Report of the Comptroller and Auditor General of India

for the year ended March 1999

Government of Haryana
No.1 (Revenue Receipts) of 1999

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Prefatory Remarks

This Report for the year ended 31 March 1999 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act,1971. This Report presents the results of audit of receipts comprising taxes on sales, trade etc., stamp duty and registration fees, taxes on motor vehicles, passengers and goods tax, agriculture, excise duty and non-tax receipts of the State.

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

OVERVIEW

This Report includes 27 Paragraphs including 3 Reviews, relating to non/short levy of taxes, duties, interest, penalties etc. involving Rs.96.26 crore. Some of the major findings are mentioned below:

(Paragraph 1.8)

1. General

- During the year 1998-99, revenue raised by the State Government, both Tax (Rs.3120 crore) and Non-Tax (Rs.1518 crore), amounted to Rs.4,638 crore as against Rs.5,000 crore during the previous year. Receipts under Taxes on Sales, Trade etc. (Rs.1,599 crore), State Excise (Rs.775 crore), Taxes on Goods and Passengers (Rs.316 crore) and Stamp Duty and Registration Fees (Rs.295 crore) accounted for a major portion of receipts of tax revenue. Under Non-Tax revenue, main receipts were from Miscellaneous General Services (Rs.571 crore), Road Transport (Rs.330 crore) and Interest Receipts (Rs.184 crore).

- Receipts from Government of India during the year 1998-99, including grants-in-aid of Rs.361 crore, aggregated to Rs.841 crore.

(Paragraph 1.1)

- During the year 1998-99, additional mobilisation of resources were estimated at Rs.7,098 crore against which actual collection of revenue was Rs.5,479 crore.

(Paragraph 1.2)

- Arrear of revenue at the end of 1998-99 under principal heads of revenue amounted to Rs.311.10 crore, out of which Rs.97.16 crore were outstanding for more than five years.

(Paragraph 1.5)

- 87312 assessment cases were pending finalisation under Taxes on Sales, Trade etc. (86416) and Passengers and Goods Tax (896) at the end of March 1999 as against 114164 cases pending on 31 March 1998.

(Paragraph 1.6)

- Test check of records of taxes on sales, trade etc., stamp duty and registration fees, passengers and goods tax, taxes on motor vehicles, agriculture, excise duty, mines and geology, co-operation, State lotteries, public works (irrigation), home (police) and forest departments conducted during 1998-99 revealed under assessment of taxes and duties/loss of revenue etc. amounting to Rs.88.89 crore in 5947 cases. The concerned departments accepted under assessments etc. of Rs.13.90 crore of which Rs.13.30 crore pertain to the year 1998-99 and the rest to earlier years. An amount of Rs.1.85 crore in 435 cases had already been recovered.

(Paragraph 1.8)

- 2301 Inspection reports (issued upto December 1998) containing 6092 audit observations with money value of Rs.279.93 crore were not settled upto June 1999. Of these 640 inspection reports containing 684 objections with money value of Rs.27.39 crore were outstanding for more than 5 years.

(Paragraph 1.9)

2 Taxes on Sales, Trade etc.

- In 340 cases, sale of Rs.410.79 crore involving tax effect of Rs.2259.76 lakh made to registered dealers were not cross verified with the records of purchasing dealers before allowing deduction from gross turnover and in 45 cases, deductions on account of sale of Rs.4055.72 lakh involving tax effect of Rs 229.94 lakh were allowed without verification of tax deposited by the first sellers.

(Paragraph 2.2.5 (a) (i) & (b) (i))

- Suppression of purchases in 17 cases resulted in short levy of tax and penalty of Rs.30.90 lakh.

(Paragraph 2.2.6)

- Calculation of tax on the taxable turnover instead of on the gross turnover in the cases of 18 dealers resulted in under-assessment of 'notional' sales tax liability of Rs 122.78 lakh.

(Paragraph 2.2.7)

- Incorrect deduction from turnover in 61 cases resulted in short assessment of tax and penalty of Rs.71.71 lakh.

(Paragraph 2.2.8).

- In 14 cases, incorrect levy of concessional rate of tax resulted in short assessment of tax of Rs.13.07 lakh.

(Paragraph 2.2.9)

- In 14 cases, excess rebate for tax paid purchases resulted in under assessment of tax of Rs.49.33 lakh.

(Paragraph 2.2.12)

- In 12 cases, tax of Rs.37.43 lakh was short levied due to acceptance of improper declaration forms.

(Paragraph 2.2.13)

- Amount of exemption of tax of Rs.231.40 lakh was not recovered on cancellation of exemption certificate.

(Paragraph 2.3)

- Inadmissible deduction allowed from turnover resulted in under-assessment of tax of Rs. 34.70 lakh

(Paragraph 2.4)

- Tax of Rs.32.55 lakh was short levied due to application of incorrect rate of tax.

(Paragraph 2.5)

- Non-levy of tax on incidental charges resulted in short recovery of Rs.22.61 lakh.

(Paragraph 2.6)

- Misclassification of goods resulted in under-assessment of tax of Rs.21.94 lakh.

(Paragraph 2.7)

- Incorrect application of rate of tax resulted in under-assessment of 'notional' sales tax liability of Rs.14.36 lakh.

(Paragraph 2.8)

3. Stamp Duty and Registration Fees

- Exemption from stamp duty and registration fees of Rs.141.72 lakh on 167 instruments of Co-operative societies was allowed incorrectly.

(Paragraph 3.2.6)

- Under-valuation of property in 1970 cases resulted in short levy of

stamp duty and registration fees amounting to Rs.551.43 lakh and penalty of Rs.12.20 lakh.

(Paragraph 3.2.7)

- In 163 cases of exchange of property, stamp duty and registration fees amounting to Rs.62.93 lakh was either not levied or levied short.

(Paragraph 3.2.8)

- As on 31 March 1999, 774 cases involving stamp duty of Rs.269.37 lakh were pending for decision by Collectors.

(Paragraph 3.2.9)

- In 26 cases of lease deeds stamp duty of Rs. 11.42 lakh was short levied.

(Paragraph 3.2.10)

- Internal audit failed to detect non/short levy of stamp duty and registration fees amounting to Rs.172.87 lakh in 657 cases.

(Paragraph 3.2.14)

4. Other Tax Receipts

(A) Taxes on Motor Vehicles

- Token Tax of Rs.38.60 lakh was neither demanded by department nor deposited by the Transport Co-operative Societies.

(Paragraph 4.2)

(B) Passengers and goods tax

- Passengers and goods tax of Rs.102.77 lakh was short recovered from Transport Co-operative Societies.

(Paragraph 4.4)

(C) Agriculture tax

- Purchase tax of Rs.70.51 lakh and interest of Rs.6.68 lakh on sugarcane was not deposited by a sugar mill.

(Paragraph 4.5)

5. Non-Tax Receipts

(A) Mines and Geology

- As on 31 March 1998 arrears of revenue under "Mines and Minerals" pending collection stood at Rs.491.66 lakh.

(Paragraph 5.2.5 (b))

- Revocation of contracts by the department led to loss of Rs.24.52 lakh.

(Paragraph 5.2.6)

- Stamp duty of Rs.55.44 lakh was short recovered in 41 mining leases granted during 1993-94 to 1996-97.

(Paragraph 5.2.7)

- Contract money and interest of Rs.95.76 lakh recoverable as decided by the Court remained unrecovered.

(Paragraph 5.2.8 (i))

- Delay in execution of agreement by the department led to loss of revenue of Rs.32.05 lakh.

(Paragraph 5.2.8 (ii))

- Contract money and interest of Rs.274.18 lakh for the period April 1993 to March 1998 was not recovered from 139 contractors.

(Paragraph 5.2.8 (iii) & (iv))

- Dead rent/royalty and interest amounting to Rs.79.13 lakh was recovered short from 63 lessees.

(Paragraph 5.2.9)

- Royalty of Rs.31.00 lakh from 482 brick kiln owners was not charged.

(Paragraph 5.2.10)

- Interest amounting to Rs.34.05 lakh was not charged on delayed payments.

(Paragraph 5.2.12)

(B) Home Department (Police)

- Non/short raising of bills for the cost of police deployed, resulted in non-recovery of Rs.15.50 lakh.

(Paragraph 5.3)

(C) Public Works (Irrigation)

- Departmental receipts of Rs.12.21 lakh were utilised towards expenditure incontravention of rules.

(Paragraph 5.4)

(D) Co-operation

- Audit fee was short assessed/recovered by Rs.37.59 lakh.

(Paragraph 5.5 and 5.6.)

(E) Finance Department

- Interest and penal interest amounting to Rs.45.88 crore leviable on loans and advances was neither assessed nor charged.

(Paragraph 5.7)

Haryana State Lotteries

- Delayed transfer of money to Government account resulted in loss of interest of Rs.11.26 lakh

(Paragraph 5.8)

(F) Forest Department

- Royalty of Rs.14.24 lakh was short levied /recovered on forest produce.

(Paragraph 5.9)

- Sales tax of Rs.14.47 lakh was not levied/recovered on forest produce.

(Paragraph 5.10)

Chapter-I

General

CHAPTER - 1

GENERAL

1.1 Trend of revenue receipts

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

Sl.No	Particulars	1996-97	1997-98	1998-99
		(Rupees in crore)		
I.	**Revenue raised by the State Government**			
(a)	Tax revenue	2143.12	2368.62	3119.62
(b)	Non-tax revenue*	3132.67 (858.27)	2631.11 (958.07)	1518.02 (944.95)
	Total (I)	**5275.79 (3001.39)**	**4999.73 (3326.69)**	**4637.64 (4064.57)**
II	**Receipts from Government of India**			
(a)	State's share of net proceeds of divisible Union taxes	431.89	539.31	480.04**
(b)	Grants-in-aid	340.65	358.73	361.01
	Total (II)	**772.54**	**898.04**	**841.05**
III	**Total receipts of the State (I + II)**	**6048.33 (3773.93)**	**5897.77 (4224.73)**	**5478.69 (4905.62)**
IV	**Percentage of I to III**	**87 (80)**	**85 (79)**	**85 (83)**

* The non-tax revenue for 1996-97, 1997-98 and 1998-99 includes gross receipts from State Lotteries amounting to Rs.2355.66 crore, Rs.1697.80 crore and Rs.573.07 crore out of which Rs.2274.40 crore, Rs.1673.04 crore and Rs.573.07 crore respectively pertain to sale of lottery tickets against prize winning tickets. The net receipts from State Lotteries in fact, declined from Rs.81.26 crore in 1996-97 to Rs.24.76 crore in 1997-98 and Nil in 1998-99. To make the figures comparable for three years, receipts from prize winning tickets have been accounted for net of expenditure on prize winning tickets and shown in brackets.

** For details please see "Statement No. 11-Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of Government of Haryana for the year 1998-99. Figures under the head "0021-Taxes on income other than corporation tax-share of net proceeds assigned to States" booked in the Finance Accounts under 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.

(i) The details of the tax revenue raised during the year 1998-99, alongwith figures for the preceding two years, are shown below:

Sl. No	Particulars	1996-97	1997-98	1998-99	Percentage of increase(+) or decrease (-) in 1998-99 over 1997-98
		(Rupees in crore)			
1.	Taxes on Sales, Trade etc.	1380.07	1552.69	1599.38	(+) 3
2.	State Excise	64.14	49.62	774.63	(+) 1461
3.	Taxes on Goods and Passengers	259.64	331.21	315.81	(-) 5
4.	Stamp Duty and Registration Fees	273.10	301.67	294.55	(-) 2
5.	Taxes on Vehicles	61.59	67.11	71.37	(+) 6
6.	Taxes and Duties on Electricity	35.48	40.53	44.53	(+) 10
7.	Land Revenue	2.42	3.93	3.88	(-)1
8.	Other Taxes and Duties on Commodities and Services	66.68	21.86	15.47	(-)29
	TOTAL	**2143.12**	**2368.62**	**3119.62**	

Reasons for variations in receipts during the year 1998-99 as compared to those of 1997-98 as intimated by the respective departments are as under:

(a) **State Excise:** The increase of 1461 *per cent* was due to lifting of prohibition with effect from 1 April 1998.

(b) **Taxes and duties on electricity:** The increase of 10 *per cent* was due to increase of electric connections.

(c) **Other taxes and duties on commodities and services:** The decrease of 29 *per cent* was due to general boom in Cable T.V. Network and non-deposit of purchase tax by sugar mills (Rohtak and Panipat).

(ii) The details of major non-tax revenue received during the year1998-99,

alongwith the figures for the preceding two years are given below:

Sl. No.	Particulars	1996-97	1997-98	1998-99	Percentage of increase (+) or decrease(-) in 1998-99 over 1997-98
		(Rupees in crore)			
1.	Miscellaneous General Services (i) State Lotteries (ii) Other than Lotteries	2355.66 (81.26) 4.07	1697.80 (24.76) 0.03	573.07 (Nil) (-) 2.52	(-)66
2.	Road Transport	307.36	319.60	330.03	(+)3
3.	Interest Receipts	237.56	237.07	183.72	(-)23
4.	Non-ferrous Mining and Metallurgical Industries	43.10	53.86	65.94	(+)22
5.	Medical and Public Health	13.79	20.67	17.19	(-)17
6.	Others*	171.13	302.08	350.59	(+)16
	TOTAL	**3132.67** **(858.27)**	**2631.11** **(958.07)**	**1518.02** **(944.95)**	

Reasons for variations in receipts during the year 1998-99 as compared to those of 1997-98 as intimated by the respective departments are as under:

(a) Miscellaneous General Services : Decrease of 66 *per cent* in 'Gross Receipts' and 100 *per cent* in 'Net Receipts' was due to suspension of sale of double digit lottery scheme, confinement of sale of tickets to Haryana State only and interruption in sale due to regulation/enactment of Lottery Regulation Act.

(b) Interest Receipts: The decrease of 23 *per cent* was due to lesser receipt from the departments of public sector and other commercial undertakings.

(c) Non-ferrous mining and metallurgical industries: The increase of 22 per cent was due to fetching of high bids, recovery of outstanding amount of arrears and grant of mining leases for road metal and masonary stone.

(d) Medical and Public Health: The decrease of 17 *per cent* was due to non-releasing of instalment by the Employees State Insurance Corporation.

1.2 Mobilisation of resources

The non-plan and plan requirements of the State are normally financed from three major sources:

* The details against "Others" have been shown in Appendix I.

(i) Budgetary resources at current rates of taxation

(ii) Extra budgetary resources of State enterprises and

(iii) Additional resources mobilisation envisaged through enhanced rates of taxation, rationalisation of tax system, withdrawal of incentive where purpose has been fulfilled or return is not commensurate with the revenue loss and compression of non-plan expenditure etc.

The additional resource mobilisation estimated by the State Government in the budget for the last five years ended March 1999 was as under:

Year	Budget estimates		Total	Actual collection of revenue	Excess(+)/ shortfall (-)	Percentage
	Budgetary resources at current rate of taxation	Additional mobilis-ation of resources				
	(Rupees in crore)					
1994-95	6836.56	152.66	6989.22	5882.41	(-)1106.81	15.84
1995-96	5022.55	129.51	5152.06	5014.73	(-)137.33	2.66
1996-97	6215.19	278.52	6493.71	6048.33	(-)445.38	6.86
1997-98	5716.80	25.00	5741.80	5897.77	(+)155.97	2.72
1998-99	6033.64	1064	7097.64	5478.69	(-)1618.95	23

The decrease of 23 *per cent* over the budget estimates was due to less receipts from the sale of lottery tickets, interest receipts, medical and public health.

The sources from which additional revenue was proposed to be raised are given below:

Sr. No.	Sources of Revenue	1994-95	1995-96	1996-97	1997-98	1998-99
		(Rupees in crore)				
1.	Taxes on goods and passengers	-	-	28.50	10.00	-
2.	Increase in bus fare	-	-	30.00	15.00	-
3.	Increase in Electricity tariff	152.66	129.51	121.92	-	214.00
4.	Sales Tax	-	-	76.10	-	-
5.	Increase in rates of copying fee and mutation fee	-	-	1.00	-	-
6.	Increase in Royalty rates from minerals	-	-	21.00	-	-
7.	State Excise	-	-	-	-	850.00
	Total	**152.66**	**129.51**	**278.52**	**25.00**	**1064.00**

It would be seen that the collection of revenue receipts was less than the budget estimates for the year 1994-95 to 1996-97. The State Government was not able to collect revenue even as envisaged in its revised budget estimates. This shows that the proposal of the Government to collect more revenue through additional resources mobilisation was unrealistic. Further inclusion of estimated collection of Rs 214 crore on account of increase of electricity tariff in additional resources mobilisation during 1998-99 was itself incorrect as the revenue on this account does not go to the State Government but to the Haryana State Electricity Board/Haryana Vidyut Prasaran Nigam Limited.

1.3 Variations between Budget estimates and actuals

The variations between the Budget estimates of revenue for the year 1998-99 and actual receipts in respect of principal heads of tax and non-tax revenue and the reasons thereof as intimated by the respective departments are given below:

Sl. No.	Heads of Revenue	Budget estimates	Actual receipts	Variations Increase (+)/ Decrease (-)	Percentage of variation
		(Rupees in crore)			
1.	Taxes on Sales, Trade etc.	1790.00	1599.38	(-)190.62	(-)11
2.	State Excise	850.00	774.63	(-)75.37	(-)9
3.	Taxes on Goods and Passengers	334.65	315.81	(-)18.84	(-)6
4.	Stamp duty and Registration fees	367.00	294.55	(-)72.45	(-)20
5.	Taxes on vehicles	81.00	71.37	(-)9.63	(-)12
6.	Taxes and Duties on Electricity	44.00	44.53	(+)0.53	(+)1
7.	Land Revenue	4.97	3.88	(-)1.09	(-)22
8.	Other taxes and duties on commodities	21.10	15.47	(-)5.63	(-)27
9.	Miscellaneous General Services	450.16	570.55	(+)120.39	(+)27
10.	Road Transport	320.00	330.03	(+)10.03	(+)3
11.	Interest Receipts	194.72	183.72	(-)11	(-)6
12.	Non-ferrous mining and metallurgical industries	65.80	65.94	(+)0.14	Negligible
13.	Medical and Public Health	20.98	17.19	(-)3.79	(-)18

(a) Taxes on sales, trade etc.: The decrease of 11 *per cent* was due to less collection of tax from Maruti Udyog Limited, mines and minerals, and less production of paddy and cotton etc.

