



**REPORT**  
**OF THE**  
**COMPTROLLER**  
**AND**  
**AUDITOR GENERAL OF INDIA**  
**FOR THE YEAR ENDED 31 MARCH 1994**  
**NO. 3**  
**(REVENUE RECEIPTS)**

**GOVERNMENT OF UTTAR PRADESH**



## ERRATA

### Report of the Comptroller and Auditor General of India for the year ended 31 March 1994, No. 3 (Revenue Receipts), Government of Uttar Pradesh

Page No.	Para No.	Line No.	For	Read
4	1.1(ii)	Col.3 of 3rd line	1420	1420.89
36	2.4	Col.3 last line		Total
36	2.4	Col.6 last line	Illegible	2.96
77	3.2.7	Item 1 of Table	Delete particulars of Item 1 from Col.2 to Col.8.	
77	3.2.7	Col.3 of last line	678	664
77	3.2.7	Col.5 of last line	15.82	14.52
77	3.2.7	Col.6 of last line	36,332.8	35930.00
77	3.2.7	Col.8 of last line	13.06	12.93
80	3.2.9	Line 9 Col.6	4.25	4.05
80	3.2.9	Col.6 of line 10 of the table	19.14	18.94
80	3.2.9	Col.6 of line 11 of the table	72.38	72.18
		Total	33.40	33.20
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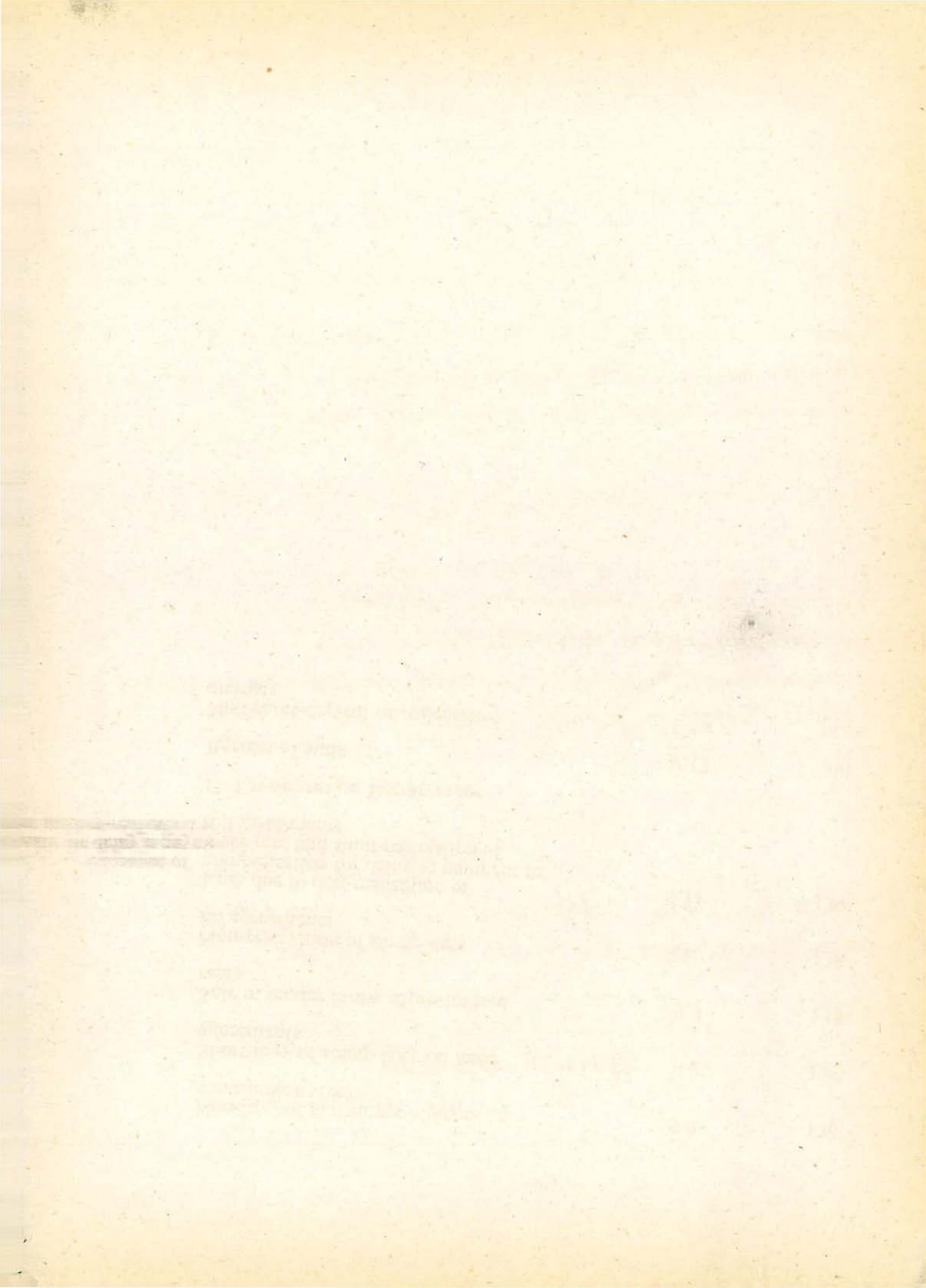
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## **PREFATORY REMARKS**

This Report for the year ended 31 March 1994 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

The cases mentioned in this report are those which came to notice in the course of test audit of records during the year 1993-94 as well as those noticed in earlier years which could not be covered in previous Reports.

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## OVERVIEW

This Report includes 51 paragraphs including 2 reviews relating to non-levy, short-levy of tax, interest, penalty etc., involving Rs. 50.87 crores. Some of the major findings are mentioned below:-

### 1. General

(i) During the year 1993-94, the total receipts of State Government were Rs. 12,131.42 crores. Of the total receipts, Rs. 4,132 crores (34 per cent) represented tax revenue and Rs. 1,717.51 crores (14 per cent) related to non-tax revenue. Receipts from the Government of India, as grants-in-aid and State's share of divisible Union taxes, amounted to Rs. 6,281.91 crores (52 per cent). The growth rate of tax revenue during the year 1993-94 was only 6 per cent as against 11 per cent during the previous year.

(Para 1.1 & 1.2)

(ii) There was tendency to finalise Sales Tax assessment cases just before they were due to become time-barred. 55 per cent of 3.94 lakhs Sales Tax Assessments finalised during 1993-94 were those which would have become time-barred in the next financial year. 50 per cent of the cases assessed during 1993-94 were finalised during the last quarter of the year.

(Para 1.4 (a) (i), (ii) and (iii))

(iii) Test check of records of Sales Tax, State Excise, Transport, Stamp duty and Registration fee, Land Revenue, Forest, Departmental offices etc. conducted during 1993-94 revealed under assessments/short-levy of revenue amounting to Rs. 68.46 crores in 2,786 cases. The concerned departments accepted under assessments etc. amounting to Rs. 17.92 crores of which



Rs. 15.09 crores had been pointed out in 1993-94 and the rest in earlier years.

(Para 1.7)

(iv) 2,746 Audit Inspection Reports comprising 8,964 paragraphs with revenue implication of Rs. 271.99 crores, issued upto December 1993 were pending settlement at the end of June 1994. In respect of 829 Inspection Reports, even first reply had not been received (January 1995).

(Para 1.8)

## 2. Sales Tax

(i) A review on "Internal controls in relation to exemptions/concessions against declarations" revealed:

(a) In the office of D.C.(E) Sales Tax Range 'A', Kanpur, 204 declaration forms were found short on receipt from the printing press but the fact, though required, was neither reported to Assistant Commissioner (Enforcement), Allahabad, nor to the Government Printing Press, Allahabad. It was not reported to the Commissioner, Sales Tax for declaring their use illegal so as to prevent their mis-use.

(Para 2.2.5.(a))

(b) No system exists for reconciliation between the offices of D.C.(E) of the ranges and the Assessing Officers to ensure that forms issued to each Assessing Officer are recorded correctly in their stock account. This resulted in short account of 10,200



forms for claiming concessions exemption in Lucknow and Ghaziabad circles.

(Para 2.2.5.(b))

- (c) Despite specific instructions of the Commissioner for cross-verification of transfer of stock to other States 4,673 such cases against declarations in form 'F' involving Rs. 229.58 crores were referred to D.C.s (S.I.B.) for verification but were not verified during the period 1991-92 to 1993-94.

(Para 2.2.6.(a))

- (d) Departmental instructions provide that information about inter-State sales of Rs. 25,000 and above should be furnished to the Commissioner for getting them cross verified to prevent frauds and evasion of tax. No monitoring system was, however, set up to ensure the receipts of such information in the office of the Commissioner from the field offices. It was noticed in audit that for want of such system the Commissioner's office could not detect that the field offices had not reported transactions involving Rs. 8.62 crores in 418 cases for verification and they remained unverified. The possibility of evasion / fraud in these transactions could not be ruled out.

(Para 2.2.7)

- (e) To ensure the genuineness of transactions, the assessing authorities are required to cross-verify the sales or



purchases covered by declaration forms. These instructions were not observed, with the result that transactions worth Rs. 3.75 crores in 335 cases remained unverified.

(Para 2.2.8.(a) and (b))

(ii) Tax amounting to Rs. 27.34 lakhs on inter-State sales of goods not covered by Forms 'C' or 'D' was not levied by the assessing officers.

(Para 2.3)

(iii) Penalty amounting to Rs. 16.99 lakhs leviable for irregular purchase of goods worth Rs. 42.46 lakhs by 4 dealers from within the state without furnishing declarations in Form XXXI was not levied.

(Para 2.5 a(i))

(iv) Penalty amounting to Rs. 18.43 lakhs for concealment of turnover of Rs. 702.36 lakhs by 7 dealers during the year 1983-84 to 1988-89 was not levied.

(Para 2.5 a(ii))

(v) Penalty amounting to Rs. 20.58 lakhs, though leviable, was not levied in 8 cases of irregular purchase of goods worth Rs. 135.46 lakhs from outside the state which were not covered by certificates of registration.

(Para 2.5 b(i))

(vi) Application of incorrect rate of tax on sales of taxable goods resulted in loss of revenue amounting to Rs. 29.36 lakhs in 9 cases.

(Para 2.8.(i) and (ii))



**3. State Excise**

(i) A review on "Internal controls in the working of distilleries and breweries" revealed:

(a) Although licensees had submitted applications for renewal of their licences alongwith the licence fees in time, their licences were either not renewed or were renewed after a delay ranging from 1 to 35 months.

(Para 3.2.5)

(b) During the years 1990-91 to 1993-94, the production of alcohol increased from 343.63 million litres in 1990-91 to 359.26 million litres in 1991-92, but declined during 1992-93 and 1993-94. 46.2 and 63.7 per cent of installed production capacity was not utilised during the year 1992-93 and 1993-94 respectively.

(Para 3.2.6)

(c) According to Rules, loss of molasses in transit from sugar factories to distilleries is admissible upto 1 per cent and loss beyond 1 per cent can be compounded by levying penalty upto Rs. 5,000 in each case. The quantity of molasses is checked and certified by the representatives of Excise Department at both ends. It was noticed that 53 cases had been compounded for total amount of Rs. 2,500 only against maximum leviable penalty of Rs. 2.65 lakhs. 400 cases were pending for orders with the Commissioner and no action had been



initiated in 355 such cases. The excess transit loss of molasses deprived the Government of additional excise revenue of Rs. 13.25 lakhs.

(Para 3.2.6 (i) (a))

- (d) Failure to enforce the norms of yield of spirit from molasses in 13 distilleries deprived the Government of additional excise revenue of Rs. 32.21 crores during the period 1990-91 to 1993-94.

(Para 3.2.6. (ii) (b))

- (e) Export of rectified spirit in bond involving an excise duty of Rs. 112.53 lakhs remained unacknowledged by the consignees.

(Para 3.2.8)

- (f) Application of incorrect rate of export duty resulted in loss of revenue amounting to Rs. 71.05 lakhs.

(Para 3.2.9)

- (g) Non-adoption of actual strength of Indian made foreign liquor (IMFL) during the period from 1990-91 to 1993-94 resulted in under-assessment of duty of Rs. 19.75 lakhs.

(Para 3.2.11)

- (h) Inspections of breweries/distilleries as prescribed by the Commissioner of Excise were not



conducted by the departmental authorities during 1990-91 to 1993-94.

(Para 3.2.13)

(ii) Non-observance of rules for re-auction of 35 country liquor shops of city group of a district during the year 1992-93 resulted in loss of revenue of Rs. 64 lakhs.

(Para 3.3)

#### **4. Taxes on Vehicles, Goods and Passengers**

Delay in circulation of Government notification dated 2 September 1992 enhancing the rate of lumpsum passenger tax resulted in loss of revenue amounting to Rs. 7.52 lakhs in respect of 2,479 vehicles passing through check-posts during the period 1992-93 and 1993-94.

(Para 4.2)

#### **5. Stamp duty and Registration fees**

Non valuation of land as per rates fixed by the Collector resulted in short-levy of stamp duty and registration fee amounting to Rs. 13.92 lakhs in 14 cases.

(Para 5.3)

#### **6. Land Revenue**

In 4 tehsils of 4 districts, collection charges amounting to Rs. 17.26 lakhs were not realised from non-Government institutions during



1991-92 to 1993-94 in respect of their dues recovered as arrears of land revenue.

(Para 6.2)

## **7. Other Tax Receipts**

The conditions subject to which deferment of tax amounting to Rs. 51.23 lakhs on purchase of sugarcane during 1984-85 to 1988-89 by a sugar factory was ordered by Government were not enforced nor was the tax recovered from the sugar factory.

(Para 7.4)

## **8. Forest Receipts**

(i) Lease rent amounting to Rs. 438.19 lakhs and cost of trees amounting to Rs. 207.77 lakhs were not recovered from lease holders.

(Para 8.2 (i) and (ii))

(ii) There was a loss of Rs. 31.14 lakhs due to short-collection of resin during 1992 season in 2 forest divisions due to delay in supply of empty tins for collection.

(Para 8.3)

(iii) Illicit felling of trees resulted in loss of revenue of Rs. 16.83 lakhs in a forest division

(Para 8.4)



## CHAPTER-1

### GENERAL

#### 1.1 Trend of revenue receipts

The tax and non-tax revenue raised by Government of Uttar Pradesh during the year 1993-94, State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and corresponding figure for the preceding two years are given below :-

	1991-92	1992-93	1993-94
	(in crores of rupees)		
I. Revenue raised by the State Government			
(a) Tax revenue	3497.39	3886.34	4132.00
(b) Non-tax revenue	1083.48	1420.89	1717.51
	<u>4580.87</u>	<u>5307.23</u>	<u>5849.51</u>
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	2731.35	3398.61	* 3552.07
(b) Grants-in-aid	2362.39	2970.34	2729.84
	<u>5093.74</u>	<u>6368.95</u>	<u>6281.91</u>
III. Total receipts of the State (I+II)	9674.61	11676.18	** 12131.42
IV. Percentage of I to III	47	45	48

\* For details, please see 'Statement No. 10 - Detailed Accounts of Revenue by Minor-Heads' in the Finance Accounts of the Government of Uttar Pradesh for the year 1993-94. Figures under the head "10021 - Taxes on Income other than Corporation Tax - share of net proceeds assigned to State" booked in the Finance Accounts under A-Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union Taxes in this Statement.

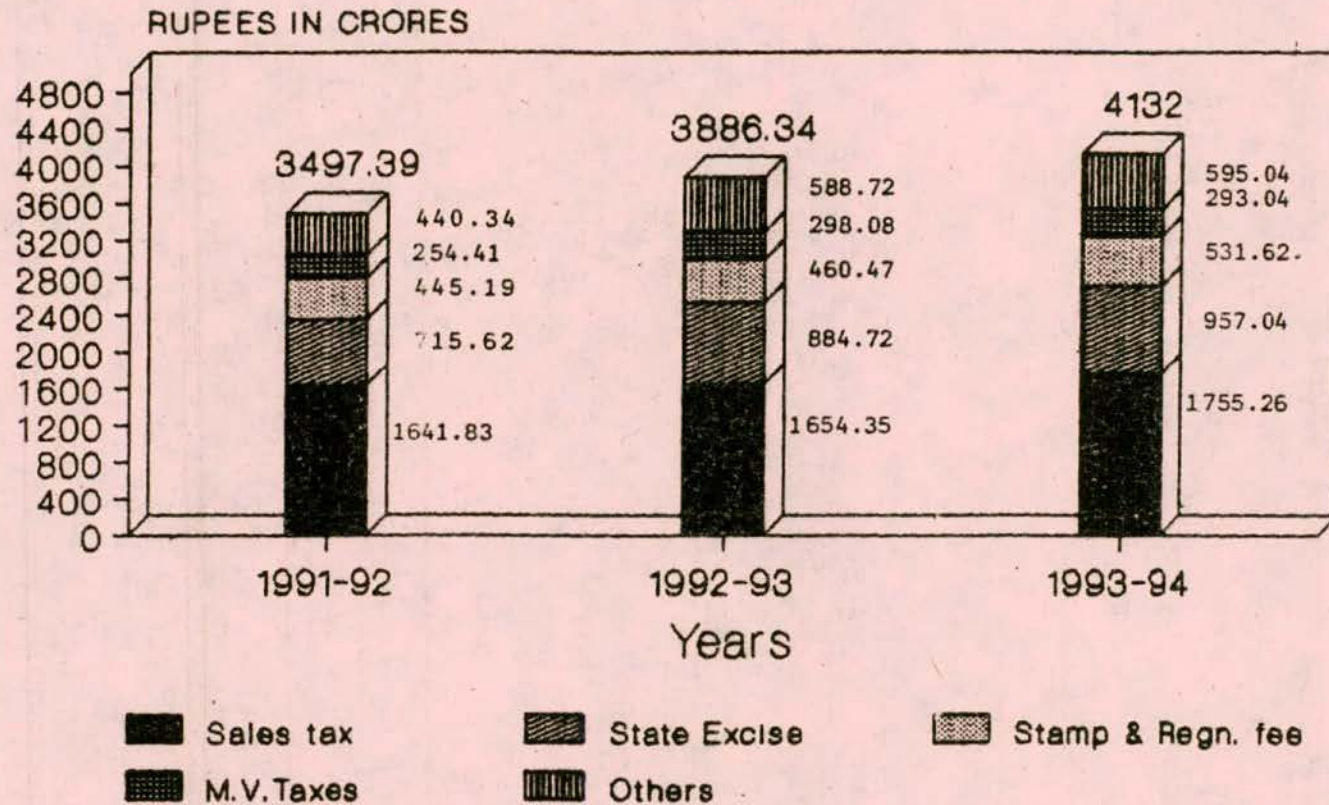
\*\* For details, please see Statement No.11-Detailed Account of Revenue by Minor Heads in the Finance Accounts of Government of Uttar Pradesh- 1993-94.

(i) The details of tax revenues for the year 1993-94 alongwith the figures for the preceding two years are given below and have also been exhibited in Chart I.

Revenue Head	1991-92	1992-93	1993-94	Increase(+) or decrease(-) in 1993-94 with reference to 1992-93	Percentage of increase/decrease change with reference to 1992-93.
(1)	(2)	(3)	(4)	(5)	(6)
----- (in crores of rupees) -----					
1. Sales Tax	1641.83	1654.35	1755.26	(+)100.91	6.00
2. State Excise	715.62	884.72	957.04	(+)72.32	8.00
3. Stamp duty and Registration fees	445.19	460.47	531.62	(+)71.15	15
4. Tax on Sale of Motor Spirits and Lubricants	188.22	300.97	336.58	(+)35.61	12
5. Taxes on Goods and Passengers	161.42	195.12	194.55	(-)00.57	(-)0.3
6. Taxes on Vehicles	92.99	102.96	98.49	(-) 4.47	(-)4
7. Tax on Purchase of Sugarcane	68.42	65.71	57.40	(-) 8.31	(-)13
8. Taxes and Duties on Electricity	57.13	63.58	56.43	(-) 7.15	(-)11
9. Land Revenue	42.21	60.32	47.76	(-)12.56	(-)21
10. Other Taxes on Income and Expenditure	--	1.78	00.001	(-) 1.78	(-)100
11. Taxes on Immovable Properties other than Agricultural Land	0.78	1.79	00.06	(-) 1.73	(-)97
12. Other Taxes and Duties on Commodities and Services	83.58	94.57	96.81	(+) 2.24	2
<b>Total</b>	<b>3497.39</b>	<b>3886.34</b>	<b>4132.00</b>	<b>(+)245.66</b>	<b>6</b>

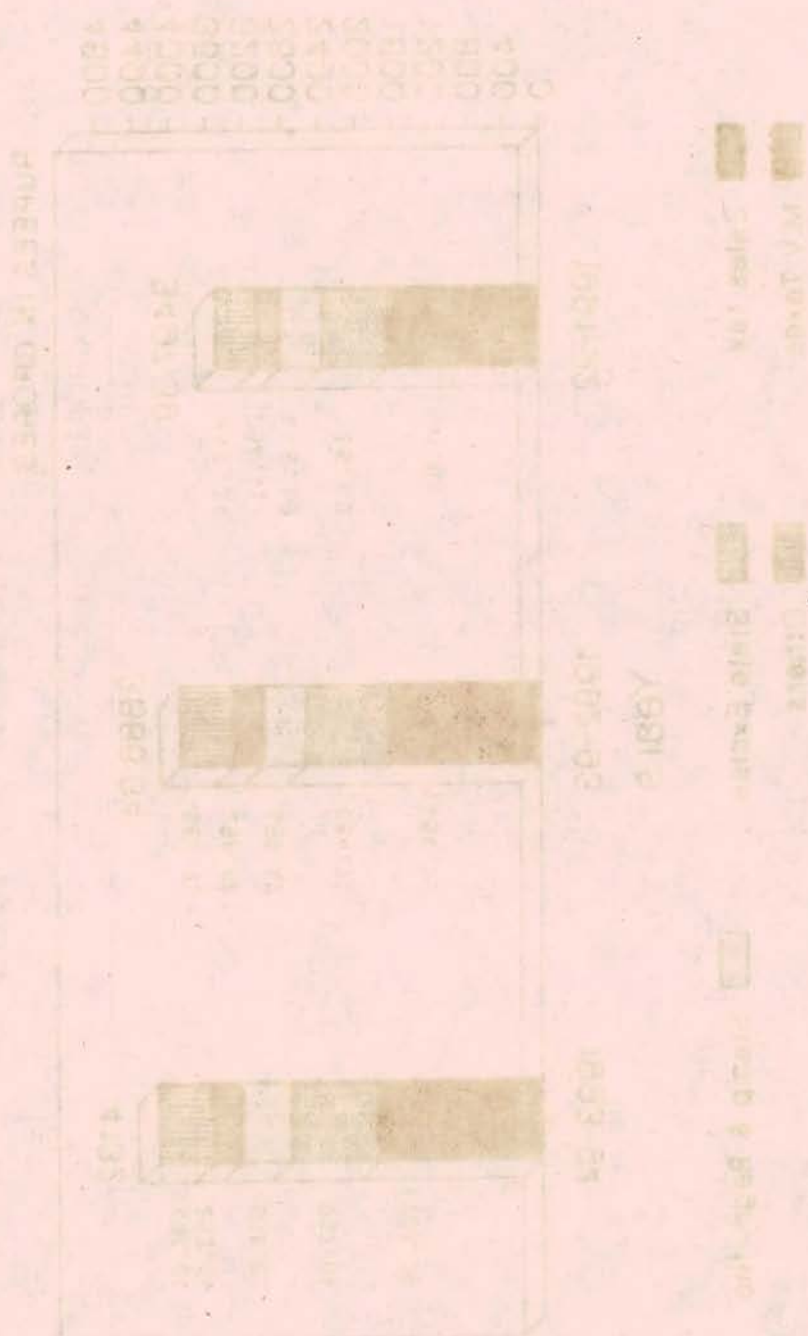


## GROWTH OF TAX REVENUE During 1991-92 to 1993-94



[Reference: Paragraph 1.1 (i) Page No.2 ]  
Chart I

Source: Bureau of Economic Warfare



# GROWTH OF TAX REVENUE



(ii) The details of non-tax revenues for the year 1993-94 alongwith the figures for the preceding two years are exhibited below and also shown in Chart II.

Revenue Head	1991-92	1992-93	1993-94	Increase(+) or decrease(-) in 1993-94 with reference to 1992-93	Percentage change with reference to 1992-93
(1)	(2)	(3)	(4)	(5)	(6)
	( in crores of rupees )				
1. Miscellaneous General Services	390.17	513.30	778.94	(+)265.64	52
2. Interest Receipts	298.93	317.70	354.78	(+) 37.08	12
3. Forestry and Wild Life	85.43	106.88	121.16	(+) 14.28	13
4. Major and Medium Irrigation	36.84	45.97	161.23	(+)115.26	251
5. Education, Sports, Art and Culture	34.73	55.92	29.94	(-) 25.98	(-)46
6. Other Administrative Services	29.20	32.52	20.72	(-) 11.80	(-)36
7. Non-ferrous Mining and Metallurgical Industries	20.77	24.99	61.16	(+) 36.17	145
8. Police	19.54	27.77	27.41	(-) 0.36	(-)1.3
9. Crop Husbandry	16.93	12.58	15.61	(+) 3.03	24
10. Social Security and Welfare	16.01	44.59	4.45	(-) 40.14	(-)90
11. Medical and Public Health	14.45	18.61	14.77	(-) 3.84	(-)21
12. Minor Irrigation	14.33	46.01	21.91	(-) 24.10	(-)52
13. Roads and Bridges	11.43	11.13	17.32	(+) 6.19	56
14. Public Works	10.59	9.31	14.92	(+) 5.61	60



15. Co-operation	6.95	53.33	5.98	(-) 47.35	89
16. Others	77.18	100.28	67.21	(-) 33.06	33
<b>Total</b>	<b>1083.48</b>	<b>1420..</b>	<b>1717.51</b>	<b>(+)296.62</b>	<b>21</b>

There were significant variations in receipt under the following heads during 1993-94.

