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

**FOR THE YEAR ENDED 31 MARCH 2004**

**(REVENUE RECEIPTS)**

**GOVERNMENT OF ASSAM**

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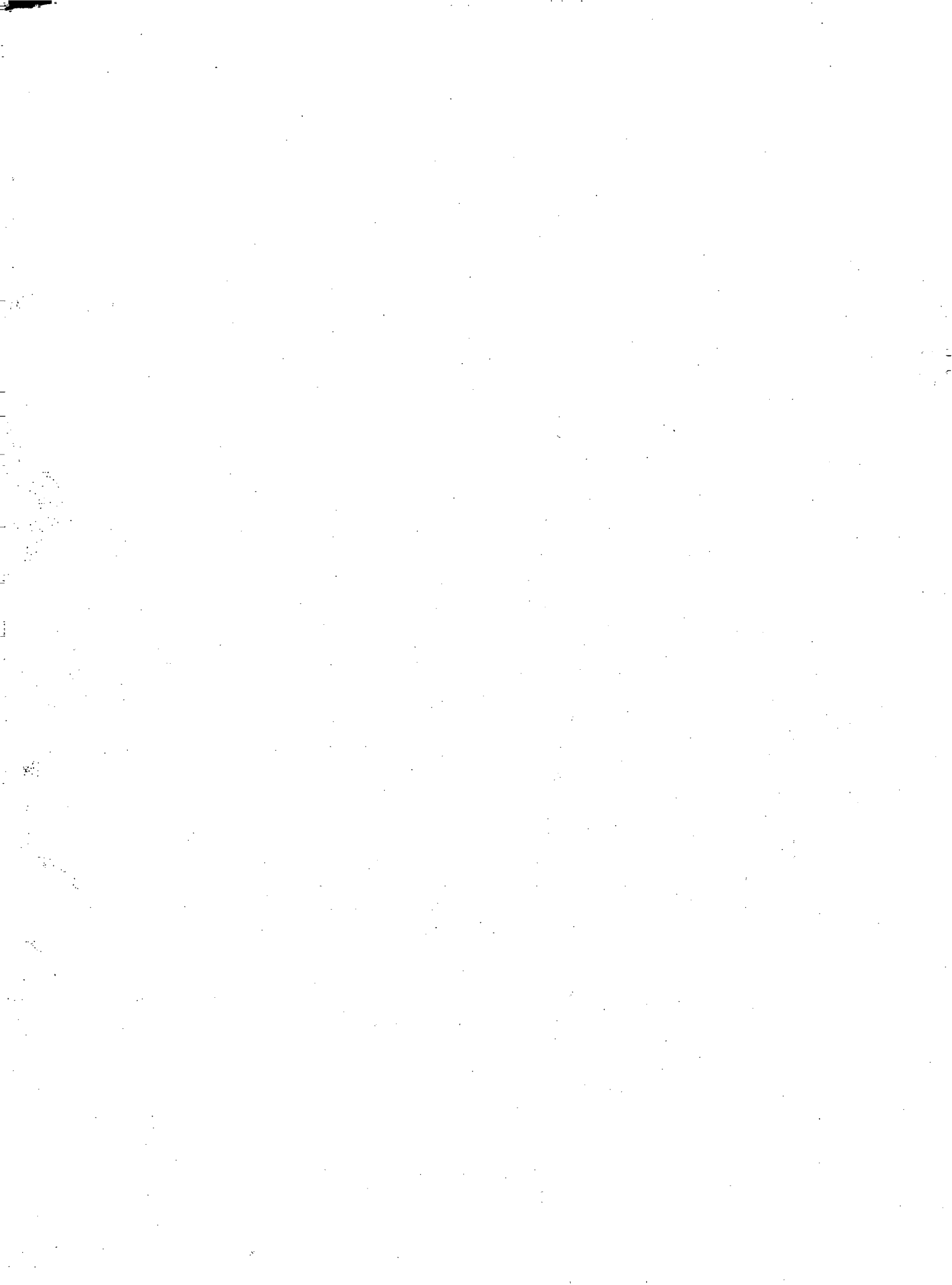
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## *PREFACE*

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*This Report for the year ended 31 March 2004 has been prepared for submission to the Governor under Article 151(2) of the Constitution.*

*The audit of the 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, other tax and non-tax receipts of the State.*

*The cases mentioned in this Report are among those, which came to notice in the course of test audit of records during the year 2003-2004 as well as those which came to notice in earlier years but could not be included in previous Reports.*





## OVERVIEW

This Report contains 21 paragraphs including three reviews, relating to non-levy/short levy of taxes, duties, interest and penalty etc. involving Rs.413.82 crore. Some of the major findings are mentioned below:

### I. GENERAL

- Total receipts of the State during 2003-2004 amounted to Rs.7,765.10 crore of which revenue raised by the State Government was Rs.3,016.12 crore. The revenue raised by the State Government constituted 39 *per cent* of the total receipts of the State and showed no increase over 2002-2003.

(Paragraph 1.1)

- The arrears of revenue as on 31 March 2004 in respect of some principal heads of revenue amounted to Rs.744.95 crore of which Rs.184.45 crore were outstanding for more than 5 years.

(Paragraph 1.6)

- In respect of the taxes administered by the Finance Department such as sales tax and other taxes, 78,289 assessments were completed during 2003-2004 leaving balance of 95,259 cases pending for assessments as on 31 March 2004.

(Paragraph 1.7)

- Test check of records of sales tax, taxes on vehicles, state excise, forest receipts, other tax and non-tax receipts conducted during the year 2003-2004 revealed under assessment/short levy/short demand and loss of revenue amounting to Rs.513.61 crore in 521 cases. The concerned Department accepted under assessment, short levy etc., of Rs.55.78 crore pointed out in 2003-2004 and earlier years and recovered Rs.0.36 crore.

(Paragraph 1.10)

### II. SALES TAX

- (a) The review on **Working of Sales Tax Check-Posts**, revealed the following:

- As against required norms of physical verification of 10 *per cent* goods vehicles at Check-posts, actual verification conducted during 1998-99 to 2002-2003 ranged between 0.76 and 1.14 *per cent*.

(Paragraph 2.2.5)

- Short determination of turnover of coal led to short levy of tax of Rs.3.32 crore including interest Rs.0.96 crore.

(Paragraph 2.2.8)



- Failure to pass on the information collected at the Check-post to the Assessing Authorities resulted in non-verification of turnover of goods leading to evasion of tax of Rs.2.98 crore.

**(Paragraph 2.2.9)**

- Absence of control over the transit of goods by road through the state resulted in loss of revenue of Rs.26.28 crore including penalty of Rs.19.71 crore.

**(Paragraph 2.2.11)**

- (b) Nine dealers evaded tax of Rs.1.70 crore due to concealment of turnover from assessment involving interest and penalty of Rs.3.87 crore leviable for non-payment of tax.

**(Paragraph 2.3)**

- Irregular grant of exemption from payment of tax in case of three dealers by the Assessing Officers resulted in non-levy of tax of Rs.1.76 crore and interest of Rs.1.37 crore.

**(Paragraph 2.4)**

- Incorrect allowance of deduction from turnover of sale of goods to five dealers resulted in under-assessment of tax of Rs.22.59 lakh and interest of Rs.3.54 lakh.

**(Paragraph 2.5 and 2.6)**

- Allowance of concessional rate of tax to five dealers against invalid declaration Forms resulted in short levy of tax of Rs.44.39 lakh and interest of Rs.39.25 lakh.

**(Paragraph 2.8)**

- Failure of Assessing Officers to re-assess/assess three dealers as per particulars available on records facilitated the dealers to evade tax of Rs.38.56 lakh alongwith interest and penalty of Rs.47.31 lakh.

**(Paragraph 2.9)**

- Levy of incorrect rates to three dealers resulted in short levy of tax of Rs.8.24 lakh and interest of Rs.6.89 lakh.

**(Paragraph 2.10)**

- 741 paragraphs involving Rs.3.62 crore relating to 78 Audit Notes raised in internal audit by the Department remained outstanding for settlement as of 31 March 2004

**(Paragraph 2.12)**



### III. OTHER TAX RECEIPTS

(a) The review on **Stamp Duty**, revealed the following:

- There was short supply of stamps valued Rs.404.75 crore compared to indents for the state for the years 1997-98 to 2002-2003.

(Paragraph 4.2.5)

- Between 1993-94 and 2002-2003, Stamps valued Rs.5.09 crore were found registered with the sub-registries in excess over the value of stamps sold from the concerned treasuries in six test checked districts.

(Paragraph 4.2.7)

- Control of the Authorities over the activities of the vendors was completely lacking in the State

(Paragraph 4.2.8)

- There was a loss of stamps worth Rs.146.66 crore in transit in two treasuries (Kamrup and Nagaon) during the period 1993-94 to 2002-2003.

(Paragraph 4.2.10)

- Stamps worth Rs.10.80 crore received from CSSD, Nasik without any indent at Nagaon Treasury were lying idle for 4 years ending June 2004.

(Paragraph 4.2.11)

(b) Application of incorrect rates of Road tax and Assam Passenger and Goods Tax on Vehicles led to short realisation of tax of Rs.5.11 lakh.

(Paragraph 4.5 and 4.6)

### IV. NON-TAX RECEIPTS

(a) The review on **Receipts from Mines and Minerals**, revealed the following:

- Non-payment of royalty on the crude oil extracted by Oil and Natural Gas Corporation Limited (ONGCL) and Oil India Limited (OIL) during 1999-2000 to 2001-2002 as reflected in Indian Mineral Year Book against production shown in the returns to the State Government resulted in short receipt of revenue of Rs.35.28 crore.

(Paragraph 5.2.6)



- Adoption of incorrect formula by OIL for determining royalty payable on natural gas during 2001-2002 and 2002-2003 led to short payment of royalty of Rs.23.56 crore.

**(Paragraph 5.2.7)**

- Royalty to the tune of Rs.46.09 crore on crude oil extracted by OIL and ONGCL between December 1999 and March 2003 was lying outstanding for payment. The units were also liable to pay additional amount of Rs.86.25 crore for non-payment of royalty within specified period.

**(Paragraph 5.2.8)**

- Three units did not pay royalty to the tune of Rs.1.78 crore on coal extracted during 1998-99 to 2002-2003. The Department also did not levy interest of Rs.0.63 crore for non-payment of royalty in time.

**(Paragraph 5.2.9)**

- Government sustained loss of revenue to the tune of Rs.15.64 crore due to transportation loss of crude oil and excess utilisation of gas during mining operation.

**(Paragraph 5.2.10)**

## CHAPTER - I : GENERAL

### 1.1 Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of Assam during the year 2003-04, the State's share of divisible Union Taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

		1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
<b>I.</b>	<b>Revenue raised by the State Government</b>					
(a)	Tax Revenue	1,224.76	1,409.69	1,556.95	1,934.51	2,070.32
(b)	Non-tax Revenue	444.92	526.77	533.20	692.97	945.80
	<b>Total</b>	<b>1,669.68</b>	<b>1,936.46</b>	<b>2,090.15</b>	<b>2,627.48</b>	<b>3,016.12</b>
<b>II.</b>	<b>Receipts from the Government of India</b>					
(a)	State's share of divisible Union Taxes	1,448.78	1,682.93	1,705.91	1,814.36	2,162.07*
(b)	Grants-in-aid	1,722.48	2,018.25	2,168.80	2,351.50	2,586.91
	<b>Total</b>	<b>3,171.26</b>	<b>3,701.18</b>	<b>3,874.71</b>	<b>4,165.86</b>	<b>4,748.98</b>
<b>III.</b>	<b>Total receipts of the State</b>	<b>4,840.94</b>	<b>5,637.64</b>	<b>5,964.86</b>	<b>6,793.34</b>	<b>7,765.10</b>
<b>IV.</b>	<b>Percentage of I to III</b>	<b>34</b>	<b>34</b>	<b>35</b>	<b>39</b>	<b>39</b>

\* Note : For details, please see statement No.11 Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Government of Assam for 2003-2004. Figures under the "share of net proceeds assigned to States" under the Major Heads - "0020-Corporation Tax", "0021-Taxes on Income and Expenditure", "0028-Other Taxes on Income and Expenditure", "0032-Taxes on Wealth", "0037-Customs", "0038-Union Excise Duties", "0044-Service Taxes" and "0045-Other Taxes and Duties on Commodities and Services" booked in the Finance Accounts under 'A-Tax Revenue' have been excluded from Revenue raised by the State Government and included in "States' share of divisible Union Taxes" in the above table.

1.1.1 The details of tax revenue raised during the year 2003-2004 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of Revenue	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Percentage of Increase (+) or decrease (-) in 2003-2004 over 2002-2003
1.	Sales Tax	742.32	917.90	1,072.76	1,440.90	1,551.06	(+) 8
2.	State Excise	117.74	137.56	150.91	121.67	129.29	(+) 6
3.	Stamps and Registration Fees	34.96	38.63	41.97	50.00	62.02	(+) 24
4.	Taxes and Duties on Electricity	11.80	13.22	2.89	12.82	2.73	(-) 79
5.	Taxes on Vehicles	68.69	73.77	93.59	116.28	124.00	(+) 7
6.	Taxes on Goods and Passengers	21.11	10.23	9.71	13.30	16.99	(+) 28
7.	Other Taxes on Income and Expenditure – Tax on Professions, Trades, Callings and Employments	58.62	66.46	73.25	81.19	86.75	(+) 7
8.	Other Taxes and Duties on Commodities and Services	25.62	44.02	32.92	33.58	32.18	(-) 4
9.	Land Revenue	69.08	67.20	63.26	62.12	62.12	Nil
10.	Taxes on Agricultural Income	74.82	40.70	15.26	2.53	3.18	(+) 26
11.	Hotel Receipt Tax	Nil	Nil	0.02	Nil	Nil	Nil
12.	Taxes on Immovable Properties other than Agriculture Land	Nil	Nil	0.41	0.12	Nil	(-) 100
	<b>Total:</b>	<b>1,224.76</b>	<b>1,409.69</b>	<b>1,556.95</b>	<b>1,934.51</b>	<b>2,070.32</b>	<b>(+) 7</b>

Reasons for shortfall in receipts under the following heads of revenue during 2003-2004 compared to 2002-2003 as intimated by the Departments are given below:

- (a) **Taxes and Duties on Electricity** : Decrease (79 per cent) was due to non-receipt of duties payable by the Assam State Electricity Board.
- (b) **Other Taxes and Duties on Commodities and Services** : Decrease (4 per cent) occurred mainly under Amusement and Betting tax. Shortfall in collection of tax was due to fall in number of cinema viewers in cinema halls.

- (c) **Taxes on Vehicles** : Increase (7 per cent) was due to strengthening of enforcement checking.

Reasons for variations relating to other heads of revenue though called for have not been received (December 2004).

1.1.2 The details of the non-tax revenue raised during the year 2003-2004 along with the figures for the preceding four years are given below:  
(Rupees in crore)

Sl. No.	Head of Revenue	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Percentage of Increase (+) or decrease (-) in 2003-2004 over 2002-2003
1.	Petroleum	319.73	368.04	454.58	572.83	721.03	(+) 26
2.	Interest Receipts	2.47	4.27	3.09	3.07	5.89	(+) 92
3.	Dairy Development	0.03	0.06	0.06	0.22	0.11	(-) 50
4.	Forestry and Wild Life	14.73	14.77	15.25	23.44	36.76	(+) 57
5.	Non-ferrous Mining and Metallurgical Industries	0.55	0.60	0.44	0.98	0.28	(-) 71
6.	Miscellaneous General Services (including lottery receipts)	10.21	7.34	(-) 0.07*	0.13	0.02	(-) 85
7.	Major and Medium Irrigation Project	0.16	0.15	0.18	0.28	0.25	(-) 11
8.	Medical and Public Health	4.56	4.65	7.21	5.82	4.16	(-) 29
9.	Co-operation	0.14	0.14	0.19	0.24	0.29	(+) 21
10.	Public Works	5.76	3.50	1.57	3.15	5.86	(+) 86
11.	Police	7.06	10.12	7.30	9.32	11.95	(+) 28
12.	Other Administrative Services	28.06	20.54	6.88	9.41	9.90	(+) 5
13.	Coal and Lignite	27.11	30.63	9.54	8.36	47.65	(+) 470
14.	Roads and Bridges	7.85	27.72	3.29	17.63	28.53	(+) 62
15.	Others	16.50	34.24	23.69	38.09	73.12	(+) 92
	<b>Total:</b>	<b>444.92</b>	<b>526.77</b>	<b>533.20</b>	<b>692.97</b>	<b>945.80</b>	<b>(+) 36</b>

Reasons for variations under the following heads of revenue during 2003-2004 compared to 2002-2003 as intimated by the Departments are given below:

**Petroleum:** Increase (26 per cent) was due to realisation of royalty at higher rates and receipt of arrears of royalty for the period from April 1998 to March 2002.

\* Due to refund in excess of receipt during the year.



**Non-ferrous Mining and Metallurgical Industries:** Decrease (71 per cent) in collection of revenue was due to less production and despatch of limestone.

**Coal and Lignite:** Increase (470 per cent) was due to enhancement of rate of royalty on coal and also on account of increase in production/despatch of coal.

Reasons for variations relating to other heads of revenue though called for, have not been received (December 2004).

## **1.2 Initiatives for Mobilisation of Additional Resources**

With a view to strengthening the financial situation of the State, a Memorandum of Understanding (MOU) was signed (26 March 2003) between the Government of India and the State Government under which following fiscal reforms measures were to be adopted by the State Government :

- (a) Tax-Reforms for mobilising additional resources;
- (b) Rationalisation of user charges through reforms in non-tax revenue.

The State Government accordingly revised the rates of taxes/ service charges as detailed below:

### **A-Tax Revenue**

**State Excise :** Rate of Transport Pass fee and Import Permit fee in respect of Beer and India Made Foreign Liquor (IMFL) was revised.

