

REPORT
OF THE
COMPTROLLER AND
AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 1999

No.1

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

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Prefatory Remarks

This Report for the year ended 31 March 1999 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, land revenue, taxes on motor vehicles, stamp duty and registration fees, other tax and non-tax receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1998-99 as well as those noticed in earlier years which could not be included in previous Reports.

Overview

This Report contains 36 paragraphs including 5 reviews relating to non-levy/short levy of taxes, duties, interest and penalty *etc.*, involving Rs. 747.80 crore. Some of the major findings are mentioned below :

1. General

- The total receipts of the State during the year 1998-99 amounted to Rs. 21717.10 crore of which revenue raised by the State Government was Rs. 17755.07 crore and receipts from the Government of India were Rs. 3962.03 crore. The revenue raised by the State Government comprised tax revenue of Rs. 14202.36 crore and non-tax revenue of Rs. 3552.71 crore. The revenue raised constituted 82 *per cent* of the total receipts of the State and showed an increase of 2 *per cent* over the previous year 1997-98.
- The receipts from the Government of India included Rs. 2921.90 crore on account of State's share of divisible Union taxes and Rs. 1040.13 crore as Grants-in-aid registering an increase of 69 *per cent* and decrease of 15 *per cent* respectively over 1997-98.

{Paragraph 1.1}

- At the end of 1998-99, the arrears in respect of some taxes administered by the departments of Finance, Home, Energy and Industries amounted to Rs. 4563.52 crore of which Sales Tax alone accounted for Rs. 4250.55 crore.

{Paragraph 1.5}

- In respect of the taxes administered by the Finance Department such as Sales Tax, Profession Tax and Tax on Works Contract *etc.*, 8.15 lakh assessments were completed during 1998-99 leaving a balance of 19.40 lakh assessments as on 31 March 1999.

{Paragraph 1.6}

- Test check of records of Sales Tax, State Excise, Motor Vehicles Tax, Land Revenue and other departmental offices conducted during the year 1998-99 revealed under-assessments, short levy, losses of revenue *etc.*, amounting to Rs 930.25 crore in 7770 cases. The concerned departments accepted under-assessment, short levy *etc.*, of Rs. 22.83 crore in 3510 cases of which Rs. 2.92 crore had been pointed out in 1998-99 and rest in earlier years. The departments recovered Rs. 9.79 crore at the instance of audit.

{Paragraph 1.10}

2. Sales Tax

➤ A review on internal control on claims relating to branch transfers in sales tax assessments revealed the following :

➤ Excess/incorrect allowance of exemptions of Rs. 69.17 crore on account of branch transfers to 20 dealers resulted in under-assessment of Rs. 22.22 crore.

{Paragraph 2.2.5(a)}

➤ Non/short accounting of branch transfers of Rs. 15.33 crore to 6 dealers in the State from outside the State resulted in under-assessment of Rs. 3.38 crore.

{Paragraph 2.2.5(b)}

➤ Allowance of deductions aggregating Rs. 638.52 crore to 7 dealers on account of branch transfers without prescribed declaration/despatch proof involved revenue of Rs. 75.09 crore.

{Paragraph 2.2.5(c)}

➤ Allowance of inter-State sales of Rs. 251.00 crore as branch transfer in the assessments of 7 dealers resulted in under-assessment of Rs. 64.96 crore.

{Paragraph 2.2.8}

➤ Allowance of deduction of Rs. 5.02 crore to 3 dealers prior to their obtaining registration certificate resulted in under-assessment of Rs. 1.38 crore.

{Paragraph 2.2.9}

➤ Incorrect allowance of branch transfer of Rs. 54.29 crore to places other than those mentioned in the registration certificates in respect of 6 dealers resulted in under-assessment of Rs. 14.47 crore.

{Paragraph 2.2.10}

➤ Incorrect grant of set-off resulted in under-assessment of Rs. 14.32 crore.

{Paragraph 2.3}

➤ Injudicious circular instruction dispensing with the requirement of declaration in Form C resulted in potential loss of Rs. 65.54 crore.

{Paragraph 2.4}

➤ Sales tax incentives of Rs. 1.28 crore was not recovered from 16 units which were closed during the operative period of agreement.

{Paragraph 2.6}

- Short levy of tax due to incorrect application of rate of tax resulted in under-assessment of Rs. 65.31 lakh.

{Paragraph 2.7}

- Non-accounting of purchases made in the course of import by transfer of documents of title to the goods before the goods crossed the customs frontiers resulted in under-assessment of Rs. 33.90 lakh.

{Paragraph 2.9}

3. State Excise

- A review on internal control on working of distilleries in Maharashtra revealed the following :

- Storage of 10616 M.Ts. of molasses in kutch pits rendered it unfit for distillation resulting in loss of revenue of Rs. 47.01 crore.

{Paragraph 3.2.6}

- Shortfall of 231 lakh proof litres in the yield of spirit based on the sugar content in the molasses and as per standard norm of minimum yield resulted in loss of revenue of Rs. 108.87 crore .

{Paragraph 3.2.7 and 3.2.8}

- Transport fee of Rs. 1.35 crore was not levied and recovered from 3 distilleries on spirit transported to country liquor plants.

{Paragraph 3.2.9}

- Allowance of inadmissible evaporation loss resulted in loss of revenue of Rs. 1.89 crore.

{Paragraph 3.2.10}

- Despite acknowledgement for consignments of Indian made foreign liquor and beer not being received, excise duty of Rs. 74.51 lakh was not levied and demanded.

{Paragraph 3.2.13}

- Excise duty of Rs. 80.88 lakh was not levied on extra neutral alcohol not received by two importing units.

{Paragraph 3.2.14}

4. Taxes on Motor vehicles

- Motor vehicles tax of Rs. 45.16 lakh in 512 cases remained unrealised as demands were not raised.

{Paragraph 3.6}

- Incorrect grant of exemption to 264 vehicles belonging to the Vidarbha Irrigation Development Corporation resulted in under-assessment of Rs. 68.16 lakh.

{Paragraph 3.7}

5. Stamp Duty and Registration Fees

- Under valuation of property resulted in short levy of stamp duty of Rs. 194.23 lakh.

{Paragraph 3.11}

- Mis-classification of documents resulted in short levy of stamp duty of Rs. 16.35 lakh.

{Paragraph 3.12}

6. Land Revenue

- A review on Encroachment on Government land in Mumbai revealed the following :

- Failure to evict or regularise fifteen encroachers resulted in loss of Rs. 149.28 crore.

{Paragraph 4.2.7}

- Failure to regularise the excess land allotted to Maharashtra Housing and Area Development Authority for construction of transit camps resulted in short levy of lease rent of Rs. 18.31 crore.

{Paragraph 4.2.8}

- On regularisation of encroachments, penal occupancy price/penal lease rent of Rs. 6.08 crore was not recovered from three encroachers.

{Paragraph 4.2.10}

- Non-levy of compensation/rent, administrative and service charges of Rs. 4.46 crore due to non-issuance of identity cards and non-recovery of outstanding revenue of Rs. 17.02 crore from protected dwellers was noticed in audit.

{Paragraph 4.2.11}

- Non-revision of non-agricultural assessments resulted in loss of Rs. 70.23 lakh.

{Paragraph 4.4 (a)}

- Non-revision of lease rent resulted in loss of Rs. 52.80 lakh.

{Paragraph 4.5}

7. Other Tax Receipts

- Exemptions of entertainments duty aggregating Rs.15.41 crore were allowed to 9 films even though the prescribed conditions were not fulfilled.

{Paragraph 5.2}

- Government revenue amounting to Rs. 10.01 crore collected by Kalyan-Dombivli, Kolhapur, Nagpur, Pune and Solapur Municipal Corporations on account of State education cess and employment guarantee cess was not credited into Government account.

{Paragraph 5.4}

8. Non-Tax Revenue

- A review on earnings of forests department revealed the following :

- Revenue recovery cases amounting to Rs. 23.55 crore were pending for 1 to 50 years and not monitored properly.

{Paragraph 6.2.7}

- Government dues of Rs. 4.09 crore became irrecoverable due to liquidation and closure of forests labourer co-operative societies.

{Paragraph 6.2.7(d)}

- In six forest divisions bamboo plantations worth Rs.2.70 crore were not exploited in time.

{Paragraph 6.2.8}

- In two forest divisions, there was shortfall in yield of timber and fuel wood leading to loss of Rs. 4.98 crore.

{Paragraph 6.2.9}

- A review on interest receipts revealed the following :

- Government had not recovered Rs. 55.28 crore from borrowers whose loans from lending institutions were discharged by Government during the periods from 1966 to 1998. Interest on the loans for the period upto 31 March 1998 not recovered amounted to Rs. 29.66 crore.

{Paragraph 6.3.7}

- Penal interest of Rs. 3.06 crore was not recovered from the Maharashtra Jeevan Pradhikaran.

{Paragraph 6.3.8}

- Interest amounting to Rs. 4.04 crore was adjusted by CIDCO against interest payment due from Government without authorisation and penal interest of Rs. 55.42 lakh was not levied and recovered.

{Paragraph 6.3.9}

- Interest of Rs. 32.94 lakh was levied short in respect of 16 beneficiaries.

{Paragraph 6.3.10}

- Principal of Rs. 2.10 crore and interest of Rs. 1.38 crore were not recovered on loans given for mechanisation of fishing crafts.

{Paragraph 6.3.11}

- Non-recovery of escort charges/guard charges in respect of police personnel provided to organisations resulted in non-realisation of revenue of Rs. 305.30 lakh.

{Paragraph 6.4}

- Delay in taking decision for disposal of tendu leaves resulted in loss of revenue of Rs. 10.28 crore.

{Paragraph 6.6}

- Non-recovery of guarantee fee at prescribed rates and non-raising of demands of outstanding guarantee fee resulted in loss of Rs. 9.74 crore.

{Paragraph 6.7}

CHAPTER 1 : General

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Maharashtra during the year 1998-99, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding two years are given below :

	(In crore of rupees)		
	1996-97	1997-98	1998-99
I. Revenue raised by the State Government			
(a) Tax revenue	11714.97	13719.26	14202.36
(b) Non-tax revenue ¹	3754.88	3640.89	3552.71
	(3731.50)	(3613.16)	
Total	15469.85	17360.15	17755.07
	(15446.47)	(17332.42)	
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	2274.93	1732.06	2921.90
(b) Grants-in-aid	1510.46	1224.36	1040.13
Total	3785.39	2956.42	3962.03
III. Total receipts of the State	19255.24	20316.57	21717.10
	(19231.86)	(20288.84)	
IV. Percentage of I to III	80	85	82
	(80)	(85)	

¹ Lottery receipts included in non-tax revenue for the year 1998-99 is net of expenditure on prize winning tickets. To make the figures comparable for the three years the figures for the previous two years net of expenditure on prize winning tickets are shown in brackets.

Note : For details, please see Statement No. 11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Maharashtra for the year 1998-99. 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 tax revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this Statement.

Report No.1 (Revenue Receipts) of 2000

(a) The details of tax revenue raised during the year 1998-99 alongwith figures for the preceding two years are given below.

Head of Revenue	1996-97	1997-98	1998-99	(In crore of rupees)
				Percentage of increase (+) or decrease (-) in 1998-99 over 1997-98
1. Sales Tax				
(a) State Sales Tax etc.	6045.01	6547.20	6731.73	(+) 3
(b) Central Sales Tax	1244.99	1278.28	1334.88	(+) 4
2. State Excise	1068.50	1650.89	1748.74	(+) 6
3. Stamp Duty and Registration Fees	1274.57	1690.35	1607.87	(-) 5
4. Taxes and Duties on Electricity	403.31	535.64	711.23	(+) 33
5. Taxes on Vehicles	613.74	752.07	636.95	(-) 15
6. Taxes on Goods and Passengers	200.87	341.03	281.02	(-) 18
7. Other Taxes on Income and Expenditure-Tax on Professions, Trades, Callings and Employments	382.35	396.05	546.27	(+) 38
8. Other Taxes and Duties on Commodities and Services	371.67	435.66	491.21	(+) 13
9. Land Revenue	109.96	92.09	112.46	(+) 22
Total	11714.97	13719.26	14202.36	(+) 4

(b) The details of the major non-tax revenue raised during the year 1998-99 alongwith figures for the preceding two years are given below :

Head of Revenue	1996-97	1997-98	1998-99	(In crore of rupees) Percentage of increase(+) or decrease (-) in 1998-99 over 1997-98
1. Interest Receipts	2034.53	1694.14	1653.89	(-)2
2. Dairy Development	537.22	709.56	735.90	(+) 4
3. Other Non-Tax Receipts	249.13	327.15	328.77	Negligible
4. Forestry and Wild Life	146.97	147.38	130.31	(-)12
5. Non-ferrous Mining and Metallurgical Industries	257.86	264.12	256.65	(-)3
6. Miscellaneous General Services (including lottery receipts) ²	91.96 (68.58)	114.34 (86.61)	70.86	(-)18
7. Power	125.40	70.70	75.51	(+) 7
8. Major and Medium Irrigation	58.00	52.07	33.65	(-)35
9. Medical and Public Health	60.77	79.76	81.46	(+) 2
10. Co-operation	37.49	44.16	43.49	(-)2
11. Public Works	43.33	46.81	55.36	(+) 18
12. Police	71.67	41.85	42.71	(+) 2
13. Other Administrative Services	40.55	48.85	44.15	(-)10
Total	3754.88 (3731.50)	3640.89 (3613.16)	3552.71	(-)2

1.2 Variations between Budget estimates and actuals

The variations between the Budget estimates and actuals of revenue receipts for the year 1998-99 in respect of principal heads of tax and non-tax revenue are given below :

² Figure is net of expenditure on prize winning lottery tickets for 1998-99. To make the figures comparable for the three years the figures for the previous two years net of expenditure on prize winning lottery tickets are shown in brackets.

Report No.1 (Revenue Receipts) of 2000

Head of Revenue	Budget estimates	Actuals	(In crore of rupees)	
			Variations Excess (+) or shortfall (-)	Percentage of variation
1. Sales Tax	9190.00	8066.61	(-)1123.39	(-)12
2. State Excise	1700.00	1748.74	(+) 48.74	(+) 3
3. Stamp Duty and Registration Fees	1700.00	1607.87	(-)92.13	(-)5
4. Taxes and Duties on Electricity	579.08	711.23	(+) 132.15	(+) 23
5. Taxes on Vehicles	600.00	636.95	(+) 36.95	(+) 6
6. Taxes on Goods and Passengers	358.64	281.02	(-)77.62	(-)22
7. Other taxes on Income and Expenditure - Tax on Professions, Trades, Callings and Employments	450.00	546.27	(+) 96.27	(+) 21
8. Other Taxes and Duties on Commodities and Services	462.05	491.21	(+) 29.16	(+) 6
9. Land Revenue	135.00	112.46	(-)22.54	(-)17
10. Interest Receipts	1510.55	1653.89	(+) 143.34	(+) 9
11. Dairy Development	572.00	735.90	(+) 163.90	(+) 29
12. Other Non-tax Receipts	269.56	328.77	(+) 59.21	(+) 22
13. Forestry and Wild Life	172.07	130.31	(-)41.76	(-)24
14. Non-ferrous Mining and Metallurgical Industries	370.25	256.65	(-)113.60	(-)31
15. Miscellaneous ³ General Services (including lottery receipts)	124.72	70.86	(-) 53.86	(-)43
16. Power	76.07	75.51	(-)0.56	(-)1

³ Figures are net of expenditure on prize winning lottery tickets.

Head of Revenue	Budget estimates	Actuals	(In crore of rupees)	
			Variations Excess (+) or shortfall (-)	Percentage of variation
17. Major and Medium Irrigation	57.38	33.65	(-)23.73	(-)41
18. Medical and Public Health	76.00	81.46	(+) 5.46	(+) 7
19. Co-operation	38.32	43.49	(+) 5.17	(+) 13
20. Public Works	59.47	55.36	(-)4.11	(-)7
21. Police	78.31	42.71	(-)35.60	(-)45
22. Other Administrative Services	43.44	44.15	(+) 0.71	(+) 2
Total	18622.91	17755.07	(-) 867.84	(-) 5

The reasons for variations between Budget estimates and actuals have not been received from the concerned departments (November 1999).

1.3 Analysis of collection

Break-up of total collection at pre-assessment stage and after regular assessment of Sales Tax, Motor Spirit Tax, Profession Tax, Entry Tax and Luxury Tax for the year 1998-99 and the corresponding figures for the preceding two years as furnished by the department is as follows :

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	(In crore of rupees)		
					Amount refunded	Net collection	Percentage of collection column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales Tax	1996-97	5447.25	695.07	120.04	135.67	6006.65	91
	1997-98	5982.13	437.63	108.75	175.51	6244.25	96
	1998-99	6008.83	344.25	27.21	209.54	6353.08	95
Motor Spirit Tax	1996-97	1290.45	0.17	Nil	0.29	1290.33	100
	1997-98	1498.57	Nil	Nil	Nil	1498.57	100
	1998-99	1621.62	Nil	Nil	Nil	1621.62	100

Head of Revenue	Year	(In crore of rupees)					
		Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Profession Tax	1996-97	379.37	5.29	0.37	0.27	384.39	99
	1997-98	323.18	69.15	0.32	0.06	392.27	82
	1998-99	527.48	13.88	1.80	0.20	541.36	97
Entry Tax	1996-97	13.60	3.63	0.02	0.74	16.49	82
	1997-98	10.93	4.19	0.04	Nil	15.12	72
	1998-99	4.63	2.01	0.20	Nil	6.64	70
Luxury Tax	1996-97	96.45	0.86	0.56	0.04	97.27	99
	1997-98	105.19	4.17	0.69	0.09	109.27	96
	1998-99	127.66	6.81	0.29	0.05	134.47	95

1.4 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1996-97, 1997-98 and 1998-99 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 1997-98 were as follows :

Head of Revenue	Year	(In crore of rupees)			
		Collection ⁴	Expenditure on collection of revenue ⁵	Percentage of expenditure on collection	All India Average percentage for the year 1997-98
1. Sales Tax	1996-97	7290.00	53.97	0.74	1.28
	1997-98	7825.48	63.93	0.82	
	1998-99	8066.61	55.04	0.68	
2. Taxes on Vehicles and Taxes on Goods and Passengers	1996-97	814.61	27.43	3.36	2.65
	1997-98	1093.10	43.68	3.99	
	1998-99	939.03	48.18	5.13	

⁴ Figures as per Finance Accounts

⁵ Figures as furnished by the department

Head of Revenue	Year	Collection ⁶	Expenditure on collection of revenue ⁷	(In crore of rupees)	
				Percentage of expenditure on collection	All India Average percentage for the year 1997-98
3. State Excise	1996-97	1068.50	16.40	1.53	3.20
	1997-98	1650.89	17.23	1.04	
	1998-99	1748.74	17.62	1.01	

1.5 Arrears of revenue

The arrears of revenue as on 31 March 1999 in respect of some principal heads of revenue amounted to Rs. 4563.52 crore of which Rs. 906.91 crore were outstanding for more than 5 years as detailed in the following table :

Sr. No.	Head of Revenue	Amount outstanding as on 31 March 1999	Amount outstanding for more than 5 years as on 31 March 1999	(In crore of rupees)
				Remarks
1	Sales Tax	4250.55	852.61	Recovery amounting to Rs. 2114.83 crore in respect of 48543 cases was pending in appeals with various appellate authorities. In 88088 cases involving Rs.218.26 crore the recovery was either lodged with official liquidator /custodian or recovery was not possible due to want of whereabouts/ attachable assets. Recovery in respect of balance amount is under various stages of action.

⁶ Figures as per Finance Accounts

⁷ Figures as furnished by the department

Report No.1 (Revenue Receipts) of 2000

Sr. No.	Head of Revenue	Amount outstanding as on 31 March 1999	Amount outstanding for more than 5 years as on 31 March 1999	(In crore of rupees)
				Remarks
2	Taxes on Vehicles	121.50	43.75	The department stated that Rs. 35.18 crore was covered by revenue recovery certificates and Rs. 0.10 crore in appeals either with High Court or Government. Rs. 3.30 crore was likely to be written off and balance of Rs. 82.92 crore was under various stages of action.
3	Taxes on Goods and Passengers	174.16	2.07	Rs. 2.22 crore was stated to be covered by revenue recovery certificates and Rs. 0.25 crore was in appeal with High Court. Recovery of Rs. 0.13 crore was doubtful as persons became insolvent. An amount of Rs. 0.02 crore was likely to be written off and the balance amount of Rs. 171.54 crore was under various stages of action.
4	State Excise	1.13	0.89	Department stated that attempts were being made to recover the amount as arrears of land revenue.
5	Taxes and Duties on Electricity	9.76	4.57	The concerned district collectors have been directed to recover the amount as arrears of land revenue. Further, co-operative department was also instructed to deduct the amount when loan is given to sugar factories.

Sr. No.	Head of Revenue	Amount		(In crore of rupees) Remarks
		outstanding as on 31 March 1999	outstanding for more than 5 years as on 31 March 1999	
6	Others :			
	a) Major Minerals	4.55	2.94	Amount of Rs. 1.12 crore was pending in appeal with courts/Government. Amount of Rs. 0.06 crore was lying either with collectors or with official liquidator for recovery. Recovery effort is in progress in other cases.
	b) Jails	1.87	0.08	Efforts are being made for speedy recovery.
	Total	4563.52	906.91	

1.6 Arrears in assessments

The details of cases pending assessment at the beginning of the year 1998-99, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 1998-99 as furnished by the Sales Tax Department in respect of sales tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contract are as follows :

Name of tax	Opening balance	New cases due for assessment during 1998-99	Total assessments due	Cases disposed of during 1998-99	Balance at the end of the year	Percentage of Column 5 to 3
(1)	(2)	(3)	(4)	(5)	(6)	(7)
I. Finance Department						
Sales Tax	1263992	759764	2023756	644479	1379277	85
Motor Spirit Tax	4790	1188	5978	724	5254	61
Profession Tax	371431	275955	647386	156051	491335	56
Purchase tax on sugarcane	4897	398	5295	1978	3317	497
Entry Tax	3251	Nil	3251	Nil	3251	Nil
Lease Tax	4929	1415	6344	1513	4831	107

Name of tax	Opening balance	New cases due for assessment during 1998-99	Total assessments due	Cases disposed of during 1998-99	Balance at the end of the year	Percentage of Column 5 to 3
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Luxury Tax	3398	1541	4939	1219	3720	79
Tax on works contract	42339	15716	58055	8663	49392	55
Total	1699027	1055977	2755004	814627	1940377	77
2. Home Department						
Taxes on Vehicles	591563	92698	684261	109877	574384	119
Taxes on Goods and Passengers	9224	261	9485	4	9481	2
Total	600787	92959	693746	109881	583865	118

The table indicates that the assessment of the cases disposed of during the year were less than those due for assessment during the year under Sales Tax, Motor Spirit Tax, Profession Tax, Luxury Tax, Tax on Works Contract and Tax on Goods and Passengers.

