

REPORT
OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA

FOR THE YEAR 1982-83
REVENUE RECEIPTS

GOVERNMENT OF WEST BENGAL

X
B-3

Book from M/s.
Finance (B) Deptt.
9.486 vide
M.V. File No. 6 P-1/86

Free of Cost
 Price not mentioned



66471

TABLE OF CONTENTS

	Paragraph No.	Page No.
PREFATORY REMARKS		
Chapter 1—GENERAL		
Trend of revenue receipts	1.1	1
Analysis of revenue receipts	1.2	1
New taxation proposals	1.3	3
Variations between the Budget estimates and the actuals	1.4	4
Cost of collection	1.5	6
Uncollected revenue	1.6	6
Outstanding Inspection Reports	1.7	6
Delay in settlement of objections	1.8	8
Chapter 2—SALES TAX		
Results of test audit	2.1	11
Collection of sales tax for goods brought through sales tax check-posts in West Bengal by unregistered dealers	2.2	11
Sales of import licence escaping assessment	2.3	18
Inter-State sales escaping assessment	2.4	19
Under-assessment of Central sales tax due to treatment of local corporate bodies as Government departments	2.5	20
Non-inclusion of escalation claim in taxable turnover	2.6	21
Loss of revenue on sales by un-registered dealers	2.7	21
Non-assessment of turnover tax	2.8	22
Non-levy of purchase tax	2.9	22
Omission to include interest on hire purchase sales in the gross turnover	2.10	24
Incorrect determination of turnover	2.11	24
Incorrect computation of turnover by double deduction	2.12	25
Sales escaping assessment	2.13	25
Irregular deduction from turnover on sale of declared goods	2.14	27
Irregular exemption	2.15	28
Under-assessment due to mis-classification of goods	2.16	29
Acceptance of defective declaration forms in inter-State sales	2.17	31
Short levy of tax due to allowance of concessional rate of tax without declaration forms.	2.18	31
Improper use of declarations by the dealer	2.19	33
Incorrect computation of tax	2.20	33
Under-assessment of tax due to non-inclusion of surcharge in the turnover	2.21	36

	Paragraph No.	Page No.
Under-assessment of tax due to application of incorrect rates of tax ..	2.22	36
Excess credit of tax allowed to the dealer	2.23	37
Non-imposition of penalty	2.24	37
Chapter 3—LAND REVENUE		
Results of test audit in general	3.1	41
Collection of land revenue through certificate proceedings ..	3.2	41
Management of <i>Sairati</i> interest through Panchayat institutions ..	3.3	46
Transfer of vested <i>khas hats/bazars</i> to the Regulated Market Committees	3.4	47
Non-realisation of Public Works Cess, Road Cess and Education Cess	3.5	47
Non-assessment and non-realisation of cess due to non-settlement of <i>khas mahal</i> agricultural land.	3.6	48
Non-fixation of rent in respect of holdings retained by tenants ..	3.7	49
Non-realisation of lease rent from a ferry	3.8	50
Chapter 4—TAXES ON VEHICLES		
Results of test audit in general	4.1	51
Collection and accountal of bus stand fee	4.2	52
Loss of revenue due to non-renewal of registration certificate after 15 years in respect of non-transport vehicles.	4.3	54
Short levy/non-levy of penalty for delayed payment of tax ..	4.4	55
Loss of revenue due to delay in revision of maximum safe laden weight	4.5	56
Irregular remission of tax leading to non-realisation of revenue ..	4.6	57
Lack of control over collection of tax	4.7	57
Short levy of tax due to mis-classification of vehicles	4.8	58
Evasion of tax	4.9	59
Chapter 5—STATE EXCISE		
Results of test audit	5.1	61
Non-recovery of the cost of establishment	5.2	62
Loss of revenue due to wastage in the course of re-distillation of spirit for manufacture/bottling of India-made foreign liquor/country spirit	5.3	61
Non-assessment of duty on wastage of bottled country spirit in store and transit	5.4	63
Chapter 6—OTHER TAX AND NON-TAX RECEIPTS		
A—ENTRY TAX		
Under-assessment of tax due to incorrect classification of goods ..	6.1	65
Non-levy of tax due to clearance of goods without physical verification	6.2	65
Non-levy of entry tax due to irregular issue of transport passes ..	6.3	66

	Paragraph No.	Page No.
B—STAMP AND REGISTRATION		
Loss of revenue due to short realisation of process fee	6.4	68
Short realisation of stamp duty due to splitting up of deeds ..	6.5	68
Under-stamping of deed due to misclassification of the instrument ..	6.6	69
C—MINES AND MINERALS		
Non-assessment of surface rent	6.7	70
Short levy of royalty on coal due to incorrect calculation ..	6.8	71
Short realisation of royalty on minor minerals due to application of incorrect rates	6.9	72
D—ELECTRICITY DUTY		
Distribution and transmission loss not charged to duty ..	6.10	72
E—DEPARTMENTAL RECEIPTS		
Non-assessment/non-realisation of toll charges	6.11	73
APPENDIX I		
Additional taxation measures during 1982-83 .. .. .	..	77
APPENDIX II		
Statement showing the cost of collections under the principal heads of revenue	..	79

PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of West Bengal for the year 1982-83 is presented in a separate volume. The materials in this Report have been arranged in the following order :—

- (i) Chapter 1 deals with the trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variation between the Budget estimates and the actuals in respect of principal heads of revenue and the position of arrears of revenue, etc., are discussed in this Chapter.**
- (ii) Chapters 2 to 6 set out certain cases and points of interest which came to notice during the audit of Sales Tax, Land Revenue, Taxes on Vehicles, State Excise and Other Tax and Non-Tax Receipts.**

2. The points brought out in this report are those which came to notice in the course of test audit. They are not intended to convey any general reflection on the financial administration of the departments|authorities concerned.

CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The total receipts of the Government of West Bengal for the year 1982-83 were Rs.1,379.26 crores against the anticipated receipts (including estimated additional yield of Rs.24.50 crores from new taxation measures) of Rs.1,422.07 crores. The total receipts during the year registered an increase of 26.34 per cent over those of 1980-81 (Rs.1,091.71 crores) and an increase of 12.71 per cent over those in 1981-82 (Rs.1,223.75 crores). Of the total receipts of Rs.1,379.26 crores, the State Government raised Rs.802.55 crores, of which Rs.668.95 crores represented "Tax Revenue", and Rs.133.60 crores was "Non-tax Revenue". Receipts from the Government of India by way of share of Central taxes and grants-in-aid amounted to Rs.576.71 crores.

1.2. (a) Analysis of revenue receipts

An analysis of the receipts during 1982-83 along with the corresponding figures for the preceding two years is given below :

	1980-81	1981-82	1982-83
	(In crores of rupees)		
I. Revenue raised by the State Government—			
(a) Tax Revenue	524.33	632.15	668.95
(b) Non-tax Revenue	145.12	123.45	133.60
Total	<u>669.45</u>	<u>755.60</u>	<u>802.55</u>
II. Receipts from the Government of India—			
(a) State's share of divisible Union Taxes	309.90	348.09	379.25
(b) Grants-in-aid	112.36	120.06	197.46*
Total	<u>422.26</u>	<u>468.15</u>	<u>576.71</u>
III. Total receipts of the State (I+II)	1,091.71	1,223.75	1,379.26
IV. Percentage of I to III	61.3	61.7	58.2

Receipts from the Central Government by way of the State's share of Union taxes and grants-in-aid during the year 1982-83 worked out to about 41.8 per cent of the total receipts of the State. The State's own mobilisation amounted to 58.2 per cent approximately.

*For details please see statement No. II "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of West Bengal for 1982-83.

(b) Tax revenue raised by the State

An analysis of the tax revenue for the year 1982-83 and for the preceding two years is given below :

	1980-81	1981-82	1982-83	(+)Increase (-)Decrease in 1982-83 with reference to 1981-82
	(In crores of rupees)			
(1) Taxes on Agricultural Income ..	2.25	1.22	1.35	(+)0.13
(2) Other Taxes on Income and Expenditure	10.51	13.10	15.78	(+)2.68
(3) Land Revenue	17.71	22.39	35.76	(+)13.37
(4) State Excise	51.75	58.06	60.26	(+)2.30
(5) Taxes on Vehicles	18.89	21.79	23.34	(+)1.55
(6) Sales Tax	299.55	379.04	389.63	(+)10.59
(7) Stamps and Registration Fees	28.72	34.47	39.32	(+)4.85
(8) Taxes and Duties on Electricity	18.11	16.67	14.92	(-)1.75
(9) Taxes on Goods and Passengers	50.69	53.97	52.54	(-)1.43
(10) Other Taxes and Duties on Commodities and Services.	25.74	30.94	35.42	(+)4.48
(11) Taxes on Immovable Property*	0.41	0.50	0.53	(+)0.03
Total ..	524.33	632.15	668.95	(+)36.80
Percentage of the receipt from tax revenue to the State's own revenue receipts.	78.3	83.7	83.4	

The reasons for decrease in respect of Taxes and Duties on Electricity and on Goods and Passengers called for from Government in November 1983 are awaited (December 1983).

(c) Non-tax revenue of the State

The principal sources of non-tax revenue of the State were Interest, Police, Education, Medical, Housing, Social Security and Welfare, Minor Irrigation, Soil Conservation and Area Development, Dairy Development, Forest, Industries and Mines and Minerals. An analysis

*This head accommodates receipts under the West Bengal Multistoreyed Buildings Tax Act, 19

of non-tax revenue under the principal sources of non-tax revenue for the year 1982-83 and the preceding two years is given below :

	1980-81	1981-82	1982-83	(+)Increase (-)Decrease in 1982-83 with reference to 1981-82
	(In crores of rupees)			
(1) Interest	16.01	17.59	24.38	(+)6.79
(2) Police	1.69	5.70	4.77	(-)0.93
(3) Education	3.04	3.46	2.92	(-)0.54
(4) Medical	11.62	16.70	11.68	(-)5.02
(5) Housing	2.38	2.59	3.07	(+)0.48
(6) Social Security and Welfare	6.46	5.59	11.17	(+)5.58
(7) Minor Irrigation, Soil Conservation and Area Development.	1.71	2.53	2.89	(+)0.34
(8) Animal Husbandry	1.11	1.11	2.64	(+)1.53
(9) Dairy Development	13.26	18.42	15.96	(-)2.46
(10) Forest	12.54	15.61	19.29	(+)3.68
(11) Industries	2.79	2.89	2.95	(+)0.06
(12) Mines and Minerals	2.89	2.96	6.29	(+)3.33
(13) Others	69.62	28.28	25.59	(-)2.69
Total ..	145.12	123.45	133.60	(+)10.15

The reasons for short-fall under Police, Education, Medical and Dairy Development called for from the departments are awaited (December 1983).

1.3. New taxation proposals

In order to augment resources during 1982-83 the State undertook new measures of taxation, particulars of which are given in Appendix I to this report. The quantum of additional resources to be raised by the State during the year was estimated at Rs.24.50 crores. The department stated (June 1983) that actual yield from the measures could not be calculated due to procedural reasons.

1.4. Variations between the Budget estimates and the actuals

(i) The receipts compared to the Budget estimates during the three years 1980-81 to 1982-83 were as under :

				Year	Budget estimates	Actuals	Variation Excess(+) Shortfall(-)
(In crores of rupees)							
(A) Tax Revenue							
1980-81	603.90	524.33	(-)79.57
1981-82	712.74	632.15	(-)80.59
1982-83	732.36	668.95	(-)63.41
(B) Non-tax Revenue							
1980-81	140.72	145.12	(+)4.40
1981-82	148.52	123.45	(-)25.07
1982-83	124.97	133.60	(+)8.63

(ii) The variations between the Budget estimates (including estimated additional yield from new taxation measures) and the actuals under the principal heads of revenue are given below :

Head of revenue	Year	Budget estimates	Actuals	Variation (+)Excess (-)Shortfall	Percentage of variation
(In crores of rupees)					
(1) Taxes on Agricultural Income	1980-81	8.00	2.25	(-)5.75	71.9
	1981-82	9.00	1.22	(-)7.78	86.4
	1982-83	1.50	1.35	(-)0.15	10.0
(2) Other taxes on Income and and Expenditure	1980-81	16.00	10.51	(-)5.49	34.3
	1981-82	18.80	13.10	(-)5.70	30.3
	1982-83	15.50	15.78	(+)0.28	1.8
(3) Land Revenue ..	1980-81	42.89	17.71	(-)25.18	58.7
	1981-82	33.89	22.39	(-)11.50	33.9
	1982-83	40.58	35.76	(-)4.82	11.9
(4) State Excise ..	1980-81	52.00	51.75	(-)0.25	0.5
	1981-82	64.20	58.06	(-)6.14	9.6
	1982-83	65.00	60.36	(-)4.64	7.1
(5) Taxes on Vehicles	1980-81	25.70	18.89	(-)6.81	26.5
	1981-82	28.30	21.79	(-)6.51	23.0
	1982-83	24.00	23.34	(-)0.66	2.8
(6) Sales Tax ..	1980-81	330.61	299.55	(-)31.06	9.4
	1981-82	417.00	379.04	(-)37.96	9.1
	1982-83	441.00	389.63	(-)51.37	11.6
(7) Stamps and Registration Fees	1980-81	26.55	28.72	(+)2.17	8.0
	1981-82	30.24	34.47	(+)4.23	14.0
	1982-83	38.00	39.32	(+)1.32	3.5
(8) Taxes and Duties on Elec- tricity.	1980-81	25.00	18.11	(-)6.89	27.6
	1981-82	25.88	16.67	(-)9.21	35.6
	1982-83	16.50	14.92	(-)1.58	9.6

(9) Taxes on Goods and Passengers	1980-81	41.75	50.69	(+)8.94	21.4
	1981-82	49.00	53.97	(+)4.97	10.1
	1982-83	55.00	52.54	(-)-2.46	4.5
(10) Other Taxes and Duties on Commodities and Services.	1980-81	35.00	25.74	(-)-9.26	26.5
	1981-82	36.13	30.94	(-)-5.19	14.4
	1982-83	34.87	35.42	(+)0.55	1.6
(11) Interest	1980-81	32.50	16.01	(-)-16.49	50.7
	1981-82	25.87	17.59	(-)-8.28	32.0
	1982-83	21.00	24.38	(+)3.38	16.1
(12) Police	1980-81	2.78	1.69	(-)-1.09	39.2
	1981-82	2.92	5.70	(+)2.78	95.2
	1982-83	2.19	4.77	(+)1.58	49.5
(13) Education	1980-81	3.11	3.04	(-)-0.07	2.3
	1981-82	4.41	3.46	(-)-0.95	21.5
	1982-83	3.42	2.92	(-)-0.50	14.6
(14) Medical	1980-81	14.12	11.62	(-)-2.50	17.7
	1981-82	16.48	16.70	(+)0.22	1.3
	1982-83	15.61	11.68	(-)-3.93	25.2
(15) Housing	1980-81	3.84	2.38	(-)-1.46	38.0
	1981-82	3.74	2.59	(-)-1.15	30.7
	1982-83	3.50	3.07	(-)-0.43	12.3
(16) Social Security and Welfare	1980-81	13.00	6.46	(-)-6.54	50.3
	1981-82	14.58	5.59	(-)-8.99	61.7
	1982-83	9.00	11.17	(+)2.17	24.1
(17) Minor Irrigation, Soil Conservation and Area Development.	1980-81	4.10	1.71	(-)-2.39	58.3
	1981-82	4.54	2.55	(-)-1.99	43.8
	1982-83	2.50	2.89	(+)0.39	15.6
(18) Animal Husbandry ..	1980-81	1.50	1.11	(-)-0.39	26.0
	1981-82	1.36	1.11	(-)-0.25	18.4
	1982-83	1.73	2.64	(+)0.91	52.6
(19) Dairy Development ..	1980-81	17.47	13.26	(-)-4.21	24.1
	1981-82	19.16	18.42	(+)0.26	1.4
	1982-83	14.00	15.96	(+)1.96	14.0
(20) Forest	1980-81	10.30	12.54	(+)2.24	21.7
	1981-82	11.35	15.61	(+)4.26	37.5
	1982-83	14.54	19.29	(+)4.75	32.7
(21) Industries	1980-81	5.02	2.79	(-)-2.23	44.4
	1981-82	4.77	2.89	(-)-1.88	39.4
	1982-83	3.00	2.95	(-)-0.05	1.7
(22) Mines and Minerals ..	1980-81	0.11	2.89	(+)2.78	2527.3
	1981-82	0.32	2.96	(+)2.64	825.0
	1982-83	0.45	6.29	(+)5.84	1297.8

Estimates for 1980-81 and 1981-82 do not include the estimates of additional yield from new taxation measures.

In case of Land Revenue, Sales Tax and in all cases of principal heads of non-tax revenue except Industries, the variations were in excess of ten per cent. The reasons for variations called for from Government are awaited (December 1983).

1.5. Cost of collection

The expenditure incurred during 1982-83 on collection under the principal heads of revenue and the percentage of the cost of collection to revenue collected during the three years 1980-81 to 1982-83 are given in Appendix II to the report.

In respect of Taxes on Goods and Passengers, while collection (Rs.52.54 crores) decreased by 2.6 per cent, cost of collection (Rs.2.05 crores) went up by 50 per cent.

1.6. Uncollected revenue

Figures of arrears in respect of different tax revenues viz. Land Revenue, Sales Tax, Agricultural Income Tax, Motor Vehicles Tax, Entry Tax, State Excise, Stamps and Registration Fees, Electricity Duty, Entertainment, Betting and Luxury Tax and Water rates are awaited (December 1983) from the departments. Consequently, the total amount of uncollected dues, the amount covered by certificate proceedings, the collection stayed by Government, the High Court and Judicial Authorities, the present position of recovery, the possibility of recovery, steps taken by the departments to recover the dues etc. could not be ascertained in audit.

1.7. Outstanding Inspection Reports

(i) Audit observations regarding incorrect assessments|under-assessments|non-levy|short levy of taxes, duties, fees and other revenue receipts etc. and defects in initial accounts noticed on test check during local audit and not settled on the spot are communicated to the heads of offices and to the next higher authorities through inspection reports. The more important irregularities noticed are reported to the heads of departments and Government.

