



सत्यमेव जयते

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

for the year ended 31 March 1998

**NO. 1  
(REVENUE RECEIPTS)**

**Government of Maharashtra**



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## ***Prefatory Remarks***

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This Report for the year ended 31 March 1998 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 1997-98 as well as those noticed in earlier years which could not be included in previous Reports.

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## Overview

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This Report contains 36 paragraphs including five reviews relating to non-levy/short levy of taxes, duties, interest and penalty *etc.*, involving Rs. 462.50 crore. Some of the major findings are mentioned below :

### 1. General

(i) The total receipts of the State during the year 1997-98 amounted to Rs.20316.57 crore of which revenue raised by the State Government was Rs.17360.15 crore and receipts from Government of India were Rs.2956.42 crore. The revenue raised by the State Government comprised tax revenue of Rs.13719.26 crore and non-tax revenue of Rs.3640.89 crore. The revenue raised constituted 85 *per cent* of the total receipts of the State and showed an increase of 12 *per cent* over the previous year 1996-97. The earlier year, however, had registered a growth of 13 *per cent*.

The receipts from the Government of India included Rs.1732.06 crore on account of State's share of divisible Union taxes and Rs.1224.36 crore as Grants-in-aid registering a decrease of 24 *per cent* and 19 *per cent* respectively over 1996-97.

{Paragraph 1.1}

As against an increase of 35 *per cent* during the year 1996-97 over the year 1995-96, the non-tax revenue showed a decrease of 3 *per cent* during the year 1997-98 over the year 1996-97. The major receipts which contributed to this decline were Power {(-)44 *per cent*}, Police {(-)42 *per cent*} and Interest {(-)17 *per cent*}}

{(Paragraph 1.1.(b))}

## Overview

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(ii) At the end of 1997-98, the arrears in respect of some taxes administered by the departments of Finance, Home, Energy and Medical and Public Health amounted to Rs. 4264.87 crore of which Sales Tax alone accounted for Rs. 3325.17 crore.

{Paragraph 1.5}

(iii) In respect of the taxes administered by the Finance Department such as Sales Tax, Profession Tax and Tax on Works Contract *etc.*, 10.78 lakh assessments were completed during 1997-98 leaving a balance of 16.99 lakh assessments as on 31 March 1998.

{Paragraph 1.6}

(iv) Test check of records of Sales Tax, State Excise, Motor Vehicles Tax, Land Revenue and other departmental offices conducted during the year 1997-98 revealed under-assessments, short levy, losses of revenue *etc.*, amounting to Rs.494.65 crore in 11218 cases. The concerned departments accepted under-assessment, short levy *etc.*, of Rs.68.45 crore of which Rs.52.36 crore had been pointed out in 1997-98 and rest in earlier years. The departments recovered Rs.9.00 crore at the instance of audit.

{Paragraph 1.11}

## 2. Sales Tax

(i) A review on levy and collection of sales tax on works contract revealed the following :

(a) Owing to assessments being barred by limitation there was loss of revenue of Rs. 42.93 crore in 288 cases.

{Paragraph 2.2.7(a)}

(b) Continuing delay in completing assessments of 358 dealers resulted in non-realisation of Rs. 67.67 crore.

{Paragraph 2.2.7(b)}

(c) Failure to assess 24 dealers who had filed returns for only part of the year(s), resulted in delay in realisation of revenue of Rs. 5.67 crore.

{Paragraph 2.2.7(c)}

(d) Failure to make a provision in the Act for deduction of tax at source facilitated evasion of tax of Rs. 19.18 crore by 123 contractors who executed contracts for the Public Works Department.

{Paragraph 2.2.8}

(e) Failure to bring installation of lifts under the scope of the Act resulted in loss of revenue of Rs. 6.71 crore in 4 cases.

{Paragraph 2.2.9}

(f) Incorrect allowance of resale and application of incorrect rate of tax resulted in under-assessment of tax aggregating Rs. 4.81 crore in 26 cases.

{Paragraph 2.2.10}

(ii) A review on sales tax incentives under the package schemes of incentives revealed the following :

(a) Failure to invoke the provision for recovery of incentives availed of by closed units during the period of agreement resulted in non-recovery of Rs. 74.30 crore from 190 units.

{Paragraph 2.3.7(a)}

(b) Despite breach of conditions of eligibility, incentives of Rs. 1.06 crore were not recovered from 14 units.

{Paragraph 2.3.7(b)}

(c) Failure to maintain complete and proper records enabled excess availment of incentives of Rs. 5.92 crore by 38 units.

{Paragraph 2.3.8}

(d) Claim for deferment of tax on full production capacity instead of on increase in production capacity resulted in incorrect availment of incentives of Rs. 2.19 crore by an unit at Aurangabad.

{Paragraph 2.3.9(i)}

(e) Availment of incentives during the period not covered by the entitlement certificate resulted in incorrect deferment of taxes of Rs. 26.01 lakh by an unit at Thane.

{Paragraph 2.3.9(ii)}

## Overview

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(f) Incorrect issuance of certificate of eligibility for replacement of existing machinery resulted in incorrect availment of incentives of Rs. 1.31 crore by an unit at Aurangabad.

{Paragraph 2.3.11}

(iii) Incorrect grant of set-off resulted in non-realisation of revenue of Rs. 6.86 crore.

{Paragraph 2.4}

(iv) Non-levy of purchase tax for contravention of recital of declaration by dealers in diamond resulted in under-assessment of Rs. 5.04 crore.

{Paragraph 2.5}

(v) Allowance of transactions of sales as inter unit transfers resulted in incorrect refund of taxes of Rs. 3.90 crore to National Organic Chemical Industries Limited:

{Paragraph 2.6(a)}

(vi) Incorrect grant of exemption from payment of tax resulted in non-realisation of revenue of Rs. 3.31 crore.

{Paragraph 2.7}

(vii) Application of incorrect rate of tax resulted in under-assessment of Rs. 2.46 crore.

{Paragraph 2.8}

(viii) Failure to verify correctness of sales on declarations resulted in under-assessment of Rs. 84.62 lakh.

{Paragraph 2.9}

(ix) Non-levy/ short levy of turnover tax/ additional tax resulted in under-assessment of Rs. 53.33 lakh.

{Paragraph 2.10}

(x) Incorrect determination of taxable turnover resulted in under-assessment of Rs. 16.91 lakh.

{Paragraph 2.11}

### **3. Motor Vehicles Tax**

(i) Motor vehicles tax of Rs. 60.49 lakh in 611 cases remained unrealised as demands were not raised.

{Paragraph 3.5}

(ii) Failure to compound offences at revised rates resulted in loss of revenue of Rs. 12.18 lakh.

{Paragraph 3.6}

### **4. Stamp Duty and Registration Fees**

i) Misclassification of documents resulted in short levy of stamp duty amounting to Rs.51.34 lakh.

{Paragraph 3.8}

(ii) Non-registration of 57 lease agreements/ deeds resulted in non-levy of stamp duty and registration fees of Rs. 11.29 crore.

{Paragraph 3.10}

### **5. Land Revenue**

(i) A review on grant of Government land and assessment of revenue thereof revealed the following :

(a) Failure to implement a specific recommendation of Public Accounts Committee for recovery of lease rent in respect of land situated in Kurla tahsil resulted in non-recovery of Rs. 1.25 crore.

{Paragraph 4.2.5}

(b) Non-recovery of occupancy price and interest from the allottees of land resulted in non-realisation of revenue of Rs. 6.41 crore in 12 cases.

{Paragraph 4.2.6}

(c) Incorrect allotment of excess land at concessional occupancy price instead of full market price in 3 cities resulted in short levy of Rs. 79.97 lakh.

{Paragraph 4.2.7(i)}

## Overview

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(d) Non-levy/ short levy of lease rent resulted in non-recovery of Rs. 18.92 crore in 13 cases.

{Paragraph 4.2.8}

(e) Non-levy of increase of land revenue resulted in non-realisation of revenue of Rs. 39.83 crore.

{Paragraph 4.2.9}

(f) Failure to levy increase of land revenue and zilla parishad/ village panchayat cess/ conversion tax resulted in non-realisation of revenue of Rs. 61.24 lakh.

{Paragraph 4.2.10}

(g) Non-levy of non-agricultural assessment on acquired land resulted in non-recovery of Rs. 36.76 lakh.

{Paragraph 4.2.11}

(h) Levy of village panchayat cess at pre-revised rate resulted in non-realisation of revenue of Rs. 20.70 lakh.

{Paragraph 4.2.12}

(i) Unearned income and interest amounting to Rs. 55.63 lakh was not recovered in one case.

{Paragraph 4.2.15 (i)}

(ii) Non-levy/ short levy of non-agricultural assessment, increase of land revenue, conversion tax and cesses resulted in non-realisation of revenue amounting to Rs. 1.89 crore

{Paragraph 4.3}

(iii) Non-revision of non-agricultural assessments resulted in non-realisation of revenue of Rs. 42.11 lakh.

{Paragraph 4.4}

(iv) Application of incorrect rate of village panchayat cess resulted in short realisation of revenue of Rs. 13.66 lakh

{Paragraph 4.5}

(v) Non-levy of land revenue and cess due to failure to make entries in the basic records resulted in non-realisation of land revenue of Rs. 21.07 lakh.

{Paragraph 4.6}

(vi) Incorrect orders regarding levy of interest at pre-revised rate resulted in short realisation of interest of Rs. 19.75 lakh.

{Paragraph 4.9}

## **6. Other Tax Receipts**

(i) A review on levy and collection of entertainments duty revealed the following :

(a) Non-levy of entertainments duty on inadmissible items of expenditure incurred out of service charges and unspent balance resulted in under-assessment of Rs. 24.63 lakh.

{Paragraph 5.2.8}

(b) Exemptions of entertainments duty aggregating Rs. 19.01 crore were allowed to 55 films even though the prescribed conditions were not fulfilled.

{Paragraph 5.2.9}

(c) Non-levy of entertainments duty/ surcharge on cable/ video game operators resulted in non-realisation of revenue of Rs. 14.00 lakh.

{Paragraph 5.2.10}

(d) Incorrect retention of entertainments duty collected and permitting incorrect adjustment of entertainments duty collected and paid to Government by proprietors of theatres resulted in loss of revenue of Rs. 33.55 lakh.

{Paragraph 5.2.12}

(e) Non-levy of surcharge on payment for admission to an amusement park resulted in loss of revenue of Rs. 66.74 lakh.

{Paragraph 5.2.14}

(ii) Government revenue amounting to Rs. 8.98 crore collected by the Pune and Nagpur Municipal Corporations on account of State education cess and employment guarantee cess was not credited into Government account.

{Paragraph 5.3}

## Overview

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(iii) Incorrect grant of exemption from payment of education cess and employment guarantee cess resulted in non-realisation of revenue of Rs. 22.48 lakh.

{Paragraph 5.4}

(iv) Non-enrollment in 3269 cases for the levy of profession tax resulted in non-realisation of revenue of Rs. 39.29 lakh.

{Paragraph 5.5 (a)}

### 7. Non-tax Receipts

(i) A review on interest receipts revealed the following :

(a) Failure to prescribe terms and conditions for grant of loans resulted in non-recovery of interest of Rs. 20.20 crore.

{Paragraph 6.2.7}

(b) Accumulated interest of Rs. 22.58 crore was not recovered on loans aggregating Rs. 48.73 crore given to 64 organisations.

{Paragraph 6.2.8}

(c) Interest of Rs. 11.20 crore was not recovered from 63 loanees.

{Paragraph 6.2.9}

(d) Repayment of interest to National Co-operative Development Corporation without recovery from borrowers resulted in avoidable payment of interest of Rs. 5.00 crore.

{Paragraph 6.2.10}

(e) Five State Government corporations did not transfer to Government principal and interest aggregating Rs. 19.30 crore recovered from entrepreneurs.

{Paragraph 6.2.11}

(f) Penal interest of Rs. 39.00 lakh for delayed payment of interest was not demanded from the Maharashtra State Electricity Board.

{Paragraph 6.2.12}

(ii) Non-recovery of escort charges/ guard charges in respect of police personnel provided to organisations resulted in non-realisation of revenue of Rs. 7.97 crore.

{Paragraph 6.4}

(iii) Adoption of wrong method of measurement of quantity of bamboo resulted in loss of revenue of Rs. 5.18.crore.

{Paragraph 6.5}



# CHAPTER

1

## General

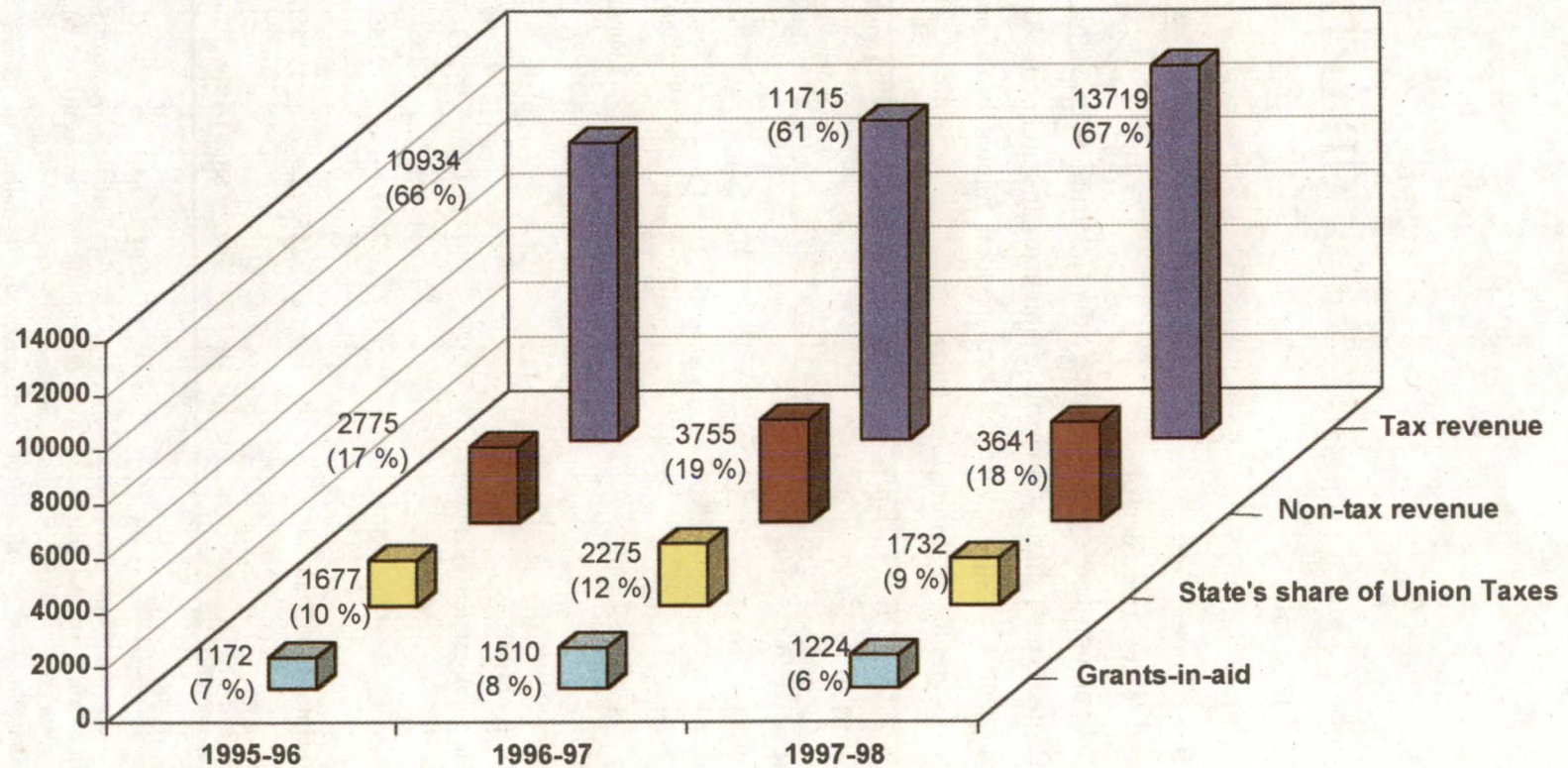
### 1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Maharashtra during the year 1997-98, 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 and also exhibited in Chart-I.

	1995-96	1996-97	1997-98
	(In crore of rupees)		
<b>I. Revenue raised by the State Government</b>			
(a) Tax revenue	10934.45	11714.97	13719.26
(b) Non-tax revenue	2775.39	3754.88	3640.89
<b>Total</b>	<b>13709.84</b>	<b>15469.85</b>	<b>17360.15</b>
<b>II. Receipts from the Government of India</b>			
(a) State's share of divisible Union taxes	1677.47	2274.93	1732.06
(b) Grants-in-aid	1171.97	1510.46	1224.36
<b>Total</b>	<b>2849.44</b>	<b>3785.39</b>	<b>2956.42</b>
<b>III. Total receipts of the State</b>	<b>16559.28</b>	<b>19255.24</b>	<b>20316.57</b>
<b>IV. Percentage of I to III</b>	<b>83</b>	<b>80</b>	<b>85</b>

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 1997-98. 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.

**Chart -I**  
**Revenue Sources of Maharashtra Government**  
 (Amount in crore of rupees)



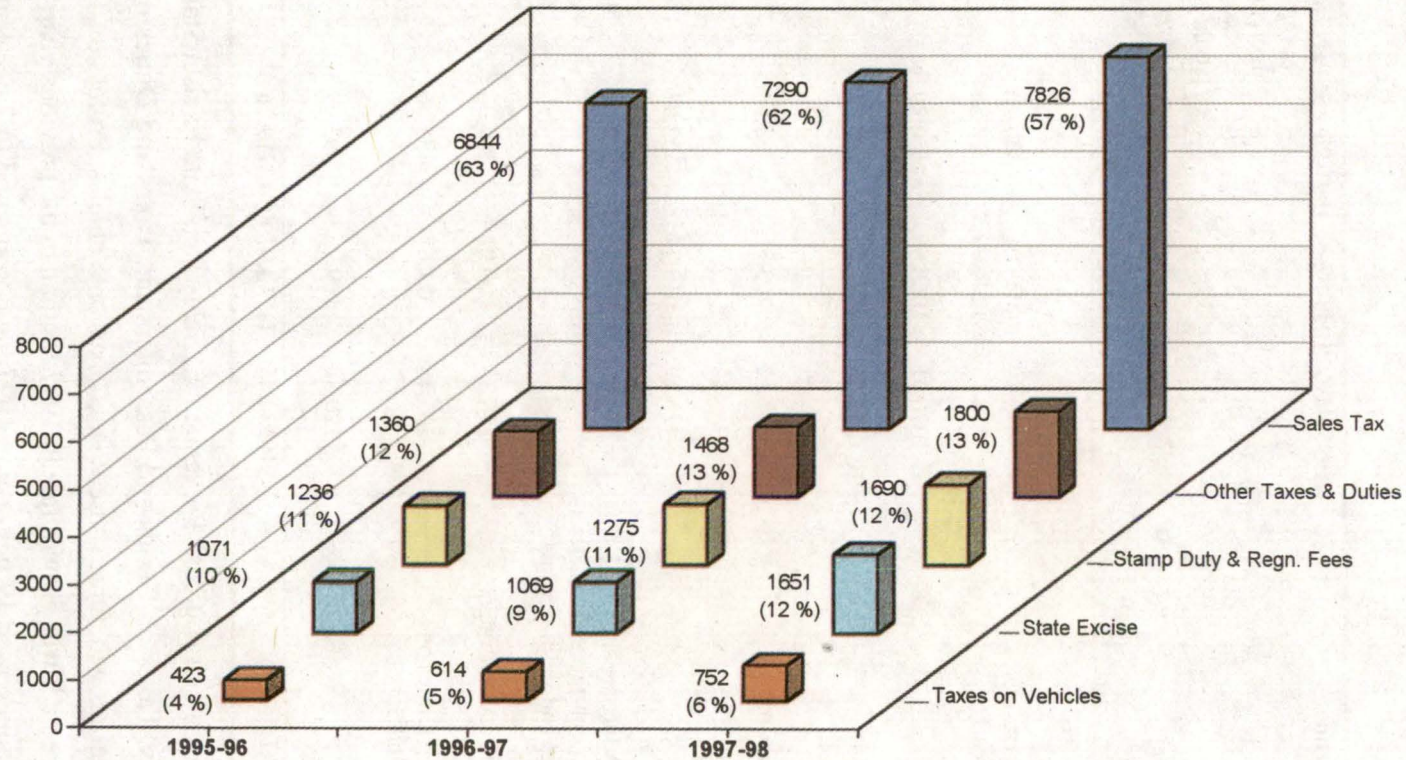
(Refer Paragraph 1.1)

- (a) The details of tax revenue raised during the year 1997-98 alongwith figures for the preceding two years are given below and also exhibited in Chart-II.

Head of Revenue	1995-96	1996-97	1997-98	Percentage of increase (+) or decrease (-) in	
				-----	
				1996-97 over 1995-96	1997-98 over 1996-97
(In crore of rupees)					
1. Sales Tax					
(a) State Sales Tax <i>etc.</i>	5690.19	6045.01	6547.20	6	8
(b) Central Sales Tax	1154.13	1244.99	1278.28	8	3
2. State Excise	1070.91	1068.50	1650.89	Negligible	55
3. Stamp Duty and Registration Fees	1235.98	1274.57	1690.35	3	33
4. Taxes and Duties on Electricity	357.12	403.31	535.64	13	33
5. Taxes on Vehicles	423.19	613.74	752.07	45	23
6. Other Taxes on Income and Expenditure-Tax on Professions, Trades, Callings and Employments	330.60	382.35	396.05	16	4
7. Taxes on Goods and Passengers	248.35	200.87	341.03	(-)19	70
8. Other Taxes and Duties on Commodities and Services	303.46	371.67	435.66	22	17
9. Land Revenue	120.52	109.96	92.09	(-)9	(-)16
TOTAL	10934.45	11714.97	13719.26	7	17

While five major sources of revenue viz., Sales Tax, State Excise, Stamp Duty and Registration fees, Taxes on Goods and Passengers and Taxes and Duties on Electricity registered a higher growth, three sources viz., Taxes on Vehicles, Profession Tax and Land Revenue registered a lower growth rate in 1997-98 than in the previous year. Overall, the State tax revenue increased 17 per cent in 1997-98 as compared to 7 per cent in 1996-97.

**Chart- II**  
**Tax revenue raised by Maharashtra Government**  
 (Amount in crore of rupees)



{Refer Paragraph 1.1(a)}

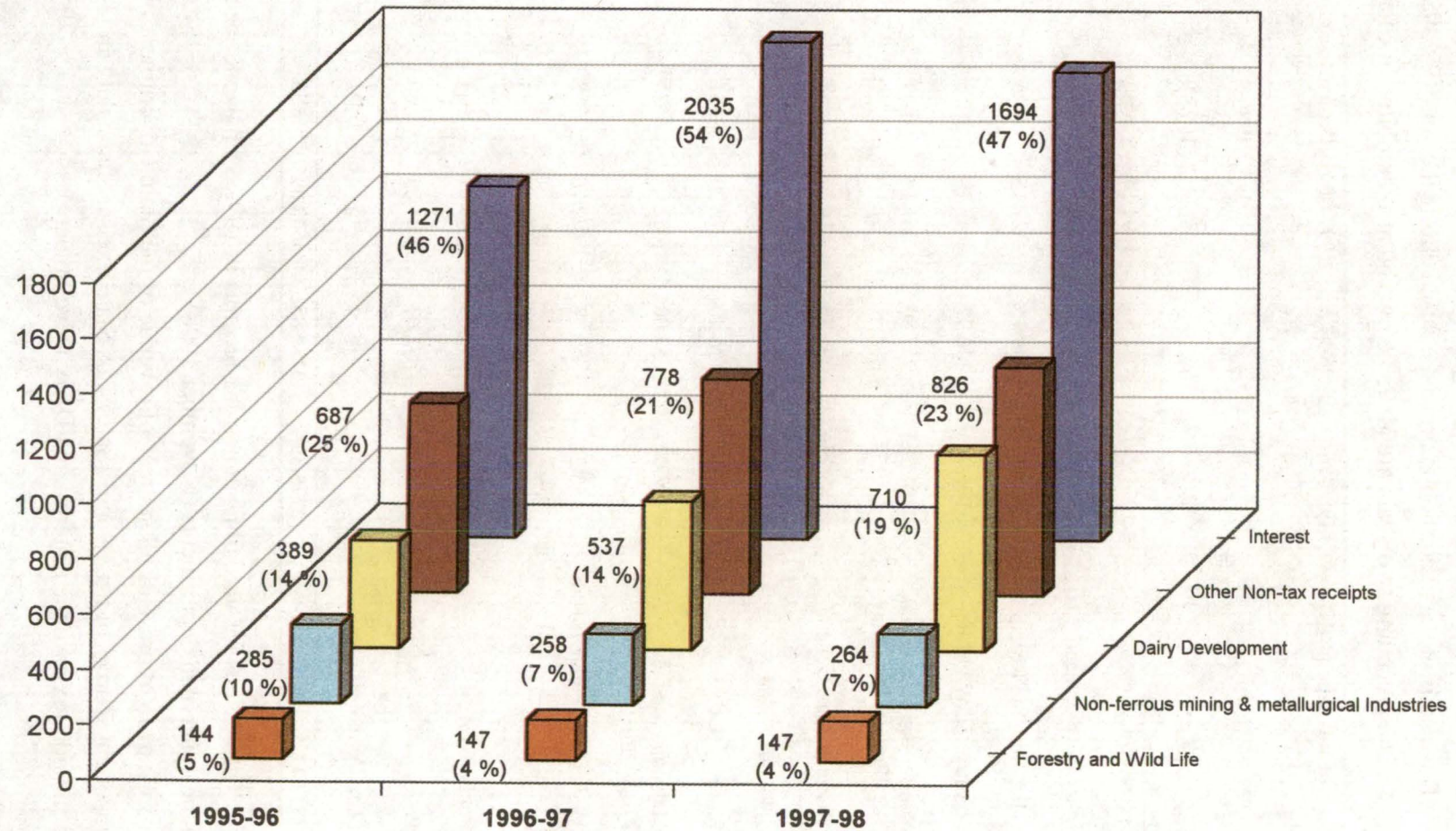
(b) The details of the major non-tax revenue raised during the year 1997-98 along with figures for the preceding two years are given below and also exhibited in Chart III.

