

**REPORT OF THE  
COMPTROLLER AND AUDITOR GENERAL  
OF INDIA**

**FOR THE YEAR ENDED 31 MARCH 2001**

**(REVENUE RECEIPTS)  
GOVERNMENT OF UTTAR PRADESH**



## Table of Contents

<b>Paragraph</b>	<b>Particulars</b>	<b>Page</b>
	<i>Prefatory Remarks</i>	v
	<i>Overview</i>	vii
<b>Chapter I</b>	<b>General</b>	<b>1</b>
1.1	Trend of revenue receipts	1
1.2	Variations between Budget estimates and Actuals	4
1.3	Cost of collection	5
1.4	Performance of assessment work in Trade Tax Department	5
1.5	Analysis of collection	7
1.6	Arrears of revenue	8
1.7	Results of audit	9
1.8	Outstanding Inspection Reports and audit observations	9
<b>Chapter II</b>	<b>Trade Tax</b>	<b>13</b>
2.1	Results of audit	13
2.2	Working of Special Investigation Branch and its impact on collection of revenue	13
2.3	Imposition of Penalties and Realisation thereof in Trade Tax Department	19
2.4	Short levy of tax due to misclassification of goods	25
2.5	Short levy of tax due to application of incorrect rate of tax	26

<b>Paragraph</b>	<b>Particulars</b>	<b>Page</b>
2.6	Short levy of Central Sales Tax	27
2.7	Incorrect exemption	28
2.8	Mistakes in computation of tax	29
2.9	Non-levy of purchase tax	29
2.10	Short-levy of tax due to incorrect grant of concession	30
2.11	Misuse of declaration forms	31
2.12	Turnover escaping assessment	32
2.13	Other irregularities	33
<b>Chapter III</b>	<b>State Excise</b>	<b>35</b>
3.1	Results of audit	35
3.2	Low production of alcohol from molasses	35
3.3	Loss of duty on account of redistillation	36
3.4	Non-realisation of excise duty on unacknowledged exports	37
3.5	Non-levy of interest on belated payment of excise revenue	37
3.6	Non-realisation of stamp duty	38
<b>Chapter IV</b>	<b>Taxes on Vehicles, Goods and Passengers</b>	<b>39</b>
4.1	Results of audit	39
4.2	Short-realisation of additional tax from passenger vehicles	39
4.3	Short-levy of additional tax on stage carriages	40
4.4	Non-assessment/realisation of additional tax (Passenger Tax)	40

<b>Paragraph</b>	<b>Particulars</b>	<b>Page</b>
<b>Chapter V</b>	<b>Stamp Duty and Registration Fees</b>	<b>43</b>
5.1	Results of audit	43
5.2	Short levy of stamp duty and registration fees due to undervaluation/incorrect valuation of land	43
<b>Chapter VI</b>	<b>Land Revenue</b>	<b>45</b>
6.1	Results of audit	45
6.2	Recovery of dues treated as arrears of land revenue	45
6.3	Non-realisation of collection charges	51
<b>Chapter VII</b>	<b>Other Tax Receipts</b>	<b>53</b>
	A-ELECTRICITY DUTY	53
7.1	Results of audit	53
7.2	Non/Short levy of electricity duty	53
	B-ENTERTAINMENT AND BETTING TAX	54
7.3	Results of audit	54
7.4	Assessment and Collection of Entertainment Tax	54
<b>Chapter VIII</b>	<b>Forest Receipts</b>	<b>63</b>
8.1	Results of audit	63
8.2	Non-realisation of royalty on actual outturn of timber	63
8.3	Non-realisation of revenue	64
8.4	Illicit felling of trees	64
8.5	Non-realisation of revenue due to shortage of seized timber	65

<b>Paragraph</b>	<b>Particulars</b>	<b>Page</b>
<b>Chapter IX</b>	<b>Other Departmental Receipts</b>	<b>67</b>
	A-IRRIGATION DEPARTMENT	67
9.1	Results of audit	67
9.2	Non-levy of centage charges on deposit works	67
	B-PUBLIC WORKS DEPARTMENT	68
9.3	Results of audit	68
9.4	Non/Short levy of centage charges on deposit works	68
	C-FINANCE DEPARTMENT	69
9.5	Non-levy of penal interest	69
 <b>ANNEXURE</b>		
<b>Annexure-A</b>	Details of non-realisation of entertainment tax on certain maintenance charges	70
<b>Annexure-B</b>	Details of non-realisation of entertainment tax due to assessment as interior/travelling cinema in place of permanent cinema	72
<b>Annexure-C</b>	Details of non-realisation of licence fee, additional licence fee and realisation of entertainment tax at lower rates from hotels	73

## Prefatory Remarks

This Report for the year ended 31 March, 2001 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 trade tax, state excise, land revenue, taxes on motor vehicles, stamp duty and registration fees, entertainment and betting tax, other tax and non-tax receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2000-2001 as well as those which came to notice in earlier years but could not be included in previous years' Reports.





## OVERVIEW

This report contains 28 paragraphs and 4 reviews relating to non-levy/short levy of tax, penalty, interests etc. involving Rs.948.06 crore. The Government has accepted audit observations involving Rs.15.37 crore of which Rs. 0.54 crore had been recovered upto June 2001. Some of the major findings are mentioned below:

### 1. General

- During the year 2000-2001 revenue raised by the State Government, both tax (Rs.10979.97 crore) and non-tax (Rs.1944.65 crore) amounted to Rs.12924.62 crore as against Rs.11412.65 crore during the previous year. Receipts under Trade Tax (Rs. 5436.52 crore) and State Excise (Rs.2238.53 crore) accounted for a major portion (69.9 per cent) of tax revenue receipts. Under non-tax revenue, main receipts came from interest receipts (Rs.525.17 crore), non ferrous and mining and metallurgical industries (Rs.196.44 crore) and Forest Wild Life (Rs.76.86 crore).
- During 2000-2001 tax revenue registered an increase of 16.8 percent and non tax revenue registered decrease of 3.3 percent over the receipts of previous year.

(Paragraph 1.1)

- Test check of records of Trade Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration Fees, Land Revenue, Electricity Duty, Tax on Purchase of Sugarcane, Forest Receipts and Other Departmental Receipts conducted during 2000-2001 revealed under assessment, short levy, loss of revenue etc. amounted to Rs.1632.33 crore in 2629 cases. During the course of year 2000-2001, the concerned departments accepted under assessments etc. of Rs.60.99 crore in 704 cases of which 183 cases involving Rs.1.92 crore had been pointed out in audit during 2000-2001 and the rest in earlier years.

(Paragraph 1.7)

- Inspection reports numbering 8504 issued up to 31 December 2000 containing 15867 audit observations with money value of Rs.5080.99 crore were not settled up to June 2001.

**(Paragraph 1.8)**

## **2. Trade Tax**

- 16 cases involving escaped turnover of Rs.32.85 crore were not finalised even after six months from the date of receipt from Range Officers.

**(Paragraph 2.2.6)**

- 65 cases involving tax effect of Rs.27.95 crore were pending with various appellate authorities and out of total demand of Rs.228.88 crore raised by the department, only a sum of Rs.54.17 lakh was realised and the balance amount of Rs. 228.33 crore still remains unrecovered.

**(Paragraph 2.2.7)**

- 249 cases of stock transfer/consignment sale worth Rs.394.97 crore involving tax effect of Rs. 39.50 crore were pending verification.

**(Paragraph 2.2.8)**

- In 18 circles and 15 sectors, dealers were liable to pay penalty of Rs.4.55 crore for suppressed/concealed turnover.

**(Paragraph 2.3.6)**

- In 11 circles and 1 sector dealers were liable to pay penalty of Rs. 4.17 crore for furnishing of false certificate/declaration.

**(Paragraph 2.3.7)**

- In 8 circles and 2 sectors dealers were liable to pay penalty of Rs.20.52 crore for misuse of raw materials.

**(Paragraph 2.3.10)**

- Inter-state sales of goods not covered by declaration in form C or D resulted in short levy of tax amounting to Rs.13.75 crore.

**(Paragraph 2.6)**

- Computation mistake of the department resulted in short levy of tax of Rs.5.85 crore.

**{Paragraph 2.8. (a)}**

### **3. State Excise**

- In the absence of higher rate of duty for better quality of IMFL produced after redistillation of spirit resulted in loss of excise duty amounting to Rs.23.06 crore.

**(Paragraph 3.3)**

- The Government was deprived of revenue of Rs. 15.69 crore due to non levy of Stamp duty on agreements.

**(Paragraph 3.6)**

### **4. Land Revenue**

- The Government was deprived of revenue of Rs.153.68 crore due to entertaining recovery certificates without support of proper documents.

**(Paragraph 6.2.6)**

- The Government was deprived of revenue of Rs.25.84 crore due to non-accounting of recovery certificates by the Tehsildars sent by the collectors.

**(Paragraph 6.2.7)**

- Recovery certificates of Rs.287.10 crore were not monitored resulting in loss of revenue to the Government.

**(Paragraph 6.2.8)**

- The Government was deprived of revenue of Rs.112.11 crore due to non initiation of recovery process against the sureties.

**(Paragraph 6.2.9)**

- The Government was deprived of revenue of Rs.124.41 crore due to non taking of action for recovery of dues.

**(Paragraph 6.2.11)**

#### **5. Other Tax Receipts**

- The Government was deprived of revenue of Rs.15.36 crore on account of non realisation of inadmissible and unutilised amount of maintenance charges as entertainment tax.

**(Paragraph 7.4.6)**

- Entertainment tax amounting to Rs.2.61 crore was short levied due to assessment as interior/travelling cinema in place of permanent cinema.

**{Paragraph 7.4.9(a)}**

- Entertainment tax of Rs.1.16 crore was short charged from Video Cinema.

**{Paragraph 7.4.9(b)}**

- The Government was deprived of revenue due to non realisation of licence fee and short realisation of entertainment tax amounting to Rs.1.92 crore from video hotels.

**(Paragraph 7.4.10)**

#### **6. Forest Receipts**

- The Government was deprived of revenue of Rs.2.48 crore due to non realisation of royalty on actual outturn of timber in 2 forest divisions.

**(Paragraph 8.2)**

- Revenue amounting to Rs.1.30 crore was not recovered due to failure of forest department staff to prevent illicit felling of trees.

**(Paragraph 8.4)**

## CHAPTER-1: GENERAL

### 1.1 Trend of revenue receipts

The tax and non tax revenue raised by Government of Uttar Pradesh during the year 2000-2001, State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and corresponding figures for the preceding two years are given below:

(Rupees in crore)

	1998-99	1999-2000	2000-2001 <sup>1</sup>
<b>I. Revenue raised by the State Government</b>			
(a) Tax revenue	7912.31	9400.91	10,979.97
(b) Non tax revenue	1475.06	2011.74	1944.65
<b>Total</b>	<b>9387.37</b>	<b>11,412.65</b>	<b>12,924.62</b>
<b>II. Receipts from the Government of India</b>			
(a) State's share of divisible Union taxes	5768.92	7478.90	9045.47 <sup>2</sup>
(b) Grants-in-aid	2222.40	2603.57	2773.18
<b>Total</b>	<b>7991.32</b>	<b>10,082.47</b>	<b>11,818.65</b>
<b>III. Total receipts of the State (I + II)</b>	<b>17,378.69</b>	<b>21,495.12</b>	<b>24,743.27</b>
<b>IV. Percentage of I to III</b>	<b>54</b>	<b>53</b>	<b>52</b>

(i) The details of tax revenue for the year 2000-2001 along with the figures for the preceding two years are given in the following table:

(Rupees in crore)

Revenue Head	1998-99	1999-2000	2000-2001	Increase (+) or decrease (-) in 2000-2001 with reference to 1999-2000	Percentage of increase or decrease with reference to 1999-2000
1	2	3	4	5	6
1. Trade Tax	3377.89	3703.59	5436.52	(+) 1732.93	(+)46.79
2. State Excise	1631.34	2126.33	2238.53	(+) 112.20	(+) 5.28

<sup>1</sup> The state of Uttaranchal was called out of erstwhile U.P. in November 2000.

<sup>2</sup> For details, please see statement No. 11 - Detailed Accounts of revenue by Minor-Heads' in the Finance Accounts of the Government of Uttar Pradesh for the year 2000-2001. Figures under the Major Head "0021 Taxes on Income other than Corporation Tax share of net proceeds assigned to State" booked in the Finance Accounts under 'A-Tax Revenue' have been excluded from Revenue raised by the State and included in State's share of divisible Union Taxes in this statement.

*Audit Report (Revenue Receipts) for the year ended 31 March 2001*

1	2	3	4	5	6
3. Stamp Duty and Registration Fees	1031.78	1177.57	1269.75	(+) 92.18	(+) 7.83
4. Tax on Sale of Motor Spirit and Lubricants	1008.76	1359.31	586.39	(-)772.92	(-)56.86
5. Taxes on Goods and Passengers	238.18	100.26	85.81	(-) 14.45	(-)14.41
6. Taxes on Vehicles	211.30	512.10	543.08	(+) 30.98	(+) 6.05
7. Tax on Purchase of Sugarcane	71.02	36.35	95.45	(+) 59.10	(+)162.59
8. Taxes and Duties on Electricity	100.85	126.41	136.30	(+) 9.89	(+) 7.82
9. Land Revenue	88.34	116.09	69.85	(-) 46.24	(-) 39.83
10. Other Taxes on Income and Expenditure	Nil	0.56	0.00	0.00	0.00
11. Taxes on Immovable Properties other than Agricultural Land	0.01	1.16	9.22	(+) 8.06	(+) 694.83
12. Other Taxes and Duties on Commodities and Services	136.87	135.89	504.58	(+) 368.69	(+) 271.32
13. Others (Hotel receipt and Corporation Tax etc.)	15.97	5.29	4.49	(-) 0.80	(-) 15.12
<b>Total</b>	<b>7912.31</b>	<b>9400.91</b>	<b>10,979.97</b>	<b>(+) 1579.62</b>	<b>16.79</b>

The reasons for variation where it was substantial, though called for (November 2001), from the state government, have not been received (January 2003).

(ii) The details of non-tax revenue for the year 2000-2001 along with the figures for the preceding two years are exhibited in the following table :

(Rupees in crore)

Revenue Head	1998-99	1999-2000	2000-2001	Increase (+) or decrease (-) in 2000-2001 with reference to 1999-2000	Percentage of increase/decrease with reference to 1999-2000
1	2	3	4	5	6
1. Misc. General Services	96.78	126.80	55.48	(-) 71.32	(-)56.25
2. Interest Receipts	428.00	476.68	525.17	(+)48.49	(+)10.17
3. Forestry and Wild Life	125.91	160.52	76.86	(-)83.66	(-)52.12
4. Major and Medium Irrigation	49.13	40.16	282.13	(+) 241.97	(+)602.51
5. Education, Sports, Art and Culture	101.34	137.63	177.24	(+) 39.61	(+) 28.78
6. Other Administrative Services	102.58	103.70	61.51	(-)42.19	(-) 40.68
7. Non-ferrous Mining and Metallurgical Industries	145.81	180.17	196.44	(+) 16.27	(+) 9.03
8. Police	74.84	53.17	85.29	(+)32.12	(+) 60.41
9. Crop Husbandry	17.53	16.51	58.36	(+)41.85	(+) 253.48
10. Social Security and Welfare	17.16	26.37	23.53	(-) 2.84	(-) 10.77
11. Medical and Public Health	33.02	34.97	31.74	(-) 3.23	(-)9.23
12. Minor Irrigation	35.09	36.61	18.96	(-) 17.65	(-) 48.21
13. Roads and Bridges	22.06	24.30	29.93	(+) 5.63	(+)23.17
14. Public Works	21.90	26.77	26.94	(+) 0.17	(+) 0.64
15. Co-operation	4.62	17.76	6.54	(-) 11.22	(-) 63.18
16. Others	199.29	549.62	288.53	(-) 261.09	(-) 47.50
<b>Total</b>	<b>1475.06</b>	<b>2011.74</b>	<b>1944.65</b>	<b>(-) 67.09</b>	<b>(-) 3.33</b>

The reasons for variation where it was substantial, though called for (November 2001) from the State Government, have not been received (January 2003).

## 1.2 Variations between Budget estimates and Actuals

The variations between budget estimates and actuals of tax and non-tax revenues during the year 2000-2001 are given in the table below:

(Rupees in crore)

Revenue Head	Budget estimates	Actuals	Variation Increase (+) short fall (-)	Percentage of variations
1	2	3	4	5
<b>A. Tax Revenue</b>				
1. Trade Tax	4900.00	5436.52	(+) 536.52	(+)10.95
2. State Excise	2500.00	2238.53	(-)261.47	(-) 10.46
3. Stamp duty and Registration fees	1472.42	1269.75	(-)202.67	(-)13.76
4. Tax on Sale of Motor Spirit and Lubricants	1400.00	586.39	(-)813.61	(-)58.12
5. Taxes on Goods and Passengers	453.68	85.81	(-)367.87	(-)81.08
6. Taxes on Vehicles	275.17	543.08	(+)267.91	(+)97.36
7. Other Taxes and Duties on Commodities and Services, Entertainment Tax	151.69	504.58	(+) 552.89	(+)232.64
8. Tax on Purchase of Sugarcane	75.00	95.45	(+)20.45	(+) 27.26
9. Taxes and Duties on Electricity	157.00	136.30	(-)20.70	(-) 13.18
10. Land Revenue	90.00	69.85	(-) 20.15	(-) 22.39
<b>B. Non-Tax Revenue</b>				
1. Misc. General Services	70.00	55.48	(-) 14.52	(-)20.74
2. Interest Receipts	437.97	525.17	(+) 87.20	(+) 19.91
3. Forestry and Wild Life	262.79	76.86	(-) 185.93	(-) 70.75
4. Major and Medium Irrigation	234.65	282.13	(+) 47.48	(+)20.23
5. Education, Sports, Art and Culture	195.45	177.24	(-)18.21	(-) 9.32
6. Non Ferrous Mining & Metallurgical Industries	200.00	196.44	(-) 3.56	(-)1.78

The reasons for variation where it was substantial, though called for (November 2001), from the state government, have not been received (January 2003).