1.7 Frauds and evasion of tax

The details of cases of evasion of tax detected by the Sales Tax, Motor Vehicles Tax and State Excise Departments, cases finalised and the demands for additional tax raised as reported by the departments are given below :

Sr. No.	Name of tax/duty	Cases pending as on 31 March 1998	Cases detected during 1998-99	Total	No. of cases in which assessments/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 1999
					No. of cases	Amount of demands (in lakh of rupees)	
1.	Sales Tax	2818	1660	4478	1349	4407.73	3129
2.	State Excise	Nil	37	37	31	551.00	6
3.	Motor Vehicles Tax	Nil	542109	542109	542109	6465.14	Nil

1.8 Write-off and waiver of revenue

During the year 1998-99, demands for Rs. 134.69 lakh (in 1330 cases) relating to Sales Tax and Rs. 183.94 lakh (in 6035 cases) relating to Taxes on Motor Vehicles and Goods and Passengers were written off by the department as irrecoverable. Reasons for the write-off of these demands as reported by the departments were as follows :

	Sales Tax		State Excise		(Amount in lakh of rupees) Taxes on Motor Vehicles, Goods and Passengers	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1 Whereabouts of defaulters not known	1008	78.39	1	0.30	5310	167.11
2 Defaulters no longer alive	61	3.16	-	-	448	11.73
3 Defaulters not having any property	33	27.35	4	2.45	258	4.78
4 Defaulters adjudged insolvent	--	--	-	-	19	0.32
5 Other reasons	188	24.31	1	0.01	-	-
6 Remission of penalty	40	1.48	2	0.09	-	-
Total	1330	134.69	8	2.85	6035	183.94

1.9 Refunds

The number of refund cases pending at the beginning of the year 1998-99, claims received during the year, refunds allowed during the year and cases pending at the close of the year 1998-99, as reported by the departments are given below :

	(Amount in lakh of rupees)									
	Sales Tax		Motor Vehicles Tax		Taxes and Duties on Electricity		State Excise		Works Contract	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1. Claims outstanding at the beginning of the year	2225	2213.00	788	76.49	40	78.50	116	32.47	18	4.00
2. Claims received during the year	27517	23456.00	4434	362.60	90	211.07	39	2.18	246	164.00
3. Refund made during the year	27166	20813.00	3669	335.27	74	172.42	26	1.58	244	121.00
4. Balance outstanding at the end of the year	2576	4856.00	1553	103.82	56	117.15	129	33.07	20	47.00

1.10 Results of audit

Test check of records of Sales Tax, Land Revenue, State Excise, Motor Vehicles Tax, Stamp Duty and Registration Fees, Electricity Duty, Other Tax Receipts, Forest Receipts and other Non-tax Receipts conducted during the year 1998-99 revealed under-assessment/short levy/loss of revenue amounting to Rs. 930.25 crore in 7770 cases. During the course of the year the departments accepted under-assessment of Rs. 22.83 crore involved in 3510 cases (which included 2750 cases involving Rs. 19.91 crore pointed out in earlier years) though instructions exist that under-assessment *etc.*, pointed out in audit should be disposed of within one month. The departments recovered Rs. 9.79 crore at the instance of audit. No reply has been received in the remaining cases.

This Report contains 36 paragraphs including 5 reviews involving Rs. 747.80 crore.

1.11 Outstanding inspection reports and audit observations

Audit observations on incorrect assessments, short levy of taxes, duties, fees and other revenue receipts, as also defects in maintenance of initial records noticed during the local audit and not settled on the spot are communicated to the heads of offices and to the departmental authorities through inspection reports. The more important irregularities are reported to the heads of departments and Government. Government have prescribed that first replies

to inspection reports should be sent to Audit within one month from the date of receipt of the inspection reports.

At the end of June 1999, 11720 observations (in 4901 inspection reports) involving Rs. 465.28 crore issued up to 31 December 1998, were still to be settled as detailed below. The figures as on 30 June 1997 and 30 June 1998 are also indicated alongside for comparison.

	As at the end of		
	June 1997	June 1998	June 1999
Number of inspection reports	4481	4503	4901
Number of audit observations	10408	10375	11720
Amount involved (In crore of rupees)	279.87	319.79	465.28

In respect of 2123 observations (in 697 inspection reports) involving Rs. 64.41 crore, even the first replies had not been received.

Receipt head wise break-up of the inspection reports and audit observations outstanding as on 30 June 1999 is given below :

Sr. No.	Nature of receipts	Number of outstanding Inspection Reports	Number of outstanding Audit observations	Amount of revenue involved (in lakh of rupees)	Year to which the observations relate
1	Sales Tax	1895	4762	4734.24	1989-90 to 1998-99
2	State Excise	93	128	29.61	1988-89 to 1998-99
3	Stamp Duty and Registration Fees	961	2813	2539.00	1990-91 to 1998-99
4	Taxes and Duties on Electricity	17	25	53.99	1991-92 to 1998-99
5	Taxes on Vehicles	112	263	399.14	1990-91 to 1998-99
6	Land Revenue	935	2210	26183.00	1994-95 to 1998-99
7	Entertainments Duty	137	216	103.16	1989-90 to 1998-99
8	Tax on Professions	148	303	124.21	1988-89 to 1998-99

Sr. No.	Nature of receipts	Number of outstanding Inspection Reports	Number of outstanding Audit observations	Amount of revenue involved (in lakh of rupees)	Year to which the observations relate
9	State Education Cess	122	200	2054.13	1988-89 to 1998-99
10	Tax on Residential Premises	16	18	8.71	1993-94 to 1998-99
11	Repair Cess	20	23	4.15	1989-90 to 1998-99
12	Forest	334	619	9977.00	1990-91 to 1998-99
13	Other Non-Tax Receipts	111	140	317.85	1990-91 to 1998-99
Total		4901	11720	46528.19	

1.12 Departmental Audit Committee Meetings

In order to expedite the settlement of outstanding audit observations contained in the Inspection Reports, Departmental Audit Committees are constituted by the Government. These Committees are chaired by Joint Secretary/Deputy Secretary of the concerned Administrative Department and attended among others by the concerned officers and the officers from the Office of the Principal Accountant General (Audit)-I Mumbai/ Accountant General (Audit)-II, Nagpur.

In order to expedite the clearance of the outstanding audit observations, it is necessary that the Audit Committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 1998-99 only three out of 8 Government departments convened meetings of the Audit Committee. This indicates that some of the Government departments have not been taking initiative in using the machinery created for settling the outstanding audit observations.

CHAPTER 2 : Sales Tax

2.1 Results of audit

Test check of records of sales tax conducted during the year 1998-99 revealed under-assessment/short levy/loss of revenue amounting to Rs.28495.20 lakh in 1802 cases, which broadly fall under the following categories :

Sr. No.	Category	Number of cases	Amount (in lakh of rupees)
1.	Non-levy/short levy of tax	1003	1506.90
2.	Incorrect allowance of set-off	508	1872.19
3.	Evasion of tax	4	33.90
4.	Omission to forfeit tax	23	21.32
5.	Non-levy/short levy of interest	90	195.38
6.	Other irregularities	173	1185.51
7.	Review on internal control on claims relating to branch transfers in sales tax assessments	1	23680.00
Total		1802	28495.20

During the course of the year 1998-99, the department accepted under-assessments of Rs.1072.07 lakh involved in 1151 cases, of which 91 cases involving Rs.14.65 lakh had been pointed out during 1998-99 and the rest in earlier years. Of these, department recovered Rs. 84.23 lakh.

A few illustrative cases noticed during 1998-99 and in earlier years having financial effect of Rs. 18.39 crore and a review on "Internal control on claims relating to branch transfers in sales tax assessments" involving financial effect of Rs. 236.70 crore are given in the following paragraphs :

2.2 Review on “Internal control on claims relating to branch transfers in sales tax assessments”

2.2.1 Introduction

Internal controls are intended to provide reasonable assurance for prompt and efficient service and for adequate safeguards against evasion of taxes and duties. They are meant to promote enforcement of compliance of laws, rules and departmental instructions and help in prevention and detection of frauds and other irregularities. They also help in creation of reliable financial and management information system.

Under the provisions of the Central Sales Tax Act, 1956 goods received by dealers in Maharashtra from outside the State or goods transferred to other States on stock transfer from/ to any place of their business are not liable to tax in the hands of the transferor provided they are supported by declaration in Form F/sales note alongwith evidence of despatch of such goods to substantiate the claim. For contravention of the provisions of the Act, the transferor is liable to pay tax, interest and penalty as prescribed in the State Law.

2.2.2 Organisational set-up

The Commissioner of Sales Tax, Maharashtra State, Mumbai is the head of the Sales Tax Department who is assisted by three Additional Commissioners in charge of each zone at Mumbai, Nagpur and Pune. There are sixteen divisions⁸ (excluding two enforcement divisions), each headed by a Deputy Commissioner of Sales Tax (Administration) who is assisted by Senior Assistant Commissioners, Assistant Commissioners and Sales Tax Officers.

2.2.3. Scope of Audit

With a view to verifying the adequacy of the system and procedures adopted for allowing deduction on account of transfer of goods to any other place of business of a dealer or to his agent or principal outside the State without payment of tax, a test check of assessment records for the periods from 1992-93 to 1996-97 of dealers maintained by 35 Sr. Assistant Commissioners/ Assistant Commissioners in 14 divisions⁹ out of 96 (excluding two enforcement divisions) in the State was conducted between November 1998 and May 1999.

The transactions of transfer of goods otherwise than as sale originating in the State of Maharashtra and effected to branches/ agents/principals in the States of Delhi, Gujarat, Karnataka and Uttar Pradesh and vice versa were scrutinised during the test check. The scrutiny included verification of the accounting of

⁸ Andheri, Aurangabad, Bandra, Borivali, Churchgate, Ghatkopar, Kolhapur, Mandvi, Mazgaon, Nagpur, Nariman Point, Nashik, Pune-1, Pune-2, Thane and Worli

⁹ Andheri, Aurangabad, Bandra, Borivali, Churchgate, Ghatkopar, Mandvi, Mazgaon, Nagpur, Nariman Point, Pune-1, Pune-2, Thane and Worli

transactions by branches/agents/principals in the other States. Similarly, details of transactions of transfer of goods from outside the State were collected for correlation with the relevant assessment records of the dealers in the State. The results of test check are mentioned in the succeeding paragraphs.

2.2.4. Highlights

- Excess/incorrect allowance of exemptions of Rs. 69.17 crore on account of branch transfers to 20 dealers resulted in under-assessment of Rs. 22.22 crore (including penalty of Rs. 8.40 crore and interest of Rs. 5.42 crore).

(Paragraph 2.2.5(a))

- Non/short accounting of branch transfers of Rs. 15.33 crore to 6 dealers in the State from outside the State resulted in under-assessment of Rs. 3.38 crore (including penalty of Rs. 1.32 crore and interest of Rs. 0.74 crore).

(Paragraph 2.2.5(b))

- Allowance of deductions aggregating Rs. 638.52 crore to 7 dealers on account of branch transfers without prescribed declaration/despatch proof involved revenue of Rs. 75.09 crore.

(Paragraph 2.2.5(c))

- Acceptance of invalid declarations in respect of 19 dealers resulted in non-realisation of revenue of Rs. 21.67 crore (including penalty of Rs. 7.90 crore and interest of Rs. 5.87 crore).

(Paragraph 2.2.6(a))

- Acceptance of incomplete declarations from 14 dealers resulted in non-realisation of revenue of Rs. 29.52 crore (including penalty of Rs. 11.26 crore and interest of Rs. 7.00 crore).

(Paragraph 2.2.6(b))

- Acceptance of photo copies of declarations from 6 dealers resulted in non-realisation of revenue of Rs. 4.01 crore (including penalty of Rs. 1.27 crore and interest of Rs. 1.47 crore).

(Paragraph 2.2.7)

- Allowance of inter-State sales of Rs. 251.00 crore as branch transfer in the assessments of 7 dealers resulted in under-assessment of Rs. 64.96 crore (including penalty of Rs. 25.83 crore and interest of Rs. 13.30 crore).

(Paragraph 2.2.8)

- **Allowance of deduction of Rs. 5.02 crore on account of branch transfer of goods to 3 dealers prior to their obtaining registration certificate under the Act resulted in under-assessment of Rs. 1.38 crore (including penalty of Rs. 0.50 crore and interest of Rs. 0.37 crore).**

(Paragraph 2.2.9)

- **Incorrect allowance of branch transfer of Rs. 54.29 crore to places other than those mentioned in the registration certificates in respect of 6 dealers resulted in under-assessment of Rs. 14.47 crore (including penalty of Rs. 5.43 crore and interest of Rs. 3.60 crore).**

(Paragraph 2.2.10)

- **There was no system to verify claims of transfer of goods otherwise than as sale.**

(Paragraph 2.2.11)

2.2.5 Incorrect allowance of stock transfer

Under the Central Sales Tax Act, 1956 and the Rules framed thereunder no tax is payable by a dealer on movement of goods to other States which is not by way of sale but by reason of transfer of stock to other places of his business or to his agent or principal. For claiming exemption, the dealer may furnish to the assessing authority a declaration in Form F duly filled and signed by the principal officer of the other place of business, or his agent as the case may be alongwith evidence of despatch of the goods. However, if on verification it is found that the goods had not actually moved out of the State or goods received from outside the State are not/short accounted the dealer is liable to pay taxes at the rates applicable in the State alongwith interest at the rate of two *per cent* per month and penalty not exceeding the amount of tax payable.

Non/short accounting of goods of Rs. 69.17 crore on account of branch transfers resulted in under-assessment of Rs. 22.22 crore

(a) Cross verification of assessment records of 20 dealers in 9 divisions¹⁰ of Maharashtra with the records of their principals/agents in Delhi, Gujarat, Karnataka and Uttar Pradesh revealed non/short accounting of goods by them amounting to Rs. 69.17 crore relating to the periods falling between 1992-93 and 1995-96 claimed to have been transferred outside the State against declaration in Form F. This resulted in under-assessment of Rs. 22.22 crore (including interest of Rs. 5.42 crore and penalty of Rs. 8.40 crore) as detailed below :

¹⁰ Andheri, Aurangabad, Churchgate, Ghatkopar, Mazgaon, Nagpur, Nariman Point, Pune-2 and Thane

Report No.1 (Revenue Receipts) of 2000

(Amount in lakh of rupees)									
Sr. No.	Name of commodity	No. of dealers	Name of Divisions	Destina- tion of goods	Value of goods non/short	Under- assess- ment of	Interest	Penalty	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Pressure Cooker	1	Andheri	Surat	37.43	3.90	2.80	3.90	10.60
2	Moulded Luggage	1	Auranga- bad	Bangalore	17.18	2.24	1.57	2.24	6.05
3	Lubricants	2	Churchgate and Nariman Point	Lucknow and Vadodara	56.04	5.94	4.04	5.94	15.92
4	Electric Motors	1	Ghatkopar	Bangalore	17.36	2.21	1.55	2.21	5.97
5	Glass Flared Necks	1	Ghatkopar	Bangalore	4231.67	541.06	338.28	541.06	1420.40
6	Rubber	1	Ghatkopar	Surat	32.65	3.27	1.18	3.27	7.72
7	Pharmace- uticals, Medicines	4	Mazgaon, Nariman Point and Thane	Delhi and Bangalore	493.32	29.52	21.08	29.52	80.12
8	Iron and Steel	1	Nagpur	Delhi	20.35	0.81	0.47	0.81	2.09
9	Razor Blades	2	Nariman Point	Delhi	32.92	3.53	1.96	3.53	9.02
10	Chocolates	1	Nariman Point	Bangalore	48.14	5.07	2.43	5.07	12.57
11	Fevicol	1	Nariman Point	Ghaziabad	77.55	10.08	6.05	10.08	26.21
12	Yeast	1	Nariman Point	Delhi	64.37	8.18	5.70	8.18	22.06
13	Radio, TV Set	1	Pune-2	Ahmeda- bad	1763.90	223.46	154.61	223.46	601.53
14	Edible Oil	1	Thane	Bangalore	23.03	0.35	0.31	0.35	1.01
15	Photo- copier Machine	1	Thane	Bangalore	1.44	0.27	0.23	0.27	0.77
Total :		20			6917.35	839.89	542.26	839.89	2222.04

Non/short accounting of goods received on branch transfer valued at Rs. 15.33 crore from outside the State by six dealers resulted in under-assessment of Rs. 3.38 crore

(b) In 5 divisions¹¹ sales turnover of Rs. 15.33 crore pertaining to various periods falling between 1992-93 and 1995-96 were suppressed by 6 dealers by non/short accounting of goods received from outside the State against declaration in Form F/sale notes. This resulted in under-assessment of Rs. 3.38 crore (including interest of Rs. 0.74 crore and penalty of Rs. 1.32 crore) as detailed below :

(Amount in lakh of rupees)									
Sr. No.	Name of commodity	No. of dealers	Name of Division	Place of origin	Value of goods non/short accounted	Under-assessment of tax	Interest	Penalty	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	Pan Masala, Gutkha	1	Mandvi	Kanpur	39.99	5.08	1.83	5.08	11.99
2	Soaps	1	Mazgaon	Ghaziabad	640.54	67.08	45.61	67.08	179.77
3	Pharmaceuticals	1	Nariman Point	Ankleshwar	535.60	32.14	11.57	32.14	75.85
4	Vanaspati	1	Pune-1	Ghaziabad	133.96	3.68	4.62	3.68	11.98
5	Cable	1	Thane	Vadodara	133.68	17.38	6.26	17.38	41.02
6	Rings and Pistons	1	Thane	Ghaziabad	48.79	6.34	4.56	6.34	17.24
Total :		6			1532.56	131.70	74.45	131.70	337.85

Deductions aggregating Rs. 638.52 crore allowed to 7 dealers without prescribed declaration/despatch proof involved revenue of Rs. 75.09 crore

(c) In Aurangabad, Ghatkopar and Nariman Point Divisions exemptions on account of branch transfers of goods of Rs. 638.52 crore were allowed to 7 dealers in the assessments for the years 1993-94 and 1994-95. However, there was no evidence on record including F Forms to show that the assessing officers had satisfied themselves about the actual despatch of goods before allowing the claims of exemption. The revenue involved on the transactions would amount to Rs. 75.09 crore.

¹¹ Mandvi, Mazgaon, Nariman Point, Pune-1 and Thane

2.2.6 Acceptance of invalid declarations

Acceptance of invalid/incomplete declaration for branch transfers aggregating Rs. 192.01 crore from 33 dealers resulted in non-realisation of revenue of Rs. 51.19 crore.

The Central Sales Tax (Registration and Transfer) Rules, 1957 provides that a single declaration may cover transfer of goods by a dealer to any other place of his business or to his agent or principal outside the State as the case may be, effected during a period of one calendar month. The declaration in Form F should contain full particulars of the goods, mode of transport and date on which delivery was taken by the transferee. Where the space provided in the form is not sufficient for making the entries, the particulars may be given in separate annexure(s) and attached to the form after making mention of it in the form and every such annexure is to be signed by the person authorised to sign the declaration in Form F.

(a) In 7 divisions¹², the assessment records of 19 dealers for periods falling between 1992-93 and 1995-96, revealed (November 1998 and January 1999) that transfer of goods of Rs. 80.46 crore were supported by declarations in Form F which covered transactions for periods ranging from 2 to 12 months. As such, these declarations were invalid and the turnover was liable to tax under the local Act. This resulted in under-assessment of Rs. 21.67 crore (including interest of Rs. 5.87 crore and penalty of Rs. 7.90 crore).

(b) In 7 divisions¹³ transfers of goods valued at Rs. 111.55 crore were exempted from payment of tax in the assessments of 14 dealers for the periods falling between 1992-93 and 1995-96 on the basis of declarations which either did not contain prescribed particulars such as names of transferors/transferees, their registration certificate numbers with effective date, invoice number and date, railway receipt numbers, quantity of goods, particulars of despatch and acknowledgement thereof etc., (value Rs. 62.90 crore) or were supported by annexures (value Rs. 48.65 crore) not signed or signed by a person other than the person authorised to sign the declaration and hence invalid. Acceptance of invalid declarations resulted in non-realisation of revenue of Rs. 29.52 crore (including penalty of Rs. 11.26 crore and interest of Rs. 7.00 crore).

2.2.7 Incorrect acceptance of photo copies of declarations

Acceptance of photo copies of declarations for branch transfers of Rs. 28.81 crore involving six dealers resulted in under-assessment of Rs. 4.01 crore

Under the Central Sales Tax Act, 1956 and the Rules framed thereunder a registered dealer, who claims exemption from payment of tax under the Act, is required to produce before the assessing authority the 'original' and

¹² Andheri, Aurangabad, Ghatkopar, Nariman Point, Pune-2, Thane and Worli.

¹³ Andheri, Aurangabad, Bandra, Ghatkopar, Nariman Point, Pune-2 and Thane.

'duplicate' of the declaration in Form F. The assessing authority may retain the original of such declaration. Further, where a duly completed form of declaration furnished by the purchasing dealer is lost or stolen, then the selling dealer may furnish an indemnity bond in the prescribed form to the notified authority.

In 6 divisions,¹⁴ photo copies of duplicate/counterfoil of declarations (instead of the original) in Form F furnished by 6 dealers for goods valued at Rs. 28.81 crore transferred to branches /agents outside the State during the years 1992-93, 1993-94 and 1994-95 were accepted without any indemnity bond. This resulted in non-realisation of revenue of Rs. 4.01 crore (including penalty of Rs. 1.47 crore and interest of Rs. 1.27 crore).

2.2.8 Inter-State sales treated as branch transfers

Allowance of inter-State sales of Rs. 251 crore as branch transfers in the assessment of 7 dealers resulted in under-assessment of Rs. 64.96 crore

It has been judicially held¹⁵ by the Honourable Supreme Court that movement of goods from head office to branches in pursuant of specific purchase orders received by the branches amounts to inter-State sales of the head office and are liable to tax.

Under the Central Sales Tax Act, 1956 inter-State sales of declared goods not supported by valid declarations, are liable to tax at twice the rate and goods other than declared goods at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods under the State act whichever is higher.

In 4 divisions¹⁶ 7 dealers were allowed incorrect deductions from the turnover of sales on account of branch transfers in respect of goods valued at Rs. 251.00 crore despatched to the branches during the periods falling between 1992-93 and 1996-97 against specific purchase orders received by the branches. The incorrect exemption resulted in under-assessment of Rs. 64.96 crore (including penalty of Rs. 25.83 crore and interest of Rs. 13.30 crore) as follows :

¹⁴ Aurangabad, Bandra, Ghatkopar, Nariman Point, Pune-2 and Worli

¹⁵ Sahney Steel and Press Works Limited and Another vs Commercial Tax Officer and Others (60 STC 301)

¹⁶ Borivali, Ghatkopar, Mazgaon, Nagpur

Sr. No.	Name of commodity	No. of dealers	Name of Division(s)	Transfer allowed	(Amount in lakh of rupees)			Total
					Under-assessment of tax	Interest	Penalty	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Auto Parts	1	Borivali	618.25	92.74	66.77	92.74	252.25
2.	Laminated Sheets	1	Borivali	99.44	11.93	6.92	11.93	30.78
3.	Paints and Enamels	1	Ghatkopar	2063.00	247.56	168.34	247.56	663.46
4.	Aluminium	1	Ghatkopar	8192.00	819.20	540.01	819.20	2178.41
5.	Chemicals	2	Ghatkopar and Mazgaon	14053.48	1405.34	545.06	1405.34	3355.74
6.	Iron and Steel	1	Nagpur	73.35	5.87	3.40	5.87	15.14
Total :		7		25099.52	2582.64	1330.50	2582.64	6495.78

2.2.9 Transfers of goods to agents prior to registration

Deduction of Rs. 5.02 crore was incorrectly allowed to 3 dealers resulting in under-assessment of Rs. 1.38 crore

Under the provisions of the Central Sales Tax Act, 1956 and the Rules made thereunder, every dealer who carries on business on behalf of his principal or his agent, outside the State, is required to obtain a registration certificate under the Act.

In Aurangabad and Mumbai, 3 dealers were allowed deductions aggregating Rs. 5.02 crore from the turnover of sales on account of goods consigned to agents outside the State prior to their obtaining certificate of registration. This resulted in under-assessment of Rs. 1.38 crore (including penalty of Rs. 0.50 crore and interest of Rs. 0.37 crore).

