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REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR 1974-75

GOVERNMENT OF KERALA

REVENUE RECEIPTS

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PREFATORY REMARKS

The Audit Report on Revenue Receipts (Civil) of the Government of Kerala for the year 1974-75 is presented in a separate volume as was done last year. The material in the Report has been arranged in the following order:—

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

(ii) Chapters II to VII deal with points of interest which came to notice in the audit of Sales Tax, State Excise Duties, Taxes on Agricultural Income, Land Revenue, Taxes on Vehicles and Other Tax Receipts.

(iii) Chapter VIII deals with Non-Tax Receipts.

2. The points brought out in this Report are those which have come to notice during the course of test audit. They are not intended to convey any general reflection on the financial administration by the departments concerned.

CHAPTER I

GENERAL

1. Trend of Revenue Receipts

The total receipts of the Government of Kerala for the year 1974-75 were Rs. 287.97 crores against the anticipated receipts of Rs. 253.40 crores. The total receipts realised during the year registered an increase by 32.27 per cent over those in 1973-74 (Rs. 217.72 crores). Of the total receipts of Rs. 287.97 crores, Rs. 178.69 crores represented revenue raised by the State Government, of which Rs. 123.56 crores represented 'Tax Revenue' and the balance 'Non-Tax Revenue'. The receipts from the Government of India (Rs. 109.28 crores) accounted for 37.95 per cent of the total receipts during the year as against 38.01 per cent of the total receipts during 1973-74.

2. Analysis of Revenue Receipts

(a) An analysis of the receipts during 1974-75 along with the corresponding figures for the preceding four years is given below:—

	1970-71	1971-72	1972-73	1973-74	1974-75	*Percentage of increase over* 1970-71
			(*in crores of rupees*)			
I. Revenue raised by the State Government:-						
(a) Tax revenue	67.97	74.70	82.80	95.46	123.56	81.79
(b) Non-tax revenue	27.92	39.52	34.21	39.51	55.13	97.46
Total—I	95.89	114.22	117.01	134.97	178.69	86.35
II. Receipts from the Government of India:-						
(a) State's share of net proceeds of divisible Union taxes	30.23	36.78	44.03	47.38	47.13	55.90
(b) Grants-in-aid	24.67	28.19	35.45	35.35	62.10	151.72
(c) Receipts for the administration of Central Acts and Regulations	*	*	*	0.02	0.05	..
Total—II	54.90	64.97	79.48	82.75	109.28	99.05
III. Total receipts of the State I+II	150.79	179.19	196.49	217.72	287.97	90.97
IV. Percentage of I to III	63.59	63.74	59.55	62.00	62.05	..

* Figures for the years 1970-71 to 1972-73 stand included under 'Non-tax revenue'.

Note: In view of the changes introduced in the accounting classification with effect from the 1st April 1974, the Budget estimates and actuals for 1973-74 have been furnished in paragraphs 1 to 4 as per the revised classification.

As compared to that in 1973-74 the percentage of revenue collected by the State in 1974-75 over its total receipts remained the same.

(b) *Tax revenue raised by the State*

Receipts from tax revenue constituted about 69 per cent of the State's own revenue receipts during the year 1974-75. An analysis of tax revenue for the year 1974-75 and for the preceding four years is given below:—

		Receipts during					
		1970-71	1971-72	1972-73	1973-74	1974-75	(+)*increase* (—)*decrease with reference to* 1973-74
		(*in crores of rupees*)					
1.	Taxes on Agricultural Income	3.28	3.64	3.12	2.87	4.02	+1.15
2.	Other Taxes on Income and Expenditure	*	*	*	0.03	0.04	+0.01
3.	Land Revenue	1.15	1.83	2.62	3.08	2.92	—0.16
4.	Stamps and Registration Fees						
	(a) Stamps—judicial	0.90	1.20	1.20	1.45	1.48	+0.03
	(b) Stamps—Non-judicial	4.50	4.51	5.45	6.85	8.39	+1.54
	(c) Registration Fees	1.23	1.33	1.46	1.76	2.06	+0.30
5.	State Excise	10.01	9.99	9.42	12.06	15.55	+3.49
6.	Sales Tax	37.42	42.37	46.14	53.80	75.32	+21.52
7.	Taxes on Vehicles	6.82	7.02	7.16	6.75	6.68	—0.07
8.	Taxes on Goods and Passengers	*	*	*	3.64	3.46	—0.18
9.	Taxes and Duties on Electricity	*	*	*	2.46	2.99	+0.53
10.	Other Taxes and Duties on Commodities and Services	*	*	*	0.71	0.65	—0.06
11.	Other Taxes and Duties	2.66	2.81	6.23	..	..	..
	Total	67.97	74.70	82.80	95.46	123.56	+28.10

* Figures for the years 1970-71 to 1972-73 stand included under 'Other Taxes and Duties'.

There has been noticeable increase in Sales Tax and State Excise, the reasons for which are awaited (January 1976).

(c) *Non-tax revenue of the State*

Interest, Public Works, Education, Medical, Public Health, Sanitation and Water Supply, Agriculture, Dairy Development and Forest were the principal sources of non-tax revenue. Receipts from the non-tax revenue of the State constituted about 31 per cent of the revenue raised by the State during 1974-75. An analysis of the non-tax revenue under the principal heads for the year 1974-75 and the preceding four years is given below:—

		Receipts during					
		1970-71	1971-72	1972-73	1973-74	1974-75	(+) *increase* (—) *decrease with reference to* 1973-74
				(*in crores of rupees*)			
1.	Interest receipts	4.89	14.63	8.81	3.90	13.54	+9.64
2.	Public Works	0.90	1.08	1.46	1.53	0.81	—0.72
3.	Education	1.76	1.93	3.93	4.87	4.91	+0.04
4.	Medical	1.35	1.49	0.71	1.81	1.23	—0.58
5.	Public Health, Sanitation and Water Supply	*	*	*	0.33	1.62	+1.29
6.	Agriculture	2.11	1.92	1.46	1.09	1.08	—0.01
7.	Dairy Development	*	*	*	0.68	1.02	+0.34
8.	Forest	9.14	10.61	10.46	14.57	18.17	+3.60
9.	Others	7.77	7.86	7.38	10.73	12.75	+2.02
	Total	27.92	39.52	34.21	39.51	55.13	+15.62

* Figures for the years 1970-71 to 1972-73 stand included under the item 'Others'.

Whereas there has been a considerable increase in receipts from 'Forests' and 'Interest receipts', there has been a fall in realisation from receipts under 2, 4 and 6 above, the reasons for which are awaited (January 1976).

3. Variation between Budget estimates and actuals

The figures of Budget estimates and actuals for the five years from 1970-71 to 1974-75 in respect of some of the major heads of revenue are given below, to show the variation and its magnitude in each case:—

Head of revenue	*Year*	*Budget estimates*	*Actuals*	*Variation (+) increase (—) decrease*	*Percentage of variation*
		(*in crores of rupees*)			
1. Taxes on Agricultural Income	1970-71	3.41	3.28	—0.13	—3.81
	1971-72	3.25	3.64	+0.39	+12.00
	1972-73	3.45	3.12	—0.33	—9.57
	1973-74	3.58	2.87	—0.71	—19.83
	1974-75	3.75	4.02	+0.27	+7.20
2. Land Revenue	1970-71	2.03	1.15	—0.88	—43.35
	1971-72	2.12	1.83	—0.29	—13.67
	1972-73	3.42	2.62	—0.80	—23.38
	1973-74	2.82	3.08	+0.26	+9.22
	1974-75	3.14	2.92	—0.22	—7.01
3. Stamps and Registration Fees					
(a) Stamps—Non-judicial	1970-71	4.00	4.50	+0.50	+12.50
	1971-72	4.47	4.51	+0.04	+0.89
	1972-73	4.95	5.45	+0.50	+10.10
	1973-74	5.00	6.85	+1.85	+37.00
	1974-75	5.46	8.39	+2.93	+53.66

Head of revenue	*Year*	*Budget estimates*	*Actuals*	*Variation (+) increase (—) decrease*	*Percentage of variation*
			(in crores of rupees)		
(b) Registration Fees	1970-71	0.97	1.23	+0.26	+26.80
	1971-72	1.21	1.33	+0.12	+9.91
	1972-73	1.46	1.46	..	..
	1973-74	1.49	1.76	+0.27	+18.12
	1974-75	1.73	2.06	+0.33	+19.08
4. State Excise	1970-71	9.00	10.01	+1.01	+11.22
	1971-72	10.00	9.99	—0.01	—0.10
	1972-73	11.00	9.42	—1.58	—14.36
	1973-74	9.39	12.06	+2.67	+28.43
	1974-75	13.44	15.55	+2.11	+15.70
5. Sales Tax	1970-71	33.75	37.42	+3.67	+10.87
	1971-72	40.00	42.37	+2.37	+5.92
	1972-73	45.40	46.14	+0.74	+1.63
	1973-74	50.11	53.80	+3.69	+7.36
	1974-75	57.32	75.32	+18.00	+31.40
6. Taxes on Vehicles	1970-71	6.46	6.82	+0.36	+5.57
	1971-72	6.90	7.02	+0.12	+1.73
	1972-73	8.30	7.16	—1.14	—13.73
	1973-74	8.03	6.75	—1.28	—15.94
	1974-75	8.25	6.68	—1.57	—19.03
7. Forest	1970-71	8.75	9.14	+0.39	+4.45
	1971-72	9.65	10.61	+0.96	+9.94
	1972-73	10.75	10.46	—0.29	—2.69
	1973-74	11.27	14.57	+3.30	+29.28
	1974-75	13.36	18.17	+4.81	+36.00

Variations between Budget estimates and actuals for 1974-75 in respect of all principal sources indicated above except 'Taxes on Agricultural Income' and 'Land Revenue' were more than ten per cent. Reasons for the variations are awaited (January 1976).

4. Cost of collection

Expenditure incurred in collecting the receipts under the major heads of revenue during the three years from 1972-73 to 1974-75 is given in Appendix I.

5. Taxation measures

Government anticipated at the budget stage additional revenue of Rs. 7.45 crores during 1974-75 from five measures. The measures proposed, dates of implementation of the measures, revenue anticipated from each of the measures and achievements thereagainst and reasons for variation in collection are given below:—

Measures	*Date of implementation*	*Revenue anticipated during* 1974-75	*Actuals during* 1974-75	*Reasons for variation*
(1)	(2)	(3)	(4)	(5)
		(*in crores of rupees*)		
(i) Revision of rate of general sales tax	15-5-1974	4.00		
(ii) Restructure of rate of single point sales tax	1-7-1974	not specified	7.00	*
(iii) Tax on buildings	27-7-1974	0.25	Nil	In a large number of individual cases, where parties questioned the validity of the ordinance, the High Court stayed the assessment and collection of tax.

* Awaited from Government.

Measures	*Date of implementation*	*Revenue anticipated during* 1974-75	*Actuals during* 1974-75	*Reasons for variation*
(1)	(2)	(3)	(4)	(5)
		(*in crores of rupees*)		
(iv) Irrigation cess	1-7-1974	2.50	0.30	* The yield from this measure was subsequently (December 1974) estimated at Rs. 1 crore.
(v) Restructure of electricity tariff@	1-7-1974	0.70	0.43	*

6. Arrears in Agricultural Income Tax and Sales Tax assessments£

The number of assessments finalised by the Agricultural Income Tax and Sales Tax Department and assessments pending finalisation at the end of March 1975, as reported by the department, are indicated below:—

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* Awaited from Government.

@ Revenue to accrue to the Kerala State Electricity Board.

£ The figures are provisional.

Number of assessments for disposal

Year	*Arrear cases*	*Current cases*	*Remand cases*	*Total*
(1)	(2)	(3)	(4)	(5)
1973-74				
(a) Sales Tax	29,106£	56,615	1,974	87,695
(b) Agricultural Income Tax	24,186£	25,028	4,451	53,665
1974-75				
(a) Sales Tax	30,301@	59,755	1,860	91,916
(b) Agricultural Income Tax	23,469@	25,383	4,717	53,569

£ The figures do not agree with those reported by the department for incorporation in the Audit Reports for the years 1972-73 and 1973-74. Reason for the variation is awaited.

@ Reason for the variation in the figures is awaited.

Number of assessments completed				*Number of assessments pending at the end of the year*
Arrear cases (6)	*Current cases* (7)	*Remand cases* (8)	*Total* (9)	(10)
22,552	42,448	938	65,938£	21,757 @ £
17,164	14,958	2,417	34,539£	19,126 @£
22,671	39,954	909	63,534	28,382
16,806	13,627	2,287	32,720	20,849

Following is the year-wise break up of the pending cases:—

	Year	*Sales Tax*	*Agricultural Income Tax*
Upto	1970-71	517	70
	1971-72	1,671	370
	1972-73	3,960	2,237
	1973-74	19,536	3,986
	1974-75	2,698	14,186
	Total	28,382	20,849

7. Frauds and evasions (Sales Tax)

The following table shows the number of cases detected, assessments finalised and the amount of additional tax demanded.

(a) Number of cases pending on 31st March 1974	1,565
(b) Number of cases detected during 1974-75	3,755
(c) Number of cases in which assessments were completed:—	
(i) out of cases detected prior to 1st April 1974	361
(ii) out of cases detected during 1974-75	890

The amount of concealed turnover detected and the amount of tax demanded in cases mentioned at (c) above are indicated below:—

Number of cases	1,251
Concealed turnover	Rs. 6,55,84,458
Tax demanded	Rs. 26,63,590

(d) Number of cases pending on 31st March 1975:—	
(i) out of cases detected prior to 1st April 1974	1,204
(ii) out of cases detected during 1974-75	2,865

(e) Number of cases in which:—

	Number	Amount of penalty levied
(i) penalties were imposed in lieu of prosecution	Nil	Nil
(ii) prosecutions were launched for non-registration	Nil	Nil
(iii) offences were compounded	1,827	Rs. 3,39,309

(Figures are as furnished by the department)

8. Uncollected revenue

The total revenue collected and the arrears of revenue pending collection as at the end of the three years 1972-73 to 1974-75, as reported by the departments, were as shown below:—

Year	*Total amount collected*	*Arrears pending collection as at the end of March*	*Percentage of arrears to total revenue*
	(in crores of rupees)		
1972-73	117.01	28.32*	24.20
1973-74	134.97	33.40£	24.75
1974-75	178.69	43.46@	24.32

* Does not include arrears pertaining to the departments of Health Services, Survey and Land Records and Taxes on Passengers and Goods, carried by road or on inland water ways.

£ Does not include arrears pertaining to Taxes on Passengers and Goods, Survey and Land Records and Public Works—'General and Projects'.

@ Does not include arrears pertaining to Survey and Land Records and Public Works—'General and Projects'.

The details of amounts outstanding as on 31st March 1975 in respect of some of the principal sources of revenue are given below:—

Sl. No.	*Source of revenue*	*Amount pending collection*	*Amount of arrears of more than five years old*
		(in lakhs of rupees)	
1.	Land Revenue	412.93	144.67
2.	Sales Tax	1,841.21	386.76
3.	Agricultural Income Tax	464.97	51.21
4.	State Excise	264.33	*
5.	Vehicle Tax	23.45	7.92
6.	Taxes on Goods and Passengers	252.99	124.62
7.	Electricity Duties	105.15	*
8.	Forest	460.54	17.03
9.	Director of Municipalities	31.74@	Nil
10.	Director of Panchayats	8.41	1.20
11.	Police	83.53	46.67
12.	Education	23.39	0.05
13.	Director of Health Services	16.83@	1.18
14.	Public Health Engineering	162.92@	46.99
15.	Co-operation	21.76	2.77
16.	Irrigation	18.79	6.61
17.	Stationery	14.74	0.04
18.	Printing	35.99	0.02
19.	Examiner of Local Funds	29.25	8.14
20.	Dairy Development	16.47	0.30

9. An analysis of arrears of revenue pending collection as on 31st March 1975 in respect of certain departments is given below:—

(a) *Land Revenue*

Arrears of land revenue as at the end of March 1975 amounted to Rs. 4.13 crores as against Rs. 3.66 crores outstanding at the end

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* Details awaited from the department.

@ Details incomplete.

of March 1974. Year-wise analysis of the outstanding amounts is given below:—

Year	*Arrears as on* 31*st March* 1974	31*st March* 1975
	(in crores of rupees)	
Upto 1970-71	2.22	1.66
1971-72	0.36	0.31
1972-73	0.48	0.38
1973-74	0.60	0.49
1974-75	..	1.29
Total	3.66	4.13

According to information furnished by the department (October 1975) the amount of arrears as on 31st March 1975 was in the following stages of action:—

	Stages of action	*Amount of arrears (in lakhs of rupees)*
(i)	Revenue Recovery	105.29
(ii)	Amount stayed by High Court	4.12
(iii)	Amount stayed by Government	22.00
(iv)	Amount stayed by other authorities	16.72
(v)	Amount likely to be written off	115.57
(vi)	Other stages	149.23
	Total	412.93

(b) *Sales Tax*

Sales Tax demand raised but not collected as at the end of March 1975 amounted to Rs. 18.41 crores as against Rs. 12.71 crores outstanding at the end of March 1974. Year-wise analysis of the outstanding amounts is given below:—

Year	*Arrears as on* 31*st March* 1974	31*st March* 1975
	(in crores of rupees)	
Upto 1970-71	5.58	4.36
1971-72	1.54	0.77
1972-73	1.36	1.00
1973-74	4.23	2.64
1974-75	..	9.64
Total	12.71	18.41

According to information furnished by the department (October 1975) the amount of arrears as on 31st March 1975 was in the following stages of action:—

	Stages of action	*Amount of arrears (in lakhs of rupees)*
(i)	Revenue Recovery	739.46
(ii)	Amount stayed by courts	174.30
(iii)	Amount stayed by Government	45.88
(iv)	Amount stayed by other authorities	62.45
(v)	Amount likely to be written off	215.69
(vi)	Application before the Magistrate under Section 23 (2) (b) of the Kerala General Sales Tax Act	45.15
(vii)	Other stages	558.28
	Total	1,841.21

(c) *Agricultural Income Tax*

Agricultural Income Tax demand raised but not collected as at the end of March 1975 amounted to Rs. 4.65 crores as against Rs. 3.88 crores outstanding at the end of March 1974. Year-wise analysis of the outstanding amounts is given below:—

Year	*Arrears as on* 31*st March* 1974	31*st March* 1975
	(in crores of rupees)	
Upto 1970-71	0.90	0.69
1971-72	0.33	0.22
1972-73	0.66	0.48
1973-74	1.99	1.01
1974-75	..	2.25
Total	3.88	4.65

The amount remaining uncollected as on 31st March 1975 was stated by the department (October 1975) to be in different stages of action as shown below:—

Stages of action	*Amount of arrears (in lakhs of rupees)*
(i) Revenue Recovery	119.20
(ii) Amount stayed by courts	27.18
(iii) Amount stayed by Government	0.49
(iv) Amount stayed by other authorities	104.77
(v) Amount likely to be written off	1.03
(vi) Other stages	212.30
Total	464.97

(d) *Electricity Duty*

In terms of Section 3 (1) of the Kerala Electricity Duty Act, 1963, every licensee has to pay a duty to Government at 6 paise per unit of energy sold at a price of more than 12 paise per unit. Section 4 of the Act prescribes levy of electricity duty on consumers at varying rates ranging from 10 per cent to 20 per cent of the price of energy billed for. The licensee is to collect this duty from the consumers and remit it to Government. The arrears of electricity duty to be realised from various licensees as at the end of March 1975 are given below:—

Licensee	*Amount of duty due (in lakhs of rupees)*
1. Kerala State Electricity Board	86.49*
2. Kottayam Electricity Supply Agency	17.08
3. Trichur Licensee (Trichur Municipality)	1.06
4. Others	0.52
Total	105.15

(e) *Forest*

Arrears of revenue pending collection as at the end of March 1975 in Forest Department amounted to Rs. 460.54 lakhs. The arrears represented the amount due from other departments, the Government of India, Public Sector Undertakings of the Central

*Does not include duty under Section 3(1) of the Act.