### 1.3 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and percentage of such expenditure to the gross collection during the years 1998-99, 1999-2000 and 2000-2001 along with the relevant All India Average percentage of expenditure on collection to gross collection for 1999-2000 are given below:

(Rupees in crore)

Revenue Head	Year	Gross Collection	Expenditure on Collection	Percentage of expenditure to gross collection	All India Average for the year 1999-2000
1	2	3	4	5	6
Trade Tax	1998-99	3377.89	80.51	2.4	1.56
	1999-2000	3703.59	133.05	3.6	
	2000-2001	6059.47	135.62	2.2	
Taxes on Vehicles, Goods & Passengers	1998-99	449.48	14.21	3.2	3.56
	1999-2000	612.36	0.18	0.03	
	2000-2001	641.00	10.57	1.6	
State Excise	1998-99	1631.34	24.48	1.5	3.31
	1999-2000	2126.33	24.16	1.1	
	2000-2001	2237.75	28.09	1.3	
Stamp Duty and Registration fees	1998-99	1031.78	13.71	1.3	4.62
	1999-2000	1177.57	20.80	1.8	
	2000-2001	1268.86	25.56	2.01	

### 1.4 Performance of assessment work in Trade Tax Department

#### (a) Arrears in assessments

The number of assessments pending at the beginning of the year, cases becoming due during the year, cases disposed of during the year and the cases pending finalisation at the end of the year, as reported by the Trade Tax Department for

the years 1996-97 to 2000-2001 are given below :

Year	Opening Balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
1996-97	5,62,847	5,26,778	10,89,625	4,86,648	6,02,977	44.70
1997-98	6,69,353	4,51,315	11,20,668	7,30,551	3,90,117	65.19
1998-99	4,42,379	4,66,899	9,09,278	4,89,535	4,19,743	53.84
1999-2000	4,57,508	4,89,838	9,47,346	4,89,357	4,57,989	51.66
2000-2001	4,57,989	4,61,697	9,19,686	4,90,853	4,28,833	53.37

It was seen that the closing balance of the years 1996-97, 1997-98 and 1998-99 differs from the opening balance of the succeeding years. The department stated that this was due to information received from other departments during the year and rectification of mistakes. The department needs to correct the system of maintenance of records to ensure consistency and correctness of statistics.

**(b) Appeal and revision cases**

(i) The number of appeal and revision cases due for disposal and finalised by the Trade Tax Department during the years 1996-97 to 2000-2001 together with the number of appeal and revision cases pending at the end of 2000-2001 as reported by the Department are indicated in the following table:

Year	Opening Balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to the total number of cases
1	2	3	4	5	6	7
<b>Appeal cases</b>						
1996-97	56,879	42,166	99,045	32,913	66,132	33
1997-98	66,132	48,794	1,14,926	54,932	59,994	48
1998-99	59,994	61,931	1,21,925	61,339	60,586	50
1999-2000	60,586	55,194	1,15,780	64,168	51,612	55
2000-2001	51,612	46,876	98,488	58,905	39,583	60

Revision cases						
1996-97	61,894	8444	70,338	13,226	57,112	19
1997-98	57,112	9544	66,656	16,609	50,047	25
1998-99	50,047	14,225	64,272	14,858	49,414	23
1999-2000	49,414	Not Available				
2000-2001	Not Available					

(ii) Year – wise break up of the appeal cases pending as on 31 March 2001 was as under:

Year	Pending as on 31 March 2001
	Appeal cases
Up to 1998	314
1999	2370
2000	26787
2001	10112
<b>Total</b>	<b>39583</b>

### 1.5 Analysis of collection

The break up of total collection (at pre-assessment stage and after regular assessment) of Trade Tax during 2000-2001 and corresponding figures for preceding two years as furnished by the Department are given below:

(Rupees in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Amount refunded	Net collection of tax	Percentage of Col.2 to 5
1	2	3	4	5	6
1998-99	3211.84	190.51	24.46	3377.89	95
1999-2000	3732.35	107.33	55.04	3784.74	98
2000-2001	5934.99	124.48	37.44	6022.03	98

### 1.6 Arrears of revenue

As on 31 March 2001, arrears of revenue under principal heads of revenue as reported by the concerned Departments were as under:

Sl. No.	Heads of revenue	Arrears pending collection (Rupees in crore)		Remarks
		Total	More than 5 years old	
1	2	3	4	5
1	Trade Tax	6906.35	Not Available	Out of Rs. 6906.35 crore, demand for Rs.899.29 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs.136.48 crore and Rs.38.63 crore had been stayed by the courts and Government respectively. Recoveries amounting to Rs.130.15 crore were held up due to rectification/review applications. Demand for Rs.1243.74 crore was likely to be written off. Specific action taken in respect of remaining arrears of Rs.4458.06 crore had not been intimated by the Department.
2	Cane Purchase Tax (Sugar Factories)	26.35	Nil	Out of Rs. 26.35 crore, demand for Rs. 1.36 crore has been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 0.53 crore had been stayed by courts. Specific action taken in respect of remaining arrears of Rs.24.46 crore had not been intimated by the Department.
3	Forestry and Wild life	13.12	Not Available	Out of Rs.13.12 crore, demand for Rs.7.97 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs.0.33 crore had been stayed by the courts. Demand for Rs.0.03 crore is likely to be written off. Rs. 0.06 crore has been adjusted against security. Specific action taken in respect of the remaining arrears of Rs.4.73 crore had not been intimated by the Department.
4	Entertainment Tax	6.05	3.16	Out of Rs. 6.05 crore, demand for Rs. 1.11 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 3.92 crore and Rs. 0.54 crore had been stayed by the courts and Government respectively. Specific action taken in respect of remaining arrears of Rs. 0.48 crore had not intimated by the Department.
5.	State Excise	83.97	Nil	Out of Rs.83.97 crore demand for Rs.10.17 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs.71.57 crore had been stayed by the courts and 2.23 crore as parties declared insolvent.
6.	Stamp and Registration fees	115.79	Not Available	Out of 115.79 crore, demand of Rs.73.99 crore had been certified for recovery as arrear of land revenue. Recovery amounting to Rs.41.80 crore had been stayed by the courts.

### 1.7 Results of audit

Test check of records of Trade Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp duty and Registration Fee, Land Revenue, Electricity duty, Tax on Purchase of Sugarcane, Entertainment Tax, Public Works Department, Irrigation Department and Forest Receipts etc. conducted during the year 2000-2001 revealed under assessments/short levy/loss of revenue amounting to Rs. 1632.33 crore in 2629 cases. During the course of the year 2000-2001 the concerned departments accepted under assessments etc. of Rs.60.99 crore involved in 704 cases, of which 183 cases involving Rs.1.92 crore had been pointed out in audit during 2000-2001 and the rest in earlier year.

This report contains 28 paragraphs and 4 reviews relating to non levy, short levy of tax, duty, interest, penalty etc. involving Rs.948.06 crore. The departments/ Government have accepted audit observations involving Rs.15.37 crore in 511 cases, of which Rs. 0.54 crore had been recovered upto June 2001. No replies have been received in remaining cases (October 2001).

### 1.8 Outstanding Inspection Reports and audit observations

Audit observations on incorrect assessments, short levy of taxes, duties, fees, etc. as also defects in initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. The more important irregularities are reported to the heads of departments and Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of two months.

The number of inspection reports and audit observations relating to revenue receipts issued up to 31 December 2000 which were pending settlement by the departments as on 30 June 2001, along with corresponding figures for the preceding two years are given below :

Sl.No.		1999	2000	2001
1.	Number of inspection reports pending settlement upto June	6429	7300	8504
2.	Number of outstanding audit observations	14565	14709	15867
3.	Amount of revenue involved (in crore of rupees)	1646.51	1828.98	5080.99

Department wise break-up of the inspection reports and audit observations outstanding as on June 2001 is given below:-

Sl. No.	Nature of receipts	Number of outstanding inspection reports	Number of outstanding audit observations	Amount of revenue involved (in crores of rupees)	Year to which the observations relate
1	2	3	4	5	6
1	Forestry and Wild life	861	1804	1322.95	1990-91 to 2000-2001
2	Trade Tax	2683	5171	3351.01	1984-85 to 2000-2001
3	Irrigation	306	685	82.74	1984-85 to 2000-2001
4	State Excise	528	719	124.54	1984-85 to 2000-2001
5	Land Revenue	831	1274	31.51	1987-88 to 2000-2001
6	Taxes on Vehicles, Goods and passengers	672	2011	36.22	1984-85 to 2000-2001
7	Public Works	305	640	22.53	1984-85 to 2000-2001

1	2	3	4	5	6
8	Taxes on purchase of sugarcane	72	84	11.24	1985-86 to 2000-2001
9	Stamp duty and Registration fees	1482	2337	59.96	1983-84 to 2000-2001
<b>Other Departments</b>					
A	Agriculture	163	300	14.75	1984-85 to 2000-2001
B	Electricity Duty	307	376	11.29	1988-89 to 2000-2001
C	Food and Civil supplies	80	155	0.69	1984-85 to 2000-2001
D	Cooperation	88	109	5.78	1984-85 to 2000-2001
E	Entertainment Tax	126	202	5.78	1986-87 to 2000-2001
<b>Total</b>		<b>8504</b>	<b>15,867</b>	<b>5080.99</b>	

This was brought to the notice of government in October 2001, intimation regarding steps taken by the government to clear the outstanding inspection reports and audit observations has not been received (December 2001)





## CHAPTER - 2 : TRADE TAX

### 2.1 Results of Audit

Test check of assessments and other records of Trade Tax Offices conducted in audit during 2000-2001 revealed under assessment of tax, non/short levy of penalty/interest irregular exemption of tax etc. amounting to Rs.534.86 crore in 1080 cases, which broadly fall under the following categories.

(Rupees in lakh)

Sl.No.	Categories	No. of cases	Amount
1	Non levy or short levy of penalty/interest	457	459.44
2	Irregular exemption	166	1,302.16
3	Non levy of additional tax	38	66.17
4	Incorrect rate of tax	213	581.34
5	Misclassification of Goods	44	1,965.46
6	Turnover escaping tax	06	0.36
7	Irregularities relating to Central Sales Tax	23	108.13
8	Under assessment of tax	46	639.61
9	Other irregularities	85	14,506.01
10	Reviews:-		
	(i) Review on "Working of S.I.B. and its impact on collection of revenue"	01	30,081.00
	(ii) Review on "Imposition of Penalties and Realisation thereof" in Trade Tax Department	01	3,776.00
	<b>Total</b>	<b>1080</b>	<b>53,485.68</b>

During the year 2000-2001, the department accepted under assessment etc. of Rs.46.79 lakh involved in 110 cases, of which 101 cases involving Rs. 37.04 lakh had been pointed out in audit during 2000-2001 and the rest in earlier years. Of this a sum of Rs. 7.40 lakh involved in 37 cases had been recovered upto March 2001.

A few illustrative cases and 2 Reviews involving Rs. 105.66 crore are mentioned in the following paragraphs:

### 2.2 Review on "Working of Special Investigation Branch and its Impact on Collection of Revenue"

#### 2.2.1 Introduction

Trade Tax, known as sales tax in other states, is the major source of revenue of

the Government, constituting nearly 43 per cent of the total tax revenue. It is levied and collected under the U.P. Trade Tax Act, 1948 (UPTT Act), and the Central Sales Tax Act, 1956 (CST Act).

To arrest evasion of trade tax in the state power of entry into and inspection of trader's business premises and to seize the books of accounts of traders are laid down under Section 13 of U.P. Trade Tax Act. For this purpose, the Commissioner, Trade Tax has established Special Investigation Branch, (SIB) consisting of 15 Deputy Commissioners (SIB).

### **2.2.2 Organisational Set up**

The overall control and direction relating to the SIB vests with the Commissioner, Trade Tax, U.P. with Headquarters at Lucknow. The State including Uttaranchal is divided into 15 Administrative zones each headed by a Deputy Commissioner (SIB). The zone is further divided into circles and sectors each under the charge of Assistant Commissioner, (SIB) and Trade Tax Officer, Grade I/II (SIB) respectively.

### **2.2.3 Scope of Audit**

With a view to see that working of SIB is in consonant with the provisions of Act, a review was conducted from July 2000 to April 2001 covering the period from 1995-96 to 1999-2000. Out of 41 units of SIB, records of 14 units in 7 zones were test checked.

### **2.2.4 Highlights**

- 16 cases involving escaped turn over of Rs. 32.85 crore were not finalised even after six months from the date of receipt from Range Offices.

**(Para 2.2.6)**

- 65 cases involving tax effect of Rs.27.95 crore were pending with various appellate authorities and out of total demand of Rs. 228.88 crore raised by the department, only a sum of Rs. 54.17 lakh was realised and the balance amount of Rs. 228.33 crore still remains unrecovered.

**(Para 2.2.7)**

- 249 cases of stock transfer/consignment sale worth Rs. 394.97 crore were pending verification since 1995-96 which involved tax effect of Rs.39.50 crore.

**(Para 2.2.8)**

### 2.2.5 Statistical data relating to SIB Survey

As per provisions of the Trade Tax Manual, each Range Officer (SIB) is required to maintain a confidential complaint register in which the information regarding tax evasion received from any source against any trader is recorded. Further, SIB also maintains a confidential information register for each district separately showing details such as list of market areas, their closure day, sensitive localities, names of habitual tax evaders etc. On the basis of such compiled information, the survey is conducted by the Range Officers (SIB).

As per Annual Report of 1999-2000 of Trade Tax Department, the position of Survey conducted by SIB in the State during the last 5 years was as under :

Sl. No.		1995-96	1996-97	1997-98	1998-99	1999-2000	Total
1	2	3	4	5	6	7	8
1.	No. of SIB Units	20	41	41	41	41	
2.	Total Surveys conducted	2822	3872	5113	5743	6727	24,277
3.	Records seized	935	1147	1407	1462	1472	6423
4.	Adverse Survey	1349	1899	2525	2884	3466	12,123
5.	General Survey	538	826	1181	1397	1789	5731

It is evident from the above table that there was a trend of increase with regard to adverse survey in each year. Out of 24277 surveys conducted during the last five years, 12123 (50 per cent) were found adverse i.e. no evasion was found in these cases. Further records of only 6423 dealers were seized (26 per cent) in surveys which were insignificant. Thus it is clear that surveys were conducted without adequate seriousness/preparation.

It was further noticed that the percentage of adverse surveys in 2 zones (Agra and Varanasi) was 65.57 as against 50 per cent for the state as a whole. Details are given below:

Sl. No.	Name of Circle	Year	Total No. of Survey conducted		Total	No. of Adverse Survey		Total
			April to December	January to March		April to December	January to March	
1	2	3	4	5	6	7	8	9
1.	Agra 'A' Range	1995-96	117	27	144	108	27	135
		1996-97	90	63	153	72	42	114
		1997-98	85	47	132	71	45	116
		1998-99	67	47	114	62	42	104
		1999-2000	74	55	129	59	47	106
	<b>Total</b>		<b>433</b>	<b>239</b>	<b>672</b>	<b>372</b>	<b>203</b>	<b>575</b>

1	2	3	4	5	6	7	8	9
2.	Agra 'B' Range	1995-96	120	44	164	74	31	105
		1996-97	69	38	107	28	26	54
		1997-98	88	40	128	21	36	57
		1998-99	81	49	130	33	36	69
		1999-2000	100	45	145	36	34	70
	<b>Total</b>		<b>458</b>	<b>216</b>	<b>674</b>	<b>192</b>	<b>163</b>	<b>355</b>
3.	Varanasi 'B' Range	1995-96	87	66	153	40	53	93
		1996-97	94	57	151	56	41	97
		1997-98	71	74	145	26	40	66
		1998-99	72	19	91	55	6	61
		1999-2000	49	17	66	24	9	33
	<b>Total</b>		<b>373</b>	<b>233</b>	<b>606</b>	<b>201</b>	<b>149</b>	<b>350</b>
<b>Grand Total</b>		<b>1264</b>	<b>688</b>	<b>1952</b>	<b>765</b>	<b>515</b>	<b>1280</b>	

It would be seen that most of the surveys were conducted hurriedly in the last quarter of the year as a result most of these turned to be adverse.

On being pointed out in audit the department stated (September 2000) that increased percentage of adverse surveys was due to availability of proper records at the survey premises. This indicates that the information network of the SIB was not very reliable.

### 2.2.6 Delay in finalisation of cases by the Assessing Officers

As per Trade Tax Manual, the assessing officer is required to finalise the SIB cases within a period of six months from the date of receipt from the Range Officer (SIB).

During the course of audit, it was noticed in five zones that 16 cases involving Rs. One crore and above each, involving escaped turnover of Rs. 32.85 crore were lying unfinalised even after six months.

### 2.2.7 Non-recovery of demand

The demands raised by the assessing officers on the basis of reported cases of evasion by DC (SIB) were still pending in appeals as per details given below:

(Rupees in lakh)

Sl. No.	Name of Zone	Cases in Appeal		Demand raised	Amount Recovered	Amount pending
		No.	Amount involved			
1	2	3	4	5	6	7
1.	Agra	9	1,466.60	6,051.13	15.32	6,035.81 <sup>1</sup>
2.	Allahabad	1	1.00	712.00	3.21	708.79 <sup>2</sup>

1 M/s Gangadhar & Sons, M/s Shakti Enterprises, M/s Indian Oil Corporation, M/s Moolchand Shyam Lal.

2 M/s R M Enterprises, M/s Maya Agro Products Ltd.

1	2	3	4	5	6	7
3.	Ghaziabad	8	91.48	3,504.75	32.39	3,472.36 <sup>1</sup>
4.	Kanpur	24	508.62	3,281.15	2.77	3,278.38 <sup>2</sup>
5.	Lucknow	3	107.07	1,701.06	---	1,701.06 <sup>3</sup>
6.	Meerut	2	78.13	2,568.38	0.48	2,567.90 <sup>4</sup>
7.	Varanasi	18	542.32	5,069.17	---	5,069.17 <sup>5</sup>
	<b>Total</b>	<b>65</b>	<b>2,795.22</b>	<b>22,887.64</b>	<b>54.17</b>	<b>22,833.47</b>

65 cases involving tax effect of Rs.27.95 crore were pending with various appellate authorities for the period from September 1995 to March 2000. The department failed to pursue vigorously these cases and thus providing undue relief to the dealers. Out of total demand of Rs. 228.88 crore, only a sum of Rs. 54.17 lakh was recovered, which is negligible.