Head of Revenue		1995-96	1996-97	1997-98	Percentage of increase (+) or decrease (-) in	
					1996-97 over 1995-96	1997-98 over 1996-97
(In crore of rupees)						
1.	Interest Receipts	1271.21	2034.53	1694.14	60	(-)17
2.	Dairy Development	389.01	537.22	709.56	38	32
3.	Other Non-Tax Receipts	266.23	249.13	327.15	(-)6	31
4.	Forestry and Wild Life	143.98	146.97	147.38	2	Negligible
5.	Non-ferrous Mining and Metallurgical Industries	284.65	257.86	264.12	(-)9	2
6.	Miscellaneous, General Services (including lottery receipts)	85.29	91.96	114.34	8	24
7.	Power	1.47	125.40	70.70	8431	(-)44
8.	Major and Medium Irrigation	77.02	58.00	52.07	(-)25	(-)10
9.	Medical and Public Health	56.24	60.77	79.76	8	31
10.	Co-operation	30.25	37.49	44.16	24	18
11.	Public Works	45.22	43.33	46.81	(-)4	8
12.	Police	42.32	71.67	41.85	69	(-)42
13.	Other Administrative Services	82.50	40.55	48.85	(-)51	20
TOTAL		2775.39	3754.88	3640.89	35	(-)3

The reasons for variations in non-tax receipts in 1997-98 have not been received from the concerned departments (November 1998).

Chart IV represents all sources of revenue of the State Government highlighting the important sources of tax revenue (Sales Tax, State Excise, Stamp duty and Registration fees) and non-tax revenue (Interest and Dairy Development).

**Chart -III**  
**Non-Tax revenue raised by Maharashtra Government**  
 (Amount in crore of rupees)



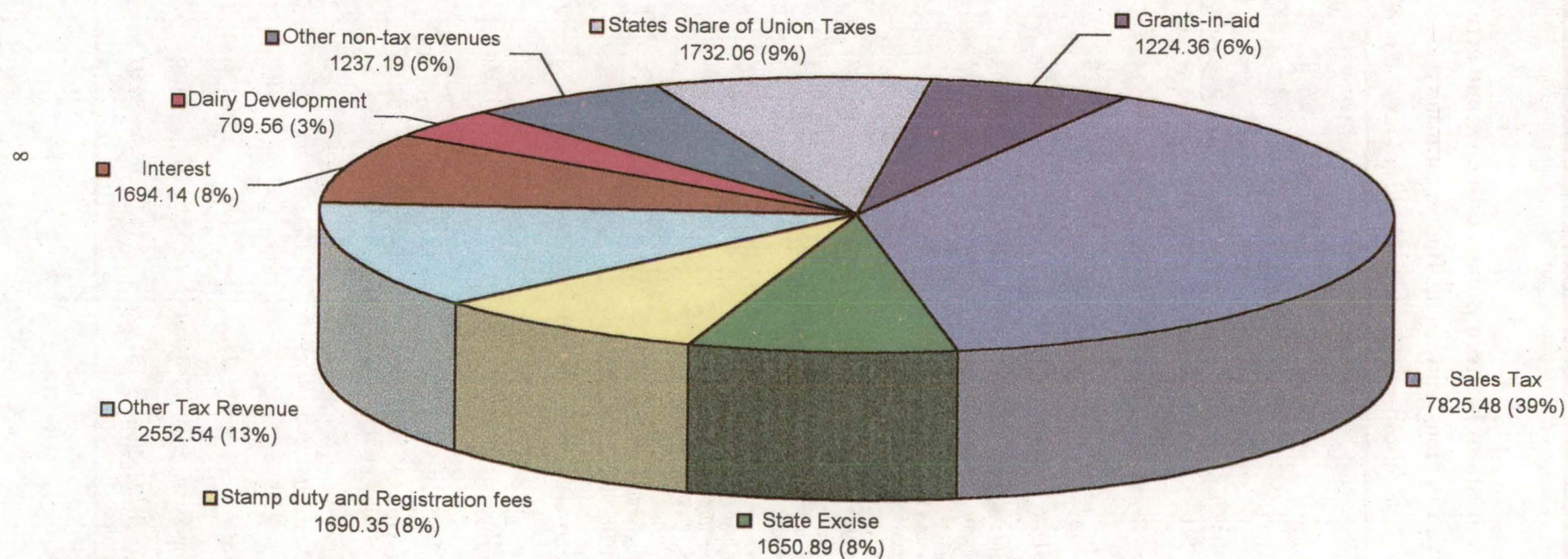
{Refer paragraph 1.1 (b)}

## 1.2 Variations between Budget estimates and actuals

The variations between the Budget estimates and actuals of revenue receipts for the year 1997-98 in respect of principal heads of tax and non-tax revenue are given below:

Head of Revenue	Budget estimates	Revised estimates	Actuals	Variations Excess (+)or shortfall (-)		Percentage of variation	
				B.E	R.E	B.E	R.E
(In crore of rupees)							
1. Sales Tax	8829.50	8255.00	7825.48	(-)1004.02	(-)429.52	(-)11	(-)5
2. Interest Receipts	1503.71	1500.83	1694.14	190.43	193.31	13	13
3. State Excise	1350.00	1635.00	1650.88	300.88	15.88	22	1
4. Dairy Development	439.32	596.53	709.56	270.24	113.03	62	19
5. Stamp Duty and Registration Fees	1550.00	1603.48	1690.35	140.35	86.87	9	5
6. Taxes and Duties on Electricity	483.90	557.98	532.64	48.74	(-)25.34	10	(-)5
7. Taxes on Vehicles	540.00	700.00	752.07	212.07	52.07	39	7
8. Taxes on Goods and Passengers	331.32	360.00	341.03	9.71	(-)18.97	3	(-)5
9. Other taxes on Income and Expen- diture - Tax on Professions, Trades, Callings and Employments	385.00	415.00	396.05	11.05	(-)18.95	3	(-)5
10. Forestry and Wild Life	163.00	163.00	147.38	(-)15.62	(-)15.62	(-)10	(-)10
11. Land Revenue	130.00	130.00	92.09	(-)37.91	(-)37.91	(-)29	(-)29
12. Power	76.02	66.03	70.70	(-)5.32	4.67	(-)7	7
13. Non-ferrous Mining and Metallurgical Industries	355.00	358.32	264.12	(-)90.88	(-)94.20	(-)26	(-)26
14. Medical and Public Health	71.30	72.16	79.76	8.46	7.60	12	11
15. Police	74.58	74.58	41.85	(-)32.73	(-)32.73	(-)44	(-)44
16. Co-operation	34.30	35.02	44.16	9.86	9.14	29	26
17. Major and Medium Irrigation	53.92	54.15	52.07	(-)1.85	(-)2.08	(-)3	(-)4

**Chart IV**  
**Source of Revenue of Government of Maharashtra, 1997-98**  
 (Amount in crore of rupees)



The reasons for variations between Budget estimates and actuals have not been received from the concerned departments (November 1998)

### 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 1997-98 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	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
(In crore of rupees)							
<b>Finance Department</b>							
Sales Tax	1995-96	5052.36	663.32	148.02	103.97	5611.71	90
	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
Motor Spirit Tax	1995-96	992.72	Nil	Nil	Nil	992.72	100
	1996-97	1290.45	0.17	Nil	0.29	1290.33	100
	1997-98	1498.57	Nil	Nil	Nil	1498.57	100
Profession Tax	1995-96	318.95	2.70	0.26	0.01	321.65	99
	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
Entry Tax	1995-96	10.35	1.53	0.06	Nil	11.88	87
	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
Luxury Tax	1995-96	62.66	1.89	0.26	0.18	64.37	97
	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

The table above shows that collection of revenue at pre-assessment stage ranged between 87 and 100 *per cent* during 1995-96, 82 and 100 *per cent* during 1996-97 and between 72 and 100 *per cent* during 1997-98. This indicates awareness for voluntary compliance by tax payers and the limited role of tax collecting machinery in achieving the higher targets of income.

## Chapter I

### 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 year 1995-96, 1996-97 and 1997-98 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 1996-97 are given below :

Head of Revenue	Year	Collection*	Expenditure on collection of revenue†	Percentage of expenditure on collection	All India Average percentage for the year 1996-97
(In crore of rupees)					
1. Sales Tax	1995-96	6844.32	52.62	0.77	1.19
	1996-97	7290.00	53.97	0.74	
	1997-98	7825.48	63.93	0.82	
2. Taxes on Vehicles and Taxes on Goods and Passengers	1995-96	671.54	17.57	2.62	2.60
	1996-97	814.61	27.43	3.36	
	1997-98	1093.10	43.68	3.99	
3. State Excise	1995-96	1070.91	4.17	0.39	3.53
	1996-97	1068.50	16.40	1.53	
	1997-98	1650.89	17.23	1.04	
4. Stamp Duty and Registration fees	1995-96	1235.98	18.94	1.53	3.37
	1996-97	1274.57	22.44	1.76	
	1997-98	1690.35	Information awaited from department		

### 1.5 Arrears of revenue

The arrears of revenue as on 31 March 1998 in respect of some principal heads of revenue amounted to Rs. 4264.87 crore of which Rs. 852.71 crore were outstanding for more than 5 years as detailed in the following table :

\* Figures as per Finance Accounts

† Figures as furnished by the department

Head of Revenue	Amount outstanding as on 31 March 1997	Amount outstanding as on 31 March 1998	Amount outstanding for more than 5 years as on 31 March 1998
(In crore of rupees)			
1. Sales Tax	2730.84	3325.17	631.91
2. Profession Tax	233.53	273.81	82.56
3. Purchase Tax on Sugarcane	188.49	201.03	68.78
4. Taxes on Vehicles	97.75	152.35	26.68
5. State Excise	5.15	1.46	1.24
6. Taxes on Goods and Passengers	162.65	142.04	1.60
7. Taxes and Duties on Electricity	10.14	9.88	4.80
8. Others :			
a) Tax on works contract	67.52	92.00	8.86
b) Lease Tax	30.53	28.49	2.92
c) Agricultural Income tax	4.84	5.08	5.08
d) Luxury tax	2.54	2.86	0.04
e) Entry tax	14.40	21.44	13.76
f) Medical and Public Health	1.10	9.26	2.48
g) Major Minerals	4.39	Information awaited from the department	
<b>Total</b>	<b>3553.87</b>	<b>4264.87</b>	<b>852.71</b>

The recovery of arrears of revenue under Motor Vehicles Tax, Goods and Passengers Tax and Sales Tax were stated to be under the following stages of action :

	Motor Vehicles Tax	Goods and Passengers Tax	Sales Tax
(Amount in crore of rupees)			
(i) Revenue Recovery	41.29	1.22	--
Certificates issued			
(ii) Stay by the Appellate authorities/Tribunal/High Court and Government	1.91	0.20	1572.44
(iii) Write-off under consideration	5.51	0.02	--
(iv) Owners insolvent	--	0.13	--
(v) Under various stages of action	103.64	140.46	1752.73
<b>Total</b>	<b>152.35</b>	<b>142.03</b>	<b>3325.17</b>

## Chapter I

### 1.6 Arrears in assessments

The details of assessment cases pending at the beginning of the year 1997-98, 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 1997-98 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 given below :

Name of tax	Opening balance	Cases due for assessment during 1997-98	Total assessments due	Cases disposed of	Balance at the end of the year	Percentage of Column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>I. Finance Department</b>						
Sales Tax	1174953	916912	2091865	827873	1263992	60
Motor Spirit Tax	4495	1399	5894	1104	4790	81
Profession tax	478114	119771	597885	226454	371431	62
Purchase tax on sugarcane	5094	949	6043	1146	4897	81
Entry Tax	2422	3603	6025	2774	3251	54
Lease Tax	4453	3488	7941	3012	4929	62
Luxury Tax	3211	2090	5301	1903	3398	64
Tax on works contract	39558	16879	56437	14098	42339	75
<b>Total</b>	<b>1712300</b>	<b>1065091</b>	<b>2777391</b>	<b>1078364</b>	<b>1699027</b>	<b>61</b>

The year-wise break-up of the pending cases as on 31 March 1998 was as under :

Year	Sales Tax	Motor Spirit Tax	Profession Tax	Purchase Tax on Sugar-cane	Entry Tax	Lease Tax	Luxury Tax	Tax on Works Contract
upto								
1993-94	114219	1563	102960	1454	1629	1540	739	17176
1994-95	148286	1265	76474	1885	295	968	627	9070
1995-96	296083	818	78723	767	261	1105	860	7160
1996-97	704495	1144	113274	791	1066	1316	1172	8933
1997-98	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
<b>TOTAL</b>	<b>1263083</b>	<b>4740</b>	<b>371431</b>	<b>4897</b>	<b>3251</b>	<b>4929</b>	<b>3398</b>	<b>42339</b>

Name of tax	Opening balance	Cases due for assessment during 1997-98	Total assessments due	Cases disposed of	Balance at the end of the year	Percentage of Column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>2. Home Department</b>						
Taxes on Vehicles	554684	115798	670482	78919	591563	88
Taxes on Goods and Passengers	9228	--	9228	4	9224	99.95

### 1.7 Arrears in appeal

The arrears of revenue at the end of the last three years and revenue blocked due to appeals in respect of Sales Tax, State Excise and Motor Vehicles Tax Departments are given below :

As on 31 March	Total revenue in arrears		Arrears in appeal		Percentage of Col. 3 to 2	
	No. of cases	Amount	No. of Cases	Amount	Cases	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(Amount in crore of rupees)						
(i) Sales Tax						
1996	348278	2268.49	47497	1176.20	14	52
1997	341529	2730.84	48818	1349.20	14	49
1998	336772	3325.16	44143	1572.44	13	47
(ii) State Excise						
1996	320	0.85	320	0.85	100	100
1997	322	0.82	322	0.82	100	100
1998	27	0.77	27	0.77	100	100
(iii) Motor Vehicles Tax and Tax on Goods and Passengers*						
1996	577292	57.15	1968	2.47	0.34	4.32
1997	564032	260.40	1901	2.06	0.34	0.79
1998	600787	294.39	1806	1.84	0.30	0.63

\* (Does not include information relating to Aurangabad region).

Huge amount of revenue was blocked particularly in respect of sales tax dues in appeals. However no effective steps were taken to dispose of the appeal cases.

## Chapter I

### 1.8 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 1997-98	Total	No. of cases in which assessment/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 1998
					No. of cases	Amount of demands (in lakh of rupees)	
1.	Sales Tax	2532	1540	4072	1254	7646.21	2818
2.	State Excise	2	35	37	37	547.23	Nil
3.	Motor Vehicles Tax	--	467416	467416	467416	5.67	Nil

### 1.9 Write-off and waiver of revenue

During the year 1997-98, demands for Rs.122.93 lakh (in 1075 cases) relating to Sales Tax 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		Motor Vehicles Tax, Goods Tax and Passengers Tax *	
	No. of cases	Amount (Amount in lakh of rupees)	No. of cases	Amount
1 Whereabouts of defaulters not known	861	57.49	1413	24.25
2 Defaulters no longer alive	66	5.92	21	0.12

\* (Does not include information relating to Aurangabad region).

	Sales Tax		Motor Vehicles Tax, Goods Tax and Passengers Tax *	
	No. of cases	Amount	No. of cases	Amount
	(Amount in lakh of rupees)			
3 Defaulters not having any property	118	23.19	684	21.33
4 Defaulters adjudged insolvent	1	21.14	19	0.32
5 Other reasons	28	3.10	--	--
6 Remission of penalty	1	12.09	--	--
<b>Total</b>	<b>1075</b>	<b>122.93</b>	<b>2137</b>	<b>46.02</b>

\* (Does not include information relating to Aurangabad region).

### 1.10 Refunds

The number of refund cases pending at the beginning of the year 1997-98, claims received during the year, refunds allowed during the year and cases pending at the close of the year 1997-98, as reported by the departments are given below :

	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
	(Amount in lakh of rupees)									
1. Claims outstanding at the beginning of the year	2824	4736.00	658	15.22	44	84.13	110	23.28	16	5.00
2. Claims received during the year	27315	14820.00	2007	226.95	43	166.91	46	30.67	218	201.00
3. Refund made during the year	27914	17344.00	1879	165.77	47	172.54	40	28.67	216	202.00
4. Balance outstanding at the end of the year	2225	2212.00	786	76.40	40	78.50	116	32.47	18	4.00

\* (Does not include information relating to Aurangabad region).

## Chapter I

### 1.11 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 1997-98 revealed under-assessment/short levy/loss of revenue amounting to Rs. 494.65 crore in 11218 cases. During the course of the year the departments accepted under-assessment of Rs. 68.45 crore involved in 4162 cases (which included 3536 cases involving Rs. 16.09 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. 9.00 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. 462.50 crore.

### 1.12 Internal Audit

The performance of Internal Audit during the year 1997-98 in the State Excise, Sales Tax and Motor Vehicles tax departments were as under:

	Target in units/ cases	Units/ cases audited	Shortfall	Objection raised		Demand raised		Recovery	
				Cases	Amount	Cases	Amount	Cases	Amount
				( Amount in crore of rupees )					
State Excise	519	497	22	145	0.31	145	0.31	124	0.28
Sales Tax	47200	45306	1894	2989	38.87	800	8.89	272	0.70
Motor Vehicles tax	Not fixed	--	--	6620	0.34	6620	0.34	6615	0.34

Reasons for shortfall in achieving the target as furnished by the State Excise and Sales Tax Departments were as follows :

- |                  |   |
|------------------|---|
| (i) State Excise | 22 units could not be audited due to closure.                                   |
| (ii) Sales Tax   | Some of the posts of Auditing officers/ Inspectors were vacant during the year. |

### 1.13 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 1998, 10375 observations (in 4503 inspection reports) involving Rs 319.79 crore issued up to 31 December 1997, were still to be settled as detailed below. The figures as on 30 June 1996 and 30 June 1997 are also indicated alongside for comparison.

	As at the end of		
	June 1996	June 1997	June 1998
Number of inspection reports	4677	4481	4503
Number of audit observations	10799	10408	10375
Amount involved (In crore of rupees)	181.81	279.87	319.79

In respect of 1570 observations (in 605 inspection reports) involving Rs.19.75 crore, even the first replies had not been received.

Year-wise break-up of the outstanding inspection reports as on 30 June 1998, together with amounts of receipts involved, is given in the following table.

## Chapter I

Sr. No.	Name of Receipt	Upto 1993-94			1994-95			1995-96			1996-97			(Amount in lakh of rupees) 1997-98 (Upto 31.12.97)			TOTAL		
		IRs	Objs.	Amount	IRs	Objs.	Amount	IRs	Objs.	Amount	IRs	Objs.	Amount	IRs	Objs.	Amount	IRs	Objs.	Amount
1	Sales Tax	484	809	196.76	207	360	173.58	284	578	322.66	394	906	423.44	400	1263	1462.02	1769	3916	2578.46
2	Land Revenue	265	518	2974.31	33	74	479.68	149	383	1485.90	223	671	9235.79	117	326	426.76	787	1972	14602.44
3	Stamp Duty and Registration Fees	262	935	1186.58	163	477	388.07	110	295	172.75	130	383	236.49	165	403	326.68	830	2493	2310.57
4	Forest Receipts	175	245	3849.69	38	83	679.21	34	66	714.89	47	104	1620.10	52	192	4231.66	346	690	11095.55
5	Taxes on Vehicles	31	43	132.28	12	22	13.77	11	27	13.70	19	35	31.60	24	76	99.87	97	203	291.22
6	Entertainments Duty	16	21	2.53	9	12	4.46	20	33	39.06	62	120	44.45	36	66	26.77	143	252	117.27
7	State Excise	29	35	1.21	4	5	4.42	9	12	6.08	29	36	5.66	24	36	7.89	95	124	25.26
8	Electricity Duty	4	5	27.51	1	1	0.70	2	4	--	--	--	--	10	16	4.33	17	26	32.54
9	Tax on Professions	53	107	19.20	27	54	16.38	20	43	12.56	35	75	68.96	30	61	40.22	165	340	157.32
10	State Education Cess	54	92	88.84	17	26	3.61	18	28	3.74	17	22	24.93	16	21	315.06	122	189	436.18
11	Tax on Residential Premises	2	2	--	5	5	0.53	2	3	0.41	5	5	3.58	5	6	0.40	19	21	4.92
12	Repair Cess	6	7	0.94	3	4	2.67	2	2	0.58	2	3	1.03	--	--	--	13	16	5.22
13	Other Non-tax Receipts	65	89	145.94	11	14	72.62	17	21	91.89	6	8	7.78	1	1	3.57	100	133	321.80
Total		1446	2908	8625.79	530	1137	1839.70	678	1495	2864.22	969	2368	11703.81	880	2467	6945.23	4503	10375	31978.75

IRs - Inspection Reports

Objs. - Objections

This position was brought to the notice (August 1998) of the Secretaries of the respective Government Departments and was reported to the Chief Secretary in August 1998.

#### **1.14 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 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 1997-98 only four out of 7 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 department conducted during the year 1997-98 revealed under-assessment/short levy/loss of revenue amounting to Rs. 26868.93 lakh in 3569 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	1228	1631.40
2.	Incorrect allowance of set-off	432	836.69
3.	Non-levy/short levy of penalty	96	29.84
4.	Omission to forfeit tax irregularly collected	33	68.60
5.	Other irregularities	649	1066.39
6.	Review on sales tax incentives under the package schemes of incentives	284	8531.48
7.	Review on levy and collection of Maharashtra Sales Tax on transfer of property in goods involved in execution of Works Contract Act, 1989	847	14704.53
Total		3569	26868.93

During the course of the year 1997-98, the department accepted under-assessments of Rs.723.74 lakh involved in 1141 cases, of which 170 cases involving Rs.71.04 lakh had been pointed out during 1997-98 and the rest in earlier years. Of these, department recovered Rs. 97.74 lakh.

A few illustrative cases noticed during 1997-98 and in earlier years having a financial effect of Rs. 23.31 crore and two reviews on "Levy and Collection of Maharashtra Sales Tax on transfer of property in goods involved in execution of works contract" and "Sales Tax Incentives under Package Schemes of Incentives" involving financial effects of Rs.147.05 crore and Rs. 85.31 crore respectively are given in the following paragraphs.

### **2.2 Review on "Levy and collection of sales tax on works contract."**

#### **2.2.1 Introduction**

The Maharashtra Sales Tax on the Transfer of Property in goods involved in the execution of Works Contract Act, 1985 (hereafter referred to as the Works Contract Act) was introduced with effect from 1 October 1986. Consequent upon the pronouncement of the Supreme Court judgement\* regarding levy and collection of tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract in the State of Maharashtra, the Maharashtra Sales Tax on the Transfer of Property in goods involved in the execution of Works Contracts (Re-enacted) Act, 1989 was enacted and brought into force retrospectively from 1 October 1986. According to the provisions of the Act, every dealer engaged in the execution of works contract in the State and whose turnover of sales/purchases during a year exceeds rupees two lakh is liable to obtain a certificate of registration and make payment of tax, at the rates prescribed in the Act.

The Act also provides for payment of a lump sum amount by way of composition as a percentage of the total contract value as notified from time to time.

In addition, with effect from 1 January 1992, resale of goods covered by Schedule C (covering goods other than tax free and declared goods) to the Bombay Sales Tax Act, 1959 which had borne tax at the time of purchase and sold in the same form is also permissible.

All the provisions of the Bombay Sales Tax Act, 1959 in relation to levy of penalty and interest are applicable to the Act.

#### **2.2.2 Organisational set-up**

The levy, collection and assessment of tax under the Works Contract Act is under the overall control of the Commissioner of Sales tax, Maharashtra State, Mumbai who is assisted by Additional Commissioners at zonal level, two at Mumbai, one each at Nagpur

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\* M/s. Builders Association of India vs Union of India. (73 STC-370)

and Pune and Deputy Commissioner of Sales Tax at Division level, Senior Assistant Commissioners, Assistant Commissioners and Sales Tax Officers. The work of assessment and collection of tax under the Works Contract Act is carried out separately in addition to assessments done under the Bombay Sales Tax Act, 1959. No separate staff is earmarked for assessment and collection of tax under the Works Contract Act.

### **2.2.3 Scope of audit**

To assess the effectiveness of the system of levy, collection and assessment of tax under the Act, records in fifteen\* divisions covering assessments completed under the Bombay Sales Tax Act, wherein deductions were allowed on account of works contract receipts and corresponding assessments under the works contract Act completed/ to be completed between 1 April 1991 and 31 March 1997 were test checked between November 1997 and May 1998. Out of 8929 registered dealers in the State, records of 7377 dealers were test checked. Results of the test check are mentioned in the succeeding paragraphs.

### **2.2.4 Highlights.**

(i) **Loss of revenue of Rs. 42.93 crore in 288 cases due to assessment being barred by limitation.**

(Paragraph 2.2.7(a))

(ii) **Continuing delay in completing assessments of 358 dealers involving revenue of Rs.67.67 crore**

(Paragraph 2.2.7(b))

(iii) **In 24 cases where dealers had made payment of Rs.1.36 crore and filed returns for part of the year, there was delay in realisation of dues of Rs.5.67 crore.**

(Paragraph 2.2.7(c))

(iv) **Tax aggregating Rs. 19.18 crore was not collected from contractors who had executed contracts for Public Works Department.**

(Paragraph 2.2.8)

(v) **Failure to bring installation of lifts under the scope of the Act resulted in revenue loss of Rs. 6.71 crore in 4 cases relating to Mumbai**

(Paragraph 2.2.9)

(vi) **Incorrect allowance of resale and application of incorrect rate of tax resulted in under-assessment of tax aggregating Rs. 4.81 crore in 26 cases.**

(Paragraph 2.2.10)

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\* Andheri, Aurangabad, Bandra, Borivali, Churchgate, Ghatkopar, Mandvi, Mazgaon, Nagpur, Nashik, Nariman Point, Pune-I, Pune-II, Thane and Worli.

## Chapter II

(vii) **Incorrect deduction resulted in under-assessment of Rs.5.93 lakh in 22 cases.**

(Paragraph 2.2.11)

### 2.2.5 Registration of dealers/ filing of returns and pending assessments.

In the fifteen divisions, 8929 dealers were granted certificate of registration under the Act up to 31 March 1997.

Of these, 3118 dealers had filed all the returns for the entire year, 1678 dealers had filed returns for part of the year(s) and

4133 (46 per cent) dealers had not filed any returns. Except

for issue of notices in form 'X' in 272 cases, no action was initiated by the department against the defaulters.

**No effective action was taken against dealers who did not file returns**

The year wise pendency of assessments to be completed as on 31 March 1997 was as under :-

Year	No. of assessments	Percentage
Upto 1993-94	15795	40
1994-95	8645	22
1995-96	6689	17
1996-97	8095	21
<b>Total :</b>	<b>39224</b>	<b>100</b>

### 2.2.6 Arrears of revenue.

As a result of assessments under the Works Contract Act, the department had raised additional demands aggregating Rs. 92.00 crore in respect of 6143 cases which were pending recovery as on 31 March 1998. The year wise analysis of the arrears was as under:

**Demands aggregating Rs. 92 crore were pending recovery**

Assessment year	No. of cases	Amount (in crore of rupees.)
Upto 1992-93	776	8.86
1993-94	608	6.17
1994-95	711	8.21
1995-96	709	12.41
1996-97	1088	19.15
1997-98	2251	37.20
<b>Total</b>	<b>6143</b>	<b>92.00</b>

Report on action taken to recover the demands has not been received (November 1998).

