty during the 1st phase and 20 *per cent* during the 2nd phase.

(iv) Arrears on account of post assessment interest and penalty was subject to 100 *per cent* waiver.

[6] Bombay Sales Tax Act, 1959 Central Sales Tax Act, 1956, Maharashtra Sugar Cane Purchase Tax Act, 1962, Maharashtra Tax on entry of motor vehicles Act, 1987, Maharashtra Luxury Tax Act, 1987 and Maharashtra Agriculture Income Tax Act, 1962.

(B) Works Contract and Lease Tax Acts

(i) In respect of Works Contract (Re-enacted) Act, 1989 and Lease Tax Act, 1985 the dealers were allowed to avail of the benefits for the assessment periods ending upto 31 March 1998 and assessed before 31 December 1998. This condition was subsequently (October 1999) relaxed and benefit of the scheme was extended to any period for which assessment was completed.

(ii) Dues and demands against an assessee on account of contracts awarded by the departments of the State Government were fully exempt from payment of tax. However, in case of construction contracts, 1 *per cent* of the gross amount of the works contract value was payable and the balance amount of dues or demands were to be waived. Further, in respect of any other type of works, 3 *per cent* of the gross amount of the contract value was payable and the rest of the amount of tax dues or demands were to be waived.

(iii) In respect of interest dues or demands relating to contracts other than contracts assigned by Government departments for assessment periods ending before 1 April 1992, the assessee was liable to pay 15 *per cent* of the interest levied and the balance 85 *per cent* was to be waived. Similarly, for assessment periods starting on or after 1 April 1992, an assessee was to pay 30 *per cent* of the interest levied and the balance 70 *per cent* was to be waived.

2.2.3 Impact of the scheme on clearance of arrears

Sales tax and allied Acts

(i) The title of the scheme indicated that the benefit was admissible to tax in dispute. However the scheme was extended to arrears of tax dues.

The total amount of revenue in arrears (as on 1 June 1999), total number of applications received, amount recovered, amount waived and total arrears cleared are given in the following table:

(Rupees in crore)

Sr. No.	Nature of tax	Arrears as on 1/6/1999	No. of cases involved	No. of cases in which applications received	Amount Recovered	Amount Waived	Total arrears cleared
		Rs.			Rs.	Rs.	Rs.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Bombay Sales Tax	1826.62	199941	40238	56.92	145.25	202.17
2.	Central Sales Tax	420.14	47206	10012	19.33	45.63	64.96
3.	Sugarcane Purchase Tax	67.92	723	79	5.11	6.39	11.50
4.	Entry Tax	17.73	3118	374	0.76	1.60	2.36
5.	Luxury Tax	1.64	404	163	0.08	0.38	0.46
6.	Agriculture Income Tax	5.23	9	8	Negligible	Negligible	Negligible
	Total	**2339.28**	**251401**	**50874**	**82.20**	**199.25**	**281.45**

The table indicates that while the physical clearance of cases was 20 *per cent* the clearance of arrears in financial terms was only 12 *per cent*. It is therefore evident that the scheme could not substantially achieve the primary objective of clearance of arrears.

(ii) The percentage of clearance of arrears during the year 1999-2000 when the scheme was implemented was lower than in earlier years except during 1998-1999 when clearance was marginally less as indicated in the following table:

(Rupees in crore)

Year	Arrears as on 1 April Rs.	Addition during the year Rs.	Total Rs.	Arrears cleared Rs.	Closing balance as on 31 March Rs.	Percentage of clearance
1996-97	2422.34	1448.57	3870.91	936.63	2934.28*	24.19
1997-98	2953.17	1648.85	4602.02	1046.45	3555.57	22.73
1998-99	3555.57	1935.19	5490.76	991.60	4499.15	18.06
1999-2000	4499.15	1918.13	6417.28	1218.38	5198.90	18.98

Source : Performance Budget of the Finance Department (Sales Tax)

(iii) As per information furnished by twelve divisions, the number of dealers in arrears above Rs 5 lakh, between Rs 50000 and Rs 5 lakh and below Rs 50000 who availed of benefit under the scheme were as under:

Sr. No.	Name of division	No. of dealers in arrears			No. of dealers in arrears who availed of the benefit		
		Below Rs 50000	Between Rs 50000 and Rs 5 lakh	Above Rs 5 lakh	Below Rs 50000	Between Rs 50000 and Rs 5 lakh	Above Rs 5 lakh
1)	Bandra	13638	590	73	5115	330	28
2)	Kolhapur	6052	493	110	3629	89	9
3)	Andheri	5720	680	429	5017	498	26
4)	Pune I	3627	357	67	1327	265	23
5)	Pune II	2963	326	50	1781	156	12
6)	Thane	6563	288	94	3272	266	39
7)	Borivali	10548	703	69	3658	244	16
8)	Nariman point	4055	1073	379	1014	446	120
9)	Mazgaon	12875	803	214	3827	323	13
10)	Ghatkopar	6549	750	261	2576	189	46
11)	Worli	6669	1113	231	2311	318	64
12)	Mandvi	7416	518	95	1849	255	43
	Total	**86675**	**7694**	**2072**	**35376**	**3379**	**439**
					(41 %)	**(44 %)**	**(21 %)**

* **Does not include Luxury Tax and Entry Tax of Rs 2.55 crore and Rs 16.34 crore respectively.**

While around 40 *per cent* of the dealers in arrears upto Rs 5 lakh availed the benefit under the scheme, only 21 *per cent* of the dealers with arrears exceeding Rs 5 lakh availed of the benefit. This implied that dealers with arrears above Rs 5 lakh had not come forward for availing of benefit under MKNY.

(iv) Phase wise availing of benefits.

The phase wise clearance of arrears under BST and allied Acts (excluding Profession Tax, Works Contract and Lease Acts) was as under:

(Rupees in crore)

	No. of dealers	Amount recovered Rs.	Amount waived Rs.	Total clearance Rs.
Phase I and II	40132	70.52	170.30	240.82
Extended period October/November 1999	10742	11.68	28.95	40.63
Total	**50874**	**82.20**	**199.25**	**281.45**

The Commissioner of sales tax had stated (May 1999) that in no circumstances the duration of the scheme would be extended beyond 30 September 1999. However, the scheme was extended upto November 1999. During the extended period of two months the arrears cleared were Rs 40.63 crore (14.43 *per cent*) which included waiver of Rs 28.96 crore. Thus the extension did not result in appreciable clearance of arrears.

2.2.4 Incorrect computation of tax arrears

Under the provisions of the Bombay Sales Tax Act, 1959 an appeal can be admitted on part payment of dues in respect of which the appeal has been preferred. The scheme did not indicate the method of apportionment of the part payment made in appeal towards tax and penalty/interest for arriving at the dues.

A scrutiny of cases revealed that the part payment made in appeal were entirely adjusted against arrears of tax and the balance of tax dues were considered for working out the payment of 50 *per cent* and 60 *per cent* of tax dues under the two phases without apportioning the part payment towards interest/penalty. As the arrears included interest and penalty leviable as per provisions of the Act, part payment should have been apportioned in the ratio of tax and interest and/or penalty pending recovery and thereafter the arrears of tax and interest/penalty computed for waiver under the scheme. The incorrect adjustment of part payment towards tax alone and computation of the arrears thereafter, resulted in forgoing of revenue to the extent of Rs 1.38 crore in 47 cases as detailed in the following table:

(Rupees in lakh)

Sr. No.	Division No. of dealers	Assessed dues Tax	Assessed dues Interest	Part payment	Arrears as on 1/6/1999 after proportionate adjustment of part payment Tax	Arrears Interest	Amount Payable Tax / Interest	Amount Paid Tax / Interest	Short recovery of tax	Excess payment of Interest	Net revenue forgone
1	Nariman point 10	1051.53	929.14	170.39	957.67	851.61	486.51 / 91.90	453.40 / 99.73	33.11	(-) 7.83	25.28
2	Andheri 7	66.41	55.01	34.80	46.45	40.31	23.22 / 4.04	15.96 / 5.48	7.26	(-) 1.44	5.82
3	Nagpur 2	1475.24	980.14	283.50	1310.25	861.65	655.12 / 86.16	596.41 / 97.90	58.71	(-) 11.74	46.97
4	Pune 3	103.18	165.43	42.15	86.14	140.32	43.07 / 14.04	31.26 / 16.39	11.81	(-) 2.35	9.46
5	Thane 12	123.13	100.39	33.16	105.20	85.16	52.60 / 8.50	42.79 / 11.23	9.81	(-) 2.73	7.08
6	Churchgate 8	279.18	377.96	125.40	221.52	310.20	110.76 / 31.00	78.06 / 37.53	32.70	(-) 6.53	26.17
7	Ghatkopar 5	147.50	119.48	118.36	82.32	66.28	41.16 / 6.70	19.14 / 11.03	22.02	(-) 4.33	17.69
	47	**3246.17**	**2727.55**	**807.76**	**2809.55**	**2355.53**	**1412.44 / 242.34**	**1237.02 / 279.29**	**175.42**	**(-) 36.95**	**138.47**

On being pointed out, the assessing officers stated that for arriving at the outstanding dues as on 1 June 1999 the part payments were appropriated as per Commissioner's trade circular dated 10 May 1999 as under.

(a) sales tax collected separately

(b) deduction of tax (under Rule 46 A) claimed in the returns filed by the dealer

(c) excess collection forfeited

(d) tax not collected separately and

(e) interest and penalties

The contention of the assessing officers is not tenable as interest/penalty also being part of the arrears; part payment should have been apportioned to both tax and interest/penalty.

2.2.5 Ineligible cases

As per Government Resolution dated 26 April 1999 a dealer who had collected tax separately was not eligible for benefit under MKNY, 1999. In respect of 4 dealers who had collected tax separately and had either short remitted or delayed remittance of it to Government Account, tax and/or

interest of Rs 670.10 lakh was incorrectly waived as detailed in the following table:

(Rupees in lakh)

Sr. No.	Division	No. of dealers	Assessment period Month of assessment	Arrears as on 1/6/1999 Tax	Arrears as on 1/6/1999 Interest u/s 36 (3) (a)	Paid waived Tax	Paid waived Interest
1	Pune	1	1993-94 and 1994-95 January 1997 and March 1998	429.25	432.58	300.65 128.60	43.26 389.32
2	Nagpur	1	1991-92 to 1994-95 July 1996, June 1998, March 1997 and January 1998	30.58	99.21	15.28 15.30	9.93 89.28
3	Thane	1	April 1979 to September 1979 February 1984	42.93	42.70	42.93 Nil	4.27 38.43
4	Nariman point	1	1988-89 N.A.	22.92	23.33	13.75 9.17	Nil
	Total :	**4**		**525.68**	**597.82**	**372.61** **153.07**	**57.46** **517.03**

2.2.6 Short levy of tax under Works Contract Act

Under the scheme, in respect of works contract 1 *per cent* of the gross amount of contract value in respect of construction contracts and 3 *per cent* of the contract value in respect of other type of works was payable. If the outstanding tax dues as on 1 December 1998 was paid as per a prescribed formula the residual assessed tax dues were to be waived.

In respect of four dealers, in respect of contracts other than construction contracts, tax was levied at one *per cent* instead of three *per cent* of the contract value or as per formula and in one case there was concealment of turnover. This resulted in short levy of tax of Rs 21.65 lakh as shown in the following table:

(Rupees in lakh)

Sr. No.	Division	No. of dealers	Period Month of assessment	Activity and type of works contract	Tax leviable under amnesty	Tax levied under amnesty	Short levy of tax
1	Thane	1	1993-94 to 1997-98 June 1999	Interior decorator	2.98	0.99	1.99
		1	1990-91 to 1991-92 March 1999, June 1999	Civil and Electrical Contractor	12.32	4.10	8.22
2	Nariman point	1	1/11/1989 to 31/12/1991 August 1999	Civil and other contracts	7.04	2.97	4.07
		1	22/4/1988 to 31/3/1992 November 1995, February 1998	Insulation of pipelines	7.96	2.95	5.01
		1	1994-95 to 1996-97 March 1998, February 1999 and March 1999	Cement lining to water pipe lines	2.56	0.20	2.36
	Total:	**5**			**32.86**	**11.21**	**21.65**

2.2.7 Incorrect allowance of exemption

According to Government Resolution dated 25 November 1998, contracts awarded by Central Government, Corporations and Under takings of Central and State Government, Local Bodies, Non-Government Organisations *etc.*, were not eligible for exemption from payment of works contract tax.

It was noticed that four contractors who had executed works for the Railways, CIDCO*, MIDC*, PCMC* *etc.*, were incorrectly exempted from payment of taxes amounting to Rs 11.62 lakh.

* CIDCO - City and Industrial Development Corporation
MIDC - Maharashtra Industrial Development Corporation
PCMC - Pimpri-Chinchwad Municipal Corporation

(Rupees in lakh)

Sr. No.	No. of dealers	Assessment period Month of assessment	Contracts awarded by	Amount waived Tax	Interest	Total
	Nagpur Division					
1	1	1988-89	Central Railway,	0.03	--	0.03
		1990-91	Nagpur improvement trust *etc.*	0.16	--	0.16
2	1	1989-90 to 1991-92 October 1999 and November 1999	CPWD, Nagpur	1.10	2.45	3.55
	Pune Division					
3	1	1/10/1986 to 31/7/1987 December 1999	CIDCO*, MIDC*, PCMC*, RCF* Ltd. *etc*	2.03	--	2.03
	Thane Division					
4	1	1996-97 and 1997-98 December 1999	Z.P.* Thane, (Irrigation Division)	5.85	--	5.85
	Total :			**9.17**	**2.45**	**11.62**

2.2.8 Non-reconciliation of arrears

According to Government Resolution of 26 April 1999, Rs 3990 crore was in arrears as on 30 September 1998 in the sales tax department under different enactments. The State Government promulgated the amnesty scheme to liquidate the arrears of Rs 3990 crore anticipating immediate revenue collection. However, on re-examination, the amount of arrears eligible for benefit under the scheme was computed by the sales tax department as Rs 1825 crore. Thus, a clear picture of arrears was not known to Government before launching the amnesty scheme. Further, as against Rs 1825 crore available for clearance under amnesty, the details of arrears furnished by the divisions to the commissionerate was Rs 2339.27 crore. .

As per information furnished by Thane, Pune-II and Ghatkopar Division's, arrears as on 1 June 1999 aggregated to Rs 183.46 crore. However, as per information collected from the commissionerate the arrears in respect of these

* CIDCO - City and Industrial Development Corporation
MIDC - Maharashtra Industrial Development Corporation
PCMC - Pimpri-Chinchwad Municipal Corporation
RCF - Rashtriya Chemicals and Fertilisers
Z.P. - Zilla Parishad

divisions was Rs 438.34 crore. This indicated non-reconciliation of the figures of arrears.

2.2.9 Conclusion

Government did not have a clear picture of the arrears before launching of the scheme. The scheme did not achieve the primary objective of clearance of arrears.

The above points were reported to Government in June 2002; their reply has not been received (December 2002)

2.3 Incorrect grant of set-off

(a) According to the Bombay Sales Tax Act, 1959 and Rule 41-D made thereunder, a manufacturer who has paid taxes on the purchases of goods specified in Part II of Schedule C to the Act and used them within the State in the manufacture of taxable goods for sale or export or in the packing of goods so manufactured, was allowed set-off of taxes paid in excess of four *per cent* of the purchase price (two *per cent* in the case of raw material from 1 October 1995) upto 30 June 1997.

From 1 July 1997 reduction of 2 *per cent* of the purchase price (3 *per cent* from May 1998) is to be made on local and Outside Maharashtra State (OMS) purchases. Where manufactured goods are transferred outside the State otherwise than by way of sale, set-off of taxes paid on purchases of raw materials including packing materials is allowed in excess of 6 *per cent* instead of 4 *per cent*.

Where the manufacture resulted in production of taxable goods as well as goods other than taxable goods, the set-off was apportioned between taxable goods and goods other than taxable goods on the basis of the sale price of manufactured goods and allowed only to the extent of taxable goods manufactured. However, by an amendment dated 1 May 1998 set-off of taxes paid on purchases was admissible to a dealer who manufactured goods for sale or export. When such manufacture resulted in production of goods other than taxable goods, set-off was not admissible on purchases of goods including capital assets effected prior to 1 April 1998 and also in respect of capital assets purchased after 1 April 1998 on which depreciation was claimed in earlier years.

Where the purchase price is inclusive of tax, a formula has been prescribed for calculating the amount to be set-off.

