REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA

FOR THE YEAR ENDED 31 MARCH 2001

(REVENUE RECEIPTS)
GOVERNMENT OF GUJARAT

TABLE OF CONTENTS

PREFATORY REMARKS

This Report for the year ended 31 March 2001 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2000-2001 as well as those noticed in earlier years but could not be covered in previous years' Reports.

OVERVIEW

This Audit Report contains 49 Audit paragraphs and 4 Audit reviews involving Rs.1665.06 crore. As per existing arrangement, copies of the draft audit paragraphs and draft Audit Reviews are sent to the concerned Secretary to the State Government by the Principal Accountant General, demi-officially with a request to furnish replies within 6 weeks. The Secretaries are also reminded demi-officially by the Principal Accountant General for replies. However, despite such efforts, no response was received from the concerned Secretary of the State Government. The matter was also brought to the notice of Chief Secretary from time to time by the Principal Accountant General. Reply is still awaited.

1. General

(i) The total revenue receipts of the Government of Gujarat in 2000-2001 were Rs.15738.59 crore as against Rs.13971.44 crore during 1999-2000. The revenue raised by the State from taxes during 2000-2001 was Rs.9046.83 crore and from non-tax receipts was Rs.3349.14 crore. State's share of divisible Union taxes and grants-in-aid from Government of India were Rs.1573.75 crore and Rs.1768.87 crore respectively. The main source of tax revenue during 2000-2001 was Sales Tax (Rs.5942.74 crore), which increased from 63 per cent in 1999-2000 to 66 per cent in 2000-2001. The main receipts under non-tax revenue were from Interest (Rs.1929.82 crore) and Non-ferrous Mining and Metallurgical Industries (Rs.616.65 crore).

All the five years (1996-2001) ended with revenue deficits. The year 2000-2001 registered a steep increase in revenue deficit to Rs.6302 crore up by 78 per cent over the deficit of 1999-2000 (Rs.3545.66 crore).

The aggregate of the amount received by the State Government on account of the State's share of Union Taxes, Duties and Grants-in-aid increased from Rs.2029 crore in 1996-97 to Rs.3343 crore in2000-2001 implying an increase of 65 per cent. The amounts received from the Government of India to the revenue receipts of the State increased from 20 per cent in 1999-2000 to 21 per cent in 2000-2001. Tax receipts of the State increased marginally (11 per cent) to Rs.9047 crore in 2000-2001 compared to Rs.8162 crore in 1999-2000.

[Para-1.1 and 1.2]

(ii) As on 31 March 2001, 1711569 cases were pending for assessment under Sales Tax Act. Out of these, 95087cases had turnover of above Rs.1 crore in each case.

[Para-1.6]

(iii) A test check of the records in the offices of Sales Tax, Land Revenue, Motor Vehicles Tax and other departmental offices conducted during 2000-2001 revealed under assessment and loss of revenue of Rs.1534.17 crore in 1225 cases. During the year, the concerned departments accepted under assessments etc. of Rs.136.49 crore in 1914 cases and recovered Rs.10.62 crore in 1704 cases pointed out during 2000-2001 and earlier years.

[Para-1.9]

2. Sales Tax

(i) A review on Exemptions and concessions under Section 49(2) revealed the following:

(a) Incorrect issue of notification giving retrospective effect, to benefit a dealer contrary to Supreme Court's decision, resulted in loss of Rs.1.45 crore.

[Para-2.2.5]

(b) Incorrect remission allowed to 2 dealers resulted in loss of Rs. 4.39 crore.

[Para-2.2.7(i) & (ii)]

(c) Benefit of concession availed of by the manufacturer though intended to benefit the purchaser, resulted in loss of Rs.76.57 crore.

[Para-2.2.12]

(d) Non-fulfilment of condition of carpet area in the cases of tourism units resulted in incorrect grant of incentive of Rs.1.66 crore.

[Para-2.2.15]

(e) Non-fulfilment of condition of increase in the licensing capacity after modernisation of the existing units resulted in incorrect grant of incentive worth Rs.9.11 crore.

[Para-2.2.16]

(ii) Under Sales Tax Incentive Scheme, excess exemption of sales tax of Rs.1.08 crore was allowed to 13 dealers.

[Para-2.3]

(iii) Purchase tax of Rs.1.50 crore was not levied in the cases of 11 dealers for breach of recitals of forms.

[Para-2.4]

(iv) Incorrect deductions were allowed considering the sales of goods as tax free against declarations resulting in short levy of Rs.5.30 crore.

[Para-2.5]

(v) There was short levy of sales tax of Rs.1.79 crore due to application of incorrect rate of tax and mis-classification of goods.

[Para-2.6 and 2.10]

(vi) There was short levy of Rs.5.33 crore due to evasion of tax on oil seeds and oil manufactured.

[Para-2.17(i)]

3. Land Revenue

(i) A review on encroachment of Government land revealed the following:

(a) Penal occupancy price recoverable in the event of regularisation of encroachment on 25.80 lakh sq.mtrs. of Government land amounted to Rs.601.05 crore.

[Para-3.2.7(i)]

(b) Incorrect regularisation of encroachment on Government land by Vadodara Municipal Corporation resulted in non-recovery of penal occupancy price of Rs.65.76 crore.

[Para-3.2.8(i)]

(c) Incorrect leasing and regularisation of encroachment on Government land by Vadodara Municipal Corporation resulted in non-recovery of penal occupancy price of Rs.1.13 crore.

[Para-3,2.8(ii)]

(d) Incorrect regularisation of encroachment on Government land by Surat Municipal Corporation resulted in non-recovery of Rs.195.51 crore.

[Para-3.2.8(iii)]

(e) Short recovery of penal occupancy price due to incorrect grant of concession amounted to Rs.4.22 crore.

[Para-3.2.11]

(ii) Short recovery of premium on the conversion of land from new to old tenure amounted to Rs.12.17 crore.

[Para-3.3]

(iii) Incorrect application of rate of non-agricultural assessment resulted in short levy of Rs.3.89 crore.

[Para-3.4]

(iv) Failure to levy occupancy price resulted in non-recovery of Rs.2.49 crore.

[Para-3.5]

4. Taxes on Vehicles

(i) Composite tax of Rs.3.09 crore was not recovered from the operators of 365 omnibuses in 16 Regional Transport Offices.

[Para-4.3(ii)]

5. Stamp Duty and Registration Fees

(i) Stamp duty and registration fees of Rs.31.84 crore were short levied due to incorrect application of concessional rate.

[Para-5.2]

(ii) Stamp duty and registration fees of Rs.5.59 crore were short levied due to mis-classification of documents.

[Para-5.4]

(iii) Non recovery of stamp duty on bonds issued by the Sardar Sarovar Narmada Nigam Ltd amounted to Rs.5.71 crore.

[Para-5.7]

6. Other Tax Receipts

(i) A review on Assessment and Collection of luxury tax revealed the following:

A. Luxury tax

(a) Luxury tax of Rs.16.85 crore was recovered short due to payment of tax on charges lower than the declared tariff.

[Para-6.2.6]

(b) Tax of Rs.8.83 crore was not recovered from Gujarat Tourism Corporation on luxury provided on board, "The Palace on Wheels".

[Para-6.2.7]

(c) Tax amounting to Rs.2.65 crore collected by the hotel owners was incorrectly retained by them.

[Para-6.2.8]

(d) Tax of Rs.1.76 crore was short levied due to payment of tax on the charges for luxury lower than those fixed by the Collector.

[Para-6.2.11]

(e) Tax of Rs.2.16 crore was recovered short, due to incorrect allowance of deductions from the consolidated charges by the Collector/ availed of by the proprietors themselves.

[Para-6.2.12]

(f) Non inclusion of telephone charges/charges for other services in the taxable amount resulted in short levy of Rs.15.96 crore.

[Para-6.2.13]

B. Electricity Duty

Non recovery of electricity duty and interest for delayed payment resulted in short recovery of Rs.3.74 crore.

[Para-6.6]

7. Non Tax Receipts

A. Forest Receipts

(i) A review on forest offence cases revealed the following:

(a) Illicit cutting of trees and mass destruction of forest resulted in loss of Rs.16.71 crore.

[Para-7.2.5]

(b) Non-finalisation of offence cases resulted in blocking of revenue of Rs.1.84 crore.

[Para-7.2.6]

(c) Illegal allotment/regularisation of leases in the forest resulted in non-recovery of Rs.3.99 crore.

[Para-7.2.8]

B. Mining Receipts

Non-levy of increased royalty on delayed payment and non-levy of royalty on flared up gas resulted in short levy of Rs.162.29 crore.

[Para-7.4 and 7.5]

CHAPTER-I

General

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by Government of Gujarat and the State's share of divisible Union taxes and grants-in-aid received from Government of India during 2000-2001 and the preceding two years are given below:

(Rupees in crore)

		1998-99	1999-2000	2000-2001
I	**Revenue raised by State Government**			
	(a) Tax revenue	7615.78	8161.73	9046.83
	(b) Non-Tax revenue	2766.49	2990.37	3349.14
	Total	**10382.27**	**11152.10**	**12395.97**
II	**Receipts from Government of India**			
	(a) State's share of divisible Union taxes	1641.60	1665.04	1573.75
	(b) Grants-in-aid	718.87	1154.30	1768.87
	Total	**2360.47**	**2819.34**	**3342.62**
III	**Total receipts of the State Government (Revenue Account)**	**12742.74**	**13971.44**	**15738.59***
	Percentage of I to III	**81**	**80**	**79**

* For details, please see statement No.11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Gujarat for the year 2000-2001. Figure under the head "0021 - Taxes on Income other than Corporation Tax - share of net proceeds assigned to States" booked in the Finance Accounts under A - Tax Revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this statement.

1.2 Revenue raised by the State Government

(i) Tax revenue

The details of tax revenue raised from major taxes during the last three years upto 2000-2001 are given below:

(Rupees in crore)

Sl. no.	Heads of revenue	1998-99	1999-2000	2000-2001	Percentage of increase (+) or decrease (-) in 2000-2001 over 1999-2000
1	Sales Tax	4795.84	5134.47	5942.74	(+) 16
2	Taxes and Duties on Electricity	1447.17	1401.63	1521.00	(+) 9
3	Stamp Duty and Registration Fees	506.23	522.38	537.42	(+) 3
4	Taxes on Vehicles	460.21	601.71	627.28	(+) 4
5	Taxes on Goods and Passengers	62.14	88.87	26.03	(-) 71
6	Land Revenue	71.98	116.64	81.53	(-) 30
7	State Excise	27.25	32.02	40.37	(+) 26
8	Other Taxes	244.96	264.01	270.46	(+) 2
	Total	**7615.78**	**8161.73**	**9046.83**	(+) 11

Less receipt under the head "Taxes on Goods and Passengers" was mainly due to non-payment of passenger tax dues by the Gujarat State Road Transport Corporation due to the Corporation running in losses.

(ii) Non-tax revenue

Details of revenue raised from some of the major non-tax receipts during the last three years upto 2000-2001 are given below:

(Rupees in crore)

Sl. No.	Heads of revenue	1998-99	1999-2000	2000-2001	Percentage of increase (+) or decrease (-) in 2000-2001 over 1999-2000
1	Non-ferrous Mining & Metallurgical Industries	470.23	530.78	616.65	(+) 16
2	Interest Receipts	1592.69	1764.54	1929.82	(+) 9
3	Major & Medium Irrigation	132.10	110.68	136.58	(+) 23
4	Medical & Public Health	38.65	41.33	49.14	(+) 19
5	Others	532.82	543.04	616.95	(+) 12
	Total	**2766.49**	**2990.37**	**3349.14**	(+) **12**

1.3 Variations between Budget estimates and actuals

The variations between Budget estimates and actuals of some major revenue receipts for the year 2000-2001 are as given below:

(Rupees in crore)

Sl. no.	Heads of revenue	Budget estimates	Actuals	Variation increase(+) decrease(-)	Percentage of variation
	Tax revenue				
1.	Sales Tax	6300.00	5942.74	(-) 357.26	(-)6
2.	Taxes & Duties on Electricity	1700.00	1521.00	(-) 179.00	(-)11
3.	Stamp Duty & Registration Fees	600.00	537.42	(-) 62.58	(-)10
4.	Taxes on Vehicles	1000.00	627.28	(-)372.72	(-)37
5.	Taxes on Goods & Passengers	220.00	26.03	(-) 193.97	(-)88
6.	Land Revenue	250.00	81.53	(-) 168.47	(-)67
7	State Excise.	30.00	40.37	(+)10.37	(+)35
8.	Other Taxes on Income & Expenditure	125.00	104.80	(-) 20.20	(-)16
	Non-tax revenue				
9.	Non-ferrous Mining & Metallurgical Industries	670.00	616.65	(-) 53.35	(-)8
10.	Interest Receipts	1674.49	1929.82	(+)255.33	(+)15
11.	Major & Medium Irrigation	267.50	136.58	(-)130.92	(-)45
12.	Medical & Public Health	66.37	49.14	(-) 17.23	(-)26
13.	Forestry & Wild Life	20.35	18.48	(-) 1.87	(-)9
14.	Education, Sports, Arts & Culture	28.60	38.30	(+)9.70	(+)34
15.	Police	40.00	43.17	(+)3.17	(+)8
16.	Public Works	19.50	27.21	(+)7.71	(+)40
17.	Miscellaneous General Services	65.00	98.79	(+)33.79	(+)52

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1998-99, 1999-2000 and 2000-2001 alongwith the relevant all

India average percentage of expenditure on collection to gross collections for 1999-2000 are given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to collection	All India average (percentage for the year 1999-2000)
1	Sales Tax	1998-99 1999-2000 2000-2001	4795.84 5134.47 5942.74	56.98 58.62 69.74	1.18 1.14 1.17	1.56
2	Stamp Duty and Regis-tration Fees	1998-99 1999-2000 2000-2001	506.23 522.38 537.42	20.96 19.22 19.19	4.14 3.67 3.57	4.62
3	Taxes on Vehicles and Goods and Passenger	1998-99 1999-2000 2000-2001	460.21 690.58 653.31	20.35 59.93 41.19	4.42 8.67 6.30	3.56
4	State Excise	1998-99 1999-2000 2000-2001	27.25 32.02 40.37	4.57 4.31 4.26	16.77 13.46 10.55	3.31

The expenditure under the head "Taxes on Vehicles" during 2000-2001 was due to modernising the department by computerisation, introducing smart card driving license scheme, computerisation of weigh bridge in the inter-State checkposts and software designing etc. requiring heavy expenditure and that under "State Excise" mainly due to expenses on police personnel engaged in implementing prohibition and propaganda.

1.5 Arrears of revenue

As on 31 March 2001 arrears of revenue under principal heads of revenue, as reported by the departments were as given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	Arrears pending collection	Arrears more than five years old	Remarks
1	2	3	4	5
1	Sales Tax	4887.20	358.46	Out of arrears of Rs.4887.20 crore, Rs.48.39 crore covered by recovery certificates, Rs.30.12 crore were due to stay granted by judicial authorities, Rs.161.83 crore were due to dealers being insolvent, Rs.110.77 crore were to be written off.
2	Motor Vehicles Tax	36.50	5.77	Out of Rs.36.50 crore, Rs.20.77 crore were covered by recovery certificates, Rs.0.03 crore were due to stay granted by High Court and other judicial authorities.

3	Profession Tax	16.15	6.34	Arrears of Rs.16.15 crore were covered by recovery certificates.
4	Goods and Passenger Tax	2.24	1.45	Out of Rs.2.24 crore, Rs.1.11 crore were covered by recovery certificates, Rs.0.01 crore were pending due to stay granted by High Court and other judicial authorities.
5	Entertainments Tax	4.94	2.10	No specific reasons were given by the department.
6	Luxury Tax	2.00	--	No specific reasons were given by the department.
7	Electricity Duty	13.92	13.92	The arrears of Rs.13.92 crore were to be recovered from Baroda Municipal Corporation.
8	Interest Receipts	318.92	92.27	No specific reasons were given by the department.
9	Irrigation	377.11	220.78	No specific reasons were given by the department.
10	Stamps	4.16	0.13	Arrears were due to appeals pending in courts and High Courts.

1.6 Arrears in Sales Tax assessments

The number of cases due for assessment, number of assessments completed during the year and the number of assessments pending at the end of the year under report with corresponding figures of the year 1999-2000 are as under:

	1999-2000	**2000-2001**
(a) Number of assessments due for completion during the year		
Arrear cases	1638681	1811875
Current cases	798294	692877
Remand cases	837	20
Total	**2437812**	**2504772**
(b) Number of assessments completed during the year		
Arrear cases	472125	686436
Current cases	153776	106757
Remand cases	36	10
Total	**625937**	**793203**
(c) Number of assessments pending finalisation as at the end of the year		
Arrear cases	1166556	1125439
Current cases	644518	586120

Remand cases	801	10
Total	**1811875**	**1711569**
(d) Yearwise break-up of pending cases is as under		
Up to 1997-98	315551	972201
1998-99	503247	253422
1999-2000	121899	320655
2000-2001	---	165291
Total	**1811875**	**1711569**

The above table shows that during the year, out of 1811875 arrear cases only 37.88 *per cent* cases were assessed and out of 692877current cases only 15.63 *per cent* cases were assessed. As on 31 March 2001, 1711569 cases were pending for assessment, out of which 198033 cases involved turnover of over Rs.50 lakh but not exceeding one crore and 95087 cases involved turnover of over Rs.1 crore and above in each case.

As against the requirement of staff of 524, in the cadres of Assistant Commissioner and Sales Tax Officer class I and II, for the assessment of sales tax cases, 392 posts only have been filled in leaving 25 percent posts in the above cadres vacant. Since Sales Tax is the major revenue of the State, Government may consider filling up the vacancies if necessary, by re-deploying staff from other departments.

1.7 Internal Audit

The Internal Audit in Sales Tax Department was constituted in May 1960. During 2000-2001, assessments of 8493 cases were revised at the instance of internal audit and additional demands of Rs.4.44 crore were raised.

Internal Audit was constituted in Entertainments Tax Department in February 1989 and in Motor Vehicles Tax Department in April 1992. During 2000-2001, 122 objections were pointed out by internal audit wing of Entertainments Tax Department and additional demands of Rs.2.22 crore were raised. Information regarding additional demands raised as a result of internal audit, though called for in April 2001, has not been furnished by Motor Vehicles Tax Department (July 2001).

1.8 Frauds and evasion of taxes

The details of cases of fraud and evasion of taxes pending at the beginning of the year, number of cases detected during the year and assessments/ investigations completed during the year and the number of cases pending

finalisation at the end of March 2001 as supplied by the respective departments are given below:

Sl. No.	Heads of revenue	Cases pending as on 31 March 2000	Cases detected during 2000-2001	Number of cases in which assessments/ investigations completed and demand raised		Number of cases pending as on 31 March 2001
				No. of cases	Amount of demand (Rs. in crore)	
1	Sales Tax	974	665	905	542.79	734
2	Stamp Duty and Registration Fees	544337	67887	162511	80.33	401665
3	Luxury Tax	12	68	66	0.86	14

1.9 Results of audit

Test check of records of Sales Tax, Land Revenue, Motor Vehicles Tax and other departmental offices conducted during the year 2000-2001 revealed under-assessments/short levy/loss of revenue aggregating Rs.1534.17 crore in 1225 cases. During the year the concerned departments accepted under-assessments etc. of Rs.136.49 crore (1914 cases) and recovered Rs.10.62 crore (1704 cases), of which Rs.0.17 crore (50 cases) were pointed out during 2000-2001 and the rest in earlier years.

This Report contains 49 paragraphs and 4 reviews involving Rs.1665.06 crore which illustrate some of the major points noticed in audit. Of these, the departments accepted audit observations amounting to Rs.130.52 crore and recovered Rs.5.75 crore. The departments did not accept audit observations involving an amount of Rs.1.54 crore but their contentions were found to be at variance with the facts or legal position. These have been commented upon in the relevant paragraphs.

1.10 Outstanding inspection reports and audit observations

(i) Audit observations on assessments, collection and accounting of receipts and defects noticed during local audit are communicated to the heads of offices and the departmental authorities through audit inspection reports. More important irregularities are also reported to the heads of departments and to the Government.

The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 2000, which were pending settlement by the

departments as on 30 June 2001 alongwith corresponding figures for the preceding two years are given below:

	As at the end of June		
	1999	**2000**	**2001**
Number of outstanding Inspection Reports	2953	3303	3667
Number of outstanding audit observations	8396	8600	9191
Amount of receipts involved (Rs. in crore)	558.27	872.69	1182.57

The departments (Revenue, Information, Broadcasting and Tourism, Finance, Home, Industries and Mines and Forest department) have not furnished even first replies in respect of 194 Inspection Reports issued during 2000 involving revenue of Rs.134.45 crore.

(ii) Yearwise break-up of the outstanding Inspection Reports and audit observations as on 30 June 2001 is as given below:

Year in which Inspection Reports were issued	**Number of outstanding**		**Amount of receipts involved (Rupees in crore)**
	Inspection Reports	**Audit observations**	
Upto 1997-98	2298	6120	559.38
1998-99	506	1013	163.37
1999-2000	526	1117	156.50
2000-2001	**337**	941	303.32
Total	**3667**	**9191**	**1182.57**

The above position was brought to notice of Secretaries to Government in the concerned departments from time to time.

CHAPTER - II

SALES TAX

2.1 Results of Audit

Test check of assessment records in various sales tax offices conducted in audit during the year 2000-2001 revealed under assessment of Rs.210.27 crore in 479 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1	Incorrect rate of tax and mistakes in computation	105	7.48
2	Incorrect grant of set off	42	0.91
3	Incorrect concession/exemption	23	7.01
4	Short levy of interest and penalty	151	29.59
5	Other irregularities	157	31.38
6	Review on Exemptions and concessions under Section 49(2) of the Act	1	133.90
	Total	**479**	**210.27**

During the year 2000-01, the department accepted under assessment of Rs.3.93 crore in 343 cases and recovered Rs.89.40 lakh in 268 cases, of which 39 cases involving Rs.11.51 lakh were pointed out during the year 2000-01 and the rest in earlier years. A few illustrative cases involving important audit observations and the results of a review on "Exemptions and concessions under Section 49(2) of the Gujarat Sales Tax Act, 1969" involving Rs.165.38 crore are given in the following paragraphs.

2.2 Exemptions and concessions under Section 49(2) of the Gujarat Sales Tax Act, 1969

2.2.1 Introductory

Under Section 49(2) of the Gujarat Sales Tax Act, 1969 (Act), the State Government is empowered to exempt, any specified class of sales or of specified sales or of purchases from payment of the whole or any part of the tax payable under the provision of this Act. In accordance with the various policies of Government and in order to grant assistance to specified class of persons, to promote new industries and to reduce heavy burden of tax on certain commodities in public interest, without having to undergo the lengthy process of approaching the State Legislature every time for this purpose, Government grants various concessions/exemptions from time to time by issue of notifications.

2.2.2 Organisational set-up

In Government, Finance Department is the controlling department which issues exemption notifications and the Commissioner of Sales Tax is head of the department. The State is divided into six divisions each headed by a

Deputy Commissioner of Sales Tax. The divisions are sub divided into circles each headed by Asstt. Commissioner of Sales Tax. Sales Tax units are supervised by Sales Tax Officers.

2.2.3 Scope of Audit

The Government, by issue of notifications under the power vested in them vide Section 49(2) of the Act, had given exemption/concessions etc, to different commodities from time to time by inserting 394 entries between the period from April 1970 and March 2001. Of these 236 entries were deleted upto March 2001, leaving 158 entries still operative as at the end of March 2001.

With a view to examining whether these notifications were issued in public interest, whether revenue impact was taken into consideration and whether the intended purpose was achieved and properly monitored, the impact of 20 notifications (Annexure) issued between May 1970 and April 1992 was test checked during June 2000 to October 2000, in the offices of Commissioner of Industries, Commissioner of Tourism, Commissioner of Sales Tax, in 23 out of 40 offices of Assistant Commissioner of Sales Tax and in 40 out of 139 offices of Sales Tax divisions covering the period from 1997-98 to 1999-2000. The results of the review are given in subsequent paragraphs.

2.2.4 Highlights

(1) Incorrect issue of notifications giving retrospective effect, to benefit a dealer contrary to Supreme Court's decision, resulted in loss of Rs.1.45 crore.

[Para-2.2.5]

(2) Incorrect remission allowed to 2 dealers resulted in loss of Rs.4.39 crore.

[Para-2.2.7]

(3) Benefit of concession availed of by the manufacturer though intended to benefit the purchaser, resulted in loss of Rs.76.57 crore.

[Para-2.2.12]

(4) Non fulfilment of condition of carpet area in the cases of tourism units resulted in incorrect grant of incentive of Rs.1.66 crore.

[Para-2.2.15]

(5) Non fulfilment of condition of increase in the licensing capacity after modernisation of the existing units resulted in incorrect grant of incentive worth Rs.9.11 crore.

