

दिनांक.....को विधानसभा
को प्रस्तुत की गई
Presented to the Legislature
on.....

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

FOR THE YEAR ENDED 31 MARCH 2003

(REVENUE RECEIPTS)

GOVERNMENT OF HARYANA

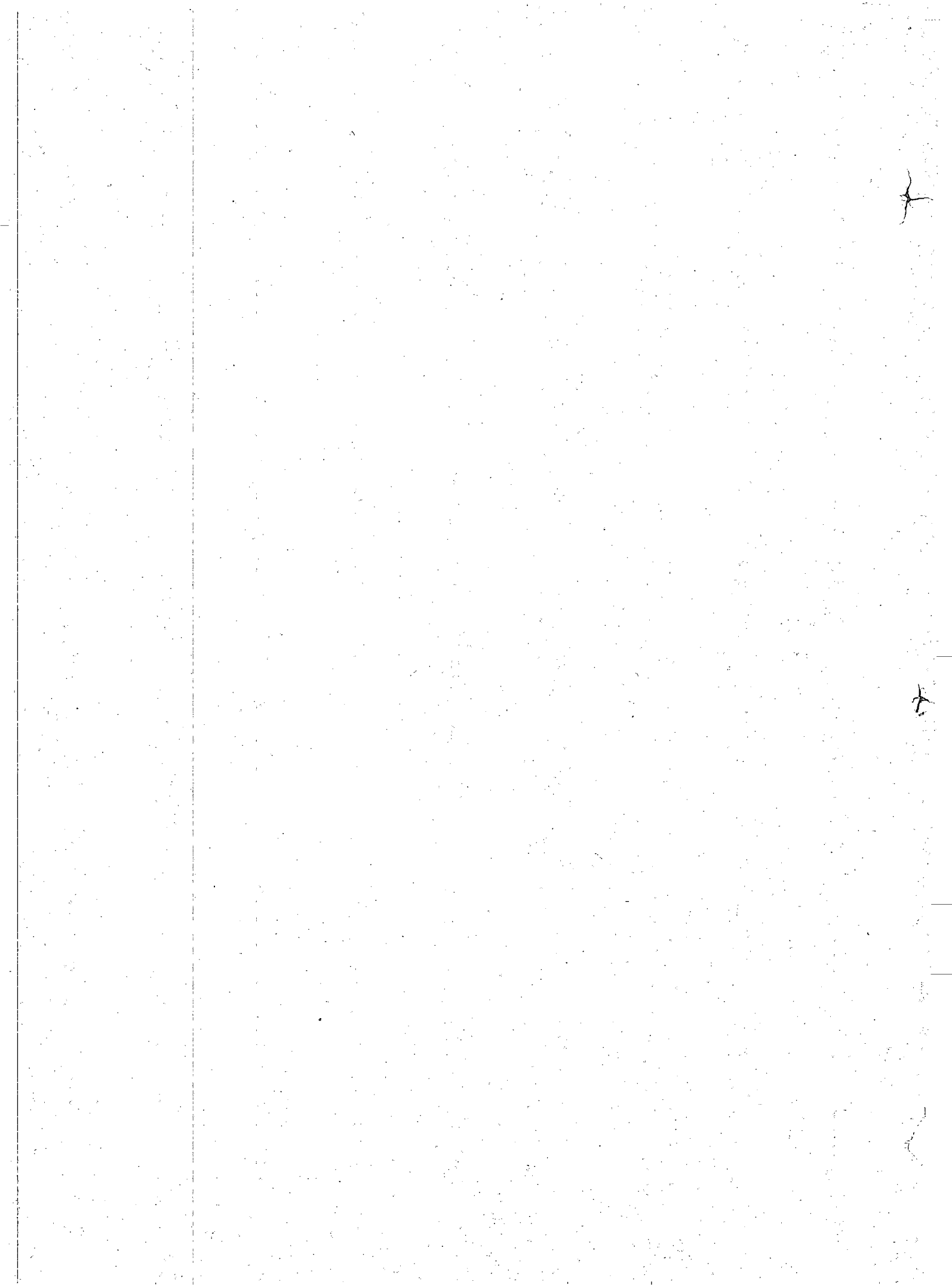


TABLE OF CONTENTS

	Reference to	
	Paragraph	Page
PREFACE		v
OVERVIEW		vii-xii
Chapter-I		
GENERAL		
Trend of revenue receipts	1.1	1
Initiatives for Mobilisation of Additional Resources	1.2	4
Analysis of budget preparation	1.3	4
Variation between revised estimates and actuals	1.4	6
Time series analysis of GSDP and Receipts	1.5	8
Analysis of collection	1.6	9
Cost of collection	1.7	10
Arrears of revenue	1.8	10
Arrears in assessments	1.9	12
Performance of assessments	1.10	13
Evasion of tax	1.11	13
Write off and waiver of revenue	1.12	14
Refunds	1.13	14
Results of audit	1.14	15
Failure of senior officials to enforce accountability and protect interest of Government	1.15	16

	Reference to	
	Paragraph	Page
Departmental Audit Committee Meetings	1.16	17
Response of the departments to Draft Audit Paragraphs	1.17	18
Follow-up on Audit Reports-Summarised Position	1.18	18
Chapter-II		
TAXES ON SALES, TRADE ETC.		
Results of Audit	2.1	19
Pendency of appeals at various levels and its impact on revenue collection	2.2	20
Under-assessment of gross turnover/notional sales tax liability	2.3	34
Under-assessment of tax due to incorrect deduction of subsequent sale under CST	2.4	38
Under-assessment of tax due to inadmissible deduction	2.5	39
Non-levy of purchase tax	2.6	40
Under-assessment due to inadmissible rebate	2.7	41
Non-levy of interest and penalty	2.8	42
Under-assessment of tax due to incorrect computations/application of incorrect rate of tax	2.9	43
Under-assessment due to non-levy of surcharge	2.10	45
Under-assessment due to misclassification of goods	2.11	45
Incorrect levy of concessional rate of tax	2.12	46
Irregular refund of tax	2.13	46
Evasion of Central Sales Tax	2.14	47
Non-levy of tax under HGST due to incorrect deduction from gross turnover	2.15	48

	Reference to	
	Paragraph	Page
Under-assessment due to excess rebate	2.16	48
Non-recovery of tax	2.17	49
Internal Audit System	2.18	50
Chapter-III		
STAMP DUTY AND REGISTRATION FEE		
Results of Audit	3.1	51
Evasion of stamp duty due to under-valuation of immovable property	3.2	52
Short levy of stamp duty on exchange of property	3.3	52
Evasion of stamp duty on release deeds	3.4	53
Short levy of stamp duty	3.5	54
Chapter-IV		
OTHER-TAX RECEIPTS		
<i>State Excise Duty</i>		
Results of Audit	4.1	55
Short recovery of interest	4.2	56
Non-recovery of penalties	4.3	56
<i>Passengers and Goods Tax</i>		
Non/short realisation of passengers tax	4.4	57
<i>Taxes on Motor Vehicles</i>		
Short realisation of permit/countersignature fee	4.5	58
Non-deposit of token tax	4.6	59
Short charging of driving licence fee	4.7	60

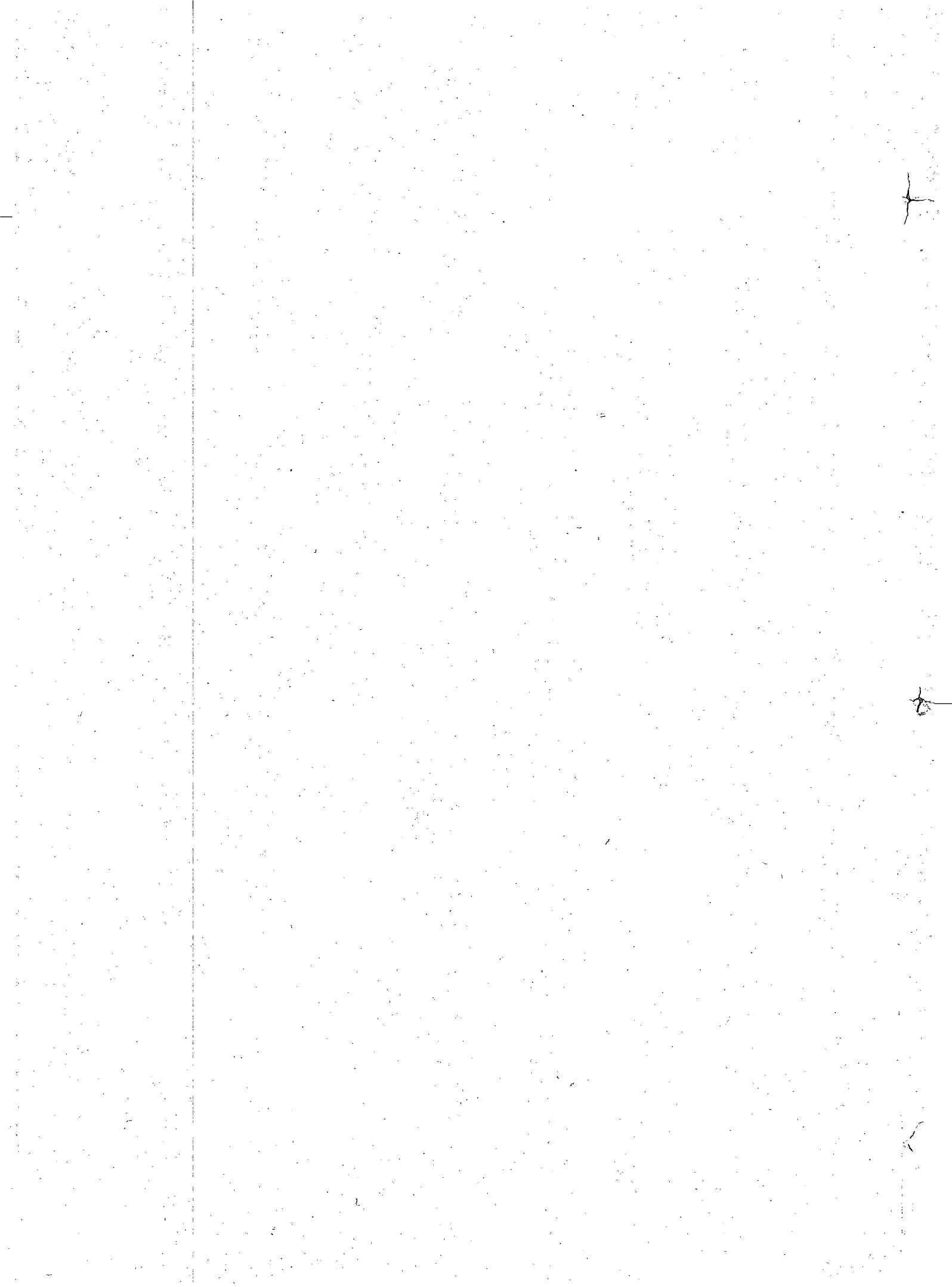
	Reference to	
	Paragraph	Page
<i>Entertainment Duty</i>		
Short/non-recovery of entertainment duty	4.8	60
<i>Purchase Tax</i>		
Non-recovery of purchase tax and interest	4.9	61
Chapter-V		
NON-TAX RECEIPTS		
Results of audit	5.1	63
<i>Co-operation</i>		
Receipts (other than interest) from Co-operative Societies	5.2	64
Chapter-VI		
OTHER NON-TAX RECEIPTS		
Results of Audit	6.1	77
<i>Finance Department</i>		
Receipts from Guarantee fee	6.2	78
<i>Public Works Department (Irrigation)</i>		
Utilisation of departmental receipts towards expenditure	6.3	86
<i>Urban Development Department</i>		
Non-recovery of supervision charges	6.4	87
<i>Fisheries Department</i>		
Loss in fishing rights of notified waters	6.5	87
<i>Forest Department</i>		
Non-realisation of sales tax	6.6	88

Preface

This Report for the year ended 31 March 2003 has been prepared for submission to the Governor under Article 151(2) of the Constitution of India.

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

The cases mentioned in this Report are among those, which came to notice in the course of test audit of records during the year 2002-2003 as well as those noticed in earlier years but could not be included in previous Reports.



OVERVIEW

This report contains 35 paragraphs including 3 reviews relating to non-levy/short levy of taxes, interest and penalties etc., involving Rs.340.66 crore. Some of the major findings are mentioned below:

I. General

- The total receipt of the State Government for the year 2002-2003 was Rs.8,657.02 crore.

Revenue raised by the State Government during the year was Rs.7,357.53 crore comprising tax revenue of Rs.5,549.68 crore and non-tax revenue Rs.1,807.85 crore. Receipts under taxes on sales, trade etc. (Rs.3,337.43 crore) and state excise (Rs.878.82 crore) constituted a major portion of receipts of tax revenue. Under non-tax revenue, major receipt was from road transport (Rs.451.83 crore). The State also received Rs.756.59 crore as its share of net proceeds of divisible union taxes, which had increased by Rs.306.34 crore over the previous year. An amount of Rs.542.90 crore was received as grants-in-aid from Government of India. The increase of Rs.29.86 crore compared to the previous year was mainly due to receipt of more grants under the Non-Plan, State Plan and Central Plan Schemes.

(Paragraph 1.1)

- Arrears of revenue at the end of March 2003 as reported by the major departments were Rs.576.98 crore.

(Paragraph 1.8)

- Test-check of records of taxes on sales, trade etc., stamp duty and registration fee, state excise duty, passengers and goods tax, taxes on motor vehicles, entertainment and show tax, agriculture (purchase tax and crop husbandry), electricity duty, public works (irrigation, public health and buildings and roads), land revenue, home (police), fisheries, mines and geology, forest, rehabilitation, co-operation, state lotteries, medical, animal husbandry and industries departments conducted during 2002-2003 revealed under-assessment of taxes and duties ; loss of revenue etc. amounting to Rs.439.39 crore in 1,56,286 cases. The departments

concerned accepted under-assessment etc. of Rs.202.69 crore of which Rs.200.53 crore pertained to the year 2002-2003 and the rest to earlier years. An amount of Rs.6.16 crore in 801 cases had already been recovered.

(Paragraph 1.14)

- Inspection reports containing 6,820 audit observations with money value of Rs.890.63 crore (issued upto December 2002) were outstanding for want of final replies from the departments.

(Paragraph 1.15)

2. Taxes on Sales, Trade etc.

A review on "Pendency of appeals at various levels and its impact on revenue collection" inter-alia revealed the following:-

- As against the arrears of Rs.100.44 crore involved in 1,610 cases pending finalisation with 4 Joint Excise and Taxation Commissioners (Appeals) at the end of the year 2001-02, Rs.5.34 crore only had been shown in the arrears statements by the office of the Excise and Taxation Commissioner resulting in suppression of arrears of Rs.95.10 crore.

(Paragraph 2.2.6)

- In 42 appeal cases decided involving revenue of Rs.1.73 crore, the final orders of the Appellate Authorities were communicated late by 3 to 12 months.

(Paragraph 2.2.11)

- In contravention of departmental instructions, 144 stay cases involving revenue of Rs.7.80 crore were decided after delays ranging between 1 to 46 months beyond the prescribed period of 3 months.

(Paragraph 2.2.13)

- 234 remand cases, involving revenue of Rs.12.46 crore, were finalised after expiry of the prescribed period of six months from the date of receipt of orders and 191 cases, involving revenue of Rs.16.59 crore, were pending finalisation for more than six months beyond the prescribed period of 6 months.

(Paragraph 2.2.16)

- In 27 cases, notional sales tax liability of Rs.5.32 crore was under-assessed due to inadmissible deductions from gross turnover, non-levy of purchase tax and calculation mistakes.

(Paragraph 2.3)

- Tax of Rs.60.90 lakh was not levied on goods valued at Rs.6.78 crore purchased from exempted units and sold in the course of inter-state trade or commerce.

(Paragraph 2.4)

- In case of 2 dealers, interest of Rs.48.91 lakh was not levied and no action was taken to recover tax of Rs.46.62 lakh as arrears of land revenue.
(Paragraph 2.8)
- In case of 5 dealers, tax of Rs.48.17 lakh was short levied due to incorrect computations and application of incorrect rate of tax.
(Paragraph 2.9)
- Misclassification of goods resulted in under-assessment of tax of Rs.10.97 lakh.
(Paragraph 2.11)
- The department did not levy tax on the inter-state sale of rice resulting in under-assessment of tax of Rs.14.15 lakh.
(Paragraph 2.14)
- Inadmissible rebate allowed in two cases resulted in under-assessment of tax of Rs.15.15 lakh.
(Paragraph 2.16)
- The department did not raise demand for tax of Rs.6.33 crore and interest of Rs.4.47 crore against 3 dealers who had closed their business within the exemption period or within a period of five years after the expiry of the exemption period.
(Paragraph 2.17)

3. Stamp Duty and Registration Fee

- Under-valuation of immovable properties in 25 cases of conveyance deeds resulted in evasion of stamp duty of Rs.10.37 lakh and penalty of Rs.1.25 lakh.
(Paragraph 3.2)
- Stamp duty of Rs.14.03 lakh was short levied on 25 compromise decrees registered by the department.
(Paragraph 3.3)
- Inadmissible exemption allowed in 25 releases of ancestral properties resulted in evasion of stamp duty of Rs.6.75 lakh.
(Paragraph 3.4)

4. Other Tax Receipts

State Excise

- The department did not raise demand for interest of Rs.1.43 crore payable for delay in payment of instalments of licence fee.

(Paragraph 4.2.)

Passengers and Goods Tax

- Passengers tax of Rs.46.54 lakh due from 69 transport co-operative societies plying buses on various link roads was not deposited.

(Paragraph 4.4)

Taxes on Motor Vehicles

- Permit fee/countersignature fee of Rs.15.21 crore was short levied in 37,378 cases.

(Paragraph 4.5)

- Token tax of Rs.56.80 lakh and penalty of Rs.1.14 crore was neither demanded by the department nor deposited by the transport co-operative societies.

(Paragraph 4.6)

- Driving licence fee amounting to Rs.12.44 lakh for driving additional class of vehicles was not charged in 7,611 cases.

(Paragraph 4.7)

Entertainment Duty

- Entertainment duty of Rs.6.70 lakh payable by 13 video-owners was neither deposited by them nor demanded by the department.

(Paragraph 4.8)

Purchase Tax

- Purchase tax of Rs.32.23 lakh and interest of Rs.5.34 lakh was not received from a co-operative sugar mill.

(Paragraph 4.9)

5. Non-Tax Receipts

Co-operation

A review on "Receipts (other than interest) from co-operative societies" inter-alia revealed the following:-

- Out of 22,665 co-operative societies to be audited during the year 2001-02, 9,215 societies remained unaudited as on 31 March 2002, of which 2,739 societies were not audited for more than 5 years.
(Paragraph 5.2.5)
- Audit fee of Rs.55.50 lakh had been short recovered from 109 Societies.
(Paragraph 5.2.9)
- Audit fee of Rs.1.24 crore was charged/levied short due to incorrect computation of profit/application of rates.
(Paragraph 5.2.10 and 5.2.11)
- Dividend of Rs.49.72 lakh declared on government share capital was not deposited in government accounts by 4 societies. Besides, revenue of Rs.4.98 lakh was foregone by way of interest on account of non-deposit of dividend.
(Paragraph 5.2.12)
- Potential earning of Rs.5.19 crore on account of dividend could not be realised as 32 profit earning societies did not declare dividend on government share capital.
(Paragraph 5.2.13)
- Non/belated fixation of terms and conditions for redemption of government share capital resulted in non-redemption of share capital of Rs.30.63 crore. Besides, share capital of Rs.15.70 crore due for redemption upto 31 March 2002 had not been redeemed.
(Paragraph 5.2.15, 5.2.16 & 5.2.17)

6. Other Non-Tax Receipts

(A) Finance Department

A review on "Receipts from Guarantee Fee" inter-alia revealed the following:-

- As against the increase of 32.75 per cent in state revenue during 1997-98 to 2001-2002, the total outstanding guaranteed amount increased by 173 per cent, indicating increase in contingent liabilities to a significant extent over the same period.

(Paragraph 6.2.6)

- Non-levy of guarantee fee in respect of boards/corporations/institutions resulted in short mobilisation of resources of Rs.57.34 crore during 2000-01.

(Paragraph 6.2.8)

- Guarantee fee of Rs.118.22 crore for the years 1994-95 to 2001-02 was short levied due to application of incorrect rate.

(Paragraph 6.2.9)

- Four power corporations and twelve boards/corporations/co-operative banks/sugar mills did not pay guarantee fee of Rs.13.11 crore.

(Paragraph 6.2.10 & 6.2.11)

(B) Public Works Department (Irrigation)

- Departmental receipts amounting to Rs.67.34 lakh were utilised towards expenditure in contravention of codal provisions.

(Paragraph 6.3)

(C) Urban Development Department

- Contribution towards supervision charges amounting to Rs.3.87 crore due from various municipal committees was neither paid by the municipal committees nor demanded by the department.

(Paragraph 6.4)

(D) Fisheries Department

- Auction of fishing rights during 2001-02 and 2002-03, much below the average of the contract amount received during the preceding three years, resulted in loss of Rs.22.72 lakh.

(Paragraph 6.5)

(E) Forest Department

- Sales tax amounting to Rs.11.33 lakh was not levied/recovered on sale of timber valued at Rs.1.42 crore.

(Paragraph 6.6)

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(Paragraph 6.6)

CHAPTER-I: General

I.1 Trend of revenue receipts

Tax and non-tax revenue raised by the Government of Haryana during the year 2002-03, the State's share of divisible Union Taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

Sl. No.	Particulars	1998-99	1999-2000	2000-2001	2001-2002	2002-2003
(Rupees in crore)						
I Revenue raised by the State Government						
(a)	Tax revenue	3,119.62	3,517.61	4,310.55	4,971.19	5,549.68
(b)	Non-tax revenue	1,518.02 (944.95)	1,259.06 (988.97)	1,439.39 (1,128.10)	1,666.07 (1,266.56)	1,807.85 (1,374.40)
	Total (I)	4,637.64 (4,064.57)	4,776.67 (4,506.58)	5,749.94 (5,438.65)	6,637.26 (6,237.75)	7,357.53 (6,924.08)
II Receipts from Government of India						
(a)	State's share** of net proceeds of divisible Union Taxes	480.04	525.27	345.81	450.25	756.59
(b)	Grants-in-aid	361.01	464.81	478.14	513.04	542.90
	Total (II)	841.05	990.08	823.95	963.29	1,299.49
III	Total receipts of the State (I + II)	5,478.69 (4,905.62)	5,766.75 (5,496.66)	6,573.89 (6,262.60)	7,600.55 (7,201.04)	8,657.02 (8,223.57)
IV	Percentage of I to III	85 (83)	83 (82)	87 (87)	87 (87)	85 (84)

* The non-tax revenue for 1998-99, 1999-2000, 2000-2001, 2001-2002 and 2002-03 includes gross receipts from State Lotteries amounting to Rs.573.07 crore, Rs.255.10 crore, Rs. 295.52 crore, Rs. 388.29 crore and Rs.406.53 crore, against which expenditure of Rs.573.07 crore, Rs 270.09 crore, Rs 311.29 crore, Rs 399.51 crore and Rs.433.45 crore respectively was incurred on running of lotteries' schemes. The net receipts from State Lotteries was nil in 1998-99 and negative in subsequent years i.e. (-) Rs.14.99 crore in 1999-2000, (-) Rs.15.77 crore in 2000-2001, (-) Rs.11.22 crore in 2001-2002 and (-) Rs.26.92 crore in 2002-03. To make the figures comparable for these years, receipts from prize-winning tickets have been accounted for and net receipts after reducing expenditure on prize-winning tickets have been shown in brackets.