**Taxes on Motor Vehicles :** Rate of Permit fee was revised.

### **B-Non-Tax Revenue**

**Medical and Public Health :** Rates/charges on different facilities of medical colleges and Hospitals were revised.

**Education :** Fee structure from higher secondary school to colleges were revised.

Additional revenue yielded during the year, consequent upon the introduction of revised rates/taxes/service charges though called for were not received (December 2004).

### **Rationalisation of user charges.**

Irrigation Department enhanced the rate of user charges namely Irrigation Service Charges by 100 per cent in respect of various crops in April 2000. As

per information furnished (July 2004), as against targeted collection of Rs.4.34 crore, Rs.2.80 crore and Rs.2.14 crore for the years 2001-2002, 2002-2003 and 2003-2004 respectively, the actual collection during the years were Rs.0.24 lakh, Rs.1.77 lakh and Rs.2.11 lakh respectively leading to shortfall in collection to the tune of Rs.4.34 crore, Rs.2.78 crore and Rs.2.11 crore during 2001-2002, 2002-2003 and 2003-2004 respectively. As stated by the Department, the reason for shortfalls was reluctance of the farmers to pay Irrigation Service Charges.

### 1.3 Variations between budget estimate and actuals

The Budget estimates and actual for 2003-2004 and variation thereagainst under various heads of revenue are detailed below:

(Rupees in crore)

Sl. No.	Head of revenue	Budget Estimate	Actuals	Variations Increase(+) Decrease(-)	Percentage of variation
(1)	(2)	(3)	(4)	(5)	(6)
<b>Tax Revenue</b>					
1.	Sales Tax	1,750.22	1,551.06	(-)199.16	(-) 11
2.	Land Revenue	70.55	62.12	(-) 8.43	(-) 12
3.	Taxes on Agriculture Income	4.00	3.18	(-) 0.82	(-) 21
4.	Taxes on Vehicles	131.40	124.00	(-) 7.40	(-) 6
5.	State Excise	137.49	129.29	(-) 8.20	(-) 6
6.	Other Taxes on Income & Expenditure	91.35	86.75	(-) 4.60	(-) 5
7.	Stamps & Registration Fees	56.50	62.02	(+) 5.52	(+) 10
8.	Taxes on Goods & Passengers	15.03	16.99	(+) 1.96	(+) 13
9.	Other Taxes and Duties on Commodities and Services	54.94	32.18	(-) 22.76	(-) 41
10.	Taxes and Duties on Electricity	73.49	2.73	(-) 70.76	(-) 96
<b>Non-Tax Revenue</b>					
1.	Petroleum	697.60	721.03	(+) 23.43	(+) 3
2.	Forestry & Wildlife	24.85	36.76	(+) 11.91	(+) 48
3.	Police	9.88	11.95	(+) 2.07	(+) 21
4.	Other Administrative Service	39.96	9.90	(-) 30.06	(-) 75
5.	Coal and Lignite	8.86	47.65	(+) 38.79	(+) 438
6.	Village and Small Industries	1.12	1.02	(-) 0.10	(-) 9
7.	Roads & Bridges	18.69	28.53	(+) 9.84	(+) 53
8.	Interest Receipts	3.25	5.89	(+) 2.64	(+) 81
9.	Dairy Development	0.24	0.11	(-) 0.13	(-) 54
10.	Non-ferrous Mining & Metallurgical Industries	1.04	0.28	(-) 0.76	(-) 73
11.	Misc. General Services	0.14	0.02	(-) 0.12	(-) 86
12.	Major and Medium Irrigation	0.30	0.25	(-) 0.05	(-) 17
13.	Medical & Public Health	6.17	4.16	(-) 2.01	(-) 33
14.	Co-operation	0.25	0.29	(+) 0.04	(+) 16
15.	Public Works	3.34	5.86	(+) 2.52	(+) 75

Reasons for variations between budget estimates and the actuals under the following heads of revenue as reported by the Departments are given below:

(a) **Other Taxes and duties on commodities and Services** : Shortfall (41 per cent) occurred mainly under Amusement and Betting tax. Shortfall in collection of tax was due to fall in number of cinema viewers in cinema halls.

(b) **Taxes and Duties on Electricity** : Shortfall (96 per cent) was due to non-receipt of Duties payable by the Assam State Electricity Board.

Specific reasons for substantial variation in respect of remaining heads of revenue have not been received (December 2004).

#### 1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2001-2002, 2002-2003 and 2003-2004 along with the relevant All India average percentage of expenditure as available are given below:

(Rupees in crore)

Sl. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
1.	Sales Tax	2001-2002	1,072.76	13.61	1.27	1.18
		2002-2003	1,440.90	13.22	0.92	
		2003-2004	1,551.06	16.14	1.04	
2.	Taxes on Vehicles	2001-2002	93.59	4.91	5.25	2.86
		2002-2003	116.28	5.21	4.48	
		2003-2004	124.00	5.89	4.75	
3.	Land Revenue	2001-2002	63.26	4.78	7.56	---
		2002-2003	62.12	3.25	5.23	
		2003-2004	62.12	5.30	8.53	

It would be seen from the above table that the percentage of expenditure on collection to gross collection were higher than the All-India average in respect of Taxes on Vehicles.

#### 1.5 Collection of sales tax per assessee

The collection of sales tax per assessee during 2002-2003 and 2003-2004 increased by 50 per cent compared to collection per assessee during 1999-2000 to 2001-2002 as shown below:

(Rupees in crore)

Year	No. of assesses	Sales tax revenue	Revenue/assessee
1999-2000	39,300	742.32	0.02
2000-2001	40,231	917.90	0.02
2001-2002	46,971	1,072.76	0.02
2002-2003	49,979	1,440.90	0.03
2003-2004	53,997	1,551.06	0.03

### 1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2004 in respect of some principal heads of revenue amounted to Rs.744.95 crore of which Rs.184.45 crore were outstanding for more than 5 years as detailed in the following table:

(Rupees in crore)

Sl No	Head of Revenue	Amount outstanding as on 31 March 2004	Amount outstanding for more than 5 years as on 31 March 2004	Remarks
1	Sales Tax, cess on specified land, Coal and Tea, Taxes and Duties on Electricity, other taxes on Income and expenditure, Professions etc, Tax, other Taxes and Duties on Commodities and services Entertainment Tax, Luxury Tax, Taxes on Agricultural Income.	736.88	178.84	The arrears of revenue relate to 36 units. Out of total arrears of Rs.736.88 crore, demand of Rs.73.65 crore was stayed by the Courts/Assam Board of Revenue, Rs.131.13 crore was with the Departmental Appellate Authority, Rs.25.25 crore with Revisional Authority, Rs.120.82 crore with the Assessing Authority and Rs.386.03 crore were covered by recovery certificates.
2	Forestry and Wildlife	5.83	4.11	The arrears relate to 13 units out of total 27 territorial divisions
3	Royalty on Coal, Lignite and Limestone	2.19	1.45	The arrears relate to Assam Mineral Development Corporation Limited and the Cement Corporation of India Limited on States' share (40 per cent) of royalty on coal and limestone.
4	State Excise	0.05	0.05	The arrears relate to Assam Ayurvedic Products, a state government enterprise. As ordered by the Government, the amount was to be paid in instalment. But payment has not been made so far (December 2004)
<b>Total:</b>		<b>744.95</b>	<b>184.45</b>	

### 1.7 Arrear in assessments

The position of arrears in assessment of sales tax and other taxes as at the end of the year 2003-2004 are shown below:

Head of revenue	Opening balance	New cases for assessment	Total assessment due	Cases disposed of	Balance at the end of the year	Percentage of Col 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax & other Taxes	43,407	49,342	92,749	47,019	45,730	51
Assam Professional & Employment Tax	47,748	31,086	78,834	30,466	48,368	39
Agricultural Income Tax	925	1,040	1,965	804	1,161	41
<b>Total</b>	<b>92,080</b>	<b>81,468</b>	<b>1,73,548</b>	<b>78,289</b>	<b>95,259</b>	<b>45</b>

It would be seen from the above that the Department was able to complete only 45 per cent of total cases (Agricultural Income Tax, Assam Professional etc. Tax, Sales Tax & other Taxes) due for collection. The delay in finalisation of assessments resulted in delay in realisation of revenue involved in these cases.

### 1.8 Evasion of tax

The details of cases of evasion of tax detected by the Sales Tax department, cases finalised and the demands for additional tax raised as reported by the Department are given below:

Sl. No.	Heads of revenue	Cases pending as on 31 March 2003	Cases detected during 2003-04	Total	No. of cases in which assessments/ investigations completed and additional demand including penalty, etc. raised.		No. of cases pending for finalisation as on 31 March 2004
					No. of cases	Amount of demand. (Rupees. in crore)	
1	Sales Tax	62	787	849	734	403.26	115

### 1.9 Refunds

The number of refund cases pending at the beginning of the year 2003-2004, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2003-2004 in respect of sales tax as reported by the Departments are given below:

(Rupees in lakh)

Sl. No.	Particulars	Sales tax	
		No. of cases	Amount
1	Claims outstanding at the beginning of the year	45	182.35
2	Claims received during the year	63	416.02
3	Refunds made during the year	72	21.80
4	Balance outstanding at the end of the year	36	576.57

**1.10 Results of Audit**

Test check of records of the sales tax, agricultural income tax, taxes on vehicles, land revenue, state excise, forest receipts, other tax and non-tax receipts conducted during the year 2003-2004 revealed underassessment/ short levy/short demand/loss of revenue amounting to Rs.513.61 crore in 521 cases. The concerned Departments accepted under assessment, short levy etc., of Rs.55.78 crore pointed out in 2003-2004 and earlier years and recovered Rs.0.36 crore.

This report contains 21 paragraphs including 3 reviews relating to non-levy/short levy of taxes, duties, interest and penalty etc. involving Rs.413.82 crore. The Department accepted the audit observation involving Rs.3.35 crore. No reply has been received in the remaining cases (December 2004).

**1.11 Outstanding audit inspection reports and audit observations**

Principal Accountant General (Audit) arranges to conduct periodical inspection of the State Government Departments to test check transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up with Inspection Reports (IRs). When important irregularities, etc., detected during inspection are not settled on the spot, these IRs are issued to the Heads of Offices inspected with a copy to the next higher Authorities. The orders of the State Government (March 1986) provide for prompt corrective action. The Heads of Offices and next higher Authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the Principal Accountant General (Audit). A half yearly report of pending inspection reports is sent to the Secretaries of the Departments in respect of pending IRs to facilitate monitoring of the audit observations.

Inspection Reports issued upto December 2003 disclosed that 4,369 paragraphs relating to 1,459 IRs remained outstanding at the end of June 2004. Of these, 131 IRs containing 290 paragraphs had not been settled for more than 10 years as detailed in Appendix-I. Even the initial replies, which were required to be received from the Head of Offices within six weeks from the date of issue were not received for 718 IRs issued between 1990-91 and 2003-2004. As a result, serious irregularities commented upon in 2,169 paragraphs involving Rs.367.81 crore had not been settled as of June 2004.

A review of the IRs which were pending due to non-receipt of replies revealed that the Heads of Offices/Departments failed to discharge due responsibility as they did not send any reply to a large number of IRs/Paragraphs, indicating their failure to initiate action in regard to the defects, omissions and

irregularities pointed out. The Commissioners and Secretaries of the concerned Departments, who were informed of the position through half yearly reports, also failed to ensure that concerned officers of the Department take prompt and timely action.

#### **1.12 Departmental Audit Committee Meetings**

As per instruction (May 1994) of the Finance Department, all the Departments are required to constitute Audit objection Committee for expeditious disposal of audit observations contained in the Inspection Reports. These Committees are chaired by designated officer of the concerned Administrative Department and attended among others by the concerned officers of the State Government and the Office of the Accountant General (Audit).

In order to expedite clearance of the outstanding audit observations, it is necessary that the Audit Committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 2003-2004, only two (Taxation and Forest) out of the eight Government departments convened meetings of the audit committee. This indicates that some of the departments did not make effective use of the machinery created for expeditious settlement of outstanding audit observations.

#### **1.13 Response of the Departments to Draft Audit paragraphs**

As per instruction issued (March 1986) by the Finance Department, all the Departments are required to furnish replies to the audit objections within two months. The audit office always forwards draft paragraphs prepared on the basis of audit objections to the Secretaries of the concerned Departments through demi-official letters drawing their attention to the audit findings with the request to send their response within six weeks. The fact of non-receipt of replies from the government is indicated at the end of each paragraph included in the Audit Report.

Draft paragraphs included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2004 were forwarded to the Secretaries of the Departments in April/May 2004 through demi-official letters with the request to furnish their replies/comments within six weeks. Out of 48 draft paragraphs/reviews (clubbed into 21 paragraphs/reviews) incorporated in this Report, replies of the Departmental officers in respect of 36 draft paragraphs had been received (December 2004).

Replies from the Government had not been received in any of the cases (December 2004).



**1.14 Follow up on Audit Reports – Summarised position**

As per instruction issued (May 1994) by the Finance Department, all the Departments are required to furnish explanatory notes indicating action taken or proposed to be taken to the Assam Legislative Assembly Secretariat with a copy to the Accountant General (Audit), Assam, Guwahati in respect of paragraphs and reviews included in the Audit Reports within 20 days from the date of receipt of the Audit Report.

A review of the position for last three years revealed that only one department (Forest) furnished during 2003-2004 a copy of 'Action Taken Note' (ATN) in respect of one review and three paragraphs featured in the Audit Report (Revenue Receipts) for the year 2001-2002. The position of outstanding ATNs detailed below:

Year of Report	Dates of presentation to the Legislature	Number of paragraphs/ reviews included in the Report	Number of paragraphs / Reviews on which ATNs were not received
2000-2001	1-3-2002	34	34
2001-2002	27-3-2003	26	22
2002-2003	12-7-2004	33	33

This indicated that there was laxity in ensuring accountability of the Executives.



## CHAPTER - II : SALES TAX

### 2.1 Results of Audit

Test check of records in Sales Tax Offices, conducted in audit during the year 2003-2004 revealed turnover escaping assessment, under assessment of tax, irregular exemptions, etc. amounting to Rs.100.94 crore in 227 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Turnover escaping assessment	52	31.27
2.	Under assessment of tax	60	5.00
3.	Non-levy of penalty	4	0.08
4.	Irregular exemptions	33	2.50
5.	Non-levy of interest	11	3.21
6.	<b>Review on Working of Sales Tax Check-Posts</b>	1	32.71
7.	Other lapses	66	26.17
<b>Total</b>		<b>227</b>	<b>100.94</b>

During 2003-2004, the Department accepted under assessments of tax amounting to Rs.3.84 crore pointed out during 2003-2004 and in earlier years and recovered Rs.0.05 crore.

A few illustrative cases involving Rs.14.05 crore and a review on Working of Sales Tax Check-Posts involving financial effect of Rs.32.71 crore are given in the following paragraphs:

## 2.2 Review on Working of Sales Tax Check-Posts

### Highlights

- As against required norms of physical verification of 10 per cent goods vehicles at Check-posts, actual verification conducted during 1998-99 to 2002-2003 ranged between 0.76 and 1.14 per cent.

(Paragraph 2.2.5)

- There was short realisation of security of Rs.11.75 lakh from 64 goods vehicles in the two Check-posts.

(Paragraph 2.2.7)

- Short determination of turnover of coal led to short levy of tax of Rs.3.32 crore including interest Rs.0.96 crore.

(Paragraph 2.2.8)

- Failure to pass on the information collected at the Check-post to the Assessing Authorities resulted in non-verification of turnover of goods leading to evasion of tax of Rs.2.98 crore.

(Paragraph 2.2.9)

- Absence of control over the transit of goods by road through the state resulted in loss of revenue of Rs.26.28 crore including penalty of Rs.19.71 crore.

(Paragraph 2.2.11)

### Introduction

**2.2.1** With a view to preventing or checking evasion of taxes on taxable goods imported from and exported to other States by dealers in Assam, the Taxation Department of the State Government has been empowered to establish Check-posts at any place in the State, as may be notified by it, where traffic can be intercepted, detained and searched by the officer-in-charge of the Check-post.

The Assam General Sales Tax (AGST) Act, 1993, as amended from time to time and earlier repealed Acts, empowers the State Government to establish sales tax Check-posts at notified places. Accordingly 12<sup>1</sup> Check-posts were established between July 1971 and June 2002. In addition nine<sup>2</sup> Unit offices were empowered to issue and endorse Transit Passes (an authority to allow a vehicle carrying goods from other State meant for delivery

<sup>1</sup> Damra, Baxirhat, Khanapara, Dholaibazar, Churaibari, Biswanath Chariali, Sukhanjan, Kabaitary, Jalukbari, Digharkhal, Batamari, Bhalukdubi

<sup>2</sup> Sr. Superintendents /Superintendents of Taxes Doom Dooma, Digboi, Naharkatia, Dhemaji, Tezpur, Jorhat, Golaghat, Inspector of Taxes Silapathar, Sonari

outside the State passing through the State of Assam) where there are no Check-posts. Each Check-post/unit is working under the charge of a Sr. Superintendent/Superintendent of Taxes. Out of 12 Check-posts the Sr. Superintendent/ Superintendent of Taxes incharge of two Check-posts (Jalukbari and Kabaitary) are also empowered to assess the coal dealers.

After establishment of the Check-posts, any person who seeks to import any goods by road into the State from any place outside the State or export any goods by road from the State to any place outside the State, is required to furnish a declaration, in the prescribed form, in triplicate containing the prescribed particulars. The officer-in-charge of the Check-post, on being satisfied about the correctness of the particulars furnished in the declaration, shall countersign all copies of the declaration. Two copies of declaration shall be returned to the person filing it after endorsing on one of those copies, the particulars of the officer to whom it shall be surrendered. One copy is to be retained at the Check-post which is required to be sent within three days to the Superintendent of Taxes of the area where the consignor or consignee has his place of business in the State for checking the particulars furnished in Way Bills/Despatch Notes/Delivery Notes with reference to the accounts/records of the consignor/consignee.

For the purpose of entry of vehicles into North –Eastern Region, there are only two Check-posts, at Baxirhat and Damra and six Check-posts for exit of vehicles meant for other states at Batamari, Biswanath Chariali, Churaibari, Dhalaibazar, Khanapara and Sukhanjan.