**2.2.7 Non-filing of returns and non-payment of tax.**

**(a) Loss of revenue due to cases being barred by limitation.**

According to the re-enacted Act and the Rules framed thereunder, dealers registered under the repealed Act were required to furnish a fresh consolidated return for the periods falling between 1 October 1986 and 31 October 1989 or part thereof for which they were holding registration specifying therein the amount of tax payable and paid and make payment of the balance tax if payable before submission of returns. Excess if any paid was refundable on assessment.

**Loss of revenue of  
Rs. 42.93 crore due to  
assessments being  
barred by limitation**

The Act prescribed a time limit of 3 years for completion of assessment in the case of dealers who had filed fresh consolidated returns *i.e.* assessments to be completed by 31 March 1993. In the cases of dealers who had not filed consolidated returns or were not registered under the Act but liable to pay tax, the period of limitation for completion of assessment was 8 years *i.e.* 31 March 1998. There is no internal control mechanism to ensure that the assessments are completed by the due dates.

On test check of records in thirteen divisions\* in respect of the periods falling between October 1986 and March 1990 it was noticed that 288 dealers, who were registered under both the Bombay Sales Tax Act and the Works Contract Act, had availed of deductions aggregating Rs. 399.12 crore in the assessments under the Bombay Sales Tax Act on account of works contract receipts. This included purchase value of goods of Rs.275.48 crore with tax liability of Rs. 21.47 crore under the works contract Act. However, only 16 dealers had paid tax of Rs. 0.23 crore as against Rs. 0.90 crore payable as per returns filed by them.

Further, it was noticed that except for issue of notices in Form-X in 120 cases no further follow up action had been taken by the department. In the remaining 168 cases even notices were not issued. Failure on the part of the department to complete the

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\* Andheri, Aurangabad, Bandra, Borivali, Churchgate, Ghatkopar, Mazgaon, Nagpur, Nashik, Pune-I, Pune-II, Thane and Worli.

assessments by the prescribed time limit had resulted in loss of revenue of Rs.42.93 crore (including maximum penalty amounting to Rs. 21.46 crore leviable.)

**(b) Failure to file returns.**

A test check of records for the period from April 1990 onwards revealed that 358 dealers, who were registered under both the Acts and who had availed of deductions aggregating Rs. 461.89 crore on account of works contract receipts from the turnover of sales in the assessments under the Bombay Sales Tax

Act, 1959, had neither filed return nor paid tax amounting to Rs.33.83 crore on purchase value of Rs.324.27 crore consumed in the works contracts. In addition to tax, penalty upto a maximum of the tax payable would also be leviable on assessment.

**Continuing delay in completing assessments of 358 dealers involving revenue of Rs. 67.67 crore**

The department had issued notices in 133 cases and had taken follow up action by issuing reminders only in 31 cases. In 225 cases, even notices calling upon the dealers to produce books of accounts for assessment had not been issued. Delay in completion of assessments may result in the cases being barred by limitation and Government being deprived of revenue of Rs. 67.67 crore (including penalty of Rs. 33.83 crore).

**(c) Failure to finalise the assessments**

Under the provision of the Bombay Sales Tax Act, 1959 applicable to the Works Contract Act as well, if any tax payable is found due from a dealer or a person in respect of any period as a result of an order of assessment or reassessment under the Act, such

dealer or person is liable to pay simple interest at the rate of 2 *per cent* of the tax for each month or part thereof from the first date after the end of the period for which the dealer or person has been so assessed till the date of such order of assessment.

**Delay in finalising assessments of 24 dealers resulted in delay in realising revenue of Rs. 5.67 crore**

In ten divisions\*, 24 dealers who had availed deductions aggregating Rs.49.97 crore on account of works contract receipts from the turnover of sales under the Bombay Sales Tax Act, 1959 for various periods falling between April 1990 and March 1997 paid taxes

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\* Andheri, Bandra, Borivali, Churchgate, Ghatkopar, Mandvi, Nashik, Pune-I, Pune-II, and Worli

of Rs. 1.36 crore for part of the year under the Works Contract Act. They had not been assessed upto March 1998. The short payment amounted to Rs.5.67 crore (including interest of Rs. 3.20 crore) .

The department had issued notices in 19 cases and followed up 6 cases by issue of reminders. In 5 cases no action had been taken. Failure on the part of the department to finalise the assessments in time had resulted in delay in realising revenue amounting to Rs.5.67 crore.

### 2.2.8 Evasion of tax

Under the provisions of the Works Contract Act, no dealer shall, while being liable to pay tax under the Act, execute or continue to execute a works contract unless he possesses a valid certificate of registration as prescribed by the Act. In case he failed to apply and obtain certificate of registration, he is liable to pay penalty not exceeding the amount of tax payable.

**Tax aggregating  
Rs.19.18 crore was  
not collected from  
contractors who had  
executed contracts for  
PWD**

A cross verification of records of the Public Works Divisions (PWD) located in 6 districts with the records in the sales tax offices, revealed that 123 contractors who had executed works contract aggregating Rs.154.67 crore during the period from 1 October 1986 to 31 March 1997 on behalf of the PWD and were liable for registration under the Works Contract Act, had not obtained certificate of registration. The Sales Tax Department had also not detected such dealers through their Investigation/Enforcement wings.

The revenue involved after allowing deduction of 30 *per cent* on account of labour charges at the rate of tax of 8 *per cent* (10 *per cent* from 1 January 1992) worked out to Rs.19.18 crore (including penalty of Rs.9.59 crore). This indicated lack of co-ordination between the two departments of Government.

On this being pointed out (December 1997 and January 1998) the department stated that the point would be examined and necessary action taken.

A simple mechanism to plug leakage of revenue in such cases is to provide legally a deduction at source from the payments made to contractors. Such a provision exists in the relevant Act in the States of Rajasthan and Madhya Pradesh.

### 2.2.9 Short levy of tax due to incorrect application of rate.

Lifts, hoists and cranes operated by electricity or any other power and component parts and accessories thereof are covered by Entry 82 of Schedule C-Part II of the Bombay Sales Tax Act and liable to tax at 15 *per cent* up to 30 September 1995.

**Failure to bring installation of lifts under the scope of the Act resulted in revenue loss of Rs.6.71 crore in Mumbai**

It was judicially\* held (January 1968) that a contract for execution and installation of a lift was an indivisible contract for material and labour and hence not liable to tax under the Bombay Sales Tax Act, 1959. Consequently, all receipts were allowed as deduction from the turnover of sales liable to tax.

While the Schedule under the Works Contract Act provides for levy of tax at 34 *per cent* on cranes and hoists (including fork lift trucks and platform trucks) and component parts and accessories thereof, it omits 'lifts'. Scrutiny of records at Mantralaya and the Commissionerate of Sales Tax, at Mumbai revealed that there was no recorded reason for omission of lifts under the Works Contract Act schedule.

In Mumbai, in respect of four dealers† engaged in the work of execution and installation of lifts, out of the total turnover of Rs. 26.43 crore, turnover of Rs.22.69 crore consumed in works contract during the period from January 1992 to March 1995 were assessed and subjected to tax of Rs. 2.28 crore (arrived at by taxing parts/ components of lifts as per rates applicable to them) at various rates under the Works Contract Act. Absence of a specific entry for 'lifts' resulted in Government being deprived of revenue of Rs.6.71 crore worked out at the rate of 34 *per cent* applicable to cranes and hoists.

### 2.2.10 Short/Non-levy of tax

Under the provision of the Maharashtra Works Contract (Re-enacted) Act, 1989, the resales in respect of declared goods and goods other than declared goods are allowed as deduction from the taxable turnover with effect

**Incorrect allowance of resales and application of incorrect rate of tax resulted in under-assessment of tax aggregating Rs. 4.81 crore in 26 cases**

from 1 January 1992 if these purchases are from dealers registered under the Bombay

\* Otis Elevator Company (India) Ltd. V/s State of Maharashtra (24 STC 525)

† 1) M/s Otis Elevators Ltd. 2) M/s. Jaydev Electricals 3) M/s. Jubilee Timbers.

4) M/s. Bharat Bijlee Ltd.

Sales Tax Act, 1959 and used in the execution of Works Contract, in the same form without doing anything to them which amounts to manufacture. Similarly, the rate of tax leviable under the Act was 4 *per cent* for declared goods and 8 *per cent* for goods other than declared goods up to 31 December 1991. With effect from 1 January 1992 tax is leviable in respect of goods other than the items covered by the schedule at the rate of 4 *per cent* for declared goods and 10 *per cent* for such goods other than declared goods. In respect of goods other than declared goods sold in the same form the rate of tax shall be the rate specified in the schedule to the Bombay Sales Tax Act, 1959. In respect of items of work covered by the schedule to the Act the appropriate rate of tax is applicable.

In Mumbai, Aurangabad and Nagpur while assessing 26 dealers for the periods falling between 1 October 1986 and 31 March 1997 owing to incorrect allowance of resales and application of incorrect rate of tax there was under-assessment of Rs.4.81 crore. Some illustrative cases are given below :

Sr. No.	Name of Division and nature of work	Period Items purchased	Objection	Amount of tax payable (In lakh of rupees)	Remarks
1.	Mumbai (Ghatkopar)  Laying of Pipeline	1992 and 1993  Steel, cement, metals etc.	Purchases of Rs.13.55 crore allowed as resale instead of subjecting it to tax at 10 per cent.	135.55	The department stated (March 1998) that the activity of the dealer did not amount to manufacture and therefore the dealer was eligible for resale. The reply of the department was not tenable as the dealer had laid pipeline from Behele to Pune and the transfer of property was in the form of completed pipeline.
2.	Mumbai (Ghatkopar)  Fabrication and erection of structure, work of laying of pipelines and civil works	Between 01/10/86 and 31/03/91  Declared goods i.e. iron and steel pipes, mild steel sheets etc.	Purchases of Rs.13.47 crore allowed as resale instead of subjecting it to tax at 8 per cent.	107.73	Final reply of the department has not been received (November 1998)

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Sr. No.	Name of Division and nature of work	Period Items purchased	Objection	Amount of tax payable (In lakh of rupees)	Remarks
3.	Mumbai (Worli) Civil contractor and structural steel works	1993-94 Declared goods, Kota stone etc.	Turnover of sales of declared goods of Rs.5.26 crore allowed as resale instead of being taxed at 10 per cent	52.59	The department stated (February 1998) that the declared goods were transferred in the same form. The reply is not tenable as without fabrication the structure cannot be assembled
4.	Mumbai (Borivali) Building bus bodies	1992-93 Aluminium, glass, rubber goods etc.	Tax of Rs. 5.43 lakh levied under the Bombay Sales Tax Act at the rate of 15 per cent on purchases of Rs.36.18 lakh from out of Maharashtra State and unregistered dealers instead of levying tax at the rate of 27 per cent on purchases of Rs.207.13 lakh consumed in works contract amounting to Rs.55.93 lakh	50.50	The department stated that the activity of the dealer was covered under Entry C-II 62(ii) taxable at 15 per cent. The reply of the department is not tenable as Entry 18 under the Works Contract Act specifically provides a rate of tax of 27 per cent for body building with effect from 1 January 1992.

### 2.2.11 Short levy of tax due to grant of incorrect deduction.

Consequent to the re-enactment of the Works Contract Act, every dealer whose turnover either of all sales or purchases has exceeded the prescribed limit of Rs.2 lakh shall be liable to pay tax under the Act on or after 1 October 1986. Further, a dealer whose turnover either of all sales or purchases first exceeds the limit shall be liable to pay tax from that date and the turnover of sales effected from the first day of April till that date was allowable as deduction under the Act from the total turnover of that year.

Thus, first deduction of Rs.2 lakh is admissible only when the turnover of sales or purchases first exceeded the limit after the appointed day (*i.e.* 01/10/1986) and was not

admissible when the turnover had already exceeded the limit during the year ended on 31 March 1986 or from 1 April 1986 to 30 September 1986.

In Mumbai and Nagpur in the cases of 22 dealers, deduction of Rs.1.12 crore in respect of the periods falling between 1 April 1986 and 31 March 1990 was allowed as against Rs. 42 lakh admissible owing to incorrect allowance of deduction. This resulted in under-assessment of tax of Rs.5.93 lakh (including interest of Rs.2.90 lakh).

### **2.2.12 Short levy/Non-levy of interest**

Under the provision of the Works Contract (re-enacted) Act, 1989, read with the provisions of the Bombay Sales Tax Act, 1959, if any tax is found due from a dealer in respect of an order of assessment passed, then such dealer is liable to pay by way of simple interest a sum equal to 2 *per cent* per month from the first day after the end of the period for which the dealer has been assessed till the date of such order of assessment.

In Mumbai and Nagpur in the assessment of two dealers for the periods falling between 1 October 1986 and 31 March 1991 the assessing officers had not levied/short levied interest to the extent of Rs.1.20 lakh.

The above points were reported to Government in July 1998; their reply has not been received (November 1998).

## **2.3 Review on sales tax incentives under package schemes of incentives**

### **2.3.1 Introduction**

In order to achieve dispersal of industries outside the Bombay-Thane-Pune belt and to attract them to the undeveloped and the developing areas of the State, Government has provided a package of incentives to new units set-up in the underdeveloped/ developing regions of the State since 1964 under the Package Schemes of Incentives as amended from time to time (last amended in 1993). These apply to substantial expansion also.

The schemes are implemented by the Industries, Energy and Labour Department through the implementing agencies such as State Industries and Investment Corporation of Maharashtra Limited (SICOM) in respect of large and medium scale industries and the Regional Development Corporations and District Industries Centres in respect of small scale industries. The units eligible for the incentives under the schemes are required to apply in the prescribed form to the concerned implementing agency who issue the eligibility certificate subject to fulfillment of the stipulated terms and conditions. On the basis of the eligibility certificate, the Sales Tax department issues an entitlement certificate for availment of sales tax incentives.

The salient features of the schemes are mentioned in the following table :

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Sr. No.	Scheme	Sales tax incentives	Monetary ceiling	Period of eligibility	Remarks
1.	Package Scheme of Incentives, 1979	Exemption of tax on sales of finished products and purchases of raw materials	No ceiling	3 to 9 years	Eligibility period linked with category of unit and location
2.	Package Scheme of Incentives, 1979 (amended)	Exemption or deferment of sales tax on sales of finished goods and purchases of raw materials	75 per cent to 100 per cent of Fixed Capital Investment	3 to 9 years	i) Quantum of incentives and period linked with category of unit and location ii) No incentives on sales of scrap and by products. iii) Tax deferment for 12 years payable thereafter in 6 annual instalments. iv) No deferment of turnover tax, additional tax.
3.	Package Scheme of Incentives, 1983	As above	As above	3 to 9 years or earlier if the ceilings are reached	As above
4.	Package Scheme of Incentives, 1988	Exemption or deferment of sales tax, turnover tax and additional tax on sales of finished products and purchases of raw materials	i) For original unit 60 per cent to 100 per cent of Fixed Capital Investment  ii) For expansion/ diversification 50 per cent to 90 per cent of Fixed Capital Investment	5 to 10 years or earlier if the ceilings are reached  4 to 9 years or earlier if the ceilings are reached	i) Quantum of incentives and period linked with category of unit and location ii) Finished product includes scrap and by products iii) Tax deferment for 10 years payable thereafter in 5 annual instalments.
5.	Package Scheme of Incentives, 1993	As above	60 per cent to 130 per cent of Fixed Capital Investment	5 to 15 years or earlier if the ceilings are reached	As above

Note : Units eligible for deferment of taxes are eligible to opt for interest free unsecured loan in lieu of deferment of taxes.

### **2.3.2 Organisational set-up**

The Commissioner of Sales Tax, Maharashtra State, Mumbai is the head of the Sales Tax Department who is assisted by Additional Commissioner of Sales Tax, Maharashtra State at Mumbai and three Additional Commissioners of Sales Tax in charge of each zone at Mumbai, Nagpur and Pune. There are 16 divisions under the three zones each headed by a Deputy Commissioner of Sales Tax. The sales tax incentives schemes are implemented through the Deputy Commissioner of Sales Tax (Incentives and Enforcement) at Commissionerate level and the Deputy Commissioner of Sales Tax at the division. The assessing officers at the district level are entrusted the work of determining the quantum of incentives admissible under the schemes and to monitor the schemes.

### **2.3.3 Scope of audit**

Out of 7 divisions in which the schemes are implemented, the records maintained in the divisional offices and the assessing officers in Aurangabad, Ghatkopar (Mumbai), Nagpur, Pune and Thane divisions were test checked from January 1998 to April 1998 to examine the adequacy of the system/procedure evolved by the Sales Tax Department to grant incentives as per the provisions of the schemes and compliance of the various terms and conditions of the schemes to achieve the intended objectives of the schemes. Records relating to 2859 units out of 8720 units in these five divisions were test checked and the observations made are incorporated in the succeeding paragraphs.

### **2.3.4 Highlights**

(i) **Quantum of incentives actually availed of by the eligible units from time to time and the revenue forgone/ deferred was not available with the department. The periodical return prescribed from June 1997 did not also require submission of such information.**

(Paragraph 2.3.5)

(ii) **The implementing agencies and the sales tax authorities did not exchange information regarding closure/ excess availment of incentives by units *etc.***

(Paragraph 2.3.6)

(iii) **Provision for recovery of incentives aggregating Rs. 74.30 crore availed of by 190 units which had closed during the period of agreement were not invoked.**

(Paragraph 2.3.7 (a))

(iv) **Inspite of breach of conditions of eligibility, incentives of Rs.1.06 crore availed of by 14 units was not recovered.**

(Paragraph 2.3.7(b))

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(v) Failure to maintain complete and proper records resulted in excess availment of incentives by way of exemption of Rs.4.76 crore by 26 units and by way of deferral of Rs.1.16 crore by 12 units.

(Paragraph 2.3.8)

(vi) Claim of deferment of tax on full production capacity instead of restricting it to the increase in production capacity resulted in incorrect availment of incentives of Rs.2.19 crore.

(Paragraph 2.3.9(i))

(vii) A dealer from Thane deferred taxes of Rs.26.01 lakh during the period not covered by entitlement certificate.

(Paragraph 2.3.9 (ii))

(viii) A dealer from Aurangabad was incorrectly issued a certificate of eligibility for replacement of existing machinery resulting in incorrect availment of incentives by way of exemption of taxes of Rs.1.31 crore.

(Paragraph 2.3.11)

### 2.3.5 Lack of Internal Control

The details of number of eligible industrial units and the quantum of sales tax incentives permitted to be availed of by these units as of September 1997 as furnished by the department was as under:

Quantum of incentives  
availed of by eligible units  
was not available with the  
department

Name of Division	<u>Exemption of taxes</u>		<u>Deferment of taxes</u>		<u>Total</u>	
	No. of units	Amount	No. of units	Amount	No. of units	Amount
(Amount in crore of rupees)						
Aurangabad	2112	1265.18	309	1144.70	2421	2409.88
Ghatkopar	487	5229.13	149	994.96	636	6224.09
Kolhapur	1306	232.67	572	431.35	1878	664.02
Nagpur	2443	3636.96	248	613.98	2691	4250.94
Nashik	2406	973.03	983	988.17	3389	1961.20
Pune	899	1256.02	435	1003.88	1334	2259.90
Thane	865	662.08	618	689.80	1483	1351.88
<b>Total</b>	<b>10518</b>	<b>13255.07</b>	<b>3314</b>	<b>5866.84</b>	<b>13832</b>	<b>19121.91</b>

Even though the registers to be maintained by the Deputy Commissioners of Sales Tax and the assessing officers were prescribed, test check revealed that the registers prescribed for monitoring availment of incentives either through returns or assessments were not kept up to date by the assessing officers in all the divisions. Further, the entries in the register regarding grant of instalments and recovery thereof were not completed by the Deputy Commissioners of Sales Tax. As such the register did not exhibit the actual quantum of incentives availed of and the balance available for availment.

In spite of the schemes being implemented for nearly three decades, no periodical returns/reports were called for from the assessing officers till June 1997. The returns prescribed in June 1997 were inadequate for effective monitoring as they did not give details of the progressive amount of incentives availed of by each unit. Consequently, the information regarding incentives actually availed of by the eligible units from time to time and the revenue forgone/deferred was not available with the department. The periodical reports did not indicate the correct position as they were based on information submitted by those assessing officers to whom cases of eligible units were allotted and did not include the cases transferred to other assessing officers on expiry of period/monetary ceilings of entitlement certificates. There were also discrepancies in the figures of eligible units reported as shown below :

Division	No. of units in division as per figures reported by the Deputy Commissioner of Sales Tax	No of units reported in monthly reports sent by assessing officers to the Deputy Commissioner of Sales Tax	Difference
Aurangabad	2648	1599	1049
Thane	2035	1418	617
<b>TOTAL</b>	<b>4683</b>	<b>3017</b>	<b>1666</b>

The reasons for the difference have not been received (November 1998).

### **2.3.6 Lack of co-ordination between implementing agencies and sales tax authorities**

The package schemes of incentives provide for monitoring/periodical review of the fixed capital investment and production activity of the eligible units by the implementing agencies through periodical reports, copies of annual accounts and sales tax returns to be submitted by the eligible units to ensure that the incentives availed of were

**The implementing agencies and the sales tax authorities did not exchange information regarding closure/ excess availment of incentives by units**

## Chapter II

within the ceilings prescribed and the units availing of the incentives remained in normal production during the operative period of agreement entered into by the units with the implementing agencies. The unit as well as sales tax authorities are required to be kept on proper and timely notice regarding continuation of eligibility certificate during the tenure. Failure to submit the required information/ reports by the units tantamounts to breach of provisions of the schemes entailing cancellation of eligibility certificate and premature recall of incentives. The sales tax authorities are required to independently examine the position from time to time to ensure that the amount of sales tax incentives availed of by a unit was within the ceiling and related to the eligible products and production capacities. Further, the sales tax authorities shall assess the returns of the eligible unit on priority and take appropriate and timely steps to prevent availment of incentives in excess of the admissibility as related to the specified products/ceilings and capacities *etc.* The information regarding non submission of reports, returns, closure/stoppage of manufacturing activities, cancellation of registration certificate *etc.*, which entails cancellation of certificate, withdrawal of incentives are expected to be intimated by the implementing agencies to the Sales Tax Department and *vice versa* for taking timely action.

Test check revealed that in most of the cases there was lack of co-ordination between the implementing agencies and the sales tax authorities. Defects noticed owing to this are tabulated below :

Sr. No.	Type of defect	Reference to para	Number of cases	Amount involved (in crore of rupees)
1.	Non-recovery of incentives (a) in respect of closed units (b) in respect of transfer/ shifting without approval	2.3.7(a) 2.3.7(b)	224* 14	74.30 1.06
2.	Excess availment of incentives	2.3.8	38	5.92
3.	Incorrect deferment of taxes	2.3.9	2	2.45
4.	Incorrect grant of certificate	2.3.11	1	1.31
5.	Non payment of instalments	2.3.12	5	0.27
Total			284	85.31

\* Includes 34 units wherein sales tax incentives availed of were not quantified by the department

### 2.3.7 Non-recovery of sales tax incentives from units for non-compliance of terms and conditions

The sales tax incentives are admissible subject to fulfillment/ compliance of various terms and conditions, specified in the schemes, certificates, procedural rules and provisions of the Bombay Sales Tax Act and the Rules made thereunder. For non-compliance of these conditions the unit shall be liable to repay forthwith the cumulative total amount of all the benefits/notional benefits drawn under the relevant schemes with penalty/interest from the date when it would have been payable but for the incentives and cost/charges and expenses for recovering the amount .

#### (a) Non-recovery of incentives from closed units.

(i) The package schemes of incentives, the certificates issued thereunder and the procedural rules provide that during the period of agreement, which ranges from 15 to 25 years from the commencement of commercial production, the eligible unit shall not sell or otherwise dispose of the assets in excess of 2 per cent of gross value of fixed assets or close the unit without prior written approval of the Implementing Agencies. If such unit is closed or continues to remain below normal production during any year or the registration certificate is cancelled, the amount of sales tax incentives are recoverable with interest/penalty forthwith.

**Sales Tax incentives of Rs. 74.30 crore was not recovered from 190 closed units**

A test check in seven\* divisions revealed that out of 224 closed units, 190 eligible units which had availed incentives of Rs.74.30 crore (including 13 units which had availed excess incentives of Rs.1.78 crore) were either closed, disposed of or had stopped manufacturing activity during the period from 1985 to 1997 which was within the operative period of agreement as detailed in the following table :-

\* Thane, Pune, Ghatkopar, Aurangabad, Nagpur, Nashik, Kolhapur.

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Sr. No.	Year	Exemption		Deferment		Total	
		No of units	Amount	No. of units	Amount	No of units	Amount
(Amount in crore of rupees.)							
1.	1985-86	23	2.12	7	0.24	30	2.36
	to						
	1989-90						
2.	1990-91	18	1.52	2	0.06	20	1.58
3.	1991-92	17	0.79	8	0.55	25	1.34
4.	1992-93	28	3.38	6	2.69	34	6.07
5.	1993-94	24	10.57	12	8.79	36	19.36
6.	1994-95	20	3.71	10	12.00	30	⊕15.71
7.	1995-96	7	1.79	3	0.37	10	2.16
8.	1996-97	16	8.44	7	16.29	23	24.73
9.	1997-98	3	0.19	2	0.46	5	0.65
10.	Year of closure not made available	10	0.24	1	0.10	11	0.34
Total		*166	32.75	58	41.55	224	# 74.30

Notes: ★ Rs. 40 lakh in respect of unit at Kolhapur includes non-recovery of assessed dues of Rs. 31.31 lakh

\*- Includes 34 units wherein sales tax incentives availed of were not quantified by the department. Of these 13 units had claimed sales and purchases aggregating Rs.36.93 crore as exempt from tax.

# Includes 3 units\* which have availed incentives in excess of Rs. 5 crore.

Even though the cumulative sales tax incentives of Rs.74.30 crore availed of by the 190 units and the quantum of incentives availed of by the 34 units were forthwith recoverable with interest/ penalty, no effective and timely steps were taken to recover the amounts. Of the 224 units, 32 units which had availed of incentives of Rs.18.50 crore were either sick or had been taken over by the implementing agencies/financial institutions or were under liquidation or their whereabouts were not known. Considering the time elapsed since closure of the units, disposal of assets, liquidation *etc.*, recovery of the amounts appear to be doubtful and may result in loss of revenue of Rs. 74.30 crore to Government.

In reply the department stated between January 1998 and April 1998 as follows :

- \* (i) M/s. Sterlite Industries, Pune.
- (ii) M/s. Kanakdhara Steel Limited, Aurangabad.
- (iii) M/s. Maharashtra Explosives, Nagpur.