It was noticed (between March 1996 and December 2001) that in assessing 49 dealers in 13 divisions for various periods falling between 1 April 1991 and 31 March 1999 and assessed between October 1994 and November 2001, set-off was incorrectly allowed resulting in under-assessment of Rs 3.97crore (including interest of Rs 16.36 lakh) as detailed in the following table:

Sr. No.	Name of the Division	No. of dealers	Assessment period Month of assessment	Nature of irregularity	Under-assessment including interest/ penalty (Rupees in lakh)
1	Andheri	1	1997-98 December 1999	Set-off incorrectly computed	0.58
2	Aurangabad	1	1996-1997 February 2000	Set-off was wrongly allowed after deducting 2 *per cent* instead of 4 *per cent* of purchase price	0.83
		6	Between 1993-94 and 1997-98 Between January 1997 and February 2001	Set-off was incorrectly allowed on purchases of goods including capital assets effected prior to 1 April 1998 and used in manufacture of sugar a tax free commodity	125.81
3	Bandra	1	1993-94 April 1997	Set-off incorrectly allowed on purchases of chemicals *etc.*, covered by Part I of Schedule C which was inadmissible	2.00
4	Borivali	1	1995-96 January 2000	Set-off was not reduced on account of branch transfers and manufacture of tax free goods	0.37
		1	1996-97 October 1998	Full set-off was allowed without retention of 2 *per cent* of purchase price	0.56
		1	1996-97 December 1998	Set-off was incorrectly allowed on purchase of tax free goods	0.71
		1	1995-96 April 1998	Set-off was incorrectly worked out at 10 *per cent* on purchases of notified chemicals taxable at 4 *per cent*.	0.59
5	Churchgate	1	9 May 1995 to 31 March 1996 March 1999	Set-off was wrongly allowed after deducting 2 *per cent* instead of 4 *per cent* of purchase price	2.01

Sr. No.	Name of the Division	No. of dealers	Assessment period Month of assessment	Nature of irregularity	Under-assessment including interest/ penalty (Rupees in lakh)
		2	1998-99 December 1999 and November 2000	Set-off was incorrectly allowed after deducting 2 *per cent* instead of 3 *per cent* of purchase price	1.91
	Churchgate	1	1994-95 August 1998	Set-off was not reduced proportionately in respect of tax exempted goods	0.85
6	Ghatkopar	1	1993-94 May 1996	Set-off of Rs 6.08 lakh was incorrectly allowed on purchases of wire rods and other steel materials liable to tax at 4 *per cent*	10.00
		1	1996-1997 April 1999	Set-off was wrongly allowed after deducting 2 *per cent* instead of 4 *per cent* of purchase price	3.32
		1	1996-1997 March 2000	Set-off was not reduced in proportion to tax free goods sold	0.80
7	Kolhapur	14	1996-97 and 1997-98 Between February 2000 and January 2001	Set-off was incorrectly allowed on purchases of goods including capital assets effected prior to 1 April 1998 and used in manufacture of sugar a tax free commodity	146.63
8	Mandvi	1	1995-96 June 1998	Set-off was incorrectly computed without the statutory deduction	0.68
9	Mazgaon	1	1991-92 October 1994	Set-off incorrectly allowed on purchases used in the manufacture and packing of tax free goods	2.27
10	Nashik	1	1996-97 March 1999	Set-off of Rs 8.23 lakh was allowed in full as against set-off of Rs 0.13 lakh (1.61 *per cent*) admissible	15.71
		1	1997-98 August 2000	Set-off was incorrectly computed	0.37

Sr. No.	Name of the Division	No. of dealers	Assessment period Month of assessment	Nature of irregularity	Under-assessment including interest/ penalty (Rupees in lakh)
		7	Between 1995-96 and 1997-98 Between February 2000 and November 2000	Set-off was incorrectly allowed on purchases of goods including capital assets effected prior to 1 April 1998 and used in manufacture of sugar a tax free commodity	60.67
11	Pune –II	2	1997-98 January 2001 and February 2001	Set-off was incorrectly allowed on purchases of goods including capital assets effected prior to 1 April 1998 and used in manufacture of sugar a tax free commodity	17.76
12	Thane	1	1996-97 November 2001	Set-off was incorrectly allowed on purchases of goods including capital assets effected prior to 1 April 1998 and used in manufacture of sugar a tax free commodity	1.32
13	Worli	1	1994-95 January 1998	Set-off was incorrectly worked out assuming the tax rate as 15 *per cent* instead of 10 *per cent*	1.29
	Total:	**49**			**397.04**

On these cases being pointed out (between March 1996 and December 2001) the department accepted the mistakes in 19 cases and raised additional demands for Rs 44.85 lakh. In respect of 12 cases, department recovered Rs 23.88 lakh and in two cases dealers had filed (January 2000 and March 2000) appeals. Report on recovery and action taken in the remaining cases has not been received (December 2002).

The matter was reported to Government between April and June 2002; Government concurred with the action taken by the department in seven cases. Replies in respect of the remaining cases have not been received (December 2002).

(b) Under Rule 41 E of the Bombay Sales Tax Rules, 1959 a registered dealer is entitled to full set-off of taxes paid on the purchases of raw material falling within the group of iron and steel (specified in Entry 6 of Schedule B to the Act), when such raw material is used in manufacture for sale or export of goods which also fall within the same group (iron and steel), provided, no deduction on account of resale is allowed. When manufactured goods are used in works contract or manufactured goods are transferred to branches outside the State the set-off is allowed proportionately.

In three divisions[7] in the assessment of 3 dealers for the periods 1992-93, 1995-96 and 1996-97 set-off was incorrectly computed either due to mistakes in arithmetic calculation or incorrect grant of set-off on branch transfer and works contract. This resulted in under-assessment of Rs 5.32 lakh.

On this being pointed out in audit (January 1997, May 2000 and June 2000), the department revised/rectified the assessment orders (August 1999 November 2000 and January 2001) and raised additional demands for Rs 5.32 lakh. In one case dealer paid Rs 1.91 lakh (October 1999) and in another case an amount of Rs 1.70 lakh was adjusted against the refund due to the dealer. Recovery in the remaining case has not been received (December 2002).

The matter was reported to Government in June 2002; their reply has not been received (December 2002).

(c) Under the provisions of Rule 41 F of the Bombay Sales Tax Rules, 1959 a manufacturer of plastic goods was entitled (upto 30 September 1995) to full set-off of taxes paid on purchases of goods (excluding capital assets and parts components and accessories of such capital assets) provided they were used in the manufacture of plastic goods.

In Mumbai, a manufacturer of plastic cabinets for televisions and audios was allowed (November 1997) set-off of Rs 12.22 lakh on the purchases of plastic granules of Rs 159.74 lakh in the assessment for the period from 1 April 1994 to 31 March 1995. As the manufactured goods fell outside the scope of entry of plastic goods, the dealer was entitled to set-off of taxes paid in excess of 4 *per cent* on the purchase price as admissible to a manufacturer. This resulted in under-assessment of Rs 5.04 lakh (including interest of Rs 0.15 lakh).

On this being pointed out in audit (May 1998) the department revised (July 2001) the assessment order raising additional demand of Rs 5.04 lakh. Report on recovery has not been received (December 2002).

The matter was reported to Government in March 2002; their reply has not been received (December 2002).

(d) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made there under a registered dealer is entitled to set-off of taxes paid on the goods purchased from other registered dealers provided the goods so purchased are sold within a period of nine months from the date of their purchase in the same form in which they were purchased either in the course of inter-State trade or commerce or export. Such set-off is not admissible on deemed export under the provisions of the Central Sales Tax Act, 1956.

In Mumbai, a reseller of cots and aprons was allowed (October 1997) set-off of Rs 4.55 lakh on the purchase price of sales of Rs 116.27 lakh supported by declarations in Form 14-B allowed as deemed export in the assessment for the period from 1 April 1994 to 31 March 1995. As the set-off is admissible only if the goods purchased are sold in the course of export, the set-off allowed was incorrect. This resulted in under-assessment of Rs 5.65 lakh (including interest of Rs 0.38 lakh and penalty of Rs 0.02 lakh).

[7] Andheri, Aurangabad and Thane

On this being pointed out in audit (September 2000), the department reassessed (February 2001) the dealer raising additional demand for Rs 5.65 lakh (including interest and penalty). The dealer has filed (June 2001) an appeal before the Tribunal. Report of developments in appeal has not been received (December 2002)

The matter was reported to Government in March 2002; their reply has not been received (December 2002).

2.4 Short levy of sales tax

Under the Bombay Sales Tax Act, 1959 the rate of tax leviable on any commodity is determined with reference to the relevant entry in the Schedule B or C to the Act. Further, the State Government may, by notification exempt any class of sales or purchases from payment of whole or any part of the tax payable under the provisions of the Act, subject to such condition(s) as may be prescribed by the Government. Besides, turnover tax, additional tax and interest are also leviable as per the provisions of the Act.

It was noticed (between February 1997 and May 2001) that in assessing (between March 1996 and December 2000) 26 dealers in 15 divisions[8] due to application of incorrect rate of tax, there was under-assessment of Rs 94.92 lakh.

On the cases being pointed out in audit (between February 1997 and August 2001) additional demands aggregating to Rs 72.13 lakh (including turnover tax of Rs 1.74 lakh, additional tax of Rs 3.93 lakh, interest and penalty of Rs 27.04 lakh) were raised in 23 cases. In four cases department recovered Rs 4.41 lakh (between January 2001 and August 2002) and in one case demand of Rs 3.10 lakh was adjusted against refund due to the dealer. In two cases dealers had filed appeals (December 2000 and November 2001). Report on recovery in the remaining cases has not been received (December 2002).

The matter was reported to Government between August 1998 and June 2002; Government concurred with the action taken by the department in two cases. Replies in respect of the remaining cases has not been received (December 2002).

2.5 Non-levy of tax on sale of assets

Under the provisions of the Bombay Sales Tax Act, 1959 the rate of tax leviable on sale of a commodity is determined with reference to the relevant entry in the Schedules B or C to the Act. By an amendment on 29 June 1996 (effective from 15 January 1975), any transaction of sale or purchase of a capital asset was deemed to be in the course of business. However, by an amendment (January 1997) to the Act, if a dealer had sold the capital asset before 29 June 1996 and objected to levy of tax on the grounds that no tax was

[8] Andheri, Aurangabad, Bandra, Borivali, Churchgate, Ghatkopar, Kolhapur, Mandvi, Mazgaon, Nagpur, Nariman Point, Nashik, Pune, Thane and Worli

payable but for the amendment, then such dealer was not liable to pay tax in respect of such sale.

In Thane Division, sales of capital assets comprising of plant and machinery, motor vehicles and furniture and fixtures of Rs 11.17 crore effected on 24 September 1996 were incorrectly deducted from the taxable turnover of sales and exempted from tax invoking the saving clause while assessing (March 2000) the dealer for the period from 1 April 1996 to 24 September 1996. The incorrect exemption resulted in under-assessment of Rs 4.04 crore (including interest of Rs 1.20 crore and penalty of Rs 1.42 crore).

On being pointed out in audit, the Dy. Commissioner of Sales Tax stated (February 2002) that according to a judicial[9] pronouncement sale of entire business as a going concern cannot be regarded as sale in the course of business. The reply of the department was not tenable as the judgment was with reference to the provisions of the Andhra Pradesh Sales tax Act and would not apply to transactions of sale in the State. Moreover, as per Section 2 (5A) of the Bombay Sales Tax Act, 1959 transactions connected with commencement or closures of business are included in the definition of business.

The matter was reported to Government in June 2002; their reply has not been received (December 2002).

2.6 Under-assessment of tax

Under the provisions of the Central Sales Tax Act, 1956 the last sale or purchase occasioning the export of goods out of the territory of India shall be deemed to be in the course of export, if the last sale or purchase took place and was for the purpose of complying with the agreement or order for such export, provided the selling dealer produces a certificate in Form H (Form 14 B in case of a dealer within the State) duly filled and signed by the exporter alongwith evidence of export of the goods.

It was noticed in audit (between May 1998 and March 2001) that in the assessments of 10 dealers (two each in Borivali and Ghatkopar and one each in Andheri, Bandra, Mandvi, Mazgaon, Nashik and Thane Divisions) for various periods falling between 15 April 1993 and 31 March 1997 (assessed between May 1997 and May 1999), sales of packing material worth Rs 81.96 lakh supported by declarations in Form 14 B/Form H were allowed exemption from tax though they were not as per any specific purchase agreement with the foreign supplier. The materials sold were used as ordinary packing for goods exported out of India. This resulted in under-assessment of Rs 16.48 lakh (including interest of Rs 6.30 lakh).

On this being pointed out (between May 1998 and March 2001) the department revised (between February 2000 and December 2001) the assessments in respect of all the dealers raising additional demands aggregating to Rs 16.48 lakh (including interest). In four cases the dealers had

[9] Coromandal Fertilisers Ltd. v/s State of Andhra Pradesh (112 STC 11-29)

filed appeals and obtained stay against recovery. Report on recovery in the remaining cases has not been received (December 2002).

The above cases were reported to Government in April 2002. In one case Government concurred with the action taken by the department. Replies in the remaining cases have not been received (December 2002).

2.7 Non-levy/short levy of turnover tax/additional tax

Under the provisions of the Bombay Sales Tax Act, 1959 every dealer whose annual turnover of sales or purchases exceeded Rs 12 lakh was liable to pay turnover tax during the period from 13 July 1986 to 30 September 1995. The rate of turnover tax was 1.25 *per cent* of the taxable turnover (1.50 *per cent* with effect from 1 April 1993 where the turnover of sales or purchases exceeded Rs 1 crore. Besides, additional tax at 15 *per cent* (12 *per cent* upto 31 March 1994) of the sales tax / purchase tax payable was leviable where the turnover of sales or purchases exceeded Rs 10 lakh.

It was noticed (between March 1997 and April 2001) that while assessing (between June 1995 and June 2000) 10 dealers in 7 divisions[10] though the gross turnover of sales/purchases of the dealers had exceeded the prescribed limits for levy of turnover tax/additional tax, the same were not levied. This resulted in under-assessment of Rs 10.99 lakh (including interest of Rs 5.21 lakh).

On these being pointed out in audit (between March 1997 and April 2001), the department revised/rectified the mistakes raising additional demands for Rs 10.99 lakh (including interest). In five cases Rs 3.29 lakh was recovered including two cases wherein Rs 4.15 lakh was waived under Amnesty Scheme. Report on recovery in the remaining cases has not been received (December 2002).

The cases were reported to Government in April 2002. In two cases Government concurred with the action taken by the department. Replies in the remaining cases have not been received (December 2002).

2.8 Incorrect determination of taxable turnover

Under the Bombay Sales Tax Act, 1959 sales tax is leviable on the turnover of sales of taxable goods at the rates specified in the Schedules B and C to the Act after deducting from the gross turnover, resales of goods purchased by the dealer from other registered dealers, provided the goods are resold in the same form in which they were purchased.

Further, under the Central sales Tax Act, 1956 inter-State sale of any goods other than declared goods which are not supported by declaration in Form C are liable to tax at 10 *per cent* or at the rate applicable to sale or purchase of goods inside the State under the Sales Tax Law of the appropriate State whichever is higher.

[10] Aurangabad, Bandra, Borivli, Churchgate, Ghatkopar, Mazgaon and Pune-I.

It was noticed in audit (between December 1996 and May 2001) that in assessing (between December 1995 and February 2001) 7 dealers, taxable turnover of sales were determined short to the extent of Rs 122.95 lakh resulting in under-assessment of Rs 20.84 lakh for the reasons stated in the following table:

(Rupees in lakh)

Sr. No.	Name of Division	Assessment year Month of assessment	Name of commodity	Nature of irregularity	Tax short levied	T.O Tax	Addl. Tax	Interest /Penalty	Total
1.	Bandra	1994-95 February 1997	Import licence	Sale proceeds of import licence aggregating to Rs 33.60 lakh not supported by declaration in Form C were not included in the taxable turnover.	3.10	--	--	4.22	7.32
2	Mazgaon	September 1991 to March 1992 February 1996	Polythene bags	Taxable turnover was determined less by Rs 6.11 lakh.	0.49	0.08	0.06	0.63	1.26
		1993-94 December 1995	Glass sheets	Taxable turnover was determined short to the extent of Rs 4.81 lakh due to acceptance of incomplete returns.	0.44	0.05	0.05	0.28	0.82
3.	Ghatkopar	1992-93 September 1996	Machine tools	Profit on sale of assets of Rs 8.86 lakh was not included in the taxable sales.	0.89	0.11	0.11	0.73	1.84
4.	Churchgate	1997-98 February 2001	Industrial and medical gases	Rs 3.03 lakh received on account of cylinder deposit was not included in the taxable sales.	0.32	--	--	0.32	0.64
5.	Borivali	1993-94 March 1997	Aluminium casting	Taxable turnover of sales was determined short by Rs 8.07 lakh due to incorrect allowance of resales at Rs 15.88 lakh instead of at Rs 7.81 lakh.	0.57 *	0.10	0.02	0.49	1.18
6.	Nagpur	1994-95 January 1998	Pesticide	Taxable turnover of sales was determined short by Rs 58.47 lakh due to incorrect allowance of resales at Rs 1297.27 lakh instead of at Rs 1238.80 lakh.	3.30	0.83	0.50	3.15	7.78
	Total :				**9.11**	**1.17**	**0.74**	**9.82**	**20.84**

On this being pointed out in audit, the department revised (between March 1999 and April 2001) the assessments raising additional demands aggregating to Rs 20.84 lakh (including interest of Rs 9.82 lakh). In one case dealer paid Rs 1.18 lakh (May 2001) and in another case department recovered Rs 0.31 lakh and the balance amount of Rs 0.53 lakh was waived (November 1999) under the amnesty scheme. In a third case the dealer had filed appeal (April

* Includes disallowance of set-off of Rs 0.24 lakh

2001). Report of recovery in the remaining cases has not been received (December 2002).