### **2.2.8 Non-verification of Stock Transfer/Consignment Sale to Other States**

Under the Central Sales Tax Act and Rules framed thereunder, no tax is payable by a dealer on stock transfer to other States on fulfilment of certain conditions. To check the fraudulent transactions relating to stock transfers, the Commissioner directed the Deputy Commissioner (SIB) to verify personally and physically the cases of Rs. 40,000 and above. It was, however, noticed that in 7 zones stock transfer/consignment sale of Rs. 394.97 crore involving tax effect of Rs. 39.50 crore were either not found correct or pending verification since 1995-96<sup>6</sup>.

Effective steps were not taken by the department to verify the cases of stock transfer to other states expeditiously. In Kanpur and Varanasi zones not even a single case could be got verified (December 2000) and in Agra Zone, out of 104 cases only 2 cases could be verified since 1995-96.

On being pointed out in audit, the department stated (December 2000) that cross verification of stock transfer could not be carried out due to inadequate budget provision for travelling allowance, shortage of staff and also due to non-

- 
- 1 M/s G.D. Steel & Gases Pvt. Ltd., M/s Baron International Ltd., M/s Swarnima Oil Industries Ltd. M/s Kamal Trading Co., M/s Somani Iron and Steel Ltd., M/s Mohan Steel Ltd.
  - 2 M/s R H L Profils, M/s Vikas Trading Co., M/s National Trading Co., M/s Uttar Pradesh laghu udyogh Nigam (U.P. S I C Ltd.)
  - 3 M/s Maa Vaisnav Agency, M/s United India Publications, M/s Rapti Commission Agency.
  - 4 M/s Suresh Kumar, M/s Central Distillery and Bebies, Bombay, M/s DCM Sri Ram Industries, M/s Kumar Trading Co., M/s Bhawani Trading Co.
  - 5 M/s Kamal Traders, M/s Rajeshwar Lottery Agency, M/s Shanti Agency, M/s Varunacoal Commission Agent.
  - 6 M/s Hise India Pvt. Ltd., M/s Asian Paints India Ltd., M/s Aeroclub, M/s HMT Ltd., M/s Synthetic & Chemicals Ltd., M/s Star Paper Mills Ltd. M/s Tata Chemicals Ltd., M/s Ramprasad Harishchandra.

cooperation by the officers/staff of the concerned states. This is not tenable as no proof of inadequate budget / staff and non cooperation by other states was available on record.

### ***2.2.9 Other Interesting Points***

Under Section 3E of the Act, every dealer is liable to pay additional tax, in addition to the tax payable under other provisions of the Act in respect of turnover of sales or purchases, or both, as the case may be with effect from 1st August 1990, calculated at the rate of 25 per cent of the tax payable by him for that assessment year.

During audit of Assistant Commissioner (Assessment)-I, Trade Tax, Allahabad, it was noticed (January 2001) that a dealer sold cement worth Rs. 5.17 crore during the year 1992-93 on which tax (including additional tax) at the rate of 12.5 per cent was levied (February 1994). However, during remand, the assessing officer increased the turnover to Rs. 5.31 crore and levied (August 1997) tax thereon at the rate of 10 per cent but omitted to levy the additional tax at the rate of 2.5 per cent. This resulted in non-levy of additional tax of Rs. 13.27 lakh.

On this being pointed out in audit, the department stated (January 2001) that action would be taken after necessary verification.

### ***2.2.10 Non-maintenance of prescribed records***

Deputy Commissioner (SIB) is required to maintain records for stock verification and consignment sales whereas the assessing officers are required to maintain Register in Form R-14A and R-14B for recording SIB reports and information indicating source of information and idea of turnover of the dealer. During test check it was noticed that these Registers were not maintained in most of the zones or the same were incomplete wherever maintained. This resulted in ineffective control over the working of the SIB.

This indicates that the intended purpose for which SIB was established could not be achieved mainly due to inadequate monitoring, non-prescribing of any norms.

The foregoing points were reported to the department and Government (June 2001); their replies have not been received (October 2001).

## 2.3 Review on “Imposition of Penalties and realisation thereof” in Trade Tax Department

### 2.3.1 Introduction

Under the U.P. Trade Tax Act, 1948 if the assessing authority of Trade Tax finds any default by a dealer or other person he may after inquiry, direct that such dealer or person shall pay penalty in addition to the tax payable by him. The Central Sales Tax Act, 1956 also empowers the Trade Tax Authorities to impose a penalty on a dealer or person if in purchasing goods he is found guilty of an offence mentioned under clauses of Section 10 of the Act. However, in case of default in sales the provisions of State Act would apply.

### 2.3.2 Organisational Set up

The overall control and direction of the Trade Tax Department vests with the Commissioner Trade Tax, Uttar Pradesh with headquarter at Lucknow. The Commissioner is assisted by Additional Commissioners, Deputy Commissioners, Assistant Commissioners and Trade Tax Officers. For administrative convenience, the State is divided into 39 ranges, (including Uttranchal), each headed by a Dy. Commissinoer (Executive). The range is further divided into circles which are sub divided into sectors, each under the charge of an Assistant Commissioner (Assessment) and Trade Tax Officer respectively.

### 2.3.3 Scope of Audit

With a view to ascertaining the cases of non-imposition of penalties leviable under the provisions of the U.P. Trade Tax Act, 1948 and the Central Sales Tax Act, 1956, and also to ascertain the position of realisation of penalties, a review in audit was conducted from July, 2000 to March, 2001. For this purpose relevant cases in 20 ranges (77 Trade Tax Circles and 33 Sectors) out of 39 ranges, assessed during the period from 1994-95 to 1999-2000 were test checked.

### 2.3.4 Highlights

- 47 dealers in 32 circles and 5 sectors were liable to pay penalty of Rs. 2.31 crore for late deposit/non-deposit of tax due.

(Para No. 2.3.5)

- In 18 circles and 15 sectors, 42 dealers were liable to pay penalty amounting to Rs. 4.55 crore for suppressed/concealed turnover.

(Para No. 2.3.6)

- 21 dealers in 11 circles and 1 sector were liable to pay penalty amounting to Rs. 4.17 crore for furnishing of false certificate/ declaration.

**(Para No. 2.3.7)**

- 17 dealers in 9 circles and 6 sectors were liable to pay penalty of Rs. 2.06 crore for unauthorised import of goods.

**(Para No. 2.3.8)**

- 10 dealers in 8 circles and 2 sectors were liable to pay penalty amounting to Rs. 20.52 crore for misuse of raw materials.

**(Para No. 2.3.10)**

- 48 dealers in 30 circles and 7 sectors were liable to pay penalty amounting to Rs. 3.39 crore for purchases made against declaration in Form 'C' other than those covered by their certificate of registration.

**(Para No. 2.3.12)**

### ***2.3.5 Non-imposition of penalty for late deposit/non-deposit of tax due***

Under Section 15-A(1)(a) & (e) of the Act, if a dealer had without reasonable cause failed to furnish the return of his turnover or to furnish it within the time allowed and in the manner prescribed or to deposit the tax due under the Act, before furnishing the return, he would be liable to pay by way of penalty in addition to the tax, if any, payable by him, a sum which shall not be less than 10 per cent but not exceeding 25 per cent of the tax due if the tax is up to ten thousand rupees and 50 per cent if the tax due is above ten thousand rupees. Commissioner vide his circular dated 4 November, 1991 had clearly directed assessing authorities to start proceedings of penalty simultaneously or just after assessment.

During test check it was noticed in the office of 32 Asstt. Commissioner (A) and 5 Trade Tax Officers (A)<sup>1</sup> that 47 dealers liable to pay the tax due amounting to Rs. 23.08, crore either deposited the tax late or failed to deposit the tax at all. Delay ranged from 2 days to 33 months, for which the dealers were liable to pay a minimum penalty of 10 per cent of the tax due amounting to Rs. 2.31 crore, which was not imposed by the department.

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<sup>1</sup> Kanpur (3), Meerut (3), Ghaziabad (6), Noida (5), Varanasi (4), Sonbhadra (1), Agra (1), Lucknow (8), Azamgarh (1), Aligarh (2), Bareilly (1), Moradabad (1), Sitapur (1)



### **2.3.6 Non-imposition of penalty for concealment of turnover**

Under Section 15-A(1)(C) of the Act, if the assessing authority is satisfied that any dealer has concealed the particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover, he may direct that such dealer shall pay by way of penalty, in addition to tax a sum not less than 50 per cent but not exceeding 200 per cent of the amount of tax which would thereby have been avoided.

During test check it was noticed in the offices of 18 Assistant Commissioners (A) and 15 Trade Tax Officers (A)<sup>1</sup> that the suppressed/ concealed turnover of 42 dealers was determined by the department at Rs. 139.94 crore on which tax was levied but no penalty was imposed the dealers were liable to pay a minimum penalty of Rs. 4.55 crore. This resulted in non-levy of penalty of Rs. 4.55 crore.

### **2.3.7 Non-imposition of penalty for issue of false certificate/declaration**

Under Section 15-A (1)(I) of the Act, if a dealer issues or furnishes a false certificate or declaration, by reason of which a tax on sale or purchase ceases to be leviable under this Act, he may be liable to penalty for a sum not less than 50 per cent but not exceeding 200 per cent of the amount of tax which thereby have been avoided.

During test check it was noticed in the offices of 11 Assistant Commissioners (A) and 1 Trade Tax Officer (A)<sup>2</sup>, that 21 dealers had furnished false certificate/ declaration regarding stock transfer/consignment of goods valuing Rs. 278 crore on the basis of which they avoided tax of Rs. 8.34 crore while tax was imposed on this amount, no penalty was imposed. This resulted in non-levy of penalty of Rs. 4.17 crore.

### **2.3.8 Non-imposition of penalty on irregular import of goods**

Under Section 15-A(1)(o) of the Act, if a dealer imports or transports or attempts to import or transport any goods in contravention of the provisions of Section 28-A of the Act, he shall be liable by way of penalty a sum not exceeding 40 per cent of the value of goods involved or three times of the tax leviable on such goods under any provisions of this Act whichever is higher.

During test check it was noticed in the offices of 9 Asstt. Commissioners (A) and 6 Trade Tax Officers (A)<sup>3</sup> that 17 dealers imported goods valuing Rs. 5.16 crore without Form-31 against the provision of Section 28-A but the penalty amounting to Rs. 2.06 crore was not imposed. This resulted in non-levy of penalty of Rs. 2.06 crore.

1 Lucknow (4), Moradabad (1), Aligarh (1), Kanpur (5), Meerut (3), Ghaziabad (3), Mughalsarai (1), Bijnore (1), Banda (1), Mainpuri (1), Shahjahanpur (1), Etah (1), Orai (1), Hasanpur (1), Fatehgarh (1), Agra (1), Noida (2), Bareilly (1), Varanasi (2), Sitapur (1).

2 Kanpur (5), Agra (1), Moradabad (1), Meerut (2), and Noida (3).

3 Ghaziabad (2), Varanasi (2), Moradabad (1), Meerut (2), Lucknow (2), Bareilly (1), Agra (3), Noida (1), and Fatehgarh (1).

### 2.3.9 Non-imposition of penalty for excess realisation of tax

Under section 15-A(1)(qq) of the Act, if a dealer realises any amount as Trade Tax on sale or purchase of goods or any amount in lieu of such tax by giving it any different name or colour in contravention of the provisions of sub-section (2) of Section 8-A, he may be liable for penalty for a sum not less than the amount of tax realised but not more than three times of the said amount.

During test check it was noticed in the offices of 8 Asstt. Commissioners (A)<sup>1</sup> that 11 dealers had realised Rs. 24.23 lakh as excess tax from the customers, which were forfeited by the department but no penalty was imposed on them. The dealers were thus liable to pay a minimum penalty of Rs. 24.23 lakh.

### 2.3.10 Non-imposition of penalty for otherwise disposal of goods.

Under Section 4-B(5) of the Act, read with Government notification dated 29 August 1987 special relief in tax has given to manufacturers on purchase of raw materials, packing materials etc. required for use in the manufacture of notified goods on fulfilment of certain conditions. In case of use of the raw materials for a purpose other than that for which recognition certificate has been granted or disposed otherwise, the dealer shall be liable to pay by way of penalty, a sum which shall not be less than the amount of relief in tax so secured by him, but shall not exceed three times of such relief.

During test check it was noticed in the offices of 8 Asstt. Commissioners (A) and 2 Trade Tax Officers (A) that 10 dealers holding recognition certificates for the manufacture of notified goods, purchased raw materials for Rs. 273.04 crore tax free/at concessional rate during the period from 1994-95 to 1999-2000 and got relief in tax to the tune of Rs. 20.52 crore. Since these raw materials were not used in the manufacture of notified goods and disposed of otherwise, the dealers were liable to pay a minimum penalty of Rs. 20.52 crore as per details given below :

(Rupees in lakh)

Sl. No	Name of Circle/sector	Assessment Year	Goods purchased	Purchased for manufacturing	Used in manufacturing of /disposed otherwise	Value of goods	Amount of relief in Tax	Amount of penalty
1	2	3	4	5	6	7	8	9
1.	Asstt. Commissioner (A) 3, Lucknow	1990-91	Fabrics	HDPE Bags	HDPE Laminated woven sacks	102.38	10.24	10.24
2.	Asstt. Commissioner (A) 6, Lucknow	1997-98	Acid Slurry	Detergent cake & Powder	Raw material sold as it was	4.67	0.35	0.35

<sup>1</sup> Kanpur (3), Meerut (1), Ghaziabad (3), and Agra (1).

1	2	3	4	5	6	7	8	9
3.	Asstt. Commissioner (A), Badaun	1997-98	Natural Gas & Naptha	Fertilizer	Electricity	12,446.46	933.48	933.48 <sup>1</sup>
4.	Asstt. Commissioner (A)I, Bareilly	1995-96 to 1997-98	Natural Gas & Naptha	Fertilizer	Electricity	14,632.39	1,097.44	1,097.44 <sup>2</sup>
5.	Asstt. Commissioner (A)6, Agra	1996-97	Shoe materials	shoe	Disposed otherwise (sold)	4.83	0.97	0.97
6.	Asstt. Commissioner (A)11, Agra	1993-94	Chemicals	Footwear	Tanned Leather	6.86	0.51	0.51
7.	Asstt. Commissioner (A)4, Noida	1993-94	Paddy	Rice	Consigned	36.57	1.46	1.46
8.	Trade Tax Officer, Sector-2, Firozabad	1998-99	Timber	Wooden Box	Sold Timber in cut pieces	19.48	2.43	2.43
9.	Trade Tax Officer Sector-2 Meerut	1993-94	Rubber chemical	Rubber Product	Hawai Chappal	36.81	3.68	3.68
10.	Asstt. Commissioner (A) 12 Agra	1993-94	Pig & Iron scrap	C.I.Castin g	Machinery Parts	13.27	1.59	1.59
			<b>Total</b>			<b>27,303.72</b>	<b>2,052.15</b>	<b>2,052.15</b>

### 2.3.11 Non-imposition of penalty for non deposit of tax deducted at source

Under Section 8-D(6) of the Act, every person responsible for making payment to any contractor for discharge of any liability on account of valuable consideration payable for the transfer of property in goods in pursuance of works contract, shall deduct an amount equal to 4 per cent of such sum payable under the Act on account of such works contract. If any person fails to deposit the deducted amount as required under sub-section (3) into the Government Treasury, the Assessing authority may direct that such person shall pay by way of penalty, a sum not exceeding twice the amount so deducted.

During the test check it was noticed in the offices of 4 Asstt. Commissioners (A) and one Trade Tax Officer (A)<sup>3</sup> that 5 dealers deducted tax of Rs. 26.13 lakh from the contractors but did not deposit into Government Treasury, within time prescribed but no penalty of Rs. 52.26 lakh was imposed on them.

### 2.3.12 Non-imposition of penalty on purchase of goods not covered under Certificate of Registration

Under the provisions of Section 10 of the Central Sales Tax Act, 1956, a registered

1 M/s Tata Chemicals Ltd.

2 M/s Indian Farmers Fertilizers Coop. Ltd.

3 Meerut, Shahjahanpur, Noida, Kanpur

dealer may purchase goods from a dealer in another State at a concessional rate of tax by furnishing declaration in prescribed form 'C' provided such goods have been specified in his certificate of registration. Issue of Form 'C' for purchasing goods which are not covered by the registration certificate constitutes an offence for which the dealer is liable to prosecution. The registering authority may, however, impose a penalty under Section 10-A not exceeding one and half times the amount of tax which would have been levied in lieu of prosecution.

During test check it was noticed in the offices of 30 Asstt. Commissioners (A) and 7 Trade Tax Officers (A)<sup>1</sup> that 48 dealers had purchased goods valued at Rs. 22.86 crore against declaration in Form 'C' which were not covered by their certificate of Registration. They were liable to pay penalty amounting to Rs. 3.39 crore which was not imposed.

### ***2.3.13 Non-imposition of penalty at check posts***

Under Section 28-A of the Act, read with Rule 85 of the U.P. Trade Tax Rules, 1948, a registered dealer desirous of importing taxable goods, by road, from outside the state shall obtain declaration in Form 'XXXI' from the assessing authority. One copy of such declaration is delivered by him at the check-post and the other to the assessing authority. For contravention of these provisions, it is the duty of the authorities of check-posts to impose penalty up to 40 per cent of the value of goods so imported.

During test check it was noticed that during the year 1999-2000 three mobile units of Agra intercepted 22 vehicles which were carrying goods of unregistered dealers from outside the State valued at Rs. 90.80 lakh. However, penalty amounting to Rs. 34.38 lakh had been imposed by the mobile squads and recovered too, whereas this should have been imposed by the authorities of check-posts. This shows that the check-posts are not vigilant enough to prevent unauthorised import of goods.

