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COPY

**REPORT**  
**OF THE**  
**COMPTROLLER**  
**AND**  
**AUDITOR GENERAL OF INDIA**  
**FOR THE YEAR ENDED 31 MARCH 1990**  
**(REVENUE RECEIPTS)**

( No 1 of 1991 )

GOVERNMENT OF UTTAR PRADESH



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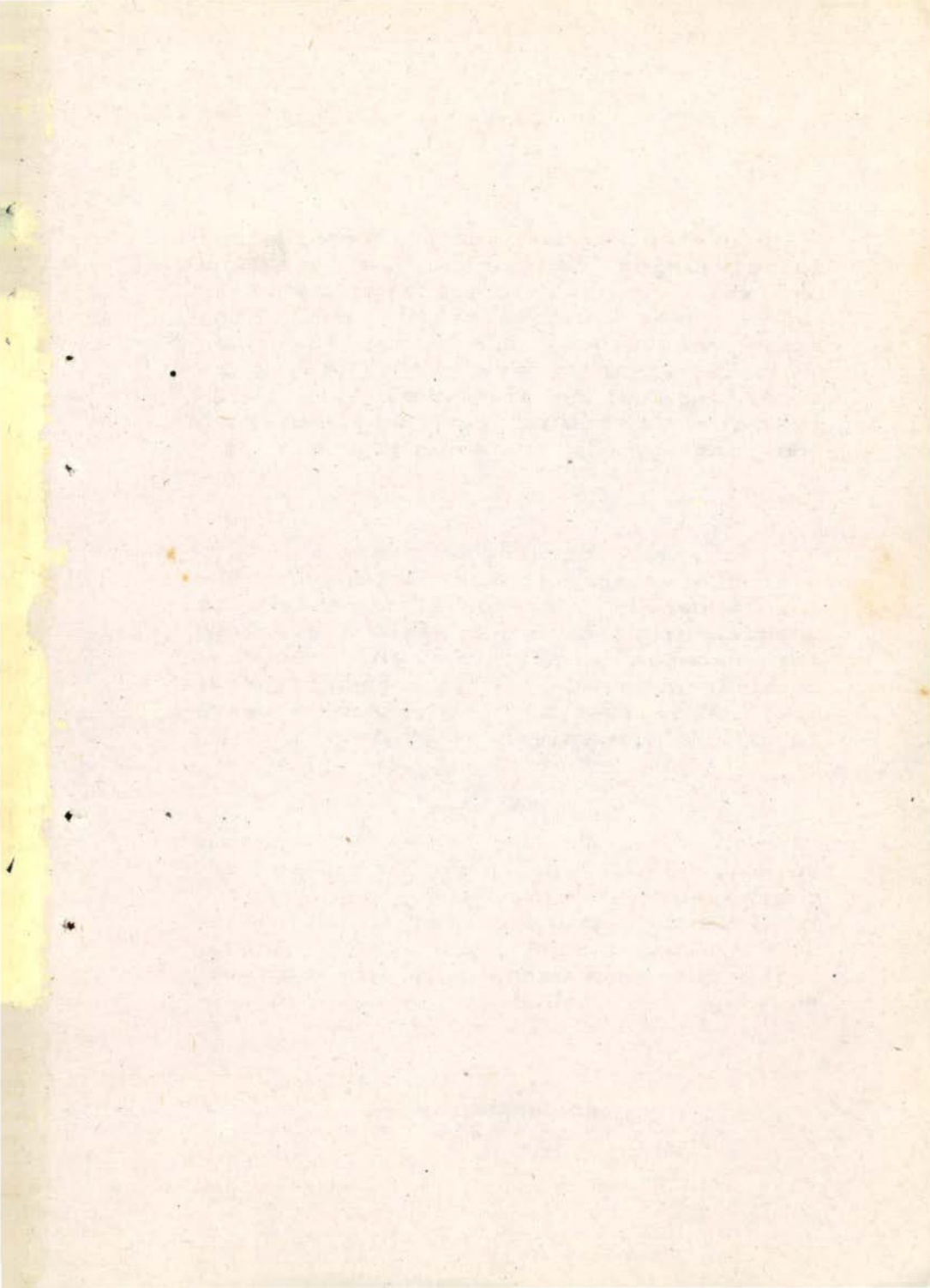
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## PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Uttar Pradesh for the year 1989-90 is presented in this separate volume (No. 1 of 1991). The material in the Report has been arranged in the following orders:

(i) Chapter 1 deals with trend of revenue receipts, classifying them broadly under tax revenue and non-tax revenue. The variations between the Budget estimates and actuals in respect of the principal heads of revenue, the position of arrears of revenue etc. are also discussed in this chapter.

(ii) Chapters 2 to 9 set out certain cases and points of interest which came to notice during the audit of Sales Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration fees, Land Revenue, Electricity Duty, Tax on purchase of Sugarcane, Entertainment and Betting Tax and Non-Tax Receipts.





## OVERVIEW

### 1. General

(a) The total revenue receipts of the Government of Uttar Pradesh for the year 1989-90 were Rs. 6623.17 crores. Of the total receipts Rs. 2448.58 crores (37 per cent) represent Tax revenue while Rs. 823.56 crores (12 per cent) relate to Non-tax revenue. Receipts from Government of India, as grants-in-aid and share of Union taxes amounted to Rs. 3351.03 crores (51 per cent). There was an over-all increase of 17 per cent in the total revenue receipts during 1989-90 over that of 1988-89 as against 6 per cent rise during 1988-89 over previous year 1987-88. The major increase in states own tax revenue was in Sales Tax (30 per cent), State Excise (25 per cent) and Stamp Duty and Registration (23 per cent) while there was a decline in the collection of tax on Sale of Motor Spirits, Lubricants etc. (45 per cent), Electricity Duty (18 per cent) and Taxes on Vehicles (12 per cent) during 1989-90 as compared to 1988-89.

[Paras 1.1 and 1.2]

(b) The arrears of Sales Tax went up from Rs. 951.46 crores as at the end of 1988-89 to Rs. 1151.37 crores at the

(xii)

of the annual collection for that year.

[Para 1.6]

(c) There was a perceptible tendency to finalise assessments just before they became time-barred. Thus 54 per cent of the total Sales Tax assessments (4.09 lakhs) finalised during 1989-90 were those which would have become time-barred in the next financial year. Similarly, demands raised during the last quarter (January to March 1990) (Rs. 344.49 crores) far exceeded that of the preceding three quarter put together (Rs. 18.32 crores).

[Paras 1.5 (b) and (c)]

(d) As a result of test audit conducted during 1989-90, under assessments and loss of revenue aggregating Rs. 46.05 crores was noticed. These related to Sales Tax (Rs. 9.58 crores), State Excise (Rs. 1.07 crores), Taxes on Vehicles, Goods and Passengers (Rs. 1.25 crores), Stamp Duty and Registration Fees (Rs. 0.51 crore), Land Revenue (Rs. 1.41 crores), Forest Receipts (Rs. 20.91 crores) and other Tax and Non-Tax Receipts (Rs. 11.32 crores).

(e) This report includes audit findings involving financial effect of Rs. 79.53 crores, noticed during test check in 1989-90 and earlier years. Of this, under assessments of Rs. 2.62 crores



(xiii)

were accepted by the departments, out of which Rs. 0.17 crore was recovered till April 1991. The departments did not accept the audit findings in respect of Rs. 0.94 crore, which position along with further comments have been incorporated in the relevant paragraphs. For audit observations involving Rs. 64.72 crore, final replies have not been received.

(f) 2256 Audit inspection reports with money values of Rs. 108.11 crores, issued upto December 1989 were outstanding for settlement at the end of June 1990.

[Para 1.8]

## 2. Sales Tax

(a) A review of the functioning of 13 check posts (out of 49 check posts in the State) disclosed that absence of check post on certain important highways and at strategic points reduced the effectiveness of the system.

-- The quantum of physical verification of goods in transit was not adequate (less than on per cent) which reduced its deterrent value.



(xiv)

-- seized goods, valuing Rs. 76.23 lakhs were lying undisposed for 1 to 16 years;

[Para 2.2.8]

-- Heavy cash realisation at the check posts were not being deposited into the treasury regularly.

[Para 2.2.12]

(b) Another review on 'Arrears of Sales Tax' brought out that the procedure and mechanism of recovery of arrears were not effective. Thus only 4.53 per cent of the total collection made during the year 1988-89 pertained to collection of arrears. Though the total arrears came to Rs. 951.46 crores on 31 March 1989, nearly 84 per cent of the recovery certificates issued upto 1989-90, in six districts) could not be acted upon for want of necessary particulars.

[Par 2.3.5(3) 2.3.6. & 2.3.7]

Among other things, the Report also includes cases of the following nature:

(xv)

-- A dealer at Lucknow evaded tax due amounting to Rs. 42.75 lakhs from 1977-78 to 1984-85; by recourse to dilatory tactics including absenting himself at the time of assessments but resorting to appeals repeatedly.

[Para 2.3.8(i)(a)]

-- Even though a dealer had submitted forged challans and had heavy arrears outstanding against him, declaration forms as would enable him to avail of various tax concessions covered by such declaration forms were continued to be issued which ultimately led to loss of revenue of Rs. 18.91 lakhs.

[Para 2.3.8.(i)(b)]

-- Sales Tax dues of Rs. 35.05 lakhs of a company were declared irrecoverable by the department in May 1977 even though the company had assets worth 60 lakhs and its case for liquidation was pending before the court.

[Para 2.3.8(i)(d)]

-- In 3 cases, Sales Tax dues of Rs. 68.49 lakhs could not be realised due to delay in assessment, since the dealers concerned had closed their business by the time the demands were raised and pursued.

[Para 2.3.9]



(xvi)

-- Due to lack of co-ordination between Sales Tax and State Excise departments, sales tax dues amounting to Rs. 93.72 lakhs from three licensees of IMFL, who were unregistered dealers could not be collected in 3 cases in Varanasi and Kanpur district.

[Para 2.3.10]

(c) In Moradabad, a dealer transferred on consignment basis, acid monomer worth Rs 1.09 crores, manufactured out of raw material purchased at concessional rate of tax. On the omission being pointed out in audit that tax concession was not available on goods transferred on consignment, penalty of Rs 21.75 lakhs was imposed by the Department.

[Para 2.4(c)(i)]

(d) On audit pointing out that the declaration forms submitted by a dealer in Kanpur and admitted in assessment were incomplete and defective, the department verified the position and found that the forms were forged ones, and raised an additional demand for Rs. 4.06 lakhs.

[Para 2.8.A(i)]

(e) In Kanpur, a dealer purchased dressed leather (which is liable for tax at the point of sale to the



(xvii)

consumers) for Rs. 247 lakhs tax-free, during the years 1983-84 to 1986-87, on the basis of declaration forms, but manufactured "shoe uppers" out of it, for which he was liable to pay purchase tax amounting to Rs. 9.09 lakhs, which was omitted to be imposed.

[Para 2.11.A(i)]

### 3. State Excise

(a) At Unnao, delay in cancellation of licence and reauction of four liquor shops led to loss of revenue amounting to Rs 6.48 lakhs.

[Para 3.3(a)]

(b) In the case of export of Indian made foreign liquor by a distillery at Saharanpur to Delhi, duty was levied on the basis of minimum prescribed strength as indicated on labels, instead of on the actual strength indicated by the hydrometer, resulting in under assessment of duty amounting to Rs 4.12 lakhs.

[Para 3.4]

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

(a) A review of the 'assessment and collection of taxes owned by the Uttar Pradesh State Road Transport

(xviii)

Corporation' disclosed major discrepancy between the figures of tax remittance as per the claims of the corporation and those of the department, the difference amounting to Rs. 370.70 lakhs to the detriment of revenue during the period from 1984-85 to 1988-89.

-- passenger tax amounting to Rs. 44.89 lakhs due from the Corporation in respect of vehicles hired by one party for various periods between 1981 and 1988 was neither demanded by tax officers, nor paid by the Corporation;

[Para 4.2.6]

-- loss of revenue on account of non-realisation of permit fee from 3000 vehicles of the Corporation deployed to carry passengers during *Kumbh Mela* in 1989, amounted to Rs. 15 lakhs.

[Para 4.2.7]

(b) Non-levy of passenger tax on the basis of minimum fare as fixed by the State Transport Authority resulted in loss of revenue of Rs. 6.85 lakhs in Varanasi region and Bahraich sub-region.

[Para 4.3.A.(i)(ii)]



(xix)

5. Electricity Duty and Tax on Purchase of Sugarcane.

A factory at Meerut accumulated arrears of Rs 115 lakhs under a moratorium granted to it by an executive order of 1984, issued by the Industries Department, which was not covered by any provision in the relevant Act or Rules.

[Para 7.4(c)]

6. Forest Receipts

(a) A review on "Forest Offence cases" revealed the following:

-- despite incurring an expenditure of Rs 374.08 lakhs on Forest Protection and Intensification of Forest Management schemes launched in 1974-75 and 1981-82 respectively, the scheme had no visible impact on curbing the offence cases and the number of forest offence cases registered as only marginally less in 1988-89 as compared to 1981-82.

[Para 8.2(1)]

-- during 1980 to 1989, 26,560 trees of various species valuing Rs 15.46 lakhs were felled illicitly by poachers; but due to failure to detect



(xx)

these fellings in time, cases were not registered or investigated.

[Para 8.2(7)]

-- between 1968-69 and 1988-89, 15,417.70 hectares of forest land in nine divisions were encroached upon due to failure of the forest department. In one division (Terai East Division, Haldwani), it was noticed that 36,846 trees valuing Rs 10.99 lakhs were felled illicitly.

[Para 8.2.16]

(b) A paper mill extracted and exported 85,311 volumetric tonnes of eucalyptus wood in 1980-81 against 75,000 volumetric tonnes sanctioned to it at concessional rate, resulting in short levy of royalty amounting to Rs 27.82 lakhs on the wood extracted in excess.

[Para 8.3]

(c) Terai Anusuchit Janjati Vikas Nigam, appointed by Government to collect Tendu leaves for 1988 season did not pay royalty and sales tax amounting to Rs 275.64 lakhs, due to the Government.

[Para 8.5]

## CHAPTER-1

### GENERAL

#### 1.1 Trend of revenue receipts

The total revenue receipts of the Government of Uttar Pradesh for the year 1989-90 were Rs.6623.17 crores, against the anticipated receipts of Rs.6010.01 crores. Increase in total receipts during the year over the receipts of 1988-89 (Rs.5652.20 crores) was 17 per cent as against the corresponding rise of 6 per cent during last year. Of the total receipts of Rs.6623.17 crores, revenue raised by the State Government amounted to Rs.3272.14 crores, of which Rs. 2448.58 crores represented tax-revenue and the balance Rs.823.56 crores non-tax revenue. Receipts from the Government of India amounted to Rs.3351.03 crores.

#### 1.2 Analysis of revenue receipts

##### (a) General analysis

An analysis of the revenue receipts for the year 1989-90,

(1)

(2)

alongside those for the preceding two years, is given below:

1987-88    1988-89    1989-90  
(in crores of rupees)

I. Revenue raised  
by the State  
Government-

(a) Tax revenue	1,988.66	2,065.74	2,448.58
(b) Non-tax revenue	631.39	704.65	823.56
	-----		
	2,620.05	2,770.39	3,272.14

II. Receipts from the  
Government of India-

(a) State's Share of divisible Union taxes	1,786.79	1,766.09	2,301.01
(b) Grants in-aid	925.09	1,115.72	1,050.02
	-----		
	2,711.88	2,881.81	3,351.03*

III. Total receipts  
of the State  
(I+II)

---

\*For details please see Statement  
No.11- Detailed Account of Revenue by  
Minor Heads in the Finance Account of  
Government of Uttar Pradesh 1989-90



(3)

IV. Percentage of 49 49 49  
I to III

(b) Tax revenue raised by the State Government.

Receipts from tax-revenue (Rs. 2448.58 crores) during the year 1989-90 constituted 75 per cent of the State's own revenue receipts (Rs. 3272.14 crores) and registered an increase of 19 per cent over the receipts of the previous year 1988-89 viz., Rs.2065.74 crores.

An analysis of tax revenue for the year 1989-90 and for the preceding two years is given below

Revenue Head	1987-88	1988-89	1989-90	Increase(+) or Decrease(-) in 1989-90 with reference to 1988-89
(1)	(2)	(3)	(4)	(5)
(in crores of rupees)				
1. Sales Tax	799.42	947.00	1,235.30	(+ )288.30 (30)

## (4)

2. State Excise	494.15	338.24	422.13	(+)83.89 (25)
3. Stamps and Registration	250.33	251.77	310.17	(+)58.40 (23)
4. Taxes on Goods and Passengers	108.23	125.07	135.27	(+)10.20 (8)
5. Taxes on Vehicles	51.12	89.84	79.30	(-)10.54 (12)
6. Tax on Sale of Motor Spirits and Lubricants	117.23	116.03	141.17	(-)51.86 (45)
7. Land Revenue	35.75	35.77	53.16	(+)17.40 (49)
8. Taxes and Duties on Electricity	41.78	62.00	50.98	(-)11.02 (18)
9. Tax on Purchase of Sugarcane	37.38	27.18	37.93	(+)10.75 (39)
10. Other Taxes on Income and Expenditure	0.02	0.01	0.05	+0.04 (400)
11. Taxes on Immovable Properties other than Agricultu- ral Land	0.13	0.07	0.01 (86)	(-)10.06

12. Other Taxes and Duties on commo- dities and Services-	53.12	72.76	60.11	(-12.85 (17)
Total	1988.66	2065.74	2448.56	382.84 (19)

(In the last column, figures within brackets denote percentage)

There has been substantial increase under the heads Land Revenue (49 per cent), Stamps and Registration (23 percent), State Excise (25 percent), Sales Tax (30 percent) and Taxes on Purchase of Sugar Cane (39 percent). On the other hand there has been substantial decrease in receipts on Sales of Motor Spirits and lubricants (45 percent) besides short fall in Electricity Duty (18 percent), Entertainment Tax (17 percent) and Taxes on vehicles (12 percent).

The growth of Tax Revenue during the Seventh Plan period i.e. 1985-86 to 1989-90 is exhibited graphically in chart I.

### (c) Non-tax revenue of the State.

Receipts from non-tax revenue (Rs. 823.56 crores) during the year 1989-90 constituted 25 per cent of the State's own revenue receipts (Rs. 3272.14 crores) and registered an increase of 17 per cent over the receipts of the previous year 1988-89 (Rs. 704.65 crores) as against the rise of 12 per cent last year.



(6)

Break-up of non-tax revenue for the year 1989-90 alongwith the figures for preceding two years in respect of departments having receipts of more than 10 crores is given below:

Revenue Heads	1987-88	1988-89	1989-90	Increase(+) or decrease(-) in 1989-90 with reference to 1988-89
(1)	(2)	(3)	(4)	(5)
	(in crores of rupees)			
1. Interest-Receipts	295.58	234.54	281.68	(+)47.14 (20)
2. Miscellaneous General Services	66.60	106.67	138.37	(+)31.70 (30)
3. Forestry and Wild Life	100.80	78.18	92.14	(+)13.46 (17)
4. Education, Sports, Art and Culture	21.02	16.33	44.95	(+)28.62 (75)
5. Energy Department	0.02	43.03	44.72	(+)1.69 (4)
6. Major and Medium Irrigation	17.16	30.39	38.62	(+)8.23 (20)
7. Medical and Public Health	14.93	9.16	21.16	(+)12.02 (131)

(7)

8. Other Administrative Services	11.22	15.38	30.85	(+)15.47 (36)
9. Non-ferrous Mining and Metallurgical Industries	7.71	27.05	16.56	(-)10.49 (39)
10. Public Works	7.22	13.01	13.73	(+)10.72 (-)
11. Minor Irrigation	11.60	16.30	12.06	(-)14.24 (26)
12. Other Social Services	3.31	6.43	12.05	(+)15.82 (87)
13. Police	9.05	16.39	11.76	(-)14.63 (28)
14. Roads and Bridges	7.74	10.21	10.79	(+)10.56 (1)
15. Crop Husbandry	9.72	15.51	10.02	(-)15.49 (35)
16. Others	47.71	66.07	11.05	(-)10.02 (15)
Total	631.39	704.65	610.53	(-)118.98 (17)

There has been abnormal rise in receipts under the heads Education, Sports, Art and Culture (175 per cent),

Medical and Public Health (131 per cent) and other Social services (87 per cent), other important contributors in the overall growth of 17 per cent being Miscellaneous General Services (30 per cent) and Interest Receipts (20 per cent). Notable fall in receipts were under the heads Non-Ferrous Mining and Metallurgical Industries (39 per cent), Minor Irrigation (26 per cent), Police (28 per cent) and Crop Husbandry (35 per cent).

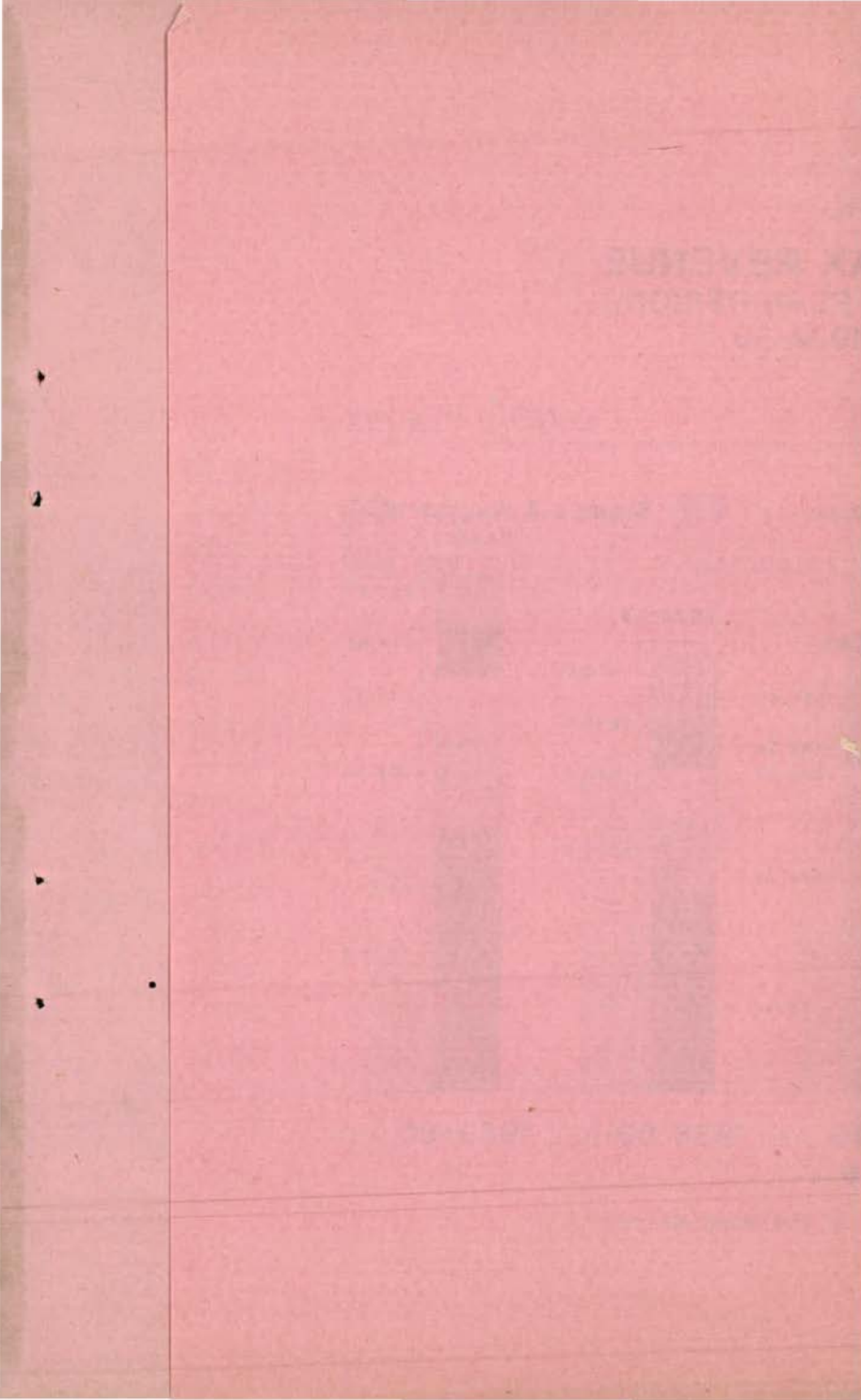
The growth of Non-tax Revenue during the Seventh Plan period i.e. 1985-86 to 1989-90 is exhibited graphically in chart II.

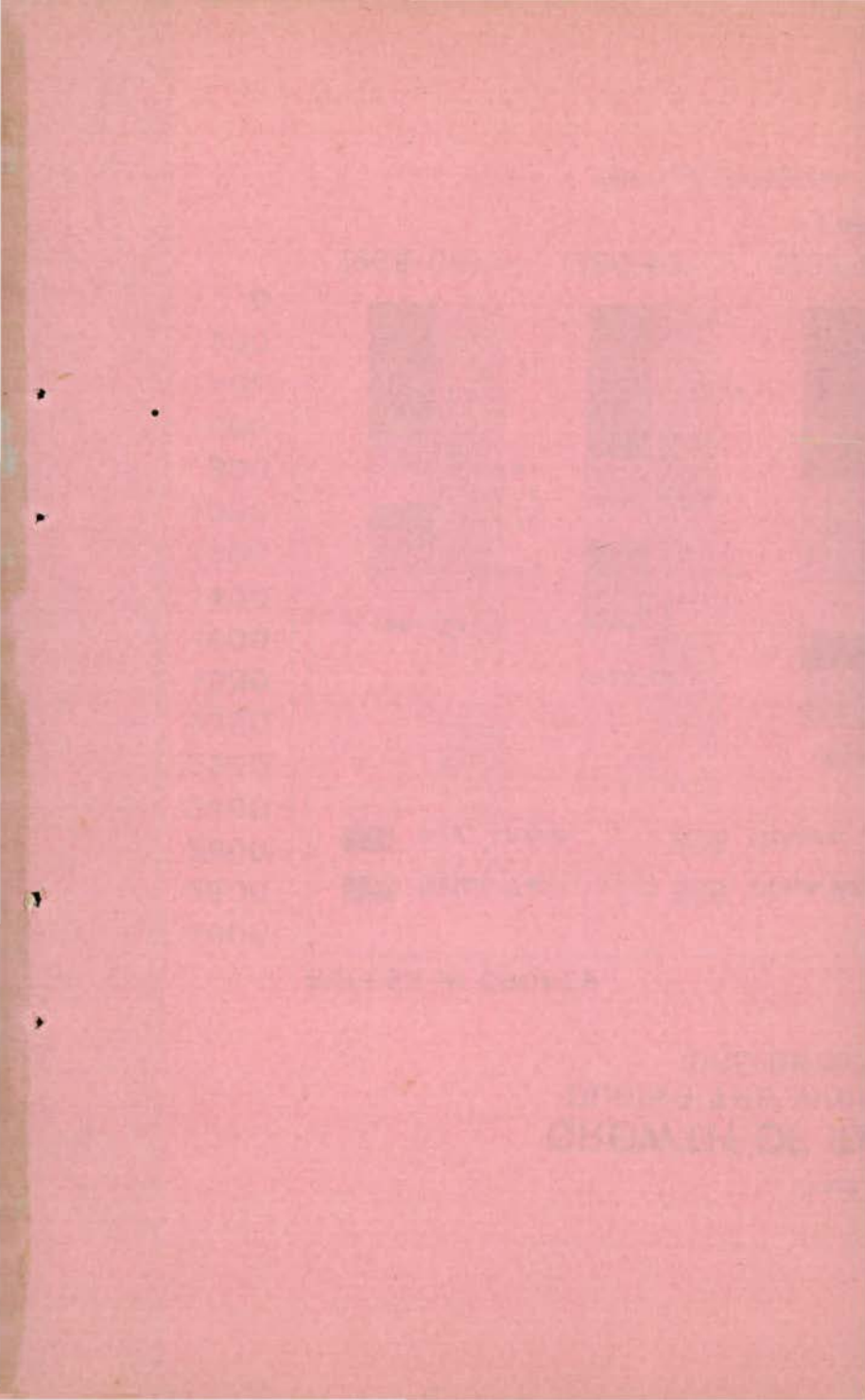
### 1.3 Variations between Budget estimates and actuals

(a) The variations between Budget estimates and actuals of tax revenue and non-tax revenue during the year 1989-90 are given below:

	Budget Estimates	Actuals	Vari- tion Increase(+) or Shortfall(-) of varia- tion	Per cen- tage of varia- tion
(In crores of rupees)				
A. Tax Revenue	2059.02	2448.61	(+)389.59	19
B. Non-Tax Revenue	745.84	823.53	(+)77.69	10

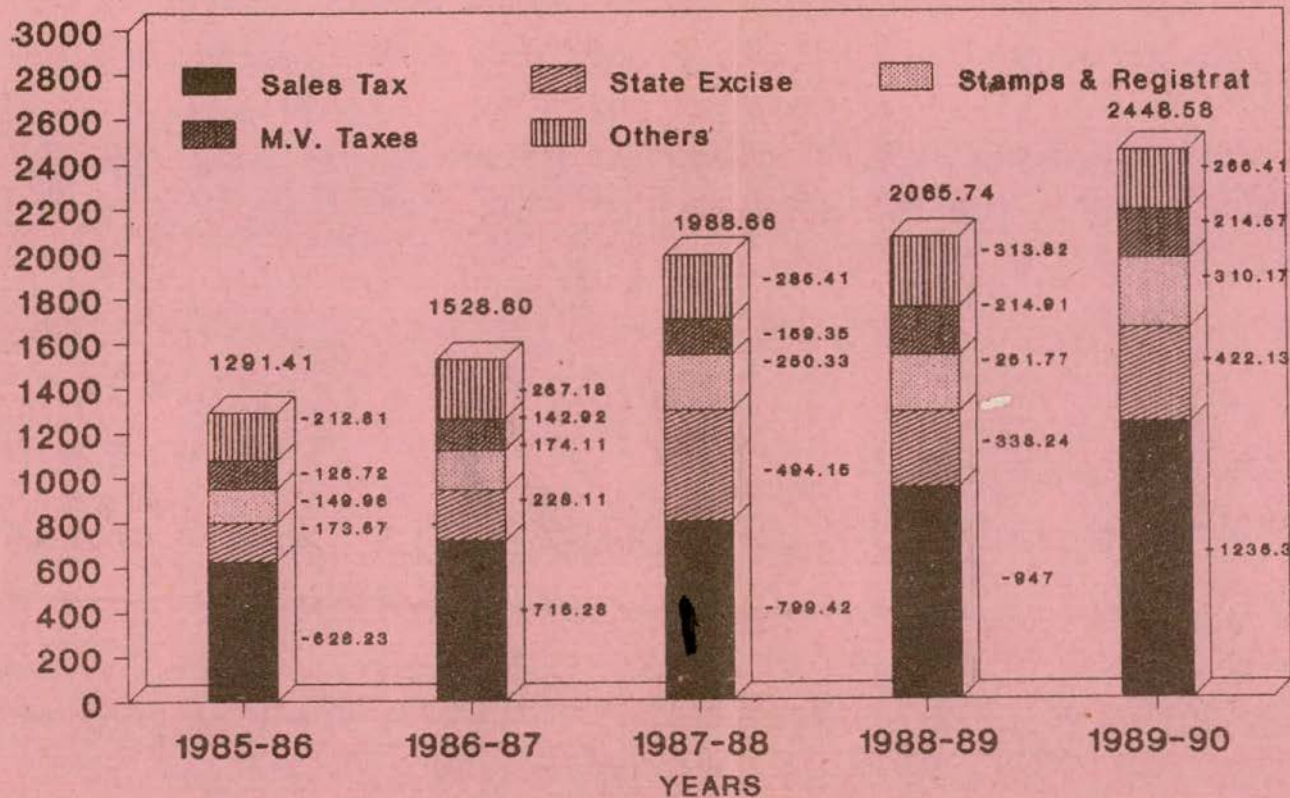




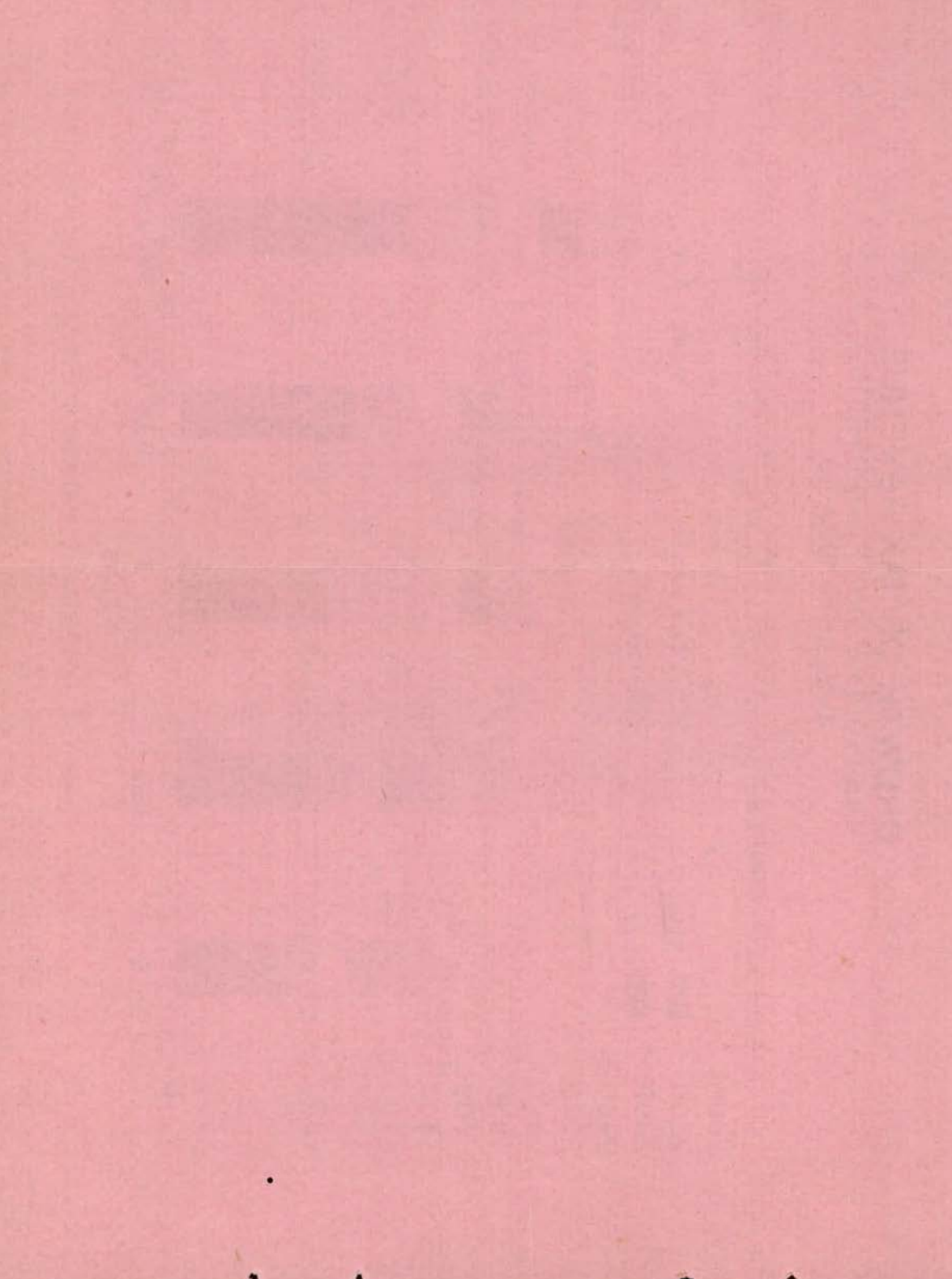


# **GROWTH OF TAX REVENUE DURING THE VIIth PLAN PERIOD 1985-86 to 1989-90**

RUPEES IN CRORES

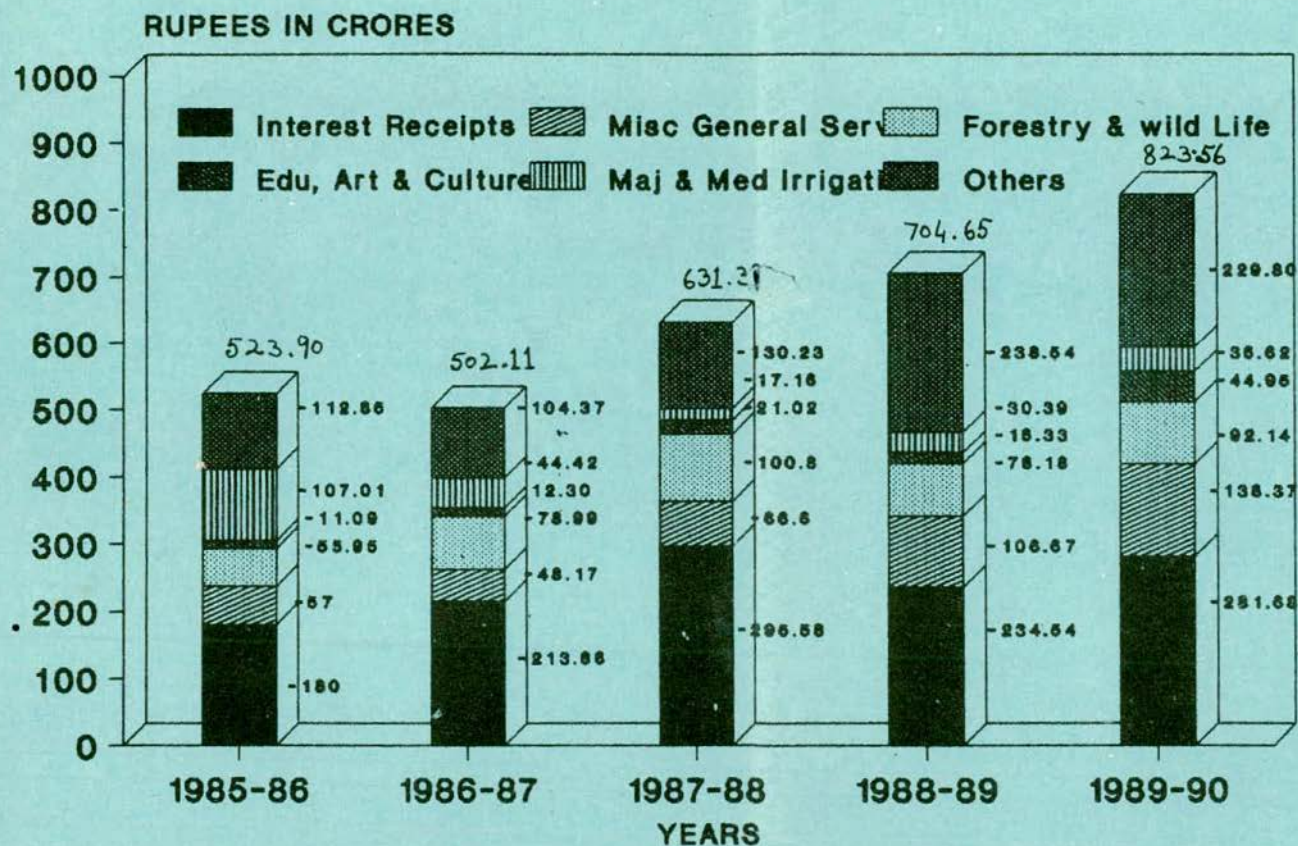




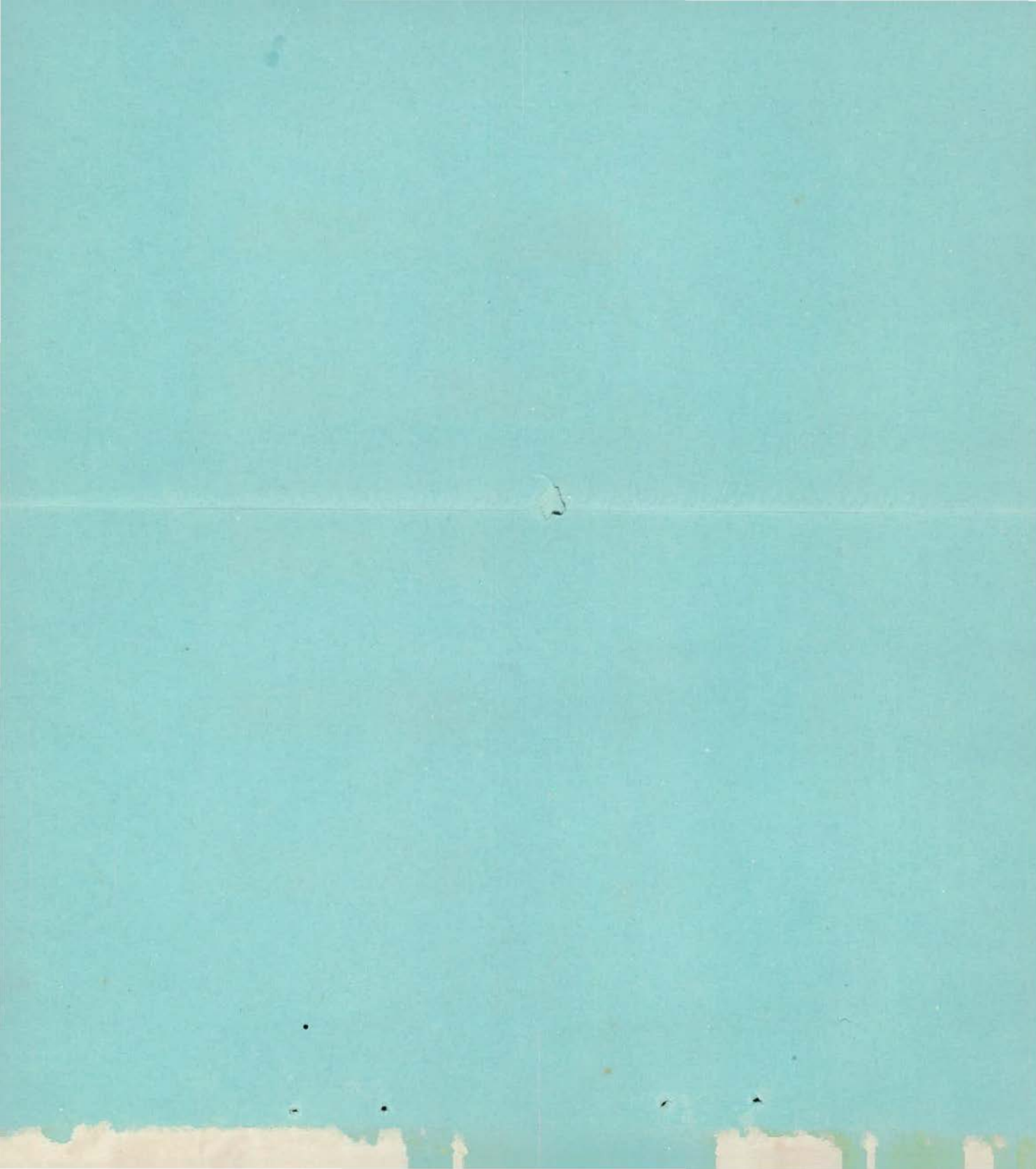


8-B  
Chart II

# GROWTH OF NON-TAX REVENUE DURING THE VIIth PLAN PERIOD 1985-86 to 1989-90



[Reference: Paragraph 1.2(c); Page No. 8]





(9)

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

Revenue Head	Budget esti- mates	Actuals	Vari- tion Increase (+)/short fall(-)	Per cen tage of varia- tion
(1)	(2)	(3)	(4)	(5)
(In crores of rupees)				
<i>A. Tax Revenue</i>				
1. Sales Tax	1011.28	1235.30	(+)224.02	22
2. State Excise	428.19	422.13	(-)6.06	1
3. Stamps & Registration	261.54	310.17	(+)48.63	19
4. Taxes on Goods and Passengers	135.21	135.27	(+)0.06	--
5. Taxes on Vehicles	79.02	79.30	(+)0.28	--
6. Tax on Sale of Motor Spirits and Lubricants	132.03	64.17	(-)67.86	51

7.	Other Taxes and Duties on commodities and Services-Entertain- ment tax.	60.45	60.11	(-10.34	1
8.	Land Revenue	30.00	53.16	(+)23.16	77
9.	Taxes and Duties on Electricity	42.72	50.98	(+)18.26	19
10.	Tax on Purchase of Sugarcane	28.52	37.93	(+)9.41	33

*B. Non-Tax Revenue*

11.	Interest Receipts	306.43	291.60	(-)24.75	8
12.	Misce- llaneous General Services	127.05	138.37	(+)11.32	9
13.	Forestry & Wild Life	73.24	92.14	(+)18.90	26
14.	Education, Sports, Art and Culture	30.16	44.95	(+)14.80	49

15. Power	Nil	44.72		
16. Major and Medium Irrigation Project	68.78	36.61	(-)32.17	47

Estimations of available tax resources under Land Revenue, Stamps and Registration, Sales tax and Tax on Sale of Motor Spirits and Lubricants, Taxes on purchase of Sugarcane and Taxes and Duties on Electricity have been grossly inaccurate, variations ranging from (+)77 per cent in Land Revenue to (-) 51 per cent in Sale of Motor spirits and Lubricants.

