



REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR
ENDED 31 MARCH 1992
No. 1

(REVENUE RECEIPTS)
GOVERNMENT OF ORISSA



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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Orissa for the year 1991-92 is presented in this separate volume. The material in the Report has been arranged in the following order:

Chapter-I deals with trends of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variation between Budget estimates and Actuals in respect of principal heads of revenue, the position of arrears of revenue etc. are discussed in this Chapter.

Chapters-2 to 7 deal with certain cases and points of interest which came to notice in the audit of Sales Tax, Taxes on Motor Vehicles and passengers, Forest Receipts, State Excise, Land Revenue, Mining Receipts etc..

OVERVIEW

1. General

(i) The total revenue raised by the Government of Orissa during the year 1991-92 was Rs.933.45 crores comprising tax revenue of Rs.673.65 crores and non-tax revenue of Rs.259.80 crores. While the tax revenue consisted of mainly Sales Tax (Rs.394.16 crores), non-tax was mainly from Forest (Rs.84.72 crores) and Mines and Minerals Receipts (Rs.67.87 crores).

(Paragraph : 1.1 and 1.2)

(ii) Arrears in collection of State Excise duty increased from Rs.0.60 crore as at the end of March 1991 to Rs.1.30 crores at the end of March 1992 i.e. increased by 115 per cent. Similarly, arrears of the interest payable on loans by the Industries Department to various Co-operative Societies and other Government undertakings increased from Rs.15.15 crores as at the end of March 1991 to Rs.16.77 crores as at the end of March 1992.

(Paragraph : 1.8)

(iii) As a result of test check conducted during 1991-92, under-assessment and losses of revenue amounting to Rs.32.57 crores in 40662 cases were noticed. The cases of under-assessment etc. pertained to Sales Tax (Rs.7.67 crores), Motor Vehicles Tax (Rs.3.04 crores), Forest

Receipts (Rs.1.01 crores), State Excise (Rs.2.18 crores), Mining Receipts (Rs.2.65 crores), Land Revenue (Rs.2.47 crores), Stamp Duty and Registration Fees (Rs.0.30 crore), Entertainment Tax (Rs.0.15 crore) and Departmental Receipts (Rs.13.10 crores).

(iv) This report includes 96 representative cases of non-levy of tax, duty, interest, penalty etc., involving a financial effect of Rs.1170.51 lakhs noticed during test check in 1991-92 and in earlier years. Of these, in 90 cases involving an amount of Rs.1161.30 lakhs, the Government/departments have accepted the audit observations for which demands for Rs.76.55 lakhs have been raised by the Departments and an amount of Rs.6.24 lakhs was recovered (December 1992). The audit objections with a total revenue effect of Rs.9.21 lakhs in 6 cases not accepted by the department/Government but where their contention has been found at variance with the facts or legal position have been appropriately commented upon in the relevant paragraphs.

(Paragraphs : 2.6, 4.5(ii), 4.9, 4.10, 4.11 and 5.6)

2. Sales Tax

(i) Irregular exemption to various Small Scale Industries on purchases/sales declared to be utilised as

raw materials resulted in short levy of tax to the extent of Rs.42.07 lakhs.

(Paragraph : 2.2)

(ii) Irregular grant of exemption of Central Sales Tax due to erroneous treatment of tax-free goods and irregular treatment of inter-State sale as branch transfer resulted in short levy of Rs.15.35 lakhs.

(Paragraph :2.5)

(iii) Under-assessment due to irregular treatment of divisible contract as indivisible resulted in short levy of Rs.6.08 lakhs.

(Paragraph : 2.7)

(iv) Application of incorrect/lower rates of tax in 7 cases resulted in under-assessment of tax amounting to Rs.5.10 lakhs.

(Paragraph : 2.8)

(v) Non-assessment of taxable turnover resulted in under-assessment of tax amounting to Rs.11.93 lakhs.

(Paragraph : 2.9)

3. Taxes on Motor Vehicles and Passengers

(i) Short realisation/non-realisation of composite tax in respect of 3058 vehicles plying under National Permit Scheme amounting to Rs.16.21 lakhs.

(Paragraph : 3.2)

(ii) Short realisation/non-realisation of tax and additional tax in respect of 330 stage carriages amounted to Rs.29.34 lakhs.

(Paragraph : 3.5)

(iii) Due to dishonouring of cheques received towards payment of tax and additional tax in respect of 41 stage carriages of the State Transport Undertaking resulted in non-collections of tax of Rs.3.76 lakhs.

(Paragraph : 3.10)

(iv) In respect of 113 Motor Vehicles, violations of off-road declarations, resulted in tax amounting to Rs.22.40 lakhs not realised.

(Paragraph : 3.11)

(v) Tax for certain periods in respect of 547 Vehicles aggregating Rs.33.36 lakhs was not levied.

(Paragraph : 3.15)

4. Forest Receipts

(i) Loss of revenue on account of illicit felling of trees in Reserve Forest area led to loss of Rs.4.80 lakhs.

(Paragraph : 4.2)

(ii) In 314 cases of belated payment of consideration money, interest amounting to Rs.23.15 lakhs was not levied.

(Paragraph : 4.8)

(iii) Loss of revenue due to under-assessment of units in respect of cyclone damaged trees led to loss of revenue of Rs.4.31 lakhs.

(Paragraph : 4.11)

5. State Excise

(i) Non-levy of excise duty on the short drawn quantity of country spirit led to loss of revenue of Rs.9.07 lakhs.

(Paragraph : 5.4)

(ii) Non-disposal of mohua flowers by storage agents led to loss of revenue of Rs.2.87 lakhs.

(Paragraph : 5.7)

6. Land Revenue

i) Premium, ground rent, cess and interest amounting to Rs.495.25 lakhs were not recovered from the Orissa State Electricity Board (Rs.482.70 lakhs) and others (Rs.12.53 lakhs).

(Paragraph : 6.2)

(ii) Delay in assessment of compulsory basic water rate resulted in non-realisation of Rs.2.53 lakhs.

(Paragraph : 6.3)

(iii) In 2507 cases court fees amounting to Rs.9.62 lakhs was not realised.

(Paragraph : 6.4)

7. Mining Receipts

In 64 cases of belated payment of mining dues, interest due amounting to Rs.1.73 lakhs was not levied.

(Paragraph : 7.4)

CHAPTER 1

GENERAL

1.1 Trend of Revenue Receipts

The total receipts of the Government of Orissa for the year 1991-92 were Rs.2,447.31 crores against the anticipated receipts of Rs.2,559.59 crores. The total receipts during the year registered an increase of 12.73 per cent over those of 1990-91 (Rs.2,170.94 crores). Out of the total receipts, revenue raised by the State Government amounted to Rs.933.45 crores, of which tax revenue accounted for Rs.673.65 crores while the balance of Rs.259.80 crores was from non-tax revenue. Receipts from Government of India amounted to Rs.1513.86 crores.

1.2 Analysis of Revenue Receipts

(a) An analysis of the receipts during the year 1991-92 alongwith the corresponding figures for the preceding two years is given below :

| | 1989-90 | 1990-91 | 1991-92 |
|---|----------------------|----------------------|----------------------|
| | (Rupees in crores) | | |
| I. Revenue raised by the State Government | | | |
| (a) Tax Revenue | 524.84 | 668.80 | 673.65 |
| (b) Non-Tax Revenue | <u>198.64</u> | <u>201.12</u> | <u>259.80</u> |
| Total : | <u>723.48</u> | <u>869.92</u> | <u>933.45</u> |

| | 1989-90 | 1990-91 | 1991-92 |
|--|-----------------------|-----------------------|-----------------------|
| | (Rupees in crores) | | |
| II. Receipts from Government of India | | | |
| (a) State's share of divisible Union Taxes | 572.59 | 694.09 | 830.53 |
| (b) Grant-in-aid | <u>444.65</u> | <u>606.93</u> | <u>683.33</u> |
| Total : | <u>1017.24</u> | <u>1301.02</u> | <u>1513.86</u> |
| III. Total receipts of the State (I+II) | 1740.72 | 2170.94 | 2447.31 |
| IV. Percentage of I to III | 41.56 | 40.07 | 38.14 |

Chart-I depicts the tax and non-tax revenue raised by the State during the years 1989-90 to 1991-92.

Thus, the State mobilised 38.14 per cent of its total receipts for 1991-92 and the remaining 61.86 per cent came from Union Government.

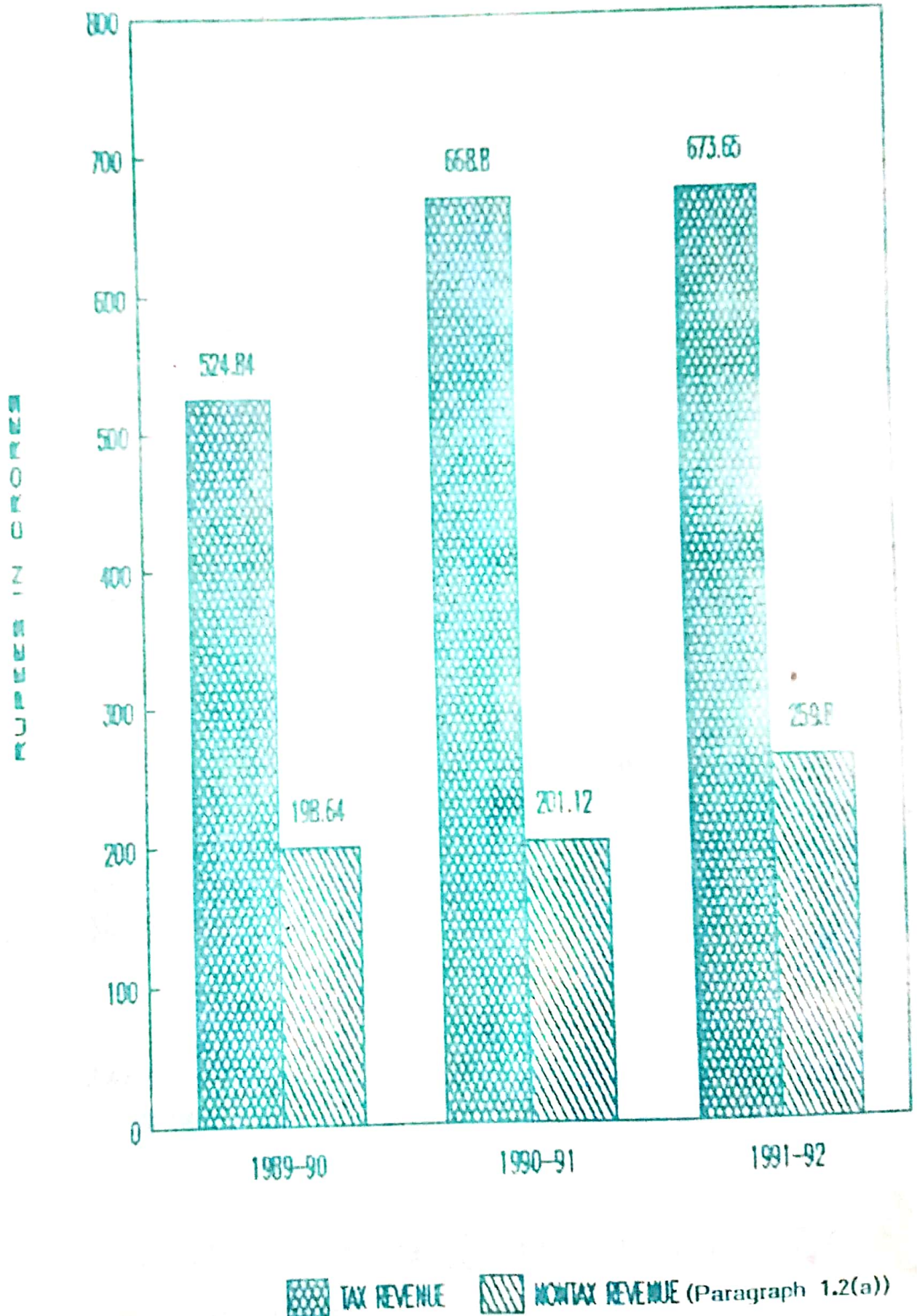
(b) Tax revenue raised by the State Government constituted about 72.17 per cent of the State's own revenue receipts during the year 1991-92. An analysis of the tax revenue for the year 1991-92 and the preceding two years is given below :

(Statement

CHART - 1

TAX & NONTAX REVENUE

DURING 1989-90 TO 1991-92



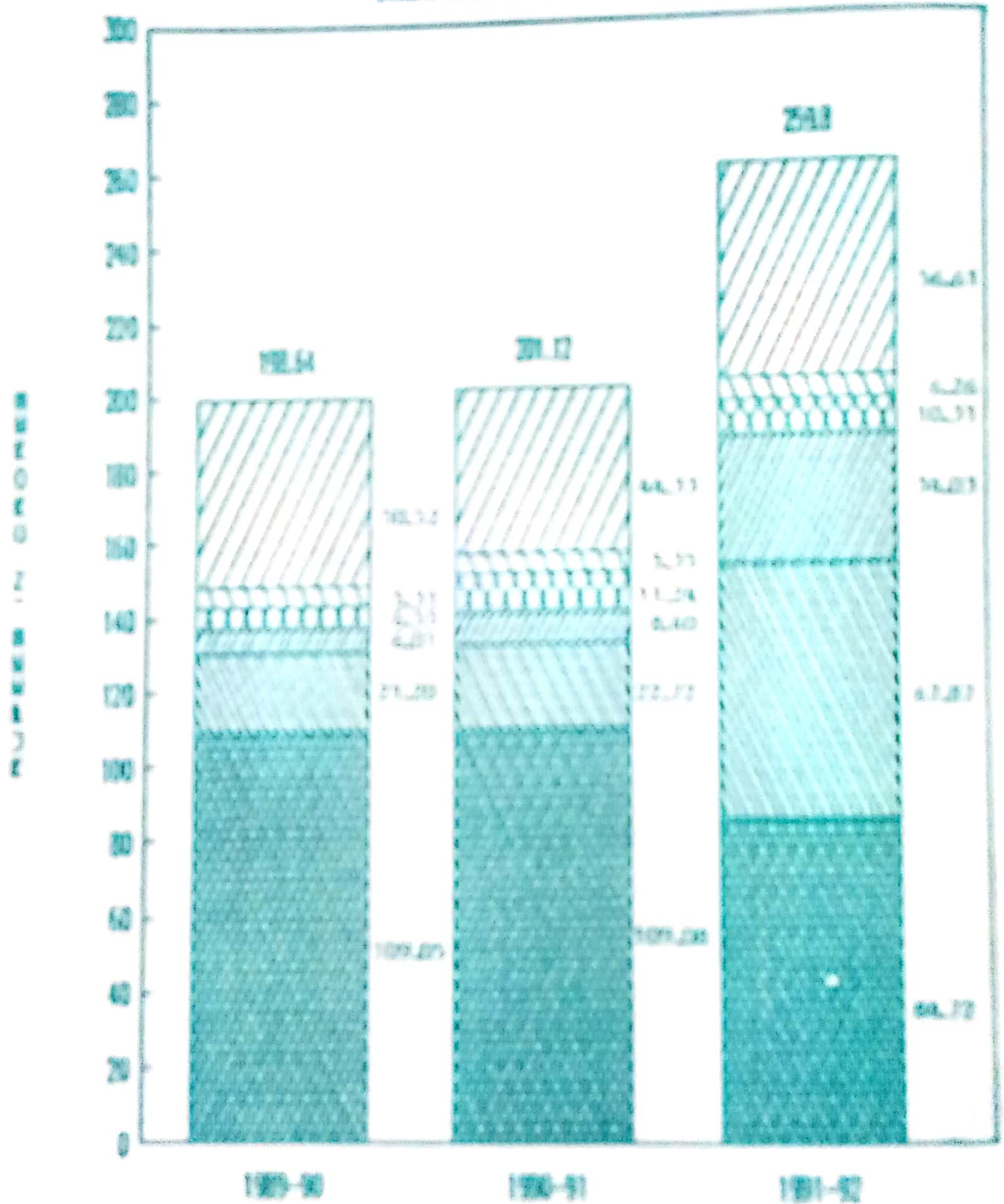
Land Revenue : The decrease is attributed by the Department to non-collection of cess due to Supreme Court judgement declaring collection of cess beyond the competence of Legislature.

(c) Interest, Education, Public Health, Sanitation and Water supply, Forest, Mines and Minerals, Irrigation, Navigation, Drainage and Flood Control Projects, and Police were the Principal sources of non-tax revenue during 1991-92 which constituted about 27.83 per cent of total revenue raised by the State. An analysis of non-tax revenue under the principal heads of revenue for the year 1991-92 and the preceding two years is given below:

| Nature of revenue | 1989-90 | 1990-91 | 1991-92 | Increase(+) Decrease(-) in 1991-92 with refer- ence to 1990-91 |
|--|----------------------|---------|---------|---|
| | (Rupees in crores) | | | |
| 1. Forest | 109.05 | 109.08 | 84.72 | (-) 24.36 |
| 2. Mines and Minerals | 21.20 | 22.72 | 67.87 | (+) 45.15 |
| 3. Education | 6.55 | 11.24 | 10.31 | (-) 0.93 |
| 4. Interest | 6.01 | 8.40 | 34.03 | (+) 25.63 |
| 5. Public Health Sanitation and Water Supply | 6.00 | 5.37 | 5.76 | (+) 0.39 |
| 6. Irrigation, Navigation, Drainage and Flood Control Projects : | 5.31 | 5.35 | 6.26 | (+) 0.91 |

CHART - III GROWTH OF NONTAX REVENUE

DURING 1989-90 TO 1991-92



Forest
 Mines & Minerals
 Interest
 Education
 Irrigation
 Others (Paragraph 1.2(e))

| Nature of revenue | 1989-90 | 1990-91 | 1991-92 | Increase(+) Decrease(-) in 1991-92 with refer- ence to 1990-91 |
|-------------------|---------|---------|---------|---|
|-------------------|---------|---------|---------|---|

(Rupees in crores)

| | | | | |
|----------------|---------------|---------------|---------------|------------------|
| 7. Police | 3.88 | 4.37 | 4.85 | (+) 0.48 |
| 8. Others | 40.64 | 34.59 | 46.00 | (+) 11.41 |
| Total : | <u>198.64</u> | <u>201.12</u> | <u>259.80</u> | (+) <u>58.68</u> |

Chart-III depicts the growth of non-tax revenue raised by the State during the year 1989-90 to 1991-92.

1.3 Variation between Budget Estimates and Actuals

(a) The variation between the Budget Estimates and Actuals of tax and non-tax revenue during the year 1991-92 are given below :

| | Budget Estimates | Actuals | Variation Increase(+) Decrease(-) as compa- red with Budget Estimates | Percen- tage of variation |
|----------------------|---------------------|---------|---|---------------------------------|
| (Rupees in crores) | | | | |
| A. Tax Revenue | 978.15 | 673.65 | (-)304.50 | (-) 31.13 |
| B. Non-Tax Revenue | 207.28 | 259.80 | (+) 52.52 | (+) 25.34 |

The total variations between the Budget Estimates and the actuals during the year 1991-92 was Rs.251.98 crores and it was made up of a shortfall of Rs.304.50 crores (31.13 per cent), under tax revenue and increase of Rs.52.52 crores (25.34 per cent), under non-tax revenue.

(b) Variations between Budget Estimates and Actuals under the principal heads of revenue are given below:

| Head of Revenue | Budget Estimates | Actuals | Variations Increase(+) Decrease(-) | Percentage of variation with refer- ence to Budget Estimates |
|--|------------------|---------|--|---|
| | (Rupees | in | crores |) |
| 1. Sales Tax | 470.57 | 394.16 | (-) 76.41 | (-) 16.24 |
| 2. Forest | 89.35 | 84.72 | (-) 4.63 | (-) 5.18 |
| 3. Taxes and Duties on Electricity | 98.86 | 99.46 | (+) 0.60 | (+) 0.61 |
| 4. Land Revenue | 184.04 | 24.77 | (-)159.27 | (-) 86.54 |
| 5. Taxes on Vehicles | 57.80 | 59.75 | (+) 1.95 | (+) 3.37 |
| 6. State Excise | 63.55 | 55.07 | (-) 8.48 | (-) 13.34 |
| 7. Stamp Duty and Registration fees | 39.89 | 35.43 | (-) 4.46 | (-) 11.18 |
| 8. Mines and Minerals | 30.58 | 67.87 | (+) 37.29 | (+)121.94 |
| 9. Education | 7.82 | 10.31 | (+) 2.49 | (+) 31.84 |
| 10. Interest | 30.20 | 34.03 | (+) 3.83 | (+) 12.68 |
| 11. Police | 2.57 | 4.85 | (+) 2.28 | (+) 88.72 |

Variation between Budget Estimates and Actuals for the year 1991-92 under all the above receipts except

"Taxes and Duties on Electricity" and "Taxes on Vehicles" and "Forest Receipts" was more than 10 per cent. The reasons for such variation as stated by the Finance Department and other departments of Government are given below :

Sales Tax : The short fall of Rs.76.41 crores was stated to be due to (i) locking up of arrears by stay orders of the Supreme Court/High Court and (ii) concession, allowed by Government under the Industrial Policy Resolution, 1989.

State Excise : The shortfall in collection of Rs.8.48 crores was attributed to Hon'High Court's order declaring collection of duty on Minimum Guaranteed quantity of country spirit over and above 15 per cent 'null and void' and issue of stay order in some cases.

Stamp duty and Registration Fees: The decrease of Rs.4.46 crores was stated to be due to low demand of stamp papers.

Mines and Minerals : The increase of Rs.37.29 crores was due to revision of rates of royalty on coal with effect from 1st August 1991 and on other minerals from 17th February 1992.

Police : The increase of Rs.2.28 crores in collection was stated to be due to fixation of budget estimate at lower rate.

Reasons for shortfall under 'Interest' and 'Education' were not furnished by the concerned departments (December 1992).