(b) Stamp duty and Registration fees: The decrease of 20 *per cent* was due to less registration of documents of immovable properties.

(c) Taxes on vehicles: The decrease of 12 per cent was due to less registration of vehicles.

(d) Land Revenue: The decrease of 22 *per cent* was due to less recovery of mutation/copying fee.

(e) Other taxes and duties on commodities: The decrease of 27 *per cent* was due to general boom in Cable T.V. Network and non-deposit of purchase tax by two sugar mills (Rohtak and Panipat)

(f) Miscellaneous General Services: The increase of 27 *per cent* was due to suitable market and excess sale of lottery tickets than anticipated in the budget estimates.

(g) Medical and Public Health: The decrease of 18 *per cent* was due to non-release of final instalment by the Employees State Insurance Corporation.

1.4 Cost of collection

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

Sl. No.	Heads of Revenue	Year	Gross collection	Expen-diture	Percentage of expendi-ture to gross collection	All India percentage of cost of collection for the year 1997-98
			(Rupees in crore)			
1.	Taxes on Sales, Trade etc.	1996-97	1380.07	20.69	1.50	
		1997-98	1552.69	21.97	1.41	1.28
		1998-99	1599.38	30.07	1.88	
2.	State Excise	1996-97	64.14	3.84	5.99	
		1997-98	49.62	5.02	10.11	3.20
		1998-99	774.63	5.81	0.75	

Sl. No.	Heads of Revenue	Year	Gross collection	Expen-diture	Percentage of expendi-ture to gross collection	All India percentage of cost of collection for the year 1997-98
			(Rupees in crore)			
3	Stamp Duty and Registration Fees	1996-97	273.10	0.91	0.33	
		1997-98	301.37	0.97	0.32	3.14
		1998-99	294.55	2.50	0.85	
4.	Taxes on Vehicles	1996-97	61.59	1.49	2.42	
		1997-98	67.11	1.42	2.12	2.65
		1998-99	71.37	2.37	3.32	

The increase in percentage of expenditure to gross collection of State Excise Duty as compared to the all India average cost of collection for the year 1997-98 was due to enforcement of prohibition in the State during the year.

1.5 Arrears in revenue

As on 31 March 1999, arrears of revenue under the principal heads of revenue, as reported by the departments, were as under:

Sr. No.	Heads of revenue	Total arrears	Arrears more than 5 years old	Remarks
		(Rupees in lakh)		
1.	Taxes on sales, trade etc.	23160.60	5555.02	Out of Rs.23160.60 lakh, demand for Rs.2101.88 lakh had been certified for recovery as arrears of land revenue, Rs.7318.32 lakh had been stayed by the Courts and other Appellate Authorities, Rs.1556.53 lakh were held up due to dealers becoming insolvent and demands for Rs.969.86 lakh were proposed to be written off, Rs.3.66 lakh had been held up due to rectification/review. Specific action taken to recover the remaining amount of Rs.11210.35 lakh though called for has not been intimated (October 1999).
2.	Taxes and Duties on Electricity	4155.69	2553.82	Out of arrears of Rs.4155.69 lakh, a sum of Rs.3987.35 lakh is recoverable from consumers by Haryana Vidyut Prasaran Nigam, Rs.100 lakh are due from Haryana Concast Limited, Rs.30 lakh due from Dadri Cement Factory and likely to be written off and a sum of Rs.38.34 lakh is due from Rama Fabrics, Bhiwani.

Sr. No.	Heads of revenue	Total arrears	Arrears more than 5 years old	Remarks
		(Rupees in lakh)		
3.	Taxes on Goods and Passengers	1404.48	209.43	Out of arrears of Rs.1404.48 lakh, Rs.12.99 lakh had been stayed by the Courts, Rs.81.59 lakh were held up due to rectification/review applications and demand for Rs.0.37 lakh was proposed to be written off. Specific action taken to recover the remaining amount of Rs.1309.53 lakh though called for has not been intimated (October 1999) by the department.
4.	State Excise	1197.32	825.84	Out of Rs.1197.32 lakh, Rs.462.91 lakh was stayed by High Court and other Judicial Authorities and Rs.47.49 lakh was proposed to be written off. Action regarding remaining amount of Rs.686.92 lakh was not intimated by the department (October 1999).
5.	Non-ferrous mining and metallurgical industries	562.34	180.53	Out of Rs.562.34 lakh, Rs.123.62 lakh were covered under recovery certificates, recovery of Rs.80.37 lakh was stayed by High Court and other Judicial Authorities, Rs.66.52 lakh were held up due to rectification/review application, Rs.1.23 lakh was proposed to be written off and Rs.87.08 lakh were recoverable from 12 individuals. Detailed break up of the remaining amount of Rs.203.52 lakh was not available with the department (July 1999).
6.	Animal Husbandry	34.65	30.15	Out of the arrears of Rs.34.65 lakh, a sum of Rs.0.25 lakh was due from Chief Superintendent Live Stock Farm, Hisar. Rs.29.33 lakh were due from Project Director, State Cattle Breeding Project, Hisar and Rs.5.07 lakh were due from Director, Haryana Veterinary Vaccine Institute, Hisar.
7.	Police	190.78	157.53	A sum of Rs 190.78 lakh pertaining to the period ranging from March 1977 to March 1995 on account of deployment of Police force was due from various States viz Assam, Punjab, Rajasthan, etc.
8.	Other taxes and duties on commodities and services: Receipts under the Sugarcane (Regulation of Purchase and Supply) Act.	403.20	203.63	The arrears of Rs.403.20 lakh were due to non-deposit of purchase tax by two sugar mills of Panipat (Rs.249.03 lakh) and Rohtak (Rs.154.17 lakh).
	Total	**31109.06**	**9715.95**	

The arrears outstanding for more than five years constituted 31 *per cent* of the total arrears.

1.6 Arrears in assessment

The details of assessment cases of taxes on sales, trade etc. and passengers and goods tax pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and the number of cases pending at the end of each year during 1994-95 to 1998-99 as furnished by the department 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 col 5 to col 4
1		2	3	4	5	6	7
1994-95	ST	90425	171188	261613	161998	99615	62
	PGT	73	191	264	147	117	28
1995-96	ST	99615	217349	316964	158443	158521	50
	PGT	117	509	626	391	235	62
1996-97	ST	158521	171538	330059	169535	160524	51
	PGT	235	1213	1448	691	757	48
1997-98	ST	160524	147059	307583	194116	113467	63
	PGT	757	628	1385	688	697	50
1998-99	ST	113467	96544	210011	123595	86416	59
	PGT	697	775	1472	576	896	39

The above table shows that the number of pending cases in respect of Taxes on sales, trade etc. at the beginning of 1994-95 was 90425 which went down to 86416 at the end of 1998-99, registering a decrease of 4 *per cent* while the percentage of finalisation of assessment cases decreased from 63 *per cent* during 1997-98 to 59 *per cent* in 1998-99. During the year 1998-99, 69 *per cent* and 47 *per cent* assessment cases have been finalised out of old and current cases respectively. The position of finalisation of assessment cases in respect of Taxes on Passengers and Goods which had gone upto 50 *per cent* during 1997-98 decreased to 39 *per cent* in 1998-99.

1.7 Frauds and evasions of taxes/duties

The details of cases of frauds and evasions of taxes and duties pending at the beginning of the year, number of cases detected by the departmental authorities, number of cases in which assessments/investigations were completed and additional demand (including penalties etc.) of taxes/duties raised against the dealers during the year and the number of cases pending finalisation at the end of March 1999, as supplied (July 1999) by the respective departments, are given as under:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 1998	Cases detected during the year 1998-99	Number of cases in which assessments/ investigations completed and additional demand including penalty raised	Amount of demand (Rupees in lakh)	Number of cases pending finalisation as on 31 March 1999
1.	Taxes on Sales, Trade etc.	151	2047	2056	207.54	142
2.	Passengers and Goods Tax	41	1285	1244	49.07	82
3.	Entertainment Duty and Show tax	19	38	32	2.32	25
4.	Animal Husbandry	1	-	-	0.65	1

1.8 Results of Audit

Test check of records of the departmental offices relating to revenues of Taxes on Sales, Trade etc, Stamp Duty and Registration Fees, Taxes on Motor Vehicles, Passengers and Goods Tax, Mines and Geology, Co-operation, Public Works (Irrigation), State Lotteries, Agriculture, State Excise Duty, Home (Police), and Forest conducted during the year 1998-99 revealed under assessments, non/short levy of taxes and duties and losses of revenue amounting to Rs.88.89 crore in 5947 cases. During the course of the year 1998-99, the concerned departments accepted under-assessment etc. of Rs.13.90 crore involved in 1409 cases of which 1248 cases involving Rs.13.30 crore had been pointed out in audit during 1998-99 and the rest in earlier years. An amount of Rs.1.85 crore was recovered in 435 cases during 1998-99 of which Rs.1.11 crore recovered in 261 cases related to earlier years.

The Report contains 27 paragraphs including 3 reviews relating to "Exemptions and Concessions in sales tax against declaration forms/certificates", "Stamp Duty and Registration Fees" and "Receipts from Mines and Minerals" involving Rs.96.26 crore. The department accepted audit observations involving Rs.16.26 crore out of which Rs.1.76 crore had been recovered up to June 1999. No replies have been received in other cases.

1.9 Outstanding inspection reports and audit observations

(i) 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. Serious financial 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.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 1998 and which were pending settlement by the departments as on 30 June 1997, 1998 and 1999 are given below:

Particulars	At the end of June		
	1997	1998	1999
Number of inspection reports pending settlement	2447	2229	2301
Number of outstanding audit observations	5775	5718	6092
Amount of revenue involved (Rupees in crore)	226.08	721.67	279.93

(iii) Year-wise break-up of the outstanding inspection reports and audit observations as on 30 June 1999 is given below :

Year	Number of outstanding		Amount of receipts involved
	Inspection reports	Audit observations	(Rupees in crore)
upto 1993-94	640	684	27.39
1994-95	299	414	6.70
1995-96	331	922	2.36
1996-97	340	970	76
1997-98	196	716	4.03
1998-99	495	2386	163.45
TOTAL	**2301**	**6092**	**279.93**

(iv) Department-wise break-up of the inspection reports and audit observations upto December 1998 and outstanding as on 30 June 1999 is as follows:

Department	Number of outstanding		Amount of receipts involved (Rupees in crore)	Number of inspection reports to which even first replies had not been received
	Inspection reports	Audit observations		
Revenue Department*	672	1160	14.35	44
Excise and Taxation**	481	2911	142.44	45
Transport	245	331	2.11	19
Forest	66	88	7.07	8
Others***	837	1602	113.96	100
Total	**2301**	**6092**	**279.93**	**216**

The matter was brought to the notice of Government in June/July 1999; replies regarding steps taken to settle the outstanding inspection reports and audit observations have not been received (October 1999).

* This includes "Stamp Duty and Registration Fees" and "Land Revenue".

** This includes "Sales Tax", "Passengers and Goods Tax", "Entertainment Duty and Show Tax", and Prohibition and Excise".

*** The details against "Others" have been shown in Appendix-II.

Chapter-II

Sales Tax

CHAPTER - II
TAXES ON SALES, TRADE ETC.

2.1 Results of Audit

Test check of sales tax assessments, refund cases and other connected records conducted during the year 1998-99, revealed under-assessments etc. of sales tax amounting to Rs 4425.58 lakh in 1226 cases, which broadly fall under the following categories:

Sl. No.	Particulars	Number of cases	Amount
			(In lakh of rupees)
1.	Incorrect computation of turnover	300	547.28
2.	Application of incorrect rate of tax	198	362.36
3.	Non levy of interest	45	71.92
4.	Non/short levy of penalty	20	11.87
5.	Under-assessment under the Central Sales Tax Act	17	44.60
6.	Other irregularities	645	510.91
7.	Review on "Irregular exemptions and concessions in sales tax against declarations"	1	2876.64
	Total	**1226**	**4425.58**

During the course of the year 1998-99, the department accepted under-assessment of tax of Rs 197.75 lakh involved in 265 cases of which 104 cases involving Rs 137.15 lakh were pointed out during the year 1998-99 and the rest in earlier years. An amount of Rs 70.14 lakh had been recovered in 203 cases during the year 1998-99, of which Rs.30.43 lakh recovered in 123 cases related to the earlier years.

A few illustrative cases involving Rs.392.36 lakh and a review on "Exemptions and concessions in sales tax against declaration forms/certificates" involving Rs.2876.64 lakh are mentioned in the following paragraphs:

2.2 Exemptions and concessions in sales tax against declaration forms/certificates

2.2.1 *Introductory*

Under the Haryana General Sales Tax Act, 1973 and the Rules made thereunder, registered dealers are entitled to purchase goods without payment of tax or at concessional rates of tax if the goods so purchased are for re-sale or for use in manufacture of goods for sale provided the purchasing dealer furnishes declaration in prescribed form to the selling dealer. Under the Central Sales Tax Act, 1956 also registered dealers are eligible to similar exemptions and concessions of tax if they purchase goods for re-sale or manufacture on the strength of prescribed declaration forms.

2.2.2 *Organisational set up*

The overall control and superintendence of the Sales Tax organisation vests with the Prohibition, Excise and Taxation Commissioner who is assisted by the Deputy Excise and Taxation Commissioners (DETCs), the Excise and Taxation Officers (ETOs), the Assistant Excise and Taxation Officers (AETOs), Taxation Inspectors and other allied staff in the administration of the Acts.

2.2.3 *Scope of Audit*

Out of 20 Deputy Excise and Taxation Commissioner Offices, records in respect of ten offices* for the years 1995-96 to 1997-98 were test checked (between September 1998 and July 1999) with a view to ascertain the extent of compliance of various rules and orders regarding exemptions, deductions and concessions in sales tax assessments. In addition, points of similar nature noticed in audit in earlier years have also been included.

2.2.4 *Highlights*

Out of 1484 assessments test checked, in 340 cases, sale of Rs.410.79 crore involving tax effect of Rs.2259.76 lakh made to registered dealers were not cross verified with the records of purchasing dealers before allowing deductions from gross turnover and in 45 cases, deductions on account of sale of Rs.4055.72 lakh involving tax effect of Rs 229.94 lakh were allowed without verification of tax deposited by the first sellers.

(Paragraph 2.2.5 (a) (i) & (b) (i))

Cross verification by audit revealed short levy of tax and penalty of Rs.30.90 lakh in 17 cases.

(Paragraph 2.2.6)

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* Deputy Excise and Taxation Commissioners, Jagadhri, Hisar, Bhiwani, Karnal, Kaithal, Sirsa, Faridabad (East), Faridabad (West), Sonipat and Panipat

Calculation of tax on the taxable turnover instead of on the gross turnover in the cases of 18 dealers resulted in under-assessment of 'notional' sales tax liability of Rs 122.78 lakh.

(Paragraph 2.2.7)

Incorrect deduction from turnover in 61 cases resulted in short assessment of tax and penalty of Rs.71.71 lakh.

(Paragraph 2.2.8)

In 14 cases, incorrect levy of concessional rate of tax resulted in short assessment of tax of Rs.13.07 lakh.

(Paragraph 2.2.9)

In 14 cases, excess rebate for tax paid purchases resulted in under-assessment of tax of Rs. 49.33 lakh.

(Paragraph 2.2.12)

In 12 cases, tax of Rs.37.43 lakh was short levied due to acceptance of improper declaration forms.

(Paragraph 2.2.13)

2.2.5 Non compliance of departmental instructions regarding cross verification

(a) In order to ensure the genuineness of the transactions and to detect evasion of tax, cross verification of sales and purchases is essential. The department issued (July 1981) instructions to assessing authorities to cross verify at least 100 transactions in a month subject to cross verification of all transactions exceeding Rs 10,000 in the case of ETO and Rs 5,000 in the case of AETO and send its report in the prescribed proforma to the Excise and Taxation Commissioner by 10th of each month.

(i) Test check revealed that neither any record in support of cross verification done was maintained by any assessing authority nor any prescribed return was being sent by any field office to Prohibition, Excise and Taxation Commissioner's office.

Further, in 338 assessments, 15182 transactions of sale value of Rs.410.53 crore involving tax of Rs.2257.44 lakh to registered dealers were not referred to other offices for cross verification and the assessments were finalised without cross verification and 7 transactions of Rs 0.26 crore in two assessments involving tax effect of Rs. 2.32 lakh were referred to other offices

but assessments were finalised without receipt of verification reports.

(ii) In the case of a dealer of Faridabad (West), the assessing authority allowed (March 1997) deduction of Rs.406.78 lakh involving tax effect of Rs.35.79 lakh on account of sales made to registered dealers and assessed inter-State sale of Rs.0.85 lakh at concessional rate of four *per cent* without declaration in Form ST 15* / Form C** during the year 1993-94 on the plea that record of the dealer had burnt. In audit it was noticed (February 1998) that neither a copy of the FIR was obtained by the assessing authority nor cross verification of sales/purchases was made on the basis of documents available with the department. Amount of tax involved was Rs.35.84 lakh.

(b) Under the Haryana General Sales tax Act, 1973, no sale of tax paid goods at a subsequent stage shall be exempt from tax unless the dealer effecting the sale at such subsequent stage furnishes to the assessing authority in the prescribed form (ST 14***) a certificate duly filled in and signed by the registered dealer from whom the goods were purchased to the effect that the tax on such goods has been paid at the first stage of sale. Further, subsequent sale of goods purchased from exempted units is also exempt from tax provided declaration in prescribed Form (ST 14A****) issued by selling exempted unit is produced. The department issued (June 1989) instructions to assessing authorities to verify the deposit of tax paid by first seller before allowing deduction. Audit scrutiny revealed the following:-

(i) In 45 cases declarations in Form ST-14 filed by the dealers in respect of 7080 transactions valued at Rs.4055.72 lakh involving tax of Rs.229.94 lakh were accepted by the assessing authorities without complete particulars of the sales and deductions were allowed without verifying the tax deposited by the first sellers.