### ***2.3.14 Position of imposition of penalty and realisation thereof***

A scrutiny of R-3 (Demand Register) maintained at 12 districts/ Tehsils<sup>2</sup> at the level of Asstt. Commissioners (A) and Trade Tax Officers (A) revealed that the penalty of Rs. 30.68 crore was imposed in 2711 cases during 1994-95 to 1999-2000 out of which Rs. 2.24 crore were realised and Rs. 13.93 crore were reduced/

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1 Paliakalan (1), Aligarh (1), Kanpur (3), Noida (2), Varanasi (3), Agra (3), Khurja (1), Bulandshar (1), Brabanki (1), Basti (1), Meerut (1), Deoria (1), Ambedkarnagar (1), Allahabad (3), Mainpuri (1), Ghaziabad (2), Shahjahanpur (1), Bareilly (1), Shikohabad (1), Gorakhpur (1), Lalitpur (1), Sonbhadra (1), Etah (1), Kosikalan (1), Muzaffarnagar (1), and Gulawati (1), Sardhana (1).

2 Kanpur, Varanasi, Agra, Bareilly, Ghaziabad, Meerut, Noida, Moradabad, Lucknow, Aligarh, Sitapur, Paliakalan.

stayed by the appellate authorities/courts. The amount of Rs. 14.50 crore remained unrealised so far.

The foregoing points were reported to the department and Government (June 2001); their replies have not been received (October 2001).

#### 2.4 Short-levy of tax due to misclassification of goods.

Under the U.P. Trade Tax Act, 1948, tax is levied as per the schedule of rates notified by the Government from time to time. In case of goods which are not classified, tax is leviable at the rate of 8 per cent with effect from 7 September 1981. Besides, additional tax is also leviable at the rate of 25 per cent of the tax with effect from 1 August, 1990.

During audit of 15 Trade Tax Offices, it was noticed (between November 1998 to September 2000) that due to misclassification of goods, correct rate of tax was not applied which resulted in short levy of tax amounting to Rs. 42.82 lakh. Some illustrative cases are given below:

(Rupees in lakh)

Sl. No.	Name of Office	Year of Assessment	Nature of misclassification	Taxable turnover	Rate of tax leviable (Per cent)	Rate of tax levied (Per cent)	Tax short levied
1.	Assistant Commissioner (A)-I, Aligarh	1996-97	Glucon C & D classified as medicine	234.80	10	7.5	5.87
2.	Assistant Commissioner (A)-I, Ghaziabad	1996-97 & 1997-98	Power plant equipment Classified as Electronic goods	288.41	10	5	14.42
3.	Trade Tax Officer, Sector-2, Barabanki	1996-97	Pesticide classified as medicine	31.37	10	7.5	0.78
4.	Assistant Commissioner (A), Hapur	1998-99	Liquid Glucose Classified as medicine	89.54	10	7.5	2.24
5.	Assistant Commissioner (A)-6, Varanasi	1996-97	Liquid Glucose Classified as medicine	30.65	10	7.5	0.77
6.	Trade Tax Officer, Sector-21, Kanpur	1997-98	Lubricating Oil Classified as crude oil	11.50	10	5	0.58
7.	Assistant Commissioner (A)-11, Ghaziabad	1.4.94 to 30.9.94	Electrical switch equipment Classified as electronic goods	16.33	10	3.75	1.02
		1.10.94 to 31.3.95	—Do—	10.57	10	5	0.53
		1995-96	—Do—	21.99	10	2.5	1.65
8.	Assistant Commissioner (A)-5, Kanpur	1996-97	Polypropelene waste treated as waste product	20.63	10	5	1.03

9.	Assistant Commissioner (A)-I, Ghaziabad	1997-98	Glass balls classified as sports goods	18.60	10	2.5	1.39
10.	Assistant Commissioner (A)-4, Meerut	1997-98	Diagnostic Kit Classified as medicine	32.06	10	7.5	0.80
11.	Assistant Commissioner (A)- Mirzapur	1996-97	Copper rod classified as ores & metals	6.75	10	2.5	0.51
12.	Assistant Commissioner (A)- 6, Kanpur	1996-97 & 1998-99	Neel classified as Washing material	371.37	10	7.5	9.28
13.	Assistant Commissioner (A), Hathras	1997-98	Neel classified as Washing material	29.53	10	7.5	0.74
14.	Assistant Commissioner (A)-14, Kanpur	1997-98	Ultramarine blue classified as Washing material	25.47	10	7.5	0.64
15.	Assistant commissioner (A)-I, Bareilly	1993-94	Thymole classified as medicine	22.81	10	7.5	0.57
	<b>Total</b>			<b>1262.38</b>			<b>42.82</b>

On this being pointed out in audit (between November 1998 to September 2000) the department revised the assessment in 5 cases<sup>1</sup> and levied tax of Rs.10.93 lakh. No reply had been received in other cases.

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001).

### 2.5 Short-levy of tax due to application of incorrect rate of tax

Under the Act, tax is leviable as per schedule of rate notified by the Government from time to time.

During audit of 12 Trade Tax Offices, it was noticed (between January 1998 to November 2000) that incorrect rate of tax was levied. This resulted in short levy of tax amounting to Rs. 1.02 crore as per details given below:

(Rupees in lakh)

Sl.No	Name of Office	Assessment year	Name of Commodity	Taxable Turnover	Rate of tax leviable (Per cent)	Rate of tax levied (per cent)	Tax short levied
1	2	3	4	5	6	7	8
1	Asstt. Commissioner (A)-II, Ghaziabad	1993-94 to 1995-96	Refined ground nut oil	17.63	12.5	2.5	1.76
2.	Asstt. Commissioner (A)-II, Noida	1992-93 & 1993-94	Laminated HDPE bags	52.54	10	2.5	3.94
3	Asstt. Commissioner (A), Modinagar, Ghaziabad	1996-97	Sponge iron	36.18 16.75	10 2.5	4 2	10.55
4	Trade Tax Officer, Sector-14, Kanpur	1995-96	Machinery parts	6,000.00	7.5	6.25	75.00

1 A.C (A)I, Aligarh 5.87, A.C. (A), Mirzapur 0.51, A.C. (A)11, Ghaziabad 3.20, T.T.O. Sector-II, Barabanki 0.78, A.C. (A)I Bareilly 0.57. (Total = 10.93 lakh)

1	2	3	4	5	6	7	8
5	Trade Tax Officer, Gr.II, Sector-5, Ghaziabad	1996-97	Cement	50.00	12.5	10	1.25
6	Asstt. Commissioner (A)-18, Kanpur	1996-97 & 1997-98	Stationery	49.43	10	7.5	1.24
7	Asstt. Commissioner (A)5, Varanasi	1996-97	Spare parts of water pump	50.14	7.5	5	1.25
8	Asstt. Commissioner (A),Hardoi	1996-97	Plastic container	10.53	10	5	0.53
9	Trade Tax Officer, Sector-13, Kanpur	1996-97 & 1997-98 (upto 31.8.97 1.9.97 to 31.3.98	Nut & bolts  'Do'	12.27  10.59	10  7.5	5  5	0.61  0.27
10	Asstt. Commissioner (A), Bijnore	1996-97 & 1997-98	Duplex Board	23.37	10	7.5	0.58
11	Asstt. Commissioner (A)-I, Ghaziabad	1994-95	Computer control automation system	56.79	15	7.5	4.26
12	Asstt. Commissioner (A)-Hapur	1998-99	Maize Starch	30.09	7.5	5	0.75
	<b>Total</b>			<b>6,416.31</b>			<b>101.99</b>

On this being pointed out in audit (between January 1998 to November 2000), the department accepted the audit objection in 6 cases<sup>1</sup> and raised demands of Rs. 83.73 lakh.

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001).

## 2.6 Short levy of Central Sales Tax

Under Central Sales Tax Act, 1956, tax on inter-state sale of goods not covered by declaration in Form 'C' or 'D' is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher.

During audit of seven Trade Tax Offices, it was noticed (between June 1999 and February 2001) that incorrect rate of tax were levied on inter state sale of goods worth Rs.172.75 crore not covered by declaration in form 'C' / 'D'. This resulted

<sup>1</sup> T.T.O Sector 14, Kanpur 75.00, (2) A.C. (A), Hardoi, 0.53 (3) T.T.O Grade II, Sector II, Ghaziabad 1.25 (4) A.C. (A) V, Varanasi 1.25 (5) A.C.(A)II, Ghaziabad 1.76 (6) A.C.(A)II, Noida 3.94. (Total = 83.73 lakh).

in short levy of tax amounting to Rs. 13.75 crore as per details given below :

(Rupees in lakh)

Sl. No.	Name of Office	Year of Assessment	Name of commodity	Taxable Turnover	Rate of tax levied (per cent)	Rate of tax leviable (percent)	Tax short levied
1	2	3	4	5	6	7	8
1	Assistant Commissioner (A)II, Rampur	1997-98	Xerox Machine	16,201.00	2	10	1,296.08 <sup>1</sup>
2	Assistant Commissioner (A),Gonda	1996-97	Malt spirit	7.92	10	25	1.19
3	Trade Tax Officer Gr.II, Sector-II, Varanasi	1995-96 & 1996-97	Lobia	12.97	Nil	4	0.52
4	Assistant Commissioner (A)I, Aligarh	1997-98	Acid Oil	192.21	2.5	10	14.42
5	Assistant Commissioner (A)XI, Ghaziabad	1996-97	HDPE Fabrics	133.51	Nil	4	5.34
6	Assistant Commissioner (A)I, Ghaziabad	1996-97 & 1997-98	Power Plant Equipment	690.88	2	10	55.27
7	Assistant Commissioner (A)I, Ghaziabad	1994-95	Computer control Automation system	36.98	10	15	1.85
	<b>Total</b>			<b>17,275.47</b>			<b>1,374.67</b>

On this being pointed out in audit (between June 1999 and February 2001) the department has raised additional demand of Rs. 7.83 lakh (between October 1999 and September 2000) in three cases.

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001).

## 2.7 Incorrect exemption

Under the Act, read with Government notifications dated 5 June, 1985 and

<sup>1</sup> M/s Modi Xerox Ltd.



1 February, 1989, sale of textile manufactured by power looms, excluding PVC/HDPE fabrics is exempt from payment of tax.

During audit of Assistant Commissioner (Assessment) - XI, Trade Tax, Ghaziabad (December 1999) it was noticed that a dealer sold HDPE fabrics worth Rs. 1.94 crore during the year 1996-97 which was exempted from payment of tax instead of levying the tax at the rate of 4 per cent. This resulted in incorrect grant of exemption of Rs. 7.78 lakh.

On this being pointed out in audit the department revised the assessment order raising demand of Rs. 7.78 lakh (September 2000).

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001).

## **2.8 Mistakes in computation of tax**

(a) During audit of Trade Tax Officer, Grade-II, Sector-I, Mainpuri, it was noticed (December 1999) that a dealer sold imported coal worth Rs. 15 crore during the year 1996-97 on which tax was calculated and levied at the rate of 4 per cent as Rs. 6 lakh instead of correct amount of Rs. 60 lakh. Similarly on the inter-state sale made of coal and chemical not covered by declaration in form 'C' or 'D' worth Rs. 10 crore and Rs. 50 crore on which tax was calculated and levied at the rate of 4 percent and 10 per cent amounting to Rs. 4 lakh and Rs. 5 lakh instead of correct amount of Rs. 40 lakh and Rs. 5 crore. Thus due to computation mistake there was short levy of tax amounting to Rs. 5.85 crore<sup>1</sup>.

(b) During audit of Trade Tax Officer, Grade-II, Sector-12, Lucknow (November 1997) it was noticed that a dealer sold electrical goods worth Rs. 50 lakh during the year 1990-1991 on which tax of Rs. 7.50 lakh was leviable at the rate of 15 per cent. However, the department levied tax of Rs. 4.50 lakh. This resulted in short levy of tax amounting to Rs. 3 lakh.

On this being pointed out in audit (between November 1997 to December 1999), the department rectified the mistakes in both the cases and raised additional demand of Rs. 5.88 crore (between February 1998 to August 2000). Report on recovery has not been received.

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001).

## **2.9 Non-levy of purchase tax**

Under Section 3A AAA of the Act, every dealer who purchases any goods liable to pay tax, from any person other than a registered dealer whether or not tax is payable by such person shall be liable to pay tax on the purchase price of such

<sup>1</sup> M/s Baby Glass Industries.

goods at the same rate at which tax is payable on the sale of such goods.

During audit of three Trade Tax Offices, it was noticed (between August 1998 and April 2000) that six dealers purchased goods worth Rs. 2.65 crore from unregistered dealers without payment of tax during the year between 1994-95 to 1998-99. The dealers were, therefore, liable to pay tax on these purchases amounting to Rs. 23.80 lakh as per details given below:

(Rupees in lakh)

Sl. No.	Name of Office/No. of dealers	Assessment year	Name of commodity	Turnover	Rate of Tax levied (per cent)	Rate of tax leviable (per cent)	Tax short levied
1	2	3	4	5	6	7	8
1	T.T.O Sector-II Sitapur (4 dealers)	1997-98	Timber	135.07	Nil	15	20.26
2	A.C. (A)-4, Ghaziabad (1 dealer)	1994-95 & 1995-96	Paddy-husk	117.94	Nil	2.5	2.95
3	T.T.O. Gr.II, Sector-II, Varanasi (1 dealer)	1995-96 & 1996-97	Lobia	11.79	Nil	5	0.59
	<b>Total</b>			<b>264.80</b>			<b>23.80</b>

On this being pointed out in audit (between August 1998 to April 2000) the department revised the assessment in only 2 cases (Sl. No. 2 & 3) and levied purchase tax amounting to Rs. 3.54 lakh, the department stated that tax on sale of timber is leviable at the point of manufacture or import only from 1 December 1998. Hence purchase tax on timber was not leviable before 1 December 1998. The reply of the department is not acceptable as the provisions of section 3-AAAA apply on every dealer who purchases any goods liable to tax under this Act from 1 October 1997.

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001)

### 2.10 Short levy of tax due to incorrect grant of concession

The Act provides for levy of tax at concessional rate of 4 per cent, if the sales of goods are made to a department of the Central or the State Government or to a Corporation or Undertaking against the prescribed declaration. Besides, additional tax at the rate of 25 per cent of the tax was also leviable from 1 August, 1990. The facility of concessional rate was, however, withdrawn by the Government during the period from 14 May 1994 to 27 September 1994.

During audit of six Trade Tax Offices it was noticed (between December 1997

to March 2000) that tax at concessional rate was levied on the sales made to Government undertaking instead of at the normal rate of tax. This resulted in short levy of tax amounting to Rs. 6.77 lakh, as per details given below:

(Rupees in lakh)

Sl. No.	Name of Unit	Assessment year	Name of commodity	Taxable turnover	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Tax short levied
1	2	3	4	5	6	7	8
1	A.C. (A)-10, Agra	1994-95	Transformer	11.76	10	5	0.59
2	A.C.(A)I, Gorakhpur	1994-95	Electrical Goods	36.36	10	5	1.82
3	T.T.O. Sector-II, Agra	1994-95	Gas Cylinder with regulator	10.34	10	5	0.52
4	A.C.(A)-6, Lucknow	1994-95	Micro Computer	17.00	15	5	1.87
5	T.T.O Sector-III, Allahabad	1994-95	Iron goods	24.73	10	5	1.24
6	(a) A.C.(A), Gautam Budh Nagar	1994-95	Medicines etc.	22.72	7.5	5	0.57
	(b) A.C.(A), Barabanki		Transformer	3.16	10	5	0.16
<b>Total</b>				<b>126.07</b>			<b>6.77</b>

On this being pointed out in audit (between July 1998 to March 2000) the Department accepted audit objection and raised additional demand of Rs. 1.11 lakh in two cases<sup>1</sup>. No reply has been received in the remaining cases.

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001).

## 2.11 Misuse of declaration forms

Section 3-B of the Act provides that if a person issues false or wrong declaration by reason of which tax on sale or purchase ceases to be leviable or becomes leviable at concessional rate, the dealer becomes liable to pay a sum equal to the amount of relief in tax secured by him on purchase of such materials.

During audit of six Trade Tax Offices, it was noticed (between November 1997 to September 2000) that seven dealers holding Recognition Certificates for the manufacture of certain notified goods purchased raw material, processing materials etc; free of tax or at concessional rate of tax against prescribed

<sup>1</sup> T.T.O. Sector-II, Agra 0.52(2) A.C.(A) 10, Agra 0.59 (Total = 1.11 lakh).

declaration, for which they were not authorised as per recognition certificate. The dealers were, therefore, liable to pay an amount of Rs. 17.58 lakh equal to relief in tax secured by them during the period 1993-94 to 1997-98 as detailed below:

(Rupees in lakh)

Sl. No.	Name of Unit	Assessment year	Name of commodity	Turnover	Rate of tax levied (Per cent)	Rate of tax leviable (Per cent)	Tax short levied
1	2	3	4	5	6	7	8
1	A.C.(A)I, Orai	1994-95	Plastic Container Tin Machinery Parts	21.65  22.03 6.05	2.5  2.5 2.5	10  5 6.25	2.40
2	A.C.(A)III, Muzaffarnagar	1996-97 1996-97	Sponge Iron -do-	64.14 18.70	2 2	10 10	5.13 1.50
3	A.C.(A)IV, Meerut	1993-94	Mild Steel/ Corrugated Steel Tank	20.67	5	10	1.03
4	A.C.(A)V, Varanasi	1996-97	Monogram	10.65	2.5	10	0.80
5	A.C.(A), Hardoi	1995-96 1996-97 1996-97	Lime turbine paint	2.56 41.72 0.33	2.5 2.5 2.5	7.5 10 15	3.30
6	A.C.(A)VI, Kanpur	1997-98	Sponge iron	42.76	2	10	3.42
		<b>Total</b>		<b>251.26</b>			<b>17.58</b>

On this being pointed out in audit (between November 1997 to October 1999), the department stated that demand of Rs. 5.13 lakh had been raised in three cases. No reply had been received in other cases.

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001).

## 2.12 Turn over escaping assessment

Under the Act, tax on sale of Indian made foreign liquor is leviable at the rate of 26 per cent from 7 July 1981 and 20 per cent from 1st April 1996. Besides

additional tax is also leviable at the rate of 25 per cent of tax from 1 August 1990. Further under Central Sales Tax Act, 1956, on inter state sales of alcohol against declaration in Form 'C' are taxable at the rate of 4 per cent. It is judicially held that sales promotions are part of turnover.

