

**Report of the
Comptroller and Auditor General
of India**

for the year ended 31 March 1997

NO. 1

(REVENUE RECEIPTS)

Government of Maharashtra

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PREFATORY REMARKS

This Report for the year ended 31 March 1997 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1996-97 as well as those noticed in earlier years which could not be included in previous Reports.

OVERVIEW

This Report contains 51 paragraphs including two Reviews relating to non-levy/short levy of taxes, duties, interest and penalty etc., involving Rs.39.64 crores. Some of the major findings are mentioned below :

1. General

(i) The total receipts of the State during the year 1996-97 amounted to Rs.19255.24 crores of which revenue raised by the State Government was Rs.15469.85 crores and receipts from Government of India were Rs.3785.39 crores. The revenue raised by the State Government comprised of Tax revenue at Rs.11714.97 crores and Non-tax revenue at Rs.3754.88 crores. The revenue raised constituted 80 *per cent* of the total receipts of the State and showed an increase of 13 *per cent* over the previous year 1995-96. The earlier year, however, had registered a growth of 11 *per cent*.

The receipts from the Government of India included Rs.2274.93 crores on account of State's share of divisible Union taxes and Rs.1510.46 crores as Grants-in-aid registering an increase of 36 *per cent* and 29 *per cent* in 1996-97 over 1995-96 respectively.

{Paragraph 1.1}

While there was an increase of 16 *per cent* in the Tax revenue during the year 1995-96 over 1994-95, the Tax revenue in the year 1996-97 showed an increase of only 7 *per cent* over the year 1995-96. Sales Tax receipts of Rs.7290 crores amounted to 62 *per cent* of the Tax revenue collected during the year 1996-97.

{Paragraph 1.1(a)}

As against a decline of 4 *per cent* during the year 1995-96 over the year 1994-95, the Non-tax revenue showed an increase of 35 *per cent* during the year 1996-97 over the year 1995-96. The major receipts which contributed to this were Power (8431 *per cent*), Police(69 *per cent*) Interest (60 *per cent*) and Dairy development (38 *per cent*).

{(Paragraph 1.1.(b))}

(ii) At the end of 1996-97, the arrears in respect of taxes administered by the departments of Finance and Home amounted to Rs.3538.24 crores of which sales tax alone accounted for Rs.2730.84 crores.

{Paragraph 1.5}

(iii) In respect of the taxes administered by the Finance Department such as Sales Tax, Profession Tax and Tax on Works Contract etc., 11.56 lakh assessments were completed during 1996-97 leaving a balance of 17.12 lakh assessments as on 31 March 1997.

{Paragraph 1.6}

(iv) Test check of records of Sales Tax, State Excise, Motor Vehicles Tax, Land Revenue and other departmental offices conducted during the year 1996-97 revealed under-assessments, short levy, losses of revenue etc., amounting to Rs.178.98 crores in 34890 cases. The concerned departments accepted under-assessment, short levy etc., of Rs.21.27 crores of which Rs.8.53 crores had been pointed out in 1996-97 and rest in earlier years. The departments recovered Rs.6.96 crores at the instance of audit.

{Paragraph 1.11}

2. Sales Tax

(i) Failure to check hawala dealers/fake purchases resulted in loss of revenue of Rs.31.26 lakhs.

{Paragraph 2.2.6(d)}

(ii) Delayed/ incorrect, assessment/ reassessment of investigation cases resulted in loss of revenue of Rs.6.61 crores.

{Paragraph 2.2.6(e)}

(iii) Penalty and interest leviable to a maximum of Rs.1.25 crores was not levied.

{Paragraph 2.2.6(f)}

(iv) Sales tax demands of Rs.130.04 crores raised by the enforcement branch remained unrealised.

{Paragraph 2.2.7(a)}

(v) Non-observance of instructions regarding disposal of appeal cases resulted in 547 cases pending in appeal for periods ranging from 3 to over 10 years involving Rs.40.95 crores.

{Paragraph 2.2.7(b)}

(vi) Incorrect allowance of resale of packing material and non-levy of purchase tax on purchase of packing material resulted in under-assessment of Rs.3.20 crores(including interest) in the assessments of Associated Cement Companies Limited for the years 1991-92 and 1992-93.

{Paragraph 2.3(i)}

(vii) Incorrect allowance of sales of printed literature publicising goods as tax free resulted in under-assessment of Rs.1.64 lakhs.

{Paragraph 2.3(ii)}

(viii) Incorrect grant of exemption from payment of tax resulted in non-realisation of revenue of Rs.4.35 crores.

{Paragraph 2.4)}

(ix) Incorrect grant of set-off resulted in non-realisation of revenue of Rs.4.29 crores.

{Paragraph 2.5}

(x) Application of incorrect rate of tax resulted in non-realisation of revenue amounting to Rs.1.32 crores.

{Paragraph 2.6}

(xi) Non-levy/Short levy of tax resulted in non-realisation of revenue amounting to Rs.1.05 crores.

{Paragraph 2.7}

(xii) Failure to cross check inter-State transactions resulted in under-assessment of revenue of Rs.28.13 lakhs in respect of three dealers.

{Paragraph 2.8}

(xiii) Non-levy/short levy of purchase tax resulted in non-realisation of revenue of Rs.36.22 lakhs.

{Paragraph 2.9}

(xiv) Non-levy/short levy of turnover tax and/additional tax resulted in non- realisation of revenue of Rs.16.63 lakhs.

{Paragraph 2.10}

(xv) Incorrect determination of taxable turnover resulted in non-realisation of revenue of Rs.14.68 lakhs.

{Paragraph 2.11}

3. Land Revenue

(i) Non-levy/short levy of non-agricultural assessment, increase of land revenue, Zilla Parishad and Village Panchayat cess and conversion tax resulted in non-realisation of revenue amounting to Rs.73.10 lakhs.

{Paragraphs 4.2(a)(b)(c)}

(ii) Non-revision of non-agricultural assessment resulted in non-realisation of non-agricultural assessment, increase of land revenue and Zilla Parishad and Village Panchayat Cess amounting to Rs.33.24 lakhs.

{Paragraph 4.4(a)}

4. Motor Vehicles Tax

• Motor Vehicles Tax of Rs.25.68 lakhs in 389 cases remained unrealised as demands were not raised by the department till they were pointed out in audit.

{Paragraph 5.2}

5. Stamp Duty and Registration Fees

(i) Misclassification of documents resulted in short levy of stamp duty amounting to Rs.21.11 lakhs.

{Paragraph 6.2.}

(ii) Stamp duty amounting to Rs.10.74 lakhs was short levied due to non-adoption of true market value of the property.

{Paragraph 6.3}

6. Other Tax Receipts

(i) A review on Bombay Building Repairs and Reconstruction cess revealed the following :

(a) Incorrect computation of repair cess for non-residential portion of buildings resulted in short recovery of cess of Rs.2.54 crores.

{Paragraph 7.2.4}

(b) Delay in revision of the rates of cess resulted in loss of revenue of Rs.1.31 crores.

{Paragraph 7.2.5}

(c) Non-receipt of intimation of completion of repairs and enhancement of cess from a later date by the Mumbai Municipal Corporation resulted in short recovery of repair cess of Rs.17.80 lakhs in respect of 33 properties.

{Paragraph 7.2.6}

(ii) Government revenue amounting to Rs.7.90 crores collected by the Nagpur Municipal Corporation on account of State Education Cess and Employment Guarantee Cess was not credited into Government account.

{Paragraph 7.4}

(iii) Incorrect grant of exemption from payment of Education Cess and Employment Guarantee Cess resulted in non-realisation of revenue of Rs.11.40 lakhs.

{Paragraph 7.5}

(iv) Entertainments duty and surcharge aggregating Rs.37.55 lakhs from 227 cable and dish antenna operators remained unrealised as demands were not raised by the department till they were pointed out in audit.

{Paragraph 7.6}

7. Non-tax Receipts

(i) Loss of revenue due to failure to recover the dues from tendu leaves purchasers amounted to Rs.90.19 lakhs.

{Paragraph 8.2}

(ii) Delay in realising call deposit receipts resulted in loss of interest amounting to Rs.21.07 lakhs.

{Paragraph 8.3}

(iii) Non-recovery of rent and other charges from Maharashtra Tourism Development Corporation resulted in non-realisation of revenue amounting to Rs.12.94 lakhs.

{Paragraph 8.4}

CHAPTER 1

GENERAL

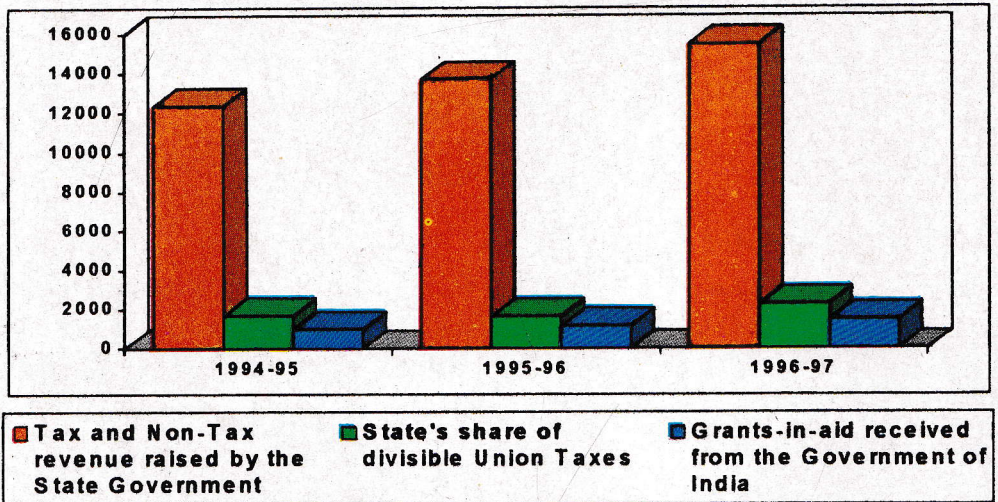
1.1 *Trend of Revenue Receipts*

The tax and non-tax revenue raised by the Government of Maharashtra during the year 1996-97, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding two years are given below and also exhibited in Chart-I.

	1994-95	1995-96	1996-97
	(In crores of rupees)		
I. Revenue raised by the State Government			
(a) Tax revenue	9454.62	10934.45	11714.97
(b) Non-tax revenue	2902.85	2775.39	3754.88
Total	12357.47	13709.84	15469.85
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	1719.88	1677.47	2274.93
(b) Grants-in-aid	1012.13	1171.97	1510.46
Total	2732.01	2849.44	3785.39
III. Total receipts of the State	15089.48	16559.28	19255.24
IV. Percentage of I to III	82	83	80

Note : For details, please see Statement No. 11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Maharashtra for the year 1996-97. Figures under the head "0021 - Taxes on Income other than Corporation Tax - share of net proceeds assigned to States" booked in the Finance Accounts under Tax Revenue have been excluded from revenue raised by the State and included in State's share of divisible Union taxes in this Statement.

CHART-I
TREND OF REVENUE RECEIPTS
(In Crores of Rupees)



(a) The details of tax revenue raised during the year 1996-97 alongwith figures for the preceding two years are given below and also exhibited in Chart-II.

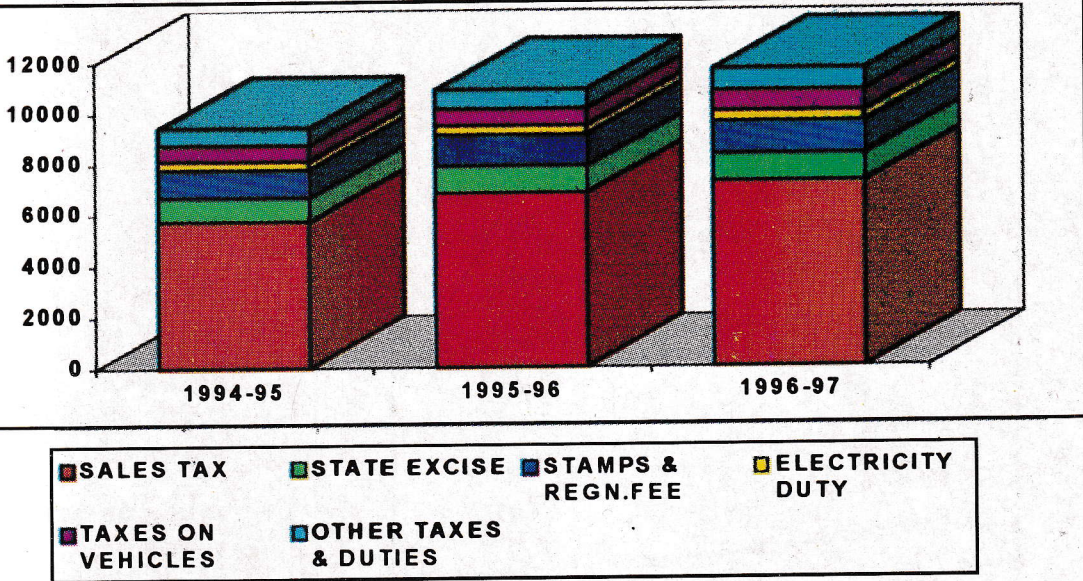
	1994-95	1995-96	1996-97	Percentage of increase (+) or decrease (-) in	
				1995-96 over 1994-95	1996-97 over 1995-96
(In crores of rupees)					
1. Sales Tax					
(a) State Sales Tax etc.	4785.35	5690.19	6045.01	19	6
(b) Central Sales Tax	973.11	1154.13	1244.99	19	8
2. State Excise	944.37	1070.91	1068.50	13	Negligib
3. Stamp Duty and Registration Fees	1116.58	1235.98	1274.57	11	3
4. Taxes and Duties on Electricity	336.68	357.12	403.31	6	13
5. Taxes on Vehicles	344.52	423.19	613.74	23	45
6. Other Taxes on Income and Expenditure-Tax on Professions, Trades, Callings and Employments	299.04	330.60	382.35	11	16

1994-95	1995-96	1996-97	Percentage of increase (+) or decrease (-) in	
			1995-96 over 1994-95	1996-97 over 1995-96

(In crores of rupees)

7. Taxes on Goods and Passengers	279.11	248.35	200.87	(-)11	(-)19
8. Other Taxes and Duties on Commodities and Services	262.02	303.46	371.67	16	22
9. Land Revenue	113.84	120.52	109.96	6	(-)9
TOTAL	9454.62	10934.45	11714.97	16	7

CHART-II
GROWTH OF TAX REVENUE DURING
THE PERIOD 1994-95 TO 1996-97



Three major sources of revenue viz; Sales Tax, State Excise and Stamp Duty and Registration fees registered in 1996-97 a growth rate lower than in previous year. Overall, the State revenues increased only by 7 per cent in 1996-97 as compared to 16 per cent in 1995-96.

The percentage growth of tax revenue raised during 1996-97 over 1995-96 and 1995-96 over 1994-95 are indicated in Chart II-A

The reasons for variations in receipts in 1996-97 as per Finance Accounts are as follows :

Taxes on Vehicles : The increase (45 per cent) was due to more receipts on account of introduction of one time tax on four wheeler vehicles besides normal growth.

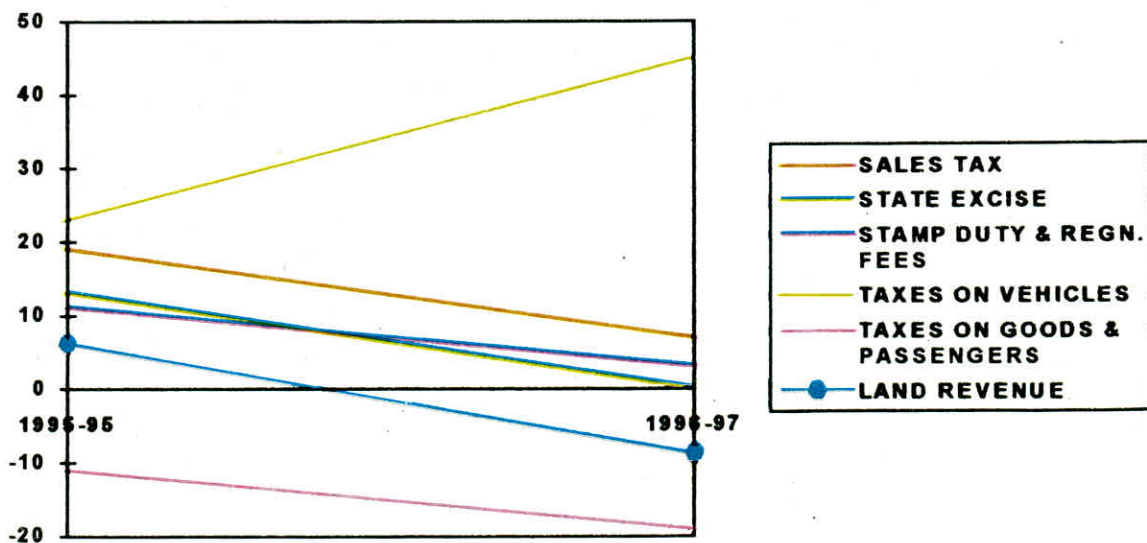
Taxes and Duties on Electricity : The increase (13 per cent) was mainly due to levy of taxes and duties on *ad valorem* basis.

Profession Tax : The increase (16 per cent) was besides normal growth, due to changes in the structure of tax and announcement of general Amnesty scheme for the unregistered employers, professionals as also defaulters.

Other Taxes and Duties on commodities and Services : The increase (22 per cent) was mainly due to increase in collections of Luxury tax.

Taxes on Goods and Passengers : The decrease (19 per cent) was mainly due to non-payment of passengers tax by the Maharashtra State Road Transport Corporation.

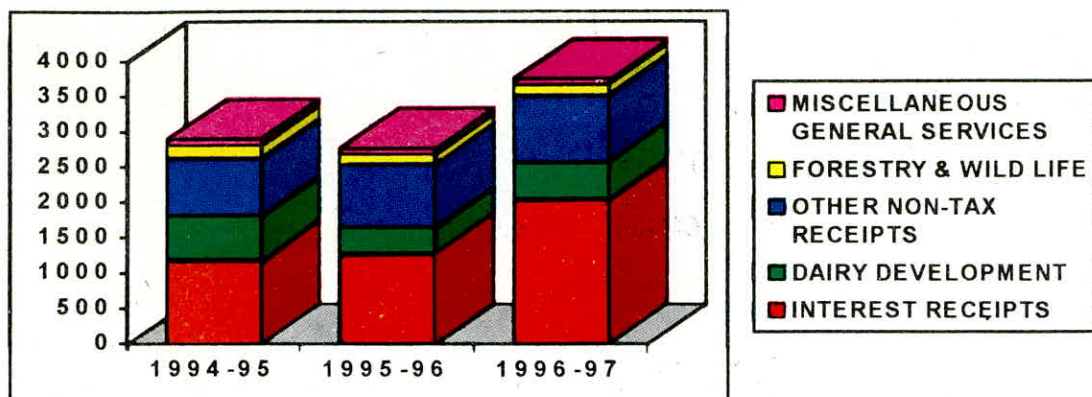
CHART-II-A
PERCENTAGE INCREASE OR DECREASE OF SOME MAJOR
TAX RECEIPTS IN 1995-96 OVER 1994-95 AND 1996-97
OVER 1995-96



(b) The details of the major non-tax revenue raised during the year 1996-97 alongwith figures for the preceding two years are given below and also exhibited in Chart III.

	1994-95	1995-96	1996-97	Percentage of increase (+) or decrease (-) in	
				1995-96 over 1994-95	1996-97 over 1995-96
	(In crores of rupees)				
1. Interest Receipts	1177.08	1271.21	2034.53	8	60
2. Dairy Development	646.83	389.01	537.22	(-)40	38
3. Other Non-Tax Receipts	242.89	266.23	249.13	10	(-)6
4. Forestry and Wild Life	192.80	143.98	146.97	(-)25	2
5. Non-ferrous Mining and Metallurgical Industries	227.02	284.65	257.86	25	(-)9
6. Miscellaneous, General Services (including lottery receipts)	86.00	85.29	91.96	(-)1	8
7. Power	51.86	1.47	125.40	(-)97	8431
8. Major and Medium Irrigation	70.99	77.02	58.00	8	(-)25
9. Medical and Public Health	62.88	56.24	60.77	(-)11	8
10. Co-operation	31.32	30.25	37.49	(-)3	24
11. Public Works	45.74	45.22	43.33	(-)1	(-)4
12. Police	28.87	42.32	71.67	47	69
13. Other Administrative Services	38.57	82.50	40.55	114	(-)51
TOTAL	2902.85	2775.39	3754.88	(-)4	35

CHART-III
GROWTH OF NON-TAX REVENUE DURING THE
PERIOD
1994-95 TO 1996-97
(IN CRORES OF RUPEES)



The percentage growth of non-tax revenue raised during 1996-97 over 1995-96 and in 1995-96 over 1994-95 are indicated in Chart III-A.

The reasons for variations in receipts in 1996-97 as per Finance Accounts are as follows :

Interest Receipts : The increase (60 per cent) was mainly due to recovery of past arrears from the Maharashtra State Electricity Board.

Dairy Development : The increase (38 per cent) was due to more receipts from sale of milk due to procurement of more milk.

Power : The increase (8431 per cent) was mainly due to recovery of arrears from the Maharashtra State Electricity Board on account of lease rent.

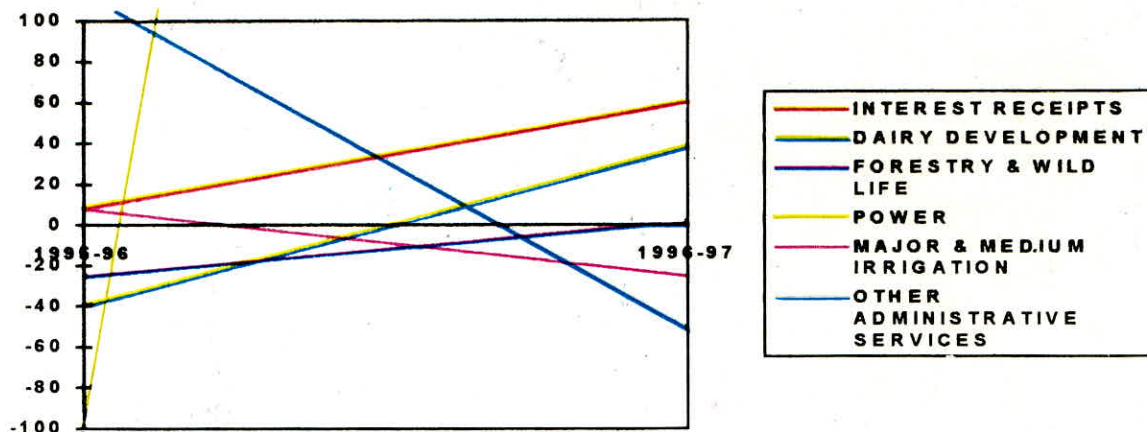
Co-operation : The increase (24 per cent) was mainly due to receipt of more audit fees.

Police : The increase (69 per cent) was mainly due to recovery of arrears from the Indian Railways.

Major and medium Irrigation : The decrease (25 per cent) was due to less receipts from Mula Project.

Other Administrative Services : The decrease (51 per cent) was mainly due to decrease in sale proceeds of election forms and documents.

CHART-III-A
PERCENTAGE INCREASE OR DECREASE OF SOME MAJOR NON-TAX
RECEIPTS IN 1995-96 OVER 1994-95 AND 1996-97 OVER 1995-96

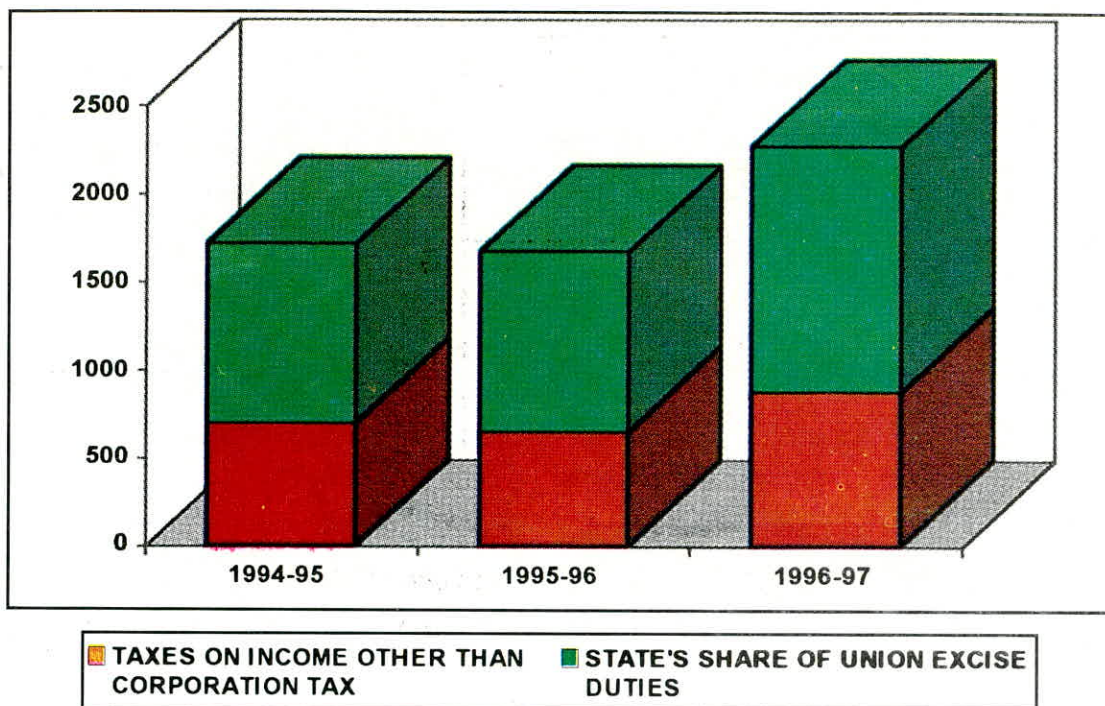


(c) The details of State's share of divisible Union taxes received during the year 1996-97 along with figures for the preceding two years are given below and also exhibited in Chart IV.

	1994-95	1995-96	1996-97	Percentage of increase (+) or decrease (-) in	
				1995-96 over 1994-95	1996-97 over 1995-96
(In crores of rupees)					
(1) Taxes on Income other than Corporation tax	701.14	652.58	877.83	(-7)	35
(2) State's share of Union Excise Duties	1018.74	1024.89	1397.10	1	36
Total	1719.88	1677.47	2274.93	(-2)	36

Reasons for increase in 1996-97 as per Finance Accounts were due to increased receipts communicated by the Government of India.

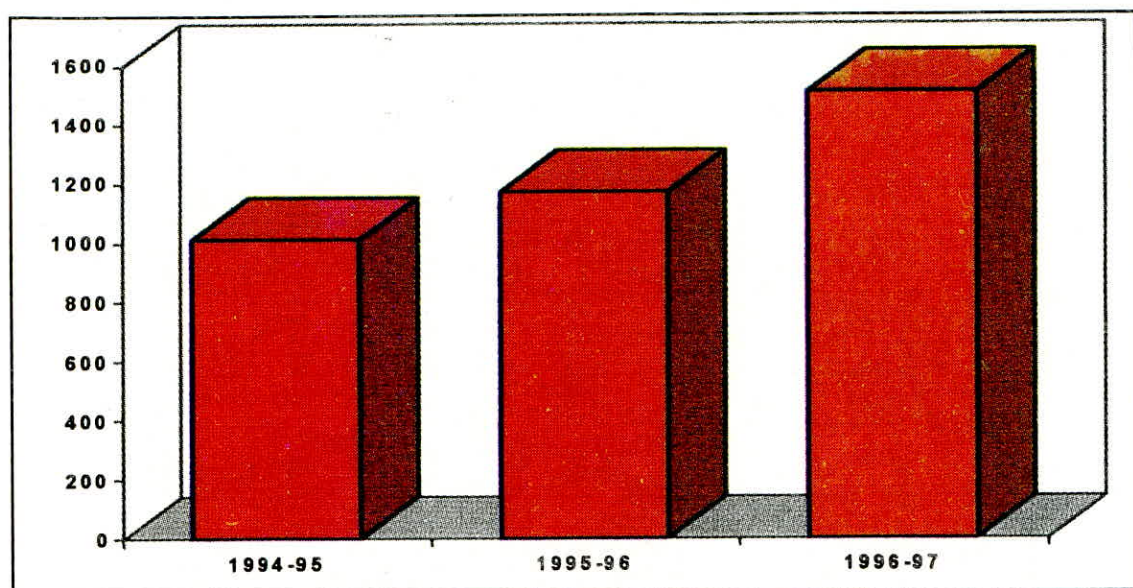
CHART-IV
STATE'S SHARE OF DIVISIBLE UNION TAXES DURING THE PERIOD
1994-95 TO 1996-97



(d) The details of grants-in-aid received during the year 1996-97 alongwith figures for the preceding two years are given below and also exhibited in Chart V.