(ii) In four***** offices declarations in Form ST 14 A for Rs.60.37 lakh involving tax of Rs. 3.30 lakh filed by the dealers in 11 cases were accepted by the assessing authorities although complete particulars of exempted units were not given therein. The authenticity of the unit availing exemption was not verified by the assessing authorities before allowing deduction.

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* St-15 is used for making sales or purchases of goods leviable to tax at the last stage of sales or purchases without payment of tax.

** 'C' Form is used for making purchases of goods at concessional rate of tax from outside the State.

*** ST-14 is issued by selling dealer in respect of goods where tax is leviable at first stage of sales.

**** ST-14 A is issued by a dealer in respect of goods exempt from levy of tax.

***** DETC Jagadhari, Bhiwani, Karnal and Sirsa.

(iii) A dealer of Ambala City purchased tax paid goods valued at Rs.28.05 lakh during the years 1991-92 and 1992-93 from the dealers which were not registered. While finalising assessments (August 1994) the assessing authority did not cross verify the purchases as per declaration in Form 14 and allowed deduction of tax paid sales of goods valued at Rs.28.99 lakh. Deduction allowed without cross verification resulted in under-assessment of tax of Rs.0.64 lakh besides penalty of Rs.1.28 lakh.

(iv) Six dealers (two each of Karnal and Sirsa and one each of Jagadhari and Sonipat) were allowed (between April 1995 and September 1997) deduction of tax paid sales valued at Rs.73.56 lakh either without declarations or against photocopies of the declarations during the year 1993-94 to 1996-97. This resulted in under-assessment of tax of Rs. 5.89 lakh.

2.2.6 Cross verification by audit

As pointed out above, despite strict instructions of the department for cross verification, the assessing authorities had not cross verified transactions of sales/purchases before finalising assessments of dealers. However, cross verification by audit in a few cases revealed that

(i) in eight* cases, the dealers were allowed deduction of Rs.72.30 lakh on account of sales made to registered dealers against declarations in form ST 15. On cross verification of these transactions with the assessment records of the purchasing dealers, it was noticed that these purchases were not accounted for therein.

(ii) In 9** cases, taxable purchases shown to have been made as per list of purchases (ST 23 A and ST 17A) submitted with returns were less by Rs.77.06 lakh than those shown by the dealers in their trading accounts.

The amount of under-assessment of tax involved in both the above cases was Rs.10.30 lakh. Besides minimum penalty of Rs 20.60 lakh as detailed in Annexure A, was also leviable.

The department needs to take necessary steps to ensure strict compliance of the instructions regarding cross verification of other transactions to detect suppression of turnover by dealers.

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* Three of Faridabad (East), two of Faridabad (West) and one each of Kaithal, Hisar and Sirsa

** Three of Karnal, two of Hisar, one each of Faridabad (East), Gurgaon, Rohtak and Panchkula

2.2.7 *Under-assessment of 'notional' sales tax liability*

Under the provisions of Haryana General Sales Tax Rules, 1975, as amended from time to time and clarification issued (March 1997) by the Commercial Taxation Commissioner Haryana, 'notional' sales tax liability means the amount of tax payable on the sales of finished products of the eligible industrial unit under the local sales tax law but for an exemption computed at the maximum rates specified therein. In the case of exemption, the benefit shall extend to tax on gross turnover and in case of deferment, it shall extend to tax on the taxable turnover of goods manufactured by the unit.

During test check of records of 9* offices it was noticed (between June 1997 and July 1999) that assessing authorities while finalising assessments of 18** registered dealers who were availing the facility of exemption from tax, allowed (between April 1996 and March 1998) deductions of Rs.2227.54 lakh on sales to registered dealers against declarations in ST 15 during the years 1994-95 to 1996-97. 'Notional' sales tax liability was calculated on taxable turnover instead of on gross turnover. This resulted in under-assessment of 'notional' sales tax liability of Rs.122.78 lakh.

Omission was pointed out (between June and July 1999) in audit, reply of the department has not been received (October 1999).

2.2.8 *Incorrect deduction from turnover*

(a) Under the Act, deduction is allowed from gross turnover of a dealer if he makes sales or purchases to/from a registered dealer of goods other than those liable to tax at first stage of sale or purchase against prescribed declaration Forms (ST-15). Further, in order to curb the growth of bogus dealers, the department issued (August 1981) instructions to the DETCs to circulate the details of bogus dealers to all the assessing authorities of the State.

In four offices***, six dealers (two each of Ambala City and Jind, one each of Hisar and Kaithal) in seven cases were allowed (between July 1993 and November 1997) deductions of Rs. 74.34 lakh against declaration in Forms ST-15 on account of sales to registered dealers during the year 1990-91 to 1995-96. In audit, it was noticed (between May 1994 and April 1999) that sales were made to non existent dealers, as such deduction allowed was not in order. This resulted in evasion of tax of Rs.3.21 lakh besides penalty of Rs. 6.42 lakh.

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* D.E.T.Cs Ambala Cantt., Bhiwani, Hisar, Sirsa, Karnal, Sonipat, Jind and ETOs Narwana and Ambala city

** Ambala 3, Bhiwani 1, Jind 2, Karnal 1, Hisar 6, Sonepat 2, Sirsa 3.

*** ETO Ambala City, DETCs Jind, Hisar and Kaithal

On this being pointed out (between May 1994 and April 1999) in audit, assessing authority, Jind intimated (January 1995) that cases had been sent for suo motu action. In the case of one dealer of Ambala City, the department stated (May 1998) that the selling dealer was not responsible for lapse. Reply was not correct in view of various judicial decisions* which held that in the event of purchasing dealer being found bogus and fictitious person, the assessee would lose the benefit of deduction. No reply has been received (October 1999) in respect of remaining cases.

(b) Under the Act, the assessing authority is required to examine the genuineness of any sale or declaration before allowing deduction. Further, lost or stolen declaration forms are declared invalid by the concerned district office and the facts are circulated to all the assessing authorities in the State to prevent deductions against such invalid declaration forms. The department also reiterated (December 1991) instructions for checking of invalid declaration forms while finalising assessments. Penalty not less than twice and not more than three times the amount of tax involved is also leviable for producing before the assessing authority any account, return or information which is false or incorrect.

(i) In thirteen offices**, it was noticed that twenty dealers in 27 cases were allowed (between March 1991 and December 1998) deductions of Rs.250.38 lakh on account of sales to registered dealers against stolen forms during the years 1986-87 to 1995-96. Allowing deductions against stolen forms was not in order and resulted in under-assessment of tax of Rs.15.49 lakh besides minimum penalty of Rs.30.98 lakh.

On this being pointed out in audit, in respect of 3*** cases, assessing authorities stated (between June 1996 and July 1998) that it was not the responsibility of the selling dealers to verify the genuineness of the registration certificate and declaration forms. The reply was not tenable in view of judgements* ibid. Seven cases were referred (February 1996 to September 1998) to revisional authorities for taking suo motu action. In three cases, a demand of tax of Rs.2.91 lakh was created. Interest and penalty amounting to Rs.0.19 lakh was also levied in respect of one dealer. Reply in respect of other cases has not been received (October 1999).

(ii) Under the Act, deduction is allowed from the gross turnover of a dealer, if he makes sales or purchases from/to a registered dealer, of goods

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* (i) Supreme Court's decision in the case of M/s Gopi Ram Bhagwan Dass Vs State of Bihar (1971) 28 STC 322 (ii) Hon'ble Punjab and Haryana High Court's decision in the case of M/s S.K.Traders, Faridabad Vs State of Haryana (1997) 9 PHT 1 (P&H) CWP No. 12448 of 1996 (iii) Sales Tax Tribunal Haryana's decision in the case of M/s Janta Machinery Store Jind Vs State of Haryana (1999) 13 PHT 287(STT-HR) STA 385 of 1995-96.

** DETCs Karnal, Sirsa, Ambala Cantt, Kaithal, Sonipat, Panipat, Kurukshetra, Bhiwani, Rohtak, Hisar, Gurgaon and ETOs Ambala City and Dabwali.

*** Rohtak, Ambala Cantt. and Panipat.

other than those liable to tax at first stage of sale or purchase provided prescribed declaration forms are produced.

Sixteen dealers* in 27 cases were allowed (between January 1995 and April 1998) deductions amounting to Rs.281.09 lakh on account of sale of goods to the registered dealers during the year 1988-89 to 1996-97. In audit, it was noticed that goods sold were taxable at the point of first sale. In one case (Dabwali dealer) registration certificates of the purchasing dealers had already been cancelled (February and March 1989) prior to the date of sale. The deduction from turnover on account of sale of goods taxable at first stage and that too in one case after cancellation of registration certificate of the purchasing dealer was not admissible. The incorrect deduction resulted in short assessment of tax amounting to Rs.15.61 lakh for the period between January 1995 and April 1998.

On this being pointed out (between March 1996 and July 1999) in audit, the department stated (April 1999) that three cases have been sent (February and December 1997 and March 1999) to revisional authorities for suo motu action. In respect of remaining cases, no reply has been received (October 1999).

2.2.9 Incorrect levy of concessional rate of tax

Under the Acts, sales to Government departments/registered dealers are taxable at the concessional rate of four *per cent* when such sales are supported by valid declaration in Form STD-I/Form-D** /C furnished by a duly authorised officer of the Government department and registered dealers of other State respectively. The concession is not admissible in respect of sales made to autonomous bodies or other non-government institutions.

During test check of records in seven offices,*** it was noticed (between January 1997 and March 1999) that ten dealers in fourteen cases were assessed (between August 1995 and March 1998) for the year 1990-91 to 1996-97 at concessional rate of tax instead of normal rate of tax leviable though the sales were not supported by C Forms or were made to the organisations which were not Government departments. This resulted in under-assessment of tax of Rs. 13.07 lakh as detailed in Annexure B.

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* Three each of Rewari and Gurgaon, two each of Faridabad (West) and Sirsa, one each of Hisar, Bhiwani, Charkhi Dadri, Ambala Cantt., Dabwali and Jagadhari.

** STD-I and Form D are used by a Government department not being a registered dealer while making purchases under the State Act and Central Act respectively.

*** DETCs Sirsa, Ambala cantt, Bhiwani, Kaithal, Panchkula, Faridabad (East) and ETO Palwal.

2.2.10 *Incorrect allowance of exemption on subsequent sales in the course of inter-State movement of goods*

Under the Central Sales Tax Act, 1956 and the Rules framed thereunder, any subsequent sale during the movement of goods from one State to another is exempt from tax provided prescribed declaration forms (Forms 'C' and 'E I'*) are furnished by the dealer at the time of assessment in support of his claim for such exemption.

In three cases (one case of Faridabad (E) and two of Sirsa), in assessments for the period 1992-93 to 1994-95 finalised (between June 1995 and December 1997), deduction amounting to Rs.173.77 lakh was allowed on account of subsequent sales in the course of inter-State trade or commerce during the movement of goods from one State to another. In audit, it was noticed that one dealer of Sirsa did not submit C forms for Rs.18.44 lakh and the other dealer did not submit E-I* forms for Rs.3.51 lakh while the dealer of Faridabad (E) submitted E-I forms short by Rs.52.20 lakh. Thus deduction amounting to Rs.74.15 lakh was allowed in excess resulting in short assessment of Rs.7.02 lakh.

On this being pointed out (January 1997 and March 1999), the assessing authority, Faridabad (East) sent (April 1999) the case for suo motu action. In one case of Sirsa, the department replied (April 1999) that production of 'C' forms was not necessary. Reply of the department is not tenable as the 'C' form is necessary for claiming exemption as held by various judicial authorities. No reply in the case of second dealer of Sirsa has been received (October 1999).

2.2.11 Non levy of Purchase tax

(a) Under the Haryana General Sales Tax Act, 1973, a dealer is liable to pay tax on the purchases of goods (other than those specified in Schedule B) which are purchased from within the State without payment of tax and used in manufacture of tax free goods or in other taxable goods which are disposed of otherwise than by way of sale.

During audit (between March 1996 and October 1998), it was noticed that six dealers (two each of Jagadhri and Faridabad (West) and one each of Faridabad (East) and Gurgaon) in seven cases, were allowed deduction of Rs.25216.71 lakh during the years 1990-91 to 1995-96 against declaration in

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* Form E-1 is used where a sale of goods in the course of inter-State trade or commerce has either occassioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one state to another.

Form F* /Bikri Purcha on account of transfer of goods on consignment basis. Goods other than tax free goods valued at Rs.948.30 lakh (proportionate value) purchased from within the State without payment of tax were used in the manufacture of goods sent for sale on consignment basis. While finalising assessments, the assessing authorities levied tax on the purchase value of Rs.772.26 lakh instead of on Rs.948.30 lakh. This resulted in short levy of purchase tax of Rs.7.75 lakh.

On this being pointed out (January 1998) in audit, the assessing authority, Faridabad (West) created (June 1998) additional demand of Rs. 0.46 lakh in one case. In another case assessing authority, Gurgaon stated (November 1998) that the case had been sent for suo motu action. In respect of the remaining cases no reply has been received (October 1999).

2.2.12 Under-assessment due to excess rebate

Haryana General Sales Tax Rules, 1975 provide that a registered dealer may reduce the amount of tax paid under the Act at the first stage of sale of goods purchased by him from the amount of tax payable by him on the sale of such goods or goods (other than tax free) manufactured therefrom, when sold within State or in the course of inter-State trade or commerce or in the course of export out side the territory of India subject to production of declaration in Form ST 14.

(i) In 10 cases, five dealers (three of Karnal and one each of Hisar and Bhiwani) made tax paid purchases of raw material valued at Rs.3371.54 lakh during the years 1993-94 to 1996-97 and used the same in the manufacture of taxable as well as tax free goods. Out of the total sales of manufactured goods of Rs.7386.19 lakh, sales valued at Rs. 1381.10 lakh related to tax free goods which did not qualify for rebate. While finalising (November 1994 and September 1997) assessments, the assessing authority allowed rebate on the entire tax paid purchases used in the manufacture of goods instead of limiting it to taxable goods sold within the State or in the course of inter-State trade or commerce or in export outside India. This resulted in excess rebate of Rs.32.18 lakh. Besides interest and penalty was also leviable.

(ii) Four dealers (two of Hisar and one each of Bhiwani and Palwal) were allowed rebate on the tax paid purchases during the year 1990-91 to 1996-97. During audit it was noticed (between October 1995 and December 1998) that two dealers (one each of Hisar and Bhiwani) either produced photo copies of declaration in form ST 14 or did not produce the declaration. One dealer of Hisar had not used the tax paid goods in the manufacture of taxable good and another dealer of Palwal used the tax paid goods in branch transfer for which rebate is not admissible. This resulted in under-assessment of tax of Rs.17.15 lakh.

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* Form 'F' is issued by the transferee in respect of consignment sales or branch ransfers.

2.2.13 Deduction against improper declarations

(a) Haryana General Sales Tax Rules provide that with effect from 1 April 1995, a registered dealer may in lieu of declaration in form ST-15 printed under the authority of the State Government, furnish a declaration in the format of ST-15 printed on his bill of sale or cash memo duly signed by the purchasing registered dealer in proof of having purchased the goods as mentioned in the bill of sale or cash memo and deduction is allowable against such declarations.

It was noticed that 381* dealers were allowed (between March 1997 and December 1998) in 383 cases, deduction of Rs.11990.05 lakh from their gross turnover against self printed declarations during the years 1995-96 and 1996-97 which were not printed on the bills of sale/cash memo and therefore, no deduction was allowable.

On this being pointed out (between November 1998 and April 1999) in audit, the assessing authority, Bhiwani, in three cases, stated (April 1999) that list of sales to registered dealers in form ST-23 were placed on the file. The reply of the department was not tenable as the deduction was admissible only against declaration prescribed under the rules. In 2 cases(one each of Karnal and Faridabad (West)), department stated that deductions were correctly allowed after verification of carbon copy of sale bills/purchase bills. The reply was not tenable as the deduction is allowable against declarations printed as per rules on the bills of sale/cash memo. In the remaining cases no reply has been received (October 1999) from the department.

(b) Under the Central Sales Tax Act, 1956, a dealer who claims deductions on account of branch transfer to his agent, principal or any other place of his business in other State, is required to produce the details of such transfer of goods in Form F. Rules further provide that a single declaration may cover transactions of transfer of goods effected during a period of only one calendar month.

During test check of records of 3 Deputy Excise and Taxation Commissioners (Jagadhari, Sirsa and Hisar), it was noticed (between October 1998 and March 1999) that in 5 cases (one each of Jagadhari, Sirsa and three of Hisar), deductions of Rs.137.37 lakh involving tax effect of Rs.11.21 lakh on account of branch transfer/consignment sale of goods during the year 1992-93 to 1996-97 were allowed against declarations in Form F covering transactions of more than one calendar month in single form which was not correct.

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* 353 of Karnal, 14 of Hisar, 6 of Jagadhari, 3 of Bhiwani, 2 each of Sirsa and Faridabad (West), 1 of Kaithal.

(c) Under the Central Sales Tax Act, 1956 read with the Haryana General Sales Tax Act, 1973, no tax is leviable on sales made in the course of export outside the territory of India. Exemption in such cases is available only when the sales are supported by valid certificates in form H alongwith proof of export.

During test check of records of D.E.T.C. Jagadhari, it was noticed that five dealers in 7 cases were allowed (between February 1996 and January 1998) deductions of Rs 304.75 lakh on account of export out of India against declarations in form H. The scrutiny of forms H revealed that these forms did not contain the particulars of dates of purchase order/agreement of the foreign buyers with the exporters and thus were incomplete and liable to be rejected. However, the assessing authorities while finalising (between February 1996 and January 1998) the assessments of the dealers, accepted the deficient H forms and allowed exemption which resulted in non-levy of tax of Rs. 26.22 lakh.

2.2.14 Non observance of prescribed procedure for receipt and issue of declaration Forms

As per instructions issued by the department in July 1976 and reiterated in June 1989, store keeper is required to keep an account of various categories of Forms issued to the clerk(s) responsible for issuing these to the assessees. The issue clerk has to issue these forms to the dealers after they deposit cost in treasury and make entries of their issue in the daily issue register and dealer's Ledger Account which are to be checked by the assessing authorities once a week to ensure that entries in the dealer's Ledger Accounts have been correctly made.

