



# REPORT

OF THE

Comptroller and Auditor General  
of India

for the year 1976-77

(REVENUE RECEIPTS)

GOVERNMENT OF UTTAR PRADESH







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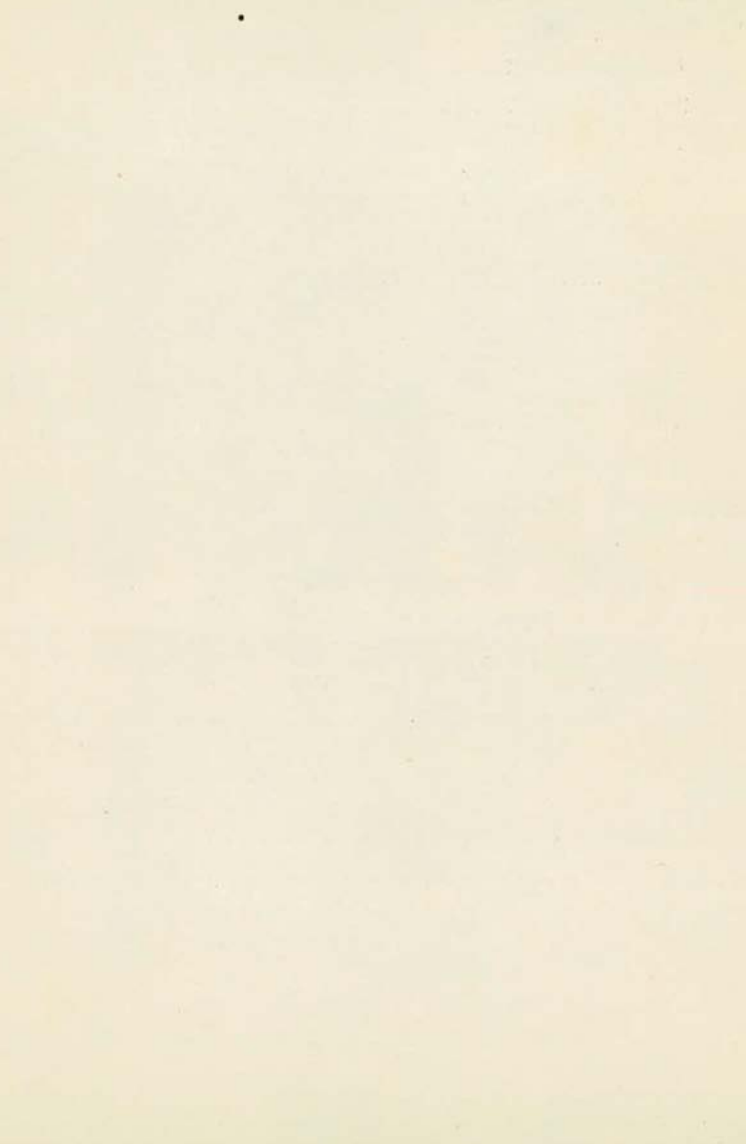


## ERRATA

Report of the Comptroller and Auditor General of India for  
the year 1976-77 (REVENUE RECEIPTS), Government of  
Uttar Pradesh

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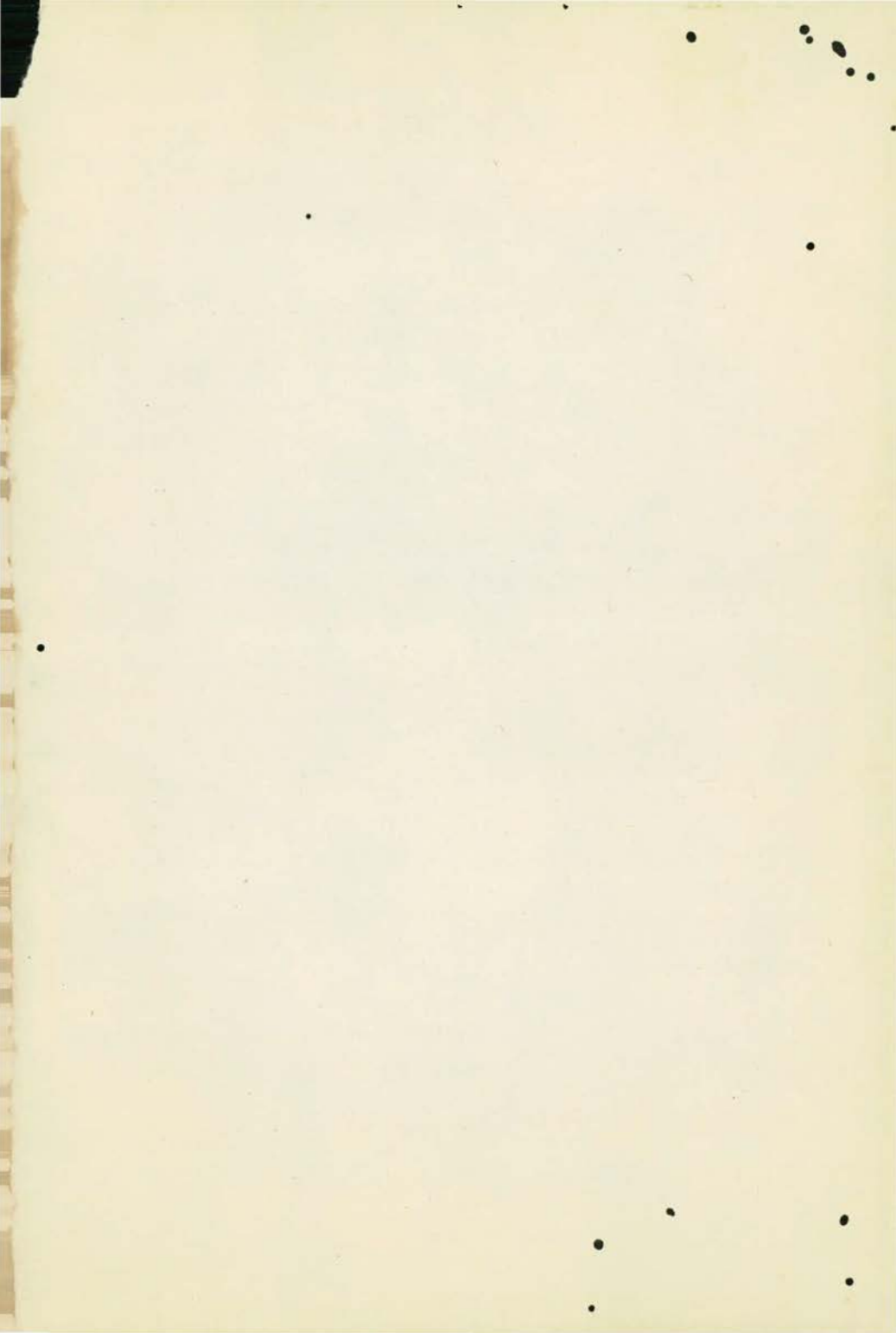
## PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Uttar Pradesh for the year 1976-77 is presented in a separate volume as was done last year. The material in the Report has been arranged in the following order:

(i) Chapter I deals with trends of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Budget estimates and actuals in respect of principal heads of revenue, the position of arrears of revenue, etc., are also discussed in this chapter.

(ii) Chapters II to XI set out certain cases and points of interest which came to notice during the audit of Sales Tax, Tax on the Purchase of Sugar-cane, State Excise, Stamp Duties and Registration Fees, Taxes on Vehicles, Goods and Passengers, Land Revenue, Electricity Duty, Other Tax Receipts and Non-Tax Receipts.

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



## CHAPTER I

### GENERAL

#### 1.1. Trend of Revenue Receipts

The total receipts of the Government of Uttar Pradesh for the year 1976-77 were Rs.11.05.31 crores against the anticipated receipts of Rs.9.50.42 crores. The total receipts during the year registered an increase by 54 per cent over those in 1974-75 (Rs.7,17.20 crores) and 16 per cent over those in 1975-76 (Rs.9,51.06 crores). Of the total receipts of Rs.11,05.31 crores, revenue raised by the State Government amounted to Rs.6,61.26 crores, of which Rs.4,54.66 crores represented tax revenue and the balance Rs.2,06.60 crores, non-tax revenue. Receipts from the Government of India amounted to Rs. 4,44.05 crores.

#### 1.2. Analysis of Revenue Receipts

(a) An analysis of the receipts during 1976-77 along with the corresponding figures for the preceding two years is given below:

	1974-75	1975-76	1976-77
	<i>(In crores of rupees)</i>		
<b>I. Revenue raised by the State Government—</b>			
(a) Tax revenue	2,76.03	3,93.37	4,54.66
(b) Non-tax revenue	1,57.05	1,70.96	2,06.60
Total	4,33.08	5,64.33	6,61.26
<b>II. Receipts from the Government of India—</b>			
(a) States' share of divisible Union taxes	1,97.23	2,56.84	2,73.45
(b) Grants-in-aid	86.89	1,29.89	1,70.60
Total	2,84.12	3,86.73	4,44.05
<b>III. Total receipts of the State (I + II)</b>	7,17.20	9,51.06	11,05.31
<b>IV. Percentage of I to III</b>	60	59	60

(b) *Tax revenue raised by the State*—Receipts from tax revenue constituted 69 per cent of the State's own revenue receipts during 1976-77. An analysis of tax revenue for the year 1976-77 and for the preceding two years is given below:

	1974-75	1975-76	1976-77	(+) Increase or (-) decrease with reference to 1975-76
<i>(In crores of rupees)</i>				
1. Taxes on Agricultural Income	0.03	0.01	..	-0.01
2. Other Taxes on Income and Expenditure	0.16	0.54	0.16	-0.38
3. Land Revenue	31.11	40.37	39.55	-0.82
4. Stamps and Registration Fees	27.65	25.96	37.75	+11.79
5. Taxes on Immovable Property other than Agricultural Land	0.02	0.25	0.04	-0.21
6. State Excise	38.96	48.78	64.06	+15.28
7. Sales Tax	1,35.42	2,08.26	2,43.17	+34.91
8. Taxes on Vehicles	13.42	17.23	17.51	+0.28
9. Taxes on Goods and Passengers	14.26	23.36	26.35	+2.99
10. Taxes and Duties on Electricity	2.09	10.94	5.83	-5.11
11. Other Taxes and Duties on Commodities and Services	12.91	17.67	20.24	+2.57
Total	2,76.03	3,93.37	4,54.66	+61.29

(c) *Non-tax revenue of the State*—Interest, Forest and Irrigation, Navigation, Drainage and Flood Control Projects were the principal sources of non-tax revenue of the State. Receipts from non-tax revenue constituted 31 per cent of the revenue raised by the State during 1976-77. An analysis of non-tax

revenue under the principal heads for the year 1976-77 and the preceding two years is given below:

	1974-75	1975-76	1976-77	(+) In-crease or (-) de-crease with re-ference to 1975-76
	<i>(In crores of rupees)</i>			
1. Interest	34.98	59.59	71.47	+11.88
2. Forests	17.83	37.02	39.04	+2.02
3. Irrigation, Navigation, Drainage and Flood Control Projects	14.62	16.39	31.77	+15.38
4. Others	89.62	57.96	64.32	+6.36
Total	1,57.05	1,70.96	2,06.60	+35.64

### 1.3. Variations between Budget estimates and actuals

(a) The comparative figures of variations between Budget estimates and actuals of tax revenue and non-tax revenue during the three years ending 1976-77 are given below:

	Year	Budget estimates	Actuals	Variations	Percent- age of variation
				(+)Increase/ (-)decrease	
	1	2	3	4	5
<i>(In crores of rupees)</i>					
A. Tax	1974-75	2,23.89	2,76.03	+52.14	23
Revenue	1975-76	3,18.98	3,93.37	+74.39	23
	1976-77	3,61.55	4,54.66	+93.11	26
B. Non-tax	1974-75	1,77.70	1,57.05	-20.65	12
Revenue	1975-76	1,71.71	1,70.96	-0.75	..
	1976-77	1,89.04	2,06.60	+17.56	9

(b) The break-up of the variations under the principal heads of revenue is given below:

Heads of revenue	Year	Budget estimates	Actuals	Variations	Percent- age of variation	
				(+) Increase/ (-) shortfall		
<i>(In crores of rupees)</i>						
	1	2	3	4	5	6
1. Land Revenue	1974-75	22.91	31.11	+8.20	36	
	1975-76	44.52	40.37	-4.15	9	
	1976-77	40.00	39.55	-0.45	1	
2. Stamps and Registration Fees	1974-75	18.50	27.65	+9.15	49	
	1975-76	26.12	25.96	-0.16	1	
	1976-77	33.50	37.75	+4.25	13	
3. State Excise	1974-75	32.36	38.96	+6.60	20	
	1975-76	52.74	48.78	-3.96	8	
	1976-77	50.63	64.06	+13.43	27	
4. Sales Tax	1974-75	1,10.92	1,35.42	+24.50	22	
	1975-76	1,48.30	2,08.26	+59.96	40	
	1976-77	1,80.25	2,43.17	+62.92	35	
5. Taxes on Vehicles	1974-75	11.09	13.42	+2.33	21	
	1975-76	13.70	17.23	+3.53	26	
	1976-77	18.01	17.51	-0.50	3	
6. Taxes on Goods and Passengers	1974-75	12.04	14.26	+2.22	18	
	1975-76	13.20	23.36	+10.16	77	
	1976-77	17.25	26.35	+9.10	53	
7. Other Taxes and Duties on Commodities and Services	1974-75	12.05	12.91	+0.86	7	
	1975-76	16.57	17.67	+1.10	7	
	1976-77	17.40	20.24	+2.84	16	
8. Interest	1974-75	71.42	34.98	-36.44	51	
	1975-76	61.26	59.59	-1.67	3	
	1976-77	68.67	71.47	+2.80	4	
9. Forests	1974-75	26.34	17.83	-8.51	32	
	1975-76	33.24	37.02	+3.78	11	
	1976-77	31.36	39.04	+7.68	24	
10. Irrigation, Navigation, Drainage and Flood Control Projects	1974-75	14.63	14.62	-0.01	..	
	1975-76	16.02	16.39	+0.37	2	
	1976-77	22.69	31.77	+9.08	40	

Variations between Budget estimates and actuals for 1976-77 in respect of all principal sources except "Land Revenue" (1 per cent), "Interest" (4 per cent) and "Taxes on Vehicles" (3 per cent) ranged between 13 per cent and 53 per cent. Reasons for variations, as reported by Government, are given below:

Principal source	Variation	Reasons
	(+)Increase/ (-)shortfall (In crores of rupees)	
1. Stamps and Registration Fees	+4.25	More receipts due to larger sale of non-judicial stamps and consequential increase in the registration fees of the documents.
2. State Excise	+13.43	More receipts due to the adoption of auction system in lieu of fee system in respect of foreign liquor shops and increase in the auction money of country liquor shops.
3. Sales Tax	+62.92	More receipts due to special drive launched for realisation of sales tax and more receipts under tax on purchase of sugarcane and sale of petrol.
4. Taxes on Goods and Passengers	+9.10	More receipts due to increase in traffic and carriage of goods.
5. Other Taxes and Duties on Commodities and Services	+2.84	More receipts under entertainment and betting tax.
6. Forests	+7.68	More receipts mainly due to strict realisation of outstanding forest dues of previous years' lots and increase in sale of <i>tendu</i> leaves under State trading.
7. Irrigation, Navigation, Drainage and Flood Control Projects	+9.08	More receipts due to better utilisation of irrigation potential.



#### 1.4. Concessions and their financial impact

Certain concessions not contemplated in the Budget estimates were announced by the State Government between January and March 1977. The estimated impact of these concessions for one year is as under:

Items	Amount ( In crores of rupees )
A. Relief in land revenue (including land development tax)	25.50
B. Conformation of <i>Bhumidhari</i> rights on <i>Sirdars</i>	4.00
C. Changes in irrigation rates	3.00
Total ..	32.50

The details of the aforementioned concessions are as follows:

##### A. Relief in land revenue

Annual land revenue receipts including land development tax (which is levied for the purpose of development of rural areas on holdings exceeding 3.125 acres) according to rates applicable prior to 1st July 1976 were estimated at Rs.41.77 crores (Rs.20.99 crores from land revenue and Rs.20.78 crores from land development tax). The rates of land revenue and land development tax were rationalised with effect from the agricultural year commencing from 1st July 1976, under the Uttar Pradesh Land Laws (Amendment) Act, 1976. The amount of land revenue payable by a '*Bhumidhar*' or '*Sirdar*' under this Act was to be computed at double the hereditary rates applicable to the respective plots of land comprised in his holdings, subject to a minimum of rupees five and a maximum of rupees ten per acre for unirrigated land and a minimum of rupees ten and a maximum of rupees twenty per acre for irrigated land. The result was an anticipated annual increase in land revenue from Rs. 20.99 crores to Rs. 46 crores. The reduction in the rates of land development tax in respect of holdings exceeding 3.125 acres resulted in an anticipated fall in the annual yield in land development tax from Rs. 20.78 crores to Rs. 17 crores. Thus, the overall

monetary effect of the rationalisation was an anticipated increase in annual land revenue receipts from Rs. 41.77 crores to Rs. 63 crores.

However, a concession was announced in February 1977 through the Uttar Pradesh Zamindari Abolition and Land Reforms (Second Amendment) Ordinance, 1977. Though the rates of land development tax remained unchanged, the land revenue rates specified in the Land Laws (Amendment) Act, 1976, were reduced by 50 per cent retrospectively with effect from 1st July 1976. Subsequently, the aforesaid Ordinance was repealed in April 1977 by the Uttar Pradesh Land Laws Amendment Ordinance, 1977 whereby, while the land revenue rates were pitched at the pre-rationalised rates as were existent on 30th June 1976, the land development tax rates were reduced as compared with those existent on 30th June 1976. Though the Uttar Pradesh Land Laws Amendment Ordinance, 1977, ceased to be operative after July 1977 because it had not been replaced by an Act of the Legislature, it would still hold the field for the levy and collection of land revenue and land development tax for the agricultural year commencing from 1st July 1976 and ending on 30th June 1977. The rates prescribed in this Ordinance as assessed by the State Government, were to yield Rs.25.50 crores less than what was anticipated (Rs.63 crores) as a result of the rationalised rates as laid down in the Land Laws (Amendment) Act of 1976.

#### B. *Conferment of Bhumidhari rights on Sirdars*

In terms of the Uttar Pradesh Land Laws (Amendment) Act, 1976, 'Sirdars' could be declared as 'Bhumidhars' in respect of a holding on payment of an amount equal to ten times the land revenue deemed to be payable for such a holding on the date of application.

In January 1977, the State Government by the Uttar Pradesh Zamindari Abolition and Land Reforms (Amendment) Ordinance, 1977, declared all 'Sirdars' as 'Bhumidhars' and it was no longer necessary for them to pay ten times of land revenue for their holdings for becoming 'Bhumidhars'. The financial impact of this concession was estimated by the State Government to be of the order of Rs. 4 crores.

### C. Change in irrigation rates

In terms of the Government orders issued in September 1976, a fixed charge of Rs.21 per acre per annum was payable by each cultivator whose fields fell in the command\* area of a State tube-well irrespective of whether he drew any water from the State tube-well or not. These orders were subsequently modified in February 1977, applicable from *kharif* of 1384 *fasli* (1976-77). Under the revised orders, the fixed charge was payable only in respect of the area actually irrigated by the water from the State tube-wells. The yearly impact of the aforesaid concession is estimated at Rs.3 crores by the State Government.

#### 1.5. Arrears in assessment of sales tax

(a) The number of assessments finalised by the Sales Tax Department and the assessments pending finalisation at the end of 31st March as reported by the department are indicated below:

Year	Number of assessments for disposal			
	Arrear cases	Current cases	Remand cases	Total
(1)	(2)	(3)	(4)	(5)
1975-76	4,21,203	2,24,943	17,259	6,63,407
1976-77	4,75,755(a)	2,17,736	12,194	7,05,685
Number of assessments completed				Number of assessments pending at the end of the year
Arrear cases	Current cases	Remand cases	Total	
(6)	(7)	(8)	(9)	(10)
1,93,784	41,745	8,081	2,43,610	4,19,797(a)
2,40,543	34,040	6,516	2,81,099	4,24,586

\* Command area means the farthest area upto which the State tube-well can irrigate.

(a) Increase of 55,958 cases in the opening balance of 1976-77 as compared with the closing balance of 1975-76 is stated to be owing to inclusion of certain cases as a result of scrutiny of records.

The total number of assessments completed and net demand raised monthwise during 1976-77 was as under:

	Number of assessments completed in 1976-77	Net demand raised (In crores of rupees)
April	130	0.02
May	5,791	0.20
June	14,517	0.91
July	18,710	1.24
August	21,553	3.48
September	21,966	2.47
October	20,247	2.29
November	24,015	2.05
December	28,084	2.30
January	28,584	4.03
February	35,160	3.83
March	62,342	15.32
	<hr/>	
Total	2,81,099	38.14

The number of assessments completed in the month of March 1977 was 62,342 which constituted 22 per cent of the total number of assessments done during the year. Similarly, net demand raised in March 1977 was Rs.15.32 crores which constituted 40 per cent of the total net demand raised during the year.

The following is the yearwise break-up of the pending cases as on 31st March 1977:

Year	Number of cases
Up to 1973-74	98,288
1974-75	1,36,924
1975-76	1,83,696
Cases remanded by courts for reassessment	5,678
Total	4,24,586

(b) The following tables show the progress of appeal and revision cases (Sales Tax) during the last three years:

#### PROGRESS OF APPEAL CASES

Year	Arrear cases	Current cases	Total	Number of cases decided	Number of cases pending at the end of the year	Percentage of pendency
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1974-75	59,054	74,656	1,33,710	66,048	67,662	50
1975-76	67,662	81,066	1,48,728	69,009	79,719	54
1976-77	79,719	84,247	1,63,966	64,039	99,927	61

#### PROGRESS OF REVISION CASES

1974-75	28,161	18,554	46,715	15,440	31,275	67
1975-76	31,275	19,458	50,733	16,845	33,888	67
1976-77	33,888	18,852	52,740	22,430	30,310	57

(Figures are as furnished by the department)

#### 1.6.1. Uncollected revenue

The total revenue collected and arrears of revenue pending collection in respect of some of the departments (figures of total

arrears of revenue for the State as a whole are not available) are given below:

Serial no.	Source of revenue	Amount of revenue collected during 1976-77	Amount pending collection on 31st March 1977	Percentage of arrears to revenue collected
(1)	(2)	(3)	(4)	(5)
<i>(In crores of rupees)</i>				
1.	Sales Tax—			
	(i) Receipts under the Sales Tax Acts	2,08.04	73.16	35
	(ii) Tax on Purchase of Sugarcane	18.98	7.06	37
	(iii) Tax on Sale of Motor Spirits and Lubricants	16.15	0.03	..
2.	Electricity Duty	5.83	7.41	127
3.	Land Revenue (a)	39.55	6.16	16
4.	Taxes on Vehicles, Goods and Passengers	43.86	0.61	1
5.	Forests	39.04	3.69	9
6.	State Excise	64.06	2.78	4
7.	Irrigation, Navigation, Drainage and Flood Control Projects	31.76	10.46	33

(Figures are as furnished by the departments)

### 1.6.2. Analysis of arrears

An analysis of arrears of revenue pending collection as on 31st March 1977 in respect of some of the departments is given below:

(a) Sales Tax—(i) Sales tax demand raised but not collected as on 31st March 1977 amounted to Rs.73.16 crores as

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(a) This comprises Land Revenue, Land Development Tax and Vrihat Jot Kar. The amount pending collection on 31st March 1977 was Rs.1.02 crores (Land Revenue), Rs.4.68 crores (Land Development Tax) and Rs.0.46 crore (Vrihat Jot Kar).

against Rs. 67.12 crores outstanding at the end of March 1976. Yearwise analysis of the outstanding amount is given below:]

Year	Arrears as on	
	31st March 1976	31st March 1977
	<i>( In crores of rupees )</i>	
Up to 1970-71	14.27	12.04
1971-72	3.45	2.36
1972-73	4.75	2.75
1973-74	6.90	3.99
1974-75	11.33	6.74
1975-76	26.42	14.19
1976-77	..	31.09
Total	67.12	73.16

The amount of arrears as on 31st March 1977 was in the following stages of action:

Stage of action	Amount of arrears <i>(In crores of rupees)</i>
(i) Amount covered by recovery certificates	42.24
(ii) Amount stayed by High Court and other Judicial authorities	10.35
(iii) Amount stayed by Government	1.38
(iv) Amount likely to be written off (due to dealers becoming insolvent)	5.85
(v) Other stages	13.34
Total	73.16

## (ii) Tax on Purchase of Sugarcane

Yearwise analysis of the outstanding amount as on 31st March 1977 is given below:

		<i>Arrears due from</i>		
Year	Sugar factories	Khandseri	units	Total
<i>(In crores of rupees)</i>				
Upto 1967-68	2.75	0.01		2.76
1968-69	0.55	0.01		0.56
1969-70	1.00	0.02		1.02
1970-71	0.73	0.02		0.75
1971-72	..	0.03		0.03
1972-73	..	0.03		0.03
1973-74	..	0.06		0.06
1974-75	..	0.40		0.40
1975-76	0.72	0.51		1.23
1976-77	..	0.22		0.22
Total	5.75	1.31		7.06

(b) *Electricity Duty*—Section 3 of the Uttar Pradesh Electricity (Duty) Act, 1952, prescribes levy of electricity duty at varying rates on sale and consumption of electricity. The licensees, the State Electricity Board, other appointed authorities and persons consuming energy from their own sources of generation have been entrusted with the levy, collection and payment of duty to Government.

The arrears of electricity duty to be realised from the aforesaid licensees/authorities as on 31st March 1977 are given below:

Licensee/Authority	Amount of duty due <i>(In crores of rupees)</i>
1. Messrs Renusagar Electricity Power Co. Ltd., Renukoot	5.57
2. State Electricity Board	1.18
3. Persons consuming energy from their own sources of generation	0.28
4. Ex-Licensees (Local Bodies)	0.18
5. Ex-Private Licensees	0.13
6. Other appointed authorities	0.07
Total	7.41



Yearwise analysis of the amount of outstanding dues was not available with the department.

(c) *Land Development Tax*—Demand of land development tax raised but not collected as on 31st March 1977 amounted to Rs. 4.68 crores as against Rs. 2.60 crores outstanding on 31st March 1976. The recovery of the amount of Rs. 0.77 crore was stayed by the competent authorities as on 31st March 1977.

(d) *Forests*—Of Rs. 3.60 crores pending collection as on 31st March 1977, Rs. 2.87 crores were due from private parties and the balance of Rs. 0.73 crore from the Central Government (Railways: Rs. 0.54 crore; D. G. S. D: Rs. 0.19 crore).

(e) *State Excise*—State Excise duties levied but not collected as on 31st March 1977 amounted to Rs. 2.78 crores as against Rs. 0.72 crore outstanding on 31st March 1976. Yearwise analysis of the outstanding amount is given below:

Year	Arrears as on 31st March 1977
	(In crores of rupees)
Upto 1970-71	0.40
1971-72	0.04
1972-73	0.04
1973-74	0.02
1974-75	0.12
1975-76	0.15
1976-77	2.01
	<hr/>
Total	2.78

The amount of arrears as on 31st March 1977 was in the following stages of action:

Stage of action	Amount of arrears (In crores of rupees)
(1) Amount covered by recovery certificate	2.35
(2) Amount stayed by courts	0.33
(3) Amount held up due to dealers becoming insolvent	0.05
(4) Amount likely to be written off	0.05
Total	2.78

(Figures in paragraph 1.6.2 are as furnished by the departments)

### 1.7. Non-recovery of the cost of police guards

In terms of paragraph 198 of the Police Regulations, armed guards can be supplied to commercial departments of the Central and State Governments, autonomous bodies and private parties on payment of the prescribed charges. During audit of the offices of the Superintendents of Police of a number of districts during 1976-77, it was noticed that charges aggregating Rs. 5.97 lakhs were due from various commercial departments/local bodies/public sector undertakings at whose request armed guards were supplied, as shown below:

Department/Institution	Amount to be recovered (In lakhs of rupees)	Period to which recovery pertains
1. State Bank of India (Branches in Muzaffarnagar, Mainpuri and Hardoi districts)	1.57	August 1972 to May 1977
2. Government Roadways Central Workshop, Kanpur	2.32	January 1972 to March 1976
3. Posts and Telegraphs Department (Dehradun, Ghazipur, Barabanki, Pauri and Muzaffarnagar)	0.93	March 1966 to December 1976
4. Nagar Mahapalika, Kanpur	0.67	Upto March 1976
5. Central Bank of India, Kanpur	0.06	December 1975 to March 1976
6. Food Corporation of India (Lalitpur)	0.18	January to June 1977
7. Kanpur Electric Supply Administration	0.15	December 1975 to March 1976
8. Narcotics (Opium) Department (Ghazipur and Barabanki)	0.09	September 1970 to March 1972 and 1974-75 to 1975-76
Total	5.97	

The matter was reported to Government in September 1977; reply is awaited (November 1977).