[Para-2.2.16]

2.2.5 Incorrect grant of exemption by giving retrospective effect to notification.

Under the power vested under Section 8(5) of Central Sales Tax Act 1956, Government reduced the rate of tax leviable on vessels plying on water to 4 *per cent* as against the tax leviable @ 10 *per cent* without the production of Form "C" vide notification issued in May 1992.

Based on a request received from a dealer (ABG Shipyard Ltd) engaged in ship building business, Government by issue of a notification in December 1997, reduced the rate of tax on inter-State sales of the vessels for the period earlier to May 1992 also. The inter-State sales of vessels valued at Rs.24.10 crore of the above dealer made without Form 'C' during the period from April 1990 to May 1992 was assessed to tax @ 4 *per cent* accordingly, though it was leviable @ 10 *per cent*. The incorrect issue of notification reducing the rate of tax with retrospective effect, contrary to Supreme Court's decision[$], to benefit a single dealer, after the completion of his sales, resulted in loss of revenue of Rs.1.45 crore.

On this being pointed out, Government stated that retrospective effect to notification was given after obtaining legal opinion and also due to dealer's inability to produce 'C' form after a lapse of five years. Reply is not tenable since Supreme Court's decision would prevail over the legal opinion.

2.2.6 Incorrect grant of incentive for modernisation after the expiry of the scheme

With a view to extend incentives to the existing units, which had undertaken the modernisation, Government granted various incentives to such units vide a Resolution issued in January 1991, subject to fulfilment of various conditions stipulated in the said Resolution. The operative period of the scheme was from January 1991 to August 1995. The quantum of incentive benefit was based on capital investment made by the unit.

Three textile mills situated at Morvi and Vankaner had applied for incentive benefits under 1990-95 scheme for modernisation of the mills between September 1998 and March 1999. The State Level Committee rejected the applications, since the operative period of the scheme expired in August 1995. The High Level Empowered Committee sanctioned the incentive to these mills for a period of two years commencing from January 2000 onwards, exempting tax payable on all purchases and giving deferment benefit on all sales. Neither the capital investments made by the mills for the modernisation of the mills and the period of investment was taken into account nor any of the norms prescribed in the scheme was observed.

[$] Bakul Cashew Co. and Others v/s S.T.O. (62 STC 122)

The incorrect grant of exemption against the provisions of the scheme, to the ineligible units after the expiry of the scheme, resulted in undue benefit of Rs.75.02 lakh to these units (availed upto October 2000).

On this being pointed out, Government stated that High Level Empowered Committee formed by a Resolution issued by IMD#, decided to give benefit to the units and IMD issued Resolution in January 2000. The IMD did not produce the minutes of the High Level Empowered Committee though called for in October 2000 and reminded several times. Further, since there was no provision in the original scheme for constitution of such empowered committee, the question of taking decision on implementation of the scheme by such a committee does not arise.

2.2.7 Remission on account of incorrect notification

Under Section 55 of the Gujarat Sales Tax Act, 1969, Government, by order issued in public interest may remit the whole or any part of the tax, interest or penalty in case of double taxation or to redress an inequitable situation.

(i) A unit at Ahmedabad had availed of tax exemption benefit of Rs.5.89 lakh under entry 175 of Section 49(2) of the Act, exhausting the limit (Rs.5.89 lakh) by the end of March 1991. Another exemption of Rs.26.26 lakh was granted under the said scheme to the unit from 30 March 1993 (Date of commencement of production) onwards for expansion of the existing unit. The dealer was liable to pay tax of Rs.44.51 lakh including interest of Rs.11.53 lakh and penalty of Rs.17.10 lakh for the intervening period from 1991-92 to 1992-93 in respect of the goods manufactured from the machinery existing prior to expansion. Government, however, remitted (March 1998) Rs.28.62 lakh being interest and penalty payable by the dealer for belated payment of tax on the plea of the dealer that he had little knowledge about intricacies of sales tax exemption. Since ignorance of rules and procedures cannot be considered as a valid ground for granting remission of Government dues, the incorrect remission resulted in loss of revenue of Rs.28.62 lakh to Government.

On this being pointed out, Government stated that since the unit had made investment towards expansion prior to September 1993, did not collect tax on the assumption that exemption would continue. Remission was granted by them considering that recovery of interest and penalty from the unit would have resulted in iniquitous situation as the unit did not collect the tax. Reply is not tenable since the goods were manufactured from the existing machinery, and not from the expanded machinery, the incentive scheme for which was already expired, the dealer should have known about his tax liability. He should have collected the tax and paid to the Government.

(ii) A dealer (ABG Shipyard Ltd.), engaged in the shipbuilding business and manufacturing vessels at Magdalla, Surat, did not pay the tax for the period

Industries and Mines Department

from 1990-91 to 1994-95 on the assumption that he was not liable to pay any tax as advised by an eminent tax consultant. On completion of the assessment, the Sales Tax Officer, Surat raised a demand of Rs.12.93 crore including interest of Rs.2.93 crore and penalty of Rs.5.28 crore in July 1997. The dealer on receipt of demand represented for remission of these dues on the ground that he did not collect the tax on sales of vessels. Government accepting the request of the dealer issued orders (September 1997) under Section 55 of the Act remitting the amount of penalty of Rs.4.10 crore payable by the dealer. This resulted in loss of Rs.4.10 crore to exchequer.

On this being pointed out, the Government stated that remission was allowed on the ground that the dealer had not collected the tax on its sale and agreed to pay tax if penalty is remitted. Further, the settlement also led to early recovery of dues of the Government. Reply is not tenable since the dealer could have taken recourse to Section 62 and ascertained his tax liability.

2.2.8 Non fulfilment of condition of notification

(a) As per entry 175 of notification issued under Section 49(2) of the Act, the tax saved on sales/purchases of goods is to be adjusted against the ceiling limit. Further, as held by Hon. Supreme Court*, the penultimate sale made against Form "H" to the exporter would be exempted from payment of tax provided the goods were exported by the purchaser in the same form in which these were purchased.

(i) A scrutiny of records of 12 Sales Tax Offices revealed that dealers availing of incentive benefit under the above notification had sold raw castor oil against Form "H" to the exporter between the periods 1991-92 and 1996-97 (finalised between the period April 1992 and January 2000) for export. These sales were allowed tax free in their assessments though the exporters had exported the oil after carrying out the process of refining, instead of in the raw form. Since the oil was not exported in the same form in which it was purchased, the deduction allowed to the penultimate sale from levy of tax was not admissible. Incorrect allowance of deduction resulted in excess grant of exemption benefit of Rs.2.85 crore.

(ii) During test check of records of 5$ Sales Tax Offices, it was noticed (between February 1995 and September 2000) in the assessment of 9 dealers for the periods between 1990-91 and 1997-98 (finalised between August 1993 and March 2000) that in 6 cases, penultimate sales of goods *viz.*, raw castor oil and raw hides and skins made against Form "H" was not exported in the same form in which it was purchased but was exported after carrying out the process of refining and dressing, in 2 cases goods (De oil cakes and garments) claimed to have been exported against Form "H" were actually resold in the State and deduction of sales of goods allowed to one dealer as "high sea sales" was actually found to be sale of imported goods. The incorrect deductions allowed in the above cases resulted in non-levy of tax of Rs.2.44 crore.

---

* Vijayalakshmi Cashew Co. and others V/s Tax Officer (under Section STC-571).

$ Bharuch, Gondal, Jamnagar, Junagadh and Vadodara.

The above cases were pointed out to the department between February 1995 and November 2000. The department accepted (between August 1999 and February 2001) the audit observations involving an amount of Rs.2.25 crore in 5 cases and recovered Rs.0.77 lakh in one case. Further details of recovery and reply in the remaining cases have not been received (October 2001).

(b) Government by issue of a notification (May 1996) under entry 68, exempted purchase tax payable under Section 15-A on the purchases of unrefined edible oil or washed cotton seed oil if used in the manufacture of refined edible oil subject to condition that the refined edible oil so manufactured should be sold within the State and tax should have been paid @ 3 *per cent* vide notification issued in July 2000.

During test check of records of 5 dealers[#] for the period from May 1997 to December 1999 it was noticed that no purchase tax was levied on the purchase of washed cotton seed oil valued at Rs.36.54 lakh though the dealer had paid tax @ 2 *per cent* instead of 3 *per cent* on the refined edible oil sold. This resulted in short levy of Rs.66.43 lakh including interest and penalty.

(c) According to the notification issued in April 1993 under Section 49(2) of the Act, the tax leviable on oil seeds was reduced to one *per cent* if the seeds purchased are used in the manufacture of edible oil and sold within the State. In the event of breach of these conditions tax was leviable @ 4 *per cent*.

On scrutiny of the records of Assistant Commissioner Range-I, Ahmedabad, it was noticed in the assessment of a dealer for the period 1993-94 (finalised in October 1999) that though the intention of the notification was to give the benefit to the dealer when he sold the oil within the State, the benefit was incorrectly allowed to a dealer who had consigned the oil valued at Rs.6.97 crore outside the State. This resulted in short levy of Rs.33.86 lakh.

2.2.9 Conflicting effect of notification

Government by issue of notifications (April 1991 and October 1991) vide entries 253 and 254 under Section 49(2) of the Act and further as clarified by Commissioner of Sales Tax, reduced the tax on sales of all items of brass parts and purchases of goods against Form-19, used in the manufacture of items of brass parts to 4 *per cent* and 1.2 *per cent* respectively. Accordingly, tax is leviable as per above notification on purchases of raw material and sales of finished products of brass parts falling under different entries of Schedules.

During test check of records of Sales Tax Officer, Jamnagar, it was noticed in the assessment of six dealers engaged in the manufacture of different types of brass parts, for the periods between 1992-93 and 1996-97 (finalised between July 1997 and 2000) that the brass parts manufacturers were paying tax either at the rate as per above notification or at the rates as per different Schedule entries whichever was lower. The incorrect application of rate whichever was

[#] Two of Rajkot and one each of Himatnagar, Mehsana and Sidhpur.

beneficial to the brass parts manufacturer resulted in short levy of Rs.25.68 lakh as detailed below.

(i) Sales of stove valve made of brass valued at Rs.20.26 lakh by the brass parts manufacturer was allowed as tax free considering as stove parts falling under Schedule-I though as per above notification sales of all items of brass parts were leviable to tax at the rate of 4 *per cent*. However, purchase tax on the goods used in the manufacture of above items was levied at the rate of 1.2 *per cent* as per above notification (normal rate 2.4 *per cent*).

(ii) Similarly sales of cycle tube valves made of brass valued at Rs. 80.94 lakh sold by the brass part manufacturer were levied to tax at the rate of 1 *per cent* considering the same as cycle parts as against 4 *per cent* leviable as per the above notification. However, purchase tax on the goods used in the manufacture of above items was levied @ 1.2 *per cent* as per above notification. The issue of notification only resulted in disparity in the application of rates of tax on different items of brass parts.

2.2.10 Incorrect continuance of notification

As per the directive of the Government of India, the Government by issue of a notification in January 1992 (entry 254-A) under Section 49(2) of the Act, exempted the sales of Exim scrips from levy of tax. Though the Exim scrip was replaced by Government of India by introducing other types of import licences in April 1992, the said entry 254 -A was deleted by the Government only from December 1999.

During test check of records of Dy. Commissioner of Sales Tax (Enforcement Wing), it was noticed that no tax was paid by 125 dealers on the sales of different types of licences *viz.*, import licences, SIL, AL and DEPB etc, claiming the same as Exim scrips (though taxable). Though tax was recovered on these sales during raid, penalty amounting to Rs.3.38 crore (not exceeding one and half times the amount of tax) for evasion of tax was not levied resulting in short levy of Rs.3.38 crore. Had the Government deleted the above notification of exemption immediately on withdrawal of Exim scrips by Government of India in February 1992, the evasion of tax by dealers on different types of import licences could have been avoided.

On this being pointed out, the Government stated that exemption to Exim scrip was given on being clarified (December 1991) by Government of India that Exim scrips were only authorisation letters and were different from import licence. This exemption notification was withdrawn in December 1999 after ensuring that the different import licences issued in replacement of Exim scrip did not contain the same characteristics as of Exim scrips. Since it was already clarified by Government of India that Exim scrip was different from import licence, seven years spent in examining the issue could have been avoided.

2.2.11 Non levy of purchase tax on account of breach of recitals of declaration

According to entry 86 of notification issued under Section 49(2) of the Act, the iron and steel of the type described in entry 5 of Schedule-IIA purchased against Form "LL" should be used in the manufacture of iron and steel of any other type described in the said entry for sale within the State. In the event of breach of recitals of declaration, purchase tax under Section 50 of the Act was leviable.

(i) During test check of records of Assistant Commissioner, Ahmedabad and Sales Tax Office Bhavnagar, it was noticed in the assessment of 3 dealers for the periods between 1995-96 and 1996-97 (finalised between September 1998 and August 1999) that iron scrap miled steel falling under sub entry 1 valued at Rs.26.67 crore purchased against Form "LL" were used in the manufacture of ingot falling under the same sub-entry. For breach of recitals of declaration, purchase tax of Rs.1.83 crore though leviable, was not levied.

On this being pointed out, the department stated (September 2000) that the goods purchased and goods manufactured do not fall under the same sub entry. The reply of the department is not tenable since the iron scrap purchased and ingot manufactured fall under the same sub entry .

(ii) During test check of records of 8* Sales Tax Offices, it was noticed (between May 1998 and November 2000) in the assessments of 12 dealers for the periods between 1991-92 and 1996-97 (finalised between August 1997 and March 2000) that the iron and steel valued at Rs.23.00 crore purchased against Form "LL" was used by 10 dealers in the manufacture of goods falling under the same sub-entry under which the raw material purchased was falling and one dealer sold the manufactured goods out side the State. Further, purchases of granuals valued at Rs.6.52 lakh against Form 34 were sold by one dealer tax free against Form "PP". For breach of recitals of the declarations, purchase tax of Rs.4.68 crore though leviable, was not levied.

This was pointed out to the department between August 1999 and November 2000. The department accepted (August 2000) the audit observation involving an amount of Rs.0.32 lakh in one case. The recovery details and reply in the remaining cases have not been received (October 2001).

2.2.12 Purpose of granting concession not fulfilled

As the rate of tax on resins/granuals of PVC, HDPE, LDPE etc. being high (14%) in the State as compared to neighbouring States, the same was reduced to 3 *per cent* by a notification issued in March 1993. This was done based on a request received from the plastic manufacturers association on the plea that State was losing revenue on PVC granuals due to plastic manufacturers purchasing the granuals at lower rate of tax from out side the State.

* 3 of Bhavnagar, 2 of Rajkot and one each of Ahmedabad, Jamnagar and Kadi.

It was, however, noticed that only two units (Reliance Industries and Gandhar Petrochemical Complex) in the State were engaged in the manufacture of resins/granuals of PVC etc. and the sale of the granuals so manufactured was tax free, since both the units were enjoying sales tax exemption benefits. As plastic granuals were available tax free in the State, the ground on which the notification was issued reducing the rate of tax was not found correct. The issue of notification without scrutinising the correctness of the facts resulted in loss of revenue of Rs.76.57 crore during 1994-95 and 1996-97 on a turnover of Rs.696.13 crore.

On this being pointed out, the Government stated (July 2001) that since incentive benefit holders are not eligible for getting any deduction against any declaration their ceiling limit were not adjustable at concessional rate. Government's reply is not tenable since as per assessment file the ceiling limit of the dealer was found reduced applying tax at the rate of 3 *per cent* only.

2.2.13 Loss due to insertion of condition in the notification

To avoid tax evasion due to high rate of tax in the State, the Government by issue of a notification (August 1995) under Section 49(2) of the Act (entry 54) reduced the tax leviable on tea to 4 *per cent*, when sold loose in bulk of 20 kgs. and above. To avail the benefit of the above notification, the dealers engaged in tea business had sold the tea, purchased from out side the State, to their sister concerns after paying the tax at the rate of 4 *per cent*. The tea was then sold in smaller packets under different trade marks by the sister concerns as RD resales (without any tax), though the units had incurred huge expenditure on the cost of packing materials, trade marks etc.

Test check of assessment records of two dealers (Duncans Tea Ltd. and Jivraj and Co.) of Ahmedabad and Surat revealed that they had purchased loose tea valued at Rs.105.15 crore from their sister concerns during 1995-96 to 1998-99, after paying tax at the rate of 4 *per cent* and sold it as RD resales after packing it in small packages. No tax could be levied on the cost of packing materials (Rs.18.97 crore) and trade mark (Rs.11.34 crore) included in the sale value of the tea packets, since it was allowed as RD resale. Prior to the issue of the above notification, the tax was levied on the entire cost as the tea was sold after packing. By restricting the concession of the above notification only in respect of bulk sales, Government lost revenue on the cost of packing materials, royalty, profit etc. This resulted in loss of revenue of Rs.3.64 crore in the case of two dealers alone.

On this being pointed out, the Government stated (July 2001) that tax on tea was reduced to curb the tax evasion by all whole sellers, and further sales turnover of tea declared had increased during 1996-97 resulting in realisation of more tax. No specific reply about losing revenue on packing materials and other items were given.

2.2.14 Incorrect allowance of concessional rate of tax

Tax on various goods is leviable at the rate prescribed in the Schedules to the Act. The Government by issue of notifications under Section 49(2) of the Act, may exempt any goods from payment of the whole or any part of the tax payable under the provisions of the Act.

During test check of records of Assistant Commissioner Surat and 10* Sales Tax Offices, it was noticed (between April 1998 and July 2000) in the assessment of 16 dealers for the periods between 1992-93 and 1997-98 (finalised between October 1996 and January 2000) that sales valued at Rs.18.88 crore of pattas, plastic scrap, pvc compound, rubble, metals, mustard seeds, X-ray photo goods and medicines etc, were incorrectly taxed at concessional rate. The incorrect application of concessional rate resulted in short levy of tax of Rs.1.05 crore as detailed below:

(Rupees in crore)

Sr. No.	No. of dealers (location)	Taxable Turnover	Short levy	Nature of irregularity
1	6 dealers (Ahmedabad)	14.72	0.55	As per entry 250 of notification issued under Section 49(2) of the Act, sales of flats and sheets of stainless steel were leviable to tax at the concessional rate of 1 *per cent* but sales of pattas manufactured from flats were levied at concessional rate.
2	6 dealers (3 of Ahmedabad and 1 each of Godhra, Vadodara and Vapi)	2.42	0.32	As per entry 10 of the notification, granuals or resins or PVC, HDPE, LDPE etc. were eligible for concessional rate whereas sales of PVC compound, plastic scrap, granuals made out of plastic scrap etc. were levied at concessional rate.
3	1 dealer of Surat	1.23	0.16	As per entry 74 of the notification, sales of sand, grit and gravel etc. were leviable to tax at the rate of 4 *per cent* whereas sales of rubble and metals were levied to tax at concessional rate.
4	3 dealers (2 of Ahmedabad and 1 of Sidhpur)	0.51	0.02	Sales of mustard seeds against Form 26 to an incentive holder, medicines sold against invalid Form 17A and sales of X-ray photo goods made to Employees State Insurance Corporation against Form PP (though available only to Government departments) were levied incorrectly at concessional rate.
	Total	**18.88**	**1.05**	

* 6 of Ahmedabad and 1 each of Godhra, Sidhpur, Vadodara and Vapi.

The above cases were pointed out to the department between June 1998 and August 2000. The department accepted (December 2000) the audit observation involving an amount of Rs.0.38 lakh in respect of one case at sr. no.2 and recovered the amount. Reply in respect of remaining cases has not been received (October 2001).

2.2.15 Incorrect exemption under tourism policy

Government by issue of a notification in December 1995 introduced an incentive scheme (1995-2000) to boost tourism in the State. Under this scheme, different tourism units such as hotel, motel etc. were eligible for sales tax exemption subject to the conditions laid down in the scheme. A few illustrative cases where such conditions had been violated are given below.

(A) As per condition No. 3 of the Annexure-B of the scheme eligible hotel units should have minimum of 10 rooms and each of the double/single room of the hotel should have minimum carpet area of 12 and 10 sq.mtrs respectively.

During scrutiny of records of Director of Tourism, it was noticed that 3 hotel units of Morvi, Porbandar and Vapi were granted incentive benefit of Rs.2.72 crore based on the total capital investment made by the units. It was, however, noticed that though 60 out of 98 double rooms constructed by the hotel units did not satisfy the condition of minimum requirements of carpet area, the incentive benefit was granted on the total capital investments of Rs.2.74 crore made by the units. This resulted in excess grant of benefit of Rs.1.34 crore for the expenditure incurred on ineligible rooms.

On this being pointed out, the department replied that since the condition of minimum criterion of 10 rooms was satisfied the exemption granted was correct. The reply is not tenable, since the minimum criterion of 10 room was only to decide the eligibility of incentive benefit, the expenditure incurred on the rooms not satifying the requirement of carpet area was not eligible for incentives.

(B) As per condition No. 4 of the Annexure-B of the scheme, the incentive benefit was admissible to a motel only if it is located in a plot having minimum of 1500 sq. mtrs. of land.

A motel at Saputara located in a plot of 1339.29 sq. mts. of land was given sales tax incentive benefit of Rs.31.67 lakh from September 1998. This resulted in incorrect grant of benefit of Rs.31.67 lakh.

2.2.16 Non fulfilment of condition of modernisation

According to condition prescribed in the notification issued in January 1991, under the incentive scheme 1990-95 for modernisation of existing units, the

new investment towards modernisation must result in increase by 25 *per cent* or more in the licenced capacity of the unit as it existed prior to modernisation.

A textile unit (Asarwa Mill) at Ahmedabad was granted sales tax incentive benefit of Rs.9.11 crore in December 1993 for modernisation of it's existing unit. Though there was no increase in the licenced capacity of 48,484 ring spindles of the unit after modernisation, no action was taken by the department to withdraw the incentive of Rs.9.11 crore.

On this being pointed out, the department replied that though, at the time of announcement of the scheme, Licensing Policy was in existence, incentive benefit was allowed based on production capacity. The Department's reply is not tenable since there is no increase in production capacity also.

The above matter was demi-officially forwarded to the Principal Secretary to the Government (May 2001) for reply within six weeks. The matter was followed up with reminders (May/June 2001). However, inspite of such efforts, no reply was received from the Principal Secretary (October 2001).

2.3 Incorrect grant of exemption under incentive

According to sales tax incentive schemes, a specified manufacturer is exempted from payment of sales tax/purchase tax in respect of goods manufactured by him subject to conditions laid down in the respective schemes. The tax so saved is adjusted against the ceiling limit fixed in respect of each specified manufacturer with reference to capital invested by him. A few illustrative cases where such conditions had been violated are given below:

(a) Under the scheme, the units are eligible for the benefit of exemption or deferment of tax only in respect of goods manufactured by them for which eligibility certificate is issued by the Industries Department.

During test check of records of Assistant Commissioner, Ahmedabad and 3* Sales Tax Offices, it was noticed (between August 1999 and September 2000) in the assessment of 4 dealers for the periods between 1991-92 and 1996-97 (finalised between September 1997 and November 1999) that the benefit of incentive was incorrectly allowed in respect of the products which were not included in the eligibility certificates. This resulted in excess grant of exemption of Rs.77.31 lakh.

(b) Under the scheme, the eligible units are permitted to purchase raw materials after paying tax at the rate of 0.25 *per cent* and the balance of tax saved on purchases with reference to different rates as laid down in the Schedules to the Act is adjusted against the ceiling limit. Similarly tax saved on sale of manufactured goods is also adjusted against the ceiling limit.

During test check of records of 8# Sales Tax Offices, it was noticed (between June 1998 and May 2000) in the assessment of 9 dealers for the periods

* Ankleshwar, Rajkot and Vadodara.

\# 2 of Ahmedabad and 1 each of Gondal, Junagadh, Kadi, Khambhat, Mehsana and Vadodara.

between 1991-92 and 1998-99 (finalised between June 1997 and March 2000) that tax saved on purchases valued at Rs.6.00 crore against declarations was not adjusted against the tax exemption limit at correct rate in 5 cases, tax was calculated at incorrect rate on sales of cement, pvc tubings, intra venus sets and granuals (valued at Rs.74.24 lakh) in 3 cases and tax on consignment sales valued at Rs.5.08 lakh was not adjusted against the ceiling limit in one case. This resulted in short levy of tax of Rs.30.93 lakh.

The above cases were pointed out to the department between December 1998 and November 2000. The department accepted the audit observation involving an amount of Rs.2.49 lakh in 5 cases and recovered the amount by adjusting against the ceiling limit. Reply in the remaining cases has not been received (October 2001).

2.4 Non/short levy of purchase tax

(a) Under the Act, where a dealer purchases any taxable goods (other than declared goods) and uses them as raw materials in the manufacture of taxable goods, purchase tax at the prescribed rate is leviable. The purchase tax so levied can be claimed as refund under Rule 42E of the Gujarat Sales Tax Rules, 1970, provided the manufactured goods are sold within the State and tax is paid on its sale.