During the audit of 3 Trade Tax Offices it was noticed (between December 1998 to August 1999) that sales promotion and licence fees of Indian made foreign liquor amounting to Rs. 230.06 lakh was not added to the turnover. This resulted in short levy of tax amounting to Rs. 53.68 lakh as per details given below:

(Rupees in lakh)

Sl. No.	Name of Unit	Assessment year	Escaped Turnover	Rate of tax leviable (Per cent)	Rate of tax levied (Per cent)	Tax short levied
1	2	3	4	5	6	7
1	A.C.(A)-III, Ghaziabad	1996-97	203.63	25	.....	50.91
2	A.C.(A)-7, Lucknow	1995-96	6.00	32.5	.....	1.95
3	A.C.(A), Fatehgarh	1996-97	20.43	4	.....	0.82
	<b>Total</b>		<b>230.06</b>			<b>53.68</b>

The matter was reported to the department and Government (July 2001); their replies have not been received (October 2001)

### 2.13 Other irregularities

#### (a) Loss of revenue due to non-observance of prescribed procedure of registration

Under U.P. Trade Tax Act as well as Central Sales Tax Act, a dealer who is liable to pay tax, shall apply to the department for registering himself. The Registering authority after satisfying himself about his bonafides, his correct local and permanent address and his financial status etc. shall issue a Registration Certificate to the dealer. Further to safeguard Government revenue security and additional security are also obtained from the dealer.

During audit of Trade Tax Officer, Sector-2, Mainpuri it was noticed (March 2000) that a dealer being registered (November 1990) never appeared for assessment of his case. The department however, assessed that cases for the year 1990-91 to 1997-98 on ex-parte on sales turnover of Rs. 5.31 crore and levied tax amounting to Rs. 25.70 lakh. The dealer had already deposited tax of Rs. 0.44 lakh during the years 1990-91 and 1991-92, the recovery certificate was

issued for the balance amount of tax Rs. 25.26 lakh at his address. But it could not be served upon him as his address was found to be fake. The department thereafter cancelled his registration and recognition certificate on 30 October 1999. Failure to observe the provisions of the Acts for grant of registration resulted in loss of revenue amounting to Rs. 25.26 lakh.

The case was reported to the department and Government (July 2001); their replies have not been received (October 2001).

**(b) Blocking of revenue due to misutilisation of provisions of Act**

Section-30 of the U.P. Trade Tax Act, 1948, provides that in any case in which an order of assessment or penalty is passed ex parte, the dealer may apply to the assessing authority within thirty days of the service of the order to set aside such order and reopen the case for hearing. Provided that no such application for setting aside an ex parte assessment order shall be entertained unless it is accompanied by satisfactory proof of payment of the amount of tax admitted by the dealer.

During audit of Assistant Commissioner (Assessment), Trade Tax Sonbhadra (Robertsganj) it was noticed (May 2000) that department issued to a dealer (semi Government institution) 1710 forms XXXI, 50 Form "C"; and 100 form 3-D during the year 1991-92 out of which 1624 Form XXXI, 3 from 'C' and 17 Form 3-D were utilized by him for purchasing the goods worth Rs. 866.94 crore and the same were supplied to a contractor. The assessments of the dealer were made ex parte four times after opening the case under Section 30 of the Act during the period from February 1996 to January 2000. At fifth time the case was again assessed ex parte (November 1999) on the taxable turnover of Rs. 968.99 crore and the tax amounting to Rs. 144.32 crore was levied. Against this the dealer went in a appeal (January 2000) and the case was remanded again. The remand case was not finalised so far (August 2000). Thus during last six years the assessment for the year 1991-92 was either in the process of re-assessment or in appeal. The misutilisation of the provisions of Section 30 of the Act resulted in blocking of revenue of Rs. 144.32 crore.

On this being pointed in audit (August 2000), the department stated that remand case was assessed (November 2000) and tax of Rs.0.16 lakh levied on sale of tender form of Rs. 1.59 lakh only. The reply is not tenable because the final assessment order dated 27 November 2000 revealed short accounting of imported electrical goods worth Rs. 39.06 crore on which tax of Rs. 5.85 crore<sup>1</sup> was not levied.

The case was reported to the Government (July 2001); their reply has not been received (October 2001).

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<sup>1</sup> M/s Varishtha Lekhaadhikari 'B' Taap Vidyut Griha

## CHAPTER - 3 : STATE EXCISE

### 3.1 Results of Audit

Test check of records of the State Excise Offices, conducted in audit during the year 2000-2001 revealed non-levy or short levy of duties/fees amounting to Rs. 102.23 crore in 190 cases which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of Cases	Amount
1	Non-levy of interest	17	51.41
2	Non-realisation of licence fees	21	266.54
3	Non-realisation of stamp duty	67	4,535.08
4	Low recovery of alcohol from molasses	22	1,784.59
5	Loss of duty on account of redistillation of rectified spirit	4	3,064.49
6	Irrational fixation of MGQ	8	121.58
7	Excess transit/storage wastage	12	152.08
8	Other irregularities	39	247.68
	<b>Total</b>	<b>190</b>	<b>10,223.45</b>

A few illustrative cases involving a financial effect of Rs. 43.02 crore are given in succeeding paragraphs.

### 3.2 Low production of alcohol from molasses

Under U.P. Excise Working of Distillers (Amendment) Rules, 1978, outturn of alcohol from every quintal of fermentable sugar present in the molasses is fixed at 52.5 alcoholic litre (AL). For this purpose composite samples of molasses are required to be drawn by the Officer in charge of the distillery and sent for examination to the Alcohol Technologist. The report of the Alcohol Technologist should be sent to concerned Officer in charge of the distillery, within a month from the date of receipt of such samples.

During audit of 11 Distilleries it was noticed between January 2000 and June 2000 that during the period 1998-99 and 1999-2000, 149 composite samples of molasses were sent to Alcohol Technologist for examination. On the basis of the reports of the Alcohol Technologist regarding the quantity of fermentable sugar present in the samples, the actual production of alcohol should have been 12907262.94 alcoholic litre instead of 12086597 alcoholic litre actually produced.

Thus production of alcohol was short by 820665.94 alcoholic litre involving excise duty amounting to Rs. 3.69 crore.

On this being pointed out (between January 2000 and June 2000) the Excise Officers concerned stated that the cases have been referred to the Excise Commissioner for necessary action.

The matter was reported to the Government (between August 2000 and March 2001); their reply has not been received (October 2001).

### **3.3 Loss of duty on account of redistillation**

Under U.P. Excise Act, 1910 and Rules made thereunder, rectified spirit comes under the category of foreign liquor. Indian made foreign liquor can be manufactured either directly from rectified spirit, or Extra Neutral Alcohol. The residual impure spirit after extraction of E.N.A. and allowing for wastage is used for making country liquor.

During the audit of records of two distilleries at Saharanpur and Rampur, it was noticed (between June 1999 and June 2000) that 65721760.50 A.L. of rectified spirit chargeable with excise duty amounting to Rs. 285.32 crore (at the rate Rs. 40 per A.L. during 1998-1999 and Rs. 48 per A.L. during 1999-2000), were used for redistillation, during the period 1998-99 and 1999-2000 and 465393.60 A.L. of E.N.A. and 17985334.00 A.L. of impure spirit were obtained after allowing wastage of 1197065.60 A.L. of rectified spirit.

A total excise duty of Rs. 262.26 crore was charged on the E.N.A. (used for manufacture of better quality of IMFL) and impure spirit (used for manufacture of country liquor). The duty was charged at the rates of IMFL/Rectified spirit for the ENA and of country liquor for the impure spirit. In the absence of laid down production norms for ENA out of rectified spirit and lack of separate and higher rate of excise duties for the better quality of IMFL manufactured out of ENA, excise duty should have been charged for the total quantity of rectified spirit (less wastage) at the higher rate applicable for IMFL. Failure to do so resulted in a considerable quantity being charged at the lower duty applicable to country liquor. The difference in revenue realised was Rs. 23.06 crore for the period test checked and for these two distilleries alone.

The matter was reported to the department and the Government (between September 1999 and January 2001); their replies have not been received (October 2001).



### 3.4 Non-realisation of excise duty on unacknowledged exports

According to Uttar Pradesh Bottling of Foreign Liquor Rules, 1969, the licensee is required to execute a bond undertaking to deliver the liquor at the destination and furnish a certificate from the excise authorities of the importing state/district to this effect within 90 days. If the licensee fails to furnish the required certificate within this period, penalty equal to duty involved shall be recoverable from him.

In the audit of 3 distilleries<sup>1</sup> it was noticed (between March 2000 to May 2000) that in 8 cases in respect of 98225.9 Alcoholic litre of rectified spirit exported in bond out of the state during the period between May 1999 to February 2000, the licensees had failed to furnish the required certificate of delivery of liquor at the destination even though more than 3 to 12 months had elapsed since the export of liquor. The department had not taken any action to invoke the bonds for realising penalty (equal to duty) amounting to Rs. 47.15 lakh.

On the matter being pointed out between March 2000 to May 2000, it has been stated that necessary action will be taken.

The matter was reported to the department and Government (between May 2000 and January 2001); their replies have not been received (October 2001).

### 3.5 Non-levy of interest on belated payment of excise revenue

Under the provision of the U.P. State Excise Act, 1910, as amended from 29 March, 1985, where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate of 18 per cent per annum is recoverable from the date such excise revenue becomes payable, till the date of actual payment. In respect of excise revenue which had become payable prior to the date of amendment, interest at the same rate is to be charged from 29 March 1985.

During audit of 7 district Excise officers<sup>2</sup> it was noticed (between February 2000 and July 2000) that in respect of 21 cases excise revenue of Rs. 6.05 lakh pertaining to the period 1962-63 to 1991-92 was deposited late (between January 1995 and February 2000) delay ranging from 132 to 179 months. However, interest amounting to Rs. 11.56 lakh on the belated payments was neither levied nor realised.

On this being pointed out between February 2000 and July 2000, the District Excise Officers concerned stated (between February 2000 and July 2000) that necessary action to realise the interest was being taken.

1 Bajpur Distillery Udham Singh Nagar, K.M. Sugar Mill and Distillery Masauda Faizabad, Hargaon Distillery Sitapur  
2 Meerut, Varanasi, Ghazipur, Gorakhpur, Azamgarh, Kanpur city and Sultanpur

The matter was reported to the Government (between April 2000 and February 2001); their reply has not been received (October 2001).

### **3.6 Non-realisation of stamp duty**

Under the U.P. Excise licences (Tender-cum-Auction) Rule, 1991, in case the licensing authority has accepted the bid for allotment of licenses for sale of country/foreign liquor/bhang, an advance security shall be paid by the bidder for performance of the contract in the prescribed manner. Every bidder in whose favour the licence is settled shall also execute an agreement in conformity with the terms of the licence on a stamp paper of the requisite value. In the Government notification dated 12 April, 1999, it has been clearly mentioned that these documents fall under the category of mortgage deeds and are chargeable to stamp duty accordingly.

In the audit for 11 District Excise officers<sup>1</sup> it was noticed (between April 2000 to September 2000) that on acceptance of bid for licence to sell country/foreign liquor/bhang, the licensees paid in advance a security of Rs. 134.24 crore in cash and bank guarantee of Rs. 8.72 crore for due performance of the contract during the year 1998-99 to 2000-2001 and executed counterpart agreements. However, stamp duty amounting to Rs. 15.69 crore (worked out @ Rs. 125 per thousand on cash and Rs. 5/- per thousand on bank guarantee subject to maximum of Rs. 10,000/-, on these agreements treating them as mortgage deed, was neither levied nor realised resulting in non-realisation of stamp duty to that extent.

On this being pointed out in audit (between April 2000 to September 2000) it was stated that there was no provision for such levy of stamp duty on agreements in the excise act. The reply is not tenable as the Government notification quoted above is applicable to all the departments.

The matter was reported to the department/Government (between August 2000 and February 2001); their reply have not been received (October 2001).

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<sup>1</sup> Allahabad, Lalitpur, Jaunpur, Ghazipur, Bareilly, Agra, Gautam Budha Nagar, Rampur, Jhansi, Mathura, Udham Singh Nagar

## CHAPTER - 4 : TAXES ON VEHICLES, GOODS AND PASSENGERS

### 4.1 Results of audit

Test check of the records of various offices of the Transport Department, conducted in audit during 2000-2001 revealed short-levy or non-levy of taxes/ .fees amounting to Rs. 13.30 crore in 279 cases which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of Cases	Amount
1	Non-levy or short-levy of passenger tax/ additional passenger tax	107	965.93
2	Under-assessment of road tax and goods tax	39	83.02
3	Other irregularities	133	281.53
	<b>Total</b>	<b>279</b>	<b>1,330.48</b>

During the year 2000-2001, the department accepted under-assessment etc. of Rs. 1.47 crore involved in 80 cases pointed out in audit in 2000-2001.

A few illustrative cases involving Rs. 26.63 lakh are given in succeeding Paragraphs.

### 4.2 Short realisation of additional tax from passenger vehicles

As per entry in part I (A) of the Forth Schedule to Uttar Pradesh Motor Vehicle Taxation Act, 1997, rate of additional tax (passenger tax) will be determined and levied on passenger vehicles for any particular route on the basis of distance covered and number of trips performed in a quarter, as fixed by the Regional Transport Authority and shown in the permit.

In the Audit of 4 Regional/Assistant Regional Transport Offices<sup>1</sup> it was noticed (between April 1999 and June 2000) that during the period from November 1998 to May 2000, in the case of 82 passenger vehicles while calculating the additional tax (P.T.) the distance covered was worked out on the basis of actual trips performed by the vehicles instead of that shown in the permit. This resulted in short realisation of revenue amounting to Rs. 13.57 lakh.

<sup>1</sup> Dehradun, Kathgodam, Kannauj, Kushinagar.

On this being pointed out (between April 1999 and June 2000), the department stated that necessary action will be taken.

The matter was reported to the department and the Government (between September 1999 and December 2000); their replies have not been received (October 2001).

#### **4.3 Short levy of additional tax on stage carriages**

Under section 6 of the Act, effective from 9 November 1998 and article 1(a) of Fourth Schedule, an additional tax on stage carriages shall be payable on 'B' class routes at the rate of Rs. 156 per seat/per quarter, if vehicle covers distance up to 4500 k.m. in a quarter. The additional tax on a stage carriage operating within the limits of a corporation or municipality shall be Rs. 4200 per quarter in respect of a stage carriage having not more than 35 seats and Rs. 6000 per quarter in respect of a stage carriage having more than 35 seats.

During the audit of Regional Transport Officer, Moradabad, it was noticed (November 2000) that 67 stage carriages were permitted (between July 1998 and March 1999) to operate as Mahanagariya city bus service for a period of 5 years. An additional tax was levied and realised from these vehicles at the rate of Rs. 4200 or Rs. 6000 per quarter for the period from July 1998 to October 2000. It was further noticed that these vehicles were plying outside the municipal limits. Hence additional tax on these vehicles was leviable @ Rs. 156 per seat per quarter. This was neither levied nor realised. This resulted in short realisation of additional tax amounting to Rs. 7.04 lakh.

On this being pointed out (between July 1998 and March 1999), the department stated (July 2001) that the vehicles were plying out side the municipal limits and the matter will be taken up with the Regional Transport Authority.

The matter was reported to the Government (between March 2001 and May 2001); their reply has not been received (October 2001).

#### **4.4 Non-assessment/realization of Additional tax (Passenger tax)**

Under the Act Additional tax realisable from a Maxi cab is Rs. 2350 per month lump sum from 21 November 1996, Rs. 1500 per month from 9 November 1998 and Rs. 1650 from 10 March 2000. From 9 November 1998 additional tax leviable on the vehicles having seating capacity of more than 12 persons but not more than 20 persons excluding driver and conductor is Rs. 4570 per month.

In the audit of 4 Assistant Regional Transport Offices<sup>1</sup> it was noticed (between March 1999 and June 2000), that 75 maxi cabs and 2 vehicles having capacity of

<sup>1</sup> Pratapgarh, Firozabad, Shahjahanpur, and Sant Ravi Das Nagar

more than 12 persons and not more than 20 persons were covered under permits/ used as passenger vehicles in the sub-region, but additional tax (passenger tax) was neither assessed nor realised during the period between March 1998 and June 2000. This resulted in non-realisation of revenue amounting to Rs. 6.02 lakh.

On this being pointed out (between March 1999 and June 2000) the department stated (August 2001) that necessary action for recovery will be taken.

The matter was reported to the department and Government (between June 1999 and January 2001); their replies have not been received (October 2001).



## CHAPTER - 5 : STAMP DUTY AND REGISTRATION FEES

### 5.1 Results of Audit

Test check of the records of the Offices of District Registrar and Sub Registrar conducted in audit during 2000-2001 revealed short levy of Stamp duty and Registration fees amounting to Rs. 42.12 crore in 346 cases which broadly fall under the following categories:

(Rupees In lakh)

Sl. No.	Categories	No. of Cases	Amount
1	Short levy of Stamp duty and Registration fees due to under valuation of properties	249	258.85
2	Short levy due to misclassification	47	54.60
3	Other irregularities	50	3,898.79
	<b>Total</b>	<b>346</b>	<b>4,212.24</b>

A few illustrative cases involving a financial effect of Rs. 36 lakh are mentioned in succeeding paragraphs.

### 5.2 Short levy of stamp duty and registration fees due to under valuation/incorrect valuation of land.

Under the Indian Stamp Act, 1899 (As amended in its application to Uttar Pradesh) stamp duty on a deed of conveyance is chargeable either on the market value or the value of consideration set forth there in, which ever is higher. As per Uttar Pradesh Stamp Rules, 1942, and Uttar Pradesh Stamp Act (Valuation of Property), 1997 market rates of various categories of land in a district are to be fixed biennially by the Collector concerned for the guidance of registering authorities in his district.

(a) During audit of 16 Sub-Registrar Offices<sup>1</sup>, it was noticed (between May 1997 to October 2000) that Stamp duty and registration fee amounting to Rs. 25.41 lakh was short levied due to the fact that land was not valued as per the rate fixed by the Collector.

<sup>1</sup> Sub-Registrar-I Aligarh, Talbehat (Lalitpur), Sitarganj (Udhamsingh Nagar), Sikandraro (Hathras), Aliganj (Etah), Varanasi, Mohamadabad (Gazipur), Duddhi (Sonhadra), Gharmukteswar (Ghaziabad), Mau, Salempur (Deoria), Mohanlalganj (Lucknow) Azamgarh, Iglas (Aligarh), Haridwar, Varanasi.