### 1.8. Non-recovery of cost of repairs of roads

The Butler Road, Birbal Sahni Road and Tagore Road within the jurisdiction of the Nagar Mahapalika, Lucknow, are being maintained by the Public Works Department since April 1960. Under Government Orders of March 1962, 50 per cent of the cost of maintenance of these roads is recoverable from the Nagar Mahapalika, Lucknow.

The department incurred an expenditure of Rs. 5.20 lakhs on maintaining these roads from April 1960 to March 1976. It was noticed during audit (October 1976) that Rs. 2.60 lakhs recoverable from the Nagar Mahapalika, Lucknow, had not been collected. No action had also been taken to recover the amount by way of adjustment or otherwise from the amount payable by Government to the Nagar Mahapalika.

The matter was reported to Government in November 1976; reply is awaited (November 1977).

### 1.9. Writes off and remissions of revenue

Details of demands written off and remitted during 1976-77, as furnished by some of the departments without indicating the number of items, are given below:

Department	Write off of losses, irrecoverable revenue, duties	Remissions
<i>(Amount in crores of rupees)</i>		
1. Sales Tax	1.08	..
2. (a) Land Revenue	..	0.83
(b) Land Development Tax	..	0.91
3. State Excise	0.06	..
4. Irrigation, Navigation, Drainage and Flood Control Projects	..	0.01

A typical case of write-off of excise revenue is given here under:

By a notification of 20th November 1974, the excise duty on rum issued to Indian troops for consumption in Uttar Pradesh from any distillery or bonded warehouse was raised from Rs. 12.50 to Rs. 30 per litre with effect from 25th November 1974.

In the course of audit (March 1976) of the accounts of a foreign liquor bonded warehouse at Lucknow, it was noticed that 33,771.9 litres of rum were issued during the period 25th November 1974 to 28th November 1974 for consumption of Indian troops within Uttar Pradesh. Duty on these supplies was, however, collected at the pre-revised rate of Rs. 12.50 instead of Rs. 30 per litre resulting in short collection of duty of Rs.5.91,008.

The matter was reported to Government in April 1976. Government issued orders in September 1976 that the short collection of duty of Rs. 5,91,008 might be written off on the grounds that the notification of 20th November 1974, raising the duty to Rs. 30 per litre, came to the knowledge of the excise officer of the concerned bonded warehouse on 29th November 1974 only and that there was difficulty in realising this amount from the various units to whom rum had been supplied during the period in question.

#### **1.10. Cost of collection**

Expenditure incurred in collecting the receipts under the principal heads of revenue during the three years from 1974-75 to 1976-77 is given in the Appendix.

CHAPTER II  
FINANCE DEPARTMENT  
SALES TAX

**2.1. Results of test audit in general**

During the year 1976-77, test audit of the documents of the sales tax offices revealed under-assessment of tax of Rs.74.04 lakhs in 1,203 cases. The reasons for under-assessment are broadly categorised below:

Nature of under-assessment	Number of items	Amount (In lakhs of rupees)
1. Irregular exemptions	157	20.04
2. Turnover escaping assessment and incorrect determination of turnover	151	11.65
3. Incorrect classification of goods	47	8.21
4. Non-levy/short levy of penalty and interest	73	5.50
5. Application of incorrect rates of tax	280	4.35
6. Under-assessment due to arithmetical mistakes	167	1.89
7. Non-levy of additional tax	147	1.83
8. Under-assessment under the Central Sales Tax Act	13	5.69
9. Miscellaneous	168	14.88
Total	1,203	74.04

Particulars of some of the important cases are given in the following paragraphs.

**2.2. Irregular exemption from purchase/sales tax**

Under the U. P. Sales Tax Act, 1948, the first purchases of foodgrains (including cereals and pulses) were taxable at 1.5 per cent from 1st October 1964. From 15th November 1971, foodgrains were made taxable at 1 per cent at all points of

purchases. From 19th May 1973, foodgrains were again made taxable at first purchase point.

In the course of audit of the Sales Tax Circle, Etah, it was noticed (September 1975) that even though the purchases of the foodgrains were taxable at all purchase points during the period 15th November 1971 to 18th May 1973, some assessing authorities continued to allow exemptions from purchase/sales tax on second and subsequent purchases of foodgrains.

When this was pointed out in audit (September 1975), the exemptions allowed in 5 cases on intra-State purchase turnover of Rs.7,32,134 and inter-State sales turnover of Rs.47,86,213 were withdrawn and additional demands of Rs.10,983 and Rs.47,862, respectively, were raised (July-August 1976) and Rs.35,849 collected (August-September 1976). Particulars of the recovery of the balance are awaited (November 1977).

The matter was reported to Government in October 1975; reply is awaited (November 1977).

### 2.3. Under-assessment due to irregular exemption

In the course of audit of the Sales Tax Circle, Gorakhpur, it was noticed (August 1976) that a dealer in confectionery, biscuits, medicines, soaps, etc., purchased *inter alia* biscuits of Rs.9,58,779 in 1972-73 from dealers within the State. But the sales turnover of these biscuits was exempted from tax (September 1975) by the assessing officer.

According to a judgment (October 1974) of the Allahabad High Court, biscuits cannot be included in the item "confectionery" which is one of the specified goods under the U. P. Sales Tax Act, 1948. As biscuits also did not fall in any other category of specified goods during 1972-73, their turnover was taxable as unclassified items at the then general rate of  $3\frac{1}{2}$  per cent.

On this being pointed out in audit (August 1976), the assessment order was revised (November 1976) and additional demand of Rs.40,000 was raised (the turnover of biscuits was determined at Rs.10,00,000 and assessed to tax at  $3\frac{1}{2}$  per cent plus  $\frac{1}{2}$  per cent as additional tax).

The matter was reported to Government in September 1976. Government stated (May 1977) that recovery of the additional tax levied was in progress.

#### 2.4. Irregular exemption on cement

Under the U. P. Sales Tax Act, 1948, cement is taxable at the point of sale by a manufacturer or importer. A Central Government undertaking at Hardwar (Saharanpur district) purchased cement for use in the construction of its factory buildings from a cement manufacturing concern of Satna (Madhya Pradesh) during the year 1974-75. The Undertaking returned the defective cement of Rs.4,31,425 to the two stockists of the supplier at Saharanpur in 1974-75.

In the course of audit of the Sales Tax Circle, Saharanpur, it was noticed (April 1976) that the assessing officer, while finalising the 1974-75 assessment cases of the aforementioned two stockists, granted exemption (July 1975) in respect of sales of cement received by them on transfer from the Government Undertaking at Hardwar, on the ground that it was purchased from within Uttar Pradesh.

When Audit pointed out (April 1976) that these stockists of Saharanpur received cement on account of their Satna suppliers and that the sales thereof were liable to sales tax, being sales in the hands of the importers, the assessment cases were re-opened and tax of Rs.39,713 was levied in November 1976 on sales turnover of Rs.4,96,413 of the aforesaid cement.

The matter was reported to Government in April 1976. Government stated (July 1977) that out of Rs.39,713, Rs.32,294 had been recovered and the balance was in the process of recovery.

#### 2.5. Non-levy of tax on sales of maps

Under the U. P. Sales Tax Act, 1948, any department of the State or Central Government which carries on the business of buying or selling goods in Uttar Pradesh, whether for commission, remuneration or otherwise, is a dealer liable to tax.

In the audit of the Sales Tax Circle, Dehradun, it was noticed (May 1976) that a department of the Central Government, located at Dehradun, sold maps to departments and corporate bodies of various State Governments and was allowed exemption (May 1975) from payment of sales tax on these sales on the ground that the sales were made by a Government department.

When it was pointed out in audit (May 1976) that such a department was also liable to sales tax, tax of Rs.20,240 was levied (November 1976) on intra-State sales of Rs.19,129 and inter-State sales of Rs.1,94,751 (not supported by prescribed declarations) made to other State Governments and corporate bodies during the years 1972-73 and 1973-74. Particulars of collection are awaited (November 1977).

The matter was reported to Government in June 1976; reply is awaited (November 1977).

#### **2.6. Turnover of coal escaping assessment**

Under section 3E of the U. P. Sales Tax Act, 1948, as amended from 21st May 1974, if a dealer makes tax-free purchases of taxable goods, he must either pay sales tax on the sales of such goods, or if the goods are used or dealt with in a manner so as to avoid payment of such tax, he must pay purchase tax on his purchases at the same rate at which he might have been required to pay the sales tax.

In the course of audit of the Sales Tax Circle, Rae Bareli, it was noticed (July 1976) that 24 brick dealers purchased coal of Rs.4,22,348 from unregistered dealers during the period 21st May 1974 to 31st March 1975 and consumed it in the manufacture of bricks at their brick kilns. Since coal was taxable at 3 per cent at the point of sale to the consumer and the sellers being unregistered dealers could not be taxed, the brick dealers were liable to pay tax on the purchase price of coal. No tax had, however, been assessed on the turnover of coal of Rs.4,22,348.

On this being pointed out in audit (July 1976), the dealers were re-assessed to additional tax of Rs.12,670 which was deposited by them in full (October 1976).



### 2.7. Incorrect computation of sales turnover

In the course of audit of the Sales Tax Circle, Jhansi, it was noticed (August 1976) that the Central Railway (registered as a dealer) disclosed sales turnovers of iron scrap amounting to Rs.1,43,36,368 and Rs.1,79,31,763 for the assessment years 1973-74 and 1974-75, respectively, and the assessments were made accordingly in December 1975. It was, however, noticed in audit that the assessee had auctioned iron scraps in lots and the sales turnovers for the aforesaid years, on the basis of the rates offered for each lot and the quantity contained in each lot, actually worked out to Rs.1,46,80,304 and Rs.1,90,54,132, respectively. Sales turnovers of Rs.3,43,936 and Rs.11,22,369 attracting tax of Rs.43,989 (in the aggregate at 3 per cent) had thus escaped assessment.

The matter was reported to Government in August 1976. Government stated (July 1977) that additional demand of Rs.43,989 had since been raised. Report regarding its recovery is awaited (November 1977).

### 2.8. Incorrect classification of absorbent cotton wool as cotton

Cotton is one of the "declared goods" under the Central Sales Tax Act, 1956. But absorbent cotton wool, commonly known as surgical cotton, prepared by cleaning, boiling, bleaching, drying and carding ginned cotton and made anti-septic, sterile and fit for surgical use is not regarded as cotton. It is a different commercial commodity and held to be so judicially. Since no specific rate of sales tax has been prescribed for it under the U. P. Sales Tax Act, 1948, it is taxable at the general rate of 3 per cent up to 14th November 1971 and  $3\frac{1}{2}$  per cent up to 30th November 1973 at all points of sale and at 7 per cent from 1st December 1973 in the hands of the manufacturer or importer. Its inter-State sales turnover, not covered by declaration forms, is taxable at 10 per cent under the Central Sales Tax Act, 1956.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (February 1977) that the intra-State sales turnover of Rs.18,22,466 and the inter-State sales turnover of Rs.15,46,474 (not covered by declaration forms) of absorbent cotton wool

of a manufacturer-dealer for the assessment years 1971-72 to 1973-74 was assessed (February and March 1976) at 3 per cent or exempted from sales tax treating it as cotton. Consequently, there was under-assessment of tax to the extent of Rs.1,49,568 in the aggregate.

The matter was reported to Government in March 1977. Government stated (May 1977) that instructions had been issued by them in October 1969 to the effect that surgical cotton was in fact cotton and assessments were made accordingly. Government further stated that on receipt of advice from the Government of India in September 1975 that surgical cotton could not be treated as cotton which is one of the declared goods under section 14(2) of the Central Sales Tax Act, 1956, revised instructions were issued by them in April 1976. Thus, owing to issue of incorrect instructions of October 1969, revenue of Rs.1,49,568 had been forgone by Government.

#### 2.9. Under-assessment of tax on zinc dross

Under the U. P. Sales Tax Act, 1948, copper, tin, zinc, nickel or alloy or scrap containing any of these metals only is taxable at 1 per cent and all other kinds of metals and alloys were taxable at  $3\frac{1}{2}$  per cent from 15th November 1971 till 3rd November 1974 at all points of sale.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (May 1977) in one case that sales turnover of Rs.19,03,558 of zinc dross for the assessment years 1972-73 and 1973-74 was assessed (July 1976 and October 1976) to tax at  $1/2$  to 1 per cent as zinc. The chemical composition of zinc dross, as given in the manufacturer's Reference Book, was approximately: zinc 93.35 per cent, iron 4.5 per cent, aluminium 0.83 per cent and lead 0.81 per cent. Thus, zinc and zinc dross are two different commercial commodities as the former is a metal while the latter is an alloy mainly of zinc and iron. Since the entry 'copper, tin, zinc, nickel or alloy or scrap containing any of these metals only' is confined to alloy of copper, tin, zinc and nickel only as per a decision (1974) of the Allahabad High Court, zinc dross was taxable at  $3\frac{1}{2}$  per cent as an alloy of other metals in the instant case.

When this was pointed out in audit (June 1977), the assessing authority revised the assessment orders and raised (May 1977) additional demand of Rs.53,946, the recovery of which is in progress (November 1977).

The matter was reported to Government in June 1977; reply is awaited (November 1977).

#### 2.10. Under-assessment of tax on vulcanising solution

Under the U. P. Sales Tax Act, 1948, chemicals of all kinds including fuel gases such as Burshane and Indane but excluding soda ash and caustic soda are taxable at the rate of 7 per cent in the hands of the manufacturer or importer since 1st April 1966.

In the course of audit of the Sales Tax Circle, Lucknow, it was noticed (April-May 1976) that the sales turnover of vulcanising solution of one dealer amounting to Rs.3,11,392 for the assessment year 1969-70 and of another dealer amounting to Rs.7,18,339 for the assessment year 1971-72 was assessed (June 1973 and January 1976) at the general rate (for unspecified items). But vulcanising solution is a product of sulphur used mainly in treating rubber at a high temperature to increase its elasticity and strength. Since the process of vulcanisation acts by chemical means, vulcanising solution should have been appropriately taxed as a chemical.

When this was pointed out in audit (May 1976), the department sought (May 1976) clarification from Government who, in consultation with the Law Department, advised (June 1976) that vulcanising solution is a chemical. Thereupon, the assessing authorities revised the assessment orders and raised (August 1976 and February 1977) additional demands of Rs.14,635 and Rs.27,467 against the two dealers. Particulars of recovery of the amount are awaited (November 1977).

#### 2.11. Incorrect treatment of biscuits as cooked food

Under the U. P. Sales Tax Act, 1948, as amended from 22nd January 1973, the turnover of biscuits sold in sealed or tinned containers, for which no separate rate of sales tax has been specified, was taxable at  $3\frac{1}{2}$  per cent at all points of sale

up to 30th November 1973 and at 7 per cent in the hands of the manufacturer or importer from 1st December 1973.

In the course of audit of the Sales Tax Circle, Meerut, it was noticed (July 1976) that the sales turnover of Rs.8,26,044 of imported biscuits sold in sealed containers of a dealer pertaining to the assessment years 1973-74 and 1974-75 was assessed (July 1975 and November 1975) to tax at 2 per cent as cooked food. When it was pointed out in audit that biscuits, according to a judicial decision, do not fall in the category of cooked food, the assessment orders were revised and additional demand of Rs.33,423 was raised (December 1976).

Government stated (August 1977) that the additional demand of Rs.33,423 was recovered in full (January 1977).

## 2.12. Incorrect application of rate of tax in respect of rubber solution

The turnover in respect of goods other than those specified in any notification under the U. P. Sales Tax Act, 1948, has been made taxable at the point of sale by the manufacturer or importer at the rate of seven per cent with effect from 1st December 1973.

In the course of audit of the Sales Tax Circle, Aligarh, it was noticed (August 1976) that an assessee manufactured rubber solution and also effected sales of rubber solution in Uttar Pradesh in his commission agency on behalf of his ex-U. P. principals. The assessee's turnover of sales of self-manufactured rubber solution of Rs.5,47,952 and in respect of commission agency sales amounting to Rs.87,829 for the period 1st December 1973 to 31st March 1974 was assessed to tax at 3½ per cent only. As the commodity 'rubber solution' was not specified in any notification issued under the U. P. Sales Tax Act, 1948, its turnover was taxable at 7 per cent in the hands of the assessee with effect from 1st December 1973. There was, thus, under-assessment of tax of Rs.22,252 on the turnover of Rs.6,35,781.

On this being pointed out in audit (August 1976), the department revised the assessment order and raised additional demand of Rs.22,252.

Government stated (August 1977) that the recovery of the additional demand raised was in progress.

### 2.13. Taxability of acrylic fibre

Under the U. P. Sales Tax Act, 1948, staple fibre yarn is taxable at the rate of 2 per cent. However, acrylic fibre or acrylic yarn which is an unspun synthetic fibre used for knitting is not the same commodity as staple fibre yarn. Yarn is a textile fibre produced through the process of spinning and used in weaving but acrylic fibre has very little tensile strength and cannot stand the strain of spinning and weaving. Thus, acrylic fibre cannot be treated as staple fibre yarn and taxed at the rate of 2 per cent. The commodity is to be treated as an unclassified item and taxed at the general rate of 7 per cent.

In the course of audit of the Sales Tax Circle, Meerut, it was noticed (April 1977) that sales turnovers of Rs.1,10,000 and Rs.1,37,850 of imported acrylic yarn of two dealers pertaining to the assessment years 1974-75 and 1975-76, respectively, were assessed (September 1976) to tax at 2 per cent as staple fibre yarn instead of at 7 per cent as an unclassified item. This resulted in under-assessment of tax of Rs.12,392 in the aggregate.

The matter was reported to Government in May 1977; final reply is awaited (November 1977).

### 2.14. Non-imposition of penalty on concealed turnover

Under the Uttar Pradesh Sales Tax Act, 1948, if the assessing authority is satisfied that any dealer or other person has concealed the particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover, it may, after such enquiry as it may deem necessary, direct that such dealer or person shall pay, by way of penalty, in addition to the tax payable by him, a sum not less than 50 per cent but not exceeding 150 per cent of the amount of tax which would thereby have been avoided.

In the course of audit of the Sales Tax Circle, Varanasi, it was noticed (October 1975) that an assessee firm was sole selling agent for Uttar Pradesh for *vanaspati* and washing soap

manufactured by a concern of Maharashtra. The sales turnover of *vanaspali* and washing soap disclosed by the assessee, as commission agent, was Rs.9,37,973, Rs.16,73,148 and Rs.14,59,519 for the years 1969-70, 1970-71 and 1971-72, respectively. On an enquiry made from the concerned Commercial Tax Officer, Maharashtra and the assessee's principals by the assessing officer, it transpired that the principals had actually supplied goods of Rs.16,81,717, Rs.37,19,359 and Rs.34,97,495 during the respective years. The returned turnover of the dealer for all the three years was not, therefore, accepted and he was assessed (March 1975) on best judgment basis on turnover of Rs.18,50,000, Rs.39,75,000 and Rs.40,20,000 for the years 1969-70, 1970-71 and 1971-72, respectively. The dealer had, thus, concealed his turnover by deliberately furnishing inaccurate particulars and was liable to penalty of not less than Rs.2,00,642 and not exceeding Rs.6,01,926. No penal proceedings were, however, initiated by the department.

On this being pointed out in audit (October 1975), penalty of Rs.5,40,000 was imposed on the dealer (November 1976). Report regarding recovery is awaited (November 1977).

The matter was reported to Government in December 1975; reply is awaited (November 1977).

## 2.15. Non-levy of penalty for belated submission of returns

Every dealer who is liable to pay tax under the U. P. Sales Tax Act, 1948, is required to submit such return or returns of his turnover at such intervals, within such period, as may be prescribed. Before submitting the return or along with the return the dealer is also required to deposit the amount of tax due on the turnover shown in such return. If the assessing authority is satisfied that any dealer has, without reasonable cause, failed to furnish the return of his turnover or to furnish it within the time allowed or to deposit the tax due under the Act before furnishing the return or along with the return, it may direct that such dealer shall pay by way of penalty, in addition to the tax, if any, payable by him, a sum not less than 10 per cent but not exceeding 50 per cent of the tax due if the tax due is above Rs.10,000.

In the Sales Tax Circle, Ghaziabad, it was noticed in audit (August 1975) that a dealer in cycles furnished quarterly returns of his turnover as follows:

	Due date for submission of return and deposit of tax	Amount of tax due Rs.	Actual date on which return was submitted along with receipted challans
Quarter ending June 1970	31st July, 1970	2,42,869	21st September 1970
Quarter ending September 1970	31st October 1970	2,22,681	5th December 1970
Quarter ending December 1970	31st January 1971	1,56,865	8th September 1972

The dealer was, thus, liable to penalty of not less than Rs.62,241 and not exceeding Rs.3,11,205 for belated submission of returns. No penal action was, however, initiated by the department.

On this being pointed out in audit (August 1975), penalty of Rs.2,51,208 was levied in May 1976. Report regarding recovery is awaited (November 1977).

The matter was reported to Government in January 1977; final reply is awaited (November 1977).

## 2.16. Recognition certificates

Section 4-B of the U. P. Sales Tax Act, 1948, provides a scheme of special relief to the manufacturers of goods notified under that section under specified conditions. If a manufacturer of the notified goods wants to avail of the special relief, he will have to obtain from his assessing officer a 'recognition certificate' whereupon he will not have to pay or will have to pay at a concessional rate sales tax or purchase tax on his purchases of raw materials for use in the manufacture of the notified goods, provided he sells his manufactured products in the State of Uttar Pradesh or either in the course of inter-State trade or commerce or in the course of export out of India. If a dealer, in whose favour a recognition certificate has been granted, uses the raw materials for a purpose other than that

for which the recognition certificate was granted to him, such dealer shall be liable to pay as minimum penalty an amount equal to the amount of relief in tax secured by him in purchases of those raw materials. There is no provision in the Act for levy of any tax in addition to penalty.

(a) In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (May 1977) that a dealer was granted (1969) a recognition certificate for the purchase of raw materials for use in the manufacture of *vanaspati* and soap. During the year 1973-74, he purchased mustard oil of Rs. 65 lakhs free of tax from the oil manufacturers of Uttar Pradesh and utilised mustard oil of Rs. 21 lakhs in the manufacture of *vanaspati* and soap and consumed mustard oil worth Rs. 44 lakhs in the manufacture of refined mustard oil. Although 'refined oils' are also notified goods, yet the benefit of tax-free purchases of raw materials for refined oils could not be availed of by the assessee as he was not granted a recognition certificate for refined oils. Notwithstanding the fact that the assessee paid the tax due on the sale of refined mustard oil in Uttar Pradesh, he was liable to pay minimum penalty of Rs. 1.32 lakhs at the rate of 3 per cent on his purchases of mustard oil of Rs.44 lakhs which were not used for the purpose specified in the recognition certificate.

When this was pointed out in audit (May 1977), the department initiated penalty proceedings against the assessee. Further report is awaited (November 1977).

The matter was reported to Government in June 1977; reply is awaited (November 1977).

(b) In the course of audit of the Sales Tax Circle, Lucknow, it was noticed (May 1976) that a dealer in tyres and tubes had been allowed (January 1976) exemption from payment of sales tax on his turnover of Rs. 25,40,815 during the assessment year 1971-72 on the basis of certificates of the purchasers to the effect that they were being purchased for use as raw material in the manufacture of bicycles. The main purchaser was a bicycle manufacturer of Ghaziabad whose purchases were worth Rs. 15,22,100. To verify the correctness of the certifi-



cates, the assessment file of the Ghaziabad dealer for the relevant year was verified in audit (July 1976) and it was found that the dealer had transferred tyres and tubes worth Rs.93,000 to his Bombay head office and had utilised tyres and tubes worth Rs.3,92.100 in the manufacture of rickshaws. Since the dealer should not have, under the sales tax law, transferred his stocks of raw materials to Bombay or utilised them in the manufacture of rickshaws, he was liable to pay minimum penalty of Rs. 6,500 and Rs. 27,447 for the two offences. But the department had not taken any penal action against the dealer for these offences.

On the omissions being pointed out in audit (May 1976), Government stated (October 1977) that penalties of Rs.8,500 and Rs.30,000 were imposed upon the dealer for the aforesaid offences. Of this, Rs.8,500 were recovered in December 1976 and the recovery of the balance is in progress (November 1977).

(c) In the course of audit of the Sales Tax Circle, Etawah, it was noticed (June 1976) that 3 commission agents made first purchases of oilseeds of Rs. 23,61,587 during the assessment years 1971-72 and 1972-73 on behalf of oilmillers holding recognition certificates. The purchase turnover of Rs.23,61,587 was assessed (September 1975-February 1976) at the hands of the commission agents at the concessional rate of 2½ per cent (including additional tax at ½ per cent). This was irregular because the commission agents had no recognition certificates.

On this being pointed out in audit (July 1976), the assessment orders were revised and additional demands of Rs.11,798 raised (January 1977), the recovery of which is in progress (November 1977).

The matter was reported to Government in July 1976; reply is awaited (November 1977).

#### 2.17. Non-levy of penalty in evasion cases

In the course of audit of the Sales Tax Circles, Moradabad (February 1976) and Baraut (June 1976), it was noticed that

during surprise raids (1970 and 1973) of the business premises of three registered dealers, double sets of account books were recovered which disclosed suppression of turnover of Rs. 34 lakhs approximately. On the basis of incriminating documents seized in surprise raids, a best judgment assessment was made in each case and additional demand of tax of Rs.1,00,124 in the aggregate was raised (February 1975, March 1975 and March 1976).

Since the dealers had accepted the fact of concealment of the particulars of their turnover at the time of final hearing of their cases pertaining to the assessment years 1970-71 and 1973-74, they were liable to pay, by way of penalty, a sum not less than 50 per cent but not exceeding one and one-half times of the amount of tax which had been avoided. The imposition of penalty was, however, not considered by the department.

On this omission being pointed out in audit (February 1976 and July 1976), penalty of Rs. 81,000 in the aggregate was imposed on the aforesaid three dealers.

Government stated (June 1977) that the recovery of the penalty imposed was in progress.

### 2.18. Non-levy of interest for belated payments

Under the U. P. Sales Tax Act, 1948, as amended from 26th May 1975, the tax payable by a dealer on the basis of his return is required to be deposited within the time prescribed or by the thirty-first day of August 1975, whichever is later, failing which simple interest at the rate of two per cent for every month or part thereof shall become due and be payable on the unpaid amount with effect from the day immediately following the last date prescribed or with effect from the first day of June 1975, whichever is later.

In the course of audit of the Sales Tax Circle, Allahabad, it was noticed (November 1976) that a manufacturer of wheat products and oil admitted in his returns for the year 1971-72 the purchases of foodgrains and oilseeds of Rs.1,13,25,953 in the aggregate. These purchases attracted tax of Rs.1,83,424.

The dealer should have deposited this tax latest by 31st August 1975 but he deposited it in March 1976. The dealer was thus liable to interest of Rs.36,685 at the rate of 2 per cent per month for the period 1st June 1975 to 31st March 1976. The department, however, did not levy and realise the interest due.

On this being pointed out in audit (November 1976), interest of Rs.36,685 was realised from the dealer (Rs.17,446 by adjustment against the dues payable to the dealer by the department and Rs.19,239 in cash) in November 1976.

### 2.19. Short levy due to application of incorrect rates

Under the U. P. Sales Tax Act, 1948, prior to 15th November 1971, agricultural implements and tractors including their parts and accessories were taxable, under a single entry, at 3 per cent at the point of sale by the manufacturer or importer. From 15th November 1971, tractors and parts and accessories thereof were notified separately and were made taxable at 5 per cent, while other agricultural implements and parts and accessories continued to be taxed at 3 per cent. upto 30th September 1972.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (February 1977) that the sales turnover of a dealer of tractors and parts and accessories, amounting to Rs.17,62,910 for the period 15th November 1971 to 30th September 1972, was assessed (January 1976) to tax at 3 per cent only under the original entry. This resulted in short levy of tax of Rs.35,258. On this being pointed out in audit (February 1977), additional demand of Rs. 35,258 was raised in March 1977. Report regarding recovery is awaited (November 1977).

The matter was reported to Government in February 1977; reply is awaited (November 1977).

### 2.20. Under-assessment of tax due to arithmetical error

(a) In the course of audit of the Sales Tax Office, Sitapur, it was noticed (June 1976) that a dealer in oil and oilseeds was assessed on a turnover of Rs.39,30,182 for the year

1974-75. But owing to a mistake in calculation, tax on the turnover was worked out at Rs.1,07,567 instead of Rs.1,17,567. This resulted in short levy of tax of Rs.10,000. Besides, there was short levy of additional tax of Rs.185.