There has been considerable under estimation in non-tax receipts as well, especially under the heads Education, Sports, Art and Culture (49 per cent) and Forestry and Wild Life (26 per cent). On the other hand, receipts under Major and Medium Irrigation Projects was less to the tune of Rs. 32.17 crores, the shortfall being 47 per cent. Reasons for such gross under estimations have not been indicated by the departments.

#### 1.4 Cost of Collections

Expenditure incurred on collection of receipts under the principal heads of revenue during the three years



1987-88 to 1989-90 is given below:

Revenue Heads	Year	Gross Collec- tion	Expend- iture on col- lection	Per All In- cendia Ave- rage of (Perce- ntage) Expendi- ture to gross Col- lecti- on	1988-89
(1)	(2)	(3)	(4)	(5)	(6)
(in crores of rupees)					
1. Land Revenue	1987-88	35.75	33.95	95	
	1988-89	35.77	40.24	112*	NA
	1989-90	53.16	52.74	99	
2. Sales Tax	1987-88	799.42	17.50	2	1.50
	1988-89	947.00	24.97	3	
	1989-90	1235.30	31.81	3	
3. Taxes on vehicles	1987-88	51.12	1.72	3	
	1988-89	89.84	2.21	2	4
	1989-90	79.30	2.99	4	

\*Does not represent the expenditure solely for collection of Land Revenue. Please refer to the Sub-Para below.

(13)

4. Taxes on	1987-88	108.23	0.28	-	
Goods and	1988-89	125.07	0.29	-	4
Passengers	1989-90	135.27	0.39	-	
5. Electricity	1987-88	41.78	0.91	2	
Duty	1988-89	62.00	1.22	2	NA
	1989-90	50.98	1.67	3	
6. Entertainment taxes	1987-88	53.12	4.52	8	
	1988-89	72.76	7.07	10	
	1989-90	60.12	9.68	16	

According to the department, Land Revenue including all Government dues recoverable as arrears of land revenue are collected jointly by the Revenue Staff. Accordingly the actual cost of collection (including other dues) for the year 1986-87 to 1989-90 was worked out by the department as under.

Year	Total Collection (In crores)	Expenditure on Collection (in crores)	Percentage of Expendi- ture to total collection (in crores)
1986-87	186.41	28.56	15.32
1987-88	165.00	35.00	21.21
1988-89	241.60	40.91	16.93
1989-90	208.52	51.27	24.59

## 1.5 Assessments in arrears

Performance of assessment  
work in Sales Tax Department

(a) The number of assessments due for completion and those finalised by the Sales Tax Department during the assessment years 1988-89 and 1989-90 together with the number of assessments pending finalisation at the end of March, as reported by the department, are indicated below;

	1988-89	1989-90
(i) Number of assessments due for completion during the year		

Arrear cases	7,73,293	8,15,564
Current cases	3,03,486	3,26,876
Remand cases	9,701	9,984
<b>Total</b>	<b>10,86,480</b>	<b>11,52,424</b>

(ii) Number of assessments completed during the year

Arrear cases	3,25,136	3,87,448
Current cases	12,476	15,762
Remand cases	6,528	6,572
<b>Total</b>	<b>3,44,140</b>	<b>4,09,782</b>



(iii) Number of assessments pending finalisation as on 31st March

Annuar cases	4,48,157	4,28,116
Current cases	2,91,010	3,11,114
Remand cases	3,173	3,412
<b>Total</b>	<b>7,42,340</b>	<b>7,42,642</b>

(iv) Percentage of disposal to the number of assessments due for Completion      32      36

(The above information is presented graphically in Chart III)

It will be seen that more than 70 per cent of the cases due for assessment were old or pending. Although assessments carried out during the year 1989-90 constituted 36 per cent of the assessments due for completion, as against 32 per cent last year, the pendency of cases was almost the same. The Government should take measures to strengthen the assessment infrastructure to substantially reduce the number of pending assessment cases.

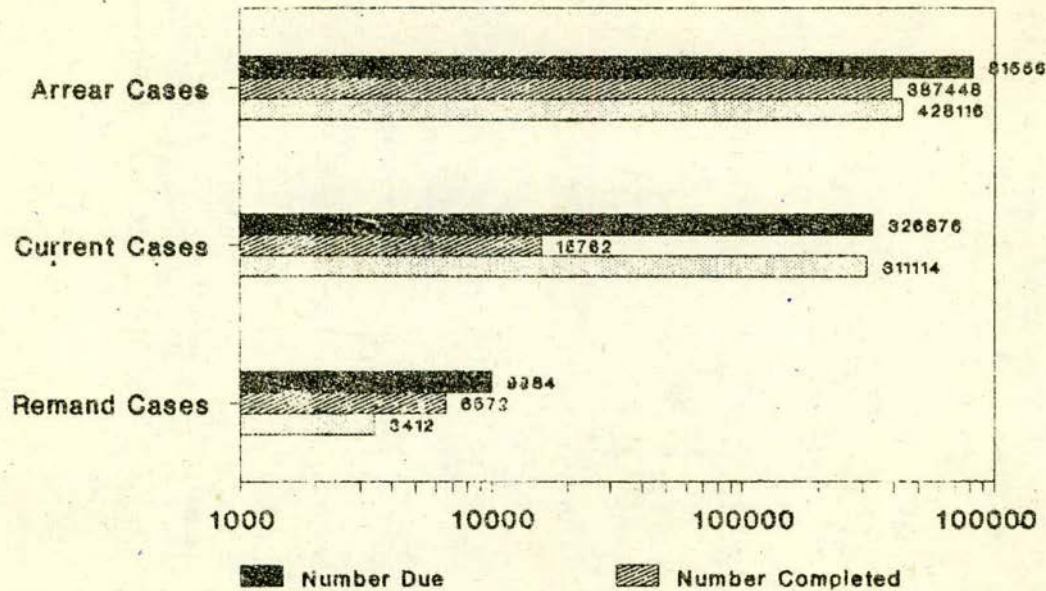
(16)

Chart III

# PERFORMANCE OF ASSESSMENT WORK

In Sales Tax Department

1989-90



Number pending on 31.03.1990

[Reference:Parahraph 1.5;Page No. 15]

(17)

Yearwise break-up of the assessments pending as on 31st March 1990 was as per table below:

Assessment year	Number of cases
upto 1984-85	750
1985-86	25,148
1986-87	1,60,520
1987-88	2,41,698
1988-89	3,11,114
Cases remanded by courts for re- assessment	3,412
Total	7,42,642

(The above information is presented graphically in Chart II)

(b) Rush of work at the close of the year

An analysis of month wise break-up of assessments finalised during the

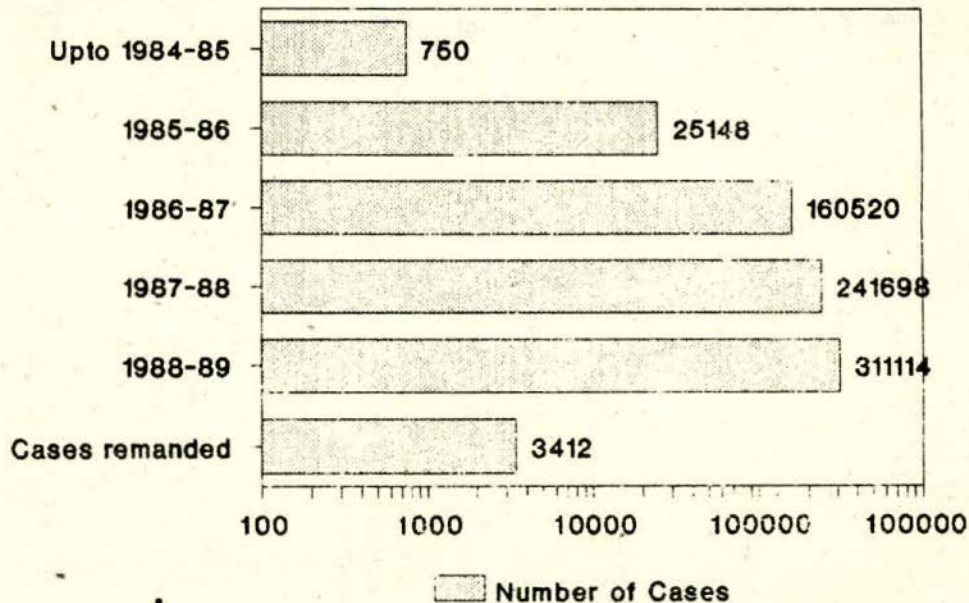


(18)

Chart IV

Year-wise break-up of Assessments in ST  
Deptt pending on 31st March 1990

Assessment Year



[Reference: Paragraph 1.5; Page No. 17]

year 1988-89 and 1989-90 are given below:

Period	1988-89		1989-90	
	Number of asse- ssments final- ised	Demands raised (In cro- res of rupees	Number of ass- essments final- ised	demands raised (In cro res of rupees)
April 2,02,922 to December	166.99		2,68,440	188.32
January 1,41,218 to March	242.57E		1,41,342	344.49
Total	3,44,140	409.56E	4,09,782	532.81

E--Revised.

It will be seen that the rate of disposal of cases during March to December was much less (29827 cases per month) than that during the last quarter of the year (47,114 cases per month). Average additional demand per case was also much less during the 1st three quarters as compared to the last quarter.

- (c) Heavy incidence of finalisation of cases at the fag end of the limitation period

Break-up of cases disposed of according to the year to which they pertained, further indicates, as given below, that almost 50 per cent of the cases disposed of were more than 3

years old which were likely to get time barred if not disposed of during that year.

Year ending 31st March Break-up of cases disposed of according to the year to which they pertained

	Upto Year	Number of cases	Percentage
1989	1984-85	2,13,566	62
	1985-86	80,197	23
	1986-87	31,373	9
	1987-88	12,476	4
	Remand Cases	6,528	2
	Total	3,44,140	
1990	1985-86	2,20,949	54
	1986-87	1,05,383	26
1987-88		61,116	15
	1988-89	15,762	4
	Remand Cases	6,572	1
	Total	4,09,782	

#### Appeal and revision cases

As in the case of assessment case, the position of appeal and revision cases (2nd appeal) is no better. Disposal of cases are less than even the current cases accruing each year as



indicated below:

(i) Number of Cases to be decided

	<u>Appeal Cases</u>		<u>Revision Cases</u>	
	1988-89	1989-90	1988-89	1989-90
Pending Cases	58,896	78,325	56,891	53,547
Current Cases	54,609	50,979	17,302	16,089
Total	1,13,505	1,29,304	74,193	69,636

(ii) Number of Cases decided

Pending Cases	19,065	32,387	15,425	15,906
Current Cases	15,541	12,871	5,221	2,074
Total	34,606	45,258	20,646	17,980

(iii) Number of pending Cases

Pending Cases	39,257	45,938	41,466	37,641
Current Cases	39,068	38,108	12,081	14,015
Total	78,325	84,046	53,547	51,656

Year-wise break-up of the appeal and revision cases pending as on 31st March 1990, was as under:

Year	<u>Pending as on 31st March 1990</u>	
	Appeal cases	2nd Appeal
Upto	222	6,186
1984		
1985	179	4,491
1986	897	5,810
1987	5,816	8,108
1988	23,411	11,329
1989	36,453	11,495
1990	17,068	4,237
Total	84,046	51,656

The tendency to finalise a large number of cases at the fag end of the limitation period is fraught with the risk of loss of revenue due to hurried assessment, inadequate scrutiny of records and dealers becoming insolvent or untraceable with the lapse of time. On the other hand, delay in finalisation of assesment cases and cases pending in appeal results in blocking revenue (additional demand raised during assessment) for a period ranging from 1 to 4 years, which not only affects the ways and means position of Government but also results in accrual of fortuitous benefit to the dealers by way of interest.

### Frauds and evasions

The position of cases of frauds and evasions detected, finalised and pending as on 31st March 1990 was as under:

Cases pending at the beginning of 1989-90	Cases detected during the year	Cases finalised during the year (Amount raised)	Cases pending at the end of 1989-90
7,167	2,460	2,786 (Rs 34.84 crores)	6,841

### 1.6 Arrears of Revenue

Details of the arrears of revenue pending collection at the end of the year 1989-90, as furnished by the department in respect of some receipt heads are given below:

- (i) Sales Tax Rs.1151.37 crores (Provisional) remained uncollected as on 31st March 1990 as against Rs. 951.46 crores on 31st March 1989. A review on the arrears of Sales Tax is included in chapter 2.
- (ii) Tax on purchase of sugarcane Rupees 9.15 crores from sugar factories and Rupees 2.40 crores from Khandsari



units remained uncollected, as on 31st March 1990. Yearwise details are given below;

Year	<u>Arrears pending collection from</u> <u>Sugar factories Khandsari units</u> (In crores of rupees)	
Upto 1985-86	7.35*	0.92
1986-87	0.23	0.04
1987-88	0.43	0.04
1988-89	0.66	0.04
1989-90	0.48	1.36
Total	9.15	2.40

Out of arrears of Rs 2.40 crores pertaining to Khandsari units a sum of Rs. 0.60 crore was covered under Recovery certificate issued and a sum of Rs. 1.63 crores were stayed for recovery by High Court. The position of refunds in respect of Khandsari units as worked out by the department was as under:

	No. of claims	Amount (in lakhs of Rs)
1. Claims pending at the beginning of the year	15	0.55

---

\*(Including arrears of Rs4.69 crores for the period prior to 1971-72).

(25)

2. Claims received during the year	111	6.21
3. Refunds made during the year	102	5.35
4. Balance at the end of the year	24	1.41

Year-wise break-up

Particulars	Years					
	1987-88		1988-89		1989-90	
	No of Cases	Amount	No of Cases	Amount	No of Cases	Amount
	( In lakhs of rupees)					
1. Claims pending at the beginning of the year	11	0.31	3	0.16	1	0.08
2. Claims received during the year	27	0.93	21	1.41	63	3.87
3. Refunds made during the year	36	1.23	24	1.57	42	2.55
4. Balance at the end of the year	2	0.01	--	--	22	1.40

(iii) Land Revenue Out of Rs.38.29 crores pending collection as on 31st March 1990 recovery of Rs. 23.48 crores had been suspended by the Government. Similarly out of Rs. 1.97 crores of

(26)

Land development tax pending collection as on 31st March 1990, recovery of Rs. 0.87 crores had been suspended.

The position of demands, collections and arrears in respect of Land Revenue and Land development tax during the year was as under;

Particulars	Land Revenue (in crores of rupees)	Land Development Tax
1. Revised demand	60.95	2.05
2. Recovery stayed by Government	23.48	0.87
3. Net demand	37.46	1.18
4. Total Collection	22.66	0.08
5. Percentage	37.18	3.84
6. Arrears out of Total demand	38.29	1.97

(iv) Forestry and Wild Life

Rs 11.06 crores remained uncollected as on 31st march 1990. Year-wise details are given below:

Year	Amount of arrears (in crores of rupees)
Upto 1984-85	3.40



(27)

1985-86	0.14
1986-87	0.11
1987-88	2.21
1988-89	2.72
1989-90	2.47

Total	11.06
-------	-------

The arrears of Rs. 11.06 crores were in the following stages of action:

(In crores  
of rupees)

(i)	Amount to be adjusted against the security in hand or material in custody of department	4.12
(ii)	Amount covered by recovery certificate	1.13
(iii)	Amount stayed by High Court and Other Judicial authorities	0.66
(iv)	Amount likely to be written off (due to the parties being insolvent)	0.12
(v)	Other Stages	5.03
(vi)	Refunds	Nil

Total	11.06
-------	-------

(28)

(v) Electricity Duty: Rs.25.37 crores remained uncollected as on 31st March 1990. The year-wise break-up was as under:-

		(in crores of rupees)
Upto	1987-88	24.97
	1988-89	0.32
	1989-90	0.08
	<b>Total</b>	<b>25.37</b>

Arrears outstanding for more than 5 years was Rs.24.39 crores as follows:-

	(In crores of rupees)
1983-84	23.25
1984-85	0.62
1985-86	0.52
	-----
<b>Total</b>	<b>24.39</b>

Out of the total arrears of Rs.25.37 crores recovery of Rs.24.90 crores were stayed by courts and other judicial authorities; recovery of Rs.24.43 crores pertained to one party alone.

**1.7 Writes off and remission of revenue**

Details of demands written off and remitted during 1989-90, as furnished by two departments, are given below:

Department	No. of cases	Amount involved (In lakhs of rupees)	Remarks
(i) Finance-Sales Tax	2	20.57	Reasons not indicated
(ii) Revenue Land Revenue (Including rent)	41	138.74	

**1.8 Outstanding audit inspection reports**

The number of inspection reports and audit objections issued up to December 1989 which were pending settlement as on 30th June 1990 are given below;

	<u>As at the end of June</u>		
	1988	1989	1990
1. Number of out-standing inspection reports	2136	1855	2256



(30)

2. Number of out- 5302 5050 5771  
standing audit  
objections
3. Amount of re- 51.91 82.03 108.11  
ceipts involved  
(In crores of Rs.)

The table below indicates receipt wise details of the inspection reports and audit objections issued upto December 1989 but remaining outstanding as on 30th June 1990.

Nature of Receipts	Number of out- standing		Amount of Revenue involved  (In crores of Rupees)	Year to which the earliest report pertains
	Inspe- ction Reports	Para- graphs		
(1)	(2)	(3)	(4)	(5)
1. Forestry and Wild Life	263	891	67.48	1977-78
2. Sales Tax	589	1394	11.44	1981-82
3. Irrigation	96	368	9.11	1984-85

(31)

4. Tax on Purchase of Sugarcane	122	154	5.32	1980-81
5. State Excise	168	221	3.99	1981-82
(i) Administrative charges on sale of Molasses	7	9	--	1989-90
6. Taxes on Vehicles, Goods and Passengers	77	669	3.71	1983-84
7. Public Works	69	261	2.40	1984-85
8. Land Revenue	300	605	1.76	1980-81
9. Stamp duty and Registration Fees	435	965	1.73	1981-82
10. Crop Husbandry	29	73	0.56	1985-86
11. Electricity Duty	36	47	0.36	1981-82
12. Food and Civil Supplies	28	66	0.15	1984-85
13. Cooperation	22	28	0.07	1984-85
14. Entertainment Tax	15	20	0.03	1986-87
Total	2256	5771	108.11	

In respect of audit inspection reports pertaining to the following receipt heads, even first replies had

(32)

not been received from the departments:

Number of audit inspection  
reports outstanding for

	Three years and more (issued upto March 1987)	Two years and more but less than 3 years (issued during 1987-88)	Less than two years (issued during 1988-89 and 1989-90) (upto 12/89)	Total
1. Land Revenue	---	---	37	37
2. Stamp duty and registration fees		---	---	27 27
3. State Excise	--	---	25	25
(i) Administrative charges on sale of molasses	--	---	4	4
4. Sales Tax	3	4	87	94
5. Tax on pur- chase of sugarcane	4	2	13	19
6. Taxes on vehicles, goods and Passengers	--	---	34	34



(33)

7. Electricity Duty	---	---	13	13
8. Public Works	--	4	10	14
9. Co-operation	--	4	2	6
10. Crop Hus- bandry	---	5	5	10
11. Food and Civil Supplies	---	--	5	5
12. Forestry and Wild Life	17	9	61	87
13. Irrigation	5	10	30	45
Total	29	38	353	420

Year-wise analysis of outstanding paras in respect of a few important department are as under:-

Year	No of Reports	No of Paras	Amount involved (in crores of rupees)
-----	-----	-----	-----
<b>Sales Tax</b>			
Upto			
1986-87	48	255	1.80
1987-88	119	227	0.95
1988-89	189	379	2.57
1989-90	233	533	6.12

(34)

**State Excise**

Upto			
1986-87	70	95	0.98
1987-88	24	44	0.39
1988-89	49	50	0.57
1989-90	32	41	2.04

**Land Revenue**

Upto			
1986-87	77	146	0.81
1987-88	19	35	0.03
1988-89	103	223	0.39
1989-90	101	201	0.53

**Stamps and Registration**

Upto			
1986-87	245	508	0.94
1987-88	52	122	0.19
1988-89	66	179	0.24
1989-90	72	156	0.36

**Irrigation Department**

Upto			
1986-87	32	104	2.75
1987-88	20	63	0.16
1988-89	23	104	2.29
1989-90	21	97	3.91

**Public Works Department**

Upto			
1986-87	25	107	0.75

(35)

1987-88	11	32	0.09
1988-89	20	84	0.82
1989-90	13	38	0.75



## CHAPTER-2

### SALES TAX

G.169

#### 2.1. Results of Audit

Test check of the records of Sales Tax Offices conducted in audit during the year 1989-90 revealed under-assessments of tax and non-levy or short levy of interest and penalty, amounting to Rs. 958.40 lakhs in 1072 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short levy of interest/penalty	222	458.44
2. Application of incorrect rate of tax	144	165.82
3. Irregular grant of exemption	165	150.77
4. Incorrect classification of goods	77	40.26
5. Arithmetical mistake	58	30.23
6. Turnover escaping assessment and incorrect determination of turnover	100	19.37

(37)

7. Non-levy/short levy of additional tax	98	16.59
8. Other irregularities	208	76.92
Total	1072	958.40

A few important cases, including two reviews on 'the working of check-posts' and 'accumulation of arrears in collection of sales tax' are included in the succeeding paragraphs.

## 2.2 Working of Sales Tax check posts in Uttar Pradesh.

G. III

### 2.2.1. Introduction

The Uttar Pradesh Sales Tax Act, 1948, initially envisaged a system of multi-point levy of sales tax, which was subsequently (1st December 1973) substituted by a single-point taxation system. All commodities have now been brought under the single point taxation system i.e the tax is levied at the point of sale by the manufacturer/importer or at the point of sale to the consumer.

With a view to preventing and checking the evasion of tax by way of irregular import of goods into the territory of the State and their non-accountal in the books of accounts by the dealers, Government decided to

establish Sales Tax check posts at strategic points along its borders with the neighbouring states and fifteen Sales Tax check posts were established with effect from 14th April 1974. More check posts were established from time to time and by the end of March 1989, the number of working check posts in the State increased to 49.

#### 2.2.2. Administrative set up

The overall control and direction relating to check posts vests with the Commissioner, Sales Tax. A Deputy Commissioner (Check Post and Mobile Squad) is posted with Headquarters at Lucknow who besides assisting in the framing of general policies, conducts inspection of the working of the Sales Tax check posts. In five districts, viz. Varanasi, Agra, Ghaziabad, Jhansi and Mathura, the Assistant Commissioner (Check Post) under the general direction of the Deputy Commissioner (Executive) is responsible for the general control and inspection. In areas where there is no Assistant Commissioner (Check Post), the control and inspection of the check posts are carried out by the Assistant Commissioner (Executive) under whose jurisdiction the check posts fall. The check posts are manned by Sales Tax Officers and other staff i.e., ministerial staff, Polledar (Porters) and Police force.

### 2.2.3.Scope of Audit

With a view to verifying whether the check posts are functioning in conformity with rules and orders/ instructions and are serving the purpose for which they were intended, a review was undertaken during the period from February 1990 to May 1990 and covered the offices of the Assistant Commissioner (Check Post), Ghaziabad, Agra and Varanasi. Records relating to 13 out of the 49 check posts were generally audited during April 1989 to May 1990 for the years 1988-89 and 1989-90. In certain cases records of the earlier years were also checked, whenever considered necessary.

### 2.2.4 Highlights

(1) Absence of check-post on two main roads connecting NOIDA and Delhi, and on the road from Bharatpur and Dholpur (Rajasthan) connecting these two places to Agra makes large scale evasion on these routes possible.

(2) The quantum of physical verification of goods in transit was less than one per cent in almost all the cases which reduced the deterrence of such physical verification.

(3) At eight check-posts, seized goods amounting to Rs. 76.23 lakhs were lying undisposed for 1 to 16 years as



on 31st March 1990. At Naubatpur, items seized ever since the inception of the check-post viz., 1974-75 were lying undisposed.

(4) In two cases at Transport Nagar (Ghaziabad), penalties were imposed short to the tune of Rs. 2.07 lakhs and Rs. 0.73 lakh. (October and November 1988)

(5) At Naubatpur check-post, substantial amounts ranging from Rs. 21.24 lakhs to Rs. 55.24 lakhs continuously remained outside Government account due to their non-deposit into Government Treasury.

(6) At Kotban and Naubatpur check-posts, basic records such as Panji-5 were not maintained during the period from April 1988 to May 1989, and from April 1988 to 23rd June 1989 respectively. Further at Kotban, receipts for security money/penalty collected from transporters/drivers carrying 'Rori' were not issued by the check post staff as required under rules, and the correctness of collections during the period 1988-89 and 1989-90 could not be verified.

#### 2.2.5 Trend Analysis

Under the Uttar Pradesh Sales Tax Act, 1948, declaration Form xxxi, certificate in Form xxxii and transit

pass in Form xxxiv are required for importing taxable goods from outside the State. Where the goods are not supported by proper/sufficient documents, the dealers importing the goods are liable to penal action under Section 15A(1) (O) for contravening the provisions under Section 28(A). The maximum penalty leviable is to the extent of 40 per cent of the value of the goods being imported and the security is realised just to cover the penalty to be imposed and which is subsequently adjusted against penalty. However, in case of unregistered dealers, the officer-in-charge of the check-post acts as an assessing officer and is authorised to impose penalty and recover the amount.

Comparative position of vehicles checked at the check-posts in the State and the amounts recovered as penalty/security, from them during the three years from 1986-87 to 1988-89 was as under:

	1986-87	1987-88	1988-89
1. No. of check posts	46	46	49
2. Total No. of vehicles passing through these check-posts	27,80,444	31,94,589	34,40,492

3. No. of vehicles carrying taxable goods	22,15,996	26,54.856	27,51,851
4. No of vehicles passed with forms	20,13,195	20,14,394	21,11,387
5. No. of vehicles carrying unauthorised goods	2,02,801	6,40,462	6,40,464
6. Amount received as security/ penalty (in lakhs of Rs.)	604.35	967.51	1163.67

It will be seen that even though the number of vehicles carrying unauthorised goods passing through the check-posts during 1987-88 registered threefold increase, the amount realised as penalty/security from them did not keep pace.

#### 2.2.6 Non-existence of check posts at strategic points

(i) New Okhla Industrial Development Authority (NOIDA) is the biggest Industrial Estate in Uttar Pradesh adjoining the Union Territory of Delhi and heavy Inter State transactions take place daily. It was observed in audit (February-March 1990) that no check posts were operating on the two main roads connecting NOIDA and Delhi



although provision for check posts at Dallupura and Chitta on these two roads already exists in the Sales Tax Check Post/Mobile Squad Manual.

(ii) Similarly there is no check post on the road from Bharatpur and Dhaulpur (Rajasthan) via Nagla Kamal-Kheragarh and Saiyyan Chauraha Marg connecting these two places to Agra in the State.

In the absence of check posts on these two entry points, especially the former, the possibility of imports of goods going undetected and untaxed cannot be ruled out.

(iii) It was also noticed that the Goverdhan check post situated in the vicinity of Goverdhan town on the Deeg (Rajasthan) Mathura Road is so located that vehicles coming on the Mathura Road from Deeg (Rajasthan) can take any of the two by-passes, one via Jatipura and other via Sikarwa, quite some distance before the established check post on that road, without touching Goverdhan check post, which also makes evasion possible.

(iv) It was further noticed that the Sales Tax check post at Transport Nagar (Ghaziabad) on the Grand Trunk Road is situated about five kilometres inside the State territory and between the border of Delhi and this check post, it is possible that goods could be



delivered without going through a check post. In all these cases, relocating the check posts to more strategic positions would be advisable.

#### 2.2.7 Physical verification of goods in transit

At every check-posts or barrier, when so required by the officer-in-charge of the check-posts or by any officer empowered under the U.P. Sales Tax Act, 1948, the driver or the person-in-charge of the vehicle shall stop the vehicle and keep it stationary for so long as may be required by such officer to search his vehicle, to examine the contents thereof and to inspect all documents and records relating to the goods carried. If on such examination, the officer finds or has reason to believe that: (a) any one or more consignments are not covered by one or more of the documents, or (b) any such documents in respect of any consignment are false, bogus, incorrect, invalid or incomplete,

One officer shall seize those consignment after giving the driver or the person-in-charge of the vehicle, reasonable opportunity of being heard. He is also required to give a receipt of the goods seized.

Manual of the Sales Tax Department (check post and mobile squad) provides

that at least one vehicle should be physically verified fully in each shift (3 shifts in the first category of check posts and 2 shifts in the rest) in the case of first and second category of check-posts or at least two vehicles per shift where a separate officer has been posted for this purpose.

During the course of the review, it was noticed that, the number of vehicles physically verified at the check posts during the year 1988-89. (detail given in appendix-I) was as low as 0.01 to 1.89 per cent of the total number of vehicles which passed through the check posts. The physical verification of only 13,505 vehicles out of a total of 23,13,859 did not fulfil the objective of physical verification of goods in transit and checking irregular /unauthorised transportation of goods and thereby evading tax. Further at Vijay Nagar, Transport nagar, Bhopura, Maharajpur, Kakkarpul, Bhoyapura, Kulesera, Loni and Bharauli check posts, even the physical verification of goods in transit for each shift was not adhered to, with the short fall ranging from 51 per cent to 99 per cent as given in the statement in appendix-I.

It would be advantageous for the Department to conduct a detailed study about the quantum of physical verification which could be achieved with

maximum economy and with the least inconvenience to the traffic, by adopting random sampling methods, as would make the system more effective.

#### 2.2.8 Non-disposal of seized goods

During the course of audit (February 1990 to May 1990) of Sales Tax check posts Mohannagar, Transportnagar (Ghaziabad), Naubatpur, Saiyyan, Kotban, Sarswan and Massaura it was noticed that a large number of goods amounting to Rs. 76.23 lakhs consisting of 569 items (appendix-II) seized during the period from 1974-75 to 1988-89 had not been disposed of (even after a lapse of one to 16 years). The delay rendered the goods liable to decay and becoming unserviceable with the passage of time. No provision had, so far, been made in the Act or Rules to auction the seized goods after a specified time and to appropriate the sale proceeds towards the tax and the penalty payable by the the concerned dealers.

#### 2.2.9 Transit of goods by road through the State and issue of transit pass

When a vehicle carrying goods referred to in sub-section (I) of section 28-A, coming from and bound for any place outside the State, and passes through the State, the driver or the person-in-charge of such vehicle shall



obtain, in the prescribed manner, a transit pass from the officer-in-charge of the entry check post or barrier and deliver it to the officer-in-charge of the exit check post or barrier before crossing the boundary of State, failing which it shall be presumed that the goods carried thereby have been sold within the State by the owner or the person-in-charge of the vehicle.

Under section 15-A (i)(q) of U.P. Sales Tax Act, 1948, if the owner or the person-in-charge of vehicle fails to obtain transit pass or to deliver the same at the exit check post, the assessing authority/officer-in-charge of the check post may, after such inquiry as deemed necessary, direct that such owner or the person-in-charge of the vehicle shall pay, by way of penalty in addition to the tax payable by him, a sum not exceeding forty per cent of the value of the goods involved.

It was noticed in audit that in the following cases though the penalty of 40 per cent was imposed, there was omission to workout the correct value of the goods on which the penalty under section 15-A(i)(q) was to be imposed, which resulted in short deposit of security/imposition of penalty.

(1) At the Sales Tax check post, Transport Nagar (Ghaziabad) a person-



value of the goods as Rs. 9.28 lakhs (in Form-34) on which a penalty of Rs. 3.71 lakhs at the rate of 40 per cent was leviable. However, the value of the goods was reckoned as Rs. 4.10 lakhs by mistake and a penalty of Rs. 1.64 lakhs only was imposed, resulting in short-imposition of penalty of Rs. 2.07 lakhs.

(2) In yet another case, at the same check post, though a person-in-charge of the vehicle disclosed the value of the goods (in Form-34) as Rs. 2.33 lakhs on which a penalty of Rs. 93,379 at the rate of 40 per cent was leviable, a penalty of Rs. 20,000 only (at the rate of 40 per cent of Rs. 50,000) was imposed. This resulted in short imposition of penalty of Rs. 73,379.

(3) At Sales Tax check post Kotban (Mathura), a person-in-charge of the vehicle disclosed the value of the goods in Form-34 as Rs. 2.11 lakhs and on that basis, the value of the goods was determined at Rs. 2.52 lakhs imposing a penalty of Rs. 1 lakh. The total of 24 bilties (Goods Receipts) supporting the goods loaded in the vehicle and appended with Form-34, however, worked out to Rs. 4.68 lakhs. Thus Rs. 2.57 lakhs (Rs. 4.68 minus Rs. 2.11 lakhs) escaped penal action resulting in short imposition of penalty amounting to Rs. 1.03 lakhs.

(4) Similarly, at Bhopura (Ghaziabad) a person-in-charge of the vehicle enclosed with Form-34 two invoices amounting to Rs. 1.77 lakhs and Rs. 34,744 but in the body of the Form-34 only an amount of Rs. 1.77 lakhs was mentioned. Thus Rs. 34,744 escaped penalty action resulting in short imposition of penalty amounting to Rs. 13,898 calculated at the rate of 40 per cent.

(5) It was also noticed that in eight cases at Naubatpur (Varanasi) and in two cases at Sarsawan (Saharanpur) the penalty was determined on the basis of the amount shown in Form-34 without adding the element of profit, freight and miscellaneous expenses etc., which resulted in short imposition of penalty to the tune of Rs.2.87 lakhs and Rs. 45,160 respectively.

All the above cases were reported to Government in the month of July 1990; reply thereof is still awaited (April 1991).

#### 2.2.10 Short realisation of security

Under section 15-A(i)(o) of U.P. Sales Tax Act, 1948, if the assessing authority is satisfied that any dealer or any other person imports or transports, or attempts to import or transport, any goods in contravention of the provisions of section 28-A it may,

after such inquiry, if any, as it may deem necessary direct that such dealer or person shall pay, by way of penalty, in addition to the tax, if any payable by him a sum not exceeding 40 per cent of the value of the goods involved.

From the drivers or the persons-in-charge of the vehicles carrying the goods in contravention of section 28-A from outside the State, securities at the rate of 40 per cent of the estimated value of the goods are realised at the check post as provided in the Sales Tax Manual, to cover the amount of penalty likely to be imposed under the Act.

(1) In the course of the review, it was noticed at Mohannagar sales tax check-post that a dealer/transporter was importing food grains from outside the State without form-31/32. The vehicle was stopped and the goods were seized at the check-post. A security of Rs. 6,753 at the rate of one and half times the tax payable was realised. As the dealer was importing taxable goods without form 31/32 in contravention of section 28-A of U.P.S.T. Act, 1948 he was liable to pay security/penalty of Rs. 28,566 at the rate of 40 per cent of the value of the goods of Rs. 71,415 under section 15A(i)(o) *ibid.* This resulted in short realisation of security/penalty to the tune of Rs. 21,813.



The matter was reported to Government in June 1990; reply thereof is still awaited (April 1991).

(2) Similarly, again at Mohannagar it was noticed that in cases of persons-in-charge of four vehicles the securities were short realised to the tune of Rs. 38,078.

The above cases were reported to department in June 1990; reply thereof is still awaited (April 1991).

#### 2.2.11 Abnormal delay in deposit of Government money.

(1) Under Rule 21 of Financial Hand Book, Vol.V, Part I all moneys received by or tendered to, a Government servant on accounts of the revenues of the State shall, without undue delay, be paid in full into the treasury or into the bank and shall be included in the Government account of the State. In no case should the State revenue be kept out of the Government account.

It was noticed during the audit of the office of the sales tax officer (check-post) at Naubatpur (Varanasi) in May 1990 that substantial amounts realised on account of security/penalty were not being deposited into the treasury regularly. In the month of February 1990, for instance, the money was deposited only on seven occasions



(as indicated in Apendix-III), and during the whole month, the amount kept in the cash chest amounted to Rs. 21.24 lakhs. On 19th February 1990, the amount kept in cash chest at the check post was Rs. 55.24 lakhs.

Besides this, under the rules ibid, all Government moneys received upto the day just preceding the date of deposit shall be deposited in full into the treasury. However the cash book of the check-post revealed that even on days when money was deposited in the Varanasi Treasury, full amount available as per cash-book was not deposited, as it is evident from the following details:

Date of deposit into treasury	Balance of preceding day	Receipts	Amount deposited into Treasury	Balance remaining
2.2.90	26,48,709	4,63,660	9,88,279	21,24,090
7.2.90	36,55,670	4,90,812	16,60,430	24,86,051
9.2.90	29,95,892	5,77,951	13,31,043	22,42,800
14.2.90	40,03,015	5,39,880	17,20,349	28,22,528
20.2.90	55,23,521	4,51,440	5,22,451	54,52,510
21.2.90	54,52,510	4,09,470	23,00,075	35,61,905
22.2.90	35,61,905	3,02,160	6,10,470	32,53,595

Further, although heavy amounts were being retained at Naubatpur check-post in the cash-chest there was no strong room for the safe custody of the Government money, as provided under

Rule 28 of Financial Hand book, Vol.V,  
Part- I.

The matter was reported to Government in the month of July 1990; reply is still awaited (April 1991).

(2) At Saiyyan (Agra) check post Rs. 26,000 was received on 26th October 1988 but the same was neither entered into the cash-book nor was it deposited in the treasury till 1st February 1989. The amount of Rs. 26,000 was entered into the cash-book on 2nd February 1989 and was deposited into the treasury on the same day i.e after a delay of more than three months.

The matter was brought to the notice of the department in the month of June 1990; reply is still awaited (April 1991).

(3) At Kotban, Kagarol, Sarasawan and Dadri (Kulesara) check-posts also, delays have been noticed in deposit of full balance of cash into treasury ranging from ten to 40-five days, as indicated in Appendix-IV.

#### 2.2.12 Maintenance of records

The department has prescribed Panji No. 1 to 5 to be maintained at each check-post for maintaining the detailed accounts of declarations/certificates, issues, receipts and

verification of transit passes, accountal of Seizures and realisation of security therefrom. Out of these, Panji No. 5 is the most important containing the details regarding the seizure of goods and realisation of security etc. Irregularities in maintenance of the documents were noticed, as indicated below:

(1) At Kotban and Naubatpur check-post, panji-5 for the period from April 1988 to May 1989 (Kotban) and from April 1988 to 23rd June 1989 (Naubatpur) were not made available to audit. At Mohannagar (1988-89), Kotban (15th July 1989 to 31st March 1990) and Kagarol (March, 1989 to June, 1989) check-posts it was observed that panji-5 was not maintained in the prescribed proforma and in some cases, the name of the consignor, consignee, full addresses of the transport companies, discription of goods etc. were not noted. Such information is essential for verifying the correctness of the amounts realised as security and for locating the importer of the goods.

(2) Registers in Forms R-5(A) and R-5(B) are the basic records, to watch the pendency and disposal respectively of assessment, penalty and other miscellaneous cases as provided in the Sales Tax Manual.



At Mohannagar Check-post, it was noticed (February 1990 and March 1990) that R-5 (A) and R-5(B) Registers for the disposal of penalty cases under section 15-A(I) (D) of U.P.Sales Tax Act, 1948 were not maintained at all.

The above cases were reported to the department/Government in June/July 1990; their reply has not been received (April 1991).

#### 2.2.13 Irregularities in Cash-Book/ receipt Books

##### (A) Cash-Book

Under Rule 27-A of F.H.B. Vol. V, Part I, a cash-book should be kept in every office for recording all moneys received by Government servants in their official capacity and their subsequent remittance to the treasury or to the bank. Further, the cash-book should be closed and balanced each day, and balance at the end of the month should be verified with the balance of cash in hand and a certificate to that effect be recorded in the Cash-Book under the signature of the head of the office responsible for handling the money.

A scrutiny of cash-books of thirteen check-posts during audit (February 1990-May 1990) revealed the following irregularities:



(i) Cash-books in the prescribed proforma had not been maintained at Transport Nagar, Goverdhan and Mugurra Check-posts. The Cash-book maintained at Transport Nagar was only a cash register in which the total cash collection made by each officer was posted in lump sum at the close of his shift and handed over to the next shift.

(ii) At Mohan Nagar, Kotban, Transport Nagar, Raksha, Sarsawan and Mugurra check posts, the entries of the receipt side of the Cash-book were not attested by the competent authority. Further, at the time of monthly closing, neither had the closing balance been physically verified by the competent authority nor were the details of cash balances viz., actual cash, cheque and bank-draft etc. recorded.