The matter was reported to Government in May 1999 and May 2002; their reply has not been received (December 2002).

2.9 Incorrect deduction of sales on declaration

Under the provisions of the Bombay Sales Tax Act, 1959 and the notification issued (April 1993) there under sales of goods to an entitlement certificate holder for use in manufacture of goods for sale or in the packing of goods so manufactured is allowed as deduction from the taxable turnover provided the purchasing dealer furnishes declaration in Form BC.

In Nariman Point Division it was noticed (March 2000) that a manufacturer of Iron and Steel was assessed (November 1998) exparte for the period from 1 April 1993 to 31 March 1995. However, the claim of sales of Rs 131.27 lakh on declarations in Form BC was incorrectly allowed as deduction from the taxable turnover of sales instead of being disallowed and subjected to tax. This resulted in under-assessment of Rs 11.83 lakh (including interest).

On this being pointed out (March 2000) in audit the appellate authority subjected (September 2001) the sales of Rs 131.27 lakh to tax raising additional demand of Rs 11.83 lakh (including interest). However the dealer had filed (May 2002) second appeal before the Tribunal and obtained stay against recovery

The matter was reported to Government in May 2002; their reply has not been received (December 2002).

2.10 Short levy of tax under VAT

Under the provisions of the Bombay Sales Tax Act, 1959 sales of goods covered by Schedule C to the Act by resellers exceeding the prescribed turnover limit during the previous year were not allowed as deduction from the taxable turnover but liable to value added tax (VAT) in respect of the sales during the period from 1 October 1995 to 31 March 1999. When the sales turnover was subjected to tax, the rules provided for grant of set-off of tax paid on the purchases. Alternatively, the dealer had the option to pay tax on the differential amount of sale price reduced by the purchase price. By a notification dated 6 March 1996 tax in excess of 8 *per cent* on the taxable turnover of sales excluding turnover of sales made against declarations and goods on which the rate of tax specified in the Schedule was 16 *per cent* or more was exempt subject to fulfillment of certain conditions.

It was noticed in audit (between September 1998 and August 2000) that in respect of 8 dealers in 7 divisions[11] for periods falling between 1 April 1995 and 31 March 1997 (assessed between March 1998 and October 1999) tax liabilities were incorrectly computed on account of incorrect application of

[11] Andheri, Kolhapur, Mandvi, Nashik, Pune, Thane and Worli.

rates, incorrect allowance of concessional rate of tax, excess grant of discount and mistakes in arithmetic calculation resulting in under-assessment of Rs 9.21 lakh.

On being pointed out in audit (between September 1998 and August 2000) the department raised (between July 2000 and October 2001) additional demands aggregating to Rs 9.21 lakh (including interest and penalty). In three cases department recovered Rs 2.12 lakh (between August 2000 and October 2001). In three cases, dealers had filed (August 2000 and January 2002) appeals. Report on recovery in the remaining cases has not been received (December 2002).

The cases were reported to Government in June 2002; Action taken in two cases by the department was concurred by Government (August and September 2002).

2.11 Incorrect deferment of tax

The Bombay Sales Tax Act, 1959 and the rules made thereunder provide for various package schemes to an industrial unit, to whom an eligibility certificate and entitlement certificate is issued by the competent authorities. Such an unit is eligible for sales tax incentives such as exemption/deferment of sales tax, purchase tax and central sales tax on purchases of raw material and/or on sales of finished products during the period covered by the certificate subject to terms and conditions specified in the schemes.

A manufacturer of sugar and spirit in Ahmednagar was holding entitlement certificate for manufacture of goods in the distillery division. While assessing (May 1999) the dealer for the period from 1 April 1997 to 31 March 1998, tax of Rs 8.97 lakh levied on sales of molasses of Rs 69 lakh relating to sugar division not covered by the entitlement certificate, which was payable was erroneously deferred. This resulted in non-raising of demand for recovery of tax of Rs 8.97 lakh.

On this being pointed out (November 2000) in audit the department reduced the tax deferment by Rs 8.97 lakh.

The matter was reported to Government in April 2002; their reply has not been received (December 2002).

2.12 Incorrect assessment of tax dues

Under the provisions of the Bombay Sales Tax Act, 1959 a manufacturer could purchase (upto 31 March 1994) goods specified in part II of schedule C to the Act without payment of sales tax by furnishing a declaration in Form N-15 stating that the goods would be used in the manufacture of taxable goods for sale or in the packing of goods so manufactured. However, the purchases were liable to purchase tax at the rate of 4 *per cent* and set-off of the purchase tax paid was not admissible under Rule 41 F.

Further, with effect from 1 April 1993 sales supported by declaration in Form BC to eligible dealers in the backward regions of the State though exempt from levy of sales tax were liable to turnover tax at the rate of 1.5 *per cent,* if, the turnover of sales or purchases exceeded Rs 1 crore (1.25 *per cent* if the turnover of sales or purchases was below Rs 1 crore).

In Nashik, in the assessment (March 1998) of a manufacturer of plastic films for the period from 1 April 1993 to 31 March 1994 purchase tax of Rs 11.95 lakh was incorrectly levied at 10 *per cent* on the purchases of Rs 119.52 lakh instead of purchase tax of Rs 4.97 lakh leviable at the rate of 4 *per cent* on the total purchases of Rs 124.23 lakh effected by furnishing declaration in Form N-15. Also, set-off of the purchase tax of Rs 11.95 lakh levied, which was inadmissible, was allowed. Further, on the turnover of sales of Rs 26.11 lakh supported by declarations in Form BC during the period from 1 April 1993 to 31 March 1995, turnover tax of Rs 0.39 lakh leviable was not levied. These mistakes resulted in under-assessment of Rs 8.90 lakh (including interest of Rs 4.33 lakh).

On this being pointed out in audit (May 1998) the assessing officer reassessed (January 2000) the dealer raising additional demands aggregating to Rs 8.90 lakh. The dealer had filed (June 2000) an appeal and obtained stay against the reassessment order. Report on developments in appeal has not been received (December 2002).

The matter was reported to Government in March 2002; their reply has not been received (December 2002).

2.13 Non/short levy of penalty/interest

Under the Bombay Sales Tax Act, 1959 if a dealer does not pay tax within the time he is required to pay it, then, he shall be liable to pay simple interest at the rate of 2 *per cent* of the amount of tax for each month or part thereof after the date by which he should have paid such tax.

Similarly, if any tax remains unpaid on the date prescribed for filing of the last return in respect of a period of assessment, the dealer shall be liable to pay simple interest at the rate of 2 *per cent* of the amount of tax for each month or part thereof from the date following the date of the period of assessment till the date of payment or the order of assessment whichever is earlier.

The same provisions are also applicable for levy of penalty under the Central Sales Tax Act, 1956.

It was noticed (between February 1998 and March 2000) in the assessment (between June 1996 and June 1998) of 3 dealers in 3 divisions[12] for periods falling between April 1992 and March 1996 that interest was either short levied or not levied. This resulted in short/non-levy of interest/penalty of Rs 6.56 lakh.

On this being pointed out in audit (between February 1998 and March 2000) the department raised (January 1999 and April 2001) additional demands

[12] Bandra, Enforcement Mumbai and Mazgaon

aggregating to Rs 6.56 lakh. In one case the dealer filed (June 2000) an appeal before the tribunal and obtained stay against recovery. Report on recovery in the remaining cases has not been received (December 2002).

The matter was reported to Government in April 2002. In one case Government concurred with the action taken by the department. Replies in the remaining cases have not been received (December 2002).

2.14 Non-levy of purchase tax

Under the provisions of the Bombay Sales Tax Act, 1959 and the rules made thereunder, during the period from 1 September 1990 to 30 September 1995 a dealer purchasing any goods specified in Part I of Schedule C was liable to pay purchase tax at the rate of two paise in the rupee on the turnover of such purchases unless the goods so purchased were resold by him. The purchase tax was in addition to sales tax or purchase tax leviable under the Act. From 1 October 1995 purchase tax is leviable on the purchases of goods used in the manufacture of taxable goods transferred outside the State otherwise than as sale. Besides, additional tax and interest are leviable as per the provisions of the Act.

It was noticed (between March 1998 and October 2000) that while assessing (between October 1996 and January 2000) four dealers one each in Andheri, Borivali, Ghatkopar and Pune Divisions, purchase tax though leviable was not levied on the purchase of goods valued at Rs 262.56 lakh during the periods falling between April 1993 and March 1997. This resulted in under-assessment of Rs 6.06 lakh (including interest of Rs 1.87 lakh)

On this being pointed out in audit (between March 1998 and October 2000) the department revised/rectified (between June 1999 and October 2001) the assessments raising additional demands for Rs 6.06 lakh (including interest of Rs 1.87 lakh). In one case the dealer had filed (March 2001) an appeal. Report of recovery in the remaining cases has not been received (December 2002).

The matter was reported to Government in May 2002; their reply has not been received (December 2002).

2.15 Short levy of central sales tax

Under the provisions of the Central Sales Tax Act, 1956 tax on sales in the course of inter-State trade or commerce supported by valid declarations is leviable at the rate of four *per cent* of the sale price. Otherwise, tax at twice the rate applicable to the sales inside the State in respect of declared goods and in respect of goods other than declared goods at 10 *per cent* or at the rate of tax applicable to the sale or purchase of such goods inside the State, whichever is higher, is leviable.

It was noticed in audit (June 1999, August 1999 and December 1999) that in assessing (between June 1995 and February 1999) three dealers for the periods falling between April 1991 and March 1994, inter-State sales amounting to

Rs 164.76 lakh were incorrectly subjected to tax at the lower rate of 4 *per cent*. This resulted in under-assessment of Rs 11.03 lakh including interest.

On these cases being pointed out in audit (June 1999, August 1999 and December 1999) the department rectified the mistakes (September 2000, November 2000 and April 2001) by raising additional demands amounting to Rs 11.03 lakh. The dealers had filed appeals. Report of developments in appeal has not been received (December 2002).

The matter was reported to Government in July 1999 and June 2002. In one case action taken by the department has been concurred by Government (August 2002). Replies in the remaining cases have not been received (December 2002).

2.16 Non-forfeiture of excess collection of tax

Under the provisions of the Bombay Sales Tax Act, 1959 a registered dealer liable to pay tax in respect of any sale, may collect on the sale of goods any sum by way of tax from any other person. No registered dealer shall collect any amount by way of tax in excess of the amount of tax payable by him. Excess collection of tax except for the amounts refunded to the purchasers shall be forfeited and after deduction of expenses of collection be transferred to the Consumer Protection and Guidance Fund.

In Mazgaon, Pune and Thane it was noticed in audit (between January 1998 and January 2001) that while assessing (between January 1997 and May 1999) 3 dealers for assessment periods falling between 1 April 1993 and 31 March 1996 as against the tax collection of Rs 15.62 lakh the tax payable was determined at Rs 10.55 lakh. This resulted into non-forfeiture of excess collection of tax worth Rs 5.07 lakh. While the excess collection of Rs 1.61 lakh in two cases was not forfeited, in the third case as against the excess collection of Rs 3.46 lakh only Rs 0.07 lakh was forfeited.

On this being pointed out in audit the department revised/rectified (between June 2000 and January 2001) the assessments raising additional demands for Rs 5.02 lakh (including penalty).

The matter was reported to Government in April 2002. In one case Government granted (October 2000) administrative relief against recovery of Rs 3.39 lakh despite concurring with the action taken by the department. Replies in the remaining two cases have not been received (December 2002).

CHAPTER 3
Taxes on Motor Vehicles, Stamp Duty and Registration Fees and State Excise

3.1 Results of audit

Test check of records of departmental offices conducted during the year 2001-2002 revealed short realisation or loss of revenue amounting to Rs 44.02 crore in 3257 cases as stated below:

Sr. No.	Category	No. of cases	Amount (Rupees in crore)
STATE EXCISE			
1.	Short recovery of licence /privilege fees	51	0.19
2.	Short/non-recovery of supervision charges/bonus	73	0.04
3.	Miscellaneous	80	19.55
	Total	**204**	**19.78**
TAXES ON MOTOR VEHICLES			
4.	Non-levy/short levy of tax due to incorrect application of rates	1883	11.13
5.	Short levy of tax due to incorrect exemption/classification	901	0.99
6.	Other irregularities	2	0.54
	Total	**2786**	**12.66**
STAMP DUTY & REGISTRATION FEES			
7.	Non-levy of stamp duty on instruments executed by co-operative societies	5	0.02
8.	Incorrect exemption of stamp duty and registration fees	36	0.91
9.	Short levy due to mis-classification	57	7.06
10.	Short levy due to under valuation of property	52	0.88
11.	Other irregularities	117	2.71
	Total	**267**	11.58
	Grand Total	**3257**	**44.02**

During the course of the year 2001-2002, the department accepted under-assessments *etc.*, in 3672 cases involving Rs 1.67 crore and recovered Rs 1.65 crore. Of this, 1527 cases involving Rs 53.58 lakh had been pointed out during 2001-2002 and the rest in earlier years.

A few illustrative cases noticed during 2001-2002 and in earlier years involving financial effect of Rs 28.98 crore are given in the following paragraph:

TAXES ON MOTOR VEHICLES

3.2 Non/short recovery of motor vehicles tax

(i) Under the Bombay Motor Vehicles Tax Act, 1958 and the Rules made thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State. The Act further provides that tax leviable shall be paid in advance by the registered owner of the vehicle. Interest at the rate of 2 *per cent* of the amount of tax for each month or part thereof is payable in each case of default in payment of tax dues.

A test check of records in 12 offices (between August 1998 and September 2001) revealed that in respect of 414 vehicles, tax amounting to Rs 71.60 lakh was neither paid by the vehicle owners nor any demand notices were issued by the department for various periods falling between April 1996 and December 2001 as detailed in the following table.

Sr. No.	Location of the office	No. of vehicles	Period of default Between	Amount (Rupees in lakh)
1.	Jalna	34	1 December 1996 and 31 October 2000	5.37
2.	Kolhapur	48	1 January 1999 and 31 December 2001	2.50
3.	Latur	6	1 March 2000 and 31 December 2001	0.68
4.	Mumbai (Central)	31	1 April 1996 and 30 September 1998	8.78
5.	Mumbai (East)	36	1 July 1996 and 31 August 1999	4.47
6.	Mumbai (West)	23	1 April 1997 and 30 September 2001	9.72
7.	Nanded	36	1 March 1998 and 31 May 2001	8.26
8.	Parbhani	73	1 July 1998 and 31 May 2001	8.62

Sr. No.	Location of the office	No. of vehicles	Period of default Between	Amount (Rupees in lakh)
9.	Pen	42	1 May 1996 and 30 November 2001	10.82
10.	Pimpri-Chinchwad	26	1 December 1996 and 28 February 2001	2.14
11.	Ratnagiri	39	1 July 1998 and 30 September 2001	5.12
12.	Solapur	20	1 April 1996 and 31 December 2000	5.12
	TOTAL	**414**		**71.60**

On being pointed out (between August 1998 and September 2001) the department intimated (between September 1998 and September 2002) recoveries amounting to Rs 25.07 lakh (including interest of Rs 2.37 lakh) in respect of 216 vehicles.

The matter was reported to Government in April 2002; their reply has not been received (December 2002).

(ii) Under the Bombay Motor Vehicles Tax Act, 1958 and the Rules made thereunder, motor vehicles registered in Mumbai were liable to pay motor vehicles tax at $^{2}/_{3}^{rd}$ the prescribed rate. Consequent upon abolition of wheel tax levied and recovered by the Mumbai Municipal Corporation with effect from 1 April 1999, $^{1}/_{3}^{rd}$ exemption of motor vehicles tax extended to motor vehicles registered in Mumbai stood withdrawn and tax was payable at full rate.

A test check of records in the three Regional Transport Offices at Mumbai revealed (between September 2000 and May 2001) that in respect of 105 vehicles, the department continued to recover motor vehicles tax at the concessional rate instead of at the full rate. This resulted in short recovery of tax amounting to Rs 15.85 lakh for the periods falling between 1 April 1999 and 30 June 2001.