On this being pointed out in audit (June 1976), the assessment order was revised raising additional demand of Rs.10,185.

(b) In the course of audit of another Sales Tax Office (Ghaziabad), it was noticed (November 1976) that a dealer was assessed (March 1976) on his inter-State sales of pumps and machinery amounting to Rs.29,05,554 at 3 per cent (covered by declaration forms) and Rs.25,67,030 at 10 per cent (not covered by declaration forms) for the year 1971-72. The correct amount of tax on the aforesaid sales worked out to Rs.3,43,869, whereas it was computed at Rs.3,33,869 only by the assessing officer. This resulted in under-assessment of tax of Rs.10,000.

On this being pointed out in audit (November 1976), the assessment was revised and additional demand of Rs. 10,000 was raised.

Both the cases were reported to Government in April 1977. Government stated (August 1977) that the additional demands of Rs.10,185 and Rs.10,000 had been recovered in June 1976 and January 1977, respectively.

## 2.21. Non-levy of additional tax on certain dealers

Under the U. P. Sales Tax Act, 1948, every dealer whose total turnover of sales or of purchases or of both in any assessment year exceeds rupees two lakhs shall pay for that assessment year an additional tax at the rate of quarter per cent upto 14th November 1971, half per cent from 15th November 1971 to 3rd November 1974 and one per cent thereafter.

In the course of audit, it was noticed (April 1976 to September 1976) that in 11 sales tax circles, additional tax amounting to Rs.36,230 had not been levied at all on an

aggregate taxable turnover of Rs.89.21 lakhs pertaining to the period 1st October 1970 to 31st March 1975.

On this being pointed out in audit, the department rectified the assessments in respect of 7 circles and raised additional demand of Rs.24,739. Report regarding rectification in respect of other circles as well as the collection of additional demand already raised is awaited (November 1977).

The matter was reported to Government in January 1977; reply is awaited (November 1977).

### 2.22. Omission to assess additional tax

In a surprise raid (November 1975) of the business premises of a *vanaspathi* dealer of Saharanpur, the Special Investigation Branch of the Sales Tax Department seized some incriminating documents showing huge evasion of tax and passed on its final report to the assessing officer for utilisation. On the basis of that report, the assessing officer rejected the dealer's books of accounts for the assessment year 1975-76 and assessed (December 1976) him to tax of Rs.2,02,560, on best judgement basis, on an estimated sales turnover of Rs.25,32,000. But he omitted to levy the additional tax on this turnover.

On the omission being pointed out in audit (April 1977), the department revised the assessment order and raised (June 1977) additional demand of Rs.25.320. Particulars of recovery are awaited (November 1977).

The matter was reported to Government in May 1977; reply is awaited (November 1977).

### 2.23. Inter-State sales treated as sales in the course of export

Under the Central Sales Tax Act, 1956, no tax is leviable on sale or purchase of goods in the course of their export out of the territory of India. A sale or purchase of goods shall be deemed to take place in the course of export of the goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontier of India.

By virtue of an amendment to the Central Sales Tax Act, 1956, effective from 1st April 1976, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

(a) In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (October 1976) that a dealer sold upper portions of footwear for Rs.83,73,737 to the State Trading Corporation during the assessment years 1972-73 to 1974-75 which, in turn, supplied them to foreign buyers as per contracts of sale executed between the State Trading Corporation and the foreign buyers. These sales were exempted from tax (July-September 1975) considering them as sales in the course of export out of India.

When it was pointed out in audit (December 1976) that the last sales preceding the sales occasioning the export of those goods out of the territory of India could not be deemed to be sales in the course of export out of India till the amendment of the Central Sales Tax Act with effect from 1st April 1976, the department raised tax demand of Rs.8,37,374 (April 1977) on inter-State turnover of Rs.83,73,737 (not supported by prescribed declarations). Report regarding recovery is awaited (November 1977).

The matter was reported to Government in December 1976; reply is awaited (November 1977).

(b) In the course of audit of the Sales Tax Circle, Lucknow, it was noticed (June 1976) that the U. P. State Agro Industrial Corporation Ltd., Lucknow, supplied tinned fruit preparations of Rs.3,62,510 during 1971-72 to the State Trading Corporation of India, which had entered into contracts with the foreign buyers, and delivered the goods on board the ships for export out of the territory of India. These sales for export were treated as sales in the course of export by the assessing officer and exempted from levy of tax (March 1976). Actually, only

the sales made by the State Trading Corporation of India to the foreign buyers were sales in the course of export. When it was pointed out in audit (July 1976) that in the absence of privity of contract between the dealer and the foreign buyers the exemption was not in order, the assessment order was revised (November 1976) and tax of Rs.36,251 was imposed on the aforementioned sales. Report regarding recovery is awaited (November 1977).

The matter was reported to Government in July 1976; final reply is awaited (November 1977).

#### 2.24. Incorrect exemption of inter-State sales

Under the Central Sales Tax Act, 1956, a sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase occasions the movement of goods from one State to another. It has been judicially held that a sale will be deemed to have occasioned the movement of the goods from one State to another only when the movement is the result of a covenant or incident of the contract of sale.

In the course of audit of the Sales Tax Circle, Meerut, it was noticed (October 1975) that a dealer in silver bullion was exempted from payment of sales tax on sales turnover of Rs.10,99,019 during the assessment year 1972-73 on the ground that the sales were effected in person at Delhi. The *modus operandi* of his business was that the dealer visited Delhi, secured orders for supply of silver bullion from one particular dealer of Delhi, came back to Meerut, purchased the goods, transported them to Delhi and delivered the goods to the dealer at Delhi. As the movement of goods from the State of Uttar Pradesh to the Union Territory of Delhi was as a result of supply orders procured by the Uttar Pradesh dealer, the transaction is in the nature of inter-State sale. It is immaterial when the property in the goods passes. When this was pointed out in audit (October 1975), the department revised the assessment order and raised (February 1977) additional demand of Rs.10,990 (at one per cent), the recovery of which is in progress (November 1977).

The matter was reported to Government in November 1975; reply is awaited (November 1977).

**2.25. Over-assessment due to application of incorrect rate of tax**

Under the Central Sales Tax Act, 1956, inter-State sales which are not supported by the prescribed declarations are taxed as under:

(i) If the State rate of tax on the commodity is lower than three per cent (4 per cent with effect from July 1975), at the State rate;

(ii) If the State rate is three per cent (4 per cent with effect from July 1975) and above but does not exceed ten per cent, at ten per cent ;

(iii) If the State rate exceeds ten per cent, at the State rate.

Thus, staple fibre yarn which is taxable at the rate of 2 per cent under the U. P. Sales Tax Act, 1948, is also taxable at the same rate under the Central Sales Tax Act, 1956, irrespective of whether it is covered by declarations in the prescribed forms.

In the course of audit of the Sales Tax Circle, Kanpur, it was noticed (February 1977) that the inter-State sales turnover of staple fibre yarn of a dealer not covered by prescribed declarations amounting to Rs.3.00,000 for the assessment year 1971-72 was taxed at the rate of 10 per cent instead of 2 per cent resulting in over-assessment of tax of Rs.24,000. On this being pointed out in audit (March 1977), the case was reopened and the assessment order was revised in May 1977. The objection had been accepted by Government (August 1977).

**EXCISE DEPARTMENT**

**TAX ON SALE OF MOTOR SPIRITS AND LUBRICANTS**

**2.26. Results of test audit in general**

During the year 1976-77, test audit of the documents in the District Excise Offices revealed non-levy/short levy of tax on



sales of motor spirit, diesel oil and alcohol, non-levy/short levy of fee for registering motor spirit and diesel oil dealers, etc., to the extent of Rs.6.94 lakhs detailed as under:

Nature of irregularity	Number of items	Amount (In lakhs of rupees)
1. Non levy/short levy of tax on sales of motor spirit, diesel oil and alcohol	9	4.93
2. Non-levy/short levy of fee for registering motor spirit and diesel oil dealers	14	0.89
3. Miscellaneous	11	1.12
Total	34	6.94

A typical case is mentioned in the succeeding paragraph.

#### 2.27. Non-levy of purchase tax on rectified spirit

Under the U. P. Sales or Purchase of Motor Spirit, Diesel Oil and Alcohol Taxation Act, 1939, a tax at the point of first purchase of alcohol in the State at the rate of 40 paise per litre for the first million litres and at the rate of 20 paise per litre thereafter is payable by the purchaser of alcohol (which includes rectified, denatured and special denatured spirit). The State Excise Officer in-charge of each distillery, before permitting issue of alcohol for first sale in the State, has to ascertain that the tax due has been paid into Government account.

In the course of audit (June 1976) of a distillery at Raja-ka-Sahaspur (district Moradabad), it was noticed that 1,75,373 litres of rectified spirit were purchased by a company in May 1976 but purchase tax amounting to Rs.70,149 was not levied on this purchase.

The matter was reported to Government in July 1976; final reply is awaited (November 1977).

CHAPTER III  
SUGAR INDUSTRY AND CANE DEVELOPMENT  
DEPARTMENT

TAX ON THE PURCHASE OF SUGARCANE

**3.1. Results of test audit in general**

During the year 1976-77, test audit of the documents of sugar factories and *khandsari* units revealed non-levy/short levy of tax to the extent of Rs.2,02.44 lakhs broadly categorised as under:

Nature of irregularity	Number of items	Amount (In lakhs of rupees)
1. Removal of sugar without payment of purchase tax	37	1,45.48
2. Non-levy of licence fee at the prescribed rates	47	29.03
3. Non-levy of interest and penalty	43	12.20
4. Irregular acceptance of options	9	6.88
5. Irregular exemption	16	1.06
6. Miscellaneous	54	7.79
	206	2,02.44

Some typical cases have been given in the following paragraphs.

**3.2. Removal of sugar without payment of purchase tax**

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, no owner of a sugar factory should remove any sugar outside the factory until the tax on the purchase of sugarcane appropriate to the sugar bags sought to be cleared is paid by debit to his Personal Ledger Account. Any contravention of this provision renders the owner of the factory liable to pay, in addition to the tax, by way of penalty a further sum not exceeding one hundred per cent of the tax payable.

(a) In the course of audit (April 1975), it was noticed that a sugar factory in Deoria district removed 16,566 bags of sugar upto 16th April 1975 without payment of tax amounting to Rs. 1,86,368. When this was pointed out in audit to the department on 17th April 1975, penalty of Rs. 83,931, being 50 per cent of the tax due on removals of 14,921 bags of sugar upto 31st March 1975, was imposed by the assessing authority on 19th April 1975. The tax had since been recovered but the report of recovery of this penalty is awaited (November 1977).

In a subsequent audit (May 1976), it was noticed that in spite of the fact that penalty was imposed as aforesaid, the factory continued to remove the sugar without payment of tax and actually removed 9,219 bags from 1st April 1975 to 31st August 1975 involving tax amounting to Rs. 1,03,967. Although this tax had since been recovered, no action for imposition of penalty for non-payment of tax in time had been taken.

The matter was reported to Government in July 1976; reply is awaited (November 1977).

(b) In the course of audit (October/November 1975), it was noticed that another sugar factory in Sitapur district removed sugar involving purchase tax to the extent of Rs. 80,128 either against insufficient credit balance in the Personal Ledger Account or against nil balance during the month of January 1975. But no penalty proceedings against the factory for contravention of the aforesaid provisions were initiated by the assessing authority.

On the irregularity being pointed out in audit (December 1975), the assessing authority levied penalty of Rs.80,128 (February 1977). Report of recovery is awaited (November 1977).

The matter was reported to Government in December 1975; reply is awaited (November 1977).

### 3.3. Deferment of tax on purchase of sugarcane during 1974-75 season

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, no owner of a factory can remove any sugar produced in the factory until he has paid the tax leviable on the purchase of sugarcane so consumed in the manufacture of sugar. For this purpose, the assessing authority is required to work out and specify the rate of tax per bag of sugar by correlating the quantity of sugarcane purchased and the sugar produced. The tax is paid at this rate at the time of removal of the sugar. The owner of a factory who removes any sugar in contravention of the aforesaid provisions is liable to pay, in addition to the tax, penalty not exceeding one hundred per cent of the tax payable. The Act as amended with effect from 1st October 1971 does not provide for levy of any interest for belated payment of tax.

Under section 14 of the Act *ibid.*, the State Government may, however, by notification in the Gazette, remit the tax, in whole or in part, for any of the following purposes:

- (1) to encourage or regulate the supply of sugarcane to, or its purchase by sugar factories; or
- (2) to encourage the establishment of new factories; or
- (3) to assist factories established after the crushing season 1957-58 and purchasing sugarcane yielding low sugar recovery.

The State Government issued four executive orders between September and November 1975 in which payment of tax on sugarcane purchased during the 1974-75 season was deferred in respect of 50 sugar factories till 15th December 1975 and in respect of one factory till 31st December 1975. The deferment of tax was in contravention of the provisions of the Act inasmuch as it was authorised owing to financial difficulties experienced by sugar factories on account of higher cane price than the minimum fixed by the Central Government and not for any of the reasons as provided for in the Act. Moreover, the concession was not allowed to all factories but only to those factories which requested for deferment. The orders exempted the sugar factories from payment of any penalty and pro-

vided for payment of interest at the rate to be fixed by Government subsequently. On 1st January 1976, Government fixed the rate of interest at 12 per cent per annum and also ordered recovery of the deferred tax in three equal instalments payable on 15th January, 15th February and 15th March 1976.

Some other points noticed in audit are discussed below:

(i) It was noticed that fourteen factories had stopped payment of tax on removals of sugar made even before the issue of the orders and four factories (including three factories which stopped payment of tax before the issue of the orders) continued to remove sugar without payment of tax even after the period upto which deferment had been allowed. Since such removals of sugar without payment of tax were unauthorised, penalty upto one hundred per cent of the tax involved became leviable.

When this was pointed out to Government between January 1976 and September 1976, Government stated (December 1976) that the assessing authorities had been directed to take action in accordance with the provisions of the Act. It was, however, noticed that in the case of one factory only penalty of Rs. 4.15 lakhs was levied (October 1976), recovery particulars of which are awaited (November 1977). In the case of the remaining fourteen factories, reports regarding levy of penalty and recovery of tax are awaited (November 1977).

(ii) It was noticed that out of the aforementioned 51 sugar factories, only 48 sugar factories availed of the benefit of relaxation by not paying tax amounting to Rs.1,64.38 lakhs at the time of removal of sugar. Out of these 48 factories, only 18 factories paid the full amount of tax, 11 factories paid the tax in part only and the remaining 19 factories did not pay any instalment of tax till 31st March 1976. The uncollected deferred tax as on 31st March 1976 amounted to Rs. 82.42 lakhs.

On this being pointed out in audit (January 1976 to September 1976), Government stated (December 1976) that the balance of deferred tax of Rs.82.42 lakhs could not be paid by sugar factories by 31st March 1976 owing to their financial difficulties

Accordingly, order was issued on 19th August 1976 for the recovery of the amount along with the purchase tax for the 1976-77 season at the time of removal of sugar for that season. However, only Rs. 22.42 lakhs out of the deferred tax of Rs. 82.42 lakhs could be recovered upto March 1977. Particulars of the recovery of balance are awaited (November 1977).

(iii) It was noticed (March 1977) that only four factories paid interest amounting to Rs.1.06 lakhs on the amount of deferred tax. Report in respect of levy and collection of interest in respect of the remaining forty four factories is awaited (November 1977).

#### **3.4. Non-imposition of penalty on removal of sugar against irregular credit in Personal Ledger Account**

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, tax on the purchase of sugarcane is payable by the owner of a sugar factory at the time of removal of sugar from the factory. The tax is paid at a provisional rate until a revised rate is finally fixed. The provisional rate is calculated by dividing the total tax payable on the basis of the quantity of sugarcane purchased during the last season by the number of sugar bags produced in that season. The revised rate is calculated at the end of the crushing season by dividing the balance tax payable by the number of bags pertaining to the season remaining in stock. Where the revised rate is lower than the provisional rate, the excess payment is to be spread over the remaining stock of the sugar so that after removal of all sugar from the factory no tax remains unpaid. The rules further provide for payment of tax by debit in a Personal Ledger Account which should always have a credit balance by replenishing it through deposits of sufficient amount in Government treasury. Removal of sugar in contravention of the aforesaid provisions attracts penalty not exceeding 100 per cent of the tax.

It was noticed in audit (November 1976) that for the 1974-75 season, out of tax amounting to Rs.72,63,008 due from a sugar factory in Lakhimpur-Kheri district, a sum of Rs. 65,98,754 was paid by the factory on removals of 5,92,880 bags of sugar at the provisional rate of Rs. 11-13 per bag. A revised rate of Rs. 10.87 per bag was fixed in November 1975 in respect of

64,090 bags, remaining in stock on that date. This sugar was subsequently removed from the factory by 20th May 1976 on payment of tax of Rs. 6,96,658 at the revised rate. The factory, however, also took a credit of Rs.1,54,149 (representing the difference of tax of 26 paise per bag between the provisional rate and the revised rate on 5,92,880 bags already removed) in its Personal Ledger Account in April 1976.

This credit in Personal Ledger Account resulted in short payment of purchase tax of Rs. 1,21,744 after adjusting Rs. 32,405 paid by the factory in excess on the total purchase of sugarcane made for the 1974-75 season. The short payment of tax of Rs. 1,21,744 was made good by the factory by paying the amount in cash in October 1976, *i.e.*, after a lapse of 5 months. The factory owners were, therefore, liable to penalty upto Rs. 1,21,744, being 100 per cent of the unpaid tax for a period of 5 months. No penalty proceedings were, however, initiated by the department.

The matter was reported to Government in December 1976; reply is awaited (November 1977).

### 3.5. Short collection of tax owing to non-fixation of revised rates

As already stated in paragraph 3.4, a revised rate of purchase tax per bag of sugar is to be fixed at the end of each crushing season in respect of each factory.

In the case of a sugar factory in Gorakhpur district, it was noticed in audit (May 1975) that the assessing authority did not specify the revised rate of payment of purchase tax for the 1973-74 season although the crushing for the season ended in March 1974. The sugar factory cleared the entire stocks of sugar of the 1973-74 season by March 1975 by paying tax at the provisional rate. This resulted in short payment of purchase tax of Rs.35,675 computed on the basis of the prescribed rate of tax of Re. 0.60 per quintal of sugarcane purchased during 1973-74 season. When this was pointed out in audit (May 1975), the sugar factory paid the aforesaid amount of tax in May 1975.

### 3.6. Non-levy of interest and penalty on belated payment of tax

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, if purchase tax is not paid by the date prescribed for payment thereof, interest at the prescribed rate is leviable from such date till the date of payment. In addition to interest, penalty at the prescribed rates has also to be paid under the Act, if purchase tax or interest or both remain unpaid for a period exceeding 15 days.

In the course of audit, it was noticed (November 1975 to January 1976) that *Khandsari* units under the charge of six *Khandsari* Inspectors did not pay the instalments of purchase tax on the due dates. They were, therefore, liable to pay interest and penalty which, however, were not levied by the department. This resulted in non-levy of interest (Rs. 29,359) and penalty (Rs. 50,667) to the extent of Rs. 80,026 during the assessment years 1973-74 and 1974-75.

On the omissions being pointed out in audit to the department/Government (January to March 1976), Rs. 8,673 were recovered (July 1977). Report of the recovery of the balance amount is awaited (November 1977). The reply from Government is also awaited (November 1977).

### 3.7. Non-realisation of interest and penalty owing to irregular remission of tax

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, as applicable upto the 1970-71 season, the owner of a sugar factory was liable to pay interest at the rate of 12 per cent per annum if the purchase tax was not paid by the due date. In addition, he was also liable to pay, by way of penalty, a sum not exceeding 10 per cent of the total sum payable (purchase tax and interest).

It was noticed in audit (May 1975) that the assessing officer of a sugar factory in Gonda district erroneously allowed a remission of tax of Rs. 77,378 in August 1972 and authorised the factory to pay the arrears of purchase tax upto 1970-71 season after deducting the said amount. Subsequently, when the mistake was detected by the department, the aforesaid



remission was withdrawn by an order dated 13th September 1973. This resulted in purchase tax amounting to Rs. 77,378 for the 1970-71 season falling into arrears which was recovered by adjustment against another remission allowed to the factory under orders of 16th January 1974. Thus, the purchase tax amounting to Rs. 77,378 remained unpaid upto 15th January 1974 for which the factory was liable to pay interest and penalty but these were not realised.

When the omission was pointed out in audit (July 1975), Government stated (December 1975) that interest and penalty in this case would be duly realised. Orders were issued (June 1976) for recovery of interest and penalty amounting to Rs.22,877 and Rs.10,025, respectively. Report of recovery is awaited (November 1977).

### 3.8. Loss of purchase tax due to irregular acceptance of options

According to the U. P. Sugarcane (Purchase Tax) Act, 1961, the purchase tax on the actual quantities of sugarcane purchased is to be paid by owners of (i) sugar factories and (ii) units engaged in the manufacture of *gur*, *rab* or *khandsari* sugar from sugarcane juice produced with the aid of power crushers. The unit owners have, however, been given the option to pay purchase tax on the basis of quantities of sugarcane assumed to have been purchased in accordance with Schedule-I to the U. P. Sugarcane (Purchase Tax) Rules, 1961, with regard to different categories of units, crushing capacity of power crushers and other relevant factors. For availing of the benefit of option, a unit owner has to send a declaration in the prescribed form to the Sugar Commissioner and the assessing authority so as to reach them on or before 31st January each year or 15 days before the start of working of the unit, whichever is earlier, whereafter no such declaration shall be accepted.

(a) In the course of audit (December 1976), it was noticed that in a *khandsari* circle under Sitapur Range, the declarations of options in respect of 5 units were not submitted 15 days before the start of the units but these were accepted by

the assessing authority and assessments were made on the basis of assumed quantities of sugarcane. These assumed quantities were much less than the actual quantities of sugarcane purchased by them as disclosed in their returns. Since the declarations of options were not submitted in time, these should not have been accepted and assessments should have been made on the basis of actual quantities of sugarcane purchased. The acceptance of the options and assessments on the basis of assumed quantities fetched tax of Rs.78,558 only as against the tax of Rs. 1,44,588 due on the actual quantity of sugarcane purchased. This resulted in loss of purchase tax of Rs. 66,030.

The matter was reported to Government in January 1977; reply is awaited (November 1977).

(b) In the course of audit (January 1977) of another *khand-sari* circle in Bijnor Range, it was noticed that a unit owner did not specify in his declaration the date from which his unit would start working but separately stated to the assessing officer on 24th November 1975 that the unit would be started on 8th December 1975. Since in the instant case the date of commencement of the working of the unit was not stated 15 days before the said date, the option should not have been accepted and assessment should have been made on the basis of actual quantity of sugarcane purchased. However, the assessing officer accepted the option and completed the assessment on the basis of assumed quantity of sugarcane. As a result, the unit owner paid purchase tax amounting to Rs.47,009 at the rates applicable to optional units as against the tax of Rs. 76,142 leviable on the basis of actual quantity of sugarcane purchased. This resulted in loss of revenue of Rs. 29,133.

The matter was reported to Government in March 1977; reply is awaited (November 1977).

### 3.9. Irregular exemption from payment of purchase tax

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, purchase tax is leviable on the 'purchase' of sugarcane by sugar factories as well as *gur*, *rab* or *khandsari* sugar manufacturing

units. Sugarcane obtained by a unit from its own farm would, therefore, be exempt from the levy of purchase tax. Tax is, however, leviable if the farm has a separate legal entity even though the proprietorship of the farm and the unit may be the same.

(a) It was noticed in audit (December 1974) that a co-operative sugarcane society (a *khandisari* sugar manufacturing unit) in Pilibhit district obtained 71,408 quintals of sugarcane during the assessment years 1972-73 and 1973-74 from the farms owned by the individual members of the society. Purchase tax amounting to Rs. 35,704 was leviable thereon as the farms were distinct legal entities but the purchase was erroneously exempted from tax by the department.

The matter was reported to Government in February 1975. Government, while accepting the objection, stated (September 1976) that the Sugar Commissioner, Uttar Pradesh, had been directed to recover the amount. Report regarding recovery is awaited (November 1977).

(b) In the course of audit, it was noticed (August 1976) that another sugar factory in Etah district brought 21,804 quintals of sugarcane during the crushing seasons 1971-72 to 1974-75 from a farm owned by a private individual. Agricultural operations on the said farm were carried out by the factory along with its own farm. The total produce of sugarcane from the factory's own farm as well as from the farm of the private individual was brought to the factory for crushing. The net profit on this account was shared by the parties in proportion to the area of the land owned by them. The sugarcane obtained from the factory's own farm not being leviable to tax, purchase tax leviable on 21,804 quintals of sugarcane obtained from the farm owned by the private individual was also not paid treating it as "own farm cane". This resulted in erroneous exemption from payment of purchase tax amounting to Rs. 13,331.

The matter was reported to Government in October 1976; reply is awaited (November 1977).

**3.10. Non-payment of purchase tax due to availing of excess remission**

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, purchase tax was payable at the rate of 51 paise per quintal of sugarcane purchased by sugar factories during the 1970-71 season. By a notification dated 18th March 1971, the State Government remitted, in whole, the purchase tax payable on the sugarcane of the 1969-70 season purchased by sugar factories during the 1970-71 season.

In the course of audit, it was noticed (July 1973) that a sugar factory in Muzaffarnagar district availed of a remission of Rs. 1,84,226 at the rate of 51 paise per quintal in respect of 3,61,228 quintals of sugarcane of the 1969-70 season stated to have been purchased by it during the 1970-71 season. The records of purchases of sugarcane maintained by the factory, however, revealed that only 74,227 quintals of sugarcane of the 1969-70 season were purchased on which remission of only Rs. 37,856 was admissible. This resulted in excess remission of Rs. 1,46,370 and consequential non-payment of purchase tax to that extent as the factory had paid the purchase tax due for the year 1970-71 after deducting the amount of remission.

When the irregularity was pointed out in audit (January 1974), the assessing authority ordered (May 1976) the factory to deposit the amount of Rs.1,46,370. Report of recovery is awaited (November 1977).

The matter was reported to Government in January 1974; reply is awaited (November 1977).

**3.11. Non-payment of tax on sugarcane purchased from cane-growers of Haryana**

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, the owner of a sugar factory is required to pay purchase tax on the quantity of sugarcane purchased at the rate of Re. 1 per quintal. This tax is payable at the time of removal of sugar from the factory.

It was noticed in audit (August 1976) that a sugar factory of Saharanpur district purchased at its gate 38,025 quintals of

sugarcane brought by canegrowers of Haryana State during April 1976 but did not pay the purchase tax due thereon amounting to Rs. 38,025. Since the purchase of this sugarcane was not pursuant to contractual obligations between the canegrowers of Haryana and the sugar factory but was made at the factory gate on cash payment, the transaction could not be treated as occurring in the course of inter-State trade. Consequently, appropriate tax was payable.

When the irregularity was pointed out in audit to the department in October 1976, the assessing authority levied (November 1976) purchase tax of Rs. 38,025 on the aforesaid quantity of sugarcane. Report of recovery is awaited (November 1977).

The matter was reported to Government in October 1976; reply is awaited (November 1977).

#### OTHER TOPIC OF INTEREST

#### 3.12. Sugarcane grown in U. P. but purchased at a centre in Bihar

Under the U. P. Sugarcane (Purchase Tax) Act, 1961, the owner of a sugar factory is required to pay purchase tax on the quantity of sugarcane purchased by the factory. Purchases of sugarcane in the course of inter-State trade are, however, not liable to tax under the said Act.

It was noticed in audit (April 1974) that a sugar factory in Deoria district purchased 2,75,522 quintals of sugarcane grown in Uttar Pradesh at its purchasing centre located in the State of Bihar during the crushing seasons 1970-71 to 1973-74. The sugarcane so purchased escaped levy of purchase tax.

When the matter was pointed out in audit (May 1974), Government directed (March 1976) the factory to open a new purchasing centre from the 1975-76 crushing season to enable the factory to purchase sugarcane within the territory of Uttar Pradesh itself. Timely action for opening the new purchasing centre would have resulted in additional revenue of Rs.1,90,618 on 3,21,500 quintals of U. P. sugarcane purchased at the previous centre during the seasons 1970-71 to 1974-75.

CHAPTER IV  
EXCISE DEPARTMENT

STATE EXCISE

4.1. Results of test audit in general

During the year 1976-77, test audit of the account records of the State Excise Offices revealed non-levy/short levy of duties and fees to the extent of Rs.1,33.14 lakhs, broadly categorised as under:

Nature of irregularity	Number of items	Amount (In lakhs of rupees)
1. Deficiency in spirit out-turn	6	66.57
2. Non-levy/short levy of duty on wastages of spirit	49	27.31
3. Non-collection and short collection of licence fees	56	18.99
4. Short levy of duty and export pass fee	13	6.94
5. Loss of excise duty due to failure of contractors to supply country spirit/ <i>bhang</i>	29	5.59
6. Miscellaneous	22	7.74
Total	175	1,33.14

A few important cases are mentioned in the following paragraphs.