Government and the State Government, private parties etc., towards value of forest produce supplied, lease rent of forest areas, liability of contractors etc. The break up of the arrears is given below:—

	Amount due as on 31st March 1975 (in lakhs of rupees)
Government of India	107.87
Public Sector Undertakings of the Central Government	0.33
Public Sector Undertakings of the State Government	34.50
Other State Governments	2.00
Local Bodies	5.04
Departments of the State Government	64.86
Private parties	245.94@
Total	460.54

(f) *Public Health Engineering*

Arrears of revenue pending collection as at the end of March 1975 in Public Health Engineering Department amounted to Rs. 162.92 lakhs. The arrears represented the amount due from the Government of India, Public Sector Undertakings of the Central Government and the State Government, private parties, etc. The break up of the arrears is given below:—

	Amount due as on 31st March 1975 (in lakhs of rupees)
Government of India	6.84
Public Sector Undertakings of the Central Government	4.99
Public Sector Undertakings of the State Government	15.00
Local Bodies	123.75
Private parties	12.34
Total	162.92

@ The figure is provisional.

(g) *Police*

Arrears of revenue pending collection as at the end of March 1975 in Police Department amounted to Rs. 83.53 lakhs. The arrears represented the amount due from the Government of India, other State Governments, Public Sector Undertakings of the State Government, private parties etc. The break up of the arrears is given below:—

	Amount due as on 31st March 1975 (in lakhs of rupees)
Government of India	57.58
Public Sector Undertakings of the State Government	9.16
Other State Governments	2.65
Local Bodies	13.47
Private parties	0.67
Total	83.53

10. Writes off, waivers and remissions of revenue

Details of demands written off, waived and remissions made during 1974-75, as furnished by the departments, are given below:—

Department	*Writes off of losses, irrecoverable revenue, duties etc.*		*Waivers*		*Remissions*	
	Items	*Amount* Rs.	*Items*	*Amount* Rs.	*Items*	*Amount* Rs.
1. Agricultural Income-Tax and Sales Tax	20	4,621	Nil	Nil	7	3,854
2. Land Revenue	*	3,92,323	*	8,345	*	2,17,308
3. Motor Vehicles	4	3,368	Nil	Nil	Nil	Nil
4. State Excise	1	18,650	Nil	Nil	Nil	Nil

* Details awaited from the department.

CHAPTER II

SALES TAX RECEIPTS

11. Results of test audit in general

During the period 1974-75, test audit of documents of the Sales Tax Offices revealed under-assessment of tax of Rs. 60.49 lakhs in 226 cases.

The under-assessment of tax of Rs. 60.49 lakhs is categorised under the following heads:—

Nature of irregularity	*Number of items*	*Amount (in lakhs of rupees)*
1. Turnover escaping tax	55	50.64
2. Irregular exemptions	39	5.25
3. Double accountal of remittance/arithmetical mistakes	9	0.12
4. Non-levy of penalty	21	0.73
5. Other lapses	102	3.75
	226	60.49

A few important cases are mentioned in paragraphs 12 to 17.

12. Turnover escaping tax

(i) Under Section 5 A of the Kerala General Sales Tax Act, 1963, value of motor spirits, petrol, kerosene etc., purchased from Cochin Refineries Limited by other oil companies and transferred to their branches/depots outside the State is assessable to sales tax at the rate of 3 per cent on the purchase turnover from 1st April 1970. For this purpose, excise duty paid by the oil companies

should also form part of the taxable purchase turnover. The Audit Report for the year 1973-74 (paragraph 12 (i) of Chapter III), mentioned a case of short levy of tax (pointed out in audit in August 1973) in respect of an oil company, due to omission on the part of the department to include the amount of excise duty paid by it in the taxable purchase turnover of the company. The assessment in that case was revised in October 1974 demanding an additional tax of Rs. 4,04,426. The question of revision of the completed assessments of other oil companies similarly placed (all of them being assessees under the same assessing office) was taken up in audit in September 1974. The department stated (July 1975) that action has been initiated (March 1975) in the case of two other oil companies for assessing escaped turnover of Rs. 13,18,20,953, being excise duty paid by them for the years 1970-71 to 1972-73. Additional demand in these cases would come to Rs. 41.52 lakhs.

The matter was reported to Government in September 1975; reply is awaited (January 1976).

(ii) Sales tax is leviable on every dealer on the purchase of goods on which no tax has been levied previously and when such goods are either consumed by the dealer in the process of manufacture of other goods or disposed of in any manner other than by way of sale within the State or despatched outside the State except as a direct result of inter-State sale.

During local audit of a Sales Tax Office (Palghat) in July 1974, it was noticed that the liability to tax in respect of an assessee, who had purchased kapas (cotton) from local agriculturists and used it in manufacture was not considered. On the omission being pointed out (July 1974), Government stated (May 1975) that the escaped turnover of Rs. 5,61,086 during the year 1970-71 and Rs. 6,30,787 (of which Rs. 32,625 represented turnover on rice husked from paddy and sold) during the year 1971-72 was brought to tax demanding an additional tax of Rs. 12,515. Report regarding collection of the additional demand is awaited (January 1976).

(iii) A dealer, who purchases goods from an unregistered dealer and consumes such goods in the process of manufacture of other goods for sale or otherwise is liable to pay sales tax on the purchase turnover of such goods. During local audit of a Sales Tax Office (Manjeri) in February 1975, it was noticed that in the case of an assessee engaged in manufacture and sale of Ayurvedic medicines, turnover on goods purchased from unregistered dealers for manufacture of medicines was not assessed to tax in full. On this being pointed out (October 1975), Government stated (November 1975) that the department revised (March 1975) the assessments raising an additional demand of Rs. 11,679 on a turnover of Rs. 4,05,575 and that this was realised in August 1975.

13. **Irregular exemption**

(i) Sales tax is leviable on purchase of goods on which no tax has been levied previously and when such goods are despatched outside the State, except as a direct result of inter-State sale. However, it was seen during audit of a Sales Tax Office (Ernakulam) that turnover of an oil company, amounting to Rs. 2 66.56 lakhs on petroleum products purchased from Cochin Refineries without payment of tax and exported during 1970-71 and 1971-72 was incorrectly exempted from levy of tax, resulting in short levy of tax of Rs. 35.03 lakhs. On this being pointed out in August 1974, Government stated in September 1975 that the escaped turnover has been assessed to tax in January 1975.

Government also stated (January 1976) that the appeals filed by the assessee against the revised assessments were dismissed by the departmental appellate authority in September 1975. Particulars of collection of the amount are awaited (January 1976).

(ii) Under the Central Sales Tax Act, 1956, the tax payable on inter-State sale of goods shall be nil if the sale of such goods is exempt from tax generally under the sales tax law of the appropriate State. However, if sale of goods under a State sales tax law is exempt from tax only under specified conditions or in specified circumstances, it shall not be treated as exempt from tax generally under the State law for the purpose indicated above.

In a Sales Tax Office (Neyyattinkara), inter-State sale of products (honey) of an assessee, a co-operative society, during the years 1968-69 to 1972-73, was granted exemption under the Central Sales Tax Act, on the ground that sale of such products was exempt under the State Sales Tax Act. During local audit (April 1974) it was pointed out that as the sale of the society's products was exempt from tax payable under the State Act only under certain specified conditions, the sale could not be considered as exempt from tax generally under the State law and hence the exemption granted on the inter-State sale in question was not in order. When this was reported to Government (March 1975), Government stated (May 1975) that the assessments for the years 1968-69 to 1972-73 have been revised in March 1975 demanding a tax of Rs. 39,384 on a turnover of Rs. 3,93,835. Particulars of collection are awaited (January 1976).

(iii) Under the Kerala General Sales Tax Act, 1963, paddy and rice are liable to tax separately at 1 per cent at the point of first sale in the State as two different items of foodgrains. According to a clarification issued by the Board of Revenue in February 1972, dehusking of paddy into rice was a process of manufacture. It was also held by the Supreme Court (April 1973) that rice and paddy are two different commodities in ordinary parlance and that when paddy is dehusked and rice produced, there is a change in the identity of goods. However, in three Sales Tax Offices, in the case of four assessees, sales turnover of rice amounting to Rs. 22,90,465 for the years 1969-70 to 1972-73 was granted exemption on the ground that paddy, from which rice was produced, had suffered tax. This irregular exemption resulted in short demand of tax of Rs. 24,050. On this being pointed out in audit (October 1973 and July 1974) the assessments for the years 1969-70 and 1970-71 in respect of one assessee was revised (January 1974) and additional demand of Rs. 5,863 collected in February and July 1974. The Board of Revenue stated (December 1974) that in the remaining three cases the assessing authorities have been directed to revise the assessments. Particulars of revised assessments are awaited (January 1976).

The matter was also reported to Government in October 1975; reply is awaited (January 1976).

14. Application of incorrect rate of tax

The rate of tax prescribed for goods mentioned in the First Schedule to the Kerala General Sales Tax Act, 1963, varies from one per cent to twenty per cent. However, the tax payable, when a dealer sells any of the goods specified in the First Schedule to another for use by the latter as component part of any other goods mentioned in the said Schedule, shall be at the rate of only one per cent on the taxable turnover relating to such sale. In a Sales Tax Office (Ernakulam), turnover on naphtha (a scheduled item); sold by oil companies to a company engaged in the manufacture of fertilisers and chemicals was taxed at the rate of one per cent against the normal rate of five per cent, based on declaration made by the purchasers that naphtha was meant for use as component part of scheduled goods manufactured by them. It was pointed out in audit (August 1973) that naphtha, though a raw material used in the manufacture of chemical fertilisers, could not by itself be considered a component part of chemical fertilisers and the rate of tax applicable on naphtha sold to the company would be the normal rate of five per cent. Short levy of tax in the case of one oil company for the years 1968-69 to 1973-74 and another oil company for the year 1971-72 works out to Rs. 17,95,199 on a total turnover of Rs. 4,27,42,822.

On this being reported (May 1975), Government stated in July 1975 that the issue was being examined in consultation with the Board of Revenue. Final reply is awaited (January 1976).

15. Incorrect classification of goods

It was found during local audit of a Sales Tax Office (Ernakulam) in June 1970 that turnover of oil companies on special boiling point spirit was assessed at the general rate of 3 per cent, instead of 15 per cent applicable to petroleum products. On this being pointed out (January 1971), the Board of Revenue issued instructions (September 1972) directing the assessing officers to revise all completed assessments of oil companies taxing special boiling point spirit at 15 per cent. Short levy of tax in the case of one oil company on a turnover of Rs. 12,85,641 for the years 1968-69 to 1970-71 worked out to Rs. 1,61,991. Government stated (December 1975) that the assessments were revised in March 1973 and the additional demand collected in full.

16. Non-levy of penalty

Under the Kerala General Sales Tax Act, 1963, an assessee who fails to pay the tax assessed or any instalment thereof within the time specified for the purpose, is liable to pay penalty at the rate of 0.5 per cent per month on the tax due for the first three months and 1 per cent per month for each subsequent month. It was noticed during local audit (February 1973) that in the case of sales tax arrears recovered by the revenue authorities under the Revenue Recovery Act, penalty due on the arrears from the date of issue of revenue recovery certificates by the Sales Tax Department to the date of realisation as a result of revenue recovery proceedings was not being collected by the revenue authorities, on the ground that the revenue recovery certificates issued by the Sales Tax Department did not include a demand for recovery of the penalty accrued on the arrears after the issue of the certificates. On the omission being pointed out (August 1973), the Board of Revenue issued in December 1973, instructions to assessing authorities for the issue of revenue recovery certificates demanding penalty also. Short levy of penalty noticed in 35 Taluk Offices in the case of 736 assessees of 49 Sales Tax Offices was Rs. 1,25,985 (approximately). Particulars of collection are awaited (January 1976).

The matter was brought to the notice of Government in August 1975; reply is awaited (January 1976).

17. Excess demand from assessee

In a Sales Tax Office (Ernakulam), an amount of Rs. 10,099 paid by an assessee (December 1973), towards general sales tax dues for the year 1972-73 was credited under Central sales tax instead of under general sales tax. As a result of this, the sum of Rs. 10,099 was additionally demanded from the assessee in its final assessment. Details of rectification of the mistake pointed out in audit in July 1974 are awaited (January 1976).

This was also reported to Government in September 1975; reply is awaited (January 1976).

CHAPTER III

STATE EXCISE DUTIES

18. Introductory

The State Government is empowered under Entry 51 of the State List in the Seventh Schedule of the Constitution to levy duties of excise on alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics manufactured in the State, and countervailing duties on similar goods manufactured in India and "imported" into the State. The statutory basis for the levy and collection of State excise duties is the Abkari Act of 1077 (Malabar Era) as amended from time to time and the rules framed thereunder.

The receipts under State excise accrue from:—

(i) Duties levied on manufacture or issue of spirit at the distillery or bonded warehouse;

(ii) Countervailing duties on liquors manufactured elsewhere in India and "imported" into the State;

(iii) Sale of arrack;

(iv) Licence fees ie.,

(a) rental determined by annual auction of arrack, toddy and foreign liquor shops;

(b) fees at prescribed rates for issue of licences for sale of liquor;

(c) fees charged for running the distillery/ brewery;

(v) Tree tax paid by successful bidders in toddy auctions;

(vi) Gallonage fee levied on foreign liquors (upto 31st March 1973) and on rectified spirit consumed in the State;

(vii) Duties on the manufacture and sale of intoxicating drugs, opium, manufactured drugs, medicinal and toilet preparations containing alcohol, opium, Indian hemp or

other narcotic drugs or narcotics levied under various Central Acts which are administered by the State Government.

19. Trend of revenue

A comparative table indicating the total tax revenue, excise revenue and percentage of excise revenue to the total tax revenue for the last five years is given below:—

Year	*Tax revenue raised by the State*	*Excise revenue*	*Percentage of excise revenue to the total tax revenue*
	(in crores of rupees)		
1970-71	67.97	10.01	14.73
1971-72	74.70	9.99	13.37
1972-73	82.80	9.42	11.37
1973-74	95.46	12.06	12.63
1974-75	123.56	15.55	12.58

20. The process of manufacture of liquors

Toddy is produced by drawing juice from trees like coconut, sago and palmyrah by tapping and allowing the juice to ferment in the collecting pots themselves by the action of wild yeasts.

Spirit, including arrack, can be produced from a variety of raw materials like sugar and allied substances such as molasses, jaggery, sucrose etc., certain cereals such as barley, maize, wheat etc., fruits such as grapes, apples, cashew etc.

The base ordinarily used in distilleries for manufacturing spirit is molasses. The content of sugar in molasses is converted into alcohol by fermentation with the aid of cultivated yeast. For this, molasses is first diluted to the required strength and then acidified with sulphuric acid and this solution (called wort or wash) is allowed to ferment in 'fermentation vats' after mixing it with the required amount of yeast. During fermentation, the gravity of the wash falls rapidly owing to conversion of sugar into alcohol. (The fall in gravity of the fermented wash, which is measured by means of saccharometer, indicates the quantity of alcohol produced). The alcohol thus formed is separated in the process of distillation by partial vaporisation of the fermented wash. The spirit so obtained

is redistilled or reduced to the required strength for issue as rectified spirit, arrack etc., or as foreign liquor after addition of necessary colouring, sweetening or flavouring agents in a process called 'compounding'.

21. Control exercised over manufacture, sale and consumption of alcoholic liquors

The production, sale and consumption of liquors are completely controlled by the Excise Department. The production of liquor/spirit or any further processing of liquor/spirit produced, and storage of liquor/spirit in bonded warehouses are done only under the direct supervision of the excise staff. Release of liquor/spirit from any manufacturing place or from bonded warehouse and also its import, export or transport are possible only under permits issued by the department.

22. Organisation

The Excise Commissioner, who is a member of the Board of Revenue, is the head of the department. Under the Excise Commissioner, there are two Deputy Commissioners in charge of each of the two zones consisting of a group of districts. Under the Deputy Commissioner there are district officers, called Assistant Excise Commissioners, and below them function Circle Inspectors, two to three for each district. Each district is divided into a number of assessing units called ranges under the charge of Excise Inspectors. Excise Range Offices also function in distilleries, breweries, bonded warehouses and pharmacies.

23. Supervisory control

The departmental instructions envisage periodical inspection of the principal assessing units of the department by the Assistant Excise Commissioners, the periodicity of inspection prescribed being half yearly in the case of ranges and quarterly in the case of distilleries, pharmacies, bonded warehouses etc. It was, however, noticed that a number of assessing offices remained to be inspected for considerably long periods—vide details in Appendix II.

It was also seen that various returns required to be submitted periodically by the subordinate field officers to the Board of

Revenue were either not received or received very late. Also many of the returns received did not contain complete details.

Some of the interesting points noticed during test audit are given below:—

24. General

(i) *Receipts by way of rentals of toddy shops*

Year-wise details of the number of toddy shops licensed, number of trees licensed for tapping (in terms of coconut trees) and the rentals fetched for the shops are furnished below, for the last seven years:—

Year	*Number of shops licenced*	*Number of trees tapped*	*Rentals received*
(1)	(2)	(3)	(4)
			Rs.
1968-69	2,377	4,22,175	6,63,81,400
1969-70	2,383	3,67,087	4,08,23,075
1970-71	2,377	3,64,564	3,92,50,097
1971-72	2,364	3,72,671	3,55,95,301
1972-73	2,364	3,31,823	3,00,19,378
1973-74	2,332	3,31,623	2,38,51,114
1974-75	2,318	3,23,279	2,46,63,550

The collection of rentals of toddy shops in the State has been steadily declining year after year although there is no corresponding variation in the number of toddy shops licenced or in the quantum of liquor sales as indicated by the number of trees licenced for tapping.

This was reported to Government in October 1975; reply is awaited (January 1976).

(ii) *Non-fixation of quota of arrack*

The monthly quota of arrack to be supplied to each shop is fixed before auction of the shop. A shop can, however, obtain any quantity in excess of the prescribed quota subject to payment of 'commission' at prescribed rates. According to departmental

instructions, the quota of arrack in respect of a shop is required to be refixed each year after adding 25 to 50 per cent of the quantity of arrack drawn in the previous year on commission basis and the auctioning officer is required to announce in the auction hall the quota fixed in respect of each shop, before commencement of the auction. The quantity of arrack allowed to be sold in a shop would normally form the basic index of its business prospects and, therefore, an essential factor influencing the amount of rentals in an auction. It was, however, seen in local audit that quota of arrack was not being refixed year after year with reference to the quantity of arrack drawn by the shops on commission basis.

This was reported to Government in October 1975; reply is awaited (January 1976).

(iii) *Solvency of the licensees not verified*

(a) Under the terms of notice of the auction, the intending bidder of a shop, who in the opinion of the auctioning officer is of doubtful solvency, could be excluded from bidding for the shop. According to departmental instructions, the Excise Inspector of the range and the Assistant Excise Commissioner have to ensure with the help of the Village Officer, at the time of auction, that the bidder of a shop is solvent. However, it was seen in audit that many defaulters of abkari dues proved insolvent when they were proceeded against by Revenue Authorities for recovery of the dues under the Revenue Recovery Act. Abkari arrears remaining unrealised from 18 insolvent licensees in respect of 65 shops bid during 1968-69 to 1971-72 amounted to Rs. 6.69 lakhs in 11 ranges alone.

In the case of four of the defaulters mentioned above, from whom recovery of arrears of Rs. 38,495 relating to the period 1968-69 proved difficult (February 1972), the Assistant Excise Commissioner (Cannanore) reported (September 1973), that the Village Officers present at the time of auction had certified about the solvency of three of these licensees in the sale list. The Board of Revenue, however, stated (July 1975) that the solvency of the licensees had not been noted in any of the records available.

The matter was brought to the notice of Government in October 1975; reply is awaited (January 1976).

(b) According to the general conditions applicable to sale of abkari shops (prior to the 1972 auction), the auctioning officer could prevent a defaulter in respect of any abkari revenue from bidding a shop put up for sale. In spite of this, many defaulters of abkari revenue participated in auctions and obtained licences for running the shops. It was seen during test audit that in twelve range offices 40 persons, who had defaulted in the payment of abkari dues to the extent of Rs. 6.4 lakhs in previous years, were permitted to participate in the auction held in 1971 and were given licences for running the shops during the period 1971-73. The fact that three of these persons had defaulted in the payment of dues amounting to Rs. 4.99 lakhs in respect of certain shops licensed to them in 1968-69 to 1970-71, and that this amount proved irrecoverable in revenue recovery proceedings for want of properties in their names, had been reported to the Board of Revenue by Revenue authorities in December 1970. Even during the licence period 1971-73, one of these three licensees left additional arrears to the extent of Rs. 1.81 lakhs.

A new condition applicable to sale of abkari shops was introduced in 1972, whereby no defaulter of abkari dues was to be allowed to participate in auction, unless he produced from the Excise Inspector concerned, a certificate to the effect that he had remitted before the date of auction, 20 per cent of the arrears pending as on the date of the auction notification. However, it was noticed in test audit that in five ranges, four persons who were defaulters of abkari dues to the tune of Rs. 7.06 lakhs for the years 1967-68 to 1970-71 bid in auction for 30 shops for the year 1973-74 and six persons who were defaulters of abkari dues to the tune of Rs. 2.25 lakhs for the years 1967-68 to 1973-74 bid in auction for 72 shops for the year 1974-75, though they had not remitted 20 per cent of the arrears pending against them, as on the dates of the auction notifications.