During test check of records of Assistant Commissioner Junagadh and Surat and 6* Sales Tax Offices, it was noticed (between January and November 2000) in the assessment of 9 dealers for the periods between 1988-1989 and 1997-98 (finalised between April 1989 and October 1999) that in 5 cases, the dealers had transferred 10 to 42 *per cent* of the manufactured goods to their branches or consigned outside the State, 3 dealers used 74 to 100 *per cent* of the raw material purchased by them in job work and 1 dealer used 100 *per cent* of the material purchased in works contract but purchase tax was either levied short or not levied. This resulted in non/short levy of Rs.94.67 lakh.

(b) Under the Act, tax is leviable at the rate of 4 *per cent* on sale or purchase of all kinds of oil seeds and oil cakes. The tax leviable on oil seeds other than groundnuts and peanuts was reduced to 2 *per cent* from 2 December 1991 on purchases by an oil miller, if the oil seeds are used by him in the manufacture of edible oil for sale within the State.

During test check of records of Assistant Commissioner Junagadh and Sales Tax Office Dhoraji, it was noticed (January and February 2000) in 5 assessments of 3 dealers for the periods between 1994-95 and 1997-98 (finalised between December 1998 and March 1999) that tax was levied at incorrect rate of 2 *per cent*, as against 4 *per cent* leviable, on purchases of oil seeds in 2 cases though the dealers had consigned 10 *per cent* of the oil extracted from the oil seeds. Further, the purchases of oil cakes, claimed by 2 dealers as inter-State purchases, were not found genuine during cross check by

* 2 of Ahmedabad and 1 each of Dhoraji, Junagadh, Rajkot and Surendranagar.

Dy. Commissioner of Sales Tax, Bhavnagar. Though these purchases were required to be disallowed and levied to purchase tax treating it as purchases from un-registered dealers, as per the instructions (July 1998) of Dy. Commissioner of Sales Tax Bhavnagar, no purchase tax was levied on these purchases. This resulted in short levy of purchase tax of Rs.55.52 lakh.

2.5 Incorrect allowance of deduction

(a) Under the Act, the sales of goods falling under Schedule-I to the Act, resale of tax paid goods purchased from a registered dealer and the sales made on certain declarations are allowed without payment of tax subject to fulfilment of prescribed conditions. Such sales and purchases are deducted from gross turnover to compute taxable turnover.

During test check of records of Assistant Commissioner Ahmedabad and 12* Sales Tax Offices, it was noticed (between August 1996 and August 2000) in the assessments of 16 dealers for the periods between 1992-93 and 1998-99 (finalised between October 1995 and March 2000) that claims of deductions were incorrectly allowed from the gross turnover. This resulted in non-levy of tax of Rs.3.08 crore as detailed below:

(Rupees in crore)

Sr. no.	No. of dealers	Period of assess-ment	Date of assess-ment	Nature of irregularity	Taxable turnover	Short levy
1	9	1993-94 and 1997-98	April 1999 to January 2000	Rayon or artificial silk including HDPE fabrics were included in Schedule I making it tax-free subject to condition that additional excise duties were levied on these fabrics. Though additional excise duties on these fabrics were withdrawn from 1993-94, no tax was levied on the sales of H D P E fabrics.	13.56	2.96
2	1	1992-93	24 Sep-tember 1996	Inter-State sales of any goods made to UNICEF for the purpose of official use of the said fund was exempted from tax vide Government's notification issued in November 1975, whereas sales of teflon wires made to World Bank (International Bank for Reconstruction and Development) were incorrectly allowed as tax free.	0.17	0.05

* 5 of Ahmedabad, 3 of Mehsana and 1 each of Bharuch, Godhra, Rajkot and Surendranagar.

3	4	1994-95 and 1995-96	Between Septem-ber 1997 and Decem-ber 1998	Sales made against declarations in Form 17A were incorrectly allowed as deductions though it was leviable to tax at the rate of 4 *per cent* from 1 April 1994 onwards.	0.95	0.06
4	2	1993-94 and 1994-95	January 1998 and March 1999	Sale of leather belts made out of purchases of raw hides and skin was allowed as tax free in one case though as per **Supreme Court's decision it was taxable. In the other case sales of pvc pipes was allowed as R.D. resale though there were no purchases from registered dealer.	0.21	0.01
		Total			**14.89**	**3.08**

The above cases were pointed out to the department between November 1996 and October 2000. The department accepted the audit observations involving an amount of Rs.3.01 lakh in two cases (Sr.no.3) and recovered Rs.2.20 lakh. The department did not accept the audit observation in respect of item at sr. no.1 above stating that any changes made in Central Excise would not automatically apply. Reply is not acceptable since the item was tax free subject to fulfilment of the condition of levy of additional excise duties. Further, consequent to its classification in Chapter 39 of Central Excise Act from 1 April 1993, HDPE fabrics are classifiable as "articles made of plastics" and leviable to tax accordingly. Reply in respect of remaining cases has not been received (October 2001).

(b) Under the Act, the sales made against certain declarations are allowed without payment of tax subject to fulfilment of prescribed conditions. Such sales and purchases are deducted from the gross turnover to compute taxable turnover. Sales of prohibited goods* against declaration are not permissible.

During test check of records of 10# Sales Tax Offices, it was noticed (between February 1998 and September 2000) in the assessment of 11 dealers for the periods between 1990-91 and 1997-98 (finalised during March 1997 and December 1999) that sales of prohibited goods *viz.*, p.v.c.resins and compound, thinner, electric motor, chemical, plastic granuals, dyes, machinery parts and oil seeds valued at Rs.14.27 crore made against declaration in Form 19 were incorrectly allowed as deductions from the sales turnover. This resulted in non-levy of tax of Rs.2.15 crore.

This was pointed out to the department between June 1999 and September 2000. The department accepted (June and October 2000) the audit observations involving an amount of Rs.5.09 lakh in two cases and recovered

** M/s KAK Anwar Vs. State of Tamil Nadu (STC-258 (SC)

* Goods which are notified as prohibited for certain purposes.

\# 6 of Ahmedabad and 1 each of Bharuch, Dahod, Vadodara and Vapi.

Rs.0.91 lakh in one case. Recovery details and reply in the remaining cases have not been received (October 2001).

(c) Under the powers vested vide Section 55 of the Act, Government remitted (January 1996) the tax payable by a trust situated at Ahmedabad, on the purchases of pipe fittings to be utilised for carrying out water supply project through it's branch at Andhra Pradesh provided the amount saved by tax remission was utilised by the trust on water supply or any other public welfare activities within the State.

During test check of records of Sales Tax Office Ahmedabad, it was noticed (August 1998) in the assessment of a dealer for the period 1995-96 (finalised in April 1997) that the sales were incorrectly allowed as deduction as tax free though as per Government orders the tax payable was required to be given as remission only on fulfilment of the condition. Since the amount of tax saved was not utilised by the trust for any welfare activities in Gujarat, it was not eligible for any tax remission. This resulted in non-levy of tax of Rs.6.06 lakh.

2.6 Application of incorrect rate of tax

Under the Act, tax is leviable at the rates as indicated in the Schedules to the Act. However, where goods are not covered under any of the Schedules, general rate of tax applicable from time to time is leviable.

During test check of records of Dy. Commissioner, Flying Squad, Ahmedabad, Assistant Commissioner, Ahmedabad and 11* Sales Tax Offices, it was noticed (between December 1998 and November 2000) in the assessment of 15 dealers (M/s S.H.Varakhwala and 14 others) for the periods between 1988-89 and 1998-99 (finalised between April 1993 and February 2000) that sales valued at Rs.10.25 crore of cotton yarn, chassis of motor vehicles, wooden scrap, leather scrap, machinery and equipments, empty tins, menthanol, washed cotton seed oil, polyester films, silver varakh etc. were taxed at incorrect rates. This resulted in short levy of Rs.1.46 crore.

The above cases were pointed out to the department between October 1999 and December 2000. The department accepted (November 2000 and January 2001) the audit observations involving an amount of Rs.2.67 lakh in three cases and recovered Rs.1.41 lakh in one case and did not accept (April 2001) the objection in one case involving an amount of Rs.0.69 lakh stating that polyester film is leviable to tax as article of plastic only. Reply of the department is not tenable since the goods were classifiable under residual entry as per determination# under Section 62. Reply in respect of remaining cases has not been received (October 2001).

---

* 3 each of Ahmedabad and Vadodara and 1 each of Bharuch, Godhra, Gondal, Surat and Surendranagar.

\# D-91-92-3-246-D

2.7 Non/short levy of tax on works contract

Under the Act, a dealer engaged in works contract is permitted to pay in lieu of tax, a lump sum by way of composition, at the rate fixed by Government from time to time on the total value of the contract. The rate of lump sum tax was 2 *per cent* upto 31 March 1993. It was revised from April 1993 prescribing different rates for different types of works contracts with reference to the type of materials used in the contract.

During test check of records of 6* Sales Tax Offices, it was noticed (between December 1997 and January 2000) in the assessment of 7 dealers for the periods between 1989-90 and 1997-98 (finalised between November 1996 and December 1998) that instead of levying tax at the rate of 2 *per cent* on the entire value of the contract, tax was levied after deducting labour and professional charges in one case. No tax was levied in another case treating it as job work though the value of materials used in the work exceeded 15 *per cent*. In another case though the dealer had not exercised any option, the case was regulated by charging composite tax at 2 *per cent*. The sales of thermocal and insulation materials were incorrectly treated as works contract instead of treating it as sales in 2 cases. The works contract for fabrication, installation and construction of power supply of 2 dealers were incorrectly levied at 2 *per cent* treating it as civil work instead of levying tax at the rate of 5 and 12 *per cent* respectively. This resulted in short levy of tax of Rs.1.39 crore.

2.8 Incorrect/excess grant of set-off

(a) Under Rule 42E, set off of purchase tax levied under Section 15B of the Act is admissible when the goods so manufactured are sold in the State. When the goods so manufactured are transferred to the branches/consigned outside the State, used in jobwork etc., proportionate set off to the extent of the goods not sold is required to be disallowed.

During test check of records of Assistant Commissioner, Rajkot and 5@ Sales Tax Offices, it was noticed (between January and September 1999) in the assessments of 6 dealers for the periods between January 1987 and April 2000 (finalised between August 1995 and March 1999) that though the dealers had transferred the manufactured goods to their branches outside the State, used in jobwork, the set off to that extent was not disallowed. Further, in one case set off under Rule 44 was allowed in respect of purchases made after the sale of goods. This resulted in excess grant of set off of Rs.69.16 lakh.

This was pointed out to the department between February and October 1999. The department accepted the audit observation involving an amount of Rs.0.43 lakh in one case. Recovery details and reply in the remaining cases have not been received.

* 3 of Ahmedabad and 1 each of Ankleshwar, Vadodara and Valsad.
@ 2 of Vadodara and 1 each of Ahmedabad, Rajkot and Surat.

(b) Under Rule 42 of Gujarat Sales Tax Rules, 1970, a dealer, who has paid tax on the raw materials used in the manufacture of taxable goods is allowed set-off at the rate applicable to the respective goods provided tax is paid on it's sale. Further, no set-off is admissible for tax paid on the purchases of "prohibited goods". As per the conditions prescribed under the Rules, 4 *per cent* of the sale price of the manufactured goods consigned/branch transferred outside the State is to be deducted from the set-off arrived at.

During test check of records of Assistant Commissioner Ahmedabad and Surat and 10[$] Sales Tax Offices, it was noticed (between February 1997 and October 2000) in the assessment of 13 dealers for the periods between 1987-88 and 1997-98 (finalised between April 1995 and March 2000) that set-off was incorrectly allowed on the purchases of hand tools and ice which were not raw materials used in the manufacture of goods in 2 cases and on prohibited goods like insulated winding wire, machinery parts, industrial solvent, master batch of granuals, capacitor etc. in 5 cases. Further, excess set off was allowed though the manufactured goods were sold tax free in one case and incorrect rate was applied in three cases. In another 2 cases, 4 *per cent* of sale price of the manufactured goods was not disallowed though the dealers had transferred the manufactured goods to their branches outside the State. This resulted in excess grant of set-off of Rs.12.31 lakh.

This was pointed out to the department between May 1997 and November 2000. The department accepted (between December 1999 and May 2001) the audit observations involving an amount of Rs.8.13 lakh in four cases and recovered the amount. Reply in the remaining cases has not been received (October 2001).

2.9 Non-levy of tax

Under the Act, goods of incorporeal or intangible character like patents, trade marks, import license etc. are chargeable to tax at the rate of 4 *per cent*. Similarly, sales by transfer of right to use the goods specified in Schedule III, is chargeable to tax at the rates prescribed in the Schedule.

During test check of records of 6[*] Sales Tax Offices, it was noticed (between January 1995 and October 2000) in the assessments of 6 dealers for the periods between 1990-91 and 1997-98 (finalised between July 1993 and February 2000) that premium of Rs.5.67 crore received on sale of REP license, import license and trade mark of brand name etc. in 5 cases and specified sales *viz.*, lease rent of Rs.11.73 lakh received by one dealer, though leviable to tax at the rate of 4 *per cent*, no tax was levied. This resulted in non-levy of tax of Rs.78.68 lakh.

The above cases were pointed out to the department between March 1999 and January 2001. The department accepted (August 1999) the audit observation involving an amount of Rs.1.30 lakh in 1 case and raised the demand. Further

[$] 6 of Ahmedabad, 3 of Vadodara and 1 of Surat.
[*] 3 of Ahmedabad and 1 each of Bhavnagar, Godhra and Petlad.

details of recovery and reply in the remaining cases have not been received (October 2001).

2.10 Non/short levy of tax due to mis-classification of goods

Under the Act, tax is leviable at the rates as indicated in the Schedules to the Act, depending upon the classification of goods. However, where goods are not covered under any of the Schedules, general rate of tax applicable from time to time is leviable.

During test check of records of Assistant Commissioner Ahmedabad and Bhavnagar and 14* Sales Tax Offices, it was noticed (between January 1998 and October 2000) in the assessments of 19 dealers for the periods between 1990-91 and 1997-98 (finalised between December 1993 and October 1999) that inspite of specific decisions/orders available for classification, sales of various goods valued at Rs.3.93 crore and purchases valued at Rs.9.22 lakh were mis-classified. This resulted in non/short levy of tax of Rs.32.92 lakh as detailed below:

(Rupees in lakh)

Sl. No.	No. of dealers location	Name of commodity	Rate of tax leviable %	Rate of tax levied %	Amount of short levy	Nature of irregularity
1	11 dealers (3 of Ahmedabad, 2 of Vadodara and 1 each of Anand, Bhavnagar, Himatnagar, Kalol, Palanpur, Rajkot and Vapi	Sealing devices, fibre glass, plastic cups, copper rod, cassaroles, dry ice, sprinklers, tobacco, sewing machines, iron frames of doors and windows.	14	Between 5 and 10	17.45	Though the items were leviable to tax at the rate of 14 *per cent* under general entry, tax was levied at lower rate.
2	1 dealer (Bhavnagar)	Food colours	13	5	09.24	Food colours were mis-classified as dyes and colours instead of food stuff.
3	2 dealers, (Junagadh)	Gear box	8	6	03.76	Spare parts and accessories of machinery covered under entry 39 of Schedule IIA though leviable

* 3 of Ahmedabad and 1 each of Anand, Bhavnagar, Himatnagar, Junagadh, Kalol, Palanpur, Petlad, Rajkot, Surat, Vadodara and Vapi.

						to tax @8% were incorrectly levied at 6 *per cent.*
4	1 dealer (Assistant Commissi-oner, Ahmedabad)	Jivika Khatar	7	Nil	01.43	Sales of pesticides were incorrectly allowed as tax free treating the goods as fertilizer.
5	1 dealer (Ahmedabad)	Nut, bolt and strud of specific designs	7	--	00.70	Machinery parts being prohibited goods were sold tax free against declaration in Form 19.
6	1 dealer (Surat)	Aluminium conductor	15	14	0.34	Aluminium conductor was levied to tax under residual entry though leviable to tax as electrical goods.
		Total			**32.92**	

The above cases were pointed out to the department between March 1998 and November 2000. The department accepted (between August 1999 and April 2001) the audit observations involving an amount of Rs.14.43 lakh in 8 cases (Sr. nos.1, 2 and 5) and recovered Rs.4.49 lakh in 6 cases (Sr. nos.1 and 5). Further details of recovery and reply in the remaining cases have not been received (October 2001).

2.11 Short levy of Central Sales Tax

Under Section 8(1) and 8(4) of the Central Sales Tax Act, 1956, production of `C' form is mandatory for availing the benefit of concessional rate of tax. In the event of failure to produce `C' forms, tax shall be levied at twice the rate in respect of declared goods and at the rate of 10 *per cent* or at the rate applicable for such goods inside the State whichever is higher in respect of other goods.

During test check of records of Deputy Commissioner, Flying Squad Ahmedabad and 8* Sales Tax Offices, it was noticed in the assessment of 11 dealers for the periods between 1990-91 and 1996-97 (finalised between February 1995 and December 1999) that on inter State sales valued at Rs.2.36 crore in 8 cases, tax was levied at concessional rate either without production of `C' forms or on xerox copy of `C' form/affidavit etc. Further, remission of tax, in excess of 4 *per cent* leviable on C.I. castings, was allowed to 2 dealers, though no provision exists for such remission under Central Sales Tax Act and no penalty, for breach of recitals of Form `C', was levied in one case though purchases made against Form 'C' were used by him in works contract outside the State. This resulted in short levy of tax of Rs.25.71 lakh.

* 3 of Ahmedabad and 1 each of Bhavnagar, Godhra, Nadiad, Surat and Vapi.

The above cases were pointed out to the department between April 1995 and November 2000. The department accepted (between June 2000 and November 2000) the audit observations involving an amount of Rs.0.77 lakh in 3 cases and recovered the amount of Rs.0.30 lakh in one case. Recovery details and reply in the remaining cases have not been received (October 2001).

2.12 Non-levy of penalty

Under Section 45(6) of the Gujarat Sales Tax Act, 1969, where the amount of tax assessed or reassessed exceeds the amount of tax paid with the returns by a dealer by more than 25 *per cent*, there shall be levied on such dealer a penalty not exceeding one and one half times the difference. Further, as per the Commissioner of Sales Tax's Circular of November 1996, penalty, in cases where additional tax liability arises due to seizure of books of accounts by enforcement branch or where evasion of tax is detected, is to be levied after adding 50 *per cent* of penalty calculated under Section 45(6) of the Act.

During test check of records of Dy. Commissioner, Flying Squad, Ahmedabad, 4* offices of Assistant Commissioner and 18** Sales Tax Offices, it was noticed (between February 1998 and November 2000) in the assessments of 30 dealers for the assessment periods between 1990-91 and 1999-2000 (finalised between October 1993 and March 2000) that though penalty was leviable since the difference between the tax assessed (Rs.1.05 crore) and tax paid (Rs.33.81 lakh) with the returns exceeded 25 *per cent* in 16 cases, penalty at enhanced rate was leviable on tax assessed on concealed sales detected during raid in 4 cases and penalty for breach of recitals of Form `C' in one case, no penalty was levied. In 9 cases the tax paid (Rs.2.09 crore) by the dealers in lump sum just before the assessment was incorrectly considered as paid with the returns for working out the liability for levy of penalty though the tax paid with returns only was required to be considered. This resulted in non-levy of penalty of Rs.2.63 crore.

The above cases were pointed out to the department between April 1998 and December 2000. The department accepted (between October 1998 and 2000) the audit observations involving an amount of Rs.22.30 lakh in 7 cases and recovered Rs.0.62 lakh in 3 cases. Reply in respect of remaining cases have not been received (October 2001).

2.13 Non/short levy of turnover tax

Under Section 10A of the Act, where the sales turnover of a dealer, liable to pay tax, first exceeds Rs.50 lakh, the dealer is liable to pay turnover tax at prescribed rate on the turnover of sales of goods other than declared goods after allowing permissible deduction under the Act. From April 1993, sales

* Ahmedabad, Surat, Surendranagar and Vadodara.

** 7 of Ahmedabad, 3 of Rajkot and 1 each of Anand, Ankleshwar, Gandhinagar, Surat, Surendranagar, Upleta, Vadodara and Visnagar.

made against various declarations and sales exempted from tax under Section 49, were excluded from the items of permissible deductions making such sales liable for levy of turnover tax. Further, while working out the liability and applicability of rate of turnover tax, the taxable sales turnover in aggregate of all the branches of the dealer within the State is to be considered.

During test check of records of 11 Sales Tax Offices, it was noticed (between November 1998 and 2000) in the assessment of 12 dealers for the periods between 1990-91 and 1996-97 (finalised between July 1994 and February 2000) that turnover tax was either not levied or levied at incorrect rate. This resulted in non-levy of turnover tax of Rs.29.30 lakh as given below:

(Rupees in lakh)

Sr. no.	No. of dealers (location)	Period of assess-ment	Date of assess-ment	Turnover non/short assessed	Amount of non/ short levy	Nature of irregularity
1	1 dealer (Vadodara)	1994-95	February 2000	239.70	11.11	Turnover of sales of Rs.239.70 lakh was incorrectly deducted from total turnover for levy of TOT. Further, deduction of Rs.50 lakh was allowed twice.
2	2 dealers (Ahme-dabad and Surat)	1990-91 to 1994-95	July 1994 and Octo-ber 1997	1561.59	11.69	Deduction of Rs.50 lakh was allowed twice in one case and turnover tax was incorrectly calculated at slab rate instead of at maximum rate of 2 *per cent* in addition to deduction of Rs.50 lakh twice in respect of other branch in the other case.
3	9 dealers (3 of Ahme-dabad, 2 of Surat and Vadodara and 1 each of Jamnagar and Rajkot)	1994-95 and 1996-97	Between May 1997 and February 2000	968.05	6.50	Sales made against declarations (Form 19), goods exempted under Section 49(2) of the Act were not included for levy of turnover tax in 2 cases. In other cases tax was either not levied or levied at incorrect rate.
		Total		**2769.34**	**29.30**	

The above cases were pointed out to the department between February 1999 and December 2000. The department accepted (between May 2000 and January 2001) the audit observations involving an amount of Rs.12.72 lakh in 7 cases (Sr. nos.2 and 3) and recovered Rs.4.81 lakh in 6 cases. Further details of recovery and reply in the remaining cases have not been received (October 2001).

2.14 Short levy due to computation error

Under the Act, tax is leviable at different rates as laid down in Schedules to the Act.

During test check of records of 3* Sales Tax Offices, it was noticed (October and November 1999) in the assessment of 3 dealers for the periods 1995-96 and 1996-97 (finalised between March 1998 and 1999) that in one case balance of incentive benefit was incorrectly carried forward as Rs.3.98 crore as against the admissible amount of Rs.3.95 crore, in another case, credit of Rs.8.39 lakh instead of Rs.5.07 lakh was allowed as tax paid with the return and yet in another case tax was incorrectly computed as Rs.55266 and Rs.42215 instead of Rs.5.53 lakh and Rs.4.22 lakh in GST and CST assessments respectively. This resulted in short levy of Rs.15.09 lakh.

This was pointed out to the department in January 2000. The department accepted (October 1999 and September 2000) the audit observations involving an amount of Rs.11.77 lakh in 3 cases and recovered the amount by adjusting against the ceiling limit. Reply in the remaining one case has not been received (October 2001).

2.15 Non/short levy of interest

Under the Act, if a dealer does not pay the amount of tax within the prescribed period, simple interest at the rate of 24 *per cent* per annum is leviable on the amount of the tax remaining unpaid for the period of default.

During test check of records of Assistant Commissioner, Anand and 10@ Sales Tax Offices, it was noticed (between September 1989 and November 2000) in the assessments of 11 dealers for the periods between November 1985 and 1999-2000 (finalised between March 1988 and December 1999) that interest amounting to Rs.8.50 lakh was either not levied or levied short on the amount of tax due and remained unpaid on finalisation of the assessments.

The above cases were pointed out to the department between October 1989 and November 2000. The department accepted (between February and November 2000) the audit observations involving an amount of Rs.4.50 lakh in 7 cases and recovered an amount of Rs.3.26 lakh in 5 cases. Reply in respect of remaining cases has not been received (October 2001).

2.16 Non-levy of tax due to escapement of turnover

Under the Act, when the goods purchased are resold in the same form in which they were purchased, no tax is leviable.

---

* 2 of Surat and 1 of Surendranagar.

@ 5 of Ahmedabad, 3 of Vadodara and 1 each of Surendranagar and Valsad.

During test check of records of Assistant Commissioner Rajkot and 8[#] Sales Tax Offices, it was noticed (between June 1998 and February 2000) in the assessments of 25 dealers for the periods between 1991-92 and 1996-97 (finalised between June 1996 and March 1999) that sales of small gauge wire, iron castings, *HPS*[$] groundnut and Hulled sesame seeds etc., valued at Rs.20.38 crore manufactured out of purchases of M.S. wire, iron scraps, groundnut seeds and sesame seeds valued at Rs.20.33 crore were allowed as R.D. resale without levying any tax though the goods were not sold in the same form in which they were purchased. This resulted in non-levy of tax of Rs.1.46 crore.