On this being pointed out (between May 1997 to October 2000), the Sub-Registrar concerned stated that cases have been referred to stamp collector for proper valuation of stamp duty.

The matter was reported to the Government (between December 1998 and March 2001); their reply has not been received (October 2001).

(b) During audit of 3 Sub-Registrar Offices<sup>1</sup>, it was noticed (between April 1997 and December 1999) that in 3 cases the value of the land for levying stamp duty was worked out at Rs. 38.11 lakh instead of Rs. 87.99 lakh as per market rate fixed by the collector. This resulted in short levy of stamp duty of Rs. 5.10 lakh.

The matter was reported to the department and Government (between December 1998 and April 2000); their replies have not been received (October 2001).

(c) In the audit of Sub-registrar III, Agra it was noticed (October, 1999) that a sale deed regarding sale of 2788 square metre land including 786 squaremetre constructed building was registered but its valuation for levying stamp duty was worked out at Rs. 4.90 lakh instead of Rs. 70 lakh as per market rate fixed by the collector. This resulted in short levy of stamp duty of Rs. 5.21 lakh.

The matter was reported to the department and Government (between July 2000 and March 2001); their replies have not been received (October 2001).

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<sup>1</sup> Roorkee, S.R.I. and S.R. III Meerut.



## CHAPTER - 6 : LAND REVENUE

### 6.1 Results of audit

Test check of records of the offices of Revenue Department, conducted in audit during 2000-2001 revealed non/short realisation of land revenue, short realisation of collection charges, non-recovery of fees for supplying Kisan Bahis and other irregularities amounting to Rs. 781.33 crore in 217 cases, which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of Cases	Amount
1	Non/short realisation of land revenue	10	168.44
2	Short realisation of collection charges	65	257.40
3	Non-recovery of fees for supplying Kisan Bahis	14	17.44
4.	Other irregularities	127	869.13
5.	Review on "Recovery of dues treated as arrears of Land Revenue"	1	76,821.00
	<b>Total</b>	<b>217</b>	<b>78,133.41</b>

During the year 2000-2001, the department accepted under assessment etc. of 266.52 lakh involved in 44 cases, which relates to preceding years.

A few cases and one review involving financial effect of Rs. 768.32 crore is mentioned in the following paragraphs.

### 6.2 Review on "Recovery of dues treated as arrears of land revenue"

#### 6.2.1 Introduction

In terms of Uttar Pradesh Public Money (Recovery of Dues) Act, 1972, Revenue Recovery Act, 1890 and orders issued by Board of Revenue from time to time, the Revenue Authorities on receipt of recovery certificates from a Government Department, Corporation, Board, Banking Company or Local Body shall proceed to recover the amount therein together with the cost of proceedings (Collection Charges) as arrears of Land Revenue. The amount is classified in the Revenue Department as "Recovery of miscellaneous dues treated as arrears of land revenue".

### **6.2.2 Organizational set-up**

The Board of Revenue is responsible for planning, monitoring and regulating process of recovery of dues treated as arrears of land revenue through District Magistrates assisted by Tehsildars. The actual work of recovery is done by the Tehsildars through his subordinate staff namely 'Amin'.

### **6.2.3 Scope of Audit**

With a view to ascertaining the effectiveness and compliance of the rules and instructions by Land Revenue Department pertaining to recovery of dues treated as arrears of land revenue, a review was conducted from July 2000 to March, 2001. For this purpose a test check of records of 30 Collectors and Tehsildar Sadar's offices out of 83 districts in the state, covering a period of 5 years from 1995-96 to 1999-2000 was carried out by audit.

### **6.2.4 Highlights**

- Entertaining recovery certificates without support of proper documents by the Collector resulting in non recovery of Rs. 153.68 crore.  
**(Para 6.2.6)**
- Recovery certificates worth Rs. 25.84 crore sent by the Collectors were not accounted for by the Tehsildars resulting in non-recovery.  
**(Para 6.2.7)**
- Recovery certificates worth Rs. 287.10 crore sent to other Collectors for recovery were not monitored resulting in non-recovery.  
**(Para 6.2.8)**
- Recovery certificates worth Rs. 112.11 crore were returned by the Tehsildars unrecovered without initiating recovery process against the sureties.  
**(Para 6.2.9)**
- Recovery certificates worth Rs. 42.19 crore were pending without action in Tehsils for more than 5 years and recovery certificates worth Rs. 82.22 crore were pending for recovery for more than 2 to 5 years.  
**(Para 6.2.11)**
- Recovery certificates worth Rs. 65.07 crore without recovery were irregularly returned by the Collectors.  
**(Para 6.2.12)**

### 6.2.5 Demand in arrears

As per information furnished by the Board of Revenue, the position of the demands recoverable under the Public Money (Recovery of Dues) Act, 1972 for the state as whole for the last five years was as under :

(Rupees in crore)

Sl. No.	Particulars of dues	1995-96	1996-97	1997-98	1998-99	1999-2000
1.	Total demand	719.17	774.45	893.48	951.51	1,258.30
2.	Stayed or postponed by court/department	40.57	37.26	70.25	75.66	120.58
3.	Provisionally irrecoverable	12.75	13.60	32.78	20.63	52.87
4.	R.C. received after due date	149.27	180.78	172.49	175.39	203.38
5.	Net demand (1-2-3-4)	516.58	542.81	617.96	679.83	881.57
6.	Recoveries made during the year	425.44	487.33	552.81	632.77	778.59
7.	Balance against Total demand (1-6)	293.73	287.12	340.67	318.74	479.71
8.	Balance against net demand (5-6)	91.14	55.48	65.15	47.06	102.98

**(a) It would be seen that:**

(i) While working out the net demands recoverable the amounts stayed by the courts/departments had been reduced which were on increase every year.

(ii) Even from this reduced demand a large amount between 1995-96 to 1999-2000 was deducted every year incorrectly showing it as "Provisionally irrecoverable and, "R.C.s received after due date".

(iii) To show higher percentage of recovery the total demands were reduced by 20 to 25 per cent as at (i) and (ii) above.

(b) (i) It was further noticed in audit that the data of total demand/net demands as shown by the Board of Revenue was not reliable. As per information collected from 30 District Collectors covered under review the amounts of total demands and net demand at the end of 1999-2000 were Rs. 462.01 crore and 211.45 crore where as the same were Rs. 479.71 crore and Rs. 102.98 crore only for all the 83 districts of U.P. as per data furnished above, by the Board of Revenue.

(ii) No efforts were made to reconcile the figures of the Board of Revenue and District Collectors.

### 6.2.6 Entertaining recovery certificate without documents of property

The recovery certificate of dues as arrears of land revenue should be supported by relevant documents to enable the Collector to effect the recovery.

Test check of records revealed that in 24<sup>1</sup> Collectorates/Officers in-charge, Collection Offices in 759 cases involving recovery of Rs. 153.68 crore, the recovery certificates were sent by UPFC, PICUP, etc. between April 1995 and March 2000 without copies of mortgage deeds and complete details of properties and guarantors etc. These recovery certificates were returned by the concerned Tehsils without effecting recovery on the ground that defaulters were not traceable or had no property. Of these 13 cases involving dues of Rs. 2 crore and above are illustrated below:

(Rupees in crore)

Sl. No.	Name of districts	Name of defaulters	Amount
1.	Lucknow	Sri Syed Intiyaz Hussain	2.05
2.	Lucknow	Sri Akhil Dayal	3.54
3.	Ghaziabad	M/s Integrated organic Ltd. Sri V.B. Kumar Jain	5.06
4.	Meerut	M/s M.M. Polytechnic, Meerut	2.40
5.	Kanpur Nagar	M/s B.P.L. Textiles	2.17
6.	Kanpur Nagar	M/s Madhur Oil Pvt. Ltd.	2.01
7.	Kanpur Nagar	M/s Kashi Ram Panna Lal	3.24
8.	Kanpur Nagar	M/s Aliance Inorganics Ltd.	3.67
9.	Kanpur Nagar	M/s Alok Foundry Equipment Pvt. Ltd.	2.84
10.	Kanpur Nagar	M/s Anuradha Ultramarine & Pigment	2.46
11.	Kanpur Nagar	M/s Rajendra's Steel Ltd.	4.24
12.	Kanpur Nagar	M/s Creative Industrial Pvt. Ltd.	2.20
13.	Kanpur Nagar	Umanath Industrial Partners	8.96

1 Kanpur Nagar, Ghaziabad, Dehradun, Banda, Agra, Varanasi, Sultanpur, Jaunpur, Hardoi, Muzaffarnagar, Meerut, Bijnore, Fatehpur, Mathura, Aligarh, Lucknow, Bhadohi, Sitapur, Rampur, Bareilly, Gorakhpur, Raebareli, Pratapgarh, Allahabad.

On this being pointed out, the department stated (between July 2000 and March 2001) that in future no such recovery certificates will be accepted for recovery.

### **6.2.7 Incorrect accounting of recovery certificates**

The recovery certificates after order of the Collector declaring the sums as arrears of land revenue, are entered in Miscellaneous Dues Register maintained sub-headwise separately for each Tehsil in the jurisdiction of a Collector. These are allotted a serial number (*RRC No.*) and sent to the Tehsil for recovery.

It was noticed in five districts<sup>1</sup> that as per information furnished by the District Collectors and Tehsildars concerned there were huge differences between demand raised by Collectors and these accounted for by Tehsils.

(Rupees in crore)

	No. of cases	Amount involved
Demand as per Collector's records	5789	55.22
Demand as per Tehsildar's records	4973	29.38
Difference	816	25.84

The above details revealed that 816 recovery certificates involving Rs. 25.84 crore were sent by the Collectors to the Tehsildars for recovery but these were not accounted for by the Tehsildars which resulted in non-recovery of dues to that extent.

### **6.2.8. Lack of follow-up action on recovery certificates sent to other Collectors**

A test check of records revealed that in 18 Collectorates<sup>2</sup> the Collectors had not taken proper followup action on the recovery certificates sent to other Collectors. As a result a sum of Rs. 287.10 crore involved in 875 recovery certificates sent to other collectors during 1995-96 to 1999-2000 was still outstanding. Even routine reminders were not issued in these cases. Further no register for recording outward recovery certificates was maintained in Kanpur Dehat and Moradabad Collectorates due to which recovery thereof could not be watched.

### **6.2.9 Return of recovery certificates**

Provisions of UP Public Money (Recovery of Dues ) Act, 1972, with respect to any sum recoverable as arrears of land revenue, can be made applicable to a person standing surety for the defaulter in case the defaulter is not traceable or has no property.

1 Kanpur Dehat, Ghaziabad, Hardoi, Muzaffer Nagar, Meerut

2 Kanpur Nagar, Ghaziabad, Mirzapur, Banda, Agra, Varanasi, Jaunpur, Hardoi, Muzaffarnagar, Meerut, Bijnore, Fatehpur, Mathura, Aligarh, Lucknow, Bhadohi, Sitapur, Raebareli .

During test check of records of 18 Tehsils<sup>1</sup> it was noticed that 343 recovery certificates involving Rs. 112.11 crore were returned by the Tehsildars between 1995-96 to 1999-2000 without initiating recovery process against the surety.

### 6.2.10 Coercive Processes

Paragraph 228 and 229 of UP Collection Manual provide for recovery of dues as arrears of land revenue by taking recourse to coercive processes to be recorded and watched through Coercive Processes Register maintained in Form-75.

A test check of records of 30 Tehsils revealed that coercive action adopted for recovery by the Tehildars could not be ascertained as Coercive Processes Register was not maintained at all during the period from 1995-96 to 1999-2000, which resulted in non monitoring of recovery cases properly.

### 6.2.11 Recovery certificates pending without action

A test check of recovery certificates pending in 30 Tehsils<sup>2</sup>, revealed that 6147 cases involving Rs. 42.19 crore received more than five years ago and 2668 cases for Rs. 82.22 crore received more than two to five years ago were still pending. No reasons were given by the department for non recovery of dues.

### 6.2.12 Recovery not executed

Test check revealed that the District Collectors had not taken proper follow-up action to recover the amount involved in 157 recovery certificates even after a lapse of two to eight years. Of this Rs. 56.11 crore pertain to M/s Modi Group of Industries. This resulted in non-recovery of dues amounting to Rs. 65.07 crore as detailed below:

(Rupees in crore)

Sl. No.	Name of the district Collectors/R.C.issuing department	No. of recovery certificates	Year of receipts	Amount pending for recovery
1	Ghaziabad/U.P.S.E.B.	42	Between 1992 and 1998	13.75
2	-Do-	32	Between 1995 and 1998	17.07
3	-Do-	81	Between 1993 and 1999	23.09
4.	-Do-	Not available	Between 1992 to 1999	2.20
5.	Ghaziabad/A.D.M (Land Acquisition)	1	1996	7.84
6.	Fatehpur/U.P.S.E.B	1	-----	1.12
	<b>Total</b>	<b>157</b>		<b>65.07</b>

1 Kanpur Nagar, Ghaziabad, Banda, Varanasi, Jaunpur, Sultanpur, Hardoi, Muzaffarnagar, Meerut, Bijnore, Moradabad, Fatehpur, Mathura, Aligarh, Lucknow, Bhadohi, Rampur, Pratapgarh.

2 Kanpur Nagar, Akbarpur, Ghaziabad, Saharanpur, Dehradun, Mizapur, Banda, Orai, Agra, Varanasi, Jaunpur, Sultanpur, Hardoi, Muzaffarnagar, Meerut, Bijnore, Moradabad, Fatehpur, Mathura, Aligarh, Lucknow, Bhadohi, Sitapur, Rampur, Bareilly, Raebareilly, Pratapgarh, Deoria, Gorakhpur, Allahabad.

### **6.2.13 Non - maintenance of records**

The revenue recovery certificates received are first diarised and then scrutinized by the Collector. The certificates found fit for recovery in respect of their own district are entered in the Form 67-A and those relating to other district in Form 67 (called Miscellaneous Dues Registers) and sent to Tehshildars concerned. The Tehshildar after entering these certificates in the similar Forms/Registers process them for recovery.

A test check of records of recovery of miscellaneous dues of 30 districts revealed that the miscellaneous dues register which are the main record for watching recovery were not being maintained, in the prescribed Form-67 and Form-67A as per UP Collection Manual in almost all the Collectorates and Tehsils. Also Monthly Goswaras/Abstracts were not being prepared on this register Tehsil wise because in the absence of which it was not possible to ensure accuracy of figures of demand, recovery, return and balances as shown in the returns furnished by the Collectorate/Tehsils. The diary for diarising the requisitions was also not being maintained in the almost all the Collectorates and Tehsils.

The foregoing points were reported to the department and Government (June 2001); their replies have not been received (October 2001).

### **6.3 Non- realisation of collection charges**

In terms of Uttar Pradesh Public Money (Recovery of Dues) Act, 1972, and State Government orders issued for time to time, the revenue authorities, on receipt of certificates of recovery from a Corporation, Board, Banking Company or local body, shall proceed to recover the amount stated therein together with the cost of proceedings (collection charges) as arrears of land revenue. Collection charges at the rate of 10 per cent of the dues collected/to be collected are to be realised from the concerned loaners by the concerned bodies.

During audit of 7 Tehsil Offices<sup>1</sup> and the one Land Revenue Collection Office, it was noticed (between November, 1999 and May 2000) that the collection charges amounting to Rs. 10.73 lakh were not realised in 200 cases in which either the amount was deposited direct by the loanees with the concerned bodies or recovery certificates were withdrawn by them.

The matter was reported to the department and Government (between February 2000 and August 2000); their replies have not been received (October 2001).

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<sup>1</sup> Tehsildar Pratapgarh, Nautanwa, Kasganj, Barabanki, Bagpat, Meerut, Tamkuhiraj and Land Revenue Collection Officer, Deoria.





## CHAPTER -7 : OTHER TAX RECEIPTS

### (A) - Electricity Duty

#### 7.1 Results of Audit

Test check of records of the Offices of Asstt. Directors (Electrical Safety), Garrison Engineers, MES etc. & Divisional Engineers of various Railways, conducted in audit during the year 2000-2001 brought out non-levy or shortlevy of duties and fees amounting to Rs. 3.17 crore in 48 cases which broadly fall under the following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of Cases	Amount
1	Non-levy of Electricity duty	29	74.29
2	Non-levy of Inspection Fees	5	4.80
3	Other Irregularities	14	238.00
	<b>Total</b>	<b>48</b>	<b>317.09</b>

An illustration involving a financial effect of Rs. 9.36 lakh is mentioned in succeeding paragraph.

#### 7.2 Non/short levy of Electricity duty

The Appointed Authorities in the state are exempt from levy of Electricity duty. However, Government clarified (August 1995) that in respect of energy supplied free of charge or at concessional rates to defence personnel by the Appointed Authority (Defence Department), the rates for the purpose of calculation of electricity duty on energy consumed, would be deemed to be the full rate applicable to other consumers even though the difference between the ordinary rate / free or concessional rate was being borne by the Defence Department. As per notification dated 3 January 1997 the electricity duty was leviable at the rate of 9 paise per unit. Director (Electrical Safety) also issued (September 1995) instruction to all the Appointed Authorities of Defence Department to realise the electricity duty in all such cases where the energy was supplied to defence personnel free of charge or at concessional rates.

During test check of records of 4 Appointed Authorities (Garrison Engineer M.E.S) - Agra, Kanpur Cantt., Dehradun and General Manager, Ordnance Factory (Kanpur), it was noticed (between March 2000 and September 2000) that electricity duty amounting to Rs. 9.36 lakh was leviable on 104.04 lakh

units of electricity supplied free of charge or of concessional rates to the defence personnel for domestic use between January 1998 and June 2000 against which a sum of Rs. 3.23 lakh was realised in one case of Kanpur. This resulted in short/non-levy of electricity duty amounting to Rs. 6.13 lakh. Besides, interest on the unpaid amount of electricity duty was also leviable.

The above matter was reported to the department and Government in March 2001; their replies have not been received (October 2001).