** For details please see "Statement No.11-Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of Government of Haryana for the year 2002-2003. Figures of "tax-share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union taxes in this Statement.

1.1.1 Grants-in-aid

Details of grants-in-aid received from Government of India are as under:

Particulars of grants-in-aid	1998-99	1999-2000	2000-01	2001-02	2002-03
	Amount / Percentage	Amount / Percentage	Amount / Percentage	Amount / Percentage	Amount / Percentage
(Rupees in crore)					
Non-Plan	47 (13)	32 (7)	88 (18)	159 (31)	109 (20)
Plan	314 (87)	433 (93)	390 (82)	354 (69)	434 (80)
Total	361 (100)	465 (100)	478 (100)	513 (100)	543 (100)

1.1.2 Details of tax revenue raised during the year 2002-03, alongwith the figures for the preceding four years, are given below:

Sl. No	Head of revenue receipts	1998-99	1999-2000	2000-01	2001-02	2002-03	Percentage of increase (+) or decrease (-) in 2002-03 over 2001-2002
(Rupees in crore)							
1.	Taxes on Sales, Trade etc.						
	(a) General Sales Tax	1,115.70	1,353.92	1,645.62	2,106.67	2,470.16	(+) 17
	(b) Central Sales Tax	483.68	613.45	927.77	838.14	867.27	(+) 3
2.	State Excise	774.63	765.36	840.56	875.39	878.72	(-) 0.38
3.	Stamp Duty and Registration Fee	294.55	309.93	419.24	488.29	541.39	(-) 11
4.	Taxes and Duties on Electricity (ED)	44.53	46.08	0.68	29.48	0.87	(-) 97
5.	Taxes on Vehicles	71.37	84.77	85.69	103.62	114.39	(+) 10

The actual receipt during 2000-2001 was Rs 42.27 crore. The difference between actual realisation of duty and the amount accounted for in the books of AG (A&E) Haryana, was due to non-adjustment of subsidy of Rs.39.18 crore sanctioned in lieu of Electricity Duty and non-receipt of duty amounting to Rs.2.41 crore from collecting agencies.

** During 2001-02 actual receipt of Electricity Duty was Rs.52.01 crore and the difference was due to adjustment of government dues of Rs.22.53 crore by the UHBVNL and DHBVNL which was not accounted for in the Finance Accounts. Similarly, during 2002-03 actual receipt was Rs.52.65 crore and difference of Rs.51.78 crore was due to non-adjustment of Electricity Duty against the loans sanctioned by the State Government to HVPNL as budget provisions under the head "6801-Loans for Power Projects" were not available.

Sl. No.	Head of revenue receipts	1998-99	1999-2000	2000-01	2001-02	2002-03	Percentage of increase (+) or decrease (-) in 2002-03 over 2001-2002
(Rupees in crore)							
6.	Taxes on Goods and Passengers	315.81	323.85	366.66	498.56	652.75	(+) 31
7.	Other Taxes and Duties on Commodities and Services	15.47	15.96	12.60	11.74	14.26	(+) 21
8.	Land Revenue	3.88	4.29	11.73	19.30	9.87	(-) 49
	Total	3,119.62	3,517.61	4,310.55	4,971.19	5,549.68	(+) 12

1.1.3 Details of the major non-tax revenue received during the year 2002-2003, alongwith the figures for the preceding four years are given below:

Sl. No.	Head of revenue receipts	1998-99	1999-2000	2000-01	2001-02	2002-03	Percentage of increase (+) or decrease (-) in 2002-2003 over 2001-2002
(Rupees in crore)							
1.	Interest Receipts	183.72	202.23	236.22	332.87	334.27	(+) 0.42
2.	Dairy Development	0.01	0.11	0.12	0.09	0.02	(-) 78
3.	Road Transport	330.03	336.40	378.56	410.74	451.83*	(+) 10
4.	Other Non-Tax Receipts	134.68	155.76	161.99	166.61	222.23	(+) 33
5.	Forestry and Wild Life	19.17	24.90	25.88	24.53	28.97	(+) 18
6.	Non-ferrous Mining and Metallurgical Industries	65.94	84.80	105.35	139.87	118.88	(-) 15
7.	Miscellaneous- General Services	573.07	255.10	295.52	388.29	406.53	(+) 12
	(i) State Lotteries**	Nil	{(-) 14.99}	{(-)15.77}	{(-)11.22}	{ (-)26.92}	
	(ii) Other than Lotteries	(-) 2.52	(-) 1.31	3.78	(-) 0.73	27.13	
8.	Power	0.30	1.80	2.13	2.15	1.95	(-) 9
9.	Major and Medium Irrigation	61.04	38.29	54.30	68.51	52.05	(-) 24

* Receipts from Road Transport are gross receipts of Haryana Roadways.

** The figures shown in brackets from 1999-2000 to 2002-03 show that the net receipts from lotteries were negative. i.e. the Government was incurring more expenditure on lotteries than receipts. Government may consider the need for continuing the lottery in these circumstances.

Sr. No.	Head of revenue receipts	1998-99	1999-2000	2000-01	2001-02	2002-03	Percentage of increase (+) or decrease (-) in 2002-2003 over 2001-2002
10.	Medical and Public Health	17.19	23.39	23.40	28.32	28.38	(+) 0.21
11.	Co-operation	6.31	3.87	5.78	5.27	4.97	(-) 6
12.	Public Works	3.79	3.26	3.18	6.21	3.98	(-) 36
13.	Police	10.83	8.93	12.34	16.21	15.54	(-) 4
14.	Other Administrative Services	114.46	121.53	130.84	77.13	111.12	(+) 44
	Total	1,518.02	1,259.06	1,439.39	1,666.07	1,807.85	(+) 9

1.2 Initiatives for Mobilisation of Additional Resources

Initiatives proposed in the Budget Speech

The budget speech proposed increasing revenue by launching 'ON-LINE' lottery and imposing 20 per cent tax on it during the year 2002-03. The Department stated that the scheme could not be implemented by the Government due to procedural bottle-necks. As such desired results could not be achieved.

1.3 Analysis of budget preparation

Details of original budget estimates, revised budget estimates and percentage of variation under the principal heads of tax and non-tax revenue for the year 2002-03 are as under:

Sr. No.	Head of revenue receipts	Budget estimates	Revised budget estimates	Percentage of variation with respect to original budget estimates	Actuals	Difference between original estimates/ Revised estimates and actuals	Percentage of variation between original estimates/ Revised estimates and actuals
		(Rupees in crore)			(Rupees in crore)		
1.	Passengers and goods tax	435.00	600.00	(+) 38	652.75	(+) 218/53	(+) 50/9
2.	Other administrative services	35.40	85.80	(+) 142	111.12	(+) 76/25	(+) 214/29

Sr. No.	Head of revenue receipts	Budget estimates	Revised budget estimates	Percentage of variation with respect to original budget estimates	Actuals	Difference between original estimates/ Revised estimates and actuals	Percentage of variation between original estimates/ Revised estimates and actuals
		(Rupees in crore)			(Rupees in crore)		
3.	Interest Receipts	424.30	425.17	(+) 0.20	334.27	(-) 90/(-)91	(-) 21/(-)21
4.	Medical and Public Health	29.29	31.60	(+) 8	28.38	(-) 0.91/ (-) 3.22	(-) 3/ (-) 10
5.	Contributions and recoveries towards pension and other retirement benefits	45.11	30.00	(-) 33	72.47	(+) 27.36/ 42.47	(+) 61/142
6.	Miscellaneous General services	512.71	451.26	(-) 12	433.66	(-) 79.05/ (-) 17.60	(-) 15/(-)4

Above table shows that variation under different items between the revised estimates and the original budget estimates ranged between (+) 8 per cent to (+) 142 per cent indicating that the original budget estimates were not prepared on realistic basis. The reasons for variations as furnished by the department are as under:

- **Taxes on Goods and Passengers:** The increase over budget estimates was due to higher collection under Haryana Local Area Development Tax, Passenger Tax and Goods Tax.
- **Other Administrative Services:** The increase over budget estimates was due to higher recovery of service charges from HUDA.
- **Interest Receipt:** The increase over budget estimates was mainly due to higher interest receipt from Public Sector/Other Undertakings and Other Receipts.
- **Medical and Public Health:** The increase over budget estimates was due to receipt of unspent balance from Red Cross H.C., Gurgaon and fees from admission to newly started 'D' Pharmacy Course.
- **Contribution and Recoveries towards pension etc.:** The decrease over budget estimates was on account of lesser pension contribution from officers sent on Foreign Service.
- **Miscellaneous General Services:** The decrease over budget estimates was due to lesser sale of Lottery Tickets.

1.4 Variation between revised estimates and actuals

Variations between the revised estimates and actuals of revenue receipts for the year 2002-2003 in respect of principal heads of tax and non-tax revenue are given below:

Sl. No.	Head of revenue receipts	Revised estimates	Actual receipts	Variations Increase (+) / Decrease (-)	Percentage Col.5 to Col.3
1	2	3	4	5	6
(Rupees in crore)					
1.	Taxes on Sales, Trade etc.	3,300.00	3,337.43	(+) 37.43	(+) 1
2.	State Excise	925.00	878.72	(-) 46.28	(-) 5
3.	Stamp Duty and Registration Fee	540.00	541.39	(+) 1.39	(+) 0.2
4.	Taxes and Duties on Electricity	50.06	0.87	(-) 49.19	(-) 98
5.	Taxes on Vehicles	115.00	114.39	(-) 0.61	(-) 0.5
6.	Taxes on Goods and Passengers	600.00	652.75	(+) 52.75	(+) 9
7.	Other Taxes and Duties on Commodities	15.85	14.26	(-) 1.59	(-) 10
8.	Land Revenue	59.00	9.87	(-) 49.13	(-) 83
9.	Interest Receipts	425.17	334.27	(-) 90.90	(-) 21
10.	Dairy Development	0.10	0.02	(-) 0.08	(-) 80
11.	Forestry and wild life	25.75	28.97	(+) 3.22	(+) 13
12.	Non-ferrous mining and metallurgical industries	125.00	118.88	(-) 6.12	(-) 5
13.	Misc. General services	451.26	433.66	(-) 17.60	(-) 4
14.	Major and Medium Irrigation	77.00	52.05	(-) 24.95	(-) 32
15.	Co-operation	5.58	4.97	(-) 0.61	(-) 11
16.	Police	16.58	15.54	(-) 1.04	(-) 6

Sl. No.	Head of revenue receipts	Revised estimates	Actual receipts	Variations Increase (+)/ Decrease (-)	Percentage Col.5 to Col.3
1	2	3	4	5	6
(Rupees in crore)					
17.	Power	1.89	1.95	(+) 0.06	(+) 3
18.	Medical and Public Health	31.60	28.38	(-) 3.22	(-) 10
19.	Public Works	4.50	3.98	(-) 0.52	(-) 12
20.	Other Administrative Services	85.80	111.12	(+) 25.32	(+) 29

The reasons for variation between the budget estimates and actuals as furnished by the Departments are as under:

- **Taxes and Duties on Electricity:** The actual receipts from electricity duty were Rs.52.65 crore. The difference of Rs.51.78 crore was due to non-adjustment of electricity duty against the loan sanctioned by the State Government to HVPNL, as the budget provision under the head "6801-Loans to Power Projects" was not available.
- **Other Taxes and Duties on Commodities:** The decrease in revenue was due to non-deposit of purchase tax by co-operative sugar mills.
- **Land Revenue:** The decrease of 83 *per cent* was due to less recovery of mutation fee, revenue talbana (charges for serving summons) and copying fee.
- **Interest Receipt:** The decrease of 21 *per cent* was mainly due to lesser receipt of interest from departmental commercial undertakings, cultivators, public sector and other undertakings, co-operative societies.
- **Dairy Development:** The decrease in receipt of 80 *per cent* was due to withdrawal of training charges from the trainees by the department and deletion of the condition of renewal charges on the registration of milk plants/chilling centres by Government of India.
- **Forestry and Wild life:** The increase of 13 *per cent* in revenue was due to receipt of more amounts from the user agencies for compensatory plantation.
- **Major and Medium Irrigation:** The less receipt of 32 *per cent* was due to the reason that abiana (water charges for irrigation) was

suspended by the Government due to draught in the State and non-adjustment of receipts from Forest, Fisheries, Mines and Geology and Public Health Departments.

- **Co-operation:** The decrease of 11 *per cent* was due to less/non-payment of audit fee by the co-operative societies.
- **Public Works:** The less receipt of 12 *per cent* was mainly due to lesser realisation of rent from rest houses, transit flats and less sale of tender forms, etc.
- **Other Administrative Services:** The increase of 29 *per cent* was due to higher recovery of service charges from Haryana Urban Development Authority.

1.5 Time series analysis of GSDP and Receipts

Details of Gross State Domestic Product (GSDP) at current rates and Receipts of the states for the year 2002-2003 and the preceding four years are given below:

Year	GSDP	Growth percentage	Tax receipts	Non-tax receipts	Total Tax and Non tax receipts	Percentage of growth		Percentage Buoyancy in receipts*		Receipts as percentage of GSDP	
						Tax	Non tax	Tax	Non tax	Tax	Non tax
(Rupees in crore)											
1998-99	43,646	13	3,119.62	944.95	4,064.57	--	--	--	--	7.15	2.17
1999-00	48,872**	12	3,517.61	988.97	4,506.58	13	5	1.08	0.42	7.20	2.02
2000-01	54,660**	12	4,310.55	1,128.10	5,438.65	23	14	1.92	1.17	7.89	2.06
2001-02	59,754***	9	4,971.19	1,266.56	6,237.75	15	12	1.67	1.33	8.32	2.12
2002-03	66,626****	11.5	5,549.68	1,374.40	6,924.08	12	9	1.04	0.78	8.33	2.06

Against the prescriptive annual growth rate of tax revenue of 18.90 *per cent* set forth by the Eleventh Finance Commission for the period 2000-01 to 2004-05, the growth rate of tax receipts during the years 2000-01 to 2002-03 was 23, 15 and 12 *per cent* respectively. Similarly, the growth rate of non-tax receipts during 2000-01 to 2002-03 was 14, 12 and 9 *per cent* respectively thus showing a decreasing trend.

- * Buoyancy factor is the ratio between percentage of revenue growth and the percentage of GSDP growth.
- ** Provisional estimates.
- *** Quick estimates.
- **** Data for the year had not been finalised, so GSDP for the year has been worked out by taking the growth rate of 11.5 *per cent* on the basis of last four years average from 1998-99 to 2001-02.

Further, against the prescriptive buoyancy of 1.35 per cent in respect of tax revenue of State worked out by EFC for the period 2000-2005, it was 1.92 per cent in the year 2000-2001 which decreased to 1.04 per cent in 2002-03.

1.6 Analysis of collection

Break-up of total collection at pre-assessment stage and after regular assessment of sales tax for the year 2001-02 and the corresponding figures for the preceding two years as furnished by the department is as follows:

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Amount refunded	Net collection**	Percentage of collection at pre-assessment stage to net collection
(Rupees in crore)						
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Taxes on Sales, Trade etc.	1999-2000	1,921.80	46.00	10.43	1,957.37	98
	2000-2001	2,525.77	52.68	13.48	2,564.97	98
	2001-2002	2,884.09	76.97	11.81	2,949.25	98

The above table shows that collection of revenue at pre-assessment stage was 98 per cent during 1999-2000, 2000-2001 and 2001-2002.

1.7 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross

* Figures for 2002-03 were not supplied by the Department.

** However, the net collection of sales tax as shown by the department during the years 1999-2000, 2000-01 and 2001-02 respectively were at variance with that of Finance Accounts.

collections during the years 2000-2001, 2001-2002 and 2002-03 along with the relevant all India average percentage for 2001-2002 are given below:

Sl. No.	Head of revenue receipts	Year	Collection	Expenditure on collection of revenue	Percentage Col. 5 to Col. 4	All India percentage for the year 2001-2002
1	2	3	4	5	6	7
(Rupees in crore)						
1.	Taxes on Sales, Trade etc.	2000-01 2001-02 2002-03	2,573.39 2,944.81 3,337.43	35.21 41.08 39.45	1.37 1.39 1.18	1.26
2.	Taxes on Vehicles	2000-01 2001-02 2002-03	85.69 103.62 114.39	5.74 5.07 5.45	6.70 4.89 4.76	2.99

It may be seen from the above that the percentage in respect of taxes on vehicles was high as compared to the All India percentage. The reasons though called for had not been received (August 2003).

1.8 Arrears of revenue

The arrears of revenue as on 31 March 2003 in respect of some principal heads of revenue amounted to Rs.576.98 crore, of which Rs.199.47 crore were outstanding for more than 5 years as detailed in the following table:

Sl. No.	Head of revenue receipts	Amount outstanding as on 31 March 2003	Amount outstanding for more than 5 years as on 31 March 2003	Remarks
(Rupees in crore)				
1.	Taxes on sales, trade etc.	440.49	140.91	Demand for Rs.30.02 crore was covered by recovery certificates, Rs.166.20 crore were stayed by Courts and other Appellate Authorities, Rs.5.45 crore were held up due to dealer becoming insolvent and demand for Rs.15.53 crore was proposed to be written off. Rs.0.94 crore were under rectification/review appeal and specific action taken to recover remaining amount of Rs.222.35 crore was not intimated.

Sl. No.	Head of revenue receipts	Amount outstanding as on 31 March 2003	Amount outstanding for more than 5 years as on 31 March 2003	Remarks
(Rupees in crore)				
2.	Taxes and duties on electricity	58.78	35.04	Rs.0.38 crore were recoverable from M/s Rama Fibres, Bhiwani, Rs.0.30 crore from M/s Dadri Cement Factory, Charkhi Dadri, Rs. one crore from M/s Haryana Concast, Hisar, Rs.0.16 crore from M/s Competent Alloys, Ballabgarh and a sum of Rs.56.94 crore from consumers by Haryana Vidyut Prasaran Nigam.
3.	State excise	28.48	7.14	Rs.1.28 crore were covered under recovery certificates, Rs.1.82 crore were stayed by High Courts and other Judicial Authorities and Rs.0.46 crore were proposed to be written off. Action taken to recover the remaining amount of Rs.24.92 crore was not intimated by the department.
4.	Taxes on goods and passengers	29.33	8.13	Rs.0.22 crore were stayed by the courts and other Judicial Authorities. Specific action to recover the remaining amount of Rs.29.11 crore had not been intimated.
5.	Non-ferrous mining and metallurgical industries	6.29	3.59	Rs.0.82 crore were covered under recovery certificate Rs.0.16 crore stayed by High Court and other judicial authorities, Rs.0.01 crore were proposed to be written off and detailed break up of remaining amount of Rs.5.30 crore was not available with the department.
6.	Police	1.20	0.82	The amount of Rs.1.20 crore was due from 6** States.

* Provisional figures.

** Assam, Chandigarh (U.T), Jammu & Kashmir, Rajasthan, Uttar Pradesh and West Bengal.

Sl. No.	Head of revenue receipts	Amount outstanding as on 31 March 2003	Amount outstanding for more than 5 years as on 31 March 2003	Remarks
(Rupees in crore)				
7.	Other taxes and duties on commodities and services (i) Receipt under the Sugarcane (Regulation of purchase and supply) Act	11.03	3.48	Four sugar mills (Yamunanagar: Rs.5.02 crore, Panipat: Rs.3.49 crore, Rohtak: Rs.2.28 crore and Sonipat: Rs.0.24 crore) did not deposit the tax.
	(ii) Receipts under entertainment duty and show tax	1.38	0.36	Rs.0.34 crore were stayed by Court. Rs.0.01 crore were likely to be written off and reasons for remaining amount of Rs.1.03 crore were not intimated by the department.
	Total	576.98	199.47	

The arrears outstanding for more than 5 years constituted 35 per cent of the total arrears. Substantial accumulation of arrear of taxes shows that the State Government did not tackle the problem vigorously as observed by 10th and 11th Finance Commission. It is recommended that effective steps for collecting these arrears be taken to augment government revenue.

1.9 Arrears in assessments

The details of assessment cases of taxes on sales, trade etc. and passengers and goods tax pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 1998-99 to 2002-03 as furnished by the department are as follows:

Year	Head of revenue receipts	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of col 5 to col 4
1		2	3	4	5	6	7
1998-99	ST*	1,13,467	96,544	2,10,011	1,23,595	86,416	59
	PGT**	697	775	1,472	576	896	39
1999-00	ST	86,416	1,99,560	2,85,976	1,27,082	1,58,894	44
	PGT	896	651	1,547	567	980	37

* Taxes on Sales, Trade etc.

** Passengers & Goods Tax.

Year	Head of revenue receipts	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of col 5 to col 4
1		2	3	4	5	6	7
2000-2001	ST	1,58,894	1,68,142	3,27,036	1,64,418	1,62,618	50
	PGT	980	472	1452	450	1,002	31
2001-2002	ST	1,62,618	1,59,063	3,21,681	1,14,003	2,07,678	35
	PGT	1002	693	1695	555	1,140	33
2002-2003	ST	2,07,678	1,79,265	3,86,943	1,53,078	2,33,865	40
	PGT	1140	673	1813	711	1102	39

The above table shows that pending cases in respect of Taxes on Sales, Trade etc. at the beginning of 1998-99 was 1,13,467 which increased to 2,33,865 at the end of 2002-03 i.e. 106 *per cent* while the percentage of cases finalised decreased from 59 *per cent* in 1998-99 to 40 *per cent* in 2002-03. The closing balance at the end of 2002-03 of cases due for assessment was 2,33,865, an increase of 171 *per cent* over the position at the end of 1998-99. The percentage of cases finalised in respect of taxes on Passengers and Goods Tax remained at the same level of 39 *per cent*.

1.10 Performance of assessments

Norms for Assessing Authorities viz. Excise and Taxation Officers and Assistant Excise and Taxation Officers have been prescribed by the state for assessment of Sales Tax cases.