(i) A test cheek of records relating to declaration Forms issued during the years 1995-96, 1996-97 and 1997-98 in 8* offices revealed that 3444 declaration forms were issued to 65 dealers without making any entry in the dealer's Ledger Accounts.

(ii) The registration certificate numbers of 86 dealers to whom 3027 declaration forms were issued, were not found recorded in the Daily Issue Register.

The above points were brought to the notice of the department/Government (July 1999) ; their reply has not been received (October 1999).

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* Hisar, Jagadhri, Bhiwani, Karnal, Kaithal, Sirsa, Faridabad (East) and Faridabad (West).

2.3 Non-recovery of tax

Under the provisions of Haryana General Sales Tax Rules, 1975, the exemption/entitlement certificate granted to an eligible industrial unit shall be liable to be cancelled either in case of discontinuance of its business by the unit at any time for a period exceeding six months or its closing down during the period of exemption/deferment. Further, on cancellation of eligibility certificate or exemption/entitlement certificate before it is due for expiry, the entire amount of tax exempted/deferred shall become payable immediately in lump sum and the provision relating to recovery of tax, interest and imposition of penalty shall be applicable in such cases.

Amount of exemption of tax of Rs.231.40 lakh was not recovered on cancellation of exemption certificate.

During test check of records of Deputy Excise and Taxation Commissioner, Karnal, it was noticed (August 1998) that an industrial unit was granted exemption certificate for cummulative 'Notional' Sales Tax liability amounting to Rs.108.30 lakh for the period from May 1993 to May 2000. The unit subsequently discontinued (January 1997) its business and therefore, the Deputy Excise and Taxation Commissioner cancelled (December 1997) its exemption certificate. At the time of cancellation of exemption certificate the amount of exemption of tax availed by the unit during the period from 1993-94 to 1996-97 worked out to Rs.231.40 lakh which became recoverable.

On this being pointed out (August 1998) in audit, the department stated (July 1999) that the claim for recovery of the entire amount has been lodged (January 1999) with liquidator.

The matter was reported (October 1998) to Government; their reply has not been received (October 1999).

2.4 Inadmissible deduction from turnover

(i) As per Government notification issued in July 1990 tax on 'Roohafza' being health drink covered under 'instant food' is taxable at the general rate of eight *per cent* at the first stage of sale in the State with effect from 1 July 1990. The deductions from turnover on account of sale of such goods to registered dealers against declaration in Form ST-15 is not admissible. Excise and Taxation Commissioner, Haryana has also clarified (June 1997) that Roohafza is a health drink.

Inadmissible deduction allowed from turnover resulted in under-assessment of tax of Rs.34.70 lakh.

During test check of records of Deputy Excise and Taxation Commissioner, Ambala Cantt., it was noticed (February 1999) that while finalising

(October 1997) assessment for the year 1991-92 the assessing authority allowed deductions of Rs.152.94 lakh from gross turnover on account of sales of Roohafza to registered dealers against declarations in Form ST-15. This resulted in under-assessment of tax of Rs.13.46 lakh.

On this being pointed out (February 1999) in audit, the department stated that the goods sold to registered dealers had suffered tax at last hand. The reply of the department is not tenable as no document regarding payment of tax was made available. Further, the Act/Rules do not provide for passing on the liability for payment of tax on such goods from first dealer to the last dealer.

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

(ii) Under the Central Sales Tax Act, 1956, tools are declared goods covered under 'Iron and Steels' taxable at first stage of sale under Haryana General Sales Tax Act, 1973 and the deduction from turnover on account of sale of these goods to registered dealers against declaration in Form ST-15 is not admissible.

During test check of records of Deputy Excise and Taxation Commissioner, Sonipat, it was noticed (March 1999) that a manufacturer of 'Tools' was allowed (June 1997 and March 1998) deduction of Rs.440.45 lakh during the years 1994-95 and 1995-96 on account of sale of goods made to registered dealers against declarations in Form ST-15. Incorrect deduction from turnover resulted in under-assessment of Rs.17.62 lakh.

The case was reported to department in April 1999 and Government in June 1999; their reply has not been received (October 1999).

(iii) As per Government notification issued in December 1987 under the Haryana General Sales Tax Act, 1973, tax on Petroleum Products is leviable at the first stage of sale in the State with effect from 1 January 1988. Sale of goods to registered dealers against declaration in Form ST 15 is not permissible if such goods are exigible to tax at the stage of first sale.

During test check of records of Deputy Excise and Taxation Commissioner, Faridabad (West), Faridabad (East) and Hisar, it was noticed (December 1997 to June 1998) that four dealers (one each of Faridabad (West) and Hisar and two of Faridabad (East)) were allowed (April 1996 to January 1998) deduction of Rs.40.88 lakh during the years 1994-95 to 1996-97 on account of sale of petroleum products (used oils) made to registered dealers against declarations in form ST 15 which was not admissible. Incorrect deduction resulted in non-assessment of tax of Rs.3.62 lakh.

On this being pointed out (December 1997 to June 1998) in audit, assessing authority, Faridabad (West) stated that additional demand of Rs.0.72 lakh has been created. In other two cases of Faridabad (East), action has been stated as pending before the revisional authority and in the case of Hisar, no reply has been received (October 1999).

Cases were reported to Government between March and September 1998; their reply has not been received (October 1999).

2.5 Under-assessment due to application of incorrect rate of tax

Tax of Rs.32.55 lakh was short levied due to application of incorrect rate of tax.

(i) Under the Haryana General Sales Tax Act, 1973, lottery tickets were assessable to sales tax at the rate of twenty *per cent* up to 2 September 1996 and at the rate of seven *per cent* thereafter.

During test check of records of Deputy Excise and Taxation Commissioner, Faridabad (West), it was noticed (February 1999) that a dealer of Faridabad had sold lottery tickets valued at Rs.171.70 lakh on 2 September 1996. The assessing authority while finalising (August 1997) assessment, incorrectly levied tax on the sale of Rs.171.70 lakh at the rate of seven *per cent* instead of at the correct rate of twenty *per cent*. This resulted in short levy of tax of Rs.22.32 lakh.

This was pointed out (February 1999) to the department. No reply has been received (October 1999).

The case was reported (February 1999) to Government; their reply has not been received (October 1999).

(ii) The rate of tax leviable on different commodities are prescribed and notified by Government from time to time under the Haryana General Sales Tax Act, 1973. Super enamelled copper wire which falls in the general category of goods is taxable at the rate of eight *per cent* plus surcharge.

During test check of records of Deputy Excise and Taxation Commissioners, Faridabad (West and East), it was noticed (January and February 1998) that two dealers sold super enamelled copper wire valued at Rs.1.20 crore during the year 1994-95. The assessing authority while finalising (March and December 1997) assessment, levied tax at the rate of two *per cent* plus surcharge instead of at the correct rate of eight *per cent* plus surcharge. This resulted in short levy of tax of Rs.7.93 lakh.

On this being pointed out (January and February 1998) in audit, the department stated (May 1999) that an additional demand of Rs.7.93 lakh has been created (June 1998 and March 1999) in both the cases. Further progress on recovery has not been received (October 1999).

The cases were reported (April 1998) to the department/Government; their reply has not been received (October 1999).

(iii) Under the Act, brass and aluminum rivets being unclassified items are taxable at the rate of eight *per cent* plus surcharge and under the Central Sales Tax Act, 1956, the tax payable by any dealer on his turnover of inter-State sale of goods other than declared goods not covered by declaration in Form 'C', shall be calculated at the rate of ten *per cent* or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher.

During test check of records of Deputy Excise and Taxation Commissioner, Gurgaon (West), it was noticed (February 1999) that a dealer of Gurgaon made sale of brass and aluminium rivets amounting to Rs.31.56 lakh (Rs.15.87 lakh within the State and Rs.15.69 lakh in the course of inter-State trade or commerce) during the year 1994-95. Assessing authority while finalising assessment (March 1998), levied tax at the rate of two *per cent* plus surcharge on sales made within the State and two *per cent* on inter-State sale without declaration in Form 'C' instead of at correct rate of eight *per cent* plus surcharge within the State and ten *per cent* on the inter-State sales. This resulted in under-assessment of tax of Rs.2.30 lakh.

On this being pointed out (February 1999) in audit, the assessing authority intimated (March 1999) that the case has been sent to revisional authority for taking suo motu action.

The case was reported to Government (March 1999); their reply has not been received (October 1999).

2.6 Non-levy of tax on incidental charges

Non-levy of tax on incidental charges resulted in short recovery of Rs.22.61 lakh.

Under the Act, gross turnover means the aggregate of the amounts of sales and purchases including any sum charged for anything done by the dealer in respect of goods at the time of or before delivery thereof. Incidental charges like dami, dalali and labour being pre-delivery charges are assessable to tax. Excise and Taxation Commissioner, Haryana also clarified (August 1995) that incidental charges are assessable to tax.

During test check of records of six* units, it was noticed (between March and October 1998) that the assessing authorities while finalising (February, June 1996 and January 1998) the assessments of eleven dealers in fourteen cases for the years 1992-93 to 1996-97, levied tax on wheat valued at Rs.83.61 crore after excluding incidental charges of Rs.5.65 crore. This resulted in under-assessment of tax of Rs.22.61 lakh.

On this being pointed out (between March and October 1998), the department stated that in 10 cases demand of Rs.5.90 lakh had been created (between May 1998 and April 1999) of which amount of Rs.5.60 lakh in eight cases had been recovered (May 1998 and April 1999); one case of Faridabad (East) was sent (December 1998) to revisional authority for taking suo motu action. No reply has been received (October 1999) in respect of remaining three cases. Further progress on recovery has not been received (October 1999).

The cases were reported to Government between August and December 1998; their reply has not been received (October 1999).

2.7 Under-assessment due to misclassification of goods

Under the Haryana General Sales Tax Act, 1973, oil cakes and de-oiled cakes of oil seeds as defined in Section 14 of the Central Sales Tax Act, 1956, are exempt from levy of Sales Tax. Oil cakes and de-oiled cakes obtained from rice bran are not covered under tax free goods but are taxable at the rate of two *per cent* plus surcharge under both the Acts.

Misclassification of goods resulted in under-assessment of tax of Rs.21.55 lakh.

During test check of records of three** Deputy Excise and Taxation Commissioners and one** Excise and Taxation Officer, it was noticed (between February 1997 and February 1999) that five dealers made inter-State sales and local sales of rice bran de-oiled cakes valued at Rs.979.88 lakh during the years 1993-94 to 1995-96. The assessing authorities while finalising (between June 1995 and July 1997) assessments, did not levy tax on the sale of rice bran de-oiled cakes erroneously treating the goods as tax free items. This resulted in short assessment of tax of Rs.21.55 lakh besides interest and penalty leviable thereon.

On this being pointed out (between February 1997 and February 1999), the assessing authorities, Panchkula and Tohana created (between July and November 1998) an additional demand of Rs.9.51 lakh (Tax:Rs.9.12 lakh and interest:Rs.0.39 lakh). Assessing authorities Karnal and Sonipat stated that the de-oiled rice bran cakes are tax free goods but their reply is not tenable and the goods are liable to tax as also clarified (March 1997) by CTC Haryana.

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* Deputy Excise and Taxation Commissioner, Faridabad, Jind, Hisar, Kurukshetra, Karnal and Excise and Taxation Officer, Ambala city.

** DETCs Karnal, Sonipat and Panchkula and ETO Tohana.

The cases were reported (between June 1997 and June 1999) to the Government; their replies have not been received (October 1999).

2.8 Under-assessment of notional sales tax liability due to application of incorrect rate of tax and non-levy of surcharge

Incorrect application of rate of tax resulted in under-assessment of 'notional' sales tax liability of Rs.14.36 lakh.

(i) As per Government notification issued in March 1995, oils produced from mustard seed (sarson), sesame (til), and sunflower (surajmukhi) are taxable at the rate of one *per cent* and oil extracted from rice bran is taxable at the rate of six *per cent*. In addition, surcharge at the rate of ten *per cent* is also leviable on the amount of tax.

During test check of records of Excise and Taxation Officer, Ambala City, it was noticed (March 1998) that a dealer (an exempted unit) of Ambala City made sale of refined oil valued at Rs.312.67 lakh (Rs.186.67 lakh of mustard seed and sunflower refined oil and Rs.126 lakh of rice bran oil) during the year 1995-96. While finalising (December 1996) assessment, the assessing authority levied tax on the sale of rice bran oil at the rate of one *per cent* instead of at the correct rate of six *per cent* and also omitted to levy surcharge on the tax levied on total sale of oils of Rs.312.67 lakh. This resulted in under-assessment of 'notional' sales tax liability of Rs.7.24 lakh.

On this being pointed out (March 1998) in audit, the department stated (June 1999) that the demand for the entire amount had been created (May 1999).

The case was reported to Government (June 1998); their reply has not been received (October 1999).

(ii) As per Government notification issued in March 1996, television sets and their parts are liable to sales tax at the rate of eleven *per cent* with effect from 1 April 1996. Rate of tax was increased to twelve *per cent* with effect from 5 July 1996 and was reduced to six *per cent* with effect from 1 November 1996 to 31 March 1997.

During test check of records of Excise and Taxation Officer, Ambala City, it was noticed that a dealer sold television sets and its parts valued at Rs.332.25 lakh during the year 1996-97. While finalising (February 1998) assessment, the assessing authority levied tax at the rate of six *per cent* for the first two quarters and at the rate of twelve *per cent* for the 3rd and 4th quarters instead of at the correct rate of eleven *per cent* from 1 April to 4 July 1996, twelve *per cent* from 5 July to 31 October 1996 and six *per cent* from 1 November 1996 to 31 March 1997. This resulted in under-assessment of

'notional' sales tax liability of Rs.3.50 lakh.

On this being pointed out (December 1998) in audit, the department stated (May 1999) that the demand for the entire amount had been created (April 1999).

The case was reported to Government (February 1999); their reply has not been received (October 1999).

(iii) Under Haryana General Sales Tax Rules, 1975, 'notional' sales tax liability means amount of tax payable on the sale of finished products of eligible industrial unit under the local sales tax law but for an exemption computed at the maximum rates specified under the local sales tax law as applicable from time to time. Doors and windows of iron and steel being unclassified goods were taxable at the rate of ten *per cent* w.e.f. 5 July 1996 and surgical cotton is taxable at the rate of eight *per cent* plus surcharge during 1994-95.

During test check of records of Deputy Excise and Taxation Commissioner, Jind, it was noticed (June 1998) that two industrial units enjoying exemption from payment of tax made sale of finished products valued at Rs.65.18 lakh (surgical cotton for Rs.18.25 lakh and doors and windows for Rs.46.93 lakh) to Government departments during the years 1994-95 and 1996-97. The assessing authority while finalising (January and March 1998) assessments, levied tax at the rate of four *per cent* plus surcharge and four *per cent* instead of at correct rates of eight *per cent* plus surcharge on sale of surgical cotton and ten *per cent* on sale of doors and windows respectively. This resulted in under-assessment of tax of Rs.3.62 lakh.

On this being pointed out (June 1998) in audit, the assessing authority intimated (March 1999) that the case had been sent to the revisional authority for taking suo motu action. Further report is awaited (October 1999).

The case was reported to Government in September 1998; their reply has not been received (October 1999).

2.9 Non/short levy of purchase tax

Under the Act, a dealer is liable to pay purchase tax on goods purchased from within the State on the basis of declarations without payment of tax and used in the manufacture of taxable goods which are disposed of otherwise than by way of sales or tax free goods. For non-payment/short payment of tax alongwith the returns, interest is also chargeable on the amount of tax due at one per cent for the first month and one and a half per cent per month thereafter so long as the default continues.

(i) During test check of records of Excise and Taxation Officer, Palwal, it was noticed (December 1997) that a dealer purchased packing material valued at Rs.78.64 lakh from within the State without payment of tax on the authority of its registration certificate during the year 1992-93 and used the same in the manufacturing of tax free and taxable goods which were sold within the State, in the inter-State trade or commerce and through stock/branch transfer. While finalising (March 1997) the assessment, the assessing authority failed to levy purchase tax on the value of packing material of Rs.77.81 lakh purchased without payment of tax and used in the manufacture of tax free goods and taxable goods which were disposed of otherwise than by way of sale. This resulted in under-assessment of tax of Rs.3.42 lakh besides interest of Rs.2.70 lakh and penalty thereon.

On this being pointed out (December 1997) in audit, the department created (March 1998) an additional demand of tax of Rs.3.42 lakh and interest of Rs.2.70 lakh but did not levy penalty for which a reference was made (December 1998). No reply has been received (October 1999).

The case was reported (March 1998) to Government; their reply has not been received (October 1999).

(ii) During test check of records of Deputy Excise and taxation Commissioner, Karnal, it was noticed (June 1996) that a dealer purchased goods valued at Rs.390.54 lakh without payment of tax during the year 1992-93 and used the same in the manufacturing of goods sold within the State, in the course of inter-State trade or commerce and in the course of export outside the territory of India as well as branch transfer. While finalising (March 1996) assessment, the assessing authority levied purchase tax on prorata basis at Rs.8.20 lakh instead of Rs.9.04 lakh in respect of the goods purchased and used in the manufacture of goods transferred to branch offices of the dealer. The mistake resulted in under-assessment of Rs.1.68 lakh (tax Rs.84,132 and interest Rs.84,100).

On this being pointed out (June 1996) in audit, the department created (June 1998) an additional demand of Rs.1.68 lakh. Report on recovery has not been received (October 1999).

The case was reported to Government in August 1996; their reply has not been received (October 1999).

(iii) Under the Haryana General Sales Tax Act, 1973, tax on sale of rice is leviable at the point of first sale in the State and on purchase of paddy at the point of last purchase in the State. The Sales Tax levied on rice is, however, reduced by the amount of purchase tax paid in the State on paddy out of which such rice has been husked subject to the condition that the reduction in tax is restricted to the extent of tax leviable on rice.

During test check of records of Deputy Excise and Taxation Commissioner, Jagadhari, it was noticed (October 1998) that a dealer sold rice valued at Rs.337.72 lakh during the years 1991-92 and 1992-93 on which tax payable works out to Rs.13.51 lakh. The assessing authority while finalising (November and December 1997) assessments for the years 1991-92 and 1992-93, calculated the value of paddy from which such rice was husked at Rs.370.35 lakh and allowed rebate of Rs.14.81 lakh instead of Rs.13.51 lakh. This resulted in excess rebate of Rs.1.30 lakh.