(a) There was considerable decline in receipts under the heads "Other taxes on Income and Expenditure (100 per cent)", "Taxes on immovable properties other than Agricultural Land" (97 per cent), " Social Security and Welfare " (90 per cent), " Minor Irrigation" (52 per cent)," Education, Sports, Art and Culture " (46 per cent), " Other Administrative Services" (36 per cent) and "Land Revenue" (21 per cent) as compared to the receipts of 1992-93 under the respective heads.

(b) There was substantial increase under the head "Major and Minimum Irrigation" (251 per cent)," Non-ferrous Mining and Metallurgical Industries" (145 per cent), " Public Works" (60 per cent), "Roads and Bridges" (56 per cent), "Miscellaneous General Services" (52 per cent), " Crop Husbandry" (24 per cent) and " Stamp and Registration" (15 per cent) as compared to receipts of 1992-93.

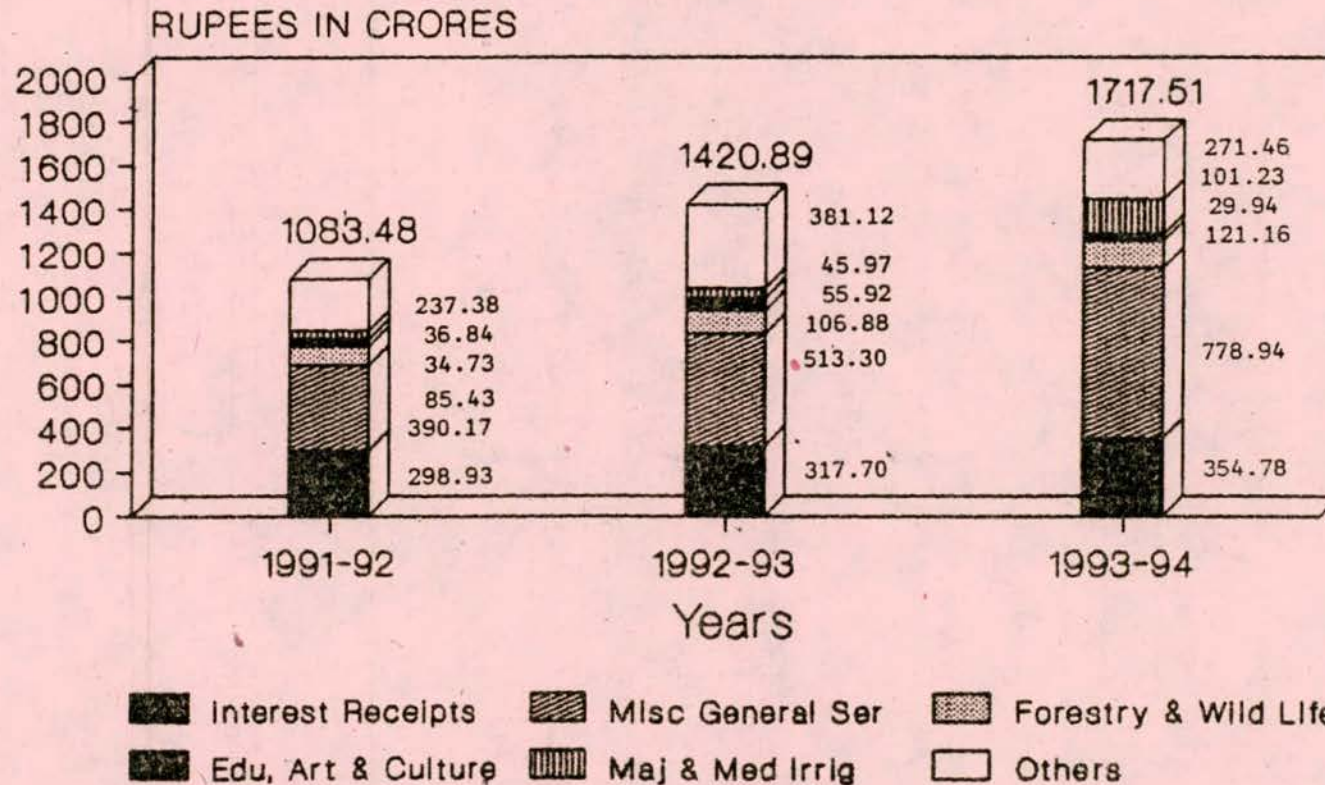
The State Government was requested (October 1994) and reminded (December 1994) to furnish the reasons for variation beyond 10 per cent; their reply has not been received (January 1995).

## 1.2 Variations between Budget estimates and actuals

(a) The variations between Budget estimates and actuals of tax and non-tax revenues during the year 1993-94 are given below:-



## GROWTH OF NON-TAX REVENUE DURING 1991-92 to 1993-94







( 5 )

	Budget estimates	Actuals	Variations Increase(+)/ Shortfall(-)	Percentage of variation
(In crores of rupees)				
A. Tax Revenue	4214.14	4132.00	(-) 82.14	(-)2
B. Non-tax Revenue	1608.97	1717.51	(+)108.54	(+)7

(b) The break-up of the variations under the principal heads of revenue is given below:-

Revenue Head	Budget estimates	Actuals	Variation Increase (+)/short fall(-)	Percentage of variation
(1)	(2)	(3)	(4)	(5)
( In crores of rupees )				
A. Tax Revenue				
1. Sales Tax	1820.00	1755.26	(-) 64.74	(-)3.6
2. State Excise	955.51	957.04	(+) 1.52	0.2
3. Stamps and Registration	516.98	531.62	(+) 14.64	3
4. Tax on Sale of Motor Spirits and Lubricants	329.49	336.58	(+) 7.09	2
5. Taxes on Goods and Passengers	195.76	194.55	(-) 1.21	(-)0.6
6. Taxes on Vehicles	121.51	98.49	(-) 23.02	(-)19
7. Other Taxes and Duties on commodities and Services Entertainment tax.	101.48	96.81	(-) 4.68	(-)4.6
8. Tax on Purchase of Sugarcane	68.34	57.40	(-) 10.94	(-)16
9. Taxes and Duties on Electricity	66.52	56.43	(-) 10.09	(-)15
10. Land Revenue	35.01	47.76	(+) 12.74	36.4



**B. Non-Tax Revenue**

1. Miscellaneous General Services	776.82	778.94	(+) 2.12	0.3
2. Interest Receipts	414.75	354.78	(-) 59.97	(-)14.5
3. Forestry and Wild Life	100.28	121.16	(+) 20.88	21
4. Major and Medium Irrigation	60.80	161.23	(+) 100.43	165
5. Education, Sports, Art and Culture	43.85	29.94	(-) 13.91	(-)32

There was considerable increase in actuals over budget estimates under the head "Major and Medium Irrigation" (165 per cent), "Land Revenue" (36 per cent), "Forestry and Wild Life" (21 per cent). However, there was considerable fall in the receipts under the heads "Education, Sports, Art and Culture" (32 per cent), "Taxes on Vehicles" (19 per cent), "Tax on purchase of Sugarcane" (16 per cent) and "Taxes and Duties on Electricity" (15 per cent).

The State Government was requested (October 1994) and reminded (December 1994) to furnish the reasons for increase / shortfall beyond 10 per cent; their reply has not been received (January 1995).

**1.3 Cost of Collection**

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and percentage of such expenditure to the gross collection during the years 1991-92, 1992-93 and 1993-94 alongwith the relevant All India Average percentage of expenditure on collection to gross collection for 1992-93 are given below:



Revenue Head	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India Average for the year 1992-93
(1)	(2)	(3)	(4)	(5)	(6)
(in crores of rupees)					
1. Sales Tax	1991-92	1641.83	32.68	2	
	1992-93	1654.35	39.28	2.4	
	1993-94	1755.26	42.85	2.4	1.5
2. Taxes on Vehicles	1991-92	92.99	3.55	3.8	
	1992-93	102.96	4.25	4.1	
	1993-94	98.49	4.80	4.9	2.9
3. Taxes on Goods and Passengers	1991-92	161.42	2.12	1.3	
	1992-93	195.12	2.43	1.2	
	1993-94	194.55	2.70	1.4	
4. Electricity Duty	1991-92	57.13	1.81	3.2	
	1992-93	63.58	2.13	3.4	
	1993-94	56.43	2.39	4.2	
5. Entertainment Tax	1991-92	83.58	13.58	16.2	
	1992-93	94.57	20.57	21.8	
	1993-94	96.81	9.29	10	
6. State Excise	1991-92	715.62	7.48	1	
	1992-93	884.72	12.03	1.4	
	1993-94	957.04	10.85	1.1	2.2
7. Stamp and Registration	1991-92	445.19	8.45	1.9	
	1992-93	460.47	6.41	1.4	
	1993-94	531.62	1.98	0.4	4.9

The expenditure on collection under the head 'Taxes on Vehicles' increased from 4.1 per cent of gross collection in 1992-93 to 4.9 per cent in 1993-94.

The Government was requested (October 1994) and reminded (December 1994) to furnish reasons for the increasing trend in expenditure



on revenue collections as also the measures adopted to curb the same. Their reply has not been received (January 1995).

#### 1.4 Arrears in assessments

##### (a) Performance of assessment work in Sales Tax Department

(i) The number of assessments pending at the beginning of the year, cases becoming due during the year, cases disposed of during the year and the number of cases pending finalisation at the end of the year, as reported by the Sales Tax Department for the years 1989-90 to 1993-94 are given below:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1989-90	815564	336860	1152424	409782	742642	35.6
1990-91	812978	360130	1173108	527962	645146	45.0
1991-92	718433	376111	1094544	450354	644190	41.0
1992-93	710790	387506	1098296	416982	681314	38.0
1993-94	741996	394868	1136864	394101	742763	35.0

It is seen that the closing balance of the years 1989-90 to 1992-93 differs from the opening balance of the succeeding year. The department stated that this was due to scrutiny, rectification of mistakes and grant of registration from back dates. The department needs to correct the system of maintenance of records to ensure consistency and correctness of statistics.

It would be seen that 65 per cent of the cases were pending for assessment at the end of 1993-94. Besides, there was decline in percentage of disposal of cases from 41 per cent in 1991-92 to 38 per cent and 35 per cent in 1992-93 and 1993-94 respectively.



**Year-wise break-up of the assessments pending as on 31 March**

1994 was as given below:

<b>Assessment year</b>	<b>Number of cases</b>
upto 1988-89	2,013
1989-90	20,868
1990-91	1,74,892
1991-92	2,40,145
1992-93	3,00,636
Cases remanded by courts for re- assessment	4,209
<b>Total</b>	<b>7,42,763</b>

(ii) A comparative position of assessments finalised during first nine months and remaining three months in the years 1992-93 and 1993-94, is also given below:

Period	1992-93			1993-94		
	Number of asse- ssments final- ised	Demands raised (in cro- res of rupees)	Percentage of assess- ments finalised	Number of ass- essments final- ised	Demands raised (in cro- res of rupees)	Percentage of assess- ments finalised
April to December	2,35,531	211.78	56	1,97,192	175.83	50
January to March	1,81,451	564.85	44	1,96,909	615.25	50
<b>Total</b>	<b>4,16,982</b>	<b>776.63</b>		<b>3,94,101</b>	<b>791.08</b>	

It would be seen that the total disposal of cases during April to December was more or less equal to that in last quarter of the year. The additional demand raised during the first three quarters of 1993-94 was Rs. 175.83 crores whereas, the demand raised during the last quarter was Rs. 615.25 crores showing increase of 250 per cent. The percentage of disposal of cases during the last quarter increased from 44 per cent in 1992-93 to 50 per cent in 1993-94.



(iii) It would be seen from the breakup of cases disposed of as given below that there is a tendency to finalise large number of cases at the fag end of the limitation period. The breakup indicates that over 55 per cent of the cases disposed of were more than 3 years old which were going to become time barred if not disposed of during that year:

<b>Year ending 31 March</b>	<b>Breakup of cases disposed of according to the year to which they pertained</b>		
	<b>Year</b>	<b>Number of cases</b>	<b>Per- centage</b>
1993	upto 1987-88	41491	10
	1988-89	177462	43
	1989-90	46569	11
	1990-91	43038	10
	1991-92	100374	24
	Remand Cases	8048	2
	<b>Total</b>	<b>416982</b>	
1994	upto 1988-89	31353	8
	1989-90	186776	47
	1990-91	46644	12
	1991-92	39305	10
	1992-93	81595	21
	Remand cases	8428	2
	<b>Total</b>	<b>394101</b>	

Tendency to finalise a large number of cases at the fag end of the limitation period could lead to hurried assessment, inadequate scrutiny of records and dealers becoming insolvent or untraceable with the lapse of time.

**(b) Appeal and revision cases**

The number of appeals and revision cases due for disposal and finalised by the Sales Tax department during the years 1989-90 to 1993-94



together with the number of appeals and revision cases pending disposal at the end of 1993-94 as reported by the department are indicated below:

Year	Opening balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to the total number of cases
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Appeal cases						
1989-90	78325	50979	129304	45258	84046	35
1990-91	84046	44282	128328	49206	79122	38
1991-92	79122	45957	125079	57103	67976	46
1992-93	67976	45219	113195	48765	64430	43
1993-94	64430	45017	109447	46775	62672	43
Revision cases						
1989-90	53547	16089	69636	17980	51656	26
1990-91	51656	21369	73025	18848	54177	26
1991-92	54177	25087	79264	18837	60427	24
1992-93	60427	23537	83964	19324	64640	23
1993-94	64640	22212	86852	19483	67369	22

It would be seen that number of pending appeal cases declined from 78325 at the end of 1988-89 to 62672 at the end of 1993-94 and the number of revision cases pending disposal rose from 53547 at the end of 1988-89 to 67369 at the end of 1993-94 registering an increase of 26 per cent during the same period.



### 1.5 Analysis of collection

The break up of total collection (at pre-assessment stage and after regular assessment) of Sales Tax Department during 1993-94 and corresponding figures for preceding two years as furnished by the department are given below:

Name of tax head	Year	Amount collected at pre-assessment stage ( in crores )	Amount collected after regular assessment ( of rupees )	Other receipts	Amount refunded	Net collection of tax	Percentage of col 3 to 7
(i)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sales Tax	1991-92	1460.26	83.93	39.16	5.84	1577.51	93
	1992-93	1526.46	101.41	22.77	8.15	1642.49	93
	1993-94	1699.74	121.32	23.48	7.49	1837.05	93

The position of revenue collected by Sales Tax Department during last 3 years ending March 1994 shows that collection of revenue at pre-assessment stage was 93 per cent which indicates the awareness of voluntary compliance by tax payers and limited role of tax collecting machinery in achieving the higher target of income.

### 1.6 Arrears of revenue

As on 31 March 1994, arrears of revenue under principal heads of revenue, as reported by the department, were as under:



Heads of Revenue	Arrears pending collection (In crores of rupees)	Arrears more than 5 years old	Remarks
(1)	(2)	(3)	(4)
1. Sales Tax	1943.09	432.15	Out of Rs.1943.09 crores, demand for Rs.406.72 crores had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs.263.38 crores and Rs.31.29 crores had been stayed by the Courts and Government respectively. Recoveries amounting to Rs.82.46 crores were held up due to rectification/review applications. For recovery of Rs.82.85 crores recovery certificates had been issued to other States. Demand for Rs.113.34 crores were likely to be written off. Specific action taken in respect of remaining arrears of Rs.963.05 crores called for (April 1994) has not been intimated (January 1995) by the department.
2. Cane Purchase Tax (Sugar Factories)	11.34	8.51	Out of Rs.11.34 crores, demand for Rs.2.66 crores had been certified for recovery as arrears of land revenue and Rs.2.60 crores had been decided to be recovered in instalments. Recoveries amounting to Rs.5.70 crores had been stayed by Government. Specific action of the remaining arrears of Rs.0.38 crores called for (April 1994) has not been intimated (January 1995) by the department.
3. Forestry and Wild Life	8.99	7.19	Out of Rs.8.99 crores, demand for Rs.6.12 crores had been certified for recovery as arrears of land revenue. Recovery amounting to Rs.64 lakhs had been stayed by the Courts and other Judicial authorities. A demand for Rs.8 lakhs was stated to be adjusted against securities in hand. Demand for Rs.12 lakhs were likely to be written off. Specific action taken in respect of Rs.2.03 crores called for (April 1994) had not been intimated (January 1995) by the department.
4. Entertainment tax	5.33	3.59	Out of Rs.5.33 crores, demands for Rs.0.76 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs.4.36 crores had been stayed by the courts. Specific action taken in respect of the remaining arrears of Rs.0.21 crore called for (April 1994) had not been intimated (January 1995) by the department.



5. Electricity Duty	25.49	NIL	Out of Rs. 25.49 crores, recovery of Rs. 24.94 crores payable by U.P. Government Cement Corporation, Churk had been stayed by the Court and demand for Rs. 0.42 crore had been certified for recovery as arrears of land revenue. The balance of Rs. 0.13 crore is under the process of recovery.
6. State Excise	67.85	59.56	Out of Rs. 67.85 crores demand for Rs. 15.36 crores had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 50.91 crores had been stayed by the Courts and Rs. 0.84 crore had been stayed by Government. Recovery of Rs. 0.74 crore could not be effected due to insolvency of payees.

In respect of other departments the position of arrears though called for (October 1994) has not been received (January 1995).

## 1.7 Results of audit

Test check of the records of Sales Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration Fees, Land revenue, Other Tax receipts, Forest receipts and Other Departmental Receipts conducted during the year 1993-94 revealed under-assessment / short-levy / loss of revenue amounting to Rs. 68.46 crores in 2,786 cases. During the course of the year 1993-94 the concerned departments accepted under-assessments etc. of Rs. 17.92 crores involved in 1,083 cases, of which 229 cases involving Rs. 15.09 crores had been pointed out in audit during 1993-94 and the rest in earlier years. Besides, in 7 audit observations the departments recovered Rs. 8.51 lakhs at the instance of audit.

This report includes 51 paragraphs including 2 reviews relating to non-levy, short-levy of tax, duty, interest, penalty etc. involving Rs. 50.87 crores. The department/Government have accepted audit observations



involving Rs. 8.33 crores, of which Rs. 8.77 lakhs had been recovered upto January 1995. No reply has been received in the remaining cases.

### **1.8 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. The more important irregularities are reported to the heads of departments and Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of two months.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 1993 which were pending settlement by the departments as on 30 June 1994, alongwith corresponding figures for the preceding two years are given below:

	1992	At the end of June 1993	1994
1. Number of inspection reports pending settlement	2582	3407	2746
2. Number of outstanding audit observations	6112	8100	8964
3. Amount of revenue involved (in crores of rupees)	109.91	182.77	271.99

(iii) Year-wise break-up of the outstanding (as on 30 June 1994) inspection reports and audit observations is given below:



Year (in which Inspection Reports were issued)	<u>Number of outstanding</u>		Revenue involved (in crores of rupees)
	<u>Inspection Reports</u>	<u>Audit observations</u>	
upto 1989-90	635	2533	78.82
1990-91	309	1120	53.46
1991-92	649	1770	48.01
1992-93	603	2085	63.69
1993-94	550	1456	28.01
<b>Total</b>	<b>2746</b>	<b>8964</b>	<b>271.99</b>

(iv) Department-wise break-up of the inspection reports and audit observations outstanding as on 30 June 1994 is given below:

Nature of Receipts	Number of outstanding		Amount of revenue involved (in crores of rupees)	Year to which the observations relate	Number of inspec- tion reports to which even first reply had not been received
	Inspe- ction Reports	Audit observa tions			
(1)	(2)	(3)	(4)	(5)	(6)
1. Forestry and Wild Life	449	1516	169.76	1981-82 to 1993-94	191
2. Sales Tax	561	2640	35.25	1983-84 to 1993-94	231
3. Irrigation	157	522	12.05	1985-86 to 1993-94	26
4. State Excise	308	447	10.15	1984-85 to 1993-94	40
5. Land Revenue	217	658	10.93	1984-85 to 1993-94	52
6. Taxes on Vehicles, Goods and Passengers	183	1113	7.73	1984-85 to 1993-94	65



( 17 )

7. Public Works	155	420	9.73	1984-85 to 1993-94	39
8. Tax on Purchase of Sugarcane	93	105	5.79	1981-82 to 1993-94	14
9. Stamp Duty and Registration fees	349	1082	5.59	1984-85 to 1993-94	131
10. Other Depart- ments (Crop husbandry- Agriculture, Electricity duty, Food and Civil supplies, Co-operation and Entertainment tax)	274	461	5.01	1985-86 to 1993-94	40
Total	2746	8964	271.99		829

The matter was brought to the notice of Chief Secretary to Government in April 1994; intimation regarding steps taken by the Government to clear the outstanding Inspection Reports and Audit observations has not been received (January 1995).

## CHAPTER - 2

### SALES TAX

#### 2.1. Results of audit

Test check of assessments and other records of sales tax offices conducted in audit during 1993-94 revealed under-assessment of tax and non-levy or short-levy of interest and penalty amounting to Rs. 1138.15 lakhs in 1,330 cases which broadly fall under the following categories :

Categories		Number of cases	Amount (in lakhs of rupees)
1.	Non-levy or short-levy of interest/ penalty	378	432.23
2.	Irregular exemption	150	122.38
3.	Incorrect rate of tax	199	59.33
4.	Mis-classification of goods	131	57.57
5.	Turnover escaping tax	50	76.73
6.	Irregularities relating to Central Sales Tax	54	94.13
7.	Under-assessment of tax / additional tax	111	28.94
8.	Other irregularities	257	266.84
<b>Total</b>		<b>1330</b>	<b>1138.15</b>

During the year 1993-94, the concerned department accepted under-assessment etc. of Rs. 185.46 lakhs involved in 739 cases of which 54 cases involving Rs. 54.10 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. A few illustrative cases including a review on "Internal controls in relation to exemptions/concessions against declarations" involving a financial effect of Rs. 157.96 lakhs are mentioned in the following paragraphs:



**2.2 Internal controls in relation to exemptions/ concessions against declarations**

**2.2.1. Introduction**

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

It is, therefore, the responsibility of the department to ensure that a proper internal control structure is instituted, reviewed and updated to keep it effective.

Under the Uttar Pradesh Sales Tax Act, 1948 (Act) and Rules framed thereunder, exemptions and concessions in sales tax are admissible to registered dealers. Similar exemptions and concessions are admissible under the Central Sales Tax Act, 1956 (C.S.T.(Act)) and Rules framed thereunder. A registered dealer can claim exemption and concession on the strength of the prescribed declarations given by the purchasing dealer. All the declaration forms are issued by sales tax department on application and payment of the prescribed fee by the dealer who wishes to avail of exemption/concession.

The department has a Manual containing the procedure, duties and functions of the offices. However, controls relating to exemptions and concessions against declarations are mostly based on the administrative instructions issued from time to time, which have not yet been manualised.



### **2.2.2. Organisational Set up**

The overall superintendence, control and direction relating to printing and issue of declaration forms vests with the Commissioner, Sales Tax (C.S.T.). The State is divided into 22 administrative ranges each headed by Deputy Commissioner (Executive) (DC(E)). A range is further divided into Sectors, each under the charge of departmental assessing authorities e.g. Assistant Commissioner (Assessment) (A.C.(A)), Sales Tax Officers (S.T.O) Grade I/II.

### **2.2.3. Scope of Audit**

With a view to ascertaining the effectiveness and adequacy of internal controls within the sales tax department in relation to exemptions and concessions against declarations, a review was conducted during the period from March 1994 to May 1994 covering the period from 1990-91 to 1993-94. In review, records relating to the offices of Commissioner, Sales Tax (C.S.T), 8 out of 22 Deputy Commissioners (Executive) (D.Cs(E)), Sales Tax, all the 6 offices of Deputy Commissioner (Special Investigation Branch) (D.C. (SIB)), Sales Tax and 45 offices of assessing officers were test checked.

### **2.2.4. Highlights**

- (i) In the office of D.C.(E) Sales Tax Range 'A', Kanpur, 204 declaration forms were found short on receipt from the printing press but the fact, though required, was neither reported to Assistant Commissioner, (Enforcement), Allahabad, nor to the Government Printing Press, Allahabad. It was not reported to



the Commissioner, Sales Tax for declaring their use illegal so as to prevent their mis-use.

(Para 2.2.5.(a))

- (ii) No system exists for reconciliation between the offices of D.C.(E) of the ranges and the Assessing Officers to ensure that forms issued to each Assessing Officers are recorded correctly in their stock account. This resulted in short accountal of 10,200 forms for claiming concessations/ exemptions in Lucknow and Ghaziabad circles.