(ii) Government have prescribed that first replies to the inspection reports should be sent by the heads of offices to the heads of

departments within 3 weeks from the date of receipt of the inspection report. The heads of departments, in turn, should transmit such replies along with their comments to the Accountant General within two months from the date of receipt of replies from their subordinate offices. The half yearly statements of audit objections which are awaiting settlement for want of final replies from the departmental authorities are forwarded to the Government in June and December every year to expedite clearance of objections. During local audit of the offices, the objections pertaining to earlier years are also reviewed by the inspecting parties and discussed with the heads of offices.

(iii) As at the end of September 1983, inspection reports issued up to March 1983 which were not settled, are shown below. The corresponding figures for the earlier two years are also indicated.

		At the end of September		
		1981	1982	1983
Number of inspection reports not settled	--	2036	2180	2551
Number of objection book items	.. ..	2818	3304	2741
Money value of outstanding objections (in crores of rupees).		25.75	42.20	62.05

Receipt-wise break-up of the outstanding reports together with money value of objections are given below :—

Head of receipts	Up to 1982-83		
	Inspection Reports	Outstanding objections Number of items	Amount (In lakhs of rupees)
1. Sales Tax -- -- --	504	1470	1,410.06
2. State Excise -- -- --	166	98	606.25
3. Land Revenue -- -- --	94	446	3,213.01
4. Motor Vehicles Tax -- -- --	226	277	211.59
5. Stamp Duty and Registration Fees --	793	177	24.23
6. Agricultural Income Tax .. --	43	56	11.97
7. Amusement Tax -- -- --	69	33	90.54
8. Electricity Duty .. -- --	111	18	283.26
9. Entry Tax .. -- -- --	473	119	101.58
10. Departmental Receipts -- --	28	41	252.61
11. Non-Judicial Stamps .. -- ..	26	6	0.24
	<u>2551</u>	<u>2741</u>	<u>6,205.33</u>

(iv) Of the 2,551 reports which were pending settlement as on 30th September 1983, even first replies had not been received so far (September 1983) in respect of 1,303 reports consisting of 6,754 paragraphs, as detailed below :—

Head of receipts				Number of inspection reports	Number of paragraphs	Earliest year to which inspection reports pertain
1.	Sales Tax	..	..	46	548	1967-68
2.	State Excise	..	..	175	713	1972-73
3.	Land Revenue	..	..	65	1,413	1970-72
4.	Motor Vehicles Tax	..	..	177	1,062	1972-73
5.	Stamp Duty and Registration Fees		..	269	967	1972-73
6.	Agricultural Income Tax	..	..	33	82	1972-74
7.	Amusement Tax	..	..	65	196	1971-72
8.	Electricity Duty	..	..	77	248	1975-76
9.	Entry Tax	..	..	338	1,298	1972-73
10.	Departmental Receipts	..	..	36	167	1975-77
11.	Non-Judicial Stamps	..	..	33	66	1977-78
Total				1,303	6,754	

1.8. Delay in settlement of objections

Delay in settlement of objections raised in audit may lead to loss of revenue to the Government as in the case of Sales Tax mentioned hereinafter.

Under the provisions of the Sales Tax law, time allowed for *suo moto* review of assessment cases for rectification is four years from

the date of assessment|re-assessment. In respect of cases of non|short levy of taxes brought out in the inspection reports relating to the period up to 1977-78, the time limit for such review is already over. The cases calling for review of assessment in the light of audit observations, but not already done, thus stand barred by limitation of time.

Out of the cases of non|short levy of tax pointed out in audit through various inspection reports during the period from 1967-68 to 1977-78, information as to the rectificatory measures taken by the department was awaited (December 1983) in respect of 950 cases involving tax amounting to Rs.519.59 lakhs as detailed below :—

	Year					Number of objections	Amount of tax involved (In lakhs of rupees)
1967-68	21	6.04
1968-69	24	3.38
1969-70	24	8.89
1970-71	34	6.20
1971-72	52	13.88
1972-73	47	4.85
1973-74	103	81.40
1974-75	137	130.66
1975-76	13	73.91
1976-77	193	101.04
1977-78	180	94.34
						<u>950</u>	<u>519.59</u>

There is no scope for re-opening these cases due to limitation of time provided in the law and under-assessment or unassessed tax due in respect thereof cannot be recovered. The exact extent of loss involved cannot be ascertained in audit in the absence of necessary replies from the department.

The matter was brought to the notice of Government in February 1983; reply is awaited (December 1983).

CHAPTER 2

SALES TAX

2.1. Results of test Audit.

Test audit during 1982-83 of documents of Commercial Tax Offices revealed under-assessment of tax of Rs.827.39 lakhs in 33,618 cases. The under-assessment was due to reasons broadly categorised below :—

Nature of irregularity	Number of cases	Amount (In lakhs of rupees)
1. Irregular exemption	32	225.72
2. Incorrect determination of taxable turnover	24	213.45
3. Irregular concession	26	12.51
4. Incorrect computation of tax	44	2.00
5. Incorrect classification of goods	8	2.39
6. Others	33,464	371.32
Total ..	33,618	827.39

Some important cases are mentioned in the following paragraphs.

2.2. Collection of sales tax for goods brought through sales tax check-posts in West Bengal by unregistered dealers

2.2.1. Introduction

In order to check evasion of tax under Bengal Finance (Sales Tax) Act, 1941, in respect of sale of certain specified goods (mentioned as notified goods hereinafter), payment of tax by any dealer irrespective of his turnover has been made compulsory under the Act. If a dealer is not registered under the Act, he is not permitted to sell such goods unless he obtains a special certificate from the prescribed authority to the effect that he is a certified dealer.

Dealers selling goods (mentioned as notified commodities hereinafter) subject to single point taxation in the State which are covered by the West Bengal Sales Tax Act, 1954, are also required to pay tax in respect of any such sale and are to be compulsorily registered as dealers under the Act,

To ensure payment of tax in respect of notified goods|commodities imported from outside the State beyond prescribed quantitative limits, restrictions are also placed in both the above Acts on their transport from railway stations, steamer stations, airport and other places notified in this behalf. Accordingly, the State Government have set up check-posts at various strategic points. Any dealer in notified goods|commodities is required under both the Acts to obtain permit from the prescribed authority before transport of the goods in question from outside the State. Special permits are also issued when such goods are brought by a person not for the purpose of sale. Consignments of these goods|commodities imported from other States and covered by permits and special permits under both the Acts are required to be cleared through the check-posts mentioned above. There are seventeen such check-posts with defined boundaries in the State comprising 6 road, 6 rail, 4 river and 1 air check-post. Working of eight check-posts, 4 (Barakar, Duburdih, Phansidewa and Chicra) from road and 4 (Howrah, Sealdah, Shalimar and Sahebbazar) from rail, with reference to special permits issued, was reviewed in audit during February 1983 to May 1983. Results of the review are indicated in the following paragraphs :

2.2.2. *Organisational set up*

Subject to the overall control of the Commissioner of Commercial Taxes, the control and superintendence of the check-posts situated in and around Calcutta are vested with the Central Section of the Sales Tax Directorate, Calcutta, while those of the check-posts situated in the districts are vested with the respective charge offices of the directorate under whose jurisdiction the check-posts are situated. The check-posts are manned by Commercial Tax Officers, Inspectors and other staff.

2.2.3. *Trend of issue of special permits*

During the year 1978-79 to 1981-82 a total number of 42,991 special permits were issued under both the Acts from the Central Section, Calcutta and from the two district charge offices.

2.2.4. *Collection of tax from unregistered importers of notified goods|commodities*

The prescribed authority may, for good and sufficient reasons, demand from an importer of notified goods|commodities in West Bengal for sale, a reasonable security for proper payment of tax payable by him under the Sales Tax Acts.

In the course of audit, it was noticed that security was not collected from importers who were not registered/certified dealers but were allowed to import notified goods/commodities under special permits. Instead of security deposit, anticipated sales tax was only collected or bank guarantee was obtained in respect of 2,284 cases out of the 42,991 special permits granted to the importers. The tax so collected was not, however, based on any particular formula. For the purpose of collection of tax, while the Central Section, Calcutta, assumed the sale price as value of the imported goods shown in the invoice as produced by the importer plus 30 per cent thereon, the three district officers adopted the price by enhancing the invoice value by 15 per cent. Notified commodities/goods not for sale in West Bengal were not exigible to sales tax and the anticipated tax collected from the importers was refundable to them. As no importer had preferred any refund claim, it was obvious that the goods imported were for sale. No final assessment of tax was, however, made afterwards in respect of such importers, who were in fact dealers but not registered or certified under the Acts. Thus, realisation of proper amount of tax in their cases could not be ensured.

The sales tax laws of West Bengal enjoin that when the prescribed authority is satisfied that a dealer who is liable to pay tax under both the Acts had failed to get himself registered, such authority may (in addition to tax) impose a penalty equal to the amount of tax assessed. Assessment procedure having not been followed in these cases of anticipated collection of tax, penalty could also not be imposed and realised. Based on the anticipated amount of tax collected, the maximum amount of penalty leviable in 30,959 cases of special permits, amounted to Rs.60.94 lakhs.

It was also observed (February 1983—April 1983) in the course of test check in respect of two charge offices (Central Section and Asansol charge) that in the year 1981-82, out of total number of 743 special permits, 112 were issued to 41 importers who imported notified commodities/goods more than once as detailed below, which indicated that they were actually dealers but had evaded registration as certified dealers.

Number of importers	Commodity	Total number of special permits issued	Number of times for which special permit issued to each importer
2	Acrylic yarn, dry chilly	10	5
6	Acrylic yarn, paper, fireworks and agarbatti ..	24	4
12	Acrylic yarn, paper, safety matches and medicine	36	3
21	Bricks, medicine and paper	42	2
41		112	

2.2.5. *Control over vehicles leaving the State*

The check-posts opened so far for regulating movement of goods imported from other States, exercise control only on vehicles carrying notified commodities|goods entering the State and there is no control on such vehicles which leave the State. Absence of control on outgoing vehicles leaves scope for evasion of tax as indicated below :

The charge office maintains permit register wherein *inter alia* description of goods, value etc., are recorded, at the time of issue of permits for import into the State. Check-posts also maintain a register for recording similar information in respect of the goods at the time of their entry into the State.

It was noticed in audit that 724 special permits for import of notified commodities|goods were issued between 1978-79 and 1981-82 by the Central Section, Calcutta and one district office (Midnapore). As the goods were to be transported to other States via West Bengal, no tax was leviable on these imports. Out of 724 permits, in respect of 359, value of the goods involved was not indicated in the prescribed register, while in the remaining 365 permits, the value involved was Rs.3.31 crores and the tax effect was Rs.23.61 lakhs. The departmental records did not indicate whether the goods brought under special permits and meant for other States had actually left the State or were diverted for sale in West Bengal.

On this being pointed out in audit (April 1983), the department did not furnish any reply in the matter.

2.2.6. *Evasion of tax due to lack of co-ordination between Railway department and Sales Tax Directorate*

According to the law, a dealer before transporting from any railway station, any consignment of notified commodities|goods despatched from any place outside West Bengal, is required to produce for counter-signature before the appropriate sales tax authority, railway receipts and other documents required before taking delivery of such consignments from the Railways. This enables the sales tax authority to watch that such imported notified commodities|goods do not escape assessment. Non-compliance of this requirement is punishable with fine not exceeding Rs.500.

(i) In the course of cross verification of entry tax assessment records of Railway Entry Tax Check-post with sales tax records for two months (February and March 1982) it was noticed that 31 consignments of timber (notified goods) were brought into the State during the period from February 1982 to March 1982 by 31 timber

dealers without obtaining any valid permit from the prescribed sales tax authorities. While the sales tax authorities were not aware of these imports as no permit was issued by them and railway receipts were also not got countersigned by them, the dealers also did not reflect them in their turnover. As a result, there was escapement of sales tax amounting to Rs.0.92 lakh on timber valued Rs.11.53 lakhs (value taken as shown in the assessment records of Entry Tax). Besides tax, maximum penalty of Rs.15,500 was also leviable but was not levied.

(ii) On cross verification with railway records it was noticed (May 1983) that in two railway check-posts, 170 consignments of notified commodities|goods (out of 1,050 cases checked) were released in favour of importing dealers from the railway authorities without countersignature of sales tax authority on the relevant railway receipts. On actual verification of the permit registers, kept at the respective railway check-posts, it was further noticed that no permit had also been issued in respect of them. The tax actually evaded in those cases could not be calculated as the value of the goods was not mentioned in the railway receipts. A maximum penalty of Rs.0.85 lakh was also leviable in these cases.

On this being pointed out, one check-post authority stated (May 1983) that the matter could not be examined for want of details while the other check-post authority stated (April 1983) that the consignments were released by the railway authorities without the knowledge of the Sales Tax Department and that the goods were passed outside office hours.

(iii) All the railway stations of West Bengal are declared as notified places. All of them are not, however, functioning as check-posts. In respect of station not functioning as check-posts, the department stated (June 1983) that district officers kept regular watch on the movement of notified commodities|goods at specified places under their assessment jurisdiction and this was supplemented by periodical checks by the Central Section of the Sales Tax Directorate, Calcutta. No procedure for keeping regular watch on the movement of consignments has, however, been laid down. On cross verification of entry tax assessment records for the period from January 1982 to March 1982 with railway receipts of a railway station (Barrackpore), 29 consignments of lime, out of 60, were found to have been imported from outside West Bengal without any permit from sales tax authorities. These consignments were for sale in West Bengal but escaped assessment. The total value of these 29 consignments (on the basis of the value determined in other similar cases) was Rs.5.50 lakhs with tax effect of Rs.0.38 lakh which was not levied. Also, penalty leviable under the Act could not be imposed.

2.2.7. *Seizure of notified commodities|goods by road check-posts*

Under the provisions of the Sales Tax Act, the prescribed authority is authorised to seize notified commodities|goods at the check-post point, if he is satisfied that such goods are brought in contravention of the provisions of the Acts and can initiate penal action for the offence which can be compounded on payment of a sum not exceeding double the amount of tax payable or Rs.2,000, whichever is greater. The consignments, so seized, unless the offence is compounded, can be confiscated under orders of the court, whereafter the goods can be disposed of by the department. Loss of revenue is involved if no such penal action is taken.

(i) In three road check-posts (Barakar Road, Duburdih Road and Chichra Road) there was an accumulation of seized goods valuing Rs.14.32 lakhs in 232 cases, besides 95 cases for which value was not recorded, during the period between 1975-76 and 1981-82.

The goods so seized could not be disposed of by the Sales Tax Officers concerned as court's orders for confiscation of seized goods were not obtained even after a lapse of considerable period of time. The Acts also do not provide for any time limit for referring the cases to the court or for compounding the offences. Delay in finalising the confiscation procedure may affect their disposal value. In reply to audit observation, the department stated (June 1983) that the Government had been moved for a permanent solution by making provision in the statute for sale of goods, remaining with the department beyond a specific time, through public auction.

It was, however, noticed that the seized goods, as per records, included goods like medicines, baby food, milk-powder, orange squash and D.D.T.

No physical verification of the seized goods was conducted at intervals to ensure that there was no pilferage|loss of the seized goods.

(ii) Part seizure of any notified commodity|goods brought without permit at the check-post point is not provided in the law. It was noticed in two road check-posts (Barakar Road and Duburdih Road) that in 61 cases, notified commodities were partly seized (1978-79 to 1981-82). It was also noticed that in these cases quantity of partly seized goods varied from 14 per cent to 86 per cent of the total quantity of consignment.

In 34 out of the 61 cases, it was observed that declared value of partly seized goods did not even cover the amount which could be compounded for offence. Composition money due on these 34

consignments amounted to Rs.68,000 while the value of the partly seized goods was Rs.32,640. In 3 cases, value of the partly seized goods did not even cover the tax amount, as mentioned below :

(a) A consignment of 700 cartons of baby food of declared value of Rs.86,800 was imported by a dealer through a check-post without obtaining any permit therefor.

After seizure of one carton only (November 1978) the consignment was allowed to be transported. The declared value of the seized carton was Rs.124 while tax due on the declared value of the total consignment was Rs.5,312 and composition amount was Rs.10,624. The part seizure as stated (April 1983) by the department was due to shortage of space in the godown and unloading difficulties. No follow up action was, however, taken by the department thereafter (December 1983).

(b) A consignment of 574 tins of vegetable ghee of declared value of Rs.74,880 was allowed to be transported through a check-post without any permit after seizure of only 15 tins (January 1979). The declared value of the partly seized ghee was Rs.1,957 while the tax due on the consignment was Rs.6,110 and composition amount was Rs.12,220. No follow up action was found to have been taken by the department (December 1983).

2.2.8. *Compounding of offences*

In compounding an offence, double the amount of tax payable or a sum not exceeding Rs.2,000, whichever is greater, may be accepted in each case. In the course of audit it was noticed (February 1983—April 1983) that out of 672 cases seized during 1981-82 in three check-posts token composition money totalling Rs.1.35 lakhs in respect of 228 cases was realised as against normal tax due of Rs 9,75,741 and maximum composition money of Rs.21.40 lakhs realisable as per the table below :

Name of check-post	Number of cases compounded	Normal tax due	Maximum composition money realisable	Composition money realised	Percentage of amount recovered in relation to composition money due
		Rs.	Rs.	Rs.	
Howrah Rly, C.P. ..	27	12,894	59,482	16,800	28 per cent.
Duburdih Road C.P.	83	2,33,720	5,39,808	63,580	11.7 per cent.
Chiohra Road C.P. ..	118	7,29,127	15,40,572	54,151	3.5 per cent.
	228	9,75,741	21,39,860	1,34,531	6.28 per cent.

2.2.9. *To sum up*

The review highlights the following points :—

- (1) Collection of anticipated sales tax from unregistered importers of notified goods/commodities without proper final assessment and non-imposition of penalty on their escapement of registration involved a tax effect of Rs.60.94 lakhs.
- (2) Absence of control over the movement of vehicles carrying taxable goods meant for other States involved a tax effect of Rs.23.61 lakhs.
- (3) Evasion of tax due to lack of co-ordination between Sales Tax Department and Railway Department resulted in escapement of levy of tax of Rs.1.30 lakhs.
- (4) Goods valuing Rs.14.32 lakhs seized during 1975-76 to 1981-82 were lying undisposed of in the three check-posts test checked.
- (5) Composition money realised was Rs.1.35 lakhs only against maximum of Rs.21.40 lakhs.