Information furnished by the Department for the years 1998-99 to 2002-03 revealed that the performance of assessments finalised by Excise and Taxation officers ranged between 63.76 *per cent* and 93.91 *per cent* and by Assistant Excise and Taxation Officers between 53.18 *per cent* and 87.82 *per cent* of the norms.

1.11 Evasion of tax

The details of evasion of tax detected by the Sales Tax and State Excise Departments, cases finalised and the demands for additional tax raised as

reported by the departments are given below:

Sl. No.	Head of revenue receipts	Cases pending as on 31 March 2002	Cases detected during the year 2002-2003	Total (3+4)	Number of cases in which assessments/ investigations completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 March 2003
					No. of cases	Amount of demand (Rupees in crore)	
1	2	3	4	5	6	7	8
1.	Taxes on Sales, Trade, etc.	171	1,530	1,701	1,580	3.23	121
2.	State Excise	8	225	233	233	0.13	Nil
3.	Passengers and goods tax	62	5,110	5,172	5,111	2.06	61

1.12 Write-off and waiver of revenue

During the year 2002-03, demands for Rs.11.37 crore (in 134 cases) and Rs.25.92 lakh (in 19 cases) relating to Sales Tax and State Excise respectively were written off by the Department as irrecoverable. Reasons for the write-off as reported by the departments were as follows:

Sl. No.	Reasons	Sales Tax		State Excise	
		No. of cases	Amount (Rupees in lakh)	No. of cases	Amount (Rupees in lakh)
1.	Whereabouts of defaulters not known	39	487.19	10	19.88
2.	Defaulters no longer alive	9	23.31	4	4.03
3.	Defaulters not having any property	62	220.20	4	1.22
4.	Defaulters adjudged insolvent	8	23.71	-	-
5.	Other reasons	16	382.29	1	0.79
6.	Remission of penalty	-	-	-	-
	Total	134	1,136.70	19	25.92

1.13 Refunds

The number of refund cases pending at the beginning of the year 2002-03, claims received during the year, refunds allowed during the year and cases

pending at the close of the year 2002-03, as reported by the Department are given below:

Sl. No.	Particulars	Sales Tax		Taxes and Duties on Electricity		State Excise	
		No. of cases	Amount (Rupees in lakh)	No. of cases	Amount (Rupees in lakh)	No. of cases	Amount (Rupees in lakh)
1.	Claims outstanding at the beginning of the year	410	321.91	-	-	7	4.60
2.	Claims received during the year	1,099	1,680.92	5	0.68	34	322.52
3.	Refunds made during the year	1,122	1,344.43	5	0.68	35	322.13
4.	Balance outstanding at the end of the year	387	658.40	-	-	6	4.99

1.14 Results of Audit

Test-check of records of departmental offices relating to Taxes on Sales, Trade etc., Stamp Duty and Registration Fee, State Excise Duty, Passengers and Goods Tax, Taxes on Motor Vehicles, Entertainment and Show Tax, Agriculture (Purchase Tax and Crop Husbandry), Co-operation, Finance (State Lotteries and Guarantee Fee), Electricity Duty, Public Works (Irrigation, Public Health, Buildings and Roads), Home (Police), Fisheries, Mines and Geology, Forest, Medical, Animal Husbandry and Industries, conducted during the year 2002-03, revealed under-assessments, non-levy and short levy of taxes, duties and losses of revenue amounting to Rs.439.39 crore in 1,56,286 cases. During the year 2002-03, the Departments concerned accepted under-assessment etc. of Rs.202.69 crore involving 1,924 cases. Out of these, 1,384 cases involving Rs.200.53 crore were pointed out by audit during 2002-03 and the rest in earlier years. An amount of Rs.6.16 crore was recovered in 801 cases during 2002-03 of which Rs.3.25 crore recovered in 763 cases related to earlier years.

This Report contains 35 paragraphs including 3 reviews relating to non-levy/short levy of taxes, duties, interest and penalties etc., involving Rs.340.66 crore. The Department accepted audit observations involving Rs.193.96 crore out of which Rs.3.29 crore had been recovered upto July 2003. In respect of observations not accepted by the department, gist of reasons for Department's non acceptance has been included in the related

paragraph itself along with suitable rebuttal. However, replies from the Government had not been received (July 2003) except in the case of one paragraph and one review.

1.15 Failure of senior officials to enforce accountability and protect interest of Government

Replies to Inspection Reports

Accountant General (Audit) Haryana conducts periodical inspection of government departments to test-check transactions and verify the maintenance of important accounting and other records as prescribed in rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating irregularities etc. detected during inspection and not settled on the spot, which are issued to the heads of offices inspected with copies to next higher authorities for taking prompt corrective action. The Heads of offices/Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report on compliance through initial reply to the Accountant General within six weeks from the dates of issue of the IRs. Serious financial irregularities are reported to the Heads of the Departments and to the Government.

Inspection Reports issued up to December 2002 disclosed that 6,820 paragraphs involving money value of Rs.890.63 crore relating to 2,989 IRs remained outstanding at the end of June 2003. Of these, 502 IRs containing 1,022 paragraphs involving money value of Rs.29.68 crore had not been settled for more than ten years by various departments. Even the first replies, required to be received from the heads of offices within six weeks from the date of issue of the IRs, were not received in respect of 398 paragraphs of 83 IRs issued between April 2001 and December 2002.

Department-wise break-up of IRs and audit observations outstanding as on 30 June 2003 is given below:

Department	Position of Inspection Reports issued up to December 2002 but not settled at the end of June 2003			Position of Inspection Reports and paragraphs not settled for more than 10 years			Position of Inspection reports in respect of which first reply not received		
	IRs	Paras	Money value (Rupees in crore)	IRs	Paras	Money value (Rupees in crore)	IRs	Paras	Earliest year to which IRs relate
1. Revenue Department									
(a) Land Revenue	61	80	0.25	5	5	0.04	9	23	2001-02
(b) Stamp Duty and Registration Fee	730	1499	26.90	127	169	2.69	-	-	

Department	Position of Inspection Reports issued up to December 2002 but not settled at the end of June 2003			Position of Inspection Reports and paragraphs not settled for more than 10 years			Position of Inspection reports in respect of which first reply not received		
	IRs	Paras	Money value (Rupees in crore)	IRs	Paras	Money value (Rupees in crore)	IRs	Paras	Earliest year to which IRs relate
2. Co-operation									
Receipts from Co-operative Societies	115	171	29.21	10	15	0.13	-	-	
3. Forest									
Forest Receipts	35	151	10.32	16	17	0.70	-	43	2001-02
4. Commerce and Industries									
(a) Industries	27	30	0.99	10	18	0.08	-	-	
(b) Mines and Minerals	158	307	19.31	42	82	1.10	5	16	2001-02
5. Sales Tax									
Sales Tax Receipts	316	2180	495.85	77	227	7.39	16	214	2001-02
6. State Excise and Motor Vehicle Tax									
(a) Passengers and Goods tax	183	332	18.08	15	16	0.20	2	5	2001-02
(b) State Excise	165	278	116.55	33	58	14.19	1	1	2001-02
7. Transport									
Motor Vehicles	434	693	24.11	66	113	1.29	1	4	2001-02
8. Others									
Departmental Receipts	765	1099	149.06	101	302	1.87	49	92	2001-02
Total	2,989	6,820	890.63	502	1,022	29.68	83	398	

This large pendency of IRs due to non-receipt of replies is indicative of the Heads of Offices and Heads of department failing to initiate action to rectify the defects, omissions and irregularities pointed out by the Accountant General in the IRs.

It is recommended that Government should take suitable steps to ensure that an effective procedure exists for (a) prompt and appropriate response to the audit observations (b) action against officials/officers failing to send replies to the IRs/Paras as per the prescribed time schedule (c) action to recover loss/outstanding demands in a time bound manner.

1.16 Departmental Audit Committee Meetings

In order to expedite settlement of outstanding audit observations contained in Inspection Reports, Departmental Audit Committees were constituted by the Government in September 1985. These Committees are chaired by the Administrative Secretary of the department concerned and attended among others by the officers concerned of the State Government and of the Office of the Accountant General (Audit), Haryana.

The meetings were required to be held quarterly for reviewing and monitoring the progress of settlement of audit observations/audit paras. During the year 2002-03, only two Drawing and Disbursing Officers (DDOs) out of DDOs concerned dealing with 23 heads of accounts convened meetings of the Audit Committee. Thus most government departments did not take any initiative for settling outstanding audit observations through this meeting. Government should ensure periodical meetings of this committee for effective progress in this work.

1.17 Response of the departments to Draft Audit Paragraphs

Department of Finance issued directions to all departments on 5 January 1982 to send their response to the Draft Audit Paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The Draft Paragraphs are forwarded by Accountant General to the Secretaries of the departments concerned through demi-official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the departments are invariably indicated at the end of each paragraph included in the Audit Report.

56 Draft Paragraphs (clubbed in 32 paragraphs) and 3 Reviews included in the Report of the Comptroller and Auditor General of India for the year ended March 2003 were forwarded to the Secretaries of the departments concerned during January to July 2003 through demi-official letters. Replies were received only in two cases, one relating to Fisheries Department and the other to Review on "Receipts from guarantee fee".

1.18 Follow-up on Audit Reports - Summarised position

The PAC recommended in 1982 that departments should furnish remedial/corrective Action Taken Notes (ATNs) on all paragraphs contained in the Audit Report within the prescribed period.

The PAC took a serious view of the inordinate delays and persistent failures in furnishing the ATNs within the prescribed time by most number of departments and recommended on 30 May 1995 that pending ATNs pertaining to Audit Reports should be submitted within three months from the laying of the Reports in the State Legislature.

Review of outstanding ATNs on paragraphs included in Report of the Comptroller and Auditor General of India (Revenue Receipts) as on 31 March 2003 disclosed that departments had not submitted remedial ATNs on 47 paragraphs (July 2003).

Departments failed to submit ATNs within three months in respect of 61 paragraphs included in the Audit Reports upto year ended March 2000. Of these, ATNs in respects of 23 paragraphs have not been received at all. Though the Audit Report for the year ended March 2001 was laid on the table of legislature on 15 March 2002 and the time-limit for furnishing the ATNs had lapsed on 14 June 2002, the Departments did not submit ATNs on 24 paragraph (July 2003).

CHAPTER-II: Taxes on Sales, Trade etc.

2.1 Results of Audit

Test-check of sales tax assessments, refund cases and other connected records conducted during the year 2002-2003 revealed under-assessments of sales tax amounting to Rs.164.43 crore in 1,055 cases, which broadly fall under the following categories:

Sl. No.	Particulars	Number of cases	Amount (Rupees in crore)
1.	Incorrect computation of turnover	3	0.17
2.	Application of incorrect rate of tax	85	2.42
3.	Non-levy of interest	128	9.55
4.	Non-levy of penalty	47	3.61
5.	Under-assessment of turnover under CST Act	61	4.21
6.	Other irregularities	730	41.58
7.	Review on "Pendency of appeals at various levels and its impact on revenue collection"	1	102.89
	Total	1,055	164.43

During the year 2002-2003, the Department accepted under-assessments of tax of Rs.2.35 crore involved in 111 cases of which 58 cases involving Rs.1.59 crore had been pointed out in audit during 2002-2003 and the rest in earlier years. An amount of Rs.0.57 crore had been recovered in 50 cases during the year 2002-03, of which Rs.0.03 crore recovered in 21 cases related to earlier years.

A few illustrative cases involving Rs.19.38 crore and a review on "Pendency of appeals at various levels and its impact on revenue collection" involving Rs.102.89 crore highlighting important cases are mentioned in this Chapter. Of these, the Department accepted 27 audit observations involving Rs.2.29 crore and recovered Rs.0.57 crore in 5 cases.

Review

102.89 Cr

2.2.6 95.10

9.0.13 7.80

Cr 102.90

2.2 Pendency of appeals at various levels and its impact on revenue collection

Highlights

As against the arrears of Rs.100.44 crore involved in 1,610 cases pending finalisation with 4 Joint Excise and Taxation Commissioners (Appeals) at the end of the year 2001-02, Rs.5.34 crore only had been shown in the arrears statements by the office of the Excise and Taxation Commissioner resulting in suppression of arrears of Rs.95.10 crore.

(Paragraph 2.2.6)

In 42 appeal cases decided involving revenue of Rs.1.73 crore, the final orders of the Appellate Authorities were communicated late by 3 to 12 months.

(Paragraph 2.2.11)

In contravention of departmental instructions, 144 stay cases involving revenue of Rs.7.80 crore were decided after delays ranging between 1 to 46 months beyond the prescribed period of 3 months.

(Paragraph 2.2.13)

234 remand cases, involving revenue of Rs.12.46 crore, were finalised after expiry of the prescribed period of six months from the date of receipt of orders and 191 cases, involving revenue of Rs.16.59 crore, were pending finalisation for more than six months beyond the prescribed period of 6 months.

(Paragraph 2.2.16)

Introductory

2.2.1 The Haryana General Sales Tax (HGST) Act, 1973 and the Rules framed thereunder provide that for any tax, penalty or interest payable in consequence of any order passed by the appropriate Assessing Authority under the Act, a notice of demand shall be served upon the assessee. The amount specified in the notice of demand has to be paid within the time as specified in the notice and it shall not be less than fifteen days but not exceeding thirty days from the date of service of such notice.

An assessee, dissatisfied with the assessment order, is entitled to file an appeal to the Joint Excise and Taxation Commissioner (Appeals) within sixty days

from the date of the receipt of the order appealed against subject to the payment of whole or part of tax assessed or penalty imposed or interest levied. The Appellate Authority, if satisfied that the assessee is unable to pay the whole amount of tax assessed, or the penalty imposed, or the interest due, may, if the amount of tax and interest admitted by the appellant to be due has been paid, for reasons to be recorded in writing, entertain the appeal and may stay the recovery of balance amount subject to the furnishing of a bank guarantee or adequate security to his satisfaction. The Appellate Authority may either reject or accept the appeal and allow the relief sought or may remand the case to the Assessing Authority for re-assessment as directed.

Further, a second appeal rests with the Sales Tax Tribunal. Reference on a point of law arising out of the judgment of the Tribunal can be made to the High Court.

The Act does not prescribe any procedure to be followed by the Appellate Authority in disposing of appeals filed before him.

Objectives

2.2.2 Detailed analysis of pendency of appeal cases at various levels, follow-up thereof after decision by these authorities and its impact on revenue collection for the period 1999-2000 to 2001-2002 was conducted in audit to

- ascertain the extent of revenue blocked in appeals vis-à-vis total revenue ;
- ascertain the extent of compliance of procedures / instructions to ensure timely disposal ;
- ascertain whether procedures / provisions are sufficient for ensuing timely disposal.

Scope of Audit

2.2.3 Records of three out of 4 Appellate Authorities (Faridabad, Hisar and Rohtak) and 12* out of 21 district sales tax offices falling under their jurisdiction for the years 1999-2000 to 2001-02 were test-checked between July 2002 and January 2003. The statistical information incorporated in the review, however, covers the entire State.

Organisational set-up

2.2.4 The overall control and superintendence of the Sales Tax Organisation vests with the Excise and Taxation Commissioner (ETC) who is assisted by

* Faridabad (East), Faridabad (West), Gurgaon (East), Gurgaon (West), Hisar, Jhajjar at Bahadurgarh, Jind, Panipat, Rewari, Rohtak, Sirsa and Sonipat.

the Additional Excise and Taxation Commissioners (Addl. ETCs), Joint Excise and Taxation Commissioners (JETCs), Deputy Excise and Taxation Commissioners (DETCs), Excise and Taxation Officers (ETOs), Assistant Excise and Taxation Officers (AETOs), Taxation Inspectors and other allied staff in the administration of the Acts.

There are four Appellate Authorities in the state designated as Joint Excise and Taxation Commissioner (Appeals), one each in the four sales tax divisions at Ambala, Faridabad, Hisar and Rohtak. The Joint Excise and Taxation Commissioners (Appeals) are not directly appointed as such and any departmental officer of the rank of Joint Excise and Taxation Commissioner (JETC) can be posted as an Appellate Authority by the State Government. The jurisdiction of each Appellate Authority is as under:

Sr. No.	Name of the Appellate Authority	Jurisdiction
1.	JETC (Appeals), Ambala	Ambala, Jagadhri, Kaithal, Karnal, Kurukshetra and Panchkula
2.	JETC (Appeals), Faridabad	Faridabad (East), Faridabad (West), Mohindergarh at Narnaul and Rewari
3.	JETC (Appeals), Hisar	Bhiwani, Fatehabad, Hisar, Jind and Sirsa
4.	JETC (Appeals), Rohtak	Gurgaon (East), Gurgaon (West), Jhajjar at Bahadurgarh, Panipat, Rohtak and Sonipat

Position of collection of revenue receipts and arrears

2.2.5 The position of revenue receipts, arrears of revenue, revenue locked up in appeals and their percentage to total revenue during the years 1999-2000 to 2001-2002 was as under:

Year	Arrears of revenue		Actual revenue receipts during the year	Revenue involved in appeals		Percentage of column (6) to (4)	Percentage of column (6) to (5)
	Pertaining to the year concerned	Cumulative total arrears at the end of the year		Pertaining to the year concerned	Cumulative revenue involved in appeals at the end of the year		
1	2	3	4	5	6	7	8
(Rupees in crore)							
1999-2000	50.34	215.59	1,967.38	2.84	77.85	4	36
2000-2001	81.49	279.59	2,573.39	5.97	72.14	3	26
2001-2002	141.07	390.85	2,944.81	12.28	92.39	3	24

Position of revenue blocked in appeals at various levels during the years 1999-2000 to 2001-2002 was as under:

Name of the Authority	Revenue blocked in appeals						Percentage of Revenue blocked up in appeals at the end of 2001-2002
	During the year			Cumulative revenue locked			
	1999-2000	2000-2001	2001-2002	1999-2000	2000-2001	2001-2002	
	(Rupees in crore)						
1. JETC (Appeals)	1.16	1.80	2.70	2.77	3.45	5.34	6
2. Tribunals	1.44	1.34	0.18	18.02	10.09	16.19	18
3. Courts	0.18	2.54	9.17	55.32	55.88	68.27	74
4. Government and others	0.06	0.29	0.23	1.74	2.72	2.59	2
Total	2.84	5.97	12.28	77.85	72.14	92.39	

From the above data, it is noticed that 74 per cent of revenue locked up in appeals was with the Courts and 18 per cent with Tribunals. The number of cases pending disposal at the above stages was not made available.

2.2.6 JETC (Appeals) had to send periodical report on regular basis in a prescribed manner to the ETC, Haryana. The format of periodical report provided for mention of number of cases instituted/disposed of but not for money value involved therein though this information was readily available with the JETCs (Appeals).

Information obtained/compiled from the four JETC(Appeals) revealed that 1610 cases involving Rs.100.44 crore were pending with them at the end of the year 2001-02 against which Rs.5.34 crore only were shown in the arrears statement based on monthly arrears statement received from field units in ETC

Audit Report (Revenue Receipts) for the year ended 31 March 2003

office. This resulted in suppression of arrears of Rs.95.10 crore as detailed below :

Name of the Appellate Authority	Year	Number of cases	Amount of tax involved
(Rupees in crore)			
1. JETC (Appeals), Ambala	Upto 1998-1999	14	0.43
	1999-2000	37	1.83
	2000-2001	142	7.72
	2001-2002	370	9.05
	Total	563	19.03
2. JETC (Appeals), Faridabad	Upto 1998-1999	7	1.01
	1999-2000	43	1.48
	2000-2001	239	9.22
	2001-2002	343	6.96
	Total	632	18.67
3. JETC (Appeals), Hisar	Upto 1998-1999	Nil	Nil
	1999-2000	1	0.58
	2000-2001	12	0.48
	2001-2002	112	2.26
	Total	125	3.32
4. JETC (Appeals), Rohtak	Upto 1998-1999	Nil	Nil
	1999-2000	2	0.04
	2000-2001	56	9.61
	2001-2002	232	49.77
	Total	290	59.42
Grand Total	1,610	100.44	

On this being pointed out in audit, ETC, Haryana directed in May 2003 all the 4 JETCs (Appeals) to explain the difference in figures of arrears. Further report had not been received (December 2003).

2.2.7 Age-wise analysis of the appeal cases is given as under:

Sl. No.	Period of pendency	Number of cases	Amount involved (Rupees in crore)
1.	More than 3 years	21	1.44
2.	More than 1 year but less than 3 years	532	30.96
3.	More than 3 months but less than 1 year	577	68.04*
4.	Less than 3 months	480	
	Total	1,610	100.44

Thus, it would be seen that 70 per cent of the total cases (1130 cases) were pending disposal with appellate authorities for more than three months. This is indicative of lack of effective control in disposal and monitoring of the receipt and disposal of appeals inspite of the three months time limit fixed for final disposal of appeals in the meeting of Haryana Chamber of Commerce and Industry in July 1996 attended by the Chief Minister.

On this being pointed out, the JETC, Faridabad stated in May 2003 that the period of three months prescribed for finalisation of appeal cases was insufficient. However, the reply is not tenable as the period of 3 months was fixed by the Department itself.

Trend of appeals filed and their disposal

Joint Excise and Taxation Commissioners (JETCs)

2.2.8 As per departmental instructions issued by the ETC, a quota of 120 appeal cases per month was fixed for disposal for each Appellate Authority.

The position of growth of appeals that were pending with the Appellate Authorities and percentage of shortfall in disposal during the years

* The bifurcation of amount involved in cases pending finalisation for less than 3 months and more than 3 months but less than 1 year was not available.