	1994-95	1995-96	1996-97	Percentage of increase (+) or decrease (-) in	
				1995-96 over 1994-95	1996-97 over 1995-96
(In crores of rupees)					
Grants-in-aid	1012.13	1171.97	1510.46	16	29

CHART-V
GRANTS-IN-AID RECEIVED DURING THE PERIOD 1994-95 TO 1996-97.



Reasons for increase of 29 *per cent* in 1996-97 as per Finance Accounts was mainly due to more allocation by the Union Government for State Plan Schemes.

1.2 Variations between Budget estimates and actuals

The variations between the Budget estimates and actuals of revenue receipts for the year 1996-97 in respect of principal heads of tax and non-tax revenue are given below :

Head of Revenue	Budget estimates	Revised estimates	Actuals	Variations Excess (+)or shortfall (-)		Percentage of variation	
				B.E	R.E	B.E	R.E
(In crores of rupees)							
1. Sales Tax	7698.00	7460.00	7290.00	(-)408	(-)170	(-)5	(-)2
2. Interest Receipts	1539.37	1961.65	2034.53	(+)495.16	(+)72.88	32	4
3. State Excise	1115.00	1160.00	1068.50	(-)46.50	(-)91.50	(-)4	(-)8
4. Dairy Development	414.18	409.23	537.22	(+)123.04	(+)127.99	30	31
5. Stamps and Registration Fees	1460.00	1400.00	1274.57	(-)185.43	(-)125.43	(-)13	(-)9
6. Taxes and Duties on Electricity	382.00	440.68	403.31	(+)21.31	(-)37.37	6	(-)8
7. Taxes on Vehicles	455.00	524.08	613.74	(+)158.74	(+)89.66	35	17

Head of Revenue	Budget estimates	Revised estimates	Actuals	Variations Excess (+) or shortfall (-)		Percentage of variation	
				B.E	R.E	B.E	R.E
		(In crores of rupees)					
8. Taxes on Goods and Passengers	315.42	209.40	200.87	(-)114.55	(-)8.53	(-)36	(-)4
9. Other taxes on Income and Expenditure - Tax on Professions, Trades, Callings and Employments	336.00	360.00	382.35	(+)46.35	(+)22.35	14	6
10. Forestry and Wild Life	166.00	155.00	146.97	(-)19.03	(-)8.03	(-)11	(-)5
11. Land Revenue	90.00	125.00	109.96	(+)19.96	(-)15.04	22	(-)12
12. Power	65.21	125.20	125.40	(+)60.19	(+)0.20	92	0.16
13. Non-ferrous Mining and Metallurgical Industries	280.00	315.00	257.86	(-)22.14	(-)57.14	(-)8	(-)18
14. Medical and Public Health	58.18	66.22	60.77	(+)2.59	(-)5.45	4	(-)8
15. Police	49.85	71.03	71.67	(+)21.82	(+)0.64	44	1
16. Co-operation	37.24	34.75	37.49	(+)0.25	(+)2.74	Negligible	8
17. Major and Medium Irrigation	77.77	73.43	58.00	(-)19.77	(-)15.43	(-)25	(-)21

The reasons for variations between Budget estimates and actuals as reported by the concerned department are as follows :

Taxes on vehicles, goods and passengers :

(i) Increase of Rs.158.74 crores in motor vehicle taxes was due to introduction of one time tax on cars.

(ii) Decrease of Rs.114.55 crores in passengers tax was due to non-payment of full amount of tax by the Maharashtra State Road Transport Corporation.

Reasons for variations in respect of other receipts where it was substantial, though called for have not been received from the concerned departments (November 1997).

1.3 Analysis of collections

Break-up of total collections at pre-assessment stage and after regular assessment of Sales Tax, Motor Spirit Tax, Profession Tax, Entry Tax and Luxury Tax for the year 1996-97 and the corresponding figures for the preceding two years as furnished by the department is as follows :

Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
(In crores of rupees)							
Finance Department							
Sales Tax	1994-95	4334.33	669.40	45.24	78.85	4924.88	88
	1995-96	5052.36	663.32	148.02	103.97	5611.71	90
	1996-97	5447.25	695.07	120.04	135.67	6006.65	91
Motor Spirit Tax	1994-95	832.66	Nil	Nil	Nil	832.66	100
	1995-96	992.72	Nil	Nil	Nil	992.72	100
	1996-97	1290.45	0.17	Nil	0.29	1290.33	100
Profession Tax	1994-95	288.49	2.67	0.19	Nil	291.16	99
	1995-96	318.95	2.70	0.26	0.01	321.65	99
	1996-97	379.37	5.29	0.37	0.27	384.39	99
Entry Tax	1994-95	10.79	1.57	Nil	Nil	12.36	87
	1995-96	10.35	1.53	0.06	Nil	11.88	87
	1996-97	13.60	3.63	0.02	0.74	16.49	82
Luxury Tax	1994-95	44.05	6.26	Nil	Nil	50.31	88
	1995-96	62.66	1.89	0.26	0.18	64.37	97
	1996-97	96.45	0.86	0.56	0.04	97.27	99

The table above shows that collection of revenue at pre-assessment stage ranged between 87 and 100 *per cent* during 1994-95 and 1995-96 and between 82 and 100 *per cent* during 1996-97. This indicates awareness for voluntary compliance by tax payers and the limited role of tax collecting machinery in achieving the higher targets of income.

1.4 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the year 1994-95, 1995-96 and 1996-97 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 1995-96 are given below :

Head of Revenue	Year	Collection ¹	Expenditure on collection of revenue ²	Percentage of expenditure on collection	All India Average percentage for the year 1995-96
-----------------	------	-------------------------	---	---	---

(In crores of rupees)

1. Sales Tax	1994-95	5758.46	45.32	0.78	1.29
	1995-96	6844.32	52.62	0.77	
	1996-97	7290.00	53.97	0.74	
2. Taxes on Vehicles and Taxes on Goods and Passengers	1994-95	623.63	16.03	2.57	2.57
	1995-96	671.54	17.57	2.62	
	1996-97	814.61	27.43	3.36	
3. State Excise	1994-95	944.37	5.07	0.54	3.20
	1995-96	1070.91	4.17	0.39	
	1996-97	1068.50	16.40	1.53	
4. Stamp Duty and Registration fees	1994-95	1116.58	18.18	1.63	3.46
	1995-96	1235.98	18.94	1.53	
	1996-97	1274.57	Information awaited from department		

1.5 Arrears of revenue

The arrears of revenue as on 31 March 1997 in respect of some principal heads of revenue amounted to Rs.3553.87 crores of which Rs.899.74 crores were outstanding for more than 5 years.as detailed below :

¹ Figures as per Finance Accounts

² Figures as furnished by the department

Head of Revenue	Amount outstanding as on 31 March 1997	Amount outstanding for more than 5 years as on 31 March 1997
(In crores of rupees)		
1. Sales Tax	2730.84	543.55
2. Profession Tax	233.53	65.02
3. Purchase Tax on Sugarcane	188.49	68.94
4. Taxes on Vehicles	97.75	27.80
5. State Excise	5.15	3.64
6. Taxes on goods and Passengers	162.65	160.43
7. Taxes and Duties on Electricity	10.14	3.04
8. Others :		
a) Tax on works contract	67.52	5.36
b) Lease Tax	30.53	2.50
c) Agricultural Income tax	4.84	4.84
d) Luxury tax (re-ennacted)	2.54	0.04
e) Entry tax	14.40	10.94
f) Medical and Public Health	1.10	0.42
g) Major Minerals	4.39	3.22
Total	3553.87	899.74

The recovery of arrears of revenue under motor vehicles tax, goods and passengers tax and sales tax were stated to be under the following stages of action :

Motor
Vehicles
TaxGoods and
Passengers
Tax

Sales Tax

(Amount in crores of rupees)

(i) Revenue Recovery Certificates issued	25.71	1.22	95.74
(ii) Stay by the Appellate/ authorities/Tribunal/High Court and Government	1.91	0.20	1349.19
(iii) Write-off under consideration	5.44	0.02	85.02
(iv) Owners insolvent	--	0.13	--
(v) Under various stages of action	64.69	161.08	1200.89
Total	97.75	162.65	2730.84

1.6 Arrears in assessments

The details of assessment cases pending at the beginning of the year 1996-97, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 1996-97 as furnished by the respective departments in respect of sales tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax, tax on works contract and motor vehicles taxes are given below :

Name of tax	Opening balance	Cases due for assessment during 1996-97	Total assess- ments due	Cases disposed off	Balance at the end of the year	Percen- tage of Column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1. Finance Department						
Sales Tax	1207365	877592	2084957	910004	1174953	56
Motor spirit tax	4546	1610	6156	1661	4495	73
Profession tax	456671	247897	704568	226454	478114	68

Name of tax	Opening balance	Cases due for assessment during 1996-97	Total assessments due	Cases disposed of	Balance at the end of the year	Percentage of Column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Purchase tax on sugarcane	4808	1153	5961	867	5094	85
Entry Tax	2187	6031	8218	5796	2422	29
Lease Tax	3956	1969	5925	1472	4453	75
Luxury Tax	2840	1539	4379	1168	3211	73
Tax on works contract	35957	11980	47937	8379	39558	83
Total	1718330	1149771	2868101	1155801	1712300	

The year-wise break-up of the pending cases as on 31 March 1997 was as under :

Year	Sales Tax	Motor Spirit Tax	Profession Tax	Purchase Tax on Sugarcane	Entry Tax	Lease Tax	Luxury Tax	Tax on Works Contract
upto								
1992-93	118119	1891	152349	2229	1422	1298	653	16810
1993-94	182532	758	82991	969	358	861	660	7685
1994-95	332409	855	100842	865	392	1054	860	7271
1995-96	541893	991	141932	1031	250	1240	1038	7792
1996-97	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
TOTAL	1174953	4495	478114	5094	2422	4453	3211	39558

Name of tax	Opening balance	Cases due for assessment during 1996-97	Total assessments due	Cases disposed off	Balance at the end of the year	Percentage of Column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)

2. Home Department

Taxes on Vehicles	567946	118520	686466	131782	554684	81
Taxes on Goods and Passengers	9346	2	9348	-	9348	100

1.7 Arrears in appeals

The arrears of revenue at the end of the last three years and revenue blocked due to appeals in respect of Sales Tax and Motor Vehicles Tax Departments are given below :

As on	<u>Total revenue in arrears</u>		<u>Involved in appeals</u>		Percentage	
31 March	No. of cases	Amount	No. of Cases	Amount	of Col. 3 to 2	Amount
(1)		(2)		(3)	Cases	(4)

(Amount in crores of rupees)

(i) Sales Tax

1995	324789	1946.36	44888	855.54	14	44
1996	348278	2268.49	47497	1176.20	14	52
1997	341529	2730.84	48818	1349.20	14	49

(ii) Motor Vehicles Tax and Tax on Goods and Passengers

1995	504468	54.87	428	2.20	0.09	4.01
1996	577292	57.15	1968	2.47	0.34	4.32
1997	564032	260.40	1901	2.06	0.34	0.79

Huge amount of revenue was blocked particularly in respect of sales tax dues in appeals. However no effective steps were taken to dispose off the appeal cases.

1.8 *Frauds and evasion of tax*

The details of cases of evasion of tax detected by the Sales Tax, Motor Vehicles Tax and State Excise Departments, cases finalised and the demands for additional tax raised as reported by the departments are given below :

Sr. No.	Name of tax/duty	Cases pending as on 31 March 1996	Cases detected during 1996-97	Total	No. of cases in which assessment/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 1997
					No. of cases	Amount of demands (in lakhs of rupees)	
1.	Sales Tax	2742	1236	3978	1446	7372.19	2532
2.	State Excise	2	Nil	2	Nil	Nil	2
3.	Motor Vehicles Tax	-	571257	571257	571257	4744.16	

1.9 *Write-off and waiver of revenue*

During the year 1996-97, demands for Rs. 2047.07 lakhs (in 12602 cases) relating to Sales Tax, for Rs. 41.94 lakhs (in 1150 cases) relating to Motor Vehicles Tax and Passengers Tax and Rs. 0.28 lakh (in three cases) relating to State Excise were written off by the department as irrecoverable.

Reasons for the write-off of these demands as reported by the departments were as follows :

	(Amount in lakhs of rupees)						
	Sales Tax		Motor Vehicles Tax, Goods Tax and Passengers Tax		State Excise		
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
1 Whereabouts of defaulters not known	6230	585.29	828	19.61	1	0.19	
2 Defaulters no longer alive	9	30.16					

(Amount in lakhs of rupees)

	Sales Tax		Motor Vehicles Tax, Goods Tax and Passengers Tax		State Excise	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
3 Defaulters not having any property	2159	635.69	267	22.01	2	0.09
4 Other reasons	3668	499.28	55	0.32		
5 Remission of penalty	536	296.65				
Total	12602	2047.07	1150	41.94	3	0.28

1.10 Refunds

The number of refund cases pending at the beginning of the year 1996-97, claims received during the year, refunds allowed during the year and cases pending at the close of the year 1996-97, as reported by the departments are given below :

(Amount in lakhs of rupees)

	Sales Tax		Motor Vehicles Tax		Taxes and Duties on Electricity		State Excise	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1. Claims outstanding at the beginning of the year	2952	2085	770	7.32	63	145.04	89	17.10
2. Claims received during the year	26002	16158	1375	16.01	72	688.80	34	10.91
3. Refund made during the year	26130	13507	1487	28.11	91	749.71	13	4.72
4. Balance outstanding at the end of the year	2824	4736	658	15.22	44	84.13	110	23.28

1.11 Results of audit

Test check of records of Sales Tax, Land Revenue, State Excise, Motor Vehicles Tax, Stamp Duty and Registration Fees, Electricity Duty, Other Tax Receipts, Forest Receipts and other Non-tax Receipts conducted during the year 1996-97 revealed under-assessment/short levy/loss of revenue amounting to Rs.178.98 crores in 34890 cases. Of these, only 919 cases involving Rs.8.53 crores were accepted though instructions exist that under-assessment etc., pointed out in audit should be disposed off within one month. In addition 3515 cases involving Rs.12.74 crores relating to earlier years were accepted during 1996-97.

This Report contains 51 Paragraphs including 2 reviews involving Rs.39.64 crores. The departments/Government have accepted audit observations involving Rs.15.29 crores and recovered Rs.6.96 crores at the instance of audit. No reply has been received in the remaining cases.

1.12 Internal Audit

The performance of Internal Audit during the year 1996-97 in the State Excise, Sales Tax and Motor Vehicles tax departments were as under:

	Target in units/ cases	Units/ cases audited	Shortfall	Objection raised		Demand raised		Recovery		Remarks
				Cases	Amount	Cases	Amount	Cases	Amount	
				(Amount in crores		of rupees)				
State Excise	552	489	63	151	0.74	151	0.74	55	0.18	The department functions under the overall control of the Commissioner of State Excise who is assisted by one Deputy Commissioner, one Assistant Commissioner and 4 Divisional Deputy Commissioners one each at Pune, Nagpur, Thane and Aurangabad.
Sales Tax	47200	42875	4325	3244	34.02	309	1.64	105	0.12	The department functions under the overall control of the Additional Commissioner of Sales Tax, who is assisted by one Deputy Commissioner 13 Assistant Commissioners 2 Sales Tax officers, 13 Inspectors and 13 clerks for auditing assessment cases involving tax of Rs.4 lakhs and above. Other cases are audited by the respective Administrative Deputy Commissioners and Assistant Commissioners.

Target in units/ cases	Units/ cases audited	Shortfall	Objection raised		Demand raised		Recovery		Remarks
			-----		-----		-----		
			Cases	Amount	Cases	Amount	Cases	Amount	
(Amount in crores of rupees)									
Motor Vehicles tax			7408	0.41	7408	0.41	6735	0.39	The department consisting of 6 Senior Auditors, 59 Junior Auditors 13 Senior Clerks and 93 Junior Clerks functions under the overall control of the Transport Commissioner

The reasons for the shortfall in achieving the target as furnished by the State Excise and Sales Tax departments were as follows:-

A State Excise

- (i) 52 Units being closed and
- (ii) 11 units pertaining to Konkan division, Thane not audited due to office work

B Sales Tax

- (i) Some posts of audit officers remained vacant for few months and officers being on leave
- (ii) The Administrative Deputy Commissioners and Assistant Commissioners were busy with new registrations and amnesty scheme work

1.13 Outstanding inspection reports and audit observations

Audit observations on incorrect assessments, short levy of taxes, duties, fees and other revenue receipts, as also defects in maintenance of initial records noticed during the local audit and not settled on the spot are communicated to the heads of offices and to the departmental authorities through inspection reports. The more important irregularities are reported to the heads of departments and Government. Government have prescribed that first replies to inspection reports should be sent to Audit within one month from the date of receipt of the inspection reports.

At the end of June 1997, 10408 observations (in 4481 inspection reports) involving Rs 279.87 crores issued upto 31 December 1996, were still to be settled as detailed below. The figures as on 30 June 1995 and 30 June 1996 are also indicated alongside for comparison.

As at the end of

	June 1995	June 1996	June 1997
Number of inspection reports	4410	4677	4481
Number of audit observations	10409	10799	10408
Amount involved (In crores of rupees)	318.47	181.81	279.87

In respect of 3742 observations (in 1684 inspection reports) involving Rs.24.69 crores, even the first replies had not been received.

Year-wise break-up of the outstanding inspection reports as on 30 June 1997, together with amounts of receipts involved, is given in the Appendix I. The above position was brought to the notice (September 1997) of the Secretaries of the respective Government Departments and was reported to the Chief Secretary in October 1997.

1.14 Follow up on Audit Reports

(i) According to the instructions issued by the Finance Department in March 1981, the departments are requested to furnish explanatory memoranda to the Maharashtra Legislature Secretariat in respect of paragraphs contained in Audit Reports within one month of their being laid on the table of the House, duly vetted by Audit.

It was noticed that the departments have not submitted (November 1997) explanatory memoranda in respect of paragraphs of Audit Reports for the years 1994-95 to 1995-96. The details are given in Appendix II.

(ii) The Public Accounts Committee has discussed 48 selected paras pertaining to Audit Reports for the years 1986-87 to 1991-92 and given their recommendations on 25 paras which have been incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th and 14th Report (1996-97). However, action taken notes on recommendations of the Public Accounts Committee have not been received from the concerned departments (November 1997). The details are given in Appendix III.

The matter was reported to Government in October 1997; their reply has not been received (November 1997).

1.15 Departmental Audit Committee Meetings.

In order to expedite the settlement of outstanding audit observations contained in the Inspection Reports, Departmental Audit Committees are constituted by the Government. These Committees are chaired by Joint Secretary/Deputy Secretary of the concerned Administrative Department and attended among others by the concerned Officers and the Officers from the Office of the Principal Accountant General, Mumbai/Accountant General, Nagpur.

In order to expedite the clearance of the outstanding audit observations , it is necessary that the Audit committees met regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 1996-97 only one out of 7 Government departments convened a meeting of the Audit Committee. This indicates that the Government Departments have not been taking initiative in using the machinery created for settling the outstanding audit observations.

CHAPTER 2

SALES TAX

2.1 *Results of audit*

Test check of records of sales tax department conducted during the year 1996-97 revealed under-assessment/short levy/loss of revenue amounting to Rs.2144.32 lakhs in 2175 cases which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Incorrect allowance of set-off	256	505.32
2. Non-levy/short levy of tax	1216	648.99
3. Non-levy/short levy of penalty	143	168.49
4. Omission to forfeit tax irregularly collected	18	1.25
5. Other irregularities	542	820.27
	-----	-----
Total	2175	2144.32
	-----	-----

During the course of the year 1996-97, the department accepted under-assessments of Rs.281.76 lakhs involved in 1134 cases, of which 160 cases involving Rs.14.69 lakhs had been pointed out during 1996-97 and the rest in earlier years. Of these, department recovered Rs. 64.27 lakhs.

A few illustrative cases noticed during 1996-97 and in earlier years including a review on "Working of Survey and Enforcement Branch in Sales Tax Department" involving a financial effect of Rs.23.69 crores are given in the following paragraphs.

2.2 *Working of Survey and Enforcement Branch in Sales Tax Department*

2.2.1 Introduction

Generally evasion of sales tax takes place due to suppression of sales/purchases, misrepresentation/ misstatement of facts etc., by the dealers.

To check this the Sales Tax Commissioner is empowered under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, to search and seize accounts records of dealers attempting to evade taxes and assess tax.

2.2.2 Organisational Set-up

The Survey and Enforcement Branch of the sales tax department functions under the overall control of the Commissioner of Sales Tax. He is assisted by three Deputy Commissioners, six Assistant Commissioners and 53 Sales Tax Officers exclusively for survey and enforcement activities in Mumbai. The six divisional Deputy Commissioners at Aurangabad, Kolhapur, Nagpur, Nasik, Pune and Thane supervise the enforcement activity in addition to their other administrative functions. Further, 16 Deputy Commissioners incharge of assessment divisions in the State are also assigned the work of detection of unregistered dealers. The Deputy Commissioners are assisted by the Assistant Commissioners, Sales Tax Officers and Sales Tax Inspectors in the discharge of these functions.

2.2.3 Scope of audit

To assess the effectiveness of the working of the Survey and Enforcement Branch, records of six out of eight Enforcement divisions, the Survey division and the office of the Commissioner of Sales Tax for the years 1993-94 to 1995-96 were test checked between October 1996 and May 1997. 1603 out of 3296 investigation cases pertaining to six Enforcement divisions were test checked during this period.

2.2.4 Highlights

(i) *Failure to check hawala dealers/fake purchases resulted in loss of revenue of Rs.31.26 lakhs.*

{Para 2.2.6(d)}

(ii) *Delayed/incorrect, assessment/re-assessment of investigation cases resulted in loss of revenue of Rs.6.61 crores.*

{Para 2.2.6(e)}

(iii) *Penalty and interest amounting to a maximum of Rs.1.25 crores were not levied in six cases.*

{Para 2.2.6(f)}

(iv) *Sales tax demands of Rs.130.04 crores raised by the enforcement branch of the department in the State for the period from 1967-68 to 1995-96 remained unrealised.*

{Para 2.2.7(a)}

(v) *Inspite of the instructions issued by the department for disposing off the appeal cases, 547 cases were pending in appeal for periods ranging from 3 to over 10 years involving tax dues of Rs.40.95 crores.*

{Para 2.2.7(b)}

2.2.5 Working of Survey Branch

The dealers liable to pay tax under the Bombay Sales Tax Act and the Central Sales Tax Act are required to apply for registration in the prescribed form within 30 days from the day on which they become liable to pay tax. There, however, is no provision in the Act/Rules fixing the time limit within which registration certificate should be granted after receipt of application.

(i) **Failure to conduct surveys due to wilful diversion of staff**

Mention was made in Para 2.2.5 (i) of the Report of the Comptroller and Auditor General of India for the year 1992-93 that recommendations of the Sales Tax Enquiry Committee regarding conduct of periodical surveys in Mumbai and all important trade centres in the State to detect dealers liable for registration were not acted upon by the Government for more than 15 years.

The Government in attempting implementation of these recommendations earmarked certain staff to conduct periodical surveys only in one division in Mumbai (no staff was sanctioned for conduct of such surveys at other important trade centres) in August 1992 and made the staff available for surveys in November 1992.

Despite the staff being available, no surveys were conducted upto July 1995 and instead the staff was diverted for other items of work without proper authorisation. Further, even after July 1995, this branch conducted only 2866 surveys from August 1995 to March 1996 and detected 361 dealers liable for registration. This amounted to trivial implementation of accepted recommendations of the Sales Tax Enquiry Committee and lack of seriousness in taking the action reported to audit.

In this branch, a total of 21 Inspectors surveyed less than 18 business places in a month on an average. In all the business places surveyed, it was noticed that the number of dealers got registered on an average were only 1.57 per cent of those surveyed. In 204 cases, scrutiny continued for more than a year and was yet to be completed (March 1997). It was also noticed that neither were any targets fixed for number of business places to be surveyed in a month nor was the effectiveness of the working of the survey branch seriously reviewed by the Commissioner of Sales Tax at any point of time.

(ii) Surveys by regular assessing authorities

In the process of reorganisation of Sales Tax Department, the work of detection of unregistered dealers was entrusted to the officers working in the assessment wing. Accordingly, respective divisions were asked (August 1994) to undertake the survey work of unregistered dealers in their area. The results of visits made by the assessment divisions during August 1994 to June 1997 as furnished by the department were as under:

Sr. No	Name of division.	No. of business places surveyed	No. of dealers Registered	No. of dealers not liable for registration	No. of dealers under scrutiny	Amount recovered (In lakhs of rupees)
1	Churchgate	123	31	59	33	5.31
2	Ghatkopar	32	16	9	7	3.58
3	Borivli	182	182	----	---	0.42
4	Pune II	33	2	29	2	----
	Total	370	231	97	42	9.31
		----	----	----	----	----

The percentage of the dealers registered in these divisions during the period varied from 0.75 per cent to 12.50 per cent with reference to the number of business places surveyed per month. The average amount recovered from the dealers so registered was as low as Rs.231 in Borivli and ranged from Rs.Nil to Rs.22390 in respect of the other three divisions.

In other three assessment divisions at Mumbai and one each at Pune and Nagpur NO SURVEY WAS CONDUCTED by the concerned assessing authorities.

There are no instructions regarding the procedure of survey to be conducted/visit to be made and the maintenance/submission of registers/returns by survey branch either in

the Manual of Procedures or in the Act/Rules. No target was fixed regarding the number of dealers to be visited.

(iii) Failure to follow up cases of dealers due for registration.

Based on a comment in the Report of the Comptroller and Auditor General of India for 1992-93 regarding absence of procedure/machinery for verification of the rejected applications, the department in August 1994 issued instructions that rejected applications, by the registration branch may be scrutinised and disposed off by the concerned divisional/zonal officers. The applications for registration are rejected mainly due to non-attendance by the dealers with books of accounts for verification.

Number of applications for registration rejected by the department during 1993-94 to 1995-96 in Mumbai and Pune was 18230.

It was noticed (January 1997) that these departmental instructions were totally ignored by the registration branch and no rejected applications were forwarded for scrutiny to the concerned assessing divisions/zones till January 1996 and July 1996 in Pune and Mumbai respectively. Since the dealers had applied for registration, rejection of the applications without verifying whether they were in fact carrying on the business or not, resulted in depriving the State of potential revenue.

2.2.6 Working of Enforcement branch

(a) Unchecked misreporting to the Commissioner of Sales Tax

Enforcement branch in the State of Maharashtra functions under the overall control of the Commissioner of Sales Tax. The department has prescribed submission of monthly performance report to the Commissioner of Sales Tax. However, it was noticed that the monthly performance report detailing the activities of the enforcement branch in district places other than Mumbai though received in the office of the Commissioner of Sales Tax was not being included in the report submitted to the Commissioner of Sales Tax. Consequently, there was no mechanism to monitor/control the enforcement activities outside Mumbai by the head of the department.

(b) Investigation into complaints

Enforcement activities are carried out on the basis of complaints and information received from outsiders (informants) or from other departments or from within the department.