On this being pointed out (between September 2000 and May 2001) the department recovered Rs 14.66 lakh (including interest of Rs 3.83 lakh) in respect of 71 vehicles (between December 2000 and January 2002). Report on action taken in the remaining cases has not been received (December 2002).

The matter was reported to Government in May 2002; their reply has not been received (December 2002).

3.3 Loss of revenue

Section 177 of the Motor Vehicles Act, 1988 provides that whoever (the traffic offenders) contravenes any provision of the said Act or of any rules made thereunder shall, if no penalty is provided for the offence, be punishable for the first offence with fine of Rs 100 and for any second or subsequent

offence with fine of Rs 300. Further, the cases not preferred to Court/pending, become time-barred under Section 468 of the Criminal Procedure Code after the expiry of six months if the offence is punishable with fine only.

A test check of records of the Joint Commissioner of Police (Traffic) Mumbai and Deputy Commissioner of Police (Traffic) at Nagpur, Pune and Thane revealed that 2278667[13] cases against traffic offenders were registered during 1996-2001. However, these cases were not preferred to Court in time and became time-barred under the Limitation Act, depriving the Government of minimum revenue of Rs 22.79 crore worked out at the minimum rate of Rs 100 per case.

On this being pointed out in audit (January to May 2002), the department accepted the omission.

The matter was reported to Government in July 2002; their reply has not been received (December 2002).

STAMP DUTY AND REGISTRATION FEES

3.4 Short levy of stamp duty due to misclassification

According to Explanation 1 below Article 25 of Schedule 1 to the Bombay Stamp Act, 1958 and Section 2(g) of the Act, every instrument by which possession of immovable property is transferred or agreed to be transferred to a person, becomes a conveyance. Stamp duty on conveyance deed relating to property situated within the limits of Municipal Corporation of Greater Mumbai was leviable on the market value of the property at the prescribed rates.

(i) In Sub-Registry, 'S' series, Mumbai, an instrument registered in March 1998 for a property, the rights of which had already been transferred by the vendor to the vendee in May 1995 was incorrectly charged stamp duty at the rates applicable to the 'Development Agreement' instead of treating as a 'Deed of Conveyance'. The market value of the property was Rs 20.55 crore. Consequently, a duty of Rs 2.04 crore was leviable. This resulted in non-levy of stamp duty to that extent.

On this being pointed out by Audit (February 2000), the Inspector General of Registration accepted (July 2001) the audit observations but levied the stamp duty of Rs 16.65 lakh on apparent value of Rs 1.85 crore as certified by the Income Tax Department. The levy of duty on apparent value instead of market value was incorrect as the department should have collected the duty on realistic market value of the property.

The matter was reported to the Government in February 2000; their reply has not been received (December 2002).

[13] Mumbai (1026363), Nagpur (50640), Pune (1164878) and Thane (36786).

(ii) In the office of the Sub-Registrar, Andheri in July 1998, it was seen that two instruments of conveyance were registered in October 1996 by levying stamp duty on the consideration of Rs 5.60 crore shown therein. The Sub-Registrar neither verified the market value with reference to ready reckoner, nor the case was referred to the Collector of the district for determination of the true market value of the property. The value shown in the instruments was even less as compared to the value certified by the appropriate authority under the provisions of the Income Tax Act. Not-considering even the apparent value of Rs 6.50 crore for the purpose of levy of stamp duty, resulted in short levy of stamp duty to the extent of Rs 0.09 crore on these two documents.

On this being pointed out in audit (July 1998), the Inspector General of Registration, accepted (January 2001) the omissions and stated that the short levied amount of Rs 0.09 crore would be recovered.

The matter was reported to the Government in June 2002; their reply has not been received (December 2002).

3.5 Evasion of stamp duty due to non-registration of instrument

Every instrument of transfer of immovable property is required *inter alia* to be registered compulsorily under Section 17 of the Registration Act, 1908 and stamp duty and registration fee on such document is leviable under Schedule I of the Bombay Stamp Act, 1958.

The City and Industrial Development Corporation of Maharashtra Ltd. (CIDCO) leased out land measuring 10000.01 square meters in Vashi, Navi Mumbai (May 1989 and October 1990) to the Bombay Oil Seeds and Oil Exchange Ltd. (the confirming party) for 60 years. The confirming party constructed a building on the said land and later in 1995 agreed to allot the ground floor of the said building measuring 8006 sq.ft. at a consideration of Rs 1.94 crore to Videocon Leasing and Industrial Finance Ltd. (the vendor). The vendor paid full consideration of the property and also paid Rs 0.12 crore to the confirming party towards stamp duty and occupied the premises from 31 July 1995. However, neither the instrument was registered in the office of the concerned Sub-Registrar nor the amount of duty paid by the vendor to the confirming party was deposited into treasury immediately. The confirming party retained the amount of duty with them. Subsequently, the aforesaid premises were transferred by the vendor to Union Bank of India (purchaser) in July 1998 at a consideration of Rs 2.73 crore and the instrument was registered in January 1999 in Sub-Registrar 'R' series, Mumbai by paying stamp duty and registration fees of Rs 0.28 crore. Thus, due to non-registration of the document of conveyance there was evasion of stamp duty and registration fees of Rs 0.12 crore.

On this being pointed out (January 2001) the Inspector General of Registration stated (September 2001) that the previous document whether registered or not was an independent transaction and has no relevance to the subsequent transaction. The reply of the Inspector General of Registration is not acceptable, as the stamp duty collected by the seller from the purchaser in

1995 was not remitted to the treasury under the provision of Section 63 (A) (1) of the Bombay Stamp Act. Moreover, for contravention of the provision the seller is liable to criminal action under clause 2 of the section *ibid.* Though, this fact was noticed by the Sub-Registrar while registering the subsequent document in July 1998, appropriate action was not taken by him.

The matter was reported to Government in July 2001; their reply has not been received (December 2002).

3.6 Short levy of stamp duty due to under-valuation of property

Stamp duty on instruments of conveyance and gift of immovable property has to be levied under Articles 25 and 34 of Schedule I to the Bombay Stamp Act, 1958. The registering officer to whom the instrument is produced for registration is required to verify the true market value of the property with reference to the ready reckoner (annual statement of rate of land and buildings prepared and supplied every year by the Chief Controlling Revenue Authority) and in case he finds that the market value stated in the instrument is less than the minimum value prescribed in the statement, he shall refer the same to the Collector of the district for determination of true market value of the property.

In the office of the Sub-Registrar, "S" Series, Mumbai, five instruments of conveyance and one gift deed were executed between January 1999 and March 1999. The Sub-Registrar levied stamp duty of Rs 1.70 lakh on consideration of Rs 0.27 crore set forth in the instruments while the true market value of the property with reference to the ready reckoner worked out to Rs 7.91 crore. Due to under-valuation of property in the documents, stamp duty and registration fees were levied short by Rs 0.77 crore and Rs 0.55 lakh respectively.

On this being pointed out in audit (January 2001) the Inspector General of Registration accepted (September 2001) the omission and agreed to recover the amount short levied. Final action by the department for recovery was awaited (December 2002).

The matter was reported to Government in July 2001; their reply has not been received (December 2002).

3.7 Irregular exemption of stamp duty and registration fees

According to Section 3(i) of the Bombay Stamp Act, 1958 the exemption from levy of stamp duty is available only on those instruments, which have been executed by or on behalf of or in favour of the Government.

In Sub-Registrar, Mangalvedha, Solapur District, 2 instruments of sale deed and one instrument of gift deed for land measuring 9044 square meters for commercial purpose of Nagar Parishad, Mangalvedha, executed on twenty rupee stamp paper each in February 1999 for total consideration of Rs 1.61 crore conveying right, title and interest were exempted from payment of stamp

duty and registration fees. This resulted in non-realisation of stamp duty and registration fees amounting to Rs 7.66 lakh.

On this being pointed out (October 2001) the Inspector General of Registration, accepted (March 2002) the omission and directed the Joint District Registrar to initiate action for recovery of the amount.

The matter was reported to Government in January 2002; their reply has not been received (December 2002).

3.8 Short levy of stamp duty due to incorrect classification of conveyances as agreements for development

Article 5(g)(a) read with Article 48(g) to the Bombay Stamp Act, 1958 provides for levy of stamp duty at the rate of Rs 5 for every Rs 500 or part thereof of the market value of the property in regard to agreement relating to giving authority or power to a promoter or a developer by whatever name called for construction or development of or sale or transfer of any immovable property. However, when such power is given for consideration and authorising to sell an immovable property, the duty is leviable on the conveyance.

In the offices of three Sub-Registrars (Kurla, Kalyan and Haveli), 15 instruments were executed between January 1998 and December 2000 as agreements for development though a consideration of Rs 17.53 crore was agreed to be paid by the developers to the owners of land, either in instalment or in lumpsum and payment was also made in advance/at the time of execution of deeds. These documents had to be charged with stamp duty at the rates applicable to conveyance deed but they were incorrectly charged with stamp duty applicable to agreements for development under Article 5(g)(a), even though the right, title and interest were transferred in the subject matter of property. This resulted in short levy of stamp duty amounting to Rs 2.21 crore.

On this being pointed out (between February 2000 and October 2001) the Sub-Registrar, Haveli-IV accepted the short levy in February 2000 and agreed to take action as per orders of higher authorities. However, no recovery had been effected (December 2002). The Sub-Registrars, Kurla and Kalyan-I, however, stated that these documents were charged with stamp duty under Article 5(g)(a) since these documents were named as "agreement for development". The reply given by the Sub-Registrars was not tenable in view of the fact that the subject matter lands/properties were actually transferred by owners to developers for consideration and again by the developers to allottees of flats which required levy of stamp duty at both the times under Article 25.

The matter was reported to the Inspector General of Registration, Maharashtra State, Pune/Government between June 2000 and January 2002; their replies had not been received (December 2002).

CHAPTER 4 : Land Revenue

4.1 Results of audit

Test check of records of Land Revenue conducted during the year 2001-2002 revealed under-assessment, short levy, loss of revenue *etc.*, amounting to Rs 221.58 crore in 275 cases which broadly fall under the following categories:

Sr. No.	Category	No. of cases	Amount (Rupees in crore)
1.	Short levy of N.A.A./ZP/VP cess/ILR	154	55.06
2.	Non/short levy of education cess	6	0.49
3.	Short levy of increase of land revenue	18	1.69
4.	Non/short levy of occupancy price/rent/interest	49	5.67
5.	Sanad/measurement fee	46	7.14
6.	Recovery of dues treated as arrears of land revenue	1	55.33
7.	Review on "Encroachment on Government land in major cities other than Mumbai"	1	96.20
	Total	**275**	**221.58**

During the course of the year 2001-2002, the department accepted under-assessments of Rs 1537.41 lakh involving 386 cases which were pointed out in earlier years and recovered the same.

A few illustrative cases involving financial effect of Rs 56.44 crore and a review on "Encroachment on Government land in major cities other than Mumbai" involving financial effect of Rs 96.20 crore are given in the following paragraphs:

4.2 Review on encroachment on Government land in major cities other than Mumbai

4.2.1 Introduction

Maharashtra Land Revenue (MLR) Code, 1966 and the Rules framed thereunder empowers the Collector and other Revenue Officers to deal with the allotment of Government land on occupancy or lease hold right, as well as to collect occupancy price, lease rent, land revenue, *etc*. The Collectors have been empowered to abate or remove summarily any encroachment made on any land vested in Government. The encroacher is liable to pay, for the whole period of encroachment, the assessment for the entire survey number (if the land forms part of an assessed survey number) or if the land has not been assessed, such assessment as would be leviable for the said period, in the same village or similar land used for the same purpose. In addition to assessment, he is also liable to pay fine upto Rs 1000 in case the land is used for agricultural purpose and upto Rs 2000 in case the land is used for non-agricultural purpose.

4.2.2 Organisational set-up

For the purpose of MLR Code, 1966, the State of Maharashtra has been divided into seven[14] Revenue Divisions each headed by a Commissioner who is the Chief Controlling Authority in all matters connected with the land revenue, subject to the superintendence, direction and control by the Secretary at Government level. The assessment and realisation of land revenue in respect of land held by the encroachers are to be made by the Tahsildars, Sub-Divisional Officers and Additional Collectors *etc*., according to their respective delegation of powers. The other levies like occupancy price and fine are also leviable along with the levy of land revenue, which includes lease money, rent, cess, *etc*. Appeal, if any, with reference to the assessments lies with the next higher authority in the Revenue Department.

4.2.3 Scope of Audit

A review through test check of connected records of 9 out of 13 cities excluding Mumbai having corporations viz. Nagpur, Pune, Pimpri-Chinchwad, Kolhapur, Solapur, Aurangabad, Thane, Kalyan-Dombivali and Nashik was conducted by audit between December 2001 and April 2002.

4.2.4 Highlights

- **Failure of the department to evict 3285 encroachments or regularize them resulted in non-levy of occupancy price of Rs 64.97 crore.**

  (Paragraph 4.2.5)

- **On regularisation of the encroachments, occupancy price, penal occupancy price, penal non-agricultural assessment and fine of Rs 0.27 crore was not recovered from four encroachers.**

  (Paragraph 4.2.6)

[14] Amravati, Aurangabad, Konkan, Mumbai, Nagpur, Nashik and Pune.

- **Penal lease rent of Rs 9.68 crore was not levied against unauthorised occupants of Government land after expiry of lease period.**

(Paragraph 4.2.7)

- **Revenue free land valued at Rs 21.28 crore granted for educational purpose was misutilised by two societies.**

(Paragraph 4.2.8)

4.2.5 Failure to evict encroachments and levy occupancy price

The MLR Code, 1966 prescribed that in case encroachment is detected by the authority, the encroacher(s) shall be evicted forthwith and assessed for non-agricultural assessment/land revenue at the prescribed rate and fine. In case the encroachment is regularised on occupancy right, the encroacher has to pay penal occupancy price and penal land revenue at the prescribed rates.

A test check of the records of Kolhapur and Pune Collectorates revealed that Government land measuring 195929.50 sq. mtrs. was under encroachment of 3285 encroachers from the period prior to 1 January 1985. Of this, 179400 square meters of land were encroached by 3278 occupants in Kolhapur and 16529.50 square meters land was encroached by 7 occupants in Pune for residential purpose. However, these encroachments had neither been evicted nor any action had been taken for their regularisation which resulted in non-levy of occupancy price of Rs 64.97 crore being the penal occupancy price. The particulars of the encroachments are given in the following table:

(Rupees in crore)

Sr. No.	Name of the village and Survey/Gat No.	Year of encroach-ment	No. of encroach-ers	Area in Sq. Mtrs.	Market value of the encroached land Rs.	Minimum penal occupancy price recoverable Rs.
1	Ichalkarangi (Kolhapur)	Prior to 1985	2475	91100.00	16.00	39.99
2.	Karvir (Kolhapur) 1203	Since 1975-76	803	88300.00	5.56	13.91
3.	Yerwada (Pune) 2513	Since 1950	7	16529.50	4.43	11.07
	Total		**3285**	**195929.50**		**64.97**

On this being pointed out in audit, the Collector Kolhapur stated (February 2002) that action would be taken after enquiry from the concerned tahsildar. The Collector, Pune stated (December 2001) that the cases were under correspondence with the Government.

However, Government stated that while the report of the Collector, Kolhapur for regularisation of encroachments had been called for, no report had been received from the Collector , Pune (December 2002)

4.2.6 Non-realisation of non-agricultural assessment, penal occupancy price, fine and interest

Under the MLR (Disposal of Government land) Rules, 1971 the Collector may grant the land either on the occupancy right or lease hold right to the encroacher, subject to payment of penal occupancy price or penal lease rent as the case may be.

A scrutiny of the records of the Collectors of Pune and Kolhapur Districts revealed that Government land measuring 443936.75 square meters encroached by 4 encroachers was regularised by Government between January 1990 and November 1998 without recovering the occupancy price, *etc.*, amounting to Rs 0.27 crore as shown in the table given below:

(Rupees in crore)

Sr. No.	Name of the encroacher	Date of regularisation of encroachment	Period of encroachment	Area (in sq. mtrs)	Non-realisation of penal occupancy price, Fine and Interest Rs.
1	Pimpri-Chinchwad Municipal Corporation	9.1.1990	1990 to 2001	236300.00	0.15
2	Maharashtra Industrial Development Corporation Pune	30.1.1990	1977 to 2001	206400.00	0.04
3	Rashmi Education Society, Pune	17.6.1992	1991 to 2001	1011.75	0.06
4	Ajij Ahmed Jamdar Kolhapur	25.11.1998	1931 to 2001	225.00	0.02
	Total			**443936.75**	**0.27**

On this being pointed out in audit, while the Tahsildar Haveli at Pune stated (December 2001) that the information will be collected from the revenue authority (Talathi), the Collector, Kolhapur stated that the applicant had paid Rs 4.29 lakh out of Rs 5.98 lakh and for the balance amount of Rs 1.69 lakh he had sought exemption.