1.4 Cost of collection

Expenditure incurred in collecting the major tax revenue receipts during the year 1991-92 and the corresponding figures for the preceding two years are given below :

| Head of account | Year | Gross collection | Expenditure on collection | Percentage of expenditure to gross collection | All India average (percentage for 1990-91 collection) |
|----------------------|---------|------------------|---------------------------|---|---|
| (Rupees in crores) | | | | | |
| 1. Sales Tax | 1989-90 | 297.20 | 6.09 | 2 | |
| | 1990-91 | 354.58 | 6.79 | 1.9 | 2 |
| | 1991-92 | 394.16 | 8.29 | 2.1 | |
| 2. Taxes on Vehicles | 1989-90 | 43.90 | 1.03 | 2 | |
| | 1990-91 | 52.29 | 0.84 | 1.6 | 3 |
| | 1991-92 | 59.75 | 1.36 | 2.27 | |

| Head of account | Year | Gross collection | Expenditure on collection | Percentage of expenditure to gross collection | All India average (percentage for 1990-91) |
|-----------------|------|------------------|---------------------------|---|--|
|-----------------|------|------------------|---------------------------|---|--|

(Rupees in crores)

| | | | | | |
|---------------------------------|---------|-------|------|-------|---|
| 3. State Excise | 1989-90 | 38.29 | 3.10 | 8 | |
| | 1990-91 | 45.64 | 3.20 | 7 | 2 |
| | 1991-92 | 55.07 | 3.97 | 7.2 | |
| 4. Stamps and Registration fees | 1989-90 | 27.98 | 3.09 | 11 | |
| | 1990-91 | 30.94 | 3.46 | 11.2 | 4 |
| | 1991-92 | 35.43 | 3.95 | 11.14 | |

1.5

Arrears in assessment of Sales Tax

The number of assessment of Sales Tax cases finalised by the department and the assessments pending finalisation as at the end of March 1992 and the preceding two years as reported by the department are indicated below :

| | 1989-90 | 1990-91 | 1991-92 |
|---|----------|----------|----------|
| i) Number of cases due for assessment | 3,75,581 | 3,81,813 | 3,99,826 |
| ii) Number of assessments completed | 1,84,749 | 1,81,936 | 1,89,024 |
| iii) Number of assessments pending | 1,90,832 | 1,99,877 | 2,10,802 |
| iv) Percentage of pending cases to total cases (i.e. percentage of column (iii) to Col.(i)) | 51 | 52 | 53 |

The break up of arrear and current cases in respect of assessments completed and assessments pending as at the end of the year, though called for (July 1992) could not be furnished by the department.

1.6 Analysis of Sales Tax collection

During the year 1991-92, the total collection of tax was Rs.394.16 crores, the break up is as under:

(Rupees in crores)

| | | |
|------|---|---------------|
| i) | Amount collected at pre-assessment stage | 366.55 |
| ii) | Amount collected after regular assessment | 29.82 |
| iii) | Amount of arrear demand collected | 5.82 |
| iv) | Other miscellaneous receipts | - |
| | Total : | <u>402.19</u> |
| v) | Amount refunded | <u>8.34</u> |
| vi) | Net collection | <u>393.85</u> |

The difference of Rs.0.31 crores (Rs.394.16 crores (-) Rs.393.85 crores) has been attributed by the Commissioner of Commercial Taxes, Orissa to pending reconciliation of intra-departmental figures.

1.7 Arrears in disposal of Sales Tax refund cases

The position of pendency of Sales Tax refund cases at the end of March 1992, as reported by the department, is indicated below :

| | Number of cases | Amount involved (Rupees in lakhs) |
|---|-----------------------|--|
| i) Refund cases pending | 2400 | 446.06 |
| ii) Claims received during the year | 2893 | 2254.18 |
| iii) Total | 5293 | 2700.24 |
| iv) Cases disposed of during the year | 2186 | 867.67* |
| v) Claims rejected during the year | 331 | 1186.51 |
| vi) Balance outstanding at the end of March 1992 | 2776 | 646.06 |

1.8 Uncollected revenue

Revenue pending collection at the end of March 1992 in respect of the principal sources of revenue is given below. For purposes of comparison, arrears as at the end of March 1991 have also been indicated.

* As per actuals Rs.834 lakhs.

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-------------------|--|--|---|
| (1) | (2) | (3) | (4) |
| | (Rupees in lakhs) | | |
| ✓ 1. Sales Tax | 33,264.42 | 36,429.96 | The year-wise break up of the arrears is as follows : |

(Rupees in lakhs)

| | |
|---------|------------------|
| Up to - | |
| 1986-87 | 3,667.22 |
| 1987-88 | 2,154.22 |
| 1988-89 | 8,239.25 |
| 1989-90 | 9,326.71 |
| 1990-91 | 5,608.18 |
| 1991-92 | 7,434.38 |
| | <u>36,429.96</u> |

Out of the above arrears, recovery of amounts exceeding Rs.2 lakhs in each case was outstanding in 388 cases (23 circles) involving an amount of Rs.18,435.26 lakhs as on 31 March 1992. The various stages under which the

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |
| | (Rupees in lakhs) | | |

arrears are pending is given below :

(a) Recovery stayed by :

(Rupees in lakhs)

- i) High Courts and other Judicial authorities - 8,320.52
 - ii) Government/ Departmental authorities - 15,378.91
- (b) Other stages :
- i) Under third party notices 2,946.98
 - ii) Under show-cause notices 4,221.31
- (c) Demands covered by certificate proceedings 5,316.24

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) (Rupees in lakhs) | (3) | (4) |

(Rupees in lakhs)

(d) Amounts likely to be written-off 246.00
36,429.96

| | | | |
|-----------------|--------|--------|--|
| 2. Land Revenue | 657.21 | 603.95 | Category-wise break up of arrears at the end of March 1992 is indicated below: |
|-----------------|--------|--------|--|

| | |
|-----------------------|----------------------|
| Rent | 99.31 |
| Cess | 190.33 |
| Nistar | 4.30 |
| Cess Sairat | 44.10 |
| Miscellaneous revenue | 265.91 |
| Total : | <u>603.95</u> |

The year-wise break up of the arrears could not be furnished by the department though called for in September 1992.

| | | | |
|-----------------|-------|--------|---|
| 3. State Excise | 60.28 | 129.80 | The year-wise break up of the arrears could |
|-----------------|-------|--------|---|

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |
| | (Rupees in lakhs) | | |

not be furnished by the department though called for in September 1992. The various stages under which the arrears are pending is given below:

(Rupees in lakhs)

- | | |
|--|-------|
| i) Demands covered under certificate cases | 49.89 |
| ii) Amount covered by distress warrant | 1.91 |
| iii) Under process of realisation | 58.40 |
| iv) Amounts likely to be written-off | 2.98 |

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-----------------------|--|--|---|
| (1) | (2) | (3) | (4) |
| | (Rupees in lakhs) | | (Rupees in lakhs) |
| | | | v) Recoveries stayed by High Courts and other judicial authorities and Government |
| | | | 16.62 |
| | | | Total : 129.80 |
| 4. Forest | 1,888.93 | 2,076.77 | The year-wise break up of the arrears as on 31 March 1992 could not be furnished by the department as the information was not available with the department, nor the various stages under which the arrears are pending could be furnished. |
| 5. Mines and Minerals | 440.74 | <u>424.57</u> | The year-wise break up of arrears as on 31 March 1992 is as follows : |

10/1/8

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |

(Rupees in lakhs)

(Rupees in lakhs)

| | |
|----------------|----------------------|
| Upto - | |
| 1986-87 | 73.33 |
| 1987-88 | 55.69 |
| 1988-89 | 89.12 |
| 1989-90 | 101.73 |
| 1990-91 | 71.32 |
| 1991-92 | <u>33.38</u> |
| Total : | <u>424.57</u> |

Out of the above arrears, recovery of Rs.42.03 lakhs was covered by certificate proceedings, Rs.14.16 lakhs under stay orders of High Court and other judicial authorities, Rs.22.04 lakhs under proposal for write-off and the balance amount of Rs.346.34 lakhs is under process of recovery.

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|--|--|--|---|
| (1) | (2) | (3) | (4) |
| | (Rupees in lakhs) | | |
| 6. Taxes and Duties on Electricity | 5,587.90 | 5,378.32 | The arrears as on 31 March 1991 were outstanding against the following : (Rupees in lakhs) Orissa State Electricity Board 3,899.42 Private parties 1,451.96 Other appointed authorities <u>26.94</u> <u>5,378.32</u> |
| | | <i>P/145</i> <i>(H.I. file)</i> | |
| 7. Interest | | | |
| (a) Interest payable by the Orissa State Electricity Board | 19,335.55 | 19,624.34 | The arrears as on 31 March 1992 represent the following: (Rupees in lakhs) 1. Interest on assets loan 10,751.24 |
| | | <i>P/218</i> <i>(H.I. file)</i> | |

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-------------------|--|--|-------------------|
| (1) | (2) | (3) | (4) |
| | (Rupees in lakhs) | | (Rupees in lakhs) |

2. Interest on Talcher Thermal Power Station Expansion Perpetual Loan (Asset loan) 4,819.06

3. Interest on Talcher Thermal Expansion Cash loan 3,602.69

4. Interest recoverable from the Government of Andhra Pradesh 451.35
Total: 19,624.34

The year-wise break up of arrears as on 31 March 1992 is furnished below:

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|--|--|--|--|
| (1) | (2) | (3) | (4) |
| (Rupees in lakhs) | | | (Rupees in lakhs) |
| | | | Upto - |
| | | | 1987-88 11,739.26 |
| | | | 1988-89 1,124.90 |
| | | | 1989-90 2,264.82 |
| | | | 1990-91 2,264.81 |
| | | | 1991-92 <u>2,230.55</u> |
| | | | Total : 19,624.34 |
| (b) Interest on loans by Industries Department | 1,514.73 | 1,677.30 | The year-wise break up of the arrears as on 31 March 1992 is given below : |
| | | | (Rupees in lakhs) |
| | | | Upto - |
| | | | 1989-90 1,352.30 |
| | | | 1990-91 155.03 |
| | | | 1991-92 <u>169.97</u> |
| | | | Total: 1,677.30 |
| | | | The amounts are recoverable from Co-operative Societies (Rs.214.37 lakhs), |

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|--|--|--|--|
| (1) | (2) | (3) | (4) |
| (Rupees in lakhs) | | | |
| | | | the Industrial Development Corporation (Rs.994.54 lakhs), Orissa Small Scale Industries Development Corporation (Rs.46.06 lakhs), Orissa State Financial Corporation (Rs.279.46 lakhs) and other Bodies (Rs.142.87 lakhs). |
| (c) Interest on loans from Community Development | 89.55 | 91.72 | The year-wise break up of the arrears as on 31 March 1992 is furnished below: (Rupees in lakhs) |
| | | | Upto - |
| | | | 1987-88 80.08 |
| | | | 1988-89 3.16 |
| | | | 1989-90 3.13 |
| | | | 1990-91 3.18 |
| | | | 1991-92 2.17 |
| | | | Total : 91.72 |

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks | | | | | | | | | | | | | | | | |
|----------------------------|--|--|--|--------|--|---------|-------|---------|------|---------|-------|---------|-------|---------|------|---------|--------------|----------------|----------------------|
| (1) | (2) (Rupees | (3) in lakhs) | (4) | | | | | | | | | | | | | | | | |
| 8. Stationery and Printing | 118.33 | 147.84 | <p>The year-wise break up of the arrears as on 31 March 1992 is given below:</p> <p style="text-align: right;">(Rupees in lakhs)</p> <table border="0"> <tr> <td>Upto -</td> <td></td> </tr> <tr> <td>1986-87</td> <td style="text-align: right;">16.15</td> </tr> <tr> <td>1987-88</td> <td style="text-align: right;">1.65</td> </tr> <tr> <td>1988-89</td> <td style="text-align: right;">21.43</td> </tr> <tr> <td>1989-90</td> <td style="text-align: right;">62.03</td> </tr> <tr> <td>1990-91</td> <td style="text-align: right;">0.27</td> </tr> <tr> <td>1991-92</td> <td style="text-align: right;"><u>46.31</u></td> </tr> <tr> <td>Total :</td> <td style="text-align: right;"><u>147.84</u></td> </tr> </table> <p>Out of the above arrears, an amount of Rs.11,000 (Eleven thousand) only was covered by certificate proceedings.</p> | Upto - | | 1986-87 | 16.15 | 1987-88 | 1.65 | 1988-89 | 21.43 | 1989-90 | 62.03 | 1990-91 | 0.27 | 1991-92 | <u>46.31</u> | Total : | <u>147.84</u> |
| Upto - | | | | | | | | | | | | | | | | | | | |
| 1986-87 | 16.15 | | | | | | | | | | | | | | | | | | |
| 1987-88 | 1.65 | | | | | | | | | | | | | | | | | | |
| 1988-89 | 21.43 | | | | | | | | | | | | | | | | | | |
| 1989-90 | 62.03 | | | | | | | | | | | | | | | | | | |
| 1990-91 | 0.27 | | | | | | | | | | | | | | | | | | |
| 1991-92 | <u>46.31</u> | | | | | | | | | | | | | | | | | | |
| Total : | <u>147.84</u> | | | | | | | | | | | | | | | | | | |
| 9. Police | 515.90 | 596.50 | <p>The year-wise break up of arrears as on 31 March 1992 is</p> | | | | | | | | | | | | | | | | |

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |
| | (Rupees in lakhs) | | |

indicated below:

(Rupees in lakhs)

| | |
|----------------|----------------------|
| Upto - | |
| 1986-87 | 101.24 |
| 1987-88 | 92.43 |
| 1988-89 | 52.79 |
| 1989-90 | 29.09 |
| 1990-91 | 39.89 |
| 1991-92 | 281.06 |
| Total : | <u>596.50</u> |

Substantial arrears were outstanding against the following:

(Rupees in lakhs)

| | |
|-------------------------------------|--------|
| - Balimela Hydro-Electrical Project | 124.34 |
| - South-Eastern Railways | 115.14 |

| Source of revenue | Amount of arrears pending collection as on 31 March 1991 | Amount of arrears pending collection as on 31 March 1992 | Remarks |
|-------------------|--|--|--|
| (1) | (2) | (3) | (4) |
| | (Rupees in lakhs) | | |
| | (Rupees in lakhs) | | |
| | | | - Andhra Pradesh State Electricity Board 100.13 |
| | | | - Government of India (Aviation Research Centre) 53.90 |
| | | | - Government of Assam 35.59 |
| | | | - Government of Bihar 19.52 |
| | | | - Government of Andhra Pradesh 18.39 |
| | | | - Government of Punjab 35.35 |
| | | | - State Bank of India 21.62 |

1.9 Frauds and evasion of tax

The number of cases of evasion of tax detected by Sales Tax Department during 1991-92, assessment finalised and demand for additional tax raised are given below :

| | <u>Number of cases</u> |
|--|------------------------|
| A. (i) Cases pending as on 1st April 1991 | 18,417 |
| (ii) Cases detected during the year | <u>9,695</u> |
| Total : | <u>28,112</u> |
| B. Cases in which investigations/ assessments were completed during the year | 9,608 |
| C. Cases which were pending at the end of the year | 18,504 |

The amount of revenue involved in the above cases could not be furnished by the department.

1.10 Results of audit

Test check of the records of Sales Tax, Motor Vehicles, State Excise, Forest and Other Departmental Offices conducted during the year 1991-92 revealed under-assessments/short-levy/loss of revenue amounting to Rs.3,257 lakhs in 40,662 cases. During the course of

the year 1991-92, the concerned Department accepted under-assessments etc. of Rs.132 lakhs involved in 5,461 cases of which 2 cases involving Rs.0.03 lakh had been pointed out during 1991-92 and the rest in earlier years.

107 draft paragraphs and 2 reviews involving an amount of Rs.1,847.55 lakhs and relating to important mistakes/irregularities noticed during 1991-92 and earlier years, which were identified for possible mention in the Audit Reports, were issued to Government of which 100 cases involving Rs.1166.68 lakhs were accepted by the Government/Department. Recovery made in these cases amounted to Rs.6.24 lakhs. This report includes 96 paragraphs involving financial effect of Rs.1170.51 lakhs of which 90 cases involving Rs.1161.30 lakhs were accepted by the Government/Department. Recovery made in these cases amounted to Rs.6.24 lakhs upto December 1992, Audit objections with a total revenue effect of Rs.9.21 lakhs in 6 cases which have not been accepted by the Department/Government but their contention has been found at variance with the facts or legal position have been appropriately commented upon in the relevant paragraphs.

1.11 Outstanding Inspection Reports

(a) Important irregularities and defects in assessments, demands, collection and accounting of State Receipts, noticed during local audit, are intimated through

Inspection Reports to the Departmental Officers, Heads of Departments and also to Government, where necessary, with the request to furnish replies thereto within a month of their receipt. In addition, statements showing details of audit objections remaining outstanding for more than six months are sent to Government every six months in May and November, so that these may receive special attention.

(b) At the end of June 1992, 2,516 Inspection Reports containing 8,329 audit objections, involving receipt of Rs.6208.00 lakhs issued upto December 1991 were awaiting settlement.

The year-wise break up of the outstandings as at the end of June 1992 is given below :

| | <u>Number of outstanding</u> | | Revenue involved (Rupees in lakhs) (3) |
|---------|--------------------------------------|-----------------------------------|--|
| | <u>Inspection Reports</u> (1) | <u>Audit Objection</u> (2) | |
| Upto - | | | |
| 1989-90 | 2,062 | 5,713 | 4277.73 |
| 1990-91 | 232 | 1,257 | 1152.84 |
| 1991-92 | 222 | 1,359 | 777.43 |
| | <u>2,516</u> | <u>8,329</u> | <u>6208.00</u> |

(c) The department-wise break up is given below:

| Department | Nature of receipts | Number of reports | Number of audit objections | Revenue involved (Rupees in lakhs) |
|---------------------------------------|----------------------------------|-------------------|----------------------------|------------------------------------|
| (1) | (2) | (3) | (4) | (5) |
| 1. Revenue and Excise | Land Revenue | 682 | 1,654 | 2,560.87 |
| | Stamp duty and Registration fees | 238 | 313 | 75.29 |
| | State Excise | 137 | 418 | 740.17 |
| 2. Commerce and Transport (Transport) | Taxes on Vehicles | 164 | 1,551 | 1,075.93 |
| | Taxes on Passengers | 70 | 237 | 375.26 |
| ✓ 3. Finance | ✓ Sales Tax | 564 | 2,111 | 765.55 |
| | ✓ Entertainment Tax | 193 | 311 | 11.39 |
| 4. Forest and Environment | Forest | 375 | 1,553 | 556.85 |
| 5. Steel and Mines | Mining Receipts | 93 | 181 | 46.69 |
| | | <u>2,516</u> | <u>8,329</u> | <u>6,208.00</u> |

(d) Out of reports issued up to December 1991, in respect of 258 reports containing 1182 audit objections, even first replies had not been received till 30th June 1992. The extent of delay in receipt of replies in these cases is shown below :

| Period of delay (1) | Number of Inspection Reports (2) | Number of outstanding audit objections (3) | Revenue involved (Rupees in lakhs) (4) |
|--------------------------------------|---|--|--|
| Upto 6 months | 28 | 167 | 350.30 |
| Over 6 months and upto 12 months | 97 | 400 | 378.86 |
| Over 12 months and upto 18 months | 61 | 232 | 231.01 |
| Over 18 months and upto 24 months | 19 | 101 | 171.41 |
| Over 24 months | 53 | 282 | 294.26 |
| Total : | <u>258</u> | <u>1182</u> | <u>1425.84</u> |

The above position was brought to the notice of the Chief Secretary to the Government (September and October 1992).

1.12 ✓ Internal control and internal audit

✓ Commercial Tax Department

The internal audit organisation of the Department started functioning from the year 1975-76. There are 28 Commercial Tax Circles, 17 assessment units, 37 check-gates and 8 Railway Receipt Units in the State which are subject to check by internal audit wing. The

audit functions of these offices has been assigned to 7 Inspection Parties each consisting of one Commercial Tax Officer (Inspection) one Stenographer, one Junior Assistant, one Junior Typist and two Peons. During the year 1991-92, out of 7 Inspection Parties, one party was engaged for the entire year, one party was engaged for a part of the year and remaining five parties did not function.

The position of arrears of Internal Audit vis-a-vis programme fixed for the year 1991-92 is indicated below:

| Name of the Office | Number of Offices to be audited | Number of years of audit to be completed (arrears in years multiplied by number of Offices) | Number of years audited | Arrear as on 31 March 1992 |
|-----------------------|---------------------------------|---|-------------------------|----------------------------|
| (1) | (2) | (3) | (4) | (5) |
| Circle Offices | 28 | 90 | 10 | 80 |
| Assessment Unit | 17 | 36 | 6 | 30 |
| Check-Post | 37 | 98 | 10 | 88 |
| Railway Receipts Unit | <u>8</u> | <u>26</u> | <u>3</u> | <u>23</u> |
| | <u>90</u> | <u>250</u> | <u>29</u> | <u>221</u> |

As at the end of 31 March 1992, 654 Inspection Reports containing 12,832 objections were pending settlement. The money value of these objections were not maintained by the department. The year-wise break up of the Inspection Reports and audit objections pending settlement is indicated below :

| Years | Number of Inspection Reports | Number of audit objections |
|----------------|------------------------------------|----------------------------------|
| (1) | (2) | (3) |
| Upto -1987-88 | 393 | 9,004 |
| 1988-89 | 116 | 2,095 |
| 1989-90 | 47 | 835 |
| 1990-91 | 69 | 586 |
| 1991-92 | <u>29</u> | <u>312</u> |
| Total : | <u>654</u> | <u>12,832</u> |

Transport Department

The internal audit organisation of the department started functioning from 1968-69.

According to the information furnished by the Department (September 1992), the internal audit wing with a sanctioned strength of 4 auditors is functioning in the Office of the State Transport Authority.

The Government have sanctioned 6 more posts of auditors in August 1991 with whom 7 audit parties were contemplated to be constituted with the existing 4 auditors. However, the position of implementation in this regard could not be intimated.

