

**REPORT**

**OF THE**

**COMPTROLLER AND AUDITOR GENERAL**

**OF INDIA**

**FOR THE YEAR**

**1985-86**

**REVENUE RECEIPTS**

**GOVERNMENT OF WEST BENGAL**

IX  
53-8-13

Recd from Mr.  
Finance (B) Dept  
on 13.4.89 vide  
Ldgy. File No. 68-1/89 W B  
Pa. MP,  
[Rs. 18200  
Freight]



69883

## TABLE OF CONTENTS

	Paragraph	Page
<b>PREFATORY REMARKS . . . . .</b>		(v)
<b>CHAPTER 1—GENERAL</b>		
Revenue receipts . . . . .	1.1	1
Analysis of revenue receipts . . . . .	1.2	1
Tax revenue raised by the State . . . . .	1.3	2
Non-tax revenue raised by the State . . . . .	1.4	2
Variations between budget estimates and actual receipts	1.5	3
Cost of collection . . . . .	1.6	5
Outstanding inspection reports . . . . .	1.7	5
<b>CHAPTER 2—SALES TAX</b>		
Results of Audit . . . . .	2.1	8
Under-assessment of tax due to acceptance of 'D' forms issued by a co-operative organisation	2.2	8
Inter-State sales escaping assessment . . . . .	2.3	9
Irregular grant of exemption from levy of tax . . . . .	2.4	9
Under-assessment of tax due to irregular deductions . .	2.5	10
Turnover escaping assessment . . . . .	2.6	12
Short levy due to mistakes in computation . . . . .	2.7	15
Application of incorrect rates of tax . . . . .	2.8	17
Under-assessment due to failure to detect errors in decla- ration and covering statements	2.9	19
Non-levy or short-levy of purchase tax . . . . .	2.10	24
Non-levy or short-levy of turnover tax . . . . .	2.11	26
Evasion of tax . . . . .	2.12	32
Non-levy of interest on belated payment of tax . . .	2.13	33
<b>CHAPTER 3—LAND REVENUE</b>		
Results of Audit . . . . .	3.1	35
Settlement of Government <i>hats</i> /markets with Regulated Market Committees	3.2	35
Handing over of land to an association without lease agreement	3.3	36
Delay in settlement of vested non-agricultural land . .	3.4	37
Non-renewal of long term lease . . . . .	3.5	38

	Paragraph	Page
Non-renewal of short term lease . . . . .	3.6	39
Non-realisation of licence fee from stall-holders . . .	3.7	40
Non-realisation of rent and cesses from a company . .	3.8	40
Short realisation of education cess . . . . .	3.9	41
Non-realisation of damage compensation . . . . .	3.10	41
Non-realisation of interest for delay in payments . . .	3.11	42
<b>CHAPTER 4—MINES AND MINERALS</b>		
Results of Audit . . . . .	4.1	44
Under-assessment/non-assessment of royalty . . . .	4.2	44
Non-realisation of price of minor minerals unauthorisedly extracted	4.3	46
Non-realisation of surface rent . . . . .	4.4	47
Non-levy of interest on belated payment of royalty . .	4.5	48
<b>CHAPTER 5—MOTOR VEHICLES TAX</b>		
Results of Audit . . . . .	5.1	49
Short realisation of tax due to incorrect fixation of registered laden weight	5.2	49
Loss of revenue due to irregular fixation of seating capacity of mini-buses	5.3	50
Non-levy of road tax on military disposal vehicles from the date of purchase	5.4	50
Short realisation of road tax . . . . .	5.5	51
Short levy of road tax on Ambassador taxis . . . .	5.6	51
Irregular remission of tax . . . . .	5.7	52
Non-levy or short levy of penalty . . . . .	5.8	53
Non-levy of fee for countersignature of permit . . . .	5.9	54
Penal fee for renewal applied after expiry of validity of a fitness certificate not prescribed—lacuna in the rules	5.10	54
<b>CHAPTER 6—STATE EXCISE</b>		
Results of Audit . . . . .	6.1	56
Non-realisation of duty on transit shortages of India-made foreign liquor	6.2	56
Short levy of duty on storage wastage of rectified spirit	6.3	57
Short realisation of duty on beer . . . . .	6.4	57

	Paragraph	Page
Non-realisation of annual licence fee in advance . . . . .	6.5	58
Non-recovery of additional licence fee . . . . .	6.6	58
Excessive refund of privilege fee . . . . .	6.7	58
Non-levy of tree tax . . . . .	6.8	59
<b>CHAPTER 7—ENTRY TAX</b>		
Results of Audit . . . . .	7.1	61
Non-levy of tax on entry of sugar . . . . .	7.2	61
Under-charge of tax due to error in computation . . .	7.3	62
Non-realisation of tax and penalty . . . . .	7.4	62
Ineffective control over goods entering into Calcutta metropolitan area for repair	7.5	63
<b>CHAPTER 8—OTHER TAX AND NON-TAX RECEIPTS</b>		
<b>A—Amusement Tax</b>		
Non-levy of entertainment tax . . . . .	8.1	65
Non-realisation of tax . . . . .	8.2	65
<b>B—Stamps and Registration</b>		
Short levy of stamp duty due to mis-classification of instruments	8.3	66
Grant of discount on sale of stamps to unlicensed vendor	8.4	68
Loss of non-judicial stamps in transit . . . . .	8.5	68
<b>C—Professions Tax</b>		
Administration of Professions Tax . . . . .	8.6	69
Introductory . . . . .	8.6.1	69
Trend of revenue . . . . .	8.6.2	70
Status of registration and enrolment . . . . .	8.6.3	70
Face of assessment . . . . .	8.6.4	71
Defaulting tax payers . . . . .	8.6.5	72
Evasion of tax due to non-enrolment . . . . .	8.6.6	74
Realisation of tax at incorrect rates . . . . .	8.6.7	76
Tax for pre-enrolment period . . . . .	8.6.8	77
Interest and penalty on belated payment of tax . . .	8.6.9	77
Penalty for delay in enrolment . . . . .	8.6.10	78

	Paragraph	Page
<b>D—Electricity Duty</b>		
Assessment and collection of electricity duty . . . . .	8.7	79
Introductory . . . . .	8.7.1	79
Trend of revenue . . . . .	8.7.2	79
Arrears in assessment . . . . .	8.7.3	80
Non-submission of returns and non-payment of duty	8.7.4	81
Under-charge of duty due to application of incorrect rate	8.7.5	83
Irregular payment of rebate . . . . .	8.7.6	83
Adjustments admitted without verification . . . . .	8.7.7	84
Irregular grant of exemption . . . . .	8.7.8	85
Loss of revenue due to claim being not submitted within the specified date	8.7.9	86
Dues outstanding against ex-licensees . . . . .	8.7.10	86
Reconciliation of credits . . . . .	8.7.11	87
<b>E—Departmental Receipts</b>		
Loss of revenue due to realisation of toll at compounded rates	8.8	87
Non-recovery of cost of audit establishment on deposit works	8.9	89

## **PREFATORY REMARKS**

The Audit Report on Revenue Receipts of the Government of West Bengal for the year 1985-86 is presented separately in this volume. The contents of this report are arranged in the following order :

- (i) Chapter 1 deals with the trend of receipts classifying them under tax and non-tax revenues raised by the State Government and the receipts from the Government of India. It also highlights variations between the budget estimates and the actuals under principal heads of revenue;
- (ii) Chapters 2 to 8 bring out certain cases and points of interest that came to notice during audit of Sales Tax, Land Revenue, Mines and Minerals, Taxes on Vehicles, State Excise, Entry Tax and other tax and non-tax receipts.





## CHAPTER 1

### GENERAL

#### 1.1. Revenue receipts

During the year 1985-86, total receipts of the Government of West Bengal amounted to Rs.2,343.23 crores, comprising revenue raised by the State Government (Rs.1,310.46 crores) and receipts from Government of India towards State's share of divisible Union taxes and grants-in-aid (Rs.1,032.77 crores). The total receipts during the year 1985-86 (Rs.2,343.23 crores) went up by 31.7 per cent over those in the preceding year 1984-85 (Rs.1,778.60 crores).

#### 1.2. Analysis of revenue receipts

An analysis of the receipts during 1985-86, along with the corresponding figures for the preceding year 1984-85, is given below :

		1984-85		1985-86	
		Amount (In crores of rupees)	Percent- age of revenue raised by State Govern- ment/ receipts from Gov- ernment of India	Amount (In crores of rupees)	Percent- age of revenue raised by State Govern- ment/ receipts from Gov- ernment of India
<b>I Revenue raised by State Govern- ment :</b>					
(a) Tax revenue	..	966.03	87.06	1,123.77	85.75
(b) Non-tax revenue	...	143.60	12.94	186.69	14.25
Total	..	1,109.63	100.00	1,310.46	100.00
<b>II Receipts from Government of India :</b>					
(a) State's share of divisible Union taxes		472.42	70.62	623.52	60.37
(b) Grants-in-aid	...	196.55	29.38	409.25*	39.63
Total	...	668.97	100.00	1,032.77	100.00
III Total receipts (I+II)	...	1,778.60		2,343.23	
IV (a) Percentage of State's own revenue to total receipts			62.39		55.93
(b) Percentage of receipts from Gov- ernment of India to total receipts			37.61		44.07

\* For details, please refer to—Statement No. 11 "Detailed Account of Revenue by Minor Heads" in the Finance Accounts of the Government of West Bengal, 1985-86.

### 1.3. Tax revenue raised by the State

An analysis of tax receipts, which comprised 85.75 per cent of the total revenue raised by the State during 1985-86, is given below. The figures for the year 1984-85 have also been indicated for purposes of comparison :

Nature of tax revenue					Amount collected		Increase/ decrease in 1985-86 with reference to 1984-85	
					1984-85	1985-86		
(In crores of rupees)								
1.	Taxes on Agricultural Income				...	9.63	18.92	9.29
2.	Other Taxes on Income and Expenditure					26.09	30.48	4.39
3.	Land Revenue	...	...	...		115.47	126.23	10.76
4.	Stamps and Registration Fees				...	48.76	58.14	9.38
*5.	Taxes on Immovable Property				...	0.48	0.48	...
6.	State Excise	...	...	...		77.41	65.98	(11.43)
7.	Sales Tax	...	...	...		536.87	630.19	93.32
8.	Taxes on Vehicles				...	32.82	37.94	5.12
9.	Taxes on Goods and Passengers				...	63.01	74.16	11.15
10.	Taxes and Duties on Electricity				...	13.58	36.50	22.92
11.	Other Taxes and Duties on Commodities and Services					41.91	44.75	2.84
Total					...	966.03	1,123.77	157.74

### 1.4. Non-tax revenue raised by the State

The major sources of non-tax revenue collected by the State are interest, police, education, medical, housing, social security and welfare, minor irrigation, soil conservation and area development, dairy development, forest, industries, mines and minerals and roads and bridges. Receipts of non-tax revenue during 1985-86 constituted 14.25 per cent of the total revenue raised by the State.

\* This head accommodates receipts under the West Bengal Multi-storeyed Building Tax Act, 1975.

Figure in bracket indicates decrease.

An analysis of non-tax revenue raised during 1985-86, along with the figures for the preceding year 1984-85, is given below :

Nature of non-tax revenue				Amount collected		Increase/ decrease in 1985-86 with refer- ence to 1984-85
				1984-85	1985-86	
(In crores of rupees)						
1.	Interest	...	...	30.85	29.83	(1.02)
2.	Police	...	...	4.73	8.83	4.10
3.	Education	...	...	2.80	3.00	0.26
4.	Medical	...	...	13.95	8.21	(5.74)
5.	Housing	...	...	3.31	7.73	4.42
6.	Social Security and Welfare	...	...	7.47	40.96	33.49
7.	Minor Irrigation, Soil Conservation and Area Development			3.41	3.70	0.29
8.	Dairy Development	...	...	18.65	19.67	1.02
9.	Forest	...	...	21.16	25.13	3.97
10.	Industries	...	...	3.34	3.59	0.25
11.	Mines and Minerals	...	...	3.92	3.64	(0.28)
12.	Roads and Bridges	...	...	1.88	2.71	0.83
13.	Others	...	...	28.13	29.63	1.50
Total				143.60	186.69	43.09

### 1.5. Variation between budget estimates and actual receipts

The table below compares the actual receipts with budget estimates for the year 1985-86 :

Nature of receipts		Budget estimates	Actuals	Variation excess/shortfall	Percentage of variation
(In crores of rupees)					
(A) Total Receipts					
I. State's own resources					
(a) Tax revenue	...	1,071.77	1,123.77	52.00	4.85
(b) Non-tax revenue	...	171.14	186.69	15.55	9.09
II. Receipts from Government of India					
(a) Share of Union taxes	....	548.45	623.52	75.07	13.69
(b) Grants-in-aid	...	405.86	409.25	3.39	0.84
Total		2,197.22	2,343.23	146.01	6.64

Figures in brackets indicate shortfall

Nature of receipts		Budgets estimates	Actuals	Variation excess/ shortfall	Percen- tage of variation
(in crores of rupees)					
<b>(B) Tax Receipts</b>					
1.	Taxes on Agricultural Income	10.00	18.92	8.92	89.20
2.	Other Taxes on Income and Expenditure	33.60	30.48	(3.12)	(9.29)
3.	Land Revenue ... ..	115.29	126.23	10.94	9.49
4.	Stamps and Registration Fees	52.26	58.14	5.88	11.25
5.	Taxes on Immovable Property	0.72	0.48	(0.24)	(33.33)
6.	State Excise ... ..	91.40	65.98	(25.42)	(27.81)
7.	Sales Tax ... ..	610.00	630.19	20.19	3.31
8.	Taxes on Vehicles ... ..	34.11	37.94	3.83	11.23
9.	Taxes on Goods and Passengers	63.28	74.16	10.88	17.19
10.	Taxes and Duties on Electricity	19.13	36.50	17.37	90.80
11.	Other Taxes and Duties on Com- modities and Services	41.98	44.75	2.77	6.60
	<b>Total ...</b>	<b>1,071.77</b>	<b>1,123.77</b>	<b>52.00</b>	<b>4.85</b>
<b>(C) Non-Tax Receipts</b>					
1.	Interest ... ..	30.82	29.83	(0.99)	(3.21)
2.	Police ... ..	5.69	8.83	3.14	55.18
3.	Education ... ..	3.16	3.06	(0.10)	(3.16)
4.	Medical ... ..	20.56	8.21	(12.35)	(60.07)
5.	Housing ... ..	4.01	7.73	3.72	92.77
6.	Social Security and Welfare ...	8.44	40.96	32.52	385.31
7.	Minor Irrigation, Soil Conserva- tion and Area Development	5.00	3.70	(1.30)	(26.00)
8.	Dairy Development ... ..	21.03	19.67	(1.36)	(6.47)
9.	Forest ... ..	26.00	25.13	(0.87)	(3.35)
10.	Industries ... ..	4.15	3.59	(0.56)	(13.49)
11.	Mines and Minerals ... ..	2.19	3.64	1.45	66.21
12.	Roads and Bridges ... ..	2.17	2.71	0.54	24.88
13.	Others ... ..	37.92	29.63	(8.29)	(21.86)
	<b>Total ...</b>	<b>171.14</b>	<b>186.69</b>	<b>15.55</b>	<b>9.09</b>

Figures in brackets indicate shortfall

The wide variation in the case of taxes and duties on electricity was attributed (March 1987) by the department to realisation of arrears from the West Bengal State Electricity Board and the Calcutta-based licensee. The variation in the case of non-tax receipts under Social Security and Welfare was stated by the department (February 1987) to be due to conversion of a loan of Rs.35.50 crores into grant by the Government of India. The reasons for variation in excess of 10 per cent in the remaining cases, though called for from the departments, are awaited (June 1987).

### 1.6. Cost of collection

The expenditure incurred on collections under the principal heads of revenue and the percentages of cost of collection to gross collection during the years 1984-85 and 1985-86 are tabulated below :

Receipt head	Gross collection		Expenditure on collection		Percentage of cost of collection to gross collection	
	1984-85	1985-86	1984-85	1985-86	1984-85	1985-86
(In crores of rupees)						
1. Taxes on Agricultural Income	9.63	18.92	0.35	1.25	3.6	6.6
2. Other Taxes on Income and Expenditure	26.09	30.48	0.32	0.45	1.2	1.5
3. Land Revenue ...	115.47	126.23	9.60	8.63	8.3	6.8
4. Stamps and Registration Fees	48.76	58.14	5.05	5.45	10.4	9.4
5. State Excise ...	77.41	65.98	4.51	5.16	5.8	7.8
6. Sales Tax ...	536.87	630.19	4.80	5.79	0.9	0.9
7. Taxes on Vehicles ...	32.82	37.94	0.92	1.13	2.8	3.0
8. Taxes on Goods and Passengers	63.01	74.16	2.73	2.16	4.3	2.9
9. Taxes and Duties on Electricity	13.58	36.50	0.34	0.44	2.5	1.2
10. Other Taxes and Duties on Commodities and Services	41.91	44.75	0.40	0.27	1.0	0.6
11. Forest ...	21.16	25.13	1.99	2.84	9.4	11.3

### 1.7. Outstanding inspection reports

1.7.1. Audit observations on incorrect assessments, under-assessments, non-levy or short levy of taxes, duties, fees and other revenue receipts as well as on irregularities and deficiencies in initial

accounts and records of assessments noticed during local audit, which are not settled on the spot, are communicated to heads of offices and to higher authorities through inspection reports for prompt settlement. The more important financial irregularities are also brought to the notice of heads of departments and the Government for taking prompt corrective measures. Government have prescribed that first replies to the inspection reports should be sent by heads of offices to heads of departments within three weeks from the date of receipt of the inspection report. The heads of departments, in turn, are required to transmit the replies, along with their comments, to the Accountant General within two months from the date of receipt of the replies from their subordinate offices. Half-yearly statements of audit objections, awaiting settlement for want of final replies from the departmental authorities, are also forwarded to Government in June and December every year for expediting clearance of outstanding objections.

1.7.2. The number of inspection reports and audit objections with money values, issued up to March 1986 but not settled by the departments to end of September 1986, together with corresponding figures for the preceding two years, are given below :

	Outstanding at the end of September		
	1984	1985	1986
Number of inspection reports ...	2,135	2,071	1,342
Number of audit objection with money values ...	2,369	2,452	2,203
Money value of objections (in crores of rupees) ...	90.72	63.23	68.04

1.7.3. Receipt-wise break-up of the inspection reports and audit objections (with money values) issued up to March 1986 but remaining outstanding for settlement at the end of September 1986 is given below :

Head of receipt	Number of inspection reports	Number of audit objections	Amount (In crores of rupees)
1. Agricultural Income Tax ...	42	24	0.76
2. Land Revenue ...	103	453	23.91
3. Stamps and Registration Fees ...	360	166	0.15
4. Non-judicial stamps ...	28	15	0.09
5. State Excise ...	79	56	1.14
6. Sales Tax ...	248	779	16.53
7. Professions Tax ...	15	26	0.48
8. Motor Vehicles Tax ...	140	339	2.99
9. Entry Tax ...	58	75	2.21
10. Electricity Duty ...	92	21	6.87
11. Amusement Tax ...	47	62	1.79
12. Departmental Receipts ...	130	187	11.52
Total ...	1,342	2,203	68.04

1.7.4. Out of 1,342 inspection reports awaiting settlement, even first replies had not been received (March 1987) in respect of 957 reports containing 3,323 audit objections with and without money values. Receipt-wise break-up of the objections is given below :

Head of receipt			Number of inspection reports	Number of audit objections	Earliest year to which reports relate
1.	Agricultural Income Tax	...	42	87	1980-81
2.	Land Revenue	...	103	1,133	1980-81
3.	Stamps and Registration Fees	...	69	90	1977-78
4.	Non-judicial stamps	...	15	16	1979-80
5.	State Excise	...	68	50	1981-82
6.	Sales Tax	...	248	779	1979-80
7.	Professions Tax	...	15	30	1984-85
8.	Motor Vehicles Tax	...	140	615	1978-79
9.	Entry Tax	...	126	299	1978-79
10.	Electricity Duty	...	12	23	1982-83
11.	Amusement Tax	...	26	61	1980-81
12.	Departmental Receipts	...	93	140	1979-80
Total			957	3,323	

1.7.5. In the following case, where audit objections were raised five to six years ago, no rectificatory action had been taken by the departments so far :

Head of receipt			Year of objection	Number of audit objections	Amount (In lakhs of rupees)
1.	Land Revenue	...	1980-81	11	82.59
2.	Stamps and Registration Fees	...	1979-80	31	0.15
		...	1980-81	38	8.96
3.	Non-judicial Stamps	...	1979-80	1	0.01
		...	1980-81	3	0.12
4.	Motor Vehicles Tax	...	1980-81	13	4.47
5.	Agricultural Income Tax	...	1980-81	2	0.15
6.	Amusement Tax	...	1980-81	1	0.36
7.	Departmental Receipts	...	1979-80	3	1.76
Total				103	98.57

## CHAPTER 2

## SALES TAX

## 2.1. Results of Audit

Test check of accounts of sales tax receipts in commercial tax offices, conducted in audit during 1985-86, revealed non-assessments| under-assessments of tax amounting to Rs.101.93 lakhs in 119 cases, which broadly fall under the following categories :

			Number of cases	Amount (In lakhs of rupees)
1. Irregular grant of exemptions from tax	...	...	14	20.28
2. Incorrect determination of gross taxable turnover	...	...	8	4.75
3. Application of incorrect rates of tax	...	...	16	8.06
4. Non-levy or short levy of turnover tax	...	...	24	7.90
5. Non-levy of purchase tax	...	...	4	23.11
6. Incorrect computation of tax	...	...	10	8.12
7. Other cases	...	...	43	29.71
Total			119	101.93

Audit findings were reported to the Government between August 1985 and October 1986. While comments of the Government in respect of 44 cases had been received in October and December 1986, their reply in the remaining cases is awaited (June 1987).