(Para 2.2.5.(b))

- (iii) Despite specific instructions of the Commissioner for cross-verification of transfer of stock to other States 4,673 such cases against declarations in form 'F' involving Rs. 229.58 crores were referred to D.C.s (S.I.B.) for verification but were not verified during the period 1991-92 to 1993-94.

(Para 2.2.6.(a))

- (iv) Departmental instructions provide that information about inter-State sales of Rs. 25,000 and above should be furnished to the Commissioner for getting them cross verified to prevent frauds and evasion of tax. No monitoring system was, however, set up to ensure the receipts of such information in the office of the Commissioner from the field offices. It was noticed in audit that for want of such system the Commissioner's office could not detect that the field offices had not reported transactions involving Rs. 8.62 crores in 418 cases for verification and they



remained unverified. The possibility of evasion / fraud in these transactions could not be ruled out.

(Para 2.2.7)

- (v) To ensure the genuineness of transactions, the assessing authority are required to cross-verify the sales or purchases covered by declaration forms. These instructions were not observed with the result that transactions worth Rs. 3.75 crores in 335 cases remained unverified.

(Para 2.2.8 (a) and (b))

- (vi) Internal Audit Organisation did not monitor and evaluate adequacy of the existing system of internal controls.

(Para 2.2.10)

#### **2.2.5. Control over issue and proper accounting of declaration forms**

Printing and storage of declaration forms prescribed under the Uttar Pradesh Sales Tax Rules, 1948 and declaration forms No. E1 and E2 in Central Sales Tax (Regn. and T.O.) Rules 1957 is arranged by the department through Government Printing Press, Allahabad. Likewise, printing and storage of declaration forms (excluding forms E1 and E2) prescribed under Central Sales Tax (Regn. and T.O.) Rules 1957 is arranged through a private security press at Kanpur. However, upto July 1991, these forms were supplied by Bhartiya Mudrank Depot, Nasik Road. Issue of blank declaration forms from depot of private security press, Kanpur to all the Assessing Officers of the State for distribution to dealers is controlled by the D.C.(E) Sales Tax Range 'A' Kanpur, whereas issue of forms from the



depot of Government Printing Press, Allahabad to all the Assessing Officers of the State is controlled by A.C.(E) Sales Tax, Allahabad.

According to the arrangement made by the department, blank declaration forms from the depot of printing press are authorised by the D.C.(E) Sales Tax Range, Kanpur and A.C.(E) Sales Tax, Allahabad for issue on receipt of indents from D.C.(E) of the ranges concerned. On receipt of forms in the offices of D.C.(E) of the ranges, these are counted and checked there. The Commissioner issued instructions in June 1991 that on receipt of declaration forms from the press, these should be checked and counted immediately and if any form was found missing, the fact should be communicated to the D.C.(E) or A.C.(E) who had authorised the issue and the printing press. The fact of missing forms was also to be communicated to Sales Tax headquarters whereupon notification declaring the use of missing forms illegal was required to be issued by the Commissioner of Sales Tax.

The table below shows the number of declaration forms printed and distributed during 1990-91 to 1993-94 as furnished by the department.

Sl. No.	Name of office	1990-91		1991-92		1992-93		1993-94	
		F.P.	F.D.	F.P.	F.D.	F.P.	F.D.	F.P.	F.D.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	Asstt. Commissioner (Enforcement) Allahabad	1700000	1171324	NIL	817100	800000	800838	600000	882524
2.	Dy. Commissioner (Enforcement) Range 'A' Kanpur	NIL	NIL	1129000	1129000	1017000	1017000	666000	666000

F.P. = Forms printed      F.D. = Forms distributed



Following further observations are made:

(a) Test check of records in the office of DC (E) Sales Tax, Range 'A' Kanpur, revealed that 204 declaration forms of different kinds for availing concessions / exemptions in taxes were found missing in the books of forms brought from Government Printing Press, Allahabad during 1990-91 to 1993-94. But the fact was neither reported to AC(E) Allahabad nor to the Government Printing Press, Allahabad and the Commissioner of Sales Tax. Consequently, necessary notification declaring the use of these forms illegal was not issued. The possibility of fraudulent use of these forms cannot be ruled out.

(b) As per rules only the assessing officers are required to maintain control records for issue of blank forms to dealers. In 2 Sales Tax Circles, it was noticed (May 1994) that the assessing officers had accounted for 10,200 declaration forms short in their records. Neither the reasons for short accounting of forms were investigated, nor was the fact brought to the notice of higher authorities. In the range office, assessing officer-wise ledgers were not maintained so that the number of different kinds of forms issued to an assessing officer in a particular period could not be known. The short accounting of receipt of declaration forms was not detected as no procedure has been prescribed to reconcile issues by D.C.(E) and receipt thereof by Assessing Officer. Year wise break-up of short accounting of receipts of declaration forms is as under:



Sl. No.	Name of circles	1990-91		1991-92		1992-93		1993-94		Total		Percentage
		No. of forms issued	Short accountal of forms	No. of forms issued	Short accountal of forms	No. of forms issued	Short accountal of forms	No. of forms issued	Short accountal of forms	No. of forms issued	Short accountal of forms	
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.
1.	Lucknow	29500	2700	19300	850	20200	500	12900	800	81900	4850	5.9
2.	Ghaziabad	20050	50	26010	500	31400	4000	32600	800	110060	5350	4.9
	Total	49550	2750	45310	1350	51600	4500	45500	1600	191960	10200	5.3

It would be seen that percentage of forms short accounted for during the years 1990-91 to 1993-94 in 2 circles test checked ranged between 4.9 to 5.9 per cent. No efforts were made to investigate the causes of short accountal of forms or to prevent their mis-use or to take remedial action in such cases in future.

During test check of records in two Sales Tax Circles, it was noticed (May 1994) that the declaration forms were obtained far in excess of actual requirement. The average annual consumption of these two circles was 20,475 and 27,515 against which huge quantities of forms were indented and on their receipts, supplied to the circles. Consequently, the declaration forms of various kinds have been lying (May 1994) unutilised in large number since April 1979. A good number of these forms are reportedly damaged. No effort had been made to return these forms either to headquarters office at Lucknow or to other circles where they were needed. The department stated (February 1995) that forms were supplied by D.C.(E) Range 'A' Kanpur and A.C.(E), Allahabad even without indents which resulted in over-stocking of forms. The details of balance of declaration forms as on 31.3.94 are given below:



Sl.No.	Name of circle	Balance more than 10 year	Balance more than 5 year to 10 year	Balance more than 3 year to 5 year	Total
(1)	(2)	(3)	(4)	(5)	(6)
1.	Ghaziabad	1,64,161	24,105	10,492	1,98,758
2.	Lucknow	16,675	NIL	8,894	25,569
	<b>Total</b>	<b>1,80,836</b>	<b>24,105</b>	<b>19,386</b>	<b>2,24,327</b>

#### 2.2.6. Non-verification of Stock transfers to other States.

Under Central Sales Tax Act and Rules framed thereunder no tax is payable by a dealer on movement of goods to other States which is not by way of sale but by reason of transfer of stock to the other places of his business or to his agent or principal. The dealer claiming exemption is required to furnish to the assessing authority a declaration in form 'F' duly filled and signed by the principal officer of the other place of business, or his agent or principal as the case may be, along with the evidence of despatch of such goods.

In order to ensure the genuineness of the transfer of goods and to detect evasion of tax, Commissioner issued (November 1991) instructions to assessing authorities to furnish complete details of transfer of goods valuing Rs. 40,000 and above in prescribed proforma in respect of assessments finalised in one quarter to the concerned DCs (SIB) Sales Tax by 20th of the month following the quarter. Each DC (SIB) (6 in No.) who is allotted certain States was required to get the transfers of stock verified by sending persons or through letters. Details of verification in which adverse conclusion was arrived at were to be sent to the assessing officers and to the Commissioner. These instructions were reiterated in May 1992 impressing



upon the DCs (SIB) to submit to the Commissioner every month details of verification done by 15th of the following month.

(a) According to the information furnished to the Commissioner, a large number of stock transfers (between 66 and 99 per cent) was lying unverified as seen from the following table:

Year	Balance in the beginning		Cases received for verification		Cases verified		Cases in which adverse conclusion was arrived		Balance at the end	
	No. of cases	Amount (Rs. in lakhs)	No. of cases	Amount (Rs. in lakhs)	No. of cases	Amount (Rs. in lakhs)	No. of cases	Amount (Rs. in lakhs)	No. of cases	Amount (Rs. in lakhs)
(1)	2(a)	2(b)	3(a)	3(b)	4(a)	4(b)	5(a)	5(b)	6(a)	6(b)
1991-92 (12/91 to 3/92)	-	-	907	3929.99	07	30.12	03	3.82	900	3899.87
1992-93	900	3899.87	4624	26696.23	1892	14155.70	82	222.13	3632	16440.40
1993-94	3632	16440.40	1292	11324.18	251	4806.94	18	84.41	4673	22957.64

Following observations are made:

Less than 1 per cent of the cases were verified during 1991-92, only 34 per cent were verified during 1992-93 and 5 per cent cases were verified during 1993-94.

The table below gives the details of number of cases received and verified by respective D.Cs (SIB) during 1991-92, 1992-93 and 1993-94.



Sl. No.	Name of S.I.B.	1991-92		1992-93		1993-94	
		Total No. of cases	No. verified	Total No. of cases	No. verified	Total No. of cases	No. verified
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Agra	36	1	54	30	43	12
2.	Bareilly	43	6	109	56	36	Nil
3.	Kanpur	680	NIL	797	1475	180	182
4.	Lucknow	110	NIL	301	112	93	8
5.	Meerut	NIL	NIL	3014	156	24	17
6.	Varanasi	38	NIL	349	63	916	32
<b>Total</b>		<b>907</b>	<b>7</b>	<b>4624</b>	<b>1892</b>	<b>1292</b>	<b>251</b>

It would be seen that no case of stock transferred to other States was verified by concerned authorities at Bareilly during 1993-94.

(b) Test check of the assessments finalised during 1993-94 in 20 Sales Tax Circles revealed that details of 289 cases of transfers of stock amounting to Rs. 18.39 crores were not sent by them for verification to the concerned DCs(SIB) despite the instructions issued by the Commissioner.

(c) 30 cases verified in 1992-93 by the DC(SIB), Agra revealed (April 1994) that in four cases of transfer of stock to other States, in one case it was noticed that relevant Form 'F' was not issued to the transferee; in the second case the three Forms 'F' were found to have been issued to other dealers and not to the actual transferees, in the third case the consignment was not found to have been accounted for in the books of accounts of the consignee while in the fourth case Form 'F' furnished by the consignor was not issued to consignee. Apparently all the four transactions of transfer of



stock amounting to Rs. 9.26 lakhs were doubtful, involving tax effect of Rs. 0.49 lakh. On further investigation in audit it was noticed that tax of Rs. 15,715 was levied by the department. In 2 cases incorrect information was supplied to D.C. (S.I.B.) and in the fourth case no action has been taken by the Assessing Officer. However, no effort was made to intensify monitoring of cases of transfer of stock to other States and get necessary verifications carried out in the remaining cases. In fact in 1993-94, out of 43 cases only 12 were verified.

#### **2.2.7. Non-verification of inter-State sales covered by Form 'C'**

Under the Central Sales Tax Act, 1956 and Rules framed thereunder tax at concessional rate of 4 per cent is payable by a dealer who, in the course of inter-State trade or commerce, sells goods to a registered dealer of other state. The dealer claiming concession is required to furnish to the assessing authority a declaration in form 'C' duly filled in and signed by the registered dealer to whom the goods are sold. With a view to avoiding evasion of tax, the Commissioner issued instructions (September 1986) to all assessing officers to furnish to him information in respect of inter-State sales of Rs. 25,000 and above covered by Form 'C', immediately after completion of the assessments so that genuineness of such sales could be verified and frauds and evasions detected.

(a) During test check of the records in Commissioner's office it was revealed that details of inter-State transactions covered by Form 'C' were not being received from all the field offices. No control registers were being maintained in Commissioner's office to watch progress of verification of such transactions. During 1990-91 to 1993-94 details of only 1447 inter-



State sales covered by Form 'C' were received from 9 Sales Tax Circles as shown below :-

Year	No. of details	No. of Circle	Name of Circle
1990-91	664	4	Agra, Fatehgarh, Hathras, Mathura.
1991-92	312	2	Hathras, Mathura.
1992-93	191	1	Mathura.
1993-94	280	2	Hathras.
<b>Total</b>	<b>1447</b>	<b>9</b>	

These were sent to the sales tax department of the concerned States for verification. The cases have not been effectively pursued for obtaining the results of verification.

(b) Test check of the assessments finalised during 1993-94 in 31 Sales Tax Circles revealed that details of 418 cases of inter-State sales amounting to Rs. 8.62 crores covered by form 'C' exceeding Rs. 25,000 each were not sent to the Commissioner's office with the result that these could not be got verified from the States concerned. However no monitoring was done to ensure that the Assessing Officers complied with the instructions of the Commissioner.

#### **2.2.8. Non-observance of departmental instructions regarding cross verification of intra-State transactions**

In order to ensure the genuineness of transactions and to detect evasion of tax, the department issued instructions (July 1984, October 1992 and June 1993) to assessing authorities for cross verification of the transactions of sales and purchases covered by declaration forms by sending their second copy to issuing offices. If any declaration form was found to be



fake, action to levy penalty/tax was to be taken and F.I.R. was also to be lodged with police.

(a) A test check of 5 Sales Tax Circles, revealed that information about 219 transactions involving Rs. 1.63 crores was not sent to other Sales Tax Circles for cross verification.

(b) In 7 Sales Tax Circles verification in 116 cases covering sales/purchases turnover of Rs. 2.12 crores was made through ordinary letters and not by sending the second copy of declarations. Results of verification were, however, awaited in all cases.

(c) In the case of a dealer of Bareilly as a result of verification made by the department, it was detected that 4 number of Form III-B covering sales turnover of Rs. 2.75 crores of synthetic rubber sold to a firm of Unnao were found to be fake. Tax was levied by the department but minimum penalty under section 15-A (1)(l) of the Act amounting to Rs. 12.12 lakhs was not levied.

On being pointed out in audit (April 1994) the department stated (May 1994) that matter regarding filing of FIR against the dealer was under consideration with higher authorities.

(d) Test check of assessments of an office in Noida (Ghaziabad) revealed (May 1994) that a dealer was assessed at concessional rate of 4.4 per cent on sales turnover of auto parts amounting to Rs. 30.79 lakhs covered by Form III-B which did not contain complete information regarding details of goods, weight, purchase orders etc. Benefit of concessional rate of tax was, however, allowed on the basis of incomplete



form and that, too, without cross verification of the facts from the issuing office of the department resulting in irregular benefit of tax amounting to Rs. 2.49 lakhs.

#### **2.2.9. Use of incorrect forms**

Under the Uttar Pradesh Sales Tax Act, 1948 and Rules framed thereunder a dealer holding recognition certificate is entitled to the benefit of exemption or concessional rate of tax on the purchase of goods for use as a raw material in the manufacture of notified goods. The dealer claiming exemption/concession is required to furnish to the assessing authority a declaration in Form III B duly filled and signed by purchasing dealer. Further, the Commissioner may, by notification, declare that declaration form of a particular series, design or colour shall be deemed as obsolete and invalid with effect from such date as may be specified in the notification. When a notification declaring forms of a particular series design or colour as obsolete or invalid is issued all registered dealers shall on or before the date from which they are declared obsolete or invalid, surrender to the assessing officer, all unused forms of that series, design or colour which may be in their possession and obtain in exchange such new forms as may be substituted for the forms declared obsolete or invalid.

Initially a single form of declaration in Form III-B of white colour was prescribed for claiming benefit of exemption or concessional rate of tax on the purchase of goods for use as raw material in the manufacture of notified goods. However, with a view to avoiding confusion and evasion of tax, the Commissioner prescribed two types of forms in different colours and issued instructions (April 1987) that with effect from 16 May 1987



declaration forms in white colour for concessional rate and yellow colour for full exemption would be issued by the department and benefit of exemption/concession would be allowed accordingly.

Test check of the records carried out in April/May 1994 of 8 selected Sales Tax Circles revealed that benefit of total exemption from tax was allowed to 19 assesseees on the strength of declaration forms in white colour, the use of which had been restricted for obtaining concessional rate of tax, leading to irregular benefit of exemption (1989-90 to 1991-92) on sales turnover amounting to Rs. 17.82 crores.

#### **2.2.10. Internal Audit**

The internal audit consisting of one Additional Commissioner / Dy. Commissioner (Accounts) in Commissioner's office and internal audit parties consisting of Audit Officer, Senior Auditors and Auditors operating under the control of Regional D.C.(E) exist in the department. The functions performed by internal audit mainly relate to general checking of assessment records. The Internal Audit did not evaluate the adequacy of the existing system of internal controls.

The above audit observations were reported to the department and Government in July 1994; their replies have not been received (January 1995).

#### **2.3 Under-assessment of Central Sales Tax**

Notification dated 13 September 1990 (effective from 15 September 1990) issued under Section 8(5) of the Central Sales Tax Act, 1956, provides for levy of tax at the rate of 1 per cent on inter-State sales of



rape-seed oil and mustard oil and at the rate of 2 per cent on inter-State sales of parts and assessories of tractors, if such sales are supported by the prescribed declaration or certificate in Form 'C' or 'D'. As per the Act ibid, on inter-State sales of non-declared goods, not covered by prescribed declaration in Form 'C' or 'D', tax is leviable at the rate of 10 per cent or the rate applicable to sale or purchase of such goods within the State, whichever is higher. It has been judicially held<sup>\*</sup> that whatever is payable, by way of tax under the State Act, will also be payable by way of Central Sales Tax, in case of inter-State sales of the class specified above. Further, additional tax is also leviable at the rate of 5 per cent of the tax from 1 October 1983 to 31 October 1985 and at the rate of 10 per cent of tax from 1 November 1985 to 31 July 1990. Tax admittedly payable, if not paid by due date, attracts interest at the rate of 2 per cent per month upto the date of deposit.

During audit of 7 Sales Tax Circles, it was noticed (between February 1993 and February 1994) that tax amounting to Rs. 27.34 lakhs on inter-State sales of goods not covered by Form 'C' or 'D' was leviable in the following cases but was not levied / short-levied by the assessing officers while making assessments. Besides, interest at the rate of 2 per cent per month was also recoverable from the dealers upto the date of deposit of tax.

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\* Satya Narain Spinning Mills Vs. Commercial Tax Officer A.P. (STI-1988-CST) AD.29.



Sl. No.	Name of the Circle	Assessment Year	Goods sold outside State	Value of goods sold (in lakhs of rupees)	Tax not/ short-levied	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Noida (Ghaziabad)	1985-86 and 1986-87	Computers	946.78	10.77	Cases were reported to the department (between June 1993 and July 1994); their reply has not been received from the department (January 1995).
2.	Jhansi	1990-91	Peas	22.87	0.46	-do-
3.	Dhampur (Bijnore)	1990-91 and 1991-92	Painting brushes	84.50	7.61	-do-
4.	Agra	1990-91	Mustard Oil	5.87	0.53	-do-
5.	-do-	1989-90	Electrolytic Nickel Cathode	29.20	2.28	-do-
6.	Ghaziabad	1990-91	Parts of tractors	20.44	1.53	-do-
7.	Hapur (Meerut)	1991-92	Mustard Oil	46.18	4.16	Department raised demand of Rs.4.16 lakhs (February 1994).
Total					27.34	

The cases were reported to the Government between June 1993 and May 1994 followed by reminders between March 1994 and July 1994; their reply has not been received (January 1995).

#### 2.4 Non-levy of additional tax

Under the provisions of Section 3-F of the Uttar Pradesh Sales Tax Act, 1948, every dealer liable to pay tax was required to pay additional tax at the rate of 1 per cent of his turnover of sales and purchases liable to tax upto 6 September 1981. Further, under Section 3-E of the Act *ibid*,



additional tax is leviable at the rate of 10 per cent of tax from 1 November 1985. Tax admittedly payable, if not paid by due date, attracts interest at the rate of 2 per cent per month upto the date of payment.

During audit of 5 Sales Tax Circles, it was noticed (between July 1992 and August 1993) that additional tax amounting to Rs. 2.96 lakhs was not levied as detailed below. Besides, interest at the rate of 2 per cent per month is also chargeable till the date of deposit of additional tax.

Sl. No.	Name of the Circle	Assessment Year	Goods sold	Value of goods sold (in lakhs of rupees)	Amount of additional tax not levied	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Jhansi	1980-81	Transformers	161.22	0.85	Case was reported to the department (July 1994); their reply has not been received (January 1995).
2.	Lucknow	1981-82	Bottles and packing materials	50.00	0.50	Department levied additional tax of Rs. 50,000 (June 1993).
3.	Kanpur	1988-89 and 1989-90	Cotton waste yarn	187.00	0.35	Department after verification raised demand of Rs. 34,771 (September 1993).
4.	Ghaziabad	1987-88 to 1989-90	-do-	163.00	0.33	Cases were reported to the department (August 1994); their reply has not been received (January 1995).
5.	Lucknow	1987-88 and 1988-89	-do-	464.00	0.93	-do-



The cases were reported to the Government between December 1992 and May 1993 followed by reminders between March 1993 and July 1994; their reply has not been received (January 1995).

## 2.5 Non-imposition of penalty

(a)(i) Under the Uttar Pradesh Sales Tax Act, 1948 and Rules made thereunder, a registered dealer who intends to import goods from outside the State, shall obtain the declaration in Form XXXI from the assessing officer. Where such goods are brought from outside the State by road, the person-in-charge of the vehicle shall, before crossing the check-post, deliver one copy of declaration Form XXXI to the Officer-in-charge of the check-post and where such goods are brought into the State from outside by rail, river, air or post, the importer is required to furnish the prescribed declaration in duplicate to the assessing officer for his endorsement before obtaining delivery of goods. In the event of breach of these provisions, the assessing officer may direct that such dealer shall pay, by way of penalty, in addition to tax, a sum not exceeding 40 per cent of the value of the goods imported under the provisions of Section 15-A (1)(o) of the Act.

During audit of 4 Sales Tax Circles, it was noticed (between May 1989 and July 1992) that in 4 cases, the dealers imported goods valued at Rs.42.46 lakhs within the State without Form XXXI between 1984-85 and 1987-88. The dealers were, therefore, liable to penalty amounting to Rs. 16.99 lakhs which was not imposed by the assessing officers while making assessments, as indicated below :



Sl. No.	Name of circle	Goods imported	Assessment years	Value of goods imported ( rupees in lakhs )	Amount of maximum penalty involved
(1)	(2)	(3)	(4)	(5)	(6)
1.	Meerut	Gunny bags	1987-88	13.21	5.29
2.	Agra	Watches	1984-85	20.12	8.05
3.	Mirzapur	Pottery goods and coal	1985-86	4.43	1.77
4.	Varanasi	Electrical goods	1987-88	4.70	1.88
		<b>Total</b>		<b>42.46</b>	<b>16.99</b>

On this being pointed out in audit (between January 1990 and December 1992 and again between November 1993 and July 1994), the department raised a demand of Rs. 8.17 lakhs in 3 cases (serial 1, 2 and 4), out of which Rs. 0.80 lakh was realised. Reply in one case and further report on recovery in the remaining cases have not been received (January 1995).

(ii) Under the provisions of Section 15-A(1)(c) of the Uttar Pradesh Sales Tax Act, 1948, if the assessing authority is satisfied that any dealer or other person has concealed the particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover, he may direct that such dealer shall pay, by way of penalty, in addition to tax, a sum not less than fifty per cent but not exceeding one and half times of tax which would thereby have been avoided.

During audit of 7 Sales Tax Circles detailed below, it was noticed that 7 dealers had suppressed/concealed sales turnover of various goods during the period from 1983-84 to 1988-89. The suppressed/concealed



sales turnover were determined by the department at Rs. 702.38 lakhs and tax amounting to Rs. 36.85 lakhs was levied. The dealers were also liable to pay a minimum penalty of Rs. 18.43 lakhs which was not levied.

Sl. No.	Name of circle	Assessment year	Amount of sales suppressed/concealed ... ( in lakhs	Amount of tax levied of rupees )...	Amount of minimum penalty leviable
(1)	(2)	(3)	(4)	(5)	(6)
1.	Meerut	1985-86	234.10	12.23	6.12
2.	Kanpur	1985-86	70.00	2.80	1.40
3.	Agra	1986-87	75.70	4.16	2.08
4.	Barabanki	1984-85 to 1986-87	226.00	9.04	4.52
5.	Jhansi	1983-84 to 1985-86	52.40	5.24	2.62
6.	Gorakhpur	1988-89	18.18	1.60	0.80
7.	Baraut (Meerut)	1986-87	26.00	1.78	0.89
		Total	702.38	36.85	18.43

On this being pointed out in audit (between July 1991 and July 1992 and again between September 1993 and July 1994), the department levied penalty of Rs. 24.67 lakhs in all the 7 cases. Position of recovery has not been received (January 1995).