Audit Report (Revenue Receipts) for the year ended 31 March 2003

1999-2000 to 2001-2002 was as under:

Name of the Appellate Authority	Year	Number of appeals pending disposal at the beginning of the year	Number of appeals instituted during the year	Total number of appeals	Number of appeals disposed of/ transferred during the year	Monthly average of cases disposed of appeals	Number of appeals pending at the end of the year	Percentage of shortfall w.r.t. present norms
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1. JETC (Appeals), Ambala	1999-2000	402	940	1342	915/87	76	340	37
	2000-2001	340	714	1054	541	45	513	62
	2001-2002	513	665	1178	615	51	563	57
2. JETC (Appeals), Faridabad	1999-2000	739	896	1635	1,368/2	114	265	5
	2000-2001	265	487	752	311	26	441	78
	2001-2002	441	516	957	325	27	632	77
3. JETC (Appeals), Hisar	1999-2000	176	412	588	447	37	141	69
	2000-2001	141	314	455	293/57	24	105	80
	2001-2002	105	343	448	323	27	125	77
4. JETC (Appeals), Rohtak	1999-2000	488	630	1118	744/8	62	366	48
	2000-2001	366	699	1065	843/9	70	213	42
	2001-2002	213	661	874	577/7	48	290	60

Further, the details of appeals disposed of by the Appellate Authorities during the years 1999-2000 to 2001-2002 were as under:

Name of the Appellate Authority and Year	Appeals accepted		Appeal partly accepted		Appeals remained		Appeals rejected		Total disposal	
	No.	Money Value	No.	Money Value*	No.	Money Value*	No.	Money Value*	No.	Money Value*
1. JETC (Appeals), Ambala										
1999-2000	97	0.56	34	NA**	504	7.13	280	7.60	915	15.29
2000-2001	49	0.74	12	NA	196	0.24	284	2.83	541	3.81
2001-2002	86	0.62	38	NA	158	7.89	333	6.96	615	15.47
2. JETC (Appeals), Faridabad										
1999-2000	193	3.74	76	NA	604	17.02	492	0.40	1365 [#]	21.16
2000-2001	41	2.36	19	NA	141	2.46	102	0.48	303	5.30
2001-2002	31	0.20	10	NA	188	5.48	94	2.46	323	8.13
3. JETC (Appeals), Hisar										
1999-2000	100	0.77	28	0.36	122	5.10	197	2.67	447	8.90
2000-2001	18	0.06	16	0.02	121	3.62	136	3.79	291 [#]	7.49
2001-2002	88	0.32	50	0.13	81	1.35	104	7.01	323	8.81
4. JETC (Appeals), Rohtak										
1999-2000	39	0.13	98	0.53	344	31.11	263	7.95	744	39.72
2000-2001	64	0.40	127	1.51	316	12.99	336	19.88	843	34.78
2001-2002	44	1.32	59	0.23	133	4.71	341	16.66	577	22.92
Total	850	11.22	567	2.78	2,908	99.10	2,962	78.69	7287	191.78

The average monthly disposal of cases as seen from the table, varied from 24 to 114 and none of the JETCs achieved the target of 120 cases per month. However, monthly average disposal of JETC Faridabad, was 114 cases during 1999-2000. Leaving this apart, the shortfall in disposal of appeal cases generally ranged between 37 per cent and 80 per cent.

* Money value-Rupees in crore.

** Not available.

[#] Thirteen cases (1999-2000: 3, 2000-01: 8 and 2001-02: 2) disposed of by JETC Faridabad and 2 cases (2000-01) by JETC Hisar were not available.

On this being pointed out, JETC, Faridabad stated in May 2003 that due to complications in the Sales Tax Law it was not possible to dispose of 120 cases per month as the cases were most complicated and time consuming. Reply is not tenable as the norms have been prescribed by the Department itself taking these factors into account. Besides, JETC Faridabad finalized 114 cases during 1999-2000 while in the subsequent years the disposal was extremely low i.e. 26 and 27 cases. No reply from other 3 JETCs (Ambala, Hisar and Rohtak) was received (December 2003).

Sales Tax Tribunal

2.2.9 The position of pending appeals with the Sales Tax Tribunal and their disposal during the years 1999-2000 to 2001-2002 was as under:

Name of the Appellate Authority	Year	Number of appeals pending disposal at the beginning of the year	Number of appeals instituted during the year	Total number of appeals	Number of appeals disposed of during the year	Number of appeals pending at the end of the year	Percentage of appeals pending disposal Col.7 to 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Tribunal	1999-2000	2,182	-	2,182	724	1,458	67
	2000-2001	1,458	208	1,666	258	1,408	85
	2001-2002	1,408	377	1,785	475	1,310	73

It would be seen from above that percentage of appeals pending disposal ranged between 67 to 85 percent.

Courts

2.2.10 The position of appeals pending before the High Court/Supreme Court and their disposal during the years 1999-2000 to 2001-2002 was as under:

Name of the Appellate Authority	Year	Number of appeals pending disposal at the beginning of the year	Number of appeals instituted during the year	Total number of appeals	Number of appeals disposed of during the year	Number of appeals pending at the end of the year	Percentage of appeals undisposed Col.7 to 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
High Court	1999-2000	630	69	699	121	578	83
	2000-2001	578	172	750	96	654	87
	2001-2002	654	142	796	155	641	81

Name of the Appellate Authority	Year	Number of appeals pending disposal at the beginning of the year	Number of appeals instituted during the year	Total number of appeals	Number of appeals disposed of during the year	Number of appeals pending at the end of the year	Percentage of appeals undisposed Col. 7 to 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Supreme Court	1999-2000	130	10	140	4	136	97
	2000-2001	136	15	151	1	150	99
	2001-2002	150	17	167	8	159	95

It would be evident that 81 percent to 87 percent appeals remained undisposed in High Court while in Supreme Court 95 percent to 99 percent appeals remained undecided.

Delay in communication of orders of Appellate Authorities

2.2.11 Under the HGST Rules, 1975, every order passed by the Appellate Authority under Section 39 of the Act, shall be communicated to the appellant, the authority against whose order the appeal was preferred and the authority that passed the original order. No time limit, for communication of orders passed, has been laid down in the Act/Rules or instructions issued by the Department.

Test-check of records of Appellate Authorities, Faridabad, Hisar and Rohtak revealed that out of 542 cases decided, the orders passed in 42 appeal cases involving revenue of Rs. 1.73 crore as detailed below, were issued after 3 to 12 months (assuming three months as reasonable for communication of orders) resulting in belated consequential action.

Name of the Appellate Authority	Period of Institution	Number of cases	Date of decision	Date of communication of order	Delay (in months)	Amount involved (Rupees in crore)
JETC (Appeals), Faridabad	2000-2001 to 2001-2002	10	Between June 2001 and January 2002	Between November 2001 and April 2002	3 to 5	0.19
JETC (Appeals), Hisar	1998-99 to 2000-2001	4	Between September 1999 and December 2000	Between March 2000 and March 2001	3 to 12	0.04
JETC (Appeals), Rohtak	1995-96 to 1999-2000	28	Between April 1999 and September 1999	Between September 1999 and May 2000	3 to 7	1.50
	Total	42				1.73

JETC, Rohtak stated in March 2003 that the delay in communication was due to the judgment having been reserved and released later. Reply of the

Authority is not tenable as the delay has been calculated from the date of pronouncement of orders/judgments. No reply had been received (December 2003) from the remaining 2 Appellate Authorities.

Delay in disposal of cases where stay had been granted

2.2.12 Under the HGST Act, 1973, no appeal shall be entertained unless amount of tax assessed and penalty and interest, if any, recoverable from the appellant has been paid. The Appellate Authority, if satisfied that the appellant is unable to pay the amount of tax assessed, or the penalty imposed, or the interest due, may entertain the appeal and stay the recovery subject to furnishing of bank guarantee or adequate security to his satisfaction. Further instructions issued in March 1984 provide that the appeal cases involving tax effect of Rs.5,000 and above, where stay had been granted, should be disposed of within three months from the grant of stay.

2.2.13 A test-check of records of the Appellate Authorities, Faridabad and Rohtak revealed that 144* appeal cases involving revenue of Rs.7.80 crore, covered by stay orders granted during the years 1999-2000 to 2001-2002, were decided after a delay of 1 to 46 months as detailed below:

Name of the Appellate Authority	Number of cases	Date of grant of stay	Date of decision	Delay (In months)	Amount of stay (Rupees in crore)
JETC (Appeals) Faridabad	76	Between July 1995 and March 2002	Between April 1999 and June 2003	1 to 46	1.88
JETC (Appeals) Rohtak	68	Between October 1996 and March 2002	Between April 1999 and May 2002	1 to 31	5.92
Total	144				7.80

2.2.14 22* appeal cases involving revenue of Rs.7.12 crore stayed subject to furnishing of security/surety bond by the specified date in the interim orders during the years 1999-2000 to 2001-2002 were dismissed for default in complying with orders of Appellate Authorities requiring furnishing of surety bond/security within the specified period. Of these, 6 cases involving revenue of Rs.1.21 crore were dismissed after a period of 2 to 23 months as detailed

* Each case has a tax effect of more than Rs.5000.

below:

Name of Appellate Authority	Number of cases	Date of grant of stay	Date of dismissal in default	Delay (In months)	Amount (Rupees in crore)
JETC (Appeals) Faridabad	2	Between December 2000 and July 2001	Between November 2002 and February 2003	12 to 23	0.10
JETC (Appeals) Rohtak	4	Between November 2001 and January 2002	Between June and November 2002	2 to 9	1.11
Total	6				1.21

2.2.15 14 appeal cases involving revenue of Rs.45.35 lakh and covered by stay orders granted subject to furnishing of security/surety bond by the specified date during the years 1999-2000 to 2001-2002 were pending till July 2003 for final decision, delay ranged between 13 to 15 months excluding stipulated period of 3 months as detailed below:

Name of Appellate Authority	Number of cases	Period of grant of stay	Delay upto 30-06-2003 (In months)	Amount (Rupees in lakh)
JETC (Appeals) Faridabad	2	February 2000 and March 2002	13	1.44
JETC (Appeals) Rohtak	12	December 2001	15	43.91
Total	14			45.35

It would thus be seen that delay in finalization of cases under stay orders of appellate authorities resulted in a blockage of government revenue of Rs.9.46 crore in 164 cases for a period ranging from 1 to 46 months.

Delay in finalisation of remand cases

2.2.16 ETC, Haryana, while issuing instructions in July 1997, had stated that Government had taken a serious view of the delay in disposal of remand cases and had directed the Assessing Authorities to decide the remand cases within six months from the date of receipt of the copy of the remand orders.

However, an analysis of records for the period 1999-2000 to 2002-03 of remand cases of 12 districts test-checked revealed as under:

		Number of cases	Amount (Rupees in crore)
1.	Cases pending finalisation for more than six months	191	16.59
2.	Cases where whereabouts of persons are not known	56	1.80
3.	Cases decided after six months	234	12.46
	Total	481	30.85

It would be seen from the above that departmental instructions for finalisation of cases were not being followed indicating lack of internal control in the Department. A few instances are detailed below.

Six instances involving Rs.6.06 crore had not been finalised by the Assessing Authority though these had been remanded by the appellate authority as detailed below:

Name of the DETC	Assessment year/Date of assessment (Tax assessed) Rupees in lakh	Tax involved in appeal (Rupees in lakh)	Date of filing appeal and decision of the Appellate Authority	Period of delay in finalisation of assessment (as on 31 March 2003) after excluding six months	Revenue by way of payable interest (Rupees in lakh)
Gurgaon (East)	1995-96 to 1997-98/ May 1999 (289.82)	264.20	September 1999/ July 2000	26 months	101.72
Remarks: The Appellate Authority remanded the case in July 2000 with orders to allow one opportunity to the dealer to submit declaration forms before the Assessing Authority. The Assessing Authority had not finalized the assessment (December 2003).					
Gurgaon (East)	1994-95 and 1995-96/August/ October 1999 and January 2000 (65.28)	26.27	January and March 2000/ May 2000	29 months	11.30
Remarks: The Appellate Authority remanded the case in May 2000 with the direction to the appellant to submit C and D forms before the Assessing Authority who may consider these forms if found valid. The Assessing Authority had not finalized the assessment (December 2003).					

Name of the DITC	Assessment year/Date of assessment (Tax assessed) Rupees in lakh	Tax involved in appeal (Rupees in lakh)	Date of filing appeal and decision of the Appellate Authority	Period of delay in finalisation of assessment (as on 31 March 2003) after excluding six months	Revenue by way of payable interest (Rupees in lakh)
Gurgaon (West)	1995-96/ December 1998 (15.52)	12.97	January 1999/ September 1999	36 months	6.94
Remarks: The Appellate Authority directed the Assessing Authority in September 1999 to determine the correct taxable turnover under the HGST and CST Acts and to allow deduction of claim of branch transfer after due verification. It was required to be decided within two months from the receipt of order. This had not been decided by the Assessing Authority (December 2003).					
Hisar	1995-96/ May 1998 (10.41)	5.17	July 1998/ October 1998	46 months	3.54
Remarks: The Appellate Authority directed in November 1998 the appellant to submit 'C' forms before the Assessing Authority who may consider these forms after examining the genuineness of forms. The Assessing Authority had not finalized the assessment (December 2003).					
Panipat	1996-97 to 1998-99/ January and February 2001 (74.93)	74.50	May 2001/ June 2001	15 months	16.39
Remarks: Disallowance of exemption and levy of penalty by the Assessing Authority was held right by the Appellate Authority in June 2001. However, the case was remanded for verification of labour charges. The Assessing Authority had not finalized till December 2003 the assessment in the remand case.					
Sirsa	1987-88/ July 1994 (35.29)	35.29	November 1994/ February 1995	91 months	47.99
Remarks: The case was remanded in February 1995 for reconsideration of sales to registered dealers disallowed in the absence of ST 15 forms. It was required to be decided within one month from receipt of the remand orders i.e. March 1995 but not finalised (December 2003).					
Total		418.40			187.88

Conclusion / Recommendations

2.2.17 Even though desired norms were fixed for each Appellate Authority, none was able to achieve these norms resulting in accumulation of cases. Delay in disposal and resultant accumulation of cases ultimately resulted in blocking of revenue which increased manifold during the three years ending March 2002. In many cases, the Appellate Authority did not observe the instructions of the Commissioner regarding finalisation of appeals. Monitoring of cases pending assessments and of cases remanded was not satisfactory.

The state government may consider taking following steps to improve the effectiveness of the system:

- The norms for disposal of appeal cases were not achieved. Remedial measures are required to clear the accumulated arrears.
- The monitoring of receipts and disposal of appeals and remand cases at apex level needed to be strengthened so that procedure/system prescribed under the rules is strictly adhered to.
- The state government should prescribe time limit for communication of orders passed by the appellate authority to enable timely finalisation by Assessing Authorities.
- The state government should develop a strong internal control system to ensure compliance with instructions issued by the Government/Department.

The cases were referred to the Department and Government in June 2003. No reply had been received from the Government (December 2003).

2.3 Under-assessment of gross turnover/notional sales tax liability

As per provisions of the Haryana General Sales Tax (HGST) Act, 1973, gross turnover means the aggregate of the amount of sales and purchases and in the case of exemption granted under 28 A of the HGST Rules, 1975, the benefit availed of by the dealer shall be worked out on gross turnover which includes sale proceeds of goods exported out of India. Further, a dealer is liable to pay purchase tax on goods purchased from within the State (other than declared goods) without payment of tax and used in the manufacture of taxable and tax-free goods.

During test-check of records of 10 DETCs, it was noticed between April and November 2002 that 27 dealers availing the benefit of exemption from payment of tax during 1999-2001 were under-assessed. This resulted in short

* Notional sales tax liability : The dealers covered under Section 28A of HGST Act are exempted from payment of tax upto a fixed limit for a certain period. The assessing officers assess the dealers during this period of exemption. This assessed tax is adjusted against the limit of exemption granted under the Act. The tax assessed is said to be notional sales tax liability of the dealer.

determination of notional sales tax liability by Rs.5.32 crore as detailed below:

2.3.1 Non-inclusion of sale proceeds of goods exported out of India in the gross turnover

In 21 cases, it was noticed that notional sales tax liability was short assessed due to non-inclusion of sale proceeds of goods exported out of India in the gross turnover by the exempted units as detailed below:

Sr. No.	Name of DETC	No. of dealers	Assessment year/Month of assessment	Under-assessment of gross turnover	Rate of tax	Short determination of notional sales tax liability
				(Rupees in crore)		(Rupees in crore)
1.	Bhiwani	5	1999-2000 and 2000-2001/ Between June and August 2001	83.23	4%	3.33
Remarks: The omissions were pointed out to the Department and were referred to Government in October 2002; their reply had not been received (December 2003).						
2.	Faridabad (West)	3	1999-2000 and 2000-2001/ Between December 2000 and March 2002	28.43	4%	1.14
Remarks: On this being pointed out, the Assessing Authority stated that deduction was correctly allowed as no tax was leviable on goods exported out of India. Reply was not tenable as notional sales tax liability was to be calculated on the gross turnover including sale proceeds of goods exported out of India. The cases were referred to Government in October 2002; their reply had not been received (December 2003).						
3.	Faridabad (East)	1	1998-99 and 1999-2000/ April and October 2001	1.61	4%	0.06
Remarks: On this being pointed out, the Assessing Authority rectified the assessment order in November 2002 and increased notional sales tax liability by Rs.6.42 lakh. The cases were referred to Government in March 2003; their reply had not been received (December 2003).						
4.	Gurgaon (West)	2	1997-98, 1998-99 and 1999-2000/ May, June and August 2001	1.03	4%	0.04
Remarks: On this being pointed out, the Assessing Authority rectified in August 2002 the order in one case and increased the notional sales tax liability by Rs.1.13 lakh. In other cases, final reply was awaited till July 2003. The matter was referred to Government in October 2002; their reply had not been received (December 2003).						

Audit Report (Revenue Receipts) for the year ended 31 March 2003

Sr. No.	Name of DETC	No. of dealers	Assessment year/Month of assessment	Under-assessment of gross turnover	Rate of tax	Short determination of notional sales tax liability
				(Rupees in crore)		(Rupees in crore)
5.	Gurgaon (East)	9	1996-97 to 1999-2000/ between July 1999 and March 2002	12.40	4%	0.50
<p>Remarks: On this being pointed out, the Assessing Authority stated in May and June 2002 that no tax was leviable. The reply was not tenable because, as per provisions of the HGST Act, benefit of exemption was not admissible in case of these units. The cases were referred to Government in July 2002; their reply had not been received (December 2003).</p>						
6.	Panipat	1	1998-99/ December 2001	1.22	4%	0.05
<p>Remarks: On this being pointed out, the Assessing Authority stated in January 2003 that there was no bar to export goods and avail exemption. Reply was not tenable as notional sales tax liability was to be calculated on gross turnover as per the provisions of the Act. The Haryana Sales Tax Tribunal in July 2000* upheld that gross turnover included export sales for the purpose of calculating notional sales tax liability. The case was referred to Government in February 2003; reply had not been received (December 2003).</p>						

2.3.2 Short determination of notional sales tax liability due to non-levy of purchase tax

Under the Act, sunflower seeds and cotton being declared goods when purchased within the state are taxable at last stage of purchase but in following three cases purchase tax was not levied. This resulted in short determination of sales tax liability by Rs. 10 lakh.

Sr. No.	Name of DETC	No. of dealers	Assessment year/Month of assessment Name of goods	Under assessment of gross turnover (Rupees in crore)	Rate of tax	Short determination of notional sales tax liability (Rs. in lakh)
1.	Panchkula	1	1999-2000/ March 2002 Sunflower seeds	0.97	4%	4.00
<p>Remarks: On this being pointed out, the Assessing Authority rectified the order in November 2002 and increased the notional sales tax liability by Rs.3.87 lakh. The case was referred to Government in December 2002; reply had not been received (December 2003).</p>						

* In case of M/s Kagaz Print 'N' Pack India Ltd.

Sr No.	Name of DETC	No of dealers	Assessment year/Month of assessment Name of goods	Under assessment of gross turnover (Rupees in crore)	Rate of tax	Short determination of notional sales tax liability (Rs. in lakh)
2.	ETO Ambala City	1	2000-2001/ July 2001 Sunflower seeds	0.82	4%	3.00
<p>Remarks: On this being pointed out, the Assessing Authority created an additional demand of Rs.3.28 lakh in July 2002 and adjusted the same towards exemption available to the dealer. The case was referred to Government in August 2002; reply was awaited (December 2003).</p>						
3.	Sonipat	1	1999-2000/ February 2002 Cotton	0.78	4%	3.00
<p>Remarks: On this being pointed out, the Assessing Authority created an additional demand in November 2002 of Rs.0.03 crore by increasing notional tax liability of the dealer. The case was referred to Government in January 2003; reply was awaited (December 2003).</p>						

2.3.3 Short determination of notional sales tax liability due to arithmetical mistakes in calculation

In following 2 cases, notional sales tax liability was assessed short due to arithmetical mistakes in calculation.

Sl. No.	Name of DETC	No of dealers	Assessment year/Month of assessment	Taxable turnover Rate of tax percent	Tax leviable	Tax levied	Tax short levied
(Rupees in lakh)							
1.	DETC, Sonipat	1	1999-2000/ February 2002	$\frac{79.42}{10}$	7.94	0.79	7.15
		1	2000-01/ October 2001	$\frac{39.47}{4}$	1.58	0.14	1.44
<p>Remarks: On this being pointed out, the Assessing Authority created in October and November 2002 an additional demand of Rs.8.59 lakh by increasing notional sales tax liability. The case was referred to Government in January 2003; reply was awaited (December 2003).</p>							

Audit Report (Revenue Receipts) for the year ended 31 March 2003

Sl. No.	Name of DETC	No. of dealers	Assessment year/Month of assessment	Taxable turnover Rate of tax percent	Tax leviable	Tax levied	Tax short levied
(Rupees in lakh)							
2.	Jagadhari	1	1995-96. February 2002	$\frac{179.03}{11}$	19.69	18.08	1.61
Remarks: On this being pointed out, the Assessing Authority rectified the order in November 2002 and increased the notional sales tax liability by Rs.1.61 lakh. The case was referred to Government in January 2003; reply was awaited (December 2003).							

2.4 Under-assessment of tax due to incorrect deduction of subsequent sale under CST

Under the CST Act, 1956, a dealer shall be liable to pay tax on sale of any goods effected by him in the course of inter-state trade or commerce other than those generally exempted under the sales tax law of the appropriate state. Goods purchased from an exempted unit within the state and subsequently sold in the course of inter-state trade or commerce are exigible to tax under the Act.

During test-check of records of 4 DETCs, it was noticed in July and October 2002 that 5 dealers purchased goods valued at Rs.6.78 crore from exempted units and sold the same in the course of inter-State trade or commerce but the Assessing Authority did not levy tax treating the goods as exempted goods. This resulted in under-assessment of tax of Rs.60.90 lakh as detailed below:

Sl. No.	Name of DETC/ETO	No. of dealers/cases	Assessment year/month of assessment	Amount of turnover escaped (Rupees in crore)	Amount of tax assessed short (Rupees in lakh)
1.	DETC, Kurukshetra	1	1999-2000 and 2000-2001/ August and September 2001	2.44	24.43
Remarks: The omission was pointed out to the Department; reply was awaited (December 2003).					
2.	DETC, Kamal	1	2000-2001 / August 2001	3.47	27.76
Remarks: On this being pointed out, the Assessing Authority referred the case in August 2002 to the Revisional Authority for taking <i>suo motu</i> action. Final reply was awaited (December 2003).					

Sl. No.	Name of DETC/ETO	No. of dealers/cases	Assessment year/month of assessment	Amount of turnover escaped (Rupees in crore)	Amount of tax assessed short (Rupees in lakh)
3.	DETC, Faridabad (East)	2	1998-1999 / June and July 2001 1999-2000 / July 2001	0.51 0.07	5.06 0.71
Remarks: On this being pointed out, the Assessing Authority, Faridabad (East) intimated in October 2002 that exemption was available in all the successive stages. The reply was not tenable as goods sold in the course of inter-state trade or commerce were not exempt under the Act.					
4.	ETO, Ambala City	1	1999-2000 / April 2001	0.29	2.94
Remarks: On this being pointed out, the Assessing Authority referred the case in July 2002 to the Revisional Authority for taking <i>suo motu</i> action. The decision of the Revisional Authority was awaited (December 2003).					
Total				6.78	60.90

The cases were referred to the Government between August 2002 and March 2003; reply had not been received (December 2003).

