

**Report of the  
Comptroller and Auditor General of India**

**for the year ended 31 March 2000**

**(Revenue Receipts)**

**Government of Karnataka**

Report of the  
Comptroller and Auditor General of India

for the year ended 31 March 1960

Revenue Account

Statement of Expenditure



## Table of Contents

	<i>Paragraph</i>	<i>Page</i>
<i>Prefatory remarks</i>		v
<i>Overview</i>		vii
<b>CHAPTER 1</b>		
<i>Trend of revenue receipts</i>	1.1	1
<i>Variations between budget estimates and actual receipts</i>	1.2	4
<i>Cost of collection</i>	1.3	5
<i>Arrears of revenue</i>	1.4	6
<i>Arrears in assessments</i>	1.5	7
<i>Arrears in appeals</i>	1.6	7
<i>Remissions and write-off of revenue</i>	1.7	8
<i>Refunds</i>	1.8	8
<i>Frauds and evasions</i>	1.9	8
<i>Internal audit</i>	1.10	9
<i>Outstanding inspection reports and audit observations</i>	1.11	9
<i>Results of audit</i>	1.12	11
<b>CHAPTER 2</b>		
<i>Results of audit</i>	2.1	13
<i>Sales tax concessions to industries under the packages of incentives</i>	2.2	14
<i>Working of Sales Tax Check Posts</i>	2.3	30
<i>Incorrect grant of exemption/concession</i>	2.4	36
<i>Non-levy/short levy of turnover tax</i>	2.5	39

	<b>Paragraph</b>	<b>Page</b>
<i>Application of incorrect rate of tax</i>	2.6	41
<i>Non-levy/short levy of surcharge and cess</i>	2.7	42
<i>Non-levy of purchase tax</i>	2.8	42
<i>Incorrect allowance of set off</i>	2.9	44
<i>Incorrect determination of taxable turnover</i>	2.10	45
<i>Excess grant of deduction</i>	2.11	46
<i>Incorrect grant of composition benefit</i>	2.12	47
<i>Short demand of tax</i>	2.13	48
<i>Non-forfeiture of tax collected in excess</i>	2.14	48
<i>Non-levy of penalty</i>	2.15	49
<i>Loss of revenue due to delay in realisation of cheques</i>	2.16	50
 <b>CHAPTER 3</b>		
<i>Results of audit</i>	3.1	51
<i>Arrears of Excise Revenue</i>	3.2	52
<i>Short levy on whisky containing malt spirit</i>	3.3	60
<i>Non-levy of licence fee</i>	3.4	60
<i>Non-recovery of loss on termination of leases</i>	3.5	61
<i>Loss of revenue due to delay in serving confirmation orders</i>	3.6	62
<i>Excess wastage of spirit in maturation</i>	3.7	63
<i>Non-levy/short levy of litre fee</i>	3.8	63
<i>Non-recovery of differential duty</i>	3.9	64
<i>Non-recovery/short recovery of interest</i>	3.10	65
<i>Non-recovery/short recovery of cost of establishment</i>	3.11	65



	<b>Paragraph</b>	<b>Page</b>
<b>CHAPTER 4</b>		
<i>Results of audit</i>	4.1	67
<i>Under-charging of tax due to incorrect classification of contract carriages as private service vehicles</i>	4.2	67
<i>Non-levy of tax due to incorrect acceptance of non-use of vehicles</i>	4.3	68
<i>Non-levy of lifetime tax</i>	4.4	69
<b>CHAPTER 5</b>		
<i>Results of audit</i>	5.1	71
<i>Short levy of tax due to incorrect computation of agricultural income</i>	5.2	71
<i>Short levy of tax due to incorrect allowance of deduction of investment deposit</i>	5.3	72
<i>Short levy of tax due to incorrect set off of loss</i>	5.4	73
<i>Non-levy of interest for non-filing/belated filing of return of income</i>	5.5	74
<b>CHAPTER 6</b>		
<i>Results of audit</i>	6.1	75
<i>Non-raising of demands for water charges</i>	6.2	75
<i>Non-raising/short raising of demands for penal water charges</i>	6.3	76
<i>Non-levy/short levy of maintenance cess</i>	6.4	77
<b>CHAPTER 7</b>		
<b>A. STAMPS AND REGISTRATION FEES</b>		
<i>Results of audit</i>	7.1	79
<i>Short levy due to incorrect classification of mortgage with possession as memorandum of deposit of title deeds</i>	7.2	79

	<b>Paragraph</b>	<b>Page</b>
<i>Short levy of stamp duty due to incorrect classification of conveyance as agreement</i>	7.3	80
<i>Short levy due to incorrect computation of consideration</i>	7.4	81
<i>Non-levy of surcharge</i>	7.5	82
<i>Short levy on General Powers of Attorney</i>	7.6	82
<b>B. ENTRY TAX</b>		
<i>Results of audit</i>	7.7	83
<i>Non-levy of tax</i>	7.8	83
<b>C. OTHER TAX RECEIPTS</b>		
<i>Results of audit</i>	7.9	84
<i>Short recovery of professions tax</i>	7.10	84
<b>CHAPTER 8</b>		
<i>Results of audit</i>	8.1	85
<b>A. Forest Receipts</b>		
<i>Non-realisation of differential royalty and sale value in logging contracts</i>	8.2	86
<i>Non-recovery of full sale value</i>	8.3	87
<b>B. Mineral Receipts</b>		
<i>Non-recovery of cost of unauthorised extraction of manganese</i>	8.4	87
<i>Outstanding royalty</i>	8.5	88





## PREFATORY REMARKS

*This Report for the year ended 31 March 2000 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.*

*The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971. This Report presents the results of audit of receipts comprising sales tax, state excise, taxes on motor vehicles, taxes on agricultural income, land revenue, stamps and registration fees, entry tax, professions tax, other taxes and duties on commodities and services, forest receipts, mineral receipts and sericulture industries receipts.*

*The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1999-2000 as well as those noticed in earlier years but could not be included in previous Reports.*



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## OVERVIEW

This Report contains 43 paragraphs and three Reviews relating to non-levy, short levy of tax, penalty, interest, etc., involving Rs.318.94 crore which is 3.41 *per cent* of the revenue receipts of 1999-2000. The Government has accepted audit observations involving Rs.13.89 crore of which Rs.2.64 crore had been recovered up to November 2000. Some of the major findings are mentioned below:

### 1. General

(i) The total revenue receipts of the State Government for the year 1999-2000 amounted to Rs.12906.45 crore against Rs.11230.44 crore for the previous year. 72 *per cent* of this was raised by the State through tax revenue (Rs.7744.36 crore) and non-tax revenue (Rs.1611.29 crore). The balance 28 *per cent* was received from the Government of India as State's share of divisible Union taxes (Rs.2132.78 crore) and as grants-in-aid (Rs.1418.02 crore).

(Paragraph 1.1)

(ii) 3608 inspection reports issued up to December 1999 containing 8947 observations involving revenue of Rs.504.92 crore were pending settlement at the end of June 2000.

(Paragraph 1.11)

(iii) Test check of records of sales tax, state excise, taxes on motor vehicles, agricultural income-tax, land revenue, stamps and registration fees, entry tax, entertainments tax, professions tax, betting tax, electricity tax, forests, mines and geology, sericulture and other departmental offices, conducted during the year 1999-2000, revealed under-assessments, non-levy/short-levy of taxes, loss of revenue, etc. amounting to Rs.381.58 crore in 1633 cases. During the year 1999-2000, the concerned Departments accepted under-assessments, short levy, etc. of Rs.9.22 crore in 877 cases of which 874 cases (Rs.9.12 crore) were pointed out in audit in earlier years. The Departments recovered Rs.8.90 crore during 1999-2000 at the instance of audit.

(Paragraph 1.12)

### 2. Sales tax

(A) A review on Sales tax concessions to industries under the packages of incentives revealed the following:

(a) Contrary to the provisions of the schemes, incentives involving revenue of Rs.248.69 lakh were allowed to ineligible industrial units, i.e., units located in developed areas or units carrying on activities different from that for which they were eligible.

(Paragraph 2.2.5)



(b) Under the schemes, 22 industrial units had been granted certificates of entitlement in excess of eligibility by Rs.67.71 lakh due to adoption of incorrect classification or incorrect percentage of the value of fixed assets.

(Paragraph 2.2.6)

(c) In the case of 10 industrial units which undertook expansion/diversification/modernisation under the 1990 and 1993 schemes, there was failure to limit the tax incentives to the tax liability on additional capacity created, resulting in short levy of tax by Rs.60.60 lakh.

(Paragraph 2.2.11)

(d) Absence of provision to recover the tax incentives allowed to industrial units which closed down their business, by charging the units' assets with the concessions allowed resulted in loss of revenue of Rs.1.67 crore in 18 cases.

{Paragraph 2.2.12(a)}

**(B) A review on Working of Sales Tax Check Posts revealed the following:**

(a) Actual physical verification of goods vehicles at the Check Posts fell short of the minimum stipulated requirement and the shortfall was over 50 per cent during the 5 years from 1994-95 to 1998-99.

(Paragraph 2.3.4)

(b) Failure to pass on the information collected at the Check Posts to the assessing authorities, resulted in non-verification of turnover of goods involving tax effect of Rs.22.40 crore.

(Paragraph 2.3.5)

(c) Improper verification of documents of goods resulted in non-levy of penalty of Rs.3.54 crore.

{Paragraph 2.3.6(a)}

(d) Physical verification of goods involving revenue effect of Rs.5.75 crore was pending for long periods beyond the stipulated time frame of 15 days.

{Paragraph 2.3.6(b)}

(e) Confirmation of surrender of 10063 transit passes by vehicles which passed through the State at the exit points had not been obtained even though it involved tax of Rs.51.19 crore.

(Paragraph 2.3.7)

**(C) Other points**

(i) Grant of incorrect exemptions and concessions resulted in non-levy/ short-levy of tax of Rs.2.56 crore in 122 cases.

(Paragraph 2.4)



(ii) Turnover tax of Rs.1.65 crore was not levied or levied short in 126 cases due to incorrect exemption of turnover, application of incorrect rate, etc.  
(Paragraph 2.5)

(iii) Application of incorrect rate of tax resulted in short levy of sales tax of Rs.1.05 crore in 75 cases.  
(Paragraph 2.6)

(iv) Incorrect determination of taxable turnover led to non-levy of tax of Rs.1.47 crore in 39 cases.  
(Paragraph 2.10)

(v) Failure to forfeit the excess tax collected and to levy penalty for delayed payment/excess collection of tax resulted in loss of revenue of Rs.3.07 crore in 91 cases.  
(Paragraphs 2.14 and 2.15)

### 3. State excise

(i) A Review on Arrears of Excise Revenue revealed the following:

(a) Out of the arrears of Rs.30583.16 lakh relating to 1945-46 to 1997-98 as of March 1999, Rs.12681.65 lakh (41 per cent) remained unrecovered for want of departmental action. 12 contractors for retail vend of arrack had together accumulated arrears of Rs.13172.73 lakh (43 per cent).  
{Paragraph 3.2.4(b) & (c)}

(b) 14 cases involving Rs.7838.94 lakh were referred to the Revenue Department after delays ranging from 6 months to 7 years.  
{Paragraph 3.2.5(b)}

(c) Allowing defaulting contractors to participate in further auctions, failure to verify the antecedents and to obtain the prescribed extent of security, resulted in accumulation of arrears of Rs.10238.45 lakh.  
(Paragraph 3.2.6)

(d) Non-levy/short levy of interest for non-payment/delayed payment of shop rentals amounted to Rs.3026.71 lakh.  
(Paragraph 3.2.7)

(ii) Failure to ascertain the presence of malt spirit in whisky resulted in short levy of excise duty (including sales tax) of Rs.3.88 crore during the period from April 1997 to June 1999.  
(Paragraph 3.3)

(iii) Permits for dealing in products of 17 distilleries situated outside the State were issued during 1997-98 without collecting licence fee of Rs.4.56 crore.  
{Paragraph 3.4 (a)}



(iv) Additional licence fee of Rs.0.65 crore was not levied on permits issued for sale of foreign liquors during 1996-97 to 1999-2000.

**{Paragraph 3.4(b)}**

(v) Losses of Rs.1.64 crore caused to Government on termination of leases for retail vend of liquors for the year 1998-99 had not been recovered from the defaulting contractors.

**(Paragraph 3.5)**

(vi) Litre fee of Rs.0.58 crore had not been levied on issue of Indian Made Liquor by a distributor during 1998-99.

**(Paragraph 3.8)**

#### **4. Taxes on motor vehicles**

Levy of tax on contract carriages at rates applicable for private service vehicles resulted in short realisation of Rs.0.58 crore.

**(Paragraph 4.2)**

#### **5. Taxes on agricultural income**

Incorrect computation of taxable income and incorrect granting of deduction resulted in short levy of tax of Rs.0.62 crore.

**(Paragraphs 5.2 and 5.3)**

#### **6. Land revenue**

Failure to levy penal water charges in two taluks resulted in non-raising of demand for Rs.2.02 crore for the years 1996-97 and 1998-99.

**(Paragraph 6.3)**

#### **7. Stamps and registration fees**

(i) Incorrect classification of a document of "mortgage with possession" as a document of "deposit of title deeds" resulted in short levy of stamp duty of Rs.1.65 crore during 1996-97.

**(Paragraph 7.2)**

(ii) Surcharge of Rs.12.30 crore was not levied on a mortgage deed registered during 1998-99.

**(Paragraph 7.5)**

(iii) Failure to charge stamp duty as conveyances on general powers of attorney, involving promoters/developers and dealing with construction, development, sale of transfer of immovable properties, resulted in short levy of Rs.4.07 crore.

**(Paragraph 7.6)**



## **8. Non-tax receipts**

### **Mineral Receipts**

The cost of manganese ore amounting to Rs.25.08 crore unauthorisedly extracted, was not recovered from the lessee.

**(Paragraph 8.4)**









**CHAPTER 1:  
General**

**1.1 Trend of revenue receipts**

The total receipts of the Government of Karnataka during the year 1999-2000 were Rs.12906.45 crore, as against Rs.11230.44 crore during the previous year. The details of tax and non-tax revenue raised, the State's share of divisible Union taxes and grants-in-aid received from Government of India during the year along with the corresponding figures for the preceding two years are given below:

	(Rupees in crore)		
	1997-98	1998-99	1999-2000
<b>I. Revenue raised by the State Government</b>			
(a) Tax revenue	6411.87	6943.04	7744.36
(b) Non-tax revenue	1264.40	1469.92	1611.29
Total	7676.27	8412.96	9355.65
<b>II. Receipts from Government of India</b>			
(a) State's share of divisible Union taxes <sup>⊗</sup>	2176.33	1923.92	2132.78
(b) Grants-in-aid	760.79	893.56	1418.02
Total	2937.12	2817.48	3550.80
<b>III. Total receipts of State Government (I + II)</b>	10613.39	11230.44	12906.45
<b>IV. Percentage of I to III</b>	72	75	72

<sup>⊗</sup> For details, 'Statement No.11 - Detailed Account of Revenue Receipts and Capital Receipts by Minor Heads' in the Finance Accounts of the Government of Karnataka for the year 1999-2000 may please be referred to. Figures under the head '0021 - Taxes on Income other than Corporation Tax - Share of net proceeds assigned to States' booked in the Finance Accounts under 'A - Tax Revenue' have been excluded from 'Revenue raised by the State Government' and included in the 'State's share of divisible Union taxes' in this statement.



(i) The details of tax revenue raised during the year 1999-2000 and for the preceding two years are given below:

(Rupees in crore)

Head of Revenue	1997-98	1998-99	1999-2000	Percentage of increase (+) / decrease (-) in 1999-2000 over 1998-99
1. Taxes on sales, trade, etc.	3828.78	4265.17	4683.23	(+) 10
2. State excise	863.69	1005.19	1215.20	(+) 21
3. Stamps and registration fees	609.39	548.11	565.79	(+) 3
4. Taxes on vehicles	444.31	386.79	448.82	(+) 16
5. Taxes on goods and passengers	234.38	273.13	337.60	(+) 24
6. Taxes and duties on electricity	140.19	140.25	155.58	(+) 11
7. Other taxes and duties on commodities and services	113.55	123.63	131.83	(+) 7
8. Other taxes on income and expenditure	102.96	114.27	132.78	(+) 16
9. Land revenue	44.57	38.00	38.73	(+) 2
10. Taxes on agricultural income	30.05	48.50	34.80	(-) 28
<b>Total</b>	<b>6411.87</b>	<b>6943.04</b>	<b>7744.36</b>	<b>(+) 12</b>

Reasons for variations during 1999-2000 as compared to 1998-99, as reported by the concerned Departments are as under:

**State excise:** Increase was mainly due to increase in higher realisation of shop rentals of arrack in public auction.

**Taxes on vehicles :** Increase was due to increase in number of vehicles registered and enhancement of tax for certain category of vehicles.

**Taxes and duties on electricity :** Increase was due to book adjustment of dues from Karnataka Power Transmission Corporation Limited and Karnataka Power Corporation Limited.

Reasons for variations in receipts in respect of other heads of account called for (June 2000) have not been received (November 2000).



(ii) The details of non-tax revenue realised during the year 1999-2000 along with the corresponding figures for the preceding two years are given below:

**(Rupees in crore)**

Head of Revenue	1997-98	1998-99	1999-2000	Percentage of increase (+) / decrease (-) in 1999-2000 over 1998-99
1. Interest receipts	562.52	669.74	801.67	(+) 20
2. Other general economic services	20.10	163.05	172.26	(+) 6
3. Forestry and wild life	113.81	107.35	94.87	(-) 12
4. Non-ferrous mining and metallurgical industries	121.41	106.61	116.30	(+) 9
5. Miscellaneous general services	60.45	78.11	61.27	(-) 22
6. Power	32.78	69.78	46.92	(-) 33
7. Social security and welfare	46.36	38.62	34.86	(-) 10
8. Medical and public health	30.90	33.09	30.79	(-) 7
9. Village and small industries	24.00	24.00	22.40	(-) 7
10. Major and medium irrigation	16.37	18.45	15.76	(-) 15
11. Education, sports, art and culture	15.99	17.27	21.32	(+) 23
12. Other administrative services	44.58	14.90	43.26	(+) 190
13. Contributions and recoveries towards pensions and other retirement benefits	9.52	12.05	16.40	(+) 36
14. Others	165.61	116.90	133.21	(+) 14
<b>Total</b>	<b>1264.40</b>	<b>1469.92</b>	<b>1611.29</b>	(+) 10

Reasons for variations in receipts during 1999-2000, as compared to 1998-99 called for (June 2000) have not been received (November 2000).

## 1.2 Variations between budget estimates and actual receipts

The major variations between budget estimates of revenue and actual receipts under the principal heads of revenue for the year 1999-2000 are given below:

(Rupees in crore)

Head of Revenue	Budget Estimates	Actual receipts	Variation Excess (+)/ Shortfall (-)	Percentage of variation
<b>(A) Tax revenue</b>				
1. Taxes on sales, trade, etc.	5198.27	4683.23	(-) 515.04	(-) 10
2. Stamps and registration fees	770.00	565.79	(-) 204.21	(-) 27
3. Taxes on vehicles	530.00	448.82	(-) 81.18	(-) 15
4. Taxes on goods and passengers	309.97	337.60	(+) 27.63	(+) 9
5. Taxes and duties on electricity	170.00	155.58	(-) 14.42	(-) 8
6. Other taxes and duties on commodities and services	144.57	131.83	(-) 12.74	(-) 9
7. Other taxes on income and expenditure	153.22	132.78	(-) 20.44	(-) 13
8. Taxes on agricultural income	60.48	34.80	(-) 25.68	(-) 42
<b>(B) Non-tax revenue</b>				
1. Interest receipts	671.71	801.67	(+) 129.96	(+) 19
2. Other general economic services	30.58	172.26	(+) 141.68	(+) 463
3. Forestry and wild life	125.00	94.87	(-) 30.13	(-) 24
4. Non-ferrous mining and metallurgical industries	142.03	116.30	(-) 25.73	(-) 18
5. Miscellaneous general services	65.00	61.27	(-) 3.73	(-) 6
6. Power	39.06	46.92	(+) 7.86	(+) 20
7. Social security and welfare	30.25	34.86	(+) 4.61	(+) 15
8. Medical and public health	45.09	30.79	(-) 14.30	(-) 32
9. Village and small industries	31.80	22.40	(-) 9.40	(-) 30
10. Major and medium irrigation	25.20	15.76	(-) 9.44	(-) 37
11. Education, sports, art and culture	17.50	21.32	(+) 3.82	(+) 22



(Rupees in crore)

Head of Revenue	Budget Estimates	Actual receipts	Variation Excess (+)/ Shortfall (-)	Percentage of variation
12. Other administrative services	35.19	43.26	(+) 8.07	(+) 23
13. Contributions and recoveries towards pensions and other retirement benefits	9.50	16.40	(+) 6.90	(+) 73

Reasons for variations between the budget estimates and the actuals as reported by the Departments were as under.

**Taxes on sales, trade, etc.:** Decrease was due to exemption of tax on sales turnover of chemical fertilisers, general recession in Industry and Trade, etc.

**Stamps and Registration fees :** Decrease was attributed to fluctuation in real estate market.

**Taxes on vehicles :** Decrease was due to non-payment of tax by KSRTC.

**Power :** The original estimates were based on 10 years average inflow of water; in view of good monsoon during the year and increased storage of water, higher energy generation was achieved by the Karnataka Power Corporation Limited resulting in increase in payment of royalty charges to Government.

Reasons for variations in other cases called for (June 2000) have not been received (November 2000).