Sr. No.	Reply	No. of cases	Amount (In crore of rupees)	Remarks
i.	Agreements were with the implementing agencies			Reply is not acceptable as the recovery of sales tax incentives is the responsibility of the sales tax department
	(a) Matter already referred to them	27	12.42	
	(b) Matter yet to be referred to them	34	6.27	
ii.	Matter will be referred to higher authorities	34	16.64	Reply is not tenable as no action was initiated though the units were closed between April 1989 and August 1997.
iii.	The dealers had filed appeals	5	2.25	
iv.	Recovery action had been initiated	4	1.15	
v.	No provision for recovery before cancellation of certificates	4	0.45	Reply is not tenable as eligibility certificate specifically provides for forthwith recovery of incentives on closure of unit or disposal of asset.
vi.	Point would be examined/ reply not received etc.	116	35.12	
<b>Total</b>		<b>224</b>	<b>74.30</b>	

(ii) Besides the closed units mentioned at (a)(i) above, 92 and 94 units of Nagpur and Aurangabad districts respectively to whom eligibility/entitlement certificates were granted under the "1979" and "1983 schemes" for availment of sales tax incentives were not included in the list of live dealers which indicates that these units were not functioning and their registration certificates had been cancelled. The continuation or otherwise of these units and the amount of sales tax incentives availed of by these units was not ascertained for effecting recovery of incentives in respect of the closed units.

The Deputy Commissioner of Sales Tax, Nagpur stated (April 1998) that the list of live dealers was not up to date and complete and reply from the Deputy Commissioner of Sales Tax, Aurangabad has not been received (November 1998).

**b) Non-recovery of incentives from units for change in constitution, amalgamation, shifting.**

According to the schemes, the eligible unit shall not shift/ transfer or change the constitution, management or amalgamate/merge with another company without the prior approval of the implementing agency. Such acts without prior approval entails forthwith recovery of incentives. It was

**Sales Tax incentives of Rs. 1.06 crore not recovered from 14 units transferred/ shifted without prior approval**

noticed that 14 units from Ghatkopar, Pune, Nagpur and Thane Divisions had either changed their constitution, transferred, shifted or amalgamated (between April 1990 and April 1996) with other units after availing sales tax incentives of Rs.1.06 crore during various periods falling between 1984-85 and 1995-96 without prior or post facto approval of the implementing agencies. The sales tax incentives though recoverable had not been recovered (November 1998).

**2.3.8 Excess availment of incentives**

The incentive schemes provide that the incentives availed of by the unit shall be reviewed/monitored within six/nine months from the close of the year to ensure that the incentives are within

**Excess incentives of Rs. 5.92 crore was availed of by 38 units**

the monetary ceilings, wherever prescribed. The incentives incorrectly availed in excess of the prescribed monetary ceiling are recoverable along with interest/penalty as per the Act. The cumulative quantum of benefits received by a dealer holding certificate for exemption from taxes was required to be re-computed in the prescribed manner which envisaged inclusion of element of additional tax and turnover tax wherever applicable from 1980 onwards. Any benefit if found in excess of the monetary ceiling was recoverable along with interest/ penalty. The availment of incentives by the units are required to be monitored by the Sales Tax Department through scrutiny of periodical returns submitted by the units and assessed on priority basis. The filing of returns and completion of assessments were required to be watched by maintaining prescribed registers. It was, however, observed that returns were not being received regularly and where received were not being entered in the register, incentives claimed not scrutinised at pre-assessment stage and assessments not completed in time. Further, re-computation of the incentives under the exemption mode was either not done or wherever done were not intimated to the dealers and assessments not completed on priority basis.

As a result of improper monitoring of availment of incentives and re-computation of incentives under exemption mode, 26 units had availed of excess incentives of Rs. 4.76 crore by way of exemption and in respect of 12 units, tax of Rs. 1.16 crore was deferred in excess of the prescribed monetary ceilings. These amounts though recoverable with interest/ penalty were not recovered (November 1998).

In reply the department stated (between January 1998 and April 1998) that in seven cases of exemption involving Rs.2.57 crore the concerned units had been directed to make payments and in two cases (one of exemption and one of deferral) involving Rs. 29.34 lakh the dealers had preferred appeals against the assessment orders. In the remaining cases it was stated that the correctness of incentives claimed in returns, recomputation of benefits under exemption mode as per revised rules, and excess incentives availed would be examined while completing the pending assessments.

### **2.3.9 Incorrect deferment of taxes.**

(i) Under the Package Scheme of Incentives an existing unit which creates additional manufacturing capacity for manufacture of the same product(s) is eligible for tax benefits on the product(s) manufactured out of the expanded

**Tax of Rs. 2.19  
crore was  
incorrectly deferred**

capacity only. The rules regarding deferment of taxes require the eligible industrial unit to maintain separate books of accounts in respect of transactions of sales and purchases relating to the original capacity and the increase in capacity and not to file consolidated return covering sales and purchases eligible for deferment of tax of the said unit along with the other transactions not covered by eligibility granted to the said unit. However, compliance of these provisions is not insisted by the department. According to circular instructions issued in March 1993, where no separate account is maintained for product(s) to be manufactured out of assets under expansion, tax benefit would be computed on pro rata basis provided the production is within the capacity ceiling applicable. Further, in January 1998 the department issued instruction that for units under 1993 scheme, the percentage of production eligible for incentives would be higher of the percentages based on production capacity or capital invested.

In Aurangabad, one unit engaged in manufacture of clutch disc assembly, clutch kit components, which had availed of full incentives upto March 1994 under certificate granted in January 1991, was granted certificates in September 1995 and March 1997 for incentives by way of deferment of taxes for increased production capacities. In the returns for the period from October 1995 to September 1996 and from January 1997 to January 1998 the unit had claimed deferment of taxes aggregating Rs. 4.39 crore on the entire

production instead of claiming the benefits on the production out of the increased capacity on pro rata basis and paying taxes on products out of original production capacity for which incentives had already been availed. This resulted in incorrect deferment of taxes of Rs. 2.19 crore approximately on pro rata basis on production capacity.

The assessing officer stated (March 1998) that the matter had been referred to the Commissionerate for instructions.

(ii) A dealer from Thane had incorrectly deferred taxes of Rs. 26.01 lakh in the returns for the year 1993-94 though he was granted certificates to defer taxes from 1 April 1994. Action to recover the amount had not been initiated (May 1998).

### 2.3.10 Conversion of deferment of tax to interest free loan.

As per the incentive schemes, an eligible unit which initially opted for deferment of tax is entitled to opt and change over to interest free sales tax loan in terms of the procedure prescribed in July 1988. According to this procedure, the implementing agency sanctions sales tax loan

**Details of contra credit for deferred taxes of Rs. 242.08 crore converted into interest free loans was not available with the department**

equivalent to the total amount of tax payable and eligible for deferment. When the loan liability equal to the amount of tax payable by the dealer has been raised by the implementing agency such tax shall be deemed, to have been paid. While converting deferment of sales tax into interest free loan the deemed receipts are required to be credited to the receipt head 0040-Sales Tax-Collection of tax, by debit to the loan head of account for which budget provision shall be released by the Development Commissioner (Industries).

Test check revealed that on the basis of modified eligibility certificates (issued during 1987 to 1996) converting the deferment of taxes into interest free loan by the implementing agencies, the Commissioner of Sales Tax had issued orders to the effect that sales tax liability of Rs.242.08 crore in respect of thirty units were deemed to have been paid. However, the details crediting the deemed receipts to the receipt head of account "Sales Tax" were not available either with the Sales Tax Department or the Development Commissioner (Industries). The registered dealers effecting purchases from these units were eligible for set off, even though taxes were not paid into Government treasury.

### **2.3.11 Incorrect grant of certificates.**

A dealer from Aurangabad was authorised to avail exemption of taxes upto a limit of Rs. 80.96 lakh during the period from 1 April 1994 to 31 March 2002 for expansion unit as per certificate issued in March 1994. As against the limit, the unit had availed incentives of Rs.1.31 crore to end of December 1995. Moreover, the department

**Incentives of Rs.1.31 crore incorrectly availed of for replacement of existing machinery.**

noticed (June 1996) that the eligibility certificate was incorrectly issued for replacement of existing machinery which did not qualify for incentives as expansion unit. The department submitted (June 1996) proposal for cancellation of the certificate incorrectly issued by the implementing agency. Action for cancellation of the certificates and consequential recovery of incentives had not been finalised even after nearly two years. In reply the department stated (March 1998) that the matter was pending with the implementing agency.

### **2.3.12 Non payment of instalments of deferred taxes.**

As per the procedural rules, the taxes allowed to be deferred for 10/12 years are payable in equal annual instalments not exceeding five/six such instalments. On completion of assessments, orders fixing the instalments and due dates for payments are required to be issued by the Deputy Commissioner of Sales Tax and sent to the assessing officers for watching recovery of instalments. A register in the prescribed form is also required to be maintained by the assessing officers for this purpose.

Test check revealed that the taxes deferred in assessments were not reported to the Deputy Commissioners of Sales Tax causing delay in issue/non-issue of instalment orders and the entries in the prescribed registers not being kept upto date. Further, five dealers from Aurangabad, Nagpur, Pune and Thane divisions had not paid the instalments of Rs. 27.47 lakh due for payment between November 1995 and February 1998.

In reply, the department stated that one unit from Nagpur had gone in liquidation and another unit also from Nagpur was sick. In respect of the unit at Aurangabad it was stated that the instalment would be adjusted from the refund due to the dealer.

### **2.3.13 Computation of cumulative quantum of incentives.**

The computation of notional sales tax liability in respect of units eligible for exemption from payment of taxes is governed by the provisions of the schemes and circular instructions issued from time to time. In 1995, the Government introduced rules prescribing the manner for recomputation of cumulative quantum of incentives under exemption mode effective from January 1980. On such recomputation the cumulative

quantum of benefits if availed in excess of the prescribed ceilings are recoverable with interest/penalty.

Test check of records revealed that the sales tax incentives availed of by most of the units holding certificates under 1979 scheme, wherein monetary ceilings were not prescribed, were not computed (May 1998). Consequently, the actual quantum of incentives availed of by the units was not known to the department. Further, recomputation of cumulative quantum of incentives under exemption mode had also not been completed (May 1998) in most of the cases causing delay in recovery of the excess incentives availed of by the units.

The above points were referred to Government/ department in July 1998; their reply has not been received (November 1998).

### 2.4 Incorrect grant of set-off

(a) 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-assessment due to incorrect grant of set-off amounted to Rs.370.23 lakh in 51 cases**

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 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 1997 and February 1998) that in assessing (between November 1994 and March 1997) 51 dealers in Mumbai, Pune, Thane, Nashik and Raigad districts for the periods falling between 1 September 1990 to 31 March 1995, 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. 370.23 lakh (including interest of Rs.71.01 lakh) as detailed in the following table :-

Sr. No	Name of district	No. of dealers	Under-assessment (including interest in lakh of rupees)	Remarks
1.	Mumbai	34	273.94	In one case department raised additional demand of Rs.2.14 lakh. The department conceded (October 1998) that Rule 45(4) prohibited grant of set-off on the same purchases under two rules and stated that the authorities had been directed to initiate corrective action. However, to avoid hardship to the dealers the department had proposed to Government to consider grant of administrative relief. Report on further developments has not been received (November 1998).
2.	Pune	8	43.76	
3.	Thane	7	22.80	
4.	Nashik	1	27.46	
5.	Raigad	1	2.27	
<b>Total</b>		<b>51</b>	<b>370.23</b>	

The cases were reported to Government in June and July 1998; their reply has not been received (November 1998)

(b) Under the provision of the Bombay Sales Tax Rules, 1959 a registered dealer is entitled, with effect from 1 September 1990 to full set-off of purchase tax levied under Section 13 AA of the Bombay Sales Tax Act, 1959 on the purchases of goods covered by Part-I of Schedule 'C' which are used by him in the manufacture of taxable goods for sale within the State or in the packing of goods so manufactured. If the manufactured goods include goods other than taxable goods, the set-off is admissible proportionately in respect of taxable goods sold. It has been judicially\* held 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.

**Incorrect set-off to 66 dealers resulted in under-assessment of Rs. 286.34 lakh**

Further, interest is leviable as per the provision of the Act.

It was noticed (between July 1997 and January 1998) that in assessing (between March 1995 and March 1997) 66 dealers in Mumbai, Pune, Kolhapur, Nashik, Raigad, Thane, Dhule, Sangli and Jalgaon districts for various periods falling between 1 September 1990 and 31 March 1995, set-off was incorrectly allowed in respect of manufactured taxable goods sold in the course of inter-State trade or commerce or in the course of export

\* State of Orissa vs Minerals and Metals Trading Corporation Ltd. (95 STC-80)  
State of Orissa vs Joharimal Gajanan (95 STC-93)

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or despatched to branches outside the State resulting in under-assessment of Rs.286.34 lakh (including interest of Rs. 101.97 lakh) as detailed below.

Sr. No.	Name of the district	No. of dealers	Under-assessment including interest (in lakh of rupees)	Remarks
1.	Mumbai	46	217.47	On this being pointed out in audit the department replied (May 1998) that sale in the course of export is a sale within the State in view of earlier judgement* of the Supreme Court which is not reversed. Reply is not tenable as the issue has been re-examined <i>ab-initio</i> by the apex court and cases covered by audit relate to the period after issue of latter judgements† of the Apex Court.
2.	Sangli	2	22.33	
3.	Pune	5	19.13	
4.	Kolhapur	1	9.88	
5.	Raigad	3	8.24	
6.	Jalgaon	3	5.02	
7.	Thane	2	2.08	
8.	Nashik	2	1.38	
9.	Dhule	2	0.81	
<b>Total</b>		<b>66</b>	<b>286.34</b>	

The cases were reported to Government in June and July 1998; their reply has not been received (November 1998)

(c) Under the provision of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a manufacturer who has paid taxes on the purchases of goods specified in Part II of Schedule 'C' to the Act and used them within the State

in the manufacture of taxable goods for sale or export or in the packing of goods so manufactured is allowed a set-off of taxes paid in excess of four *per cent* of the purchase price. Where the purchase price is inclusive of taxes, the amount of set-off is worked out according to prescribed formula. Further,

**Excess set-off of  
Rs. 28.16 lakh  
granted to 8 dealers**

\* Onkarlal Nandlal vs The State of Rajasthan (60 STC-314)

† State of Orissa vs Minerals and Metals Trading Corporation Ltd. (95 STC-80)  
State of Orissa vs Joharimal Gajanan (95 STC-93)

- (i) where the manufacture results in production of taxable goods as well as goods other than taxable goods, set-off shall be allowed on the taxable goods on the basis of sale price.
- (ii) when the manufactured goods are transferred outside the State otherwise than by way of sale, set-off on raw materials including packing materials is allowed in excess of six *per cent* instead of four *per cent*, and
- (iii) interest is leviable as per the provision of the Act.

It was noticed (between August 1996 and August 1997) that while assessing (between April 1995 and March 1997) 8 dealers in Mumbai and Solapur districts were allowed excess set-off resulting in under-assessment of Rs. 28.16 lakh (including interest and penalty).

On being pointed out, the department revised (between June 1997 and May 1998) the assessments and raised additional demand of Rs. 26.86 lakh (including interest and penalty). In the case of a Mumbai dealer, levy of interest of Rs. 1.30 lakh has been held in abeyance. In the case of five dealers the department recovered/adjusted Rs. 7.11 lakh. Two dealers of Mumbai after making part payment filed appeals against the revision orders. Further report on recovery and developments in appeal has not been received (November 1998).

The cases were reported to Government in June and July 1998; their final replies have not been received (November 1998).

(d) Under the provisions of the Bombay Sales Tax, Act, 1959 and the rules made thereunder, with effect from 1st April 1984, a registered dealer is entitled to set off of taxes paid on the purchases of raw material, specified in one group of Entry 6 of Schedule B to the Act (iron and steel) used in the process of manufacture of goods (not being waste goods, scrap goods or bye-products) falling in another group (specified in clause XVIII-a of Rule 3) of the same entry for sale or export. Provision further provides that, no set off would be admissible if the goods thus manufactured are allowed for resale in the State. Besides, interest is also leviable as per provision of the Act.

In Akola, in the assessment for the period from April 1989 to March 1990, of a manufacturer and reseller of iron and steel, set off of Rs.1.93 lakh instead of Rs.1.45 lakh was incorrectly granted on the purchases from a registered dealer. This resulted in excess grant of set off of Rs.48881 attracting interest of Rs.35194.

On this being pointed out (May 1994) the department revised (March 1997) the assessment raising an additional demand of Rs.1.37 lakh. Report of recovery has not been received (November 1998).

The matter was reported to Government in June 1998; their reply has not been received (November 1998)

(e) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a registered dealer is entitled to set off of taxes paid on the goods purchased from other registered dealers provided the goods so purchased are resold within a period of nine months from the date of their purchase in the same form in which they were purchased either in the course of export or in the course of inter-State trade or commerce.

Further, interest at the rate of two *per cent* per month is also leviable as per provision of the Act.

In Nagpur, an assessee dealing in resale of pig iron/cast iron effected purchases from outside Maharashtra worth Rs.8.49 lakh and resold it from 1 April 1991 to 31 March 1992 in the course of inter-State trade or commerce. The dealer was granted set off of Rs.12257 in respect of his corresponding purchases of pig iron/cast iron worth Rs.3.19 lakh from other registered dealers which resulted in incorrect grant of set-off on outside Maharashtra State (OMS) purchases and their resales in the course of inter-State trade of Rs.15394.

On this being pointed out (August 1996), the department revised the assessment and raised (October 1996) a demand for Rs.70135 (inclusive of interest). The dealer has paid taxes of Rs.48398 and preferred an appeal. Further developments in appeal has not been received (November 1998).

The matter was reported to Government in July 1998; their reply has not been received (November 1998).

### 2.5 Non-levy of tax

Under the provisions of the Bombay Sales Tax Act, 1959 the State Government is empowered to specify the point of sale at which the goods shall be taxed. The Government by a notification dated 30 June 1981 specified that the last point of sale of

**Sales tax of Rs. 302.40 lakh  
was not levied on last point of  
sale of diamonds in 41 cases**

precious stones effected within the State, when sold to a person not registered under the Act or to a registered dealer who purchases the goods for the purpose other than for resale will be the point of sale at which the goods shall be taxed. Accordingly, dealers intending to purchase diamonds for resale can issue declarations in Form N-13A thereby postponing the levy of tax to the next point of sale within the State. For contravention of recitals of declaration, purchase tax at prescribed rate is leviable.

It has been judicially\* held that sales in the course of inter-State trade or commerce or in the course of export are not sales within the State.

Further, a registered dealer is entitled for set-off of taxes paid on purchase of goods which are resold by him within the period of nine months, either in the course of inter-State trade or commerce or in the course of export.

Additional tax at the rate of 12 *per cent* (15 *per cent* with effect from 1 April 1994) is also leviable when the turnover exceed Rs. 10 lakh. Besides, interest is also leviable as per the provision of the Act.

In Mumbai, it was noticed (between September 1997 and March 1998), that in assessing (between November 1995 and March 1997) 41 dealers for the period from 1 April 1993 to 31 March 1994, purchases of diamonds of Rs.210.56 crore supported by declaration in Form N-13A escaped assessment of tax in the State as they were sold in the course of export. This resulted in contravention of the recital of the declaration and in non-levy of additional tax of Rs. 302.40 lakh and interest of Rs.201.64 lakh after considering the set-off admissible as per rules.

The cases were brought to the notice of department between September 1997 and March 1998 and reported to Government in June and July 1998; their final replies have not been received (November 1998).

## **2.6 Incorrect grant of refund**

(a) Under the Bombay Sales Tax Act, 1959 liability to sales tax arises at the rates enumerated in the schedules to the Act when there is sale of goods.

**Incorrect refund of tax of Rs. 3.90 crore was allowed to a dealer**

In Mumbai, company 'A'\* was amalgamated with company 'B'† with effect from 1 April 1993 in pursuance of the Bombay High Court order dated 10 November 1994. As per clause 'F' of the scheme of amalgamation, both the

\* State of Orissa v/s Minerals and Metals Trading Corporation (95 STC 80).  
State of Orissa v/s Joharimal Gajanan (95 STC 93).

\* 'A' Company - : M/s. Polyolefins Industries Limited.

† 'B' Company - : M/s. National Organic Chemical Industries Limited.

companies were permitted to conduct independent business during the period from 1 April 1993 to 10 November 1994, subject to the final loss/profit of the transferor company 'A' being treated as that of the transferee company 'B'.

In assessing (March 1997) company 'B' for the period from 1 April 1993 to 31 March 1994, sales of manufactured goods worth Rs. 61.90 crore to company 'A' on which tax was collected and paid to Government was allowed as inter-unit transfer not liable to tax. The assessment therefore resulted in a refund of Rs. 3.92 crore.

The Internal Audit Wing of the department observed on 25 June 1997 that the two companies could be deemed to have been merged only from 8 March 1994 when the Board of Directors of company 'A' decided to merge into company 'B'. Consequently, the sales of Rs. 61.90 crore were liable to tax. However, the Additional Commissioner of sales tax issued refund order for Rs. 3.92 crore, on 27 June 1997.

On this being pointed out (September 1997), the appellate authority while deciding (March 1998) the appeal filed by the dealer subjected the sales to tax raising net additional demand of Rs. 3.90 crore. The dealer has filed a fresh appeal before the Tribunal and obtained stay against recovery (June 1998). Report on further developments in appeal has not been received (November 1998).

The matter was reported to Government in June 1998; their reply has not been received (November 1998)

(b) Under the provisions of the Bombay Sales Tax Act, 1959, a registered dealer who has not collected tax separately may reimburse himself to the extent of tax liability included in the sale price and accordingly claim reduction from sale price shown in the returns filed by him. However, if subsequently it is found that he is liable to pay tax less than the amount of tax reimbursed, then such excess amounts except for the amounts refunded to the purchasers net of charges shall be forfeited and transferred to the Consumer Protection and Guidance Fund.

In Pune, while assessing (April 1994), an importer cum reseller in cement for the period from 1 April 1991 to 31 March 1992, excess reimbursement of tax in the returns amounting to Rs. 1.84 lakh was refunded instead of being forfeited

On this being pointed out (December 1995), the department rectified (July 1997) the mistake and raised additional demand of Rs.1.84 lakh. Report on recovery has not been received (November 1998 )

The matter was reported to Government in June 1998; their reply has not been received (November 1998)

## 2.7 Incorrect grant of exemption

Under the Central Sales Tax Act, 1956, inter-State sale or purchase of any goods other than declared goods which are not supported by declaration in Form 'C' or Form 'D' are liable to tax at 10 *per cent* or at the rate applicable to sale or purchase of such goods inside the State under the sales tax law of the

**Incorrect grant of exemption of central sales tax resulted in non-realisation of revenue of Rs. 3.31 crore**

appropriate State, whichever is higher. The Act further provides that when the sale of any goods inside the appropriate State is exempted generally from tax or subjected to tax generally at a rate which is lower than four *per cent*, then the rate of tax applicable to the inter-State sale or purchase of such goods shall be Nil or the lower rate. For this purpose, a sale or purchase of any goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State if under that law, the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions. The price based exemption of sale or purchase of any goods is a conditional exemption. Under the Bombay Sales Tax Act, 1959 which is the appropriate State Law for the State of Maharashtra, sales of hosiery goods, ball pen and its parts and spectacles and lenses thereof are exempted from payment of tax subject to certain conditions.

It was noticed (between September 1995 and February 1998) that while assessing (between August 1994 and February 1997) 8 dealers in Mumbai inter-State sales of hosiery goods, ball pens and spectacles of Rs. 3627.88 lakh effected between 1991-92 and 1994-95 were incorrectly exempted from central sales tax as their sales were exempted from payment of tax subject to certain conditions.. This resulted in under-assessment of Rs.331.01 lakh as detailed below :

Sr. No.	Commodity	No. of dealers	Sales turnover involved	Tax exempted
(Amount in lakh of rupees)				
1)	Hosiery goods	6	3459.49	314.47
2)	Ball pens and Refills	1	153.23	13.93
3)	Spectacles and lenses	1	15.16	2.61
<b>Total :</b>		<b>8</b>	<b>3627.88</b>	<b>331.01</b>

The cases were brought to the notice of the department between September 1995 and February 1998 and reported to Government in June and July 1998; their replies have not been received (November 1998).

### 2.8 Short levy 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. Further, the State Government may, by notification, exempt any class of sales or purchases from payment of whole or any part of the tax payable under the provisions of the Act, subject to such condition as prescribed by the Government. Besides turnover tax, additional tax and interest are also leviable as per the provisions of the Act.

**Application of incorrect rate of tax resulted in under-assessment of Rs. 2.46 crore.**

In assessing (between September 1991 and November 1996) 19 dealers in Mumbai, Pune and Nagpur, it was noticed (between October 1992 and October 1997) that application of incorrect rate of tax, resulted in under-assessment of Rs.245.98 lakh (including interest and penalty). Few illustrative cases are shown below :

Sr. No.	Period of Assessment	Commodity sold	Nature of irregularity	Under assessment including additional tax, interest/ penalty (in lakh of rupees)
1.	1 January 1990 to 31 December 1990	Flavouring essences	Tax was levied at 4 per cent instead of 15 per cent on turnover of sales of Rs.9.31 crore in the State and taxed at 10 per cent instead of 15 per cent on the turnover of sales of Rs. 19.18 lakh in the course of inter-State trade	205.78
2.	1 April 1993 to 31 March 1994	Electronic condenser/ capacitors	Tax levied at 4 per cent instead of 10 per cent on sales of Rs.75.74 lakh	8.03
3.	1 July 1987 to 30 June 1988	Autocom-M-series, copper coated MIG/MAG, welding wire and autocom 'S' series C.C. submerge ARC welding wire.	Tax levied at 4 per cent treating the commodity as declared goods instead of at 10 per cent and incorrect allowance of set-off	8.67

On being pointed out the department revised (between February 1996 and March 1998) the assessments and raised additional demand of Rs. 244.28 lakh and recovered Rs. 18.30 lakh from seven dealers. Six dealers after making part payment and four dealers without making any payment filed appeals against the revision orders. Report on further developments in appeals and on recovery in the remaining cases has not been received (November 1998).

The cases were reported to Government in June and July 1998; their reply has not been received (November 1998).

## **2.9 Incorrect allowance of sales against declarations.**

Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder (upto 30 April 1994) a dealer holding authorisation certificate can purchase goods without payment of sales tax by furnishing a declaration in Form N-14 for resale in the course of inter State trade or commerce or in the course of export out of the territory of India. Additional tax, turnover tax, interest and penalty are leviable as per the provisions of the Act.