This was reported to Government in October 1975; reply is awaited (January 1976).

(iv) *Non-enforcement of the terms of licence*

In terms of the notice (which forms part of the agreement with the licensees) governing the sale of privilege of vending

toddy, arrack etc. in independent shops, whenever the licensee fails to pay the kist, tree tax, duty, gallonage fee etc., due from him for any month, with interest due, on or before the 20th day of the month, the Assistant Excise Commissioner may cancel the licence and order resale of the shops at the risk of the licensee. It was noticed during local audit that there was omission on the part of the department to invoke the aforesaid provision of the agreement against defaulters, with the result that some of the defaulters continued to run the business after the prescribed dates, without clearing the arrears. A few instances of the type are given in Appendix III.

(v) *Irregular grant of exemption*

(a) Section 71 of the Abkari Act of the State empowers the State Government to exempt any liquor or intoxicating drug from all or any of the provisions of the Act. It was seen in audit that arrears of excise revenue due from the licensees were being remitted by Government by granting exemption retrospectively. Such retrospective remission of revenue relating to the period August 1969 to March 1970 (3 licensees) and May 1973 and June 1973 (59 licensees), ordered by Government (July 1972 and March 1974) amounted to Rs. 8.65 lakhs. The Act, however, does not confer any power on Government to grant exemption retrospectively or to remit revenue.

(b) Under the Rules for issue of licences for sale of foreign liquors, canteens attached to Defence Service Units are eligible for purchase of liquor at concessional rate of excise duty, subject to the condition that all such purchases should be arranged through the Canteen Stores Department only. Any purchase of liquors made by a Defence Service Canteen otherwise than through the Canteen Stores Department, attracts levy of duty at the normal rate, unless the Canteen has been exempted by Government from payment of the full amount of duty by means of a notification (to be effective prospectively only), issued under Section 71 of the Act. The Act does not confer any power on the Board of Revenue to permit payment of excise duty at a reduced rate by a licensee. It was, however, seen in audit (September 1974) that by an order issued in August 1973, the Board of Revenue permitted a Naval Canteen at Cochin to purchase

12,015 proof litres of foreign liquor from the distillery at Shertallai on payment of excise duty at the rate of Rs. 3 per proof litre as against the normal rate of Rs. 14 per proof litre.

In another case where the same Naval Canteen purchased 13,792.5 proof litres of foreign liquor from 4 bonded warehouses (Cochin) and one distillery (Shertallai) at the reduced rate of duty of Rs. 3 per proof litre as per orders issued by the Board of Revenue in April 1974, Government, in May 1974 directed the Board to collect duty at the full rate from the Canteen. However, in the case of purchase of liquor by the Canteen, referred to in sub-para above, short levy of duty, amounting to Rs. 1,32,165, pointed out in audit in September 1974, has not been collected so far (December 1975).

(c) Government by a notification issued in April 1974, exempted from payment of duty Indian made rum which had been supplied through the Canteen Stores Department and consumed by the Defence Service Personnel between 3rd December 1971 and 31st March 1973. It was found during audit of an Excise Range Office (Quilon) in April 1975, that a Canteen attached to a National Cadet Corps Headquarters was granted refund (March 1975) of an amount of Rs. 33,062, being the duty already collected from them on 11,021 proof litres of rum transacted by it during the period covered by the exemption orders, as shown below:—

(i)	duty on rum consumed by service personnel	Rs. 17,820
(ii)	duty on rum consumed by ex-service men	Rs. 14,744
(iii)	duty on rum lost in transit	Rs. 498

The refund was not in order as (i) the State Government have no power to notify exemptions retrospectively and (ii) the notification did not contemplate remission of duty in the case of rum consumed by ex-service men, and also in respect of rum that lost in transit.

All these cases of irregular exemption were brought to the notice of Government (between June 1974 and October 1975); reply is awaited (January 1976).

25. Low yield of spirit from wash

Under the Distillery and Warehouse Rules, 1968, the minimum quantity of spirit that 100 litres of wash should yield in the process of fermentation is fixed at one proof litre for every five degrees fall in gravity of wash subject to fermentation. The Audit Report for the year 1973-74 (paragraph 38) mentioned a case noticed in a distillery (Shertallai) regarding short levy of Rs. 26,04,000 due to accounting/production of spirit at a level much lower than the prescribed yield. In that case, the Board of Revenue admitted the short production/ accounting of spirit and raised demand against the distiller for the amount of duty short levied (April 1975).

It was noticed in local audit that similar short production/ accounting of spirits occurred in other distilleries also. The short levy of excise duty on this account noticed in two other distilleries (Tiruvalla and Palghat) during the year 1973-74 alone amounted to Rs. 58.54 lakhs.

The matter was reported to Government in October 1975; reply is awaited (January 1976).

26. Omission to add the degree of obscuration to the apparent strength of spirits

In distilleries, foreign liquor is prepared, in a process known as compounding, by adding flavouring and colouring matters to spirit. Due to the presence of colouring and flavouring matters (eg., caramel) in the compounded spirit, the strength of the spirit gets 'obscured' with the result that the apparent strength of the compounded spirit, as indicated by the hydrometer, becomes less than the true strength of the plain spirit used for compounding. Excise duty leviable on spirit is with reference to its true strength only. Therefore, in order to get the correct strength of the compounded spirit, it is necessary that the degree of obscuration is also added to its apparent strength. It has, therefore, been prescribed in the Distillery and Warehouse Rules (Part II)that in the case of compounded spirit, duty shall be calculated on the quantity and strength of such spirit, after adding the number of degree of obscuration (as certified by the Chemical Examiner) to its apparent strength, as indicated by the hydrometer. It was, however, noticed in audit that the degree of obscuration had never been determined

in any of the three distilleries (Shertallai, Tiruvalla and Chalakudy) which produced foreign liquors and the department calculated excise duty due on liquors released from the distilleries with reference to its apparent strength only. The chemical analysis of liquors produced in one distillery (Chalakudy), arranged at the instance of audit (February 1975), showed that its apparent strength was less than the real strength by one degree. Taking the degree of obscuration in the case of foreign liquors produced in the other two distilleries also as one, the loss of revenue caused due to failure on the part of the department to reckon duty on foreign liquors correctly with reference to its true strength works out to Rs. 2.97 lakhs (approximately) on 14,86,810 proof litres of liquors sold by the three distilleries for consumption within the State between April 1971 and March 1975.

The matter was reported to Government in January 1975; reply is awaited (January 1976).

27. Distillation of spirit in excess of the prescribed strength

Under the Kerala Distillery and Warehouse Rules, spirits intended for issue as country spirit (arrack) should not be distilled at a strength higher than 30 degree O. P.* However, the practice followed in the distilleries of the State in regard to manufacture of arrack was to distill the spirit to a strength much higher than 30 degree O. P. (i. e. mostly as rectified spirit with strength of 50 degree O. P. or more) and then reduce it to 25 degree U. P.£, for issue as arrack. The exact amount of spirit lost consequent on its rectification from 30 degree O. P. to a higher strength is not readily available. However, the Distillery and Warehouse Rules prescribe a permissible wastage of 0.75 per cent in the process of rectification which indicates that 0.25 per cent of spirit at least is lost in the process of its rectification from 30 degree O. P. to 50 degree O. P. or more. When worked out on this basis, the spirit lost due to the use of 1.21 crores proof litres of rectified spirit in two distilleries (Tiruvalla and Chalakudy) for producing arrack during the period April 1970 to March 1975 comes to 30,230 proof litres.

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* O. P. means over proof.

£ U. P. means under proof.

The consequent loss of revenue would work out to Rs. 4.68 lakhs approximately.

The matter was reported to Government in November 1974; reply is awaited (January 1976).

28. Non-levy of excise duty, gallonage fee and sales tax on rectified spirit issued from a distillery

Under the Kerala Rectified Spirit Rules, 1972, rectified spirit for consumption in the State shall be issued from a distillery only on payment of duty and gallonage fee; the only exception being the issue of spirit under bond for manufacture of medicinal and toilet preparations. It was, however, noticed in local audit (November 1974) that no duty and gallonage fee had been levied on 1,89,000 bulk litres (3,14,408 proof litres) of rectified spirit sold by a distillery (Palghat) between September 1973 and October 1974 to three other distilleries in the State for manufacture of arrack and foreign liquor. This resulted in loss of duty and gallonage fee amounting to Rs.53,45,824 and sales tax of Rs. 1,00,755. The Board of Revenue stated (December 1974) that they had requested Government to amend the Rectified Spirit Rules to bring it in line with the Distillery and Warehouse Rules. Government, in October 1975, amended the provisions of the Rectified Spirit Rules permitting the release of rectified spirit from a distillery to other distilleries without payment of duty and without requiring the distillery to execute a bond, though under the Distillery and Warehouse Rules, removal of non-duty paid spirit from a distillery is possible only under a bond. In any event, the amendment cannot have retrospective effect so as to regularise the duty not levied. Apart from this, it is not clear whether the intention of the State Government was to issue rectified spirit to convert it into arrack, when the arrack so manufactured was liable to a far lower amount of duty.

The matter was reported to Government in August 1975; reply is awaited (January 1976).

29. Non-levy of duty and gallonage fee on rectified spirit imported

Under the Abkari Act and Rectified Spirit Rules made thereunder, import of rectified spirit for any use other than for the manufacture of medicinal and toilet preparations by licensees

other than bonded warehouse licensees, is allowed on payment of excise duty and gallonage fee on the quantity intended to be imported. It was, however, seen in audit that a distillery in the State (Palghat) imported in 1974-75 and 1975-76, 6,47,000 bulk litres (10,74,020 proof litres) of rectified spirit from Tamilnadu, without payment of excise duty and gallonage fee. This resulted in non-levy of excise duty and gallonage fee amounting to Rs. 1,82,64,810 (excise duty Rs. 1,66,47,310 and gallonage fee Rs. 16,17,500).

The matter was reported to Government in August 1975; reply is awaited (January 1976).

30. Unauthorised manufacture of wine

Under the Abkari Act, excise duty and gallonage fee, if any, should be levied on all liquor manufactured in a winery and no winery shall be worked except under the authority and subject to the terms and conditions of a licence granted by the Excise Commissioner. It was seen in audit (September 1974) that a distillery (Shertallai) had been manufacturing wine for years without a winery licence, and no duty had been levied on the quantity of wine so manufactured. On this being pointed out in audit (October 1974), Government arranged an investigation into the matter, which proved that the distillery had been manufacturing wine unauthorisedly from April 1966 onwards. Duty due on 16,400 proof litres of wine estimated to have been manufactured by the distillery was fixed by the Board of Revenue as Rs. 1,96,800, which the distillery paid in May 1975. Reply of Government on certain other aspects of the case, like recovery of gallonage fee of over Rs. 1,00,000 due from the distillery on the above quantity of wine, penalty imposed on the distiller for having violated the provisions of the Abkari Act etc., is awaited (January 1976).

31. Removal of spirits without payment of duty and without bond

When spirits are removed from a distillery without payment of duty, the distiller has to execute a bond, either general or special, for the payment of duty at the prescribed rate in the case of his failure to account for the spirit so removed. The spirits removed from the distillery under a general bond have to be limited to the quantity, duty on which should not exceed the amount covered by the bond.

(i) It was noticed in audit that a distillery (Tiruvalla), manufacturing mainly arrack, was being permitted to remove large quantities of arrack to its warehouses in different parts of the State without collecting duty and also without getting bonds executed by the distiller. On this being pointed out (January 1974), the Board of Revenue stated (August 1975) that in spite of the direction issued by the Board, the distiller was not executing the bond.

The matter was also brought to the notice of Government in October 1975; reply is awaited (January 1976).

(ii) In the case of spirits removed under bond, the excise authorities at the receiving end are required to send reports regarding verification of each consignment. If such verification report is not received within twenty one days, excise duty and gallonage fee, if any, on the quantity removed under bond are required to be realised from the distiller. It was noticed in audit that in the distillery referred to above, verification reports for 6,99,520 bulk litres (5,24,640 proof litres) of arrack, issued during the period between June 1969 and March 1973 without collection of duty, had not been obtained. Excise duty of Rs. 81.32 lakhs was leviable from the distiller for this quantity. On this being pointed out (January 1974), Government stated (August 1975) that the Assistant Excise Commissioner was being instructed to realise duty at tariff rate in respect of consignments for which verification reports were pending. Further developments are awaited (January 1976).

(iii) In two other distilleries (Chalakudy and Palghat) the amount of duty due on the quantity of arrack released to its warehouses, in respect of which verification reports of excise authorities at the receiving end were pending, far exceeded the amount of general bonds executed by the distillers. In the case of one of these distilleries (Chalakudy), duty due in respect of unverified consignments relating to 1972-73 and 1973-74 (with reference to the position as in October 1974) worked out to Rs. 13.24 lakhs, though the amount covered by the bond executed by the distiller was only Rs. 50,000.

The matter was reported to Government in January 1975; reply is awaited (January 1976).

32. Irregular allowance of wastage in reducing and blending operations

Reducing and blending operations carried out in distilleries do not affect the strength of spirit used and, therefore, no allowances are prescribed for losses arising out of such operations. It was, however, noticed in audit that in three distilleries (Tiruvalla, Chalakudy and Palghat) alleged wastages in reducing and blending operations amounting to 37,379 proof litres of spirit had been allowed duty free between April 1973 and March 1974 resulting in short levy of duty of Rs. 5.79 lakhs. A similar short levy relating to another distillery (Shertallai) mentioned in the Audit Report, 1973-74 (paragraph 41) was admitted by the department in November 1974. Particulars of collection in that case are awaited (January 1976).

The cases were reported to Government in October 1975; reply is awaited (January 1976).

33. Short accounting of spirit by distillery officer

In a distillery (Shertallai), the quantity of spirit issued for bottling between April 1972 and January 1973 was 12,50,304 proof litres as per the records of the distillery officer, whereas the quantity issued for bottling during the same period as shown in the 'monthly consolidated statements of stock' furnished to the department by the distillery was 12,65,481 proof litres. The amount of duty involved on the quantity of spirit short accounted in the records of the department works out to Rs. 2,73,200 (approximately).

This was reported to Government in October 1975; reply is awaited (January 1976)

34. Non-collection of duty on spirit lost in transit

No wastage is to be allowed on spirits that have been bottled. A distillery in the State (Shertallai), was exporting under bond large quantities of foreign liquors, but no proper record of actual wastage of spirit in the course of export was made in the distillery accounts nor had the distillery paid any amount towards duty on spirits lost in transit. Even the incomplete records kept by the distillery officer showed that the distillery had to pay over Rs. 67,000 in respect of transit wastage allowed between January 1967 and May 1972 alone.

On this being pointed out (September 1973), the Board of Revenue agreed (November 1974) that non-recovery of duty from the distillery was a lapse on the part of the department.

The case was also reported to Government in October 1975; reply is awaited (January 1976).

35. Short collection of duty

The procedure followed by one of the breweries (Palghat) in regard to payment of duty on beer produced was to remit a certain sum to the department in advance for adjustment against duty due on beer released to it later. The correct adjustment of the amount of duty against the advance and the balance outstanding in the 'advance account' after each adjustment are watched through a register maintained by the Surveying Officer. During the course of audit (December 1974) of the accounts maintained by the Surveying Officer, it was noticed that the amount of advance available for adjustment was wrongly noted in the register as Rs. 15,555.20 against the correct balance of Rs. 7,259.40, resulting in short adjustment of Rs. 8,295.80. On this being pointed out (December 1974), the department stated (February 1975) that the balance in the register had been adjusted to cover the short collection of Rs. 8,295.80.

36. Issue of tree tapping licenses and collection of tree tax

Under Sections 12 and 18 of the Abkari Act, toddy producing trees could be tapped only on the authority of tree tapping licences issued by the Excise Department and also on payment of excise duty on toddy in the form of a tax on each tree tapped. Tree tapping licences are issued for each half year of a financial year and rate of tax is also fixed on half yearly basis in the case of coconut and sago trees. Licence for tapping trees is issued on application from the licensee after payment of the first instalment of tax and also after marking by the department of the trees selected for tapping.

(i) The register of applications for tree tapping licences and the register of tree marking operations are the basic records required to be maintained in the excise ranges to show the details of trees licensed for tapping in each half year. It was seen in audit that in one

range, both the register of applications for tree tapping licenses and the register of tree marking operations and in four other ranges the register of tree marking operations had not been maintained.

(ii) It was noticed during audit of an Excise Range Office (Thodupuzha) that the joint licensees of 21 toddy shops in the range for the period 1st May 1972 to 31st March 1973 had not been issued any tree tapping licences, nor had any record of tree tapping operations conducted by the licensees been kept in the office. Tax collected by the department from the licensees for the 1st half year (1st May 1972 to 30th September 1972) was for 440 sago trees and 80 coconut trees and that for the 2nd half year (1st October 1972 to 31 March 1973), was for 544 sago trees. However, in an affidavit filed (May 1972) before the High Court, the licensees conceded that they were drawing toddy from 2,416 sago trees and 378 coconut trees for the shops in question. Short collection of tax for the year 1972-73, based on the statement made by the licensees themselves, worked out to Rs. 1,67,440. On this being pointed out (January 1974), the Board of Revenue stated (April 1975) that the licensees had not given applications for tree tapping licenses, and tax was computed on the basis of the minimum number of trees required to be licensed in respect of each shop under the rules and that the Assistant Excise Commissioner was being directed to demand tax with reference to the number of trees stated by the licensees in the affidavit as under tapping. Details of collection of dditional demand are awaited (January 1976).

The matter was also reported to Government in August 1975; reply is awaited (January 1976).

37. Short collection of gallonage fee in ranges

Till 31st March 1973, gallonage fee was being levied on foreign liquor sold by licensees to non-licensees. For facilitating the levy, each licensee was required to maintain separate accounts for sales and to furnish to the department monthly statements showing the opening balance, receipts, sales to other licensees, other sales and closing balance of foreign liquor and also the amount of gallonage fee due. The department was to raise the demand against a licensee after verifying the monthly gallonage fee statements received with the import/export/transport permits issued to the licensee, endorsement made by excise authorities on such permits indicating the

quantities of liquors issued to the licensee, licensee's accounts etc., and also after conducting physical verification of stock held by the licensee.

During local audit of excise range offices, it was noticed that in many cases the quantities of liquor receipts accounted for in the monthly gallonage fee statements were very much less than the quantities for which permits had been issued by the Excise Department. There was no indication that before accepting the statements and raising the demand, the correctness of details furnished in the statement had been verified by the department with reference to supporting documents and the stock of liquors kept with the licensees. Gallonage fee due on the quantities of liquors permitted to be purchased, but not accounted for in the gallonage fee statements amounted to Rs. 3,74,000 (approximately) for the period 1971-73, in the case of elevan licensees in seven Excise Range Offices.

On this being pointed out (between May 1973 and November 1973), the department raised (between July 1973 and October 1975) an additional demand of gallonage fee of Rs. 17,898 (of which Rs. 14,435 is stated to have been collected and Rs. 1,916 recommended for recovery under the Revenue Recovery Act) in the case of nine licensees in five offices. Reply of the department in respect of the remaining two offices (Kottarakara and Pathanapuram) is awaited (January 1976).

The matter was reported to Government in September 1975; reply is awaited (January 1976).

38. Irregular allowance of wastage of arrack in transit

The maximum permissible wastage in the case of spirits transported in receptacles is to be calculated on the quantity consigned in each receptacle comprised in a consignment. It was, however, seen in audit that in eight Excise Range Offices, the permissible wastage of arrack transported from the distilleries to its warehouses situated in these ranges had been calculated applying the prescribed percentage of wastage on the total quantity of arrack consigned in all the receptacles comprised in the consignment, instead of calculating it with reference to the quantity in each receptacle. It was pointed out in audit (May 1973) that the department followed the incorrect method of computation of transit wastage with the attendant risk of setting off

of excess wastage of arrack in one receptacle against the quantities in other receptacles having wastage less than the prescribed maximum. As the department did not keep receptacle-wise details of verification of the quantity consigned on each occasion, it was not possible to work out the loss of revenue due to irregular allowance of wastage. On this being pointed out (January 1974), Government stated (August 1975) that according to the Board of Revenue this irregular practice had caused financial loss to Government, but the extent of loss could not be assessed owing to non-maintenance of container-wise verification records.