### **Organisational Set up**

**2.2.2** The Check-posts are headed by Senior Superintendents / Superintendents of Taxes. Each Check-post is under the administrative control of a Zonal Deputy Commissioner of Taxes and the overall control of the Zones lies with the Joint Commissioner of Taxes. The Commissioner of Taxes is the head of the Department with responsibility for administration of the Act.

### **Audit objectives**

**2.2.3** A review of the records of 10<sup>3</sup> out of 12 Check-posts and the related records maintained in the office of the Superintendents of Taxes for the years 1998-99 to 2002-2003 was conducted between October and December 2003 to -

- assess the overall efficiency of the system and procedure regulating their working.
- assess the effectiveness of the Check-posts in preventing evasion of taxes.

<sup>3</sup> Damra, Baxirhat, Khanapara, Dholaibazar, Churaibari, Digharkhal, Sukhanjan and Batamari Check-posts & Senior Superintendents / Superintendents of Taxes Jalukbari and Kabaitary

- extent of compliance to rules and orders in the functioning of the Check-posts.

### **Trend of revenue**

2.2.4 The collection of revenue at the Check-posts during the year 1998-99 to 2002-2003 and percentage thereof to the revenue collected by the Sales Tax Department are indicated below:

(Rupees in crore)

Year	Collection of revenue by the Check-posts			Total revenue collected by Sales Tax Department	Percentage of revenue collected
	Having assessment power	Having no assessment power	Total collection		
1998-1999	21.21	6.45	27.66	550.40	5.03
1999-2000	18.81	8.05	26.86	742.32	3.62
2000-2001	15.54	7.29	22.83	917.90	2.49
2001-2002	26.47	9.54	36.01	1,072.76	3.36
2002-2003	29.51	13.97	43.48	1,440.90	3.02

The Department attributed that the increase or decrease of revenue depends upon the collection of revenue at Jalukbari Check-post from coal dealers.

### **Physical verification of goods vehicles**

2.2.5 The Public Accounts Committee (PAC) while discussing the review on working of the Sales Tax Check-posts included in the Report of the Comptroller & Auditor General of India (Revenue Receipts) for the year ended 31 March 1991 observed in June 1998 that every Check-post officer should conduct physical verification of at least 10 per cent of goods vehicles at the time of crossing the Check-post. However, the Government has not prescribed any norms in the light of observations made by the PAC.

Scrutiny of the records of eight Check-posts<sup>4</sup>, revealed that against 37.46 lakh vehicles which crossed the Check-posts during 1998-99 to 2002-2003, the concerned officers of the Check-posts physically verified only 36,734 vehicles. The percentage of vehicle checked ranged between 0.76 and 1.14 per cent as shown below:

Year	Number of goods vehicles passed through the Check-post	Vehicles required to be physically verified	Vehicle physically verified	Shortfall in physical verification	Percentage of vehicles checked	Percentage of shortfall in physical verification
1998-1999	7,16,088	71,609	5,476	66,133	0.76	9.24
1999-2000	7,39,083	73,908	6,608	67,300	0.89	9.11
2000-2001	7,22,735	72,273	7,945	64,328	1.09	8.91
2001-2002	7,63,634	76,363	7,511	68,852	0.98	9.02
2002-2003	8,04,136	80,414	9,194	71,220	1.14	8.86
<b>Total:</b>	<b>37,45,676</b>	<b>3,74,567</b>	<b>36,734</b>	<b>3,37,833</b>	<b>0.97</b>	<b>9.03</b>

<sup>4</sup> Damra, Baxirhat, Khanapara, Dholaibazar, Churaibari, Digharkhal, Sukhanjan and Batamari

Further, in 1,844 cases out of 36,734 cases physically verified, the Check-post authorities realised an additional tax-penalty of Rs.1.87 crore. Had the Government made it mandatory for Check-post authorities to conduct physical verification of ten *per cent* of goods vehicles as desired by the PAC, more evasion cases could have been detected.

As per circular number 5/97 dated 28 July 1997 every Inspector of Taxes of the Check-posts other than Damra and Baxirhat shall detect at least one evasion case per month and minimum three cases in case of Damra and Baxirhat.

Scrutiny in audit of the records of eight<sup>5</sup> Check-posts revealed that the numbers of Inspector of Taxes posted in the said Check-posts ranged from 30 to 40 and they could detect 1,844 evasion cases during 1998-99 to 2002-2003 as against the requirement of 4,140 cases as shown below:

Year	Number of Inspector posted	No. of evasion case to be detected	No. of cases actually detected	Shortfall (No. of cases)	Percentage of shortfall
1998-1999	38	744	282	462	62
1999-2000	36	720	318	402	56
2000-2001	40	960	423	537	56
2001-2002	35	900	442	458	51
2002-2003	30	816	379	437	54
<b>Total:</b>		<b>4,140</b>	<b>1,844</b>	<b>2,296</b>	<b>55</b>

Shortfall in detection of evasion cases was mainly due to shortfall in physical verification of goods vehicles that ranged between 51 and 62 *per cent*.

#### **Short-realisation of security money and Short /Non-levy of tax and penalty**

**2.2.6** Under Section 46 (2) (c) of the AGST Act, 1993, in a case where a carrier or bailee or person in-charge of the goods fails to produce any evidence or satisfy the said authority regarding the proper accounting of goods, impose a penalty, after giving a reasonable opportunity of being heard to such carrier or bailee or the person in-charge of the goods, which shall be equal to three times the amount of tax calculated on the value of such goods and the goods shall be released as soon as the penalty is paid.

Scrutiny of vehicles detention register revealed that out of 1,844 evasion cases detected during 1998-99 to 2002-2003, in 12 cases, Check-post Authorities (Sukhanjan and Khanapara) levied penalties in lump-sum instead of three times the amount of tax so calculated. This resulted in short levy of penalty of Rs.0.93 lakh.

**2.2.7** According to the circular dated 19 August 1997 issued by the Department, security money equivalent to the amount of tax on the value of the supari carried by a particular vehicle shall be realised irrespective of whether the supari is sent outside the State by a registered dealer or unregistered dealer.

<sup>5</sup> Damra, Baxirhat, Khanapara, Dholaibazar, Churaibari, Digharkhal, Sukhanjan and Batamari



Test check of records of two<sup>6</sup> Check-posts revealed that during 1998-99 to 2002-2003, 64 vehicles carrying supari valued at Rs. 4.34 crore involving tax of Rs.37.92 lakh were allowed to cross the Check-post on realisation of security of Rs.26.17 lakh against Rs.37.92 lakh. This has resulted in short realisation of security of Rs.11.75 lakh.

**2.2.8** Under Section 2(34)(d) of the AGST Act, 1993, read with explanation below the said section, sales price means the amount received or receivable by a dealer as valuable consideration for the sale of goods including any sum charged, whether stated separately or not for anything done by the dealer in respect of the goods at the time of or before delivery thereof or undertaken to be done after the delivery of the goods.

As per clarification (October 2000) of the Commissioner of Taxes, Meghalaya, the minimum purchase price of Bapung Coal (Jowai) at Guwahati during the year 1998 was Rs.1,000 per metric tonne (M.T) exclusive of freight and sales tax (Meghalaya). Taking freight charges as Rs.200 per MT on the basis of invoices for similar period for market value of coal worked out to Rs.1,200. The Superintendent of Taxes, Kabaitary Check-post intimated in December 2001 to the Deputy Commissioner of Taxes, Dhubri, that prevailing market price of Nangal coal (Garo Hills) at Kabaitary was Rs.1,050 per M.T.

Test check of assessment records of the Superintendent of Taxes, Jalukbari and Kabaitary Check-post revealed that in 38 cases (18 in Jalukbari and 20 in Kabaitary Check-post), the Assessing Officer determined between December 2000 and March 2003 the inter-state sales turnover for the assessment year 1999-2000 to 2001-2002 at Rs.116.01 crore based on purchase price of coal at the rates ranged between Rs.854 and Rs.1,004 per MT. But, as per minimum purchase price of Rs.1,050 and Rs.1,200 per MT of Bapung coal and Nangal coal respectively, the turnover comes to Rs.145.50 crore. This difference resulted in short determination of turnover of Rs.29.49 crore and consequently there was short levy of tax of Rs.3.32 crore including interest of Rs.0.96 crore.

***Lack of co-ordination between Check-posts and unit offices***

**2.2.9** Under the AGST Act and Rules made thereunder, no person shall transport goods across or beyond a Check-post, except after filing before the officer incharge of the Check-post, if so directed by him, a declaration (in triplicate) of the goods in prescribed form. The officer-in-charge of the Check-post is required to send within three days, one copy of declaration to the Superintendent of Taxes of the area where the consigner or consignee has his place of business in the State for checking the particulars furnished in the Despatch Notes/Delivery Notes with reference to the accounts / records of the consigner / consignee. The Act further provided that no assessment shall be made after the expiry of three years from the end of the relevant year. Further, if a dealer fails to pay the full amount of tax payable by him, by the due date,

<sup>6</sup> Baxirhat and Damra

he is liable to pay simple interest at the prescribed rates of two *per cent* for each month, on the amount by which tax paid falls short of the tax payable.

The system of issue of Despatch Note for carrying taxable goods to outside the State of Assam was operative with effect from 12 September 2000 to 9 October 2002. During the period from 2000-2001 to 2002-2003, 1,17,336 Despatch Notes were issued by Jalukbari Check-post to the dealers registered there for carrying coal to outside the State of Assam against which 1,20,861 Despatch Notes were received and sent back by Boxirhat and Damra Check-posts to Jalukbari Check-post. Similarly, 12,097 Despatch Notes were received by Boxirhat and Damra Check-posts against the issue of 3,750 Despatch Notes by Unit-B Guwahati. The reason for receipt of 11,872 Despatch Notes by the said exit Check-posts in excess of total number of Despatch Notes issued by Jalukbari Check-post and Unit – B Guwahati was not on record. Hence, possibility of using forged Despatch Notes by some unscrupulous transporters cannot be ruled out.

Scrutiny revealed that during the year 1999-2000, Damra Check-post sent back 2,064 Delivery Notes in respect of cement dealers to Kokrajhar and Goalpara against which 953 Delivery Notes were received by the said units. Out of 2,064 Delivery Notes sent back by Damra Check-post, 1,273 Delivery Notes were in respect of four<sup>#</sup> dealers who imported cement (taxable at the rate of 13.2 *per cent* including additional tax) valued at Rs.7.47 crore during the said period. Verification of records of the said dealers maintained in the units concerned revealed that these dealers either did not file the returns or filed Nil/incorrect returns with the Sales Tax Departments. Moreover, the assessments were kept pending and subsequently became time barred. This resulted in non-realisation of tax of Rs.2.98 crore including interest of Rs.0.76 crore and penalty of Rs.1.32 crore.

#### ***Non-issue of Delivery Notes and non-checking of vehicles importing coal***

**2.2.10** Under the provision of the Act and Rules made thereunder, in case of import of taxable goods into Assam for re-sale, Delivery Note in triplicate must be obtained from the concerned Assessing Officer and shall be produced by the transporter to the Check-post authority for verification.

As per records of Jalukbari Check-post, 3,96,871 trucks of coal were despatched to outside the State of Assam during the period from 1998-99 to 2002-2003 purchasing the same from Meghalaya. But no Delivery Notes were issued to the coal dealers during the said period for importing coal from Meghalaya.

Cross verification of records maintained at Jalukbari Check-post with the records of Khanapara Check-post revealed that there was no system of checking of vehicles at Khanapara Check-post, which imported coal from Meghalaya. Non-issue of Delivery Notes by Jalukbari Check-post Authority to

<sup>#</sup> M/s United Trading Company, M/s P.K. Distributors, M/s Tripathi Trade Agency of Kokrajhar and M/s Sahara Trading Company of Goalpara

the dealers in respect of importing of coal from Meghalaya and absence of system of checking of vehicles at Khanapara Check-post may lead to evasion tax in case of importing excess quantity of coal to Assam.

#### ***Absence of control over the transit of goods by road through the State***

2.2.11 According to the AGST Act, 1993, and Rules made thereunder, when a vehicle carrying goods from another State meant for delivery outside the State passes through Assam, the driver of the vehicle is required to obtain a Transit Pass (TP) at the entry Check-post and produce it at the time of his exit from the State to the officer-in-charge of the exit Check-post within thirty days from the date of entry and obtain his endorsement with seal and signature as a proof of such exit from the officer-in-charge of exit Check-post. If the Officer-in-charge of the entry checkpost or any other Officer from whom TP was obtained, is satisfied that the owner, driver or person in-charge of the goods vehicle has failed to deliver the TP without any reasonable cause, such officer may after giving the person concerned a reasonable opportunity of being heard, impose upon him, in addition to tax, the penalty equal to three times of such tax.

- Between 1998-1999 and 2002-2003, two Check-posts (Damra and Baxirhat) issued 3,46,161 TPs, of which 3,12,389 were received back. The balance 33,772 TPs were not received back by the said Check-posts so far (August 2004). Test check of 1,270 TPs, out of 33,772 TPs revealed that the goods valued at Rs.68.73 crore involving tax of Rs.6.57 crore was meant for other States (Mizoram, Meghalaya, Manipur, Nagaland and Tripura). However, the Check-post Authorities failed to impose, in addition to tax, penalty equal to three times of such tax after giving the person concerned a reasonable opportunity of being heard. This resulted in non-levy/ non-realisation of tax of Rs.26.28 crore including penalty of Rs.19.71 crore.

#### ***Internal audit***

2.2.12 The system of internal audit was introduced in the Department in June 1998. During the period of five years from 1998-99 to 2002-2003, internal audit was conducted in three Check-posts twice in Jalukbari Check-post and once in Khanapara and Damra Check-posts against annual coverage of 11 Check-posts. This indicates shortfall of internal audit coverage in respect of Check-posts. The Department stated (July 2004) that the shortfall was due to shortage of staff in Internal Audit Wing.

#### ***Recommendations***

2.2.13 Lack of co-ordination between the Check-post Authorities and the Assessing Authorities on dissemination of information in respect of declaration made by the transporter in respect of goods carried by them and absence of control mechanism to detect offence cases in respect of transit of

goods for other States through the State of Assam led to evasion of taxes as highlighted above.

Government / Department may consider taking following steps to ensure effective functioning of the Check-posts:

- Put a mechanism in place that would ensure levy of penalty for offence as per provisions of Act and Rules and their proper accounting.
- Ensure complete transmission of information regarding goods mentioned in the declaration Forms/ Despatch Notes/ Delivery Notes as furnished by the transporters to the concerned Superintendent of Taxes for cross checking during assessments.

Matters were reported to the Government in May 2004; the reply is awaited (December 2004).

### **2.3 Concealment of turnover**

Under the AGST Act, 1993, read with Central Sales Tax Act (CST), 1956, if a dealer has concealed or failed to disclose fully and truly the particulars of his turnover, the Assessing Officer (AO) may within eight years from the date of the relevant year make an assessment or re-assessment of the dealer. When a dealer conceals the particulars of his turnover, he shall pay by way of penalty, in addition to tax and interest at the prescribed rate, a sum not exceeding one and one half times the amount of tax sought to be evaded.

**2.3.1** In two Sales Tax Offices (STO) (Tinsukia and Sibsagar) the AO determined between March 2000 and October 2002 taxable turnover of four manufacturing dealers for the assessment years 1996-97 and 2000-2001 as Rs.130.22 crore. Cross verification by audit of assessment records of the dealers vis-à-vis value of excisable goods cleared, by the Central Excise Department revealed that taxable turnover aggregating Rs.16.69 crore was suppressed by the dealers and escaped assessments due to short accountal of goods. This resulted in evasion of tax of Rs.1.16 crore alongwith interest and penalty of Rs.2.58 crore as detailed below:

(Rupees in lakh)

Name of the dealer/Unit office	Name of commodity	Assessment years	Turnover suppressed	Interest Penalty	Total	Remarks
	Rate of tax	Month of assessment	Tax evaded/short levied			
M/s Keshan Ply Industries/ Tinsukia	Plywood 8%	1996-97 March 2000	24.03 1.92	3.19 2.88	7.99	After this was pointed out, the Department stated in July 2004 that the value of goods declared by the dealers were inclusive of excise duty paid. The reply is not acceptable since as per the information furnished by the Central Excise Department, the assessable value of goods cleared were exclusive of excise duty paid. The cases were referred to the Government in July 2003; the replies were awaited (December 2004).
M/s Purbanchal Udyog/ Tinsukia	Veneer 8%	1996-97 March 2000	12.14 0.97	1.61 1.46	4.04	
M/s ONGC Ltd./ Sibsagar	Crude Oil 4%	2000-01 October 2002	1,114.00 44.56	31.19 66.84	142.59	The cases were reported to the Department and the Government in July 2003; their replies have not been received (December 2004).
M/s Gas Authority of India Ltd./ Sibsagar	LPG 13.2%	2000-01 February 2002	518.66 68.46	47.92 102.69	219.07	
<b>Total:</b>			<b>1,668.83</b> <b>115.91</b>	<b>83.91</b> <b>173.87</b>	<b>373.69</b>	

2.3.2 As per instructions (January 1996/1998) issued by the Commissioner of Taxes, Assam, every AO, while completing assessment of Tea Estates, should compare the details of turnover supplied to Sales Tax Department with those submitted to the Central Excise Department through statutory returns to prevent leakage of Government revenue.