(iii) Under Section 15-A(I)(l) of the Uttar Pradesh Sales Tax Act, 1948, if a dealer issues or furnishes a false certificate or declaration by reason of which a tax on sale or purchase ceases to be leviable, he shall be



liable to pay by way of penalty in addition to tax, a sum not less than 50 per cent of the amount of tax which would have been avoided.

During the course of audit of Sales Tax Circle, Gorakhpur it was noticed (September 1992) from the assessment records of a dealer that he had exported kirana valued at Rs. 32.55 lakhs during the years 1986-87 and 1987-88 against the custom certificates which were found to be fake. The assessing authority while levying tax amounting to Rs. 2.86 lakhs on these sales for these years did not levy minimum penalty of Rs. 1.43 lakhs.

On this being pointed out in audit (September 1992), the department stated in July 1993 that penalty amounting to Rs. 1.43 lakhs for the years 1986-87 and 1987-88 had been imposed. Position of recovery has not been received (January 1995).

The case was reported to the Government in December 1993; their reply has not been received (January 1995).

(iv) Under the Uttar Pradesh Sales Tax Act, 1948, if a dealer had without reasonable cause failed to furnish the return of his turnover or to furnish it within the time allowed and in the manner prescribed or to deposit the tax due under the Act, before furnishing the return or alongwith the return, he shall be liable to pay, by way of penalty, a sum which shall not be less than 10 per cent but not exceeding 25 per cent of the tax due if the tax is upto ten thousand rupees and 50 per cent, if the tax due, is above ten thousand rupees.

During audit of Sales Tax Circle, Mughalsarai (Varanasi), it was noticed (December 1991) that a dealer neither submitted the returns nor



deposited the tax due for the year 1986-87 within the stipulated period. The dealer was, therefore, liable to pay maximum penalty upto Rs. 69,215 which was not imposed.

On this being pointed out in audit (February 1992) the department stated in May 1993 that penalty of Rs. 69,215 had been imposed. Further details of recovery of penalty have not been received (January 1995).

The case was reported to the Government in February 1992 and again in August 1993; their reply has not been received (January 1995).

(b) (i) Under the Central Sales Tax Act, 1956, if a registered dealer purchases any goods from outside State at concessional rate of tax by falsely representing that such goods are covered by his certificate of registration or if goods purchased from outside the State at concessional rate of tax, are used for a purpose other than that for which registration was granted, the assessing authority may impose penalty upto one-and-a-half times the tax payable under Section 8(2) of the Act *ibid* on the sale of such goods to him.

During the audit of 8 Sales Tax Circles, it was noticed that in 8 cases, the dealers had purchased goods other than those covered by their certificates of registration, valued at Rs. 135.46 lakhs. They were, therefore, liable to pay penalty amounting to Rs. 20.58 lakhs which was not imposed by the assessing officers while making assessments. The details are indicated below :

On this being pointed out in audit (between September 1991 and November 1992) the department stated that demand for Rs. 19.21 lakhs had been raised in the above cases. Report of recovery has not been received (January 1995).



Sl. No.	Name of the Circle	Assessment year	Goods imported	Value of goods imported ( rupees in lakhs )	Amount of penalty involved
(1)	(2)	(3)	(4)	(5)	(6)
1.	Roorkee (Haridwar)	1989-90 and 1990-91	Platinum wire, plastic powder, granules and cables	7.15	1.07
2.	Agra	1987-88	Mango pulp	72.62	10.89
3.	Aligarh	1987-88 to 1989-90	Rubber belting and grease	2.29	0.43
4.	Deoria	1986-87	Asbestos, brass tubes and caustic soda	4.90	0.74
5.	Rae bareli	1985-86	Battery and spares, immersion heaters	30.12	4.52
6.	Mainpuri	1987-88	Atlas Mopeds	7.01	1.05
7.	Mugalsarai (Varanasi)	1981-82 and 1987-88	Generator sets & vitamin	5.20	0.91
8.	Kanpur	1986-87	D.G. sets, Chemicals and gases	6.17	0.97
Total				135.46	20.58

On this being pointed out in audit (between September 1991 and November 1992) the department stated that demand for Rs. 19.51 lakhs had been raised in the above cases. Report of recovery has not been received (January 1995).



(ii) Section 8(3)(b) of the Central Sales Tax Act, 1956 read with Rule-13 of the Central (Registration and Turnover) Rules, 1957, inter alia, authorises the registering authority to specify in the central registration certificate of the dealer, the class or classes of goods intended for use in manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity. It has been judicially held\* that goods such as cement, building material, office equipments, iron and steel and other similar items not directly connected with the process or manufacture or in the generation or distribution of electricity cannot be regarded as goods to be used directly in the manufacture and, as such, these items may not be specified in the certificate of registration. Further, if any person purchases goods not covered by the certificate of registration, or after purchasing any goods for any of the purposes specified in clause (b) or clause (c) or clause (d) of sub-Section (3) of Section 8 of the Act *ibid* fails without reasonable excuse, to make use of the goods for any such purpose, he may be liable to pay, by way of penalty, a sum not exceeding one-and-a-half times of tax which would have been levied under Section 8(2) in respect of the sale to him under Section 10 read with Section 10-A of the Act *ibid*.

During audit of Sales Tax Circle, Jhansi, it was noticed (October 1991) that a dealer engaged in generation and distribution of electricity on the strength of his certificate of registration (effective from November 1979) made purchases of cement, iron and steel, lavatory equipments/electrical equipments worth Rs. 33.53 lakhs from outside the

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\*  
 (i) S/Sri Travancore Tea Estates Co. Ltd. versus State of Kerala Uttar Pradesh T.C. 120 (Supreme Court)  
 (ii) Commissioner of Sales Tax, Uttar Pradesh, Lucknow, Circular No.17 dated 4th December, 1992.



State during the year 1986-87 against declaration in Form-'C' at concessional rate of tax and used them in the construction of building for which he was wrongly authorised by virtue of the irregular certificate of registration granted by the department. Thus, the dealer was liable to pay a sum of Rs. 5.03 lakhs by way of penalty which was not imposed. Further, the department amended the certificate of registration in September 1990 by deleting these items.

On this being pointed out in audit (October 1991), the department stated (January 1993) that penalty of Rs. 5.03 lakhs had been imposed. Report on recovery has not been received (January 1995).

The case was reported to Government in February 1993 and again in March 1994; their reply has not been received (January 1995).

## 2.6 Irregular exemption

(a)(i) Under the provisions of the U. P. Sales Tax Rules, 1948, a registered dealer is required to issue a certificate in Form III-C(I) to selling dealer thereby taking the responsibility to pay purchase tax on the purchases made by him from the selling dealer. Paddy is taxable at the point of first purchase at the rate of 4 per cent with effect from 7 September 1991.

During audit of Sales Tax Circle, Etawah, it was noticed (February 1993) that three dealers had purchased paddy for Rs. 74.74 lakhs during the years 1988-89 and 1989-90 against declarations in Form III-C(I) and were required to pay purchase tax. The assessing authority while finalising the assessments declared the purchases made by the dealers as tax free on the erroneous notion that the dealers held recognition certificates



under Section 4-B of the Uttar Pradesh Sales Tax Act, 1948. The exemption, thus, allowed was irregular as the dealers had issued declaration in Form III-C(I) and not in Form III-B (as required under Section 4-B of the Act *ibid*) and purchases were exigible to tax amounting to Rs. 2.98 lakhs at the rate of 4 per cent which was not levied.

On this being pointed out in audit (February 1993), the department stated (November 1993) that tax amounting to Rs. 2.98 lakhs had been levied. Position of recovery has not been received (January 1995).

The case was reported to Government in January 1994; their reply has not been received (January 1995).

(ii) It has been judicially held\* that wooden planks made from timber fall under the item 'timber products' and are exigible to tax at the rate of 6.6 per cent including additional tax with effect from 1 October 1983, in the hands of manufacturer or importer.

During the course of audit of Sales Tax Circle, Rae Bareilly it was noticed (August 1992) from the assessment records of a dealer that while finalising the assessment for the year 1987-88, the assessing authority exempted from tax, sales turnover of wooden planks valued at Rs. 6.11 lakhs treating them as timber which having been purchased from unregistered dealers attracted no tax. This resulted in non-levy of tax amounting to Rs. 40,354.

On this being pointed out in audit (August 1992), the department stated (April 1993) that assessment orders had been revised and

\* C.S.T. VS M/S Agrawal Wooden Products, Muzaffar Nagar (S.T.R. No. 501/1987)



demand for Rs. 40,354 raised. Position of recovery has not been received (January 1995).

The case was reported to Government in December 1993; their reply has not been received (January 1995).

(b)(i) As per the Central Sales Tax Act, 1956 where sale of any goods in the course of inter-State trade or commerce has been effected by transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by transfer of documents of title to such goods shall be exempt from tax, provided the dealer claiming such exemption furnishes to the assessing authority a certificate in Form-E-I or E-II obtained from the registered dealer from whom the goods were purchased and a declaration in Form 'C' or 'D' from the dealer to whom the goods are sold. Tax admittedly payable by a dealer, if not paid by due date, attracts interest at the rate of 2 per cent per month on the unpaid amount.

In Sales Tax Circle, Mathura, it was noticed (August, 1992) that a dealer made subsequent sales of dyes and chemicals valued at Rs. 13.43 lakhs during 1988-89 through transfer of documents of title of which sales valued at Rs. 8.38 lakhs were not supported by the certificates in prescribed Form E-I or E-II. The dealer was, however, granted exemption from tax which was irregular. This resulted in under-assessment of tax amounting Rs. 33,518. Besides, the dealer was also liable to pay interest at the rate of 2 per cent per month thereon.



On this being pointed out in audit (August 1992), the department levied tax amounting to Rs. 33,518. Report of recovery has not been received (January 1995).

The case was reported to the Government in November 1992 and again in May 1994; their reply has not been received (January 1995).

(ii) Under Section 6(2) of the Central Sales Tax Act, 1956, in case of inter-State sales of goods effected by transfer of documents of title to goods during their movement from one State to another, no tax is leviable subject to fulfillment of certain conditions. If the transfer of property in goods is made after the goods have reached the other State, tax at the rates applicable in the State to which the goods have been transferred, is leviable on such transaction. Further, under Section 3-E of the Uttar Pradesh Sales Tax Act, 1948, additional tax at the rate of 10 per cent of the tax is also leviable from 1 November 1985.

During the course of audit of Sales Tax Circle, Kanpur, it was noticed (September 1992) that a dealer entered into an agreement with a unit of Uttar Pradesh State Electricity Board for supply and installation of diesel generating sets at specified sites, which he purchased for Rs. 9.63 lakhs from outside the State during the year 1987-88 and installed them at the specified sites in the State at a cost of Rs. 11.50 lakhs. The dealer, however, exhibited the sale of such generating sets inclusive of erection and commissioning charges as sale by transfer of documents of title to goods during their movement from one State to another and was allowed exemption treating the sale as subsequent sale under Section 6(2) *ibid*. As the dealer continued to retain the ownership of the generating sets till the dates of their installation,



the transaction did not fall under sale by transfer of documents of title to goods during their movement from one State to another. The dealer was, therefore, liable to pay tax including additional tax amounting to Rs. 1.52 lakhs on sale which was not levied. Besides, interest at the rate of 2 per cent per month on tax not paid was also recoverable from the dealer from 1 September 1987.

On this being pointed out in audit (April 1993), the department Stated in March 1994 that the assessment orders had been revised and demand of Rs. 1.52 lakhs raised. Report on recovery has not been received (January 1995).

The case was reported to Government in April 1993 and again in July 1994, their reply has not been received (January 1995).

## 2.7 Non-levy of purchase tax

Under the Uttar Pradesh Sales Tax Act, 1948, where any goods liable to tax at the point of sale to consumer, are sold to a dealer and the seller does not pay sales tax in view of any provisions of the Act, the purchasing dealer shall be liable to pay tax, on such purchases at the rate at which tax is leviable on sale of such goods to the consumer within the State, if he does not resell such goods within the State or in the course of inter-State trade or commerce in the same form and condition in which he had purchased them. Additional tax at the rate of 10 per cent of the tax is also leviable. Besides, if tax is not paid by the due date, interest is also payable at the rate of 2 per cent per month till the date of deposit of the amount of tax.



During audit of 2 Sales Tax Circles, it was noticed (February 1993 and May 1993) that on old and discarded materials valued at Rs. 10.97 lakhs, purchase tax amounting to Rs. 97,000 at the rate of 8.8 per cent (including additional tax) was not levied on the dealers, though they did not resell the goods in the same form and condition in which they were purchased as detailed below. Interest at the rate of 2 per cent per month is also leviable upto the date of deposit of tax.

Sl. No.	Name of Circle	Assessment Year	Value of goods purchased (in lakhs of rupees)	Amount of purchase tax not levied	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1.	Gorakhpur	1987-88	6.33	0.56	Department levied tax amounting to Rs.55,694 (June 1994).
2.	Rishikesh (Dehradun)	1989-90	4.64	0.41	Case was reported to the department (July 1994); their reply has not been received (January 1995).
<b>Total</b>			<b>10.97</b>	<b>0.97</b>	

The cases were reported to the Government in April 1993 and September 1993 followed by reminders in August 1994 and May 1994; their reply has not been received (January 1995).

## 2.8 Application of incorrect rate of tax

(i) Under the Uttar Pradesh Sales Tax Act, 1948, tax on sale of cement is leviable at the rate of 10 per cent from 6 June 1985. Further, tax on sale of duplicating machine is leviable at the rate of 12 per cent and tax



on sale of sheets and circles used in the manufacture of brasswares is leviable at the rate of 4 per cent with effect from 7 September 1981. Besides, additional tax at the rate of 10 per cent of the tax payable is also leviable with effect from 1 November 1985. Further, tax admittedly payable, if not paid by due date attracts interest at the rate of 2 per cent per month upto the date of deposit of tax.

During audit of 4 Sales Tax Circles, it was noticed (between April 1991 and May 1993) that goods valued at Rs. 81.76 lakhs were subjected to tax at incorrect rate resulting in short-levy of tax amounting to Rs. 2.33 lakhs as detailed below. As the tax was admittedly payable, interest at the rate of 2 per cent per month was also chargeable upto the date of deposit of tax.

Sl. No.	Name of circle	Name of the commodity	Assessment year	Taxable turnover (rupees in lakhs)	Correct rate of tax applicable including additional tax	Rate of tax levied including additional tax	Amount of short-levy of tax (rupees in lakhs)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Haridwar	Cement	1988-89	20.00	11%	6.6%	0.88	Department raised demand of Rs. 88,000 (May 1993).
2.	Pratapgarh	--do--	1986-87	30.00	11%	8.8%	0.66	Department raised demand of Rs. 66,000 (January 1993).



3.	Lucknow	Duplicating machine	1987-88	7.50	13.2%	8.8%	0.33	Cases were reported to the department (August 1994) their reply has not been received (January 1995).
4.	Mirzapur	Sheets & circles	1982-83 & 1983-84	24.26	4%	2%	0.46	-----do-----
<b>Total</b>				<b>81.76</b>			<b>2.33</b>	

The cases were reported to the Government between June 1990 and October 1993 and again between February 1994 and May 1994; their replies have not been received (January 1995).

(ii) As per the Uttar Pradesh Sales Tax Act, 1948, on sale of goods not otherwise classified, tax is leviable at the rate of 8 per cent from 7 September 1981. Additional tax at the rate of 10 per cent of the tax payable is also leviable with effect from 1 November 1985. Further, tax admittedly payable if not paid by due date attracts interest at the rate of 2 per cent per month upto the date of deposit of tax.

During audit of 4 Sales Tax Circles, it was noticed (between September 1991 and August 1993) that during the period between 1985-86 and 1988-89, 4 dealers had sold goods valued at Rs. 568.64 lakhs which were exigible to tax at the rate of 8.8 per cent (including additional tax) instead of at the rate levied by the assessing officers. Application of incorrect rate of tax, thus, resulted in short-levy of tax amounting to Rs. 27.03 lakhs as detailed below:



Sl. No.	Name of circle	Name of the commodity	Assessment years	Taxable turn-over (rupees in lakhs)	Correct rate of tax applicable including additional tax (per cent)	Rate of tax levied including additional tax (per cent)	Amount of tax short levied (rupees in lakhs)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Baraut (Meerut)	Kirana	1986-87	19.00	8.8	6.6	0.42	Department raised additional demand for Rs. 41800 (May 1992).
2.	Ghazia bad	Copper wire, bar and sheets	1988-89	104.97	8.8	2.2	8.11	Cases were reported to the department (July 1994); their reply has not been received (January 1995).
3(i)	Aligarh	Brass sheets/rolls (circles)	1986-87 to 1988-89	67.84	8.8	2.2	4.48	-----do-----
(ii)	Aligarh	Animal health products	1985-86 to 1987-88	245.24	8.8	6.6	5.34	Department raised demand of Rs 5.34 lakhs out of which a sum of Rs 1.93 lakhs was realised (July 1993).
4.	Agra	Electrolytic nickel cathode strips	1988-89 & 1989-90	131.59	8.8	2.2	8.68	Case was reported to the department (July 1994); their reply has not been received (January 1995).
Total				568.64			27.03	



As the tax was admittedly payable, interest at the rate of 2 per cent per month was also chargeable upto the date of deposit of tax.

The cases were reported to the Government between October 1992 and November 1993 and again between March 1994 and July 1994; their reply has not been received (January 1995).

## **2.9 Short-levy of tax due to mis-classification**

Under the Uttar Pradesh Sales Tax Act, 1948, tax on sale of old, discarded, unserviceable or obsolete machinery, stores or vehicles including waste products, is leviable at the rate of 8 per cent and tax on sale of electronic goods is leviable at the rate of 12 per cent with effect from 7 September 1981. Besides, additional tax at the rate of 5 per cent of the tax up to 31 October 1985 and at 10 per cent of the tax from 1 November 1985 is also leviable. Tax admittedly payable, if not paid by the due date, attracts interest at the rate of 2 per cent per month upto the date of payment.

During audit of 3 Sales Tax Circles, it was noticed (between December 1991 and April 1993) that there was mis-classification of goods worth Rs. 25.96 lakhs resulting in short-levy of tax amounting to Rs. 1.98 lakhs as detailed below. As the tax was admittedly payable, interest at the rate of 2 per cent per month was also chargeable upto the date of payment.



Sl. No.	Name of circle	Assessment year	Name of goods sold	Taxable turnover (in lakhs of rupees)	Rate of tax applicable including additional tax %	Rate of tax levied including additional tax %	Amount of tax short levied (in lakhs of rupees)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Lucknow	1988-89	Aluminium and copper wire scraps	11.31	8.8	2.2	0.75	Department raised additional demand of Rs. 74,676 (January 1994).
2.	Buland-shahar	1986-87 to 1988-89	Burnt copper and aluminium wire	10.62	8.8	2.2	0.70	Case was reported to the department (February 1994); their reply has not been received (January 1995).
3.	Allahabad	1985-86 and 1986-87	Electronic goods	4.03	13.2	Nil	0.53	Department raised additional demand of Rs. 53,200 (March 1993).
Total				25.96			1.98	

The cases were reported to the Government between March 1992 and July 1993 and again between March 1994 and July 1994; their replies have not been received (January 1995).

## 2.10 Non-imposition of penalty for mis-use of raw materials

Section 4-B of the Uttar Pradesh Sales Tax Act, 1948, read with Government notification dated 31 December 1976 and 29 August 1987, provides for special relief in tax to manufacturers on the purchases of raw material required for use in the manufacture of notified goods on fulfilment of certain conditions. In case of use of raw materials for a purpose other than that for which recognition certificate was granted, the dealer shall be liable



to pay, by way of penalty, a sum which shall not be less than the amount of relief in tax so secured by him but shall not exceed three times such relief.

During audit of 2 Sales Tax Circles, detailed below, it was noticed (between September 1991 and October 1993) that minimum penalty amounting to Rs. 97,000 on manufacture of goods other than that specified in recognition certificate, was leviable but was not imposed by the assessing officers while finalising the assessments.

Sl. No.	Name of circle	Recognition certificate issued	Goods manufactured	Assessment year	Amount of minimum penalty leviable (rupees in lakhs)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Firozabad	Glasswares	Scientific instruments	1987-88	0.48	Department levied maximum penalty of Rs. 1.35 lakhs (August 1993).
2.	Lucknow	Rubber goods	Scooter parts	1985-86 and 1986-87	0.49	Department levied penalty of Rs. 49,221 (March 1992).
Total					0.97	

The cases were reported to Government in March 1994 and May 1994; their reply has not been received (January 1995).

## 2.11 Mis-use of declaration forms

Under the Uttar Pradesh Sales Tax Act, 1948, a person who issues a false or wrong certificate or declaration by reason of which a tax leviable on the transaction for purchase or sale ceases to be leviable or becomes leviable at a concessional rate, shall be liable to pay on such



transaction, an amount which would have been payable as tax on such transaction, had such certificate or declaration not been issued. Besides, he is also liable to pay by way of penalty, a sum which shall not be less than 50 per cent, but not exceeding one and one half times of the tax under Section 15-A(1)(l) of the Act *ibid*.

In Sales Tax Circle, Firozabad, a dealer holding recognition certificate for manufacture of glasswares and glass bangles was authorised to purchase raw materials free of tax. The dealer purchased block glass-chip and coloured glass tax free for Rs. 4.63 lakhs by issuing declarations in Form III-B during the years 1985-86 and 1986-87, although these goods were not mentioned in his recognition certificate. The dealer was, therefore, liable to pay a tax of Rs. 60,686 being equal to the amount of relief in tax secured by him and was also liable to pay minimum penalty amounting to Rs. 30,343 which was not levied.

On this being pointed out in audit (February 1992) an additional demand for Rs. 60,686 was raised. Report on recovery of the additional demand as also the intimation regarding imposition of penalty has not been received (January 1995).

The case was reported to the Government in October 1992 and again in March 1994; their reply has not been received (January 1995).

## **2.12 Computation mistake**

(i) Under the Central Sales Tax Act, 1956, on inter-State sale of goods other than declared goods not supported by prescribed declarations in



Form 'C' or 'D', tax is leviable at the rate of 10 per cent or the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

During audit of Sales Tax Circle, Allahabad, it was noticed (January 1992) that due to computation mistake, tax was calculated at Rs. 8,000 instead of Rs. 80,000 on inter-State sales turnover of Rs. 8 lakhs of 'Badh and Moonj' determined by the assessing officer in respect of a dealer during 1986-87 which were not supported by prescribed declarations. This resulted in under-assessment of tax amounting to Rs. 72,000.

On this being pointed out in audit (January 1992), the department revised the assessment in March 1993 and raised additional demand for Rs. 72,000. Particulars of recovery have not been received (January 1995).

The case was reported to Government in January 1994; reply has not been received (January 1995).

(ii) Under the Uttar Pradesh Sales Tax Act, 1948, rice is taxable at the rate of 4 per cent with effect from 7 September 1991.

During audit of Sales Tax Circle, Palia kalan (Lakhimpur Kheri), it was noticed (May 1993) that during the year 1990-91 taxable sales turnover of rice of a dealer was determined at Rs. 48.53 lakhs and the tax was erroneously worked out at Rs. 1.19 lakhs instead of at Rs. 1.94 lakhs. This resulted in short-levy of tax amounting to Rs. 75,000.

The case was reported to the department and Government in December 1993 and again in March 1994; their replies have not been received (January 1995).



### 2.13      **Loss of revenue due to irregular grant of registration certificate**

Section 8(3)(b) of the Central Sales Tax Act, 1956, read with Rule 13 of Central Sales Tax (Registration and Turnover) Rules, 1957 provides that in order to enjoy concessional rate of tax, the goods sold to registered dealer must have been specified in their certificate of registration. The goods which a registered dealer purchases, at concessional rate of tax, shall be goods intended for use by him as raw material, processing material, machinery, plant, equipment, tools, stores, spare-parts, accessories, fuel or lubricants, in the manufacture or processing of goods for sale or in mining or in generation or distribution of electricity. As per various judicial pronouncements<sup>\*</sup> and Government of India, Department of Economic Affairs letter dated 12 November 1958 and departmental circular dated 4 December 1992, building material, cement for construction of building, motor vehicles, office equipments and items not directly used in production should not be specified in the certificate of registration for purposes of availing concessional rate of tax.

During audit of Sales Tax Circle, Mirzapur, it was noticed (March 1992) that a unit of State Electricity Board purchased items such as cement, bulldozer, motor parts, air conditioner, fire extinguisher etc. from outside the State during 1985-86 and 1986-87 by issuing declaration in Form 'C' based on the entries in his central registration certificate issued by the department. The total purchase of such inadmissible items amounted to Rs. 8.17 lakhs. Thus, irregular grant of Central Registration Certificate and issue

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<sup>\*</sup>

- (i) M/S J.K. Spinning and Weaving Mills Ltd. Vs Sales Tax Officer 1965 (16 STC-563).
- (ii) M/S Travancore Tea Estate Co.Ltd. Vs State of Kerala (1977-UPTC-120).



of declaration Form 'C' to the dealer resulted in loss of revenue amounting to Rs. 4.90 lakhs.

The case was reported to the department and Government in May 1992 and again in March 1994; their replies have not been received (January 1995).