### 1.3 Cost of collection

The gross collection under *Taxes on sales, trade, etc.* and *Taxes on vehicles*, expenditure incurred for their collection and the percentage of such expenditure to gross collections during the years 1997-98, 1998-99 and 1999-2000 along with the relevant all-India average percentage of expenditure on collection to gross collection are given below:

(Rupees in crore)

Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All-India average percentage for the year
1. Taxes on sales, trade, etc.	1997-98	3843.90	38.24	0.99	1.40
	1998-99	4295.37	41.05	0.96	
	1999-2000	4710.88	49.58	1.05	



(Rupees in crore)

Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All-India average percentage for the year
2. Taxes on vehicles	1997-98	444.97	10.97	2.46	3.22
	1998-99	387.69	12.49	3.22	
	1999-2000	449.41	16.39	3.65	

#### 1.4 Arrears of revenue

As on 31 March 2000, arrears in collection under principal heads of revenue as reported by the Departments were as under:

(Rupees in crore)

Head of revenue	Amount of arrears as on 31 March 2000	Arrears outstanding for more than five years	Stage of pendency of action
Taxes on sales, trade etc., Entry tax, Entertainments tax, Agricultural income tax, Professions tax, Luxury tax	1246.08 <sup>#</sup>	Not furnished	Out of the total arrears of Rs.1246.08 crore, Rs.300.09 crore had been stayed by the Courts, Rs.37.81 crore had been covered by recovery certificates, Rs.15.51 crore was held up due to dealers becoming insolvent, Rs.7.80 crore had been proposed to be written off and the balance of Rs.884.87 crore was under various stages.
State excise	412.93	378.81	Out of the total arrears of Rs.412.93 crore, Rs.35.48 crore had been stayed by the Courts, Rs.243.13 crore had been covered by recovery certificates and the balance of Rs.134.32 crore was held up due to other reasons.
Taxes and duties on electricity	10.07	Details not maintained	Not furnished
Stamps and registration fees.	156.53	Not furnished	Not furnished

Details of arrears of revenue in respect of other Departments though called for in June 2000 have not been received (November 2000).

<sup>#</sup> Provisional



### 1.5 Arrears in assessments

The details of assessments relating to sales tax, agricultural income-tax, entertainments tax, taxes on goods and passengers, etc. relating to the Department of Commercial Taxes pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and cases pending finalisation at the end of each year during 1997-98, 1998-99 and 1999-2000 as furnished by the Department are given below:

Year	Opening balance	Cases which became due for assessment during the year	Total	Cases disposed of during the year	Cases pending at the end of the year	Percentage of column (5) to (4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1997-98	890665	425511	1316176	552780	763396	42
1998-99	763396	668657	1432053	709974	722079	50
1999-2000	722079	646396	1368475	619834	748641	45

This would show that the Department was able to complete only 42 to 50 *per cent* of the assessments due for completion during these three years. The delay in finalisation of assessments resulted in delay in realisation of revenue involved in these cases.

### 1.6 Arrears in appeals

According to the information furnished by the Department of Commercial Taxes, the number of appeals filed under sales tax, entry tax, entertainments tax, taxes on agricultural income, etc. number of appeals disposed of and number of cases pending with the appellate authorities at the end of 1999-2000 were as under:

Head of revenue	Opening balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to total number of cases
Taxes on sales, trade, etc.	3786	9831	13617	6447	7170	47
Entry tax	435	1392	1827	789	1038	43
Agricultural income tax	456	742	1198	719	479	60
Luxury tax	3	57	60	11	49	18
Professions tax	19	42	61	43	18	70
Entertainments tax	-	315	315	43	272	14



### 1.7 Remissions and write-off of revenue

The Department of Commercial Taxes reported that arrears of revenue of Rs. 14.65 lakh relating to 1967-68 to 1988-89 in 10 cases were written off during the year. It also reported remissions of revenue of Rs.14.99 lakh in 10 cases during the year due to non-availability of whereabouts of defaulters, defaulters not possessing properties or declared insolvent.

### 1.8 Refunds

Position of cases of refunds during the year 1999-2000, as reported by the Departments, is indicated below:

(Rupees in lakh)

	Department of Commercial Taxes		State Excise Department	
	Number of cases	Amount	Number of cases	Amount
Claims for refund outstanding as on 1 April 1999	229	*	438	64.24
Claims received during the year	62	*	340	223.26
Refunds made during the year	34	*	279	165.84
Balance outstanding as on 31 March 2000	257	*	499	121.66

\* Complete information not received.

### 1.9 Frauds and evasions

Details of frauds and evasions as reported by two Departments were as under:

(Rupees in lakh)

	Department of Commercial Taxes		Motor vehicles Department	
	Number of cases	Additional demand raised	Number of cases	Additional demand raised
A. (i) Cases pending as on 1 April 1999	10	-	17718	-
(ii) Cases detected during the year 1999-2000	120	-	9930	-
B. Cases in which investigations/ assessments were completed during the year 1999-2000	118	441.41	13806	20.83
C. Cases pending as on 31 March 2000	12	-	13842	-

Similar information called for from other Departments in June 2000 has not been received (November 2000).



## 1.10 Internal audit

### State Excise Department

Internal audit wing has been functioning since April 1990. It is headed by a Deputy Commissioner of Excise (Audit and Inspection) who is assisted by an Internal Audit Officer, 2 Assistant Audit Officers and 2 Senior Auditors. Against 104 offices to be covered by internal audit during 1999-2000, 106 offices (including spill over cases) were audited during the year.

The details of observations made by internal audit and their clearance up to the end of 1999-2000 as reported by the Department, are given below:

(Rupees in lakh)

Department	Observations relating to the year	Observations pending settlement/ made during the year		Observations settled during 1999-2000		Observations pending as at the end of 1999-2000	
		Number	Amount	Number	Amount	Number	Amount
State Excise	Up to 1997-98	655	11084.00	131	6755.47	524	4328.53
	1998-99	260	1609.35	105	863.37	155	745.98
	1999-2000	170	1363.53	18	20.95	152	1342.58
	<b>Total</b>	<b>1085</b>	<b>14056.88</b>	<b>254</b>	<b>7639.79</b>	<b>831</b>	<b>6417.09</b>

## 1.11 Outstanding inspection reports and audit observations

Accountant General (Audit) (AG) arranges to conduct periodical inspection of the Government Departments to test-check the transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up with Inspection Reports (IR). When important irregularities detected during inspection are not settled on the spot, these IRs are issued to the Heads of Offices inspected with a copy to the next higher authorities. The Hand book of instructions for speedy settlement of audit observations (Finance Department) provides for prompt response by the executive to the IRs issued by the AG to ensure rectificatory action in compliance of the prescribed rules and procedures and accountability for the deficiencies, lapses, etc. noticed during the inspection. The Heads of Offices and next higher authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the AG. Serious irregularities are also brought to the notice of Head of Department by the Office of AG. A half-yearly report of pending IRs is sent to the Secretary of the Department in respect of pending IRs to facilitate monitoring of the audit observations in the pending IRs.

However, the time schedule prescribed by Government had been seldom adhered to, with the result that 3608 inspection reports issued up to end of December 1999, containing 8947 audit observations involving Rs.504.92 crore



were to be settled at the end of June 2000, as indicated below, along with the corresponding figures for the two preceding years.

	At the end of		
	June 1998	June 1999	June 2000
Number of outstanding inspection reports	4287	3776	3608
Number of outstanding audit observations	9658	9297	8947
Amount involved (Rupees in crore)	765.64	842.05	504.92

Out of the 3608 inspection reports pending settlement, even first replies have not been received (June 2000) for 230 inspection reports containing 734 audit observations involving Rs.73.53 crore. The pendency of these reports was reported to Government in August 2000. The receipt-wise details of inspection reports and audit observations outstanding as on 30 June 2000 and the amount involved are indicated below:

(Rupees in crore)

Department	Nature of receipts	Number of outstanding inspection reports	Number of outstanding audit observations	Amount of receipts involved
1. Finance	(a) Taxes on sales, trade, etc., Entry tax, Entertainments tax, Luxury tax and Professions tax	1448	3921	59.54
	(b) Agricultural income tax	61	210	3.68
	(c) State excise	721	2054	155.28
2. Energy	Electricity duty	7	10	58.95
3. Revenue	(a) Land revenue	488	982	105.91
	(b) Stamps and registration fees	431	750	14.87
4. Forest, Ecology and Environment	Forest receipts	225	443	80.61
5. Home and Transport	Taxes on motor vehicles	181	448	11.48
6. Commerce and Industries	Sericulture industries receipts	14	17	0.98
	Mines and Geology	23	82	12.74
7. Public Works	Public works receipts	9	30	0.88
<b>Total</b>		<b>3608</b>	<b>8947</b>	<b>504.92</b>



## 1.12 Results of audit

Test check of records of sales tax, state excise, taxes on motor vehicles, agricultural income-tax, land revenue, stamps and registration fees, entry tax, entertainments tax, professions tax, betting tax, electricity tax, forest, mines and geology, sericulture and other departmental offices conducted during the year 1999-2000 revealed under-assessments, non-levy/short levy of taxes, loss of revenue, failure to raise demands, etc. involving Rs.381.58 crore in 1633 cases. During the course of the year 1999-2000, the concerned departments accepted under-assessments, short demands, etc. aggregating Rs. 9.22 crore in 877 cases of which 874 cases (Rs. 9.12 crore) were pointed out in audit in earlier years. A sum of Rs.8.90 crore relating to 872 audit observations was recovered at the instance of audit.

This Report contains 46 paragraphs including three Reviews involving financial effect of Rs.318.94 crore. The Departments have accepted audit observations involving Rs.13.89 crore, of which Rs.2.64 crore had been recovered up to November 2000. Audit observations with a total revenue effect of Rs.0.63 crore in 39 cases have not been accepted by the Departments; but their contentions have been found to be at variance with the facts or legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (November 2000).







## CHAPTER 2: Sales Tax

### 2.1 Results of audit

Test check of records in Sales Tax Offices, conducted in audit during the year 1999-2000, disclosed under-assessments of tax, non-levy of penalty, etc. amounting to Rs.2295.06 lakh in 1082 cases under the following broad categories:

(Rupees in lakh)

Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy of tax	498	1246.98
2	Incorrect grant of exemption from tax	80	267.99
3	Short levy due to incorrect classification	31	91.71
4	Non-levy/short levy of turnover tax	211	199.45
5	Non-levy of penalty	116	217.59
6	Non-forfeiture of excess tax collected	35	75.38
7	Other irregularities	111	195.96
<b>Total</b>		<b>1082</b>	<b>2295.06</b>

During the year 1999-2000, the Department accepted under-assessments of tax amounting to Rs.607.98 lakh involved in 681 cases which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases (including certain cases noticed in earlier years which could not be reported in previous Reports) involving Rs.1210.86 lakh and two Reviews on **Sales tax concessions to industries under the packages of incentives** (monetary effect: Rs.641.94 lakh) and **Working of Sales Tax Check Posts** (monetary effect: Rs.8342.58 lakh) are given in the following paragraphs.

## 2.2 Sales tax concessions to industries under the packages of incentives

### Highlights

Contrary to the provisions of the schemes, incentives involving revenue of Rs.248.69 lakh were allowed to ineligible industrial units, i.e., units located in developed areas or units carrying on activity different from that for which they were eligible.

(Paragraph 2.2.5)

Under the schemes, 22 industrial units had been granted certificates of entitlement in excess of eligibility by Rs.67.71 lakh due to adoption of incorrect classification or incorrect percentage of the value of fixed assets.

(Paragraph 2.2.6)

In the case of 10 industrial units which undertook expansion/diversification/modernisation under the 1990 and 1993 schemes, there was failure to limit the tax incentives to the tax liability on additional capacity created, resulting in short levy of tax by Rs.60.60 lakh.

(Paragraph 2.2.11)

Absence of provision to recover the tax incentives allowed to industrial units which closed down their business by charging the units' assets with the concessions allowed resulted in loss of revenue of Rs.1.67 crore in 18 cases.

(Paragraph 2.2.12(a))

### 2.2.1 Introduction

With a view to encouraging the development and growth of industries in the State, Government has been offering packages of incentives including sales tax exemptions or concessions. The sales tax exemptions/concessions depend on the size of the industrial unit, such as tiny, small, medium and large (as defined by the Central Government from time to time), hi-tech and export-oriented as also the location of the unit in 4 geographical zones I to IV classified according to the level of industrial development therein. The extent of exemptions/concessions is also related to the quantum of investment in fixed assets and is limited to the period specified during which it should be availed. The main package of incentives originally laid down in 1969 has undergone modifications, both in scope and extent. The packages of schemes presently in vogue are those introduced in December 1988, September 1990, July 1993 and March 1996. The schemes also specifically mention certain industries as ineligible for the incentives.



### 2.2.2 Organisational set up

The registration of industrial units in the State vests with the Department of Industries and Commerce, headed by a Director. A State Level Committee (SLC) constituted by Government in October 1982 (reconstituted in December 1988) functions, with the Commissioner for Industrial Development and Director of Industries and Commerce as Member-Secretary, to decide on policy matters regarding eligibility of units for incentives under the relevant packages. District Level Committees examine the applications for grant of incentives. The eligibility certificates known as Fixed Assets Valuation Certificates (FAVCs) for claiming of incentives are issued by the Managers of District/Taluk Industries Centres for tiny and small units and by the Joint Director (Industrial Development) for others. The Member-Secretary of the SLC is responsible for maintenance of proper accounts and records connected with the incentives.

The assessing authorities in the Department of Commercial Taxes (Deputy Commissioners, Assistant Commissioners and Commercial Tax Officers) who determine the tax liability of the industrial units (both under the Karnataka Sales Tax (KST) Act 1957 and the Central Sales Tax (CST) Act 1956) grant the exemption/concession on the basis of the FAVCs. They are also expected to keep watch on the progressive totals of tax exemptions/concessions granted, with a view to restricting them to the eligible limits specified in the FAVCs.

### 2.2.3 Scope of audit

With the objective of ascertaining the correctness of the issue of FAVCs, by proper valuation of fixed assets and classification of the industrial units, the tax incentives indicated as being admissible, etc., 927 FAVCs issued during 1994-95 to 1998-99 in nine<sup>Φ</sup> out of 20 District Industries Centres and the Directorate of Industries and Commerce were test checked during the period October 1999 to March 2000. In addition, scrutiny of KST/CST assessments in respect of 873 industrial units concluded during 1994-95 to 1998-99, was also conducted to verify the correctness of the concessions granted by 85 assessing authorities in five<sup>⊗</sup> Commercial Tax Divisions spread over the nine districts.

The results thereof involving a total tax effect of Rs.641.94 lakh are detailed in the succeeding paragraphs.

<sup>Φ</sup> Bangalore (Rural), Bangalore (Urban), Bidar, Dharwad, Gulbarga, Mandya, Mysore, Raichur, Tumkur

<sup>⊗</sup> Bangalore City Division I, Bangalore Division, Dharwad Division, Mysore Division, Gulbarga Division

#### 2.2.4 Absence of consolidated data regarding concessions allowed

According to the information furnished by the Department of Industries and Commerce, a total of 86,712 industrial units with investment in fixed assets amounting to Rs. 221638 lakh were registered during 1994-95 to 1998-99.

(i) According to the Manual on Package of Incentives and Concessions, the Member-Secretary (Director of Industries and Commerce) of the State Level Committee is responsible for maintenance of proper accounts and records in connection with disbursement of subsidies and incentives. However, the Department did not make available information called for in October 1999 regarding the extent of incentives sanctioned. Though the Department issued a circular for maintenance of registers in October 1999, the data regarding consolidated position of industries granted eligibility certificates had not been received (November 2000).

(ii) The Department of Commercial Taxes, which allows tax concessions based on FAVCs issued by the Department of Industries and Commerce had also not maintained any returns/registers for watching quantum of concessions availed by the industries. Only in May 1999, the Department issued a circular for maintaining scheme-wise registers. Consolidated position regarding industries availing concessions in the State had not been received (November 2000).

As a result of non-maintenance of basic records/registers, the extent of entitlement of concessions certified and the quantum of tax exemptions availed could not be ascertained.

#### 2.2.5 Concessions allowed to ineligible industrial units

(a) Under the New Industrial Policy 1993-98, in Zone-I (industrially developed area), only hi-tech and non-polluting industries (viz., Electronics, Telecommunication, Informatics, Precision Tooling/Tool Room Industries and Readymade Garments including Leather Garments) are entitled for sales tax concessions/exemptions.

During the audit of records of a circle<sup>e</sup>, it was noticed that a private limited company located in Zone I and registered for manufacture of drain hoses, inlet hoses, hoses for washing machines and vaccum cleaners was certified by the Department of Industries and Commerce in May 1997 as being eligible for exemption from sales tax up to a limit of Rs.47.33 lakh to be availed within a period of six years from December 1994. This certificate was issued based on a commitment from the unit to establish the factory in Zone II (developing area) where the sales tax concession/exemption would be available irrespective of the nature of the industry. However, the unit actually carried on manufacturing and business activity in Zone I and had not shifted to Zone II. Since the unit did not fall under the eligible industries in Zone I, certification of the unit as being entitled for sales tax exemption was incorrect.

<sup>e</sup> Assistant Commissioner of Commercial Taxes, VIII District Circle, Bangalore



The Unit had actually been allowed exemption from tax of Rs.26.19 lakh in the assessments for the years 1994-95 to 1997-98 concluded between June 1997 and March 1999. On this being pointed out, the assessing authority stated (November 1999) that the matter regarding the eligibility certificate was being referred to the Department of Industries and Commerce.

(b) As per the industrial policies issued from time to time, sales tax concessions to industrial units are admissible only on the turnover of goods manufactured and sold by the beneficiary units.

It was noticed (between October 1999 and March 2000) that in seven districts, eligibility certificates were issued by the Department of Industries and Commerce under the 1988, 1990 and 1993 packages to nine industrial units which were not engaged in any manufacturing process. The incorrect concessions allowed in the assessments finalised amounted to Rs. 214.48 lakh as detailed below.

(Rupees in lakh)

Sl. No.	District/ activity/ (Name of units)	Scheme	Amount of sales tax deferment		Period (Date) of assessment
			Entitlement as per FAVC	Allowed by assessing authorities	
<b>1</b>	<b>Bangalore (Urban)</b>				
	Decorative tiles M/s Murudeshwar Decor Ltd, Hoskote	1993	Rs.189.46 lakh for 5 years from 19 November 1994	137.19	1994-95 to 1997-98
	Powdering stone chips M/s Master Microns (India) Ltd.	1993	Rs.56.27 lakh for 6 years from July 1995	25.83	1996-97 (February 1999)
<b>2</b>	<b>Bidar</b>				
	Pressure die casting and other job works M/s Tyche Diecast (P) Ltd.	1993	Rs.80.30 lakh for 6 years from July 1997	7.59	1997-98 and 1998-99
<b>3</b>	<b>Bijapur</b>				
	Tamarind powder from tamarind seed M/s Mangalwadhe Tamarind Industries	1993	Rs. 16.25 lakh for 6 years from July 1994	10.80	1994-95 (October 1997) 1995-96 (September 1998) 1996-97 (October 1998)



(Rupees in lakh)

Sl. No.	District/ activity/ (Name of units)	Scheme	Amount of sales tax deferment		Period (Date) of assessment
			Entitlement as per FAVC	Allowed by assessing authorities	
<b>4</b>	<b>Gulbarga</b>				
	Repairing of electrical transformers and servicing M/s LR Roy	1990	For 5 years from August 1993 without any monetary limit	4.25	1994-95 to 1996-97
<b>5</b>	<b>Mandya</b>				
	Stone crushing industries M/s Srirama Industries M/s Srinivasa Stone Crushing Industries	1988 and 1990	Rs.8.49 lakh for 5 years under 1988 scheme For 3 years from November 1993 under 1990 scheme without monetary limit	5.01	1989-90 to 1996-97
<b>6</b>	<b>Raichur</b>				
	Crushing of stone into jelly and baby chips M/s Saibaba Stone Crushing Concrete Works, Gangavati	1993	Rs.10.70 lakh for 6 years from March 1995	1.54	1995-96 (February 1999) 1996-97 (February 1999)
<b>7</b>	<b>Tumkur</b>				
	Desiccated coconut powder M/s LN Coconut Industries, Tiptur	1990	For 5 years from March 1993 without any monetary limit	22.27	1995-96 to 1997-98
<b>Total</b>				<b>214.48</b>	

(c) Under the new industrial policies and packages of incentives, sales tax concessions are admissible on the goods manufactured and sold by new industrial units as mentioned in the eligibility certificates.

Test check of records of three assessing officers assessments concluded between February and September 1998 revealed that exemption from payment of tax of Rs.8.02 lakh for the years 1991-92, 1992-93, 1994-95 and 1995-96 was allowed on the goods manufactured and sold other than goods mentioned in the FAVCs, as detailed below:

(Rupees in lakh)

Sl. No	District	Manufacturing activity as per FAVC	Tax exemption allowed for	Scheme (Date of commencement of commercial production)	Period (Date) of assessment	Tax exemption allowed
1	Bellary	HDPE woven bags M/s PVS Industries	Pesticides	1990 (April 1991)	1992-93 (September 1998)	3.15



(Rupees in lakh)

Sl. No	District	Manufacturing activity as per FAVC	Tax exemption allowed for	Scheme (Date of commencement of commercial production)	Period (Date) of assessment	Tax exemption allowed
2	Bidar	Bulk drugs M/s Satwik Drugs (P) Ltd	Lease Rent on plant, machinery and building	1988 (September 1991)	1991-92 and 1992-93 (February 1998)	2.29
3	Raichur	Fried gram M/s Balaji Industries	Toor Dhal	1990 (May 1991)	1994-95 and 1995-96 (April 1998)	2.58
<b>Total</b>						<b>8.02</b>

### 2.2.6 Certification of excess eligibility in FAVCs

(a) According to the 1993 and 1996 schemes, industrial units undertaking expansion/diversification/modernisation are eligible for exemption/deferment of tax equivalent to 80 per cent of the additional investment in fixed assets which is to be availed of over a period of 6 to 8 years, depending upon the size and location of the units.