Cross verification of assessment records of three dealers engaged in manufacture of black tea leaves available in two STOs (Tinsukia and Biswanath Chariali) with the information regarding quantity manufactured and cleared, obtained by audit from the Central Excise Department (CED) revealed that clearance of tea aggregating 4,73,873 kgs was suppressed by the dealers. Non-verification of copies of statutory returns by the AOs at the time of assessments of turnover of Rs.3.54 crore resulted in evasion of tax of Rs.30.94 lakh alongwith interest and penalty of Rs.81.11 lakh was also to be levied as detailed below:

(Rupees in lakh)

Name of the dealer	Assessment years	Clearance (in kgs)	Clearance suppressed (in kgs)	Rate per kg	Tax, additional tax evaded (Rate of tax)	Interest (Period of interest calculation) Penalty	Remarks
	Month of assessment	As per CE records As per sales tax records	Turnover suppressed (Rs. in lakh)	(Rs.)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
M/s- Padumani Tea Estate	1998-99 September 1999	4,71,185 4,56,502	14,683 10.62	72.33	0.93 (8.8%)	1.10 (5/99 to 3/04) 1.40	After these cases were pointed out in audit in July 2003, the Department stated in July 2004 that as per certificates obtained from the CED, Tinsukia, quantities cleared by the dealers during the years 1998-99 and 1999-2000 were 4,68,475 kgs and 4,50,814 kgs respectively and there were no concealment of quantity and evasion of tax. The reply is not acceptable as the information contained in the certificates obtained by the Department were contrary to the information supplied by the CED to audit. The matter was referred to the Government in March 2003; their reply has not been received (December 2004).
	1999-2000 November 2000	4,32,819 2,99,491	1,33,328 106.13	79.60	9.34 (8.8%)	8.78 (5/00 to 3/04) 14.00	
M/s Bazaloni Tea Estate	1997-98 March 2001	26,76,077 26,35,714	40,363 21.69	53.73	1.73 (8%)	2.46 (5/98 to 3/04) 2.60	After this was pointed out in audit in July 2003, the Department stated in July 2004 that the actual clearance was 26,57,640 kg which included 18,418 kg of package tea and 22,797 kg of complementary and sample tea. The reply is not acceptable since as per records of the CED, package tea of 18,418 kgs was not included in the total clearance of tea as claimed by the Department. Thus, turnover of 18,418 kg relating to package tea was suppressed by the dealer resulting in evasion of tax of Rs.3.17 lakh including interest (upto 7/04) of Rs.1.19 lakh and penalty of Rs.1.19 lakh.
M/s- Mahalaxmi Tea Estate	1998-99 September 2000	7,41,467 4,55,968	2,85,499 215.27	75.40	18.94 (8.8%)	22.35 (5/99 to 3/04) 28.42	The case was reported to the Department and the Government between September 2002 and July 2003; their replies have not been received (December 2004).
<b>Total:</b>		<b>43,21,548</b> <b>38,47,675</b>	<b>4,73,873</b> <b>353.71</b>		<b>30.94</b>	<b>34.69</b> <b>46.42</b>	

**2.3.3** Test check of assessment records of the Superintendent of Taxes (ST), Guwahati, Unit-B, revealed in September 2002 that a cement dealer in his annual returns for the years 1999-2000 and 2000-2001 had disclosed receipts of goods by way of stock transfer/purchases from outside the state aggregating Rs.6.26 crore. The AO while completing the assessments in May 2002 accepted the same. However, cross verification of assessment records of the dealer with the records of a Meghalaya based dealer and records

maintained in the Unit office viz. delivery permits (Form-B), registers of delivery permits etc. revealed that the dealer had received/purchased goods valued at Rs.7.67 crore against 'F' Forms. Failure of the AO to verify the purchase particulars available in the office and utilisation of 'F' Forms resulted in escapement of turnover of Rs.1.41 crore and under-assessment of tax of Rs.18.61 lakh. Besides, interest of Rs.9.21 lakh (calculated upto October 2002) and penalty not exceeding Rs.27.91 lakh was also leviable.

After this was pointed out in audit in March 2003, the Assessing Officer stated in August 2003/February 2004 that the assessments had been revised and demand notices for Rs.41.78 lakh were issued. Report on realisation has not been received (December 2004).

**2.3.4** Test check of assessment records of the ST, Tezpur, revealed in March 2003 that the AO while finalising assessment of a dealer for the year 1998-99 in March 2002, fixed 'NIL' liability under the CST Act stating that there was no turnover under the Act. But the statement with details of sales for the year 1998-99 which was available in the office revealed that the dealer made inter-state sale of cement valued at Rs.33.28 lakh and Agro-chemicals valued at Rs.3.03 lakh to Tripura and West Bengal respectively which was not disclosed in his annual return. Thus, due to non-verification of details of sales for the year 1998-99 which were available in the office, resulted in under assessment of tax of Rs.9.20 lakh including interest of Rs.4.90 lakh. Besides, penalty of Rs.6.45 lakh was also leviable.

The case was reported to the Department and the Government in June 2003; their replies have not been received (December 2004)

## **2.4 Incorrect grant of exemption**

**2.4.1** Under the AGST Act, 1993, the AO may, rectify an assessment for any mistake of a factual nature apparent from the record at any time within three years from the end of the financial year in which such assessment was made. The items 'Kum kum and Bindi' were taxable with effect from 1 July 1996 at the rate of eight *per cent* at the last point of sale in the state as unclassified items. In case of default, interest at the prescribed rate is also leviable.

Test check of assessment records of the ST, Guwahati, Unit-B, revealed in October 2002 that a dealer sold 'Kumkum and Bindi', worth Rs.40.65 lakh between 1 July 1996 and 31 March 1999. But, the AO, while finalising assessments between April 1999 and August 2000 of the dealers for the years 1996-97 to 1998-99, allowed exemptions on the sales turnover of 'Kum kum and Bindi' treating these items as exempted. Thus, incorrect allowance of exemption resulted in non-levy of tax of Rs.7.02 lakh inclusive of interest of Rs.3.68 lakh upto October 2002.

After this was pointed out in audit in March 2003, the Department stated in August 2003 and February 2004 that the assessments were rectified and



demand for Rs.7.26 lakh was raised. Report on realisation is awaited (December 2004).

The matter was reported to the Government in March 2003; the reply has not been received (December 2004).

**2.4.2.** Under the Assam Industries (Sales Tax Concession) Scheme, 1995, certain eligible industrial units are exempted from payment of tax on the sale of their finished products from the date of commencement of commercial production. Eligibility certificates are issued to the industries by the Industry Department on recommendation of the District Level Committee of which the Deputy Commissioner of Taxes of the area is a member. The Commissioner of Taxes, Assam clarified in March 1996 that industries engaged in conversion of rolled paper of bigger size into plain paper of different sizes are not eligible for such exemption and the taxation department should not agree to the issuance of such certificates in District Level Committee. Paper is taxable at the rate of eight *per cent* under AGST Act, 1993, and at the rate of ten *per cent* under the CST Act, if not supported by any declaration form. Additional tax is also leviable at the rate of ten *per cent* of tax with effect from 5 June 1998. In case of default, interest is chargeable at the rate of two *per cent* per month.

Test check of assessment records of the ST, Guwahati, Unit-D revealed in June 2003 that a dealer manufactured among others cutting and sizing of paper after purchasing paper by utilising Form VII required in case of Relief Undertaking Unit for getting tax benefit. While making assessments for the year 1997-98 to 2000-2001 between February 1999 and January 2003 of the dealer being exemptee unit under Sales Tax Exemption Scheme, 1995, the assessing authority allowed exemption from payment of tax on turnover of Rs.19.44 crore being cutting and sizing of big size paper into small size as shown below which was not admissible.

(Rupees in crore)

Assessment year Date of assessment	Total turnover exempted under		Turnover relating to cutting and sizing of paper exempted		Tax effect with interest in respect of exempted turnover (interest upto 4/03)		Total tax effect with interest
	AGST Act	CST Act	AGST Act	CST Act	AGST Act	CST Act	
1997-1998 10.02.1999	6.68	0.30	2.70	0.11	0.47	0.03	0.50
1998-1999 14.06.2000	7.54	0.15	4.93	0.07	0.85	0.01	0.86
1999-2000 10.01.2003	5.49	0.25	4.50	----	0.68	--	0.68
2000-2001 10.01.2003	10.39	0.27	7.13	----	0.93	--	0.93
<b>Total:</b>	<b>31.07</b>		<b>19.44</b>				<b>2.97</b>

Thus, incorrect allowances of exemption resulted in non-levy of tax of Rs.2.97 crore including interest of Rs.1.28 crore.

The case was reported to the Department and the Government in July 2003; their replies have not been received (December 2004).

**2.4.3** Under the AGST Act, 1993, the sale of goods (other than the goods mentioned in Schedule I, II, IV and V) is taxable at the point of last sale

in the State at the rate of eight *per cent*. Dates (Pind Khajur) is not a fresh fruit but a preserved fruit and taxable at the rate of eight *per cent* at the last point of sale.

Test check of assessment records of the ST, Guwahati, Unit-A, revealed in August 2003 that while finalising the assessment of a dealer for the year 1998-99 in October 2001, the AO allowed exemption on the sale of "Dates" (Pind Khajur) valued at Rs.53.07 lakh treating the same as exempted goods. Thus, incorrect grant of exemption resulted in non-levy of tax of Rs.9.09 lakh inclusive of interest of Rs.4.84 lakh (upto January 2004).

After this was pointed out in audit in February 2004, the Department stated in July 2004 that a proposal for suo-motu revision was submitted to higher authority for re-assessment. Further outcome is awaited (December 2004).

The case was reported to the Government in March 2004; their reply is awaited (December 2004).

## **2.5 Turnover escaping assessment**

Under the AGST Act, 1993, 'Taxable turnover' in respect of works contract is determined by reducing the gross turnover by the turnover relating to declared goods and thereafter deducting the labour and other charges incurred by the dealer or at the option of the dealer. Further, the Hon'ble Supreme Court in its verdict<sup>7</sup> held that the charges towards the profit earned by the contractor to the extent related to supply of labour and services should be deducted.

Test check of assessment records of the ST, Golaghat revealed in June 2003 that the AO while finalising the assessments in March 2003/July 2002 for the year from 1998-1999 to 2000-2001 of two dealers engaged in works contract, allowed deductions of Rs.10.05 crore<sup>8</sup> instead of Rs.8.47 crore which comprised of cost of consumables Rs.0.68 crore, profit on the amount for supply of labour and services in terms of verdict of Hon'ble Supreme Court of India Rs.0.51 crore and labour and other charges Rs.7.28 crore as per annual returns and accounts of the dealer. The excess allowance of deductions led to escapement of turnover of Rs.1.58 crore and under assessment of tax of Rs.16.46 lakh.

After this was pointed out in audit in October 2003, the Department accepted the audit contention and revised the assessments in May 2004 levying tax and additional tax of Rs.60.98 lakh.

The cases were reported to the Government in October 2003; their reply is awaited (December 2004).

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<sup>7</sup> Gannon Dunkerley & Co. Ltd. v/s State of Rajasthan (1993) 88-STC 204.

<sup>8</sup> Cost of consumables – Rs.0.89 crore; gross profit – Rs.0.65 crore; labour and other charges – Rs.8.51 crore.

## 2.6 Incorrect allowance of deduction

2.6.1 Under the AGST Act, 1993, 'taxable turnover' is determined after allowing deduction of tax included in the gross turnover according to a prescribed formula. No such deduction is admissible where the turnover is exclusive of tax.

Test check of assessment records of the ST, Guwahati, Unit-B, revealed in September 2002 that the AO while finalising assessment of a dealer for the years 1997-98 and 1998-99, in March/December 2001 allowed deduction of Rs.59.35 lakh from the gross turnover of Rs.15.43 crore though the turnover was exclusive of tax element. Thus, allowance of incorrect deduction resulted in under-assessment of tax of Rs.2.37 lakh and interest of Rs.2.18 lakh.

After this was pointed out in audit in March 2003, the AO stated in January 2004 that the assessment rectified in April 2003 and the dealer was served with a demand notice for Rs.1.27 crore including interest of Rs.0.71 crore.

The case was reported to the Government in March 2003; their replies have not been received (December 2004).

2.6.2 Under the AGST Act, 1993, 'Taxable turnover' in respect of works contractor of the nature of civil works is determined after reducing the gross turnover by the turnover relating to declared goods and thereafter deducting not more than 25 per cent of the charges incurred towards labour and other charges.

Test check of assessment records of the ST, Unit-B, Guwahati, revealed in September 2002 that the AO while finalising assessments for the year 2000-2001 of two dealers engaged in civil works allowed, in February 2002, deduction aggregating to Rs.1.72 crore towards labour and other charges at the rate of 25 per cent of the gross value of works contract instead of Rs.1.25 crore arrived at after deducting the value of declared goods from the gross turnover. This resulted in escapement of turnover of Rs.46.59 lakh and under assessment of tax of Rs.3.76 lakh and interest of Rs.1.36 lakh.

After this was pointed out in audit in September 2002, the Department stated in February 2004 that the assessments had been revised and demand notices had been issued. But the dealer filed an appeal before Appellate Authority against the revised assessment. The Deputy Commissioner of Taxes (Appeal) in February 2004 stayed the realisation of taxes till final disposal of appeal petition. Final order is awaited.

## 2.7 Non / short levy of interest

Under the AGST Act, 1993, read with CST Act, 1956, if a dealer fails to pay the full amount of tax payable by him by the due date, he is liable to pay simple interest at the prescribed rate.

Test check of assessment records of five STOs<sup>9</sup> revealed that in 14 assessments of nine dealers finalised between March 1999 and March 2003 relating to the periods ending 1995-96 to 1999-2000, the AOs either failed to levy or levied short the interest amounting to Rs.3.04 crore on outstanding tax amounting to Rs.5.20 crore as detailed below:

(Rupees in lakh)

Name of the dealer/Unit	Assessment period / month of assessment	Name of the Act Tax due	Interest leviable levied	Period of interest calculation Interest not/ short levied	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
M/s Brahmaputra Iron & Steel Co. (P) Ltd./ Guwahati Unit-B	1997-98	AGST 29.29	2.34	4/01 to 7/01	After this was pointed out in audit, the Department stated in August 2003 that the assessments were rectified; and levied interest of Rs.71.09 lakh. Report on realisation is awaited (December 2004).
	March 2001		NIL	2.34	
	1998-99	AGST 24.29	3.89	12/01 to 7/02	
	December 2002		NIL	3.89	
M/s Geo Miller & Co. Ltd./ Bongaigaon	1997-98	AGST 2.45	3.33	5/98 to 12/03	After this was pointed out in audit, the Department stated in July 2004 that the dealer had made excess payment of tax of Rs.2.50 lakh in previous years. The reply is not acceptable since neither the assessment order was revised nor proof of excess payment made in earlier years was submitted (December 2004).
	March 2001		NIL	3.33	
M/s Hindustan Lever Ltd./ Guwahati Unit-D	1995-96	CST	0.99	5/96 to 7/99	The cases were reported to the Department and the Government between March 2003 and July 2003; their replies have not been received (December 2004).
	March 1999	1.26	NIL	0.99	
	1996-97	CST	248.24	5/97 to 2/00	
	March 2000	365.06	NIL	248.24	
	1999-2000	CST	3.79	5/00 to 2/03	
March 2003	5.57	0.05	3.74		
M/s Necem Cements Ltd./ Guwahati Unit-D	1998-99	AGST 62.09	59.09	Interest calculated month-wise	After this was pointed out in audit, the Department stated in July 2004 that the assessment had been rectified and raised the demand of Rs.5.35 lakh. Report on realisation is awaited (December 2004).
	December 2001		49.67	9.42	
	June 2002				
M/s Keshan Ply Industries/ Tinsukia	1996-97	AGST 3.90	5.46	5/97 to 2/03	The cases were reported to the Department and the Government between March 2003 and July 2003; their replies have not been received (December 2004).
	March 2000		NIL	5.46	
M/s ICI India Ltd./ Jorhat	1995-96	AGST	1.50	5/96 to 1/04	After being pointed out, the Department stated in July 2004 that the assessment had been rectified levying interest of Rs.6.17 lakh. Report on realisation is awaited (December 2004).
	March 1999	0.81	NIL	1.50	
	1996-97	AGST	5.11	5/97 to 1/04	
March 2000	3.15	NIL	5.11		
M/s B.L. Agarwalla /Jorhat	1997-98	AGST 5.73	7.91	5/98 to 1/04	After being pointed out, the Department stated in July 2004 that the assessment was revised and demand raised was of Rs.17.92 lakh. The dealer preferred appeal against the rectification before the Appellate Authority. Final order is awaited (December 2004).
	March 2001		NIL	7.91	

<sup>9</sup> Guwahati Unit-B, Guwahati Unit-D, Bongaigaon, Tinsukia and Jorhat

(1)	(2)	(3)	(4)	(5)	(6)
M/s Paramount Builders & Suppliers/ Jorhat	1997-98	AGST	8.98	5/98 to 1/04	After being pointed out, the Department stated in July 2004 that the assessment had been revised and raised demand of Rs.32.06 lakh. The dealer filed petition before the Appellate Authority against the rectification. Final order is awaited (December 2004)
	March 2001	6.50	NIL	8.98	
	1998-99			5/99 to 1/04	
	March 2001	AGST	2.23	2.23	
		1.95	NIL		
M/s New Medicals/ Jorhat	1997-98			5/01 to 10/01	After being pointed out, the Department stated in July 2004 that the assessment had been rectified and levied interest of Rs.1.33 lakh. The dealer preferred appeal before the Appellate Authority. Final order is awaited (December 2004).
	March 1999, March 2000	AGST	0.94	0.94	
		7.85	NIL		
<b>Total:</b>		<b>519.90</b>	<b>353.80</b>	<b>304.08</b>	
			<b>49.72</b>		

The cases were reported to the Government in between March 2003 and July 2003; their replies has not been received (December 2004).

## 2.8 Acceptance of invalid declaration Forms

2.8.1 Under the AGST Act, 1993, and Rules framed thereunder, a registered dealer may sell goods to another registered dealer free of tax or at concessional rate of tax, if such sales are supported by valid declaration in Form 'A' furnished by the purchasing dealers. Otherwise, tax is leviable at the rate of tax applicable under the Act.

The Commissioner of Taxes, Assam vide circular dated 2 February 2000, declared all the old declaration Form 'A', printed on plain paper and not used before 21 February 2000 as obsolete and invalid.