Some of the important cases are mentioned in the following paragraphs.

## 2.2. Under-assessment of tax due to acceptance of 'D' form issued by a co-operative organisation

Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales of general goods to Government are taxable at the concessional rate of 4 per cent provided such sales are supported by prescribed certificate in form 'D' obtained from the purchasing Government department. Co-operative societies, not being Government departments, are not eligible to issue certificates in form 'D' and accordingly, sales to them are taxable at the rate of 10 per cent or State rate of tax, whichever is higher.

In assessing (February 1984) a dealer of Calcutta for the assessment year ended 31st March 1980, inter-State sales aggregating Rs.20,73,390 to a co-operative organisation were incorrectly assessed at the concessional rate of 4 per cent against certificates in form 'D' furnished by the organisation. This resulted in under-assessment of tax of Rs.1,19,619.



On this being pointed out in audit (February 1985), the department stated (March 1985) that the dealer's business had gone into liquidation; however, necessary action was being taken. Further report is awaited (June 1987).

The case was reported to Government in June 1986; their reply is awaited (June 1987).

### **2.3. Inter-State sales escaping assessment**

Under the Central Sales Tax Act, 1956, inter-State sale of general goods to registered dealers is taxable at four per cent subject to production of prescribed declaration. Such sales to unregistered dealers are, however, taxable at ten per cent or State rate of tax, whichever is higher.

In assessing (March 1984) a dealer of Calcutta for the assessment year ended 31st March 1980, his claim for deduction on account of labour charges for an amount of Rs.31.55 lakhs was allowed on the basis of statements of sale bills filed by him. Scrutiny of the statements, however, revealed that the claim included inter-State sales aggregating Rs.17.91 lakhs comprising sales to registered dealers (Rs.11.83 lakhs) and to unregistered dealers (Rs.6.08 lakhs). Failure to detect these mistakes led to under-assessment of tax amounting to Rs.1,08,084.

On this being pointed out in audit (July 1985), the department reviewed the assessment and realised Rs.1,07,084 in August 1985. Report on realisation of the balance amount of Rs.1,000 is awaited (June 1987).

The matter was reported to Government in May 1986; their reply is awaited (June 1987).

### **2.4. Irregular grant of exemption from levy of tax**

Under the Bengal Finance (Sales Tax) Act, 1941, tax is not leviable on sale of goods included in Schedule I to the Act, subject to certain conditions and exceptions. Goods not included in any of the Schedules to the Act are taxable at the general rate of 8 per cent. Green tea leaf is not included in any of the Schedules; accordingly, on its sale, tax is leviable at 8 per cent.

In assessing (November 1984) a dealer in Darjeeling district for the year ended December 1980, his sales of green tea leaves amounting to Rs.3.51.018 were erroneously exempted from levy of tax. The irregular grant of exemption resulted in tax amounting to Rs.27.801 (including turnover tax) not being realised,

On this being pointed out in audit (September 1985), Government stated (October 1986) that the assessment had been reviewed and revised demand raised against the dealer in September 1986. Report on recovery is awaited (June 1987).

## 2.5. Under-assessment of tax due to irregular deductions

(i) Under the Central Sales Tax Act, 1956, in determining the taxable turnover of a dealer a deduction for the element of tax is allowed, according to a formula prescribed in section 8A(I)(a), from the aggregate of sale prices provided the tax collected by the dealer has not otherwise been deducted from the aggregate of sale prices. According to the formula, the amount of deduction varies directly with the rate of tax leviable. It was held by the Andhra Pradesh High Court in the case of *Rallies India Ltd. vs. the State of Andhra Pradesh* (53-STC-267) that the deduction was not admissible unless the dealer could prove that the turnover included central sales tax.

- (a) In six assessment cases of five dealers of Calcutta for assessment years ended between March 1979 and March 1980 (assessments completed between February 1983 and February 1984), the dealers' claims for deduction on account of (i) sales in the course of export, (ii) transfers of goods to branches outside West Bengal and (iii) subsequent sales of goods during their movement to other States, amounting to Rs.586.69 lakhs were disallowed by the assessing authorities for lack of required documentary evidences and prescribed declarations. The sales were, accordingly, subjected to tax at 10 per cent and 12 per cent as applicable. However, while determining the taxable turnover, deductions aggregating Rs.61.28 lakhs, computed on the basis of the said formula were allowed. Since no tax could have been collected on the transactions in question, the grant of deductions was irregular and resulted in tax amounting to Rs.7,17,537 being under-assessed.

On these cases being pointed out in audit (during January to July 1985), the department stated (between February and August 1985) that (i) action was being taken for revision of the assessment orders in three cases and (ii) two cases were being examined. Final outcome in these cases is awaited (June 1987). In regard to the remaining one case, the department stated (February 1985) that (i) the contention of audit that the deduction under section 8A of the Central Sales Tax Act, 1956 was not admissible unless the dealer could prove that his sale

prices included the Central sales tax was not legally funded and (ii) when a particular transaction was treated as a sale, the value of such transaction was also treated automatically to be inclusive of the Central sales tax. The above arguments of the department do not hold good since (i) there was already a judicial pronouncement on the point as cited above and (ii) there could not be any question of treating any sale value being automatically inclusive of Central sales tax in respect of any goods on the sale of which no tax was chargeable under the Central Sales Tax Act. Further, in the three other similar cases, as mentioned above, the department has already accepted the audit view and initiated action to revise the assessments.

- (b) In seven assessment cases of six dealers of Calcutta, for assessment years ended between March 1979 and March 1980 (assessments completed between February 1983 and March 1984), claims by the dealers for deduction on account of inter-State sales amounting to Rs.186.48 lakhs, made at the concessional rate of tax of 4 per cent to Government departments and registered dealers, were disallowed by the assessing authorities for non-production of prescribed certificates and declarations. The disallowed turnover was, accordingly, charged to tax at 10 per cent. However, while determining the taxable turnover, deductions aggregating Rs.16.95 lakhs computed on the basis of the said formula appropriate to the higher rate of tax of 10 per cent were wrongly allowed. The amount of deduction correctly allowable, on the basis of the said formula appropriate to the concessional rate of tax of 4 per cent, worked out to Rs.7.15 lakhs only. The incorrect allowance of excessive deduction by an amount of Rs.9.80 lakhs in these cases led to under-assessment of tax amounting to Rs.97,989.

On these cases being pointed out in audit (March to July 1985), the department admitted (June to August 1985) the mistakes in five cases and proposed to take steps for rectification. Results of rectificatory action taken is awaited (June 1987). In the remaining two cases, the department agreed (May and October 1985) to re-examine the assessment orders; further report is awaited June 1987).

The above cases were reported to Government in May and June 1986; their reply is awaited (June 1987).

(ii) Under the Central Sales Tax Act, 1956, sales tax is leviable on the turnover comprising sale prices realised or realisable by a dealer by way of consideration for sale of any goods, less any cash discount allowed according to normal trade practice. Any amount allowed by way of a 'trade offer', which is in the nature of an incentive to boost sales, does not qualify for deduction from sale price in determining the turnover.

In assessing (March 1984) a Calcutta-based dealer for the assessment year ended 31st March 1980, an amount of Rs.3,35,523, representing 'trade offer' allowed by the dealer to his customers, was erroneously deducted while determining his turnover. The irregular deduction resulted in under-assessment of tax by Rs.33,552.

On this being pointed out in audit (October 1985), Government stated (October 1986) that revision proceedings had since been initiated. Further development is awaited (June 1987).

(iii) Under the Bengal Finance (Sales Tax) Act, 1941, any sale connected with or incidental or ancillary to any trade, commerce, manufacture, adventure or concern is liable to tax.

In assessing (March 1984) a Calcutta-based dealer on his turnover for the year ended March 1980, sale proceeds of his motor car amounting to Rs.1,74,300 were excluded from his gross turnover. Since sale of a business asset is incidental to the business of a dealer, exclusion of the sale proceeds of motor car from the gross turnover in this case was irregular and resulted in under-assessment of tax amounting to Rs.11,408.

On this being pointed out in audit (March 1985), Government stated (October 1986) that the assessment was being revised after inclusion of the sale proceeds of the motor car. Further development is awaited (June 1987).

## **2.6. Turnover escaping assessment**

(i) Under the provisions of the Bengal Finance (Sales Tax) Act, 1941, sales tax is leviable on the sale prices or parts thereof receivable or, at the option of a dealer, actually received by him during any year less the permissible deductions.

(a) While assessing (December 1978) a Calcutta-based dealer for the assessment year ended 31st December 1975, his sale of tea amounting to Rs.212.96 lakhs was not considered in arriving at his gross turnover since the proceeds were actually received by him in the subsequent year (1976). In the assessment for the year ended 31st December 1976, made in September 1979, however, sales amounting to Rs.193.64 lakhs (out of Rs.212.96

lakhs) only were taxed. This led to escapement of tax on the remaining sales of Rs.19.32 lakhs. Tax under-assessed amounted to Rs.1,20,512 (including surcharge).

On this being pointed out in audit (January 1984), the department initiated (June 1984) review proceedings which were finalised in May 1985 and the amount under-charged demanded from the dealer in February 1986. Report on realisation is awaited (June 1987).

The matter was reported to Government in June 1984; their reply is awaited (June 1987).

(b) In the assessment (October 1984) of a dealer of Calcutta for the assessment year ended K.B. 2037 (corresponding to 21st October 1979 to 7th November 1980), his taxable turnover was incorrectly determined at Rs.2,99,746, instead of at Rs.7,99,746 and tax assessed accordingly. The error resulted in turnover amounting to Rs.5,00,000 escaping assessment and consequent under-charge of tax by Rs.19,250.

On this being pointed out in audit (July 1985), Government stated (October 1986) that revision proceedings had since been initiated. Further report is awaited (June 1987).

(ii) Paper of all varieties and descriptions (except certain specified categories) is a notified commodity under the West Bengal Sales Tax Act, 1954 and is exigible to tax at 9 per cent. On sales of paper to unregistered dealers made in the course of inter-State trade or commerce under the Central Sales Tax Act, 1956, tax is leviable at 10 per cent.

On an investigation made in February 1983 at the premises of a dealer, it was established by the departmental Bureau of Investigation that, during the three years ended March 1983, the dealer had suppressed taxable sales of imported paper, made both within and outside West Bengal, amounting to Rs.1,12,38,501 and had thereby evaded tax amounting to Rs.9,28,341. In December 1984, while completing the assessments of the dealer for those three years on the basis of relevant factors including the Bureau's report, the assessing officer, however, erroneously took the amount of tax reportedly evaded as the amount of taxable sales suppressed and levied tax accordingly. This led to tax being under-charged by Rs.8,51,651.

On the mistake being pointed out in audit (April 1985), Government stated (October 1986) that revision proceedings had since been initiated. Further progress is awaited (June 1987).

(iii) Sales of locally-purchased fertilisers or drugs, which are notified commodities under the West Bengal Sales Tax Act, 1954, are exempt from tax. Pesticides were declared as a notified commodity only with effect from 1st July 1984. Accordingly, sale of pesticides prior to 1st July 1984 was exigible to tax at eight per cent as general goods under the Bengal Finance (Sales Tax) Act, 1941.

It was noticed in audit that while assessing (March 1984 and February 1985) a dealer in Malda district for two assessment years ended 1386 B.S. and 1387 B.S. (corresponding to 13th April 1980 to 13th April 1982), sales of gammexane (pesticides) amounting to Rs.3.08 lakhs during the said assessment years were allowed deductions by incorporating in the list of sales of locally-purchased fertilisers (notified commodity). As gammexane (pesticides) was not a notified commodity prior to 1st July 1984, its sale was not entitled to deduction. The omission resulted in under-assessment of tax amounting to Rs.22,858.

On this being pointed out in audit (March 1986), the department contended (March 1986) that gammexane (pesticides) fell under the category of 'drugs' which was notified commodity; hence the exemption allowed was in order. The contention of the department is not tenable since pesticides are different from drugs and they (pesticides) were declared notified commodity only with effect from 1st July 1984.

The case was reported to Government in May 1986; their reply is awaited (June 1987).

(iv) Under the Central Sales Tax Act, 1956, a dealer is liable to pay tax at prescribed rates on his turnover representing inter-State sales after allowing the admissible deductions.

- (a) While finalising (September 1984) the assessment of a Calcutta-based dealer for the year ended December 1980 under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954, the assessing officer deducted, from the dealer's gross turnover, Rs.4,40,000 representing inter-State sales effected by him during the year. However, by mistake, inter-State sales amounting to Rs.2,40,000 only were assessed under the Central Sales Tax Act, resulting in escapement of turnover of Rs.2,00,000 from levy of tax and consequent under-assessment of tax amounting to Rs.18,182.

On this being pointed out in audit (August 1985), the department admitted (October 1985) the mistake and agreed to take necessary action for recovery of the amount. Further report is awaited (June 1987).

- (b) In assessing (March 1985) a dealer of Calcutta for the assessment year ended 31st March 1981, tax was erroneously computed on a turnover of Rs.4,96,184, although the dealer's turnover for that year under the Central Sales Tax Act, 1956 was determined by the assessing authority at Rs.6,10,570. The mistake resulted in turnover amounting to Rs.1,14,386 escaping assessment with consequent levy of tax short by Rs.10,399.

On this being pointed out in audit (July 1985), the department admitted (September 1985) the mistake and stated that action was being taken to rectify the error. Further development is awaited (June 1987).

- (c) While assessing (March 1985) a Calcutta-based dealer for the assessment year ended Chait Sudi 2038 R.N. (11th May 1981), his inter-State sales of goods (other than declared goods) made to unregistered dealers were determined by the assessing authority at Rs.7,10,828, although such sales actually amounted to Rs.9,10,828. The mistake resulted in escapement of turnover of Rs.2,00,000 with consequent short levy of tax by Rs.18,182.

The above cases were reported to Government between October 1985 and February 1986. In respect of sub-paragraph (c) above, Government stated (October 1986) that revision proceedings had since been initiated; their reply in respect of sub-paragraphs (a) and (b) is awaited (June 1987).

## 2.7. Short levy due to mistakes in computation

- (i) Under the Bengal Finance (Sales Tax) Act, 1941, sales of goods specified in Schedule II to the Act are taxable at the rate of 15 per cent.

In making (December 1984) an *ex parte* assessment of a dealer, dealing in Schedule II goods, in Midnapur district, for the assessment year ended December 1980, his gross turnover was determined at Rs.1,25,00,000 and out of this, deduction of Rs.72,15,824 was allowed on account of his claim for sales of locally-purchased commodities notified under the West Bengal Sales Tax Act, 1954, which are not taxable under the Act of 1941. The net turnover taxable under the Act of 1941 was erroneously worked out as Rs.42,84,176, instead of Rs.52,84,176. The error resulted in tax amounting Rs.1,29,750 being under-assessed.

On the mistake being pointed out in audit (August 1985), Government stated (October 1986) that review proceedings had since been initiated. Further development is awaited (June 1987).

(ii) Under the West Bengal Sales Tax Act, 1954, sale of medicines was taxable at the general rate of 7 per cent from April 1979 to March 1981 and at 4 per cent from 1st April 1981 onwards. However, on sale of medicines to Government departments, tax was leviable at the special rate of 4 per cent from 7th September 1979.

According to the returns submitted by a dealer of Calcutta, his sales of medicines during the quarter ended March 1981 amounted to Rs.5,65,773. Out of these, sales amounting to Rs.80,289 were shown to have been made by him to Government departments and the remaining sales of Rs.4,85,484 to other parties. However, the assessing authority in finalising (April 1984) the assessment for the year ended December 1981 erroneously determined the amount of sales to Government departments at Rs.4,89,361 and of sales to other parties at Rs.76,412. The mistake resulted in special rate of tax being levied on turnover of Rs.4,89,361, instead of Rs.80,289 and the general rate of tax of 7 per cent being levied on turnover of Rs.76,412, instead of Rs.4,85,484. As a result, tax was levied short by Rs.11,025.

On the mistake being pointed out in audit (November 1985), Government stated (October 1986) that while an amount of Rs.4,622 had been realised in December 1985, the remaining amount was being recovered by adjustment.

(iii) Under the Bengal Finance (Sales Tax) Act, 1941, sales tax is payable by a dealer on his taxable turnover at different rates depending on the class of goods sold and the status of his customers. In addition, surcharge and additional surcharge at the prescribed rates were leviable up to 31st March 1979 on the amount of sales tax payable.

(a) In assessing (March 1983) a dealer of Calcutta for the assessment year ended 31st March 1979, the amount of tax at 12 per cent on the taxable turnover of Rs.77,19,236 was erroneously computed at Rs.9,06,308, instead of at Rs.9,26,308. The mistake resulted in tax amounting to Rs.22,000 (including surcharge and additional surcharge at 10 per cent) being under-assessed.

On this being pointed out in audit (August 1985), the department admitted (September 1985) the mistake and agreed to review the assessment. Further development is awaited (June 1987).



The case was reported to Government in May 1986; their reply is awaited (June 1987).

- (b) In assessing (June 1984) a dealer of Howrah district for the assessment year ended 31st July 1980, sales tax was erroneously computed at Rs.3,548, instead of at Rs.15,956. This resulted in levy of tax short by Rs.12,408.

On this being pointed out in audit (December 1985), Government stated (December 1986) that the dealer had since paid the amount of Rs.12,408 in January 1986.

(iv) Safes and almirahs made of iron and steel are notified commodities under the West Bengal Sales Tax Act, 1954 and on their sale, tax was leviable at 18 per cent during the period from 1st April 1979 to 31st March 1984 and at 15 per cent thereafter.

While completing (October 1984) the assessment of a Calcutta-based dealer of steel almirahs for the assessment year ended A.B. 2036 (GD) (7th November 1980), his taxable turnover was determined at Rs.80,00,000. The tax leviable thereon at the rate of 18 per cent amounted to Rs.12,20,400. But owing to a computation mistake, it was worked out as Rs.10,17,000, resulting in short realisation of tax by Rs.2,03,400.

On this being pointed out in audit (May 1985), Government stated (December 1986) that the assessment had since been revised and an additional demand for Rs.2,03,400 raised in May 1986. Report on recovery is awaited (June 1987).

## 2.8. Application of incorrect rates of tax

(i) Under the Central Sales Tax Act, 1956, on sale of goods, other than declared goods, in the course of inter-State trade or commerce to unregistered dealers, tax is leviable at the rate of ten per cent or at such rate as is applicable to sale of similar goods within the State under the State Sales Tax Act, whichever is higher. As per the Bengal Finance (Sales Tax) Act, 1941, on sale of goods included in Schedule II to the Act, tax is leviable at the rate of fifteen per cent.

- (a) In assessing (August 1982) the inter-State sales of goods (included in Schedule II to the State Act) amounting to Rs.2,14,195 made by a dealer in Calcutta to unregistered dealers in other States during the year ended August 1978, tax was levied at the rate of ten per cent, instead of at the correct rate of fifteen per cent. The mistake resulted in tax being levied short by Rs.10,710,

On this being pointed out in audit (March 1985), the department agreed (March 1985) to revise the assessment. Report on revision is awaited (June 1987).

The case was reported to Government in September 1985; their reply is awaited (June 1987).

- (b) In the assessment (February 1985) of a Calcutta-based dealer for the assessment year ended 31st March 1981, tax on inter-State sales amounting to Rs.7,39,664 made to unregistered dealers was erroneously computed at four per cent instead of at ten per cent. The mistake resulted in tax being levied short by Rs.38,794.

On this being pointed out in audit (July 1985), Government stated (October 1986) that after review, an additional demand for Rs.38,794 had been raised, against which the dealer preferred an appeal. Further development is awaited (June 1987).

(ii) Under the West Bengal Sales Tax Act, 1954, sale of electric fans was taxable at twelve per cent from 1st September 1977 to 31st March 1979 and at thirteen per cent from 1st April 1979 to 30th September 1982.

- (a) In assessing (February 1985) a Calcutta-based dealer for the assessment year ended 31st March 1981, his sales turnover of electric fans, determined at Rs.30 lakhs, was assessed to tax incorrectly at twelve per cent, instead of at thirteen per cent. The mistake resulted in tax amounting to Rs.23,850 being under-charged.

On this being pointed out in audit (September 1985), the department admitted (October 1985) the mistake and agreed to take necessary action. Further development is awaited (June 1987).

- (b) Similarly, in assessing (March 1984 and February 1985) another Calcutta-based dealer on his sales of electric fans amounting to Rs.14.14.608 during the years ended 31st March 1980 and 1981, tax was levied at 12 per cent, instead of at the correct rate of 13 per cent. The mistake resulted in tax amounting to Rs.11,245 being levied short.