4.2. Loss of revenue due to leakage of spirit from vats

In terms of paragraph 708 of the Excise Manual, U. P., Volume I, Government shall not be liable for the destruction, loss or damage of any spirit stored in distilleries by fire, theft or by any other cause whatsoever and it shall be the responsibility of the distillers to make good any loss of revenue caused to Government on such account.

In the course of audit (June 1976) of a distillery at Rosa (district Shahjahanpur), it was noticed that 541.3 litres of spirit were lost on 11th April 1976 owing to leakage of a storage vat. This involved excise duty of Rs.21.652 at the rate of Rs.40 per litre. But the amount was not recovered from the distillers.

The matter was reported to Government in July 1976. Government stated (May 1977) that the case was under examination.

#### 4.3. Short levy of duty on rum

State excise duty on rum issued to Indian troops was levied at a flat rate of Rs.12.50 per litre of alcohol up to 24th November 1974. With effect from 25th November 1974, this rate was enhanced to Rs.30 per litre of alcohol on all rum issued to Indian troops for consumption in Uttar Pradesh except to the extent of 1,80,100 litres per annum for troops stationed in certain specified areas of this State. In the latter case, the rate of duty remained at Rs.12.50 per litre of alcohol.

In the course of audit (December 1975) of the District Excise Office, Agra, it was noticed that 2,696.4 litres of rum were purchased by the Canteen Stores Department, Agra, on 8th December 1974 from a distillery at Daurala (Meerut district) for issue to Indian troops not stationed in the specified areas. Duty amounting to Rs.80,892 at the rate of Rs.30 per litre of alcohol was, therefore, payable, whereas Rs.33,705 only (at Rs.12.50 per litre) were realised, resulting in short collection of duty of Rs.47,187.

The matter was reported to Government in January 1976. Government stated (May 1977) that the deficient amount of duty had since been recovered.

#### 4.4. Short levy of excise duty on rectified spirit

Manufacturers of medicinal and toilet preparations are liable to pay excise duty on rectified spirit before receiving such spirit from the distilleries unless they have executed bonds for paying the duty on the basis of the alcoholic content of their finished products afterwards. The rates of excise duty were Rs.3.85 and Rs.1.10 per London proof litre, respectively, up to 15th March 1976, depending on whether the preparations, for which the rectified spirit was issued, could be used as ordinary alcoholic beverages or not. These rates were revised to Rs.7.50 and Rs.3.75 per London proof litre, respectively, with effect from 16th March 1976.

In the course of audit (July 1976) of the accounts of a distillery at Hargaon (Sitapur district), it was noticed that on 5,409 London proof litres of rectified spirit issued to various manufacturers between 23rd March 1976 and 31st March 1976, excise duty amounting to Rs.12,733 was levied at the pre-revised rates. The amount of duty leviable at the correct rates worked out to Rs.29,426. Consequently, there was short levy of duty to the extent of Rs.16,693.

On this being pointed out in audit (August 1976), Government stated (May 1977) that the duty short levied had since been recovered.

#### 4.5. Destruction of Indian made foreign liquor resulting in loss of duty

Under the U. P. Excise Act, 1910 and the rules made thereunder, redistillation, filtration and fortification may be carried out on account of the manufactured spirit not conforming to the prescribed specifications or owing to bad and defective storage conditions resulting in discolouration of spirit, fall in strength or such other defects.

The Excise Commissioner, U. P., directed (September 1974) a distillery at Meerut that certain quantities of Indian made foreign liquor which were stated by the distillers to have become sedimented might be got examined by the Chemical Examiner with a view to ascertaining whether these were fit for human consumption or not. Even though no such examination was got conducted, the Excise Commissioner permitted (July 1976) the destruction of 11,030 litres of Indian made foreign liquor which were stated to have been destroyed in August 1976. In the absence of any chemical examination, it cannot be said that the aforementioned quantity of Indian made foreign liquor could not be used for redistillation, filtration or fortification. Had this been done, Government could have earned excise revenue of Rs.4.34 lakhs after allowing the maximum wastage that would have been admissible in redistillation.

The matter was reported to Government in January 1977. Government stated (September 1977) that action against the defaulting officers was being taken.



#### 4.6. Short levy of duty on alcohol issued for medicinal preparations

With effect from 16th March 1976, Government enhanced the rate of excise duty from Rs.1.10 per London proof litre to Rs.3.75 per London proof litre in respect of all issues of alcohol for medicinal preparations which were not capable of being consumed as ordinary alcoholic beverages.

In the course of audit of two distilleries (districts Lakhimpur Kheri and Sitapur), it was noticed (March 1977 and April 1977) that 95,150 London proof litres of spirit were issued to an opium factory at Ghazipur between April 1976 and March 1977 for manufacture of medicinal preparations. On these issues, duty was levied at the pre-revised rate of Rs.1.10 per London proof litre instead of at the revised rate of Rs. 3.75 per London proof litre resulting in short levy of duty of Rs.2,52,147.

The matter was reported to Government in April 1977 and May 1977; final reply is awaited (November 1977).

#### 4.7. Short levy of excise duty on excess wastage of beer

Under the Uttar Pradesh Excise Act, 1910 and the rules made thereunder, an allowance for the actual loss of beer in bottling and storage is permissible subject to maximum of one per cent on the total quantity of beer stored during a month. If the bottling and storage wastage exceeds this limit, duty is leviable on the excess wastage.

In the course of audit of a brewery at Ghaziabad, it was noticed (May 1977) that during the month of January 1976 there was bottling and storage wastage of 54,248 bulk litres of beer in excess of the permissible limit. Excise duty of Rs.1,25,313 was leviable on this excess wastage at the rate of Rs.2.31 per bulk litre. The department, however, passed orders to recover Rs.12,531 only from the brewer resulting in short levy of excise duty of Rs.1,12,782.

On this being pointed out in audit (May 1977), Government stated (August 1977) that additional duty of Rs.1,12,782 had been levied in July 1977. Report regarding its recovery is awaited (November 1977).

#### 4.8. Loss in licence fees in respect of country spirit shops

Under the U. P. Excise Act, 1910 and the rules made thereunder, the licence fees for the retail vend of country spirit under the auction system is fixed by public auction periodically and a sum equal to one-sixth of the accepted bid is payable immediately on the conclusion of the sales. The balance of the amount is payable in ten equal monthly instalments. In case of default of payment of licence fees within the prescribed period the shop is required to be resold and if the price finally offered at the resale is less than the bid at the first sale, the difference is recoverable from the defaulter.

In the course of audit of the District Excise Office, Allahabad, it was noticed (April 1977) that five shops of Allahabad district for the retail vend of country spirit for the year 1976-77 were auctioned for Rs.2,49,000 in March 1976. The licensee defaulted in timely payments and deposited up to January 1977 licence fee amounting to Rs.1,61,575 on account of instalments due up to September/October 1976 and failed to deposit fees for the subsequent period. The licence was, however, suspended only on 1st February 1977 in respect of one shop and on 15th February 1977 for the remaining four shops. Arrangements for the vend of country spirit on daily basis were made only on 3rd March 1977 in respect of one shop and on 10th March 1977 for the remaining four shops, which fetched Rs.15,220. After the licence was suspended, additional amount of Rs.16,368 was realised from the original licensee leaving a balance of Rs.55,837 recoverable from him.

The matter was reported to Government in May 1977. Government stated (November 1977) that necessary recovery certificate had been issued on 30th May 1977 for realising the balance amount.

#### 4.9. Indian made foreign liquor issued without payment of duty

Under the Uttar Pradesh Excise Act, 1910 and the rules made thereunder, no spirit can be removed from a distillery except under a pass granted by the Excise Officer in-charge of the distillery. The pass is issued only either on proof of full

payment of duty or on execution of a bond by persons permitted to remove spirit under bond.

In the course of audit of the accounts of a distillery in district Moradabad, it was noticed (May 1977) that 5,387 litres of rum were issued to the Canteen Stores Department, Meerut, in January 1977 without payment of duty or execution of a bond. Such removal of rum involved excise duty of Rs.1.62 lakhs.

The matter was reported to Government in June 1977; reply is awaited (November 1977).

#### 4.10. Failure to supply country spirit

Under the contract supply system, the exclusive privilege of supplying country spirit in a particular area at a fixed price is granted to a particular distiller for a certain period (usually a year) on the basis of competitive tenders. The supply contractors of any contract area have to maintain at all times a prescribed minimum stock of country spirit at each bonded warehouse for supply to licensed retail vendors. A licensed retail vendor is entitled to be supplied promptly with the quantity of spirit for which excise duty and cost price thereof have been deposited by him. In case the supply contractor fails to supply the spirit demanded owing to insufficient stocks in the bonded warehouse, he is liable to make good any loss of excise duty to Government on this account. In addition, penalty not exceeding Rs.5 per proof gallon of spirit demanded but not supplied may also be imposed on the contractor.

In the course of audit, it was noticed (July 1976 to March 1977) that at four bonded warehouses (Ballia, Lalitpur, Kanpur and Azamgarh), the contractors failed to maintain the prescribed minimum stock of spirit during the period November 1975 to August 1976 and the licensed retail vendors could not be supplied, on demand. 16,208 bulk litres of country spirit (1,540 litres plain, 9,988 litres spiced and 4,680 litres special spiced) for which they had deposited, besides the cost price, excise duty amounting to Rs.1.47 lakhs. The supply contractors were, therefore, liable to pay to Govern-

ment Rs.1.47 lakhs for loss of excise duty for the realisation of which no action was taken. No penalty was also imposed on the defaulting contractors.

The matter was reported to Government between August 1976 and March 1977; reply is awaited (November 1977).

#### 4.11. Loss due to non-supply of bhang

*Bhang* is stored at bonded warehouses by supply contractors for issue to licensed retail vendors and in terms of the U. P. Excise Act, 1910 and the rules framed thereunder, the supply contractors are required to maintain at all times a minimum stock prescribed for each bonded warehouse. On proof of payment of excise duty and cost price of *bhang*, licensed retail vendors are entitled to receive *bhang* from bonded warehouses. In case a supply contractor fails to maintain the minimum prescribed stock, the demands of licensed retail vendors cannot be met and there is loss of revenue to Government. In such circumstances, the Collector may procure *bhang* from other sources, the cost of which and any loss to Government owing to non-supply of *bhang* in time is recoverable from the defaulting supply contractor. In addition, penalty of double the amount of duty on the quantity of *bhang* demanded but not supplied may be imposed on the supply contractor.

In the course of audit (June 1976, July 1976 and October 1976) of three bonded warehouses (Shahjahanpur, Lucknow and Kanpur), it was noticed that owing to the stocks being insufficient, 5.172 kilogrammes of *bhang* demanded by licensed retail vendors between April 1975 and May 1976 could not be issued to them. Supply from alternative sources was not also arranged and there were delays ranging from 7 days to 72 days on the part of the defaulting supply contractors in meeting these demands. The duty involved in these cases was Rs. 41,376. For this loss of excise duty, the maximum penalty which could be levied worked out to Rs.82,752. Imposition of penalty was, however, not considered by the department.

The matter was reported to Government between July and November 1976; final reply is awaited (November 1977).

#### OTHER TOPIC OF INTEREST

#### 4.12. Duty on wastage of spirit in bottling

Under the Uttar Pradesh Excise Act, 1910 and the rules made thereunder, an allowance upto one per cent is admissible on the total quantity of spirit stored during a month for actual loss in bottling and storage. The licensee is, however, liable for payment of duty on wastage in excess thereof.

In the course of audit of distilleries, it was noticed that bottling and storage wastage occurring during a particular month was being worked out on the basis of the total stock of spirit stored both in vats and in sealed bottles. As there is hardly any scope for wastage of spirit kept in sealed bottles by way of leakage or evaporation during the period of storage, the allowance of wastage on bottled stock of spirit, except for breakage, should not be admissible.

(i) In the course of audit of the accounts of two distilleries (Simbhaoli and Meerut), it was noticed (February 1973) that storage wastage of 898 litres of spirit pertaining to the period April 1972 to January 1973 was allowed which would have been in excess of the prescribed limit of one per cent and liable to duty of Rs. 0.22 lakh, if the bottled stock had not been taken into account for calculating the permissible wastage.

(ii) During test check of the accounts of three other distilleries (in districts Moradabad, Meerut and Ghaziabad), it was noticed (May 1975 to May 1977) that wastage of 21,061 litres of spirit was allowed in bottling operations on storage of 15,10,521 litres of spirit stored in vats and 5,95,579 litres of spirit stored in sealed bottles during the period May 1974 to April 1977. Had the percentage of wastage been confined to the spirit stored in vats (*i. e.*, excluding the spirit stored in sealed bottles), duty of Rs. 2.38 lakhs would have been leviable on 5,956 litres of spirit being loss in excess of the ceiling limit of one per cent.

When this was pointed out in audit (August 1977), the department stated (October 1977) that the monthly wastage would now be calculated after excluding the bottled stock and necessary amendment was being proposed in the rules.

The cases were reported to Government in March 1973 and August 1977; final reply is awaited (November 1977).

#### 4.13. Working of the Molasses Control Order

##### 4.13.1. *Introductory*

The most popular base for alcoholic distillation in Uttar Pradesh is molasses which is a by-product in the manufacture of sugar. It is mainly used for distillation of rectified spirit, some of its other uses being for manufacture of yeast or glycerine for use in soaps or of castings or moulds in foundries and as cattle or poultry feed.

##### 4.13.2. *Control over distribution of molasses*

The State Government enacted the Uttar Pradesh Sheera Nyantran Adhiniyam, 1964 and has made the Uttar Pradesh Sheera Nyantran Niyamavali, 1974, for exercising control over the storage, supply, distribution, gradation and pricing of molasses produced by sugar factories working on vacuum\* pan system in this State. The Excise Commissioner acts as Controller of Molasses for regulating the supplies of such molasses to distilleries for purposes of distillation and also to industrial units requiring molasses for industrial use. During the year 1976-77, there were 79 sugar factories in Uttar Pradesh which arranged supply of molasses to 24 distilleries of the State.

The Uttar Pradesh Sheera Nyantran Adhiniyam and the Niyamavali do not, however, apply to molasses produced by *khandsari* units working on the open\*\* pan system. The quantity of molasses produced by *khandsari* units during the

\* Vacuum pan is used in sugar mills for final boiling of the processed juice to eliminate the residual moisture and to produce grains of sugar.

\*\* Open pan is used by small *khandsari* units for boiling of juice to evaporate the water contents and to produce *khandsari* sugar.

molasses years (November-October) 1974-75 and 1975-76 was to the extent of 146.7 and 136.0 thousand tonnes, respectively. The large quantity of molasses produced by *khandsari* units could, in the absence of any control, find its way to illicit distillers.

Government stated (October 1977) that introduction of control in respect of such units whose number was about 5,000, spread over the entire State, was under consideration.

#### 4.13.3. Production and distribution of molasses

The figures of production of molasses by sugar factories and their distribution amongst distilleries, industrial units and other consumers for the last three molasses years were as under:

Molasses year	Carry over from last year	Production during the year	Total	Wastage	Total quantity available for distribution
1	2	3	4	5	6
<i>(In thousand tonnes)</i>					
1973-74	19.9	649.4	669.3	21.4	647.9
1974-75	115.9	654.1	770.0	23.8	746.2
1975-76	99.9	518.7	618.6	13.3	605.3
<i>Distribution (actual lifting)</i>					
Distilleries	Out-still licenses	Foundries	Cattle/poultry feed manufacturers	Exports to other States	Total distribution
7	8	9	10	11	12
472.0	1.7	18.1	0.8	4.3	496.9
536.3	0.4	10.9	2.1	23.4	573.1
486.6	..	8.1	1.2	19.0	514.9
Quantity of unfit molasses drained out, released, removed, etc.			Balance left	Percentage of production allocated for distillation	
13			14	15	
35.1			115.9	73	
73.2			99.9	82	
66.6			23.8	93	

(Figures are as furnished by the department)

Thus, molasses to the extent of 73 to 93 per cent produced by sugar factories in this State were used in the manufacture of spirit and alcohol during the aforementioned years.

#### 4.13.4. *Wastage of molasses in storage*

4.13.4.1. Under the Uttar Pradesh Sheera Niyam Adhiniyam, 1964 and the rules made thereunder, every sugar factory is responsible for the safe preservation of molasses produced in it and to provide adequate safeguards against leakage, seepage and mixing up of water with molasses. The Act and the rules also do not provide any allowance for loss owing to leakage, evaporation or deterioration of molasses during storage. There is also no provision for levy of any penalty or fine in the event of such losses.

In the course of audit of the office of the Excise Commissioner, Uttar Pradesh, it was noticed (May 1977) that 58.5 thousand tonnes of molasses were wasted during storage in sugar factories during the molasses years 1973-74, 1974-75 and 1975-76. No analysis of the reasons for this wastage was available in the office of the Excise Commissioner. These molasses, if utilised in the manufacture of spirit, could have produced 213.52 lakh proof litres of spirit (on the basis of average yield of 365 proof litres per tonne of molasses) yielding revenue of Rs.23.66 crores at the lowest rate of duty of Rs.11.08 per proof litre.

Government stated (October 1977) that necessary amendment in the Adhiniyam and the rules was under consideration.

4.13.4.2. In one case, it was noticed that 689.6 quintals of molasses got contaminated with rain water in a sugar factory at Deoria during the molasses year 1975-76 owing to faulty roof of storage tanks. Consequently, the molasses became unfit for distillation. However, no penal action was initiated against the sugar factory under the provisions of the Adhiniyam for its failure to properly preserve the molasses.

4.13.4.3. In another case, it was noticed (May 1977) that 7,092 tonnes of molasses had been shown as lost in the storage of 7,783 tonnes during the molasses year 1974-75 in a sugar factory in Muzaffarnagar district. The storage loss of 91 per



cent of the quantity of molasses stored was abnormally high. In this case also no reasons for this loss were investigated and recorded.

Government stated (October 1977) that no action was possible under the existing provisions of the Adhiniyam, necessary amendment to which was under consideration.

#### 4.13.4.4. *Wastage of molasses in transit*

Under the Uttar Pradesh Sheera Niyantaran Adhiniyam, 1964 and the rules made thereunder, there is no provision for any allowance for loss of molasses in transit from sugar factories to distilleries. The Act and the rules also do not provide for levy of any penalty or fine on such transit wastage.

In the course of audit of the accounts of molasses in the Excise Commissioner's Office, it was noticed (May 1977) that out of molasses despatched from the various sugar factories to distilleries during the molasses years 1973-74 to 1975-76, 0.13 lakh tonnes were lost in transit. This was adequate to produce 47.45 lakh proof litres of spirit involving excise duty of Rs.5.26 crores.

Government stated (October 1977) that no penal action was possible in the absence of provisions of ceiling limit of transit wastage in the Adhiniyam and the rules, amendment to which was under consideration.

#### 4.13.4.5. *Molasses Fund for creation of adequate storage facilities*

Under the Uttar Pradesh Sheera Niyantaran Adhiniyam, 1964, as amended with effect from 24th April 1974, every sugar factory was required to place in a separate fund the amount mentioned below or such other amount, as the State Government may notify in that behalf, out of the sale proceeds for different grades of molasses for providing adequate storage facilities.

Grade of molasses	Rate effective from 24-4-1974	Rate effective from 1-1-1976
Grade I	Re.0.33 per quintal	Rs.2.00 per quintal
Grade II	Re.0.27 per quintal	Rs.1.60 per quintal
Grade III	Re.0.20 per every 40 kilogrammes of reducing sugar content therein	Rs.1.20 per every 40 kilogrammes of reducing sugar content therein

The Excise Commissioner, U. P., being the Controller of Molasses, also exercises control over this Fund. No amount deposited under the Molasses Fund could be withdrawn without obtaining the permission of the Controller of Molasses.

In the course of audit of the Excise Commissioner's Office, the following facts came to notice (May 1977) regarding the maintenance of the Molasses Fund:

(i) The Excise Commissioner issued orders in April 1975 requiring all the sugar factories to deposit the amount towards the Molasses Fund in any scheduled bank in respect of all sales of molasses made from 24th April 1974 onwards. But Rs.8.86 lakhs which became due for realisation towards the Molasses Fund during the period 24th April 1974 to 31st December 1975 from 19 sugar factories were not deposited by them till May 1977.

(ii) The total deposit in the Molasses Fund made by the various sugar factories in the State during the period 24th April 1974 to 31st March 1977 amounted to Rs.1.02 crores, out of which Rs.0.18 crore only were utilised till May 1977 on maintenance and creating additional storage facilities for molasses.

As a result of inadequate storage facilities owing to non-utilisation of the full amount available in the Molasses Fund, 1.75 lakh tonnes of molasses were rendered unfit for distillation and had to be drained out during the molasses years 1974-75 and 1975-76. This had revenue potential of Rs.70.73 crores. Owing to improper storage conditions, the quality of molasses supplied to distillation also suffered which had a direct impact on the out-turn of spirit produced by the distilleries.

#### 4.13.4.6. *Short production of spirit from molasses*

A minimum spirit out-turn is prescribed in relation to the wash used for distillation. In no case, the out-turn of spirit should be below the prescribed minimum of 365 proof litres per tonne of molasses, as provided in the U. P. Excise Act and the Rules.

In the course of audit of the accounts of six distilleries (January 1977 to June 1977) shortfall in the out-turn of spirit with reference to the prescribed minimum in respect of certain batches of wash sent in for distillation was noticed, as per details given below:

Name of distillery	Period of distillation	Wash distilled (B.L.)	Minimum out-turn of spirit (A.L.)	Actual out-turn of spirit (A.L.)	Short-fall in out-turn (A.L.)
1	2	3	4	5	6
1. Ghaziabad	January 1976 to November 1976	1,02,25,520	4,19,435	4,08,578	10,857
2. Baheri	April 1976 to April 1977	44,18,824	2,31,609	2,21,368	10,241
3. Raja-ka-Sahaspur	April 1977 to May 1977	19,99,978	1,19,081	1,14,724	4,357
4. Nawabganj	May 1976 to July 1977	78,92,160	3,82,126	3,06,669	75,457
5. Dehradun	January 1977 to May 1977	26,70,716	1,33,719	1,29,602	4,117
6. Hargaon	July 1976 to March 1977	2,39,15,336	14,32,839	13,78,041	54,798
		5,61,22,534	27,18,809	25,58,982	1,59,827

(B.L. denotes bulk litres and A.L. denotes alcoholic litres)

The short production of 1,59,827 alcoholic litres of spirit in the aforementioned case involved excise duty of Rs.31.07 lakhs at the minimum rate of Rs.19.44 per alcoholic litre.

Mention was made in paragraphs 48, 43 and 50.7 of the Reports of the Comptroller and Auditor General of India on Revenue Receipts for the years 1973-74, 1974-75 and 1975-76, respectively, about shortfall in the out-turn of spirit with reference to the prescribed minimum.

Government stated (October 1977) that the matter was engaging their attention and necessary amendment to the rules was under consideration.

#### 4.13.4.7. *Short accountal of molasses*

In the course of audit, it was noticed (May 1977) that the accounts of molasses were not properly maintained in the Excise Commissioner's Office. Against the closing stock of 16,741 tonnes of molasses in the case of 9 sugar factories at the end of the molasses year 1973-74, only 9,177 tonnes were brought forward as opening stock at the beginning of the molasses year 1974-75. Similarly, in the case of 5 other sugar factories, whereas the closing stock of molasses at the end of the molasses year 1974-75 was 12,640 tonnes, only 3,000 tonnes were carried forward as opening stock in the beginning of the molasses year 1975-76. Thus, 17,204 tonnes of molasses remained unaccounted which, if converted into dutiable spirit, would have produced 62.80 lakh proof litres of spirit involving revenue of Rs.6.96 crores at the minimum rate of excise duty.

#### 4.13.4.8. *Removal of unadulterated molasses*

Molasses having sugar content of 40 per cent and above and of 80° Brix or more is considered fit for use in distillation of spirit. Molasses below these specifications is considered as adulterated under the U. P. Sheera Niyanttran Adhiniyam, 1964 and is required to be removed from the factory premises to ensure proper storage and preservation of unadulterated molasses.

In the course of audit of the office of the Excise Commissioner, Uttar Pradesh, it was noticed (May 1977) that a sugar factory in Saharanpur district was permitted to remove 851.8 quintals of even unadulterated molasses having 40 per cent sugar contents and of 90° Brix during the molasses year 1974-75 which was otherwise fit for distillation. The aforesaid quantity of molasses could have produced 31,090 proof litres of spirit on the basis of the average yield of 365 proof litres per tonne of molasses and yielded excise duty of Rs.3.44 lakhs (at the lowest rate).

The points referred to in the foregoing paragraphs were reported to Government in August 1977. Government, while endorsing the comments of the department, stated (October 1977) that the loss pointed out in audit was mainly due to the absence of necessary provisions in the Adhiniyam and the rules, suitable amendment to which was under consideration.

**CHAPTER V**  
**FINANCE DEPARTMENT**

**STAMP DUTIES AND REGISTRATION FEES**

**5.1. Results of test audit in general**

Test audit of the offices of District Registrars and Sub-Registrars during 1976-77 revealed short levy of stamp duty and registration fee amounting to Rs.13.03 lakhs broadly categorised as follows:

	<i>Amount (In lakhs of rupees)</i>
1. Short levy of stamp duty and registration fee due to undervaluation of properties	7.06
2. Irregular exemption from levy of stamp duty	2.92
3. Short levy of stamp duty and registration fee due to misclassification of documents	1.31
4. Short levy of stamp duty and registration fee due to other reasons	1.74
<b>Total</b>	<b>13.03</b>

- A few important cases are mentioned in the following paragraphs.

**5.2. Grant of unauthorised exemptions**

In terms of notifications issued by the State Government in June 1963 and March 1964 under the Indian Stamp Act, 1899, the following classes of instruments are exempt from payment of stamp duty:

(i) instruments executed by or on behalf of co-operative societies and

(ii) instruments executed by members of any co-operative society and relating to the business of such society, where the amount or value specified in it does not exceed Rs.5,000. (Where, however, such amount or value exceeds Rs.5,000, the stamp duty otherwise chargeable is to be reduced by 50 per cent only.)

Thus, the instruments which are executed in favour of any co-operative society by any person who is not a member of such society are not covered by the aforementioned notifications and attract full stamp duty payable under the Indian Stamp Act, as applicable to Uttar Pradesh. This point was also clarified in a circular issued to all Sub-Registrars and Inspectors of Stamps by the Inspector General of Registration, Uttar Pradesh, in June 1976.

(a) In the course of audit of the offices of four Sub-Registrars (Allahabad, Agra, Moradabad and Dehradun), it was noticed (June 1976, August 1976 and April 1977) that full exemption from stamp duty was allowed in the case of 67 documents of sale of lands registered during the period January 1975 to May 1976 although these deeds in respect of sale of lands were executed in favour of various co-operative housing societies by persons who were not members of those societies.

The total consideration set forth in the aforementioned 67 documents for all the properties transferred to the co-operative societies was Rs.9,49,747. In 2 documents, the market value of the landed property was not shown correctly. These properties were situated in the area adjacent to a city for which market rates, as fixed by the Collector in October 1974, were Rs.10 to Rs.200 per square yard. On the basis of the minimum rate of Rs.10 per square yard, the valuation of 16.486 square yards of land transferred by these two documents worked out to Rs.1,64,860 against which Rs.60,000 only were set forth as consideration in the documents thereby leading to undervaluation of Rs.1,04,860. The undervaluation of property as well as the incorrect exemption resulted in short levy of stamp duty, additional stamp duty and registration fee of Rs.1,00,984 in the aggregate.

The cases were reported to Government in July 1976, September 1976, October 1976 and May 1977; reply is awaited (November 1977).

(b) In the course of audit of the offices of two Sub-Registrars (Kanpur and Bahraich), it was noticed (December 1976 and January 1977) that full exemption from stamp duty was allowed in respect of 14 instruments of simple mortgage executed

by members of two co-operative societies transferring their properties in favour of the societies for the purposes of securing loans aggregating Rs.3,39,100 taken by them from the societies. The instruments were registered during the period between January 1976 and August 1976. Since the value of the property in each instrument was more than Rs.5,000, stamp duty at half the normal rates was liable to be levied on them. The instruments were also liable to additional stamp duty in terms of the U. P. Avas Evam Vikas Parishad Adhiniyam, 1965.

Grant of irregular exemption in these cases resulted in short collection of revenue of Rs.13,148 by way of stamp duty and additional stamp duty.

The matter was reported to Government in February 1977; reply is awaited (November 1977).