4.2.7 Un-authorised retention of Government land after expiry of lease period

Under MLR Code, 1966 the Collector is empowered to evict a person holding land unauthorisedly by reason of expiry of lease. The lessee shall also be liable to pay penalty not exceeding two times the assessment or rent for the land for the period of such unauthorised use or occupation.

(a) During the course of audit it was noticed that the period of lease in 75 cases had expired. However, the department took no action to evict the occupants and levy penalty. Thus, an area of 87031.10 square meters of land valued at Rs 15.22 crore remained under unauthorised occupation. For the period of illegal occupation, penalty of Rs 9.52 crore was leviable as under:

(Rupees in crore)

Sr. No.	Name of the City	Area (in sq. mtrs.)	No. of Cases	Market value of land Rs.	Penal lease rent payable for the period from 1995-2002 Rs.
1	Pune	39851.60	64	1.60	0.87
2	Solapur	20639.70	1	7.04	6.95
3	Thane	8094.00	1	2.09	0.69
		3955.80	6	1.58	0.09
4	Kolhapur	215.00	1	0.06	0.02
5	Nashik	14047.00	1	0.14	0.89
		228.00	1	2.71	0.01
	Total	**87031.10**	**75**	**15.22**	**9.52**

On this being pointed out the Sub-Divisional Officer, Thane, stated that necessary action for renewal of leases would be taken. Final reply in respect of the remaining districts has not been received. However, the department remained silent about the recovery of penal lease rent.

(b) In another case in Solapur, land measuring 1858 square meters was granted on lease in 1999 with the condition that the lease would not be renewed after its expiry in October 2000 as per terms and condition of the sanction order. However, no action was taken by the department to evict the occupant even though the occupant continued to occupy it after October 2000. Thus, the land valued at Rs 0.16 crore remained under illegal occupation.

On this being pointed out in audit, the Collector, Solapur stated that the matter would be referred to the Government and necessary action taken. The reply of the Collector is not tenable as the Collector is empowered to evict the illegal occupant.

4.2.8 Mis-utilisation of revenue free land

Under Rule 8 of MLR (Disposal of Government Land) Rules, 1971 every grant of land shall be made expressly with the conditions that (i) the land or any part thereof or any interest therein shall not be transferred except with the previous sanction of the State Government and (ii) the land, with all fixtures and structures thereon, shall be liable to be resumed by the State Government for breach of condition or if it is not used for the specific purpose for which it was granted.

During the test check of records of two Collectorates (Aurangabad and Nagpur) it was noticed, that revenue-free land measuring 47411.3 square meters allotted for educational purpose to two societies, was used for commercial purpose resulting in mis-utilisation of revenue free land valued at Rs 21.28 crore as under:

Sr. No.	Name of the educational institution	Area (in Sq. Mtr.)	Rate per sq. mtrs. (Rupees)	Market value of land (Rupees in crore)	Remarks
1	Management of Banjara Hostel Aurangabad	4614.30 [ω]	5314	2.45	Land granted for construction of hostel building was used for construction of Shopping complex
2	Anjuman Hami Islam Education Society, Nagpur	42797.00	4400	18.83	Land granted for construction of school building was used for construction of shopping complex
	Total	**47411.30**		**21.28**	

The Collector Aurangabad passed an order on 21 July 2000 for restoration of the land to Government. However, the Revenue Minister ordered (11 September 2000) that (i) restoration order passed by the Collector Aurangabad be cancelled, (ii) 15 *per cent* of the building should be used for commercial purpose and (iii) 15 shops constructed should be removed by the society. For failure to do so by the society, action should be taken by the Collector for removal of encroachment as per provisions of MLR Code and measurements taken by the Taluka Inspector of Land Records Aurangabad. Further, action taken for regularization/recovery of the value of the land authorised to be used for commercial use and for eviction of the remaining encroached land was not available in the records of the department.

On this being pointed out, the Collector stated (January 2002) that action was being taken as per the orders of the Minister. The Collector Nagpur stated (April 2002) that facts of the case were sent to Government and was pending for decision with the Government.

4.2.9 Conclusion

A strong internal control mechanism in the system is required to be developed for exercising periodical check/ review of the encroached areas resulting into speedy eviction or regularisation of the land under the illegal occupation of encroachers. Government land allotted free of cost or at concessional rates if not utilised for the purpose for which it was intended/ allotted should be resumed by the Government at once. This would not only discourage the encroachment of Government land, but will also augment resources.

The matter was reported to Government in June 2002; their reply has not been received (December 2002).

[ω] Out of 6070.5 square meters of land allotted for hostel building, 4614.3 square meters land was used for construction of shopping complex.

4.3 Recovery of dues treated as arrears of land revenue

The mode of recovery of dues of the Government departments/Government undertakings and corporations, *etc.*, is laid down in the relevant Act of the concerned Government departments. However, if recovery cannot be effected and the dues become irrecoverable under the provisions of the relevant Act, the departmental officer responsible for administering the Act is required to send a Revenue Recovery Certificate (RRC) in the prescribed form furnishing full details of recovery to be effected by the Tahsildar of the taluka in which the property of the defaulter is situated. The District Collector/Tahsildar has been delegated with powers for initiating the recovery proceedings by adopting any one or more of the processes prescribed under the Maharashtra Land Revenue Code, (MLR Code) 1966 and Revenue Recovery Act, 1890. These Acts provide for attachment of the property, auction of the property and even confinement of the defaulters in jail, if they failed to respond to the demand notices issued to them.

4.3.1 Position of arrears

(a) Year wise position of outstanding dues to be recovered through RRCs and recovery actually effected between 1997-98 and 2001-02 as made available by the Government was as under:

(Rupees in crore)

Sr. No.	Particulars	1997-98	1998-99	1999-2000	2000-01	2001-02
1	Arrears for recovery through RRCs as on 1 April	13.39	27.03	16.76	22.81	7.85
2	Amount for which RRCs issued during the year	38.49	17.32	15.15	15.16	189.56
3	Recoveries made in the year	10.33	10.22	9.10	30.12	63.73
4	Arrears[15] of RRCs as on 31 March	41.55	34.12	22.81	7.85	133.68
5	Percentage of recovery	19.91	23.04	28.52	79.33	32.28

(b) Correctness of arrears

A cross verification of details by audit of the RRC cases in 23 tahsils with the records made available in the concerned Collectorates revealed that the correct picture was not available with the Collectors as detailed in the following table:

[15] The closing balance at the end of 31 March did not tally with the figures of opening balance on 1 April of subsequent year. This discrepancy was brought to the notice of Government (June 2002), who replied (July 2002) that the figures would be verified again.

Sr. No.	Districts	No. of tahsils	Figures as per tahsils	Figures as per Collector	Difference in cases	Amount (Rupees in crore)
1	Nagpur	4	659	92	567	25.10
2	Wardha	1	3496	Nil	3496	0.50
3	Amravati	1	38	Nil	38	0.03
4	Akola	3	122	Nil	122	0.13
5	Yavatmal	2	--	--	--	0.12
6	Nashik	4	25	Nil	25	0.09
7	Nanded	6	294	Nil	294	0.63
8	Solapur	2	20	Nil	20	0.09
	Total	**23**	**4654**	**92**	**4562**	**26.69**

On this being pointed out, the tahsildars accepted the difference and agreed to reconcile the figures.

Revenue and Forests Department

4.3.2 Non-treating unrecovered dues as arrears of land revenue

Under Sanjay Gandhi Swawalamban Yojana (SGSY) (September 1980), the loan granted to unemployed/underemployed needy persons was to be recovered in 8 equal annual instalments after allowing initial period of two years of moratorium. Overdue instalments or amount of loan misutilised was to be recovered as arrears of land revenue in view of the Government instructions (January 1983).

(i) A test check of records in seven[16] District Collectorates relating to SGSY revealed that loans amounting to Rs 3.40 crore sanctioned during the period from 1985-86 to 1989-90 had become overdue for recovery between 1995-96 and 1999-2000 after a lapse of a period of ten years. Though RRCs had to be issued in the years from 1995-96 to 1999-2000, no further action was taken to recover the arrears by stringent measures. Year wise break-up is given as under :

Sr. No.	Year of sanction of loan	Outstanding amount out of sanctioned loan (Rupees in crore)	Year by which loan was recoverable fully	Year in which RRCs were to be issued
1	1985-86	0.33	1995-96	1996-97
2	1986-87	0.64	1996-97	1997-98
3	1987-88	0.55	1997-98	1998-99
4	1988-89	0.73	1998-99	1999-2000
5	1989-90	1.15	1999-2000	2000-01
	Total	**3.40**		

[16] Akola, Amravati, Gadchiroli, Dhule, Nanded, Pune, Yavatmal.

(ii) In 8 District Collectorates an amount of Rs 3.51 crore as detailed below was pending recovery during the years from 1980-81 to 2000-01 for which neither the year wise break up was available with the department nor any action taken to recover the over due amount as arrears of land revenue (December 2002).

Sr. No.	Name of the Collectorate	Amount (Rupees in crore)
1	Nagpur	0.57
2	Thane	0.52
3	Mumbai (City)	0.42
4	Mumbai (Suburban)	0.75
5	Wardha	0.68
6	Jalgaon	0.48
7	Solapur	0.06
8	Raigad	0.03
	Total :	**3.51**

On this being pointed out, Government while accepting the observations of audit stated that the Collectors would be instructed to recover the dues as arrears of land revenue.

4.3.3 Non-clearance of cases

Forests Department

Note 10 below Section 169 of Maharashtra Land Revenue Code,1966 provides that the Collectors should ensure that the arrears of forest dues are recovered within a period of one year from the date on which the Collectors are requested by the officials of the Forests Department to recover the dues from the defaulting contractors.

A scrutiny of records in the office of the Principal Chief Conservator of Forests (PCCF), Nagpur, revealed that RRC cases amounting to Rs 0.88 crore sent to ten[17] Collectors for recovery remained unattended. These cases have been pending with the Collectors for periods ranging from 1 to 10 years.

The Forests Department stated (June 2002) that no progress had been made by the Revenue Department in recovering the outstanding amount. This inaction on the part of the department resulted in non-recovery of the amount.

[17] Amravati, Aurangabad, Chandrapur, Dhule, Kolhapur, Nagpur, Nasik, Pune, Thane and Yavatmal

4.3.4 Pursuance of RRCs

Under the Government of Maharashtra, Revenue and Forests Department circular of December 1979 and further instructions issued from time to time, both the RRC issuing officers and revenue authorities are responsible for collection of the amounts in arrears.

During test check of records in nine departments, it was noticed that 61915 RRC cases sent by requisitioning authorities to concerned revenue authorities for collection of the amounts were pending for 2 to 5 years. Lack of pursuance by the issuing authorities as well as laxity on the part of revenue department resulted in the non-collection of arrears amounting to Rs 45.89 crore as detailed below:

Sr. No.	Name of issuing department/organisation	No. of cases	Amount (Rupees in crore)
1	Industries	4623	1.29
2	Registration	44433	10.52
3	Labour	436	1.90
4	Mining	206	1.14
5	Irrigation	18	0.71
6	Agriculture	1642	1.20
7	SICOM	104	9.11
8	MSFC	22	2.22
9	Khadi Gram Udyog	10431	17.80
	Total	**61915**	**45.89**

4.3.5 Failure to initiate action after issue of the attachment order

(a) State Industries and Investment Corporation of Maharashtra (SICOM) Ltd., Mumbai forwarded a RRC case to Tahsildar, Aurangabad in February 1999 for recovering Rs 1.53 crore from the defaulter M/s. Nipon Packaging Ltd. Aurangabad. The Tahsildar, Aurangabad on receipt of the case issued demand notices to the defaulter in March 1999 and April 1999, followed by an attachment order in November 2000. Thereafter, instead of taking coercive measures like auctioning the property, *etc.*, the tahsildar continued to issue demand notices which only resulted in non-recovery of dues from the defaulter. In reply, the tahsildar Aurangabad stated that appropriate action could not be taken due to non-availability of enough qualified staff in his office.

(b) Tahsildar, Baramati received a RRC case for recovery of an amount of Rs 0.38 crore in August 2001 from the Chairman, Maharashtra State Sahakari Ghani Tel Utpadak Mahasangh, Baramati. Though an attachment order to confiscate and auction of the property was issued in August 2001, yet the case was not pursued further and no reasons for inaction were available on record. On this being pointed out the tahsildar stated that further action will be taken after in depth inquiry of the case.

The laxity on the part of department resulted in non-recovery of Rs 1.91 crore.

4.3.6 Irregular closure of RRC case

Government of Maharashtra in Food and Civil Supplies and Consumer Protection Department forwarded a RRC case to the Tahsildar, Baramati in 1997 for recovery of Rs 0.76 crore from M/s. Baramati Solvent Extraction Pvt. Ltd. Pune, followed by reminders in June 1998, October 1998, January 1999, January 2000 and August 2001. Despite repeated pursuance by the department and at Government level, no action was taken by the tahsildar. Government closed the case (November 2001) on the presumption that recovery might have been effected and further stated that in case of non-recovery the responsibility would devolve solely on the concerned tahsildar. However, no recovery was effected in this case and it was lying (February 2002) with the tahsildar who stated that action would be taken now.

4.4 Short levy of land revenue and increase of land revenue due to non-revision of assessment

Under the provisions of the Maharashtra Land Revenue Code, 1966 land revenue is assessed with reference to the use of land and the non-agricultural assessment (N.A.A.) of the land remains in force during the guarantee period mentioned in the Assessment Order. After the expiry of guarantee period, the assessment is to be revised in accordance with the new rates notified in the official gazette, subject to the condition that the rates do not exceed two/six times the old N.A.A. for residential/ industrial or commercial purpose respectively. Further, increased land revenue at the rate of 50 *per cent* and 100 *per cent* of land revenue from 1 August 1975 by the land holders holding 8 hectares or more but less than 12 hectares of land and by those holding 12 hectares of land or more respectively under the Maharashtra Increase of Land Revenue Assessment Act, 1974 and cess at the prescribed rates under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1958 are also leviable.

In two tahsils, land measuring 699035 sq. mtrs. was put to non-agricultural use, for which the non-agricultural assessment was guaranteed upto August 1991 and 1992-93. Audit scrutiny between August 1997 and September 1997 revealed that, the concerned tahsildars did not revise the non-agricultural assessment after expiry of the guarantee period, and the increased land revenue was also not levied which resulted in short levy of Rs 9.20 lakh as per details given below:

(Rupees in lakh)

Sr. No.	Name of Tahsil	Name of holder	Area of land in Sq. mtrs.	Purpose	Guarantee period	period of use	Non -levy		Total
							N.A.A./ ZP,VP cess	I.L.R.	
1	Sakri	Panzarkar Co-op. Sugar factory, Bhadane, Sakri	684800	Commer-cial	Upto July 1991	1992-93 to 2001-02	4.05	2.11	6.16
2	Basmat-nagar	MSEB, Basmat-nagar, Parbhani	14235	Commer-cial	Upto 1992-93	1993-94 to 2001-02	1.80.	1.24	3.04
	Total		**699035**				**5.85**	**3.35**	**9.20**

On this being pointed out in audit (August-September 1997), the department accepted the objection and recovered Rs 3.67 lakh between March 1999 and February 2000, leaving a balance of Rs 5.53 lakh yet to be recovered.

The matter was reported to Government in November 1997; their reply has not been received (December 2002).

CHAPTER 5 : Other Tax Receipts

5.1 Results of audit

Test check of records of departmental offices conducted during 2001-2002 revealed short realisation or loss of revenue amounting to Rs 190.18 crore in 26813 cases as listed below :

Sr. No.	Nature of receipt	No. of cases	Amount (Rupees in crore)
1.	Electricity Duty (including review)	176	39.92
2.	Education Cess and Employment Guarantee Cess	242	108.52
3.	Entertainments Duty (including exemption)	962	5.78
4.	Profession Tax	22306	1.86
5.	Residential Premises Tax	3007	2.30
6.	Repair Cess	120	31.80
	Total	**26813**	**190.18**

During the course of the year 2001-2002, the concerned departments accepted and recovered under-assessments *etc.*, in 4020 cases involving Rs 27.25 crore of which 135 cases involving Rs 23.44 crore had been pointed out during 2001-2002 and the rest in earlier years.

A few illustrative cases having financial effect of Rs 143.90 crore and a review on 'Levy and collection of Electricity Duty' involving financial effect of Rs 9.47crore are given in the following paragraphs :

SECTION A
TAXES AND DUTIES ON ELECTRICITY

5.2 Review on levy and collection of electricity duty and fees

5.2.1 Introduction

The levy and collection of duty and fees by the State Government on the electrical energy consumed is governed by the Bombay Electricity Duty Act, 1958, the Maharashtra Tax on sale of Electricity Act, 1963 the Bombay Lifts Act, 1939 and the rules made thereunder. Under the Bombay Electricity Duty Act, 1958 every licensee shall collect the electricity duty on the units of energy sold for consumption from the consumers through the electric power supply bills and pay it to the State Government by the prescribed dates. Further, every person other than a licensee who consumes energy generated by him is also liable to pay electricity duty. Tax on sale of electricity is paid on every unit of energy sold by a generating licensee (bulk licensee upto 30 September 2000) in respect of all his sales.