Test check of assessment records of two STOs revealed that while finalising the assessments of three dealers for the year 1999-2000 between April 2001 and February 2003, the AOs either exempted from levy of tax or levied tax at concessional rate on turnover amounting to Rs.1.05 crore supported by 41 numbers of declaration in Form 'A' which were actually invalid. Allowance of exemption from levy of tax and concessional rate of tax supported by invalid declaration Forms resulted in short levy of tax of Rs.5.58 lakh and interest of Rs.5.02 lakh as detailed below:

						(Rupees in lakh)
Name of the Unit Office Dealer	Assessment period/ Month of assessment	Turnover of invalid declaration Form	Tax leviable levied	Short levy of tax interest	Total short levy	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Barpeta Road M/s Gajanand Agency	1999-2000 April 2001	45.69	1.83 NIL	1.83 1.64	3.47	After being pointed out, the Department stated in July 2004, that the assessment was revised levying tax and interest of Rs.3.83 lakh.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Guwahati Unit-A M/s Lafarge India Pvt. Ltd	1999-2000	40.71	<u>5.37</u> 3.29	<u>2.08</u> 1.87	3.95	After being pointed out, the Department stated in July 2004 that the proposal of suo-motu revision was sent to higher Authority for re-assessment.
	August 2002					
Guwahati Unit-A M/s Luxor Writing Instrument	1999-2000	19.00	<u>1.67</u> NIL	<u>1.67</u> 1.51	3.18	After being pointed out, the Department stated in July 2004 that the assessment had been rectified. But the dealer preferred appeal before the Deputy Commissioner of Taxes (Appeal), Guwahati who stayed realisation of the demand. Final order is awaited (December 2004).
	February 2002					
		105.40		<u>5.58</u> 5.02	10.60	

2.8.2 Under the CST Act, 1956, and rules made there under, inter-state sale of goods other than declared goods to registered dealers are taxable at the concessional rate of four *per cent*, if such sales are supported by valid declaration in Form 'C' furnished by the purchasing dealers. Otherwise, tax is payable at the rate of ten *per cent* or at the rate of tax applicable whichever is higher under the State Act.

• The Commissioner of Taxes, Nagaland, Dimapur vide letter No. CT/STS/01/2001 dated 20 February 2002 intimated the Commissioner of Taxes, Assam, Guwahati that a number of series of Form 'C' and Form 'F' had been declared obsolete and invalid w.e.f. 11 June 2001. The Commissioner of Taxes, Nagaland further clarified that the said declaration Forms neither be used nor issued after 11 June 2001.

Test check of assessment records of the ST, Guwahati Unit-A revealed that the AO while finalising the assessment of a dealer for the year 2001-02, accepted three invalid declaration Form 'C' involving turnover of Rs.70.23 lakh, as these had been issued after 11 June 2001 and allowed concessional rate of tax. Acceptance of invalid declaration Forms and allowance of concessional rate thereagainst resulted in short levy of tax of Rs.4.32 lakh and interest of Rs.1.82 lakh.

After this was pointed out in audit in July 2003; the Department stated in July 2004 that the action for re-assessment was under process.

The case was reported to the Department and the Government in July 2003; their replies have not been received (December 2004).

• Test check of assessment records of the ST, Naharkatia revealed in September 2003, that while finalising assessment in July 2002 of a dealer engaged in exploration, production, selling of crude oil, LPG, etc., for the year 1999-2000, the AO levied tax at the concessional rate of four *per cent* on turnover of inter-state sales of LPG to Manipur and Nagaland amounting to Rs.4.31 crore based on two declarations in Form 'C' of Assam as submitted by

the dealer. But, the dealer was required to submit declaration Forms issued by the Sales Tax Authority of Manipur and Nagaland to the purchasing dealers in terms of provision of the Act *ibid* for availing of concessional rate. Thus, allowance of concessional rate on invalid declaration Forms led to short levy of tax of Rs.34.49 lakh and interest of Rs.32.41 lakh.

After this was pointed out in audit in December 2003, the Department accepted in April 2004 the audit contention and levied tax of Rs.34.48 lakh and interest of Rs.33.46 lakh. Report on realisation is awaited (December 2004).

## 2.9 Evasion of tax

**2.9.1** Under the AGST Act, 1993, every registered dealer is required to submit monthly statement/annual return of turnover within the prescribed date supported by a copy of the treasury challans in proof of full payment of tax due on the basis of such statement/return. In a case where a dealer fails to submit monthly statement of turnover before the due date along with payment of tax due, the AO may assess the dealer provisionally for that month to the best of his judgement and proceed to demand and collect the tax due.

Test check of assessment records of the ST, Tinsukia, revealed in March 2003 that a cement dealer neither filed monthly statements of turnover/annual return nor paid any tax for the year 1998-99. The AO did not take any initiative to assess the dealer provisionally. Meanwhile, the dealer had closed his business in April 1998 and left the State in December 1998 as reported by the Inspector of Taxes in March 2002. The assessment for the year was, however, completed on best judgement basis in March 2002 and determined turnover as 'nil'. But cross verification of assessment records of the dealer with that of another dealer registered under the Meghalaya Taxation Department revealed that the dealer had imported cement valued at Rs.79.33 lakh from a dealer of Meghalaya during 1998-99 by utilising three declaration in Form 'F' issued to him by the AO. It also transpired from the records that the dealer submitted on 26 August 2002 annual returns for the years 1999-2000 and 2000-2001 showing stock, purchase and sale as 'nil'. But the AO did not take any action to revise the assessment and collect the tax due. Thus, failure of the AO on re-assessing the dealer resulted in evasion of tax of Rs.10.47 lakh. Besides, interest of Rs.9.48 lakh (upto March 2003) and penalty of Rs.15.71 lakh leviable was also not levied.

After this was pointed out in audit in July 2003, the Department stated that due to closure of his business, the show-cause notice could not be served upon the dealer and further added that step would be taken to re-assess the dealer and to issue demand notice after ascertaining the address of the dealer. Further development is awaited (December 2004).

The case was reported to the Government in July 2003; their reply has not been received (December 2004).



**2.9.2** Under the AGST Act, 1993, and the Rules made thereunder, intermediary sale of goods mentioned in Schedule-IV of the Act are exempt from tax provided such sales are supported by declaration in Form-A obtained from the purchasing dealers and the goods so sold are purchased from within the state.

Test check of assessment records of the ST, Unit-B, Guwahati, revealed in September 2002 that a cement dealer was allowed exemption in March 2002 from payment of tax on turnover of Rs.31.60 lakh relating to the period 2000-01 on the ground that the sales were intermediary sales of goods purchased from within the State. But, scrutiny of annual returns, trading accounts etc revealed that the sales were made from the goods purchased from outside the State and not from locally purchased goods as the dealer had not purchased goods within the State during the period. Thus, improper verification of books of accounts resulted in evasion of tax of Rs.4.17 lakh. Besides, interest of Rs.1.50 lakh and penalty not exceeding Rs.6.26 lakh were also leviable.

After this was pointed out in audit in March 2003, the AO stated in August 2003 and March 2004 that the assessment had been revised and the demand notice for Rs.20.88 lakh have been issued. Report on realisation has not been received (December 2004).

**2.9.3** Under the AGST Act 1993, every registered dealer is required to file annual return of his turnover and pay the tax due thereon. As per Schedule V, supari is taxable at the rate of eight *per cent* at the point of last purchase within the state. Further, for inter-state sales of supari, not covered by the prescribed declaration as provided in the CST Act, 1956, tax is leviable at the rate of ten *per cent*.

Test check of assessment records of the ST, Guwahati, Unit-C, revealed that the AO while finalising assessment in March 2002 of a dealer for the year 1996-97 and 1997-98, accepted the dealer's return. The dealer did not disclose sale of any item under Schedule-V in his annual return. The AO also did not assess turnover in respect of any item (supari) of Schedule-V. However, cross verification of records revealed that the dealer had despatched supari valued at Rs.53.12 lakh outside the State of Assam during 1996-97 and 1997-98. Thus, due to non-verification of particulars in details at the time of assessment, the AO failed to levy tax on turnover of Rs.53.12 lakh, which resulted in evasion of tax of Rs.23.92 lakh including CST of Rs.5.31 lakh and interest of Rs.14.36 lakh (upto January 2004).

After this was pointed out in audit in August 2003, the Department stated in July 2004 that the dealer was assessed and demand of Rs.24.03 lakh including interest of Rs.17.20 lakh was raised. Report on realisation is awaited (December 2004).



### 2.10 Application of incorrect rate of tax

Under the CST Act, 1956, and rules made thereunder, inter-state sale not covered by declaration Forms (C or D) are taxable at the rate of ten *per cent* or at the rate applicable under the State Act, whichever is higher. As per the AGST Act, 1993, electronic goods, music system and colour televisions are taxable at the rate of 14 *per cent* with effect from 1 May 1997 to 6 October 1999 and thereafter at the rate of 12 *per cent* and mineral water is taxable at the rate of 12 *per cent* at the point of first sale in the State of Assam during 2001-2002.

Test check of assessment records of three STOs<sup>10</sup>, revealed in March-June 2003 that while finalising assessments of three dealers for the years 1998-99, 1999-2000 and 2000-2001, the AOs levied tax at incorrect rates resulting in short levy of tax of Rs.8.24 lakh alongwith interest of Rs.6.89 lakh as shown below:

(Rupees in lakh)

Name of Unit/ No. of dealers	Dealer's Business	Assessment year Month of assessment	Taxable turnover	Rate of tax ( <i>per cent</i> ) leviable levied	Short levy of tax	Interest	Total
Guwahati Unit-C/1	Electronic Goods	1998-99 30.03.2002	136.67	14 12	4.49	5.12	9.61
Guwahati Unit-D/1	Hair Oil, Cosmetics, etc.	1999-2000 31.03.2003	75.71	10 8	1.96	1.77	3.73
Jorhat/1	Mineral water	2001-2002 21.08.2002	34.36	13.2 8	1.79	--	1.79
			246.74		8.24	6.89	15.13

After these cases were pointed out in audit in July-August 2003, the Department stated July 2004 that in two cases the dealers were assessed and demand of Rs.14.15 lakh including interest of Rs.5.12 lakh was raised. Report on realisation has not been received (December 2004)

The cases were reported to the Government in July-August 2003; their reply has not been received (December 2004).

### 2.11 Non-levy of additional tax

Under the AGST Act 1993, every dealer who is liable to pay tax shall pay additional tax with effect from 5 June 1998 at the rate of 10 *per cent* of the tax payable by him.

Test check of assessment records of four STOs<sup>11</sup> revealed that the AOs, while finalising assessments between May 2001 and March 2003 of eight dealers relating to the assessment years 1998-99 to 2000-2001, failed to levy

<sup>10</sup> Guwahati Unit-C, Guwahati Unit-D and Jorhat.

<sup>11</sup> Jorhat, Guwahati Unit-B, Nagaon and Doomdooma

additional tax on the assessed tax of Rs.1.92 crore. This resulted in non-levy of additional tax of Rs.18.66 lakh alongwith interest of Rs.15.37 lakh.

After these cases were pointed out in audit, the Department stated between February 2004 and July 2004 that the assessments in respect of seven dealers had been revised and demands for Rs.20.80 lakh including interest of Rs.9.07 lakh had been raised. But, out of them one dealer filed an appeal before appellate authority against the revised assessment. The appellate authority directed the dealer to deposit Rs.0.50 lakh in the treasury which was deposited by the dealer on 25 August 2003. The realisation of balance amount of demanded taxes was stayed till disposal of appeal petitions. Final order is awaited. In case of another dealer, Rs.0.47 lakh was adjusted from the additional tax deposited by him, which was not taken into account during assessment.

## **2.12 Internal Audit System**

Internal Audit in Sales Tax Department was introduced in June 1988. During 2003-2004, internal audit was conducted in nine units as against annual coverage of 45 units and 188 numbers of observations involving Rs.1.06 crore were raised through nine audit notes. There was shortfall of coverage of 36 units which was attributed to shortage of staff by the Department.

78 audit notes containing 741 paragraphs involving Rs.3.62 crore were outstanding as on 31 March 2004, out of which 23 numbers of audit notes were outstanding for more than 5 years. Reason for huge pendency and slow progress in disposal was attributed to shortage of staff in the Internal Audit Wing (September 2004).

## CHAPTER – III : STATE EXCISE

### 3.1 Results of Audit

Test check of records of the State Excise offices, conducted in audit during the year 2003-2004 revealed short/non-realisation of excise duty, non-realisation of gallonage fee, etc. amounting to Rs.6.55 crore in 61 cases under the following categories :

(Rupees in crore)

Sl. No.	Particulars	No. of cases	Amount
1	Short/non-realisation of excise duty	5	3.71
2	Excess allowance of godown loss	5	0.09
3	Non-realisation of excise duty due to warehouse going dry	3	0.19
4	Non-realisation of annual licence fee	3	0.01
5	Non-realisation of gallonage fee	4	0.07
6	Other lapses	41	2.48
<b>Total :</b>		<b>61</b>	<b>6.55</b>

The Department accepted 19 cases of observations involving Rs.0.44 crore during 2003-2004 and recovered Rs.0.03 crore in 4 cases for the year 2003-2004 and Rs.0.12 crore in 9 cases prior to 2003-2004 during the year. A few illustrative cases highlighting important audit observations involving Rs.0.11 crore are mentioned in the following paragraphs :

### **3.2 Loss of revenue due to warehouse going dry**

The Assam Excise Rules, 1945 makes it mandatory for the licence holder to maintain such minimum stock of spirit in the warehouse as may be fixed by the Excise Commissioner from time to time. The contractor shall be liable to compensate any loss to Government revenue which may be incurred owing to his failure to maintain adequate stock. According to provision under NE Region Excise Manual, Excise officer in charge shall submit a weekly return to the Superintendent of the concerned distillery showing the balance of the spirits in hand. In case, stock at the warehouse is likely to fall or falls below the minimum stock, the officer-in-charge shall inform in due time and if necessary wire to the distillery which supplies spirit for fresh supply till the arrival of the new consignment.

Test check of records maintained by the Superintendent of Excise (SE), Tezpur revealed in March 2003 that the stock of country spirit declined to zero in the case of Tezpur Excise Warehouse for periods ranging between 8 and 85 days from April 2002 to February 2003. However, the licensee and the Department failed either to maintain minimum stock of spirit or enforce the supplier licensee for uninterrupted supply of spirit.

Thus, the Government had to forego revenue of Rs.8.66 lakh on account of excise duty and vend fee calculated on the basis of average sales during the preceeding six months prior to November 2002.

Matter was reported to the Department and the Government in May 2003; their replies have not been received (December 2004).

### **3.3 Non-realisation of establishment charges**

The Assam Bonded Warehouse Rules, 1965 provides that the licensee of a warehouse shall pay to the Government at the end of each calendar month such establishment charges as may be determined from time to time by the CE in respect of the Excise Officer(s) and establishment deployed in the warehouse.

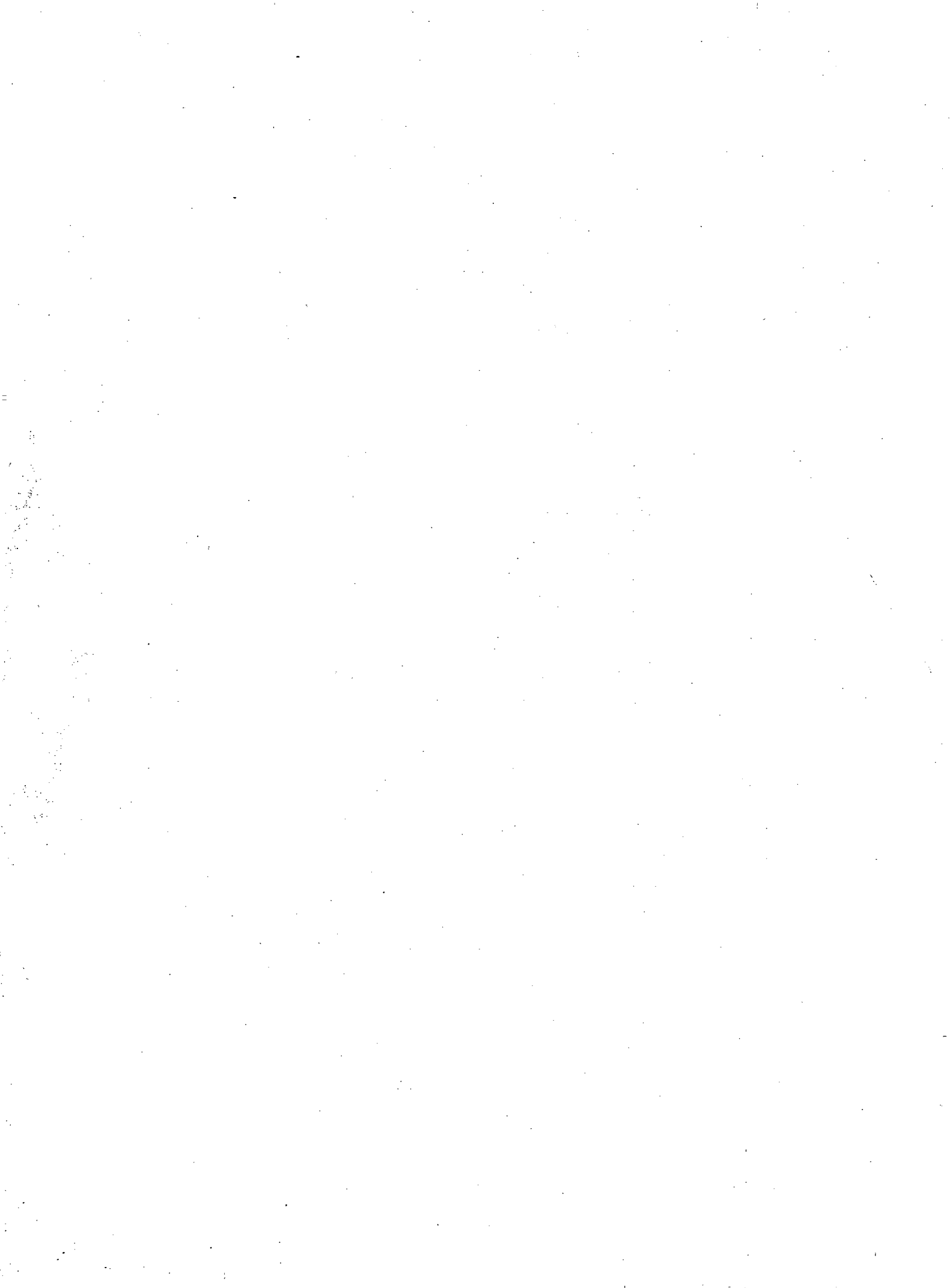
Under Section 29 of the Assam Excise Act, 1910, and provisions under the Assam Bonded Warehouse Rules, 1965, the license of a bonded warehouse may be cancelled or suspended by the CE if any duty or fee payable by the license holder is not duly paid.