### 5.3. Short levy of stamp duty and registration fee due to misclassification of deeds of sale

Under the Indian Stamp Act, 1899, stamp duty on a deed of usufructuary mortgage is charged on the amount of consideration equal to the amount secured by such deed, whereas in the case of an instrument of sale it is levied on the market value of the property as on the date of execution of the deed. A transaction transferring an interest in and creating a charge over the property for the purpose of securing the payment of any loan or debt is called mortgage whereas the essence of a sale is the complete transfer of ownership of property in exchange for an agreed price.

In the course of audit of the offices of the Sub-Registrars, Etawah and Konch (district Jalaun), it was noticed (May 1976 and December 1976) that in 20 deeds of sale executed and registered between January 1975 and October 1975 complete ownership of agricultural lands measuring 88 acres was transferred with a condition to repurchase the lands. These deeds of sale were treated as instruments of possessory mortgage and stamp duty and registration fee were levied on the consideration of Rs.1.07 lakhs as set forth in the deeds. Since the transfer of lands was not made to secure the payment of any loan or debt and the demised lands did not stand charged, these



instruments were not deeds of mortgage but were of sale attracting stamp duty and registration fee on the market value of the demised lands.

The market value of lands forming the subject matter in the aforementioned 20 instruments worked out to Rs.2.71 lakhs (calculated on the basis of the rates fixed by the Collector for appropriate class of land in 3 cases and in the remaining 17 cases at the minimum rates fixed by the Collector). Incorrect classification of the instruments resulted in short levy of stamp duty and registration fee amounting to Rs.14,171.

The matter was reported to Government in June 1976 and January 1977; reply is awaited (November 1977).

#### 5.4. Deeds of gift misclassified as deeds of release

In the course of audit of the office of the Sub-Registrar, Dehradun, it was noticed (March 1974) that a document executed by 'A' was registered in September 1973, whereby he transferred his property valued at Rs.12,000 in favour of 'B', his father. Another document executed by 'B' was registered on the same date whereby 'B' transferred his property valued at Rs.1,22,000 to 'A'. Both the transfers were effected without any consideration. The two properties were situated on a piece of land purchased jointly by 'A' and 'B' in March 1958. However, the properties were constructed by the respective executants at their own cost on separate portions of the land which were separately assessed to municipal tax, bore separate house numbers and on which municipal taxes were being paid separately by them. It was also mentioned categorically in both the documents that 'A' and 'B' had been exercising complete right of ownership over the properties in their possession. Therefore, the two documents under consideration should have been treated as deeds of gift for the purpose of levy of stamp duty. Stamp duty was, however, levied on these documents by treating them as deeds of release and this led to short levy of stamp duty and additional stamp duty amounting to Rs.8,610.

The matter was reported to Government in May 1974; reply is awaited (November 1977).

### 5.5. Short levy of stamp duty and registration fee on instrument of lease-cum-sale

Under the Indian Stamp Act, 1899, as amended in its application to Uttar Pradesh, any instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the stamp duties with which separate instruments each comprising or relating to one of such matters would be chargeable. The expression 'distinct matter' connotes distinct transactions and if they happen to be embodied in one document that document should be treated for the purpose of levy of stamp duty as comprising several documents.

A fixed stamp duty of Rs.5 is levied on an instrument of agreement to sale whereas in the case of a deed of lease not purporting for any definite term, stamp duty is payable on the consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long. On a deed of conveyance of immovable property, stamp duty is leviable on the market value of the property as on the date of execution of instrument.

In the course of audit of the Sub-Registrar's Office, Muzaffarnagar, it was noticed (May 1976 and May 1977) that 12 members of a family of Muzaffarnagar were equal co-owners of urban properties comprising (1) three buildings covering an area of 1,554 square yards and (2) open lands measuring 10,000 square yards. These co-owners executed in October 1974 an agreement to sell the aforementioned properties to an educational society for the total consideration of Rs.4 lakhs, the break-up of which was as under:

	Rs.
(i) 3 buildings	50,000
(ii) Open land	3,25,000
(iii) Cost of stamp duty and registration fee to be borne by the vendors	25,000
Total	4,00,000

Since the sale of the urban properties was contingent upon the granting of permission by the State Government under the provisions of the Uttar Pradesh Ceiling on Property (Temporary Restrictions on Transfer) Act, 1972, the intending sellers through the same deed of agreement transferred the properties mentioned above to the society by way of lease for an indefinite period.

On receipt of the permission of Government in March 1976, the actual sale of the properties was effected by a deed of conveyance executed in April 1976 for the consideration of Rs.4 lakhs. The minimum value of 3 buildings at 20 times the actual rental value of Rs.3,745.80 as mentioned in the deed of October 1974 and the market value of open land measuring 10,000 square yards at the prevailing lowest rate of Rs.50 per square yard worked out to Rs.75,000 and Rs.5 lakhs as against Rs.50,000 and Rs.3.25 lakhs, respectively, as set forth in the document. Consequently, stamp duty of Rs.57,000 (inclusive of additional stamp duty of 2 per cent leviable under the Avas Evam Vikas Parishad Adhiniyam, 1965) and registration fee of Rs.6,132 should have been levied. But the department levied stamp duty of Rs.38,000 and registration fee of Rs.4,011 only. The short collection of revenue in this case worked out to Rs.21,121.

The matter was reported to Government in June 1976 and June 1977; reply is awaited (November 1977).

#### 5.6. Incorrect determination of stamp duty on partition deed

An instrument of partition is chargeable under the Indian Stamp Act, 1899, with *ad valorem* duty on the value of the separated share or shares of the property after excluding the largest share remaining after the property is partitioned. Where all the shares are of equal value, the value of one such share is to be excluded in calculating stamp duty. This also holds good for charging registration fee under the provisions of the Indian Registration Act, 1908. The Uttar Pradesh Stamp (Amendment) Rules, 1970, as amended by the Uttar Pradesh Stamp (First Amendment) Rules, 1976, stipulate that the value of the non-agricultural land situated within the municipal limits should be equal to the value worked out on the basis of

the average price prevailing in the locality on the date of execution of the instrument. In the case of a building which is assessed to house tax, the value should be equal to 25 times the actual or assessed annual rental value whichever is higher.

In the course of audit of the Sub-Registrar's Office, Dehradun, it was noticed (March-April 1977) that four members of a Hindu undivided family were declared by the Civil Court, Dehradun, in August 1972 as equal co-owners in the joint family properties situated within the municipal limits of Dehradun. These properties comprised (i) three buildings covering an approximate area of 15,000 square feet, (ii) appurtenant lands measuring 1,38,810 square feet and (iii) trees (number not given). The co-owners by a deed executed and registered in August 1976 partitioned their aforementioned properties in four equal shares. Stamp duty and registration fee were collected on three equal shares of Rs.60,000 each.

Since the assessed annual rental value of these buildings as disclosed in the deed was Rs.13,800, their value at 25 times the aforementioned amount worked out to Rs.3.45 lakhs. The minimum market rate of the lands in the same localities registered for sale prior to the execution of this deed was found to be Rs. 5 per square feet. Based on this rate, the value of the aforementioned appurtenant lands worked out to Rs.6.95 lakhs (approximately). The aggregate value of these properties (excluding the value of trees), thus, worked out to Rs.10.40 lakhs (approximately) and stamp duty of Rs.29,250 and registration fee of Rs.7,833 on three equal shares of Rs.2.60 lakhs each should have been levied. But the department levied stamp duty of Rs.10,350 and registration fee of Rs.1,811. This resulted in short levy of stamp duty and registration fee aggregating Rs.24,922.

The matter was reported to Government in May 1977; reply is awaited (November 1977).

#### 5.7. Collection of stamp duty at lower rate

In partial modification of the rates for stamp duty payable on simple mortgage deeds as laid down in Schedule 1 B of the Indian Stamp Act, 1899 (Rs.22.50 per thousand and

Rs.11.25 for every Rs. 500 or part thereof in excess of Rs.1,000), the State Government by a notification dated 30th September 1969 reduced the duty payable on such instruments executed by industrialists in favour of certain financial corporations and banks including the State Bank of India for obtaining loans for industrial purposes to Rs.15 per thousand and Rs.7.50 for every Rs.500 or part thereof in excess of rupees one thousand. By an amendment Act of 1974 which came into effect from 25th May 1974, stamp duty chargeable on instruments of simple mortgage was, however, enhanced to Rs.37.50 per thousand and Rs.18.75 for every Rs.500 or part thereof in excess of rupees one thousand. However, by a further notification issued on 29th June 1974, the stamp duty on instruments of simple mortgage executed by industrialists in favour of certain financial institutions and banks (including State Bank of India) for obtaining loans for industrial purposes was reduced with effect from 25th May 1974 to Rs.25 per thousand and Rs.12.50 for every Rs.500 or part thereof in excess of rupees one thousand.

In the course of audit of three Sub-Registrar's Offices, Najibabad (Bijnor district), Khalilabad (Basti district) and Firozabad (Agra district), it was noticed (August 1974, December 1974 and June 1975) that stamp duty on 13 instruments of simple mortgage executed between 28th May 1974 and 28th June 1974 by industrialists for securing repayment of loans aggregating Rs.6.60 lakhs obtained from the State Bank of India for industrial purposes was levied at rates prescribed in the notification issued in September 1969. Consequently, stamp duty of Rs.8,560 was short levied on these instruments.

On this being pointed out in audit (August 1974, January 1975 and July 1975), recovery of Rs.4,150 along with an equivalent penalty in respect of 10 cases was effected. Particulars of recovery of the balance of Rs.4,410 in respect of 3 cases are awaited (November 1977).

#### 5.8. Valuation of agricultural land below the prescribed minimum

Under the Indian Stamp Act, 1899, as applicable to Uttar Pradesh, an instrument of conveyance of immovable property

is chargeable with an *ad valorem* duty on the prevailing market value of the property as on the date of execution of the instrument. In accordance with the Uttar Pradesh Stamp (First Amendment) Rules, 1976 (effective from 1st July 1976), the minimum valuation for purposes of levy of stamp duty in the case of *bhumidhari* land shall not be less than that determined at 800 times the annual land revenue payable therefor. The minimum rate of land revenue of unirrigated land was fixed from 1st July 1976 at Rs.5 per acre by the Uttar Pradesh Land Laws (Amendment) Ordinance, 1976.

In the course of audit of the Sub-Registrar's Office, Nanpara (Bahraich district), it was noticed (February 1977) that *bhumidhari* land (unirrigated) measuring 48.945 acres situated in the *tahsil* Nanpara was sold in two equal parts for Rs.80,000 through two deeds of conveyance executed and registered in July 1976 in the District Registrar's Office, Bahraich. Stamp duty of Rs.6,000 and registration fee of Rs.822 were levied on the amount of the consideration set forth in the documents. The minimum valuation of 48.945 acres of unirrigated land at 800 times the annual land revenue of Rs.244.75 worked out to Rs.1,95,800 on which stamp duty of Rs.14,700 and registration fee of Rs.1,982 should have been realised. Thus, there was short levy of stamp duty and registration fee of Rs.9,860.

The matter was reported to Government in March 1977; reply is awaited (November 1977).

#### 5.9. Non-adherence to the market rates of lands determined by the Collector

In compliance with the orders of Government issued in July 1974, the Collector, Pratapgarh, fixed the rates for valuation of various categories of lands of Pratapgarh district in February 1976. The rates fixed by the Collector for agricultural lands situated adjacent to *tahsil* headquarters or in market or *mela* areas or in urban areas or by the side of metalled roads were considerably higher than the rates of lands situated elsewhere.

(a) In the course of audit of the office of the Sub-Registrar, Pratapgarh, it was noticed (October 1976) that 9 plots of land measuring 3 *bighas* 5 *biswas* and 17 *biswansis* were transferred through a document executed and registered in April 1976

for a consideration of Rs.24,694 as indicated in the deed. The village in which this property was located was a market area itself and the property was also situated adjacent to a highway. The market rate fixed by the Collector for such lands was Rs.35,000 per *bigha*.

Similarly, in the office of the Sub-Registrar, Kunda (Pratapgarh district), it was noticed (October 1976) that 3,274 square yards of land were transferred through 8 documents executed and registered in May 1976 for consideration of Rs.45,010 in the aggregate as exhibited in the deeds. The land in question was situated near the *tahsil* headquarters and as such should have been valued at the rate of Rs.26.25 per square yard fixed by the Collector. Applying this rate, the total value of all the land transferred by these 8 documents worked out to Rs.86,584.

Non-adherence to the market rates fixed by the Collector led to short levy of stamp duty, additional stamp duty and registration fee amounting to Rs.12,991 in respect of the aforementioned 9 documents.

The matter was reported to Government in November and December 1976; reply is awaited (November 1977).

(b) The Collector, Agra, had determined the market rates of all kinds of lands in December 1974 within his jurisdiction to guide the registering authorities in the district in assessing the valuation of properties for the purpose of levy of stamp duty and registration fee. The rates fixed for agricultural lands were lower than the rates fixed for lands used for industrial/residential purposes.

In the course of audit of the Sub-Registrar's Office, Etmadpur (Agra district), it was noticed (September 1976) that land measuring 12,100 square yards was sold in two parts by one individual through 2 sale deeds executed and registered in June 1975. The property was situated in village Naraich falling within the municipal limits of Agra and had an iron foundry on it as stated in the documents. Thus, the property was evidently intended for industrial use and attracted higher rates which ranged between Rs.15 and Rs.50 per square yard. The lower rates, prescribed by the Collector for agricultural

lands were, however, applied for the purpose of levy of stamp duty and registration fee on the documents and the entire property was valued at Rs.32,000.

Calculated on the basis of the minimum rate of Rs.15 per square yard, the value of 12,100 square yards of land would work out to Rs.1,81,500. On the market value thus computed, stamp duty and registration fee of Rs.13,612 and Rs.1,826 were leviable against which the department levied Rs.2,400 and Rs.331 only resulting in short levy of Rs.11,212 and Rs.1,495, respectively.

On this being pointed out in audit (October 1976), the department stated (November 1976) that copies of the two documents had been sent to the Collector for realisation of deficit amount.

The matter was reported to Government in October 1976; reply is awaited (November 1977).

#### 5.10. Non-application of revised rates

In the course of audit of 3 Sub-Registrars' offices at Haridwar (Saharanpur district), Shahjahanpur and Jalalabad (Shahjahanpur district), it was noticed (October 1976 and November 1976) that the circle-wise and category-wise rates of market values of lands initially fixed (December 1974 and January 1975) by the concerned Collectors in pursuance of the Government order of July 1974 were revised upwards in May 1975 (Saharanpur district) and August 1976 (Shahjahanpur district). However, in the aforementioned offices, stamp duty and registration fee were continued to be levied on the basis of the unrevised rates. This led to undervaluation of properties by Rs. 2,82,550 in 40 sale deeds executed and registered in these offices between May 1975 and October 1976 and resulted in short levy of stamp duty, additional stamp duty and registration fee amounting to Rs. 26,383.

On this being pointed out in audit (November 1976 and December 1976), the copies of the deeds were sent to the Collectors concerned and in one case the deficient stamp duty and registration fee amounting to Rs. 577.50 along with penalty of Rs. 700 were recovered. Report of action taken in the remaining 39 cases is awaited (November 1977).



The matter was reported to Government in November 1976 and December 1976; reply is awaited (November 1977).

OTHER TOPIC OF INTEREST

**5.11. Non-prescription of filing fee**

Loans to agriculturists under the Land Improvement Loans Act, 1883, and the Agriculturists' Loans Act, 1884, and the mortgage deeds connected therewith are not required to be compulsorily registered under the Indian Registration Act, 1908. Copies of such orders and documents are, however, required to be filed with the Sub-Registrar within whose jurisdiction the concerned properties are situated. The table of fees prescribed by the State Government under the Indian Registration Act, 1908, provides for the levy of a fixed fee of Rs. 4 by the Sub-Registrar on the copy of each such document or order filed.

Deeds of simple mortgage executed by agriculturists for obtaining loans for agricultural purposes from certain specified banks in terms of the Agricultural Credit Act, 1973, also do not require registration under the Registration Act provided that after the acceptance of such documents by the banks, true copies thereof are sent to the concerned Sub-Registrar for filing within one month of their execution. No filing fee has, however, been prescribed by the State Government for filing copies of such documents.

In the course of audit of the offices of thirteen Sub-Registrars, it was noticed (February 1975 to March 1977) that 4,902 copies of deeds of mortgage received at these offices from various banks in respect of loans advanced under the Agricultural Credit Act, 1973, were filed during the period January 1975 to March 1977 without charging any filing fee. Had the same filing fee as obtaining in the case of copies of documents/orders under the Land Improvement Loans Act, 1883 and the Agriculturists' Loans Act, 1884, been prescribed in these cases, Government would have earned additional revenue of Rs.19,608.

The matter was reported to Government (between March 1976 and May 1977). Government stated in July 1977 that the question of imposing such fee was under consideration.

CHAPTER VI  
TRANSPORT DEPARTMENT

TAXES ON VEHICLES, GOODS AND PASSENGERS

**6.1. Results of test audit in general**

Short levy of tax amounting to Rs. 1,13.98 lakhs was brought out in the course of test audit of the offices of the Transport Department during 1976-77. Category-wise break-up thereof is given below:

	Amount (In lakhs of rupees)
1. Short levy of passenger tax	52.31
2. Short levy of goods tax	43.11
3. Short levy of road tax	17.29
4. Short levy of fees	1.27
Total	<u>1,13.98</u>

A few important cases are mentioned in the following paragraphs of this chapter.

**6.2. Non-levy of passenger tax on mini buses**

In the course of audit of the Regional Transport Office, Lucknow, it was noticed (November 1976) that the Uttar Pradesh State Road Transport Corporation started plying 15 "matador" and 35 "mini queen" buses in Lucknow city since June 1976. The matador bus had the seating capacity of 16 while the seating capacity of a mini queen bus ranged between 21 and 42. The minimum and maximum fares were 25 paise and 50 paise. No passenger tax had been realised till November 1976 in respect of these 50 mini buses. The amount of passenger tax not levied on these mini buses worked out to Rs. 1,76,460 for the period June 1976 to November 1976 at the monthly rate of Rs. 339 and Rs. 695 per matador and mini queen, respectively.

On this being pointed out in audit (November 1976), the department stated (August 1977) that out of the short levy of passenger tax of Rs. 1,76,460, Rs. 11,000 had been recovered and notices for the recovery of the balance had been issued.

The matter was reported to Government in January 1977; final reply is awaited (November 1977).

### 6.3. Incorrect determination of passenger tax

By a notification issued on 3rd May 1975 under section 43(1) of the Motor Vehicles Act, 1939, Government authorised the operators of the stage carriages to collect from each passenger additional fare at the rate of 5 paise per rupee or part thereof on the total amount of toll tax collected from such stage carriages whenever they passed through the bridges controlled by the Public Works Department. By a subsequent notification issued on 4th October 1976, this element of additional fare was exempted from being treated as a part of the fare for the purpose of determining the amount of passenger tax.

(a) In the course of audit of the office of the Regional Transport Officer, Kanpur, it was noticed (February 1976) that while calculating the passenger tax in respect of 300 stage carriages for the period 15th May 1975 to 14th February 1976, the additional fare charged by the operators from passengers in lieu of payment of toll/barrier tax imposed by the local bodies on these vehicles was ignored. This resulted in short levy of passenger tax of Rs. 56,000.

The matter was reported to Government in April 1976; reply is awaited (November 1977).

(b) In subsequent audit of this office, it was noticed (February and March 1977) that additional fare in lieu of toll tax collected from passengers by the operators of 8 stage carriages from December 1975 to September 1976 was not considered while assessing the amount of passenger tax payable by the operators. As the passenger tax was levied at the rate of 15 per cent of the fare actually charged, this resulted in short levy of passenger tax of Rs. 24,320.

The matter was reported to Government in April 1977; reply is awaited (November 1977).

#### 6.4. Incorrect calculation of lump sum passenger tax

Under the U. P. Motor Gadi (Yatri-Kar) Adhiniyam, 1962, the lump sum passenger tax payable in respect of any stage carriage on a particular route depends *inter alia* on the number of single (one way) trips the stage carriage is authorised to make on that route during a particular period and the fare charged by the operators.

(a) In the Regional Transport Office at Varanasi (audit conducted in August 1976), the Passenger Tax Superintendent had reported in September 1975 that the fare stipulated in the lump sum agreement was less than the fare actually charged on Ballia—Surmanpur route but the department revised the agreement from January 1976 only, resulting in short levy of passenger tax amounting to Rs.13,600 for the period September 1975 to December 1975.

The matter was reported to Government in September 1976; reply is awaited (November 1977).

(b) In the course of audit of the Regional Transport Office, Faizabad, it was noticed (October 1976) that despite the report of the Passenger Tax Superintendent in March 1976 that the fares charged by the operators on three routes were more than the fares stated by them for entering into lump sum agreements, the department did not revise the agreements. This resulted in loss of passenger tax amounting to Rs.44,682 for the period March 1976 to December 1976.

The matter was reported to Government in January 1977; reply is awaited (November 1977).

(c) In the course of audit of the Regional Transport Office, Lucknow, it was noticed (November 1976) that 15 stage carriages were operating on the Lucknow—Shahjahanpur route on the basis of 16 single trips per day. When 5 additional stage carriages of the Uttar Pradesh State Road Transport Corporation were also given temporary permits in March 1975 to ply

on that route up to July 1975, the number of single trips undertaken by the 15 stage carriages of the private operators was reduced to 12 single trips per day. The stage carriages of the Uttar Pradesh State Road Transport Corporation stopped plying on the route from August 1975 on the expiry of their permits. The lump sum passenger tax payable by the private operators, however, continued to be calculated on the basis of 12 single trips per day during the period August 1975 to November 1975, whereas they had, as per the report of the Passenger Tax Officer, actually undertaken 16 single trips per day during this period. Besides, the fare for the aforementioned route had also been increased from 10th June 1975 which had not been taken into account for the calculation of lump sum passenger tax payable by these stage carriage operators. Calculation of passenger tax on the basis of incorrect fare as well as lower number of trips resulted in short levy of passenger tax of Rs.48.161 during the period 10th June 1975 to 30th November 1975.

The matter was reported to Government in January 1977; reply is awaited (November 1977).

(d) In the course of audit of the Regional Transport Office, Faizabad, it was noticed (October 1976) that the lump sum passenger tax payable by two stage carriages plying on the Sultanpur—Durgapur—Amethi route and two stage carriages plying on the Durgapur—Amethi route was calculated for the period May 1975 to February 1977 on the basis of 45 single trips per month per stage carriage and Rs. 1.31 and Re. 0.90 as fares for the distances between Sultanpur and Amethi and Durgapur and Amethi, respectively. However, all these stage carriages were actually performing 60 single trips per month and charging Rs.1.65 as fare in the case of the former route. This resulted in short levy of passenger tax of Rs.16,364 (including additional tax and surcharge of Rs.2,614) during the period May 1975 to February 1977.

On this being pointed out in audit (January 1977), demand of Rs.16,364 was raised (February and August 1977). Particulars of collection are awaited (November 1977).

The matter was reported to Government in January 1977; reply is awaited (November 1977).

(e) In the course of audit of the Assistant Regional Transport Office, Muzaffarnagar, it was noticed (May 1977) that the Regional Transport Authority increased the number of return trips from 5 to 6 per day (*i.e.*, from 10 one way trips to 12 per day) with effect from 23-9-1976 on Shamli—Chasnara route in respect of six stage carriages plying on that route and paying tax on lump sum basis. The operators, however, paid passenger tax on 5 return trips instead of six at a fare charged for the part route (*viz.*, Shamli to Oon, a place beyond which the road upto Chasnara was closed to traffic during the period 17-6-1976 to 14-9-1976 on account of rainy season) and not for the full route (*viz.*, Shamli to Chasnara) even after the entire route was opened to traffic. This resulted in short levy of passenger tax of Rs.36,091 for the period 23-9-1976 to 22-6-1977.

On this being pointed out in audit (May 1977), the Assistant Regional Transport Officer stated (May 1977) that the Passenger Tax Officer had been directed to review the position and reassess the passenger tax.

The matter was reported to Government in July 1977; reply is awaited (November 1977).

#### 6.5. Non-assessment of passenger tax on standing capacity

The Uttar Pradesh Motor Gadi (Yatri-Kar) Niyamawali, 1962, provides that 50 per cent of the authorised standing capacity in a stage carriage should be taken into account for the purpose of calculation of passenger tax payable under lump sum agreements.

In the course of audit of the Regional Transport Office, Bareilly, it was noticed (September 1975) that 47 stage carriages were authorised by the department to carry standing passengers to the extent of 25 per cent of their seating capacities. But passenger tax was not assessed on 50 per cent of such authorised standing capacity for two quarters (April 1975 to September 1975) resulting in short levy of tax of Rs.43,978.

On this being pointed out in audit (November 1975), Government stated (May 1977) that the short amount of tax had since been recovered.

#### 6.6. Under-assessment of road tax and passenger tax on private stage carriages

Under the Uttar Pradesh Motor Vehicles Taxation Act, 1935, road tax on private motor vehicles is assessed on the basis of unladen weight of the vehicle under Article III of First Schedule to the Act whereas a transport vehicle plying for hire is assessed to tax on the basis of the authorised load of passengers at the rates prescribed under Article IV *ibid*. Where a transport vehicle is intended for use on a special route, a further tax equal to 25 per cent of the road tax is also levied. Under the Uttar Pradesh Motor Vehicles Rules, 1940, a private stage carriage permit is granted to a motor vehicle adapted to carry more than 9 persons excluding the driver provided such vehicle is exclusively used for trade, business or private purposes and not for hire. Where a transport vehicle plies for hire, passenger tax is levied under the Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam, 1962, at a rate equivalent to 15 per cent of the fare payable by every passenger. When a passenger is carried by such a vehicle at a concessional rate or without being charged any fare, the fare normally payable for the journey is deemed to be the fare payable by such passenger for purposes of determining the passenger tax.

In the course of audit of the Regional Transport Office, Kanpur, it was noticed (February and March 1977) that 17 motor vehicles owned by three undertakings were granted permanent permits as private stage carriages for the conveyance of their employees residing within 16 to 20 kilometers of Kanpur to the factories and *vice versa*. Since these undertakings charged from their employees fare at subsidised rate to cover the operational expenses, road tax for special class route and passenger tax at the rate of 15 per cent of the normal fare were leviable on these vehicles. The department, however, did not levy any passenger tax, while the road tax on these vehicles was recovered at the lower rates. For determining the road tax, 4 vehicles were treated as goods vehicles, 11 vehicles as private vehicles instead of stage carriages and only

2 vehicles were classified as transport vehicles plying for hire. This resulted in non-levy of passenger tax of Rs.3.37 lakhs and short levy of road tax of Rs.1.21 lakhs during the period January 1973 to December 1977.

The matter was reported to Government in April 1977; reply is awaited (November 1977).

#### 6.7. Short levy of road tax on motor vehicles

Section 4 of the Uttar Pradesh Motor Vehicles Taxation Act, 1935, provides for the levy of road tax on motor vehicles at the appropriate rate specified in the First Schedule to the Act. According to section 6 *ibid* when the tax on any motor vehicle becomes payable for the first time after the commencement of a calendar year, the tax payable for each calendar month or part of a calendar month, in respect of which the tax has become payable, shall be one-twelfth of the appropriate annual tax. Thus, if the rate of tax is enhanced at any time after the commencement of a calendar year, the tax at the enhanced rate becomes payable for the first time from the calendar month in which such enhancement takes place.

The State Government, through an Ordinance issued on 30th September 1974, enhanced by 25 per cent the road tax on all motor vehicles from 1st October 1974. This Ordinance was replaced in March 1975 by the Uttar Pradesh Taxation and Land Revenue Laws Act, 1975. According to section 39(2) of this amending Act, the revised rates of road tax mentioned in the Ordinance were made applicable from 30th September 1974, *i.e.*, the tax at the revised rate was to be charged at the rate of 1/12th of the annual tax from September 1974.

In the course of audit of three Regional Transport Offices, Kanpur, Aligarh and Jhansi, it was noticed (February 1976, June 1976 and December 1976) that the difference between the tax payable and the tax already paid had been recovered from October 1974 instead of from September 1974. This resulted in short levy of road tax of Rs.4.45,699.

The matter was reported to Government between April 1976 and January 1977. Government stated (September 1977)



that road tax at the enhanced rates was made applicable from 1st October 1974 on the basis of the Ordinance. But as the enhanced rates were given effect from 30th September 1974 in the amending Act, the provisions of the Ordinance had ceased to be operative and the revised rates were applicable from September 1974.