The points referred to in the foregoing paragraphs were reported to Government (August 1983); their reply is awaited (December 1983).

2.3. **Sales of import licence escaping assessment**

Under the Bengal Finance (Sales Tax) Act, 1941, a dealer is liable to pay tax on "all sales" except where exempted under the Act "Sale" means transfer of property in the goods for valuable consideration in the course of trade or business including transfer of property in the goods involved in execution of contract, but does not include a mortgage, hypothecation charge or pledge. The term "goods", as defined in the sales tax law includes not only materials, articles, commodities but also all other kinds of movable property, other than actionable claims, stocks, shares or securities. In the absence of provision in the sales tax law for restrictive use of the term "property" for the purpose of sales tax, "property" includes not only real estate and personal property but also incorporeal rights such as patents, copyrights, leases etc. and also every other thing of an exchangeable value. Transfer of an import licence on valuable consideration thus comes under the scope of sale of movable property in goods and is exigible to sales tax.

In the assessment of a dealer for the year ended in 2 036 KB (1978-79), made in March 1981, it was noticed (August 1981) that in the accounts of the dealer under the head "sales", a sum of Rs.5,25,511 was shown as receipt on "entitlement account". The receipt in question was not taken into account at the time of determination of the gross turnover and nothing was recorded in the assessment order in this regard. The department confirmed (August 1981) that sale of "entitlement" was nothing but sale of import rights and import licences. The non-inclusion of receipts on "entitlement account" in the turnover resulted in under-assessment of tax thereon including surcharge amounting to Rs.37,834.

On this being pointed out in audit (August 1981), the department stated that import rights|import licence do not constitute goods|documents of title to goods and as such cannot be taken as equivalent to sale of goods for the purpose of Sales Tax Act or the Sales of Goods Act. The contention of the department is not tenable as the import licence was transferred for valuable consideration and was, therefore, a property in goods for the purpose of sales tax law; besides, the Sale of Goods Act also defines goods as every kind of movable property (other than actionable claims and money).

The matter was reported to Government in October 1982; their reply is awaited (December 1983).

2.4. Inter-State sales escaping assessment

Under the Central Sales Tax Act, 1956, sales of goods, other than declared goods, in the course of inter-State trade and commerce are taxable at the rate of 10 per cent.

(i) In the course of audit of the assessment of a dealer under the West Bengal Sales Tax Act, 1954, for the year ending August 1977, made in August 1981, it was noticed (May 1982) that inter-State sales of notified commodities assessable under the Central Sales Tax Act, 1956, were determined at Rs.15,72,174 and were deducted from the gross turnover of the dealer under the West Bengal Sales Tax Act, 1954. But at the time of assessment under the Central Sales Tax Act, made in August 1981, the aforesaid inter-State sales of Rs.15,72,174 were not taken into consideration. This resulted in under assessment of tax amounting to Rs.1,42,924.

On this being pointed out in audit (May 1982), the department stated (September 1982) that necessary rectification of mistakes would be made after necessary verification. Further development is awaited (December 1983).

The matter was reported to Government in June 1983; their reply is awaited (December 1983).

(ii) In the course of audit of the assessment of a dealer under the West Bengal Sales Tax Act, 1954, for the year ending March 1978, made in March 1982, it was noticed (April 1982) that inter-State sales aggregating Rs.6,43,618 were deducted from the taxable turnover determined under West Bengal Sales Tax Act, 1954 as being taxable under the Central Sales Tax Act. At the time of assessment of the dealer under the latter Act, made in March 1982, the above inter-State sales were not, however, included in the turnover. The omission led to non-assessment of tax of Rs.58,510.

On this being pointed out (April 1982) in audit, the department admitted the mistake and agreed (May 1982) to revise the assessment order.

The matter was reported to Government in April 1983; further development is awaited (December 1983).

2.5. Under-assessment of Central sales tax due to treatment of local corporate bodies as Government departments

Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales are taxable at the rate of 10 per cent if they are not supported by the prescribed declarations obtained from purchasing dealer or purchasing Government department concerned. In case of such sales to Government departments, concessional rate of 4 per cent is applicable against declaration in the prescribed form 'D' issued by authorised Government officers. Government undertakings and statutory bodies having separate legal entity are not authorised to issue such declaration in form 'D'.

In the course of audit it was noticed (May 1982) in the assessment of a dealer for the year ending March 1978, made in March 1982, that sales aggregating Rs.32,47,145 to statutory local bodies and Government undertakings were assessed at the concessional rate of tax of four per cent against declarations in forms 'D' furnished by them without examining the validity of the declaration forms. This resulted in an under-assessment of tax of Rs.1,70,305 calculated at the differential rate of tax.

On this being pointed out in audit (May 1982), the department agreed (July 1982) to take action in the matter; further development is awaited (December 1983).

The matter was reported to Government in December 1982; their reply is awaited (December 1983).

2.6. Non-inclusion of escalation claim in taxable turnover

Under the Bengal Finance (Sales Tax) Act, 1941, sales tax is leviable on the sale price which is defined as the amount payable to a dealer as valuable consideration for the sale of goods. Thus additional amount received or receivable as escalation benefit in respect of sale of goods, forms part of sale price of the goods concerned.

In the course of audit of the assessment of a dealer for the year ending March 1978, made in March 1982, it was noticed (May 1982) that a sum of Rs.6,87,116 representing escalation claim on sale of gas, though included in the profit and loss account, was not considered in determining the taxable turnover of the dealer. This resulted in an under-assessment of tax including surcharge of Rs.42,415.

On this being pointed out in audit (May 1982), the department agreed (July 1983) to revise the assessment order. Further development is awaited (December 1983).

The case was reported to Government in February 1983; their reply is awaited (December 1983).

2.7. Loss of revenue on sales by un-registered dealers

Under the Sales Tax laws of West Bengal, a dealer liable to pay tax cannot carry on business as a dealer unless he has been registered and he possesses a certificate of registration which mentions the class or classes of goods in which the dealer carries on business. Liability to pay tax arises under the Bengal Finance (Sales Tax) Act, 1941, as soon as the minimum turnover exceeds a particular limit i.e., Rs.10,000 in the case of importers, Rs.25,000 in the case of manufacturers and Rs.50,000 in the case of others, while under the Central Sales Tax Act, 1956 and the West Bengal Sales Tax Act, 1954, all sales irrespective of the quantum of turnover are liable to tax. Registration enables the department to ensure that persons liable to pay tax are actually assessed to such tax and amounts due are recovered from them.

Under West Bengal Sales Tax Act, 1954, bricks (other than fire-bricks) and roofing tiles are notified commodities with effect from 1st September 1977. The records of Land Revenue Department of Midnapore district (for the period from 1977-78 to 1980-81) revealed that there were 100 brick manufacturers in the district

engaged in the business of selling bricks manufactured by them. But they were not found to have been registered as dealers as required, and assessed to tax. The sale value of bricks of those un-registered dealers during 1977-78 to 1980-81 was Rs.156.90 lakhs (based on the average value taken by the assessing officer in respect of other registered dealers of the district) with tax effect of Rs.10.20 lakhs.

On this being pointed out in audit (December 1981), the department agreed (December 1981) to take necessary action.

The matter was reported to Government in August 1983; their reply is awaited (December 1983).

2.8. Non-assessment of turnover tax

A dealer, whose aggregate gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954 during a year exceeds Rs.50 lakhs, is liable to pay turnover tax at the prescribed rates.

(i) In the course of audit it was noticed (August 1981) in the assessment (made in September 1980) for the year ending Chait Sudi 2037 (1979-80) of a dealer, whose gross turnover exceeded Rs.50 lakhs during the year, that a sum of Rs.38,68,324 representing sales of non-exempt goods was irregularly allowed as deduction from gross turnover. This resulted in non-assessment of turnover tax of Rs.38,683.

(ii) Similarly, in the assessment of another dealer for the year ending Kartick Bodi 2036 (1978-79), made in August 1981, it was noticed that the dealer was liable to pay turnover tax with effect from 1st April 1979 on his specified turnover in respect of non-exempt goods amounting to Rs.38,49,484 but he was not assessed to tax resulting in an under assessment of Rs.30,311.

On both the cases being pointed out in audit (August 1981 and April 1982), the department admitted (May 1983) the mistakes but stated that the legality of imposition of turnover tax was pending decision in the Supreme Court.

The cases were also reported to Government in June 1982 and December 1982; their reply is awaited (December 1983).

2.9. Non-levy of purchase tax

Under the West Bengal Sales Tax Act, 1954 and the rules made thereunder, a dealer shall pay purchase tax with effect from 10th

October 1977, at the rate of 4 per cent on the taxable specified purchase price of goods purchased for the purpose of use directly in manufacturing, packing and processing and making of notified commodities and shall, *inter alia*, submit along with the return a statement of purchases, in the prescribed form for the purpose of assessment. Submission of incomplete return by the dealer will attract penalty which shall not exceed the amount of tax payable.

(i) In the course of audit of the assessment made in September 1980 of a manufacturing dealer in biscuits for the year ending March 1978, it was noticed (June 1981) that the dealer did not submit the prescribed statement of purchases. In its absence, the total purchase price for the period from 10th October 1977 to 31st March 1978 was estimated at Rs.85,15,583. But the taxable specified purchase price for the period was not determined and assessed to tax.

Adopting the proportion applied in the case of the same dealer for the year 1978-79 in similar circumstances, the taxable purchase price would be Rs.32,81,603 which has a tax effect of Rs.1,31,264. Besides, for submission of incomplete return, penalty up to Rs.1,31,264 could also be imposed.

On this being pointed out in audit (June 1981), the department stated (June 1983) that appropriate revisional proceedings were pending before the appellate authority.

The matter was referred to Government in May 1982; their reply is awaited (December 1983).

(ii) In the course of audit of three assessments of another dealer, pertaining to the years ending in December 1978, December 1979 and December 1980, made between December 1979 and February 1982, it was noticed (January 1982) that the dealer had purchased goods taxable under the Bengal Finance (Sales Tax) Act, 1941, aggregating Rs.4,04,140 for use in the manufacture of notified commodities from dealers not registered under that Act. But no purchase tax was assessed as required under the law. This led to non-assessment of purchase tax to the extent of Rs.16,205.

On this being pointed out in audit (January 1982), the department admitted the mistake and agreed (February 1982) to review the assessment; further development is awaited (December 1983).

The matter was reported to Government in June 1983; their reply is awaited (December 1983)

2.10. Omission to include interest on hire purchase sales in the gross turnover

Under the Bengal Finance (Sales Tax) Act, 1941, a transfer of goods on hire purchase or other instalment system of payment, shall, notwithstanding that the seller retains a title to any goods as security for payment of price, be deemed to be a sale. Interest received on hire purchase sale should form a part of the sale price and should, therefore, be included in gross turnover.

Mention was made in paragraph 2.11 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1977-78 regarding omission to include interest on hire purchase sale in the gross turnover of a dealer. In reply, Government admitted (August 1981) the mistake and agreed to revise the assessment. The dealer also did not prefer any appeal against such assessment as verified in audit (October 1983).

In the course of audit of three assessments of the same dealer for the years ending between March 1976 and March 1978, made between March 1980 and March 1982, it was noticed (June 1982) that interest received on hire purchase sales of taxable commodities aggregating Rs.22,23,955 was again not included in the gross turnover and was not subjected to tax, resulting in under-assessment of tax and surcharge of Rs.1,38,708.

On this being pointed out in audit (June 1982), the department stated (July 1983) that interest charged was not a part of the sale price even though the Government had earlier accepted the objection. The departmental reply indicates communication gap in the matter between the Government and the department.

The case was reported to Government in June 1983; their reply is awaited (December 1983).

2.11. Incorrect determination of turnover

Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, every dealer shall furnish returns in the prescribed forms, in the prescribed manner, by the prescribed date. In case, any error or omission is noticed after submission of the returns, the dealer may furnish a revised return showing the correct position.

In the course of audit of the assessment of a dealer for the year ending 31st August 1977, made in August 1981, it was noticed (May 1982) that the assessee furnished a revised return showing his gross turnover as Rs.17,90,81,155. During assessment, the gross turnover

was determined at Rs.17,81,05,436 which was lower than the dealer's declared turnover by Rs.9,75,719; but no reason was adduced for the same. Besides, taxable sales after allowing permissible deductions were wrongly computed as Rs.7,29,74,716 instead of Rs.7,39,74,716. The above mistakes led to short determination of the taxable turnover by Rs.19,75,719. The incorrect determination of turnover resulted in under-assessment of tax amounting to Rs.1,23,225.

On this being pointed out in audit (May 1982), the department stated (May 1983) that further examination of the dealer's books of accounts could not be made as the case was lying before appellate authority. The mistakes pointed out are, however, based on the figures as per dealer's returns.

The matter was reported to Government in April 1983; their reply is awaited (December 1983).

2.12. Incorrect computation of turnover by double deduction

Under the Bengal Finance (Sales Tax) Act, 1941, taxable turnover of a dealer is determined after deducting from the gross turnover, *inter alia*, inter-State sales which are assessed to tax under the Central Sales Tax Act, 1956.

In the course of audit, it was noticed (September 1982) that in the assessment of a dealer for the year ending March 1978, under the State Act, made in March 1982, inter-State sales aggregating Rs.21,98,212 were allowed as deduction from the gross turnover of the dealer. At the time of assessment under the Central Sales Tax Act, made in March 1982, a sum of Rs.1,77,254 representing sale of 'cotton cloth' being exempted goods was deducted from the gross turnover. The said amount was again deducted in arriving at the taxable balance of the dealer for the purpose of computation of tax. The double deductions led to under-assessment of tax amounting to Rs.17,725.

On this being pointed out (September 1982) in audit, the department admitted (September 1982) the mistake and agreed to review the case; further development is awaited (December 1983).

The matter was reported to Government in January 1983; their reply is also awaited (December 1983).

2.13. Sales escaping assessment

(i) Under the Bengal Finance (Sales Tax) Act, 1941, if the Commissioner is not satisfied that the returns filed by a dealer are

correct and complete, he shall assess to the best of his judgement the amount of tax due from the dealer.

In making such assessment (May 1981) in respect of a dealer for the year ending December 1977, the assessing officer, relying on the previous years' assessment records, determined the gross turnover at Rs.8,50,000 under the State Act and at Rs.4,25,000 under the Central Act. As per the returns filed by the dealer himself, the gross turnovers were Rs.9,83,006 and Rs.5,86,454 respectively. Determination of lower turnovers by the assessing officer, without any recorded reason, resulted in an under-assessment of tax of Rs.24,253.

On this being pointed out (May 1982) in audit, the department admitted the mistake and agreed to take rectificatory action (July 1982).

The matter was reported to Government in December 1982; their reply is awaited (December 1983).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, sales of declared goods under the Central Sales Tax Act, 1956 are exigible to tax at 4 per cent with effect from 1st July 1975. "Iron scrap" is included in the list of declared goods.

In the course of audit of the assessment of a dealer for the year ending December 1976, made in April 1980, it was noticed (May 1982) that sales of "iron scrap" aggregating Rs.4,18,292, as reflected in the profit and loss account of the dealer, were omitted to be taken into account while determining the taxable turnover of the dealer, resulting in under-assessment of tax amounting to Rs.16,104.

On this being pointed out in audit (May 1982), the department, in admitting the mistake, agreed (May 1982) to review the assessment; further development is awaited (December 1983).

The matter was reported to Government in April 1983; their reply is awaited (December 1983).

(iii) Under the Bengal Finance (Sales Tax) Act, 1941, business includes any transaction in connection with, or ancillary or incidental to trade, commerce, adventure or concern. As such, all sales in connection with business of a dealer, unless specifically exempted, are exigible to tax.

(a) In course of audit of the assessment of a dealer for the year ending March 1978, made in March 1982, it was noticed (May 1982)

that sale of assets viz., furniture, plant and machinery and motor car aggregating Rs.2,29,117 was not included in the gross turnover of the dealer. The non-inclusion of these sales in the taxable turnover resulted in non-assessment of tax and surcharge amounting to Rs.16,495.

On this being pointed out in audit (May 1982), the department agreed (August 1983) to revise the assessment. Further development is awaited (December 1983).

The matter was reported to Government in June 1983; their reply is awaited (December 1983).

(b) In the course of audit of the assessment made in February 1982 in respect of a dealer for the year ended in March 1978, it was noticed (September 1982) that sale proceeds of scraps, rejections, furniture and workshop-made-goods, aggregating Rs.3,40,498 were not considered at the time of determination of turnover of the dealer. This resulted in non-assessment of sales tax including surcharge amounting to Rs.13,581.

On the omission being pointed out in audit (September 1982), the department stated (October 1982) that the matter was being looked into. Further developments are awaited (December 1983).

The matter was referred to Government in April 1983; their reply is awaited (December 1983).

2.14. Irregular deduction from turnover on sale of declared goods

Under the Bengal Finance (Sales Tax) Act, 1941, a sale of declared goods specified in Section 14 of the Central Sales Tax Act, 1956, is deducted from gross turnover if on a prior sale whereof in West Bengal, due tax thereon has been paid by the dealer. Entry No. IV of Section 14 *ibid*, viz., "iron and steel" contains sixteen sub-items, each of which is an identifiable commercial commodity. "Steel rods" and "wire" are mentioned under two such different sub-items. It has been held by the Supreme Court* that each sub-item in entry No. iv is a separate taxable commodity for the purpose of sales tax although they may all belong to the genus "iron and steel" and that the manufactured goods in other forms and shapes could be taxed again even if the material out of which they were made, had already been subjected to sales tax as one sub-item.

(i) In the assessment of a dealer for the year ending March 1976, made in January 1980, sales of 'iron wire' aggregating Rs.3,25,005

*State of Tamil Nadu vs. Pyare Lal Malhotra 37 STC 319

were deducted from turnover on the ground that the tax due was paid on the purchase of such goods by the dealer. It was, however, noticed (February 1982) that the dealer purchased 'iron rods' on payment of tax but claimed deduction from gross turnover for the sale of 'wire' manufactured out of it, which was irregularly allowed. This resulted in under-assessment of tax amounting to Rs.12,512.

On this being pointed out (February 1982) in audit, the department agreed (April 1982) to review the assessment; further development is awaited (December 1983).