Test check of records in February 2003 and January 2004 of the SE, Karimganj, revealed that M/s Surma Bonded Warehouse did not pay establishment charges amounting to Rs. 2.76 lakh in respect of officials deployed during the period from 1 September 2001 to 31 March 2003. The SE, Karimganj neither issued any demand notice to the licensee nor took any step for cancellation/suspension of the license for non-payment of the Government dues in terms of the provision of Act/Rules *ibid*. However, in December 2003, the DC, Karimganj asked the licensee to explain as to why

his license should not be cancelled for non-payment of dues. While accepting the fact, the SE, Karimganj stated in June 2004 that the licensee was directed to deposit the amount due to Government. Further report is awaited (December 2004).

Thus, due to inadequate action of the Department on recovering the dues, revenue to the tune of Rs.2.76 lakh remained unrealised as of December 2004.

The case was reported to the Department and the Government between September 2002 and May 2004; their replies have not been received (December 2004).



## CHAPTER - IV : OTHER TAX RECEIPTS

### 4.1 Results of Audit

Test check of assessment records of the offices dealing with the following revenue receipts during 2003-04 disclosed variation in value of land, non-levy/non-realisation of professional tax, short levy of tax on specified lands, short/non-realisation of motor vehicle tax, etc. amounting to Rs.162.50 crore in 135 cases under the following categories:

(Rupees in crore)

Sl. No.	Particulars	No. of cases	Amount
1.	Stamps and Registration Fees	21	0.78
2.	Professional Tax	7	0.07
3.	Taxes on Specified Land	1	0.01
4.	Taxes on Motor Vehicles	105	4.18
5.	<b>Review on Stamp Duty</b>	1	157.46
	<b>Total:</b>	<b>135</b>	<b>162.50</b>

The Department accepted 22 cases of observations involving Rs.52.08 lakh during 2003-2004 and recovered Rs.2.00 lakh in 4 cases for the year 2003-2004 and Rs.13.96 lakh in 17 cases prior to 2003-2004 during the year. A few illustrative cases involving Rs.7.42 lakh and a review on **Stamp Duty**, involving financial effect of Rs.157.46 crore are mentioned in the following paragraphs :

## 4.2 Review on Stamp Duty

### Highlights

- There was short supply of stamps valued Rs.404.75 crore compared to indents for the state for the years 1997-98 to 2002-2003

(Paragraph 4.2.5)

- Between 1993-94 and 2002-2003, Stamps valued Rs.5.09 crore were found registered with the sub-registries in excess over the value of stamps sold from the concerned treasuries in six test checked districts.

(Paragraph 4.2.7)

- Control of the Authorities over the activities of the vendors was completely lacking in the State.

(Paragraph 4.2.8)

- There was a loss of stamps worth Rs.146.66 crore in transit in two treasuries (Kamrup and Nagaon) during the period 1993-94 to 2002-03.

(Paragraph 4.2.10)

- Stamps worth Rs.10.80 crore received from CSSD, Nasik without any indent at Nagaon Treasury were lying idle for 4 years ending June 2004.

(Paragraph 4.2.11)

### Introduction

4.2.1 Indian Stamp Act 1899, as applicable to Assam, lays down various provisions for levy of stamp duties on registration of different categories of instruments. Stamps are sold by licensed vendors and treasuries. In the state, the Superintendent of Stamps (SOS), Assam, Guwahati, places annual indents for all categories of stamps with the Central Stamp Store Depot (CSSD), Nasik, as per demands of all the 24 treasuries in the state. Of the 24 treasuries, seven<sup>1</sup> treasuries have been categorized as nodal treasuries grouping 17 other treasuries under the respective nodal treasury. These seven nodal treasuries submit consolidated demands of all the treasuries under them to SOS and

<sup>1</sup> Bongaigaon, Kamrup (Guwahati), Sonitpur (Tezpur), Jorhat, Tinsukia, Cachar (Silchar) and Nagaon.



receive the stamps from CSSD. However, all the consignments are received initially in Kamrup Treasury and six other nodal treasuries collect their respective consignments in boxes from the said treasury after due verification. On receipt of consignments, each nodal treasury distributes sealed packets of stamps as contained in consignment to the respective treasuries under its group. Stamps having denomination upto Rs.2,000 are sold by the treasuries to the licensed vendors collecting the sale value through treasury challans. Stamps exceeding denomination of Rs.2,000 are sold to individuals obtaining proceeds through treasury challans. Licensed vendors are appointed by the Deputy Commissioners of the respective districts. All the treasuries including vendors are responsible for accounting of receipt, issue and sale of stamps.

#### **Organisational Set-up**

**4.2.2** Director of Land Revenue, Assam, is the ex-officio Superintendent of Stamps, Assam. He is assisted by 24 Treasury Officers of the districts regarding procurement, receipt, issue and sale of stamps. Deputy Commissioner(s) of the district(s) are responsible for issue of licenses to the vendors and exercising necessary control over their activities. Different categories of instruments are registered in 71 Sub-Registrar's office in the state including one Senior Sub-Registrar's office at Guwahati.

#### **Audit Objectives**

**4.2.3** Detailed scrutiny of records maintained in the offices of the Superintendent of Stamps, Assam, Guwahati, Treasury Officer, Deputy Commissioner and Senior Sub/ Sub-Registrar of the selected districts in respect of procurement, receipt, issue, sale and utilisation of stamps for the period 1993-94 to 2002-2003 were examined with a view to-

- ascertain how demand for supply of stamps were projected and budget estimates in respect of revenues from stamp duty were prepared ;
- ascertain whether action was taken to ensure adequate supply of stamp papers to/from various treasuries ;
- examine flaws in the system of assessment of requirement, indenting, accountal of stock, sale, etc ;
- analyse trends in activities, which required stamp paper, specially in the housing sector ; and
- ascertain leakage of revenue under stamp duty.

**Scope of Audit**

**4.2.4** Records maintained in the Office of the Deputy Commissioner (DC), Treasury Officer (TO) and Senior Sub- Registrar / Sub-Registrar of eight<sup>2</sup> districts out of total 24 districts in the state for the period 1993-94 to 2003-2004 were selected for test check.

**Projection of demand for supply of stamps**

**4.2.5** As per Assam Stamp Manual, 1944, the CSSD, Nasik, shall regulate the supply of stamps to the State Government. The State Government is required to send a consolidated annual forecast of demand for stamp to the CSSD for providing adequate stock of materials to the printing press. The forecast shall show in separate columns for each denomination of stamps (whether a supply is required or not) the actual issues during each of the preceding three years, the average annual consumption based on the issues of the preceding three years, the balance in hand on 1 April of the year, the estimated issues for the current financial year and the forecasts of stamps which the central stamp store will be required to supply during the ensuing year.

The position of annual demand for stamp, placement of indent for the state to CSSD and receipt of stamps thereagainst as per information available from CSSD, Nasik for the years 1997-98 to 2002-2003 are shown below:

(Rupees in crore)

Year	Annual forecast for stamps sent to CSSD, Nasik by the department	Indent for stamps placed by the State as per CSSD	Percentage variation (Excess (+)/ Less (-)) between Col. (2) & (3)	Supply of stamps by CSSD	Percentage variation (Excess (+)/ Less (-)) between Col. (3) & (5)
(1)	(2)	(3)	(4)	(5)	(6)
1997-1998	69.17	73.99	(+) 7	43.77	(-) 41
1998-1999	105.12	66.62	(-) 37	13.84	(-) 79
1999-2000	73.65	87.76	(+) 19	26.95	(-) 69
2000-2001	177.20	39.09	(-) 78	18.70	(-) 52
2001-2002	187.35	160.39	(-) 14	0.00	(-) 100
2002-2003	62.56	162.36	(+) 160	82.20	(-) 49
<b>Total:</b>	<b>675.05</b>	<b>590.21</b>		<b>185.46</b>	<b>(-) 69</b>

- The SOS, Assam did not furnish figures for annual forecast for stamps for the years 1993-94 to 1996-97. The Department also did not furnish figures for indents for stamps placed with the CSSD, Nasik and receipts thereagainst during 1993-94 to 2002-2003 for the State as a whole. As a result, variation, if any, between the departmental figure with that of figures available from

<sup>2</sup> Kamrup (Guwahati), Jorhat, Bongaigaon, Sonitpur, Tinsukia, Nagaon, Golaghat and Morigaon

CSSD, Nasik in respect of annual forecast, indent and receipt of stamps for the years 1997-98 to 2002-2003 could not be ascertained in audit.

• There were wide variation between the annual forecast for stamps and indents placed by the state as per information available from CSSD, Nasik which ranged between (-) 14 to (+) 160 *per cent* during 1997-98 to 2002-2003. This indicates that annual forecast was not made on realistic basis. Even there was overall short supply of stamps by (-) 69 *per cent* compared to indents placed by the state as per CSSD which worked out to Rs.404.75 crore (Rs.590.21 – Rs.185.46 crore) for the year 1997-98 to 2002-2003. This is indicative of the fact that indents were also not placed considering the actual requirement for stamps in the state during 1997-98 to 2002-2003. The Department also neither pursued the matter regarding short supply with the CSSD, Nasik nor cancelled the concerned indent related to short supply resulting in unnecessary piling up of demands for stamps with the CSSD, Nasik.

#### ***Injudicious procurement of stamps***

**4.2.6** Under provisions of Supply and Distribution of Stamps Rules, all the treasuries (local depot) are required to send indents for all categories of stamps for the year to the CSSD, Nasik on quarterly basis (15<sup>th</sup> of December, March, June and September of the year) which shall be prepared based on three months estimated consumption.

Test check of records in the office of the SOS, Assam, Treasury Officers (TO) and Sub-Registrars in the eight test checked districts revealed the position of indent for NJ Stamps placed to CSSD, Nasik, stamps received, stamps sold/issued by the treasuries and value of stamps used during registering of documents during 1993-94 to 2002-2003 as shown below:

(Rupees in crore)

Year	Value of NJ stamp indented	Opening balance	Stamp received from CSSD	Value of NJ stamp sold	Closing balance	Value of stamp paper used during registering of documents	Percentage of under utilisation (+) or excess utilisation (-) in use over stamp sold
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1993-1994	46.49	NA	11.93	4.17	7.76	2.81	(+) 33
1994-1995	64.94	7.76	4.94	4.63	8.07	4.06	(+) 12
1995-1996	71.35	8.07	82.29	9.04	81.32	4.62	(+) 49
1996-1997	53.01	81.32	33.56	6.05	108.83	6.26	(-) 3
1997-1998	36.81	108.83	36.03	10.25	134.61	6.89	(+) 33
1998-1999	15.61	134.61	16.45	13.18	137.88	7.56	(+) 43
1999-2000	28.88	137.88	15.57	22.38	131.07	10.46	(+) 53
2000-2001	51.78	131.07	19.92	16.67	134.32	15.84	(+) 5
2001-2002	80.66	134.32	6.01	19.36	120.97	12.63	(+) 35
2002-2003	110.74	120.97	25.29	21.36	124.90	14.60	(+) 32

From the table it is clear that every year the treasuries were indenting huge quantity of stamps far in excess of what was required. This was not necessary since the closing balances were more than adequate to meet the requirement.

**Trend of utilisation of NJ stamps**

4.2.7 As detailed in the table above, between 1993-94 and 2002-03 as against sale of stamps valued at Rs.127.09 crore in eight treasuries as test checked, stamp papers of Rs. 85.73 crore were utilised on documents registered in 29 sub-registrars office of eight districts. Under utilisation of stamp papers with reference to sales by the treasuries ranged between five and 53 per cent (Col 8 of the table above) during 1993-94 to 2002-2003, whereas during 1996-97, there was excess utilisation of stamps by three per cent over the issue.

• In six districts<sup>3</sup> as test checked, stamps valued Rs.5.09 crore were utilised in the districts over the value of stamps sold from the concerned treasuries between 1993-94 to 2002-2003 as shown below:

(Rupees in lakh)

Name of the district/treasury and year	Value of stamp paper on registered documents	Value of stamps sold by treasury	Value of excess utilisation of stamps
<b>Kamrup</b>			
2000-2001	1,141.20	864.31	276.89
<b>Nagaon</b>			
1993-1994	97.66	35.50	62.16
1994-1995	99.37	69.10	30.27
1996-1997	78.20	77.57	0.63
1999-2000	157.77	135.22	22.55
2001-2002	167.19	153.81	13.38
2002-2003	172.87	168.84	4.03
<b>Morigaon</b>			
1993-1994	7.49	0.69	6.80
1994-1995	8.38	4.98	3.40
1995-1996	8.16	1.38	6.77
1996-1997	7.08	5.76	1.32
1997-1998	8.34	5.65	2.69
1998-1999	12.10	10.32	1.78
1999-2000	12.21	4.84	7.38
2000-2001	12.69	11.80	0.89
<b>Golaghat</b>			
1996-1997	77.41	22.94	54.47
2001-2002	43.36	38.45	4.91
<b>Jorhat</b>			
1993-1994	41.10	33.93	7.17
1996-1997	52.89	52.33	0.56
<b>Bongaigaon</b>			
1995-1996	24.19	23.00	1.19
<b>Grand Total:</b>	<b>2,229.66</b>	<b>1,720.42</b>	<b>509.24</b>

In the absence of any system of reconciliation between the Sub-Registrar's office and the treasury, reasons for such wide variation and source of procurement of excess stamp papers so utilised could not be examined in audit. In reply to an audit query, SOS, Assam stated that variation between the treasury sale of stamps with those used for registration of documents could

<sup>3</sup> Kamrup, Nagaon, Morigaon, Golaghat, Jorhat and Bongaigaon.

be there since there was no bar on use of stamps outside the district. In addition, there was no validity period prescribed for use of stamps. So, stamps purchased in earlier years or in other districts could be used in the later years by the parties. But fact remains that steps were not taken to ascertain the actual reason for such variation.

***Absence of control over the activities of vendors***

**4.2.8** Indian Stamp Act, 1899 empowered the State Government to make rules for regulating inter alia, the persons by whom alone such sale of stamps is to be conducted. With this delegated power, the District officers in Assam issue licence to vendors for sale of stamps under certain terms and conditions. As per terms and conditions of licence issued to the vendors, they are required to maintain Sale Register of Stamp, where in, the concerned vendor shall record details of sales such as serial number of stamp paper, date of sale, name and address of purchaser and the value of stamp sold. The vendor, shall, in the beginning of the year, and subsequently in every three months, submit the register to the District officer/sub-divisional officer concerned for the purpose of being examined or signed by the Authority concerned. At the end of the year, the vendor shall have to deposit the register to the Authority concerned for record. Each vendor is required to note on the back of every stamp embossed or engraved on the stamp paper the serial number, the date of sale, name and address of the purchaser, the value of stamp in full in words and affix his signature thereon. The terms and conditions also envisage that the vendor shall maintain and render such accounts as may be prescribed by the local government. The District Officer or any officer duly authorised by such district officer or by the local government may inspect such account/sale register and may also examine the stock of stamps.

Test-check of records of the Sub-Registrars and District Officers in the eight districts revealed that the above terms and conditions were neither adhered to by the vendors nor by the District officers as detailed below:

- As per information furnished by the Branch officer, Personal branch of the Deputy Commissioner in eight districts, vendors did not maintain sale register of stamps and submit the same containing details of sales made by the vendor concerned during a financial year to the District officer concerned. Thus, sale of stamps made by the vendor during the period under review could not be ascertained in audit.
- Details of sales including other particulars required to be noted on the back of the stamp papers were not recorded by the vendors. The stamp paper contained only the initial and date of sale and that too were illegible in majority of the cases. In the absence of the clarity of the facts of sale in the used stamp paper, chances of fake use of stamp paper could not be ruled out.



• The District officers of eight Districts never inspected the accounts or examined the stock of stamps, as envisaged, of any of the licensed vendors of the district. Sub-Registrars and Treasury officers never received any list of Licensed vendors from the License Issuing Authority (DC). Thus, control over the activities of the vendors by the District Authority/Registering Authority was absent.

#### ***Purchase of Insurance Policy Stamps from unregistered vendor***

**4.2.9** Licenses for stamp vending are granted under Stamp Rules which are of statutory nature.

As per information available, Life Insurance Corporation of India, Jorhat purchased Insurance Policy Stamps valued at Rs.10 lakh in February 1995 and June 1995 from M/s Stampex (India), Jamshedpur. But, license for stamp vending was neither granted by the Authority concerned in Assam nor in Bihar in favour of the above mentioned firm. Instead, licenses were issued in favour of two individuals who were the partners of M/s Stampex (India), Jamshedpur. Thus, both purchase and sale of Insurance Policy Stamp by the unregistered vendor were irregular.

#### ***Short receipt/loss of stamps in transit***

**4.2.10** As per Assam Stamp Manual, 1944 as amended from time to time, once stamps are dispatched from CSSD, Nasik it becomes property of the State and any loss in transit is to be dealt with by the State Government concerned with the Railway Authority for recovery etc. under the provision of the Railway Amendment Act, 1989. The Rule stipulates that compensation from Railway Authority for the loss, destruction, damage, deterioration or non-delivery of goods may be claimed by serving a notice within a period of six months from the date of entrustment of goods in the prescribed proforma -

(a) to the railway administration to which goods were entrusted for carriage; or

(b) to the railway administration on whose railway the destination station lies, or the loss, destruction, damage or deterioration occurred.