Fees for testing and inspection of installations connected to the supply system of the supplier are levied under the Indian Electricity Act, 1910 and the Indian Electricity Rules, 1956 at the prescribed rates and credited to the State Government.

In Maharashtra, a major portion of the electricity duty was levied, collected and paid to the State Government by the licensees viz. the Maharashtra State Electricity Board (M.S.E.B.), the Bombay Suburban Electric Supply Ltd. (B.S.E.S.), the Bombay Electric Supply and Transport undertaking (B.E.S.T.) and the Tata Electric Companies.

5.2.2 Organisational set up

The Chief Engineer (Electrical) Mumbai under the administrative control of the Industries, Energy and Labour Department administers the provisions of the Acts and Rules. For the purpose of administration of the Acts, the State is divided into four regions *viz.,* Mumbai, Pune, Aurangabad and Nagpur each headed by a Superintending Engineer. There are 13 Electrical Inspectors in the State in addition to an Inspector of lifts at Mumbai.

5.2.3 Scope of Audit

With a view to ascertaining the effectiveness and efficiency of the system of levy and collection of electricity duty with reference to the provisions of the Act and Rules and adequacy and effectiveness of inspection of installations and realisation of fees as prescribed in the Indian Electricity Rules, 1956 a review was undertaken during the period from November 2001 to March 2002. Records relating to the period from 1996-97 to 2000-01 in the offices of the Chief Engineer (Electrical), Mumbai, Inspector of Lifts, Mumbai and eight Electrical Inspectors[18](out of 13) were test checked.

[18] Aurangabad, Kolhapur, Nagpur, Nashik, Pune, Sangli, Thane I & II

5.2.4 *Highlights*

- **Due to incorrect application of rate there was short recovery of duty of Rs 4.44 crore.**

(Paragraph 5.2.8)

- **Electricity duty amounting to Rs 1.57 crore was not recovered on energy consumed by an unit.**

(Paragraph 5.2.9)

- **Non-inspection of lifts and electrical installations not only jeopardised public safety but also resulted in non-realisation of inspection fees of at least Rs 2.98 crore.**

(Paragraph 5.2.12)

5.2.5 *Trend of Revenue*

The Budget estimates and actuals of taxes and duties on electricity during the last five years ending March 2001 were as under :

(Rupees in crore)

Year	Budget Estimates	Electricity Duty collected	Variation increase(+) decrease(-)	Percentage of variation
1996-97	382.00	403.31	(+) 21.31	6
1997-98	483.90	535.64	(+) 51.74	11
1998-99	579.08	711.23	(+) 132.15	23
1999-2000	700.00	377.71	(-) 322.29	(-)46
2000-01	881.50	933.59	(+) 52.09	6

The increase in revenue during the year 1997-98 was due to revision in the rates of duty and in 1998-99 was owing to increase in consumption of electricity due to normal growth. The shortfall in revenue during the year 1999-2000 was due to non-remittance of duty by M.S.E.B.

5.2.6 *Arrears*

Arrears on account of uncollected electricity duty and inspection fees at the end of March 2001 amounted to Rs 10.53 crore and Rs 8.32 crore respectively. The yearwise break up was as follows:-

(Rupees in crore)

Year	Electricity Duty	Inspection fees
Upto 1996-97	5.96	0.22
1997-1998	--	0.17
1998-1999	--	0.48
1999-2000	--	1.59
2000-2001	4.57	5.86
Total	**10.53**	**8.32**

The arrears of Rs 5.96 crore for the years upto 1996-97 related to sugar factories, textile mills and other industrial units and of Rs 4.57 crore for the year 2000-2001 was due from the units having captive power plants.

5.2.7 Undue delay in recovery of arrears of electricity duty

Under the provisions of the Bombay Electricity Duty Act, 1958 duty alongwith any interest payable for delayed payment is recoverable either through a Civil Court or as arrears of Land Revenue.

The category wise break up of the arrears of duty amounting to Rs 5.96 crore for the period upto 1996-97 and the stages of action as furnished by the department are detailed in the following table:

Period	Category	No. of cases	Amount involved (Rupees in crore)	Remarks
1986 to 1994	Sugar factories	23	2.62	Revenue recovery certificates were issued in 9 cases (between June 1992 and March 1996) but no recovery was effected (September 2002). Further in one case stay against issue of RRC was granted by Government (January 1996). In the remaining 13 cases Government had not taken action to recover the arrears either through Civil Courts or as arrears of land revenue.
1957 to 2000	Textile mills	18	2.96	Two mills in arrears of Rs 0.77 crore had gone into liquidation. Of this, in one case claim for Rs 1.92 lakh was lodged (April 1996) with official liquidator and the other unit was asked to wind up by BIFR (December 1995). In 12 cases demand notices for Rs 1.14 crore were issued between April 2000 and August 2001. Rs 1.05 crore was in arrears in the remaining 4 cases.
1977 to 1997	Others	5	0.38	Includes Rs 24.79 lakh due from one unit for the period from 1992 to 1997 which was not pursued for recovery. In the remaining four cases the arrears of Rs 12.85 lakh related to the periods between 1977 and 1986.

5.2.8 Short recovery of electricity duty

Under the provisions of the Bombay Electricity Duty Act, 1958 there shall be levied and paid to the State Government on the energy consumed, a duty at the rate specified in the schedule to the Act.

Government vide notification dated 1 October 1996 prescribed electricity duty at the rate of 30 paise per unit in respect of energy generated by a person other than a licensee and supplied to other persons for consumption.

In Thane, in respect of 3398.58 lakh units of energy sold during the period from January 1998 to March 2001 by an unit, duty of Rs 5.76 crore was paid as against Rs 10.20 crore payable at the rate of 30 paise per unit. This resulted in short recovery of duty of Rs 4.44 crore.

On being pointed out (January 2002) the department raised (July 2002) demand for Rs 4.44 crore. Report on recovery has not been received (December 2002).

5.2.9 Non-recovery of electricity duty on self consumption

As per Government Notification dated 4 April 2001, electricity duty at the rate of 15 paise per unit is payable with effect from 1 April 2000 on the consumption of energy generated in a generating station, by a person carrying on an industry and consumed by himself for such industry.

M/s. Dabhol Power Company had consumed 1046.64 lakh units of electricity generated during the period from 1 April 2000 to 31 March 2001 for themselves. As the company was not a licensee it was not eligible for exemption. However, duty amounting to Rs 1.57 crore on units consumed by them was not levied and recovered.

5.2.10 Incorrect exemption

(A) Government vide notification dated 1 April 2000 exempted with effect from the billing month of April 2000 payment of electricity duty on the consumption of energy generated through non-conventional sources by a person carrying on an industry in the co-operative sector and consumed by himself for such industry in the State of Maharashtra. Energy sold to a third party was not exempt from duty.

In Nashik, test check of records revealed that energy generated by a Public Limited Company using Low Sulphur Heavy Stock (LSHS) as fuel in a thermal generating station was incorrectly exempted from duty. This resulted in non-levy of electricity duty amounting to Rs 18.48 lakh for the period from April 2000 to March 2001.

On being pointed out in audit (December 2001) the Electrical Inspector stated that the unit was using LSHS a non-conventional source of energy. The reply of the department is not tenable as LSHS is a conventional source and the exemption was admissible only to a co-operative, generating energy through non-conventional source of energy.

(B) Energy consumed by the Government of Maharashtra is exempt from duty. However, the exemption is not available for the energy consumed for residential purpose.

In Kolhapur Division scrutiny of records revealed that duty was either not levied or short remitted on the energy consumed from April 1996 to March 2001 for residential purpose in Government residential colonies as detailed in the following table :

(Rupees in lakh)

Sr. No.	Name of office	Duty		
		Payable	Paid	Short levied/ remitted
1.	Dudhganga R and B Sub-Division, Dudhganga	1.53	Nil	1.53
2	Tillari Project, Tillari Nagar, Chandgad	9.70	Nil	9.70
3	Dy. Engineer, Power and Colony Supply Sub Division- I, Allore, Dist Ratnagiri	49.26	47.51	1.75
		60.49	**47.51**	**12.98**

On this being pointed out in audit (February 2002) the Electrical Inspector stated that the records will be verified and necessary action taken.

5.2.11 Short levy of electricity duty

According to Government notification dated 1 May 1998 consumption charges on which electricity duty is leviable includes energy charges, demand charges and fuel cost adjustment charges.

A scrutiny of returns submitted by the Executive Engineer, Agriculture Construction Division, Aarey Milk Colony, Mumbai revealed that electricity duty was levied only on the energy charges, excluding demand charges and fuel cost adjustment charges levied and demanded by the Bombay Suburban Electricity Supply Ltd. This resulted in short levy of electricity duty amounting to Rs 16.52 lakh for the period from May 1998 to March 2001.

On this being pointed out in audit (March 2001) the department raised demand for Rs 16.52 lakh. Report of recovery has not been received (December 2002).

5.2.12 Non-Inspection

(A) Lifts

As per the Bombay Lifts Act, 1939 every lift shall be inspected at least once in six months by an officer authorized in this behalf by the State Government and an annual fee at such rate as may be prescribed shall be charged for such inspection.

It was noticed that as against 133641 lifts required to be inspected during the years from 1996-97 to 2000-01, only 85302 lifts were inspected leaving a shortfall of 48339 lifts involving minimum inspection fees of Rs 1.36 crore (approximately) worked out at the minimum rate of Rs 200 for the year 1996-97 and Rs 300 per lift thereafter as detailed in the following table :

	1996-97	1997-98	1998-99	1999-2000	2000-01	Total
No. of lifts to be inspected	22087	24404	26619	28919	31612	133641
No. of lifts actually inspected	13173	16097	16449	20086	19497	85302
No. of lifts not inspected	8914	8307	10170	8833	12115	48339
No. of lifts inspected 2nd time	Nil	Nil	Nil	Nil	Nil	Nil
Percentage of lifts not inspected	40.35	34.04	38.21	30.54	38.32	36.17
Percentage of lifts not inspected for 2nd time	100	100	100	100	100	100

From the above table it is seen that the percentage of lifts not inspected varied between 31 and 40 *per cent*. During these years none of the lifts were inspected for a second time. Failure to inspect installations not only jeoparadised public safety but also resulted in non-realisation of inspection fees of Rs 1.36 crore.

(B) Electrical Installations

As per Rule 46 of the Indian Electricity Rules, 1956 where an installation is connected to the supply system of the supplier, every such installation shall be periodically inspected and tested at an interval not exceeding 5 years either by an inspector or by the supplier as may be directed by the State Government.

A scrutiny of records in 7 divisions revealed that out of 27.28 lakh electrical installations required to be inspected, only 19.20 lakh inspections were carried out by the department during the period from 1996-97 to 2000-01 leaving a shortfall of 8.08 lakh installations as detailed in the following table :

Name of the division	1996-97	1997-98	1998-99	1999-2000	2000-01	Grand Total	
	Due Done	Due Done	Due Done	Due Done	Due Done	Due Done	Balance
Nashik	105137 67585	105117 61499	105118 68056	105280 66085	105484 62688	526136 325913	200223
Nagpur	60425 21786	60166 13832	63470 26598	63521 24390	63209 24432	310791 111038	199753
Mumbai (Santacruz)	141399 93413	141400 95093	141400 100288	141411 87621	141385 82909	706995 459324	247671

Name of the division	1996-97	1997-98	1998-99	1999-2000	2000-01	Grand Total	
	Due Done	Due Done	Due Done	Due Done	Due Done	Due Done	Balance
Thane II	54544 53190	56958 52501	58844 58844	57541 57541	58774 51807	286661 273883	12778
Kolhapur	50473 41291	50536 35978	51440 34406	51581 32710	51617 29951	255647 174336	81311
Sangli	56144 43483	53177 41921	56265 54330	56323 55665	56474 55053	278383 250452	27931
Pune	68833 59542	66737 59112	74161 66921	73886 66644	80114 72786	363731 325005	38726
Total	**536955** **380290**	**534091** **359936**	**550698** **409443**	**549543** **390656**	**557057** **379626**	**2728344** **1919951**	**808393**

Failure to inspect installations not only jeopardised public safety but also resulted in non-realisation of inspection fees of Rs 1.62 crore worked out at the lowest rate of Rs 20 applicable to low voltage installations.

5.2.13 (i) Non-payment of duty for sale of electricity generated by wind mills

As per Rule 4 (3) (iii) of the Bombay Electricity Duty Rules, 1962 information regarding units generated and consumed during a quarter is required to be submitted on or before 15th of the following month in Form 'B' to the Electrical Inspector by a person generating electricity.

In Satara, it was observed that 19 units generating electricity by windmill which were given permission to sell energy to third parties had neither furnished the returns in Form B nor paid the duty for the periods between March 2000 and March 2001. The duty not levied and demanded could not be worked out by audit in the absence of details of energy sold.

(ii) Non-inspection of accounts of licensees and non-licensees

One of the important functions of an Electrical Inspector is to inspect the accounts of all the licensees and non-licensees in the State who are liable to pay electricity duty and to verify and ensure that electricity duty as shown in the quarterly return as levied, collected and remitted to the State is correct. The State Government has prescribed norms for conducting inspection of the accounts.

The details of the total number of returns due for inspection as per norms, total number of returns actually inspected and shortfall during the years from 1996-97 to 2000-2001 were as follows:

Year	Total No. of returns to be inspected		Total No. of returns actually inspected		Shortfall Returns (%)	
	C	B	C	B	C	B
1996-97	3297	15090	2167	8316	1130 (34)	6774 (45)
1997-98	3347	15448	2063	7567	1284 (38)	7881 (51)
1998-99	2934	17546	2173	7895	761 (26)	9651 (55)
1999-2000	3178	18166	2013	9113	1165 (37)	9053 (50)
2000-01	3009	20830	1631	8208	1378 (46)	12622 (61)

C- Returns from Bulk Consumers and Licensees
B- Returns from non-licensees

Source : Performance Budget of Industries, Energy and Labour Department (Energy)

The table indicates that there was shortfall in the number of inspections carried out leading to a possibility of defects and omissions relating to levy and collection of duty remaining undetected. Further, the percentage of shortfall has increased from 34 *per cent* in 1996-97 to 46 *per cent* in 2000-2001 and from 45 *per cent* to 61 *per cent* during the same period in respect of 'C' and 'B' licensees respectively.

The above points were reported to Government in June 2002, their reply has not been received (December 2002).

SECTION B
THE MAHARASHTRA EDUCATION CESS AND EMPLOYMENT GUARANTEE CESS

5.3 Arrears and non-remittance of education and employment guarantee cess

5.3.1 Introduction

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 State Education Cess (SEC) is leviable on lands and buildings in a municipal area. The schedule to the Act prescribes that the rates of education cess on properties used for non-residential purposes will be double the rates prescribed for residential purposes. With effect from 1 April 1975 Employment Guarantee Cess (EGC) is also leviable on lands and buildings used for non-residential purposes and is leviable on the annual letting value of the properties. The cesses are collected by the municipal corporations/municipalities on behalf of the State Government and credited to the Consolidated Fund of the State.

5.3.2 Budget estimates and actuals

The budget estimates and actual receipts of education cess during the years from 1996-97 to 2000-2001 were as under :

(Rupees in crore)

Year	Budget estimates	Actual receipts	Difference (+) Increase (-) Decrease	Percentage of variation col (4) to col. (2)
1	2	3	4	5
1996-97	75.52	96.36	(+) 20.84	(+) 28
1997-98	79.08	94.99	(+) 15.91	(+) 20
1998-99	106.24	103.07	(-) 3.17	(-) 3
1999-2000	111.49	136.90	(+) 25.41	(+) 23
2000-2001	114.84	103.14	(-) 11.70	(-) 10

The above table indicates mismatch between Budget estimation and actual receipts. The Finance Department stated (May 2002) that the reasons for the variations in the Budget estimates and actuals were due to the revenue being dependent on land revenue collection, collection of the cesses by local bodies and also un-certainty of collections. The arrears of cesses pending collection and the non-remittance of the collected revenue to Government Account by some of the Municipal Corporations detailed in the following paragraphs are indicative of the budget estimates not reflecting the potential revenue which was due to Government.