The year upto which internal audit was completed by the end of March 1992 in 16 regions and State Transport Authority, Orissa is indicated below:

| SL. No. | Name of the Office | Year upto which internal audit was completed | Remarks |
|---------|--|--|---|
| (1) | (2) | (3) | (4) |
| 1. | Regional Transport Office, Balasore | 1987-88 | |
| 2. | Regional Transport Office, Bolangir | 1985-86 | |
| 3. | Regional Transport Office, Bhubaneswar | 1987-88 | |
| 4. | Regional Transport Office, Chandikhol | - | The Office was opened during the year 1986-87 and no internal audit was conducted since then. |
| 5. | Regional Transport Office, Cuttack | 1985-86 | |

| Sl. No. | Name of the Office | Year upto which internal audit was completed | Remarks |
|---------|---------------------------------------|--|---------|
| (1) | (2) | (3) | (4) |
| 6. | Regional Transport Office, Dhenkanal | 1987-88 | |
| 7. | Regional Transport Office, Ganjam | 1987-88 | |
| 8. | Regional Transport Office, Kalahandi | 1985-86 | |
| 9. | Regional Transport Office, Koraput | 1985-86 | |
| 10. | Regional Transport Office, Keonjhar | 1985-86 | |
| 11. | Regional Transport Office, Mayurbhanj | 1986-87 | |
| 12. | Regional Transport Office, Phulbani | 1987-88 | |
| 13. | Regional Transport Office, Puri | 1986-87 | |
| 14. | Regional Transport Office, Rourkela | 1985-86 | |
| 15. | Regional Transport Office, Sambalpur | 1985-86 | |
| 16. | Regional Transport Office, Sundargarh | 1986-87 | |
| 17. | State Transport Authority, Orissa | 1987-88 | |

The information regarding number of Inspection Reports and audit objections pending settlement with money value as on 31 March 1992 though called for (May 1992) was not furnished by the department.

CHAPTER 2

SALES TAX

*Discussed
in P.A.C
on 3/11/98*

2.1 Results of audit

Test check of assessments and refund cases and the connected documents in the Commercial Tax Offices during the period from April 1991 to March 1992 revealed under-assessment of tax and loss of revenue amounting to Rs.766.90 lakhs in 1,053 cases which may broadly be categorised as under :

| | Number of cases | Amount (Rupees in lakhs) |
|---|-----------------------|--------------------------------|
| 1. Irregular grant of exemptions | 222 | 337.89 |
| 2. Under-assessment due to application of incorrect rate of tax | 87 | 147.02 |
| 3. Short levy due to incorrect computation of taxable turnover | 120 | 64.90 |
| 4. <u>Non-levy of Interest</u> | <u>390</u> | 4.88 |
| 5. Other irregularities | <u>234</u> | <u>212.21</u> |
| | <u>1,053</u> | <u>766.90</u> |

During the course of the year 1991-92, the concerned Department accepted under-assessment etc. of Rs.29.92 lakhs involved in 546 cases which had been pointed out in audit in earlier years. In 44 draft paragraphs

involving financial effect of Rs.105.45 lakhs and bringing out major points noticed during the year of Report or earlier years were issued to Government for their comments. The Government/Department has accepted the observations in 43 cases involving Rs.104.46 lakhs of which Rs.6 lakhs have been recovered up to December 1992.

A few illustrative cases are given below in the following paragraphs.

2.2 Irregular grant of exemption

30 FF (a) Under the Orissa Sales Tax Act, 1947, (OST Act) Sale of goods produced by Small Scale Industries, set up on or after 1st April 1986 and starting commercial production thereafter inside the State and certified by the concerned General Manager, District Industries Centre as such are exempted from tax for a period of five years from the date of commencement of commercial production. Further, under the Act *ibid*, certain categories of industries such as flour mill, industries producing black and white and colour television other than those manufactured through Rural Co-operative societies and carpentry and furniture making industries set up on or after 1st April 1986, have been kept outside the purview of exemption

From 80
to
30 FF

scheme. Under the Act *ibid*, besan is exigible to tax at the rate of 4 per cent if corresponding pulses wherefrom besan is obtained have not suffered tax.

Jan 27

Demanded
↓
Assessing Officer filed Revision on 27-5-93 which is pending for disposal

(i) In Cuttack-I (Central) Circle, a manufacturing dealer sold 'besan' worth Rs.89.87 lakhs during the year 1989-90 which was exempted from tax on the ground that the same was produced in his flour mill and entitled to such exemption. But 'besan' being nothing but flour of pulses, and flour mill being an industry not eligible for the exemption, grant of the exemption was irregular. It was further noticed in audit (March 1992) that the dealer purchased pulses either from outside the State or inside the State, tax free, by furnishing declaration. Thus besan was taxable at the rate of 4 per cent under the Sales Tax Act. The grant of irregular exemption led to short levy of tax of Rs.3.59 lakhs.

Besan being flour of pulses - not eligible - industry
↓

On this being pointed out in audit (March 1992), the assessing Officer reopened the case for re-assessment (March 1992).

Govt. reported (Dec '93) - invalid - amount of Rs.3.59 lakhs - returned.

The matter was reported to Government (June 1992); their reply has not been received (December 1992).

(ii) In Cuttack-I (Central) Circle a dealer sold his finished product 'besan' worth Rs.23.03 lakhs during

Flour Mill not being eligible ind. sale of Besan by Flour Mill does not qualify for exemp. (30 PF)

⊗ Demand raised by Assessing Officer - A CST reduced to NIL treating 'Besan Mills' as not Flour Mills.

State filed (15-12-94) 2nd Appeal which is pending for disposal.

the year 1989-90 which was exempted from tax on the ground that the same was produced in his flour Mill entitled to such exemption. But 'besan' being nothing but a flour form of pulses, and flour mill being an industry not eligible for exemption, the exemption granted was irregular. It was, further noticed in audit (March 1992) that the dealer purchased pulses either from outside the State or from inside the State without payment of tax on the strength of declarations in form-1-B. Corresponding pulses from which 'besan' is made, not having suffered tax under the OST Act, the sale of 'besan' was subject to levy of tax at the rate of 4 per cent under the Act. Thus the grant of irregular exemption resulted in short levy of tax amounting to Rs.92,121.

On the mistake being pointed out in audit (March 1992), the assessing officer reopened the case (March 1992).

The matter was reported to Government (June 1992); their reply has not been received (December 1992).

(iii) In Bhubaneswar-II Circle, a dealer engaged in manufacture of TV sets sold products worth of Rs.32.26 lakhs during the month of December 1989 to March 1990 and of Rs.76.53 lakhs during 1990-91. As TV industry

Demand revised.

→ The 1st Appellate authority annulled the demand (17.2.93) citing the decision of Orissa High Court in the case of M/s. Mansfield Electronics vs. State of Orissa. JTC 4153 of 1990.

was declared ineligible for exemption of tax on the sale of its products with effect from 1st December 1989, the grant of exemption was irregular which resulted in short levy of tax amounting to Rs.13.39 lakhs.

On this being pointed out (December 1991), the assessing officer reopened the case (December 1991) and raised (May 1992) a demand of Rs.13.39 lakhs. It was further reported (May 1992) that the dealer, preferred an appeal before the Assistant Commissioner of Sales Tax, Appellate Unit, Bhubaneswar. Government also stated that the said demand was stayed by the Hon'ble High Court, Orissa.

(iv) In Bhubaneswar-I Circle, a dealer engaged in manufacture and sale of wooden and steel furniture, sold products worth Rs.7.40 lakhs during December 1989 to March 1990 which were exempted from levy of tax. Carpentry and furniture making industries having been declared ineligible for the exemption with effect from 1st December 1989, the exemption granted was irregular. Sale of wooden furniture being taxable @ 12 per cent and that of steel furniture @ 13 per cent, the irregular exemption resulted in short levy of tax of Rs.1.03 lakhs including additional sales tax.

NO compliance

Demand raised

On this being pointed out (October 1991), the assessing officer reopened the case (October 1991) and raised additional demand (June 1992) of Rs.1.02 lakhs. The difference of Rs.1,065.00 was due to computational mistake for which the assessing officer agreed to issue rectification notice.

The matter was reported to Government (March 1992); in reply the Government confirmed the above position (September 1992).

Demand raised
 (v) In Cuttack-I (West) Circle, a dealer engaged in manufacture and sale of his finished products, sold finished products worth Rs.30.86 lakhs during the year 1988-89. The entire year's sale was exempted from tax on the ground that the same was from a new industry. However, on scrutiny it was noticed in audit (January 1992) that the Director of Industries, Orissa certified the industry as medium scale industry and not as a small scale industry. As medium scale industries were not within the purview of the exemption, the exemption allowed was irregular. The irregular grant of exemption led to short levy of tax of Rs.2.71 lakhs.

Medium Scale

On the omission being pointed out in audit (November 1991), the assessing officer reopened the

case (November 1991) and raised demand (June 1992) of Rs.3.49 lakhs under OST and Rs.33,195.00 under the Orissa Additional Sales Tax Act (OAST).

The matter was reported to the Government (March 1992); in their reply Government confirmed the above position (July 1992).

(b) As per the notification issued by the Government in July 1980, under the Orissa Sales Tax Act, 1947 purchase or sale of (i) raw materials which directly go into composition of finished products (ii) machineries and spare parts thereof actually required for starting and maintaining a unit, and (iii) packing materials required for packing finished products in the same form as manufactured by the unit when sold to or purchased by a registered dealer who is certified by the Director of Industries as a village/cottage/small scale industry/starting production inside the State on or after 1st August 1980 is exempted from levy of tax provided that the finished products of such industrial unit are sold inside Orissa or in course of inter-state trade or export from Orissa subject to the condition that the dealer or his authorised agent furnishes a declaration in the prescribed form (Form - I-A) to the effect that the raw-materials will go directly into the composition of finished products to be manufactured

*Item
26A*

in the manufacturing unit.

Items 26-D

Under the notification issued in February 1987, under the Orissa Sales Tax Act, 1947 purchase and sale of goods which directly go into the composition of finished products when sold to or purchased by a registered dealer who is certified by the concerned General Manager, District Industries Centre as village/cottage/small scale industry set up on or after 1st April 1986 and starting commercial production thereafter inside the State is exempt from tax, subject to furnishing a declaration in Form - I-B obtained from the manufacturing registered dealer to the effect that the goods purchased shall be used as raw-materials for the purpose of manufacture inside the State. This exemption shall be allowed for a period of five years from the date of commercial production to be certified by the concerned General Manager, District Industries Centre.

Under the Act *ibid inter-alia* tailoring unit (other than units manufacturing ready made garments) and flour mill have been declared ineligible for exemption.

It has been judicially held* that an industry can be said to have been set up only when it starts its

* In case of crown Re-roller Private Ltd. Vs. State of Orissa decided by Orissa High Court.

commercial production and that* the period of 'five' years should be counted from the date of commencement of commercial production in so far as purchase of raw materials is concerned.

Further, it has been judicially held** that Haldi crushed into powder form cannot be said to have been manufactured.

(i) In Bhubaneswar-I Circle, it was noticed (October 1991) that one registered dealer sold HDPE fabrics worth Rs.132.67 lakhs during the year 1989-90 to a new industrial unit engaged in making bags. The sale was exempted from tax on the strength of the prescribed declaration. As making bags involves only the job of tailoring (Other than making ready made garments), the industry was not entitled to the exemption. The irregular exemption led to short levy of tax of Rs.11.94 lakhs.

On this being pointed out (October 1991), the assessing officer reopened the case (October 1991) for re-assessment.

* Teleworks Private Ltd. Vs. Steel Authority of India Ltd. reported in 81 STC (449) (Orissa).

** In the case of Mahabir Prasad Birhivala Vs. State of West Bengal and another reported in (1973)-31-STC-628.

vide file 2.2(d)

Sale to Tailoring unit

Compliance (i)
In view of the Decision of Orissa High Court (M/s. Ushahal Women Socs) J.C. 3285 of 1989 decided on 4.1.95
objection raised
not maintainable

The matter was reported to the Government (March 1992); their reply has not been received (December 1992).

Sale of wheat to flour mill

Demand raised

Hoble High Court
quashed
judgment

OJC 1555/92
OJC 7502/92
21-7-96

(ii) In Bhubaneswar-II Circle, a registered dealer sold wheat worth Rs.68.04 lakhs to a flour mill during the year 1987-88. The sale was exempted from tax on the strength of declaration (though submitted in improper form). As flour mill was an industry not eligible for exemption having been excluded from the purview of the Industries eligible for exemption from tax, the exemption granted was irregular which resulted in short levy of tax of Rs.2.72 lakhs.

On this being pointed out (January 1992), the assessing officer reopened the case (January 1992).

The Government to whom the matter was reported (March 1992), intimated (October 1992) that the re-assessment proceedings have been completed (August 1992), by raising an additional demand of Rs.3.02 lakhs.

30 FF

(iii) In Cuttack-II Circle, a dealer engaged in making different powders like Haldi powder, Jeera powder, Dhania powder, black-pepper powder etc. sold his goods valued at Rs.10.96 lakhs during 1989-90 which was exempted from tax. As conversion of Haldi etc. into powder form does not involve any manufacturing process, the exemption

Completion of process or any process under the definition "Manufacturing" includes the definition "Manufacturing" and shall be retrospective effect by Hoble OJC in the case of Jagannath Ind. vs. State of Orissa.

para dropped

allowed was irregular which resulted in short levy of tax of Rs.98,525.

On this being pointed out in audit in October 1991, the assessing officer reopened the case (October 1991) for re-examination. Further report has not been received (December 1992).

The matter was reported to Government in February 1992; their reply has not been received (December 1992).

Demand note (c) Under the Orissa Sales Tax Act, 1947, when a registered dealer purchases goods intended to be used in the process of manufacture free of tax on the strength of declaration but utilises the same for any other purpose, he is liable to pay tax on such purchases as if he had not furnished the declaration.

Raw material used otherwise

Further, the departmental instructions in this regard enjoin that manufacturing process of the concerned dealer should be subjected to frequent inspections and the purchase of raw-materials should be invariably checked with the manufacturing account to ensure that there is no misuse.

CCT, Standing order no. 19/1964 Cr. No. 12640/C.T. 22.5.64

In Ganjam-I Circle, a registered manufacturing dealer purchased maida valued at Rs.25.46 lakhs during the year 1985-86 free of tax on the strength of prescribed declaration that the goods were meant for use in the manufacture of bread and biscuits. It was, however, noticed (November 1991) in audit that the sale of finished products was not commensurate with the raw-materials purchased free of tax. Against the purchase value of maida of Rs.25.46 lakhs, the sale of finished products was only Rs.2.51 lakhs (9.86 per cent). No manufacturing account or stock account was available. Department also did not conduct any inspection as contemplated under the Departmental instructions to ensure that there is no misuse. It was also noticed that during the previous assessment year i.e. 1984-85, as against the sale of finished products valued at Rs.3.28 lakhs, the dealer had purchased maida valued at Rs.19.95 lakhs free of tax. In the assessment of the dealer for the year 1984-85, it was held that the goods were mis-utilised and were suitably taxed. As per the norm already adopted in the assessment of 1984-85, the value of raw-materials mis-utilised during the year 1985-86 worked out to Rs.24.21 lakhs on which the dealer was liable to pay a tax of Rs.96,824. The omission to levy tax resulted in short levy of tax to the extent of Rs.96,824.

On the omission being pointed out in audit (November 1991), the assessing officer agreed to take action.

The matter was reported to Government (March 1992); their reply has not been received (December 1992).

Govt informed of demand raised (4/2/95)

(d) In the course of audit of records in Puri-II Circle, it was noticed that, a registered dealer, dal mill owner, started commercial production from 20th April 1982. Therefore, his exemption period of five years expired on 19th April 1987. It was, however, noticed in audit (May 1991) that the dealer purchased 'moong' worth Rs.16.22 lakhs after the expiry of exemption period (Rs.2.46 lakhs during 1987-88 and Rs.13.76 lakhs during 1988-89) for which he was liable to pay purchase tax amounting to Rs.64,866. But the tax payable by the dealer was irregularly exempted by the assessing officer on the strength of declaration in prescribed form furnished by the dealer. This resulted in short levy of tax of Rs.64,866.

Purchase of 233 gms dal after eligibility period with tax.

On this mistake being pointed out in audit (May 1991), the assessing officer reopened the case (May 1991) for reassessment.

The matter was reported to Government (August 1991); their reply has not been received (December 1992).

(e) According to entry 8-A of the tax free schedule under the Orissa Sales Tax Act, 1947, the sale of dal obtained from pulses that had already suffered tax is exempt from tax. Otherwise, such sales are subject to tax at 4 per cent as per item 27 of the schedule of goods liable to sales tax notified under Section 5(ii) of the Orissa Sales Tax Act, 1947.

Dal case

In Puri-II Circle, two registered dealers who were certified as Small Scale Industries by the Director of Industries, Orissa, purchased 'pulses' amounting to Rs.15.84 lakhs during the years 1988-89 and 1989-90, without payment of tax, on furnishing the prescribed declarations in Form - I-A declaring that the goods shall be used as raw materials for the purpose of manufacturing 'dal'. The assessing officer while completing the assessments of the dealers (January 1991 and June 1991), had also exempted the sales turnover of dal amounting to Rs.16.55 lakhs obtained from such pulses, although the sales turnover was exigible to tax under item 27 of the schedule of goods liable to sales tax since the pulses from which such dal was obtained had not suffered tax earlier. The irregular exemption resulted in under-assessment of sales tax of Rs.66,189.

On this being pointed out in audit (May 1991), the assessing officer reopened the case (May 1991) for reassessment. Further report has not been received (December 1992).

The matter was reported to Government in August 1991; their reply has not been received (December 1992).

(f) Under the Orissa Sales Tax Act, 1947, sales of seeds certified by the certification agency and marked 'poisonous' are tax free when such seeds are sold in sealed containers or bags with effect from 1st August 1989. Demand raised

Under the Act *ibid* the goods not specified are subject to tax at the rate of 8 per cent.

It was noticed (July 1991) during the course of audit in Kalahandi Circle that a registered dealer sold different kinds of seeds worth Rs.17.26 lakhs (including tax element) during the period from August 1989 to March 1990. The assessing officer exempted the sale from tax on the ground that sale of seeds was tax free. However, on scrutiny of records, it was noticed (July 1991) that the seeds were either not labelled 'poisonous' or not sold in sealed containers or bags and therefore, did not

qualify for exemption from tax. The exemption allowed was thus irregular and resulted in short levy of tax of Rs.1.42 lakhs.

On this mistake being pointed out in audit (July 1991), the assessing officer reopened the case (July 1991) and raised demand of Rs.3.37 lakhs under OST and Rs.42,144 under OAST. *To put value of 0.25. was Rs 3.37 lakhs but D.P. made for Rs 1.42 lakhs*

The matter was reported to the Government (September 1991) followed by D.O. reminder (August 1992); in their reply Government has confirmed the above position (September 1992).

(g) In Cuttack-II Circle, it was noticed (September 1991) in audit that a small scale industrial unit engaged in manufacturing and selling of wire nails and barbed wires purchased raw materials free of tax worth Rs.25.92 lakhs during 1988-89.

The Industry having started commercial production on 15th March 1983, the purchase made on the strength of prescribed declarations in form - I-A was beyond admissible period of five years. As the blank forms were supplied by the Department beyond eligible period of five years, the dealer could avail unintended benefit of tax exemption of Rs.1.06 lakhs.

F H
AR Puna
(b)

Besides, sale of finished products by the dealer worth Rs.12.81 lakhs effected during 1987-88 was exempted from levy of tax even though he was not entitled to such exemption inasmuch as his industrial unit was set up prior to 1st April 1986. This irregular exemption from levy of tax led to short levy of tax of Rs.1.09 lakhs.

On this being pointed out in audit (September 1991), the assessing officer reopened the case (September 1991).

The matter was reported to Government (February 1992). In reply (August 1992) they have intimated that reassessment has been completed (June 1992) and a demand of Rs.1.09 lakhs (including penalty of Rs.6000) had been raised.

2.3 Irregular deduction of first point tax paid goods

Under the Orissa Sales Tax Act, 1947 certain goods have been specified to be taxed at the first point of sale in a series of sales. The Act *inter-alia* provides by an amendment made with effect from 11th October 1983 that in respect of goods subject to levy of tax at the first point of sale, a dealer who sells such goods at a subsequent point shall not be allowed to claim deduction of the sale price of such goods from the gross turnover,

1.92 PK
ex parte

unless, he furnishes a declaration in the prescribed form obtained from the previous selling dealers to the effect that tax has been paid/will be paid by them on the goods. Though the burden is on the department to show that the turnover is liable to tax under the Act, the onus of proving that a particular turnover is exempt from tax lies on the dealer.

Under the Act *ibid* cement is exigible to tax at the rate of 8 per cent as an unspecified item and iron and steel goods at the rate of 4 per cent.

In Cuttack-II Circle, the assessment of a dealer dealing in cement and iron and steel goods was completed (December 1990) ex-parte for non-production of his books of accounts for verification. In the assessment for the year 1989-90, a deduction of Rs.8.70 lakhs was allowed towards turnover of sale of first point tax paid goods. As the assessing officer had no occasion to verify while making ex-parte assessment whether tax was paid at the first point, the deduction allowed was irregular and resulted in an under assessment of tax amounting to Rs.50,350.

On this being pointed out in audit (October 1991), the assessing officer reopened the case (October 1991).

1st pt.
ex parte

Demanded
amount

Also
vide
para 2.4(b)
2/19/92-93
where
CIT Cir.
noted.

Govt.
informing
of demand
amount
(12/92)

The matter was reported to Government in February 1992; their reply has not been received (December 1992).

2.4 Short levy of Central Sales Tax due to allowance of inadmissible deduction

Under the Central Sales Tax (CST) Act, 1956, 'sale price' means amount payable to a dealer as consideration money for sale of any goods subject to deduction of freight where the same is separately charged.

(a) In Dhenkanal Circle, it was noticed (August 1991) that in the CST assessment of a registered dealer of chemicals for the year 1988-89, a deduction of Rs.5.90 lakhs was allowed towards freight and insurance charges from the gross turnover. A scrutiny of the purchase orders, however, revealed that rates quoted by the dealer were inclusive of either full or fixed freight charges. It has been judicially held* that insurance charges claimed in the bill of sale would form a part and parcel of turnover. The allowance of deduction towards freight and insurance was, therefore, irregular and resulted in short levy of tax to the tune of Rs.23,614.

On this being pointed out in audit (August 1991), the assessing officer reopened the case.

* Hyderabad A.C.Product Vs. State of Andhra Pradesh-64-STC-(192).

The matter was reported to Government (September 1992); their reply has not been received (December 1992).

(b) Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of Works Contract shall be deemed to be the gross value received or receivable by the dealer for carrying out such contract less the amount of labour charges incurred for execution of work.