The matter was reported to department/Government during the March 1990 to July 1990; their replies have not been received (April 1991)

**(B) Receipt-Book**

Under Rule 26 of Financial Hand Book, Vol.V, Part-I every Government servant receiving money on behalf of the Government gives to the payer a receipt for Government money received by him. The amount should be entered in the receipt both in words and figures and it should bear the full signature

and not merely initials of the Government servant receiving the money. The Officer is also required to ensure at the time of issuing the receipt that the amount has been entered into the Cash-book.

During the scrutiny of the Cash-book for the year 1988-89 at Kotban check-post in audit (May 1990) it was noticed that no receipt had been issued in respect of security/penalty received from persons importing 'Rori' (Stone gitti) from outside the State. Instead all such amounts received in a day were entered in Rori Register and the lump sum amount was posted in the Cash-book for the year 1989-90 that no individual receipts had been issued to the dealer/transporters of Stone gitti in respect of money received on account of security/penalty. Instead, a single receipt had been issued for the total amount received during the day as per entry in the 'Rori Register'.

Thus there was no basic record on the basis of which the correctness of amounts received could be verified.

It was also noticed in audit (February 1990 to May 1990) that in the check-posts at Mohannagar, Transportnagar, Bhopura, Sarsawan and Naubatpur, neither had the certificate in respect of the number of forms contained in receipt books been recorded before

their use nor were any certificate recorded at the end of the Receipt Books that all receipts were entered in the Cash-book.

The above findings were reported to the department and to Governemnt in July 1990; their replies have not been received (April 1991).

## 2.3 ARREARS IN SALES TAX COLLECTION

### 2.3.1 Introduction

The U.P. Sales Tax Act, 1948 provides for levy of sales/purchase tax on a dealer whose annual turnover of sales/purchases exceeds the prescribed limit. The registration of the dealer is necessary, under the Act, in case the actual or estimated annual turnover exceeds the prescribed limit. A registered dealer is required to submit periodical returns in the prescribed manner, to the assessing authority alongwith the tax due on the admitted turnover. The tax due is paid by deposit in the treasury or by a cheque or a bank draft. An assessment order can be passed by an assessing authority for the assessment year before the expiry of four years from the end of such year. After the assessment, the dealer is issued a notice to deposit the balance amount assessed within a period of 30 days of the receipt of the notice. If a person or dealer fails to



deposit the tax or any amount payable by him under the provisions of the Act within the period specified in the notice issued by the assessing authority, recovery certificates are issued authorising the revenue authorities or the collection wing of the department, to recover the amount as arrears of land revenue.

### 2.3.2. Scope of audit

With a view to analysing the extent of arrears of sales tax and the reasons for heavy arrears remaining unrecovered since long as also to ascertain whether the department has taken effective steps for recovery/reduction of the arrears, a review was conducted during the period from January 1990 to June 1990 which covered the offices of the assessing authorities and Deputy Collectors (Collection), Sales Tax of six districts viz. Allahabad, Kanpur, Lucknow, Meerut, Ghaziabad and Varanasi, out of 14 districts covering the period upto 1988-89.

### 2.3.3. Organisational set up

The responsibility of collection of dues of sales tax rests with an Additional Commissioner and Deputy Commissioner (Collection) at the Headquarters, while in the field, to recover the outstanding dues of sales tax as



arrears of land revenue, there are 16 Deputy Collectors (Collection), Sales Tax (against the sanctioned strength of 18) covering 14 districts. In the remaining districts, the arrears of sales tax is collected by the revenue authorities (District Magistrate) on receipt of recovery certificates from the concerned assessing authorities.

#### 2.3.4. Highlights

(a) Sales Tax arrears which were nearly 68 per cent of the total annual collection of sales tax in 1984-85 increased to over 100 per cent of the annual Sales Tax collection by the end of 1988-89.

(b) Of the total sales tax arrears as at the end of 1988-89 more than 20 per cent was on account of stay granted by the judicial authorities and above 33 percent was on account of recovery stayed/postponed by Government/other administrative officers and demands not finally determined.

(c) The position of arrears of sales tax indicated a continuously increasing trend over the five years upto 1988-89. Recovery of arrears was only 3.31 per cent, 4.51 per cent and 4.53 per cent of the total Sales Tax Collection in 1986-87, 1987-88 and 1988-89 respectively.

(61)

(d) A dealer at Lucknow was able to so use the appellate procedure to his advantage as to evade tax of Rs.42.75 lakhs payable by him during the period from 1977-78 to 1984-85.

(e) Despite submission of forged challans and heavy arrears outstanding against him declaration forms in large number were continued to be issued to a dealer resulting in loss of revenue of Rs. 18.91 lakhs.

(f) Sales Tax dues of Rs. 35.05 lakhs were outstanding against a private limited company in Lucknow, which was liquidated on 10th January 1979. While the case of liquidation was pending before the High court, arrears were declared to be irrecoverable. No claim before the official liquidator was lodged till April 1990.

(g) Against a dealer of Lucknow reports about irregular import of vegetable ghee on consignment basis were received. The cases were re-assessed involving Sales Tax of Rs. 13.74 lakhs, but the delay in assessment/re-assessment gave enough time to the dealer to abscond.

(h) Due to lack of co-ordination between the Sales Tax and the Excise Departments of U.P., the State Government suffered a loss of revenue of Rs. 94.66 lakhs in 4 cases, in Varanasi and Kanpur districts only.

(i) It was discovered that a dealer in Ghaziabad imported goods in huge quantity, by declaring his purchases as tax paid. The dealer could not be located as the original file pertaining to the dealer was lost in the sector office soon after orders (for reassessment of the case), were issued by the Dy. Commissioner (Administration) Sales Tax. The case was reassessed after levying a tax of Rs.22.05 lakhs, which could not be recovered.

#### 2.3.5. Analysis of arrears in Sales Tax

1 A comparative analysis of the percentage of uncollected sales tax dues to the total collection during the year, for the period from 1984-85 to 1988-89, indicated an increase from 67.86 percent in 1984-85 to 100.47 percent in 1988-89 as illustrated in

the table below.

Year	Total Collection during the year (incl- uding Sales Tax, fees, Pe- nalty, Registra- tion etc)	Amount of arrears as on 31st March	Increase in arrears over the previous year	Percentage of arrears to the total collection during the
(1)	(2)	(3)	(4)-	(5)
(rupees in crores)				
1984-85	528.19	358.44	--	67.86
1985-86	628.21	501.98	143.54	79.90
1986-87	716.43	638.06	136.08	89.06
1987-88	799.42	783.69	145.63	98.03
1988-89	947.00	951.46	167.77	100.47

2 A further break-up of the arrears indicating the various categories and stages of action for their recovery as categorised by the department for the



(64)

three years upto 1988-89 is as follows.

Stages of action	<u>Amount of arrears</u>		
	1986-87 (In Crores of Rupees)	1987-88	1988-89
A. Arrears as on 31st March	638.06	783.69	951.46
B (a) Recovery Stayed/post- poned by Courts	99.94	99.06	207.12
(b) Recovery Stayed/post- poned by Government/ Other administrative officers and demands not finally determined	240.54	289.30	322.65
(c) Arrears due against Government depart- ments	26.03	47.23	25.51
(d) Irrecoverable arrears/ Amounts likely to be written off	32.34	39.34	43.29
Total B (a+b+c+d)	398.85	474.93	598.57
C Recoverable arrears (A-B)	239.21	308.76	352.89
Category wise break-up of recoverable arrears i.e. 'C'			
(i) Amounts recoverable in instalments	0.19	0.05	0.08

(65)

(ii)	Amounts recoverable from liquidated firms	1.38	2.22	2.34
(iii)	Amounts due against transporters	61.11	83.17	79.91
(iv)	Recovery Certificates sent to other States	12.12	19.70	38.11
(v)	Arrears against Corporation/semi Government departments and Firms under Government's Control	1.26	1.66	12.30
(vi)	Others	163.15	201.96	220.15
Total (i) to vi)		239.21	308.76	352.89

It will be seen that more than 60 per cent of the arrears were considered to be not recoverable by the department. Of this, recovery stayed by Courts has more than doubled during 1988-89, from Rs. 99.06 crores during 1987-88 to Rs. 207.12 crores in 1988-89, which constituted more than 20 per cent of the total arrears for that year.

Recoveries stayed/postponed or not finally determined constituted another big segment, comprising about 33 per cent of the total arrears. Amounts likely to be written off also increased from Rs. 32.34 crores in 1986-87 to Rs. 43.29 crores in 1988-89.

Out of the arrears considered to be recoverable, a substantial amount (Rs. 79.91 crores-22.6 per cent) was due from transporters. Similarly, arrears in respect of recovery certificates sent to other States (Rs. 38.11 crores) was considerable; arrears in this category had doubled during 1988-89. Further, arrears against corporations and semi Government departments etc. also registered an increase from Rs. 1.66 crores in 1987-88 to Rs. 12.30 crores in 1988-89.

3 A Comparative position of year-wise arrears as on 31st March of the three years upto 1988-89 is given below:

Year	<u>Amount of arrears as on 31st March</u>		
	1987	1988	1989
	(In crores of rupees)		
Upto	300.09	257.30	232.27
1985-86		14.26)	(9.73)
	(Including arrears of Rs. 23.28 crores more than 10 years old i.e upto 1976-77	(Including arrears of Rs 28.63 crores more than 10 years old i.e upto 1977-78	Including arrears of Rs. 35.04 crores more than 10 years old i.e upto 1978-79
1986-87	337.97	200.15 (40.78)	158.74

(67)

1987-88	---	326.24	208.34 (36.14)
1988-89	--	---	352.11
<hr/>			
Total	638.08	783.69	951.46

(Figures within brackets indicate percentage of recovery during the year).

The following table shows outstanding dues on account of sales tax and recovery thereagainst for the three years upto 1988-89:

Sl. No.	Details	1986-87	1987-88	1988-89
			(Rupees in crores)	
A.1.	Arrears as on 1st April (Old demand)	501.98	638.06	783.69
2.	Demand created during the current year (New demand)	363.64	385.17	409.56
Total A Total demand as on 31st March (Col.1+2)		865.62	1023.23	1193.25
B.1.	Demand reduced by appellate authority including amounts written off	203.86	203.11	198.83



2. Total Collection made  
during the year against  
the arrears shown at 'A'

(a)Against old demand	16.55	27.74	27.57
(b)Against new demand	7.15	8.69	15.39
Total B ( Col.1+2)	227.56	239.54	241.79
C. Arrears as on 31st March (A-B)	838.06	733.69	951.46
D. Total Collection made during the year inclu- ding Sales Tax, penalty, fee etc	716.43	807.66	948.56
E. Percentage Collection of arrears			
(a)Against old demand	3.30	4.35	3.52
(b)Against new demand	1.97	2.26	3.76
F. Percentage of Collection of arrears against total collection made during the year	3.31	4.51	4.53

The above table would reveal that out of the total collection under sales tax in the years 1986-87, 1987-88 and 1988-89, only 3.31 per cent, 4.51 per cent and 4.53 per cent respectively

were dues collected as a result of demand notices issued by the assessing officers and that an overwhelming balance of above 95 per cent of the collection was deposited by the dealers as tax admittedly payable, alongwith the periodical returns.

Besides the fact that such slow rate of recovery has obviously contributed to the accumulation of arrears, the amount of uncollected revenue which have become irrecoverable and is according to the department (Annual Report for 1988-89) likely to be written off, is increasing alarmingly as compared to the actual amount recovered, as shown in the table given below;

Year	Amount of arrears as on 31st March	Arrears recovered during the year		Irrecoverable arrears likely to be written off	
		<u>Amount</u>	<u>Percentage</u> of 3 to 2	<u>Amount</u>	<u>Percentage</u> of 5 to 2
(1)	(2)	(3)	(4)	(5)	(6)
1984-85	358.44	23.41	6.53	26.56	7.40
1985-86	501.96	28.75	5.72	28.91	5.75
1986-87	638.06	23.70	3.71	32.34	5.06
1987-88	783.69	36.43	4.64	39.34	5.01
1988-89	951.48	42.96	4.51	43.29	4.54

### 2.3.6. Position of recovery certificates issued

1 Recovery Certificates in the prescribed form (ST 114) giving details of the dealer including his name, address, as well as name of the partners and their complete addresses, amount of dues, the rate of interest and the period for which the same is to be recovered are issued by the assessing authority to the revenue authorities or to the Collection wing of the Department to make the recovery as arrears of land revenue, in case a dealer fails to deposit the tax/ additional tax within 30 days of issue of notice.

2 A test check of 2390 cases mentioned in demand registers upto 1989-90 maintained by the Deputy Collectors (Collection), Sales Tax in the 6 districts revealed that in 1998 cases recovery certificates, involving an amount of Rs 803.94 lakhs, issued to the Deputy Collectors (Collection), Sales Tax for Collection were returned to concerned assessing officers for want of sufficient particulars viz. name, correct address, father's name or name of the sureties etc. of the assesseees. As such the very purpose of issuing the recovery certificates was defeated.



Further in 42 cases involving Rs.60.64 lakhs the details of movable or immovable properties relating to the assessees were not given by the assessing officers concerned, again severely constraining the collection department from taking any action for collection by way of Kurki or auction.

6.3 In 350 cases, recovery certificates for a total amount for Rs 717.75 lakhs received upto 1988-89 by the Deputy collectors (Collection), Sales Tax, recovery proceedings had not been initiated so far (June 1990). The reasons for delay in initiating action on these certificates were not intimated to audit.

6.4 Recovery certificates received from other districts are maintained in a separate demand register. During test check it was seen that between 1986-87 and 1988-89, in Allahabad district 250 recovery certificates involving Rs. 50.77 lakhs were received from other districts for recovery of sales tax as arrears of land revenue (in the cases of such assessees whose permanent addresses are in Allahabad) but were not included in the figures of arrears as intimated to the higher authorities (by way of monthly and annual statements). Steps were also not taken to recover this amount during these years.



### 2.3.7. Stay orders granted by various Courts

(i) Under the provisions of the U.P Sales Tax Act, 1948, an assessee aggrieved by an assessment order or a demand may file an appeal to the Assistant Commissioner (Judicial) or Deputy Commissioner (Appeals) of the Department of Sales Tax, U.P. A second appeal rests with Sales Tax Tribunal. The High Court can be approached for revision of the Tribunal's decision, on the ground that the case involves question of law. Of the total arrears amounting to Rs. 951.46 crores as on 31st March 1989, arrears amounting to Rs.207.12 crores had been stayed by the various Judicial authorities.

(ii) A scrutiny of records in the office of Assistant Commissioner (High Court Cases) Sales Tax, Allahabad revealed that 2381 writ petitions and 2801 revision petitions involving levy of sales tax were pending in the High Court, Allahabad as on 31st December 1989. Corresponding figures of such cases in respect of Lucknow Bench of the High Court were not available.

The Supreme court in the case of Assistant Collector, Central Excise, Chandan Nagar, West Bangal Vs Dunlop India Limited and Others (AIR 1985-SC-330) and Empire Industries Limited and Others Vs Union of India and Other

(AIR -SC-662-1986 Tax LR 1933) has observed that no Government business or for that matter no business of any kind can be run on mere Bank guarantee and the Courts should refrain from passing any interim orders staying the realisation of indirect taxes even with Bank guarantees. In 15 sample cases involving Rs.98.37 crores,

the assessees obtained stay from High Court/Supreme Court with or without Bank guarantee against the sales tax demand raised against them by the department; which are yet to be got vacated.

#### 2.3.8. Departmental failures leading to accumulation of arrears and loss of revenue

With a view to ascertaining the reasons for such heavy accumulation of arrears, a number of individual cases were scrutinised in the course of the review, some of which are narrated in the succeeding paragraphs. These would reveal that there was failure on part of the department to take appropriate and adequate measures for timely collection of revenue; the dealers resorted to various methods to evade payment of the tax due; issuance of large number of declaration forms to dealer by the department without even monitoring its proper use or to dealers who were defaulting on payment of tax and; delay and carelessness in following the laid

down procedures for recovery of tax like issue of recovery certificates, etc. In several cases, it was further seen in audit that adequate precautions before granting registration to the dealers were not taken by the department resulting in the dealers not being traceable at the time of assessment and payment of dues. Moreover, a large number of declaration forms were issued to such dealers, indicating that the quantum of business done by them was high.

2.3.8(1)(a)A private limited company of Lucknow was registered as a dealer in Motor Vehicles, Tractor and parts thereof. For all the assessment years from 1979-80 to 1984-85, the company was assessed on ex-parte basis. The assessment orders for 1979-80, 1980-81 and 1981-82 were remanded on company's appeals against the orders. The re-assessments were again done ex-parte, because of the failure of the company to turn up. The total outstanding dues against the company on account of sales tax and penalty increased from Rs. 3.85 lakhs in 1979-80 to Rs. 42.75 lakhs in 1984-85.

During the assessment years 1979-80 and 1980-81, 10 cheques for Rs. 3.78 lakhs submitted by the company towards tax on admitted turnovers, were dishonoured by the bank. The company was also



penalised for the failure to deposit the tax due under the Act along with his returns and penalty of Rs. 2.63 lakhs and Rs. 0.22 lakh was levied during the years 1980-81 and 1982-83 respectively.

On the basis of request made by the company, the department allowed the facility of payment of arrears for assessment year 1979-80 in 6 instalments, but not a single instalment was paid.

Despite, the above developments, the department issued 445 forms 'C' and 337 forms XXXI during the period from 1979-80 to 1983-84 to enable the dealer to import goods from outside the State at concessional rates or otherwise. Neither was any monitoring done at the time of submission of the monthly returns and declaration form account nor was action taken by the department under the provisions of Act regarding cancellation of registration.

By absenting itself at the time of assessments and re-assessments, but going in for appeals in each assessment year the company evaded payment of tax dues. The department, however, failed to take any corrective measures in time or effective steps to recover the dues. Though recovery certificates were issued, the arrears of Rs. 42.75 lakhs could not be recovered till March 1990.

(b) For import of goods from outside the State and for availing concessional rate of tax on purchase of goods from outside the State, a dealer has to furnish declarations in Form XXXI and Form 'C' respectively. Similarly, for obtaining concession in tax on purchase of raw material, a manufacturer has to furnish declaration in Form III-B to the selling dealer. Rules provide that no fresh forms should be issued without verifying utilisation of forms previously issued to the dealer.

A dealer of Lucknow was registered in 1977-78 for manufacture and sale of medicine.

For the assessment year 1977-78, the dealer was assessed and declared tax free on 30th November 1979. However, on receiving certain information, he was reassessed to tax amounting to Rs. 0.72 lakh for the same assessment year on 24th January 1983. For the assessment years 1977-78 to 1984-85 he was assessed to a total tax liability, including penalty, of Rs. 18.91 lakhs.

On 12th September 1980 the dealer submitted two treasury challans of Rs 71,366.78 which, on the basis of information received from the Treasury Officer, in December 1980 were found to be forged. The assessing officer lodged an FIR on 4th February 1981. Alongwith

monthly returns of assessment years 1981-82 and 1982-83, the dealer submitted cheques for tax on his admitted turnovers. Most of the cheques were dishonoured by the bank. The department however, continued to issue declaration forms numbering 637 between the period from 1978-79 to 1984-85 without verifying utilisation of forms previously issued to the dealer.

No verifications of the returns and cheques submitted by the dealer was done nor was action taken under the prescribed provisions for cancellation of registration and penal action etc by the department. The inadequate action on the part of the department allowed the arrears to increase every year against the dealer. Recovery certificates were issued but arrears of Rs 18.91 lakhs could not be recovered (April 1991).

(c) A dealer of Kanpur was registered on 4th July 1979 for the purchase and sale of iron and steel. The position of issue of forms, assessments date, tax



(78)

recovered etc is given in the following table:

Year	Declaration forms issued	Assessment for year, completed on	Tax liability	Tax deposited by the dealer	Date on which R.C issued	Amount recovered
1	2	3	4	5	6	7
1979-80	N.A	22.10.1981 (Ex-Parte)	Rs.2,247.00 (Reduced to Rs. 49.90 by A.C (J))	Rs.49.90		
		Reopened on 29.9.1984	Rs.12000.00	Nil	28.10.85	Nil
1980-81	30 (Form IIIA)	31.3.1982	Rs.11,467.00 Reduced to Nil by A.C(J)			
		Reassessed on 25.9.85	Rs. 6.00 lakhs	Nil	3.1.87	Nil
1981-82	35 (Form IIII) 15 (Form 'C')	14.10.83	Rs. 0.80 lakh	Nil	2.3.84	Nil
1982-83	145 (Form IIII) 80 (Form 'C')	30.5.84	Rs.2.90 Lakhs	Rs.1933.45	3.1.87	Nil

(79)

1983-84	30	30.10.87	Rs 2.40 Lakhs	Rs 1500.00	18.04.88	Nil
(Form III)						
25						
(Form 'C')						

1983-84 Penalty	30.03.88	Rs 1.76 Lakhs	Nil	01.07.88	Nil
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Further, the cheques submitted by that dealer during the years 1981-82 (1 cheque) and 1982-83 (9 cheques) were also dishonoured by the banks. In July 1981, notices sent for the finalisation of assessment for the year 1979-80 to the dealer were returned undelivered with the remarks that no such firm existed at the given address.

The dealer also imported large quantity of iron and steel in 1981-82, which was not disclosed in his accounts. For example, against 3 Forms XXXI (original copy received from check post) available on record the dealer imported iron and steel worth Rs. 1.69 lakhs against Rs.0.07 lakh disclosed by him.

The above facts would reveal that the dealer was able to evade tax because of the department's failure to monitor issue of forms or the periodical returns on turnovers filed by the dealer, resulting in total tax arrears of Rs 13.94 lakhs.

(80)

(d) A private limited company of Lucknow manufacturing Vanaspati was registered on 7th July 1971. Of the 9 Directors, two were nominees of the U.P State Industrial Development Corporation and one was of the U.P. Finance Corporation. At the time of registration, the assessing authority asked for a security of Rs.0.20 lakh which was not furnished. The Managing Director of the company, however, undertook, on 26th July 1971, personal responsibility for the payment of tax and the department did not take further action in this regard.

The total tax liability of the company amounted to Rs. 49.35 lakhs for the years 1973-74 to 1975-76. This included penalty of Rs. 5.68 lakhs during the years 1974-75 and 1975-76. Against the above, a sum of Rs. 14.30 lakhs was deposited from time to time leaving a balance of Rs. 35.05 lakhs till the end of 1975-76. During the three years, despite the arrears, 305 declaration forms were issued to the company.

While Recovery Certificates, for recovering the above mentioned amount, were issued in December 1976 and March 1977, the company had filed on 19th May 1976 a petition in the Lucknow Bench of the Allahabad High Court for liquidation which was allowed on 10th January 1979. In May 1977, a Joint Enquiry



Committee consisting of a Sales Tax Officer and Deputy Collector (Collection) declared the arrears to be irrecoverable. This was done when the case of liquidation was pending before the court and assets worth Rs 60.00 lakhs (approximately) were still with the Company.

It was seen that survey or monitoring of periodical returns of turnover and declaration forms issued, was never done with the result that the department was not even aware of the closure of the Company. Under the orders of State Government (14th January 1983) a prosecution case was filed by the department against the Director of the company (26th May 1983) in the court of Chief Judicial Magistrate, Lucknow, decision was awaited (April 1991).

(e) In Sales Tax Circle, Lucknow, outstanding sales tax dues against a partnership firm dealing in glassware, chemical and scientific apparatus, rose from Rs. 0.32 lakh in 1975-76 to Rs. 6.54 lakhs in 1980-81. From 1976-77 to 1980-81, against a total liability of Rs. 7.29 lakhs, the firm had deposited only Rs. 1.07 lakhs. Despite these arrears, the department issued as many as 600 declaration forms during the period from 1976-77 to 1979-80.

As per request of the firm, the State Government fixed (26th August 1978) monthly instalments of Rs 3000 for the payment of the arrears for the period from 1973 to 1977 against surety and subject to certain other conditions! The firm paid only one instalment, that too in March 1979. It did not furnish any surety.

In August 1980, when demand notice for additional demand created in assessment years 1976-77 was sent to the firm, it was reported by the process server that the firm had been closed for the last two or three years. The department asked for an additional surety of Rs 2.00 lakhs, which was not deposited. Finally, the registration was cancelled in September 1980, and the revenue remains unrealised (April 1991), despite issue of Recovery Certificates.

(f) In Sales Tax Circle Lucknow, a dealer, registered in 1980 for the manufacture of packing materials, was irregular in submitting his returns or payment of tax due. During the month of September 1983 and October 1983 tax due, amounting to Rs 22,292 and Rs 15,960 were not deposited by the dealer. For the month of January 1984, the monthly return was not submitted at all. Two cheques amounting to Rs 24,730 and Rs 23,283 submitted by the dealer alongwith his returns for the months of



August 1983 and February 1984 were dishonoured. During the year 1984-85, the dealer did not admit any tax liability on turnovers, except for May 1984 and March 1985, but cheques submitted for Rs 16,574 and Rs 9,713 on admitted turnover for these two months were also dishonoured. In spite of these defaults, the department issued during the period from 1983-84 to 1984-85 declaration forms as and when requested for, without ascertaining the utilisation of those forms already issued.

Notices for the finalisation of cases pertaining to the assessment years 1983-84 and 1984-85 were received back undelivered as the firm was reported, by the process server, to be closed. The assessing authority finalised the assessment cases on exparte basis, fixing the tax liability at Rs.2.50 lakhs and Rs 1.52 lakhs respectively for the years 1983-84 and 1984-85. Apart from this a penalty for Rs.0.24 lakh and Rs 0.50 lakh were also imposed on the dealer. As a result of the department's failure to take prompt action an amount of Rs.4.76 lakhs remains outstanding as arrears against the dealer (April 1991).

(g) In Sales Tax Circle, Ghaziabad, it was discovered from the declaration forms received from the check posts that a dealer, registered for trading



in chemical and Kirana had imported from other States, chemical, Kirana, tea and waste paper worth Rs 23.08 lakhs, during the first three quarters of 1984-85, whereas, in his quarterly returns for the same period, he had admitted a turnover of Rs 1.88 lakhs only. One of the three notices issued between 7th February to 11th February 1985, could be served to the dealer who through an undated letter informed the assessing authority that he had shifted his business to another location. On the basis of the declaration forms received from check-posts provisional assessment for the three quarters was completed in February 1985 with a tax liability of Rs. 5.16 lakhs and demand notice was sent to the new address. The process server reported that no such firm existed at the new address. Though, in terms of the provisions of U.P. Sales Tax Manual, permission of the Commissioner of Sales Tax Uttar Pradesh was required for shifting business from the jurisdiction of one assessing authority to another, neither such permission was sought by the dealer, nor was it insisted upon by the department. No survey of the new premises was ever carried out.

No further action was taken to recover the amount except that the assessing authority reported the matter to the Mobile Squad of the Sales Tax Department on 24th August 1985 .

(85)

The finalisation of assessment for the year 1984-85, was taken up as late as in 1988. Four notices were issued for this purpose in June and July 1988 to the new address and each time, it was reported that no such firm existed at that address. Finally, on 28th September, 1988, assessment was completed on ex-parte basis and the total tax liability was fixed at Rs 9.80 lakhs on a turnover determined at Rs. 120.00 lakhs.

Recovery Certificate were issued on 6th February 1989 but the amount remains outstanding till date (April 1991).

2.3.8(ii) Every dealer, who sells any goods, the turnover of which is liable to sales tax under the U.P. Sales Tax, Act, 1948, is required to obtain the registration certificate under the Act. Certain conditions and procedures laid down in the Rules framed thereunder and departmental manuals provide that the assessing authority will verify the identity of the dealer, his source of livelihood before commencement of the stated business, financial position of the dealer, viz. capital invested in the business and its source, location of the fixed and floating assets with their value, whether the dealer has a bank account and recoverability of balance amount of the tax in the event of the closure of the firm and complete

and correct local and permanent addresses of the dealer or his partner and after satisfying himself by spot enquiries, the assessing Officer will grant registration certificate within 30 days from the date of application.

As per the U.P. Sales Tax Rules, 1948, fresh declaration form which enable the registered dealer to make purchases without payment of sales tax or at a concessional rate, shall not be issued to the dealer unless he had rendered an account of all forms previously issued to him.

In the cases noticed during test check and described below, prescribed checks and investigations were not carried out by the department in this regard and consequently, dealers could get themselves registered, obtain declaration forms, carry on substantial business and close their business within a short span of time before the department could finalise the assessment and issue demand notices.

(a) In Sales Tax Circle, Ghaziabad, a dealer dealing in Ferrous and Non-Ferrous metals stated his business place and residence as at Farukhnagar, Ghaziabad and Chauri Bazar, Delhi respectively. On a security of Rs. 5000, he was granted registration from 9th June 1980 without conducting any



inquiry or verification as laid down under the rules.

On 1st August 1981, a survey conducted by the Special Investigation Branch of the Department revealed that no such dealer ever existed at the stated place of business.

Meanwhile, during the year 1980-81, 240 declaration forms were issued to the dealer, out of which 175 were issued within a span of 69 days from 3rd January 1981 to 12th March 1981. No check was exercised while issuing the forms.

When the assessing authority sent notice (from 26th February 1985 to 20th March 1985), three and a half years after the survey of Special Investigation Branch, for the finalisation of assessment pertaining to the year 1980-81, these were returned unserved as the dealer was not traceable. The assessment for the years 1980-81 and 1981-82 were done on ex-parte basis, on 27th March 1985 and tax liability of Rs. 40.94 lakhs was fixed. Recovery certificates were issued but the tax remains unrealised (April 1991).

(b) In Sales Tax Circle, Kanpur, a dealer, as a general order supplier of iron and steel was granted registration on 18th October 1980, on a surety of Rs 10,000 from two other dealers but

without details of movable and immovable properties. The capital invested by the dealer was stated to be Rs 5000 only.

Upto September 1983, the dealer submitted monthly returns and paid Rs 10,174 towards tax for the years from 1980-81 to 1983-84. Huge differences were noticed for 1981-82 and 1982-83 in the imports declared by the dealer and those recorded in the forms received from the check-posts for these years. On 7th November 1983, a notice was issued to the dealer to appear before the assessing officer to explain these differences, even though, on 30th October, 1983, the dealer had already intimated the closure of the business. The notice was pasted on the wall of the business premises as the dealer was not traceable. Finally, the assessment for the year 1981-82 to 1983-84 were finalised on ex-parte basis with tax liability amounting to Rs 16.21 lakhs. However, no demand notice could be served on the dealer as he was not traceable. Issue of recovery certificate has also failed to recover the revenue till date (April 1991).

(c) In Sales Tax Circle, Lucknow, a dealer was granted registration Certificate effective from 11th October 1982, for purchase and sale of Sugar, Maida and Atta without making spot inquiry of the business premises,

movable and immovable property and without verifying the local and permanent addresses, financial position, bank account and the possibility of recovery of tax in the event of closure of the firm.

The dealer was not available during the survey, subsequently conducted on 19th October 1982 and during another survey on 30th July 1985.

For the years 1982-83 and 1983-84 assessments were finalised on ex-parte basis, on 25th March, 1987 and 28th December, 1987, just before the assessments would have become time-barred, fixing tax liabilities of Rs. 0.12 lakh and Rs. 3.12 lakhs for the respective years. In the meantime, the Deputy Commissioner, Sales Tax, Khandwa Region, Madhya Pradesh informed that the dealer had imported Vanaspati ghee valuing Rs. 40.79 lakhs on 12th December, 1982 on consignment basis against declaration form 'F'. Similarly, the Excise and Taxation Officer, Special Cell (Inspection), Punjab (Patiala) informed (12th November 1987) that the dealer had imported Vanaspati ghee valuing Rs.18.69 lakhs and Rs. 8.87 lakhs from a firm at Amritsar on consignment basis during the years 1983-84 and 1984-85.



On the basis of the above information, the assessment cases for the years 1982-83 and 1983-84 were re-opened. Notices sent were received back undelivered as the dealer was not traceable. The assessment cases for the years 1982-83, 1983-84 and 1984-85 were finalised on 29th March 1988, 30th September, 1988 and 4th March 1989 respectively, on ex-parte basis, creating total tax liability of Rs. 13.74 lakhs.

Recovery Certificates were issued (8th June, 1985, 8th February, 1989 and 29th July 1989) for the recovery of sales tax of Rs. 13.74 lakhs as arrears of land revenue but the same have remained unrealised so far (April 1991).

(d) In Sales Tax Circle, Ghaziabad, a dealer, as a distributor and commission agent of soap and all kinds of oil, was granted registration on 23rd June, 1981 only on the basis of surety for Rs. 0.20 lakh. The surety was accepted by the department without any verification and was found to be fake in March 1985.

Although, notice sent to the dealer, on 13th January, 1983 for finalisation of assessment case for the year 1981-82, could not be served at his local and permanent addresses, the dealer being untraceable, the department still granted renewal of his

registration on 16th May, 1984, on the same day the application for renewal was filed.

During the year 1984-85, the department issued 26 declaration forms to an advocate, acting on behalf of the dealer. As the dealer failed to turn up at the time of hearing, the assessment cases for the years 1981-82 and 1984-85 were finalised on 6th June 1985, on ex-parte basis, by determining the total turnover at Rs. 86.00 lakhs and fixing tax liability of Rs. 13.16 lakhs.

Recovery Certificates were issued (June 1987) to recover the tax of Rs. 13.16 lakhs as arrears of land revenue. The recovery Certificates were received back from the Deputy Collector (Collection), Sales Tax, Ghaziabad with the remark that the firm was closed and that the names of surety were also not recorded on them. The department made inquiry for the whereabouts of the dealer from the landlord of the business premises, who stated that he had never rented his premises to such firm. The department, in August 1987 concluded that the firm was bogus. The tax due of Rs. 13.16 lakhs remains unrealised (April 1991).

(e) In Sales Tax Circle, Varanasi, a commission agent for Coal was granted registration from 10th December 1981 on the basis of the Coal licence issued on

31st August 1981, by the District Supply Officer, Jaunpur, to the dealer which was applicable to the district Jaunpur only. The registration, however, was granted by the Sales Tax Officer, Varanasi for the main office at Varanasi.

The registration was granted to the dealer without the requisite information about his financial position, movable and immovable property etc and without prior spot inquiry and survey of the business premises.

Altogether 3,093 declaration forms were issued to the dealer during the period from 1981-82 to 1983-84; but not a single form was received back from the check posts, nor was any account of the forms received from the dealer.

The process server reported untraceability of the firm on two occasions in July 1984 and March 1987 while serving demand notice for the assessment year 1981-82 and notice for finalisation of case for assessment year 1982-83. When the case for the year 1982-83 was finalised on 12th March 1987, on ex-parte basis, and an additional demand of Sales Tax for Rs. 1.49 lakhs was created, the dealer requested the assessing officer to reopen the case. The request of the dealer was acceded to by the assessing officer in December 1987 and the date



of next hearing was fixed on 16th January 1988. The dealer did not appear on that date, and as such, the re-opened case was finalised with the same liability of tax, as passed in the original assessment order. Similarly, to finalise the assessment for the year 1983-84, notice was served at his permanent address on 1st August, 1987. The dealer sought and got adjournment on seven occasions, from August 1987 to January 1988 through his advocate, without appearing himself on any of the dates. The assessment was finalised by the assessing authority in February 1988 on ex-parte basis, and an additional demand for Rs. 2.89 lakhs was created. The total demand against the dealer, between the period from 1981-82 to 1983-84, increased to Rs.4.58 lakhs, which remains unrealised (April 1991).

(f) In Sales Tax Circle, Kanpur, a dealer was registered in 1981-82 as a general order supplier of iron and steel, without prior local inquiry.

During the year 1981-82 and 1982-83, 210 declaration forms were issued to an advocate, authorised by the dealer, even though the dealer never submitted a complete account of the forms utilised by him during these years. Except for the months of June and July 1981 (in 1981-82) and from June 1982 to March 1983 (in 1982-83),

the dealer never submitted any returns of turnover, but the department continued to issue declaration forms to him.

Despite the facts that the original copies of the declaration forms during 1982-83 received from check post revealed huge differences and the process server reported in May 1983 that there was no such firm by that name at the given address, the assessment for the year 1981-82 and 1982-83 were completed as late as on 28th March 1985 and 30th June 1986, on ex parte basis, creating a total tax demand for Rs. 12.20 lakhs. During the year 1982-83 the dealer had deposited only Rs. 0.20 lakh as tax along with monthly returns, on his admitted turnover, leaving an arrears of Rs. 12.00 lakhs for the years 1981-82 and 1982-83, which remains unrealised till date (April 1991).

**2.3.9. Failure to take prompt action in case of closed firms.**

According to departmental instructions, on receipt of intimation regarding closure of a firm enquiry should be made within 30 days and assessment completed, on priority basis, within six months of the intimation/information received.

In the following cases Government revenue amounting to Rs.68.49 lakhs

remains unrealised due to delay in assessment and failure of the department to raise demand and recover the dues before the dealers closed their business:

(a) In Sales Tax Circle, Ghaziabad a dealer was granted registration on 3rd May 1979 for manufacture and sale of Iron and Steel forgings. The Special Investigation Branch of Sales Tax reported on 16th March 1982, and 30th September 1982, that the business of the dealer was dubious. It also stated that the account books of the dealer had been seized by the Superintendent, Central Excise (Preventive). A survey by the department in November 1983 revealed that the firm has been closed finally and gone into liquidation from 3rd January 1985.

Even though 442 declaration forms were issued during the years 1980-81 to 1983-84, assessments for the years were taken up by the department from 25th February 1985, after the firm had been closed and had also gone into liquidation. A tax liability of Rs.39.71 lakhs created for these years remains unrealised (April 1991). The department also failed to file a claim petition for the arrears before the official liquidator.

(b) In Sales Tax Circle, Ghaziabad, a private limited firm with its Head Office at Delhi was granted registration



from June 1978 for the manufacture and sale of paper.

On 29th January 1982, the firm intimated closure of its business from October 1981. The firm again intimated on 6th April 1982 that it was closing its business from 14th October 1982.

Meanwhile, on 17th August, 1982, the firm was purchased by another person but the department conducted no survey on the basis of fresh ownership. A survey conducted on 26th May 1988 revealed that even the new firm was lying closed.

Notices sent by the department during December 1984 to December 1989 to finalise the cases for assessment years 1980-81 to 1985-86 on the addresses, local and permanent, of the previous and present Directors were returned unserved and finally the cases were completed on ex-parte basis, creating an additional total demand for Rs 20.38 lakhs. The amount remains unrealised (April 1991).

(c) In Sales Tax Circle, Ghaziabad, a partnership firm was registered for production and sale of 'Dal' on 20th March 1984.

For the assessment year 1985-86, assessee submitted monthly returns of his turnover amounting to Rs 56.84

lakhs but did not admit any tax liability, the sales being on consignment basis. But neither prescribed declaration forms or evidence in support of the exemption claimed was furnished nor was it called for by the assessing authority even after considering the substantial turnover involved.

During the years (1984-85 and 1985-86) declaration forms (105 Forms XXXI and 10 Forms 'C') were issued but the assessee did not furnish any account of these forms.

The assessee intimated the assessing authority (June 1986) that he had closed his business from 1st May 1986. The assessment for the year 1985-86, was however, taken up only in September 1989, and a tax liability of Rs 8.40 lakhs was created. No amount could be realised as the dealer was not traceable. Recovery Certificate was issued to the Deputy Collector (Collections), Sales Tax Varanasi. The amount, however, remains unrealised. (April 1991).

#### 2.3.10. Lack of Co-ordination between two departments of the Government

Under the provisions of U.P. Excise Act, 1910 and rules made thereunder, licences for purchase and sale of

Indian Made Foreign Liquor (IMFL) and other liquors are granted annually to the highest bidder in auction. These licencees are not going concerns and hence, collection of Sales Tax revenue depends wholly on prompt assessment and recovery. It was seen in audit that effective co-ordination between the Sales Tax Department and the State Excise Department was lacking and the concerned Sales Tax Circle were not given information about the licencees, as and when the licences were granted by the State Excise Department.

In the following cases, such lack of co-ordination and delay in assessment resulted in loss of revenue to the tune of Rs.93.72 lakhs to the State exchequer.

(a) Two unregistered dealers of Varanasi got the licence for purchase and sale of IMFL and Bhang from the State Excise Department for the year 1984-85.

The assessing authority received information of their business on 9th November 1984 from the Special Investigation Branch of The Sales Tax Department. Notice for assessment for the year 1984-85 was issued as late as 8th March 1989. The dealers were not traceable. The assessments for the year were finalised on 27th March 1989, on ex-parte basis, just a few days before



the case would have become time barred. On the basis of bid finalised for the year 1985 annual turnover were determined to be Rs 360.00 lakhs. The tax liability of Rs. 78.12 lakhs was fixed against the dealers but no amount could be realised (April 1991).

(b) During the year 1982-83, an unregistered dealer of Kanpur district was granted licence by the State Excise Department for purchase and sale of foreign liquor for Rs.14.55 lakhs. This information was received from the Special Investigation Branch of Sales Tax Department on 18th December 1982.

On the basis of the said information, the assessing authority issued notice for the finalisation of assessment of 1982-83 as late as on 16th May 1986. The dealer did not turn up.

The assessment of the dealer was finalised on ex-parte basis, on 11th September 1986 determining the total turnover at Rs.30.00 lakhs and a tax liability of Rs.7.80 lakhs was created. The recovery certificate was issued on 14th August 1987 but the amount remains unrealised (April 1991).

(c) A dealer of Kanpur was registered on 10th December 1984 for wholesale and retail trade of foreign liquor for the year 1984-85 to 1986-87. While granting

registration by the Sales Tax Department, neither were details of movable or immovable property or surety furnished nor were they insisted upon by the department.

During the year 1985-86 five cheques on account of Sales Tax deposited by the dealer on the admitted turnovers were dishonoured. On 31st December 1985, while importing foreign liquor without any declaration forms, the goods were seized at the check-post. A penalty of Rs.0.94 lakh was imposed on the dealer. On the basis of the request of the dealer for early finalisation of assessment case for the year 1985-86, the Assistant Commissioner, Sales Tax, Kanpur (29th April 1986) instructed the assessing officer to finalise the assessment case at the earliest.

Notices for the finalisation of the assessment case for the year were sent only between February 1987 and July 1987 but the dealer, by that time, was not traceable.

Despite the request of the dealer and instruction of the higher authority, the assessment of the said year was not taken up immediately and was finalised on 11th March 1987, on ex-parte basis. The inter-state turnover was determined to Rs.28.00 lakhs and



additional demand for Rs.7.80 lakhs was created.

Recovery Certificates were issued on 9th October 1987 but the amount still remains unrealised (April 1991).

### 2.3.11. Miscellaneous

(a) A dealer of Ghaziabad was granted registration from April 1984, to deal in oil engine and machine parts.

The assessment case for the year 1984-85 was completed on 24th May, 1986 with no tax liability as both purchases and sales made by the dealer were shown as local and hence tax paid. This was accepted by the department.