**Failure to verify the correctness of sales on declarations resulted in under-assessment of Rs. 84.62 lakh**

In Mumbai, while assessing (May 1992) a dealer who is a manufacturer and reseller in drums, monitors, TV sets, printers and video cassette players for the period from 1 April 1989 to 31 March 1990, deduction on account of sales to two vendees supported by declarations in Form N-14 was allowed at Rs.2.08 crore. However, cross check by audit (December 1993) revealed that one vendee had not accounted for all the purchases and in the other case the registration certificate was not in existence when the transactions took place.

On this being pointed out (December 1993), the department, on verification reassessed (January 1997) the dealer and disallowed the sales of Rs.2.08 crore earlier allowed as deduction. Further, resale of goods worth Rs.1.19 crore which were purchased from unregistered dealers were also disallowed. This resulted in additional demand of Rs.84.62 lakh (including additional tax, turnover tax, and interest). The department stated (October 1998) that the company was under liquidation and claim has been lodged with the official liquidator.

The matter was reported to Government in April 1998; their reply has not been received (November 1998).

### 2.10 Non-levy/short levy of turnover tax/additional tax

Under the provisions of the Bombay Sales Tax Act, 1959 with effect from 13 July 1986, every dealer whose turnover (either of all sales or all purchases) exceeds Rs. 12 lakh in any year, shall be liable to pay turnover tax at the rate of one and a

**Turnover tax/additional tax of Rs.53.33 lakh was either not levied or short levied in 13 cases**

quarter *per cent* of the taxable turnover of sales of goods specified in Schedule 'C' to the Act after allowing permissible deductions from the turnover of sales. By an amendment with effect from 17 March 1988 turnover tax is also leviable on turnover of sales effected against declarations issued under Section 12 of the Act. With effect from 1 April 1993, if the turnover either of all sales or all purchases exceeded Rs.1 crore, the rate of turnover tax applicable is one and half *per cent* of the taxable turnover. By a notification, with effect from 1 April 1993 the Government exempted the payment of whole of sales tax payable on sales to the Canteen Stores Department against Form A-I and on sales to an eligible industrial unit set up in developing regions of the State against Form BC. Turnover tax, was however not exempted.

Additional tax at 15 *per cent* (12 *per cent* upto 31 March 1994) of the sales tax / purchase tax is leviable in cases where the turnover exceed Rs. 10 lakh.

It was noticed (between December 1996 and January 1998) that in respect of 13 dealers of Mumbai and Pune though the gross turnover exceeded the prescribed limits for levy of turnover tax/additional tax, the same were not levied in the assessments (between September 1995 and March 1997). The omissions resulted in under-assessment of Rs. 53.33 lakh (including interest and penalty). Few illustrative cases are shown below :

Sr. No.	Period of Assessment	Nature of Irregularity	Under assessment including interest (in lakh of rupees)
1)	1 April 1993 to 31 March 1994	Turnover tax was not levied on sales of Rs.18.29 crore of polyester yarn sold on B.C Forms	19.93
2)	1 April 1991 to 31 March 1992	Additional Tax on the taxes of Rs. 23.54 lakh and turnover tax on the sales of Rs.6.31 crore though leviable were not levied	11.30
3)	1 April 1993 to 31 March 1994	Turnover tax though leviable at 1.5 <i>per cent</i> on sales of Rs.2.02 crore effected on A-1 Form was not levied	5.24

On being pointed out, the department revised (between June 1997 and August 1998) assessments in respect of 11 dealers and raised additional demand of Rs. 45.18 lakh (including interest) and recovered Rs. 17.58 lakh from four dealers. Two dealers have filed appeal against the revision orders. Further report on recovery and developments in appeal has not been received (November 1998). In two cases the department stated (December 1997) that the audit points were intimated to appellate authorities for corrective action.

These cases were reported to Government in June and July 1998; their final reply has not been received (November 1998).

### **2.11 Incorrect determination of taxable turnover**

Under the Bombay Sales Tax Act, 1959 the gross turnover of sales of a dealer is determined on the basis of sales shown in the return or on the basis of production of further evidence which the Commissioner of Sales Tax may direct to be produced or cause to be produced, whichever is higher. The sales tax is leviable at the rates specified in the Schedule to the Act, on the net taxable sales after allowing permissible deductions.

**Incorrect determination of taxable turnover resulted in under-assessment of Rs. 16.91 lakh in 5 cases**

Further, turnover tax, additional tax and interest are also leviable as per the provisions of the Act.

It was noticed (between March 1992 and October 1997) that in assessing (between October 1994 and November 1996) 5 dealers in Mumbai, Solapur and Chandrapur districts, taxable turnover of sales was determined short which resulted in under-assessment of Rs.16.91 lakh (including interest and penalty). Few illustrative cases are shown below :

Sr. No	Period of assessment	Nature of irregularity	Turnover determined short (In lakh of rupees)	Under-assessment (including additional tax, turnover tax, interest and penalty)
1.	1 April 1992 to 31 March 1993	Premium on the sale of export quota amounting to Rs. 25.57 lakh were not considered for assessment	25.57	5.07
2.	1 April 1991 to 31 March 1992	Sales of cotton waste of Rs. 57.66 lakh were incorrectly treated as exempt from payment of tax	57.66	5.34

Sr. No	Period of assessment	Nature of irregularity	Turnover determined short (In lakh of rupees)	Under-assessment (including additional tax turnover tax interest and penalty)
3.	3 November 1986 to 22 October 1987	Sales of Rs. 25.78 lakh escaped levy of sales tax	25.78	4.33

On being pointed out, the department revised (between February 1997 and July 1998) assessments and raised additional demand of Rs. 16.91 lakh and recovered (September 1998) Rs. 3.70 lakh from two dealers. In one case the dealer has filed (May 1997) appeal. Report on recovery of balance amount and developments in appeal has not been received (November 1998).

The cases were reported to Government in June and July 1998; their final replies have not been received (November 1998).

### **2.12 Incorrect allowance of High Sea sales**

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 document of title to the goods before the goods have actually crossed the customs frontiers of India, and is exempt from levy of tax.

Under the provisions of the Bombay Sales Tax Act, 1959 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.

In Mumbai, in assessing (January 1992) a dealer for the period from 1 July 1987 to 31 March 1989, sales of news print amounting to Rs. 79.37 lakh were allowed as high sea sales. The sales included Rs.17.25 lakh effected to a party at Hyderabad. Thus the sales stated to have been effected in the course of import could not be correlated with reference to the documentary evidence brought on record.

On being pointed out (September 1992), the department reassessed (January 1998) the dealer disallowing the High Sea sales and raised additional demand of Rs.7.20 lakh (including interest of Rs.4.55 lakh and penalty of Rs. 0.50 lakh). The dealer has made part payment of Rs.25000 and filed (July 1998) appeal against the re-assessment order. Report on developments in appeal has not been received (November 1998).

The matter was reported to Government in May 1998; their reply has not been received (November 1998).

### **2.13 Non-levy of purchase tax.**

Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, with effect from 1 September 1990, where a dealer purchases any goods specified in Part I of Schedule 'C' directly or through a commission agent from a person or Government who or which is or is not a registered dealer, there shall be levied in addition to sales tax or purchase tax paid or payable, if any, a purchase tax at the rate of two paise in the rupee on the turnover of such purchases unless the goods so purchased are resold by the dealer. Further, a dealer who purchases goods without payment of sales tax by furnishing a declaration in Form N-14 declaring that the goods purchased by him will be resold within nine months in the course of inter-State trade or commerce or in the course of export or in Form N-15 declaring that the goods purchased will be used within the State in the manufacture of taxable goods for sale which manufactured goods will in fact be sold, is liable to pay purchase tax at the rates specified in the Schedule against those goods for non-fulfillment of the conditions and recitals of the declaration. Further, additional tax and interest are payable as per the provisions of the Act.

It was noticed (between February 1995 and January 1998), that while assessing (between February 1994 and January 1997) 3 dealers in Mumbai district, purchase tax and consequential additional tax though leviable was not levied on purchases of goods covered by Part I of Schedule 'C' to the Act and also for non-fulfillment of recitals of declarations. This resulted in under-assessment of Rs.4.76 lakh (including additional tax and interest) after adjustment of set-off where admissible as detailed below :

Sr. No	Period of assessment	Commodity purchased	Nature of irregularity	Under-assessment (in lakh of rupees)	Remarks
1)	1 April 1990 to 31 March 1991	Zinc and lead	Purchase tax and consequential additional tax though leviable were not levied on purchases of Rs.78.46 lakh	2.21	The department revised (March 1998) the assessment raising additional demand of Rs. 2.21 lakh. The dealer paid Rs. 50000 and filed (July 1998) an appeal with the Tribunal. Report on developments in appeal has not been received (November 1998)

## Chapter II

Sr. No	Period of assessment	Commodity purchased	Nature of irregularity	Under-assessment (in lakh of rupees)	Remarks
2)	1 April 1991 to 31 March 1992	Packing material	Purchase tax and consequential additional tax was not levied for misuse of purchases of Rs.19.89 lakh against Form N-14	1.94	The department revised (March 1997) the assessment/appeal orders raising additional demand of Rs. 1.94 lakh. The dealer paid (July 1997) Rs. 1.06 lakh and filed appeal. Report on developments in appeal has not been received (November 1998)
3)	1 April 1991 to 31 March 1992	Packing material	Purchase tax not levied for misuse of purchases on Form N-14 of Rs. 6.22 lakh	0.61	The department revised (May 1997) the assessment order raising additional demand of Rs. 0.61 lakh. The dealer paid (May and June 1997) Rs. 31000 and filed appeal. Report on developments in appeal has not been received (November 1998)
Total				4.76	

The cases were reported to Government in June 1998 and July 1998; their final replies have not been received (November 1998).

### 2.14 Short levy of interest

Under the Bombay Sales Tax Act, 1959 if any tax payable is found due from a dealer or a person in respect of any period as a result of an order of assessment or re-assessment passed under the Act, such a dealer or a person is liable to pay simple interest at the rate of two *per cent* of such tax, for each month or part thereof from the first date after the end of the period for which the dealer or person has been so assessed till the date of order of assessment. The provision is also applicable to assessments under the Central Sales Tax Act, 1956.

It was noticed (between July 1996 and September 1997) that assessments (between July 1995 and February 1997) of 2 dealers in Mumbai for the periods falling between 1 April 1989 and 31 March 1992 had resulted in dues of Rs.88.11 lakh. However, interest

was levied as Rs.120.89 lakh instead of Rs.125.45 lakh resulting in under-assessment of Rs.4.56 lakh.

On this being pointed out the department rectified (between July 1997 and January 1998) the assessments raising additional demands aggregating Rs.4.56 lakh.

The matter was reported to Government in June 1998; their reply has not been received (November 1998).



## 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 1997-98 revealed short levy of excise duty, licence fee *etc.*, amounting to Rs.22.83 lakh in 204 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 excise duty	28	1.05
2.	Short recovery of licence fee/privilege fee	83	18.24
3.	Non-recovery/short recovery of supervision charges/bonus	83	1.12
4.	Other irregularities	10	2.42
<b>Total</b>		<b>204</b>	<b>22.83</b>

During the course of the year 1997-98, the department accepted under-assessment *etc.*, in 331 cases involving Rs.39.05 lakh, of which 79 cases involving Rs.6.53 lakh had been pointed out during 1997-98 and rest in earlier years and recovered Rs.39.05 lakh. A

few illustrative cases noticed during 1997-98 and in earlier years involving Rs.7.50 lakh are given in the following paragraphs.

#### 3.2 Short recovery of privilege fee.

Under the provisions of the Bombay Prohibition (Privilege Fees) Rules, 1954 the fee payable by a licensee for the transfer of his licence from proprietorship to partnership or *vice versa* or addition of a partner or change in name shall be the same as the fee chargeable for the grant, renewal or continuance of the licence whichever is higher. Government amended (October 1996) the fees payable by any licensee for admission of a partner or partners other than a family member to five times the fees chargeable for grant, renewal or continuance of the licence concerned which ever is higher on each occasion of admission of a partner/partners.

It was noticed in Mumbai, Solapur, Aurangabad and Amravati (between December 1996 and November 1997) that due to application of incorrect rates for transfer in various circumstances indicated above, privilege fee was recovered short by Rs.6.19 lakh in respect of 44 cases..

On this being pointed out (between December 1996 and November 1997) the department recovered the entire amount of Rs. 6.19 lakh (between December 1996 and July 1998).

#### 3.3 Short recovery of licence fee.

Under the provisions of the Maharashtra Country Liquor Rules, 1973 a fee is payable for a licence to sell country liquor by retail. The fee payable is based on the population of the city, town or village in which the shop is located. Government decided (April 1994) that the 1991 census would be effective from 15 August 1991.

The Government *vide* their notification dated 16 March 1993 revised the licence fee for the year 1993-94 for various licences issued under the Bombay Prohibition Act, 1949 such as licence in form Foreign Liquor (FL III) and Country Liquor (CL III).

It was noticed (December 1996 and April 1997) that in Amravati and Latur districts in respect of 25 licences which were renewed for the periods between 1991-92 and 1994-95 licence fees were recovered short by Rs.1.31 lakh as detailed in the following table :

Sr. No.	Nature of licence	No. of licences	Licence fee recovered short (in lakh of rupees)	Remarks
1.	FL III	12	0.82	The department recovered (March and April 1997) Rs. 78500 in 11 cases. Report on recovery in the remaining case has not been received (November 1998).
2.	CL III	13	0.49	The department recovered (July 1997 and November 1997) the entire amount of Rs. 48600.
<b>Total</b>			<b>1.31</b>	

The matter was reported to Government in July 1998; their reply has not been received (November 1998).

## **SECTION B**

### **TAXES ON MOTOR VEHICLES**

#### **3.4 Results of audit**

Test check of records relating to assessment and collection of Motor Vehicles Tax, Further Tax and Passengers Tax conducted during the year 1997-98 revealed short levy of taxes amounting to Rs.119.75 lakh in 878 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 rate of tax	858	116.59
2.	Non-levy/ short levy of tax due to incorrect exemption/ classification	18	1.63
3.	Other irregularities	2	1.53
<b>Total</b>		<b>878</b>	<b>119.75</b>

During the course of the year 1997-98, the department accepted under-assessment etc., in 850 cases involving Rs.72.37 lakh of which 295 cases involving Rs.23.57 lakh had been pointed out during 1997-98 and the rest in earlier years and recovered Rs.60.77 lakh. A few illustrative cases noticed during 1997-98 and in earlier years involving Rs.72.67 lakh are given in the following paragraphs.

#### 3.5 Non-recovery of motor vehicles tax

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 the tax leviable shall be paid in advance by the registered owner of the vehicle. With effect from 1 October 1996, one time tax is leviable in respect of four wheeler vehicles. The departmental manual provides that demand notices should be issued in each case of default in payment of tax. Interest at the rate of two *per cent* of the amount of tax for each month or part thereof is payable in case the tax due is not paid before the prescribed date.

It was noticed (between January 1996 and September 1996) that in respect of 611 vehicles registered in Mumbai, Kolhapur, Osmanabad, Pune, Parbhani, Pen(Raigad), Ratnagiri, Solapur and Thane, neither the tax aggregating Rs. 60.49 lakh was paid by the vehicle owners nor any demand notices were issued by the department for various periods falling between November 1989 and February 1998. Few illustrative cases are given below :

**Tax of Rs.60.49 lakh was not recovered from owners of 611 vehicles**

Sr. No.	Location of the office	No. of vehicles	Period of default	Amount due (in lakh of rupees)
1)	Mumbai (Central)	148	Between November 1991 and December 1996.	18.22
2)	Mumbai (East) Worli	43	Between January 1991 and February 1998.	4.09
3)	Pimpri-Chinchwad	91	Between December 1989 and September 1996	13.69
4)	Osmanabad	81	Between October 1992 and January 1998	4.95

On being pointed out, the department (between October 1996 and September 1998) recovered an amount of Rs. 22.38 lakh (including interest) in respect of 223 vehicles. Report on recovery in the remaining cases has not been received (November 1998).

The matter was reported to Government in June 1998 and July 1998; their reply has not been received (November 1998)

### **3.6 Loss of revenue**

Under the provisions of the Motor Vehicles Act, 1988 the amount recoverable for compounding of offences for contravention of the provisions of the Act and Rules, regulations or notifications issued thereunder was revised from Rs. 50 to Rs. 100 and for driving a vehicle whose laden weight exceeds the gross vehicle weight from a minimum of Rs. 100 and a maximum of Rs. 1000 to Rs. 2000 plus Rs. 500 per tonne or part thereof of excess load. The revised rates were effective from 24 June 1996.

**Failure to compound offences at revised rates resulted in loss of Rs. 12.18 lakh.**

During the course of audit of records maintained in the offices of the Commissioners of Police, Nashik and Pune and Regional Transport Officer, Mumbai (East) and Deputy Regional Transport Officer, Satara it was noticed (between August 1996 and October 1997) that in 22110 cases offences were compounded during the period from 24 June 1996 to 30 August 1996 at the pre-revised rates resulting in short recovery of Rs.12.18 lakh.

On this being pointed out (between August 1996 and October 1997), the concerned stated (between July 1997 and October 1997) that the notification was received on various dates between July 1996 and September 1996 and consequently the offences were compounded at pre-revised rates. Failure to levy and recover the revised rates for compounding of offences resulted in loss of revenue of Rs.12.18 lakh.

The matter was reported to Government in June 1998; their reply has not been received (November 1998)

## **SECTION C**

### **STAMP DUTY AND REGISTRATION FEES**

### **3.7 Results of audit**

Test check of records of Stamp Duty and Registration Fees conducted during the year 1997-98 revealed under-assessment/short levy/non-levy of duty/loss of revenue etc., amounting to Rs.326.68 lakh in 1075 cases which broadly fall under the following categories.

### Chapter III

Sr. . No	Category	Number of cases	Amount (in lakh of rupees)
1.	Incorrect grant of exemption from duty and fees	519	221.97
2.	Short levy due to misclassification of documents	59	9.97
3.	Short levy due to undervaluation of property	28	13.13
4.	Other irregularities	469	81.61
Total		1075	326.68

During the year 1997-98, the department accepted under assessments/short levy etc., of Rs.44.10 lakh in 220 cases pointed out in earlier years and recovered the same.

A few important audit observations and illustrative cases noticed during 1997-98 and earlier years having financial effect of Rs. 11.86 crore are given in the following paragraphs.

#### 3.8 Short levy of stamp duty due to misclassification of documents

(i) According to explanation 1 below article 25 of Schedule I to the Bombay Stamp Act, 1958, effective from 10 December 1985, an agreement to sell 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 in respect thereof, shall be deemed to be the conveyance deed and stamp duty thereon shall be levied accordingly.

**Rs.34.72 lakh was short levied due to misclassification of documents**

In three Sub-Registry offices, 343 instruments executed between 1987 and 1994, which related to conveying of rights, title and interest in immovable properties for consideration of Rs.751.65 lakh, were chargeable with stamp duty at the rates applicable to conveyance deed but were incorrectly charged with stamp duty at lower rate applicable to "agreement to sell". This resulted in short levy of stamp duty of Rs. 34.72 lakh as detailed in the following table :

## Stamp Duty and Registration Fees

Sub-Registry	Number of documents	Year of Registration	Consideration (In lakh of rupees)	Short levy of stamp duty
Haveli II, (Pune)	335	1987 to 1992	678.95	28.80
Mumbai (BOM Series)	1	1988	31.00	3.10
Mumbai (S-Series)	7	1994	41.71	2.82
<b>Total</b>	<b>343</b>		<b>751.66</b>	<b>34.72</b>

On this being pointed out (between August 1992 and July 1996), the department accepted (March 1998 and April 1998) the audit observations and recovered Rs.8.25 lakh upto March 1998. Further report on the recovery of balance amount has not been received (November 1998).

The cases were reported to Government between April 1998 and May 1998; their reply has not been received (November 1998).

(ii) As per Circular dated 18 March 1992 effective from 10.12.85 issued by Inspector General of Registration, Maharashtra State, Pune, such agreement to sell wherein more than 20 *per cent* of the consideration is paid as advance or when the possession of the premises is promised to be given within 3 months from the date of execution of agreement to sell, such agreement to sell shall also be deemed to be a conveyance. The cases registered prior to 18.3.92 were required to be renewed and deficit duty collected.

**Rs.16.62 lakh was short recovered due to misclassification**

In four\* Sub-registry offices, 23 instruments were executed for a consideration of Rs.199.16 lakh between 1988 and 1991 wherein more than 20 *per cent* of the consideration was paid as advance. Since the instruments were related to conveying of right, title and interest in immovable properties and more than 20 *per cent* of the consideration was paid as advance, in terms of circular dated 18.03.1992 stamp duty was leviable at the rate

\* Mumbai (Bom Series), Mumbai (S-Series), Miraj-II (Sangli Distt.) and Thane-IV.

applicable to conveyance deed. However, the stamp duty on these instruments was levied at the rate of Rs.10 applicable to "agreement to sell" and the cases though required to be renewed and deficit duty collected were not renewed. This resulted in short levy of stamp duty amounting to Rs.16.62 lakh.

On this being pointed out (between October 1992 and February 1995), the department accepted (April 1998 and July 1998) the omission. Further report on recovery has not been received (November 1998).

The matter was reported to Government in June 1998; their reply has not been received (November 1998).

#### **3.9 Short levy of stamp duty on lease deed**

Under the provisions of the Bombay Stamp Act, 1958 and Article 36(a)(ii), 36(c) of Schedule I thereto, stamp duty on "lease deed" covering period in excess of three years but not more than ten years is leviable on conveyance under clause (a), (b), (c) or (d), as the case may be of Article 25 on three times the amount of average annual rent plus the premium paid.

In Sub-Registrar, Mumbai (S-Series), one document of "lease" was registered in March 1993 for a period of ten years for Rs.36.00 lakh, as premium and an average annual rent of Rs.6.08 lakh. Since the lease period was for 10 years, the stamp duty was leviable on amount of premium plus three times of the average annual rent totaling to Rs.54.22 lakh. However, the department levied duty amounting to Rs.0.09 lakh as against leviable at Rs.5.42 lakh. This resulted in short levy of stamp duty amounting to Rs.5.33 lakh.

On this being pointed out (July 1996), the Inspector General of Registration, Pune accepted the audit observation (April 1998). Further progress on recovery has not been received (November 1998).

The matter was reported to Government in May 1998; their reply has not been received (November 1998).

**3.10 Loss of revenue due to non-registration of property**

The Registration Act, 1908 provides that the lease agreement deeds are required to be registered compulsorily after payment of registration fee and stamp duty. Stamp duty at the rates prescribed under Article 36 of Schedule I to Bombay Stamp Act, 1958 and registration fee at the rate prescribed in table of fee to Registration Act, 1908 are leviable.

**Rs.11.29 crore were not recovered towards registration fee due to non-registration of property**

In Mumbai 57 cases of lease agreements/deeds relating to grant of Government lands allotted between 1947 and 1995 on lease hold basis required to be registered were not got registered with the Registration department. This resulted in non-levy of stamp duty of Rs.11.29 crore.

On this being pointed out (August 1998) department stated that the work of execution of these lease agreements/deeds is under process. Further report has not been received (November 1998).

The matter was reported to Government in September 1998; their reply has not been received (November 1998).



## CHAPTER 4

### *Land Revenue*

#### 4.1 Results of audit

Test check of the records of land revenue conducted during the year 1997-98 revealed under-assessment/short levy/loss of revenue *etc.*, of Rs.7384.10 lakh in 446 cases, which broadly fall under the following categories :

Sr. No.	Category	No. of cases	Amount (in lakh of rupees)
1.	Review on Grant of Government land and assessment of revenue thereof	60	6911.97
2.	Non-levy/Short levy/ incorrect levy of NAA/ZP/VP cess, conversion tax and royalty.	304	439.35
3.	Non-levy/Short levy/incorrect levy of increase of land revenue.	35	18.75
4.	Non-levy/Short levy of occupancy price <i>etc.</i>	14	7.02
5.	Short levy of measurement fees, sanad fees <i>etc.</i>	33	7.01
Total		446	7384.10

During the course of the year 1997-98 the concerned department accepted under assessment *etc.*, of Rs.5029.97 lakh involved in 590 cases, of which 51 cases involving Rs.4825.88 lakh had been pointed out during 1997-98 and the rest in earlier years and recovered Rs. 19.75 lakh.

A few illustrative cases noticed during 1997-98 and in earlier years having a financial effect of Rs. 3.03 crore and a review on "Grant of Government land and assessment of revenue thereof" involving financial effect of Rs.69.12 crore are mentioned in the following paragraphs.

### 4.2 Grant of Government land and assessment of revenue thereof

#### 4.2.1 Introduction

The Maharashtra Land Revenue Code, 1966 and the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971 framed thereunder, govern the grant and disposal of Government land for commercial, industrial and other non-agricultural purposes. The grant of Government land was either on the basis of occupancy or lease hold rights subject to payment of occupancy price and annual non-agricultural assessment (NAA) or lease rent or premium at the prescribed percentage of full market value. Lands could be granted to co-operative institutions at a concessional price or rate fixed by the Government. In respect of land acquired under Land Acquisition Act, 1894 a non-agricultural assessment is leviable from the date of handing over possession of the land. Land revenue is assessed with reference to the use of land such as agricultural, residential, industrial or any other purpose. Further, under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 Increase of Land Revenue 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 land is situated in the Municipal Corporations and Municipal Councils (A and B classes only) areas or any peripheral areas thereof, conversion tax equal to three times of the amount of non-agricultural assessment (NAA) is also leviable when permission for non-agricultural use or change in use of land is granted or when unauthorised non-agricultural use is regularised under the Maharashtra Land Revenue (Amendment) Act, 1979. Under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and Bombay Village Panchayat Act, 1958 a cess at prescribed rate is also leviable in the areas covered by the Acts.

In case of non payment/delayed payment of any Government dues, an interest at the rate of 8 *per cent* upto 30 June 1992 and 15 *per cent* thereafter is leviable.

#### **4.2.2 Scope of audit**

A test check of cases in fourteen\* districts of Maharashtra was conducted between December 1997 and May 1998 covering the period from 1992-93 to 1997-98 (upto May 1998) to see whether the above provisions have been correctly adhered to. Total 290 cases in 14 districts were test checked.

#### **4.2.3 Organisational set-up**

The work of allotment of land, assessment of prices/taxes and its collections is made by the Collectors. There are 36 Collectors in the State. The Collector performs his duty with the assistance of his Sub-Divisional Officer and Tahsildars. Further, allotment of land is made as per the provisions of the Maharashtra Land Revenue Code, 1966 and Rules framed thereunder and as per the orders of Revenue and Forests Department, Government of Maharashtra issued from time to time.

#### **4.2.4 Highlights**

(i) Despite specific recommendations of PAC lease rent and interest thereon of Rs.1.25 crore was not recovered and the possession of unauthorisedly occupied land not taken (Mumbai suburban district).

(Paragraph 4.2.5)

(ii) Occupancy price and interest on delayed payment of Rs.6.41 crore was not recovered.

(Paragraph 4.2.6)

(iii) Occupancy price and lease rent of Rs.79.97 lakh was short levied.

