



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

**FOR THE YEAR ENDED 31 MARCH 2000**

**NO. 1  
(REVENUE RECEIPTS)**

**GOVERNMENT OF KERALA**



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## PREFATORY REMARKS

*This report for the year ended 31 March 2000 has been prepared for submission to Governor under Article 151(2) of the Constitution.*

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

*The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1999-2000 as well as those which came to notice in earlier years but could not be included in previous Reports.*



# Overview





## Overview

*This Report contains 33 paragraphs including two reviews relating to non-levy/short levy/loss of tax involving Rs 153.01 crore. Some of the major findings are mentioned below.*

### 1. General

*i) During the year 1999-2000, the Government of Kerala raised a total revenue of Rs 5724.22 crore comprising tax revenue of Rs 5193.50 crore and non-tax revenue of Rs 530.72 crore. The State Government received Rs 1535.22 crore by way of State's share of divisible Union taxes and Rs 682.31 crore as grants-in-aid from the Government of India. Sales Tax (Rs 3853.54 crore) formed a major portion (74%) of the tax revenue of the State. Receipts from Forestry and Wild Life (Rs 109.88 crore) formed a major portion (21%) of the non-tax revenue.*

*(Paragraph 1.1)*

*ii) Test check of the records of Agricultural Income Tax and Sales Tax, State Excise, Land Revenue, Motor Vehicles, Registration, Power, Forest, etc., Departments conducted during 1999-2000, revealed underassessments/short levy of revenue amounting to Rs 270.21 crore involved in 2,519 cases. During the course of the year 1999-2000, the departments concerned accepted underassessments, etc., of Rs 6.68 crore involved in 1,234 cases of which 243 cases involving Rs 1.45 crore had been pointed out in audit during 1999-2000 and the rest in earlier years.*

*(Paragraph 1.7)*

*iii) As at the end of June 2000, 4,402 inspection reports containing 16,419 audit observations involving revenue effect of Rs 1153.83 crore issued up to December 1999 were outstanding for want of final replies from the departments.*

*(Paragraph 1.8)*

### 2. Sales Tax

*i) A review on "Pendency of appeals at various levels and its impact on revenue – Agricultural Income Tax and Sales Tax" revealed the following.*

- Disputed tax involved in 22,345 cases under appeal before the Appellate Tribunal and 16 appellate authorities of the department amounted to Rs 415.14 crore.*

*(Paragraph 2.2.4)*

- *The rate of disposal of appeals during each of the years from 1994-95 to 1998-99 ranged from 33.92 to 50.84 per cent at the level of the Appellate Assistant / Deputy Commissioners and 14.92 to 20.95 per cent at the level of the Tribunal.*

*(Paragraph 2.2.5)*

- *Delay ranging from 6 to 72 months from the date of hearing was noticed in communicating appellate order by the Appellate Assistant / Deputy Commissioners.*

*(Paragraph 2.2.7)*

- *Recovery of tax amounting to Rs 1846.06 lakh involved in 963 cases was covered by stay in 9 appellate authorities at the end of March 1999.*

*(Paragraph 2.2.9)*

- *In 278 cases remanded/set aside involving tax of Rs 3714.98 lakh, the assessing officers did not take action to revise the assessments. Delay ranging from 3 to 242 months was noticed in revising 340 remanded assessments involving tax of Rs 2420.84 lakh.*

*(Paragraph 2.2.10)*

- ii) *Non-accounting of goods received from other States by four dealers resulted in underassessment of tax of Rs 243.41 lakh.*

*(Paragraph 2.3)*

- iii) *Underassessment of turnover in 14 cases resulted in short levy of tax of Rs 87.04 lakh.*

*(Paragraph 2.4)*

### **3. Taxes on Agricultural Income**

- i) *Assessments of 17 assesseees involving tax of Rs 18.57 lakh were finalised after the due dates prescribed and assessments of 13 assesseees involving tax of Rs 62.58 lakh had not been finalised even 22 to 63 months after the due date.*

*(Paragraph 3.2)*

- ii) *Grant of inadmissible/excess deduction resulted in short levy of tax of Rs 27.40 lakh in five cases.*

*(Paragraph 3.3)*

#### **4. Land Revenue and Building Tax**

i) A review on "Recovery of dues treated as arrears of land revenue" revealed the following.

- As on 31 March 1999, collection of arrears of Rs 181.96 crore was under stay by Government though no power was vested with Government for this purpose.

**(Paragraph 4.2.5B)**

- Revenue Recovery Certificates (RRCs) for Rs 459.67 crore were returned to the requisitioning departments during the period from 1994-95 to 1998-99 for various reasons.

**(Paragraph 4.2.5C)**

- In 160 cases involving Rs 243.07 lakh recoveries were either not made at all or made only partially.

**(Paragraph 4.2.6)**

- Collection charge amounting to Rs 419.45 lakh was not realised from defaulters from whom recoveries were made.

**(Paragraph 4.2.7)**

- In 4 Taluks, properties valued at Rs 223.70 lakh attached in 13 revenue recovery cases were pending disposal as on 31 March 2000.

**(Paragraph 4.2.10)**

ii) Building tax was assessed short by Rs 40.54 lakh on 932 buildings.

**(Paragraph 4.3)**

#### **5. State Excise**

Interest amounting to Rs 226.71 lakh was not demanded/realised from 214 defaulters of abkari dues.

**(Paragraph 6.2)**

#### **6. Forest Receipts**

i) Lease rent of Rs 993.94 lakh was pending collection from Public Sector Undertakings/Autonomous bodies and delay in implementing the provisions of 1980 enactment of the Legislature for revision of lease rent resulted in loss of revenue of Rs 1211.58 lakh.

**(Paragraph 7.2)**

ii) Sales tax of Rs 32.89 lakh was realised short on sandalwood and timber sold by Forest Department.

**(Paragraph 7.3)**

## **7. Other Non-tax receipts**

- i) *Dead rent of Rs 51.15 lakh was not demanded from 48 holders of quarrying leases.*  
(Paragraph 8.1)
- ii) *Non-application of the revised rates of royalty resulted in short levy of royalty of Rs 20.73 lakh.*  
(Paragraph 8.3)
- iii) *Royalty of Rs 24.31 lakh due on laterite quarried without permit was not demanded.*  
(Paragraph 8.4)
- iv) *Rs 21.40 crore due from the National Thermal Power Corporation towards value of land transferred during 1989 has not so far been collected.*  
(Paragraph 8.5)

# **Chapter 1**

## **General**



## CHAPTER I GENERAL

### 1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Kerala during the year 1999-2000, the State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding two years are given below.

		1997-98	1998-99	1999-2000
		(In crore of rupees)		
<b>I</b>	<b>Revenue raised by the State Government</b>			
	a) Tax revenue	4501.05	4649.56	5193.50
	b) Non-tax revenue*	552.11 (505.56)	557.66 (509.52)	530.72 (487.21)
	<b>Total *</b>	<b>5053.16</b> <b>(5006.61)</b>	<b>5207.22</b> <b>(5159.08)</b>	<b>5724.22</b> <b>(5680.71)</b>
<b>II</b>	<b>Receipts from Government of India</b>			
	a) State's share of divisible Union taxes	1271.74	1382.30	1535.22
	b) Grants-in-aid	793.31	608.60	682.31
	<b>Total</b>	<b>2065.05</b>	<b>1990.90</b>	<b>2217.53</b>
<b>III</b>	<b>Total receipts of the State Government (I and II) *</b>	<b>7118.21</b> <b>(7071.66)</b>	<b>7198.12</b> <b>(7149.98)</b>	<b>7941.75*</b> <b>(7898.24)</b>
<b>IV</b>	<b>Percentage of I to III</b>	<b>71</b>	<b>72</b>	<b>72</b>

\* The figures shown in brackets are the figures net of expenditure on prize winning tickets of the lotteries conducted by the Government.

\* For details please see statement No. 11 – Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Kerala for the year 1999-2000. Figures under the Head “0021-Taxes on income other than Corporation tax-Share of net proceeds assigned to States” booked in the Finance accounts under ‘A-Tax Revenue’ have been excluded from the revenue raised by the State and included in the State’s share of divisible Union Taxes in this statement.

*Report No. 1 (Revenue Receipts) of 2000*

*i)* The details of the tax revenue raised during the year 1999-2000, along with the figures for the preceding two years are given below.

Sl. No.	Head of Revenue	1997-98	1998-99	1999-2000	Percentage of increase(+)/ decrease(-) in 1999-2000 over 1998-99
		(In crore of rupees)			
1	Sales Tax	3084.09	3366.62	3853.54	(+) 14.46
2	State Excise	543.41	529.62	591.10	(+) 11.61
3	Stamps and Registration Fees				
	a) Stamps- Judicial	20.59	19.32	23.21	(+) 20.13
	b) Stamps - Non- Judicial	236.28	205.36	164.98	(-) 19.66
	c) Registration Fees	74.49	76.47	91.46	(+) 19.60
4	Taxes and Duties on Electricity	168.56	39.06	3.33	(-) 91.47
5	Taxes on Vehicles	301.63	323.31	380.83	(+) 17.79
6	Taxes on Agricultural Income	21.38	27.02	14.19	(-) 47.48
7	Land Revenue	23.75	32.73	34.67	(+) 5.93
8	Others	26.87	30.05	36.19	(+) 20.43
	<b>Total</b>	<b>4501.05</b>	<b>4649.56</b>	<b>5193.50</b>	<b>(+) 11.70</b>

The decrease in revenue for 1999-2000, over the receipts during 1998-99 under the head 'Taxes and Duties on Electricity' was due to non-remittance of electricity duty and surcharge by the Kerala State Electricity Board.

Concrete and clear reasons for increase/decrease for 1999-2000 over the receipts during 1998-99 though called for (May 2000) from the heads of other departments have not been received (November 2000).

*ii)* The details of non-tax revenue realised during the years 1997-98 to 1999-2000 are given below.

Sl. No.	Head of Revenue	1997-98	1998-99	1999-2000	Percentage of increase(+)/ decrease (-) in 1999-2000 over 1998-99
		(In crore of rupees)			
1	State Lotteries ♣	58.96	64.17	57.31	(-) 10.69
2	Forestry and Wild Life	144.91	121.03	109.88	(-) 9.21
3	Interest Receipts	53.48	70.96	37.31	(-) 47.42
4	Education, Sports, Art & Culture	30.48	35.34	39.18	(+) 10.87
5	Medical and Public Health	21.94	21.44	18.82	(-) 12.22
6	Crop Husbandry	15.52	15.81	5.25	(-) 66.79
7	Animal Husbandry	5.02	5.71	5.08	(-) 11.03
8	Public Works	1.84	1.80	1.82	(+) 1.11
9	Others	173.41	173.26	212.56	(+) 22.68
	<b>Total</b>	<b>505.56</b>	<b>509.52</b>	<b>487.21</b>	<b>(-) 4.38</b>

♣ The figures are net of expenditure on prize winning tickets.



The reasons attributed by the departments for the variation in receipts during 1999-2000 over the receipts during 1998-99 are as follows.

*i) Forestry and Wild Life :* The decrease was due to absence of regular felling operations because of non-approval of working plan by Government of India, non-remittance of sale value by auctioneers and non-payment of lease rent by Public Sector Undertakings.

*ii) Interest Receipts:* The decrease was due to decrease in receipt of interest from Public Sector and other Undertakings and decrease in interest realised on investment of cash balances.

*iii) Education :* Increase was due to enhancement of the cost of application forms for Entrance Examination.

*iv) State Lotteries :* The decrease was due to decrease in the sale of tickets as a result of the introduction of income tax on the sales commission of agents and cancellation of certain lottery draws due to strike of employees of the press where tickets were printed.

The reasons for variation though called for (May 2000) from the heads of other departments have not been received (November 2000).

## 1.2. Variation between Budget estimates and actuals

The variation between Budget estimates of revenue for the year 1999-2000 and the actual receipts under principal heads of revenue are given below.

Revenue Head	1999-2000			Percentage of variation
	Budget estimates	Actual receipts	Variation increase (+)/ shortfall (-)	
(In crore of rupees)				
Sales Tax	4144.10	3853.54	(-) 290.56	(-) 7.01
State Excise	675.07	591.10	(-) 83.97	(-) 12.44
Stamps and Registration Fees				
a) Stamps- Non-Judicial	291.30	164.98	(-) 126.32	(-) 43.36
b) Registration Fee	94.56	91.46	(-) 3.10	(-) 3.28
Taxes on Vehicles	431.00	380.83	(-) 50.17	(-) 11.64
Forestry and Wild Life	160.08	109.88	(-) 50.20	(-) 31.36
Taxes and Duties on Electricity	146.72	3.33	(-) 143.39	(-) 97.73
Taxes on Agricultural Income	29.65	14.19	(-) 15.46	(-) 52.14
Land Revenue	43.77	34.67	(-) 9.10	(-) 20.79

The reasons attributed by the departments for variation between Budget estimates and actuals for 1999-2000 are as follows.

*Report No. 1 (Revenue Receipts) of 2000*

*i) Sales Tax :* The decrease was due to decrease in the prices of cement, rubber and iron and steel and estimation based on a rather high targeted growth rate.

*ii) State Excise :* The decrease was due to decrease of rentals of toddy and foreign liquor shops and incorrect estimation of quantity of consumption of Indian made foreign liquor at the time of making Budget estimates.

*iii) Forestry and Wild Life :* The shortfall was due to regular felling operations not being carried out because of non-approval of working plan by Government of India, non-remittance of sale value by auctioneers and non-payment of lease rent by the Public Sector Undertakings.

*iv) Land Revenue :* The decrease was due to introduction of compounding system, grant of exemption to coconut and arecanut plantations up to 4 hectares, sub division of taxable plantation area and grant of exemption from land tax up to 2 Ares in Corporation area, 6 Ares in Municipalities and 20 Ares in Grama Panchayats.

The reasons for variations called for (May 2000) from the heads of other departments have not been received (November 2000).

**1.3. Cost of collection**

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1997-98, 1998-99 and 1999-2000 along with the relevant all India average percentage of expenditure on collection to gross collections for 1998-99 are given below.

Sl. No.	Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
			( In crore of rupees )			
1	Sales Tax	1997-98	3084.09	29.59	0.96	
		1998-99	3366.62	33.98	1.01	1.40
		1999-2000	3853.54	46.51	1.21	
2	Stamps <sup>#</sup> (Non- Judicial) and Registration Fees	1997-98	310.77	24.16	7.74	
		1998-99	281.83	27.20	9.65	5.45
		1999-2000	256.44	33.94	13.24	
3	State Excise <sup>#</sup>	1997-98	543.41	22.87	4.21	
		1998-99	529.62	27.29	5.15	3.25
		1999-2000	591.10	33.93	5.74	
4	Taxes on Vehicles <sup>#</sup>	1997-98	301.63	8.82	2.92	
		1998-99	323.31	10.00	3.09	3.22
		1999-2000	380.83	13.23	3.47	

# According to the departments, the expenditure incurred cannot be considered as having been incurred solely for collecting revenue as the departments have several other administrative functions. The figures of expenditure on *pro rata* basis are not available.