#### **2.14 Turnover escaping assessment**

(i) It has been judicially held\* that excise duty recovered by a dealer on sale of goods, forms part of his turnover and is liable to be taxed. Under the Uttar Pradesh Sales Tax Act, 1948, tax at the rate of 12 per cent is leviable on the turnover of sales of molasses with effect from 7 September 1981. Besides, additional tax at the rate of 10 per cent of the tax is also leviable from 1 November 1985.

During audit of Sales Tax Circle, Roorkee (Haridwar), it was noticed (December 1992) that a dealer declared sale of 1,63,668.56 quintals of molasses during the year 1988-89 for Rs. 20.49 lakhs on which department levied tax. It was, however, noticed that the turnover (inclusive of sale price, excise duty etc.) actually worked out to Rs. 30.12 lakhs. Thus, turnover of Rs. 9.62 lakhs escaped assessment resulting in short-levy of tax amounting to Rs. 1.27 lakhs at the rate of 13.2 per cent inclusive of additional tax.

The case was reported to the department and Government in July 1993 and again in July 1994; their replies have not been received (January 1995).

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\* Vinayak Beer and Wines stores Vs C.T.O. 1983-7 STL(AP)-22



(ii) Under the provisions of the Uttar Pradesh Sales Tax Act, 1948, on sale of Indian Made Foreign Liquor, tax was leviable at the rate of 26 per cent with effect from 7 September 1981. Besides, under Section 3-E of the Act *ibid*, additional tax at the rate of 10 per cent of the tax from 1 November 1985 and 25 per cent of the tax from 1 August 1990 is also leviable. Further, it has been judicially held\* that excise duty, licence fee, business expenses etc. form part of turnover of the dealer of Indian made foreign liquor.

During the course of audit of Sales Tax Circle, Kanpur, it was noticed (September 1993) that a dealer obtained 7,000 crates of Indian Made Foreign Liquor on consignment from ex-State distillery for Rs. 4.45 lakhs during the year 1990-91. The dealer declared to have sold it for Rs. 17.14 lakhs on which the department levied tax. It was, however, noticed that the amount of excise duty, licence fee and import permit fee in accordance with notifications issued by State Excise Department which worked out to Rs. 15.42 lakhs was not taken into account for determining the turnover. After taking into account the cost price of Indian made foreign liquor amounting to Rs. 4.45 lakhs and 5 per cent minimum consideration of business expenses i.e. on Rs. 19.87 lakhs, the total turnover of the dealer for the year works out to Rs. 20.86 lakhs. Thus, turnover of Rs. 3.72 lakhs escaped assessment leading to short-levy of tax amounting to Rs. 1.20 lakhs.

On this being pointed out in audit (April 1993) the department stated (March 1994) that the assessment order had been revised and additional demand for Rs. 1.20 lakhs raised. Report on recovery has not been received (January 1995).

\*  
(i) S/Sri Dharma Devi, Uma Shankar Vs C.S.T (1982 UPTC-434)  
(ii) Bhagwan Swaroop Bansal Vs C.S.T. (1970 UPTC-375)  
(iii) Commissioner's circular dated 11.7.1991.



The matter was reported to Government in July 1994; their reply has not been received (January 1995).

(iii) As per clause (i) of explanation II below Section 2(i) of the Uttar Pradesh Sales Tax Act, 1948, turnover shall include any sums charged for any thing done by the dealer in respect of the goods sold at the time of or before the delivery thereof, other than cost of freight or delivery, when such cost is separately charged.

In the Sales Tax Circle, Allahabad, during the year 1987-88 a dealer disclosed receipt of cement valued at Rs. 196.13 lakhs from out-side the State on consignment basis and sold it for Rs. 199.17 lakhs. While finalising the assessment of the dealer in February 1991, the assessing Officer accepted the accounts furnished by the dealer and levied tax on sale of cement valued at Rs. 21.91 lakhs at the rate of 11 per cent (inclusive of additional tax). Scrutiny of the assessment records of the dealer, however, revealed (November 1991) that the consignor and the dealer had agreed in writing that the consignee shall bear the charges on account of clearing including unloading from railways, loading into trucks, transporting from goods shed to godown, unloading and stacking in the godown and re-loading into trucks. It was further noticed that the dealer had claimed expenditure on account of stock transfer, stock issue, wagon unloading and godown rent amounting to Rs. 2.49 lakhs, Rs. 1.06 lakhs, Rs. 66,686 and Rs. 93,000 respectively which was not included in the turnover at the time of assessment. Besides, the dealer accounted for the sale price of cement less by 65 paise per bag as against its purchase value in his accounts which resulted in suppression of turnover of Rs. 2.50 lakhs on the sale of 3,84,842



bags of cement. Thus, total turnover of Rs. 7.64 lakhs escaped assessment resulting in short-levy of tax amounting to Rs. 84,056.

On this being pointed out in audit (February 1992), the department stated in September 1993 that assessment had been revised and additional demand for Rs. 84,056 raised. Report on recovery of tax had not been received (January 1995).

The case was reported to Government in March 1994; their reply has not been received (January 1995).

#### **2.15 Non-levy/short-levy of interest**

Every dealer liable to pay tax under the Uttar Pradesh Sales Tax Act, 1948, is required to submit return of his turnover at prescribed intervals and to deposit the amount of tax due within the time prescribed. Tax admittedly payable by a dealer, if not paid by the due date, attracts interest at the rate of 2 per cent per month on the unpaid amount. Tax admittedly payable means the tax which is payable under the Act on the turnover, as disclosed in the accounts maintained by the dealer or admitted by him in any return or proceedings under the Act whichever is greater.

During audit of 2 Sales Tax Circles, it was noticed (between April 1989 and March 1993) that tax amounting to Rs. 1.59 lakhs was deposited after delay ranging from 12 months to 52 months. Interest amounting to Rs. 91,000 was, thus, leviable for the late payment of tax which was, however, not levied/realised as per details given in the table below:



Sl. No.	Name of circle	Amount of tax deposited late (rupees in lakhs)	Period of delay (in months)	Interest not levied/ realised (rupees in lakhs)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1.	Bareilly	1.20	46	0.55	Case was reported to the department (August 1994); their reply has not been received (January 1995).
2.	Varanasi	0.39	43 to 52	0.36	Department levied interest of Rs. 36,396. (March 1993).
<b>Total</b>		<b>1.59</b>		<b>0.91</b>	

The cases were reported to Government between April 1992 and April 1993 and again between March 1994 and August 1994; their reply has not been received (January 1995).



## CHAPTER - 3

### STATE EXCISE

#### 3.1. Results of audit

Test check of the accounts and relevant records of the State Excise Offices, conducted in audit during the year 1993-94 brought out non-levy or short-levy of duties and fees amounting to Rs. 141.12 lakhs in 170 cases which broadly fall under the following categories :

	No. of cases	Amount (in lakhs of rupees)
1. Excess transit/storage wastage	7	9.05
2. Short-levy of pass fee	1	1.41
3. Non-levy of interest	23	15.61
4. Non-levy of compounding fees/penalties	16	1.35
5. Loss due to application of incorrect rate of export duty	5	9.59
6. Other irregularities	125	191.26
<b>Total</b>	<b>177</b>	<b>228.27</b>

During course of the year 1993-94 the concerned department accepted under-assessments etc. of Rs. 83.94 lakhs involved in 17 cases of which 16 cases involving Rs. 20.41 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. A few illustrative cases including a review on "Internal controls on the working of distilleries and breweries" involving Rs. 4,066.59 lakhs are mentioned in the following paragraphs:



### **3.2 Internal controls in the working of distilleries and breweries**

#### **3.2.1 Introduction**

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

Excise duty on alcohol produced in the distilleries is the main source of revenue of the Excise Department which is the second largest revenue earning department in the State. It is, therefore, the responsibility of the department to ensure that a proper internal control structure is instituted, reviewed and updated, to maintain its effectiveness.

Levy and collection of excise duties on production, manufacture, possession, purchase and sale of alcoholic liquors in the State are governed under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder as amended from time to time.

The supply and distribution of molasses is governed under the Uttar Pradesh Sheera Niyamtran Adhiniyam, 1964 and the Uttar Pradesh Sheera Niyamtran Niyamawali, 1974 as amended from time to time.

Alcohol is manufactured in the distilleries mainly from molasses, an uncrystallized syrup obtained as an important bye-product in the process of manufacture of sugar. There are 36 distilleries with total annual production capacity of 6,80,270 K.L. in the State. Out of these, 9 distilleries are owned by co-operatives and 27 distilleries by private parties.



6 distilleries manufacture only potable liquor and 15 distilleries, non-potable liquor and the remaining 15 distilleries manufacture both, potable and non-potable.

There are also 4 breweries in the State working at Ghaziabad, Lucknow, Nawabganj (Gonda) and Meerut.

### **3.2.2      Organisational set-up**

The Excise Commissioner is the head of the Excise Department and is entrusted with the task of superintendence and control over working of distilleries and breweries and administration of various fiscal measures with quasi-judicial, appellate and revisional functions under the Uttar Pradesh Excise Act, 1910. He is also the ex-officio Controller of molasses under the Uttar Pradesh Sheera Niyam, 1964. The Excise Commissioner is assisted, in the discharge of his functions, by an Additional Excise Commissioner, 3 Joint Excise Commissioners, 2 Deputy Excise Commissioners and 9 Assistant Excise Commissioners at the headquarters at Allahabad. For the purpose of effective administration, the State is divided into 4 zones and 13 charges (circles), each under the charge of a Joint Excise Commissioner and a Deputy Excise Commissioner respectively. These officers are assisted by an Assistant Excise Commissioner in each district of the State.

The working of each distillery/brewery is required to be monitored by an Assistant Excise Commissioner posted there and Excise Inspectors working under him. Due to shortage of officers, the Assistant Excise Commissioners are posted only in 6 distilleries out of 36 (January 1995)



An Internal Audit Organisation set up in the Department in 1978, is also functioning under the over-all control of the Excise Commissioner assisted by a Finance Controller and Chief Accounts Officer.

**3.2.3 Scope of audit**

With a view to seeing whether the internal controls instituted by the Department relating to the working of distilleries/breweries were adequate and effectively functioning, relevant records for the years 1990-91 to 1993-94 in 15 (out of 36) distilleries and in 3 (out of 4) breweries accounting for about 72 per cent of revenue from distilleries and breweries and of the office of the Excise Commissioner, Uttar Pradesh, Allahabad, were test checked during March/April 1994.

**3.2.4 Highlights**

- (i) Although licensees had submitted applications for renewal of their licences alongwith the licence fees in time, their licences were either not renewed or were renewed after a delay ranging from 1 to 35 months.

(Para 3.2.5)

- (ii) During the years 1990-91 to 1993-94, the production of alcohol increased from 343.63 million litres in 1990-91 to 359.26 million litres in 1991-92, but declined during 1992-93 and 1993-94. 46.2 and 63.7 per cent of installed production capacity was not utilised during the year 1992-93 and 1993-94 respectively.

(Para 3.2.6)



- (iii) According to Rules, loss of molasses in transit from sugar factories to distilleries is admissible upto 1 per cent and loss beyond 1 per cent can be compounded by levying penalty upto Rs. 5,000 in each case. The quantity of molasses is checked and certified by the representatives of Excise Department at both ends. It was noticed that 53 cases had been compounded for total amount of Rs. 2,500 only against maximum leviable penalty of Rs. 2.65 lakhs. 400 cases were pending for orders with the Commissioner and no action had been initiated in 355 such cases. The excess transit loss of molasses deprived the Government of additional excise revenue of Rs. 13.25 lakhs.

(Para 3.2.6 (i)(a))

- (iv) Failure to enforce the norms of yield of spirit from molasses in 13 distilleries deprived the Government of additional excise revenue of Rs. 32.21 crores during the period 1990-91 to 1993-94.

(Para 3.2.6 (ii)(b))

- (v) Export of rectified spirit in bond involving an excise duty of Rs. 112.53 lakhs remained unacknowledged by the consignees.

(Para 3.2.8)

- (vi) Application of incorrect rate of export duty resulted in loss of revenue amounting to Rs. 71.05 lakhs.

(Para 3.2.9)



- (vii) Non-adoption of actual strength of Indian made foreign liquor (IMFL) during the period from 1990-91 to 1993-94 resulted in under-assessment of duty of Rs. 19.75 lakhs.

(Para 3.2.11)

- (viii) Inspections of breweries/distilleries as prescribed by the Commissioner of Excise were not conducted by the departmental authorities during 1990-91 to 1993-94.

(Para 3.2.13)

### **3.2.5 Non-renewal / late renewal of licences**

Any person desiring to establish a distillery in Uttar Pradesh, is required to obtain a licence from the Excise Commissioner in Form PD-1 for a distillery in the premises owned by Government and in Form PD-2 for a distillery in the premises owned by any person other than the Government. Before a licence is granted, the applicant is required, under the provisions of Uttar Pradesh Excise Act, 1910 and the Rules made thereunder to furnish a security deposit of Rs. 50,000 in Government promissory notes or other Government securities and to pay in advance, a licence fee at the rate of Rs. 5 (raised to Rs. 10 from the year 1991-92) per kilo litre of installed production capacity. The licence is granted for an excise year (April to March) or part thereof and is renewable every year on payment, in advance, of the aforesaid licence fee.

In test check of records of distilleries for the years 1990-91 to 1993-94, it was noticed (March/April 1994) that although the licensees had submitted applications in time alongwith licence fee for renewal of their



licences, the same were either not renewed or were renewed after a delay ranging from 1 to 35 months. Some illustrative cases are mentioned below:

- (i) The licence of a distillery at Saraya (Gorakhpur) had not been renewed since 1986-87.
- (ii) In the case of 2 distilleries at Modinagar (Ghaziabad) and Muzaffar Nagar, the licences had not been renewed since 1991-92.
- (iii) In respect of 2 other distilleries at Majhola (Pilibhit) and Ghaziabad, the licences had not been renewed since 1993-94.
- (iv) The delay in renewal of licences of 10 distilleries out of 15, ranged from 1 to 35 months.

### 3.2.6 Trend of production

The State has 36 distilleries with total installed production capacity of 680.27 million litres of alcohol per annum. For production of alcohol, the distilleries use mainly molasses, an important bye-product in the process of manufacture of sugar, produced by 108 sugar factories.

During the alcohol years\* 1990-91 to 1993-94, the production of alcohol increased from 343.63 million litres in 1990-91 to 359.26 million litres in 1991-92 but declined to 247.28 million litres in 1993-94 as shown below:-

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\* Alcohol year: December to November.



Year	Installed production capacity	Production of alcohol	Percentage of installed capacity not utilised
	--(in million litres)--		
1990-91	489.90	343.63	29.9
1991-92	489.90	359.26	26.7
1992-93	544.50	292.93	46.2
1993-94	680.27	247.28	63.7

The Excise Commissioner stated (May 1994) that due to the decontrolled molasses being costlier, the distillers raised price of alcohol resulting in fall in demand and its impact on production of alcohol. Regarding non-utilisation of full installed production capacity, the Officers-in-charge of 3 distilleries at Saraya (Gorakhpur), Mansoorpur (Muzaffar Nagar) and Majhola (Pilibhit), stated that the main reason was off-take problem. Other distilleries assigned reasons like shortage of fuel, decontrol of molasses, mechanical troubles and plant repairs etc. for under-utilisation of the installed production capacity.

**(i) Losses of molasses**

Prior to decontrol of molasses in August 1993, allotment of molasses to distilleries was made by Excise Commissioner from the molasses produced at the sugar factories. Since quantity of production of alcohol is dependant inter alia on the quantity of molasses, it is essential that loss of molasses, in transit from sugar factories to distilleries, in its storage at distilleries etc., are controlled. During test-check, the following points came to notice:



**(a) Transit loss**

Under the Uttar Pradesh Sheera Niyantran Adhiniyam, 1964 and the Rules made thereunder, an allowance upto one per cent is admissible for transit loss of molasses from sugar factories to distilleries. The representative of the Excise department posted at the sugar factory checks the quantity despatched and the Excise Inspector posted in the distillery, on receipt of the consignment, verifies the quantity of molasses received and notes it on the back of the pass and returns it to the sugar factory concerned. The consignee shall take adequate safeguards to see that wastage in transit does not exceed one per cent failing which he shall be liable to penalty not exceeding Rs. 5,000 in each case.

A test check of records of 15 distilleries under review revealed that during the molasses years<sup>\*</sup> 1990-91 to 1992-93, out of 1,11,812 quintals of molasses despatched from sugar factories to the distilleries (in 808 consignments) only 1,09,356 quintals were received in the distilleries resulting in excess transit loss of 1,338 quintals after allowing admissible transit loss of 1,118 quintals of molasses (1 per cent). It was, however, seen that only 53 cases pertaining to a distillery at Daurala (Meerut) were compounded for total amount of Rs. 2,500 only against the maximum penalty of Rs. 2.65 lakhs which could be levied. 400 such cases were pending for orders with the Excise Commissioner and no action was initiated in 355 such cases involving 9 distilleries out of 15 test-checked relating to the years 1990-91 to 1992-93. The cost of the molasses lost in transit was paid by the distillers to the sugar factories. Had the transit loss been kept at the prescribed level of 1 per cent, the department could have earned

<sup>\*</sup> Molasses year: November to October.



additional revenue of Rs. 13.25 lakhs on 30,105 alcoholic litres of spirit which could be produced from 1,338 quintals of molasses lost in transit in excess of the prescribed limit.

**(b) Storage loss**

The Uttar Pradesh Sheera Niyantran Adhiniyam, 1964 and the Rules made thereunder provide that distiller shall take adequate safeguards to see that wastage in storage of molasses in a year does not exceed 2 per cent of quantity stored. In case wastage is more than 2 per cent, the distiller shall be liable to penalties not exceeding Rs. 5,000.

In test check of the records of 5 out of 15 distilleries, excess storage loss of 54,031 quintals of molasses (after allowing admissible storage loss of 2 per cent) was found in 9 cases during the years 1990-91 to 1992-93. Only 2 cases were compounded for total amount of Rs. 8,500 only and in 1 case only warning was issued. 5 cases reported to the Excise Commissioner were pending for orders and in 1 case pertaining to the year 1991-92, the matter has not even been reported to the Excise Commissioner for necessary action. Had the storage loss been kept within prescribed level of 2 per cent, the department would have earned additional revenue of Rs. 534.91 lakhs on 1,215.70 thousand alcoholic litres of spirit which could be produced from 54,031 quintals of molasses lost in storage in excess of the prescribed limit.



**(ii) Composite samples of molasses sent for Chemical examination**

The Uttar Pradesh Excise-working of Distilleries (Amendment) Rules, 1978 prescribe that every quintal of fermentable sugar present in the molasses should yield at least 52.5 litres of alcohol. For this purpose, composite samples of molasses were required to be drawn by the Officer-in-charge of the distillery and sent for examination to the Alcohol Technologist, in the office of the Excise Commissioner, for determining the percentage of fermentable sugar. As per time schedule fixed by the department, composite samples drawn by the Officer-in-charge of the distillery should be sent for examination within a week and the report on the samples was required to be sent to him within a fortnight of their receipt. Failure to maintain the minimum yield of alcohol from molasses consumed would entail cancellation of licence and forfeiture of security deposit of the distiller concerned in addition to any other penalties leviable under the Uttar Pradesh Excise Act, 1910.

**(a) Delay in sending samples and late receipt of the examination reports from the Alcohol Technologist**

It was seen in audit of 15 distilleries for the period 1990-91 to 1993-94 that the composite samples were sent for examination to the Alcohol Technologist after delay ranging between 2 and 75 days. In a distillery at Ghaziabad, it was seen that the prescribed register was not maintained in proper form due to which the actual delay in sending the samples for chemical examination could not be worked out. Delay in receipt of the examination reports of the samples from the Alcohol Technologist ranged from 15 days to 377 days.



The Alcohol Technologist stated (June 1994) that delay in testing of some of the samples occurred due to excess load of work, as against the sanctioned post of 24 officers / staff, only 11 had actually been working since 1986.

**(b) Sub-normal yield**

Test check of the relevant records and the data furnished by 13 distilleries for the years 1990-91 to 1993-94 revealed that as per reports of the Alcohol Technologist, in 813 composite samples, the production of alcohol should have been 1,384.15 lakhs alcoholic litres but it fell short by 71.69 lakhs alcoholic litres. Thus, Government could have earned an additional revenue to the tune of Rs. 32.21 crores if the yield had been according to the reports of the Technologist as detailed below:-

Year	Quantity of fermentable sugar (In thousand quintals)	Required production ( In thousand alcoholic litres )	Actual production	Shortfall production	Forgone additional revenue (Rs. in lakhs)
(1)	(2)	(3)	(4)	(5)	(6)
1990-91	528.10	27,725.16	26,538.31	1186.85	474.74
1991-92	821.06	43,105.63	40,699.52	2406.11	1058.69
1992-93	733.32	38,499.32	36,924.94	1574.38	787.19
1993-94	554.00	29,085.22	27,083.74	2001.48	900.66
<b>TOTAL</b>	<b>2636.48</b>	<b>138,415.33</b>	<b>131,246.51</b>	<b>7168.82</b>	<b>3221.28</b>

During the years 1990-91 to 1993-94, a total quantity of 131,246.51 thousand alcoholic litres of spirit was produced in the distilleries from 2636.48 thousand quintals of fermentable sugar present in the molasses



as against the envisaged yield of 138,415.33 thousand alcoholic litres. Had the norms for yield of spirit been achieved/enforced, the Government would have earned excise duty of Rs. 3,221.28 lakhs (at the rate of Rs. 40 to Rs. 50 per alcoholic litre) on the additional yield of 7,168.82 thousand alcoholic litres of spirit.

It was also seen that out of 813 cases of sub-normal yield, only 369 cases were compounded and 124 cases were pending with the office of the Excise Commissioner. No action was taken in 320 cases.

### **3.2.7 Non-levy of excise duty on transit wastage of spirit**

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, read with the Uttar Pradesh Issue of spirit from distilleries (Amendment) Rules 1978, an allowance upto 0.5 per cent is admissible for the actual loss in transit (by leakage, evaporation or other unavoidable causes) of spirit transported or exported under bond in wooden casks or metal vessels. The rules do not provide for any allowance for loss in transit when spirit is transported in sealed pouches. In case of wastage beyond prescribed limit, the Rules provide that Officer-in-charge of the distillery will report the matter to the Deputy Excise Commissioner for levy of excise duty.

During test check of records of 4 distilleries at Shamli (Muzaffar Nagar), Majhola (Pilibhit), Roza (Shahjahanpur) and Saharanpur, it was noticed (March/April 1994) that 14.52 lakh alcoholic litres of country spirit/IMFL were transported in sealed bottles, pouches and in tankers to different places during the period from April 1992 to March 1994. The excess transit loss beyond permissible limit in these transportations was



35,930 alcoholic litres on which excise duty leviable amounted to Rs. 12.93 lakhs which was not realised from the distillers. The details are given below:-

Year	No. of distill- ery	No. of consig- nment	Kind of of spirit	Quantity of alcohol transport- ed  (in lakhs of alcoho- lic litres)	Transit loss/ Excess transit loss (in A.L.)	Mode of packing	Duty leviable  (in lakhs of Rupees)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1992-93	1	14	Country spirit (Plain)	1.30	402.8	Pouch	0.13
	3	16	Country spirit (Spiced)	0.72	2012.9	Tanker	0.67
	3	253	-do-	4.61	14,090.7	Pouch	4.70
1993-94	1	1	I.M.F.L.	0.11	8225.1	Tanker	3.70
	3	368	Country spirit (Spiced)	8.01	7126.5	Pouch	2.37
	3	26	Country spirit (Plain)	1.07	4474.8	Tanker	1.49
<b>Total</b>		<b>678</b>		<b>15.82</b>	<b>36,332.8</b>		<b>13.06</b>



### **3.2.8 Non-realisation of excise duty on unacknowledged exports in bond**

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, export duty is leviable on foreign liquor exported out of the State, but within India. According to the Uttar Pradesh Bottling of Foreign Liquor Rules, 1969, the licensee is required to execute a bond, undertaking to deliver the liquor at destination and furnish a certificate from the excise authorities of the importing state to this effect within 90 days. If the licensee does not furnish the required certificate within the period specified above, penalty equal to duty involved shall be recovered from him.

Test check of records of three distilleries at Daurala (Meerut), Majhola (Pilibhit) and Rampur, revealed (March/April 1994) that in respect of 2,53,998.1 alcoholic litres of rectified spirit exported in bond out of the State on 22 occasions during the period between 4 January 1989 and 10 January 1994, the licensees failed to furnish the required certificate of delivery of the liquor at the destination even though more than 4 to 64 months had elapsed since the export of liquor. The department had not taken action to invoke the bonds executed by the manufacturers for realising penalty (equal to duty) amounting to Rs. 112.53 lakhs.

### **3.2.9 Loss of revenue due to application of incorrect rate of export duty**

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, for the purpose of levying excise duty, liquor is categorised either as country liquor or as foreign liquor. Spirit having strength below 60<sup>0</sup> over proof (91.27 per cent volume by volume) is termed as country liquor and that having strength 60<sup>0</sup> over proof and above is termed as rectified



spirit (foreign liquor). Country liquor of the strength below 60° over proof whether obtained from distillation of molasses, grape or malt, is not foreign liquor and falls in the category of country liquor for the purpose of levying excise duty. The prescribed rate of duty on export of country liquor (excluding tari and fermentable alcohol) was Rs. 7 per alcoholic litre and that on export of foreign liquor, Rs. 2.50 to Rs. 4 per alcoholic litre during the years 1990-91 to 1993-94.