2.17 Other irregularities

Under the Act, every dealer liable to pay tax is required to maintain complete books of accounts of his business.

(i) During test check of records of Assistant Commissioner Rajkot and Sales Tax Officer Junagadh, it was noticed (between December 1999 and January 2000) in the assessments of 10 oil millers for the periods between 1993-94 and 1997-98 that purchases of 721.85 lakh Kgs. of oil cakes valued at Rs.34.70 crore were claimed as purchases from agencies outside the State. On investigation by Enforcement Officer, these dealers were not found in existence and purchases were treated as purchases from un-registered dealer and assessed accordingly without levying any tax allowing the sales against the declarations. As the value of taxable goods sold or purchased in a year by a dealer should not exceed Rs.5000 to remain as an un-registered dealer, purchases of oil cakes valued at Rs.34.70 crore could be possible not from one dealer but from a minimum of 69398 un-registered dealers which did not appear to be practical. Further, oil cakes could be produced only by an oil miller during extraction of oil, purchases of oil cakes in such huge quantity could not have been made from any where else i.e. other than an oil miller. Since the dealers themselves were manufacturers of oil, the oil cakes must have been produced by themselves i.e. the dealers had concealed purchases and sales of oil seeds and oil extracted respectively to evade the tax. The enforcement authorities should have examined such cases in depth to find out the source of purchases of oil cakes in such huge quantities to ascertain whether the oil millers, who produced the oil cakes had evaded tax on oil seeds purchased and also on oil manufactured. On the basis of quantity of oil cakes found with the dealers, the possible tax evasion on the oil seeds consumed and oil extracted and sold by the oil miller amounted to Rs.5.33 crore.

(ii) During test check of records of Assistant Commissioner Ahmedabad and Nadiad and Sales Tax Office Ahmedabad, Gandhinagar and Vadodara, it was noticed (between April 1998 and August 2000) in the assessments of 5 dealers for the periods between 1988-89 and 1997-98 (finalised between June 1996

[#] 3 of Rajkot, 2 of Jamnagar and 1 each of Amreli, Junagadh and Surendranagar.
[$] Hand opened groundnut.

and March 2000) that incorrect determination of turnover of sales, excess refund, incorrect grant of relief etc. resulted in non/short levy of tax of Rs.45.32 lakh as detailed below:

(Rupees in lakh)

Sl. no.	Location	Period of assessment	Date of assessment	Amount of non/short levy	Nature of irregularity
1	Ahmedabad	1988-89	February 2000	19.75	As per amnesty scheme payment of arrears made upto 30 September 1993 was eligible for relief, whereas payment made later on 29 December 1995 was incorrectly given relief.
2	Ahmedabad	1994-95	June 1996	19.29	Under the Act, rubber coating done on rolls supplied by the customer is sale, such transaction was incorrectly treated as job work and no tax was levied.
3	Gandhinagar Nadiad and Vadodara	Between 1994-95 and 1997-98	Between December 1997 and March 2000	6.28	Excess refund was allowed due to incorrect computation in one case, sale value was determined less in another case and though sale value of pan masala was readily available, it was determined less by adopting gross profit method in the remaining one case.
		Total		**45.32**	

The above matters were referred to the departments between March 1998 and December 2000. No response was received from them. The matter was followed up with reminders to the Secretary in May/June 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

CHAPTER - III

LAND REVENUE

3.1 Results of Audit

Test check of assessment records in the offices of the District Development Officers, Taluka Development Officers, District Inspectors of Land Records and City Survey Superintendents conducted in audit during the year 2000-2001, disclosed non/short recovery and loss of revenue amounting to Rs.938.99 crore in 132 cases. These cases broadly fall under the following categories:

(Rupees in crore)

Sr. no.	Category	No. of cases	Amount
1	Non/short recovery of land revenue	05	0.93
2	Non/short recovery of occupancy price	17	9.72
3	Non-raising of demand for non –agricultural assessment	37	2.93
4	Non-recovery of conversion tax	13	3.66
5	Other irregularities	59	4.50
6	Review on Encroachments on Government land	1	917.25
	Total	**132**	**938.99**

During the year 2000-01, the department accepted under assessment of Rs.3.63 crore in 123 cases and recovered Rs.78.72 lakh in 28 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations and the results of a review on "Encroachments on Government land" involving Rs.942.81 crore are given in the following paragraphs.

3.2 Encroachments on Government Land in Municipal Corporations and Urban Development Authority limits

3.2.1 Introduction

The Bombay Land Revenue Code, 1879 (as applicable to Gujarat) and the Gujarat Land Revenue Rules, 1972 empower the Collectors and other Revenue Officers to deal with allotment of Government land on occupancy or on lease hold rights as well as collection of occupancy price, lease rent, land revenue etc. Sections 61, 79-A, and 202 of the Code empower the Collectors to summarily abate or remove any encroachment, evict any person unauthorisedly occupying/wrongfully in possession of Government land,

forfeit any crops raised in the land and remove any buildings or other constructions erected thereon after the recovery of land revenue, fine etc., for the period of unauthorised occupation. On failure to get the premises vacated, Collector may issue a warrant for the arrest of the said person to prevent the continuance of such obstruction or resistance. As per Government Resolution of January 1980, if the Government land in unauthorised occupancy is not required, the same can be regularised by allotting it to its occupants after recovery of penal occupancy price at two and a half times of market rate applicable on the date of regularisation.

3.2.2 Organisational set-up

The work of prevention of misuse of Government land and containment/regularisation of encroachment is done by the respective Collectors assisted by Mamlatdars and City Survey Superintendents of the areas concerned. Regularisation of encroachment in the Government land falling within Municipal and Urban Development Authority limits of six* cities is, however, done by Revenue Department of the Government.

3.2.3 Scope of Audit

To assess the efficiency of detection, eviction and regularisation of encroached settlements in the Government land within Municipal and Urban Development Authority limits at Ahmedabad, Vadodara, Surat and Rajkot, the records in the office of the Revenue Department, Collectors, Mamlatdars, City Survey Superintendents, Circle Inspectors and *Talatis* in respect of the concerned areas for the periods from 1995-96 to 1999-2000 were test-checked by audit between July and October 2000. Results of the review are mentioned in the following paragraphs.

3.2.4 Highlights

1. Penal occupancy price recoverable in the event of regularisation of encroachment on 25.80 lakh sq.mtrs. of Government land amounted to Rs.601.05 crore.

   [Para-3.2.7(i)]

2. Incorrect regularisation of encroachment on Government land by Vadodara Municipal Corporation resulted in non-recovery of penal occupancy price of Rs.65.76 crore.

   [Para-3.2.8(i)]

3. Incorrect leasing and regularisation of encroachment on Government land by Vadodara Municipal Corporation resulted in non-recovery of penal occupancy price of Rs.1.13 crore.

   [Para-3.2.8(ii)]

* Ahmedabad, Bhavnagar, Jamnagar, Rajkot, Surat and Vadodara.

4. Incorrect regularisation of encroachment on Government land by Surat Municipal Corporation resulted in non-recovery of Rs.195.51 crore. [Para-3.2.8(iii)]

5. Short recovery of penal occupancy price due to incorrect grant of concession amounted to Rs.4.22 crore. [Para-3.2.11]

3.2.5 Working of the department

According to Section 17 of the Bombay Land Revenue Code 1879, each village accountant is expected to maintain complete details of land situated in the respective village. However, no such complete records showing Government land available, portion under encroachment etc., were maintained by any of the revenue authorities. Based on the directive received from the Estimate Committee of the State Legislature, Government, by issue of a circular (August 1995) gave instructions to all the departmental officers to identify the encroachments in Government land and remove them by March 1996. Revenue Inspection Commissioner accordingly issued instructions (September 1995) to maintain records showing areas under encroachment, period of encroachment, areas of encroachments evicted, area protected etc. to be maintained by the City Survey Superintendents, Mamlatdars, Circle Officers/*Talatis*[#] etc.. None of the offices test-checked, were found maintaining detailed records showing the date of encroachment, number of encroachers, year and purpose of encroachment, action taken for eviction/regularisation etc.

3.2.6 Computerisation of Land Records

For effective planning, implementing land reforms, modernisation of agriculture and related activities etc. a computerised record system is crucial. Switchover to computerisation from manual method of maintenance of land records would facilitate proper/updated maintenance of land records, availability of comprehensive database. This would help to avoid litigation due to inordinate delay in completing the entries manually. Further, the data stored can be retrieved/analysed/processed immediately for obtaining desired results as and when required. The process of computerisation of village land revenue records was started by Government of India as a hundred *per cent* Centrally Sponsored Scheme in the year 1988-89 on a pilot project basis in a few selected States, including Gujarat. The project envisages computerisation of all land records maintained in different Forms (18 Nos.). Though the work of computerisation was started in the State in the year 1988-89, they could computerise the land records only in respect of two Forms of two[@] Talukas

---

[#] "*Talati*" is a Village Accountant who maintains land revenue records.

[@] Bhesan Taluka (Junagadh district) and Jambughoda Taluka (Panchmahals district)

alone. The work of computerisation of other Talukas is stated to be in progress.

Though adequate funds were available and Government of India had released a grant of Rs.5.40 crore upto March 2001, the State could utilise only an amount of Rs.2.93 crore due to lack of enthusiasm at various levels.

3.2.7 Non-eviction/non-regularisation of encroachment

The Code provides that on detection of encroachment by the authorities, the encroacher shall be evicted forthwith (Section 79-A) and assessed to non-agricultural assessment (NAA)/land revenue etc. at the prescribed rate and fine (Section 61) for the period of unauthorised occupancy. As per Resolution of January 1980, the Government land under unauthorised occupancy, if not required by Government, can be allotted/regularised to its occupants by recovering penal occupancy price at two and a half times of the market value on the date of regularisation. Though the Collectors are empowered to abate or remove any encroachments, Government only has the powers to regularise such encroachments in Municipal Corporation areas. Loss due to failure on the part of the department either to evict or to regularise the encroachment by recovering penal occupancy price according to the instructions contained in the above Government Resolution in respect of the land measuring 105.52* lakh sq.mtrs. falling under the municipal/urban development authority limits of four cities *viz.* Ahmedabad, Vadodara, Surat and Rajkot alone amounted to Rs.3754.08 crore. A few illustrative cases are discussed below:

(i) A test-check of records of City Survey Superintendent/City Mamlatdar, Ahmedabad, Mamlatdar Dascroi, Ahmedabad and Mamlatdar (Rural), Vadodara revealed that 25.39 lakh sq.mts. of Government land was under encroachment from 1978-79 onwards and was being used for agricultural and non-agricultural purposes *viz.* residential/commercial/industrial purposes. The department did not take any effective action to evict the encroachers though as per the instructions issued by the Government (August 1995) all the encroachments in the Government land were to be removed by the end of March 1996 and the cases where evictions were not found possible should be regularised after recovering penal occupancy price. Failure on the part of the department either to evict or to regularise the encroachments resulted in non-recovery of non-agricultural assessment for the period of unauthorised

* Ahmedabad 76.15 lakh sq.mtrs. (Rs.2418.18 crore), Rajkot 3.18 lakh sq.mtrs. (Rs.361.47 crore), Surat 12.66 lakh sq.mtrs. (Rs.728.05 crore) and Vadodara 13.53 lakh sq.mtrs. (Rs.246.38 crore).

occupation. The penal occupancy price recoverable in the event of regularisation amounted to Rs.601.05 crore as detailed below:

(Rupees in crore)

Sr. no.	Location	Period of encroach-ment	Area of land (sq.mts. in lakh)	Penal occupancy price recover-able	Nature of irregularity
1.	Ahmedabad	Prior to 1995-96	16.94	370.40	6996 encroachers of Danilimda village and Vadaj village were unauthorisedly occupying Government land for residential purpose (huts).
2.	Surat	Prior to 1995-96	0.29	117.50	Land situated at Choryasi Taluka was encroached by Shri Bhulabhai Chhanabhai and 23 others for residential purpose.
3.	Vadodara	Prior to 1993-94	6.86	60.04	Shri Balvantsingh D.Jadav and 19 others had encroached the Government land earmarked for allotment to Panchayat, fenced the land and also made pucca roads. Though District Magistrate ordered for the removal of encroachment in July, 1993 in the case of 11 persons, based on a complaint received from the public, the encroachers had not been evicted (January 2001) even after 7 ½ years of said eviction orders.
4.	Ahmedabad	Between 1978-79 and 1983-84	0.67	18.34	Land situated in survey Nos.303 and 623 of village Odhav was encroached by 9 individuals constructing temples, godowns and houses etc.
5.	Ahmedabad	Prior to 1990-91	0.60	16.59	Land situated in survey Nos.353, 379, 380 and 383 in village Odhav was encroached by M/s. Vijay Industries and others constructing sheds for industrial purpose.
6.	Rajkot	1997-98	0.12	9.81	Land situated in Survey No.109 of Sokhda village of Rajkot was encroached by two individuals for residential purpose.
7.	Ahmedabad	Prior to 1982-83	0.32	8.37	The land situated in Vinzol and Thaltej village was encroached by S/Shri Chaturmoti and Jayantilal Trikamlal and was being

					used for agricultural purpose. Though, apart from evicting the encroachers, the crops raised illegally was also required to be forfeited, no action was taken by the department except issue of notices.
	Total		**25.80**	**601.05**	

(ii) A test-check of records of City Mamlatdar, Ahmedabad and City Survey Superintendent, Vadodara revealed that Government land measuring 1.08 lakh sq.mtrs. was encroached by six encroachers between the period from 1978-79 and 1995-96 for residential, commercial and industrial purposes by constructing housing societies, saw mill and commercial complex etc.. The department did not take any effective action after the issue of notice either to evict by demolishing the construction or by regularising the unauthorised occupancy by recovering penal occupancy price. Failure on the part of the department to initiate action immediately on detection of the encroachment resulted in loss of Rs.48.27 crore as detailed below:

(Rupees in crore)

Sr. no.	**Name of encroacher**	**Year of encroach-ment.**	**Location of land City/ Village**	**Area (Sq.mtr. in lakh)**	**Penal occupancy price recoverable**
1.	Mahakalinagar, Amarnagar & Momainagar Co-op.Housing Societies	Prior to 1983-84	Ahmedabad/ Odhav	0.55	15.08
2.	Arunbhai G.Bharvad & others	Prior to 1995-96	Ahmedabad/ Rakhial	0.12	12.13
3.	Ashutosh Co-op Housing Society	Prior to 1995-96	Ahmedabad/ Vadaj	0.10	10.87
4.	Saw Mill	1983-84	Ahmedabad/ Naroda	0.26	5.84
5.	Gangaram & others	1986-87	Ahmedabad/ Rakhial	0.04	4.06
6.	Mona Tiles & Marbles	N.A	Vadodara/ Nizampura	0.01	0.29
			Total	**1.08**	**48.27**

3.2.8 Incorrect leasing and regularisation of encroachment on Government land by Municipal Corporations

According to the instructions contained in the Government Resolution of January 1980, the power to regularise the unauthorised occupancy of Government land situated within the Municipal Corporation and Urban Development Authority limits rests with the Government.

(i) Encroachment in Government land measuring 1.12 lakh sq.mtrs. was regularised by the Vadodara Municipal Corporation in 1994 permitting 85 encroachers to settle down in the said land. They also provided light and water facilities. Though, Municipal authorities had no right to allow the encroachers

to settle in Government land, no action was taken by the department either to prohibit Municipal authorities from doing so or to evict the encroachers. The penal occupancy price recoverable from the encroachers works out to Rs.65.76 crore approximately.

(ii) It was noticed from the records that Vadodara Municipal Corporation had encroached Government land measuring 1389.24 sq.mtrs. and leased out to an individual for parking of Cycle/Scooter/Car etc., and to two Companies for carrying out commercial activities, recovering rent from them. Though the request of the Municipal Corporation for the allotment of this land to them was rejected by the competent authority (November 1999), the encroachment in the land was not yet cleared. The penal occupancy price recoverable in case of regularisation would be approximately Rs.1.13 crore.

(iii) Encroachment in Government land measuring 2.61 lakh sq.mtrs. was regularised by the Surat Municipal Corporation permitting the encroachers to settle down in the land encroached . Further, based on this, City Mamlatdar removed the entry from the register of encroachers of Government land maintained by him. Since the Municipal authorities were not competent to regularise the cases of encroachers of Government land, the department should have objected to such allotment and should have raised the demand for the recovery of penal occupancy price. This resulted in non recovery of penal occupancy price of Rs.195.51 crore (approximately).

3.2.9 Non-regularisation of encroachment by hutment dwellers on Government land

As per Government Resolution of July 1989, the excess land under Urban Land Ceiling Act was to be allotted/sold to the hutment dwellers at concessional rate subject to fulfilment of certain conditions. This benefit was also extended (February 1993) by Government to the encroachers (hutment dwellers) who were in occupation of Government land as on 1983. Though out of 105.52 lakh sq.mtrs. of encroached land, 42.12 lakh sq.mtrs. of land had been encroached by hutment dwellers, no land under encroachment was found regularised or vacated by the Government.

3.2.10 Non recovery of non-agricultural assessment for unauthorised use of Government land

Under the provisions of Bombay Land Revenue Code 1879 and Gujarat Land Revenue Rules, 1972, non-agricultural assessment (NAA) and penalty is leviable from the encroachers for the period of unauthorised occupation of Government land.

It was noticed that land measuring 72.29 lakh sq.mtrs. was encroached by 35074 encroachers in four* Municipal Corporation and Urban Development Authority limits and was used for residential purpose. Non-agricultural assessment of Rs.1.31 crore for the period of five years from 1995-96 to 1999-2000 at the rate of 12 paise per sq.mtr. alongwith penalty at the rate of Rs.250 per encroacher would also be leviable from the encroachers at the time of eviction/demolition and in the event of regularisation, NAA would be recoverable from the date of encroachment alongwith penal occupancy price. The delay in finalisation of the encroachment resulted in non-recovery of Rs.1.31 crore.

3.2.11 Short recovery of penal occupancy price

According to Government Resolution of January 1980, the penal occupancy price recoverable on regularisation of unauthorised occupancy on Government land would be at two and a half times of the market rate on the date of regularisation. This penal occupancy price recoverable can be reduced only in cases of encroachment by economically weaker sections belonging to backward classes subject to condition that the occupancy price recoverable should not be less than the market rate.

Two illustrative cases are discussed below where penal occupancy price was incorrectly recovered at concessional rate.

i) 3000 sq.mtrs. of Government land situated at Odhav village of Ahmedabad, encroached by Vidya Tejas Kelvani Mandal Takshashila Vidya Vihar by constructing a school building, was regularised by Government in April 1998 on payment of penal occupancy price at two and a half times of the market rate for the constructed area and at single rate for the open land. The Government was not competent to reduce the penal occupancy price recoverable at two and a half times of the market rate. The incorrect regularisation of the encroachment by charging single rate for open land resulted in short recovery of Rs.35 lakh.

ii) Encroachment of 2502 sq.mtrs. of Government land situated at village Dariapur-Kazipur, Ahmedabad encroached by Swaminarayan Temple authorities since 1978-79 was regularised by Government in September 1997 subject to payment of penal occupancy price at single market rate which was further reduced to 50 *per cent* of single market rate by Government in December 1998. The incorrect grant of concessional rate though not provided for in the Government Resolution to regularise encroachment resulted in short recovery of Rs.3.87 crore.

The above matter was demi-officially forwarded to the Principal Secretary to the Government on 8 May 2001 for reply within six weeks. The matter was followed up with reminder on 31 May 2001. However, inspite of such efforts no reply was received from the Principal Secretary (October 2001).

* Ahmedabad, Rajkot, Surat and Vadodara.

3.3 Non/short recovery of premium

The Government decided in July 1983 to permit the land holders, holding the land under new and restricted tenure under the Bombay Tenancy and Agricultural Land Act, 1948, (as applicable to Gujarat) to convert their land into old tenure and to sell/transfer the same subject to payment of premium computed on the difference between the estimated sale price of the land and the occupancy price recovered at the time of allotment of land. This was further subject to payment of difference on actual sale price later. The rate of premium recoverable is based on the period for which land was held and the purpose of use. The premium recoverable is 70 *per cent* of the difference when the land held for more than 20 years is permitted to be sold for non-agricultural purposes. Premium at the rate of two and half times of normal rate is chargeable when an unauthorised occupancy of encroached land is regularised.

(i) During test check of records of Collector, Bharuch, District Development Office Vadodara, Mamlatdar Surat and 4[#] Taluka Development Offices, it was noticed (between December 1999 and September 2000) that land measuring 1.37 lakh sq.mts. held under new and restricted tenure, was allowed to be sold/transferred/regularised, but premium at the prescribed rate was either not levied or levied at incorrect rate. This resulted in non/short recovery of premium of Rs.2.38 crore as detailed below:

(Rupees in lakh)

Sr. no.	Name of the place	Area of land (sq. metres in lakh)	Amount of short levy	Nature of irregularity
1	Kalol(PM)	0.60	126.84	Premium was not recovered on the land held under new and restricted tenure allowed to be used by a company for non-agricultural purpose.
2	Kalol(PM), Surat & Vadodara	0.26	65.16	While regularising un-authorised use of land for non-agricultural purpose, no premium was recovered.
3	Gandhinagar & Surat	0.19	23.45	While regularising the encroachment of land premium at one time of the value of land was levied instead of two and half times.
4	Dahod	0.08	19.33	While calculating the premium, the value of the land fixed by the earlier Collector was reduced without assigning any reasons.
5	Kapadwanj & Surat	0.18	2.54	Premium was not recovered on subsequent sale of land at higher price.

[#] Dahod, Gandhinagar, Kapadwanj and Kalol(PM).

6	Bharuch	0.06	0.83	Premium was levied at incorrect rate.
	Total	**1.37**	**238.15**	

The above cases were pointed out to the department between February and December 2000. The department accepted the audit observations involving an amount of Rs.1.58 lakh in 2 cases (Sr. nos.5 and 6) and recovered Rs.0.83 lakh in one case. Recovery particulars and reply in the remaining cases have not been received (October 2001).

(ii) During test check of records of Taluka Development Officer, Modasa, it was noticed (January 2001) that Government land measuring 21145 sq. mts. was allotted as revenue free to APMC[#] by the Collector in 1955 for carrying out activities pertaining to agriculture. Scrutiny of land records revealed that the Committee had however converted the entire land into a big shopping centre consisting of 150 shops and rented out all the shops to traders. Since the land was no longer being used exclusively for carrying out activities pertaining to agriculture, the department should have treated this land as any other land and recovered land revenue in the form of occupancy price, NAA, premium and conversion tax etc. from the APMC. Failure to do so, resulted in non-recovery of land revenue amounting to Rs.7.59 crore.

(iii) During test check of records of Mamlatdar(NA), Surat, it was noticed (January 2000) that land measuring 57466 sq. mtrs. held under new and restricted tenure by 2 individuals was sold to two co-operative societies without obtaining prior permission of the Collector and without payment of premium. Though entries for the transfer of these properties were made in the village records of rights, no action was taken against the individuals for the illegal transfer of the land and for the recovery of land revenue *viz.*, premium, conversion tax, non-agricultural assessment etc. This resulted in non-recovery of land revenue of Rs.1.55 crore.

(iv) During test check of records of Taluka Development Officer, Valod, it was noticed (November 2000) that land measuring 14569 sq. mts. held under new and restricted tenure was being used by an individual for non-agricultural purposes *viz.*, veterinary hospital, shop cabins etc. since 1989-90 onwards without getting any permission from the Collector for transferring the land from new to old tenure and without paying any premium, conversion tax, NAA etc. This resulted in non-recovery of land revenue amounting to Rs.64.84 lakh.

3.4 Non/short recovery of non-agricultural assessment

Under the Bombay Land Revenue Code, 1879 and Rules made thereunder, land revenue is payable at the prescribed rates on all lands unless specifically exempted from payment. For determining the rates of non-agricultural assessment (NAA), cities, towns and villages have been divided into five

[#] Agricultural Produce Marketing Committee.

classes 'A' to 'E' according to their population. Different rates depending on use of land are prescribed for each class of city/town/village. Peripheral areas falling within five kilometres of a class `A' city and one kilometre of class`B' and `C' town/village are classified alongwith respective cities and towns. Certain industrial and adjoining areas which are notified by the Government are also classified as class 'B' areas irrespective of the population of the concerned city.