In the course of audit (January 1991) of Bhubaneswar-I Circle, it was noticed that a dealer engaged in manufacture of equipment also undertook and executed a contractual work amounting to Rs.92.98 lakhs during 1988-89. In respect of one work, the dealer claimed a deduction of Rs.10.48 lakhs towards materials supplied free of cost by the contractee. The same was accepted by the assessing officer while finalising the assessment. As the supply of materials by contractee and its use in the execution of work also constitutes a sale, the deduction allowed was irregular. Thus, the irregular deduction resulted in under assessment of tax amounting to Rs.47,159 (including OAST).

On this being pointed out (January 1991), the assessing officer reopened the case (June 1991) and.

raised an additional demand of Rs.24,620 including additional Sales Tax.

The matter was reported to Government (May 1991); their reply has not been received (December 1992).

2.5 Under assessment of CST due to grant of irregular exemption

Goods not generally tax free
Demand on GST
 Under the Central Sales Tax Act, 1956, no tax is leviable on inter-State sale of any goods if those goods are exempted from tax generally under the State Sales Tax Act. A sale of goods would not be deemed to be exempted from tax generally under the Sales Tax Law of the State concerned, if under the State law, sale of such goods is exempted only under certain specified circumstances.

Form I-C
30-11
 Under the Orissa Sales Tax Act, 1947, sale by a registered dealer of electronic goods manufactured in the State of Orissa by the electronic industries as declared by the State Electronics Development Corporation is exempted from tax subject to the fulfilment of the following conditions, i.e. (i) the sale has taken place within the specified time and (ii) a certificate in prescribed form is obtained and produced from the State Electronics Development Corporation and *in the form* [that] the goods as such are not generally tax free.

In Bhubaneswar-II Circle, the sale by a registered dealer of electronic goods worth Rs.118.07 lakhs in course of inter-State trade ^{or} and commerce during the year 1988-89 was exempted from tax on the ground that the sale of such goods was exempted from tax under the Orissa Sales Tax Act. As the exemption is available only when certain conditions are fulfilled, the sale of such goods cannot be deemed as generally tax-free under the Orissa Sales Tax Act, and therefore, exemption under the Central Sales Tax Act, is not admissible. Thus, irregular exemption resulted in short levy of Central Sales Tax amounting to Rs.15.35 lakhs.

On the omission being pointed out in audit (December 1991), the assessing officer reopened the case (December 1991) for re-examination. On reassessment a demand of Rs.15.73 lakhs including penalty of Rs.1.50 lakhs has been raised (January 1992).

P/27
gdp

The matter was reported to the Government (March 1992). In reply, Government intimated (May 1992) that a demand of Rs.15.73 lakhs had been raised and that being aggrieved the dealer preferred an appeal before Assistant Commissioner, Sales Tax, Bhubaneswar. Further details regarding the case have not been received (December 1992).

2.6 Under assessment due to mis-classification of goods

Under the Orissa Sales Tax Act, 1947, goods which are not specified are exigible to tax at a general rate of 8 per cent. Drugs being an unspecified item is taxable at the rate of 8 per cent.

It has been judicially held* that cotton roller bandages manufactured from bandage cloth by first bleaching it and then cutting to different sizes and used for the purpose of healing cuts and wounds would fall under the meaning of 'drug and medicines' and not 'handloom fabrics of all varieties'.

In the course of audit (February 1992), it was noticed, that, in Cuttack-I (Central) Circle, while finalising the assessment of a registered dealer for the year 1989-90, sale of gauge and bandage cloth amounting to Rs.11.34 lakhs was allowed tax free treating the same as handloom cloth. It was seen on scrutiny of the Registration Certificate of the dealer that he was using bleaching powder for the purpose of bleaching the bandages and as such in view of the Judicial decision the allowance of exemption was irregular which resulted in short levy of tax of Rs.99,306.

* State of Gujrat Vs. C.K.Gauge Bandage Manufacturing Company - 84-STC-571.

On this being pointed out in audit (February 1992), the assessing officer stated that the same was allowed based on a Tribunal decision wherein surgical bandage and gauge were allowed as tax free. The decision of the Tribunal is not relevant in this case as the dealer in that case manufactured gauge and bandage with the raw-materials of handloom cloth which was tax free under the Act. In the instant case, the dealer did not use any handloom cloth and as such the decision of the Gujrat High Court is relevant in this case.

The matter was reported to the Government (June 1992); their reply has not been received (December 1992).

2.7 Irregular treatment of divisible contract as indivisible

Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by the dealer for carrying out such contract less the amount of labour charges incurred for execution of works. The turnover is taxable at the rate of 4 per cent. It was, however, judicially held* that in the case of a divisible works contract,

* In the case of Gannon and Dunkerly - 9-STC-353.

Demand
over 80
P/30
2/2

one for sale of goods and the other for work and labour, though there is a single instrument embodying them, there are really two agreements and the former is to be treated as an agreement to sell the goods. Accordingly, tax has to be levied at appropriate rate as applicable to sale of such goods.

(i) During the course of audit (August 1991) in Dhenkanal Circle, it was noticed that a dealer executed works of construction of overhead electrical lines of a Central Corporation. The dealer purchased materials worth Rs.18.11 lakhs from outside the State by payment of tax at the rate of 4 per cent on furnishing 'C' declaration and utilised the same in the execution of works. While determining the taxable turnover the value of such materials was deducted from the gross turnover of the dealer for the year 1989-90, on the basis of another judicial* pronouncement wherein it was held that goods used in the execution of works if already suffered tax should not be taxed again. A scrutiny of the letter of award issued by the Corporation however revealed that the work is distinctly divisible into two portions (Clause-11) i.e. supply portion and erection portion. It was, stipulated in Clause-11

* Builders Association Vs. Union of India and others-
73-STC-370-SC.
Gannon and Dunkerly.

Case

(1) Pending on the
Honble Orissa H.C.

8/27
D.P.

9/27
DP.

that the supply portion shall include design, engineering, manufacturing including testing and supply of all of materials and equipments at project site. Clause-12 *ibid* also stipulated that the ownership of the goods supplied under supply portion of contract rests with the Corporation. The provisions of the work order thus made the contract clearly divisible between supply and erection. The materials supplied valued at Rs.18.11 lakhs should have been treated as sale of goods under supply contract and taxed at the appropriate rate. The details of the goods not being available, the under assessment of tax at a general rate of 8 per cent works out to Rs.1.63 lakhs.

On this being pointed out in audit (August 1991), the assessing officer reopened the case (September 1991).

The matter was reported to the Government (January 1992); their reply has not been received (December 1992).

(ii) In Cuttack-I (Central) Circle, a dealer executed a work of supply and installation of humidification plants. The payment received during 1988-89 after deduction of installation charges was taxed @ 4 per cent treating the same as works contract. A scrutiny, however, revealed that as per the agreement the dealer was required to

supply the humidification plant FOR mill site at a cost of Rs.26.53 lakhs inclusive of excise duty, taxes, freight and insurance. An amount of Rs.2.97 lakhs was payable by the contractor towards installation charges. Thus, there were clearly two contracts - one for supply and the other for installation. While finalising the assessment (February 1990) Rs.2.97 lakhs being installation charges as agreed upon was deducted from the gross payment received of Rs.22.60 lakhs and the balance amount of Rs.19.63 lakhs was taxed @ 4 per cent treating the same as a works contract instead of taxing the same at 12 per cent applicable to sale of machinery which resulted in short levy of tax of Rs.1.57 lakhs.

P/1
D.P.

P/1
D.P.

On this being pointed out in audit (February 1992), the assessing officer reopened the case (February 1992).

The matter was reported to Government (June 1992); their reply has not been received (December 1992).

(iii) In Dhenkanal Circle, the taxable turnover of a dealer (Works Contractor) was determined at Rs.58.25 lakhs for the year 1989-90 and tax was levied at the rate of 4 per cent after allowing a deduction of Rs.3.56 lakhs towards labour and service charges. A scrutiny

Demand
P/34
D.P.

of the terms and conditions stipulated in the work order, however, revealed that the agreed value was distinctly split up into two distinct parts (i) supply portion and (ii) erection, commissioning and testing portion. Accordingly, the dealer sold materials valued at Rs.44.86 lakhs which were taxable at the rates of 8 per cent and 13 per cent. Treatment of the entire contract as a works contract and consequent levy of tax at the lower rate of 4 per cent, resulted in under-assessment of tax of Rs.2.88 lakhs.

On this being pointed out in audit (August 1991), the assessing officer reopened the case (August 1991).

The matter was reported to Government (January 1992); their reply has not been received (December 1992).

2.8 Short levy due to application of incorrect rate of tax

(a) Under the Orissa Sales Tax Act, 1947, sale includes transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. The Commissioner of Commercial Taxes, Orissa in his Circular dated 18th July 1988 clarified that hire charges should be taxed at the rate applicable to the goods involved. Under the Act, machineries are taxable at the rate of 12 per cent.

P/19
D.P.

Govt.
inform
demand
(12/92)
P/34
D.P.

Demand
&
realised

In Koraput-I Circle, a dealer hired out machinery to a public sector undertaking during the year 1989-90 and received hire charges amounting to Rs.23.20 lakhs, which was taxed at the rate of 8 per cent (i.e. general rate of tax applicable to goods not specified in the schedule of rate of tax) instead of at the correct rate of 12 per cent applicable to machinery. This resulted in short levy of tax amounting to Rs.92,802. ✓

Hire charges machinery

On this being pointed out in audit (December 1991) the assessing officer reopened the case for re-examination.

The Government to whom the matter was reported (May 1992) intimated (July 1992) that the re-assessment proceedings have been completed (May 1992) by raising an additional demand of Rs.92,821. - dues received 9/92

(b) Under the Orissa Sales Tax Act, 1947, with effect from 5th April 1986, tax on 'wireless instruments and apparatus' is leviable at the rate of 13 per cent. The Commissioner of Commercial Taxes, Orissa clarified that VCRs being complementary equipments to TVs are taxable as 'wireless instruments and apparatus'.

Demanded
ST
Tribunal
quashed
the extra
demand
4/21
Df.

In Bhubaneswar-II Circle, the sales turnover of a registered dealer on sales of VCRs amounting to

Rs.18.42 lakhs during the year 1989-90 was taxed at the rate of 8 per cent as an unspecified item instead of at the correct rate of 13 per cent which resulted in short levy of tax of Rs.92,101.

On this being pointed out in audit (March 1992), the assessing officer reopened the case.

The matter was reported to the Government (May 1992); their reply has not been received (December 1992).

(c) 2.8 (C)
Under the Orissa Sales Tax Act, 1947, goods which have not been specified, are exigible to tax at the rate of 8 per cent.

PVC pipe not being specified under the Act *ibid* was exigible to tax @ 8 per cent during the year 1989-90.

In Bhubaneswar-I Circle, a registered dealer suppressed the sales of PVC Pipes during the year 1989-90. The assessing officer while finalising the assessment for the year 1989-90 enhanced the gross and taxable turnover by Rs.15.00 lakhs on the ground of deliberate suppression of turnover but taxed the enhanced turnover

Govt
intd
demand
miser
(1993)
P/23
DP.

@ 4 per cent instead of at 8 per cent (applicable to PVC Pipes), which resulted in short levy of tax of Rs.60,000.

On the omission being pointed out in audit (October 1991), the assessing officer agreed to reopen the case.

The matter was reported to the Government (March 1992); their reply has not been received (December 1992).

(d) Under the Orissa Sales Tax Act, 1947, petrol, diesel and lubricants are exigible to tax at the rate of 10 per cent, 12 per cent and 13 per cent respectively.

In Cuttack-I (West) Circle, a registered dealer being owner of a filling station, carried on business in petrol, diesel and lubricants. He did not file any return nor paid any tax for the years 1988-89 and 1989-90. The assessing officer estimated the sale for the year 1988-89 at Rs.36.50 lakhs and that for the year 1989-90 at Rs.63.80 lakhs and completed the assessment ex-parte. But while levying tax, he taxed the entire sales turnover at a flat rate of 8 per cent though the goods were taxable at varying rates of 10 per cent, 12 per cent and 13 per cent in respect of petrol, diesel and lubricants respectively.

*Demand
omitted*

*Point
of
objection*

As the item-wise taxable turnover is not available, the minimum short levy of tax at the lowest rate i.e. @ 10 per cent worked out to Rs.2.06 lakhs based on the differential rate of 2 per cent on the determined taxable turnover of Rs.100.30 lakhs.

On this being pointed out (November 1991), the assessing officer reopened the case (November 1991) and raised an additional demand of Rs.3.21 lakhs.

The matter was reported to Government (March 1992) and Government confirmed (July 1992) the fact of raising additional demand.

Demand (e) Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of works contract shall be deemed to be the gross value received or receivable by the dealer for carrying out such contract less the amount of labour and service charges incurred for the execution of work. In the case of indivisible contract, the component of labour charges will be determined by the assessing officer at a certain percentage of the gross value of the work executed. The tax payable on such taxable turnover is 4 per cent.

It has been judicially held* that in the case of indivisible contract, it is only the value of goods used

* Builders Association Vs. Union of India and others - STC-73-(370)(SC).

in the execution of works contract which would be taxed like any other sale transaction and not the entire value of the works.

Demand sur SW and continue in appeal P/37 DP

In Bhubaneswar-II Circle, it was noticed (December 1991) that during 1989-90, a works contractor who supplied lifts and elevators and installed them received a gross payment of Rs.11.78 lakhs during 1989-90. The taxable turnover was determined at Rs.7.42 lakhs after allowing deduction of Rs.4.36 lakhs towards labour and service charges and taxed @ 4 per cent. As the taxable turnover so determined represents only the value of the goods (i.e. lift and elevator) supplied, the taxable turnover should have been taxed @ 12 per cent applicable to sale of machinery instead of 4 per cent. The application of lower rate of tax resulted in short levy of tax amounting to Rs.59,355.

Demand continue in appeal P/37 DP

On this being pointed out in audit (December 1991) the assessing officer reopened the case and raised demand of Rs.57,845 including penalty of Rs.5,000 (March 1992). *Rs. 28800 realized by 3/93. Further action to realise the balance?*

Govt reply P/34 DP

The matter was reported to the Government (January 1992); their reply has not been received (December 1992).

2.9 Non-assessment of taxable turnover

(a) Under the Orissa Sales Tax Act, 1947, sale includes transfer of the rights to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. The Commissioner of Commercial Taxes, Orissa in his Circular dated 18th July 1988 clarified that hire charges should be taxed at the rate applicable to the goods involved. Under the Act 'machinery' was taxable at the rate of 12 per cent during the years 1988-89 and 1989-90.

In Cuttack-II Circle, a dealer engaged in carrying out dredging operation received a sum of Rs.70.21 lakhs during the year 1989-90 towards maintenance of dredging done in the year 1988-89. The amount representing hire charges constituted a sale for the year 1988-89 even though payment was received during the subsequent year 1989-90. The assessing officer did not levy tax on the sale turnover either in the assessment for 1988-89 or in the assessment for 1989-90. The omission resulted in short levy of tax of Rs.9.13 lakhs.

On this being pointed out in September 1991, the assessing officer reopened the case (September 1991).

*Dredging
Hire charges*

*Demand
sanction*

*for
diff.*

*see
P/44
DP.*

Government to whom the matter was reported (February 1992), while accepting the objection (July 1992), stated that an extra demand of Rs.16.22 lakhs under OST and Rs.94,125 under OAST Act respectively had been raised. Further, being aggrieved, the dealer preferred an appeal and paid Rs.6 lakhs as per conditional stay order of the Additional Commissioner of Commercial Taxes, Orissa, Cuttack.

(b) Under the Orissa Sales Tax Act, 1947, the State Government can notify the rate of tax subject to condition prescribed. Accordingly, under notification (22nd March 1982) purchase tax is payable at 10 per cent on standing trees agreed to be severed. However, it has been judicially held* that timber contracts were not transactions of sale or purchase of standing trees agreed to be severed; they were agreement for sale of such trees. In Orissa, as each stage of felling and removal operations is governed by the Forest Contract Rules and is under the control and supervision of the Forest Officers, tax on sale of timber after such felling and removal operations is leviable at 8 per cent.

* State of Orissa Vs. M/s.Titagarh Paper Mills Limited and another - (1985)-60-STC-213(SC).

Standing trees
Demand raised
 set aside by 1st Appellate Authority on 30.1.93

During the course of audit of Cuttack-II Circle (May 1991) it was noticed that consideration money amounting to Rs.18.30 lakhs received by the Divisional Forest Officer during the year 1989-90 in respect of sale of forest coupes where timber available therefrom had been removed, was not assessed to sales tax though the assessment was completed in August 1990. The escapement of this turnover resulted in short levy of tax amounting to Rs.1.65 lakhs (including additional sales tax of Rs.18,303).

On this being pointed out in audit (May 1991), the assessing officer reopened the case (May 1991).

P/26
D.P. The Government to whom the matter was reported (August 1991) intimated (October 1992) that the re-assessment proceedings have been completed (October 1991) by raising an additional demand of Rs.2.77 lakhs including Rs.18,303 as Additional Sales Tax.

(c) Under the Orissa Sales Tax Act, 1947, 'sale' includes any transfer of property in goods for cash or other valuable consideration and 'sale price' includes the amount payable to a dealer as consideration for the sale or supply of any goods. It has been judicially held* that if two persons mutually exchange two things

* IM & M Corporation Vs. State of Madras - 14-STC-788 (Madras).

(neither of which is in terms of money), it may be an exchange or a barter and not a sale. But, if they mutually fix the value of the exchanged things in current coinage and exchange them as of equivalent value, they might be held to effect a sale and not merely an exchange or barter. It has been judicially held* that where the assessee supplied gold jewellery and in consideration, therefor, received equal weight of gold and labour charges for making the jewellery, the transaction would be 'sale', and not 'barter'.

In Cuttack-I West Circle, a dealer had sold gold and silver ornaments valued at Rs.31.29 lakhs during the year 1987-88 and in consideration thereof received old ornaments valued Rs.10.36 lakhs and the balance of Rs.20.93 lakhs in cash. The assessing officer while completing the assessment (December 1988), had only considered the net value of the ornaments received in cash, as the sale price and determined the taxable turnover. The incorrect determination of taxable turnover resulted in under-assessment of tax of Rs.46,618 (including additional Sales Tax of Rs.5,177).

*Demanded
uniform*

*↓
AEST
reopened
the case
for fresh
assessment*

*↓
ST Tribunal
annulled
the
assessment
on 6.5.95*

* *VPV Achari* Action V. Madras Sales Tax Tribunal - 23-STC-(Madras) - 273.

*↓
State applied to
Honble OHC on 5.12.95
against refusal by ST Tribunal
for reference of the case to High Court.
The case is pending in
Honble OHC since then.*

*vide
copy no
17187
submitted
P/23
DP.
P/23
DD*

On this being pointed out in audit (October 1989), the assessing officer completed (March 1991) the reassessment of the dealer and raised an additional demand of Rs.46,618 (including additional Sales Tax of Rs.5,177).

The matter was reported to Government in December 1989; in their reply (September 1992) Government has confirmed the above position.

P/47
DJ.

(d) Under the Orissa Sales Tax Act, 1947 sale of 'pure silk fabrics and pure silk cloth of handloom origin' is exigible to tax at the rate of 10 per cent with effect from 1st April 1984.

Purchased
Silk
Yarn
but disallowed
no sale
of silk sarees

In Bolangir-I Circle, a registered dealer carried on business in manufacture and sale of silk sarees, handloom and janata sarees, dhotis etc. His entire sale for the year 1985-86 amounting to Rs.117.50 lakhs was exempted from tax. On scrutiny it was, however, noticed in audit (August 1987) that the dealer effected purchase of silk yarn amounting to Rs.4.91 lakhs during the year 1985-86. It was, therefore, evident that the dealer had manufactured sarees out of it and sold it and was thus liable to pay tax on such sale. The sale value was estimated by audit at Rs.11.49 lakhs based on the ratio that total purchase figure of yarn bears to sale in 1985-86. The

Demand
on file

on some
other ground
on
i.e. A stock
transferred
to head
office at
BBSR, which
business
at BBSR
was not
incorporated
in R.C.

1st AA remanded (6-1-94)
case for
assessment
is
pending

resultant underassessment of tax worked out to Rs.1.15 lakhs.

On this being pointed out in audit (August 1987), the assessing officer reopened the case (August 1987) and completed the reassessment (May 1990), determining the taxable turnover as Rs.33.50 lakhs and raised a demand of Rs.3.52 lakhs

12/8)
order
at
P/27
DP

The matter was reported to Government (October 1987); in their reply (September 1992), Government has confirmed the above position. Besides, they stated that the dealer had preferred appeal before Assistant Commissioner of Commercial Taxes, Bolangir who stayed the entire demand.

P/29

2.10 Incorrect computation of taxable turnover

Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of a works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract, less the amount of labour charges and service charges incurred for execution of the contract. The tax payable by a dealer shall be at the rate of 4 per cent on such taxable turnover.

Excess
allowance
of Labour charges

Demand
mistaken

In Ganjam-I Circle, a works contractor (an unregistered dealer) had entered into a contract on 29th

vide
POM at
P/S
DP
and
discuss. in
1218
order
at P/S
DP

January 1979 with a Government of India undertaking for supply and installation of a plant. The gross value of the contract was for Rs.5.44 crores. As per the agreement, a lump sum amount of Rs.48.74 lakhs was to be paid for unloading, handling, storage at site, complete erection and commissioning of the plant which constituted 9 per cent of the gross value of the contract. The liability of the dealer to pay tax under the act was fixed with effect from 1st May 1984 and accordingly, the gross value of the bills received from 1st May 1984 to 31st March 1985 amounting to Rs.67.39 lakhs, was determined as gross turnover for the year 1984-85 and taxable turnover was determined at Rs.39.09 lakhs after allowing a deduction of 40 per cent and 2 per cent of the gross value received towards labour charges and service charges respectively, based on an appellate order of May 1988. It was pointed out in audit (February 1990) that since as per agreement the labour charges constituted only 9 per cent of the gross value of work, allowance of higher percentage towards labour charges, resulted in short determination of taxable turnover amounting to Rs.20.89 lakhs and consequent short levy of tax of Rs.83,570.

P/75
DP

On this being pointed out by audit (February 1990), the assessing officer raised a demand of Rs.88,961 (December 1990).

vide
copy
of
1218
order
P/S
DP.

In 1st Appellate order
Dtd: 22-5-95
tax due was determined
at Rs. 66907

The matter was reported to Government (May 1990); Government in their reply (December 1991) confirmed that demand of Rs.88,961 had been raised.