2.2.10 Incorrect allowance of transfer of goods to places not included in the registration certificate.

Branch transfers aggregating Rs. 54.29 crore incorrectly allowed to 6 dealers resulted in under-assessment of Rs. 14.47 crore

Under the Central Sales Tax Act, 1956 and the Rules made thereunder a dealer seeking registration is required to specify in his application for registration, the list of places of business in the other State(s) alongwith the address of every such place and particulars of registration under the Central Sales Tax Act.

In 5 divisions,¹⁷ it was noticed (December 1998) that six dealers were allowed exemption from payment of tax on branch transfers amounting to

¹⁷ Aurangabad, Borivali, Nariman Point, Worli and Pune-2.

Rs. 54.29 crore effected during the periods falling between 1991-92 and 1994-95 to places other than those specified in the registration certificate. This resulted in under-assessment of Rs. 14.47 crore (including penalty of Rs. 5.43 crore and interest of Rs. 3.60 crore).

2.2.11 System deficiency

The Commissioner of Sales Tax had prescribed (May 1983) a system of verifying the authenticity of claims of sales and purchases within the State by issue of cross check memos. However, the system is not extended to verifying the claims of inter-State transactions. Consequently, claims of inter-State transactions are admitted on the basis of declarations furnished by the claimant dealers. No register has been prescribed by Government/department to be maintained by the assessing authorities for recording the volume of transactions of branch transfers. Further, despite instructions, issued in December 1985 by the Commissioner of Sales Tax requiring dealers to furnish consolidated details of all transfers and consignments alongwith original F form for each month or quarter exceeding Rs. 1.00 lakh no details were available on record. Absence of a system could result in irregular/false transactions being admitted by the assessing officers leading to loss of revenue.

Test check revealed that absence of a system to verify claims of transfer of goods otherwise than as sale resulted in the irregularities detailed in the foregoing paragraphs as under :

Sr. No.	Type of defect	Reference to para	Number of cases	Amount involved (In crore of rupees)
1	Non/short accounting of goods on account of branch transfer	2.2.5 (a)	20	22.22
2	Non/short accounting of goods received on branch transfer from outside the State	2.2.5 (b)	6	3.38
3	Allowance of deduction without prescribed declaration/despatch proof	2.2.5 (c)	7	75.09
4	Acceptance of invalid declarations	2.2.6	33	51.19
5	Incorrect acceptance of photo copies of declarations	2.2.7	6	4.01
6	Inter-State sales treated as branch transfers	2.2.8	7	64.96
7	Transfer of goods to agents prior to their registration	2.2.9	3	1.38
8	Incorrect allowance of transfer of goods to places not included in the registration certificate	2.2.10	6	14.47
Total :			88	236.70

The above points were reported to the department and Government in July 1999; their reply has not been received (November 1999).

2.3 Incorrect grant of set-off

Incorrect set-off to 212 dealers resulted in under-assessment of Rs. 11.43 crore

(a) According to the Bombay Sales Tax Act, 1959 and Rule 42 I a registered dealer was entitled to full set-off with effect from 1 September 1990 upto 30 September 1995 of the purchase tax levied on certain goods which were used by him in the manufacture of taxable goods for sale within the State. Unlike in the Rules 42 E, 41 E and 41 F there was no provision in Rule 42 I to allow set-off if the taxable goods so manufactured were used in the course of inter-State trade or in the course of export out of the territory of India. Thus, in the absence of provision in Rule 42 I, set-off of purchase tax levied under Section 13 AA was not available if the manufactured goods were sold in the course of inter-State trade or exported out of the country. Further, interest is also leviable on the amount due.

During the course of audit of fourteen divisions (between December 1997 and February 1999) it was observed that while assessing 212 dealers (between December 1995 and March 1998) the assessing officers allowed set-off of tax paid on purchases incorrectly in respect of manufactured goods sold in the course of inter-State trade or commerce or in the course of export outside the State during the assessment periods falling between 1 April 1990 and 31 March 1996 resulting in under-assessment of Rs. 1143.15 lakh (including interest of Rs. 368.12 lakh) as per details given below :

Sr. No.	Name of the division	No. of dealers	Assessment year Month of assessment	(Amount in lakh of rupees)		Excess Set-off allowed	Interest	Total
				Set-off of purchase tax				
				Allowed	Allowable			
1	Andheri	10	Between 1991-92 and 94-95 Between January 1997 and March 1998	19.99	4.43	15.56	5.22	20.78
2	Aurangabad	2	1994-95 January 1998 and February 1998	3.21	0.65	2.56	1.75	4.31
3	Bandra	16	1993-94 and 94-95 Between May 1997 and March 1998	146.36	52.29	94.07	41.81	135.88

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Sr. No.	Name of the division	No. of dealers	Assessment year Month of assessment	Set-off of purchase tax		Excess Set-off allowed	Interest	Total
				Allowed	Allowable			
				(Amount in lakh of rupees)				
4	Borivali	8	<u>1993-94 and 94-95</u> Between June 1997 and March 1998	21.47	9.63	11.84	5.20	17.04
5	Churchgate	30	<u>1991-92 and 95-96</u> Between December 1995 and March 1998	261.19	100.89	160.30	77.39	237.69
6	Ghatkopar	13	<u>1993-94 and 94-95</u> Between March 1997 and March 1998	72.23	30.21	42.02	25.52	67.54
7	Kolhapur	4	<u>1992-93 and 94-95</u> Between April 1997 and March 1998	21.97	9.85	12.12	7.51	19.63
8	Mazgaon	7	<u>1992-93 and 94-95</u> Between March 1997 and March 1998	18.76	8.40	10.36	4.84	15.20
9	Mandvi	15	<u>1993-94 and 95-96</u> Between April 1997 and March 1998	121.13	35.58	85.55	51.54	137.09
10	Nashik	13	<u>1993-94 and 94-95</u> Between January 1997 and March 1998	32.94	14.26	18.68	3.55	22.23
11	Nariman point	28	<u>1990-91 and 95-96</u> Between November 1996 and March 1998	112.04	43.59	68.45	27.12	95.57
12	Pune	26	<u>1991-92 and 94-95</u> Between August 1996 and March 1998	209.32	85.85	123.47	46.99	170.46
13	Thane	12	<u>1992-93 and 94-95</u> Between May 1997 and March 1998	19.59	9.27	10.32	7.21	17.53

Sr. No.	Name of the division	No. of dealers	Assessment year Month of assessment	Set-off of purchase tax		Excess Set-off allowed	Interest	Total
				Allowed	Allowable			
				(Amount in lakh of rupees)				
14	Worli	28	Between 1992-93 and 95-96 Between February 1996 and March 1998	188.80	69.07	119.73	62.47	182.20
Total :		212		1249.00	473.97	775.03	368.12	1143.15

It has been judicially held¹⁸ that sales in the course of inter-State trade or commerce or in the course of export out of India are not sales within the State.

On these cases being pointed out (between December 1997 and February 1999) the department in 24 cases accepted the under-assessment and raised additional demand of Rs. 74.04 lakh. However, the Commissioner of Sales Tax issued (November 1999) a trade circular stating that export is a sale within the State as per an earlier judgement¹⁹ of the supreme court. The contention of the department was not tenable in the absence of specific explanation of the term sale and/or export in Rule 42 I.

The cases were reported to Government between March 1999 and May 1999; their reply has not been received (November 1999).

Under-assessment due to incorrect grant of set-off amounted to Rs. 289.17 lakh in 45 cases

(b) Under the provisions of the Bombay Sales Tax Act, 1959 and the rules made thereunder, the goods covered by Entry 29 of Part I of Schedule 'C' are taxable at the rate of 4 per cent at the first point of sale. Under the provisions in Section 13 AA of the Act, when such goods are purchased for purposes other than resale, purchase tax at 2 per cent is also leviable. Under Rule 41 F, a manufacturer is entitled to full set-off of taxes paid on purchases of non-ferrous metal (covered by Entry 29 of Part I of Schedule 'C') used in the manufacture of taxable goods (other than waste goods or scrap or by products) also covered by Entry 29 of Part I of Schedule 'C' to the Act. Similarly, a manufacturer is also entitled to set-off under Rule 42 I of the purchase tax levied under Section 13 AA provided the goods are used in the manufacture of taxable goods for sale. However, as per condition (4) of Rule 45 no claim for

¹⁸ State of Orissa V/s. Minerals and Metals Trading Corporation (95 STC P-80)
State of Orissa V/s. Joharimal Gajanand (95 STC P-93)

¹⁹ Onkarlal Nandlal vs State of Rajasthan (60 STC 314)

set-off in respect of the same purchases shall be granted under more than one rule. Besides, interest is also leviable as per provision of the Act.

It was noticed (between January 1998 and February 1999) that in assessing (between November 1993 and March 1998) 45 dealers in 13 divisions for the periods falling between 1 September 1990 and 31 March 1996, set-off was allowed twice under Rule 41 F and 42 I on the same purchases in contravention of Rule 45(4) of the Bombay Sales Tax Rules 1959, resulting in under-assessment of Rs. 289.17 lakh (including interest of Rs. 92.77 lakh) as detailed in the following table :

Sr. No.	Name of the division	No. of dealers	Assessment year Month of assessment	Set-off of purchase tax		Excess Set-off allowed	Interest	Total
				Allowed	Allowable			
				(Amount in lakh of rupees)				
1	Mandvi	10	Between <u>1993-94 and 95-96</u> Between September 1996 and March 1998	156.28	107.34	48.94	18.31	67.25
2	Andheri	4	<u>1993-94 and 94-95</u> Between August 1997 and March 1998	95.28	62.23	33.05	23.11	56.16
3	Mazgaon	6	Between <u>1990-91 and 94-95</u> Between November 1993 and February 1998	78.19	52.34	25.85	19.31	45.16
4	Churchgate	9	Between <u>1993-94 and 95-96</u> Between October 1996 and January 1998	65.20	42.20	23.00	12.98	35.98
5	Ghatkopar	2	<u>1993-94 and 94-95</u> Between April 1996 and March 1998	30.51	18.46	12.05	8.85	20.90
6	Nashik	1	<u>1994-95</u> October 1997	57.81	37.37	20.44	--	20.44
7	Thane	4	<u>1993-94 and 94-95</u> Between June 1997 and February 1998	48.64	32.97	15.67	1.26	16.93
8	Pune	3	Between <u>1992-93 and 94-95</u> Between August 1997 and January 1998	25.98	16.50	9.48	6.81	16.29

Sr. No.	Name of the division	No. of dealers	Assessment year Month of assessment	Set-off of purchase tax		Excess Set-off allowed	Interest	Total
				Allowed	Allowable			
				(Amount in lakh of rupees)				
9	Borivali	1	1994-95 June 1997	10.52	6.92	3.60	1.37	4.97
10	Worli	2	1994-95 and 95-96 Between March 1996 and December 1997	6.72	4.60	2.12	0.03	2.15
11	Kolhapur	1	1992-93 and 94-95 August 1995 and October 1996	2.36	1.53	0.83	0.46	1.29
12	Nariman point	1	1993-94 March 1998	3.00	2.00	1.00	--	1.00
13	Bandra	1	1994-95 August 1997	0.95	0.58	0.37	0.28	0.65
Total :		45		581.44	385.04	196.40	92.77	289.17

On these cases being pointed out (between January 1998 and February 1999) the department accepted under-assessment in 11 cases and raised additional demand of Rs. 80.00 lakh. The action taken in the remaining cases and report on recovery have not been received (November 1999).

The cases were reported to Government between March 1999 and June 1999; their reply has not been received (November 1999).

2.4 Short levy of central sales tax

The State Government by notifications (between June 1981 and June 1992) directed that the tax payable on sales in the course of inter-State trade or commerce of aluminium sheets, notified chemicals, readymade garments and motor vehicles shall be leviable at four *per cent*. The rate of tax on sale of motor cars and taxi cabs having engine capacity within the range of 1050 cc and 1550 cc was further reduced to two *per cent* with effect from 1 November 1994.

A test check conducted between August 1997 and May 1999 revealed that while assessing dealers in Mumbai, Navi Mumbai and Pune for the periods falling between 1992-93 and 1996-97, central sales tax on inter-State sales was levied at four *per cent* on sales aggregating Rs. 1061.00 crore of chemicals, readymade garments, aluminium sheets and at 4 *per cent* and 2 *per cent* on sales of motor vehicles even though they were not supported by the prescribed

declaration. Since the sales were not supported by declaration they would have normally been taxed at ten *per cent* but for the clarification of the Commissioner of Sales Tax. The potential short levy of central sales tax on the sales amounted to Rs. 65.54 crore as follows :

Sr. No.	Commodity	No. of dealers	Inter-State sales	(Amount in crore of rupees)		Short levy
				Central sales tax Leviable	Levied	
1.	Motor Vehicles	11	490.80	48.80	17.47	31.33
2.	Chemicals	3	475.40	47.54	19.02	28.52
3.	Readymade Garments	12	3.22	0.32	0.13	0.19
4.	Aluminium Sheets	1	91.58	9.16	3.66	5.50
Total :		27	1061.00	105.82	40.28	65.54

On being pointed out, the assessing officers stated that tax was levied as per the notifications and instructions of the Commissioner of Sales Tax that declaration in Form C will not be required for inter-State sales covered by such notifications . This view was also confirmed by Government (May 1998). The contention of the department and Government is not tenable as similar notification dispensing with the requirement of Form C issued by the State of Rajasthan was held²⁰ by the Supreme Court to be void as it was against the policy of the Central Sales Tax Act, 1956. It was also apprehended by the Supreme Court that dispensing with the requirement of furnishing declaration in Form 'C' had the effect of facilitating evasion of tax. The Department of Revenue, Ministry of Finance of the Government of India stated (April 1999) that dispensation with the requirement of furnishing declaration in Form 'C' was not in consonance with the provisions of the Central Sales Tax Act, 1956.

The matter was reported to the Government in June 1999; their reply has not been received (November 1999).

2.5 Non-levy of tax

The Bombay Sales Tax Act, 1959 provides that the sale of precious stones within the State when sold to an unregistered dealer or to a registered dealer for the purpose other than resale will be the last point of sale at which the

²⁰ Shri Digvijay Cement Company v/s State of Rajasthan and others (106 STC 11)

goods shall be taxed. The expression 'last point of sale' means a point of sale when the sale is effected within the State of Maharashtra (other than sale in the course of export of the goods out of such territory). When a dealer purchases precious stones for resale within the State, he can postpone the levy of tax to the next point of sale by furnishing a prescribed declaration. In the event of breach of declaration, the purchasing dealer shall be liable to purchase tax. Additional tax and interest are also leviable as per the Act. Sales in the course of export is not sales within the State²¹.

In Mumbai, it was noticed (between January 1998 and January 1999) that while assessing (between January 1996 and March 1998) 20 dealers for the period 1993-94 the assessing officers failed to levy purchase tax on the purchase of diamonds valued at Rs. 54.53 crore supported by declaration which they sold in the course of export instead of resale within the State. This resulted in non-levy of additional tax of Rs. 78.63 lakh and interest of Rs. 61.65 lakh after considering the set-off admissible as per rules.

On being pointed out in audit (between January 1998 and January 1999), in one case the department reassessed (August 1998) the dealer raising additional demand of Rs. 0.62 lakh. However, the Commissioner of Sales Tax issued (November 1999) a trade circular stating that export is a sale within the State as per an earlier judgement²² of the supreme court. The contention of the department is not tenable as the expression last point of sale means sale effected within the State of Maharashtra other than sale in the course of export of goods out of such territory.

The matter was reported to Government in April 1999 and May 1999; their reply has not been received (November 1999).

2.6 Non-recovery of sales tax incentives availed of by closed units

Sales tax incentives of Rs. 127.51 lakh was not recovered from 16 closed units

The Bombay Sales Tax Act, 1959 and the Rules made thereunder provide for various package schemes to an industrial unit, to whom an eligibility certificate and entitlement certificate is issued by the competent authorities. Such an unit is eligible for sales tax incentives such as exemption/deferment of sales tax, purchase tax and central sales tax on purchase of raw material and/or on sales of finished products during the period covered by the certificate subject to terms and conditions specified in the schemes. If the eligible unit sells or disposes of the assets or closes the unit or continues to remain below normal production or the registration certificate is cancelled during the

²¹ State of Orissa vs Minerals and Metals Trading Corporation Ltd (95 STC P-80)

²² Onkarlal Nandlal vs State of Rajasthan (60 STC 314)

operative period of agreement, the sales tax incentives are recoverable forthwith alongwith interest/penalty.

It was noticed (between June 1998 and January 1999) that 16 industrial units in 5 districts²³ which closed down their business or their registration certificates were cancelled during the operative period of agreement (between December 1989 and April 1996) had availed sales tax incentives aggregating Rs. 127.51 lakh for various periods falling between March 1987 and February 1995, but the same were not recovered by the department.

The matter was reported to the department and Government in June 1999; their reply has not been received (November 1999).

2.7 Short levy of tax due to application of incorrect rate of tax

Under the Bombay Sales Tax Act, 1959 the rate of tax leviable on any commodity is determined with reference to the relevant entry in the Schedule to the Act. Besides, turnover tax, additional tax, interest and penalty are also leviable under the provisions of the Act. Further, under the Central Sales Tax Act, 1956 tax on sales in the course of inter-State trade or commerce supported by valid declaration is leviable at the rate of 4 per cent. Inter-State sales not supported by declaration are liable to tax at twice the rate applicable to sales within the State in respect of declared goods and in respect of goods other than declared goods at 10 per cent or at the rate of tax applicable to sale or purchase of such goods inside the State, whichever is higher.

It was noticed (between October 1995 and March 1998) that in assessing (between July 1994 and March 1998) 16 dealers in nine divisions due to application of incorrect rate of tax, there was under-assessment of Rs. 65.31 lakh (including turnover tax of Rs. 2.15 lakh, additional tax of Rs. 3.02 lakh, interest of Rs. 28.80 lakh and penalty of Rs. 4.66 lakh) as shown in the following table :

(Amount in lakh of rupees)										
Sr. No.	Name of Division	Assessment year/ Month of assessment	Name of commodity	Value of goods	Nature of irregularity	Tax short levied	T.O Tax	Addl. Tax	Interest /Penalty	Total
1	Mandvi (i)	1991-92 and 1992-93 March 1995 and September 1995	Pan masala, Gutkha	31.07	Sales were allowed as tax free instead of being subjected to tax at 10 per cent	3.11	0.39	0.37	2.54 3.87	10.28

²³ Ahmednagar, Aurangabad, Ratnagiri, Satara and Thane

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(Amount in lakh of rupees)										
Sr. No.	Name of Division	Assessment year/ Month of assessment	Name of commodity	Value of goods	Nature of irregularity	Tax short levied	T.O Tax	Addl. Tax	Interest /Penalty	Total
		(ii) 1992-93 and 1993-94 July 1995 and March 1996	Perfume	26.45	Sales subjected to tax at the rate of 4 per cent instead of at 15 per cent	2.39	--	0.29	<u>1.31</u> --	3.99
		(iii) 1990-91 and 1991-92 July 1994 and March 1995	Water proofed cotton canvas	97.14	Sales within the State of Rs. 76.95 lakh and inter-State sales of Rs.19.19 lakh were treated as cloth and allowed tax free instead of subjecting them to tax at 8 per cent and 10 per cent respectively	7.23	0.88	0.68	<u>11.22</u> 0.21	20.22
2	Worli	(i) 1994-95 and 1995-96 September 1997	Lift parts	16.28	Sales subjected to tax at the rate of 10 per cent instead of at 15 per cent	0.43	--	0.04	<u>0.21</u> --	0.68
		(ii) 1993-94 March 1997	Plastic stands	19.79	Sales taxed at the rate of 8 per cent instead of at 10 per cent	0.40	--	0.04	<u>0.32</u> --	0.76
3	Bandra	(i) 1992-93 1993-94 1994-95 and 1995-96 June 1995, November 1995 and January 1997	Food and non-alcoholic drinks	43.55	Sales treated as sales by public restaurant and taxed at lumpsum rate under slab system instead of at 10 per cent	1.91	0.48	0.31	<u>1.11</u> 0.21	4.02
		(ii) 1992-93 February 1996	Electronic systems	23.97	Sales subjected to tax at 4 per cent instead of at 10 per cent	1.44	--	0.17	<u>1.13</u> --	2.74
4	Ghatkopar	(i) 1992-93 September 1995	T.V. cases and speaker boxes	15.99	Sales taxed at the rate of 4 per cent instead of at 10 per cent	0.96	--	0.11	<u>0.65</u> --	1.72
		(ii) 1993-94 July 1996	Food and non-alcoholic drinks	31.89	Sales subjected to tax on lumpsum basis instead of at the rate of 8 per cent despite turnover having exceeded the prescribed limit in previous year	0.09	0.40	0.30	<u>0.82</u> 0.02	1.63
5	Thane	1993-94 and 1994-95 September 1997	Vacuum cleaners and massage pillows	12.95	Tax levied at 6 per cent and 4 per cent instead of at 15 per cent and 10 per cent on sales of vacuum cleaners and massage pillows respectively	0.82	--	--	<u>0.36</u> --	1.18
6	Auranga- bad	1993-94 and 1994-95 March 1996	PVC Pipes	31.26	Sales subjected to tax at the rate of 2 per cent instead of at 10 per cent	2.50	--	0.37	<u>2.65</u> --	5.52
7	Pune	(i) 1992-93 June 1996	PVC hose pipes	11.13	Sales taxed at the rate of 2 per cent instead of at 8 per cent	0.67	--	0.08	<u>0.94</u> --	1.69

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(Amount in lakh of rupees)										
Sr. No.	Name of Division	Assessment year/ Month of assessment	Name of commodity	Value of goods	Nature of irregularity	Tax short levied	T.O Tax	Addl. Tax	Interest /Penalty	Total
		(ii) 1992-93 1993-94 and 1994-95 March 1997	Electronic equipments, systems & parts	16.11	Sales subjected to tax at the rate of 4 per cent instead of at 10 per cent	0.99	--	0.11	1.57 0.01	2.68
8	Kolhapur	(i) 1992-93 and 1993-94 August 1996	Turkey red oil (chemical)	8.51	Tax levied at 4 per cent instead of at 10 per cent on sales	0.51	--	0.02	0.57 0.02	1.12
		(ii) 1992-93 and 1993-94 March 1997	Electronic voltage stabilizers	20.45	Tax levied at 4 per cent instead of at 10 per cent on sales	1.08	--	0.13	1.25 0.02	2.48
9	Nagpur	1993-94 May 1997	Scrap of nylon tyres, batteries, main shafts etc.	30.12	Tax levied at 4 per cent instead of at 10 per cent	2.15	--	--	2.15 0.30	4.60
Total :						26.68	2.15	3.02	28.80 4.66	65.31

On being pointed out in audit (between October 1995 and March 1998) the department raised additional demand of Rs. 51.04 lakh (between January 1998 and April 1999) against 14 dealers. Report on recovery in these cases and action taken in the remaining cases have not been received (November 1999).

The cases were reported to Government between March 1999 and July 1999; their reply has not been received (November 1999).

2.8 Non-levy of turnover tax and additional tax

Under the provisions of the Bombay Sales Tax Act, 1959 every dealer whose turnover of sales/purchases after permissible deductions exceeded Rs. 12 lakh in a year was liable to turnover tax at the rate of one and quarter per cent upto 30 September 1995. In case, the turnover exceeded Rs. 1 crore in any year, the rate of tax was one and half per cent with effect from 1 April 1993. Though the Government exempted country liquor from sales tax with effect from 1 April 1993 no exemption was given from turnover tax. Besides, additional tax at prescribed rate was also leviable on sales tax/purchase tax where the turnover exceeded Rs. 10 lakh. The dealer is liable to pay interest on the amount of tax due.