It was, however, noticed (between October 1999 and March 2000) from the records of eight District Industries Centres that in 16 cases, while issuing the FAVCs for the units which had undertaken expansion/diversification, etc., the ceiling of sales tax exemption/deferral was computed at 100 per cent instead of 80 per cent of the value of the fixed assets. This resulted in excess certification of eligibility of Rs.60.22 lakh, as under:

(Rupees in lakh)

Sl. No.	District/ Manufacturing activity (Name of units)	Scheme	Date of commencement of commercial production	Tax incentive		Excess grant of tax incentives
				Granted as per FAVC	Eligible	
<b>I Tax Exemption</b>						
1	<b>Bangalore (Rural)</b>					
	Large and medium industry engaged in the manufacture of fast food M/s MTR Food Ltd.	1996	April 1998	111.53	89.23	22.30
	SSI unit engaged in manufacture of attachments for earth moving equipments M/s Ajax Engineering India (P) Ltd.	1993	August 1995	19.35	14.51	4.84

(Rupees in lakh)

Sl. No.	District/ Manufacturing activity (Name of units)	Scheme	Date of commencement of commercial production	Tax incentive		Excess grant of tax incentives
				Granted as per FAVC	Eligible	
2	<b>Bellary</b>					
	MS ingots and MS rolled products M/s Navakarnataka Steels Ltd.	1993	September 1995	20.53	16.42	4.11
3	<b>Bidar</b>					
	HDPE woven sacks M/s LT Syntex (P) Ltd.	1996	January 1996	18.39	14.52	3.87
4	<b>Gulbarga</b>					
	Steel, alloy steel casting and MM steel M/s Gulbarga Steel (P) Ltd.	1993	April 1994	12.81	10.25	2.56
	Activated fuller's earth M/s Indian Earth M/s Karvi Fuller's Earth	1993 1993	April 1995 April 1997	6.86 18.59	5.49 14.37	1.37 4.22
	Dhal M/s Shivalingheshwar Dhal Industry	1993	Not available	10.50	8.40	2.10
	Ice M/s Taj Ice Factory	1993	January 1996	6.59	5.27	1.32
5	<b>Mandya</b>					
	Poultry feeds M/s Benaka Feeds	1993	April 1996	1.75	1.40	0.35
6	<b>Mysore</b>					
	Ready-made garments M/s Vignesh Knitters	1993	June 1994	6.14	3.49	2.65
7	<b>Dharwad</b>					
	Washing soap M/s Dileep Soap Industry	1996	June 1997	6.73	5.38	1.35
	Edible oil and cake M/s Laxmi Foods and Flavours	1996	January 1997	8.74	6.99	1.75
8	<b>Raichur</b>					
	Granite tiles, steel furniture, steel cot, steel almirah M/s Ranganatha Granite M/s Sangam Industries	1993	June 1995 and December 1996	8.25	6.60	1.65



Sl. No.	District/ Manufacturing activity (Name of units)	Scheme	Date of commencement of commercial production	Tax incentive		Excess grant of tax incentives
				Granted as per FAVC	Eligible	
				<b>II Tax Deferment</b>		
	<b>Dharwad</b>					
	Automobile shafts M/s Ashok Engineering Works	1996	August 1997	28.92	23.14	5.78
	<b>Total</b>					<b>60.22</b>

(b) According to the 1993 and 1996 packages, the ceiling up to which the industrial units would be eligible for tax exemption/concession is prescribed as a percentage of the value of fixed assets and is also dependent on the classification of the units as tiny, small, or medium and large. For this purpose, the value of building utilised for manufacturing/production is required to be considered as plant.

It was noticed that in six cases of three districts that the value of building utilised for manufacturing/production was not considered as fixed assets. Non-consideration of buildings as fixed assets led to incorrect classification of the industrial unit and consequent certification of eligibility at a higher ceiling or for longer period. The incorrect classification of the units resulted in grant of excess tax exemption of Rs.7.49 lakh, as detailed below:

District/ Manufacturing activity (Name of units)	Classificati on as per FAVC	Investment in fixed assets (including value of buildings)	Correct classification	Tax exemption		
				Granted	Eligible	Excess
				<b>(Rupees in lakh)</b>		
<b>Bangalore (Rural)</b>						
Mosaic tiles M/s Basant Batons	Small scale	85.98	Large and medium	Rs.85.98 lakh for 6 years	Rs.85.98 lakh for 5 years	
<b>Mysore</b>						
Manufacture of barbed wire M/s Kiran Industries	Tiny	7.28	Small scale	10.92	7.28	3.64
Mosaic flooring M/s Pooja Floorings	Tiny	7.69	Small scale	11.54	7.69	3.85
<b>Tumkur</b>						
Biscuits M/s Anantha Shayana Foods (Tech) (P) Ltd.	Small scale	97.19	Large and medium	Rs.97.19 lakh for 6 years	Rs.97.19 lakh for 5 years	
Granite processing M/s Victoria Granite (P) Ltd	Small scale	65.86	Large and medium	Rs 65.86 lakh for 6 years	Rs.65.86 lakh for 5 years	
Oil industry M/s Vishweshwara Oil Refinery	Small scale	86	Large and medium	Rs.86 lakh for 7 years	Rs.86 lakh for 6 years	
						<b>7.49</b>

### 2.2.7 Irregular revision of option for tax concession

According to the provisions of industrial packages of incentives and concessions of 1993 and 1996, new industries are required to exercise their option for availing tax exemption or tax deferral at the initial stage. Such



options are irrevocable and schemes do not provide for change of option at a later date. As per provisions of the Manual on Package of Incentives and Concessions, the Commissioner for Industrial Development and Director of Industries and Commerce is authorised to approve changes/modifications/amendments to the original FAVC already issued but do not provide for revising the option by the industrial units.

It was, however, noticed (between October 1999 and March 2000) that disregarding this provision, in seven cases of four districts detailed below, FAVCs issued were subsequently modified by the District Industries Centres/Small Industries Assistance Centre from tax exemptions certified in original certificates into deferrals or *vice versa* or revised the period of exemption, on the requests from the beneficiaries.

Sl. No.	District/ Manufacturing activity (Name of units)	Scheme	Date of issue of FAVC and details of tax incentive granted	
			Original	Revised
1	<b>Bangalore (Rural)</b>			
	Manufacture of deflection yoke, fly-back, transformer and electronic tuners M/s Electronic Research Ltd	1993	December 1996 Tax deferment of Rs.1012.40 lakh for 6 years from March 1995	February 1997 Tax exemption of Rs.1012.40 lakh for 4 years from March 1995
	Manufacture of toilet soaps M/s Wipro Ltd., Tumkur	1996	November 1997 Tax exemption of Rs.211 lakh for 4 years from March 1997	June 1998 Tax exemption of Rs.211 lakh for 6 years from March 1997
2	<b>Bangalore (Urban)</b>			
	Modular enclosures for electronic racks and sub-racks M/s Vero President Systems Ltd.	1993	February 1998 Tax exemption of Rs. 127.75 lakh for 5 years from April 1995	October 1998 Tax deferment of Rs 127.75 lakh for 7 years from April 1995
	Manufacture of computer parts M/s CMOS Communications (P) Ltd.	1993	May 1998 Tax exemption of Rs. 44.17 lakh for 4 years from December 1996	February 1999 Tax deferment of Rs 44.17 lakh for 6 years from December 1996
3	<b>Dharwad</b>			
	Component handling systems and coolant filtration equipment M/s Karnataka Conveyers and Systems (P) Ltd. Hubli	1993	June 1998 Tax exemption of Rs.15.09 lakh for 6 years from July 1996	September 1998 Tax deferment of Rs.15.09 lakh for 8 years from July 1996



Sl. No.	District/ Manufacturing activity (Name of units)	Scheme	Date of issue of FAVC and details of tax incentive granted	
			Original	Revised
	PVC pipes and fittings M/s Sivashakti Industries, Hubli	1996	July 1998 Tax exemption of Rs.28.63 lakh for 6 years from June 1998	September 1998 Tax deferment of Rs.28.63 lakh for 8 years from June 1998
4	<b>Tumkur</b>			
	Watch cases and components M/s Cento Watches	1996	August 1997 Tax exemption of Rs.51.75 lakh for 6 years from December 1996	November 1997 Tax deferment of Rs.51.75 lakh for 8 years from December 1996

The above facts revealed that incorrect acceptance of inadmissible revised options from the beneficiaries led to tax incentive granted for longer period.

### 2.2.8 Grant of concession under inapplicable packages

Under the 1988 and 1993 packages of incentives, the concessions are required to be allowed to industrial units which have made investments during the prescribed period.

It was noticed (between October 1999 and March 2000) that in the three cases detailed below, tax exemptions had been allowed to the industrial units for investments made during the period not covered under the packages/schemes applicable to them and were, therefore, ineligible for the incentives. The incorrect grant of exemption resulted in non-recovery of tax of Rs.15.38 lakh, as detailed below:



(Rupees in lakh)

Sl. No.	District	Scheme	Applicability	Date of commencement of commercial production	Tax exemption allowed	
					Period (Date) of assessment	Amount
1	<b>Bangalore</b>					
	Manufacturer and exporter of polished granites (100% EOU) M/s DS Granite Export (P) Ltd	1993	All new and additional investments from July 1993	March 1989	1994-95 (October 1997)	5.32
2	<b>Dakshina Kannada</b>					
	Ethyl acetate M/s Prashant Chemicals, Mangalore	1988	Investment in fixed assets from April 1988	December 1986	1991-92 (April 1995)	3.14
3	<b>Tumkur</b>					
	Bricks and roofing tiles M/s Kalpatharu Bricks & Tiles	1988	Between 1.4.1988 and 7.6.1989	March 1990	1991-92 to 1995-96	6.92
<b>Total</b>						<b>15.38</b>

### 2.2.9 Incorrect grant of concession on turnovers on which tax was collected

Under the 1988, 1990 and 1993 packages, the new industrial units availing sales tax exemptions were prohibited from collecting taxes.

In six districts, exemption from sales tax had been allowed by the assessing authorities in the following eight cases for the years 1993-94 to 1997-98, even though the units had collected taxes amounting to Rs.20.12 lakh. The incorrect allowance of exemption, therefore, resulted in short levy of tax by Rs.20.12 lakh.

(Rupees in lakh)

Sl. No.	District/ Activity/ Name of units	Scheme	Period (Date) of assessment	Tax collected
1	<b>Bangalore (Rural)</b>			
	Electrical laminations stampings M/s Marudhar Laminations	1988	1994-95 (June 1997)	7.95



(Rupees in lakh)

Sl. No.	District/ Activity/ Name of units	Scheme	Period (Date) of assessment	Tax collected
2	<b>Bangalore (Urban)</b>			
	Electronic goods M/s Bowthrope Thermal Metrics (India) (P). Ltd.	1993	1996-97 (February 1999)	3.10
3	<b>Bellary</b>			
	Garments and poultry feed M/s Lokseva Dresses	1988	1993-94 (May 1997) 1994-95 (November 1997)	1.60
4	<b>Dharwad</b>			
	Cattle and poultry feed M/s AIMS Feeds (P) Ltd., Hubli	1988 1993	1993-94 (September 1996)	3.56
	Fabricated items, bolt, nuts, pins, tees, bends, gates, etc. M/s Deepak Industries, Hubli	1990	1995-96 (May 1998)	1.02
5	<b>Mandya</b>			
	Bulk drugs M/s Karnataka Malladi Biotics Ltd	1993	1995-96 (November 1998)	1.66
6	<b>Mysore</b>			
	Perfumes and deodorants and paint thinners M/s Impress Inc. M/s Ganesh Chemicals	1993	1994-95, 1995-96 and 1997-98 (May 1998 and January 1999)	1.23
	<b>Total</b>			<b>20.12</b>

### 2.2.10 Non-limiting of allowances of exemptions to the permissible ceiling

Under the packages of incentives, the tax exemptions allowed by the assessing authorities are required to be limited to the period or monetary ceiling indicated in the FAVCs.

It was, however, noticed that in seven districts, in the assessments for the years 1989-90 to 1997-98 of 10 industrial units, tax exemption had been allowed either beyond the eligibility period or the certified monetary ceiling, which resulted in excess allowance of exemption of Rs.47.27 lakh, as detailed below:



(Rupees in lakh)

Sl. No	District/ Manufacturing activity (Name of units)	Scheme	Tax incentive as per FAVC	Tax exemptions allowed (Assessment period)	Excess tax exemption allowed
1	<b>Bangalore (Rural)</b>				
	Mosaic tiles and aluminium M/s Priyadarshini Mosaic Tiles M/s Kolts Aluminium (P) Ltd.	1988	20.99	27.41 (1989-90 to 1996-97)	6.42
2	<b>Bangalore (Urban)</b>				
	Manufacture of electronic components M/s Aldea Electronics (P) Ltd.	1989	14.62	30.90 (1991-92 to 1995-96)	16.28
3	<b>Chitradurga</b>				
	Cylinder liners for diesel engine components M/s Smitha Enterprises	1993	3.95	5.19 (1994-95 to 1996-97)	1.24
4	<b>Dharwad</b>				
	Machinery components, food products M/s Mandovi Engineers	1990	2.66	6.94 (1997-98)	4.28
	Edible oil and cake M/s Raja Oil Mill, Gadag	1996	9.83	14.70 (1997-98)	4.87
	Bakery products M/s Ashik Bakeries, Gadag	1996	33.79	35.50 (1997-98)	1.71
5	<b>Mandya</b>				
	Industrial chemicals M/s Panchamukhi Chemicals	1988	2.64	4.38 (1990-91 to 1996-97)	1.74
6	<b>Mysore</b>				
	Cotton ginning M/s Venkateshwara Ginning Mills, Kollegal	1988	2.47	5.97 (1995-96)	3.50



(Rupees in lakh)

Sl. No	District/ Manufacturing activity (Name of units)	Scheme	Tax incentive as per FAVC	Tax exemptions allowed (Assessment period)	Excess tax exemption allowed
7	<b>Uttara Kannada</b>				
	Milk products M/s Krishna Milks (P) Ltd., Kumta	1990	25.00	32.23 (1996-97)	7.23
<b>Total</b>					<b>47.27</b>

### 2.2.11 Short levy of tax due to incorrect computation of average tax liability

(i) Under the 1990 package, in respect of industries undertaking expansion/diversification/modernisation, the tax exemption was required to be limited to the additional capacity created.

In two districts, while concluding (March/April 1997) four assessments for the years 1993-94 to 1995-96, tax exemption was allowed under the 1990 scheme on the entire sales turnover without limiting it to the additional capacity created, resulting in a short levy of tax of Rs.37.05 lakh, as under:

(Rupees in lakh)

Sl. No.	District (Name of units)	Period (Date) of assessment	Tax exemption		
			Allowable	Allowed	Excess
1	<b>Bellary</b> M/s Nava Karnataka Steels Ltd	1994-95 (April 1997)	33.45	68.18	34.73
2	<b>Mysore</b> M/s Vigil Filament (P) Ltd	1993-94 to 1995-96 (March 1997)	0.12	2.44	2.32
<b>Total</b>			<b>33.57</b>	<b>70.62</b>	<b>37.05</b>

(ii) Under the 1993 package, the tax exemption allowable was to be limited to the difference between the total tax liability and the average tax liability for the last three years preceding the relevant year.

In four districts, in 12 assessments for the years 1994-95 to 1997-98 concluded between December 1995 and May 1999, the average tax liability for allowance of exemption under the 1993 scheme was either not computed or incorrectly computed. The total short levy of tax in these cases amounted to Rs.23.55 lakh, as under:



(Rupees in lakh)

Sl. No.	District (Name of units)	Period (Date) of assessment	Tax exemption		
			Allowable	Allowed	Excess
1	<b>Bangalore (Urban)</b> M/s Vishwakarma Refractories  M/s MY Associates	1996-97 (March 1999)  1996-97 and 1997-98 (September 1997 and March 1999)	0.02	6.12	6.10
2	<b>Dharwad</b> M/s Mohan Printing Press M/s Bagmar Industries, Gadag	1996-97 1997-98 (July 1998 to May 1999)	2.29	3.53	1.24
3	<b>Gulbarga</b> M/s Rajashree Cements M/s Siddeshwar Dhal Industries	1996-97 (February/ March 1997)	345.87	357.22	11.35
4	<b>Mysore</b> M/s Pragathi Lyoxal (P) Ltd M/s Shekar Tiles & Marbles	1994-95 to 1996-97 (December 1995/ December 1996)	4.10	8.96	4.86
<b>Total</b>			<b>352.28</b>	<b>375.83</b>	<b>23.55</b>

### 2.2.12 Other points of interest

(a) It was noticed that in six<sup>0</sup> districts, 18 units which had availed aggregate tax exemption of Rs.167.38 lakh under the 1988, 1990 and 1993 schemes had closed down their business on account of death of entrepreneurs, insufficient working capital, problems of pollution and marketing, etc.

The schemes provide for recovery of Government subsidies disbursed to new industries along with interest, in the event of their going out of production or closure without production activities within five years from the date of disbursement of such subsidies and the same are recoverable as arrears of land revenue.

However, the schemes do not provide for withdrawal of sales tax exemptions allowed to such closed units by creating a charge on the assets of the units. The absence of such a provision led to loss of revenue of Rs.167.38 lakh, besides defeating the intended purpose of development of industries.

<sup>0</sup> Bangalore (Rural), Bidar, Dharwad, Gulbarga, Mysore and Raichur



(b) Test check revealed that in respect of the following new industries availing incentives under the 1993 scheme, the assessing authorities levied sales tax short and did not levy turnover tax in the assessments concluded between August 1996 and June 1999:

(Rupees in lakh)							
Sl. No	District/ Manufacturing activity (Name of units)	Date of commencement of commercial production	Period (Date) of assessment	Tax exemption granted	Tax leviable	Tax levied	Short levy
1	<b>Bangalore (Rural)</b>						
	Manufacture and sale of pet containers M/s Manjushree Extrusions Ltd.	28.3.1996	1997-98 (June 1999)	621.11 for 6 years from 28.3.1996	8.51	Nil	8.51
	Disposable plastic cups/ glasses/plastic sheets M/s Jallam Polypack India (P) Ltd.	18.7.1996	1996-97 (December 1997)	74.75 for 6 years from 18.7.1996	1.32	0.66	0.66
2	<b>Mysore</b>						
	Lemon grass oil and citronella oil M/s Finorama	2.11.1993	1993-94 to 1996-97 (August 1996 to June 1998)	3.11	8.73	3.11	5.62
<b>Total</b>					<b>18.56</b>	<b>3.77</b>	<b>14.79</b>

As a result of the short levy, set off of Rs.14.79 lakh against the exemption limit was not made, resulting in excess allowance of exemption of like amount.

The assessing authority accepted the above observations in respect of two units of Bangalore (Rural) district and passed orders rectifying the omission. Report in respect of the remaining unit in Mysore has not been received (November 2000).

The points mentioned above were reported to the Commissioner for Industrial Development and Director of Industries and Commerce, to the Commissioner of Commercial Taxes and to Government (June 2000); their replies have not been received (November 2000).



## 2.3 Working of Sales Tax Check Posts

### Highlights

Actual physical verification of goods vehicles did not cover even the minimum stipulated requirement and resulted in shortfall of over 50 per cent during 1994-95 to 1998-99.

(Paragraph 2.3.4)

Failure to pass on the information collected at the Check Posts to the assessing authorities resulted in non-verification of turnover of goods involving tax effect of Rs.22.40 crore.

(Paragraph 2.3.5)

Improper verification of documents of goods resulted in non-levy of penalty of Rs.3.54 crore.

(Paragraph 2.3.6(a))

Physical verification of goods involving revenue effect of Rs.5.75 crore was pending for long periods beyond the stipulated time frame of 15 days.

(Paragraph 2.3.6(b))

Confirmation of surrender of 10063 transit passes by vehicles which passed through the State at the exit points had not been obtained even though it involved tax of Rs.51.19 crore.

(Paragraph 2.3.7)

### 2.3.1 Introduction

With a view to preventing evasion of Sales Tax, the Karnataka Sales Tax Act 1957 (the Act) empowers the State Government to establish Sales Tax Check Posts at notified places. Accordingly, 36\* major Check Posts and 7\*\* minor Check Points besides mobile squads had been established under 10 Intelligence Zones at vantage points like inter-State borders, important

\* Aland Road at Gulbarga, Anmod, Bellary, Bellary Road at Bangalore, Charmady, Dhulkhed, Domlur Road at Bangalore, Donigal, Gundlupet, Harihara, Hospet, Hosur Road (In and Out) at Attubele, Humnabad Road at Gulbarga, Kanakapura Road at Bangalore, Kannur, Lingasugur Road at Raichur, Magadi Road at Bangalore, Manuganahalli, Mukka, Mysore Road at Bangalore, N.Vaddahalli, Nippani (In and Out), Old Madras Road at Bangalore, Perambady, Punjanoor, Shaktinagar, Sherdon, Shirur, Siddapur, Sira Road at Tumkur, Tadas, Thokkottu, Tumkur Road (In and Out) at Bangalore

\*\* Airport at Bangalore, Bellary, Bidar, Challakere, City Railway Station at Bangalore, Srirangapatna, Tarikere



roadways and points of concentrated movement of particular commodities to verify the documents and for physical verification of goods transported by goods vehicles. The Sales Tax Check Post Officers are empowered to levy penalty in case of non-compliance with the provisions of the Act.