(ii) Similarly, in the assessment of another dealer for the year ending Kartick Bodi 2033 (November 1975 to October 1976), made in October 1980, sales of mild steel wire aggregating Rs.3,28,740 made out of mild steel rod were irregularly allowed as deduction from turnover, resulting in an under-assessment of tax amounting to Rs.12,656.

On this being pointed out in audit (March 1982), the department agreed (April 1982) to revise the assessment; further development is awaited (December 1983).

The above cases were reported to Government in December 1982; their reply is awaited (December 1983).

2.15. Irregular exemption

(i) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sales of tea made at auction in Calcutta or at Siliguri were exempt from tax under certain conditions up to 31st August 1977. Thereafter, such sales are exigible to tax.

In the course of audit, it was noticed (February 1983) that in an assessment of a dealer for the year ending 31st March 1978, made in June 1981, the dealer's sales of tea at auction in Calcutta|Siliguri, effected from 1st September 1977 to 31st March 1978, aggregating Rs.5,42,618 were allowed exemption. The irregular exemption led to an under-assessment of tax including surcharge to the extent of Rs.33,843.

On this being pointed out in audit (February 1983), the department agreed (February 1983) to review the assessment. Further development is awaited (December 1983).

The case was reported to Government in June 1983; their reply is awaited (December 1983).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, "cotton yarn" has been declared as a tax free commodity. "Cotton yarn waste" is different from "cotton yarn" being a separate commodity and is exigible to tax.

In the course of audit of the assessment of a dealer for the year ending 14 K.B. 2030 (1973-74), made in September 1979, it was noticed (March 1982) that sales of "cotton yarn waste" aggregating Rs.3,10,786 were allowed exemption treating the commodity as "cotton yarn" resulting in under-assessment of tax amounting to Rs.17,974.

On this being pointed out in audit (March 1982), the department agreed (April 1982) to take proper action in the matter. Further development is awaited (December 1983).

The case was also reported to Government in December 1982; their reply is awaited (December 1983).

2.16. Under-assessment due to misclassification of goods

(i) Under the Bengal Finance (Sales Tax) Act, 1941, "articles made wholly or principally of stainless steel excepting tumblers, dishes and plates" are exigible to tax at 15 per cent, while some specific categories of stainless steel are taxable at 4 per cent being "declared goods" under the Central Sales Tax Act, 1956.

In the assessment of a dealer for the year ending December 1980, made in March 1982, sales of stainless steel fittings not falling under the specific categories of declared stainless steel goods aggregating Rs.2,19,444 were taxed at 4 per cent instead of at 15 per cent, resulting in an under-assessment of tax (including turnover tax) amounting to Rs.22,218.

On this being pointed out (September 1982) in audit, the department agreed (November 1982) to review the case.

The matter was reported to Government in April 1983; their reply is awaited (December 1983).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, sales of 'perfunmes' included at Sl. No. 36 of Schedule II to the Act are exigible to tax at the rate of 15 per cent with effect from 1st April 1974, while the rate of tax applicable to "general goods" was six per cent up to 9th October 1977.

In the course of audit it was noticed (May 1981) in an assessment of a dealer for the year ending December 1976, made in April 1980,

that sales of perfumes aggregating Rs.2,84,999 were taxed at the rate of 6 per cent applicable to general goods instead of at 15 per cent. This led to an under-assessment of tax of Rs.21,860.

On this being pointed out in audit (May 1981), the department admitted the mistake and stated (April 1983) that the case was lying in appeal.

The matter was reported to Government in June 1982; further development is awaited (December 1983).

(iii) Under the Bengal Finance (Sales Tax) Act, 1941, goods included in Schedule II of the Act, are not taxable if sold to a registered dealer, but are taxable at the rates as provided in the Act, when sold to an un-registered dealer. Sale of goods which were declared as notified commodities, is not taxable under the 1941 Act but under West Bengal Sales Tax Act, 1954. "Laminated sheet" included in the said Schedule II of the 1941 Act was declared as notified commodity under West Bengal Sales Tax Act, 1954, with effect from 1st April 1978.

In the course of audit of an assessment of a dealer under the Bengal Finance (Sales Tax) Act, 1941, for the year ending March 1978, made in March 1982, it was noticed (July 1982) that sales of "laminated sheet" aggregating Rs.1,44,477 to unregistered dealers were not included in the taxable turnover of the dealer under the 1941 Act, treating the same as falling under purview of the 1954 Act *ibid*. This resulted in under-assessment of tax and surcharge amounting to Rs.20,620.

On this being pointed out in audit (July 1982), the department stated (August 1983) that *suo moto* revision proceedings had been started. Further development is awaited (December 1983).

The matter was brought to the notice of Government in April 1983; their reply is awaited (December 1983).

(iv) Under the Bengal Finance (Sales Tax) Act, 1941, sale of footwears of all descriptions was taxable as general goods up to 31st August 1977 and thereafter as notified commodity under the West Bengal Sales Tax Act, 1954. Under the Bengal Sales Tax Rules, 1941, 'textile fabrics' are exempted from sales tax. As per explanation to the rules, 'textile fabrics' do not include canvas shoes. Footwears made of canvas are not 'textile fabrics' and as such are exigible to tax.

In the course of audit of an assessment of a dealer under the Bengal Finance (Sales Tax) Act, 1941 for the year ending December 1977, made in December 1981, it was noticed (January 1983) that sales

of 'canvas shoes' aggregating Rs.1,94,246 were deducted in arriving at the taxable turnover of the dealer by erroneously treating the commodity as textile fabrics and hence tax-free. This resulted in under-assessment of tax including surcharge amounting to Rs.12,115.

On this being pointed out in audit (January 1983), the department stated (February 1983) that observation of audit would be looked into at the time of disposal of appeal preferred by the dealer. Further development is awaited (December 1983).

The case was reported to Government in June 1983; their reply is awaited (December 1983).

2.17. Acceptance of defective declaration forms in inter-State sales

Under the Central Sales Tax Act, 1956 and rules made thereunder, inter-State sales to registered dealers are taxable at the concessional rate of four per cent if such sales are supported by declarations in prescribed forms obtainable from the purchasing dealer provided separate declarations are furnished for each financial year when the delivery of goods of any transaction of sale is spread over different financial years.

In the course of audit of assessments of five dealers in Calcutta and Howrah for the years ended in 2033 G.D. (1976-77), A.B. 2033 (1976-77) and December 1977, made between September 1980 and December 1981, it was noticed (October 1981 to June 1982) that sales aggregating Rs.16,76,178 were taxed at concessional rate of four per cent instead of at the normal rate of ten per cent on the basis of single declaration form furnished in respect of sales, where the delivery of the goods was spread over different financial years in respect of the same transaction of sale. The acceptance of defective declaration forms involved a tax effect of Rs.81,746.

On this being pointed out (October 1981 to February 1982) in audit, the department agreed (July 1982 and July 1983) to revise the assessments in the case of the Calcutta dealers; further developments are awaited (December 1983).

The cases were reported to Government in July 1982 and December 1982; their reply is awaited (December 1983).

2.18. Short levy of tax due to allowance of concessional rate of tax without declaration forms

(i) Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales to registered dealers are taxable at a

concessional rate of 4 per cent with effect from 1st July 1975, if claims for such concession are corroborated by prescribed declaration forms obtained from purchasing dealers and these are submitted along with a covering statement at the time of assessment, otherwise, the tax is payable at the rate of 10 per cent.

(a) In the course of audit of the assessment of a dealer for the year ending March 1978, made in March 1982, it was noticed (May 1982) that sales aggregating Rs.3,37,99,392 were taxed at the concessional rate of 4 per cent, though no declaration forms were produced against these sales. This resulted in under assessment of tax amounting to Rs.17,72,672 at differential rates.

On this being pointed out (May 1982) in audit, the department agreed (May 1983) to revise the assessment order. Further developments are awaited (December 1983).

The matter was reported to Government in December 1982; their reply is awaited (December 1983).

(b) In the course of audit of the assessment of a dealer for the years ending K. B. 2033 (1976-77) and K. B. 2034 (1977-78) made in February 1980 and June 1981 respectively, it was noticed (April 1982) that concessional rate of tax at 4 per cent was levied on sales of Rs.22,43,708 and Rs.66,170 respectively on the basis of statements of declaration forms filed by the dealer along with declaration forms in support of his claim. But scrutiny of these statements revealed that in 15 pages out of 19 and in 11 pages out of 12, the totals were overstated by Rs.2,00,000 and Rs.84,000 respectively, resulting in under-assessment of tax amounting to Rs.17,477.

On this being pointed out in audit (April 1982), the department admitted the mistake and agreed (March 1983) to revise the assessment orders. Further development is awaited (December 1983).

The matter was reported to Government in December 1982; their reply is awaited (December 1983).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941 and rules made thereunder, sales to a registered dealer for use by him directly in the manufacture of goods for sale in West Bengal are exigible to tax at concessional rate applicable from time to time subject to production of prescribed declaration forms obtained from the purchasing dealers.

During the course of audit of the assessment of a dealer for the four quarters ending December 1977, made in November 1981, it was noticed (July 1982) that due to mistakes in drawing progressive totals

of the amounts covered by the prescribed forms actually produced, the dealer was allowed the benefit of concessional rate of tax on sales aggregating Rs.15,36,512 instead of Rs.12,43,538. This led to an under-assessment of tax of Rs.11,956.

On this being pointed out (July 1982) in audit, the department admitted the mistake and agreed (July 1982) to review the assessment.

The matter was reported to Government in December 1982; their reply is awaited (December 1983).

2.19. Improper use of declarations by the dealer

Under the Bengal Finance (Sales Tax) Act, 1941, if a registered dealer purchases materials at concessional rates of tax on production of prescribed form, for manufacture of goods for sale in West Bengal, not specified in his certificate of registration, he shall pay by way of penalty a sum not exceeding double the amount of tax which could have been levied in respect of sale of goods concerned.

In the course of audit, it was noticed (April 1982) in the assessment of a dealer for the year ending 1384 B.S. (1977-78), made in July 1980, that the dealer purchased raw materials valued at Rs.6,54,842 at concessional rates of tax on production of prescribed declaration forms. The materials were used in the manufacture of goods not specified in his certificate of registration. For improper use of declarations involving a tax of Rs.25,211, a maximum penalty of Rs.50,422, being double the amount of tax payable for sale of these goods, could be levied. But penalty proceedings were not initiated by the department. There was also no recorded reason for not doing so.

On this being pointed out in audit (April 1982), the department issued (June 1983) notice to the dealer. Further development is awaited (December 1983).

The matter was also reported to Government in December 1982; their reply is awaited (December 1983).

2.20. Incorrect computation of tax

(i) Under the Bengal Finance (Sales Tax) Act, 1941, a dealer whose gross turnover during a year exceeds rupees five lakhs, surcharge and additional surcharge are payable at the aggregate rate of ten per cent on the total amount of sales tax payable by such a dealer with effect from 20th April 1974.

(a) In the course of audit, it was noticed (May 1982) that in the assessment of a dealer for the year ending March 1977, made in March 1981, surcharge and additional surcharge payable on the sales tax of Rs.13,20,022 were erroneously calculated as Rs.13,200 instead of Rs.1,32,002. This led to an under-assessment of surcharge and additional surcharge to the extent of Rs.1,18,802.

On this being pointed out in audit (May 1982), the department admitted (July 1982) the mistake and agreed to revise the assessment. Further development is awaited (December 1983).

The matter was reported to Government in January 1983; their reply is awaited (December 1983).

(b) In the course of audit, it was noticed (September 1982) that in the assessment of a dealer for the year ending Kartick Bodi 2034 (1976-77), made in October 1981, the total sales tax payable by the dealer was assessed at Rs.2,32,700. Owing to incorrect computation, the total surcharge including additional surcharge at the rate of 10 per cent on the total sales tax, was worked out as Rs.2,327 instead of Rs.23,270. This led to an under-assessment of Rs.20,943.

On this being pointed out in audit (September 1982), the department stated (October 1982) that the assessment was pending before the appellate authority and final action would be taken after the appeal was disposed of. Further development is awaited (December 1983).

The matter was reported to Government in April 1982; their reply is awaited (December 1983).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, sale of general goods is taxable at the rate of 7 per cent with effect from 10th October 1977. With effect from 20th April 1974, surcharge including additional surcharge is also payable at the rate of 10 per cent on the tax payable.

(a) In the course of audit, it was noticed (June 1982) that in the assessment of a dealer for the year ended in March 1978, made in January 1982, tax including surcharge and additional surcharge payable on taxable turnover of Rs.4,97,767 at the appropriate rate worked out to Rs.35,836 instead of Rs.20,478 as erroneously calculated. This resulted in under-assessment of tax and surcharge to the extent of Rs.15,358.

On this being pointed out in audit (June 1982), the department agreed (June 1982) to review the assessment. Further development is awaited (December 1983).

(b) In another assessment of a dealer under the same Act, for the year ended in 1383 B.S. (1977-78), made in March 1981, the additional demand of tax was erroneously computed at Rs.1,81,709 instead of Rs.1,91,709. This resulted in a short demand of Rs.10,000.

On this being pointed out in audit (May 1982), the department stated (July 1982) that action would be taken in the matter.

The above cases were reported to Government in December 1982; their reply is awaited (December 1983).

(iii) Under the Bengal Finance (Sales Tax) Act, 1941, a dealer is liable to pay sales tax on his taxable turnover which is determined after allowing certain prescribed deductions from his gross turnover.

In the assessment of a dealer for the year ending December 1977, made in December 1981, it was noticed (December 1982) that the dealer's branch sales outside West Bengal were shown as Rs.44,66,648 in the "reconciliation statement" attached to his tax returns. At the time of determining his taxable turnover, however, a sum of Rs.54,66,648 was deducted by mistake while totalling the sales effected in different branches. The excess deduction of Rs.10,00,000 led to under-assessment of tax including surcharge to the extent of Rs.62,370.

On this being pointed out in audit (December 1982), the department, while admitting the mistake, stated (February 1983) that the matter had been reported to the appellate authority for necessary action; further development is awaited (December 1983).

The case was reported to Government in June 1983; reply is awaited (December 1983).

(iv) Under the Central Sales Tax Act, 1956, inter-State sales of goods (other than declared goods) not supported by valid declarations in the prescribed forms are exigible to tax at the rate of 10 per cent or at the rate applicable to sale of such goods inside the State, whichever is higher.

In the course of audit, it was noticed (April 1982) in the assessment of a dealer for the year ending June 1977, made in June 1981, that tax payable on the inter-State sale of goods other than declared goods aggregating Rs.39,98,083 was calculated at Rs.3,59,827 instead of Rs.3,99,808. This led to an under-assessment of tax of Rs.39,981 at 10 per cent.

On this being pointed out (April 1982) in audit, the department admitted the mistake and agreed (July 1982) to revise the assessment; further development is awaited (December 1983).

The matter was reported to Government in January 1983; their reply is awaited (December 1983).

2.21. Under-assessment of tax due to non-inclusion of surcharge in the turnover

Under the West Bengal Sales Tax Act, 1954, "turnover" of a dealer in relation to any period means the aggregate of sales price received or receivable by him. Sales tax and surcharge and additional surcharge realised from customers form part of sale price.

In the assessment of a dealer for the year ending August 1977, made in August 1981, it was noticed (May 1982) that surcharge amounting to Rs.6,40,182 was not included in the turnover of the dealer though sales tax was included. The non-inclusion of surcharge in the turnover resulted in an under-assessment of tax of Rs.41,922.

On this being pointed out in audit (May 1982), the department agreed (September 1983) to review the assessment. Further development is awaited (December 1983).

The case was reported to Government in June 1983; their reply is awaited (December 1983).

2.22. Under-assessment of tax due to application of incorrect rates of tax

(i) Under the Bengal Finance (Sales Tax) Act, 1941, sales of "general goods" not specifically mentioned in the Act were taxable at the rate of 6 per cent up to 9th October 1977 and at the rate of 7 per cent thereafter up to 31st March 1979.

In the course of audit, it was noticed (April 1982) in the assessment of a dealer for the year ending December 1977, made in September 1981, that the dealer's sales of general goods from 10th October 1977 to 31st December 1977 aggregating Rs.31,87,243 were assessed (September 1981) to tax at the rate of 6 per cent instead of at 7 per cent. This resulted in under-assessment of tax including surcharge to the extent of Rs.30,677.

On this being pointed out in audit (April 1982), the department admitted the mistake and agreed (March 1983) to revise the assessment. Further development is awaited (December 1983).

The matter was reported to Government in December 1982; their reply is awaited (December 1983).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, rate of tax on certain items of Schedule II goods, including motor vehicles and components and accessories thereof, was enhanced from 12 per cent to 15 per cent with effect from 1st April 1974.

In the assessment of a dealer for the period ending March 1977, made in September 1980, it was noticed (November 1981) in audit that sales of automobile batteries aggregating Rs.9,39,584 were erroneously taxed at the rate of 12 per cent instead of at 15 per cent. The incorrect application of rate of tax resulted in under-assessment of tax to the extent of Rs.23,409.

On this being pointed out in audit (November 1981), the department admitted (June 1983) the mistake and stated that necessary rectification would be made at the time of disposal of appeal preferred by the dealer.

The matter was reported to Government in June 1982; their reply is awaited (December 1983).

2.23. Excess credit of tax allowed to the dealer

Under the State Sales Tax law, a dealer is required to pay tax as per self-assessment prior to submission of returns for a period and enclose receipted challan with such return. The tax thus paid is adjusted against the demand raised on the basis of regular assessment.

In the course of audit of the assessment of a dealer for the year ending K.B. 2034 (1977-78), made in May 1981, it was noticed (November 1982) that tax challans of total amount of Rs.8,516 were furnished by the dealer with the returns but credit was erroneously allowed for Rs.22,007 which was actually the amount of Central Sales Tax payable by him. There was, thus, an excess credit of tax of Rs.13,491 under the local Act.

On this being pointed out in audit (November 1982), the department admitted the mistake and realised (June 1983) the amount.

The case was reported to Government in April 1983; their reply is awaited (December 1983).

2.24. Non-imposition of penalty

(i) Under the provision of the Bengal Finance (Sales Tax) Act, 1941 and rules made thereunder, for default in making payment of assessed tax after the expiry of the specified date, a dealer is liable to pay as penalty a sum not exceeding the amount of tax due.