During test check of records of City Survey Superintendent, Sardarnagar (Ahmedabad), Division-1, Surat, Mamlatdar (NA), Dhrol and 34 Taluka Development Offices of 17# districts, it was noticed (between September 1999 and January 2001) that in 185 cases, land measuring 4.78 crore sq.metres used for non-agricultural purposes during the period between 1980-81 and 1999-2000 by Gujarat Industrial Development Corporation (GIDC), Gujarat Electricity Board (GEB), Sardar Sarovar Narmada Nigam Ltd (SSNNL), other Government/Semi-Government bodies/boards, companies and individuals etc. were either not assessed or assessed at incorrect rates which resulted in non/short recovery of non-agricultural assessment of Rs.3.89 crore as given below:

(Rupees in lakh)

Sr. no.	Name of the taluka	No. of cases	Area of land (Sq. metres in lakh)	Amount of non/ short levy	Nature of irregularity
1	Amod, Babara, Bharuch, Dhrangadhra, Dholka, Jambusar, Jhagadia, Kalol(PM), Karjan, Kodinar, Olpad, Paddhari, Patan,Pardi, Radhanpur, Sihori, Songadh, Tharad, Umargaon & Valsad.	69	251.03	196.73	NAA was not levied on entire land acquired and handed over to different Corporations for non-agricultural purpose.
2	Choryasy & Jhagadia	13	174.63	157.16	Though these lands held by GIDC were notified by the Government as class 'B' for levy of land revenue, NAA was not levied at the rates applicable to this class.
3	Jhagadia, Kalol (Mehsana), Mahuva (Surat), Palsana, Sihori & Umrala.	52	18.29	12.08	Though the cities/ villages were classified as `B'/`C'/ `D' class, NAA continued to be levied at lower rate.
4	Bhiloda, Dwaraka,	6	14.96	9.00	NAA was leviable

5 of Surat, 3 each of Banaskantha, Bharuch, Kheda & Valsad, 2 each of Amreli, Bhavnagar, Jamnagar, Mehsana & Sabarkantha and 1 each of Ahmedabad, Bhuj, Panchmahal, Patan, Rajkot, Surendranagar and Vadodara.

	Kalol(PM), Tharad, Thasara & Meghraj.				at higher rate as per the use of land but levied at lower rate.
5	Mamlatdar(NA) Dhrol, City Survey Superintendent, Div-1, Surat, Abadasa, Jamjodhpur, Olpad & Sidhpur.	21	8.11	8.11	Though the rates were revised, NAA continued to be levied at pre-revised rates.
6	Gadhada & Paddhari	15	8.81	2.91	Though villages/ towns were required to be upgraded as per the latest census for the purpose of recovery of NAA, it was not done.
7	Gandhinagar and City Survey Superintendent, Sardarnagar (Ahmedabad).	7	0.76	1.94	Non-agricultural assessment was not levied on land used for industrial and other purposes from 1976-77 onwards.
8	Balasinore	1	1.41	1.13	Non-agricultural assessment was not recovered according to the purpose for which the land was used.
9	Songadh	1	0.28	0.40	Though the land falls within the periphery of Songadh, NAA was levied at lower rate.
	Total	**185**	**478.28**	**389.46**	

The above cases were pointed out to the department between January 2000 and March 2001. The department accepted the audit observations involving an amount of Rs.2.05 crore in 137 cases (Sr. nos. 1 to 5, 7 and 9) and recovered Rs.8.52 lakh in two cases (Sr. nos.1 and 5). Recovery details and reply in the remaining cases have not been received (October 2001).

3.5 Non/short recovery of occupancy price

Under the Bombay Land Revenue Code, 1879, and the Rules made thereunder, Government can dispose off available land to needy persons for any purpose on payment of occupancy price on such terms and conditions as may be specified by the Government. The occupancy price in respect of non-agricultural land is to be determined by the Collector with reference to the value of land fixed by the Town Planner.

During test check of records of Collector, Amreli and Rajkot and 5[#] Taluka Development Offices, it was noticed (between September 1999 and December 2000) that land measuring 31.47 lakh sq.mts. was allotted (between May 1986 and July 2000) by the Collectors to different boards/co-operative societies/ companies/individuals subject to payment of occupancy price. The occupancy price though recoverable before the allotment of land, it was yet to be recovered. This resulted in non/short recovery of occupancy price of Rs.2.49 crore as detailed below:

(Rupees in lakh)

Sr. no.	Name of the taluka	Year of allot-ment	Area of land (Sq. metres in lakh)	Amount of non/ short levy	Nature of irregularity
1	Mundra	August 1999	29.73	123.15	Land was handed over to a company (Gujarat Adani Port) without recovery of occupancy price.
2	Paddhari	Octo-ber 1993	0.90	94.22	Land was allotted to Gujarat Electricity Board for staff quarters but occupancy price was not recovered.
3	Rajkot	August 1991, Nove-mber 1994 and June 2000	0.49	12.63	In two cases 8860 sq.mts. of land was allotted to 2 presses at a concessional rate of 50 *per cent*, though they did not fulfil the condition for concession. In another case, though occupancy price was leviable on market value fixed by the Chief Town Planner or by State Level Price Committee whichever is higher, it was levied at lower value.
4	Anjar	August 1998	0.03	9.54	Though differential amount of occupancy price between the interim amount recover-ed and the final amount fixed by District Land Valuation Committee, was recoverable on land allotted to a Co-operative Housing Society, the difference was not recovered.
5	Kalol (PM)	July 1996	0.29	7.21	Occupancy price was not recovered from land allotted to an individual.
6	Amreli	May 1986	0.02	1.14	While regularising the land encroached by a company, occupancy price at two and half times of the market value of land was not levied.

[#] Anjar, Jamjodhpur, Kalol(PM), Mundra & Paddhari.

7	Jamjodhpur	July 2000	0.01	1.08	Occupancy price was not recovered on land allotted to Telecom Department.
	Total		**31.47**	**248.97**	

The above cases were pointed out to the department between October 1999 and March 2001. The department accepted the audit observations involving an amount of Rs.10.62 lakh in 2 cases (Sr.nos.4 and 6). Recovery particulars and reply in the remaining cases have not been received (October 2001).

3.6 Transfer of ownership/title in records of rights without registration of documents under Registration Act

Under the Bombay Land Revenue Code, 1879, the *Talati*[@] of a village is authorised to correct the village records changing the ownership of the property on receipt of an intimation in writing from any person within 3 months of acquiring a property. Section 17 of the Registration Act, 1908 provides that registration of every document of sale, mortgage, lease or exchange of the property of the value of Rs.100 or more is compulsory. Further, Section 33 of the Bombay Stamp Act, 1958, empowers every person in charge of a public office to impound any instrument, produced before him in the performance of his functions, if it appears that such instrument is not duly stamped.

During test check of records of District Development Office Vadodara, Mamlatdar Surat and 10 Taluka Development Offices of 7[#] districts, it was noticed (between August 1999 and November 2000) in 28 cases that transfer of properties valued at Rs.25.39 crore was carried out by the *Talati*es during 1998-99 and 1999-2000 in the village records of rights by transferring in favour of persons/societies on the basis of the intimations received from them though no deeds were executed and registered for such transfers. In other 22 cases, the concerned District/Taluka Development Officers, while according permission for non-agricultural purposes did not impound the unregistered and unstamped irrevocable powers of attorney of properties in their favour produced by the parties before them for according non-agricultural permission. Non-inclusion of corresponding provision in Land Revenue Code making the production of registered documents as compulsory for carrying out corrections in the village records and failure on the part of the departmental officials to exercise the powers conferred upon them under the Bombay Stamp Act, resulted in loss of revenue in the form of stamp duty and registration fees amounting to Rs.1.75 crore.

[@] Village Accountant who maintains all land revenue records.

[#] 3 of Kheda, 2 of Surat and 1 each of Ahmedabad, Panchmahal, Rajkot, Sabarkantha & Surendranagar.

3.7 Non/short recovery of conversion tax

Under the Bombay Land Revenue Code (Code), 1879, as applicable to Gujarat, conversion tax is leviable on change in mode of use of the land from agricultural to non-agricultural purposes or from one non-agricultural purpose to another in respect of land situated in a city or town including its peripheral areas falling within one to five kilometres thereof. Different rates of conversion tax are prescribed for residential, industrial, commercial/other uses depending upon the population of the city/town. In case of Corporations, Boards, etc. no formal non-agricultural permission is required and conversion tax is leviable in the year in which land is acquired.

During test check of records of 14 Collector, Mamlatdar and District/Taluka Development Offices*, it was noticed (September 1999 and January 2001) that in 28 cases, conversion tax for change in mode of use, though leviable, was either not levied or levied at incorrect rate on 11.29 lakh sq. metres of land converted. This resulted in non/short recovery of conversion tax amounting to Rs.32.07 lakh.

The above cases were pointed out to the department between January 2000 and March 2001. The department accepted the audit observations involving an amount of Rs.18.68 lakh in 18 cases and recovered Rs.1.14 lakh in 2 cases. Recovery particulars and reply in the remaining cases have not been received (October 2001).

3.8 Non/short recovery of penalty

Under the provisions of the Bombay Land Revenue Code, 1879 and Rules made thereunder, agricultural land cannot be used for non-agricultural purposes without prior permission of the Collector. In case of unauthorised non-agricultural use a fine not exceeding 40 times the amount of non-agricultural assessment is leviable. Further, Government can also dispose off the available lands to needy persons for cultivation or for other purposes after recovering occupancy price, subject to such terms and conditions as may be specified. For breach of conditions of allotment, penalty was leviable. In August 1980, Government had prescribed the amount of fine to be levied for different types of unauthorised use of land.

During test check of records of District Development Officer Vadodara, Mamlatdar Surat and 6$ Taluka Development Offices, it was noticed (between December 1996 and September 2000) that though penalty was leviable for breach of conditions of allotment of land/unauthorised use of agricultural land for non-agricultural purpose after the expiry of the temporary permission/non-payment of lease rent etc., no penalty was levied in 16 cases. This resulted in non/short levy of penalty of Rs.9.56 lakh.

---

* Collector Valsad, Mamlatdar Surat, DDO Ahmedabad, Gandhinagar and Junagadh and TDO Ankleshwar, Dholka, Gandhinagar, Ghogha, Karjan, Radhanpur, Songadh, Valsad and Veraval.

$ Jamkhambalia, Jodia, Keshod, Mundra, Palanpur and Sankheda.

The above cases were pointed out to the department (between April 1997 and October 2000). The department accepted the audit observations involving an amount of Rs.5.79 lakh in 8 cases and recovered an amount of Rs.0.46 lakh in one case. Recovery details and reply in the remaining cases have not been received (October 2001).

3.9 Non crediting of education cess to the Government accounts by the Municipalities

Under the provisions of the Gujarat Education Cess Act, 1962, education cess in form of surcharge for the purpose of providing the cost of promoting education in the State, is levied on all lands (agricultural/non-agricultural) and on lands and buildings situated in urban areas. This cess is collected by Land Revenue Authorities in rural areas and by Municipal Corporations/ Municipalities in urban areas. The cess, thus realised by Municipal Corporations/Municipalities, is required to be credited into Government accounts.

During test check of records of Director of Municipalities, Ahmedabad, it was noticed (September 1999) that 16[#] municipalities though collected education cess amounting to Rs.2.88 crore during 1997-98 but credited only an amount of Rs.1.54 crore into Government accounts. Further, education cess amounting to Rs.3.50 crore collected by the municipalities for the earlier periods was also not credited into Government account. This resulted in non recovery of education cess amounting to Rs.4.84 crore from the municipalities, unauthorisedly retained by them.

The above matters were referred to the departments between October 1999 and February 2001. No response was received from them. The matter was followed up with reminders to the Secretary in May/June 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

[#] Balasinor, Billimora, Borsad, Deesa, Godhra, Karjan, Lunawada, Mehsana, Nadiad, Palanpur, Patan, Talod, Umreth, Unjha, Valsad and Visnagar.

CHAPTER IV

TAXES ON VEHICLES

4.1 Results of Audit

Test check of assessment records in the offices of the Commissioner of Transport, Regional Transport and Assistant Regional Transport Offices in the State, conducted in audit during the year 2000-2001, disclosed under assessments, etc. amounting to Rs.42.70 crore in 100 cases. These cases broadly fall under the following categories:

(Rupees in crore)

Sr. no.	Category	No. of cases	Amount
1	Non/short levy of composite tax	26	4.22
2	Non/short levy of motor vehicles tax	32	2.63
3	Other irregularities	42	35.85
	Total	**100**	**42.70**

During the year 2000-01, the department accepted under assessment of Rs.96.11 crore in 902 cases and recovered Rs.57.09 lakh in 894 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations involving Rs.120.75 crore are given in the following paragraphs.

4.2 Short levy of passenger tax and interest due to incorrect/non adjustment of subsidy

Under Section 3 of the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 and Rules made thereunder, fleet owners are required to make payment of passenger tax before the end of the month immediately succeeding the month to which it relates. Failure to pay the tax in time attracts simple interest at the rate of 12 *per cent* per annum on the outstanding amount of the tax for the period of default. Government gives every year subsidy equivalent to the loss incurred by the transport corporation in running the buses on different uneconomical routes and also due to charging concessional rates to students. Further, credit should first be given towards the interest dues and balance, if any, to be adjusted against the principal amount in case of interest bearing amount due to Government, in terms of provisions contained in GFR[#] and Government Resolution dated 16 October 1976.

(i) During test check of records of the Commissioner of Transport, it was noticed (June 2000) from the monthly returns submitted by the GSRTC[*] in

[#] General Financial Rules

[*] Gujarat State Road Transport Corporation.

respect of passenger tax for the year 1999-2000 that out of the subsidy of Rs.48.63 crore sanctioned by the Government for the year 1999-2000 an amount of Rs.30.52 crore was adjusted against the tax arrears of Rs.483.02 crore due from the Corporation and the balance amount of Rs.18.11 crore was paid in cash instead of adjusting the entire amount against the outstanding tax dues. Further, incorrect adjustment of the amount of subsidy paid during 1998-99 and 1999-2000 towards tax dues instead of adjusting the same first towards interest arrears of Rs.150.14 crore in terms of instructions contained in GFR resulted in loss of interest of Rs.22.20 crore for the period upto March 2001.

(ii) During test check of records of office of the Commissioner of Transport, it was noticed (June 2000) that GSRTC had paid during 1998-99 only an amount of Rs.38.40 lakh as against the dues of Rs.140.64 crore for the period 1998-99 and paid Rs.40.10 lakh during 1999-2000 as against the dues of Rs.157.92 crore for the period 1999-2000. Though interest was leviable on the balance amount including the balance of earlier tax arrears, no demand for the interest was raised. This resulted in non-levy of interest amounting to Rs.89.35 crore for the period from April 1998 to March 2000, besides penalty.

This was pointed out to the department in June 2000 and March 2001. The department accepted the audit observations and issued demand notices. Further recovery details not received (October 2001).

(iii) During test check of records of Commissioner of Transport, Ahmedabad, it was noticed (June 2000) that in case of vehicles owned by AMTS[#] (a fleet owner), though the provisional assessment for the year 1999-2000 was made (April 1999) the tax of Rs.39.25 lakh though required to be paid within 15 days from the date of provisional assessment, this amount has not yet been recovered even after the completion of the final assessment (July 2000). This resulted in non-recovery of Rs.49.06 lakh including penalty of Rs.9.81 lakh.

This was pointed out to the department in September 2000. The department accepted the objection and stated (May 2001) that matter is in correspondence with the AMTS for the recovery of above dues.

4.3 Non-levy of motor vehicles tax

Under the Act, tax is levied and is required to be collected in advance on all the motor vehicles used or kept for use in the State. The owner of a vehicle, who does not intend to use the vehicle or keeps it for use in the State but desires to avail of exemption from payment of tax, has to make a declaration accordingly within the period for which tax has been paid. Such a declaration is valid only till the end of the financial year in which it is made. The declaration of non-use of vehicle is noted in the tax-index cards after its acceptance by the taxation authority.

[#] Ahmedabad Municipal Transport Service.

(i) During test check of records of 15* taxation authorities, it was noticed (between February and October 2000) that in 653 cases motor vehicles tax was not levied for the years 1998-99 and 1999-2000 despite absence of any declaration regarding non-use of vehicles. Non levy of motor vehicles tax in respect of these vehicles worked out to Rs.78.34 lakh.

This was pointed out to the department between April and November 2000. The department accepted the audit observations involving an amount of Rs.78.34 lakh in 653 cases and recovered an amount of Rs.16.88 lakh in 220 cases. Details of recovery and reply in the remaining cases have not been received (October 2001).

(ii) During test check of records of 15@ taxation authorities, it was noticed (between September 1999 and October 2000) that owners of 365 omnibuses, who kept these vehicles for exclusive use as contract carriage, had neither paid the tax nor filed non-use declarations for various periods between March 1994 and March 2000. The tax recoverable in these cases worked out to Rs.3.09 crore.

The above cases were pointed out to the department (between December 1999 and December 2000). The department accepted the audit observations involving an amount of Rs.3.07 crore in 363 cases and issued demand notices and recovered an amount of Rs.41.02 lakh in 89 cases. Further details of recoveries and reply in the remaining cases have not been received (October 2001).

4.4 Pending collection of tax due to inadequate action by departmental officials

Under the Act, if tax is not paid within 15 days of serving of notice of demand, the taxation authority is required to issue revenue recovery certificate to recover the tax as arrears of land revenue. The Inspectors of motor vehicle department are empowered to stop vehicles and cause them to remain stationary till the tax is paid by the defaulters. The recovery officers can recover the dues by distraining and selling the movable/immovable properties of the defaulters or arrest and send them to prison etc.

During test check of records of 3# taxation authorities, it was noticed (between May and October 2000) in 23685 cases of defaulters relating to the period from 1968-69 onwards that after issue of notices of demand between 1968 and December 2000 no effective action was initiated by the recovery officers to recover the dues. The inadequate action on the part of recovery/departmental officials resulted in non-recovery of tax of Rs.1.71 crore for various periods between April 1968 and December 2000.

---

* Amreli, Bharuch, Bhavnagar, Bhuj, Gandhinagar, Godhra, Himatnagar, Junagadh, Jamnagar, Mehsana, Palanpur, Rajkot, Surendranagar, Vadodara, and Valsad.

@ Amreli, Bharuch, Bhavnagar, Bhuj, Godhra, Himatnagar, Jamnagar, Junagadh, Mehsana, Nadiad, Palanpur, Rajkot, Surendranagar, Vadodara and Valsad.

\# Dahod, Rajkot and Valsad.

The above cases were pointed out to the department (between August and November 2000). The department accepted (June 2001) the audit observations involving an amount of Rs.0.39 lakh in 3 cases and recovered the amount.

4.5 Non/short levy of lump sum tax

Under the Act, with effect from April 1987, the State Government specified rates of one time (lump sum) motor vehicles tax leviable on all non-transport vehicles used or kept for use in the State whose unladen weight does not exceed 2250 Kgs. From April 1999, the levy of lump sum tax was made applicable even to transport vehicles in respect of three/four wheelers plying for hire and used for carriage of passengers not more than six. In respect of such vehicles registered prior to April 1999, lump sum tax was recoverable in 10 equal monthly instalments commencing from April 1999.

During test check of records of 13[#] taxation authorities, it was noticed (between April and October 2000) that lump sum tax in respect of 27 non-transport vehicles was levied short due to incorrect application of single rate and non calculation of the tax on ex-factory price of the vehicles etc. Though lump sum tax according to the age of the vehicle was recoverable in respect of 5742 three/four wheelers registered prior to April 1999 which were plying for hire, no action was taken to recover the lump sum tax from the owners of such vehicles. This resulted in short levy of lump sum motor vehicles tax of Rs.1.89 crore including penalty of Rs.33.97 lakh.

The above cases were pointed out to the department between June and November 2000. The department accepted the audit observations involving an amount of Rs.1.77 crore in 5749 cases and recovered an amount of Rs.57.05 lakh in 2218 cases. Recovery details and reply in the remaining cases have not been received (October 2001).

4.6 Short levy due to incorrect issue of permit as taxi

Under the Motor Vehicles Act, 1988, a "maxi-cab" constructed and adapted to carry more than 6 passengers, excluding the driver, for hire or reward, is defined as transport vehicle and the owners of these vehicles are liable to pay composite tax as applicable to "omnibuses".

During test check of records of Regional Transport Offices, Nadiad and Rajkot, it was noticed (October and November 1999) that 222 maxi-cabs *viz.* Bajaj Matador, Bajaj Tempo, Mahindra and Mahindra, Armada etc., having carrying capacity of more than 8/9 passengers, excluding the driver, have been incorrectly issued permit to run as motor cabs (taxies) though motor cabs constructed and adapted to carry less than 6 passengers only can be issued permit to run as taxies. The incorrect issue of permit to the above vehicles to

[#] Bharuch, Dahod, Gandhinagar, Godhra, Himatnagar, Jamnagar, Junagadh, Mehsana, Palanpur, Rajkot, Surendranagar Vadodara & Valsad.

run as taxies instead of as omnibuses resulted in short levy of tax of Rs.1.16 crore.

4.7 Incorrect grant of exemption

Under the Act, tax shall be levied and collected on all the motor vehicles used or kept for use in the State unless specifically exempted from payment. Tractor-cum-trailers belonging to agriculturists and used solely for agricultural purposes are exempted from payment of tax.

During test check of records of 5[#] taxation authorities, it was noticed (between February and August 2000) that in 66 cases, exemption from payment of tax was granted for various periods between 1998-99 and 1999-2000 to tractor-cum-trailers without obtaining the proof of owners being agriculturists. The incorrect grant of exemption resulted in non-levy of motor vehicles tax of Rs.7.77 lakh.

The above cases were pointed out to the department between June and October 2000. The department accepted the audit observations involving an amount of Rs.7.77 lakh in 66 cases and recovered an amount of Rs.5.41 lakh in 43 cases. Recovery details and reply in the remaining cases have not been received (October 2001).

The above matters were referred to the departments between December1999 and 2000. No response was received from them. The matter was followed up with reminders to the Secretary (May/June 2001). However, inspite of such efforts, no reply was received from the Government (October 2001).

[#] Dahod, Gandhinagar, Godhra, Himatnagar and Mehsana.

CHAPTER V

STAMP DUTY AND REGISTRATION FEES

5.1 Results of Audit

Test check of assessment records in the registration offices and offices of the Collectors of Stamp duty (Valuation of Properties) in the State, conducted in audit during the year 2000-01 disclosed short realisation of stamp duty and registration fees amounting to Rs.76.33 crore in 286 cases, which broadly fall under the following categories:

(Rupees in crore)

Sr. no.	Category	No. of cases	Amount
1	Misclassification of documents	107	5.82
2	Under valuation of properties	13	1.15
3	Incorrect grant of exemption	16	3.13
4	Under assessment of stamp duty on instruments of mortgage deeds	18	0.78
5	Other irregularities	132	65.45
	Total	**286**	**76.33**

During the year 2000-01, the department accepted under assessment of Rs.21.90 lakh in 61 cases and recovered Rs.8.20 lakh in 30 cases pertaining to earlier years. A few illustrative cases involving Rs.50.16 crore highlighting important audit observations are given in the following paragraphs.

5.2 Short levy of stamp duty due to incorrect application of concessional rate

By a notification issued in April 1992 under the Bombay Stamp Act, 1958 (Act) as applicable to Gujarat, Government reduced the rate of stamp duty to one *per cent* for loans upto Rs.15 lakh and two *per cent* for loans exceeding Rs.15 lakh, on mortgage deeds executed by any industrial undertaking in favour of certain financial institutions. From November 1994, the maximum duty was restricted to Rs. two lakh per deed. This reduced rate is applicable only to those industrial undertakings which are engaged in any of the activities mentioned in the Explanation III to the above notification.

During test check of records of 4* Sub-Registrar Offices, it was noticed (between February 2000 and October 2000) in 4 documents registered

* Jamnagar, Mandvi(Kutch), Memnagar(Ahmedabad) and Palsana.

between 1997 and 1999 that 4 industrial undertakings (Reliance Ports and Terminals, Adani Ports Ltd. and 2 other units), engaged in providing additional port facilities/setting up a Petrochemical Jetty/storage complex/ setting up an entertainments project and waterpark cum resort etc., had obtained loans aggregating Rs.606.50 crore by mortgaging their properties in favour of financial institutions. As the said activities of the industrial undertakings are not covered by activities listed in the above notification, the benefit of reduced rate of stamp duty was not admissible. This resulted in short levy of stamp duty and registration fees of Rs.31.84 crore.

5.3 Short levy of stamp duty and registration fees on instrument comprising several distinct matters

Under Section 5 of the Act, any instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the duties with which such separate instrument would be chargeable under the Act.