### 2.3.2 Organisational set up

The Check Posts headed by one Commercial Tax Officer each are under the administrative control of the respective Intelligence Zones, each headed by a Joint/Additional Commissioner of Commercial Taxes (Intelligence). The overall control of the Intelligence Zones is exercised by the Additional Commissioner of Commercial Taxes (Intelligence and Co-ordination). The Commissioner of Commercial Taxes is the head of the Department with responsibility for administration of the Act.

### 2.3.3 Scope of audit

A Review on the **Working of sales tax check posts in Karnataka** was included in the Report of the Comptroller and Auditor General of India for the year 1984-85 (Revenue Receipts). Based on the above Review, the Public Accounts Committee had recommended in its 43rd Report (8th Assembly) presented in December 1988, *inter alia*, as follows:

- Pending establishment of centralised Check Posts for all the departments under consideration by Government, the Department should make all-out efforts to streamline the procedure for loading and unloading and the physical verification of goods to ensure detention of vehicles for minimum possible time.
- There should be more effective supervision on the officers entrusted with this work in order to check any complacency on their part.
- The system of transit passes in respect of goods vehicles passing through Karnataka should be introduced early to avoid tax evasion by the traders.

With a view to evaluating the present working of the Check Posts and the extent to which they have fulfilled their objective of assisting the assessing authorities in the proper assessments of taxes, a review of the records pertaining to 17<sup>22</sup> Check Posts and the related records in the Offices of the Joint Commissioners of Commercial Taxes (Intelligence) for the years 1994-95 to 1998-99 was conducted during October 1999 to March 2000. The results thereof involving revenue effect of Rs.8342.58 lakh are detailed in the succeeding paragraphs.

<sup>22</sup> Aland Road at Gulbarga (Maharashtra border), Ananthapur Road at Bellary, Anmol border), Dhulked (Maharashtra border), Gundlupet (Kerala and Tamil Nadu), Harihara, Hosur Road (In and Out) at Attibele (Tamil Nadu border), Mobile Check Post at Bangalore, Mysore Road at Bangalore, N. Vaddahalli (Andhra Pradesh border and Out) (Maharashtra border), Sira Road at Tumkur, Thokkottu (Kerala) Road (In and Out) at Bangalore



### 2.3.4 Performance of Check Posts

According to the standing instructions of the Department of Commercial Taxes, physical verification of the goods transported by at least two vehicles per shift of eight hours, is required to be conducted by every Check Post Officer (CPO).

Details of the number of goods vehicles which passed through the check posts, number of vehicles in which goods were required to be verified and the number actually verified, as also the amount of penalty levied in all the Check Posts in the State during the years 1994-95 to 1998-99 are given below.

Year	Number of Check Posts	Number of goods vehicles passed through check posts	Vehicles required to be physically verified	(Percentage of (4) to (3))	Vehicles physically verified	Shortfall in physical verification (Percentage of (4))	Penalty levied (Number of offence cases)
					Numbers		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1994-95	47	5362679	102930	(1.92)	43983	58947 (57)	894.20 (NA)
1995-96	43	5677135	94170	(1.66)	31775	62395 (66)	1321.97 (NA)
1996-97	43	6167691	94170	(1.53)	45863	48307 (51)	1729.83 (NA)
1997-98	43	5069782	94170	(1.86)	37959	56211 (60)	2083.95 (27253)
1998-99	43	5133794	94170	(1.83)	45903	48267 (51)	2837.89 (32541)

NA - Not available

Thus, while the percentage of goods vehicles required to be physically verified was less than two *per cent* of the total number of goods vehicles passing through the Check Posts, there was shortfall of over 50 *per cent* in conducting physical verification of the goods.

It was further noticed that in the three Check-Posts out of the 17 check posts test checked which were housed in permanent buildings with facilities for loading, unloading and storing of goods, the physical verification of goods during the years 1997-98 and 1998-99 ranged between 463 and 1855 (21 and 85 per cent) only against the requirement of 2190 per year per check post. Information regarding the provision of facilities in other Check Posts has not been received (November 2000).

### 2.3.5 Non-transmission/verification of information collected at Check Posts

The documents relating to the goods carried in the vehicles passing through the Check Posts fall under two categories. Those relating to specified commodities<sup>⊗</sup> or having value of more than Rs.50,000 and requiring cent *per cent* cross verification by the assessing authorities are called 'Special

† Tunkur Road (In and Out) at Bangalore, Nippani (In)

⊗ Arecanut, cardamom, cashew, coconut, coffee, copra, cotton, edible oil (including vanaspathi), iron and steel, liquor, oil seeds, pepper, rectified spirit, rubber, timber



Documents'. The others which are cross-verified on selective basis at random are known as 'General Documents'.

The special documents, after being given code numbers, are required to be forwarded to the Office of the concerned Joint Commissioner for further processing on computers to make out Check Post-wise, commodity-wise, assessing authority-wise list. The computerised lists (from July 1999 with the documents) are transmitted by those Offices to the concerned assessing authorities for utilisation during assessments.

The Public Accounts Committee had recommended (December 1988) that there should be more effective supervision on the officers entrusted with this work in order to check any complacency on their part. Despite this, scrutiny in audit of the computerised lists and cross verification of a few transactions in respect of liquor and iron and steel relating to the year 1998-99 revealed omissions by the Intelligence Zones to ensure transmission of the computerised lists containing full particulars to the assessing authorities, thus defeating the very purpose of cross verification. A few such cases are detailed below:

(a) In respect of Indian Made Liquor (IML) in 1073 cases of intra-State sales involving turnover of Rs.2123.75 lakh and 166 cases of inter-State sales valued at Rs.356.97 lakh, the computerised lists did not indicate either the names of the consignor or the consignee. The relevant documents were also not enclosed to the lists. The absence of this vital information defeated the objective of sending the lists for cross verification. The tax effect involved in these cases was Rs.1562.85 lakh (at 63 per cent including cess).

(b) In three cases of Bangalore (Rural) and Bangalore (Urban) districts, against the turnover of Rs.2228.85 lakh shown in the computerised lists, the turnover declared or assessed or for which information was available with the assessing authorities was only Rs.1165.66 lakh. The tax effect involved in the balance turnover of Rs.1063.19 lakh was Rs.669.82 lakh.

(c) According to the computer statements, the inter-State purchases made by an assessee dealing in iron and steel amounted to Rs.105.96 lakh for the year 1998-99. Against this, the assessee had shown only Rs.6.66 lakh in his annual return and had suppressed the purchase turnover of Rs.99.30 lakh. Considering the gross profit of 5.54 per cent according to the trading account of the assessee for the year, the sales turnover corresponding to the suppressed purchases would be Rs.104.80 lakh. In three other cases, while turnovers of Rs.43.10 lakh (both intra-State and inter-State) were shown in the computerised lists, the assessee had not included them in their returns. Thus, the non-receipt of computerised lists in these cases by the assessing authorities resulted in escapement of aggregate turnover of Rs.147.90 lakh and non-levy of tax of Rs.7.46 lakh.

(d) In respect of the Check Post at Nippani (Out), 74568 special documents relating to the years 1995-96 to 1998-99 were sorted out and forwarded to the collation section only in October 1999, the delay involved being 6 to

42 months, and thereby largely defeating the objective of making available the information to the assessing authorities for utilisation at the time of assessments.

Strict compliance with the prescribed procedure would have ensured that details of the entire turnover relating to goods allowed to pass through the check posts was available with the assessing authorities to check escapement of tax.

### 2.3.6 Non-levy of penalty

Under the Karnataka Sales Tax Act 1957, where the officer-in-charge of the Check Post or barrier, is of the opinion that further verification is necessary with respect to either accuracy of the particulars furnished in the documents accompanying the goods under transport or in transit, he may verify the particulars. If such verification is not likely to be completed within a reasonable time, he may direct in writing the carrier not to deliver the goods until permitted to do so.

On confirmation of contravention of the provisions of the Act pursuant to verification of the goods, notices specifying the omissions and the penalty leviable are to be issued allowing 10 days for furnishing replies/compliance. Such notices are also issued when contravention of the provisions of the Act is established even without the issue of endorsements for physical verification. Thereafter, considering the replies, if any received, orders are passed, specifying the penalty payable.

Cases of non-levy of penalty noticed during test check are detailed below:

(a) The Joint Commissioner of Commercial Taxes (Vigilance) in various circulars furnished detailed lists of bogus dealers (those engaged in bogus transactions or whose registration certificates had been cancelled or who had closed down their business, etc.) and instructed the Check Post Officers to stop the goods vehicles carrying their goods through the Check Posts for verification.

It was noticed that in eight<sup>®</sup> Check Posts in 2173 cases, transportation of goods valued at Rs.2921.66 lakh by dealers whose names were included in such lists and available with them had been allowed during the years 1998-99 (1138 cases valued Rs.1400.60 lakh) and 1999-2000 (up to December 1999) (1035 cases valued Rs.1521.06 lakh) even without the issue of the said endorsements. The penalty leviable in these cases at the maximum rates amounted to Rs.353.84 lakh.

(b) It was noticed that in respect of nine<sup>™</sup> Check Posts, verification reports issued in 920 cases relating to goods valued at Rs.2666.40 lakh during the

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<sup>®</sup> Anmod, Gundlupet, Harihara, Hosur Road (In and Out) at Attibele, Mysore Road, Tumkur Road (In and Out)

<sup>™</sup> Anmod, Ananthapur Road at Bellary, Dhulked, Hosur Road (In) at Attibele, N. Vaddahalli, Nippani (In), Sherdon, Tumkur Road (In and Out)



years 1995-96 to 1998-99 were pending finalisation even as of December 1999. In these cases, extension of time for verification of the goods had not been taken. On confirmation of contravention of the Act, the penalty leviable in these cases at the maximum rate was Rs.574.60 lakh.

(c) It was noticed that in the Check Posts at N. Vaddahalli and Tumkur Road (In), notices issued in 60 cases during the years 1994-95 to 1998-99 were yet to be finalised. Consequently, penalty of Rs.34.02 lakh sought to be levied could not be realised.

(d) In the Aland Road Check Post, 278 endorsements were issued during the years 1994-95 to 1998-99. In all these cases, the proceedings were closed after collecting nominal penalties without issue of notices and passing orders. In the absence of specific nature of contravention, the correctness of the penalty realised could not be vouchsafed. Since there is no provision to levy penalty less than twice the tax due, the procedure followed was incorrect.

(e) The forms of notices, in duplicate and serially numbered, were being supplied by the respective Joint Commissioners of Commercial Taxes (Intelligence) to the Check Posts. In the Aland Road Check Post, 13869 notices were issued during the years 1994-95 to 1998-99. While departmentally supplied forms were used in 200 cases only, the others were on forms got printed by the Check Post itself which were not serially numbered. As a result, it could not be verified whether all the notices issued and penalties realised were correctly accounted for. This apart, the above reflects the weakness of internal control.

(f) The penalty levied pursuant to orders is required to be paid within 10 days of issue of demand notice. On failure to comply with this, the Check Post Officer is empowered to dispose of the goods unloaded for realisation of the penalty amount.

It was noticed that in five<sup>\*x</sup> Check Posts, goods unloaded in 40 cases during the years 1992-93 to 1999-2000 valued at Rs.91.89 lakh were lying undisposed of for periods ranging up to seven years. The penalty realisable in these cases was Rs.21.03 lakh. Of this, Rs.0.46 lakh was under stay order issued in 1995 by the Hon'ble High Court of Karnataka. Action had not been taken to get the stay vacated. In the other cases, recoveries were pending for reasons such as non-disposal of unloaded goods, closing down of business and non-availability of the whereabouts of dealers, deterioration of unloaded goods.

### **2.3.7 Failure of entry point Check Posts in regard to goods passing through Karnataka**

According to the Karnataka Sales Tax Act 1957, when a vehicle carrying goods from another State meant for delivery outside the State passes through Karnataka, the driver is required to obtain a Transit Pass (TP) (in duplicate) at

<sup>\*x</sup> Dhulked, Nippani (In), Sherdon, Sira Road at Tumkur, Tumkur Road (In)



the entry point Check Post and surrender the duplicate copy at the specified exit point Check Post within three days to ensure that the goods actually moved out of the State. In order to watch the surrender, information about the issue of TPs is to be communicated to the exit point Check Posts. In turn, the TPs surrendered at the exit point Check Posts are to be returned to the entry Check Posts to complete the process.

On receipt of information of non-surrender of any of the TPs, action is to be taken by the entry Check Post Officers to levy maximum penalty at twice the tax payable considering that the goods have been sold in the State.

It was noticed that in none of the six<sup>137</sup> entry point Check Posts test checked, action had been taken to inform the issue of TPs immediately to the exit point Check Posts to check movement of goods out of the State.

No information about the surrender of 10063 TPs regarding goods worth Rs.25392.42 lakh issued during 1994-95 to 1998-99 was available with 13<sup>138</sup> entry point Check Posts as the TPs were shown as pending as of March 2000. Therefore, it was not ascertainable whether the goods in these cases had passed out of the State. On confirmation of non-surrender of TPs, tax of Rs.1706.32 lakh and maximum penalty of Rs.3412.64 lakh were leviable.

The points mentioned above were reported to the Commissioner of Commercial Taxes and Government in May 2000; their replies have not been received (November 2000).

## 2.4 Incorrect grant of exemption/concession

(a) Under the Karnataka Sales Tax Act 1957, every dealer is required to pay tax on his taxable turnover at the rates prescribed in the Schedules. However, in the case of goods not specified in any of the Schedules, the tax shall be leviable at rates ranging from 7 to 12 *per cent*. In addition, turnover tax and cess are also payable and surcharge was payable up to March 1997.

During the course of audit (between December 1995 and December 1999) in nine<sup>1</sup> districts, it was noticed that while finalising (between September 1992 and March 1999) 45 assessments of 35 dealers for the periods 1988-89, 1990-91 to 1997-98, the turnover aggregating Rs. 1445.49 lakh was incorrectly exempted/determined, resulting in short levy of tax of Rs.72.44 lakh.

<sup>137</sup> Dhulkhed, Gundlupet, Hosur Road (In), N. Vaddahalli, Nippani (In), Thokkottu

<sup>138</sup> Anmod, Bellary, Dhulked, Gundlupet, Harihara, Hosur Road (In) at Attibele, Humnabad Road at Gulbarga, Nippani (In), N. Vaddahalli, Perambady, Punjanoor, Sherdon, Thokkuttu

<sup>1</sup> Bangalore (Rural), Bangalore (Urban), Bellary, Chamarajanagar, Dakshina Kannada, Dharwad, Hassan, Mysore, Raichur.



On this being pointed out (between December 1995 and December 1999), the Department reported (August/November 2000) revision of assessments in 17 cases creating an additional demand of Rs. 17.11 lakh and recovery of Rs. 7.45 lakh in seven of those cases. In respect of the other cases, replies have not been received (November 2000).

The cases were referred to Government (April/May 2000); their reply has not been received (November 2000).

(b) Under the Karnataka Sales Tax Act 1957, a dealer is liable to pay tax at the rate of 4 *per cent* on the lease rent receipts of vehicles from April 1996 onwards. Besides, cess at the rate of 5 *per cent* of such tax, and turnover tax at the rates specified are also leviable.

In Bangalore (Urban) district, it was noticed (November 1999) that while finalising (January 1999) the assessments of three dealers engaged in leasing of old vehicles for the year 1997-98, aggregate lease rent receipts of Rs.670.19 lakh were incorrectly exempted from levy of tax. This resulted in short levy of tax of Rs.34.86 lakh (including cess and turnover tax).

The cases were reported to the Department (November 1999) and to Government (May 2000); their replies have not been received (November 2000).

(c) Under the Central Sales Tax Act 1956, a dealer is not liable to pay tax on sale of any goods in the course of export of those goods out of the territory of India. For this purpose, the last sale or purchase preceding the sale or purchase occasioning the export of the goods out of the territory of India is also deemed to have taken place in the course of such export, if such sale or purchase took place after and was for the purpose of complying with any agreement or order for or in relation to such export.

In Bangalore (Urban) and Mysore districts, while finalising (between September 1997 and March 1999) the assessments of three dealers for the years 1995-96 to 1997-98, turnover of sales of rough castings, fabricated goods and polished granites amounting to Rs.59.41 lakh to exporters of articles of cast iron, finished products (out of fabricated goods purchased) and granite monuments respectively, were exempted from levy of tax treating the sales as in the course of export. The exemption allowed was not in order as the goods exported were different from those purchased. The incorrect grant of exemption resulted in non-levy of tax of Rs.5.50 lakh (including surcharge, cess and turnover tax).

On this being pointed out (between October 1998 and February 2000), the Department reported (June 2000) revision of assessments in two cases, creating additional demand of Rs. 4.46 lakh. Report of recovery in these cases and final action in respect of the other case have not been received (November 2000).



The cases were referred to Government (May 2000); their reply has not been received (November 2000).

(d) Under the Karnataka Sales Tax Act 1957, where goods liable to tax are iron and steel and oil seeds as mentioned in the Fourth Schedule, every dealer in such goods is required to furnish, from April 1995 onwards, a declaration in Form 32-B to claim exemption from levy of tax on his subsequent sales or purchase of those goods.

In 14 districts, while finalising (between September 1996 and March 1999) 59 assessments for the years 1995-96 to 1997-98 of 55 assesseees engaged in sale/purchase of iron and steel, groundnut, cotton and other oil seeds, their subsequent sales/purchases amounting to Rs.3550.27 lakh had been exempted without the production of the declarations. This resulted in non-levy of tax of Rs.124.35 lakh as detailed below:

Sl. No.	District	Number of cases	Period (Date) of assessment	Turnover involved	Tax effect
				(Rupees in lakh)	
1	Bangalore (Rural)	7	1996-97 (between February and December 1998)	99.22	3.97
2	Bangalore (Urban)	13	1995-96 to 1997-98 (between April 1997 and March 1999)	1238.35	49.53
3	Bagalkot	1	1995-96 (August 1998)	40.49	1.62
4	Belgaum	8	1995-96 to 1997-98 (between September 1996 and March 1999)	1058.00	29.79
5	Bijapur	1	1995-96 (February 1999)	73.61	1.47
6	Bellary	5	1996-97 and 1997-98 (between January and March 1999)	165.01	6.61
7	Chitradurga	2	1995-96 and 1996-97 (March 1999)	76.72	1.54
8	Dakshina Kannada	8	1996-97 and 1997-98 (between April 1998 and February 1999)	113.38	4.54
9	Dharwad	7	1995-96 and 1996-97 (between June 1998 and March 1999)	159.21	5.60
10	Gadag	2	1995-96 and 1996-97 (May 1998)	98.30	2.57
11	Kolar	1	1996-97 (April 1998)	34.58	1.38



Sl. No.	District	Number of cases	Period (Date) of assessment	Turnover involved	Tax effect
				(Rupees in lakh)	
12	Mysore	1	1995-96 (June 1997)	41.57	1.66
13	Raichur	2	1996-97 and 1997-98 (between April 1998 and March 1999)	33.97	1.36
14	Udupi	1	1995-96 (April 1997)	317.86	12.71
	<b>Total</b>	<b>59</b>		<b>3550.27</b>	<b>124.35</b>

On this being pointed out (between September 1998 and October 1999), the Department reported (August 2000) revision of assessments in three cases creating additional demand of Rs. 2.01 lakh. Replies in respect of the remaining cases have not been received (November 2000).

The cases were referred to Government (May 2000); their reply has not been received (November 2000).

(e) Under the Karnataka Sales Tax Act 1957, on first sales of 'granite tiles' tax was leviable at the rate of 15 per cent from April 1988 to March 1996 and at 12 per cent from April 1996 to March 1998. In addition, surcharge at the rate of 15 per cent of such tax was also leviable for the period from April 1996 to March 1997.

In Bagalkot district, while finalising (between October 1996 and February 1999), 12 assessments for the years 1995-96 to 1997-98, aggregate turnover of Rs.130.86 lakh relating to first sales of 'granite tiles' was exempted from levy of tax on the ground that the tiles were manufactured out of tax suffered 'granite stones'. Since granite stones and tiles were commercially different commodities, the exemption granted was incorrect and resulted in non-levy of tax of Rs.18.42 lakh (including surcharge).

On this being pointed out in July 1999, the Department reported (June 2000) that notices had been issued for revising the assessments. Report of final action has not been received (November 2000).

The cases were referred to Government (May 2000); their reply has not been received (November 2000).

## 2.5 Non-levy/short-levy of turnover tax

Under the Karnataka Sales Tax Act 1957, every registered dealer, whose total turnover in a year exceeds the prescribed monetary limits, is liable to pay turnover tax (TOT) at the prescribed rate on his total turnover, after such deductions as are admissible under the Act.