On this being pointed out (October 1998) in audit, the department created (April 1999) an additional demand of Rs.1.19 lakh and report on recovery has not been received (October 1999).

The case was reported to Government in January 1999; their reply has not been received (October 1999).

(iv) During test check of records of Deputy Excise and Taxation Commissioner, Hisar, it was noticed (July 1996) that during 1994-95, a dealer consumed raw seeds worth Rs.89.50 lakh in the manufacture of tax free certified seeds after purchasing from growers without payment of tax. While finalising (July 1995) assessment, the assessing authority did not levy purchase tax on the cost of raw seeds valued at Rs.89.50 lakh. This resulted in non-levy of tax of Rs.3.58 lakh besides interest and penalty leviable thereon.

On this being pointed out (July 1996), the department referred (June 1998) the case to the revisional authority for taking suo motu action. Further report on action taken has not been received (October 1999).

The case was reported (October 1996) to Government; their reply has not been received (October 1999).

2.10 Under-assessment of tax due to treatment of inter-State sales as branch transfer

Under the Central Sales Tax Act, 1956, a dealer is required to pay tax on the sale of goods, other than declared goods, made in the course of inter-State trade or commerce at the rate of ten *per cent* or at the rate applicable within the State whichever is higher or at the rate of four *per cent* against the declaration in 'C' Forms.

During test check of records of Deputy Excise and Taxation Commissioner, Faridabad (West), it was noticed (January 1997) that a dealer was granted deferment from payment of sales tax for the period from April 1989 to April 1994. After availing the benefit of deferment, the dealer made inter-State sale of Rs.799.63 lakh which included the sale of Rs.79.69 lakh made to

a Delhi based firm on which tax at the rate of four *per cent* was deposited along with the returns during the year 1994-95. The assessing authority while finalising (March 1996) assessment for the year 1994-95, treated the sale of Rs.79.69 lakh as branch transfer and allowed refund of Rs.3.19 lakh already paid by the dealer alongwith the return instead of raising additional demand of Rs.5.58 lakh. This resulted in short assessment of tax of Rs.8.77 lakh.

On this being pointed out (January 1997/March 1999) in audit, the department cancelled the refund adjustment order of Rs.3.19 lakh but no action has been taken (July 1999) to recover the balance amount of Rs.5.58 lakh.

The case was reported (February 1997) to the Government; their reply has not been received (October 1999).

2.11 Non-levy of tax

(i) Under the Central Sales Tax Act, 1956, tax is leviable on all sales of goods effected in the course of inter-State trade or commerce. Further, where a tax has been levied under the State law on the sale or purchase inside the State on any declared goods and such goods are sold in the course of inter-State trade or commerce, tax levied under the State law shall be reimbursed.

During test check of records of Deputy Excise and Taxation Commissioner, Kurukshetra, it was noticed (October 1997) that two dealers of Kurukshetra made inter-State sale of tax paid wheat valued at Rs.676.83 lakh during the years 1994-95 and 1995-96. The assessing authorities while finalising assessments (October 1996 and March 1997), allowed deductions of tax paid sale of wheat instead of levying tax on the sale in the course of inter-State trade or commerce and then allowing reimbursement of tax paid on wheat inside the State. This resulted in short assessment of tax of Rs.4.09 lakh.

On this being pointed out (October 1997) in audit, the department referred the cases to revisional authority who created (July 1998) additional demand of Rs.4.09 lakh. Report on recovery is awaited (October 1999).

The cases were reported to Government (December 1997); their reply has not been received (October 1999).

(ii) Import Replenishment Licenses (REP licenses) which are granted by the Chief Controller of Imports and Exports in recognition of export of certain products can be transferred by way of sale without endorsement by the licensing authority and taxed accordingly. Tax is leviable on such sales at the general rate of eight *per cent* plus surcharge if not otherwise specified.

During test check of records of Deputy Excise and Taxation Commissioner, Sonipat, it was noticed (February 1997) that a dealer sold REP license for Rs.38.91 lakh (inclusive of premium of Rs.7.78 lakh) during the years 1992-93 and 1993-94. But the assessing authority while finalising (August 1994 and December 1995) assessments, did not levy tax on the face value of REP license which resulted in non-levy of tax of Rs.3.42 lakh.

On this being pointed out (February 1997) in audit, Deputy Excise and Taxation Commissioner (I)-cum-Revisional Authority created (November 1998) an additional demand of Rs.3.42 lakh. The department intimated (May 1999) that out of Rs.3.42 lakh, an amount of Rs.0.62 lakh has been deposited (March and April 1999) and the balance amount was being recovered in instalments.

The case was reported (May 1997) to Government; their reply has not been received (October 1999).

2.12 Non-levy of interest and penalty

Under the Act, a dealer is required to pay the full amount of tax due from him according to his returns required to be submitted before the prescribed dates. In the event of default, the dealer is liable to pay interest on the amount of tax due at one *per cent* per month for the first month and at one and a half *per cent* per month thereafter so long as the default continues. In addition, penalty not exceeding one and a half times the amount of tax is also leviable for non-payment of tax alongwith the returns.

During test check of records of Deputy Excise and Taxation Commissioner, Kaithal, it was noticed (May 1997) that two dealers did not pay tax due alongwith the returns during the years 1992-93 and 1993-94. The assessing authority while finalising (April 1996 and January 1997) assessments, created additional demand of tax of Rs.5.99 lakh and stated in the assessment orders that penal action would be taken separately but no such action was initiated till May 1997. This resulted in non-levy of interest of Rs.3.05 lakh besides penalty.

On this being pointed out (May 1997) in audit, the department created (December 1997 and April 1999) demands of Rs.3.32 lakh (interest: Rs.3.05 lakh, penalty: Rs.0.27 lakh). The department further intimated (April 1999) that an amount of Rs.2.36 lakh has been recovered (between May and September 1998). Report on recovery of remaining amount has not been received (October 1999).

The case was reported (January 1999) to Government; their reply has not been received (October 1999).

2.13 Incorrect deduction from turnover

(i) Under the Haryana General Sales Tax Act, 1973, 'Sale' means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract. The deduction from turnover on account of material supplied by the contractee to the contractor is not admissible.

During test check of records of Deputy Excise and Taxation Commissioner, Karnal, it was noticed (May and June 1997) that in the cases of two dealers of Karnal, the assessing authorities while finalising (November 1996 and March 1997) assessments, allowed deduction of Rs.22.79 lakh from the gross turnover on account of material supplied by the contractees to the contractors which was not admissible. The incorrect deduction resulted in short assessment of tax by Rs.1.18 lakh.

On this being pointed out in audit, the department created (May and June 1998) an additional demand of Rs.1.18 lakh. Report on recovery has not been received (October 1999).

The case was reported (October 1997) to Government; their reply has not been received (October 1999).

(ii) As per Act, 'poultry feed supplements' being unclassified items are taxable at general rate of eight *per cent* plus surcharge at the rate of ten *per cent* on the tax payable.

During test check of records of Deputy Excise and Taxation Commissioner, Hisar, it was noticed (September 1996) that assessing authority while finalising assessments for the years 1993-94 and 1994-95, allowed deduction of Rs.15.20 lakh on account of tax free sale of poultry feed supplements which were not tax free. Incorrect deduction resulted in under-assessment of tax of Rs.1.34 lakh.

On the omission being pointed out (September 1996) in audit, the assessing authority referred the case for taking suo motu action to the revisional authority who created (September 1997) additional demand of Rs.1.34 lakh treating the 'poultry feed supplements' as medicines. Against the orders of revisional authority, the dealer filed an appeal alongwith stay petition before Sales Tax Tribunal who directed (January 1998) the dealer to pay fifty *per cent* of the demand. An amount of Rs.0.67 lakh was paid (February 1998) by the dealer. Report on decision taken by the Tribunal has not been received (October 1999).

The case was brought to the notice of Government in August 1998; their reply is awaited (October 1999).

Chapter-III

Stamp Duty and Registration Fees

CHAPTER-III
STAMP DUTY AND REGISTRATION FEES

3.1 Results of Audit

Test check of records of various registration offices conducted in audit during the year 1998-99 revealed non/short levy of stamp duty and registration fees amounting to Rs.844.24 *lakh* in 69 cases which broadly fall under the following categories:

Sl. No.	Nature of irregularities	Number of cases	Amount
			(Rupees in *lakh*)
1.	Miscellaneous irregularities	68	35.25
2.	Review on 'Stamp duty and registration fees'	1	808.99
	Total	69	844.24

The department accepted under assessments of Rs 107.60 *lakh* in 7 cases which were pointed out during 1998-99. An amount of Rs.10.46 *lakh* had been recovered in 78 cases during the year 1998-99 of which Rs.9.02 *lakh* recovered in 75 cases related to the earlier years.

Results of review on "Stamp duty and registration fees" involving Rs.808.99 *lakh* highlighting important cases are mentioned in the following paragraphs.

3.2 Stamp Duty and Registration Fees

3.2.1 Introduction

The levy and collection of stamp duty in Haryana on various types of instruments such as conveyance, exchange, mortgage, lease etc. is governed by the Indian Stamp Act, 1899 read with the Indian Stamp (Haryana Amendment) Act, 1973. The duty is paid by the executors of instruments either by using impressed stamps or by affixing stamps (non-judicial) of the proper denomination.

The levy of registration fees on the instruments presented for registration is governed by the Registration Act, 1908 and the Rules framed thereunder.

3.2.2 Organisational set up

The overall superintendence and control over the registration work is exercised by the Inspector General of Registration who is assisted by the Deputy Commissioners, Tehsildars and Naib-Tehsildars acting as the Registrars, Sub-Registrars and Joint Sub-Registrars respectively. The State Government exercises control over the Stamp Administration through the Financial Commissioner and the Commissioners of the Divisions. For the purpose of levy and collection of stamp duty and registration fees, the State has been divided into four commissionerates and nineteen districts having 19 Registrars, 63 Sub-Registrars and 32 Joint Sub-Registrars.

3.2.3 Scope of Audit

A review of records relating to levy, collection, exemption and remission of stamp duty and registration fees in 47 out of 95 registering offices for the years 1994-95 to 1997-98 was conducted in audit between April 1998 and March 1999 with a view to ascertain whether the provisions of the Acts, Rules and instructions issued from time to time by the Government were being effectively implemented. The review also incorporates interesting cases noticed during regular audit.

3.2.4 Highlights

Exemption from stamp duty and registration fees of Rs.141.72 *lakh* on 167 instruments of Co-operative societies was incorrectly allowed.

(Paragraph 3.2.6)

Under-valuation of property in 1970 cases resulted in short levy of stamp duty and registration fees amounting to Rs.551.43 *lakh* and penalty of Rs.12.20 *lakh*.

(Paragraph 3.2.7)

In 163 cases of exchange of property, stamp duty and registration fees amounting to Rs.62.93 *lakh* was either not levied or levied short.

(Paragraph 3.2.8)

As on 31 March 1999, 774 cases involving stamp duty of Rs.269.37 *lakh*

were pending for decision by Collectors.

(Paragraph 3.2.9)

In 26 cases of lease deeds, stamp duty of Rs. 11.42 *lakh* was short levied.

(Paragraph 3.2.10)

Incorrect grant of exemption of stamp duty & registration fees on mortgage deeds resulted in short levy of Rs.15.94 *lakh* in 793 cases.

(Paragraph 3.2.11)

Incorrect classification of documents in 17 cases resulted in short levy of Rs.10.56 *lakh*.

(Paragraph 3.2.13)

Internal audit failed to detect non/short levy of stamp duty and registration fees amounting Rs.172.87 *lakh* in 657 cases.

(Paragraph 3.2.14)

3.2.5 Trend of revenue and registration of documents

The table below indicates the total number of documents registered, total revenue realised by the State Government from stamp duty and registration fees and its percentage to the total tax revenue raised by the State during the four years ending 1997-98.

Year	Total number of documents registered	Total tax revenue raised by the State	Revenue from stamp duty and registration fees	Percentage of revenue from stamp duty and registration fees to the total revenue.
		(Rupees in crore)		
1994-95	2,76,101	1,887.85	163.81	8.68
1995-96	2,58,090	2,168.96	244.63	11.28
1996-97	N.A.*	2,143.12	273.10	12.74
1997-98	N.A.*	2,368.62	301.67	12.74

* Not made available by the department.

3.2.6 Incorrect grant of exemption to Co-operative Societies

By a notification issued in July 1948, Government exempted from payment of stamp duty the instruments executed by or on behalf of any society registered under Co-operative Societies Act or the instruments executed by any officer or member of any such society and relating to the business of the society. The exemption was subsequently withdrawn by a notification issued in February 1962 in respect of the following classes of Co-operative Societies unless all the members of the society belonged to scheduled castes.

Stamp duty of Rs.141.72 *lakh* was not levied due to incorrect exemption.

(i) Co-operative House Building Societies in Urban Areas,

(ii) Co-operative Industrial Societies and

(iii) Co-operative Dairy Farming Societies.

During test check of records of Registering offices at Rohtak and Panchkula, it was noticed (between December 1995 and December 1997) that 19 Co-operative House Building Societies (18 societies of Panchkula and one of Rohtak) executed 167 sale deeds for the purchase of land situated in urban area of Rohtak and Panchkula for a consideration of Rs.1129.48 *lakh* which were registered without charging any stamp duty and registration fees. Since the land was located in an urban area and all the members of the societies did not belong to scheduled castes, the exemption allowed was incorrect. This resulted in non-levy of stamp duty and registration fees amounting to Rs.141.72 *lakh*.

On this being pointed out in audit, the Sub-Registrar, Rohtak stated (July 1998) that the cases have been referred to Registrar-cum-Deputy Commissioner, Rohtak for effecting the recoveries as arrears of land revenue; Sub-Registrar, Panchkula stated (May 1997) that the cases were referred to Collector for adjudication. Further report had not been received (October 1999).

3.2.7 Short levy of stamp duty due to under-valuation of immovable property

The Indian Stamp Act, 1899, as applicable to Haryana, provides that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, should be fully and truly set forth therein.

Under-valuation of property resulted in short realisation of stamp duty and penalty of Rs.563.63 *lakh*.

Under Section 47-A of the Act, if the registering officer while registering any instrument relating to transfer of any property has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value of the consideration and the proper duty payable. Further, Section 64 of the Act provides that any person who with intent to defraud the Government executes any instrument in which all the facts and circumstances required to be set forth in such instrument under the Act are not fully and truly set forth, is punishable with a penalty which may extend to five thousand rupees per instrument.

(i) In 244 sale deeds registered in 57 registering offices in 19* districts during the years 1994-95 to 1997-98, the value of the properties set forth in the deeds was shown less than that shown in the agreements to sell executed by the executants earlier and noted with the documents writers. This resulted in short realisation of stamp duty of Rs.47.51 *lakh*.

On this being pointed out (between May 1995 and March 1999) in audit, the department recovered Rs.5.64 *lakh* in 44 cases, issued notices for recovery of Rs.11.55 *lakh* in 68 cases, sent 12 cases involving Rs.1.95 *lakh* to District Collectors for recovery as arrears of land revenue, referred 36 cases of Rs.7.10 *lakh* to Collector for determination of value of properties and proper duty payable. Reply in respect of the remaining 84 cases involving Rs.21.27 *lakh* had not been received (October 1999).

Besides penalty not exceeding Rs.12.20 *lakh* was also leviable. Out of this, Rs.5000 were recovered (October 1998) in one case by Sub-Registrar Panchkula.

(ii) With a view to checking under-valuation of properties at the time of registration, Evaluation Committees, constituted under the directions of Government issued from time to time, suggest minimum market value of properties in various areas of the State for the guidance of registering authorities. A copy of these rates is supplied to them by the department.

During test check of records in audit, it was noticed (between April 1995 and March 1999) that in 966 cases registered (between April 1995 and March 1999) in 82 registering offices, the values set forth in the deeds of

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* Ambala, Kurukshetra, Panchkula, Yamunanagar, Karnal, Panipat, Sonipat, Gurgaon, Faridabad, Rohtak, Mohindergarh, Bhiwani, Rewari, Jhajjar, Fatehabad, Hisar, Sirsa, Jind and Kaithal.

conveyance were much less than the market value as suggested by the Evaluation Committees. This resulted in short realisation of stamp duty and registration fees amounting to Rs.198.46 *lakh*.

On this being pointed out (between June 1995 and April 1999) in audit, the department referred (between June 1995 and March 1999) 741 cases involving duty of Rs.145.81 *lakh* to the Collectors concerned. The position of follow up action taken in these cases as on 31 March 1999 was as under:

		Number of cases	Amount of short levy involved (Rupees in *lakh*)
a)	Total number of cases of under-valuation	966	198.46
b)	Cases referred to respective Collectors	741	145.81
c)	Cases decided out of (b) by respective Collectors	207	33.35
d)	Cases out of (c) where recovery was ordered	121	13.32
e)	Cases out of (c) where no recovery was ordered and cases filed	86	20.03
f)	Cases out of (b) which were still pending for decision with the Collectors	534	112.46

No action in the remaining 225 cases involving duty of Rs.52.65 *lakh* was taken.

(iii) Under Registration Act, 1908, the Registrar of the district in which a Presidency town is included may receive and register any document referred to in the Act without regard to the situation of the property. Further, the Act provides that after a document being registered, a copy of the said document and of the endorsement and certificate shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situated and the Registrar receiving such copy shall follow the procedure prescribed in the Act.

Examination of case records relating to land/ property pertaining to 9* districts registered (between September and December 1997) in Delhi revealed that in

* Faridabad, Gurgaon, Rohtak, Sonipat, Karnal, Hisar, Panipat, Kurukshetra and Yamunanagar.

760 cases value of land/property or consideration had not been set forth in accordance with minimum market value fixed for those areas. The stamp duty on the value under stated in the conveyance deeds worked out to Rs.305.46 *lakh*.

It was also noticed that out of above, 227 cases involving stamp duty of Rs.137 *lakh* had become time-barred with the respective Sub-Registrars as these could not be referred within the time limit of three years from the date of registration as provided under the Act and resulted in loss of revenue to this extent.

3.2.8 Non/short levy of stamp duty on exchange of property

Non/short levy of stamp duty of Rs.62.93 *lakh* on exchange of property.