39. Non-fixation of the scale of supply of liquors in the case of Defence Service Canteens or Messes

Under the terms of licence for the sale of foreign liquors issued to Defence Service Canteen/Mess, the liquor that can be issued by the Canteen/ Mess to a member (who should be in the active service in the Defence Services) should be according to the scale of supply fixed by the Defence Service Headquarters. While issuing licence to a Canteen/ Mess attached to Defence Unit, the quantity of liquors that the Canteen/Mess could be allowed to purchase for supply among the members has to be fixed by the department with reference to the number of officers and men in the Unit, their rank etc., as certified by the Officer Commanding of the Unit, as also the scale of supply fixed by the Defence Service Headquarters. The correct assessment by the department of the requirement of liquors in a Canteen/Mess assumes importance in the sense that the Canteen/Mess gets the benefit of concessional rate of excise duty only on the quantity so assessed and it can be called upon to pay the normal rate of excise duty on all quantities purchased over and above the quota fixed or sold to unauthorised persons. It was, however, noticed in audit that in the case of seventeen Defence Service Canteens, the quota of liquors to be supplied was omitted to be fixed throughout the licence period with the result that the canteens obtained unrestricted supply of liquors at concessional rate of duty.

The matter was reported to Government in October 1975; reply is awaited (January 1976).

40. Avoidable payment of interest on security deposits

Under the terms of licences issued for the sale of privilege of vending toddy, arrack etc., in independent shops during 1973-74, the

security amounting to 20 per cent or more of the rentals of the shops required to be deposited by the licensees (in Treasury Savings Bank Accounts) was adjustable towards kists due from the licensees for the last two or more instalments, unless the security amount was already appropriated otherwise under the rules. To obviate the difficulty in making adjustment of the security deposit towards kist in each month, the department prescribed a procedure by which the security is to be adjusted in lump towards kists of the last two or more months immediately after 10th January (ie. immediately after the date prescribed for payment of the last kist), but in any case, before 20th January. It was, however, seen during local audit that generally the amount of security had been adjusted against the dues of licensee long after 20th January. This resulted in avoidable payment of interest under the Treasury Savings Bank Rules to the licensees on the amount of security deposited in Savings Bank Accounts for the period for which the adjustment was delayed, without also the licensees having any liability for paying interest for belated payment of kist caused by delay on the part of the department. Such belated adjustment of security amounting to Rs. 61,49,400 towards kists in respect of certain shops in six divisions for the licence period 1973-74 caused avoidable payment of interest of Rs. 36,300 (approximately).

The matter was reported to Government in August 1975; reply is awaited (January 1976).

41. Unauthorised depositing of security in fixed deposit

Under the Treasury Savings Bank Rules and also according to departmental instructions, securities furnished by licensees of abkari shops are required to be deposited only in Treasury Savings Bank Accounts. However, in an Excise Division (Trichur), security amounting to Rs. 6,70,000 furnished by two licensees in March 1973 in respect of 75 arrack shops bid by them for the year 1973-74 was permitted to be deposited in the Fixed Deposit Account in the treasury. The unauthorised depositing of the amount in Fixed Deposit resulted in payment to them of (i) interest at 6 per cent per annum against 4½ per cent per annum payable on a credit balance of Rs. 1,00,000 only in Savings Bank Account and (ii) interest for three more months, consequent on the adjustment of security against dues

of the contractors being cmpulsorily postponed to the date of maturity of the Fixed Deposit. Loss sustained by Government as a result works out to Rs. 33,450.

The case was referred to Government in March 1975; reply is awaited (January 1976).

42. Non-enforcement of the terms of contract

Under the terms and conditions applicable to auction of the right to vend toddy, arrack and foreign liquor in independent shops for the year 1972-73, if the successful bidder of a shop failed to produce before the auctioning officer a solvency certificate for an amount not less than 20 per cent of the bid amount, the shop was to be resold at the risk of the bidder. The security deposit already made by the bidder was also to be forfeited, but the amount of deposit could be adjusted against the loss, if any, in the resale recoverable from the bidder. It was, however, seen during local audit (October 1974) that in an excise division (Palghat) the auction in respect of 71 shops for the year 1972-73 held in April 1972 was not confirmed by the department owing to failure on the part of the bidders to furnish the solvency certificates and the shops were resold in auction in June 1972. The resale of 67 shops resulted in a loss of Rs. 1,10,280, but the original bidders were not held liable for the loss (thirty shops were bid in the resale by the original bidders themselves for Rs. 57,000 less than the original bid amount). The security amounting to Rs. 6,580 deposited by the original bidders in the case of the remaining 4 shops, which gained in rentals by Rs. 4,586 in the resale, was not forfeited to Government.

The matter was reported to Government in May 1975; reply is awaited (January 1976).

43. **Short collection of interest**

According to the terms applicable to contract for the privilege of vending toddy and arrack in independent shops, the licensees are liable to pay interest at 9 per cent for belated payment of kist (instalment of monthly rental), tree tax etc. It was, however, noticed during local audit of seven Excise Range Offices, that in the case of certain licensees who made belated payment of kist, tree tax etc., interest was either not demanded or calculated incorrectly, resulting

in short levy of Rs. 13,416. On this being pointed out (between June 1973 and March 1974), the department raised additional demand, of which Rs. 9,035 was collected (between August 1973 and February 1975) and Rs. 3,536 reported for recovery under the Revenue Recovery Act.

The matter was also reported to Government in August 1975; reply is awaited (January 1976).

44. Offences under the Abkari Act

(i) *Delay in finalisation of the detected cases*

Prevention and detection of abkari crimes is one of the important duties entrusted to the officers of the Excise Department. The success of the operation lies not only in detecting the offences but also in finalising the cases so detected expeditiously to the advantage of the department. As per the departmental instructions on the subject, the departmental official who detected an offence should complete all investigations and enquiries connected with the offence quickly and should either prosecute the offender or recommend the case for composition, within seven days of the date on which the case was reported. Also, in order to present before the court, with expert evidence to prove the alcoholic content of the liquors seized, samples of liquors are to be got analysed by the Chemical Examiner without delay. It was seen in audit that in six Range Offices and two Circle Offices, as many as 2,397 cases detected between 1967 and 1973 were pending without any action. Out of these 1,329 cases were those rejected by the court owing to lapse of time (517 cases) and want of chemical examination reports (812 cases).

The matter was reported to Government in October 1975; reply is awaited (January 1976).

(ii) *Composition of offences*

Under the Abkari Act, the competent authority in the department can accept from a person, who is reasonably suspected of having committed an offence under any of the categories prescribed for the purpose, a sum of money not exceeding two thousand rupees by way of compensation for the offence which may have been committed. In cases where the offences are compounded, the accused persons are required to pay the compounding fee within seven days from the date

of service of the notice demanding the fee; otherwise a complaint in a magistrate's court should be filed on the eighth day of service of notice. It was seen in audit that in seven Range Offices compounding fee in respect of 536 cases amounting to Rs. 87,630 demanded during the years 1970 to 1973 was pending collection from the accused. Also no action was found to have been taken in these cases for prosecuting the offenders.

The points mentioned above were reported to Government in October 1975; reply is awaited (January 1976).

45. Uncollected revenue

Arrears of State excise duties outstanding at the end of March 1975 amounted to Rs. 2.64 crores against Rs. 3.31 crores outstanding at the end of March 1974. Year-wise analysis of outstandings called for in May 1975 is awaited from the department (January 1976).

The following observations are made in this connection.

(i) Under a procedure prescribed for the exercise of effective control over the collection of excise revenue, the Assistant Excise Commissioners are to furnish to the Board of Revenue, every quarter, two statements, the Demand Collection and Balance statement of abkari rentals, tree tax etc., and the Demand Collection and Balance statement of old abkari arrears. Statements so received are to be reviewed by the Board of Revenue and copies of the review reports submitted to Government on 15th of the month following the quarter. However, the Board of Revenue do not have information as to the amount of arrears in excise revenue as at the end of a particular quarter or the year-wise details of the arrears. Year-wise analysis of the outstanding as on 31st March 1974, called for in May 1974 is yet to be received (January 1976).

(ii) By an order issued in February 1974, Government vacated, with immediate effect, the stay on collection of arrears in cases involving recovery of Rs. 20,000 and above. A Committee of senior officers of Revenue, Finance and Taxes Departments was to review individual cases covered by the order and to put up to the Minister concerned, the cases involving extreme hardship for orders as to whether any concession by way of payment in instalments, subject to payment of a substantial initial amount, should be given.

Government stated (October 1975) that the Committee had reviewed altogether 23 cases only as at the end of September 1975. Information regarding the number of cases pertaining to the excise department reviewed and pending for review is awaited (January 1976).

(iii) Register of Demand, Collection and Balance of old arrears is an important record required to be maintained in Range Offices to indicate, in the case of each licensee, the details of the amount of uncollected revenue and its recovery under the Revenue Recovery Act or otherwise. It was seen in audit that this register was not maintained in five Range Offices and the registers maintained in other four Range Offices did not contain the correct particulars.

(iv) It has been prescribed in the Departmental Manual that the officers of the Excise Department should keep in close contact with the Revenue Department and watch the progress of collection of arrears under the Revenue Recovery Act. It was, however, seen in audit that there was omission on the part of the officers of the Excise Department to ascertain periodically from the Revenue Department the progress of collection of arrears pending recovery under the Revenue Recovery Act.

The points indicated above were brought to the notice of Government in October 1975; reply is awaited (January 1976).

46. Reconciliation of receipts

It was seen in test audit that in seven Range Offices, the work connected with reconciliation of receipts accounted for in the departmental accounts with those booked by treasuries, was in arrears for various periods, ranging between five months and seventeen months.

This was reported to Government in October 1975; reply is awaited (January 1976).

Other procedural irregularities

47. Non-recording of sugar content of molasses in distillery accounts

When spirit is produced out of molasses, the quantity of spirit obtained is proportionate to the quantum of sugar contained in the molasses. As the sugar content in molasses varies from one lot to another, the correctness of the quantity of spirit produced from a

certain quantity of molasses can be varified only wh content of the molasses is determined and recorded in accounts, before commencing the fermenting operation

It was, however, seen in audit that sugar conten used in fermentation was not being determined and als the 'Distiller's account of materials used' prescrib Distillery and Warehouse Rules did not provide for sugar content. On the omission being pointed out Government agreed with the suggestion to amend th 'Distiller's account of materials used' (August 1975).

48. Non-maintenance/defective maintenance of impo records in a distillery

(i) In a distillery (Shertallai), which is mainly manufacture of various kinds of foreign liquors, no maintained to indicate (1) the quantity of compound on each occasion for bottling, (2) the number of b with this quantity and (3) the number of bottles out from the distillery, either on payment of duty or u various operations involved, from the stage of co liquors to its issue from the distillery, continued throu it was not possible to verify, with any amount of acc the entire quantity of liquors compounded were these bottles were released from the distillery only th ed channels.

(ii) The Distillery and Warehouse Rules prescr of various important registers by the officer in charg to facilitate correct recording of the series of manu tions taking place in the distillery. During every right from the preparation of wort, the department not only to be present inside the distillery but also spot noting of all important aspects connected wit for subsequent record in the registers prescribed The nature of operations carried out in a distille noting of certain intermediate developments like ini and temperature of wash subjected to fermentation wash and spirit in vats etc., if not made on the sp

be authentic. It was, however, seen during the audit of the aforesaid distillery in June 1973, that many important registers intended to indicate (i) gravity of fermented wash, (ii) gauges of wash, (iii) quantities of spirits stored or issued from the vats in the warehouse in terms of proof strength, (iv) weekly account of spirits in hand, stored etc., (v) results of quarterly stock-taking of spirit, (vi) verification of consignment of liquors etc., were not written up with reference to details of manufacturing operations in the distillery in the previous six to eighteen months.

The omissions mentioned above were brought to the notice of Government in October 1975; reply is awaited (January 1976).

49. Defective maintenance of the 'Note Book of gauges and proofs'

The 'Note Book of gauges and proofs' is the initial record for noting by the distillery officer, the quantities and strength of spirit produced and kept in different vats in the distillery. This book facilitates verification, at any time, of the quantities and strength of spirits that may have been recorded by the distillery officer in several other accounts. Under the Distillery and Warehouse Rules, even the corrections made in this register, if not satisfactorily explained by the distillery officer, call for disciplinary action.

It was seen in audit that the register maintained in a distillery (Tiruvalla) contained a number of unattested corrections, while the register maintained in another distillery (Chalakudy) did not contain particulars of spirits produced on many occasions.

This was reported to Government in October 1975; reply is awaited (January 1976).

50. Internal Audit Organisation

The Internal Audit wing of the Board of Revenue constituted in 1961, conducts audit of State Excise Offices. The number of offices audited by the Internal Audit wing during the last four years is as follows:—

Year	*Number of offices required to be audited annually*	*Number of offices audited*
1971-72	143	8
1972-73	143	Nil
1973-74	144	3
1974-75	144	5

The Board of Revenue stated (October 1975) that more number of offices could not be audited for want of sufficient staff to man the audit wing.

Other topics of interest

51. Non-levy of gallonage fee on spirit issued from distilleries

Under the Kerala Distillery and Warehouse Rules, spirits can be issued from a distillery to licensees, for consumption within the State, only on payment of duty and gallonage fee. It was seen in audit that distilleries had been issuing foreign liquors to licensees, for consumption within the State, without collecting gallonage fee. In accordance with a notification issued by Government in August 1965, the foreign liquor licensees were paying gallonage fee on the volume of sales by them to consumers. Under this arrangement the liquor purchased by the licensees from the distilleries, to the extent it was sold to consumers, should have been subjected to levy of gallonage fee. But these licensees were, under the Rules, liable to account for the quantities of liquors which actually reached their business place only, so much so that the quantity lost, either due to breakage or otherwise, during transit of foreign liquor from distilleries, altogether escaped levy of gallonage fee. This loss could have been avoided had the gallonage fee on liquors been collected at the time of its release from the distilleries, as required under the Rules.

Loss of revenue due to this irregular practice could not be worked out in audit, as distillery officers had not obtained, from the range officers concerned, verification reports showing loss during transit of the liquors sold to licensees.

The matter was reported to Government in October 1975; reply is awaited (January 1976).

CHAPTER IV

AGRICULTURAL INCOME TAX

52. Results of test audit in general

During 1974-75, test audit of the documents of Agricultural Income Tax Offices revealed under-assessment/over-assessment of tax of Rs. 75.56 lakhs in 690 cases.

The under-assessments/over-assessments are broadly categorised as follows:—

	Nature of irregularity	*Number of items*	*Amount (in lakhs of rupees)*
1.	Income escaping assessment	357	26.45
2.	Under-assessment due to incorrect computation of income	54	10.56
3.	Under-assessment due to incorrect registration/renewal of registration of firm	22	8.35
4.	Under-assessment due to assignment of incorrect status	55	16.81
5.	Under-assessment due to grant of inadmissible deductions	51	8.05
6.	Application of incorrect rate of tax	8	0.80
7.	Other irregularities	107	3.86
8.	Over-assessment	36	0.68
		690	75.56

A few cases of under-assessment/over-assessment are mentioned in paragraphs 53 to 64.

53. Assignment of incorrect status

(i) Under the Kerala Agricultural Income Tax Act, 1950, a firm constituted under an instrument of partnership, if not duly registered with the Agricultural Income Tax Officer under Section 27 of the Act and Rules made thereunder, is to be assigned the status of 'Unregistered Firm' having liability to pay tax at the rate

applicable on the total agricultural income of the firm. However, in an assessing office(Alleppey), while assessing the income of a firm (constituted under an instrument of partnership dated 25th January 1951 having two partners upto 1972-73 and four thereafter), which was not got registered under the Act, the assessing officer incorrectly assigned them the status of 'Tenants-in-common' and assessed the partners individually on their share income. The consequent undercharge of tax amounted to Rs. 3,06,401 for the assessment years 1966-67 to 1974-75.

On this being pointed out (August 1975), Government stated (November 1975) that the Agricultural Income Tax Officer has been directed to rectify the mistake immediately. Further developments are awaited (January 1976).

(ii) Where a receiver appointed by an order of Court is entitled to receive agricultural income on behalf of a person, the tax shall be levied upon and recoverable from the receiver in like manner and to the same amount as would be leviable on and recoverable from the person on whose behalf such agricultural income is receivable. It was, however, seen in local audit (January 1974) that assessments of income derived from properties of a company, which were placed by the Court under management of a receiver from 2nd August 1965, were made by the assessing officer (Badagara) assigning the assessee the status as Hindu Undivided Family instead that of a company. Failure to assign the correct status in this case resulted in an under-assessment of tax of Rs. 44,450 for the assessment years 1966-67 to 1972-73.

On this being pointed out in audit (January 1974), Government stated (August 1975) that the Board of Revenue has been requested to see that the defect pointed out was rectified and additional demand raised immediately. Further developments are awaited (January 1976).

(iii) The Agricultural Income Tax Act envisages separate treatment for groups of individuals deriving agricultural income jointly as 'Association of individuals' and 'Tenants-in-common'. In cases where persons join together to acquire, hold and manage property jointly for producing income, they are to be assessed as 'Association of individuals'; however, if the shares of the persons in

the joint enterprise are definite and ascertainable, they are 'Tenants-in-common'. Tax is leviable on the total income of the 'Association of individuals' as a single unit of assessment at higher rates, whereas income of 'Tenants-in-common' is divided among the co-tenants in accordance with the ratio of their shares and assessed to tax individually on their share income at the lower rates. The essential factors for distinguishing 'Association of individuals' from 'Tenants-in- common' have been laid down in the departmental manual, but it has been observed in audit that in many cases they were not correctly applied by the assessing officers in determining the correct status of the assessees, with the result that group of assessees who satisfied all the essential requirements of the status 'Association of individuals' were incorrectly assigned the status of 'Tenants-in-common', thereby reducing the tax liability of the group as such. Two instances are given below:—

(1) In an Agricultural Income Tax Office (Devicolam), in the case of three individuals owning 54.09 acres of land (cultivated with sugarcane) jointly acquired in December 1968, the Agricultural Income Tax Officer assigned incorrect status as 'Tenants in-common' and assessed them individually instead of as 'Association of individuals'. Further, though the group consisted of only three individuals, the department mistook them as four persons and apportioned the income accordingly. The mistakes in assessements resulted in undercharge of tax of Rs. 89,230 for the assessment years 1969-70 and 1970-71. This was brought to the notice of the department in May 1975 and also reported to Government in August 1975; reply is awaited (January 1976).

(2) While assessing the income of another group of persons in the same office, who jointly derived agricultural income by joint management of properties jointly acquired, the assessing officer incorrectly assigned the status as 'Tenants-in-common' and assessed them individually. The consequent undercharge of tax amounted to Rs. 39,852 for the assessment years 1968-69 to 1971-72. On this being pointed out (February 1975), the department revised the assessments (March 1975). Particulars of collection of the additional demand raised are awaited (January 1976).

This was also reported to Government in August 1975; reply is awaited (January 1976).

(iv) Under the Agricultural Income Tax Act, 1950, a family hitherto assessed as Hindu Undivided Family or which is being assessed for the first time as Hindu Undivided Family shall be deemed to continue as such for the purpose of assessment until the assessing officer is satisfied that the joint family property has been partitioned among the various members or group of members in definite portions and record an order to that effect.

During local audit of two Agricultural Income Tax Offices (Badagara and Kasaragod), it was, however, seen that income derived by the members of two families from the joint family property was assessed to tax separately in the hands of the members as individuals though the properties were not subjected to any partition in definite portions. This resulted in an under-assessment of tax of Rs. 16,965 for the assessment years 1965-66 to 1971-72.

In one case when the mistake was pointed out in audit (February 1974), the department stated (October 1974) that action had been initiated to rectify the mistake. Report regarding the second case pointed out in December 1974 is awaited (January 1976). This was reported to Government in May 1975; reply is awaited (January 1976).

54. Inadmissible deduction

A case of short levy due to grant of inadmissible deduction of expenditure laid out or expended for the cultivation, unkeep and maintenance of immature rubber plants, was mentioned in paragraph 28(1) of the Audit Report for the year 1973-74. Similar cases of allowance of inadmissible deduction noticed in audit (between June 1973 and May 1975) are stated below:—

(i) While finalising the assessments of a company for the assessment years 1969-70 and 1970-71, expenditure amounting to Rs. 94,077 incurred on immature coffee plants was incorrectly allowed as deduction by an assessing officer (Kottarakara), resulting in an undercharge of tax of Rs. 49,873. On this being pointed out (June 1973), the department rectified the mistake by revising the assessment in May 1974. Report regarding recovery is awaited (January 1976).