The Deputy Commissioner (Administration), Sales Tax, Ghaziabad Circle ordered in January 1987, the assessment case for the year 1984-85 to be opened for re-assessment as the dealer, during the year (1984-85), was reported to have made purchases from outside Uttar Pradesh which were not tax paid. On 9th February 1987, however, it was discovered that the original file relating to grant of registration and survey was lost from the office of the assessing officer. A FIR was lodged with the Police on 14th February 1987.

Notices sent (12th January 1987 to 18th February 1987) to the dealer for



the re-assessment were returned undelivered with the remark that the dealer was not traceable. On 12th March 1987, a letter from the dealer was received intimating his address at Delhi. However, notices sent by the assessing officer by registered post to this address also remained undelivered with the postal department's remark that there was no such person on the given address. Though, on 1st April 1987, the dealer appeared before the assessing officer alongwith his advocate, and he failed to turn up again on the date of reassessment, the department has not been able to ascertain any details which would facilitate it to take further action for recovery of tax dues.

Ultimately, the re-assessment case was finalised (23rd April 1987), on ex-parte basis, fixing a tax liability of Rs. 22.05 lakhs on a determined turnover of Rs.350.00 lakhs. The tax remained unrealised till date (April 1991).

(b) In Sales Tax Circle, Varanasi a firm registered for purchase and sale of iron and steel on 18th May 1983 without prior verification and inquiry. For the year 1983-84, the firm filed only two monthly returns and paid no sales tax. During the same year, 53 declaration forms were issued, account

for which was not rendered by the dealer.

Huge imports by the dealer were detected from declaration forms received from the check-posts. Finally, when assessment for the year 1983-84 and 1984-85 were completed on 30th July 1985 and 23rd March 1989 respectively, the dealer was not traceable. A total tax liability of Rs.6.72 lakhs was created but no amount has been realised till date (April 1991).

(c) In Sales Tax Circle, Lucknow, the Special Investigation Branch (SIB), of Sales Tax, informed the department about inter-state sale of timber by an unregistered dealer during 1983-84. Notices issued to the dealer at the address given by the SIB could not be served. Final assessment of the same year was completed on ex-parte basis, as late as on 31st October 1987, creating a tax liability of Rs.1.31 lakhs against the dealer which was later revised to Rs.1.29 lakhs.

By this time, according to the process server's report, another firm by a different name in the place of said firm was found to be carrying on business at the same premises. Another report of process server of 28th October, 1988, revealed that yet another firm had started operating in



the same premises. The third firm did, however, register itself.

Despite receiving information from the SIB, the department could not complete the assessment promptly and take any effective step, other than to issue recovery certificate in July 1988. The amount of Rs.1.29 lakhs still remains unrecovered (April 1991).

The above points were referred to the department and the Government in July 1990; their replies have not been received (April 1991).

G.96  
2.4. Irregularities in granting concession to manufacturers for purchase of raw materials

Section 4-B of U.P. Sales Tax Act, 1948, provides a scheme for special relief in tax to manufacturers on purchase of raw materials required for use in manufacture of notified goods, on fulfilment of certain conditions. In case of violation of any of the conditions or issue of false declaration by reason of which tax on sale or purchase ceases to be leviable or becomes leviable at concessional rate, the dealer becomes liable to pay a sum equal to the amount of relief in tax secured by him.



(a) Non-levy of tax and penalty for misuse of declaration forms G-2

In case of issue of false declaration forms by reason of which tax on sale or purchase ceases to be leviable, the dealer becomes liable to pay a sum equal to the amount of relief in tax secured by him on purchase of such raw materials. Besides, the dealer is also liable to penalty of a sum not less than 50 percent but not exceeding one and a half times of the amount of tax avoided.

(i) In Sales Tax Circle, Moradabad, a dealer holding recognition certificate for the manufacture of machinery was authorised to purchase raw materials tax free. The dealer purchased iron and steel valuing Rs.47.79 lakhs during the year 1983-84 tax free on the strength of declaration in Form III-B and manufactured animal driven agricultural implements which are exempt from levy of tax under the U.P. Sales Tax Act. The dealer was, therefore, liable to pay penalty upto Rs. 5.73 lakhs, but it was omitted to be imposed, while assessing the dealer for the said period on 21st September 1988.

The case was reported to the department and Government in December 1989; their replies have not been received (April 1991).

G-118 (ii) In Sales Tax Circle, Lucknow, a dealer holding recognition certificate for the manufacture of paints and varnish, was authorised to purchase chemicals, bitumen, pigments, turpentine, linseed oil, oxide colours varnish, thinner and packing material tax free. The dealer purchased rosin, china clay, white cement, and barytes for Rs. 6.76 lakhs during the year 1982-83 tax free on the strength of declaration in Form III-B in contravention of the recitals of declaration. The dealer was, therefore, liable to pay Rs. 54,056 being equal to the amount of tax payable under section 3-B of the Act. Besides, the dealer was also liable to pay penalty upto Rs. 81,084. The tax as well as penalty was omitted to be imposed (July 1990).

The case was reported to the department in December 1989 and to Government in June 1990; their replies have not been received (April 1991).

G-148 (iii) In Sales Tax Circle, Agra, a dealer holding recognition certificate for the manufacture of rubber and P.V.C. goods purchased china clay, carbon black, silicate and titanium for Rs. 3.46 lakhs (taxable at the rate of 8 per cent) and residue oil for Rs. 48,454 (taxable at the rate of 4 per cent) as raw materials, during the years 1982-83 and 1984-85 tax free on the strength of declaration in



Form III-B. The dealer was not authorised to purchase these goods as raw material, in the recognition certificate granted to him. He was, therefore, liable to pay under Section 3-B of the Act., an amount of Rs. 29,628 being equal to the amount of relief in tax secured by him. The dealer was also liable to pay penalty upto Rs. 44,442 being equal to one and half times of the amount of tax which would have thereby been avoided for the misuse of declaration forms. The tax as well as penalty was omitted to be imposed.

The case was reported to the department and Government in March 1990; their replies have not been received (April 1991).

(iv) In Sales Tax Circle, Meerut, a dealer, holding recognition Certificate (August 1976) for the manufacture of transformers, purchased wire nails and aluminium caps etc. for Rs. 1.70 lakhs and Rs. 2.61 lakhs during the years 1982-83 and 1983-84 respectively at the concessional rate of tax on the strength of declarations in form III-B although he was not authorised to purchase these items in the recognition certificate granted to him. The dealer, was, therefore, liable to pay Rs. 17,281 being equal to amount of relief in tax secured by him. He was also liable to pay penalty upto Rs. 25,921.

G-170



The tax as well as penalty was omitted to be imposed during assessment in June 1987.

The case was reported to the department and Government in March 1990; their replies have not been received (April 1991).

(b) Misuse of the raw material

Section 4-B of the U.P. Sales Tax Act, 1948, provides for relief in tax to manufacturers on purchases of raw material required for use in the manufacture of notified goods on fulfilment of certain conditions. As per provisions of the Act, in the event of use of goods for any purpose other than that for which recognition certificate was granted or disposal of raw material otherwise, the dealer shall be liable to pay, as penalty such amount as the assessing authority may fix not exceeding three times of the relief in tax secured by him.

G-21 (i) In Sales Tax Circle, Ghaziabad, a dealer, holding a recognition certificate for the manufacture of rubber goods, purchased raw material valuing Rs. 11.76 lakhs free of tax on the strength of declaration Forms III-B during the year 1987-88 and utilised the same in the manufacture of rubber beltings, a different commercial commodity notified separately under the Act

as "beltings of all kinds". The dealer was, therefore, liable to pay penalty upto Rs. 2.80 lakhs, which was omitted to be imposed.

The case was reported to the department and Government in December 1989; their replies have not been received (April 1991).

(ii) It has been judicially held\* that balloon is a toy and not rubber goods. In Sales Tax Circles, Bareilly, a dealer holding recognition certificate for the manufacture of rubber goods from April 1979 purchased raw-material (rubber-latex) for Rs. 5.46 lakhs tax free on the strength of declaration in Form III-B during the years 1981-82 and 1982-83 and used the same in the manufacture of balloons, which do not come under the category of rubber goods. The dealer was, therefore, liable to pay penalty upto Rs. 1.31 lakhs (three times the amount of tax) which was omitted to be imposed at the time of initial assessments in August 1983 and November 1983. G-42

On the omission being pointed out in audit (November 1989), the department stated (February 1990) that the assessments for the years 1981-82 and 1982-83 had since been revised and

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\*CST Vs Kashi Nath Arora STI 1984 U.P. Tribunal Allahabad 188



additional demand for Rs. 1.82 lakhs raised (January 1990).

The case was reported to the Government in November 1989; their reply has not been received (April 1991).

G-13 (iii)(a) In Sales Tax Circle, Faizabad, a dealer holding recognition certificate for manufacture of transformers purchased copper wire and paper board for Rs. 5.50 lakhs during the year 1983-84 at the concessional rate of 4 per cent on the strength of declarations in Form III-B and used the same in repairs of transformers. The dealer was, therefore, liable to pay penalty upto Rs. 1.30 lakhs, which was not imposed.

On the omission being pointed out in audit (October 1988), the department stated (October 1989) that penalty amounting to Rs 86,477 had since been imposed.

The case was reported to Government in October 1988, their reply has not been received (April 1991).

G-15 (b) Similarly, in Sales Tax Circle, Faizabad, a dealer was granted recognition certificate for the manufacture of transformers. The dealer purchased wire and wire paper for Rs. 3.06 lakhs at the concessional rate of 4 per cent



on the strength of declaration Forms III-B during the year 1984-85 and used them in repairs of transformers. The dealer was, therefore, liable to pay penalty upto Rs. 72,316 but was omitted to be imposed.

The case was reported to the department and Government in November 1989; their replies have not been received (April 1991).

(iv) In Sales Tax Circle, Etawah, a dealer of steel almirahs and agricultural implements obtained a recognition certificate in May 1981 for the manufacture of "iron and steel", and agricultural implements which was renewed in February 1985 for a further period of 3 years up to March 1987. From surveys conducted by the Sales Tax Department (in December 1983 and prior to it) and information received from the Stores Purchase Section of the Industries Department (November 1987) it transpired that the dealer was not manufacturing "iron and steel" or agricultural implements as per his returns submitted to the Sales Tax Department but was in fact on the rate contract with the Industries Department for the supply of steel furniture, an item not covered under "iron and steel" and was also found to be suppressing his turnover of purchases of raw material. G-34

In the course of audit (February 1989), it was seen that the dealer has purchased iron and steel for Rs. 2.17 lakhs during the year 1981-82 and for Rs. 2.94 lakhs during the year 1984-85 tax free on the strength of declarations in Form III-B and used the same in the manufacture of goods other than "iron and steel" or "agricultural implements" for which the dealer had been granted the recognition certificate. The dealer was, therefore, liable to pay penalty upto Rs. 61,326, but it was omitted to be imposed by the assessing authority. Information in respect of other assessment years (1982-83 and 1983-84) was not available in the records .

The case was reported to the department and Government in August 1989; their replies have not been received (April 1991).

**(c) Un-authorized disposal of goods**

One of the conditions for the availability of the concessions envisaged in the Act is that the goods so manufactured are required to be sold within the State or in the course of inter-state trade or commerce or in the course of export out of India. Where a dealer, in contravention of the terms and conditions, sells or otherwise disposes of the goods so manufactured, he shall be liable to pay by way of



(113)

penalty an amount, which shall not be less than the amount of tax which would have been payable on the sale of such notified goods within the State but not more than three times the amount of such tax.

(i) In Sales Tax Circle, Moradabad, a dealer holding recognition certificate for the manufacture of acid monomer, purchased molasses for Rs. 38.79 lakhs at the concessional rate of tax on the strength of declaration during 1982-83 but transferred acid monomer worth Rs. 1.09 crores manufactured out of it outside the State on consignment basis. The dealer was, therefore, liable to pay penalty upto Rs. 26.13 lakhs which was omitted to be imposed. G-113

On the omission being pointed out in audit (December 1987), the department stated (November 1989) that penalty amounting to Rs. 21.75 lakhs had since been imposed.

The case was reported to Government in February 1990; their reply has not been received (April 1991).

(ii) In Sales Tax Circle, Nainital, a corporation, holding recognition certificate for the manufacture of turpentine oil and rosin, purchased resin worth Rs. 55.69 lakhs at the concessional rate of 4 percent during G-4



the year 1984-85 on the strength of declaration in Form III-B and transferred rosin (manufactured out of it) for Rs. 59.87 lakhs outside the state on consignment basis. For contravention of the terms and conditions, the corporation was liable to pay penalty upto Rs. 15.09 lakhs but it was omitted to be imposed.

The case was reported to the department and Government in December 1989; their replies have not been received (April 1991).

G-62 (iii) In Sales Tax Circle, Kanpur, a dealer holding recognition certificate for the manufacture of *Pan Masala* purchased packing material for Rs. 49.80 lakhs at the concessional rate of 4 per cent on the strength of declaration in Form III-B during year 1981-82. Out of the above packing material, the dealer utilised packing material worth Rs. 6.06 lakhs for the packing of *Pan Masala* which was consigned outside the State by the dealer. The dealer was, therefore, liable to pay a penalty up to Rs. 1.39 lakhs being three times the amount of tax involved (leviable at the rate of 8 per cent) which was omitted to be imposed at the time of assessment in December 1983 and re-assessment in July 1987.

On the omission being pointed out in audit (August 1988), the department

stated (August 1989) that minimum penalty of Rs.24,228 (which is the minimum amount) had since been imposed (December 1988). Reasons for short imposition of penalty are awaited.

The case was reported to Government in August 1988.

(iv) In Sales Tax Circle, Dehradun, a dealer holding a recognition certificate for milling of rice, produced rice during the year 1984-85, out of paddy purchased by him without payment of tax, on the strength of declaration in Form III-B, and transferred the rice valuing Rs. 3.34 lakhs outside the State on consignment basis. The dealer was, therefore, liable to pay penalty upto Rs. 40,105 but was omitted to be imposed. G-19

On the omission being pointed out in audit (October 1989), the department stated (February 1990) that penalty of Rs. 31,000 had since been imposed in December 1989.

The case was reported to Government in October 1989.

(d) Irregular authorisation of tax free purchases of raw material

Government notification dated 31st December 1976 envisages tax free purchase of raw material, for

manufacture of certain goods specified in Annexure I and III to the said notification. In respect of goods not specified in Annexure I and III to the said notification and/or any subsequent notification, the manufacturers are entitled to purchase raw material at concessional rate subject to certain exception and conditions.

G-37 (i) In Sales Tax Circle, Kanpur, six dealers, holding recognition certificate for the manufacture of cycle seat leather tops and cycle parts, were authorised to purchase raw material tax free. The dealers made purchases of leather for Rs 95.77 lakhs during the year 1983-84 to 1985-86 tax free on the strength of declaration in Form III-B and used the same in the manufacture of cycle seat leather tops. As cycle seat leather tops are not specified in the Annexure I or III to the notification, the dealers were not entitled to purchase raw material tax free but at the concessional rate of 4 per cent. Irregular grant of recognition certificate led to loss of revenue amounting to Rs 3.83 lakhs.

On the omission being pointed out in audit (March 1990), the department stated (October 1990) that by Government notification dated 31st March 1987, cycle seat leather top has been included in the part and accessory of the cycle with effect from that date.



As the notification does not have retrospective effect, the relief in tax given to the dealer in the instant case was loss to the department.

The case was reported to Government in March 1990; reply has not been received (April 1991).

(ii) Government notification dated 11th June 1974 provides for special relief in tax, to manufacturers on purchase of raw material required by them for use in the manufacture of notified goods, for a period of 5 years to units situated in specified backward districts and three years if situated in other districts of the State. 6-128

In Sales Tax Circle, Ghaziabad, a dealer was granted recognition certificate for the manufacture of tyre and tubes on 29th June 1974. The dealer purchased raw material for Rs 14.22 lakhs and Rs 17.36 lakhs, tax free during the years 1983-84 and 1984-85 respectively, on the strength of declaration in Form III-B. As Ghaziabad is not in the list of specified backward districts, the dealer could have availed the concessions of tax-free purchases upto 28th June 1977 i.e. for three years only. Allowing the dealer to purchase raw material tax-free beyond the specified period resulted in under assessment of tax amounting to Rs 1.31 lakhs.

The case was reported to the department in July 1989 and to Government in June 1990; their replies have not been received (April 1991).

~~G-8~~  
G-9 (iii) Government notification dated 31st December 1976 provides for special relief for a period of 5 years in specified backward districts and three years in other districts of the State. Kanpur is not a specified backward district. In Sales Tax Circle, Kanpur, a dealer was granted recognition certificate on 7th December 1978 for the manufacture of transformers. As Kanpur was not a specified backward district, the dealer could have purchased raw material tax free only for three years, namely upto 6th December 1981. The dealer, however, purchased raw material tax free for Rs. 8.65 lakhs during 1982-83 i.e. after the expiry of three years on 6th December 1981 by issuing declarations in Form III-B. He was, therefore, liable to pay tax amounting to Rs. 35,409. Besides, he was also liable to pay penalty upto Rs. 53,113 for issuing false declaration. The tax as well as penalty was omitted to be imposed while finalising the assessment case in February 1987.

On the omission being pointed out in audit (May 1987), the department stated in October 1989 that additional demand for Rs. 35,409 had since been raised. Report about imposition of



penalty has not been received (April 1991).

The case was reported to Government in May 1987.

(iv) Purchases of fuel or processing material, tax free or at concessional rate, are not admissible under the provisions of the Act. In Sales Tax Circle, Varanasi, a dealer was granted recognition certificate for the manufacture of oil, and the dealer was authorised by the assessing officer to purchase coal, tax free which was contrary to the provisions of the Act. The dealer purchased coal for Rs. 6.12 lakhs and Rs. 6.77 lakhs, tax free, against declarations in Form III-B during the years 1983-84 and 1984-85 respectively. As coal was not a raw material for the manufacture of oil, the dealer was not entitled to any concession in tax for purchase of coal. Irregular authorisation to purchase coal free of tax led to loss of revenue amounting to Rs. 51,580. G-71

On the omission being pointed out in audit (May 1987), the department stated (June 1989), that coal was originally removed (July 1981) from the recognition certificate; but was again included in the certificate as per directions of the Sales Tax Tribunal in a petition filed by the assessee. The department had filed a second appeal in



the High Court against the decision of the Tribunal, but as none appeared on behalf of the department, the case was dismissed (September 1984) by the High Court. This indicates failure on the part of the department to follow up the case in the right earnest and resultant recurring loss of revenue to Government.

The case was reported to Government in March 1990; their reply has not been received (April 1991).

G-64 (v) Chemicals used in the manufacture of dressed hides from raw material for the manufacture of dressed hides in terms of the department's circular dated 27th October 1979, and as such, the manufacturers of dressed hides were not to be allowed benefit of the concessional rate of tax on purchases of chemicals used in the manufacture of dressed hides and skins.

In Sales Tax Circle, Kanpur, a dealer was granted recognition certificate for the manufacture of dressed hides and was authorised to purchase babul bark at the concessional rate of tax. The dealer purchased babul bark for Rs 10.61 lakhs during the year 1983-84 at the concessional rate of 4 per cent. Since *babul* bark (used as chemicals) is not raw material for manufacture of dressed hides, the dealer was entitled to purchase the

same only at the normal rate of tax of 8 per cent. Irregular grant of concession led to short levy of tax (including additional tax) amounting to Rs. 44,293.

The case was reported to the department in September 1988 and to Government in March 1990; their replies have not been received (April 1991).

2.5(a) Suppression of turnover

G.123

Under Section 15A(i)(c) of the U.P. Sales Act, 1948, if the dealer conceals the particulars of his turnover or deliberately furnishes inaccurate particulars of such turnover, the assessing authority may direct that such dealer shall pay by way of penalty, in addition to tax, a sum not less than 50 per cent, but not exceeding one and half times of tax which would thereby have been avoided.

(1) In Sales Tax Circle, Kanpur, a dealer in his return for the year 1984-85 had disclosed his sales of food-grains, pulses and oilseeds for Rs. 12.79 lakhs during 1984-85 in his returns. It was, however, noticed from the information received from other wings of the department that the dealer had suppressed sales amounting to Rs. 30.95 lakhs. The turnover was, therefore, determined by the assessing authority at Rs. 50 lakhs and tax

amounting to Rs. 2 lakhs levied. The dealer was also liable to pay penalty amounting to Rs. 1.86 lakhs for concealment of turnover which was omitted to be imposed.

On the omission being pointed out in audit (September 1989), the department stated (March 1990) that penalty amounting to Rs. 2 lakhs had since been imposed (November 1989).

The case was reported to the Government in June 1990.

G-3 (ii) In the Sales Tax Circle, Hapur, a dealer purchased gur and foodgrains within the State and sold the same outside the State. These sales were, however, not disclosed in his returns of the year 1982-83. The turnover of these sales was determined (June 1987) by the assessing officer at Rs. 15 lakhs and one lakh respectively and was levied tax amounting to Rs. 1.24 lakhs. The dealer was liable to pay penalty upto Rs. 1.86 lakhs for the concealment of the turnover, but it was omitted to be imposed.

On the omission being pointed out in audit (June 1989), the department stated (January 1990) that penalty amounting to Rs. 85,000 had since been imposed.



The case was reported to Government in June 1989.

(iii) Similarly, another dealer of the same circle, who purchased gur within the State and sold the same outside the State during the year 1984-85, did not disclose the turnover in his accounts. The turnover of sales of gur was determined at Rs. 30 lakhs in February 1989 by the assessing officer and tax amounting to Rs. 2.40 lakhs was levied. For suppression of turnover, the dealer was liable to pay penalty upto Rs.3.60 lakhs, but it was omitted to be imposed. G-3

On the omission being pointed out in audit (June 1989), the department stated (January 1990) that penalty amounting to Rs.2 lakhs had since been imposed.

The case was reported to Government in June 1989.

(iv) In Sales Tax Circle, Fatehgarh, a dealer in perfumes had an opening stock of 215 kilograms of perfumes in the year 1984-85. He showed manufacture of 1,907.500 kilograms during the year, whereas as per ingredients used, the quantity should have worked out to 1,907.950 Kilograms. After taking into account the opening stock of 215 kilograms, these aggregated 2,122.950 kilograms. He showed closing stock of G-14

399.500 kilograms. After deduction of closing stock from 2,122.950 kilograms, sales during the year worked out to 1,723.450 kilograms, whereas the dealer disclosed sales of only 1,508 kilograms. Thus, there was suppression of turnover of 215.450 kilograms of perfumes valuing Rs. 5.63 lakhs. This resulted in short levy of tax amounting to Rs. 67,608. The dealer was also liable to pay penalty upto Rs. 1.01 lakhs for suppression of turnover.

On the omission being pointed out in audit (August 1989), the department stated in December 1989 that assessment had since been revised and additional demand for Rs.79,105 including additional tax raised. Report on imposition of penalty has not been received (April 1991).

The case was reported to Government in August 1989; their reply has not been received (April 1991).

G.153

(v) In Sales Tax Circle, Lucknow, as per information received from the Special Investigation Branch of the department a dealer made inter-State sales of 15 wagons of wooden planks during 1983-84 (upto 30th September 1983). These sales were not disclosed in the accounts by the dealer. The turnover of these sales was determined at Rs. 6.25 lakhs and tax amounting to Rs. 87,500 was levied. The dealer was

also liable to pay a minimum penalty of Rs. 43,750 which was omitted to be imposed.

On the omission being pointed out in audit (August 1988), the department stated (May 1989) that penalty amounting to Rs. 43,750 had since been imposed (January 1989).

The case was reported to Government in June 1990; their reply has not yet been received.

(vi) In Sales Tax Circle, Saharanpur, at the time of assessment for the year 1985-86 (30th January 1988) the assessing officer found that sales of rice, rice bran and rice husk etc. valued at Rs. 14.24 lakhs were not disclosed in the returns by the dealer. The amount was added in the turnover of sales for 1985-86 and tax amounting to Rs. 58,808 levied. The dealer was also liable to pay penalty upto Rs. 88,213 which was omitted to be imposed.

G. 125

On the omission being pointed out in audit in November 1988, the department stated (January 1990) that penalty amounting to Rs. 60,000 had since been imposed.

The case was reported to the Government in May 1990.



G-156 (vii) In Sales Tax Circle, Meerut, the turnover of concealed sales of *gur* by a dealer during the year 1983-84, was determined at Rs. 5.50 lakhs and tax amounting to Rs. 44,000 was levied (September 1986). The dealer was also liable to pay penalty upto Rs 66,000 which was omitted to be imposed.

On the omission being pointed out in audit (October 1988), the department stated (July 1989) that penalty amounting to Rs 66,000 had since been imposed.

The case was reported to Government in October 1988; their reply has not been received (April 1991).

G-157 (viii) In Sales Tax Circle, Bareilly, as a result of spot survey, it was found in case of a dealer that he had suppressed sales of large quantities of *Khandsari* and *Gur* etc. during 1985-86. The suppressed turnover of such sales was determined at Rs. 5 lakhs and tax amounting to Rs. 25,250 levied. The dealer was also liable to pay penalty upto Rs. 37,875 which was omitted to be imposed.

On the omission being pointed out in audit (November 1989), the department stated (February 1990) that penalty amounting to Rs. 37,875 had since been imposed.

The case was reported to Government in November 1989 and again in July 1990.

G-35

(ix) In Sales Tax Circle, Modinagar, turnover of concealed sales of wooden boxes by a dealer during the year 1985-86 was determined at Rs. 4 lakhs and tax amounting to Rs. 25,200 levied. the dealer was also liable to pay penalty upto Rs. 37,500 for concealment of turnover which was not imposed.

On the omission being pointed out in audit (June 1989), the department stated (October 1989) that penalty amounting to Rs 26,400 had since been imposed (June 1989).

The case was reported to Government in July 1989.

G-159

(x) In Sales Tax Circle, Pilibhit, as a result of spot survey, it was found that a dealer had concealed sales of rice and rice husk etc. during 1984-85. The suppressed sales of these commodities were determined at Rs. 5.05 lakhs and tax amounting to Rs. 21,700 was levied. The dealer was also liable to pay penalty upto Rs. 32,550 which was omitted to be imposed.

On the omission being pointed out in audit (December 1989), the department stated (July 1990) that penalty

amounting to Rs. 21,700 had since been imposed.

The case was reported to Government in December 1989 and again in January 1990.

**2.5(b) Un-authorised/excess collection of tax**

Under Section 15A(i)(qq) of the U.P. Sales Tax Act, 1948, if a dealer realises any amount of sales tax or purchase tax where no sales tax or purchase tax is legally payable or realises tax in excess of the amount of tax legally payable, the assessing authority may direct that he shall pay by way of penalty a sum not less than the amount of tax so realised or realised in excess but not more than three times the said amount.

G-31 (i) On sales of timber, the Divisional Forest Officer, Haldwani realised tax at the rate of 14 per cent during the period from 1st October 1983 to 31st March 1985 instead of at the correct rate of 12 per cent. This led to excess realization of tax amounting to Rs. 4.85 lakhs during the said period by the division. The division was, therefore, liable to pay a minimum penalty of Rs. 4.85 lakhs but no penalty was imposed while making assessment in September 1988.



On the omission being pointed out in audit (June 1989), the department stated in December 1990 that penalty amounting to Rs. 2.49 lakhs had since been imposed for the year 1983-84. Report regarding action taken for the year 1984-85 is awaited.

The case was reported to Government in June 1989; reply has not been received (April 1991).

(ii) In Sales Tax Circle, Agra, a dealer in hardware and machinery parts, taxable at the rate of 8 per cent and 6 per cent respectively, collected tax at the rate of 8 per cent on sales of ball bearings, a machinery part during 1984-85 and 1985-86. This resulted in excess realisation of tax amounting to Rs 25,150. The dealer was, therefore, liable to pay a minimum penalty of Rs. 25,150 which was omitted to be imposed. G-36

On the omission being pointed out in audit (June 1989), the department stated (November 1989) that penalty amounting to Rs. 25,150 had since been imposed.

The case was reported to Government in February 1990.

#### 2.5.(c) Turnover escaping assessment

In Sales Tax Circle, Kanpur, a dealer in dyes, thinner and chemicals G-39

showed (as per details submitted with assessment records) purchases of thinner worth Rs. 14.36 lakhs from outside the State during 1983-84. Out of this, thinner worth Rs. 7.66 lakhs was shown sold during the year 1983-84 and at the end of the year 1983-84 no closing balance of thinner was shown. There was nothing on record about the balance thinner valuing Rs. 6,70,387. Tax on this part of the turnover which escaped assessment worked out to Rs. 67,038 at the rate of 10 per cent (without taking into account the element of profit). The dealer was also liable to pay interest at the rate of 2 per cent per month from April 1984 upto the date of deposit.

On the omission being pointed out in audit (March 1989), the department stated in March 1991 that the turnover is question had since been included in the turnover while finalising the assessment of 1984-85. The assessment for 1984-85 was finalised after the omission was pointed out in audit.

The case was reported to Government in March 1989.

2.6 Evasion of tax on import of goods from outside the State

*A-Under the State Act*

Under Section 28-A of the U.P. Sales Tax Act, 1948, where any dealer imports goods from outside the State by rail, he shall not obtain delivery thereof unless he furnishes to the assessing officer a declaration in Form XXXI in duplicate duly filled in and signed by him, for endorsement. In the event of violation of these provisions, the assessing authority may direct that such dealer shall pay, by way of penalty, in addition to tax, a sum not exceeding 40 per cent of the value of the goods involved.

(i) In Sales Tax Circle, Sardhana, Meerut, a Corporation of the State Government imported store worth Rs. 26.95 lakhs from outside the State by rail during 1984-85 and obtained delivery thereof without getting Form XXXI endorsed by the assessing officer. Penalty upto Rs. 10.78 lakhs could be imposed for this offence, but was omitted to be imposed. G-41

On the omission being pointed out in audit (December 1989), the department stated in March 1991 that penalty amounting to Rs. 10.78 lakhs had since been imposed.



The case was reported to Government in December 1989.

G-91 (ii) In Sales Tax Circle, Sultanpur, two dealers imported kirana and ropes for Rs. 9.23 lakhs from outside the State during the year 1982-83 by rail without getting the declarations in Form XXXI endorsed by the assessing officer as required. The dealers were, therefore, liable to pay penalty upto Rs. 3.69 lakhs, which was, however, not imposed (August 1987 and March 1988).

On the omission being pointed out in audit (June 1988), the department stated (August 1989) that penalty amounting to Rs. 1.52 lakhs had since been imposed.

The case was reported to Government in June 1989.

G-22 (iii) In Sales Tax Circle, Aligarh, a dealer imported hardware, machinery and metal polish etc. worth Rs. 4.78 lakhs from outside the State during the year 1984-85 without declaration Form XXXI as noticed from the report of Special Investigation Branch of the department. The dealer was, therefore, liable to pay penalty upto Rs. 1.91 lakhs, but it was omitted to be imposed.

On this being pointed out in audit (February 1989), the department intimated (December 1989) that on

further investigation the estimated cost of material imported by the dealer as per Railway Receipts in his name, worked out to Rs. 26.78 lakhs, on which penalty amounting to Rs.10.71 lakhs was imposed in the ex-parte order dated 25th October 1989. The firm having been closed since long, the prospects of recovery are remote.

The case was reported to Government in June 1989; their reply has not been received (April 1991).

G-6

(iv) In Sales Tax Circle, Kanpur, a dealer brought hosiery goods for Rs.2.88 lakhs from outside the State by rail during 1983-84 and 1984-85 and obtained delivery of these goods without getting declaration in Form XXXI endorsed by the assessing officer. The dealer was liable to pay penalty upto Rs. 1.15 lakhs, but it was omitted to be imposed.

On the omission being pointed out in audit (July 1989), the department stated in November 1989 that penalty amounting to Rs. 1.15 lakhs had since been imposed.

The case was reported to Government in July 1989.

G-115

(v) In Sales Tax Circle, Baraut (Meerut), dealer imported raw material valued at Rs.86,032 during 1984-85 for



the manufacture of A.D.V.Rim and axle from outside the State without using declaration. The dealer was, therefore, liable to pay penalty upto Rs. 34,412 which was omitted to be imposed.

The case was reported to the department in February 1990 and to Government in March 1990; their replies have not been received (April 1991).

#### **B. Under the Central Sales Tax Act**

Under Section 10 of the Central Sales Tax Act, 1956, if a registered dealer, falsely represents when purchasing any class of goods from outside the State that goods of such class are covered by his certificate of registration, he shall be punishable with simple imprisonment which may extend to six months, or with fine, or with both; and when the offence is a continuing offence, with a daily fine which may extend to fifty paise for every day during which the offence continues. Section 10-A of the Act ibid provides that in lieu of prosecution under section 10, the authority who granted to him a certificate of registration may impose upon him by way of penalty a sum not exceeding one and a half times the tax payable on sale of such goods under section 8(2) ibid.

In 19 cases, noticed in 12 districts penalty amounting to Rs.21.06



lakhs was leviable, but was omitted to be imposed by the assessing officers while making assessments, as indicated below:

Sl. No.	Circle concerned	Articles imported	Assessment years	Amount to penalty involved	
1	2	3	4	5	
1(i)	Agra	Tanned leather and foam	1981-82 to 1983-84	Rs.32,438	G-94
(ii)	"	rubber sheets, intercom and solution	1983-84	Rs.29,370	G-158
2(ii)	Bareilly	corbondi-sulphide caustic soda	1983-84	Rs.99,089	G-92
(iii)	"	Iron and steel, electrical goods & other miscellaneous goods	1984-85	Rs.1.14 lakhs	
3.	Badaun	hardwares, electrical goods, caustic soda	1980-81	Rs.1.61 Lakhs	G-93
4.	Dehradun	electric motors, electric components and stainless steel/copper sheets and coil	1985-86 & 1986-87	Rs.76,036	G-155
5.	Ghaziabad	iron ingots and blooms	1983-84	Rs.89,164	G-33
6.	Ghaziipur	P.V.caps, nut-bolts spare parts, lables, essence stationary, fire clay etc.	1982-83 & 1983-84	Rs.1.04 lakhs	G-32

G-1	7(i) Kanpur	diesel engines, elevators	1981-82	Rs.6.01 lakhs
G-11	(ii) "	Tractor parts, diesel engines,	1980-81	Rs.2.08 lakhs
G-17	(iii) "	Coal	1982-83	49,890
G-18	(iv) "	generating set & tools	1984-85	Rs.43,425
G-10	"	pumps, thermometers cylinders, compressors	1983-84	Rs.28,100
G-114	8(i) Lucknow	electrical goods & machinery parts	1983-84 & 1984-85	Rs.1.44 Lakhs
G-63	(iii) "	P.V.C. cables	1982-83	Rs. 63,945
G-154	9. Mirzapur	electrical goods	1983-84	Rs.94,942
G-20	10. Moradabad	printing ink	1983-84 & 1984-85	Rs.39,000
G-16	11. Sitapur	lubricants and rubber steets	1983-84	Rs.64,441
G-7	12. Varanasi	Methanol (Methyl alcohol)	1981-82 & 1982-83	Rs.72,829
Total				Rs.21.06 lakhs

On this being pointed out in audit (between June 1988 to August 1990) demand for Rs. 16.28 lakhs was raised in 16 cases out of which Rs. 1.09 lakhs were recovered in two cases till

December 1990. Reply in respect of remaining three cases has not been received (April 1991).

**2.7.(i) Application of incorrect rate of tax**

(i) Under the U.P. Sales Tax Act, 1948, on turnover of sales of lubricants tax was leviable at the rate of 8 per cent with effect from 7th September 1981.

In Sales Tax Circle, Mughalsarai, sales of lubricants during the year 1984-85 by a corporation controlled by Central Government were determined at Rs. 20 lakhs and tax on the above sales was levied at the rate of 6 per cent instead of at the correct rate of 8 per cent. Application of the incorrect rate resulted in under assessment of tax amounting to Rs. 40,000 and additional tax amounting to Rs. 8,000. G.116

On the omission being pointed out in audit (September 1989) the department stated (June 1990) that assessment had since been revised and additional demand for Rs. 48,000 raised (February 1990).

The case was reported to Government in January 1990.

(ii) Under the U.P. Sales Tax Act, 1948, on turnover of gur, tax is G.8



leviable at the rate of 8 per cent at the point of first purchase with effect from 7th September 1981.

In Sales Tax Circle Mawana, Meerut, the first purchase of gur by a dealer, during the period from 7th September 1981 to 31st March 1982, was determined (September 1983) at Rs. 20 lakhs and tax was levied at the rate of 6 per cent, instead of at the correct rate of 8 per cent. Application of incorrect rate led to underassessment of tax by Rs. 40,000.

On the omission being pointed out in audit (August 1989), the assessing officer revised (August 1989) the assessment and created an additional demand of Rs 40,000.

The case was reported to Government in October 1989.

G.162 (iii) Under the U.P. Sales Tax Act, 1948, rate of tax on sale of unclassified goods is 8 per cent with effect from 7th September 1981.

In Sales Tax Circle, Varanasi, a dealer sold imported and self manufactured nylon and woollen hosiery for Rs. 18.89 lakhs during the years 1982-83 to 1985-86 and tax on these sales was levied at the rate of 6 per cent. As nylon and woollen hosiery are not classified, tax on these sales was

leviable at the rate of 8 per cent. Application of the incorrect rate resulted in short levy of tax amounting to Rs. 37,787. As the tax was admittedly payable, interest at the rate of 2 per cent per month was also chargeable upto the date of deposit.

On the omission being pointed out in audit (April 1988), the department stated (March 1990), that the assessment order had since been revised and additional demand for Rs.37,787 raised. Report on recovery of tax alongwith interest thereon has not been received.

The case was reported to Government in April 1988 and again in July 1990.

(iv) As per notification dated 31st August, 1979, issued under the U.P. Sales Tax Act, 1948, on sales of palm oil including palmoline, tax was leviable at the rate of 12 per cent with effect from 1st September 1979. 9.45

In Sales Tax Circle, Kanpur, turnover of sales of palm oil by a dealer during the year 1979-80 (after 31st August 1979) were determined at Rs. 8.75 lakhs on the basis of information received from Special Investigation Branch of the department and tax was levied at the rate of 8 per cent instead of at the correct rate of 12

per cent. Application of incorrect rate of tax led to underassessment of tax by Rs. 35,000.

On the omission being pointed out in audit (November 1989), the department revised the assessment in October 1990 and raised the additional demand for Rs. 35,000.

The case was reported to Government in November 1989; their reply has not been received (April 1991).

G.117 (v) Under the U.P. Sales Tax Act, 1948, on turnover of sales of gas stoves, tax was leviable at the rate of 8 per cent with effect from 7th September 1981.

In Sales Tax Circle, Lucknow, a dealer sold gas stove for Rs. 15.08 lakhs during 1985-86. Tax on these sales was levied at the rate of 6 per cent instead of at the rate of 8 per cent. Application of incorrect rate resulted in under-assessment of tax amounting to Rs. 33,173 including additional tax. As the tax was admittedly payable, interest at the rate of 2 per cent per month was also chargeable from the dealer upto the date of deposit.

The case was reported to the department in March 1990 and to



Government in June 1990; their replies have not been received (April 1991).

(vi) Under the U.P. Sales Tax Act, 1948, on the turnover of sales of dry fruits tax was leviable at the rate of 10 per cent with effect from 1st October 1985. Besides, where aggregate of gross turnover exceeds Rs. 10 lakhs additional tax at the rate of 5 per cent of the tax payable was leviable from 1st October 1983 to 31st October 1985. From 1st November 1985, the additional tax is leviable at the rate of 10 per cent of tax payable irrespective of the aggregate of turnover. G-23

In Sales Tax Circle, Kanpur, on sales of dry fruits valuing Rs. 12.26 lakhs made by a dealer during the period from 1st October 1985 to 31st March 1986, tax was levied at the rate of 8 per cent instead of at the correct rate of 10 per cent. Application of incorrect rate resulted in short levy of tax amounting to Rs. 26,655 including additional tax.

On the omission being pointed out in audit (November 1989), the department stated in October 1990 that the assessment had since been revised and additional demand for Rs. 26,665 raised.

The case was reported to Government in November 1989; reply has not been received (April 1991).

G-24 (vii) Under the U.P. Sales Tax Act, 1948, on sales of brasswares, tax was leviable at the rate of 8 per cent during the period from 7th September 1981 to 30th September 1985 at the point of sale by manufacturer or importer.

In Sales Tax Circle, Kanpur, a dealer sold self manufactured brasswares valuing Rs. 5.71 lakhs, during the year 1984-85 and tax on these sales was levied at the rate of 4 per cent instead of at the correct rate of 8 per cent. Application of incorrect rate resulted in short levy of tax amounting to Rs. 22,835.

On the omission being pointed out in the audit (July 1989) the department stated in February 1990 that the assessment has since been revised and additional demand for Rs. 22836 raised.

The case was reported to Government in July 1989.

G.12 2.8.A Irregular exemptions

(i) Under the Uttar Pradesh Sales Tax Act, 1948 and Rules made thereunder, a registered dealer who wishes to purchase tax free goods liable to tax

at the point of sale to consumer is required to furnish a declaration in form III-A to the selling dealer.

It has been judicially held\* that in case of defective declaration forms, the transaction would not be entitled to tax free or concessional rate of tax.

In Sales Tax Circle, Kanpur, a dealer sold iron and steel worth Rs. 101.47 lakhs tax free against declaration Forms (III-A) during the year 1980-81. It was noticed that declaration forms furnished were defective, in as much as the details of the officer issuing the forms and names and addresses of the purchasing dealers were not given. At the time of assessment (March 1983), the defective forms were admitted and benefit of tax free sale was allowed. Allowing relief in tax on the basis of defective and incomplete declaration forms led to under assessment of tax amounting to Rs. 4.06 lakhs.

On the omission being pointed out in audit (October 1983), the department stated (December 1989) that the matter was examined and the declaration forms were found to be forged and that the assessment has since been revised and

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\* State of Madras Vs Radio and Electrical Ltd (1966) 18 STC 222 (S.C.)



additional demand for Rs. 4.06 lakhs raised.

The case was reported to the Government in October 1983.

G.73 (ii) As per Government notification dated 1st February 1985, turnover of sales of tractors from 1st February 1985 onwards was to be exempted from levy of tax provided the tractors were sold at the price prevailing on 31st December 1984.

In Sales Tax Circle, Bareilly, a dealer sold 8 tractors for Rs.5.31 lakhs, during the period from 1st February 1985 to 31st March 1985. The sale price of these tractors was Rs. 5.03 lakhs as on 31st 1984. As the tractors were sold at higher sale price than that prevalent on 31st December 1984, the dealer, according to the notification dated 1st February 1988, was not entitled to exemption from levy of tax. At the time of assessment on 14th August 1987, the dealer was, however, granted exemption on these sales. Irregular grant of exemption led to non-levy of tax amounting to Rs. 35,558. As the tax was admittedly payable, interest at the rate of 2 per cent was also chargeable from the dealer upto the date of deposit.