Financial Commissioner and Secretary to Government of Haryana, Revenue Department clarified (September 1996) that compromise decree which is not bonafide, is chargeable with stamp duty as a conveyance deed for a consideration equal to the value of the property or the value as set forth in such instrument whichever is higher.

(i) In 25 offices of Sub-Registrars, it was noticed (between May 1997 and March 1999) in audit, that 130 deeds relating to compromise decree which were not bonafide were registered for the exchange of property without levying of stamp duty. This resulted in non-levy of stamp duty of Rs. 59.94 *lakh*.

On this being pointed out (between May 1997 and March 1999) in audit, one registering authority stated (May 1997) that Rs.27,539 had been recovered, 5 stated that notices for recovery had been issued, 3 referred the cases to Collector whereas no reply had been received from the remaining 16 authorities (October 1999).

(ii) In 9 registering offices, on 33 instruments of exchange of immovable properties registered during the years 1996-97 and 1997-98, Rs.2.99 lakh instead of Rs.5.98 lakh were charged as stamp duty. This resulted in short levy of stamp duty of Rs. 2.99 lakh.

On this being pointed out (between May 1997 and March 1999), 4 registering authorities stated (between August 1998 and January 1999) that notices have been issued for recovery. Report from the remaining 5 had not been received (October 1999).

3.2.9 Inordinate delay in disposal of reference and revision cases

Under Section 47-A and 31(1) of the Indian Stamp Act, 1899, the power to decide the cases referred by Sub-registrar/Joint-Sub-Registrars is vested in Collectors and District Collectors (Registrar) respectively. The Act and the Rules framed thereunder by the State Government do not provide any specific time limit for deciding such cases.

It was noticed in audit that 978 cases involving Rs.301.90 *lakh* were referred to Collectors of which 774 cases involving Rs.269.37 *lakh* were pending for final decision as detailed below:

Year	Cases/amount referred for decision		Cases/amount decided		Cases/amount pending		Percentage of cases decided
	No. of cases	Amount (Rupees in *lakh*)	No. of cases	Amount (Rupees in *lakh*)	No. of cases	Amount (Rupees in *lakh*)	
1994-95	267	45.08	113	11.39	154	33.69	42
1995-96	327	125.29	72	15.26	255	110.02	22
1996-97	272	97.77	19	5.87	253	91.90	7
1997-98	112	33.76	-	-	112	33.76	-
Total	**978**	**301.90**	**204**	**32.52**	**774**	**269.37**	

The reasons for delay in disposal of pending cases were called for (November 1998) from the department; their reply had not been received (October 1999).

3.2.10 Short levy of stamp duty

(i) Under the Indian Stamp Act, 1899 as applicable to Haryana, on an instrument of lease, stamp duty is chargeable on the basis of period of lease and the amount of the average annual rent reserved.

In 6* offices of the Sub-registrars, it was noticed (between July 1998 and March 1999) in audit that the period of lease/amount of average annual rent reserved in respect of 24 instruments registered between April 1997 and May 1998 were calculated incorrectly. This resulted in short levy of stamp

* Panchkula, Hisar, Faridabad, Panipat, Sirsa and Rania.

duty of Rs. 9.24 *lakh*.

On this being pointed out (between August 1998 and March 1999) in audit, Sub-Registrar, Panchkula recovered (August 1998) Rs. 63,136, Sub-Registrar, Hisar stated (January 1999) that notice for recovery had been issued. Replies from other 4 offices have not been received (October 1999).

(ii) Under the Act, 'conveyance' includes a conveyance on sale and every instrument by which property whether movable or immovable is transferred. Further, the Registration Act, 1908 provides that immovable property includes land, building and things attached to the earth.

Two vendors purchased 2 factories for a consideration of Rs.30 *lakh* and Rs.18.25 *lakh* at Sampla (Rohtak) and Panchkula respectively in auction conducted by Haryana Financial Corporation. While executing (May 1997) the sale deed, stamp duty was paid on the cost of land and building valued at Rs.17.65 *lakh* and Rs.13.15 *lakh* instead of Rs.30 *lakh* and Rs.18.25 *lakh* respectively. This resulted in short levy of stamp duty amounting to Rs.2.18 *lakh*.

On this being pointed out (July 1998) in audit, the department in one case (Sampla) stated (October 1998) that notice for recovery had been issued to the party while Sub-Registrar, Panchkula stated (October 1998) that stamp duty is leviable on the value of plot and building and not on machinery being movable property. The contention is not correct as the machinery embedded to the earth is immovable property.

3.2.11 Incorrect grant of exemption

As per notifications issued in October 1983 under the Indian Stamp Act, 1899, Government remitted the stamp duty and registration fees leviable on the deeds of mortgage without possession which are executed by agriculturists in favour of any Commercial Bank for securing loans up to Rs.2 lakh for agricultural/other purposes like dairy, piggery etc. When property is mortgaged to secure a loan and the possession of property is not given, stamp duty is chargeable at one and a half *per cent* of the amount of loan secured by such instrument.

Incorrect grant of exemption resulted in short levy of Rs.15.94 *lakh*.

(a) In 29 offices of Sub-Registrars in 11* districts, 447 deeds of mortgage

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* Karnal, Yamunanagar, Ambala, Fatehabad, Kurukshetra, Kaithal, Mohindergarh, Sonipat, Bhiwani, Faridabad and Sirsa.

(in which possessions of property was not given) executed during the years 1996-97 and 1997-98 by agriculturists in order to secure loans from Banks, were exempted from payment of stamp duty and registration fees even though the loans secured exceeded the prescribed limit of exemption. This resulted in short levy of stamp duty and registration fees amounting to Rs.7.11 *lakh*.

On this being pointed out (between May 1997 and March 1999), the department recovered Rs.61,202 in 58 cases, issued notices (between October 1997 and November 1998) for recovery in 103 cases and referred 24 cases to the Collectors while replies in 262 cases had not been received (October 1999).

(b) In 37 registering offices in 14* districts, 346 deeds of mortgage (without possession of the property) were registered between (April 1995 and March 1998) by agriculturists for securing loans from the banks for non-agricultural purposes such as atta chakki, karyana shop, brick-kiln, purchase of vehicles etc., but stamp duty and registration fees aggregating Rs.8.83 *lakh* was not recovered from them. This resulted in incorrect grant of exemption of Rs.8.83 *lakh*.

On this being pointed out (between February 1997 and March 1999), the department recovered Rs.5722 in 4 cases and issued notices (between August and December 1998) for recovery of Rs.1.95 *lakh* in 52 cases, 3 cases were referred to the Collector for recovery as arrears of land revenue. Replies in the remaining cases were awaited (October 1999).

3.2.12 Incorrect refund

As per the Act, the Collector may, on application made within the period prescribed in the Act, make allowance for impressed stamps spoiled due to refusal of any person to execute the document after signing. The application for relief in such cases shall be made within two months from the date of instrument.

During test check of records of 6** Collectors, it was noticed (between September 1996 and December 1998) that 15 vendors purchased non-judicial stamp papers of the value of Rs.3.10 *lakh* from different treasury offices for executing conveyance and lease deeds etc. in respect of their properties. The deeds could not be got registered and were cancelled by reason of refusal to honour the deal although these were written and signed by both the parties. Accordingly the vendors applied after 2 months in all the cases to the Collectors for refund of value of the stamps and the Collector allowed refund of Rs.2.79 *lakh* after making statutory deductions. The action of the Collectors in allowing the refund was not in order.

On this being pointed out (between September 1996 and December 1998) in audit, the Collector Bahadurgarh recovered Rs.1.13 *lakh* in one case,

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* Kaithal, Yamunanagar, Mohindergarh, Fatehabad, Rewari, Ambala, Kurukshetra, Karnal, Panchkula, Bhiwani, Gurgaon, Hisar, Jind and Sirsa.

** Ambala, Rewari, Bahadurgarh, Panipat, Hisar and Karnal.

Collector, Ambala stated (April 1999) that notices for recovery have been issued, while Collector, Panipat stated (December 1998) that the refund was correctly allowed as the vendors submitted applications for refund within six months. The contention of the department was not correct as in these cases both the parties had signed the documents but refused to execute the same. Accordingly the application for refund was required to be made within the period of two months from the date of instrument. Replies from three Collectors had not been received (October 1999).

The matter was reported (between October 1996 and December 1998) to Government which directed (September 1997) the Deputy Commissioner, Ambala for the recovery of Rs.65,925. Progress of recovery and replies in other cases had not been received (October 1999).

3.2.13 Misclassification of instruments

Under the Act, separate rates of duty have been prescribed for different types of instruments. The classification of an instrument depends upon the nature of the transaction recorded therein.

In 14 registry offices, 17 instruments were misclassified and charged to stamp duty at lower rates instead of at the rates chargeable on instruments of conveyance . This resulted in short levy of stamp duty of Rs.10.56 *lakh* as in Annexure C.

On this being pointed out in audit, the department stated (between May 1998 and April 1999) that in 9 cases notices for recovery had been issued, one case had been sent to collector for adjudication and no reply had been received in 7 cases (October 1999).

3.2.14 Internal Audit

The Finance Department (Revenue) conducts internal audit of the offices of Sub-Registrars in the State. For this purpose stamp auditors have been posted at district level who conduct pre-audit of registerable documents in the Sub-Registry offices before these are returned to the persons presenting the documents for registration. This system was in vogue in 5, 8 and 17 Sub-Registry offices during the years 1994-95, 1995-96 and 1996-98 respectively.

During test check of record in audit, it was noticed that the stamp auditors failed to detect non/short levy of stamp duty and registration fees amounting to Rs.172.87 *lakh* during the years 1994-95 to 1997-98 in 657 cases which were subsequently detected during audit by Accountnat General as detailed below:

Year	No. of Sub-Registrars	No. of cases of non/short levy	Amount (Rupees in *lakh*)
1994-95	5	27	6.83
1995-96	8	54	13.33
1996-97	17	306	84.55
1997-98	17	270	68.16
Total		657	172.87

The above points were brought to the notice of the department/Government (May 1999); their replies had not been received (October 1999).

Chapter-IV

CHAPTER-IV
OTHER TAX RECEIPTS

4.1 Results of Audit

Test check of records in departmental offices relating to revenues of Taxes on Motor Vehicles, Passengers and Goods Tax, Agriculture and State Excise Duty revealed under assessment of taxes and duties and loss of revenue amounting to Rs 424.24 lakh in 2421 cases as depicted below:

	Heads of revenue	Number of cases	Amount (Rupees in lakh)
A	Taxes on Motor Vehicles	1480	76.48
B	Passengers and Goods Tax	900	174.33
C	Agriculture	40	172.90
D	State Excise Duty	1	0.53
	Total	**2421**	**424.24**

In the cases of Taxes on Motor Vehicles, Passengers and Goods Tax, Agriculture and State Excise Duty, the departments accepted under assessments etc. of Rs.286.44 lakh in 730 cases which were pointed out during the year 1998-99. An amount of Rs.29.28 lakh had been recovered in 59 cases during the year 1998-99 of which Rs.14.89 lakh recovered in 29 cases related to earlier years.

A few illustrative cases involving Rs.224 lakh are mentioned in the following paragraphs.

A-TAXES ON MOTOR VEHICLES

4.2 Non deposit of token tax

Token tax of Rs.38.60 lakh was not recovered by 3 RTAs.

As per Punjab Motor Vehicles Taxation Act, 1924, as applicable to Haryana, tax shall be leviable on every motor vehicle in equal instalments for quarterly periods commencing on the first day of April, July, October and January at such rates not exceeding Rs.35,000 per vehicle per year as the State Government may by notification direct. Any broken period in such quarterly periods shall for the purpose of levying the tax, be considered as a full quarter. In case of omission to comply with the provisions, the Act further provides that the licensing officer may impose a penalty which may extend to twice the amount of tax due. Arrear of tax can be recovered as arrears of land revenue.

During test check of records of 3 Regional Transport Authorities (Rewari, Rohtak and Faridabad), it was noticed (between October and December 1998) that token tax for all the four quarters of 1997-98 in respect of 82 buses and five quarters (between January 1997 and March 1998) in respect of 64 buses of the Transport Co-operative Societies was neither deposited by them nor demanded by the department. This resulted in non-deposit of token tax amounting to Rs.38.60 lakh besides penalty leviable thereon.

On this being pointed out (between October and December 1998) in audit, the department intimated (between October and December 1998) that Rs.1.02 lakh have been recovered by Regional Transport Authority, Rewari and in respect of other cases, efforts were being made to recover the tax. Further report has not been received (October 1999).

The cases were reported to Government in November 1998 and January 1999; their reply has not been received (October 1999).

4.3 Short levy of penalty

As per provisions of the Motor Vehicles Act, 1988, whosoever drives a motor vehicle carrying goods in contravention of the provisions of the Act, shall be

punishable with minimum fine of rupees two thousand. For excess load, an additional amount of rupees one thousand per tonne together with charges for off loading the excess load, is also leviable.

During the test check of records of Regional Transport Authorities, Rohtak, Faridabad and Ambala, it was noticed (between September and December 1998) that against the minimum leviable penalty of Rs.6.81 lakh (fine of Rs.2.06 lakh and additional amount of Rs.4.75 lakh for excess load), penalty of Rs.2.79 lakh only was levied on account of overloading of 475.241 tonnes of weight in 103 vehicles during the period from March 1997 to March 1998. This resulted in short levy of penalty of Rs.4.02 lakh.

On this being pointed out (between October 1998 and January 1999) in audit, the Transport Commissioner directed (February 1999) the Regional Transport Authorities to recover the amount of penalty short levied. Report on recovery has not been received (October 1999).

The cases were reported to Government (between November 1998 and January 1999); their reply has not been received (October 1999).

B-PASSENGERS AND GOODS TAX

4.4 Short realisation of passengers tax

As per notification issued (July 1994) under the Punjab Passengers and Goods Taxation Act, 1952, as applicable to Haryana, permit holders for plying buses on link routes of the State under the scheme of privatization of Passengers Road Transport are required to pay lump sum passengers tax based on the seating capacity of the bus on monthly basis. In case of default in payment, the Act also provides for imposition of penalty not exceeding five times the amount of tax.

Passengers tax of Rs.102.77 lakh was short realised.

During test check of records of 9* Deputy Excise and Taxation Commissioners, it was noticed (between May 1996 and March 1999) that 132 Transport Co-operative Societies who were granted permits for plying buses on link routes deposited less passengers tax for the years 1994-95 to 1997-98. This resulted in short realisation of passengers tax of Rs.102.77 lakh besides penalty leviable thereon.

* Jind, Jagadhari, Narnaul, Panipat, Sonipat, Rohtak, Faridabad, Bhiwani and Jhajjar.

On this being pointed out (between May 1996 and March 1999) in audit, the department intimated (between October 1997 and March 1999) that Rs.42.33 lakh have been recovered and efforts were being made to recover the balance amount. Further report on recovery has not been received (October 1999).

The cases were reported to Government (between June 1996 and April 1999); their reply has not been received (October 1999).

C-AGRICULTURE

4.5 Non-recovery of purchase tax and interest

As per notification issued (October 1977) under the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 and the Rules made thereunder, as applicable to Haryana, an occupier or agent of a factory is required to pay tax at the rate of Rs.1.50 per quintal on sugarcane purchased by him, by the 14th of the following month. In the event of default, interest at the rate of fifteen *per cent* per annum shall be charged for the period of default.

Purchase tax of Rs.70.51 lakh and interest of Rs.6.68 lakh on sugarcane was not deposited by a sugar mill.

During test check of records of Assistant Cane Development Officer, Karnal, it was noticed (August 1997) that a sugarmill purchased 47 lakh quintals of sugarcane between November 1996 and May 1997 but did not deposit purchase tax amounting to Rs.70.51 lakh which was due to be paid by the 14th of the month following the month of the purchase. Interest amounting to Rs.6.68 lakh (up to the dates of payment of tax) was also required to be charged for belated payment of tax.

On this being pointed out (August and September 1997) in audit, the department intimated (October 1998) that the entire amount of purchase tax and interest amounting to Rs.4.96 lakh had been deposited by the sugarmill between September 1997 and January 1998. Further report on recovery of balance interest has not been received (October 1999).

The case was reported (November 1998) to Government; their reply has not been received (October 1999).

D-STATE EXCISE DUTY

4.6 Short recovery of interest

The Haryana Liquor License Rules, 1970 read with State's Excise Policy announced for the year 1995-96, provide for payment of monthly instalment of license fee by 15th of each month by the licensee holding license for vending country liquor or IMFL. Failure to do so renders him liable to pay interest at the rate of 18 *per cent* per annum for the period from the first day of the month to the date of payment of the instalment or any part thereof.

During test check of records of Deputy Excise and Taxation Commissioner, Sonipat, it was noticed (August 1996) that a licensee in Sonipat district failed to pay the monthly instalment of license fee for December 1995 by the prescribed date. On belated payment of license fee, interest of Rs.1.42 lakh was short recovered.

On this being pointed out (August 1996), the department recovered (December 1998) the entire amount of interest.

Chapter-V

Non Tax Receipts

CHAPTER-V
NON-TAX RECEIPTS

5.1 Results of Audit

Test check of records in departmental offices relating to revenues of Mines and Minerals, Home (Police), Irrigation, Co-operation, State Lotteries and Forest conducted in audit during the year 1998-99 revealed under assessments and losses of revenue amounting to Rs.3194.75 lakh in 2231 cases as depicted below:

	Heads of revenue	Number of cases	Amount
			(Rupees in lakh)
A	(i)Review on Receipts from mines and minerals	1	630.49
	(ii)Mines and Geology	105	5.50
B	Home (Police)	122	930.25
C	Public Works (Irrigation)	843	156.82
D	Co-operation	462	112.33
E	Finance (State Lotteries)	484	71.51
F	Forest	214	1287.85
	Total	2231	3194.75

In the cases of Mines and Geology, Home (Police), Public Works (Irrigation), Co-operation,State Lotteries and Forest, the departments accepted under assessments/loss of revenue etc. of Rs.798.66 lakh involved in 407 cases which were pointed out during the year 1998-99. An amount of Rs.74.64 lakh had been recovered in 95 cases during the year 1998-99 of which Rs.56.92 lakh recovered in 34 cases related to earlier years.