2.11 Non-levy of penalty

Under the Central Sales Tax Act, 1956, a registered dealer may purchase from a dealer in another State, goods at concessional rate of 4 per cent by furnishing a declaration in form 'C', provided, such goods have been specified in his certificate of registration as being intended for resale/use in manufacture, processing of goods for sale. Issue of form 'C' for purchasing goods for specified purposes and subsequently utilising such goods otherwise than that specified is an offence for which the dealer is liable for prosecution. The taxing officer may, however, impose, in lieu of prosecution, a penalty not exceeding one and half times the amount of tax which has been avoided.

(i) In Cuttack-I (Central) Circle, a registered dealer purchased raw materials worth Rs.13.30 lakhs during the year 1988-89 by paying tax at the concessional rate of 4 per cent by furnishing declarations in form 'C' for use of the goods in manufacture. It was, however, noticed (February 1991) in audit that the dealer utilised

Demand

*Demand
20/1/89*

the materials in execution of works contract instead of using in manufacture. The dealer was, therefore, liable for penalty. But the assessing officer neither took any action for prosecution of the dealer, nor did impose any penalty.

On the omission being pointed out in audit (February 1991), the Commissioner of Commercial Taxes, Orissa reported that the assessing officer raised a demand of penalty of Rs.1.18 lakhs (November 1991).

The matter was reported to the Government in May 1991; their reply has not been received (December 1992).

Demand raised
case pending with Revisional authority

(ii) In Cuttack-I (Central) Circle, a dealer registered under Central Sales Tax Act, purchased raw materials worth Rs.13.06 lakhs during the year 1989-90 paying tax at a concessional rate of 4 per cent by furnishing declaration in form 'C' for use in manufacture of goods for sale.

It was, however, noticed in audit (March 1992) that the dealer utilised such raw materials in execution of works contract instead of using the same for manufacture of goods for sale. The assessing officer neither took

any action for prosecution of the dealer nor imposed any penalty not exceeding Rs.1.96 lakhs.

On this being pointed out in audit (March 1992), the assessing officer reopened the case (March 1992) and raised demand of Rs.1.18 lakhs (July 1992).

The matter was reported to Government (June 1992); in their reply, Government has confirmed the above position (September 1992).

2.12 Irregular refund

Under the Orissa Sales Tax Act, 1947, where an order giving rise to a refund is the subject matter of an appeal or further proceedings under the Act, the Commissioner may, if he is of the opinion that the grant of refund is likely to adversely affect the revenue, withhold the refund till such time as he deems proper.

In Mayurbhanj Circle, refund of Rs.10.26 lakhs was made to a dealer in January 1991, by way of adjustment in pursuance of an appeal order passed by the Assistant Commissioner of Commercial Taxes, Balasore Range in June 1990 in respect of the assessment for the year 1984-85 and in July 1990 in respect of the assessment for the year 1985-86. It was noticed in audit (September 1991) that

the Commissioner called for the relevant assessment records in October 1990 in connection with a second appeal. The Commercial Tax Officer, Baripada also sought for the advice of the Commissioner of Commercial Taxes (CCT), Orissa in December 1990 as to whether refund would be made by way of adjustment against the outstanding demand of the dealer. While the instructions of the Commissioner of Commercial Taxes, Orissa was pending, the Commercial Tax Officer made the refund of Rs.10.26 lakhs (10th January 1991) by way of adjustment against the outstanding demand of the dealer. The Commissioner vide his order dated 17th January 1991, intimated that the refund should not be made unless the same was sanctioned by him and that the proposal for withholding refund should be submitted to him through the Assistant Commissioner of Commercial Taxes, Balasore Range. The order of the Commissioner of Commercial Taxes, Orissa could not be carried out as the refund had already been made. The refund made was, therefore, irregular as it was not covered by the sanction of the Commissioner of Commercial Taxes, Orissa. Thus irregular refund resulted in reduction of the outstanding demand amounting to Rs.10.26 lakhs.

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POM
at P/4
D.P.

On this being pointed out in audit (September 1991), the Sales Tax Officer stated that steps were being

taken to obtain post-facto sanction of the refunded adjustment amount from the Commissioner of Commercial Taxes, Orissa.

The matter was reported to the Government (October 1991); their reply has not been received (December 1992).

2.13 Non-levy of interest on belated payment of tax

Under the Orissa Sales Tax Act, 1947 and the Central Sales Tax (Orissa) Rules, 1957, if a dealer defaults in making payment of any amount of tax by the due date specified in the notice issued to him, he would be liable to pay interest on the amount due at 18 per cent (6 per cent prior to 12th August 1983) per annum for the first three months and at 24 per cent (12 per cent prior to 12th August 1983) thereafter under the Orissa Sales Tax Act, 1947 and at 6 per cent, for the first three months and at 12 per cent, thereafter under the Central Sales Tax (Orissa) Rules, 1957. However, no interest shall be charged in respect of any amount which remained unpaid at any time prior to 1st January 1971, under the State Act and prior to 1st July 1971, under the Central Act.

363
27

390

80

In 15* Commercial Tax Circles, sales tax demands aggregating Rs.45.63 lakhs which were due for collection on or after 1st January 1971 (363 cases) and Central Sales Tax demands aggregating Rs.9.30 lakhs (27 cases) which were due for collection on or after 1st July 1971, were finally settled during the year 1990-91 without levy of interest on the belated payments. Interest not levied worked out to Rs.4.88 lakhs.

On the omission being pointed out in audit (between April 1991 and March 1992), the assessing officer agreed (between April 1991 and March 1992) to raise the demands. Reports on action taken have not been received (December 1992).

The cases were reported to Government (between June 1991 and June 1992); their reply has not been received (December 1992).

-
- | | |
|-----------------------------|--------------------------|
| * 1. Bhubaneswar | 2. Balasore Circle |
| 3. Bolangir-II | 4. Rourkela-I Circle |
| 5. Cuttack-I Central Circle | 6. Cuttack-I East Circle |
| 7. Cuttack-II Circle | 8. Sambalpur-I Circle |
| 9. Sambalpur-II Circle | 10. Sambalpur-III Circle |
| 11. Ganjam-II Circle | 12. Ganjam-III Circle |
| 13. Puri-I Circle | 14. Kalahandi Circle |
| 15. Koraput-II Circle | |

363
27

390 cases 4.88 lakhs

TAXES ON MOTOR VEHICLES AND PASSENGERS

3.1 Results of audit

Test check of records relating to assessment and collection and refunds of Motor Vehicles Tax in the Offices of the State Transport Authority, Orissa and Regional Transport Offices conducted in audit during 1991-92 revealed under assessments and losses of revenue amounting to Rs.303.64 lakhs in 13,185 cases, which may broadly be categorised as under :

| | Number of cases | Amount (Rupees in lakhs) |
|--|-----------------------|--------------------------------|
| 1. Non-levy/non-realisation of Motor Vehicle tax/ additional tax | 6,144 | 146.24 |
| 2. Short/non-realisation of composite tax | 3,515 | 22.99 |
| 3. Short levy/short realisation of Motor Vehicle tax/ additional tax | 485 | 22.56 |
| 4. Short/non-realisation of compounding fees | 77 | 6.29 |
| 5. Short/non-realisation of Trade Certificate fees | 77 | 0.75 |
| 6. Loss due to other irregularities | 2,887 | 104.81 |
| | <u>13,185</u> | <u>303.64</u> |

m.

During the course of the year 1991-92, the concerned Department accepted under-assessments etc., of Rs.56.29 lakhs involved in 4761 cases which had been pointed out in audit in earlier years. In 28 draft paragraphs involving financial effect of Rs.500.91 lakhs and bringing out major points noticed during the year of Report of earlier years were issued to the Government for their comments. The taxing officers of the Department accepted the observations in all the 28 cases involving Rs.500.91 lakhs out of which Rs.0.21 lakh has been recovered upto December 1992.

A few illustrative cases are given below in the following paras.

3.2 Short realisation/non-realisation of composite tax on vehicles plying under the National Permit Scheme

Under the National Permit Scheme, the operator of a public carrier goods vehicle authorised to ply in Orissa State but registered in another State, is liable to pay composite tax at the rate of Rs.1500 per annum with effect from 1st April 1986 to the Government of Orissa. The composite tax which is in addition to the Motor Vehicle Tax and other taxes payable in the State of registration of the vehicle, is payable in advance,

on or before the 15th March every year. The owner of the vehicle, may however, at his option pay the composite tax in two equal instalments before 15th March and 15th September, covering the periods from April to September and October to March respectively of the year. Such composite tax payable is to be deposited with the State Transport Authority of the home State through demand drafts in which the vehicle is registered for onward transmission to the State Transport Authority, Orissa.

(i) In the course of audit of the records of the State Transport Authority, Orissa, it was noticed (August and October 1991) that composite tax in respect of 1222 vehicles has not been realised at the applicable rate of Rs.1500 per annum for the periods between April 1990 and March 1991 for which the vehicles were authorised to ply in Orissa which resulted in short-realisation of composite tax amounting to Rs.2.44 lakhs.

On this being pointed out in audit (August 1991 and October 1991), the State Transport Authority, Orissa issued demand notices (December 1991). Further report on realisation has not been received (December 1992).

The matter was reported to Government in January 1992; their reply has not been received (December 1992).

(ii) In the course of audit of the records of the State Transport Authority, Orissa it was noticed (October 1991) that composite tax in respect of 1836 vehicles was realised only for a part of the year instead of for the full year 1990-91 for which the vehicles were authorised to ply in Orissa. This resulted in non-realisation of composite tax for the balance period of the year amounting to Rs.13.77 lakhs for the year 1990-91.

On this being pointed out in audit (October 1991), the State Transport Authority, Orissa stated (November 1991) that steps were being taken to refer the matter to the concerned States. Further report on the matter has not been received (December 1992).

The matter was reported to Government in January 1992; their reply has not been received (December 1992).

3.3 Non-realisation of penalty for belated payment of composite tax on vehicles plying under National Permit Scheme

According to the instructions issued by the Government of India in December 1980, the State Government were required to make provisions for levy of penalty for belated payments of composite tax in respect of vehicles covered under the National Permit Scheme. Under the scheme, if the composite tax is not paid within the due date i.e. 15th March and 15th September, the holder of the composite permit is liable to pay penalty at the rate of Rs.100.00 per month or part thereof in addition to the composite tax. In pursuance of the instructions issued by the Government of India, the Government of Orissa had amended Rule 9 of the Orissa Motor Vehicles Taxation Rules, 1976 and incorporated the penalty provision in May 1986 in respect of vehicles plying under National Permit Scheme.

It was noticed in audit (September, October 1991) that in respect of 1739 vehicles of other States authorised to ply in Orissa under the National Permit Scheme during the period from March 1990 to March 1991, penalty for belated payment of tax, amounting to Rs.3.07 lakhs was not collected by other State Transport Authorities and remitted to State Transport Authority, Orissa. No action

was initiated by the State Transport Authority, Orissa to demand the amount from other State Transport Authorities.

On this being pointed out in audit (September, October 1991), the State Transport Authority, Orissa took up the matter (November 1991), with the Transport Authorities of the concerned States for realisation of the dues. Further report on realisation of the amount has not been received (December 1992).

The matter was reported to Government in January 1992; their reply has not been received (December 1992).

3.4 Non-realisation of Composite tax

Under the provisions of Section 3-A of the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, read with Section 4 of the Orissa Motor Vehicles Taxation Act, 1975, where in pursuance of any agreement between the Government of Orissa and Government of any other States, a goods vehicle enters the State of Orissa, such vehicle is liable to pay additional tax to be calculated for each entry into the State, at the rates specified therein. In respect of goods vehicles belonging to the State of Andhra Pradesh authorised to ply in the State of Orissa under reciprocal agreements, Government

of Orissa decided (August 1986), to levy Rs.1500 annually on each vehicle as composite tax with effect from July 1986 (in lieu of the additional tax payable for each entry). The composite tax is payable in advance in lump sum, on or before 15th of April every financial year by crossed bank drafts to the State Transport Authority, Andhra Pradesh, for onward transmission to State Transport Authority, Orissa. In case of delay in payment of composite tax penalty of Rs.100 for each calendar month of default is also payable in addition to the composite tax.

In respect of 76 goods vehicles of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement, composite tax amounting to Rs.1.14 lakhs for the period from April 1990 to March 1991 was found (July 1991) to have not been collected. In addition penalty of Rs.91,200 calculated upto March 1991 was also due for realisation.

On this being pointed out in audit (July 1991), the State Transport Authority, Orissa, Cuttack stated (November 1991), that the State Transport Authority, Andhra Pradesh has been intimated (November 1991), for realisation of the dues. Further report on realisation has not been received (December 1992).

The matter was reported to Government in February 1992; their reply has not been received (December 1992).

3.5 Short realisation/non-realisation of tax and additional tax in respect of Stage Carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax payable in respect of a stage carriage (plying as either express or ordinary service) is to be determined on the basis of the number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit.

(i) A scrutiny of taxation records in one region (Koraput) in audit (February 1992), however, revealed that in respect of 18 routes held by the State Transport undertaking, tax and additional tax for various periods falling between April 1990 and March 1991 were not realised even though permits in respect of these routes were issued. Since the undertaking had neither surrendered the route permits, nor intimated about the discontinuance of the operation of the routes, it is liable to pay tax (including additional tax) as per provisions of the Act *ibid*. However, no action for levy and collection of tax

was taken which resulted in non-realisation of tax of Rs.7.78 lakhs.

On this being pointed out in audit (February 1992) the taxing officer, Koraput stated that reply would be furnished after getting compliance from District Transport Manager, Jeypore (March 1992). Further report in this regard has not been received (December 1992).

The matter was reported to Government (April 1992); their reply has not been received (December 1992).

(ii) Test check of records in five regions (Bhubaneswar, Chandikhol, Dhenkanal, Ganjam and Koraput) in respect of 25 stage carriages revealed that though they were permitted to ply as express service by the permit issuing authority, Motor Vehicle tax was collected as for ordinary service which resulted in short realisation of motor vehicle tax amounting to Rs.2.65 lakhs relating to the period from July 1987 to December 1991.

On this being pointed out in audit (between March 1990 and February 1992), the taxing officers agreed (between March 1990 and March 1992) to realise the dues. Further report on realisation has not been received (December 1992).

The matter was reported to Government (April 1992); their reply has not been received (December 1992).

(iii) During the course of audit of the records of Puri region, it was noticed (March 1992) that tax (including additional tax) in respect of two stage carriages owned by the Orissa State Road Transport Corporation and authorised to ply as express service was not realised at appropriate rate due to incorrect adoption of seating capacity which resulted in short collection of tax amounting to Rs.1.32 lakhs relating to the period from March 1989 to January 1992.

On this being pointed out (March 1992), the taxing officer issued demand notices (March 1992). Further report of realisation has not been received (December 1992).

The matter was reported to Government (April 1992); their reply has not been received (December 1992).

(iv) In four regions (Dhenkanal, Mayurbhanj, Puri and Sundargarh), in respect of 69 stage carriages for which permits were issued and belonging to the Orissa State Road Transport Corporation, tax for the month of September 1990 was not realised even though this period was also not covered by off-road declaration.

This resulted in non-realisation of tax amounting to Rs.3.27 lakhs (including additional tax).

On this being pointed out in audit (between July 1991 and February 1992), the taxing officers, Mayurbhanj and Puri agreed (July 1991 and March 1992) to realise the dues whereas the taxing officers Dhenkanal and Sundargarh issued demand notices (December 1991 and January 1992) for realisation of the dues. Further reports have not been received (December 1992).

The matter was reported to Government (between January 1992 and April 1992); their reply has not been received (December 1992).

(v) In seven regions (Balasore, Bolangir, Chandikhol, Cuttack, Ganjam, Keonjhar and Sundargarh), in respect of 79 stage carriages, tax for various periods falling between April 1989 and June 1991 was not realised/short realised even though the stage carriages were issued permits. These periods were also not covered by off-road declarations. This resulted in non-realisation/short realisation of tax amounting to Rs.7.61 lakhs.

On this being pointed out in audit (between August 1991 and December 1991), the taxing officers

of Balasore, Cuttack and Ganjam agreed (between August 1991 and November 1991) to realise the dues, whereas the taxing officer Bolangir and Keonjhar agreed (October 1991 and December 1991) to realise the dues after verification of the records. The taxing officers Chandikhol and Sundargarh initiated action (December 1991) to realise the dues. Further reports in this regard have not been received (December 1992).

The matter was reported to Government between January 1992 and April 1992; their reply has not been received (December 1992).

(vi) In ten regions*, in respect of 132 stage carriages, tax for various periods falling between October 1989 and May 1991, was computed by adopting incorrect distances permitted to be covered by the vehicle in a day and/or by application of incorrect rate of tax. The mistakes resulted in short realisation of tax amounting to Rs.6.09 lakhs.

On the mistakes being pointed out in audit (between May 1991 and March 1992), the taxing officers Balasore, Bargarh, Bhubaneswar, Cuttack, Puri, Kalahandi, Sundargarh agreed (between July 1991 and March 1992) to

* Balasore, Bargarh, Bhubaneswar, Chandikhol, Cuttack, Kalahandi, Keonjhar, Phulbani, Puri and Sundargarh.

realise the tax dues, whereas the taxing officer, Chandikhol issued (December 1991) demand notices and the taxing officers, Keonjhar and Phulbani agreed (May 1991 and December 1991) to realise the dues after verification of the records. Further reports of realisation have not been received (December 1992).

The cases were reported to Government between November 1991 and April 1992; their reply has not been received (December 1992).

(vii) In one region (Keonjhar), in respect of 5 stage carriages, tax for various periods falling between April 1990 to June 1991, was computed by adopting incorrect distance permitted to be covered by the vehicle in a day. This mistake resulted in short realisation of motor vehicles tax and additional tax amounting to Rs.62,138.

On the mistake being pointed out in audit (December 1991), the taxing officer agreed (December 1991) to realise the dues after verification of records.

The matter was reported to Government in April 1992; their reply has not been received (December 1992).

3.6 Under-assessment of tax in respect of stage carriages plying without permits

Under the provisions of Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, motor vehicles tax and additional tax in respect of stage carriages is leviable on the basis of the number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit. If any such vehicle is found plying without a permit, the tax payable shall be assessed on the basis of the maximum number of passengers which the vehicle would have been permitted to carry, reckoning the distance covered by it, in each day, as exceeding 320 kms. for which the highest rate of tax is applicable.

In nine regions*, 124 stage carriages were found plying without any permits during various periods falling between February 1989 and March 1991. Tax in respect of these vehicles was not assessed and collected at the correct slab rates applicable in such cases, which resulted in under-assessment of tax amounting to Rs.2.78 lakhs.

* Balasore, Bolangir, Cuttack, Dhenkanal, Ganjam, Kalahandi, Koraput, Puri and Sundargarh.

On this omission being pointed out in audit (between August 1991 and February 1992), the taxing officers agreed (between August 1991 and March 1992) to realise the dues. Further reports have not been received (December 1992).

The cases were reported to Government between January 1992 and April 1992; their reply has not been received (December 1992).

3.7 Short realisation of tax from stage carriages used as contract carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, when a motor vehicle in respect of which tax for any period has been paid as per registration is proposed to be used in a manner for which higher rate of tax is payable, the owner of the vehicle is liable to pay differential tax. In determining such differential tax, any broken period in a month is to be reckoned as a full month. The rates of motor vehicles tax in respect of contract carriages were revised with effect from 1st June 1989.

In eight regions*, 107 stage carriages were permitted (for various periods between May 1991 and

* Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Ganjam, Kalahandi and Sambalpur.

March 1992), to ply temporarily as contract carriages for which higher rate of tax was payable which was neither demanded nor realised. This resulted in short realisation of tax amounting to Rs.2.93 lakhs.

On the omission being pointed out in audit (between May 1991 and March 1992) all the taxing officers except the taxing officer of Chandikhol agreed (between July 1991 and March 1992) to realise the dues. Taxing Officer, Chandikhol issued demand notices (December 1991) for realisation of the dues. Further reports on realisation have not been received (December 1992).

The cases were reported to Government between January 1992 and April 1992; their reply has not been received (December 1992).

3.8 Short realisation of tax due to adoption of incorrect rate of tax in respect of contract carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, the motor vehicle tax in respect of contract carriages is to be realised as per the rates specified in item 4(B) of the taxation schedule appended to the Act, on the basis of number of passengers permitted (excluding driver) to be carried as per the permit.

In 4 regions (Balasore, Bhubaneswar, Dhenkanal and Puri), in respect of 17 contract carriages, tax for

various periods between January 1987 and March 1992 was realised short by Rs.79,760 due to adoption of incorrect rates of tax.

On this being pointed out in audit (between July 1991 and March 1992), the taxing officers, Puri and Dhenkanal stated (between December 1991 and March 1992) that demand notices have been issued while the taxing officers, Balasore and Bhubaneswar agreed (between July 1991 and December 1991) to realise the dues. Further report on realisation of the tax has not been received (December 1992).

The matter was reported to Government (between January 1992 and April 1992); their reply has not been received (December 1992).

3.9 Issue of temporary stage carriage permits without realisation of tax

Under the Orissa Motor Vehicles Rules, 1940 every application for grant of permit should be accompanied by a tax clearance certificate obtained from the Taxing Authority of the region where the tax was last paid. In other words no permit will be issued to any operator where payment of tax or penalties are in arrears.

In two regions (Balasore and Sambalpur) it was noticed in audit that route permits were issued in respect of nine stage carriages by the Regional Transport Authorities (between April 1990 and May 1991) on different routes

without insisting upon production of tax clearance certificates even though these vehicles had not paid the taxes for certain periods (between April 1990 and May 1991) amounting to Rs.1.34 lakhs, though these were covered by issue of valid permits.

On this being pointed out in audit (between August 1991 and February 1992), the taxing officers agreed (August 1991 and February 1992) to realise the dues. Further reply has not been received (December 1992).

The matter was reported to Government in January 1992 and April 1992; their reply has not been received (December 1992).

3.10 Non-collection of tax and additional tax due to cheques being dishonoured

Under the Orissa Motor Vehicles Taxation Act, 1975 as amended in 1986 and rules made thereunder, motor vehicles tax shall be paid in advance by means of cash, bank drafts and banker's cheques, within such time as may be prescribed. Specific instructions also exist for non-acceptance of personal cheques. Where the tax has not been paid on or before the due date of payment and continues to remain unpaid for a period of fifteen days from the due date of payment, the taxing officer shall impose a penalty to the extent varying from 25 per cent to 200 per cent of the tax due depending upon the period of delay.