Surprise visits by the officers of the enforcement branch to the place of business as well as godown and residence of traders concerned are made under the supervision of the respective Assistant Commissioners/Deputy Commissioners of Sales Tax. Where tax evasion is prima facie detected, books of accounts and other records are seized by the

Sales Tax Officers. Quantum of suppression is determined to assess the extent of evasion of tax and assessment is finalised.

The year-wise position of complaints received and disposed of in the eight enforcement divisions from 1993-94 to 1995-96 was as under :

	1993-94	1994-95	1995-96
Opening Balance	885	912	905
Additions during the year	799	624	742
Disposal during the year	772	631	599
	(45.84%)	(41.08%)	(36.36%)
	-----	-----	-----
Closing Balance	912	905	1048
	-----	-----	-----

The disposal of complaints had fallen from 46 per cent during 1993-94 to 36 per cent during 1995-96.

Out of the 1048 complaints pending investigation as on 31 March 1996, 192 cases were pending for over four years, 290 and 439 cases were pending for over three and two years respectively. 686 cases were more than one year old.

The department has not fixed any target or time limit for the disposal of complaints. Delay in disposal of complaints hampers the chances of detection of evasion.

(c) Detection and disposal of cases

The position of detection and disposal of cases in the eight divisions during 1993-94 to 1995-96 was as under :

	1993-94	1994-95	1995-96
Opening balance	2005	2497	2673
Addition during the year	1610	1688	1375
Disposal during the year	1118	1512	1962
Demand raised as a result of assessment of cases (Amount in lakhs)	1329.90	1990.08	2716.70
	-----	-----	-----
Closing balance	2497	2673	2086
	-----	-----	-----

Out of 2086 cases, pending for disposal at the end of 1995-96, 1425 cases were pending for more than a year whereas 988 and 607 cases were pending for more than two and three years respectively. 424 cases were pending for more than four years.

(d) Failure to check hawala dealers/fake purchases

In enforcement division A, Mumbai, a dealer manufacturing gum resin had claimed that he had effected sales of Rs.27.83 lakhs, to a dealer in Sindhudurg holding entitlement certificate, during the period from 1 April 1993 to 20 December 1993 and hence was eligible for exemption from payment of tax. He had also claimed sales of Rs.154 lakhs to other dealers on declarations in Form N-14 eligible for deduction from the taxable turnover. However, the dealer failed to produce the prescribed declarations (BC and N-14 forms) in support of his claim for deductions. The investigation was closed in February 1994 for reasons not on record.

As per an affidavit furnished by one of the purchasers on Form N-14, he was issuing hawala bills¹ only and was not entitled to issue Form N-14, as his registration certificate was cancelled with effect from 1 April 1991. In spite of this, the department had not taken any action to investigate the hawala dealer's transactions. The dealer had closed his business from July 1994 immediately after the visit. Assessment for the period 1993-94 was not completed by the department (December 1996).

Closure of investigation without establishing the authenticity of the sales on declarations and non-prosecution of the hawala dealer, defeated the purpose of investigation which resulted in loss of revenue of Rs.31.26 lakhs including penalty.

(e) Loss of revenue due to delay/incorrect, assessment/re-assessment of investigation cases

(i) Investigation in respect of a dealer dealing in dry fruits, chemicals and hardware in Mumbai on 7 January 1992 revealed that he was having three sister concerns with different registration certificates. Assessments of these sister concerns were completed by the assessing authority for the periods falling between November 1986 and March 1991 resulting in refunds aggregating Rs.1.18 crores. Registration certificates of the three sister concerns were cancelled in August 1991, October 1991 and November 1991. During investigation which started from January 1992, it was revealed that the dealer had claimed set-off of Rs.118.09 lakhs being the tax paid on purchases which were claimed to have been exported. The export sales were bogus as the transport companies, through which the goods were stated to have been exported to Nepal were not found at the given address at the time of visit by the Enforcement Officers.

The Enforcement Officer re-assessed the dealer for the periods falling between November 1986 and March 1991 by disallowing the export sales and claims of set-off.

¹ Bills issued without actually effecting sales or purchases of goods

The re-assessment orders were passed in March 1996 raising additional demands aggregating Rs.550 lakhs. The recovery of the demands was not possible as the dealer was not alive (February 1996) and had not left behind any assets.

Failure on the part of the Enforcement Officer to comply with departmental instructions requiring immediate action for finalising the assessment proceedings after the cancellation of registration resulted in loss of Rs.550 lakhs.

(ii) Under the Bombay Sales Tax Act, 1959 the gross turnover of sales is determined either on the basis of sales shown in the returns or on the basis of evidence which the Commissioner of Sales Tax may direct to be or cause to be produced, whichever is higher.

A dealer in Mumbai was effecting sales of imported photographic jumbo colour paper rolls by showing the bills as having been issued from Silvassa (Daman and Diu-Union Territory), thereby evading tax in the State. The dealer was not registered under the Bombay Sales Tax Act, 1959. From the details kept on record the turnover of sales for the period from 1989-90 to 1992-93 worked out to Rs. 684.58 lakhs. This included sales of Rs.170.72 lakhs and Rs.337.15 lakhs for the years 1990-91 and 1991-92 respectively as per the audited accounts of the dealer. The tax liability on this turnover though worked out to Rs.78.45 lakhs (including interest) was actually determined as Rs.3.98 lakhs only by the assessing officer, for reasons not on record.

In reply, the department stated that since total sales of the dealer were far higher, it would not be possible to tax all his sales in Maharashtra, as he had effected sales from Silvassa to other places in India as well.

The reply of the department is not tenable as the dealer not having been registered under the Bombay Sales Tax Act, 1959 cannot despatch the goods imported into Maharashtra to Silvassa for sale. Further, the department did not ascertain the sales effected from Silvassa before determining the tax liability.

(iii) As per instructions of November 1994, when the registration of a dealer is cancelled, assessment till the date of cancellation of registration should be completed on priority basis.

In one case, in Mumbai, registration certificate was cancelled with effect from 1 April 1991 and notice calling the dealer to produce books of accounts was issued on 31 December 1993. The case was assessed ex-parte for the period 1990-91 and the dues worked out at Rs.14.11 lakhs. Demand notice was served on 25 October 1994, after a lapse of 43 months from the date of cancellation of the registration.

The dealer preferred an appeal against the assessment order which was rejected on 18 September 1995. The department issued notice for prosecution on 19 June 1996 only i.e. after a lapse of nine months from the date of rejection of appeal, but he was not prosecuted. The unused 'C' forms with the assessee were not declared invalid to avoid their misuse. Failure on the part of the department to assess the dealer and initiate recovery proceedings immediately after the cancellation of the registration certificate resulted in loss of revenue to the extent of Rs.14.11 lakhs.

In reply, the department stated that the financial position of the dealer was not sound and he had no property that could be attached. Regarding unused 'C' forms, no action was taken by the department till the date of audit.

(iv) As per provisions of the Bombay Sales Tax Act, 1959 if the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration within the time, the Commissioner shall at any time within 8 years from the end of the year in which such period occurs, after giving the dealer a reasonable opportunity of being heard, proceed to assess to the best of his judgement, the amount of tax if any due from the dealer in respect of that period and any period subsequent thereto.

In Nagpur, the enforcement officer visited the place of business of a dealer on 26 June 1984 and seized books of accounts and relevant records. Assessment orders for the periods 1983-84 and 1984-85 were passed on 3 September 1992, after a lapse of eight years and demands aggregating Rs.13.37 lakhs were raised. The demand notices issued on 15 October 1992 were returned to the department as the assessee had closed the business and his whereabouts were not known. Thus, delay in completion of assessments resulted in loss of revenue to the extent of Rs.13.37 lakhs.

(v) Under the provisions of the Bombay Sales Tax Act, 1959, if a dealer has been assessed for any year or part thereof and the Commissioner has reason to believe that any turnover of sales or purchases of any goods has in respect of that year or part thereof escaped assessment or had been unassessed or assessed at a lower rate, then the Commissioner may in any case, at any time within five years from the end of the year, after giving the dealer a reasonable opportunity of being heard, proceed to assess or re-assess the amount of tax due from such dealer. Where he has reason to believe that the dealer has concealed sales or purchases or knowingly furnished incorrect returns, the period of limitation of re-assessment is eight years.

In the case of a dealer in Mumbai, assessment order for the period from 1 September 1981 to 31 March 1982 was passed on 13 March 1985 after obtaining transfer of proceedings from the competent authority. Thereafter, re-assessment order was passed on 28 March 1990 by the Enforcement Officer for the same period raising demand of

Rs.8.60 lakhs as he had reason to believe that stock transfer of Rs.28.69 lakhs from sister concern was not considered while passing the assessment order. In appeal, the re-assessment order was set aside as there was no concealment of sales or purchases and the period of limitation of five years applicable was over. Failure to pass the re-assessment order within the prescribed time limit resulted in loss of revenue of Rs.8.60 lakhs.

The department stated (January 1997) that since the matter was old, no recourse to the provisions of the Act could be taken.

(f) Non-levy/short levy of penalty and interest

(i) As per the provisions of the Bombay Sales Tax Act, 1959 where any dealer knowingly issues or produces false bills or other documents by reason of which transaction of sale or purchase effected by him or by any other dealer is not liable to be taxed or is liable to be taxed at a reduced rate, then the Commissioner may after giving the dealer a reasonable opportunity of being heard, impose on him in addition to any tax payable a penalty not exceeding twice the amount of tax.

In enforcement division, Mumbai, it was noticed that in respect of three dealers penalty was not levied for production of false bills during the period from 1990-91 to 1994-95. Further reasons for non-levy of penalty upto Rs.102.30 lakhs were not on record.

(ii) When a dealer fails to apply for registration as required or carries on business as a dealer without being registered, a sum not exceeding the amount of tax payable for the period during which he carries on business as a dealer, is leviable as penalty.

In Mumbai, a dealer dealing in pre-recorded cassettes, failed to apply for registration but while assessing the dealer as unregistered dealer for the period from 1 September 1995 to 31 October 1995, penalty upto Rs.1.49 lakhs was not levied by the department. No reasons for non-levy of penalty were found on record.

(iii) If a dealer fails to disclose fully and truly all material facts necessary for the proper and correct quantification of tax liability, the dealer will be liable to penalty to the extent of the amount of tax payable.

A dealer, dealing in raw negative films, in Mumbai was consigning goods from outside Maharashtra and effecting resales to avoid taxes in this State. The case was investigated, assessed, and tax of Rs.20.55 lakhs levied for the period from 1 April 1993 to 30 June 1993. However, no penalty was levied as against the maximum penalty of Rs.20.55 lakhs. Reasons for non-levy were not on record.

(iv) Under the Bombay Sales Tax Act, 1959 if any tax payable is found due from a dealer or a person in respect of any period as a result of an order of assessment or re-assessment passed under the Act, such dealer or person is liable to pay simple interest at

the rate of 2 *per cent* of such tax for each month or part thereof from the 1st date after the end of the period for which the dealer or person has been so assessed till the date of such order of assessment.

A dealer in Nagpur was assessed for the period from 31 January 1990 to 31 March 1990 on 28 February 1995 and a demand of Rs.82,253 (including penalty of Rs. 13,709) was raised but interest of Rs.0.80 lakh leviable on tax dues of Rs. 68,544 was not levied in the assessment order. The department confirmed that interest was not levied and stated that recovery of the assessed dues of Rs. 82,253 could not be effected since the dealer had closed down his business.

(v) Under the provisions of the Bombay Sales Tax Act, 1959, penalties are leviable for violation of certain provisions or failure to comply with certain requirements for levy and collection of tax. Unlike a similar legislation in Uttar Pradesh, this Act is however silent on the minimum amount of penalty leviable which is left entirely to the discretion of the assessing officer. Consequently, the quantum of penalty levied in assessments for various offences were nominal.

In enforcement divisions, Mumbai, it was noticed in 26 assessments relating to the period between April 1989 and March 1995 in respect of 15 dealers that the assessing officers had levied penalty ranging from 0.15 *per cent* to 50 *per cent* of the tax amount for similar offences. Of these, in respect of three dealers, penalty levied for different assessment periods varied from 10 to 50 *per cent*, 0.5 to 5 *per cent* and 0.15 to 1 *per cent*.

It was observed that in three cases the same assessing authorities charged varying rates of penalty in respect of the same dealer in consecutive years. Further rates of penalties levied by them decreased progressively while the seriousness of the offence increased.

2.2.7 Arrears of revenue and pendency of appeal

(a) Arrears of revenue

The arrears of revenue as on 31 March 1996 in respect of Enforcement Branch of the Department in the State were Rs.130.04 crores. Year-wise analysis of the arrears was as under :

	Year	Amount in lakhs of rupees
Upto	1985-86	1304.52
	1986-87	165.11
	1987-88	562.39
	1988-89	1338.05
	1989-90	422.98

Year	Amount in lakhs of rupees
1990-91	2094.34
1991-92	929.83
1992-93	742.03
1993-94	1583.17
1994-95	1398.89
1995-96	2462.87

Total	13004.18

The position of arrears indicated an increasing trend. Failure on the part of the department to take expeditious action to effect recovery of taxes, hampered the recovery as illustrated below :

(i) In four cases, involving tax dues of Rs.168.78 lakhs delays ranging from 22 months to 84 months from the date of visit by the Enforcement Officer to the date of issue of demand notice after assessment, allowed the dealers an opportunity to abscond and rendered recovery of the dues doubtful.

(ii) In three cases in Nagpur involving tax dues of Rs.7.49 lakhs department had not taken any action to recover the dues, even after a lapse of 15 months to 87 months (June 1997) from the date of issue of demand notice.

(iii) In one case in Mumbai involving tax dues of Rs.18.74 lakhs the recovery was not made by the department even after a lapse of more than 12 years, since the Revenue Recovery Certificate issued (February 1985) to the Collector of Jabalpur was not replied despite several reminders (June 1997).

(iv) In yet another case, in Mumbai in response to the Revenue Recovery Certificates for Rs.51.77 lakhs issued in October 1996, the Revenue Authority at Faridabad stated (March 1997) that the dues were not recoverable as the dealer had no property in his name. Report on further action taken by the department thereafter has not been received (November 1997).

(b) Pendency of appeals

There is no time limit prescribed in the Act and Rules for disposal of the appeal cases. Due to delay in deciding the appeal cases, revenue of Rs.57.44 crores was blocked up in respect of Mumbai Division. The details as furnished by the Enforcement Branch, Mumbai were as under :

Cases pending in appeal	Number	Amount in lakhs of Rupees
More than 10 years	95	136.93
More than 5 years but less than 10 years	352	3427.61
More than 3 years but less than 5 years	100	530.06
Less than 3 years	134	1649.57
	---	-----
Total	681	5744.17
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In spite of the administrative instructions issued in February 1989 to dispose of appeal cases involving dues of Rs.1 lakh and above within one year on priority basis and other cases in chronological order, the department had not taken any action. 547 appeal cases involving tax dues of Rs.4094.60 lakhs were pending for periods ranging between 3 years to over 10 years which included 329 cases involving amount above Rs.1 lakh. Absence of a system to monitor the disposal of appeal cases has resulted in the department not being able to enforce control over the recovery of dues.

The above points were reported to the department and Government(August 1997); their replies have not been received (November 1997).

2.3 *Under-assessment of tax*

Under the provisions of the Bombay Sales Tax Act, 1959, the turnover of sales liable to tax is determined after deducting from the gross turnover of sales, the resales of goods purchased by the dealer from other registered dealers within the State provided the goods are resold in the same form in which they were purchased. The rate of tax leviable on any commodity is specified in the Schedules to the Act. The tax on sale of packing material is levied at the same rate as is set out in the relevant Schedule against the goods packed.

Further, where a dealer purchases any goods specified in Part I of Schedule C to the Act then unless the goods so purchased are resold by the dealer, there shall be levied, in addition to the sales tax or purchase tax levied or leviable, if any, a purchase tax at the rate of two per cent on the turnover of such purchases.

Besides, turnover tax, additional tax and interest are also leviable under the provisions of the Act.

(i) In Mumbai, in assessing (March 1995) the Associated Cement Companies Ltd., for the year 1991-92 resale claim of packing material i.e., H.D.P.E., jute and paper bags aggregating Rs.7.48 crores used in the packing of cement was disallowed on the grounds that there cannot be sale of cement without packing and the activities of manufacturing and packing are inter-related. Further, purchase tax on Rs.5.35 crores being value of the packing material (covered by Part I of Schedule C) and sales tax on sale of clotted cement worth Rs.19.45 lakhs were levied at the prescribed rates. The total taxes including interest levied on the above amounted to Rs.1.81 crores. However, the appellate authority while deciding (April 1996) the appeal filed against the assessment order allowed resale claim of packing materials on the plea that packing charges were charged separately in the bill and there was implied sale of packing material. Purchase tax levied on purchases of packing material was deleted and sales tax on clotted cement was levied at 8 *per cent* as against 10 *per cent*. Consequential total relief allowed amounted to Rs.1.81 crores (including interest of Rs.75.88 lakhs) which was irregular.

Similarly, in the assessment (March 1996) for the year 1992-93, resale claim of packing material of Rs.5.95 crores was erroneously allowed and purchase tax not levied on purchases of Rs.3.54 crores of packing material. The total under-assessment including additional tax and turnover tax amounted to Rs.81.96 lakhs.

This resulted in under-assessment of Rs.3.20 crores (including interest of Rs.1.33 crores) for the years 1991-92 and 1992-93.

On this being pointed out in audit (July 1996) the department revised (March 1997) the assessment for the year 1991-92 and disallowed the relief allowed raising demand of Rs.1.81 crores. Further department stated (September 1997) that the dealer had filed appeal against the revision order for the period 1991-92 after part payment of Rs.5 lakhs and the appeal against the assessment order for the year 1992-93 was not decided (November 1997).

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

(ii) Books and periodicals are tax free under entry 2 of Schedule 'A' to the Act. However, catalogues and publications which mainly publicise goods and services for commercial purposes are specifically excluded from the said entry. Further, turnover tax, additional tax and interest are leviable as per the provisions of the Act.

In Mumbai, while assessing (February 1992 and March 1993) a printer for the periods from 23 October 1987 to 31 March 1989 and from 1 April 1989 to 31 March 1990, sales of printed medical literature (covered under residual entry 102 of Schedule C-

II to the Act - rate of tax 10 *per cent*) worth Rs.7.88 lakhs were incorrectly allowed as tax free. Besides, deductions on account of resale worth Rs.1.10 lakhs was incorrectly allowed. This resulted in under-assessment of Rs.1.64 lakhs (Rs.96,966 for 1987-89 and Rs.67,031 for 1989-90 including interest of Rs.39,927 and Rs.27,601 respectively).

On this being pointed out (March 1994 and November 1994), the appellate authority while deciding the second appeal considered the audit point and raised net additional demand of Rs.39,966 for 1987-89 after adjusting Rs.60,000 paid in appeal. The dealer had filed (June 1995) an appeal before the Tribunal against the assessment for the period 1989-90. Report on further developments in appeal and report on recovery of the demand has not been received (November 1997)

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

2.4 Incorrect grant of exemption

(a) Under the Central Sales Tax Act, 1956 inter-State sale or purchase of any goods other than declared goods which are not supported by declaration in Form 'C' or Form 'D', are liable to tax at 10 *per cent* or at the rate applicable to sale or purchase of such goods inside the State under the sales tax law of the appropriate State, whichever is higher. By a notification issued in January 1996, inter-State sales of ready-made garments are taxable at 4 *per cent*. When the sale of any goods inside the appropriate State is exempted generally from tax or subjected to tax generally at a rate which is lower than four per cent, then the rate of tax applicable to the inter-State sale or purchase of such goods shall be Nil or the lower rate. For this purpose, a sale or purchase of any goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State if under that law, the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions. The price based exemption of sale or purchase of any goods is a conditional exemption.

In Mumbai and Pune, test check (between January 1996 and January 1997) of assessment records revealed that in the cases of 35 dealers dealing in goods which were exempt or liable to lower rate of tax inside the State subject to condition, inter-State sales of Rs.3133.88 lakhs effected between 1990-91 and 1994-95 were exempted from Central Sales Tax. Since the exemptions under the State Act were subject to certain conditions the same were not applicable in respect of inter-State sales. This resulted in incorrect grant of exemption of Rs.424.66 lakhs (including interest of Rs.165.39 lakhs) as detailed in Appendix IV.

On this being pointed out in audit (between January 1996 and January 1997), the department stated (between July 1996 and April 1997) that in 8 cases action was kept in abeyance as per circular instructions of the Commissioner of Sales Tax issued on 20 February 1996, pending policy decision from Government. Intimation regarding

Government's decision and replies in the remaining cases have not been received (November 1997).

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

(b) Under the provisions of the Bombay Sales Tax Act, 1959 and notification issued in July 1980, sales by a manufacturer which is an Industrial Unit set up in the developing regions of the State of Maharashtra and duly certified as an eligible industrial unit by designated authority and to whom a certificate of entitlement has been granted by the Commissioner of Sales Tax is exempt from payment of tax to certain ceiling. Such manufacturer holding a certificate of entitlement may also purchase raw material without payment of tax by furnishing a declaration in the prescribed Form 'BC' declaring inter-alia that raw material so purchased shall be used in his own industrial unit for manufacture of taxable goods for sale.

In Ratnagiri, a manufacturer of roofing tiles was granted certificate of entitlement under the Package Scheme of Incentives, 1983 with a ceiling of Rs.17 lakhs. While assessing (March 1994) for the period from 1 April 1990 to 31 March 1991, the sales valued at Rs.42.94 lakhs and purchases made on 'BC' Form for Rs.12.31 lakhs were allowed as exempt from tax though the manufacturer had already availed tax concession upto the ceiling till June 1990. This resulted in irregular exemption of tax of Rs.8.66 lakhs (including interest of Rs.4.64 lakhs).

On this being pointed out (March 1995) in audit, the department revised (February 1996) the assessment raising additional demand of Rs.8.66 lakhs. The dealer has paid Rs.4.47 lakhs and the balance amount of interest was waived under the Amnesty Scheme (November 1997).

The matter was reported to Government (January 1997); their reply has not been received (November 1997).

(c) Under the provisions of the Bombay Sales Tax Act, 1959 the State Government may, if it is necessary so to do in public interest by notification in the official gazette, exempt any specified class of sales or purchases from payment of the whole or any part of any tax payable under the provisions of the Act. As per notification issued under Section 41 of the Act, effective from 1 April 1992, the exemption from sales tax in respect of hotel sales of food and non-alcoholic drinks is admissible during the second or subsequent year of business provided the turnover of sales in the previous year had not exceeded Rs.35 lakhs. Tax is leviable at the rate of 8 *per cent* on hotel sales of food and non-alcoholic drinks.

Further, turnover tax, additional tax, interest and penalty are also leviable as per the provisions of the Act.

(i) In Mumbai, while assessing (April 1995) a hotelier for the period from 1 April 1993 to 31 March 1994, sales of Rs.5.98 lakhs were incorrectly allowed as exempt even though the dealer's taxable sales during the previous year had exceeded Rs.35 lakhs. This resulted in under-assessment of Rs.74,969 (including turnover tax short levied).

On this being pointed out (August 1996) in audit, the department revised (July 1997) the assessment order raising additional demand of Rs. 74,969. Report on recovery has not been received (November 1997).

The matter was reported to Government (July 1997); their reply has not been received (November 1997).

(ii) In Nashik, while assessing (February 1995) a hotelier for the period from 1 July 1992 to 31 March 1993, sales of Rs.4.70 lakhs during the first year were incorrectly allowed as exempt. This resulted in irregular grant of exemption of Rs.71,219 (including interest and penalty of Rs.36,155).

On this being pointed out (December 1995) in audit, the department re-assessed (October 1996) the dealer raising additional demand of Rs.71,219. The department stated (June 1997) that the dealer had filed appeal and obtained stay against recovery (March 1997). Report on developments in appeal has not been received (November 1997).

The matter was reported to Government (July 1997); their reply has not been received (November 1997).

2.5 *Incorrect grant of set-off*

(a) As per conditions laid down under Rule 45(4) of the Bombay Sales Tax Rules, 1959 set-off cannot be granted under more than one provisions. However, during the course of audit, it was noticed that in respect of four dealers in Mumbai and New Mumbai, set-off was granted under Rule 41 F and 42 I on the same purchases for various periods falling between 1 April 1991 and 31 March 1995. This was contrary to the rules and therefore resulted in excess allowance of set-off of Rs.203.14 lakhs. Further, interest of Rs.122.09 lakhs would be leviable as per the provision in the Act.

In reply the department stated that the matter is being referred to the legal wing of the Commissionerate of Sales Tax.

The matter was reported to Government (September 1997); their reply has not been received (November 1997).

(b) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules framed thereunder, a manufacturer or reseller who has paid taxes on purchase of goods specified under Schedule 'B' and 'C' appended to the Act, is entitled to set-off of taxes

paid. As per Section 42(3) of the Act, set-off would be granted if taxes on the purchases by the claimant dealer was proved to have been paid into Government Treasury.

i) In the assessments of four dealers at Mumbai for the years falling between 1990-91 and 1993-94, the assessing officers granted set-off of Rs.59.16 lakhs on purchases of Iron and Steel amounting to Rs.15.70 crores. A cross verification of these purchases with reference to the assessment records of the six selling dealers at Mumbai by audit revealed that in two cases the purchases were shown as Rs.10.42 crores whereas the selling dealers had sold goods valued at Rs.2.76 crores only. In three other cases, the selling dealers had not paid any tax on the sales of Rs.6.09 crores. In the remaining case involving sales of Rs.1.95 crores, the registration certificate number quoted by the selling dealer was allotted to some other dealer. This resulted in grant of excess set-off of Rs.59.16 lakhs.

On this being pointed out (June 1997 and July 1997) in audit, the department stated that the point would be examined. Further report has not been received. (November 1997).

ii) Similarly, a dealer in Mumbai was granted set-off of Rs.13.63 lakhs on the total purchases which included packing materials of Rs.63.75 lakhs during 1992-93 without cross verification with reference to the records of the selling dealer in Mumbai. However, a cross check by audit revealed that the selling dealer had sold packing materials worth Rs.53.80 lakhs only to the dealer. This resulted in grant of excess set-off of Rs.54,272 on the differential purchases of Rs.9.95 lakhs.

On this being pointed out (June 1997) in audit, the department stated that necessary corrective action would be taken. Report on action taken has not been received (November 1997).

The above cases were reported to Government (September 1997), their reply has not been received (November 1997).

(c) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a manufacturer who has paid taxes on the purchase of goods specified in Part II of Schedule 'C' to the Act and used them within the State in the manufacture of taxable goods for sale or export or in the packing of goods so manufactured, is allowed a set-off of taxes paid in excess of four per cent of purchase price. Where the purchase price, is inclusive of taxes, the amount of set-off is worked out according to the prescribed formula.

In view of the amendment to the Rules, with effect from 1 April 1988, where the manufacture results in production of taxable goods as well as goods other than taxable goods, then such set-off on raw material shall be apportioned between taxable goods and

goods other than taxable goods on the basis of the sale prices of such manufactured goods and shall be allowed only to the extent it pertains to taxable goods manufactured.

When the manufactured goods are transferred outside the State otherwise than by way of sale, set-off on raw material including packing material is allowed in excess of six *per cent* instead of four *per cent*.

Further, interest is leviable as per provisions of the Act.

It was noticed in audit (between February 1992 and August 1996) that in assessing (between October 1990 and March 1996) 11 dealers in different districts, excess set-off was allowed owing to various errors resulting in under-assessment of Rs.27.85 lakhs as detailed in Appendix V.

The cases were reported to Government (between February 1997 and June 1997); their reply has not been received (November 1997).