(i) During test check of records of 5* Sub-Registrar Offices, it was noticed (between May and November 2000) that 14 documents of immovable properties valued at Rs 5.16 crore consisting of 8 conveyance deeds, 3 agreements, 2 partition and one further charge deeds were registered during 1999. In the recitals of these documents, there was mention of transactions such as partitions, gifts, mortgage, relinquishment/assignment of right and hypothecation of properties for which no registrations were made. These documents were, therefore, chargeable to duty with the aggregate amount of duty including the duty chargeable on the other transactions. This resulted in short levy of stamp duty and registration fees of Rs.45.85 lakh as detailed below:

(Rupees in lakh)

Sr. no.	Location	No. of documents	Value of property	Short levy	Nature of irregularity
1	Memnagar, Ahmedabad	3	254.44	21.17	As per recitals, documents of assignment of right by the farmers in favour of the confirming party and conveyance and relinquishment of right in the property and conveyance were treated as conveyance only instead of levying on aggregate duty of both. In another document though property was partitioned twice, duty was levied only once.
2	Paldi, Ahmedabad	1	125.00	14.37	Though duty was leviable on document relating to both gift and partition, the same was levied on partition only.

* 3 of Ahmedabad and one each of Jhagadia and Palanpur.

3	Jhagadia	3	49.70	7.11	2 documents of agreement and power of attorney given for consideration and one document of gift and agreement were charged to duty as agreement only.
4	Narol, Ahmedabad	6	22.12	2.55	Documents of gift and conveyance were levied to duty only as conveyance.
5.	Palanpur	1	65.00	0.65	Document of further charge and hypothecation was levied to duty as further charge only.
	Total	**14**	**516.26**	**45.85**	

(ii) During test check of records of 6[@] Sub-Registrar Offices, it was noticed (between January and September 2000) that 7 documents styled as agreement to sell between GSFC[#] and various entrepreneurs were registered during 1998 and 1999 and duty was levied accordingly. The recitals of these documents, however, revealed that the GSFC took over possession of the properties valued at Rs.1.70 crore of the industrial concerns which had defaulted in repayment of loans and disposed these off by auction to different industrial units. Part of the sale price was collected in cash and the balance treated as loan to be repaid in instalments with interest. Since the property was transferred with possession to the purchaser, the documents were required to be classified as conveyance. Further, since the documents contained provisions creating by its own force a right or interest in the property to secure repayment of loan, the documents were also classifiable as mortgage deeds and aggregate stamp duty and registration fees applicable to conveyance and mortgage were leviable. The incorrect categorization for registration resulted in short levy of stamp duty and registration fees amounting to Rs 24.20 lakh.

5.4 Short levy of stamp duty and registration fees due to mis-classification of documents

Under Section 3 of the Act, every instrument mentioned in Schedule-I shall be chargeable with duty at the rates as indicated in the Schedule. For the purpose of levy of stamp duty an instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

During test check of records of 57[*] Sub-Registrar Offices, it was noticed (between November 1998 and 2000) that 1222 documents registered between 1997 and 1999 were classified on the basis of their titles and stamp duty was levied accordingly. Scrutiny of the recitals of these documents, however,

[@] Dholka, Dhrangadhra, Godhra, Kadi, Sihor and Thasra.

[#] Gujarat State Financial Corporation.

[*] 8 of Ahmedabad, 7 of Mehsana, 5 each of Rajkot and Vadodara, 4 each of Bharuch and Kheda, 3 each of Bhavnagar, Junagadh, Kutch and Surat, 2 each of Palanpur, Patan and Surendranagar and 1 each of Anand, Gandhinagar, Godhra, Navsari, Panchmahal and Valsad.

revealed that these documents were mis-classified. This resulted in short levy of stamp duty and registration fees of Rs.5.59 crore as detailed below:

(Rupees in lakh)

Sr. no.	No. of offices	No. of documents	Short levy	Nature of irregularity
1	44	852	242.88	The documents were mis-classified as deposit of title deeds though as per the recitals right or interest in the property was created in favour of the mortgagees by executing separate loan agreements, handing over demand promissory notes/giving Powers of attorney etc. These documents were, therefore, classifiable as mortgage deeds.
2	19	184	180.37	The documents were mis-classified as "agreement" though as per the recitals of the documents possession of the property had been handed over/full rights to develop and market the properties and also right and interest were transferred to the purchasers. These documents were therefore required to be classified as conveyance deeds.
3	10	61	75.82	The documents were mis-classified as deposit of title deeds. However, recitals of these documents revealed that guarantors deposited the title deeds of their properties in the bank on behalf of the borrowers. These documents were therefore classifiable as bonds.
4	19	104	49.23	The documents were mis-classified as release deeds though as per the amended Act these documents were classifiable as conveyance.
5	9	21	10.46	By executing correction deeds, immovable properties were transferred to individuals or housing societies by changing the name of the person/adding or deleting names/ increasing the area of the properties, etc. Hence these documents were classifiable as conveyance.
	Total	**1222**	**558.76**	

This was pointed out to the department between April 1999 and January 2001. The department accepted (December 1998 and July 2000) the audit observations involving an amount of Rs.2.36 lakh in 8 cases (Sr.nos.1, 2 and 4). Further details of recovery and reply in the remaining cases have not been received (October 2001).

5.5 Non/short levy of additional duty

Under Section 3(B) of the Act, additional duty at the rate of 50 percent of the basic duty is leviable on instruments of conveyance, exchange, gift, lease etc. of vacant land situated in urban areas (other than vacant land of less than 100 sq. metres intended for residential purpose). Additional duty at the rate of 25 percent is also leviable on non-agricultural land exceeding 100 sq. metres situated in rural areas.

During test check of records of 10[#] Sub-Registrar Offices, it was noticed (between January and December 2000) that in case of 94 deeds of conveyance of vacant land situated in urban/rural areas registered during 1998 and 1999, additional duty leviable at the rate of 50/25 *per cent* was not levied. This resulted in short levy of stamp duty of Rs.35.14 lakh.

This was pointed out to the department between March 2000 and 2001. The department accepted (April 2000) the audit observations amounting to Rs.3.70 lakh in 20 cases. Recovery details and reply in the remaining cases have not been received (October 2001).

5.6 Short levy of stamp duty due to undervaluation of properties

Under the Act, if the officer registering the instrument has reasons to believe that the consideration set forth in the document presented for registration does not approximate to the market value of the property, he may, either before or after registering the document, refer the same to the Collector for determining the true market value of the property. The market value of the property is to be determined in accordance with the principles laid down under the provisions of the Bombay Stamp (Determination of Market Value of the Property) Rules, 1984, and instructions issued by the Government from time to time.

(i) During test check of records of 4[@] Deputy Collectors (Valuation) and 6[$] Sub-Registrar offices, it was noticed (between October 1999 and December 2000) that 61 documents of conveyance deeds and 12 documents of transfer of lease by way of assignments of immovable properties were presented for registration. Though the consideration shown in 37 documents was much less than the market value of the properties as per Schedule of rates available with Sub-Registrars, these documents were not referred to the Collector for valuation. In another 36 documents, which were referred to the Collector, market value of these properties was determined less disregarding the valuation reports of Sub-Registrars, Rules and instructions issued by the Government etc. In these cases, valuation was done by the Deputy Collector based only on the representations made by the executors of the documents without reference to the principles of valuation contained in the Bombay Stamp (Determination of Market Value of the Property) Rules, 1984. This

[#] 4 of Ahmedabad, 2 of Vadodara & 1 each of Bhuj, Mehsana, Navasari and Rajkot.
[@] Jamnagar, Junagadh, Rajkot and Rajkot (Rural).
[$] Ahmedabad (Odhav), Dehgam, Mandvi (Kutch), Palsana, Surat and Vadodara.

resulted in undervaluation of the properties and consequent short levy of stamp duty of Rs.1.39 crore.

(ii) During test check of records of 5* Deputy Collector (Valuation) offices, it was noticed (between December 1999 and June 2000) that 68 deeds of conveyances for transfer of properties were referred to the Collectors for determination of market value of the properties. These documents were returned by the Collectors without determining the market value treating them as exempted from valuation. The recitals of these documents, however, revealed that 45 documents of residential properties exceeding 50 sq. mtrs. registered prior to July 1998 were exempted from valuation though properties upto 50 sq.mtrs. were only eligible for such exemption. Another 23 documents were exempted considering the executants as small/marginal farmers on the basis of area of land of present document alone without considering their status including the earlier holdings. These documents were therefore, not eligible for exemption from valuation. This resulted in short levy of stamp duty of Rs.11.20 lakh.

5.7 Non recovery of stamp duty on the bonds issued by the Sardar Sarovar Narmada Nigam Ltd.

As per Section 2(22) of the Indian Stamp Act, 1899, a promissory note is an instrument in writing containing an unconditional undertaking signed by the maker to pay a certain sum of money to a certain person or to a bearer of the instrument, whereas a debenture means a document which either creates a debt or acknowledges it. Further, the Gujarat High Court, to whom, the issue of classification of the bonds issued by Gujarat Electricity Board in the form of promissory notes was referred for a decision as to whether the duty is payable on these bonds as debenture or as promissory notes, the High Court decided to classify them as promissory notes. This decision was also upheld by Honourable Supreme Court.

During test check of records of Sardar Sarovar Narmada Nigam Ltd., it was noticed (July 1999) that the Sardar Sarovar Narmada Nigam Ltd. had issued 7,13,619 bonds in the form of promissory notes of Secured Redeemable Deep Discount Bonds of Rs.3,600 each. No duty was levied on these bonds treating them as debentures. Since these bonds were similar to the bonds issued by the Gujarat Electricity Board, the same were required to be classified as promissory notes. The incorrect classification of these promissory notes as debentures resulted in non-levy of stamp duty of Rs.5.71 crore.

5.8 Incorrect grant of exemption

By a notification issued in July 1998 the Government remitted, for a period upto March 1999, the stamp duty chargeable on instruments of mortgage

* Amreli, Junagadh, Mehsana, Palanpur and Rajkot (Rural).

executed for securing repayment of loans and advances, by individuals or units adversely affected on account of cyclone occurred in the month of June 1998.

During test check of records of Sub-Registrar, Mandvi (Kutch), it was noticed (February 2000) in a document registered in 1998 that a company (Adani Port Ltd.) obtained loan aggregating US $ 13.95 million (equivalent to Rs.50 crore) from a foreign bank and executed a document of mortgage deed in August 1998 in favour of Industrial Finance Corporation of India Ltd. (IFCI), which acted as a security agent and trustee in India on behalf of the foreign bank. No stamp duty was levied on this document considering this document as covered by the above notification. The recitals of this document, however, revealed that this loan was obtained in pursuance of the decision taken in the company's extra-ordinary general meeting held in March 1996 for financing the ongoing Jetty work of the company and the intent letter for which was sent to IFCI in March 1997. As the loan was in no way related to the rehabilitation work of the company due to cyclone and further, the loan was raised for setting up a Jetty planned well before the occurrence of the cyclone, the company was not eligible for remission of stamp duty. This resulted in incorrect grant of exemption of stamp duty and registration fees amounting to Rs.2.78 crore.

5.9 Incorrect remission of stamp duty

According to Section 9 of the Act the Government is empowered to reduce or remit the duty leviable on any instrument or any class of instruments or on documents executed in favour of any class of persons or in favour of any member of such class in the whole or any part of the State. This power vested under the Act cannot be invoked by the Government to extend the benefit exclusively to an isolated individual/unit.

During test check of records of Sub-Registrar, Memnagar (Ahmedabad), it was noticed (June 2000) that a document of transfer of constructed property consisting of 14404 sq.mtr. built-up area in third to eighth floors of Newyork Complex (notified as GNFC's infocity, Ahmedabad by Government) purchased by Gujarat Narmada Valley Fertilizer Company Ltd. at a cost of Rs.15.44 crore from 8 different Non Trading Corporations was registered in 1999. No stamp duty was recovered on this document based on an order issued by Government, exempting this sale from levy of duty, taking recourse to Section 9 of the Act, though Government is not competent to invoke the power vested in them to cover an individual executant. This incorrect remission resulted in loss of stamp duty amounting to Rs.1.54 crore.

This was pointed out to the department in June 2000 and reported to Government in July 2000. The Government did not accept the audit observation and replied (January 2001) that under Section 9 of the Act, the Government was empowered to reduce or remit stamp duty in respect of any instrument. The reply of the Government is not acceptable as under the said Section the Government is empowered to remit, in the whole or any part of the State, the duties with which any instruments are chargeable. This power,

vested in Government under the Act, cannot be invoked to cover an individual executant in particular.

5.10 Short levy of stamp duty and registration fees due to incorrect computation of consideration

According to Section 2(g) of the Act, "Conveyance" includes a conveyance on sale and every instrument by which property, movable or immovable, is transferred. Thus, when property is sold or transferred the total value of such property is to be taken as consideration for the purpose of levy of stamp duty and registration fees.

During test check of records of Sub-Registrar Anand and Morbi, it was noticed (April and May 2000) in 41 documents of conveyance registered during 1999 that 6 developers purchased land and developed different residential complexes consisting of flats and executed sale deeds with 40 different occupants of the proposed flats for the sale of land excluding the cost of construction of the flats though only flats can be sold and not the land in respect of flats. In another document in which interest in a property jointly owned by 8 persons was relinquished by one person, duty was levied on one eighth share of original cost of the property instead of on the market value of the property. This resulted in short levy of stamp duty and registration fees amounting to Rs.15.33 lakh.

The above matters were referred to the departments between October 1999 and January 2001. No response was received from them. The matter was followed up with reminders to the Secretary in May/June 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

CHAPTER VI

OTHER TAX RECEIPTS

6.1 Results of Audit

Test check of records in various departmental offices relating to the following receipts conducted in audit during the year 2000-2001 revealed under assessment etc. of Rs.124.30 crore in 166 cases as detailed below:

(Rupees in crore)

Sr. no.	Category	No. of cases	Amount
1	Entertainments tax	108	67.59
2	Electricity duty	36	6.17
3	Luxury tax	1	0.01
4	Professional tax	20	0.04
5	Review on luxury tax	1	50.49
	Total	**166**	**124.30**

During the year 2000-2001, the department accepted under assessment amounting to Rs.21.78 crore in 239 cases and recovered Rs.4.39 crore in 236 cases, of which 10 cases involving an amount of Rs.5.35 lakh were pointed out during the year 2000-2001 and the rest in earlier years. A few illustrative cases highlighting important audit observations and the results of a review on "Assessments and Collection of Luxury Tax" involving Rs.55.85 crore are given in the following paragraphs.

(A) LUXURY TAX

6.2 Assessments and Collection of Luxury Tax

6.2.1 Introduction

The Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 introduced in 1977 and Rules made thereunder, provide for the levy and collection of a tax (known as luxury tax) on luxury provided in hotels and lodging houses etc. This tax is leviable on charges collected for lodging provided in a hotel, if it exceeds Rs.200 per day per person. Further, the lodging charge includes, the charges for air conditioning, telephone, television, radio, music or extra beds and the like but excludes charges for food, drink and other amenities. Every proprietor of a hotel liable to pay tax

under this Act shall have to submit a monthly return duly showing the tariff fixed for different categories of rooms, number of accomodations available in the hotel, number of persons who occupied the rooms in the month, period of their stay, amount of tax etc. in Form II and III. The Assessment is carried out on the basis of these returns.

6.2.2 Organisational set-up

Commissioner of Luxury Tax, working under the administrative control of Information and Broadcasting Department of the Government is the head of the organisation. The State is divided into three divisions each headed by Dy. Commissioner of luxury tax. Twenty-five District Collectors carry out the day to day work of assessment, collection and accounting of the luxury tax.

6.2.3 Scope of audit

With a view to ascertain the correctness of assessments and collection of luxury tax and also to evaluate the functioning of the department, the records of the departments of Information and Broadcasting, Commissioner of Luxury Tax, Commissioner of Tourism and offices of nine District Collectors (about 20% of the hotels) were test checked between April 2000 and October 2000, covering the periods from 1996-97 to 1999-2000.

6.2.4 Highlights

1. Luxury tax of Rs.16.85 crore was recovered short due to payment of tax on charges lower than the declared tariff.

   [Paragraph 6.2.6]

2. Tax of Rs.8.83 crore was not recovered from Gujarat Tourism Corporation on luxury provided on board. "The Palace on Wheels".

   [Paragraph 6.2.7]

3. Tax amounting to Rs.2.65 crore collected by the hotel owners was incorrectly retained by them.

   [Paragraph 6.2.8]

4. Tax of Rs.1.76 crore was short levied due to payment of tax on the charges for luxury lower than those fixed by the Collector.

   [Paragraph 6.2.11]

5. Tax of Rs.2.16 crore was recovered short, due to incorrect allowance of deductions from the consolidated charges by the Collector/availed of by the proprietors themselves.

   [Paragraph 6.2.12]

6. Short levy of Rs.15.96 crore due to non-inclusion of telephone charges/charges for other services in the taxable amount.
[Paragraph 6.2.13]

6.2.5 Trend of receipts

The luxury tax receipts constitute 0.2 *per cent* of the total receipts of the State. The tax collection revealed a downward trend in 1999-2000. The position of the budget estimates and the actuals for the last four years was as under:

(Rupees in crore)

Sr. no.	Year	Budget estimates	Actual realisation	Percentage of variation	Expenditure*
1	1997-98	9.00	16.43	(+) 7.43	1.96
2	1998-99	17.00	17.19	(+) 0.19	2.30
3	1999-2000	16.50	15.58	(-) 0.92	2.67
4	2000-2001	32.00	17.79	(-) 14.21	1.88

The decrease in 1999-2000 was due to

i) Grant of exemption under the tourism policy.
ii) Non-payment of tax on the declared tariff.
iii) Reduction of rates.
iv) Raising of exemption limit.

6.2.6 Non-payment of luxury tax on the tariff rates declared in form II returns/printed tariff

Under Section 2(e), 3(1) and 5(1) of the Gujarat Tax on Luxuries (Hotel and Lodging Houses) Act, 1977 (Act) read with Rule 5(1) of the Rules made there under and according to Section 4(3) of the Act, tax is leviable on the full tariff of a room as declared by the proprietors of hotels irrespective of whether the room was let out free or at concessional rates. Further, when the validity of this provision was challenged by one of the hotel owner of Baroda in the Supreme Court, the Court upheld its validity as a provision against evasion of tax. It was, however, noticed that Sub Section 4(3) was withdrawn by Government from June 1996 overlooking the Supreme Court's judgement on the plea that this would help promoting tourism in the State. The Commissioner by issue of a circular in November 1996, given instructions, for levy of tax on the actual amount of room rent collected instead on tariff declared. This circular contradicts the provisions clearly laid down in Section 2(e), 3(i) and 5(i) of the Act, read with Rule 5(1) of the Rules, that tax is payable on the declared tariff. The withdrawal of Section 4(3) which was a provision against the evasion of tax as per Supreme Court and issue of circular

* Major part of this expenditure pertains to collection charges for entertainment tax.

by the Commissioner resulted in abatement of tax evasion to the extent of Rs.16.85 crore during the period between 96-97 and 99-2000. A few illustrative cases are given below:

(Rupees in lakh)

Sr. no.	No.of hotels	Amount of short levy	Nature of irregularity
1	12	817.65	Tax was paid by the proprietors of the hotels on the lower amount reported to have been charged.
2	35	681.63	Hotels had exhibited discounts ranging between 10% and 95% and paid tax on the discounted amount.
3	03	109.81	Proprietors of the hotels at Ahmedabad did not pay any tax for the stay in the hotel in respect of large number of persons showing them as house guests/group persons etc. on the plea that no room rent was recovered. Invoices, however revealed that charges for all other services like food, telephone, laundry etc. were recovered in full.
4	08	49.27	Hotels had manipulated the rates to such a low level for rooms, when given to selected persons, which fell below the taxable limit resulting in non-levy of luxury tax.
5	01	18.09	A hotel owner at Ahmedabad did not pay the tax for the last day of customer's stay, on the plea that no amount was collected, though, all other charges like telephone, laundry, breakfast, food etc. have been collected. Though tax was leviable for any over stay no tax was levied. Short levy for overstay beyond 5 hours amounted to Rs.18.09 lakh during test check of 6 months only.
6	03	03.77	Three hotels, two at Bhavnagar and one at Rajkot, did not pay tax on large number of rooms allotted on complimentary basis, on the plea that no room rent was collected
7	01	03.76	Though a hotel at Surat had revised the tariff of a particular category of rooms in the month of September 98, the charges in 80 *per cent* cases were recovered at old rates resulting in short levy. The Collector Surat accepted the objection.
8	01	00.84	A hotel at Baroda let out forty-six rooms to a marriage party for two/three days after recovering for all the items like food, drinks, telephone, laundry etc., except room rent and paid no tax. The Collector Baroda accepted the objection.

On this being pointed out, Government stated (June 2001) that they are introducing a bill for reinserting the Section 4(3) and 4(4), in the next assembly session for its consideration.

6.2.7 Non-levy of tax on "The Royal Orient" - also known as "Palace on Wheels"

As defined in Section 2(d) of the Act, "Hotel" means a building or part of a building where accommodation is provided for lodging with or without board for a monetary consideration. It includes a club, lodging house, gymkhana, inn, motel, public house or any place where residential accommodation is provided for a monetary consideration.

The Gujarat Tourism Corporation had purchased four air-conditioned coaches from the Railways and is plying it as a luxury train[&] called "The Palace on Wheels" from February 1995 onwards for a sight seeing package of eight days, at the rate of $200 per person per day. The facilities provided on board are claimed as better than that of a five-star hotel. The charges so collected include charges for accommodation, meals, house keeping services, sight seeing and conference hall etc. Since separate charges for luxury provided (liable to tax) and charges for food and other amenities, (not liable to tax) have not been got fixed by the Collector under Section 4(1) of the Act, the entire amount collected for the package is chargeable to tax. Though tax was required to be levied on the luxury train, no tax was levied. Non levy of tax for the period from February 1995 to March 2000 worked out to Rs.8.83 crore.

On this being pointed out (November 2000), the Government issued (January 2001) instructions to the Commissioner (LT) Gandhinagar to collect the tax and to the Commissioner of Tourism Gandhinagar to pay the tax.

6.2.8 Retention of tax collected by hotel owners

In accordance with the notification of September 1998 a hotel owner availing tax exemption benefits is not eligible to collect any tax. The amount if any collected in violation of the above instructions should immediately be credited to Government.

It was noticed that 5[*] hotels, who were given exemption from payment of luxury tax by issue of a notification in February 97 under the tourism policy, had collected tax incorrectly from the customers and retained the amount with them. A proprietor exempted from payment of tax cannot collect any tax from the customers. Non-remittance of tax collected amounted to Rs.2.65 crore including interest and penalty.

The department accepted the objection (June/July 2000).

6.2.9 Non-inclusion of service charges collected in the "charges for luxury"

As per Section 4(2) of the Act, service charges if any levied, in addition to the charges for luxury provided in a hotel and appropriated by the owner, such charges shall be deemed to be a part of the charges for luxury provided in a hotel.

A review of records of 7[@] hotels revealed that the service charges collected at the rate of 10 to 15 percent of the room rent/room service appropriated by the

[&] Destination Ahmedabad to Ahmedabad via Jaipur, Delhi, Udaipur, Junagadh, Veraval, Sasan, Ahmedabad, Mandvi and Palitana.

[*] Vapi 3, Baroda and Surat 1 each.

[@] Rajkot 3, Vadodara 2, Jamnagar and Palanpur 1 each.

hotel owners were not added to the taxable amount. This resulted in short levy of tax amounting to Rs.83.30 lakh including interest and penalty.

The department accepted the audit objection (July/September 2000).

6.2.10 Evasion of tax by altering entries in Guest Registration Cards and Form III

(A) Luxury tax is leviable on the charges collected per person per day at the rate of 15 percent of the charges for lodging upto Rs.500 and for above Rs.500 at the rate of 20 *per cent*.

In a hotel at Gandhinagar, it was noticed that a programme was fed in the computer for preparation of invoices in favour of 2 persons for each room irrespective of the actual number of occupants. The number of occupants shown in the Guest Registration Cards (no Guest Check-in Register maintained) and Form III returns were altered as 2 persons though the rooms were occupied by single person by over writing in over 80 *per cent* cases. The luxury charges though collected by the proprietor from single person the same was devided by two showing double occupancy in the rooms thereby bringing down the charges below Rs.500 and tax was paid at lower slab of 15% instead of 20%. This unwarranted alteration resulted in tax evasion of Rs. 12.30 lakh including interest and penalty.

The department accepted (October 2000) the objection.

(B) The proprietors of each hotel were, by law, required to maintain a "Guest Check-in Register" duly making entries of all persons stayed in the hotel at the time of their check-in. These entry numbers were required to be shown in Form III returns submitted to the Collector to enable him to ensure that no entry made in the register escaped tax.

A hotel at Gandhinagar used loose registration cards instead of the Check-in Register for making entries of persons stayed in the hotel. For this purpose the hotel got printed 11000 cards with serial numbers in March 1996 and used different series of the cards simultaneously. On reconciliation with the entries made in Form III, it was noticed that only 8332 entries were shown in Form III and as stated by the hotel authorities only 1636 cards were in balance. Thus entries in respect of balance 1032 cards were missing in Form III and escaped tax. Short levy of tax in respect of 1032 cards worked out to Rs.16.25 lakh including interest and penalty.