On this being pointed out in audit (October 1985), the department admitted (October 1985) the mistake and agreed to take necessary action. Report on action taken is awaited (June 1987).

The above cases were reported to Government in February 1986; their reply is awaited (June 1987).

(iii) Under the West Bengal Sales Tax Act, 1954, sale of medicines was taxable at the rate of seven per cent during the period from 1st April 1979 to 31st March 1981 and at four per cent thereafter.

While assessing (December 1984) a Calcutta dealer, manufacturing medicines, his sales of medicine amounting to Rs.25 lakhs during the assessment year ended 31st March 1981 were incorrectly assessed to tax at four per cent, instead of at the correct rate of seven per cent. The mistake resulted in short levy of tax amounting to Rs.67,375.

On this being pointed out in audit (September 1985), the department admitted (October 1985) the mistake and agreed to take necessary action. Report on action taken is awaited (June 1987).

The case was reported to Government in February 1986; their reply is awaited (June 1987).

## **2.9. Under-assessment due to failure to detect errors in declarations and covering statements**

(i) Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State transfer of goods by a dealer to any other place of his business or to his agent or principal, not by reason of sale, is exempt from tax, provided such a transfer is duly supported by a declaration in the prescribed form along with an evidence of despatch of the goods. A single declaration is to cover transfer of goods effected during a period of one calendar month.

In the assessment (April 1983) of a dealer of Calcutta for the year ended April 1979, exemption was allowed on account of branch transfer of his goods worth Rs.1,66,77,063 to other States. The exemption allowed was, however, inadmissible in respect of goods valuing Rs.15,83,343 since the related declarations covered transfer of goods made during a period of more than one calendar month. This resulted in under-assessment of tax by Rs.1,58,334.

On this being pointed out in audit (June 1985), Government stated (October 1986) that the assessment was revised and additional demand for Rs.1,58,334 realised in January 1986. Report on recovery is awaited (June 1987).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sale of declared goods to registered dealers is exempt from tax provided such sales are supported by prescribed

declaration forms. In a transaction of sale, where delivery of goods is spread over different financial years, separate declaration forms are required to be furnished for goods delivered in each financial year; otherwise, such sales are exigible to tax at four per cent.

While assessing (August and September 1984) two dealers of Calcutta for assessment years ended October 1981 and December 1981, their claims for exemption from levy of tax on sale of declared goods amounting to Rs.80.80 lakhs to registered dealers were allowed by the assessing officer on the basis of covering statements of declaration forms filed by the dealers. A scrutiny of the statements, however, showed that sales amounting to Rs.38.48 lakhs in the case of one dealer and Rs.16.44 lakhs in the case of the other dealer were supported by single declaration forms covering goods delivered in more than one financial year, which were, thus, invalid. Acceptance of the invalid declaration forms in these cases led to under-assessment of tax amounting to Rs.2,11,437.

On this being pointed out in audit (May and June 1985), the department agreed (June and August 1985) to take necessary action. Report on action taken is awaited (June 1987).

The matter was reported to Government in February 1986; their reply is awaited (June 1987).

(iii) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules framed thereunder, sales to registered dealers of goods other than certain specified goods are taxable at the concessional rate of 1 per cent provided the dealer claiming the concession furnishes the prescribed declaration obtained from the registered purchasing dealer.

While assessing (March 1984) a dealer in Calcutta for the assessment year ended March 1980, his claim towards sales to registered dealers amounting to Rs.347.14 lakhs was allowed at the concessional rate of tax of 1 per cent on the basis of declarations obtained from the purchasing dealers. A scrutiny of the covering statement of declaration forms, however, showed that the claim included sales aggregating Rs.9.98 lakhs, which were made to a dealer who was not registered at the relevant time of sale and was, accordingly, not legally entitled to issue the declaration forms. The acceptance of the invalid declarations resulted in under-assessment of tax amounting to Rs.64,139.

On this being pointed out in audit (April 1985), the department agreed (April 1985) to examine the case. Further development is awaited (June 1987).

The matter was reported to Government in June 1986; their reply is awaited (June 1987).

(iv) Under the Bengal Finance (Sales Tax) Act, 1941, goods sold to registered dealers for resale in West Bengal are taxable at a concessional rate of one per cent ( $\frac{1}{2}$  per cent prior to 1st April 1974) provided the sales are supported by prescribed declarations obtained from purchasing dealers. Similarly, on sales to a registered dealer of goods required for use by him directly in manufacturing, making, processing or packing in West Bengal of notified goods for sale in West Bengal, concessional rate of tax at 3 per cent was leviable during the period from 10th October 1977 to 31st March 1981. Sales not covered by declarations are liable to tax at the normal rates.

- (a) While finalising (December 1983) re-assessment of a dealer for the year ended March 1973, concessional rate of tax (half per cent) was allowed on sales amounting to Rs.4.25 crores as shown in the covering statements of declarations produced by the dealer. It was, however, noticed in audit that the total of the covering statements had been overstated by Rs.10,00,000 and that this mistake had remained undetected in the department. The mistake resulted in tax being levied short by Rs.52,760.

On this being pointed out in audit (March 1985), Government stated (October 1986) that additional tax amounting to Rs.52,760 had since been realised in July 1985.

- (b) In assessing (December 1982) a dealer of Calcutta for the year ended December 1978, concessional rate of tax (one per cent) was allowed in respect of sales amounting to Rs.45,36,510, although sales amounting to Rs.41,36,510 made to registered dealers only qualified for grant of this concession. Further, in respect of certain other sales amounting to Rs.68,411, the concessional rate of tax was, by mistake, allowed twice. These mistakes resulted in tax being levied short by Rs.28,622.

The department subsequently stated (October 1986) that assessment has been set aside to make fresh assessment. Result of fresh assessment is awaited (June 1987).

The matter was reported to Government in September 1985; their reply is awaited (June 1987).

- (c) In the assessment of a dealer of Calcutta, for the year ended March 1979, made in March 1983 and subsequently modified in September 1984, it was noticed that sales to registered re-sellers aggregating Rs.28.63 crores and to

manufacturers aggregating Rs.12.89 crores were assessed to tax at the concessional rates of 1 per cent and 3 per cent respectively even though only sales amounting to Rs.28.60 crores and Rs.12.87 crores respectively were supported by the required declarations. Tax levied short in respect of the remaining sales, which were not supported by the prescribed declarations, amounted to Rs.35,998.

On this being pointed out in audit (March 1985), the department realised an additional net amount of Rs.26,312 (October 1986), after adjustment of excess tax charged on certain other items.

- (d) In assessing (November 1983 and February 1985) a dealer of Nadia district for two assessment years ended March 1980 and March 1981, under the Bengal Finance (Sales Tax) Act, 1941, the dealer's claim for concessional rate of tax (3 per cent) was allowed on a turnover of Rs.21,54,449 as shown by the dealer in the covering statement of prescribed declarations filed by him. These statements contained totalling errors of Rs.3,04,176, which were not detected by the assessing authority. The failure resulted in the concession being allowed in excess by Rs.13,696.

On this being pointed out in audit (December 1985), Government stated (October 1986) that the amount of Rs.13,696 was realised in February 1986.

- (e) In assessing (March 1984) a dealer for the assessment year ended March 1980, his sale of 'lead' aggregating Rs.4.20 crores was taxed at the concessional rate of 3 per cent on the basis of the covering statements of declaration forms filed by him. The statements filed, however, contained totalling errors of Rs.25,49,032, by which amount the claim was overstated. Failure to detect the error resulted in tax amounting to Rs.1,14,770 being under-assessed.

On the mistake being pointed out in audit (August 1985), Government stated (October 1986) that the assessment had been reviewed and an additional demand for Rs.1,14,770 raised against the dealer in December 1985. Report on realisation is awaited (June 1987).

(v) Under the Central Sales Tax Act, 1956 and the rules made thereunder, on inter-State sales of goods to registered dealers and Government departments, tax is leviable at a concessional rate of 4 per cent if such sales are supported by prescribed declarations|certificates in form 'C' or 'D'. Sales not supported by such .declarations|certificates are exigible to tax at 10 per cent or the State rate, whichever is higher.

- (a) In assessing (February 1985) a dealer of Nadia district for the year ended March 1981, under the Central Sales Tax Act, 1956, the dealer's claim to concessional rate of tax (4 per cent) was allowed on a turnover of Rs.32,61,597 as shown in the covering statements of declaration forms furnished by him. An examination of the statements and other related records in audit, however, revealed that the sales qualifying for concessional rate of tax (4 per cent) had been overstated by Rs.1,80,000 and those taxable at the normal rate (10 per cent) had been understated to that extent. Assessing authority's failure to detect the errors had resulted in tax amounting to Rs.11,077 being undercharged.

On this being pointed out in audit (December 1985), Government stated (October 1986) that the undercharged tax of Rs.11.077 had since been realised in February 1986.

- (b) In the assessment (March 1984) of a dealer of Calcutta for the year ended March 1980, concessional rate of tax at 4 per cent was allowed in respect of turnover of zinc, mercury and molyoxide amounting to Rs.54.11 crores, on the basis of statements of declaration forms in support of inter-State sales to registered dealers submitted by him. The total of the statements was, however, overstated by Rs.0.85 crore. Thus, sales amounting to Rs.0.85 crore not supported by prescribed declarations were liable to be taxed at the rate of 10 per cent. The failure to detect the overstated totals of the statements resulted in short levy of tax by Rs.5,10,149.

On this being pointed out in audit (August 1985), Government stated (October 1986) that additional demand for Rs.5,10,149 had since been raised in December 1985. Report on realisation is awaited (June 1987)

- (c) In assessing (March 1984) a dealer for assessment year ended March 1980. concessional rate of tax at 4 per cent was allowed by the assessing authority on the inter-State sales of spares for tractors, made by the dealer to other registered dealers and to Government departments,

amounting to Rs.128.14 lakhs and Rs.8.90 lakhs respectively. Scrutiny of the assessment in audit, however, revealed that sales to the extent of Rs.124.40 lakhs and Rs.8.70 lakhs respectively were in fact supported by prescribed declarations, as recorded in the statements filed by the dealer. Thus, turnover amounting to Rs.3.94 lakhs was not supported by prescribed declarations and was, therefore, liable to tax at 13 per cent., instead of concessional rate of 4 per cent. The mistake resulted in under-assessment of tax by Rs.34,099.

On this being pointed out in audit (August 1985), Government stated (December 1986) that the assessment had been revised in August 1986 and an additional demand for Rs.34,099 raised. Report on recovery is awaited (June 1987).

- (d) While assessing (April 1983) a dealer for the assessment year ended April 1979, he was allowed concessional rate of tax on the turnover amounting to Rs.2.64 crores, on the basis of declarations and statements, as produced by the dealer. Verification in audit of the statements, however, disclosed that the claim for concessional rate included sales amounting to Rs.3.18 lakhs to dealers who were not registered during the relevant period. The claim also included certain other sales amounting to Rs.2.43 lakhs not related to the period of assessment. The failure to detect these irregularities resulted in under-assessment of tax by Rs.32,341.

On this being pointed out in audit (June 1985), Government stated (October 1986) that the assessment had since been revised and the undercharged tax of Rs.32,341 realised in January 1986.

## 2.10. Non-levy or short levy of purchase tax

(i) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, a manufacturing dealer is liable to pay purchase tax on all his purchases from unregistered dealers, of goods intended for use in manufacture, in West Bengal, of other goods for sale. Purchase tax is leviable at 4 per cent on the taxable purchase price determined after allowing the permissible deductions. Purchase of plant, machinery and consumable stores from unregistered dealers do not, however, qualify for deduction in determining the taxable purchase price,



In the assessment (April 1983) of a dealer of Calcutta for the assessment year ended April 1979, taxable specified purchase price was determined after wrongly allowing a deduction of Rs.26,84,936 on account of his purchases of plant, machinery and consumable stores from unregistered dealers. The irregular allowance of the deduction resulted in purchase tax amounting to Rs.1,07,397 being levied short.

On this being pointed out in audit (June 1985), Government stated (October 1986) that a proposal for revision of the assessment had been made. Further development is awaited (June 1987).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules framed thereunder, a registered manufacturing dealer is liable to pay purchase tax at the prescribed rate on all his purchases of goods (other than declared goods) from other registered dealers against issue of declaration forms and used by him directly in the manufacture, in West Bengal, of other goods, when such manufactured goods are transferred to a place outside West Bengal or are disposed of otherwise than by way of sale in West Bengal. Nickel and non-ferrous metals are not declared goods; hence, purchase of these commodities attracts purchase tax.

A dealer in Burdwan district purchased nickel and non-ferrous metal amounting to Rs.58.49 lakhs within West Bengal against issue of prescribed declarations during the year ended March 1981. He used the goods in manufacture of other goods which were transferred outside West Bengal. While making assessment (March 1985), the assessing authority erroneously exempted the purchases of these goods from tax on the ground that these were declared goods. The irregular exemption resulted in non-levy of purchase tax amounting to Rs.48,100.

On this being pointed out in audit (January 1986), the department agreed (January 1986) to re-examine the assessment. Further development is awaited (June 1987).

The case was reported to Government in June 1986; their reply is awaited (June 1987).

(iii) Under the Bengal Finance (Sales Tax) Act, 1941, on purchases, from unregistered dealers, of taxable goods intended for direct use in the manufacture (in West Bengal) of other goods for sale, a registered dealer is liable to pay tax at the rate of four per cent.

During the year ended March 1979, a registered manufacturing dealer in Calcutta purchased from unregistered dealers taxable goods valuing Rs.5,86,806, which were intended to be used in the manufacture of other goods for sale. He was accordingly liable to

pay purchase tax on the purchases. However, in the assessment of the dealer for that year, made in March 1983, purchase tax was omitted to be levied by the assessing officer. Tax not levied amounted to Rs.23,472.

On this being pointed out in audit (July 1984), the department admitted (August 1984) the mistake and agreed to take necessary action. Further report on action taken is awaited (June 1987).

The matter was reported to Government in February 1985; their reply is awaited (June 1987).

(iv) Under the West Bengal Sales Tax Act, 1954 and the rules made thereunder, a dealer is liable to pay a purchase tax at the rate of 3 per cent on all his purchases, made by issuing prescribed declarations, of such goods as are required for use by him directly in the manufacture, in West Bengal, of notified commodities, when such notified commodities are transferred outside West Bengal or are disposed of otherwise than by way of sale within the State. Prior to 1st April 1983, purchase tax in such cases was leviable at 2 per cent on the taxable purchase price determined according to the prescribed formula.

In the assessment of a manufacturing dealer of Calcutta for the assessment year ended March 1980, made in March 1984, his taxable purchase price was erroneously determined at Rs.2,68,63,025, instead of at Rs.2,74,64,494. The short determination of the taxable purchase price by an amount of Rs.6,01,469, in this case, resulted in purchase tax amounting to Rs.12,029 being levied short.

On the mistake being pointed out in audit (July 1985), the department recovered (August 1985) the amount of Rs.12,029 from the dealer. Government confirmed (October 1986) the realisation.

## **2.11. Non-levy or short levy of turnover tax**

A dealer, whose aggregate of the gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954 during the last year ended on or before 31st March 1979 exceeded rupees fifty lakhs, is, in addition to the sales tax payable by him, liable to pay, from 1st April 1979, a turnover tax at the prescribed rates on that part of his turnover which remains after allowing the admissible deductions therefrom. Further, a dealer, whose gross turnover during any year ending on or after 1st April 1979 exceeds rupees fifty lakhs, becomes liable to pay the turnover tax from the first day of the immediately following year. Once a dealer becomes liable to pay the turnover tax, he continues to be so liable until the expiry of three consecutive years irrespective of whether the aggregate of his gross turnover under both the Acts

during the three consecutive years exceeds rupees fifty lakhs or not. The rate of turnover tax is 1 per cent if gross turnover exceeds rupees one crore and  $\frac{1}{2}$  per cent if gross turnover does not exceed rupees one crore.

(i) It was noticed in audit (between August 1984 and February 1986) that the gross turnover of 16 dealers for the years ending between April 1978 and March 1980 exceeded Rs.50 lakhs in each case. The dealers, therefore, became liable to pay turnover tax on their turnover in the subsequent years. However, turnover tax which amounted to Rs.4,86,768, was omitted to be levied and recovered by the department as detailed below :

District; place to which dealer belonged	Year in which gross turnover had exceeded Rs. 50 lakhs	Subsequent year of assessment in which turnover tax was leviable and the month in which assessment was completed	Net turnover in the assessment year (at $\frac{1}{4}$ or 1 per cent) but not levied	Turnover tax leviable on net turnover (at $\frac{1}{4}$ or 1 per cent) but not levied	Reply of the department/ Government	
1	2	3	4	5	6	7
1. Calcutta	...	Year ended December 1979	Year ended December 1980	Rs. 45,21,526	Rs. 22,608	Government stated (October 1986) that the dealers had closed the business. However, the case was being pursued.
2. Calcutta	...	Year ended March 1979	Year ended March 1980	Rs. 22,71,970	Rs. 11,360	The department realised the amount of Rs. 11,360 in December 1986.
3. Calcutta	...	Year ended March 1979	January 1984 Year ended March 1980	Rs. 43,41,367	Rs. 21,707	Government stated (October 1986) that assessment had been revised and additional demand raised for Rs. 21,707
4. Darjeeling	...	Year ended March 1980	March 1984 Year ended March 1981	Rs. 50,00,000	Rs. 25,000	Government stated (October 1986) that review proposal had been sent.
5. Calcutta	...	Year ended March 1980	March 1985 Year ended March 1981	Rs. 64,00,000	Rs. 32,000	Same remarks as against item No. 4.
			March 1985			

6.	Calcutta	...	Year ended December 1978	3 quarters ended December 1979 <hr/> October 1983	35,14,043	35,140	Government stated (October 1986) that audit objection would be considered by the appellate authority at the time of disposal of appeal.
7.	Calcutta	...	Year ended December 1978	3 quarters ended December 1979 <hr/> September 1983	34,57,081	17,285	The department revised the assessment and realised the amount of Rs. 17,285 in March 1985.
8.	Calcutta	...	Year ended Chaitra 1384BS	Year ended Chaitra 1386B.S. <hr/> October 1983	12,34,556	6,173	Same remarks as against item No. 4
	Calcutta	...	Year ended Chaitra 1384 BS	Year ended Chaitra 1387B.S. <hr/> November 1984	14,17,821	7,089	
9.	Jalpaiguri	...	Year ended C.S. 2034/35 R.N.	Year ended CS 2036/37 R.N. <hr/> April 1983	14,41,314	7,207	The department admitted the mistake and agreed (February 1986) to review the assessments.
	Jalpaiguri	...	Year ended C.S. 2034/35 R.N.	Year ended CS 2037/38 R.N. <hr/> February 1984	9,92,015	4,960	
10.	Jalpaiguri	..	Year ended March 1979	Year ended March 1981 <hr/> March 1985	20,64,965	10,325	The department stated (February 1986) that rectificatory action was being taken.

District/place to which dealer belonged	Year in which gross turnover had exceeded Rs. 50 lakhs	Subsequent year of assessment in which turnover tax was leviable and the month in which assessment was completed	Net turnover in the assessment year	Turnover tax leviable on net turnover (at $\frac{1}{2}$ or 1 per cent) but not levied	Reply of the department/ Government	
1	2	3	4	5	6	7
				Rs.	Rs.	
11. Midnapur ...	Year ended 1385 B.S.	Year ended Chaitra 1386 B.S.	15,36,460	7,682	Government stated (October 1986) that amount of Rs. 22,699 had since been realised in January 1986.	
Midnapur ...	Year ended 1385 B.S.	December 1982 Year ended Chaitra 1387 B.S.	6,63,279	3,316		
Midnapur ...	Year ended 1385 B.S.	January 1983 Year ended Chaitra 1388 B.S.	6,56,073	3,280		
Midnapur ...	Year ended 1385 B.S.	April 1984 Year ended Chaitra 1389 B.S.	16,84,088	8,421		
		December 1984				
12. Calcutta ...	Year ended March 1979	Year ended March 1980	39,18,078	39,181	Same remarks as against item No. 6.	
		March 1984				

13.	Calcutta	...	Year ended March 1979	Year ended March 1980 <hr/> March 1984	1,00,00,000	50,000	Government stated (October 1986) that assessment had been revised (July 1985) and additional demand for Rs. 50,000 raised.
14.	Burdwan	...	Year ended November 1979	Year ended November 1980 <hr/> November 1984	28,44,637	14,223	The department admitted (January 1986) the mistakes and stated that for assessment year ended November 1980, proposal for revision had been sent and for the assessment year ended November 1981, review proceeding had been started.
	Burdwan	...	Year ended November 1979	Year ended November 1981 <hr/> November 1984	22,26,266	11,132	
15.	Purulia	...	Year ended KB 2036	Year ended KB 2037 <hr/> August 1984	23,67,898	23,679	The department admitted (February 1986) the mistake and stated that action was being taken to realise this amount.
16.	Asansol	...	Year ended March 1979	Year ended March 1981 <hr/> June 1984	1,25,00,000	1,25,000	Government stated (December 1986) that the review proposal had been sent.