## (B) Entertainment & Betting Tax

### 7.3 Results of audit

Test check of the records of various offices of the Entertainment Tax Department conducted in audit during 2000-2001 revealed short-levy or non-levy of taxes/fees amounting to Rs. 26.44 crore in 71 cases which broadly fall under the following categories :

(Rupees in lakh)

S.L. No.	Categories	Number of cases	Amount
1.	Non-levy or non-recovery of entertainment tax/ licence fee	16	12.20
2.	Other irregularities	54	108.25
3.	Review on "assessment and collection of Entertainment tax"	1	2,524.00
	<b>Total</b>	<b>71</b>	<b>2,644.45</b>

During the year 2000-2001 the department accepted under-assessment etc. of Rs. 18.24 lakh involved in 14 cases pointed out in audit in 2000-2001. Of these a sum of Rs. 1.21 lakh has been recovered .

A review involving financial effect of Rs. 25.24 crore is mentioned in the following paragraphs:

### 7.4 Review on "Assessment and Collection of Entertainment Tax"

#### 7.4.1 Introduction

Entertainment tax is levied and collected under the provisions of the U.P. Entertainments and Betting Tax Act, 1979 and Rules framed thereunder. It is levied on all payments for admission to any entertainment at the rate specified from time to time.

The Act empowers the State Government to exempt any entertainment or class of entertainment from liability to pay tax under this Act from promotion of peace, international goodwill, arts, sports or other public interests. The District Magistrate of a district is also empowered to grant exemption to those entertainments whose gross proceeds are devoted to philanthropic, religious or charitable purposes.

#### **7.4.2 Organizational Setup**

The overall control and responsibility for levy and collection of entertainment tax rests with the Commissioner Entertainment Tax U.P. Lucknow, who is assisted by an Additional Commissioner, Deputy Commissioners, Assistant Commissioners and Entertainment Tax Officers. At district level, the District Magistrate is the controlling officer who exercises control over operation of entertainment, and levy and collection of entertainment tax through Assistant Commissioners Entertainment Tax or District Entertainment Tax Officer assisted by entertainment Tax Inspectors.

#### **7.4.3 Scope of Audit**

With a view to evaluate the efficiency in assessment and collection of entertainment tax from various sources of entertainment and to ascertain whether the provisions of the Act and Rules are correctly followed, a test check of the records for the period from 1995-96 to 1999-2000 was carried out in 27 offices out of 80 offices of the District Entertainment Tax Officers, between July 2000 to March 2001.

#### **7.4.4 Trend of Revenue**

The position of source wise receipt of entertainment tax during the period from 1995-96 to 1999-2000 was as under:

(Rupees in crore)

Name of sources	1995-96	1996-97	1997-98	1998-99	1999-2000
Permanent Cinema	105.95	110.23	124.22	126.23	127.17
Interior Cinema	0.65	0.78	0.91	1.03	1.00
Video Cinema	1.24	1.02	0.90	0.87	0.92
Video Library	0.24	0.19	0.17	0.22	0.25
Video Hotel	0.12	0.19	0.22	0.24	0.28
Cable TV	1.72	1.78	3.47	3.76	4.44
Floor shows Video games. Horse races and others	0.99	1.31	4.05	1.32	2.18
<b>Total</b>	<b>110.91</b>	<b>115.50</b>	<b>133.94</b>	<b>133.67</b>	<b>136.24</b>

It shows that nearly 95 per cent of entertainment tax was realised from permanent, interior and video cinemas and the rest was from other sources of entertainment.

#### **7.4.5 Highlights**

- Non-realisation of inadmissible and unutilized amount of maintenance charges as entertainment tax amounted to Rs. 15.36 crore

[Para 7.4.6]

- Loss of revenue due to non-realisation of amount of Film Development Fund from permanent cinema amounted to Rs. 1.98 crore.

[Para 7.4.7]

- Entertainment tax amounting to Rs. 2.61 crore was short charged due to assessment as interior/travelling cinema in place of permanent cinema.

[Para 7.4.9(a)]

- Entertainment tax of Rs. 1.16 crore was short charged from Video Cinemas.

[Para 7.4.9(b)]

- Non- realisation of license fee, additional license fee and short realisation of entertainment tax from video hotels amounted to Rs. 1.92 crore.

[Para 7.4.10]

#### **7.4.6 Non-realisation of inadmissible and unutilised amount of maintenance charges as entertainment tax**

Under subsection (1) of section 3A of the UP Entertainments and Betting Tax Act, 1979, the cinema owners (not in receipt of grants in aid) are authorised to realise an extra charge of Rs. 1.50 (Re. 1 prior to 25 January 2000) from the person seeking admission to an entertainment, which will be utilised for maintenance of the cinema premises. If the amount so realised was not utilised fully for maintenance of cinema premises, the same would be deemed to be the aggregate of additional payment for admission to the entertainment and entertainment tax would be payable thereon.

In view of the above provisions, the Commissioner of Entertainment Tax had issued instructions vide his circular dated 27 December 1996 for maintenance and submission of accounts of maintenance charges and also laid down the admissible items of expenditure for maintenance charges. Expenditure on other items could be incurred only after due permission of collector. Further the

Commissioner had also issued instructions on the basis of decision of Hon'ble High Court vide his letter No. 4890 dated 7 January 1998 that unused balance of maintenance charges should be got deposited as entertainment tax.

It was observed in audit in 31 districts that expenditure was incurred by the cinema owners on inadmissible and unauthorised items out of maintenance charge without due permission of the District Magistrate. As such the amounts were liable to be realised as entertainment tax. Similarly unused amounts of maintenance charge as well as the amounts of the maintenance charge for which no account was submitted (taking it as unused balance amount), were also liable to be realised as entertainment tax. But no action was taken by the Department, which resulted in loss of entertainment tax of Rs. 15.36 crore as detailed in Annexure "A".

On this being pointed out in audit, department stated that as per the Government order dated 31 December 1999 only annual accounts, duly verified by Chartered Accountants, were to be submitted by the cinema owners in place of quarterly accounts as laid down in earlier orders dated 27 December 1996 and in case of any irregularity noticed in maintenance of cinema, action was to be taken under provision of licensing rules instead of making recovery of maintenance charges. The reply is not tenable as the Government orders itself is in contravention of the Act and the judicial pronouncement.

#### ***7.4.7 Loss of revenue due to non-realisation of amount of Film Development Fund***

A Film Development Fund was created from 5 November 1999 for the development of film in the State by inserting new Section 3-B and 3-C which provided that cinema owners would realise an additional amount of 50 paise from each spectator seeking admission to an entertainment and amount so realised will be deposited separately into treasury.

During scrutiny of records of 57 entertainment Tax Officers it was observed that the recovery of Film Development Fund (FDF) was started after 8 February 2000, i.e. the date of issue of Commissioner's orders which resulted in loss of Rs. 1.98 crore in 57 districts<sup>1</sup>.

On this being pointed out in audit the Government issued an order on 07 March 2001 to realise the amount of FDF in 10 instalments.

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1 Kanpur, Aligarh, Bulandshahar, Agra, Meerut, Saharanpur, Bijnore, Shajahanpur, Faizabad, Varanasi, Deoria, Azamgarh, Mau, Allahabad, Jhansi, Ghaziabad, Mainpuri, Jaunpur, Farrukhabad, Firozabad, Gorakhpur, Bahraich, Lucknow, Bareilly, Pilibhit, Moradabad, Muzaffarnagar, Fatehpur, Nainital, Mathura, Badaun, Unnao, Raebareilly, Sitapur, Khiri, Sultanpur, Barabanki, Gonda Balrampur, Maharajganj, Kushinagar, Basti Siddarth Nagar, Mirzapur, Sonebhadra, Sant Rabidas Nagar, Pratapgarh, Hamirpur, Kanpur Dehat, Lalitpur, Banda, Chitrakoot, Santkabirnagar, Hathras, Kaushambi, Gautam Budh Nagar, Rampur)

#### **7.4.8 Short deposit of security by permanent cinema owners**

Under the provisions of the UP Entertainments & Betting Tax Act, 1979 and Rules framed thereunder, every proprietor of a cinema, is required to deposit the security amount before holding an entertainment, which shall be fixed by the authorised officer. The amount of security shall not be more than the amount of total tax chargeable for full seating capacity of the entertainment hall of eight days of total shows and it shall not be less than 25 per cent of such amount. Such security is realised to safeguard any loss of revenue and in case of any failure to deposit the tax, the amount is recoverable and adjustable from such security, which is got recouped before the tax of next week becomes due.

During scrutiny of records it was noticed in 26 E.T.Os<sup>1</sup> that a substantially low amount of security was deposited by the cinema owners against the minimum required amount. 510 cinema proprietors of these districts had deposited a sum of Rs. 0.68 crore against the minimum required amount of Rs. 2.50 crore. Thus security of Rs. 1.82 crore was short deposited.

On being pointed out in audit it was stated in most of the cases that amount of security was calculated on the basis of rates and seating capacity of the cinema at the time of granting initial licence. The reply is not tenable as the security was to be revised at the time of renewal of licence.

#### **7.4.9 Short realisation of Entertainment Tax**

##### **(a) From interior/travelling cinema**

Under Rule 27 of the UP Cinematograph Rules, 1951, interior cinema/travelling cinema may be granted licence for exhibition of cinema shows, initially for a period of six months at a place, which may be extended for a further period of six months only. No interior/travelling cinema can be granted licence beyond one year for the same place before the expiry of six months.

During scrutiny of the records of the offices of the ETOs it was noticed that licences to travelling cinemas were granted for the same place in different names beyond one year and without a gap of six months. As such these travelling cinemas were liable to pay tax on percentage basis as permanent cinema. Calculating tax per week on compounding system, the entertainment tax was found short charged to the tune of Rs. 2.61 crore as detailed in Annexure "B".

In reply it has been stated that the licences were granted to different persons and tax was collected on the basis of population of the local area. The reply was not tenable as the licences granted were for the same place without gap of six months.

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<sup>1</sup> Kanpur, Aligarh, Bulandshahar, Agra, Meerut, Saharanpur, Bijnore, Shahjahanpur, Faizabad, Varanasi, Deoria, Mau, Allahabad, Jhansi, Ghaziabad, Mainpuri, Jaunpur, Farrukhabad, Firozabad, Gorakhpur, Bahraich, Lucknow, Bareilly, Pilibhit, Moradabad, Muzaffarnagar.

**(b) From Video Cinema**

According to the definition given in Rule 2 of the UP Cinema (Regulation of Exhibition by Means of Video) Rules, 1988, there are two types of video cinemas (a) Travelling Video Cinema which gives exhibition in a temporary building and (b) Video Cinema licensed for exhibition in permanent building. Under Rule 15(2) the licensing authority may grant a license to a travelling cinema initially for a period of six months which may be extended for a further period of six months only. Such video cinemas may function only in a temporary building and they are liable to pay entertainment tax at the rate of Rs. one thousand per week whereas video cinemas, located in permanent buildings in such local area where no permanent cinema is existing, are liable to pay tax at the rate of Rs. 2500 per week in advance.

During scrutiny of records relating to video cinemas, it was observed in 18 district<sup>1</sup> that the owners of 48 video cinemas were exhibiting their shows in a single permanent building at the same place in different names for a period from more than a year. As such they were liable to pay tax at the rate of Rs. 2500 per week whereas they were paying tax at the rate of Rs. 1000 per week. This resulted in short charge of entertainment tax of Rs. 1.16 crore.

On being pointed out in audit it was stated in most of the cases that licences were granted for travelling video and tax was collected accordingly. The reply was not tenable because these video cinema were functioning in the permanent building at the same place continuously for more than one year. As such they were liable to pay tax at the rate of Rs. 2500 per week.

***7.4.10 Non/ short realisation of licence fee, additional licence fee and entertainment tax***

Under Section 2(ee) and 2(III) of the UP Entertainment and Betting Tax Act, 1979 exhibition of films, dramas, serials, and advertisements through V.C.R./ V.C.P. was permitted on cable T.V. network from 27 April 1995. Hence, entertainment tax, licence fee and additional licence fee was leviable on exhibition through cable network in rooms of a hotel at the rates prescribed for video hotels.

During test check of the records of Entertainment Tax Officers it was observed in 14 districts that entertainment tax from 128 hotels was realised at the average rate of tax of cable T.V. connections prevailing in the local area, instead of the rates applicable to video hotels. This resulted in non/short realisation of licence fee, additional licence fee and entertainment tax amounting to Rs. 1.92 crore as detailed in Annexure 'C'.

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<sup>1</sup> Kanpur, Aligarh, Bulandshahar, Meerut, Shahjahanpur, Faizabad, Deoria, Azamgarh, Mau, Ghaziabad, Jaunpur, Firozabad, Bahraich, Lucknow, Bareilly, Pilibhit, Moradabad, Muzaffarnagar.

#### ***7.4.11 Unauthorised retention of entertainment tax by cable TV operators.***

Under the UP Cable TV Network (Exhibition) Rules, 1997, cable TV operators are required to deposit the entertainment tax into Government account within one week from the last day of every month, on the amount collected from their consumers failing which simple interest at the rate of 2 per cent per month would also be payable on unpaid amount of tax for the period of delay. In case of unauthorised retention of entertainment tax, cable TV operators are liable for penal action. The arrears of entertainment tax are recoverable as arrears of land revenue under the provisions of Rule 16 of aforesaid Rules.

During scrutiny of the records it was noticed in seven districts<sup>1</sup> that entertainment tax of Rs. 38.77 lakh was pending recovery (March 2001) from cable TV operators. Neither the recovery certificates were issued nor other effective steps were taken for its realisation. Any penal action was also not taken against the defaulters.

#### ***7.4.12 Non-observance of prescribed procedures by Cable TV Operators***

Under the provisions of U.P. Cable T.V. Network (Exhibition) Rules, 1997 Cable T.V. operators are required to prepare registration cards (in triplicate) of their customers on Form 3 and to submit first copy of the card to the concerned consumer, second copy to the Entertainment Tax Officer and third copy is retained by themselves. They are also required to maintain a register in Form 4 for every calendar month. Connection wise details of customers and amount of fee realised from them is shown in both these records. The amount of monthly entertainment tax payable by the cable operators is worked out (on Form 5) on the basis of the entries in these records.

Further, under the provisions of section 30 and 30-A of U.P. Entertainment and Betting Tax Act, 1979, any person who contravenes any provisions of the Act or any Rules made thereunder or fails to comply with any orders or directions issued in accordance with the provisions of the Act/Rules is punishable by a fine not exceeding rupees five thousand, on first offence and rupees ten thousand on second and subsequent offence.

During the test check of the records of 27 districts, it was observed that the number of cable connections and amount of fee as declared by cable T.V. operators in fifteen districts<sup>2</sup> was abnormally low. It was insufficient even to meet the cost of operation of network-centres. Registration cards of their customers were not

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1 Agra, Shahjahanpur, Jhansi, Deoria, Lucknow, Bareilly, Muzaffarnagar.

2 Aligarh, Bulandshahar, Faizabad, Deoria, Azamgarh, Mau, Jhansi, Jaunpur, Farukhabad, Bahraich, Lucknow, Bareilly, Pilibhit, Moradabad, Muzaffarnagar.



prepared and submitted to the concerned Entertainment Tax Officers by Cable T.V. operators. The register in Form 4 was also not prepared and submitted for verification with Form 5 to E.T.O. In view of this the number of connections and amount of fee declared by the cable TV operators appear to be unrealistic leading to possible huge evasion of entertainment tax every month.

In reply it was stated (between July 2000 and March 2001) by the department that T.V. cable operators would be directed to maintain proper records.

The above points were reported to the department and the Government (June 2001); their replies have not been received (October 2001).



## CHAPTER -8 : FOREST RECEIPTS

### 8.1 Results of Audit

Test check of divisional records of Forest Department conducted in the audit during 2000-2001 revealed non/short levy/ penalty, lease rent etc. and other irregularities amounting to Rs. 96.28 crore in 242 case which broadly fall under the following categories :

(Rupees in lakh)

Sl. No	Categories	No. of cases	Amount
1	Allotment of forest produce at concessional rate	6	525.10
2	Incorrect fixation of royalty	36	601.30
3	Irregularities in extraction of resin	22	1,225.31
4	Loss of revenue due to non registration of saw mills	6	43.12
5	Loss of revenue due to non levy of stamp duty	1	0.07
6	Non/short levy of penalty	1	0.05
7	Non realisation of lease rent	13	2,112.83
8	Other irregularities	157	5,119.75
	<b>Total</b>	<b>242</b>	<b>9,627.53</b>

During the year 2000-2001, the Department accepted 2 cases worth Rs. 8.02 lakh.

A few illustrative cases involving a financial effect of Rs. 4.31 crore is mentioned in the following paragraphs:

### 8.2 Non-realisation of royalty on actual outturn of timber

As per guidelines issued (October 1952) by the Government of U.P. and Chief Conservator of Forest (CCF) (October 1992), upto 10 per cent variation between the estimated out-turn of timber allotted to and actual out-turn extracted by Uttar Pradesh Forest Corporation (UPFC) is permissible. Where such variation exceeds the prescribed limit, the demand for recovery of royalty should be revised to ensure that there remains no major variation between the out-turn of timber allotted by the department and actually extracted by UPFC.

Test check of records of Divisional Forest Officer (DFO) Bahraich and Director, Social Forestry Division, Rampur revealed (November 1999) that during the year 1998-99 actual out-turn of timber extracted by UPFC exceeded the estimated out-turn by 42.36 per cent to 154.92 percent, but the Department raised the demand of royalty on the basis of estimated out-turn only. Consequently, forest

royalty to the tune of Rs. 2.48 crore on 3228.63 cubic metre of timber escaped assessment and realisation.

On this being pointed out (November 1999), Divisional Forest Officer, Bahraich stated (November 1999) that the necessary action in this regard would be taken. Divisional Director, Rampur stated that the royalty was paid by UPFC on volume factors fixed by Chief Conservator of Forest (Management & Working Plan) (CCF-factor) and not on actual out-turn. The reply of the division was not tenable in view of the fact that the estimated outturn is always calculated on the basis of CCF factor but the estimation should be so realistic as the variation between estimated out-turn on which demand is raised and the quantity actually extracted do not exceed the permissible limit.

The matter was reported to Government (September 2001); their reply had not been received (October 2001).