(d) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a registered dealer is entitled, with effect from 1 September 1990, to full set-off of purchase tax levied under Section 13 AA on purchase of goods covered by Part I of Schedule 'C' which are (i) used by him in the manufacture of taxable goods for sale within the State or in packing of goods so manufactured or (ii) are transferred within a period of six months from the date of purchase to his agents outside the State for sale or use in manufacture of goods for sale. If the manufactured goods include goods other than taxable goods, the set-off is admissible proportionately in respect of taxable goods. It has been judicially held² that inter-State sales as defined in Section 4(2) of the Central Sales Tax Act, 1956 refers to the sales within the country and not to export outside the country. This has further been confirmed in another case by the Supreme Court³.

Further, interest at prescribed rate is leviable under the provisions of the Act.

It was noticed in audit between July 1995 and July 1997 that in assessing (between February 1995 and August 1996) six dealers in Mumbai district, excess set-off was allowed due to various errors resulting in under-assessment of Rs.13.42 lakhs as detailed in Appendix VI.

The cases were reported to Government (May 1997 and September 1997); their reply has not been received (November 1997).

(e) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, with effect from 1 September 1990, a manufacturer is entitled to full set-off of the taxes paid or deemed to have been paid on purchase of oil seeds as specified in entry 8 of Schedule 'B' to the Act which are used in the manufacture of edible oils covered by entry 35 of Part I of Schedule 'C' to the Act, for sale by him or for export by him. Where the process of manufacturing results in the production of edible oil as well as goods other

² Batliboi and Co. vs State of Maharashtra (47 STC 321)

³ Minerals and Metals Trading Corporation Ltd., vs State of Orissa (95 STC 80)

than edible oil, set-off is to be restricted to the extent of proportion of the sale price of edible oil to the total sale price of manufactured goods.

Besides, interest is leviable as per the provisions of the Act.

In Jalgaon, in assessing (February 1995) a manufacturer of cotton seed oil and reseller of oil cakes for the period from 1 April 1991 to 31 March 1992, set-off of Rs.68,351 was allowed in full without restricting it to 41.90 *per cent* being the proportion of the sales of edible oil. This resulted in under-assessment of Rs.43,890 (including interest of Rs.13,787).

On this being pointed out (November 1995) in audit, the department re-assessed (January 1997) the dealer raising demand of Rs.43,890. The dealer has paid Rs.15,000 (January 1997) and filed appeal. Report on developments in appeal has not been received (November 1997).

The matter was reported to Government (May 1997); their reply has not been received (November 1997).

(f) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a manufacturer is entitled to full set-off of taxes paid or deemed to have been paid on purchases of goods specified in entry 29 of Part I of Schedule 'C' to the Act (non-ferrous metal) and used by him within the State in the manufacture of goods specified in the same entry (other than scrap) for sale or export by him. Where the process of manufacturing results in the production of goods specified in entry 29 of Part I of Schedule C to the Act as well as other goods, set-off is admissible proportionately to the extent of the sale price of the specified goods. Besides, interest is leviable as per the provisions of the Act.

In Mumbai, in assessing (February 1991) a manufacturer in aluminium utensils and aluminium circles, for the period from 1 January 1987 to 31 December 1987, set-off of Rs.1.27 lakhs was allowed in full instead of restricting it to 44.70 *per cent* being the sale price of the specified manufactured goods. This resulted in excess set-off of Rs.1.16 lakhs (including interest of Rs.57,910).

On this being pointed out (September 1991) in audit, the department revised (February 1997) the assessment raising additional demand of Rs.1.16 lakhs. The dealer was stated to have filed an appeal against the revision order (October 1997).

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

(g) As per provisions of Rule 43-D of the Bombay Sales Tax Rules, 1959 a dealer is entitled to set off of taxes paid on purchases of goods used in the manufacture of textile fabrics (covered by entry A-12 of the Schedule to the Act) if the goods so

manufactured are exported outside the country. Where the goods manufactured are partly exported and partly sold locally, set-off is to be restricted to the extent of the goods used in the manufacture of goods exported on the basis of sale price in accordance with the principle laid down in Rule 41-D.

In Mumbai, in the assessment of a manufacturer of textile fabrics for the period 1993-94, set-off of Rs. 27.42 lakhs was allowed on the basis of quantity of cloth exported (metres) instead of Rs. 26.61 lakhs admissible on the basis of sale price. This resulted in excess allowance of set-off of Rs. 81,069.

On this being pointed out in audit (June 1997) the department stated (June 1997) that set-off was worked out on the basis of quantity as per a tribunal judgement of 31 July 1992 for the period from 1 January 1973 to 31 December 1973. However, the tribunal's decision does not hold good as Rule 41-D has been amended with effect from 1 April 1988 providing for grant of set-off on the basis of sale price.

The matter was reported to Government (September 1997); their reply has not been received (November 1997).

2.6 *Application of incorrect rate of tax*

Under the Bombay Sales Tax Act, 1959 the rate of tax leviable on any commodity is determined with reference to the relevant entry in the schedule to the Act. Besides turnover tax, additional tax and interest are also leviable as per the provisions of the Act.

In assessing (between January 1991 and March 1996) 19 dealers in four districts, it was noticed (between October 1992 and May 1997) that due to application of incorrect rate of tax, the dealers were under-assessed to the extent of Rs.131.51 lakhs as detailed in Appendix VII.

The cases were reported to Government (between January 1997 and September 1997), their final replies have not been received (November 1997).

2.7 *Non-levy/short levy of tax*

Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, turnover of sales and purchases and the extent of tax liability thereon is determined by the assessing officer with reference to the returns furnished by the dealer and on verification of books of accounts maintained by him.. If the Commissioner is satisfied that the returns furnished by a registered dealer in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

It was noticed (between October 1995 to November 1996) in audit that , while assessing (between March 1994 and March 1996) 8 dealers, non levy/ short levy of tax was Rs.104.78 lakhs as detailed in Appendix VIII.

The cases were reported to Government (between April 1997 and June 1997); their reply has not been received (November 1997).

2.8 *Under-assessment of tax owing to failure to cross check inter-State transactions*

As per provisions of the Bombay Sales Tax Rules, 1959 manufacturing dealers are granted set off under Rule 41-D, 41 E and 41-F when manufactured goods are despatched outside the State to their branches or to commission agents on declarations in Form F or sold against C Forms or otherwise subject to proof of despatch and its accountability.

(a) In Mumbai, two dealers were allowed (September 1996 and January 1997) deductions from the turnover of sales amounting to Rs. 376.90 lakhs on account of goods consigned to their agents at Baroda (Gujarat) in the assessment for the year 1993-94. However, cross verification by audit with reference to the records of the Baroda dealers revealed that goods valued at Rs. 6.92 lakhs only were transferred. This resulted in under-assessment of Rs. 26.80 lakhs under the local Act.

(b) Similarly, another dealer in Mumbai had shown sales amounting to Rs.12.73 lakhs against 'C' forms during 1993-94 to three dealers in Gujarat. However, cross-verification by audit revealed that in two cases, no 'C' forms were issued by the Sales Tax Department of Gujarat and in the third case, the dealer did not exist. This resulted in under assessment of Rs. 1.33 lakhs at the rate of tax applicable under the local Act.

The matter was reported to the department and Government (September 1997) their replies have not been received (November 1997).

2.9 *Non-levy/short levy of purchase tax*

(a) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, with effect from 1 September 1990, where a dealer purchases any goods specified in Part I of Schedule 'C' directly or through a commission agent, from a person or Government who or which is or is not a registered dealer, there shall be levied in addition to sales tax or purchase tax paid or payable, if any, a purchase tax at the rate of two paise in the rupee on the turnover of such purchases unless the goods so purchased are resold by the dealer. Further, additional tax and interest are leviable as per the provisions of the Act.

It was noticed in audit (between October 1995 and November 1996) that while assessing (between April 1994 and January 1996) 7 dealers in 4 districts, purchase tax and consequential additional tax though leviable was not levied on purchases of goods covered

by Part I of Schedule 'C' to the Act. This resulted in under-assessment of Rs.13.94 lakhs as detailed in Appendix IX.

The cases were reported to Government (between January 1997 and June 1997); their final replies have not been received (November 1997).

(b) Under the provisions of the Bombay Sales Tax Act, 1959 where a dealer purchases any goods specified in Schedule 'B' or 'C' from a unregistered dealer, then unless the goods so purchased are resold, purchase tax is leviable on the turnover of such purchases at the rate set out against each of such goods in the Schedules to the Act. Besides, additional tax and interest are also leviable under the provisions of the Act.

In Jalgaon, a manufacturer in papain powder, PVC pipes, drip irrigation PVC components purchased latex (i.e. milk extracted from raw papaya) valued at Rs.83 lakhs during the period from July 1987 to March 1989 from unregistered dealers. Purchase tax at four per cent was levied on the purchase of latex treating it as chemical instead of at 10 *per cent*. This resulted in short levy of tax of Rs.12.27 lakhs (including interest of Rs.6.69 lakhs). In the assessment of the earlier period from July 1986 to June 1987, purchase tax levied at 10 *per cent* in the assessment order was upheld (January 1994) by the appellate authority.

On this being pointed out (August 1994) in audit, the department stated (May 1997) that the dealer had preferred an appeal before the Maharashtra State Sales Tax Tribunal against the appeal order.

The matter was reported to Government (July 1997); their reply has not been received (November 1997).

(c) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a manufacturer holding a Recognition Certificate can purchase goods specified in Part II of Schedule 'C' to the Act without payment of sales tax by furnishing a declaration in Form N-15 to the selling dealer that the goods purchased will be used within the State in the manufacture of taxable goods for sale or in packing of goods so manufactured. The purchaser is, however, liable to pay purchase tax at a concessional rate of 4 *per cent*. If the goods so purchased are used in the manufacture or packing of goods so manufactured, which are not taxable, purchase tax for contravention of recitals of declarations is leviable at the rate specified in the Schedule to the Act.

Further additional tax and interest are also leviable as per relevant provisions of the Act.

In Ahmednagar, a manufacturer of spirit and country liquor effected purchases of Rs.17.30 lakhs of molasses on Form N-15 and used the same in the manufacture of non-taxable goods during the period from 1 April 1990 to 31 March 1991. This being contravention of recitals of declaration in Form N-15, purchase tax of Rs.1.04 lakhs

though leviable was not levied in the assessment (December 1993) resulting in under-assessment of Rs.1.91 lakhs (including additional tax and interest of Rs.12,459 and Rs.74,500 respectively).

On this being pointed out (December 1994) in audit, the department re-assessed the dealer (March 1996) raising additional demand of Rs.1.91 lakhs. An amount of Rs.1.26 lakhs was recovered (between February 1996 and May 1997) and interest amounting to Rs.64,539 was waived under the Amnesty Scheme.

The matter was reported to Government (January 1997); their reply has not been received (November 1997).

(d) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, an authorised dealer can purchase goods without payment of tax by furnishing a declaration in Form N-14 to the selling dealer declaring that the goods purchased will be resold in the course of inter-State trade or commerce or in the course of export out of the territory of India or used for packing of goods meant for resale within 9 months from the date of purchase. If the goods purchased are used in manufacture or packing of goods manufactured and then exported, it amounts to contravention of recitals of declaration and the dealer is liable to pay purchase tax on the purchase price of the goods used in manufacture which were exported. Besides, additional tax and interest are leviable under the provisions of the Act.

In Mumbai, a manufacturer and exporter of readymade garments purchased packing material worth Rs.4.53 lakhs against declaration in Form N-14 during the period from 1 April 1989 to 31 March 1990 and used them in the packing of manufactured goods which were exported outside India thereby contravening the recitals of declaration. However, in the assessment (February 1993) purchase tax at the rate of 10 per cent though leviable was not levied. This resulted in under-assessment of Rs.64,444.

On this being pointed out (January 1996) in audit, the department re-assessed (February 1997) the dealer raising additional demand of Rs.64,444. The dealer had paid Rs.15,000 (May 1997) and filed an appeal against the re-assessment order. Report on developments in appeal has not been received (November 1997).

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

(e) Under the provisions of the Bombay Sales Tax Act, 1959 from July 1980, a manufacturer holding a certificate of entitlement may purchase raw material without payment of tax by furnishing a declaration in the prescribed form 'BC' to the effect that raw material so purchased shall be used in his own industrial unit for manufacture of goods for sale within the validity period of certificate of entitlement. When the condition/recitals and undertakings of such declarations are not complied with, purchase tax for

contravention of recitals of declaration is leviable at the rates specified in the Act. Besides, additional tax and interest are also leviable under the provisions of the Act.

In Chandrapur, an assessee engaged in the manufacture of cement was granted certificate of entitlement for the period from 1 February 1988 to 31 January 1991. On the date of expiry of the certificate, the assessee held material valued at Rs.82.79 lakhs in stock, of which, material worth Rs.23.94 lakhs was not raw material required for manufacture of cement and thus, attracted levy of purchase tax at the rate of 10 *per cent*. It was, however, observed (February 1995) that purchase tax at the rate of 4 *per cent* was levied. This resulted in short levy of purchase tax and additional tax of Rs.1.61 lakhs.

On this being pointed out (February 1995) in audit, the department revised the assessment (March 1996) and raised additional demand of Rs.7.46 lakhs (including interest of Rs.3.07 lakhs) covering some other stock also. Out of this, an amount of Rs.4.70 lakhs was paid (March 1996) by the assessee and rest of the amount of Rs.2.76 lakhs was waived under the Amnesty scheme.

The matter was referred to Government (May 1997); reply has not been received (November 1997).

2.10 Non-levy/short levy of turnover tax/additional tax

Under the provisions of the Bombay Sales tax Act, 1959 with effect from 13 July 1986, every dealer whose turnover of either all sales or all purchases exceeds Rs.12 lakhs in any year, shall be liable to pay turnover tax at the rate of one and a quarter *per cent* of the taxable turnover of sales of goods specified in Schedule C to the Act after allowing permissible deductions from the turnover of sales. By an amendment with effect from 17 March 1988 turnover tax is also leviable on turnover of sales effected against declaration issued under Section 12 of the Act. With effect from 1 April 1993, if the turnover either of all sales or all purchases exceeded Rs.1 crore, the rate of turnover tax applicable is one and half *per cent* of the taxable turnover.

Besides, additional tax at 15 *per cent* (12 *per cent* upto 1 March 1994) and interest are leviable as per the provisions of the Act.

It was noticed (between August 1992 and January 1997) that in respect of 11 dealers in three districts though the gross turnover exceeded the prescribed limits for levy of turnover tax/additional tax, these were not levied in the assessments (between November 1990 and March 1996). This resulted in under-assessment of Rs.16.63 lakhs as detailed in Appendix X.

The cases were reported to the Government (between March 1997 and June 1997); their final reply has not been received (November 1997).

2.11 *Incorrect determination of taxable turnover*

Under the Bombay Sales Tax Act, 1959 the gross turnover of a dealer is determined either on the basis of sales shown in the returns by him or on the basis of further evidence which the Commissioner of Sales Tax may direct to be produced or cause to be produced. The net taxable sales is determined after deducting from the gross turnover, the resales of goods purchased by the dealer from other registered dealers provided the goods are resold in the same form in which they were purchased.

Further, additional tax, turnover tax, interest and penalty are leviable as per provisions of the Act.

It was noticed in audit (between February 1994 and September 1996) that in assessing (between March 1993 and December 1995) 7 dealers in three districts, taxable turnover of sales were determined short either due to allowance of incorrect deductions, allowance of excess resale or due to incorrect computation of turnover of sales. This resulted in under-assessment of Rs.14.68 lakhs as detailed in Appendix XI.

The cases were reported to Government (between January 1997 and April 1997); their final reply has not been received (November 1997).

2.12 *Short levy/recovery of Central Sales Tax*

Under the provisions of the Central Sales Tax Act, 1956 tax on sales in the course of inter-State trade or commerce supported by valid declaration is leviable at the rate of four per cent of the sale price. Otherwise tax at twice the rate applicable to the sales inside the State in respect of declared goods and in respect of goods other than declared goods at 10 per cent or at the rate of tax applicable to the sale or purchase of such goods inside the State, whichever is higher is leviable.

Further, interest is also leviable as per the relevant provisions of the local Act.

(a) In Thane, while assessing (March 1994) a manufacturer in auto rubber goods for the period 1 April 1990 to 31 March 1991, inter-State sales of auto tubes valued at Rs.1.42 crores, not supported by prescribed declaration were subjected to tax at the rate of ten per cent instead of twelve per cent. This resulted in under-assessment of Rs.4.90 lakhs (including interest of Rs.2.05 lakhs).

On this being pointed out (February 1995), the department revised the assessment (November 1995) raising additional demand of Rs.4.90 lakhs. The dealer has filed an appeal against the re-assessment order. Report on developments in appeal has not been received (November 1997).

The matter was reported to Government (February 1997); their reply has not been received (November 1997).

(b) In Mumbai, in assessing (March 1995) a manufacturer of water treatment plants, for the period 1 April 1991 to 31 March 1992, inter-State sales worth Rs.21.66 lakhs were subjected to tax at the rate of 6 *per cent* instead of at ten *per cent*. Besides, interest of Rs.91,737 leviable, was not levied on the assessed dues of Rs.1.27 lakhs. This resulted in under-assessment of Rs.2.41 lakhs (including interest of Rs.1.78 lakhs).

On this being pointed out (August 1995) in audit, the department stated (August 1996) that the audit observation was communicated to the appellate authority for consideration. Further progress in appeal has not been received (November 1997).

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

2.13 *Non-levy of sales tax on transfer of property in goods involved in execution of works contract*

Under the provision of the Maharashtra Sales Tax on the Transfer of Property in Goods involved in the execution of Works Contract (Re-enacted) Act, 1989 and the Rules made thereunder, there shall be levied a tax at the rate specified in the Schedule, on the turnover of sales involving transfer of property in goods in the execution of works contract commenced or continued for execution on or after 1 October 1986.

Besides all the provisions relating to interest, offences and penalties of the Bombay Sales Tax Act, 1959 shall *mutatis mutandis*, apply in relation to assessment and re-assessment of tax.

It was noticed in audit (April 1994 and July 1995) that two dealers in Thane and Latur Districts were allowed (between January 1992 and January 1996) deductions under the Bombay Sales Tax Act, 1959 on account of works contract receipts in the assessments for the years from 1987-88 to 1991-92. However, no action was taken to decide their liability under the Works Contract Act. This resulted in under-assessment of Rs.4.74 lakhs.

On this being pointed out (April 1994 and July 1995) the department assessed the dealer and raised additional demand of Rs.4.74 lakhs. In one case, the dealer has gone in appeal and in the other case a sum of Rs.51,172 has been recovered leaving a balance of Rs.46,028. Further report has not been received (November 1997).

The above cases were reported to Government (March 1997 and June 1997), their reply has not been received (November 1997).

2.14 *Incorrect allowance of sales against declaration*

Under the provisions of the Bombay Sales Tax Act, 1959 and Rules made thereunder, a manufacturer holding recognition certificate can purchase goods specified in Part II of Schedule 'C' to the Act without payment of sales tax furnishing a declaration in

Form N-15 for use in the manufacture of taxable goods or packing of such goods manufactured for sale. The purchaser is, however, liable to pay purchase tax at concessional rate of 4 *per cent*.

Besides, additional tax, interest and penalty are also leviable under the provisions of the Act.

It was noticed in audit (between December 1993 and June 1996) in respect of 3 dealers in Mumbai District, that there was under-assessment of tax to the extent of Rs.4.77 lakhs as detailed below :

Sr. No.	Period of assessment	Nature of irregularity	Under- assessment including purchase tax and interest after adjustment of set-off where admissible (In lakhs of rupees)	Remarks
1.	1 April 1989 to 31 March 1990	Purchases worth Rs.17.32 lakhs were effected against declaration in Form N 15 during the period from 1 April 1989 to 13 February 1990 when the dealer was not holding recognition certificate	2.83	The department after cross verification disallowed the sales to the extent of Rs.15.21 lakhs in the assessments of ten vendors and raised additional demand of Rs.2.83 lakhs including interest and penalty. Further report on action taken in respect of balance purchases of Rs.2.11 lakhs has not been received (November 1997).
2.	1 April 1991 to 31 March 1993	Sales of gunny bags(covered by entry 25(i) of Part I of Schedule 'C' to the Act) worth Rs.17.18 lakhs were effected against declarations in Form N-15. Besides purchase tax was not	1.21	The department re-assessed (February 1996) the dealer and raised additional demand of Rs.1.21 lakhs and stated (May 1997) that the dealer had preferred an appeal after making part payment of Rs.17,500.

Sr. No.	Period of assessment	Nature of irregularity	Under- assessment including purchase tax and interest after adjustment of set-off where admissible (In lakhs of rupees)	Remarks
		levied on purchase of motor car worth Rs.70,000 from unregistered dealer		
3.	1 April 1993 to 31 March 1994	Sales of copper and nickel worth Rs.16.32 lakhs (covered by Part-I of Schedule-C) were effected against declaration in Form N-15	0.73	The department rectified (November 1996) the assessment and raised additional demand of Rs.73,105. Report on recovery has not been received (November 1997).
		Total	4.77	

The matter was reported to Government (February 1997 and March 1997); their final reply has not been received (November 1997).

2.15 *Mistake in computation of tax*

Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, dealers are required to file returns periodically and pay tax on the basis of these returns. On finalisation of the assessment, demand for the balance tax due is raised after giving credit for the tax already paid.

The Act provides for levy of interest at the rate of two per cent of the assessed dues for every month or part thereof from the first date after the end of the period for which the dealer is assessed till the date of the order of assessment.

In Pune, in assessing (March 1996) a manufacturer of medicines for the period from 1 April 1992 to 31 March 1993, the dealer was afforded credit of Rs.2 lakhs against the payment of Rs.20,000 for the month of January 1993. This resulted in under-assessment of Rs.3.55 lakhs (including interest of Rs.1.75 lakhs).

On this being pointed out (August 1996) in audit, the department rectified the mistake (September 1996) raising additional demand of Rs.3.55 lakhs. The dealer has paid Rs 1 lakh and filed appeal. Report on developments in appeal has not been received (November 1997).

The matter was reported to Government (January 1997); their reply has not been received (November 1997).

2.16 *Non-levy of sales tax on transfer of right to use any goods for any purpose*

Under the provisions of the Maharashtra Sales Tax on Transfer of Right to use any goods for any purpose Act, 1985 and the Rules made thereunder, there shall be levied with effect from 1 October 1986, a tax at the rate of 4 paise in a rupee on turnover of sales on transfer of right to use plant and machinery.

The Act also provides that every dealer whose turnover of sales during any year, commencing from 1 April of that year exceeds Rs.50,000 shall be liable to pay tax until such liability ceases and every dealer liable to pay tax shall apply for a registration certificate under the Act.

All the provisions relating to interest, offences and penalties of the Bombay Sales Tax Act shall, apply in relation to assessment, re-assessment and revision of tax.

In Mumbai, a manufacturer of ball pens and parts thereof received hire charges of Rs.10.05 lakhs during the period from 1 July 1987 to 31 March 1991 for leasing his machinery. Similarly, the dealer had paid hire charges of Rs.18,875 per month for the period from 1 July 1986 to 31 March 1990 and Rs.26,425 per month from 1 April 1990 onwards for having received a machine on hire. As the dealer was not registered under the Act, the department was asked to examine the liability to pay tax by the dealer as well as the dealer from whom machinery was taken on hire.

On this being pointed out (November 1995) in audit, the department assessed (March 1996) both the dealers raising demands aggregating Rs.2.33 lakhs (including interest/penalty of Rs.1.41 lakhs). The appellate authority reduced (April 1997) the demand to Rs 1.48 lakhs (including interest/penalty of Rs 62596) and held that demand of Rs 21303 (including interest/penalty of Rs 14573) in respect of one assessee for the period from 1 July 1986 to 30 June 1987 was bad in law as it was barred by limitation. The dealer had paid Rs 50000 and report on recovery of the balance amount has not been received(November 1997).

The matter was reported to Government (July 1997); their reply has not been received (November 1997).

2.17 *Irregular grant of refund*

Under the provisions of the Bombay Sales Tax Act, 1959 a dealer who has not collected tax separately may, reimburse to himself to the extent of tax liability included in the sale price and accordingly claim reduction from the sale price shown in the returns filed by him. However, if subsequently it is noticed that he is liable to pay tax less than the amount of tax reimbursed, then such excess amounts except for the amounts refunded to the purchasers net of charges shall be forfeited and transferred to the Consumer Protection and Guidance Fund.

It was noticed (August 1996) in audit that while assessing (between May 1995 and October 1995) two dealers in Sangli District, excess payments of tax amounting to Rs.1.57 lakhs was erroneously refunded instead of being forfeited.

On this being pointed out (August 1996) the department agreed (March 1997) to take necessary action. Further report has not been received. (November 1997).

The above cases were reported to Government (May and June 1997); their reply has not been received (November 1997).

2.18 *Grant of excess credit*

Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, an eligible industrial unit can defer its sales tax liability under the package schemes of incentives. However, the quantum of deferment shall be restricted to the amount shown in the voucher in Form N-25-A issued in the name of the eligible industrial unit by the implementing agencies certifying the amount of sales tax incentive admissible and indicating thereunder the period for which such deferral was permissible. The voucher is to be attached with the return for the period to which it relates.

In Satara, while assessing (November 1993) a reseller in food grains and manufacturer of oil for the period from 23 October 1987 to 31 March 1989, credit of Rs.50,035 was allowed in the assessment order even though no vouchers were enclosed with the returns. This resulted in excess credit of Rs.50,035.

On this being pointed out (December 1994) in audit, the department revised (February 1996) the assessment and raised additional demand of Rs.1.03 lakhs (including interest of Rs.53,111). Report on recovery has not been received (November 1997).

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

2.19 *Non-levy of penalty*

Under the provisions of the Bombay Sales Tax Act, 1959, if a dealer does not pay the tax due alongwith the returns by the prescribed date, penalty was leviable (upto 21 April 1987) at the prescribed rate after affording the dealer an opportunity of being heard. Penalty was also leviable if a dealer concealed the particulars of any transaction liable to tax or did not furnish any return. If the amount of tax paid by the dealer is found to be less than 80 *per cent* of the amount of tax assessed, re-assessed or found due on revision of the assessment, he was deemed to have concealed the turnover or knowingly furnished inaccurate particulars of turnover liable to tax and penalty not exceeding one and one half times the amount of tax due was leviable.

In Solapur, while assessing (December 1989) a manufacturer of yarn for the period from 1 July 1985 to 30 June 1986, no action was taken to levy penalty for delayed payments and for deemed concealment of turnover.

On this being pointed out (July 1991) in audit, the assessing officer levied (November 1995) penalties aggregating Rs.4.28 lakhs. Report on recovery has not been received (November 1997).

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

2.20 *Loss of revenue due to remedial action being time barred*

Under the provisions of the Bombay Sales Tax Act, 1959 the assessing officer can rectify the mistake(s) in assessment apparent from record within a period of two years from the date of assessment after affording the dealer an opportunity of being heard. Similarly, an assessing officer can proceed to reassess a dealer within a period of 8 years from the end of the assessment year in case of concealment and 5 years in other cases.

The higher authorities are empowered under the Act, to call for and examine the records of any order passed by assessing officer and pass such order thereon as they think just and proper. No order under these provisions can be passed without serving a notice on the dealer within a period of 3 years from the date of communication of the order sought to be revised and no order of revision shall be passed after expiry of 5 years from such date.

During test check of assessment records in various units (between August 1991 and March 1995) relating to periods falling between April 1986 and March 1990, under-assessment of taxes on account of excess allowance of set-off, non-levy of purchase tax, forfeiture of excess tax collection and interest etc., aggregating to Rs.1.12 lakhs in 10 cases were noticed.

On this being pointed out (between August 1991 and March 1995) in audit, the department stated (between November 1995 and May 1997) that remedial action was barred by limitation.

Failure to initiate action immediately after the omissions were brought to the notice of the department resulted in loss of revenue of Rs.1.12 lakhs (including interest of Rs.19,817).

The matter was reported to Government (July 1997); their reply has not been received (November 1997).