(Paragraph 4.2.7 (i))

(iv) Lease rent and interest of Rs.18.92 crore in thirteen cases was short levied.

(Paragraph 4.2.8)

(v) Increase of land revenue of Rs.39.83 crore from Mumbai Metropolitan Regional Development Authority, Mumbai city on account of lease rent, was not levied and recovered.

(Paragraph 4.2.9)

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\* Amravati, Aurangabad, Beed, Chandrapur, Jalna, Kolhapur, Mumbai city, Mumbai suburban district, Nagpur, Nanded, Nashik, Pune, Solapur and Thane

### 4.2.5 Failure to implement specific recommendation of Public Accounts Committee (PAC)

In the case of encroachment of Government land, the encroachment is required to be either regularised or got evicted. In case of regularisation, occupancy price together with land revenue and fine, as decided by the Collector, are leviable. In case of eviction, land revenue and fine are leviable.

**Despite recommendation of PAC lease rent and interest aggregating Rs. 1.25 crore was not recovered**

Mention was made in paragraph 4.2.8(i) of the Report of the Comptroller and Auditor General of India (Revenue Receipts) 1989-90 regarding short levy of lease rent of Rs.35.70 lakh in respect of land allotted in Kurla tahsil to Tarun Utkarsh Mandal for the period from 1960 to 1990.

The Public Accounts Committee in its 12th report of 1996-97 had recommended recovery of lease rent of Rs.35.70 lakh in respect of regularised land measuring 3634 square metres. The Committee further recommended that, land measuring 1413 square metres which has unauthorisedly been occupied and not regularised may be got evicted. The action taken report from the Government on the recommendation of the Public Accounts Committee is still awaited (November 1998).

Scrutiny of the case further revealed that department has failed to take possession of the unauthorisedly occupied land measuring 1413 square metres, despite specific recommendations of Public Accounts Committee, though the Collector received the copy of the recommendations on 15 April 1997, Government had also not recovered lease rent of regularised land measuring 3634 square metres. Total amount of recovery on regularised land works out to Rs.1.25 crore including interest of Rs.82.77 lakh.

The department accepted (April 1998) non-recovery of lease rent and interest thereon. Further report on recovery has not been received (November 1998).

### 4.2.6 Non-recovery of occupancy price and interest

Under provisions of Disposal of Government Land Rules, 1971 framed under the Maharashtra Land Revenue Code, 1966 competent authorities are empowered to dispose of lands owned by or vested in Government subject to payment of occupancy price by the allottee as a consideration for the grant of the right to

**Non-recovery of occupancy price and interest from the allottee of land resulted in non-realisation of revenue of Rs.6.41 crore**

occupy and use the land. Payment of occupancy price is to be made on handing over possession or as per directions issued by Government, while allotting land. For failure to pay occupancy price in time, interest is also leviable.

In eight\* districts, land measuring 82.83 lakh square metres in 12 cases was allotted to various allottees between 1981 and 1997. However, occupancy price was either not recovered or was recovered late. This resulted in non-realisation of revenue of Rs.6.41 crore including interest of Rs.5.38 crore.

The matter was brought to the notice of Government in July 1998; report of recovery has not been received (November 1998).

#### **4.2.7 Short levy of occupancy price due to incorrect grant of excess land**

Land upto a specified limit can be allotted to the members of co-operative housing societies formed by backward classes and other than backward classes at a concessional occupancy price as specified in the rules and orders. The land in excess of permissible limit can, however, be granted at full market value of such land on the date of allotment.

i) In Amravati, Mumbai and Solapur, in five cases, land measuring 6628.67 square metres in excess of permissible limit was incorrectly allotted at concessional occupancy price instead of full market value of the land on the date of allotment. This resulted in short levy of occupancy price and lease rent of Rs.79.97 lakh (occupancy price Rs.59.59 lakh and lease rent Rs.20.38 lakh).

**Allotment of land in excess of permissible limit at concessional rate resulted in short levy of Rs.79.97 lakh**

On this being pointed out (January 1998 to April 1998), the department stated that the lands were granted as per layout plans. The plea is not tenable as excess land can be granted at full market rates only.

ii) According to Disposal of Government Land Rules, 1971 framed under the Maharashtra Land Revenue Code, 1966 and orders issued thereunder, members of backward class housing society having monthly family income upto Rs.1500 and other than backward class housing society having monthly family income upto Rs.1000, 1001 to 2000 and 2001 to 3000 can be allotted land measuring 27.87, 41.81 and 60.40 square metres in corporation area at concessional occupancy price of 10 per cent, 25 per cent and 50 per cent of 10 years old market value respectively. As regarding A, B and C class

\* Amravati, Aurangabad, Beed, Chandrapur, Kolhapur, (Kurla tahsil) Mumbai, Nanded and Thane

municipalities and rural areas, the plots allotted to each member could be uniform in size and would also be minimum as required by prevalent building rules within the area.

In two cases of Amravati and Aurangabad districts, the concessional occupancy price was charged on the basis of monthly income of the individual instead of monthly income of the family. In these cases, full occupancy price of Rs.3.19 lakh should have been charged instead of concessional occupancy price of Rs.0.02 lakh. This resulted in short levy of revenue of Rs. 3.17 lakh.

The department stated (December 1997) that the factual position will be ascertained and necessary action will be taken in this regard.

### 4.2.8 Non/short realisation of lease rent and interest thereon

In thirteen cases in Mumbai and Nagpur districts lease rent and interest of Rs.18.92 crore was not/short levied. A few illustrative cases are given below :

**Non-levy/short levy of  
lease rent resulted in  
non-recovery of  
Rs.18.92 crore**

(i) Land measuring 2118 square metres encroached by shri M.M.Thakkar, proprietor of M/s. Atul Automobiles in the Kurla tahsil for commercial purposes in 1962 was regularised for 30 years on 4 January 1990 with the condition that land will be taken back as and when required by the Municipal Corporation, Mumbai. The lease rent was fixed at the rate of 20 *per cent* of the current market value. The proprietor had agreed to pay the lease rent as fixed by the Government. Despite the instructions of the Government to levy the lease rent and interest, Collector has not yet worked out and recovered the Government dues. As per prescribed rates, amount recoverable works out to Rs.43.77 lakh for the period from 1962 to 1998.

Though the point is accepted by the department, demand notice has not been issued (November 1998).

Similarly, in the case of Shri Indrajit Singh Pradhan Singh, who had encroached in August 1947 land measuring 602.4 square metres in Kurla tahsil, was regularised periodically by the Government from time to time. However, demand for recovery of dues of Rs.75.17 lakh for the period from August 1947 to July 1998 has not been raised.

(ii) The work of allotment of land is vested with Revenue and Forests Department. However, land measuring 5109.5 square metres was allotted to M/s. Amir Park and Amusement Pvt. Ltd., by Agriculture and Co-operation Department *vide* Government resolution dated 10 October 1985 for use as an approach road to the park. Further, the

possession of 7713 square metres of land was given on 18 March 1986 by the Agriculture and Co-operation Department. Land is still under possession of M/s. Amir Park and Amusement Pvt. Ltd. The allotment of land was objected by Revenue and Forests Department. However, no action to take back the possession of the incorrectly allotted land and recovery of lease rent and interest thereon of Rs.23.26 lakh for the period from March 1986 to July 1998, has been taken (November 1998).

iii) Land measuring 7204.89 square metres in Mumbai city was allotted to Shubhada Co-operative Housing Society in November 1996 at a lease rent of Rs.108.00 lakh subject to payment of security deposit equal to one year's rent. Thus, Rs.2.16 crore was recoverable from the society. However, only Rs.54.04 lakh was recovered in November 1996, leaving a balance of Rs.1.77 crore including interest of Rs.1.45 crore for which no demand has been raised (April 1998).

(iv) Land measuring 500 square metres was allotted in December 1994 to Maharashtra Tourism Development Corporation for conducting water sports at Girgaon Choupati for the period of 5 months 10 days. However, the land measuring 4714.84 square metres was actually occupied. Licence fee on the excess land works out to Rs.1.25 crore, which has not been recovered.

The department accepted the audit observation (April 1998). Further progress of recovery has not been received (November 1998).

#### **4.2.9 Non-levy of increase of land revenue (ILR)**

In Mumbai city, Government land measuring 930567.08 square metres situated in Wadala Anik within the Municipal Corporation area was granted in December 1992 on lease hold basis to the Mumbai Metropolitan Regional Development Authority (MMRDA) for commercial use. The lease rent was recovered regularly but the increase of land revenue was not levied. This resulted in non-recovery of land revenue of Rs.39.83 crore.

**Non-levy of increase of  
land revenue resulted in  
non-recovery of  
Rs.39.83 crore**

The department accepted (April 1998) the omission and stated that increase of land revenue will be recovered. Further progress of recovery has not been received (November 1998).

### 4.2.10 Failure to levy land revenue

i) In Dahanu tahsil (Thane district), land measuring 7615800 square metres situated in three\* different villages granted to Bombay Suburban Electric Supply Limited was put to industrial/residential use from 1989-90. However, the non-agricultural

**Revenue of Rs.33.67 lakh was recovered at the instance of audit from B.S.E.S.**

assessment alongwith increase of land revenue and zilla parishad/village panchayat cess was not levied/realised. The omission resulted in non-realisation of revenue of Rs.33.67 lakh for the period from 1989-90 to 1993-94.

The department accepted the facts and intimated (July 1997) recovery of the land revenue of Rs.33.67 lakh.

ii) In Vasai tahsil (Thane district), land measuring 80985 square metres, situated within the municipal limit was allotted and ownership was transferred to Municipal Council, Vasai during 1981-82. The land was put to industrial use. However, the orders conveying the permission for non-agricultural use were not recorded in the basic records of the tahsil. This resulted in non-levy of land revenue of Rs. 7.52 lakh (increase of land revenue of Rs.1.91 lakh and conversion tax of Rs. 1.78 lakh) for the years 1981-82 to 1997-98.

The department accepted the omission and raised the demand (April 1998). Recovery of Rs.4.41 lakh had been effected (November 1997 and February 1998). The progress of recovery of the balance amount of Rs.3.11 lakh has not been received (November 1998).

iii) In 9 cases, land measuring 574139.77 square metres were granted by Government during 1979-80 to 1997-98 for industrial, commercial and other non-agricultural purposes in 5 districts†. However, these lands were not assessed to land revenue and non-agricultural assessment, increase of land revenue, zilla parishad/village panchayat cess and conversion tax resulting in non-levy of land revenue of Rs.20.05 lakh.

The department accepted the audit observation (April and May 1998) and stated that the recovery will be effected after confirmation of facts and figures.

\* Agwan, Asangaon and Wadkun

† Amravati, Jalna, Mumbai Suburban, Pune and Solapur

#### **4.2.11 Non-levy of non-agricultural assessment on acquired land**

In accordance with Government circulars dated 12 January, 1973 and 1 November, 1983, lands when acquired under the Land Acquisition Act 1894 vest absolutely in Government and these lands are later handed over to the requisitioning bodies for whom land is acquired. In cases where the land is used

for non-agricultural purpose, non-agricultural assessment is recoverable from the user from the date of possession of the land:

**Non-levy of non-agricultural assessment on acquired land resulted in non-recovery of Rs.36.76 lakh**

Government acquired land measuring 1818100 square metres for various bodies in seven cases in five districts\* between 1989 and 1997 and possession of the land was given between 1989 and 1997. However, the land was not assessed to non-agricultural assessment. This resulted in non-recovery of NAA of Rs.36.76 lakh.

The department agreed to assess the land revenue and raise the demand (April and May 1998). Further report on recovery has not been received (November 1998).

#### **4.2.12 Short levy of Village Panchayat Cess due to application of incorrect rate**

Under the provisions of the Bombay Village Panchayats Act, 1958 Village Panchayat cess at the rate of 20 paise per rupee of land revenue was leviable on land revenue payable in respect of lands situated in rural areas which was revised at 100 paise per rupee of land revenue with effect from 2nd October 1992 under Government of Maharashtra, Rural Development Department & Water Conservation Department Resolution dated 7 April 1995.

In Uran tahsil (Raigad district), land measuring 3,26,71,400 square metres allotted to City and Industrial Development Corporation, Jawaharlal Nehru Port Trust and Oil and Natural Gas Commission was assessed to non-agricultural assessment and the demands for non-agricultural assessment, Zilla Parishad and Village Panchayat cess raised. However, the demand of Village Panchayat cess was incorrectly raised at pre-revised rate of 20 paise per rupee from the year 1992-93 to 1995-96. This resulted in short levy of Village Panchayat cess of Rs.20.70 lakh.

The department accepted (January 1998) the omission. Further progress of recovery has not been received (November 1998).

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\* Nashik, Chandrapur, Nagpur, Nanded and Pune.

### **4.2.13 Short levy of non-agricultural assessment, cess and increase of land revenue**

In Mohol tahsil (Solapur district) land measuring 1 lakh square metres in 1988 and additional 1 lakh square metres in 1989 was allotted to Starch Karkhana industrial unit for industrial use. As per rate fixed for non-agricultural assessment, increase of land revenue and zilla parishad and village panchayat cess, Rs.2.76 lakh was recoverable. However, only Rs.0.13 lakh was recovered due to assuming the holdings incorrectly as 10,000 and 20,000 square metres respectively. This resulted in short recovery of non-agricultural assessment of Rs. 2.63 lakh (increase of land revenue of Rs.0.38 lakh and cess of Rs. 1.89 lakh).

The department accepted (April 1998) the audit observation. Further report of recovery has not been received (November 1998).

### **4.2.14 Non-recovery of licence fee due to consideration of incorrect area**

Out of 2464.15 square metres land given on lease to Maharashtra State Co-operative Land Development Bank, Aurangabad in 1989-90, 807.80 square metres of land was converted and put to commercial use (1989-90) by the Bank. The conversion was accepted (May 1988) by revenue authorities subject to payment of licence fee. Total amount of licence fee including fine and interest thereon for the year 1989-90 to 1997-98 worked out to Rs.5.61 lakh, which has not been recovered (November 1998).

The department stated (May 1998) that the case is pending with Government, consequently aforesaid amounts could not be recovered.

### **4.2.15 Non-realisation of unearned income and interest thereon**

Under the provision of Maharashtra Land Revenue Code, 1966 and rules framed thereunder, the Government land allotted to the grantees is not permitted to be disposed of/sold. The same, however, can be disposed of/sold with the approval of State Government subject to payment of 50 *per cent* in case of building or 90 *per cent* in case of land as the case may be, of the unearned income *i.e.* an amount equal to the difference between the sale price and occupancy price paid at the time of grant, as the State Government may decide.

i) The old building of Elphinston Cricket Club situated in city survey number 1401 of Fort Division was permitted to be dismantled and was allowed to be reconstructed as new building for Elphinston Premises Co-operative Society under Government memorandum dated 18 May, 1979 and 23 November, 1992 on payment of fifty *per cent* of unearned income of Rs.27.54 lakh and interest thereon of Rs.28.09 lakh (total Rs.55.63 lakh), which have not so far been recovered. The department accepted (April 1998) the audit observation. Progress of recovery has not been received (November 1998).

**Unearned income  
of Rs.55.63 lakh  
was not recovered**

ii) In Haveli tahsil (Pune district) Government land measuring 600 square metres allotted to a private party was permitted to be further sold by the party on payment to Government of 90 *per cent* of incremental income amounting to Rs.4.43 lakh, which has not so far been recovered. The department accepted (May 1998) the non-recovery of incremental income and stated that necessary action will be taken according to law.

iii) The grantee of Government land measuring 203 square metres situated in Vadgaon village of Maval taluka (Pune district) had violated the condition for grant of land. While regularising the breach of condition for grant of land, 75 *per cent* of unearned income of Rs. 0.60 lakh alongwith interest thereon of Rs.0.60 lakh (total Rs.1.20 lakh) was ordered to be levied. However, no recovery has so far been effected.

The department stated (May 1998) that the grantee has been ordered to pay the unearned income and interest thereon.

The review was sent to Government in July 1998; their reply has not been received (November 1998).

#### **4.3 Non-levy/short levy of non-agricultural assessment, increase of land revenue, 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 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*

**Rs.188.77 lakh was not levied/  
short levied on account of non-  
agricultural assessment,  
increase of land revenue,  
conversion tax and cesses**

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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 Corporations and Municipal Councils (A and B classes only) or any peripheral area thereof, conversion tax equal to three times of the amount of non-agricultural assessment (NAA) 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. Further, under Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and the Bombay Village Panchayat Act, 1958 a cess at prescribed rate is also leviable in the areas covered by the Acts.

(i) In five tahsils/ districts, land measuring 694141 square metres situated within the Municipal Corporation/Municipal Council limits 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.182.13 lakh (including increase of land revenue of Rs.100.98 lakh and conversion tax of Rs. 0.75 lakh) as detailed below :

Name of tahsil and district	Area of land (in square metres)	Purpose of use	Period of use	Non-levy/Short levy of NAA	ILR	Conversion tax (in lakh of rupees)	Total
Phaltan (Satara)	290147	Industrial	1991-92 to 1997-98	38.49	38.50	--	76.99
Latur (Latur)	283849	Residential and Commercial	1971-72 to 1997-98	20.87	39.28	--	60.15
Pandharpur (Solapur)	73800	Commercial	1979-80 to 1997-98	13.51	13.51	0.75	27.77
Karmala (Solapur)	12145	Commercial	1985-86 to 1997-98	6.04	6.04	--	12.08
Kolhapur (Kolhapur)	34200	Industrial	1984-85 to 1997-98	1.49	3.65	--	5.14
<b>Total</b>	<b>694141</b>			<b>80.40</b>	<b>100.98</b>	<b>0.75</b>	<b>182.13</b>

On this being pointed out (between December 1995 and February 1997), the department accepted the audit observations (February 1998). Further report has not been received (November 1998).

The cases were reported to Government in March 1998; their replies have not been received (November 1998).

(ii) In tahsil Kalwan (Nashik district), land measuring 14923 square metres situated in Grampanchayat, Kalwan was put to commercial use since 1979-80. However, the non-agricultural assessment and the cesses were not levied during the period from 1979-80 to 1997-98. This resulted in non-levy of revenue amounting to Rs. 6.64 lakh for the period from 1979-80 to 1997-98.

On this being pointed out (December 1996), the department accepted the omission and had issued demand notices (May 1998). Further report on recovery has not been received (November 1998).

The matter was referred to Government in June 1998; their reply has not been received (November 1998).

#### **4.4 Non-revision of non-agricultural assessments**

Under 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 or reassessment of non-agricultural land remains in force during the guarantee period, if any, mentioned in the assessment order or sanad. Thereafter, the land revenue is liable to be revised in accordance with the standard rates of non-agricultural assessment notified in the gazette from time to time. Besides, increase of land revenue as per Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 and cess as per the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and Bombay Village Panchayat Act, 1958 is also leviable in the areas covered by the Acts. In cases, where such lands are situated in the areas of Municipal Corporations and Municipal Councils ('A' and 'B' classes only), or any peripheral area thereof, conversion tax equal to three times of the amount of non-agricultural assessment (NAA) is also leviable when permission for non-

**Short levy of non-agricultural assessment of Rs.42.11 lakh due to non-revision of rates of assessment**

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.

(a) In tahsil Osmanabad (Osmanabad district) and Pandharpur (Solapur district), land measuring 38006 square metres, situated within municipal limits of Osmanabad and Pandharpur, permission for residential and commercial use was accorded by Collector, Osmanabad and Sub-Divisional Officer, Pandharpur between February 1993 and December 1994 respectively. However, the non-agricultural assessments in these cases were not revised on the basis of the new rates effective from 1 August 1991. The omission resulted in short realisation of revenue amounting to Rs.7.56 lakh, including conversion tax (being 'B' class municipalities) of Rs.2.96 lakh, between the period 1993-94 to 1997-98.

On this being pointed out (August 1996 and December 1996 respectively), the department accepted the audit observations (January 1998 and February 1998). Report on recovery has not been received (November 1998).

The matter was reported to Government in March 1998; their reply has not been received (November 1998).

(b) Under the Maharashtra Land Revenue Code, 1966 the standard rates of non-agricultural assessment fixed on 1 August 1979, would remain in force for the guarantee period of twelve years *i.e.* upto 31 July 1991. Thereafter the rates would be revised and levied from 1 August 1991 for a guarantee period of five years periodically. Accordingly, by a notification issued in November 1995, the standard rates of non-agricultural assessment of Kandhar tahsil were revised with retrospective effect from 1 August 1991.

In Kandhar tahsil, land measuring 31745 square metres situated in Municipal limit of Kandhar was used by Maharashtra State Electricity Board and Agriculture Produce Market Committee between 1991-92 and 1997-98 for commercial purpose. However, the rates of non-agricultural assessment were not levied from 1 August 1991 on revised rates, resulting in short levy of non-agricultural assessment of Rs.7.06 lakh including increase of land revenue of Rs.2.17 lakh.

On this being pointed out (December 1996 and November 1996 respectively), the department accepted the omission and recovered Rs.3.96 lakh (March 1997). Report on recovery of balance amount has not been received (November 1998).

The matter was referred to Government in March 1998; their reply is awaited (November 1998).

(c) In Vaijapur tahsil, land measuring 21768 square metres situated within the municipal limits was put to commercial use by Agricultural Produce Market Committee, Vaijapur between the period 1983-84 and 1997-98. The land was assessed to land revenue with a guarantee period upto 31 July 1991. However, the assessment of aforesaid land was not revised on expiry of guarantee period. This resulted in short realisation of non-agricultural assessment amounting to Rs.7.42 lakh including increase of land revenue of Rs.2.52 lakh for the revenue years between 1991-92 and 1997-98.

On this being pointed out (September 1997), the department accepted the omission (March 1998). Further report on recovery has not been received (November 1998).

The matter was reported to Government in April 1998; their reply has not been received (November 1998).

(d) In Daund tahsil (Pune district), land measuring 124500 square metres and 135300 square metres situated outside the limits of Pune municipal corporation (in village Patas) was put to industrial and commercial use respectively by a private company from June 1978. The non-agricultural assessment thereon was made with guarantee period upto 31 July 1993. The assessment on expiry of guarantee period, however, was not revised though the revised standard rates for non-agricultural assessment were notified in gazette *vide* Government resolution dated 19 June 1980. This resulted in short realisation of revenue of Rs.7.58 lakh for the period from 1993-94 to 1997-98, including increase of land revenue of Rs.0.76 lakh and Zilla Parishad and Village Panchayat Cess of Rs.6.06 lakh.

On this being pointed out (November 1995), the department accepted the omission (April 1998) and recovered Rs.5.20 lakh (March 1996 and April 1996) representing short recovery for the year 1993-94 and 1994-95. Further report on recovery of balance amount has not been received (November 1998).

The matter was brought to the notice of the department in May 1998; their reply has not been received (November 1998).

(e) In two tahsils/ districts, land measuring 37090.50 square metres situated within the municipal limits was put to non-agricultural use, but the assessment was not revised on

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expiry of guarantee period and department continued to levy at old rates resulting in non-realisation of revenue of Rs.12.49 lakh (including increase of land revenue of Rs.3.57 lakh and conversion tax of Rs.1.84 lakh) as follows :

Name of tahsil and district	Area of land (in square metres)	Purpose of use	Period of use	Non-levy/Short levy of			Total
				NAA	ILR	Conversion tax	
				(in lakh of rupees)			
Nanded (Nanded)	18138.50	Residential	1992-93 to 1997-98	3.60	--	1.84	5.44
Vaijapur (Aurangabad)	18952.00	Commercial	1991-92 to 1997-98	3.48	3.57	--	7.05
Total	37090.50			7.08	3.57	1.84	12.49

On this being pointed out (between September 1997 and December 1997), the department accepted the audit observations (March 1998). Further report on recovery has not been received (November 1998).

The cases were reported to Government (between March 1998 and April 1998); their replies have not been received (November 1998).

### 4.5 Short levy of Village Panchayat Cess

Under the Bombay Village Panchayat Act, 1958, a cess at the prescribed rate is leviable on the land revenue assessed on the agricultural and non-agricultural lands in the areas covered by the Act. Government of Maharashtra in Rural Development and Water Conservation Department had revised, *vide* Government

Resolution dated 7 April 1995, the rates of village panchayat cess to 100 paise per rupee of land revenue from existing 20 paise per rupee of land revenue assessed with retrospective effect from 1992-93.

In tahsil Sakri (Dhule district), total land revenue of Rs.17.08 lakh was assessed between the period 1992-93 and 1996-97. However the village panchayat cess was levied at the pre-revised rate of 20 paise per rupee of land revenue assessed. This resulted in

**Village Panchayat cess of Rs.13.66 lakh was recovered short due to application of incorrect rates.**

short levy of village panchayat cess amounting to Rs.13.66 lakh for the period from 1992-93 to 1996-97.

On this being pointed out (September 1997), the department accepted the omission and recovered Rs.1.57 lakh (May and July 1998). Further report on recovery has not been received (November 1998).

The matter was reported to Government in June 1998; their reply has not been received (November 1998).

#### **4.6 Non-levy of land revenue and cess due to failure in making entries in basic records**

Register of non-agricultural lands in Taluka Form II and in Village Form II are basic records and the entries made therein form the basis for assessing land revenue for raising demand for non-agricultural assessment. Failure to make entries in the forms could result in non-recovery of land revenue and consequent recurring loss.

**Rs.21.07 lakh was short levied due to failure in making entries in basic records**

In Wai tahsil (Satara district), land measuring 105510 square metres in 15 cases and situated beyond the municipal limits but within the limits of revenue village of Wai, permission for non-agricultural use of the land was accorded by the revenue authorities during the period 1993-94 and 1994-95. However, the orders conveying the permission were not noted at tahsil level in the relevant records *i.e.* Taluka Form II and Village Form II. This resulted in non-levy of land revenue of Rs.21.07 lakh (including Zilla Parishad and Village Panchayat cess of Rs.18.71 lakh) between the period 1992-93 and 1997-98.

On this being pointed out (January 1996), the department accepted the omission and recovered Rs.0.29 lakh (October 1996). Further report on recovery has not been received (November 1998).

The matter was reported to Government in March 1998; their reply has not been received (November 1998).

#### **4.7 Failure to re-assess land revenue on change in mode of use of land**

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

On change in mode of use of land, the land revenue is required to be reassessed. In cases where such lands are situated in the area of Municipal Corporation and Municipal Council ('A' and 'B' classes only) or any peripheral area thereof, conversion tax equal to three times of the amount of non-agricultural assessment (NAA) is also levied 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.

In Pandharpur tahsil (Solapur district), land measuring 8799.99 square metres situated within the limits of Pandharpur Municipal Council and used earlier for residential purpose was unauthorisedly put to commercial use from 1979-80. The said land was not re-assessed to land revenue on change in mode of use of land and the non-agricultural assessment was continued to be levied at residential rate instead of commercial rate. This resulted in short realisation of revenue of Rs.9.08 lakh including non-levy of conversion tax (being 'B' class Municipality) of Rs.0.55 lakh for the period from 1979-80 to 1997-98.