(ii) Another company which held 131.17 acres of cardamom plantation, of which 86.61 acres were mature and 41.56 acres

immature,claimed a deduction of Rs. 92,473 towards estate expenditure on cardamom for the accounting year 1968-69 relevant to the assessment year 1969-70. Though the assessing officer (Kottayam) recorded in the assessment records that the assessee had incurred a total expenditure of Rs. 48,531 only on mature area of cardamom during the accounting year, the entire expenditure of Rs. 92,473 was incorrectly allowed as deduction in the final assessment. This resulted in an under-assessment of income of Rs. 43,942 and consequential short levy of tax of Rs. 23,070. On this being pointed out, the department stated (January 1974) that the company had capitalised all expenses relating to immature area and hence there was no ground for further disallowance. The reply was not correct as it was evident from the accounts and balance sheet of the company that no expenditure on immature cardamom had been capitalised during the year. This was brought to the notice of the department in March 1974. Further developments are awaited (January 1976).

(iii) In the case of yet another company, expenditure of a capital nature (Rs. 24,774) and expenditure incurred on immature spices (plants) (Rs. 23,421) were allowed as deduction in computing the agricultural income for the assessment years 1969-70 and 1970-71. This resulted in an undercharge of tax of Rs. 21,055. On this being pointed out (May 1975), the department stated that the assessments were being revised to rectify the mistakes. Further developments are awaited (January 1976).

The three cases were reported to Government between January 1975 and July 1975; replies are awaited (January 1976).

55. Income escaping assessment

(i) A group of assessees consisting of five Hindu Undivided Families were in joint possession and enjoyment of 32.71 acres of cardamom land in addition to other properties separately held by them. Though 1/5 of the income from the joint property was reckoned and assessed to tax in the hands of one of the families for the assessment years 1970-71 to 1972-73, the remaining 4/5 share of income was omitted to be assessed in the hands of the other families during these years. This omission resulted in an estimated income of Rs. 1,47,720 escaping assessment involving short levy of tax of Rs. 29,793.

On this being pointed out in audit (March 1975), the department initiated action (March 1975) under Section 35 of the Act to revise the assessments.

The matter was also reported to Government in August 1975; reply is awaited (January 1976).

(ii) During local audit of an Agricultural Income Tax Office (Kumily), it was noticed that income received by an individual from 19.69 acres of cardamom land which came in his possession as per a partition deed dated 1st May 1966, was not assessed to tax at his hands all these years (1968-69 to 1973-74), though the details of partition and the transfer of property to the individual were available in the files of the office. This resulted in an estimated income of Rs. 1,46,624 with a tax effect of Rs. 28,384 escaping assessment for the assessment years 1968-69 to 1973-74.

On this being pointed out (February 1975), Government stated (July 1975) that the assessments for the years 1968-69 to 1970-71 could not be made owing to bar by limitation and that action had been initiated to complete assessments for the years 1971-72 to 1973-74. Further developments are awaited (January 1976).

(iii) It was seen during local audit of an Agricultural Income Tax Office (Hosdurg) that an individual, who was in possession and enjoyment of 23.34 acres of agricultural land from the year 1961-62 (vide affidavit filed by the assessee before the assessing officer in February 1962) was not assessed to tax for any of the years. On this being pointed out (October 1973), the department assessed (November 1974 and March 1975) a total income of Rs. 95,531 for the years 1970-71 and 1971-72 demanding tax of Rs. 26,739. Government stated (November 1975) that the assessments prior to the year 1970-71 could not be completed due to time bar.

(iv) The Audit Report for the year 1972-73 (paragraph 28-iii) mentioned a case of non-levy of tax on income from rent received in respect of lands leased out for slaughter tapping of rubber trees. At the instance of audit the mistake was rectified (October 1973). A similar case of omission to assess income of Rs. 35,500 received by a company from contractors towards slaughter

tapping of rubber trees, during the assessment year 1972-73 was pointed out subsequently (May 1975). Consequent short levy of tax was Rs. 21,300. On this being pointed out (May 1975), Government stated (September 1975) that the assessing authority had been directed by the Board of Revenue to assess the escaped income immediately. Further developments are awaited (January 1976). A general review of all such cases has been requested.

56. Incorrect computation of income

(i) It was seen in audit that in the case of three assessees in three Agricultural Income Tax Offices, there was undercharge of tax of Rs. 35,014 on a taxable income of Rs. 62,201 for the assessment years 1970-71 to 1972-73 due to incorrect computation of taxable income, by allowing deductions not admissible under the Act.

On this being pointed out (between July 1973 and May 1975), the department rectified the mistake (May 1974) in one case by raising additional demand of Rs. 16,433. Report regarding rectification in the remaining two cases is awaited (January 1976).

The cases were reported to Government between April 1975 and August 1975; replies are awaited (January 1976).

(ii) In the case of a company deriving income from coffee pooled with the Coffee Board, the assessing officer (Kottayam) omitted to reckon in full the receipt from the Coffee Board in 1970 and 1971 seasons' crop relating to the assessment years 1971-72 and 1972-73 respectively. Income of Rs. 17,791 involving undercharge of tax of Rs. 11,036 thus escaped assessment. On this being pointed out (May 1975), the department initiated action to revise the assessments under Section 36 of the Act.

The case was referred to Government in July 1975; reply is awaited (January 1976).

57. Failure to club income

Under the Kerala Agricultural Income Tax Act, 1950, income of wife or minor child as arising, from the membership/benefit of partnership of a firm in which the husband or the father is a partner

or from assets transferred directly or indirectly to wife or minor child by the husband or the father as the case may be, otherwise than for adequate consideration, is to be included in the total agricultural income of the husband or father and assessed to tax at his hands. It was, however, noticed that these provisions were not properly applied in many cases. Three instances of under-assessments arising in this regard are given below:—

(i) An assessee transferred in July 1966, 69 acres of cardamom land to his three minor sons for a total consideration of Rs. 52,000. The assessing officer (Kumily) after conducting necessary enquiries fixed Rs. 75,000 as the consideration adequate for the transfer of the properties. The consideration for the transfer thus fell short by Rs. 23,000. Nevertheless, the proportionate income from the 69 acres was not included in the total agricultural income of the transferor for the assessment years 1970-71 to 1973-74. This omission resulted in an undercharge of tax of Rs. 41,738.

On this being pointed out (February 1975), the department initiated action to revise the assessments. The matter was also reported to Government in May 1975; reply is awaited (January 1976).

As seen from the records of the Sub-Registry Office, Peermedu, the average sale price of cardamom lands in the locality during this period was Rs. 2,000 per acre approximately. Based on this valuation, the undercharge of tax would work out to Rs. 96,285 and loss of revenue by way of stamp duty and registration fees would amount to Rs. 8,600 on the transfer of land.

(ii) In another office (Devicolam) failure to club the share income received by a minor son from a firm with that of his father, who was also a partner in the same firm, resulted in under assessment of tax of Rs. 12,655 for the assessment years 1967-68 to 1970-71.

On this being pointed out (February 1975), Government stated (August 1975) that revision of assessments for the years 1967-68 and 1968-69 was barred by limitation of time and that assessments for the years 1969-70 and 1970-71 were revised raising an additional demand of Rs. 8,815. Particulars of collection are awaited (January 1976).

(iii) Income arising from 22.12 acres of agricultural land, which an assessee transferred to his wife in July 1958 without adequate consideration was separately assessed in the hands of the wife all these years from 1959-60 to 1970-71. Failure to club the income from the transferred asset with that of the husband for the assessment years 1959-60 to 1970-71 resulted in under-assessment of tax of Rs. 24,036. This was brought to the notice of the department in January 1975.

The matter was reported to Government in August 1975; reply is awaited (January 1976).

58. Incorrect renewal of registration of firm

Under the Kerala Agricultural Income Tax Act, 1950, and Rules made thereunder, a firm to whom a certificate of registration was granted may have the certificate of registration renewed for a subsequent year(s) on application signed by all partners (not being minors) declaring that the constitution of the firm and the individual shares of the partners as specified in the instrument of partnership remained unaltered. But in the case of a registered firm under an Agricultural Income Tax Office (Kumily), the certificate of registration granted for the assessment year 1964-65 was renewed for all subsequent years upto 1971-72, though there was a change in the constitution of the firm from the assessment year 1970-71 on account of two new partners being admitted to the partnership as legal heirs of two deceased partners. The firm was, therefore, not eligible for renewal of registration for the respective years. The incorrect renewal of registration to the firm for the assessment years 1970-71 and 1971-72 resulted in under-assessment of tax of Rs. 95,465.

On this being pointed out (April 1975), Government stated (November 1975) that the Agricultural Income Tax Officer has since sent up proposals for *suo-motu* revision of assessments under the Act. Further developments are awaited (January 1976).

59. Loss of revenue

Under the Kerala Agricultural Income Tax Act, 1950, as clarified by judicial decisions, sale proceeds of trees standing on

agricultural land which are not of spontaneous growth, but had been planted and nurtured by human labour, are agricultural income assessable to agricultural income tax. In the course of audit of an Agricultural Income Tax Office (Kottayam), it was noticed that sale proceeds amounting to Rs. 1,75,500 received by a company, in the accounting years relevant to the assessment years 1969-70 and 1970-71, by sale of teak trees so grown in its estate, were not assessed to agricultural income tax, though the assessee got this income exempted from levy of Central Income-tax on the plea that it was agricultural income. The escapement of income of Rs. 1,75,500 resulted in under-assessment of tax of Rs. 87,804, which proved to be loss of revenue as the assessments were barred by limitation of time.

This was brought to the notice of Government in April 1975. Government stated (October 1975) that the department had no information about the assessee till it was pointed out in audit (November 1974). It was further contended that it was understood "that the trees were sold with the roots as per the agreement" and, therefore, "the source ceased to be one which could produce any income".

The facts, however, are that the assessee had earlier contended before the Appellate Assistant Commissioner (Central Income-tax) that the income arising from the sale of trees actually represented agricultural income and it was on that ground that the assessee was allowed relief from Central Income-tax on this income. It is also understood that the question of taking penal action against the company for concealment of income has been pending with the legal wing of the department. Government have, therefore, been addressed (November 1975) to conduct a detailed enquiry in the case; reply is awaited (January 1976).

60. Incorrect exemption

(i) Under the Agricultural Income Tax Act, 1950, any sum received by a person out of the agricultural income of a Hindu Undivided Family as a member of the family, is exempt from tax to the extent of one sixth of his total agricultural income or six thousand rupees whichever is less. However, in an Agricultural Income Tax Office (Devicolam), share of income received by three individual

assessees from the properties of a Hindu Undivided Family as members of the family was wholly exempted from tax. The failure to apply the ceiling resulted in short levy of tax of Rs. 75,991 for the assessment years 1968-69 to 1970-71. On this being pointed out (February 1975), the department initiated action to rectify the mistake.

The matter was reported to Government in August 1975; reply is awaited (January 1976).

(ii) Share of income received by a person from an 'Association of individuals' is not taxed when the association has paid tax, but relief to the person is limited to the extent of one sixth of his total agricultural income or six thousand rupees whichever is less. However, in an Agricultural Income Tax Office (Kumily), the entire share income received by two assessees from an 'Association of individuals' was exempted from tax during the assessment years 1963-64 to 1970-71 without applying the exemption limit resulting in under-assessment of income of Rs. 2,90,810 involving short levy of tax of Rs. 42,103 for the years 1963-64 to 1966-67 and 1969-70 and 1970-71. (Assessments for the years 1967-68 and 1968-69 are pending revision on account of appellate/revision orders).

This was brought to the notice of the department in March 1975 and also reported to Government in May 1975; reply is awaited (January 1976).

61. Incorrect set off of loss

(i) An Agricultural Income Tax Officer (Trichur) fixed the loss of an agricultural company for the assessment year 1973-74 at Rs. 29,525 against Rs. 61,171 claimed by it and this loss was carried forward for set off against income of the company for the following year(s). However, for the assessment year 1974-75, the assessee returned the net income after erroneously deducting from the total income, Rs. 61,171 towards loss for 1973-74 and in computing the taxable income for the year, the assessing officer adopted the net income returned and adjusted from this income Rs. 25,525 as loss carried forward, causing thereby an incorrect set off of loss of Rs. 57, 171 and consequent under-assessment of tax of Rs. 37,161.

On this being pointed out (July 1975), Government stated (December 1975) that the assessment was revised in September 1975

and the additional demand was collected in October 1975.

(ii) If share income of a partner of a registered firm for any year is a loss, it can be set off against his other income for the same year or carried forward to the following year for set off against the income for that year. In the case of an assessee firm, the net loss of Rs. 73,684 fixed for the assessment year 1971-72 had been apportioned and set off against the other income of the partners for the same and subsequent assessment years. However, the entire loss so set off was incorrectly carried forward and adjusted against the income of the firm for the assessment years 1972-73 (Rs. 25,644) and 1973-74 (Rs. 48,040). The consequent short levy of tax amounted to Rs. 19,908. On this being pointed out (August 1975), Government stated (November 1975) that the Agricultural Income Tax Officer was being directed to revise the assessments. Further developments are awaited (January 1976).

62. Application of incorrect rate of tax

(i) An assessee (individual) had taxable income of Rs. 2,25,091 and Rs. 1,92,513 for the assessment years 1970-71 and 1971-72 respectively. While determining the tax payable, the assessing officer (Manantoddy) applied incorrect rate of super tax of 34 paise in the rupee against the correct rate of 41 paise in the rupee on income exceeding rupees one lakh. The consequent undercharge of tax amounted to Rs. 15,994. On this being pointed out (July 1975), the department initiated action to rectify the mistake under Section 36 of the Act.

The matter was also reported to Government in August 1975; reply is awaited (January 1976).

(ii) The Agricultural Income Tax Act, 1950, provides that when the agricultural income received on behalf of any person by a receiver is a part only of the total agricultural income of such person, the agricultural income tax payable shall be assessed on the total agricultural income of such person and the tax so determined is recoverable from such person and the receiver rateably according to the portion of the total income received by the person and the receiver. It was, however, noticed in audit that income from a portion of the properties, owned by a group of persons, which was under

the management of a receiver appointed by the Court was separately assessed in the hands of the receiver without clubbing it with the income received by the persons from the remaining properties. The consequential undercharge of tax amounted to Rs. 7,758 for the assessment years 1966-67 to 1970-71 (excluding 1968-69, details in respect of which are awaited).

On this being pointed out (May 1975), Government stated (December 1975) that the Agricultural Income Tax Officer (Kasaragod) had been instructed to revise the assessments. Particulars of revision of assessments are awaited (January 1976).

63. Incorrect allocation of share income from firm

A partnership firm consisting of two partners sharing profits in the ratio of 2 : 1 was reconstituted on 31st December 1973, with three partners, the third one having been newly brought in and sharing profits in the ratio of 3 : 2 : 1. According to the revised partnership deed, three fourth of the total income of the firm for the accounting year 1973-74 (representing income accrued upto 31st December 1973) relevant to the assessment year 1974-75 was required to be treated as the income of the erstwhile firm and apportioned between the first two partners in the ratio of 2 : 1 and the remaining one fourth of the income allocated among the three partners in the revised ratio. However, while finalising the assessment, the assessing officer (Kozhikode) apportioned the entire income from the assessment year 1974-75 among the three partners in the revised ratio of 3 : 2 : 1. This incorrect apportionment of income resulted in short levy of tax of Rs. 10,111. This was brought to the notice of the department in April 1975 and also reported to Government in July 1975; reply is awaited (January 1976).

64. Over-assessment

(i) In an Agricultural Income Tax Office (Trichur), the incorrect application of rates of super tax in the case of four assessees resulted in a total over-assessment of Rs. 14,225 for the assessment year 1971-72. On this being pointed out (April 1975), the department agreed to revise the assessments.

The matter was also brought to the notice of Government in July 1975; reply is awaited (January 1976).

(ii) The Agricultural Income Tax (Amendment) Act, 1974, enhanced the rates of tax on agricultural income with effect from 1st April 1974. In the case of an assessment for the year 1971-72 completed in February 1975, the department incorrectly applied the revised rate of tax which resulted in an over-assessment of tax of Rs. 12,168. On this being pointed out (May 1975), the department rectified the mistake by revising the assessment in June 1975.

The case was also reported to Government in August 1975; reply is awaited (January 1976).

CHAPTER V

LAND REVENUE

Principal tax revenues coming under land revenue are land tax (basic tax) and plantation tax.

65. Legislation

The statutory basis for the levy of basic tax is the Kerala Land Tax Act, 1961. When the High Court struck down some of the provisions of the Act in 1962, the State Government got the Act included in the Ninth Schedule to the Constitution (Seventh Amendment Act, 1964). The Act was amended in 1968 and 1969, exempting landholders having less than 2 acres (0.810 hectare) of land. The Act was again struck down by the Kerala High Court in 1970 and a new Act styled the Kerala Land Tax (Amendment) Act, 1972, was enacted removing the lacunae in some of the provisions of the Act. By this Amendment Act, the exemption granted to small holders was also withdrawn with retrospective effect from 1st April 1971.

Sections 5 and 6 of the Act prescribe levy of basic tax on all lands of whatever description and held under whatever tenure, at the rate of Rs. 2 per acre (Rs. 4.94 per hectare) per annum. In cases where the gross income from any land is less than Rs. 24.75 per hectare per annum, the basic tax payable on such land shall be at a rate fixed by the assessing authority calculated at one fifth of the gross income from such land.

In addition to basic tax, plantation tax on all lands, where coconut and arecanut trees, rubber, tea, coffee and cardamom plants and pepper vines are grown was introduced from 1st April 1960. The levy and collection of plantation tax is governed by the Kerala Plantation Tax Act, 1960, and the Rules made thereunder.

According to Section 3 of the Act, the extent of plantation for the purpose of assessment of plantation tax is determined, based on the number of yielding trees/plants standing on the land. The rate of tax originally fixed was Rs. 8 per acre. Holdings of less than five acres as well as the first two acres of holdings of five acres or more were exempt from tax. The Act was amended in 1967 with

the object of raising the tax from Rs. 8 to Rs. 20 per acre or Rs. 50 per hectare. Holdings of less than two acres and the first hectare of two hectares or more were exempt from the levy. The exemption limit of two hectares was reduced to one hectare from 1st April 1971 as per the Amendment Act, 1971.

66. Organisation

The Board of Revenue is entrusted with the responsibility of administering the provisions in the land revenue statutes. The District Collectors are responsible for land revenue administration of their respective districts and are required to control and supervise the work of Revenue Divisional Officers and Tahsildars.

Tahsildars are notified as assessing authorities for the purpose of assessment, levy and collection of basic tax and plantation tax. If the plantations are situated in one or more revenue districts, the assessing authority in respect of the entire extent of plantation is the Revenue Divisional Officer, in whose jurisdiction the largest extent of plantation is situated. Tahsildars of the respective taluks exercise supervision and control on the Village Officers, who are entrusted with the work of collection of land revenue and maintenance of records relating to land tenure and holdings. District Colletcors of the respective districts are notified as appellate authorities in respect of basic tax and Revenue Divisional Officers in respect of plantation tax. In respect of orders passed by a Revenue Divisional Officer, the District Collector is notified as the appellate authority.

67. Basic Tax

(i) *Pre-assessment procedure*

According to the provisions in the Land Revenue Manual, the land tax demand in each individual case is maintained separately in the form of personal ledgers showing details of lands, amount of basic tax due, collected etc. The annual demand of each village is consolidated in a separate account and is checked with the corresponding records in the Taluk Office at the time of annual inspection of the accounts of the village by the District Collector or an officer not below the rank of Deputy Collector.

The Kerala Land Tax Rules, 1972, provide that the assessing authority shall, after due verification of details furnished by landholders liable to pay basic tax, fix the rate and amount of basic

tax payable by each landholder and communicate copy of the proceedings showing the basis for determination of gross income from land, the rate of basic tax etc., to the landholder. The rules also prescribe elaborate procedural formalities such as issue of provisional notice of demand to the landholders, hearing and disposal of objections, service of final notice of demand etc.

According to information furnished by the department (September-October 1975) in 12 taluks, out of 11.80 lakhs pattadars (registered landholders), liable to pay basic tax during 1974-75, demand notices had been issued only to 64,000 pattadars, and in 6 taluks with 7.98 lakhs pattadars no demand notice had been issued at all. The department had to remain satisfied with voluntary remittances by landholders in accordance with the traditional custom.