CHAPTER 3

STATE EXCISE

3.1 *Results of audit*

Test check of records relating to State Excise conducted during the year 1996-97 revealed short levy of excise duty, licence fee etc., amounting to Rs.44.81 lakhs in 332 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/short levy of excise duty	22	16.26
2. Short recovery of licence fee/ privilege fee	136	14.96
3. Non-recovery/short recovery of supervision charges/bonus	138	12.23
4. Other irregularities	36	1.36
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Total	332	44.81
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During the course of the year 1996-97, the department accepted under-assessment etc., in 414 cases involving Rs.46.72 lakhs, of which 212 cases involving Rs.18.98 lakhs had been pointed out in audit during 1996-97 and rest in earlier years and recovered Rs.7.99 lakhs. A few illustrative cases noticed during 1996-97 and in earlier years involving Rs.5.01 lakhs are given in the following paragraphs.

3.2 *Short recovery of licence fee*

The Government of Maharashtra, Home Department vide their notification dated 16 March 1993 revised the licence fee for the year 1993-94 for various licences issued under the Bombay Prohibition Act, 1949 such as licence in the form Foreign Liquor I, II, III, Country Liquor I, II, III, Potable Liquor and Form E(Beer Bar). The Government while granting stay (March 1993) for recovery of licence fee at revised rates, directed to

recover licence fee at old rates, in respect of renewal of all the licences except Country Liquor I and Potable Liquor licences. The stay was vacated with effect from 8 February 1994 whereby licence fee at revised rates became recoverable. The Commissioner of State Excise clarified (February 1994) that the difference in licence fee payable should be recovered before 31 December 1994 from licensees applying for renewal of licences for the year 1994-95 and before 31 March 1994 in respect of licences surrendered/not renewed.

It was noticed in audit (December 1995) that in Thane district in respect of 8 licences which were either granted/renewed in 1993-94 and 1994-95, licence fee was recovered at the pre-revised rate instead of revised rate resulting in short recovery of Rs.2.45 lakhs as detailed below :

Sr No.	Nature of licence (Period)	Number of licensees	Licence fee recovered short (In lakhs of rupees)	Remarks
1	FL-I (1993-94)	3	1.50	The department confirmed (July 1996) the short recovery and recovered Rs.1.29 lakhs (August 1997 and September 1997).Report on recovery of the balance amount has not been received (November 1997)
2	FL III (1993-94)	5	0.95	The department recovered (between December 1995 and August 1997) Rs.85,000 from five licensees. Report on recovery of the balance amount has not been received (November 1997)
Total			2.45	

These cases were reported to Government (between April 1997 and June 1997); their reply has not been received (November 1997).

3.3 Short recovery of privilege fee

Under the provisions of Bombay Prohibition (Privilege Fee) Rules, 1954, the fee payable by any licensee for the privilege of having the transfer of his licence from one name to another or from proprietorship to partnership, shall be the same as the fee

chargeable for the grant, renewal or continuance of the licence whichever is higher. In March 1993 the Government of Maharashtra revised the rates for various licences.

In 3 districts in 12 cases, for transfer of a licence from one name to another or conversion of proprietary concerns into partnership, privilege fees were recovered at pre-revised rate or at the rate prescribed for renewal of licence which was less, resulting in short recovery of privilege fee of Rs.2.56 lakhs as detailed below :

Sr. No.	District	No. of licences	Nature of Privilege (Year)	Privilege fee recoverable	Privilege fee recovered	Short recovery of privilege fee	Remarks
				(In lakhs of rupees)			
1.	Thane	1	Transfer of PLL licence from one distillery to another (1994-95)	1.50	0.50	1.00	The department recovered (November 1996) the entire amount
2.	Mumbai	5	Change in entity i.e. from proprietorship to partnership in respect of CL III licence (1994-95)	3.00	2.00	1.00	The department recovered (January 1997 and March 1997) Rs.80,000. Report on recovery of the balance amount has not been received (November 1997)
3.	Aurangabad	6	Change in entity i.e. from proprietorship to partnership in respect of C.L. III licence	0.84	0.28	0.56	The department recovered (between October 1995 and March 1996) Rs.36,000. Report on recovery of the balance amount has not been received (November 1997)
Total				5.34	2.78	2.56	

The matter was reported to Government (May 1997); their reply has not been received (November 1997).

CHAPTER 4

LAND REVENUE

4.1 Results of Audit

Test check of the records of land revenue conducted during the year 1996-97 revealed under-assessment/short levy/non-levy of tax/ loss of revenue etc., amounting to Rs.9951.90 lakhs in 884 cases which broadly fall under the following categories :

Category	No. of Cases	Amount (in lakhs of rupees)
Non-levy/short levy of non-agricultural assessment/conversion tax/ incorrect revision	801	9609.51
Non-levy/short levy of occupancy price etc	20	236.85
Short levy of measurement fee, compensation, application transfer fee	46	94.35
Non-levy/short levy of increase of land revenue	14	10.96
Non-levy/short levy of cess	03	0.23
Total	884	9951.90

During the course of the year 1996-97, the department accepted under-assessment of Rs.493.94 lakhs involved in 751 cases, of which, 21 cases involving Rs.5.76 lakhs had been pointed out in audit during 1996-97 and the rest of the cases in earlier years. An amount of Rs.523.06 lakhs was recovered at the instance of audit.

A few illustrative cases highlighting important audit observations noticed during 1996-97 and in earlier years involving Rs.125.63 lakhs are mentioned in the following paragraphs :

4.2 *Non-levy/short levy of non-agricultural assessment, increase of land revenue and conversion tax*

Under the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the use of land such as agricultural, residential, industrial, commercial or any other purpose. Further, under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974, with effect from 1 August 1975, Increase of Land Revenue (ILR) is also payable at 50 *per cent* of land revenue by persons holding land of 8 hectares and above but less than 12 hectares and at 100 *per cent* by persons holding land of 12 hectares and above. In cases where such lands are situated in the area of Municipal Corporations and Municipal councils (A and B classes only) or any peripheral area thereof, conversion tax equal to three times of the amount of non-agricultural assessment is also leviable when permission for non-agricultural use or change of use of land is granted or unauthorised non-agricultural use is regularised under the Maharashtra Land Revenue (Amendment) Act, 1979. Similarly, under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and Bombay Village Panchayat Act, 1958, cess at prescribed rate is also leviable in the areas covered by the Acts.

(a) In four tahsils, land measuring 185900 square metres situated within the limits of municipal councils/corporations was put to commercial use. The land was, however, not assessed to land revenue for non-agricultural use. This resulted in non-realisation of Rs.37.71 lakhs as detailed below :

Name of tahsil and district	Area of land (In square metres)	Period of use	Non-levy/short levy of			Total

			NAA	ILR	Conversion tax	
(In lakhs of rupees)						
Miraj (Sangli)	128400	1979-80 to 1996-97	8.39	8.39	1.40	18.18
Pandharpur (Solapur)	25700	1979-80 to 1996-97	7.23	7.22	1.20	15.65
Nasik	15800	1988-89 to 1995-96	1.11	1.11	0.42	2.64
Pachora (Jalgaon)	16000	1983-84 to 1996-97	1.02	Nil	0.22	1.24
Total			----- 17.75	----- 16.72	----- 3.24	----- 37.71

On this being pointed out (between September 1991 and April 1997) in audit, the department recovered Rs.0.80 lakh (January 1992). Report on recovery of the balance amount has not been received (November 1997).

The matter was referred to Government (between October 1991 and May 1997); their reply has not been received (November 1997).

(b) In three tahsils, land measuring 71338 square metres was put to non-agricultural (commercial) use, but non-agricultural assessment, increase of land revenue and cess were either not levied or levied short. This resulted in non-realisation of revenue amounting to Rs.21.33 lakhs (including ILR Rs.8.25 lakhs and cess Rs.4.82 lakhs) as detailed below :

Name of tahsil and district	Area of land (In square metres)	Period of use	Non-levy/short levy of			Total

			NAA	ILR	Cess	
(In lakhs of rupees)						
Kandhar (Nanded)	28000	1988-89 to 1995-96	4.85	4.85	Nil	09.70
Niphad (Nasik)	25714	1979-80 to 1996-97	1.45	1.45	4.82	07.72
Kinwat (Nanded)	17624	1980-81 to 1996-97	1.96	1.95	Nil	03.91
TOTAL			----- 8.26	----- 8.25	----- 4.82	----- 21.33

On this being pointed out (between September 1994 and November 1995) in audit, the department recovered Rs.5.64 lakhs (between June 1996 and February 1997). Report on recovery of the balance amount has not been received (November 1997).

The matter was referred to Government (between September 1994 and March 1997); their reply has not been received (November 1997).

(c) In three tahsils, land measuring 2176300 square metres was put to non-agricultural (industrial) use (in one case without obtaining prior permission). However, non-agricultural assessment, increase of land revenue, cess and fine were not levied. This resulted in non-realisation of revenue of Rs.14.06 lakhs as detailed below :

Name of tahsil and district	Area of land (In square metres)	Period of use	Non-levy/short levy of			Total

			NAA	ILR	Cess	
(In lakhs of rupees)						
Shrirampur (Ahmednagar)	1193700	1976-77 to 1991-92	1.79	1.79	3.58	7.16
Yavatmal	672700	1990-91 to 1996-97	0.74	0.74	4.42 ⁴	5.90
Saoner (Nagpur)	309900	1992-93 to 1996-97	Nil	0.69	0.31	1.00
Total			----- 2.53	----- 3.22	----- 8.31	----- 14.06

On this being pointed out (between May 1993 and March 1997) in audit, the department recovered Rs.7.26 lakhs (between March 1995 and December 1996). Report on recovery of the balance amount has not been received (November 1997).

The matter was referred to Government (between May 1993 and May 1997); their reply has not been received (November 1997).

(d) In four tahsils, land measuring 914400 square metres was put to non-agricultural (commercial and industrial) use. However, it was not assessed to land revenue for non-agricultural use. This resulted in non-realisation of Rs.8.74 lakhs as detailed below :

Name of tahsil and district	Area of land (In square metres)	Period of use	Non-levy/short levy of			Total

			NAA	ILR	Cess	
(In lakhs of rupees)						
Majalgaon (Beed)	507100	1991-92 to 1995-96	1.62	Nil	1.19	2.81

⁴ Including fine of Rs.0.20 lakh

Name of tahsil and district	Area of land (In square metres)	Period of use	Non-levy/short levy of			Total

			NAA	ILR	Cess	
(In lakhs of rupees)						
Satara	20400	1981-82 to 1991-92	0.55	0.55	1.20	2.30
Basmat ⁵ (Parbhani)	16000	1979-80 to 1994-95	1.09	1.09	Nil	2.18
Shahada (Dhulia)	370900	1990-91 to 1992-93	0.33	0.33	0.79	1.45
Total			----- 3.59	----- 1.97	----- 3.18	----- 8.74

On this being pointed out (between January 1993 and February 1996) in audit, the department recovered the entire amount between August 1993 and June 1997.

The matter was referred to Government (between January 1993 and May 1997); their reply has not been received (November 1997).

4.3 *Erroneous revision of non-agricultural assessment*

Under the Maharashtra Land Revenue Code, 1966, the assessment of land revenue for use of land for non-agricultural purpose remains in force for the guarantee period, if any, mentioned in the assessment order or sanad. Thereafter, the land revenue is liable to be revised in accordance with the standard rates of non-agricultural assessment notified in the gazette from time to time. The revised assessment, however, should not exceed two times the amount of land revenue payable immediately before revision, if the land was used for residential purpose and should not exceed six times the amount of land revenue payable if the land was used for any other non-agricultural purposes. Besides, Increase of Land Revenue as per the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 and cess as per the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and Bombay Village Panchayat Act, 1958 is also leviable in the areas covered by the Acts.

(a) In Pathri tahsil (Parbhani District) land measuring 19800 square metres and

⁵ Commercial use

21750 square metres in urban villages Manwat and Pathri, respectively, was put to commercial use from November 1970 by Maharashtra State Electricity Board. In June 1981, the rates of non-agricultural assessment were revised retrospectively from August 1979. However, during the revision of the non-agricultural assessment, land revenue was erroneously revised to the land revenue applicable to the land used for residential purpose. This resulted in short realisation of revenue of Rs.3.67 lakhs for the period from 1979-80 to 1996-97.

On this being pointed out (October 1993) in audit, the department raised (October 1993) a demand for Rs.2.85 lakhs for the dues for the period ending 1992-93, of which, Rs.2.11 lakhs had been recovered (July 1996). Report on the recovery of balance amount and raising of demand for the period from 1993-94 to 1996-97 has not been received (November 1997).

The matter was referred to Government (March 1997)); their reply has not been received (November 1997).

(b) In Kamptee tahsil (Nagpur District), land measuring 1867800 square metres situated in village Khasala was acquired (March 1988) and handed over in June 1988 to Maharashtra State Electricity Board for commercial use. The land revenue for commercial use of the land was, therefore, leviable from December 1988. It was, however, observed (May 1994) in audit that the land was assessed to land revenue from August 1989 instead of from December 1988. This resulted in non-realisation of revenue of Rs.1.38 lakhs (including ILR Rs.37356 and cess Rs.63505) for the year 1988-89.

On this being pointed out (June 1994) in audit, the department revised (December 1995) the assessment and recovered (February 1996) the entire amount short levied.

The matter was referred to Government (April 1997); their reply has not been received (November 1997).

(c) In Mukhed tahsil (Nanded District), land measuring 16700 square metres situated within municipal council limits of Mukhed was under the use of Maharashtra State Electricity Board for commercial purpose from 1976. However, the land was erroneously assessed to land revenue at the rate applicable to the land used for residential purpose. The incorrect application of rate resulted in short realisation of revenue of Rs.1.15 lakhs (including ILR Rs.57507) for the period from 1976-77 to 1996-97.

On this being pointed out (December 1993), the department raised demand (June 1994) for Rs.92038 for the period upto 1992-93. Out of this demand, Rs.45051 had been recovered (November 1995). Report on the recovery of the balance amount of Rs.69963 has not been received (November 1997).

The matter was referred to Government (April 1997); their reply has not been received (November 1997).

4.4 Non-revision of non-agricultural assessment

Under the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the purpose for which the land is used such as agricultural, residential, industrial, commercial or any other purpose. Further, the assessment or re-assessment of non-agricultural land remains in force during the guarantee period, if any, mentioned in the assessment order or sanad. Thereafter, the land revenue is liable to be revised in accordance with the standard rates of non-agricultural assessment notified in the Gazette from time to time. Besides, increase of land revenue as per the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 and cess as per the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and Bombay Village Panchayat Act, 1958 is also leviable in the areas covered by the Acts.

(a) In three tahsils, land measuring 163917 square metres was put to non-agricultural (commercial and industrial) use between August 1971 and August 1989 for which the non-agricultural assessment was guaranteed upto 31 July 1979 (one case) and July 1991 (3 cases). From 1 August 1979 and 1 August 1991, the rates of non-agricultural assessment were revised. However, the non-agricultural assessment was not revised after expiry of guarantee periods. This resulted in short realisation of land revenue of Rs.33.24 lakhs (including ILR Rs.4.46 lakhs and cess Rs.23.45 lakhs) as detailed below:

Name of tahsil and district	Area of land (In square metres)	Period of use	Non-levy/short levy of			Total

			NAA	ILR	Cess	
(In lakhs of rupees)						
Koregaon (Satara)	48970	1991-92 to 1996-97	3.83	3.59	23.45	30.87
Majalgaon (Beed)	6258	1979-80 to 1995-96	0.83	0.53	Nil	1.36
Achalpur ⁶ (Amravati)	108689	1991-92 to 1995-96	0.67	0.34	Nil	1.01
Total			----- 5.33	----- 4.46	----- 23.45	----- 33.24

On this being pointed out (December 1995 and September 1996) in audit, the department recovered Rs.5000 (August 1996). Further report on recovery of balance

⁶ Industrial use

amount has not been received (November 1997).

The matter was referred to Government (April 1997 and May 1997); their reply has not been received (November 1997).

(b) In Rahuri tahsil (Ahmednagar District), land measuring 79218 square metres situated in Deolali urban village within municipal limit of Rahuri was put to commercial use from August 1957 by a co-operative sugar factory. The non-agricultural assessment was guaranteed upto 31 July 1985. Meanwhile, the area was included (September 1983) in the urban area and the standard rate of non-agricultural assessment was also revised (September 1984). It was observed (September 1993) during audit that after expiry of guarantee period on 1 August 1985, the non-agricultural assessment was not revised which resulted in short realisation of revenue of Rs.1.50 lakhs (including increase of land revenue of Rs.75210) for the period from 1985-86 to 1993-94.

On this being pointed out (October 1993) in audit, the department recovered the entire outstanding amount in March 1994.

The matter was referred to Government (April 1997); their reply has not been received (November 1997).

(c) In Majalgaon tahsil (Beed District), three pieces of land measuring 20948 square metres situated within the limits of municipal council, Majalgaon were put to commercial use from 1971-72. In April 1983 and May 1995, the rates of non-agricultural assessment were revised with retrospective effect from 1 August 1979 and 1 August 1991 respectively but the non-agricultural assessment in these cases was not revised. This resulted in short realisation of revenue of Rs.1.85 lakhs for the period from 1979-80 to 1995-96.

On this being pointed out (December 1995) in audit, the department recovered the entire amount between December 1995 and August 1996.

The matter was referred to Government (May 1997); their reply has not been received (November 1997).

4.5 *Non-levy of land revenue and cess due to failure in making entries in basic records*

Registers of non-agricultural lands in Taluka Form II and in Village Form II are basic records and entries made therein form the basis for assessing land revenue for raising demand for non-agricultural assessment. Failure to make entries in the forms could result in non-recovery of non-agricultural assessment.

In Karad tahsil (Satara District), in respect of a piece of land measuring 1100 square metres situated within the revenue village of Malkapur, permission for industrial use of land was granted by revenue authorities in March 1995 and the non-agricultural use of land started from August 1995. But the orders conveying the permission were not recorded in the relevant records i.e. Taluka Form II and Village Form II. This resulted in non raising and consequent non-levy of land revenue of Rs.1 lakh (including Zilla Parishad and Village Panchayat cess of Rs.88498) for the years 1995-96 and 1996-97.

On this being pointed out (June 1996) in audit, the department raised (January 1997) demand for recovery of the amount. Further report on recovery has not been received (November 1997).

The matter was referred to Government (March 1997); their reply has not been received (November 1997).

CHAPTER 5

TAXES ON MOTOR VEHICLES

5.1 *Result of audit*

Test check of records relating to assessment and collection of Motor Vehicles Tax, Further Tax and Passengers Tax conducted in audit during the year 1996-97 revealed short levy of taxes amounting to Rs.77.50 lakhs in 1655 cases, which broadly fall under the following categories :

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short levy of motor vehicles tax, further tax and passenger tax	947	57.81
2. Other irregularities	708	19.69
	-----	-----
Total	1655	77.50
	-----	-----

During the course of the year 1996-97, the department accepted under-assessment etc., in 837 cases involving Rs.26.56 lakhs of which 238 cases involving Rs.11.92 lakhs had been pointed out during 1996-97 and the rest in earlier years and recovered Rs.13.56 lakhs. A few illustrative cases noticed during 1996-97 and in earlier years involving Rs.26.07 lakhs are given in the following paragraphs.

5.2 *Non-recovery of tax*

Under the Bombay Motor Vehicles Tax Act, 1958 and the Rules made thereunder, road tax at the prescribed rate is leviable on all vehicles used or kept for use in the State. The Act further provides that the tax leviable shall be paid in advance by the registered owner of the vehicle. In the case of goods vehicles, "Further Tax" (Goods Tax) was also leviable upto August 1991 in addition to road tax. Interest at the rate of 2 per cent of the amount of tax for each month or part thereof is payable in case the tax due is not paid before the prescribed date. The departmental manual provides that demand notices should be issued in each case of default in payment of tax.

It was noticed (between October 1995 and August 1996) in audit that in respect of 389 vehicles registered in different districts, neither the tax amounting to Rs.25.68 lakhs and interest thereon was paid by the owners nor any demand notices were issued by the department for the various periods falling between June 1985 and February 1997 as detailed in Appendix XII.

All the cases were reported to Government (between January 1997 and June 1997); their reply has not been received.(November 1997).

5.3 *Incorrect grant of exemption from payment of tax*

Under the Bombay Motor Vehicles Tax Act, 1958 and the notification issued thereunder in July 1989, motor vehicles taken on contract by school authorities and used exclusively as school bus are exempt from payment of tax to the extent of 2/3 rd of the annual rate of tax.

In Pune, it was noticed (June 1996) in audit that in respect of a motor vehicle taken on contract by Maharashtra State Electricity Board, exemption to the extent of 2/3rd of the tax was wrongly allowed. This resulted in short recovery of Rs 38,982 for the period from September 1991 to April 1996.

On this being pointed out (June 1996) in audit, the department issued (June 1996) demand notice for Rs.38,982. Report on recovery has not been received (November 1997).

The matter was reported to Government (June 1997); their reply has not been received (November 1997).

CHAPTER 6

STAMP DUTY AND REGISTRATION FEES

6.1 *Results of Audit*

Test check of the records of Stamp Duty and Registration Fees conducted during the year 1996-97 revealed under-assessment/short levy/non-levy of duty/fees, loss of revenue etc., amounting to Rs.242.22 lakhs in 1130 cases which broadly fall under the following categories:

Category	No. of cases	Amount (in lakhs of rupees)
Incorrect grant of exemption from duty and fees	883	138.16
Short levy due to mis-classification of documents	88	66.55
Short levy due to under valuation of property	55	15.19
Non-levy of stamp duty and registration fees on instruments executed by co-operative societies	6	4.44
Other irregularities	98	17.88
Total	1130	242.22

During the year 1996-97, the department accepted and recovered under-assessments, short levy etc., amounting to Rs.4.86 lakhs in 12 cases pertaining to objections raised during earlier years.

A few illustrative cases highlighting important audit observations noticed during 1996-97 and in earlier years involving Rs.52.57 lakhs are given in the following paragraphs :

6.2 *Short levy of stamp duty due to mis-classification of documents*

According to Explanation I below Article 25 of Schedule I to the Bombay Stamp Act, 1958, effective from 10 December 1985, an agreement to sell an immovable property, the possession of which is transferred to the purchaser before the execution or at the time of execution of such agreement or after the execution of such agreement without executing the conveyance in respect thereof, shall be deemed to be a conveyance deed and

ERRATA

to the

Report of the Comptroller and Auditor General of India on Revenue Receipts for the year ended 31 March 1997 (No. 1)-- Government of Maharashtra.

Sr. No.	Reference Page/Para	Line	For	Read
(1)	(2)	(3)	(4)	(5)
1.	iii/Overview	2nd from top	xiii-xix	xiii-xvii
2.	vi/contents Chapter 7 Section-A Repair Cess	8th from bottom	Bombay Building Repairs and Reconstruction Cess	Review on Bombay Building Repairs and Reconstruction Cess.
3.	3/1.1(a)	Chart-II Caption	Growth of tax Revenue.....	Growth of Tax Revenue (In Crores of Rupees)
4.	8/1.1(c)	Chart-IV Caption	State's share of dividend.....	State's share of Crores of Rupees)
5.	9/1.1(d)	Chart-V Caption	Grants-in-aid	Grants-in-aid.....(In Crores of Rupees)
6.	13/1.5	Sr.No. 8(d)	Luxury tax (Re-enacted)	Luxury tax
7.	39/2.5(b)	Last line	Schedule 'B' and 'C' appended to the Act.	Schedule 'B' and 'C' to the Act.
8.	59/4.1	5th line from bottom	and the rest of the cases in the earlier years	and the rest in earlier years
9.	121/ Appendix-ix	Mumbai District Sr.1 (Remarks Column) 2nd line	(May 1997) the assessment additional demand of	(May 1997) the assessment raising additional demand of.

stamp duty thereon shall be levied accordingly.

In seven registering offices, 78 instruments executed between 1987 and 1995, which were related to conveying of rights, title and interest in immovable properties for consideration of Rs.442.96 lakhs, were chargeable with stamp duty at the rates applicable to conveyance deed but were erroneously charged with stamp duty applicable to 'agreement to sell'. This resulted in short levy of stamp duty amounting to Rs.21.11 lakhs as detailed below:

Sub-Registry	Number of documents	Year of registration	Consideration (in lakhs of rupees)	Short levy of stamp duty
Mumbai(S Series)	52	1988 to 1991	180.79	8.55
Bandra IV (Mumbai)	13	1987	37.29	3.40
Thane II	1	1995	96.00	2.88
Mumbai(Bom Series)	5	1988	33.22	2.49
Wardha	1	1992	80.00	2.40
Haveli III(Pune)	2	1991	10.50	1.05
Haveli I (Pune)	4	1989 to 1991	5.16	0.34
	---		-----	-----
Total	78		442.96	21.11
	---		-----	-----

On this being pointed out (between September 1992 and June 1996) in audit, the Inspector General of Registration recovered (between September 1996 and February 1997) Rs.3.29 lakhs. Further report on recovery of balance amount has not been received (November 1997).

The matter was referred to Government (between February 1993 and June 1997);their reply has not been received (November 1997).

6.3 Short levy of stamp duty due to undervaluation of properties

Under the Bombay Stamp Act, 1958 stamp duty leviable on an instrument of conveyance is to be based on the market value of property which is subject matter of conveyance. Under Section 32(A)(2), if a registering officer has reasons to believe that the market value has not been truly set-forth in the instrument, he may refer it to the Collector of Stamps for determination of the true market value.

In three registering offices, on 28 instruments of conveyance registered between 1991 and 1995, the stamp duty was levied on the consideration set-forth in the instruments instead of the true market value of the properties. This resulted in short levy of stamp duty of Rs.10.74 lakhs as detailed below :

Sub-Registry	Number of documents	Year of registration	Market value	Short levy of stamp duty
			(in lakhs of rupees)	
Kalmeshwar (Nagpur)	7	1994 and 1995	160.48	5.78
Wai(Satara)	20	1994	31.32	3.59
Nandurbar(Dhulia)	1	1991	33.51	1.37
Total	28		225.31	10.74

On this being pointed out (between April 1995 and May 1996) in audit, the Inspector General of Registration directed (between May 1996 and April 1997) the Sub Registrars concerned to get the true market value of the properties determined and recover the stamp duty levied short. Further report has not been received (November 1997).

The matter was referred to Government (between April 1995 and June 1997); their reply has not been received (November 1997).

6.4 Incorrect exemption on conveyance of non-residential premises

As per Explanation 2 (ii) below Article 25 (d) of Schedule I to the Bombay Stamp Act, 1958 in respect of conveyance of premises consisting of units used for both residential and non-residential purposes executed by or in favour of a co-operative housing society, concession in stamp duty shall be available in respect of value of those units which are used for residential purposes only. Duty payable in respect of units used for non-residential purpose shall be leviable on the value of such units at the rates specified in clause (b) and (c) of the Schedule.

In Sub-Registry Thane, two conveyance deeds in respect of two buildings having residential and non-residential units were executed in favour of a co-operative housing society in June 1988 for a total consideration of Rs.69.31 lakhs, of which, the value of non-residential component was Rs.36.44 lakhs. Stamp duty on the non-residential component of the building was, however, totally exempted which resulted in irregular remission of stamp duty and registration fees of Rs.3.74 lakhs.

On this being pointed out (March 1994) in audit, the Inspector General of Registration directed (March 1995) the Sub-Registrar to initiate action for recovery. Further report on recovery has not been received (November 1997).

The matter was referred to Government (between March 1994 and March 1997); their reply has not been received (November 1997).

6.5 *Erroneous remission to industrial concerns*

By a notification issued in March 1990, Government remitted stamp duty and registration fees payable on instruments of mortgage deed relating to loans advanced by specified financial agencies to meet expenditure on purchase of fixed assets such as machinery, land and building for starting or expanding an industrial undertaking or small scale industrial unit in the areas and the period specified in the notification.

In three registering offices (Erandol, Jalgaon and Mukhed), 3 mortgage deeds pertaining to loans aggregating Rs.74.25 lakhs executed between the period 1991 and 1992 were erroneously remitted from payment of duty and registration fees amounting to Rs.2.01 lakhs, although they were not eligible for remission.