On the omission being pointed out in audit (September 1988), the

department stated (February 1989) that assessment had since been revised and demand for Rs. 35,558 raised. Against this, a sum of Rs. 13,500 had since been realised.

The case was reported to Government in September 1988.

(iii) As per departmental circular dated 4th July 1988, new units established on or after 1st October 1982 were entitled to exemption from levy of tax only in respect of sale of those items which were indicated in the respective eligibility certificate. G-74

In Sales Tax Circle, Hapur, a dealer holding eligibility certificate for the manufacture of steel tubes sold inter alia rejected steel tubes and iron scrap for Rs. 6.07 lakhs during the year 1984-85. Sales of these items were also exempted from levy of tax at the time of assessment (31st January 1989). Irregular exemption led to under assessment of tax amounting to Rs. 24,306. As the tax was admittedly payable, the dealer was also liable to pay interest at the rate of 2 per cent per month upto the date of deposit.

On the omission being pointed out in audit (July 1989), the department stated in October 1990 that assessment had since been revised and additional demand for Rs. 49,392 (including

interest) raised and realised (March 1990).

The case was reported to Government in July 1989.

**B. Irregular exemption under Central Sales Tax Act**

Under Section 6(2) of the Central Sales Tax act, 1956, in the case of inter State sales of goods effected by transfer of documents of title to goods during their movement from one State to another, no tax is leviable subject to fulfillment of certain conditions. If the transfer of property in goods is made after the goods have reached the other States, tax at rates applicable to the State to which the goods have been transferred, are leviable on such transaction.

G.160 (a) In Sales Tax Circle, Ghaziabad, a dealer entered into an agreement with the Irrigation Department of Uttar Pradesh, for installation of pump sets at specified sites for which payment was to be made to him after satisfactory installation of the pump sets. The dealer purchased electric motors for Rs.17.91 lakhs during 1983-84 from outside the State and used the motors in the assembly of pump sets installed at the specified sites in the State. The dealer showed the sale of the said electrical motors for Rs. 21.82 lakhs



as sale by transfer of documents of title to goods during their movement from one State to another and was allowed exemption treating the sale as subsequent sale under Section 6(2) of the Central Sales Tax Act 1956. As the dealer continued to retain the ownership of electric motors till the date of installation, the transaction did not fall under subsequent sale. The transaction was actually import of goods from outside the State, its utilisation in the manufacture of pump sets and then their sale to the Irrigation department. The dealer was, therefore, liable to pay tax on the sale price of this part of the pumpset viz. Rs. 21.82 lakhs at the rate of 6 per cent amounting to Rs. 1.31 lakhs. Besides, surcharge at the rate of 5 per cent of tax payable from 1st October 1983 was also leviable and interest at the rate of 2 per cent per month on taxes so evaded and not paid was also recoverable from the dealer.

The case was reported to the department and Government in September 1988; their reply has not been received in spite of reminders issued in July 1990 and October 1990.

(b) In Sales Tax Circle, Kanpur, a dealer imported hemp goods from Nepal and sold the same during 1981-82 for Rs. 3.93 lakhs tax-free to another dealer in the State by transfer of

G-26

documents of title to goods during their movement. As the purchases were made from another country and were not inter State sales, the dealer was not entitled to exemption from levy of tax. The irregular grant of exemption led to under assessment of tax by Rs. 23,618.

On the omission being pointed out in audit (June 1988), the department stated (September 1989) that the assessment had since been revised and additional demand for Rs. 23,618 raised.

The case was reported to Government in June 1988.

**G-95 C Application of incorrect rate of tax**

Under Section 8 of Central Sales Tax Act, 1956, on inter-State sale of non-declared goods not covered by prescribed declaration forms, tax is leviable at the rate of 10 per cent or the rate applicable to sale or purchase of such goods within the State, whichever is higher.

In the Sales Tax Circle, Lucknow, sales of magnesite, which is a non-declared good, by a dealer during the period from 7th September 1981 to 31st March 1982 were determined at Rs.16 lakhs (not covered by declaration Form 'C') and tax was levied (October 1988)

at the rate of 4 per cent instead of at the correct rate of 10 per cent. The application of incorrect rate resulted in short levy of tax amounting to Rs. 96,000.

On the omission being pointed out in audit (January 1990), the department stated (April 1991) that assessment order had since been revised and additional demand for Rs.96,000 raised.

The case was reported to Government in March 1990.

#### D. Underassessment of Central Sales Tax

G-46

Under section 8 of the Central Sales Tax Act, 1956, on inter-State sales of non-declared goods, not covered by prescribed declarations in Form 'C' or 'D' tax is leviable at the rate of 10 per cent or the rate applicable to sale or purchase of such goods within the State, whichever is higher.

In Sales Tax Circle, Bareilly, inter-State sales of medicines made by a dealer during 1984-85 were determined at Rs. 20 lakhs. Although these sales were not supported by prescribed declarations in Form 'C' or 'D', tax was levied at the rate of 6 per cent instead of at the correct rate of 10



per cent. This resulted in short levy of tax amounting to Rs. 80,000.

On the omission being pointed out in audit (September 1989), the department stated (February 1990) that assessment had since been revised (October 1989) and additional demand for Rs. 80,000 raised.

The case was reported to Government in November 1989.

G-25  
G-50  
2.9 Loss of revenue due to late issue of orders

As has been judicially held\*, raw coconut does not fall under the classification of fresh fruits and as such on turnover of sales of raw coconut tax was leviable at the rate of 8 per cent applicable to unclassified items. The department issued a circular on 15th December 1988 that on sales of raw coconut, tax was to be levied treating it as unclassified item. On 15th December 1989 Government clarified that on sales earlier to 15th December 1988, tax be levied and waived.

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\*Supreme court decision case of Assistant Commissioner, Madurai Vs. P.A.Jhillai chidambram Nadar, 1985 U.P.T.C/14

In Sales Tax Circle, Jhansi and Allahabad 4 dealers sold raw coconut for Rs. 69.20 lakhs during the year 1984-85. The Sales were exempted from levy of tax (June, August 1988 and February 1989) treating raw coconut as fresh fruit. Irregular exemption led to underassessment of tax amounting to Rs. 5.53 lakhs.

On the omission being pointed out in audit (June 1989 and April 1990), the department stated in July and August 1990 that assessments had since been revised, and additional demand for Rs. 5.53 lakhs had been raised and waived, in view of Government clarification dated 15th December 1989. The orders were issued 3 years after the judicial pronouncement in 1985 and tax on sales of raw coconut upto 14th December 1988 had to be waived. Thus, late issue of orders led to loss of revenue amounting to Rs. 5.53 lakhs.

The cases were reported to Government in December 1989 and April 1990; their reply has not been received.

## 2.10. Non-levy of interest

As per provision in the U.P. Sales Tax Rules, 1948, every dealer, aggregate of whose turnover in any assessment year exceeds Rs. 2 lakhs is required to submit monthly return

before the expiry of the next succeeding month alongwith treasury challan for the amount deposited or cheque or bank draft. Tax admittedly payable by a dealer, if not deposited by the due date, shall attract interest at the rate of 2. per cent per month on the unpaid amount with effect from the day immediately following the last date prescribed. Tax admittedly payable means the tax with is payable under the Act on the turnover, as disclosed in the accounts maintained by the dealer or admitted by him in any return or proceedings under the Act.

G-5

(i) In the Sales Tax Circle, Haldwani, a Division of Forest department sold timber for Rs. 184 lakhs in August 1983 and realised tax amounting to Rs. 25.38 lakhs on 8th September 1983. The forest division, however, deposited tax amounting to Rs. 13.12 lakhs on 1st February 1984 and Rs. 12.26 lakhs on 21st February 1984 respectively into the Government treasury although the amount was required to be deposited by 30th September 1983 as per provisions in the Rules. The division was, therefore, liable to pay interest amounting to Rs. 2.19 lakhs for belated payment of tax which was omitted to be levied, while making assessment for 1983-84 in March 1988.



On the omission being pointed out in audit (June 1988), the department stated (January 1990) that demand for Rs. 2.17 lakhs had since been raised (after adjusting Rs. 2,090 due to the division for 1982-83).

The matter was reported to Government in June 1988.

(ii) In Sales Tax Circle, Agra, tax for the period September 1984 to February 1985 was deposited late by a dealer by 2 months to 60 months. He was, therefore, liable to pay interest amounting to Rs. 90,310 at the rate of 2 per cent per month. The interest was, however, not charged. G-126

On the omission being pointed out in audit July 1989, the department stated (February 1990) that demand for Rs. 90,310 on account of interest had since been raised.

The case was reported to Government in September 1989; their reply has not been received (April 1991).

(iii) In Sales Tax Circle, Banda, a Division of the Forest department sold timber etc. for Rs. 70.83 lakhs in the month of September 1983 on which tax amounting to Rs. 8.53 lakhs was levied. Out of this Rs. 21,085 were deposited by the Division in January 1984 and G-127

Rs. 6.01 lakhs in March 1984. The department was, therefore, liable to pay interest amounting to Rs. 61,310 which was omitted to be charged.

On the omission being pointed out in audit (September 1989), the department stated (March 1990) that demand on account of interest amounting to Rs. 61,310 had since been raised.

The case was reported to Government in April 1990.

G-97 (iv) In Sales Tax Circle, Kanpur, a dealer sold wax for Rs. 7.96 lakhs during 1979-80 on which tax amounting to Rs. 63,651 (at the rate of 8 per cent) was levied (February 1984). The dealer instead of depositing the tax alongwith monthly returns on due dates deposited it on 31st March 1983. Interest on belated payment of tax worked out to Rs. 51,041 which was omitted to be charged.

On the omission being pointed out in audit (March 1986), the department stated in October 1990 that demand for Rs. 51,000 had since been raised on account of interest and Rs. 47,833 realised.

The case was reported to Government in May 1986.

(v) During the audit of the office of the Assistant Commissioner (Assessment) Sales Tax, Kanpur it was noticed that a Corporation owned by Government of India sold metal etc. for Rs. 324 lakhs against declaration Forms III-B during the year 1984-85. Out of this, III-B Forms against sales of Rs. 17.55 lakhs were incomplete and were not accepted in the assessment. The Corporation consequently admitted the tax liability on this amount and deposited tax including additional tax amounting to Rs. 36,854 on 31st January 1989. The Corporation was also liable to pay interest amounting to Rs. 36,238 for different periods between September 1984 to January 1989 which was omitted to be charged.

On the omission being pointed out in audit (November 1989), the department stated (July 1990), that interest, amounting to Rs. 36,238 had since been deposited by Corporation in January 1990.

The matter was reported to Government in November 1989.

#### 2.11.A. Non-levy of purchase tax

Under section 3AAAA of the U.P. Sales tax Act, 1948, where any goods liable to tax at the point of sale to consumers are sold to a dealer but in view of the provisions of the Act, no



tax is payable by the seller and the purchasing dealer does not resell such goods within the State or in the course of inter-State trade or commerce in the same form and condition in which he had purchased them, the purchasing dealer shall be liable to pay tax on such purchases at the rate at which tax is leviable on sales of such goods to the consumers within the State.

G-43 (i) In Sales Tax Circle, Kanpur, a dealer purchased dressed leather for Rs. 247 lakhs tax-free on the strength of declaration in Form III-A during the year 1983-84 to 1986-87 without payment of tax. He manufactured "shoe upper" out of it and sold the same to a company. As the dealer did not resell the dressed leather in the same form and condition in which it was purchased, the dealer was liable to pay purchase tax amounting to Rs. 9.87 lakhs at the rate of 4 per cent which was omitted to be levied at the time of assessments during October 1987, January 1988, October 1988 and February 1989.

The case was reported to the department and Government in October 1989; their replies have not been received (April 1991).

G-27 (ii) Section 3-G of the U.P. Sales Tax Act, 1948 provides for levy of tax at concessional rate of 4 per cent on

sales (supported by prescribed declarations) made to departments of Central or State Governments or company or corporation or undertaking owned or controlled by Central or State Government provided the goods are not resold or used in manufacture or packing of any goods for sale. In case of breach of these conditions, the department, company or corporation shall be liable to pay purchase tax equal to the difference between the tax leviable and the tax at concessional rate paid on such goods.

In Sales Tax Circle, Moradabad, a Corporation owned by State Government purchased electrical goods, ET cranes and chimney etc. for Rs. 7.69 lakhs during 1982-83 at the concessional rate of tax on the strength of declaration in Form III-D and used the same in the manufacture of goods. The Corporation was, therefore, liable to pay purchase tax amounting to Rs.44,895 which was omitted to be levied.

On the omission being pointed out in audit (January 1989), the department stated in January 1990 that additional demand for Rs. 44,896 had since been raised and realised.

The case was reported to Government in January 1989.

G-49 (iii) In Sales Tax Circle, Kanpur, a dealer sold foam for Rs. 3.19 lakhs during the year 1983-84 (up to 10th October 1983) to a Corporation of the State Government against declaration in Form III-D at the concessional rate of 4 per cent. The foam was used by the Corporation in the manufacture of seats of buses. As such the Corporation was liable to pay purchase tax amounting to Rs. 25,498 which was omitted to be levied.

On the omission being pointed out in audit (April 1988), the department stated (March 1990) that assessment had since been revised and additional demand for Rs.25,498 raised (November 1989) against the Corporation.

The case was reported to Government in June 1989.

#### 2.11.B. Non-levy of additional tax

Under Section 3E(3) of the U.P. Sales Tax Act, 1948, additional tax at the rate of 10 per cent of the tax is leviable with effect from 1st November 1985.

G-72 (i) In Sales Tax Circle, Kannauj, turnover of sales of perfumes and sandal oil by a dealer during the period from 1st November 1985 to 31st March 1986 was determined (September 1988) at Rs. 30 lakhs and tax amounting



to Rs.3.60 lakhs was levied. Additional tax at the rate of 10 per cent amounting to Rs. 36,000 was also leviable on these sales, which was, however, omitted to be levied.

On this being pointed out by audit in October 1989, the Sales Tax Officer raised the additional demand for Rs.34,000 in October 1989 itself.

The case was reported to the department and Government in December 1989.

(ii) With effect from 1st October 1983, every dealer with aggregate turnover exceeding Rupees ten lakhs in any assessment year, is liable to pay in addition to the tax payable under the provisions of the Sales Tax Act 1948, an additional tax calculated at the rate of 5 per cent of tax payable by him. G-129

In Sales Tax Circle, Allahabad, the turnover of a dealer in respect of Indian Made Foreign Liquor (IMFL) during the year 1983-84 was determined at Rs.50 lakhs and tax amounting to Rs.13 lakhs was levied. Additional tax on sales from 1st October 1983 to 31st March 1984 amounting to Rs.32,500 was omitted to be levied.

On the omission being pointed out in audit (April 1989), the department

stated (October 1989) that additional tax amounting to Rs.32,500 had since been levied.

The case was reported to the Government in February 1990; their reply has not been received.

**2.12. Affording credit in excess of actual deposit**

6-38 (i) In Sales Tax Circle, Kanpur, tax liability against a dealer for the assessment year 1984-85 was assessed (September 1987) at Rs. 9,69,993 and a demand for Rs. 5,553 was raised after allowing credit for Rs.9,64,440 towards tax stated to have been deposited by the dealer. It was, however, noticed during audit that a sum of B 69596 shown to have been deposited by the dealer in February 1985 which was not actually deposited by him. This resulted in raising of short demand by Rs. 69,596. As the tax was admittedly payable, interest at the rate of 2 per cent per month was also chargeable from 21st March 1985 up to the date of deposit.

On the omission being pointed out in audit (August 1988), the department stated (August 1990) that additional demand for Rs. 69,596 had been raised (December 1988) and realised. Report on realisation of interest is awaited (April 1991).

The case was reported to Government in April 1990.

(ii) In Sales Tax Circle, Kanpur, tax liability against a dealer on the sales of bitumenised jute bags and high density polythene woven fabrics and bags for Rs. 1.13 crores during the year 1983-84 was determined (October 1987) at Rs. 4,85,276 and a demand for Rs. 63,153 was raised (October 1987) after allowing credit for Rs. 4,22,123 towards tax deposited by the dealer. It was, however, noticed during audit that the total tax deposited by the dealer actually worked out to Rs. 4,02,123 and not Rs. 4,22,123. This resulted in affording credit of Rs. 20,000 in excess of the actual deposits. As the tax was admittedly payable, interest at the rate of 2 per cent per month was also chargeable from the dealer. G-28

On the omission being pointed out in audit (March 1989), the department stated (October 1989) that assessment had since been revised and additional demand for Rs. 20,000 raised and realised (June 1989). Report on realisation of the amount of interest has not been received (April 1991).

The case was reported to Government (March 1989); their reply has not been received.



## CHAPTER-3

### STATE EXCISE

#### G.195 3.1 Results of Audit

Test check of the accounts and records of the State Excise Offices, conducted in audit during the year 1989-90 revealed non-levy or short levy of duties and fees amounting to Rs. 106.78 lakhs in 78 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-Verification of Transit passes	10	47.4
2. Non-Collection or Short collection of licence fee	7	41.9
3. Non-levy or short levy of duty on was- tage of spirit/excess strength	11	6.8
4. Non-levy of interest	10	3.2
5. Non- realisation of composition fee	6	0.55

6. Other irregularities	34	6.93
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<b>TOTAL</b>	<b>78</b>	<b>106.78</b>

A few important cases noticed during 1989-90 and earlier years, are mentioned in the succeeding paragraphs.

### 3.2 Non-observance of rules in realisation of licence fee

Under the U.P. Excise Act, 1910 and the rules made thereunder, licence fee for the retail vend of country spirit and Indian Made Foreign Liquor, under the auction system, is fixed by public auction and licence is generally granted to the highest bidder. A successful bidder is required to deposit one-sixth of the licence fee in cash immediately on the conclusion of the auction as security and one-twelfth within ten days of the auction, either in cash or in Fixed Deposit Receipts obtained from a Scheduled Bank or in the form of Bank guarantee valid till the final settlement of all claims and dues of the Government in respect of the auctioned shop(s). The licence fee is payable in equal instalments as are specified in the licence by 20th day of each month. In the event of default in making the advance deposit, and also, if the default in payment of monthly instalments equals or exceeds the advance deposit, the licence is required to be cancelled and the loss, if any

suffered on reauction of shop(s) is recoverable from the defaulter.

G.52 (a) In Unnao district, for the year 1987-88, four Indian made foreign liquor shops were settled individually by auction on 20th march 1987 for total sum of Rs. 18.71 lakhs in favour of one and the same person. The successful bidder deposited Rs 3.12 lakhs in advance as security (one-sixth of the bid money) but defaulted in depositing Rs. 1.56 lakhs towards one twelfth of the amount of the bid either in cash or in the form of Fixed Deposit Receipt/ Bank guarantee. As per rules, the shops were required to be reaucted but it was not done and licence was issued in favour of the defaulting bidder. The licensee paid monthly instalments in respect of two shops at Sadar upto only July 1987 and August 1987 respectively and in respect of the remaining two shops in Nawabganj and Bangarmau upto September 1987. Thereafter payment of monthly instalments was not made in respect of any of the shops. The licences thereof were required to be cancelled and shops reaucted immediately, after the default amount of monthly instalments exceeded the advance deposit. The cancellation of the licences for the 4 shops was however done only on 3rd February 1988 i.e. after a delay of more than four months. As a result, the licensee continued to run the shops till 2nd



February 1988 without payment of licence fee. The shops were run on a daily basis from 4th February to 6th February 1988 fetching a revenue of Rs. 16,608 and were reauctioned on 6th February 1988 for a total licence fee of Rs. 2.96 lakhs. The delay in re-auction resulted in loss of revenue amounting to Rs.6.48 lakhs, but the same was not recovered from the defaulting licensee, as provided under the rule.

The matter was reported to the department in November 1988 and to Government in May 1990; their replies have not been received (April 1991)

(b) In Pratapgarh district, the licence fee of the country spirit shops of city group for the year 1986-87 was settled by public auction on the accepted bid of Rs. 7.26 lakhs. The licensees paid one-sixth of the licence fee amounting to Rs.1.21 lakhs through a bank draft dated 5th March 1986 payable at the State Bank of India, Pratapgarh. It was, however, noticed in audit (December 1989) that the amount of the bank draft had not been brought into the account of the Government even after a lapse of more than four years. G.121

In December 1989, the department stated that the bank draft had been encashed by the State Bank of India but according to the Treasury Officer this

amount was not traceable in the treasury's accounts for which correspondence with the State Bank of India, Pratapgarh was continuing since 1986. The fact, however, remains that the amount has not been accounted for under the relevant head so far (April 1991).

The matter was reported to the department in April 1990 and to Government in July 1990; their replies have not been received (April 1991).

### 3.3 Irregular refund of licence fee

Under the U.P. Excise Act, 1910 and the rules made thereunder, (as amended from time to time), no excise shops of any intoxicants shall be kept open on 26th January, 15th August, 2nd October, 1st and 7th day of every month and any other three days of a year as declared by the Collector in his district. No compensation on account of such closures of shops is admissible to the licensee. The Collector is also empowered to order closing of any shop for such time or for such period as he may deem necessary in the interest of proper maintenance of law and order in the district. In such cases, the licensee (s) may be compensated for such closures of shops by way of refund of proportionate licence fee.

G-53 (a) At Aligarh, it was noticed (August 1989) that four country liquor shops

(167)

(Khair Adda, Gudari Bazar, Serai Bataria and Rasool Ganj) and six Indian Made Foreign Liquor shops (Sarai Rehman, Kanwariganj, Khirnigate, Rasoolganj, Railway Road No. 1 and No. 2) were ordered to be closed by the Collector for fifteen days and thirty seven hours during the period from 10th October 1988 to 2nd November 1988 in connection with the maintenance of law and order. In this period of closure, three days and four hours for which no amount of compensation was payable were also included. The licensees were hence entitled for refund of licence fee for 12 days and thirty three hours only which amounted to Rs 5.10 lakhs. However, Rs 6.23 lakhs was allowed as refund for the entire period of closure (15 days thirty seven hours), which resulted in irregular refund of Rs 1.13 lakhs.

The matter was reported to the department and Government in September 1989; their replies have not been received (April 1991)

(b) In case of auction of shops of Moradabad district for the year 1981-82, Friday of each week was notified as closed day as one of the conditions of auction and for such closures no compensation was permissible. Further the Collector ordered to close the following excise shops of the district,

G.54



for the preservation of public peace,  
for the periods noted against each:

(i) Maqbara country liquor shop  
from 4th April 1981 to 26th May  
1981 (46 days)

(ii) All excise shops of the  
district from 25th July 1981 to 4th  
August 1981 (11 days)

(iii) All excise shops of Moradabad  
city on the occasion of Dussehra  
and Id, from 7th October 1981 to  
10th October 1981 (4 days).

The affected licensees claimed  
compensation for closed days including  
Fridays, and refund of proportionate  
licence fee amounting to Rs.4.06 lakhs  
was made for all closed days, even  
including Fridays, which was irregular.  
The irregular inclusion of Fridays for  
the purpose of refund of licence fees  
resulted in excess refund of Rs.58,443.

G.54 (c) Similarly, in the district of  
Aligarh (U.P.), country liquor and  
foreign liquor shops remained closed as  
per the orders of the Collector for  
preservation of public peace from 20th  
March 1982 to 30th March 1982, (11  
days) and from 20th March 1982 to 28th  
March 1982, (9 days) respectively. The  
licensee claimed compensation for the  
same, and an amount of Rs. 87,568 being  
the proportionate amount of licence fee

for closed days, excluding the notified closed days was refunded. On representation by the licensees for payment of compensation for all the days including notified days on which the shops remained closed as per the condition of licence, a sum of Rs. 32,947 being the proportionate amount of licence fee in respect of such closed days was also refunded, which was irregular.

On these irregularities being pointed out in audit (June 1983 and August 1983), the Excise Commissioner stated (October 1989) that in respect of the case of Moradabad the excess refund of Rs.58,443 has been realized. Reply in case of Aligarh district has not been received (April 1991).

The matter was reported to Government in May 1984; their reply has not been received (April 1991).

### 3.4 Under assessment of duty due to non-adoption of actual strength of Indian made foreign liquor G. 149

Under the U.P. Excise Act, 1910 and the rules made thereunder, read with the U.P. Bottling of Foreign Liquor, Rules 1969, the sale strength prescribed for whisky, brandy, rum and gin are the apparent strength of spirit as indicated by the hydrometer after the addition of the colouring and flavouring material. The strength so indicated



is to be mentioned on the labels to be affixed on the sealed and capsuled bottles. The minimum strength for issue of whisky, brandy and rum is 25<sup>0</sup> U.P. (i.e. 42.8 per cent by volume) and for gin it is 35<sup>0</sup> U.P. (i.e. 37.1 per cent by volume). A margin upto 1<sup>0</sup> below the prescribed strength (i.e. 0.59 per cent by volume) is, however, allowable under the rules. The duty is chargeable per litre of alcohol contained in Indian made foreign liquor in sealed and capsuled bottles.

A distillery at Saharanpur exported to Delhi, during the period from 11th September 1988 to 28th October 1989, 6,45,342.40 alcoholic litres (A.L.) of rum valuing Rs. 258.14 lakhs in sealed and capsuled bottles with the strength as prescribed by the Delhi Administration viz. 28.5 per cent by volume as indicated in the labels. However, the actual apparent strength of rum after addition of colouring and flavouring material, as indicated by the Hydrometer was between 28.6 per cent to 28.7 per cent by volume which exceeded the prescribed strength by 0.1 per cent to 0.2 per cent by volume in different cases. The excise duty was levied on the basis of minimum prescribed strength as indicated on the labels instead of on the actual apparent strength indicated by the Hydrometer, computed on which basis, the quantity of rum exported actually



worked out to 6,55,648.1 A.L. instead of 6,45,342.4 A.L. as per label. This resulted in under assessment of duty on 10305.7 A.L. @ Rs 40/- per A.L. amounting to Rs 4.12 lakhs.

The matter was reported to Government in May 1990; their reply has not been received. (April 1991).

3.5 Non-realisation of duty in respect of liquor covered by passes remaining unverified.

G-69

Under the U.P. Excise Act, 1910 and the rules framed thereunder, read with orders issued by the Excise Commissioner, U. P., Allahabad, a distiller is held responsible for payment of prescribed duty on Indian made foreign liquor issued against passes under bond, if the same are not received back duly verified from the Excise authorities of the destination station. If duly verified passes are not received within 90 days from the date of issue, duty is charged from the exporter as per terms of the export order.

A distillery at Ghaziabad issued 9 passes under bond between October 1984 and May 1988, which were not received back duly verified from the respective Excise authorities at the destination even though the prescribed period of 90 days had elapsed long back. The department had not taken any steps to

realise the duty in respect of quantity covered by these passes. The I.M.F.L. issued under these passes involved duty amounting to Rs 7.77 lakhs.

On the omission being pointed out in audit (August 1988), the department intimated (February 1989) that seven passes have since been received back duly verified and duty amounting to Rs 2.28 lakhs involved in the remaining two passes issued in October 1984 and August 1987 has been recovered in September 1988 through adjustment from distiller's advance account.

The case was reported to Government in May 1990.

### 3.6 Non-levy of excise duty on transit losses

Under the U.P. Excise Act, 1910 read with the Uttar Pradesh Issue of Spirit from Distilleries Rules, 1910 as amended from time to time, when spirit is transported or exported under bond in wooden casks or metal vessels, actual transit loss (due to leakage, evaporation or other unavoidable causes) upto 0.5 per cent, calculated on the quantity contained in each cask or metal vessel, is permissible. In case the wastage exceeds this limit, the person executing the bond shall be directed to pay excise duty on excess wastage at the highest rate of duty

leviable on such spirit in the State. The rules do not provide for any allowance for loss in transit of spirit transported or exported in sealed bottles/poly packs in which the products are ultimately sold.

(a) At Saraya Distillery, in Gorakhpur, it was noticed (August 1989) that between April, 1988 and December 1988, transit losses to the extent of 9134.8 A.L. of spiced country spirit, sent under bond in sealed bottles were indicated in 351 passes received back after due verification at the destination station. Excise duty leviable on such wastage amounted to Rs. 3.30 lakhs, which was not levied. G-59

On being pointed out in audit in September 1988, the Deputy Commissioner in charge of Gorakhpur region issued orders for recovery in August 1990 which was deposited by the distiller in September 1990.

The matter was reported to Government in May 1990.

(b) It was noticed in audit that no excise duty was levied and realised in respect of transit losses of (i) 3,920.7 alcoholic litres of country spirit transported from a distillery at Nawabganj (District Gonda) to the bonded warehouses at Lucknow, Gonda, and Faizabad during the period from G-120



July 1988 to December 1989 (ii) 653.55 alcoholic litres of country spirit transported from a distillery at Nandganj (District Ghazipur) to the bonded warehouses at Ghazipur, Varanasi, Mirzapur and Jaunpur during the period March 1983 and March 1988 to April 1989 (iii) 447.51 alcoholic litres of Indian made foreign liquor transported/exported from the distillery at Nawabganj (District Ganda) to the various Canteen stores Department outlets in the State, during the period from March 1987 to October 1989 in sealed bottles/poly packs. The total duty leviable amounted to Rs. 1.61 lakhs.

The matter was reported to the department in May 1990 and to Government in 1990; their replies have not been received (April 1991).

G. 70  
G. 120 (c) In a distillery at Majhola (District Pilibhit), on transit losses at 905.1 alcoholic litres of spiced country spirit transported in sealed bottles (in 65 consignments) under bond to the various bonded warehouses in the districts of Lakhimpur Kheri, Pilibhit, Allahabad and Sultanpur between July 1988 and January 1989, no duty was levied and realised by the department on such wastage. This resulted in loss of revenue amounting to Rs. 27,660.

The matter was reported to the department in September 1989 and to Government in May 1990; their replies have not been received (April 1991).

**3.7. Non-levy of excise duty on excess losses during bottling and storage** G-60

Under the U.P. Excise Act, 1910 and the rules made thereunder, as amended from time to time, where the quantity of beer in a brewery is found less than that shown in the stock account and the shortfall exceeds ten per cent of the stock account (allowance to that extent being made to cover losses due to evaporation, sullage and other contingencies within the brewery, and also to cover losses in bottling and storage), additional excise duty shall be levied at the rate of one hundred per cent of ordinary rate of duty over and above the normal duty in respect of such shortage, as exceeds ten per cent over and above the ordinary rate.

In a brewery at Lucknow, it was noticed (August 1988) that, over and above the maximum allowable limit of ten per cent, 13,446.4 bulk litres of beer was found less due to bottling and storage losses etc. during the months of May and June 1988. On these shortages, excise duty, including additional excise duty, was leviable at the rate of Rs. 2.64 per bulk litre, which



amounted to Rs. 35,499 but it was not levied and realised.

The matter was reported to the department in September 1988 and to Government in September 1990; their replies have not been received (April 1991).

### 3.8 Non-realisation of interest on delayed payments of excise revenue.

Under the provision of Section 38-A of U.P. Excise Act, 1910 as amended from 29th March 1985, where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate of 18 per cent per annum is recoverable from the date excise revenue becomes payable till the date of actual payment. In respect of excise revenue which became payable before the said amendment, viz. 29th March 1985, interest at the said rate is to be charged from 29th March 1985, if the excise revenue is not paid within three months of the date of amendment, viz. by 29th March 1985.

G.119 (a) It was noticed during the audit of the Office of the Excise Commissioner, U.P., Allahabad that excise revenue amounting to Rs. 9.12 lakhs, payable by a distillery at Saraya (District Gorakhpur), for the period prior to 29th March 1985, was paid after a delay of 48 months, reckoned from 29th March



1985. Interest amounting to Rs. 6.57 lakhs calculated at the rate of 18 per cent per annum on belated payment was payable but was not levied and realised.

The matter was reported to the department in May 1990 and to the Government in July 1990; their replies have not been received (April 1991).

(b) In District Excise Office at Sitapur, it was noticed (January 1989) that excise revenue (licence fee for retail vend of country liquor and bhang) to the tune of Rs. 1.58 lakhs which became payable by various licensees prior to 29th March 1985 was paid after delays ranging from 14 to 22 months, reckoned from 29th March 1985. Interest amounting to Rs. 51,154 was payable on these belated payments of excise revenue, which was not levied and realised. G-55

The matter was reported to the department in February 1989 and to Government in May 1990; their replies have not been received (April 1991).

(c) In Lalitpur, it was noticed (September 1988) that excise revenue to the extent of Rs. 1.36 lakhs which became payable by the various licensees prior to 29th March 1985, was paid after a delay of 26 to 40 months reckoned from 29th March 1985. Interest G-56

amounting to Rs. 65,635 was payable on these belated payments of excise revenue, which was not levied and realised.

The matter was reported to the department, in October 1988 and to Government in May 1990; their replies have not been received (April 1991).

G-57 (d) In Jaunpur, it was noticed (May 1989) that excise revenue to the tune of Rs. 3 lakhs which became payable (after 29th March 1985) by four licensees were paid after a delay of 4 to 8 months, reckoned from the date from which these became due. Interest amounting to Rs.25,122 was leviable on these belated payments of excise revenue, which was not levied and realised.

The matter was reported to the department in July 1989 and to Government in May 1990; their replies have not been received (April 1991).

G-58 (e) In District Excise Office at Meerut, it was noticed (June 1989) that licence fee for retail vend of country liquor to the tune of Rs. 50,100 which became payable by various licensees prior to 29th March 1985 was paid after a delay of 44 months reckoned from 29th March 1985. Interest amounting to Rs. 33,222 was payable on these belated



payments of excise revenue, which was not levied and recovered.

The matter was reported to the department in August 1989 and to Government in May 1990; their reply has not been received (April 1991).

### 3.9 Non-realisation of purchase tax on sale of alcohol.

G-176

Under the U.P. Sales of Motor Spirit, Diesel Oil and Alcohol Taxation Act, 1939, alcohol means ethyl alcohol not being alcoholic liquor for human consumption and includes rectified spirit, denatured spirit and absolute alcohol. As per judicial pronouncements,\* "alcoholic liquors" "alcoholic spirituous and malt liquors" mean intoxicating liquors which can be used as beverage and which when taken in excess, will produce intoxication. Hence, every spirit directly produced from distillation plant of a distillery whether below or above 60° O.P. is alcohol, but not alcoholic liquor unless it is reduced by dilution to a strength fit for human consumption. Under the Act, *ibid*, purchase tax at the rate of 40 paise per litre is

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\*Case No Haward Vs Acme Brewing Co. 143 Ga-1, 83 SE 1006, 1007 Annas 1917A 91; FW Woolsworth Vs State 72 OKL Cr 125, 113 P2 d399, 40B (P-10 of Varma's Law of Excise in U.P.)



leviable at the point of first purchase of such alcohol in the State by the purchaser.

It was seen that no action was taken to levy and realise purchase tax at the rate of 40 paise per bulk litre on the sale of 2,68,000 bulk litres of spirit (below 60<sup>0</sup> O.P. or of the strength ranging from 83 per cent volume by volume to 84.5 per cent volume by volume.) directly produced from the distillation plant of a distillery at Pilkhani (District Saharanpur) during the period from March 1989 to July 1989. This resulted in loss of revenue amounting to Rs 1.07 lakhs.

The matter was reported to department/Government in May 1990.

G.150 3.10 Non-realisation of compounding fee

Under the U.P. Excise Act, 1910. and the rules framed thereunder, any Excise officer (empowered by the State Government) may compound the cases of cancellation or suspension of licence or prosecution of a person committing an offence under the Act, on payment of compounding fee not exceeding Rs 5,000 in each case.

During the audit of the offices of the District Excise Officers at Pratapgarh and Sitapur and the Excise

Commissioner, U.P. Allahabad, it was noticed that 372 offence cases were compounded during the period by the concerned Excise Officers for a sum of Rs. 25,245 but the concerned defaulters /offenders were let off without realisation of the compounding fee from them, thereby resulting in a loss of Rs. 25,245 to the department.

The matter was reported to the department between April 1990 and May 1990 and the Government in August 1990; their replies have not been received. (April 1991)

## CHAPTER-4

### Taxes on Vehicles, Goods and Passengers

#### 6.197 4.1 Results of Audit

Test check of records of the various offices of the Transport Department, conducted in audit during the year 1989-90 revealed short levy of taxes amounting to Rs. 125.09 lakhs in 210 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Short levy of passenger tax including addi- tional passenger tax	105	90.98
2. Under assessment of road tax	20	7.35
3. Short levy of goods tax	14	3.42
4. Other cases	71	23.34
Total	210	125.09

A review on assessment and collection of taxes on vehicles owned



by the Uttar Pradesh State Road Transport Corporation and a few other important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

#### 4.2 Assessment and collection of taxes on vehicles owned by the Uttar Pradesh State Road Transport Corporation. G.112

##### 4.2.1. Introduction.

The Uttar Pradesh State Road Transport Corporation (U.P.S.R.T.C.) was established by the Uttar Pradesh Government with effect from 1st June 1972 under the Road Transport Corporation Act, 1950. The Corporation had a fleet strength of 7987 vehicles as on 31st March 1990. It operated its vehicles on 2525 routes and had, at a given time, on the average, 7094 vehicles on the road, with 893 maintained as spare vehicles. The Corporation is liable to pay the following taxes to the State exchequer under different enactments indicated below:

Type of tax	Enactment
(i) Road Tax	(1) M.V. Act, 1939/1988 (2) U.P.M.V. Taxation Act, 1935
(ii) Passenger Tax	U.P. Motor Gadi (Yatri-Kar) Adhiniyam, 1962

(iii) Goods	U.P. Motor Gadi (Mal-
Tax	kar) Adhiniyam, 1964

The contribution of the corporation during 1988-89, by levy of all taxes and duties came to Rs.44.70 crores.

Under Rule 26 of the U.P. Road Transport Corporation Rules, 1972, framed by the Government of Uttar Pradesh under section 44 of the Road Transport Corporation Act 1950, the Corporation shall be responsible for the recovery of passenger tax and goods tax under the provisions of the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964 in respect of passengers and goods carried in its vehicles, and for the deposit of the amount so recovered into the Government treasury.

#### 4.2.2. Organisational set up

The overall responsibility for levy and collection of taxes and issue of necessary directions in this regard rests with the State Transport Commissioner. For purpose of assessment and realization of taxes from the Corporation, 14 Regional Transport Officers, and 3 Assistant Regional Transport Officers (Administration) are function-

ing in Regional/Sub-Regional Transport Offices.

#### 4.2.3 Scope of Audit

A review was conducted in the Office of Transport Commissioner, Uttar Pradesh, Managing Director, U.P.S.R.T.C., 6 out of 18 General/Regional Manager of the U.P.S.R.T.C and 6 out of 53 Regional/Assistant Regional Transport Officers with reference to the documents for the period from 1984-85 to 1988-89 maintained by them with a view to evaluating the efficiency of the department in assessment and collection of taxes on vehicles owned by U.P.S.R.T.C.

#### 4.2.4. Highlights

(1) Non-verification of taxes deposited into the treasury by the Corporation resulted in difference of Rs.370.90 lakhs in respect of passenger tax for the period 1984-85 to 1988-89.

(2) Non-realisation of passenger tax amounting to Rs.44.89 lakhs from the Corporation in respect of vehicles hired by a party during the period between 1981 and 1988.

(3) Loss of revenue amounting to Rs. 15.00 lakhs on account of non-realisation of permit fee from 3000



vehicles of the Corporation deployed to carry passengers during Kumbh Mela, 1989.

(4) Non-assessment of goods tax on store vans owned by the Corporation resulted in loss of Rs. 1.74 lakhs in six regions only

The results of test check conducted during March 1990 to June 1990 are summarised in the succeeding paragraphs.

#### 4.2.5 Non-submission of treasury challans and non-verification of the tax deposited into treasury by the U.P.S.R.T.C.

Under the provisions of the U.P. Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the U.P. Motor Gadi (Mal-kar) Adhiniyam, 1964, receipts as evidence of payments of tax made into the treasury are required to be submitted to the tax officers concerned on or before the 15th day of the month immediately succeeding the month in which the tax was paid. As per general financial rule, challan, i.e. (memorandum) accompanying money paid into the treasury, is to be presented to the treasury in triplicate, duly marked as "Depositor's Copy", "Departmental Copy" and "Treasury Copy". The treasury sends departmental copies to the concerned departmental officers on the next

working day, accompanied by a statement of challan-wise particulars of deposits.

In the absence of any separate detailed rules on the subject and in cases where payments made in month exceeds Rs. 1,000, the disbursing officer is required to compare the postings in the cash book with the monthly list of payments obtained from the treasury.

It was noticed in audit that the treasury challans in support of the deposits made into the treasury were not being submitted to the tax officers as required. Verification of the deposits made into treasury was also not being done by the tax officers each month, in spite of the specific directions of the Transport Commissioner issued to Regional Transport Officers as far back as in November 1983.

The position of collection of passenger and road taxes as per the records of the U.P.S.R.T.C. and those reflected in the records of the state Transport Commissioner (STC) for U.P.S.R.T.C. vehicles for the five years upto

1988-89 is as under:

	<u>Passenger Tax</u>		<u>Road Tax</u>	
	As per U.P.S.R. T.C.	As per S.T.C.	As per U.P.S.R. T.C.	As per S.T.C.
	(In lakhs of rupees)			
1984-85	2257.75	2349.58	318.98	N.A.
1985-86	2723.78	2669.85	334.41	N.A.
1986-87	3367.95	3082.89	358.81	N.A.
1987-88	4043.85	3675.50	438.64	N.A.
1988-89	4015.56	4260.17	453.81	N.A.
Total	16408.89	16037.99	1904.65	

Thus, receipts of passenger tax as per records of the department were less to the extent of Rs.370.90 lakhs during the aforesaid period. The position regarding road tax could not be verified in the absence of details available with STC.

#### 4.2.6 Non-levy of passenger tax on unrecovered fare.

Under the provisions of the U.P.Motor Gadi (Yatri-kar) Adhiniyam, 1962, passenger tax is leviable at the rate of 16 per cent on full normal fare even in cases where no fare has been



charged by the operator/fleet owner. Every operator is required to submit a return to the Tax Officer in the prescribed form and at such interval as may be prescribed.

Where the whole or any portion of the tax payable for any month or portion thereof has not been paid in time the tax officer may, in addition to tax so payable, levy a penalty not exceeding 25 per cent of the maximum tax which would have been payable to the State Government if the stage carriage had carried its full complement of passengers during such month or portion thereof. Similarly whoever willfully fails to furnish in due time any statement, return, table or information required by or under the Act, shall be liable to a fine which may extend to five hundred rupees and when the offence is a continuing one, to a further fine not exceeding twenty five rupees for each day during which the offence continues after first conviction.