In the course of audit of three charge offices (Shyambazar, Maniktala, Jorasanko) it was noticed that in 266 assessment cases involving tax of Rs.13.52 lakhs in respect of unregistered dealers for the period between 1978-79 and 1981-82, tax remained unpaid (August 1983) although the respective due dates had already expired. The department had not initiated any penalty proceedings. The maximum amount of penalty leviable in these cases came to Rs.13.52 lakhs.

In reply to audit (April-May 1983) the department confirmed (April-May 1983) that no penalty had been levied.

The matter was reported to Government in August 1983; their reply is awaited (December 1983).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, a registered dealer is entitled to purchase goods specified in his certificate of registration for use by him directly in the manufacture of taxable goods for sale in West Bengal at concessional rate of tax, on production of requisite declarations in the prescribed form to the seller of such goods. If the goods so purchased are not so used by him directly in the manufacture of goods, penalty of a sum not exceeding double the amount of tax which could have been levied for the sale under the Act may be imposed on the dealer after observing due formalities.

In the assessment of a dealer for the year ending December 1977, made in December 1981, it was noticed (January 1983) that raw materials worth Rs.12,20,231 purchased by him against declaration forms at concessional rate of tax, were consumed in the construction of 'fixed assets' instead of being used directly in the manufacture of taxable goods. This resulted in loss of revenue to Government amounting to Rs.76,106. For abuse of the concession, penalty up to Rs.1,52,212 was leviable but was not levied in the case.

On this being pointed out in audit (January 1983), the department stated (February 1983) that the matter had been referred to the appellate authority for taking up this question at the time of hearing of the appeal by the assessee in connection with some other aspects of the assessments. Further development is awaited (December 1983).

The case was reported to Government in June 1983; their reply is awaited (December 1983).

(iii) Under Section 20A of the Bengal Finance (Sales Tax) Act, 1941, if the assessing authority is satisfied that a dealer had concealed his sales in the return with the intent to reduce the amount of tax payable by him, a penalty is leviable up to a maximum amount not exceeding one and a half times of the amount of tax which would have been avoided if the concealment had not been detected, after giving the dealer a reasonable opportunity of being heard. For non-submission of proper return accompanied by treasury receipt, penalty can be levied without the requirement of further notice.

In the course of audit in two Sales Tax Offices (Malda and Midnapore), it was noticed (June 1982 and July 1982) that in three assessments of two dealers for the years falling between 1384 B.S. (1977-78) and 1387 B.S. (1980-81), made in September 1981, it was established during assessment or by Bureau of Investigation that the dealers had concealed their sales valuing Rs.4,47,508 relating to watches and bicycles in their returns as also in books of accounts submitted at the time of assessment. A token penalty of Rs.200 only was levied for non-submission of proper return with treasury receipt in the case of the Malda dealer, but the requirement to impose penalty for the concealment of sale was not duly considered. The total taxable liability in respect of the said sales being Rs.42,506, a maximum penalty of Rs.63,759 was leviable on the dealers.

On this being pointed out in audit, the department stated (June 1982 and July 1983) that necessary order for penalty proceedings would follow; further developments are awaited (December 1983).

The above cases were reported to Government in November 1982 and February 1983; their reply is awaited (December 1983).

(iv) Under the Central Sales Tax Act, 1956 and the rules made thereunder, a dealer is entitled to purchase goods required by him for use in the manufacture of taxable goods on payment of concessional rate of tax upon furnishing declaration in the prescribed form. Use of such goods not in conformity with such declarations makes the dealer liable to penalty of a sum not exceeding one and half times the amount of tax normally payable.

In the course of audit of assessment of a dealer for the year ended in March 1978, made in December 1981, it was noticed (June 1982) that the dealer purchased paper valuing Rs.38,07,453 from outside the State at concessional rate of tax against prescribed declaration forms, for use in the manufacture of 'diaries'. But the dealer actually manufactured 'exercise books' which is a tax-free commodity. No penalty was imposed by the department for misuse of forms for evading

tax. A maximum penalty of Rs.5,19,198 being one and half times the amount of tax of Rs.3,46,132 could be levied on the dealer for having diverted the goods purchased at concessional rate of tax, to other purpose.

On this being pointed out (June 1982) in audit, the department admitted the omission (July 1982) and raised (December 1982) demand for penalty of Rs.5,19,198 against the dealer for improper use of materials. The details of realisation are awaited (December 1983).

The matter was reported to Government in December 1982; their reply is awaited (December 1983).

CHAPTER 3

LAND REVENUE

3.1. Results of test audit in general

During the year 1982-83, test audit of accounts of different land reforms circles in West Bengal revealed non-realisation|short realisation of revenue amounting to Rs.104.52 lakhs in 8,940 cases, categorised under the following heads :

Nature of irregularity	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of rent and <i>salami</i> due to irregular and non-settlement of vested and <i>khas</i> agricultural/non-agricultural lands.	847	46.90
2. Non-fixation and non-realisation of enhanced rent	108	16.28
3. Non-recovery and short recovery of cesses	280	16.93
4. Non-settlement and irregular settlement of <i>sairati</i> interests	309	11.87
5. Non-realisation of damage fee	69	1.04
6. Miscellaneous	7,327	11.50
Total	8,940	104.52

Some important cases are mentioned in paragraphs 3.2 to 3.8.

3.2. Collection of land revenue through certificate proceedings

3.2.1. Introductory

The collection of revenue derived from land holdings and other miscellaneous receipts from land, viz, cesses, lease rents, royalties, revenue from *sairati* interests, such as, ferries, *hats*, *bazar*, fees and fines etc. are regulated under the provisions of West Bengal Land Reforms Act, 1955 read with West Bengal Land Management Manual, 1977, which replaced the West Bengal Government Estates Manual, 1953. Collection of the above revenue is entrusted to the Collector of the District (which includes Additional Deputy Commissioner| District Magistrate). Arrears of revenue which are all public demands can be recovered under the Bengal Public Demand Recovery Act, 1913, by means of certificate proceedings. A tenant|lessee who does not pay his dues pertaining to a year before the last day of *Chaitra* is regarded as a defaulter and based on the merits of the case, certificate proceedings may be initiated against such defaulter.

“Certificate” is a declaration made by a specially empowered officer in prescribed form stating that the public demand is due from a definite living person. When the empowered officer (mentioned as certificate officer hereinafter) is satisfied that a public demand is due, he signs a certificate and files the certificate in his office and causes its service upon certificate-debtor alongwith a notice in prescribed form and manner. The amount of the certificate is finally determined after hearing petition, if any, of the certificate-debtor. On such determination it becomes a charge upon the immovable property of the certificate-debtor.

The Certificate Organization for realisation of arrear revenues derived from land holding, functions under the Collector of the District. Functioning of Certificate Organisations of 4 land revenue districts i.e. Tamluk, Hooghly, Malda and Midnapore was reviewed in audit during the period from November 1982 to June 1983.

3.2.2. *Arrears*

The position of arrear dues as well as arrears covered by certificate cases at the end of 1981-82 as shown by the circle offices in their prescribed returns of demand, collection and balance in respect of the four districts is shown below :—

Districts		Arrear dues at the end of March 1982	Amount of arrears covered by certificate cases	Balance not covered by certificates
(In lakhs of rupees)				
1.	Midnapore	231.01	10.34(4.48%)	220.67
2.	Tamluk	126.53	6.33(5%)	120.20
3.	Malda	55.41	16.17(29.18%)	39.24
4.	Hooghly	43.72	23.44(53.61%)	20.28
		456.67	56.28(12.32%)	400.39

The position of certificate cases during the last six years ending March 1982 in the four districts is shown below :

Year	Opening Balance		Cases initiated during the year		Total of 2 + 3		Cases disposed of during the year		Cases pending at the end of the year (4-5)	
	No. of cases	Amt.	No. of cases	Amt.	No. of cases	Amt.	No. of cases	Amt.	No. of cases	Amt.
1	2		3		4		5		6	
(Amounts in lakhs of rupees)										
Up to 1976-77			111501	57.15	111501	57.15	29753	16.10	81748	41.05
1977-78	81748	41.05	9873	5.30	91621	46.35	616	0.42	91005	45.93
1978-79	91005	45.93	3749	2.11	94754	48.04	476	0.16	94278	47.88
1979-80	94278	47.88	3829	2.99	97607	50.87	521	0.35	97086	50.52
1980-81	97086	50.52	2524	3.67	99610	54.19	1628	0.40	97982	53.79
1981-82	97982	53.79	2284	2.89	100266	56.68	4052	0.40	96214	56.28
			133260	74.10			37046	17.83		

Out of 1,33,260 cases, 37,046 cases representing 27.80 per cent of the total cases, were disposed of during the period of six years from 1976-77 to 1981-82. The annual rate of disposal of certificate cases varies from 0.45 per cent to 4.13 per cent over accumulation of total cases while collection of revenue represents 0.29 per cent to 0.89 per cent over total arrear dues covered by certificate cases.

The total position of arrears of land revenue and certificate cases in respect of the State was called for from the Board of Revenue (May 1983) but was not made available (October 1983).

Basic record of collection of land revenue is tenants' ledger (Register II) which is maintained by Tahsildars. The ledger indicates the position of demand, collection and arrears of revenue in respect of each individual tenant, on the basis of which the defaulters' list (Return II) is prepared and submitted to the Junior Land Reforms Officer (J.L.R.O.) for initiation of certificate cases.

It was noticed in audit that the basic records showing demand, collection and arrear dues had not been maintained by the Tahsildars properly in prescribed form. Due to non-maintenance of the prescribed register properly, the correctness of the above figures of arrears as well as their year-wise break up could not be verified in audit.

On test check of 28 Land Reforms Circles in the district of Tamluk (Midnapore East), it was noticed (June 1983) that 266 certificate cases involving revenue of Rs.0.91 lakh had been initiated between 1977-78 and 1979-80 in 13 circles. No certificate case was filed by 15 circles during last five years ending March 1982, though arrear dues at the end of 1976-77 and 1980-81 stood at Rs.20.04 lakhs and Rs.30.58 lakhs respectively. No certificate case was filed thereafter during 1980-81 and 1981-82 by any of the thirteen circles for realisation of rent and cesses. In the district of Midnapore (West), only 18 certificate cases covering arrears of Rs.0.06 lakh against arrear dues of Rs.202.94 lakhs were filed during 1980-81 and no certificate was filed during 1981-82.

The Board of Revenue issued (May 1977, March 1980 and January 1983) instructions to the district authorities for realisation of arrears of land revenue by resorting to certificate proceedings particularly against *raiyyats* holding more than 4 acres of land in irrigated areas and 6 acres in non-irrigated areas. The position of 17 circles of three districts where certificate cases were not initiated against defaulters who had not paid rent and cess for years together, as per details furnished by the circle offices (June 1983), is given below :—

Name of the Land Reforms district	No. of circles checked	No. of tenants holding more than 6 acres of land in circles at colmn. 2	Amount of arrears (In lakhs of rupees)	No. of cases		Remarks (Year to which the oldest case relates)
				more than three years	less than 3 years	
Midnapore (West)	5	569	0.82	476	93	1972
Tamluk ..	3	64	0.58	64	Nil	1978
Hooghly ..	9	1007	4.53	615	392	1977

Reasons attributed by the circle offices for non-initiation of certificate cases were as follows :—

- (a) non-submission of Return II (list of defaulters) by the Tahsildars owing to non-maintenance of Register II;
- (b) delay in conferring power of certificate in some circles;
- (c) shortage of staff; and
- (d) non-enforcement of recovery proceedings in areas affected by flood and draught as per orders of the higher authorities.

3.2.3. *Delay in issue of certificate notices*

In the course of test check on the accounts of Land Reforms Circle offices in four districts, it was noticed that in 40 cases requisite notices of certificates indicating demands were issued to the certificate debtors after a lapse of 7 months to 72 months from the date of filing of cases.

In 366 cases, no action was at all taken by the officers for issue of notices in respect of cases filed between 1962 and 1980. In all these cases the same J.L.R.O. acted as both the filing officer and certificate officer.

The delay in the issue of notices of certificates indicating demands resulted in non-realisation of revenue amounting to Rs.1.37 lakhs.

In a Land Reforms Circle under the Additional District Magistrate (Land Revenue) Tamluk, it was noticed (June 1983) that in the town area, 143 number of small plots were settled on yearly licence basis. As per terms of settlement, annual licence fee was realisable in four equal quarterly instalments and interest at the rate of 12 per cent was recoverable under the Bengal Public Demand Recovery Act 1913 for default in timely payment. It was seen in audit that a sum of Rs.53,058 had remained un-realised for two to eight years from 86 such licensees, and no action was initiated to issue certificate notices for realisation of the arrears.

On this being pointed out the department agreed (June 1983) to take action for realisation of the arrears. Further report is awaited (December 1983).

3.2.4. *Non-pursuance of certificate cases*

In thirty-four circle offices (out of 84) in the four districts, it was noticed that in 1,172 cases (Midnapore-407, Tamluk-204, Malda-134 and Hooghly-427) involving revenue of Rs.3.06 lakhs, after issue of certificates to the certificate debtors indicating demands, further action to locate the certificate debtors and to obtain their petitions, if any, for determining the dues, after hearing them, was not taken for periods ranging from 3 months to 23 years.

The cases discussed in the foregoing paragraphs were brought to the notice of Government (August-September 1983); their reply is awaited (December 1983),

3.3. Management of *Sairati* interest through Panchayat institutions

Under the West Bengal Estates Acquisition Act, 1953 and rules made thereunder, all estates and interests vested in the State shall be managed by the Collector unless otherwise directed by any general or special order and subject to such rules as may be made by the Government in this regard. The West Bengal Land Management Manual, 1977 outlines the procedure regarding settlement of interests vested in the State and collection of rent on settlement of such interests and their credit to the Government account. The Board of Revenue, West Bengal issued instructions (March-July 1979) to the effect that certain interests viz. *khas* or vested closed canals, *khals*, *hats*, *bazars*, ferries, tanks shall be handed over to Panchayat Institutions by the Collector for management and control. According to these instructions, legal title in the properties would continue to vest in Government and the settlement would be subject to the provisions of the West Bengal Land Management Manual, 1977. A subsequent instruction issued in May 1979 clarified that no rent need be charged.

Under the provisions of West Bengal Land Management Manual, 1977, if a local body or other public body deserves any assistance, it must be afforded by a grant-in-aid capable of being exhibited in the budget and not in the form of gift, sale or lease of land either free or at a concessional rate which amounts to a concealed subsidy. The clarification of May 1979 was not in keeping with this provision of the Manual.

In the course of audit of records of three districts (Hooghly, Midnapore and Purulia) it was noticed (November 1982 to February 1983) that 334 numbers of interests comprising *hats*, *bazars*, ferries, fisheries had been handed over (1386 B.S. to 1389 B.S.) to different Panchayat Institutions by the Collectors. On the basis of economic rent realised by the department before handing over such interests, total revenue involved in these cases for the period from 1386 B.S. to 1388 B.S. worked out to Rs.2.47 lakhs. As a result, the Panchayat Institutions were allowed financial benefits indirectly not in the form of grant-in-aid as required under the rule.

On this being pointed out by audit, the department stated (March 1983) that the matter would be brought to the notice of higher authorities.

The matter was brought to the notice of Government between February 1983 and July 1983; reply is awaited (December 1983),

3.4. Transfer of vested *khas hats* *bazars* to the Regulated Market Committees

Under the West Bengal Land Management Manual, 1977, *hats* and markets established on Government lands may be managed by Government direct or settled on '*Izaradars*'* by public auction. The Board of Revenue, West Bengal issued directions (January 1980 and May 1980) to the district authorities that some selected *hats* and *bazars* should be settled with Regulated Market Committees in terms of the provision of the Land Management Manual on the conditions *inter alia* that such settlement would be on lease basis for a term of 15 years on rents which shall be fixed on the basis of average economic lease rent for the preceding three years and be subject to the right of revision every three years. It was also stipulated that security deposit at the rate of 25 per cent of the lease rent should also be realised from the Regulated Market Committees.

In the course of audit of records of Additional District Magistrate (LR) of six districts viz. Hooghly, Malda, Jalpaiguri, Darjeeling, West Dinajpur and Purulia, it was noticed (between November 1982 and March 1983) that 37 numbers of vested *khas hats* and *bazars* had been handed over during 1387 B.S. (1980-81) to Regulated Market Committees as per the Board's instruction. No lease agreement was executed with the Committees nor was any rent realised from them though more than three years had elapsed. Besides, security deposit at 25 per cent of lease rent of each *hat* had also not been taken. On the basis of average lease rent for the preceding three years, the amount of unrealised revenue worked out to Rs.7,11,909 for the period from 1387 B.S. to 1389 B.S. (1980-81 to 1982-83).

The matter was reported to Government between April 1983 and July 1983); reply is awaited (December 1983).

3.5. Non-realisation of Public Works Cess, Road Cess and Education Cess

Under the provision of the West Bengal Land Reforms Act, 1955, as amended, a *raiyyat* is exempted from payment of land revenue in respect of his holding not exceeding 1.214 hectares (3 acres) with effect from 1st Baisakh, 1376 B.S. (14th April 1969) and not exceeding 1.619 hectares (4 acres) with effect from 1st Baisakh 1385 B.S. (14th April 1978). Such exemption is, however, not admissible in respect of Public Works Cess, Road Cess and Education Cess payable by the *raiyyat* under the Cess Act, 1880, Bengal (Rural) Primary Education Act. 1930 and the West Bengal Primary Education Act, 1973 respectively.

* *Izaradars* means temporary lease holders

Mention was made in paragraphs 38, 52 and 3.17 of the Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years 1974-75, 1975-76 and 1977-78 respectively of non-realisation of Public Works Cess, Road Cess and Education Cess from *raiya*t holding lands not exceeding 1.214 hectares (3 acres) in respect of Hooghly, Murshidabad, Bankura and Burdwan districts.

In the course of audit of records of three districts (Tamluk, West Dinajpur and Midnapore for the years 1387 and 1388 B.S. (1980-81 and 1981-82), it was noticed (between December 1982 and March 1983) that the irregularity still persisted and these cesses were not being demanded and realised from the *raiya*t holding land up to 1.619 hectares (4 acres) even though the irregularity was brought to the notice of the department more than five years ago. Public Works Cess, Road Cess and Education Cess leviable, remaining unrealised in respect of 37 circles in the three districts of such holding amounted to Rs.6.54 lakhs for 1387 and 1388 B.S. corresponding to 1980-81 and 1981-82 only.