**1.4. Arrears of revenue**

As on 31 March 2000, arrears of revenue under principal heads of revenue, as reported by the departments were as under.

Sl. No.	Department	Arrears	Amount of arrears outstanding for more than 5 years	Remarks
			(In crore of rupees)	
1	Local Fund Audit	14.48	0.94	The reason attributed by the department for the arrears was non-remittance by the auditee institutions.
2	Power	552.95	39.07	Rs 552.40 crore was due from the Kerala State Electricity Board. Arrears shown does not include duty up to 31.3.1989 under Section 3(1) of the Kerala Electricity Duty Act as the same has not been finalised by Government and penal interest for belated payment of Section 3(1) duty for the period 1995-96 to 1999-2000 due to non-receipt of monthly returns from the Board.
3	Factories and Boilers	0.26	-	As the factories were closed the licence fee due from them remain as arrears.
4	Stationery	10.28	2.80	The arrears are stated to be due to reluctance on the part of the Government departments to remit the amount.

Details of arrears of revenue in respect of other departments though called for in May 2000 have not been received (November 2000).

**1.5. Arrears in assessment of sales tax and agricultural income tax**

The details of sales tax and agricultural income tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 1997-98 to 1999-2000 as furnished by the department, are given below.

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
<b>Sales Tax</b>						
1997-98	1,41,851	1,13,176	2,55,027	1,32,285	1,22,742	52
1998-99	1,22,742	1,29,616	2,52,358	1,30,367	1,21,991	52
1999-2000*						

\* Details for 1999-2000 called for (May 2000) from the department have not been received (November 2000).

Report No. 1 (Revenue Receipts) of 2000

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
<b>Agricultural Income Tax</b>						
1997-98	14,563	9,289	23,852	15,434	8,418	65
1998-99	8,418	15,498	23,916	13,957	9,959	58
1999-2000*						

### 1.6. Internal Audit

*i) Land Revenue Department :* Internal Audit Wing of the department audited 20 offices in 1999-2000 and raised 599 objections having a money value of Rs 299.54 lakh. Audit of 97 offices was in arrears during 1999-2000. Department attributed the arrears to monthly ceiling on travelling allowance.

*ii) Forest Department :* The Internal Audit Wing audited 42 offices during 1999-2000 and raised objections having money value of Rs 0.46 lakh. Audit of 106 offices was in arrears. The department attributed the arrears to insufficient staff.

*iii) Excise Department :* According to the information furnished by the department, Internal Audit Wing headed by one Deputy Commissioner had not conducted internal audit during 1999-2000 as the Wing was preoccupied with Local Audit Reports and Audit Reports of the Comptroller and Auditor General and files relating to the Committee on Public Accounts.

*iv) Registration Department :* Internal Audit Wing audited 206 offices during 1999-2000 and raised 1,378 objections having a money value of Rs 13.36 lakh. Audit of 146 offices was in arrears. The arrears was attributed to non-availability of District Registrars in three districts and entrustment of the work of undervaluation cases to the internal audit staff.

Details called for (May 2000) from the Commercial Taxes Department have not been received (November 2000).

### 1.7. Results of audit

Test check of the records of Sales Tax, Agricultural Income Tax, State Excise, Motor Vehicles, Forest and other departmental offices conducted during the year 1999-2000 revealed underassessments/short levy/loss of revenue amounting to

\* Details for 1999-2000 called for (May 2000) from the department have not been received (November 2000).

Rs 270.21 crore in 2,519 cases. During the course of the year 1999-2000, the departments concerned accepted underassessments, etc., of Rs 6.68 crore involved in 1,234 cases of which 243 cases involving Rs 1.45 crore had been pointed out in audit during 1999-2000 and the rest in earlier years.

This report contains 33 paragraphs including two reviews relating to short/non-levy of tax, duty and interest, penalty, etc., involving financial effect of Rs 153.01 crore.

The departments/Government have so far accepted the audit observations in 71 cases involving Rs 2.43 crore and recovered Rs 0.43 crore in 21 cases included in the Report. Final reply has not been received in the remaining cases (November 2000).

### **1.8. Outstanding Inspection Reports and Audit Observations**

Important irregularities and defects in assessments, demand and collection of State receipts, noticed during local audit but not settled on the spot, are communicated to the heads of the offices and to the next higher departmental authorities through inspection reports. The more important financial irregularities are also brought to the notice of the heads of departments and the Government for taking prompt corrective measures. According to the instructions issued by Government in November 1965, first replies to inspection reports are required to be sent within four weeks from the date of receipt of the inspection reports. In order to apprise the Government of the position of pending audit observations from time to time, statements of outstanding audit observations are forwarded to Government and their replies watched in audit.

As at the end of June 2000, 4,402 inspection reports containing 16,419 audit observations having money value of Rs 1153.83 crore issued up to December 1999 were outstanding as shown below. Figures for the preceding two years are also given.

	As at the end of June 1998	As at the end of June 1999	As at the end of June 2000
Number of inspection reports	3,891	4,101	4,402
Number of audit observations	14,794	15,590	16,419
Amount involved (in crore of rupees)	865.27	1068.06	1153.83

*Report No. 1 (Revenue Receipts) of 2000*

An analysis of the outstanding inspection reports according to the revenue heads is given below.

Sl. No.	Head of Revenue	Number of inspection reports	Number of audit observations	Amount (In crore of rupees)
		(as at the end of June 2000)		
1	Sales Tax	1,414	7,341	994.98
2	Taxes on Agricultural Income	414	2,991	49.94
3	State Excise Duties	708	1,298	5.63
4	Taxes on Vehicles	344	2,110	12.66
5	Land Revenue	182	361	8.53
6	Forestry and Wild Life	275	712	73.67
7	Stamps and Registration Fees	1,055	1,570	6.64
8	Electricity Duty	7	33	1.14
9	State Lotteries	3	3	0.64
<b>Total</b>		<b>4,402</b>	<b>16,419</b>	<b>1153.83</b>

First replies to 273 inspection reports issued between December 1994 and December 1999 were not furnished by the departments till the end of June 2000. The position was brought to the notice of the Chief Secretary to Government (July and August 2000).

### **1.9. Follow up on Audit Reports - Summarised position**

The instructions issued by Government from time to time for timely follow up action on the Audit Reports and matters pertaining to the Public Accounts Committee stipulate that it is imperative on the part of the Government to finalise remedial action on all audit paras and submit Action Taken Notes (ATNs) on paragraphs and reviews included in the Audit Report indicating the remedial action taken or proposed to be taken, within three months from the date of presentation of Audit Report to the Legislature without waiting for any notice or call from the Committee on Public Accounts.

Review of outstanding ATNs on paragraphs included in the 13 Audit Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31.3.1986 to 31.3.1998 disclosed that the department had not submitted remedial ATNs on 430 paragraphs on which ATNs were due as on 31.3.2000 as indicated in Appendix.

Out of the total 1,250 audit paragraphs included in the above 13 Audit Reports, department submitted remedial ATNs on 820 paragraphs only and none of these ATNs was furnished within the prescribed period of three months.

The Committee on Public Accounts had also expressed displeasure over the extraordinary delay on the part of the Government in furnishing statement of remedial ATNs on audit paras to the Legislature. Heads of

departments/Secretaries to Government were directed (July 1996) to give topmost priority to the work and ensure that remedial measures taken on all audit paras are furnished to the Legislature within a period of two months of the presentation of report to the Legislature. In spite of this, delay continued in furnishing ATNs.

Though the Audit Report for the year ended March 1999 was laid on the table of the Legislature in February 2000 and the time limit of three months for furnishing remedial ATNs had elapsed in May 2000, the department did not submit ATNs on any of the 41 paragraphs included in the above Audit Report (November 2000).

#### **1.10. Response of the departments to draft audit paragraphs**

According to the instructions issued (1965) by Government of Kerala the result of verification of the facts on the draft audit paragraphs are required to be communicated to the Accountant General within six weeks from the date of receipt of the same. Draft paragraphs are always forwarded to the Secretaries by name drawing their attention to the audit findings and requesting them to send their response within six weeks. In case the final reply could not be given within six weeks, an interim reply should be given to the Accountant General and in any case, final reply should be sent within three months from the date of receipt of the draft paragraph. The fact of non-receipt of replies from Government are invariably indicated at the end of each paragraph included in the Audit Report.

67 draft paragraphs included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2000 (Revenue Receipts), Government of Kerala were forwarded to the Secretaries to Government.

The Secretaries of the various departments did not send replies to 43 draft paragraphs in compliance of above instructions of the Government. These 43 paragraphs have been included in this report without the response of the Government.





**Chapter 2**  
**Sales Tax**



## CHAPTER 2

### SALES TAX

#### 2.1. Results of audit

Test check of sales tax assessments and refund cases and related documents of Sales Tax Offices conducted in audit during the year 1999-2000 revealed underassessment of tax, non-levy of penalty, etc., amounting to Rs 14438.15 lakh in 1,614 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Turnover escaping assessment	234	826.98
2	Incorrect grant of exemption	168	544.80
3	Application of incorrect rate of tax	448	271.04
4	Double accounting of remittance	21	7.62
5	Incorrect grant of concessional rate of tax	104	3000.00
6	Non-levy of penalty/penal interest	191	288.01
7	Tax evasion by short accounting of goods received on branch transfer	2	243.41
8	Review	1	8159.92
9	Other irregularities	445	1096.37
	<b>Total</b>	<b>1,614</b>	<b>14438.15</b>

During the course of the year, the department accepted underassessments, etc., of Rs 215.23 lakh involved in 509 cases and recovered the entire amount of which 71 cases involving Rs 16.23 lakh had been pointed out in audit during 1999-2000 and the rest in earlier years. A few illustrative cases involving Rs 375.46 lakh and the results of a review on "Pendency of appeals at various levels and its impact on revenue – Agricultural Income Tax and Sales Tax" involving Rs 8159.92 lakh are given in the following paragraphs.

## **2.2. Pendency of appeals at various levels and its impact on revenue – Agricultural Income Tax and Sales Tax**

### **Highlights**

- Disputed tax involved in 22,345 cases under appeal before the Appellate Tribunal and 16 appellate authorities of the department amounted to Rs 415.14 crore.

*(Paragraph 2.2.4)*

- The rate of disposal of appeals during each of the years from 1994-95 to 1998-99 ranged from 33.92 to 50.84 *per cent* at the level of the Appellate Assistant / Deputy Commissioners and 14.92 to 20.95 *per cent* at the level of the Tribunal.

*(Paragraph 2.2.5)*

- There was a delay ranging from 6 to 72 months in communicating appellate order by the Appellate Assistant / Deputy Commissioners.

*(Paragraph 2.2.7)*

- Recovery of tax amounting to Rs 1846.06 lakh involved in 963 cases was covered by stay in 9 appellate authorities at the end of March 1999.

*(Paragraph 2.2.9)*

- In 278 cases remanded/set aside involving tax of Rs 3714.98 lakh, the assessing officers did not take action to revise the assessments. Delay ranging from 3 to 242 months was noticed in revising 340 remanded assessments involving tax of Rs 2420.84 lakh.

*(Paragraph 2.2.10)*

### **2.2.1. Introduction**

The Kerala General Sales Tax (KGST) Act, 1963 governs the law relating to the levy and collection of tax on sale/ purchase of goods and the Kerala Agricultural Income Tax (KAIT) Act, 1991 governs the levy and collection of tax on agricultural income. These Acts contain provisions which deal with appeals against the assessments which are finalised by the assessing authorities.

### **2.2.2. Scope of Audit**

With a view to ascertain the extent of pendency of appeals with various appellate authorities and its impact on the collection of revenue under sales tax and agricultural income tax, a review of the appeals pending during the period

1994-95 to 1998-99 and the follow up action by the assessing authorities for the collection of revenue was conducted during the period from July to November 1999 with reference to the records available in the Offices of the Commissioner of Commercial Taxes, all the 5 Deputy Commissioners (Appeals)<sup>#</sup> (DCs (Appeals)), 11<sup>##</sup> out of 16 Appellate Assistant Commissioners (AACs), one<sup>\*</sup> out of 5 Law Offices, 11<sup>\*\*</sup> out of 16 Special Circles, 5<sup>•</sup> out of 93 Sales Tax Offices and 2<sup>\*\*</sup> out of 39 Agricultural Income Tax Offices and the details furnished by the Kerala Agricultural Income Tax and Sales Tax Appellate Tribunal.

### 2.2.3. Organisational set up

The Commercial Taxes Department was under the control and general supervision of the Board of Revenue (Taxes) up to 30 June 1998 and on the abolition of the Board from 1 July 1998, under the control and supervision of the Commissioner of Commercial Taxes (CCT). He is assisted by Deputy Commissioners (DCs), Inspecting Assistant Commissioners (IACs)/Assistant Commissioners (ACs), Sales Tax Officers (STOs) and Agricultural Income Tax Officers (AITOs).

Appeals against the assessments finalised by the STOs and AITOs are filed before the AACs. Appeals against the assessments finalised by the IACs and ACs are filed before the DC (Appeals). Appeals against the decisions of the AACs and DCs (Appeals) are filed before Kerala Agricultural Income Tax and Sales Tax Appellate Tribunal. 5 Law Officers represent the department in respect of cases filed before each of the five benches of the Tribunal. The Tribunal which was under the administrative control of the Government till 31 December 1989 was brought under the superintendence of the Hon'ble High Court of Kerala from 1 January 1990.

### 2.2.4. a) Arrears of revenue

The total collection of revenue under sales tax and agricultural income tax during the years 1994-95 to 1998-99 and the amount pending collection as per the records of the CCT were as under.

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<sup>#</sup> Deputy Commissioners, Ernakulam, Kollam, Kozhikode, Additional Deputy Commissioners, Ernakulam, Kollam.

<sup>##</sup> Appellate Assistant Commissioners, Alappuzha, Ernakulam, Kollam, Kottayam, Kozhikode and Thrissur, Additional Appellate Assistant Commissioners, Kollam, Kozhikode and Thrissur, Additional Appellate Assistant Commissioner I, Ernakulam and Additional Appellate Assistant Commissioner II, Ernakulam.

<sup>\*</sup>Ernakulam.

<sup>\*\*</sup> Special Circles I, Ernakulam, Kozhikode, Special Circles II, Ernakulam, Kozhikode, Special Circle III, Ernakulam, Special Circles, Kannur, Kollam, Kottayam, Palakkad, Thrissur and Tirur.

<sup>•</sup> Manjeri, Ottappalam, Pattambi, Ponnani and Vythiri.

<sup>\*\*</sup> Agricultural Income Tax Office, Vythiri and Office of the Inspecting Assistant Commissioner (Special), AIT&ST, Kozhikode.