---

**Rs. 4,86,768**

---

(ii) While assessing (February 1983) a Calcutta-based dealer for the assessment year ended 30th June 1979, turnover tax on his taxable turnover for the period April to June 1979 was levied at one-half per cent, instead of at one per cent, even though his total gross turnover during the assessment year ended 30th June 1979 exceeded rupees one crore. Application of incorrect rate of tax resulted in under-assessment of turnover tax amounting to Rs.11,115.

On this being pointed out in audit (August 1983), the department stated (April 1987) that turnover tax (Rs.11,115) levied short had been realised in June 1984. Final reply of the Government in this case is awaited (June 1987).

(iii) A dealer, whose aggregate gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954 during the year ended on or before 31st March 1979 exceeds rupees fifty lakhs, is liable to pay turnover tax at the prescribed rate on his taxable turnover. In determining the taxable turnover, certain deductions are allowed from the gross turnover under the Acts. However, sales of goods not generally exempt from levy of tax under the Acts do not qualify for deduction from the gross turnover.

In assessing (March 1984) a dealer of Calcutta for the year ended March 1980, sales amounting to Rs.24,99,724 made by the dealer to certain unregistered dealers were allowed to be deducted from the dealer's gross turnover. The deduction allowed was incorrect as the sales of goods in question were not generally exempt from levy of tax under the Acts. The irregular allowance of deduction resulted in under-assessment of turnover tax amounting to Rs.24,997.

On this being pointed out in audit (February 1985), Government stated (October 1986) that assessment had since been revised and demand for Rs.24,997 adjusted against refund payable to the dealer.

## 2.12 Evasion of tax

Under the West Bengal Sales Tax Act, 1954, all dealers of notified commodities are required to compulsorily register themselves under the Act. Sale of notified commodities, irrespective of its quantum, is subject to tax at prescribed rates. Carrying on business by a dealer without registration is an offence punishable with simple imprisonment or with fine or with both.

Bricks (other than fire bricks) and roofing tiles were declared as notified commodities with effect from 1st September 1977 and on their sale, tax was leviable at 6 per cent upto 31st March 1979 and at 7 per cent from 1st April 1979 onwards,



Cross verification of records of the land revenue department of Nadia district with those of the sales tax department showed that during 1388 B.S. and 1389 B.S. (1981-82 and 1982-83), 18 dealers, engaged in the manufacture and sale of bricks and roofing tiles, did not get themselves registered under the Act, nor did the department take any action to register them, thereby avoiding tax. Sale value of the commodities manufactured by them during the two years amounted to Rs.16.24 lakhs on the basis of the average selling prices of bricks and roofing tiles, as determined by the assessing officer in the cases of other registered dealers of the district. By not getting themselves registered, these dealers evaded tax amounting to Rs.1.10 lakhs. They were also liable to penal action for failure to get themselves registered as required by law.

On this being pointed out in audit (September 1984), the department determined the liability of the dealers to pay tax from 1388 B.S. and agreed (February 1986) to complete the assessments in due course. Report on completion of assessments and realisation of tax is awaited (June 1987).

The matter was reported to Government in February 1985; their reply is awaited (June 1987).

### **2.13. Non-levy of interest on belated payment of tax**

(i) Under the Bengal Finance (Sales Tax) Act, 1941, as amended with effect from 1st October 1983, where a dealer fails to make payment of any tax payable after assessment, by the date specified in the demand notice, he shall pay simple interest at the rate of two per cent for each calendar month of default, from the first day of the month next following the date of payment specified in the demand notice upto the month preceding the month of full payment of such tax.

On completion of assessment of a dealer of Calcutta for the assessment year ended 31st August 1980, a demand for tax amounting to Rs.1,12,182 was made in June 1984 for payment by 30th July 1984. The dealer, however, paid the amount in March 1985. For the belated payment he was liable to pay interest amounting to Rs.15,708 for seven months from August 1984 to February 1985, but no interest was charged from him.

On the omission being pointed out in audit (August 1985), the department realised the amount in December 1985.

(ii) Under the Central Sales Tax Act, 1956, read with the provisions of the sales tax laws of the State, a dealer is liable to pay simple interest at two per cent for each English calendar month on the amount of tax assessed which remained unpaid after the date specified in the demand notice.

Assessment of a dealer of Calcutta for the assessment year ended 31st March 1980 was completed on 5th March 1984 and a notice for payment of tax amounting to Rs.4,08,623 by 12th April 1984 was issued to the dealer. The dealer, however, paid the tax in two instalments in August 1984 and September 1984. He was accordingly liable to pay interest amounting to Rs.30,806 for the delay in payment, which was not demanded.

On the omission being pointed out in audit (July 1985), the department realised the interest of Rs.30,806 in August 1985.

The above cases were reported to Government between February 1986 and May 1986; their reply is awaited (June 1987).

## CHAPTER 3

## LAND REVENUE

## 3.1. Results of Audit

Test check of accounts of land revenue in certain district land reforms offices, conducted in audit during 1985-86, revealed non-realisation and short realisation of revenue amounting to Rs.90.80 lakhs in 25 cases, which broadly fall under the following categories :

		Number of cases	Amount (In lakhs of rupees)
1. Non-realisation or short realisation of cess ...	...	3	1.98
2. Non-realisation of lease rent ...	...	5	2.63
3. Non-settlement of vested agricultural land	...	1	1.08
4. Other irregularities ...	...	16	85.11
Total		25	90.80

Audit findings were reported to Government between March 1986 and November 1986; their comments are awaited (June 1987).

Some of the important cases are mentioned in the succeeding paragraphs.

## 3.2. Settlement of Government hats/markets with Regulated Market Committees

Under the West Bengal Land Management Manual, 1977, *hats* and markets on Government lands are either directly managed by Government or, for any special reason, settled with *izaradars* (lessees) by public auction. Board of Revenue, West Bengal issued instructions in January and May 1980 that management and control of certain selected *hats* and markets should be settled with local Regulated Market Committees in terms of the provisions of the Manual, subject, *inter alia*, to the conditions that (i) the settlement should be on lease basis initially for a term of 15 years; and (ii) payment of annual lease rent should be fixed on the basis of average lease rent for the preceding three years subject to right of enhancement after every three years.

Nine *hats* and one market in two sub-divisions of Burdwan district had been transferred to the Regulated Market Committees of those subdivisions with effect from 1387 B.S. (1980-81). However, no lease agreements were executed with the committees nor was any lease rent in respect of these *hats* and market fixed and realised till July 1986. On the basis of average of lease rent realised during the preceding three years, the amount of unrealised rent worked out to Rs.3,44,334 for six years from 1387 B.S. to 1392 B.S. (1980-81 to 1985-86). Besides, rent for the period 1390 B.S. to 1392 B.S. (1983-84 to 1985-86) could have been enhanced in terms of the conditions stipulated by the Board of Revenue (which, *inter alia*, included right of enhancement after every three years) for the settlement of these *hats*/markets.

On this being pointed out in audit (December 1983), the district authorities stated (August 1986) that for lack of prescribed proforma for lease/*izara* settlement, no lease agreement could be executed. However, a draft lease agreement had since been prepared which was awaiting approval. It was also stated that lease rents were in the process of being fixed; meanwhile, the Regulated Market Committees had been apprised of their liability for payment.

The matter was reported to Government in April 1984; their reply is awaited (June 1987).

### 3.3. **Handing over of land to an association without lease agreement**

Under the provisions of the West Bengal Government Estates Manual, 1953 (since replaced by the West Bengal Land Management Manual, 1977), non-agricultural Government land is ordinarily to be settled on long term basis for a minimum period of thirty years upon realisation of annual rent and lumpsum *salami* and execution of a lease deed. For a long term lease given for the first time, annual rent is to be determined at four per cent of the market value of the land and *salami* charged at ten times the annual rent.

For construction of a stadium at Balurghat in West Dinajpur district by the District Sports Association, an unregistered body, physical possession of 6.97 acres of non-agricultural Government land was handed over to the Association on 20th February 1974 by the district authorities, in anticipation of approval of the Board of Revenue. On the basis of the market value of the land then prevailing, annual rent of the land was determined at Rs.8,364 and the lumpsum *salami* at Rs.83,640. After more than a year of handing over of the possession, the district authorities submitted, in March 1975, to the Divisional Commissioner a proposal for long term settlement of the land in favour of the Association. While making the proposal, the

district authorities considered that since construction of the stadium was to be funded partly by Government grant and partly by public charity, it was not possible for the Association to pay any rent and *salami* for the land. Accordingly, the Divisional Commissioner was requested to move the Government for approval of the settlement, free of rent and *salami*. No final decision on the settlement proposal had been made by the Government till July 1985. Meanwhile, the Association continued to hold possession of the land without any lease agreement.

According to Government policy, no Government land can be leased out at any concessional rate; and no proposal contrary to this policy should be submitted. If any public body or association deserved Government assistance, it could be afforded by grant-in-aid and not any other manner, say gift, sale or lease of land either free or at a concessional rate since this amounted to a kind of concealed subsidy at the cost of public revenue. The proposal made by the district authorities for a settlement free of rent and *salami* was, therefore, obviously against the Government policy. The extent of concealed subsidy already given to the unregistered Association in this case amounted to Rs.1,75,644 in the shape of *salami* (Rs.83,640) and rent (Rs.92,004) for 11 years from 20th February 1974 to 19th February 1985 at Rs.8,364 per annum.

On this being pointed out in audit (July 1985), the department stated (July 1985) that the lease deed would be executed on receipt of approval (of the proposal submitted in March 1975) from Government.

The matter was reported to Government in December 1985; their reply is awaited (June 1987).

### 3.4. Delay in settlement of vested non-agricultural land

Administration of non-agricultural lands in the State is governed by the West Bengal Non-Agricultural Tenancy Act, 1949. The rules in the West Bengal Land Management Manual, 1977 prescribe that persons in possession of non-agricultural vested lands for periods less than twelve years, without any lease, may be offered long term settlement of the land, subject to payment of annual rent determined at 4 per cent of the market value of the land plus a lumpsum *salami* at 10 times the annual rent. The rules further stipulate that if a person declines the offer, steps should be taken at once for his ejection in the prescribed manner.

In a land reforms circle in Purulia district, 1.229 acres of vested non-agricultural land were occupied by nine persons at different times between 1976 and 1982 without any valid lease agreement. No action was taken either to settle the land with them on long term basis or to eject them as required by the rules.

Non-settlement of the vested non-agricultural land in these cases resulted in rent amounting to Rs.23,080 for the years from 1976 to March 1986 (computed with reference to the market value of the lands, as furnished by the department) and lumpsum *salami* amounting to Rs.32,010 not being realised.

On this being pointed out in audit (January 1985), the department agreed (January 1985) to take necessary action as required under the law. Report on action taken is awaited (June 1987).

The matter was reported to Government in May 1985; their reply is awaited (June 1987).

### 3.5. Non-renewal of long term lease

Under the West Bengal Land Management Manual, 1977 (formerly Government Estates Manual, 1953), non-agricultural Government lands may ordinarily be settled on long term basis for a maximum period of 30 years. The lessee is, however, entitled to option of successive renewal of the lease for the same period. In giving a long term settlement for the first time, rent is required to be fixed at 4 per cent of the market value of the land and *salami* charged at ten times the rent. While *salami* is not chargeable at the time of renewal of a lease, rent is to be fixed at the same percentage, as fixed at the time of initial settlement, on the market value of the land prevailing at the time of renewal.

In one subdivision of Burdwan district, 32.45 acres of non-agricultural Government land had been leased out to a trust and certain persons for 30 years from 1st April 1935 on an annual rent of Rs.717.37. The leases were not renewed after their expiry on 31st March 1965. Failure to initiate action for renewal of the leases after the expiry of 30 years resulted in non-realisation of rent amounting to Rs.2,20,660 for 20 years from 1st April 1965 to 31st March 1985, computed at 4 per cent of the market value (as furnished by the department) prevailing in 1964-65.

On this being pointed out in audit (October 1985), the district authorities agreed (October 1985) that it was highly irregular to allow the lessees to hold over the Government lands after expiry of lease without getting it renewed, in accordance with the provisions of the Land Management Manual, 1977, which was being looked into. Further development is awaited (June 1987).

The matter was reported to Government in July 1986; their reply is awaited (June 1987).

### 3.6. Non-renewal of short term leases

As per the West Bengal Land Management Manual, 1977, where settlement of non-agricultural lands on a long term basis is not possible either because the lands are not sufficiently developed or suitable lessees are not forthcoming, such lands may be settled on short term lease basis normally for a period not exceeding five years without any right of renewal. If, however, on the expiry of the lease, the land is found to be still unfit for long term settlement, the short term lease may be renewed with the same person for not more than another term of five years. The rent for short term lease is fixed by the District Collector with reference to the prevailing rent for similar lands in the vicinity, keeping in view the principles of fixation of rent for long term leases. No *salami* is, however, charged for short term leases. Six months before the expiry of a short term lease, the existing lessee may be offered long term settlement on payment of usual rent and *salami*. If the lessee declines and does not vacate the land in time, steps are required to be taken to eject him by a suit instituted under the West Bengal Non-Agricultural Tenancy Act, 1949. The Manual also provides for maintenance of appropriate registers in prescribed formats to ensure that timely action is taken well before the expiry of a lease for settlement or re-settlement of the land.

In a land reforms circle office in 24 Parganas (South) district, 10.72 acres of non-agricultural Government lands had been settled with 85 persons on short term lease basis for a period of five years, each from 1st April 1953. Subsequently, during the revisional settlement done in 1956, the lessees were recorded, without any lawful authority, in the record-of-rights as *dakhaldar-basat-praja* (occupier-dweller) with rents as fixed in the respective short term settlements.

No action was taken by the department for rectification of the entries recorded unlawfully and for re-settlement of the lands in the manner provided for in the rules. Consequently, the lessees continued to hold over the lands for 28 years on payment of rent at rates specified in the original short term leases. Failure of the department to take timely action for rectification of records and resettlement of the lands on long term basis in accordance with the rules, resulted in non-realisation of lumpsum *salami* of Rs.2,90,730 and rent at the rate of Rs.26,304 per annum (representing the difference between the annual rate of rent, chargeable on the basis of the market value of the land, as ascertained from the department, and the rate of rent actually charged) for 28 years from 1st April 1958 to 31st March 1986.

On this being pointed out in audit (November 1983), the circle office referred the matter to the settlement department in February 1984 with a request for rectification of the records pending further necessary action. Further developments are awaited (May 1987).

The matter was reported to Government in June 1984; their reply is awaited (May 1987).

### **3.7. Non-realisation of licence fee from stall-holders**

Under the West Bengal Land Management Manual, 1977, Government lands in *hats* and markets may be let out to bonafide businessmen on execution of agreements in the prescribed form and on realisation of licence fee fixed by the Collector.

In one land reforms circle in Burdwan district, 33 stalls standing on *Khasmahal* lands in Asansol market area, known as ARP sheds, were let out to different persons in 1952-53 at varying monthly rates of licence fee. All the 33 stall-holders defaulted in making payment of monthly licence fees for periods ranging from 7 to 91 months and as at the end of July 1982, the outstanding licence fees accumulated to Rs.48,209. It was noticed that recovery of the licence fees was stalled at the instance of the subdivisional land reforms officer by a written order passed in September 1982. Meanwhile, a further amount of Rs.61,456 accumulated for recovery raising the unrealised amount to Rs.1,09,665 upto October 1985.

On this being pointed out in audit (October 1985), the Additional District Magistrate (LR), Burdwan stated (October 1985) that no specific orders had been made from the district level for non-realisation of rent in respect of the sheds. It was also stated that an enquiry would be made as to why order for non-realisation of licence fees was made by the officer concerned. Further development is awaited (June 1987).

The matter was reported to Government in July 1986; their reply is awaited (June 1987).

### **3.8. Non-realisation of rent and cesses from a company**

Under the provisions of the West Bengal Land Reforms Act, 1955, as amended with effect from 1st November 1965, *raiya*s enjoying rent-free lands became liable to pay land revenue at rates determined by a revenue officer including a junior land reforms officer in the prescribed manner, having regard to the rent that was generally being paid immediately before the coming into force of the Act *ibid* for lands of similar descriptions and with similar advantages in the vicinity of the respective holdings. In addition, road cess, public works cess and education cess are also realisable under the relevant legislations at the rates in force from time to time.



In one land reforms circle in Burdwan district, a company held 358.39 acres of land which was rent-free till 31st October 1965. Rent and cesses realisable from 1st November 1965 onwards were not assessed and collected by the department. This resulted in non-realisation of Rs.23,191 towards rent for the period from 1st November 1965 to 31st March 1986 on the basis of rent fixed by the settlement department and noted in the record-of-rights. Besides, cesses amounting to Rs.6,895 also remained unrealised.

On this being pointed out in audit (September 1985), the department agreed (September 1985) to realise the dues. Report on recovery is awaited (June 1987).

The matter was reported to Government in July 1986; their reply is awaited (June 1987).

### 3.9. Short realisation of education cess

Under the provisions of the West Bengal Primary Education Act, 1973, education cess on land rent is realisable at a rate determined by Government from time to time. By a notification issued in April 1981, Government of West Bengal revised the rate of education cess from 6 paise to 10 paise per rupee of land rent with effect from 1st Baisakh 1388 B.S. (15th April 1981).

In eight circle offices in Malda district, education cess for the years 1388 B.S. to 1390 B.S. (corresponding to period from 15th April 1981 to 14th April 1984) was realised at the old rate of 6 paise per rupee of land rent, instead of at the revised rate of 10 paise. This resulted in cess amounting to Rs.12,030 being realised short.

On this being pointed out in audit (May 1984), the district authorities stated (May 1984) that the education cess at the revised rate could not be realised due to late receipt of Government notification. They, however, agreed to realise the dues. Report on realisation is awaited (June 1987).

The matter was reported to Government in September 1984; their reply is awaited (June 1987).

### 3.10. Non-realisation of damage compensation

Under the West Bengal Estates Acquisition Act, 1953, as amended in 1975, damage compensation is payable by a person, who occupies and uses Government lands unauthorisedly, at Rs.10 per acre per annum up to 29th June 1975 and, thereafter, at a rate not exceeding ten per cent of the market value of the land per annum.

Certain coal mines, nationalised with effect from 1st May 1973 and put under the control of Eastern Coalfields Limited, occupied and used unauthorisedly a total area of 346.43 acres of non-agricultural land in two land reforms circles in Burdwan district. The Company was, therefore, liable to pay damage compensation from 1st May 1973 onwards, which was not assessed and realised.

The amount of damage compensation for the period from 1st May 1973 to 30th June 1985 worked out to Rs.3.98 lakhs, including Rs.3.91 lakhs for the period from 1st July 1975 to 30th June 1985, computed on the basis of the maximum rate of 10 per cent of the market value of land, as furnished by the department.

On this being pointed out in audit (October 1985), the district authorities confirmed (October 1985) non-assessment and non-realisation of damage compensation and agreed to review the matter. Further development is awaited (June 1987).

The case was reported to Government in July 1986; their reply is awaited (June 1987).

### 3.11. Non-realisation of interest for delay in payments

(i) Under the West Bengal Land Reforms Rules, 1965, a *raiya* is liable to pay land revenue in quarterly instalments, due on the last day of each quarter of the agricultural year in respect of which it is paid. Instalments, not paid by the due date, are realisable with interest at six and a quarter per cent per annum from the due date until the date of payment.

In one circle office in Darjeeling district, in 7 cases, annual rent relating to the years from 1955 to 1983 had been realised during March 1982 to March 1983. While no interest was realised in 5 cases, in the remaining 2 cases, interest was realised short. This resulted in interest amounting to Rs.20,551 not being realised.

On this being pointed out in audit (March 1985), the department stated (March 1985) that the concerned block *mondals* were being instructed to realise the interest dues. Report on realisation is awaited (June 1987).

(ii) The West Bengal Land Management Manual, 1977 provides that in the case of an *izara* settlement of Government *hat*, the lease agreement to be executed with the *izaradar* should contain, *inter alia*, the usual conditions for recovery by certificate process. The Manual further provides that the amount of revenue, or any instalment thereof, if not paid by the date fixed for its payment, is to be treated as an arrear of revenue on which interest should be charged at six and a quarter per cent per annum.

In Midnapore district, a Government *hat* had been leased to Kharagpur municipality initially for five years from 1383 B.S. to 1387 B.S. (corresponding to 1976-77 to 1980-81) on an annual rent of Rs.45,000. The term of the lease was further extended for another two and a half years from 1388 B.S. to *Aswin* 1390 B.S. (corresponding to 1981-82 to September 1983). The lease

agreement, made with the municipality for the first term of five years, contained no clause for payment of interest in the event of delays in payment of rent; no lease agreement was made for the extended period of lease. The lessee-municipality made payment of lease rent, for the years 1384 B.S. to 1388 B.S., late by 5 to 23 months but the department did not raise any demand towards interest for the belated payment of rent.