2.5 Under-assessment of tax due to inadmissible deduction

Under the HGST Act, 1973, every dealer shall be liable to pay tax on the sale or purchase of goods other than declared goods. Vitamin Feed Supplement being general goods was taxable at general rate of 8.8 *per cent* between the years 1992-93 and 1995-96, 7 *per cent* during 1996-97 under HGST Act and at 10 *per cent* without C Form under CST Act, 1956

During test-check of records of the DETC, Ambala Cantt. it was noticed between March 1998 and December 1999 that four dealers sold Vitamin feed-supplement for Rs.1.69 crore during the years 1992-93 and between 1994-95 and 1996-97. The Assessing Authorities, while finalizing the assessments between June 1996 and May 1998, erroneously allowed deduction of Rs.1.69 crore treating the sale as tax-free goods. The omission resulted in under-assessment of tax of Rs.14.29 lakh.

On this being pointed out in audit, the department admitted the observation and raised in June and July 2002 an additional demand of Rs.14.29 lakh against the dealers. Further report on recovery is awaited.

The cases were referred to Government in December 2002 and January 2003; reply was awaited (December 2003).

2.6 Non-levy of purchase tax

Under the HGST Act, 1973, cotton is taxable at the stage of last purchase when purchased within the state while wheat is taxable at the stage of first purchase when purchased within the State. No deduction from dealer's gross turnover is allowable if such goods are indirectly exported out of India. Further, a dealer is liable to pay purchase tax on goods (other than declared goods) purchased within the state and used in the manufacture of tax free goods or taxable goods which are disposed of otherwise than by way of sales. For non-payment of tax alongwith the returns, interest is also chargeable on the amount of tax due at one *per cent* for the first month and one and a half *per cent* per month thereafter so long as the default continues.

During test-check of records of four DETC, it was noticed between August 1999 and November 2002 that assessing authorities did not levy purchase tax of Rs.31.97 lakh including interest of Rs.2.72 lakh in 7 cases of 4 dealers during the years 1994-95 to 1998-99 as detailed below:

Sl. No.	Name of DETC	Assessment year/month of assessment No. of dealers/cases	Nature of irregularity	Turnover involved	Short/non-levy of purchase tax
				(Rupees in lakh)	
1.	DETC, Sirsa	1997-98 and 1998-99 (October 2000) 1(2)	Purchased cotton from within the state without payment of tax and exported the same out of India through exporters. There was no agreement between the dealers and foreign buyers for such export.	512.00	20.46
Remarks: On this being pointed out in audit, the Department referred the case to the Revisional Authority in June 2001 for taking <i>suo motu</i> action. The decision of the Revisional Authority was awaited (December 2003).					
2.	DETC, Kurukshetra	1996-97 (March 1999) 1(1)	Purchased wheat from within the state without payment of tax and exported the same out of India through exporters. There was no agreement between the dealers and foreign buyers for such export.	41.59	2.38
Remarks: On this being pointed out in audit, the Department referred the case to the Revisional Authority in November 1999 who raised an additional demand of Rs.1.66 lakh in August 2002. The report of recovery and action taken on levy of interest and penalty had not been received (December 2003).					
3.	DETC, Gurgaon (East)	1994-95 and 1995-96 (September 1998 and January 1999) 1(2)	Purchased granules from within the State without payment of tax and used a part of it in the manufacture of tax-free goods. The Assessing Authority did not levy purchase tax on the	89.60	6.32

Sl. No.	Name of DETC	Assessment year/month of assessment No. of dealers/cases	Nature of irregularity	Turnover involved	Short/non-levy of purchase tax
			value of such goods used in the manufacture of tax free goods and on finished goods worth Rs.13.56 lakh transferred to unit-II of the same dealer but not accounted for there.		
Remarks: On this being pointed out in audit, the Revisional Authority created an additional demand of Rs.6.29 lakh in January 2003. Report on recovery had not been received (December 2003).					
4.	DETC, Jagadhari	1996-97 and 1998-99 (February and March 2002) 1(2)	Purchased paddy husk without payment of tax and used as fuel in the manufacture of tax-free country liquor.	70.28	2.81
Remarks: On this being pointed out in audit, the Assessing Authority rectified the assessment orders and created an additional demand of Rs.2.81 lakh in November 2002. Further report on amount recovered had not been received (December 2003).					
	Total			713.47	31.97

The cases were referred to Government between August 2001 and February 2003; reply had not been received (December 2003).

2.7 Under-assessment due to inadmissible rebate

Under the HGST Act, 1973, no rebate of tax paid on goods consumed otherwise than in process or manufacturing of any goods or sold within the State or in the course of inter-state trade or commerce is to be allowed to a dealer.

During test-check of the records of ETO, Ambala City, it was noticed in June 2002 that a manufacturer of sugar and molasses purchased tax paid goods i.e. pipes, cement, brushes, drills, ropes, gunny bags, firewood (building material), ink, bells etc. (stationery items), chairs, bed etc. (furniture), diesel etc. worth Rs.85.44 lakh during the years 1996-97 and 1997-98. The Assessing Authority while finalising assessment in March 2002, erroneously allowed rebate of tax of Rs.5.39 lakh which was not admissible. This resulted in short levy of tax of Rs.5.39 lakh.

On this being pointed out, the Department rectified the orders and created in June 2002 an additional demand of Rs.2.35 lakh in respect of all consumable goods except diesel. Regarding rebate allowed for tax paid on diesel, the

Assessing Authority intimated in November 2002 that the case had been sent to the Revisional Authority for taking *suo motu* action in October 2002. Further report on recovery made and action taken by Revisional Authority had not been received (December 2003).

The case was referred to the Government in August 2002; reply had not been received (December 2003).

2.8 Non-levy of interest and penalty

Under the HGST Act, 1973, a dealer is required to pay full amount of tax according to the returns required to be submitted on or before the prescribed dates. In the event of default, the dealer is liable to pay interest at the prescribed rates. In addition, penalty not exceeding one and half times the amount of tax, is also leviable for non-payment of tax alongwith the returns. In case of non-payment of government revenue, the amount can be recovered as arrears of land revenue.

2.8.1 During test-check of records of the DETC, Faridabad (West), it was noticed between September and December 2001 that a dealer did not pay tax alongwith returns during the years 1995-96 and 1996-97. The Assessing Authority while finalising the assessments in January and March 2001, created an additional demand of tax of Rs.4.90 lakh and stated in the assessment orders that interest would be levied separately but no such action was initiated. This resulted in non-levy of interest of Rs.4.39 lakh besides penalty.

On this being pointed out, the Department created demand of Rs.9.09 lakh including penalty of Rs.3.50 lakh between June and July 2002.

The case was referred to the Government in January 2002; reply had not been received (December 2003).

2.8.2 In another case for the year 1992-93, remanded by the Appellate Authority in May 1999, it was noticed in August 2002 that the Assessing Authority, Faridabad (West) created an additional demand of Rs.46.62 lakh in November 2001 but interest of Rs.44.52 lakh payable for the period from August 1996 to November 2001 was not levied. Besides, no action was taken to recover the amount of tax of Rs.46.62 lakh as arrears of land revenue. This resulted in non-recovery of tax and interest of Rs.91.14 lakh.

The case was referred to the Department in August 2002 and to the Government in June 2003; reply had not been received (December 2003).

2.9 Under-assessment of tax due to incorrect computations/application of incorrect rate of tax

The rates of tax leviable on different commodities have been prescribed under the HGST Act, 1973 and CST Act, 1956. For non/short payment of tax alongwith the returns, interest is chargeable on the amount of tax due at the prescribed rates.

2.9.1 During test-check of records of 3 DETCs, it was noticed during September 1999, November 2000 and March 2002 that in the case of four dealers, tax of Rs.36.66 lakh was short levied due to incorrect computations/application of incorrect rate of tax as detailed below:

Sl. No.	Name of DETC	No. of dealers	Assessment year/Month of assessment	Nature of observations	Under-assessment of tax (Rupees in lakh)
1.	Faridabad (East)	1	1996-97/ March 1999	The dealer made inter-state sale of bus bodies for Rs.111.32 lakh and local sale for Rs.2.25 lakh during the year 1996-97. The Assessing Authority erroneously did not levy tax on the inter-state sale of bus-bodies treating the sale as export out of the territory of India. Moreover, local sales were assessed at the rate of 4.5 per cent instead of correct rate of 10 per cent.	11.25
<p>Remarks: On this being pointed out in audit, the Revisional Authority to whom the case was referred, accepted the observation and raised an additional demand of Rs.11.25 lakh in July 2002. Final position of recovery had not been received (December 2003).</p> <p>The cases were referred to the Government between April 2002 and January 2003; reply was awaited (December 2003).</p>					
2.	Faridabad (West)	1	1998-99/ March 2000	The dealer sold plastic luggage bags valued at Rs.93.89 lakh from 1 July 1998 to 31 December 1998. The Assessing Authority incorrectly levied tax on the sale at the rate of four per cent instead of ten per cent.	6.89

Audit Report (Revenue Receipts) for the year ended 31 March 2003

Sl. No.	Name of DETC	No. of dealers	Assessment year/Month of assessment	Nature of observations	Under-assessment of tax (Rupees in lakh)
<p>Remarks: On this being pointed out, the Department created an additional demand of Rs.6.89 lakh in March 2002. Further report on recovery is awaited (December 2003).</p> <p>The cases were referred to the Government between April 2002 and January 2003; reply was awaited (December 2003).</p>					
3.	Sonipat	2	1999-2000/ January 2001	The dealers sold footwear valued at Rs.16.55 crore (under HGST: Rs.1.96 crore + under CST: Rs.14.59 crore) during 1999-2000. The Assessing Authority levied tax at lower rate of three <i>per cent</i> both under HGST and CST Acts instead of correct rate of tax of five <i>per cent</i> under HGST Act and four <i>per cent</i> under CST Act.	18.52
<p>Remarks: On this being pointed out in audit, the Department rectified the orders and created an additional demand of Rs.18.52 lakh and reduced it from the total amount of exemption available to the dealers in March 2002.</p> <p>The cases were referred to the Government between April 2002 and January 2003; reply was awaited (December 2003).</p>					
	Total	4			36.66

2.9.2 Under the HGST Act, 1973, when the eligibility certificate of an exempted/deferred unit is withdrawn, the exemption/entitlement certificate shall be deemed to have been withdrawn from the first day of its validity and the unit shall be liable to pay tax, interest or penalty under the Act as if no entitlement certificate had ever been granted to it. Further, foam products were taxable at the rate of 11 *per cent* without Form 'C' under the CST Act, 1956 including 10 *per cent* surcharge.

During test-check of records of the DETC, Faridabad, it was noticed in December 1999 that an exempted unit made inter-State sale of foam products valued at Rs.1.14 crore during the years 1992-93 to 1994-95. The Assessing Authority while finalising assessments in February 1998, levied tax at the rate of four *per cent*. Since exemption certificate granted to the unit had been cancelled in September 1998, the tax was to be levied at the rate of 11 *per cent* in the absence of 'C' forms but the department did not rectify the assessment orders. This resulted in short levy of tax of Rs.11.51 lakh. Besides, interest and penalty was also leviable.

On this being pointed out in audit, the Department accepted the observation and created an additional demand of Rs.7.73 lakh for the years 1992-93 and 1993-94 in March 2002 and sent the case for the year 1994-95 to Revisional Authority for taking *suo motu* action in January 2003.

The case was referred to the Government in November 2002; reply had not been received (December 2003).

2.10 Under-assessment due to non-levy of surcharge

Under the HGST Act, 1973, surcharge was payable at the rate of ten *per cent* on the amount of tax payable by a dealer during the years 1994-95 and 1995-96.

During test-check of records of the DETCs, Sirsa and Faridabad (East), it was noticed in April 2002 and January 2003 that two dealers sold taxable goods valued at Rs.3.10 crore during the year 1994-95 and 1995-96. While finalising the assessments in April and September 2001, the assessing authorities did not levy surcharge leviable under the HGST Act. The omission resulted in under-assessment of tax of Rs.5.62 lakh.

On this being pointed out in audit, DETC, Sirsa sent the case to the Revisional Authority for taking *suo motu* action in May 2002. Further report on action taken by the Revisional Authority had not been received till July 2003. In another case of Faridabad (East), Revisional Authority created an additional demand of Rs.2.83 lakh in February 2003. Further progress on recovery was not received (December 2003).

The cases were referred to the Government in June 2002 and March 2003; reply had not been received (December 2003).

2.11 Under-assessment due to misclassification of goods

Under the HGST Act, 1973, Woollen felts were taxable at the general rate of ten *per cent* during the year 1998-99.

During test-check of records of the DETC, Panchkula, it was noticed in June 2000 that a dealer sold woollen felts for Rs.63.97 lakh during the year 1998-99. The Assessing Authority while finalising assessment in September 1999, did not levy tax on the sale of woollen felts erroneously treating it as tax-free goods. This resulted in under-assessment of Rs.10.97 lakh including interest of Rs.4.57 lakh. Besides, penalty was also leviable for non-payment of tax alongwith the returns.

On this being pointed out, the Revisional Authority to whom the case was referred, accepted the observation and created an additional demand of Rs.6.40 lakh in October 2002. As regards levy of interest and penalty, the

Assessing Authority to whom the case was remanded, intimated in February 2003 that the proceedings were in progress.

The case was referred to the Government in January 2003; reply had not been received (December 2003).

2.12 Incorrect levy of concessional rate of tax

Under the HGST Act, 1973, gram dal, a declared good is taxable at the rate of one *per cent*. Under the Central Sales Act, 1956, inter-state sale of declared goods not supported by Form 'C' is taxable at twice the rate applicable to the sale or purchase of such goods inside the State. The Excise and Taxation Commissioner (ETC), Haryana also clarified in March 2002 that gram dal when sold in inter-State trade without Form 'C' is taxable at the rate of 2 *per cent*.

During test-check of records of the DETC, Sirsa and Hisar, it was noticed in May 2000 and May 2002 that two dealers made inter-state sale of gram dal for Rs.3.26 crore without Form 'C' during the years 1998-99 and 1999-2000. The Assessing Authority, while finalising assessments in October 1999 and May 2001, levied tax at the rate of one *per cent* instead of correct rate of two *per cent*. This resulted in short levy of tax of Rs.3.26 lakh.

On this being pointed out, the ETC, Haryana accepted the audit observations in May 2002 and directed the DETC, Sirsa to revise the orders of assessment by levying tax at the rate of two *per cent*. No reply from DETC, Hisar had been received (December 2003).

The cases were referred to the Government between July 2000 and July 2002; reply had not been received (December 2003).

2.13 Irregular refund of tax

2.13.1 Under the HGST Act, 1973, a registered dealer shall not collect any amount by way of tax in excess of that payable by him. If such dealer collects any excess tax, he shall be liable to pay, in addition to any tax for which he may be liable, a penalty of an amount not exceeding five hundred rupees, or double the amount so collected, whichever is greater.

During test-check of records of the DETC, Panchkula, it was noticed that a registered dealer collected and deposited tax into treasury calculated on 80 *per cent* of the total value of contract of Rs.3.26 crore during the year 1995-96. However, the Assessing Authority, while finalising assessment in May 1999, levied tax on Rs.2.14 crore worked out @ 65.75 *per cent* of the contract value and allowed a refund of tax of Rs.4.09 lakh which was incorrect.

On this being pointed out, the Revisional Authority recalculated the taxable turnover at 80 *per cent* of the total contract value and raised an additional demand of Rs.4.09 lakh in January 2002. Report on recovery of the additional demand created was awaited (December 2003).

The case was referred to the Government in January 2003; reply had not been received (December 2003).

2.13.2 Under the HGST Act, 1973, tax paid in the State on the sale of goods used in the manufacture of goods shall be refundable if such goods are leviable to tax at the last stage of sale or are sold in the course of export out of the territory of India.

During test-check of records of the DETC, Hisar it was noticed in April 2002 that a dealer manufactured atta, maida and suji taxable at the first stage of sale in the state during the year 1998-99. The finished products had neither been sold to registered dealer nor exported out of India. But the Assessing Authority while finalising the assessment in April and September 2001, erroneously allowed refund of Rs.4.35 lakh. The mistake resulted in irregular refund of Rs.4.35 lakh.

On this being pointed out, the Department sent the case to the Revisional Authority who disallowed the refunds and raised a demand of Rs.5.17 lakh including interest of Rs.0.82 lakh in November 2002. Further progress on recovery had not been received (December 2003).

The case was referred to the Government in July 2002; reply had not been received (December 2003).

2.14 Evasion of Central Sales Tax

Under the CST Act, 1956, a dealer shall be liable to pay tax on the sale of any goods effected by him in the course of inter-state trade or commerce at the rates prescribed thereunder.

During test-check of records of the DETC, Kurukshetra, it was noticed in July 2002 that two dealers sold rice valued at Rs.3.54 crore during the years 1997-98 and 1999-2000 in the course of inter-State trade or commerce. While finalising assessments in September and December 2001, the Assessing Authority omitted to levy tax on inter-state sale of rice. This resulted in under-assessment of tax of Rs.14.15 lakh.

On this being pointed out, the Assessing Authority stated in March 2003 that the cases had been sent to the Revisional Authority for taking *suo motu* action in November 2002. Decision of the Revisional Authority had not been received (December 2003).

The cases were referred to the Government in March 2003; reply had not been received (December 2003).

2.15 Non-levy of tax under HGST due to incorrect deduction from gross turnover

Under the HGST Act, 1973, Indian Made Foreign Liquor (IMFL) was exigible to tax at the rate of twenty *per cent* during the year 1998-99.

During test-check of records of the DETC, Faridabad (West), it was noticed in June 2002 that a dealer sold IMFL for Rs.38.92 lakh during the year 1998-99. While finalising assessment in September 2001, the Assessing Authority erroneously allowed deduction from gross turnover treating the sale of IMFL as exempted sale. This resulted in under-assessment of tax of Rs.13.70 lakh including interest.

On this being pointed out, the Department created an additional demand of Rs.13.70 lakh in December 2002. Report on the recovery of additional demand was awaited (December 2003).

The case was referred to Government in March 2003; reply had not been received (December 2003).

2.16 Under-assessment due to excess rebate

2.16.1 Under HGST Act, 1973, no rebate of tax paid on goods consumed in manufacture of goods transferred to branches is admissible.

During test-check of records of the DETC, Jagadhari, it was noticed in October 2002 that during the year 1997-98, a dealer used tax paid goods in the manufacture of goods valued at Rs.276.95 crore of which goods worth Rs.151.98 crore were transferred to its branches. The Assessing Authority while finalizing assessments in May 2001, allowed a rebate of Rs.21.94 lakh instead of Rs.9.90 lakh admissible on proportionate basis. The omission resulted in excess rebate of Rs.12.04 lakh.

On this being pointed out, the Department accepted the observation and created an additional demand of Rs.1.16 lakh in November 2002 after adjusting an amount of Rs.10.88 lakh inadvertently levied in May 2001 on tax paid purchases.

The case was referred to the Government in January 2003; reply had not been received (December 2003).

2.16.2 Under the HGST Act, 1973, tax paid in the State on the sale or purchase of goods used in manufacture shall be refundable if and only if the manufactured goods are other than declared goods.

During test-check of records of the DETC, Sonipat, it was noticed in October 2002 that a dealer purchased tax paid goods valued at Rs.88.91 lakh (empty glass bottles: Rs.69.22 lakh and furnace oil: Rs.19.69 lakh) during the year 1998-99 and used the same in manufacture of taxable and tax free goods (beer). While finalizing assessment in August 2001, the Assessing Authority

erroneously allowed a rebate of tax on the material used in the manufacture of tax-free goods (beer) valued at Rs.8.95 crore. The mistake resulted in excess rebate of Rs.3.11 lakh.

On this being pointed out, the Assessing Authority rectified the orders in February 2003 and disallowed the rebate of Rs.3.11 lakh. Further report on recovery had not been received (December 2003).

The case was referred to the Government in January 2003; reply had not been received (December 2003).

2.17 Non-recovery of tax

2.17.1 The HGST Act, 1973 and HGST Rules, 1975 provide that on cancellation of eligibility certificate or exemption/entitlement certificate before it is due for expiry, the entire amount of tax exempted shall become payable immediately in lump sum and the provision relating to recovery of tax, interest and imposition of penalty shall be applicable in such cases. Further, the amount of any tax, interest and penalty imposed under this Act which remains unpaid after the due date, shall be recoverable as arrears of land revenue.

During test-check of records of the DETC, Faridabad (East) and Faridabad (West), it was noticed in February 2003 that two dealers who were granted exemption/deferment from payment of tax discontinued their business during the currency of exemption period. Though their exemption/deferment certificates were cancelled in September 1998 and March 2002 the department while raising demand of tax due, did not levy/recover interest of Rs.0.33 crore. Besides no action was taken by the department to recover an amount of tax of Rs.0.36 crore.

On this being pointed out in audit, DETC Faridabad (West) stated that interest was not leviable in the case of withdrawal of exemption certificate. The reply was not tenable as the interest is leviable under the relevant Rule. DETC Faridabad (East) stated in February 2003 that action was being taken to recover the tax and levy on interest.

The cases were referred to the Government in May 2003; reply had not been received (December 2003).

2.17.2 As per HGST Rules, 1975, the benefit of tax exemption/deferment shall be subject to the condition that the unit after having availed of the benefit, shall continue its production at least for the next five years and at a level not below the average production for the preceding five years. In case the unit violated any condition, it shall be liable to make full payment of tax benefit availed of by it alongwith interest and penalty.

During test-check of records of DETC, Hisar, it was noticed in January 2003 that a dealer was granted exemption from payment of sales tax for a period of five years (from 1 December 1990 to 30 November 1995) in October 1991. The dealer availed of exemption of Rs.5.97 crore till September 1995 and closed his business in April 1998. Thus, the dealer did not continue production for a period of five years after availing exemption and did not produce at average level of the preceding five years. He was thus liable to full amount of tax benefit of Rs.5.97 crore alongwith interest and penalty. However, neither did the dealer pay tax of Rs.5.97 crore nor the department raised any demand against for the tax resulting in non-recovery of tax of Rs.5.97 crore and interest of Rs.4.14 crore besides penalty.

The matter was brought to the notice of the Department and to the Government in January 2003; reply had not been received (December 2003).

2.18 Internal Audit System

An internal audit system in a department is an important tool for an independent appraisal and review of financial and various other operations in the department. It also helps the internal control mechanism. The Excise and Taxation Department however, did not have an internal audit system in operation.