On this being pointed out (December 1982 to March 1983) in audit, the department agreed (between December 1982 and March 1983) to raise the demand. Further developments are awaited (December 1983).

The matter was reported to Government (June 1983 to August 1983). Reply is awaited (December 1983).

3.6. Non-assessment and non-realisation of cess due to non-settlement of khas mahal agricultural land

On settlement of agricultural land at the disposal of Government, the *raiya*t holding such land up to the limit of 1.214 hectares were exempted from payment of rent in respect of land under the West Bengal Land Reforms Act, 1955. The exemption was not extended to various cesses payable from time to time under the law. Unauthorised occupation of such Government land is a punishable offence under the West Bengal Land Reforms Act, 1955. The Government had issued (February 1978) instructions for prompt survey and removal of all encroachments of Government land.

In the course of audit of the records of ten Land Reforms Circle offices in two districts (Darjeeling and Jalpaiguri) it was noticed (between February 1981 and June 1983) that a total area of 10,474 acres of agricultural land at the disposal of Government had been under unauthorised occupation during various periods between 1362 B.S. (1955-56) and 1389 B.S. (1982-83). No survey was, however, conducted till June 1983 to detect and remove unauthorised occupiers of such land.

Due to delay in survey and settlement of the encroached land, Government could not realise various cesses amounting to Rs.66,154 leviable under the laws for the periods from 1362 B.S. (1955-56) to 1389 B.S. (1982-83) calculated on the basis of average rent of the holdings as furnished by the department.

On this being pointed out in audit, the district authority of Darjeeling stated (June 1983) that necessary survey could not be conducted in hilly areas with the help of one Amin. The district authority of Jalpaiguri stated (June 1983) that settlement work could not be done due to delay in survey of the land. Further developments are awaited (December 1983).

The matter was reported to Government (April 1982 and July 1983); their reply is awaited (December 1983).

3.7. Non-fixation of rent in respect of holdings retained by tenants

Under the West Bengal Estates Acquisition Act, 1953, a tenant holding rent free non-agricultural land shall pay rent at a rate which the revenue officer shall fix having regard to the rent generally paid for non-agricultural land of similar description and similar advantages in the vicinity. Under the West Bengal Land Reforms Act, 1955, in case of default in payment of revenue within the prescribed date, the total arrear revenue shall attract simple interest at the rate of 6½ per cent per annum from the due date to the date of payment.

In the course of audit in a district (Burdwan) for the year 1386-87 B.S. (1979-81), it was noticed (March 1982) from record of rights that a company had retained non-agricultural land comprising 154 acres since 15th April 1955 (1362 B.S.), for which no rent had been fixed and realised. The annual rent, on the basis of average rate of rent of similar types of non-agricultural land in the vicinity, came to Rs.16,185. Due to non-fixation of rent by the prescribed officer, the Government could not realise rent amounting to Rs.4.21 lakhs for the period from 1362 B.S. to 1387 B.S. (1955 to 1981). Interest at the rate of 6½ per cent on the above amount for the period from April 1955 to April 1981 comes to Rs.3.55 lakhs.

On this being pointed out in audit (March 1982), the department admitted (March 1982) the omissions and agreed (March 1982) to assess and realise rent in respect of the said land. Further developments are awaited (December 1983).

The matter was reported to Government in April 1983; their reply is awaited (December 1983).

3.8. Non-realisation of lease rent from a ferry

Under the provisions of the West Bengal Land Management Manual, 1977, settlement of all ferries other than ferries managed by public works department may be made by public auction (by the prescribed authority). The successful bidder is required to execute and register lease agreement in the prescribed form and furnish security deposit. One of the conditions of lease provides for payment of annual rent by the lessee in advance in four equal instalments by the prescribed dates, failing which, interest is chargeable at the rate of 6½ per cent per annum on arrear lease rent in addition to penalty as may be imposed.

In the course of audit in a district (Midnapore), it was noticed (March 1981) that a ferry (Narghat) was settled (May 1979) for the period from March 1979 to February 1980 on an annual rent of Rs.1,25,000 payable in four equal instalments of Rs.31,250 in advance at the beginning of each quarter. The lessee paid the first two instalments of rent long after the due dates (four and five months after the due dates). He did not pay the third and fourth instalments at all. The security deposit of Rs.31,250 was adjusted in June 1980 against the third instalment. No interest was charged on failure to make payment in time of the instalments. For failure to comply with the terms of agreements, the department conducted an enquiry and the Enquiry Officer recommended (October 1979) a penalty of Rs.39,515 for violation of terms of lease agreement. But the amount was not available as the security deposit had already been adjusted against the third instalment due. The total Government revenue amounting to Rs.76,299 (arrear rent Rs.31,250, interest Rs.5,534 and penalty Rs.39,515) remained unrealised for more than three years and no action was initiated to recover the dues.

On this being pointed out in audit, the department stated (May 1983) that necessary action would be taken for realisation of arrear dues under Public Demand Recovery Act, 1913; further development is awaited (December 1983).

The matter was reported to Government in September 1981; reply is awaited (December 1983).

CHAPTER 4

TAXES ON VEHICLES

4.1. Results of test audit in general

Test audit of the accounts on Motor Vehicles Tax in different offices under the Home (Transport) Department during the year 1982-83 revealed non-realisation|short-realisation of revenue, categorised under following heads :—

Nature of irregularity	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation/non payment of road tax, penalty and fees for certificate of fitness.	1,420	47.46
2. Irregularity in the fixation of registered laden weight	183	8.19
3. Application of incorrect rate of tax	4,693	7.49
4. Non-production of records and registers	2	1.19
5. Unauthorised plying of vehicles without payment of road tax ..	50	2.32
6. Others	1,201	60.94
Total ..	7,549	122.59

Some important cases are mentioned in paragraphs 4.2 to 4.9.

4.2. Collection and accountal of bus stand fee

4.2.1. *Introductory*

Under the provisions of the Motor Vehicles Act, 1939, as well as under the Bengal Motor Vehicles Rules, 1940, the prescribed authority (the District Magistrate in case of district) may by notification in the official gazette or by erection of traffic signs demarcate a place as being a stand or halting place for public service vehicles. When a place is so notified or demarcated as being a halting place, then, notwithstanding that the land is in possession of any person, the place shall be deemed to be a public place.

Under the Bengal Motor Vehicles Rules, 1940 as amended (14th June 1976), the District Magistrate of the concerned district has been empowered to fix bus stand fee as deemed fair and reasonable and to charge fee from the owners of public service vehicles for using the bus stands. The rules further provide that the District Magistrate may appoint a person to be the manager of the place specifying the power and duties of the manager including collection of bus stand fee. The Government issued clarification in May 1979 that the term 'person' includes an individual or society or association of persons.

Some points of interest on collection and accountal of bus stand fee were noticed in audit in the districts of Birbhum, Murshidabad, Midnapore etc. as stated below.

4.2.2. Non-levy|short levy of bus stand fee

(a) (i) It was noticed (October 1982) that a bus stand at Suri (Birbhum) was notified by the prescribed authority in February 1978. Bus stand fee at the rate of rupees two per day per bus was fixed by the Collector to be payable by the owner of public vehicles for using the bus stand. The collection of bus stand fee was not enforced from 1st July 1978 to 31st March 1980 in view of an interim order of the High Court. Subsequently, the court ordered (March 1980) realisation of bus stand fee at the rate of rupee one per day per bus on *ad hoc* basis. Collection of bus stand fee at the rate of rupee one per day per bus was started from 1st April 1980. No bus stand fee for the period from 1st July 1978 to 31st March 1980 had been assessed and realised. The total bus stand fee realisable during the said period worked out to Rs.50,720 in respect of 80 numbers of public vehicles for using bus stand (fee calculated at the rate of rupee one per day per bus as ordered by court).

On this being pointed out in audit (October 1982), the department stated (April 1983) that bus stand fee could not be demanded prior to April 1980 in the absence of specific order from the Court.

The contention of the department is not tenable as the said order did not specify realisation of bus stand fee from the date of order.

(ii) It was also noticed (October 1982) that 20 buses belonging to Durgapur State Transport Corporation and 6 buses of Calcutta State Transport Corporation had been using Suri bus stand from 1st April 1980 to 31st March 1982, but no bus stand fee was demanded and realised from the above Transport Corporations. The total bus stand fee realisable from the Corporations for the said period amounted to Rs.18,980.

On this being pointed out (October 1982) in audit, the department agreed (October 1982) to take necessary actions. Further developments are awaited (December 1983).

(b) From the records of Regional Transport Officer (Berhampore), Murshidabad, it was noticed (August 1978) that the Berhampore bus stand was opened with effect from February 1976 for use as bus stand by the owners of public vehicles.

A fee at the rate of rupee one per entry was fixed by the prescribed authority with effect from 9th February 1976. It was noticed (August 1978, September 1980) that 180 buses had been using the bus stand during the period from 9th February 1976 to 31st March 1978 and 288 buses and 306 buses during the years 1978-79 and 1979-80. Total bus stand fee realisable from the owners of buses for the period from 9th February 1976 to 31st March 1980 worked out to Rs.7,15,752 against which Rs.1,18,815 only had been realised. This resulted in short realisation of fee of Rs.5,96,937.

On this being pointed out in audit, the Department stated (September 1980) that they would try to regularise the matter; further reply is awaited (December 1983).

4.2.3. *Accountal of bus stand fee*

The Bengal Motor Vehicles Rules, 1940 do not provide for the procedure of collection of bus stand fee when it is entrusted by the Collector to any person or association or society as the manager of the stand. In absence of specified procedure for remittance of bus stand fee so realised into the Government account, it was noticed that the fees so collected were being kept outside Government account as detailed below :

(a) It was noticed (October 1982) that "Suri Bus Stand Committee" was formed in July 1978 for collection of bus stand fee fixed by the Collector. The bus stand fee aggregating Rs.94,810 was realised from July 1978 to March 1982 by the Committee. Out of this, Rs.63,613 were expended for maintenance of bus stand and the balance amount of Rs.31,197 was kept in the State Bank of India, Suri, in the name of the "Bus Stand Committee".

(b) In the district of Midnapore, it was noticed (August 1982) that a society styled as "Midnapore Bus Stand Society" was formed in July 1975 for collection of bus stand fee and for management and control of the bus stand. It was noticed from audited accounts of the Society for the year 1979-80, as made available to audit, that Rs.1.66 lakhs, after meeting all expenses, had been kept by the Society till August 1982 in the following manner : State Bank of India account Rs.1,15,710, Central Bank of India account Rs.50,000 as fixed deposit and cash in hand with the Society Rs.286.

(c) It was noticed (September 1980) in the district of Murshidabad that Berhampore bus stand was notified in February 1976 by the prescribed authority. The bus stand fee collected by an Association from February 1976 to March 1980 aggregated Rs.1.19 lakhs. This amount was kept with the post office in the name of the secretary of the Association,

Thus, in the absence of provision in the rules regarding remittance of bus stand fee assessed and realised under Bengal Motor Vehicles Rules, 1940, a sum of Rs.3.16 lakhs had been kept outside the Government account between July 1975 and October 1982.

4.2.4. *Other irregularities*

(i) In the Howrah region it was noticed (March 1980) from the records that a bus stand near Howrah Railway Station was constructed by Calcutta Metropolitan Development Authority. The said bus stand had been used since July 1976 by as many as 375 private bus owners, 244 buses of Calcutta State Transport Corporation and 130 Mini buses of different routes of the Calcutta and Howrah Districts. It had not, however, been notified by the Collector, Howrah as a bus stand nor had any fee been prescribed for it.

Due to inordinate delay in declaring bus stand as well as fixation of bus stand fee, revenue to the tune of Rs.5.09 lakhs could not be realised (calculated at the minimum rate of Rs.10 per bus per month).

On this being pointed out, the department stated (May 1981) that the area in which bus stand was constructed had not been formally transferred by the Port Trust and as such department could not declare the place as bus stand and fix bus stand fee. As per law, however, the place shall be deemed to be a public place for the purpose of the Act. Further development of the case is awaited (December 1983).

(ii) In Malda region it was noticed (October 1982) that a bus stand was constructed at English Bazar in the Malda town at a capital cost of Rs.1,10,690. The said bus stand styled as 'Atul Ch. Kumar Bus Terminal' had been functioning since 1974-75. The bus stand fee is being collected by the English Bazar Municipality. It was noticed (October 1982) that neither any notification was issued for declaring bus stand, nor any agreement was executed with the Municipality for collection of bus stand fee. Particulars of the amount of bus stand fee realised by the Municipality were not made available to audit.

The cases were brought to the notice of the Government between January 1979 and March 1983; reply is awaited (December 1983).

4.3. **Loss of revenue due to non-renewal of registration certificate after 15 years in respect of non-transport vehicles**

Section 24(4) of the Motor Vehicles Act, 1939 was inserted by the Motor Vehicles (Amendment) Act, 1978, effective from 16th January 1979 to provide that a certificate of registration issued before

or after the date of commencement of the amendment in respect of a motor vehicle other than a transport vehicle, is valid only for a period of 15 years from the date of issue of such certificate. Application for renewal has to be made within the specific period and accompanied by fee as may be prescribed by the State Government under the rules. The amendment also provides that in the case of vehicles for which the period of 15 years has expired on 16th January 1979, renewal should be applied for within six months from that date, which could be extended for further six months for valid reasons.

The State Government did not prescribe any period for renewal of registration and fee payable therefor. The existing fee in respect of first registration of non-transport vehicles varies from Rs.25 to Rs.75 per vehicle.

In the course of audit of the records of Regional Transport Office, Tamluk, it was noticed (December 1980) that registration certificates in respect of 22 non-transport vehicles were not renewed on the expiry of 15 years from the date of registration. Out of these vehicles, 19 vehicles had been registered more than 15 years prior to 16th January 1979.

In three more Regional Transport offices (Alipore, Howrah and P.V.D. at Calcutta) it was noticed (August 1983—October 1983) that registration certificates in respect of 23,090 non-transport vehicles, which were due for renewal on expiry of 15 years from the date of registration, had not been renewed resulting in non-realisation of registration fee to the extent of Rs.10.61 lakhs (calculated on the basis of existing registration fee for new vehicles).

On this being pointed out in audit, one regional transport authority agreed (December 1980) to take action; other regional transport authorities stated (September and October 1983) that necessary rules regarding renewal of registration certificate and realisation of fees thereof had not been framed.

The matter was reported to Government between March 1981 and October 1983; their reply is awaited (December 1983).

4.4. Short levy|non-levy of penalty for delayed payment of tax

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax in respect of registered motor vehicles shall be paid within 15 days from the date on which the tax becomes payable. In case of delay in making payment of tax after expiry of the prescribed period, penalty at varying rates shall be levied by the taxing officer according to the period of delay in payments.

In the course of audit of four regional offices (Siliguri, Tamluk, Contai and Asansol) it was noticed (November 1981 to March 1982) that penalty for delay in payment of tax was not levied at all in 187 cases and in 10 cases penalty was not levied at the prescribed rate. This resulted in non-realisation/short realisation of penalty amounting to Rs.62,202.

On this being pointed out in audit (between November 1981 and March 1982), the department admitted (December 1981 and March 1982) the mistakes and agreed to realise the penalty in respect of Siliguri and Tamluk regional offices. Recovery particulars thereof are awaited (December 1983). Reply in respect of other two regional offices is awaited (December 1983).

The matter was also reported to Government (August 1982 and September 1982); their reply is awaited (December 1983).

4.5. Loss of revenue due to delay in revision of maximum safe laden weight

Under the Motor Vehicles Act, 1939, the State Government, with the approval of the Central Government, issued a notification on 31st August 1979 fixing the maximum safe laden weight of certain categories of transport vehicles at 150 per cent of gross vehicle weight certified by the manufacturer or 17,800 kg whichever is less. Under the Motor Vehicles Act, 1939, when the registered laden weight of a vehicle is required to be revised in pursuance of Government notification, the registering authority shall specify the time limit for production of certificate of registration before him by the owners of transport vehicles for revision of the maximum safe laden weight. Road tax is realisable from the owners of such transport vehicles at the appropriate higher rate based on the revised maximum safe laden weight so recorded.

Mention was made in paragraph 6.1 of the Report of the Comptroller and Auditor General of India for the year 1980-81 (Revenue Receipts) of loss of revenue due to delay in revision of maximum safe laden weight in seven regions. Further, it was brought to the notice of Government (September 1981) that due to failure to specify time limit as required under the law for revision of safe laden weight, there was substantial loss of revenue.

On further verification of records of five regions (Howrah, Hooghly, Contai, Midnapore and Tamluk), it was noticed (September 1983) that no time limit had still been fixed by the registering authorities as required. As a result, safe laden weight in respect of 81 transport vehicles, had been allowed to be revised after a lapse

of 3 months to 21 months (from September 1981). Similarly in respect of 66 transport vehicles safe laden weight was revised after a lapse of 4 months to 23 months. Thus, due to failure to specify time limit for revision in the registration certificate, there was loss of revenue of Rs.3,25,791 (Rs.87,828 prior to September 1981 and Rs.2,37,963 thereafter).

On this being pointed out in audit, two regional authorities (Midnapore and Hooghly) stated (February 1982 and June 1981) that action would be taken for revision of safe laden weight. Another registering authority (Howrah) stated (April 1980) that registered laden weight would be revised on receipt of application from the owner of the vehicles, while the other two registering authorities did not furnish (December 1983) any specific reply.

The matter was reported to Government (October 1980, September 1981 and December 1982); their reply is awaited (December 1983).

4.6. Irregular remission of tax leading to non-realisation of revenue

Under the West Bengal Motor Vehicles Tax Act, 1979 and rules framed thereunder, a registered owner of a transport vehicle or stage carriage claiming refund or remission of tax on the ground of its non-use shall present a declaration to that effect and surrender the certificate of registration, tax token and permit (parts A and B) to the taxing officer on or about the date on which the vehicle goes off the road as satisfactory proof for the purpose.

In the course of audit of a region, it was noticed (March 1982) that the remission of tax for non-use in respect of 7 transport vehicles and 9 stage carriages during periods between January 1979 and April 1981 claimed by the owners was granted by the taxing officer without surrender of tax tokens and permits. This resulted in irregular remission of tax amounting to Rs.18,635.