On this being pointed out in audit (March 1983), interest amounting to Rs.13,125 relating to belated payments for the years 1384 B.S. to 1388 B.S. (corresponding to 15th April 1978 to 14th April 1982) was demanded (April 1984) by the district authorities from the lessee-municipality. The claim was, however, disputed by the lessee on the ground that it, being a local authority, was not liable to pay interest and that there was no provision for payment of interest in the lease agreement, nor did the district authority refuse to accept rent without interest from the beginning. The offer for payment of rent, for 1389 B.S. and the first half of 1390 B.S. made by the lessee in June 1984, was turned down by the district authorities and the lessee urged to clear the dues along with interest.

Failure to incorporate an appropriate clause in the lease agreement to provide for levy of interest, as required under the West Bengal Land Management Manual, 1977, resulted in interest amounting to Rs.24,843 (up to May 1985) not being realised. The department had sought (January 1985) legal advice on the question of levy and realisability of interest from the lessee. Further development is awaited (June 1987).

The above cases were reported to Government in June 1983 and June 1985; their reply is awaited (June 1987).

## CHAPTER 4

## MINES AND MINERALS

## 4.1. Results of Audit

Test check of accounts of revenue realised in respect of mines and minerals by different Land Reforms Circle Offices and the Offices of Cess Deputy Collectors and Chief Mining Officer, conducted in audit during 1985-86, revealed under-assessment, non-realisation and short realisation of revenue amounting to Rs.56.24 lakhs in 31 cases, which broadly fall under the following categories :

			Number of cases	Amount (In lakhs of rupees)
1.	Non-levy of cesses on mines and minerals ...	...	6	6.97
2.	Under-assessment or short realisation of royalty ...	...	5	2.41
3.	Price of minerals not realised ...	...	9	16.98
4.	Non-assessment of surface rent ...	...	2	13.08
5.	Other cases ...	...	9	16.80
	Total ...	...	31	56.24

Audit findings were reported to Government between March 1986 and November 1986; their comments are awaited (June 1987).

Some of the important cases are mentioned in the following paragraphs.

## 4.2. Under-assessment|non-assessment of royalty

(i) By a notification issued on 23rd July 1981, Government of India substituted "quartz and silica sand" for "glass sand and moulding sand" appearing in item 24 of the Second Schedule to the Mines and Minerals (Regulation and Development) Act, 1957. The rate of royalty in respect of this mineral was also simultaneously enhanced to Rs.2.50 from Rs.1.50 per tonne.

Assessment of royalty in the mining office at Asansol showed that a mining lease-holder in Burdwan district removed and despatched 98,040 tonnes of moulding sand, i.e. silica sand during 23rd July 1981 to 30th September 1985. Another lessee in the same district removed and despatched 10,584 tonnes of the same mineral during 23rd July 1981 to 30th June 1985. In both cases, royalty was assessed wrongly at the pre-revised rate of Rs.1.50 per tonne. This resulted in under-assessment of royalty amounting to Rs.1,08,624.

On the under-assessments being pointed out in audit (November 1985), the department revised (December 1985) the assessments for the period from 1st April 1982 to 30th September 1985 in the case of the first lessee and from 1st April 1983 to 30th June 1985 in the case of second lessee and advised the district authorities to realise the differential amount of Rs.90,194. Report on realisation of the amount is awaited (June 1987). In regard to the period from 23rd July 1981 to 31st March 1982 in the case of the first lessee and from 23rd July 1981 to 31st March 1983 in the case of the second lessee, the department stated (December 1985) that revision of assessments was under process. Further report on completion of the revision is awaited (June 1987).

(ii) Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, a holder of a mining lease is liable to pay royalty at prescribed rate on the minerals (including coal) removed or consumed by him or his agent, manager, employee, contractor or sub-lessee.

- (a) According to returns showing removal and despatch of coal during the quarter ended 30th September 1984, as submitted by a colliery (under the Eastern Coalfields Limited) to the mining office at Asansol, the colliery had despatched 9,587.77 tonnes of 'B' grade coal during the above quarter. The assessing authority had, however, wrongly assessed royalty on 5,637.50 tonnes, resulting in under-assessment of royalty amounting to Rs.25,677.

On the mistake being pointed out in audit (November 1985), the assessing authority revised (December 1985) the assessment and advised the district authorities for realisation of the amount of Rs.25,677. Report on realisation is awaited (June 1987).

- (b) The same colliery removed and despatched 2,048.75 tonnes of grade 'B' coal during the first quarter of 1984-85. However, this quantity had not been considered for assessment of royalty. This resulted in non-assessment of royalty amounting to Rs.13,317, computed at Rs.6.50 per tonne.

On the omission being pointed out in audit (November 1985), the department revised (December 1985) the assessment and advised the district authorities for realisation of the amount. Report on realisation is awaited (May 1987).

The above cases were reported to Government in May 1986; their reply is awaited (June 1987).

### 4.3. Non-realisation of price of minor minerals unauthorisedly extracted

Under the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, read with the West Bengal Minor Minerals Rules, 1973, no person is entitled to undertake mining of minor minerals in any area except under the authority of a valid quarry permit. In the event of unauthorised extraction of minor minerals, apart from other penal action, State Government is empowered to recover either the minerals raised unlawfully, or, where such minerals have already been disposed of, the price thereof besides rent, royalty or tax, as the case may be. The Act also provides for compounding of offences punishable under the Act, on payment of such sum as may be specified by the prescribed authority. It was clarified by the State Government in May and August 1979 that the amount to be specified while compounding an offence could not be arbitrary and that it had to be the market price of the minerals prevailing at the relevant time.

(i) In a land reforms circle in Tamluk (Midnapur district), a contractor extracted, during 1980-81, 27.94 lakh cft. of sand without any valid quarry permit and supplied it to the West Bengal State Electricity Board. For the unauthorised extraction, the department initially assessed and demanded (March 1983) price of the mineral amounting to Rs.9,77,869, based on the normal market price of sand viz. Rs.35 per 100 cft. However, on a representation by the contractor the demand was revised by the department to Rs.2,06,749, calculated at the rate of royalty, i.e., Rs.4.93 per 100 cft. plus 50 per cent thereof. The revision of the assessment at an amount below the market price of the mineral was irregular and not in conformity with the instructions issued by Government in May/August 1979. This led to short realisation of revenue amounting to Rs.7,71,120.

On this being pointed out in audit (March 1985), the department agreed (March 1985) to re-examine the case. Further development is awaited (June 1987).

(ii) Purulia Zilla Parishad manufactured ten lakh bricks during 1982-84 by extracting brick-earth without obtaining any quarry permit for the purpose. On the unauthorised extraction of minor minerals, the department realised royalty amounting to Rs.7,400, instead of the market price as required under the aforementioned instructions issued by Government. Even on the basis of the price fixed in April 1980 by the district authorities, the price realisable on the brick-earth extracted unauthorisedly in this case worked out to Rs.21,708. This resulted in loss of revenue amounting to Rs.14,308.

On this being pointed out in audit (January 1985), the district authorities stated (January 1985) that it was decided by them to impose royalty after considering all aspects and situation of the case. This action of the department was, however, not in conformity with the Government instructions which required realisation of market value of the minerals unauthorisedly extracted and not royalty.

(iii) In five land reforms circles in Asansol, 26 persons extracted 8,10,677 cft. of brick-earth and 49,100 cft. of morrum during 1979-80 and 1980-81 without obtaining any valid quarry permit. For such unauthorised extraction, the department assessed a total amount of Rs.85,916 being royalty (Rs.42,430) and penalty (Rs.43,486), instead of the market price of the minor minerals unlawfully extracted. This resulted in loss of revenue of Rs.1,69,562, being the difference between the market price of brick-earth at Rs.30 per 100 cft. plus that of morrum at Rs.25 per 100 cft. and the amount assessed by the department.

On this being pointed out in audit (March 1982), the district authorities stated (July 1986) that since price of minor minerals had not been fixed until September 1983, only royalty and penalty were realised upto that time in the cases of unauthorised extraction of minerals. In this connection, it may be stated that the State Government had empowered, through a notification issued in May 1979, the district authorities, to fix the price of minor minerals. The district authorities in Asansol, however, did not fix the price of minor minerals till September 1983.

The above cases were reported to Government between April 1983 and August 1985; their reply is awaited (June 1987).

#### **4.4. Non-realisation of surface rent**

Under the provisions of the Minerals Concession Rules, 1960, a holder of a mining lease is liable to pay, for the surface area occupied and used by him for purposes of mining operation, a surface rent fixed by the State Government and specified in the lease agreement. By an amendment, made in 1977, to the West Bengal Estates Acquisition Act, 1953, surface rent was fixed at Rs.45 per acre per annum, unless a different rate was agreed upon between the State Government and the lessee. The amended provision had retrospective effect from 15th April 1955.

As per the provisions of three mining leases granted for the periods from 31st August 1960 to 30th August 1980, 8th December 1961 to 7th December 1981 and 13th February 1964 to 12th February 1984 for extraction of dolomite from different mines in

Jalpaiguri district and in case of one mining lease in Bankura district granted for the period from 9th October 1964 to 8th October 1984 for extraction of china clay, the lessees were liable to pay surface rent for the surface area occupied by them at the rates to be fixed by the District Collectors. The leases, which covered a total area of 1,453.02 acres of land, expired on various dates between August 1980 and October 1984. However, throughout the period of 20 years for which each of the said leases subsisted or even after the expiry of the leases, no action was taken by the department to fix the surface rent or to realise it at the statutory rate of Rs.45 per acre per annum in accordance with the aforesaid amendment made in the Act in 1977. On the basis of the statutory rate of Rs.45 per acre per annum, the surface rent not realised amounted to Rs.13.08 lakhs.

On the omission being pointed out in audit (November-December 1985), the district authorities in Jalpaiguri stated (November 1985) that assessment of surface rent could not be made since the rate of rent had not been fixed by Government till then. The district authorities in Bankura, however, stated (December 1985) that action was being taken for realisation of the rent. Further developments are awaited (May 1987).

The matter was reported to Government in May 1986; their reply is awaited (June 1987).

#### **4.5. Non-levy of interest on belated payment of royalty**

In accordance with a Government notification issued in January 1979 under the Mineral Concession Rules, 1960, mining dues (including royalty), payable under the Mines and Minerals (Regulation and Development) Act, 1957 and the rules framed thereunder, relating to the quarters ended March, June, September and December every year are required to be paid by the first day of April, July, October and January respectively. If the quarterly dues remain unpaid on the expiry of the sixtieth day from the due date, simple interest at 15 per cent per annum (10 per cent per annum upto 1st October 1982) is chargeable until payment is made.

The Eastern Coalfields Ltd., Bharat Coking Coal Ltd. and Indian Iron and Steel Company Ltd. had delayed payments of royalty for certain quarters in 1984-85 by 77 to 262 days. For the belated payments, interest amounting to Rs.2,86,911 was chargeable but was not charged from the lessees.

On the omission being pointed out in audit (November 1985), the district authorities raised (November 1985) demands for interest against the lessees. Report on recovery is awaited (June 1987).

The matter was reported to Government in May 1986; their reply is awaited (June 1987).



## CHAPTER 5

### MOTOR VEHICLES TAX

#### 5.1. Results of Audit

Test audit of the accounts of motor vehicles tax in different offices under the Home (Transport) Department, carried out during 1985-86, revealed non-realisation and short realisation of revenue amounting to Rs.95.98 lakhs in 79 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation/non-payment of road tax, penalty and fees for countersignature, etc.	36	33.25
2. Irregularity in fixation of registered laden weight ...	12	3.48 <sup>1</sup>
3. Irregular remission of tax ... ..	4	0.73
4. Other cases ... ..	27	58.52
Total ...	79	95.98

Audit findings in this respect were reported to Government between April 1985 and March 1986; their comments are awaited (June 1987).

Some of the important cases are mentioned in the following paragraphs.

#### 5.2. Short realisation of tax due to incorrect fixation of registered laden weight

Road tax on vehicles for transport of goods is leviable at rates depending on their registered laden weight. Under the Bengal Motor Vehicles Rules, 1940, in the case of a transport vehicle with six or more wheels, in respect of which manufacturer's certificate is not produced, its registered laden weight is to be fixed at 250 per cent of its unladen weight.

In the case of five transport vehicles, with six or more wheels, coming from other regions into Nadia district, where manufacturers' certificates were not produced, their registered laden weight were erroneously assigned by the registering authority at a lower level without regard to the provisions of the rules and tax realised accordingly. This resulted in tax amounting to Rs.23,396 being realised short for various periods between June 1979 and March 1984.

On this being pointed out in audit (February 1985), the regional officer (Nadia) agreed (March 1985) to rectify the mistake. Report on rectification is awaited (June 1987).

### **5.3. Loss of revenue due to irregular fixation of seating capacity of mini-buses**

Under the West Bengal Motor Vehicles Tax Act, 1979, tax on vehicles plying for carrying passengers on hire is payable at prescribed rates, depending on their seating capacity excluding the driver's seat. Government issued (October 1980) instructions fixing the seating capacity of mini-buses, with 120" and 127" wheelbases, at 28 including the driver's seat.

In the case of 16 mini-buses with wheelbases between 120" and 127", registered at the regional transport office at Darjeeling between May 1981 and October 1983, seating capacity of each of the vehicles was fixed at 21 including the driver's seat, instead of at 28 as aforesaid. The incorrect fixation of the seating capacity resulted in loss of revenue amounting to Rs.13,030 during May 1981 to March 1985.

On this being pointed out in audit (May 1984), the department agreed (May 1984) to review the cases. Further development is awaited (June 1987).

The matter was reported to Government in October 1984; their reply is awaited (June 1987).

### **5.4. Non-levy of road tax on military disposal vehicles from the date of purchase**

Under the West Bengal Motor Vehicles Tax Act, 1979, every owner who owns or keeps in his possession a motor vehicle is liable to pay road tax on such vehicle at the prescribed rate. Motor vehicles used for defence purposes are exempt from levy of road tax. However, as soon as a military vehicle is sold, the person purchasing it becomes liable to pay the tax from the date of purchase as clarified in instructions issued by Government in March 1984.

In Darjeeling, Purulia, 24-Parganas (North), Malda and Bankura districts, 26 motor vehicles were registered between January 1983 and June 1984 on realisation of road tax commencing from the respective months of their registration. These vehicles were, however, purchased between June 1979 and September 1983 in auctions held for disposal of military vehicles and hence tax thereon was leviable from the dates of purchase, instead of from the dates of registration. The omission to levy tax from the dates of purchase resulted in non-realisation of road tax amounting to Rs.59,757.

On this being pointed out in audit (between May 1984 and January 1985), the Regional Transport Authority (Darjeeling) agreed (May 1984) to take necessary steps for realisation of the tax due. The Regional Transport Authority in Purulia district agreed (July 1984) to examine the cases. The authorities at two other regional offices (Bankura and Malda) stated (between July 1984 and February 1985) that the omission occurred for lack of clear instructions for assessment and collection of tax in respect of military vehicles sold in auction. The Regional Transport Authority at 24-Parganas (North) did not furnish any specific reply. Further developments are awaited (June 1987).

The cases were reported to Government between October 1984 and March 1985; their reply is awaited (June 1987).

### **5.5. Short realisation of road tax**

Under the West Bengal Motor Vehicles Tax Act, 1979, which came into effect from June 1979, revised rates of road tax were prescribed. Road tax in respect of a registered motor vehicle is payable annually in advance. However, tax in respect of a transport vehicle is allowed to be paid on quarterly basis also.

In Durgapur region of Burdwan district, road tax in respect of 77 transport vehicles, for various quarters between August 1979 and March 1982, was realised at pre-revised rates. This resulted in short realisation of tax amounting to Rs.14,143.

On this being pointed out in audit (November 1984), the department agreed (November 1984) to realise the amount. Report on realisation is awaited (June 1987).

The matter was reported to Government in February 1985; their reply is awaited (June 1987).

### **5.6. Short levy of road tax on Ambassador taxis**

Under the Bengal Motor Vehicles Tax Act, 1932 and the West Bengal Motor Vehicles Tax Act, 1979 (which repealed the former Act), road tax in respect of passenger vehicles plying for hire is determined with reference to their seating capacity. In July 1975, Government decided to allow, with immediate effect, all Ambassador cars used as taxis to carry five passengers, instead of four. Government also clarified in March 1979, after the taxi fares had been revised with effect from 11th March 1979, that owners of Ambassador taxis should pay tax on the basis of seating capacity of 5 passengers excluding the driver. Consequently, road tax at Rs.360

per annum became leviable on each such taxi (seating capacity being 5 passengers), instead of Rs.300 per annum (applicable to vehicles other than stage carriage with seating capacity for not more than 4 passengers).

- (a) In Calcutta, road tax for the period from April 1981 to March 1983 in respect of 317 Ambassador cars, used as taxis, was realised at Rs.300 per annum applicable to taxis with a seating capacity of four passengers. This resulted in short levy of road tax amounting to Rs.38,040.

On this being pointed out in audit (November 1983), the department stated (December 1983) that the seating capacity of Ambassador taxi was five including the driver; hence tax was assessed correctly. The stand taken by the department is not maintainable in view of the Government's clarification given in March 1979, referred to above.

- (b) In Contai region, in Midnapore district, road tax for the period between August 1975 and March 1981, in respect of 29 Ambassador cars, used as taxis, was similarly realised at Rs.300 per annum. Tax levied short amounted to Rs.10,260.

The short levy was pointed out to the department in March 1982; their reply is awaited (June 1987).

The above cases were reported to Government between August 1982 and August 1984; their reply is awaited (June 1987).

### **5.7. Irregular remission of tax**

Under the West Bengal Motor Vehicles Tax Act, 1979, read with West Bengal Motor Vehicles Tax Rules, 1957, a person claiming refund or remission of tax on grounds of non-use of a transport vehicle or a stage carriage owned by him is required to present a declaration and surrender the tax token, the certificate of registration and parts A and B of permit to the taxing officer by whom the tax token was issued. The documents are to be surrendered on or about the date on which the vehicle goes off the road and the fact of surrender is to be recorded in a prescribed register. Refund or remission of tax is to be calculated for every calendar month for which the vehicle is not used at the rate of one-twelfth of the tax payable for a year.

- (a) In Asansol and Malda regions, remission of tax was allowed in respect of 8 transport vehicles for various periods between September 1982 and August 1984, although in the case of 6 vehicles, part A of the related permits was not surrendered while in the remaining 2 cases, the permits were not surrendered at all. In the absence of surrender of permits in these cases, remission of tax (Rs.25,584) was irregular.

On this being pointed out in audit (between October 1984 and January 1985), the regional offices agreed (between October 1984 and February 1985) to examine the cases; further development is awaited (June 1987).

- (b) In Tamluk region, remission of tax was allowed in respect of 9 vehicles for different periods between April 1983 and July 1984, although there was no record evidencing the surrender of required documents on or about the dates the vehicles went off the road. Remission of tax (Rs.11,132) in these cases was irregular.

On this being pointed out in audit (November 1984), the department stated (November 1984) that surrender was accepted after proper enquiry. The contention of the department is not tenable in view of the specific provisions of the Act, which require surrender of tax tokens, permit, etc.

The above cases were reported to Government between January and May 1985; their reply is awaited (June 1987).

### **5.8. Non-levy or short levy of penalty**

Under the provisions of the West Bengal Motor Vehicles Tax Act, 1979, road tax on motor vehicles is payable within the prescribed period of 15 days reckoned from the date on which tax becomes payable. In the event of delay in payment, penalty at varying rates is leviable depending upon the extent of delay in payment of tax.

In two regional offices in Howrah district and at Durgapur in Burdwan district, road tax in respect of 64 motor vehicles for various periods during the years 1980 to 1984 was paid by the vehicle owners after the expiry of the prescribed periods. While in 8 cases penalty was levied short, in the remaining 56 cases no penalty was levied for the delay in payment. The penalty short/not levied amounted to Rs.24,017.

On the mistake being pointed out in audit (July and November 1984), the department stated (July and November 1984) that action was being taken to realise the penalty from the registered owners of the vehicles. Report on recovery is awaited (June 1987).

The cases were reported to Government in November 1984 and February 1985; their reply is awaited (June 1987).

#### **5.9. Non-levy of fee for countersignature of permit**

Under the Motor Vehicles Act, 1939, a permit granted by a State is not valid in any other State unless it is countersigned by the State Transport Authority of the other State or by the Regional Transport Authority concerned. Under the Bengal Motor Vehicles Rules, 1940, an annual fee is leviable for countersignature of permits issued by other States. The amount of fee depends on the category of the motor vehicle and the number of regions in which the vehicle is intended to ply.

23 stage carriages, owned by a Government undertaking of Sikkim State, plied in Darjeeling region during 1982 and 1983; but fees for countersignature of permits were not realised in these cases. Similarly, 104 public carriers in 1982 and 1983 and 111 public carriers in 1984 from the same State plied in Jalpaiguri and Darjeeling regions without payment of any fee for countersignature of permits. The failure resulted in fees amounting to Rs.1,33,050 not being realised.

On this being pointed out in audit (May 1984), the regional office (Darjeeling) stated (May 1984) that the matter was under scrutiny. Further development is awaited (June 1987).

The matter was reported to Government in October 1984; their reply is awaited (June 1987).