During the audit of 6 distilleries, it was noticed (March/April 1994) that the distilleries during the period between 12 September 1990 and 29 March 1994 exported out of Uttar Pradesh in 292 consignments, 2049.13 thousand alcoholic litres of spirit with strength below 60° O.P. (containing alcohol ranging from 53 per cent to 91.20 per cent volume by volume) which was classifiable as country liquor. On the export of the above spirit, duty at the rate of Rs. 2.50 to Rs. 4 per alcoholic litre was realised against the correct rate of Rs. 7 per alcoholic litre. This resulted in loss of revenue to the tune of Rs. 71.05 lakhs as detailed below:-

Sl. No.	Year	Distillery from which exported	Quantity exported (in thousand AL)	Export duty		Loss of revenue (rupees)
				Realisable (in lakhs)	Realised of	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	1990-91	Ghaziabad	235.29	16.47	5.88	10.59
2.	"	Shamli (Muzaffarnagar)	36.13	2.52	0.90	1.62
		<b>Total</b>	<b>271.42</b>	<b>18.99</b>	<b>6.78</b>	<b>12.21</b>
3.	1991-92	Ghaziabad	452.89	31.70	13.59	18.11
4.	"	Shamli	47.32	3.32	1.42	1.90
5.	"	Nawabganj (Gonda)	55.75	3.90	1.67	2.23
		<b>Total</b>	<b>555.96</b>	<b>38.92</b>	<b>16.68</b>	<b>22.24</b>



6.	1992-93	Ghaziabad	345.19	24.16	13.80	10.36
7.	"	Lucknow	1.55	0.11	0.06	0.05
8.	"	Rampur	253.46	17.74	10.14	7.60
9.	"	Raja-ka-Sahspur (Moradabad)	56.42	3.95	2.26	1.69
10.	"	Nawabganj (Gonda)	87.97	6.16	3.52	2.64
		<b>Total</b>	<b>744.59</b>	<b>52.12</b>	<b>29.78</b>	<b>22.34</b>
11.	1993-94	Ghaziabad	400.22	28.02	16.01	12.01
12.	"	Lucknow	16.20	1.13	0.69	0.44
13.	"	Nawabganj (Gonda)	60.74	4.25	2.24	1.81
		<b>Total</b>	<b>477.16</b>	<b>33.40</b>	<b>19.14</b>	<b>14.26</b>
		<b>Grand Total</b>	<b>2049.13</b>	<b>143.43</b>	<b>72.38</b>	<b>71.05</b>

### 3.2.10 Trade without licence

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, the manufacturers of Indian made foreign liquor (including beer) are required to obtain a licence in Form FL-1 for wholesale vend of their own produce. The licence is granted by the Collector on payment of the prescribed fee of Rs. 5,000 each year which was raised to Rs. 50,000 from April 1989 and Rs. 1 lakh from April 1992.

A brewery at Meerut had been trading in beer produced by it since 1976-77 without licence in Form FL-1, thereby contravening the provisions of the Uttar Pradesh Excise Rules. The Government was, thus, deprived of the revenue of Rs. 4.15 lakhs on account of licence fee during the years 1976-77 to 1993-94.

On this being pointed out in audit (March 1992) the Officer-in-charge of brewery stated (April 1994) that due to non-obtaining of the proper licence, issue of beer for wholesale vend was stopped since November 1993. No action was, however, taken to realise the licence fee.



### 3.2.11 **Short-levy of duty due to non-adoption of actual strength of Indian made foreign liquor**

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, read with the Uttar Pradesh Bottling of Foreign Liquor Rules, 1969, the sale strength prescribed for whisky, brandy, rum and gin is the apparent strength of spirit as indicated by the hydrometer after addition of the colouring and flavouring material. The strength so indicated, is to be mentioned on labels to be affixed on the sealed and capsuled bottles. The minimum strength of whisky, brandy and rum is 25° under proof (42.8 per cent volume by volume) and for low strength rum it is 47.4° under proof (30 per cent volume by volume). The duty is chargeable per litre of alcohol contained in the Indian made foreign liquor in sealed and capsuled bottles.

In two distilleries at Rampur and Unnao, 103,97,103.8 alcoholic litres of IMFL were manufactured and issued during the years 1990-91 to 1993-94. The labels affixed on the bottles indicated the alcoholic content of whisky, brandy and rum as, 25° under proof (42.8 per cent volume by volume) and low strength rum as 47.4° under proof (30 per cent volume by volume) and the excise duty was levied on that basis. However, the actual apparent strength of spirit in the liquor after addition of colouring and flavouring material, as indicated by the hydrometer was 42.9/43.0 per cent volume by volume in case of whisky, brandy and rum and 30.2 per cent volume by volume in case of low strength rum (as per records of the distilleries), which exceeded the prescribed strength (as indicated on labels) by 0.1 to 0.2 per cent volume by volume. Levy of excise duty on the basis of minimum prescribed strength (as indicated on labels) instead of



on the actual apparent strength indicated by the hydrometer resulted in short-levy of duty of Rs. 19.75 lakhs.

### 3.2.12      Excise Locks

Rules made under the Uttar Pradesh Excise Act, 1910 provide for fixing of excise locks on all spirit pipes and vessels etc. to prevent any mis-use or leakage thereof in the distillery. These locks should be changed once a month at irregular intervals, so that the same lock may not be known to be continuously in use in any particular fastening. The Officers-in-charge of distilleries will be supplied with books of tickets in Form PD 3 for use with the Excise locks.

The Excise Inspector is required to put his dated initials (with time) on lock ticket and then it is placed in the space provided for the purpose under the part of the flap which is hinged on to the front of the lock and flap is firmly closed on the top of the ticket. Rules also provide that use of a lock without a ticket or failure to make proper entries in a ticket, its counterfoil or failure to account for the use of ticket will be treated as a very serious offence.

It was seen in 15 distilleries test-checked that against total requirement of 387 locks, only 280 locks were provided, out of which only 142 locks were in working condition. In 5 distilleries at Mohan Nagar, Modinagar (Ghaziabad), Nawabganj (Gonda), Daurala (Meerut) and Raja-Ka-Sahaspur (Moradabad), lock-tickets were not being used with Excise locks. It was also noticed in a distillery at Majhola (Pilibhit) that locks provided by the distiller were being used.



In the absence of excise locks and lock-tickets, mis-use or leakage of spirit and consequent loss of excise revenue cannot be ruled out.

### 3.2.13 Inspection of distilleries/breweries by departmental authorities

In order to have an effective control over the working of distilleries and breweries, periodical inspections by departmental authorities have been prescribed by the Excise commissioner as mentioned below:-

Sl. No.	Name of Officer	No. of inspections	Details of inspections
(1)	(2)	(3)	(4)
1.	Officer-in-charge of distillery/ brewery	Every month	Each section of the distillery to be inspected separately
2.	District Excise Officer	Quarterly (Dec. to Feb., June to Aug., Sept. to Nov.)	Detailed inspection of each distillery
3.	Deputy Excise Commissioner (Charge)	December to May- Once June to Nov.- Once	-do- -do-

Besides the above, as per the Excise Commissioner's orders the officers are expected to conduct surprise checks in their jurisdiction as and when deemed fit.

In test check of records of the 15 distilleries under the review, it was noticed that against the required 300 inspections during the period from 1990-91 to 1993-94, only 193 inspections (64.33 per cent) were carried out.



No surprise checks were conducted during the aforesaid period. In absence of such inspections, control as visualised over the working of the distilleries could not be exercised.

### **3.2.14 Internal Audit Organisation**

With a view to improving the levy and realisation of State Excise duties and fees etc. and ensuring application of State Excise laws, executive orders and instructions and plugging various loop holes, an Internal Audit Organisation under the over-all control of the Excise Commissioner was set up in the department in the year 1978.

Internal audit parties are required to conduct audit of all the units including distilleries and breweries annually. Follow up action on the inspection reports is watched at the headquarters.

No detailed instructions regarding periodicity of audit, quantum of checks to be exercised etc. to give effect to the scheme of Internal Audit, were issued.

It was noticed in test check that the percentage of short fall of internal audit varied from 100 per cent to 44 per cent during the years 1990-91 to 1993-94 as illustrated below:-



Year	No. of distill- eries due for audit	No. of units audited	No. of units in arrears	No. of objection	Money value (Rs.in lakhs)	Recovery made (Rs.in lakhs)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1990-91	34	Nil	34	Nil	Nil	Nil
1991-92	34	Nil	34	Nil	Nil	Nil
1992-93	36	10	26	34	2.48	Nil
1993-94	36	20	16	98	4.32	Nil

It was also seen that no objection book, to watch compliance of the audit objections raised by Internal Audit parties, was maintained before 1993-94.

The foregoing points were reported to the department and Government in June 1994; their replies have not been received (January 1995).

### 3.3 Loss of revenue due to non-observance of Rules

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, a licensee is required to deposit 25 per cent of the bid money as security. One-eighth of the bid money is to be paid in cash on the fall of hammer during auction and subsequently one twenty-fourth in cash and the balance one-twelfth either in cash or in the form of bank guarantee/fixed deposit receipts within 10 days. The licensee is thereafter liable to pay licence fee for the entire excise year in twelve monthly instalments by the 20th of each month. If the security deposit adjusted towards the deficit amount of the monthly instalment in default is not made good within ten days, the licence is required to be cancelled and settled afresh and loss, if



any, suffered due to re-auction of shop(s) is recoverable from the remaining security and balance, if any, as arrears of land revenue. The security deposit, unless forfeited, is refunded at the end of the excise year (financial Year) or earlier, if all the excise dues are cleared by the licensee.

During audit of the District Excise Office, Pratapgarh, it was noticed (March 1993) that for the year 1992-93, 35 country liquor shops of city group of the district were settled on 2 May 1992 in favour of a group of 12 licensees for a total sum of Rs. 2.36 crores. One-sixth of this, amounting to Rs. 39.35 lakhs was to be deposited in cash as security advance against which Rs. 17 lakhs were paid by bank draft and Rs. 22.35 lakhs by cheque which was dishonoured on presentation to the bank. 1/12th of the bid money was also not deposited. Monthly instalments of licence fee were not deposited regularly. Against monthly instalments of Rs. 21.45 lakhs for May 1992 and July 1992 Rs. 14.54 lakhs and Rs. 0.49 lakh respectively were deposited. Thereafter, licence was cancelled on 13 July 1992. Shops were settled on daily basis from 14 July 1992 to 20 October 1992 and earned revenue amounting to Rs. 53.15 lakhs. The shops were re-auctioned on 21 October 1992 at a bid of Rs. 87.30 lakhs. Thus, total revenue earned by these shops amounted to Rs. 1.72 crore against the original bid amount of Rs. 2.36 crores. Non-observance of rules resulted in loss of revenue to the tune of Rs. 64 lakhs.

The matter was reported to the department/Government in June 1993 and again in February 1994; their replies have not been received (January 1995).



### 3.4 Non-levy of pass fee on export of rectified spirit

Under the Uttar Pradesh Excise Act, 1910, and the Rules made thereunder, spirit having strength of 60<sup>0</sup> O.P. (91.27 per cent volume by volume) and above is termed as rectified spirit falling in the category of foreign liquor. This spirit is not fit for human consumption. On the export of rectified spirit for potable use, export pass fee is leviable instead of export duty. The rate of export pass fee on export of rectified spirit for potable use was raised from Rs. 5 to Rs. 6 per bulk litre from 23 March 1992.

During the audit of a distillery at Mansoorpur (Muzaffar Nagar), it was noticed (January 1993) that on 60,000 bulk litres\* or 54,840 alcoholic litres\*\* of concentrated Indian made foreign liquor of strength of 91.4 per cent volume by volume, not fit for human consumption exported out of Uttar Pradesh in August 1992 for potable use, export duty was realised at the rate of Rs. 4 per alcoholic litre as applicable to foreign liquor fit for human consumption instead of export pass fee at the rate of Rs. 6 per bulk litre relevant to rectified spirit for potable use. Incorrect realisation of export duty instead of export pass fee resulted in loss of revenue amounting to Rs. 1.41 lakhs.

The matter was reported to the department and Government in September 1993; their replies have not been received (January 1995).

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\* "Bulk litre" (B.L.) means a litre with reference to the bulk or quantity of the contents.

\*\* "Alcoholic litre" (A.L.) means a litre with reference to alcoholic contents of the spirit.



### 3.5 Excess refund of licence fee

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder (as amended from time to time), the Collector is empowered to order the closure of any excise shop for such time or for such period as he may deem necessary for preservation of the public peace in the district. In such cases licensee(s) may be compensated by refund of amount of licence fee originally credited to the department. For this purpose Government vide order dated 23 February 1989 laid down a procedure for calculation of licence fee for one day, when the shop was ordered to be completely closed.

(i) In the course of audit of the office of the District Excise Officer, Moradabad, it was noticed (September 1992) that due to curfew, shops of country liquor and foreign liquor for the city group were totally closed from 2 November 1990 to 4 November 1990 and partially closed from 5 November 1990 to 14 November 1990 for different periods ranging from 2 hours to 7.30 hours everyday. While calculating compensation for the period of closure of shops, six days were taken by changing 73.5 hours into days taking the period from 2 November 1990 to 4 November 1990 as complete closing days and from 5 November 1990 to 14 November 1990 (excluding 13 November 1990 and 14 November 1990) as partial closing days (timing of opening of every shops being from 10 A.M. to 10 P.M.). The refund of licence fee for 6 days amounting to Rs. 4.61 lakhs was approved by the Collector and payment was made in February 1992 under orders of the Excise Commissioner. No provision exists in the Act/Rules/Orders to convert the licence fee from hours into days for calculating compensation. As per Government order dated 23 February 1989 also, the compensation is to be calculated for the day when the shop was ordered to be completely



closed and not for partial closure. Thus, due to non-observance of the procedure for calculation of refund of licence fee, refund made for 3 days, i.e. for partial closure, resulted in excess refund for licence fee amounting Rs. 2.31 lakhs.

The matter was reported to the department and Government in November 1992 and again in February 1994; their replies have not been received (January 1995).

(ii) In the course of audit of the office of the District Excise Officer, Rampur, it was noticed (July 1992) that due to curfew, 9 shops of country liquor and 4 shops of foreign liquor for city group were totally closed from 29 October 1990 to 31 October 1990 and 2 November 1990 and partially closed between 3 November 1990 and 17 November 1990 in different periods ranging from 2 hours to 9 hours on every day. While calculating the compensation for the period of closure of shops, licence fee per day was converted to per hour (timing of opening of shop from 10 A.M. to 10 P.M.). The refund of licence fee for 121 hours amounting to Rs. 2,99,717 was approved by the Collector in July 1991 and payment was made under orders of the Excise Commissioner. No provision exists in the Act/Rules/Orders to convert the licence fee per hour for calculating compensation. As per the Government order dated 23 February 1989, the compensation is to be calculated for the day when the shop was ordered to be completely closed and not for partial closure. Thus, due to non-observance of the procedure for calculation of refund of licence fee, refund made for 73 hours (6 days and 1 hour) i.e. for partial closure, resulted in excess refund of licence fee amounting to Rs. 1.81 lakhs.



The matter was reported to the department and Government in December 1993 and again to Government in June 1994; their replies have not been received (January 1995).

**3.6 Non-realisation of additional duty**

Under the provisions of the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, as amended from April 1991, if a licensee intends to lift and sell intoxicant in excess of the minimum guaranteed quantity, he is required to pay as additional consideration an extra amount at the rate prescribed by the Excise Commissioner for grant of special rights to sell such additional quantity of intoxicant.

During the course of audit of District Excise Office, Allahabad, it was noticed (December 1993) that two licensees lifted and sold 7,132 bulk litres of country liquor in excess of the minimum guaranteed quantity in May 1993. The licensees were, therefore, liable to pay an extra amount of Rs. 78,452 for excess lifting and sale of country liquor at the rate of Rs.11 per bulk litre as prescribed by the Excise Commissioner for the year 1993-94 which was not realised.

The matter was reported to the department and Government in March/April 1994; their replies have not been received (January 1995).

**3.7 Non-levy of interest on belated payments**

Under the provisions of Uttar Pradesh Excise Act, 1910, as amended from 29 March 1985, where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate



of 18 per cent per annum is recoverable from the date such excise revenue had become payable till the date of actual payment. In respect of excise revenue which had become payable prior to the date of amendment to the Act and not paid within three months of the date of amendment, interest at 18 per cent per annum is required to be charged from 29 March 1985.

During audit of 5 District Excise Offices (Bareilly; Moradabad, Baharaich, Unnao and Fetehtpur) and one distillery {Narang (Gonda)}, it was noticed (between May 1993 and January 1994) that excise revenue of Rs. 6.37 lakhs payable after the commencement of the Act, was paid after delay of 8 to 96 months from the date it became payable reckoned from 29 March 1985. Interest amounting to Rs. 6.43 lakhs was, thus, leviable on these belated payments of excise revenue which was, however, not levied and realised as per details given in the table :

Sl. No.	Name of District Excise Office/ Distillery	Excise revenue payable (in lakhs of rupees)	Period of delay (in months)	Interest not levied/realised (in lakhs of rupees)
(1)	(2)	(3)	(4)	(5)
1.	Bareilly	0.93	88 to 94	1.25
2.	Moradabad	0.25	84	0.32
3.	Bahraich	0.74	82 to 96	1.03
4.	Narang Distillery (Gonda)	1.90	8 to 31	1.06
5.	Unnao	1.22	90	1.66
6.	Fatehtpur	1.33	47 to 58	1.11
	<b>Total</b>	<b>6.37</b>		<b>6.43</b>



The cases were reported to the department/Government between September 1993 and March 1994 and again between December 1993 and August 1994; their replies have not been received (January 1995).

(1)	(2)	(3)	(4)	(5)
1. Barilla		0.07	8210.94	1.22
2. Muralidhar		0.22	82	0.75
3. Babbar		0.34	8230.08	1.83
4. P. S. Dhillon (Gurgaon)		1.90	280.21	1.00
5. Gurgaon		1.22	90	1.28
6. Palspur		1.33	4712.24	1.11
Total		4.87		6.43



## CHAPTER-4

### TAXES ON VEHICLES, GOODS AND PASSENGERS

#### 4.1. Results of audit

Test check of the records of the various offices of the Transport Department conducted in audit during 1993-94 revealed short-levy or non-levy of taxes/fees amounting to Rs. 118.26 lakhs in 239 cases, which broadly fall under the following categories:-

	Number of cases	Amount (in lakhs of rupees)
1. Short-levy or non-levy of passenger tax/additional passenger tax	91	83.72
2. Under-assessment of road tax	49	14.85
3. Short-levy of goods tax	10	2.71
4. Incorrect computation of lump sum passenger tax	8	2.02
5. Other irregularities	81	14.96
<b>Total</b>	<b>239</b>	<b>118.26</b>

During the year 1993-94, the department accepted under-assessments etc. of Rs. 30.85 lakhs involved in 65 cases. Of these, 4 cases involving Rs. 0.73 lakh had been pointed out in audit during 1993-94 and the rest in earlier years. A few illustrative cases highlighting important observations involving Rs. 23.51 lakhs are given in the succeeding paragraphs:



**4.2      Loss of revenue due to delay in circulation of Government notification**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali 1962, passenger tax under lump sum agreement is leviable on an omnibus used as contract carriage plying on an inter-State route lying partly within the State under a temporary permit granted by an authority outside the State, at the rates notified by the Government from time to time for the number of days covered by the journey to be performed within the State.

By a notification issued on 2 September 1992 the State Government enhanced the rates of lump sum passenger tax per day per vehicle from Rs. 160, Rs. 200 and Rs. 232 to Rs. 240, Rs. 300 and Rs. 348 respectively in respect of ordinary, deluxe and air-conditioned buses.

During the audit of three transport check posts at Saiyan (Agra), Mohan Nagar (Ghaziabad) and Naubatpur (Varanasi), it was noticed (July/August 1993) that the notification issued on 2 September 1992 was reported to have been received at check posts after a delay of 127 to 161 days. This led to the realisation of lump sum passenger tax at old rates and consequent loss of revenue of Rs. 7.52 lakhs in respect of 2,479 vehicles which passed through the check-posts.

The matter was reported to the department and Government between August and October 1993 and again in December 1993; their replies have not been received (January 1995).

**4.3      Non-assessment of passenger tax in respect of stage carriage**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the Rules framed thereunder, passenger tax is leviable at the rate of



16 per cent (with effect from 1 May 1979) of the fare payable to the operator of a stage carriage.

During audit of the Sub-regional Transport office, Bulandshahar, it was noticed (October 1993) that a permit (with validity from 6 April 1991 to 5 April 1996) for operation of a stage carriage on Bulandshahar-Jahangirabad-Daulatpur-Ahar route, was issued by the Regional Transport Authority, Meerut in April 1991. The department, however failed to levy and collect the tax from the operator, This resulted in loss of revenue amounting to Rs. 85,827 during the period 6 April 1991 to 30 September 1993.

The matter was reported to the department/Government in January 1994; their replies have not been received (January 1995).

#### **4.4 Failure to adopt minimum fare**

By a notification dated 10 June 1992, the State Government directed the State Transport Authority/Regional Transport Authorities to fix the minimum rate of fare as 14.90, 16.30 and 19 paise per passenger per kilometre for stage carriages plying on 'Special' and 'A' class routes, 'B' class routes and 'C' class routes respectively.

During audit of Ghaziabad and Gorakhpur regions and Deoria sub-region, it was noticed (between July 1993 and October 1993) that minimum rates of fare were not applied in respect of six routes (Ghaziabad-1, Gorakhpur-2 and Deoria-3) and passenger tax continued to be realised at pre-revised rates or at rates less than those prescribed by Government. This



resulted in loss of passenger tax to the tune of Rs. 1.49 lakhs during the period between June 1992 and September 1992.

The matter was reported to the department/Government between November 1993 and January 1994 and again in February 1994; their replies have not been received (January 1995).

#### **4.5 Loss of revenue due to non-assignment of registration mark**

Under the Motor Vehicles Act, 1988, when a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle is required to apply in the prescribed form to the registering authority, within whose jurisdiction the vehicle is kept for assignment of a new registration mark. If, he fails to do so, the registering authority may take penal action against him.

During audit of Regional Transport Office, Varanasi, it was noticed (June 1993) that 363 heavy vehicles (69 passenger vehicles and 294 goods vehicles) registered in other States arrived in Uttar Pradesh with "No Objection Certificate" between April 1990 and March 1992 and were registered in regional office, Varanasi. Road Tax from such vehicles was continuously being assessed and realised. But registration marks of Uttar Pradesh were neither assigned to these vehicles, nor did the owners of these vehicles apply for registration, although the vehicles had been plying in the State for more than twelve months. This resulted in short-realisation of revenue amounting to Rs. 1.09 lakhs (computed on the basis of prescribed assignment fee of Rs. 300 per vehicle).



On this being pointed out in audit (June 1993), the Regional Transport Officer, Varanasi Stated (February 1994) that registration marks of Uttar Pradesh in respect of 32 vehicles had since been assigned and that a list of remaining vehicles furnished to Enforcement Officers for remedial action. Further report has not been received.

The matter was reported to the department in November 1993 and to Government in February 1994; their replies have not been received (January 1995).

#### **4.6 Passenger tax escaping assessment**

Under the Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam 1962 and the Rules framed thereunder, tax on every passenger carried by a stage carriage shall be levied at the prescribed rate. Passenger tax from mini-buses and other stage carriages permitted to ply under Mahanagariya city bus service scheme is, however, to be realised at the rate of Rs. 1,400 and Rs. 2,000 per vehicle per month respectively as decided in October 1992. If for any reason the whole or any portion of the tax leviable under the Adhiniyam in respect of any month has escaped assessment, the tax officer may, at any time within three years from the expiry of that month, assess the tax which has escaped assessment.

During audit of Regional Transport Offices, Varanasi and Ghaziabad, it was noticed (June/July 1993) that 20 stage carriages ( 8 in Varanasi region and 12 in Ghaziabad region) were permitted to operate as Mahanagariya city bus service. Passenger tax payable on these carriages, was not realised for the period from December 1992 to July 1993 resulting in passenger tax amounting to Rs. 79,537 escaping assessment.



The matter was reported to the department and Government in November 1993 and again in January 1994; their replies have not been received (January 1995).

**4.7(A) Short-levy of passenger tax due to incorrect calculation of net fare**

Under the Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam, 1962 and the Rules framed thereunder, passenger tax at a rate equivalent to 16 per cent of the fare paid or payable by passengers carried by a stage carriage is leviable in respect of journey in the State. In addition to passenger tax, surcharge for providing insurance to passengers in case of accidents is also realisable at the rate of 5 per cent of passenger tax from each passenger carried in a stage carriage. The passenger tax and the surcharge are to be rounded off to the nearest fifty paise.