The Collector Gandhinagar accepted the objection (December 2000).

6.2.11 Non-payment of tax on the rates of charges for luxury fixed by the Collector

Where the charges for luxury provided in a hotel is inclusive of charges for food, drinks, other amenities etc. not liable to tax as referred to in clause (e) of Section 2 of the Act, the Collector is empowered under Section 4(1) of the Act to fix after giving an opportunity to the hotel authorities to be heard, separate rates of charges for luxury and for other items, for the purpose of calculation of the tax under the Act.

(i) A hotel owner at Surat though got the rates of charges fixed separately for luxury and for other amenities like food, drink etc. by the Collector in November 1996, claimed reduced rates ranging from 10 to 95 percent from the charges fixed by the Collector and paid the tax on such reduced rates resulting in short levy of tax amounting to Rs.1.45 crore including interest and penalty.

Collector (LT) Surat accepted the objection (June 2000).

(ii) A hotel owner at Surat applied for fixation of separate rates of charges for luxury and for other amenities. The Collector, after issuing a notice and giving the hotel owner a chance of being heard, rejected (February 2000) the application and instructed the hotel owner to pay tax on the full tariff declared by him. Inspite of the instructions, the proprietor continued to pay the tax on the reduced tariff. Another hotel owner at Baroda deducted on his own certain amount for food and other amenities from the declared tariff, for certain persons only, bringing down the charges of accommodation below the taxable amount and paid no tax. This resulted in short/non levy of luxury tax of Rs.30.54 lakh including interest and penalty.

The Collector accepted the audit objection (June 2000).

6.2.12 Incorrect deductions allowed from the consolidated rate of charges for luxury

The Collector (LT) Surat under the powers vested in him under Section 4(1) of the Act, allowed deduction of the amounts (separately for single/double occupancy) from the consolidated amount charged by the hotel authority (Holiday Inn) from the occupants, valet services (Rs.60/60), breakfast (Rs.180/360), Executive Health Club (massage) (Rs.570/970) and membership of Executive club (Rs.600/600) etc. from levy of luxury tax while fixing separate rate of charges for luxury and for other amenities not included for levy of luxury tax as defined in clause(e) of Section 2 of the Act.

A review of the above deductions revealed that though the Collector is empowered to give deductions only in respect of items included in Section 2(e) of the Act *viz.* food, drink and other amenities, deductions allowed in respect of amount charged towards membership to Health club (massage), Executive club and charges for valet services, recovered and appropriated by the hotel owners etc. being only services and not amenities, were not correct.

These items were therefore liable to tax. Further, as per the menu card of the hotel, breakfasts were served free on complementary basis and hence any deduction on account of breakfast was not permissible. The incorrect allowance of deduction of above charges resulted in short levy of Rs.2.16 crore.

The collector accepted (June 2000) the audit observation.

6.2.13 Short levy due to non-inclusion of telephone charges in the taxable amount.

Section 3(1) of the Act provides for levy and collection of tax from every person on the charges collected in respect of any luxury provided to him in a hotel. The charges for luxury provided in a hotel as defined in Section 2(e) of the Act, include telephone charges.

(i) Scrutiny of invoices of the sixty-seven[#] hotels revealed that though the hotel owners had collected telephone charges at exorbitant rates but were not including the same in the taxable amount. This resulted in short levy of tax amounting to Rs.13.22 crore including interest and penalty for the period between 96-97 and 99-2000.

(ii) Scrutiny of records of 65[**] hotels revealed that charges collected for different services given *viz.* laundry services and miscellaneous services *viz.* computer, secretarial, xerox and typing etc. were not included in the taxable amount. This resulted in short levy of Rs.2.74 crore including interest and penalty.

6.2.14 Incorrect grant of exemption

Under the Act, foreigners paying lodging charges, in any foreign exchange, were exempted from payment of tax. This provision of exemption was withdrawn with effect from 18 June 1996.

Four[@] hotel owners did not collect tax from the foreigners, during the period between 96-97 and 99-2000, though the provision of exemption was already withdrawn, resulting in short levy of tax amounting to Rs.5.86 lakh including interest and penalty.

The Collector Ahmedabad accepted the objection (September 2000).

[#] 21 of Ahmedabad, 15 of Vadodara, 10 of Surat, 6 of Jamnagar, 5 each of Bhavnagar and Rajkot, 2 of Valsad and 1 each of Gandhinagar, Mehsana and Palanpur.

[**] 20 of Ahmedabad, 15 of Vadodara, 8 of Jamnagar, 7 of Surat, 6of Bhavnagar, 5 of Rajkot, 2 of Valsad and 1 each of Gandhinagar, Mehsana.

[@] 2 each at Ahmedabad and Rajkot.

6.2.15 Short levy of interest due to incorrect calculation

Under Section 7A of the Act, if a proprietor does not pay the amount of tax within the prescribed period, he shall be liable to pay simple interest at the rate of 2 *per cent* of the tax due for each month or part thereof for the period for which the tax remains unpaid.

Scrutiny of interest calculations in respect of 20 *hotels revealed that interest was calculated at the rate of 24 *per cent* per annum, in number of days, for the period of default instead of calculating at the rate of 2 *per cent* for each month and part of the month as laid down in the Act. This resulted in short levy of interest amounting to Rs.11.34 lakh.

6.2.16 Incorrect treatment of second occupant of double room as extra person.

As defined in Section 2(c) of the Act, "Luxury provided in a hotel" means, the accommodation for lodging provided in a hotel, the rate of charges for which is more than two hundred rupees per person per day. Further, the question of collection of charges for extra bed would arise only after utilization of the capacity of the room.

During test check of a hotel at Vapi it was noticed that all the rooms of the hotel were double rooms as per written statement of the owner. However, when the second person was accommodated in the double room, he was charged at the rate fixed for extra bed *viz.* Rs.150, instead of charging at the same room tariff rate charged from the first occupant *viz.* Rs.490. No tax was paid on the charges collected from the second occupant of the double room since it was below Rs.200. As all the rooms were double rooms having tariff rates of Rs.490 per person, the hotel was liable to pay tax on the same tariff rate for the second occupant also. The non-levy of tax for second occupant works out to Rs. 28.13 lakh including interest and penalty for the period between 97-98 and 99-2000.

The Collector (LT) Valsad accepted the audit objection (June 2000)

6.2.17 Non/short levy of tax on charges for extra beds

The definition of "Luxury provided in a hotel" clearly reveals that charges collected for extra bed is an integral part of the luxury provided and hence the charges for the extra beds should be added to the charges for luxury provided in a hotel for the purpose of levy of tax. It cannot be treated as a separate accommodation.

* 6 each of Vadodara and Surat, 5 of Ahmedabad, 2 of Valsad and 1 of Bhavnagar.

In twenty-nine* hotels test checked, it was noticed that no tax was paid treating the extra bed as a separate accommodation. This resulted in short levy of tax amounting to Rs.42.27 lakh including interest and penalty for the period between 96-97 and 99-2000.

6.2.18 Allotment of air conditioned rooms as non-air conditioned rooms at lower rates

Section 3(1) of the Act provides for levy and collection of tax from every person in respect of any luxury provided to him in a hotel.

Nine hotels allotted air-conditioned rooms and paid tax at lower rate as applicable to non-air conditioned rooms. As the luxury provided was air-conditioned rooms, tax was payable on the tariff declared for air-conditioned rooms. This resulted in short levy of tax amounting to Rs. 29.05 lakh including interest and penalty for the period between 96-97 and 99-2000.

6.2.19 Important procedural irregularities

(i) Government after framing Rules under Section 21 of the Act, prescribed the forms of monthly returns containing all the required details to enable the department to verify the correctness of the tax payable and paid while assessing the returns. Form II and III which are very important returns though revised by the Government in May 1997 and October 1999, 90% of the hotels were found still submitting the returns in pre-revised forms. Further, the forms submitted were also incorrect and incomplete. The names of all the occupants of the hotel rooms though required to be shown in the invoices, as per the instructions issued by the Government in October 1999, none of the hotels had followed the instructions. No checks were exercised by the department before the assessment. Failure on the part of the department to conduct a detailed scrutiny of these returns resulted in manipulation and evasion of tax going unnoticed as pointed out in the foregoing paragraphs.

(ii) Due to non-fixation of any limit for completion of assessment in the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 and Rules made thereunder assessment cases ranging from 3 to 9 years were pending.

(iii) Though the Act, for levy of tax on luxury provided in a hotel was introduced in 1977, a provision making it compulsory for the proprietor of a hotel to obtain a registration from the Collector was introduced only in April 2000.

(iv) There was no mechanism in the department for carrying out any Internal Audit.

---

* Ahmedabad 9, Baroda 6, Surat 5,Rajkot, Bhavnagar and Mehsana 2 each and Jamnagar, Palanpur and Valsad 1 each.

** Surat 3,Valsad, Jamnagar, Gandhinagar, Bhavnagar Baroda and Rajkot one each.

The above matter was demi-officially forwarded to the Secretary to the Government (April 2001) for reply within six weeks. The matter was followed up with reminders (May/June 2001). However, inspite of such efforts, no reply was received from the Secretary (October 2001).

(B) ENTERTAINMENTS TAX

6.3 Incorrect grant of exemption

(I) Section 3 of the Gujarat Entertainments Tax Act, 1977 provides that out of total payment made for admission to cinema house, a prescribed percentage is chargeable as tax. The Act also empowers the Government to exempt either wholly or partly any entertainments or class of entertainments by notification in the Official Gazette subject to such conditions as may be specified therein. To support cinema industry, the Government by issue of notifications in November 1990, August 1995 and April 1997, exempted the proprietors of cinema houses from payment of tax on the collection of an additional amount as admission fee *viz.* Re.0.50, Re.1 and Rs.2 respectively subject to condition that the rate of admission fee prevailing on the cut off date should not be reduced.

During test check of records of Collector Vadodara and Mamlatdar Petlad and Sidhpur, it was noticed (between February 2000 and January 2001) that benefit of exemption from payment of tax on additional collection of entrance fee was granted to 3 cinema houses based on the above notification though the admission rates were reduced below the rate prevailing on the cut off dates. This resulted in incorrect grant of exemption of Rs.32.48 lakh.

(II) By a notification issued in July, 1979, as amended in September 1992 and November 1993 under the powers conferred by Section 29(1) of Gujarat Entertainments Tax Act, 1977, Government exempted a few Indian Trophy Cricket Tournaments from payment of entertainments tax. All these notifications, however, include cricket matches like Ranji Trophy, Duleep Trophy and Deodhar Trophy, etc. and do not include international cricket matches.

During test check of records of the Collector, Gandhinagar, it was noticed (October 1998) that Collector issued orders (March 1998) exempting an "one day international cricket match" between Australia and Zimbabwe played at Motera Stadium, Gandhinagar on 3 April 1998 sponsored under "Pepsi One-day match", which was not correct. This resulted in non-levy of entertainments tax of Rs.41.08 lakh.

6.4 Non/short levy of entertainments tax and interest

Under the provisions of Gujarat Entertainments Tax Act, 1977 and the Rules made thereunder, entertainments tax shall be paid by the proprietor of a cinema house weekly within 14 days of the end of the week. If the payment of tax is delayed, simple interest at the rate of twenty four *per cent* per annum is chargeable on the unpaid amount of tax for the period of delay.

During test check of records of Collector Ahmedabad and Vadodara and Mamlatdar Bardoli, Himatnagar and Santrampur, it was noticed (between June 1999 and November 2000) that proprietors of 13 cinema houses either did not pay the tax or paid late for certain periods between 1998-99 and 1999-2000, the delay ranged between 1 to 175 days. Further, a proprietor of a cinema house paid the tax at lower rate reducing the seating capacity of the cinema house without prior permission of the competent authority. The entertainments tax recoverable worked out to Rs.64.63 lakh including interest.

This was pointed out to the department between October 1999 and January 2001. The department accepted (May and November 2000) the audit observations amounting to Rs.63.09 lakh in 6 cases and recovered Rs.24.47 lakh in 2 cases. Further recovery details and reply in the remaining cases have not been received (October 2001).

6.5 Non recovery of entertainments tax from cable operators

Under the Act, tax is leviable for exhibition of programmes with the aid of antenna or cable television. Every proprietor has to pay tax in advance in quarterly instalments at the rate of Rs.600 per month for first 100 connections plus Rs.300 for every additional 50 connections or part thereof in urban areas and at half of such rate for other areas. For non-payment of tax within the prescribed time, interest at the rate of 24 *per cent* per annum is leviable on the outstanding amount.

During test check of records of Collector Mehsana, Rajkot and Vadodara and 10[#] Mamlatdar's Offices, it was noticed (between February 2000 and 2001) that 263 cable operators did not pay the tax between the periods 1998-99 and 1999-2000. The tax recoverable amounted to Rs.16.69 lakh (including interest).

This was pointed out to the department between April 2000 and March 2001. The department accepted (between February 2000 and 2001) the audit observations in all cases and recovered an amount of Rs.1.72 lakh in 41 cases. Details of recovery in the remaining cases have not been received (October 2001).

[#] Dahod, Danta, Dhrangadhra, Gandevi, Jamnagar (city), Jetpur, Mahuva(Bhavnagar), Mandavi(Kutch), Sidhpur and Veraval.

undertaking means any such industrial undertaking which is not formed by splitting up or reconstruction of a business or undertaking already in existence. It was also judicially held that mere change in the name of the production unit is not sufficient to hold that an undertaking has been established.

During test check of records of Executive Engineer, Gujarat Electricity Board (O&M), Dhrangadhra, it was noticed (September 2000) that a company having industrial connection with effect from August 1980 had changed the name of the company from August 1995 and applied in September 1995 for exemption. The unit was granted exemption from payment of electricity duty on energy consumed for motive power for the period from February 1997 to June 2000, treating the unit as new industrial undertaking. As the unit was already existing and there was change only in the name of the unit, exemption granted was incorrect. This resulted in incorrect grant of exemption from payment of electricity duty to the extent of Rs.6.78 lakh.

The above matters were referred to the Departments between September 1999 and March 2001. No response was received from them. The matter was followed up with reminders to the Secretary in May/June 2001. However, inspite of such efforts, no reply was received from the Government (October 2001).

(C) ELECTRICITY DUTY

6.6 Non recovery of tax and interest on belated payment on sale of electricity.

(a) Under the Gujarat Tax on sale of Electricity Act, 1985 and the Rules made thereunder, tax is to be levied and collected on the turnover of sale of electricity at the prescribed rate. Such tax is to be paid by the licensees within a period of one month and seven days from the end of the month to which the tax relates. Non payment of tax within the prescribed period attracts interest at the rate of 12 *per cent* per annum upto July 1999 and 24 *per cent* thereafter.

During test check of records of Commissioner of Electricity Duty, Gandhinagar, it was noticed (July 2000) that one licensee (Surat Electricity Company) did not pay the tax amounting to Rs.3.48 crore for the months of April and July 1999 (July 2000). Another licensee (Ahmedabad Electricity Company) paid the tax after the prescribed time limit and the delay ranged between one and eighteen days. Though interest was recoverable for the delay in payment of tax, no interest was recovered. This resulted in non-recovery of tax amounting to Rs.3.67 crore including interest of Rs.18.91 lakh.

This was pointed out to the department in September 2000. The department intimated (May 2001) that an amount of Rs.3.48 crore has since been recovered from one licensee by adjustment against the subsidy payable to them.

(b) Under the Bombay Electricity Duty Act, 1958 (as applicable to Gujarat) and the Rules made thereunder, electricity duty is levied and collected on the consumption of electricity at the prescribed rates unless specifically exempted. The duty is required to be paid within 40 days after the expiry of the calendar month for which it is levied. Interest at the rate of 24 *per cent* per annum is leviable for non-payment of duty on due date.

During test check of records of Commissioner of Electricity Duty, Gandhinagar, it was noticed (July 2000) that one licensee paid the electricity duty late by one day after the due dates for the periods between February 1999 and January 2000. For late payment of tax no interest was recovered. This resulted in non-recovery of interest of Rs.6.61 lakh.

6.7 Incorrect grant of exemption

Under the Bombay Electricity Duty Act, 1958 and the Rules made thereunder, electricity duty shall not be leviable on the units of energy consumed for motive power and lighting in respect of premises used by an industrial undertaking for industrial purpose, until the expiry of five years from the commencement date or the date on which the industrial undertaking commences production of goods first time whichever is later. A new industrial

CHAPTER VII

NON TAX RECEIPTS

7.1 Results of Audit

Test check of records in various departmental offices relating to the following receipts conducted during 2000-2001 revealed non/short recovery of receipts amounting to Rs.141.58 crore in 62 cases as detailed below:

(Rupees in crore)

Sr. no.	Category	No. of cases	Amount
1	Geology and Mining	42	121.18
2	Forest receipts	16	0.01
3	Prohibition and Excise	3	0.01
4	Review on Forest Offence	1	20.38
	Total	**62**	**141.58**

During the year 2000-2001, the departments accepted audit observations amounting to Rs.10.83 crore in 247 cases and recovered Rs.2.84 crore in 244 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations and the results of a review on "Forest offence and outstanding revenue" involving Rs.330.11 crore are given in the following paragraphs.

A - FOREST RECEIPTS

7.2 Forest Offence and outstanding revenue

(A) FOREST OFFENCE

7.2.1 Introduction

Under the Indian Forest Act, 1927, (Act) any action of cutting, felling, sawing, removing, breaking up, dragging trees or timber, quarrying stones or boulders, collection, removal and transportation of any forest produce in and from the protected forest areas and cultivation of forest land without any valid authorisation constitutes a forest offence. The procedure prescribed in the Gujarat Forest Manual envisages submission of "First Report" by beat guard to Round Officer who in turn keeps an enquiry register for noting such offences and makes appropriate enquiry. Based on such enquiry, the Round Officer

submits report to Range Forest Officer (RFO) and the RFO in turn to the Deputy Conservator of Forest (DCF) for taking further action. Any of these offences is punishable with imprisonment or fine or both or can be compounded by the Divisional Forest Officer after recovering the cost of forest produce at prevailing market rates along with compensation for the offence committed which is fixed by him for his area keeping in view the nature and intensity of the offence/value of the produce/intention of the offender. The seized produce, after confiscation is disposed off through public auction.

7.2.2 Organisational set-up

Overall administrative control of the Forest Department rests with the Secretary to the Forest and Environment department-cum-Principal Chief Conservator of Forest (PCCF). He is assisted by Conservators of Forest in charge of administrative circles. Forest divisions are divided into ranges and ranges are further divided into rounds and beats. Forest officers at the levels of beat, round, range and the division mainly deal with offence cases.

7.2.3 Scope of audit

With a view to ensuring proper accounting and disposal of property seized in offence cases in accordance with relevant statutory and codal provisions and also to examine effectiveness of the system adopted for prevention of forest offences and protection of forest, records relating to offence cases, disposal of seized materials and encroachment of forest land pertaining to the periods from 1995-96 to 1999-2000 and earlier periods, where considered necessary, were examined in 15 out of 21 territorial divisions.

7.2.4 Highlights

1. Illicit cutting of trees and mass destruction of forest resulted in loss of Rs.16.71 crore.

[Para-7.2.5]

2. Non-finalisation of offence cases resulted in blocking of revenue of Rs.1.84 crore.

[Para-7.2.6]

3. Non-disposal of confiscated vehicles resulted in blocking of revenue of Rs. 43 lakh.

[Para-7.2.7)

4. Illegal allotment/regularisation of leases in the forest resulted in non-recovery of Rs.3.99 crore.

[Para-7.2.8]

5. Due to non-registration/non-renewal and delay in revision of licence fee for saw mills resulted in loss of Rs.12.90 crore.

[Para-7.2.9]

6. Non-revision of the rate of compensation resulted in loss of revenue of Rs.48.07 lakh.

[Para-7.2.10]

7.2.5 Forest area

Forest area in the State is 18830 sq. kms. constituting about 9.61 *per cent* of total geographical area (196027 sq.kms.) of the State. Besides, 17258.05 sq. kms. of land area along roadside, canal banks and railway sides, declared as protected forest, has been taken over by the department for tree planting activities.

22922 offence cases of illegal cutting of 161797 trees were registered in the State during the years from 1995-96 to 1999-2000 resulting, as per departmental estimate, in approximate loss of Rs.16.71 crore to the exchequer.

7.2.6 Blocking of revenue due to non-finalisation/delay in finalisation of offence cases

(a) Under Article 171 of the Gujarat Forest Manual Volume II, an offence register is required to be maintained at divisional level for effective control and speedy disposal of offence cases. According to the time frame prescribed in Standing Order no.45 dated 28 April 1981, forest offence is required to be reported within 24 hours of detection to Range Officer who should submit the investigation report to divisional office within 45 days. Divisional office, on receipt of report, has to issue final orders within 15 days. The Range Officer should recover the amount involved within 50 days of receipt of orders.

Review of offence register in 9 divisions* revealed that non-finalisation of 678 offence cases, involving 716.679 cubic metres of timber, where the offenders were identified, resulted in non-recovery of cost of forest produce of Rs. 45.54 lakh. Further, in 7 divisions, 631 cases were not finalised in accordance with the time frame prescribed (delay ranged from 151 to 1857 days) resulting in non-recovery of cost of forest produce of Rs. 46.52 lakh.

* Banaskantha, Chhotaudepur, Dangs (North), Dangs (South), Godhra, Rajpipla (East), Rajpipla (West), Sabarkantha, Sabarkantha (South).

(b) According to provisions contained in Section 52 read with Section 52(1A) of the Act, forest offences are required to be either compounded or taken to court of law. In 750 offence cases involving 695.317 cubic metres of timber where the offenders could not be detected, no action to file a complaint with the police or dispose off the cases otherwise was taken resulting in blocking of revenue of Rs. 91.57 lakh.

Failure on the part of forest officers in 15 divisions to finalise the offence cases as per the time frame prescribed resulted in accumulation of 8356 cases. Year wise breakup of outstanding offence cases is given below.

(Details of cases not finalised)

Year	No. of offence cases registered	No. of cases finalised	No. of cases taken to court	No. of offence cases not finalised
1995-96	9621	8443	12	1166
1996-97	8541	7373	15	1153
1997-98	8361	6912	29	1420
1998-99	7679	5544	54	2081
1999-00	6827	4234	57	2536
Total	41029	32506	167	8356

7.2.7 Non-disposal of confiscated vehicles

Under Section 52 of the Act read with Section 61A(1) of the Gujarat Amendment Act (Guj. 19 of 1983), when there is reason to believe that a forest offence had been committed in respect of any forest produce, such produce together with vehicle used in committing such offence, may be seized and confiscated by Divisional Forest Officer for selling through public auction after determining the upset price of the vehicle with the help of mechanical branch of Public Works Department.

During the test check of records of 10 divisions it was noticed that 130 vehicles confiscated for various offences during 1995-96 to 1999-2000, 130 vehicles (41 trucks, tractors, tempos, jeeps, 59 cycles, and 30 carts) were lying un-disposed off in various divisions. Though these vehicles were required to be auctioned no action was taken to dispose off the vehicles. Delay in the disposal of vehicles resulted in non-recovery of value of vehicles. The estimated value of the vehicles seized worked out to Rs.43 lakh approximately. The value of vehicles would further be reduced due to passage of time if not auctioned early.

7.2.8 Illegal regularisation of lease in contravention of the provisions of the Forest (Conservation) Act, 1980

According to Section 2 of the Forest (Conservation) Act, 1980 (FCA), no forest land can be diverted for non-forestry purpose or leased out to any person without prior permission of the Central Government. The leases granted prior to October 1980, were required to be got regularised by Central Government. Occupation of forest land for non-forestry purpose without approval constitutes an offence under the Act. In 3 divisions[Σ], violation of provisions of the FCA was noticed in 32 cases as shown below.

(i) Out of 21 leases granted for salt mining in Marine National Park, Jamnagar, 9 leases granted before October 1980 and 6 leases granted after October 1980 were renewed by the Collector, Jamnagar in November 1983 without obtaining the prior approval of Government of India. Though, approval of Government of India for diversion of forest land for non-forestry purpose was obtained in December 1997, the condition stipulated for the recovery of an amount of Rs.5.12 crore from the lease holders in 5 instalments towards the cost of afforestation of 12879.36 hectares of non-forest land had not yet been fulfilled since the leaseholders after payment of 2 instalments (May 1997 and May 1998), stopped the payment on the ground of adverse natural and market conditions. This resulted in non-recovery of Rs.3.09 crore in addition to delay in recovery of compensation amounting to Rs.5.12 crore towards cost of afforestation for 17 years and loss of income in the form of forest produce for this period.