It was noticed (between May 1997 and May 1998) that while assessing (between January 1996 and March 1998) 4 dealers of Ghatkopar, Nashik and Pune divisions for the assessment periods falling between 1 April 1990 and 31 March 1995, though the gross turnover of sales/purchases exceeded the prescribed limits for levy of turnover tax/additional tax, the same were not levied. This resulted in under-

assessment of Rs. 16.73 lakh including interest of Rs. 4.15 lakh as shown in the following table :

Sr. No.	Name of Division	Assessment year/ Month of assessment	Name of commodity	Value of goods	Nature of irregularity	(Amount in lakh of rupees)			Total
						Short levied		Interest	
						T.O. tax	Addl. Tax		
1	Nashik	1994-95 February 1998	PVC pipes	2666.10	Additional tax at 15 per cent not levied on tax of Rs. 53.32 lakh treating the goods as agricultural implements	--	8.00	--	8.00
2	Ghatkopar	1993-94 March 1998	Country liquor	248.27	Turnover tax at 1.5 per cent was not levied on sales	3.72	--	3.68	7.40
3	Pune	1990-91 1991-92 1992-93 and 1993-94 January 1996	Water treatment plants	20.34	Turnover tax and additional tax were not levied though the turnover had exceeded the prescribed limits	0.29	0.17	0.29	0.75
4	Pune	1993-94 and 1994-95 October 1996	Edible oil, Vanaspati etc.	40.25	Additional tax on purchase tax of Rs. 3.37 lakh not levied	--	0.40	0.18	0.58
Total :						4.01	8.57	4.15	16.73

On being pointed out, the department revised/reassessed (between December 1998 and March 1999) the assessments in respect of three dealers at Sr. 2 to 4 and raised additional demand of Rs. 8.73 lakh. In respect of Sr. 1 the assessing authority stated (May 1998) that PVC pipes are agricultural implements falling under Schedule Entry C-I-18. The reply was not acceptable as pipes of all kinds were excluded from the said entry with effect from 1 April 1994 and were covered by Entry 58 of part II of Schedule 'C' which attracts additional tax. Further report on action taken and recovery of the demand have not been received (November 1999).

The cases were reported to Government in May 1999 and June 1999; their reply has not been received (November 1999).

2.9 Evasion of tax

Under the provisions of the Central Sales Tax Act, 1956 a sale or purchase of goods shall be deemed to take place in the course of import of the goods into the territory of India only if the sale or purchase has either occasioned such import of the goods into the territory of India or is effected by transfer of documents of title to the goods before the goods have actually crossed the customs frontiers of India and is exempt from levy of tax. However, such purchase is taxable at the prescribed rate in the hands of the purchasing dealer on its sale under the provisions of the Bombay Sales Tax Act, 1959.

In Mumbai, four dealers of Mandvi and Nariman Point Divisions were allowed (March 1996 and November 1997) deductions amounting to Rs. 148.86 lakh from the turnover of sales in the course of import by transfer of documents of title to the goods before the goods had actually crossed the customs frontiers of India (high sea sales) in the assessments for the years falling between 1989-90 and 1994-95. However, on cross verification by audit (March 1999) of the assessment records of the purchasing dealers also at Mumbai, it was noticed that the purchases were not accounted for in their books of accounts resulting in evasion of tax. The total under-assessment amounted to Rs. 33.90 lakh (including interest of Rs. 8.14 lakh and penalty of Rs. 12.88 lakh).

The matter was reported to Government/Department in July 1999; their reply has not been received (November 1999).

2.10 Non-levy of penalty

Under the provisions of the Central Sales Tax Act, 1956 and the Rules made thereunder, every registered dealer is entitled to purchase in the course of inter-State trade or commerce goods included in his registration certificate by payment of tax at the concessional rate of 4 *per cent*, provided, he furnishes a declaration in form 'C' to the selling dealer stating that the goods purchased by him are intended for resale/use in manufacture/processing of goods for sale/use in mining/generation and distribution of power or in packing of goods for sale/resale. For failure to use the goods so purchased for purposes specified in the declaration the assessing authority may impose upon him by way of penalty, a sum not exceeding one and a half times the tax, which would have been leviable under the Act.

It was noticed (December 1997) that in assessing (February 1997) a dealer in Nashik Division for the periods falling between 18 December 1992 and 31 March 1995 purchases of goods of Rs. 1.95 crore supported by declarations in form 'C' were not used for the purpose specified in the declaration but consumed in the maintenance of factory and the factory was sold thereafter. This resulted in contravention of the recitals of declaration rendering the dealer liable to penalty of Rs. 17.57 lakh.

On being pointed out (December 1997) the department revised (August 1998) the assessments raising additional demands aggregating Rs. 17.57 lakh. Report on recovery has not been received (November 1999).

The matter was reported to Government in April 1999; their reply has not been received (November 1999).

2.11 Incorrect determination of taxable turnover

Under the Bombay Sales Tax Act, 1959 the premium received on sales/surrender of REP licence/exim scrips etc., is taxable at the rate of 4 *per cent.* Besides, turnover tax, additional tax and interest are also leviable.

It was noticed (between December 1997 and May 1998) that while assessing three dealers in Nariman point, Borivali and Ghatkopar Divisions, the assessing officers did not include premium of Rs. 62.12 lakh received during the years falling between 1991 and 1995 on account of sales/surrender of REP licence/exim scrips in the turnover of sales resulting in under-assessment of Rs. 6.01 lakh (including interest of Rs. 3.42 lakh).

On being pointed out (between December 1997 and May 1998) the department raised (September 1998) additional demand of Rs. 0.60 lakh in one case. Action taken in the remaining cases and report on recovery have not been received (November 1999).

The matter was reported to the department and Government in March 1999; their reply has not been received (November 1999).

**CHAPTER 3 : State Excise, Taxes on Motor
Vehicles and Stamp Duty and Registration Fees**

SECTION A

STATE EXCISE

3.1 Results of audit

Test check of records relating to State Excise conducted during the year 1998-99 revealed short levy of excise duty, licence fee *etc.*, amounting to Rs.17574.98 lakh in 178 cases, which broadly fall under the following categories :

Sr. No.	Category	Number of cases	Amount (in lakh of rupees)
1.	Short recovery of licence fee/ privilege fee	69	26.72
2.	Non-recovery/short recovery of supervision charges/bonus	50	4.99
3.	Other irregularities	28	4.32
4.	Non-levy/short levy of excise duty	30	0.64
5.	Review on "Working of Distilleries in Maharashtra"	1	17538.31
Total		178	17574.98

During the course of the year 1998-99, the department accepted under-assessment *etc.*, in 185 cases involving Rs.34.32 lakh of which 61 cases involving Rs.7.80 lakh had been pointed out during 1998-99 and the rest in earlier years and recovered Rs. 0.98 lakh. A few illustrative cases noticed during 1998-99 involving Rs.18.27 lakh and a review on "Working of Distilleries in Maharashtra" involving Rs. 161.38 crore are given in the following paragraphs :

3.2 Review on “Working of distilleries in Maharashtra”

3.2.1 Introduction

Levy and collection of excise duty on manufacture, possession, purchase and sale of spirit in the State is governed by the Bombay Prohibition Act, 1949 and the rules made thereunder.

Spirit is manufactured in the distilleries mainly from molasses, a by-product obtained in the process of manufacture of sugar.

3.2.2 Organisational set-up

The Commissioner of State Excise is the head of the Excise department who exercises overall control on the working of distilleries/manufactories²⁴ including administration of various fiscal measures and enjoys quasi-judicial appellate and revisionary powers under the Act. The Commissioner of State Excise at Mumbai is assisted in the discharge of his function by two Joint Commissioners, one Director (vigilance), one Deputy Director (computer) and four Deputy Commissioners. At the district level the provisions of the Act and Rules are administered by the Superintendents of State Excise working under the Regional Deputy Commissioners²⁵. The Excise supervision in each distillery is entrusted to the Excise Officer posted there.

3.2.3 Scope of audit

With a view to ascertaining whether the yield of spirit from molasses is commensurate with the prescribed standard, manufacture of alcohol and the wastages/losses are as per the provisions of law and the various fees are levied and collected at the prescribed rates, excise records for the period from 1993-94 to 1997-98 maintained by the excise officers incharge of 18 distilleries, 13 manufactories, 3 breweries and 3 wineries out of a total of 58 distilleries, 42 manufactories, 10 breweries and 8 wineries were test-checked between November 1998 and May 1999. The findings in audit are mentioned in the succeeding paragraphs :

3.2.4 Highlights

- **Storage of 10616 M.Ts. of molasses in kutchha pits rendered it unfit for distillation resulting in loss of revenue of Rs. 47.01 crore.**

{Paragraph 3.2.6}

²⁴ Manufactory means the portion of distillery premises which is set apart for the manufacture of potable liquor

²⁵ Aurangabad, Mumbai, Nagpur and Pune

- Shortfall of 231 lakh proof litres in the yield of spirit based on the sugar content in the molasses and as per standard norm of minimum yield resulted in loss of revenue of Rs. 108.87 crore.

{Paragraph 3.2.7 and 3.2.8}

- Transport fee of Rs. 1.35 crore was not levied and recovered from 3 distilleries on spirit transported to country liquor plants.

{Paragraph 3.2.9}

- Allowance of inadmissible evaporation loss resulted in loss of revenue of Rs. 1.89 crore.

{Paragraph 3.2.10}

- Despite acknowledgement for consignments not being received, excise duty of Rs. 74.51 lakh was not levied and demand raised.

{Paragraph 3.2.13}

- Non-accounting of extra neutral alcohol resulted in under-assessment of excise duty of Rs. 80.88 lakh.

{Paragraph 3.2.14}

3.2.5 Trend of revenue

The Budget estimates and actuals for the years from 1993-94 to 1997-98 were as under :

Year	Budget Estimates	Actual Collection	(+) Excess (-) Shortfall	Percentage of variation
1.	2.	3.	4.	5.
(in crore of rupees)				
1993-94	700.66	903.16	(+) 202.50	(+) 29
1994-95	871.58	944.38	(+) 72.80	(+) 8
1995-96	984.40	1070.91	(+) 86.51	(+) 9
1996-97	1115.00	1068.50	(-) 46.50	(-) 4
1997-98	1350.00	1650.88	(+) 300.88	(+) 22

The increase of revenue of 29 per cent in 1993-94 was due to increase in excise duty on various types of liquor and increase in transport fee. The shortfall in the year 1996-97 of Rs. 46.50 crore was due to poor lifting of stock by the vendors and closure of some units during January to March 1997. However, the increase of revenue by Rs. 582 crore (54 per cent) in the year 1997-98 over 1996-97 was mainly due to the levy of excise duty on *ad valorem* basis on the manufacturing cost.

3.2.6 *Loss of revenue due to deterioration of molasses*

Storage of 10616 M.Ts. of molasses in kutcha pits rendering it unfit for distillation resulted in loss of revenue of Rs. 47.01 crore

As per the provisions of the Bombay Molasses Rules, 1959 a licensee shall keep his premises, tanks and other receptacles for the storage of molasses, in clean and good condition and take all reasonable precautions to prevent deterioration of the quality of molasses through admixture with water etc.

Mention was made in para 3.2.6 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1992 regarding loss of revenue of Rs. 4.03 crore due to loss of molasses declared as unfit. The Public Accounts Committee had in para 10.18 of its Ninth Report (1996) recommended that the Government should take follow up action to increase the storage capacity. However, neither the Government had taken any action nor the sugar factories had augmented the storage capacity and the molasses was continued to be stored in kutcha pits.

In five distilleries located in Kolhapur, Nashik, Osmanabad, Sangli and Satara Districts, 10615.907 M.Ts of molasses stored in kutcha-pits, during the periods between February 1994 and January 1998 had deteriorated, due to admixture of rain water etc., rendering it unfit for distillation. This resulted in loss of revenue of Rs. 47.01 crore to Government on 38.75 lakh proof litres of spirit worked out on the prescribed norms that could have been produced therefrom. In two (Sangli, Nashik) out of the five distilleries, permission to store the molasses in kutcha-pit(s) was given on the condition that this molasses would be utilised first and all precautions taken to prevent it from becoming unfit for distillation.

On being pointed out, the department admitted that the molasses had become unfit for distillation because of inadequate storage facilities, admixture of rain water etc. The reply is not tenable as the permission for storage of molasses in kutcha-pits without any appended penal provisions for failure to utilise it in time resulted in loss of revenue amounting to Rs. 47.01 crore to Government.

3.2.7 *Short fall in the yield of spirit*

Short fall of 108.32 lakh proof litres in the yield of spirit based on the sugar content in the molasses resulted in loss of revenue of Rs. 52.68 crore

As per the "Technology Evaluation and Norms" study in Industrial Alcohol Industry conducted by the Ministry of Science and Technology, Government of India (July 1993), every metric ton of fermentable sugar should yield 644 alcoholic litres of spirit under ideal conditions. The Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966 prescribes a

minimum yield of 365 proof litres of spirit from one metric ton of molasses. The rules do not, however, prescribe any norm for production of spirit from molasses based on the fermentable sugar content in it.

During test-check of records for various periods falling between April 1993 and March 1998 it was noticed during review that though the yield was as per the norms of 365 proof litres from one metric ton of molasses, there was short fall in the yield of spirit based on the fermentable sugar content resulting in loss of revenue of Rs. 52.68 crore as detailed in the following paragraphs:

(i) *Short fall in yield based on sugar content as per monthly statements*

In five distilleries located in Ahmednagar, Kolhapur and Osmanabad Districts, it was noticed that as per the fermentable sugar content mentioned in the monthly statements submitted to the Superintendents of State Excise, during the years 1993-94 to 1997-98, 1247.47 lakh bulk litres of spirit should have been produced as against which only 1225.61 lakh bulk litres were produced. This resulted in shortfall of 21.87 lakh bulk litres (32.40 lakh proof litres) in the yield involving revenue potential of Rs. 16.26 crore as detailed below :

Sr. No.	Year	Quantity of fermentable sugar in M.T	Required production in B.L	Actual production in BL	Shortfall in		Loss of revenue (in crore of rupees)
					B.L	P.L	
1.	1993-94	50098.03	27324445	26951804	372641	609798	1.52
2.	1994-95	41345.22	22828812	22219288	609524	625806	1.56
3.	1995-96	50769.49	28081408	27681265	400143	678699	1.70
4.	1996-97	48693.45	27841293	27369821	471472	775250	4.60
5.	1997-98	33273.95	18671795	18338881	332914	550004	6.88
Total		224180.14	124747753	122561059	2186694	3239557	16.26

(ii) *Shortfall in yield based on sugar content as per Government analysis report*

According to circular instruction (August 1991) the residual quantity of molasses in every pit/tank was required to be sent every month to the Western Maharashtra Development Corporation at Chitali, Ahmednagar District to ascertain the sugar content in the molasses and compare it with that ascertained in the sugar factory. The results of the analysis done both in the factory and the Government laboratory are to be noted in a register which is to be checked by the Superintendent of State Excise during monthly inspection. However, the instruction does not mention the action to be taken in case of variance in the sugar content between the two reports.

In two distilleries located in Kolhapur District, it was noticed that as per total reducing sugar (TRS) mentioned in the Government analysis report, 121.18

lakh bulk litres of spirit should have been obtained from 20520.766 M.Ts of fermentable sugar but only 114.11 lakh bulk litres of spirit was produced resulting in a shortfall of 7.07 lakh bulk litres (11.76 lakh proof litres) thereby depriving Government of additional revenue of Rs. 3.68 crore as shown below:

Sr. No.	Year	Quantity of fermentable sugar in M.T	Required production in B.L	Actual production in BL	Shortfall in		Loss of revenue (in crore of rupees)
					B.L	P.L	
1.	1993-94	8323.25	4865813	4530335	335478	560854	1.40
2.	1994-95	4919.90	2911318	2788429	122889	203937	0.51
3.	1995-96	2197.47	1311113	1258299	52814	87193	0.22
4.	1996-97	4185.10	2496436	2345288	151148	250155	0.63
5.	1997-98	895.05	533203	488767	44436	73894	0.92
Total		20520.77	12117883	11411118	706765	1176033	3.68

On being pointed out, the department stated that though there was variation in the sugar content mentioned in the Government analysis report and that ascertained in the units laboratory there was no shortfall in the yield of spirit as per the TRS mentioned in the analysis report of the unit. The reply was not tenable as normally there should be no variation in the TRS content as analysed by the Government laboratory and that ascertained in the unit's laboratory.

Since the above shortfall has been worked out with reference to the scientific study done by the Government of India, the Government may take suitable remedial measures to avoid the shortfall and mobilise additional revenue.

(iii) Lack of internal control

With a view to curb the tendency to declare that the molasses was of inferior grade and consequentially out turn of spirit below the prescribed minimum yield, the Commissioner of State Excise, Mumbai issued (August 1991) instructions to the Excise Officers in charge of the sugar factories to ascertain the TRS content by analysing the molasses in the laboratory of the factory and make a mention of it in the transport pass when the molasses was being transported/exported.

In four distilleries located in Ahmednagar and Pune Districts, 373.69 lakh bulk litres of spirit should have been obtained as per the TRS mentioned in the transport passes issued during various periods falling between 1993-94 and 1997-98 against which only 334.79 lakh bulk litres were obtained. There was no system to ensure that the production of spirit was commensurate with the TRS mentioned in the transport pass. Lack of control resulted in Government

being deprived of revenue of Rs. 32.74 crore on the shortfall in the yield of 38.90 lakh bulk litres (64.16 lakh proof litres) as detailed below :

Sr. No.	Year	Quantity of fermentable sugar in M.T	Required production in B.L	Actual production in BL	Shortfall in		Loss of revenue (in crore of rupees)
					B.L	P.L	
1.	1993-94	7599.60	4551923	4273589	278334	456225	1.14
2.	1994-95	14109.88	8381826	7360237	1021589	1677344	4.19
3.	1995-96	14695.73	8690424	7810539	879885	1455186	3.64
4.	1996-97	13526.60	8061181	7262659	798522	1318707	4.91
5.	1997-98	12959.32	7684392	6772450	911942	1508857	18.86
Total		62891.13	37369746	33479474	3890272	6416319	32.74

3.2.8 Short fall in yield of spirit as per minimum prescribed norm

Short fall of 122.53 lakh proof litres of spirit as per standard norm of minimum yield resulted in loss of revenue of Rs. 56.19 crore

Mention of short fall in the yield of spirit with reference to the prescribed norm of a minimum of 365 proof litres from every ton of molasses used was made in paragraph 43.5 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1976. In pursuance of the recommendations vide paragraph 5.6 of the Public Accounts Committee (3rd Report of 1980-81) to evolve comprehensive and time bound programme to enable the distilleries to pull out of sugar depression and put them firmly on way to recovery and stability, Government constituted a technical committee and accepted its report (submitted in 1988) for implementation. However, the contents of the Report were not made available. Further, the Excise Department in turn constituted (February 1989) a committee to consider various aspects such as norm of production, losses in production, storage, distribution *etc.* In June 1989 the department stated that comprehensive amendments to the rules would be made on the recommendations of the committee. However, report on further action taken had not been received (November 1999).

Test-check of records for the years 1993-94 to 1997-98 in nine distilleries located in Ahmednagar, Aurangabad, Kolhapur, Osmanabad, Pune, Sangli and Satara Districts revealed that from 251626.40 metric ton of molasses used 795.90 lakh proof litres of spirit was produced as against 918.43 lakh proof litres required to be produced. This resulted in shortfall of 122.53 lakh proof litres in the yield of spirit. The loss of revenue involved amounted to Rs. 56.19 crore as detailed below :

Sr. No.	Year	Quantity of molasses used in M.T.	Spirit to be produced as per norms	Actual spirit produced	Difference	Loss of revenue (in crore of rupees)
			(In proof	litres)		
1.	1993-94	53019.92	19352271	16334340	3017931	7.54
2.	1994-95	44723.51	16324080	14192159	2131921	5.33
3.	1995-96	37811.97	13801368	11113241	2688127	6.72
4.	1996-97	77265.60	28201943	26023282	2178661	8.64
5.	1997-98	38805.40	14163972	11927523	2236449	27.96
Total :		251626.40	91843634	79590545	12253089	56.19

On being pointed out, the department stated that the shortfall in yield below the minimum prescribed was due to lower grade of molasses, old machinery, variation in temperature, inadequate steam supply, water shortage, electricity failure *etc.* The reply was not tenable as the minimum yield prescribed is after considering all these factors.

3.2.9 Non-recovery of transport fee

Transport fee of Rs. 1.35 crore was not levied and recovered from three distilleries on spirit transported to country liquor plants

As per provisions in the Bombay Rectified Spirit (Transport in Bond) Rules, 1951 no transport pass shall be issued unless transport fee at the prescribed rate is paid. No fee is, however, leviable if the spirit is transported for consumption as raw material in the manufacture of Indian Made Foreign Liquor (IMFL), country liquor or other alcoholic products in the units belonging to the distillery.

In three distilleries in Osmanabad, Pune and Solapur districts though transport passes were issued for transportation of 107.68 lakh bulk litres of spirit to the country liquor units during the periods between 1994-95 and 1997-98, transport fee amounting to Rs. 1.35 crore at the rate of Rs. 1.25 per bulk litre was not levied and recovered on the premise that the spirit was transported to the units belonging to the distillery whereas these units were located in separate places and were being run by outside agencies on the basis of agreements in the form of Power of Attorney without the permission of the Commissioner of State Excise in violation of the licensing condition.

3.2.10 Loss of revenue due to allowance of evaporation loss

Allowance of inadmissible evaporation loss resulted in loss of revenue of Rs. 1.89 crore

Under the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, the Commissioner of State Excise (March 1983) prescribed actual storage loss not exceeding 0.5 *per cent* of the quantity actually transacted as the limit for losses of spirit in storage in the process of manufacture of Indian Made Foreign Liquor. However, no losses on account of storage of spirit for manufacture of country liquor is prescribed.

(i) In one unit in Pune District it was noticed that during the period from January 1996 to March 1998, evaporation loss of 1.50 lakh proof litres of spirit amounting to Rs. 1.44 crore was claimed and allowed in addition to the loss claimed on the quantity actually transacted as per norms stated above.

On being pointed out, the department stated that the Commissioner of State Excise had allowed in August 1996 evaporation loss upto 0.5 *per cent* for the periods 1989 and 1990 while deciding an appeal regarding evaporation loss in storage and hence there could be no objection. The reply of the department is not acceptable as there are no orders for stock taking every 15 days and claiming further loss above the norms. The additional losses allowed on stock was in contravention of the norms prescribed. The loss of revenue involved amounted to Rs. 1.44 crore.

(ii) In four other distilleries located in Aurangabad, Kolhapur and Thane Districts, evaporation losses of 99000 proof litres was claimed during various periods falling between 1993-94 and 1997-98 on the stock. This deprived Government of revenue of Rs. 44.79 lakh.

On being pointed out, the department stated that 0.5 *per cent* was admissible as evaporation loss. The reply was not tenable as the storage loss is to be restricted to 0.5 *per cent* of the quantity actually transacted and not on the total stock.

3.2.11 Loss of spirit due to reduction in strength of spirit in transit

As per the Bombay Rectified Spirit (Transport in Bond) Rules, 1951 transit loss admissible is 0.3 *per cent* for every 100 kms (0.5 *per cent* for every 160 kms upto March 1997) limited to 1 *per cent* with effect from April 1997 of the quantity transported. On arrival of the consignment at the bonded warehouse, the officer in charge shall draw samples from the cask or drums and examine them to see whether the particulars of quantity and strength of spirit ascertained by him correspond to those stated on the pass accompanying the consignment by the Excise Officer of the distillery. In case of any wastage of spirit in excess of the permissible limit, the fact is to be reported to the Collector for obtaining orders for levy of duty.