#### 6.8. Non-realisation of road tax for special class route

Under the Uttar Pradesh Motor Vehicles Taxation Act, 1935, the amount of road tax payable by a transport vehicle hired for the conveyance of passengers *inter alia* depends upon the class of route on which the vehicle plies. All routes in Uttar Pradesh are divided into four classes—'special', 'A', 'B' and 'C'. Vehicles intended for use on 'special' class of routes attract the highest rate of road tax and the rates for 'A', 'B' and 'C' class routes are progressively lower. If a vehicle plies on more than one class of route, the road tax for the highest class of route is to be charged. Where a fleet owner such as the Uttar Pradesh State Road Transport Corporation runs a regular service of stage carriages on all classes of routes, since these stage carriages can be put on any route as and when required, road tax for the highest class is chargeable on these vehicles.

In the course of audit of the Regional Transport Offices, Gorakhpur and Varanasi, it was noticed (July 1975 and September 1975) that the Uttar Pradesh State Road Transport Corporation had 750 stage carriages out of which only 26 carriages paid road tax prescribed for 'special' class route. Since any one of these carriages could be put on 'special' class route, tax in respect of all these carriages should have been levied at the rate applicable to the 'special' class route. However, tax in respect of all these 724 carriages was levied at the rate prescribed for 'A' class route. This resulted in short levy of road tax of Rs.7,33,050 from the Uttar Pradesh State Road Transport Corporation for 'special' class route (Rs.3,54,375 in respect of 350 carriages during the period 1-10-1974 to 30-9-1975 in Varanasi region and Rs. 3,78,675 in respect of 374 carriages during the period 1-1-1975 to 31-12-1975 in Gorakhpur region).

When the matter was pointed out in audit (November 1975), the department stated (August 1977) that the demand of Rs.3,78,675 had been raised (August 1977) in respect of Gorakhpur region; report of action taken in respect of Varanasi region is awaited (November 1977). Government endorsed (November 1977) the reply of the department.

#### **6.9. Short levy of road tax on a route upgraded by Transport Authority**

As already stated in paragraph 6.8 above, the rate of road tax is the highest in the case of 'special' class and progressively lower in respect of 'A', 'B' and 'C' classes.

In the course of audit of the Regional Transport Office, Faizabad, it was noticed (December 1975) that the Bahraich-Bhinga route originally classified as 'C' class route was extended upto Sirsia and the entire route was classified as 'B' class by the Regional Transport Authority in 1969 and subsequently approved by the State Transport Authority in September 1970. The department, however, continued to realise road tax at the rate applicable to 'C' class route from 14 stage carriages plying from Bahraich to Bhinga. This resulted in short collection of road tax amounting to Rs.57,939 for the period October 1970 to December 1975.

The matter was reported to Government in January 1976; reply is awaited (November 1977).

#### **6.10. Short levy of road tax in respect of "Ambassador" taxis**

Under the Uttar Pradesh Motor Vehicles Taxation Act, 1935, road tax leviable on vehicles plying for hire for the conveyance of passengers depends on the seating capacity of such vehicles. Owing to increase in the cost of petrol, the Transport Commissioner conveyed on 8th November 1973 Government's decision to allow one more seat in the "Ambassador" taxis. "Ambassador" cars plying as taxis have seating capacity for five persons exclusive of the driver and road tax on them is being levied accordingly.

In the course of audit of the Regional Transport Offices, Allahabad and Varanasi, it was, however, noticed (May 1975 and September 1975) that road tax in respect of "Ambassador" taxis was being levied on the basis of seating capacity for four persons excluding the driver. Consequently, there was short levy of road tax amounting to Rs. 17,213 in respect of 62 taxis in these two regions for the period 1st January 1972 to 31st December 1975.

The matter was reported to Government in August 1975 and November 1975; reply is awaited (November 1977).

#### **6.11. Non-realisation of fee for trade certificate**

Vehicles in the possession of manufacturers or dealers are exempted from the payment of registration fee under the Uttar Pradesh Motor Vehicles Taxation Act, 1935 and the rules made thereunder, as long as these are used under the authorisation of a trade certificate granted by the registering authority within whose area the manufacturer or dealer has his place of business. The trade certificate is, however, granted on payment of a prescribed fee annually in advance.

In the course of audit of the Regional Transport Offices at Varanasi, Agra, Gorakhpur and Bareilly (between July 1976 and November 1976), it was noticed that the fee amounting to Rs.54,205 for trade certificates was not deposited by 63 manufacturers/dealers either for the entire period of their business or for broken periods ranging between January 1951 and October 1976 for the motor vehicles kept and sold by them. The resultant loss of revenue was Rs.54,205.

The matter was reported to Government (between September 1976 and January 1977); final reply is awaited (November 1977).

#### **6.12. Non-realisation of transfer fee from vehicles of Road Transport Corporation**

Where the ownership of any motor vehicle registered under the Motor Vehicles Act, 1939, is transferred, it is obligatory for

the transferee to forward the certificate of registration to the registering authority, within 30 days of the transfer, together with the prescribed fee for getting the particulars of the transfer of ownership entered in the certificate of registration. Consequent on the conversion of the U. P. Government Roadways (a departmental undertaking) into the Uttar Pradesh State Road Transport Corporation from 1st June 1972, the ownership of the vehicles was transferred to the Corporation from the same date.

In the course of audit, it was noticed (August 1976 to March 1977) that the transfer fee of Rs.20 per vehicle was not realised in respect of 892 vehicles of 3 regions (Varanasi, Kanpur and Kathgodam) on account of the transfer of ownership to the Corporation. The revenue forgone worked out to Rs.17,840.

The matter was reported to Government between September 1976 and April 1977; reply is awaited (November 1977).

#### 6.13. Non-recovery of Government dues

The Regional Transport Officer, Allahabad, issued (December 1972) two recovery certificates to the Collector, Allahabad, for recovery of the arrears of passenger tax, for the period December 1968 to August 1972, amounting to Rs.0.11 lakh from a defaulter. The Tahsildar, Chail, who was to recover the dues, attached a passenger bus belonging to the defaulter and placed it in the custody of a "*supurddar*" (custodian) in June 1973 in terms of paragraph 261(B) of the U. P. Zamindari Abolition and Land Reforms Rules, 1952. It was noticed in audit (August 1977) that the name of the "*supurddar*" was suggested by the defaulter himself.

The auction of the bus, due to take place in June 1973, could not be held as the "*supurddar*" did not return the bus. Consequently, a report was lodged with the Police by the Tahsildar in March 1974 but the report was stated to have been lost and a fresh report was lodged in June 1975.

Meanwhile, four more recovery certificates for Rs. 0.12 lakh on account of arrears of passenger and road taxes for the period September 1972 to December 1974 were also issued by

the Regional Transport Officer to the Collector, Allahabad, in November 1973, December 1973 and December 1974 against the same defaulter bringing the total amount outstanding against him to Rs.0.23 lakh.

The Tahsildar, Chail, stated (August 1975) to the Police that the bus was being used by the "supurddar" without authority and the Police was requested to take necessary action. The bus was brought to the Tahsil by the Police in October 1975. The Tahsildar reported to the Collector (December 1975) that the engine and other parts of the bus were stolen and unless the vehicle was thoroughly repaired it would fetch no value in auction. However, in September 1976, the Tahsildar sought a technical report on the valuation of the vehicle from the Regional Transport Officer. The report from the Regional Transport Officer is awaited by the Tahsildar (August 1977).

The matter was reported to Government in September 1977. Government stated (November 1977) that Rs. 0.02 lakh were deposited by the defaulter and that the delay in the realisation of the remaining dues (Rs. 0.21 lakh) was due to non-receipt of valuation report from the Deputy Transport Commissioner (Technical), Lucknow. The bus would be auctioned on receipt of valuation report which was being called for.

#### OTHER TOPIC OF INTEREST

#### 6.14. Shortfall in passenger tax due to belated enhancement of fares of contract carriages

By a notification dated 29th March 1976, Government enhanced by 40 per cent the rates of fares to be charged by contract carriage operators from their passengers with effect from the date of the notification. Since in terms of the U. P. Motor Gadi (Yatri-Kar) Adhiniyam, 1962, passenger tax is leviable at the rate of 15 per cent of the fares paid by the passengers, enhancement of fares automatically entails increased levy of passenger tax by the same percentage by which fares are increased.

In the course of audit of 6 Regional Transport Offices, it was noticed (December 1976 to May 1977) that the enhancement of

fares by 40 per cent in respect of contract carriages was made on various dates between 7th April 1976 and 9th September 1976. During the aforesaid period, passenger tax amounting to Rs. 1,08,610 was levied in these regions on the basis of the old fares. If the fares had been enhanced by 40 per cent with effect from 29th March 1976, as notified by the State Government, the department would have earned an additional revenue of Rs. 43,441 by way of passenger tax during the period 29th March 1976 to 8th September 1976.

The matter was reported to Government between January 1977 and June 1977; reply is awaited (November 1977).

CHAPTER VII  
REVENUE DEPARTMENT

LAND REVENUE

**7.1. Results of test audit in general**

Test audit of the offices of the Revenue Department during 1976-77 disclosed under-assessment and short collection of land revenue amounting to Rs. 94.26 lakhs. Category-wise details are given below:

	Amount (In lakhs of rupees)
1. Non-levy and short levy of land revenue and land development tax	29.74
2. Non-recovery of land revenue from unauthorised occupants of lands	25.64
3. Short recovery of execution expenses and compensation from unauthorised occupants of lands	23.55
4. Short recovery of collection charges	9.60
5. Miscellaneous	5.73
Total	94.26

Some interesting cases are mentioned in the following paragraphs of this chapter.

**7.2. Non-assessment of land revenue on agricultural lands in urban areas**

By a notification issued in June 1964 under the U. P. Urban Areas Zamindari Abolition and Land Reforms Act, 1956, the State Government abolished *zamindari* in respect of agricultural lands within the urban areas of Kanpur and Meerut districts with effect from 1st July 1964. All rights of all intermediaries in such areas, therefore, vested in the State with effect from 1st July 1964 and the State Government was to assess and realise land revenue in respect of such agricultural lands.

In the course of audit of the Land Records Offices, Kanpur and Meerut, it was noticed (November 1976) that till 30th June 1976 (the end of the *fasli* year 1383), the intermediaries continued to realise rent in respect of 1,052 acres of agricultural land held by them prior to 1964. They collected rent at the rate of Rs. 20,717 per annum and deposited with the Government an amount of Rs. 9,350 every year. There was, thus, annual loss of revenue of Rs. 11,367 to Government between 1st July 1964 and 30th June 1976. Besides, in respect of 1,942 acres of land, the intermediaries had not collected any rent but these areas were also liable to land revenue after the abolition of *zamindari*. The annual land revenue assessable on these 1,942 acres of land worked out to Rs. 14,035 on the basis of the average rate of land revenue prevailing in the concerned areas. Thus, owing to non-fixation of land revenue on 1,942 acres of land and non-realisation of land revenue from the tenants in respect of 1,052 acres of land, Government had forgone revenue to the extent of Rs. 2.16 lakhs from 1st July 1964 to 30th June 1976 (excluding the period 1st June 1971 to 30th June 1974 during which individual holdings up to 6.25 acres were exempt from payment of land revenue).

The matter was reported to Government in February 1977; reply is awaited (November 1977).

### 7.3. Non-realisation of rent and other dues on Government lands

After the abolition of *zamindari* in Pithoragarh district with effect from 1st July 1966, the unauthorised occupation in respect of cultivable lands was to be regularised by granting Government leases in favour of the trespassers. For having their cases regularised, the trespassers were required to pay annual rent, cess and *malikana* (ownership charges) at three and a half times of the land revenue payable by *Khaikars*\* on such lands since 1st July 1961 (beginning of the first agricultural year after the completion of the last settlement).

\*Khaikar is a permanent tenant with a heritable but non-transferable right in his holding and paying a rent fixed at a settlement which cannot be altered during the currency of the settlement. *Khaikars* existed prior to abolition of *zamindari* in Kumaon and Uttarakhand Divisions of U. P.



In the course of audit of the Champawat *Tahsil* Office (Pithoragarh district), it was noticed (September 1976) that 1,02,077 *nalis* of cultivable land were under unauthorised possession in this *tahsil* since the last settlement operation in the area in 1960. Leases were granted in 1971 in respect of 98,895 *nalis* of land and Government dues for the period 1st July 1961 to 30th June 1971 were duly realised from the trespassers. Thereafter, neither annual rent nor other Government dues such as cess and *malikana* were collected from the lessees. The average rate of land revenue payable by *Khaikars* in the *tahsil* was Re. 0.65 per 20 *nalis*. Thus, revenue of Rs. 56,245 including cess and *malikana* charges for the period 1st July 1971 to 30th June 1976 for these leases had not been realised from the lessees since 1971.

The matter was reported to Government in October 1976; reply is awaited (November 1977).

#### 7.4. Non-assessment of land revenue on grove lands brought under cultivation

Under the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 and the rules framed thereunder, grove lands are exempt from payment of land revenue so long as there are enough trees on such lands to preclude them from being cultivated. If any grove land is brought under cultivation or becomes cultivable, though not actually cultivated it is assessable to land revenue. To ascertain the cases in which land revenue should be imposed, the officers of the Revenue Department are required to advise the Collector about the continued existence and the condition of grove lands through annual reports based on a survey of such lands.

In the course of audit of 4 *tahsil* offices in the districts of Rae Bareilly, Pilibhit, Pratapgarh and Kanpur, it was noticed (between April 1976 and November 1976) that as per records of the *Lekhals* grove lands in many villages (land measuring 111 acres in *tahsil* Salon of district Rae Bareilly, 502 acres in *tahsil* Bisaulpur of district Pilibhit, 1,013 acres in *tahsil* Pratapgarh Sadar and ranging from 246 acres to 2,112 acres in different years in *tahsil* Kanpur Sadar) were brought under cultivation

but no land revenue was assessed and realised thereon for varying periods between 1370 *fasli* and 1383 *fasli* (1st July 1962 to 30th June 1976). The land revenue assessable in these cases worked out to Rs. 52,000 (approximately) at the prevailing circle rates.\* Besides, land development tax which became leviable with effect from *rabi* season of 1379 *fasli* under the U. P. Land Development Tax Act, 1972, was also not leived in these cases.

On this being pointed out in audit between May 1976 and December 1976, Government stated (August 1977) that the demand in respect of all the four *tahsils* had since been raised.

#### 7.5. Non-assessment of land revenue on Bhoodan land

In Uttar Pradesh land donated through *Bhoodan Yagna* vests in a corporate body called the *Bhoodan Yagna Samiti* formed under the Uttar Pradesh Bhoodan Yagna Act, 1952, for the purpose of administering and distributing all lands vested in it.

In the course of audit of one *tahsil* office (Sadar, Kanpur), it was noticed (October-November 1976) that 1,482.35 *bighas* of land in a village of the *tahsil* which vested in the Bhoodan Yagna Samiti were allotted by it to 113 cultivators and proper mutations made in their names during the year 1363 *fasli* (July 1955 to June 1956). Land revenue amounting to Rs. 2,223.56 was fixed by the department on the land so allotted but demand for the year 1384 *fasli* (July 1976 to June 1977) only was raised in the demand register instead of for the entire period from 1363 *fasli* to 1384 *fasli* (July 1955 to June 1977).

On this being pointed out in audit (December 1976), the department stated (July 1977) that demand of Rs. 46,717 for the *fasli* years 1363 to 1383 (July 1955 to June 1976) had since been raised. This was exclusive of the land development tax leviable for the period 1379 *fasli* to 1383 *fasli* (July 1971 to June 1976) for which action was being taken by the department (November 1977).

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\* Circle rate means the hereditary rate fixed in respect of a particular circle of a *tahsil* at the time of settlement of land revenue.

The reply of the department was endorsed by Government in September 1977.

#### 7.6. Under-assessment of land development tax on land holdings exceeding 12.5 acres

Under the U. P. Land Development Tax Act, 1972, land development tax was levied from the agricultural year commencing on 1st July 1971. In respect of the agricultural year 1379 *fasli* (July 1971 to June 1972), however, only half of the annual tax was to be levied. The rate of tax leviable on *bhumidhars* and *sirdars* who held land in Uttar Pradesh in excess of 12.5 acres was 150 per cent of the land revenue up to 30th June 1974.

In the course of audit of five *tahsil* offices in 3 districts (Bareilly, Azamgarh and Deoria), it was noticed (November 1975 to January 1976) that the demand of land development tax raised by the department on cultivators whose land holdings exceeded 12.5 acres fell short of 150 per cent of the demand of land revenue raised on such cultivators in respect of 1379 *fasli* (*rabi*) and 1380 *fasli* (1st January 1972 to 30th June 1973).

On this being reported to Government (December 1975 to February 1976), Government stated (November 1977) that additional demand of Rs. 2,73,502 had been raised, out of which Rs. 1,62,005 had been recovered. Report regarding recovery of the balance amount is awaited (December 1977).

#### 7.7. Non-levy of land development tax on intermediaries

Under the Uttar Pradesh Land Development Tax Act, 1972, land development tax is *inter alia* leviable on lands held by intermediaries in their personal cultivation.

In the course of audit of 3 *tahsil* offices in the districts of Rampur, Kanpur and Agra, it was, however, noticed (August 1976 to December 1976) that the land development tax leviable on intermediaries in respect of lands held in their personal cultivation was not levied for the years 1379 *fasli* to 1383 *fasli* (July 1971 to June 1976). The amount of tax involved is estimated at Rs. 41,000 (on the basis of the average circle rate).

On this being pointed out in audit (October 1976 to January 1977), the department stated (January 1977 and August 1977) that demand of Rs. 27,643 had since been raised in respect of two *tahsils*.

The matter was reported to Government in October 1976 to January 1977. Government endorsed (April 1977 and September 1977) the reply of the department in respect of the two *tahsils*. Reply in respect of Agra Sadar *tahsil* is awaited (November 1977).

#### 7.8. Non-recovery of revenue from unauthorised occupants of Government lands

In the course of audit of Haldwani Tahsil Office (Nainital district), it was noticed (June 1976) that an area of 1,28,647 square yards of land situated in Lalkua was deforested and transferred by the Forest Department to the Revenue Department in 1927. This land suitable for residential and commercial purposes was to be leased out to private individuals. Part of the area measuring 47,857 square yards was also allotted to 46 persons during the years 1927 to 1968. The remaining area of 80,790 square yards was stated to be under unauthorised occupation (14,844 square yards occupied prior to the year 1947, 49,252 square yards between 1947 and 1967 and 16,694 square yards thereafter).

Regularisation of the cases of unauthorised occupation of the aforementioned area by granting leases to the occupants would fetch Government premium of at least Rs. 8,07,900 calculated at the rate of Rs. 10 per square yard, the rate at which leases were granted in 1968. The premium would be higher if the proposal of the department to levy premium at the rate of Rs. 10 per square yard for land situated beyond 100 metres of the road and Rs. 22.50 per square yard for lands situated within 100 metres of the road is accepted by Government. In addition to this, ground rent at the rate of Re. 0.25 per square yard per annum would work out to Rs. 20,197 per annum for the entire period of unauthorised occupation. In spite of repeated instructions issued by Government/Board of Revenue

from time to time and memorandum submitted by the unauthorised occupants to the State Government in December 1974 for early settlement of the matter, these cases had not been finalised (November 1977).

On this being pointed out in audit (July 1976), Government stated (April 1977) that on regularisation the prescribed premium and ground rent from the date of unauthorised occupation would be realised.

#### **7.9. Non-levy of land revenue due to non-regularisation of cases of unauthorised occupation**

In the course of audit of the Didihat *Tahsil* Office (Pithoragarh district), it was noticed (May 1976) that an area of 86,353 *nalis* was under unauthorised occupation since 1370 *fasli*. In terms of a Government order of 20th September 1965, such cases of unauthorised occupation were to be regularised by admitting the persons to tenancy by granting them leases with effect from the date of unauthorised occupation. No action to regularise these cases and to assess land revenue on the aforementioned lands was taken till the date of audit.

On this being pointed out in audit (June 1976), the department stated (September 1976) that land revenue on the aforementioned lands for the period 1370 *fasli* to 1377 *fasli* (July 1962 to June 1970) had since been assessed at Rs. 62,550, out of which Rs. 46,912 had been realised and that land revenue for the period 1378 *fasli* to 1383 *fasli* (July 1970 to June 1976), which worked out to Rs. 51,134, would also be levied.

The matter was reported to Government in June 1976. Government, while accepting the objection, endorsed (November 1976) the reply of the department.

#### **7.10. Non-recovery of execution expenses from unauthorised occupants**

Under the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 and the rules framed thereunder, the expenses incurred by Government in executing the orders of ejectment of unauthorised occupants of lands vested in Gaon Sabhas are to be recovered from such unauthorised occupants

for credit to Government account. These orders are usually executed by an *Amin* whose minimum fee for execution is prescribed as Rs. 3 per case in the Revenue Court Manual.

In the course of audit of three *tahsils*, Dataganj (district Budaun), Nanpara (district Bahraich) and Farrukhabad (Sadar), it was noticed (May 1976 to November 1976) that ejection orders were issued in 13,009 cases during the period 1969-70 to 1975-76 but the execution expenses amounting to Rs. 39,027 were not recovered from the unauthorised occupants.

The matter was reported to Government between June 1976 and January 1977. Government stated (September 1977) that Rs. 18,972 had since been recovered and the balance was awaiting recovery.

CHAPTER VIII  
OTHER TAX RECEIPTS

SECTION—A

POWER DEPARTMENT

ELECTRICITY DUTY

**8.1. Results of test audit in general**

During the period 1976-77, test audit of the documents of the departmental officers and electricity supply licensees revealed short levy of electricity duty and inspection fees amounting to Rs.23.47 lakhs in 92 cases.

The cases are broadly categorised as under:

Nature of irregularity	Number of items	Amount (In lakhs of rupees)
1. Non-levy/short levy of interest	20	7.99
2. Non-payment of electricity duty by persons consuming energy from their own sources of generation	4	6.14
3. Non-realisation/short realisation of inspection and testing fees of electrical installations	27	5.08
4. Non-payment of electricity duty on supply of electrical energy	14	2.64
5. Short levy of electricity duty due to application of incorrect rates	10	0.57
6. Miscellaneous	17	1.05
	<hr/>	<hr/>
Total	92	23.47

A few important cases are mentioned in the following paragraphs of this chapter.

### 8.2. Short levy of interest

The U. P. Electricity (Duty) Act, 1952 and the rules made thereunder were amended with effect from 1st September 1970. Prior to the amendment, electricity duty was payable by the licensee or the U. P. State Electricity Board to the State Government within 30 days of the expiry of the month in which duty had been realised by the licensee or the Board. After 1st September 1970, electricity duty became payable to the State Government within two calendar months following the close of the month in which meter readings were recorded. However, in respect of the duty levied on or before 31st August 1970, it has been provided that on realisation from the consumers, such duty is payable in Government treasury by the licensee or the U. P. State Electricity Board within 30 days of the expiry of the month in which it is realised. Failure to deposit the amount of duty within the specified period entails payment of interest on the amount of duty remaining unpaid at the rate of 18 per cent per annum.

In the course of audit (June 1976) of the accounts of electricity duty in the office of the Chief Electrical Inspector to Government, U. P., Lucknow, it was noticed that in respect of the Lucknow Electric Supply Undertaking—a unit of the U. P. State Electricity Board—interest amounting to Rs.15,31,769 was leviable at the rate of 18 per cent per annum from October 1970 to February 1976 for belated payment of electricity duty of Rs.15,71,045 which was levied by the undertaking prior to 1st September 1970 and was recovered thereafter and not deposited till February 1976. The department, however, levied and collected Rs.10,30,998 only by way of interest. This resulted in short levy of interest of Rs.5,00,771.

The matter was reported to Government in July 1976; final reply is awaited (November 1977).

### 8.3. Non-payment of electricity duty on energy consumed by a person from his own source of generation

Under the U. P. Electricity (Duty) Act, 1952, electricity duty is leviable on energy consumed by a person from his own source



of generation at the rate of one paisa per unit with effect from 1st September 1970.

In the course of audit of the office of the Assistant Electrical Inspector, Roorkee, it was noticed (August 1976) that electricity duty amounting to Rs.84,786 for the period February 1975 to May 1976 was not paid by a sugar mill consuming energy from its own source of generation. The mill is also liable to pay interest at the rate of 18 per cent per annum for the period of non-payment of electricity duty.

On this being pointed out in audit (September 1976), Government stated (October 1977) that electricity duty actually found recoverable was Rs.97,924 which had been recovered from the sugar mill in January 1977 and the recovery of interest of Rs.17,506 was being arranged.

#### 8.4. Omission to levy electricity duty

Under the U. P. Electricity (Duty) Act, 1952, electricity duty was leviable at 2 paise per unit if the energy charges ranged between 38 paise and 48 paise per unit. Duty was, however, not leviable if the unit charge of energy (inclusive of duty) exceeded 50 paise per unit. With effect from 12th October 1974, the aforesaid limit of 50 paise was removed and duty was prescribed at 2 paise per unit on energy supplied at rates of 38 paise or more per unit.

It was noticed in audit (July 1976) that a supplier of energy sold 24,75,550 units of electrical energy at the rate of 55 paise per unit but did not levy and pay electricity duty amounting to Rs.49,511 during the period January 1975 to July 1975. On this being pointed out in audit (July 1976), Government stated (October 1977) that the supplier's undertaking had been taken over by the U. P. State Electricity Board in August 1975 and that the electricity duty of Rs.49,511 would be adjusted from the amount of compensation payable to the licensee.

### 8.5. Non-levy of electricity duty

Under the U. P. Electricity (Duty) Act, 1952, the rate of electricity duty chargeable from the consumers for consumption of energy for purposes other than industrial was 25 per cent of the energy charges subject to a maximum of 6 paise per unit. This duty was, however, not leviable if the unit charge of energy (inclusive of duty) exceeded 50 paise per unit. With effect from 12th October 1974, the aforesaid limit of 50 paise was removed and duty was prescribed at a flat rate of 2 paise per unit where the energy charge was 38 paise or more per unit.

It was noticed in audit (October 1976) that a licensee sold electrical energy for light and fan purposes at 50 paise per unit up to March 1975 and 55 paise per unit thereafter and at 50 paise per unit (for domestic power) with effect from April 1975. According to the revised rates of electricity duty effective from 12th October 1974, electricity duty at 2 paise per unit was leviable on the aforesaid supply of electricity. The licensee, however, did not levy and pay electricity duty amounting to Rs.31,650 on sale of 15,12,063 units of electrical energy for light and fan purposes and 70,463 units of energy for domestic power during the period 12th October 1974 to 31st December 1975 and 1st April 1975 to 31st December 1975, respectively.

For non-payment of electricity duty within the prescribed period, the licensee was also liable to interest at the rate of 18 per cent per annum till the date of payment.

The matter was reported to Government in November 1976. Government stated (November 1977) that the amount of duty of Rs.31,650 and interest of Rs.1,339 was being recovered from the licensee out of the amount payable to it on account of the licensee's undertaking having been taken over by the U. P. State Electricity Board from 1st January 1976.

### 8.6. Non-levy of duty on energy consumed for street lighting

Under the Uttar Pradesh Electricity (Duty) Act, 1952 and the rules made thereunder, electricity duty is leviable on energy consumed by a licensee in or upon any premises except in the construction, maintenance or operation of its works (connected with the generation of electricity).

In the course of audit, it was noticed (March 1974 to October 1976) that electricity duty amounting to Rs.11,773 was not levied and paid to Government by a licensee on 2,18,465 units of electrical energy consumed in street lighting during the period April 1972 to December 1975.

On this being pointed out in audit (April 1974 to November 1976), Government stated (November 1977) that the licensee's undertaking had been taken over by the U. P. State Electricity Board in January 1976 and that the amount of electricity duty (amount found recoverable Rs.13,636) together with interest of Rs.5,016 was being adjusted from the amount of compensation payable to it.

### 8.7. Non-levy of duty on industrial consumption of energy

Under section 3 of the U. P. Electricity (Duty) Act, 1952, electricity duty is leviable at the rate of one paisa per unit on consumption of energy for industrial or motive power purposes at medium, high or extra high voltage with effect from 1st September 1970.

In the course of audit, it was noticed (March 1976) that electricity duty amounting to Rs.10,917 was not levied and paid by a licensee on 10,91,762 units of electrical energy supplied for consumption in water works during the period June 1975 to December 1975.

On this being pointed out in audit (April 1976), the department stated (August 1977) that the aforesaid duty would be adjusted from the compensation payable to the licensee's undertaking which had been taken over by the Uttar Pradesh State Electricity Board on 1st January 1976.

The matter was reported to Government in April 1976; reply is awaited (November 1977).

#### 8.8. Inspection/testing fees not realised

Under the Indian Electricity Rules, 1956, the Electrical Inspector to Government is required to inspect the electric supply lines or apparatus belonging to the suppliers before commencement of supply of energy at high or extra high voltage to any person. These rules further require the Electrical Inspector to inspect and test periodically the consumers' electrical installations connected to the supply system of the suppliers (other than those in mines, oil fields and railways). Such inspections are to be carried out on payment, in advance, of fees by the suppliers/consumers of energy at such rates as may be prescribed by the State Government from time to time.