5.3.3 Arrears of revenue

(i) As per information furnished (between January 2002 and March 2002) by eleven out of fifteen municipal corporations, revenue aggregating to

Rs 205.45 crore (State Education Cess Rs 172.31 crore and Employment Guarantee Cess Rs 33.14 crore) relating to the periods between 1962-63 and 2000-2001 were pending recovery as on 31 March 2001 from the property owners as detailed in the following table :

(Rupees in crore)

Sr. No.	Name of the Municipal Corporation	Amount of arrears SEC	EGC	Total
1	Brihan Mumbai	82.01	16.51	98.52
2	Kalyan-Dombivali	5.52	0.53	6.05
3	Ulhasnagar	7.05	1.93	8.98
4	Thane	2.98	0.38	3.36
5	Navi Mumbai	46.55	8.91	55.46
6	Nanded Waghala	1.15	0.18	1.33
7	Pimpri-Chinchwad	14.48	3.06	17.54
8	Sangli-Miraj-Kupwad	1.30	0.22	1.52
9	Kolhapur	2.11	0.29	2.40
10	Nagpur	6.70	0.80	7.50
11	Solapur	2.46	0.33	2.79
	Total	**172.31**	**33.14**	**205.45**

(ii) The various stages at which arrears were outstanding as furnished by eight municipal corporations out of the eleven corporations are detailed in the following table :

(Rupees in crore)

Sr. No.	Name of the Municipal Corporation	Court cases	Complaint against rateable value	RRC cases	Bills issued at the fag end of year	Non-availability of payees	Action to be taken for recovery	Other reasons	Total
1	Brihan Mumbai	19.03	30.05	10.30	6.19	--	--	32.95	98.52
2	Kalyan-Dombivali	1.48	--	0.07	--	1.09	3.41	--	6.05
3	Ulhasnagar	0.88	--	--	--	--	--	8.10	8.98
4	Navi Mumbai	4.80	--	--	--	6.39	41.25	3.02	55.46
5	Nanded Waghala	0.83	--	--	--	--	--	0.50	1.33
6	Sangli, Miraj and Kupwad	0.05	--	--	--	0.02	0.02	1.43	1.52
7	Kolhapur	0.70	--	--	--	0.02	--	1.68	2.40
8	Pimpri-Chinchwad	3.94	--	--	--	0.84	9.92	2.84	17.54
	Total	**31.71**	**30.05**	**10.37**	**6.19**	**8.36**	**54.60**	**50.52**	**191.80**

The Municipal Corporations of Thane, Pune, Nagpur and Solapur did not furnish reasons for the arrears (December 2002).

In none of the corporations records detailing the age wise arrears and details of action taken for recovery were made available for perusal by audit. Consequently, the adequacy or otherwise of the follow up action taken could not be commented by audit.

(iii) Except for Brihan Mumbai and Navi Mumbai Municipal Corporations none of the other corporations furnished details of the yearwise break up of the arrears. The information in respect of these two corporations was as follows :

(a) Yearwise break up

(Rupees in crore)

Year	Mumbai		Navi Mumbai	
	SEC	EGC	SEC	EGC
Upto 1995-96	13.54	3.60	6.23	1.29
1996-97	2.39	0.43	6.30	1.11
1997-98	4.68	0.59	7.43	1.32
1998-99	6.60	1.08	7.13	1.36
1999-2000	11.50	2.06	8.93	1.75
2000-2001	43.30	8.75	10.53	2.08
	82.01	**16.51**	**46.55**	**8.91**

(b) Agewise break up

(Rupees in crore)

	Mumbai		Navi Mumbai	
	SEC	EGC	SEC	EGC
More than 20 years	1.83	1.18	--	--
Between 15 and 20 years.	1.78	0.25	--	--
Between 10 and 15 years.	3.36	0.74	--	--
Between 5 and 10 years.	6.57	1.43	6.23	1.29
Between 3 and 5 years.	7.07	1.02	13.73	2.43
Between 1 and 3 years.	61.40	11.89	26.59	5.19
	82.01	**16.51**	**46.55**	**8.91**

5.3.4 Non-remittance of revenue

As per the provisions of the Act, the cesses and the penalties recovered by the municipal corporations are required to be credited to Government before the expiry of the following week. If any municipal corporation makes default in the payment to the State Government of any sum under the Act, the State

Government may after holding such enquiry, fix a period for the payment of such sum. The Act also empowers the Government to direct the bank or treasury in which the earnings of the municipal corporation are deposited to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of the Government shall be sufficient discharge to such bank/treasury from all liabilities to the municipal corporation.

It was noticed in audit (between July 2001 and March 2002) that seven municipal corporations had not remitted revenue amounting to Rs 104.92 crore relating to State Education Cess (Rs 92.79 crore) and Employment Guarantee Cess (Rs 12.13 crore) collected between the years 1997-98 and 2000-2001 as indicated in the following table :

(Rupees in crore)

Sr. No.	Name of the Municipal Corporation	1997-98		1998-99		1999-2000		2000-2001		Total	
		SEC	EGC	SEC	EGC	SEC	EGC	SEC	EGC	SEC	EGC
1	Brihan Mumbai	0.10	0.01	0.21	0.04	0.29	0.05	61.29	9.31	61.89*	9.41
2	Navi Mumbai	--	--	--	--	0.57	0.11	4.11	0.69	4.68	0.80
3	Nagpur	--	--	--	--	--	--	4.83	0.62	4.83	0.62
4	Nanded Waghala	--	--	--	--	--	--	0.03	0.01	0.03	0.01
5	Pimpri-Chinchwad	--	--	--	--	5.13	--	7.80	0.03	12.93	0.03
6	Pune	--	--	--	--	--	--	7.14	1.08	7.14	1.08
7	Solapur	--	--	--	--	--	--	1.29	0.18	1.29	0.18
	Total	**0.10**	**0.01**	**0.21**	**0.04**	**5.99**	**0.16**	**86.49**	**11.92**	**92.79**	**12.13**

* ***Includes penalty of Rs 0.03 crore.***

On being pointed out (between July 2001 and March 2002) in audit, the Nagpur Municipal Corporation remitted Rs 2.70 crore (SEC Rs 2.08 crore and EGC Rs 0.62 crore) out of Rs 5.45 crore in August 2001 and October 2001, the Pune Municipal Corporation remitted Rs 7.44 crore (SEC Rs 6.49 crore and EGC Rs 0.95 crore) out of Rs 8.22 crore in March 2002 and the Pimpri-Chinchwad Municipal Corporation remitted Rs 12.76 crore towards SEC out of the dues of Rs 12.96 crore. The Mumbai Municipal Corporation stated that the amounts had not been remitted, as its dues from Government were not received. The remaining three corporations stated that the amounts would be credited to Government Account.

The matter was reported to Government in June 2002; their reply has not been received (December 2002).

5.4 Incorrect grant of exemption

Under the provisions of the Maharashtra Education and Employment Guarantee Cess Act, 1962 land and buildings belonging to the State Government and local bodies and not used for public purposes for profit are exempted from payment of State Education Cess and Employment Guarantee Cess.

During test check of records of Nagpur Municipal Corporation it was noticed (August 1997 and July 1998), that an auditorium belonging to the State Government and used for commercial purposes was erroneously exempted from payment of Cess resulting in non-levy of State Education Cess and Employment Guarantee Cess amounting to Rs 6.19 lakh for the periods from 1987-88 to 1997-98.

On this being pointed out in audit (July 1998), the department recovered (between July 1999 and November 1999) Rs 4.29 lakh. Report on recovery of the balance amount has not been received (December 2002).

The matter was reported to Government in March 2002; their reply has not been received (December 2002).

SECTION C
ENTERTAINMENTS DUTY

5.5 Non-realisation of entertainments duty and surcharge from cable/dish antenna operators

Under the Bombay Entertainments Duty Act, 1923 cable and dish antenna operators were required to pay (upto 30 April 1998) entertainments duty at the rate of 25 *per cent* of the total amount received by them by way of contribution or subscription or installation and connection charges *etc.*, for the exhibition of films, moving pictures *etc.*, by means of any type of antenna or cable T.V. In addition, surcharge of 10 *per cent* on the total collection was also payable. With effect from 1 May 1998, surcharge has been abolished and entertainments duty is payable at the flat rate of Rs 15, Rs 10 or Rs 5 per television set depending on whether the area is a municipal corporation, A and B class municipality or other area.

A test check of records in 14 offices[19] revealed that in respect of 233 cable and dish antenna operators, entertainments duty amounting to Rs 19.51 lakh was neither paid by the operators nor were any demands raised by the department for various periods between August 1996 and March 2000.

On this being pointed out in audit (September 1998 and March 2001), the department recovered (between April 1999 and October 2001), entertainments duty of Rs 15.20 lakh from 200 cable/dish antenna operators. Report on recovery of the balance has not been received (December 2002).

The matter was reported to Government in April and May 2002; their reply has not been received (December 2002).

[19] Resident Deputy Collector, Amravati, Nagpur and Thane
Taluka Magistrate Andheri (Zone I and III), Borivali (Zone V, VI, VII, VII-A), Kurla-Mulund (Zone X), Ulhasnagar and Vasai
Entertainment Duty Officer, Pune (Zone C and F-I)

5.6 Incorrect exemption to films

Under the provisions of the Bombay Entertainments Duty Act, 1923 Government may by general or special order, exempt any entertainment or class of entertainments from liability to pay entertainments duty. The rules framed under the Act require that exemption be granted to films which have been awarded the Presidents Gold Medal or on the recommendations made by an Advisory Committee appointed by the State Government, provided, it considers that the film fulfills criteria of educational, cultural or social purpose of a high order.

The producer of a film, which is granted exemption from payment of entertainments duty, is required to give an undertaking that he would pay an amount equivalent to the amount of entertainments duty leviable on the exhibition of such film to the person or persons as most responsible for the educational, cultural or social contribution of such film as nominated by the Advisory Committee.

The producer is also required to submit a weekly return to the District Collectors specifying particulars of payments made to the nominated person(s) with a copy thereof to Government. Further, any exemption from liability to pay entertainments duty granted for exhibition of any such film should be withdrawn, if the producer fails to comply with the undertaking.

Mention was made in paragraphs 5.2.9 and 5.2 of the Report of the Comptroller and Auditor General of India for the years ended 31 March 1998 and 31 March 1999 of the loss of revenue of Rs 34.42 crore during the period from 1992-1993 to 1998-99 due to 64 films being exhibited as tax free despite non-fulfilment of the prescribed conditions.

In reply to the audit observation the Cultural Affairs Department stated (November 1998) that the provisions in the rule were outdated and defective and that action would be taken to amend the rule in consultation with the Revenue and Forests Department. However, Government had not amended the rules (April 2002).

A scrutiny of the records of the Cultural Affairs and Revenue and Forests Departments granting exemption from entertainments duty during the years from 1999-2000 to 2001-2002 to 8 films revealed that

i) In none of the cases the committee had nominated any person or persons responsible to assess the educational, cultural or social value of the film, and

ii) Weekly returns as prescribed were not submitted by the producer to the District Collectors with copy thereof to the Government.

As the essential conditions subject to which exemption from payment of entertainments duty were granted were not fulfilled, the exemption orders declaring the films as tax free were required to be withdrawn under the rules. However, such action was not taken by the Government. The consequent revenue forgone on account of exemption from entertainments duty granted to

8 films[20] in 6 divisions (35 districts) as furnished by the Collectors of the districts amounted to Rs 4.57 crore as detailed in the following table:

(Rupees in lakh)

Sr. No.	Division	Entertainment Duty forgone 1999-2000	2000-01	2001-02	Total
1.	Nagpur	33.64	27.07	1.91	62.62
2.	Pune	36.91	40.65	18.09	95.65
3.	Nashik	11.25	23.95	5.29	40.49
4.	Konkan	85.70	97.72	28.53	211.95
5.	Aurangabad	11.84	Awaited	Awaited	11.84
6.	Amravati	8.03	21.07	5.13	34.23
	TOTAL:	**187.37**	**210.46**	**58.95**	**456.78**

On being pointed out in audit Government stated (May 2002), that the Advisory Committee had not nominated any person responsible for the educational, cultural or social value of the film and no producer had given an undertaking as required under the rule. However report of remedial measures taken had not been received from Government (December 2002).

SECTION D
REPAIR CESS

5.7 Short levy of repair cess

Under the provisions of the Maharashtra Housing and Area Development Act, 1976 a cess is leviable at slab rates as a percentage of the rateable value of the buildings in the city of Mumbai as prescribed in the second schedule to the Act.

In Mumbai, it was noticed (October 2000) in 'A' and 'F (South)' wards, that in respect of 30 properties repairs were completed between April 1999 and February 2000. However, due to the application of incorrect slab rates an amount of Rs 23.32 lakh was levied short for the year 1999.2000.

On this being pointed out in audit the demands were revised (January 2001) in respect of 3 properties in F South Ward. Report of recovery and action taken in the remaining cases has not been received (December 2002).

The matter was reported to Government in April 2002; their reply has not been received (December 2002).

[20] Sarfarosh, Dr. Ambedkar, Sarbans Dani Guru Govind Singh, Pukar, Nidan, Fiza, Mission Kashmir, Veer Savarkar.

5.8 Non-remittance of repair cess

Under the provisions of the Maharashtra Housing and Area Development Act, 1976 (effective from 5 December 1977) repair cess recovered by the Mumbai Municipal Corporation on behalf of the State Government is required to be credited to the consolidated fund of the State within 15 days from the date of recovery, after deducting there from 5 *per cent* of the amount of cess recovered towards cost of collection. The Act empowers the Government to direct the bank or treasury in which the earnings of the municipal corporation are deposited to pay such sums to the State Government. Any such payment made in pursuance of the orders of Government, shall be sufficient discharge to such bank/treasury from all liabilities to the municipal corporation.

It was noticed in audit (November 2001), that the Mumbai Municipal Corporation had not remitted repair cess of Rs 31.78 crore collected during the period from August 2000 to March 2001 to Government Account.

On this being pointed out (November 2001), the Mumbai Municipal Corporation stated (January 2002), that the amount was not remitted owing to non-receipt of dues from Government. However, the reply of the Government has not been received (December 2002)

SECTION E
TAX ON BUILDINGS
(With Larger Residential Premises)

5.9 Non-levy of tax

Under the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (Re-enacted) Act, 1979 tax is leviable (with effect from 1 April 1974) on all buildings in corporation area containing residential premises with floor area exceeding 125 square metres and whose rateable value exceeds one thousand five hundred rupees. The rate of tax is ten *per cent* of the rateable value of the residential premises.

It was noticed in audit (between September 1999 and November 2000), that in twelve municipal wards of Mumbai, tax amounting to Rs 13.01 lakh in respect of 1028 properties for the year 1998-99 and Rs 76.71 lakh in respect of 2586 properties for the year 1999-2000 was not demanded by the Brihan Mumbai Municipal Corporation resulting in non-recovery of tax of Rs 89.72 lakh.

Further, in respect of two properties situated in another ward, though the rateable value was revised from April 1997 onwards the tax was not enhanced resulting in short levy of tax amounting to Rs 2.02 lakh for the years 1997-98 and 1998-99.

On this being pointed out (between September 1999 and November 2000), the department raised demands for the entire amount and recovered Rs 47.81 lakh in 1694 cases. Report on recovery of the balance amount of Rs 43.93 lakh has not been received (December 2002).

5.10 Non-remittance of tax

Under the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (Re-enacted) Act, 1979 tax recovered by a municipal corporation on behalf of the State Government shall be credited to the consolidated fund of the State within 30 days from the date of its recovery. Further, the Act provides that if any municipal corporation defaults in payment to the State Government of any sum due in respect of tax, the State Government may if necessary, fix a period for payment of such sum. The Act also empowers the Government to direct the Bank/Treasury in which the earnings of the municipal corporation are deposited to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of Government shall be sufficient discharge to such Bank/treasury from all liabilities to the municipal corporation.

In two offices[21] of Mumbai Municipal Corporation, it was noticed (May 2001 and November 2001), that Government revenue amounting to Rs 1.17 crore collected on account of tax on buildings (with larger residential premises) during the periods falling between April 2000 and March 2001 was not credited to Government Account. No action was taken by the State Government as per provisions in the Act.

On this being pointed out (May 2001 and November 2001) in audit, the municipal corporation stated (November 2001 and January 2002) that the amount was not remitted owing to non-receipt of its dues from the Government.

The matter was reported to Government in April 2002; their reply has not been received (December 2002).

SECTION F
PROFESSION TAX

5.11 Non-realisation of tax

Under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975 and the Rules made thereunder, every person liable to pay profession tax is required to obtain certificate of enrolment from the Profession Tax Officer, and pay tax annually at the rates prescribed in the Schedule to the Act.

A test check of records in the offices of the Profession Tax Officers at Akola, Buldhana, Dhule, Jalna, Kalyan and Latur revealed (between February 1999 and November 2000), that profession tax amounting to Rs 5.37 lakh in respect of 249 persons enrolled under various entries covered under the schedule to the Act for the periods between 1996-1997 and 1999-2000 was neither paid by them nor demanded by the department.

[21] Mumbai (City) and Mumbai (Eastern Suburbs)

On this being pointed out (between February 1999 and November 2000), the department recovered Rs 2.01 lakh in 100 cases (between May 1999 and August 2002). Report of recovery of the balance amount has not been received (December 2002).