In five distilleries located in Aurangabad, Nagpur, Nashik and Raigad Districts, it was noticed that there was variation in the strength of the spirit despatched from the distillery/warehouse during the periods between 1993-94 and 1997-98 and that received in the units. There should not be any variation in the strength of spirit when it is transported from one place to another. The variation in strength resulted in non-accounting of 18146 proof litres of spirit involving excise duty of Rs. 9.49 lakh.

On being pointed out, the department stated that the variation in the strength of spirit was due to temperature, instrument *etc.* The reply of the department is not tenable as there is no provision in the Rule for such contingencies.

3.2.12 Loss of spirit during closure of the unit

Demand for Rs. 43.01 lakh raised in April 1994 had not been recovered

During test-check of records of one distillery in Aurangabad District, it was noticed that due to litigation the unit was closed from 27 April 1993 to 24 November 1993. When the unit started re-functioning the following shortages/losses were noticed.

Sr. No.	Kind of spirit	PL	Amount involved (in lakh of rupees)
1.	Neutral spirit	16175.54	13.94
2.	Malt spirit	29619.88	25.75
3.	Grape spirit	827.67	0.72
4.	Blended spirit	2782.50	2.44
5.	Malt spirit	184.80	0.16
Total		49590.39	43.01

A demand notice for Rs. 43.01 lakh was issued in April 1994 but the amount had not been pursued and recovered even after five years (November 1999).

3.2.13 Non-realisation of excise duty on unacknowledged exports

Despite acknowledgements for consignments of IMFL and beer not being received, excise duty of Rs. 74.51 lakh was not levied and demanded

According to the provisions in the Maharashtra Foreign Liquor (Import and Export) Rules, 1963 the exporter shall on the consignment of foreign liquor

reaching its destination obtain a certificate in Form Certificate-3 within three months from the date of issue of the export pass. In cases where the foreign liquor is not delivered, duty and fees at the rates in force is required to be levied and recovered.

81243 proof litres of Indian made foreign liquor and 19632 bulk litres of beer under 16 permits were exported from 4 distilleries located in Nashik, Pune and Raigad Districts between 1993-94 and 1997-98. However, the verification reports of the consignments had not been received from the officer incharge of the warehouse in the importing States or customs department in the case of exports out of the country even after lapse of 9 to 65 months. Failure of the department to recover the excise duty resulted in non-realisation of Rs. 74.51 lakh.

On this being pointed out, it was stated that action to call for the export verification report was being taken. Further report had not been received (November 1999).

3.2.14 Non-accounting of extra neutral alcohol

Excise duty of Rs. 80.88 lakh was not levied on ENA not received by the importing units

As per provisions of the Bombay Rectified Spirit (Transport in Bond) Rules, 1951 on arrival of the consignment, the officer incharge of the unit shall examine the seals and if he has no reason to believe that the consignment has been tampered with, he shall admit the consignment, and return part III of the transport pass duly completed to the concerned distillery.

A distillery in Kolhapur had transported (between September 1993 and March 1995) 48000 bulk litres of extra neutral alcohol (ENA) to two units in Goa (for manufacture of IMFL) and acknowledgements for receipt of the consignments were received by the distillery. However, on cross verification by audit (June 1999) of the accounting of the ENA in the stock accounts of the importing units of Goa it was revealed that the units had not received the ENA. The excise duty leviable on the quantity of ENA at the rate of Rs. 100 per proof litre applicable to IMFL amounted to Rs. 80.88 lakh.

The matter was reported to the department in October 1999; their reply has not been received (November 1999).

3.2.15 Non-recovery of privileges fees

As per the Bombay Prohibition (Privileges Fees) Rules, 1954 the fee payable by any licensee for the privilege of having the transfer of his licence from one name to another or change in entity shall be the same as the fee chargeable for the grant or renewal or continuance of the licence whichever is higher. It is binding on the company (licensee) to communicate to the licensing authority

any change(s) in the Director(s), share holder(s) etc., within 15 days from the date of such change for approval of the licensing authority.

During test-check of records of one winery at Pune and one distillery in Sindhudurg District, it was noticed that the entity of the companies had changed. In one case the company became public limited from private limited and in other case 4 out of 5 partners withdrew from the firm. These changes were not intimated to the licensing authority and also privilege fees amounting to Rs. 18.50 lakh were not recovered.

On being pointed out (April 1999), in one case the Excise Officer stated that the department was not aware of the changes in the entity of the company and in the other case the matter was reported to the Commissioner of State Excise for orders during March 1999. Report on further action taken had not been received.

The above points were reported to the department and Government in July 1999 and October 1999; their reply has not been received (November 1999).

3.3 Non-recovery of duty

As per provision in the Maharashtra Indian Made Foreign Liquor (Transport and Export under Bond) Rules, 1968 in case of export of spirit the exporter/transporter is required to execute bond equivalent to the duty. In case of any short delivery at the receiving end, the officer-in-charge shall calculate the excise duty due and report the matter to the Collector. The Collector shall, unless the short delivery is satisfactorily explained, recover the dues.

In Kolhapur, a tanker carrying 12000 bulk litres of rectified spirit met with an accident in September 1996 and there was a loss of 6871 bulk litres of spirit. Despite the department issuing a demand notice (18 October 1996) for Rs. 14.35 lakh to the exporter and the exporter having consented (23 October 1996) for recovery of the duty from the bank guarantee furnished as bond, the amount was neither deducted from the bond before its expiry on 31 October 1996 nor recovered upto the date of audit (March 1999).

The matter was reported to the department/Government in July 1999; their reply has not been received (November 1999).

3.4 Short recovery of licence fee

The Bombay Foreign Liquor Rules, 1953 read with the Maharashtra Potable Liquor (Periodicity and Fees for grant, renewal or continuance of licences) Rules, 1996 provide that licence fee during the year 1997-98 in respect of hotels with rooms upto 100 and holding licence to sell foreign liquor, was to

be charged at the rate of 150 per cent of the licence fee applicable to restaurants on the basis of population of the city.

In Mumbai, Pune and Thane it was noticed (between December 1997 and December 1998) that in respect of 17 hotels with capacity upto 100 rooms and having licence to sell foreign liquor, licence fee during 1997-98 and 1998-99 was recovered at the rate applicable to a restaurant instead of at 150 per cent as stated above. This resulted in short recovery of licence fee of Rs. 3.92 lakh.

On this being pointed out (between December 1997 and December 1998) the department recovered Rs. 3.51 lakh (between January 1998 and January 1999) in respect of 15 licensees. Report on recovery of the balance amount has not been received (November 1999).

The matter was reported to Government in June 1999; their reply has not been received (November 1999).

SECTION B

TAXES ON MOTOR VEHICLES

3.5 Results of audit

Test check of records relating to assessment and collection of Motor Vehicles Tax, conducted in audit during the year 1998-99 revealed non-levy/short levy of tax amounting to Rs.263.75 lakh in 1954 cases, which broadly fall under the following categories :

Sr. No.	Category	Number of cases	Amount (in lakh of rupees)
1.	Non-levy or short levy of motor vehicles tax due to incorrect application of rates	1907	172.81
2.	Short levy of tax due to incorrect exemption	2	1.34
3.	Other irregularities	45	89.60
Total		1954	263.75

During the course of the year 1998-99, the department accepted under-assessment *etc.*, in 646 cases involving Rs.38.39 lakh of which 307 cases

involving Rs.16.87 lakh had been pointed out during 1998-99 and the rest in earlier years and recovered Rs. 6.53 lakh.

A few illustrative cases noticed during 1998-99 and in earlier years involving financial effect of Rs. 126.86 lakh are given in the following paragraphs :

3.6 Non-recovery/short recovery of motor vehicles tax

Tax of Rs. 45.16 lakh was not/short recovered from owners of 512 vehicles

Under the Bombay Motor Vehicles Tax Act, 1958 and the Rules made thereunder, road tax at the prescribed rate is leviable on all vehicles used or kept for use in the State. The Act further provides that tax leviable shall be paid in advance by the registered owner of the vehicle. With effect from 1 October 1996, one time tax (O.T.T.) is leviable in respect of four wheeler vehicles. In case of default in payment of tax, interest at the rate of 2 per cent of the amount of tax for each month or part thereof is payable.

It was noticed (between February 1995 and December 1997) that in respect of 505 vehicles registered in 12 districts²⁶ neither the tax amounting to Rs. 44.34 lakh was paid by the vehicle owners nor any demand notices were issued by the department. Further, in Pune and Mumbai Districts tax of Rs. 0.82 lakh was short recovered in seven cases.

On being pointed out (between February 1995 and December 1997), the department recovered (between May 1997 and November 1998) Rs. 19.17 lakh (including interest) in respect of 237 vehicles. Report on recovery in respect of the remaining vehicles has not been received (November 1999).

The matter was reported to Government in May 1999; their reply has not been received (November 1999).

3.7 Incorrect grant of exemption

Incorrect exemption of tax to the tune of Rs.68.16 lakh

As per provision in the Motor Vehicles Tax Act, 1988, on transfer of ownership of a registered vehicle, the transferor and transferee are required to

²⁶ Ahmednagar, Aurangabad, Beed, Jalgaon, Mumbai, Nanded, Nashik, Osmanabad, Parbhani, Pune, Ratnagiri and Thane

report the fact of the transfer to the registering authority within 14 and 30 days respectively. The Bombay Motor Vehicles Tax Act, 1958 provides for levy of penalty of Rs.100 per vehicle for not intimating the fact of transfer of ownership to the registering authority within the stipulated period. Further, as per the provisions in the Act and notifications issued thereunder, the motor vehicles belonging to the Government of Maharashtra are exempted from payment of road tax. This exemption is, however, not available in respect of vehicles belonging to autonomous bodies, Public Sector Undertakings or Corporations.

On the formation of the Vidarbha Irrigation Development Corporation (VIDC), 21 divisions of the Irrigation Department of the State Government in Vidarbha region, alongwith all assets including 264 vehicles and liabilities were transferred to VIDC on 1 April 1997. Neither the Irrigation Department nor the VIDC informed the transfer of the ownership of the vehicles to the registering authorities.

The registering authorities continued to grant exemptions from tax in respect of the 264 transferred vehicles even after 1 April 1997 on the grounds that as per their records the registered owner of the vehicles was the State Government. The continued grant of exemptions in respect of these vehicles not belonging to the State Government resulted in loss of revenue amounting to Rs.68.16 lakh during the years 1997-98 and 1998-99.

On this being pointed out in audit (March 1999), the department issued demand notices for recovery of the tax. Report on recovery has not been received (November 1999).

The matter was referred to Government in May 1999; their reply has not been received (November 1999).

3.8 Loss of revenue

Failure to compound offences at revised rates resulted in loss of revenue of Rs. 4.96 lakh.

Under the provisions of the Motor Vehicles Tax Act, 1988 the amount recoverable for compounding of offence of driving a motor vehicle whose laden weight exceeds the gross vehicle weight specified in the certificate of registration was revised (with effect from 24 June 1996) to Rs. 2000 plus Rs. 500 per tonne or part thereof of excess load.

Where the person(s) does not come forward for compounding of the offence, prosecution proceedings are to be initiated against him.

During the course of audit of records maintained in the offices of the Regional Transport Officer, Jalgaon, Kolhapur and Thane it was noticed (between November 1997 and May 1998) that in 77 cases, offences were compounded

between 24 June 1996 and 31 August 1996 at the pre-revised rate resulting in short recovery of Rs.4.96 lakh. In respect of 30 cases relating to Jalgaon action to launch prosecution proceedings had not been taken. The amount recoverable if the offences are compounded would amount to Rs.3.05 lakh.

On this being pointed out (between November 1997 and May 1998), the departmental officers stated (between April 1998 and November 1998) that the notification was received on various dates between 19 July 1996 and 31 July 1996 and consequently the offences were compounded at pre-revised rate. The reply of the Regional Transport Officer, Jalgaon was not tenable as in three cases the offences were compounded in July and August 1996 after receipt of the notification communicating the revised rates. Failure to levy and recover fee at the revised rate for compounding of offences resulted in loss of revenue of Rs.4.96 lakh and non-finalisation of the pending cases involved revenue potential of Rs.3.05 lakh.

The matter was reported to Government in June 1999; their reply has not been received (November 1999).

3.9 Delay in revalidation of demand drafts

Under the National Permit Scheme, the permit holders for public carrier goods vehicles are required to pay composite fee in respect of each State/Union Territory into which operation was required. The fee was payable at the prescribed rate in one or two instalments. The State Transport Authority of the Home State is required to collect the composite fee due to the other State/Union Territory in the form of demand drafts and send the same to the State Transport Authority of the State/Union Territory concerned.

During the course of test check of records maintained in the office of the Transport Commissioner (Maharashtra State), Mumbai, it was noticed (August 1996) that 363 demand drafts for amounts aggregating Rs.5.53 lakh received between August 1985 and March 1996 from other State Transport Authorities towards composite fee were dishonoured by the Reserve Bank as their validity period had expired. These drafts were pending with the Transport Commissioner for revalidation. Failure to revalidate the drafts resulted in non-realisation of composite fee of Rs.5.53 lakh.

On this being pointed out (August 1996), the department intimated (between July 1997 and October 1999) the clearance of 249 demand drafts amounting to Rs.3.97 lakh during the period between October 1996 and October 1999. Further report of clearance of the remaining demand drafts had not been received (November 1999).

The matter was reported to Government in June 1999; their reply has not been received (November 1999).

SECTION C

STAMP DUTY AND REGISTRATION FEES

3.10 Results of audit

Test check of records of Stamp duty and Registration fees conducted during the year 1998-99 revealed short levy/non-levy of duty and loss of revenue amounting to Rs.443.69 lakh in 1120 cases which broadly fall under the following categories :

Sr. No.	Category	Number of cases	Amount (in lakh of rupees)
1	Incorrect grant of exemption from duty and fees	47	12.23
2	Short levy due to misclassification of documents	29	43.04
3	Short levy due to under valuation of property	102	148.34
4	Other irregularities	942	240.08
Total		1120	443.69

During the year 1998-99, the department accepted under-assessments/short levy etc., of Rs.74.64 lakh in 286 cases pointed out in 1997-98 and in earlier years and recovered the same.

A few illustrative cases noticed during 1998-99 and earlier years highlighting non-realisation of stamp duty and registration fee of Rs.229.85 lakh are given in the following paragraphs :

3.11 Short levy of stamp duty due to under valuation of property

As per the Bombay Stamp Act 1958, stamp duty on conveyance deed relating to property situated within the limits of Municipal Corporation of Greater Mumbai is leviable on the market value of the property at the prescribed rates.

In three Sub-Registry offices, on six instruments of conveyance registered between March 1990 and October 1996, the stamp duty was levied on the consideration of Rs.987.38 lakh set forth in the instruments instead of the market value of the property Rs.2746.04 lakh. This resulted in short levy of stamp duty of Rs.194.23 lakh as detailed below:-

Name of Sub Registrar	No. of documents	Year of Registration	Consideration set forth in the instruments	Market value	Stamp duty leviable	(In lakh of rupees)	
						Stamp duty levied	Short levy of stamp duty
'Bom' Series Mumbai	1	1990	253.65	253.65	25.36	3.30	22.06
'S' Series Mumbai	1	1996	115.59	682.50	68.25	11.15	57.10
'S' Series Mumbai	1	1996	309.05	899.07	89.90	35.00	54.90
'S' Series Mumbai	1	1996	131.41	617.02	61.70	13.19	48.51
'S' Series Mumbai	1	1996	177.68	233.80	23.38	17.76	5.62
Andheri	1	1995	--	60.00	6.05	0.01	6.04
Total	6		987.38	2746.04	274.64	80.41	194.23

On this being pointed out in audit (between July 1994 and December 1997), the Inspector General of Registration accepted (between November 1998 and February 1999) the omissions and stated that the short levied amount of Rs.194.23 lakh would be recovered. Realisation of the short levied amount is awaited (November 1999).

The matter was referred to Government between April 1999 and May 1999; their reply has not been received (November 1999).

3.12 Short levy of stamp duty due to misclassification of documents

According to explanation I below Article 25 of Schedule I to the Bombay Stamp Act, 1958, effective from 10 December 1985, an agreement to sell an immovable property, the possession of which is transferred to the purchaser before the execution or at the time of execution of such agreement or after the execution of such agreement without executing the conveyance deed in respect

thereof, shall be deemed to be a conveyance deed and stamp duty thereon shall be levied accordingly.

In three Sub-Registry offices, three instruments executed between January 1995 and September 1996 conveying of rights, title and interest in immovable properties for consideration of Rs.1023.85 lakh were chargeable with stamp duty at the rates applicable to "conveyance deed" but were incorrectly charged with stamp duty at lower rates applicable to "agreement to sale". This resulted in short levy of stamp duty of Rs.16.35 lakh.

Name of Sub Registrar	No. of documents	Year of Registration	Consideration set forth in the instruments	Stamp duty leviable	(In lakh of rupees)	
					Stamp duty levied	Short levy of stamp duty
'S' Series, Mumbai	1	September 1996	888.35	71.01	60.70	10.31
Thane	1	January 1995	96.00	2.88	--	2.88
Karvir, District Kolhapur	1	July 1995	39.50	3.16	--	3.16
Total	3		1023.85	77.05	60.70	16.35

On this being pointed out (between June 1996 and November 1998), the Inspector General of Registration directed (November 1998 and February 1999) the Sub-Registrars to initiate action for recovery. Further report has not been received (November 1999).

The matter was referred to Government between April and May 1999; their reply has not been received (November 1999).

3.13 Short levy of stamp duty on lease deeds

Under the Bombay Stamp Act, 1958, the stamp duty on lease deed is to be paid on the basis of consideration which depends upon the lease rent, advance, premium paid and include the charges paid by the lessee such as Government revenue, owner's share of cesses, municipal rates or taxes, which are by law recoverable from the lessor. Stamp duty under Article 25 of the Act is leviable on such lease and element of charges payable.

In Sub-Registry, 'S' Series, Mumbai and Nagpur, three lease deeds were executed between August 1994 and May 1996, for lease periods of three to fifteen years at total consideration of Rs.107.69 lakh. The stamp duty leviable

on these lease deeds was Rs.9.22 lakh. Against this, stamp duty of Rs.4.11 lakh was levied. This resulted in short levy of stamp duty of Rs.5.11 lakh.

On the above being pointed out the Inspector General of Registration directed (November 1998) the Sub-Registrars to initiate action for recovery. Further report has not been received (November 1999).

The matter was referred to Government in March 1999; their reply has not been received (November 1999).

3.14 Incorrect grant of concession in stamp duty

Under the Bombay Stamp Act, 1958, concessional rate of stamp duty is leviable on the instruments of conveyance relating to residential premises executed by or in favour of a registered co-operative housing society or by such a society in favour of its member or by a member in favour of another member or where provisions of the Maharashtra Ownership Flats Act, 1963 or Maharashtra Apartment Ownership Act, 1970 apply.

In Sub-Registry, Mumbai, S-Series, in December 1995, an instrument of conveyance relating to residential premises valued at Rs.322.62 lakh, of a builder not related to any Co-operative society was registered at concessional rate of stamp duty. This resulted in short realisation of stamp duty of Rs.7.94 lakh.

On this being pointed out (December 1997) the Inspector General of Registration directed the Sub-Registrar to initiate action for recovery of the short levied stamp duty. Further report has not been received (November 1999).

The matter was referred to Government in February 1999; their reply has not been received (November 1999).

3.15 Irregular exemption of stamp duty

Under Article 25(d)(2) of Schedule I to the Bombay Stamp Act, 1958 stamp duty on instruments of conveyance relating to land for construction of residential premises of a registered Co-operative Society is leviable at the rates specified in sub-clause (1) of the Schedule.

In Sub-Registry, Ichalkaranji, two instruments of conveyance executed between June 1994 and August 1994 for construction of residential premises of a Co-operative Society for a consideration of Rs.71.28 lakh were incorrectly exempted from levy of stamp duty and registration fees. This resulted in loss of stamp duty and registration fees of Rs.6.22 lakh.

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On this being pointed out (October 1996) in audit, the Inspector General of Registration directed (November 1998) the Sub-Registrar to initiate action for recovery of the amount. Actual recovery was awaited as of November 1999.

The matter was referred to Government in April 1999; their reply has not been received (November 1999).

CHAPTER 4 : Land Revenue

4.1 Results of audit

Test check of the records of Land Revenue conducted during the year 1998-99 revealed under-assessment/ short levy/loss of revenue etc., amounting to Rs.31961.01 lakh in 319 cases.

Sr. No.	Category	Number of cases	Amount (in lakh of rupees)
1.	Non-levy/short levy/ incorrect levy of NAA, ZP/VP cess and conversion tax and Royalty	290	12126.10
2.	Non-levy/ short levy/ incorrect levy of increase of land revenue	10	218.42
3.	Non-levy/short levy of occupancy price etc.	10	1.39
4.	Short levy of measurement fees, Sanad fees etc.	8	8.10
5.	Review on "Encroachment of Government land in Mumbai"	1	19607.00
Total		319	31961.01

During the course of the year 1998-99, the concerned department accepted under-assessment etc., of Rs.250.25 lakh involved in 257 cases which had been pointed out in audit during 1998-99.

A few illustrative cases noticed during 1998-99 and in earlier years involving Rs.190.77 lakh and a review on "Encroachment of Government land in Mumbai" involving a financial effect of Rs. 196.07 crore are mentioned in the following paragraphs :

4.2 Review on “Encroachment of Government land in Mumbai”

4.2.1 Introduction

Maharashtra Land Revenue Code, 1966 empowers the Collectors and other Revenue Officers to deal with the allotment of government land on occupancy or lease hold right as well as collection of occupancy price, lease rent, land revenue etc. Section 50 of the Code empowers the Collectors to summarily abate or remove any encroachment on government land. Government has from time to time issued instructions to the departmental officers to take necessary steps for early detection of the encroachment and prevent unauthorised occupation of the government land. In respect of the government land located in Mumbai, Additional Collector (Encroachment) and Controller of Encroachments and Unauthorised Structures are entrusted with the task of prevention, detection and regularisation of the encroachments.

4.2.2 Organisational set-up

The work of prevention of misuse of government land and containment of encroachment is done by the Additional Collector (Encroachment) under the Housing and Special Assistance Department. He is assisted by six Deputy Collectors (Encroachment) and ten Tahsildars (Encroachment). In order to prevent new encroachment in Greater Mumbai, the Government set up the office of the Controller of Encroachments and Unauthorised Structures in 1981 under the Housing and Special Assistance Department. He is assisted by six Deputy Controllers (Encroachment).