Section 7 of the Kerala Land Tax Act, 1961, provides that the Tahsildar may make a provisional assessment of basic tax payable on all lands which had not been surveyed, after conducting necessary enquiries from the landholder by issue of a notice. It also stipulates that Government shall, as soon as may be, and in any case before 31st December 1975, cause a survey to be conducted of the unsurveyed lands. The assessing authority shall thereupon make a regular assessment of basic tax payable in respect of such lands. It was noticed that the department had not taken any action to make provisional assessment in respect of the unsurveyed areas so far (March 1975). Out of 1,31,237 acres of unsurveyed area in one Taluk (Mannarghat) no area had been surveyed at the end of March 1975. Information in respect of the remaining Taluks is awaited (January 1976).

The matter was reported to Government in October 1975; reply is awaited (January 1976).

(ii) *Assessment*

During test check of assessment records relating to basic tax, the following defects were noticed:—

(a) Short demand/collection of basic tax

(1) According to the Kerala Private Forests (Vesting and Assignment) Act, 1971, the ownership and possession of all private forests in the State stood transferred and vested in Government, free from

all encumbrances and the right, title and interest of the owner in any private forest stood extinguished. Basic tax due on all these lands till 10th May 1971 (the date of taking over of these lands by Government) is payable by the ex-landholder. Total basic tax due on private forest lands for the preceding four years ending March 1971, in one Taluk (Tellicherry) was Rs. 1,00,923. Against this Rs. 85,692 only had been demanded and no amount had actually been collected (November 1975).

The case was brought to the notice of Government in October 1975; reply is awaited (January 1976).

(2) Government, by an order issued in June 1965, stayed the collection of basic tax on wooded areas of private forests in the Malabar area with a view to bringing a new legislation to govern the levy of tax on these lands. Though Government dropped the idea of introducing new legislation in July 1967, the stay on collection of tax in respect of wooded area was not vacated. Basic tax not levied on an area of 1,41,657 hectares of land for the period from 1st September 1957 to 9th May 1971 works out to Rs. 85.64 lakhs (approximately). On this being pointed out (March 1975). Government stated (October 1975) that as all private forests in the State stood transferred to and vested in Government free from all encumbrances with effect from 10th May 1971, the only course left was to recover the dues by proceeding against the other properties of the former land owners. This was stated to be pending owing to non-finalisation of the list of vested lands by the Forest Department and the Tribunals constituted under the Kerala Private Forests (Vesting and Assignment) Act, 1971. Further developments are awaited (January 1976).

(b) Irregular exemption

Government, by an order issued in November 1972, extended the time limit for filing the return for claiming exemption from payment of basic tax in the case of persons holding lands less than 2 acres (0.810 hectare) for the years 1968-69 to 1970-71 upto 31st December 1972. The amount involved in 81,845 cases where exemptions were granted in pursuance of the executive order issued in November 1972, without amending the provisions in the Act was Rs. 4,78,821. It was also noticed that exemption was granted by Tahsildars even in cases where returns were filed after 31st

December 1972. The amount of basic tax forgone in 12,000 cases in one Taluk Office (Kottarakara) alone was Rs. 32,023.

The matter was reported to Government in October 1975; reply is awaited (January 1976).

(iii) *Collection*

(a) The Kerala Land Tax Rules prescribe that basic tax charged and levied on any land for every financial year commencing from 1st April 1958, shall be paid by the landholders of that land in two equal instalments, before the 15th October and the 15th January every year except in North Wynad and South Wynad Taluks, where it shall be paid before 1st February and 1st March every year. Rule 16 of the Rules provides for levying interest at the rate of 9 per cent per annum on the arrears of basic tax from the date of default. It was noticed that though there had been general delay on the part of the landholders in remitting the tax on due dates, the penal provision was not invoked by the department in most cases.

As the work relating to issue of provisional notice of demand to every pattadar for the purpose of assessment of basic tax is in arrears, the department may not be able to demand and collect interest thereon till final demand is formally raised.

(b) The collections by the village staff are required to be paid into the treasury once in a week or at shorter intervals when the amount exceeds Rs. 500.

During audit, several instances were noticed where moneys much in excess of the permissible limit were retained by the Village Officers. In 70 cases amounts retained in contravention of the rules ranged between Rs. 1,000 and Rs. 20,000 and the period of delay in remittance ranged between 10 days and 30 days. Such delay in remittance is fraught with the risk of Government money being embezzled.

The matter was reported to Government in October 1975; reply is awaited (January 1976).

(iv) *Arrears of basic tax*

Arrears of basic tax pending collection, as reported by the department, as on 31st March 1975 amounted to Rs. 148.83 lakhs.

68. Plantation Tax

(i) *Pre-assessment procedure*

According to the Kerala Plantation Tax Act, 1960, and the Rules issued thereunder, every person holding plantation in excess of the exemption limit, is required to furnish to the assessing authority by 31st May of each year, a return showing particulars of plantation held by him on the valuation date (i. e., 1st April). The assessing authority is also empowered under the Act to serve notice requiring any person who in his opinion holds plantation liable to tax, to furnish a return. The assessing authority determines the extent of plantation held by the assessee after due verification and fixes the amount of plantation tax payable by him. After making necessary entries in the registers maintained for the purpose, copies of assessment orders are required to be endorsed to Village Officers for collection. It was noticed during audit that in two Taluk Offices (South Wynad and North Parur) basic records such as register of plantation tax, register of plantation cases etc., were either not maintained at all or not maintained properly.

The matter was reported to Government in October 1975; reply is awaited (January 1976).

(ii) *Assessment*

In the case of revision of plantation tax, the assessing authority is required to obtain a report from the subordinate officers like Deputy Tahsildars, Revenue Inspectors, Village Officers etc., about the extent of plantations held by an assessee after actual verification. The assessing officer is also required to check the verification reports by an inspection of lands in as many cases as possible and at any rate not less than ten per cent of cases for revision in a year.

In a large number of cases, the verification reports in respect of plantations did not contain information regarding the number of non-yielding trees/plants and the year in which they were expected to yield. In the absence of such details, it may not be possible for the assessing authority to revise the assessments in the year in which the extent of plantation increased consequent on non-yielding trees/plants having started yielding in the meantime. Even though in certain cases such information was available, it was not considered in determining the extent of plantation for the respective assessment year.

Verification of plantations was also conducted in many cases after lapse of years. Such verification would not reveal the true picture of plantations for the purpose of assessment. Some of the instances are mentioned below:—

(a) Assessments for the years 1969-70 to 1974-75 in the case of one assessee in an assessing office (Alathur) and those for 1971-72 to 1973-74 in the case of another assessee in a different office (Chittoor) were finalised without taking into account the number of yielding trees/plants standing on the plantation, even though particulars thereof were available in the report of inspection prepared by the department, after inspection of the plantation in terms of Section 21 of the Act. On the omission being pointed out (March 1974 and June 1974 respectively), the assessments were revised in both the cases and additional demands totalling Rs. 22,956 were realised in October 1974 and in August 1975.

(b) In one case, the return filed by an assessee (October 1970) contained details of certain immature plantations, but the month and year in which these plantations would yield were not indicated therein. An inspection of the holdings of the assessee conducted (June 1974) by the department at the instance of audit revealed that the immature plantations started yielding from the year 1971-72 onwards. Accordingly, the assessments for the years 1971-72 to 1973-74 were revised (July 1974) demanding an additional tax of Rs. 7,013, which the party remitted in August 1975.

(c) In another assessing office (Trichur), assessments for the years 1968-69 to 1970-71 relating to a plantation company were finalised without taking into account 55,190 rubber trees and 172 coconut trees expected to yield from 1968-69 and 1969-70 respectively, even though the details thereof were available in the return filed by the assessee (August 1965) and also in the report prepared by the department (December 1965) after inspection of the plantations in terms of Section 21 of the Act. The consequent undercharge of tax was Rs. 18,000 (approximately).

On this being pointed out during local audit (February 1974), the Tahsildar promised (March 1974) further action after inspection of the plantation by the village staff. However, the department stated (September 1974) that owing to a fire reported to have taken place in the plantation in 1968-69, a large number of yielding and non-yielding trees were destroyed, thereby giving the department

no scope for revising the original assessments for 1968-69 to 1970-71 with reference to the additional trees expected to yield in these years. Nevertheless, assessment for the year 1971-72 was completed (March 1974) taxing an additional number of 60,000 rubber trees and 146 coconut trees which yielded in that year. It was pointed out (December 1974), that the action of the department in having postponed the assessment of the additional trees to 1971-72 (instead of assessing them from 1968-69) was not justified as the veracity of the report of the fire accident, the extent of damage it caused, the year of yielding of trees reported as immature in 1965 etc., had not been corroborated by any authentic reports of responsible officers of the department, after inspection of the plantation in terms of Section 21 of the Act or the accounts and other details of the plantation for these years accepted by the assessing officer for the purpose of levying agricultural income tax. The matter was reported to Government in April 1975; reply is awaited (January 1976).

(d) A case of irregular revision of plantation tax assessment is mentioned below:—

Under Section 11 of the Kerala Plantation Tax Act, 1960, the assessing authority may at any time, within three years from the date of finalisation of any assessment, rectify any mistake apparent from the records of assessment. The courts have held that the mistake so rectified must be apparent on the examination of the record as it stands without entering into any fresh or additional investigation. It was, however, seen during local audit of a Taluk Office (Udumbanchola) in November 1974, that ten plantation tax assessments, for the years 1970-71 to 1974-75 which had been completed (September 1973) under the best of the assessing officer's judgement (in respect of which no appeal lies with the appellate authority) were revised (February 1974 and March 1974) on the ground that there was a mistake apparent from record, in as much as the verification of the holdings of the assessee conducted by the department after finalisation of the original assessments at the instance of the assessee showed that the extent of plantation was less than that adopted for original assessments. As rectification of any mistake apparent from record was not involved in these cases, the revision of assessments was improper. This resulted in reduction in demand by Rs. 24,700 (approximately). On this being

pointed out (November 1974), the assessing officer agreed (November 1974) to revise the assessments.

Government stated (December 1975) that the revision of assessments made under Section 11 of the Act was in order as it was made to rectify the mistakes apparent from the records of the assessment, namely, non-service of notice under Section 4 (3) of the Act, on the assessees and mistake regarding extent of plantations adopted for assessments. It was pointed out to Government (January 1976) that (i) as per the assessment records, notices under Section 4 (3) of the Act had been served in accordance with the provisions of the statute and that any complaint regarding non-receipt of notices was a case to be dealt with under Section 7 of the Act and (ii) details of plantations gathered by inspection of holdings conducted on a date subsequent to the finalisation of the original assessments could not be considered as mistakes apparent from the record of assessments. Reply is awaited (January 1976).

(iii) *Arrears in revision of assessments*

In paragraph 62 of the Report of the Comptroller and Auditor General of India for the year 1973-74 (Revenue Receipts), mention was made of arrears in revision of assessments consequent on quinquennial revision of the extent of plantations due in April 1970 and reduction in the minimum area of plantation exempt from tax from two hectares to one hectare from 1st April 1971. Under the provisions of the Kerala Plantation Tax Act, the tax based on revised assessments is payable from the year following such revision. Till then, the amount as per previous assessment should be collected. As the revision of assessments had not been effected in a large number of cases (16,837 cases in 7 taluks) and as increased rates of tax consequent on such revisions cannot be demanded retrospectively, Government stand to lose additional revenues.

The matter was reported to Government in June 1975; reply is awaited (January 1976).

(iv) *Collection*

The plantation tax demands received by the Village Officers are entered in the plantation tax registers maintained in the Village Offices and the collections watched by them. On receipt of collection particulars from Village Officers, necessary entries

are made in the Demand, Collection and Balance Registers maintained in the Taluk Office. Plantation tax is payable by the assessee in two equal instalments along with the land revenue i. e., on 15th October and 15th January every year. If the tax is not paid on the due dates, arrears would bear interest at the rate of nine per cent per annum for the period of default.

It was noticed in audit that in one Taulk Office, the Demand, Collection and Balance Register was not maintained from 1967-68 onwards. In respect of prior periods a register was maintained, but against many items of demand, complete particulars of collection were not available. The register actually revealed arrears of tax pending collection, but the total demands and collections were so written up as to make them tally and show 'nil' arrears. The correctness of the demands could not be checked as all the connected files were not made available to audit. The collections noted against the demands could not also be checked for want of chalans in support of the collections. A report in this regard was sent to Government in January 1975. Reply is awaited (January 1976).

In the course of test audit, it was noticed that in the case of 137 assessees (in eleven assessing offices) who made belated remittance of tax, interest amounting to Rs. 43,605 was not levied during 1970-71 to 1972-73. On the omission being pointed out (between February 1973 and June 1975), the assessing officers agreed to collect the amount. Report of additional demand raised and recovered is awaited (January 1976).

The matter was also reported to Government in April 1975; reply is awaited (January 1976).

(v) *Arrears of plantation tax*

Total arrears of plantation tax pending collection as at the end of March 1975 amounted to Rs. 45.45 lakhs.

69. Other Receipts

Other receipts coming under land revenue include,

(i) receipts on account of survey and settlement charges;

(ii) collection of payments for extinguishment of 'Janmikaram'.

Certain points noticed during review of these receipts are mentioned below:—

(i) *Receipts under survey charges*

With a view to providing basic records showing the possession of holdings enjoyed by each individual and the nature of cultivation existing on grounds, and to make the survey records up-to-date, Government sanctioned in 1965, a scheme of resurvey of the entire State. Total expenditure incurred on the scheme from 1966-67 to 1973-74 was Rs. 6,58.91 lakhs, out of which Rs. 1,73.81 lakhs related to cost of labour employed and survey marks used for survey of lands belonging to both Government and private parties.

According to the provisions in the Kerala Survey and Boundaries Act, 1961, and the Rules made thereunder, the cost of labour employed and survey marks used is recoverable from the beneficiaries who got the boundaries of their holdings fixed by Government. However, the department has not yet determined the amount recoverable from private parties, pending completion of office processes connected with survey. Notices required to be issued under the provisions of the Act to registered holders of land before collection of survey charges have not been issued. This is stated to be due to want of additional staff. Government stated (December 1975) that action was being taken to revise the form of notice as the form originally prescribed in 1964 was found to be defective and that a proposal to do away with the service of notice individually on registered holders was under consideration. Further developments are awaited (January 1976).

(ii) *Receipts under the Jenmikaram (Payment) Abolition Act, 1960*

Under the Travancore Jenmikaram and Kudiyan Act, 1071 (1895 A. D), every Kudiyan (cultivator having possession of land) should make periodical payments of Jenmikaram to the Jenmies (proprietor of land). Though the Jenmies have the proprietory right on the property, the property is enjoyed fully by the tenant subject to payment of 'Jenmikaram' (a form of tax). In order to abolish this system of periodical payments of Jenmikaram to the Jenmies and to confer full proprietory right on the Kudiyans over their holdings, Government enacted the Jenmikaram Payment (Abolition) Act, 1960, effective from the date of publication of

the Act viz., 3rd February 1961. In the place of Jenmikaram payable by the Kudiyans, Government undertook to pay compensation to Jenmies at rates varying from 4 times to 12 times the aggregate of Jenmikaram payable by the Kudiyans. Government are, however, entitled to recover from each Kudiyan an amount calculated at 8½ times of Jenmikaram payable by him to his Jenmies in sixteen equal half yearly instalments. The recovery of these amounts is watched by Taluk Offices. A scrutiny of the registers kept in the Taluk Offices revealed that the recovery of half yearly instalments due from the Kudiyans were not being effected promptly. The number of Kudiyans who benefited, the amount of compensation paid and the amount of arrears recoverable from Kudiyans at the end of March 1975, in twelve taluks are indicated below:—

Number of Kudiyans benefited—1,14,184
Amount of compensation paid—Rs. 38,79,228
Amount of arrears recoverable from Kudiyans—Rs. 3,86,520

The matter was reported to Government in October 1975; reply is awaited (January 1976).

70. Other topics of interest

The Land Revenue Department is attending to recovery of arrears of public revenue such as Sales Tax, Agricultural Income Tax, State Excise Duties etc., under the Kerala Revenue Recovery Act, 1968.

Delay in finalising revenue recovery proceedings

Considerable delay has been noticed in various Taluk Offices in finalising revenue recovery cases reported by various departments. The following table shows the year-wise analysis of the cases reported for recovery under the Revenue Recovery Act, the number of cases disposed of and the number of cases pending disposal in four taluks.

Year	*No. of cases reported for recovery*	*Amount advised for recovery Rs.*	*No. of cases disposed at the end of March* 1975	*Amount recovered Rs.*	*Balance*	
					No. of cases	*Amount Rs.*
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1970-71	6,262	42,35,765	5,940	37,27,299	322	5,08,466
1971-72	5,293	33,07,677	4,700	29,87,415	593	3,20,262
1972-73	8,139	34,19,307	5,603	24,31,210	2,536	9,88,097
1973-74	4,598	39,14,750	2,875	27,26,154	1,723	11,88,596
1974-75	10,963	35,34,772	2,496	25,38,479	8,467	9,96,293

The matter was reported to Government in October 1975; reply is awaited (January 1976).

71. Internal Audit

The Internal Audit wing of the Board of Revenue constituted in 1961, conducts audit of accounts in respect of various land revenue offices once in two years, instead of conducting the audit annually. The work of internal audit is in arrears. Against 119 offices to be audited, the number of offices actually audited during 1971-72, 1972-73, 1973-74 and 1974-75 was 21, 26, 29 and 13 respectively. The reason for the arrears is stated to be paucity of funds under travelling allowance and inadequacy of staff to cover all institutions once a year.

The scope of internal audit was limited to a check of accounting records only. Unlike in the case of Agricultural Income Tax and Sales Tax, individual assessment records relating to tax revenue were not subjected to audit.

CHAPTER VI

TAXES ON VEHICLES

72. Results of test audit in general

During the period 1974-75, test audit of documents of Motor Vehicles Department revealed under-assessment of tax of Rs. 558.59 lakhs in 7,164 cases.

The under-assessment of tax of Rs. 558.59 lakhs is due to mistakes categorised under the following heads:—

Nature of irregularity	*Number of items*	*Amount (in lakhs of rupees).*
1. Loss of revenue due to non-maintenance of reserve buses	1,138	92.21
2. Irregular exemptions/ concessions	193	39.39
3. Non-collection of tax and surcharge	49	402.74
4. Other lapses	5,784	24.25
	7,164	558.59

A few cases of under-assessment are mentioned in paragraphs 73 to 80.

73. Loss of revenue

According to Rule 214 of the Kerala Motor Vehicles Rules, the operators of stage carriages have to keep one reserve bus for every seven route buses or fraction thereof in operation, provided that in the case of operators with less than seven buses, two or more such operators can join together and keep a reserve bus for every seven buses or fraction thereof owned by such operators together. It was, however, seen during local audit of Regional Transport Offices that there had been omission in enforcing the provisions of this rule with the result that 1137 operators in the State did not keep reserve buses, thereby depriving Government of tax revenue during the years 1972-73 and 1973-74 to the extent of about Rs. 77.00 lakhs.

The matter was reported to Government in May 1975; reply is awaited (January 1976).

74. Short levy of tax

Under the Kerala Motor Vehicles (Taxation) Act, 1963, trailers used in tractor-trailer combinations are deemed to be goods vehicles attracting levy of tax separately as such. It was, however, noticed in the course of test audit of a Regional Transport Office (Idukki) that trailers used in tractor-trailer combinations were not separately assessed to tax as goods vehicles in 49 cases for the period from 1st July 1963 to 31st December 1974. The consequent short levy amounted to Rs. 3,76,776. On this being pointed out (February 1975), the department agreed to revise the assessments after issuing the required notices to the parties concerned.

The matter was also reported to Government in September 1975; reply is awaited (January 1976).

75. Non-levy of tax ...

Under the Kerala Motor Vehicles (TPG) Act, 1963, a tax at the prescribed rate is leviable on all passengers, luggages and goods carried by stage carriages and on all goods transported by goods vehicles with effect from 1st July 1963. The collection of the tax was stayed under orders of the High Court of Kerala obtained by the operators for various periods from 1966 onwards. In March 1972, the High Court of Kerala upheld the validity of the Kerala Motor Vehicles (TPG) Act, 1963, and the right of the Government to levy tax on passengers and goods and also to realise all outstanding arrears. The entire tax, including the arrears prior to 1st April 1972, thus became collectable. It was, however, noticed in the course of audit of two Regional Transport Offices (Kottayam and Alleppey) in April-May 1974 that tax on 35 vehicles (including arrears upto April 1972) was not demanded and collected resulting in non-levy of tax of Rs. 1,11,015. On this being pointed out (June 1974), the department stated (May 1975) that tax in respect of three vehicles (Rs. 4,074) had been collected. Details in respect of the remaining vehicles are awaited (January 1976).