On this being pointed out (between October 1993 and February 1995) in audit, the Inspector General of Registration directed (between March 1994 and April 1997) the Sub-Registrars concerned to initiate action for recovery. Further report has not been received (November 1997).

The matter was referred to Government (between October 1993 and June 1997); their reply has not been received (November 1997).

6.6 *Short levy of stamp duty and registration fees on mortgage deeds*

Under Section 2(P) of the Bombay Stamp Act, 1958, an instrument of mortgage is defined as any instrument, whereby, for the purpose of securing money advanced or to be advanced by way of loan, an existing or future debt or the performance of an agreement, one person transfers or creates to or in favour of another, a right over or in respect of a specified property, such instrument shall be treated as mortgage deed and the stamp duty levied accordingly.

In three registering offices, three instruments transferring the rights over the properties for securing repayment of loan of Rs.80 lakhs were registered between 1988 and 1991. However, the stamp duty was levied as applicable to 'security bond' instead of 'mortgage deed'. This resulted in short levy of stamp duty and registration fees of Rs.1.65 lakhs as detailed below:

Sub-Registry	Number of documents	Year of registration	Consideration (in lakhs of rupees)	Short levy of stamp duty
Haveli I (Pune)	1	1991	45.00	0.90
Mumbai (S Series)	1	1988	20.00	0.40
Nagpur (City)	1	1991	15.00	0.35 ⁷
	--		-----	-----
Total	3		80.00	1.65
	--		-----	-----

On this being pointed out (between October 1992 and November 1992) in audit, the Inspector General of Registration directed (between November 1993 and February 1995) the Sub-Registrars concerned to initiate action for recovery. Further report has not been received (November 1997).

The matter was referred to Government (between December 1992 and March 1997); their reply has not been received (November 1997).

6.7 *Short levy of stamp duty on lease deeds*

Under Explanation I below Article 36 (c) of Schedule I to the Bombay Stamp Act, 1958, where lease is granted for a fine or premium or money advanced or to be advanced in addition to rent fixed, duty under Article 25 of the Act is leviable on the fine or premium or money advanced, in addition to the duty payable on such lease under Article 36 (a) of the Schedule I to the Act.

(a) In Sub-Registry, Mumbai, a lease deed for a period of 10 years with a monthly rent of Rs.4000 was executed in August 1989. In addition to six months' rent as deposit, the lessee had also deposited Rs.51 lakhs for acquiring lease hold rights. The stamp duty of Rs.5.22 lakhs was leviable on the total consideration of Rs 51.24 lakhs, whereas stamp duty of Rs.12000 was levied. This resulted in short levy of stamp duty of Rs.5.10 lakhs.

(b) In Sub-Registry, Haveli-VII (Pune), in a lease deed executed in July 1994 for a period of fifty years, there was stipulation for advance payment of Rs.4.99 lakhs and a deposit of Rs.1 lakh. Monthly rent at the rate of Rs.50000 for first ten years and thereafter rent increased by 10 *per cent* for each block of five years was also payable to the lessee. In addition, a conveyance in respect of a shed for a consideration of Rs.5 lakhs was also

⁷ Including registration fees of Rs.5000.

executed in the same document. Total consideration for the purpose of levy of stamp duty, thus, worked out to Rs.98.47 lakhs on which stamp duty of Rs.3 lakhs was leviable. Against this, stamp duty of Rs.60000 only was levied. This resulted in short levy of stamp duty of Rs.2.40 lakhs.

On this being pointed out (March 1994 and March 1996) in audit, the Inspector General of Registration directed (April 1997) the Sub-Registrars to initiate action for recovery of stamp duty levied short. Further report has not been received (November 1997).

The matter was referred to Government (between May 1994 and June 1997); their reply has not been received (November 1997).

6.8 *Incorrect grant of concession in stamp duty*

Under Article 25 (d) of Schedule I to the Bombay Stamp Act, 1958 concessional rate of stamp duty is leviable on the instruments of conveyance relating to residential premises executed by or in favour of a registered co-operative housing society or by such a society in favour of its member or by a member in favour of another member or where provisions of the Maharashtra Ownership Flats Act, 1963 or Maharashtra Apartment Ownership Act, 1970 apply.

In Sub-Registry Haveli I and II (Pune) and Satara, between 1992 and 1995, eleven instruments of conveyance relating to residential premises valued at Rs.35.90 lakhs, not related to any of the categories of persons as stated above, were incorrectly admitted for registration on payment of concessional rate of stamp duty. This resulted in short realisation of stamp duty of Rs.2.24 lakhs.

On this being pointed out (between April 1994 and July 1996) in audit, the Inspector General of Registration directed (between February 1996 and October 1996) the Sub-Registrars to initiate action for recovery of deficit stamp duty. Further report has not been received (November 1997).

The matter was referred to Government (between July 1994 and March 1997); their reply has not been received (November 1997).

6.9 *Short levy of stamp duty and registration fees due to misclassification of documents*

Under the Bombay Stamp Act, 1958, an instrument of partition is defined as any instrument whereby co-owners of any property divide or agree to divide such property in severalty and stamp duty on such instrument is chargeable at the rates applicable to a bond under Article 46 of Schedule I to the Act.

(a) In Sub-Registry, Yawal (District Jalgaon), two instruments declaring partition of two different properties valued at Rs.8.12 lakhs and Rs.15.60 lakhs were executed in December 1990. The instruments were, however, incorrectly classified as instruments of 'declaration' instead of instruments of 'partition'. This resulted in short levy of stamp duty and registration fees of Rs.48150.

(b) In Sub-Registry, Chandrapur, on a partition-deed executed in December 1994, stamp duty and registration fees at the rate applicable to 'award' was levied. This resulted in short levy of stamp duty and registration fees of Rs.75,480.

On this being pointed out (March 1995 and July 1995) in audit, the Inspector General of Registration directed (October 1996 and February 1997) the Sub-Registrars concerned to initiate action for recovery of stamp duty and registration fees levied short. Further report has not been received (November 1997).

The matter was referred to Government (April 1995 and June 1997); their reply has not been received (November 1997).

6.10 *Irregular grant of exemption*

From 20 April 1980, Government remitted stamp duty and registration fees on all instruments relating to the business of a co-operative society executed by or on behalf of a society or by an officer or member thereof.

In Sub-Registry, Jalgaon, an instrument for sale of land was executed in February 1993 by an individual in favour of a cooperative bank which was exempted from payment of stamp duty and registration fees thereon. As the business of the bank was related to money transactions and not to sale or purchase of lands/buildings, the exemption was irregular. This resulted in irregular grant of exemption in stamp duty of Rs.74330.

On this being pointed out (December 1994) in audit, the Inspector General of Registration, directed (April 1997) the Sub-Registrar to initiate action for recovery of stamp duty and registration fees. Further report has not been received (November 1997).

The matter was referred to Government (March 1995 and June 1997); their reply has not been received (November 1997).

6.11 *Short levy of stamp duty*

Under Article 25(b)(V) of Schedule I to the Bombay Stamp Act, 1958 for the properties situated within the limits of Bombay Metropolitan Region, stamp duty on a deed of conveyance is leviable on the value of consideration at the rate of Rs.40 for every Rs.500 or part thereof.

In Sub-Registry, Alibag (District Raigad), on a sale deed of a property situated within the limits of Bombay Metropolitan Region, registered during May 1994 for a consideration of Rs.21 lakhs, stamp duty at a lower rate applicable to the properties situated in 'B' class Municipal Councils was levied. This resulted in short levy of stamp duty of Rs.84000.

On this being pointed (December 1995) in audit, the Inspector General of Registration directed (June 1996) the Sub-Registrar to initiate action for recovery of the deficit stamp duty. Further report has not been received (November 1997).

The matter was referred to Government (December 1995 and March 1997); their reply has not been received (November 1997).

6.12 Irregular grant of remission

Stamp duty and registration fees chargeable on hypothecation or mortgage deeds executed by persons in respect of loans received from the Maharashtra State Khadi and Village Industries Board was remitted (May 1975) subject to the conditions that the loan was obtained for an industry qualifying for such exemption and the instrument is duly signed by the authorised person of the Board.

In Sub-Registry, Pandharpur (Solapur District), the stamp duty and registration fees on five mortgage deeds registered in March 1988 for a total loan of Rs.26 lakhs advanced by Maharashtra State Khadi and Village Industries Board was remitted. Scrutiny in audit revealed (February 1994) that the type of industry was not mentioned in the mortgage deeds executed for securing loan and the instruments were also not signed by the authorised person of the Board. The irregular grant of remission resulted in non-realisation of stamp duty and registration fees of Rs.77000.

On this being pointed out (February 1994) in audit, the Inspector General of Registration directed (September 1994) the Sub-Registrar to initiate action for recovery. Further report has not been received (November 1997).

The matter was referred to Government (March 1994 and March 1997); their reply has not been received (November 1997).

CHAPTER 7

OTHER TAX RECEIPTS

7.1 *Results of audit*

Test check of records of departmental offices, conducted in audit during 1996-97 revealed short realisation or losses of revenue amounting to Rs.1375.79 lakhs in 28608 cases as listed below :

	Number of cases	Amount (In lakhs of rupees)
1. Maharashtra Education and Employment Guarantee Cess	63	819.60
2. Repair Cess	18757	411.71
3. Profession Tax	9241	71.74
4. Entertainments Duty	469	67.23
5. Tax on buildings (with larger residential premises)	78	5.51
Total	28608	1375.79

During the course of the year 1996-97, the concerned departments accepted under-assessments etc., in 1283 cases involving Rs.12.68 crores of which 288 cases involving Rs.8.01 crores had been pointed out in audit during 1996-97 and rest in earlier years and recovered Rs.77.25 lakhs. A few illustrative cases noticed during 1996-97 and in earlier years and a review on 'Bombay Building Repairs and Reconstruction Cess' involving Rs.12.58 crores are given in the following paragraphs.

SECTION A

REPAIR CESS

7.2 *Bombay Building Repairs and Reconstruction Cess*

7.2.1 Introduction

Under the provisions of the then Bombay Building Repairs and Reconstruction Board Act, 1969, the Bombay building repairs and reconstruction cess (cess) was

introduced with effect from 1 October 1969. The cess is levied on buildings⁸ erected prior to October 1969 and lands in Mumbai city only, to provide for repairs and reconstruction of dangerous buildings and for the housing of dishoused occupiers. Subsequently, this Act was replaced by the Maharashtra Housing and Area Development Act, 1976 (effective from 5 December 1977). The cess is levied and collected by the Mumbai Municipal Corporation alongwith property tax and is required to be credited to State Government within 15 days from the date of recovery. The total number of buildings to be repaired are restricted to the expenditure that could be met from the sum total of repair cess collected and released by Government, contributions received from Government and the Brihan Mumbai Municipal Corporation.

With a view to ascertain the correctness of the assessments, levy and collection of the cess, a test check of the records maintained in nine wards of the Brihan Mumbai Municipal Corporation (Corporation) and the Mumbai Building Repairs and Reconstruction Board (Board) was conducted between September 1996 and December 1996. The results of test check are given in the following paragraphs.

7.2.2 Organisational set-up

The Assessor and Collector is the head of the Assessment and Collection Department of the Mumbai Municipal Corporation. He is assisted by one Assistant Assessor and Collector in each of the nine wards engaged in assessment and collection of repair cess. The Mumbai Building Repairs and Reconstruction Board is headed by a Chief Officer who is assisted by two Deputy Chief Engineers, a Chief Accounts Officer and 10 Executive Engineers in the discharge of his functions.

7.2.3(a) Trend of revenue reflecting lacunae in the budgeting procedure

The variation between the Budget estimates and actuals for the years from 1991-92 to 1995-96 are given below :

⁸ Buildings erected prior to 1 September 1940, between 1 September 1940 and 31 December 1950 and thereafter upto 30 September 1969 are categorised as A, B and C respectively. The rates of cess for each category are detailed in the Second Schedule to the Act.

Year	Budget estimates	Actuals	Variation (+) Increase (-) Decrease	Percentage of variation (+) Increase (-) Decrease
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(In crores of rupees)

1991-92	11.40	12.36	(+)0.96	(+)8.42
1992-93	14.79	20.33	(+)5.54	(+)37.45
1993-94	20.54	19.40	(-)1.14	(-)5.55
1994-95	21.56	21.15	(-)0.41	(-)1.90
1995-96	22.21	27.38	(+)5.17	(+)23.28

Increase in revenue during 1995-96 was due to revision of rates of cess with effect from 1 April 1994. Reasons for increase during 1992-93 have not been received from Government (November 1997)

(i) The Corporation intimates to the Board the estimates of the repair cess likely to be collected during the financial year. These estimates are incorporated by the Board in its Budget estimates of revenue receipts and submitted to Government for incorporating in its Budget estimates.

The Government while making Budget estimates only adopts the estimates given by the Board without examining their accuracy.

(ii) It was seen that in the year 1994-95, the rates were increased but the impact of this increase was not reflected in the Budget estimates either for the year 1994-95 or for the year 1995-96.

7.2.3(b) Expenditure incurred on repairs

The expenditure incurred on repairs and the number of buildings repaired during the years from 1991-92 to 1995-96 was as follows:-

Year	Expenditure incurred (In crores of rupees)	Number of buildings repaired
1991-92	21.49	759
1992-93	33.25	837
1993-94	21.28	494
1994-95	21.65	471
1995-96	18.64	417

7.2.4 Short recovery of repair cess in respect of non-residential portion of properties

Under the provisions of the Maharashtra Housing and Area Development Act, 1976 the cess is leviable as a percentage of the rateable value of the building or land or part thereof as prescribed in the Second Schedule to the Act. All buildings in the area to which the Act extends are liable for levy of repair cess. Where the building is used for non-residential purpose, the rate of cess to be levied is double the rate of cess payable, if they were used for residential purpose. Where an owner is required to pay the cess levied under the Act in respect of any land or building, the share of the owner shall be 10 per cent of the rateable value of the land or building and he shall be entitled to recover the remaining amount of cess levied from the tenant, by making a proportionate increase in the rent of the various premises in the building.

In respect of 18,034 properties situated in nine wards and used partly for non-residential purposes, the repair cess at double the rate was worked out after deduction of ten per cent of the rateable value (being the owners' share) from the cess leviable for residential use instead of doubling the cess first and thereafter reducing the owners' share of ten per cent. This resulted in short recovery of cess amounting to Rs.2.54 crores for the years from 1993-94 to 1995-96.

In reply, the Corporation stated (April 1997) that the owners' share was 10 per cent of the rateable value. As such, while deciding the rate of cess for non-residential portion of the property, 10 per cent was deducted from the residential rate towards the owners' share and the remaining rate was doubled for levy of cess on non-residential portion.

The reply of the department is not tenable since the rate of cess to be levied and paid in respect of non-residential property is double the rate of cess payable for that property, if it was used for residential purposes and no reduction of 10 per cent is permissible.

The matter was reported to Government (September 1996). This was followed up by reminder issued in February 1997. Government stated (March 1997) that the matter was being examined. However Government's examination of the case was not over as of November 1997.

7.2.5 Loss of revenue due to non-revision of rate of cess

The repair cess is leviable at slab rates provided in the Second Schedule to the Act, which lays down that when a building is structurally repaired, the cess should be levied at enhanced rates, depending upon the slab of expenditure incurred by the Board, (limited to Rs.500 per Sq.Mtr. upto 10 May 1992) towards such repairs. The permissible limit towards cost of repairs to be borne by the Board was enhanced from Rs.500 to Rs.750 per

Sq.Mtr., with effect from 11 May 1992 but the rate of cess leviable was not prescribed as there is no provision in the Act to link the cess leviable with the increase in the cost of repairs. The schedule was amended with effect from 1 April 1994 to provide a rate of cess for this slab of expenditure. The reasons for the delay of 22 months in revising the rates though enquired were not intimated to audit. Consequently, in respect of the buildings which were structurally repaired during the period from 11 May 1992 to 31 March 1994, by incurring expenditure in the slab of Rs.501 to 750 per Sq.Mtr., the cess was continued to be levied at the rates applicable to the lower slab of Rs.301 to 500 per Sq.Mtr. The resultant loss of revenue in respect of 489 properties at the rates applicable from 1 April 1994 amounted to Rs.1.31 crores.

7.2.6 Short levy of cess

When a building is structurally repaired, the rate of cess is to be enhanced to the appropriate rate from the date of completion of repairs. For this purpose, the Executive Engineer of the Board is required to send intimation to the Corporation in respect of the buildings which are structurally repaired furnishing details of the property account number, ward number, street number etc., to enable the Corporation to identify the properties and issue bills at the enhanced rate of cess. A copy of the intimation is also sent to the Chief Accounts Officer of the Board for noting in a register kept for that purpose. According to instructions issued (June 1989) by the Chief Officer of the Mumbai Housing and Area Development Board, the Executive Engineers are required to furnish details by the 5th of the succeeding month in respect of properties repaired during the previous month so as to enable the Assistant Accounts Officer(Repair Cess) to reconcile with the records of the Corporation the enhancement of cess in all the cases communicated by the Executive Engineers. However, the instructions have not been followed as evidenced from the cases of non-enhancement of repair cess either due to non- receipt of intimation or receipt of incorrect details by the Corporation.

(a) A cross verification of the intimations with the records of the Corporation revealed that in respect of 22 properties, cess was continued to be recovered at lower rates due to non-receipt of intimations resulting in short recovery of cess amounting to Rs.16.40 lakhs.

(b) In respect of 213 properties, the Corporation could not enhance the repair cess as the details intimated by the Board did not tally with the details in the assessment book of the Corporation.

The short recovery could not be worked out for want of information regarding the rateable value of the properties.

(c) In the cases of 11 properties repaired between November 1994 and March 1995, the enhancement of cess was made with effect from 1 April 1995 instead of from the date of completion of repairs. This resulted in short recovery of Rs.1.40 lakhs.

(d) A test check of 188 intimations issued to the Corporation revealed that there were delays ranging from six months to over five years in issue of intimations as shown below :

Period of delay	No. of cases
More than 6 months upto 1 year	15
More than 1 year upto 2 years	7
More than 2 years upto 3 years	10
More than 3 years upto 4 years	5
More than 4 years upto 5 years	2
More than 5 years	2

Total	41

The delay in sending intimations resulted in postponement of collection of Government revenue amounting to Rs.9.80 lakhs in respect of these 41 properties.

7.2.7 Non-levy of penalty for delayed payment of repair cess

As per the provisions in the Act, if a person liable for the payment of any cess in respect of which notice of demand has been served, does not pay the sum due within 3 months of the service of such notice he shall be liable to pay in addition to the tax demanded, a penalty not exceeding 15 per cent of the amount of tax.

It was noticed that in respect of 183 properties, there were delays in payment of repair cess ranging from 1 month to 26 months. The penalty leviable but not levied amounted to a maximum of Rs.6.16 lakhs.

7.2.8 Management Information System and Internal Control

(i) Manual

A manual setting out the functions and responsibilities of the staff of all categories in accordance with the orders issued by the Government and the Board from time to time is essential for ensuring proper functioning of the department and for monitoring

the performance of the staff. No departmental manual has been prepared by the Board for the guidance of the staff.

(ii) Reconciliation

The fortnightly collection of cess is required to be remitted to Government account by the Corporation.

However, there is no system of reconciliation prescribed to ascertain as to whether the amounts due have been realised and the amounts realised by the Corporation have been remitted to Government Account.

The above points were reported to Government (September 1997); their reply has not been received (November 1997).

7.3 *Short recovery of repair cess due to non-bifurcation of properties*

Under the provisions of the Maharashtra Housing and Area Development Act, 1976 enacted to provide for the repairs and reconstruction of dilapidated buildings "the Bombay Building Repairs and Reconstruction Cess" is leviable at the prescribed rates. All buildings in the area to which the Act extends are liable for the levy of repair cess. The Second Schedule to the Act which specifies the rates at which the cess is leviable for various categories of buildings also lays down that where any part or parts of a building is or are used for non-residential purposes, the cess should be levied at such higher rates not exceeding double the schedule rates as may be prescribed by Government by notification in the official Gazette. In January 1979, the Government issued notification enhancing the rate of cess by hundred per cent for non-residential portion of the buildings retrospectively from 1 April 1978.

In Mumbai, it was noticed (September 1994) in audit that in respect of 7 properties, eventhough they were used for both residential and non-residential purposes, cess was recovered at the rate applicable to residential purposes due to non-bifurcation of properties into residential and non-residential portion. This resulted in short recovery of Rs.1.23 lakhs for the period from 1991-92 to 1995-96.

On this being pointed out (1 September 1994) in audit, the department bifurcated the properties into residential and non-residential (November 1995) and raised demands aggregating Rs.3.06 lakhs for various periods falling between April 1985 and September 1995 and recovered Rs.88,965 in respect of 4 properties(between January 1996 and September 1996). Report on recovery of the balance amount has not been received (November 1997).

The matter was reported to Government (June 1997), their reply has not been received (November 1997).

SECTION B

THE MAHARASHTRA EDUCATION AND EMPLOYMENT

GUARANTEE CESS

7.4 *Non-remittance of education cess*

Under the provisions of the Maharashtra Education and Employment Guarantee(Cess) Act, 1962 and the Rules made thereunder the proceeds of cess and penalties recovered by a municipality on behalf of the State Government shall be credited to the Consolidated Fund of the State within 7 days from the date of recovery.

In Nagpur Municipal Corporation, it was noticed (July 1996) that Government revenue amounting to Rs.7.90 crores collected by the Municipal Corporation on account of State education cess and employment guarantee cess during the period from 1993-94 to 1995-96 was not credited to Government Account.

On this being pointed out (July 1996) in audit, the department stated (July 1996) that the amount collected was not remitted to Government account owing to non-availability of funds. The reply of the department is not tenable as the Rules provide for remittance of the proceeds of education cess and penalties collected within 7 days of its collection. The department further stated (May 1997) that employment guarantee cess of Rs.53.19 lakhs collected for the period from January 1994 to March 1995 was remitted to Government in April 1997. Report on remittance of the balance amount has not been received (November 1997).

The matter was reported to Government (March 1997); their reply has not been received (November 1997).

7.5 *Incorrect grant of exemption/ non-levy of education cess and employment guarantee cess*

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 as amended in 1974 and 1975, State education cess is leviable on lands and buildings in a municipal area. Besides, employment guarantee cess is leviable with effect from 1 April 1975 on lands and buildings used for non-residential purposes. Similarly, lands and buildings vesting in the State Government or belonging to a municipality or a Zilla Parishad and used exclusively for public purposes and not used or intended to be used for the purpose of profit, are exempt. Government clarified (August 1986) that education cess and employment guarantee cess is recoverable on annual rent recovered from the stall owners in respect of public markets owned by Municipal Corporations/Municipalities/Cantonment Boards. Further, no exemption is available in respect of properties owned by public sector corporations and undertakings of the Central and State Government.

The Schedule to the Act prescribes separate rate of education cess on properties used or intended to be used for residential and non-residential purposes depending upon the annual letting value. In the case of properties used partly for residential purposes and partly for non-residential purposes, the annual letting value of each portion is to be segregated and subjected to cess at the appropriate rate. The rates of education cess on properties for non-residential purposes are double the rates prescribed for residential purposes.

It was noticed (between October 1995 and November 1996) in audit that in 4 districts in respect of 428 properties, education and employment guarantee cess was either erroneously exempted/not levied or levied at residential rate instead of non-residential rate resulting in under-assessment of Rs.11.40 lakhs as detailed in Appendix XIII.

The cases were reported to Government (between March 1997 and July 1997); their reply has not been received (November 1997).

SECTION C

ENTERTAINMENTS DUTY

7.6 *Non-recovery of entertainments duty and surcharge*

Under the Bombay Entertainments Duty Act, 1923 as amended with effect from 1 January 1987, entertainments duty is leviable on all payments for admission to any entertainment at the prescribed rates.

By an amendment with effect from 25 December 1992, the cable and dish antenna operators were required to pay entertainments duty at 25 per cent of total amount received by them by way of contributions or subscription or installation and connection charges, etc., for the exhibition of films, moving pictures etc., by means of any type of antenna or cable television. In addition, surcharge at 10 per cent on the said total collection was also leviable. According to Government of Maharashtra, Revenue and Forests Department resolution dated 4 February 1993, the entertainments duty and surcharge due on total collection were to be paid on or before 5th of subsequent month to which it relates.

It was noticed (between April 1995 and September 1996) that in respect of 227 cable and dish antenna operators at Mumbai, entertainments duty and surcharge amounting to Rs.37.55 lakhs was neither paid by the operators nor any demand was raised therefor by the department for the period falling between January 1993 and March 1996.

On this being pointed out (between April 1995 and September 1996) in audit, the department recovered (between August 1995 and April 1997) Rs.15.63 lakhs from 126 operators. The report on recovery of the balance amount has not been received (November 1997).

These cases were reported to Government (between February 1997 and July 1997); their reply has not been received ((November 1997)

7.7 *Non-payment/short recovery of entertainments duty*

Under the provisions of the Bombay Entertainments Duty Act, 1923 and Rules made thereunder, entertainments duty is leviable on all payments for admission to any entertainment at prescribed rates. The duty so collected is payable to Government within 10 days from the date of entertainment. For delayed payment of duty, interest at the prescribed rates is also leviable.

(i) In Ramtek (Nagpur District), it was noticed (July 1996) during test check of records that the proprietor of a theatre had credited entertainments duty of Rs.31,296 only against Rs.1,93,586 collected for the year 1994-95 and 1995-96 resulting in short payment of Rs.1,62,290.

On this being pointed out (July 1996) in audit, the department stated (October 1997) that an amount of Rs.80148 was recovered and action to recover the balance amount by issue of revenue recovery certificate was in progress. Further report has not been received (November 1997).

The matter was reported to Government (July 1997); their reply has not been received (November 1997).

(ii) The Act further provides that with effect from 25 December 1992 any amount collected by the proprietor of a permanent cinema, during a year, on account of service charges and not spent by him before 31 March of that year towards maintenance, providing facilities and safety measures in the cinema houses, shall be included in the payment for admission and entertainments duty at appropriate rate levied thereon.

In Nashik, it was noticed (October 1996) in audit that entertainments duty on the unspent balance of Rs. 2.70 lakhs representing service charges as on 31 March 1994 in respect of 6 cinema houses was recovered at the rate of 50 per cent of the payment for admission instead of at 100 per cent recoverable, resulting in short recovery of Rs.46,915.

On this being pointed out (October 1996) in audit, the department stated (October 1997) that notices had been issued to the owners of the cinema theatres for recovery of the amount. Further, report has not been received (November 1997).

The matter was reported to Government (May 1997); their reply has not been received (November 1997).

7.8 *Short levy of advertisement tax*

Under the provisions of the Maharashtra Advertisements Tax Act, 1967 and Government resolution dated 18 August 1992, on advertisements exhibited for payment at any place of entertainment by means of a cinematograph, through slides, trailers of films, there shall be levied and collected an advertisement tax at the rate of thirty per cent of such payment made or to be made to the proprietor.

Further, on every advertisement exhibited as aforesaid but without any payment made or to be made therefor, there shall be levied and collected within the limits of cities and towns having population of 1.50 lakhs and above, an advertisement tax at the rate of Rs.100 per day in respect of every film or trailer of films not exceeding 30 metres, Rs.200 per day for those exceeding 30 metres and Rs.10 per day in respect of every slide.

In Mumbai, it was noticed (August 1996) that in respect of one theatre, advertisement tax for the year 1995 was recovered at the rate of 30 per cent of the payment received for the earlier year instead of at the daily rates applicable for exhibition of advertisements without any payment made or to be made. This resulted in short levy of advertisement tax of Rs.88,900.

On this being pointed out (August 1996) in audit, the department raised demand (December 1996) for Rs.88,900 and stated (August 1997) that the proprietor of the theatre had filed a civil suit.

The matter was reported to Government (April 1997); their reply has not been received (November 1997).