### **8.3 Non-realisation of revenue**

With a view to keeping the confidential estimates more realistic for allotment of trees to Uttar Pradesh Forest Corporation (UPFC), the guidelines issued (June 1978) by the Chief Conservator of Forest (CCF) (Management), Uttar Pradesh, Nainital, inter alia, provide for preparation of additional estimates with the approval of Conservator of Forest (CF) for assessment of the value of trees for which no volume factors have been prescribed by the CCF.

Test check of records of Divisional Forest Officer (DFO), Gonda revealed (March 2001) that 28199 trees of different girth below 20 cm. (15977 trees of 0-10 and 12222 trees 10-20 cm. diameter) for which no volume factor is prescribed were allotted to the UPFC and the same were felled by it during 1999-2000 without paying their value to Forest Department. The value of those trees amounted to Rs. 34.37 lakh at the rates prescribed (March 1998) by CF Saryu Circle, Faizabad.

On this being pointed out by audit, (March 2001), DFO stated that no royalty for timber of 0-10 cm. and 10-20 cm diameter girth had been fixed by the Government. The reply was not tenable as the royalty rates are fixed by Royalty Fixation Committee on volume (per cubic meter) and not on girth. Further, the rates for trees having girth below 20 cm. were fixed by CF and additional estimates as provided in the guidelines were required to be prepared and demands raised for realisation of the value of these trees. The failure of the Department on this account amounted to non-realisation of revenue of Rs. 34.37 lakh.

The matter was referred to the Government (September 2001); their reply had not been received (October 2001).

### **8.4 Illicit felling of trees**

In order to check the illicit felling of trees, Government of Uttar Pradesh issued (May, 1996) orders, for the recovery of the value of the trees illicitly felled from

the concerned forest officers and officials under whose jurisdiction such illicit felling occurred.

Test check of records of Bahraich Forest Divisions revealed (November 2000) that during June 1995 to July 1996 illicit felling of trees valued at Rs. 32.55 lakh was reported in Chakiya Range and Charda Range. In order to assess the actual value of the trees illicitly felled, the Principal Chief Conservator of Forest (PCCF) directed Conservator of Forest; Land Transfer, Forest Utilization Circle, Lucknow to verify the felled trees on the spot and assess their actual value. As a result of spot verification (June-July 1996), the value of the felled trees was assessed at Rs. 130.34 lakh, but no action has been taken to recover the amount.

On this being pointed out (November 2000), The Divisional Forest Officer stated that the departmental action against the concerned officers and officials was in progress. Thus, the failure of the forest staff to prevent and report illicit felling, led to non-recovery of revenue of Rs. 130.34 lakh. Neither the recovery of the loss of Government money had been made despite Government's order of May 1996 nor the departmental action had been finalized to fix the responsibility of the erring officials even after a lapse of over five years.

The matter had been reported to Government (September 2001); their reply had not been received (October 2001).

### **8.5 Non-realisation of revenue due to shortage of seized timber**

As per Forest Act, illicitly felled timbers when intercepted by the officials of the Forest Department are seized, particulars of the timber thus seized are entered in departmental records. Forest Department disposes of these seized timbers through UPFC.

Test check of the records of Divisional Forest Officer (DFO), Haldwani Forest Division, Haldwani (Nainital) revealed (May 1999) that the DFO allotted (between April 1996 and May 1998) seized timber lots of 396.69 cubic metre to UPFC. Against this, only 276.96 cubic metre of seized timber was found on the spot which was lifted (August 1998) by UPFC in the presence of Officers of the Forest Department. The remaining 119.73 cubic metre timber valued at Rs. 18.94 lakh was found missing. This resulted in loss of revenue amounting to Rs. 18.94 lakh.

On this being pointed out the DFO, Haldwani Forest Division, Haldwani (Nainital) stated (July 2001) that the matter was under investigation; outcome of investigation was awaited (October 2001).

The matter had been referred to Government (September 2001); their reply had not been received (October 2001).



## CHAPTER -9 : OTHER DEPARTMENTAL RECEIPTS

### A- Irrigation Department

#### 9.1 Results of Audit

Test check of the records of Irrigation Department conducted in audit during 2000-2001 revealed irregularities involving Rs. 2189 crore in 23 cases which broadly fall under following categories:

(Rupees in lakh)

Sl. No.	Categories	No. of Cases	Amount
1	Loss due to closure of tube wells	1	1.92
2	Loss due to non-realisation of irrigation charges	2	87.77
3	Other irregularities	20	2,099.36
	<b>Total</b>	<b>23</b>	<b>2,189.05</b>

During the year 2000-2001, the concerned department accepted short recovery of Rs. 0.69 lakh in one case pointed out in audit in earlier years.

A few illustrative cases involving a financial effect of Rs. 17.08 lakh is mentioned in the following paragraphs:

#### 9.2 Non-levy of centage charges on deposit works

Under the provisions of Financial Hand Book Volumes V and VI issued by the State Government, centage charges at uniform rate of 15 per cent of the actual outlay on works are to be levied and credited to Government account monthly in respect of all classes of deposit works undertaken by the Public Works and Irrigation Department, on behalf of commercial departments, local bodies and private bodies in the State. However, the Central Government, under a permanent arrangement have agreed to pay centage charges at the rate of 21 per cent on all Central Government works executed through the agency of the Uttar Pradesh Public Works and Irrigation Department.

During audit of Ganga Canal Division, Bulandshahar and Irrigation Division, Dehradun, it was noticed (between July 1997 and December 2000) that centage charges amounting to Rs. 17.08 lakh on deposit works valued at Rs. 81.35 lakh undertaken by the divisions on behalf of the Central Government/Commercial Departments/Local bodies of the State Government and Private Bodies during the years from 1991-92 to 1997-98 were not levied and realised.

On this being pointed out (between July 1997 and December 2000) the department stated that necessary action will be taken after verification.

The matter was reported to the Government (March 1998 and June 2001); their reply has not been received (October 2001).

## B- Public Works Department

### 9.3 Results of audit

Test check of records of Public Works Department, conducted in audit during the year 2000-2001, revealed misutilisation of departmental receipts, short levy of stamp duty and non-levy of centage charges etc. involving Rs. 6.48 crore in 57 cases, which broadly fall under the following categories:

(Rupees in lakh)

Sl.No.	Categories	No. of cases	Amount
1.	Misutilisation of departmental receipts	3	11.55
2.	Non/short levy of stamp duty	5	3.76
3.	Non-levy of centage charges	4	46.14
4.	Loss of revenue due to non-auction of empty drums/gunny bags	6	1.64
5.	Non-recovery of rent from inspection houses and guest houses	5	8.06
6.	Other irregularities	34	576.77
	<b>Total</b>	<b>57</b>	<b>647.92</b>

During the year 2000-2001, the department accepted short recovery of Rs. 1.15 lakh in 5 cases pointed out in audit in earlier years :

A few illustrative cases involving a financial effect of Rs. 6.22 lakh is mentioned in the following paragraph:

### 9.4 Non/short levy of Centage Charge on deposit works

Under the provisions of Financial Hand Book Volumes V and VI issued by the State Government centage charges at uniform rate of 15 per cent of the actual outlay on works are to be levied and credited to Government account monthly in respect of deposit works undertaken by the Public Works and Irrigation Departments on behalf of commercial departments, local bodies and private bodies in the State.

During audit of 3 provincial Divisions of Public Works Department (Rampur, Uttar Kashi and Saharanpur), it was noticed (between April 2000 and May 2000) that Centage charges at the rate of 15 per cent amounting to Rs. 12.49 lakh were leviable on total deposit works of Rs. 83.31 lakh undertaken by the 3 divisions during the years 1996-97 to 1999-2000. However, against this centage charges of Rs. 6.27 lakh were levied and realised. This resulted into non-levy/short levy of centage charges amounting to Rs. 6.22 lakh.

On this being pointed out (between April 2000 and May 2000) the department stated that necessary action will be taken after verification.

The matter was reported to the Government (May 2001); their reply has not been received (October 2001).



## C- Finance Department

### 9.5 Non-levy of penal interest

If the repayment of loans along with the interest is not made by a loanee by the due date as prescribed in the terms and conditions of loan, penal interest at the rate of 3.5 percent is leviable on the entire amount of loan.

In the audit of Uttar Pradesh Awas Evam Vikash Parishad, Lucknow, it was noticed (July 2000) that 3 loans amounting to Rs. 8.92 crore were sanctioned by the Government to Awas Evam Vikash Parishad in November 1993 and August 1998. It was further noticed that the Parishad failed in repayment of loans and interest as per terms and conditions, as laid down in the sanction order. However, no action was taken by the department to levy penal interest. This resulted in non-levy of penal interest amounting to Rs. 56.07 lakh.

On this being pointed out (July 2000) the department stated that a proposal for remission was under the consideration of the Government.

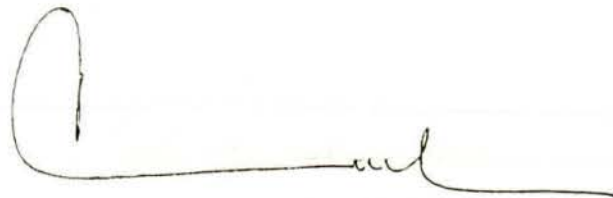
The matter was reported to the Department and the Government (January 2001); their replies have not been received (October 2001).

Lucknow,  
The 10th March 2003



(SUNIL CHANDER)  
Accountant General (Audit)-II  
Uttar Pradesh

Countersigned



New Delhi,  
The 21st March 2003

(Vijayendra N. Kaul)  
Comptroller and Auditor General of India

## ANNEXURE-A

### Details of non-realisation of entertainment tax on certain maintenance charges

(Referred to in para 7.4.6)

(Amount in lakh)

Name of District	Entertainment Tax on inadmissible expenditure from Maintenance Charges		Entertainment Tax on unused balance of Maintenance Charges		Entertainment Tax on unverified/unproduced accounts of Maintenance Charges		District wise total
	Year	Amount	Year	Amount	Year	Amount	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Kanpur	----		----		1997-98 to 1999-2000	33.87	33.87
Aligarh	1995-96 to 1997-98	18.84	1995-96 to 1998-99	7.37	1997-98	25.33	51.54
Bulandshahr	1999-2000	2.60	1995-96 to 1996-97	4.67	1995-96 to 1996-97	57.89	65.16
Agra	1995-96 to 1999-2000	7.88	1995-96 to 1999-2000	15.11	-----		23.00
Meerut	1998-99 to 1999-2000	6.48	1999-2000	0.03	1995-96 to 1998-99	189.93	196.45
Bijnore	1998-99 to 1999-2000	3.31	1998-99 to 1999-2000	0.01	-----		3.31
Shahjahanpur	1995-96 to 1999-2000	8.09	1995-96 to 1999-2000	1.23	-----		9.32
Faizabad	1995-96 to 1996-97	1.67	1995-96	0.05	----		1.72
Varanasi	1997-98 to 1999-2000	12.74	1997-98 to 1998-99	0.21	1997-98	2.34	12.95 2.34
Deoria	1997-98 to 1999-2000	2.96	-----		1996-97 to 1998-99	70.61	73.56
Azamgarh	1999-2000	1.39	1999-2000	0.01	----		1.40
Mau	-----		-----		1995-96 to 1999-2000	108.40	108.40
Allahabad	1996-97 to 1999-2000	6.60	1998-99	1.62	-----		6.60 1.62
Jhansi	1999-2000	5.33	1999-2000	0.77	-----		6.10
Ghaziabad	1999-2000	5.02	-----		1995-96 to 1998-99	187.77	192.80
Mainpuri	1999-2000	0.03	-----		1995-96 to 1996-97	21.53	21.56

(Amount in lakh)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Jaunpur	1998-99 to 1999-2000	2.59	1998-99 to 1999-2000	0.06	1997-98 to 1998-99	24.71	27.35
Farukhabad	-----	-----	-----		1995-96 to 1998-99	83.13	83.13
Firozabad	1995-96 to 1999-2000	27.20	1995-96 to 1999-2000	1.58	-----		28.78
Gorakhpur	1997-98 to 1999-2000	8.67	1997-98 to 1999-2000	1.54	-----		10.20
Bahraich			-----		1999-2000	16.29	16.29
Lucknow	1996-97 to 1999-2000	16.78	1997-98 to 1999-2000	0.55	1995-96 to 1998-99	379.00	396.33
Bareilly	1999-2000	2.32	-----		-----		2.32
Pilibhit	1998-99	1.10	-----		1995-96 to 1997-98	62.21	63.31
Muzaffarnagar	1995-96 to 1999-2000	17.54	1995-96 to 1997-98	0.58	1995-96	53.18	71.30
Gazipur	-----		-----		1998-99	1.70	1.70
Jyoti Ba Phoole Nagar	-----		-----		1999-2000	9.67	9.67
Mahoba	-----		-----		1997-98	6.40	6.40
Dehradun	-----		-----		1999-2000	3.65	3.65
Gonda	1998-99	0.18	-----		1998-99	0.47	0.65
Badaun	-----		-----		1998-99 to 1999-2000	3.05	3.05
<b>Total</b>		<b>159.32</b>		<b>35.39</b>		<b>1341.13</b>	<b>1535.83</b> <b>Rs 15.36 crore</b>

## ANNEXURE -B

### Details of short realisation of entertainment tax due to assessment as interior/ travelling cinema in place of permanent cinema

(Referred to in para 7.4.9 (a) )

Name of District	Place of cinema	Period of Exhibition (in weeks)	Entertainment tax paid (per week)	Weekly tax payable under compounding system	Short Payment of tax (per week)	Total amount of tax short charged	District wise amount of tax short charged
			(Rs.)	(Rs.)	(Rs.)	(Rupees in Lakh)	
Shahjahanpur	Nigohi	78	1,500	12,880	11,380	8.88	8.88
Faizabad	a. Rampur Magan	135	1,500	7,280	5,780	7.80	40.40
	b. Bikapur	190	3,000	20,160	17,160	32.60	
Azamgarh	a. Dumariganj	104	1,500	11,760	10,260		65.20
		78	1,500	13,440	11,940	19.98	
	b. Nariyawn	78	1,500	13,720	12,220	9.63	
	c. Mahrajanj	156	1,500	11,760	10,260		
	d. Thekma	52	1,500	15,680	14,180	23.38	
		177	1,500	8,400	6,900	12.21	
Jhansi	Gurusarain	85	3,000	5,040	2,040	1.73	15.99
		52	3,000	8,400	5,400	2.81	
		52	3,000	11,760	8,760	4.56	
		66	3,000	13,440	10,440	6.89	
Jaunpur	Badlapur	230	1,500	7,840	6,340	14.58	14.58
Farrukhabad	Mohmdabad	130	3,000	4,200	1,200	1.56	3.42
		26	3,000	5,040	2,040	0.53	
		39	3,000	6,300	3,300	1.29	
		29	3,000	3,150	150	0.04	
Firozabad	Jasrana	130	1,500	12,600	11,100	14.43	14.43
Bahraich	Chakaria	91	1,500	12,810	11,310	10.29	10.29
Lucknow	Gosaiganj	184	1,500	8,960	7,460	13.73	34.76
	Kakori	156	3,000	10,080	7,080	11.04	
		52	3,000	11,760	8,760	4.56	
		52	3,000	13,440	10,440	5.43	
Bareilly	Deochara	52	1,500	9,800	8,300	4.32	13.35
		52	1,500	11,760	10,260	5.34	
		26	1,500	15,680	14,180	3.69	
Moradabad	Pipalsana	142	1,500	6,300	4,800	6.82	39.24
	Kunderki	225	3,000	7,560	4,560	10.26	
	Agwanpur	116	1,500	6,300	4,800	5.57	
	Pakwara	208	3,000	7,560	4,560	9.48	
	Bhojpur	156	3,000	7,560	4,560	7.11	
<b>Total</b>							<b>260.54</b>

Rs. 2.61 crore

## ANNEXURE -C

### Details of non-realisation of licence fee, additional licence fee and realisation of entertainment tax at lower rates from hotels

(Referred to in para 7.4.10)

(Amount in lakh)

Name of the District	No. of Video/Cable hotels	Amount of Licence Fee not realised	Amount of Additional Licence Fee not realised	Amount of Entertainment Tax short realised	district-wise total
Kanpur	13	0.73	1.64	25.55	27.92
Bulandshahr	01	0.02	0.01	0.00	0.03
Agra	19	0.98	2.87	49.55	53.41
Meerut	14	0.17	0.10	0.59	0.86
Bijnore	02	0.09	0.06	0.00	0.16
Shahjahanpur	01	0.06	0.18	2.95	3.18
Faizabad	03	0.14	0.18	2.14	2.46
Varanasi	15	0.90	0.00	16.85	17.75
Allahabad	16	0.84	1.64	28.63	31.12
Jhansi	08	0.46	0.57	11.98	13.01
Gorakhpur	04	0.24	0.27	5.03	5.54
Lucknow	26	1.04	1.75	28.59	31.38
Bareilly	03	0.04	0.04	0.65	0.73
Muzaffar Nagar	03	0.17	0.24	4.22	4.63
<b>Total</b>	<b>128</b>	<b>5.88</b>	<b>9.55</b>	<b>176.73</b>	<b>192.18</b> <b>Rs. 1.92 crore</b>



ERRATA

Page No.	Para No.	Line No. etc.	For	Read
1	1.1 Footnote-1	1	called out	carved out
1	1.1 Footnote-2	3	0021 – Taxes on income other than Corporation Tax	0020 – Corporation Tax, 0021 – Taxes on income other than Corporation Tax, 0028 – other taxes on income and expenditure, 0032 – Taxes on Wealth, 0037 – Customs 0038 – Union Excise Duties, 0044 – Service Tax and 0045 – Other Taxes and Duties on commodities and services
1	1.1 Footnote-2	4	excluded from Revenue	excluded from revenue
14	2.2.3	1	inconsonant with	inconsonance with
22	2.3.10 Subpara-1	6	Disposed otherwise	disposed of otherwise
49	6.2.9 Subpara-1	1	Ot	to
55	7.4.1 Continued subpara	2	this Act from promotion of peace,	this Act for promotion of peace,
57	7.4.7 Footnote	Last Line	Rampur)	Rampur
59	7.4.9 (b), Subpara-1	5	License	Licence
67	9.1 Subpara-1	2	Rs. 2189 crore	Rs. 21.89 crore