From scrutiny of the records of the Managing Director U.P.S.R.T.C. Lucknow, it was noticed that a sum of Rs.267.20 lakhs was recoverable as fare at the end of March 1990 from one party in respect of 8391 stage carriages of the Corporation hired for various periods by the party on contract basis between 1981 and 1988. Accordingly a

sum of Rs.44.89 lakhs was realisable as passenger tax (Rs 42.75 lakhs) and insurance tax (Rs 2.14 lakhs) from the Corporation which was not realised. In addition, penalty not exceeding twenty five per cent of the tax not deposited was also leviable as the Corporation had failed to submit any return to the Tax Officer in this respect so far. The aforesaid taxes and penalties had neither been demanded by the Tax Officers of the department nor paid by the Corporation.

#### 4.2.7 Non-realisation of Permit Fee

Motor Vehicles Act, 1939, provides that no owner of a transport vehicle shall use the vehicle in any public place save in accordance with the conditions of the permit authorising the use of such vehicle in that place and the manner in which the vehicle is being used. The Act further provides that Regional Transport Authority may grant temporary permits for the conveyance of passengers on special occasions including to and fro fairs and religious gatherings.

The Transport Commissioner vide his letter dated 30th September 1986 had clarified that in respect of the buses of the Corporation as well, temporary permits for a limited period and permanent permits for a maximum period of 3 years are to be issued and



the same fee was chargeable for their issue/renewal as was being charged from other vehicle owners.

It was noticed in audit in the Office of Transport Commissioner, Uttar Pradesh, Lucknow that during the *Kumbh Mela* at Allahabad in 1989, 300 stage carriages of the Corporation were specially deployed for carrying mela passengers, from different places to Allahabad and back during the period from 1st January 1989 to 20th February 1989. These vehicles were however, not covered by any temporary permit. A permit fee at the rate of Rs. 500 per vehicle was leviable under Rule 55 (b) of the Uttar Pradesh Vehicle Rules 1940 framed under the Act of 1939 which was not levied and realised.

Apart from the omission to issue such permits under the Act, this involved non-realisation of Rs. 15 lakhs by way of permit fee.

#### 4.2.8 Non-assessment of Goods Tax on the store vans of the U.P.S.R.T.C.

Under the provisions of the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964 and the Rules framed thereunder, there shall be levied and paid to the State Government, a tax on all goods carried by road in a private goods vehicle in the State at a rate



equivalent to ten per cent of the amount of the freight calculated at such rate as may be fixed by Government from time to time which shall not be more than seventy five per cent of the maximum rate of freight fixed for the public carriers under the Motor Vehicle Act, 1939. The State Government may, however, accept a lump sum in lieu of the amount of tax that may be payable for such period as may be agreed upon, by the operator with the State Government. The lump sum in lieu of tax shall be determined in accordance with the rates given in the third schedule to the Act of 1964.

It was noticed in audit that Goods Tax was not being paid in respect of 56 store vans plying as private carriers under the control of six Regional/General Managers at Lucknow, Kanpur, Varanasi, Azamgarh, Faizabad and Gorakhpur. This resulted in loss of revenue to Government amounting to Rs.1.74 lakhs for the period from 1985-86 to 1988-89. It was, however, noticed that in 10 cases of Kanpur Region and 6 cases of Gorakhpur Region where assessments of goods tax on these store vans were made by tax officer of the Transport Department, stay order had been obtained by the Corporation from the High Court against recovery proceeding on the plea that the store vans were neither private goods vehicles nor public goods vehicles. The matter was

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referred to the Law Department of the State by the State Transport Commissioner which opined that these vehicles fell in the category of private goods vehicles and therefore, tax was leviable on them. Accordingly the Transport Commissioner, in his circular dated 8th June 1984, directed all the Zonal Deputy Transport Commissioners and Regional/Assistant Regional Transport Officers to take action for the vacation of the stay orders and make recovery of the tax due. However, no action has been taken by the Tax officers to issue demand notices even in cases not covered by the Stay orders of the Hon'ble High Court of Allahabad (November 1989).

#### 4.2.9 Loss of revenue due to non-registration of vehicles.

Under the provisions of the U.P. Motor Gadi (Yatri-kar) Adhiniyam, 1962, no operator shall ply a stage carriage in the State unless he is in possession of a valid registration certificate in respect of the vehicle, Registration certificate shall on payment of a fee of Rs. 2 per stage carriage, be granted in the prescribed manner to an operator applying therefor to the prescribed authority.

During the test check of the records of 6 Regional/Assistant Regional Transport Offices it was noticed



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that U.P.S.R.T.C. was not getting their vehicles registered before putting them in operation as required under rules. There were about 8140 unregistered vehicles in operation in the State at the end of March 1990.

Due to non-observance of rules Government has suffered loss of revenue amounting to Rs. 16,280 as registration fee.

#### 4.2.10 Non-submission of prescribed returns

Under the provision of U.P.Motor. Gadi (Yatri-kar) Adhiniyam, 1962 and Niyamavali, 1962 framed thereunder every fleet owner shall submit a monthly declaration in form III-B indicating, inter-alia, earnings on accounts of passenger fare plus passenger tax as also the same in respect of concessional and free tickets separately.

A separate monthly return indicating the number of tickets issued, amount of fare and particulars of passenger tax deposited is also required to be submitted to the Tax Officer in form IV under Rule 6(I) *ibid*.

Test check of six offices of Regional/Assistant Regional Transport Officers revealed that these returns



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were not submitted or wherever submitted were incorrectly prepared by the Corporation.

Penalty at prescribed rates (Rs.10 per day subject to a maximum of Rs. 100 per vehicle for each return) was also not being imposed on the Corporation for delay in submission or non-submission of these returns. Non-imposition of penalty has resulted in loss of revenue amounting to Rs. 102.02 lakhs during the period 1985-86 to 1988-89.

#### 4.2.11 Assessment and payment of Passenger Tax.

Under the provisions of the U.P.Motor Gadi (Yatri-kar) Adhiniyam, and Niyamawali 1962, in the case of owner of a fleet of vehicles (i.e. U.P.S.R.T.C.) the Tax Officer may accept an amount representing 4/29th of the actual passenger tax and fare as lump sum in lieu of passenger tax provided that where no fare is charged at all, or is charged at concessional rates, the normal full fare chargeable in such cases shall be taken for charging the lump sum passenger tax.

The lump sum amount is deposited by the fleet owner in a Government treasury or is paid in cash along with a declaration in Form III-B in which the earnings of the fleet owner on

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account of passenger fare plus passenger tax in respect of concessional or free tickets, computed in terms of sub-rule (1) of Rule 5-B, are required to be shown separately.

During a test check of records of the offices in six Regions at Lucknow, Kanpur, Varanasi, Azamgarh, Faizabad and Gorakhpur it was noticed that the full fare normally payable on passes and concessional tickets issued by these regional offices was not included in the taxable total income.

Although instructions printed on the Free Pass/P.T.O. issued by the Corporation require that passenger tax and other taxes levied by the local bodies to be borne by the Pass/P.T.O. holder, details regarding distances to be covered and normal fare payable for that journey were not indicated on these Passes/P.T.O. In the absence of details regarding the normal fare chargeable or the distances covered by the passes/concessional tickets issued, the loss on account of non-levy of passenger tax could not be worked out in audit.

The foregoing points were reported to the department and Government in July 1990; their replies have not been received (April 1991).

#### 4.3 Non-levy or short levy of passenger tax

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962, passenger tax at the prescribed rate of 16 per cent is levied on the fare payable to the operator by a passenger in respect of his journey in the State by a stage carriage. The tax is collected by the operator and paid to the State Government,. The State Government may accept or agree to accept, a lump sum amount in lieu of the amount of tax that may be payable by the operator. According to rules, an agreement to accept a lump sum shall be for a period of three months or for the unexpired period of the currency of permit, which ever is less and the lump sum amount is determined on the basis of prescribed formula.

#### A. Loss of passenger tax due to non-adoption of the prescribed minimum fare. G.101

Under the Motor Vehicles Act, 1939, the State Government may, from time to time, by notification in the official gazette, issue direction to the Transport Authority regarding fixation of fares (including the maximum and minimum thereof) for stage carriages. By a notification of 9th July 1987, the State Government directed the State Transport Authority



to fix the minimum rate of fare at 9.56 paise per passenger per kilometre for stage carriages plying on 'special' and 'A' class routes (fare to be rounded off to the nearest multiple of 50 paise including the amount of passenger tax, additional passenger tax and insurance surcharge). The State Transport Authority, however, implemented these minimum rates of fares after five months, effective from 16th December 1987.

G.101

(i) In spite of the December notification, in Varanasi region, the lump sum payment in lieu of passenger tax in respect of 34 vehicles plying on three routes (17 vehicles on Badshahpur-Mirzapur via Gopiganj route, 12 vehicles on Varanasi-Jalalpur via Thanagaddi route and 5 vehicles on Maharajganj-Mirzapur via Chawri, Bhadohi, Gopiganj route) was calculated on fares which were much below the minimum rate of fare fixed by the Government. This resulted in loss of revenue amounting to Rs. 4.79 lakhs during the period from 16th December 1987 to 31st May 1989.

On this being pointed out in audit (June 1989), the Regional Transport Officer, Varanasi, stated (June 1989) that recovery of the amount in respect of two routes would be effected, and necessary action in respect of the third route would be taken. Further

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progress has not been received (April 1991).

The case was reported to the department in July 1989 and to Government in April 1990; their replies have not been received (April 1991).

(ii) In Bahraich sub-region the operators of 23 stage carriages were permitted to ply on 64 kilometres long route from Bahraich to Nawabganj via Nanpara ( "A" class route). According to the above directions of the State Government the minimum fare payable for the said road worked out to Rs. 6.35 per passengers. However, while computing the passenger tax on lump sum basis in respect of these vehicles, the fare of Rs. 5.04 only was, however, taken into account by the Assistant Regional Transport Officer for the period from 14th December, 1987 onwards against the minimum chargeable fare of Rs. 6.35 for the route. Non-adoption of the prescribed minimum fare resulted into loss of passenger tax amounting to Rs. 2.06 lakhs during the period from 14th December 1987 to 30th September 1989. G.81

The matter was reported to the department in November 1989 and to Government in April 1990; their replies have not been received (April 1991).

**B. Non-adoption of actual fare charged by operators.**

Under the Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam, 1962 and the rules framed thereunder, computation of passenger tax payable by a stage carriage under a lump sum agreement depends, inter-alia, on the fare normally payable for the route on which the stage carriage plies. Any change in route, trips, seating or standing capacity or fare which has the effect of increasing the receipts of the operator, renders the agreement void with effect from the date of such change and thereafter a fresh lump sum agreement in respect of the unexpired period of the permit is required to be executed.

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(i) In Hardoi sub-region, the fares on the Lucknow-Hardoi and Lucknow-Shahabad routes were increased by operators to Rs. 11.15 and Rs. 13.77 per passenger respectively from 16th May 1988. In respect of 87 stage carriages plying on Lucknow-Hardoi route and 11 vehicles on Lucknow-Shahabad route, passenger tax on the increased fare was, however, not assessed and realised. The omission resulted in under assessment of passenger tax amounting to Rs. 1.67 lakhs during the period from 16th May 1988 to 15th June 1989.



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On this being pointed out in audit, (June 1989), the Assistant Regional Transport Officer, Hardoi accepted the objection. Further report has not been received (April 1991).

The case was reported to the department in August 1989 and to the Government in March 1990; their replies have not been received (April 1991).

(ii) In Faizabad region, the fare of Rs. 10 (net fare of Rs. 8.50 excluding taxes) for the portion of the route Faizabad to Tighara of Faizabad Ramgarh route was intimated by the Assistant Regional Transport Officer (Enforcement) based on his survey conducted on 22nd January 1987. Accordingly the lump sum agreement which was based on the net fare of Rs. 6.50 (excluding taxes) became void. The passenger tax per seat per month accordingly worked out to Rs. 21.22 instead of Rs. 16.23 paid by the vehicle owners during the period 22nd January 1987 to 30th September 1987. This resulted in short levy of passenger tax amounting to Rs. 37,182 during the aforesaid period. G-131

The matter was reported to the department and to Government in August 1989; their replies have not been received (April 1991).

(iii) In the Sub-Regional office Deoria, the Passenger Tax Superinten- G-40

dent had reported on 9th March 1987, that the operators of Padrauna-Khadda-Chhitauni-Samaur route were charging fare for portions of the route viz Khadda-Padrauna and chhitauni-Padrauna at Rs.2.65 and Rs. 2.40 respectively. This was also confirmed by the President of the Private Bus Union of the route in August, 1987. In calculating the lump sum passenger tax payable in respect of 27 stage carriages (including one stage carriage with effect from 10th December 1987) plying on the said route, the fare from Khadda to Padrauna was taken as Rs. 2.40 and that from Chhitauni to Padrauna as Rs. 2.10 respectively. As a result of adoption of lesser fares, passenger tax was levied short by Rs. 22,732 during the period from 9th March 1987 to 31st December 1987.

On this being pointed out in audit (August 1989), the department accepted the mistake and agreed to recover the amount. Further report has not been received (April 1991).

The case was reported to Government in 1989; their reply have not been received (April 1991).

C Short levy of passenger tax due to calculation of passenger tax on the basis of the fare for part route only.

(i) By a resolution of May 1988, Regional Transport Authority, Kanpur extended three routes 'Mangalpur-Bilhour', 'Sikandra-Tisti' and 'Sikandra-Kakwan' upto Nanmau and amalgamated them in main 'A' class route 'Sikandra-Nanmau'. Extended route was endorsed on 13 permits in June 1988 and by September 1988 in respect of other three permits. However, the department assessed and realised passenger tax on the basis of extended route only with effect from 1st March 1989, although extended portion of the route was endorsed on all the 16 permits between June 1988 and September 1988.

Non-assessment of passenger tax from the date of endorsement of extended route on permits resulted in short levy of passenger tax of Rs.84,459 during the period from June 1988 to February 1989.

The matter was reported to the department in September 1989 and to Government in March 1990; their replies have not been received (April 1991).

(ii) In respect of two routes of Muzaffarnagar Sub-Region, viz. Muzaffarnagar-Bahasoqma and Muzaffarnagar-



GarhiKhan-Don , both categorised as special class routes, the operators of the stage carriages were charging enhanced fare at the rate of 11.47 paise per passenger per kilometre from 3rd April 1987 and 8th May 1987 respectively. The actual distance of Muzaffarnagar-Bahsooma route was 48 kilometres and that of Muzaffarnagar-GarhiKhan-Don, 60 kilometres as per permit records. The lump sum payment in lieu of passenger tax in respect of 37 vehicles plying on Muzaffarnagar-Bahsooma route and 22 vehicles, plying on Muzaffarnagark-GarhiKhan-Don route was, however, calculated on the basis of the distance of 45 kilometres. and 54 kilometres respectively. The calculation of passenger tax on incorrect distances of these routes resulted in loss of passenger tax amounting to Rs. 53,757 during the period from 3rd April 1987 to 31st December 1989.

On this being pointed out in audit (January 1990) the Assistant Regional Transport Officer, Muzaffarnagar accepted the objection (January 1990) and stated that action would be taken to realise the difference of passenger tax.

The case was reported to the department in February 1989 and to Government in April 1990; their replies have not been received (April 1991).

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(iii) Regional Transport Authority Varanasi, in its meeting held on 17th August 1987 extended the route Ghazipur-Gahmar upto Bara vide resolution No.22 and permits in respect of two vehicles plying on the route were endorsed in December 1987 and January 1988 for their operation upto the extended portion. The department, however, while assessing passenger tax did not take into account the fare payable for the extended portion of the route i.e. from Gahmar to Bara. This resulted in loss of revenue to the extent of Rs. 35,195 during the period from December 1987 to September 1989.

On this being pointed out in audit (August 1989), the department stated that notices would be issued to the operators for recovery of short taxes. Further report has not been received (April 1991).

The matter was reported to the department in November 1989; their replies have not been received (April 1991).

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D Short levy of passenger tax due to incorrect calculation of net fare

Under the Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962, passenger tax at the prescribed rate of 16 per cent is required to be realised from each passenger on the fare payable to

the operator in respect of his journey by the carriage. The fare including the amount of passenger tax, additional passenger tax and insurance surcharge are to be rounded off to the nearest multiple of fifty paise in terms of the Government notification of March 1987. Fractions of twenty five paise and above are to be counted as fifty paise and those below twenty five paise are to be ignored

G-90 (i) In Bulandshahr sub-region, the Secretary of Khuraja-Sikandrabad Motor Union, a union of Private Transport Owners, intimated (August 1987) the increased gross fare of Rs.4 from Sikandrabad to Khurja and Rs. 5 from Khurja to Rabupura. The net fare payable to the operator after deducting the elements of insurance and passenger tax, including additional passenger tax, from the gross fare worked out to Rs. 3.30 and Rs.4.20 respectively. The lump sum passenger tax in respect of 13 vehicles (15 vehicles from 6th November 1989) plying on these routes was, however, incorrectly computed taking the net fare for the aforesaid portions of the route as Rs. 3.13 and Rs. 4 instead of Rs. 3.30 and Rs. 4.20 respectively. Incorrect adoption of net fare resulted in short-realisation of tax amounting to Rs. 37,734 for the period from 16th July 1987 to 5th January 1990.



The matter was reported to the department in February 1990 and to Government in April 1990; their replies have not been received (April 1991).

(ii) In Bareilly region and two sub-regions of Baharaich and Ballia, the passenger' tax on three routes was levied short due to non-rounding of fares to the nearest multiple of fifty paise. This resulted in short levy of passenger tax to the extent of Rs. 32,320 during the period from September 1987 to 15th February 1990.

On the mistake being pointed out in audit, (between October 1989 and February 1990), the Regional/Assistant Regional Transport Officers admitted (October 1989 and February 1990) the mistake and promised to recover the amount.

The matter was reported to Government in July 1990; their reply has not been received (April 1991).

E. Loss of passenger tax due to adoption of incorrect number of trips.

G-102

Assessment of passenger tax under a lump sum agreement, inter alia, depends on the number of one-way trips allowed or expected to be made by the stage carriages during the period for which the agreement is executed.

(i) In Allahabad region, lump sum payment of passenger tax in respect of stage carriages plying on the Allahabad-Udihimbuzurg route was determined on the basis of 20 single trips per day (10 up and 10 down as per approved time table) prior to December 1987. From 16th December 1987, 27 Stage carriages started plying on this route. Thus, each of 27 vehicles performed 23 trips on the route each month instead of 18 trips on which the passenger tax was assessed and realised. Incorrect calculation of trips resulted in short realisation of passenger tax amounting to Rs 3.05 lakhs during the period from 16th December 1987 to 15th January 1990.

The case was reported to the department in April 1990 and to Government in July 1990; their replies, have not been received (April 1991)

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(ii) In Ghazipur Sub-region, a lump sum agreement for payment of passenger tax in respect of 4 stage carriages plying on Kasimabad-Mau route was finalised (1st October 1983) on the basis of 90 single trips to be made by each vehicle every month. Out of these 4 vehicles, one vehicle was off the road from 12th December 1988 to 2nd May 1989. During that period, each of the remaining 3 vehicles plying on the route made more than 90 single trips

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each month, in rotation, but the agreement was not revised.

Similarly, on the Ghazipur-Shadiabad via Saidpur Sadat route, in respect of 3 vehicles, 6 trips (3 up and 3 down) had been approved by the Regional Transport Authority. Thereafter, one vehicle remained off the road from 17th March 1987 to 2nd January 1989. The passenger tax was, however, continued to be computed on the basis of 60 single trips instead of 90 single trips per vehicle each month. Non-revision of lumpsum agreement for payment of passenger tax in both the cases resulted in short realisation of passenger tax aggregating to Rs 64,234 for varying periods between 17th March 1987 and 2nd May 1989.

The case was reported to the department and to Government in September 1989 and April 1990 respectively; their replies have not been received (April 1991)

(iii) By a notification of 20th September 1983, the State Government directed the State Transport Authority to fix the maximum rate of fare at 12.73 paise per passenger per kilometre in respect of stage carriages specially run during festivals (melas) and other special occasions. Subsequently, Government vide their notification of

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9th July 1987 declared the said fare as minimum fare for the above purposes.

In Lucknow region, 228 mela permits (valid for two days each) were issued during the period from 11th November to 11th January 1988 for carrying passengers from Sandila to Neemsar and back. The department assessed and realised the passenger tax in respect of these permits on the basis of two single trips per day per vehicle despite the orders of the Regional Transport Officer/Passenger Tax Officer on 17th May 1985 for assessment of tax on the basis of 4 return trips (i.e. 4 single trips per day per vehicle). Computation of passenger tax on lesser trips on mela permits resulted in short levy of tax amounting to Rs 50,053.

The matter was reported to the department in April 1988 and to Government in April 1990; their replies have not been received (April 1991)

#### F. Other cases

- (i) Short assessment of passenger tax in respect of contract carriages plying on temporary permits.

Under the Uttar Pradesh Motor Gadi (Yatri-Kar) Niyamawali, 1962, assessment of passenger tax under a lump sum agreement in respect of a contract

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carriage (excluding motor cabs), inter-alia, depends on the fare payable and distances expected to be travelled during a month. In respect of a contract carriage covered by a temporary permit, the fare to be taken into account for levy of passenger tax shall not be less than 75 per cent of the maximum rate prescribed under the Motor Vehicles Act, 1939 and the distance expected to be travelled in a month shall not be taken as less than 4000 kilometres.

(a) In Kanpur region, 3 vehicles of a private operator, having temporary contract carriage permits were on contract service with a unit between 1st August 1987 and 31st July 1989 on payment of a total sum of Rs 7000 per month, while 13 vehicles of another private operator were on contract with a Central Public Sector Undertaking between 1st April 1985 and 31st March 1987 for a total consideration of Rs. 1.25 lakhs to Rs. 1.28 per month. The vehicles were used for transportation of the staff of the undertakings between their residences and factories. The vehicle owners were, during the above periods, paying passenger tax at varying rates ranging between Rs 965.55 and Rs 1,366.80 per vehicle per month, though passenger tax was payable at the rate of Rs 1,612.50, calculated on the basis of the formula prescribed in Rule 5 (3-A) of the U.P. Motor Gadi

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(Yatri-Kar) Niyamawali, 1962. This resulted in short assessment of passenger tax amounting to Rs 1.30 lakhs during the period from 1st April 1985 to 31st July 1989.

The matter was reported to the department in September 1989 and to Government in April 1990; their replies have not been received (April 1991).

5-87 (b) One vehicle of Bihar State, registered as contract carriage with seating capacity of 22 passengers in all was brought in Gahazipur sub-region of the U.P. State on 7th October 1988. The vehicle was assessed to road tax on the basis of authorised load of passengers at the rate prescribed for transport vehicles plying for hire and reward under the relevant provisions of the first schedule to the U.P. Motor Vehicle Taxation Act, 1935 during the period from 7th October 1988 to 6th September 1989. The vehicle was, however, not assessed to passenger tax during the aforesaid period. Passenger tax not levied amounted to Rs 21,344.

The case was reported to the department in September 1989 and to Government in April 1990; their replies have not been received (April 1991).

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G-104 (ii) Non-assessment of passenger tax in respect of stage carriages plying on temporary permits.

Under the Uttar Pradesh Motor Gadi (Yatri-Kar) Niyamawali, 1962, when the operator of a stage carriage enters into a lump sum agreement for payment of passenger tax, the agreement shall be for a period of three months or for the unexpired period of the currency of the permit, whichever is less. The assessment of passenger tax under the lump sum agreement depends, inter-alia, on the number of one-way trips allowed on the route during the period for which the agreement is executed and the fare normally payable for the entire route.

Seven temporary permits for operation of stage carriages on three routes of Mirzapur Sub-region and two routes of Jaunpur Sub-region were issued by the Regional Transport Officer, Varanasi for different validity periods between August 1989 and May 1990. The passenger tax payable by the operators was, however, not assessed and realised. The vehicles were also not registered for payment of passenger tax as required under Rule 12 ibid. Non-assessment of passenger tax resulted in loss of revenue amounting to Rs 47,056.



The cases were reported to the department and Government in April 1990 and May 1990; their replies have not been received (April 1991).

G.151

(iii) Non-levy of additional passenger tax

Under Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam, 1962, there shall be levied and paid to the State Government an additional tax, on every passenger carried by stage carriages, at the rate of ten paise on the fare for each journey where the ordinary fare for each journey is not less than one rupee. In case of a contract carriage, the fare payable for the carriage divided by the number of passengers therein shall be deemed to be the fare payable by each passenger. In case of lump sum agreements, additional tax is realised on the basis of 25 per cent of passenger tax.

G.151

(a) In Mathura sub-region, 12 deluxe buses, owned by private operators were hired by a Public Sector Undertaking to carry their staff to and from the refinery to Mathura city covering a distance of 13 kilometres. The buses had seating capacity between 50 to 52. The operators were assessed (between July 1989 to January 1990) to passenger tax accordingly but additional tax was not levied as the fare payable by each passenger was below Re.1. Subsequently,

the rates of fare of contract carriages were revised from 1st July 1989 and consequently, the fare payable by each passenger exceeded Re. 1. However, despite the freshly increased fare, additional tax was not levied and realised. The omission resulted in loss of revenue amounting to Rs. 87,494 for the period from July 1989 to January 1990.

The matter was reported to the department and Government in February 1990 and again to the Government in August 1990; their replies have not been received (April 1991).

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(b) In Kathgodam region, three stage carriages plying on Ram Nagar-Dhela-Laldang route were paying passenger tax under lump sum agreement but were assessed to additional tax at the rate of 10 per cent of the passenger tax instead of 25 per cent thereof. This resulted in loss of revenue amounting to Rs 34,002 during the period from May 1984 to October 1989.

The matter was reported to the department in December 1989 and to the Government in August 1990; their replies have not been received (April 1991).



**G-86 (iv) Non-levy of passenger tax.**

Under the U.P. Motor Vehicle Rules, 1940, a private stage carriage means a vehicle constructed or adopted to carry more than nine persons excluding the driver and used by or on behalf of the owner exclusively in connection with his trade or business or for private purposes, but not for hire or reward. The Uttar Pradesh Motor Gadi (Yatri-Kar) Adhiniyam, 1962 does not provide for levy of passenger tax on a private stage carriage. Passenger tax is, therefore, leviable on vehicles plying for hire or reward.

In Bulandshahr Sub-region, one Mini-bus, adopted to carry 20 persons (including driver) and owned by an individual, was registered (15th November 1988) as a private stage carriage although it was meant to be used as contract carriage for the conveyance of employees of a factory as per declaration of the owner at the time of registration of the vehicle. Although the road tax thereon was realised on the authorised load of passenger at the rates prescribed for transport vehicles plying for hire and reward under Article IV in the First Schedule to the U.P. Motor Vehicle Taxation Act, 1935, no passenger tax was levied and recovered for use of the vehicles as contract carriage. This resulted in loss of revenue by way of



passenger tax amounting to Rs. 33,932 for the period from 15th November 1988 to 31st January 1990. Besides, permit fee of Rs. 3,250 was also recoverable from the owner of the vehicle for the said period.

The matter was reported to the department in February 1990 and to Government in April 1990; their replies have not been received (April 1991).

#### 4.4. Non-realisation of road tax from the vehicles of other States plying in Uttar Pradesh G-65

Under the provisions of the inter-State agreement between Uttar Pradesh and Haryana, road tax of vehicles registered in either State but granted permission to ply in the other, is required to be paid in the home state in which such vehicles have been registered. Passenger tax is, however, payable to the corresponding State, in which the vehicle is allowed to ply.

In a meeting held on 15th July, 1986 between the Transport Commissioners and officials of Road Transport Corporation of both the States, it was mutually agreed that vehicles of Haryana Roadways may ply on thirteen new routes partly situated in U.P. Permits for thirteen vehicles for 3 routes (two routes of Dehradun and one of Agra region) were issued by the

Transport Authorities of Haryana which were countersigned by the State Transport Authority, Uttar Pradesh. Permits were valid for varying periods between August 1986 and November 1989. On a reference made by the Transport Commissioner, Uttar Pradesh in December 1986, the State Government stated (August 1987) that such inter-State reciprocal agreements should not be considered as effective unless the agreements are ratified by both State Governments, and that road tax on 13 vehicles of Haryana Roadways (which had been plying in Uttar Pradesh since August 1986) has become due and should be realised immediately under intimation to them.

During audit it was seen that the recovery of the road tax had not been received in respect of 13 vehicles plying on the 3 routes, viz., Faridabad-Dehradun, Jagadhri Saharanpur and Palwal-Aligarh for which permits valid upto 30.4.89 (2 vehicles) upto 30.11.89 (8 vehicles) and upto 10.3.90 (3 vehicles) were issued. On enquiry the Regional Transport Authority, Dehradun intimated (May 1989) that the permits were countersigned by the State Transport Authority, Lucknow and there was no information with them about plying of such vehicles in their region. Non-realisation of road tax from 13 vehicles of the Haryana Roadways plying on 3 of the 13 routes,



for varying periods between August 1986 and April 1989 resulted in loss of revenue amounting to Rs. 2.13 lakhs.

The matter was reported to the department and the Government in November 1989; their replies have not been received (April 1991).

4.5 Non-levy of road tax on sanctioned standing capacity. G-89

Under the Uttar Pradesh Motor Vehicles Taxation Act, 1935 read with Uttar Pradesh Motor Gadi (Yatri-kar) Adhiniyam, 1962 and the rules framed thereunder, fifty per cent of the sanctioned standing capacity is reckoned as additional seating capacity for the purpose of levy of road tax and passenger tax.

In Fatehpur Sub-region, 12 stage carriages plying on Fatehpur-Jahanabad route were authorised by the department to carry standing passengers to the extent of 25 per cent of their seating capacities. They were paying passenger tax with reference to such standing capacity, but the same was not taken into account for the assessment of road-tax. This resulted in short-levy of road-tax amounting to Rs. 55,448 during the period from January 1985 to March 1989.



The matter was reported to the department and Government between April 1989 and May 1990; their replies have not been received (April 1991).

G-67

4.6 Non-realisation/short realisation of road tax.

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

It was noticed from the Tax Posting Register and assessment files of concerned vehicles that in respect of one stage carriage in Lucknow Region and two stage carriages in Deoria Sub-Region, road tax was neither paid nor recovered for various periods falling between July 1985 and September 1988 even though the papers relating to the vehicles (Registration Certificate, tax token etc.) had not been surrendered to the officer concerned. Tax not recovered amounted to Rs. 38,771.

On the omissions being pointed out in audit (February 1988 and September 1988), the Regional Transport Officer, Lucknow issued demand notice on 17th February 1988 and the Assistant Regional Transport Officer, Deoria stated (August 1989) that the amount of tax of Rs. 3,271 due in respect of five stage carriages had since been realised and demand notice had been issued in respect of remaining three vehicles.

The matter was reported to the Government in April 1988 and November 1988 and again in November 1989; their reply has not been received (April 1991).

#### 4.7. Non-levy of road tax and goods tax G-88

Under the Uttar Pradesh Motor Gadi (Mal-Kar) Adhiniyam, 1964 read with the Motor Vehicles Taxation Act, 1935, an operator of goods vehicle is required to pay road tax and goods tax at prescribed rates on the authorised seating capacity and pay load respectively. The State Government may exempt from the levy of tax any goods carried for the defence of India or for an educational, medical, philanthropic or other public purpose. The goods vehicles pertaining to Bridge Corporation or U.P. State Electricity Board have not been allowed exemption by any notification issued under the said Acts.



(i) In Shazipur Sub-region, 3 vehicles each of Bridge Corporation and U.P.State Electricity Board, liable to pay road tax and goods tax, were not assessed to tax for varying periods between April 1984 and September 1989. Non-levy of road tax and goods tax on these vehicles resulted in loss of revenue amounting to Rs. 1.54 lakhs.

The matter was reported to the department in September 1989 and to the Government in April 1990; their replies have not been received (April 1991).

G-107

(ii) In Faizabad region, scrutiny in audit of Tax Registers and assessment files revealed that road tax and goods tax in respect of two transport vehicles were not assessed at all while in respect of another vehicle, assessment was made incorrectly. Non-assessment/incorrect assessment for varying periods between April 1984 and September 1989 resulted in short charge of road tax and goods tax amounting to Rs. 55,311.

On this being pointed out in audit (August 1989), the department stated (August, 1989) that remedial measures were being taken.

The matter was reported to the department/Government in August 1989



and again in April 1990; their replies have not been received (April 1991).

4.8 Non-realisation of permit fee at enhanced rates

G-66

Government through a notification issued on 30th March 1987, enhanced the rates of fees leviable under various provisions of the Uttar Pradesh Motor Vehicle Rules, 1940. The notification inter-alia, lays down that the fee for the validity of the permit upto three days is chargeable at Rs.50 and for the following seven days at Rs. 100. The fee for every additional week thereafter is chargeable at Rs. 50 in each case.

In Basti sub-region, 2,423 special temporary permits, with validity for three days, were issued during the years 1988 and 1989 to the operators of the stage carriages by the Collector, Basti. Permit fees amounting to Rs. 1.21 lakhs was chargeable thereon, against which only a sum of Rs. 12,568 was realised because of application of the old rates, which resulted in loss of Rs.1.08 lakhs.

The case was reported to the department in December 1989 and to Government in May 1990; their replies have not been received (April 1991).

G-106 4.9 Loss of revenue due to failure to grant licences to forwarding agencies of public goods

Under the provisions of Motor Vehicles Act, 1939, the State Government framed the "U.P. Licencing of agents engaged in the business of collecting, forwarding and distributing goods carried by Public Carriers Rules 1978," which, inter-alia provide that a licence shall be valid for five years and licence fee for the grant/renewal of such licence shall be Rs. 550 in each case. A licensee shall also be required to deposit a security of Rs. 2,000 either in cash or in any Government security approved by the licencing authority.

Mention was made in paragraph 4.7 of the Audit Report for the year 1978-79, regarding non-enforcement of the rules and consequential loss caused to the department. During discussion of the paragraph in the Public Accounts Committee (7th December 1981), the department assured that the provision of the Rules would be enforced by surveys and by involving penal action as contemplated in the Rules. The Transport Commissioner, accordingly, issued (January 1981 and July 1985) instructions to all Regional Transport Officers to conduct an intensive survey and to challan the agents operating without valid licence.



In Moradabad region, 16 forwarding agencies were operating since 1976 without obtaining any licence despite the recommendations of P.A.C. The department did not take any effective steps to ensure compliance of the aforesaid instructions and to penalise the above unauthorised forwarding agencies. The omission resulted in loss of revenue due to non-realisation of licence fee for the grant/renewal of licences from forwarding agencies amounting to Rs. 26,400, besides security deposit of Rs. 32,000.

On the omission being pointed out in audit (April 1989), the department stated (April 1989) that necessary action would be initiated.

The matter was reported to the department in May 1989 and to Government in March 1990; their replies have not been received (April 1991).



## CHAPTER-5

### Stamp Duty and Registration Fees

G.178

#### 5.1 Results of Audit

Test check of the accounts and relevant records of District Registrars and Sub-Registrars, conducted in audit during the year 1989-90, revealed short levy of stamp duty and registration fees amounting to Rs.51.06 lakhs in 194 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Short levy of stamp duty and registration fees due to undervaluation of properties	175	38.11
2. Short levy due to misclassification of documents	9	7.23
3. Other cases	10	5.72
TOTAL	194	51.06

A few important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

## 5.2 Short levy of stamp duty due to undervaluation of properties

In case of instruments relating to immovable property chargeable with duty, the Indian Stamp Act, 1899 provides that the instrument shall truly set forth the full facts affecting duty. Under the U.P. Stamp Rules, 1942, as amended from time to time, the minimum market value of immovable property forming the subject of an instrument of conveyance, gift, settlement, award or trust shall be deemed to be not less than 25 times of the actual or assessed annual rental value, whichever is higher, in the case of a building. In case the property is non-agricultural land and the land is situated within the limits of any local body, the minimum market value should be worked out on the basis of the average price per square metre prevailing in the locality on the date of the execution of the instrument. For the guidance of the registering authority, the Collector of each district shall forward biennially a statement of such average prices of different categories of lands in different localities.

Rules, further, provide that if the registering officer has reason to believe that the correct valuation of the property cannot be arrived at without having recourse to local enquiry or extraneous evidence, he may



after registering the instrument, refer the same to the Collector for determination of the actual market value.

In a number of cases seen in audit, plots of land meant for residential or commercial purposes were undervalued by treating them as agricultural land or adopting the valuation set forth in the instrument which was much below the prevailing market rate for residential/commercial plots notified by the collector of the district; but no action was taken by the registering authorities for determining the proper valuation of the property as required under the Rules. Eighteen such cases, involving short charge of Stamp Duty amounting to Rs.8.73 lakhs are mentioned below:

Q-163

(a)(i) On the instrument of conveyance registered at Sikendra Rau (District Aligarh) in February 1989, relating to sale of land measuring 3266 square metres (situated within town area of Barial Magyar, Tehsil, Sikendra Rau) for construction of residential houses, stamp duty was levied in October 1988 adopting the value of land as for agricultural land, although the purchases were made for non-agricultural purposes. The land was sold to 14 different persons and was to be divided into plots. However, the value adopted for levy of Stamp duty was that for agricultural purposes viz Rs. 41,500 as



against Rs. 9,79,500 worked out on the basis of the rates fixed by the Collector in September 1987 for residential purposes. This resulted in short levy of stamp duty and registration fee amounting to Rs.1,18,915.

The matter was reported to department/Government in January 1990; their reply is still awaited (April 1991).

(ii) On an instrument of conveyance relating to a commercial plot admeasuring 4046.24 square metres (situated within the limits of Town area Fariha in District Mainpuri) executed in the office of the District Registrar, Mainpuri in November 1987, Stamp duty amounting to Rs. 9,500 was charged by accepting the value of the plot as Rupees 1 lakh as shown in the instrument. G.139

As against the declared price of Rs. 24.70 per square metre, the average price per square metre prevailing in the area as notified by the District Collector in June 1987 was Rs. 98.40 per square metre for the locality. At this rate, the value of the land worked out to Rs. 13.05 lakhs on which Stamp duty amounting to Rs. 1.24 lakhs was payable. Omission to value the land at the prevailing market rate fixed by the Collector resulted in duty being levied short by Rs. 1.14 lakhs.

On this being pointed out in audit (November 1987), the department stated that the case would be sent to the Collector for adjudication. However, the decision of the Collector has not been received so far (April 1991).

The matter was reported to the department in December 1987 and to the Government in May 1990; their replies have not been received (April 1991).

G-164

(iii) At Jaunpur, in an instrument of conveyance (registered on 6th December 1988) relating to land admeasuring 2630 sq. metres), the valuation of land adopted by the registering authority was Rs. 2 lakhs as against Rs.7.07 lakhs computed on the basis of the rates fixed by the Collector. The adoption of lower valuation resulted in short levy of stamp duty by Rs. 73,515.

The matter was reported to the department in December 1989 and to Government in May 1990; their replies have not been received (April 1991).

G-165

(iv) In the course of audit (September 1989) of the Office of the Sub-Registrar, Handia, district Allahabad, it was noticed that a residential land measuring 2510 square metres situated in Baraut market, Tehsil Handia, district Allahabad was sold by a deed of conveyance to ten different persons for residential purpose in the month of



September 1988. The Stamp duty and Registration fees were realised on the valuation of Rs.33,000 at the rate Rs.14 per sq. metre set forth in the document as against the market value of Rs. 4.5 lakhs at the rate of Rs.180 per square metre as notified by the Collector, Allahabad for residential plots in Baraut market. The undervaluation of land resulted in short levy of Stamp duty and Registration fees amounting to Rs.54,232.

The matter was reported to department in October 1989 and to Government in May 1990; their reply is awaited (April 1991).

(v) On an instrument of conveyance relating to a commercial plot admeasuring 7245 square metres (situated within the limit of Town Area Phulpur, Mau Aiema-Badgaon road of District Allahabad) executed in May 1989, Stamp duty amounting to Rs. 9,500 was charged, taking the value of plot at Rs. 76,500 as shown in the instrument. The value adopted was low as compared to the sale price of similar other plots in the same locality which ranged from Rs. 100 to Rs. 150 per square metre as intimated by the Collector, Allahabad. Thus the minimum value of the plot computed on the rate intimated by the Collector worked out to Rs. 7.25 lakhs, and adoption of the lower rate

G-143



declared by the executant resulted in short levy of Stamp duty of Rs. 81,063.

The matter was reported to the department in April 1990 and to the Government in May 1990; their replies have not been received (April 1991).

G-140

(vi) On the instrument of conveyance (registered in October 1989) in respect of residential land measuring 1882 square metres transferred in names of three different persons with different addresses situated in village Chauchobon Gaon (district Etah), Stamp duty amounting to Rs.10,440 was levied on Rs. 72,000 as shown in the instrument as against Rs. 4,23,500 worked out according to the rates fixed by the Collector. The under valuation of property resulted Stamp duty being levied short by Rs. 50,968.

The matter was reported to the department/Government in December 1989 and again in May 1990; their replies have not been received so far (April 1991).

G-141

(vii) At Kichchaha (District Nainital) on an instrument relating to sale of land for industrial purposes executed and registered at District Registrar, Nainital in June 1988, Stamp duty was incorrectly charged on the valuation of the property determined at the rates notified for agricultural

land as against the rate of Rs.85 per square metre fixed and notified by the Collector for village commercial land. Adoption of incorrect rates for valuation of the property resulted in Stamp duty being levied short by Rs.49,810.

The matter was reported to the department in June 1989 and to Government in April 1990; their replies have not been received (April 1991).

(viii) At Karvi (District Banda) on two deeds of conveyance (registered in March 1988 and September 1988) relating to shares of two partners in commercial plots admeasuring 7081 square metres (situated within the municipal limits of Karvi, district Banda), shares of two partners having one fourth share each, were valued at Rs. 4 lakhs which was lower as compared to the sale price of similar plots in the same locality, valued at the minimum rate fixed by the Collector, Banda for commercial plots at Tehsil Karvi. The value of the two shares of the portion so worked out came to Rs. 7.9 lakhs. The undervaluation of the property by the executant resulted in undervaluation of Rs. 3.9 lakhs and its adoption by the Registrar resulted in short levy of Stamp duty of Rs. 42,900. G-144

The matter was reported to the department in March 1989 and to the



Government in May 1990; their reply is awaited (April 1991).

G-145

(ix) In audit (October 1989) of the Office of the Sub-Registrar Harraiya, District Basti, it was noticed that on sale of three plots measuring 22,962 square metres situated on Faizabad-Basti road side of the village Parakha, Stamp duty of Rs. 13,625 was charged on consideration amount of Rs. 1.24,700 set forth in the deed. The market value as fixed by the Collector for property in vicinity of the road was, however, Rs. 50,000 per acre, if near the road and if located close to the road it was Rs. 80,000 per acre. For residential plots the market value was Rs. 15 per square feet. Computed on the basis of the above values, the price of the plots measuring 22,962 square metres worked out to Rs. 4,17,753. Under valuation of the plots in the deed and its acceptance as such resulted in short levy of Stamp Duty amounting to Rs. 36,826.