Scrutiny revealed short receipt/transit loss of stamps worth Rs.146.66 crore in Nagaon and Kamrup Treasury as shown in the table below:

Sl. No.	Name of the Treasury	Indent for stamps placed to CSSD, Nasik with category of stamps	Actual receipt of stamps from CSSD, Nasik by the treasury	Transit loss (short receipt) of stamps and value involved	Period	Remarks
1.	Nagaon	70,000 sheets of "Non-Judicial Impress Stamps"	38,478 sheets	31,522 sheets worth Rs.1.52 crore	1995-96 & 1996-97	Compensation claim was not directly taken up with Railway Authority by the T.O. No complaint was also lodged with RPA. Matter lying unsettled.
2.	Kamrup	28,000 sheets of India Special Adhesive stamp & Share Transfer Stamps	16,000 sheets	12,000 sheets worth Rs.8 crore (share transfer stamps)	1997-98	TO submitted compensation claim in June 1999. Due to lack of persuasion, the matter remained unsettled.
3.	Kamrup	Insurance Policy stamps worth Rs.141.76 crore	Stamps worth Rs.29.60 crore	Stamps worth Rs.112.16 crore	1993-94 to 2002-03	Matter was taken up with both Rly. Authority and CSSD, Nasik. Due to lack of persuasion, it remained unsettled.
4.	Kamrup	Share Transfer Stamps worth Rs.45.70 crore	Stamps worth Rs.19.92 crore	Stamps worth Rs.25.38 crore (Rs.0.40 crore included in Col.5 of Sl.2 above)	1993-94 to 2002-03	Matter was taken up with both Rly. Authority and CSSD, Nasik. Due to lack of persuasion, the matter remained unsettled.

On 24 June and 26 June 1993, CSSD, Nasik despatched two consignments of 70,000 sheets of "Non-Judicial Impress Stamps" having denominations of Rs.100 and Rs.500 to the Nagaon Treasury. The Railway Authority at Guwahati delivered them in July 1995 and November 1996, 38,478 sheets of stamps, the balance 31,522 sheets of stamps worth Rs.1.52 crore remained undelivered till June 2004. The TO, Nagaon reported the matter to the Controller of Stamps, Mumbai, who in turn informed the matter to NF Railways, Maligaon. But, the TO concerned did neither lodge any complaint with Railway Police Authority (RPA) nor claimed compensation with the Railway as per rule. Due to lack of proper action on the part of TO, the State Government sustained loss of revenue to the tune of Rs.1.52 crore.

Similarly, against two invoices of December 1997, CSSD, Nasik despatched one consignment to Kamrup Treasury in December 1997 containing 28,000 sheets of stamps of various denominations worth Rs.16.24 crore. Out of this, the Railway Authority at Guwahati did not deliver 12,000 sheets of stamps worth Rs.8 crore for which Kamrup Treasury claimed compensation from Railway Authority once in June 1999. Thereafter due to non persuasion of the case, the matter remained unsettled (August 2004) resulting in a loss of revenue of Rs.8 crore.

As per information furnished, the TO, Kamrup Treasury placed indent for "Insurance Policy Stamps" for Rs.141.75 crore with the CSSD, Nasik, during 1993-94 to 2002-2003. Out of this, the treasury received stamps worth Rs.29.59 crore during the years. Although, the matter relating to short receipt of stamps worth Rs.112.16 crore was stated to have been taken up with the Railway Authorities and CSSD, Nasik, no complaint was found to have

been lodged with RPA. Non-persuasion of the matter, thus led to loss of revenue to the tune of Rs.112.16 crore.

• Again, as against indent for “Share Transfer Stamps” worth Rs.45.70 crore during 1993-94 to 1999-2000, Kamrup Treasury received stamps worth Rs.19.92 crore from CSSD, Nasik during the years. While, the matter was taken up with the Railway Authority and CSSD, Nasik, no complaint was found to have been lodged with RPA. Lack of adequate action on the part of the TO and the Department concerned, thus led to loss of Rs.25.38<sup>4</sup> crore.

#### ***Receipt of Stamps from CSSD, Nasik without any indent***

**4.2.11** As per circular dated July 1983 issued by CSSD, Nasik all the treasuries (local depot) are required to send indents for all categories of stamps for the year to CSSD, Nasik on quarterly basis i.e. on 15 of December, March, June and September of the year.

As recorded, the TO, Nagaon received a consignment of “Share Transfer Stamps” of 4,000 sheets worth Rs.10.80 crore in June 2000 as per their indent for July – September 1999 as communicated by CSSD, Nasik in their invoice of July 1999. But, in November 2001, the TO, Nagaon intimated the SOS, Assam that no indent was placed for supply of such stamps with the CSSD, Nasik during July – September 1999 quarter. In the meantime, the SOS, Assam, made payment to CSSD Nasik, against the above consignment without verifying the relevant indent. Stamps worth Rs.10.80 crore, thus, remained unused till June 2001.

As the TO, Nagaon did not place any indent, the receipt of the consignment and retention of the quantity in hand was not only irregular but also unjustified. The TO did not take up the matter with the CSSD, Nasik. Due to inaction of the TO, stamps worth Rs.10.80 crore were lying idle for 4 years ending June 2004 which was highly irregular.

#### ***Recommendations***

**4.2.12** Absence of adequate monitoring by the Department with regard to projection for demand, placement or indent and utilisation of Stamp Papers, gave rise to several shortcomings and irregularities as mentioned in the foregoing paragraphs. Adequate control over the activities of the vendors was completely absent in the State. As a result, possibilities of using fake Stamp Papers and consequent loss of revenue could not be ruled out.

The State Government may consider taking following steps in consultation with the Union Government, where necessary, to improve the system of procurement, utilisation and sale of Stamp Papers in the State.

<sup>4</sup> Rs.0.40 crore included in Col 5 of Sl.2 of the table of the Para 4.2.10

- The procedure for procurement of stamps need to be streamlined. The past trend of utilisation and the closing stock should be taken into account at the time of indenting.
- It may be ensured that compensation from Railway Authority for transit loss is claimed within a period of six months from the date of entrustment of goods as provided in Assam Stamp Manual and pursued at regular intervals till settlement of the claim.
- System of reconciliation between issue of stamp papers by the treasury and their utilisation during registration with the Registering Authorities may be adopted.
- Adequate steps as envisaged by the acts and rule should be taken for maintenance of proper sale records by vendors and their submission to Authorities concerned be ensured.
- In order to avoid leakage of revenue, all Stamp Papers sold by the treasuries should contain the serial number, date of sale, name of the vendor/individual along with signature with seal of the issuing authorities.

Matters were reported to the Department and the Government in July and September 2004; replies have not been received (December 2004).

## A. PROFESSIONAL TAX

### 4.3 Non-realisation of professional tax

Under the Assam Professions, Trades, Callings and Employments Taxation Act, 1947, every person who carries on a trade, or who follows a profession or calling, or who is in employment, within the State is liable to pay for each financial year a tax at the prescribed rates. Further, as amended from April 1992, if a non- Government employer or enrolled person fails to pay tax within due date, he shall be liable to pay simple interest at the rate of two *per cent* of the amount due for each month or part thereof for the period for which the tax remains unpaid.

Test check of assessment records of the Superintendent of Taxes (ST), Golaghat revealed in August 2001 that in eight cases the Assessing Officer (AO) did not levy professional tax of Rs.1.12 lakh including the interest of Rs.0.58 lakh for non-payment for the period from 1998-99 to 2000-2001.

The matter was reported to the Department and the Government in March 2002; their replies have not been received (December 2004).

## B. TAXES ON SPECIFIED LAND

### 4.4 Application of lower rate of tax

Under the Assam Taxation (on specified lands) Act, 1990, Government of Assam enhanced the rate of tax from 27 paise to 29 paise per kg on tea with effect from 1 April 1998, in respect of specified lands exceeding forty hectares in the Barak valley.

Test check of assessment records of the ST, Silchar revealed that while finalising assessments of two dealers for the year 1998 between September 2000 and February 2002, the AO levied tax at the rate of 27 paise instead of 29 paise per kg on 59.50 lakh kg of tea produced from 1 April 1998 to 31 December 1998. This resulted in short levy of tax of Rs.1.19 lakh.

The matter was reported to the Department and the Government in July 2003; their replies have not been received (December 2004).

## C. TAXES ON MOTOR VEHICLES

### 4.5 Short realisation of tax

Rates of one time payment of road tax in respect of two / four wheelers was revised vide Assam Government notification dated 9 May 2002.

The rates of two wheelers having unladen weight of 65 to 90 kgs and 90 to 135 kgs were revised to Rs.2,500/- and Rs.3,500/- respectively and revised rates from two to seven *per cent* were chargeable on the original cost of the four wheelers as per slabs prescribed in the notification *ibid*.

Test check of records of the District Transport Officer (DTO), Kamrup revealed in January 2003 that during May and June 2002, the Department levied tax on 157 two wheelers and 6 four wheelers at the pre-revised rates instead of the prescribed revised rate. This resulted in short realisation of road tax of Rs.2.60 lakh.

The matter was reported to the Department and Government in April 2003; their replies have not been received (December 2004).

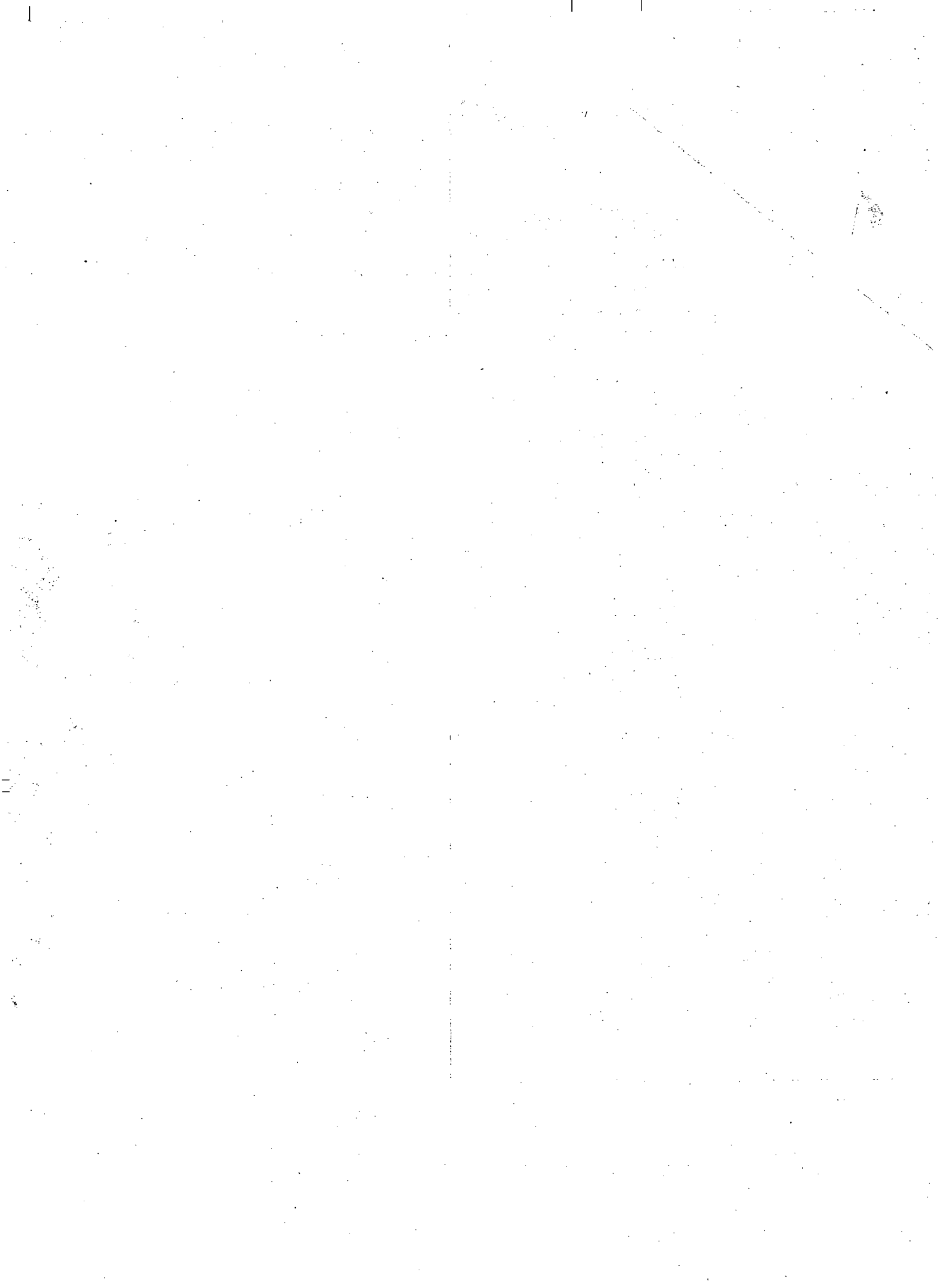
### 4.6 Short levy of tax

Under the provision of Assam Passengers and Goods (APG) Taxation Act, 1962, owners of vehicles holding permits for carriage of goods and passengers are to pay A.P.G. Tax on lump sum rates. The rates effective from 15 November 2001 were revised on 7 November 2001. The rates for truck, mini truck and bus were raised to Rs.804, Rs.550 and Rs.585 respectively from Rs.250, Rs.110 and Rs.195 respectively.

Test check of records of the DTO, Dhubri revealed in January 2003 that the Department levied pre-revised rates on 454 vehicles instead of revised rates during the period 15 November 2001 to 24 November 2001. The application of incorrect rates resulted in short realisation of tax of Rs.2.51 lakh.

The matter was reported to the Department and Government in March 2003; their replies have not been received (December 2004).





## CHAPTER – V : NON-TAX RECEIPTS

### 5.1 Results of Audit

Test check of assessment records in the offices dealing with the following revenue receipts during 2003-2004 revealed non-payment of royalty on sand/stone/limestone/natural gas, locking up of revenue, etc. amounting to Rs.243.62 crore in 98 cases, which fall into the following categories :

(Rupees in crore)

Sl. No.	Particulars	No. of cases	Amount
1.	Mines and Mineral Receipts	3	0.03
2.	Forest Receipts	94	34.25
3.	<b>Review on Receipts from Mines and Minerals</b>	1	209.34
	<b>Total:</b>	<b>98</b>	<b>243.62</b>

During the year, the Department has accepted Rs.50.98 crore in 3 cases which had been pointed out during 2001-2002.

A few illustrative cases involving Rs.8.27 lakh and a review on Receipts from **Mines and Minerals**, involving financial effect of Rs.209.34 crore are mentioned in the following paragraphs:

## A. GEOLOGY AND MINING

### 5.2 Review on Receipts from Mines and Minerals

#### Highlights

- Non-payment of royalty on the crude oil extracted by Oil and Natural Gas Corporation Limited (ONGCL) and Oil India Limited (OIL) during 1999-2000 to 2001-2002 as reflected in Indian Mineral Year Book against production shown in the returns to the State Government resulted in short receipt of revenue of Rs.35.28 crore.

(Paragraph 5.2.6)

- Adoption of incorrect formula by OIL for determining royalty payable on natural gas during 2001-2002 and 2002-2003 led to short payment of royalty of Rs.23.56 crore.

(Paragraph 5.2.7)

- Royalty to the tune of Rs.46.09 crore on crude oil extracted by OIL and ONGCL between December 1999 and March 2003 was lying outstanding for payment. The units were also liable to pay additional amount of Rs.86.25 crore for non-payment of royalty within specified period.

(Paragraph 5.2.8)

- Three units did not pay royalty to the tune of Rs.1.78 crore on coal extracted during 1998-99 to 2002-2003. The Department also did not levy interest of Rs.0.63 crore for non-payment of royalty in time.

(Paragraph 5.2.9)

- Government sustained loss of revenue to the tune of Rs.15.64 crore due to transportation loss of crude oil and excess utilisation of gas during mining operation.

(Paragraph 5.2.10)

#### Introduction

5.2.1 The extraction of minerals is governed by the Mines and Minerals (Development and Regulation) Act, 1957 (a Central Act), the Minerals Concession Rules, 1960, Petroleum and Natural Gas Rules, 1959 and Assam Minor Minerals Concession (Regulation and Development) Act, 1948. Coal, Crude Oil and Natural Gas are the major minerals. Limestone and boulders,

shingles, sand stone, stone dust etc., are the minor minerals available in the State of Assam. Production and Mining of Coal is governed by the Coal Mines (Nationalisation) Act, 1973, and other minerals are regulated under the provisions of Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rule, 1960. The Geology and Mining Department of the Government of Assam realises revenue from mines and minerals, which consists of royalty, dead rent, surface-rent, licence fees etc. from different units operating in the state.

#### ***Organisational Set up***

**5.2.2** The Director is the head of the Geology and Mining Department, Assam, who is assisted by four Joint Directors, one Deputy Director, one Chief Geologist, four Senior Geologists, one Senior Drilling Engineer, 16 Geologists (including one Resident Geologist at Dibrugarh), one Deputy Chief Chemist, one Mining Engineer, two Senior Chemists and 38 other technical personnel.

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

**5.2.3** Detailed scrutiny of records maintained in the office of the Director, Geology and Mining Department in respect of seven out of eight units holding licences and mining lease for exploration and extraction of Crude Oil, Natural Gas, Coal, Limestone and Sand Stone for the period 1998-99 to 2002-2003 was conducted by audit during October-November 2003.

#### ***Audit objectives***

**5.2.4** A review was conducted with a view to -

- assess the correctness of payment of royalty on crude oil, natural gas, coal etc. to the State Government by various units ;
- detect incorrect reporting of collection/removal of coal/crude oil/ natural gas and limestone and failure in observance of norms laid down by the Government for payment of royalty ; and
- determine system failure leading to loss of Government revenue.