On this being pointed out (June 1992), the department accepted the omission (January 1997) and issued orders (February 1997), regularising the non-agricultural assessment retrospectively. Further report on recovery has not been received (November 1998).

The matter was reported to Government in May 1998; their reply has not been received (November 1998).

### **4.8 Short levy of surface rent due to application of incorrect rates**

As per the Mineral Concession Rules, 1960, the lessee shall pay, for the surface area used by him for the purposes of mining operations, surface rent and water rate at such rate, not exceeding the land revenue, water and cesses assessable on the land, as may be specified by the State Government in the lease. Since in the mining operation, the use of land is other than agricultural, the rates of non-agricultural assessment together with the cesses assessable on the land have to be considered while fixing the surface rent.

In Chandrapur district, three mining leases for extraction of coal and sand were renewed for the period of 30 years in three nationalised coal mines situated within the municipal limits of Chandrapur between 1973 and 1979. The surface rent was leviable at the industrial rate of non-agricultural assessment, *i.e.* 17 paise per square metre. However, the surface rent was levied at the residential rate of non-agricultural assessment *i.e.* 11 paise per square metre.

Mention was made in paragraph 8.2.8 in the Report of the Comptroller and Auditor General of India (Revenue Receipts) 1991-92 regarding short realisation of revenue due to incorrect application of rate amounting to Rs.2.56 lakh during the period 1983 to 1989. The department, on the recommendations of Public Accounts Committee (XIV report) had then agreed to raise the demand on revised rates. Action taken note from the department is still awaited (November 1998).

However, it was noticed that the department has not raised the demand for the period 1983 to 1989 and continued to apply incorrect rates resulting in further short realisation of revenue amounting to Rs.8.17 lakh during the period 1990 to 1997.

The department accepted the omission (March 1998) and agreed to raise the demand. Further progress of recovery has not been received (November 1998).

The matter was reported to Government in June 1998; their reply has not been received (November 1998).

#### **4.9 Short levy of interest due to wrong issue of Government orders**

Under Government circulars dated 16 May 1978 and 30 June 1992, the rate of interest payable on unpaid Government dues was fixed at 8 *per cent* per annum upto 30 June 1992 and 15 *per cent* per annum thereafter.

**Rs.19.75 lakh was short recovered due to wrong issue of Government orders**

In Pune tahsil (Pune district), land measuring 2558 square metres was allotted to District Central Co-operative Bank, Pune. The possession of land was handed over to the allottee in September 1989. Occupancy price of Rs.63.95 lakh was payable on the date on which possession of land was taken. Failure to pay the occupancy price on the date of possession, interest at the rate of 8 *per cent* till 30 June 1992 and 15 *per cent* thereafter was leviable. It was noticed that Government had issued orders in this case only (interest was levied in all other cases at revised rates) to recover interest at pre-revised rate of 8 *per cent* only, even though rates were revised to 15 *per cent* from 1 July 1992 onwards.

Due to incorrect orders, Collector, Pune recovered the interest at pre-revised rate. This has resulted in short levy of interest of Rs.19.75 lakh.

The matter was referred to Government in August 1998; their reply has not been received (November 1998).



## CHAPTER

5

### *Other Tax Receipts*

#### 5.1 Results of audit

Test check of records of departmental offices, conducted during 1997-98 revealed short realisation or losses of revenue amounting to Rs.2462.88 lakh in 4769 cases as listed below :

Sr. No.	Nature of receipt	Number of cases	Amount (In lakh of rupees)
1.	Entertainments Duty	696	2076.57
2.	Maharashtra Education and Employment Guarantee Cess	76	325.87
3.	Profession Tax	3889	45.65
4.	Tax on Buildings (with larger residential premises)	20	9.44
5.	Electricity Duty	77	4.84
6.	Repair Cess	11	0.51
Total		4769	2462.88

During the course of the year 1997-98, the concerned departments accepted under-assessments *etc.*, in 1027 cases involving Rs.934.39 lakh of which 31 cases involving Rs.308.72 lakh had been pointed out during 1997-98 and rest in earlier years and recovered Rs.630.94 lakh.

A few illustrative cases noticed during 1997-98 and in earlier years having a financial effect of Rs. 9.66 crore and a review on "Levy and Collection of Entertainments Duty" involving Rs.20.44 crore are given in the following paragraphs.

## SECTION A

### ENTERTAINMENTS DUTY

#### **5.2 Levy and collection of entertainments duty**

##### **5.2.1 Introduction**

The levy and collection of entertainments duty is governed by the Bombay Entertainments Duty Act, 1923 and the Rules framed thereunder. As per the provisions of the Act and the Rules made thereunder, duty at prescribed rates is levied and paid to the State Government on all payments for admission to any entertainment. An entertainment includes any exhibition, performance, amusement, games or sport to which people are admitted on payment.

The Act empowers the Government to exempt any entertainment from entertainments duty by general or special order and the Commissioners of Police or the District Collectors, as the case may be, to grant exemption to those entertainments which are organised for philanthropic or charitable purposes, educational or educational and scientific purposes.

A review on the 'Working of the Bombay Entertainments Duty Act, 1923 was featured in the Report of the Comptroller and Auditor General of India for the year 1992-93. The recommendations of the Public Accounts Committee on this review and action taken by the Government on these recommendations are indicated in the succeeding paragraphs wherever appropriate.

##### **5.2.2 Organisational set-up**

The implementation of the Act involves two aspects namely licensing and collection of duty. In Mumbai, Pune, Nashik, Nagpur and Aurangabad, the Commissioner of Police is the licensing authority and the District Collector is responsible for collection of duty. In other districts the functions of licensing and collection of duty are carried out by the District Collector. At taluka level, the taluka magistrates are declared as prescribed officers and they are responsible for issuing licences for touring talkies. The District Collectors are assisted by the Entertainments Duty Officers and Inspectors for recovery of tax.

The Act empowers the Commissioner of Police in places where he is appointed and the District Magistrate in other places to grant exemption from levy of duty in specified circumstances and refund of duty. The powers to grant exemption under Section 6(3) are exercised by the Department of Social Welfare, Cultural Affairs, Sports and Tourism.

### **5.2.3 Scope of audit**

With a view to examining that entertainments duty has been correctly levied and collected the records in 10 districts\* out of 31 districts and records relating to licensing and exemptions granted maintained in the offices of the Commissioners of Police, Mumbai, Pune, Aurangabad, Solapur, Nagpur, Nashik, and Thane for the period from 1992-93 to 1996-97 were test checked on various dates falling between November 1997 and May 1998. Records of films exempted from duty by the Cultural Affairs Department and the records in the Revenue and Forests Department were also examined.

### **5.2.4 Highlights**

(i) **Non-levy of entertainments duty on inadmissible items of expenditure incurred out of service charges and unspent balance resulted in under-assessment of Rs.24.63 lakh.**

(Paragraph No. 5.2.8)

(ii) **Though non-adherence of the conditions subject to which exemptions were granted rendered entertainments duty of Rs. 19.01 crore forgone by Government as incorrect, no action in this regard was taken.**

(Paragraph No 5.2.9)

(iii) **Non-levy of entertainments duty/ surcharge on cable/ video game operators amounted to Rs. 14.00 lakh**

(Paragraph No. 5.2.10)

(iv) **Incorrect retention of entertainments duty collected and allowing of incorrect adjustment of entertainments duty collected and paid to Government resulted in loss of revenue aggregating Rs. 33.55 lakh.**

(Paragraph No.5.2.12)

(v) **Non forfeiture of security deposits taken in cash in respect of adhoc entertainments amounted to Rs. 2.55 lakh.**

(Paragraph No.5.2.13)

(vi) **Non-levy of surcharge on payment for admission to amusement park resulted in loss of revenue of Rs.66.74 lakh.**

(Paragraph No.5.2.14)

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\* Pune, Solapur, Amravati, Nagpur, Nashik, Kolhapur, Aurangabad, Thane, Mumbai City, Mumbai Suburban District (B.S.D.)

### 5.2.5 Trend of revenue

The budget estimates and actuals under the Head of Account "Entertainments Duty" for the years from 1992-93 to 1996-97 are given below

Year	Budget	Actual Receipts	Increase/Decrease (+) (-)	Percentage of variation (Col. 4 to Col.2)
(1)	(2)	(3)	(4)	(5)
(Amount in crore of rupees.)				
1992-93	84.06	77.73	(-) 6.33	8
1993-94	87.44	85.63	(-) 1.81	2
1994-95	96.32	80.09	(-) 16.23	17
1995-96	90.10	88.73	(-) 1.37	2
1996-97	97.10	100.02	(+) 2.92	3

The decrease of 17 per cent in the receipts during the year 1994-95 was owing to reduction in the rates of entertainments duty.

### 5.2.6 Failure to implement cabinet decision.

Under Section 6(3) of the Bombay Entertainments Duty Act, 1923 the State Government in Cultural Affairs Department has permanently exempted from time to time 17 categories of entertainments from entertainments duty and surcharge. These permanent exemptions were granted during the year from 1954 to 1975 to encourage

art, culture and sports of our nation. However, with the changing times, entertainments such as Rock Music, Ras Garba, One Day Cricket Match etc., are conducted on payment of sums with a motive of earning profit. The recommendations of the Committee of Secretaries (December 1986) constituted by the Government to examine the demands of the cine industry included review of the permanent exemptions from payments of entertainments duty granted by the Government. Even though the recommendation was approved by the Cabinet (December 1986), the utility of these permanent exemptions was not reviewed with a view to augmenting the revenue of the State (June 1998).

**Continuance of permanent exemptions granted under Section 6(3) from 1954 to 1975 were not reviewed**

### **5.2.7 Absence of unified administrative machinery.**

There is no separate department which is solely responsible for the administration of the Bombay Entertainments Duty Act, 1923. The Commissioner of Police where he is appointed and elsewhere the District Magistrate is empowered to grant exemptions under Section 6(1) and refund of duty under Section 6(2) of the Act. Cultural Affairs Department is empowered to grant exemptions under Section 6(3). Revenue and Forests Department is responsible for administering the provisions of the Act and Rules for levy and collection of duty.

The necessity for a unified administrative machinery was pointed out in the Reports of the Comptroller and Auditor General of India for the years 1973-74 and 1992-93 (Revenue Receipts). In their recommendations on paragraph 62 of the Report for the year 1973-74 and paragraph 7.2.6 of the Report for the year 1992-93 the Public Accounts Committee in their 18<sup>th</sup> Report and 9<sup>th</sup> Report respectively had recommended creation of a unified administrative machinery so that decisions could be taken and implemented with utmost efficiency. Government in their action taken note (1982-83) had agreed for creation of an independent machinery for collection of taxes and enforcement of the provisions of the Act on the lines existing in Uttar Pradesh. No action has been taken (June 1998).

### **5.2.8 Non-levy of entertainments duty on inadmissible items out of service charges.**

As per amendment to the Bombay Entertainments Duty Act, 1923 effective from 25 December 1992 read with Revenue and Forests Department circular of 21 March 1995, the proprietor, shall submit every year to the prescribed officer the accounts of service charges\* collected and spent by him towards maintenance and providing facilities and safety measures to patrons as specified therein. If the prescribed officer is satisfied that the service charges or part thereof are not spent for the purposes specified, the service charges or part thereof not so spent shall be included in the payment for admission and entertainments duty levied and collected thereon. Similarly, entertainments duty is leviable on unspent balance of service charges collected by the proprietors.

**Non-levy of  
entertainments duty  
amounting to Rs. 24.63  
lakh on inadmissible  
items /unspent balance  
out of service charges**

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\* Service charge is separately included in the cost of a cinema ticket (subject to maximum of Re. 0.50 from 25 December 1992 to 15 September 1994 and Re. 1 thereafter)

During test check of records it was noticed that proprietors of three theatres at Amravati, Barshi (Solapur) and Mumbai City had incurred expenditure on inadmissible items and one theatre at Aurangabad made incorrect claim of expenditure not actually incurred during various periods falling between 1992-93 and 1996-97. This resulted in non-levy of entertainments duty of Rs. 2.03 lakh. Further, entertainments duty of Rs. 22.60 lakh was not levied and collected from the proprietors of 40 theatres on the unspent balance of service charges as under :

Sr. No.	Name of the office	Period	No. of theatres	Amount of duty involved (in lakh of rupees)
1.	Resident Dy. Collector, Sangli	1992-93 to 1995-96	8	7.29
2.	Taluka Magistrate, Ramtek	1994-95 to 1995-96	1	0.83
3.	Resident Dy. Collector, Solapur	1992-93 to 1995-96	4 (Solapur) 2 (Barshi)	8.36
4.	Taluka Magistrate, Walwa, Islampur Sangli district	1992-93 to 1994-95	2	1.23
5.	Resident Dy. Collector, Kolhapur	1994-95 to 1995-96	15	1.96
6.	Resident Dy. Collector, Amravati	1993-94 to 1996-97	8	2.93
<b>Total</b>			<b>40</b>	<b>22.60</b>

On this being pointed out ( between July 1996 and January 1998) the department recovered (between December 1996 and August 1998) Rs. 8.95 lakh from the proprietors of 22 cinema houses. Report on recovery of the balance amount has not been received (November 1998).

### 5.2.9 Incorrect exemption to cinema films.

According to the provisions in the Act, Government may by general or special order exempt any entertainment or class of entertainments from liability to entertainments duty. The rules framed under the Act require that exemption be granted in respect of cinema 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.

**Exemptions aggregating Rs. 19.01 crore were allowed despite non-fulfilment of the prescribed conditions**

The producer of a film, which is granted exemption from payment of entertainments duty, is required to give an undertaking that he would pay the person or

persons most responsible for the educational, cultural or social contribution of such film as nominated by the Advisory Committee, an amount equivalent to the amount of entertainments duty leviable on the exhibition of such film.

The producer is also required to submit a weekly return to the District Collectors specifying particulars of payments made to the nominated persons 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 proprietor fails to comply with the undertaking.

Scrutiny of the recommendations of the Advisory Committee in respect of 55 films which were exempted from entertainments duty by Government for the period between 1992-93 and 1996-97 revealed that in no case the Committee had nominated any person or persons responsible for the educational, cultural or social value of the film. As a result, essential requirements were not fulfilled. Scrutiny of records at nine Collectorates revealed that no weekly returns were received.

As the essential conditions subject to which exemptions from payment of entertainments duty were not fulfilled, all the exemption orders declaring the films as tax free were required to be withdrawn under the rules. However, no such action was taken by the Government. The loss of revenue on account of films being exhibited as tax free during the years from 1992-93 to 1996-97 in respect of nine districts amounted to Rs.1900.51 lakh as under :-

Sr. No.	District	Entertainments duty foregone (In lakh of rupees)					Total
		1992-93	1993-94	1994-95	1995-96	1996-97	
1.	Aurangabad	1.06	N.A.	16.33	9.49	15.47	42.35
2.	Solapur	N.A.	N.A.	N.A.	4.30	16.18	20.48
3.	Pune	51.20	59.36	73.61	30.99	97.60	312.76
4.	Mumbai BSD	105.51	162.68	183.37	72.97	158.41	682.94
5.	Amravati	10.50	22.40	28.95	8.86	18.39	89.10
6.	Nagpur	19.18	62.70	74.92	71.78	32.86	261.44
7.	Kolhapur	N.A.	34.66	25.69	9.01	24.97	94.33
8.	Nashik	18.02	36.39	35.87	21.28	25.49	137.05
9.	Mumbai City	N.A.	N.A.	N.A.	N.A.	260.06	260.06
<b>Total</b>		<b>205.47</b>	<b>378.19</b>	<b>438.74</b>	<b>228.68</b>	<b>649.43</b>	<b>1900.51</b>

- N.A. means information not made available by the department.

In reply the Government stated (January 1998) that Rule 24(1)(b)(i) of Bombay Entertainments Duty Rules, 1958 had been deleted through resolution of 1 June 1966. The reply is not tenable as except for deletion of the requirement of production of certificate from the beneficiary to the effect that his/ their right in such films had in no way been assigned, all the other conditions in the rule were still valid.

### 5.2.10 Non-recovery of entertainments duty and surcharge from cable operators and video game operators.

By an amendment to the Bombay Entertainments Duty Act, 1923 cable operators were brought under the purview of the Act with effect from 25 December 1992 and entertainments duty at the rate of 25 *per cent* and surcharge at the rate of 10 *per cent* on the contributions/initial charges collected by the cable operators was leviable. In respect of video games, entertainments duty at the rate of Rs. 250 (Rs. 500 within the limits of Municipal Corporation of Greater Mumbai) per machine per month is leviable. According to Government of Maharashtra Revenue and Forests Department resolution dated 4 February 1993 the entertainments duty and surcharge on the total collection are to be paid before the 5<sup>th</sup> of the subsequent month to which it relates in respect of cable operators. With the growing popularity of satellite television particularly in major cities like Mumbai, cable operators are a potential source for revenue collection. However, compared to the number of tenements in the city of Mumbai, the number of cable operators and connections declared by them were very low. To avoid payment of entertainments duty levied by the Government of Maharashtra, operators are likely to understate the number of house holds served by them. Survey is therefore an essential exercise to detect unauthorised cable operators and the number of connections not disclosed by the cable operators. It was observed, that even though five years had lapsed, since the inception of the scheme, the department had not undertaken any comprehensive and organised survey and mainly relied upon voluntary declarations by the cable operators. During 22 visits made by the Dy. Collector (Entertainment) Mumbai city during the period from April 1997 to November 1997, 1809 connections by 50 new operators and 9061 additional connections by existing operators were detected involving revenue of Rs.23 lakh for a period of one year. This underlines the need and importance for conducting periodical comprehensive and organised survey to check evasion of tax by cable operators or evolve some more practical alternative of computing the duty .

**Duty and surcharge of Rs. 14.00 lakh was not levied and recovered from cable and video game operators.**

The department stated that a full fledged organised survey could not be conducted for want of staff and in the absence of licencing conditions for cable operators no legal action could be taken against them.

During test check of the records in the offices at Mumbai, Yeotmal, Sangli and Nagpur districts it was noticed (between October 1995 and July 1997) that in respect of 157 cable and dish antenna operators, *video* games and *video* centres, entertainments duty and surcharge amounting to Rs.14.00 lakh was neither paid by the proprietors nor any demand was raised by the department for the periods falling between January 1993 and March 1997.

On this being pointed out (between October 1995 and July 1997) the department recovered Rs.6.24 lakh in respect of 98 operators. Report on recovery of the balance amount has not been received (November 1998).

#### **5.2.11 Incorrect grant of exemptions.**

(i) Under the provisions of the Act, entertainments are exempt from the levy of duty subject to satisfaction of the Commissioner of Police/ District Magistrate (as applicable), that all the receipts of an entertainment are devoted to charitable purposes, or the entertainment is of a wholly educational character or the entertainment is provided partly for educational and partly for scientific purposes by a society, institution or committee not conducted or established for profit.

Government has fixed (February 1971) individual financial limit for each district and an overall limit of Rs.6.50 lakh for the State as a whole upto which loss of revenue on account of exemptions could be sustained.

The provision required rendering of full and true account of the whole of the takings within one month after the date of entertainment.

Failure to comply with the conditions involved liability to penalty of imprisonment or of fine which may extend to one thousand rupees or of both in addition to payment of duty that would have been levied had exemption from entertainments duty not been granted. As exemption allowed has an impact on the revenue, it is essential to ensure that the purpose for which exemption is granted are clearly mentioned and fulfilment of the conditions are followed up.

In Aurangabad district scrutiny of records relating to 9 exemptions granted to 5 institutions during the year 1996-97, by the Commissioner of Police revealed the following :-

- a) The certificate of exemption did not mention the purpose for which exemption was granted.
- b) The amount of entertainments duty of Rs.44,173 foregone in 1996-97 exceeded the limit of Rs.15,000.
- c) Full and true account of takings was not called for and checked.
- d) Written acknowledgement from the beneficiary was not obtained.
- e) Copies of the exemption certificates were not endorsed to the District Collector in most of the cases. Consequently, no procedure has been evolved in the Collector's office to obtain security deposits based on income estimated to accrue from the show. Failure to fulfil the conditions would result in forfeiture of the security deposit.

As none of the requirements was fulfilled all the exemptions granted were incorrect and the amount of entertainments duty of Rs.44,173 foregone was recoverable.

In reply the department stated (January 1998) that the amount would be recovered from the concerned institutions.

- (ii) Under the Bombay Entertainments Duty Act, 1923 the amount of entertainments duty paid in respect of an entertainment shall be refunded if the Commissioner of Police/District Magistrate, as the case may be, is satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic or charitable purposes and the whole of the expenses of the entertainment do not exceed 20 *per cent* of the receipts.

In Mumbai, in five cases of exemption granted between 1994-95 and 1996-97 wherein the expenditure of the entertainment had exceeded 20 *per cent* as per the accounts furnished, no objection certificates for refund of the security deposits equal to the estimated entertainments duty paid by the institutions were issued by the Commissioner of Police, Mumbai. The amount of security deposit involved amounted to Rs. 1.12 lakh.

On this being pointed out, the department stated (February 1998) that clarification was being sought from the institutions concerned and deficiencies in follow up procedure was being removed. Further report has not been received (November 1998).

### **5.2.12 Loss due to incorrect adjustment/ retention of excess collection.**

- (a) Under the Bombay Entertainments Duty Act, 1923 as amended from time to time, entertainments duty is payable on all payments for admission to an entertainment at the prescribed rates. The rates of entertainments duty were reduced by 50 *per cent* of the existing duty by the Government by an ordinance dated 26 September 1994 for a period of one year with effect from 16 September 1994. This period was extended

**Retention of excess collection/ incorrect adjustment resulted in loss of Rs. 33.55 lakh in respect of 115 theatres**

(on 19 September 1995 with retrospective effect from 16 September 1995) upto 15 September 1996 and thereafter (on 23 September 1996) upto 31 December 1996. The Government ordinances were made applicable with retrospective effect. However, these were silent about the treatment of the entertainments duty already collected by the proprietors from the patrons at higher rates during the intervening period *i.e.* the time between date of expiry of the earlier ordinance and date of issue of the new ordinance.

It was noticed that proprietors of 32 theatres in Mumbai city, Aurangabad, Thane, Alibag and Gadchiroli who had collected entertainments duty at 100 *per cent* during various periods falling between 16 September 1994 and 31 December 1994, 16 September 1995 and 23 September 1995 and 16 September 1996 and 23 September 1996 and remitted it into Government Account, were incorrectly allowed to adjust the excess 50 *per cent* against the entertainments duty payable for the subsequent periods. This resulted in loss of revenue of Rs. 11.42 lakh. The other proprietors also had paid the 100 *per cent* collected during the period from 16 September 1994 to 26 September 1994 but had not claimed adjustment of the excess payment. During the subsequent extensions some proprietors continued to collect duty at 50 *per cent* and paid the same. As the entertainments duty was collected from patrons and paid to Government it could not be refunded (by adjustment) to the proprietors of theatres.

(b) Further, on test check of 'B' returns\* with Daily Collection Registers maintained by the proprietors of 83 theatres in Mumbai city, Mumbai B.S.D. Amravati, Thane and Nagpur districts it was noticed that while the Daily Collection Register showed collection of entertainments duty at 100 *per cent* of the admission fee, payment was made at 50 *per cent*. Of these in the cases of 18 theatres at Thane, Mumbai City, Mumbai B.S.D., Nagpur and Amravati, the Daily Collection Registers were manipulated to show the entertainments duty collected at the rate of 50 *per cent* even though it was collected at 100 *per cent*. Failure on the part of the department to detect the excess collection and its incorrect retention resulted in short payment of entertainments duty of Rs.22.13 lakh.

On this being pointed out the department issued demand notices for Rs.4.35 lakh in respect of 26 theatres in Thane district and the matter was referred (between July 1997 and December 1997) to Government in respect of Alibag, Gadchiroli, Mumbai and Nagpur districts. Report on action taken in the remaining cases has not been received (November 1998).

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\* A weekly return showing number of tickets sold at each rate, their serial number, gross amount received from sale of tickets and the amount of duty payable to State Government.

### 5.2.13 Non-remittance of security deposits.

Under the Bombay Entertainments Duty Rules, 1958 every organiser of an entertainment shall furnish such security to the prescribed officer as that officer may require. If an organiser fails to submit any return or to pay the entertainments duty due, within ten days after the date of entertainment or such extended period not exceeding one month as the prescribed officer may allow, the prescribed officer may after giving the organiser a weeks notice forfeit the security deposit to the State Government.

In Pune, security deposits amounting to Rs. 2.55 lakh were collected during the period between August 1995 and March 1997 from the organisers of performances such as Fun Fairs, New Year Eve programmes, Food Festivals *etc.* Despite, failure on the part of the organisers to submit return and pay duty for periods ranging from eight months to two years after the date of entertainments, the deposits were not forfeited and remitted to Government account but were lying in the cash chest on the ground that accounts were not received from them. Failure to forfeit the deposits resulted in revenue of Rs.2.55 lakh remaining out of Government account.

In reply the department stated (November 1997) that the organisers would be asked to furnish accounts and in case accounts were not submitted, the amount would be forfeited and remitted into treasury. Further report has not been received (November 1998).

### 5.2.14 Non-levy of surcharge in respect of amusement park.

As per notification dated 15 April 1993 effective from 25 December 1992 surcharge was leviable at the rate of 5 *per cent* of the rates of admission in the case of amusement parks for the fourth and fifth year of operation for the period upto 15 September 1994. Levy of surcharge in respect of amusement parks was withdrawn with effect from 16 September 1994.

**Surcharge of Rs. 66.74 lakh was not levied and collected.**

In Mumbai, in respect of an amusement park (Essel World) which commenced on 25 December 1989 surcharge was not levied and collected on the collection of Rs. 1334.82 lakh for various periods between 25 December 1992 and 15 September 1994 on the payment for admission. The non-levy of surcharge at the rate of 5 *per cent* amounted to Rs.66.74 lakh as follows :-

## Other Tax Receipts

Period	Gross Collection	Surcharge
(Amount in lakh of rupees)		
25.12.92 to 31.3.93	88.88	4.44
1.4.93 to 31.3.94	747.30	37.37
1.4.94 to 15.9.94	498.64	24.93
<b>Total</b>	<b>1334.82</b>	<b>66.74</b>

In reply the department stated that the surcharge was not leviable. The reply is not tenable because the Bombay Entertainments Duty (Amendment) Act, 1993 which is deemed to have come into force with effect from 25 December 1992 (to replace the ordinance issued on that day) specifically provides for levy of surcharge at the rate of 5 *per cent* on the rates of admission in respect of amusement parks.

The above points were reported to Government in July 1998; their reply has not been received (November 1998).