On this being pointed out in audit, the department admitted (March 1982) that permits and tax tokens had not been surrendered by the owners of the vehicles. Further developments are awaited (December 1983).

The matter was also reported to Government in September 1982; their reply is awaited (December 1983).

4.7. Lack of control over collection of tax

Under the West Bengal Motor Vehicles Tax Act, 1979 read with West Bengal Motor Vehicles Tax Rules, 1957, tax shall be payable in

advance in such instalments within the prescribed dates as may be determined by the taxing authority. In order to ensure regular payment of tax, a Taxing Officer shall review the tax demand registers and take prompt actions against persons contravening the provisions of the law. In case of default in payment of tax on or after 1st June 1979, arrear dues can be recovered through certificate proceedings under Public Demand Recovery Act, 1913.

In the course of audit of one region (Siliguri), it was noticed (July 1982) that instalments of motor vehicles tax had not been paid by the owners of 68 motor vehicles during the period 1976-77 to 1978-79 though there was no record to indicate that the respective motor vehicles were off the road at any time during the period in question. This resulted in non-realisation of tax of Rs.1.14 lakhs up to March 1979 which further accumulated to Rs.3.84 lakhs up to March 1982. No recovery action was, however, taken by the department for realisation of tax even after a lapse of 3 years to 5 years.

On this being pointed out in audit (July 1979—July 1982), the department stated (July 1979—July 1982) that steps would be taken to review the tax demand registers. It was further stated (July 1982) that demand notices were issued in respect of two cases only and the same were returned undelivered by the postal authorities. Further developments in respect of realisation of arrear tax are awaited (December 1983).

The matter was reported to Government in February 1980 and November 1982; their reply is awaited (December 1983).

4.8. Short levy of tax due to mis-classification of vehicles

Under the provisions of the Bengal Motor Vehicles Tax Act, 1932 as repealed and re-enacted as West Bengal Motor Vehicles Tax Act, 1979, with effect from 1st June 1979, taxes on different types of vehicles are to be assessed at the rates prescribed in the Schedule to the Act.

In July 1972, the Government clarified that for the purpose of assessment of tax, a "crane" used solely for towing disabled vehicles, should be classified under the group "D-Tractor not used solely for agricultural purposes".

In the course of audit of a regional transport office in a district (Burdwan), it was noticed (September 1980) that tax in respect of two cranes for the period between May 1978 and September 1980 was assessed at the rate applicable to transport vehicles instead of at the appropriate rate applicable to cranes. This resulted in short assessment of tax amounting to Rs.11,600.

On this being pointed out in audit (September 1980), the department admitted the mistake and stated (December 1982) that the tax under-assessed had since been realised.

The matter was reported to Government in January 1982; their reply is awaited (December 1983).

4.9. Evasion of tax

Under the Motor Vehicles Act, 1939 read with the West Bengal Motor Vehicles Tax Rules, 1957, in the case of change of address of a registered owner of a motor vehicle due to change of his residence or his place of business within the jurisdiction of another registering authority in the State, intimation of such change shall be made by the vehicle owner to the previous registering authority and the new registering authority for recording necessary particulars in their respective records.

In the course of audit of the records of a regional transport authority (Alipore) for the year 1981-82, it was noticed (July 1982) that two transport vehicles (A & B) for which road taxes had been paid up to June 1976 and October 1974 respectively were transferred from Calcutta region to Alipore region in December 1978 and September 1979 respectively on change of address which was duly intimated to the previous registering authority (Calcutta region) in both the cases by the vehicle owners.

It was, however, noticed (July 1982) from the records of the Alipore region (i.e. the new registering authority) that for obtaining tax token on change of address, the registered owner in respect of vehicle "A" had produced tax token as tax paid up to December 1978 in the old region (Calcutta region), while the registered owner in respect of vehicle "B" had produced tax token which actually related to another vehicle valid up to July 1979. Both tax tokens had been accepted by the Alipore regional transport office. This led to short recovery of tax amounting to Rs.14,068.

It was further noticed that on receipt of intimation of change of address from the vehicle owners, the Calcutta regional authority did not note in the tax demand register and communicate the actual

position of arrear tax promptly to the Alipore transport authority, there being no such specific instruction laid down in the departmental instructions. As a result, production of fake tokens could not be detected by the new registering authority and the vehicle owners evaded payment of road tax.

On this being pointed out in audit (July 1982), the Calcutta regional office confirmed the facts.

The matter was reported to Government (March 1983); their reply is awaited (December 1983).

CHAPTER 5

STATE EXCISE

5.1. Results of test audit

Test check of records relating to State Excise during the year 1982-83 revealed shortcomings in assessments involving excise duty to the extent of Rs.145.34 lakhs. These are broadly classified into the following categories :

Nature of irregularity				Number of cases	Amount (In lakhs of rupees)
1.	Non-levy/short-levy of Excise duty/fee	..	..	1	2.65
2.	Non-levy of duty on chargeable wastage of spirit	..	..	13	5.94
3.	Loss of spirit during re-distillation	..	..	3	2.50
4.	Others	..	..	36	134.25
Total				53	145.34

Some important cases are given in the following paragraphs.

5.2. Non-recovery of the cost of establishment

Under the provisions of the Bengal Excise Act, 1909 and rules framed thereunder, where officers and staff of Excise Department are employed to the charge of a private warehouse, the licensee of the warehouse shall pay to the Government, fee on account of the cost of such establishment as the Commissioner may fix. In computing the cost, the average of pay of officers and establishment and the contributions towards leave salary and pension and compensatory allowance shall be included.

In the course of audit of a distillery in Hooghly district, it was noticed (July 1982) that an establishment consisting of one Sub-Inspector and two constables was detailed under supervision of a distillery officer to the India made foreign liquor warehouse of the distillery as sanctioned by the competent authority (last sanction issued on 14th May 1982). No fee on account of the cost of establishment so deployed in the warehouse was recovered from January 1967 to June 1982. The cost of establishment recoverable for the above period worked out to Rs.2 lakhs (approximately) based on the pay scales prevailing in 1970. Position in respect of the period prior to January 1967 was not readily available from the departmental records.

On this being pointed out in audit (July 1982), the department confirmed (July 1982) the facts and stated that the distillery had not been bearing the cost of establishment. The department further intimated (October 1983) that demand for Rs.3,77,580 against the licensee had been raised and further demand for the period since July 1982 would be raised; further development is awaited (December 1983).

The matter was reported to Government (May 1983); their reply is awaited (December 1983).

5.3. Loss of revenue due to wastage in the course of re-distillation of spirit for manufacture|bottling of India-made foreign liquor| country spirit

Under the Excise regulations, the allowable percentage of wastage in respect of stock of spirit in distillery or warehouse for all processes is 1.5 per cent without any specific further allowance for wastage on account of re-distillation of rectified spirit for manufacture of India-made foreign liquor. In addition, an allowance of 2 per cent for bottling operation is also admissible. These limits of 1.5 and 2 per cent are to be applied independently for the two operations. Any wastage in excess of the permissible limits in either of the two stages is chargeable to duty. Allowances at these rates are also admissible for the preparation and bottling of country spirit. Wastage in excess of the aforesaid limits is chargeable to duty unless condoned by appropriate authority for specific purposes.

(i) Mention was made in paragraph 5.8 of Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India, 1977-78 that uncontrolled wastage could be a source of abuse, to which the Government replied (April 1979) that no ceiling limit for such loss was provided in the Excise Rules as re-distillation of spirit was done for the manufacture of India-made foreign liquor. In the State of Maharashtra, 2 per cent has been prescribed as ceiling limit for allowing wastage in re-distillation.

In the course of audit (April 1981 and July 1982) of a distillery, the wastages on account of re-distillation of rectified spirit in preparation of India-made foreign liquor were found to be 1,42,663 London proof litres and 70,395.4 London proof litres being 5.94 per cent and 3.59 per cent of the total quantity of rectified spirit re-distilled during the periods 1980-81 and 1981-82 respectively. Even after allowing 2 per cent wastage as in the State of Maharashtra, the excess wastage involved a revenue loss of Rs.76,99,141.

On this being pointed out in audit (July 1982), the department stated that there was no provision in the rules specifying any percentage of wastage as allowable in re-distillation. The department had not even investigated the nature of losses in each case to satisfy themselves about the nature and reasonableness of loss. It was, however, stated (November 1983) that a committee had since been formed (February 1982) to study the various aspects of re-distillation processes including the nature and extent of losses caused during re-distillation with a view to fixing ceiling limit for such loss and the report of the committee was awaited (November 1983).

(ii) Mention was made in the Audit Reports of the Comptroller and Auditor General of India for the years 1978-79 and 1980-81 that the irregular practice of not applying the limits of admissible allowance separately had resulted in a revenue loss of Rs.11.93 lakhs for the period falling between 1975-76 and 1977-78 and for 1979-80.

In the course of audit of the same distillery for the year 1980-81, it was again noticed (April 1981) that the same practice of applying the two wastage allowances together was being continued. This involved excise duty of Rs.1.89 lakhs for the year 1980-81.

On this being pointed out (April 1981) in audit, the department intimated (April 1983) that a demand notice for Rs.12,74,490 had been issued in March 1983 for the period from 1974-75 to 1980-81. Further developments are awaited (December 1983).

(iii) In the course of audit, it was noticed (July 1982) in a distillery that in addition to the allowable wastage up to the stage of bottling, there were further wastages of 1,211 and 843 London proof litres of different strengths of country spirit after bottling and before storage in the country spirit warehouse during the periods 1980-81 and 1981-82. The inadmissible wastages were capable of yielding Rs.46,404 on account of excise revenue which was not levied nor specifically condoned for stated reasons.

On the mistake being pointed out in audit, the department agreed (July 1982) to realise the amount. Particulars of recovery are awaited (December 1983).

The cases were reported to Government (between October 1982 and April 1983); their reply is awaited (December 1983).

5.4. Non-assessment of duty on wastage of bottled country spirit in store and transit

Under the State Excise Rules, maximum admissible limit of wastage in transit of bottled country spirit was prescribed (December

1979) at varying rates depending on the distance. The maximum prescribed limit for wastage in storage was 0.25 per cent of the total stock of country spirit handled in any warehouse. Any wastage in excess of the aforesaid limits was chargeable to duty unless remitted by competent authority.

Mention was made in paragraph 4.6 of Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the year 1980-81 about non-levy of duty amounting to Rs.98,452 on chargeable transit and storage wastages in two warehouses.

In the course of audit of ten other warehouses in three districts (Hooghly, Nadia and Burdwan), it was noticed (between April 1981 and July 1982) that there were wastages during the period from 1979-80 to 1981-82 both in storage and transit of sealed and capsuled bottles in excess of the admissible quantity on which duty to the extent of Rs.1,31,674 was leviable (Rs.40,348 for transit and Rs.91,326 for storage).

On this being pointed out in audit (April 1981 to July 1982), the department agreed to raise demand. Three demands aggregating Rs.25,693 have been raised on two warehouses (September 1982). Recovery particulars thereof are awaited (December 1983). Action taken on the remaining cases is also awaited (December 1983).

The matter was reported to Government (between April 1982 and April 1983); their reply is awaited (December 1983).

CHAPTER 6

OTHER TAX AND NON-TAX RECEIPTS

A—Entry Tax

6.1. Underassessment of tax due to incorrect classification of goods

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, entry tax is leviable on specified goods at the rates notified by Government. As per table of rates notified, following rates were specified in respect of non-ferrous metals and articles thereof :

- (i) Non-ferrous metals, their alloys, bars, rounds, sheets, ingots and their circles—at the rate of 4 paise per kilogram.
- (ii) Articles made of non-ferrous metals and their alloys, not specified elsewhere—half per cent *ad valorem*.

“Aluminium Foil Stock” is an article made of aluminium, as confirmed (August 1982) by the Director of Entry Tax and is, therefore, governed by serial No. (iii) of the table of rates applicable to non-ferrous metals.

In the course of audit (September 1981) of the Entry Tax Railway Check-post, Kantapukur, it was noticed that 1,41,774 kilograms of “Aluminium Foil Stock” valuing Rs.35,33,589 were brought into the Calcutta Metropolitan Area in four consignments between January 1981 and September 1981 and were assessed to tax at the rate of four paise per kilogram as sheets of non-ferrous metals instead of at half per cent *ad valorem*. This resulted in underassessment of tax of Rs.12,084.

On this being pointed out in audit (May 1982 and October 1983), the department agreed (November 1983) to realise the amount short assessed; further development is awaited (December 1983).

The matter was also reported to Government in May 1982 and October 1983; their reply is awaited (December 1983).

6.2. Non-levy of tax due to clearance of goods without physical verification

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, tax is leviable on entry of some specified goods into

the Calcutta Metropolitan Area. Specified goods include spices and all kinds of food other than fresh fruits, vegetables or uncanned fish. Every dealer of specified goods, on or before entry of such goods into the Calcutta Metropolitan Area, is required to deliver a declaration relating to such goods in a prescribed form to the assessing officer, who after proper scrutiny of the documents and verification of goods, assesses the goods to tax. Where any specified goods are brought into the Calcutta Metropolitan Area without payment of the tax leviable thereon, the prescribed authority may impose on the dealer a penalty not exceeding ten times the tax assessed by it. The Act further provides that where tax levied and collected on any specified goods, has been short levied through inadvertance, error or mis-construction on the part of assessing officer or through misstatement of the dealer as to the description etc., the dealer shall pay the deficiency within three months from the date of demand and if the tax is remaining unpaid, it shall be recovered as arrear of land revenue.

It was noticed in audit (February 1982) that a consignment of 3,500 kilograms of clove, valuing Rs.4,17,609, was imported through a road checkpost in July 1979 by a dealer who declared the goods as "dried flower buds" instead of "clove". The subject goods being spices which were liable to be assessed at 4 per cent *ad valorem*, were cleared free of tax on the basis of abovesaid declaration without any physical verification. "Dried flower buds" is not also specifically mentioned as such in the schedule of taxable goods. In January 1980, the department, on review of old assessment cases, made an assessment of tax in respect of this consignment and demanded Rs.16,704 from the dealer. The amount is yet to be realised (December 1983). No penalty was, however, imposed.

On this being pointed out in audit (February 1982, October 1982 and September 1983), the department stated that the matter was being pursued but added that there was no mis-declaration on the part of the dealer. Further developments are awaited (December 1983).

The matter was reported to Government in July 1982; their reply is awaited (December 1983).

6.3. Non-levy of entry tax due to irregular issue of transport passes

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, tax is levied on the entry of specified goods into Calcutta Metropolitan Area for consumption, use or sale therein.

Where a dealer makes a claim to the effect that no tax is leviable on the specified goods on their entry, as they are to be taken out of

Calcutta Metropolitan Area, the assessing officer, after satisfying himself, issues transport pass in the prescribed form.

In the course of audit of a Zonal Office at Barasat, it was noticed (March 1983) that the road check post at Banitabla had issued (March 1981 to July 1981) six transport passes to a dealer in respect of certain specified goods brought in and consigned to his factory in Kalyani Notified Area. The check post had also issued (March 1981) a certificate to the dealer stating that the site of the factory was outside the Calcutta Metropolitan Area while simultaneously asking for confirmation thereof from the Entry Tax Directorate. In July 1981, the Directorate intimated that the place was within the Calcutta Metropolitan Area and instructed the check post to realise the tax due from the dealer. It was observed that even after that clarification, the Banitabla check post issued a further transport pass to the dealer in August 1981.

The July 1981 clarification given by the Entry Tax Directorate was not circulated to other check posts and the dealer availed himself of transport pass facilities from other check posts also on the strength of the certificate issued to him in March 1981 by the Banitabla check post. Thus, it was noticed in audit (April 1983) of check posts at Calcutta Jetty and Hossenabad Road that ten transport passes in all were issued to the dealer between September 1981 and July 1982 in respect of goods consigned to the factory in Kalyani Notified Area.

On further inquiry it was seen that the department had detected (March 1983) abuse of transport pass facilities in five cases by four dealers who had transported goods through check posts at Banitabla and N. S. Dock to 'Kalyani' between August 1982 and March 1983. Tax involved in the 14 cases relating to August 1981 to March 1983 amounted to Rs.1.47 lakhs and that in respect of the remaining two cases could not be determined for want of details. The amounts are yet to be realised (December 1983).

On this being pointed out (May 1983) in audit, the department stated (May 1983) that the matter was being looked into and action taken in the matter would be intimated. Further developments are awaited (December 1983).

The matter was also reported to Government (July and September 1983); their reply is awaited (December 1983).

B—Stamp and Registration

6.4. Loss of revenue due to short realisation of process fee

Under the West Bengal Land Reforms Act, 1955 and rules made thereunder, process fee for service of notice is leviable for transfer of holding by a *raiyat* at the rate prescribed by the Government from time to time. An instrument of such transfer cannot be accepted for registration unless process fee in the form of court fee stamp is tendered therewith. The Land and Land Reforms department issued notification from time to time prescribing the rate of process fee. After 1974, the rate of fee was enhanced on 7th May 1976, 28th July 1981 and 14th January 1983 (the earlier enhancement of rate being on 19th August 1974).

Mention was made in paragraphs 92 and 101 of the Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years 1974-75 and 1975-76 respectively of loss of revenue due to short realisation of process fee attributable to delays in receipt of intimation of enhancement of rates by the concerned registration offices.

In the course of audit of the accounts of 55 registration offices in nine districts, during the years from 1976-77 to 1982-83, it was noticed between February 1979 and July 1983 that the communication gap still persisted as a result of which process fees at the enhanced rates effective from 7th May 1976, 28th July 1981 and 14th January 1983 had not been levied in 79,869 cases. This resulted in loss of revenue amounting to Rs.77,027.

On this being pointed out in audit, the department stated (between February 1979 and July 1983) that due to delay in receipt of Government notifications, the process fee could not be levied at the prescribed rate.

The matter was reported to Government between May 1979 and September 1983; their reply is awaited (December 1983).

6.5. Short realisation of stamp duty due to splitting up of deeds

The Indian Stamp Act, 1899 (in its application to West Bengal) provides that where any property is contracted to be sold for one consideration for the whole and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance. *Ad valorem* stamp duty is chargeable for each such instrument at the rate provided under the Act.