A few illustrative cases involving Rs.4693.27 lakh and a review on "Receipts from Mines and Minerals" involving Rs.630.49 lakh highlighting important observations are mentioned in the following paragraphs.

A-MINES AND GEOLOGY

5.2 Receipts from Mines and Minerals

5.2.1 Introductory

The mineral resources of a State may be broadly classified into two categories namely (i) major minerals (ii) minor minerals. The grant of concessions for prospecting and mining operations in respect of major minerals is regulated by the Mines and Minerals (Regulation and Development) Act, 1957 enacted by parliament and Mineral Concessions Rules, 1960 framed thereunder by the Government of India. The Punjab Minor Minerals Concession Rules, 1964, the Haryana Minerals (vesting of rights) Act, 1973 and the Haryana Mineral (vesting of rights) Rules, 1979, regulate the extraction of minor minerals. Receipts from mines and minerals are realised in the form of fees, dead rent, royalty, auction/contract money etc.

5.2.2 Scope of audit

With a view to verify proper implementation of various provisions of above Acts and Rules applicable in the State with particular stress on levy and collection of fees, dead rent and royalty during the years 1993-94 to 1997-98, a review was conducted in all the 16* offices including office of the Director of Mines and Geology between April 1998 and March 1999. Further, interesting points of similar nature noticed in audit in earlier years have also been included in the review.

5.2.3 Organisational set up

The Director of Mines and Geology is responsible for administration of the Acts and Rules ibid through the State Mining Engineer who is assisted at Headquarters by the Deputy District Attorney and Assistant Mining Engineer. The work of field is supervised through the Assistant Mining Engineers and Mining Officers of the districts concerned under whose supervision the royalty, dead rent, fees, auction money etc. are collected.

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* Mining Officers, Panchkula, Ambala, Kurukshetra, Yamunanagar, Panipat, Sonipat, Rewari, Narnaul, Rohtak, Jind and Bhiwani, Asstt. Mining Engineer, Faridabad, Gurgaon and Junior Geologist, Hisar, Sirsa and Director of Mines and Geology, Chandigarh.

5.2.4 Highlights

As on 31 March 1998 arrears of revenue under "Mines and Minerals" pending collection stood at Rs.491.66 lakh.

(Paragraph 5.2.5 (b))

Revocation of contracts by the department led to loss of Rs.24.52 lakh.

(Paragraph 5.2.6)

Stamp duty of Rs.55.44 lakh was short recovered in 41 mining leases granted during 1993-94 to 1996-97.

(Paragraph 5.2.7)

Contract money and interest of Rs.95.76 lakh recoverable as decided by the Court remained unrecovered.

(Paragraph 5.2.8 (i))

Delay in execution of agreement by the department led to loss of revenue of Rs.32.05 lakh.

(Paragraph 5.2.8 (ii))

Contract money and interest of Rs.274.18 lakh for the period April 1993 to March 1998 was not recovered from 139 contractors.

(Paragraph 5.2.8 (iii) & (iv))

Dead rent/royalty and interest amounting to Rs.79.13 lakh was recovered short from 63 lessees.

(Paragraph 5.2.9)

Royalty of Rs.31.00 lakh from 482 brick kiln owners was not charged.

(Paragraph 5.2.10)

Interest amounting to Rs.34.05 lakh was not charged on belated payments.

(Paragraph 5.2.12)

5.2.5 *Trend of revenue*

(a) The budget estimates viz-a-viz mineral revenue receipts collected during the period from 1993-94 to 1997-98 in respect of Major and Minor Minerals were as under:

Year	Budget estimates	Actual Receipts	Variation Increase (+)/ Decrease (-)	Percentage of variation	
	(Rupees in *crore*)			Over budget	Over previous years revenue
1993-94	17.50	18.41	(+)0.91	(+)5	-
1994-95	20.25	22.65	(+)2.40	(+)12	(+)23
1995-96	25.00	23.13	(-)1.87	(-)7	(+)2
1996-97	49.50	43.10	(-)6.40	(-)13	(+)86
1997-98	58.00	53.86	(-)4.14	(-)7	(+)25

The increase in receipts during the year 1994-95, 1996-97 and 1997-98 was due to better collection of royalty and contract money, higher bids of fresh contracts, revision of rates of royalty and also due to liquidation of old arrears.

The decrease of 13 *per cent* in 1996-97 over the budget estimates was due to suspension of mining from time to time under the orders of Haryana State Pollution Control Board.

(b) Arrears pending collection

As on 31 March 1998 arrears of revenue pending collection as reported by the department were as under:

Year	Amount (Rupees in lakh)
Up to 1993-94	194.37
1994-95	16.92
1995-96	46.72
1996-97	131.13
1997-98	102.52
Total	**491.66**

Out of Rs.491.66 lakh Rs.283.57 lakh were covered under recovery certificates, recovery of Rs.11.09 lakh was stayed by High Court and other

judicial authorities, Rs.3.12 lakh were held up due to dealers becoming insolvent and demands for Rs.2.08 lakh was proposed to be written off. Detailed break up of the remaining amount of Rs.191.80 lakh was not available with the department (July 1999).

5.2.6 Loss of revenue due to non execution of agreement deed and revocation of contracts

When a bid is confirmed and accepted, the bidder shall execute a deed in the prescribed form. The deed is to be executed within one month from the date of communication of acceptance of bid to the bidder and if no such deed is executed within the aforesaid period the order accepting the bid shall be deemed to have been revoked and the amount paid as advance and security shall be forfeited to the Government.

In the Office of the Assistant Mining Engineer, Gurgaon it was noticed that quarries of Kherki Daula, Alalpur and Nagladevla were put to auction on 30 July 1996 and were granted to the highest bidders at the rate of Rs.22 lakh, Rs.4 lakh and Rs.4 lakh per annum respectively. Acceptance of bids were confirmed by the Director of Mines and Geology on 5 August 1996 to the successful bidders for three years and the lessees were asked to submit the agreement deeds. Accordingly the bidders submitted the agreement deeds to Assistant Mining Engineer, Gurgaon but these deeds were not executed due to some shortcomings in the deeds and the contracts were revoked on 12 March 1997 without recovering the contract money. Besides non-execution of deeds, the department allowed the bidders to work on the quarries from 14 August 1996 to 22 March 1997 and did not raise the demand to recover the contract money till the date of revocation. This resulted in loss of revenue of Rs.24.52 lakh (Rs.16.67 lakh as contract money and Rs.7.85 lakh as interest).

On this being pointed out, the department stated (April 1999) that Collector had been requested to issue recovery certificate to recover the amount as arrears of land revenue.

5.2.7 Short levy of stamp duty

Under the Indian Stamp Act, 1899, as applicable to Haryana, an instrument of mining lease is chargeable with stamp duty on the estimated amount of average annual royalty payable by the lessee on the quantity of minerals expected to be extracted. For a lease period for 10 years, duty is chargeable at the rate of 6.25 *per cent* of the amount of consideration and for lease beyond 10 years but not exceeding 20 years, at the rate of 6.25 per cent of the amount

of twice the consideration. Further, registration fee is also leviable under Indian Registration Act, 1908.

During test-check of records of the Director Mines and Geology, Haryana, it was noticed that 41 mining leases were granted between 1993-94 and 1996-97 for a period of ten years and twenty years for extraction of various minerals from different mines in five districts (Faridabad, Gurgaon, Rewari, Narnaul and Panchkula). While executing lease deeds, stamp duty was charged on the estimated amount based on the annual royalty payable for the first year instead of on the amount based on the annual average royalty for the period of lease. This resulted in short levy of stamp duty of Rs.55.44 lakh besides non levy of registration fee as deeds were not registered in any case.

On this being pointed out in audit, the department stated (October 1998) that the consideration amount, at the time of execution of lease, is worked out on the basis of royalty leviable on the likely production of mineral during the first year of the lease as mentioned by the lessees in their application forms. The reply of the department is not acceptable as the stamp duty was to be charged on the amount of royalty based on expected average annual production of minerals to be extracted during the period of lease.

5.2.8 Non recovery of contract money and interest

Under the Punjab Minor Mineral Concession Rules, 1964, as applicable to Haryana, a mining contract is granted by auction or by accepting tenders from the highest bidder. The contractor is required to deposit 25 *per cent* of the annual bid money as security. Besides, 25 *per cent* of the bid money where it is less than 5 lakh and one twelfth of the bid money where it exceeds Rs.5 lakh is also required to be paid as advance money. The balance of contract money is payable in advance either in monthly or quarterly instalments. In the event of default in payment, the competent authority may by giving a notice terminate the contract and forfeit the amount of security. Interest at the rate of 24 *per cent* per annum is also recoverable for the period of default in payment of instalment of contract money.

(i) In the Office of the Mining Officer, Sonipat, it was noticed that a contract for extraction of sand from a quarry at Khatkar Sand Zone was allotted (30 May 1996) for a period of three years from 29 June 1996 to 31 March 1999 for an amount of Rs.2.47 *crore* per annum. The contractor failed to pay two monthly instalments due on 1 August 1996 and 1 September 1996. The contract was terminated on 24 October 1996. On contractor's having

gone to the court against termination, the court ordered (19 March 1997) for handing over the possession of the quarry to the petitioner company within a period of 4 months. Despite being requested (6 June 1997) by the department the company refused to take the possession. The department filed an application in the court stating that the firm had refused to take the possession. On 12 September 1997, the court modified its previous orders and issued direction that Rs.82.21 lakh deposited by the contractor with the State Government need not be repaid and authority would be at liberty to proceed against the contractor in accordance with law. The contract money for the period from 29 July to 24 October 1996 recoverable from the firm worked out to Rs.59.00 lakh and interest of Rs.36.76 lakh up to March 1999. Though the case was decided in September 1997, the department failed to recover the contract money and interest thereon. This resulted in non recovery of Rs.95.76 lakh.

On the matter being pointed out (June 1998) in audit, the department stated (June 1998) that the recovery would be effected after receipt of directions from the Head Office.

(ii) In the office of the Mining Officer, Sonipat it was noticed that the Khatkar Zone Sand Quarry was auctioned on 5 November 1997 for Rs.246.67 lakh per annum. The bid was accepted on 19 November 1997 and the firm was allowed to work from 21 November 1997. The agreement deed was not executed within the stipulated period of one month as the firm had sought (22 December 1997) the extension for execution of agreement due to some valid reasons. The department while executing the agreement deed, mentioned therein the period of contract as 8 January 1998 to 31 March 2000 ignoring the fact that the possession of the quarry had already been given on 21 November 1997 and charged the contract money accordingly. This resulted in loss of contract money of Rs.32.05 lakh due for the period from 21 November 1997 to 7 January 1998.

On this being pointed out in audit, the department stated (June 1998) that the mining operation was started by the contractor w.e.f. 10 January 1998 and as such had paid contract money from that date. The reply of the department is not tenable as recovery of contract money was to be made w.e.f. 21 November 1997 the date from which the contractor was allowed to work.

(iii) In 10 mining offices, 79 contractors who were awarded mining contracts did not pay contract money for various periods between April 1993 and March 1998. The department failed to recover the contract money of

Rs.129.43 lakh and interest of Rs.42.39 lakh as detailed below:

Sr. No.	Name of Mining Office	No. of contracts	Period of non-payment	Amount of contract money due	Interest due on delayed/unpaid money	Total
				(Rupees in lakh)		
1	Assistant Mining Engineer, Gurgaon	2	1-7-1993 to 30-6-1994	0.80	0.09	0.89
2	Mining Officer, Yamuna-Nagar	4	1-1-1996 to 12-1997	9.43	1.62	11.05
3	Mining Officer, Jind	2	15-5-1996	0.17	-	0.17
4	Mining Officer, Rohtak	3	15-5-1996 to 15-5-1997	1.06	0.42	1.48
5	Mining Officer, Panipat	2	3-94 to 3-98	26.93	5.07	32.00
6	Junior Geologist, Hisar	6	1994-95 to 1997-98	3.75	-	3.75
7	Mining Officer, Panchkula	15	1994-95 to 1997-98	62.51	17.15	79.66
8	Mining Officer, Ambala	32	1989-90 to 1997-98	10.08	6.46	16.54
9	Junior Geologist, Sirsa	2	1995-96 to 1997-98	0.76	-	0.76
10	Assistant Mining Engineer, Faridabad	11	1-4-1996 to 3-1998	13.94	11.58	25.52
	Total	**79**		**129.43**	**42.39**	**171.82**

On this being pointed out (between April 1994 and November 1998) in audit, the department stated that efforts were being made to recover the amount.

(iv) In six mining offices, 60 contractors who were awarded mining contracts (between April 1993 and March 1998) did not pay the contract money. The department though terminated the contracts between September 1993 and April 1998 but did not take any step to recover the contract money amounting to Rs.84.21 lakh which was due from the contractors up to the date of taking back the possession of the quarries. Interest amounting to Rs.18.15 lakh was also recoverable for non-payment of contract money.

5.2.9 Non/short recovery of dead rent, royalty and interest

Under the Mines and Minerals (Regulation and Development) Act, 1957 and Punjab Minor Minerals Concession Rules, 1964, as applicable to Haryana, the holder of a mining lease is required to pay, on any material removed or consumed by him or by his agent from the leased area, royalty or dead rent, whichever is higher by the dates stipulated in the lease deed. Interest at the rate of 24 *per cent* per annum is also recoverable for the period of default in payment.

Lessees of 63 leases granted (between May 1993 and March 1998) in Faridabad, Gurgaon, Bhiwani and Rewari were required to pay dead rent and royalty amounting to Rs.78.50 lakh and interest of Rs.0.63 lakh for various periods between 1993-94 and 1997-98 was either short paid or not paid by the lessees. The department had not taken any action to recover the amount. This resulted in non/short recovery of dead rent, royalty and interest amounting to Rs.79.13 lakh.

On this being pointed out (between March 1995 and January 1999), the department stated (March 1999) that Rs.2.08 lakh had been recovered and efforts were being made to recover the balance amount.

5.2.10 Non/short recovery of royalty from Brick Kiln Owners

In case of brick earth, the quarrying permits shall be issued for a period of two years on payment of fixed royalty by the brick kiln owners. Interest at the rate of 24 *per cent* per annum is also chargeable for the period of default.

In 13 mining offices, 482 permits were granted to brick kiln owners during the years 1993-94 to 1997-98 but royalty for various periods between 1993-94 and 1997-98 was not paid by the kiln owners. The department had not taken any action to recover the amount. This resulted in non/short recovery of Rs.31 lakh.

5.2.11 Non-recovery of lease fee on short term permits

The Government by issue of a notification in November 1997 imposed in addition to the royalty, lease fee at the rate of Rs.0.10 per square yard per month for a period for which short term permit is granted.

In the office of the Assistant Mining Engineer, Gurgaon for the year 1997-98, it was noticed that 3 short term permits were issued in respect of Kota Khandevela, Manesar and Rozka Gujjar mines in November 1997 but lease fee amounting to Rs.4.36 lakh was not recovered. This resulted in non recovery of Rs.4.36 lakh.

On this being pointed out (November 1998) in audit, the department stated that notices for recovery had been issued in March 1999. Further report on recovery has not been received (October 1999).

5.2.12 Non recovery of interest on belated payments

Under the Punjab Minor Minerals Concession Rules, 1964, as applicable to Haryana, the holder of a mining lease/mining contract is required to pay royalty and instalment of contract money in advance by the dates stipulated in the deed. In the event of default, simple interest at the rate of 24 *per cent* per annum is chargeable on the belated payments.

In five* offices, 41 contractors/lessees paid contract money/royalty during 1993-94 to 1997-98 after the stipulated dates. On the belated payment of amount due, interest amounting to Rs.34.05 lakh was chargeable but the department did not charge any interest on the belated payments. This resulted in non recovery of interest of Rs.34.05 lakh.

B-HOME DEPARTMENT (POLICE)

5.3 Non/short recovery of police charges

Due to non/short raising of bills, police charges amounting to Rs.15.50 lakh were short recovered.

Under the Punjab Police Rules, 1934, as applicable to Haryana, Superintendents of Police are required to raise bills on account of cost incurred on deployment of police against parties and corporate bodies every month in advance. Cost includes pay and allowances, other expenses, leave salary and pension contribution etc.of the force so deployed. If the period is less than a month, cost for the actual period for which police is deployed shall be recovered.

During test check of records of the offices of three Superintendents of Police (Ambala, Gurgaon and Rewari), it was noticed (May 1997 and September 1998) that police guards were deployed with four institutions during the period between January 1996 and March 1998 but bills on this account were not raised against the respective institutions. This resulted in

* Sonipat, Faridabad, Yamuna Nagar, Panchkula and Narnaul.

non-recovery of police charges amounting to Rs.15.50 lakh as detailed below:

Name of Unit	Name of Institution	Period	Amount not recovered (Rupees in lakh)	Remarks
S.P., Ambala	Central Bank of India, Ambala and Punjab National Bank, Ambala Cantt.	April 1996 to March 1997	7.02	The department recovered (June 1997 and August 1997) the entire amount of Rs. 7.02 lakh.
S.P., Gurgaon	M/s Bharat Electronics, Gurgaon	October 1997 to March 1998	5.63	Department stated (September 1998) that cost statements were being issued. Further report has not been received (October 1999)
S.P., Rewari	Punjab National Bank, Rewari	January 1996 to January 1998	2.85	The department raised (October 1998 and February 1999) demand against the bank. Report on recovery has not been received (October 1999)
		Total	**15.50**	

The cases were reported (between June 1997 and November 1998) to Government; their replies have not been received (October 1999).

C-PUBLIC WORKS DEPARTMENT (IRRIGATION)

5.4 Utilisation of departmental receipts towards expenditure

Under the State Financial Rules, utilisation of departmental receipts towards expenditure is strictly prohibited. All moneys received by or tendered to a Government servant on account of the revenue of the State Government shall be paid fully into treasury or bank on the same day or on the next day at the latest.

Departmental receipts amounting to Rs.12.21 lakh were not deposited into Government accounts.

During test check of records of eight* irrigation divisions, it was noticed (between August 1997 and January 1999) that departmental receipts amounting to Rs.12.21 lakh collected during 1995-96 to 1997-98 were not deposited into the treasury/bank but were utilised to meet the departmental expenditure.