#### ***Budget estimates and actuals***

**5.2.5** The receipts from Mines and Minerals vis-à-vis the budget estimates and their percentage variation for the preceding five years ending March 2003 are shown below:

(Rupees in crore)

Year	Receipts from Mines and Minerals			
	Budget estimates	Actuals as per finance accounts	Variations between BEs and Actuals	Percentage of increase (+)/ shortfall (-)
1998-1999	306.29	307.15	0.86	(+) 0.28
1999-2000	378.86	347.39	(-) 31.47	(-) 8.31
2000-2001	425.13	399.27	(-) 25.86	(-) 6.08
2001-2002	455.54	454.56	(-) 0.98	(-) 0.21
2002-2003	532.76	582.17	49.41	(+) 9.27

As per information furnished by the Department, budget estimates were prepared taking into account the trend of production, prevailing rate of royalty and anticipated revision of rates of royalty during the year. The Department attributed the variation between the target and actuals during 1999-2000 to 2001-2002, to shortfall in production.

Test check of records maintained in the office of the Director, Geology and Mining, Assam, Guwahati revealed the following irregularities:

#### **Non-payment/short payment of royalty by lessees**

##### **Crude Oil and Natural Gas**

5.2.6 Petroleum and Natural Gas (PNG) Rules, 1959, stipulates that a lessee shall pay to the State Government a royalty on Crude Oil and Casing Head Condensate obtained from Mining operations at the rate fixed by the Central Government from time to time. "Crude Oil" means petroleum in its natural state before it has been refined or otherwise treated but from which water and foreign substances have been extracted.

Oil and Natural Gas Corporation Limited (ONGCL) and Oil India Limited (OIL) paid royalty on 146.49<sup>1</sup> lakh MT of crude oil extracted during 1999-2000 to 2001-2002 as reported to the State Government. Cross verification of figures included in "Indian Mineral Year Book 2002 and 2003" published by Indian Bureau of Mines, revealed that the units actually extracted/produced 153.22 lakh MT of crude oil valued Rs.8,067.70 crore during the same period from the oil fields in the State. Thus, there was net discrepancy of 4.63 lakh MT of Crude Oil (after wastage) between two sets of production figures resulted in short realisation of Rs.35.28 crore as detailed below:

<sup>1</sup> Gross production – 146.49 lakh MT

Year	Production as per Mineral Year Book 2002 and 2003 (in lakh MT)	Production as reported in returns			Difference	Wastage/other utilisation as reported to the State Govt.	Net discrepancy	Amount of royalty (Rs. in crore) (Rate per MT)
		OIL	ONGCL	Total				
( In lakh Metric Tonne )								
1999-2000	50.28	30.53	17.73	48.26	2.02	0.36	1.66	10.03 (Rs.604)
2000-2001	51.09	30.56	18.70	49.26	2.73	0.87	1.86	15.81 (Rs.850)
2001-2002	50.95	30.11	18.86	48.97	1.98	0.87	1.11	9.44 (Rs.850)
<b>Total:</b>	<b>153.22</b>	<b>91.20</b>	<b>55.29</b>	<b>146.49</b>	<b>6.73</b>	<b>2.10</b>	<b>4.63</b>	<b>35.28</b>

While, the Department took up the matter of discrepancy for 1999-2000 with the Ministry of Petroleum and Natural Gas in May 2002, action was not taken in respect of the discrepancies for the years 2000-2001 and 2001-2002 as yet (September 2004). Further development in respect of discrepancy for the year 1999-2000 as reported to the Ministry concerned was awaited (December 2004).

This resulted in short receipt of royalty of Rs.35.28 crore.

**5.2.7** PNG Rules, 1959, stipulates that a lessee shall pay to the State Government a royalty at 10 per cent of the value at well-head of the natural gas obtained by the lessee from the leased areas.

The Petroleum and Natural Gas Ministry (Government of India) vide letter dated 31 December 1991 fixed the price of natural gas with calorific value of 9,000 to 9,500 kcal per cu.m. at Rs.1,000 per thousand cu.m. with effect from 1 January 1992 for North Eastern Region. The discount available on this price on a case to case basis was limited to maximum of Rs.400 per thousand cu.m. It was further clarified that for gas with lower or higher calorific value than the range mentioned above, a rebate or premium to be calculated as per formula conveyed vide Ministry's letter dated 17 February 1987, is to be deducted or added.

Between April 1999 and March 2003, OIL paid royalty to the State Government on 45,81,529 thousand standard cubic metre (scum) of natural gas at the rates ranging from Rs.33.91 to Rs.100.66 per thousand scum of natural gas. Whereas, ONGCL paid royalty at the average rates ranging between Rs.122.13 to Rs.137.55 per thousand scum. Scrutiny of departmental records revealed that OIL deducted post well-head cost of collection and distribution from sale value of natural gas for determining royalty payable to Government. Whereas, ONGCL did not deduct such cost while determining royalty payable to Government and paid royalty at 10 per cent of the sale value of natural gas.



Due to adoption of different formula by OIL for determining royalty payable on natural gas, the unit made short payment of royalty to the tune of Rs.23.56 crore during 1999-2000 to 2002-2003 as shown below:

Year	Quantity of natural gas (in thousand scum)	Average rate of royalty paid by ONGCL (Rs. per thousand scum)	Rate of Royalty paid by OIL (Rs. per thousand scum)	Difference of rates of royalty (Rs. per thousand scum)	Short payment of royalty (Rs. in crore)
April 1999	99,020	122.13	33.91	88.82	0.88
May 1999 to March 2000	9,78,590		59.89	62.24	6.09
April 2000	1,08,435	134.00	59.89	77.11	0.84
May 2000 to March 2001	11,29,635		77.83	56.17	6.35
April 2001	96,417	135.32	77.83	57.49	0.55
May 2001 to March 2002	10,01,932		100.66	34.66	3.47
April 2002 to March 2003	11,67,500	137.55	91.51	46.04	5.38
<b>Total</b>	<b>45,81,529</b>				<b>23.56</b>

Although, the Department, took up the matter in September 2003 with the Government, action taken, if any, by the Government in this regard was not on record.

**5.2.8** PNG Rules, stipulates that a lessee shall pay to the State Government a royalty per metric tonne of Crude Oil and Casing Head Condensate obtained from Mining leased areas at the rate fixed by the Central Government from time to time. Further, royalties and other sums, if not paid within the time specified for such payment, shall be increased by ten *per cent* for each month or portion of a month during which such payments remain unpaid.

As per returns furnished to the State Government by the OIL, the unit paid royalty of Rs.862.22 crore on 93.71 lakh MT of crude oil between December 1999 to March 2003. But, the unit was liable to pay royalty of Rs.890.92 crore on the said quantity of crude oil as per rate fixed by the Central Government from time to time. This resulted in short payment of royalty of Rs.28.70 crore to the State Government as of September 2004. Besides this, an amount of Rs.32.08 crore was also payable as an enhanced amount as per provision of the Rules, *ibid* on Rs.26.96 crore due for the period from December 1999 to January 2003 (amount due for February and March 2003 omitted). The Department did not take any action for recovery of the amount due till September 2004.

Similarly, ONGCL was to pay royalty of Rs. 87.39 crore to the State Government at revised rate of Rs.1,445.50 per MT on 15.77 lakh MT of crude oil (Net) produced during April 2002 – March 2003. Against this, the unit paid Rs.70 crore in March 2003. As the department did not take steps for realisation of the dues, the balance amount of Rs. 17.39 crore remained unrealised (September 2004). In addition, an amount of Rs.54.17 crore was payable as an enhanced amount for default in payment of Rs.86.93 crore due

for the period from April 2002 to January 2003 (amount due for February and March 2003 omitted).

### Coal and Limestone

5.2.9 Mines and Minerals (Development and Regulation) Act, 1957, regulates payment of royalty from the lessee on the quantity of minerals removed or consumed from the leased area. Provisions of Mines and Minerals Concession Rules, 1960 (amended in January 2001) also empowers the State Government to charge simple interest at the rate of 24 *per cent* with effect from 1 April 1991 per annum on unpaid amount from the 60<sup>th</sup> day of the expiry of the last date (i.e. 10<sup>th</sup> day of the following month of production) of the monthly payment.

• North Eastern Coal Fields Limited (NECFL) removed 34.68 lakh MT of coal from the leased areas during 1998-99 to 2002-2003, but paid royalty only on 34.48 lakh MT. This difference occurred due to non-accounting of quantity of colliery consumption of coal by NECFL on which royalty was payable. This resulted in short payment of royalty of Rs.25.39 lakh and interest of Rs.14.38 lakh for delay in payment as indicated below:

Year	Quantity of coal removed from the leased areas (MT)	Quantity on which royalty paid (MT)	Differential quantity (MT)	Rate of royalty (Rs. per MT)	Amount of royalty @ 24 <i>per cent</i> per annum (Rupees in lakh)	
					Amount of royalty	Interest leviable
1998-1999	7,09,128.22	7,07,043.12	2,083.10	120	2.50	2.40
1999-2000	8,36,062.57	8,23,432.95	12,629.62	120	15.16	10.91
2000-2001	7,65,138.31	7,64,036.04	1,102.27	120	1.32	0.63
2001-2002	6,23,339.47	6,22,224.15	1,115.32	120	1.34	0.32
4/2002.to 7/2002	1,43,845.46	1,42,859.75	985.71	120	1.18	0.12
8/2002 to 3/2003	3,90,477.32	3,88,120.54	2,356.78	165	3.89	--
<b>Total:</b>	<b>34,67,991.35</b>	<b>34,47,716.55</b>	<b>20,272.80</b>		<b>25.39</b>	<b>14.38</b>

• According to instruction issued by the Government of Assam in January 1983, all the licensee/lease holders engaged in mining operation in the areas under the jurisdiction of any District Council were to deposit 60 *per cent* of the due royalty into the relevant receipts head of accounts of the concerned District Council and the balance 40 *per cent* into relevant receipt head of account of the State Government.

Assam Mineral Development Corporation Limited (AMDCL) removed 1.23 lakh MT of coal during February 1998 to March 2003 from its leased areas, but did not pay royalty of Rs.65.32 lakh being 40 *per cent* share of royalty due to the State Government. The unit was also liable to pay interest of Rs.33.03 lakh for default in payment.

Similarly, M/s Vinay Cement Ltd., Guwahati removed 5.43 lakh MT of lime stone from its lease hold areas during February 2001 to March 2003 but did

not pay royalty of Rs.86.88 lakh to the State Government as of May 2004. The unit was also liable to pay interest of Rs.16.48 lakh for default in payment.

In the absence of any system in the Department of issuing demand notice to the units in respect of royalty payable to the Government, arrears of royalty accumulated to Rs.1.78 crore excluding interest (Rs.0.63 crore) against the three units as mentioned above. Although, the Department took up the matter with Vinay Cement Limited in January 2003 in respect of arrear upto December 2002, the recovery was not effected till December 2004.

**Non-payment of royalty due to transportation loss of crude oil**

**5.2.10** Under the PNG Rules, 1959, the licensee/lessee shall not pay royalty in respect of any crude oil, casing head condensate or natural gas which is unavoidably lost or is returned to the reservoir or is used for drilling or other operations relating to the production of petroleum or natural gas or both, But, the Rules do not provide for allowing exemption from payment of royalty on account of transportation loss

As per information furnished by the Department, ONGCL extracted 90.01 lakh MT of crude oil at well-head tank during 1998-99 to 2002-2003. Out of this, 1.96 lakh MT of crude oil was treated as transportation loss and the unit did not pay royalty to the tune of Rs.15.64 crore to the Government on this quantity for the years 1998-1999 to 2002-2003 as detailed below:

Year	Gross production of crude oil (MT)	Quantity treated as transportation loss (MT)	Rate of royalty (Rs. per MT)	Amount of royalty not paid (Rupees in lakh)
1998-1999	17,97,921	27,344	578.00	158.05
1999-2000	17,73,321	3,561	578.00	20.58
		14,150	750.00	106.13
		2,863	842.00	24.11
		11,432	850.00	97.17
2000-2001	18,70,326	48,642	850.00	413.46
2001-2002	18,85,825	35,998	850.00	305.98
2002-2003	16,73,354	51,542	850.00	438.10
<b>Total:</b>	<b>90,00,747</b>	<b>1,95,532</b>		<b>1,563.58</b>

The Department did not pursue the matter with the unit concerned.

**Non-levy of interest on delayed payment of royalty on coal**

**5.2.11** According to the State Government notification dated July 1988, royalty, fees etc. are to be deposited to Government account by 10<sup>th</sup> day of each calendar month for mineral produced during the preceding month. Provisions of Mines and Minerals Concession Rules, 1960, also empowers the State Government to charge simple interest at the rate of 24 per cent per

annum on unpaid amount from the 60<sup>th</sup> day of the expiry of the last date (i.e. 10<sup>th</sup> day of the following month of production) of the monthly payment.

North Eastern Coal Fields Limited (NECFL) and Assam Mineral Development Corporation Limited (AMDCL) paid royalty of Rs.2.04 crore on coal for the period May 1998 – March 2002 belatedly. The delay ranged between four to 363 days. But, the Department did not levy interest for delay in making payment which worked out to Rs.10.79 lakh.

#### ***Lack of a system to raise demand***

**5.2.12** Though Geology and Mining Department realises revenue from mines and minerals, which consists of royalty etc. it was however observed that there existed no system in the Department to raise demand for Government dues promptly. The lessee themselves deposited the amount payable to the State Government even before a demand was raised.

#### ***Recommendations***

**5.2.13** In view of various lacunae/deficiencies as brought out in the forgoing review paragraphs, the following recommendations are made for consideration of the Government:

- Adequate internal control system mechanism is to be adopted to improve the entire system of collection of revenues from mines and minerals.
- Reconciliation of royalty payable as per reports/returns submitted by the units with that paid for by the units is to be conducted/enforced periodically.

Matters were reported to the Department and the Government in May 2004; their replies have not been received (December 2004).



## **B. FOREST RECEIPTS**

### **5.3 Loss of revenue due to sale of forest produce by permit**

Under the Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977, forest produce is to be disposed of by tender or auction at competitive rates.

Test check of records of Divisional Forest Officer (DFO), Aie-Valley Division, Bongaigaon revealed Chaprakata Hill Stone Mahal was settled by competitive tenders for the period 2002-2004 at Rs.3.05 lakh for extraction of 2,000 cu.m. of stone. The rate per cu.m. thus worked out to Rs. 152.50 per cu.m. in case of stone.

But, the Division during the same period sold 5,150 cu.m. of stone from the mahal on permit on realisation of royalty at the rate of Rs.70 per cu.m for stone.

Thus, due to selling of stone on permit instead of through tender rates, the Department had to forgo an additional revenue of Rs.4.25 lakh calculated at the differential rates between Rs.152.50 and Rs.70.

The matter was reported in December 2003 to the Department and the Government; their replies have not been received (December 2004).

### **5.4 Loss of revenue due to deterioration of timber**

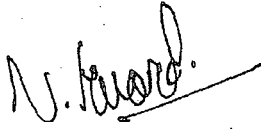
As per system prevalent in the Department, timber/logs are deposited in the nearest depot after their operation/seizure. Logs are then graded according to size and quantity and put on sale through tender. Protection of timber from the vagaries of weather, damage or theft is the primary responsibility of the Department. Under the Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977, forest produce is to be disposed of by tender or through public auction or negotiations.

Test check of records of the Divisional Forest Officer, Sibsagar in June 2003, revealed that 291.0195 cu.m. of timber valued at Rs.6.63 lakh were lying in the various depots under the Division during 1998-99 to 2001-2002. Despite repeated calling of tender (9-10 times) between February 2000 and April 2002, the Division, as stated in May 2004, failed to dispose off the timber due to non-receipt of appropriate offer. However, the Department did not use alternative mode of sale i.e. sale through public auction or negotiation as provided under the rules. The Division reassessed the volume of timber in September 2002 and found that 178.49659 cubic metre (cu.m.) of timber had

deteriorated due to exposure to sun and rain. Thus, due to failure of the Department either to use alternative mode of sale or protecting the quantities of timber from the vagaries of weather led to loss of Government revenue to the tune of Rs.4.02 lakh.

The case was referred to the Department and the Government in August 2003; their replies have not been received (December 2004).

**GUWAHATI**  
The

  
**(SWORD VASHUM)**  
Principal Accountant General (Audit), Assam

**Countersigned**

**NEW DELHI**  
The

  
**(VIJAYENDRA N. KAUL)**  
Comptroller and Auditor General of India





## Appendix-I

Statement showing the Inspection Reports (IRs) and paragraphs outstanding for settlement at the end of June 2004.

(Reference: Paragraph – 1.11)

Sl. No.	Name of Department	Total number of outstanding IRs/Paragraphs at the end of June 2004			Total number of outstanding IRs/Paragraphs not settled for more than 10 years			Total numbers of IRs against which initial replies not received.			
		Year of issue	No. of IRs	No. of paragraphs	Year of Issue	No. of IRs	No. of paragraphs	Year of issue	No of IRs	No. of paragraphs	Amount (Rupees in crore)
1	Taxation	1986-87 to June 2004	202	693	1986-87 to 1993-94	22	32	2003-04 upto 6/04	20	90	20.43
2	Agricultural Income Tax	1995-96 to June 2004	7	33	Nil	Nil	Nil	Nil	Nil	Nil	Nil
3	Land Revenue	1993-94 to June 2004	493	1,336	1993-94	20	40	1993-94 to June 2004	471	1,268	231.57
4	Mines and Minerals	1990-91 to June 2004	7	32	1990-91 to 1993-94	2	3	Nil	Nil	Nil	Nil
5	Registration	1993-94 to June 2004	114	206	1993-94	2	5	1996-97 to June 2004	55	94	2.25
6	Transport	1990-91 to June 2004	191	818	1990-91 to 1993-94	27	112	1990-91 to June 2004	85	435	39.23
7	State Excise	1993-94 to June 2004	131	314	1993-94	3	7	1993-94 to June 2004	60	161	31.26
8	Forest and Wild life	1988-89 to June 2004	246	833	1988-89 to 1993-94	24	35	2003-04 to June 2004	19	112	2.31
9	Other Taxes	1987-88 to June 2004	68	104	1987-88 to 1993-94	31	56	1999-2000 to June 2004	8	9	40.76
<b>Total:</b>			<b>1,459</b>	<b>4,369</b>		<b>131</b>	<b>290</b>		<b>718</b>	<b>2,169</b>	<b>367.81</b>