In 14 districts, TOT of Rs.165.49 lakh in 126 cases was either not levied or levied short due to incorrect exemption of turnover, application of incorrect rate, etc. as detailed below:

(Rupees in lakh)

Sl. No.	District (Number of cases)	Period (Date) of assessment	Turnover involved	Tax not levied or levied short
1	Bangalore (Rural) (2)	1995-96 and 1996-97 (between November 1998 and February 1999)	200.63	1.70
2	Bangalore (Urban) (64)	1992-93 to 1997-98 (between September 1996 and March 1999)	6877.96	85.39
3	Belgaum (1)	1996-97 (September 1998)	140.86	1.12
4	Bellary (3)	1994-95 to 1996-97 (February 1998)	251.58	3.14
5	Bijapur (19)	1994-95 to 1997-98 (between July 1997 and January 1999)	415.16	3.29
6	Dakshina Kannada (5)	1993-94, 1995-96 to 1997-98 (between March 1997 and October 1998)	697.81	3.85
7	Dharwad (7)	1994-95 to 1997-98 (between September 1997 and February 1999)	2811.30	40.82
8	Gadag (2)	1995-96 (April 1998)	70.51	1.00
9	Gulbarga (10)	1993-94 to 1997-98 (between April 1998 and February 1999)	1321.79	10.71
10	Hassan (4)	1993-94 and 1996-97 (between April 1998 and March 1999)	757.49	4.95
11	Mysore (3)	1992-93, 1993-94 and 1996-97 (between December 1995 and December 1997)	745.72	6.69
12	Shimoga (2)	1995-96 and 1996-97 (between November 1996 and November 1997)	69.45	0.69
13	Tumkur (2)	1995-96 (between February 1998 and January 1999)	101.24	1.11
14	Uttara Kannada (2)	1994-95 and 1995-96 (between May 1997 and March 1998)	102.86	1.03
	<b>Total (126)</b>		<b>14564.36</b>	<b>165.49</b>

On these cases being pointed out (between January 1997 and February 2000), the Department stated (August/November 2000) that assessments in 74 cases involving tax effect of Rs.61.52 lakh had been revised and recoveries of Rs.49.42 lakh made in 55 of those cases. In respect of the other cases, replies have not been received (November 2000).



The cases were referred to Government (between March and May 2000); their reply has not been received (November 2000).

## 2.6 Application of incorrect rate of tax

Under the Karnataka Sales Tax Act 1957, tax is leviable on the purchases/sales at the rates mentioned in the relevant Schedules to the Act. In the case of goods not specified in any of the Schedules, tax shall be leviable as unspecified goods. In addition, surcharge at the rate of 15 per cent and cess at the rate of 5 per cent of the tax are also leviable.

In 16<sup>0</sup> districts, it was noticed (between December 1996 and December 1999) in 75 cases that due to application of incorrect rates, tax was levied short by Rs. 104.92 lakh for the period 1992-93 to 1997-98. A few illustrative cases are detailed below.

(Rupees in lakh)

Sl. No.	Assessment year/ Date of assessment	Commodity	Rate of tax (percentage)			Turnover involved	Tax effect
			Leviable	Levied	Differential		
1.	1995-96/ 20.01.1998	Electrical Stampings	2.3	2.00	0.30	2573.57	7.72
2.	1997-98/ 02.12.1998	Herbal powder	12.60	8.40	4.20	140.73	5.91
3.	1996-97/ 03.04.1998	Black and White TV sets	9.60	4.20	5.40	101.45	5.48
4.	1996-97/ 19.02.99	Electrical works contract	8.00	4.00	4.00	128.56	5.14

On these 75 cases involving short levy of tax of Rs.104.92 lakh being pointed out, the Department stated (August/November 2000) that assessments in 32 cases involving tax effect of Rs.47.94 lakh had been revised and recoveries of Rs.37.32 lakh made in 24 of those cases. In respect of the other cases, replies have not been received (November 2000).

The cases were referred to Government (between March and May 2000); their reply has not been received (November 2000).

<sup>0</sup> Bangalore (Urban), Bagalkot, Belgaum, Bellary, Bijapur, Chitradurga, Dakshina Kannada, Dharwad, Hassan, Gulbarga, Mandya, Mysore, Raichur, Shimoga, Tumkur, Udupi



## 2.7 Non-levy/short-levy of surcharge and cess

(a) Under the Karnataka Sales Tax Act, a surcharge at the rate of 15 per cent of tax payable on goods (other than declared goods) was leviable for the period from April 1994 to March 1997.

In eight<sup>Φ</sup> districts, while finalising (between July 1996 and March 1999) 32 assessments of 28 dealers for the years 1994-95 to 1996-97, surcharge of Rs.33.26 lakh was not levied on the aggregate tax of Rs.221.84 lakh.

On these cases being pointed out (between July 1998 and February 2000), the Department reported (August/November 2000) revision of assessments in 17 cases involving tax effect of Rs.19.01 lakh and recovery of Rs.14.48 lakh in ten of those cases. In respect of the other cases, replies have not been received (November 2000).

The cases were referred to Government (between March and May 2000); their reply has not been received (November 2000).

(b) Under the Karnataka Sales Tax Act, a cess at the rate of 5 per cent of the tax due on sales or purchases is leviable within the limits of Bangalore City Planning Area, from April 1995. Further, under the Act, a cess at the rate of Rs. 10 per tonne is payable on the purchase of sugarcane by manufacturers of sugar from October 1995.

In four<sup>Ψ</sup> districts, while finalising (between July 1997 and March 1999) 12 assessments of 11 dealers for the years 1995-96 and 1996-97, cess of Rs.18.51 lakh was either not levied or levied short.

On these cases being pointed out (between July 1998 and November 1999), the Department reported (May/November 2000) revision of assessments in two cases creating additional demand of Rs.4.87 lakh and recovery of the same. In respect of the other cases, replies have not been received (November 2000).

The cases were referred to Government (between March and May 2000); their reply has not been received (November 2000).

## 2.8 Non-levy of purchase tax

Under the Karnataka Sales Tax Act 1957, a dealer, who purchases any taxable goods in circumstances in which no tax is leviable on the sale price of such goods and consumes them in the manufacture of other goods for sale, is liable

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<sup>Φ</sup> Bangalore (Rural), Bangalore (Urban), Chitradurga, Dakshina Kannada, Dharwad, Hassan, Gulbarga, Mysore

<sup>Ψ</sup> Bangalore (Rural), Bangalore (Urban), Belgaum, Dharwad



to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale of such goods inside the State.

It was judicially held<sup>♦</sup> in October 1997 that goods purchased from unregistered dealers and sold to exporters within the State were liable to purchase tax.

In five\* districts while finalising (between October 1995 and March 1999) 34 assessments of 29 dealers for the years 1992-93 to 1997-98, tax of Rs.61.92 lakh was not levied on the aggregate purchase turnover of Rs.526.83 lakh as detailed below.

(Rupees in lakh)

Sl. No	District (Number of cases)	Period (Date) of assessment	Goods	Purchase turnover	Tax leviable	Remarks
1	Bangalore (Urban) (1)	1996-97 (November 1997)	Timber	3.33	0.52	Timber purchased from unregistered dealers was utilised in the manufacture of trophies.
2	Bangalore (Urban) (1)	1997-98 (March 1999)	Articles of gold	24.50	1.03	Articles of gold purchased from unregistered dealers were converted into bullion.
3	Bagalkot (29)	1992-93 to 1996-97 (between October 1995 and March 1999)	Raw granite	398.81	50.18	Raw granite purchased from unregistered dealers was sold to exporters within the State.
4	Dakshina Kannada (1)	1993-94 (January 1997)	Timber	27.12	3.53	Timber claimed to have been sent to sister concern had not been accounted.

<sup>♦</sup> State of Karnataka vs B.M.Ashraf & Co. (1997) 107 STC 571 (SC)

\* Bangalore (Urban), Bagalkot, Dakshina Kannada, Dharwad, Mysore



(Rupees in lakh)

Sl. No.	District (Number of cases)	Period (Date) of assessment	Goods	Purchase turnover	Tax leviable	Remarks
5	Dharwad (1)	1991-92 (July 1996)	Wood	56.35	5.49	Wood purchased from unregistered dealers was used in the manufacture of paper.
6	Mysore (1)	1992-93 (May 1996)	Raw bathis	16.72	1.17	Raw bathis purchased from unregistered dealers was consumed in the manufacture of agarbathis and sent on consignment sale.
<b>Total (34)</b>				<b>526.83</b>	<b>61.92</b>	

On these cases being pointed out (between October 1997 and August 1999), the Department reported (August 2000) revision of assessments in five cases, creating additional demand of Rs.8.58 lakh and recovery of Rs.0.52 lakh in one of those cases. In respect of the other cases, replies have not been received (November 2000).

The cases were referred to Government (between April and May 2000); their reply has not been received (November 2000).

## 2.9 Incorrect allowance of set off

Under the Karnataka Sales Tax Act 1957, where tax was levied in respect of any item of goods of iron and steel and out of the said goods any other item of goods of iron and steel was manufactured in Karnataka and sold, the tax on the sale of such manufactured goods shall be required to be reduced by the amount of tax already paid under the Act on the relative items of goods of iron and steel used in their manufacture. Such set off was, therefore, not permissible in respect of materials purchased from outside the State and on goods sent outside the State on consignment basis.

In three\* districts, while finalising (between February 1991 and March 1998) eight assessments of six dealers for the years 1986-87, 1987-88, 1989-90, 1992-93, 1993-94 and 1995-96 engaged in the manufacture of mild steel ingots, steel tubes, man hole covers and re-rolling of iron and steel, there was

\* Bangalore (Urban), Belgaum, Bellary



short levy of tax of Rs.10.84 lakh due to incorrect allowance of set off of tax on purchase of materials from outside the State, goods sent on consignment basis and incorrect computation of set off.

On these cases being pointed out (between August 1997 and June 1999), the Department reported (May 2000) revision of assessments in two cases creating additional demand of Rs.2.67 lakh and recovery of the same.

The Department further stated that in respect of four cases involving tax effect of Rs.6.94 lakh, rectificatory action could not be initiated as they were barred by limitation. The details of such cases are furnished below:

Sl. No.	Assessing authority	Name of the dealer	Period (Date) of assessment	Date of production of records for audit	Tax due (Rupees in lakh)	Date by which case became time barred
1	DCCT(A) <sup>∇</sup> 42, Bangalore	M/s Loharu Steel Industries Limited	1986 (21 February 1991)	May 1999	5.09	31 March 1995
2	DCCT (A) <sup>∇</sup> 24, Bangalore	M/s Vijaya Steel Limited	1986-87 (30 September 1991)	February 1999	1.85	31 March 1995
3			1987-88 (20 June 1991)			31 March 1996
4			1989-90 (30 November 1991)			31 March 1998

In respect of the other cases, replies have not been received (November 2000).

The cases were referred to Government (April/May 2000); their reply has not been received (November 2000).

## 2.10 Incorrect determination of taxable turnover

(a) Under the Karnataka Sales Tax Act 1957, every dealer is required to pay for each year, tax on his taxable turnover of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, at the rates specified in the Sixth Schedule, the taxable turnover being determined after allowing the prescribed deductions from the total turnover. However, if a dealer so liable, opts to pay tax by way of composition in any year, the tax is leviable at separate rates on the 'total consideration' involved in the execution of works contract and no deductions are allowable.

<sup>∇</sup> DCCT(A): Deputy Commissioner of Commercial Taxes (Assessments)

In seven\* districts, while finalising (between March 1996 and March 1999) 38 assessments for the years 1986-87, 1991-92 to 1997-98 of 30 dealers (including 16 who had opted for composition) engaged in the execution of various types of works contracts, turnover aggregating Rs.2256.09 lakh relating to labour charges, tax suffered purchases, earth work excavation, customs duty, sales tax, interest on borrowed capital, bank commission, etc. was incorrectly excluded from the taxable turnover. This resulted in non-levy of tax of Rs. 134.27 lakh.

On this being pointed out (between August 1997 and December 1999), the Department reported (August/November 2000) revision of assessments in seven cases creating additional demand of Rs.7.98 lakh and recovery of Rs.3.52 lakh in three of those cases. In respect of the other cases, replies have not been received (November 2000).

The cases were referred to Government (between March and May 2000); their reply has not been received (November 2000).

(b) Under the Karnataka Sales Tax Act 1957, on last purchase of sugarcane by a manufacturer of sugar, tax was leviable at the rate of 6 *per cent* from April 1995 to October 1995. In addition, cess and turnover tax were also leviable.

In Belgaum district, while finalising (January 1998) the assessment of a sugar factory for the year 1995-96, quantity of sugarcane purchased during the period April to September 1995 was erroneously determined at 3,22,341.041 tonnes as against 3,39,553.409 tonnes. This resulted in taxable turnover being determined less by Rs.135.63 lakh and short levy of tax of Rs.13.22 lakh (including cess and turnover tax).

The case was pointed out to the Department (November 1998) and to Government (May 2000); their replies have not been received (November 2000).

## 2.11 Excess grant of deduction

Under the Karnataka Sales Tax Act 1957, every dealer is required to pay for each year, tax on his taxable turnover of sales (other than the last sale in the State) relating to all kinds of alcoholic liquors for human consumption (other than toddy, arrack, fenny and wine) at the rate of 45 *per cent* from April 1990 to March 1994, at 50 *per cent* from April 1994 to March 1997 and at 60 *per cent* thereafter. At any point of sale, other than the first and the last point of sale, the taxable turnover is to be arrived at by deducting the turnover of such goods on which tax has been levied at the immediately preceding point of sale.

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\* Bangalore (Urban), Belgaum, Bellary, Dakshina Kannada, Dharwad, Hassan, Gulbarga



It was noticed (between September 1998 and October 1999) that in five\* districts, while finalising 14 assessments (between April 1997 and March 1999) of 12 dealers for the years 1993-94 to 1997-98, the tax paid turnover had been incorrectly determined as Rs.696.81 lakh instead of Rs.660 lakh by seven assessing authorities, resulting in excess deduction of Rs.36.81 lakh. This resulted in short levy of tax aggregating Rs.21.27 lakh.

On being pointed out (between September 1998 and October 1999) the Department reported (September 1999) revision of assessment in one case (Bangalore (Urban) creating an additional demand of Rs.0.84 lakh. Report of recovery in this case and replies in respect of the remaining cases have not been received (November 2000).

The cases were referred to Government in May 2000; their reply has not been received (November 2000).

## **2.12 Incorrect grant of composition benefit**

Under the Karnataka Sales Tax (KST) Act 1957, on sales of 'silk fabrics', tax is leviable at the rate of 4 *per cent* at every point of sale from April 1995 onwards. In addition, cess and turnover tax is also payable. The dealer has the option to pay such tax for any year by way of composition at specified rates on the 'total turnover'.

Under the KST Rules 1957, before allowing tax benefit under the composition scheme in respect of dealers in silk fabrics, the assessing authority is required to ensure that the prescribed application by the dealer for the purpose was submitted within 30 days or extended period of 90 days (in the case of condonation of delays) from the date of commencement of each year or the business, as the case may be. Contravention of the conditions would attract payment of tax under the normal provisions of the Act.

It was noticed (between October 1998 and October 1999) in Bangalore (Urban) and Chamarajanagar districts that while finalising eight assessments of five dealers for the years 1995-96 to 1997-98, the assessing officers allowed the benefit of composition on turnover aggregating Rs.435.62 lakh though the dealers had either not opted for the benefit or furnished the option after the prescribed time limit. This resulted in short levy of tax of Rs.21.68 lakh (including cess and turnover tax).

The cases were pointed out to the Department (between October 1998 and October 1999) and to Government (May 2000); their replies have not been received (November 2000).

\* Bangalore (Urban), Dharwad, Gulbarga, Mysore, Raichur

### **2.13 Short demand of tax**

After the final assessment under the Karnataka Sales Tax Act 1957/ the Central Sales Tax Act 1956, if any amount is due from a dealer, the assessing authority shall serve upon the dealer a demand notice for payment of tax due.

It was, however, noticed (between October 1997 and January 2000) that in four<sup>B</sup> districts, in respect of 6 assessments concluded (between May 1998 and January 1999) for the years 1994-95, 1995-96 and 1997-98, as against the aggregate tax of Rs.27.81 lakh due as per assessment orders, tax of Rs.22.41 lakh was only demanded due to arithmetical error, resulting in short demand of tax of Rs.5.40 lakh.

On these cases being pointed out (between October 1997 and January 2000), the Department reported (May 2000) creation of additional demand of Rs.2.14 lakh in three cases and recovery of Rs. 1 lakh in one of those cases. Replies in respect of the remaining cases have not been received (November 2000).

The cases were referred to Government in May 2000; their reply has not been received (November 2000).

### **2.14 Non-forfeiture of tax collected in excess**

Under the Karnataka Sales Tax Act 1957, a registered dealer is not expected to collect any amount by way of tax or purporting to be by way of tax at a rate or rates exceeding the rate or rates specified in the Act or in respect of sales of any goods on which no tax is payable by him under the Act. Where any collection is made in contravention thereof, the assessing authority is required to forfeit the tax collected in excess. The assessing authority is also empowered to levy penalty not exceeding one and a half times the amount of tax so collected.

In three<sup>D</sup> districts, while finalising (between April 1995 and March 1999) 26 assessments of 23 dealers for the years 1993-94 to 1997-98, against tax of Rs.1772.47 lakh assessed by the concerned assessing authorities, the dealers had collected Rs.1849.82 lakh. No action had been initiated to forfeit the excess collection of tax amounting to Rs.77.35 lakh. In addition, penalty amounting to Rs.116.03 lakh was also leviable.

On these cases being pointed out (between August 1996 and November 1999), the Department reported (August/November 2000) revision of assessments in nine cases, creating additional demand of Rs.7.94 lakh and recovery of Rs.6.84 lakh in seven of those cases.

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<sup>B</sup> Bangalore (Rural), Bangalore (Urban), Mangalore, Tumkur

<sup>D</sup> Bangalore (Urban), Dharwad, Raichur



The cases were referred to Government (between March and May 2000); their reply has not been received (November 2000).

### 2.15 Non-levy of penalty

Under the Karnataka Sales Tax Act 1957, the tax or any other amount due is required to be paid within the prescribed time, which in the case of final assessments, is 21 days from the date of service of demand notice. In case of default in making payments, the assessee would be liable to pay penalty at 2 per cent (1.5 per cent up to March 1997) per month of the amount of tax for the first 3 months after the expiry of the time prescribed and at 2.5 per cent thereafter.

In eight districts, though 65 dealers did not pay the sums specified in the demand notices within 21 days of their service, penalty of Rs.114.04 lakh as detailed below was not levied.

(Rupees in lakh)

Sl. No.	District (Number of assesseees)	Period of assessment (Date of issue of demand notice)	Delay in payment of tax in months	Penalty leviable
1	Bangalore (Rural) (9)	1993-94 and 1994-95 (between January 1996 and January 1998)	2 to 21	2.31
2	Bangalore (Urban) (31)	1987-88 to 1996-97 (between December 1991 and December 1998)	1 to 74	30.26
3	Belgaum (6)	1990-91, 1991-92 and 1994-95 to 1996-97 (between March 1994 and April 1998)	5 to 33	0.96
4	Bijapur (1)	1987-88 and 1988-89 (November 1993 and May 1998)	6 to 60	47.62
5	Dharwad (12)	1975-76 and 1987-88 to 1994-95 (between August 1978 and August 1998)	1 to 250	27.58
6	Gulbarga (2)	1989-90, 1990-91 and 1994-95 (August 1996 and October 1997)	8 to 16	1.67



(Rupees in lakh)

Sl. No.	District (Number of assessees)	Period of assessment (Date of issue of demand notice)	Delay in payment of tax in months	Penalty leviable
7	Hassan (2)	1994-95 and 1995-96 (April and May 1997)	9 to 15	1.63
8	Raichur (2)	1989-90 to 1991-92 (February and August 1992)	25 to 73	2.01
<b>Total (65)</b>				<b>114.04</b>

On these cases being pointed out (between July 1995 and December 1999), the Department reported (August/November 2000) recovery of Rs.6.88 lakh in 18 cases. Replies in respect of the remaining cases have not been received (November 2000).

The cases were referred to Government in May 2000; their reply has not been received (November 2000).

## 2.16 Loss of revenue due to delay in realisation of cheques

According to the Karnataka Financial Code 1958, if a cheque tendered in payment of Government dues is honoured on presentation, payment shall be deemed to have been made on the date of tendering the cheque. The Commissioner of Commercial Taxes (CCT) issued instructions in August 1990 to the assessing authorities to ensure that the cheques presented during a month are realised during that month itself.

In five<sup>∞</sup> districts, it was noticed (between October 1998 and September 1999) that in respect of 453 cheques involving Rs.2550.17 lakh, there was abnormal delay ranging from 3 to 342 days in realisation even after allowing a grace period of one month. This resulted in loss of revenue by way of interest at the normal lending rate of 18 per cent per annum, amounting to Rs.57.09 lakh.

On these cases being pointed out (between October 1998 and September 1999), the Department stated (August 2000) that the mater had been taken up with the Bank authorities for early realisation of cheques.

The cases were referred to Government in May 2000; their reply has not been received (November 2000).



<sup>∞</sup> Bangalore (Urban), Dakshina Kannada, Davanagere, Dharwad, Mysore



## CHAPTER 3: State Excise

### 3.1 Results of audit

Test check of records of the State Excise Department, conducted in audit during the year 1999-2000, disclosed non-levy/short levy of duty, licence fee, etc. amounting to Rs.2451.18 lakh in 156 cases under the following broad categories:

(Rupees in lakh)			
Sl. No.	Category	Number of cases	Amount
1	Errors in computation of duty	32	630.25
2	Non-recovery/short recovery of licence fee	31	224.80
3	Loss of duty due to shortage in production/excess wastage	6	51.34
4	Other irregularities	87	1544.79
<b>Total</b>		<b>156</b>	<b>2451.18</b>

During the year 1999-2000, the Department accepted under-assessments of Rs.199.44 lakh in 60 cases which had been pointed out in audit in earlier years and recovered Rs.176.60 lakh in 55 cases.

A few illustrative cases (including certain cases noticed in earlier years which could not be included in previous Reports) involving Rs.1270.45 lakh and a Review on 'Arrears of Excise Revenue' involving monetary effect of Rs. 15644.98 lakh are given in the following paragraphs.

## 3.2 Arrears of Excise Revenue

### Highlights

Out of the arrears of Rs.30583.16 lakh relating to 1945-46 to 1997-98 as of March 1999, Rs.12681.65 lakh (41 per cent) remained unrecovered for want of departmental action. 12 contractors for retail vend of arrack had together accumulated arrears of Rs.13172.73 lakh (43 per cent).