4.2.3 Scope of Audit

To assess the efficiency of detection, eviction and regularisation of the encroached settlements in Mumbai and its suburbs, the records in the offices of the Revenue and Forests Department, Housing and Special Assistance Department, Additional Collector (Encroachment), Controller of Encroachments and Unauthorised Structures, Collector, Mumbai city, Collector, Mumbai Sub-urban District, three Tahsils and ten City Survey Offices in Mumbai city and Mumbai Sub-urban District covering the period 1993-94 to 1998-99 were test checked by audit during December 1998 to May 1999. Results of the test check are mentioned in the following paragraphs :

4.2.4 Highlights

- **The department did not take any action on the recommendations made by the Public Accounts Committee in its XXVII Report on Comptroller and Auditor General’s Audit Report for 1988-89.**

(Paragraph 4.2.6)

- **There was loss of Rs.149.28 crore due to failure to evict or regularise the encroachments.**

(Paragraph 4.2.7)

- **Non-levy of lease rent of Rs.18.31 crore against land occupied by a lessee was noticed in audit.**

(Paragraph 4.2.8)

- **Penal lease rent of Rs.0.51 crore was not levied against an unauthorised occupant of government land.**

(Paragraph 4.2.9)

- **On regularisation of the encroachments, penal occupancy price/penal lease rent of Rs.6.08 crore was not recovered from three encroachers.**

(Paragraph 4.2.10)

- **Non-levy of compensation/rent, administrative and service charges of Rs.4.46 crore due to non issuance of identity cards and non-recovery of outstanding revenue of Rs.17.02 crore from protected dwellers was noticed in audit.**

(Paragraph 4.2.11 (a) and (b))

4.2.5 Working of the department

The Collectors were empowered to abate or remove summarily or regularise any encroachment made on any government open lands as well as in the slum areas. In August 1974, the Collectors of Mumbai city and Mumbai Sub-urban District were however relieved of the works pertaining to the encroachments on open government lands as well as in the slum areas of Greater Mumbai. These powers alongwith the works of protection, management, field survey and preparation of maps and connected registers in respect of all open government lands including the areas in the slums of Greater Mumbai were delegated to the Additional Collector (Encroachment). In April 1981, Government created the Office of the Controller of Encroachment and Unauthorised Structures to prevent new encroachments and remove the encroachments reported by the Additional Collector (Encroachment).

It was observed that records showing areas actually encroached, encroachment protected etc., were not maintained either in the office of the Additional Collector (Encroachment), Mumbai or in the Office of the Controller of Encroachment and Unauthorised Structures.

The Controller of Encroachment and Unauthorised Structures who is responsible for detection and removal of encroachment in Mumbai and Mumbai sub-urban areas had, however, detected the following number of huts encroached on the government land and took action to demolish them.

Year	Encroachments detected (No. of huts)	Encroachments demolished (No. of huts)	(-) Balance encroachment (+) Excess demolished
1993-94	27373	27634	(+)261
1994-95	17966	16173	(-)1793
1995-96	30575	26316	(-)4259
1996-97	29560	32682	(+)3122
1997-98	30526	32197	(+)1671
1998-99	19679	19689	(+)10
Total	155679	154691	(-)988

(+) Excess demolition was due to demolition of the huts constructed in earlier years.

As on 31 March 1999, 988 huts remained to be demolished. The Controller of Encroachment and Unauthorised Structures stated that the remaining huts could not be removed for want of eviction notices from the Additional Collector (Encroachment) Mumbai, inadequate police force, engagement of the staff monitoring the encroachment in election work, and non-filling up of vacant posts.

In January 1989, Government instructed that government land should be protected by deployment of security guards and fencing the land. When the department was asked about the action taken to prevent re-encroachment in the evicted area, the Resident Deputy Controller of Encroachment and Unauthorised Structures admitted the re-encroachments due to non-provision of fencing and watch and ward. The department, however, did not have the number of cases of re-encroachments.

4.2.6 Failure to take action on the recommendations of the Public Accounts Committee

Mention was made in Para 4.2 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1988-89 regarding encroachment on the government land. The Public Accounts Committee discussed the para on 28th September 1994 and recommended (XXVII Report) to take stern action against the officers and staff responsible for encroachment; not to provide the basic facilities like water and electricity to the encroachers to make the unauthorised occupation of government land problematic to them; to regularise the genuine cases of encroachments; to amend suitably the Maharashtra Land Revenue Code, 1966 with a view to curb the tendency of encroachments by increasing the amount of fine and to create machinery at headquarters level to trace out the encroachments.

The Government did not take any step to implement the recommendations of the Public Accounts Committee for the last five years. The Government, however, have issued instructions to implement the recommendations in May 1999.

4.2.7 Loss due to failure to evict encroachments and levy occupancy price

The Maharashtra Land Revenue Code, 1966 prescribed that in case encroachment is detected by the authority, the encroacher shall be evicted forthwith and assessed for NAA/land revenue at the prescribed rate and fine (Section 50). In case, the encroachment is regularised on occupancy right, the encroacher has to pay penal occupancy price and penal land revenue at the prescribed rates.

A test check of the records in the City Survey Offices of Mumbai Sub-urban District revealed that government land measuring 840764.67 square feet were encroached by 15 encroachers during the period 1969-70 to 1993-94. City Survey Officers intimated only ten cases of the encroachment to the Collector, Mumbai Sub-urban District. The Collector in turn did not bring these cases to the knowledge of the Additional Collector (Encroachment) to evict or regularise these encroachments which resulted in loss of Rs.149.28 crore being only the penal occupancy price of government land which continued to remain under the occupation of the encroachers. The particulars of the encroachments are given in the following table:

Sr. No.	Name of encroacher	Year of encroachment	Location of land	Area in square feet	Market value of encroached government land in 1998	(In crore of rupees)
						Minimum penal occupancy price recoverable
1	Shri Om Builders	1993-94	Manori	63819.71	3.38	8.46
2	Nippon Co-operative Housing Society	1979-80	Juhu	13751.28	2.92	7.33
3	Hansraj & Sons	1990-91	Malad	871.56	0.05	0.13
4	Gadge Maharaj Vidyalaya	1989-90	Kurla	110979.17	7.04	17.62
5	Leprosy Colony	1989-90	Turbhe	148821.38	9.45	23.63
6	Liberty Oil Mill	1989-90	Kurla	15014.50	1.44	3.60
7	Western Railway	1969-70	Akurli	48848.25	4.93	12.33
8	M/s Sagar Hotel	1984-85	Malwani	414.26	0.04	0.11
9	M/s Welli Cone Garage	1979-80	Juhu	1332.08	0.28	0.71
10	Shops	1980-81	Kanjur	12107.69	0.84	2.10
11	Koyna Hydroelectric Project	1989-90	Anik	332365.64	17.61	44.04

Sr. No.	Name of encroacher	Year of encroachment	Location of land	Area in square feet	Market value of encroached government land in 1998	(In crore of rupees)
						Minimum penal occupancy price recoverable
12	Municipal Hospital	1989-90	Wadawali	14806.83	0.98	2.46
13	Tata Powerline	1989-90	Chembur	63728.25	9.33	23.34
14	Others	1989-90	Chembur and Wadawali	13904.07	1.36	3.42
Total :				840764.67		149.28

Three illustrative cases are briefly discussed below :

1) Encroachment by Nippon Co-operative Housing Society

Land measuring 13751.28 square feet situated in survey No.561 in the village Juhu, Taluka Andheri has been encroached by Nippon Co-operative Housing Society since 1979-80. No construction of any kind has been made. Though the matter was reported to the Collector, Mumbai Sub-urban District by the City Survey Officer, Ville parle on 17-11-1998, no action was taken by the Collector, Mumbai Sub-urban District either to evict encroachment or to inform the Additional Collector (Encroachment).

When the failure to take appropriate action was pointed out to the Collector, Mumbai Sub-urban District, he replied that after completion of the enquiry, report would be sent to the Additional Collector (Encroachment).

2) Encroachment by Koyna Hydroelectric Project

Property card relating to survey number 319/1 to 16 in the village Anik disclosed that land measuring 332365.64 square feet belonged to government. However, the City Survey Officer disclosed that the land has been encroached by Koyna Hydroelectric Project since 1989-90. On this being pointed out to the Collector, Mumbai Sub-urban District, he replied that after scrutiny of land records detailed report would be communicated to audit.

3) Encroachment by Tata powerline

Property card relating to survey number 1831 in the village Chembur disclosed that the area measuring 63728.25 square feet belonged to government. However, the City Survey Officer disclosed that land had been encroached by Tata powerline since 1989-90. No action has been taken either to evict or regularise the encroachment.

On the failure of the department to evict or regularise the above mentioned fifteen cases of encroachment being pointed out by audit (October 1999), the Collector, Mumbai Sub-urban District, *inter-alia* stated that Additional

Collector (Encroachment) was entrusted with the task of detection and regularisation of encroachment. The Additional Collector (Encroachment), stated that these cases were not referred to him. Thus, due to lack of co-ordination between the two authorities, the fifteen cases of encroachment remained to be evicted or regularised resulting in loss of Rs.149.28 crore.

4.2.8 Non-levy of lease rent

The Revenue and Forests Department had sanctioned (February 1987) advance possession of government land measuring 4856.26 square metres situated in Dharavi Division, Mumbai City on lease hold right to the Maharashtra Housing and Area Development Authority for construction of transit camps. The Collector, Mumbai City, however, on the request of the authority between October 1988 and August 1990 handed over possession of government land measuring 41438.03 square metres to the authority. As such excess land measuring 36581.77 square metres was handed over. However, lease rent of Rs.18.31 crore for the entire land of 41438.03 square metres for the period from October 1988 to July 1999 was not levied.

On this being pointed out (March 1999) in audit, the Collector, Mumbai city replied (March 1999) that proposal for issue of sanction for the excess land was sent to the Government in October 1990 and Government's decision was awaited. Thus, due to failure to regularise the excess land allotted, lease rent of Rs.18.31 crore remained to be levied.

4.2.9 Non-levy of penal lease rent

As per the Maharashtra Land Revenue (Disposal of Government Land) Rules 1971, the encroached land can be granted on lease hold right subject to payment of lease rent not less than fifteen *per cent* and not more than twenty five *per cent* of the occupancy price of the encroached land.

Government land measuring 2376.5 square feet in Erangal village of Borivali Taluka was granted on leasehold right to Smt. L. Shenoy with effect from 1-7-1966 for seven years, which expired on 31-7-1973. This land was, however, unauthorisedly sold by the lessee in July 1973 to M/s Glaxo Laboratory Company.

On being aware of the unauthorised sale, the Collector, Mumbai Sub-urban District initiated action against M/s Glaxo Laboratory Company. On appeal by the Company, the Commissioner, Konkan Division, in February 1980 recommended to the Government to regularise the unauthorised sale. On 30 September 1988, Government refused to regularise the unauthorised sale and directed the Commissioner and the Collector to evict the Company treating it as encroacher.

In February 1992, the Collector, Mumbai Sub-urban District stated that the said land was still under the unauthorised occupation of Glaxo Laboratory Company and directed the Tahsildar to recover lease rent at the rate of Rs.9910 per annum as applicable in 1983 alongwith interest at the rate of eight

per cent per annum. Again in March 1992, the Collector wrote to the Government for regularising the transaction. Decision of the Government was awaited (October 1999). In the absence of Government sanction to regularise the transaction, penal lease rent should have been charged at minimum fifteen per cent of occupancy price instead of the lease rent at the market rent levied by the Collector. Even the penal lease rent of Rs.51.10 lakh for the period from August 1973 to July 1999 was not recovered from the occupant.

On this being pointed out (October 1999) in audit, Government of Maharashtra stated that report had been called for from the Collector, Mumbai Sub-urban District, Mumbai. Thus, failure of the Collector, Mumbai Sub-urban District to levy penal lease rent resulted in loss of Rs.51.10 lakh.

4.2.10 Non-recovery of penal occupancy price/penal lease rent

Under the Maharashtra Land Revenue (Disposal of Government Land) Rules 1971, the Collector may, on the request of the encroacher, grant the land either on occupancy right or leasehold right to the encroacher subject to payment of penal occupancy price or penal lease rent as the case may be.

The scrutiny of the records of the Collector, Mumbai Sub-urban District revealed that government land measuring 7937.70 square metres encroached by three encroachers between the years 1976 and 1979 was regularised by the Government in January 1998 and October 1998 subject to levy of penal occupancy price/penal lease rent as shown in the table given below :

Sr. No.	Name of village	Period of encroachment	Area in square metres	Market value (in lakh of rupees)	Annual penal lease rent/penal occupancy price (in lakh of rupees)	No.of years	Lease rent/ occupancy price recoverable (in crore of rupees)
1	Paughkari	01/01/76 to 31/12/96	4781.70	1.39	0.34	21	0.074
		01/01/97 to 31/12/99	4781.70	1158.11	173.71	3	5.213
2	Kurla Kirol	16/03/79 to 12/10/98	2452.00	5.57	0.83	19	0.081
		13/10/98 to 12/10/99	2452.00	29.06	4.35	1	0.044
3	Vile Parle	1976-77 to 1998-99	704.00	26.72	66.84	For entire period	0.668
Total			7937.70				6.080

The penal occupancy price/penal lease rent amounting to Rs.6.08 crore for the period of encroachment was not recovered from the occupants.

On this being pointed out (February 1999) in audit, the Collector, Mumbai Sub-urban District stated that in two cases market rates of the encroached lands were awaited from the Town Planning Department and in one case the encroacher proposed for some changes which had been communicated to the Government. The reply is not tenable because the Collector, Mumbai Sub-urban District ought to know the market rate and should have levied the penal occupancy price/penal lease rent.

4.2.11 Non-levy of ground rent, administrative and service charges

According to the Government Resolution No. SCS-1089/3354/Desk-7 dated 1 November 1989, those slum dwellers listed in the voters list of the year 1985 and were in occupation of hutments in 1976 were to be protected and provided with civic amenities and not to be removed from the land encroached upon. In case, the land was required by the Government for public utility purposes, they could be removed only on providing alternate land. These dwellers were also to be provided with identity cards by the Tahsildars. As per the above orders, ground rent, administrative charges and service charges were required to be recovered from such protected dwellers.

(a) During scrutiny of the records in the Office of the Additional Collector (Encroachment) Mumbai, it was observed that dwellings of the government land in 550 slum areas covering 192448 huts encroached upon by the hutment dwellers whose names appeared in 1976 census and voters list of 1985 were protected. Out of this, 11276 dwellers were not issued identity cards. As such ground rent, administrative and service charges of Rs.4.46 crore for the period from 1 January 1985 to 31 March 1999 was not demanded by the department.

On this being pointed out in audit, one of the Tahsildars (Encroachment) stated (January 1999) that the work of issuing identity cards had been stopped as per the orders of the Additional Collector (Encroachment) and hence demands were not raised.

(b) In case of protected dwellers already provided with identity cards, ground rent, administrative and service charges to the tune of Rs.17.02 crore for the period from 1993-94 to 1998-99 for which demands have already been raised remained to be recovered.

The Additional Collector (Encroachment) stated (May 1999) that the amount of Rs.17.02 crore could not be recovered due to engagement of staff in election work every year and non-filling of the vacancies in the department. The reply is not acceptable as these administrative difficulties are not unsurmountable and amount is outstanding for a long period.

4.2.12 Non-realisation of transfer fee from hutment dwellers in respect of huts transferred/sold

The Government decided (1983) that a transfer fee of Rs.5000 and Rs.10000 should be charged from the present occupant of censused huts in the use for residential and commercial purposes respectively if the original censused occupant has transferred the same.

The scrutiny of the records of the Additional Collector (Encroachments) revealed that 502 cases of transfer of huts were detected upto March 1999 but no steps were taken to realise the transfer fee amounting to Rs.40.85 lakh.

On this being pointed out (February 1999) in audit, the department stated that in view of the request made by the Chief Executive Officer, Slum Rehabilitation Authority (November 1996) these cases were kept pending. This reply is not acceptable because the Chief Executive Officer did not request to keep the cases pending but to scrutinise the cases properly.

4.2.13 Non-recovery of cost of demolition

Under the provisions of the Maharashtra Land Revenue Code, 1966, in the event of any encroachment being removed, the expenses incurred therefor shall be recovered by the Collector from the persons in occupation of the land encroached upon.

During 1-4-1993 to 31-3-1999, though 154691 encroachments were removed by the Controller of Encroachments and Unauthorised Structures, who was made in charge for such removal in 1988, the expenses incurred on removal of these encroachments were neither quantified nor demanded and recovered from the encroachers by him. In the absence of quantification of expenditure, the extent of loss to the government could not be ascertained in audit.

On this being pointed out (April 1999 and October 1999) in audit, the Controller of Encroachment and Unauthorised Structures replied (April 1999) that no recovery was effected because the work of recovery was not entrusted to him. The work of recovery of demolition charge was entrusted to the Additional Collector (Encroachment) Mumbai, who stated (October 1999) that the details of expenses required to be recovered were not intimated to him by the Controller, hence no recovery was effected. Thus, due to lack of co-ordination between both the officers, the recovery on account of cost of demolition was not being effected.

4.3 Non-levy of non agricultural assessment tax, increase of land revenue tax, conversion tax and cesses

Under the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the use of land such as agricultural, residential, industrial, commercial or any other purpose. Further, under the Maharashtra Increase of

Land Revenue and Special Assessment Act, 1974, with effect from 1 August 1975, Increase of Land Revenue (ILR) is also payable at 50 *per cent* of land revenue by persons holding land of 8 hectares and above but less than 12 hectares and at 100 *per cent* by persons holding land of 12 hectares and above. In cases where such lands are situated in the area of Municipal Corporation and Municipal Councils (A and B classes only) or any peripheral area thereof, conversion tax equal to three times the amount of non-agricultural assessment is also leviable when permission for non-agricultural use or change of use of land is granted or unauthorised non-agricultural use is regularised under the Maharashtra Land Revenue (Amendment) Act, 1979. Similarly under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and Bombay Village Panchayat Act, 1958 cess at prescribed rate is also leviable in the areas covered by the Acts.

(i) In three tahsils land measuring 108.50 hectares was put to non-agricultural use, but non-agricultural assessment, increase of land revenue and cess was either not levied or levied short. This resulted in non-levy/short levy of revenue amounting to Rs.43.68 lakh (including increase of land revenue non-agricultural assessment of Rs.12.96 lakh and Z.P./V.P. cess of Rs.30.72 lakh) as detailed below :

Name of Tahsil & District	Area of land in Hectares	Purpose of use	Period	(In lakh of rupees)			Total
				Non-levy/Short levy of NAA	ILR	Cess	
Sindkhedraja (Buldhana)	72.67	Industrial	1992-93 to 1998-99	0.73	0.73	5.13	6.59
Karvir (Kolhapur)	11.18	Commercial	1972-73 to 1998-99	2.00	1.96	8.34	12.30
Shirur (Pune)	24.65	Industrial	1984-85 to 1998-99	3.77	3.77	17.25	24.79
Total	108.50			6.50	6.46	30.72	43.68

On this being pointed out between December 1996 and February 1999 in audit, the department accepted the omission between June 1998 and February 1999. The report on recovery of the land revenue has not been received (November 1999).

The matter was referred to Government between May 1999 and June 1999; their reply has not been received (November 1999).

(ii) In three Tahsils, land measuring 25.91 hectares situated within the limits of Municipal Councils/Municipal Corporations was put to non-agricultural use, but non-agricultural assessment, increase of land revenue and conversion tax was either not levied or levied short. This resulted in non-levy/short levy of revenue amounting to Rs.12.01 lakh (including increase of land revenue of Rs.8.91 lakh and conversion tax of Rs.1.18 lakh) as detailed below :

Name of Tahsil and District	Area of land in Hectares	Purpose of use	Period	(In lakh of rupees)			Total
				NAA	ILR	Conv-ersion tax	
Wani, (Yavatmal)	4.5	Residential	1992-93 to 1993-94	0.32	--	0.95	1.27
Wani, (Yavatmal)	1.2	Industrial	1986-87 to 1997-98	1.47	--	0.23	1.70
Sindkheda (Dhule)	17.08	Commercial	1975-76 to 1998-99	--	2.98	--	2.98
Udgir (Latur)	1.52	Industrial	1991-92 to 1998-99	0.05	2.58	--	2.63
Udgir (Latur)	1.61	Commercial	1991-92 to 1998-99	0.08	3.35	--	3.43
Total	25.91			1.92	8.91	1.18	12.01

On this being pointed out between July 1997 and May 1998 in audit, the department recovered Rs.91476 in July 1998. Report on recovery of balance amount has not been received (November 1999).

The matter was referred to Government between December 1998 and May 1999; their reply has not been received (November 1999).

4.4 Non-levy/short levy of tax on agricultural land used for non-agricultural purposes

As per the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the purpose for which the land is used such as agricultural, residential, industrial, commercial or any other purpose. Further, the assessment of the land revenue for use of the land for non-agricultural purpose remains in force during the guarantee period²⁷, if any. Thereafter the land revenue is to be revised in accordance with the standard rates applicable for the non-agricultural purposes. Under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974, as amended with effect from 1 August 1975, Increase of Land Revenue is payable at 50 per cent of land revenue by persons holding land of 8 hectares and above but less than 12 hectares and at 100 per cent by persons holding land of 12 hectares and above.

²⁷ The standard rate of non-agricultural assessment is in force for a period of five years which is called "Guarantee Period."

Similarly, under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and the Bombay Village Panchayat Act, 1958, a cess is leviable on agricultural land put to other purposes

(a) In seven tahsils land measuring 44.81 hectares was put to non-agricultural use, for which the non-agricultural assessment was guaranteed upto July 1979 (3 cases), March 1983 (1 case) and July 1991 (5 cases). Audit scrutiny between December 1995 and June 1998 disclosed that, after expiry of the guarantee period, the concerned Tahsildars did not revise the non-agricultural assessment. Further, the increase of land revenue tax and conversion tax were also not levied by the Tahsildars. Failure to revise the non-agricultural assessment by the concerned Tahsildars resulted in short levy of Rs.70.23 lakh (non-agricultural assessment tax of Rs.41.98 lakh, increase of land revenue tax of Rs.27.11 lakh and conversion tax of Rs.1.14 lakh) as detailed below :

Sr. No.	Name of Tahsil	Name of holder	Area of land in hectares	Purpose	Guarantee period	Period of use	(In lakh of rupees)			Total
							NAA	ILR	CT	
1	Pandharpur	(a)APMC	16.39	Commercial and Residential	Upto July 1979	1979-80 to 1998-99	14.60	14.60	--	29.20
		(b) Co-operative Societies (four)	3.65	Residential	Upto March 1983	1982-83 to 1998-99	9.09	--	1.14	10.23
2	Nilanga	(a) MSRTC	3.64	Commercial and Industrial	Upto July 1991	1991-92 to 1998-99	4.14	4.14	--	8.28
		(b) MSEB	1.68	Commercial and Residential	Upto July 1979	1979-80 to 1998-99	3.60	3.60	--	7.20
3	Omerga	Shri Malang	4.40	Residential and Commercial	Upto July 1991	1991-92 to 1997-98	2.54	0.61	--	3.15
4	Kinwat	Municipal council	0.98	Commercial	Upto July 1991	1991-92 to 1996-97	1.73	1.73	--	3.46
5	Nanded	MSEB and Shri Namulwar	1.77	Commercial and Residential	Upto July 1991	1991-92 to 1997-98	2.08	--	--	2.08
6	Jintoor	Sahakari ginning and pressing mill	3.80	Industrial	Upto July 1991	1991-92 to 1998-99	3.86	--	--	3.86
7	Mawal	S.T.Vakil	8.50	Residential	Upto July 1977	1979-80 to 1998-99	0.34	2.43	--	2.77
Total							41.98	27.11	1.14	70.23

On this being pointed out between December 1995 and April 1998 in audit, the concerned Tahsildars accepted the omissions and issued demand notices between January 1996 and April 1998. Out of Rs.70.23 lakh, an amount of Rs.5.81 lakh was recovered by the concerned Tahsildars.²⁸ Recovery of the balance amount is awaited (November 1999).

The matter was referred to Government between January 1999 and May 1999; their reply is awaited (November 1999).

(b) During the course of audit of six²⁹ tahsils it was noticed (between November 1993 and January 1997) that land measuring 12.39 hectares falling within the limits of Municipal Councils/Corporations were put to non-agricultural purpose during 1985-86 to 1995-96. The Tahsildars did not levy tax amounting to Rs.12.05 lakh (conversion tax Rs.3.76 lakh in five³⁰ tahsils, increase of land revenue of Rs.5.91 lakh in six³¹ tahsils and cess of Rs.2.38 lakh in two³² tahsils) during the period 1985-86 to 1995-96.