The matter was reported to the department in December 1989 and to the Government in May 1990; their replies have not been received (April 1991).

G-180

(x) At Shikohabad (District Mainpuri) an instrument relating to residential plots measuring 0.53 acre (2144.91 square metres) situated in Sirsakhas was executed and registered in August 1987



for consideration of Rs. 34,500 adopting the value of the land as for agricultural land instead of that for residential plots for which the rate fixed by the Collector was at Rs. 180 per square metre. The correct value worked out to Rs. 3.86 lakhs on the basis of rates fixed by the Collector. Undervaluation of property resulted in Stamp duty and Registration fees being levied short by Rs. 34,171.

The matter was reported to the department/Government in December 1987 and again in May 1990; their replies have not been received (April 1991).

(xi) In the course of audit (August 1988), of the Office of the Sub-Registrar, Mainpuri, it was noticed that a plot measuring about 2540 square metres situated in the Mainpuri Dehat, Nagla Baijnathpur, village Ojanya Padaria adjoining Transport Nagar, Mainpuri was sold for Rs. 48,000 and Stamp duty of Rs. 5502 was realised. As the plot formed part of the land already acquired by Government for Transport Nagar, it could not be treated as agricultural land. The market value of the plot, at the rate of 130 per square metre as fixed by the Collector, worked out to Rs. 3.3 lakhs. The undervaluation of the land resulted in short levy of Stamp duty by Rs. 32,487 (after adjusting Rs. 5520 already paid).

G-166

The matter was reported to the department in October 1988 and to the Government in May 1990; their reply has not been received (April 1991).

G-167 (xii) Two instruments of conveyance relating to industrial plots measuring 6070.70 square feet (3035.35+3035.35) situated in Mohallah Arya Nagar in Sitapur city on road side were executed in the Office of the Sub-Registrar, Sitapur (July 1988) on payment of Stamp duty of Rs. 24,496 computing the value of two plots as Rs. 2.13 lakhs only.

The Collector had, however, prescribed (April 1986) a rate of Rs.80 per square foot upto 200 square feet from the road side in Vijay Laxmi Nagar and Arya Nagar locality in city of Sitapur. At these rates, the value of the lands worked out to Rs. 4.86 lakhs on which Stamp duty amounting to Rs. 55,890 was payable. Omission to reckon the value of the land at the prevailing market rate fixed by the Collector resulted in duty being levied in short by Rs.31,394.

On this being pointed out in audit (June 1988) the department stated (June 1988) that the copy of the sale documents would be forwarded to the Collector, Sitapur for adjudication..

The matter was reported to the department in July 1988 and to the



Government in June 1989; their replies are awaited (April 1991).

(xiii) In two instruments of conveyance relating to sale of plots measuring 13,282 square metres and 330 square metres in favour of an industrial concern were registered at Ghatampur (District Kanpur Dehat) during August 1986 and September 1986. The valuation adopted was at Rs. 95,000 and Rs. 2,500 respectively which was on the lower side than the market value notified by the Collector, Kanpur Dehat in August 1984 applicable for non-agricultural village plots of Tehsil Ghatampur. Non-application of even the minimum rates notified by the Collector resulted in under valuation of industrial property by Rs. 3.11 lakhs and short levy of Stamp duty by Rs. 29,545. G-181

The matter was reported to the department in January 1987 and to the Government in April 1990; their reply is still awaited (April 1991).

(xiv) In District Gonda, on an instrument of conveyance executed in July 1986 relating to a non-agricultural land admeasuring 0.50 acre (2023.57 square metres) situated in Mohalla Purani Bazar, Balrampur within the notified Town Area Tulsipur, Stamp duty amounting to Rs. 3325 was charged taking the value of the plot as Rs. 35,000 as for agricultural land, as G-168



against the renting price of Rs. 15 per square metre for similar plots as prevailing in the locality as intimated by the Collector, Gonda. By computing on the basis intimated by the Collector, value of the land worked out to Rs. 3,27,000 and the undervaluation of the plot resulted in short levy of stamp duty by Rs. 27,740.

On this being pointed out in audit (March 1988), the department stated that a copy of the deed would be presented to the Collector for determination of value..

The case was reported to the department/Government in April 1988 and May 1989; their reply is still awaited (April 1991).

G.142 (xv) At Kanpur, land admeasuring 3072 square metres situated at Khyora Kachchar, within the corporation limits, was purchased by 10 people with different addresses by means of common conveyance deed. While registering the above instruments, Stamp duty was incorrectly levied based on its valuation at Rs 37,500 as for 'agricultural land', instead of that for 'residential land'. The value adopted was Rs. 37,500 as against Rs 2,75,625 worked out on the basis of the rates fixed by the Collector. This resulted in short levy of Stamp Duty amounting to Rs.27,400.

The matter was reported to the department in March 1989 and to the Government in April 1990; their replies have not been received (April 1991).

(xvi) At Mussoorie (district-Dehradun) in an instrument of conveyance executed and registered in July 1987 in respect of a piece of land measuring 1072.77 square metres, situated on Rajpur Road, value of the plot as mentioned in the deed and adopted by the registering authority was Rs. 3.25 lakhs as against the value of Rs. 6.97 lakhs computed on the basis of the minimum rate of Rs. 650 per square metre fixed by the Collector. The adoption of lower valuation resulted in short-levy of Stamp duty by Rs. 24,658. G-146

The matter was reported to the department in July 1988 and to the Government in May 1990; their replies have not been received (April 1991).

(xvii) In an instrument of conveyance relating to residential plot measuring 668.85 square metres situated in Maharajganj (district Ghaziabad), the valuation of land adopted by the registering authority was Rs. 1.20 lakhs. as against Rs. 3.20 lakhs computed on the basis of the rates fixed by the Collector. The adoption of lower valuation resulted in short levy of Stamp duty by Rs. 23,000. G-182



On being pointed out in audit (March 1989), the department stated that the land in question was undeveloped and situated in the interior of Maharajganj.

The matter was reported to the Government/department (April 1989 and June 1990); their reply has not been received (April 1991).

G-184

(xviii) An instrument of conveyance relating to the land measuring 866 square metres situated in Mohalla-Katra Haveli (a village included in the list of developed villages) in Tehsil and District Basti, was executed based on the value of plots of land at Rs. 15,000 as shown in the instrument. It was registered on 17th February 1988 by the Sub-Registrar, Basti on payment of a stamp duty of Rs. 1875 only, treating it as for agricultural use. On the basis of the rate of Rs. 215 per square metre for road side land fixed by Collector, Basti, the value of land worked out to Rs. 1.86 lakhs, and as such, stamp duty of Rs. 22,188 was leviable.

The omission to evaluate the land at the rate prescribed by the Collector, resulted in the short levy of stamp duty by Rs. 20,313 and of registration fee of Rs. 90.



The matter was reported to department/Government in February 1989 and again in May 1990; their reply is still awaited (April 1991)

(b) Under-valuation of residential-cum-commercial building. G-183

On a sale deed registered at Hathras, district Aligarh in March 1987, Stamp duty of Rs. 19,000 on a property comprising a building having three shops, four rooms, open land, boundary wall and iron gates (all measuring 1217-28 square metres) was levied on the sale consideration of Rs. 2 lakhs. There was nothing on record to indicate that the market value of the shops and rooms existing on the premises had been worked out for levying stamp duty.

Taking the minimum rate for other Mohallas of Hathras Tahsil as fixed by Collector, Aligarh (effective from 16th May 1985) at the rate of Rs. 350 per square metre, the cost of land alone worked out to Rs. 4.27 lakhs on which a stamp duty of Rs. 40,565 was payable. The market value of the super structure would be in addition.

No action was taken by the registering authority either to call for the relevant information for determining the proper valuation of the property or to refer the case to the Collector after registering the

(242)

document. The adoption of incorrect valuation resulted in short levy of stamp duty at least to the extent of Rs. 21,565 on land alone.

The matter was reported to the department in April 1987 and to the Government in May 1990; their replies have not been received (April 1991).

## CHAPTER-6

### LAND REVENUE

#### 6.1 Results of Audit

G.198

Test check of the accounts and relevant records of the various offices of the Revenue Department conducted in Audit During the period from April, 1989 to March 1990, revealed under assessments of land revenue and land development tax, heavy arrears of land revenue and land development tax, and short-realisation of collection charges amounting to Rs. 141.02 lakhs in 311 cases, which broadly fall under the following categories:

Items	No. of cases	(Amount in lakhs of rupees)
1. Non-levy or short levy of land revenue and land development tax	216	105.49
2. Arrears of land revenue and land development tax	3	22.10
3. Short recovery of collection charges	62	7.17



4. Non-recovery of fee for supply of jot bahi (Pass Book)	30	6.26
<b>TOTAL</b>	<b>311</b>	<b>141.02</b>

A few important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

#### 6.2. Non-recovery of collection charges

In terms of the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1978, the revenue authorities, on receipt of certificates of recovery, from a corporation or banking company, shall proceed to recover the amount stated therein together with cost of proceedings (collection charges) as arrears of land revenue. Collection charges at the rate of 10 per cent of the dues collected are realisable by the revenue authorities.

In 11 tahsils of 9 districts, in respect of dues recovered after issuance of recovery certificates, collection charges amounting to Rs. 4.12 lakhs were not realised during the years 1987-88 to 1989-90.

On the omission being pointed out in audit (between January 1989 and December 1989), the concerned Tahsildars stated that action was being taken for recovery of collection charges.

G.79

Further report has not been received (April 1991).

The above cases were reported to the department between March 1989 and January 1990 and to Government in June 1990; their replies have not been received (April 1991).

### 6.3. Non-deposit of service charges

G-29

Under Section 122-B of the U.P. Zamindari Abolition and Land Reforms Act, 1950, where any property vested in a Gaon Sabha is damaged or misappropriated, the amount of compensation for damages, misappropriation or wrongful occupation of such land shall be recovered as arrears of land revenue. The amount so recovered is credited to the consolidated Gaon Fund vide section 124 ibid. In their circular letter dated 17th June, 1975, the Board of Revenue directed that Amins should be entrusted with the job for recovery of the compensation, out of which 10 per cent was to be deposited into the treasury as service charges and the balance into the consolidated Gaon Fund.

Compensation charges for damages etc. amounting to Rs. 10.34 lakhs were recovered by the Amins of 3 tahsils Pooranpur, Beesalpur and Pilibhit sadar between 1985-86 and 1987-88, out of which a sum of Rs. 1.04 lakhs (at 10

per cent of the compensation amount) was required to be deducted and remitted into treasury towards service charges, but was not done till the date of audit (December 1988).

The matter was reported to the department in February 1989 and to Government in January 1990; their replies have not been received (April 1991).

#### 6.4. Non-recovery of land revenue.

In accordance with paragraph 166 of the Revenue Manual, remission of rent and revenue may be recommended by the Collector when the agricultural calamity is exceptionally severe or when the economic condition of the people has been reduced by previous crop failures. In case of calamity affecting kharif crop, ordinarily suspension of recovery is considered to be sufficient except when the kharif crop is exceptionally important.

During audit (August 1989) of Tahsil Bhognipur (Kanpur Dehat), it was noticed that proposal for remission of land revenue amounting to Rs. 79,508.65 due to damage of kharif crop of 1393 fasli (July 1985 to June 1986) in respect of 78 villages was sent by the Collector, Kanpur Dehat (November 1986) to the Board of Revenue. The case was not found to be in conformity with the

G-30



provision of the rule ibid and it was, accordingly, rejected by the Board (December 1987). Although over two years have elapsed, the recovery of land revenue has not been made (February 1990).

On this being pointed out in audit in August 1989 the department stated (August 1989) that the orders rejecting the remission were received late (June 1989) and recovery would be made. Further report has not been received.

The matter was reported to Government in September 1989; their reply has not been received (April 1991).

G-80

#### 6.5. Allowance of excess relief of land revenue.

In accordance with the provisions of paragraph 168 of the Manual of orders of the Government of Uttar Pradesh in the Revenue Department Volume I, remission of rent and revenue requires the sanction of the Government.

In Tahsil Dehradun, relief in land revenue for Kharif crops adversely affected by an agricultural calamity in 1395 fasli (July 1987 to December 1987) was computed at Rs. 1,04,746 and sent by the Collector to Government for approval. The Government approved the

proposal for remission to the extent of Rs. 41,276 only but the entire amount of the proposed relief of Rs. 1,04,746 was allowed and adjusted against demands by the department. This resulted in allowance of excess relief of Rs. 63,470.

This was pointed out to the department in December 1989 and to Government in May 1990; their replies have not been received (April 1991).

#### 6.6. Non-deposit of fee for supply of jot bahis.

G-110 Under sub-section (4) of section 33 of the U.P. Land Revenue Act, 1901, every tenure holder is supplied with a jot bahi (pass book) in respect of all holdings of land held by him on payment of prescribed fee, which is recoverable as arrears of land revenue. Jot bahi was introduced by the Government with effect from 1969-70 (1377 fasli i.e. July 1969).

In Tahsil Nighasan, district Lakhimpur Kheri, 5000 jot bahis were issued to Land Record Inspectors in 1976 for distribution, in respect of which, fee amounting to Rs. 25,000 was recoverable, which remained unrealised (April 1991).

The matter was reported to the department and Government in February

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1987. In reply (December 1989), the Government stated that the efforts are being made for realisation of the amount from the concerned officials through the District Officers.



## CHAPTER-7

### OTHER TAX RECEIPTS

#### A-ELECTRICITY DUTY

##### G-196 7.1. Results of Audit

Test check of the accounts of the Assistant Electrical Inspector/appointed authorities, conducted in audit during the year 1989-90, revealed non-levy or short levy of Electricity Duty and Inspection Fees amounting to Rs. 1.79 lakhs in 9 cases.

An important case noticed during 1989-90 and earlier years is mentioned in the following paragraph.

##### G-109 7.2. Non-levy of Electricity duty

Under the U.P. Electricity Duty Act 1952, electricity duty is leviable on energy sold to consumers at rates notified by the State Government from time to time. The Act further provides that for the purpose of calculation of electricity duty, energy supplied free of charge or at concessional rates to certain categories of consumers, by a licensee or the Board, shall be deemed to be energy sold at rates applicable to other consumers of the same category. In September 1984, Government clarified that even in respect of

energy supplied at concessional rates to defence officers by the appointed authorities (Defence Department), the rate charged for energy consumed would be deemed to be the full rate applicable to other consumers of the same category, and that the difference between the ordinary rate and concessional rate was to be borne by the Defence Department.

Non-recovery of electricity duty in respect of supply of electricity, free of charge, to certain consumers of the Defence Department posted at Meerut was commented upon, in paragraph 7.7 of the Audit Report 1985-86 and the Government had proposed (May 1987) to intimate their decision early which, however, was awaited (April 1990). It was noticed in subsequent audit conducted in August 1989 that the concerned appointed authority at Meerut was not depositing electricity duty recoverable in respect of such supplies even after 5 years of issue of Government clarification in September 1984. The consumption of energy supplied free of charge during the period from January 1986 to December 1989 to the above category aggregated 27.60 lakh units involving electricity duty of Rs. 1.38 lakhs which was not levied by the department..

The matter was reported to Government (October 1989); their reply is awaited (April 1991).

## G-185 B-TAX ON PURCHASE OF SUGARCANE

### 7.3. Results of Audit

Test check of the records of sugar factories and khandsari units, conducted in audit during the year 1989-90, revealed non-levy/short levy of Purchase Tax on Sugarcane amounting to Rs. 171.60 lakhs in 28 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Clearance of Sugar without payment of purchase tax	5	153.88
2. Irregular deferment of tax	6	123.06
3. Short assessment due to non-observance of rules	7	6.93
4. Irregularity in fixation of rate of tax	2	1.30
5. Other cases	8	1.53
<b>TOTAL:</b>	<b>28</b>	<b>286.70</b>



A few important cases are mentioned in the succeeding paragraphs.

7.4. Short payment/Non-payment of tax  
by sugar factories

G-186

Under the U.P. Sugarcane (Purchase Tax) Act, 1961, tax on purchase of sugarcane consumed in manufacture of sugar is levied at the time of removal of sugar from the factory. For this purpose, provisional rate of tax per bag of sugar, based on the data of the previous season, is fixed by the Assessing Officer at the beginning of the crushing season (September/October) and the final rate of tax is fixed at the end of the crushing season (March/April) by taking into account the remaining stock of sugar of the season and the amount of tax paid at the provisional rate for that season. Under section 3A(3) of the Act, the factory owner is required to deposit the balance amount of unpaid tax at the time of clearance of the last bag of the sugar from the factory. Failure to do so renders the owner liable to pay penalty of a sum not exceeding one hundred per cent of the balance of tax so payable under section 3A(5) (b) of the Act ibid.

- (a) Short payment of tax due to incorrect fixation of final rate.

A sugar factory in Rampur district purchased 40,36,398.43 quintals of sugarcane during season 1986-87 on which purchase tax of Rs. 50.45 lakhs was leviable at the rate of Rs. 1.25 per quintal of sugarcane. On the clearance of the entire stock of 3,29,180 bags of marketable sugar from the beginning of the season till 31st May 1988, tax amounting to Rs. 47.25 lakhs was realised by the department at the provisional rate of Rs. 13.70 per bag from the beginning of crushing season to 10th November 1987 and from 11th November 1987 to May 1988 and the final rate of Rs. 18.50 per sugar bag fixed by the Assessing Officer. The fixation of incorrect rate resulted in tax of Rs. 3.20 lakhs remaining unpaid at the end of May 1988 when no stock of sugar was left in hand.

On the irregularity being pointed out in audit (February 1990), the Government (April 1990) directed the Sugar Commissioner to forward the compliance report of the department under intimation to them. Report on recovery of the balance amount of tax and also on action taken for the recovery of penalty have not been received (April 1991).



(b) Non-fixation of final rate. G-188

In Deoria district, a sugar factory had cleared (during January 1988 to April 1989) the entire stock of marketable sugar of 1987-88 season (excluding 'brown sugar which was to be removed only for reprocessing within the factory) at the provisional rate. The purchase tax liability of the season was, however, not fully discharged in the absence of the final rate of tax per bag which was to be fixed at the end of the crushing season 1987-88. The balance of unpaid tax for the above season amounted to Rs. 72,566. Besides, penalty upto 100 per cent of the tax was recoverable for default in discharge of the tax liability in lump sum at the time of tax clearance of the last bag of sugar from the factory.

On this being pointed out in audit (June 1989), the department stated (February 1990) that by order dated 15th December 1989 final rate of tax at Rs. 0.80 per sugar bag has been fixed and on clearance of remaining stock of 920 sugar bags, the entire tax liability would be liquidated. The procedure adopted by the department was irregular as it militates against the provisions of rules framed under the Act as stated above.

The case was reported to Government in February 1990; their



reply has not been received (April 1991).

G-177 (c). In the Report of Comptroller and Auditor General of India for 1985-86, the irregularity in permitting a sugar factory in Meerut district to clear sugar without payment of tax was pointed out. It was noticed in audit (December 1989) that the same sugar factory had cleared sugar, without payment of tax, from 1985-86 to 1988-89 also on the basis of the executive order dated 19th January 1984 issued by the Government (Industries Department) granting moratoria on the payment of tax during the period of re-payment of loan taken by the factory from financial institutions, for execution of its expansion project. In the absence of any provision in the Act or rules, the order for deferment of payment of tax was irregular and resulted in accumulation of arrears. The tax not paid by the factory from 1985-86 to 1988-89 amounted to Rs. 115 lakhs while the order itself did not provide for the manner and mode of payment of the deferred tax after expiry of the period of repayment of loan assistance. According to the factory management, order for the payment of arrears of cane purchase tax in ten six monthly instalments had been issued (November 1989) by the Government (Chini Udyog Department).

However, no instalment had been paid so far (April 1991)..

Except for an interim reply (April 1990), the final reply of the Government has not been received (April 1991).

- (d) Short payment of tax due to non-clearance of sugar bags at final rate.

G-187

In Bahraich district, a sugar factory purchased 11,66,514.30 quintals of sugarcane during the season 1987-88 on which cane purchase tax amounting to Rs. 14.58 lakhs (at the rate of Rs. 1.25 per quintal of sugarcane) was to be paid on the total quantity of sugar produced during the said season. The factory produced 1,02,005 quintals i.e. 1,02,005 bags of sugar during the season, but cleared only 63,661 sugar bags and paid tax on purchase of sugarcane amounting to Rs. 8.59 lakhs upto August 1988. From the balance of 38,344 bags (including 830 bags brown BISS sugar) the cane purchase tax liability of Rs. 5.98 lakhs was to be recovered. As such the Assessing Officer fixed the final rate of tax of Rs. 16 per sugar bag as per his order dated 19th September 1988. Though the factory cleared 34,117 sugar bags from September 1988 to April 1989, cane purchase tax of Rs. 4.62 lakhs only was

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paid. This resulted in short payment of tax of Rs. 81,872.

On the irregularity being pointed out in audit (June 1989), the department recovered tax amounting to Rs. 81,871 in August 1989 and penalty of Rs. 7,486 in December 1989.

The matter was reported to Government in February 1990.



## CHAPTER-8

### FOREST RECEIPTS

#### 8.1 RESULTS OF AUDIT

Irregularities noticed during test check of the divisional records conducted by Audit during 1989-90 were broadly as under:

Sl. No.	Category	Number of cases	Amount (In lakhs of rupees)
		1989-90	1989-90
1.	Incorrect fixation of royalty	22	1357.94
2.	Irregularities in collection and disposal of tendu leaves	6	350.27
3.	Irregularities in extraction of resin	17	61.65
4.	Loss of revenue due to non-registration of saw mills	26	22.20
5.	Non-levy/Short levy of penalty	2	13.46
6.	Non-realisation of lease rent	4	9.54
7.	Loss of revenue due to non-levy of stamp duty	18	5.42

8.	Miscellaneous	134	273.86
		----	-----
		229	2091.34
		----	-----

A few important cases noticed in audit are mentioned in the succeeding paragraphs.

## 8.2 Forest offence cases

### 8.2.1. Introductory

Causing damage to forests by any of the following acts, namely cutting and removal of any tree and the collection and removal of forest produce, the clearing and breaking of land for cultivation, grazing of cattle, cutting of grass and the lighting, kindling or burning of any fire near the forests without valid authorisation is an offence, punishable with fine, besides confiscation of the produce. In case the produce is not confiscated and is allowed to be retained by the offender, he is required to pay its value in addition to the fine imposed for the offence. The offence can be compounded by the forest officer by recovering the value of the forest produce damaged and or removed and compensation (penalty) for the damage. The departmental officer noticing such an offence is required to prepare a report and forward it to Sub-Divisional Officer/ Divisional Officer and the concerned

Range Officer so that the offence is registered for investigation and penal action against the offenders.

Section 468 of the Criminal Procedure Code lays down that no court shall take cognizance of an offence, after the expiry of one year, in cases where the maximum punishment leviable is six months.

Pending investigation, the seized forest produce is kept under the custody of the department, till the investigation is completed. However, if the place where the offence is noticed is far from the Range Office, the custody of the seized material is entrusted to a person known as *Supurdgar* (Non-official).

With a view to check the menace of illicit felling, two schemes viz. "Forest Protection" and "Intensification of Forest Management" were launched in the State of Uttar Pradesh in the year 1974-75 and 1981-82 respectively. The latter scheme was merged with the former in the Seventh Five Year Plan (1985-90). Till March 1989, a sum of Rs. 374.08 lakhs had been incurred in respect of both the schemes. The schemes had no visible effect on curbing the offence cases whose number was only marginally less in 1988-89 as



compared to 1981-82, as shown below:-

Year	No. of cases registered	No. of Cases compounded	Revenue realised (Rs. in lakhs)
-----	-----	-----	-----
1981-82	4,799	3,636	7.13
1982-83	4,833	3,601	9.59
1983-84	4,153	3,031	8.09
1984-85	4,702	3,150	7.57
1985-86	4,716	3,219	8.13
1986-87	4,692	2,944	9.69
1987-88	4,295	2,442	9.94
1988-89	4,305	2,295	8.33
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### 8.2.2 Organisational set up

At the apex level, the Principal Chief Conservator of Forests, Uttar Pradesh is the Head of the Department assisted by eleven Chief Conservators of Forest. For the purpose of efficient management and control, the department is divided into thirty five forest circles and each circle is under the administrative charge of a Conservator

of Forests, Director or Regional Director, as the case may be. A Circle is divided into divisions and the charge of each division is held by Divisional Forest Officer/Divisional Director assisted by Sub-Divisional Officers. A forest division is sub-divided into ranges which are headed by Rangers or Deputy Rangers. The ranges are divided into beats, the charge of which is held by the forest guards.

### 8.2.3. Scope of Audit

In order to ascertain whether the schemes launched by the Government/department to check the menace of illicit felling of trees have been faithfully implemented and whether the relevant provisions of rules have helped in curbing the forest offences, a test check of records for the period from 1978-79 to 1988-89 relating to forest offence cases registered in 13 divisions\* during the period from November 1989 to May 1990, was conducted and information collected. Several irregularities which came to light during the test check are discussed in the succeeding paragraphs.

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\*Dudhwa National Park, Faizabad, Garhwal, Moradabad, North Gorakhpur, North Kheri, Pratapgarh, South Pilibhit, shivalik, Tarai East, Uttar Kashi, West Almora and West Mirzapur.

#### 8.2.4. Trend of offences

The trend of forest offence cases which escaped detection between 1973-74 and 1986-87 as reported by the department was as under:-

<u>Year</u>	<u>No. of cases remaining undetected</u>
1973-74	4,007
1974-75	5,804
1975-76	5,027
1976-77	4,565
1977-78	3,760
1978-79	4,452
1979-80	5,981
1980-81	6,801
1981-82	5,323
1982-83	5,236
1983-84	5,520
1984-85	8,028
1985-86	4,736
1986-87	10,568

The number of forest offence cases which escaped detection showed an uneven trend. There was an increase of 50 per cent in 1984-85 and 163 per cent in 1986-87 over the cases remaining undetected in 1973-74. This would indicate that the department had not taken effective steps to prevent illicit fellings.



### 8.2.5. Highlights

(1) Out of 56,493 forest offence cases registered till the end of March 1989, 12,438 cases which were more than 1 to 10 years old, involving a sum of Rs. 68.42 lakhs, were pending finalisation.

(2) During 1980 to 1989, 26,560 trees of various species valuing Rs 15.46 lakhs were felled illicitly; but the offences were not detected in time, and were neither registered nor investigated, thereby resulting in substantial loss of revenue.

(3) 59 forest offence cases involving a sum of Rs 2.39 lakhs had become time-barred for filing in Courts.

(4) Due to non-revision of rates in two Divisions for recovery of the price of trees illicitly felled by contractors etc, there was loss of revenue of Rs 83.82 lakhs. Royalty amounting to Rs. 7.10 lakhs in respect of seized produce and lots allotted to Uttar Pradesh Forest Corporation remained unrealised.

(5) Between 1968-69 to 1988-89, 15,417.70 hectares of forest land had been encroached upon and 36,846 trees valuing Rs 1099 lakhs were illicitly felled by encroachers.

### 8.2.6. Delay in compounding of offence cases

As per Government orders, compensation to be demanded for damage should be finalised within three months of commission of offences.

It was, however, noticed that out of 56,493 cases registered during the period 1978-79 to 1988-89, 12,438 cases involving Rs. 68.42 lakhs as per details given below were still to be compounded (April 1991).

Period of delay -----	No. of cases -----	Amount involved (Rs. in lakhs) -----
(i) More than 10 years old	2,036	0.60
(ii) More than 5 years but less than 10 years old	3,858	6.47
(iii) Upto 5 years old	6,748	61.35
Total	12,438	68.42

On this being pointed out in audit (November 1989 to May 1990) the respective Divisional Forest Officers stated (May 1990) that the cases were pending at the level of the Range Officers for final investigation. The reply indicated that there was no effective monitoring of the progress in

disposal of cases at higher level. The Chief Conservator of Forests (Administration and Planning), Lucknow admitted (March 1990) that no monitoring of such cases was done either at the level of Chief Conservator or Conservator of Forests. However, the Divisional Forest Officer, Shivalik Division, Dehradun had raised demands in respect of all of 245 outstanding cases involving Rs. 1.56 lakhs against the concerned staff, recovery of which was reported to be in progress (April 1991).

#### 8.2.7. Illicit felling escaping detection

In accordance with the provisions contained in the Uttar Pradesh Forest Manual, forest guards and other subordinate forest officers are required to report offence cases within twenty four hours of the time of detection of such cases.

It was, however, noticed from the records that 26,560 trees of various species valuing Rs. 15.46 lakhs were illicitly felled during the period from 1980 to 1989 in seven forest divisions (North Gorakhpur, North Kheri, Shivalik, South Pilibhit, Uttarkashi, West Almora and West Mirzapur) which escaped detection, as a result of which revenue to that extent had been lost. Besides this, no action could also be initiated against the offenders since the



fellings were not noticed in time. The department stated (May 1990) that disciplinary action has been initiated against the officials in charge of the beats.

Pertinently, the Conservator of Forests, Bhagirathi Circle, who conducted inspection of Uttarkashi Forest Division in April 1989 had observed that the illicit felling had occurred due to lapses on the part of the Divisional Forest Officer. Further, development in the case was awaited (April 1991).

#### 8.2.8. Registration of offence cases without money value

According to the Government orders, each offence case should be registered, indicating the value of the damage caused by the offenders.

However, it was found that out of 56,493 cases registered upto March 1989, in respect of 19,096 cases (33.8 per cent) registered in five forest divisions (Dudhwa National Park, North Kheri, Tarai East, West Almora and West Mirzapur), the money value had not been indicated.

**8.2.9. Loss of revenue due to time-barred cases**

Section 468 of the Criminal Procedure Code, Inter-alia, provides that the offence case should be filed in the court within one year of its occurrence failing which it would become time barred.

A scrutiny of the Register of Civil and Criminal Cases revealed that 59 offence cases relating to the period from 1977-78 to 1988-89 involving Rs. 2.39 lakhs in four divisions (Faizabad, North Gorakhpur, South Pilibhit and Tarai East) became time barred as the divisions could not file the cases within the prescribed time.

Besides, in nine cases relating to Tarai East Division, revenue amounting to Rs. 1.40 lakhs had to be foregone due to non-production of witnesses/ evidence before the court.

**8.2.10. Non-revision of Schedule of Rates with the increase in market price**

The Conservators of Forest are required to revise from time to time the minimum cost to be realised in the case of illicit fellings and damages to trees of different species and diameter classes, from contractors as well as the offenders in order to avoid

discrimination. While the Schedule of Rates in Kumaon and Central Circle were revised at an interval of three years, the Schedule of Rates were revised after seven years in two circles, viz. Gorakhpur and Western Circle. The average increase as per Schedule of Rates of 1989 was 108 and 97.5 per cent over and above that of 1982 in Govrakhpur and Western circles respectively. Due to non-revision of Schedule of Rates with the increase in price of timber between 1982 and 1989, revenue of about Rs. 83.82 lakhs (Gorakhpur Circle: Rs. 22.78 lakhs and Western circle: Rs. 61.04 lakhs) was lost.

#### 8.2.11. Loss of revenue due to incorrect application of Schedule of Rates

The illicit felling detected under Section 68 of the Indian Forest Act is required to be compounded on the basis of cost as per the commercial Schedule of Rates prescribed by the Conservator of Forests of the circle concerned from time to time plus compensation at the rate of five times the cost but not exceeding Rs. 1,000/- per tree. If the trees below a diameter of 30 cm are illicitly felled by the neighbouring villagers for their domestic use (and such occasions are isolated and casuals), the cost is to be realised as per the commercial



schedule of rates but the compensation to be determined by the compounding officer could not be less than three times the cost of the illicitly felled trees.

The Divisional Forest Officer, West Almora Forest Division, Almora compounded 69 forest offence cases relating to the period 1978-79 to 1989-90 for Rs. 0.14 lakh on the basis of concessional schedule of rates. According to instructions of July 1977, as amended in August 1988, of the Chief Conservator of Forests (Management) Uttar Pradesh, Nainital, the value of cost and compensation worked out to Rs. 0.40 lakh. Thus, incorrect application of schedule of rates resulted in loss of revenue of Rs. 0.26 lakh.

#### 8.2.12. Non-realisation of royalty of seized forest produce.

According to instructions of the Chief Conservator of Forests (Management) U.P., Nainital, the royalty of seized forest produce is realisable on the rates prescribed for the standing trees of that year.

Between 1984-85 and 1987-88, 76 seized forest produce lots were allotted to the Uttar Pradesh Forest Corporation in two Divisions, viz. North Kheri and Tarai East, at a royalty of Rs. 7.10 lakhs in accordance

with the above instructions. The royalty has not been paid by the corporation so far (April 19991).

It was stated by respective Divisional Forest Officers (January 1990) that the Uttar Pradesh Forest Corporation was not willing to pay royalty on siezed forest produce lots according to the extent instruction (October 1982) i.e. at the rates fixed for the particular year treating the allotted timber lots equivalent to "standing tree" of that year. In violation of the standing instructions, the corporation desired to auction such lots on behalf of the Forest Department and credit the sale proceeds to the department. Matter is under correspondence (April 1991).

#### **8.2.13. Non-realisation of damages from contractors**

The sale rules of the department, inter-alia provide that the security deposit shall be adjusted towards the last instalment of the lot provided the contractor had deposited late fees, petty demands and other dues.

It was noticed in audit that in five forest divisions, demands aggregating Rs. 2.05 lakhs were raised against the contractors for damaging the trees during the exploitation of lots during the period 1964-65 to 1987-88 but the



security deposits of the contractors had already been adjusted towards the lots without realising the aforesaid dues for which the recovery certificates had to be issued subsequently.

The Divisional Forest Officer, Tarai East, Haldwani stated (January 1990) that Rs. 0.28 lakh had become irrecoverable as the whereabouts of the contractor were not known.

**8.2.14. Loss of revenue due to deterioration of forest produce in the custody of the department**

To watch the seizure and disposal of forest produce seized in connection with forest offences a Register in Form-C-17 is to be maintained by Range Officers and in order to avoid deterioration and decaying of such produce, forest offence cases should be finalised expeditiously.

In three forest divisions (North Gorakhpur, North Kheri and Uttar Kashi) seized produce valuing Rs. 0.48 lakh decayed due to non-settlement of offence cases for periods ranging from one to ten years, resulting in loss of revenue to that extent.



**8.2.15. Loss of revenue due to seized produce lost from the custody of Supurdgars**

In three forest divisions (North Gorakhpur, North Pilibhit and Tarai East) between 1978-79 to 1988-89, seized produce valuing at Rs. 1.18 lakhs was left in the custody of Supurdgars and no action was taken for its subsequent transfer to the custody of the department which ultimately resulted in loss of revenue to that extent.

The measurements were not recorded in C-17 Register in the prescribed unit with the result that the quantity involved in these cases could not be assessed.

**8.2.16. Encroachment of forest land**

Between 1968-69 and 1988-89, 15,417.70 hectares of forest land in nine divisions (Garhwal, North Gorakhpur, North Kheri, South Pilibhit, Shiwalik, Tarai East, West Almora, West Mirzapur and Uttar Kashi) was occupied by the encroachers. The value of 5,403.26 hectares of land was reported to be Rs. 1,120 lakhs; no assessment had, however, been made for balance 10,014.44 hectares of land. It was, further noticed that 36,846 trees valuing Rs. 10.99 lakhs were illicitly felled by the encroachers in Tarai East

division, Haldwani. Besides, this, the plantations raised at a cost of Rs. 7.31 lakhs were also damaged.

It was intimated (November 1989 to May 1990) that the encroachments could not be got vacated in 6 divisions (West Mirzapur, South Pilibhit, North Gorakhpur, Shivalik, Garhwal and West Almora) due to cases pending in court; in 2 divisions (North Kheri and Uttar Kashi) due to dispute in regard to boundaries and in Tarai East forest division due to non-availability of police force.

#### 8.2.17. Other points of interest

(i) In accordance with the provisions of the Uttar Pradesh Forest Manual, the Register of compounded cases (Form H-1) should contain the vital information such as, value of the offence, details of illicitly felled trees, amount of compensation demanded and date of realisation of compensation. It was, however, noticed in audit that this information had not been recorded in the aforesaid register.

(ii) 16,356 trees planted at a cost of Rs. 0.41 lakh were damaged by the offenders but no offence case was registered (Social Forestry Division, Faizabad).



The audit observations were reported to Government in July 1990; reply has not been received (April 1991).

### 8.3. Short recovery of royalty.

In December 1974, Government sanctioned allotment of 75,000 volumetric tonnes (Shivalik Circle: 47,000 volumetric tonnes and Western Circle: 28,000 volumetric tonnes) of eucalyptus wood per annum in the form of standing trees to a Paper mill, Saharanpur from 1974-75 onwards at the rates fixed by the Government from time to time. The average market rate of eucalyptus wood during 1980-81 was Rs. 456 per volumetric tonne, whereas the Government had fixed a concessional rate of Rs. 186 per volumetric tonne

It was noticed in audit (April 1988) from correspondance files that the mill extracted and exported 85,311 volumetric tonnes (Shivalik Circle 57,160 volumetric tonnes and Western Circle: 28,151 volumetric tonnes) of eucalyptus wood during 1980-81 against the annual allotment of 75,000 volumetric tonnes. Instead of charging concessional rate of royalty on the allotted quantity and market rate on the balance, the department charged royalty, on the whole quantity of eucalyptus wood extracted by the mill, at the concessional rate of Rs. 186 per



volumetric tonne. This resulted in short levy of royalty amounting to Rs. 27.84 lakhs.

Government, to whom the matter was reported in July 1988, stated (July 1989) that the royalty at market rate was leviable on the quantity extracted by the mill in excess of the allotment and that the reasons for not doing so had been called for from the department. Further report has not been received (April 1991).

#### B.4. Incorrect assessment of out turn of Khair tree

As per departmental orders of June 1978, the outturn of trees marked for felling is calculated on the basis of volume factors. Khair trees are classified as (i) fit and (ii) unfit; a fit green tree is taken as one tree and unfit as half of a fit tree. Further, the outturn of dry trees is assessed at three fourth of green ones.

In the course of audit (December 1989 and January 1990), it was noticed that the outturn of 97 khair lots, allotted between 1986-87 and 1988-89 to Uttar Pradesh Van Nigam from North Piliphit ( 34 lots) and Tarai Central (63 lots) forest divisions, was calculated by taking fit green khair trees as 2/3 of sound ones (instead of full sound ones) and of unfit green

trees at  $1/3$  of sound ones instead of  $1/2$  of it. In respect of dry trees the outturn was calculated at  $1/2$  and  $1/4$  instead of  $3/4$  and  $3/8$  for fit and unfit trees respectively. The incorrect computation resulted in short assessment of outturn of *khair* lots to the extent of 330.299 cubic metres (North Pilibhit: 186.149 cubic metres and Tarai Central: 144.150 cubic metres) and consequential loss of revenue amounting Rs. 7.07 lakhs (North Pilibhit: Rs. 3.85 lakhs and Tarai Central: Rs. 3.22 lakhs).

The matter was reported to the department and Government in February and March 1990; their replies have not been received (April 1991).

#### 8.5 Non-recovery of revenue

In February 1987, Government appointed Tarai Anusuchit Janjati Vikas Nigam as its agent for collection and sale of Tendu leaves. The Nigam was required to pay royalty on collection of Tendu leaves for the 1988 season in three equal instalments, namely on 1st December 1988, 1st March 1989 and 1st June 1989, failing which late fee at the prescribed rate was also payable.

During the audit of accounts of three forest divisions (East Mirzapur, Obra and Renukoot), it was noticed (July 1989) that the Nigam had



collected Tendu leaves of 1988 season from the forests under these divisions on which royalty amounting to Rs 372.47 lakhs and sales tax of Rs. 40.97 lakhs were payable. The Nigam, however, paid only first instalment of royalty and sales tax amounting to Rs. 124.15 lakhs (March/April 1989) and Rs. 13.65 lakhs (March/April 1989) respectively. The balance amount of Rs. 275.64 lakhs (Royalty Rs. 248.32 lakhs and Sales Tax Rs. 27.32 lakhs) had not been recovered from the Nigam so far (April 1991).

Besides, there was delay in payment of first instalment of royalty by 90 to 139 days, for which late fee of Rs. 6.82 lakhs was also recoverable. On this being pointed out in audit (July 1989), Forest Division, Obra had raised the demand (Rs 1.84 lakhs) for late fee in September 1989. Similar action by the other two forest divisions (East Mirzapur: Rs 0.53 lakh and Renukoot: Rs 4.45 lakhs) was yet to be taken (April 1991).

The matter was reported to Government in September and October 1989; replies had not been received (April 1991).

#### 6.6 Non-recovery of late fee

According to Government orders of September 1978, Uttar Pradesh Van Nigam was required to deposit instalment of



royalty by specified date and in case of default, was liable to pay late fee at 2 paise per Rs. 100 per day for delays exceeding 30 days but not exceeding 60 days and at 5 paise per Rs. 100 per day for delays exceeding 60 days.

In North Gonda and East Bahraich Forest Divisions, royalty amounting to Rs. 1,238.33 lakhs (Rs. 144.62 lakhs for 1983-84, Rs. 398.52 lakhs for 1985-86 and Rs. 695.19 lakhs for 1986-87) in respect of forest lots allotted to Uttar Pradesh Van Nigam during 1983-84, 1985-86 and 1986-87, was payable in three equal instalments on 1st March, 1st June and 1st September of the concerned year. Out of this, Rs. 815.38 lakhs were paid in time and payment of Rs. 332.38 lakhs was delayed by 119 days to 151 days for which late fee of Rs. 20.78 lakhs was recoverable. Information regarding payment of balance amount of Rs. 90.57 lakhs (Rs. 1,238.33 lakhs - Rs. 1,147.76 lakhs) was not made available.

On this being pointed out in audit (August 1988 and September 1988) one division (North Gonda) raised demand of Rs. 19.81 lakhs for late fee (February 1990), but in respect of other division (East Bahraich) reply has not been received so far (April 1991).

Information regarding balance payment of Rs. 90.57 lakhs has also not been given (April 1990).

The matter was reported to the Government in September 1988 and November 1988; their reply has not been received (April 1991).

#### 8.7 Non-realisation of extension fee

According to orders of the Chief Conservator of Forests, issued in February 1957, and extended to the Uttar Pradesh Van Nigam in September 1978, extension fee at the rate of 1 per cent per month on the sale price of lots was chargeable from the purchasers for the period for which extension in working period was granted.

In three forest divisions (West Bahraich, East Bahraich and South Gorakhpur) 39 lots were allotted to Van Nigam between 1984-85 and 1987-88. The Nigam did not exploit the lots within the stipulated periods. The forest divisions granted to Van Nigam extension in working period ranging between 15 and 270 days without realising/raising the demand for extension fee amounting to Rs. 4.79 lakhs.