(Paragraph 3.2.4(b) & (c))

Erroneous preparation of the consolidated Demand, Collection and Balance Statement as at 31 March 1999 resulted in understatement of arrears by Rs.4995.30 lakh.

(Paragraph 3.2.4(d) to (h))

14 cases involving Rs.7838.94 lakh were referred to the Revenue Department after delays ranging from 6 months to 7 years.

(Paragraph 3.2.5(b))

Allowing defaulting contractors to participate in further auctions, failure to verify the antecedents and to obtain the prescribed extent of security resulted in accumulation of arrears of Rs.10238.45 lakh.

(Paragraph 3.2.6)

Non-levy/short levy of interest for non-payment/delayed payment of shop rentals amounted to Rs.3026.71 lakh.

(Paragraph 3.2.7)

In the absence of enabling provision in the Acts and Rules, interest could not be levied on losses determined on termination of leases and on arrears of licence fee, excise duty, etc.

(Paragraph 3.2.8)

### 3.2.1 Introduction

The State excise revenue mainly comprises fees for issue of licences for each excise year\* for the production, storage and sale of excisable articles, excise duties and fees payable on their removal from the places of production/warehousing, shop rentals from leases of right of retail vend of alcoholic preparations, besides interest, fines and penalties. By virtue of the provisions contained in the Karnataka Excise Act 1965 (the Act) and the Rules made thereunder, the licence fees, duties and litre fee are collected in advance. Hence, the scope for accumulation of arrears is mainly confined to shop

\* Excise year means the period from 1 July to 30 June following



rentals due in monthly intervals. As at the end of March 1999, the Department exhibited arrears of excise revenue of Rs. 30583.16 lakh.

### **3.2.2 Organisational set up**

The Excise Commissioner, vested with powers for administration of the Act, is the head of the State Excise Department. He is assisted by two Additional Commissioners and Joint Commissioners at headquarters at Bangalore and in each of the four\* divisions in the State. At the district level, the Deputy Commissioners of Excise (DCsE) assisted by the Superintendents and the Deputy Superintendents of Excise, Excise Inspectors and other staff are responsible for the collection of excise revenue. A Joint Director (Statistics) also works under the direct charge of the Excise Commissioner for maintaining and overseeing the position of demand, collection and balance of excise revenue of the State as a whole.

### **3.2.3 Scope of audit**

A Review on **Collection of arrears of excise revenue** was included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 1995 (Revenue Receipts). Since no tangible progress was made by the Department in reducing the arrears, a further review of the position of arrears with special emphasis on the totality of demands due and raised, correctness of collection, reasons for accumulation of arrears, adequacy of action taken for their realisation, etc. was conducted during March-May 1999 and September-December 1999. While the arrears position since inception was generally reviewed, the position relating to periods subsequent to 1993-94 was examined in particular. Records in 17 out of 27 districts were test checked in audit, in addition to conducting a review of records in the Office of the Excise Commissioner. Important points noticed involving monetary effect of Rs.15644.98 lakh are narrated in the succeeding paragraphs.

### **3.2.4 Trend of arrears and its disposition**

According to the consolidated Demand, Collection and Balance (DCB) Statement as at 31 March 1999, a total sum of Rs.30583.16 lakh was pending realisation in 1025 cases. Of this, Rs.3947.92 lakh (99 cases) were pending in courts, Rs.13953.59 lakh (449 cases) before Revenue authorities and the balance of Rs.12681.65 lakh (477 cases) for departmental action. The year-wise pendency is given below:

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\* Bangalore, Belgaum, Gulbarga, Mysore



(Rupees in lakh)

Year	Arrears covered by court stay		Arrears referred to Revenue Department		Arrears requiring departmental action		Total	
	Items	Amount	Items	Amount	Items	Amount	Items	Amount
Up to 1994	99	3947.92	437	12089.03	439	12424.62	975	28461.57
1994-95	Nil	Nil	1	100.97	4	11.59	5	112.56
1995-96	Nil	Nil	4	1679.12	5	48.58	9	1727.70
1996-97	Nil	Nil	5	66.42	4	50.63	9	117.05
1997-98	Nil	Nil	2	18.05	25	146.23	27	164.28
<b>Total</b>	<b>99</b>	<b>3947.92</b>	<b>449</b>	<b>13953.59</b>	<b>477</b>	<b>12681.65</b>	<b>1025</b>	<b>30583.16</b>

Of the total arrears of Rs.30583.16 lakh, 96 per cent (Rs.29360.71 lakh including Rs.16369.30 lakh towards interest) related to shop rentals alone. Of this, Rs.23960.99 lakh related to the period up to 1985 and Rs.3291.29 lakh thereafter up to 1994.

In this connection, the following observations were made:

(a) The Act was amended in February 1995 barring the Courts from granting injunction, etc. restraining the recovery of excise dues. The new provision also rendered all interim orders of injunction, etc. dissolved or vacated. The amended Act further provided that any sum due to the State Government as a result of demand made was to be paid irrespective of pendency of any writ petition, suit, appeal, etc. Thus, though the Department was not barred from enforcing recoveries, Rs. 3947.92 lakh in 99 cases continued to be exhibited as covered by stays granted by the Courts.

(b) Out of 477 cases of arrears involving Rs.12681.65 lakh on which departmental action was required, 439 cases involving Rs. 12424.62 lakh (98 per cent) related to the period from 1945 to 1994.

(c) It was noticed that 12 contractors for retail vend of arrack, who had individually accumulated Rs.500 lakh or more during 1984-85 to 1995-96, together owed Rs.13172.73 lakh (43 per cent).

(d) The arrears of excise dues for 1998-99 (as of March 1999) were shown as nil in the consolidated DCB statement maintained by the Excise Commissioner, though 5\* DCsE had shown arrears of Rs. 89.18 lakh.

(e) While the year-wise statement showed the aggregate balance as Rs.30583.16 lakh, the category-wise statement of arrears showed the accumulated amount as Rs.30575.92 lakh; the difference of Rs.7.24 lakh had not been reconciled (December 1999).

(f) In 99 test-checked cases, the arrears according to the DCsE statements were Rs.17805.60 lakh, while the consolidated DCB Statement in the Office

\* Bangalore (Rural), Belgaum, Koppal, Mandya, Raichur



of the Excise Commissioner showed only Rs.13778.07 lakh, resulting in short accounting of Rs.4027.53 lakh by the latter.

(g) In respect of 3\* districts, while the interest dues as per the DCB Statements up to 31 March 1999 were shown as Rs.715.92 lakh only, actual interest dues as per defaulters lists were Rs.1633.17 lakh. Therefore, the consolidated DCB Statement prepared in the Office of the Excise Commissioner understated the interest dues by Rs.917.25 lakh.

(h) The outstanding balance of Rs.21.11 lakh and Rs.17.55 lakh from two contractors had been exhibited twice in the consolidated DCB Statement prepared in the Office of the Excise Commissioner. The balance was overstated by Rs.38.66 lakh.

Regarding the action taken for clearance of arrears, the Excise Commissioner stated (July 1999) that instructions were being issued from time to time for examining each case for recovery of arrears, to render assistance to the Deputy Commissioners in respect of cases pending for revenue recovery action and that a legal cell had been constituted to deal with cases in courts expeditiously. Nevertheless, huge arrears were being exhibited under stays granted by courts and cases pending with Revenue Department.

### 3.2.5 Reference of cases to Revenue Department

#### (a) Pursuance of references

The Act provides for recovery of arrears, wherever necessary, by recourse to the procedures contemplated in the Karnataka Land Revenue Act 1964. There was no specific time limit fixed for completion of departmental action for realisation of arrears and for subsequent reference to the Revenue Department to collect them as arrears of land revenue.

#### (b) Delay in making references

Test check in 8<sup>2</sup> districts revealed that 14 cases detailed below involving arrears of Rs.7838.94 lakh for the years 1984-85, 1985-86 and 1990-91 to 1995-96 were referred to the Revenue Department after delays ranging from 6 months to 7 years after the expiry of the year to which the arrears relate.

\* Bangalore (Rural), Bellary, Chitradurga

<sup>2</sup> Bangalore (Urban), Belgaum, Bellary, Dakshina Kannada, Hassan, Mandya, Mysore, Shimoga



Sl. No.	Name of the contractor	Excise year	Date of reference to Revenue Department	Extent of delay		Amount outstanding after adjustment of security deposit (Rupees in lakh)
				Year	Month	
1	Sri D.P. Narayanaswamy	1995-96	20.01.1997	0	6	1544.36
2	M/s Ravikumar Traders	1992-93	15.12.1997	4	5	1328.58
3	Sri Jathin V. Attavar	1992-93	21.01.1998	4	6	1316.61
4	Sri G. Eswaraswamy	1993-94	06.08.1996	2	1	1306.98
5	Sri P. Chandrashekar	1992-93	13.08.1997	4	1	441.72
6	M/s Ranganatha Syndicate	1990-91	20.03.1993	1	8	357.89
7	Sri K.G. Balakrishna	1985-86	01.09.1993	7	2	340.82
8	Sri Lingaraju	1990-91	10.03.1993	1	8	275.95
9	M/s Yellamma Enterprises	1992-93	28.09.1994	1	3	212.04
10	M/s Maruthi Syndicate	1994-95	17.12.1997	2	5	197.30
11	Sri J. Sudhakar	1984-85 and 1985-86	15.06.1990	4	0	191.21
12	M/s Distillers & Co.	1994-95	24.08.1999	4	1	128.36
13	Sri Jathin V. Attavar	1991-92	21.01.1998	5	6	99.06
14	Sri T.S. Kishore	1991-92	31.08.1996	3	2	98.06
<b>Total</b>						<b>7838.94</b>

Of these, in respect of 4 cases (Sl. nos. 1, 4, 9 and 14) involving Rs.3161.44 lakh, the Excise/Revenue Departments were unable to locate the property/place of residence of the defaulters.

### 3.2.6 Allotment of shops to defaulted contractors

(i) According to the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules 1969, a person who has not paid the arrears of any excise dues or sales tax in respect of liquors sold by him shall not be included in the list of intending bidders for the auction notified. However, disregarding this provision, 37 contractors who were in arrears of shop rentals of Rs.3005.53 lakh for the years between 1973-74 and 1996-97 were allowed to participate in auctions during subsequent years and awarded further contracts for the years between 1974-75 and 1997-98. It was noticed that these contractors defaulted in the further contracts also. Thus, failure to disqualify them in the first instance, as required under the Rules, resulted in accumulation of arrears of Rs.7820.34 lakh. An illustrative case is mentioned below.



In Bangalore (Rural) and Bangalore (Urban) districts, a contractor (M/s Ravikumar Traders) owed Rs.104.67 lakh towards interest on arrack shop rentals for the year 1991-92. Though he was not qualified for bidding, he was allowed to participate in the auction held (June 1992) for the year 1992-93 and the contract was confirmed in his favour on a monthly rental of Rs.745.21 lakh. The contractor, however, defaulted in monthly payments and obtained stay from the Hon'ble High Court of Karnataka in May 1993 against recovery of Rs.800 lakh due from December 1992 to April 1993. Though the stay was conditional on the contractor furnishing satisfactory security and the case was also disposed of in February 1996 itself, the demand for recovery was not enforced. The accumulated arrears including interest as of March 1999 was Rs.2361.22 lakh.

(ii) According to the Rules, while registering the contractors, the Excise Commissioner is required to take into account the status and the antecedents of the applicants before allowing them to take part in the excise auctions/tenders.

The retail vend of arrack in respect of 4 units in Chitradurga district for the excise year 1993-94 was awarded to a contractor (Sri Basavaraj Patil) on a monthly rental of Rs.17.50 lakh without obtaining security deposit of Rs.54.25 lakh, being 3 1/10th of the monthly rental. It was noticed that the contractor defaulted in making payment of monthly rentals for the entire contract period. Audit scrutiny revealed (December 1999) that though just after the commencement of the year (July 1993), the Deputy Commissioner of Excise had reported to the Excise Commissioner that the contractor was a 'benami', his antecedents were not good and his lease should be terminated immediately, the contract was terminated only in September 1993. Thus, failure to properly verify the antecedents before registration of the contractor, delay in termination of lease and non-obtaining of bank security resulted in a loss of revenue of Rs.120.93 lakh. This was yet to be recovered from the original contractor, as of March 1999.

(iii) Under the Rules, the successful tenderer or bidder was required to furnish security equivalent to three and one-tenth of the monthly rent from 1993-94. It was required to be furnished within 15 days from the date of communication of acceptance of tender or bid, failing which the contract was liable to be cancelled at the discretion of the Government.

It was, however, noticed that in nine cases of four districts, the security was either not obtained at all or was obtained for less than the prescribed amount, as detailed below:



(Rupees in lakh)

District and Name of contractor	Year	Monthly rent	Security required to be obtained	Security obtained	Shortfall in security	Principal outstanding at the end of the contract period
<b>Bangalore (Rural)</b>						
1.K.L.A Padmanabhasa	1995-96	22.75	70.53	Nil	70.53	22.75
<b>Bangalore (Urban)</b>						
2.D.P.Narayana-swamy	1995-96	560.00	1736.00	560.00	1176.00	1257.95
3.G. Eswaraswamy	1993-94	627.00	1943.70	827.00	1116.70	1042.28
<b>Belgaum</b>						
4.R. Srinivas	1995-96	44.25	137.18	88.50	48.68	30.00
<b>Raichur</b>						
5.Prakash Goud	1997-98*	66.46	132.92	Nil	132.92	5.86
6.K. Basavaraj	1997-98*	38.50	77.00	Nil	77.00	7.70
7.R. Srinivas	1997-98*	41.55	83.10	Nil	83.10	3.27
8.Narayan Goud	1997-98*	44.05	88.10	Nil	88.10	7.10
9.H.V. Somashekar	1997-98*	12.13	24.26	Nil	24.26	2.22
<b>Total</b>				<b>1475.50</b>	<b>2817.29</b>	<b>2379.13</b>

\*Only two months rentals were prescribed as security in the notifications for auction.

Had required security been obtained, the arrears would have been less by Rs.2297.18 lakh.

### 3.2.7 Non-levy/short levy of interest

(a) Under the Karnataka Excise Licences (General Conditions) Rules 1967, interest at the prescribed rate is leviable on the outstanding amount of monthly shop rentals from the eleventh day of the month as long as it remains unpaid, irrespective of the expiry/termination of the lease.

(i) It was noticed that interest up to March 1999 of Rs.2963.49 lakh had not been levied on arrack and toddy shop rentals of Rs.2024.75 lakh outstanding for the years between 1969-70 and 1997-98.

(ii) It was noticed (November–December 1999) during test check that in respect of 7 cases of 4<sup>d</sup> districts, against interest of Rs.60.19 lakh due, only Rs.16.53 lakh had been levied on principal relating to 1991-92, 1994-95, 1996-97 and 1997-98 paid by the contractors. Short levy of interest amounted to Rs.43.66 lakh.

<sup>d</sup> Bijapur, Chitradurga, Dharwad, Raichur



(b) In accordance with the generally accepted financial principles, where both principal and interest are outstanding, part payments made are first adjusted against the interest dues and only the balance, if any, is accounted towards the principal.

It was, however, noticed that in five<sup>∞</sup> districts, Rs.322.65 lakh received from 7 contractors during 1997-98 and 1998-99 towards part payment of dues were adjusted against the arrears of principal, though interest of Rs.2926.89 lakh was outstanding against these contractors. On account of this incorrect adjustment, the amounts of principal stood depleted by Rs.322.65 lakh. This resulted in a loss of Rs. 19.56 lakh by way of interest (March 1999).

While the DCsE, Mandya and Dakshina Kannada stated that such adjustments were effected according to the orders of the Excise Commissioner/Joint Commissioner, the DCE, Mysore stated that it was a practice prevailing in the Department. The DCsE, Bangalore (Rural) and Bangalore (Urban) stated that adjustment of payments towards interest would deter the defaulters from making further payments. The DCE, Bangalore (Rural) further stated that the matter was under consideration of the Excise Commissioner.

### 3.2.8 Absence of provision to levy interest on dues other than shop rentals

The Karnataka Excise Licences (General Conditions) Rules 1967 provide for levy of interest on belated payment of shop rentals. However, no such provision existed in respect of other unpaid dues, including losses determined on termination of leases as also licence fee and excise duty, which arose mainly on account of retrospective revision of rates of levy.

It was noticed that interest on excise dues excluding shop rentals pending collection could not be levied in two cases given below:

(i) The original contractor in respect of Bangalore (Urban) district for 1993-94 became a defaulter; the retail vend of arrack from February to June 1994 was entrusted to another contractor at a monthly rental of Rs.630 lakh payable daily on *pro rata* basis. This agency also accumulated arrears of Rs.95 lakh at the end of the year, on which interest of Rs.81.23 lakh up to March 1999 could not be levied.

(ii) In two cases of Bangalore (Rural) and Chitradurga districts, loss of Rs.318.23 lakh was sustained by Government owing to termination of the original contracts for 1993-94 and 1994-95 and entrustment to other agencies which was recoverable from the first agencies. In the absence of provision, interest of Rs.236.58 lakh up to March 1999 could not be levied.

<sup>∞</sup> Bangalore (Rural), Bangalore (Urban), Dakshina Kannada, Mandya, Mysore



The points mentioned above were reported to the Excise Commissioner (April 2000) and to Government (April 2000); their replies have not been received (November 2000).

### 3.3 Short levy on whisky containing malt spirit

Under the Karnataka Excise (Excise Duties and Fees) Rules 1968, excise duty on whisky of the strength of 25° under proof is leviable at Rs.45 per bulk litre (BL) from January 1994. However, from April 1997, on whisky manufactured by blending or compounding with malt spirit, the duty leviable is at a higher rate of Rs.60 per BL.

During the audit of a distributor licensee who had imported "Gilbey's Green Label Whisky", it was noticed (between February 1999 and January 2000) that duty thereon had been levied at Rs.45 per BL. The whisky was manufactured by blending the malt spirit which was confirmed by a chemical examination conducted by the Department's Chief Chemist at the instance of audit (February 1999). Accordingly, on clearance of 1590391 BLs of the said brand of whisky at lesser rates in 11 depots of the licensee in 9<sup>m</sup> districts during the period from April 1997 to June 1999, Rs.388.21 lakh (excise duty : Rs.238.56 lakh, sales tax: Rs.143.14 lakh and cess on sales tax :Rs.6.51 lakh) were realised short.

On being pointed out (between March 1999 and March 2000), the Excise Commissioner confirmed the facts and issued (May 2000) a notice demanding differential excise duty of Rs.282.74 lakh and sales tax thereon in respect of 3 depots at Bangalore for the period from April 1997 to March 2000. Reports of recovery in these cases and action taken in respect of the remaining 8 depots have not been received (November 2000).

The cases were reported to Government in April 2000; their reply has not been received (November 2000).

### 3.4 Non-levy of licence fee

(a) Under the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules 1968 (the Rules), as amended from February 1997, a licence for distributorship (CL-11) could be granted by the Excise Commissioner to an authorised distributor for any distillery, brewery or winery on payment of licence fee of Rs.1 lakh per annum. An additional fee at 25 *per cent* of the licence fee was chargeable for permitting a licensee to sell foreign liquor with effect from February 1997.

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<sup>m</sup> Bangalore (Urban), Bellary, Bidar, Bijapur, Dakshina Kannada, Gulbarga, Mysore, Raichur, Shimoga



The Excise Commissioner permitted (between September 1997 and March 1998) M/s Mysore Sales International Limited (MSIL, a State Government Undertaking and a CL-11 licensee) to deal in products of 17 distilleries situated outside Karnataka, without collecting any licence fee. Since separate licences were issued to each of the 21 depots of the distributor for sale of products of each distillery, 357 licences were to be given by levying licence fee of Rs.364.65 lakh. Since the depots had been permitted to deal in foreign liquors, additional licence fee of Rs.91.16 lakh was also leviable.

The cases of non-levy were pointed out to the Excise Commissioner in December 1998 and were reported to Government in May 2000; their replies have not been received (November 2000).

(b) Under the Rules, an additional licence fee at the rate of 10 *per cent* of the fees prescribed for grant of licences (CL-1) to wholesalers is chargeable for permitting them to sell foreign liquors.

It was noticed (between October 1999 and February 2000) that in 7\* districts, 61 wholesale (CL-1) licensees for 1996-97 to 1999-2000 had been permitted to sell whisky of several brand names without levying the additional licence fee. The labels in respect of these brands of whisky showed that the whiskies were distilled, aged and blended in Scotland, USA and Mexico and imported and bottled in Punjab, Rajasthan and Uttar Pradesh. In fact, the Excise and Taxation Commissioner, Punjab had approved labels of a brand of whisky terming the same as foreign whisky. Since these liquors had not undergone any manufacturing process in India, they should have been classified as foreign liquors and additional licence fee levied. Failure to do so, resulted in non-levy of Rs.65.01 lakh.

These cases were pointed out to the concerned Deputy Commissioners of Excise/Inspectors of Excise (between October 1999 and February 2000), reported to the Excise Commissioner (between December 1999 and March 2000) and to Government (April 2000); their replies have not been received (November 2000).

### 3 5 Non-recovery of loss on termination of leases

Under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules 1969, the person who is granted the right of retail vend of arrack is required to furnish, within 15 days from the date of communication of the order, security for an amount equal to three and one-tenth of the monthly rent. Failure to comply with this would entail cancellation of the lease, besides forfeiture of the earnest money deposit. Further, the right to vend the arrack is required to be decided afresh and the loss sustained by the Government recovered from the defaulter.