*Report No. 1 (Revenue Receipts) of 2000*

Year	Sales Tax (Amount in crore of rupees)			Percentage of arrears	Agricultural Income Tax (Amount in crore of rupees)			Percentage of arrears
	Total dues	Collection	Pending		Total dues	Collection	Pending	
	1994-95	2246.41	1864.93		381.48	17	62.57	
1995-96	2719.15	2285.96	433.19	16	78.18	26.08	52.10	67
1996-97	3421.62	2772.28	649.34	19	72.91	12.10	60.81	83
1997-98	4105.10	3084.09	1021.01	25	87.92	21.38	66.54	76
1998-99	4473.45	3366.62	1106.83	25	98.22	27.02	71.20	72

16 to 25 per cent of the total dues under sales tax and 67 to 83 per cent under agricultural income tax were pending collection as at 31 March of each year from 1994-95 to 1998-99.

**b) Arrears covered under appeals**

The amount of tax involved in the cases under appeal is to be recovered unless stayed by the appellate authority. The department could not indicate the amount of revenue blocked up in appeal cases.

The information collected by Audit from the Offices of 5 DCs\* (Appeals) and 11 AACs\* revealed that tax dues of Rs 23.11 crore were involved in 987 cases which were pending in appeals as shown below.

Year of filing of appeal	Sales Tax		Agricultural Income Tax		Total	
	No. of cases	Amount (In crore of rupees)	No. of cases	Amount (In crore of rupees)	No. of cases	Amount (In crore of rupees)
1983-84 to 1991-92	24	0.05	4	0.05	28	0.10
1992-93	19	0.04	1	0.38	20	0.42
1993-94	28	0.09	13	3.99	41	4.08
1994-95	59	0.71	12	0.08	71	0.79
1995-96	59	0.26	17	0.69	76	0.95
1996-97	70	0.36	29	1.80	99	2.16
1997-98	173	6.54	107	1.57	280	8.11
1998-99	294	5.93	78	0.57	372	6.50
<b>Total</b>	<b>726</b>	<b>13.98</b>	<b>261</b>	<b>9.13</b>	<b>987</b>	<b>23.11</b>

Similarly, as per information collected in respect of the Appellate Tribunal, Thiruvananthapuram and the Additional Benches of the Tribunal at Kottayam, Kozhikode and Palakkad, the number of appeal cases pending disposal at the end of each year from 1994-95 to 1998-99 and tax involved were as follows.

\*Deputy Commissioners, Ernakulam, Kollam, Kozhikode, Additional Deputy Commissioners, Ernakulam, Kollam.

\* Appellate Assistant Commissioners, Alappuzha, Ernakulam, Kollam, Kottayam, Kozhikode and Thrissur, Additional Appellate Assistant Commissioners, Kollam, Kozhikode and Thrissur, Additional Appellate Assistant Commissioner I, Ernakulam and Additional Appellate Assistant Commissioner II, Ernakulam.

Year	No. of cases pending at the end of each year	Amount of tax involved (In crore of rupees)
1994-95	22,050	48.86
1995-96	24,476	80.38
1996-97	22,465	84.93
1997-98	20,941	75.77
1998-99	21,358	392.03 <sup>#</sup>

The disputed tax of Rs 415.14 crore involved in the 22,345 appeal cases pending with the appellate authorities mentioned above works out to 35.24 per cent of the arrears pending as at the end of March 1999. The year-wise analysis of the cases pending disposal by the Tribunal is given below.

Year of filing appeal	Number of cases		
	Taxes on Agricultural Income	Sales Tax	Total
1973	-	1	1
1975	-	1	1
1980	1	2	3
1981	3	2	5
1982	6	13	19
1983	18	25	43
1984	11	16	27
1985	67	25	92
1986	126	136	262
1987	127	161	288
1988	243	273	516
1989	134	174	308
1990	205	161	366
1991	183	419	602
1992	269	682	951
1993*	956	2,623	3,579
1994	294	1,485	1,779
1995	463	2,045	2,508
1996	407	2,129	2,536
1997	368	2,406	2,774
1998	313	3,272	3,585
1999	127	986	1,113
<b>Total</b>	<b>4,321</b>	<b>17,037</b>	<b>21,358</b>

The appeal cases filed since 1973 were pending with the Tribunal because of failure of the department to effectively pursue the cases. In the absence of details regarding the total amount blocked up in appeal cases, it was not possible for Government to realistically assess the amount likely to be collected and use this information in preparation of the Budget. No trend analysis was also carried out by Government to assess the revenue likely to be realised. Government also failed

<sup>#</sup> This includes the amount of tax involved in respect of Additional Bench of Tribunal, Ernakulam, but does not include amount involved in 7,032 cases in which the tax was below Rs 5 lakh in each case.

\* 3,579 items relating to the Ernakulam Bench included in 1993 include the items relating to earlier years also.

to take effective steps to minimise the time taken in deciding appeal cases.

### 2.2.5. Working of the appellate machinery

The rate of disposal of appeals by AACs and DCs (Appeals) and the Appellate Tribunal during the years 1994-95 to 1998-99 was as shown below.

#### (a) Disposal at the level of the DCs (Appeals)/AACs

Year	No. at the beginning of the year	Additions during the year	Total	Number of cases disposed	Balance pending disposal	Percentage of disposal
1994-95	16,168	10,359	26,527	8,998	17,529	33.92
1995-96	17,529	11,643	29,172	10,349	18,823	35.48
1996-97	18,823	13,898	32,721	13,223	19,498	40.41
1997-98	19,498	20,767	40,265	20,469	19,796	50.84
1998-99	19,796	21,146	40,942	18,630	22,312	45.50

The DCs (Appeals)/the AACs could dispose of 33.92 to 50.84 *per cent* of the appeal cases during the period from 1994-95 to 1998-99. Number of cases disposed of each year was less than that preferred during the respective years, resulting in accumulation of arrears.

#### (b) Disposal at the level of Appellate Tribunal

Year	No. at the beginning of the year	Additions during the year	Total	No. of cases disposed	Balance pending disposal	Percentage of disposal
1994-95	22,772	4,130	26,902	4,852	22,050	18.04
1995-96	23,942*	4,828	28,780	4,294	24,476	14.92
1996-97	24,476	3,440	26,916	5,451	22,465	20.25
1997-98	22,465	4,026	26,491	5,550	20,941	20.95
1998-99	20,941	4,288	25,229	3,871	21,358	15.34

The Appellate Tribunal disposed of 14.92 to 20.95 *per cent* of the total appeal cases due for disposal during the period from 1994-95 to 1998-99.

### 2.2.6. Shortfall in achieving the target in the disposal of appeals

As per the target fixed (1983 and 1995) by the Board of Revenue/ CCT, the DCs/ Additional DC (Appeals) and the AACs/ Additional AACs should dispose of minimum 75 and 100 appeals respectively in a month. However, the appellate authorities could not achieve the targets in any of the years during 1994-95 to 1998-99 as shown below.

\* The Tribunal stated that 1,892 numbers were added to agree with the number found on physical verification of cases in the Additional Bench, Palakkad.



Year	No. of appeals pending	Targeted disposal	Actually disposed	Short fall in target	Percentage of short fall	Shortfall with respect to total arrears
1994-95	26,527	25,725	8,998	16,727	65.02	17,529
1995-96	29,172	25,725	10,349	15,376	59.77	18,823
1996-97	32,721	25,725	13,223	12,502	48.60	19,498
1997-98	40,265	25,725	20,469	5,256	20.43	19,796
1998-99	40,942	25,725	18,630	7,095	27.58	22,312

Although the number of appeal cases increased year after year and the appellate authorities could dispose of on an average only 38.24 *per cent* of the appeal cases every year, no remedial measures were taken to improve the position. The accumulation of arrears would result not only in denial of timely legal remedy to the department and the assesseees but also hinder the timely realisation of revenue involved.

### 2.2.7. Delay in disposal of appeals at the level of AACs and DCs

The KGST Act, the KAIT Act and the Rules made thereunder do not prescribe any time limit for the disposal of appeals by various appellate authorities. However, the Agricultural Income Tax and Sales Tax Manual provides that final orders on appeals should be communicated to the appellant within two weeks of hearing.

A review of the records of the offices of five DCs\* (Appeals) and 11 AACs^ disclosed that in all 4,966 cases test checked, the final orders were despatched after a delay of 1 to 72 months after the last date of hearing as detailed below.

Period of delay	No. of cases in which communication of appellate order was delayed after hearing
Up to 6 months	3,173
7 to 12 months	1,248
13 to 24 months	364
25 to 48 months	162
49 to 72 months	19
<b>Total</b>	<b>4,966</b>

In 4,921 cases, time taken by the appellate authorities from the date of filing appeal to the first date of hearing ranged from 6 to 72 months.

The department stated (July 1999) that the delays were due to administrative

\* Deputy Commissioners, Ernakulam, Kollam, Kozhikode and Additional Deputy Commissioners, Ernakulam and Kollam.

^ Appellate Assistant Commissioners, Alappuzha, Ernakulam, Kollam, Kottayam, Kozhikode, Thrissur, Additional Appellate Assistant Commissioners, Kollam, Kozhikode, Thrissur, Additional Appellate Assistant Commissioner I, Ernakulam and Additional Appellate Assistant Commissioner II, Ernakulam.

reasons and the absence of a full-fledged library having law books/ journal for easy reference, defective appeals, etc. The reply is not acceptable because such inordinate delay cannot be explained away by absence of books, etc. The department should have taken action to procure the required books if it was hindering the work to such a great extent. The administrative reasons were not elaborated by the department.

### 2.2.8. Entertainment of appeals without proof of payment of admitted tax

Under the KGST Act, 1963, no appeal shall be entertained unless supported with proof of payment of tax or other amount admitted by the appellant to be due or of such instalments thereof as might have become payable, as the case may be. Similarly, under the KAIT Act, 1991, no appeal shall be admitted unless the assessee had paid the tax due on the agricultural income admitted by him.

A test check of the appeal files in the Offices of 5 AACs<sup>▼</sup> and 3 DCs<sup>♦</sup> (Appeals) revealed that during the period from 1991-92 to 1998-99, 52 appeals under sales tax and 4 appeals under agricultural income tax were admitted by the appellate authorities without any proof of payment of admitted tax. The admitted tax involved in these cases amounted to Rs 172.03 lakh as under.

Year	Sales tax		Agricultural income tax	
	No. of cases	Amount (In lakh of rupees)	No. of cases	Amount (In lakh of rupees)
1991-92 to 1996-97	27	4.56	1	132.44
1997-98	8	2.94	2	0.03
1998-99	17	32.00	1	0.06
<b>Total</b>	<b>52</b>	<b>39.50</b>	<b>4</b>	<b>132.53</b>

Out of the above 56 cases, 5 cases had been disposed of till November 1999 of which only one case was decided in favour of the department.

### 2.2.9. Impact of stay orders on revenue

Under the KGST Act, the AAC and the Appellate Tribunal may at their discretion give such direction as they think fit in regard to the payment of tax before the disposal of appeal if the appellant furnishes sufficient security to their satisfaction in such form and in such manner as may be prescribed. Under the KAIT Act, when an appeal is pending, the AAC has the power to give such directions as he thinks fit, in regard to the payment of tax, before the disposal of the appeal.

▼ Alappuzha, Ernakulam, Kollam, Kottayam and Thrissur.

♦ Ernakulam, Kollam and Kozhikode.

The details of the amount covered by stay orders of appellate authorities as at the end of March 1999 called for (February 2000) from the CCT have not been furnished (November 2000). However, the data collected by Audit from the Offices of 3 DCs\* (Appeals) and 6 AACs\*\* revealed that out of 16,906 appeal cases pending (March 1999) in these offices the recovery of tax amounting to Rs 1846.06 lakh in 963 cases was stayed. Year-wise break up of the figures were not available. This delay in disposal of appeals and long duration of stay on collection of tax in appeal cases have adversely affected the collection of revenue.

### 2.2.10. Delay in taking follow up action on appeal cases decided by the Appellate Authorities

Under the provisions of the Sales Tax Act and the Agricultural Income Tax Act, the appellate authorities while disposing of an appeal may confirm, reduce, enhance or annul the assessment or the penalty or both, set aside the assessment and direct the assessing authorities to make a fresh assessment after such further enquiry as may be directed or pass such other orders as they may think fit.

Information collected from the Offices of 6 AACs# and 3 DCs### (Appeals) revealed that, 59,597 cases of appeals were disposed of during 1994-95 to 1998-99 out of which 14,739 cases were remanded/ set aside for fresh assessment and 44,858 cases were finally disposed of. The details are as given below.

Year	Assistant Appellate Commissioner		Deputy Commissioner (Appeals)		Total	
	No. of cases remanded/ set aside	No. of cases otherwise decided	No. of cases remanded/ set aside	No. of cases otherwise decided	No. of cases remanded/ set aside	No. of cases otherwise decided
1994-95	1,501	6,082	281	1,709	1,782	7,791
1995-96	2,242	9,112	185	1,639	2,427	10,751
1996-97	2,521	7,252	326	1,490	2,847	8,742
1997-98	2,924	7,148	593	1,741	3,517	8,889
1998-99	3,688	7,177	478	1,508	4,166	8,685
<b>Total</b>	<b>12,876</b>	<b>36,771</b>	<b>1,863</b>	<b>8,087</b>	<b>14,739</b>	<b>44,858</b>

Test check of the decided cases conducted in 19 assessing offices revealed that prompt follow up action was not taken by the assessing authorities to revise the assessments and to realise the balance tax payable by the assessees. Cases remanded/ set aside for fresh disposal were either not revised or the revised assessments were made after delay ranging between 3 to 242 months.

\* Ernakulam, Kollam and Kozhikode.

\*\* Alappuzha, Ernakulam, Kollam, Kottayam, Kozhikode and Thrissur.

# Alappuzha, Ernakulam, Kollam, Kottayam, Kozhikode and Thrissur.

### Ernakulam, Kollam and Kozhikode.

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The assessing officers have not so far (November 1999) revised the assessments in 278 cases involving tax of Rs 3714.98 lakh pertaining to the years from 1988-89 to 1998-99 as shown below.

Year of receipt of appellate order	No. of cases	Amount (In lakh of rupees)
1988-89 to 1994-95	14	20.90
1995-96	9	10.02
1996-97	32	142.75
1997-98	127	1708.06
1998-99	96	1833.25
<b>Total</b>	<b>278</b>	<b>3714.98</b>

Delay ranging from 6 to 109 months had been noticed in the above cases.

Similarly, delay in completing 340 assessments involving revenue of Rs 2420.84 lakh remanded by appellate authorities was also noticed as shown below.

Period of delay in months	No. of cases	Amount (In lakh of rupees)
3 to 12	132	242.59
13 to 23	66	1828.83
24 to 35	36	133.66
36 to 47	31	74.80
48 to 59	27	49.81
60 to 71	15	31.39
72 to 83	6	3.77
84 to 95	12	35.78
96 to 107	5	16.21
108 to 242	10	4.00
<b>Total</b>	<b>340</b>	<b>2420.84</b>

Delay in the above cases ranged between 3 to 242 months.