#### **5.10. Penal fee for renewal applied after expiry of validity of a fitness certificate not prescribed-lacuna in the rules**

Under the Motor Vehicles Act, 1939, a transport vehicle is not deemed validly registered unless it carries a certificate of fitness. A certificate of fitness usually remains valid for a period not more than two years and not less than six months. Under the Bengal Motor Vehicles Rules, 1940, a registered owner of a vehicle is to apply compulsorily for renewal of the certificate of fitness at least one month before the date of expiry of the certificate, on payment of the prescribed fee at the normal rate. In the event of the application for renewal being made thereafter but before the date of expiry of the

certificate, fee at the penal rate of one and a half times the normal rate is leviable. The rules do not, however, contain any provision to regulate the rate of fee payable when the application for renewal of the fitness certificate is made after the date of expiry of the certificate.

Validity of fitness certificates in respect of 715 vehicles in Calcutta region and 15 vehicles in Barrackpore region expired on different dates between April 1981 and November 1983. Upon the registered owners of the vehicles applying for renewal of the certificates after the respective dates of expiry, certificates of fitness effective from the dates of issue were granted in these cases on realisation of the fee at the normal rate of Rs.30 each. Absence of a suitable provision in the rules specifying an appropriate penal fee for renewal, applied after expiry of validity of an existing fitness certificate, thus, left the way open to the defaulting vehicle owners to have the fitness certificates issued at the normal fee without any penalty whatsoever. On the contrary, had the registered owners applied for renewal of the certificates on any day between the prescribed due date and the date of expiry of the existing certificates, they, would have been liable to pay an additional amount of Rs.10,950 representing penalty for delay in seeking renewal.

On this being pointed out in audit (November and December 1983), the Regional Transport Authorities stated (November and December 1983) that, in the absence of any specific rule or order, certificates of fitness in these cases were granted afresh on realisation of fee at the normal rate.

The matter was reported to Government between April and August 1984; their reply is awaited (June 1987).

## CHAPTER 6

## STATE EXCISE

## 6.1. Results of Audit

Test audit of the accounts of State Excise revenue maintained at different district revenue wings, conducted during 1985-86, revealed non-realisation or short realisation of excise duty (including fees) amounting to Rs.16.10 lakhs in 9 cases, which broadly fall under the following categories :

			Number of cases	Amount (In lakhs of rupees)
1.	Non-levy of duty on chargeable wastage of spirit	...	4	12.73
2.	Irregular collection of licence fee	... , ...	2	0.50
3.	Application of incorrect rates	... ..	1	2.74
4.	Other cases	... ..	2	0.13
	Total	...	9	16.10

Audit findings were reported to the Government between August 1985 and March 1986. While comments of the Government in respect of 4 cases had been received in October 1986, their reply to the remaining cases is awaited (June 1987).

Some of the important cases are mentioned in the following paragraphs.

## 6.2. Non-realisation of duty on transit shortages of India-made foreign liquor

Under the Bengal Excise Act, 1909 and the rules made thereunder, duty is leviable on India-made foreign liquor imported from other States. There is no provision in the Act or the rules for grant of exemption from levy of duty on shortage of such liquor in the course of transit.

A licensee in Darjeeling district was permitted to import (under bond) India-made foreign liquor from other States by rail during the years 1981-82 to 1983-84 and a shortage of 10,014.217 London-proof litres of liquor occurred during transit. The duty chargeable on the quantity received short, which worked out to Rs.3,68,397 (at the concessional rate applicable to the consumption made by army personnel) was, however, omitted to be charged.



On the omission being pointed out in audit (April 1984), Government stated (April 1987) that amount of Rs.3,68,397 had since been realised in June and September 1986.

### **6.3. Short levy of duty on storage wastage of rectified spirit**

Under the West Bengal Excise Regulations, storage wastage of rectified spirit beyond the permissible limit of 1.5 per cent is chargeable to duty at the highest rate applicable to rectified spirit, unless the excess wastage is specifically waived by the Commissioner of Excise, West Bengal.

In the case of a distillery in Hooghly district, in 1983-84, the storage wastage of rectified spirit in excess of the permissible limit worked out to 911.3 London-proof litres. On this excess wastage, duty was leviable at Rs.67 per London-proof litre. However, it was erroneously charged at the lower rate of Rs.33.08 per London-proof litre (which is applicable to coloured and flavoured country spirit). The mistake resulted in duty being levied short by Rs.30,911.

On this being pointed out in audit (July 1985), the department issued (July 1985) a demand notice for recovery of Rs.30,911 from the distillery. Report on recovery is awaited (June 1987).

The matter was reported to Government in March 1986; their final reply is awaited (June 1987).

### **6.4. Short realisation of duty on beer**

In accordance with the West Bengal Excise Regulations, beer can be imported into West Bengal on the strength of permits obtained on advance payment of duty at the prescribed rate. By a notification issued by Government on 21st March 1985, the rate of duty chargeable on beer was enhanced from Rs.5.30 per bulk litre to Rs.6.00 per bulk litre with effect from 1st April 1985.

Three licensees in Burdwan (West) district and two licensees in Darjeeling district imported, on different dates between 1st April 1985 and 25th June 1985, 85,410 bulk litres and 27,300 bulk litres of beer respectively into West Bengal against permits issued to them by the department before April 1985 on advance payment of duty at Rs.5.30 per bulk litre. Since beer was actually imported into West Bengal after 1st April 1985, duty was recoverable at the revised rate of Rs.6.00 per bulk litre and not at the old rate of Rs.5.30 per bulk litre. Differential duty at the rate of Re.0.70 per bulk litre should, therefore, have been recovered from the licensees, which was not done. The failure resulted in short realisation of duty by Rs.78,897.

On this being pointed out in audit (September and December 1985), Government stated (September and November 1986) that the amount had since been realised (between December 1985 and February 1986) in full from the licensees.

#### **6.5. Non-realisation of annual licence fee in advance**

Under the provisions of the Bengal Excise (Foreign Liquor Licence Fee) Rules, 1942, a holder of foreign liquor licence is required to pay in advance, at the time of renewal of his licence, licence fee at the prescribed rates determined on the basis of the quantity of liquor sold by him during the preceding twelve months.

In Burdwan (West) district, licences for the year 1985-86 were renewed in favour of two licensees without realising, in advance, the annual licence fees amounting to Rs.20,552.

On the omission being pointed out in audit (September 1985), Government stated (September 1986) that Rs.20,552 had since been realised in January 1986.

#### **6.6. Non-recovery of additional licence fee**

Under the Bengal Excise (Foreign Liquor Licence Fee) Rules, 1942, holder of a licence for sale of foreign liquor for consumption off the licensed premises, i.e., in an "off" shop, is liable to pay, besides the annual licence fee, an additional licence fee on all his sales of foreign liquor imported from any country (except Bhutan) at the rate of Rs.100 per bulk litre with effect from 1st April 1984.

An "off" shop licensee in Darjeeling district sold 165.450 bulk litres of imported foreign liquor during April to July 1984. On these sales, additional licence fee amounting to Rs.16,545 was realisable but was not realised.

On the omission being pointed out in audit (December 1985), Government stated (August 1986) that the amount had since been realised in April 1986.

#### **6.7. Excessive refund of privilege fee**

For the exclusive privilege of manufacture and wholesale supply of country spirit in labelled and capsuled bottles, a manufacturer of country spirit is required, under the West Bengal Excise (Manufacture of Country Spirit in Labelled and Capsuled Bottles) Rules, 1979, to pay a privilege fee at prescribed rate per bottle of country spirit manufactured by him. He is, however, entitled to a refund of the privilege fee at the prescribed rate in respect of each bottle removed from the licensed premises for sale by wholesale at a warehouse, provided the selling warehouse is located neither in the same premises nor within one kilometre of the bottling plant.

Till March 1982, the rate of allowable refund of privilege fee was 7 paise per bottle. By a notification issued in May 1982, the department revised, with retrospective effect from April 1982, the rate of allowable refund to 5 paise per bottle in cases where the distance between the bottling plant and the warehouse was up to 30 kilometres and to 7 paise per bottle in all other cases.

Transportation of country spirit bottles from one bottling plant in Hooghly district to a warehouse in the same district, for sale by wholesale, used to be made by road normally along a certain route involving a distance of less than 30 kilometres. The route was, however, closed to traffic from 22nd June 1984, with the result that transportation of country spirit bottles from then onwards had to be made over a longer route with a distance of more than 30 kilometres. Accordingly, in respect of 18.25 lakh bottles of country spirit removed from the bottling plant and transported to the selling warehouse during April 1982 to 21st June 1984, the manufacturer was entitled to refund of the privilege fee at the rate of 5 paise per bottle. However, the refund was erroneously allowed by the department at the pre-revised rate of 7 paise per bottle, resulting in an excessive refund of Rs.36,491.

On the mistake being pointed out in audit (August 1985), the department issued (September 1985) a demand notice for Rs.35,491 and also stated that a further demand notice for the remaining amount of Rs.1,000 was being issued. Report on recovery of Rs.36,491 is awaited (June 1987).

The matter was reported to Government in March 1986; their reply is awaited (June 1987).

#### 6.8. Non-levy of tree tax

The rules regulating the manufacture and sale of *tari* prohibit collection of *tari* by tapping *tari*-producing trees and its sale without a valid licence in the areas specified by Government. Licence for retail sale of fermented *tari* in the specified areas is settled by the District Collector at a fee fixed in auction. In addition to the licence fee, a minimum tree tax, determined by the District Collector with the approval of the State Excise Commissioner, is also payable by the licensee.

By a notification issued in September 1970, as subsequently amended in May 1971, the areas within the jurisdiction of four police stations in Sadar subdivision of Burdwan district were notified as specified areas for purposes of manufacture and sale of fermented *tari* with effect from 1st April 1972. Accordingly, for collection of *tari* and its sale from that date, licensees in these areas were liable to

pay, besides the licence fee for the respective licensing periods, a tree tax at the rate to be fixed by the District Collector. The tree tax was, however, never determined, levied and realised from the licensees operating in these areas since 1972-73.

During the years 1983-84 to 1985-86, licences for retail sale of fermented *tari* in the said specified area were settled by auction with fifteen licensees at a total licence fee of Rs.92,964. But no tree tax was recovered from the licensees in those areas. However, in the neighbouring districts of Hooghly and Howrah, during 1983-84 to 1985-86, tree tax from licensees was realised at 75 per cent of the licence fee. On that basis, tree tax amounting to Rs.69,723 in respect of the aforementioned fifteen licensees alone was lost to Government.

The non-levy of tree tax was brought to the notice of department in July 1985 and to Government in November 1985; their replies are awaited (June 1987).

## CHAPTER 7

### ENTRY TAX

#### 7.1. Results of Audit

Test audit of the accounts of entry tax maintained at different entry tax checkposts, conducted during 1985-86, revealed non-realisation, short realisation and under-assessment of tax amounting to Rs.16.60 lakhs in 14 cases, which broadly fall under the following categories :

				Number of cases	Amount (In lakhs of rupees)
1. Under-valuation of goods/irregular exemption from tax	..			3	1.32
2. Mis-classification of goods	...	...	...	1	0.10
3. Non-imposition of penalty	...	...	...	2	8.27
4. Other cases	...	...	...	8	6.91
			Total	14	16.60

Audit findings were reported to the department and Government between October 1985 and October 1986; their reply is awaited (June 1987).

Some of the important cases are mentioned in the following paragraphs.

#### 7.2. Non-levy of tax on entry of sugar

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, a dealer or his agent bringing specified goods by rail into Calcutta Metropolitan Area is to make, at the checkpost nearest to the place at which the goods are delivered by the Railways, a declaration in the prescribed form, supported by related documentary evidence in respect of such goods, to the assessing officer. The assessing officer will, thereupon, proceed with the assessment of the tax, if any, payable on the entry of the particular consignment of goods covered by the declaration.

A scrutiny of the Wagon Register and other relevant records of Barasat Railway Station Entry Tax checkpost, in 24-Parganas (North) district, showed that a dealer brought into Calcutta Metropolitan Area 15,610 quintals of sugar during the period from 17th November 1983 to 26th January 1984 without disclosing the

particulars of delivery at the checkpost. Consequently, entry tax at the rate of 1.5 paise per kilogram leviable on the sugar escaped assessment, resulting in non-realisation of tax amounting to Rs.23,415.

On this being pointed out in audit (December 1984), the department stated (October 1986) that a sum of Rs.5,655 had since been realised and action had also been taken to recover the balance amount from the dealer. Further report is awaited (June 1987).

The case was reported to Government in January 1985; their reply is awaited (June 1987).

### **7.3. Under-charge of tax due to error in computation**

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, on entry, into the Calcutta metropolitan area, of plywood, hard board, masonite, softboard, decorative laminates and any other kind of boards of any composition as well as of articles made thereof, tax is leviable at 4 per cent *ad valorem*.

Twelve consignments of commercial plywood and block board were brought into the Calcutta metropolitan area by certain dealers during 4th March to 3rd April 1985 through a road checkpost in 24-Parganas (North) district. As a result of arithmetical errors, the value of the consignments was determined by the assessing officer at a lower amount. This led to undercharge of entry tax amounting to Rs.14,689 on the consignments.

On this being pointed out in audit (August 1985), the department stated (October 1986) that steps for realisation of entry tax undercharged had been initiated. Report on realisation is awaited (June 1987).

The case was reported to Government in February 1986; their reply is awaited (June 1987).

### **7.4. Non-realisation of tax and penalty**

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, an entry tax is leviable, at prescribed rates, on the entry of the goods specified in the Act for consumption, use or sale within Calcutta metropolitan area, on production of prescribed declaration made by the person bringing the goods into the area from outside and on assessment after necessary verification. A dealer bringing in specified goods may, if he so desires, make an advance deposit of tax against which the amount of tax assessed and payable by him from time to time is adjustable.

**Penalty not exceeding ten times the assessed tax may be imposed on a dealer who brings in specified goods into the Calcutta metropolitan area without payment of tax.** In December 1981, the department instructed that the dealers, who owned private railway sidings and who were unable to produce the related documents necessary for assessing tax at the time of delivery of the specified goods, should be asked to make advance deposit of tax. In such cases, dealers were to submit the relevant records within one month from the date of release of the goods; in case of default, maximum penalty provided under the Act was to be imposed.

A holder of a private railway siding in Hooghly district brought certain specified goods into the Calcutta metropolitan area in December 1979 and between March 1981 and December 1983. The related declarations were, however, submitted by the dealer between May 1983 and February 1984. Neither did the dealer make any advance deposit of tax, nor was the tax subsequently assessed at Rs.72,581, realised. Maximum amount of penalty that could be imposed on the dealer for not depositing advance tax and not submitting relevant records within the prescribed period of one month worked out to Rs.7,25,806.

On this being pointed out in audit (August 1984), the department realised tax of Rs.72,581 during September 1984 to March 1985. Report on realisation of penalty of Rs.7,25,806 is awaited (June 1987).

The matter was reported to Government in December 1984; their reply is awaited (June 1987).

#### **7.5. Ineffective control over goods entering into Calcutta metropolitan area for repair**

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, on entry of goods (specified in the Schedule to the Act) into the Calcutta metropolitan area (from any place outside it), through a checkpoint for purposes of consumption, use or sale therein, entry tax at the prescribed rate is leviable.

As per circular of August 1972, the department exempted the levy of tax on such specified goods as were brought into the Calcutta metropolitan area for purposes of repair, subject to certain conditions, viz., the dealer causing the entry of the goods must (i) certify, *inter alia*, that the goods were for repair and not for any other purpose; and (ii) undertake that the goods would be taken out of the Calcutta metropolitan area, through the same checkpoint, within the time allowed for their return. In no case, the period allowable for return of the goods after repair was to exceed six months.

- (a) Eighteen consignments of specified goods were brought into the Calcutta metropolitan area for repair, through a road checkpoint in Howrah district, on various dates falling between April 1983 and December 1983. There was nothing on record to indicate that the goods were taken out of the Calcutta metropolitan area after repairs within the prescribed period of six months or even thereafter. Entry tax amounting to Rs.92,118 was, accordingly, leviable on these consignments. The department had not initiated any action for realisation of tax till the date of audit.
- (b) Through another road checkpoint in 24-Parganas (South) district, nine consignments of specified goods were brought into the Calcutta metropolitan area for repair between May 1984 and November 1984. The goods were not taken out of the area till July 1985. In respect of these consignments, entry tax amounting to Rs.19,298 was leviable. The department had not initiated any action for realisation of tax till the date of audit.

On the above cases being pointed out in audit (August 1984 and July 1985), the department stated (March 1986) that it had satisfied itself regarding the return of goods in respect of eight consignments; that the cases relating to six other consignments involving entry tax of Rs.43,448 were under its examination; that in one case, demand notice had since been issued; and that in another case, tax amounting to Rs.1,260 had been realised. With respect to the remaining eleven consignments, reply of the department is awaited (June 1987).

The above cases were reported to Government in October 1984 and October 1985; their reply is awaited (June 1987).



## CHAPTER 8

### OTHER TAX AND NON-TAX RECEIPTS

#### A—AMUSEMENTS TAX

##### 8.1. Non-levy of entertainment tax

Under the provisions of the Bengal Amusements Tax Act, 1922, as amended by the West Bengal Taxation Laws (Amendment) Act, 1980, entertainments tax is leviable at 25 per cent on all payments for admission to horse races if the payment for admission does not exceed rupees five per person. Where, however, the State Government is satisfied that the net proceeds, arrived at after deduction of 25 per cent towards expenses from the gross realisations, are devoted to philanthropic, religious or charitable purposes, a refund of the entertainments tax is permissible under the Act.

A club in Darjeeling district held horse races in summer and autumn of 1982 and 1983 and collected a total amount of Rs.3,11,402 by way of admission fee at Re.1 per ticket. The club did not pay any entertainments tax even though it spent 50 per cent of the gross realisation on prizes; 40 per cent on expenses and the remaining 10 per cent (Rs.31,140) for charitable purposes. The assessing authority also did not take any action to levy and realise tax which amounted to Rs.77,851.

The omission was reported to the department in May 1984 and to Government in January 1985; their replies are awaited (June 1987).

##### 8.2. Non-realisation of tax

Under the Bengal Amusements Tax Act, 1922 and the rules made thereunder, payment of entertainment tax can be accepted only when it is made by the proprietors either by prevalidated and certified crossed cheques or by cheques against cash deposits or bank guarantees or by drafts drawn on a local scheduled bank.

A proprietor of a cinema house in Calcutta tendered, during June to December 1982, eleven cheques amounting to Rs.1,86,381 against payment of entertainment tax relating to different periods from February to October 1982. The cheques were accepted by the department even though they did not fulfil the aforementioned conditions. The cheques were dishonoured on presentation. No action was taken by the department till April 1983 to realise the amount in question.

On this being pointed out (April 1983) in audit, the department stated (September 1984) that the case had been referred to the certificate officer for recovery of the amount. The department also stated that the management of the cinema house had been vested in the Commissioner of Sanchayita Investments in June 1983 in terms of an order of the Supreme Court.

Government, to whom the case was reported in February 1984, stated (October 1986) that out of the total dues, an amount of Rs.42,400 had been realised in monthly instalments. Report on realisation of the balance amount is awaited (June 1987).

#### B—STAMPS AND REGISTRATION

### 8.3. Short levy of stamp duty due to mis-classification of instruments

(i) Under the Transfer of Property Act, 1882, a "gift" is a transfer of certain existing movable or immovable property made voluntarily and without any consideration by a donor to a donee and accepted by or on behalf of the latter. On an instrument of gift, stamp duty is leviable at a higher rate than that leviable on a deed of settlement.

In an instrument (classified as settlement) registered (January 1984) by the Registrar of Assurances, Calcutta, the settler created a trust in respect of his property worth Rs.1,38,800 and transferred it to his son as trustee. As per recitals in the instrument, the trust created was irrevocable leaving the settler with no right, title, claim and/or interest in the property whatsoever.

Since the trust created was irrevocable and trustee was beneficiary for all times after execution of the deed, the deed was to be classified as a deed of 'gift', instead of as a deed of 'settlement'. The mis-classification of the deed resulted in short realisation of stamp duty amounting to Rs.16,342.

On this being pointed out in audit (April 1984), the department contended (April 1984) that 'the deed' could not be treated as 'gift', since under the Transfer of Property Act, a gift must be accepted by the donee and the trustees should be *inter-vivos*; here the prospective members of the family of the trustee became the beneficiaries. The department's contention is not, however, tenable since the trustee and the beneficiary (son of the settler) was one and the same person at the time of execution of the deed and even afterwards (after the marriage of the trustee the property was to vest in him in his capacity as the *Karta* of the Hindu undivided family). The deed related to

absolute and unqualified transfer of property (voluntarily and without consideration) in favour of the donee (trustee) and the latter accepted the transfer as per deed executed. The deed was, therefore, classifiable as a deed of gift and not settlement.

(ii) Under the provisions of the Indian Stamp Act, 1899, different rates of stamp duty and registration fee are prescribed for different kinds of deeds. 'Power of attorney', includes any instrument empowering a specified person to act for and in the name of the person executing it, while 'mortgage deed' includes every instrument whereby for the purpose of securing money advanced or to be advanced by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates to, or in favour of another, right over or in respect of specified property.

According to judicial pronouncement\*, agreement under seal, made in consideration of an advance, to execute a mortgage of certain premises when so required by the lender to secure the advance and to provide for appointment of a receiver to receive the rents and profits so long as the money remained due (in default of payment of principal and interest) was held chargeable as mortgage.