\* Bangalore (Urban), Dakshina Kannada, Dharwad, Gulbarga, Kodagu, Mysore, Udupi



It was noticed (between August and December 1999) that in respect of three<sup>λ</sup> taluks, as the successful bidders, who had been granted (May-June 1998) the right of retail outlet of arrack for the year 1998-99 for Rs.1740.49 lakh, failed to furnish the required security within the prescribed time, the leases were terminated during July 1998. Thereafter, alternative arrangements were made for sale of arrack (by departmental vending and re-auction). As against the total rental of Rs.1740.49 lakh due, the aggregate realisation was only Rs.1576.62 lakh. The resultant loss of Rs.163.87 lakh on termination of the leases was yet to be recovered from the defaulters. In one case (Chitradurga district), though the loss had been determined in June 1999, the notice for recovery was yet to be served on the defaulter (December 1999). In the other cases, even the amounts due for recovery were yet to be worked out (August/October 1999).

The cases were pointed out to the concerned Deputy Commissioners of Excise (between August and December 1999), reported to the Excise Commissioner (between October 1999 and January 2000) and to Government (April 2000); their replies have not been received (November 2000).

### **3.6 Loss of revenue due to delay in serving confirmation orders**

Under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules 1969, the order confirming the bid in an auction is required to be communicated forthwith to all concerned. The Excise Commissioner issued directions to the Deputy Commissioners of Excise (DCE) on 22 January 1998 to entrust to the highest bidders, the disposal of arrack for the period ended June 1998, in the taluks where the offers received were higher than those for the previous period, and had been provisionally accepted by them.

It was, however, noticed (between October and December 1999) that in four<sup>♦</sup> districts, there was delay ranging from 5 to 31 days in serving of the orders of confirmation of acceptance of bids for 32 taluks, after 22 January 1998. Accordingly, the rentals had been recovered from the actual date of communication of entrustment. During this intervening period, the vending was done departmentally. Since the realisation from departmental vending was less than the lease rentals offered, the delayed serving of orders of entrustment of vending to contractors resulted in non-realisation of revenue of Rs.43.46 lakh. It was further noticed that though the Excise Commissioner had directed (March 1998) the DCsE to recover the rentals from 22 January 1998 itself, the amounts due had not even been demanded from the contractors.

These cases were pointed out to the concerned DCsE (between October and December 1999), reported to the Excise Commissioner (January 2000/March 2000) and to Government (April 2000). Government

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<sup>λ</sup> Deodurga (Raichur district), Molakalmuru (Chitradurga district), Mysore (Mysore district)

<sup>♦</sup> Bijapur, Chitradurga, Mysore and Uttara Kannada



endorsed (September 2000) the reply of the Excise Commissioner which stated (August 2000) that since the contractual obligation to pay the rentals arose only after serving the confirmation order, rentals were recovered from the date of actual date of communication of entrustment. However, the reply was silent about the delay in serving the confirmation orders despite his instructions to recover the rentals from 22 January 1998.

### 3.7 Excess wastage of spirit in maturation

According to the standards laid down in August 1998 in the Karnataka Excise (Regulation of Yield, Production and Wastage of Spirit, Beer, Wine or Liquors) Rules 1998, the maximum wastage allowable in the case of maturation of spirit when stored in wooden casks for manufacture of Indian liquors ranges from 3 to 22 *per cent*, depending upon the period of maturation from 6 to 36 months. After maturation, further manufacturing loss allowable is 5 *per cent*. The Rules also empower the Excise Commissioner to levy penalty equivalent to the excise duty leviable on the quantity of liquor short produced on account of wastage in excess of the prescribed limit.

In a distillery in Bangalore (Urban) district, during the year 1998-99, the wastage of malt spirit stored for maturation in wooden casks for periods from 6 to 36 months and beyond exceeded the maximum limits by 34137.57 proof litres of spirit. By utilising this quantity of spirit, 43241 bulk litres of liquor could have been produced, even after allowing maximum permissible manufacturing loss of 5 per cent. On this, Government could have earned revenue amounting to Rs.42.29 lakh (Excise duty : Rs.25.94 lakh; Sales tax and cess thereon: Rs.16.35 lakh).

This was pointed out to the Superintendent of Excise in charge of the distillery (November 1999), reported to the Excise Commissioner (February 2000) and to Government (April 2000); their replies have not been received (November 2000).

### 3.8 Non-levy/short levy of litre fee

Under the Karnataka Excise (Excise Duties and Fees) Rules 1968, as amended from 13 November 1998, a litre fee is leviable on Indian Made Liquor (IML) imported by a Distributor or issued from a Distributor to a Wholesale licensee for the purpose of sale within Karnataka. The rate of fee was Rs.10 per bulk litre (BL) up to March 1999 and Rs.20 per BL thereafter.

It was, however, noticed (between August 1999 and January 2000) that in 4 districts, in 5 depots of a Distributor licensee, 581593 BLs of IML was held in stock on the date of amendment, out of local purchases made prior to that

\* Bangalore (Urban), Bellary, Bidar, Shimoga



date. Since no litre fee had been paid by the distilleries and these stocks were subsequently issued for sale, litre fee of Rs.58.16 lakh was payable by the Distributor. This was not levied. It was further noticed that in Bidar district, a distillery issued 35795.52 BLs of IML during May 1999. As against litre fee of Rs.7.16 lakh due on this quantity, only Rs.3.58 lakh was realised due to adoption of pre-revised rate. This resulted in short levy of litre fee by Rs.3.58 lakh.

On these cases being pointed out to the concerned excise officers (between August 1999 and January 2000) and reported to the Excise Commissioner (between September 1999 and March 2000), the Department reported (May 2000) recovery of Rs.45.89 lakh from 5 depots and 1 distillery. Replies in respect of the balance amount of Rs.15.85 lakh have not been received (November 2000).

The cases were reported to Government in April 2000; their reply has not been received (November 2000).

### **3.9 Non-recovery of differential duty**

According to the Karnataka Excise (Possession, Transport, Import and Export of Intoxicants) Rules 1967 and instructions issued (December 1989 and March 1990) by the Excise Commissioner, in cases where the reports of verifications (EVC) of the consignments or warehousing of the intoxicants in the importing States are not received within 30 days from the date of expiry of the permits in the case of exports to civil units and within 90 days in the case of exports to defence units, the differential duty (between normal and concessional rate applied at the time of issue of export permits) is required to be collected from the exporter/the sureties.

In Bangalore and Bellary districts, it was noticed (August/September 1999) in the case of four distilleries that differential duty of Rs.40.34 lakh leviable on account of non-receipt of verification reports in respect of 93972 bulk litres of Indian liquor exported on 25 permits issued during the years 1997-98 and 1998-99 to civil/defence units outside the State (within India) was not levied.

These cases were pointed out to the concerned distillery officers (August/September 1999) and reported to the Excise Commissioner (October/November 1999). The Department reported (June 2000) recovery of differential duty of Rs.4.89 lakh in respect of three permits. Replies in respect of the remaining cases have not been received (November 2000).

The cases were referred to Government in April 2000; their reply has not been received (November 2000).



### 3.10 Non-recovery/short recovery of interest

According to the Karnataka Excise Licences (General Conditions) Rules 1967, shop rental is required to be paid within the tenth day of the month to which it relates failing which interest is chargeable at 18 per cent per annum on the outstanding amount from the eleventh day as long as it remains unpaid.

It was noticed (between July and December 1999) that in six<sup>#</sup> districts, there were delays up to 678 days in payment of shop rentals for 1997-98 and 1998-99 by 19 arrack contractors. As against interest of Rs.24.03 lakh due, only Rs.0.35 lakh had been levied and recovered in four cases. There was, therefore, non-levy/short levy of interest of Rs.23.68 lakh.

On these cases being pointed out (between July and December 1999), the Department reported (May 2000) recovery of Rs.4.23 lakh in respect of four cases in 2 districts (Belgaum and Dharwad). Replies in respect of the remaining cases have not been received (November 2000).

The cases were reported to Government in April 2000; their reply has not been received (November 2000).

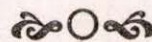
### 3.11 Non-recovery/short recovery of cost of establishment

Under the Karnataka Excise (Distillery and Warehouse) Rules 1967, the cost of establishment in respect of the excise officers and staff employed in the premises of licensees for supervision and securing compliance with the provisions of the Excise Act and Rules is to be paid by the licensees in advance in annual, half-yearly or quarterly instalments. Under the conditions of licence, such cost is also payable by the sole distributor.

In four<sup>o</sup> districts, the cost of establishment for the period from July 1997 to December 1999 due from 10 licensees had been either not recovered or recovered short by Rs.28.33 lakh.

On these cases being pointed out to the concerned excise officers (between July and October 1999) and reported to the Excise Commissioner (between September and November 1999), the Excise Commissioner reported (November 2000) recovery of Rs.8.02 lakh from four licensees. Replies in respect of the remaining cases have not been received (November 2000).

The cases were referred to Government in May 2000; their reply has not been received (November 2000).



<sup>#</sup> Belgaum, Chitradurga, Dakshina Kannada, Dharwad, Raichur, Udupi

<sup>o</sup> Bangalore (Rural), Bangalore (Urban), Davanagere, Raichur







## CHAPTER 4: Taxes on Motor Vehicles

### 4.1 Results of audit

Test check of records in the Motor Vehicles Department, conducted in audit during the year 1999-2000, disclosed under-assessments of tax amounting to Rs.392 lakh in 107 cases under the following broad categories:

(Rupees in lakh)

Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy of tax	68	100.57
2	Non-levy/non-collection of fees/penalty	7	2.50
3	Other irregularities	32	288.93
<b>Total</b>		<b>107</b>	<b>392.00</b>

During the year 1999-2000, the Department accepted under-assessments worth Rs.26.48 lakh in 43 cases (including Rs.25.83 lakh in 40 cases which had been pointed out in audit in earlier years) and recovered the entire amount.

A few illustrative cases (including certain cases noticed in earlier years which could not be included in previous Reports) involving Rs.72.28 lakh are given in the following paragraphs.

### 4.2 Under-charging of tax due to incorrect classification of contract carriages as private service vehicles

Under the Karnataka Motor Vehicles Taxation Act 1957, the rate of tax leviable in respect of a 'Private Service Vehicle' (PSV) is with reference to the floor area whereas in respect of a 'contract carriage', it is based on the number of passengers permitted to be carried.

In Bangalore (Central) and Bangalore (South) Regions, 34 buses registered as PSVs were actually owned by eight transport operators but had been transferred between April 1993 and November 1998 in the name of certain companies. The same transport operators had been engaged by those companies through agreements to ply these buses on contract basis to commute their employees from different points in and around Bangalore to their work places and back at the prescribed timings on all working days. The companies were to pay to the contractors at agreed rates. Since these vehicles were being used as contract carriages by the transport operators, the levy of tax on them as PSVs was incorrect and resulted in short levy of Rs.57.98 lakh for the period from April 1993 to August 1999.



These cases were pointed out to the concerned Regional Transport Officers (RTOs) (May/July 1999) and reported to the Commissioner for Transport (July/October 1999). The Commissioner reported (June 2000) that in respect of eight buses, against differential tax of Rs.42.06 lakh demanded (January 2000), Rs.25 lakh had been collected (May 2000). Report of recovery of the balance amount in these cases and action taken in respect of the other cases has not been received (November 2000).

The cases were reported to Government (February/April 2000); their reply has not been received (November 2000).

#### **4.3 Non-levy of tax due to incorrect acceptance of non-use of vehicles**

Under the Karnataka Motor Vehicles Taxation Act 1957, motor vehicles registered in the State are exempted from payment of tax for the period during which the vehicles are not intended to be used on roads. For obtaining the exemption, the registered owner of the vehicle is required to furnish to the registering authority a declaration of non-use specifying the place where the vehicle is garaged along with the details of payment of taxes up to the date of surrender of the documents. The exemption is not applicable if the vehicle is removed from the garage without prior permission of the registering authority.

It was noticed (June/October 1999) that in respect of three vehicles (two all-India tourist omnibuses and one stage carriage) of Mandya and Chickmagalur Regions, the non-use of the vehicles had been accepted in December 1995/September 1998/September 1999. Audit scrutiny revealed that in respect of these vehicles, the taxes due up to the date of surrender had not been paid, the Department had found that the vehicle was plying on road in Bangalore or it was not found at the declared place of garage. Hence the acceptance of non-use was required to be revoked. Failure to do so, resulted in non-levy of tax of Rs.8.13 lakh for the period from December 1995 to October 1999.

These cases were pointed out to the concerned registering authorities (June/October 1999) and reported to the Commissioner for Transport (August 1999/January 2000). In respect of the Mandya Region, the Commissioner stated (May 2000) that Rs.1.07 lakh in respect of one vehicle had been recovered (July 1999) and notice for payment of Rs.1.27 lakh in respect of the other vehicle had been issued (March 2000). In respect of the Chickmagalur Region, the Commissioner stated (June 2000) that the case had been referred for recovery as arrears of land revenue. Further reports have not been received (November 2000).

The cases were reported to Government (May 2000); their reply has not been received (November 2000).



#### 4.4 Non-levy of lifetime tax

Under the Karnataka Motor Vehicles Taxation Act 1957 as amended from April 1995, a lifetime tax is leviable on motor cars (including jeeps) at the rates specified from time to time. From April 1997, this was extended to omnibuses and private service vehicles also.

It was noticed (between March and November 1999) that in Bangalore (West), Bidar and Mysore Regions, in respect of 25 vehicles registered between May 1994 and August 1997, lifetime tax of Rs.6.17 lakh had not been levied.

The cases were pointed out to the concerned registering authorities (between March and November 1999) and reported to the Commissioner for Transport (between May 1999 and February 2000). The Commissioner reported (May-June 2000) recovery of Rs.2.80 lakh in respect of 10 vehicles and issue of notices of demand in respect of others. Further reports have not been received (November 2000).

The cases were reported to Government (May 2000); their reply has not been received (November 2000).







## CHAPTER 5: Taxes on Agricultural Income

### 5.1 Results of audit

Test check of records in Agricultural Income-tax Offices, conducted in audit during the year 1999-2000, disclosed under-assessments of tax amounting to Rs.116.87 lakh in 25 cases under the following categories:

(Rupees in lakh)			
Sl. No.	Category	Number of cases	Amount
1	Incorrect computation of income	3	20.05
2	Incorrect set off of loss	7	44.75
3	Non-levy of penalty and interest	5	12.55
4	Other irregularities	10	39.52
<b>Total</b>		<b>25</b>	<b>116.87</b>

During the year 1999-2000, the Department accepted under-assessments of tax amounting to Rs.48.17 lakh in 42 cases which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases involving Rs.83.94 lakh are given in the following paragraphs.

### 5.2 Short levy of tax due to incorrect computation of agricultural income

According to the Karnataka Agricultural Income-tax Act 1957 as amended from time to time, 'agricultural income' includes any revenue derived from land situated in the State and used for growing plantation crops including rubber. Under the Act, the total agricultural income of a person in a 'previous year' is computed after allowing revenue expenditure laid out or expended wholly and exclusively for the purpose of deriving the agricultural income. The deductions specifically allowed include depreciation at prescribed rates on capital assets, replantation allowance or amount deposited in the investment deposit scheme. However, deductions on account of additional depreciation on new motor cars and loss on sale of motor cars are not allowable.

It was, however, noticed (January 2000) that in Chickmagalur district, in 16 assessments of 13 assesseees for the years 1994-95 to 1998-99 concluded (between November 1997 and March 1999) by the Deputy Commissioner of Agricultural Income-tax, inadmissible expenditure of Rs.44.88 lakh was allowed and chargeable income of Rs.31.64 lakh was excluded. These resulted in short levy of tax of Rs.32.81 lakh. Major cases are detailed below:



(Rupees in lakh)

Sl. No.	Name of the assessee	Period (Date of assessment)	Nature of irregularity	Short computation of income	Short levy of tax
1	M/s Pearls Estate Private Limited	1994-95 (November 1997)	Opening stock of inventory was incorrectly included in the expenditure allowed	3.89	2.53
2	M/s Cowcoody Estates Limited	1996-97 (September 1998)	Depreciation allowed on coffee bushes was incorrect as they are to be regarded as stock in trade and not as capital asset	5.77	3.46
3	M/s Mercara Rubber Limited	1996-97 and 1997-98 (August 1998)	In these cases, income from rubber trees was incorrectly excluded though expenditure on maintenance of planting rubber trees was allowed	13.89	7.46
4	M/s Nilambar Rubber Company Limited	1996-97 (April 1998)		12.13	5.91
5	M/s Kulhatty Estates	1997-98 (July 1998)	Only interest actually paid is allowable, in this case interest accrued has been allowed.	9.71	3.88

These cases were pointed out to the assessing authority (January 2000), reported to the Commissioner of Commercial Taxes (March 2000) and to Government (April 2000); their replies have not been received (November 2000).

### 5.3 Short levy of tax due to incorrect allowance of deduction of investment deposit

In terms of the Act, in computing the total agricultural income of a person, deduction of the amount deposited by him in an investment account under the Karnataka Investment Deposit Scheme 1995 is allowed. The investment is

required to be made before the due date fixed for filing the return of income for the relevant assessment year.

In Chickmagalur district, while finalising (March 1997) the assessment of a company for the year 1995-96 (Previous Year 1994-95), deduction of Rs.45.62 lakh invested in April 1996 in such account was allowed by the Deputy Commissioner of Agricultural Income-tax. Since the investment was made after the due date for filing the return (July 1995), the deduction allowed was incorrect and resulted in short levy of tax of Rs.29.66 lakh.

The case was pointed out to the Department (January 2000) and reported to Government (April 2000); their replies have not been received (November 2000).

#### **5.4 Short levy of tax due to incorrect set off of loss**

Under the Act, the loss sustained by any person in agricultural income for any year is allowed to be carried forward for set off against the income for the following year. If the income for the following year is not sufficient to absorb the loss fully or if there is a loss in that year too, the unabsorbed loss is allowed to be further carried forward. However, no loss can be carried forward for more than six years. The carry forward and set off is permissible only if the loss has been determined in pursuance of a return filed within the date prescribed. After the amendment of the Act from 1994-95, there is no provision for apportionment of losses of a registered firm among the partners and for setting off of the losses allocated to partners prior to 1994-95 but pending adjustment in their individual assessments.

It was, however, noticed that in Chickmagalur and Kodagu districts while finalising (between June 1997 and March 1999) six assessments of four assessees for the years 1990-91, 1992-93, 1995-96 to 1997-98, set off of Rs.32.12 lakh was allowed by two assessing authorities, though the losses were not permissible to be brought forward for set off. The incorrect set off allowed resulted in short levy of tax of Rs.5.32 lakh, besides a potential short levy of Rs.7.62 lakh in future years.

The cases were pointed out to the assessing authorities (January 2000), the Commissioner of Commercial Taxes (March 2000) and to Government (April 2000); their replies have not been received (November 2000).



### 5.5 Non-levy of interest for non-filing/belated filing of return of income

Under the Act, every person, whose total agricultural income during a 'previous year' exceeds the maximum amount which is not chargeable to tax, is required to furnish to the assessing authority a return in the prescribed form within four months from the end of the 'previous year'. In case of default, he is liable to pay interest at 24 per cent per annum from the day following the due date, to the date of furnishing the return or where no return has been furnished, to the date of completion of assessment, on the amount of tax payable as reduced by the tax paid, if any.

It was noticed (between October 1999 and January 2000) that in Chickmagalur and Kodagu districts while finalising (between September 1997 and March 1999) 14 assessments of eight assessees for the assessment years 1994-95 to 1997-98, interest for non-filing or belated filing of the returns was not levied by three assessing authorities. The non-levy of interest amounted to Rs.8.53 lakh.

These cases were pointed out to the concerned assessing authorities (between October 1999 and January 2000), reported to the Commissioner of Commercial Taxes (January/March 2000) and to Government (April 2000); their replies have not been received (November 2000).



## CHAPTER 6: Land Revenue

### 6.1 Results of audit

Test check of records in Land Revenue offices, conducted in audit during the year 1999-2000, disclosed under-assessments of revenue amounting to Rs.260.63 lakh in 75 cases under the following broad categories:

(Rupees in lakh)			
Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy on regularising unauthorised occupation of Government land	10	20.69
2	Non-levy/short levy of conversion fine	9	11.78
3	Non-raising/short raising of demands for water rate	12	100.26
4	Non-levy/short levy of maintenance cess	9	16.61
5	Other irregularities	35	111.29
<b>Total</b>		<b>75</b>	<b>260.63</b>

During the year 1999-2000, the Department accepted under-assessments worth Rs.0.83 lakh in five cases which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases (including certain cases noticed in earlier years which could not be reported in previous Reports) involving Rs. 217.34 lakh are given in the following paragraphs.

### 6.2 Non-raising of demands for water charges

The Karnataka Irrigation (Levy of Water Rate) Rules 1965 provides that water rates payable by each landlord shall be determined jointly by the Revenue Department and the Irrigation Department and statement of water rates shall be prepared. The statement so prepared shall be notified to the public. The concerned Tahsildar shall issue a notice of demand to the person liable to pay water charges and cause such notice to be served on such person.

In two taluks of two districts, it was noticed (November 1999 and January 2000) that the Revenue Department did not book and raise demand for water charges aggregating Rs.9.70 lakh relating to the years 1997-98 and 1998-99,



even after receipt of demand statements from the Irrigation Officers, as under:

(Rupees in lakh)

Sl. No.	Taluk Office (District)	Year to which demand relates	Water charges due		
			To be booked as per Irrigation Department	Booked by Revenue Department	Amount of non-booking
1	Bangalore (South) (Bangalore-Urban)	1997-98	0.72	Nil	0.72
		1998-99	0.58	Nil	0.58
2	Harihar (Davanagere)	1998-99	8.40	Nil	8.40
<b>Total</b>			<b>9.70</b>	<b>Nil</b>	<b>9.70</b>

These cases were pointed out to the concerned Tahsildars (November 1999/January 2000), reported to the concerned Divisional Commissioners (January/March 2000) and to Government (May 2000); their replies have not been received (November 2000).