### SECTION B

#### THE MAHARASHTRA EDUCATION AND EMPLOYMENT GUARANTEE CESS

##### 5.3 Non-remittance of education cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 and the rules made thereunder, the proceeds of the Cess and the penalties recovered by a municipal corporation on behalf of the State

**State education cess and employment guarantee cess aggregating Rs. 8.98 crore were not credited into Government account.**

Government shall be credited to the Consolidated Fund of the State within 7 days from the date of recovery. 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 Municipal Corporations of Pune and Nagpur, it was noticed (November 1996 and August 1997) that Government revenue amounting to Rs.8.98 crore relating to education cess and employment guarantee cess collected during the years 1995-96 and 1996-97

respectively was not credited to Government. The Government also did not direct the banks to pay the same from out of the moneys standing to the credit of the municipal corporations.

On this being pointed out (November 1996 and August 1997), the entire amount of Rs.5.93 crore was credited to Government (between December 1996 and January 1998) by the Pune Municipal Corporation. The Nagpur Municipal Corporation stated (December 1997) that efforts were being made to make payment. Further report has not been received (November 1998).

The matter was reported to Government in May 1998; their reply has not been received (November 1998).

### **5.4 Incorrect grant of exemption from payment of education cess and employment guarantee cess**

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 as amended in 1974 and 1975, lands and buildings vesting in the Central/State Government or belonging to a municipality or a Zilla Parishad or Cantonment

**Incorrect exemption to 29 properties resulted in non-realisation of revenue of Rs.22.48 lakh**

Board and used exclusively for public purposes and not used or intended to be used for purpose of profit are exempt from payment of education cess and employment guarantee cess. Similarly, the properties belonging to Public Trusts registered under the Bombay Public Trust Act, 1950 and exclusively used for public worship or for charitable purposes are also exempt. Government clarified (August 1986) that education cess and employment guarantee cess is recoverable on annual rent recovered from the stall owners in respect of properties owned by the municipal corporations/municipalities/cantonment boards. Government also clarified (May 1990) that education activities fall within the scope of residential purpose for levy of education cess. No exemption is admissible to properties owned by public sector corporations and undertakings of Central and State Governments and autonomous bodies.

In Mumbai it was noticed (between October 1996 and January 1997) that in respect of 29 properties, incorrect grant of exemption resulted in non-realisation of revenue

## Other Tax Receipts

amounting to Rs.22.48 lakh for the periods falling between 1991-92 and 1996-97 as detailed below :

Sr. No.	Property details	Period	Amount (in lakh of rupees.)	Remarks
1)	Property owned by the Mumbai Municipal Corporation leased out to Krida Pratishthan and let out for public performances.	1991-92 to 1996-97	14.05	The department stated (October 1997) that the matter was referred to higher authorities for policy decision
2)	4 properties used for commercial purposes and one for educational purpose.	1993-94 to 1996-97	0.60	The department replied (May 1997) that in 4 cases exemption granted was withdrawn from April 1997. Final reply in the fifth case has not been received (November 1998)
3)	9 properties belonging to the Municipal Corporation and leased for commercial purposes	1995-96 to 1996-97	1.46	The department stated (November 1997) that reports from the concerned officials were not received. Further report has not been received (November 1998)
4)	Property occupied by Tata Institute of Fundamental Research (Autonomous body) for petroleum project.	1993-94 to 1996-97	2.09	The department stated (November 1997) that the matter was under scrutiny. Further report has not been received (November 1998)
5)	2 private properties portion of which was occupied by foreign consulates	1992-93 to 1996-97	2.12	The department stated (November 1997) that the matter was under scrutiny. Further report has not been received (November 1998)
6)	11 properties used for educational purposes	1993-94 to 1996-97	2.16	The department stated (November 1997) that the matter was under scrutiny. Further report has not been received (November 1998)
<b>Total</b>			<b>22.48</b>	

The matter was reported to Government in June 1998; their reply has not been received (November 1998)

## SECTION C

### THE MAHARASHTRA TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS

#### 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. The rate of profession tax was increased from Rs.600 to Rs.850 per annum from 1994-95. Similarly holders of permit for transport vehicles and country liquor licence holders are liable to pay tax at the rate of Rs.300 per annum subject to a maximum of Rs.850 from 1994-95.

(a) Cross verification of the records of the offices which issued 1219 permits to transport operators, 1497 licences to liquor vendors, 198 *video* centres and assigned work to 355 contractors with the

**Non-enrolment in 3269  
cases resulted in non-  
realisation of Rs.39.29 lakh**

records of profession tax offices at Aurangabad, Ahmadnagar, Beed, Bhivandi (Kalyan), Nashik, Nanded, Solapur, Sindhudurg, Sangli, Latur, Parbhani, Kolhapur, Yeotmal and Ratnagiri revealed (between April 1994 and May 1997) that the holders of these 3269 permits/licences *etc.*, though liable to pay tax were not enrolled under the Profession Tax Act. This resulted in non-realisation of revenue of Rs.39.29 lakh for the periods falling between 1992-93 and 1996-97.

On this being pointed out (between April 1994 and May 1997) the department intimated recovery (between June 1996 and December 1997) of Rs. 1.53 lakh in respect of 150 cases. Report on recovery in the remaining cases has not been received. (November 1998).

The matter was reported to Government in June 1998; their reply has not been received (November 1998)

(b) During test check of records in the offices of the Profession Tax Officers, Pune, Ahmadnagar, Nagpur and Yeotmal it was noticed (between September 1995 and February 1997) that profession tax amounting to Rs. 6.27 lakh in respect of 460 persons enrolled under various entries covered under the Schedule to the Act for the periods falling between

## Other Tax Receipts

1992-93 and 1996-97 was neither paid by them nor demanded by the department as shown below :

Sr. No.	Name of district	Period	No. of cases	Amount involved (in lakh of rupees)	Remarks
1)	Pune	Between 1992-93 and 1994-95	328	4.06	The department stated (between January 1996 and November 1997) that action to recover the dues was in progress in respect of 222 cases. Report on recovery and reply in the remaining cases has not been received. (November 1998)
2)	Ahmadnagar	Between 1993-94 and 1995-96	35	0.53	The department recovered (between July 1996 and March 1997) Rs. 0.21 lakh in respect of 14 cases. Report on recovery in the balance cases has not been received (November 1998)
3)	Nagpur	1994-95 and 1995-96	50	0.81	The department stated (January 1998) that action for recovery was in progress. Further report has not been received (November 1998)
4.	Yeotmal	Between 1993-94 and 1995-96	47	0.87	The department stated (February 1997) that action to recover the amount would be taken. Further report has not been received (November 1998).
Total			460	6.27	

The matter was referred to Government in June 1998; their reply has not been received (November 1998)

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NAME	AGE	SEX	RELATION	OCCUPATION
JAMES H. HARRIS	35	M	HUSBAND	TEACHER
MARY H. HARRIS	32	F	WIFE	HOUSEWIFE
JOHN H. HARRIS	10	M	SON	STUDENT
ELIZABETH H. HARRIS	8	F	DAUGHTER	STUDENT
WILLIAM H. HARRIS	5	M	SON	STUDENT
ANNE H. HARRIS	3	F	DAUGHTER	STUDENT
CHARLES H. HARRIS	2	M	SON	STUDENT
MARGARET H. HARRIS	1	F	DAUGHTER	STUDENT
EDWARD H. HARRIS	0	M	SON	STUDENT
HELEN H. HARRIS	0	F	DAUGHTER	STUDENT
FRANK H. HARRIS	0	M	SON	STUDENT
JOHN H. HARRIS	0	M	SON	STUDENT
MARY H. HARRIS	0	F	DAUGHTER	STUDENT
ELIZABETH H. HARRIS	0	F	DAUGHTER	STUDENT
WILLIAM H. HARRIS	0	M	SON	STUDENT
ANNE H. HARRIS	0	F	DAUGHTER	STUDENT
CHARLES H. HARRIS	0	M	SON	STUDENT
MARGARET H. HARRIS	0	F	DAUGHTER	STUDENT
EDWARD H. HARRIS	0	M	SON	STUDENT
HELEN H. HARRIS	0	F	DAUGHTER	STUDENT
FRANK H. HARRIS	0	M	SON	STUDENT
JOHN H. HARRIS	0	M	SON	STUDENT
MARY H. HARRIS	0	F	DAUGHTER	STUDENT

THE UNIVERSITY OF CHICAGO

## CHAPTER 6

### *Non-Tax Receipts*

#### 6.1 Results of audit

Test check of the records of non-tax receipts conducted during the year 1997-98, revealed under-assessment/short levy/loss of revenue *etc.*, of Rs.12279.95 lakh in 277 cases which broadly fall under the following categories :

Sr. No.	Category	No. of Cases	Amount (in lakh of rupees)
1.	Review on Interest Receipts	194	7867.00
2.	Losses due to non-collection of tendu leaves	10	115.38
3.	Losses on sale of other forest produce	14	610.29
4.	Losses due to non-extraction, non-lifting, deterioration in transit of material other than tendu leaves and bamboo	10	398.88
5.	Miscellaneous	49	3288.40
Total		277	12279.95

During the course of the year 1997-98 the concerned department accepted under-assessment *etc.*, in three cases involving Rs. 1.04 lakh pointed out in earlier years and recovered the same.

A few illustrative cases noticed during 1997-98 and in earlier years having financial effect of Rs.13.24 crore and a review on "Interest Receipts" having financial effect of Rs. 78.67 crore are mentioned in the following paragraphs.

### 6.2 Review on "Interest Receipts"

#### 6.2.1 Introduction

"Interest Receipts" is the major source of non-tax revenue of the State Government. This comprises interest charged on loans and advances granted through different departments to various Government companies, corporations, autonomous bodies, 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 financial resources and purpose for which the loan is provided. The period and manner of repayment of the loan as well as the rate of interest and the mode of its payment are generally settled before grant of loan and are indicated in the sanction itself. The Bombay Financial Rules, 1959 provide that the authority sanctioning a loan may, in so far as the law allows, enforce a penal rate of interest on all overdue instalments of interest and principal. Where a penal rate is enforced it should not be less than 8 *per cent* per annum and not more than 10 *per cent* per annum.

#### 6.2.2 Organisational set-up

Proposals for grant of loans and advances 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 is monitored by the various controlling officers (subordinate officers under the respective administrative departments) designated for the purpose.

#### 6.2.3 Scope of audit

A test check of accounts and records was conducted during May and June 1998 covering the loans granted during the years from 1992-93 to 1996-97 by the Industries, Energy and Labour (IE&L) Department, Co-operation and Textiles Department. The recoveries of these loans are monitored by Industries Commissioner, Mumbai, Commissioner for Co-operation/Registrar of Co-operative Societies, Pune, Commissioner of Sugar, Pune and Director of Marketing, Pune.

The results of the test check are mentioned in the succeeding paragraphs.

#### 6.2.4 Trend of Revenue.

Details of total non-tax revenue of the State, Budget estimates and actuals of interest receipts, percentage of interest receipts to total non-tax revenue and variation between Budget estimates and actuals of interest receipts for the years 1992-93 to 1996-97 were as under :

## Non-Tax Receipts

Year	Budget Estimates	Actuals	Total non-tax revenue	Percentage of variation col. 3 to col.2	Percentage of interest receipt to non-tax revenue
1.	2.	3.	4.	5.	6.
(In crore of rupees)					
1992-93	854.81	828.00	1932.95	(-)3	43
1993-94	1016.18	928.61	2383.01	(-)9	39
1994-95	1205.72	1177.08	2902.85	(-)2	41
1995-96	1300.48	1271.21	2775.39	(-)2	46
1996-97	1539.37	2034.53	3754.88	(+)32	54

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

### 6.2.5 Highlights

(i) Failure to prescribe terms and conditions resulted in non-recovery of interest of Rs.18.25 crore from 52 Co-operative sugar factories and Rs. 1.95 crore from MSEB

(Paragraph 6.2.7)

(ii) Government had not recovered Rs.48.73 crore from 64 organisations (of which 44 were sugar co-operative factories) whose loans to term lending institutions were discharged by Government during 1966 and 1997. Accumulated interest on the loans amounted to Rs.22.58 crore.

(Paragraph 6.2.8)

(iii) Principal amount of loans aggregating Rs.24.27 crore had not been recovered from 51 sugar factories. Further, interest amounting to Rs.11.20 crore to end of March 1997 on loans and advances granted to 63 loanees was not recovered.

(Paragraph 6.2.9)

(iv) Repayment of interest to National Co-operative Development Corporation without recovery from borrowers resulted in avoidable payment of interest amounting to Rs. 5.00 crore.

(Paragraph 6.2.10)

(v) Five State Government Corporations unauthorisedly retained principal and interest amounting to Rs.10.82 crore and Rs.8.48 crore respectively recovered from entrepreneurs.

(Paragraph 6.2.11)

(vi) Government did not demand Rs.39 lakh as penal interest on delayed payment of interest by MSEB

(Paragraph 6.2.12)

### 6.2.6 Lack of monitoring and control..

According to the orders issued by the State Government, the administrative departments are required to intimate to the Accountant General (Audit) every year by 15 July, the arrears in recovery of principal and interest on loans of which the detailed accounts are maintained by the departmental offices at the end of preceding March. As of November 1997 information was awaited from 25 out of 26 departments.

### 6.2.7 Failure to prescribe terms and conditions of loans.

The sanction for payment of loan issued by Government should specify the terms and conditions of repayment such as the number of instalments in which the principal is to be repaid, the date of commencement of repayment and the rate of interest (including penal rate, if any) *etc.*

**Failure to prescribe terms and conditions resulted in non-recovery of interest of Rs. 20.20 crore.**

It was noticed that in respect of 53 loanees the sanction for loans issued by Government did not contain any terms and conditions regarding schedule of repayment of loan and payment of interest. The omission resulted in non-recovery of interest amounting to Rs.20.20 crore calculated at the rate of 14.5 *per cent* per annum applicable to similar loans granted by Government to sugar factories and 4.5 *per cent* per annum in respect of MSEB worked out on the basis of rate applicable for loans granted for lift irrigation schemes completed by Zilla Parishads as detailed below :

No.of Institutions	Period	Amount of Loan	Amount of Interest payable upto 31 March 1997. (In crore of rupees)
52 Sugar factories	1 September 1993 to 31 March 1997	37.97	18.25
MSEB	1 April 1972 to 31 March 1997	1.83	1.95
<b>Total</b>		<b>39.80</b>	<b>20.20</b>

#### **6.2.8 Non-recovery of interest on loans disbursed on invocation of guarantees.**

According to Article 293 of the Constitution of India, the State Government can give guarantee on the Consolidated Fund of the State to various lending institutions, to assure them of repayment of loans made by them to various borrowers.

A test check of the cases pertaining to Cooperation and Textiles and Agriculture departments wherein guarantees given by Government were invoked revealed the following.

Out of a sum of Rs. 49.09 crore paid between July 1966 and March 1997 on account of invoking of 64 guarantees by the lending institutions, a sum of Rs.48.73 crore (principal amount) was not even demanded from the concerned borrowers (March 1997). Of these 64 cases, 44 cases related to co-operative sugar factories involving Rs.29.15 crore. Interest due from these sugar factories aggregated Rs.10.93 crore (March 1997)

Further, the amount of interest due on invoking of guarantees and conversion into loan from 1966 to 31 March 1997 (calculated at the rate of 8 *per cent* per annum, in the absence of specific rates of interest charged for the loans upto 1991-92 and at the rate of 14.5 *per cent* per annum from 1995-96 onwards) worked out to atleast Rs.22.58 crore.

On this being pointed out (June 1998) the departments stated that the matter would be examined.

#### **6.2.9 Non-recovery of interest**

Government sanctions loans to co-operative societies, departmental commercial undertakings, public sector undertakings *etc.*, carrying interest at varying rates depending upon the purpose for which the loans are sanctioned. The loans are repayable in instalments or in lump sum alongwith interest at specified intervals.

It was noticed that in respect of 63 loanees, interest amounting to Rs.11.20 crore had not been recovered for varying periods falling between 1977-78 and 1996-97. On this being pointed out the Co-operation and Textiles department stated that :-

- (i) Loan of Rs.50 lakh and interest thereon could not be recovered from the Textile Corporation of Marathwada as the unit was sick.
- (ii) In respect of 51 sugar factories department confirmed (June 1998) non-recovery of Rs.24.27 crore (principal) besides interest thereon.

**Interest of Rs. 22.58 crore had accumulated on loans aggregating Rs. 48.73 crore disbursed by Government on invocation of guarantees by the lending institutions**

**In addition to loans aggregating Rs. 24.27 crore to be recovered from 51 sugar factories, interest of Rs. 11.20 crore had not been recovered from the 63 loanees.**

Final reply in the remaining eleven cases has not been received (November 1998).

## 6.2.10 Avoidable payment of interest

Funds in the form of loans are placed at the disposal of the State Government by the National Co-operative Development Corporation (NCDC) for disbursement to the co-operative bodies including marketing societies for setting up of marketing projects.

**Government paid interest of Rs.5 crore to NCDC without recovery of the interest from the co-operative societies**

The loans are repayable in instalments and carry varying rates of interest. A rebate ranging from 0.25 per cent to 0.75 per cent is given to the State Government by NCDC for repayment of principal and interest due during any financial year by the 5 October of the ensuing year.

The loans are disbursed by the Co-operation and Textiles Department and their recoveries are effected by the Director of Marketing, Pune and District Deputy Registrar of Co-operative Societies (DDRCS).

A test check of the records kept at the Directorate of Marketing, Pune, revealed that the interest amounting to Rs.5 crore for the period 1995-97 had not been recovered from six marketing societies and two co-operative institutions as detailed below :

Sr. No.	No. of institutions	Date of sanction order	Amount of loan	Terms and conditions of repayment	Percentage rate of interest	Period for which interest payable upto March 1997	Amount of interest due
(Amount in lakh of rupees)							
1)	10 Co-operative spinning Mills.	(i) 31/03/94 (ii) 31/03/95	475 288	Payable in five equal instalments	13 and 18 on default	1994-95 to 1996-97	133.71
2)	Texcom.	30/03/77	50	Repayment within five years	8	1977-78 to 1996-97	80.00
3)	Grape sparkling wine society Nashik	31/03/90	70	Not mentioned	13	1990-91 to 1996-97	63.70
4)	10 sugar factories	24/01/91	340	General Terms & conditions	13.5	01/02/91 to 31/03/97	282.82

## Non-Tax Receipts

Sr. No.	No. of institutions	Date of sanction order	Amount of loan	Terms and conditions of repayment.	Percentage rate of interest	Period for which interest payable upto March 1997	Amount of interest due
(Amount in lakh of rupees)							
5)	2 sugar factories	26/08/91	250.91	Within five years from 1991-92	6	01/09/91 to 31/03/97	84.05
6)	9 sugar factories	13/10/93	877.20	Repayment within 7 years	12	01/11/93 to 31/03/97	359.65
7)	30 sugar factories	(i) 15/05/96 (ii) 31/05/96	958.80	One year from date of disbursement	14.5	01/06/96 to 31/03/97	115.86
<b>Total</b>							<b>1119.79</b>

None of these 8 co-operatives had repaid the instalments of principal which aggregated Rs.1.62 crore as of March 1997. However, the State Government repaid the instalments due to NCDC without ensuring recovery of the instalments from the societies. Moreover, the Government paid interest amounting to Rs.499.82 lakh upto 31 March 1997 to NCDC without realising it from the societies.

### 6.2.11 Unauthorised retention of principal and interest by corporations.

Under the scheme of employment promotion programme, the State Government granted long term loans to four\* Regional Development Corporations and Maharashtra Small Scale Industrial Development Corporation (MSSIDC) carrying interest at the rate of 3.5 per cent per annum. These loans are in turn disbursed by them to educated unemployed entrepreneurs to serve as seed money (Seed Capital) for meeting the cost of acquisition of fixed assets and towards working capital. The loans so received from the Government are repayable by the corporations to the Government after 10 years or immediately after recovery from the entrepreneurs whichever is earlier.

**Four regional development corporations and MSSIDC unauthorisedly retained principal and interest of Rs. 10.82 crore and Rs. 8.48 crore respectively**

\* Western Maharashtra Development Corporation, Development Corporation of Vidarbha Limited, Marathwada Development Corporation and Development Corporation of Konkan Limited

It was noticed that even though these 5 corporations had recovered (upto March 1996) principal and interest amounting to Rs.10.82 crore and Rs.8.48 crore respectively from the entrepreneurs, the same had neither been credited to Government account nor demanded by Government resulting in unauthorised retention of Government money by these corporations (November 1998).

### **6.2.12 Non-levy of penal interest on delayed payment of Interest.**

As per the financial arrangements for the working of MSEB, the amounts payable by the Board in any year on account of principal and interest shall be recovered by the Government in ten equal monthly instalments commencing from the month of May of that year. Accordingly, the interest due and payable during 1994-95 is payable before 31 March 1995. There is no provision for levy and recovery of penal interest.

**Penal interest of Rs. 39 lakh on delayed payment of interest by MSEB was not demanded by Government**

During scrutiny of the records it was noticed that the interest payable in 1994-95 amounting to Rs. 125.50 crore were paid by cheques on 5 April 1995 and 25 May 1995. The additional interest payable on account of delay reckoned at the rate of 8 *per cent* as per the provisions of the Bombay Financial Rules amounted to Rs.39 lakh.

On this being pointed out, the Industries, Energy and Labour Department stated that the matter would be referred to the Finance Department.

The above points were referred to Government in August 1998; their reply has not been received (November 1998)

### **6.3 Loss to Government due to negligence of Government pleader/ department.**

According to Section 26 of Indian Forest Act, 1927, any person who is convicted under clause (a) to (j) of sub-section (1), is punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both in addition to such compensation for damage done to the forest as the convicting court may direct, to be paid.

In Buldana district, Round Officer in the office of the Deputy Conservator of Forests, Buldana seized (March 1986), 42.522 cubic metres of teak wood. The complaint was lodged in the court of Chief Judicial Magistrate, Buldana (March 1986) under Section 26 of Indian Forest Act, 1927 and Section 379 of Indian Penal Code against the offenders.

The department and the Government pleader failed to attend the case on any of the dates fixed by the court during the period between 1986-87 and 1991-92. This resulted in an ex-parte judgement in favour of the accused (December 1992). The department also

did not procure copy of the judgement before the expiry period of appeal/revision (March 1994). This resulted in loss to Government to the extent of seized teak wood (November 1994), valuing Rs. 8.27 lakh.

On this being pointed out (June 1996), the department stated that the matter had been referred to Government for guidance (February 1997).

The matter was reported to Government in March 1998; their reply has not been received (November 1998).

#### **6.4 Non-recovery of escort charges/guard charges**

As per paragraph 484 of Bombay Police Manual, 1959 (Volume III), the pay of police guards or escorts supplied to private companies or private individuals should be recovered in advance by the police department and paid into the treasury. Further, as per Paragraph 484 (8) of Bombay Police Manual, 1959 (Volume III), when guards are supplied by the police department to a railway at the latter's own request, for the performance of duties which might be arranged for by the railway authorities and are not part of the ordinary functions of the police, their cost shall be charged to the railways.

**Escort charges/guard charges of Rs.7.97 crore was not recovered**

(a) In Nagpur, police personnel were deployed in three organisations on security duty between the period 1971-72 and 1996-97 by Commissioner of Police, Nagpur. The expenditure on pay and allowances and other incidental charges in respect of police personnel deployed were to be recovered in advance from the organisations. However, failure on the part of the department to recover the amount of escort charges in advance resulted in non-recovery of escort charges of Rs.1.21 crore between the period 1971-72 and 1996-97.

On this being pointed out (April 1998), the department accepted the omission and stated that reminders were issued to the organisations (April 1998). Further report on progress of recovery has not been received (November 1998).

The matter was reported to Government in June 1998; their reply has not been received (November 1998).

(b) In Nagpur, police guards were deployed in three different railways between the period 1990-91 and 1996-97 by Superintendent of Police, Railways, Nagpur. However, the charges of Rs.676.25 lakh for providing guards have not been recovered as required under the provisions laid down in Chapter V in Volume-II of the Manual. This resulted in non-realisation of revenue of Rs.676.25 lakh for the period from 1990-91 to 1996-97.

On this being pointed out (April 1997), the department accepted the omission (June 1998). Further report on progress of recovery has not been received (November 1998).

The matter was reported to Government in June 1998; their reply has not been received (November 1998).

### **6.5 Loss of revenue due to adoption of wrong method of measurement of bamboo**

An agreement for supply of bamboo to the Ballarpur Industries Limited (BILT) from Government forests was executed in the year 1968, which expired in June 1991. A new draft agreement for a further period of 10 years, to be effective retrospectively from 1st October 1991, is yet to be finalised. The Government in March

**Loss of Rs.5.18 crore  
due to adoption of  
wrong method of  
measurement of  
bamboo**

1994 decided the rate of bamboo at Rs.400 per metric tonne plus forest development tax at the prevailing rate. The rate of bamboo per metric tonne is to be increased by 10 *per cent* every year. Provisions of the draft agreement are applicable till a fresh agreement is finalised and accepted by Government.

According to the provisions of clause 6 of the draft agreement, the unit of measurement for the quantities of bamboo was "notional tonne" being equivalent to 2000 running metres. Further, clause 13 stipulated notional tonne equivalent to 50 bamboo bundles, each consisting of 20 pieces of 2 metres (+/-) 15 centimetres each or 100 bundles, each consisting of 20 pieces of 1 metre (+/-) 20 centimetres each.

During the audit of Bhamaragad and Wadsa divisions in October 1997, it was noticed that during the years 1994-95 to 1996-97, 21049020 bundles of 2 metre length of bamboos, actually weighing 340055 metric tonne was supplied and royalty and forest development tax charged accordingly.

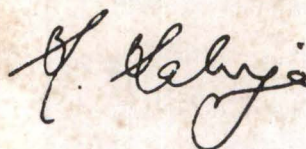
The aforesaid quantity of bundles was equal to 420980.4 notional tonnes calculated on the basis of 50 bundles equal to 1 notional tonne as envisaged in the draft agreement. The change in weighment practice from notional tonne to metric tonne with effect from April 1994, applied contrary to the conditions of draft agreement, resulted in loss by way of royalty of Rs.471 lakh and forest development tax of Rs.47.10 lakh.

## *Non-Tax Receipts*

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On this being pointed out (October 1997), the department accepted (March 1998) that 2000 running metres of bamboo length constitutes one notional tonne irrespective of the diameter of the bamboo pieces.

The matter was referred to Government in June 1998; their reply has not been received (November 1998).



(SANJEEV SALUJA)

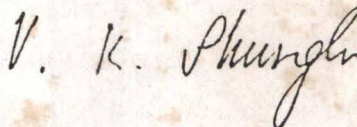
Accountant General (Audit)-I, Maharashtra

Mumbai,

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Countersigned



( V. K. SHUNGLU )

Comptroller and Auditor General of India

New Delhi,

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