On the above being pointed out by audit (between November 1993 and January 1997), the concerned Tahsildars accepted the omissions and recovered Rs.11.21 lakh between March 1994 and April 1998. Report on recovery of the balance amount is awaited (November 1999).

The matter was referred to Government in May 1999; their reply has not been received (November 1999).

4.5 Non-recovery of lease rent

Collector, Mumbai Sub-urban District (MSD), Mumbai, granted 1154.02 square metres of land on lease to Indian Oil Corporation Ltd., for a period of seven years in May 1964. The lease was further extended for a period of 30 years with effect from 1-8-1967 with the condition that the lease rent shall be revised after expiry of each term of seven years. No further extension has been granted, but property is still under occupation of Indian Oil Corporation Ltd.

During the audit of office of the Tahsildar, Andheri, District Mumbai in May 1995, it was pointed out that lease rent was not revised from 1974-75 to 1995-96. Based on that audit comment the Commissioner, Konkan Division MSD, Mumbai revised the lease rent from 1974-75 to 1995-96 in June 1995 and the Tahsildar, Andheri recovered lease rent of Rs.43.07 lakh for the period from 1975-76 to 1995-96 from Indian Oil Corporation, Mumbai in July 1998. Further, audit checks in March 1999 disclosed that the demand for lease rent

²⁸ Nilanga, Omerga

²⁹ Ahmadpur, Billoli, Nagpur, Solapur, Wada, Yawal.

³⁰ Ahmadpur, Nagpur, Solapur, Wada, Yawal.

³¹ Ahmadpur, Billoli, Nagpur, Solapur, Wada, Yawal.

³² Solapur, Wada.

of Rs.52.80 lakh for the period from 1996-97 to 1998-99 was not raised by the Tahsildar, Andheri.

On this being pointed out, the Tahsildar, Andheri accepted the fact and stated that demand for Rs.52.80 lakh would be raised .

The matter was referred to Government in June 1999; their reply has not been received (November 1999).

CHAPTER 5 : Other Tax Receipts

5.1 Results of audit

Test check of records of departmental offices conducted during 1998-99 revealed short realisation or losses of revenue amounting to Rs.3801.06 lakh in 2324 cases as listed below :

Sr. No.	Nature of receipt	Number of cases	Amount (In lakh of rupees)
1.	Entertainments Duty	272	1618.41
2.	Education Cess and Employment Guarantee Cess	170	2128.49
3.	Profession Tax	1770	25.45
4.	Electricity Duty	42	22.84
5.	Tax on Buildings (with larger residential premises)	65	5.29
6.	Repair Cess	5	0.58
Total		2324	3801.06

During the course of the year 1998-99, the concerned departments accepted and recovered under-assessments etc., in 985 cases involving Rs. 812.94 lakh of which 44 cases involving Rs. 1.96 lakh had been pointed out during 1998-99 and the rest in earlier years. A few illustrative cases having a financial effect of Rs. 25.56 crore are given in the following paragraphs :

SECTION A

ENTERTAINMENTS DUTY

5.2 Incorrect exemption to films

Exemptions aggregating Rs. 15.41 crore were allowed despite non-fulfilment of the prescribed conditions

Under the provisions of the Bombay Entertainments Duty Act, 1923 Government may by general or special order, exempt any entertainment or class of entertainments from liability to pay entertainments duty. The rules framed under the Act for this purpose require that exemption be granted to films which have been awarded the Presidents Gold Medal or on the recommendation made by an Advisory Committee appointed by the State Government, provided, it considers that the film fulfills criteria of educational, cultural or social purpose of a high order.

The producer of a film, which is granted exemption from payment of entertainments duty, is required to give an undertaking that he would pay an amount equivalent to the amount of entertainments duty leviable on the exhibition of such film to the person or persons as most responsible for the educational, cultural or social contribution of such film as nominated by the Advisory Committee.

The producer is also required to submit a weekly return to the District Collectors specifying particulars of payments made to the nominated person(s) with a copy thereof to Government. Further, any exemption from liability to pay entertainments duty granted for exhibition of any such film shall be withdrawn if the producer fails to comply with the undertaking.

Mention was made in para 5.2.9 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1998 of the loss of revenue of Rs. 19.00 crore during the period from 1992-93 to 1996-97 due to 55 films being exhibited as tax free despite non-fulfilment of the prescribed conditions.

A scrutiny (April 1999 and May 1999) of the records of the Cultural Affairs Department granting exemption from entertainments duty during the years 1997-98 and 1998-99 to 11 films revealed the following.

- i) In none of the cases the committee had nominated any person or persons responsible for the educational, cultural or social value of the film, and
- ii) Weekly returns as prescribed were not submitted by the producer to the District Collectors.

As the essential conditions subject to which exemption from payment of entertainments duty were not fulfilled, the exemption orders declaring the films as tax free were required to be withdrawn under the rules. However, such action was not taken by the Government. The consequent loss of revenue on account of exemption from entertainments duty granted to 9 films³³ (two of the 11 films exempted have not been released) during the years 1997-98 and 1998-99 in 21 districts alone amounted to Rs. 15.41 crore as tabulated below :

Sr. No.	District	Entertainments duty forgone (In lakh of rupees)		
		1997-98	1998-99	Total
1.	Mumbai City	148.71	201.35	350.05
2.	Mumbai Suburban	231.57	173.01	404.58
3.	Thane	129.31	59.54	188.85
4.	Pune	118.04	86.18	204.22
5.	Kolhapur	30.60	20.23	50.83
6.	Satara	11.95	6.54	18.49
7.	Sangli	17.50	12.11	29.61
8.	Aurangabad	16.87	14.54	31.41
9.	Parbhani	4.08	3.24	7.32
10.	Nanded	5.20	5.16	10.36
11.	Nagpur	32.31	16.99	49.30
12.	Jalna	5.96	3.04	9.00
13.	Ahmednagar	18.66	10.97	29.63
14.	Beed	2.09	1.06	3.15
15.	Jalgaon	22.96	13.09	36.05
16.	Dhule	8.10	3.80	11.90
17.	Latur	8.63	4.98	13.61
18.	Nandurbar	1.78	0.96	2.74
19.	Chandrapur	16.16	5.76	21.92
20.	Osmanabad	0.30	0.40	0.70
21.	Nashik	41.85	25.31	67.16
Total		872.63	668.26	1540.89

The Cultural Affairs Department stated (November 1998) that the provisions in the rule were outdated and defective and that action would be taken to amend the rule in consultation with the Revenue and Forests Department. Report of action taken has not been received (November 1999).

³³ Border, Mrityudand, Pardes, Kalyug ka Arjun, Bhai Bhai, Gulam-E-Mustafa, Dushman, Satya, Major Saab

5.3 Non-realisation of entertainments duty and surcharge from the cable/dish antenna operators

Under the Bombay Entertainments Duty Act, 1923 cable and dish antenna operators are required to pay entertainments duty at the rate of 25 per cent of the total amount received by them by way of contribution or subscription or installation and connection charges etc., for the exhibition of films, moving pictures etc., by means of any type of antenna or cable T.V. In addition, surcharge of 10 per cent on the total collection is also payable. The entertainments duty and surcharge due on the collection are to be paid on or before 5th of the subsequent month failing which penal interest at the rate of 18 per cent per annum for the first 30 days and 24 per cent per annum thereafter is leviable.

During test check of records in the offices of Mumbai, Mumbai Suburban and Beed it was noticed (July 1997, August 1997 and July 1998) that in respect of 85 cable and dish antenna operators entertainments duty and surcharge amounting to Rs. 8.78 lakh was neither paid by the operators nor any demand was raised by the department for the periods between January 1994 and March 1998.

On being pointed out (July 1997, August 1997 and July 1998) the department recovered (between August 1997 and November 1998) Rs. 4.85 lakh (including interest) from 51 cable/dish antenna operators. Report on recovery of the balance amount alongwith penal interest has not been received (November 1999).

The matter was reported to Government in June 1999; their reply has not been received (November 1999).

SECTION B

**THE MAHARASHTRA EDUCATION CESS AND
EMPLOYMENT GUARANTEE CESS**

5.4 Non-remittance of education cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 and the rules made thereunder, a tax is levied and collected from the owners of lands and buildings in a municipal area at the rates specified in the Schedule to the Act. The proceeds of the cess and penalties recovered thereunder shall be credited to the Consolidated Fund of the State before the expiry of the following week. The Act empowers the Government to direct the bank or treasury in which the earnings of the municipal corporations are deposited to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of Government shall be sufficient discharge to such bank/treasury from all liabilities to the municipal corporation.

In five Municipal Corporations³⁴ it was noticed (between April 1996 and July 1998) that Government revenue amounting to Rs.10.01 crore collected for various periods during the years 1995-96 and 1997-98, on account of education cess and employment guarantee cess was not credited to Government. The Government also did not direct the banks to pay the same from the moneys standing to the credit of the municipal corporations.

On this being pointed out (between April 1996 and July 1998) in audit, the Municipal Corporations of Kolhapur, Kalyan-Dombivli and Solapur credited (between June 1996 and July 1998) amounts aggregating Rs. 1.83 crore to Government. Report of remittance of the balance amount has not been received (November 1999).

The matter was reported to Government in May 1999; their reply has not been received (November 1999).

³⁴ Kalyan-Dombivli, Kolhapur, Nagpur, Pune and Solapur

SECTION C

PROFESSION TAX

5.5 Non-realisation of profession tax

Under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 and the Rules made thereunder, every person liable to pay tax is required to obtain certificate of enrolment and pay tax annually at the rate prescribed in the Schedule to the Act.

During cross verification of the records of the offices which issued licences to 156 liquor vendors and details of 518 cable operators collected from the offices where they had paid entertainments duty with the records of the profession tax offices at Amravati, Chandrapur, Kalyan, Nagpur and Osmanabad it was noticed (between August 1997 and January 1998), that these 674 persons liable to pay profession tax were not enrolled under the aforesaid Act. This resulted in non-realisation of revenue of Rs. 5 lakh for various periods falling between April 1994 and March 1997.

On this being pointed out (between August 1997 and January 1998) the assessing officers intimated (between November 1997 and December 1998) recovery of Rs. 0.21 lakh in respect of 25 cases. Report on recovery in the remaining cases has not been received (November 1999).

The matter was reported to Government in May 1999; their reply has not been received (November 1999).

CHAPTER 6 : Non-Tax Revenue

6.1 Results of audit

Test check of the records of non-tax receipts conducted during the year 1998-99, revealed under-assessment/short levy/loss of revenue etc., amounting to Rs.10484.94 lakh in 73 cases which broadly fall under the following categories :

Sr. No.	Category	Number of cases	Amount (in lakh of rupees)
1.	Losses on tendu leaves	13	528.32
2.	Losses on forests revenue	16	353.57
3.	Loss of revenue due to deterioration in transit/non-extraction/non-lifting of material other than tendu leaves and bamboo	11	288.33
4.	Others	31	1472.26
5.	Review on "Earnings of Forests Department"	1	3917.00
6.	Review on "Interest Receipts"	1	3925.46
Total		73	10484.94

A few illustrative cases noticed during 1998-99 and in earlier years having financial effect of Rs.25.62 crore and two reviews on "Earnings of Forests Department" and on "Interest Receipts" having financial effect of Rs.39.17 crore and Rs. 39.25 crore respectively are mentioned in the following paragraphs :

6.2 Review on "Earnings of Forests Department"

6.2.1 Introduction

In the State of Maharashtra, about 18.06 per cent of the land is covered by forest. Timber, fuel wood and bamboo are the major source of revenue from forest. The disposal of forest produce is generally done by way of auction sale.

6.2.2 Organisational Set-up

The Forests Department of the State is headed by a Principal Chief Conservator of Forests who is assisted by 9 Chief Conservators of Forests, 11 Conservators of Forests and 44 Deputy Conservators of Forests. There are 44 Forests divisions divided into 291 ranges.

6.2.3 Audit Coverage

The revenue earnings of the Forests Department during 1994-95 to 1998-99 were reviewed from January 1999 to May 1999 by test checking the records in 21 out of the 44 Forests divisions and in the Office of the Principal Chief Conservator of Forests, Nagpur to ascertain the collection and accounting of forest receipts.

6.2.4 Highlights

- **In eight Forest divisions, shrinkage of timber between the time of felling of trees in the forest and receipt of the timber in the sale depots was noticed. Despite recommendation by the Public Accounts Committee, the department has not formulated any shrinkage norm**

(Paragraph 6.2.6)

- **Revenue recovery cases amounting to Rs.23.55 crore were pending for 1 to 50 years and were not monitored properly**

(Paragraph 6.2.7)

- **Government dues of Rs.4.09 crore became irrecoverable due to liquidation and closure of Forests labourer co-operative societies**

(Paragraph 6.2.7 (d))

- **In six Forest divisions, bamboo plantations worth Rs.2.70 crore were not exploited in time**

(Paragraph 6.2.8)

➤ In two Forest divisions, there was abnormal shortfall in yield of timber and fuel wood leading to loss of Rs.4.98 crore

(Paragraph 6.2.9)

6.2.5 Quantum of forest revenue

The position of actuals vis a vis the estimated receipts for the year 1994-95 to 1998-99 is indicated below :

Year	Estimated receipts	Actual receipts	Excess (+)/ Shortfall(-)	(Rupees in crore) Percentage of variation
1994-95	123.88	147.87	(+)23.99	(+) 19.36
1995-96	124.89	131.69	(+) 6.80	(+) 5.44
1996-97	142.99	142.80	(-) 0.19	(-) 0.13
1997-98	161.97	143.25	(-) 18.72	(-) 11.07
1998-99	169.07	131.52	(-) 31.55	(-) 22.21

There has been shortfall in realisation of revenue as compared to the target during 1996-97 to 1998-99. The department attributed the shortfall to large variation between the expected and actual receipts of timber, fuelwood etc., non-availability of skilled labour, due to extremists threat, lukewarm response to auctions etc. The excess receipt during 1994-95 was on account of finalisation of the rates for supply of bamboo to Ballarshah Industries Ltd. made during 1991-92 to 1993-94.

6.2.6 Failure to fix norms

During the time between felling of trees in the forests and receipt of the timber in the forest depots, the timber undergoes shrinkage.

While discussing the Report of the Comptroller and Auditor General of India for the year 1989-90, the Public Accounts Committee (Fourteenth Report) in December 1996 recommended fixing of norms for shrinkage of the timber transported from coupes to sale depots. The department had not fixed the norms as on 31 March 1999. On this being pointed out (May 1999), the Principal Chief Conservator of Forests replied that the fourteenth report of the Public Accounts Committee was not available with him. He further added that action regarding fixation of norms of shrinkage would be taken as soon as the report was received in his office. Due to non-fixing of norms of shrinkage, wide disparity in timber account continued to occur as detailed below :

Felled material is transported from the coupe³⁵ to sale depot under a carting challan (in duplicate) bearing the quantity transported. In the sale depot, quantity of the material is remeasured and shortages, if any, are reported to the respective Range Forest Officer through duplicate copy of the carting challan. The Deputy Conservator of Forests concerned is also apprised of the shortages to enable him to initiate investigation.

Scrutiny of the carting challans in 8³⁶ Forests divisions revealed that against despatch of 122768.052 Cu.m. of timber from the coupes to the sale depots between April 1992 and December 1998, only 116899.388 Cu. m. of timber were accounted for in the sale depots. The difference of 5868.664 Cu. m. of timber costing Rs.3.74 crore, though reported to the respective Range Forests Officer and Deputy Conservator of Forests from time to time, remained to be reconciled (May 1999).

On this being pointed out in audit (April 1999), the Deputy Conservators of Forests³⁷ attributed the difference to shrinkage of timber between the time of felling of trees in the coupes and the time of actual receipt at the sale depots and inaccuracy in measurements in the coupes. The reply is not tenable as reasonability of these factors cannot be judged in the absence of departmental norms of shrinkage.

6.2.7 Non-recovery of dues

Scrutiny of the records of the department revealed that forest revenue of Rs.23.55 crore remained to be recovered as of 31 December 1998 as per details given below :

Sr. No.	Period	Amount (In crore of rupees)
1.	Between 20 years and 50 years	10.47
2.	Between 10 years and 20 years	2.69
3.	Between 5 years and 10 years	5.40
4.	Less than 5 years	4.99
	Total	23.55

According to the conditions governing sale, in case the purchaser/contractor fails to pay the dues on demand, the government can enforce recovery of the dues as arrears of land revenue. In the following cases, the department either failed to refer the cases to the revenue authority or did not pursue them effectively.

³⁵ Coupes- Demarketed area of plantation

³⁶ Akot (South Melghat), Amravati (East Melghat), Ballarshah (T & M), Brahmapuri, Nasik (West), Paratwada (T & M), Pandharkawda, Pusad

³⁷ Akot (South Melghat), Amravati (East Melghat), Ballarshah (T & M), Brahmapuri, Nasik (West), Paratwada (T & M), Pandharkawda, Pusad,

(a) In 13³⁸ Forests divisions, an amount of Rs.2.39 crore recoverable from the contractors for the period from 1943-44 to 1998-99 on sale of forests produce were not referred to the revenue authorities. On this being pointed out, the department stated that matter was being referred to revenue authorities.

(b) In One Forest division,³⁹ dues of Rs.0.67 crore were outstanding against 9 contractors since 1989. The division failed to recover atleast part of the amount by encashing the available two bank guarantee certificates worth Rs.16.04 lakh. By the time the division approached the bank (11 February 1991) to extend the period of the guarantee certificates, the validity period of the certificates had expired. The department stated that to recover the amount through courts, the matter was referred to the Law and Judiciary Department (February 1996) but no permission was granted so far (May 1999).

(c) In 4⁴⁰ Forest divisions, 303 cases involving revenue of Rs.0.18 crore referred to the revenue authorities for collecting the dues under the Revenue Recovery Act were returned back to the divisions in 1998-99 and earlier period for want of details of the property, addresses of the defaulters etc. No further action was taken by the divisions to recover the dues (May 1999). Similarly, in 16⁴¹ Forests divisions, 2556 cases pertaining to the period 1947-48 to 1998-99 involving recovery of Rs.0.74 crore as arrears of land revenue were pending with the revenue authorities. On this being pointed out in audit, the Deputy Conservators of Forests stated (February 1999) that the matter would be looked into and upto date position of the arrears would be informed to Audit.

(d) It was noticed that as on 31 December 1998, Rs.5.93 crore were due from 209 Forest Labourer Co-operative Societies. Out of this, dues of Rs.1.75 crore were related to 37 societies which are now closed, Rs.2.34 crore related to 93 societies which had undergone liquidation and Rs.1.84 crore related to 78 functional societies.

On this being pointed out in audit, the Chief Conservator of Forests (Production) stated that in case of societies under liquidation, they have accepted the certificate of liquidation issued by the Co-operative Department. As far as non-recovery of dues from the functional societies, the matter had been taken up with the Commissioner for Co-operation and Registrar of Co-operative Societies, Pune (May 1999). Thus, failure to collect the dues in time resulted in irrecoverability of government dues of Rs.4.09 crore from the societies, which have become liquidated and closed.

³⁸ Alibag, Allapalli, Bhandara, Dhule (West), Nanded, Nasik(West), Pandharkawada, Pusad, Sawantwadi, Shahapur, Thane, Wadsa, Yavatmal

³⁹ Central Chandrapur Forests division

⁴⁰ Akot (South Melghat Division), Bhandara, Chandrapur (Central), Amravati

⁴¹ Akot (South Melghat Division), Alibag, Amravati, Bhandara, Brahmapuri, Chandrapur (Central), Dhule (West), Gondia, Nanded, Nasik (West), Pusad, Satara, Sawantwadi, Shahapur, Thane, Wadsa

6.2.8 Non-exploitation of bamboo plantations

As per the publication of the Indian Forestry Research and Education Institute, Deharadoun, bamboo plantation of "Denro Calmus Strictus" attains maturity in a period of about 5 to 6 years after plantation and gives an yield of about 4 metric tonne and revenue of Rs.4000 per hectare.

Scrutiny of record of bamboo plantation of 6⁴² Forest divisions revealed that bamboo plantations of the above mentioned variety raised in an area of 6752 hectares during 1980-81 to 1990-91 were due for harvesting during 1987-1988 to 1997-1998. But the plantations expected to yield 27008 metric tonne of bamboo valued at Rs.2.70 crore had not been exploited till March 1999.

The Deputy Conservators of Forests, Chandrapur, Gondia, Nasik and Shahapur stated that non-exploitation of the bamboo plantations was due to damage of seedlings/bamboo rhizomes by wild bores. The Deputy Conservator of Forests, Pandharkawada attributed the non-exploitation to fire hazard and the Deputy Conservator of Forests, Gondia attributed it to scarcity of rainfall and fire hazard.

The reasons given by the Deputy Conservators of Forests are not tenable as test check disclosed that the stated reasoning of wild bore attack was not supported by reliable evidence. Though there were nine incidences of fire during the period 1986 to 1989 in Gondia Forest division and one incidence of fire in Pandharkawada Forest division in 1988-89, the fire affected only the leaf sheddings and not the bamboo plantation. Scarcity of rainfall as stated by the Deputy Conservator of Forests, Gondia is also not tenable as Gondia had received an average rainfall of 128 cm during 1983 to 1989 as against 100 cm rainfall required for the cultivation of bamboo.

6.2.9 Shortfall in yield of timber and fuel wood

Working Plan of each division specified the number of coupes to be exploited from year to year and also the estimated yield of coupe.

The figures of estimated yield, actual yield, shortfall and percentage of shortfall in yield of timber and fuel wood during the year 1995-96 to 1997-98 in two forest divisions the records of which were scrutinised in audit are as follows :

⁴² Chandrapur (Central), Gondia, Nasik (West), Pandharkawada, Shahapur, Thane

Division	Particulars	1994-1995		1995-1996		1996-1997		1997-1998	
		Timber in cu.m.	Fuel Wood in No.	Timber in cu.m.	Fuel Wood in No.	Timber in cu.m.	Fuel Wood in No.	Timber in Cu.m	Fuel Wood in No.
Yavatmal	E.Y.	5896	1209	5478	1787	2111	364	3921	730
	A.Y	4190	400	3119	758	1868	281	3907	334
	Short fall	1706	809	2359	1029	243	83	13	396
	P.C.	28.93	66.91	43.06	57.58	11.50	22.80	00.33	54.25
	A.C	9500	300	9500	300	11348	348	11476	288
Pandhar-kawada	E.Y	4010	1990	5331	1626	5597	1474	2536	1950
	A.Y	3622	1792	4855	2541	6481	1892	5516	2749
	Short fall	388	198	476	--	---	--	--	--
	P.C.	9.67	9.94	8.92	--	---	--	--	--
	A.C.	9500	300	9500	--	11348	--	11476	300

EY-Estimated yield, AY-Actual yield, PC-Per cent shortfall, AC-Average cost

The shortfall in timber as against the estimated yield in the two divisions ranged from 0.33 per cent to 43.06 per cent. In the cases of fuel wood, it varied from 9.94 per cent to 66.91 per cent. At the average cost of timber and fuel wood, the loss of revenue worked out to Rs.4.98 crore.

On this being pointed out, the Deputy Conservators of Forests stated that short realisation was due to adoption of two different methods i.e. use of farm factor for estimating the yield and the measurement made at the time of actual felling of the trees. The reply is not tenable as the difference in yield was very high even if allowance was to be made for the differences in the methods of estimating the yields.