It was noticed in audit (July 1976 to January 1977) that in four zones (Varanasi, Rae Bareli, Jhansi and Shahjahanpur) inspection and testing fees amounting to Rs.2.20 lakhs were not paid by the suppliers/consumers of energy. Consequently, inspection/testing of their installations due for the years 1974 to 1976 could not be carried out.

The matter was reported to Government between April 1976 and February 1977; reply is awaited (November 1977).

SECTION—B

REVENUE DEPARTMENT

VRIHAT JOT KAR

8.9. Results of test audit in general

In the course of test audit of the records of *vrihat jot kar* during the year 1976-77, under-assessment of tax of Rs. 2.73 lakhs was noticed. The under-assessment may be broadly categorised under the following heads:

	Amount (In lakhs of rupees)
1. Loss of revenue due to time barring of cases	1.89
2. Under-assessment due to other reasons	0.84
	<hr/> 2.73

Some cases of interest are mentioned in the following paragraph.

8.10. Loss of *vrihat jot kar*

Under the Uttar Pradesh *Vrihat Jot Kar Adhiniyam*, 1963, *vrihat jot kar* is levied for each agricultural year on the annual value of an individual's landholdings, if his holdings exceed 30 acres, at the rates specified in the Schedule to the *Adhiniyam*. For the purpose of levy of this tax, revenue authorities of the various *tahsils*/districts are required to send a report of landholdings, if any, held by any non-resident landholder in that *tahsil*/district to the revenue authority of the *tahsil* where the landholder ordinarily resides. The latter is then required to prepare a consolidated statement of landholdings of each assessee and send it to the concerned assessing officer for assessment of *vrihat jot kar*.

All assessments pertaining to a particular agricultural year become time barred after the expiry of 3 years thereafter unless a notice for the purpose of assessment has been issued to the concerned assessee within the said period of 3 years.

(i) In the course of audit (April 1976, September 1976 and January 1977) of the offices of the Vrihat Jot Kar Adhikaris of three districts (Dehradun, Rampur and Etawah), it was noticed that the consolidated statements of all holdings with valuation thereof were not received from other *tahsils* in time. Consequently, notices under the Act could be served upon the assesseees for the preceding three years only. Owing to belated receipt of the statements, the assessments for the years 1370 *fasli* to 1378 *fasli* (1st July 1962 to 30th June 1971) in 8 cases and for the years 1370 *fasli* to 1379 *fasli* (July 1962 to June 1972) in 5 cases could not be made by the assessing officers on account of the cases having become time barred. This involved loss of revenue of Rs.99,335.

The matter was reported to Government between May 1976 and February 1977; final reply is awaited (November 1977).

(ii) In the course of audit of the offices of the Vrihat Jot Kar Adhikaris of four districts (Gonda, Shahjahanpur, Ballia and Banda), it was noticed (between January 1976 and December 1976) that 57 cases for different agricultural years between 1371 *fasli* and 1380 *fasli* (July 1963 to June 1973) were not assessed and notices under section 7(2) of the Adhiniyam were not also served in time. Owing to the expiry of the limitation period of three years under section 15 of the Adhiniyam, no remedial action was possible and the escaped assessments had resulted in loss of revenue of Rs.73,372.

The matter was reported to Government between February 1976 and January 1977. Government, while accepting the loss of Rs.15,955 pertaining to Gonda and Shahjahanpur districts, stated (October 1977) that in respect of Ballia and Banda districts the matter was under investigation.

SECTION—C

FINANCE DEPARTMENT

ENTERTAINMENT TAX

8.11. Loss of revenue due to belated publication of notification in the Gazette

By a notification issued in July 1975, Government enhanced the rates of licence fee payable by the licensees for the grant/renewal of permanent and temporary licences under the U. P. Cinematograph Rules, 1951, from the date of publication of the notification in the official *Gazette*. The notification was, however, published in the *Gazette* on 8th November 1975, i.e., after the expiry of more than 3 months from its issue.

Belated publication of the notification in the *Gazette* resulted in loss of licence fee of Rs.10,912 in respect of licences granted/renewed between the date of issue of the notification and its publication in the *Gazette* by 17 Entertainment and Betting Tax Offices, the records of which were test checked in audit.

On this being pointed out in audit (between January 1976 and September 1976), Government stated (September 1976) that departmental action was being taken against the officers responsible for the delay in publication of the aforementioned notification.

## CHAPTER IX

### REVENUE AND INDUSTRIES DEPARTMENTS

#### MINES AND MINERALS

9.1. *Introductory*—The extraction of minerals in the country is governed by the Mines and Minerals (Regulation and Development) Act, 1957 and the rules framed thereunder.

Minerals are of two types—major minerals and minor minerals. The term 'minor minerals' means building stone, gravel, ordinary clay, brick earth, ordinary sand other than sand used for prescribed purposes and any other mineral which the Central Government may, by notification in the official *Gazette*, declare to be a minor mineral. The rest of the minerals are major minerals.

The Mineral Concession Rules, 1960, framed by the Central Government, govern the prospecting, mining, winning, etc., of major minerals whereas mining of minor minerals is regulated under the Uttar Pradesh Minor Mineral (Concession) Rules, 1963, framed by the State Government. Royalty and fees realised for both the major and minor minerals are collected and appropriated by the State Government.

Mining operations for major minerals are undertaken through a mining lease granted by the State Government (excepting minerals specified in the First Schedule to the Act, in respect of which prior approval of the Central Government is necessary). The period for such mining leases should not exceed twenty years (thirty years in the case of coal, iron ore or bauxite). A person who is granted a mining lease is required to pay either the royalty at the prescribed rate or the dead rent whichever is greater.

Mining operations for minor minerals are undertaken through a mining lease, an auction lease or a mining permit. Leases for minor minerals are granted by the State Government on the recommendations of the Collectors of the districts for periods not exceeding 15 years. Auction leases and mining



permits are granted by the Collectors for periods not exceeding 3 years and 6 months, respectively. Royalty at prescribed rates in the case of the mining lease/permit and auction money in the case of auction is payable by the lessee/permit holder.

Under rule 64-A (introduced with effect from 7th August 1976) of the Mineral Concession Rules, 1960, simple interest at the rate of 10 per cent is chargeable on any rent, royalty or fee or other sum due to Government under the 1957 Act or the Mineral Concession Rules, 1960, from the sixtieth day of the expiry of the date fixed for payment thereof. No such provision, however, exists in the U. P. Mineral (Concession) Rules, 1963.

The records relating to the mining/auction leases and permits are maintained in the Collectorates. The following points were noticed in the course of audit of the Directorate of Geology and Mining and the mines sections of Mirzapur, Allahabad, Agra, Banda, Dehradun, Lucknow, Jhansi and Lalitpur Collectorates (April to August 1977) and the *Tahsil* Office, Najibabad (district Bijnor) (May 1976).

#### MAJOR MINERALS

9.2.1. *Non-payment of royalty/interest*—The Uttar Pradesh Cement Corporation is extracting limestone, a major mineral, with effect from April 1972 from an area of 12.66 square kilometres in Mirzapur district. The royalty on major minerals is payable by 15th July, 15th October, 15th January and 31st March in respect of the quarters ending on 30th June, 30th September, 31st December and 31st March, respectively.

In the course of audit of the office of the Collector, Mirzapur, it was noticed (May 1977) that the Corporation had not paid the royalty in respect of limestone extracted by it during any of the quarters of 1976-77 till May 1977. The Collectorate was not also aware either about the quantity of limestone extracted by the Corporation during these quarters or the royalty payable by the Corporation on it.

(ii) The Corporation deposited the royalty of Rs.11.20 lakhs payable for limestone extracted by it during the year 1975-76 on

10th December 1976. For belated payment of royalty, interest at the rate of 10 per cent was leviable from 7th August 1976. The quantum of interest leviable in this case worked out to Rs.0.38 lakh. But no action was taken by the department to recover the amount.

Government stated (November 1977) that action for recovery of interest was in progress and that for recovery of royalty would be taken on receipt of information from the Corporation about the quantity of limestone extracted by it during 1976-77 which was being called for.

9.2.2. *Short levy of royalty/dead rent on dolomite*—For the extraction of dolomite, an area of 1.656-32 acres in Mirzapur district was leased out to the U. P. State Mineral Development Corporation on 18th May 1967.

In the course of audit of the Mirzapur Collectorate, it was noticed (May 1977) that the lessee paid royalty of Rs.0.28 lakh for extraction of 15.781 tonnes of dolomite for the period April 1973 to March 1975. The dead rent for this period, however, worked out to Rs.0.34 lakh which should have been collected, being higher. There was, thus, short collection of revenue of Rs.0.06 lakh.

The lessee had neither furnished any return nor paid royalty for the quantity of dolomite removed, if any, during the period July 1975 to December 1975. If no quantity of dolomite had been removed during this period, the lessee was liable to pay dead rent of Rs.0.17 lakh for the year against which only Rs.0.11 lakh were paid by it. Consequently, the minimum short collection of revenue during the year was Rs.0.06 lakh.

For the year 1976-77, the lessee paid royalty on the extraction of 11,455 tonnes of dolomite against 19,685 tonnes actually extracted by it. There was, thus, short collection of royalty of Rs.0.25 lakh during the year.

Government stated (November 1977) that the matter was being looked into and any amount of royalty payable by the Corporation would be realised.

9.2.3. *Revenue forgone owing to delay in disposal of applications for mining leases*—Under the Mineral Concession Rules, 1960, an application for the grant of a mining lease should be disposed of within 12 months from the date of its receipt and if not disposed of within this period, it should be deemed to have been refused.

In the course of audit of the Collectorates of Allahabad, Banda and Jhansi, it was noticed (July and August 1977) that out of 59 such applications received between June 1959 and July 1976 (Allahabad 36, Banda 20 and Jhansi 3) for the grant of mining leases for the extraction of major minerals, 25 were disposed of with delays ranging from one to nine years and the remaining 34 (Allahabad 19, Banda 12 and Jhansi 3) were awaiting disposal though periods ranging between more than one to fifteen years had already elapsed. Owing to delay in the disposal of these applications, Government had forgone revenue amounting to at least Rs.3.13 lakhs in the form of dead rent, calculated at the minimum rate of Rs.5 per acre per annum on the area applied for/sanctioned for the extraction of various major minerals even after excluding a period of 2 years, *i.e.*, 1 year prescribed for disposal of applications and another for which dead rent is not payable.

Government stated (November 1977) that the delay in finalisation of applications for the grant of mining leases was due to various factors like administrative problems and consultations with various other Government departments but the delay so caused did not imply any loss of revenue as the minerals remain unextracted and the deposits remain safe. Government, however, stated (November 1977) that reasons for delay in the disposal of applications in Banda district were being called for from the District Officer. Regarding Jhansi, it was stated that the applications could not be disposed of as the establishment of Uttar Pradesh Mineral Development Corporation was under consideration at that time and a policy decision was to be taken.

9.2.4. *Short levy of royalty on bauxite*—In the course of audit of the Collectorate, Banda (August 1977), it was noticed that

14,250 tonnes of bauxite were extracted and removed by a lessee during the year 1976-77 (excluding August 1976 for which the relevant monthly return was not available) for which he was required to pay royalty of Rs.0.57 lakh (at the rate of Rs.4.00 per tonne). The lessee, however, deposited Rs.0.22 lakh only in March 1977. No further demand had been raised by the department till the date of audit.

Interest at the rate of 10 per cent per annum is also recoverable from the lessee from 7th August 1976, in terms of rule 64-A of the Mineral Concession Rules, 1960. The interest leviable in this case worked out to Rs.2,500.

Government stated (November 1977) that action for recovery of outstanding amount of royalty/interest from the lessee was in progress.

9.2.5. *Short deposit of royalty on silica sand*—The rate of royalty on silica sand was revised from Re.1 per tonne to Rs.1.50 per tonne with effect from 1st April 1975.

In the course of audit of the Collectorate, Allahabad, it was noticed (July 1977) that in the case of three lessees who were in litigation with the State Government, the Civil Court, while issuing *ad-interim* injunctions, had ordered (between 1969 and 1973) that the plaintiffs should pay the requisite royalty on the quantity of silica sand extracted by them. It was, however, noticed that two of these lessees had deposited royalty at the pre-revised rate, resulting in short collection of Rs.0.19 lakh whereas the third lessee had not paid royalty amounting to Rs.0.14 lakh for the silica sand extracted by him after 28th March 1975 and had also deposited less royalty to the extent of Rs.0.04 lakh for the period prior to 28th March 1975.

On this being pointed out in audit (July 1977). Government stated (November 1977) that the Court had been moved through the District Government Counsel for getting the royalty deposited by the lessees at the increased rates.

9.2.6. *Non-fixation/realisation of surface rent and water rate*—Under the Mineral Concession Rules, 1960, a lessee is required to pay for the surface area used by him for the purpose of mining operations surface rent and water rate at such rates as may be specified by the State Government in the lease.

In the course of audit of the Collectorates, Jhansi and Lalitpur, it was noticed (August 1977) that in 5 lease deeds (Jhansi: 2; Lalitpur: 3) executed for periods ranging from 10 to 20 years for the extraction of diaspore and pyrophyllite from an area of 448.40 acres (Jhansi: 290.23 acres; Lalitpur: 158.17 acres), wherein the Collectors were required to determine the surface rent and water rate, the rates were neither fixed by the Collectors nor were these realised from the lessees for periods ranging from 4 to 13 years till the date of audit.

The matter was reported to Government in September 1977; reply is awaited (November 1977).

#### MINOR MINERALS

9.3.1. *Short levy of royalty on boulders*—In Mirzapur district, the extraction of building and other stones is governed by the Mirzapur Stone Mahal Act, 1886 and the rules made thereunder. The royalty payable on the quantity of boulders extracted in the district under the Mirzapur Stone Mahal Rules, 1889, is Re.0.75 per cubic metre. During the year 1974-75, 5,68,313 cubic metres of boulders were extracted. The royalty assessed and collected by the department was, however, Rs.4.06 lakhs against Rs.4.26 lakhs due. This resulted in short collection of royalty of Rs.0.20 lakh.

The matter was reported to Government in August 1977; reply is awaited (November 1977).

9.3.2. *Short deposit of royalty on brick earth*—In June 1976, Government fixed the rate of royalty on 'brick earth' for the year 1974-75 ranging between Rs.800 and Rs.1,600 per kiln. The rates of royalty, as per the order, for the year 1975-76 were to be arrived at by increasing the rates for the year 1974-75 by 5 per cent and those for the year 1976-77, by increasing the rates of 1975-76 by another 5 per cent. The rates

so fixed for the districts of Allahabad and Agra were as per the table given below:

Name of the district	For kilns located in rural areas			For kilns located in urban areas		
	1974-75	1975-76	1976-77	1974-75	1975-76	1976-77
	<i>(Per kiln in rupees)</i>			<i>(Per kiln in rupees)</i>		
Allahabad	1,100	1,155	1,212.75	1,400	1,470	1,543.50
Agra	1,350	1,417.50	1,488.37	1,600	1,680	1,764

Government also directed in June 1976 that royalty for the years 1974-75 and 1975-76 was to be realised in 1975-76 and for the year 1976-77, it was to be realised in advance.

In the course of audit of the Collectorates at Allahabad (July 1977) and Agra (August 1977), the following points were noticed:

(i) A comparison of the list of brick-kiln owners in Allahabad district, supplied by Tahsildars/District Supply Officer, with that of the kiln owners who had deposited royalty revealed that 64 kiln owners had not deposited royalty for the years 1974-75 and 1975-76 and 68 kiln owners for the year 1976-77. This had resulted in short collection of royalty of Rs. 2.27 lakhs (calculated at the lower rate applicable to rural areas as break-up of kilns rural/urban area-wise was not available).

(ii) As per a departmental survey, the number of brick kilns in the Agra district in 1970 was 150. The number of brick kilns in the district during the year 1976-77 was 168, as stated by the District Supply Officer. But royalty had been realised only from 82, 92 and 91 kiln owners for the years 1974-75, 1975-76 and 1976-77, respectively. Taking the number of kilns in the district during the years 1974-75 and 1975-76 at 150 and for the year 1976-77 at 168, the royalty short deposited by kiln owners for the years 1974-75 to 1976-77 worked out to Rs. 2.89 lakhs (calculated at the lower rate applicable to rural areas) on 203 kilns in the aggregate.

Government stated (November 1977) that the position about the recovery of royalty in Allahabad district would be intimated on receipt of relevant information from the District Officer of Allahabad which had been called for. As regards short deposit of royalty by kiln owners in Agra district, it was stated that Rs.1.77 lakhs still remained to be recovered for which efforts were being made.

9.3.3. *Non-realisation of royalty/dead rent*—Under the U. P. Zamindari Abolition and Land Reforms Act, 1950, all mines comprised in the estate or estates acquired under the Act as were being worked directly by an intermediary on the date of vesting were deemed to have been leased by the State Government to the intermediary, the royalty/dead rent being levied at agreed rates. The Act provides that cases of disagreement on royalty/dead rent are to be referred to a Mines Tribunal constituted under the Act. The Tribunal was constituted in February 1965.

In the course of audit of the Collectorate, Agra, it was noticed (August 1977) that out of the 41 cases referred to the Tribunal in 1966, 11 cases were decided in October 1974. The Tribunal ordered (October 1974) that the ex-intermediaries concerned should be deemed to be lessees of the State Government with effect from 1st July 1952 for 15 years and the royalty/dead rent should be levied at the maximum rates prescribed under the Uttar Pradesh Minor Minerals (Concession) Rules, 1963. No royalty had, however, been realised (August 1977). The Collector, while referring the matter to the Director, Geology and Mining, stated (March 1977) that the period of leases, as ordered by the Tribunal, had already expired on 30th June 1967 and solicited further instructions. But no such instructions were issued (July 1977).

No details of minerals extracted by the ex-intermediaries from July 1952 onwards and the amount of royalty recoverable were available with the Collectorate.

On the basis of total area leased out in respect of 11 cases already decided by the Tribunal, the ex-intermediaries were

liable to pay dead rent at the rate of Rs.0.13 lakh per annum from July 1953 to 14th September 1976 and at the rate of Rs.1.35 lakhs per annum from 15th September 1976 (the rates were revised with effect from this date). The minimum amount recoverable up to March 1977 worked out to Rs.3.86 lakhs in respect of the cases already decided. But no action was taken by the department to realise the amount (November 1977).

The matter was reported to Government in September 1977. Government stated (November 1977) that notices for recovery of royalty/dead rent payable up to June 1967 and execution of leases in 11 cases decided (*ex parte*) by the Tribunal had been issued and any further action in the matter would be taken in consultation with the Law Department. It was further stated that as no leases were awarded after June 1967, no royalty could be recovered.

9.3.4. *Short realisation of royalty*—The U. P. Minor Minerals (Concession) Rules, 1963, provide that the successful bidder of any auction lease shall immediately deposit 25 per cent of the amount of bid for one year as security for execution of the lease and due observance of its terms and conditions, and an equal amount as first instalment of royalty. The balance amount of royalty is payable during the pendency of the lease.

In the course of audit of the Collectorate, Allahabad, it was noticed (July 1977) that royalty amounting to Rs.1.35 lakhs had been realised short in respect of 49 cases (sand 13, ~~stone~~ ballast 36) though the leases had expired between October 1969 and June 1977.

Government stated (November 1977) that action for recovery of royalty short realised was in progress.

9.3.5. *Non-payment/short payment of stamp duty*—Under the U. P. Minor Minerals (Concession) Rules, 1963, after the final acceptance of a bid, a lease deed is required to be executed on the prescribed form within one month of the receipt by the bidder of the order about the acceptance of the bid, or



within such further period as the authority competent to grant the lease may allow in this behalf. If no such deed is executed within the aforesaid period owing to any default on the part of the bidder, the said authority may revoke the order accepting the bid and in that event, the security deposited by the bidder is to be forfeited.

In the course of audit of the Collectorate, Allahabad, it was noticed (July 1977) that in three cases the lease deeds had not been finalised (July 1977) owing to non-payment or short payment of stamp duty amounting to Rs.0.18 lakh by the lessees. In two of the cases, the leases running from December 1975 and January 1976 had expired in September 1976 and royalty amounting to Rs.0.78 lakh was outstanding against these lessees.

Government stated (November 1977) that action for recovery of stamp duty/royalty was in progress.

*9.3.6. Loss of revenue due to delay in grant of mining permits*—Under the Uttar Pradesh Minor Minerals (Concession) Rules, 1963, mining permits for extraction of minor minerals can be granted for periods not exceeding six months.

In the course of audit of the Collectorate, Lucknow, it was noticed (April 1977) that no decision had been taken on 16 applications received during the period January 1976 to February 1977 for grant of mining permits for extraction of 37,400 cubic metres of sand involving royalty of Rs.0.56 lakh (at Rs.1.50 per cubic metre) from various sites on the bank of Gomti river.

Government stated (November 1977) that 5 out of 16 applications had been decided and permits for extraction of 6,600 cubic metres of sand against royalty of Rs.0.08 lakh issued. The disposal of the remaining applications was in progress.

9.3.7. *Loss of revenue due to non-registration of lease deeds.*— Section 17(d) of the Indian Registration Act, 1908, provides for compulsory registration of lease deeds executed for periods of more than a year.

In the course of audit of the Collectorate, Agra, it was noticed (August 1977) that 82 lease deeds had not been registered under the Act *ibid*. In addition to rendering the legality of the lease deeds open to question, this had deprived Government of revenue amounting to Rs.0.05 lakh in the shape of registration fee.

Government stated (November 1977) that the matter was being referred to the Law Department for advice.

CHAPTER X  
FOREST DEPARTMENT

FOREST RECEIPTS

10.1. **Unauthorised financial aid to contractors**

(a) A forest coupe in Mukhain range of Uttarkashi Forest Division was auctioned by the department to a contractor in 1973. According to the agreement, the contractor was to supply 10,000 broad-gauge and 3,000 metre-gauge sleepers for the Railways, failing which he was liable to penalty at the rate of Rs.4 per cubic feet of the sleepers short supplied. The department marked 5,324 *Chir* trees for felling, all of which were felled by the contractor between November 1973 and April 1974. While the logging was in progress, fire broke out on 26th April 1974 and according to the departmental report (June 1974) about 2,500 sleepers (broad-gauge and metre-gauge together) got burnt. Although according to the provision in the agreement the contractor was responsible for any loss of sleepers owing to theft, fire, etc., till these were loaded into wagons, the contractor requested (October 1974) the Additional Chief Conservator of Forests, Garhwal, to reduce the contracted quota on account of the loss caused to him by fire. He also stated that he had produced only 2,407 metre-gauge sleepers from the felled trees against the quota of 3,000 sleepers to be supplied. On the basis of the contractor's request, the Additional Chief Conservator of Forests reduced (February 1975) the quota of broad-gauge sleepers from 10,000 to 4,500 and of metre-gauge sleepers from 3,000 to 800. The contractor actually produced 11,223 broad-gauge and 8,266 metre-gauge sleepers exclusive of loss suffered by fire. Thus, the estimates in respect of production of sleepers and the reduction of the allotted quota by 7,700 sleepers were unrealistic.

The contractor supplied 4,507 broad-gauge and 801 metre-gauge sleepers. Compared to the original quota of 10,000 broad-gauge and 3,000 metre-gauge sleepers, the shortfall in supply was 7,692 sleepers (5,493 broad-gauge and 2,199 metre-gauge sleepers) for which the contractor was liable to penalty

of Rs.81,854. But as the quota was reduced by the Additional Chief Conservator of Forests, the contractor escaped the penalty.

(b) Another forest lot in Dharasu range of the same forest division was auctioned to a contractor in October 1973. The contractor was to supply 8,000 broad-gauge and 1,000 metre-gauge sleepers for the Railways. After logging was over, the contractor requested (October 1974) the Additional Chief Conservator of Forests, Garhwal, to reduce the quota of broad-gauge sleepers on the ground that the quantity of timber extracted from the lot was insufficient to fulfil the quota of sleepers allotted to him. There was no provision in the agreement for reducing the quota of supply for any reasons. Besides, the contractor had actually transported 10,260 broad-gauge sleepers to the Depot Officer for checking. The Additional Chief Conservator of Forests, however, reduced (February 1975) the allotment of broad-gauge sleepers from 8,000 to 4,000 on the assumption that 40 per cent to 50 per cent of the sleepers supplied by contractors to Depot Officers were rejected after checking. As allotment of sleepers in a lot is made after assessment of the estimated out-turn, any reduction in the allotment merely on the basis of the assumed percentage of rejection by the Depot Officer was not correct. But for the reduction in the allotment, the contractor would have been liable to penalty of Rs.50,000 for the short supply of 4,000 broad-gauge sleepers.

The prevailing market price of the sleepers and the rate at which supplies were made to the Railways were as follows:

	Market price	Rate at which supplied to Railways
	Rs.	Rs.
Broad-gauge sleeper (each)	63.00	28.15
Metre-gauge sleeper (each)	51.00	13.05

Owing to the reduction in the allotment of sleepers to be supplied to the Railways, the contractor derived an unintended

benefit of Rs.2.75 lakhs and Rs.1.39 lakhs in the cases mentioned at (a) and (b) above, respectively.

The matter was reported to Government in August 1977; reply is awaited (November 1977).

#### 10.2. Short realisation of sales tax from forest contractors

Under the U. P. Sales Tax Act, 1948, tax on sale of wood and timber of all kinds and of all trees, of whatever species, whether growing or cut or sawn, but excluding their products and firewood, was leviable at the rate of 10 per cent from 15th November 1971 to 14th April 1974 and at 12 per cent from 15th April 1974 at the point of sale by the Forest Department. Sale of firewood is, however, taxable at the rate of 2 per cent since 1st April 1964.

(a) In the audit of a forest division, it was noticed (January 1977) that sales tax at 2 per cent, as applicable to firewood, was realised from forest contractors on sales of forest lots of Rs.21.61 lakhs and Rs.27.13 lakhs during the years 1973-74 and 1974-75. The Sales Tax Department, however, assessed the Forest Department to tax on sales of these lots at 10 per cent in 1973-74 and at 12 per cent in 1974-75. The assessment order of 1973-74 was also confirmed in appeal preferred by the Forest Department before the Assistant Commissioner (Judicial), Sales Tax. The short realisation of sales tax from the purchasers of forest lots worked out to Rs.4.44 lakhs for the years 1973-74 and 1974-75 on the aforesaid sales of forest produce. The department stated (October 1977) that out of Rs.4.44 lakhs, Rs.0.11 lakh had been recovered from the contractors.

The matter was reported to Government in February 1977; reply is awaited (November 1977).

(b) In the course of audit of another forest division, it was noticed (September 1976) that sales tax at pre-revised rates was realised from the forest contractors on sales of forest lots amounting to Rs.10,47,720 effected during the period 15th April 1974 to 31st March 1975. Additional tax on turnover of Rs.12,45,873 for the period 4th November 1974 to 31st March 1976 was also realised at  $\frac{1}{2}$  per cent instead of the correct rate

of 1 per cent. There was, thus, short realisation of sales tax and additional tax to the extent of Rs.27,184 from the forest contractors.

The matter was reported to Government in October 1976. Government stated (July 1977) that Rs.3,349 had been recovered from the contractors; recovery of the balance amount was awaited (November 1977).

### 10.3. Loss of revenue due to delay in reauction of resin

In the course of audit of the Nainital Forest Division, it was noticed (May 1976) that 13 lots of collected resin weighing 8,587.8 quintals (as per the stock register) were sold to a firm in auction held on 12th March 1974. The price of this resin at the tendered rates worked out to Rs.19.33 lakhs. The contractor was, however, to pay for the quantity of resin as per its weight at the time of lifting of the material. According to the conditions of sale, the firm was required to deposit security at 10 per cent of the sale price and to execute agreement deeds within seven days of receipt of intimation of sale. They were also required to complete, after making payment, the lifting of resin from the depot within 120 days of approval of sale, failing which their security was to be forfeited, the lots resold and loss, if any, on resale was to be recovered from the contractor.

The sale of all the lots was approved by the Conservator of Forests, Kumaon Circle, on 18th March 1974 and the firm was accordingly asked by the Divisional Forest Officer on 21st March 1974 to start lifting the resin after depositing the requisite security, executing agreement deeds and making payment of the sale price.

The firm, however, deposited the security of Rs.28,270 and executed agreement in respect of two lots only (numbers 7 and 16) and in their letter of 7th November 1974 promised to start lifting of resin by the end of November 1974 and to complete the work by 31st January 1975 in respect of all the thirteen lots and requested for extension of time up to that date. This was allowed by the Conservator of Forests in December 1974 even though the requisite security was not deposited and

formal agreement deeds were not executed in respect of the remaining eleven lots. The firm was, however, informed that if they failed to start lifting of resin by 20th December 1974, the lots would be resold in the auction to be held on 27th December 1974 and action would be taken against them according to the terms of the auction notice.