Prior to 1974, the rate of stamp duty was Rs.18 for every Rs.500 or part thereof in respect of consideration exceeding Rs.1,000. Conveyance of a property in separate parts by different instruments did not, therefore, have any material effect on the total amount of stamp duty payable in respect of the conveyance.

With a view to augmenting revenue, the rates of stamp duty were revised under the West Bengal Amendment Acts of 1974, 1975, 1976 and 1977 providing graduated scale of duty ranging from Rs.18.75 to Rs.80 for every Rs.500 or part thereof in respect of considerations exceeding Rs.1,000. While introducing the graduated scales of duty, the aforesaid rule permitting splitting up of considerations was not amended though it would be clear that under a scheme of graduated scale, a splitting up of consideration would result in lower incidence of duty.

In the course of audit of records of different registration offices for the periods ranging from 1975-1977 to 1979-1981, it was noticed (between May 1977 and July 1981) that in a good number of cases, property contracted to be sold for one consideration for the whole was conveyed to the purchasers in separate parts by different instruments, as permissible under the Act. The consideration for the whole property in such cases was so apportioned as to make payment of stamp duty at the rate applicable to a lower slab, thereby avoiding payment of higher stamp duty which was otherwise payable for a single instrument for the whole property. In 53 such cases examined in audit, Government was deprived of an additional revenue of Rs.20,325 due to splitting up of instruments. This defeated partly the objectives of the amending Act, which was aimed at deriving higher revenue in respect of a whole property of high value.

On this being pointed out between May 1977 and December 1982, the department stated (July 1983) that the Government had been moved to amend the rule so that the system of evasion of stamp duty by splitting up of deeds could be eradicated.

The matter was reported to the Government in May 1983; their reply is awaited (December 1983).

6.6. Under-stamping of deed due to mis-classification of the instrument

Under the provisions of the Indian Stamp Act, 1899, different rates of stamp duty and registration fees are prescribed for deed of conveyance and deed of dissolution of partnership. According to a judicial pronouncement,* where there was a specific conveyance of

*Hiralal Navalram, 32, Bom 505; 10 Bom LR 730

the share of a partner to other partners who continued the business, the document was a "conveyance", for the purpose of stamp duty and registration fee.

In the course of audit of a registration office (Midnapore), it was noticed (August 1982) that in a deed stamped as a "deed of dissolution of partnership", one of the retiring partners of the firm assigned all her shares and interests to the continuing partners for consideration of Rs.92,000 to be paid in instalments as full and final settlement of her accounts, while another partner received Rs.26,000 from the continuing partners and retired.

The deed was liable to be treated as deed of conveyance instead of as a deed of dissolution of partnership. The mis-classification of deed resulted in short realisation of stamp duty and registration fee amounting to Rs.15,574.

On this being pointed out in audit, the department agreed (August 1982) to take action in consultation with higher authority. Further development is awaited (December 1983).

The matter was reported to Government in April 1983; their reply is awaited (December 1983).

C—Mines and Minerals

6.7. Non-assessment of surface rent

Under the West Bengal Estates Acquisition Act, 1953, read with the Mineral Concession Rules, 1960, the holders of mining leases shall pay surface rent to the State Government at the rate of Rs.45 per acre (0.4047 hectare) per annum from 15th April 1955 in respect of land in the use or occupation of the lessees for mining operations.

Mention was made in para 72 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1975-76 of non-assessment of surface rent in respect of nine erstwhile private collieries. The Public Accounts Committee observed (April 1981) that the department did not take care to assess the surface rent in respect of pre-nationalisation period (1973) and desired that the department should furnish a comprehensive report to them, under advice to the Accountant General in respect of all the 315 Collieries in West Bengal showing surface rent assessed and collected against each colliery.

In the course of audit of the Chief Mining Office at Asansol for the year 1981-82, it was noticed (July 1982) that out of 315 collieries, surface area in occupation had been determined in respect of 88 collieries, but no surface rent had been assessed and realised therefrom. Total surface rent in respect of area (1,707 acres) retained by 88 collieries worked out to Rs.18,73,598 for the period from 15th April 1955 to March 1982.

Under the Coal Mines (Nationalisation) Act, 1973, the ex-private owners of the coal mines are liable to pay surface rent for the pre-nationalisation period. The amount due from 88 collieries in respect of pre-nationalisation period from 15th April 1955 to 30th April 1973 worked out to Rs.12.50 lakhs. As assessment was yet to be done, no effective step was taken to prefer the claim for surface rent dues of Rs.12.50 lakhs relating to the pre-nationalisation period before the Commissioner of payments, while the dues for the post-nationalisation period up to 31st March 1982 came to Rs.6.24 lakhs.

In absence of figures regarding actual area of occupation by the other 227 collieries, the total surface rent remaining un-realised could not be worked out in audit.

The matter was reported to Government in May 1983; their reply is awaited (December 1983).

6.8 Short levy of royalty on coal due to incorrect calculation

Under the Mines and Minerals (Regulation and Development) Act, 1957, the Government of India is authorised to revise the rate at which royalty is payable in respect of any mineral removed/ despatched by a lessee from the leased area. The rate of royalty of Group II coal was enhanced from Rs.4 to Rs. 6.50 per tonne with effect from 12th February 1981.

In the course of audit of the accounts of Chief Mining Officer, Asansol for the period 1980-81, it was noticed (August 1981) that royalty on 1,40,592 tonnes of Group II coal despatched by six collieries from 12th February 1981 to 31st March 1981 had been wrongly assessed at Rs.8,99,867 instead of Rs.9,13,885 calculated at the rate of Rs.6.50 per tonne. This resulted in short levy of royalty amounting to Rs.14,018.

On this being pointed out in audit (August 1981), the department stated (August 1983) that re-assessment had been made (August 1982). Particulars of collection are awaited (December 1983).

The matter was reported to Government (June 1982); their reply is awaited (December 1983).

6.9. Short realisation of royalty on minor minerals due to application of incorrect rates

Under the West Bengal Minor Minerals Rules, 1973, the district authority or any authorised officer may grant quarry permit to any person to extract or remove any minor mineral from any specified area in specified quantity on prepayment of royalty at the specified rate. The rate of royalty payable on extraction of minor minerals was enhanced from Rs.4.935 per 100 cft. to Rs.10 per 100 cft. with effect from 24th March 1982.

In the course of audit of records of three districts (Midnapore, Hooghly and Darjeeling) for the years 1387 and 1388 B.S. (1980-81 and 1981-82) it was noticed (between January 1983 and March 1983) that in 64 cases, royalty was realised at the old rate of Rs.4.935 per 100 cft. on 14,08,599 cft. of brick-earth extracted instead of at revised rate of Rs.10 per 100 cft., although the quarry permits were issued on or after 24th March 1982. This resulted in under-assessment of royalty amounting to Rs.61,424.

On this being pointed out in audit (January 1983 to March 1983), one district authority (Darjeeling) admitted the mistake and agreed to realise the dues. Further developments are awaited (December 1983). The other two districts (Midnapore and Hooghly) stated that due to late receipt of Government notification, enhanced rate of royalty could not be realised.

The cases were reported to Government between April 1983 and July 1983; their reply is awaited (December 1983).

D—Electricity Duty

6.10. Distribution and transmission loss not charged to duty

Under section 3 of the Inter-State River Valley Authority Electricity Act, 1973 and rules made thereunder, electricity duty shall be charged|levied and paid on units of energy consumed at the rates specified. Under Section 4(b) of the Act *ibid*, any person not being a licensee, who having received energy directly from such River Valley Authority consumes or distributes such energy, whether wholly or partly to any other person, is liable to pay to the State Government electricity duty at the prescribed rate on the units of energy received by him (emphasis supplied).

In the course of audit it was noticed (May 1981) that a unit of a public sector undertaking at Durgapur, not being a licensee, received during a period of eight months in 1980 a total of 8,16,72,773 units of energy from the Damodar Valley Corporation. The public sector unit paid duty on 7,95,21,490 units; the balance 21,51,283 units were shown as distribution and transmission losses. In 1981 also duty was not paid on 43,24,567 units of energy which were shown as distribution and transmission losses.

Being a non-licensee, the public sector unit was required to pay electricity duty on the units of energy received by it. The incorrect deductions of distribution and transmission losses resulted in short payments of duty amounting to Rs.1,29,076 and Rs.2,59,474 in the two years.

On this being pointed out in audit (May 1981), the department stated (October 1982) that the duty was payable under Section 3 of the Act on units consumed and was so charged on the basis of units recorded in different meters within the plant premises of the assessee. The contention of the department is not tenable as Section 4(b) of the Act specifically provides that in the case of a non-licensee, duty is payable on the energy received.

The matter was reported to Government in October 1981; their reply is awaited (December 1983).

E—Departmental Receipts

6:11. Non-assessment|non-realisation of toll charges

Under the Indian Tolls Act, 1851, as amended in 1864, the State Government has been empowered to levy rates of toll as deemed fit in respect of bridges constructed or repaired at the expense of the State Government and also to appoint authority for management and collection of tolls. The Act enjoins that the authority entrusted with the management and collection of tolls may, in his discretion, compound for a certain sum, in lieu of the rates of tolls for any period not exceeding one year.


In the course of audit of the records of Executive Engineer, Alipore Division II, Public Works Department, for the year 1981-82, it was noticed (June 1982 and May 1983) that the Government issued (March 1975) a notification effective from 1st April 1975 fixing toll charges at varying rates in respect of different types of vehicles crossing the re-inforced concrete bridge over irrigation canal on Diamond Harbour Road. The management and collection of such toll charges was entrusted to the Executive Engineer concerned. The rate of toll charges in respect of bus (loaded and unloaded) was fixed at Rs.3 per bus per trip and the collection of toll charges commenced from 21st April 1975.

91 bus owners of route number 76 and 8 bus owners of route number 74 (both Diamond Harbour to Calcutta) did not pay tolls for crossing the bridge and obtained temporary injunction (22nd April 1975) from the Calcutta High Court against the payment at the rate of Rs. 3 per trip per bus. The said injunction was vacated on 21st August 1979 in favour of the Government but the department came to know of the vacation of the stay order only on 5th March 1982. It was noticed from the records of the department that on an average, each bus of route number 76 plied for 16 days in a month and made two turn-round trips in a day i.e. crossed the bridge 4 times a day. Each bus of route number 74 plied on all the days in a month and made five turn-round trips a day. Total amount thus payable for each bus in a month was Rs.192 and Rs.900 respectively. In April 1982, in respect of buses plying on route number 76, and in August 1982 in respect of buses plying in route number 74, the Government issued order compounding toll charges at a monthly rate of Rs.90 per month per bus with effect from 1st May 1982 and 1st August 1982 respectively.

It was further noticed that after vacation of temporary injunction, the collecting authority did not raise any demand in respect of tolls payable by the aforesaid bus owners for the period from the date of levy of toll (viz. 21st April 1975) to the date of issue of orders for compounding the tolls (April 1982 and August 1982). The total amount of toll charges so payable worked out to Rs.21.12 lakhs.

On this being pointed out in audit, the department stated (October 1982 and May 1983) that necessary action was being taken. Further developments are awaited (December 1983).

The matter was reported to Government in April 1982 and October 1983; further report is awaited (December 1983).

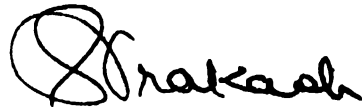


(R. CHANDRASEKARAN),
Accountant General II,
West Bengal.

CALCUTTA.

The 20 JUN 1984 1984.

Countersigned.



(GIAN PRAKASH),
Comptroller and Auditor General
of India.

NEW DELHI.

The 24 JUN 1984 1984.

APPENDIX I

Additional taxation measures during 1982-83

(Reference : Paragraph 1.3. page 3)

Serial No.	Name of the Act and the head of account involved	Measures taken	Date of enforcement	Anticipated yield during 1982-83 (Rs. in crores)
1	2	3	4	5
1. (a)	The West Bengal taxation laws (Amendment) Act, 1982 issued under notification No. 3599-FT dated 28-9-82 Sales Tax.	Increase in the concessional rate of tax from 1% to 2% on inputs and packing materials used directly in the manufacture of goods taxable under the Bengal Finance (S.T.) Act, 1941 and the West Bengal Sales Tax Act, 1954.	1-10-82	6.25
(b)	Ditto	Increase in the rate of tax by 1% on crockery (excluding crockery made from stoneware), electrical appliances, dry or preserved fruits, paper board and straw board and Vanaspati.	1-10-82	1.00
(c)	Ditto	Raising of the sales tax on diesel oil from 9% to 12%.	1-10-82	4.00
(d)	Ditto	Withdrawal of sales tax exemption on sales of sago, tapioca globules, woolen hosiery goods and power-operated agricultural implements and subject these to tax at 8%.	1-10-82	0.50
(e)	Ditto	Continuance in the concessional rates of central Sales Tax on inter-state sales of tea purchased in auctions at Calcutta and Siliguri.	1-10-82	1.50
	Ditto	Certain procedural changes and tightening of the administration for improvement of tax collection under the B.F. (S.T.) Act, 1941 and West Bengal Sales Act, 1954.	1-10-82	0.75

APPENDIX I—*Contd.*

Additional taxation measures during 1982-83

(Reference : Paragraph 1.3. page)

Serial No.	Name of the Act and the head of account involved	Measures taken	Date of enforcement	Anticipated yield during 1982-83 (Rs. in crores)
1	2	3	4	5
2.	(a) The West Bengal taxation laws (Amendment) Act, 1982 issued under notification No. 3599-FT, dated 28-9-82	Raising of the rate of cess on coal from Rs. 1 to Rs. 2 per tonne of coal under the West Bengal Primary Education Act, 1973.	1-10-82	1.00
	Land Revenue			
	(b) Ditto	Increase in the rate of cess on coal mines from Rs. 5 to Rs. 7.50 per tonne of coal under the West Bengal Rural Employment and Production Act, 1976.	1-10-82	2.50
	(c) Ditto	Withdrawal of the exemption on despatches of tea for sale made at recognised tea auction centres and to subject such tea to cess at Rs. 0.30 per Kg. along with other changes in the rate structure.	1-10-82	4.00
	(d) Ditto	Certain procedural changes and tightening of the administration for improvement of tax collection under West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976.	1-10-82	0.75
3.	(a) Amusement Tax	Rationalising of the rate structure and colour surcharge slabs under the Bengal Amusements Tax Act, 1922 in respect of Cinema.	1-10-82	1.25
	(b) Ditto	Imposition of a tax on entertainment through the medium of television.	1-10-82	Not available.
4.	Government of West Bengal, Department of Excise Notification No. 1143-Ex. dated 19-10-82.	Increase of certain excise duties on potable alcohol.	1-10-82	1.00
	State Excise	Total ..		<u>24.50</u>

APPENDIX II

Statement showing the cost of collections under the principal heads of revenue

(Reference : Paragraph 1.5 ; Page 6)

Heads of accounts	Gross	Expenditure	Percentage of cost of		
	collection in 1982-83	on collection 1982-83	collection to gross collec- tion		
	(In crores of rupees)		1982-83	1981-82	1980-81
1. Taxes on Agricultural Income ..	1.35	0.31	23.0	23.0	10.7
2. Other taxes on Income and Expen- diture.	15.78	0.24	1.5	1.5	1.7
3. Land Revenue*	35.76	8.81	24.6	34.1	35.7
4. State Excise	60.36	4.08	6.8	5.5	5.4
5. Taxes on Vehicles	23.34	0.80	3.4	3.3	3.0
6. Sales Tax	389.63	3.87	1.0	0.8	0.9
7. Stamps and Registration Fees ..	39.32	4.25	10.8	12.4	11.1
8. Taxes on Duties on Electricity ..	14.92	0.27	1.8	1.7	1.5
9. Taxes on Goods and Passengers ..	52.54	2.05	3.9	2.6	3.2
10. Other Taxes and Duties on commo- dities and services.	35.42	0.09	0.3	0.4	0.2
11. Forest*	19.29	1.67	8.7	11.1	12.9
Total ..	687.71	26.44	3.8	3.6	3.6

*Forest department has several functions not directly connected with the sale of forest products. Only direct expenditure on forest produce has been shown. Similarly in respect of Land Revenue direct collection cost only has been taken.

ERRATA

Sl. No.	Page No.	Paragraph No.	Line	For	Read
(1)	(2)	(3)	(4)	(5)	(6)
1.	2	1.2(b)	Last line	19	1975
2.	4	1.4(ii)	20th from bottom	and Expenditure	Expenditure
3.	5	Foot note to 1.4(ii)	Last but one line	from no	from now
4.	7	1.7(iii)	20th from top	are	is
5.	8	1.7(i r)	5th from top	Earliest year	Earliest year
6.	9	1.8	23rd from top	13	135
7.	12	2.2.3	9th from bottom	the year	the years
8.	15	2.2.6(iii)	16th from bottom	of station not	of stations not
9.	23	2.9(ii)	11th from bottom	noticed (January 1982)	noticed (January 1983)
10.	23	2.9(ii)	5th from bottom	(January 1982)	(January 1983)
11.	23	2.9(ii)	4th from bottom	(February 1982)	(February 1983)
12.	26	2.13(i)	9th from top	recorded reason.	recorded reasons.
13.	29	2.16	33rd from top	'perfumes	'perfumes'
14.	32	2.18(i)	4th from top	assessment.	assessment,
15.	37	2.23	18th from bottom	such return.	such returns.
16.	37	2.23	4th from bottom	provision of	provisions of
17.	44	3.2.2	Last line	draught	drought
18.	50	3.8	14th from bottom	of agreements.	of agreement,
19.	53	4.2.3	20th from top	detailed below :	detailed below though such fee is revenue of the Government
20.	57	4.6	27th from top	periods	period
21.	61	5.1	12th from top	Non-levy	Non-levy
22.	61	5.2	29th from top	India made	India-made
23.	65	6.1	12th from top	(ii)	(iii)
24.	68	6.4	16th from top	fee attributable	fee attributable
25.	72	6.10	Last but one and last line	received by him	received by him
26.	74	6.11	14th and 16th from top	injuction	injuction
27.	77	Appendix I	15th from bottom	woolen	woollen
28.	78	Appendix I	Item 3(a)	Amusement Tax	Ditto
29.	79	Appendix II	22nd from top	produce	produce