Test check of the records in audit relating to two regions (Bhubaneswar and Balasore), however, revealed that personal cheques tendered towards payment of tax (including additional tax) for 41 stage carriages by the State Transport Undertaking were accepted in contravention of the provisions of the Act and the rules. Such cheques when presented to banks were, however, dishonoured. The subsequent payment of tax in these cases having not been made within the prescribed time, attracted levy of penalty, which was not levied. Tax and additional tax of Rs.1.88 lakhs in respect of these cases were due to be paid by the operators to the Government for the periods between September 1989 to June 1990. Penalty amounting to Rs.3.76 lakhs being 200 *per cent* of tax due was also leviable in these cases which was not levied.

On this being pointed out in audit (June 1990 and August 1991), the taxing officer, Bhubaneswar stated that action would be taken to return the cheques after cancellation of money receipts and the taxing officer, Balasore stated (September 1991) that demand notice was being issued for realisation of dues.

The matter was reported to Government (October 1990 and January 1992); their reply has not been received (December 1992).

3.11 Non-realisation of tax in respect of vehicles violating off-road declarations

Under the Orissa Motor Vehicles Taxation Act, 1975, as amendment in 1986, motor vehicles tax and additional tax is not payable in respect of vehicles which are not intended to be used for any period if prior intimation of such non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid specifying *inter-alia* the period of non-use and the place where the motor vehicle is to be kept during such period. If at any time during the period covered by such intimation, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period and in such a case the owner of the vehicle is liable to pay tax and penalty as prescribed for the entire period for which it was declared off-road.

In eleven regions*, 113 vehicles which had been declared off-road by the owners of the vehicles for various periods between June 1989 and March 1992 were detected by the enforcement staff as plying on the road or not found at the declared place during the

* Balasore, Bolangir, Cuttack, Ganjam, Kalahandi, Keonjhar, Koraput, Phulbani, Puri, Sambalpur and Sundargarh.

periods covered by such off-road declarations. But, no action was taken by the taxing officers to realise the tax and levy penalty in respect of such vehicles for those periods for violation of the provisions of the Act. Tax leviable on these vehicles amounted to Rs.22.40 lakhs. Besides, penalty at the maximum rate of 200 *per cent* on the tax due amounting to Rs.44.80 lakhs was also leviable.

On this being pointed out (between May 1991 and February 1992) in audit, all the taxing officers except the taxing officer of Ganjam agreed (between May 1991 and March 1992) to realise the dues, whereas the taxing officer, Ganjam agreed (September 1991 and October 1991) to realise the dues after review of the cases. Further reports of realisation have not been received (December 1992).

The matter was reported to Government between November 1991 and April 1992; their reply has not been received (December 1992).

3.12 Irregular acceptance of off-road declarations without realisation of arrear tax

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, whenever any motor vehicle is intended not to be used for any period, the

registered owner or the person having possession or control thereof shall on or before the date of expiry of the term for which tax has been paid, deliver to the taxing officer an off-road declaration in the prescribed form specifying the period during which the vehicle remains off-road, alongwith such other particulars as may be prescribed and the registration certificate, fitness certificate, permit and current tax token. Except in the case of vehicle continuing to be off-road, the owner is liable to pay all dues in respect of the vehicle up to the date of commencement of the off-road declaration. The Transport Commissioner, Orissa also issued (September 1984) instructions that before acceptance of off-road declarations, it should be ensured that all taxes are paid.

Test check of the records of Regional Transport Offices in eight regions*, it was, however, noticed (between July 1991 and February 1992) in audit that, though arrears of taxes amounting to Rs.11.84 lakhs relating to various periods falling between April 1984 and June 1991 were outstanding against 48 vehicles, the off-road declarations were accepted by the taxing officers without realisation of arrears of tax.

* Balasore, Chandikhol, Cuttack, Kalahandi, Keonjhar, Mayurbhanj, Puri and Rourkela

On this being pointed out between (July 1991 and February 1992) in audit, the taxing officers, Mayurbhanj, Cuttack, Keonjhar and Puri agreed (between July 1991 and February 1992) to realise the dues, whereas the taxing officers, Balasore and Rourkela issued demand notices (July 1991 and March 1992) for realisation of the dues. The taxing officers Kalahandi and Chandikhol stated (October 1991 and December 1991) that the cases would be examined and the result intimated. Further reports in the matter have not been received (December 1992).

These cases were reported to Government between January 1992 and April 1992; their reply has not been received (December 1992).

3.13 Non-realisation of tax and additional tax in respect of vehicles whose off-road declarations have been rejected by the taxing officer

Under the Orissa Motor Vehicle Taxation Act, 1975, as amended in 1986, motor vehicles tax and additional tax is not payable in respect of a vehicle which is intended not to be used for any period if necessary undertaking duly signed and certified in the prescribed form specifying the period and the place where the motor vehicle, is to be kept alongwith such other particulars as may be

prescribed for such non-use of the vehicles, is delivered by the owner of the vehicle on or before the date of expiry of the terms for which tax has been paid. If, however, the off-road intimation in respect of a vehicle is rejected by the taxing officer for the reason of the intimation being defective or not in compliance with the provisions of the Act, the vehicle operator is liable to pay tax and additional tax under the provisions of the Act *ibid*.

It was, however, noticed (June 1991), in audit that for the period from April 1990 to March 1991, in 11 cases in one region, though off-road declarations were rejected by the taxing officer on the grounds of non-payment of taxes for the earlier periods, non-submission of motor vehicles documents alongwith off-road intimations etc., no tax was collected/demanded for the periods for which off-road intimations were rejected by the taxing officer. This resulted in non-realisation of tax amounting to Rs.3.64 lakhs (including additional tax).

On this being pointed out in audit (September 1991), the taxing officer, Ganjam stated (September 1991) that the instructions of audit have been noted and assured realisation of tax. Further progress in this regard has not been received (December 1992).

The matter was reported to Government (March 1992) ; their reply has not been received (December 1992).

3.14 Non-realisation of compounding fee at prescribed rates

As per Government notification of 27th June 1984 under the Motor Vehicles Act, 1939, the minimum amount for compounding an offence shall not be less than half of the maximum penalty provided therefor when such offence is committed for the first time. When the same offence is committed for a second or subsequent time, the compounding fee shall not be less than the maximum penalty provided therefor. After the introduction of the Motor Vehicles Act, 1988, Government issued another notification in January 1991 stipulating therein that the amount of compounding under Section 194 of the Act *ibid* shall be 50 per cent of the maximum fine provided therefor irrespective of the fact whether the offence is the first one or a subsequent one.

In one region (Rourkela), the amounts as prescribed by Government under the provisions of the Act for compounding offences of excess load had not been imposed at an appropriate rate in respect of 27 vehicles which committed such offences on a number of occasions and were let off on realisation of a nominal amount

which was far less than the prescribed amount of compounding fee and the cases were finally closed by the taxing authority. Non-realisation of compounding fee at the prescribed rate in these cases resulted in loss of revenue amounting to Rs.1.59 lakhs.

On this being pointed out in audit (January 1992), the taxing officer agreed (March 1992) to issue demand notices for realisation of the dues. Further report in regard to the action taken has not been received (December 1992).

The matter was reported to Government in June 1992; their reply has not been received (December 1992).

3.15 Non-levy of tax for intervening periods

Under the provisions of the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, Motor Vehicles Tax and additional tax shall be levied on every motor vehicle used or kept for use within the State at rates specified in the taxation schedule. However, under Section 10 of the Act *ibid*, exemption from payment of such tax is allowed for the period for which necessary undertaking for discontinuance of the use of vehicle is submitted by the owner of the vehicle on or before the date of expiry of the period for which tax has been paid.

A scrutiny of records in audit of the Regional Transport Offices in 17 regions* revealed (between May 1991 and March 1992) that in respect of 547 vehicles, tax for different periods falling between April 1981 and June 1991 remained unrealised even though tax for the earlier and later periods had been realised. The taxation records showed that the intervening periods were neither covered by exemption for discontinuance of use of the vehicles nor contains intimation regarding payment of tax in any other region. This resulted in non-levy of tax of Rs.33.36 lakhs.

On this being pointed out in audit (between May 1991 and March 1992) fifteen taxing officers agreed (between May 1991 and March 1992) to realise the dues, whereas the taxing officer, Chandikhol agreed (December 1991) to initiate action in this regard. Further reports have not been received (December 1992).

The cases were reported to Government between November 1991 and April 1992; their reply has not been received (December 1992).

* Balasore, Bargarh, Bhubaneswar, Bolangir, Chandikhol, Cuttack, Dhenkanal, Ganjam, Kalahandi, Keonjhar, Koraput, Mayurbhanj, Phulbani, Puri, Rourkela, Sambalpur and Sundargarh.

3.16 Non-realisation of demands for unpaid taxes

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax due on motor vehicles should be paid in advance within the prescribed period at the rates specified in the taxation schedule, unless exemption from payment of such tax is allowed for the period for which necessary undertaking of temporary discontinuance of use of the vehicle is delivered by the owner of the vehicle to the taxing officer on or before expiry of the term for which tax has been paid. According to the instruction issued by the Transport Commissioner, Orissa (February 1966) demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of grace period (15 days) of payment of tax. Where the tax has not been paid on or before the due date of payment and continues to remain unpaid for a period of 15 days from the due date of payment, the taxing officer shall impose penalty to the extent varying from 25 per cent to 200 per cent of the tax due depending upon the period of delay.

(i) During the audit of 10 regions*, it was noticed (between May 1991 and December 1991) that necessary

* Balasore, Bhubaneswar, Bolangir, Cuttack, Chandikhol, Dhenkanal, Kalahandi, Keonjhar, Mayurbhanj and Sundargarh.

taxes in respect of 919 vehicles relating to different periods falling between April 1985 and March 1991 were neither paid by the owners of the vehicles nor by the persons having possession and control thereof. The records further showed that these vehicles were neither covered by off-road declaration nor by intimation of payment of tax in any other region. The amount of tax due in respect of such vehicles amounted to Rs.103.28 lakhs and penalty leviable amounted to Rs.206.55 lakhs.

On this being pointed out in audit (between May 1991 and December 1991), the taxing officers agreed (between July 1991 and December 1991) to issue demand notices for realisation of the arrear dues. Further reports have not been received (December 1992).

The matter was reported to Government between January 1992 and March 1992; their reply has not been received (December 1992).

(ii) During the audit of 5 regions*, it was noticed (between June 1991 and July 1992) in audit that 14 vehicles of different classes (trucks, buses, tractor and trailers) were found plying without payment of tax and additional

* Bhubaneswar, Bhawanipatna, Keonjhar, Ganjam and Puri.

tax for different periods falling between July 1986 to September 1991 as reported (between January 1990 to August 1991) by the enforcement staff of the department. A scrutiny of taxation records however, revealed that these periods were neither covered by off-road declarations nor by intimation of particulars of payment of tax in any other region. Despite this, the taxing officers did not take any action to raise demands and realise the tax due from these vehicles. The amount of tax due in respect of such vehicles worked out to Rs.5.37 lakhs.

On this being pointed out in audit (between June 1991 and July 1992), the taxing officers, Bhubaneswar, Bhawanipatna, Keonjhar and Puri agreed (between July 1991 and July 1992) to realise the dues by issuing demand notices while the taxing officer Ganjam, Chatrapur stated (July 1992) that Orissa State Road Transport Authorities have been approached and revised demand notice would be issued for payment of the dues. Further reports in this regard have not been received so far (December 1992).

The matter was reported to Government between January 1992 and April 1992; their reply has not been received (December 1992).

3.17 Non-levy of penalty for belated payment of additional tax

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986 tax due on a motor vehicle should be paid in advance. Where such tax for any period is not paid and continues to remain unpaid for a period of 15 days from the due date of payment, the taxing officer shall impose penalty in respect of such vehicle at the rate specified in the Orissa Motor Vehicles Taxation Rules 1976.

During audit of the accounts of the State Transport Authority, it was noticed (September 1989) that additional tax in respect of one stage carriage plying on an inter-State route on reciprocal agreement basis with the State of Bihar was realised short from May 1988 to September 1988. Against the total demand of Rs.29,767, a sum of Rs.2,000 only was paid by due date and the balance amount of Rs.27,767 was cleared in instalments between March 1990 and February 1991. There being no provision in the Act and the rules thereunder for payment of taxes in instalments after it becomes due, penalty of 200 per cent of tax belatedly paid is leviable for delay in payment of additional tax which worked out to Rs.55,534. But no penalty on this account was levied.

On this being pointed out in audit (September 1989 and October 1991), the taxing officer stated (November 1991) that action would be taken for realisation of penalty. On a further report (June 1992), the State Transport Authority, Orissa stated that demand of Rs.55,534 had been raised. Particulars regarding the realisation of the amount have not been received (December 1992).

The matter was reported to Government (January 1992); their reply has not been received (December 1992).

3.18 Non-realisation of tax from the date of entry into Orissa in respect of other State transport vehicles

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, there shall be levied a tax on every motor vehicle used or kept for use within the State of Orissa at the rate specified in the schedule. The act further provides that a transport vehicle of other State may ply temporarily in the State of Orissa on payment of tax for a short term with a temporary tax token and a temporary permit.

However, under the provisions of the Orissa Motor Vehicles Taxation Rules 1976, such short term tax paid under Section 3(3) of the Act in respect of

a transport vehicle coming into Orissa on a temporary permit, shall not be adjusted or refunded towards tax including additional tax in case it intends to pay tax on a permanent basis. It therefore, follows that other State transport vehicles entering into Orissa on Payment of short term tax and intending to ply within the State of Orissa on permanent basis are to pay regular tax from the date of entry into Orissa.

In two regions (Sundargarh and Koraput) 66, transport vehicles of other States entered into Orissa paying short term tax between October 1989 and September 1991 and intended to ply on a permanent basis in the State of Orissa, had not paid tax including additional tax from the date of entry into Orissa but paid tax from a later date after adjusting the short term tax already paid in lump sum, which is not permissible under the rules. This resulted in short realisation of tax amounting to Rs.50,694. Many of these vehicles have since taken no objection certificate and left the State.

On this being pointed out in audit (between January 1992 and March 1992), the taxing officer, Sundargarh agreed (January 1992) to realise the dues after reviewing the cases and the taxing officer, Koraput stated (March 1992) that quarterly tax shall not be realised

from other State vehicles which are entering into Orissa temporarily. The reply of the taxing officer, Koraput is not acceptable in terms of the Orissa Motor Vehicles Tax Rules 1976, as the vehicles in question have paid tax to the State of Orissa on permanent basis after entering the State.

The matter was reported to Government between March and May 1992; their reply has not been received (December 1992).

3.19 Evasion of tax and additional tax on production of fake tax payment documents in respect of a stage carriage

Under the provisions of the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, Motor Vehicles Tax and Additional Tax in respect of a stage carriage is leviable on the basis of number of passengers (including standing passengers) which the vehicle is permitted to carry and the distance it covers in a day as per permit. Under the Orissa Motor Vehicles Rules, 1940, as amended, application for permit should invariably be accompanied by documents such as registration certificate, tax clearance certificate, insurance certificate, fitness certificate etc. in respect of such vehicle.

During scrutiny of the records pertaining to the issue of permit in the office of the State Transport Authority (STA), Orissa, Cuttack, it was noticed in audit (July 1991) that one stage carriage was shown to have paid tax at the rate of Rs.4285 per month for the period from August 1990 to October 1990 and at the rate of Rs.5,236 per month for the period July 1990 and November 1990 to May 1991.

A cross verification of records of the Regional Transport Authority, Bhubaneswar, in audit, however, revealed that tax was actually paid at a rate lower than that at which it was payable as per the permit granted by the State Transport Authority, Orissa, on production of fake permit showing lesser distance. This resulted in short realisation of tax amounting to Rs.21,423. Besides penalty at the rate of twice the amount of tax was also leviable amounting to Rs.42,846.

On the mistake being pointed out (July 1991), the taxing officer realised the tax due (July 1992) without realisation of the penalty.

The matter was reported to the Government (January 1992); their reply has not been received (December 1992).

3.20 Irregular grant of permit without payment of taxes

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax in respect of a stage carriage is leviable on the basis of number of passengers which the vehicle is permitted to carry and the total distance it covers in a day under the permit. Under the Orissa Motor Vehicles Rules, 1940, as amended, application for permit should invariably be accompanied by documents such as registration certificate, fitness certificate, insurance certificate, tax clearance certificate in respect of such vehicle.

During audit of the records of the Regional Transport Office, Puri, it was noticed that in respect of one stage carriage registered in Bhubaneswar region, temporary permits were granted by the State Transport Authority, Orissa on different occasions during the periods from March 1989 to January 1991 based on the Registration Certificate of the vehicle containing entries of tax payment particulars without insisting on production of tax clearance certificate from the concerned taxing officer. A cross check (March 1992) by audit of the payment particulars in the permit files available with the State Transport Authority, Cuttack, with reference to tax payment

particulars as noted in the Register of Registration Certificate revealed that no information about the payment of tax was available for certain periods (March 1989 to March 1990) and the entries for certain other periods made in the Register of Registration Certificate were not traceable from the daily collection Register except for three months (February 1991, June 1991 and July 1991) out of which there was short payment of tax for 2 months (February and July 1991). This resulted in non-realisation of tax amounting to Rs.1.57 lakhs for various periods falling between March 1989 to November 1991.

On this being pointed out in audit (March 1992), the taxing officer, Puri agreed (March 1992) to initiate action in this regard. Further reply, has not been received (December 1992).

The matter was reported to the Transport Commissioner, Orissa and Government (April 1992); their replies have not been received (December 1992).

3.21 Non-realisation/short realisation of penalty in respect of newly registered vehicles which paid one time tax belatedly

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, read with Orissa Motor

Vehicles Taxation Rules 1976, penalty is leviable, if a vehicle owner has not paid tax in respect of his motor vehicle within such period as specified in the Act *ibid.* Under the Orissa Motor Vehicles (Second Amendment) Act, 1990 (with effect from 1st December 1990), the amount of penalty leviable has been prescribed at varying rates not exceeding twice the amount of tax due depending upon the period of delay in payment of tax.

In one region (Koraput), in 52 cases relating to two wheelers and Motor Cars (Private) where one time tax was paid after 1st December 1990, penalty as per provisions of the Act was either not realised or realised short, though these vehicles have paid one time tax belatedly. This resulted in non-realisation/short realisation of penalty amounting to Rs.62,964 for the period between December 1990 and March 1991.

On this being pointed out in audit (February 1992), the taxing officer, Koraput stated (March 1992) that cases would be reviewed and result will be intimated to audit. Further report in the matter has not been received (December 1992).

The matter was reported to Government (May 1992); their reply has not been received (December 1992).

CHAPTER 4

FOREST RECEIPTS

4.1 Results of audit

Test check of the records maintained in the Forest Division conducted during the period from April 1991 to March 1992 revealed non-recovery and short-recovery of dues and loss of revenue amounting to Rs.101.43 lakhs in 6,723 cases which may broadly be categorised as under :

| | Number of cases | Amount (Rupees in lakhs) |
|---|-----------------------|--------------------------------|
| 1. Loss of revenue due to non-disposal of forest produce by sale | 13 | 20.93 |
| 2. Non-realisation of compensation | 368 | 20.93 |
| 3. Non-levy/short levy of Interest for delayed payment of consideration money/royalty | 138 | 18.92 |
| 4. Non-realisation of extension fees | 14 | 1.29 |
| 5. Other irregularities | <u>6,190</u> | <u>39.36</u> |
| | <u>6,723</u> | <u>101.43</u> |

During the course of the year 1991-92, the concerned Department accepted under-assessments etc.

of Rs.4.07 lakhs involved in 7 cases pointed out in audit prior to 1991-92. 17 draft paragraphs and one review involving financial effect of Rs.196.44 lakhs which bringing out major points noticed during the year of Report or earlier years were issued to the Government for their comments. The Government/Department has accepted the observations in 12 cases involving Rs.36.56 lakhs but no recoveries have been made up to December 1992 in these cases.

A few illustrative cases are given in the following paras.

4.2 **Loss due to illicit felling of trees in reserve forest area**

Under the provisions of the Orissa Forest Act, 1972, felling of trees inside the reserve forest area is prohibited. As per the provisions of the Orissa Forest Department Code, the Range Officer is responsible for protection of forest property under his jurisdiction.

(i) During the course of audit of the Forest Division, Deogarh (January 1992), it was noticed that 154 numbers of Sal trees with timber content of 395.25 units were illicitly felled in Malaygiri Reserve Forests of Pallahara Section; of these, 51 trees with timber content of

142.50 units were found lying and 103 trees with timber content of 252.25 units were illicitly removed. The removal of trees resulted in loss of revenue amounting Rs.1.87 lakhs. 51 numbers of trees (valued at Rs.1.06 lakhs) which were found lying had not been disposed of.

On this being pointed out in audit (January 1992), the Divisional Forest Officer (DFO) stated that the cases were under investigation.

The matter was brought to the notice of Government (March 1992); their reply has not been received (December 1992).

(ii) During audit of Forest Division, Ghumsur (South), it was noticed (March 1992) that in Kodala Range 247 teak trees (special class) and 7 other trees (3rd class species) were reported to have been illicitly felled and removed during the period from 20th February 1990 to 28th February 1990. The timber content of the above trees worked out to 414 units. Based on the prevailing rate of Rs.750 per unit, the total value of the timber illicitly felled and removed worked out to Rs.3.11 lakhs.

Taking into account 123 logs recovered from nearby villages and disposed of for Rs.17,753, the net

loss of revenue to the Government amounted to Rs.2.93 lakhs.

On this being pointed out in audit (March 1992) the DFO, Ghumsur (South) Division stated that the Range Officer, Kodala was being directed to furnish the detailed particulars of illicit felling and recovered materials.

The matter was reported to the Government (May 1992); their reply has not been received (December 1992).

4.3 Under-assessment of royalty due to misclassification of species of trees

Royalty in respect of a coupe is generally fixed on the basis of units of timber determined by classifying the trees under the appropriate class of species. As per the classification of various species of trees given in the schedule of rates of the Orissa Forest Produce Rules, 1977, framed by Government under clause (d) of Section 36 of the Orissa Forest Act, 1972, Sidha, Kasi, Dhaura, Tentela, Rohini were classified as 2nd class species for the purpose of computation of unit value of timber. However, the Principal Chief Conservator of Forests, Orissa in the guidelines issued (June 1982 and September 1987) for computation of units, classified 'Sidha' as 3rd class species.