Some specific cases of delay in revision of assessments based on appellate orders are given below.

i) In Special Circle II, Ernakulam, the sales tax assessment of an assessee for the year 1992-93 finalised (February 1997) with an additional demand of Rs 120.06 lakh towards tax and surcharge was advised (November 1997) along with interest of Rs 3.42 lakh for revenue recovery. On appeal, the Additional DC (Appeals) set aside (March 1998) the assessment with the directions to complete the assessment afresh within one month from the date of receipt of appellate order. Though the appellate order was received by the assessing officer in March 1998, the revised assessment had not been completed (August 1999).

ii) In Special Circle II, Ernakulam, the Additional DC (Appeals), Ernakulam granted stay against an additional demand of Rs 12.32 lakh in favour of an assessee with the condition to remit an amount of Rs 6.14 lakh and bank guarantee for the balance amount of Rs 6.18 lakh. The appeal was finally disposed of (August 1987) and the case was remanded for fresh disposal. Pending fresh assessment, the assessee succeeded in getting refund of Rs 6.14 lakh in December 1995 with the intervention of High Court on account of failure of the assessing authority to finalise the case within two months as per the earlier directions (January 1990) of the Court. The assessment was finalised afresh (December 1995) with an additional demand of Rs 12.05 lakh. However, the assessee failed to pay the additional amount. Recovery proceedings were initiated (February 1996) to recover the amount under the Revenue Recovery Act. No recovery had been made so far (November 1999).

### ***2.2.11. Revision of assessments becoming time barred***

According to the KGST Act, 1963, any assessment or re- assessment in pursuance of an order of the appellate authority shall, unless a period has been specified in the order, be completed within a period of four years from the date of receipt of the order. This provision was further amended with effect from 1 April 1997 prescribing the period of revision as four years from the expiry of the year in which the appellate order was received.

The orders (December 1994 and June 1995) of the DCs (Appeals), Ernakulam and Kozhikode remanding the assessments for 1992-93 of one assessee in Thrissur and 1989-90 of another assessee in Palakkad were received in the assessing offices in March and August 1995. Though the period prescribed for revision of these assessments ended on 15 March and 4 August 1999, they were not revised till the date of audit (September 1999). This resulted in loss of revenue of Rs 6.01 lakh.

### ***2.2.12. Maintenance of Registers***

Agricultural Income Tax and Sales Tax Manual stipulates the maintenance of the following registers by the assessing officers for the monitoring of appeal cases and pursuance of appellate orders.

1. Register of Appeals and Revision
2. Register of Original Petitions
3. Register of Remanded Cases
4. Register of Appellate Orders

A test check conducted in 19 assessing offices revealed that in 9 offices the prescribed registers were either not maintained at all or are not maintained as prescribed in the Manual.

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Name of Register	Number of offices	
	Non-maintenance	Improper maintenance
Register of appeals	5	2
Register of original petition	6	3
Register of remanded cases	2	3
Register of appellate orders	4	1

The often repeated defects in the maintenance of registers included (i) prescribed forms are not used, (ii) entries are not updated and (iii) absence of entries in important columns regarding date of appeal, disposal of appeal, date and nature of order, etc.

As these control registers were either not maintained or maintained improperly, audit could not verify as to when the appeals were filed, whether the transmission of records to the appellate authorities and their return are being watched by the assessing authorities and whether prompt follow up action was taken by the assessing officers on appeal cases decided by the appellate authorities, etc.

The above points were reported to Government in February 2000; their reply has not been received (November 2000).

### 2.3. Non-accounting of goods received from other States

Under the provisions of the Central Sales Tax Act, 1956, the Kerala General Sales Tax Act, 1963 and the Rules made thereunder, goods are received by the dealers of Kerala from outside the State either (i) on stock transfer from any place of his business or his agent/principal or otherwise, without payment of tax by issuing the declaration in Form 'F' or (ii) on purchase after payment of tax at the prescribed rate by issuing declaration in Form 'C'. On sale of such goods tax is leviable in Kerala at the rate specified under the State law. Further, if the prescribed authority is satisfied that the dealer has concealed, omitted or failed to disclose the particulars of turnover or has furnished incorrect particulars and thereby returned the figures below the real amount, the said authority may direct that the dealer shall, in addition to tax, also pay by way of penalty a sum not exceeding twice the amount of sales tax evaded or sought to be evaded.

**a)** Cross verification (April 2000) of assessment records of an assessee (Larsen & Toubro Ltd.) in Special Circle II, Ernakulam, with the records of their principal outside the State engaged in manufacture and sale of cement revealed short accounting of branch transfer of 15,907.40 tonnes of cement valued at Rs 438.09 lakh at the average selling price of Rs 2,754 per tonne during the assessment year 1995-96, by changing entries in Form 'F' declarations. The intelligence wing of the sales tax department and the assessing authority also failed to detect this while finalising (March 2000) the assessment of the dealer. This resulted in understatement of turnover of Rs 438.09 lakh and under-assessment of tax amounting to Rs 169.76 lakh including maximum penalty (Rs 109.52 lakh).

**b)** Similarly, cross verification (April 2000) of assessment records of 3 dealers engaged in processing and sale of raw cashew kernels in Special Circle, Kollam, with the records of dealers in Andhra Pradesh revealed non-accounting of raw nut/kernels, worth Rs 218.68 lakh received by transfer against Form 'F' during the year 1995-96. However, the assessing authority failed to detect the same while finalising (January and February 1999) the assessments of these dealers. This resulted in concealment of turnover of Rs 339.39 lakh and underassessment of tax amounting to Rs 73.65 lakh including penalty (Rs 47.52 lakh).

The above cases were pointed out to the department between April and July 2000, and reported to Government (June and August 2000); their replies have not been received (November 2000).

## 2.4. Underassessment of turnover

During the course of audit it was noticed that in 9 offices in the assessments for the years from 1989-90 to 1996-97 of 14 dealers finalised between July 1996 and March 1999 turnover amounting to Rs 1271.95 lakh taxable at different rates escaped assessment resulting in non-levy of tax of Rs 87.04 lakh. A few illustrative cases are detailed below.

Sl. No.	Name of office	Assessment Year / Month and year of assessment	Turnover (In lakh of rupees)/ Rate of tax in per cent	Nature of irregularity	Tax short levied (In lakh of rupees)	Remarks
1	Special Circle, Kollam	<u>1992-93</u> September 1998 <u>1993-94</u> September 1998	<u>605.91</u> 7	Cashew nuts purchased from unregistered dealers and consumed in the manufacture of cashew kernels were not assessed to tax.	45.81	This was pointed out to the department in April 1999. Their final reply has not been received (November 2000).
2	Special Circle, Palakkad	<u>1992-93</u> August 1996	<u>132.82</u> 7	Purchase turnover of cashew nut by an assessee engaged in the business of export of cashew kernels was not assessed to tax.	10.04	This was pointed out to the department (September 1997) and the Government (March 1998). Government stated (March 2000) that additional demand of Rs 10.04 lakh had been raised. Report on recovery has not been received (November 2000).
3	Special Circle, Kollam	<u>1995-96</u> May 1998	<u>68.05</u> 7	Turnover from 13,265 kg of cashew kernels only was subjected to tax against the turnover from actual quantity of 42,309.200 kg of cashew kernels.	5.24	Government to whom the case was reported (March 2000) stated (June 2000) that an amount of Rs 5.24 lakh had been recovered (June 1999).
4	Office of the Inspecting Assistant Commissioner, Pathanamthitta	<u>1993-94</u> March 1998	<u>93.71</u> 5 and 4	Oleo resin of Rs 36.87 lakh only against the actual turnover of Rs 130.58 lakh was considered for levy of tax.	4.38	On this being pointed out in February 1999, the department stated in August 1999 that notice to rectify the defect had been issued in July 1999.
5	i. Special Circle II, Kozhikode  ii. Sales Tax Office, Second Circle, Kannur  iii. Special Circle, Kollam	1994-95 and <u>1995-96</u> January and February 1999  Between <u>1989-90</u> and <u>1996-97</u> Between April 1997 and March 1999  <u>1991-92</u> , <u>1994-95</u> and <u>1995-96</u> Between November 1997 and March 1998	<u>61.62</u> 6  <u>86.08</u> 5,6 and 8  <u>44.01</u> 5 and 6	   Tax was not levied on sales turnover of REP licences/Exim scrips.	4.07  6.39  2.91	Government to whom the cases were reported between March and May 2000 stated that additional demand created in respect of one dealer in the second case had been collected and that of another dealer, additional demand created had been recommended for collection under revenue recovery.



The cases were reported to Government between March and May 2000; their replies have not been received in eight cases (November 2000).

### **2.5. Application of incorrect rate of tax**

Under the Kerala General Sales Tax Act, 1963, rate of tax depends on the nature of sale, point of sale and also on the kind of commodity.

During the course of audit of the assessment records in five sales tax circles\*, it was noticed that while finalising (between September 1996 and March 1999) the assessments of seven dealers for the years from 1992-93 to 1996-97, tax on total turnover of Rs 442.74 lakh was levied at incorrect rates. This resulted in short levy of tax of Rs 8.28 lakh.

On these cases being pointed out between September 1998 and September 1999, the department stated that the assessments had been revised in five cases and additional tax had been collected in two cases. Final reply has not been received in remaining two cases (November 2000).

The cases were reported to Government in March 2000; their replies have not been received in two cases (November 2000).

### **2.6. Short levy of tax due to mistake in computation**

Rule 20 of the Kerala General Sales Tax Rules, 1963, and the instructions issued by the Board of Revenue lay down the procedure for verifying and checking of calculations of turnover and tax and credits given in an assessment order.

In Special Circle II, Ernakulam, while finalising (March 1998) the assessment for 1987-88 of a dealer, tax at the rate of 15 *per cent* on turnover of Rs 53.27 lakh was worked out as Rs 1.99 lakh against the correct amount of Rs 7.99 lakh. This resulted in short levy of tax and surcharge of Rs 7.68 lakh.

\* Special Circle II, Ernakulam, Special Circle II, Kozhikode, Special Circle, Malappuram, Special Circle, Palakkad and Third Circle, Thiruvananthapuram.

The case was pointed out to the department in October 1998 and reported to Government in March 2000. Government stated (July 2000) that the assessment had been revised in March 2000. Report on recovery has not been received (November 2000).

## **2.7. Incorrect grant of exemption**

a) By a notification issued in October 1980 Government exempted from payment, the tax due on goods produced and sold by new small scale industrial units for a period of five years from the date of commencement of sale of such goods, subject to certain conditions.

In Sales Tax Office, First Circle, Kalamassery, a small scale industrial unit was eligible for exemption from payment of tax due on the goods produced and sold during the period of five years from 7 May 1984 to 6 May 1989. While finalising (October 1999) the assessments for 1989-90 and 1990-91, the assessing officer incorrectly set off the full tax dues of the assessee for 1989-90 and a part of the dues for 1990-91 against the tax concession admissible instead of restricting it to the tax due up to 6 May 1989. This resulted in incorrect grant of exemption of Rs 5,86 lakh.

On this being pointed out (November 1998) in audit, the department stated (November 1999) that the assessments had been revised in August 1999. Further report has not been received (November 2000).

Government to whom the case was reported (April 2000) confirmed the facts and stated (July 2000) that the additional demand created had been advised (April 2000) for revenue recovery. Further report has not been received (November 2000).

b) Under the notification issued (November 1993) by Government, the sale of goods manufactured within the State by any charitable institution is exempted from the levy of tax, subject to the condition that the profit, if any, of the institution should be solely utilised during the year or set apart to be utilised for charitable purposes.

In Sales Tax Office, Thodupuzha, while finalising (May 1997) the assessment of a dealer for 1994-95, the sales turnover of Rs 36.26 lakh was exempted from levy of tax, though the profit for the year was neither utilised during the year nor set

apart for utilisation for charitable purpose during the subsequent years. This resulted in non-levy of tax of Rs 2.39 lakh.

On this being pointed out (November 1998), the department stated (June 1999) that the assessment had been revised (February 1999) creating an additional demand for Rs 2.39 lakh. Further report has not been received (November 2000).

The case was reported to Government in April 2000; their reply has not been received (November 2000).

e) Under the Central Sales Tax Act, 1956, if during the course of movement of goods under inter-State sale, a subsequent sale has been effected by a transfer of title documents to a registered dealer, the subsequent sale is exempted from payment of tax, subject to fulfilment of stipulated conditions.

In Sales Tax Office, Third Circle, Ernakulam while finalising (March 1994) the Central sales tax assessment of a dealer for 1989-90, claim for exemption of sale in transit was allowed although the conditions in the purchase order showed that it was a local sale and not a sale in transit. This resulted in incorrect exemption of turnover of Rs 18.17 lakh and consequent short levy of tax and surcharge of Rs 1.93 lakh.

On this being pointed out (May 1997) in audit, the department stated (January 1999) that the assessment had been revised. Further report has not been received (November 2000).

Government to whom the case was reported in April 2000 stated (July 2000) that the appeal filed by the assessee against the revised assessment was pending disposal. Further report has not been received (November 2000).

## **2.8. Application of incorrect rate of surcharge**

The rate of surcharge payable under the Kerala Surcharge on Taxes Act, 1957, by a dealer whose turnover exceeds ten lakh rupees in a year was revised from eight to ten *per cent* from 1 April 1993.

In the office of the Inspecting Assistant Commissioner, Commercial Taxes, Pathanamthitta, an assessee had remitted surcharge at the rate of ten *per cent* of

the tax for 1993-94. However, while finalising (February 1998) the assessment, surcharge on the tax of Rs 276.75 lakh was levied only at the rate of eight *per cent* and the balance amount remitted was ordered to be adjusted against future dues. This resulted in short levy of surcharge amounting to Rs 5.53 lakh for 1993-94.

On this being pointed out (February 1999) in audit, the department stated (August 1999) that the short levy of surcharge had been rectified (July 1999).

The case was reported to Government in March 2000; their reply has not been received (November 2000).

## **2.9. Non-withdrawal of concession granted on misuse of declaration**

Under the Kerala General Sales Tax Act, 1963, concessional rate of tax of three *per cent* only is leviable in respect of sale of raw materials which are for use in the production of finished goods for sale in the State. Where any dealer, after purchasing any goods by furnishing the declaration fails to make use of the same for the specified purpose, he shall be liable to pay the tax that would have been payable by him had the declaration not been furnished. Under the Act, tax leviable on acids is at 8 *per cent* and on chemicals at 10 *per cent* from 1 April 1992.

In Third Circle, Thrissur, while finalising (June 1997) the assessment for 1995-96, the assessing officer did not levy tax at differential rate on the purchase turnover of raw materials which after furnishing the declaration were used in the manufacture of the finished products worth Rs 115.23 lakh consigned to branches outside the State. This resulted in short levy of tax and surcharge of Rs 4.32 lakh.

On this being pointed out (June 1998) in audit, the department stated (November 1998) that the assessment had been revised (September 1998). Further report has not been received (November 2000).

The case was reported to Government in April 2000; their reply has not been received (November 2000).

## 2.10. Non-levy of additional sales tax

Under the Kerala Additional Sales Tax Act, 1978, every dealer shall be liable to pay additional sales tax at twenty five *per cent* of the tax payable under the Kerala General Sales Tax Act, 1963, from 1 April 1988 to 31 March 1992.