6.2.10 Timber account

Timber account showing receipts and disposal of forest produce and seized material was to be compiled monthly by the Range Forest Officer (RFO)/Sale Depot Officer (SDO) and submitted to the Deputy Conservator of Forests to enable him to keep a watch over harvest and disposal of forest produce. A summary of account is to be submitted to the Conservator of Forests for further submission to government to check the stock at depots at any point of time.

- a) Scrutiny of records of 10⁴³ Forest divisions revealed that 58 RFO/SDO failed to submit monthly timber account to the respective Deputy Conservator of Forests and were in arrears from April 1995 to March 1999.
- b) Though the monthly account had been received in 20⁴⁴ Forest divisions from the ranges, submission of compiled account to the Conservator of Forests was in arrears from May 1982 to January 1998.
- c) There was a discrepancy of 7298.558 Cu.m. of timber valued at Rs.4.20 crore since February 1999 in the timber account submitted by the Range Forest Officer, Nawapur under the Dhule (West) Forest division. When the above discrepancy was pointed out in audit (between February 1999 and May 1999), the Deputy Conservator of Forests stated that the matter was being reconciled.

The matter was referred to Government in June 1999; their reply has not been received (November 1999).

⁴³Akot (South Melghat), Brahmapuri, Chandrapur (Central), Gondia, Nasik (East), Pandharkawada, Paratwada (T & M), Pusad, Thane, Yavatmal

⁴⁴ Akot (South Melghat), Brahmapuri, Chandrapur (Central), Gondia, Nasik (East), Pandharkawada, Paratwada (T & M), Pusad, Thane, Yavatmal, Amravati (East Melghat), Ballarshah (T & M), Bhandara, Dhule (West), Nagpur, Nanded, Satara, Sawantwadi, Shahapur, Wadsa

6.3 Review on "Interest Receipts"

6.3.1 Introduction

"Interest Receipts" is the major source of non-tax revenue of the State Government. This comprises interest charged on loans advanced by Government to various co-operative societies, local bodies, corporations, autonomous bodies, Government companies, non-Government institutions and individuals including Government servants. The loans advanced by the Government usually carry interest at the rate fixed by the sanctioning authority keeping in view the purpose for which the loan is provided. The Bombay Financial Rules, 1959 provide that the authority sanctioning a loan may, levy penal rate of interest on all overdue instalments of principal and interest. Government also stands guarantee for loans granted by financial institutions for which guarantee fee prescribed from time to time is payable by the borrower. For delay in payment of guarantee fee penal interest at the rate of 16 per cent per annum for the first three months and at the rate of 24 per cent per annum thereafter is leviable.

6.3.2 Organisational set up

Proposals for grant of loans are processed by the Heads of Departments and then recommended to the Administrative Departments which issue sanctions with the concurrence of the Finance Department. Recovery of loan along with interest and penal interest wherever applicable is watched by the various controlling and recovery officers (subordinate officers under the respective administrative departments) designated for the purpose.

6.3.3 Scope of audit

A review on test check of records and accounts of 35 out of 75 controlling and recovery officers for the years from 1993-94 to 1997-98 relating to Agriculture, Animal Husbandry, Dairy Development and Fisheries, Housing and Special Assistance, Urban Development and Water Supply and Sanitation Departments, was conducted between January 1999 and May 1999. The records of the Finance Department with reference to recovery of principal and interest on loan disbursed on invocation of guarantees were also seen. The results of the test check are mentioned in the succeeding paragraphs :

6.3.4 Trend of Revenue

Details of Budget estimates and actuals of interest receipts and variation between Budget estimates and actuals of interest receipts for the years from 1993-94 to 1997-98 were as follows :

Year	Budget estimates	Actuals	Difference (+) Excess/ (-) Shortfall	(In crore of rupees)
				Percentage of variation of col. 4 to 2
1.	2.	3.	4.	5.
1993-94	1016.18	928.61	(-) 87.57	(-)9
1994-95	1205.72	1177.08	(-) 28.64	(-)2
1995-96	1300.48	1271.21	(-) 29.27	(-)2
1996-97	1539.37	2034.53	(+) 495.16	(+)32
1997-98	1503.71	1694.14	(+) 190.43	(+)13

The variation of 32 *per cent* during 1996-97 between Budget estimates and actuals was attributed to increased recoveries of arrears of past years notably from Maharashtra State Electricity Board by adjustment of subsidy amounting to Rs. 258.61 crore.

Reasons for variation of 13 *per cent* during 1997-98 was attributable mainly to increase in the interest from investment in Irrigation Development Corporations and increase in the interest realised from investment of unspent cash balance.

6.3.5 Highlights

- Government had not recovered Rs. 55.28 crore from borrowers whose loans from lending institutions were discharged by Government during the periods from 1966 to 1998. Interest on the loans for the period upto 31 March 1998 amounting to Rs. 29.66 crore was not recovered.

(Paragraph 6.3.7)

- Penal interest of Rs. 3.06 crore was not levied by Government on delayed payment of guarantee fee, principal and interest by the Maharashtra Jeevan Pradhikaran.

(Paragraph 6.3.8)

- Interest amounting to Rs. 4.04 crore payable to Government was treated as adjusted against dues from Government by CIDCO without consent of the Government. In addition, penal interest of Rs. 55.42 lakh was not levied and recovered.

(Paragraph 6.3.9)

- Short levy of interest amounting to Rs. 32.94 lakh due to application of incorrect rate and non-recovery of principal of Rs. 3.55 crore was noticed in Agriculture and Fisheries department.

(Paragraph 6.3.10)

- **Principal of Rs. 2.10 crore and interest of Rs. 1.38 crore were not recovered from the beneficiaries under the scheme of mechanisation of fishing crafts.**

(Paragraph 6.3.11(a))

- **Non-conversion of special redeemable share capital into loan amounted to Rs. 48.69 lakh and interest recoverable thereon amounted to Rs. 20.02 lakh.**

(Paragraph 6.3.11(b))

6.3.6 Lack of monitoring and control

According to the orders issued by Government in February 1966, the administrative departments are required to intimate to the Accountant General every year by 15 July, the arrears (as on 31 March preceding) in recovery of principal and interest on loans, of which the detailed accounts are maintained by the departmental offices. In paragraph 6.2.6 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1998 it was mentioned that as of November 1997 only one of the 26 departments had furnished the information for the year ended 31 March 1997. The information for the year ending 31 March 1998 and 31 March 1999 had not been furnished by any of the departments (August 1999). The Finance Department stated (May 1999) that all the administrative departments had been instructed to furnish the information every year by 15 July but no such information was received by the Accountant General (A & E) (November 1999).

6.3.7 Non-recovery of loans and interest on invocation of guarantees

Interest of Rs.29.66 crore had accumulated on loans aggregating Rs. 55.28 crore disbursed by Government on invocation of guarantees by lending institutions

According to Article 293 of the Constitution of India, the State Government can give guarantees on the Consolidated Fund of the State, to various lending institutions to assure them of repayment of loans (along with interest) made by them to various borrowers. Such guarantees constitute contingent liabilities on the Consolidated Fund of the State and any default in repayments by the borrowers could result in the creditors invoking the guarantees given by Government for recovery of the loans. Sums paid by the Government in such circumstances become loans to the ultimate borrowers.

Mention was made in para 6.2.8 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1998 regarding non-recovery of interest of Rs. 22.58 crore for the period from 1966 to 31 March 1997 on Rs. 49.09 crore paid by Government to the lending institutions on invocation

of guarantees. The amount of principal pending recovery as on 31 March 1998 was Rs. 55.28 crore and the interest recoverable thereon was Rs. 29.66 crore.

6.3.8 *Non-levy of penal interest on delayed payment of guarantee fee and loan*

Penal interest of Rs. 3.06 crore was not recovered from the Maharashtra Jeevan Pradhikaran

Government recovers guarantee fee at prescribed rates from the borrowers. In case of default in payment of guarantee fee by the borrower, penal interest is leviable at the rate of 16 *per cent* per annum for the first three months and at the rate of 24 *per cent* per annum thereafter.

Test check of records maintained by the Maharashtra Jeevan Pradhikaran, in respect of loans received from Life Insurance Corporation of India, revealed that guarantee fee aggregating Rs. 10.31 crore payable to Government between April 1993 and October 1996 were paid between 25 March 1996 and 31 October 1996. However, penal interest of Rs. 2.89 crore for delay in the payments was not recovered from the Maharashtra Jeevan Pradhikaran.

Further, out of the total loans amounting to Rs. 120.53 crore sanctioned by Government to the Maharashtra Jeevan Pradhikaran between 1984-85 and 1996-97, there was delay in repayment of the principal amounts as well as of interest for periods ranging between 1 day and 688 days during the years from 1993-94 to 1997-98. However, penal interest at the rate of 10 *per cent* in respect of loan disbursed in 1984-85 and at the rate of 18 *per cent* per annum in respect of loans disbursed thereafter amounting to Rs. 16.80 lakh was not levied and recovered.

The Water Supply and Sanitation Department stated (May 1999) that the Maharashtra Jeevan Pradhikaran was permitted by the Finance Department (May 1999) to pay the penal interest of Rs. 2.84 crore on the payments of guarantee fee made on 25 March 1996 in 24 instalments commencing from May 1999 onwards. Report on action taken to recover the penal interest on guarantee fee/repayment of loan alongwith interest has not been received (November 1999).

6.3.9 *Unauthorised adjustment of Interest*

Interest of Rs. 4.04 crore was adjusted by CIDCO against interest payment due from Government without authorisation and penal interest of Rs. 55.42 lakh was not levied and recovered

Government granted between May 1977 and March 1996 loans aggregating Rs. 11.84 crore to City and Industrial Development Corporation (CIDCO). Interest on these loans payable by CIDCO to Government at the end of 31

March 1997 amounted to Rs. 4.77 crore. Of this, Rs. 0.73 crore was paid by CIDCO on 31 March 1997 and the balance of Rs.4.04 crore was adjusted in their books of accounts without the knowledge of Government against interest dues receivable from Government on advance given by CIDCO in June and July 1973 to the Government to tide over financial difficulties by raising money through issue of unsecured debentures. In addition, penal interest recoverable on the loan at the rate of 2 *per cent* per annum upto 31 March 1997 worked out to Rs. 55.42 lakh. Government stated (May 1999) that the interest along with penal interest would be recovered from CIDCO.

6.3.10 Short levy of interest due to application of incorrect rate of interest

Interest of Rs. 32.94 lakh was levied short in respect of 16 beneficiaries

(a) As per terms and conditions governing the loans amounting to Rs. 18.32 crore sanctioned in August 1993 and March 1994 by the Agriculture Department to five institutions, the loan amounts were repayable within six months from the date of receipt of the loan amount along with interest at the rate of 7.5 *per cent* per annum. For failure to repay the loan within the stipulated period, interest was chargeable at the penal rate of 10.25 *per cent* per annum. In respect of three⁴⁵ institutions which did not repay the loan amounts aggregating Rs. 9.22 crore within the stipulated period of six months, interest was levied and collected at the rate of 7.5 *per cent* per annum instead of at the penal rate of 10.25 *per cent* per annum. This resulted in short levy of interest of Rs. 25.29 lakh till the date of repayment. One institution had not repaid the loan amount of Rs. 355 lakh on which interest at the rate of 10.25 *per cent* per annum upto 31 March 1998 was calculated as Rs. 153.24 lakh instead of Rs. 157.85 lakh resulting in short levy of interest of Rs. 4.61 lakh. Thus the total short levy of penal interest amounted to Rs. 29.90 lakh in the above cases.

On being pointed out in Audit (between February and April 1999) the departmental officers agreed to recover the amounts due.

(b) Similarly in the Fisheries Department on the loans aggregating Rs. 12.36 lakh paid to twelve beneficiaries, interest was charged at 10 *per cent* per annum instead of at 13 *per cent* per annum on the outstanding amounts of loans for failure to repay the loan amounts within the stipulated time. This resulted in short levy of interest of Rs. 3.04 lakh. The department agreed (April 1999) to recover the interest short levied.

⁴⁵ Maharashtra State Co-operative Marketing Federation Limited, Mumbai
Vidharbha Co-operative Marketing Federation Limited, Nagpur
Maharashtra State Agro Industries Development Corporation, Mumbai

6.3.11 Non-recovery of principal and interest

Principal of Rs. 2.10 crore and interest of Rs. 1.38 crore were not recovered on loans given for mechanisation of fishing crafts

(a) Under the scheme of mechanisation of fishing crafts with assistance of National Co-operative Development Corporation, the entire amount of loan, was repayable in 12 years in equal monthly instalments (excluding the months of June, July, August and September) alongwith interest at prescribed rates from time to time. For default in payment of instalment of loan and interest, penal interest at the rate of 3 *per cent* over and above the effective rate was leviable.

In Mumbai, Raigad and Thane it was noticed that in respect of loans aggregating Rs. 18.82 crore sanctioned and disbursed between 1976-77 and 1997-98 by the Fisheries department, principal amounting to Rs. 2.10 crore and interest of Rs. 1.38 crore (including penal interest of Rs. 0.05 lakh relating to Mumbai) recoverable upto 31 March 1998 had not been recovered (November 1999).

(b) Non-conversion of special redeemable share capital into loan

Under the scheme of mechanisation of fishing vessels, if the entire loan amount was repaid in 12 years, 20 *per cent* of the total assistance being the Special Redeemable Share Capital (SRSC) was to be converted into subsidy, otherwise it was to be treated as loan and recovered along with interest. However, test check of records maintained by the recovery officers at Mumbai, Raigad and Thane, indicated that in 111 cases, the SRSC amounting to Rs. 48.69 lakh was not treated as loan on failure to repay the amounts within the stipulated period. Interest thereon recoverable at the various rates ranging from 10.5 to 11.5 *per cent* amounted to Rs. 20.02 lakh.

(c) Interest not converted into loan

According to Agriculture and Co-operation department Resolution dated 25 August 1976 in case of disbursement of new loan under the rehabilitation programme on loss of craft due to accident/natural calamity, all outstanding dues of principal and /or interest of the previous loan were to be added to the fresh loan.

In Raigad, while granting (October 1990 and February 1993) loans aggregating Rs. 17.74 lakh to three groups whose crafts were lost in cyclone in 1989, interest liability on the earlier loans amounting to Rs. 3.08 lakh for various periods falling between October 1979 and February 1993 was not included in the fresh loans. This resulted in loan liability being under-stated by Rs. 3.08 lakh.

On being pointed out the departmental officers agreed to take necessary action to recover the dues.

6.3.12 Non-reconciliation of interest receipts

As per the provisions laid down in Rule 98 (2)(v) of the Maharashtra Treasury Rules 1968, all the moneys received by a Government officer on behalf of Government and remitted into treasury are required to be reconciled with the figures booked by the concerned Treasury Officer every month and a certificate to that effect obtained from the Treasury Officer and kept on record.

None of the departments covered in the review carried out reconciliation of interest receipts with the records maintained by the concerned Treasury Officer (April 1999).

The above points were reported to the departments and Government in July 1999; their reply has not been received (November 1999).

6.4 Non/short recovery of guard charges

(a) As per the Government of Maharashtra, Home Department's resolution dated 19-06-1991, expenditure on pay and allowances and other incidental charges of police guards provided to guard the buildings of Reserve Bank of India, Nagpur was to be recovered in advance by the Police Department.

The Commissioner of Police, Nagpur provided police guards between June 1991 and October 1998 to Reserve Bank of India, Nagpur. However, out of an expenditure of Rs 343.09 lakh incurred on police guards, the department recovered Rs.63.79 lakh only resulting in short recovery of guard charges of Rs.279.30 lakh.

On this being pointed out by audit in June 1998, the department accepted the omission. Progress of recovery was awaited (February 1999). The matter was reported to Government in September 1998; their reply has not been received (November 1999).

(b) As per paragraph 484 of the Bombay Police Manual, 1959 (Volume-III), the pay of police guards or escort supplied to private companies or private individuals should be recovered in advance by the Police Department.

In Chandrapur, police personnel were deployed in 127 non-Government organisations between the period 1993-94 and 1997-98 by the Superintendent of Police, Chandrapur. However, the department failed to recover the amount of guard charges of Rs.26 lakh.

On this being pointed out in audit (June 1998), the department accepted the omission and stated that reminders were issued to the organisations to recover the charges (August 1998). Progress of recovery is awaited (March 1999).

The matter was reported to Government in April 1999; their reply has not been received (November 1999).

6.5 Improper utilisation of revenue receipts for departmental expenditure

As per the Maharashtra Treasury Rules, 1968, moneys received by or tendered to the Government as revenues should be paid into the treasury expeditiously.

Further, money collected as revenue receipts should not be appropriated to meet the departmental expenditure. As per provisions of the Maharashtra Public Works Account Code, when Public Works Divisions execute jobs on behalf of other departments and Governments, they are authorised to collect, indirect charges like supervision charges in addition to the direct charges. The indirect charges are to be treated as revenue receipts and credited to the Government account.

Audit scrutiny of records in four Mechanical Divisions of Pune Circle, disclosed that these divisions kept indirect charges of Rs.6.54 crore in deposit accounts instead of crediting the amount into treasuries during April 1995 to September 1998. Moreover, they incurred an expenditure of Rs.2.54 crore out of this revenue receipt. Thus the divisions not only failed to credit the receipts into treasuries but also appropriated it towards departmental expenditure.

On this being pointed out by Audit (November 1998), the Executive Engineer of the division stated that the revenue was retained in deposit account and utilised for departmental expenditure as per instructions of the Chief Engineer, Mechanical Circle, Pune. The Chief Engineer's instructions are arbitrary and violative of the codal provisions. This resulted in improper appropriation of revenue receipts of Rs.2.54 crore for departmental expenditure besides retention of Rs.6.54 crore outside the Consolidated Fund of the State.

The matter was referred to Government in May 1999; their reply has not been received (November 1999).

6.6 Loss of revenue due to delay in taking decision for disposal of tendu leaves

Tendu leaf is an important minor product obtained from the forest. Until 1997, the Forest Department resorted to a system called Modified Lumpsum System (MLS) for collection of the tendu leaves. Under this system, the expected yield of tendu leaves in an unit was notified and sealed tenders were invited from bidders seeking their rates for collection of the tendu leaves from each unit. The contract for collection of the leaves is usually finalised in advance of the cropping season i.e. December each year as it provides for adequate time to the contractor to coppice the plants in time and collect the leaves by the month of March. In March 1998, Government decided to change the mode of tendering by inviting tenders on the basis of fixed royalty payable to the Government and wages offered by the bidders to the labourers. This change was aimed at protecting the interest of the labourers.

Accordingly, in March 1998, the Chief Conservator of Forests invited tenders for collection of tendu leaves. The contractors boycotted the changed mode of tendering and no tenders were received till the last day of submission of tenders i.e. 1 April 1998. Therefore, the Government on the recommendation of the Principal Chief Conservator of Forest, Nagpur reviewed the position and ordered to revert back to the old system i.e. Modified Lumpsum System. The tenders under the Modified Lumpsum System were invited on 4 April 1998 for 469 units. The tenders were finalised on 24 April 1998, in respect of 341 units at a price of Rs.18.43 crore against the minimum benchmark price of Rs.28.71 crore. The reductions in tender rates was attributed to the delay in tendering as by April 1998 the cropping season was almost over, the contractors did not have opportunity to do coppicing of the plants and there was reduced plucking period leading to low yield. Thus, the delay of four months in inviting tenders resulted in loss of Rs.10.28 crore. As in previous years, had the tenders been finalised in December 1997, there would not have been any loss. The untimely decision of the Government to switch over to a new system in deviation of a time tested existing system and consequent delay in tendering resulted in loss of Rs.10.28 crore in respect of 341 units during 1998.

On this being pointed out in audit (August 1998), the department accepted the loss and attributed it to incessant rain, climatic conditions causing panic amongst the traders and Lok Sabha Election.

The matter was referred to Government in June 1999; their reply has not been received (November 1999).

6.7 Short/non-recovery of guarantee fee

As per Article 293 of the Constitution of India, the State extends guarantee on the security of the Consolidated Fund of the State for raising loans by the various institutions and bodies from financial institutions and from open market and charges guarantee fee at the rates prescribed by the Government from time to time. From 1 November 1988 guarantee fee is leviable at the rate of one *per cent*. In respect of co-operative institutions providing financial assistance to weaker sections of society and to co-operative societies of Scheduled Castes and Scheduled Tribes, the rate of guarantee fee leviable is at the rate of 0.20 *per cent* and in case of default in old cases the rate of guarantee fee is to be levied at the rate of 0.50 *per cent* (instead of 0.2 *per cent*) on the new loans/borrowings guaranteed. For non-payment of guarantee fee on due date, the interest at the rate of 16 *per cent* per annum for first three months and at the rate of 24 *per cent* thereafter, was also leviable.

(a) The Maharashtra State Agriculture and Rural Development Bank Ltd., Mumbai floated special development debenture amounting to Rs.231.41 crore

during 1993-94 under the guarantee cover provided by the State Government. Scrutiny of the records of the office of the Commissioner for Co-operation and Registrar of Co-operative Societies, Maharashtra State, Pune, disclosed (November 1998) that the Bank did not pay guarantee fee of Rs.46.41 lakh due during 1993-94. Further while standing fresh guarantees for special development debentures floated by the Bank during 1994-95 to 1996-97, the Commissioner and Registrar of Co-operative Societies did not levy the guarantee fee at the rate of Rs.0.50 per cent as applicable in case of defaulter. The department raised the demand of Rs.1.50 crore instead of Rs.3.12 crore which resulted in short levy of guarantee fee of Rs.1.62 crore. For non-payment of guarantee fee of Rs.2.08 crore interest amounting to Rs.3.70 crore was leviable upto 1997-98.

On the above being pointed out in audit (November 1998), the Commissioner and Registrar of Co-operative Societies, Pune stated that the Bank is providing finance to weaker sections of the society hence, the rate of guarantee fee levied was Rs.0.20 per cent. The contention of the Commissioner is not acceptable as in case of default in payment of guarantee fee by co-operative institutions providing financial assistance to weaker section and Scheduled Castes and Scheduled Tribes, the guarantee fee at the rate of Rs.0.5 per cent is leviable as per Government orders.

(b) Kannad Sahakari Sakhar Karkhana Limited in Aurangabad District had taken loans aggregating Rs.965.50 lakh from financial institutions for which State Government stood guarantee during 1994-95. Audit scrutiny (April 1999) disclosed that the Commissioner for Sugar, Maharashtra State, Pune did not raise the demand for recovery amounting to Rs.19.26 lakh on account of guarantee fee. Besides, interest of Rs.18.57 lakh was also leviable upto March 1999.

On this being pointed out in audit (April 1999), the Commissioner for Sugar, Maharashtra State, Pune stated that the recovery would be effected alongwith interest. The report of recovery is awaited (November 1999).

(c) Four Sugar Co-operative Factories in Kolhapur and Solapur Districts had taken loans aggregating Rs.6978.95 lakh during October 1991 to September 1994 from financial institutions for which State Government stood guarantee. Audit scrutiny (December 1998) disclosed that the guarantee fee of Rs.129.06 lakh was levied against Rs.533.61 lakh. This has resulted in short levy of guarantee fee of Rs.404.55 lakh. Besides this, interest was also leviable.

On this being pointed out in audit (April 1998), the Commissioner for Sugar, Maharashtra State, Pune stated that guarantee fee alongwith interest would be recovered.

The matter was referred to Government in June 1999; their reply has not been received (November 1999).



(DHIRENDRA SWARUP)

Mumbai, Principal Accountant General (Audit)-I, Maharashtra

The 10 FEB 2000

Countersigned



(V. K. SHUNGLU)

Comptroller and Auditor General of India

New Delhi,

The 16 FEB 2000

10 FEB 2000

10 FEB 2000