During audit of Sub-regional Transport Office at Deoria and Ghazipur, it was noticed (February 1991 and September 1991) that passenger tax on 2 routes in the sub-region Deoria and one route in the sub-region Ghazipur was levied short due to not-rounding off the fares to the nearest multiple of fifty paise. This resulted in short-levy of passenger tax amounting to Rs. 57,712 during the period from 16 December 1987 to 8 February 1991.

On this being pointed out in audit, the Assistant Regional Transport Officer, Deoria recovered a sum of Rs. 3,208 (November 1993). Report on recovery of balance amount has not been received.



The cases were reported to the department/Government between April 1991 and December 1991 and again in December 1993; their replies have not been received (January 1995).

**4.7(B)      Loss due to non-assessment of passenger tax at enhanced fare**

Under the Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam, 1962, passenger tax is leviable at a percentage of the rates of fare as may be prescribed by notification by the Government from time to time and paid by the passengers. Any increase in the fare involves increase in levy of passenger tax. By a notification dated 29 September 1992, Government enhanced the maximum rates of fares from Rs. 4.20 to Rs. 8.40 per kilometre or part thereof in respect of contract carriages with seating capacity of 41 or less. Passenger tax is leviable at 16 per cent of the fare payable by the passengers.

During audit of the Sub-regional Transport Office, Sultanpur, it was noticed (June 1993) that in respect of 6 mini-buses (with seating capacity of 21 passengers) having contract carriage permits, passenger tax was not levied at the enhanced rate of fare for various periods between 29 September 1992 and 26 December 1992. This resulted in short realisation of passenger tax amounting to Rs. 42,230.

The matter was reported to the department and Government in October 1993 and again in March 1994; their replies have not been received (January 1995).



**4.7(C) Non-assessment of passenger tax in respect of vehicles found plying without permits**

Under the Motor Vehicles Act, 1988, no owner of a motor vehicle shall use or permit the use of the vehicle in any public place or any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with the Act and is covered by a permit granted by the Regional State Transport Authority on payment of the prescribed fee. Further, under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the Rules framed thereunder, passenger tax at the rate equivalent to 16 per cent of the fare paid or payable by passengers carried by a stage carriage is leviable in respect of journey in the State. In addition to passenger tax, surcharge for providing insurance to passengers in case of accidents is also realisable at the rate of 5 per cent of passenger tax from such passenger carried in a stage carriage.

During audit of Sub-Regional Transport Office, Ghazipur it was noticed (September 1991) that 15 mini-buses carrying passengers on hire during various periods from January 1991 to April 1991 were found plying without permit. Passenger tax was, however, not assessed by the department on such vehicles even for the month in which these vehicles were detected plying without permit. This resulted in loss of revenue amounting to Rs. 39,690 during the periods between January 1991 and April 1991.

On this being pointed out in audit (September 1991), the Assistant Regional Transport Officer (Administration), Ghazipur stated (February 1994) that recovery of Rs. 15,876 from 6 mini-buses had since been made. Final report on recovery in respect of remaining 9 mini-buses has not been received (January 1995).



The matter was reported to the department and Government in December 1991 and again in April 1994; their replies have not been received (January 1995).

**4.7(D) Short-levy of Passenger tax due to adoption of less number of trips**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali 1962, the lump sum passenger tax payable in respect of any stage carriage on a particular route depends, inter alia, on the number of one way trips allowed or expected to be made by the stage carriage on the route during the specified period. Further, under the executive instructions, the department is required to conduct a periodical survey of the routes in order to verify the accuracy of total number of trips being undertaken by the vehicles plying on these routes.

During audit of the Regional Transport Office, Faizabad, it was noticed (December 1993) that despite the survey report of the Asstt. Regional Transport Officer (Enforcement), Faizabad in July 1993 that on Faizabad-Jalalpur route, vehicles were performing 16 trips (8 up and 8 down) per day from 20 July 1993, the lump sum passenger tax payable in respect of the vehicles on the route continued to be computed on the basis of 8 single trips (4 up and 4 down). This resulted in short-levy of passenger tax amounting to Rs. 1.02 lakhs during the period from 20 July 1993 to 19 December 1993.

The matter was reported to the department and Government in March 1994 and again in April 1994; their replies have not been received (January 1995).



**4.7(E)      Short-assessment of passenger tax**

Under the Motor Vehicles Act, 1988, the Regional Transport Authority, while granting a permit for a stage carriage, may impose conditions regarding maximum and minimum number of daily trips to be performed by the vehicle on the route for which the permit is granted. For any deviation from the conditions of the permit, approval of the Regional Transport Authority is required.

During audit of the Regional Transport Office, Dehradun, it was noticed (May 1993) that on the Dehradun-Raipur-Maldevta route in respect of 10 vehicles, 60 trips per day (Dehradun-Raipur-54 and Dehradun-Maldevta 6) were approved by the Regional Transport Authority in August 1978. The number of vehicles in operation on the route was, however, reduced to 5 during different periods between November 1990 and September 1992. Consequently on the request of the operators, the number of trips was also reduced to 44 (Dehradun-Raipur 38 and Dehradun-Maldevta 6) for assessment of passenger tax. The reduction in trips was made by the Tax Officer without obtaining the approval of the Regional Transport Authority. Subsequently the number of vehicles in operation on the route was increased between 9 and 11 from October 1992, but no upward revision of number of trips was effected. This resulted in passenger tax amounting to Rs. 36,404 being levied short during the period from October 1992 to April 1993.

The matter was reported to the department/Government in December 1993 and again in February 1994; their replies have not been received (January 1995).



**4.7(F)      Incorrect computation of lump sum passenger tax**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali 1962, assessment of passenger tax under a lump sum agreement depends, inter alia on the total fare payable on the entire route and on the number of one way trips to be made or expected to be made by the stage carriage during the period for which the agreement is executed. The Transport Commissioner in his orders dated 19 June 1985 issued instructions to all concerned, to calculate the passenger tax on the basis of 30 days in a month, in the whole State.

During audit of the Regional Transport Office, Gorakhpur it was noticed (October 1993) that in respect of 10 stage carriages plying on Sahjanwa-Rudhauri route, passenger tax under lump sum agreement was not computed on the basis of prescribed minimum fare of Rs. 8.50 for the period between 5 September 1992 and 3 November 1992. From 4 November 1992 to 13 May 1993 passenger tax was computed on the basis of 52 trips per month instead of on the basis of 60 single trips per month as authorised by Regional Transport Authority. This resulted in short-levy of passenger tax amounting to Rs. 62,250 for the period from 5 September 1992 to 13 May 1993.

This was reported to the department/Government in January 1994, followed by reminder in February 1994; their replies have not been received (January 1995).



#### 4.8      **Non-application of prescribed minimum fare for melas and other special occasions**

Under the Motor Vehicles Act, 1988, the State Government may, from time to time, by notification in the official gazette, issue direction to the State Transport Authority regarding the fixing of fares (including the maximum and minimum thereof) for stage carriages. The State Government by a notification of 9 July 1987 directed the State Transport Authority to fix the minimum rate of fare as 12.73 paise per passenger per kilometre for stage carriages specially run during melas and other special occasions.

During audit of Allahabad region it was noticed (February 1990), that the Regional Transport Authority issued 84 mela permits to 84 stage carriages (Allahabad to Varanasi-24 permits and Allahabad to Chitrakut-60 permits) with validity ranging from 2 to 9 days between 3 February 1989 and 11 February 1989. Permits were issued for carrying mela passengers from Allahabad to Varanasi/Chitrakut and back. Passenger tax from the carriages for which, permits were issued for mela purposes, was realised at a flat rate of Rs. 200 for each carriage (with validity of permits for two days) and Rs. 500 for each carriage (with validity of permits for more than two days) computed on the basis of the minimum of one return trip per day instead of on the basis of the prescribed minimum fare. This resulted in short realisation of passenger tax of Rs. 1.71 lakhs during the period from 3 February 1989 to 11 February 1989.

On this being pointed out in audit (February 1990), the Regional Transport Officer, Allahabad stated (June 1993) that the difference of tax from 12 vehicles had since been realised and action for recovery of tax



initiated against the remaining 72 vehicles. Report on recovery has not been received (January 1995).

The matter was reported to the department and Government in April 1990 and again in November 1993; their replies have not been received (January 1995).

#### **4.9 Irregular grant of certificate of fitness**

Under the provisions of the Motor Vehicles Act, 1988 and Central Motor Vehicles Rules, 1989 no vehicle is considered as validly registered unless a certificate of fitness is granted by the Motor Vehicle Department or by the authorised testing stations provided a Tax Clearance Certificate is produced by the owner of the vehicle.

During audit of the Sub-regional Transport Office, Rae Bareilly it was noticed (April 1993) that certificate of fitness were issued in respect of a stage carriage on 22 August 1989 and 22 February 1991, the owner of which had not paid the passenger tax amounting to Rs. 62,433 for the period from 1 April 1987 to 22 February 1991. During the pendency of the recovery of the aforesaid amount of passenger tax 'All Uttar Pradesh contract carriage permit' was issued in favour of the vehicle on 5 March 1991 by the State Transport Authority, Lucknow. This resulted in irregular grant of certificates of fitness and a permit in favour of a vehicle against the owner of which arrears amounting to Rs. 62,433 were already pending.

The matter was reported to the department and Government in November 1993; their replies have not been received (January 1995).



**4.10 Non-realisation of permit fee for tractor trailers**

Under the Motor Vehicles Act, 1988, no owner of a motor vehicle shall use or permit the use of the vehicle in any public place or in any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with the Act and covered under a permit granted by a Regional or State Transport Authority on payment of prescribed fee. The Act provides for exemption from obtaining permit to any goods vehicle with the gross vehicle weight not exceeding 3,000 kilograms.

During the audit of Deoria sub-region, it was noticed (October 1993) that 22 tractor trailers (goods vehicle) having gross vehicle weight in excess of 3000 kilograms were registered during 1992-93. The owners of these trailers did not obtain permits and plied the tractor-trailers, though under the Act, such trailers were not exempted from obtaining the permits. This resulted in non-realisation of permit fee amounting to Rs. 44,000 (computed on the basis of fee realisable for temporary permit for a limited period of 4 months) during various periods between March 1992 and March 1993.

The matter was reported to the department/Government in January 1994 and again in February 1994; their replies have not been received (January 1995).

**4.11 (A) Non-assessment/short-assessment of road tax**

(i) Under the Uttar Pradesh Motor Vehicles Taxation Act, 1935, no motor vehicle can be used in any public place unless the owner had paid road tax at the appropriate rate specified in the first Schedule to the Act. However, under rule 33 of the Uttar Pradesh Motor Vehicles Taxation Rules,



1935, when the owner of a motor vehicle does not intend to use his vehicle for a period exceeding three months, the registration certificate and tax token issued in respect of the vehicle are required to be surrendered to the Taxation Officer.

During audit of the Regional Transport Office, Aligarh, it was noticed (March 1993) that in respect of 4 stage carriages road tax was not assessed and recovered for various periods falling between January 1989 and March 1993. As the registration certificates and tokens of these vehicles were not surrendered by the owners, road tax amounting to Rs. 51,449 was leviable during the said period.

On this being pointed out in audit (March 1993), the Regional Transport Officer, Aligarh Stated (March 1994) that a letter has been sent to the Uttar Pradesh State Transport Corporation, Aligarh to deposit the amount under objection. Report on recovery of the amount has not been received.

The matter was reported to the department and Government in July 1993 and again in April 1994; their replies have not been received (January 1995).

(ii) Under the U.P. Motor Vehicles Taxation Act, 1935, no motor vehicle can be used in any public place unless the owner has paid road tax at the appropriate rate specified in the first Schedule of the Act. Road tax payable in respect of a vehicle depends, inter alia, on the class of route on which it plies, viz.; 'Special' 'A', 'B', or 'C' class. A vehicle plying without permit attracts road tax applicable to the highest class of routes, i.e. Special class.



During audit of Sub-regional Transport Office, Unnao it was noticed (September 1993) that during various periods between July 1987 and September 1993, 5 vehicles were plying on 'Special' class routes and one vehicle was plying without permit from April 1991 to June 1993. Road tax applicable to the highest class of routes (viz: 'Special' class) was leviable on these vehicles but was assessed and realised at the rates applicable to lower class routes. This resulted in non-assessment/short-assessment of road tax amounting to Rs. 36,781 for varying periods between July 1987 and September 1993.

On this being pointed out in audit (September 1993), the department agreed (September 1993) to issue demand notices for realisation of tax. Report on recovery of tax has not been received.

The matter was reported to the department/Government in December 1993 followed by reminder in February 1994; their replies have not been received (January 1995).

#### **4.11 (B) Short-levy of road tax**

The State Government by a notification issued on 24 January 1992 enhanced the rates of road tax in respect of all vehicles other than transport vehicles. By a subsequent notification issued on 17 March 1992, road tax on diesel run vehicles was also enhanced retrospectively from 24 January 1992.

During the audit of 2 Regional Transport Offices (Mainpuri and Jaunpur), it was noticed (February 1993 and March 1993) that one time road tax in respect of 60 vehicles (Aligarh 6, Mainpuri 23 and Jaunpur 31) was



not realised at enhanced rates between 24 January 1992 and 8 December 1992. This resulted in short-realisation of road tax amounting to Rs. 2.14 lakhs.

The cases were reported to the department and Government in July 1993 and again in October 1993; their replies have not been received (January 1995).

**4.12      Short/non-assessment of passenger tax in respect of contract carriages**

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Niyamawali, 1962, assessment of passenger tax under a lump sum agreement in respect of a contract carriage (excluding motor cabs), inter alia, depends on the fare payable and distance expected to be covered during a month. In respect of a contract carriage covered by a temporary permit, the fare to be reckoned for levy of passenger tax shall not be less than 75 per cent (85 per cent from 2 September 1992) of the maximum rate prescribed under the Motor Vehicles Act, 1938 and the distance expected to be covered in a month shall not be taken to be less than 4000 kilometres.

(i)      During audit of the Regional Transport Office, Allahabad it was noticed (January 1993) that 5 vehicles of private operators having temporary contract carriage permits were on contract with a company between January 1992 and December 1992 for transportation of the staff of a company between their residences and the factory. The actual number of kilometres covered by each bus every month and the amount paid per kilometre was not intimated by the company. Since the vehicles were plying on temporary permits, passenger tax computed for a distance of at least 4000 kilometres



per month and on the minimum fare worked out to Rs. 2,520 (Rs. 2,856 from 2 September to 28 September 1992), and Rs. 5,712 for subsequent periods per vehicles per month. However, the passenger tax was realised from operators at lower rates. This resulted in passenger tax being realised short by Rs. 62,471 during various periods between January 1992 and December 1992.

Besides this, these vehicles covered under temporary permits were not assessed to passenger tax for different periods between March 1992 and December 1992. Passenger tax amounting to Rs. 57,624 was neither paid by the operators nor demanded by the department.

The matter was reported to the department and Government in July 1993 and again in October 1993; their replies have not been received (January 1995).

(ii) During the audit of Sub-Regional Transport Office, Muzaffar Nagar, it was noticed (February 1993) that 3 vehicles having all Uttar Pradesh contract carriage permits issued by the State Transport Authority, Uttar Pradesh were plying under its jurisdiction. However, tax for various periods between 17 February 1992 and 16 February 1993 was neither paid by the owners nor demanded by the department. On the basis of minimum distance of 4000 kilometres per month and the rates of fare prescribed by Government, the tax payable worked out to Rs. 1.36 lakhs.

The matter was reported to the department and Government in July 1993 and again in October 1993; their replies have not been received (January 1995).



## CHAPTER - 5

### STAMP DUTY AND REGISTRATION FEES

#### 5.1. Results of audit

Test check of the accounts and relevant records of District Registrars and Sub-Registrars, conducted in audit during the year 1993-94 revealed short-levy of Stamp duty and Registration fees amounting to Rs. 182.80 lakhs in 314 cases, which broadly fall under the following categories :

	Number of cases	Amount (in lakhs of rupees)
1. Short-levy of Stamp duty and Registration fees due to under valuation of properties	276	160.05
2. Short-levy due to mis-classification	20	6.30
3. Other irregularities	18	16.45
<b>Total</b>	<b>314</b>	<b>182.80</b>

During the year 1993-94, the concerned department accepted under-assessments etc. of Rs. 5.45 lakhs involved in 18 cases of which 6 cases involving Rs. 3.91 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. A few illustrative cases involving Rs. 15.82 lakhs are mentioned in following paragraphs:

#### 5.2 Short-levy of stamp duty and registration fees due to under-valuation of property

Under the Indian Stamp Act, 1899, (as amended in its application in Uttar Pradesh), stamp duty on a deed of conveyance is chargeable on the market value of the property forming the subject matter of the deed or on the value of consideration set forth therein, whichever is



higher. As per the Uttar Pradesh Stamp Rules, 1942, market rates of various categories of land situated in a district are to be fixed biennially by the Collector concerned for the guidance of the registering authorities in his district.

During audit of the Offices of the District Registrar, Nainital and Sub-Registrar-I, Meerut, it was noticed (May 1993 and July 1993) that 3 deeds of conveyance relating to agricultural land were registered for a consideration of Rs. 8.06 lakhs against the value of Rs. 22.58 lakhs worked out on the basis of rates fixed by the Collector. The adoption of lower valuation resulted in short-levy of stamp duty amounting to Rs. 1.90 lakhs. The details are given in the table below:-

Sl. No.	Name of registering office	Nature of property	Consideration as per market rate fixed by Collector	Consideration shown in the document	Stamp duty short-levied
			( in lakhs of ruppes )		
(1)	(2)	(3)	(4)	(5)	(6)
1.	District Registrar, Nainital	Agricultural land	4.58	1.96	0.33
2(i)	Sub-Registrar-I, Meerut	--do--	8.43	4.00	0.64
(ii)	--do--	--do--	9.57	2.10	0.93
	<b>Total</b>		<b>22.58</b>	<b>8.06</b>	<b>1.90</b>

The cases were reported to the department/Government in April 1994, followed by reminder in June 1994; their replies have not been received (January 1995).



### 5.3 Short-levy of stamp duty and registration fee due to under-valuation of non-agricultural land

Under the provisions of the Uttar Pradesh Stamp Manual framed under the Indian Stamp Act, 1899 (as amended in its application in Uttar Pradesh) and the Rules framed thereunder, stamp duty in respect of a deed of conveyance relating to transfer of non-agricultural land, situated within the municipal limits of any town area, Nagarpalika, Nagar Mahapalika, is leviable on the basis of average price per square metre prevailing in the locality on the date of execution of the instrument as fixed by the Collector in his district.

During audit of 11 Sub-Registrars' Offices, it was noticed (between May 1992 and August 1993) that stamp duty amounting to Rs. 13.90 lakhs was short-levied as land was not valued at the rates fixed by the Collector as given below:-

Sl. No.	Name of the registering office	Nature of property Agricultural/ Non-agricultural land	Market rate fixed by Collector and the total consideration as per market rate	Consideration shown in the document	Short-levy of Stamp duty
(in lakhs of rupees)					
(1)	(2)	(3)	(4)	(5)	(6)
1.	Sub-Registrar-II, Bareilly	Non-agricultural	Rs. 2.85 lakhs (1896.7 Sqr. meters X Rs. 150)	0.30	0.37
2.(i)	Sub-Registrar, Faridpur (Bareilly)	--do--	Rs. 19.06 lakhs (1770.3 Sqr. meters X Rs. 1076.55)	0.10	2.37
(ii)	-do-	Residential	Rs. 2.57 lakhs (716.28 Sqr. meters X Rs. 385.85)	0.10	0.31



(iii)	"	"	Rs. 7.33 lakhs (1750 Sqr meters X Rs. 418.66)	0.27	0.88
(iv)	"	"	Rs. 4.92 lakhs (1643.78 Sqr. meters X Rs. 980)	0.11	0.60
3.	Sub-Regis- trar, Nazibabad (Bijnor)	--do--	Rs. 3.19 lakhs (1680 Sqr. meters X Rs. 190)	0.27	0.37
4.	Sub-Regis- trar, Chandauli (Varanasi)	Non- agricultural	Rs. 9.04 lakhs (6028.54 Sqr. meters X Rs. 150)	0.67	1.05
5.	Sub-Regis- trar I, Allahabad	Residential	Rs. 3.65 lakhs (663.86 Sqr. meters X Rs. 550)	0.30	0.49
6.	Sub-Regis- trar I, Varanasi	Non- agricultural	Rs. 9.29 lakhs (3913 Sqr. meters X Rs. 237.50)	6.50	0.41
7.	Sub-Regis- trar, Mussorie (Dehradun)	Non- agricultural	Rs. 40.45 lakhs (20230 Sqr. meters X Rs.200)	12.50	4.05
8.	Sub-Regis- trar, Jaunpur	Residential	Rs. 4.80 lakhs (1280 Sqr. meters X Rs. 375)	0.86	0.56
9.	Sub-Regis- trar, Shahganj (Jaunpur)	---do---	Rs. 15.68 lakhs (1600 Sqr. meters X Rs. 980)	1.60	1.76
10.	Sub-Regis- trar, Aaounla (Bareilly)	---do---	Rs. 2.84 lakhs (948 Sqr. meters X Rs. 300)	0.23	0.33
11.	Sub-Regis- trar, Bansgaon (Gorakhpur)	---do---	Rs. 2.95 lakhs (540 Sqr. meters X Rs. 545)	0.13	0.35
			Total		13.90



Besides, registration fee amounting to Rs. 2,000 in 4 cases (serial 1, 2(i), 2(ii) and 2(iv)) was also not levied.

The cases were reported to the department/Government between September 1992 and April 1994 followed by reminders between October 1993 and June 1994 and again in December 1994; their replies have not been received (January 1995).



## CHAPTER-6

### LAND REVENUE

#### 6.1. Results of audit

Test check of the accounts and relevant records of the offices of the Revenue department, conducted in audit during 1993-94 revealed short-realisation of collection charges and non-levy/short-levy of land revenue etc. amounting to Rs. 307.04 lakhs in 247 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-levy/short-levy of land revenue	88	33.46
2. Short-recovery of collection charges	54	265.18
3. Other irregularities	105	8.40
<b>Total</b>	<b>247</b>	<b>307.04</b>

During the year 1993-94, the concerned department accepted under-assessments, etc. of Rs. 4.33 lakhs involved in 49 cases of which 4 cases involving Rs. 0.76 lakh had been pointed out in audit during 1993-94 and the rest in earlier years. An illustrative case involving Rs.17.26 lakhs is given below:

#### 6.2 Non-recovery of collection charges

In terms of Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972, the revenue authorities on receipt of certificates of recovery, from a corporation or banking company or local body, shall proceed to recover



amount stated therein together with cost of proceedings (collection charges) as arrears of land revenue. Collection charges at the rate of 10 per cent of the dues collected are realisable by the revenue authorities.

In 4 Tahsils of 4 districts, in respect of dues aggregating Rs. 172.55 lakhs recovered after issue of recovery certificates, collection charges amounting to Rs. 17.26 lakhs were not realised during the years 1991-92 to 1993-94.

On this being pointed out in audit (between April 1993 and October 1993), the concerned Tahsildars stated that action was being taken for recovery of collection charges. Further report has not been received.

The above cases were reported to the department/Government between November 1993 and January 1994 and again between January 1994 and February 1994; their replies have not been received (January 1995).



## CHAPTER-7

### OTHER TAX RECEIPTS

#### A-ELECTRICITY DUTY

#### 7.1 Results of audit

Test check of the offices of Assistant Director Electrical Safety/Appointed Authorities, conducted in audit during the year 1993-94, revealed non-levy or short-levy of electricity duty and inspection fees amounting to Rs. 14.63 lakhs in 30 cases. These broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-levy of electricity duty	16	12.71
2. Non-realisation of inspection fees	14	1.92
<b>Total</b>	<b>30</b>	<b>14.63</b>

During the year 1993-94 the concerned department accepted under-assessments etc. of Rs. 7.37 lakhs involved in 6 cases. Of these 4 cases involving Rs. 1.34 lakhs had been pointed out in audit during 1993-94 and the rest in earlier years. An illustrative case involving a financial effect of Rs. 11.13 lakhs is mentioned in the following paragraph:

#### 7.2 Non-recovery of electricity duty

Under the provisions of the Uttar Pradesh Electricity (Duty) Act, 1952 and the Rules framed thereunder, a licensee is required to deposit in Government Treasury the amount of duty payable by him, within two



calendar months following the close of the month in which meter readings are recorded. Where the amount of electricity duty is not paid to the State Government within the prescribed period, the licensee shall be liable to pay interest at the rate of 18 per cent per annum on the amount of unpaid duty.

During the course of audit of the Office of the Assistant Director (Electrical Safety), Mirzapur, it was noticed (May 1992) that electricity duty amounting to Rs.11.13 lakhs payable by two licence holders of Sonbhadra district on the energy consumed by them during the period February 1991 to August 1991 was not paid. Interest at the rate of 18 per cent per annum has also not been demanded.

On this being pointed out in audit (July 1992), the department stated (September 1993) that electricity duty amounting to Rs. 5.74 lakhs had been deposited in January 1993 and after recovery of the electricity duty interest would be charged. Further report on the payment of the balance electricity duty and interest has not been received (January 1995).

The matter was reported to Government in January 1993 and again in July 1993; their reply has not been received (January 1995).