CHAPTER-III: Stamp Duty and Registration Fee

3.1 Results of Audit

Test-check of records of various registration offices conducted in audit during the year 2002-2003 revealed non/short levy of stamp duty and registration fee amounting to Rs.8.40 crore in 3,296 cases which broadly fall under the following categories:

Sl. No.	Nature of irregularities	Number of cases	Amount (Rupees in crore)
1.	Non/short levy of stamp duty and registration fee	144	0.52
2.	Loss of stamp duty due to misclassification of release deeds	783	4.99
3.	Non-levy of stamp duty on exchange of property	32	0.26
4.	Loss of stamp duty due to undervaluation of properties	624	2.00
5.	Loss due to irregular exemption of stamp duty and registration fee on mortgage deeds	1,713	0.63
	Total	3,296	8.40

During the year 2002-2003, the Department accepted under-assessment of Rs.2.40 crore involved in 705 cases of which 218 cases involving Rs.1.00 crore had been pointed out in audit during 2002-03 and the rest in earlier years. An amount of Rs.0.26 crore in 157 cases had been recovered during 2002-03 of which Rs.0.25 crore recovered in 156 cases pertained to earlier years.

A few illustrative cases involving Rs.0.35 crore are mentioned in this Chapter. Of these, the Department accepted 2 audit observations involving Rs.0.19 crore.

3.2 Evasion of stamp duty due to under-valuation of immovable property

The Indian Stamp Act, 1899, as applicable to Haryana, provides that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, should be fully and truly set forth therein. Further, the Act, provides that if any person who, with intent to defraud the Government, executes an instrument in which all the facts and circumstances required to be set forth in such instrument, are not fully and truly set forth, is punishable with a fine which may extend to five thousand rupees per instrument.

During test-check of records of 13* registering offices, it was noticed between November 2001 and December 2002 that 25 conveyance deeds were registered between May 2000 and July 2002 on account of sale of immovable properties. The total value of properties set forth in all these conveyance deeds was Rs.85.44 lakh whereas the total value as per agreements executed between affected parties during July 1999 to May 2002 and found recorded with the various document writers, worked out to Rs.1.66 crore. Thus, the conveyance deeds were got executed and registered at a consideration less than that agreed upon between the parties. This resulted in evasion of stamp duty of Rs.10.37 lakh. Besides, penalty not exceeding Rs.1.25 lakh for under-valuation made with intent to defraud the Government was also leviable.

On this being pointed out in audit, seven registering authorities accepted the audit observations and one of them recovered stamp duty of Rs.0.17 lakh. No reply was received from the remaining 6 Sub-Registrars (December 2003).

The cases were referred to the Government between March 2002 and February 2003 who directed Deputy Commissioners, Hisar, Jind, Bhiwani, Faridabad and Panipat between April 2002 and March 2003 to send replies within three weeks. Further progress of recovery was awaited from the Government (December 2003). In other cases, no reply had been received (December 2003).

3.3 Short levy of stamp duty on exchange of property

As per Indian Stamp Act, 1899, as applicable to Haryana, stamp duty on exchange of property is chargeable as for a conveyance deed. Government further clarified in September 1996 that compromise decrees which create for the first time right, title or interest in the said immovable property in favour of any party would require registration and is also chargeable with duty as an

* Sub-Registrars: Bawani Khara, Bhiwani, Charkhi Dadri, Loharu (District Bhiwani); Sub-Registrars: Adampur, Hansi, Hisar, Narnaund and Uklana (District Hisar); Sub-Registrar Palwal (District Faridabad); Sub-Registrar Jind (District Jind) and Sub-Registrars, Israna and Madluada (District Panipat).

instrument or conveyance deed for a consideration equal to the value of the property or the value set forth in such instrument, whichever is higher.

During test-check of records of 12* offices of Sub-Registrars, it was noticed between December 2001 and December 2002 that 25 compromise decrees creating right, title or interest for the first time in immovable properties valued at Rs.1.05 crore were registered between June 2000 and January 2002 without levying stamp duty resulting in short realisation of stamp duty amounting to Rs.14.03 lakh.

On this being pointed out, Sub-Registrars, Bhiwani, Narnaund (Hisar) and Tohana admitted the audit observation and intimated between December 2001 and March 2003 that notices had been issued to effect recovery of Rs.0.07 crore. Deputy Commissioner, Yamunanagar intimated in March 2003 that all the 6 cases (SR Radaur: 2 cases and SR Jagadhari: 4 cases) were pending with Collector for decision. No reply was received in other cases (December 2003).

The matter was referred between March 2002 and February 2003 to the Government who directed between October 2002 and March 2003 the Registrars, Bhiwani, Fatehabad, Gurgaon, Panipat and Yamunanagar to furnish reply within three weeks. Further progress on action taken was awaited (December 2003) from the Government. In respect of other offices, no reply had been received (December 2003).

3.4 Evasion of stamp duty on release deeds

Under Article 55 of schedule I-A of the Indian Stamp Act, 1899 and further clarification/instructions issued between October 1999, and September 2000 by Government, Revenue Department, stamp duty on any release of ancestral property made in favour of brother or sister (children of renouncer's parents) or son or daughter or father or mother or spouse, grand children or nephew or niece or co-parcener of the renouncer is leviable at the rate of Rs.15 per instrument. In any other case, the stamp duty shall be charged at the rates as applicable to a conveyance for the amount equal to the market value of the share, interest and part of claim renounced.

During test-check of records of 5** Registering Offices (Panipat District) for the year 2001-02, it was noticed in December 2002 that 25 releases of ancestral property valued at Rs.54 lakh were made in favour of relations other

* Sub-Registrars, Bhiwani, Bhattukalan, Farukh Nagar, Jagadhari, Nathusari Chopta, Narnaund, Panipat, Radaur, Ratia, Sirsa, Sohana and Tohana.

** Sub-Registrars/Joint Sub-Registrars, Bapoli, Israna, Madlauda, Samalkha and Panipat (District Panipat).

than those specified in Article 55 of schedule 1-A of the Act, by charging stamp duty of Rs.405 instead of Rs.6.75 lakh leviable as a conveyance for the amount equal to the market value. This resulted in short levy/recovery of stamp duty of Rs.6.75 lakh.

The matter was brought to the notice of the Department and to the Government in January and May 2003 respectively, but the reply had not been received (December 2003).

3.5 Short levy of stamp duty

As per Indian Stamp Act, 1899, 'conveyance' includes conveyance on sale and every instrument by which property, whether movable or immovable, is transferred. Further, the Indian Registration Act, 1908 provides that immovable property includes land, building and things attached to the earth. Government clarified in July 1994 that plant and machinery installed in the factory for permanent use when sold alongwith the factory, land and building would constitute a part of immovable property.

During test-check of records of Sub-Registrar, Panipat for the year 2001-02, it was noticed in January 2003 that two vendors purchased a factory for a consideration of Rs.27.66 lakh in auction conducted by the Haryana Financial Corporation. While executing the sale deeds in October 2001 and February 2002, the Registering Authority levied stamp duty of Rs.1.16 lakh on the cost of land and building valued at Rs.9.27 lakh but did not levy stamp duty on plant and machinery installed therein and valued at Rs.18.39 lakh resulting in short levy of stamp duty of Rs.2.30 lakh.

This was pointed out to the Department, but the reply had not been furnished (December 2003). The matter was referred in February 2003 to the Government; reply had not been received (December 2003).

CHAPTER-IV: Other Tax Receipts

4.1 Results of Audit

Test-check of records in departmental offices relating to revenues received from State Excise Duty, Taxes on Motor Vehicles, Passengers and Goods Tax, Entertainment Duty, Purchase Tax (Agriculture) and Electricity Duty conducted in audit during the year 2002-03 revealed under-assessment of taxes and duties and loss of revenue amounting to Rs.29.92 crore in 1,48,111 cases as depicted below:

Sl. No.	Heads of revenue	Number of cases	Amount (Rupees in crore)
1.	State Excise Duty	69	5.21
2.	Electricity Duty	726	0.01
3.	Taxes on Motor Vehicles	1,46,707	16.32
4.	Passengers and Goods Tax	583	3.10
5.	Entertainment Duty and Show Tax	18	0.33
6.	Purchase Tax (Agriculture)	8	4.95
	Total	1,48,111	29.92

In the cases of Taxes on Motor Vehicles, Purchase tax (Agriculture) and State Excise Duty, the department accepted under-assessment of Rs.4.71 crore in 984 cases which was pointed out during the year 2002-03 and recovered an amount of Rs.1.50 crore in 130 cases during 2002-03 of which Rs.1.18 crore recovered in 123 cases pertained to earlier years.

A few illustrative cases involving Rs.19.40 crore are mentioned in this Chapter. Of these, the Department accepted 6 audit observations involving Rs.2.86 crore and recovered Rs.0.37 crore in 5 cases.

State Excise Duty

4.2 Short recovery of interest

As per provisions contained in Haryana Liquor Licence Rules, 1970 read with conditions of State's Excise Policy announced for the year 2001-2002, the successful bidder when granted a licence shall pay the licence fee in the prescribed manner. In case of default, the licensee shall be liable to pay interest at the prescribed rates.

During test-check of the records of the Deputy Excise and Taxation Commissioners (DETCs), Fatehabad, Jind, Kurukshetra and Kaithal, it was noticed between May and November 2002 that 4 licensees (one in each district) did not pay the monthly instalments of licence fee by the prescribed dates during 2001-2002. The Department did not raise any demand for interest payable for the delay which resulted in short recovery of interest of Rs.1.43 crore.

On this being pointed out, the Department accepted the observation. Further, DETC Fatehabad and Kaithal recovered Rs.21.09 lakh and intimated in June and December 2002 that efforts were being made to recover the balance amount. DETC, Jind and Kurukshetra intimated in May and November 2002 that action was being taken to recover the amount of interest.

The matter was referred between December and January 2003 to the Government; reply had not been received (December 2003).

4.3 Non-recovery of penalties

The Punjab Excise Act, 1914, as applicable to Haryana, provides that if penalty is not paid within the stipulated period, the Collector or Deputy Excise and Taxation Commissioner (DETC) shall pass speaking order for confiscation of the means of transport which shall be put to auction within 30 days of the order of the confiscation. The auction amount shall be adjusted towards the payment of penalty. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

During test-check of records of DETC Ambala, for the year 2001-02 it was noticed in August 2002 that two vehicles carrying 2000 pouches of country liquor were detained on 29 May and 7 July 2001 and penalty of Rs.1.50 lakh was imposed in June and August 2001 by the Department but the offenders failed to deposit the amount within the specified period. The vehicles used by both the offenders were confiscated in the month of October 2002 but these

were not put to auction for recovery of government dues resulting in non-recovery of penalty of Rs.1.50 lakh.

On this being pointed out in audit, DETC Ambala accepted the observation. However action taken to recover the amount had not been intimated (December 2003).

The matter was referred to the Government in May 2003; reply had not been received (December 2003).

Passengers and Goods Tax

4.4 Non/short realisation of passengers tax

As per notification issued in July 1994 by Haryana Government Excise and Taxation Department under the Punjab Passengers and Goods Taxation Act, 1952, as applicable to Haryana, permit holders plying buses on link routes of the State under the scheme of privatisation of passengers road transport, are required to pay lump-sum passengers tax based on the seating capacity of the bus on monthly basis at the rate of Rs.16,000 for 52/54 seater and Rs.10,000 for 30 seater buses.

During test-check of records of 9* offices of the Deputy Excise and Taxation Commissioners (DETCs) for the year 2001-2002, it was noticed between May and December 2002 that 69 transport** co-operative societies who were granted permits for plying buses on link roads either did not deposit monthly passengers tax or deposited it short. This resulted in non/short realisation of passengers tax of Rs.46.54 lakh.

On this being pointed out, the Department made recovery of Rs.0.64 lakh from 5 transport co-operative societies and intimated between May and December 2002 that action to recover the balance amount was being taken. Further progress of recovery was awaited (December 2003).

The matter was referred between August 2002 and January 2003 to Government; reply had not been received (December 2003).

* Deputy Excise and Taxation Commissioners: Bhiwani, Faridabad (East), Faridabad (West), Jind, Jhajjar, Kurukshetra, Kaithal, Rohtak and Yamunanagar.

** A Transport Co-operative Society means a Society registered under Haryana Co-operative Societies Act, 1984 and granted a permit under provisions of Section 71 of Motor Vehicles Act, 1988 for plying buses on link route in the State.

Taxes on Motor Vehicles

4.5 Short realisation of permit/countersignature fee

The Regional Transport Authorities/District Transport Officers are to issue permits under various sections of Motor Vehicle Act, 1988 for the region under their jurisdiction and countersign for each additional region of the State after charging permit fee and countersignature fee at the rates prescribed under the Punjab Motor Vehicle Rules, 1940 as applicable to Haryana. The amount of fee is payable on the basis of number of regions included in the permit in the state. The Government increased the number of regions from 6 to 10 in March 1999 and to 19 in February 2001. The permit/countersignature fee for heavy/light motor vehicles was payable at the rates of Rs.2,625/Rs.1,750 upto March 1999 and Rs.4,125/Rs.2,750 upto February 2001 and thereafter, it was payable at the rate of Rs.7,500/Rs.5,000 for heavy / light motor vehicle (HTVs/LTVs) for each block of 5 years.

During test-check of records of 19* Regional Transport Authorities (RTAs)/District Transport Officers (DTOs), it was noticed between March 2002 and February 2003 that permits were granted for plying vehicles in whole of the Haryana State but permit/countersignature fee in respect of 37,378 vehicles was recovered at the rate of Rs.2,625/Rs.1,750 for each heavy/light motor vehicle instead of Rs.4,125/Rs.2,750 for the permits issued during the year 2000-01 and Rs.7,500/Rs.5,000 for the permits issued during the year 2001-02 respectively. This resulted in short realisation of permit fee/countersignature fee of Rs.15.21 crore in 37,378 cases.

On this being pointed out in audit, 11 RTAs/DTOs stated between March 2002 and February 2003 that permit fee at new rates would be charged on receipt of instructions from the Transport Commissioner/Government. Reply was not tenable as no separate orders of Government/Department were required to charge permit/countersignature fee at enhanced rates. Further, in similar cases the Public Accounts Committee (PAC) in its 44th report relating to Audit Report 1991-92 presented to the State Legislature on 21st March 1997 had directed the Department to effect recoveries on the basis of number of regions included in the permits. No reply had been received (December 2003) from the remaining 8 RTAs/DTOs.

The matter was referred between March 2002 and March 2003 to the Government who directed in December 2002, March and April 2003 the Transport Commissioner, Haryana to furnish reply within the stipulated period

* Regional Transport Authority/District Transport Officer, Ambala, Bhiwani, Fatehabad, Faridabad, Gurgaon, Hisar, Jind, Jhajjar at Bahadurgarh, Karnal, Kaithal, Kurukshetra, Narnaul, Panipat, Panchkula, Rohtak, Rewari, Sirsa, Sonapat and Yamunanagar.

of six weeks. The Transport Commissioner, however, intimated in January 2003 that the matter was being referred to Government for decision. Further reply had not been received (December 2003).

4.6 Non-deposit of token tax

As per provisions of the Punjab Motor Vehicles Taxation Act, 1924, as applicable to Haryana, token tax shall be leviable on every motor vehicle in the prescribed manner. In case of omission to comply with the provisions, the Act further provides that the licensing officer may impose a penalty, which may extend to twice the amount of tax due. Arrears of tax can be recovered as arrears of land revenue.

During test-check of records of 10* District Transport Officers (DTOs) for the years 2000-2001 and 2001-2002, it was noticed between February and September 2002 that token tax in respect of 254 buses of transport co-operative societies for the period between October 1996 and March 2002 was neither deposited by the transport co-operative societies nor demanded by the department. This resulted in non-payment of token tax of Rs.56.80 lakh. Besides, penalty upto Rs.1.14 crore was leviable.

On this being pointed out in audit, 8 DTOs accepted the observations involving Rs.49 lakh. DTOs Ambala and Yamunanagar further intimated between June and August 2002 that Rs.3.74 lakh out of Rs.10.89 lakh had been recovered and efforts were being made to recover the balance amount. The DTOs Hisar, Karnal, Rohtak, Rewari, Bhiwani and Faridabad intimated between March and September 2003 that steps to recover the amount of Rs.37.72 lakh were being taken. No reply had, however, been received from DTOs Kurukshetra and Narnaul in respect of remaining amount of Rs.8.18 lakh.

The matter was referred between March 2002 and January 2003 to Government; reply had not been received (December 2003).

* District Transport Officers, Ambala, Bhiwani, Faridabad, Hisar, Kurukshetra, Karnal, Narnaul, Rewari, Rohtak and Yamunanagar.

4.7 Short charging of driving licence fee

According to the notification issued in March 2001 by the Ministry of Road Transport and Highways and circulated in May 2001 by the Transport Commissioner, Haryana, driving licence fee is to be charged at the rate of Rs.150 for each class of vehicle.

Test-check of records of 5* Registering Authorities for the year 2001-02 revealed between January and March 2003 that 7,611 driving licences were issued for more than one class of vehicle but driving licence fee was charged at the uniform rate of Rs.150 only during the year 2001-02 and no driving licence fee had been charged separately for additional class** of vehicle. This resulted in short charging of fee of Rs.12.44 lakh.

On this being pointed out, Registering Authorities of Rewari and Kosli intimated between March and April 2003 that driving licence fee was rightly charged. This was not tenable as the Transport Commissioner, Haryana had specifically clarified in February and March 2002 that driving licence fee was to be charged @ Rs.150 for each class of vehicle separately. Replies from Registering Authorities, Jhajjar, Panipat and Samalkha had not been received till June 2003.

The matter was referred to Government in April 2003; reply had not been received (December 2003).

Entertainment Duty

4.8 Short/non-recovery of entertainment duty

Under the Punjab Entertainment Duty Act, 1955 and the Rules framed thereunder, as applicable to Haryana, the proprietor of a video house, exhibiting video-shows on payment, is required to make advance payment of entertainment duty on first day of each quarter at the rates prescribed by the Government from time to time. Under Government notification issued in March 1989, entertainment duty is payable on the basis of population (as per the latest census) of the town in which the video house is located in the prescribed manner. In case, the proprietor fails to pay the duty in advance, the Entertainment Tax Officer shall be competent to forfeit the whole or part of his security.

* Jhajjar, Kosli, Panipat, Rewari and Sonapat

** Class of vehicles: (i) Scooter/Motor Cycle, (ii) Jeep/Car, (iii) Tractor and other type of vehicles.

During test-check of records of the Deputy Excise and Taxation Commissioner (Entt.), Gurgaon (West) for the years 1999-2002, it was noticed in January 2003 that out of 13 video owners, 8* video owners paid entertainment duty of Rs.3.80 lakh on the basis of density of population as per 1991 census instead of Rs.6.00 lakh on the basis of census of 2001. The Deputy Excise and Taxation Commissioner did not raise demand at the revised rates resulting in short payment of entertainment duty of Rs.2.20 lakh during the year 2001-02. The remaining 5 video owners had not paid entertainment duty of Rs.4.50 lakh due from them between January 2000 to March 2002. Though duty was payable in advance, the video owners did not deposit the duty and DETC did not raise any demand or take action to adjust the amount from the security. This resulted in non/short-recovery of entertainment duty of Rs.6.70 lakh from 13 video owners.

On this being pointed out, the Department recovered Rs.0.45 lakh from two video owners in February 2003 and issued notices to all the other parties for effecting recovery.

The matter was referred to the Government in February 2003; reply had not been received (December 2003).

Purchase Tax

4.9 Non-recovery of purchase tax and interest

According to the notification issued in October 1977 under the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 and the rules framed thereunder, as applicable to Haryana, a sugar factory is required to pay tax of Rs.1.50 per quintal on purchase of sugarcane latest by 14th of the following month and send a monthly return to the Cane Commissioner in a prescribed format. In the event of default in payments or for belated payments, interest at 15 per cent per annum shall be charged for the period of default. The Act, further provides that all sums payable to Government, but not paid by the due date, shall be recoverable as arrears of land revenue.

During test-check of records of Assistant Cane Development Officer (ACDO), Panipat for the year 2001-02, it was noticed in April 2002 that an assessee purchased 2148986.15 quintals of sugarcane between November 2001 and March 2002. Purchase tax and interest of Rs 37.57 lakh though payable by the mill was neither deposited by the mill nor demanded by the Department. This resulted in non-recovery of purchase tax of Rs.32.23 lakh and interest of Rs.5.34 lakh till March 2003.

On this being pointed out in audit, Director, Agriculture intimated in August 2003 that a sum of Rs.9.69 lakh had been deposited by Co-operative

* Dhundahera (2 owners), Punhana (2 owners), Nuh (1 owner) and Sohna (3 owners).

Sugar Mill, Panipat and efforts were being made to get the balance amount of Rs.27.88 lakh recovered as arrears of land revenue. Further progress on action to recover tax as arrears of land revenue had not been intimated till December 2003.

The matter was referred to the Government in June 2003; reply had not been received (December 2003).

CHAPTER-V : Non-Tax Receipts

5.1 Results of Audit

Test-check of records of various offices of Co-operation Department conducted during the year 2002-2003, revealed non/short recovery of audit fee, non-redemption of dividend on share capital etc. amounting to Rs.58.36 crore in 10 cases as depicted below:

Sl. No.	Nature of irregularities	Number of cases	Amount (Rupees in crore)
1.	Review on "Receipts (other than interest) from Co-operative Societies"	1	56.81
2.	Non-redemption of share capital	8	1.36
3.	Non/short recovery of audit-fee	1	0.19
	Total	10	58.36

During the year 2002-2003, the Department accepted short recovery of Rs.52.75 crore in 8 cases which were pointed out during the year 2002-03. Besides, Rs.0.36 crore recovered in 120 cases pertained to earlier years.

A review relating to "Receipts (other than interest) from co-operative societies" involving Rs.56.81 crore highlighting important cases are mentioned in this Chapter. Of these, the Department accepted 8 audit observations involving Rs.52.75 crore and made part recovery of Rs.0.11 crore in 1 case.

Co-operation

5.2 Receipts (other than interest) from Co-operative Societies

Highlights

Out of 22,665 co-operative societies to be audited during the year 2001-02, 9,215 societies (41 per cent) remained unaudited as on 31 March 2002, of which 2,739 societies were not audited for more than 5 years.

(Paragraph 5.2.5)

Audit fee of Rs.55.50 lakh had been short recovered from 109 societies.

(Paragraph 5.2.9)

Audit fee of Rs.1.24 crore was charged/levied short due to incorrect computation of profit/application of rates.

(Paragraph 5.2.10 & 5.2.11)

Dividend of Rs.49.72 lakh declared on Government share capital was not deposited in Government accounts by 4 Societies. Besides, revenue of Rs.4.98 lakh was foregone by way of interest on account of non-deposit of dividend.