Test check of records in Athmallick Forest Division, revealed (March 1989) that in some lots relating to the years 1987-88 and 1988-89 'Sidha', 'Kasi', 'Dhaura' and 'Tentela' species were classified as third class species instead of as 2nd class and the unit value of timber was accordingly assessed. This resulted in under-assessment of royalty of Rs.94,241 (Sidha: Rs.39,163 and other trees : Rs.55,078).

On this being pointed out in audit (March 1989) the Divisional Forest Officer stated that demand would be raised against the Orissa Forest Corporation Limited for all trees except 'Sidha' as it involved a policy decision. The Divisional Forest Officer, Athmallick, however, raised demand (February 1992) of Rs.94,241 which included demand for Sidha also.

The matter was reported to the Principal Chief Conservator of Forest, Orissa/Government during June 1989 followed by reminder in December 1989. Government in reply has confirmed the above position (August 1992) except in case of Sidha where they have approved of its being classified as 3rd class.

4.4 Loss of revenue due to short delivery of timber

(a) As per the orders of the Divisional Forest Officer, Nowrangpur (October 1990), the Orissa Forest Corporation Limited was to work on 87 numbers of irregular lots of timber and UD case timber with the period of contract up to 31st January 1991.

Scrutiny of the records in audit (September 1991) however, revealed that in respect of 24 lots timber worth Rs.66,616 was short delivered which resulted in loss of revenue amounting to Rs.66,616.

On this being pointed out in audit (September 1991), it was stated by the Divisional Forest Officer that Range Officers were asked to furnish the details and proposal for recalculation of royalty was awaited. While accepting the audit observation he also stated that action against the persons responsible for short and non-delivery would be taken.

The matter was reported to Government (January 1992); their reply has not been received (December 1992).

(b) Under the provisions of the Orissa Forest Department Code, all transactions of forest produce collected departmentally or assigned to Government

in case of illicit removal should be accounted for in Form-2 and normally disposed of either by auction or otherwise. Under the Rules *ibid*, the Range Officer is responsible for protection, *inter-alia*, of forest produce in his charge.

A test check in audit (August 1991) of the records of Kantabanji and Sonepur Range of Bolangir Forest Division, however, revealed, (August 1991) that in 67 UD cases, 2613.92 cft. timber was seized during the years 1984-85 to 1986-87 against which only 2078.63 cft. timber was delivered to the Orissa Forest Corporation Limited during 1987-88 which resulted in short delivery of 535.29 cft. of timber. The value of timber delivered short and loss of revenue worked out to Rs.33,799. The reasons for short delivery were attributed to non-availability of materials and deterioration and damage of the timber with the passage of time.

On this being pointed out in audit (August 1991), the Divisional Forest Officer replied that the matter was reported to the higher authorities (March 1991) and that action would be taken to fix responsibility against the delinquent officials responsible for the loss.

The matter was reported to Government (September 1991); their reply has not been received (December 1992).

4.5 Under-assessment of royalty

The guidelines issued by the Principal Chief Conservator of Forests, Orissa in June 1982 for assessment of outturn of timber per unit in coupes sold by auction, settled with the Orissa Forest Corporation Limited *inter-alia* provided that in respect of firewood, the quantity available in coupes may be taken into consideration for fixing the upset price/probable value of the coupes.

(i) In Puri Forest Division, 7 divisional lots containing 11,243 casuarina trees were settled (February 1990) with the Orissa Forest Corporation Limited for the year 1989-90 for extraction of firewood, roots and brush wood. A royalty of Rs.6.04 lakhs was fixed by the Divisional Forest Officer (DFO), calculated at the rates of Rs.31 and Rs.11 per quintal of firewood and roots and stumps respectively as mutually agreed upon in the discussion held on 3rd November 1987 between him and the Divisional Manager, Orissa Forest Corporation Limited. No rate has, however, been fixed for the brush wood. The royalty was calculated at the above rates on the estimated outturn

of 19,069.42 quintals of firewood and 1,124.30 quintals of roots and stumps, which was ratified by the Conservator of Forests, Berhampur, in February 1990. As against the estimated outturn, the Corporation had actually removed 20,850 quintals of firewood, 2,984 quintals of roots and stumps and 1,074 quintals of brush-wood during the lease period as verified from the passing list. Thus, the fixation and realisation of royalty based on the estimated outturn instead of on the basis of actual quantity available in the coupes resulted in under-assessment and short realisation of royalty of Rs.88,543 (including royalty on brush-wood at the rate of Rs.12 per quintal adopted for the lease period 1988-89).

On the matter being reported to Government (August 1991 and June 1992), it was replied that the Divisional Forest Officer has raised a demand of Rs.88,543 in May 1992.

(ii) In Puri Forest Division, one divisional lot containing 18,952 casuarina trees were settled (March 1988) with the Corporation for the year 1987-88 for extraction of firewood, roots and brush-wood. A royalty of Rs.7.61 lakhs was fixed by the Divisional Forest Officer (DFO) calculated at the rate of Rs.30 and Rs.10 per

quintal of firewood, roots/stumps respectively, as mutually agreed upon in the discussion held on 27th November 1987 between him and the Corporation. The royalty was to be calculated at the above rates on the estimated outturn of 24,346.2 quintals of firewood and 1,892.2 quintals of roots stumps which was ratified by the Conservator of Forests, Berhampur in March 1988. As against the estimated outturn of 24,346.2 quintals of firewood, the Corporation had actually removed 31,900 quintals of firewood, during the lease period as verified from the passing list. Thus, the under-estimation of outturn resulted in under-assessment and short realisation of royalty of Rs.2.27 lakhs.

On this being pointed out (June 1989) in audit, the DFO, stated that royalty on standing trees are calculated on the basis of standard outturn of a coupe and not on actual outturn. This is not acceptable in audit inasmuch as the estimate of standard outturn was not realistically done.

The matter was reported to Government/Principal Chief Conservator of Forests, Orissa (August 1989); their reply has not been received (December 1992).

4.6 Loss of revenue due to downward revision of royalty without causing sufficient enquiry

Under the Orissa Forest Contract Rules 1966, before commencing any work in a contract area, the forest contractor shall sign and submit to the Divisional Forest Officer (DFO) concerned a written declaration to the effect that he had been shown the boundaries and limits of the lots covered by the contract by the Range Officer and that the area shown to him agreed with that delineated on the map annexed to the agreement and until such a declaration has been given, the DFO may refuse to allow any work to commence. These provisions apply even in the case of sale of timber collected departmentally.

In Nayagarh Forest Division, 1084 timber logs (measuring 7010 cubic feet) were delivered to the Orissa Forest Corporation Limited by the Range Officer, Gania on 14th April 1988 and a detailed list of materials so handed over with necessary declaration that the materials as per the list shown by the Range Officer was verified and found correct, duly signed by the Corporation was submitted (June 1988) by the Range Officer for assessment of royalty. Based on the quality of timber mentioned in the list, the DFO fixed (June 1988) royalty of

Rs.3.94 lakhs. The Corporation, however, complained (December 1988) that 378 out of 1084 logs were defective as per the copy of the detailed list of timber sent to them. On receipt of this report, the DFO reduced (December 1988) the amount of royalty to Rs.3.20 lakhs which was also approved by the Conservator of Forests, Berhampur Circle in February 1989. It was pointed out in audit (December 1989) that the downward revision of royalty was not justifiable as the Corporation while furnishing the declaration did not point out any defective logs nor did the DFO enquire into the delay on the part of the Corporation in removing the logs from the contract area. The royalty was revised downwards without verifying the facts from the concerned Range Officer. Thus, irregular downward revision of royalty resulted in loss of revenue of Rs.75,333.

On this being pointed out in audit (December 1989), the DFO stated (December 1989) that on receipt of a detailed report from the Range Officer, the royalty already assessed would be revised if necessary and the differential royalty would be demanded from the Corporation.

Government to whom the matter was reported (February 1990), in its reply stated (February 1990) that

the DFO has raised a demand for realisation of the differential royalty amounting to Rs.75,332.66 from the Divisional Manager, Orissa Forest Development Corporation Limited.

4.7 Loss of revenue due to non-institution of certificate cases

In accordance with the provisions of the Indian Forest Act, (Amendment made in Orissa Act 25, 1952) all dues other than fines can be realised as arrear of land revenue. As per the instructions (August 1992), all arrears of forest revenue can be realised from the forest contractors within thirty years through institution of certificate cases as per the provisions of the Orissa Public Demand Recovery Act.

During audit of three divisions (Sundargarh, Dhenkanal and Bolangir), it was noticed that 87 cases involving a claim of Rs.1.33 lakhs relating to the period 1947-48 to 1960-61, no certificate case was instituted within the time limit of thirty years. The claims have, therefore, become barred by limitation of time which resulted in loss of revenue aggregating Rs.1.33 lakhs.

On being pointed out in audit, it was stated by the concerned Divisional Forest Officer (DFO) that

action would be taken to send write-off proposal to the higher authorities as there was no possibility of institution of the certificate proceedings for realisation of dues after expiry of the stipulated period.

The matter was reported to the Government (between August 1991 and November 1991); their reply has not been received (December 1992).

4.8 Non-levy of interest on belated payment of consideration money/royalty

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of consideration money for sale of forest coupes to him by the due date, he is liable to pay interest at the rate of 6-1/2 per cent per annum on the instalments in default. These provisions were also applicable to lease of forest coupes given to the Orissa Forest Corporation Limited (a fully Government owned Company) as clarified by Government in February 1977 and to the erstwhile Similipahar Forest Development Corporation Limited which has since been merged with the Orissa Forest Development Corporation.

During the course of audit (February 1991 and February 1992) of 13 Forest Divisions*, it was noticed

* Athmallick, Sundargarh, Dhenkanal, Keonjhar, Khariar, Rayagada, Nowrangpur, Ghumsur (North), Bamra, Athgarh, Rairakhol, Karanjia and Bonai.

(between February 1991 and February 1992) that in 314 cases of belated payment of consideration money relating to the years 1985-86 to 1990-91 where the delay ranged from 1 to 38 months, interest amounting to Rs.23.15 lakhs was not levied and realised from the said two Corporations.

On the omissions being pointed out by audit (between February 1991 and February 1992), the Divisional Forest Officers stated (February 1991 and February 1992) that action would be taken to realise the interest. Reports on realisation have not been received (December 1992).

The cases were reported to Principal Chief Conservator of Forests, Orissa/Government between July 1991 and March 1992; their replies have not been received (December 1992).

4.9 Short realisation of royalty on minor minerals

Under the Orissa Minor Minerals Concession Rules 1990, the authorities of Forest Department are empowered to issue permits for extraction of minor minerals from the forest lands. To streamline the administration of minor minerals occurring in forest areas, Government issued instructions (December 1987) to the Principal

Chief Conservator of Forests, Orissa to follow the provisions of the Orissa Minor Minerals Concession Rules (amended by Government in August 1990). Accordingly, royalty on minor minerals extracted after 14th August 1990 was required to be assessed at the rate specified in Schedule-I appended to the Orissa Minor Mineral Concession Rules 1990 (hereafter referred as OMMC, Rules).

During audit of records of the Divisional Forest Officer, Boudh, it was noticed (November 1991) that in Boudh Forest Division, a total quantity of 1,15,550 cft. of different minor minerals were removed during the period from May 1991 to September 1991 on realisation of royalty at the pre-revised rate instead of at the rate fixed in Schedule-I appended to the OMMC Rules, 1990, which resulted in short realisation of royalty amounting to Rs.62,778.

On this being pointed out in audit (November 1991), the Divisional Forest Officer (DFO), Boudh stated that action had not been taken in the absence of instructions from the Principal Chief Conservator of Forests, Orissa in this regard.

The matter was reported to Government (December 1991). In reply, it has been stated (June 1992) that

due to non-receipt of instructions from the Administrative Department for implementation of the OMMC Rules, 1990, the rate could not be made applicable. It was further stated that the instruction was received in May 1992 and hence DFO did not act erroneously.

The reply of the Government is not acceptable, as there is no stipulation that the implementation of the rule would not be operative till specific instructions from the Administrative Department are received by the lower formations.

4.10 Loss of revenue due to delay in disposal of Kendu leaves seized in forest offence cases

In accordance with the Government of Orissa, Forest and Environment Department letter dated 14th March 1983 and 28th July 1989, perishable forest produce seized in forest offence cases are required to be disposed of promptly to avoid the risk of loss of revenue due to long storage and deterioration.

During audit of the Forest Division, Rairakhol (Sambalpur district), it was noticed in audit (January 1992) that 114.61 quintals of Kendu leaves were seized during the period from 1981 to 1983. The above stock of Kendu leaves was kept with the Divisional Forest Officer (Kendu

Leaves) Division, Rairakhol for disposal. The seized kendu leaves were put to auction on 18th March 1987 by the Divisional Forest Officer (Kendu Leaves), Rairakhol after lapse of 4 to 6 years. Due to deteriorated condition of the leaves on account of long storage, no bidder came forward to purchase which resulted in loss of revenue amounting to Rs.34,383.

On this being pointed out in audit (January 1992), it was stated by the Divisional Forest Officer (DFO) that the Divisional Forest Officer (DFO)-(KL), Rairakhol had been requested to intimate the quantities of seized produce stored at different places for joint inspection by DFO (KL) and DFO (T) after which court permission for disposal of the same would be obtained and the fact would be intimated to audit. The reply of the DFO is not tenable in audit because these cases as reported were undetected ones and court permission for disposal is not required in these cases.

The matter was reported to the Government (March 1992); their reply has not been received (December 1992).

4.11 Loss of revenue due to under-assessment of units in disposal of cyclone damaged standing trees

In case of cyclone damaged trees, the royalty is fixed by taking into consideration various aspects like conversion problems, collection and transport facility and condition of damaged trees. Taking the above aspects into consideration the royalty of damaged casuarina coupes of Chandipur Range was fixed at Rs.275 per unit relating to 10 lots of 1989-90.

In the Forest Division, Baripada, Similipal Forest Development Corporation Limited was allowed to work on 10 Divisional lots of damaged casuarina trees (DL-120 to 129 of 1989-90) at a royalty of Rs.4.31 lakhs. Scrutiny of records of the Division, however, revealed that the Division calculated units of timber at half of the prescribed rate which resulted in under-assessment of royalty amounting to Rs.4.31 lakhs.

On this being pointed out (December 1991), the Divisional Forest Officer stated that the rate of royalty was decided by the Conservator of Forest, Angul and that half unit was taken into calculation since cyclone affected trees were reported to be partly top broken and defective.

The reply is not tenable as the royalty which was fixed initially at Rs.400 was reduced to Rs.275 because of consideration of the damaged condition of the trees. Further reduction in calculation of units was, therefore, irregular.

The matter was reported to Government (April 1992); their reply has not been received (December 1992).

4.12 Loss of revenue due to delay in ratification of lease

Kusum seed and tamarind are minor forest produce, the collection season of which is between March and May.

In Bolangir Forest Division, the auction sale notice of above minor forest produce for a period of three years from 1st October 1989 was published on 21st June 1989 for sale in general auction on 26th July 1989. The highest bid for kusum seed was Rs.1.11 lakhs and that for tamarind Rs.1.25 lakhs. The highest bidder for both the items was one and the same person. The Divisional Forest Officer (DFO) forwarded (August 1989) the proposal to the Conservator of Forests, Koraput Circle for ratification of sale by the competent authority.

In respect of kusum seed, the Conservator of Forests advised (August 1989) the DFO to re-sell the lots in a supplementary auction reducing the period of lease to one year. The DFO instead of putting the items for re-sale requested (September 1989) the Conservator of Forests to ratify the sale in view of high price obtained. Finally, on the recommendation of the Principal Chief Conservator of Forests, Government approved (July 1990) the sale of kusum seed in favour of highest bidder for one year i.e. for 1989-90 at Rs.37,000.

Similarly, in respect of 'tamarind' the sale was ratified by Government in April 1990. In both the cases, on being asked by the DFO (July 1990/April 1990) to operate the leases, the Forest contractor expressed his inability to execute them as the collection season for kusum seed (May and June 1990) and tamarind (March to May 1991) was over. Thus, due to delay in ratification of the sale of minor forest produce, the Government sustained a loss of revenue amounting to Rs.78,667.

Similarly, in Khariar Forest Division (Kalahandi District), minor forest produce items viz: tamarind (of Padampur, Sinapali Range), kusum seeds (of Komana and Nowapara), char seed (Sinapali Range) bena root

(all ranges) were put to general auction sale for 3 years from 1989-90. The highest bid offered for different items were Rs.40,000 for tamarind (Padampur), Rs.11,100 for kusum seed, Rs.29,500 for char seed and Rs.1,000 for bena root. The results of the bid were forwarded (August 1989) by the Divisional Forest Officer (DFO) to the Conservator of Forests, Koraput Circle who instead of ratifying the sale, advised the DFO (September 1989) to re-sell the produce by reducing the period of lease to one year. Accordingly, in the second supplementary sale, tamarind of two Ranges (Padampur, Simabali) was resold (February 1990) at the highest bid of Rs.21,500 which was ratified by the Conservator of Forests, Koraput Circle (February 1990). On being asked by the DFO (April 1990) to operate the lease, the Forest contractor refused to execute it because of the fact that collection season of the area would be over by April. The lease was cancelled by the DFO in April 1990. The proposal for other items i.e. kusum seed, char seed and bena root which were included in the supplementary auction sale (October 1989) were withdrawn as the same were earmarked for collection by a Joint Sector Company. Consequent upon cancellation of the lease with the Company (May 1990), the DFO asked the contractors (June 1990) to execute the lease.

Subsequently Government decided (June 1990) not to settle minor forest produce items with private contractors. In this process, collection season was over by June and the sale could not materialise. Thus, the minor forest produce items remained unexploited during 1989-90 which resulted in loss of revenue amounting to Rs.35,267 (tamarind : Rs.21,400, kusum seed etc. : Rs.13,867 being one third of Rs.41,600).

Thus, due to avoidable administrative delay in ratification of sale, the department had to sustain a total loss of revenue amounting to Rs.1.14 lakhs (Bolangir Division Rs.78,667; and Khariar Division Rs.35,267). On this being pointed out (August 1990 and September 1990), the DFO, Bolangir and Khariar stated (September 1990) that action would be taken to realise the dues from defaulting contractors; whereas the Principal Chief Conservator of Forests stated (October 1991) that it was clear that due to procrastination and delayed action of the Government the lease could not be worked during 1989-90 in both the Divisions.

The matter was reported to Government (November 1990); in reply (July 1992), Government accepted the factual position.

4.13 Loss of revenue due to delay in issue of work order

Gum is a minor forest produce, the collection season of which is spread over the entire year except during rainy season.

In the Forest Division of Sundargarh District, lease for collection of minor forest produce was granted to a State Corporation up to 1988 which was subsequently extended to 1990-91 subject to undertaking by the Corporation that they would abide by the terms and condition to be decided by Government later on. Subsequently, Government issued instructions (September 1989) not to allow the Corporation to collect minor forest produce including gum during the year 1989-90. However, on a request (January 1990) made by the Corporation, it was allowed to collect the minor forest produce during the year 1989-90. Accordingly, the work order was issued in May 1990. However, the Corporation did not agree to collect 'gum' on the ground that the season for collection of gum was almost over and that they were not liable to pay the royalty of Rs.34,376 fixed for the collection of 'gum' for the year 1989-90. Thus, as a result of delay in taking decision to issue work order, there was a loss of revenue amounting to Rs.34,376.

The matter was reported to the Government/
Principal Chief Conservator of Forests (July 1991); their
reply has not been received (December 1992)j.

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CHAPTER 5

STATE EXCISE

5.1

Results of audit

Test check of the accounts of receipts in the offices of the Excise Commissioner and Superintendents of Excise, conducted during the period from April 1991 to March 1992, revealed non-realisation, short realisation, breakage and other losses of revenue amounting to Rs.218.26 lakhs in 221 cases which may broadly be categorised as under :

| | Number of cases | Amount (Rupees in lakhs) |
|---|-----------------------|--------------------------------|
| 1. Non-realisation of duty on transit breakage | 10 | 169.96 |
| 2. Short collection/non-realisation of duty | 68 | 11.41 |
| 3. Loss of revenue due to delay in granting/issue of licences | 5 | 1.51 |
| 4. Other irregularities | <u>138</u> | <u>35.38</u> |
| | <u>221</u> | <u>218.26</u> |

During the course of the year 1991-92, the concerned Department accepted under-assessments etc. of Rs.35.96 lakhs involving in 117 cases which had been pointed out

in audit in earlier years. 6 draft paragraphs and one review involving financial effect of Rs.536.50 lakhs which bring out major points noticed during the year of Report or earlier years, were issued to the Government for their comments. The departmental officers accepted the observations in 5 cases involving Rs.14.52 lakhs, out of which no realisation has so far been made in any case (December 1992).

A few illustrative cases are given in the following paras.

5.2

Loss of revenue due to non-realisation of excise duty and cost of country spirit

Under the provisions of the Orissa Excise (Exclusive Privilege) Rules, 1970, as amended in 1989, a licensee shall sell in retail the entire minimum guaranteed quantity of country spirit for the excise year before the expiry of the term of licence. Any balance of country spirit found outstanding and unsold at the expiry of the previous year's licence shall stand forfeited to Government. The Collector may permit the succeeding licensee to take over the forfeited quantity of country spirit after payment of the excise duty and cost thereof and adjust it against the minimum guaranteed quantity of the country

spirit by the succeeding licensee.

During audit (December 1991) of the records of the Superintendent of Excise, Koraput, it was noticed that in Koraput District, licensees of six country spirit shops kept a balance of 5826 LPL of country spirit, out of the minimum guaranteed quantity unsold at the expiry of the licence period ending 31st March 1990 and 31st March 1991. The above quantity was permitted to be taken over by the succeeding licensees for the years 1990-91 and 1991-92 without recovering the duty and cost thereof. This resulted in non-realisation of excise duty and cost of country spirit amounting to Rs.1.04 lakhs.

On this being pointed out in audit (December 1991), the Superintendent of Excise agreed (December 1991) to review the sale register and recover the duty and cost on country spirit.