SECTION D

TAX ON BUILDINGS

(WITH LARGER RESIDENTIAL PREMISES)

7.9 *Non-recovery of tax on buildings (with larger residential premises)*

Under the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) Re-enacted Act, 1979, tax is leviable (with effect from 1 April 1974) on all buildings containing residential premises with floor area exceeding 150 square metres and whose annual letting value exceeds one thousand five hundred rupees. The rate of tax is ten per cent of the annual letting value of the residential premises. The tax is collected in the same manner in which property tax is collected by the municipal corporation. The Municipal law provides for attachment and sale of movable or immovable property of the defaulter for recovery of the tax dues.

It was noticed (between December 1995 and September 1996) in audit that 59 residential premises with floor area exceeding 150 square metres and annual letting value exceeding Rs.1500 in each case, were not assessed to tax of Rs.1.91 lakhs as detailed below :

Sr. No.	Name of the Municipal Corporation	No. of Premises	Period	Amount (In lakhs of rupees)	Remarks
1.	Amravati	15	Between 1988-89 and 1994-95	0.52	Report on action taken has not been received (November 1997).
2.	Aurangabad	38	Between 1989-90 and 1994-95	0.77	Demand notices have been issued. Report on recovery has not been received (November 1997).
3.	Kalyan (Dombivali Division)	6	Between 1989-90 and 1995-96	0.62	It was stated (September 1996) that demands in all cases had been raised and an amount of Rs.17,336 recovered (March 1997) in two cases. Report on recovery of the balance amount has not been received (November 1997).
Total				----- 1.91 -----	

The above cases were reported to Government (July 1997); their reply has not been received (November 1997).

SECTION E**THE MAHARASHTRA TAX ON PROFESSIONS,
TRADES CALLINGS AND EMPLOYMENTS****7.10 *Non realisation of profession tax***

Under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 and the Rules made thereunder, every person liable to pay tax is required to obtain certificate of enrolment and pay tax annually at the rate prescribed in the Schedule to the Act. Video centres/games/touring talkies and foreign liquor vendors are required to pay tax at the rate of Rs.600 per annum and holders of permit for transport vehicles and licences for country liquor are liable to pay tax at the rate of Rs.300 per annum. subject to a maximum of Rs.600 per annum.

During cross verification of the records of the offices which issued 150 permits/licences to video centres/video games/touring talkies, 102 permits to transport operators and 55 licences to foreign liquor vendors with the records in the profession tax offices at Nanded, Aurangabad and Chandrapur, it was revealed (August 1994 and December 1994) that holders of these 307 permits/licences though liable to pay tax were not enrolled under the Profession Tax Act resulting in non-realisation of revenue of Rs.1.88 lakhs.

On this being pointed out (August and December 1994) in audit, the department stated (May, August and December 1996) that instructions were issued to the concerned Deputy Commissioners of Sales Tax to take necessary action. Further report on action taken has not been received ((November 1997).

The matter was reported to Government (July 1997); their reply has not been received (November 1997).

CHAPTER 8

NON-TAX RECEIPTS

8.1 *Results of Audit*

Test check of the records of non-tax receipts conducted during the year 1996-97 revealed under-assessment/short levy/loss of revenue etc. amounting to Rs.4061.18 lakhs in 106 cases which broadly fall under the following categories:

Category	No. of cases	Amount (In lakhs of rupees)
Losses on sale of other forest produce	20	912.44
Losses on sale of tendu leaves	10	164.17
Losses due to deterioration in transit, non-extraction, non-lifting of material other than tendu leaves and bamboo	05	106.27
Miscellaneous	71	2878.30
Total	106	4061.18

During the year 1996-97, the department accepted under-assessment of Rs.5.28 lakhs in 3 cases related to earlier years and recovered the entire amount.

A few illustrative cases highlighting important audit observations noticed during 1996-97 and in earlier years involving Rs.128.59 lakhs are mentioned in the following paragraphs :

8.2 *Non-recovery of dues*

Terms and conditions of the tenders for disposal of tendu leaves (bags) stipulated that on acceptance of offer and before execution of the agreement, the purchaser would be required to furnish a security deposit (SD) and a surety bond for an amount equivalent to the SD of an independent surety holding immovable property in Maharashtra State for due compliance of the terms and conditions of the agreement. In case the purchaser failed to make payment to the Government of the purchase price, the SD was to be forfeited, surety invoked, the contract terminated and the unit was to be sold to another purchaser. The loss, if any, arising out of the resale was to be recovered from the first purchaser as arrears of land revenue.

(a) Irrecoverable loss of revenue in resale of tendu units

(i) Tenders for disposal of 4700 standard bags of tendu leaves in seven tendu units during the tendu season of 1989 under the Deputy Conservator of Forests, Parbhani were

invited in November 1988. Three purchasers hailing from Andhra Pradesh were appointed (January 1989) to collect the tendu leaves at a cost of Rs.42.75 lakhs. The purchasers, however, failed to execute the agreement within the stipulated period of twenty days. Consequently, their appointments were cancelled (February 1989) and the above units were resold (March 1989) at their risk and cost for Rs.33.32 lakhs after forfeiture of earnest money deposit of Rs.0.59 lakh. This resulted in loss of Rs.25.93 lakhs on account of royalty including the loss of Rs.17.13 lakhs on account of Sales Tax, Forest Development Tax, Income Tax with surcharge and interest upto January 1997 at the rate of twenty *per cent*. The department had not recovered the dues (May 1997) as contemplated in the conditions of tender. No action had also been initiated to recover the amount as arrears of land revenue as the Andhra Pradesh Revenue Recovery Act, 1869 did not empower the Government of Andhra Pradesh to recover the arrears due to another State.

(ii) Tenders for disposal of 1550 standard bags of tendu leaves in the tendu units at Osmanabad and Udgir, falling under the control of Sub-Divisional Forest Officer, Osmanabad were invited in November 1988. In January 1989, a purchaser hailing from Andhra Pradesh was appointed as purchaser of tendu leaves from the units at the rate of Rs.661.13 per standard bag. The purchaser, however, did not execute the agreement within the stipulated period, consequently, his appointment as purchaser was cancelled (February 1989) and the units were resold (March 1989) to another purchaser at the rate of Rs.489 per standard bag. The second purchaser collected 1568.215 standard bags of tendu leaves at a total price of Rs.8.82 lakhs against the anticipated price of Rs.11.92 lakhs (including Sales Tax and Forest Development Tax). As per the aforesaid conditions of sale, the loss of Rs.3.10 lakhs in resale of the units was recoverable from the first tenderer/purchaser. It was, however, observed (January 1997) in audit that the department could not file a case in the court of law in the Andhra Pradesh State for recovery of the amount as arrears of land revenue as the Andhra Pradesh Revenue Recovery Act, 1869 did not empower the Government of Andhra Pradesh to recover the arrears due to another State. Consequently, the amount had remained to be recovered from the purchaser ((November 1997).

(b) Loss of revenue due to delay in taking timely action

Tenders for disposal of 800 standard bags of tendu leaves (bags) in Markekasa tendu unit, under the Deputy Conservator of Forests, Wadsa were invited in December 1989. In January 1990, a purchaser from Andhra Pradesh purchased the unit at the rate of Rs.1889.51 per standard bag. The purchaser collected 861.865 bags (value Rs.16.05 lakhs) and paid Rs.4.42 lakhs till June 1990. Thereafter, he did not pay the balance amount of the sale price. Consequently, the agreement was terminated (August 1991) and the SD of Rs.2.70 lakhs was forfeited (March 1992). However, the surety bonds of Rs.3 lakhs were not invoked as their validity had expired in February 1991. Tendu leaves collected by the purchaser were put to auction during 1991, 1992 and 1995 and were finally sold in November 1995 for Rs.1000 only.

It was observed in audit (February 1993) that the purchaser had requested (April 1991) the Government for remission of the sale price as the tendu leaves collected by him during the tendu season 1990 were damaged due to unprecedented rains. This request

was turned down by Government in December 1994. As a result, the demand note for loss sustained by Government due to non-payment of sale price by the purchaser could be issued in February 1995.

Thus, a delay of over three years in considering the purchaser's request had resulted in delay in raising the demand of Rs.23.76 lakhs (including Rs.14.83 lakhs towards Forest Development Tax, Sales Tax and interest on the sale price) and non-invoking personal surety bonds of Rs.3 lakhs. As the Andhra Pradesh Revenue Recovery Act, 1869 does not empower the Government of Andhra Pradesh to recover the arrears due to another State, the dues of Rs.23.76 lakhs from the purchaser are likely to become irrecoverable.

Government may consider suitable modification in the terms and conditions of tender to avoid such inter-State problems in future.

The matter was referred to Government (between February 1997 and May 1997); their reply has not been received ((November 1997).

(c) Loss of revenue due to non-acceptance of offer

A forest labourer co-operative society had applied in January 1993 for allotment of four tendu leaf units in Pandharkawada for collection of tendu leaves during 1993 season. The application recommended by the Forest Department was forwarded to the Government in February 1993. The Government, however, approved the proposal on 7 April 1993 and the approval was communicated to the society on 30 April 1993. The allotment was subject to the terms and conditions stipulated in the tender notice for the 1993 season and to the condition that in case of failure of the society to accept the offer of allotment the units would be disposed of at the risk and cost of the society. The society was to collect 5800 standard bags of tendu leaves from the units and pay Rs.44.35 lakhs to Government.

The division informed (30 April 1993) the society to pay the initial deposit and furnish bank guarantee etc., by 4 May 1993, failing which the collection would be taken up departmentally. The clause relating to taking such action at the risk and cost of the society was, however, not incorporated in this demand for initial deposit. Society expressed (1 May 1993) their inability to execute the agreement on the plea that they were left with no time to arrange finance, bank guarantee, labour, gunny bags, storage space etc., as the tendu collection season had already commenced. The department commenced (7 May 1993) collection of the tendu leaves departmentally and collected 5749.239 standard bags after incurring an expenditure of Rs.25.05 lakhs on collection charges. The leaves were sold (November 1993) for Rs.32 lakhs only and in the process, loss of Rs.37.40 lakhs was suffered by the Government.

The department, however, had not initiated any action against the society ((November 1997).

The matter was referred to Government (June 1997); their reply has not been received ((November 1997).

8.3 *Delay in realising call deposit receipts*

Under the provisions of the Maharashtra Treasury Rules, 1968, moneys received by officers of Forest Department shall be paid as soon as possible into the nearest treasury for credit as forest remittances.

In Nagpur division, 37 call deposit receipts (CDR) amounting to Rs.47.68 lakhs received from forest contractors during the period from 1991 to 1994 on account of auction sale price were not remitted into treasury till December 1994. The amount was credited into treasury in January 1995. The department stated (November 1995) that abnormal delay ranging from one to four years in crediting CDRs to Government account was due to gross negligence. The delay in remittances had resulted in loss of interest to Government to the extent of Rs.21.07 lakhs.

The matter was referred to Government (June 1997); their reply has not been received (November 1997).

8.4 *Non-recovery of rent and other charges*

In order to develop tourism and to provide accommodation to the visiting tourists, seven buildings of Forest Department (Wild Life Wing) at Nawegaon National Park were handed over (October 1989 and November 1989) to the Maharashtra Tourism Development Corporation (MTDC) on rental basis. Rent for the buildings, as assessed/fixed by the Public Works Department was to be paid in advance annually. Maintenance and repairs to these buildings were also to be carried out by the MTDC at their own cost.

It was observed (November 1993) during audit of the records of the Deputy Conservator of Forests (Wild Life), Nagpur that though the MTDC was to pay the rent annually in advance, an amount of Rs.6.79 lakhs on account of rent for the period from October 1989 to October 1993 was not recovered from the MTDC. In January 1995, the buildings were handed back to the Forests Department. By this time the amount recoverable had risen to Rs.10.77 lakhs (January 1995). In addition, an amount of Rs.2.17 lakhs on account of damages to the property and other charges was also recoverable from the MTDC.

On this being pointed out (November 1993) in audit, the department stated (March 1997) that a committee was set up (March 1995) to decide the issue relating to the recovery of dues from the MTDC. The Report of the Committee is awaited (April 1997). Consequently, the Government dues of Rs.12.94 lakhs remained unrealised ((November 1997).

The matter was referred to Government (May 1997); their reply has not been received ((November 1997).

8.5 Abnormal delay in recovery of licence fee

The rates of licence fee recoverable from Government servants occupying Government residential accommodation were revised (December 1991) with retrospective effect from September 1990. Recovery of additional licence fee due to this revision was to be made in five equal monthly instalments from the Government servants concerned.

In Palkhed Irrigation Division, Nasik, it was observed (March 1995) in audit that the additional licence fee from the Government servants who were occupying Government accommodations since September 1990 was not recovered as of March 1995.

On this being pointed out (June 1995), in audit the division computed (August 1995 and March 1996) the actual amount recoverable from 180 Government servants as Rs.4.39 lakhs and recovered Rs.4.29 lakhs by June 1997.

The matter was referred to Government (March 1997); their reply has not been received ((November 1997).



(A. KRISHNA RAO)

Principal Accountant General (Audit)-I, Maharashtra

Mumbai,
The

16 MAR 1998

Countersigned



(V. K. SHUNGLU)

Comptroller and Auditor General of India

New Delhi,
The

120 MAR 1998

APPENDICES

APPENDIX I

YEAR-WISE DETAILS OF OUTSTANDING AUDIT OBSERVATIONS UNDER
VARIOUS RECEIPTS AS ON 30TH JUNE 1997

(Reference : Paragraph: 1.13 Page No. 21)

(Amount in lakhs of rupees)

Sr. No.	Name of Receipt	Upto 1992-93			1993-94			1994-95			1995-96			1996-97 (Upto 31.12.96)			TOTAL		
		IRs	Objs.	Amount	IRs	Objs.	Amount	IRs	Objs.	Amount	IRs	Objs.	Amount	IRs	Objs.	Amount	IRs	Objs.	Amount
1	Sales Tax	383	807	187.91	218	395	177.87	319	548	213.93	383	898	383.12	408	1153	583.94	1711	3801	1546.77
2	Land Revenue	265	462	1312.03	72	193	630.54	57	145	465.60	165	475	2102.72	149	469	9058.80	708	1744	13569.69
3	Stamp Duty and Registration Fees	378	1055	1061.25	61	282	229.18	209	684	434.04	134	400	186.39	134	435	241.67	916	2856	2152.53
4	Forest Receipts	154	214	3757.57	35	41	206.23	39	89	877.75	35	72	781.86	53	164	2628.56	316	580	8251.97
5	Taxes on Vehicles	51	85	144.77	19	41	18.55	16	30	17.51	18	49	22.54	22	72	63.63	126	277	267.00
6	Entertainments Duty	53	57	3.33	16	22	3.66	24	36	13.80	36	54	49.02	55	116	43.60	184	285	113.41
7	State Excise	38	53	0.07	17	18	5.29	9	11	6.49	21	32	59.94	30	43	18.10	115	157	89.89
8	Electricity Duty	2	3	0.42	2	2	27.09	3	6	0.97	4	10	0.42	-	--	-	11	21	28.90
9	Tax on Professions	49	94	13.82	19	38	7.59	24	61	24.41	17	39	13.43	26	63	642.65	135	295	701.90
10	State Education Cess	36	67	58.51	21	35	30.65	18	28	5.50	22	39	7.35	16	25	792.68	113	194	894.69
11	Tax on Residential Premises	1	1	--	2	3	0.03	5	6	2.04	5	8	1.29	5	5	2.90	18	23	6.26
12	Repair Cess	9	12	1.00	5	9	17.98	7	9	6.67	2	3	1.34	3	4	1.03	26	37	28.02
13	Other Non-tax Receipts	56	77	140.63	11	18	13.16	15	19	86.43	15	19	87.83	6	5	7.78	102	138	335.82
Total		1475	2987	6681.31	498	1097	1367.82	745	1672	2155.14	857	2098	3697.25	906	2554	14085.34	4481	10408	27986.86

IRs - Inspection Reports

Objs. - Objections

APPENDIX II

(Reference: Paragraph 1.14 ; Page No.21)

**Statement showing number of paragraphs in respect of
which explanatory memoranda have not been received**

Sr. No.	Name of the department	1994-95	1995-96	Total
1.	Finance	15	15	30
2.	Home	02	3	5
3.	Revenue and Forests	17	12	29
4.	Industries, Energy and Labour	---	1	1
5.	Housing and Special Assistance	1	1	2
6.	Irrigation	1	--	1
7.	Co-operation and Textiles	1	1	2
8.	Urban Development	--	1	1
Total		37	34	71

APPENDIX III

(Reference :Paragraph 1.14 ; Page No.21)

**Statement showing number of paragraphs in respect of which action
taken notes on recommendations of the Public Accounts Committee
have not been received**

Sr. No.	Name of the department	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	Total
1.	Revenue and Forests	3	--	1	3	1	1	9
2.	Finance	--	1	1	2	4	--	8
3.	Home	--	--	--	1	5	1	7
4.	Industries, Energy and Labour	--	--	--	--	--	1	1
Total		3	1	2	6	10	3	25

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APPENDIX IV

(Reference : Paragraph 2.4; Page 37)

Statement showing cases in which incorrect exemption was granted

Sr. No.	Commodity	No. of dealers	Sales turnover exempted	Tax involved	Interest leviable	Total
(Amount in lakhs of rupees)						
1.	Readymade Garments	20	521.08	20.04	9.85	29.89
2.	Hosiery	10	2396.77	217.89	143.97	361.86
3.	Ball Pen and Refills	2	147.01	13.36	6.43	19.79
4.	Ladies Hand bags	1	43.10	5.62	3.20	8.82
5.	Ambar Charkha and parts/ components thereof	1	17.26	1.57	1.51	3.08
6.	Spectacles and lenses	1	8.66	0.79	0.43	1.22
		--	-----	-----	-----	-----
	Total	35	3133.88	259.27	165.39	424.66
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APPENDIX V

(Reference : Paragraph 2.5(c); Page 41)

Statement showing cases in which excess set-off was allowed

Sr. No.	Goods manufactured/traded	Assessment period	Nature of irregularity	Under-assessment (including interest and penalty) (In lakhs of rupees)	Remarks
Mumbai District					
1.	Cloth and Yarn	1 April 1992 to 31 March 1993	Set-off allowed in full without reduction in respect of tax free goods	11.22	The department stated (August 1996) that full set-off on furnace oil was correctly allowed as per the Tribunal* judgement of February 1988. The reply of the department is not acceptable in view of the amendment to Rule 41-D with effect from 1 April 1988
2.	Cloth and Yarn	1 April 1991 to 31 March 1992	Set-off was erroneously allowed on purchases against declarations in Form 'T' which were used in the manufacture of tax free goods	3.78	The department re-assessed the dealer (August 1996) raising additional demand of Rs.3.78 lakhs. The dealer has filed an appeal against the re-assessment order (September 1997)
3.	Computer manuals and other printed material	1 April 1992 to 31 March 1993	Set-off was incorrectly allowed on manufactured non-taxable goods	2.40	The department re-assessed (February 1997) the dealer raising additional demand of Rs.2.40 lakhs. The dealer has filed an appeal

* M/s Hanuman Vitamins Foods Pvt. Ltd.(SA no. 497 of 1986 dated 19 February 1988)

APPENDIX V (Contd.)

Sr. No.	Goods manufactured/traded	Assessment period	Nature of irregularity	Under-assessment (including interest and penalty) (In lakhs of rupees)	Remarks
					against the re-assessment order (September 1997)
4.	Wool tops, polyster Yarn Fabrics	1 April 1991 to 31 March 1992	Set-off allowed in full without reduction in respect of non-taxable sales	2.09	The department reassessed (September 1996) the dealer raising additional demand of Rs.2.09 lakhs and recovered Rs. 2.82 lakhs in instalments (including interest).
5.	Chemicals	1 July 1987 to 30 November 1991	Set-off erroneously allowed on chemicals which were taxable at 4 per cent	1.70	The department withdrew (January 1996) set-off of Rs.1.70 lakhs while deciding the appeal in January 1997 which was stated (September 1997) to have been paid by the dealer.
6.	Packing material, paper, polyster film	1 July 1987 to 31 March 1988	Excess set-off allowed due to incorrect computation of ratio of labour job receipts to total sales	1.31	The department raised (January 1997) additional demand of Rs.1.31 lakhs which was paid (August 1997) by the dealer.
7.	Cloth and Yarn	1 April 1991 to 31 March 1992	Set-off allowed in full without reduction	0.94	The department stated (August 1996) that full set-off on furnace oil was correctly allowed in view

APPENDIX V (Contd.)

Sr. No.	Goods manufactured/traded	Assessment period	Nature of irregularity	Under-assessment (including interest and penalty) (In lakhs of rupees)	Remarks
			in respect of tax free goods		of Tribunal ¹ judgement of February 1988. The reply is not acceptable in view of amendment to Rule 41-D of the Bombay Sales Tax Rules, 1959, from 1 April 1988
8.	Medicines and food Products	1 April 1990 to 31 March 1991	Set-off allowed in full without reduction in respect of tax free goods	0.73	The department stated that full set-off on furnace oil was allowed in view of Tribunal* judgement of February 1988. The reply is not acceptable in view of amendment to Rule 41-D of the Bombay Sales Tax Rules, 1959 effective from 1 April 1988.
Pune District					
9.	Twines and plastic ropes	1 April 1989 to 31 March 1990	Excess set-off allowed due to non-reduction on account of non-taxable sales and incorrect computation of ratio of branch transfers	1.01	The appellate authority while deciding (December 1996) the appeal recomputed the set-off admissible and raised additional demand of Rs.1.01 lakhs which was paid by the dealer (February 1997).

¹*M/s Hanuman Vitamins Foods Pvt. Ltd.(SA no. 497 of 1986 dated 19 February 1988)

APPENDIX V (Concl'd.)

Sr. No.	Goods manufactured/traded	Assessment period	Nature of irregularity	Under-assessment (including interest and penalty) (In lakhs of rupees)	Remarks
10.	Uninterrupted Power Supply Systems (UPS)	1 April 1989 to 31 March 1990	Set-off was incorrectly allowed on electronic goods taxable at 4 percent. Also, set off was not reduced on traded goods and labour charges	2.35	The department raised (January 1997) additional demand of Rs.2.35 lakhs. The dealer has filed an appeal (March 1997) after making part payment of Rs.50,000.

Nashik District

11.	Propeller shafts	1 April 1992 to 31 March 1993	Excess set-off was allowed due to incorrect computation	0.32	The matter was reported to the department (June 1996) and Government (June 1997) their final replies have not been received (November 1997).
Total				----- 27.85 -----	

APPENDIX VI

(Reference : Paragraph 2.5(d); Page 41)

Statement showing cases in which excess set-off was allowed

Sr. No.	Goods-manufactured/resold	Assessment period	Nature of irregularity	Under assessment (including penalty and interest) (In lakhs of rupees)	Remarks
1.	Iron and Steel	1 April 1992 to 31 March 1993	Set-off was erroneously allowed on purchases of goods used in manufacture of goods exported outside the country	6.06	The department stated (July 1997) that the matter would be referred to the legal wing
2.	Chemicals	1 April 1993 to 31 March 1994	Set-off was erroneously allowed on purchases of goods used in manufacture of goods exported outside the country.	2.45	The department stated (June 1997) that export sale was also a sale within the State. The reply was contrary to the judicial pronouncements
3.	Decorative laminated sheets	1 April 1992 to 31 December 1992	Set-off was allowed in full without reduction of 53.13 per cent on account of manufactured goods transferred to	1.98	The department raised (November 1996) additional demand of Rs.1.98 lakhs which was adjusted (April 1997) against the refund due.

APPENDIX VI (Concl'd.)

Sr. No.	Goods-manufactured/resold	Assessment period	Nature of irregularity	Under assessment (including penalty and interest) (In lakhs of rupees)	Remarks
			the branches and clerical error in computation of set-off.		
4	Alloy steel bars, blooms and ready-made garments	1 April 1994 to 31 March 1995	Set-off was erroneously allowed on purchase of import licence which cannot be used in manufacture of goods	1.15	The department raised (October 1996) additional demand of Rs.1.15 lakhs which was paid by the dealer (January 1997.)
5.	Fountain pens, ball pens, ball pen refills	1 April 1993 to 31 March 1994	Set-off was erroneously allowed on purchases used in manufacture of exempted goods	0.88	The department raised (September 1996) and recovered (September 1997 and October 1997) net additional demand of Rs.0.73 lakh. However, the dealer had preferred an appeal against the revision order.
6.	Bulk drugs	1 April 1991 to 31 March 1992	Excess set-off was allowed due to non-reduction by 34.12 per cent in respect of non-taxable goods	0.90	The department intimated (July 1997) that Rs.84,770 was recovered after adjustment of Rs.4,934 under deferral scheme.
			Total	13.42	

APPENDIX VII

(Reference : Paragraph 2.6; Page 43)

Statement showing cases in which there was under-assessment
due to application of incorrect rate of tax.

Sr. No.	Period of assessment	Commodity sold	Nature of irregularity	Under assessment including additional tax, interest and penalty (In lakhs of rupees)	Remarks
Thane District					
1.	1 April 1991 to 31 March 1992	Xerox Machine	Tax was levied at 4 per cent instead of 15 per cent on turnover of sales of Rs.2.72 crores	51.61	The department stated (January 1996) that the sales were correctly taxed at 4 per cent in view of determination order passed by the Commissioner of Sales Tax. The reply of the department is not tenable in view of the decision of Tribunal ² and reassessment in a similar case in Pune district (Sr.No.13)
2.	1 April 1991 to 31 March 1992	Ramtirth Brahmi oil	Sales worth Rs.38.51 lakhs were subjected to tax at 4 per cent instead of 15 per cent	8.63	The department stated (July 1997) that Brahmi oil is an Ayurvedic medicine liable to tax at 4 per cent. The reply of the department is not tenable as medicated brahmi oil was judicially ³ held to be toilet article.
Mumbai District					
3	1st April 1992 to 31 March 1994	Xerox machine spare parts	Tax levied at 10 per cent instead of 15 per cent on turnover of sales of Rs.302.44 lakhs	27.90	The matter was reported to the department (July 1997)

² M/s. Perfect Processors vs State of Maharashtra (SA No.84 of 1992 dated 31 January 1994³ M/s. D.K. Sandu Brothers vs State of Madhya Pradesh (4 STC 397 dated 14 April 1953)

APPENDIX VII (Contd.)

Sr. No.	Period of assessment	Commodity sold	Nature of irregularity	Under assessment including additional tax, interest and penalty (In lakhs of rupees)	Remarks
4.	1 April 1990 to 31 March 1991	Aluminium mono block bottles	Tax levied at 4 per cent instead of 10 per cent on turnover of sales of Rs.72.04 lakhs	8.42	The department revised (March 1996) the assessment and raised additional demand of Rs.8.42 lakhs (including interest). The dealer paid Rs.5.41 lakhs and an interest of Rs.3.01 lakhs was stated to be waived under the Amnesty Scheme (July 1997)
5.	1 April 1990 to 31 March 1992	Computer printer ribbons, type-writer ribbons and toner	Tax levied at 4 per cent and 8 per cent instead of 6, 15 and 10 per cent on turnover of sales of Rs.9.95 lakhs, Rs.16.22 lakhs and Rs.37.03 lakhs respectively.	6.53	The department revised (July 1996) the assessments and raised additional demand of Rs.6.53 lakhs and stated (July 1997) that the dealer has paid Rs 45,000 and filed appeal.
6.	1 April 1990 to 31 March 1991	Stainless steel utensils	Tax levied at 6 per cent instead of 8 per cent on turnover of sales of Rs.63.84 lakhs	2.47	The department raised (November 1996) additional demand of Rs.1.95 lakhs after considering Rs.52,000 paid in appeal. The dealer has filed an appeal before the Tribunal. Report on developments in appeal has not been received (November 1997)

APPENDIX VII (Contd.)