**B- Tax on purchase of sugarcane and administrative charges on sale and supply of molasses**

**7.3 Results of audit**

Test check of the accounts and other relevant records of sugar factories and Khandsari units, conducted in audit during the year 1993-94 brought out non-levy/short-levy of tax on purchase of sugarcane on sale and



supply of molasses amounting to Rs. 202.75 lakhs in 31 cases which broadly fall under the following categories:

### **Cane Purchase Tax**

	<b>Number of cases</b>	<b>Amount (in lakhs of rupees)</b>
1. Deferment of purchase tax on sugar	4	189.36
2. Short assessment due to non-observance of rules	10	3.81
3. Non-payment of purchase tax on own farm cane	3	1.80
4. Clearance of sugar without payment of purchase tax	2	0.66
5. Other irregularities	12	7.12
<b>Total</b>	<b>31</b>	<b>202.75</b>

During the year 1993-94 the concerned department accepted under-assessments etc. of Rs. 2.44 lakhs in 18 cases. Of these, one case involving Rs. 0.08 lakh had been pointed out in audit during 1993-94. An important case involving financial effect of Rs. 51.23 lakhs is given in the following paragraph:

#### **7.4 Non-enforcement of conditions for deferment of tax on purchase of sugarcane**

According to the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961, no owner of a factory shall remove or cause to be removed any sugar produced in the factory until he has paid the tax leviable on the purchase of sugarcane so consumed in the manufacture of sugar.



By an order of 30 September 1988, new sugar factories in Government sector and Co-operative sectors were granted permission to defer payment of sugarcane purchase tax for the first five years of production. According to this order, the management committee of the factory was to report to the Government, at the end of 5 years period, the financial position of the factory and if the position was sound, the factory was required to pay accumulated tax due in next 5 years in equal instalments. A fund was also required to be created in which the amount decided by the representatives of Chini Udyog Vibhag, Vitta Vibhag and the factory itself, was to be deposited regularly to facilitate the payment of accumulated arrears of tax.

During audit of sugar factory in Muzzafarnagar District, it was noticed (November 1992) that a factory in co-operative sector which started production of sugar from the sugar season 1984-85 was permitted to defer the payment of sugarcane purchase tax for the period 1984-85 to 1988-89. Stock of sugar produced during these 5 years was cleared by the factory upto 1992-93 without payment of tax. During the above period the factory purchased 68.31 lakhs quintals of sugarcane on which tax at the rate of Rs. 1.25 per quintal of sugarcane amounting to Rs. 85.38 lakhs was payable. Financial position of the factory was intimated to Government on 29 August 1990, but no order for further deferment or realisation of tax was issued by the Government. The fund for liquidation of liability of deferred tax was established in the factory but no money was deposited in that fund and payment of three instalments of deferred tax amounting to Rs. 51.23 lakhs was not made even after expiry of three sugar seasons beyond the completion of first five years of their production. The conditions subject to



which tax amounting to Rs. 51.23 lakhs was deferred by the Government were not enforced nor was the tax recovered from the Sugar factory.

The matter was reported to the department and Government in April 1994; their replies have not been received (January 1995).



## CHAPTER-8

### FOREST RECEIPTS

#### 8.1 Results of audit

Irregularities noticed during test check of divisional records conducted by audit during 1993-94 were broadly as under:-

Categories	No. of cases	Amount (in lakhs of rupees)
1. Irregularities in extraction of resin	12	195.17
2. Incorrect fixation of royalty	28	152.29
3. Loss of revenue due to non-registration of saw mills	28	62.15
4. Loss of revenue due to non-levy of stamp duty	5	2.22
5. Non/short-levy of penalties	16	43.57
6. Irregularities in collection and disposal of tendu leaves	7	66.47
7. Non-realisation of lease rent	43	905.23
8. Miscellaneous irregularities	191	3046.54
<b>Total</b>	<b>330</b>	<b>4473.64</b>

During the course of the year 1993-94, the concerned department accepted under-assessment etc. of Rs. 1,438.09 lakhs involved in 147 cases, of which 139 cases involving Rs. 1,427.10 lakhs had been pointed out in audit during 1993-94 and rest in earlier years. A few illustrative cases involving Rs. 708.23 lakhs are mentioned in the following paragraphs:-



## 8.2 Lease of Forest Land

The term "lease of forest land" refers to the permission granted for use of forest land for specific purpose and for specific period under certain conditions, after which land automatically reverts to the Forest Department. With the introduction of Forest (Conservation) Act, 1980 and Rules made thereunder viz. Forest (Conservation) Rules, 1981, prior approval of Government of India is required for diverting forest land for non-forest purpose.

245036 hectares of Forest land were leased during the 1951-52 to 1980-81 and 5253.52 hectares from 1981-82 to 1991-92 for various purposes to private individuals and public sector undertakings / Government Departments.

The test check of the records of 20 out of 40 territorial divisions of Forest Department revealed the following.

### (i) Outstanding lease rent

Lease rent of Rs. 438.19 lakhs was not recovered from the users of leased forest land in the following cases.

Sl. No.	Name of Divisions	Number of lease holders	Area in hectare	Purpose	Amount of lease rent due (in lakhs of rupees)	Reasons for non-realisation
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	North Pilibhit Division, Pilibhit	40	34.413	For establishing Saw Mills and timber depots.	32.43	Demand not raised by the Division.



2.	South Kheri Division Lakhimpur	1	29.56	For collection of dirty and waste water from Sugar Mills	6.33	Due to delay in taking decision by Department for renewal of lease land.
3.	Tarai East Forest Division, Haldwani	1	11.43	Private use	0.70	Non-recovery of provisional lease rent from 1981.
4.	Tarai East, Tarai Central and Tarai West Forest Division	1 (UPFC)	7334.35	For Agri- culture	367.80	Lease rent yet to be approved by the Government.
5.(a)	Tarai East Forest Division, Haldwani	2	River bed	Mining lease	17.86	Demand not raised.
(b)	Dehradun Forest Division, Dehradun.	11	-do-	-do-	10.73	-do-
(c)	Tehri Forest Division, New Tehri	1	-do-	-do-	2.34	-do-
<b>Total</b>					<b>438.19</b>	

**(ii) Loss due to non-recovery of cost of trees on leased / transferred land.**

Wherever forest land is leased / transferred to an individual or organisation for a non-forest purpose, the cost of standing trees which are cut is to be paid to the Department by the lease-holders.

Test check of records revealed that the cost of such trees amounting to Rs. 207.77 lakhs (as calculated by the department) was not recovered from lessees as per details given below :-



Sl. No.	Name of division	Name of Govt./ Semi-Government department/Public Sector occupying land.	Cost of trees cut (in lakhs of rupees)
(1)	(2)	(3)	(4)
1.	Renukoot Forest Division, Renukoot	UPSEB	6.55
2.	-do-	Northern Coal India Ltd.	4.66
3.	Lansdown Forest Division, Lansdown	Public Works Department	2.20
4.	North Gonda Forest Division, Gonda.	Irrigation Department	194.36
	Total		207.77

The above points were brought to the notice of the department and government in July 1994; their reply has not been received (January 1995).

### 8.3 Estimated loss of revenue due to short-collection of resin

According to the instructions contained in the Forest Manual and the time schedule fixed for extraction of resin, the work of extraction should start from first week of March and continue upto first week of November. Therefore, arrangement of tins and equipments etc. should be made by 15 September of the preceding year. Physical and financial targets are fixed by the Department every year for extraction of resin on the basis of trees available for extraction in each division and the average yield of resin per 100 channels during the previous two or three years.



Test check of records of Uttarkashi Forest Division (May 1993) and Nainital Forest Division (April 1993) revealed that against the estimated quantity of 13,086 quintals of resin (Uttarkashi-7,809 and Nainital-5,277 quintals) during 1992 season only 10,032.98 quintals of resin was extracted in these Divisions (Uttarkashi 5986.34 and Nainital 4046.64 quintals) resulting in short collection of 3053.02 quintals. The short collection of resin was attributed to delayed procurement of empty tins by the divisions and their supply to resin mates after the peak season (April to June) was over. This resulted in estimated loss of revenue amounting to Rs. 31.14 lakhs (3053 x(1715-695)) calculated at the rate fixed by Government for realisation from Indian Turpentine & Resin Company less all in-cost. The department stated that the delay in procurement of tins affected the production of resin.

Thus, the delay in procurement and supply of empty tins resulted in estimated loss of revenue amounting to Rs 31.14 lakhs.

The matter was reported to Government in May 1994; reply has not been received (January 1995).

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

In accordance with the provisions of the Uttar Pradesh Forest Manual, forest-guards and other subordinate Forest Officers are required to report to the Officer-in-Charge of the range any offence under the Forest Act within 24 hours of detection of such offence, who would report it alongwith action taken thereon to the Divisional Forest Officer within 3 days.



3467 trees of different species valued at Rs. 27.26 lakhs in 5 beats of the East Bahraich Forest Division, Bahraich during 1987-88 were found illicitly cut during combing operation carried out between February and November 1987 by the Divisional Forest Officer, South Gorakhpur, Sub-divisional Forest Officers (North Gonda) and Nichlaul (North Gorakhpur) under instructions of Conservator of Forests, Eastern Circle, Gorakhpur. The report of the combing operation was submitted by November 1987.

Test-check of the records of East Bahraich Forest Division, Bahraich revealed that of 3467 trees illicitly cut, timber of 495 trees valued at Rs. 10.43 lakhs only could be recovered by the division. The timber of remaining trees valued at approximately Rs. 16.83 lakhs could not be recovered. The department took almost five years in fixing responsibility and initiating action in the matter.

On this being pointed out in audit (December 1992) the Divisional Forest Officer stated (December 1992) that two forest rangers had been charge-sheeted and the case was under investigation by the higher authorities. The final action for recovery of loss of Rs. 16.83 lakhs was still to be taken.

The matter was reported to Government in June 1994; their reply has not been received (January 1995).

#### **8.5 Non-realisation of extension-fee**

In the auction-sale of timber and other minor forest produce, the contractor has to work on lots within the stipulated period and if the



contractor seeks extension, it is allowed on payment of extension fee at the prescribed rates. According to orders of the Chief Conservator of Forests issued in February 1957 and extended to the Uttar Pradesh Van Nigam in September 1978, extension-fee at the rate of 1 per cent per month on the sale price of lots is chargeable from the purchasers in advance for the period for which extension in working period is granted.

Test check (February 1993) of the records of Divisional Forest Officer (DFO) North Gonda Forest Division, Gonda revealed that 38 lots allotted to Van Nigam between 1988-89 and 1990-91 were not exploited within the stipulated period. In November 1991 and February 1992 the division granted extension in working periods ranging between 5 and 150 days to the Nigam without realising the extension-fee amounting to Rs. 9.99 lakhs.

On this being pointed out in audit (February 1993) the DFO raised the demand for extension fee amounting to Rs. 9.99 lakhs (April 1993) but the same had not been realised (January 1995).

The matter was reported to Government in June 1994; reply has not been received (January 1995).

#### **8.6            Short-realisation of Royalty**

As per Royalty Committee's decision (November 1984), the royalty on out-turn of Bamboo is realizable at the rate of Rs 15.52 per score on the out-turn of a forest crop located in the divisions of Varanasi Circle II.



During the audit of Obra and Renukoot Forest divisions (July 1992), the out-turn registers disclosed that an out-turn of 61,812.75 scores of bamboos valued at Rs 9.59 lakhs was allowed to be lifted during 1991-92 by the Uttar Pradesh Forest Corporation (UPFC). Against this, Royalty of Rs 5.28 lakhs was paid on an out-turn of 34,044.20 scores only. The balance amount of royalty of Rs. 4.31 lakhs on the out-turn of 27,768.10 scores of bamboos, was, however, not paid by the UPFC as the out-turn of bamboos computed by the Department did not agree with that computed by the UPFC. No action either for raising demand for payment of balance royalty of Rs 4.31 lakhs or for reconciliation of the difference in the out-turn was taken by the divisions.

On this being pointed out in audit (July 1992) the department stated (July 1992) that action to raise the demand of royalty would be taken. It has, however, been verified (February 1995) that the demand has not been raised by the respective divisions.

The matter was reported to Government in June 1994; reply has not been received (January 1995)



## CHAPTER 9

### OTHER DEPARTMENTAL RECEIPTS

#### A- Irrigation Department

#### 9.1. Results of audit

Test check of the accounts and relevant records of Irrigation Department, conducted in audit during 1993-94, revealed irregularities involving Rs. 216.07 lakhs in 36 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Mis-utilisation of departmental receipts	4	26.10
2. Non-recovery of tender fee at revised rates	3	1.22
3. Unauthorised use of canal water	1	108.67
4. Loss due to non-realisation of stamp duty	11	7.11
5. Loss due to non-leasing of Arazi land	2	3.60
6. Other irregularities	15	69.37
<b>Total</b>	<b>36</b>	<b>216.07</b>

During the year 1993-94 the concerned department accepted under assessments etc. of Rs. 0.21 lakh involved in 3 cases, which had been pointed out in audit in earlier years. A few illustrative cases involving Rs. 17.47 lakhs are mentioned in the following paragraphs:



## 9.2 Non-levy/short-levy of stamp duty

In January 1982, Government withdrew exemption from the levy of stamp duty on agreements/contract bonds executed for Government works. As per Article 5(c) of Schedule I-B of the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), an instrument of simple agreement including work orders (with security) is chargeable with stamp duty at Rs. 5 which was increased to Rs. 6 from 15 June 1982 and to Rs. 100 with effect from 1 November 1991.

During audit of 5 Irrigation Divisions, it was noticed (between April 1993 and January 1994) that stamp duty in respect of agreements with tenders and work orders executed between September 1986 and December 1993 amounting to Rs. 7.28 lakhs was short-levied as detailed below:

Sl. No.	Name of Division	Period	Number of tenders/ work orders	Amount of stamp duty leviable	Amount of stamp duty levied	Amount of stamp duty short-levied ( in lakhs of rupees )
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Lower Division Agra Canal, Agra	September 1986 to June 1993	12,150	3.17	0.09	3.08
2.	Tubewell Division, Agra	December 1990 to December 1993	1,000	0.86	0.06	0.80
3.	Irrigation Division, Uttar Kashi	November 1991 to March 1993	804	0.80	0.03	0.77
4.	Deokali Pump Canal, Division I, Ghazipur	November 1991 to April 1993	1,419	1.42	0.14	1.28
5.	Ruhelkhand Division, Bareilly	November 1991 to May 1993	1,500	1.50	0.15	1.35
Total						7.28



The matter was reported to the department/Government between June 1993 and March 1994 followed by reminders in May 1994 and again in September 1994; their replies have not been received (January 1995).

**9.3 Irregular accounting of departmental receipts**

As per the provisions of the Financial Hand Book Vol. VI, the net sum received from the sale of stores is required to be credited as revenue of the Government.

During the course of audit of a Tubewell Division, Hardoi, it was noticed (July 1993) that Rs. 4.13 lakhs realised from the auction sale of burnt copper wire during August 1990 to November 1990, were not credited to the revenues of the department, but were accounted for as reduction in expenditure of the item of work where copper wire was issued. This resulted in irregular utilisation of departmental receipts as also in short accounting of expenditure under the relevant "Grant".

On this being pointed out in audit (July 1993), the Divisional Officer stated that the omission occurred due to lack of knowledge of rules.

The matter was reported to the department/Government in September 1993 and again in March 1994; their replies have not been received (January 1995).



#### **9.4 Non-imposition of punitive charges for unauthorised use of canal water**

Under the provisions of the Northern India Canal and Drainage Act, 1873 and the Rules framed thereunder, read with the Manual of Orders of the Irrigation Department, punitive charges are leviable for wastage or misuse of canal water. However, before passing orders for the levy of punitive charges in any case, the Divisional Officer has to satisfy himself that the case has been investigated by a responsible officer not below the rank of a Zileदार. Punitive charges so levied, are also to be treated as assessment of occupier's rate and are to be included in the demand statement (Jamabandi) for recovery by the Revenue Department, as arrears of land revenue.

During audit of 2 Irrigation Divisions at Orai (Jalaun) and Bareilly, it was noticed (January 1994) that 377 cases of misuse of canal water were reported between May 1991 to February 1993 covering unauthorised irrigation of 14,783 acres of land during Fasali years 1399 and 1400 (1992 and 1993). Cases were neither investigated nor finalised till the date of audit. Punitive charges leviable amounted to Rs. 5.38 lakhs.

The matter was reported to the department and Government in February 1994 and again in March 1994; their replies have not been received (January 1995).

#### **9.5 Irregular utilisation of departmental receipts**

As per the provisions of Financial Hand Book Vol VI, cash realised by departmental officers should be remitted, as soon as possible, into the nearest treasury. If a Divisional/Sub-Divisional Officer wants to



make use of the cash receipts temporarily for meeting current expenditure, he may do so, but before the end of the month, he must send a cheque for the amount so utilised to the treasury for credit to the Government account.

During audit of a Irrigation Division at Agra, it was noticed (December 1993) that cash receipts amounting to Rs. 68,486 realised by the Divisional/Sub-Divisional Officers during the year 1991-92, were not deposited into treasury. These receipts were utilised by them to meet the departmental expenditure from time to time. No cheque for the amounts so utilised, was sent to the treasury for credit to the department as required under rules.

The matter was reported to the department/Government in February 1994; their replies have not been received (January 1995).

### **B-Public Works Department**

#### **9.6. Results of audit**

Test check of the accounts and relevant records of Public Works Department, conducted in audit during the year 1993-94 revealed irregularities involving Rs. 40.77 lakhs in 52 cases, which broadly fall under the following categories :

	<b>Number of cases</b>	<b>Amount (in lakhs of rupees)</b>
1. Mis-utilisation of departmental receipts	2	1.65
2. Non-realisation of sales tax from contractors	1	0.57
3. Loss due to sale of tender forms at pre-revised rates	7	1.79



4.	Non-realisation/short-levy of stamp duty	25	23.40
5.	Short-levy of percentage charges	1	2.16
6.	Other irregularities	16	11.20
	<b>Total</b>	<b>52</b>	<b>40.77</b>

During the year 1993-94 the concerned department accepted under-assessments etc., of Rs. 32.98 lakhs involved in 20 cases which had been pointed out in audit in earlier years. A few illustrative cases involving Rs. 12.09 lakhs are mentioned in the following paragraphs:

#### **9.7 Non-levy of percentage charges on contribution works**

Under the provisions of the Financial Hand Book Vol. V and VI issued by State Government to regulate financial matters, percentage charges at the uniform rate of 15 per cent of actual outlay on works are to be levied and credited to Government account in respect of all classes of contribution works undertaken by the Public Works Department and Irrigation Department on behalf of commercial departments, local bodies and private bodies in the State.

During audit of Temporary Departmental Construction Unit, Public Works Department, Deoria, it was noticed (March 1993) that on contribution works (construction of roads) undertaken by the department on behalf of Nagar Palika, Deoria during 1986-87 to 1991-92, at a cost of Rs. 47.47 lakhs, percentage charges amounting to Rs. 7.12 lakhs (at the prescribed rate) had not been levied and recovered.



The matter was reported to the department/Government in May 1993 and again in May 1994; their replies have not been received (January 1995).

**9.8            Short-levy of stamp duty on lease agreements**

In accordance with the provisions of Article 35 (b) of Schedule 1-B of the Indian Stamp Act, 1899 (as amended in its application in Uttar Pradesh) and instructions issued by the Board of Revenue in October 1953 and again by the State Government in December 1990 and October 1991 stamp duty on leases for ferry services and toll collection is to be levied treating the total amount (part paid in advance and rest agreed to be paid in instalments) as premium for which the lease had been granted since there is no rent reserved.

During the course of audit of the Departmental Construction Unit, Public Works Department, Haridwar it was noticed (June 1993) that stamp duty in respect of a lease agreement for collection of toll on a road bridge executed by the Superintendent of Works with the lessee for the period from 1990-91 to 1993-94, was realised treating the prescribed instalments as fixed rent and not as premium. Non-levy of stamp duty on the basis of the lease granted for premium resulted in short-realisation of stamp duty of Rs. 87,500.



The case was reported to the department and Government in October 1993; their replies have not been received (January 1995).

**9.9            Sale of tender forms at pre-revised rates**

The Government of Uttar Pradesh in their order dated 31 March 1989 revised the minimum and maximum rates of tender fee from Rs. 15 and Rs. 100 to Rs. 50 and Rs. 200 per tender respectively, according to the cost of the tenders. These orders were applicable to all departments of State Government with immediate effect. However, the Public Works Department circulated these orders to the offices under their administrative control as late as on 5 March 1991.

During audit of 3 Public Works Divisions (2 at Azamgarh and 1 at Ballia), it was noticed (September/October 1993) that 4135 tender forms were sold at the pre-revised rates by the concerned divisions between April 1989 and February 1991 which resulted in loss of revenue amounting to Rs. 1.16 lakhs.

The cases were reported to the department/Government in January/February 1994 and again in March 1994; their replies have not been received (January 1995).

**9.10            Non-realisation of stamp duty on agreements**

In January 1982, Government withdrew exemption from levy of stamp duty on agreements/contract bonds executed for Government works. As per Article 5 (c) of Schedule-I-(B) of the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), an instrument of simple



agreement including work orders (without security) is chargeable with stamp duty at Rs. 5 increased to Rs. 6 from 15 June 1982 and to Rs. 100 with effect from 1 November 1991.

During the audit of 2 Public Works Divisions at Azamgarh, it was noticed (September 1993) that stamp duty amounting to Rs. 89,500 in respect of 6,750 agreements (work orders) at the rate of Rs. 6 and 490 agreements/work orders at the rate of 100 (executed between January 1982 and October 1992) was not realised.

The cases were reported to the department/Government between July 1993 and March 1994; their replies have not been received (January 1995).

**9.11      Loss due to non-realisation of compensation for delay in payment of lease rent and short-realisation of toll instalments**

As per Government orders of January 1980, every toll collection barrier under the control of the department is required to be auctioned and lease deed entered into with the contractor concerned. According to condition No. 11 (1) of the lease deed, if a contractor fails to deposit monthly instalments of the annual rent (as agreed to in lease deed) on due dates mentioned in the lease deed or within the grace period of seven days, he is liable to pay to the department compensation ranging from one per cent to ten per cent of the amount of annual rent for such default as may be decided by the Executive Engineer.

During the audit of a Public Works Division at Azamgarh, it was noticed (September 1993) that a contractor deposited the instalments of



annual lease rent, relating to various periods between 1990-91 and 1992-93, late by 3 days to 235 days after the grace period of 7 days but no action was taken to recover compensation for the delay in payment. This resulted in loss of revenue to the extent of Rs. 44,444 as confirmed by the department in September 1994. Besides, the contractor deposited only Rs. 5.47 lakhs against the total amount of Rs. 7.06 lakhs due as instalments of toll collected by him during the period 22 August 1990 to 16 September 1992. This resulted in a further loss of revenue of Rs. 1.59 lakhs. No action was, however, taken to recover compensation for the delay in payment nor was any action taken for realisation of Government dues. Thus, the Government revenue amounting to Rs. 2.03 lakhs remained unrealised.

The matter was reported to the department/Government in January 1994 and again in March 1994; their replies have not been received (January 1995).

### **C- Co-operation Department**

#### **9.12 Results of audit**

Test check of the accounts and relevant records of the offices of Assistant Registrars, conducted in audit during the year 1993-94 revealed irregularities involving Rs. 10.85 lakhs in 7 cases, which broadly fall under the following categories:

	<b>Number of cases</b>	<b>Amount (in lakhs of rupees)</b>
1. Non-deposit of collection charges	4	6.17
2. Other irregularities	3	4.68
<b>Total</b>	<b>7</b>	<b>10.85</b>



During the course of the year 1993-94 the concerned department accepted under-assessment of Rs. 0.67 lakh involved in one case which had been pointed out in audit during the same year. An illustrative case involving financial effect of Rs. 5.31 lakhs is given in the following paragraph:

**9.13            Non/short-deposit of collection charges**

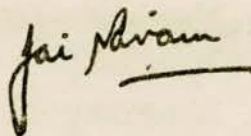
According to Rule 363 of the Uttar Pradesh Co-operative Societies Rule, 1968, any amount received or realised by Asstt. Registrar Co-operative Societies as fee or otherwise under the Act is to be deposited in full into the treasury under the head of account as specified by the State Government or the Registrar, Co-operative Societies, Uttar Pradesh. from time to time.

During audit of the offices of 2 Assistant Registrars, Co-operative Societies (Haridwar and Bareilly), it was noticed (June 1993 and January 1994) that as against Rs. 5.63 lakhs being 10 *per cent* of total collection charges amounting to Rs. 56.25 lakhs for arrear dues recovered on behalf of various co-operative societies during the period 1989-90 to 1993-94, only a sum of Rs. 31,883 was credited to



Government account. The balance of Rs. 5.31 lakhs has been kept out of Government account which is irregular.

The matter was reported to the department and Government between July 1993 and May 1994; their replies have not been received (January 1995).

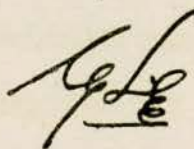


(J.N. GUPTA)  
Accountant General (Audit)-II  
Uttar Pradesh

28th April 1995

Lucknow  
The

Countersigned



(C.G. SOMIAH)  
Comptroller and Auditor General of India

New Delhi  
The

5th May 1995