In two Circles<sup>\*</sup>, while finalising (November 1997 and January 1998) the assessments of two assesseees for the year 1991-92, additional sales tax was not levied on the total assessed tax of Rs 11.74 lakh. This resulted in non-levy of additional sales tax of Rs 2.93 lakh.

The cases were pointed out to the department in October and November 1998 and reported to the Government in March 2000. Government stated (August 2000) that the assessments had been revised and additional demand created in one case had been adjusted against the excess tax paid by the assessee. Government stated in the other case that the additional demand advised for revenue recovery could not be collected for want of present address of the assessee.

## 2.11. Incorrect grant of concessional rate of tax

By a notification issued in March 1990, under the Kerala General Sales Tax Act, 1963, Government reduced the tax payable on the sale of goods, other than petroleum products, to Central and State government departments and some autonomous bodies and local bodies to four *per cent* from 1 April 1990. By another notification (March 1992), the notification issued in March 1990 was superseded and modified with effect from 1 April 1992 restricting the concessional rate to government departments excluding the local bodies. Again by another notification (November 1993) the notification issued in March 1992 was superseded and modified with effect from 1 January 1994 excluding the Development Authorities. Under entry 25 of the First Schedule to the Kerala General Sales Tax Act 1963, tax is leviable at the rate of twelve and a half *per cent* at the first sale point of cement within the State.

a) In Special Circle, Kannur, while finalising the assessment of an assessee for the years 1992-93 and 1993-94, the turnover of Rs 28.53 lakh towards sale of cement effected to Kottayam Municipality was assessed to tax at the concessional rate of four *per cent* resulting in short levy of tax of Rs 2.64 lakh.

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<sup>\*</sup> Special Circle II, Kozhikode and Third Circle, Palakkad.

*Report No. 1 (Revenue Receipts) of 2000*

On this being pointed out (October 1998) in audit, the department stated (January 1999) that the assessment had been revised (November 1998) and additional demand collected (January 1999).

Government to whom the case was reported in March 2000 confirmed (June 2000) the facts.

b) By a notification issued (November 1993) under Section 10 of the Kerala General Sales Tax Act, 1963, Government reduced the rate of tax, payable by small scale industrial units whose total turnover in a year does not exceed Rs 50 lakh, to four *per cent*. Plywood was taxable at twelve *per cent* during 1996-97 at all points of sale and block board at six *per cent* up to July 1996 and at eight *per cent* thereafter.

In Sales Tax Office, Second Circle, Kannur, while finalising (August 1998) the assessment for 1996-97 of a small scale industrial unit whose turnover exceeded Rs 50 lakh, tax on the turnover of Rs 24.36 lakh from plywood and block board out of the taxable total turnover of Rs 67.57 lakh was incorrectly levied at the concessional rate of four *per cent*. This resulted in short levy of tax and surcharge of Rs 2.03 lakh.

On this being pointed out (June 1999) in audit, the department stated (June 1999) that notice to revise the assessment had been issued. Further report has not been received (November 2000).

The case was reported to Government (April 2000); their reply has not been received (November 2000).

## **2.12. Non-levy of interest**

Under Section 23(3) of the Kerala General Sales Tax Act, 1963, if the tax or any amount due under the Act is not paid by any dealer within the time prescribed, the dealer shall pay, by way of interest, a sum equal to one *per cent* of such amount for each month or part thereof for the first three months of delay and two *per cent* of such amount for each month or part thereof for subsequent delay.

In Sales Tax Office, First Circle, Thiruvananthapuram, while finalising (June 1997) the assessment of an assessee for the year 1992-93, interest was not levied for delayed payment of tax of Rs 1.35 lakh. This resulted in

non-levy of interest of Rs 1.42 lakh.

On this being pointed out (February 1999), the department stated (August 1999) that the mistake had been rectified and the amount advised (July 1999) for revenue recovery. Further report has not been received (November 2000).

The case was reported to Government in April 2000; their reply has not been received (November 2000).





**Chapter 3**  
**Taxes on Agricultural Income**

УДК 62-50  
СРБИЈА

**CHAPTER 3**  
**TAXES ON AGRICULTURAL INCOME**

**3.1. Results of audit**

Test check of the records of the Agricultural Income Tax Offices conducted during the year 1999-2000 revealed underassessment of tax amounting to Rs 1897.35 lakh in 272 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Income escaping assessment	88	742.23
2	Incorrect computation of tax	20	3.16
3	Incorrect computation of income	5	1.01
4	Inadmissible expenses	65	179.95
5	Other irregularities	94	971.00
	<b>Total</b>	<b>272</b>	<b>1897.35</b>

During the course of the year 1999-2000, the department accepted under-assessments, etc., of Rs 126.57 lakh involved in 239 cases of which 27 cases involving Rs 6.86 lakh had been pointed out during 1999-2000 and the rest in earlier years. At the instance of audit, the department collected an amount of Rs 1.96 lakh in 10 cases during 1999-2000. A few illustrative cases involving Rs 142.38 lakh are given in the following paragraphs.

### 3.2. Delay in finalisation of assessments

The Kerala Agricultural Income Tax Act (KAITA), 1991, provides that where the return of income is not furnished within the due date prescribed, i.e., 1 July or 31 October/ 31 December following the previous year by any person/ company the Agricultural Income Tax Officer (AITO) may serve upon the assessee a notice before the end of the relevant assessment year, requiring him to furnish the return and if the assessee further fails to furnish the return of income, the assessing officer shall make the assessment to the best of his judgement. All assessments, shall be completed within a period of two years from the date of filing of return. Government had clarified (December 1998) that the assessments of assesseees who had not filed the returns within due dates should also be completed *ex-parte* within two years from the due date for filing of return.

a) In two offices\* although four assesseees filed (between July 1995 and June 1997) their returns for the years between 1994-95 and 1997-98, the assessments of 3 assesseees were finalised (April 1999 and March 2000) 20 days to 9 months after the due date for completion of the assessment and the assessment of one assessee had not been finalised even after 15 months (May 2000) from the due date for completion of assessment. The tax involved in these cases amounted to Rs 16.44 lakh.

b) In three offices\*\*, 26 assesseees had not filed their returns for the years between 1991-92 and 1997-98. In 14 cases the assessments involving tax of Rs 8.30 lakh were finalised 7 to 43 months after the due date prescribed and in 12 cases involving tax of Rs 56.41 lakh the assessments were not completed even after 22 to 63 months from the due date for completion of assessments.

The cases were pointed out to the department between March 1997 and May 2000 and reported to Government during June and July 2000; their replies have not been received (November 2000).

### 3.3. Short levy of tax due to allowance of inadmissible deduction

a) Under the KAITA, 1991, in computing the agricultural income of an assessee, any expenditure incurred wholly and exclusively for deriving agricultural income as enumerated in Section 5 of the Act is an allowable

\* Agricultural Income Tax and Sales Tax Offices, Kottayam and Vythiri.

\*\* Agricultural Income Tax and Sales Tax Offices, Chengannur, Kottayam and Vythiri.

deduction. Expenses which are of capital or personal in nature are not admissible deductions.

i) In Ernakulam, while finalising (December 1999) the assessment of a company for the assessment year 1997-98, deduction of Rs 17.79 lakh claimed as replanting expenses was allowed although the amount actually represented a capital expenditure towards re-plantation reserve created by charging to profit and loss account for the replantation of rubber trees. This resulted in short levy of tax of Rs 11.56 lakh.

On this being pointed out (May 2000), the assessing officer stated (June 2000) that the amount charged in the profit and loss account was actually replanting expenses incurred during the year. The reply is not tenable since the amount was accounted for as replantation reserve in the balance sheet of the company as at 31 March 1997.

ii) In Ernakulam, while finalising (April 1999) the assessment of a company for the year 1996-97 an amount of Rs 16.87 lakh towards 'licence fee to corporate office' was incorrectly deducted from the total income of the company. This resulted in short levy of tax of Rs 10.98 lakh.

iii) In Ernakulam, while finalising (December 1999) the assessment of an assessee company for the year 1997-98, loss of Rs 4.14 lakh on manufacture and sale of umbrellas was incorrectly deducted from agricultural income. This resulted in short levy of tax of Rs 2.69 lakh.

The above cases were pointed out to the department (May 2000) and reported to Government (July 2000); their final replies have not been received (November 2000).

b) Under the KAITA, 1991 and the Rules made thereunder, in computing the agricultural income of an assessee, actual expenses incurred on replantation during the previous year is an admissible deduction up to the prescribed limit. The limit prescribed for coffee plantation is *7.5 per cent* of the income from coffee crop.

In Ernakulam, while finalising (November 1997) the assessment of a company for the assessment year 1995-96, replantation allowance of Rs 4.14 lakh was allowed against actual replantation expenses of Rs 0.80 lakh incurred by the Company. This resulted in exclusion of income of Rs 3.34 lakh and short levy of tax of Rs 2.17 lakh.

The case was pointed out to the department in August 1998 and reported to Government in March 2000; their replies have not been received (November 2000).

### **3.4. Short/non - levy of tax**

Under the Kerala Agricultural Income Tax Act, 1991, the total agricultural income of any person comprises all agricultural income derived from land situated within the State.

a) In Pathanamthitta, on the death (March and April 1993) of the parents, two separate sets of properties held by them devolved on the only surviving son and sole heir to the properties. Although the incomes from the properties were required to be combined and assessed in the hands of the son, the assessing officer finalised (February and March 1996) separate assessments for the income from each set of property for the assessment years 1994-95 and 1995-96. This resulted in short levy of tax and surcharge of Rs 4.64 lakh.

On this being pointed out (August 1996) in audit, the assessing officer stated (July 1999) that the assessments had been revised (July 1999). Further report on recovery has not been received (November 2000).

b) In Mananthavady, while finalising (December 1997) the assessment for 1995-96 of three tenants-in-common, who had sold their coffee plantation of 113.47 acres on 28 February 1995, the income derived by them up to the date of sale was not assessed. This resulted in exclusion of income of Rs 6.66 lakh and short levy of tax of Rs 3.08 lakh.

On this being pointed out (October 1998), the department stated (January 1999) that the assessee sold the land with standing crops and received no income. But as income for a part of the period only was assessed in the hands of the purchaser, the remaining part up to the date of sale should have been assessed in the hands of the seller. Further report has not been received (November 2000).

c) In Vythiri, while computing (March 1999) the agricultural income for the assessment year 1993-94 of an individual deriving income from three sets of properties, the assessing officer failed to assess income of Rs 2.80 lakh from one set of property, Rs 1.61 lakh received during the accounting year 1992-93 towards value of coffee pooled during previous years and receipt of Rs 0.94 lakh from cardamom. These omissions resulted in exclusion of income of Rs 5.35 lakh and thereby short levy of tax of Rs 2.94 lakh.

On this being pointed out (March 2000) in audit, the assessing officer stated (May 2000) that the assessment had been revised in April 2000. Further report on recovery has not been received (November 2000).

**d)** In Mannarkad, the assessment of an individual for 1992-93 was finalised (March 1998) without levying tax on the ground that the assessee did not derive any agricultural income during the relevant accounting year. Although the enquiry (March 1999) by another assessing officer revealed that the assessee actually derived agricultural income of Rs 2.64 lakh by engaging labour brought from outside the State, the assessment already finalised was not revised. This resulted in non-levy of tax of Rs 1.19 lakh.

On this being pointed out (December 1999) in audit, the department stated (December 1999) that the assessment would be revised. Further report has not been received (November 2000).

The above cases were reported to Government between January 1998 and July 2000; their reply has not been received (November 2000).

### **3.5. Non-levy of interest in requisition for revenue recovery**

Under the KAITA, 1991, any person who fails to pay tax in pursuance of a demand notice, shall pay simple interest at the rate of fifteen *per cent per annum* for every month of delay or part thereof, on the unpaid tax. The Act further provides that the assessing officer may forward to the Collector a certificate under his signature, specifying the arrears due from an assessee, and the Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as if it were arrears of land revenue.

In Ernakulam, in the certificates issued (February 1997) by the assessing officer to the Collector for the recovery of arrears of tax of Rs 1.47 crore due from a domestic company for 1983-84 and 1984-85 and from another domestic company for 1994-95, interest due for non-payment of tax was not specified. This resulted in non-levy of interest of Rs 6.09 lakh.

The case was pointed out to the department in July and August 1997 and reported to Government in July 1999, their replies have not been received (November 2000).

### **3.6. Short levy due to incorrect computation of depreciation**

As per Section 7(1)(i) of the KAITA, 1991, depreciation is allowed at prescribed rate on the written down value of the building, machinery, plant, furniture, etc.

In Ernakulam, while finalising (December 1999) the assessment of a company for the year 1997-98 depreciation of Rs 13.75 lakh was allowed on the original cost of assets instead of Rs 5.20 lakh admissible on the written down value of the assets as on 1 April 1996. This resulted in exclusion of income of Rs 8.55 lakh and short levy of tax of Rs 5.56 lakh.

The case was pointed out to the department in May 2000 and reported to Government in July 2000; their replies have not been received (November 2000).

### **3.7. Short levy of tax due to incorrect carry forward and set off of loss**

Up to the assessment year 1990-91, the income/loss of a firm computed by the assessing officer was required to be apportioned amongst the partners and assessed in their hands along with their income from other sources in the same year. From the assessment year 1991-92, the income of the firm is required to be assessed on the firm itself without apportioning amongst the partners.

In Mananthavady, while finalising (April to December 1995) the assessments of a firm for the assessment years 1991-92 to 1995-96, an amount of Rs 15.60 lakh towards accumulated loss up to the year 1990-91 which already had been apportioned amongst the partners was incorrectly carried forward and set off against the income of the firm. This resulted in short levy of tax of Rs 5.22 lakh including surcharge of Rs 0.47 lakh.

On this being pointed out (October 1998) in audit, the assessing officer stated (April 1999) that the assessments had been revised (January 1999). Further report has not been received (November 2000).

The case was reported to Government in March 2000; their reply has not been received (November 2000).



### 3.8. Non-revision of assessment

Under the KAITA, 1991, any trust or institution, other than a private one or trust for the benefit of a particular religious community or caste, created for charitable or religious purposes and registered as such in the manner provided in Section 16 of the Act may opt to compound the agricultural income tax payable and to pay *in lieu* thereof a lumpsum at the rates specified in the Act irrespective of the extent of holdings.

In Vythiri, a trust had opted to pay tax at compounded rate. It was judicially held<sup>#</sup> (May 1998) that the trust was a private family trust making it ineligible for compounding benefit. However, the assessing officer allowed compounding benefit in the assessment for 1998-99 finalised during October 1998. This resulted in short levy of tax of Rs 5.11 lakh.

On this being pointed out (March 2000), the assessing officer stated (May 2000) that the assessment for the year 1998-99 had been revised (March 2000) creating an additional demand for Rs 5.11 lakh. Further report has not been received (November 2000).

The case was reported to Government in May 2000; their reply has not been received (November 2000).