Sr. No.	Period of assessment	Commodity sold	Nature of irregularity	Under assessment including additional tax, interest and penalty (In lakhs of rupees)	Remarks
7.	1 April 1990 to 31 March 1991	Perfumes	Tax levied at 4 <i>per cent</i> instead of 15 <i>per cent</i> on turnover of sales of Rs.8.64 lakhs	2.42	The department re-assessed (June 1996) the dealer and raised additional demand of Rs.2.42 lakhs. The dealer has filed an appeal and obtained stay against recovery. Report on further developments in appeal has not been received (November 1997).
8.	1 April 1992 to 31 March 1994	TV antenna and feeder cables	Tax levied at 4 <i>percent</i> instead of 10 <i>per cent</i> on the turnover of sales of Rs.20.86 lakhs	2.01	The department revised (January 1997) the assessments and raised additional demand of Rs.2.01 lakhs. The dealer has filed an appeal. Report on developments in appeal has not been received (November 1997).
9.	1 April 1991 to 31 March 1992	Electronic time recorders	Tax levied at 6 <i>per cent</i> instead of 10 <i>per cent</i> on turnover of sales of Rs.16.39lakhs	1.18	The department revised (February 1997) and recovered the entire amount (May and June 1997)
10.	23 October 1987 to 31 March 1990	Laminated table tops	Tax levied at 8 <i>per cent</i> instead of 15 <i>per cent</i> on turnover of sales of	0.91	The department raised (January 1996) additional demand of Rs.56,884 for 1987-89. The dealer paid Rs.21,629 and the balance amount of

APPENDIX VII (Contd.)

Sr. No.	Period of assessment	Commodity sold	Nature of irregularity	Under assessment including additional tax, interest and penalty (In lakhs of rupees)	Remarks
			Rs.5.84 lakhs		Rs.35,255 towards interest was remitted under amnesty scheme. No demand for Rs.33,772 for the year 1989-90 could be raised as the case was time barred resulting in loss of revenue to that extent.
11.	1 August 1987 to 31 March 1990	Detergent	Tax levied at 4 <i>per cent</i> instead of 8 <i>per cent</i> on turnover of sales of Rs.8.15 lakhs	0.64	The department revised (October 1996) the assessment and raised additional demand of Rs.64,491. The dealer has preferred an appeal. Report on developments in appeal has not been received (November 1997)
Pune District					
12.	1 April 1992 to 31 March 1993	Boosters for T.V antenna	Sales worth Rs.66.62 lakhs were subjected to tax at the rate of 4 <i>per cent</i> instead of correct rate of 10 <i>per cent</i>	7.60	The department re-assessed the dealer and raised additional demand of Rs.7.38 lakhs after considering excess payment of Rs.21,734. The dealer has filed an appeal. Report on developments in appeal has not been received (November 1997)

APPENDIX VII (Contd.)

Sr. No.	Period of assessment	Commodity sold	Nature of irregularity	Under assessment including additional tax, interest and penalty (In lakhs of rupees)	Remarks
13.	1 April 1991 to 31 March 1992	Xerox Machine	Tax levied at 4 <i>per cent</i> instead of 15 <i>per cent</i> on turnover of sales of Rs.14.28 lakhs	2.99	The department re-assessed (December 1996) the dealer and raised additional demand of Rs.2.99 lakhs. The dealer has filed an appeal against the re-assessment order (October 1997)
14.	1 April 1989 to 31 March 1992	Flavouring essence	Tax levied at 4 <i>per cent</i> instead of 15 <i>per cent</i> on turnover of sales of Rs.9.41 lakhs	2.06	The department revised (January 1997) the assessment and raised additional demand of Rs.2.06 lakhs. The dealer has paid Rs.51,800 and filed an appeal (October 1997)
15.	1 April 1992 to 31 March 1993	Plastic moulded machinery parts	Tax levied at 8 <i>per cent</i> instead of 10 <i>per cent</i> on turnover of sales of Rs.20.53 lakhs	0.77	The department re-assessed (January 1997) the dealer and raised additional demand of Rs.77,245. The dealer has paid Rs. 20,000 and filed an appeal. Report on developments in appeal has not been received (November 1997)
16.	1 April 1992 to 31 March 1993	Electronic voltage stabiliser and electronic	Tax levied at 4 <i>per cent</i> instead of 10 <i>per cent</i> on turnover of sales of Rs.5.96	0.77	The department re-assessed (December 1996) the dealer and raised additional demand of Rs.76,556. The dealer

APPENDIX VII (Contd.)

Sr. No.	Period of assessment	Commodity sold	Nature of irregularity	Under assessment including additional tax, interest and penalty (In lakhs of rupees)	Remarks
		ballasts	lakhs		has filed an appeal (January 1997) after making part payment of Rs.50,000. Report on developments in appeal has not been received (November 1997)
17.	1 April 1992 to 31 March 1993	Electronic stabilisers	Tax levied at 4 <i>per cent</i> instead of 10 <i>per cent</i> on turnover of sales of Rs.6.51 lakhs	0.55	The department re-assessed (September 1996) the dealer and raised additional demand of Rs.55,300. The dealer has filed an appeal. Report on developments in appeal has not been received (November 1997)

Ahmednagar District

18.	1 April 1991 to 31 March 1992	Pilfer proof caps (P.P. Caps)	Tax levied at 4 <i>per cent</i> instead of 10 <i>per cent</i> on turnover of sales of Rs.6.61 lakhs	0.55	The department revised (July 1996) the assessment and raised additional demand of Rs.55,376. The dealer has paid Rs. 10,000 and filed (September 1996) an appeal. Report on developments in appeal has not been received (November 1997)
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APPENDIX VII (Concl'd.)

Sr. No.	Period of assessment	Commodity sold	Nature of irregularity	Under assessment including additional tax, interest and penalty (In lakhs of rupees)	Remarks
Nagpur District					
19.	1 April 1985 to 31 March 1987	Fly ash	Tax levied at 4 per cent instead of 10 per cent on turn over of sales of Rs.37.13 lakhs	3.50	The department raised (March 1995) the demand of Rs. 3.50 lakhs which was recovered in full (September 1995)
Total				----- 131.51 -----	

APPENDIX VIII

(Reference : Paragraph 2.7; Page 44)

Statement showing cases of non-levy/short levy of tax

Sr. No.	Nature of business of the dealer	Assessment period	Nature of irregularity	Non levy/ short levy of tax, turnover tax, additional tax and interest(In lakhs of rupees)	Remarks
Ahmednagar District					
1	Manufacture of sugar, its by-products and spirit	1 April 1991 to 31 March 1993	Sales of spirit worth Rs.4.98 crores were incorrectly taxed at concessional rate of 6 <i>per cent</i> on the basis of Form CN eventhough these were not permitted to be sold on declaration in Form CN	77.12	The department initiated action (June 1997) to levy tax. Further report has not been received (November 1997)
2	Manufacture of spirit, country liquor etc	1 April 1992 to 31 March 1993	Sales of spirit worth Rs.23.59 lakhs were incorrectly taxed at concessional rate of 6 <i>per cent</i> on the basis of Form CN eventhough these were not permitted to be sold on declaration in Form CN	4.04	The department initiated (March 1997) action to levy tax. Further report has not been received (November 1997)

APPENDIX VIII (Contd.)

Sr. No.	Nature of business of the dealer	Assessment period	Nature of irregularity	Non levy/ short levy of tax, turnover tax, additional tax and interest(In lakhs of rupees)	Remarks
Pune District					
3.	Manu- facture of sugar and its by-products and spirit	1 April 1992 to 31 March 1993	Sales of extra neutral alcohol (ENA) worth Rs.95.43 lakhs were in correctly taxed at concessional rate of 6 per cent on the basis of Form CN eventhough these were not permi- tted to be sold on declaration in Form CN	12.88	The department accepted (December 1996) the objection. Further report has not been received (November 1997)
Kolhapur District					
4.	Manufacture of spirit and country liquor	1 July 1990 to 30 June 1991	Sales of Spirit worth Rs.13.73 lakhs were incorrectly taxed at concessional rate of 6 <i>per</i> <i>cent</i> on the basis of Form CN eventhough these were not permitted to be sold on decla- ration in Form CN	3.38	The department re- assessed (March 1997) the purchasing dealer raising demand of Rs.3.38 lakhs (including interest) Report on recovery has not been received (November 1997)

APPENDIX VIII (Contd.)

Sr. No.	Nature of business of the dealer	Assessment period	Nature of irregularity	Non levy/ short levy of tax, turnover tax, additional tax and interest(In lakhs of rupees)	Remarks
Dhule District					
5.	Manu- facture of spirit country liquor etc.	1 April 1990 to 31 March 1991	Sales of spirit worth Rs.17.95 lakhs were incor- rectly taxed at concessional rate of 6 <i>per cent</i> on the basis of Form CN eventhough these were not permitted to be sold on declara- tion in Form CN	2.86	The assessing authority stated (November 1996) that the declaration in Form CN produced by the dealer were correct and valid as far as selling dealer was concerned and tax was correctly levied. The reply of the assessing officer was not tenable as only packing material can be sold on Form CN.
Nashik District					
6.	Manu- facture of sugar and Spirit	1 April 1991 to 31 March 1992	Sales of Spirit worth Rs.12.16 lakhs were incor- rectly taxed at concessional rate of 6 <i>per cent</i> on the basis of Form CN even though these were not permitted to be sold on decla- ration in Form CN	2.03	The department stated (November 1996) that the purchasing dealer was liable to pay purchase tax and concerned assessing officers had been requested to take action for levy of purchase tax. The reply was not tenable as it has been judicially* held that for claiming benefit of concessional rate of tax,

* M/s. Bharat Steel Industries vs State of Maharashtra (SA Nos.1077, 1078 and 1079 of 1992 dated 6 March 1996)

APPENDIX VIII (Contd.)

Sr. No.	Nature of business of the dealer	Assessment period	Nature of irregularity	Non levy/ short levy of tax, turnover tax, additional tax and interest(In lakhs of rupees)	Remarks
					the vendor must satisfy himself that the goods sold are of the kind covered by the notification. Final reply has not been received (November 1997).
Mumbai District					
7.	Import and Resale of carpets and cotton durries	1 April 1992 to 31 March 1995	Sales of cotton durries and shawls aggregating Rs.47.06 lakhs were incorrectly allowed as tax free goods instead of taxing at 2 per cent and 4 per cent	1.57	The department revised (April 1997) the assessment raising additional demand of Rs.1.57 lakhs out of which the dealer had paid Rs.1.49 lakhs and filed an appeal against recovery of the balance amount. Report on developments in appeal has not been received (November 1997)
8.	Manufacture of P.V.C pipes	1 April 1990 to 31 March 1991	Turnover tax levied was at Rs.13,961 instead of Rs.34,427. Besides taxable	0.90	The department revised (December 1996) the assessment and raised additional demand of Rs.89,600. However, the dealer has preferred an

APPENDIX VIII (Concl'd.)

Sr. No.	Nature of business of the dealer	Assessment period	Nature of irregularity	Non levy/ short levy of tax, turnover tax, additional tax and interest(In lakhs of rupees)	Remarks
			turn-over was determined short by Rs.7.71 lakhs		appeal (March 1997) against the revision order after part payment of Rs.30,000. Report on developments in appeal has not been received (November 1997)
Total				----- 104.78 -----	

APPENDIX IX

(Reference : Paragraph 2.9; Page 45)

Statement showing cases of non-levy/short levy of purchase tax

Sr. No.	Period of assessment	Commodity purchased	Nature of irregularity	Under-assessment including additional tax and interest, after adjustment of set-off where admissible (In lakhs of rupees)	Remarks
Mumbai District					
1.	1 April 1990 to 31 March 1992	Non-ferrous metal	Purchase tax and consequential additional tax was not levied on purchases of Rs.148.31 lakhs	5.74	The department revised (May 1997) the assessment additional demand of Rs.5.74 lakhs. The dealer had paid Rs.1.25 lakhs (September 1997) and filed an appeal
2.	1 April 1991 to 31 March 1992	Import licence	Purchase tax and consequential additional tax was not levied on purchases of Rs.16.34 lakhs	0.73	The department reassessed (April 1996) the dealer raising additional demand of Rs.72,682. After making part payment of Rs.30,000 the dealer preferred an appeal. Further report has not been received. (November 1997)

APPENDIX IX(contd.)

Sr. No.	Period of assessment	Commodity purchased	Nature of irregularity	Under-assessment including additional tax and interest, after adjustment of set-off where admissible (In lakhs of rupees)	Remarks
3.	1 April 1991 to 31 March 1992	Import licence	Purchase tax and consequential additional tax was not levied on purchases of Rs.16.92 lakhs	0.65	The department raised (September 1996) additional demand of Rs.64,913 including interest of Rs.25,332. The dealer has paid Rs.6500 and filed an appeal. Report on developments in appeal has not been received (November 1997)
4.	1 April 1992 to 31 March 1993	Import licence	Purchase tax and consequential additional tax was not levied on purchases of Rs.13.55 lakhs	0.55	The department raised (November 1996) demand of Rs.55,253. The dealer has filed an appeal. Further report has not been received (November 1997)

Nagpur District

5.	1 October 1987 to 31 March 1989	Vegetable non-essential oils	Purchase tax on account of branch transfers of manufactured	4.37	The department revised (November 1995) the assessment raising additional demand of Rs. 8.31 lakhs(January
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APPENDIX IX(contd.)

Sr. No.	Period of assessment	Commodity purchased	Nature of irregularity	Under-assessment including additional tax and interest, after adjustment of set-off where admissible (In lakhs of rupees)	Remarks
			goods was levied short on purchases of Rs. 702.56 lakhs. Besides excess set off was allowed at Rs. 67,129		1996). The dealer paid Rs. 4.84 lakhs(January 1996) and the balance amount of interest was waived (October 1996) under Amnesty Scheme
Thane District					
6.	1 April 1991 to 31 March 1993	Kerosene	Purchase tax and consequential additional tax was not levied on purchases of Rs.27.01 lakhs	1.16	The department re-assessed (August 1996) the dealer raising additional demand of Rs.1.16 lakhs.The dealer has filed an appeal. Report on developments in appeal has not been received (November 1997)
Pune District					
7.	1 September 1990 to 31 March 1992	Medicines	Purchases of Rs.2 crores transferred to the branches outside the State were not	0.74	The department revised (December 1996) the assessment raising additional demand of Rs.74,477 The dealer has paid Rs.52010 and filed appeal.

APPENDIX IX(concl'd.)

Sr. No.	Period of assessment	Commodity purchased	Nature of irregularity	Under- assessment including additional tax and interest, after adjustment of set-off where admissible (In lakhs of rupees)	Remarks
			subjected to levy of purchase tax and conse- quential additional tax		(December 1996) Report on develo- pments in appeal has not been received (November 1997)

Total

13.94

APPENDIX X

(Reference : Paragraph 2.10; Page 47)

**Statement showing cases of non-levy/short
levy of turnover tax/additional tax**

Sr. No.	Period of assessment	Nature of irregularity	Under assessment including interest(In lakhs of rupees)	Remarks
Mumbai District				
1.	1 April 1992 to 31 March 1993	Additional tax and turnover tax was not levied correctly on tax of Rs.44.41 lakhs and turnover of Rs. 7.24 crores respectively	8.40	The department stated (February 1997) that the dealer is in appeal and the audit point has been communicated to the appellate authority. Further developments in appeal has not been received (November 1997)
2.	1 April 1990 to 31 March 1991	Turnover tax on sales against declarations at Rs.69.86 lakhs though leviable was not levied	1.92	This was pointed out to the department (January 1997); the department stated (September 1997) that the dealer had filed an appeal against the assessment order.
3.	1 April 1990 to 31 March 1991	Additional tax though leviable was not levied on Rs. 3.56 lakhs	0.72	The department revised (November 1996) the assessment and raised additional demand of Rs.71,688. The dealer has filed an appeal against the revision order. Report on developments has not been received (November 1997)

APPENDIX X (contd.)

Sr. No.	Period of assessment	Nature of irregularity	Under assessment including interest(In lakhs of rupees)	Remarks
4.	1 July 1986 to 30 June 1987	Turnover tax was not levied on the taxable sales of Rs.28.87 lakhs	0.68	The department revised (April 1995) the assessment and raised additional demand of Rs.67,853. The claim for recovery was stated to have been lodged with the official liquidator. Further report has not been received (November 1997)
5.	1 July 1992 to 30 June 1993	Turnover tax was levied at one and quarter <i>per cent</i> instead of one and half <i>per cent</i> with effect from 1 April 1993 on the turnover of sales of Rs. 1.60 crores	0.66	The department rectified (February 1997) the mistake and raised additional demand of Rs.66,202. The dealer has paid Rs.39,881 and filed an appeal.
6.	1 April 1993 to 31 March 1994	Turnover tax and additional tax were not levied on the taxable sales of Rs.16.55 lakhs and tax of Rs. 1.33 lakhs respectively	0.61	The department rectified (August 1996) the mistake and raised additional demand of Rs.61,169. However, the dealer has filed an appeal. Further developments in appeal have not been received (November 1997)

APPENDIX X (contd.)

Sr. No.	Period of assessment	Nature of irregularity	Under assessment including interest(In lakhs of rupees)	Remarks
7.	1 April 1993 to 31 March 1994	Turnover tax was levied at the rate of one and quarter per cent instead of one and half <i>per cent</i> on the taxable sales of Rs.1.17 crores. Besides turnover tax was not levied on the sales of Rs.5.93 lakhs supported by declarations in Form "BC"	0.59	The department rectified (July 1996) the mistake and raised additional demand of Rs.59,425. The dealer has preferred an appeal. Further report has not been received (November 1997)
8.	1 April 1992 to 31 March 1993	Turnover tax and additional tax though leviable were not levied on the taxable turnover of Rs.16.30 lakhs and tax of Rs.1.31 lakhs	0.44	The department rectified (January 1997) the assessment and raised net additional demand of Rs.15,763 after adjusting short credit as per original assessment order. The dealer has preferred an appeal. Further report has not been received (November 1997)
Pune District				
9.	1 April 1992 to 31 March 1993	Turnover tax was incorrectly levied at Rs.30,711 instead of Rs.1.28 lakhs	1.67	The department accepted the objection (August 1996). Report on action taken has not been received (November 1997).

APPENDIX X (concl'd.)

Sr. No.	Period of assessment	Nature of irregularity	Under assessment including interest(In lakhs of rupees)	Remarks
10.	1 April 1986 to 31 March 1987	Turnover tax though leviable was not levied on the turnover of sales of Rs.17.97 lakhs	0.45	The department revised (January 1996) the assessment and raised additional demand of Rs.44,921. Final report on recovery has not been received (November 1997).
Sangli District				
11.	1 April 1990 to 31 March 1991	Turnover tax/ additional tax though leviable was not levied on the turnover of sales of Rs.16.20 lakhs and tax of Rs.2,547	0.49	The department revised (December 1996) the assessment and raised additional demand of Rs.48,921. Report on recovery has not been received. (November 1997).
		Total	----- 16.63 -----	

APPENDIX XI

(Reference : Paragraph 2.11; Page 48)

Statement showing cases of incorrect determination of taxable turnover

Sr. No.	Period of assessment	Nature of irregularity	Turnover determined short	Under-assessment (including additional tax, turn-over tax, interest and penalty) (In lakhs of rupees)	Remarks
Mumbai District					
1.	1 April 1991 to 31 March 1992	Machinery worth Rs.14.03 lakhs purchased on declaration (N-15) was erroneously allowed as resale	14.03	3.46	The department reassessed (September 1996) the dealer and raised additional demand of Rs.3.46 lakhs. The dealer has filed an appeal (January 1997) before the Tribunal. Further developments in appeal have not been received (November 1997).
2.	1 April 1991 to 31 March 1992	Deduction on account of resales of Rs.16.10 lakhs allowed did not commensurate with corresponding purchase of Rs.4.81 lakhs	7.38	1.96	The department re-assessed (February 1996) the dealer and raised additional demand of Rs.1.96 lakhs. The dealer has paid Rs.1.33 lakhs (February 1996 and March 1997) and interest of Rs.63,594 was waived under the Amnesty Scheme.

APPENDIX XI (Contd.)

Sr. No.	Period of assessment	Nature of irregularity	Turnover determined short	Under-assessment (including additional tax, turn-over tax, interest and penalty)	Remarks
(In lakhs of rupees)					
3.	1 April 1992 to 31 March 1993	Sale of exim scrips was not considered for assessment	17.16	1.85	The department rectified (October 1996) the assessment and raised additional demand of Rs.1.85 lakhs. The appellate authority allowed relief of Rs.0.51 lakh. The dealer paid Rs.1.03 lakhs and for the balance amount of Rs.0.30 lakh filed an appeal before the Tribunal. Report on developments has not been received (November 1997)
4.	1 April 1991 to 31 March 1992	Taxable turnover of sales was erroneously determined at Rs.1.09 lakhs instead of Rs.10.91 lakhs	9.82	1.38	The department rectified (February 1996) the assessment and raised additional demand of Rs.1.38 lakhs. The dealer has paid Rs.55,500 (between July 1996 and October 1997). Final report on recovery of the balance amount has not been received (November 1997)
5.	1 April 1992 to 31 March 1993	Sale of exim scrips was not considered for assessment	12.38	1.36	The department rectified (January 1997) the assessment and raised additional demand of Rs.1.36 lakhs. The dealer has paid Rs.93,412 and filed an appeal. (January

APPENDIX XI (Concl'd.)

Sr. No.	Period of assessment	Nature of irregularity	Turnover determined short	Under-assessment (including additional tax, turnover tax, interest and penalty) (In lakhs of rupees)	Remarks
					1997) Report on developments in appeal has not been received (November 1997).
6.	1 April 1989 to 31 March 1990	Taxable turnover of sales determined short due to incorrect allowance of resales at Rs.11.55 lakhs instead of Rs.8.02 lakhs	3.53	1.07	The department revised (October 1995) the assessment and raised additional demand of Rs.1.07 lakhs. The dealer has paid Rs.57,150 and interest of Rs.50,255 has been waived under Amnesty Scheme
Pune District					
7.	1 April 1990 to 31 March 1991	Taxable sales was determined at Rs.73.10 lakhs against purchases of Rs.77.24 lakhs in the course of inter-State trade or commerce which did not commensurate with the purchases	15.88	3.60	The department re-assessed (August 1996) and raised additional demand of Rs.3.60 lakhs. The dealer had paid Rs.90,000 and filed (January 1997) an appeal. The appellate authority set aside the re-assessment order for fresh re-assessment (August 1997). Further report on action taken has not been received (November 1997)
			Total	14.68	

APPENDIX XII

(Reference : Paragraph 5.2; Page 69)

Statement showing cases of non-recovery of motor vehicles tax

Sr. No.	Name of District	No. of Vehicles	Period of default	Amount of tax not recovered (In lakhs of rupees)	Remarks
1.	Latur	103	Between October 1992 and February 1997	5.86	The department recovered (between April 1996 and November 1996) an amount of Rs.2 lakhs including interest in respect of 34 vehicles. Report on recovery of the balance amount and interest has not been received (November 1997).
2.	Pimpri-Chinchwad	41	Between November 1991 and March 1996	4.81	The department recovered (between June 1996 and March 1997) an amount of Rs.1.62 lakhs in respect of 19 vehicles. Report on recovery of the balance amount and interest has not been received (November 1997).
3.	Osmanabad	30	Between May 1993 and November 1996	2.60	The department recovered (between August 1996 and January 1997) an amount of Rs.54,250 including interest in respect of 10 vehicles. Report on recovery of the balance amount and interest has not been received (November 1997).
4.	Parbhani	24	Between November 1991 and January 1997	2.49	The department recovered (between June 1996 and August 1996) an amount of Rs.22,175 (including interest) in respect of 6 vehicles. Report on recovery of the balance

APPENDIX XII (Contd.)

Sr. No.	Name of District	No. of Vehicles	Period of default	Amount of tax not recovered (In lakhs of rupees)	Remarks
					amount and interest has not received (November 1997).
5.	Beed	65	Between January 1993 and August 1996	2.38	The department recovered (between August 1996 and May 1997) an amount of Rs.1.36 lakhs in 49 cases. Report on recovery of the balance amount and interest has not been received. (November 1997).
6.	Mumbai	26	Between June 1985 and December 1995	2.37	The department recovered (between November 1995 and October 1997) an amount of Rs.52,895 (including interest) in respect of 9 vehicles. Report on recovery of the balance amount and interest has not been received (November 1997).
7.	Aurangabad	52	Between April 1991 and December 1996	1.87	The department recovered (between August 1996 and December 1996) an amount of Rs.55,242 (including interest) in respect of 19 vehicles. Report on recovery of the balance amount and interest has not been received (November 1997).
8.	Nanded	27	Between July 1991 and December 1996	1.64	The department recovered (June 1996 and November 1996) an amount of Rs.1.29 lakhs in respect of 18 vehicles. Report on recovery of the balance amount and interest has not been received (November 1997).

APPENDIX XII (Concl.d.)

Sr. No.	Name of District	No. of Vehicles	Period of default	Amount of tax not recovered (In lakhs of rupees)	Remarks
9.	Pune	20	Between September 1990 and January 1997	1.08	The department recovered(between June 1996 and July 1997) an amount of Rs.50,153 in respect of 10 vehicles. Report on recovery of the balance amount and interest has not been received (November 1997).
10.	Pune	1	Between September 1991 and May 1997	0.58	Revenue Recovery Certificate issued for recovery of Rs.48,849 Report on action taken for recovery of the balance amount of Rs.9050 has not been received (November 1997).
Total				----- 25.68 -----	

APPENDIX XIII

(Reference : Paragraph 7.5; Page 86)

Statement showing cases of incorrect exemption/non-levy of education cess and employment guarantee cess.

Sr. No.	Name of District	Nature of Irregularity	Period	Amount involved (In lakhs of rupees)	Remarks
1.	Mumbai	(i) Incorrect exemption to 27 properties belonging to the Municipal Corporation and rented out for commercial purposes	1992-93 to 1995-96	3.13	The department stated (June 1997) that necessary steps to withdraw exemption were being taken in respect of 21 properties. Report on action taken has not been received (November 1997).
		(ii) Incorrect exemption to Natya Mandir belonging to Municipal Corporation rented out for public programmes	1991-92 to 1994-95	1.38	The department stated (December 1996) that sanction would be obtained to withdraw the exemption and levy education and employment guarantee cess. Report on action taken has not been received (November 1997).
		(iii) Incorrect exemption to 4 properties owned by Municipal Corporation and rented out for industrial purposes	1992-93 to 1995-96	0.87	The department stated (December 1996) that the proposal was being submitted to higher authority for revision of the rateable value. Report on action taken has not been received (November 1997).

APPENDIX XIII (contd.)

Sr. No.	Name of District	Nature of Irregularity	Period	Amount involved (In lakhs of rupees)	Remarks
		(iv) Cess in respect of 3 properties recovered at the rates applicable for residential purposes though used for non-residential purposes	1993-94 to 1995-96	0.74	The department accepted (December 1996) the objection. Report on action taken has not been received (November 1997).
		(v) Incorrect exemption to property belonging to the Municipal Corporation and used as Market	Between October 1990 and March 1996	0.70	The department stated (February 1996) that demand of Rs.69,987 was raised (January 1996). Report on recovery has not been received (November 1997).
2.	Solapur	Incorrect exemption to 5 properties belonging to Municipal Corporation and used as market	1991-92 to 1995-96	2.51	The department stated (April 1997) that action was being taken to levy and recover the cess. Report on action taken has not been received (November 1997).
3.	Nashik	Education cess and employment guarantee cess was not levied and demanded in respect of 11 non-residential	1995-96	1.21	The department raised demand of Rs 1.06 lakhs in respect of 10 properties and recovered Rs.43,239 in respect of 4 properties (November 1996 and January 1997). Report on action

APPENDIX XIII (concl.)

Sr. No.	Name of District	Nature of Irregularity	Period	Amount involved (In lakhs of rupees)	Remarks
		properties			taken in the remaining case and recovery of the balance amount has not been received (November 1997).
4.	Pune Pimpri Chinchwad	Incorrect exemption to 376 stalls rented out in the markets belonging to Municipal Corporation	1993-94 and 1994-95	0.86	The department accepted the objection and stated (October 1996) that demand would be raised. Report on action taken has not been received (November 1997).
Total				----- 11.40 -----	