The firm did not deposit the required security for the remaining eleven lots and also did not execute the agreement deeds. On 27th December 1974, the lots were listed for auction but were not actually auctioned on the verbal assurance of the contractor that he would complete the lifting of resin by the stipulated date (31st January 1975) after making full payment. The contractor, however, did not fulfil his assurance. Consequently, these lots were re-auctioned (12 lots on 28th October 1975 and one lot on 29th January 1976) and sale price of Rs.12.79 lakhs only was realised for 7,591 quintals of resin actually found at the time of lifting. In case this quantity (7,591 quintals) of resin had been sold in auction on 27th December 1974, sale price of Rs.15.04 lakhs would have been realised on the basis of rates prevalent on that date. Government was, thus, put to loss of revenue of Rs.2.25 lakhs. The department proposed (June 1977) to proceed against the contractor in civil suit in respect of two lots only (7 and 16), as recovery was not possible in the case of lots in respect of which no agreements were executed.

The matter was reported to Government in August 1976; reply is awaited (November 1977).

#### 10.4. Non-observance of rules

Under the Manual of the Forest Department and in terms of the standard agreement with the contractors, the contractors can take the timber or other forest produce out of the forest areas only if the sale price therefor has been paid in advance. The Divisional Forest Officer can stop the removal of forest produce from the forest area if the value of the material removed by a contractor from the forest at any time exceeds the amount deposited by him.

In the course of audit of receipts of the South Kheri Forest Division, it was noticed (May 1976) that in respect of 36 forest lots of 1972-73 and 1973-74, the contractors were allowed to take away the entire material from the forest without payment of the full amount of sale price. This resulted in non-recovery of forest revenue to the extent of Rs.2.26 lakhs. It was reported by the district authorities that in several cases the contractors were not traceable at the addresses noted in the agreement deeds. Steps were not taken by the department to get their addresses verified by district authorities before signing agreements required in the Sale Rules. The amount could not also be recovered as arrears of land revenue (November 1977) though certificate proceedings were initiated between February 1974 and May 1976.

The matter was reported to Government in July 1976; reply is awaited (November 1977).

#### 10.5. Non-levy of late fee

According to the terms of the agreement and the conditions of the Sale Rules of the department, the forest contractors were required to deposit the instalments of sale price by the specified dates and in case of default, they were liable to pay late fee at 2 paise per Rs.100 per day for delays exceeding 30 days but not exceeding 60 days and at 3 paise per Rs.100 per day for delays exceeding 60 days.

In respect of one forest division, 18 contractors failed to deposit the instalments of sale price of the forest lots of 1971-72 and 1972-73 by the due date for which they were liable to pay late fee amounting to Rs.19,759. No late fee was, however, realised.

When the omission was pointed out in audit (April 1975), Rs.9,345 were recovered and the balance is awaiting recovery (November 1977).

The matter was reported to Government in July 1975; reply is awaited (November 1977).



### 10.6. Short realisation of grazing fees

Prior to November 1975, the prescribed fees for grazing of sheep and goats in the forest divisions of the Southern Circle, U. P., ranged from 1.5 paise to 25 paise per animal per season according to local conditions.

The fee was enhanced to Rs.2 per animal per season for the entire Southern Circle with effect from 15th November 1975. By a subsequent order dated 22nd November 1976, Government, while maintaining the fee of grazing at Rs.2 per goat per season, reduced the rate of grazing for sheep to 40 paise per sheep per season.

In the course of audit of 4 forest divisions of the Southern Circle (November 1976 to January 1977), it was noticed that grazing fee had been realised at the pre-revised rates instead of at the rate of Rs.2 per animal in respect of 62,071 sheep/goats which entered the forests during the period December 1975 to 21st November 1976. This resulted in loss of revenue of Rs.1.21 lakhs.

The matter was reported to Government in February 1977; reply is awaited (November 1977).

### 10.7. Collection and sale of 'Tendu' leaves

#### 10.7.1. Introduction

'Tendu' leaves which are used in the manufacture of 'bidis' are mostly grown in the forest divisions of Jhansi, Banda, Mirzapur, Varanasi, Agori, Vijaigarh and Dudhi. Tendu leaves are perishable forest produce. If the leaves are not collected in a season, they are not available for collection during the next season. The season for collection is generally 45 days before the start of rains. Prior to nationalisation of trade in *tendu* leaves in 1972 by the enactment of 'Uttar Pradesh Tendu Patta (Vyapar Viniyaman) Adhiniyam, 1972', the right to collect *tendu* leaves from various forest areas in each forest division was auctioned to contractors on lump sum basis and the contractors made their own arrangements for collection and disposal of leaves.

The aim and objects of nationalisation of trade in *tendu* leaves were to provide for the creation of State monopoly in the purchase and distribution of *tendu* leaves, stoppage of pilferage of leaves and ensuring reasonable wages to labourers. After the nationalisation, the work of collection and sale of *tendu* leaves was taken over by Government. For this purpose, the *tendu* leaf producing areas were divided into a number of 'units' and an agent was appointed by the department for each unit for collection of leaves on payment of collection and handling charges and commission at the rates fixed by Government for each year. They carried out the collection work by employing their own labour. The disposal of leaves was made by the department by inviting open tenders.

#### 10.7.2. Trend of revenue and collection

After the nationalisation, the net revenue from *tendu* leaves increased from Rs.60 lakhs in 1971-72 to Rs.1.35 crores in 1972-73. The details of gross revenue derived from the sale of *tendu* leaves, expenditure incurred and net revenue realised in respect of crops of 1972 to 1975 are given below:

	1972	1973	1974	1975
	(In crores of rupees)			
Gross revenue	1.87	1.56	2.13	2.17
Expenditure on collection, etc.	0.52	0.57	0.61	0.67
Net revenue	1.35	0.99	1.52	1.50
Number of bags actually collected	2,70,899	2,49,928	2,64,521	2,52,033

(Figures are as furnished by the department)

The increase in the net revenue during 1974 and 1975 as compared with that of the first year of nationalisation (1972) was mainly owing to increase in the price of *tendu* leaves and not owing to any increase in the quantity of leaves collected. The sale price had increased from Rs.51—Rs.60 in 1972 to Rs.61—Rs.94 in 1975 in 5 divisions.

### 10.7.3. Short collection of leaves as compared to the targets

(a) In the course of audit of the records of collection of *tendu* leaves, it was noticed (April 1976) that the targets for collection of leaves for the years 1972 to 1975 fixed on the basis of actual average collections in the past were continually reduced from year to year. Even the reduced targets were never achieved as would be seen from the following details of estimated and actual collections during these years:

	1972	1973	1974	1975
(i) Number of bags of leaves estimated to be collected	4,10,456	2,74,775	2,73,985	2,70,590
(ii) Number of bags of leaves actually collected	2,70,899	2,49,928	2,64,521	2,52,033
(iii) Number of bags of leaves short collected	1,39,557	24,847	9,464	18,557

The department stated (August 1976) that collection of *tendu* leaves was done purely on commercial lines and the estimates were always kept on the high side so that the agents might collect the maximum quantity of leaves. It was also stated (September 1977) that the shortfall in collection was due to lesser production of *tendu* leaves on account of adverse weather conditions and loss of *tendu* areas under the various schemes of Government, such as, distribution of land to the landless, soil conservation measures, irrigation projects, etc.

It may be mentioned that the agent appointed for each unit is treated as a contractor of the department. In his application for appointment as agent he undertakes to collect and deliver the notified number of bags of leaves. He is required to deposit a security and to execute an agreement for the collection of leaves. On his failure to execute the agreement within 15 days of the receipt of the order of appointment, his appointment as an agent is liable to be cancelled and on such cancellation, his security deposit is forfeited and the agent is liable to pay the consequential loss suffered by the department. According to the conditions specified in the notice, the agent is paid additional remuneration at Re.1 per bag for

collection of *tendu* leaves in excess of the notified number of bags but in case of his failure to collect the required quantity he is liable to pay such penalty as may be fixed by the department, not exceeding Rs.15 per bag.

The amount of revenue not realised during 1972, 1973, 1974 and 1975 owing to short collection of leaves as compared with the estimates amounted to Rs.66.70 lakhs, Rs.10.07 lakhs, Rs.6.39 lakhs and Rs.11.16 lakhs, respectively (total Rs.94.32 lakhs). Against this, penalty of only Rs.1.66 lakhs in the aggregate was levied which did not work out to even Re.1 per bag not collected as per the estimates.

(b) *Short collection of leaves during 1976 season*—During the 1976 season in North Mirzapur Division, the agents of the department collected in 20 units only 10,694 bags against the target of 12,610 bags, while in the remaining 27 units of the same division, the collection was either equal to or more than the target fixed. The short collection of leaves resulted in loss of revenue of Rs.1.04 lakhs computed at the tendered rates after adjusting Rs.10,866 levied as penalty for short collection.

### 10.7.4. Reversion to system of lump sum sale

As the system of departmental collection of leaves did not prove effective in checking unauthorised removal of leaves and there had also not been much gain in the net revenue, it was decided to reintroduce the system of lump sum sale of *tendu* leaves of each unit to contractors within the framework of nationalisation, in two forest divisions (Banda and Bundelkhand) as an experimental measure during the 1976 season.

As a result of sale of leaves to contractors on lump sum basis, the collection during the 1976 season as compared with the 1975 season increased by more than 100 per cent (from 31,922 bags to 64,036 bags) in one division and by about 16 per cent (from 47,098 bags to 55,383 bags) in the other division. The revenue of these two divisions alone increased by Rs.9.15 lakhs. The system of lump sum sale was held by the department in October 1977 "to be consistent with the spirit of nationalisation inasmuch as State monopoly continued to be

intact and labourers were to be paid wages as fixed by Government.”

In view of the encouraging results of lump sum sale system, Government ordered (November 1976) the re-introduction of this system in the remaining *tendu* leaf yielding divisions from 1977 season.

10.7.5. *Absence of accurate estimation of yield and suitable provision in the agreement under lump sum sale system*

Under the lump sum sale system adopted during the 1976 season, the departmental estimates regarding the number of bags of leaves to be extracted from each unit were notified in the tender notice and the contractors were required to offer lump sum tenders for each unit.

In the course of audit, it was noticed (November 1976) that the notified quantity of leaves extractable from each unit was underestimated by the department as compared to the quantity actually extracted by the contractors. There was no provision in the conditions of sale or the agreement deed for payment of any extra amount for the excess quantity of leaves collected by them over and above the notified quantity.

(i) In Banda Forest Division where *tendu* leaf units were sold on lump sum basis during the 1976 season, the quantity of leaves estimated to be extracted from 50 units was notified in the tender notice as 27,730 bags. The contractor, however, actually collected 54,309 bags, i.e., 26,579 bags (96 per cent) more than the notified quantity. The departmental estimate of 27,730 bags was very low as compared to the estimates for the previous four years (1972 to 1975) for these 50 units, viz., 40,026, 30,360, 30,350 and 30,020 bags, respectively. The value of the quantity of leaves extracted by the contractors in excess of the estimates amounted to Rs.33 lakhs at the tendered rate.

(ii) Similarly, in Bundelkhand Forest Division, Jhansi, the contractors collected 7,301.4 bags of leaves from 75 units, in excess of the notified number. The value of the excess quantity at the average tendered price of Rs.38.60 per bag amounted to Rs.2.82 lakhs.

In the foregoing cases, if the estimates had been properly made or if a provision had been made in the agreement for payment of some percentage of the tendered price in respect of the extra quantity extracted, it would have yielded additional revenue to the Government.

#### 10.7.6. *Acceptance of lower rates for sale of tendu leaves*

(a) (i) In the course of audit, it was noticed (November 1976) that the average sale price offered and accepted (Rs.27 per bag) in the case of 17 units in Banda Division during the 1976 season was very low as compared to the average net receipt of Rs.56 per bag (*i.e.*, sale proceeds minus collection expenses) in respect of the same units during the previous (1975) season. The selling prices accepted were very low as compared to even the reserve price in respect of each unit fixed for the 1976 season. On the basis of the net price obtained in each of these 17 units during the 1975 season, the collection of revenue on the number of bags estimated for collection during the 1976 season, thus, fell short by Rs.1.38 lakhs.

It is significant to note that the average price per bag offered and accepted in respect of 50 other units of the Banda Division itself worked out to Rs.107 per bag.

(ii) In Banda Forest Division where the system of lump sum sale of *tendu* leaves was adopted during the 1975 season, collection of leaves in five units was done departmentally as no tenderers came forward to work in those units. In the course of audit, it was noticed (November 1976) that the leaves collected departmentally fetched a lower price (difference ranging from Rs.31 to Rs.35 per bag) than what was obtained during the 1975 season. The shortfall in revenue in respect of 3.147 bags of leaves collected departmentally worked out to Rs.1.08 lakhs.

(b) In Varanasi Forest Division, 9,689 bags of *tendu* leaves extracted departmentally from 25 units during the 1976 season were sold at lower rates (difference ranging from Rs.10 to Rs.56 per bag) than those obtained for the leaves of the same units during the previous (1975) season. The sale price realised in respect of *tendu* leaves extracted from the remaining 17 units

of the division was, however, higher as compared to the previous year's rates. The lesser price obtained in respect of the 25 units, thus, resulted in shortfall in revenue amounting to Rs.2.96 lakhs on the basis of the previous year's prices.

When this was pointed out in audit (November 1976), the department stated (November 1976) that the estimates were prepared in each unit on the basis of the average price realised during the previous four years and tenders received at higher rates than the estimated price were accepted. The fixation of estimated price at the average rate of past four years was hardly justified in the context of the rising trend of prices. Moreover, in the case of ten units even such estimated price was higher than the price accepted.

#### 10.7.7. *Unauthorised removal of tendu leaves*

A contractor of Dudhi Forest Division, who purchased the *tendu* leaves of two forest units during the 1975 season, removed 1,451 bags of leaves (valued at Rs.1.60 lakhs) from the storage godown maintained under the control of the Forest Department without paying the price for the leaves. *Tendu* leaves (2,181 bags) of the two units were stored in the godown, out of which only 505 bags were permitted by the department to be removed by the contractor. Thus, there should have been a balance of 1,676 bags in the godown but actually only 225 bags were found in the godown when physical verification of stock was done in July 1976 at the time of transfer of the Range Officer. Physical verification of stock which was due to be carried out at the end of March 1976, before the commencement of the next season, was, however, not done. The contractor concerned had been caught by the departmental officers and staff while illicitly transporting 27 bags of leaves on two occasions.

After adjusting the contractor's security of Rs.43,774, Rs.1.04 lakhs were outstanding against the contractor at the time of audit (January 1977); the remaining quantity of 225 bags of leaves in stock had not been sold (January 1977). The department stated (September 1977) that departmental enquiry revealed that 400 bags were actually lying in the godown (instead of 225 bags as mentioned above). The officer concerned res-

possible for illicit export had been compulsorily retired and efforts were being made to recover the cost of bags from the contractor.

10.7.8. *Loss due to improper storage of tendu leaves*

During the 1975 season, *tendu* leaves of one of the units of Mirzapur Forest Division were offered to be purchased by a contractor at the rate of Rs.125.25 per bag. As the agent appointed for collection of leaves from that unit did not take up the work, steps were taken by the department to get the leaves collected by engaging labour directly and 500 bags were collected by the department. After the department started the work, the agent also agreed to work in the unit and he collected 380 bags. Thus, in all, 880 bags of leaves were collected from the unit and stored by the department in a local godown.

Owing to improper storage, however, 80 bags of *tendu* leaves were rendered totally unfit for use and 200 bags were partially damaged owing to rains. The purchaser refused to accept the damaged leaves at the tendered rate and the matter was referred to arbitration. As a result of the award of the arbitrator, no price was payable by the contractor for the totally damaged 80 bags of leaves and only one-fourth of the price was payable for the partly damaged leaves. This resulted in loss of revenue of Rs.31,111.

The points referred to in the foregoing paragraphs were reported to Government between December 1976 and February 1977; reply is awaited (November 1977).

## CHAPTER XI

### OTHER DEPARTMENTAL RECEIPTS

#### PUBLIC WORKS DEPARTMENT

##### 11.1. Non-recovery of additional ferry lease money from contractors

Levy of toll tax on public roads and bridges is governed by the Indian Toll Act, 1851, as amended by the U. P. Repealing and Amending (Second) Act, 1956. Rates of toll tax are fixed by the State Government from time to time under section 2 of the Act.

Ferries at Kirakat and Pilkichhaghat in Jaunpur district were leased out in October 1973 and June 1974 for Rs.90,525 and Rs.1,15,000, respectively, to two contractors for 3 years. The contractors were entitled to collect toll at the ferries at the rates fixed by the State Government from time to time. As per clause 3(c) of the agreements, the lease money payable by the contractors was to be proportionately increased/decreased in the event of Government orders to increase/decrease the toll tax. The toll charges were revised upwards by Government by 75 per cent with effect from 1st October 1974 by a notification dated 23rd September 1974. The contractors were, therefore, liable to pay an additional lease money of Rs.1.07 lakhs from October 1974 to September 1976.

In the course of audit, it was noticed (October 1976) that this additional lease money had not been recovered from the contractors.

The matter was reported to Government in November 1976; final reply is awaited (November 1977).

#### FOOD AND CIVIL SUPPLIES DEPARTMENT

##### 11.2. Short levy of licence fee and security deposit

The rate of licence fee for the sale of sugar in quantities exceeding ten quintals at any time for a period of one year was

revised in May 1976 from Rs.5 to Rs.100 in the case of new licences and from Rs.2 to Rs.40 in the case of renewals of old licences. The dealers were also required to deposit security of Rs.1,000 against Rs.250. The State Government clarified in July 1976 that the licence fee was chargeable at the old rates from 1st January 1976 to 30th June 1976 and at the revised rates from 1st July 1976 to 31st December 1976. The difference of licence fee and the security deposit was to be recovered from the licensees by 30th September 1976.

In the course of audit of the District Supply Offices, Jaunpur (October 1976), Pratapgarh (November 1976) and Faizabad (April 1977), it was noticed that licence fee and security deposit were collected at the old rates and the difference of licence fee of Rs.11,733 and security deposit of Rs.1,20,750 had not been collected in 307 cases.

The matter was reported to Government in July 1977. Government stated (August 1977) that Rs.11,774 (Rs.8,250 on account of security deposit and Rs.3,524 on account of licence fee) in the case of Pratapgarh and Faizabad districts had been recovered and that the recovery of the balance was in progress.

#### FINANCE DEPARTMENT

### 11.3. Short deposit of sale proceeds of lottery tickets

Under the U. P. State Lottery Rules, 1968, lottery tickets are sold at treasuries and sub-treasuries to the authorised agents against full payment of the face value of tickets, less the admissible commission. The cash received at the treasury or sub-treasury on each day on account of sale of tickets is required to be deposited into the bank at the close of the day.

In the course of audit, it was noticed (December 1976) that against the sale of tickets of Rs.52,628 (net) in Ballia sub-treasury, pertaining to 58th and 60th draws of U. P. State Lotteries with closing dates as 29th April 1976 and 12th July 1976, respectively, only Rs.25,844 were deposited into the treasury. But the short deposit of Rs.26,784 could not be detected by the Sub-Treasury Officer/Treasury Officer owing to non-observance of the prescribed procedure at the sub-treasury and treasury, as indicated below:



(i) The tickets were issued direct from the treasury to the dealing official of the sub-treasury without any indent and authority from the Sub-Treasury Officer. Further, no check was exercised in the sub-treasury to verify the daily sale of tickets and deposit of the sale proceeds into the bank.

(ii) The statement of sale proceeds of lottery tickets, required to be submitted to the Treasury Officer at the close of each draw, was not verified by the Sub-Treasury Officer while signing the statement to ensure that total sale proceeds, as shown in the statement, had been actually accounted for in the sub-treasury records.

(iii) At treasury level, the statements of income and expenditure for the whole district on the basis of the actual figures of deposits of each sub-treasury were not prepared at the close of each draw.

When the short deposit was pointed out in audit (December 1976), the department deposited Rs.26,828 (*i.e.*, in excess of the amount short deposited by Rs.44).

The matter was reported to Government in February 1977; reply is awaited (November 1977).

#### GENERAL ADMINISTRATION DEPARTMENT

#### 11.4. Misuse of land and loss of revenue

In terms of the U. P. Melas Act, 1938, as amended, the Officer-in-charge of the Kumbh Mela is authorised to allot sites to any person or class of persons for any purpose not repugnant to the religion with which the Mela is connected and to fix such rent for the site as may appear to him reasonable.

In the course of audit of the accounts of the Officer-in-charge of the Kumbh Mela, Allahabad, it was noticed (May 1977) that an organisation had occupied an area of 16 acres without any formal application for allotment. Even the date of the occupation of the site was not available in the records. No rent for the area was also fixed. However, the organisation on its own accord deposited with the Officer-in-charge of the Kumbh

Mela Rs.5,000 in December 1976. The organisation had sublet the land in question to shop-keepers, traders and others. It was also noticed that it had set up two theatres with a seating capacity of 250 and 500, respectively, entry to which was regulated by sale of tickets, upon which were printed the words "tax-free", at the rate of Rs.2 per ticket. Exemption from payment of entertainment tax was recommended (January 1977) by the District Magistrate but no such exemption was granted by Government (May 1977). However, the Commissioner of Entertainment Tax had stated (January 1977) that till exemption from payment of tax was received from Government, it would only be appropriate to recover the tax at the prescribed rates. The Sector Magistrate concerned issued a notice to the organisers of the exhibition in January 1977 to the effect that since they had let out the land allotted to them they should pay rent at the rate of Rs.5 per sq. ft. for a total area of 7 lakh sq. ft., as decided by the Mela Administration. This notice was, however, stated to have not been accepted by the organisers. Thereupon, the department took up the matter with Government in January 1977. The orders of Government are awaited (November 1977).

The matter was reported to Government in September 1977; reply is awaited (November 1977).

#### TECHNICAL EDUCATION DEPARTMENT

##### 11.5. Non-realisation of rent

By an order issued by Government in September 1969, one of the hostel buildings of the Government Polytechnic, Gorakhpur, was let out to the Gorakhpur University on a monthly rent of Rs.1,588. The University took possession of the building in November 1969. Test check (August 1976) of the accounts records of the Polytechnic disclosed that the rent of the hostel building amounting to Rs.1.29 lakhs for the period November 1969 to July 1976 has not been paid by the University even though the University had been collecting rent from the boarders at the rate of Rs.15 per month and day scholars at the rate of Rs.6 per annum from November 1969. When this was pointed out in audit (August 1976), the department

stated (August 1976) that the rent could not be recovered despite repeated reminders to the University.

The matter was reported to Government in July 1977; reply is awaited (November 1977).

#### HOUSING DEPARTMENT

##### 11.6. Loss of revenue due to non-prescription of compounding fees

For planned development and expansion of the Modinagar area of Meerut district, Government declared (January 1972) 31,157 acres of land in 39 villages in three blocks (Meerut-4, Bhajpur-21 and Muradnagar-14) of Meerut district as regulated area under the U. P. (Regulation of Building Operations) Act, 1958. A Controlling Authority, with Commissioner, Meerut Division, as its Chairman, was formed (January 1972) to plan and implement development and expansion programme.

In the course of audit of the accounts of the Prescribed Authority (Additional District Magistrate), Regulated Area, Meerut (who is executing the work on behalf of the Controlling Authority), it was noticed (June 1976 and October 1976) that there were 259 cases of unauthorised construction from 1973-74 to April 1976. Out of these, 139 cases were detected more than one and a half years ago. Under the U. P. (Regulation of Building Operations) Act, 1958, such unauthorised constructions are either to be demolished or regularised by compounding the cases on payment of fees to be prescribed by the Controlling Authority.

Out of these 259 cases, demolition orders were issued only in 6 cases (in three cases the unauthorised construction was demolished by the owners themselves and the other three cases were under appeal in a court). No compounding fee could be realised from any of the persons responsible for unauthorised construction as the Controlling Authority had not prescribed the rates of compounding fee (November 1977).

The matter was reported to Government in August 1977; reply is awaited (November 1977).

### 11.7. Collection Fund

Under the Uttar Pradesh Co-operative Societies Act, 1965 and the Uttar Pradesh Co-operative Societies Rules, 1968, the Registrar of Co-operative Societies or any other person subordinate to him and empowered by him in that behalf may make recoveries of co-operative debts or outstanding demands from judgment debtors on behalf of the co-operative societies. While recovering the amount of debt or outstanding demand, collection charges due to Government at the prescribed rates are also required to be realised and deposited in the treasury under the appropriate head.

It was noticed (July 1976) in audit that in the year 1962, the Commissioner of Faizabad Division approved a scheme whereby the collection charges were to be deposited in the District Co-operative Banks in the names of the Assistant/Deputy Registrar concerned. The various expenses like wages of collection staff, purchase and maintenance of vehicles and other contingent expenditure to be incurred in connection with the collection of co-operative debts or outstanding demands were to be met out of the collection charges. The scheme was initially in vogue in Faizabad Division which was extended in June 1966 by the Registrar of Co-operative Societies to the whole of Uttar Pradesh, excepting some hill districts. This arrangement still continues despite the enactment of the Uttar Pradesh Co-operative Societies Act, 1965 and the Uttar Pradesh Co-operative Societies Rules, 1968, with the result that substantial Government revenues are kept out of the Government account. According to the Registrar of Co-operative Societies, Rs.78.72 lakhs were held in deposit in the various District Co-operative Banks in the State on 30th June 1976 on account of collection charges. A test audit of records in the office of the Assistant Registrar, Sultanpur, revealed (April 1977) that the collection charges realised during the year 1975-76 amounted to Rs.1.41,006. out of which Rs.96,473 were spent (Rs.69,271 as wages of staff and Rs.27,202 on the running of the jeep) in the collection of the dues.

The continuance of the scheme of keeping the amount of collection charges in a Collection Fund outside the Government account and incurring expenditure therefrom is against the provisions of the U. P. Co-operative Societies Act and the rules framed thereunder and is fraught with risk of fraud and misappropriation, in the absence of any legislative and budgetary control. It is also against the provisions of the financial rules inasmuch as departmental receipts are appropriated towards departmental expenditure. This Fund is stated by the department to be outside the purview of audit also on the ground that it does not form part of the Consolidated Fund of the State.

The matter was reported to Government in May 1977. Government stated (July 1977) that the case was being examined in consultation with the Departments of Law and Finance.

ALLAHABAD,

The

27 FEB 1978

(O. P. GOEL)

Accountant General-III,

Uttar Pradesh

Countersigned

NEW DELHI,

The

28 FEB 1978

(A. BAKSI)

Comptroller and Auditor General of India

# APPENDIX

APPENDIX

## APPENDIX

(Reference : Paragraph 1.10; page 17)

*Statement showing cost of collection under the principal heads of revenue*

Head of account	Year	Gross collection	Expenditure on collection	Percentage of expenditure on collection
<i>(In crores of rupees)</i>				
1. Other Taxes on Income and Expenditure	1974-75	0.16	0.07	44
	1975-76	0.54	0.06	11
	1976-77	0.16	0.05	31
2. Land Revenue	1974-75	31.11	6.36	20
	1975-76	40.37	7.32	18
	1976-77	39.55	8.92	23
3. Stamps and Registration Fees	1974-75	27.65	0.77	3
	1975-76	25.96	0.73	3
	1976-77	37.75	0.83	2
4. Taxes on Immovable Property other than Agricultural Land	1974-75	0.02	0.01	50
	1975-76	0.25	0.01	4
	1976-77	0.04	0.01	25
5. State Excise	1974-75	38.96	0.88	2
	1975-76	48.78	0.98	2
	1976-77	64.06	1.23	2
6. Sales Tax	1974-75	1,35.42	2.19	2
	1975-76	2,08.26	2.78	1
	1976-77	2,43.17	3.12	1
7. Taxes on Vehicles	1974-75	13.42	0.22	2
	1975-76	17.23	0.25	1
	1976-77	17.51	0.29	2
8. Taxes on Goods and Passengers	1974-75	14.26	0.18	1
	1975-76	23.36	0.19	1
	1976-77	26.35	0.30	1
9. Taxes and Duties on Electricity	1974-75	2.09	0.16	8
	1975-76	10.94	0.18	2
	1976-77	5.83	0.18	3
10. Other Taxes and Duties on Commodities and Services	1974-75	12.91	0.12	1
	1975-76	17.67	0.14	1
	1976-77	20.24	0.17	1
11. Forests	1974-75	17.83	2.00	11
	1975-76	37.02	2.12	6
	1976-77	39.04	2.27	6