In order to obtain a loan of Rs.12.70 lakhs from the West Bengal Financial Corporation, a private limited company in Midnapore district agreed, with a view to securing the loan, to authorise the Corporation to execute for and on its (Company's) behalf a first legal mortgage (in English form) of all its movable and immovable properties in favour of the Corporation; and, in the event of the company's failure, when required by the Corporation, to duly execute and register the mortgage deed. It was further agreed that the Corporation be granted a right to appoint a receiver of the undertaking of the company as well as the right to sell the company's property without intervention of the court for the purposes of securing to the Corporation all moneys due by the company. A deed covering the above issues presented at a sub-registry office was registered as a 'power of attorney', instead of as 'mortgage'. The mis-classification of the deed resulted in short realisation of stamp duty and registration fees amounting to Rs.49,210.

On this being pointed out in audit (March 1983) the department agreed (March 1983) that the deed appeared to be chargeable as a mortgage and necessary action was being taken. Further development is awaited (June 1987).

The above cases were reported to Government in July 1983 and February 1985; their reply is awaited (June 1987).

---

\*United Realisation Co. Vs. Commissioner (1899) 1 Q. B. 361:68 L.J. Q. B. 218

#### **8.4. Grant of discount on sale of stamps to unlicensed vendor**

Under the Indian Stamp Act, 1899 and the rules framed thereunder, certain classes of non-judicial stamps are sold to public through licensed stamp vendors, who are required to purchase the stamps from Government treasury against cash payment. The licensed vendors are allowed discount at prescribed rate on their purchases. The licence is revocable at any time by the district licensing authority. A person who sells or offers for sale any stamps without a proper licence shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Licence of a stamp vendor in a sub-registry office in Murshidabad district was cancelled by the District Collector in November 1979. The fact of cancellation of the licence was duly conveyed to the district treasury in December 1979. Even after cancellation of his licence, stamps worth Rs.2,12,210 were sold to the ex-licensee between 28th December 1982 and 11th April 1984 by the treasury after allowing a discount of Rs.11,672. The sale of stamps to a person not holding a valid licence and allowing of discount to him on such sale were irregular.

On this being pointed out in audit (June 1985), the treasury officer stated (June 1985) that the order for cancellation of licence was not reported to him. However, the Collector, Murshidabad maintained that the cancellation of licence was duly reported to the Treasury Officer in December 1979. No action was taken to fix responsibility for the irregular sale of stamps to unlicensed vendor.

The matter was reported to Government in November 1985; their reply is awaited (June 1987).

#### **8.5. Loss of non-judicial stamps in transit**

According to rules regulating the supply and distribution of non-judicial stamps, supply of such stamps is made from the Central Stamp Stores on f.o.r. Nasik Road terms. Accordingly, shortages in consignments of stamps in transit occasioned by theft, accident or other causes lie on the Government to whom the stamps are despatched, unless otherwise established. The rules also require such losses of stamps to be written off in accordance with the rules made by the State Government concerned.

Four consignments containing 0.83 lakh sheets of non-judicial stamps of different denominations for a total face value of Rs.26.40 lakhs were despatched by rail from the Central Stamp Stores, Nasik between December 1980 and February 1985. While three consignments meant for Collector, Murshidabad were sent to the railhead at

Berhampore, the remaining one consignment meant for Collector, 24-Parganas (South) was sent to Howrah. Out of these four consignments, 4,446 sheets of stamps of different denominations for a total face value of Rs.1,47,360 were received short at the respective destinations.

On the short receipts of stamps being pointed out in audit in June 1985 and April 1986, the treasury officers concerned stated (June 1985 and April 1986) that short receipts of the stamps were duly reported to the Central Stamp Stores, Nasik. The treasury officer, 24 Parganas (South) also stated that a claim for the loss of stamps worth Rs.1,07,200 was lodged with the railways in April 1985. The disposal of the claim is awaited (June 1987).

In regard to the shortages of stamps at Berhampore, the treasury officer stated that claims in respect of stamps worth Rs.36,160 lodged with the railways in September 1983 had since been repudiated on grounds of time-bar, and, for the remaining Rs.4,000 a claim was being lodged with the railways. The proposed claim might also end up with rejection on similar ground of time-bar. The losses for which claims have been repudiated by the railways are yet to be regularised under sanction of the competent authority (June 1987).

The cases were reported to the Government in November 1985 and July 1986; their comments are awaited (June 1987).

## C—PROFESSIONS TAX

### 8.6. Administration of Professions Tax

#### 8.6.1. *Introductory*

(i) With a view to generating additional resources for the State, the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 was enacted for the levy and collection of tax on professions, trades, callings and employments within West Bengal. The Act came into force from 1st April 1979.

(ii) For carrying out the purposes of the Act and the rules made thereunder, the Commissioner of Commercial Taxes of the State has been appointed as the Commissioner of Professions Tax. He is assisted by an Additional Commissioner and several Assistant Commissioners, Professions Tax Officers and Inspectors operating at the geographically demarcated range and unit offices numbering 18 in all.

(iii) Professions tax is payable by (i) salary and wage earners (except those earning less than Rs.500 per month and whose employment is of a casual nature); (ii) self-employed persons and (iii) specified institutions. In the case of salary and wage earning

employee, the liability to recover and deposit the tax devolves on his employer who has to get himself registered under the Act. The self-employed persons and the institutions are on the other hand, required to enrol themselves under the Act. The maximum amount of professions tax is Rs.250 per annum per person or institution.

### 8.6.2. *Trend of revenue*

Revenue realised by the State from professions tax during the year 1981-82 to 1985-86 vis-a-vis the budget estimates is shown in the table below :

Year	Budget estimate	Actual receipt	Percentage of excess/shortfall
(Rupees in crores)			
1981-82 ... ..	18.80	13.10	(30.3)
1982-83 ... ..	15.50	15.79	1.9
1983-84 ... ..	17.00	20.79	22.3
1984-85 ... ..	22.00	26.09	18.6
1985-86 ... ..	33.60	29.74	(11.5)

The department was unable to state the factors responsible for the shortfall in collection of professions tax during 1981-82 and 1985-86.

### 8.6.3. *Status of registration and enrolment*

(i) In 1979, the department estimated the number of employers (other than Government officers) to be registered and the number of other persons and institutions to be enrolled under the Act, at 60,000 and 4,00,000, respectively. The actual registrations and enrolments made at the end of each year up to 1984-85 were, however, as under :

Year	Number of registered employers	Number of enrolled persons and institutions
1979-80 ... ..	19,611	1,81,774
1980-81 ... ..	22,225	1,95,383
1981-82 ... ..	24,451	2,04,714
1982-83 ... ..	N.A.	2,16,904
1983-84 ... ..	26,865	2,21,235
1984-85 ... ..	30,096	2,31,766

Note : N.A.=Not available from departmental records.

---

\*The figures in brackets indicate shortfall

The level of registration and enrolment achieved till the end of 1984-85 was only 50 per cent and 58 per cent respectively, of the estimates made in 1979.

The department stated (July 1986) that the 1979 estimates of the number of prospective employers to be registered and persons and institutions to be enrolled were quite high. However, as a result of surveys made and other administrative measures taken, the department claimed that at the end of 1985-86, the number of registered employers was close to 35,000 and that of enrolled persons and institutions over 3,00,000.

(ii) The under-noted categories of self-employed persons, among others, are liable to pay professions tax :

- (i) Dealers registered under the sales tax laws;
- (ii) Holders of permit for transport vehicles, viz., taxis, three-wheeler goods vehicles, trucks and buses; and
- (iii) Employers of shops and establishments.

On enquiries made from the commercial taxes, the motor vehicles and the labour departments of the Government, it was ascertained in audit that, during 1984-85, the number of self-employed persons in the aforementioned three categories was close to 6.40 lakhs. Till the end of that year, the number actually enrolled was, however, only 1.32 lakhs, representing registration of only one person out of every five. Evidently, even allowing for a reduction in the above number to take care of enrolment of a person engaged in more than one profession or trade, a large number of persons remained un-enrolled to end of 1984-85. Precise number of persons who did not obtain enrolment could not be stated by the department, with the result that the actual number of persons remaining out of the professions tax net and its implications in terms of revenue could not be determined in audit.

The department admitted (July 1986) the likelihood of many self-employed persons not coming up for enrolment, thereby evading tax. In regard to persons of the three categories mentioned above, it was stated that measures were taken to identify the prospective tax-payers in liaison with the commercial tax offices, motor vehicles department and the municipal authorities.

#### **8.6.4. Pace of assessment**

The Act provides for assessment of professions tax due from employers on an annual basis. It does not, however, contain any provision as to the period within which an assessment must be completed. In a departmental circular issued in March 1980, instructions were given that notice initiating assessment proceedings

should be issued, wherever necessary, within 60 days from the close of an assessment year. In February 1981, further instructions were issued that in dealing with the cases of bigger registered employers with a large force of employees, assessments should be completed within two years from the end of an assessment year.

According to instructions issued in February 1981, each assessing officer was required to complete, in a year, assessment of 1,200 cases.

Test check of records in the undermentioned seven range/unit offices showed that the pace of assessment of registered employers during the years 1980-81 to 1985-86 was as under :

Name of range/ unit office	Assessments due for completion 1980-81 to 1985-86	Assessments completed during 1980-81 to 1985-86	Cases awaiting assessment at the end of March 1986	Assessing officers in position at the end of March 1986
	(No.)	(No.)	(No.)	(No.)
Calcutta North ...	56,897	7,606	49,291	8
Calcutta South ...	9,967	4,156	5,811	3
Calcutta East ... ..	6,554	2,414	4,140	3
Calcutta West ... ..	11,912	1,280	10,632	4
WB Central Unit-I ...	18,796	2,425	16,371	3
WB Central Unit-II ...	7,698	2,203	5,495	4
WB South Unit-III ...	4,610	736	3,874	1
Total ...	1,16,434	20,820	95,614	26*

The foregoing table shows that out of 1.16 lakh cases due for assessment, only 0.21 lakh cases, representing only 18 per cent, had been assessed in six years. This indicates that the performance of the assessing officers was far below the standards laid down, with the result that assessment cases went on accumulating for disposal.

#### 8.6.5. Defaulting tax-payers

(i) Data relating to collection of professions tax is electronically processed by the department. Range-wise/unit-wise realisation of tax during each year is computer-listed. Another range-wise/unit-wise list of enrolled persons who defaulted in making payment of tax during each year is also prepared; this list shows also the amount of tax for each year remaining in default.

\* During 1985-86, the strength of assessing officers was raised by one each at the Calcutta North and West ranges and reduced by one at the West Bengal Central Unit I.



The tables I and II below show the number of employers registered and persons (including institutions) enrolled at the end of each year from 1980-81 to 1984-85 and the number of tax-payers who defaulted in making payment of the due tax during each of those years. In the case of enrolled persons, the amount of tax remaining uncollected during each year is also indicated (Table II) :

**Table I****Registered employers**

Year				Number registered	Number defaulted	Percentage of defaulters
1980-81	...	...	...	22,225	6,513	29.3
1981-82	...	...	...	24,451	7,451	30.5
1982-83	...	...	...	N.A.	N.A.	...
1983-84	...	...	...	26,865	10,322	38.4
1984-85	...	...	...	30,096	9,971	33.1

Note : N.A.=Figures not available

**Table II****Enrolled persons (including institutions)**

Year			Number enrolled	Number defaulted	Percentage of defaulters	Tax on default (Rupees in lakhs)
1980-81	...	...	1,95,383	1,01,792	52.1	154.81
1981-82	...	...	2,04,714	1,23,202	60.2	192.47
1982-83	...	...	2,16,904	1,36,450	62.9	212.38
1983-84	...	...	2,21,235	1,24,060	56.1	193.43
1984-85	...	...	2,31,766	1,16,846	50.4	191.48

It is evident from the foregoing tables that the extent of default, in terms of percentage, varied from 29.3 to 38.4 in the case of registered employers and from 50.4 to 62.9 in the case of enrolled persons. The situation is indicative of a poor performance and lack of effectiveness on the part of the collection machinery.

The department agreed (July 1986) that the percentage of default in payment of tax both by registered employers and enrolled persons, over the years was quite high. It was stated that, as far as the defaulting registered employers were concerned, the position was periodically reviewed at the range/unit offices level and necessary

administrative measures taken for realisation of the arrear tax. In the case of defaulting enrolled persons, printed reminder notices were sent once every year from the Data Cell of the department to every defaulter; in addition, collection of arrear tax was pursued from the range/unit offices level on a selective basis.

(ii) There was no system of maintaining, at the range/unit office level, individual account of each registered employer and enrolled person showing the extent of progressive arrears of tax due from him and the year from which it was due. Treasury challans in support of payment of tax were also not, in most cases, placed in the respective assessment files. As a result, it was not possible in audit to determine the extent of or to analyse the age of the accumulated arrears of tax due from each of the enrolled persons and the registered employers.

The department stated (July 1986) that the question of preparation of an updated and year-wise position of arrears of tax along with a computation of accrued interest thereon was under their examination.

#### **8.6.6. Evasion of tax due to non-enrolment**

Test check in audit at different range/unit offices disclosed that, in 305 cases, persons engaged in different trades, professions, etc., who were statutorily required to enrol themselves under the Act, did not comply therewith and, thus, evaded payment of professions tax.

(i) Dealers registered under the sales tax laws : Dealers registered under the State and Central sales tax laws are liable to pay a minimum professions tax of Rs.150 per annum. However, where the annual gross turnover of a dealer exceeds Rs.1 lakh, the tax payable is Rs.250 per annum.

- (a) Cross verification of records in the sales tax department in Midnapore district showed that 52 dealers, who were already registered under the Bengal Finance (Sales Tax) Act, 1941 before 1st April 1979, and whose individual annual gross turnover during each of the years from 1979-80 to 1983-84 exceeded Rs.1 lakh did not enrol themselves under the Professions Tax Act. The dealers, thus, evaded tax amounting to Rs.65,000 over the years from 1979-80 to 1983-84.

On this being pointed out (August 1984) in audit, the department stated (October 1986) that, out of the 52 registered dealers, 39 had since been enrolled, while show cause notices had been issued to the remaining 13 dealers. Further development is awaited (June 1987).

- (b) A similar verification of records at the sales tax department at Berhampore in Murshidabad district showed that out of 64 dealers newly registered during 1979-80 under the Bengal Finance (Sales Tax) Act, 1941, 55 dealers did not at all enrol themselves under the Professions Tax Act. Of them, 17 dealers had their annual gross turnover above or below Rs.1 lakh during 1979-80 to 1984-85. They were, accordingly, liable to pay professions tax of Rs.12,650, which was evaded by them. As regards the remaining 38 dealers, for lack of relevant information, the extent of their liability to pay professions tax could not be ascertained. However, on the basis of the minimum tax of Rs.150 per annum, the amount of tax evaded by them during the six years 1979-80 to 1984-85 amounted to Rs.34,200.

On this being pointed out (January 1986) in audit, the department stated (January 1986) that efforts were being made to get the dealers enrolled. Further report is awaited (June 1987).

(ii) Vehicles permit-holders : Every holder of a permit granted under the Motor Vehicles Act, 1939 for transport vehicle used for hire is liable to pay professions tax of Rs.50 per annum for each taxi or three-wheeler goods vehicle and Rs.100 per annum for each truck or bus, subject to a maximum of Rs.250 per annum payable by any one permit-holder.

- (a) In Malda and West Dinajpur districts, holders of permits of 108 transport vehicles of different descriptions did not enrol themselves under the Professions Tax Act. Tax amounting to Rs.40,200 was thereby evaded by the permit-holders for various periods during April 1979 to March 1985.

On this being pointed out (March 1986) in audit, the department stated (March 1986) that notices were issued to the permit-holders urging them for enrolment.

- (b) Verification of records at the Regional Transport Authority in Midnapore district disclosed that 37 trucks and buses, which were registered before 1st April 1979, were regularly plying on the road since their registration with valid permits. Their owners did not, however, enrol themselves under the Professions Tax Act and, thus, evaded payment of tax amounting to Rs.18,500 for the years 1979-80 to 1983-84.

On this being pointed out (August 1984) in audit, the department stated (October 1986) that 6 permit-holders had since been enrolled and the others served with show cause notices. Further development is awaited (June 1987).

(iii) Liquor vendors : Licensed foreign liquor vendors are liable to pay professions tax at the maximum rate of Rs.250 per annum. Licensed country liquor vendors were also brought within the purview of Professions Tax Act with effect from 1st April 1984 and they were made liable to pay tax at the maximum rate of Rs.250 per annum.

(a) Out of 21 licensed foreign liquor vendors in Asansol subdivision of Burdwan district, 11 vendors did not enrol themselves under the Act and, thus, evaded tax amounting to Rs.16,500 during the years 1979-80 to 1984-85.

(b) 28 other licensed country liquor vendors in the same subdivision also failed to enrol themselves from 1st April 1984 and thus evaded tax amounting to Rs.7,000 for the year 1984-85.

On the above cases being pointed out (January 1986) in audit, the department stated (January 1986) that necessary steps were being taken.

(iv) Cinema hall owners : Proprietors of cinema houses and theatres are liable to pay professions tax at the maximum rate of Rs.250 per annum. Although there were 24 cinema houses and theatres in Asansol subdivision of Burdwan district, the proprietors of 14 cinema houses and theatres did not enrol themselves under the Act. Tax amounting to Rs.21,000 for the years 1979-80 to 1984-85 was, thus, evaded by them.

On this being pointed out (January 1986) in audit, the department stated (January 1986) that necessary action was being taken. Further report is awaited (June 1987).

#### **8.6.7. Realisation of tax at incorrect rates**

(i) Enrolled persons of different categories specified in the Act, e.g. medical and legal practitioners, agents, cinema hall owners, vehicle owners, dealers registered under the sales tax laws, etc. are required to pay professions tax at rates specified in the Act. The rates of tax, in such cases, vary from one category of enrolled person to another on the basis of different considerations, such as, standing in a profession, quantum of gross turnover, number of employees or workers, number and type of vehicles etc.

In Nadia district, in the case of 31 enrolled persons engaged in different professions and trades, the amount of tax short realised due to application of incorrect rates amounted to Rs.10,700 for the period from 1st April 1979 to 31st March 1984.

When this was pointed out (September 1984) in audit, the department agreed (September 1984) to review and recover the tax short realised.

(ii) Till March 1984, employers of shops and establishments engaging one or more employees were only liable to pay professions tax at rates depending upon the number of their employees. Employers who had no employee were exempt. However, by an amendment to the Act, with effect from 1st April 1984, all employers and shopkeepers, irrespective of whether they engaged any employee or not, were made to pay annual professions tax of Rs.50 if there was no employee; Rs.150 if there were less than 5 employees; and Rs.250 if the number of employees was 5 or more.

At the profession tax offices in Calcutta and 24-Parganas, Burdwan and Jalpaiguri districts, scrutiny of realisation of tax for the year 1984-85 showed that tax was wrongly realised from 692 employers and shopkeepers, at rates applicable prior to 1st April 1984. This resulted in professions tax amounting to Rs.74,000 being realised short.

On the irregularity being pointed out (March to July 1986) in audit, the department agreed to review and collect the amount short realised.

#### **8.6.8. Tax for pre-enrolment period**

In Purulia district, nine self-employed persons made inordinate delay of 5 to 6 years in getting themselves enrolled. Tax dues relating to earlier years, for which they were liable, were not, however, realised from them. The amount of tax not realised in these cases amounted to Rs.11,500 for the periods falling between April 1979 and March 1985.

On this being pointed out in audit (February 1986), the department agreed to look into the matter. Further development is awaited (June 1987).

#### **8.6.9. Interest and penalty on belated payment of tax**

Under the provisions of the Act and the rules made thereunder, registered employers are required to deduct the tax from their employees every month and to deposit the same by the end of the following month. Persons who are already enrolled before the

commencement of a year or are enrolled on or before 31st August of a year, are required to pay tax by 30th September every year and others, who enrol themselves after 31st August of a year, are to pay the tax within a month from the date of their enrolment. Failure to pay the tax by the prescribed date attracts payment of simple interest at 2 per cent of the amount of tax due for every month or part of a month until the tax is paid. In addition, penalty up to 50 per cent of the amount of tax due is leviable if the tax is not paid, without a reasonable cause, within the time specified in the demand notice. An assessee is, however, to be afforded the opportunity of being heard before any penalty is levied.

(i) 3,601 persons, enrolled in 6 different range/unit offices in Calcutta and other districts delayed payment of tax relating to the years 1979-80 to 1985-86. The delay ranged from less than a month to 67 months. The enrolled persons were accordingly liable to pay interest amounting to Rs.2.51 lakhs. No interest was, however, levied on them.

(ii) 65 registered employers in Calcutta and other districts also similarly delayed payment of professions tax relating to the year 1979-80 to 1984-85 by less than a month to 82 months. In these cases, either no interest was charged at all or was charged for a lesser amount. The amount of interest not charged or under-charged in these cases amounted to Rs.15.21 lakhs.

(iii) 1,005 persons enrolled in Calcutta, Howrah and 24-Parganas districts and in Asansol subdivision of Burdwan district did not pay tax due within the prescribed time. For failure to pay the tax in time, they were liable to a penalty not exceeding Rs.1.18 lakhs. However, no notice was served on them to invoke penalty.