On this being pointed out in audit (September 1988, August and September 1989), the department stated (August 1989) that West Bahraich Forest



Divison had since raised a demand for Rs. 1.89 lakhs against the Nigam. Report on similar action taken by the remaining two forest divisions has not been received (April 1991).

The matter was reported to Government/departement in April 1990; their reply has not been received (April 1991).

**8.8. Non-recovery of fine for short supply of sleepers**

According to Sale Rules of 1987-88, the contractors were required to supply allotted quantity of railway sleepers from the timber lots sold to them within the specified period failing which liquidated damages at the rate of 150 per cent of cost of sleepers were leviable on them. These rules were also applicable to the Uttar Pradesh Van Nigam in cases where allotments for supply of sleepers were placed on it.

In North Gorakhpur Forest Division, Gorakhpur, against allotment during the year 1987-88 ( October 1987 to September 1988) of 882.5156 cubic metres of special size railway sleepers for supply, Uttar Pradesh Van Nigam supplied only 861.5781 cubic metres upto the 31st October 1988, the stipulated last date of passing of sleepers. Fine amounting to Rs. 2.50



lakhs at the prescribed rate (cost of sleeper being Rs. 7,953.00 per cubic metre) for short supply (20.9375 cubic metres) was recoverable from the Nigam but the same was not levied.

On this being pointed out in audit (January 1989), the department stated (February 1990) that demand for Rs. 2.50 lakhs had been raised (February 1989) by the Divisional Forest Officer, North Gorakhpur Forest Division.

The matter was reported to Government in April 1989; their reply has not been received (April 1991).

#### 8.9 Loss of revenue due to non-sale of minor forest produce

As per standing orders (January 1978) of the Chief Conservator of Forests, Uttar Pradesh, Lucknow minor forest produce, which are seasonal and cannot be retained for the next season, should be sold as soon as possible.

Auction notice for sale of boulder, bajri and sand (minor forest produce) comprising within the rivers and rivulets in the forest areas pertaining to 22 plots, on year to year basis, from October 1987 to September 1990 was published by Divisional Forest Officer, Shivalik Forest Division, Dehradun in Government Gazette

Notification of August 1987. The materials to be sold each year were estimated at 14,205 cubic metres (boulder 7240 m<sup>3</sup>, bajri/sand 6965 m<sup>3</sup>) valued at Rs. 1.43 lakhs.

In the course of audit of the said division, it was noticed (April 1988) that for the year 1987-88, no auction was held at all for any of the plots, whereas for 1988-89 only three plots were sold for Rs. 1.31 lakhs and the remaining 19 plots in which 4,705 cubic metres boulders, bajri and sand valuing Rs. 0.48 lakh had been estimated, were not sold. This resulted in loss of revenue of Rs. 1.91 lakhs for the years 1987-88 (Rs. 1.43 lakhs) and 1988-89 (Rs. 0.48 lakh) calculated at the estimated price.

On this being pointed out in audit (April 1989) the department stated (January 1990) that the plots were not sold in view of the possible damage to forest due to soil erosion. The contention is not tenable as according to the Government letter of November 1988, extraction of these materials from river beds was necessary for preservation of forest and for saving the nearby villages from the fury of floods. The Government in its above letter had also pointed out that non-extraction may even cause damage to forest and their wealth due to rising



of river beds and consequently causing floods.

The matter was reported to Government in July 1989; their replies have not been received (April 1991).

#### 8.10 Non-recovery of lease rent

As per Condition 18 of the orders of Government dated September 1978 laying down terms and conditions of working in forest by the Uttar Pradesh Van Nigam (Nigam) annual lease rent of forest land occupied for depots by it was recoverable at the rates fixed by the Forest Department. Whereas other forest circles did not fix any rate, the Additional Chief Conservator of Forests (Kumaon) alone in October 1976 fixed the rate of Rs. 1000 per hectares per year in respect of such depots.

During audit of North Gorakhpur (February 1989), South Gorakhpur (September 1989) and South Pilibhit (January 1990), forest divisions, it was noticed that the Nigam occupied 89.39 hectares of forest land for its depots between 1982-83 to 1988-89, but the lease rent amounting to Rs. 6.06 lakhs based on the rate fixed by the Additional Chief Conservator of Forest (Kumaon) was not realised.

On its being pointed out in audit, North Gorakhpur and South



Pilibhit Forest Divisions raised the demands for Rs. 1.13 lakhs and Rs. 1.16 lakhs as against the demand of Rs. 2.27 lakhs and Rs. 2.32 lakhs in September 1989 and December 1989 respectively. The recovery of this amount was still awaited (April 1991). Action by South Gorakhpur Forest Division was yet to be taken (April 1991).

The matter was reported to the Government in April 1989, November 1989 and March 1990; replies have not been received (April 1991).

#### 8.11 Avoidable loss of revenue

According to the Sale Rules of the Department, a contractor, after acceptance of his bid in auction, is required to deposit security money and sign the agreement at the fall of hammer. After approval of the sale by the Conservator of Forests and payment of first instalment of the sale price, he is allowed to work in the lot, failing which the sale is liable to be cancelled, the amount paid confiscated and the lot resold. Shortage in sale price, if any, on resale of the lot is recoverable from the original contractor.

In the course of audit of East Bahraich Forest Division, Bahraich in August 1989 it was noticed that two timber lots were sold (March 1978) to a

contractor for Rs. 82,300. The contractor deposited (June 1978) Rs. 43,620 towards security and part sale price, but failed to start the work in the lot. The Divisional Forest Officer cancelled the sale (December 1978); forfeited the deposit of Rs. 43,620 and resold the lot (September 1979) for Rs. 79,800. The contractor was also asked to deposit Rs. 2,500 on account of shortage in sale price on resale of the lots.

Instead of paying the amount demanded, a civil suit seeking refund of the amount paid alongwith interest thereon was filed (September 1982) by the contractor. The department pleaded for transfer of the case for arbitration under the Arbitration Act but failed to produce the agreement deed and a written reply before the Court. The court passed (February 1985) an ex-parte judgement to refund the confiscated amount along with interest thereon to the contractor. The department failed to file a timely appeal against the said judgement and the matter became time-barred. Meanwhile, an attachment order for the decretal amount was issued (November 1986) by the Court on another suit filed by the contractor for execution of the Court's February 1985 judgement, and the department had to pay, in May 1989, Rs. 1,00,133 (refund of revenue of Rs. 43,620 and interest thereon Rs. 56,513).

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The matter was reported to the department/Government in October 1989; their comments have not been received (April 1991).



## CHAPTER-9

### OTHER DEPARTMENTAL RECEIPTS

#### A- Irrigation Department

##### 9.1 Results of Audit

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Test Check of the accounts and records of 26 irrigation divisions, conducted in audit during the year 1989-90, revealed irregularities involving revenue of Rs 761.15 lakhs in 83 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Loss of revenue due to delay in repair of state tubewells	11	15.61
2. Non-realisation of stamp duty	25	12.85
3. Unauthorised remission of revenue	2	3.58
4. Non-recovery of water tax	5	0.38

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5. Other cases	40	728.73
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TOTAL	83	761.15

A few important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

G. 190 9.2 Non-finalisation of agreement for supply of water

Mention was made in Paragraph 8.1 of the Audit Report (Revenue Receipt) for the year 1981-82 of the inordinate delay in finalisation of the agreement with the Uttar Pradesh Electricity Board for supply of water by the Irrigation Department and non-payment of water charges by the U.P. Electricity Board. In this regard, the Public Accounts Committee in their Report for the year 1985-86 had recommended that the Irrigation Department may raise provisional demands against the Board and final demand may be sent on receipt of report from the Committee constituted for determining the mode of measurement of the quantity of water consumed. No agreement on the method of measurement of water consumed and rate of payment for the same could be finalised so far even though the Board was set up as far back as in April 1962 and had been obtaining supplies of water for its thermal power stations since then.

In audit of Aligarh Division, Ganga Canal, Aligarh it was noticed (February 1988) that the Irrigation Department continued to raise demands for supply of water to U.P.State Electricity Board (Harduaganj Thermal Power Station, Aligarh) at the rate of Rs.3.75 per 5000 cubic feet of water actually consumed by it. Consequent upon revision of rates for charging supply of water for non-agricultural purposes by the Government in April 1985, revised demands for supply of water to the Board were raised (August 1987) at the rate of Rs. 3.75 per 5000 cubic feet from April 1962 to March 1985 and thereafter, royalty at the rate of Rs.50,000 per cusec per annum was also charged. Against the total demand of Rs.53.42 crores for the period from April 1962 to March 1988 (including charges for maintenance of regulators amounting to Rs.3.71 lakhs and interest amounting to Rs.46 crores), the Board paid Rs.43.86 lakhs only upto March 1989, leaving a balance of Rs.52.99 crores unpaid.

Since the Committee's report regarding mode of measurement of water consumed, has not been received so far (March 1989), the final bill was prepared on the basis of consumptive use of water in cooling of plants. The position of total arrears in respect of all such supplies to the U.P.S.E.B. was not available with the Chief Engineer,



Irrigation Department. The Board was also not showing any such liabilities in their annual accounts.

The matter was reported to the department in March 1988 and to Government in September 1989; their replies have not been received (April 1991).

### 9.3 Non-levy of centage charges on contribution works

Under the provisions of the Financial Hand Book, issued by state Government to regulate financial matter the centage charge to be levied and credited to Government Account in respect of all classes of contribution works undertaken by the Public Works and Irrigation Department on behalf of commercial departments, local bodies and private bodies in the State, will be at the uniform rate of 15 per cent of the actual outlay on works. The Central Government have, however, as a permanent arrangement, agreed to a rate of 21 per cent as the centage charges on all Central Government Works, executed through the agency of the Uttar Pradesh Public Works Department.

It was noticed (between September 1988 and September 1989) in audit that centage charges at the prescribed rate of 21 per cent and 15 per cent of the actual expenditure incurred on two

contribution works executed on behalf of a Central Public Sector undertaking, at Manakapur and Nagarpalika, Mirzapur respectively, were not levied. The works were undertaken during July 1985 to July 1989 by the Irrigation Division, Gonda and Sirsi Dam Division, Mirzapur respectively. This omission resulted in non-levy of the percentage charges amounting to Rs.6.62 lakhs.

The audit findings were reported to the department in November 1988 and October 1989 and to the Government in January 1990; their replies have not been received (April 1991).

#### 9.4 Irrigation charges from cultivators of Madhya Pradesh remaining unrealised.

Under the provisions of the Northern India Canal and Drainage Act, 1873, the rates to be charged for canal water supplied for purposes of irrigation to the occupiers of land should be determined by the rules to be made by the State Government, and such occupiers, who accept the water, should pay for it accordingly. Any sum lawfully due and certified by the Divisional Canal Officer to be so due, which remains unpaid after the day on which it becomes due, should be recovered by the Collector as arrears of land revenue.

In four canal Divisions located at Allahabad, Mohoba and Jhansi, it was noticed (Between June 1987 and January 1989) that the Irrigation Department of Uttar Pradesh had been supplying canal water to the occupiers of land in Rewa, Chhattarpur, Gwalior, Datia and Tikamgarh districts of Madhya Pradesh since 1953-54 for irrigation of 8,266 hectares (approximate) of land. Out of the total demand of Rs.63.26 lakhs raised from time to time by the Government of Uttar Pradesh against the cultivators of Madhya Pradesh on account of irrigation charges for the period from 1953-54 to 1988-89, a sum of Rs.4.23 lakhs only was realised by the Collectors of Madhya Pradesh, leaving a huge unrealised balance of Rs.59.03 lakhs. Out of the realisation of Rs.4.23 lakhs, a sum of Rs.3.95 lakhs i.e. 93 per cent was not passed on to the revenues of Uttar Pradesh. The details of the demands raised in respect of irrigation in Gwalior and Tikamgarh districts during 1961-62 to 1968-69 and 1966-67 to 1968-69 respectively were not made available by the Irrigation Department. Thus, effective check over realisation of dues from the cultivators of Madhya Pradesh was not being exercised by the Department.

The matter was reported to the department between July 1987 and February 1989 and to Government in July



1989; their replies have not been received (April 1991).

9.5 Non-levy of stamp duty on agreements and leases

G-191

(a) Government, by a notification issued in January 1982, withdrew the exemption for levy of stamp duty on agreement/contract bonds executed for Government works. As such, all types of agreements became subject to stamp duty from 20th January 1982. As per Article 5 (c) of Schedule I-B of the Indian Stamp Act, 1899, (as amended in its application to Uttar Pradesh) an instrument/a memorandum of agreement is chargeable with stamp duty of Rs.5 (increased to Rs.6 from 15th June 1982 and Rs.10 from 24th June 1988).

In respect of 15 Irrigation Divisions, stamp duty at the rate of Rs.5 on 3,305 agreements, at the rate of Rs.6 on 49,639 agreements and at the rate of Rs.10 on 4,800 agreements executed between January 1982 and August 1989, was not realised/levied.

On being pointed out in audit (between September 1988 and September 1989), the Divisional Officers stated that no such orders had been received in these divisions. Failure of the department to communicate the decision of Government to the field offices,

resulted in loss of revenue amounting to Rs 3.82 lakhs in these cases.

The matter was reported to the department between September 1988 and October 1989 and to Government in January 1990; their replies have not been received (April 1991).

G.137 (b) In accordance with the provisions of article 35 (b) of Schedule I-B of the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh) and instructions issued by the Board of Revenue in October 1953, Stamp Duty on leases for ferry services and toll collection is to be levied treating the total amount (part paid in advance and the rest agreed to be paid in instalments) as premium for which the lease has been granted, since no rent is reserved. This view was also upheld\* by the Allahabad High Court.

In two Irrigation Divisions of Mirzapur (Rihand Dam Division and Sirsi Dam Division) 14 lease agreements were executed during the period 1980-81 to 1988-89 by the Executive Engineers for collection of tolls for a ferry service and for crossing of vehicles over two bridges. While in respect of 6 lease agreements, the stamp duty was erroneously realised on the basis of

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\*Sr. Gajai Pal Singh Vs State of Uttar Pradesh (AIR 1977).

security deposits, treating lease agreement as mortgage deeds under Article 40 of the Act *ibid*; in the remaining 8 lease agreements no stamp duty was realised at all. Stamp duty leviable, reckoning the grant of lease as on premium, stamp duty leviable, reckoning the grant of lease as on premium amounted to Rs.75,212 which resulted in loss of revenue to that extent.

The matter was reported to the department between September 1989 and October 1989 and to Government in January 1990; their replies have not been received (April 1991).

#### 9.6 Non-realisation of lease-rent of canal lands

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As per the provision of the Manual of orders for Irrigation Department and instructions issued (between September 1967 and January 1976) by the State Government, cultivable canal lands should be leased out to cultivators at annual rents at thrice the prevailing circle rates. If the tenant makes default in the payment of the rent his security deposit should be forfeited and the lease cancelled. The premises should lawfully be let out again either by public auction or by private contract at the risk and cost of the tenant in default.



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It was noticed during the audit of Mirzapur Canal Division, Mirzapur, (September 1989) that 1947 tenants were allowed to use 4,961.33 of canal lands without payment of lease rent of lands leased out to them for full terms ranging between one year to five years during 1967-68 to 1987-88. This resulted in loss of revenue amounting to Rs.2.60 lakhs. Neither was any action taken to realise the lease-rent due from the tenants in default, nor was the land let out to others at the risk and cost of tenants.

The matter was reported to the department in October 1989 and to the Government in April 1990; their replies have not been received (April 1991)

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9.7. Irregular utilisation of departmental receipts

As per the provisions of Financial Hand Book, Vol VI, cash realised by departmental officers is required to be remitted, as soon as possible, into the nearest treasury for credit as receipts of the department. If a Divisional/Sub-divisional officer wishes to make use of the cash receipts temporarily for meeting current expenditure, he may do so, but before the end of the month, he must send a cheque for the amount so utilised to the treasury for credit to the Government account.

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In three Irrigation Divisions, two Divisions in Mirzapur and one Division in Orai (Jalaun district), revenue received amounting to Rs 1.43 lakhs realised by the Divisional/Sub-divisional officers between March 1987 and January 1990, were not deposited into the treasury. These receipts were utilised by them to meet the departmental expenditure from time to time. No cheque for the amount so utilised was sent to the treasury for credit to the Government account as required under Financial Rules.

The matter was reported to the department between October 1989 and March 1990 and to the Government between December 1989 and March 1990; their replies have not been received. (April 1991)

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#### 9.8 Short recovery of water charges

As per instructions issued by the Director of Tubewells in January 1967, the discharge of water from State tubewells is observed with the help of a 90° steel 'V' notch installed in the center of supporting masonry wall of the measuring tanks twice a year in the months of May and October for calculating charges recoverable for water supplied to farmers for Kharif and Rabi crops respectively. The height of the water column observed over the 'V' notch is converted into volumetric flow

of water as per the conversion table prescribed by the department.

In Tube Well Division, Hamirpur, the discharge of water from State tubewells as shown by 'V' notch reading in inches incorporated in the pump efficiency register was not correctly converted into gallons during the period 1986-87 to 1988-89. The mistake resulted in short recovery of water charges to the extent of Rs 46,842 in Rabi crop season.

On being pointed out in audit (June 1989) the department stated (August 1990) that orders for recovery of short water charges amounting to Rs. 28,626 had since been issued. Report on recovery is awaited (April 1991).

The matter was reported to Government in December 1989; reply has not been received (April 1991).

## B. Public Works Department

### 9.9 Results of Audit

Test check of the accounts and records of 29 Public Works Divisions, conducted in audit during the year 1989-90, revealed irregularities involving revenue amounting to Rs 36.51 lakhs in 48 cases, which broadly fall

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under the following categories:

	Number of cases	Amount (in lakhs of Rupees)
1. Non-recovery of rent	6	15.46
2. Non/Short realisation of stamp duty	19	7.06
3. Loss of revenue in auction of empty mexphalt drums	2	1.24
4. Sale of tender forms at pre-revised rates	2	0.12
5. Other cases	19	12.63
Total	48	36.51

A few important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

9.10. Non-recovery of water tax

G-77

Under the Uttar Pradesh Fundamental Rules, water tax payable by the occupants in respect of Government residential buildings is initially paid

by Government to the local body and later on recovered from the Government servants occupying the buildings, alongwith the monthly licence fee. The amount so realised is credited direct to revenue.

In three Public Works Divisions (Fategarh, Mathura and Allahabad), it was noticed (Between April 1988 and October 1989) that water tax in respect of 487 quarters amounting to Rs 1.54 lakhs, paid by the Government for the period from December 1987 to March 1990 to local bodies, was not recovered from the occupants by the department.

The matter was reported to the department between May 1988 and November 1989 and to Government in April 1990; their replies have not been received (April 1991).

#### 9.11 Non-realisation of rent of pooled houses at revised rates

Under the Uttar Pradesh Fundamental Rules, the rent of Government residential buildings is to be realised at normal rates (standard rent or 10 per cent of basic pay, whichever is less) from the Government servants allotted and occupying such buildings. By Government notification of December 1982, reclassification and revision of standard rent of pooled, middle and departmental houses under the

administrative control of the Public Works Department was made effective from February 1982.

In Temporary Division, P.W.D. Hardoi, it was noticed (April 1989) that though standard rents of residences constructed under pooled housing scheme were revised from 1st January 1982, rent for the period from January 1982 to March 1989 was charged from Government servants at pre-revised rates in respect of 102 residences of Type 'B', Type 'C', Type 'D' and Type II. Omission to charge rent at the revised rates resulted in short-realisation of rent to the extent of Rs 1.96 lakhs.

The matter was reported to the department in May 1989 and to the Government in April 1990; their replies have not been received (April 1991).

9.12 Irregular accountal of  
departmental receipts

G-75

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

In a Public Works Division at Hardoi, it was noticed that Rs 3.64 lakhs realised from the auction sale of 14,646 empty mexphalt drums in November



1985 were not credited to the revenues of the department but were accounted for as reduction in expenditure of the item of work where contents of drums were issued. Besides, irregular utilisation of departmental receipts, it also resulted in excess expenditure over the "Voted Grants", not reflected in the appropriation accounts.

The matter was reported to the department in June 1989 and to the Government in December 1989; their replies have not been received (April 1991).

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### C. Co-operation Department

#### 9.13 Results of Audit

Test check of the accounts and records of thirteen Assistant Registrars Co-operative Societies, conducted in audit during the year 1989-90, revealed irregularities involving revenue amounting to Rs 1.59 lakhs in 12 cases, which broadly fall under the following categories.

	Number of cases	Amount (In lakhs of rupees)
1. Non-deposit of Collection charges into a treasury	7	1.14

2. Remission/Non - realisation of collection charges	5	0.45
<b>Total</b>	<b>12</b>	<b>1.59</b>

#### D. Food and Civil Supplies Department

##### 9.14 Results of Audit

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Test check of the accounts and records of seven District Supply Offices, conducted in audit during the year 1989-90, revealed irregularities involving revenue of Rs 2.85 lakhs in 16 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-forfeiture of security of coal dealers	6	1.24
2. Non-realisation of cost of ration cards	4	1.21
3. Non-renewal of licences by cloth dealers	2	0.23
4. Other cases	4	0.17
<b>Total</b>	<b>16</b>	<b>2.85</b>

### 9.15 Short levy of Stamp duty on agreements

In accordance with the provisions of the Indian Stamp Act (as amended in its application to Uttar Pradesh) and instructions issued by the Government of Uttar. Pradesh in May 1975, an instrument of simple agreement executed for due performance of work by a 'dealer' under Kerosene (Control) order issued under the Essential Commodities Act, 1955 is chargeable with stamp duty of Rs 5. The rate of stamp duty leviable on such agreements was increased to Rs 6 from 15th June 1982 and to Rs 10 from 24th June 1988.

During the audit of three District Supply Offices (Ballia, Chamoli and Unnao), it was noticed( between March 1989 and August 1989) that stamp duty on 11729 agreements executed during January 1983 to December 1989 were charged at pre-revised lower rates in stead of actual rates fixed by Government. This resulted in short levy of stamp duty to the extent of Rs 21,382.

The matter was reported to the department between April 1989 and September 1989 and to the Government in January 1990; their replies have not been received (April 1991).



E-PLANNING DEPARTMENT

9.16 Outstanding dues

A Corporation at Lucknow entrusted with the work of installation, management and maintenance of the computers at the Computer Bhawan at Lucknow under the administrative control of the Directorate of Economic Intelligence and Statistics was provided accommodation by the Department in Computer Bhawan from May, 1978 on payment of appropriate rent by the Corporation, as assessed by the Public Works Department.

It was noticed in audit that though the accommodation was provided to the Corporation in May 1978, the demand for rent was raised by the department only in January 1982 and the Corporation did not pay any amount till April 1990. Lease deed in respect of the accommodation let out to the Corporation has also not been executed so far (April 1991).

Government stated in August 1990 that the amount of Rs.5.34 lakhs on account of rent (Rs.5.24 lakhs) and water charges (Rs.0.10 lakh) for the period from May 1978 to September 1984 had been recovered in that month. However, the demand for the period from October 1984, onwards was yet to be raised. The Department has asked the

Public Works Department in June 1990 to assess and intimate the rent recoverable from the Corporation.

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### F-Agriculture Department

#### 9.17 Results of Audit

Test check of the accounts and records of 11 District Agriculture and 3 Plant Protection Offices, conducted in audit during 1989-90 revealed irregularities involving revenue of Rs 41.03 lakhs in 32 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Shortfall in farm produce	11	23.12
2. Non/Short realisation of fees for registration certificates issued to dealers in Fertilizer	7	12.48
3. Non-utilisation of entire cultivable lands of Government Farms	4	2.28

4. Other cases	10	3.15
Total	32	41.03

A few important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

9.18 Sale of Fertilizers by Co-operative Societies without renewing their registration certificates.

G-100

As per Clause 5 of the Government of India Fertilizer (Control) Order, 1957, read with Fertilizer Control Order 1985, no person shall carry on the business of sale of fertilizer, unless he obtains a certificate of registration from the registering authorities on payment of the prescribed fees. The registration certificate is valid for one year, which can be renewed before 31st March each year on payment of prescribed renewal fee, if an application for renewal is made after 31st March, subject to payment of additional fee.

In two Agriculture Offices, of Hamirpur and Faizabad, it was noticed during audit (Between July 1989 and January 1990) that co-operative societies were carrying on the business of sale of fertilizers for periods ranging upto six years without getting their registration certificates renewed.



Since the registration certificates are valid for only one year, the non-renewal of registration certificates by co-operative societies within the prescribed time, amounts to unauthorised conduct of business without a valid registration certificate. No action had also been taken by the department, requiring the co-operative societies to get their registration certificates renewed. Besides, unauthorised conduct of business by such societies, the omission resulted in non-realisation of renewal fee amounting to Rs 81,520 during the years 1984-85 to 1989-90.

The matter was reported to the department in July 1989 and to the Government in January 1990; their replies have not been received (April 1991).

G-99 9.17 Non adoption of revised pattern of fees for grant, renewal and amendment of registration certificates.

Fees payable for granting of registration certificates for dealership of fertilizers are regulated by Central enactment. By a notification of September 1985, the Central Government repealed the Fertilizer (Control) Order, 1957 and issued the new Fertilizer (Control) Order 1985. As per clause 36 of Fertilizer (Control) Order, 1985, the fees payable for

grant, renewal and amendment of registration certificate in respect of wholesale and retail dealers of fertilizer should be such as the State Government may, with prior approval of the Controller of Fertilizers, fix, subject to the maximum fee fixed by the Central Government. After inviting proposals from all states and Union territories, the Union Government prescribed (April 1986) a new structure of fees for different purposes and the maximum chargeable fees was fixed at Rs 1500 and Rs 1000 per annum for grant/renewal of registration certificates in respect of wholesale and retail dealers of fertilizers respectively. The Government of Uttar Pradesh had proposed in that regard fees of Rs 1500 and Rs 400 per annum for grant and renewal of registration certificates for wholesale and retail dealers respectively.

For adoption of any lower rate of fee than that fixed by the Central Government, the State Government was required to obtain approval of the Controller of Fertilizers and notify the same in the official Gazette. However, the State Government have not so far fixed any rate of fee payable under the existing Order of 1985.

In the case of audit of five agricultural offices, of Mainpuri, Aligarh, Fatehpur, Hamirpur and Chamoli, it was noticed (between July



1987 and June 1989) that the revised quantum of fee proposed in the Order of 1985, was not adopted by the department and the fees for grant and renewal of registration certificates was being charged at the old rates fixed under the defunct Fertilizer (Control) Order, 1957. Even if computed at the rates of fees as had been proposed by the State Government to the Central Government viz. Rs 1500 for wholesalers and Rs 400 for retailers, there was a loss of revenue amounting to Rs 23.59 lakhs in grant/renewal of registration certificates to 137 wholesale and 3007 retail dealers during the period 1986-87 to 1989-90 as a result of charging fees on the old pattern.

On this being pointed out in audit (September 1987), the Government stated (December 1987) that action to issue notification regarding revision of fee was in progress. However, the revised pattern of fees has not been adopted so far (April 1991).

#### 9.20 Non-refund of unutilised grant and Interest to State revenue

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As per the provisions of the Financial Hand Book issued by the Government of U.P., no amount should be withdrawn from the treasury unless the same is required for immediate disbursement. Except with the special permission of the Government, a



Government servant should not deposit in bank moneys withdrawn from the Government account. The unspent money and miscellaneous receipts are required to be remitted back into the treasury.

It was noticed in audit (October and December 1989), that funds allotted to the District Agricultural Officers of Jaunpur and Kanpur (Dehat) for various construction works were withdrawn by them from the treasury, generally at the end of the Financial year, as and when the grants were released, though not required for immediate use. These amounts were deposited into the Post Office Savings Account opened since 1982-83 and 1984-85, respectively, without obtaining permission of the Government. Funds withdrawn from the treasury and kept in post offices amounted to Rs 59.29 lakhs out of which a sum of Rs 21.47 lakhs still (June 1990) remains unutilised. Interest earned upto April 1989 and April 1990 in these cases, amounted to Rs 1.04 lakhs and Rs 1.00 lakh respectively were also not taken in the cash book and credited to State revenues.

Out of the interest earned, a sum of Rs 0.66 lakhs was utilised by the District Agriculture Officer Kanpur (Dehat) without the knowledge of the Head of the department or the Government on works other than those for

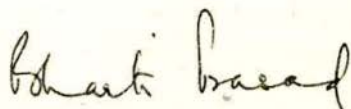
which the funds allotment had been made.

Withdrawals made from Post office savings account were also not reflected in the cash books. Detailed Contingent Bills supported by vouchers indicating utilisation of such withdrawals were not sent by the District Agriculture Officers, Jaunpur and Kanpur (Dehat), to the treasuries and the transaction could not be subjected to audit scrutiny at any stage.

On being pointed out in audit (October and December 1989) the department issued instruction (January 1990) to all District Agriculture Officers to desist from opening accounts in post offices in future and to transfer the amounts of interests earned to the revenues of the State. The District Agriculture Officer, Jaunpur deposited the whole amount of interest (Rs 1.04 lakhs) into the treasury in February 1990.

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The matter was reported to the department in December 1989 and January 1990 and to the Government in December 1989; their replies have not been received (April 1991).



Lucknow  
The

(Bharti Prasad)  
Accountant General  
(Audit)-II  
Uttar Pradesh

Countersigned



New Delhi  
The

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



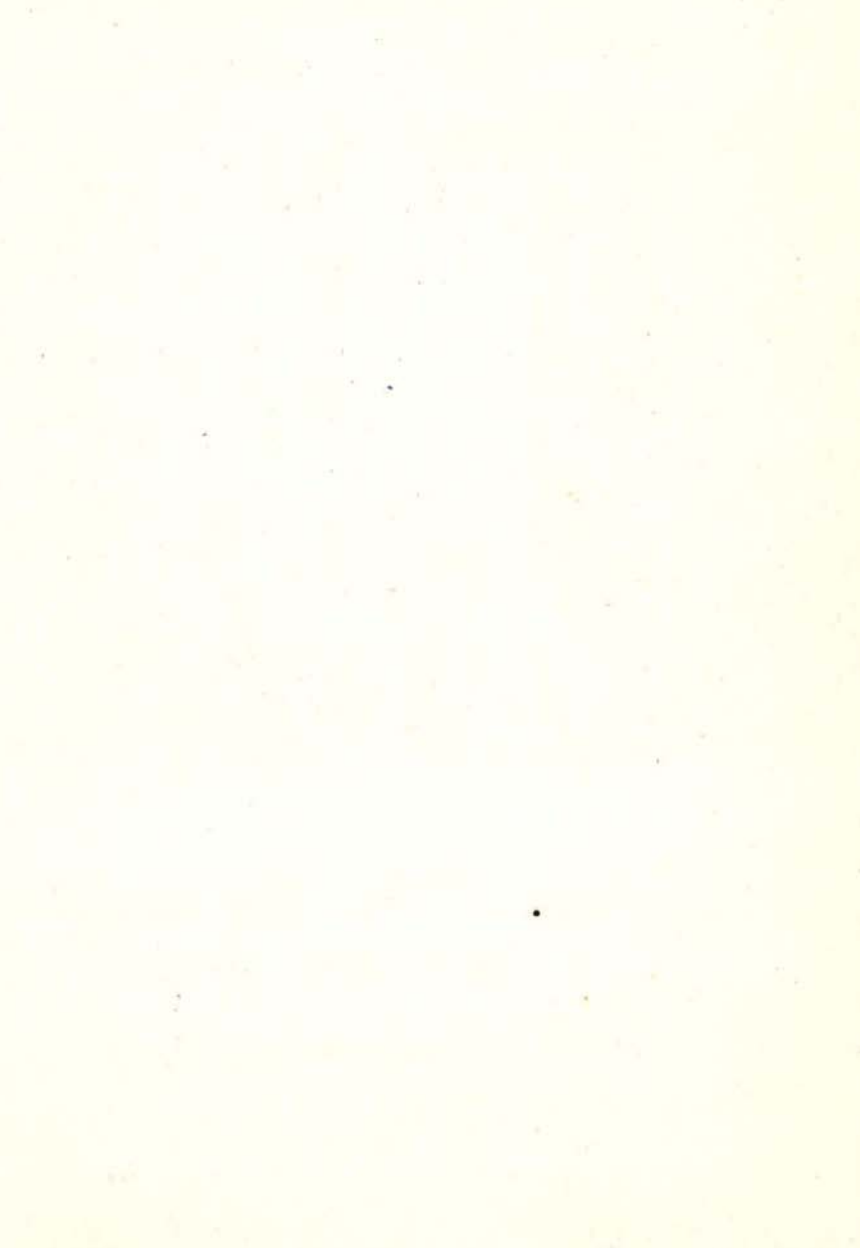


## Appendix - I

(Reference: Paragraph 2.2.7; Page No.45)

## Statement showing physical verification of goods in transit

Name of the Check-post	No. of Shifts	Total No. of vehicles which passed during the year	No. of Vehicles physically verified in full	Percentage	Vehicles to be verified as per annualised provisions
(i) Saiyan	2	1,20,520	1143	0.95	730
(ii) Fatehpur Sikri	2	1,57,701	840	0.53	730
(iii) Mohan-Nagar	3	4,21,807	1983	0.47	1,095
(iv) Vijai Nagar	3	2,02,120	320	0.16	1,095
(v) Transport Nagar	3	2,16,580	541	0.25	1,095
(vi) Bhopura	2	1,84,093	245	0.13	730
(vii) Maharajpur	2	1,16,094	14	0.01	730
(viii) Kakkarpul	2	16,782	73	0.43	730
(ix) Bhojapura	2	77,769	59	0.08	730
(x) Kulesara	2	34,839	9	0.03	730
(xi) Loni	2	55,775	149	0.27	730
(xii) Sarsawan	2	68,500	1260	1.69	730
(xiii) Kotban	3	2,35,850	1664	0.71	1095
(xiv) Naubatpur	3	4,77,161	4516	0.95	1095
(xv) Bharauli	2	74,361	557	0.75	730
(xvi) Masaura	2	58,107	877	1.56	730





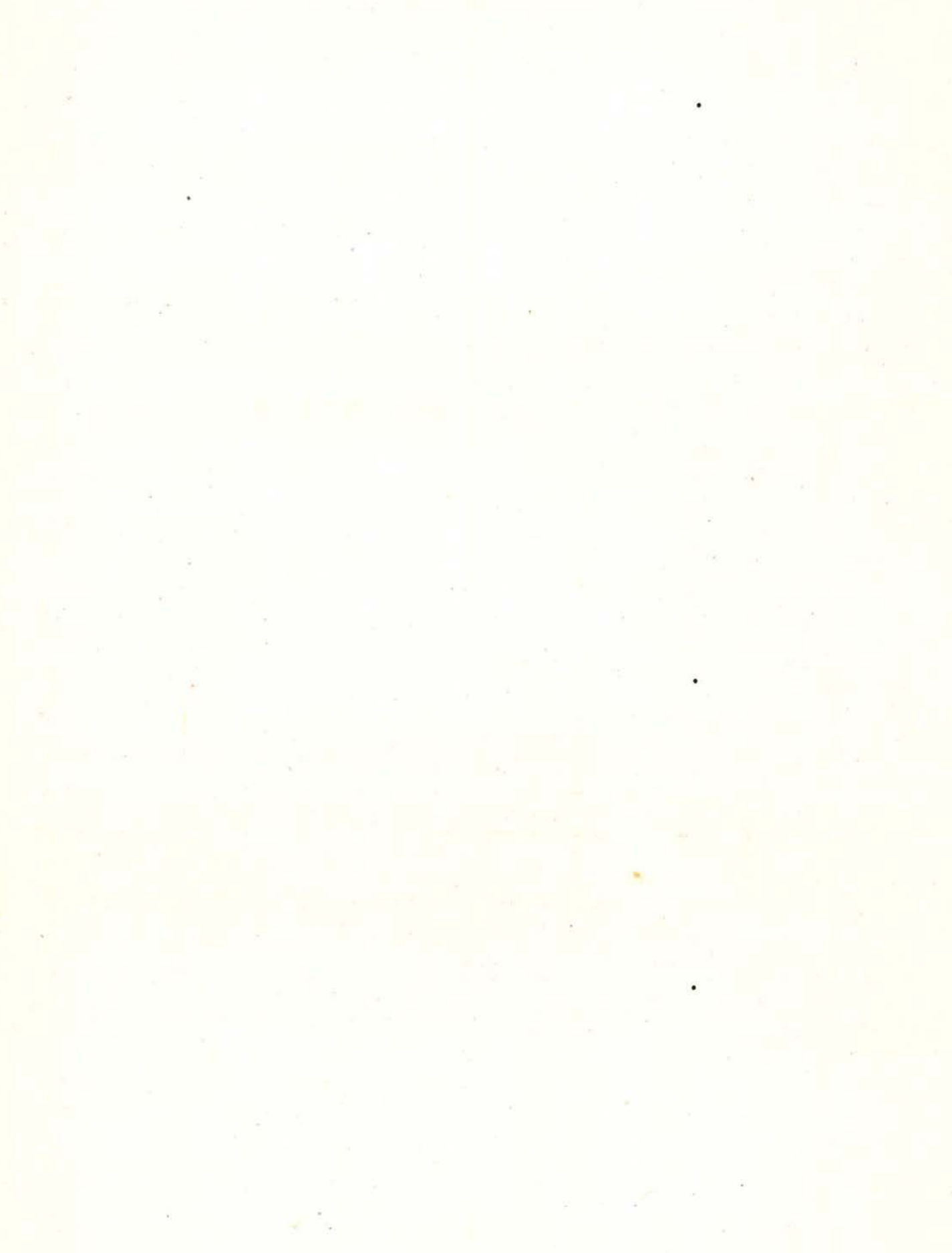
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## Appendix - I I

(Reference: Paragraph 2.2.8; Page No. 40)

Statement of undisposed seized goods  
(As on 31st March 1990)

Name of the check posts	Mohan-Nagar		Transport-Nagar		Naubatpur		Saiyan		Kotban		Raksha		Sargawan		Massaura		Total	
Year-wise break-up	Items	Amount	Items	Amount	Items	Amount	Items	Amount	Items	Amount	Items	Amount	Items	Amount	Items	Amount	Items	Amount
From 1974-75 -- to March 1980	--	--	--	--	17	33,570	--	---	--	--	-	---	--	---	3	15,000	20	48,570
1980-81	--	--	--	---	12	35,520	--	--	--	--	--	---	1	10,000	2	3,750	15	39,270
1981-82	-	--	--	---	6	27,000	--	--	-	--	3	--	--	---	-	---	9	27,000
1982-83	--	---	--	---	19	42,000	--	---	--	---	2	200	--	12,000	2	1,550	24	36,750
1983-84	--	---	--	---	27	1,77,900	2	---	--	---	3	5,000	2	6,408	4	25,840	38	2,17,148
1984-85	2	31,955	---	--	6	3,05,000	10	--	--	--	3	800	4	1,73,885	8	1,57,979	31	6,89,419
1985-86	8	1,38,270	--	--	26	4,76,400	10	--	8	37,800	3	49,000	2	10,00	1	5,000	54	7,18,470
1986-87	35	2,49,151	--	--	17	4,55,800	11	-	10	95,780	2	45,600	-	--	3	28,000	78	8,74,311
1987-88	36	3,18,889	--	--	18	5,18,490	36	7,85,182	28	1,83,900	9	1,82,500	1	1,050	1	1,000	129	19,91,011
1987-88	64	6,29,648	13	5,85,548	25	12,78,062	12	1,71,988	35	75,088	12	1,84,897	1	6,000	9	72,450	171	29,83,473
Total	143	13,87,911	13	5,85,548	173	33,48,742	81	9,57,188	79	3,92,548	37	4,67,797	12	2,12,141	31	3,10,569	588	78,23,420



## Appendix - I I I

(Reference: Paragraph 2.2.11(1); Page No. 52)

Statement showing the position of cash  
at check post Naubatpur (Varanasi)  
during the month of February 1990

Date	Balance of preceding day	Receipts	Amount deposited into treasury	Balance remaining
2.2.90	26,48,709	4,63,660	9,58,279	21,24,090
3.2.90	21,24,090	3,84,850	---	25,08,940
4.2.90	25,08,940	4,27,033	---	29,35,973
5.2.90	29,35,973	4,52,152	---	33,88,125
6.2.90	33,88,125	2,67,545	---	36,55,670
7.2.90	36,55,670	4,90,812	16,60,430	24,86,052
8.2.90	24,86,052	5,09,840	---	29,95,892
9.2.90	29,95,892	5,77,951	13,31,043	22,42,800
10.2.90	22,42,800	4,93,930	---	27,36,730
11.2.90	27,36,730	4,96,950	---	32,33,680
12.2.90	32,33,680	4,04,865	---	36,38,545
13.2.90	36,38,545	3,64,450	---	40,03,015
14.2.90	40,03,015	5,39,880	17,20,349	28,22,526
15.2.90	28,22,526	6,10,470	---	34,32,996
16.2.90	34,32,996	5,99,260	---	40,32,256
17.2.90	40,32,256	4,92,765	---	45,25,021
18.2.90	45,25,021	5,87,630	---	51,12,651
19.2.90	51,12,651	4,19,870	---	55,23,521
20.2.90	55,23,521	4,51,440	5,22,451	54,52,510
21.2.90	54,52,510	4,09,470	23,00,075	35,61,905
22.2.90	35,61,905	3,02,160	6,10,470	32,53,595
23.2.90	32,53,595	2,85,546	---	35,39,141
24.2.90	35,39,141	1,86,840	---	37,07,981
25.2.90	37,07,981	1,65,690	---	38,73,671
26.2.90	38,73,671	2,96,624	---	41,70,295
27.2.90	41,70,295	1,62,610	---	43,32,905
28.2.90	43,32,905	4,93,320	---	48,26,225





## Appendix - IV

(Reference: Paragraph 2.2.11(3); Page No. 53)

Statement showing delay in deposit of  
Government money into the Treasury

Name of the check post	Date of Receipts	Date of Deposit into Treasury	Amount (Rs.)	Number of days delayed in deposit
Kotban	31.3.88	13.4.88	10,837.00	12
	1.4.88	13.4.88	7,300.00	11
	2.4.88	13.4.88	18,177.00	10
	18.1.89	2.2.89	14,474.00	18
	17.1.89	2.2.89	13,775.00	15
	18.1.89	2.2.89	36,475.00	14
Kagarol	1.7.87	18.7.87	700.00	18
	2.7.87	18.7.87	300.00	15
	5.8.87	19.8.87	10,920.00	13
	2.8.87	14.9.87	1,000.00	42
	4.8.87	14.9.87	2,000.00	40
	6.8.87	14.9.87	2,400.00	38
Sarsawan	27.5.88	9.6.88	290.00	12
	29.5.88	9.6.88	1,220.00	10
Dadri	23.5.89			41
	to	12.7.89	7,805.00	to
	31.5.89			49
	1.6.89			17
	to	18.7.89	28,812.00	to
	30.6.89			48