(ii) In Chhotaudepur division, a mining lease of 619 hectares of land granted to Gujarat Mineral Development Corporation in 1964 for 20 years was regularised by Government of India in April 1993 reducing the lease area from 619 hectares to 31.20 hectares subject to compensatory afforestation on equivalent non-forest land as well as penal afforestation on double the degraded land. However, the company was still holding the entire land by way of permanent encroachment such as roads, buildings, workshop, electricity sub-station etc. of the company. Though, all the leases operative as on 25 October 1980 expired from the date the FCA came into effect, inaction on the part of the department to evict the lease holder resulted in illegal mining operation on 619 hectares for the period from 25.10.1980 to April 1993 and on 587.80 hectares from April 1993 to till date. Further, cost of compensatory as well as penal afforestaion recoverable from the company in respect of 587.80 hectares amounted to Rs.89.49 lakh.

(iii) In Kutch (West) division, 88.123 hectares of forest land was illegally allotted by the Collector in 1995 without the knowledge of the forest department to M/s. Sanghi Cement Company for non-forestry purpose and for construction of a jetty without obtaining the approval of Government of India. When the encroachment came to the notice (September 1995 to July 1997) of forest authorities, they regularised the encroachment after recovering Rs. 5.06 lakh as compensation, instead of evicting the encroacher after cancelling the

---

Σ Chhotaudepur, M.N.P. Jamnagar and Kutch (West)

lease. The illegal allotment of forest land by revenue authorities and regularisation of the same by the forest authorities, without any powers under the Act, resulted in loss of forest land admeasuring 88.123 hectares.

7.2.9 Non-registration and renewal of saw mill licenses

Owners of all the saw mills, new as well as existing, have to get themselves registered by taking license, to be renewed every year, on payment of prescribed fee. Running of saw mill without registration/renewal of license is an offence punishable with imprisonment or fine of five hundred rupees or both. Annual rate of license fee fixed as Rs.25 in July 1964, was revised to Rs.4000 from March 2000 after loss of revenue due to non-revision of rates of license was pointed out in Para 7.5 of the Report of the C. & A. G. of India (Revenue Receipts) for the year 1998-99.

Out of 4079 saw mills in the State 668 saw mills were working without license/without renewing registration during various periods from 1985 to 2000. Though, no saw mill was permitted to run without a license, the department did not initiate any action. This resulted in non-recovery of renewal fee amounting to Rs.11.83 lakh including penalty of Rs.3.27 lakh. Delay in revision of the rate of license fee resulted in revenue loss of Rs.12.78 crore in respect of 2923 licensed saw mills for 11 years.

7.2.10 Loss of revenue due to non-revision of compensation money

Under Section 68 of Indian Forest Act, 1927, as adapted by the Government of Gujarat, a Forest Officer can compound an offence after charging an amount as compensation (which should be equal to damage done to forest) in addition to the recovery of value of forest produce removed. The power to fix and accept the amount of compensation by a Forest Officer was fixed as Rs.2000 per offence by Government in 1976.

During test check of records of 5[Σ] divisions, it was noticed that in 211 offence cases (129 cases finalised and 82 cases under process) compensation amounting to Rs. 4.25 lakh only could be recovered @Rs.2000 per offence as against the cost of forest produce of Rs.47.66 lakh recoverable and in another 10 offence cases booked against a cement company of Kutch division for converting the forest land for non-forestry purpose, all the 10 cases had been compounded by accepting compensation of Rs.2000 each due to restrictive provision in the Act though damage to the forest was calculated at Rs.4.86 lakh.

Non-revision of the amount of Rs. 2000 fixed in 1976 resulted in loss of revenue of Rs.48.07 lakh.

[Σ] Chhotaudepur, Dangs (North), Dangs (South), Rajpipla (East) and Rajpipla (West)

(B) OUTSTANDING REVENUE

7.2.11 Introduction

Outstanding forest recoveries consist of (i) Recoveries on account of sale of forest produce, (ii) Recoveries relating to the offence cases and (iii) Recoveries from forest labourers co-operative societies, contractors etc.

Records relating to sales of forest produces and forest offences examined in 15 out of 21 divisions revealed the following;

(a) Outstanding recoveries :

At the end of the year 1999-2000, Rs. 189 lakh were outstanding for recovery in 13* divisions. Arrears of uncollected revenue in these divisions increased from Rs.23.49 lakh at the end of March 1996 to Rs. 189 lakh at the end of March 2000. Year-wise analysis of these arrears was as follows:

(Rupees in lakh)

Period of pendency	Amount of arrears		
	Offence cases		Other revenue
	No. of cases	Amount involved	
More than 20 years	3147	11.44	1.52
16 to 20 years	6049	33.22	9.12
11 to 15 years	7841	109.16	12.56
Less than 10 years	13085	158.94	165.61
Total	**30122**	**312.76**	**188.81**

Lack of proper follow up action on the part of the department to enforce recovery of Government dues resulted in accumulation of arrears.

(b) Blocking of revenue due to irregular grant of advances

In Chhotaudepur division, 10 coupes in the area affected by Sardar Sarovar Narmada Project were allotted to forest labourers co-operative societies (FLCS) for exploitation in 1989-90. Since the timber exploited could not be sold due to stay order given by the court, Government gave an advance of Rs. 21.68 lakh to above FLCS being 75 % of expenditure incurred by the societies to help them from the financial crisis faced due to litigation. Though the advance given in March 1992 was required to be recovered by adjustment at

* Banaskantha, Chhotaudepur, Dangs (North), Dangs (South), Gandhinagar, Godhra, Kutch(East), Kutch (West), Rajpipla (East), Rajpipla (West), Sabarkantha, Sabarkantha (South) and Surendranagar.

the time of finalisation of the accounts, the advance could not be recovered as the societies did not submit the accounts due to non-disposal of the timber. Government is likely to incur a loss of Rs.14.35 lakh, being 80 *per cent* of sale proceeds of timber due to Government, as the timber cut during 1989-90 lying in open since last 10 years was not likely to fetch any revenue due to its deterioration.Further, non-vacation of stay had resulted in blocking of revenue of Rs.21.68 lakh.

(c) Outstanding recovery on account of unauthorised cultivation

During scrutiny of records of 5 divisions$^{\Sigma}$ it was noticed that 1758 hectares of forest land were under unauthorised cultivation during the period from 1995 to 1999-2000. Though compensation amounting to Rs.28.76 lakh was recoverable from the unauthorised cultivators, no proper follow up action was taken by the department for the recovery of the amount.

(d) Outstanding recoveries from bidders

According to condition for sale of forest produces by public auction the bidder should pay the bid amount in advance within 60 days of auction and then lift the material within 90 days which can be extended up to 180 days. The material lying beyond 90 days should be disposed off by re-auctioning the goods.

(i) In Palanpur division, an amount of Rs.10 lakh recoverable in 8 cases relating to 1975-76 being royalty of plots given for exploitation of minor forest produce and auction of forest produce was outstanding due to handing over the plots to the bidders without recovering the auctioned amount in advance in violation of conditions prescribed for sale of forest produce through auction. The department had initiated action only in March 2000 after a lapse of 25 years for recovery of the dues as arrears of land revenue. This resulted in non-recovery of Rs.10 lakh.

(ii) It was noticed from the records of Rajpipla (West) division that recovery of an amount of Rs. 40.17 lakh being sale proceeds of timber and fuel wood sold from the depots of forest department relating to the year 1972-73 to 1998-99 was outstanding for recovery from the bidders. Disposal of timber in violation of the instructions issued for disposal of such forest produces without recovering the cost in advance resulted in non-recovery of Rs.40.17 lakh.

(iii) It was noticed from the records of Rajpipla (East) division that an amount of Rs.8.95 lakh being the sale proceeds of timber and fuel wood sold by public auction during 1995-96 to 1998-99 was outstanding for recovery from 11 bidders due to non-lifting of the same. Though the amount should have been recovered by the department by re-auctioning the goods after expiry of 180 days, no action was taken by the department for its re-auction. Non observance

$^{\Sigma}$ Baria, Chhotaudepur, Rajpipla, Sabarkantha, Sabarkantha (South)

of the prescribed procedure resulted in loss of revenue of Rs.8.95 lakh to the exchequer.

The review was demi-officially forwarded to the Secretary to the Government (April 2001) for reply within 6 weeks. The matter was followed up with reminders (May/June 2001). However, inspite of such efforts, no reply was received from the Secretary (October 2001).

7.3 Short realisation of revenue due to non-disposal of grass

In the grass growing areas of Gujarat, grass is procured and preserved for supply to the scarcity affected areas of the State. According to Agriculture, Forest and Co-operation Department's Resolution dated 23 December 1968, its preservation period, when stored in godowns, is three years and in open hay yards (Ganji) one year. The grass so preserved is to be sold at the rate fixed by the Government from time to time within the preservation period. An upset price is fixed every year by the Forest Department for the sale of grass other than the grass procured for scarcity areas.

During test check of records of 4* Dy. Conservator of Forest Offices, it was noticed (between November 1996 and March 1999) that grass weighing 42.12 lakh Kgs., collected during the period 1989-90 to 1996-97, lying in godown/Ganji was not disposed off within the prescribed preservation period. Grass weighing 8.94 lakh Kgs. disposed off by auction in 1998 by one division, could fetch only Rs.20350 as against Rs.2.71 lakh realisable on the basis of upset price fixed by the department. The grass weighing 33.18 lakh Kgs., lying in the godown of other 3 divisions was declared unfit for consumption due to deterioration and hence could not be disposed off. Thus delay in disposal of grass resulted in loss of revenue of Rs.48.72 lakh.

B - MINING RECEIPTS

7.4 Non-levy of increased royalty on delayed payment

According to the provisions of the Petroleum and Natural Gas Rules, 1959 and notifications issued thereunder, royalty on crude oil and natural gas is to be paid within 45 days of the month to which it relates. Further, royalty and other dues, if not paid within the time specified for such payments, is to be increased by 10 *per cent* for each month or part thereof during which the amount remains unpaid.

* Godhra, Gir(Junagadh West), Junagadh, Surendranagar.

During test check of records of Geologist, Vadodara, it was noticed (June 2000) that though the rate of royalty of crude oil was increased twice by the Government of India from April 1993 and September 1999, the Oil and Natural Gas Corporation Ltd. (ONGC) continued to pay the royalty to Government at pre-revised rates for the period from April 1993 to March 1996 and from September 1999 to December 1999. Since the differential amount of royalty was paid later on after the prescribed period, the same was required to be increased by 10 *per cent*. Non-levy of royalty at increased rate for the period of delay resulted in short levy amounting to Rs.94.98 crore.

7.5 Short levy of royalty on oil and natural gas

Under the Petroleum and Natural Gas Rules, 1959, royalty is to be levied on total quantity of natural resources extracted from the well-head of the area leased, at the rate fixed by the Government of India. However, royalty is not payable on crude oil or gas which is unavoidably lost or is returned to the reservoir or is used for drilling or other operations relating to the production. The Inquiry Officer appointed (May 1993) by the Government gave his findings in his report submitted in March 1995 in respect of "flared up gas" that as there were proven means to avoid flaring of natural gas, any loss due to flaring did not fall within the scope of "unavoidably lost". The royalty was therefore leviable on the flared up gas also.

During test check of records of the Assistant Geologist, Vadodara, it was noticed (between June 1999 and March 2001) that the royalty was recovered from the ONGC* on 106.67 lakh MT of crude oil and 5017.42 million cubic metres (mm^3) of natural gas. However, as per the Annual Report (Western region Business Centre, Vadodara) the actual production of crude oil and natural gas was 114.35 lakh MT and 6515.97 mm^3 respectively. Out of the total production of natural gas, 689.14 mm^3 of gas was internally used and rest of the gas (809.41 mm^3) was flared up. Non-levy of royalty on 7.68 lakh MT of crude oil and 809.41 million cubic metres of natural gas resulted in short levy of royalty amounting to Rs.67.31 crore.

7.6 Non/short levy of royalty and dead rent

Under the Mines and Minerals (Regulation and Development) Act, 1957 and the Gujarat Minor Mineral Rules, 1966, a lessee is liable to pay in respect of each lease for major/minor mineral, dead rent or royalty whichever is higher. The rent is payable at the rate of 50 *per cent* of the dead rent if land granted on lease is less than a hectare. If payment of royalty or dead rent is not made within the date prescribed by the Government, interest at the rate of twenty four percent per annum is chargeable for the period of delay.

* Oil and Natural Gas Corporation Ltd.

(i) During test check of records of 7[#] Geologists/Assistant Geologists offices, it was noticed (between January 1999 and September 2000) that in 102 cases, the lease holders either extracted major minerals or did not extract any minerals between 1997-98 and 1999-2000. Though royalty and dead rent respectively were recoverable from the lease holders, no demand for payment of royalty and dead rent was raised. This resulted in non-levy of royalty and dead rent of Rs.5.01 crore including interest.

This was pointed out to the department between March 1999 and January 2001. The department accepted (between January 1999 and November 2000) the audit observations involving an amount of Rs.4.00 crore in 90 cases and recovered an amount of Rs.5.55 lakh in 8 cases. Recovery particulars and reply in the remaining cases have not been received (October 2001).

(ii) During test check of records of Additional Director (Flying Squad) Gandhinagar and 18[&] Geologist/Assistant Geologist offices, it was noticed (between October 1998 and 2000) that in 799 cases, though the lease holders extracted minor minerals between the period 1997-98 and 1999-2000, demand for payment of royalty was yet to be raised. Further, in cases where minerals were not extracted or where the royalty paid for the minerals extracted was less than the dead rent payable for that period, no demand for payment of difference was raised. This resulted in non/short levy of royalty and dead rent of Rs.3.13 crore including interest.

This was pointed out to the department between January 1999 and January 2001. The department accepted the audit observations involving an amount of Rs.2.27 crore in 647 cases and recovered Rs.48.30 lakh in 133 cases. Recovery particulars and reply in the remaining cases have not been received
(October 2001).

(iii) Government by issue of Notifications in July 1991 and January 1992, fixed lump sum rate for payment of royalty by bricks/roofing tiles manufacturers, on the basis of quantity of bricks manufactured and with reference to number of dye revolving press used, for making roofing tiles, respectively.

During test check of records of 5[*] Geologist/Assistant Geologist offices, it was noticed (between March 1999 and October 2000) that 44 roofing tiles manufacturers and 42 bricks manufacturers either did not pay the royalty or paid short for the periods between 1996-97 and 1999-2000. This resulted in non/short levy of royalty of Rs.34.17 lakh including interest.

This was pointed out to the department between September 1999 and November 2000. The department accepted (between April 1999 and March 2000) the audit observations involving an amount of Rs.8.13 lakh in 42 cases

---

[#] Amreli, Bharuch, Himatnagar, Jamnagar, Junagadh, Surendranagar and Vadodara.

[&] Amreli, Bharuch, Bhavnagar, Bhuj, Gandhinagar, Godhra, Himatnagar, Jamnagar, Junagadh, Kheda, Mehsana, Nadiad, Palanpur, Rajkot, Surat, Surendranagar, Vadodara and Valsad.

[*] Bharuch, Kheda, Mehsana, Rajkot and Surat.

and recovered Rs.3.12 lakh in 14 cases. Recovery particulars and reply in the remaining cases have not been received (October 2001).

7.7 Non recovery of bank guarantee

Against hike in the rate of royalty on lime stone from Rs.10 per MT to Rs.25 per MT Narmada Cement Company filed (1992) a petition in the Honourable Gujarat High Court. The Court vide it's interim order (July 1992) directed the company to pay royalty at the rate of Rs.9.63 per MT and to furnish bank guarantee for the remaining amount.

During test check of records of Geologist Amreli, it was noticed (August 1999) that as against the royalty of Rs.2.35 crore recoverable from the company for the clearance of minerals during 1998-99 royalty amounting to Rs.46.72 lakh only was recovered. No action was taken for obtaining bank guarantee for the balance amount of Rs.1.88 crore from the company. Non obtaining the bank guarantee from the company by the department was not only against the directive of the Honourable High Court but also led to failure in safeguarding the interest of the Government. Further, failure on the part of the Government to get the stay vacated resulted in blockage of revenue amounting to Rs.1.88 crore.

This was reported to the department in October 1999. The department accepted the audit observation (January 2000). Recovery details have not been received (October 2001).

7.8 Loss of revenue due to non-adjustment of interest

Under the Mines and Minerals (Regulation and Development) Act,1957, if payment of royalty or dead rent is not made within the date prescribed by the Government, interest at the rate of 24 *per cent* per annum is chargeable for the period of delay.

During test check of records of Assistant Geologist Jamnagar, it was noticed (May 1998) that a company (Digvijay Cement Company Ltd.) having prospective lease of excavation of lime-stone (major mineral) approached the Honourable Gujarat High Court against the revision of rate of royalty by the Central Government, effective from May 1987 and February 1992. The Honourable Court dismissed the petition and directed the company to pay the royalty alongwith interest at eighteen *per cent* per annum on the outstanding amount of royalty. Aggrieved by this, the company approached the Supreme Court of India. The Honourable Supreme Court while not granting any stay, passed an interim order (February 1995) to deposit the interest calculated at 18 *per cent* per annum on outstanding royalty within 3 months from its order i.e. by 27 May 1995. The company did not pay the interest amounting to Rs.2.31 crore within the date prescribed by Supreme Court but paid subsequently in 11 instalments between September 1995 and August 1997 (delay ranged between

107 days and 811 days) against the directive of the Honourable Court. Since the interest was due from the company the department should have adjusted the amount paid by the company towards the interest dues and raised demand for the balance of royalty outstanding. Non-adjustment of the amount against interest resulted in loss of revenue to the extent of Rs.2.32 crore.

C. INTEREST RECEIPTS

7.9 Non levy of interest/penal interest

(a) During test check of loan records of the Public Health and Public Welfare Department, it was noticed (October 1999) that loans amounting to Rs.17.44 crore were granted by the department to the Gujarat Water Supply and Sewerage Board (GWSSB) between March 1986 and 1993 for further disbursement as loans to different local bodies for implementing various water supply and sewerage projects and for advancing as loans to local bodies enabling them to repay the loans taken from Life Insurance Corporation, with the condition to repay the loan and interest to Government after recovering from the concerned local bodies. The loan was repayable in 10 years with interest at the rate of 11.75 *per cent*. In the event of delay in repayment of instalments of principal or interest, penal interest at the rate of 2.5 *per cent* would be chargeable. The Board, however, had neither repaid the principal nor interest due on these loans. Non payment of instalments of loans and interest on due dates resulted in non-recovery of interest of Rs.7.92 crore (including penal interest). Further, no action was taken by the department to adjust the outstanding amount of loan of Rs.17.44 crore against the grants payable to the Board, though terms and conditions of the loan stipulated for such adjustment.

(b) Urban Development and Urban Housing Department sanctioned 68 loans aggregating Rs.19.89 crore to Ahmedabad Municipal Corporation for various schemes. The terms and conditions of these loans contained that interest at the rate ranging from 7 to 17.5 *per cent* per annum would be chargeable. In the event of delay in the payment of instalment of principal or interest, penal interest at the rate of 2.5 *per cent* would be chargeable.

During test check of records of Secretary, Urban Development and Urban Housing Department, it was noticed (October 2000) that out of the total loans of Rs.19.89 crore sanctioned, the Corporation had repaid the loan amounting to Rs.5.47 crore only leaving the balance of Rs.14.42 crore outstanding at the end of September 2000. For non-payment of instalments of loans, though interest of Rs.25.76 crore was recoverable for the periods between 1984-85 and September 2000, no action was taken. This resulted in non-recovery of interest of Rs.25.76 crore.

(c) The Industries and Mines Department sanctioned 23 loans to the Gujarat State Handloom Development Corporation Ltd. between 1980-81 and 1991-92 for intensive development of handloom industry. The terms and conditions of these loans contained that interest at the rate ranging from 10 to 12 *per cent* would be chargeable. In the event of delay in payment of instalment of principal or interest, penal interest at the rate of 2.5 *per cent* would be chargeable.

During test check of records of the Gujarat State Handloom Development Corporation Ltd., it was noticed (August 1994 and February 2001) that the Corporation did not pay either principal or interest from 1988 onwards leaving a balance of loan amounting to Rs.1.53 crore outstanding as on March 2001. Non-payment of instalments of loans and interest resulted in non recovery of interest of Rs.2.20 crore including penal interest of Rs.27.49 lakh.

(d) The Industries and Mines Department sanctioned 76 loans amounting to Rs.242.51 crore to Gujarat State Textiles Corporation for various purposes between 1976-77 and 1993-94. According to the terms and conditions, these loans were repayable with interest ranging between 15 and 17 *per cent.*

(i) During test check of records of the Gujarat State Textiles Corporation, it was noticed (January 1999) that the Corporation had repaid only Rs.8.30 crore leaving a balance of Rs.234.21 crore at the end of March 1994. For non-payment of instalments of loan, interest amounting to Rs.91.79 crore for the period upto March 1994 was not recovered on the balance amount. This resulted in non-recovery of interest of Rs.91.79 crore besides principal of Rs.234.21 crore.

This was pointed out to the department in August 1994. The department stated (May 1999) that the Corporation was wound up (Feburary 1997) under the orders of the Honourable Gujarat High Court and an official liquidator had been appointed.

(ii) As per the provisions contained in the Gujarat Financial Rules, sanctions for the payment of loans issued by the Government should specify the terms and conditions of repayment of loan, rate of interest etc.

During test check of loan records of the Gujarat State Textiles Corporation, it was noticed (January 1999) that loans amounting to Rs.17.13 crore sanctioned to the Corporation by the Industries and Mines Department during 1991-92 to 1992-93 for "working capital" and for "payment to the financial institutions etc." did not contain the terms and conditions for the repayment of loans. This loan was utilised by the Corporation for meeting its losses. Non finalisation of terms and conditions had resulted in non-raising of demand for interest amounting to Rs.6.59 crore besides principal of Rs.17.13 crore. Meanwhile, the Corporation under the orders of the Honourable Gujarat High Court was wound up (February 1997) and an official liquidator had been appointed. Failure to raise demand in time due to non-incorporation of terms and conditions in the loan sanction orders, resulted in loss of Rs.6.59 crore.

The above matters were referred to the departments between September 1999 and February 2001. No response was received from them. The matter was followed up with reminders to the Secretary (June 2001). However, inspite of such efforts, no reply was received from the Government (October 2001).

Ahmedabad
The: 75 JAN 2002

(RAGHUBIR SINGH)
Principal Accountant General (Audit) Gujarat

Countersigned

New Delhi
The: 14 FEB 2002

(V.K. SHUNGLU)
Comptroller and Auditor General of India

Annexure

List of 20 notifications covered in Review on exemptions and concessions under Section 49(2) of the Gujarat Sales Tax Act, 1969.

(Referred to in paragraph 2.2.3)

Sr. no.	Entry no.	Subject	Reduced rate %	Form no. (Wherever prescribed)
1	13	Sales of goods made to dealer having place of business in any of the Union Territories of Diu, Daman or Dadra Nagar Haveli.	5	K
2	18	Sales of goods by registered dealers to the Central/State Government for official use.	5	P
3	63	Sales of goods by registered dealer to (i) The Royal Government of Bhutan (ii) His Majesty the king of Bhutan etc.	Whole of tax	AA
4	66	Purchase of raw materials consumable stores etc. from unregistered dealer for Kandla Free Trade Zone.	Whole of PT	CC BB
5	86	Sales of iron and steel of the type described in entry 5 of Schedule IIA to manufacturer of iron & steel who is registered dealer and is certified by the Commissioner for the purpose.	Whole of tax	LL
6	107	Sales of vegetable oil donated by USA or Canada.	Whole of tax	---
7	109	Sales of metallic bins to agriculturists for storage of cereals or pulses effected by Agro Ind. Corpn. Ltd.	Whole of tax	44
8	115	Sales by a registered dealer of news print to a publisher of a specified daily news paper.	Whole of tax	YY
9	156	Sales of goods to a dealer having place of business in any of the Union Territories of Dadra and Nagar Haveli, who is certified by the Commissioner for this purpose.	5	13
10	171	Sales of unrecorded cassettes to Shri Sitaram Trust, Ahmedabad.	Whole of tax	18
11	250	Sales of Flats & Sheets of stainless steel.	1	---
12	253	Sales of brass parts.	4	---
13	254	Purchase of goods used in the manufacture of brass parts.	1.2	---
14	255A	Sales of exim scrip of Government of India.	Whole of tax	---
15	10	Sales of granuals, resins of PVC, HDPE, LDPE & LLDPE to a manufacturer of taxable goods.	3	34
16	11	(i) Purchase of groundnut by oil miller. (ii) Purchase of oil seeds other than Groundnut by oil miller. (iii) Purchase of castor seed by oil miller.	1 2 3	Sale of oil should be within the State. --do-- --do--
17	34	Sales of refined edible oil.	2	---
18	68	Purchase of unrefined edible oil or washed cotton seed oil for use in the manufacture of refined oil in the State of Gujarat.	Whole of PT under Section 15A	Refined edible oil is to be sold within the State. ST is leviable @ 3%.
19	69	Incentive scheme of 1995-2000 to new industries.	Whole of PT	---
20	71	Sales of goods by an eligible tourism unit.	Whole of tax	If the conditions of the scheme are fulfilled.