On this being pointed out (between August 1997 and January 1999) in audit, two divisions (Kaithal and Jind) recouped Rs.1.59 lakh (between October 1998 and March 1999) and other two divisions (Pundri and Gohana) intimated that these receipts were utilised towards urgent departmental expenses and would be deposited on receipt of letters of credit from Government. Reply from the remaining four divisions has not been received (October 1999).

The cases were reported (between August 1997 and January 1999) to Government; their reply has not been received (October 1999).

D-CO-OPERATION

5.5 Under assessment of audit fee

Audit fee of Rs.28.71 lakh was short recovered from a sugar mill.

Under the Haryana Co-operative Societies Rules, 1989, every Co-operative society is liable to pay audit fee for audit of its annual accounts by the auditors of Co-operative department. In case of a sugar mill, the fee is charged at the rate of 5 *per cent* of the net profit arrived at before appropriation for income tax.

During test check of records of the Assistant Registrar Co-operative Societies, Karnal, it was noticed (November 1998) that in the case of a sugar mill of Karnal, the audit fee for the years 1991-92 to 1996-97 was charged on the net profits calculated after adjusting the provisions for income tax amounting to Rs.574.19 lakh. This resulted in under assessment of audit fee amounting to Rs.28.71 lakh.

On this being pointed out (November 1998) in audit, the department intimated (November 1998) that a sum of Rs.28.71 lakh had been recovered (January and February 1999) from the sugar mill.

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* Water Services Divisions, Kaithal (2), Faridabad, Gohana, Jind, Safidon and Narwana and Construction Division No. 7, Hisar.

The case was reported to the Government in December 1998; their reply has not been received (October 1999).

5.6 Non/short recovery of audit fee

Audit fee was short assessed by Rs.8.88 lakh

(i) Under the Act, every Co-operative Society is required to pay to the Government, audit fee for the audit of its annual accounts by the auditors of Co-operative department for each Co-operative year at the rate of 5 *per cent* of the net profits.

During test check of records of 4* Assistant Registrar Co-operative Societies, it was noticed (between July and November 1998) that audit fee for the year 1996-97 amounting to Rs.1.86 lakh was not recovered at all from six Co-operative societies and ten societies (including one which did not deposit fee at all for the year 1996-97) deposited the audit fee at a lesser rate during the period from 1992-93 to 1996-97. This resulted in non/short recovery of audit fee of Rs.4.68 lakh.

On this being pointed out (between July and November 1998) in audit, the department recovered an amount of Rs.2 lakh in six cases and issued (November 1998) notices for recovery of audit fee in respect of three societies. The department also intimated (November 1998) that notices for recovery in respect of the remaining six societies were being issued.

The cases were reported (between September and December 1998) to Government; their reply has not been received (October 1999).

(ii) Under the Act, the Central Co-operative Bank and Primary Co-operative and Agricultural and Rural Development Bank are required to pay audit fee at the rate of 5 *per cent* of the net profits subject to minimum of Rs. 15,000 and Rs. 5,000 respectively for each year.

During test check of records of the Assistant Registrars Co-operative Societies, Rewari and Kaithal, it was noticed (February and August 1998) that audit fee amounting to Rs. 25,000 at minimum rates was recovered from the Central Co-operative Bank, Rewari (Rs.15,000) and two Primary Co-operative Agricultural and Rural Development Banks, Kaithal and Cheeka (Rs.5,000 each) on the basis of net profits reflected in their unaudited accounts for the Co-operative years 1995-96 and 1996-97 respectively. Later, on

* Naraingarh, Narwana, Panipat and Yamuna Nagar.

completion of audit of accounts of these banks, additional audit fee amounting to Rs.4.20 lakh became recoverable on the basis of audited figures of profit which was not demanded by the department.

On this being pointed out (February and August 1998) in audit, the department recovered Rs. 4.15 lakh (February and September 1998). Report on balance recovery has not been received (October 1999).

The cases were reported to Government in April and September 1998; their reply has not been received (October 1999).

E-FINANCE DEPARTMENT

5.7 Non charging of interest and penal interest

Interest and penal interest amounting to Rs.45.88 *crore* recoverable on loans and advances was neither assessed nor charged.

Interest on loans and advances is chargeable from the date of disbursement of loans to the loanees at the rates and on the terms and conditions mentioned in the sanctions. Further on all overdue instalments of principal and interest, penal interest as stipulated in the sanctions/orders is also leviable over and above the normal rates of interest. Compound interest is leviable on loans and advances to Local Government Department.

(i) A test check of records of loans and advances granted to Haryana State Electricity Board revealed (July 1999) that in respect of 24 loans amounting to Rs.155.92 *crore* granted to the Board between 1995-96 and 1998-99, interest of Rs.36.59 *crore* and penal interest of Rs.2.23 *crore* recoverable up to 14 August 1998 (date of conversion of Board into Nigam) was neither assessed nor charged on overdue instalments of principal and interest. This resulted in non-recovery of Rs.38.82 *crore*.

The matter was brought (July 1999) to the notice of the department; their reply has not been received (October 1999).

(ii) A test check of records of loans and advances in Co-operation Department revealed (July 1999) that Rs.4.54 *crore* (interest of Rs.4.17 *crore* and penal interest of Rs.0.37 *crore*) on the outstanding amount of loan of Rs.2.41 *crore* advanced between 1986-87 to 1996-97 to various co-operative

banks, dairy development corporations and co-operative sugar mills were neither assessed nor charged for the period April 1995 to March 1999 (upto July 1999).

(iii) In Local Government Department, the due dates for repayment of instalments of loans amounting to Rs.11.05 *crore* granted during 1995-96 and 1996-97 to various Municipal Councils/Municipal Committees were not adhered to by the loanees. Compound interest leviable at the rate of 12 *per cent* per annum on the overdue instalments worked out to Rs.2.52 *crore* for the period from 1995-96 to 1998-99 whcih was neither assessed nor charged.

This was pointed out to the departments in July 1999; their reply has not been received (October 1999).

HARYANA STATE LOTTERIES

5.8 Loss of interest due to delayed transfer of money to Government account

As per accounting procedure of the Haryana State Lotteries Department, the sales officer incharge of a camp, located outside the State, is required to deposit sale proceeds of lottery tickets in a local bank account opened in the name of the Director, Haryana State Lotteries for subsequent transfer to its branch at Chandigarh. Thereafter, money is transferred by the department to Government account in State Bank of India (Treasury Branch) through cheques. Any delay in remittances results in loss of interest to Government.

During test check of records in the office of the Director, Haryana State Lotteries, Chandigarh, it was noticed (June 1997) that an amount of Rs.912.67 lakh received by Sales Officer at Lucknow and transmitted through a bank to Chandigarh on account of sale of lottery tickets in 23 cases had not been transferred to Government account by the department within the prescribed period and the delay ranged from 5 to 62 days. Had the amount been transferred by the Director of Lotteries to the Government account in time, the department could have saved interest of Rs.11.26 lakh calculated at fourteen *per cent* per annum applicable to the borrowings of the Government.

On this being pointed out (June 1997) in audit, the department stated (January 1999) that the delay occurred was beyond the control of the

department. The reply of the department is not tenable as the Director of Lotteries did not issue cheques to Government account in time because of non-monitoring of remittances from outside agents to Chandigarh branch of Central Bank of India.

The case was reported to Government in April 1998; their reply has not been received (October 1999).

F-FOREST DEPARTMENT

5.9 Short recovery of royalty on forest produce

The Haryana Forest Department in consultation with the Haryana Forest Development Corporation fixes the price of trees annually. The royalty for the year 1997-98 was fixed (February 1998) for Kikar, Misc, Eucalyptus and Shisham as Rs.800, 550, 850 and Rs.1500 respectively per cum. For dead and dry trees, the purchase price/royalty to be paid was fixed at 60 *per cent* of the price worked out for green trees.

During test check of records of the Divisional Forest Officer (Territorial), Bhiwani, it was noticed (January 1999) that the Divisional Forest Officer sold dead, dry and fallen trees of volume 9774.751 cubic metres to Haryana Forest Development Corporation and charged purchase price/royalty amounting to Rs. 27.21 lakh instead of Rs 41.45 lakh. This resulted in short recovery of Rs.14.24 lakh.

On this being pointed out (January 1999) in audit, the department admitted the objection stating that recovery would be effected. Position of recovery is awaited (October 1999).

The case was reported to Government in March 1999; their reply is awaited (October 1999).

5.10 Non-realisation of sales tax

Under Haryana General Sales Tax Act, 1973, "sales" means any transfer of property in goods for cash or deferred payment or other valuable consideration. Goods means all kinds of movable property other than newspapers, auctionable claims, money, stocks and shares or securities but includes growing crops, grass, trees and things attached to or forming part of

the land which are agreed to be severed before sale or under the contract of sale.

During the course of audit of records of 4* Divisional Forest Officers (Territorial), it was noticed (between February 1998 and February 1999) that the Divisional Forest Officers sold trees valuing Rs.227.29 lakh to Haryana Forest Development Corporation Ltd. during the years 1996-97 and 1997-98 on which sales tax amounting to Rs.14.47 lakh was not levied/realised at all resulting in loss of revenue to State Government.

The cases were reported (between February 1998 and February 1999) to department; their reply has not been received (October 1999).

The cases were reported (between April 1998 and March 1999) to Government; their reply is awaited (October 1999).

Rita Mitra

Chandigarh
Dated:

(RITA MITRA)
Accountant General (Audit) Haryana

27 JAN 2000

Countersigned

V. K. Shunglu

New Delhi
Dated: 08 FEB 2000

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

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* Bhiwani, Hisar, Rohtak and Sirsa.

APPENDICES

Appendix - I

(Refer para 1.1 (ii))

(Collection of non-tax revenue)

Sr. No	Particulars	1996-97	1997-98	1998-99	Percentage of increase(+)/ Decrease(-) in 1998-99 over 1997-98
		(Rupees in lakh)			
1.	Dividend & Profits	452.89	237.74	221.27	(-) 7
2.	Public Service Commission	52.09	113.09	52.78	(-) 53
3.	Police	1105.44	762.14	1083.10	(+) 42
4.	Jails	55.38	68.87	129.67	(+) 88
5.	Supplies & Disposals	3.16	3.03	68.47	(+) 2160
6.	Stationery & Printing	133.45	148.44	107.77	(-) 27
7.	Public Works	267.92	235.07	379.41	(+) 61
8.	Administrative Services	1182.25	9572.08	11446.04	(+) 20
9.	Contribution & Recoveries towards Pension etc.	320.32	296.28	283.28	(-) 4
10.	Education, Sports & Culture	1832.19	1842.98	1902.13	(+) 3
11.	Family Welfare	11.14	6.04	17.75	(+) 193
12.	Water Supply and Sanitation	1822.79	1929.23	2097.83	(+) 8
13.	Housing	104.50	108.76	109.30	Negligible
14.	Urban Development	1333.23	7068.29	5929.17	(-) 16
15.	Information & Publicity	15.63	12.66	96.42	(+) 661
16.	Labour & Employment	216.36	455.04	295.31	(-) 35
17.	Social Security & Welfare	563.39	389.28	582.71	(+) 50
18.	Other Social Services	71.68	57.84	75.28	(+) 30

Sr. No	Particulars	1996-97	1997-98	1998-99	Percentage of increase(+)/ Decrease(-) in 1998-99 over 1997-98
		(Rupees in lakh)			
19.	Crop Husbandry	190.38	238.19	184.80	(-) 22
20.	Animal Husbandry	296.78	585.85	257.80	(-) 56
21.	Dairy Development	2.35	0.12	1.16	(+) 858
22.	Fisheries	137.35	109.75	94.76	(-) 14
23.	Forestry & Wild Life	2159.91	1743.24	1917.00	(+) 10
24.	Co-operation	1067.45	404.32	631.19	(+) 56
25.	Agriculture Programme	383.05	438.54	330.58	(-) 25
26.	Land reforms	0.01	-	-	-
27.	Rural Development Programme	258.77	183.68	142.25	(-) 23
28.	Major & Medium Irrigation	2429.96	2738.04	6103.54	(+) 123
29.	Minor Irrigation	306.48	7.05	7.86	(+) 11
30.	Village and Small Industries	113.06	167.71	112.83	(-) 33
31.	Industries	69.82	9.20	6.62	(-) 28
32.	Civil Aviation	3.56	3.13	3.90	(+) 25
33.	Roads & Bridges	7.50	118.50	75.80	(-) 36
34.	Scientific Research	0.04	1.44	0.04	(-) 97
35.	Tourism	4.08	7.25	63.86	(+) 781
36.	Other General Services	138.17	145.20	141.96	(-) 2
37.	Power	-	-	30.00	-
38.	Other Industries	-	-	75.04	-
	Total	**17112.53**	**30208.07**	**35058.68**	

Appendix - II

(Refer paragraph 1.9 (iv))

(Outstanding Inspection Reports and Audit Observations)

Sr. No	Department	Number of Oustanding		Amount of receipts involved (Rupees in crore)	Number of Inspection Reports to which even first replies had not been received
		Inspection Reports	Audit Observations		
1.	Co-operation	85	112	2.08	9
2.	Agriculture	50	115	0.41	2
3.	PWD (B&R)	35	70	2.26	8
4.	PWD (Irrigation)	175	358	10.98	12
5.	Cane Commissioner	41	43	13.29	2
6.	Medical	85	152	0.48	10
7.	Industries	28	34	0.75	1
8.	Public Health	73	180	6.79	10
9.	Animal Husbandry	64	86	1.77	17
10.	Lotteries	9	29	3.05	1
11.	Electricity	13	32	47.63	-
12.	Mines and Metallurgical Industries	99	255	8.53	-
13.	Horticulture	21	48	0.13	4
14.	Police	29	39	13.85	11
15.	Food & Supplies	23	35	0.05	4
16	Pollution	7	14	1.91	9
	Total	**837**	**1602**	**113.96**	**100**

ANNEXURES

Annexure A

(Refer Para No.2.2.6 (ii))

Sr. No.	Name of the unit	RC number	Assessment year/ date of order	Value of goods suppressed	Tax effect	Minimum penalty leviable u/s 48 of HGST
				(Rupees in lakh)		
			Sale against forms 23-A and 17-A			
1	DETC, Faridabad (E)	1209120	1993-94 March 1995	10.76	1.12	2.25
2.	DETC, Karnal	21486	1994-95 May 1996	1.87	0.07	0.15
		18442	1994-95 August 1996	4.20	0.37	0.74
		16419	1994-95 February 1997	12.19	0.49	0.98
3.	DETC, Hisar	18961	1995-96 January 1997	19.80	0.79	1.58
		28868	1996-97 March 1998	3.58	0.07	0.14
4.	DETC, Gurgaon	12957	1990-91 May 1994	3.44	0.30	0.60
5.	DETC, Rohtak	13455	1995-96 February 1997	4.85	0.52	1.04
6.	DETC, Panchkula	23689	1991-92 March 1996	16.37	0.65	1.31
			Sale against form ST 15			
7.	DETC, Faridabad (E)	1201518	1994-95 February 1997	6.82	0.75	1.50
		1202015	1994-95 May 1998	6.65	0.59	1.18
		1208906	1993-94 June 1995	28.79	3.17	6.33
8	DETC, Hisar	22577	1993-94 March 1996	15.31	0.34	0.67
9	DETC, Faridabad (W)	1305188	1994-95 March 1997	4.57	0.10	0.20
		1312397	1995-96 February 1999	7.60	0.84	1.67
10.	DETC, Kaithal	2021	1996-97 February 1998	0.46	0.05	0.10
11	DETC, Sirsa	938	1993-94 July 1995	2.10	0.08	0.16
	Total			**149.36**	**10.30**	**20.60**

Annexure B

(Refer Para No.2.2.9)

Sr. No.	Name of the unit	RC number	Assessment year/date of order	Commodities sold	Rate of tax leviable	Rate of tax levied	Value of goods	Difference
					(In percentage)		(Rupees in lakh)	
1.	DETC, Sirsa	6107	1995-96 September 1997	Cotton waste	10	4	59.63	4.77
		9670	1993-94 August 1995	Gram Dal	4	1	32.24	0.97
		7352	1994-95 February 1996	Gram Dal	4	1	8.49	0.25
2.	DETC, Ambala Cantt.	27631	1990-91 June 1996	Scientific goods	10	4	5.25	0.31
3.	DETC, Bhiwani	665	1992-93 October 1995	Cement	12.12	4	2.13	0.19
		665	1993-94 March 1996	Cement	12.12	4	9.49	0.84
			1994-95 December 1997	Cement	12.12	4	4.97	0.44
4.	ETP, Palwal	130021	1995-96 September 1996	Cement	12.12	4	6.84	0.32
			1996-97 March 1998		12			
5.	DETC, Kaithal	93	1996-97 October 1997	Toria and Sunflower seed	4	2	47.19	0.94
		1354	1996-97 September 1997	Toria and Sunflower seed	4	2	33.55	0.67
6.	DETC, Panchkula	28787	1992-93 August 1995	Tractor parts	10	4	5.54	0.33
7.	DETC, Faridabad (East)	1209231	1995-96 July 1997	Aluminium wrapper	10	2.2	17.26	1.34
			1996-97 December 1997		10	2	21.19	1.70
	Total							**13.07**

Annexure C
(Refer para 3.2.13)

Sr. No	Name of Sub-Registrar	Number of cases	Nature of misclassification	stamp duty leviable (Rupees)	levied (Rupees)	short levied (Rupees)
1.	Nissing	1	Mortgage deed as Security Bond/Bond	322500	20	322480
	Pundri	3		72465	55	72410
	Kosli	1		33930	5	33925
	Narnaul	1		28500	20	28480
	Rewari	1		31500	45	31455
2.	Gurgaon	1	Sale deed as agreement	127500	15	127485
3.	Faridabad	1	Sale deed as power attorney	103630	15	103615
	Nelokheri	1		56250	15	56235
	Pundri	2		28250	15	28235
	Sonipat	1		25466	15	25451
4.	Jhajjar	1	Gift as agreement	88062	10	88052
5.	Ambala cantt.	1	Sale deed as will	75950	62.50	75888
6.	Narnaual	1	Sale deed as surrender deed	31485	15	31470
7.	Hisar	1	Release deed as arbitration award	30500	115	30385
	Total	**17**		**1055988**	**422**	**1055566**