#### **8.6.10. Penalty for delay in enrolment**

Every person liable to pay professions tax is required to enrol himself under the Act. For this purpose, he has to apply in the prescribed form within 90 days from 1st April 1979, or, if he was not engaged in any profession, trade, calling or employment on that date, from any subsequent date on which he became so liable. In the case of any person neglecting to apply for enrolment within the required time, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees five for each day of delay.

259 persons in Calcutta and in Howrah, Burdwan and Purulia districts enrolled themselves on dates later than the dates on which they became liable to pay professions tax. The delay ranged between 55 days and 1965 days. Penalty not exceeding Rs.4.71 lakhs was imposeable on these persons, but no penalty was imposed.

On this being pointed out in audit (February to June 1986), the Professions Tax authorities in Calcutta (North and West) and Purulia stated (February to July 1986) that the matter was being looked into. The Professions Tax authority of Calcutta (East) stated (June 1986) that the question of levy of penalty was not considered rigidly in the past though penalty was now being enforced since October 1985. The authorities at Howrah and Burdwan districts, however, maintained that the levy of penalty was not mandatory.

The foregoing points were reported to Government between August 1984 and August 1986; their comments are awaited (June 1987).

## D—ELECTRICITY DUTY

### 8.7. Assessment and collection of electricity duty

#### 8.7.1. *Introductory*

Levy and collection of duty on consumption of electrical energy in West Bengal are governed by the Bengal Electricity Duty Act, 1935 read with the Bengal Electricity Duty Rules, 1935 framed thereunder. The Act came into effect from 1st July 1935. The West Bengal Duty on Inter-State River Valley Authority Electricity Act, 1973 was subsequently enacted, with retrospective effect from 1st February 1958, to regulate the levy and collection of electricity duty on the consumption, within West Bengal, of electrical energy generated, distributed, sold or consumed by the inter-State river valley authority, viz., Damodar Valley Corporation.

#### 8.7.2. *Trend of revenue*

The State's receipts from electricity duty during the five years from 1981-82 to 1985-86 vis-a-vis the budget estimates are shown below :

Year			Budget estimate	Actuals	Variation excess/ (shortfall)	Percentage of variation*
			(In crores of rupees)			
1981-82	..	..	25.88	16.67	(9.21)	(35.6)
1982-83	..	..	16.50	14.92	(1.58)	(9.6)
1983-84	..	..	23.37	17.86	(5.51)	(23.6)
1984-85	..	..	19.00	13.58	(5.42)	(28.5)
1985-86	..	..	19.13	36.50	17.37	90.8

\*Figures in brackets indicate shortfall.

The rates of electricity duty were enhanced by the Government from October 1984 by 2 paise per unit save in cases where concessional rate of duty was applicable. Despite the enhancement of rates, actual revenue receipts during 1984-85 fell far short of the budget estimates for that year which did not even include the anticipated revenue from additional duty from October 1984.

The Chief Electrical Inspector, West Bengal stated (April 1986) that the shortfall in collection during 1984-85 was mainly due to non-payment of duty by two main licensees, viz., the West Bengal State Electricity Board and the Calcutta-based licensee.

The department stated that the increase in collection during 1985-86 was mainly due to recovery of arrear electricity duty from the Calcutta-based licensee and the West Bengal State Electricity Board.

### 8.7.3. Arrears in assessment

(i) Chief Electrical Inspector is the authority competent to enforce the provisions of the said Acts and the rules made thereunder. The area of his responsibility extends to detection of cases of non-payment or short payment of electricity duty by the consumers and to initiation of steps for proper assessment. He is empowered to consider applications for exemption from duty or for assessment of duty in respect of unmetered premises in the district of 24-Parganas and in the area served by the Calcutta-based licensee. In all other areas, these powers rest with the district Collectors (including Additional Collectors) who act on the basis of reports from inspecting officers functioning under the Chief Electrical Inspector. Realisation of assessed duty is made by Collectors.

(ii) Out of 848 cases of non-payment/short payment of duty detected by inspecting officers during 1975-76 to 1985-86, settlement of 398 cases, year-wise break-up of which is given below, was pending at the end of May 1986. The amount of duty involved in these cases could not be ascertained.

Year	Number of outstanding cases
1975-76	1
1978-79	12
1979-80	20
1980-81	23
1981-82	23
1982-83	34
1983-84	25
1984-85	94
1985-86	166
<b>Total :</b>	<b>398</b>



(iii) Proper control records were not maintained at the districts to show that realisation of duty was in fact being made with reference to the cases of assessments reported to the Collectors. Progress of realisation of duty was also not regularly reported by the Collectors to the Chief Electrical Inspector.

(iv) A report on short payment of duty (Rs.1.09 lakhs) by an industrial unit in Hooghly district, during July 1963 to November 1982, was made by the Chief Electrical Inspector in September 1983 only to the district Collector for assessment. The district Collector, however, stated (May 1986) that no such report was received in his office.

#### **8.7.4. Non-submission of returns and non-payment of duty**

(i) It is the statutory obligation of a licensee to collect electricity duty from the consumers along with his own charges for energy supplied and to pay the duty to Government within sixty days after expiry of the month to which it relates. The licensee is also required to submit monthly returns to the district Collector and to the Chief Electrical Inspector within seventy days.

(ii) West Bengal State Electricity Board did not submit monthly returns for various periods during 1977-78 to 1985-86; it did not also produce its books of account for verification by the Chief Electrical Inspector. The amount of electricity duty outstanding for recovery from the Board at the end of March 1986 was estimated by the Chief Electrical Inspector at Rs.18.09 crores. Out of this, Rs.7.44 crores were stated to have been adjusted in 1984-85 against Government subsidy. No accounting adjustment was, however, carried out.

Government stated (September 1985) that the matter was being pursued for settlement.

(iii) The licensee, supplying electrical energy in Calcutta and in parts of 24-Parganas, Howrah and Hooghly districts did not submit, till April 1986, monthly returns for January to March 1985. The licensee collected from its consumers electricity duty, from month to month during February to December 1984, amounting to Rs.10.17 crores, but delayed the deposit of the proceeds collected; the extent of delay varied between 93 and 199 days. Collections for the months from February to July 1984, which fell due for deposit between April and September 1984, were in fact deposited by the licensee between July 1984 and March 1985. The licensee, thus, retained the proceeds amounting to Rs.4.83 crores collected for the months from August to December 1984. Due to non-submission of returns, the amount of electricity duty collected for the months of January to March 1985 could not be ascertained in audit. The Chief Electrical Inspector, however, estimated the amount at Rs.4.80 crores, which, it

was stated (April 1986), was being recovered in monthly instalments of Rs.25 lakhs each. Duty payable for September 1985 to January 1986, estimated by the Chief Electrical Inspector at Rs.10.55 crores, also went into arrears by March 1986. The licensee has been withholding payment of Government dues for his own benefit at the expense of Government.

(iv) Durgapur Projects Ltd. (a State Government undertaking), a licensee operating in a part of Durgapur industrial complex, did not submit, till April 1986, monthly returns for April 1983 to January 1986. Duty recoverable from the licensee was not assessed either. On the basis of the average duty paid during the preceding three years, the amount of duty in arrears from April 1983 to January 1986 worked out to Rs.80.43 lakhs.

(v) Mining and Allied Machinery Corporation Ltd. (a Government of India undertaking) did not submit returns for seven months falling between April 1983 and March 1986. They did not also pay the duty for those months, which amounted to Rs.1.18 lakhs, computed on the basis of the average monthly electricity duty paid in other months during that period.

As a bulk consumer obtaining supply of electrical energy since July 1964 from Durgapur Projects Ltd., even though the Corporation was also liable to pay duty, the same was not assessed till March 1985. The amount of duty realisable for the period from July 1964 to May 1981 was assessed (May 1982) at Rs.4.15 lakhs and the assessee was allowed to pay the amount in ten monthly instalments to the bulk supplier for eventual credit into Government account. Report on realisation is awaited (June 1987). Assessment for the subsequent period from June 1981 to January 1986 was also pending (June 1987).

(vi) Seven consumers in Burdwan district, receiving electricity from Damodar Valley Corporation and liable to pay duty under the Act of 1973, defaulted in making payment for different periods between February 1984 and January 1986. The revenue realisable from them was Rs.70.30 lakhs. The arrear dues were reported to the district Collector by the inspecting officer from time to time during July 1985 to March 1986 for realisation; however, no demand was raised against the defaulters. Collector, Burdwan stated (April 1986) that steps would be taken to recover the dues. Report on realisation is awaited (June 1987).

### 8.7.5. Under-charge of duty due to application of incorrect rate

(i) By a notification issued in December 1984, the rates of electricity duty were enhanced with retrospective effect from 1st October 1984.

(a) One licensee in Burdwan district started collecting electricity duty at the enhanced rates from November 1984 onwards leaving the differential duty uncollected for the month of October 1984. This resulted in under-charge of duty amounting to Rs.1.25 lakhs. The district Collector agreed (June 1985) to realise the amount. Report on realisation is awaited (June 1987).

(b) Prior to 1st April 1985, persons having coal-based generating plants for generation of electrical energy for their own consumption were liable to pay electricity duty at the rates in force from time to time. Two industrial units in Hooghly and 24-Parganas (South) districts, however, did not pay electricity duty at the enhanced rate for the period from October 1984 to March 1985. The extent of under-realisation was Rs.2.41 lakhs in these cases. The district Collectors agreed (November 1985 to June 1986) to realise the undercharge from the industries.

(ii) Under the Act of 1935, electricity duty at concessional rates is not admissible unless the cost of energy consumed for purposes of electrolysis or heating in electric furnaces is twenty per cent or more of the total manufacturing cost by those processes and proper books of account reflecting the costs are maintained. An industrial unit claiming the benefit of concessional duty is required to obtain approval of the Chief Electrical Inspector in the prescribed manner, before the concession can be admitted.

An assessee in Hooghly district paid electricity duty at concessional rate on its consumption of energy for electrolytic purposes during January 1963 to December 1979 without obtaining approval of the Chief Electrical Inspector. Even though payment by the industry at concessional rate was disallowed thereafter, steps were not taken simultaneously to realise the amount of duty paid short during 1963 to 1979, estimated at Rs.2.12 lakhs. The Chief Electrical Inspector stated (June 1984) that necessary enquiry was being made. Further development is awaited (June 1987).

### 8.7.6. Irregular payment of rebate

To compensate a licensee for his cost of collection of electricity duty, a rebate is allowed if the payment of duty is made by the licensee within the prescribed time. In July 1970, it was clarified by

the Government that the licensees should first deposit the entire collection of electricity duty and then draw the admissible rebate by submission of bills separately. A bulk consumer is not entitled to such rebate.

(i) The Calcutta-based licensee claimed Rs.14.29 lakhs towards rebate for sixteen months from April 1983 to July 1984. The rebate was allowed in April 1986 in full without regard to the fact that the licensee did not deposit the duty within the due dates for at least thirteen months, which disentitled him from rebate amounting to Rs.11.82 lakhs.

(ii) Chittaranjan Locomotive Works, a bulk consumer receiving power from Damodar Valley Corporation, supplies electricity in its township. While making payment of duty for the months from April 1982 to February 1985 (except August 1983), they deducted a total amount of Rs.15,332 at source on account of rebate. Since the Chittaranjan Locomotive Works were only a bulk consumer and not a licensee, it was irregular to admit the rebate deducted at source.

(iii) A private licensee, operating in parts of Burdwan and Purulia districts, irregularly deducted at source an amount of Rs.1,01,046 towards rebate from the duty collected in February 1981, instead of claiming it through separate bills. The district Collector, Burdwan stated (April 1986) that allowance of rebate to the licensee was stopped after February 1981 and the matter referred to Government in February 1982, whose decision was awaited (June 1987).

#### **8.7.7. Adjustments admitted without verification**

The Bengal Electricity Duty Rules, 1935 permit adjustments, in the amount of duty payable by a consumer, for inaccuracies in meters and in their readings, leakages and refunds in the same manner as adjustment is allowed by the licensee in respect of his own charges. Inspecting officers are empowered to inspect the books and records of a licensee (at the registered or other office of licensee) for ascertaining and verifying the correctness of the amount of electricity duty leviable.

The Calcutta-based licensee adjusted Rs.18.30 lakhs through the monthly returns from November 1983 to December 1984 and April to August 1985. The adjustment was admitted by the department without any verification. The Chief Electrical Inspector stated (May 1986) that due to shortage of officers and staff it was not possible to examine the books and records of the licensee; however, steps were being taken to check the records at the licensee's premises. The fact, whether adjustment of Rs.18.30 lakhs made by the licensee was in order, remains to be verified by the department (June 1987).

### 8.7.8. Irregular grant of exemption

(i) A private generator of electrical energy is eligible for exemption from payment of electricity duty in respect of electrical energy consumed in the process of generation, transformation or distribution of the energy, subject, *inter alia*, to installation of proper meters, certified by an Inspecting officer.

An industrial unit in Hooghly district, generating electricity with coal-based generating plants, claimed and was allowed exemption from payment of duty during January 1980 to March 1985 on the quantity of energy consumed in the process of generation and distribution, in spite of the fact that the Chief Electrical Inspector reported in January 1980 that the industry did not qualify for the exemption. The unauthorised exemption enjoyed by the private generator amounted to Rs.1.95 lakhs. The Collector, Hooghly stated (November 1985) that the matter would be referred to the Chief Electrical Inspector.

(ii) A railway administration is exempt from payment of electricity duty except in the case of consumption of energy at the railway premises used for residential purposes.

(a) Electricity duty on the energy consumed at the staff quarters at Khargpur, Gidni and Dantan stations of South Eastern Railway was not assessed and realised since February 1975.

On this being pointed out in audit (May 1984), the duty for the period from February 1975 to December 1983 was assessed at Rs.37.53 lakhs and that for the period from January to September 1984 was estimated at Rs.5.40 lakhs. Out of the assessed duty, an amount of Rs.15.81 lakhs was stated to have been paid by the Railways through settlement account. Realisation of the remaining dues is pending for non-submission of formal demands (May 1986).

(b) Asansol division of Eastern Railway received energy from Damodar Valley Corporation for supply to its residential quarters at Asansol, Burdwan and Andul. No returns in respect of consumption of electricity at the staff quarters at these places were submitted by the Railways. It could not, therefore be ascertained in audit whether electricity duty leviable under the Act of 1973 on such consumption was duly assessed after necessary inspection and realised.

The district Collector requested (September 1985) the Chief Electrical Inspector for necessary enquiry and report in the matter. Further development is awaited (June 1987).

(iii) Energy consumed by a person not being a licensee, who generates energy from a coal-based generating plant for his own consumption for industrial or manufacturing process, was exempted from electricity duty for one year with effect from 1st April 1985. To be eligible for the exemption, the generating plant is required to be duly registered under the Act.

Two industrial units in 24-Parganas and Hooghly districts had their captive coal-based generating plants. They stopped payment of duty from April 1985 without having their plants duly registered. While the unit in Hooghly district applied for registration of its plant in July 1985, that in 24-Parganas district did not do so till May 1986. The amount of duty not paid was Rs.81,320 in the case of the unit in Hooghly district for the period from April to June 1985 and Rs.3,81,990 in the case of the other unit in 24-Parganas district for the period from April 1985 to March 1986.

The district Collectors agreed (April and June 1986) to proceed further in the matter in consultation with the Chief Electrical Inspector. Further development is awaited (June 1987).

#### **8.7.9. Loss of revenue due to claim being not submitted within the specified date**

An industrial unit in Nadia district did not instal separate meters to record consumption of electricity for lights and fans. Duty payable by the unit for consumption of energy for lights and fans during February 1959 to November 1979 was assessed (November 1979) at Rs.53,056 for realisation by the district Collector.

The unit was subsequently taken over by the Government of India in October 1980. The Commissioner of Payments for the company invited the creditors to lodge their claims against the company by 30th September 1981. The district Collector, however, submitted the claim belatedly in June 1982, which was turned down (October 1982) by the Commissioner as it was not preferred within the specified date. The district Collector stated (May 1986) that steps were being taken to write off the amount.

#### **8.7.10. Dues outstanding against ex-licensees**

Prior to constitution of the West Bengal State Electricity Board in May 1955, 24 different licensees were operating in West Bengal. The areas of their operation were taken over by the Board

in phases between August 1961 and February 1981. While three ex-licensees had no outstanding dues against them at the time of their take-over, assessments of the dues from two licensees were not completed till March 1987 by the Chief Electrical Inspector. Duty recoverable from the remaining 19 ex-licensees for the periods up to the date of revocation of their licences amounted to Rs.99 lakhs. The Chief Electrical Inspector stated (April 1986) that the dues from the ex-licensees would be adjusted against the compensation payable by the Board. Further development is awaited (June 1987).

#### **8.7.11. Reconciliation of credits**

There was no system of periodic reconciliation of departmental figures with the figures appearing in the treasury records, as revealed from the departmental books of the Collector, Burdwan.

(i) Credits for Rs.6,71,520 appearing in the books of Burdwan Collectorate towards deposits for electricity duty made in respect of three consumers during August 1974 to March 1975, were not traceable in the accounts of the district treasury. Even after this being pointed out in audit (June 1975), no action was taken by the district authorities till June 1984, when the particulars of the credits were sought for from the consumers concerned, which are awaited (June 1987).

(ii) Mining and Allied Machinery Corporation Ltd. paid (March 1977) Rs.97,505 by a cheque towards electricity duty for June 1976 and from August 1976 to January 1977. Treasury Officer confirmed in January 1985 that the amount had not been credited to Government. The district Collector stated (April 1986) that the matter was being pursued with the consumer. Further report is awaited (June 1987).

(iii) A statement of payments (involving Rs.178.41 lakhs) made by Durgapur Projects Ltd., towards electricity duty for the period from April 1979 to March 1983, sent to the Collectorate in September 1984, was not got verified and confirmed by the treasury till April 1986.

The foregoing observations were reported to Government in July 1986; their comments are awaited (June 1987).

### **E—DEPARTMENTAL RECEIPTS**

#### **8.8. Loss of revenue due to realisation of toll at compounded rates**

According to the provisions of the Indian Tolls Act, 1851, as subsequently amended by the Indian Tolls (Amendment) Act, 1864, persons entrusted with the management and collection of tolls under

the Act may, in their discretion, compound for a specified sum to be paid by any person in lieu of tolls leviable on any vehicle under the Act. In terms of Amendment Act of 1864, the compounding can be made at a time for any period not exceeding one year.

By a notification issued in March 1975 by the Public Works Department, a toll at Rs.3 per trip was levied on every bus plying over the reinforced concrete bridge on the irrigation canal on Diamond Harbour Road near Diamond Harbour in 24-Parganas district. Upon representation by a bus syndicate operating buses on two designated routes over the said bridge, Government decided (April 1982 and July 1982) to compound the existing toll charges and, in lieu thereof, to introduce a monthly toll ticket at the rate of Rs.90 per month per bus plying on the two routes. The facility of compounding was allowed to the operators in respect of one route from 1st May 1982 and in respect of the other route from 30th July 1982.

Under the Act, the facility of compounding was available for a period of one year only. Accordingly, the facility stood automatically revoked with effect from 1st May 1983 in the case of one route and from 30th July 1983 in the case of the other and consequently, toll charge at Rs.3 per trip was leviable with effect from 1st May 1983 and 30th July 1983, respectively. However, tolls at the monthly compounded rate of Rs.90 per bus per month continued to be realised from the bus operators of the two routes even after these dates. This resulted in loss of revenue amounting to Rs.3,62,556, computed on the basis of the amount of toll chargeable at Rs.3 per trip with reference to the number of buses and the frequency of service less the amount realised on the monthly ticket system, during the period from 1st May 1983|30th July 1983 to 31st March 1986.

On this being pointed out in audit (between June 1984 and April 1986), the department stated (July 1986) that decision on a proposal made (May 1986) to Government for enhancing the monthly toll ticket rate from Rs.90 to Rs.300 in view of the high maintenance and establishment costs was awaited (June 1987). The reply was silent as to why toll tax was recovered at the compounded rate even after expiry of period of one year, instead of at the prescribed normal rates.

The matter was reported to Government in January 1985; their reply is awaited (June 1987).



### 8.9. Non-recovery of cost of audit establishment on deposit works

Under the provisions of the West Bengal Public Works Department Code, Vol. I, recovery towards cost of audit and accounts establishment is to be made at one per cent of the works expenditure incurred on all deposit works.

Expenditure amounting to Rs.19,21,218 was incurred during 1982-83 by a public works electrical division while executing various deposit works on behalf of others. Cost of audit and accounts establishment charges at one per cent amounting to Rs.19,212 recoverable in these cases, was not, however, recovered.

On this being pointed out in audit (May 1983), Government stated (November 1986) that the recovery was being pursued. Report on recovery is awaited (June 1987).

*A. Ahluwalia*

(A. P. AHLUWALIA)

*Accountant General (Audit) II, West Bengal*

CALCUTTA,  
The

7 1 DEC 1987

Countersigned

*T. N. Chaturvedi*

(T. N. CHATURVEDI)

*Comptroller and Auditor General of India*

NEW DELHI,  
The

5 JAN 1988