The matter was reported to Government in January 1992; their reply has not been received (December 1992).

5.3

Short realisation of cost of establishment from a bottling plant

As per the Board's Excise Rules, 1965, framed under the Bihar and Orissa Excise Act, 1915, licensees of bonded foreign liquor warehouses including the warehouses of foreign liquor manufacturing and bottling plants are to pay to Government (at the end of each month), fees for deployment of excise staff engaged in supervision of the operations carried on in such warehouses and plants. The Excise Commissioner of Orissa in his letter dated 3rd January 1990 laid down the procedure and elements for calculation of cost of establishment charges.

During the course of audit of Superintendent Excise, Puri, it was noticed (May 1991) that one Sub-Inspector of Excise and two excise constables were employed on full time basis in one bottling plant during the years 1989-90 and 1990-91 to supervise the operations of the plant. The amount of fees payable towards cost of establishment for the year 1989-90 and 1990-91 worked out to Rs.88,451 against which only a sum of Rs.29,969 has been realised leaving a balance amount of Rs.58,482 yet to be realised.

On this being pointed out in audit (May 1991), the Superintendent of Excise stated that action was being taken to realise the balance amount.

The matter was reported to the Excise Commissioner/Government (July 1991); their reply has not been received (December 1992).

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5.4

Non-realisation of Excise duty on country spirit

Under rule 6(i) of the Orissa Excise (Exclusive privilege) Rules as amended in 1989, every successful bidder of a country spirit shop shall, before, obtaining licence, guarantee the sale of minimum guaranteed quantity (MGQ) of country spirit monthly as fixed by the Excise authorities. The bidder is required, before obtaining licence, to submit monthly distribution statement to the Collector. Sub-rule 3 of rule 6(A) *ibid* stipulates that no licensee shall lift less than the specified MGQ of country spirit during any month subject to the proviso under rule 6(A)(2) viz: that short drawn quantity of a particular month can be lifted in the subsequent month with the approval of the competent authority. The excise duty in respect of MGQ of spirit even the lifted quantity is less than it, shall be remitted by the licensee in two equal instalments.

During the course of audit of the offices of the Superintendents of Excise, Balasore, Sundargarh, Bhawanipatna, it was noticed (between August 1990 and January 1992) that 147 licensees failed to lift the minimum guaranteed quantity during the years 1989-90 and 1990-91 to the extent of 75,595 LPL as required under the rules. The Excise duty on the short drawn quantity of country spirit amounting to Rs.9.07 lakhs was not demanded and realised from the licensees who were liable to pay the duty on MGQ irrespective of the fact whether they had drawn the MGQ or not.

On this being pointed out (between August 1990 and January 1992) in audit, the Superintendent of Excise, Balasore, agreed to realise the duty. But Superintendents of Excise Sundargarh and Kalahandi (Bhawanipatna) contended that the licensees had lifted such quantity for the year in question, the reply was not acceptable as MGQ of spirit is to be reckoned for each month and not for the total quantity lifted for the year.

The matter was reported to the Government (between October 1990 and April 1992); their reply has not been received (December 1992).

5.5

Loss of revenue due to non-issue of confirmation orders by Government

Under the Bihar and Orissa Excise Act, 1915, and rules made thereunder, the State Government is competent to grant exclusive privilege for such period as it may think fit, to any person for selling country spirit. The authority competent to grant the licence can only cancel or suspend such licence. In case of cancellation of the exclusive privilege, the same is put to auction for the un-expired period of the grant at the risk and cost of the outgoing exclusive privilege holder. Further, under the Board's Excise Rules, the successful bidders for liquor vendes are required to deposit two months' consideration money in advance at the time of auction itself and pay each month's instalment commencing from 1st April to 31st January of the following year in advance on the basis of provisional settlement made by the Collector. The advance deposit for two months is adjusted towards monthly instalments due for the last months of the following year i.e. February and March. Since Government reserves the right to confirm the provisional settlement made by the Collector, the advance deposit made becomes refundable if Government for any reasons does not confirm the provisional settlement in time.

Test check of the records in Sambalpur District revealed that two country spirit shops were settled in favour of licensee 'G' provisionally for the period January 1991 to March 1991 consequent on refusal by the licensee 'D'. The Superintendent of Excise, Sambalpur, moved the Government (January 1991) for confirmation of the provisionally accepted money and minimum guaranteed quantity. Government's order confirming the exclusive privilege in favour of 'G' was not received till the end of the financial year 1990-91 resulting in closure of the two shops for three months with consequential revenue loss of Rs.96,600 in shape of monthly consideration money and excise duty on minimum guaranteed quantity.

On this being pointed out in audit (December 1991), the Superintendent of Excise stated (December 1991) that licence could not be issued due to non-receipt of confirmation orders from Government.

The matter was reported to the Government (March 1992); their reply has not been received (December 1992).

5.6

Short realisation of fees for storage and possession of Mohua flowers

Under the Board's Excise (Fixation of fees on Mohua flower) Rules, 1976, permits for storage and

possession of mohua flower can be issued on realisation of prescribed fees. The Board of Revenue, Orissa by a Notification (January 1990), enhanced the rate of fees for storage and possession of mohua flower effective from 1st April 1990.

Test check of the records in audit (October 1991) of the District Office, Bolangir, revealed that 108 permits were granted for storage and possession of mohua flowers during the period from January 1990 to March 1990 for the period up to 31st December 1990, but the fees at the revised rates for the period from April 1990 to December 1990 were not realised. This resulted in short realisation of fees amounting to Rs.66,793.

On the omission being pointed out in audit (October 1991), the Superintendent of Excise, Bolangir stated (October 1991) that in the absence of specific instructions as to how the cases already finalised were to be dealt with, differential storage fee was not realised. The contention is not acceptable as the notification was issued prior to grant of the permits and that as per conditions of storage permits, the permit holders are bound to comply with Government orders.

The matter was reported to Government (January 1992); their reply has not been received (December 1992).

5.7

Loss of revenue due to non-disposal of mohua flowers by storage agents

Under the Orissa Forest Produce (Control of trade) Rules, 1983, the Government of Orissa appointed (1) the Tribal Development Co-operative Corporation Limited and (2) the Orissa Forest Development Corporation Limited as agents for the purchase and trade in mohua flower from the crop year 1991. In order to facilitate the disposal of left over stock of mohua flowers collected during 1990, the private licensees to whom permits were granted, Government extended the validity of the licence for storage of mohua flowers for export to other States in phases up to 15th April 1991.

During audit of the District Offices, Dhenkanal, Sambalpur and Phulbani, it was noticed that between December 1991 and February 1992, a total quantity of 8966 quintals of mohua flowers remained in stock with the licensees at the expiry of the extended licence period (15th April 1991). No action has been taken to verify the physical existence of the stock nor decision taken

for the disposal. Even if the stock physically exists, there is no likelihood of any sale due to its deterioration in long storage. This may lead to loss of revenue to Government amounting to Rs.2.87 lakhs towards export pass fees for sale to other States at the rate of Rs.32 per quintal.

On this being pointed out in audit (between December 1991 and February 1992), the Superintendents of Excise, Sambalpur, Dhenkanal and Phulbani stated (between December 1991 and February 1992) that Government have been apprised of the fact and that their Office had nothing to do without orders from Government. It was also stated that the concerned Inspectors of Excise would be directed to verify the physical existence of the stock.

The matter was reported to Government (February 1992); their reply has not been received (December 1992).

1137.02

PTB

32)

6640 PTB

Phulbani : M. 36,385

DICL

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(Locally disposed & f)

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Demand note 1800

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CHAPTER 6

LAND REVENUE

6.1 Results of audit

Test check of records relating to assessment and collection of land revenue conducted during the period from April 1991 to March 1992, revealed non-assessment, under-assessment and non-realisation of revenue amounting to Rs.247.26 lakhs in 19,295 cases, which may broadly be categorised as under :

| | Number of cases | Amount (Rupees in lakhs) |
|--|--------------------------------|--------------------------------|
| 1. Non-collection of premium and rent etc. from lands occupied by local bodies/ Government Undertakings, Private parties and individuals | 86 | 92.25 |
| 2. Non-assessment/short assessment and short collection of water rate | 233 | 26.97 |
| 3. Non-assessment/short assessment/delay in assessment of land revenue and cess | 29 | 22.28 |
| 4. Non-lease/irregular lease of sairat and other miscellaneous revenue | 493 | 4.43 |
| 5. Other irregularities | <u>18,454</u> <u>19,295</u> | <u>101.33</u> <u>247.26</u> |

During 1991-92, the concerned Department accepted under-assessments etc. of Rs.0.64 lakh involving in 9 cases which had been pointed out in audit in earlier years. 9 draft paragraphs involving financial effect of Rs.507.72 lakhs and bringing out major points noticed during the year of Report or earlier years were issued to Government for their comments. The Tahasildars of the department have accepted the observations in all the 9 cases involving Rs.507.72 lakhs, out of which no realisation has been made up to December 1992.

A few illustrative cases are given in the following paragraphs.

6.2

Non-realisation of premium, rent etc.

According to the instructions issued under Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public undertakings etc., on payment of premium fixed on the basis of market value plus annual ground rent at the rate of 1 per cent of the market value. In addition, cess at 50 per cent of the ground rent is also leviable as per Government orders of July 1987. Interest at the rate of 6 per cent per annum is chargeable on belated payment of the dues.

(i) A scrutiny in Audit (April 1991) of records in Darpan Tahsil (Cuttack District), however, revealed that advance possession of Government land admeasuring three acres was given to Regulated Market Committee for construction of market shed during February 1983. The advance possession of the land was neither regularised by way of lease nor the Market Committee paid the Government dues (April 1991).

The amount due from the Committee up to March 1991 worked out to Rs.3.60 lakhs on account of premium, ground rent, cess and interest.

On this omission being pointed out in audit (April 1991), the department stated that dues would be realised after the correction of Record of Right in consolidation operation, to be taken up shortly in the said village. Report on further action taken has not been received (December 1992).

The matter was reported to Government (Revenue and Excise Department) during July 1991; their reply has not been received (December 1992).

(ii) A scrutiny in audit (July 1991) of records in Athagarh Tahsil (Cuttack District) revealed that advance

possession of Government land admeasuring 3 acres which was given to Milk Producers Union during 1982 for establishment of a chilling plant was neither regularised by way of lease nor the Union paid the Government dues amounting to Rs.1.02 lakhs due up to the end of March 1990.

On this being pointed out (July 1991), Tahsildar agreed to take action for regularisation of the case and realisation of the dues (July 1991).

The matter was reported to Government during October 1991; their reply has not been received (December 1992).

(iii) In Rayagada Tahsil of Koraput District, Government land admeasuring 0.425 acre was under unauthorised occupation of the Orissa Agro Industries Corporation from 1967-68 on which a permanent office structure was built. The land occupied by the said Corporation had neither been regularised by way of lease (July 1991) nor the Government dues amounting to Rs.3.68 lakhs on account of premium, rents, cess and interest thereon from 1967-68 to the end of March 1991, were recovered by the Department

This was pointed out in audit during July 1991. Final reply on action taken has not been received from the department (December 1992).

The matter was reported to the Government (March 1992); their reply has not been received (December 1992).

(iv) In Umerkote Tahsil in the District of Koraput, Government land admeasuring 2.53 acres was under unauthorised occupation of a charitable institution from 1987-88. The land occupied had neither been regularised by way of lease nor were the dues amounting to Rs.3.31 lakhs on account of premium, rent, cess and interest thereon from 1987-88 to the end of March 1991 were paid by the trust (November 1991).

On this being pointed out in audit (November 1991) the Tahsildar stated that the case was under process (November 1991).

The matter was reported to the Government (February 1992); their reply has not been received (December 1992).

(v) In Balasore Tahsil (Balasore District), Government land admeasuring 13.60 acres, was under unauthorised occupation of the Orissa State Electricity Board (OSEB) from 1962-63 on which an electrical sub-station and workshop were established as seen from the records of Rights published on 28th February 1987. The land occupied had neither been regularised by way of lease nor were the dues amounting to Rs.482.70 lakhs (Premium : Rs.149.60 lakhs plus ground rent : Rs.41.89 lakhs; Cess : Rs.2.99 lakhs, interest : Rs.288.22 lakhs from 1962-63 to 1989-90) recovered by the department.

On this being pointed out in audit (May 1990), the Tahasildar stated, (March 1992) that the lease case had been initiated in favour of OSEB for an area of 13.60 acres of land and sent to the Government of Orissa, Revenue Department for sanction (date not mentioned) and that on receipt of sanction of lease, the premium etc., would be calculated.

The matter was reported to Government (December 1990 and March 1992); their reply has not been received (December 1992).

(vi) In Bhawanipatna Tahsil in the District of Kalahandi, Government land admeasuring 0.050 acre was

under unauthorised occupation of a Sanskrit Anusthan from 1973-74 onwards, on which a pucca club house and drama pandal were constructed. The land occupied by the institution had neither been regularised by way of lease (February 1991) nor the dues amounting to Rs.92,192 from 1973-74 to the end of March 1990, were recovered by the Department.

On this being pointed out in audit (February 1991), the Tahsildar replied that the amount would be recovered on finalisation of the case.

The matter was reported to Government (May 1991); their reply has not been received (December 1992).

6.3

Non-assessment of compulsory basic water rate

Under the provisions of the Orissa Irrigation Act, 1959 and the Rules framed thereunder, compulsory basic water rate at prescribed rates is leviable on the lands coming within the culturable command area of an irrigation work for irrigation of staple cereal crop (khariff paddy harvested between October and January) whether water is used for irrigation or not. The culturable command area as certified by the Engineer-in-charge is required to be verified by the Revenue Officer (Tahsildar). According to the prescribed procedure,

the demand for water rate is to be revised on assessment rolls prepared after such verification. The irrigation works are divided into four classes (viz: Class-I, II, III and IV) on the basis of guaranteed depth and period of supply. The water rate prescribed for Class-I and Class-II were Rs.16.00 and Rs.12.00 per acre per annum respectively. In case of a new irrigation project, however, no water rate is chargeable for the first year of supply of water, whereas 50 per cent and 75 per cent of the prescribed rate is chargeable for the second and third years respectively, and full rate is chargeable from the fourth year onwards.

In one Tahsil (Bolangir), the Engineering authority had certified use of water for growing staple cereal crops on 5740.81 acres of Class-II irrigation work since 1983 but the Tahsildar did not demand the prescribed water rate aggregating Rs.2.53 lakhs for the period 1984-85 to 1990-91.

On this being pointed out in audit (August 1991), the Tahasildar stated that the preliminary assessment rolls have been prepared to finalise the water rate. Further reply has not been received (Decembetr 1992).

The matter was reported to Government (November 1991); their reply has not been received (December 1992).

6.4

Short levy of court fee and process fee

Under the Orissa Public Demand Recovery Act, 1962 and Rules made thereunder, when any public demand payable to any person other than the Collector is due, such person may send to the certificate officer, a written requisition in the prescribed form. Every such requisition, except in such cases as may be prescribed, shall be chargeable by the Certificate Officer with a fee which would be payable under the Court Fees Act of 1870 in respect of plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

Let's see
In sixteen* Tahsils, certificate requisitions were filed before the concerned certificate officers (Tahsildars) by certain banks during the period from 1985-86 to 1989-90 for recovery of their dues in 2507 cases. Against fees amounting to Rs.10.42 lakhs leviable in respect of these cases, only Rs.80,294 was levied which resulted in short levy of Rs.9.62 lakhs.

* Biramaharajpur, Sonapur, Balliguda, Sukinda, Darpan, Pattamundai, Dharamsala, Narsingpur, Athgarh, Mohanga, Chendipada, Talcher, Athmallick, Angul, Dharamgarh and Bhubaneswar.

On this omission being pointed out (between December 1990 and September 1991), the certificate officers accepted the omission and agreed to realise the dues by issue of notices to the banks concerned.

The matter was reported to Government (during 1991); their reply has not been received (December 1992).

6.5

Loss of revenue due to non-realisation of royalty and surface rent at revised rate

Under the provisions of the Manual of Tahsil Account read with the Orissa Minor Minerals Concession Rules, 1983, the Revenue Authority is empowered to grant permit for extraction of minor minerals from Government land on realisation of royalty and surface rent. The Government order of April 1984 prescribing rate of royalty and surface rent was revised with effect from 29th August 1990 under the Orissa Minor Minerals Concession Rules, 1990.

It was noticed in audit (June 1991) that in one Tahsil (Pipili in Puri District), in two cases royalty and surface rent relating to the period from September 1990 to February 1992 were realised at pre-revised rate from the lessees. This resulted in short realisation of royalty and surface rent amounting to Rs.33,794.

On the omission being pointed out (June 1991), the Tahsildar agreed to take action for realisation.

The matter was reported to the Government (September 1991); their reply has not been received (December 1992).

CHAPTER 7

MINING RECEIPTS

7.1 Results of audit

(a) Test check of mining receipts in the Offices of Mining Officers conducted in audit during the period from April 1991 to March 1992, revealed non-levy or short levy of dead rent, cess, surface rent and interest and other losses of revenue amounting to Rs.264.51 lakhs in 75 cases, which may broadly be categorised as under:

Done on 20/10/98

| | Number of cases | Amount (Rupees in lakhs) |
|---|-----------------|--------------------------|
| 1. Non-levy/short levy of royalty cess, surface rent and dead rent | 18 | 217.33 |
| 2. Non-recovery/short recovery of interest | 25 | 42.52 |
| 3. Non-realisation of cost of Ores in respect of mines worked out without valid lease | 5 | 1.59 |
| 4. Non-realisation/under-assessment of dead rent, cess royalty and interest | 7 | 0.99 |
| 5. Other irregularities | 20 | 2.08 |
| | <u>75</u> | <u>264.51</u> |

(a) Other Government Departments

(i) *Stamp duty and Registration*

| | Number of cases | Amount (Rupees in lakhs) |
|---|-----------------------|--------------------------------|
| 1. Short levy of stamp duty and registration fees due to under-valuation | 19 | 0.18 |
| 2. Short levy of stamp duty and Registration fees due to misclassification of documents | 23 | 0.31 |
| 3. Irregular exemption | <u>27</u> | <u>29.33</u> |
| | <u>69</u> | <u>29.82</u> |

(ii) *Entertainment Tax*

| | | |
|----------------|----|-------|
| 1. Other cases | 18 | 15.14 |
|----------------|----|-------|

(iii) *Departmental Receipt*

| | | |
|---------------------|-----------|----------------|
| 1. Loss of interest | 1 | 6.79 |
| 2. Others | <u>22</u> | <u>1303.42</u> |
| | <u>23</u> | <u>1310.21</u> |

During the course of the year 1991-92, the concerned Department accepted under-assessments etc. of Rs.5.02 lakhs involved in 21 cases; of which 2 cases involving Rs.0.03 lakh had been pointed out during 1991-92

and the rest in earlier years. 3 draft paragraphs relating to Mining Receipts involving financial effect of Rs.2.49 lakhs and bringing out major points noticed during the year of Report or earlier years, were issued to Government for their comments. Government has accepted the observation in 2 cases involving Rs.2.04 lakhs out of which Rs.0.03 lakh has been realised up to December 1992.

A few illustrative cases are given in the following paragraphs.

7.2 Loss of revenue due to non-assessment of royalty on shortage

Done in P.A.E. 20.10.98
The Orissa Mineral Rules 1960 do not provide for any concession on royalty payable in respect of shortage of minerals.

During the audit (September 1991) of the accounts of the Mining Officer, Berhampur, it was noticed that there was difference in quantity of 628.658 tonnes of siliminite minerals between the figures of daily production and that of despatch (the production figure being more) during the period April 1990 to March 1991. No royalty was demanded on the difference. This resulted in loss of revenue amounting to Rs.31,433.

M/O Berhampur

On the omission being pointed out in audit (September 1991), the Mining Officer agreed to raise the demand.

Government to whom the matter was reported (October 1991) intimated (April 1992) that additional demand of Rs.31,433 has been raised.

7.3 Loss of revenue due to non-assessment of dead rent and surface rent

Dr. P. R. K. 25/10/98
Under the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease shall pay to the State Government every year dead rent at such rate as may be prescribed from time to time in the third schedule for all areas included in the instrument of lease. The lessee is also liable to pay surface rent at the prescribed rates in respect of all parts of the surface of the land which shall from time to time be occupied or used by him as provided under the Mineral Concession Rules, 1960.

During the course of audit (February 1991), it was noticed that in Joda Mining Circle a lessee under the authority of working permission, was operating in Charumalda Manganese Mines occupying 141.122 hectare of land without payment of dead rent and surface rent

DDM-Joda
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for the years 1990 and 1991. The amount of dead rent and surface rent leviable worked out to Rs.45,160.

On this being pointed out (February 1992), the Deputy Director of Mines, Joda agreed to take action (February 1992) and demand dead rent and surface rent.

The matter was reported to the Government (April 1992); their reply has not been received (December 1992).

7.4 Non-levy of interest on belated payment of mining dues

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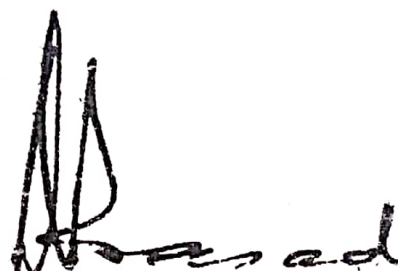
Under the Minerals Concession Rules, 1960, as amended in October 1982, in cases of belated payment of dead rent, royalty and other government dues, simple interest at the rate of 15 per cent per annum on the amount due for the entire period of default may be charged from the lessee from the 60th day of the expiry of the date fixed by Government for payment of such dues till the default continues.

In four Mining Offices (Baripada, Koraput, Joda and Bolangir), interest had not been levied in 64 cases during the years 1988-89 to 1990-91. Interest realisable on these cases amounted to Rs.1.73 lakhs.

On the omission being pointed out in audit (June 1991, July 1991, September 1991 and February 1992) the Mining Officer, Bolangir raised the demand (September 1991) and others also agreed to raise the demand.

The matter was reported to Government (June 1991, July 1991 and April 1992); their reply has not been received (December 1992).

BHUBANESWAR
The



(D.N.PRASAD)
Accountant General (Audit)-II
Orissa

Countersigned

NEW DELHI
The



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



COMPTROLLER AND AUDITOR GENERAL
OF INDIA, 1993