The matter was also reported to Government in August 1975; reply is awaited (January 1976).

76. Irregular exemption

(i) By a notification issued in July 1970, Government exempted tractors and trailers exclusively used for agricultural operations relating to food crops, from the levy of vehicle tax, with effect from 20th January 1970. The taxation officers, while granting free tax endorsements to such vehicles should, therefore, ensure that the vehicles are used exclusively for agricultural operations relating to food crops. It was, however, noticed in the course of test audit of three Regional Transport Offices that:—

(a) free tax endorsements were incorrectly granted to seven tractor-trailer combinations used for purposes other than agricultural operations relating to food crops resulting in short levy of tax of Rs. 31,000 for the period from January 1970 to March 1975,

(b) free tax endorsements were granted in the case of six other vehicles and it was not verified whether the agricultural operations carried out related to food crops (tax involved Rs. 37,600) and

(c) in nine cases free tax endorsements were issued without even verifying whether the vehicles were put to agricultural operations at all (tax involved Rs. 47,700).

The matter was reported to Government in September 1975; reply is awaited (January 1976).

(ii) Under the Kerala Motor Vehicles (Taxation) Act, 1963, tax is payable on all motor vehicles used or kept for use in the State. By a notification issued in June 1963, Government reduced the rates of tax for reserve buses, which operators of stage carriages are required to maintain for conducting substitute service in the place of regular buses when the regular buses are off the road. It was, however, noticed during local audit of two Regional Transport Offices (Ernakulam and Alleppey), that two buses having reserve permits were incorrectly exempted from levy of tax for various periods between 1st April 1965 and 12th April 1972 resulting in short levy of tax of Rs. 15,325. On this being

pointed out (May-June 1974), Government stated (October 1975) that the buses were eligible for tax exemption as the Regional Transport Officers were reported to have satisfied themselves that the buses were off the road. Even if the buses were not used during the period in question, the liability to tax would still exist as the buses were kept for use as reserve buses.

This was pointed out to Government in November 1975; reply is awaited (January 1976).

77. Non-levy of registration fees

Under the Motor Vehicles Act, 1939, and Rules made thereunder, in the case of motor vehicles registered in another State and brought over to the State, application for assignment of new registration mark is to be made within 30 days of the completion of the period of 12 months from the date of its arrival. In such a case, no fee is payable to the department by the applicant. However, if the application is not made within the time limit prescribed, the owner of the vehicle is required to pay fees at the rate prescribed for fresh registration of the vehicle, without prejudice to any other penalty to which he is liable under the Act. It was noticed in the course of test audit that there had been omission on the part of the department to enforce submission of the applications by owners of vehicles which were brought from other States for assignment of new registration mark, with the result that such vehicles had been plying with the registration marks of the respective States long beyond the prescribed time limit. Registration fees remaining uncollected in respect of 2,451 of such vehicles in six Regional Transport Offices alone amounted to Rs. 1,08,915.

This was reported to Government in March 1975; reply is awaited (January 1976).

78. Irregular concession of tax

Under the Kerala Motor Vehicles (Taxation) Act, 1963, Government prescribed reduced rate of vehicle tax for reserve buses doing substitute service in the place of route buses and exempted them from payment of tax on passengers and goods subject to the condition that the period of substitute service in the place of route buses shall not exceed 20 days at a time and the reserve buses shall not

be used for any purpose other than substitute service during the entire quarter.

However, in the case of a transport undertaking, the reduced rate of vehicle tax and exemption from payment of tax on passengers and goods were granted, though the reserve buses were used for plying in regular sanctioned routes without any limit of time. Irregular concession so granted resulted in short levy of tax of Rs. 42,774 (vehicle tax Rs. 12,675 and tax on passengers and goods Rs. 30,099) in the case of 7 stage carriages alone for the year 1973-74.

On this being pointed out (August 1975), Government stated (November 1975) that action was being taken by the Regional Transport Officer to realise the dues after verifying the log books of the concerned vehicles. Further developments are awaited (January 1976).

79. Non-realisation of fee

Under the Motor Vehicles Act, a transport vehicle is not deemed to be validly registered for the purpose of the Act unless it carries a certificate of fitness. The certificate of fitness has to be granted or renewed after collecting the prescribed fee. It was noticed during local audit of a Regional Transport Office (Palghat) in February 1973 that in the cases of 127 vehicles (62 tractor-trailer combinations and 3 articulated vehicles) registered between March 1963 and August 1971, original/renewal certificates of fitness had not been issued, resulting in non-recovery of fee amounting to Rs. 37,370.

On this being pointed out (April 1973), the assessing officer admitted the omission (December 1974). The matter was also reported to Government in April 1975. Report regarding realisation of the amount of fee in question and reply from Government are awaited (January 1976).

80. Defective system of accounting and collection of bank drafts

Under bilateral agreements entered into with the States of Tamilnadu and Karnataka, the licensing authorities of those States could issue temporary permits to transport vehicles based in those States to ply in the State of Kerala for periods not exceeding 30 days. The tax due to the State of Kerala in respect of such vehicles is

collected by the licensing authorities of other States, by means of bank drafts, payable to the State Transport Authority (Kerala). The licensing authorities are required to send the bank drafts monthly together with a statement of permits issued and also copies of the permits. Such drafts, when received by the State Transport Authority (Kerala), are sent to the District Treasury Officer (Trivandrum), with separate chalans attached to each of the drafts for collection and credit to State revenue. A test check of the accounts of receipts and disposal of the bank drafts received from 1st January 1972 to 31st December 1974 revealed the following:—

(i) Forms for issue of temporary licences are supplied in bulk by the State Transport Authority (Kerala) to the counterparts in Tamilnadu and Karnataka, who in turn distribute them to the various licensing authorities under their control. But record of utilisation of forms so distributed is not mainained by the Authority in Kerala nor is the prompt receipt of returns due from various permit issuing officers watched, with the result that the department is not in a position to ascertain how many of the forms were put to use, and whether tax was collected and remitted in respect of all of them. On this being pointed out (October 1975), Government stated (January 1976) that the Transport Commissioners of Tamilnadu and Karnataka were being requested to give details of distribution of the licences and also to issue suitable directions to the subordinate officers under their control to send utilisation certificates of the forms of temporary licences, along with the monthly returns sent by them, so that the prompt receipt of returns and utilisation certificates could be watched.

(ii) The drafts received by the State Transport Authority are not being entered in the cash book as required under the Kerala Treasury Code; instead their receipt and disposal are watched through separate registers. Delay ranging from 1 month to 3 months is noticed in noting details of drafts in registers maintained for the purpose. Consequently, there was delay in sending them to treasury for collection resulting, in many cases, in their revalidation by the banks in other States.

(iii) Out of 21,093 bank drafts received during the period from 1st January 1972 to 31st December 1974, particulars of collection were not noted in the registers in respect of 3,772 drafts amounting to Rs. 7.74 lakhs. On the omission being pointed out (October 1975).

Government stated (January 1976) that particulars of collection had been noted against 3,649 cases and that action was in progress to locate the credit particulars in respect of the remaining bank drafts.

(iv) No record is maintained for watching the number of drafts returned for revalidation to banks in other States and their receipt back. A scrutiny of the records revealed that 88 drafts for a total sum of Rs. 18,641 sent for revalidation on various dates during the period from December 1970 to February 1974 were shown as still due (June 1975). On this being pointed out (June 1975), the department stated (January 1976) that 79 drafts already received back afer revalidation (between January 1971 and April 1975) and credited to Government were posted elsewhere in the bank draft register, 7 bank drafts were since got revalidated and credited to Government (October 1975) and that further verification was being done in respect of the remaining two cases.

(v) Four bank drafts amounting to Rs. 751 pertaining to the months April and July 1973 returned by the treasury in June 1974 without encashment were kept (March 1975) without further action for revalidation. Of these, one draft for Rs. 338 sent for revalidation in April 1975, at the instance of audit, was received back (May 1975) for retransmission with reasons for the delay in encashment and a consent letter from the applicant of the draft agreeing to revalidation (June 1975). Nevertheless, the same draft was seen marked as credited (9th November 1973) to revenue in the register of bank drafts, supported by a chalan receipt referring to the same draft. The fact that a chalan receipt had been issued for an uncollected draft would indicate that the possibility of malpractices in the encashment of bank drafts, for the receipt and collection of which no effective departmental system is in vogue, cannot be ruled out.

On these omissions and delays being pointed out (October 1975), Government stated (January 1976) that the draw back in the system followed would be rectified and that earnest efforts were being made to see that omissions/irregularities noticed in the past were not repeated.

CHAPTER VII

OTHER TAX RECEIPTS

A. STAMP DUTY AND REGISTRATION FEES

81. Short levy due to application of incorrect rate of duty

Under the Indian Stamp Act, bonds, debentures or other securities issued by a local authority in respect of loan raised by it are chargeable with stamp duty at the rate of one percentum on the amount of the documents, but a higher rate of stamp duty would apply to such documents when its executant is other than a 'local authority'. It was, however, seen in audit that promissory notes and debentures issued in respect of loans raised by the State Electricity Board and the State Road Transport Corporation, which are not 'local authorities', were incorrectly assessed to stamp duty at the reduced rate of one per cent prescribed in respect of loan raised by a 'local authority', instead of at the slab rates applicable to promissory notes and debentures. According to the definition given in the General Clauses Act, 1897, 'local authority' means a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by Government with the control and management of a municipal or local fund. The Kerala State Electricity Board or the Kerala State Road Transport Corporation would not thus come under the definition of 'local authority'. Application of incorrect rate of stamp duty on such documents issued by the institutions between November 1963 and May 1975, resulted in short levy of duty of Rs. 53.00 lakhs (approximately).

This was reported to Government in September 1975; reply is awaited (January 1976).

82. Incorrect classification of instruments

(i) Under the Kerala Stamp Act, leases have been broadly categorised as:—

(a) those in respect of which the rent is fixed and no premium is paid or delivered;

(b) those granted for a fine or premium or for money advanced and where no rent is reserved and

(c) those granted for a fine or premium or for money advanced in addition to rent reserved;

the rates of stamp duty and registration fees applicable in the case of deeds of leases falling under the last two categories being higher than those under the first category. During local audit of 28 Sub-Registry Offices, it was seen that leases, in respect of which the amounts of rent for the full term had been paid in advance, were incorrectly assessed to lower rates of stamp duty and registration fees applicable to leases of the first category (instead of assessing them as those coming under the second category) resulting in short levy of Rs. 1,01,467 (stamp duty Rs. 86,581 and registration fees Rs. 14,886) in the case of 1,612 documents registered between 1st October 1971 and 31st December 1973.

On this being pointed out (October 1974), Government issued (December 1975) instructions to the Inspector General of Registration that in the cases of documents where the whole amount of rent was received in advance in one lump, the documents were classifiable under the second category and stamp duty charged accordingly. Further developments are awaited (January 1976).

(ii) Any non-testamentary disposition in writing of movable or immovable property made by the settler for the purpose of providing for some person dependent on him is liable to stamp duty as for 'settlement' and in the case of transfer of properties where the dependence of the grantee on the settler is not established, the transfer is treated as 'gift' attracting higher rate of stamp duty. It was noticed in audit that a document registered in a Sub-Registry Office (Trivandrum) transferring properties worth Rs. 45,000 valuntarily by the executant to a practising lawyer, who was also his legal adviser, was classified by the Sub-Registrar as a deed of settlement instead of as instrument of gift. Similar incorrect classification was noticed in another Sub-Registry Office (Peermedu) also, where properties worth Rs. 1,38,500 were transferred voluntarily by the executant to his daughter-in-law. The Board of Revenue also held (November 1974 and January 1975) that deeds of the above type would be correctly classifiable as

instruments of gift. Incorrect classification of the above documents resulted in short levy of stamp duty of Rs. 13,503.

The matter was reported to Government in August 1975; reply is awaited (January 1976).

(iii) The transfer of ownership of a property in consideration of a price paid or promised is a 'sale' attracting stamp duty at the rate applicable to 'conveyance'. During the audit of a Sub-Registry Office (Ernakulam), it was noticed that a document by which a person transferred property valued at Rs. 1,30,000 to his younger brother in consideration of a promise in writing by the transferee, to pay with interest, a debt of Rs. 1,15,000 incurred by the transferor, which had to be classified as a deed of conveyance, was assessed by the registering officer to lower rate of stamp duty applicable to a settlement. This resulted in short levy of Rs. 13,000. On this being pointed out (December 1973), the department admitted the mistake (April 1975).

The matter was also reported to Government in July 1975. Particulars of recovery of the stamp duty short levied and a reply from Government are awaited (January 1976).

(iv) 'Instrument of partition' means an instrument by which co-owners of any property divide such property in severalty and 'instrument of release' means an instrument by which a co-owner renounces a claim against any specified property in favour of other co-owners. Therefore, the classification of a deed, whether as partition deed or as release deed would depend upon a pre-existing right of co-owners. In the case of a property involved in a partition suit in respect of which a preliminary decree has been passed by the court of law, the right of co-ownership enjoyed on the property by the parties to the decree gets extinguished consequent on the division of status having taken place among the co-owners by the passing of the decree, and a document purporting division of or transfer of share in such a property can be classified only as a deed of conveyance. The Board of Revenue, therefore, held in April 1958 that in the case of release between co-owners after a preliminary decree being passed by a court of law, the parties can have only conveyance as among them. It was, however, seen in local audit that in the case of

five deeds registered between October 1971 and May 1973 in four Sub-Registry Offices effecting division/transfer of share in properties subject to preliminary decrees of partition, stamp duty and registration fees were assessed at the rates applicable to deeds of partition (one deed) and release (four deeds) instead of at the correct rate applicable to conveyance on sale, resulting in short levy of Rs. 8,220 (stamp duty Rs. 8,020 and registration fees Rs. 200). The department admitted (September 1974) the incorrect classification of the release deed (reported in August 1973) and stated (December 1974) that action had been taken to realise the deficit amount. Reply in the case of the partition deed (reported in February 1975) is awaited (January 1976).

The matter was also reported to Government in April 1975; reply is awaited (January 1976).

83. Undervaluation in partition deed

An agreement to divide a property in severalty is partition and is chargeable to stamp duty as an instrument of partition. It was, however, seen during local audit of a Sub-Registry Office (Mannarghat) in May 1974, that in the case of a partition deed registered (June 1973), value of the properties involved was computed for the purpose of levy of stamp duty and registration fees excluding the value of certain movables, bank deposits and outstandings amounting to Rs. 4,33,873, even though an agreement in clear terms, for the actual division of these properties, also stood incorporated in the partition deed. The undervaluation of the properties in the partition deed resulted in short levy of Rs. 11,418 (stamp duty Rs. 8,155 and registration fees Rs. 3,263).

The matter was reported to Government in August 1975; reply is awaited (January 1976).

84. Omission to assess distinct matters in partition deeds

Instruments comprising several distinct transactions are chargeable with the aggregate amount of duties applicable to all such transactions. It was found in audit that in several registering offices partition deeds which contained distinct transactions such as:—

(i) reservation of life interest by one of the parties to partition on the share allotted to him agreeing that

after his death the share would devolve on one or more of the other parties specified by him, and

(ii) one of the parties to partition, without claiming a share under the partition, joins it only to record the fact of distribution of his share to one or more of the other parties with or without conditions,

had been, in many cases, assessed to stamp duty and registration fees applicable to 'partition' alone, leaving the distinct matters comprised in the deeds, which had to be separately charged with duty and fees as for 'settlement', unassessed. The failure to assess the distinct matters in 66 deeds of partition of the above type registered in 29 Sub-Registry Offices between February 1972 and August 1974 resulted in short levy of Rs. 7,864 (stamp duty Rs. 5,613 and registration fees Rs. 2,251). A general review to locate all such omissions is indicated.

The matter was reported to Government in August 1975; reply is awaited (January 1976).

B. ELECTRICITY DUTY

85. Non-levy of duty

Section 4 of the Kerala Electricity Duty Act, 1963, prescribes levy of electricity duty on consumers of energy as specified in the Schedule to the Act. The term 'consumer' is defined in the Act to include a person who 'consumes energy generated by himself'. But in the absence of a specific mention of a consumer of energy generated by himself in the Schedule, no duty was being levied on such a consumer. By the Amendment Act, 1969, all consumers who generated energy for their own consumption were made liable to pay duty at the rate of 1.2 paise per unit of energy generated and consumed with effect from a date as the Government may by notification appoint. Government issued a notification in December 1970 giving effect to the Amendment Act from 1st January 1971.

Under the Kerala Electricity Duty Rules (as amended in December 1970), in the case of consumers of energy generated by themselves, the licensee in whose area the generation set is maintained is made responsible for the assessment and collection of

duty. For this, the licensee should read and record every month the meter installed by the consumer for recording the units of energy generated, collect duty from consumer based on monthly invoice issued by it and also furnish details of energy consumed, duty demanded, duty collected and remittance of the collected duty, to the Inspecting Officer, on or before 15th day of the succeeding month. It was, however, seen in audit (July 1974) that the Kerala State Electricity Board which issued licences to about 440 self generating units all over the State, did not assess and collect duty from any of the consumers of energy generated by themselves till the end of March 1972. From 1st April 1972 onwards, the Board has been assessing duty in respect of 47 high tension and extra high tension consumers leaving the remaining consumers unassessed. Loss of revenue caused due to omission to assess and levy duty on all the consumers for the period from 1st January 1971 onwards amounted to 'tens of lakhs of rupees' as reported by the department in July 1974. In the absence of any periodical recording of energy generated by the consumers, the amount of duty not levied cannot be worked out. On this being pointed out (August 1974), Government stated (February 1975) that the Kerala State Electricity Board had since forwarded a list of persons who possessed self generating sets and that immediate steps would be taken for the assessment and collection of duty by the Board. Further developments are awaited (January 1976).

86. Non-inspection of electrical installations

Under Rule 46 of the Indian Electricity Rules, 1956, where electrical installations of consumers of energy are already connected to the supply system of the supplier, the Electrical Inspector or the supplier, as may be directed by the State Government, is required to inspect the installations periodically on payment in advance of the prescribed fees by the consumers. In the event of the failure of any consumer to pay the fees on or before the date specified in the fee-notice, supply to the installation of such consumer is liable to be disconnected under the directions of the Inspector. As per a notification issued by Government in February 1970, the work connected with inspection of all installations (except low tension installations), till then done by the Kerala State Electricity Board, was entrusted to the Chief Electrical Inspector of the State. The

Chief Electrical Inspector is to inspect high tension and extra high tension installations annually and medium voltage installations once in two years. The following points were noticed in this connection:--

(i) (a) *High tension and extra high tension*

Out of 65 installations (high tension and extra high tension) to be inspected by the Regional Office, Trivandrum, as at the end of March, 1975, three installations were not inspected annually from 1970 and in the case of two other installations though inspection for the year 1974-75 was conducted (September 1974 and March 1975), the fee for inspection was not collected from the consumers. Non-collection of inspection fees in these cases amounted to Rs. 13,210. On the omission being pointed out (October 1975), Government stated (November 1975) that the inspection fee in respect of the three installations amounting to Rs. 5,985 could not be realised as the inspections had not been carried out and inspection fee in respect of the other two installations amounting to Rs. 7,225 had since been demanded and collected.

(b) *Medium voltage*

As regards the medium voltage installations, it was noticed that in the three Regional Offices (Trivandrum, Alwaye and Kozhikode) only 320 installations, out of the estimated number of 63,000 were inspected during the period from 1970-71 till the end of January 1975. Omission to conduct the inspection deprived Government of inspection fees in these cases amounting to Rs. 7 lakhs approximately. On this being pointed out (March 1975), Government replied (July 1975) that the work could not be taken up owing to paucity of staff. They also added that as the fees prescribed were to cover the expenses of the inspection, there could be no loss on account of non-inspection, when there was no staff for conducting the inspections. The omission to observe the statutory provisions, however, jeopardises public safety and increases the chances of electrical hazards.

(ii) As the consumers are required under the Rules to pay the fees before inspection of the installations, there cannot, normally, be any arrears of inspection fees. However, a scrutiny of the records maintained in Regional Offices, Alwaye and Kozhikode revealed that arrears of inspection fees amounting to Rs. 1,38,310

relating to the period from 1972-73 onwards were pending collection at the end of January 1975. On this being pointed out (March-April 1975), the department stated (December 1975) that an amount of Rs. 1,13,210 pertaining to the years 1972-73 to 1974-75 had since been collected. Particulars of collection of the balance amount are awaited (January 1976).