(Paragraph 5.2.12)

Potential earning of Rs.5.19 crore on account of dividend could not be realised as 32 profit earning societies did not declare dividend on Government share capital.

(Paragraph 5.2.13)

Non/belated fixation of terms and conditions for redemption of Government share capital resulted in non-redemption of share capital of Rs.30.63 crore. Besides, share capital of Rs.15.70 crore due for redemption upto 31 March 2002 had not been redeemed.

(Paragraph 5.2.15, 5.2.16 & 5.2.17)

Introductory

5.2.1 Under the Haryana Co-operative Societies Rules, 1989 framed under the Haryana Co-operative Societies Act, 1984, the Registrar Co-operative Societies (RCS) shall audit or cause to be audited by a person authorised by him, the accounts of every co-operative society at least once in each year. Apart from interest receipts on loans, revenue realised from the co-operative societies include realisation of audit fee and dividend on government share capital.

The co-operative societies are required to pay a fee to the Government for the audit of their accounts in accordance with the scale fixed by the RCS with the prior approval of the State Government in respect of each class of co-operative societies. The recovery of the audit fee is watched through the Audit fee register. The Act also provides that all sums due to Government including arrears of audit fee may, on a certificate issued by the RCS, be recovered as arrears of land revenue.

As per instructions issued by the Registrar Co-operative Societies in July 1988, the initial audit fee is assessed at the minimum rates fixed by the RCS. Thereafter, audit fee is finally assessed on the basis of audited accounts of the society. However, as per revised instructions issued in March 2001, audit fee is chargeable on the basis of profit and loss account of the Society at the close of the financial year on the prescribed norms subject to adjustments after audit of accounts. These instructions inter-alia contained the minimum and maximum audit fee payable by a society.

Further, the State Government issues sanctions to the RCS for investment by way of government contributions in the share capital of various co-operative societies. On these investments, dividend is payable to the Government. A register of dividend declared/deposited by co-operative societies is maintained in the office of the RCS.

There was, however, no provision in the Co-operative Societies Act, 1984 and Rules 1989 for levy of interest and penalty for non/belated payments of audit fee/dividend.

Organisational set up

5.2.2 The Registrar Co-operative Societies (RCS) being the Head of the Department, realises the audit fee and dividend on government's contributions towards share capital of co-operative societies. For this purpose, a separate audit wing headed by the Chief Auditor functions under the administrative control of the RCS. The Chief Auditor, who is assisted by the Assistant Registrar Co-operative Societies (ARCS) at the district and sub-divisional level, monitors the receipt of audit fee and dividend on

government shares to be realised from various societies through Audit Fee Register.

Audit objective

5.2.3 Detailed analysis of revenue receipts from co-operative societies for the period 1997-98 to 2001-2002 was conducted in audit to :

- ascertain whether budget estimates were framed on realistic basis and government revenue was credited to the proper head of account ;
- ascertain whether audit fee is fixed properly, and ascertain the extent of arrears in its realization ;
- ascertain timely receipt of dividends payable by profit earning co-operative societies ;
- ascertain whether sufficient safeguard exists for watching the retirement of share capital in the societies ;
- ascertain whether there are any lacunae in rules, procedures and internal controls.

Scope of Audit

5.2.4 Records of 18 (out of 32) ARCSs, alongwith records of Registrar, co-operative societies for the years 1997-98 to 2001-02 were test-checked between July 2002 and February 2003.

Audit in arrears

5.2.5 Under Section 95 of the Haryana Co-operative Societies Act, 1984, the RCS shall audit or cause to be audited by a person authorized by him, the accounts of every co-operative society at least once in each year.

Year-wise details of societies audited and those remaining un-audited at the end of each year during the years from 1997-98 to 2001-02 were as under:

Year	Total Number of societies in existence	Number of societies audited	Number of societies remained unaudited	Percentage of unaudited societies
1997-98	17,613	11,687	5,926	34
1998-99	18,532	11,890	6,642	36
1999-2000	22,887	13,405	9,482	41
2000-01	23,059	12,870	10,189	44
2001-02	22,665	13,450	9,215	41

Above table shows that percentage of unaudited societies ranged between 34 and 44. Out of 22,665 co-operative societies to be audited during the year 2001-2002, 9,215 Societies remained unaudited as on 31 March 2002. The age-wise position of these unaudited Societies was as under:

Period for which audit was pending	Number of societies
Above 5 years	2,739
Above 4 years but less than 5 years	1,705
Above 3 years but less than 4 years	2,130
Above 2 years but less than 3 years	1,303
Above 1 year but less than 2 years	1,338
Total	9,215

On this being pointed out, the RCSs stated in 7 February 2003 that audit of 5,408 labour and construction societies, transport societies, group housing societies, handloom societies and industrial societies could not be completed due to non-availability of records and 3807 societies remained unaudited due to shortage of staff.

Trend of revenue

5.2.6 The position of audit fee estimated and actually realised during the five years ending 2001-02 was as under:

Year	Budget Estimates	Actuals	Shortfall (-)/ excess (+) over budget estimates	Percentage
(Rupees in lakh)				
1997-98	365	215.77	(-) 149.23	(-) 41
1998-99	650	389.74	(-) 260.26	(-) 40
1999-2000	565	218.90	(-) 346.10	(-) 61
2000-01	635	337.73	(-) 297.27	(-) 47
2001-02	400	264.00	(-) 136.00	(-) 34

The shortfall in realisation of audit fee ranged between 34 and 61 *per cent*. This shows that estimates were not on realistic bases.

The Department stated that the estimates could not be realistic due to non-predictability of profit of the societies. The reply is not tenable as there had been shortfall in revenue receipts as compared to the budget estimates during all the preceding financial years. The Department should develop a system so that budget estimates are prepared in a more realistic manner.

Non-reconciliation of accounts

5.2.7 As per chapter 4 of the Consolidated circulars (Revised 1968) of the Co-operative Department, the audit fee deposited by the Department in treasury is to be reconciled every month by the ARCS with the treasury records. Further, reconciliation of the consolidated amount is to be done by the RCS office with the Accountant General (A&E).

A test-check of records for the year 2001-02 revealed that audit fee to the tune of Rs.2.49 crore had been misclassified under the Head '0425-Co-operation, 800-Other Receipts' instead of '0425-Co-operative, 101 Audit Fee'.

On this being pointed out in audit, the RCS stated in June 2003 that instructions were issued during October 1985 and November 1995 to the field staff for conducting reconciliation. However, the fact remained that departmental receipts continued to be misclassified and there was an urgent need for reconciliation of the accounts with the treasuries and with the Accountant General(A&E).

Arrears in realisation of audit fee

5.2.8 Section 104 of the Act *ibid* provides that all sums due to Government including arrears of audit fee may, on a certificate issued by the RCS, be recovered as arrears of land revenue. There was, however, no provision in the Act/Rules for levy of interest and penalty for non/belated payments of audit fee.

As per figures supplied in July 2002 by the Department, the arrears of audit fee pending collection at the end of last five years were as under:

Year	Outstanding at the end of Previous year	Demands raised during the year	Total realisable demand	Realisation	Arrears at the end of the year	Percentage of non-realisation to total realisable demand
(Rupees in lakh)						
1997-98	210.10	305.71	515.81	394.05	121.76	24
1998-99	121.76	506.10	627.86	504.02	123.84	20
1999-2000	123.84	440.62	564.46	330.80	233.66	41
2000-2001	233.66	398.79	632.45	493.80	138.65	22
2001-2002	138.65	543.63	682.28	551.44	130.84	19

Percentage of non-realisation of revenue to the total realisable revenue ranged between 19 and 41 *per cent*.

During test-check of records of the RCS office, it was noticed that out of Rs.1.31 crore, audit fee amounting to Rs.80.70 lakh, Rs.23.23 lakh and Rs.26.81 lakh remained outstanding for a period upto 5 years, 5 to 10 years and above 10 years respectively and the Department did not take any action to recover the outstanding balance as arrears of land revenue. Further, in the absence of any provision in the Act/Rules, revenue to the tune of Rs.45.49* lakh by way of interest was foregone by the State Government over these years.

On this being pointed out, the RCS stated in October 2002 that there was no such practice to recover the arrears under the Land Revenue Act. The reply was not tenable as the department could recover the outstanding amount of audit fee as arrears of land revenue under the provisions of the Haryana Co-operative Societies Act, 1984.

Short recovery of audit fee

5.2.9 Under the Haryana Co-operative Societies Rules, 1989 framed under the Haryana Co-operative Societies Act, 1984, every Co-operative Society is required to pay audit fee for the audit of its annual accounts by auditors of the Co-operative Department in accordance with the scales and rates fixed by the RCS with prior approval of the State Government. Further, the minimum audit fee as per scale and rates was to be assessed in the beginning of the year and was to be re-assessed on the basis of audited figures of profit and loss account at the end of the year.

* Interest calculated at the average rate applicable on borrowings of the State Government.

In 6* ARCS offices (out of 18 ARCS test-checked), it was noticed between July and September 2002 that audit fee amounting to Rs.51.25 lakh payable by 38 co-operative societies on the basis of audited accounts for the years 1997-98 to 2001-02 was neither assessed nor demanded by the Department. In respect of 71 co-operative societies which were running in loss, even the minimum audit fee amounting to Rs.4.25 lakh had not been recovered. This resulted in non-recovery of audit fee of Rs.55.50 lakh.

On this being pointed out, 5 ARCS (Kaithal, Kurukshetra, Narwana, Panipat and Yamunanagar) recovered Rs.11.49 lakh and stated between December 2002 and February 2003 that efforts were being made to recover the balance amount of Rs.39.76 lakh. No reply from ARCS, Gohana had been received (December 2003).

Short charging of minimum audit fee due to application of incorrect rates

5.2.10 Under the Haryana Co-operative Societies Rules, 1989, the rates of audit fee for concurrent** audit in respect of central co-operative banks (CCBs) were revised to 5 per cent of the net profit subject to minimum of Rs.5 lakh and maximum of Rs.12.50 lakh for the year 2001-02. Similarly, audit fee in respect of co-operative sugar mills was chargeable at the rate of 5 per cent of the net profit subject to minimum limits of Rs.30,000, Rs.45,000 and Rs.60,000 depending upon the crushing capacity of upto 1250 MT, upto 1,800 MT and above 1800 MT respectively.

During test-check of records of ARCS, Kurukshetra and Kaithal it was noticed between August 2002 and February 2003 that the Central Co-operative Bank at Kaithal was required to pay a minimum audit fee of Rs.5 lakh on the basis of net profit of Rs.78.71 lakh for the year 2001-02 against which the bank deposited Rs.3 lakh. In case of Shahbad Co-operative Sugar Mills, Shahbad (Kurukshetra) the crushing capacity of the mill was more than 1,800 MT for the years 1995-96, 1996-97 and 2000-01. The minimum audit fee payable for this period amounted to Rs.1.80 lakh against which only Rs.0.90 lakh was recovered. The mistakes resulted in short realisation of audit fee of Rs.2.90 lakh.

On this being pointed out, the ARCS, Kaithal and Kurukshetra accepted the audit observations and stated in August 2002 and February 2003 that demands were being raised against Central Co-operative Bank, Kaithal and the Shahbad Co-operative Sugar Mills. Further, report on recovery had not been received (December 2003).

* Gohana, Kaithal, Kurukshetra, Narwana, Panipat and Yamunanagar.

** Concurrent audit means checking of accounts as and when the transaction takes place. This audit is done immediately or as soon as possible after the occurrence of transaction

Short levy of audit fee due to incorrect computation of profit

5.2.11 The Haryana Co-operative Societies Act and Byelaws of the Co-operative Bank do not provide for any deductions from profit of the society on account of provisions for gratuity fund, education fund, ex-gratia (incentive) and bad and doubtful debts for working out audit fee.

During test-check of records of 8* ARCS, it was noticed between November 2002 and January 2003 that in the case of 8 central co-operative banks, audit fee for the years 1997-98 to 2001-02 was charged on the net profit after incorrectly deducting an amount of Rs.24.15 crore on account of gratuity fund, co-operative education fund, ex-gratia and bad and doubtful debts. This resulted in under-assessment of audit fee amounting to Rs.1.21 crore.

On this being pointed out, the Registrar Co-operative Societies admitted the mistake in May 2003 and directed the assessing officers to add back the deduction allowed incorrectly.

Non-deposit of dividend on State share capital

5.2.12 The Haryana Co-operative Societies Rules, 1989 read with model byelaws of the central co-operative banks (CCBs) provide that the net profit including dividend not exceeding 10 *per cent* shall be disposed of with the approval of the Registrar Co-operative Societies. Further, as per terms and conditions laid down in the sanction orders issued by the RCSs from time to time, every co-operative society shall give a suitable return to the Government, in the form of dividend on contribution of Haryana Government's share capital on the basis of resolutions passed by the Board of Directors. No time period has been fixed within which the dividend due is to be declared and approved by the RCS. Further, there is no provision for charging interest on delayed payment of dividend.

During test-check of records of 4** ARCS for the period 1998-1999 to 2000-2001, it was noticed between July 2002 to January 2003 that 4 central co-operative banks had been running in profit and their Board of Directors had passed resolutions between December 2000 and January 2003 for the payment of dividend which included Rs.49.72 lakh payable to the Government. The resolutions were forwarded to the RCS between December 2000 and January 2003. However, these had not been approved and the amount of Rs.49.72 lakh remained un-realised as on July 2003. Besides, Government had also forgone a revenue of

* ARCS Ambala, Faridabad, Gurgaon., Hisar, Mohindergarh, Rewari, Rohtak and Sirsa.

** Ambala, Gurgaon, Panipat and Yamunanagar.

Rs.4.98 lakh by way of interest (calculated at average borrowings rates of the State Government).

On this being pointed out, the ARCS stated that on receipt of approval from RCS, dividend would be got deposited from the concerned CCBs.

5.2.13 During test-check of records of the RCS and 15* ARCS, it was noticed between July 2002 to February 2003 that 32 Co-operative Societies were running in profit but their Boards of Directors did not declare any dividend for the years from 1998-99 to 2001-2002. This resulted in non-realisation of potential earnings of Rs.5.19 crore.

On this being pointed out, the RCS asked between July 2002 and February 2003, 3 co-operative societies to explain the reasons for not declaring the dividend for 2000-01. The ARCS, however, intimated that the matter regarding getting the dividend declared was being pursued/taken up with societies concerned.

Non-redemption of Government share capital

5.2.14 As per Haryana Co-operative Societies Act, 1984 the Government may, for any co-operative society or class of societies, make rules to carry out the purpose of the Act. Such rules may provide for the terms and conditions on which the Government may make share capital contribution. However, no such rules have been framed so far.

A test-check of records of the RCS and 12 ARCS offices revealed that no uniform system was followed by the department for fixing terms and conditions while issuing sanctions for investment of Share capital in co-operative societies. In some cases the terms and conditions were not fixed at all, while in some cases these were fixed late and in some cases, though fixed, redemption of share capital had not been made. These are discussed in the following paragraphs:

Non-redemption of Government share capital due to non-fixation of terms and conditions

5.2.15 During test-check of records of 11** ARCS offices it was noticed between July 2002 and February 2003 that share capital amounting to

* Ambala, Bhiwani, Faridabad, Gurgaon, Hisar, Jind, Kurukshetra, Kaithal, Mohindergarh, Narwana, Panipat, Rewari, Rohtak, Sonipat and Yamunanagar.

** Ambala, Faridabad, Gurgaon, Hisar, Jind, Kaithal, Mohindergarh, Panipat, Rohtak, Sonipat, and Sirsa.

Rs.27.07 crore was invested by Haryana Government upto 1998-99 in 20* banks/mills, with conditions that the share capital invested shall be retired according to such term and conditions as may be fixed by the State Government from time to time. But the Government did not fix the terms and conditions for the same. The banks/mills also did not redeem any amount of the share capital till April 2003. This resulted in non-redemption of Government share capital of Rs.27.07 crore. Age-wise analysis of the investment is given below:

Sl. No.	Period of Investment	Amount (Rupees in crore)
1.	Above 3 years but less than 5 years	1.76
2.	Above 5 years but less than 10 years	6.49
3.	Above 10 years but less than 12 years	3.97
4.	Above 12 years	14.85
	Total	27.07

On this being pointed out, the ARCS intimated between July 2002 and February 2003 that due to non-receipt of terms and conditions and Kisht Bandi (Statement of repayment schedule) from the Government/Registrar Co-operative Societies, the amounts could not be redeemed.

Non-redemption of Government share capital due to late fixation of terms and conditions

5.2.16 During test-check of records of 9 ARCS offices, it was noticed between July 2002 and January 2003 that share capital of Rs.8.76 crore was

* CCBs Ambala (Rs.150 lakh during 1956-57 to 1989-90 and 1993-94), Faridabad (Rs.91.27 lakh during 1979-80 to 1989-90 and 1991-92 to 1993-94), Hisar (Rs.101 lakh during 1987-88 to 1989-90 and 1991-92), Jind (Rs.140 lakh during 1966-67 to 1989-90 and 1991-92 to 1993-94), Kaithal (Rs.200 lakh during 1993-94 to 1995-96), Mohindergarh (Rs.120.89 lakh during 1972-73 to 1993-94), Rohtak (Rs.100.08 lakh during 1987-88 to 1988-89), Panipat (Rs.69.55 lakh during 1993-94 and 1997-98), Sirsa (Rs.142.74 lakh during 1989-90 and 1991-92 to 1992-93), PARDBs Ballabgarh and Faridabad (Rs.48 lakh during 1995-96 to 1997-98), Gurgaon (Rs 17.90 lakh during 1985-86 to 1998-99), Kaithal/Pundri/Kailayat/Guhla (Rs.95.20 lakh during 1979-80 to 1996-97) and Mohindergarh (Rs 138.93 lakh during 1972-73 to 1997-98). The Panipat Co-operative Sugar Mills, Panipat (Rs 176.41 lakh during 1957-58 to 1996-97), the Rohtak Co-operative Sugar Mills, Rohtak (Rs 909 lakh during 1988-89 to 1995-96 and the Sonipat Co-operative Sugar Mills, Sonipat (Rs 206 lakh during 1972-73 to 1996-97).

invested by the Government upto the year 1997-98 in 9* central co-operative banks (CCBs) and one co-operative sugar mill and the amounts were released by the RCS without fixing the terms and conditions in the sanction orders. Age-wise analysis of the investment is given below:

Sl. No.	Period of Investment	Amount (Rupees in crore)
1.	Above 3 years but less than 5 years	1.30
2.	Above 5 years but less than 10 years	5.67
3.	Above 10 years but less than 12 years	1.79
	Total	8.76

The terms and conditions for redemption of share capital were fixed/issued late, i.e. in December 2001 and January 2002 stipulating that the share capital would be retired in twelve years and the redemption would start from the expiry of third year. Scrutiny of records further revealed that out of this, share capital of Rs.3.56 crore had become due for redemption but the amount had not been redeemed. This resulted in blockage of revenue of Rs.3.56 crore.

The omission was pointed out but no reply had been received (December 2003) from the Department.

Non-redemption of Government share capital as per terms and conditions

5.2.17 During test-check of records of RCSs and 5** ARCs, it was noticed between July 2002 and January 2003 that share capital of Rs.19.19 crore was invested by the Government upto the year 1995-96 in 8*** co-operative

* CCB Ambala (Rs.121.23 lakh during 1990-91 and 1995-96), CCB Faridabad (Rs. 99.15 lakh during 1995-96), CCB Gurgaon (Rs.67.75 lakh during 1995-96), CCB Hisar (Rs.99 lakh during 1990-91 and 1995-96), CCB Jind (Rs.59.99 lakh during 1990-91 and 1995-96), CCB Mohindergarh (Rs.44.20 lakh during 1995-96), CCB Panipat (Rs.97.53 lakh during 1995-96), CCB Rohtak (Rs.1.00 crore during 1990-91 and 1995-96) and CCB Sirsa (Rs.57 lakh during 1990-91 and 1995-96).. The Panipat Co-operative Sugar Mills Panipat (Rs. 1.30 crore during 1997-98).

** Ambala, Bhiwani, Hisar, Rohtak and Sirsa.

*** Haryana Dairy Development Co-operative Federation: Rs.1.284.88 lakh, CONFED: Rs 548.11 lakh, Haryana State Co-operative Development Federation: Rs 16.10 lakh. The Bhiwani Central Co-operative Consumer Store Bhiwani: Rs 9.43 lakh. The Central Co-operative Consumer Store Rohtak: Rs 12.32 lakh. The Central Co-operative Consumer Store Hisar: Rs.19.12 lakh. The Central Co-operative Consumers Store Ambala Rs.17.37 lakh and Sirsa Rs.11.29 lakh.

societies. Age-wise analysis of the investment is as given below:

Sl. No.	Period of Investment	Amount (Rupees in crore)
1	Above 5 years but less than 10 years	2.10
2	Above 10 years but less than 12 years	2.29
3	Above 12 years	14.79
	Total	19.18

As per terms and conditions stipulated in the sanction orders, the entire amount of Rs.19.19 crore of share capital was to be redeemed in ten annual instalments commencing from the sixth anniversary of the grant of share capital. Out of Rs.19.19 crore, share capital of Rs.15.70 crore had become due for redemption upto 31 March 2002 but no amount had been redeemed till July 2003.

On this being pointed out in audit, the RCS/ARCS intimated between October 2002 and January 2003 that in case of three societies, the share capital could not be redeemed due to their weak financial position and efforts were being made to recover the due amount from the remaining 5* Societies.

Conclusion/Recommendations

5.2.18 The Department did not prepare budget estimate on realistic basis for audit fee receivable. In some cases audit fees were not credited to proper head of account. No reconciliation was done with the Accountant General (A&E). Besides, there was short realization of audit fees and non-redemption of government share capital in several cases. There was lack of control in monitoring recovery of government dues. The State Government may consider taking following steps to improve the effectiveness of the system :

- Budget estimates should be prepared on realistic basis and reconciliation of accounts got done with the Accountant General (A&E) for audit fees.
- Department should prescribe appropriate controls to ensure correct computation of audit fees.

Central Co-operative Consumer Stores Ambala, Bhiwani, Hisar, Rohtak and Sirsa.

- Levy of interest and penalty should be provided for non/belated payment of audit fee.
- A suitable mechanism should be put in place for ensuring prompt receipt of dividends from profit earning co-operative societies.
- Rules are required to be framed for prompt redemption/retirement of share capital in the societies.

The matter was referred to the Department and to the Government between July 2002 and February 2003.