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<sup>#</sup> (1998) 6 KTR 461 (SC).



**Chapter 4**  
**Land Revenue and Building Tax**



## CHAPTER 4

### LAND REVENUE AND BUILDING TAX

#### 4.1. Results of audit

Test check of the records of the Offices of the Land Revenue Department conducted in audit during 1999-2000 revealed underassessment of tax, loss of revenue, etc., amounting to Rs 4461.15 lakh in 135 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short levy and losses under building tax	71	22.91
2	Short levy and losses under plantation tax	9	17.63
3	Short levy and losses under other items	54	2644.04
4	Review	1	1776.57
	<b>Total</b>	<b>135</b>	<b>4461.15</b>

During the course of the year 1999-2000, the department accepted underassessments, etc., of Rs 83.09 lakh involved in 69 cases of which 54 cases involving Rs 67.68 lakh had been pointed out in audit during 1999-2000 and the rest in earlier years. During the year, the department recovered an amount of Rs 10.41 lakh in 20 cases of which 5 cases involving Rs 0.63 lakh were pointed out in audit during 1999-2000 and the rest in earlier years. A few illustrative cases involving Rs 40.54 lakh and a review on "Recovery of dues treated as arrears of land revenue" involving Rs 1776.57 lakh are given in the following paragraphs.

## 4.2. Recovery of dues treated as arrears of land revenue

### Highlights

- As on 31 March 1999, collection of arrears of Rs 181.96 crore was under stay by Government though no power to grant stay was vested with Government.

*(Paragraph 4.2.5B)*

- Revenue Recovery Certificates (RRCs) for Rs 459.67 crore were returned to the requisitioning departments during the period from 1994-95 to 1998-99 for various reasons.

*(Paragraph 4.2.5C)*

- Recoveries were either not made at all or made only partially in 160 cases involving Rs 243.07 lakh.

*(Paragraph 4.2.6)*

- Collection charge amounting to Rs 419.45 lakh was not realised from defaulters from whom recoveries were made.

*(Paragraph 4.2.7)*

- In 4 Taluks, properties valued at Rs 223.70 lakh attached in 13 revenue recovery cases, were pending disposal as on 31 March 2000.

*(Paragraph 4.2.10)*

### 4.2.1. Introduction

The Kerala Revenue Recovery Act, 1968 and the Rules made thereunder, prescribe the procedure for realisation of arrears of public revenue. Under Section 71 of the Act, Government may, by notification, declare that the provisions of the Act shall be applicable to the recovery of the amounts due from any person or class of persons, to any specified institution or classes of institutions. The Act provides for recovery of such arrears together with interest and cost of process by one or more of the following modes.

- a) By attachment and sale of the defaulter's movable property.
- b) By attachment and sale of the defaulter's immovable property.
- c) By appointing an agent for the management of the defaulter's movable property.

It also provides for arrest of the defaulter and his detention in prison.

The Act is administered by the Land Revenue Department.

#### **4.2.2. Organisational set up**

The administration of Land Revenue Department vests with the Commissioner of Land Revenue. For the purpose of administration, the State is divided into 14 revenue districts. Each district is sub divided into taluks and each taluk is further sub divided into villages.

The District Collectors are responsible for the administration of their respective districts. The Tahsildars are in immediate charge of the administration of their respective taluks and exercise supervision and control on Village Officers who are entrusted with the work of collection of land revenue and other receipts. In addition, there are 20 Tahsildars (Revenue Recovery) in the State, exclusively for recovery of dues treated as arrears of land revenue in the taluks where the number of such recovery cases are large.

#### **4.2.3. Scope of audit**

Mention was made in paragraph 6.2 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1994 (Revenue Receipts) on deficiencies and ineffectiveness in the recovery of dues treated as arrears of land revenue. The paragraph has not been discussed by the Public Accounts Committee so far (November 2000). The present review covering the period from 1994-95 to 1998-99 was conducted in March and April 2000 with reference to the records available in the Commissionerate of Land Revenue, Thiruvananthapuram, 6 out of 14 District Collectorates (Alappuzha, Ernakulam, Kottayam, Kozhikode, Pathanamthitta and Thiruvananthapuram) and 7\* out of 63 Taluk Offices and 8\*\* out of 20 Offices of the Tahsildars (RR).

#### **4.2.4. Procedure for receipt and disposal of revenue recovery cases**

The requisition for recovery of dues to be treated as arrears of land revenue under the Kerala Revenue Recovery Act, 1968, and the Rules made thereunder are received by the District Collectors from the department concerned of Government or from a particular institution.

The formats of the records to be maintained in connection with the revenue recovery cases have not been prescribed either in the Kerala Revenue Recovery Act, 1968, or in the Kerala Revenue Recovery Rules, 1968. The Department has issued instructions from time to time, about the procedures to be followed at

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\* Aluva, Chavakkad, Changanassery, Chengannoor, Karunagappally, Kunnathunad and Thirur.

\*\* Alappuzha, Eranad, Kanayannur, Kottayam, Kozhikode, Pathanamthitta, Thiruvananthapuram and Thrissur.

District Collectorates and Taluk/Village Offices.

Within one week of receipt of a requisition for recovery, the District Collector issues under his signature a Revenue Recovery Certificate (RRC) under Section 69(3) of the Act to the Tahsildar of the Taluk to which the defaulter belongs. In the Taluk Office, on receipt of the certificate, a case file is opened, a number assigned to it and the number is noted in the Revenue Recovery Ledger. Demand notice under Section 7 *ibid* is issued to the Village Officer concerned for effecting immediate recovery.

#### 4.2.5. Arrears of revenue

##### A Position of arrears

The position of demand, collection and balance of revenue recovery cases as at the close of each of the years from 1994-95 to 1998-99 collected from the Commissionerate of Land Revenue is as follows.

*(In crore of rupees)*

As at the end of	Opening balance	Fresh demand	Total demand	RRC returned	Amount collected	Balance
1994-95	300.31	330.73	631.04	156.54 25%	96.65 15%	377.85 60%
1995-96	377.85	260.14	637.99	117.19 19%	91.20 14%	429.60 67%
1996-97	429.60	324.10	753.70	154.50 21%	91.58 12%	507.62 67%
1997-98	507.62	421.57	929.19	214.33 23%	74.31 8%	640.55 69%
1998-99	640.55	725.35	1365.90	459.67 34%	102.61 7%	803.62 59%

The above table shows that the rate of recovery (7 to 15 *per cent*) has been quite low in comparison to cases returned (19 to 34 *per cent*) without recovery and that 59 to 69 *per cent* of the arrears remain uncollected each year. Age-wise pendency of the arrears of land revenue was not available either with the Commissioner of Land Revenue or with the respective Collectors.

##### B Grant of stay by Government

It was observed that as on 31 March 1999, recovery of arrears of Rs 181.96 crore was under stay by Government in spite of the fact that the Kerala Revenue Recovery Act, 1968, and the Rules made thereunder do not contain any provision for staying recovery of arrears. It was also seen that recovery of 23 to 34 *per cent* of the balance demands was under stay granted by the Government each year as shown below.



(In crore of rupees)

Year	Balance demand	Amount covered by stay			Total
		By Government	By Court	By Appellate Authority	
1994-95	377.85	130.09 (34%)	167.54	62.09	359.72 (95%)
1995-96	429.60	124.95 (29%)	189.88	76.75	391.58 (91%)
1996-97	507.62	135.75 (27%)	243.51	84.55	463.81 (91%)
1997-98	640.55	162.08 (25%)	246.30	197.36	605.74 (95%)
1998-99	803.62	181.96 (23%)	382.93	184.50	749.39 (93%)

The information regarding the number of cases in which recoveries were stayed was not available with the Commissioner of Land Revenue. This action of the Government was without any legal basis and resulted in delay in realisation of revenue.

### C Return of revenue recovery certificates

It was observed that RRCs were returned by the Tahsildars to the District Collectors if the certificates were received in an incomplete shape, the defaulter became insolvent, the assessments were remanded by appellate authorities, or the requisitioning authority withdrew the requisition, etc.

RRCs for Rs 459.67 crore were returned to the requisitioning departments during the period from 1994-95 to 1998-99 for various reasons.

Test check of the RRCs returned in 15 Offices\* revealed as under.

i) In 8 Offices\*, no register was maintained to note the details of the RRCs returned. In the absence of the same, position on follow up action taken in such cases could not be ascertained.

ii) In the Office of the Tahsildar (RR), Thiruvananthapuram, RRCs in 72 cases involving Rs 297.70 lakh received (between 1994 and 1998) were returned (between February 1996 and March 1999) through the Collector to the requisitioning authorities as demand notices could not be served for want of

\* Taluk Offices, Aluva, Chavakkad, Changanassery, Chengannoor, Karunagappally, Kunnathunad and Thirur and Offices of the Tahsildars (RR), Alappuzha, Eranad, Kanayannur, Kottayam, Kozhikode, Pathanamthitta, Thiruvananthapuram and Thrissur.

\* Taluk Offices, Aluva, Changanacherry, Chavakkad and Tirur, Offices of the Tahsildars (RR), Kanayannur, Kottayam, Pathanamthitta and Thiruvananthapuram.

correct address of the defaulters.

iii) In the Office of the Tahsildar (RR), Kozhikode and in Taluk Office, Changanessery, 105 RRCs for Rs 589.43 lakh issued (between 1994 and 1999) by the District Collectors, Kozhikode and Kottayam, for recovery of arrears were returned (between February 1995 and February 1999) to the requisitioning authorities through the District Collectors on the ground that the arrears could not be realised due to one or more of the reasons such as (a) the firm was not in existence; (b) the whereabouts of the partners were not known; (c) the assessee expired; (d) there were no properties in the name of the assessee, and (e) there was no use of invoking Section 65 of the Kerala Revenue Recovery Act.

iv) In Karunagappally Taluk Office, 3 RRCs pertaining to an assessee issued (between February 1995 and February 1997) by the Collector, Kollam for the realisation of sales tax dues of Rs 2.15 lakh and interest thereon were not pursued and the certificates were returned to the District Collector, Kollam, stating in one case that the defaulter was permanently settled at Kottayam, in another case that the defaulter did not possess any movable or immovable property and in the third case that the defaulter was residing at Ernakulam.

#### **4.2.6. Deficiencies**

Test check of the accounts and records of revenue recovery revealed the following deficiencies in respect of monitoring of revenue recovery cases at various levels.

##### **A District Collectorates**

i) There was no uniformity in the maintenance of records relating to revenue recovery. In the District Collectorates of Ernakulam and Kottayam separate registers were maintained to record the receipt and watch the disposal of revenue recovery requisitions. But no such register was maintained in the Collectorates of Alappuzha, Kozhikode, Pathanamthitta and Thiruvananthapuram where they were pursued through a register meant for recording miscellaneous papers received by the clerk.

ii) In the District Collectorates of Thiruvananthapuram and Pathanamthitta delay ranging from one month to five months was noticed in issue (January to July 1997) of RRCs to the Tahsildars in 16 cases involving Rs 18.80 lakh as shown below.

Period of delay	Thiruvananthapuram		Pathanamthitta		Total	
	Number of cases	Amount (In lakh of rupees)	Number of cases	Amount (In lakh of rupees)	Number of cases	Amount (In lakh of rupees)
1 month	1	0.15	12	18.13	13	18.28
2 months	1	0.04	-	-	1	0.04
5 months	2	0.48	-	-	2	0.48
<b>Total</b>	<b>4</b>	<b>0.67</b>	<b>12</b>	<b>18.13</b>	<b>16</b>	<b>18.80</b>

### **B Taluk and Village Offices**

As per the instructions issued (April 1983) by the department, demand notices for remittance of dues were required to be issued within a week of receipt of the RRC in the Taluk Office. No system was available in Taluk Offices to ensure that all RRCs issued by the District Collectors were received and properly recorded in Taluk Offices and also to ensure that demand notices were issued on all RRCs received from District Collectorate.

i) From the details obtained in respect of two Taluks, huge variations were noticed between the number of RRCs sent by the Collector and those received by the Tahsildars during the years 1994-95 to 1997-98. While 11,413 and 3,938 RRCs were sent to Tahsildars (RR), Ambalapuzha and Chengannur respectively by the Collector, Alappuzha, the number of RRCs received by these Tahsildars was 14,838 and 479. Since the department has not evolved any system for reconciliation of two figures, possibility of RRCs escaping follow up action and the consequent non-recovery of arrears could not be ruled out.

ii) In the Office of the Tahsildar (RR), Thiruvananthapuram, delay ranging from one to eighteen months was noticed in the issue of demand notices during the period from June 1996 to August 1998 in 23 cases involving Rs 55.04 lakh as shown below.

Range	No. of cases	Amount (In lakh of rupees)
Between 1 month and 2 months	10	20.47
Between 2 and 6 months	5	3.65
Between 6 and 12 months	5	3.54
Above 12 months	3	27.38
<b>Total</b>	<b>23</b>	<b>55.04</b>

### **C Lack of follow up action and monitoring**

There was no effective system, of monitoring of the cases at the Government/Commissionerate's level, other than getting the consolidated statements of amount outstanding for recovery. It was also observed in audit that information regarding the number of pending cases and their period of pendency was not being intimated by the District Collector to the Commissioner and by the

Commissioner to the Government. Nor had the Commissioner/Government at any time called for such details from the subordinate offices.

Similarly, in Taluk Offices also, no effective monitoring was done and follow up action taken. Test check of Revenue Recovery Ledgers in 7 Offices<sup>#</sup> revealed that in a large number of cases in which demand notices were issued, either no recovery was effected or recovery was effected partially. In 115 out of 320 cases relating to the period from December 1994 to February 1999 test checked, where an amount of Rs 230.60 lakh was to be recovered, no recovery had been effected. In 45 cases involving Rs 22.20 lakh where recovery was effected (between December 1994 and March 1999) partially no action such as attachment and sale of properties, arrest and detention of defaulter, etc., was taken to recover the balance amount of Rs 12.47 lakh.

#### **4.2.7. Non-realisation of collection charges**

Under the provisions of the Kerala Revenue Recovery Rules, 1968, as in force up to 6 July 1997 collection charge at 5 per cent of the arrears collected by Government on behalf of any institution notified under Section 71 of the Kerala Revenue Recovery Act, 1968, had to be realised by Government from such institution and no collection charge was recoverable from departments/institutions on whose behalf arrears were collected under the remaining provisions of the Act. However, from 7 July 1997 the charge was made recoverable direct from all the defaulters when arrears were recovered under any of the provisions of the Act.

Arrears of Rs 8339.33 lakh were collected during the period from August 1997 to March 1999 on behalf of Government departments such as Agricultural Income Tax and Sales Tax, Excise, Motor Vehicles, etc., but collection charge at 5 per cent was not collected from the defaulters. Similarly, in 4 Taluk offices\* collection charge was not recovered on arrears of Rs 49.60 lakh collected on behalf of institutions notified under Section 71 of the Act. These resulted in non-realisation of collection charge of Rs 419.45 lakh.