### 6.3 Non-raising/short raising of demands for penal water charges

Under the Karnataka Irrigation Act 1965, any person using water from an irrigation work without obtaining the required permission, is liable to pay water charges at the rate to be determined by the Irrigation Officer, in addition to any penalty for such unauthorised use of water. The rate so determined shall not be less than 10 times and not more than 30 times the rate he would otherwise have been required to pay, had he obtained the permission. Further, if the crop grown is other than that notified, the grower is required to pay water rate at the rate specified by the Irrigation Officer, which shall not be less than 5 times and not more than 10 times the water rate applicable to the crop grown. Government had fixed (July 1985) the penal water rates for unauthorised use of water at 15 times and for violation of approved cropping pattern at 10 times the normal water rate.

In Harihar and Hospet taluks of Davanagere and Bellary districts, it was noticed (September 1997/January 2000) that demand for penal water charges was booked short by Rs.202.37 lakh for the years 1996-97 and 1998-99 either due to non-raising of demand (Rs.140.74 lakh) even after receipt of demand statements from the Irrigation Officers or raised short (Rs.61.63 lakh) due to omission to correctly carry forward the balances.

The cases were pointed out to the concerned Tahsildars in September 1997/January 2000 and to the concerned Divisional Commissioners in December 1997/March 2000. The Divisional Commissioner, Bangalore



reported (October 1999) that Rs.61.63 lakh pertaining to Hospet taluk had since been included in the Demand, Collection and Balance Statement for March 1998. Reports of recovery in this case and action taken in respect of the other case have not been received (November 2000).

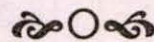
The cases were reported to Government in May 2000; their reply has not been received (November 2000).

#### **6.4 Non-levy/short levy of maintenance cess**

According to the Karnataka Irrigation Act 1965, an annual maintenance cess of Rs.4 per acre of land benefited by an irrigation work maintained by Government is to be levied. However, in case water is not made available for use of any land benefited by the irrigation work for a period of not less than two consecutive years, the maintenance cess is not leviable in respect of such land during the said period. According to the Rules, the Tahsildar concerned is the authority responsible for determining and levying maintenance cess.

It was noticed (June 1999 and January 2000) that in Harihar and Shikaripura taluks of Davanagere and Shimoga districts, maintenance cess amounting to Rs.5.27 lakh had either not been levied or levied short for the years 1996-97 to 1998-99, though water was made available in the preceding/current years.

These cases were pointed out to the concerned Tahsildars (June 1999/January 2000), reported to the Divisional Commissioner, Bangalore (September 1999/March 2000) and to Government (May 2000). Government stated (September 2000) that the entire amount had been taken to demand for 1999-2000 and that Rs.0.87 lakh had since been recovered. Further report has not been received (November 2000).







## CHAPTER 7: Other Tax Receipts

### A. Stamps and Registration Fees

#### 7.1 Results of audit

Test check of documents registered in the offices of the Registrars and Sub-Registrars, conducted in audit during the year 1999-2000, disclosed under-assessments of stamp duty and registration fees amounting to Rs.520.98 lakh in 61 cases under the following categories:

(Rupees in lakh)

Sl. No.	Category	Number of cases	Amount
1	Incorrect grant of exemption/ concession	10	12.39
2	Non-levy/short levy	33	452.91
3	Other irregularities	18	55.68
<b>Total</b>		<b>61</b>	<b>520.98</b>

During the year 1999-2000, the Department accepted under-assessments amounting to Rs.4.80 lakh in 12 cases which had been pointed out in audit in the earlier years and recovered the entire amount.

A few illustrative cases (including certain cases noticed in earlier years which could not be reported in previous Reports) involving Rs.1822.92 lakh are given in the following paragraphs.

#### 7.2 Short levy due to incorrect classification of mortgage with possession as memorandum of deposit of title deeds

Under the Karnataka Stamp Act 1957, 'mortgage deed' includes every instrument whereby a person creates right over a specified property for securing the money advanced.

The duty chargeable on mortgage deeds relating to immovable properties where possession is given to the mortgagees (mortgage with possession) is higher than that on agreements relating to deposit of title deeds. For the purpose of levy of duty, a mortgagor who gives to the mortgagee a lease of the property mortgaged is deemed to give possession thereof.

In a Sub-Registry (Shivajinagar in Bangalore (Urban) district), an instrument titled 'Deed of mortgage by **deposit of title deeds**' for securing repayment of Rs.15 crore obtained by a partnership firm from two companies was registered



in April 1996 by levying stamp duty of Rs.15 lakh. According to the recitals, the parties had charged the scheduled properties with the sum borrowed and therefore, the instrument was a mortgage. Since the same immovable properties had been leased out by the mortgagor to the mortgagees, the instrument was chargeable to stamp duty of Rs.180 lakh as a mortgage with possession. The incorrect classification resulted in short levy of Rs.165 lakh.

The case was pointed out to the Sub-Registrar (July 1997), reported to the Inspector General of Registration and Commissioner of Stamps (IGR) (November 1997) and to Government (March 2000). Government endorsed (July 2000) the reply (June 2000) of the IGR which stated that instructions had been issued (August 1999) to the concerned authority to initiate proceedings for recovery of the amount short levied. - Further report has not been received (November 2000).

### **7.3 Short levy of stamp duty due to incorrect classification of conveyance as agreement**

According to the Karnataka Stamp Act 1957, 'Conveyance' includes a conveyance on sale and every instrument by which immovable property is transferred to or vested in any other person.

In a Sub-Registry (Bangalore (South)), a document titled 'Memorandum of Development Agreement' in favour of a developer was registered in June 1998 as an agreement for development and sale of an immovable property levying stamp duty of Rs.3.27 lakh. Audit scrutiny, however, revealed that the owners, who had received consideration of Rs.81.68 lakh, had relinquished their right, title and interest and had handed over the possession of the property. The document was, therefore, to be classified as a conveyance attracting levy of stamp duty of Rs.10.21 lakh. The incorrect classification resulted in short levy of stamp duty of Rs.6.94 lakh (including surcharge at 2 per cent on the consideration under the Karnataka Municipalities Act 1964 and additional stamp duty at 5 per cent of stamp duty under the Karnataka Stamp Act 1957 for the purpose of the Karnataka Infrastructure Development and Finance Corporation).

The case was pointed out to the Sub-Registrar (July 1999), reported to the Inspector General of Registration and Commissioner of Stamps (IGR) (September 1999) and to Government (February 2000). Government endorsed (August 2000) the reply (June 2000) of the IGR who accepted the audit observation and stated that the observation was being referred to the District Registrar, Detection of Under-valuation of Stamps for initiating further proceedings. Further report has not been received (November 2000).

#### 7.4 Short levy due to incorrect computation of consideration

Under the Karnataka Stamp Act 1957, up to March 1998, stamp duty on lease deeds was leviable as a conveyance for a market value equal to the average annual rent reserved if the lease period was between 5 and 10 years and at three times of such rent if the lease period was between 20 and 30 years. From April 1998, if the lease period exceeds 10 years, the duty leviable is at Rs.5 for every Rs.100 or part thereof of the market value of the property. Similar provision exists for charging registration fees.

In three Sub-Registries in Bangalore (Urban) district, in respect of five lease deeds registered during 1997-98 and 1998-99, the consideration for levy of stamp duty and registration fees was incorrectly computed, resulting in short levy of Rs.14.34 lakh as detailed below :

(Rupees in lakh)							
Period of lease in years/ Year of registration	Consideration/ market value	Stamp duty			Registration fees		
		Leviable	Levied	Short levy	Leviable	Levied	Short levy
Kengeri Sub-Registry (2 documents)							
30/1997-98	41.12	4.11	1.41	2.70	0.82	0.28	0.54
Stamp duty and registration fees levied on market value equal to the average annual rent instead of on market value equal to 3 times the amount of average annual rent.							
Krishnarajapuram Sub-Registry (2 documents)							
30/1998-99	136.76	6.84	0.54	6.30	2.74	0.11	2.63
Stamp duty and registration fees levied on market value equal to the average annual rent instead of at Rs.5 for every Rs.100 or part thereof on the market value of the property.							
Shivajinagar Sub-Registry (1 document)							
10/1998-99	50.86	5.08	2.91	2.17	1.02	1.02	-
Though the lease was for 10 years, the average annual rent was worked out for 5 years and duty levied as a 'Bond' instead of as a 'Conveyance'.							
<b>Total</b>		<b>16.03</b>	<b>4.86</b>	<b>11.17</b>	<b>4.58</b>	<b>1.41</b>	<b>3.17</b>

These cases were pointed out to the concerned Sub-Registrars (between January and October 1999), reported to the Inspector General of Registration and Commissioner of Stamps (IGR) (between June 1999 and January 2000) and to Government (May 2000). Government endorsed (July 2000) the reply (June 2000) of the IGR which stated that the concerned District Registrar, Detection of Under-valuation of Stamps had been instructed to initiate proceedings for recovery of the deficit. Further report has not been received (November 2000).



### 7.5 Non-levy of surcharge

According to a notification issued by Government in November 1996 under the Karnataka Panchayat Raj Act 1993, in respect of instruments of mortgage of immovable properties situated within the area of a Taluk Panchayat, a surcharge in the form of additional stamp duty is leviable at the rate of 3 per cent of the amount secured by the mortgage.

In a Sub-Registry (Raichur), a mortgage deed providing for substitution of certain assets on the security of which Rs.410.16 crore had been borrowed in earlier years, was registered in May 1998 levying the proper stamp duty. However, the surcharge of Rs.12.30 crore was not levied.

This was pointed out to the Sub-Registrar (November 1999), reported to the Inspector General of Registration and Commissioner of Stamps (IGR) (December 1999). The IGR stated (June 2000) that a clarification on the issue had been sought from Government. Further report has not been received (November 2000).

The case was reported to Government (February 2000); their reply has not been received (November 2000).

### 7.6 Short levy on General Powers of Attorney

Under the Karnataka Stamp Act 1957 as amended from April 1995, 'Powers of Attorney' given to a promoter or developer (by whatever name called) for construction on or development of or sale or transfer (in any manner whatsoever) of any immovable property, attract stamp duty as 'Conveyances'.

In nine<sup>o</sup> Sub-Registries, 145 documents titled as 'Power of Attorney' were registered as such during 1995-96 to 1998-99. The recitals in these documents empowered the attorneys to construct, develop or sell or transfer the scheduled properties. These documents were, therefore, liable to stamp duty of Rs.406.80 lakh on the market value of Rs.4067.95 lakh (as per valuation list of the Sub-Registries) as against Rs.0.16 lakh realised, resulting in short levy of Rs.406.64 lakh.

These cases were pointed out to the Sub-Registrars (between October 1997 and January 2000), reported to the Inspector General of Registration and Commissioner of Stamps (IGR) (between February 1998 and March 2000). The IGR stated (June 2000) that the concerned District Registrar, Detection of Under-valuation of Stamps had been instructed to initiate proceedings as per the law. Further report has not been received (November 2000).

<sup>o</sup> Anekal, Bangalore (South), Basavanagudi, Chitradurga, Jayanagar, Krishnarajapuram, Shivajinagar, Srirampuram, Tumkur

The cases were referred to Government (May 2000); their reply has not been received (November 2000).

## B. Entry Tax

### 7.7 Results of audit

Test check of records in Entry Tax Offices, conducted in audit during the year 1999-2000, disclosed under-assessments of tax, non-levy of penalty, etc., amounting to Rs 28.18 lakh in 38 cases under the following broad categories:

(Rupees in lakh)

Sl. No.	Category	Number of cases	Amount
1	Non-levy/short levy of tax	28	16.33
2	Incorrect grant of exemption from tax	3	6.13
3	Non-levy of penalty	7	5.72
<b>Total</b>		<b>38</b>	<b>28.18</b>

During the year 1999-2000, the Department accepted under-assessments of tax amounting to Rs.4.66 lakh involved in 19 cases which had been pointed out in audit in earlier years and recovered the entire amount.

An illustrative case involving Rs.17.49 lakh is given in the following paragraph.

### 7.8 Non-levy of tax

Under the Karnataka Tax on Entry of Goods Act 1979, tax shall be levied and collected on entry of goods into a local area for consumption, use or sale therein, at the rates notified from time to time.

In six cases of Bangalore (Urban) and Mysore districts, tax on entry of scheduled goods with turnover of Rs.1121.61 lakh into local areas during the years 1992-93, 1993-94, 1995-96 and 1997-98 had not been levied by six assessing authorities, resulting in non-realisation of Rs.17.49 lakh.

On these cases being pointed out (between October 1998 and August 1999), the Department reported (between June and November 2000) creation of additional demand of Rs.14.58 lakh in four cases and recovery of Rs.4 lakh in two of them. Replies in respect of the remaining cases have not been received (November 2000).

The cases were reported to Government in May 2000; their reply has not been received (November 2000).



## C. Other Tax Receipts

### 7.9 Results of audit

Test check of records of Entertainments Tax Offices, Professions Tax Offices, Betting Tax Offices and the Chief Electrical Inspectorate, conducted in audit during the year 1999-2000, disclosed under-assessments of tax, non-levy of interest, etc. amounting to Rs.4105.15 lakh in 32 cases.

(Rupees in lakh)

Sl. No.	Nature of tax	Category	Number of cases	Amount
1	Entertainments Tax	Non-levy/short levy of tax	1	0.35
2	Professions Tax	Non-levy/short levy of tax	29	19.35
3	Betting Tax	Non-levy of interest on belated remittance of tax	1	48.00
4	Electricity Tax	Non-payment of tax	1	4037.45
<b>Total</b>			32	4105.15

During the year 1999-2000, the Departments accepted under-assessments of tax amounting to Rs.6.39 lakh involved in 13 cases, which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases (including certain cases noticed in earlier years which could not be reported in previous Reports) involving Rs.13.48 lakh are given in the following paragraph.

### 7.10 Short recovery of professions tax

Under the Karnataka Tax on Professions, Trades, Callings and Employments Act 1976 every person, who exercises any profession or calling or is engaged in any trade or holds any appointment, public or private or is employed in any manner in the State, is liable to pay professions tax at the rates specified in the Schedule from time to time.

It was noticed (between May 1998 and January 2000) that in Bangalore (Urban), Dharwad and Hassan districts, while finalising the assessments for the years 1993-94 to 1998-99, nine assessing authorities had levied professions tax short by Rs.13.48 lakh in 865 cases.

On these cases being pointed out, the Department reported (between October 1999 and June 2000) recovery of Rs.2.17 lakh in 123 cases. Replies in respect of the remaining cases have not been received (November 2000).

The cases were reported to Government in May 2000; their reply has not been received (November 2000).

←↑→



## Chapter 8: Non-tax Receipts

### 8.1 Results of audit

Test check of records of Forest, Mines and Geology and Sericulture Departments, conducted in audit during the year 1999-2000, disclosed under-assessments, non-recovery/short recovery of revenue amounting to Rs.743.22 lakh in 54 cases under the following broad categories:

(Rupees in lakh)

Sl. No.	Category	Number of cases	Amount
<b>A. Forest Receipts</b>			
1	Non-recovery/short recovery of taxes	3	1.35
2	Non-recovery/short recovery of lease rent	4	4.38
3	Non-collection of licence fees	2	0.63
4	Short collection of seigniorage rate/revised selling rate/dues of auction sale	9	135.90
5	Other irregularities	4	30.05
<b>Total</b>		<b>22</b>	<b>172.31</b>
<b>B. Mineral Receipts</b>			
1	Non-recovery of dead rent	3	10.98
2	Non-levy of penalty	2	167.68
3	Other irregularities	8	142.59
<b>Total</b>		<b>13</b>	<b>321.25</b>
<b>C. Sericulture Industries Receipts</b>			
1	Loss of revenue due to low yield of Cross-Breed Disease-Free Layings	14	248.18
2	Other irregularities	5	1.48
<b>Total</b>		<b>19</b>	<b>249.66</b>
<b>Grand Total</b>		<b>54</b>	<b>743.22</b>

During the year 1999-2000, the Forest Department accepted under-assessments of Rs.13.95 lakh in two cases which had been pointed out in audit in earlier years and recovered the entire amount.

A few illustrative cases (including certain cases noticed in earlier years which could not be reported in previous Reports) involving Rs.2556.13 lakh are given in the following paragraphs.



## A. Forest Receipts

### 8.2 Non-realisation of differential royalty and sale value in logging contracts

The felling, conversion, collection and transport of forest produce to the specified Government Timber Depots and running of retail firewood depots are entrusted on contract basis to several logging agencies. According to the agreements executed in October 1996 with the logging agencies in Uttara Kannada district, for the calendar year 1996, the agencies were required to pay royalty of Rs.30.40 per cubic metre in advance for the quantity of firewood bought by them from the Firewood Store Depot for retail sale. They were further required to sell the firewood in the firewood depots at Rs.350 per tonne. If during the course of the contract period, there was any increase in the selling rate of firewood, the contractor was required to pay to Government the consequential difference in amount obtained by selling the firewood at the revised higher rate. While the selling rates of firewood through rationing system was revised from Rs.350 to Rs.400 per tonne from 15 June 1996 and again to Rs.435 from July 1996, the royalty was revised only once, i.e., from Rs.30.40 to Rs.46.80 per cubic metre from January 1997. The agreements were extended for the calendar year 1997 also.

It was noticed (February 1998) that in Honnavar Division, the differential royalty and sale value aggregating Rs.30.33 lakh were either not recovered or recovered at lower rates in respect of 10 agencies.

The cases were reported to the Principal Chief Conservator of Forests (April 1998) and to Government (May 2000). Government stated (November 2000) that Rs.28.81 lakh had since been recovered from the 10 agencies.

### **8.3 Non-recovery of full sale value**

Under the Karnataka Forest Rules 1969 read with the terms of auction for sale of forest produce, the bidders are required to deposit one-fourth of the sale value along with taxes on the full sale value immediately on conclusion of the sale, the balance amount being payable within 90 days or before removal of the material, whichever is earlier. In accordance with a Government Order issued in September 1983, the dues of the Forest Department, if not paid within the specified date, attract interest at 18 *per cent* per annum.

It was noticed (between November 1998 and December 1999) that in Virajpet, Chitradurga and Gundlupet Divisions, bid amounts aggregating Rs.5.07 lakh remained unpaid in respect of auctions held between February 1994 and March 1998. The interest due thereon up to March 1999 amounted to Rs.1.89 lakh.

On these cases being pointed out to the concerned Deputy Conservators of Forests (DCF) between November 1998 and December 1999, the DCF, Virajpet stated (February 2000) that Rs.1.22 lakh had since been collected either from the original bidders or by re-auction and the DCF, Chitradurga stated (August 1999) that the dues would be referred for recovery as arrears of land revenue. Further reports on these cases and replies in respect of the Gundlupet Division have not been received (November 2000).

The cases were reported to the Principal Chief Conservator of Forests (between March 1999 and February 2000) and to Government (May 2000); their replies have not been received (November 2000).

## **B. Mineral Receipts**

### **8.4 Non-recovery of cost of unauthorised extraction of manganese**

The Mines and Minerals (Regulation and Development) Act 1957 provides that whenever any person raises, without any lawful authority, any mineral



from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

It was noticed (December 1999) that in Tumkur district, 129.50 hectares of land had been leased out in May 1985 to an individual for a period of 20 years for extraction of manganese and limestone. However, in September 1999, during an inspection of the area, it was found out by the Department that the lessee had been doing mining operation for manganese ore in eight acres outside the leased area at an average pit depth of 40 metres. Accordingly, it was estimated by the Department that manganese ore of medium to high grade extracted was 4.48 lakh tonnes.

Periodical inspection of the mining operations of the lessee would have prevented illegal extraction and loss of revenue. Action for recovery of Rs.2507.64 lakh (at the average price of Rs.560 per tonne) being the cost of ore unauthorisedly extracted had not been initiated.

The case was pointed out to the Director of Mines and Geology (December 1999) and reported to Government (May 2000); their replies have not been received (November 2000).

### **8.5 Outstanding royalty**

According to the conditions of quarrying leases granted under the Karnataka Minor Mineral Concession Rules 1994, on minor minerals removed or consumed, royalty at the specified rates is required to be paid within the time stipulated in the lease deeds. In cases of delay in payment of royalty beyond 60 days from the due date, interest at 15 per cent per annum is leviable.


It was noticed (November 1999) that in Chamarajanagar district, 30 lessees for ornamental stone had not paid royalty of Rs.5.57 lakh on account of which they were also liable to pay interest of Rs.5.63 lakh. These amounts have

become unrealisable as the lessees had either expired or the leases had been surrendered/terminated. It was further noticed that out of these only 10 cases had been referred for recovery as arrears of land revenue.

On being pointed out, the Senior Geologist, Chamarajanagar stated (November 1999) that most of the lessees were illiterate without proper address, that in majority of the cases, their whereabouts was not known and that action for issue of revenue recovery certificates would be taken in respect of the remaining cases.

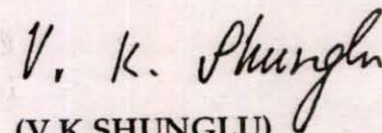
The cases were reported to the Director of Mines and Geology (February 2000) and to Government (May 2000); their replies have not been received (November 2000).

Bangalore  
The 2 MAR 2001

  
(RAJIB SHARMA)  
Accountant General (Audit)-II  
Karnataka

COUNTERSIGNED

New Delhi  
The 26 MAR 2001

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