CHAPTER-VI: Other Non-Tax Receipts

6.1 Results of Audit

Test-check of records in departmental offices relating to revenues of Home (Police), Fisheries, Public Works (Buildings and Roads, Public Health and Irrigation), Forest, Finance (State Lotteries and Guarantee Fee), Agriculture (Crop Husbandry), Medical, Animal Husbandry, Food and Supplies, Industries and Mines and Geology conducted in audit during the year 2002-2003, revealed under-assessments and losses of revenue amounting to Rs.178.28 crore in 3814 cases as depicted below:

Sl. No.	Name of departments	Number of cases	Amount (Rupees in crore)
1.	Home (Police)	50	8.97
2.	Fisheries	15	0.23
3.	Public Works Department (i) Buildings and Roads (ii) Public Health (iii) Irrigation	892 536 853	1.49 0.46 9.63
4.	Forest	50	2.29
5.	Finance (i) State Lotteries (ii) Review on "Receipts from guarantee fee"	35 1	4.61 136.95
6.	Agriculture (Crop Husbandry)	396	0.09
7.	Medical	168	0.09
8.	Animal Husbandry	35	1.51
9.	Urban Development Department	1	3.87
10.	Industry	3	0.01
11.	Mines and Geology	779	8.08
	Total	3,814	178.28

The Department accepted under-assessments/loss of revenue etc. of Rs. 140.48 crore in 116 cases pointed out during the year 2002-03. Besides, an amount of Rs.3.47 crore had been recovered in 344 cases during 2002-03 of which part recovery of Rs.1.43 crore recovered in 343 cases pertained to earlier years.

A few illustrative cases involving Rs.4.88 crore and a review on 'Receipts from guarantee fee' involving Rs.136.95 crore highlighting important cases are mentioned in this Chapter. Of these, the Department accepted 5 audit observations involving Rs.135.87 crore and made part recovery of Rs.2.54 crore in 2 cases.

Finance Department

6.2 Receipts from Guarantee Fee

Highlights

The state government had no systematic provision for levy/collection etc. of guarantee fee.

(Paragraph 6.2.1)

As against the increase of 32.75 per cent in state revenue during 1997-1998 to 2001-2002, the total outstanding guaranteed amount increased by 173 per cent, indicating the increase in contingent liabilities to a significant extent over same period.

(Paragraph 6.2.6)

Non-levy of guarantee fee in respect of boards/corporations/institutions resulted in short mobilization of resources of Rs.57.34 crore during 2000-01.

(Paragraph 6.2.8)

Guarantee fee of Rs.118.22 crore for the years 1994-95 to 2001-02 was short levied due to application of incorrect rate.

(Paragraph 6.2.9)

Four power corporations and twelve boards/corporations/co-operative banks/sugar Mills did not pay guarantee fee of Rs.13.11 crore.

(Paragraph 6.2.10 & 6.2.11)

Introductory

6.2.1 According to Article 293 (1) of the Constitution of India, a state government can give guarantee on the Consolidated Fund of the State to various lending institutions to assure them of repayment of loans made by them. The guarantees can be granted within such limit, if any, as may be from time to time fixed by the Legislature of such state by Law. Such guarantees constitute contingent liabilities of the state. However, no limit has been fixed for guarantees in the state. No systematic provision exists for levy, collection etc. of guarantee fee by the state government. Guarantee fees were collected

in respect of loans raised by 4* agencies only at the rate of 1/8 per cent of cash credit limit** up to 1993-94. This was revised to 1 per cent with effect from 1994-95. Further, the State Government decided in November 2001 to levy a guarantee fee at the rate of 2 per cent with effect from 1 August 2001 on all current borrowings of public sector undertakings (boards and corporations), co-operative institutions, local bodies etc. to be raised against state government guarantees. Guarantee fee was payable in lump sum on drawal of first instalment of loan in case the entire loan was to be drawn within the same financial year. In case where the loan was to be drawn in more than one financial year, guarantee fee was payable on drawal of first instalment of loan in the respective financial year. There was no provision for levy of interest and penal interest on belated/non-payment of guarantee fee.

Organisational set-up

6.2.2 Proposals for raising loans, and extending of guarantees chosen by the State Government are processed by the borrowing institutions/bodies and forwarded to the respective administrative department for issue of sanction orders after obtaining the approval and concurrence of the Finance Department. Resources Cell (Economic Research Analysis and Monitoring Unit with effect from April 2003) under Finance Department was responsible for maintaining the overall record/data of state guarantees given to financial institutions. The concerned administrative departments were required to ensure that guarantee fee on all loans raised against state guarantees etc. was invariably charged and properly accounted for.

Audit Objectives

6.2.3 Detailed analysis of levy and collection of guarantee fee, follow-up action for its collection and its impact on revenue for the period 1997-98 to 2001-02 was conducted in audit to :

- ascertain whether a proper system had been devised for framing of budget estimates and correct accountal of guarantee fee ;
- ascertain whether the amounts of guarantee fee were correctly assessed and promptly recovered ;
- ascertain whether sufficient internal controls existed to monitor receipts of guarantee fee ;

* Haryana Agro Industries Corporation, Haryana Co-operative Supply and Marketing Federation, Haryana State Co-operative Wholesales Stores Limited and Haryana Warehousing Corporation.

** Cash credit limit is the amount sanctioned/authorised by the Reserve Bank of India to the State Government on the value of the closing stock of food grains held by the state government/their agencies and is further allocated to Procuring Agencies for purchase of food grains based on the estimated procurement.

Scope of Audit

6.2.4 The records of Finance Department and 8 administrative departments in respect of 23 units which had raised loans with state guarantees between 1997-98 to 2001-02 were test-checked during the period September 2002 and March 2003.

Incorrect classification/non-collection of guarantee fee

6.2.5 Budget estimates in respect of guarantee fee were not being prepared by the Finance Department. Besides, no consolidated figure of guarantee fee received was available with the Department. However, information collected from Food and Supplies Department, revealed that guarantee fee of Rs.5.62 crore received during 1997-98 to 1999-2000 was credited to the capital head "4408 Capital Outlay on Food Storage and Warehousing, Procurement and Grain Supply Scheme Deduct Receipts and Recoveries on Capital Account" instead of the revenue head "0075 Misc. General Services" as detailed below:

Year	Actual receipts (Rupees in crore)
1997-98	2.39
1998-99	2.96
1999-2000	0.27
Total	5.62

On this being pointed out, the Department intimated in April 2003 that budget provision for guarantee fee would be made in the revised estimates for the year 2003-04. No reasons were given for not affording the credit of guarantee fee to the revenue head of account. No guarantee fee was deposited during the years from 2000-2001 and 2001-2002.

Government guarantees

6.2.6 Year-wise details of guarantees given by the Government for repayment of loans and payment of interest etc. raised by statutory corporations, co-operative societies/banks, government companies, public sector undertakings (PSUs) etc. for the year 1997-98 to 2001-02 was not made available. However, outstanding amount of guarantees at the end of each

financial year is given below:

Year	Maximum amount guaranteed	Outstanding amount of guarantees (Progressive totals)	Total revenue receipts of the State
(Rupees in crore)			
1997-1998	6,452.72	3,150.56	4,999.73
1998-1999	6,906.14	3,976.56	4,637.64
1999-2000	7,218.82	4,315.82	4,776.67
2000-2001	12,024.67	8,209.15	5,749.94
2001-2002	12,222.25	8,606.24	6,637.26

Above table shows that against an increase of 32.75 per cent (from Rs.4,999.73 crore to Rs.6,637.26 crore) in the State revenue receipts from March 1998 to March 2002, the maximum amount guaranteed increased by 89.41 per cent (from Rs.6,452.72 crore to Rs.12,222.25 crore) and the outstanding guaranteed amount by 173 per cent (from Rs.3,150.56 crore to Rs.8,606.24 crore). This indicated significant increase in contingent liabilities over this period. It was also noticed that no limit for granting guarantees by the State Government was fixed. Further scrutiny of records of the Department revealed as under:

Failure of internal control in the department

6.2.7 Guarantee register, Demand and Collection Register and Treasury Remittance Register which were important tools for monitoring the receipt of guarantee fee, had neither been maintained by the Finance Department nor by the administrative departments concerned. Finance Department had not evolved any system to ensure the proper assessment of guarantee fee recoverable and guaranteed amount outstanding at the end of the financial year against the loanees.

Scrutiny of records revealed that guarantees of Rs.8,606.24 crore were outstanding as on 31 March 2002 as per Finance Account (2001-02) whereas it was Rs.6,044.10 crore as per Memorandum Explanatory** of the Budget (2003-04). There was thus a difference of Rs.2,562.14 crore indicative of absence of effective control and monitoring of the guarantees given by the State Government.

* For details see statement No. 6 in the Finance Accounts of the Government of Haryana for the year 1997-98 to 2001-02.

** Memorandum Explanatory on the budget is prepared by the State Government under Article 202 of the Constitution in respect of every financial year relating to the estimated receipts and expenditure of the State for that year.

On this being pointed out, Finance Department directed in June 2003 the concerned heads of departments, Managing Directors of Haryana Vidyut Prasaran Nigam Limited and Haryana Power Generation Corporation to reconcile the accounts.

Revenue foregone due to non-levy of guarantee fee

6.2.8 It would be seen from the above table that guarantees of Rs.8,209.15 crore were outstanding as on 31 March 2001. Out of these, guarantee fee in respect of Rs.2,475* crore was levied in respect of 4 procurement agencies of Food and Supplies Department. No guarantee fee was levied in respect of other boards/corporations/institutions as guarantees were extended without levy of any guarantee fee. Based on the rate applicable to the 4 procuring agencies, guarantee fee of Rs.57.34 crore could not be levied. Thus, there was short mobilization of government resources to that extent during 2000-2001.

Short recovery of guarantee fee

6.2.9 The Finance Department issued in July 1996 and November 2001, instructions for collection of guarantee fee from Haryana Agro Industries Corporation, Haryana Co-operative Supply and Marketing Federation Limited (HAFED), Haryana Warehousing Corporation (HWC) and Haryana State Co-operative Wholesales Stores Limited (CONFED) on cash credit limit at a revised rate of one *per cent* and two *per cent* instead of 1/8 *per cent* with retrospective effect from 1-4-1994 and 1 August 2001 respectively.

During test-check of records of the Director, Food and Supplies Department it was noticed between November 2002 and February 2003 that the guarantee fee from the four procuring agencies was recovered for 1994-95 at the revised rate of 1 *per cent* except on a balance of Rs.0.64 crore (HAFED: Rs.0.11 crore and CONFED: Rs.0.53 crore). But, recovery of guarantee fee for the years 1995-96 to 2001-02 was made at the pre-revised rate of 1/8 *per cent*. This resulted in short recovery of guarantee fee of Rs.118.22 crore as detailed

* Cash credit limit sanctioned during 2000-2001 in favour of Haryana Agro Industries Corporation: Rs.325 crore, HAFED: Rs.1,500 crore, HWC: Rs.330 crore and CONFED: Rs.320 crore).

below:

Sl. No.	Name of the Unit	Cash credit limit (1-4-1994 to 31-7-2001)		Cash credit limit from 1-8-2001 to 31-3-2002		Total guarantee fee due (A+B)	Guarantee fee paid	Guarantee fee short paid
		Sanctioned	Guarantee fee due @ 1 per cent (A)	Sanctioned	Guarantee fee due @ 2 per cent (B)			
(Rupees in crore)								
1.	Haryana Agro Industries Corporation	1,751.50	17.52	115.00	2.30	19.82	2.04	17.78
2.	Haryana Co-operative Supply and Marketing Federation Limited (HAFED)	6,953.00	69.53	400.00	8.00	77.53	5.77	71.76
3.	Haryana Warehousing Corporation	1,506.10	15.06	130.00	2.60	17.66	1.45	16.21
4.	Haryana State Co-operative Wholesales Stores Limited (CONFED)	1,112.00	11.12	115.00	2.30	13.42	0.95	12.47
	Total	11,322.60	113.23	760.00	15.20	128.43	10.21	118.22

On this being pointed out, the Financial Commissioner and Principal Secretary, Finance Department instructed the Director, Food and Supplies Department in March 2003 to intimate the reasons for non-recovery of guarantee fee at revised rates. The Haryana Warehousing Corporation, however, intimated in June 2003 that out of Rs.16.21 crore, Rs.2.04 crore had been deposited in April 2003. Reply in respect of recovery of the balance amounts had, however, not been received (December 2003).

Non-deposit of guarantee fee by Power Corporations

6.2.10 The instructions issued by the Finance Department provide that guarantee fee was payable in lump sum on drawal of first instalment of loan in case the entire loan was to be drawn within the same financial year. In case where the loan was to be drawn in more than one financial year, guarantee fee was payable on drawal of first instalment in the respective financial year. Finance Department had directed, in April 2003 all the administrative departments concerned to maintain the Demand and Collection Register at their own level. Power Department was responsible for raising demand and watching the recovery of guarantee fee in its department.

During course of audit, it was noticed that loan of Rs.580.62 crore was guaranteed by the government during the period August 2001 to March 2002, out of which loan amounting to Rs.401.35 crore was drawn during this period. Thus, guarantee fee of Rs.8.02 crore was recoverable during the financial year 2001-2002 between August 2001 and March 2002. Though it was recoverable at the time of drawal of first instalment, it was neither paid by the Power Corporations nor demanded by the Secretary, Power Department responsible for disbursement of loan.

This was brought to the notice of the Department and the Government in November 2002, but their reply had not been received in July 2003. However, Financial Adviser (Headquarters), the Haryana Vidyut Prasaran Nigam Ltd. (HVPNL), Panchkula stated in December 2002 that the amount of guarantee fee would be got adjusted from the amounts payable by the State Government to such power utilities. Reply of the HVPNL was not tenable as the amount of guarantee fee was recoverable at the time of first drawal of the loan amount.

Non-recovery of guarantee fee from Public Sector Undertakings

6.2.11 State Government levied guarantee fee from August 2001 at the rate of 2 per cent on all current borrowings of Public Sector Undertakings (boards and corporations/co-operative banks/sugar Mills) to be raised from financial institutions with state government guarantee. The Government, however, reduced, between March and April 2003, the guarantee fee from 2 per cent to 0.1 per cent with retrospective effect from August 2001 in respect of Haryana State Co-operative Agriculture Rural Development Bank and Haryana State Co-operative Apex Bank Ltd., Chandigarh.

During the course of audit, it was noticed that twelve boards/corporations/co-operative banks/sugar mills raised loan of Rs.540.06 crore from August 2001 to March 2002 with guarantees given by the Government. The guarantee fee of Rs.5.09 crore was neither paid by the boards/corporations/co-operative banks/sugar mills nor demanded by the respective departments as shown below:

Sl. No.	Name of loanee organisation	Name of Department	Amount of guarantee provided	Amount of loan	Rate of guarantee fee (in percentage)	Amount of guarantee fee recoverable
			(Rupees in crore)			(Rupees in crore)
1.	Haryana Backward Classes and Economically Weaker Section Kalyan Nigam (HBCEWSKN)	Welfare of Scheduled Caste and Backward Classes	10.00	3.39	2	0.07

Sl. No.	Name of loaner organisation	Name of Department	Amount of guarantee provided	Amount of loan	Rate of guarantee fee (In percentage)	Amount of guarantee fee recoverable
			(Rupees in crore)			(Rupees in crore)
2.	Haryana Scheduled Caste and Finance Development Corporation (HSCFDC)	Welfare of Scheduled Caste and Backward Classes	15.00	1.42	2	0.03
Remarks: On the omissions being pointed out, Finance Department directed the department of Welfare of Scheduled Caste and Backward Classes in March and April 2003 to deposit the guarantee fee which had not yet been deposited (December 2003).						
3.	Haryana State (Roads and Bridges) Construction Corporation (HS CB)	Public Works (Buildings and Roads)	294.61	27.62	2	0.55
4.	Haryana Slum Clearance Board (HSCB)	Urban Development	3,618.23	36.26	2	0.72
Remarks: On the omissions being pointed out, the respective departments and Finance Department, the Finance Department directed Public Works (Buildings and Roads) and Urban Development departments in March 2003 to deposit the guarantee fee but the amount had not been deposited by them till July 2003. No reply in respect of other departments was received (December 2003).						
5.	Haryana State Co-operative Agriculture Rural Development Bank, Chandigarh	Co-operation Department	1,800.00	270.18	0.1*	0.27
6.	Haryana State Co-operative State Government Apex Bank Limited, Chandigarh	Co-operation Department	200.00	29.79	0.1*	0.03
Remarks: On the omissions being pointed out, the Finance Department directed the Co-operation Department in April and May 2003 to deposit the guarantee fee which was awaited (December 2003).						
7.	Co-operative Sugar Mills (Six**)	Co-operation Department	171.61	171.40	2	3.42
Remarks: On the omissions being pointed out, the Finance Department directed the Co-operation Department in April 2003 to deposit the guarantee fee which was awaited (December 2003).						
	Total		6,109.45	540.06		5.09

Conclusion/Recommendations

6.2.12 Budget estimates in respect of guarantee fee were not being worked out by the Finance Department. Besides, no consolidated figure of guarantee fee received was available with the Department. No internal control system existed as would be evident from the facts that important documents viz; guarantee register, demand and collection register and treasury remittance register which were important tools for monitoring the receipt of guarantee fee, had neither been maintained by the Finance Department nor by the concerned Administrative Departments. No guarantee fee was levied in

* Rate reduced by the State Government in March and April 2003 with effect from August 2001.

** Bhuna, Kaithal, Meham, Panipat, Rohtak and Sonipat.

respect of some boards, corporations, institutions due to absence of any provision.

The Government may consider taking following steps to improve the effectiveness of the system :

- Budget estimate should be prepared so that receipts of government dues are watched properly and analysed from time to time ;
- A system should be put in place to ensure that no government guarantee is extended without conditions for levy and collection of guarantee fee.
- A strong internal control system is required to be developed for levy and collection of guarantee fees. This would also include submission of returns from field offices to higher officers ;

The matter was referred to the Government in May 2003.

Public Works Department (Irrigation)

6.3 Utilisation of departmental receipts towards expenditure

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

During test-check of records of the Executive Engineer, Water Services Division, Dadupur, (Yamunanagar), it was noticed between April 1998 and April 2002 that departmental receipts on account of sale of tender forms, auction of fruit trees, toll tax charges and miscellaneous receipts etc. amounting to Rs.67.34 lakh collected by the Divisional office and three Sub-Divisions of Water Services Division during the years 1995-96 to 2001-02 were not deposited into treasury/bank but were utilised to meet departmental expenditure.

On this being pointed out in audit, the Department intimated between March 2002 and January 2003 that the revenue receipts were utilised for the safety of Dadupur/Tajewala Headworks and on urgent nature of works and the same would be deposited into government accounts on receipt of Letter of Credit (LOC) from the Government. Departmental reply was not tenable as utilisation of Government receipts towards departmental expenditure was in contravention of codal provisions.

The matter was referred to the Department and to the Government in December 2002. Further progress in the matter was awaited (December 2003).

Urban Development Department

6.4 Non-recovery of supervision charges

Under Haryana Municipal Act, 1973, as amended from time to time and orders issued in February 1982 by Haryana Government, each Municipal Committee (MC) is required to reimburse the annual cost of supervision charges to the Directorate of Local Bodies at the rate of one *per cent* of its income accrued during the preceding financial year from Municipal Fund to be created by it under the Act, *ibid*.

During test-check of records of the Director, Local Bodies (now Director, Urban Department), it was noticed in April 2000 that the contribution towards supervision charges amounting to Rs.3.87 crore due from various* Municipal Committees (MCs) for the years 1996-97 to 2001-2002 was neither paid by the MCs nor demanded by the Department. This resulted in non-recovery of government revenue amounting to Rs.3.87 crore.

On this being pointed out, the Director, Urban Development stated between October 2002 and January 2003 that an amount of Rs.20.37 lakh had been recovered and deposited into government treasury/bank and directions issued to all the Municipal Committees to deposit the supervision charges.

The matter was referred to the Government in May 2002; reply had not been received (December 2003).

Fisheries Department

6.5 Loss in fishing rights of notified waters

Under Haryana Fisheries Rules 1996, the rights of fishing in any water specified in the schedule or portion of such waters; are put to public auction by the auctioning authority on or after the first day of July each year. Rules further provide that in case the highest bid is below the average of the contract amount received during the previous three years, the auctioning authority may not accept the highest bid and re-auction the fishing rights. If the bid offered is not reasonable, the auctioning authority may cancel the auction and the fishing work be done departmentally or on royalty basis.

* 1996-97 (82 MCs), 1997-98 (75 MCs), 1998-99 (81 MCs), 1999-2000 (81 MCs), 2000-2001 (53 MCs) and 2001-02 (28 MCs).

Test-check of records of auction of notified waters in the State for the years 2001-02 and 2002-03 maintained in the office of the Director of Fisheries, Haryana, Chandigarh, revealed in November 2002 that fishing rights in 10* districts during 2001-02 and in 12** districts during 2002-03, out of 19 districts, were auctioned for Rs.25.27 lakh, much below the average of the contract amount of Rs.47.99 lakh received during the preceding three years, which resulted in loss of Rs.22.72 lakh.

On the matter being referred to the Government, the Financial Commissioner and Secretary to Government of Haryana, Fisheries Department admitted the facts and stated in May 2003 that the loss in fishing rights was due to circumstances beyond the control of the Department. The reply was not tenable as the department was supposed to take action for re-auction of the fishing rights but no such action was taken.

Forest Department

6.6 Non-realisation of sales tax

Under the HGST Act 1973, 'Sales' means any transfer of property in goods for cash or deferred payment or other valuable considerations. 'Goods' means all kinds of movable property; sale of trees (timber) is taxable at first stage of sale from 18 July 1997.

During test-check of records of five territorial divisions it was noticed between August 2002 and January 2003 that Divisional Forest Officers, (Rohtak, Mohindergarh, Karnal, Jind and Hisar) sold trees/timber valued at Rs.1.42 crore to Haryana Forest Development Corporation (HFDC) during the year 2001-02 on which sales tax amounting to Rs.11.33 lakh taxable at first stage of sale was not levied/realised. This resulted in non-realisation of sales tax amounting to Rs.11.33 lakh.

On the omission being pointed out, the Principal Chief Conservator of Forests intimated in April 2002 that Commissioner and Secretary, Excise and Taxation Department had been requested to issue notification regarding exemption from payment of tax. Reply of the Department is not tenable as tax is required to be paid as per the existing rules at the first stage.

* Faridabad, Fatehabad, Gurgaon, Hisar, Jhajjar, Jind, Mohindergarh, Rewari, Rohtak and Sirsa.

** Ambala, Faridabad, Fatehabad, Gurgaon, Hisar, Kaithal, Kurukshetra, Mohindergarh, Panchkula, Rewari, Sirsa and Yamunanagar.

The case was referred to Government in March 2003; reply had not been received (December 2003).



(ASHWINI ATTRI)

Accountant General (Audit) Haryana

Chandigarh

Dated: 28 JAN 2004

Countersigned



(VIJAYENDRA N. KAUL)

Comptroller and Auditor General of India

New Delhi

Dated: 06 FEB 2004

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