(iii) An up-to-date list of medium voltage consumers was not maintained in any of the three Regional Offices. On this being pointed out (October 1975), Government stated (November 1975) that details were being collected from the Kerala State Electricity Board and from other licensees.

CHAPTER VIII

NON-TAX RECEIPTS

FOREST DEPARTMENT

87. Loss of revenue from lease of forest area

On the abolition of the Department of Rubber Plantation in February 1963, the Government rubber plantations were transferred to the Plantation Corporation of Kerala Limited, formed in 1959 for the plantation of rubber in the public sector. The lease rent in force in respect of the forest areas released for planting rubber to the Department of Rubber Plantation was Rs. 10 per acre per annum. However, Government in January 1964 fixed the rent payable by the Corporation on forest land released to them at Rs. 3 per acre per annum for the first 10 years and Rs. 10 per acre per annum thereafter. In September 1965, Government issued orders fixing the lease rent of forest areas released for rubber cultivation at Rs. 3 per acre per annum for the first ten years from the date of transfer of the land by the Forest Department irrespective of the fact whether the transfer was to the former Rubber Plantation Department or to the Plantation Corporation of Kerala. The rent already paid by the Department of Rubber Plantation over and above the annual rate of Rs. 3 per acre on forest land (which had been transferred to the Corporation on 1st February 1963), was ordered to be adjusted towards the dues of the Corporation for the period from 1st February 1963. Accordingly, an amount of Rs. 41,925, being the rent paid in excess by the Department of Rubber Plantation till March 1962 was adjusted (Rs. 21,443 in August 1966 and Rs. 20,482 in March 1967) towards the dues of the Corporation for subsequent periods (details of such adjustments relating to the period 1st April 1962 to 31st January 1963 are awaited—January 1976). This resulted in remission of revenue equal to the amount of rental adjusted, besides an indirect financial aid to the Corporation.

The matter was reported to Government in October 1975; reply is awaited (January 1976).

It was seen in audit of a Forest Division (Chalakudy) in November 1974 that lease rent was collected from the Corporation till 31st March 1974, in respect of 6,559 acres of forest land released from this division between February 1961 and December 1963, at the rate of Rs. 3 per acre per annum throughout, instead of applying this rate to the first ten years of the period of lease and the rate of Rs. 10 per acre per annum thereafter. This resulted in short levy of rental of Rs. 90,500 (approximately) from the Corporation. On this being pointed out (November 1974), the department replied (July 1975) that the Corporation remitted the amount in February 1975.

As per an order issued by Government in October 1970, and also in terms of clause 4 of the lease agreement entered into with the Corporation in July 1971, if the rent for each financial year is not paid on or before 31st March of the year, the Corporation is liable to pay compound interest at 9 per cent on all defaulted amounts. It was, however, seen in audit that interest accrued on the arrears of rental was not being demanded from the Corporation. To an enquiry made by a Conservator of Forests in August 1971, the Chief Conservator of Forests replied in September 1971 that no interest on balated payment of dues need be collected from private bodies like the Corporation. In two Forest Circles alone (Trichur and Kozhikode) interest due from the Corporation till 31st March 1975, but not demanded, amounted to Rs. 48,496.

On this being pointed out (October 1975), Government stated (November 1975) that the Chief Conservator of Forests was directing the Conservator of Forests to realise the amount forthwith. Further developments are awaited (January 1976).

88. Loss due to release of property liable to confiscation

When an offence under the Kerala Forest Act is detected, the offender is prosecuted or the offence is compounded by the Forest Officer by accepting a sum of money by way of compensation for the offence. In case the offence is compounded, the properties seized in connection with that offence may either be confiscated or released on payment of value thereof, as estimated by the Forest Officer. During local audit of six Forest Divisions conducted between September 1974 and March 1975, it was noticed

that, while compounding the offiences, 19 lorries, 2 vans, 3 jeeps and a grinding machine, seized in connection with certain offences as liable to confiscation, were released without collecting any amount towards their estimated value. Consequent loss of revenue amounted to Rs. 4.95 lakhs (approximately).

Reply of Government to references on the subject, made in November 1974 and July 1975, is awaited (January 1976).

89. Avoidable loss of revenue

According to the working plan approved for a Forest Division (Punalur), bamboo bearing coupes in the division were to be worked continuously in a three year cycle. It was seen in audit (June 1970) that 1,33,000 full grown bamboos, valued by the department (June 1967) at Rs. 79,800, comprised in two coupes, were not felled and sold, though these coupes were due for working in 1965 and 1967. The Divisional Forest Officer informed the Conservator of Forests in August 1971 that flowering of bamboos (indicating over-maturity and a stage of perishing of bamboos) was fast spreading in the areas under his jurisdiction and if orders for the sale of bamboo coupes were not issued immediately, the revenue from the bamboo sources of the division might be lost for ever. The department stated in June 1972 that only an approximate number of 60,000 bamboos were left for felling in both the coupes and the remaining bamboos (with the exception of 19,500 pieces of bamboos sold to bonafide consumers between June 1967 and May 1971 for Rs. 7,470) were not available owing to various reasons such as flowering of bamboos, removal by smugglers etc. Loss of revenue due to delay in disposal of the bamboos (worked out with reference to the damage caused till June 1972 alone), was Rs. 36,000 (approximately). Report regarding disposal of 60,000 bamboos, reported in June 1972 as available for disposal, is awaited (January 1976).

Though three more felling cycles prescribed in the working plan for these two coupes were over by 1971, no felling operations were carried out by the department. According to the department, the bamboo clumps die after a few months of flowering. The Conservator of Forests (Quilon) reported to the Chief Conservator of Forests in May 1973 that bamboos in this division had started flowering gregariously from June 1971 and the flowered bamboos were perishing and the remaining bamboos were likely to deteriorate or to be

lost in wild fire. Loss of revenue sustained due to non-disposal of bamboos from these two coupes in the prescribed cycles of felling could not be worked out for want of details regarding the estimated number of full grown bamboos contained in the coupes in each of these felling cycles. The department stated (October 1975) that no assessments of bamboos in these coupes were made, as no auction sale was conducted during the period in question.

The matter was reported to Government in October 1975; reply is awaited(January 1976).

90. Delay in disposal of teak poles

Teak poles numbering 7,975 stacked in the depots of a forest division (Trichur) were auctioned in August 1972 for a sum of Rs. 16,135 and the successful bidders remitted part value of Rs. 5,650 on the spot. The confirmation of auction was communicated to the successful bidders in November 1972. But they did not remit the balance purchase value and take delivery of the poles in accordance with the stipulations in the sale notice on the plea that due to the delay in confirming the auction, the poles had deteriorated and had become useless. The department, however, did not forfeit the moneys already paid by the bidders and also did not put the poles for resale at the risk of the original bidders though there were specific provisions to that effect in the sale notice. On this being pointed out (September 1973), the department stated (April 1974) that the poles were in a very deteriorated condition and were unfit to be sold in re-auction. The consequent loss of revenue amounted to Rs. 16,700. The matter was reported to Government in November 1974. Government stated (March 1975) that there was delay on the part of the officers of the department to take appropriate action to avoid loss and that disciplinary action had been initiated against the staff responsible for the loss. Further developments are awaited (January 1976).

91. Supply of timber to the Forest Industries (Travancore) Limited

In July 1947, Government entered into an agreement with the Forest Industries (Travancore) Limited (registered in 1946 with 51 per cent share participation by Government) to sell to the company all the timber extracted from an area of 113 square miles of forest land. The company was to pay royalty amounting to about 66.7 per

cent of the average price of corresponding species and girth-class of timber realised by Government in public auction in each half year in the depots of the Forest Department, minus the cost of extraction and delivery of timber supplied to the company. The agreement was to run for a period of twenty years from 2nd July 1947. On the expiry of the period of agreement, Government issued orders in November 1968 extending the supply of timber to the company for a further period of ten years subject to payment by the company of royalty on timber amounting to 80 per cent of the average auction price of similar class of timber minus the cost of extraction. In November 1970, Government re-fixed the royalty payable by the company at 87.5 per cent of the average auction price minus the cost of extraction, but stated that the question as to what factors should constitute the determination of average auction price and extraction charges would be examined separately. The Committee on Public Undertakings 1973-74, which examined the working of the company, viewed with concern (Para 27 of the Nineteenth Report) the delay on the part of Government in taking a final decision in the matter. Final orders in regard to payment of royalty were issued in October 1975, according to which the company will pay to Government, royalty equal to the average auction price minus the extraction charges, charges on maintenance of roads etc., incurred by the company. The necessary agreement laying down the terms and conditions of the supply is yet to be executed (January 1976). In this connection the following points were noticed.

(i) On account of the delay in deciding the mode of calculation of royalty, the department has not preferred any claim of royalty against the company on the timber removed by them from 1970-71 onwards. The amount of royalty payable by the company for the period 1970-71 to 1974-75 works out to more than Rs. 20 lakhs.

Government stated (December 1975) that various factors had to be taken into consideration before taking a final decision in the matter and hence it took some time to issue final orders fixing the royalty. They further stated that instructions have already been issued to prefer final claims in respect of timber supplied on the basis of orders issued in October 1975, fixing the mode of calculation of royalty, and that the amount due from the company would be collected soon.

(ii) Under the agreement applicable to the initial c the timber received from the Forest Department could company, subject to the condition that the selling price by the Conservator of Forest and 90 per cent of the remitted to Government. It was seen in audit (July company had been selling right from the beginning, t timber received from the Forest Department, withou of the Conservator of Forests and also without remitt ment the proportionate price of the timber so sold period 1965-66 to 1974-75, the company sold 1,47,082 timber (forming 92 per cent of the quantity received f Department) for Rs. 260 lakhs. The royalty payable t on this quantity of timber was about Rs. 80 lakhs. Th ble by the company in respect of timber sold has not mined. The Divisional Forest Officer (Chalakudy) 1975) that the matter was under correspondence wit at Government level. It may be recalled in this conn Committee on Estimates (1968-69) in its First Repo mended that there was no need of any intermediate company for the sale of timber of the Forest Depart practice should be stopped.

Government stated (December 1975) that certa such as the annual timber requirements, rate to be re company etc. were under examination and that wi orders in October 1975, some of these points have be that the department is in a position to finalise the issu stated that they are seriously considering the questio of timber by the company with a view to putting practice and to realise the eligible portion of the s timber already sold by the company.

(iii) According to the agreement, all bills payable to Government were to be paid within three months by the department, failing which the company was interest at six per cent on the amount defaulted. I seen in audit that interest on belated payment of r being demanded from the company from 1947 on ment stated (December 1975) that the transactions wi from July 1967 onwards were not covered by any hence it was not correct to calculate interest on be

cent of the average price of corresponding species and girth-class of timber realised by Government in public auction in each half year in the depots of the Forest Department, minus the cost of extraction and delivery of timber supplied to the company. The agreement was to run for a period of twenty years from 2nd July 1947. On the expiry of the period of agreement, Government issued orders in November 1968 extending the supply of timber to the company for a further period of ten years subject to payment by the company of royalty on timber amounting to 80 per cent of the average auction price of similar class of timber minus the cost of extraction. In November 1970, Government re-fixed the royalty payable by the company at 87.5 per cent of the average auction price minus the cost of extraction, but stated that the question as to what factors should constitute the determination of average auction price and extraction charges would be examined separately. The Committee on Public Undertakings 1973-74, which examined the working of the company, viewed with concern (Para 27 of the Nineteenth Report) the delay on the part of Government in taking a final decision in the matter. Final orders in regard to payment of royalty were issued in October 1975, according to which the company will pay to Government, royalty equal to the average auction price minus the extraction charges, charges on maintenance of roads etc., incurred by the company. The necessary agreement laying down the terms and conditions of the supply is yet to be executed (January 1976). In this connection the following points were noticed.

(i) On account of the delay in deciding the mode of calculation of royalty, the department has not preferred any claim of royalty against the company on the timber removed by them from 1970-71 onwards. The amount of royalty payable by the company for the period 1970-71 to 1974-75 works out to more than Rs. 20 lakhs.

Government stated (December 1975) that various factors had to be taken into consideration before taking a final decision in the matter and hence it took some time to issue final orders fixing the royalty. They further stated that instructions have already been issued to prefer final claims in respect of timber supplied on the basis of orders issued in October 1975, fixing the mode of calculation of royalty, and that the amount due from the company would be collected soon.

(ii) Under the agreement applicable to the initial contract period, the timber received from the Forest Department could be sold by the company, subject to the condition that the selling price was approved by the Conservator of Forest and 90 per cent of the sale price was remitted to Government. It was seen in audit (July 1975) that the company had been selling right from the beginning, the bulk of the timber received from the Forest Department, without the approval of the Conservator of Forests and also without remitting to Government the proportionate price of the timber so sold. During the period 1965-66 to 1974-75, the company sold 1,47,082 cubic metres of timber (forming 92 per cent of the quantity received from the Forest Department) for Rs. 260 lakhs. The royalty payable to Government on this quantity of timber was about Rs. 80 lakhs. The amount payable by the company in respect of timber sold has not yet been determined. The Divisional Forest Officer (Chalakudy) stated (March 1975) that the matter was under correspondence with the company at Government level. It may be recalled in this connection that the Committee on Estimates (1968-69) in its First Report had recommended that there was no need of any intermediate agency like the company for the sale of timber of the Forest Department and the practice should be stopped.

Government stated (December 1975) that certain basic issues such as the annual timber requirements, rate to be realised from the company etc. were under examination and that with the issue of orders in October 1975, some of these points have been clarified and that the department is in a position to finalise the issue. They furher stated that they are seriously considering the question regarding sale of timber by the company with a view to putting an end to the practice and to realise the eligible portion of the sale proceeds of timber already sold by the company.

(iii) According to the agreement, all bills payable by the company to Government were to be paid within three months of presentation by the department, failing which the company was liable to pay interest at six per cent on the amount defaulted. It was, however, seen in audit that interest on belated payment of royalty was not being demanded from the company from 1947 onwards. Government stated (December 1975) that the transactions with the company from July 1967 onwards were not covered by any agreement and hence it was not correct to calculate interest on belated remittance

of royalty based on the provisions of a time-barred agreement. They further stated that due to the uncertainty in the mode of calculation of royalty etc., final claims could not be made so as to finalise the accounts with the company and now that necessary orders have been issued, these matters are being examined and action taken to settle them. It is doubtful, however, whether delay in execution of the agreement for the extended period of supply of timber should be deemed to constitute a good justification for non-levy of interest normally due on payments defaulted by the company. Non-levy of interest in respect of the dues for the period 1967-68 to 1969-70 alone amounted to Rs. 3.55 lakhs.

Trivandrum,
The

(R. C. GHEI)
Accountant General, Kerala.

Countersigned

New Delhi,
The

(A. BAKSI)
Comptroller and Auditor General of India.

APPENDICES

APPENDIX—I

Statement showing cost of collection under the principal heads of revenue

(*Reference*: *Paragraph* 4 *page* 6 *of Chapter I*)

	Head of Account	*Year*	*Gross collection*	*Expenditure on collection*	*Percentage of expenditure on gross collection*
			(*in crores of rupees*)		
1.	Taxes on Agricultural Income	1972-73	3.12	0.08	2.56
		1973-74	2.87	0.07	2.44
		1974-75	4.02	0.09	2.24
2.	Land Revenue	1972-73	2.62	3.84	*
		1973-74	3.08	4.67	*
		1974-75	2.92	5.67	*
3.	Stamps and Registration Fees				
	(a) Stamps-Non-judicial	1972-73	5.45	0.24	4.40
		1973-74	6.85	0.29	4.23
		1974-75	8.39	0.35	4.17
	(b) Registration Fees	1972-73	1.46	0.86	59.00
		1973-74	1.76	0.98	55.68
		1974-75	2.06	1.25	60.68
4.	State Excise	1972-73	9.42	0.75	7.96
		1973-74	12.06	0.86	7.13
		1974-75	15.55	1.09	7.01
5.	Sales Tax	1972-73	46.14	1.08	2.34
		1973-74	53.80	1.32	2.45
		1974-75	75.32	1.65	2.19
6.	Taxes on Vehicles	1972-73	7.16	0.24@	3.35
		1973-74	6.75	0.27@	4.00
		1974-75	6.68	0.36@	5.39
7.	Forest	1972-73	10.46	3.36	32.12
		1973-74	14.57	3.78	25.94
		1974-75	18.17	4.56	25.10

* The expenditure incurred under 'Land Revenue' cannot be considered as having been incurred solely for collecting land revenue as the department has several other administrative functions.

@ Expenditure under 'Taxes on Vehicles' includes expenditure incurred on collection of 'Taxes on Goods and Passengers' also.

APPENDIX—II

Details of Excise offices remained uninspected by Assistant Excise Commissioners

(*Reference*: *Paragraph* 23-*Page* 25 *of Chapter* III)

Name of Office	*Periodicity of inspection by Assistant Excise Commissioner*	*Due date of inspection*	*Date of inspection*	*Remarks*
(1)	(2)	(3)	(4)	(5)
Excise Range Office, Kumbla	Half Yearly (by Assistant Excise Com-ssioner, Cannanore)	1/69 to 7/75 ..	18-12-1969	No inspec-tion after 18-12-1969
Excise Range office, Kasaragod	do.	7/73 to 7/75	24-10-1973	do. after 24-10-1973
Excise Range Office, Hosdurg	do.	7/71 to 7/75	22-8-1973	do. after 22-8-1973
Excise Range .. Office, Nileswar	do.	1/71 to 7/75	7-5-1971	do. after 7-5-1971
Excise Range Office, Pappinissery	do.	7/71 to 7/75	7-10-1971	do. after 7-10-1971
Excise Range Office, Cannanore	do.	1/71 to 7/75	21-6-1971	do. after 21-6-1971
Excise Range Office, Tellicherry	do.	1/73 to 7/75	30-8-1973	do. after 30-8-1973
Excise Range Office, Kuthuparamba	do.	7/72 to 7/75	26-10-1973	do. after 26-10-1973
Excise Range Office, Mattannur	do.	7/71 to 7/75	15-11-1971	do. after 15-11-1971
Excise Range Office, Manantoddy	do.	7/72 to 7/75	5-6-1973	do. after 5-6-1973
Excise Range Office, Amaravila	do. (by Assistant Excise Commissioner, Trivandrum)	1/70 to 7/74	Nil	Last inspec-tion on 10-9-1969
Excise Range Office, Neyyattinkara	do.	do.	Nil	do. on 3-12-1969
Excise Range Office, Trivandrum	do.	do.	Nil	do. on 29-9-1969

Name of Office	*Periodicity of inspection by Assistant Excise Commissioner*	*Due date of inspection*	*Date of inspection*	*Remarks*
(1)	(2)	(3)	(4)	(5)
Excise Range Office, Kazhakuttam	Half yearly (by Assistant Excise Commissioner Trivandrum.)	1/73 to 7/74	Nil	Last Inspection on 12-12-1972
Excise Range Office, Nedumangad	do.	1/71 to 7/74	Nil	do. on 15-10-1970
Excise Range Office, Vamanapuram	do.	7/69 to 7/74	Nil	do. on 18-3-1969
Excise Range Office, Chirayinkil	do.	1/70 to 7/74	Nil	do. on 25-10-1969
Bonded Warehouse of Mohan Meakin Breweries, Ernakulam	Quarterly (by Assistant Excise Commissioner, Ernakulam)	4/73 to 3/74	30-4-1973 & 22-1-1974	Instead of four inspections only two were conducted
Premier Breweries, Palghat	Half yearly (by Assistant Excise Commissioner, Palghat)	6/73 to 12/74	Nil	No inspection was conducted (position as on 13-12-1974)
Arrack Warehouse, Hosdurg	Quarterly (by Assistant Excise Commissioner, Cannanore)	9/72 to 8/73	8/73	Only one inspection was conducted instead of four

APPENDIX—III

Details of Excise licensees who defaulted payment of dues and whose licences were not cancelled

(*Reference*: *Paragraph* 24 (*iv*) *Page* 28 *of Chapter* III)

Excise Range	*Shop licenced*	*Kist defaulted from*	*Licence cancelled in*
Pattambi	T. S. 46/71-73	10/71	1/72
do.	T. S. 47/71-73	9/71	12/71
Badagara	T. S. 13/71-73	8/71	11/71
do.	T. S. 21/71-73	11/71	4/72
Trivandrum	T. S. 3/73-74	8/73	10/73
do.	T. S. 11/73-74	do.	do.
do.	T. S. 15/73-74	do.	do.
do.	T. S. 16/73-74	do.	do.
do.	T. S. 23/73-74	do.	do.
do.	T. S. 24/73-74	do.	do.
do.	T. S. 30/73-74	do.	do.

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