The matter was reported to Government in April 2002; their reply has not been received (December 2002).

CHAPTER 6 : Non-Tax Revenue

6.1 Results of audit

Test check of records of non-tax receipts conducted during the year 2001-2002 revealed under-assessment/short levy/loss of revenue *etc.*, of Rs 204.44 crore in 74 cases, which broadly fall under the following categories:

Sr. No.	Category	No. of cases	Amount (Rupees in crore)
1	Loss of revenue on tendu leaves	4	0.19
2	Loss of forests revenue	24	15.06
3	Loss of revenue due to deterioration in transit, on sale, non-extraction/non-lifting of material other than tendu leaves and bamboo	13	21.72
4	Loss on miscellaneous items	25	19.76
5	Others	7	7.55
6	Review on receipts of Police Department	1	140.16
	Total	**74**	**204.44**

During the course of the year 2001-2002, the department accepted under-assessments, *etc.*, of Rs 529.14 lakh involved in 35 cases pointed out in earlier years and recovered the same.

A review on receipts of the Police Department involving financial effect of Rs 140.16 crore is given in the following paragraph.

6.2 Review on receipts of the Police Department

6.2.1 Introduction

Police receipts include, (i) recovery of expenditure on the cost of police personnel provided to the Central Government/Public Sector Undertakings /Banks/Railways within the State and to the Government of other States towards guarding chests/remittances or performing watch and ward for maintenance of law and order, (ii) fees, fines and forfeitures, (iii) receipts under Arms Act and (iv) other receipts. As a general rule, cost of police deployed to municipalities and others should be charged at regular intervals as far as possible every year and in advance from private companies or private individuals.

A part of police receipts comprises of recoveries effected in cities having municipal corporation towards annual police licence fee/certificate fee from owners of hotels, restaurants/bars, *etc*.

6.2.2 Rules and Procedures

The system of assessment/collection and accounting of police receipts is governed by the Maharashtra Police Manual Vols. I to III/Bombay Police Act, 1951 and the Indian Arms Act, 1959 and regulations made thereunder and Government orders issued from time to time. Cost of police personnel includes pay and allowances and other direct and indirect expenditure incurred on them. While, demand for the cost of permanent police guard deployed is raised in arrears, charges for escort provided as a temporary measure is realised in advance before the deployment.

6.2.3 Organisational set up

For maintaining law and order in the State, there exists a police force under the superintendence of the Secretary to the, Government of Maharashtra in the Home Department, who exercises control with the help of the Director General of Police for the entire State. The Director General of Police is assisted by the Additional Director General of Police/Deputy Director General of Police/Special Director General of Police. They are responsible for maintenance of law and order in the regions. There are Commissioners of Police/Superintendents of Police (SP) and other staff posted at various level.

The responsibility of assessment and collection of police cost lies with the Director General of Police (Railways) for deployment of police personnel for railways and the Director General of Police for deployment outside the State. The Commissioner of Police in cities and Superintendent of Police of districts are responsible for assessment and collection of police cost within their jurisdiction.

6.2.4 Scope of audit

With a view to verify the adequacy of the system and procedures adopted by the police department for levy, collection and deposit of police receipts into Government accounts under the existing rules and regulations, a test check of records in the office of the Director General of Police, Mumbai, 4 out of 9

Commissioners[22] of Police and 6 out of 35 District Superintendents[23] of Police for the period from 1996-97 to 2000-01 was conducted between January 2002 and May 2002. The results of test check are given in the following paragraphs:

6.2.5 Trend of revenue

The budget estimates and the actuals for the years from 1996-97 to 2000-01 were as under:

(Rupees in crore)

Year	Budget Estimates	Actual collection	Variations (+) excess (-) Shortfall	Percentage of variation
1996-97	49.85	71.67	(+) 21.82	(+) 43.77
1997-98	74.58	41.85	(-) 32.73	(-) 44.00
1998-99	78.31	42.71	(-) 35.10	(-) 45.00
1999-2000	65.00	83.55	(+) 18.55	(+) 28.00
2000-2001	65.00	91.38	(+) 26.38	(+) 41.00

It was revealed that annual collections during 1996-97, 1999-2000 and 2000-01 was in excess ranging from 28 *per cent* to 44 *per cent* while during 1997-98 and 1998-99, the actual collection was less by 44 and 45 *per cent* compared to the budget estimates. The reasons for variations between budget estimates and actuals were not made available by the Home Department.

6.2.6 Highlights

- **Demand for recovery of cost of police of Rs 3.90 crore was not raised for deployment of police personnel.**

  (Paragraph 6.2.7(a))

- **Escort/guard charges amounting to Rs 131.13 crore for the period from 1996-97 to 2000-01 remained unrecovered.**

  (Paragraph 6.2.7(b))

- **Under-assessment of cost of police of Rs 2.32 crore was noticed due to non-inclusion of elements of leave salary and pension contribution.**

  (Paragraph 6.2.8)

- **Licence fee at enhanced rate amounting to Rs 2.38 crore was not recovered from star hotels for dance, disco and stage play.**

  (Paragraph 6.2.9)

- **Passport verification incentive of Rs 0.43 crore was not got reimbursed from the Government of India.**

  (Paragraph 6.2.10)

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[22] Commissioner of Police, Mumbai, Nagpur, Pune and Thane

[23] Superintendent of Police, Ahmednagar, Jalgaon, Kolhapur, Latur, Ratnagiri and Yavatmal

6.2.7(a) Non-raising of demands for recovery of cost of police

As per provisions under Rule 484 of the Maharashtra Police Manual Vol. III and under Sections 47 and 48 of the Bombay Police Act, 1951 the cost of police from private persons or private companies should be recovered in advance and that from other State/Central Government authorities or bodies, at regular intervals.

A test check of records in the offices of 4 Commissioners of Police and 6 Superintendents of Police revealed that police guards/escorts were supplied to various authorities/bodies/Central Government and Railways during the years from 1996-97 to 2000-2001 by the Police Department but demand for recovery of dues was not raised resulting in loss of revenue of Rs 3.90 crore as detailed below:

Sr. No.	Name of the agency, body from whom cost of police is to be recovered	Period of recovery	Amount to be recovered for which demand was not raised (Rupees in crore)
1	Trombay Thermal Power Station Mumbai	1996-97 to 2000-2001	0.52
2	Body Guards to private persons at Ahmednagar, Jalgaon, Mumbai, Pune, Ratnagiri, Thane and Yavatmal	1996-97 to 2000-01	1.54
3	Municipal Corporation Kolhapur and sugar factories at Ahmednagar, Jalgaon, Kolhapur and Yavatmal	1996-97 to 2000-2001	0.42
4	Municipal Council, Ahmednagar, Jalgaon and Yavatmal	1996-97 to 2000-2001	0.19
5	States of Gujarat, Madhya Pradesh, Tamilnadu and West Bengal	1996-97 to 2000-2001	1.23
	Total		**3.90**

b) Non-recovery of escort/guard charges

A test check of records in the above mentioned offices, further, revealed that for police guards/escorts deployed for various authorities/bodies/Central Government and railways during the years from 1996 to 2001, eventhough demands for recovery of dues of Rs 131.13 crore were raised[24] from time to time, the recoveries which are required to be effected regularly or at least by the end of the respective years, were not made as detailed below:

[24] Actual date on which demand was raised is not available

Sr. No.	Name of the Agency/body from whom escort charges are to be recovered	Period of recovery	Amount to be recovered (Rupees in crore)
1	DIG Railways, Mumbai	1998-99 to 1999-2000	55.64
2	From other States (on deployment of SRPF to other States)	1997 to 2000	2.20
3	Maharashtra Cricket Association Mumbai, Vidarbha Cricket Association Nagpur and Cricket Association Pune	1996 to 2001	0.97
4	Mumbai Port Trust	1996-97 to 1999-2000	23.44
5	Banks and other autonomous bodies, Mumbai, Nagpur and Thane	1996 to 2001	6.93
6	International Airport Authority at Kolhapur, Mumbai, Nagpur and Pune	1996 to 2001	14.12
7	Municipal Corporation and Municipal Councils Ahmednagar, Jalgaon, Kolhapur, Mumbai, Nagpur, Pune and Thane	1996-97 to 2000-2001	24.70
8	Government of India, Anti Naxalite Abhiyan	1999 to 2000	3.13
	Total		**131.13**

On this being pointed out (between January to May 2002), the department stated that all out efforts were being made for recovery of all outstanding dues; however, necessary guidance of higher authorities/Government will be obtained in this regard.

6.2.8 Under-assessment of police cost due to omission to include elements of leave salary and pension contribution

According to the provisions in the Maharashtra Police Manual Vol. III, the cost of deployment of police force permanently to the different organisations will include pay, special pay, dearness allowance, house rent allowance, medical allowance and other admissible allowances including leave salary and pension contribution at the prescribed rates applicable from time to time.

During test check of records of Commissioner of Police, Mumbai and Pune it was noticed that while assessing the demands for cost of police against International Airport Authority of India, the elements of leave salary and pension contribution was not included resulting in under-assessment and consequential short recovery amounting to Rs 2.32 crore as detailed below:

(Rupees in crore)

Sr. No.	Name of the authority from whom escort charges to be recovered	Authority who deployed police force	Period	Leave salary contribution	Pension contribution	Total
1	International Airport Authority of India, Pune	Commissioner of Police, Pune	1 March 1996 to 31 December 2001	0.27	0.23	0.50
2	International Airport Authority of India, Mumbai	Commissioner of Police, Mumbai	1 August 1996 to 31 December 2001	1.37	0.45	1.82
	Total			**1.64**	**0.68**	**2.32**

On this being pointed out in audit whereas the Commissioner of Police, Pune stated that the amount of leave salary and pension contribution would be recovered from the International Airport Authority of India, the Commissioner of Police, Mumbai stated that there was no provision under the Maharashtra Civil Service Rules for recovery of leave salary/pension contribution along with escort charges. However, it was stated that the matter would be referred to Government for guidance.

The reply of the Commissioner of Police, Mumbai was not correct as there were clear provisions in the Maharashtra Police Manual Vol. III for inclusion of the element of leave salary and pension contribution while fixing the rates of guard/escort charges.

6.2.9 Non-recovery of licence fee at increased rate from star hotels

The Government of Maharashtra had enhanced in September 2001, the rates of licence fee and renewal of licence fee from Rs 25 to 1500 per day per stage show for public amusements including cabaret performances, melas and tamashas.

A test check of records of Commissioners of Police, Mumbai, Pune and Thane, revealed that the licence fee at the enhanced rates were not recovered from 113 star hotels where dances, disco and stage plays were performed. This resulted in loss of revenue of Rs 2.38 crore.

On this being pointed out (between January and May 2002), the department stated that necessary action would be taken to recover the amount and credit it to Government treasury.

6.2.10 Non-reimbursement of passport verification incentive charges

The Government of India, Ministry of External Affairs (Passport Verification Division), agreed (January 1985), to make payment at the rate of Rs 3 per application as an incentive payment for completing the security verification in respect of passport applications within a stipulated period of 15 days (raised to 4 weeks from 17 August 2000) by the Police Department.

A test check of the records in the offices of 4 Commissioners of Police and in 5 Superintendents of Police revealed that the passport incentive towards security verification in connection with 1431868 applicants for issue of

passport during the years from 1996-97 to 2000-2001 was not demanded by the Police Department from the Government of India. This resulted in non-realisation of revenue of Rs 0.43 crore as detailed below:

Sr. No.	Name of the Office	Total no. of passport verification certificates issued	Total (Rupees in crore)
1	Commissioner of Police, Mumbai	936891	0.28
2	Commissioner of Police, Nagpur	102381	0.03
3	Commissioner of Police, Pune	166624	0.05
4	Commissioner of Police, Thane	160497	0.05
5	Superintendent of Police, Ratnagiri	21975	0.007
6	Superintendent of Police, Latur	5630	0.002
7	Superintendent of Police, Ahmednagar	12496	0.003
8	Superintendent of Police, Kolhapur	15630	0.005
9	Superintendent of Police, Jalgaon	9744	0.003
	Total	**1431868**	**0.43**

On this being pointed out (February 2002), the Commissioner of Police Mumbai stated that the matter had been taken up with the Government of India for reimbursement of the amount.

The above points were reported to Government in July 2002; their reply has not been received (December 2002).

(K. S. MENON)
Principal Accountant General (Audit)-I, Maharashtra

Mumbai,
The 4 मार्च MAR 2003

Countersigned

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

New Delhi,
The 7 मार्च MAR 2003

(G.C.P.) H 4229—15(1,000-2—2003)

APPENDICES

APPENDIX-I

YEARWISE DETAILS OF OUTSTANDING INSPECTION REPORTS AND AUDIT OBSERVATIONS UNDER VARIOUS RECEIPTS AS OF 30TH JUNE 2002

(Reference : Paragraph 1.11 ; Page No. 11)

(Rupees in lakh)

Sr. No.	Nature of receipt	Upto 1997-98			1998-99			1999-2000			2000-2001			2001-2002			Total		
		IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount
1.	Sales Tax	932	1963	1080.32	363	954	1996.18	390	1320	4142.82	445	1774	6579.13	409	1796	7998.23	2539	7807	21796.68
2.	Land Revenue	550	1081	4802.05	111	239	1276.47	129	247	1154.33	187	390	3169.85	132	281	4644.63	1109	2238	15047.33
3.	Stamps and Registration fees	594	1842	1920.34	140	377	388.43	162	441	985.59	141	371	956.95	83	183	2666.40	1120	3214	6917.71
4.	Taxes on Motor Vehicles	17	23	14.94	11	21	40.31	10	16	91.53	18	44	152.51	34	117	1278.22	90	221	1577.51
5.	Forests Receipts	259	394	6282.20	37	68	1415.49	40	86	753.67	47	127	3564.89	15	78	3872.22	398	753	15888.47
6.	Entertainments duty	40	50	14.79	15	24	44.67	35	45	25.07	64	93	53.10	68	116	109.19	222	328	246.82
7.	State Excise	16	18	2.20	2	2	1.13	4	5	0.10	19	23	516.17	16	22	9.54	57	70	529.14
8.	Electricity Duty	1	1	--	1	2	--	4	4	24.48	4	4	25.93	4	5	2314.03	14	16	2364.44
9.	State Education Cess	36	56	28.70	9	11	6.78	10	15	3.78	19	28	56.39	15	31	10069.07	89	141	10164.72
10.	Tax on Professions	86	157	66.01	15	26	13.78	28	66	47.75	31	46	34.71	25	35	132.42	185	330	294.67
11.	Tax on Residential Premises	1	1	0.18	4	4	2.71	10	11	35.55	22	24	92.80	14	21	59.38	51	61	190.62
12.	Repair Cess	--	--	--	--	--	--	1	1	--	6	9	60.73	2	2	2.06	9	12	62.79
13.	Other Non-tax receipts	74	92	316.29	18	25	0.28	43	59	3888.45	15	19	273.10	7	13	101.74	157	208	4579.86
	Total :	**2606**	**5678**	**14528.02**	**726**	**1753**	**5186.23**	**866**	**2316**	**11153.12**	**1018**	**2952**	**15536.26**	**824**	**2700**	**33257.13**	**6040**	**15399**	**79660.76**

IRs - Inspection Reports

Objs. - Objections

APPENDIX II

Statement showing department wise position of paragraphs in respect of which explanatory memoranda have not been received

(Reference : Paragraph 1.14; Page No. 12)

Sr. No.	Name of the department	1996-97	1997-98	1998-99	1999-2000	Total
1.	Revenue and Forests	5	6	10	5	26
2.	Urban Development	1	--	--	--	1
3.	Home	--	1	1	--	2
4.	Public Works	--	--	2	--	2
	Total	**6**	**7**	**13**	**5**	**31**

APPENDIX III

Statement showing department wise pendency of action taken notes on recommendations of the Public Accounts Committee

(Reference : Paragraph 1.14; Page No. 13)

Sr. No.	Name of the department	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	Total
1.	Home	--	--	--	1	8	--	--	1	--	--	10
2.	Revenue and Forests	1	--	--	4	2	1	8	3	2	3	24
3.	Industries, Energy and Labour	--	--	--	--	--	2	1	1	--	--	4
	Total	**1**	**--**	**--**	**5**	**10**	**3**	**9**	**5**	**2**	**3**	**38**

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ERRATA

to the

Report of the Comptroller and Auditor General of India

for the year ended 31 March 2002

Revenue Receipts

Government of Maharashtra

Page No.	Para No.	
8	1.6	Add in the para below table : The department stated that since the entry tax was recovered in full before granting registration certificate under the Motor Vehicles Act, no formal assessment proceedings were undertaken. However, the assessments were continued to be shown outstanding by the department.

REPORT
OF THE
COMPTROLLER AND
AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2002

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

http://cagindia.org/state/Maharashtra/2002