#### **4.2.8. Non-realisation of interest on sales tax arrears**

As per Section 23(3) of the Kerala General Sales Tax Act, 1963, if any amount assessed or due to Government is not paid by the assessee in time interest at the rate of one per cent per month for the first three months of delay and at the rate of two per cent per month for the delay exceeding three months is leviable.

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<sup>#</sup> Taluk Offices, Chengannur and Kunnathunad, Offices of the Tahsildars (RR), Alappuzha, Kozhikode, Pathanamthitta, Thiruvananthapuram and Thrissur.

\* Aluva, Ambalapuzha, Pathanamthitta and Thrissur.

On receipt (March 1994 to May 1996) of requisitions from the Sales Tax Department, the District Collectors of Kozhikode and Alappuzha issued (April 1994 to June 1996) RRCs for the recovery of sales tax arrears of Rs 51.51 lakh in three cases. The Tahsildars, Kozhikode and Chengannur who collected the entire arrears of Rs 51.51 lakh omitted to collect the interest due for belated payment of sales tax. This resulted in non-realisation of interest of Rs 1.07 lakh.

#### ***4.2.9. Pursuance of court cases/stay orders***

There was no co-ordination between the requisitioning departments and Collectorates in pursuing court cases. It was noticed that the registers prescribed for noting stay/court cases were either maintained in an incomplete form or not maintained at all by the District Collectors/Tahsildars with the result that latest position of a particular case was not readily ascertainable.

On receipt of requisition from Sales Tax authorities, the District Collector, Kottayam issued (August 1995) a certificate for recovery of dues amounting to Rs 6.16 lakh and interest at 24 *per cent per annum* from 26 July 1995 from M/s Josco Agencies, Vazhappally East (Changanacherry Taluk) towards Sales Tax arrears for the period from 1990-91 to 1993-94. This was followed by issue of demand notice. The dealer had in the meantime obtained (November 1995) a stay order from the Sub Court, Kottayam. In the revenue recovery ledger it was noted that the case No. IP 17/95 of Sub Court, Kottayam was disposed of in favour of the defaulter. No further details were available and the amount was outstanding for more than 4 years.

#### ***4.2.10. Cases of attachment of properties***

Under the provisions of the Revenue Recovery Act, if the defaulter on whom a demand notice was served by the revenue recovery officer, failed to make payment of the arrears and interest thereon, such officer was to attach the movable/immovable properties of the defaulter. The properties attached were to be sold in public auction. Till then the District Collector was to appoint an agent for management of the property.

In 10<sup>^</sup> out of the 15 Taluk Offices where records were test checked no register was maintained to record the particulars of properties attached by Government. It could not, therefore, be verified whether the properties attached were put under proper management.

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<sup>^</sup> Taluk Offices, Aluva, Chavakkad, Chengannur, Karunagappally and Kunnathunadu, Offices of the Tahsildars (RR), Alappuzha, Kanayannur, Kottayam, Pathanamthitta and Thrissur.

*Report No. 1 (Revenue Receipts) of 2000*

As per the information furnished by 4 Taluk Offices<sup>♦</sup>, movable and immovable properties worth Rs 223.70 lakh, attached (between January 1996 and February 1999) in 13 revenue recovery cases were pending disposal as on 31 March 2000.

The District Collector, Alappuzha, issued a RRC for Rs 10.33 lakh on 27 December 1978 against M/s Vijaya Oil Mills, Alappuzha towards industrial loan dues for 1971-72 and 1972-73. The revenue recovery proceedings were stayed for 3 months from 1 February 1979 by the Industrial Commissioner and for 2 months each from 29 June 1979 and 16 April 1980 by the Government. The defaulter filed an original suit before the Sub Court, Alappuzha and the same was dismissed during August 1981. Though his properties were attached, the arrears still remain uncollected because the sale has not been conducted even after the expiry of 22 years for reasons not recorded.

**4.2.11. Half yearly inspection**

As per the instructions issued (October 1979 and December 1990) by the Government half yearly inspection of Taluk Offices by District Collectors and periodical inspection of Revenue Recovery Units by the Board of Revenue were required to be conducted to ensure prompt collection of arrears and strict adherence to the provisions of Revenue Recovery Act.

It was noticed that out of six District Collectorates<sup>▲</sup> the records of which were test checked, in two Collectorates (Kottayam and Kozhikode) no inspection was conducted during the period from 1994-95 to 1998-99.

Of the 20 Offices of Tahsildars (RR), the Commissionerate of Land Revenue inspected only 2 offices during 1998-99 since the formation of its inspection wing in November 1998.

In the inspection of Taluk Offices/Collectorates, besides the procedural lapses, the following major lapses have been pointed out.

- i) Delay in issuing demand notice under Section 7 of the Revenue Recovery Act and in attachment of movable properties after service of notice.
- ii) Return of demand notice in the absence of defaulters without ascertaining the availability of legal heirs from whom the dues could be realised.
- iii) Non-filing of affidavit in court cases.
- iv) Lack of effective steps in vacating stay orders.

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<sup>♦</sup> Changanacherry, Eranad, Kozhikode and Thiruvananthapuram.

<sup>▲</sup> Alappuzha, Ernakulam, Kottayam, Kozhikode, Pathanamthitta and Thiruvananthapuram.

Adequate instructions for avoiding such lapses have not been issued by the department.

#### **4.2.12. Conclusion**

The Revenue Recovery Act is a law intended to enable the State to recover, with utmost expedition and without undue expense, amounts payable by defaulters of Government dues. With this aim in view, provision was made in various taxation enactments also for the recovery of defaulted dues under the provisions of this Act treating them as arrears of land revenue as a last resort. Similarly conditions are appended to different agreements with private parties for applying these provisions for the recovery of dues. The fact that RRCs for 19 to 34 *per cent* of the total demands for the period from 1994-95 to 1998-99 were returned without effecting recovery due to various reasons and recovery of demands constituting about 23 to 34 *per cent* of the outstanding demand for the five years was stayed by the Government in spite of the fact that the Government had no powers to do so as well as the complete failure of the authorised officers to invoke the penal provisions such as the sale of properties attached and arrest of the defaulter in any of the cases test checked, show that the Government has failed to use the Act as an effective means to realise public revenue from defaulters.

The above points were reported to the Department and Government in May 2000; no reply has been received (November 2000).

### 4.3. Incorrect computation of building tax

Under the Kerala Building Tax Act, 1975, building tax at the rate specified in the Schedule to the Act on the basis of plinth area is leviable on buildings completed on or after 10 February 1992. The rates of building tax were revised with effect from 29 July 1996.

a) In fifteen Taluk Offices\*, 836 buildings were assessed to tax between 29 July 1996 and 30 April 1997 at the pre-revised rates instead of at the revised rates resulting in short levy of Rs 33.39 lakh.

On this being pointed out (between May 1997 and May 1999), the department stated (between November 1998 and November 1999) that the assessments had been revised in 567 cases and an amount of Rs 6 lakh had been collected in 453 cases. Further report has not been received (November 2000).

b) Under the Kerala Building Tax Act, 1975, plinth area for assessment shall be plinth area of the building as specified in the plan approved by the local authority or other specified authority and verified by the assessing authority.

i) In seven Taluk Offices\* while finalising (between October 1995 and October 1998) the assessments, plinth area of 69 buildings was computed incorrectly by excluding car porches, stair cases, pathways, etc. This resulted in short levy of tax of Rs 3.62 lakh.

On this being pointed out (between August 1996 and December 1999), the department stated (between April and December 1999) that assessments had been revised in 13 cases and an amount of Rs 0.14 lakh collected in three cases. Further report has not been received (November 2000).

ii) In Palakkad Taluk, a two storeyed building with a plinth area of 888.51m<sup>2</sup> was assessed (October 1997) to tax only on a plinth area of 300 m<sup>2</sup> of the building. This resulted in short levy of tax of Rs 1.03 lakh.

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\* Ambalapuzha, Changanassery, Chavakkad, Kanayannoor, Koyilandy, Mavelikkara, Meenachil, Muvattupuzha, Neyyattinkara, North Paravur, Perinthalmanna, Thirurangadi, Thiruvalla, Thiruvananthapuram and Vythiri.

\* Chirayinkeezhu, Kanayannur, Kottarakkara, Kottayam, Kunnathunadu, Muvattupuzha and Pathanapuram.



The case was pointed out to the department in December 1998; their final reply has not been received (November 2000).

c) Under the Kerala Building Tax Act, 1975, separate rates have been specified for residential and other buildings. A building in which one portion is used for residential purpose and the remaining portion for commercial purpose is assessable as other building as it is not used exclusively for residential purpose.

In three Taluk Offices\*, tax on certain buildings, portions of which were used for residential purpose and the remaining portions for commercial purpose, was assessed (between August 1994 and March 1996) separately for residential and other buildings instead of assessing the whole building as other building. This resulted in underassessment of building tax of Rs 2.50 lakh in 26 cases.

On this being pointed out (August 1996 and April 1998), the department stated (between April 1998 and December 1999) that in 8 cases the assessments had been revised, 2 cases involving Rs 0.56 lakh were time barred and the remaining cases were not reassessable. Reasons as to why these cases were not reassessable were not mentioned. Further report has not been received (November 2000).

The above cases were reported to Government in April and May 2000; their replies have not been received (November 2000).

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\* Kollam, Kottayam and Thiruvananthapuram.



# **Chapter 5**

## **Taxes on Vehicles**



**CHAPTER 5**  
**TAXES ON VEHICLES**

**5.1. Results of audit**

Test check of the records of the Motor Vehicles Department conducted in audit during 1999-2000 revealed short/non-levy of tax/fees, incorrect exemption, etc., amounting to Rs 185.21 lakh in 245 cases, which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short/non-levy of tax	140	78.21
2	Incorrect classification	40	5.00
3	Incorrect exemption	13	19.09
4	Other irregularities	52	82.91
	<b>Total</b>	<b>245</b>	<b>185.21</b>

During the course of the year 1999-2000, the department accepted under-assessments of Rs 135.02 lakh involved in 328 cases of which 53 cases involving Rs 20.08 lakh were pointed out in audit during 1999-2000 and the rest in earlier years. During the year, the department recovered an amount of Rs 67.18 lakh in 210 cases of which 18 cases involving Rs 4.03 lakh had been pointed out in audit during 1999-2000 and the rest in earlier years. A few illustrative cases involving Rs 11.09 lakh are given in the following paragraphs.

### 5.2. Short levy of tax on motor cars

Tax on motor cars payable on the basis of unladen weight under the Kerala Motor Vehicles Taxation Act, 1976, was revised from 1 April 1998. While tax at quarterly rate for a minimum period of two years was leviable on motor cars registered prior to 1 April 1998, one time tax is leviable on those registered thereafter.

In 22 Transport Offices\*, one time tax either at pre-revised rate or at a rate lower than the specified rate was collected on 541 motor cars during 1998-99 resulting in short collection of tax of Rs 7.84 lakh as shown below.

Periodicity of tax	Number of vehicles	Tax due	Tax collected	Short collection
			(In lakh of rupees)	
Quarterly tax	445	11.65	8.33	3.32
One time tax	96	18.26	13.74	4.52
<b>Total</b>	<b>541</b>	<b>29.91</b>	<b>22.07</b>	<b>7.84</b>

The cases were pointed out to the department (between April 1998 and November 1999) and reported to Government (between December 1999 and May 2000). They stated between April and June 2000 that balance tax of Rs 0.36 lakh due on six vehicles had since been realised. Their replies in remaining cases have not been received (November 2000).

### 5.3. Registration of vehicles without collection of entry tax

The Kerala Tax on Entry of Goods into Local Areas Act, 1994 provides for the levy of tax on entry into any local area of the State, for use or sale therein of any motor vehicle which is liable for registration in the State under the Motor Vehicles Act, 1988. The registration authority shall not register the vehicles, unless proof of payment of tax is produced.

In 5 Registering Offices# 12 vehicles liable to pay entry tax were granted (between July 1998 and March 1999) registration without payment of entry tax. This resulted in non-realisation of entry tax amounting to Rs 3.25 lakh.

The case was pointed out to the department between July and October 1999 and reported to Government in May 2000. Government stated (August 2000) that

\* Regional Transport Offices, Kannur, Kasaragod, Kottayam, Kozhikode, Malappuram, Palakkad, Thrissur and Wayanad and Nationalised Sector, Thiruvananthapuram.

Sub Regional Transport Offices, Guruvayoor, Irinjalakuda, Kanhangad, Kayamkulam, Kodungalloor, Kodusally, Mattancherry, Muvattupuzha, Ottappalam, Vadakara, Vaikom and Wadakkancherry and Office of the Deputy Transport Commissioner, North Zone, Kozhikode.

# Chengannur, Kayamkulam, Kodusally, Thrissur and Thodupuzha.

entry tax of Rs 0.08 lakh had since been realised in three cases. Their replies in remaining cases have not been received (November 2000).





**Chapter 6**  
**Other Tax Receipts**



**CHAPTER 6**  
**OTHER TAX RECEIPTS**

**6.1. Results of audit**

Test check of the records of the Offices of the State Excise and Registration Departments and the Chief Electrical Inspector conducted in audit during the year 1999-2000 revealed underassessments, short collection/loss of revenue, etc., amounting to Rs 194.49 lakh in 185 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
<b>A. State Excise</b>			
1.	Short collection of duty on IMFL/spirit	18	93.73
2.	Loss of revenue due to allowance of excess wastage of IMFL/spirit	1	0.04
3.	Loss of excise revenue due to other lapses	41	69.03
<b>B. Stamps and Registration Fee</b>			
4.	Incorrect exemption	88	13.07
5.	Undervaluation of documents	15	7.06
6.	Misclassification of documents	6	1.01
7.	Loss of stamp duty due to other lapses	14	2.10
<b>C. Taxes and Duties on Electricity</b>			
8.	Non-levy of electricity duty and penal interest	2	8.45
	<b>Total</b>	<b>185</b>	<b>194.49</b>

During the course of the year 1999-2000, the departments concerned accepted underassessments, etc., of Rs 26.90 lakh involved in 69 cases of which 35 cases involving Rs 23.37 lakh had been pointed out in audit during 1999-2000 and the rest in earlier years. A few illustrative cases involving Rs 235.31 lakh are given in the following paragraphs.

**A. State Excise**

**6.2. Recovery of abkari dues**

Under the Kerala Abkari Shops (Disposal in Auction) Rules, 1974 and Kerala Excise Manual, Volume II, interest at 18 *per cent per annum* is recoverable in respect of all abkari arrears. Whenever there is a remittance, interest should be liquidated first before credit is given towards principal.

i) In the Excise Division Office, Palakkad, while issuing (between May 1998 and April 2000) Revenue Recovery Certificates (RRCs) interest on arrears of Rs 368.60 lakh due from 153 licensees towards fee for permits issued for the inter-district transportation of toddy for the period 1996-97 was not included. The interest leviable worked out to Rs 124.63 lakh up to the date of issue of RRCs.

ii) In the Excise Division Offices, Cherthala and Palakkad remittances of Rs 245.80 lakh made by 61 licensees towards arrears of fee on permits issued during 1996-97 for inter-district transportation of toddy were credited against principal instead of first liquidating interest portion. This resulted in short realisation of Rs 102.08 lakh by way of principal and interest thereon up to March 2000.

On these being pointed out (October/November 1998), the department stated (November 1999) that interest could not be levied or demand notice for the remittance of interest for the fee could not be issued to the permit holders in the absence of instructions from Government. The argument is not tenable in view of the specific provisions in the Rules and Manual. In one case the department however, recovered (July 1999) an amount of Rs 1.51 lakh. Further report has not been received (November 2000).

The cases were reported to Government in May 2000; their reply has not been received (November 2000).

**B. Stamps and Registration Fees**

**6.3. Short levy of stamp duty and registration fee**

As per Section 28 of the Kerala Stamp Act, 1959, the consideration, if any, and all other facts and circumstances affecting the chargeability of any instrument with duty shall be fully and truly set forth in the document. Section 45B of the Act provides that where the registering authority has reason to believe that the value of the property or the consideration has not been fully and truly set forth in the

document, he may after registering such document, refer the same to the Collector for determination of the value or consideration and the proper duty payable thereon.

i) In Sub Registry Office, Sulthanbathery, on a document registered (September 1997) for conveyance of 50 cents of land with residential building, rice mill, godown, etc., the cost of acquisition and improvements thereon which according to the income tax clearance certificate was Rs 52.17 lakh, stamp duty and registration fee were levied on consideration of Rs 30 lakh set forth in the document. Although under-statement of consideration was evident, the document was not referred to the Collector for determination of consideration and duty payable thereon. This resulted in short levy of stamp duty and registration fee of Rs 2.66 lakh.

On this being pointed out (September 1998) in audit, the department stated (July 2000) that action would be taken to recover the deficit amount from the officers responsible. Further report has not been received (November 2000).

The case was reported to Government in October 1998; their reply has not been received (November 2000).

ii) In six Sub Registry Offices\*, in six documents registered (between July 1997 and December 1998) for sale of properties, the consideration shown was far less than the consideration shown either in earlier sale deeds or in the earlier agreements to sell the same properties. Although under-statement of consideration was evident, the documents were not referred to the Collector for determination of consideration and duty payable thereon. The omission resulted in short levy of stamp duty and registration fee of Rs 1.65 lakh.

The case was pointed out to the department between September 1998 and February 2000 and reported to Government in February 2000; their reply has not been received (November 2000).

#### **6.4. Incorrect grant of remission of stamp duty**

By a notification issued (November 1990) under the Kerala Stamp Act, 1959, Government sanctioned remission of stamp duty chargeable on mortgage deeds and release deeds executed in respect of loans advanced by the Kerala State Housing Board for house construction purposes with effect from 1 November 1990. The benefit was extended to the mortgage deeds and release deeds in respect of loans advanced for the purpose of repair, renovation, maintenance and extension of houses with effect from 17 August 1999.

\* Karunagappally (Addl.), Kochi, Mala, Malayinkeezhu, Nedom and Pattom.

In 19 Sub Registry Offices<sup>¶</sup>, no stamp duty was levied on mortgage deeds registered between May 1997 and November 1998 in respect of loans advanced by the Kerala State Housing Board for repair, renovation and maintenance of houses although the notification permits remission of duty on such deeds with effect from August 1999 only. This resulted in incorrect remission of stamp duty of Rs 3.04 lakh.

On this being pointed out (between February 1999 and January 2000) in audit, the department stated (July 2000) that the concerned registering officers had been directed to remit the stamp duty short levied. Further report has not been received (November 2000).

Government to whom the matter was reported in January 2000 confirmed (July 2000) the departmental reply and stated that the details of recovery would be intimated at the earliest. Further report has not been received (November 2000).

#### **6.5. Non-levy of duty on sale deeds**

On instruments relating to sale (conveyance) of immovable properties situated in Panchayat areas, stamp duty under the Kerala Stamp Act, 1959, at the rate of Rs 6 for every Rs 100 or part thereof of the amount or value of the consideration for such conveyance, and transfer duty under the Kerala Panchayat Raj Act, 1994 at 4 *per cent* of consideration are leviable.

In Sub Registry Office, Malayinkeezhu, 5 instruments relating to sale of immovable properties situated in Ernakulam district were registered (between February and May 1997) without levying stamp duty and transfer duty. This resulted in non-levy of stamp duty and transfer duty of Rs 1.25 lakh.

On this being pointed out (April 1998) in audit, the department admitted the mistake (December 1999). Further report has not been received (November 2000).

The case was reported to Government in February 2000; their reply has not been received (November 2000).

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<sup>¶</sup> Aluva, Amaravila, Anjarakandy, Kalluorkadu, Kanyakulangara, Koyilandy, Kozhencherry, Kundara, Kuthiathode, Kuthuparamba, Mannar, Mathamangalam, Mattanoor, Meenchantha, Mukkam, Naduvannur, Pulinkunnu, Vamanapuram and Vellanad.

**Chapter 7**  
**Forest Receipts**





## CHAPTER 7

### FOREST RECEIPTS

#### 7.1. Results of audit

Test check of the records of Offices of the Forest Department conducted in audit during 1999-2000 revealed non-levy/short realisation of revenue amounting to Rs 5623.15 lakh in 67 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short/non- demand of lease rent on forest lands	10	5388.23
2	Short/non- realisation of value of forest produces	20	62.71
3	Loss in auction/re-auction/disposal of forest produce, short/non-realisation of penalty and other charges	14	81.77
4	Short/non- realisation of sales tax/income tax	8	11.38
5	Other irregularities	15	79.06
	<b>Total</b>	<b>67</b>	<b>5623.15</b>

During the course of the year 1999-2000, the department accepted under-assessments of Rs 81.65 lakh involved in 20 cases of which 3 cases involving Rs 10.50 lakh were pointed out in audit during 1999-2000 and the rest in earlier years. During the year, the department recovered an amount of Rs 6.13 lakh in 4 cases pointed out in audit prior to 1999-2000. A few illustrative cases involving Rs 2238.41 lakh are given in the following paragraphs.

## 7.2. Lease of forest lands

Government of Kerala has leased out vast areas of forest land to various Public Sector Undertakings, Autonomous bodies and individuals for raising plantations and for other purposes. Lease rent at the rates prescribed by the Government from time to time is payable by the lessees. Annual lease rent per hectare for Public Sector Undertakings as prescribed by Government was Rs 615 from 18 December 1981 and Rs 1,300 from 18 December 1987.

Mention was made in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years 1984-85 (Para 6.2), 1991-92 (Para 5.4), 1994-95 (Para 9.2), 1996-97 (Para 9.2) and 1997-98 (Paras 8.2 and 8.3) regarding non/short levy of lease rent amounting Rs 75.71 crore from Public Sector Undertakings, Autonomous bodies and private individuals. A further scrutiny (July to September 1999) of the records in various Forest Divisions revealed the following.

a) An amount of Rs 993.94 lakh was pending collection from the Public Sector Undertakings/Autonomous bodies as shown below.

Name of autonomous body	Area leased out in hectare	Year from which leased out	Period covered	Rate at which lease rent is collected	(In lakh of rupees)		
					Arrears of lease rent due	Penal interest	Total amount of arrears due
Kerala Forest Development Corporation Ltd.	10,614.207	Between 1976 to 1982	1.4.1997 to 31.3.1999	Nil	276.00	119.00	395.00
The Plantation Corporation of Kerala Ltd.	11,713.20*	1964 to 1981	1.4.1997 to 31.3.1999	475	174.63	Nil	174.63
Kerala State Electricity Board	11,371.281**	NA	1.4.1994 to 31.3.1997	Nil	245.06	Nil	245.06
Rehabilitation Plantations Ltd.	2,265.218	1980	18.12.1987 to 31.3.1995	1,300	90.89	58.68	149.57
			1982-83 to 1998-99		-	29.68	29.68
<b>Total</b>					<b>786.58</b>	<b>207.36</b>	<b>993.94</b>

Lease deeds have not been executed so far for the entire areas leased out to the Kerala Forest Development Corporation Ltd., and the Kerala State Electricity Board and for 3,164.37 hectares leased out to the Plantation Corporation of Kerala Limited. As such lease rent could not be recovered from these undertakings/bodies. In the case of Plantation Corporation of Kerala, the lease rent was being recovered at pre-revised rate of Rs 475 per hectare instead of Rs 1,300 per hectare.

\* In the Forest Divisions Chalakudy, Konni, Ranni, Kozhikode and Kannur.

\*\* In the Forest Divisions Kottayam, Kothamangalam, Kozhikode, Malayattur, Ranni and Vazhachal.

b) Vast areas of forest lands were leased out on long term basis to private agencies and individuals during pre-independence days by erstwhile States of Travancore and Cochin and thereafter by Government of Kerala at nominal rates.

To enable Government to revise the lease rent in such cases, the Kerala Grants and Leases (Modification of Rights) Act, 1980, was enacted and it came into force from 25 June 1980. However, the Rules framed under the Act prescribing the principles and procedures for revision and assessment of rent, etc., issued in March 1990, were found to be defective on certain grounds and hence Government issued (October 1990) directions to keep the Rules in abeyance, until further orders. The Committee on Public Accounts in their 117<sup>th</sup> (1995-96) Report commented on the inordinate delay in framing Rules for revision of lease rent, violation of statutory stipulations on revision of lease rent from time to time and called for detailed report from the department. Government informed the Committee (June 2000) that a Bill passed (1999) by the Kerala Legislative Assembly to amend the provisions of the Act to empower the PCCF\* to revise from time to time the rent stipulated in any lease deed had been forwarded for the assent of the President of India. Government have not so far (November 2000) intimated the steps, if any, taken for framing the Rules for implementing the provisions of the Act. Hence lease rent at nominal rates is still being collected from the private parties resulting in loss of revenue of Rs 1211.58 lakh for the period from June 1980 to March 1999 on the forest lands leased out to them even on the basis of the lease rent existing for public sector undertakings and autonomous bodies as shown below.

Name of Division / Name of lessee	Area leased out (Acres)	Rate/Acre/ Annum at which lease rent collected	Lease rent collectable at the rate applicable to public sector undertakings	Lease rent paid/ payable at existing rates	Loss of revenue
(In lakh of rupees)					
<u>Chalakydy</u> Harrisons Malayalam Plantations Limited	6,063.190	1.50 to 3.00	468.06	2.45	465.61
<u>Chalakydy</u> Cochin Malabar Estate	2,594.560	2 to 3	200.30	0.98	199.32
<u>Vazhachal</u> M/s Tata Tea Limited	1,923.785	2	148.51	0.72	147.79
<u>Vazhachal</u> Perumpara Estate	86.950	5	6.71	0.08	6.63
<u>Nenmara</u> 19 cases	3,701.360	1.5	280.48	2.43	278.05
<u>Kannur</u> 157 cases	389.980	2 to 3	30.08	0.53	29.55
<u>South Wyanad</u> 64 cases	173.090	3.50 to 30	13.34	0.53	12.81
<u>Sulthanbathery</u> 144 cases	945.790	3.50 to 30	72.96	1.14	71.82
<b>Total</b>			<b>1220.44</b>	<b>8.86</b>	<b>1211.58</b>

\* Principal Chief Conservator of Forests.

The above points were brought to the notice of the department (July to September 1999) and reported to Government in February 2000; their replies have not been received (November 2000).

### 7.3. Short realisation of sales tax

a) It has been judicially held\* that if the movement of goods from one State to another is made independently of the contract of sale then it would not attract provisions of Section 3(a) of the Central Sales Tax Act, 1956. Hence on sandalwood sold by Forest Department by auction without any contractual obligation for transportation to other States sales tax at the rate specified in Kerala General Sales Tax Act, 1963 is leviable. The rate is 12.5 per cent from 1 April 1997.

In Forest Division, Munnar, sales tax on sandal wood valued at Rs 2.61 crore sold in auction (August 1997) and removed out of the State without any contractual obligation was realised at 4 per cent instead of at 12.5 per cent. This resulted in short realisation of sales tax of Rs 21.69 lakh.

The case was pointed out to the department in March 1999 and reported to Government in March 2000; their final replies have not been received (November 2000).

b) By a notification issued (November 1993) under the Kerala General Sales Tax Act, 1963, Government reduced the tax payable on goods (other than petroleum products and machinery) sold to industrial units for use in manufacture or processing within the State to 5 per cent. The rate of tax on timber was 12 per cent from 1 April 1995 to 31 March 1996 and 12.5 per cent thereafter.

In Forest Divisions, Punalur and Thiruvananthapuram, on 655.35 m<sup>3</sup> of timber sold to the Kerala State Road Transport Corporation between December 1995 and March 1999, sales tax at the reduced rate of 5 per cent only was realised although the Corporation was not an industrial unit engaged in manufacturing or processing. This resulted in short levy of sales tax of Rs 11.20 lakh.

This was pointed out to the department between September 1997 and July 1999 and reported to Government in September 1998. Government confirmed (December 1998) that the Corporation was not eligible for the concessional rate available to industrial units as it was not manufacturing anything. Further report has not been received (November 2000).

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\* Similipahar Forest Development Corporation Vs State of Orissa 96 STC 627 (Orissa High Court).

**Chapter 8**  
**Other Non-Tax Receipts**



## CHAPTER 8

### OTHER NON-TAX RECEIPTS

#### 8.1. Non-raising of demand of dead rent

Under Rule 29 of the Kerala Minor Mineral Concession Rules, 1967, for each year except the first year of lease, holder of a lease for quarrying a minor mineral is required to pay dead rent or royalty for the mineral removed during the year whichever be higher.

It was observed that in three District Offices (Kollam, Thiruvananthapuram and Palakkad) dead rent was not assessed and demanded during 1993-94 to 1998-99 from 48 lessees from whom the royalty payable was either nil or less than the dead rent. This resulted in non-raising of demand of dead rent of Rs 51.15 lakh.

#### 8.2. Short/non-collection of royalty on quarrying permits

As the control over all water courses, springs, reservoirs, etc., except over those notified by Government, vested with the local bodies, such bodies were issuing permits for quarrying sand from the water courses, springs, etc. In June 1993, Government excluded nine major rivers\* from the control of local bodies and the Tahsildars were vested (October 1993) with the power to issue permits for quarrying sand from the beds of these rivers. Tahsildars were required to collect advance royalty before issuing permits for quarrying.

It was observed that in 8 taluks# in the Districts of Alappuzha, Ernakulam, Kottayam, Palakkad and Pathanamthitta, no royalty was collected on removal of sand from these nine rivers. Total amount bid by 181 licensees on auctions of right to remove sand conducted by these offices from 1993-94 to 1997-98 was Rs 7.11 crore. Royalty due, but not realised amounted to Rs 85.34 lakh.

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\* Bharathapuzha, Chaliyar, Chandragiri, Kallada, Karamana, Meenachil, Pamba, Periyar and Vamanapuram.

# Aluva, Chengannur, Kottayam, Kozhikode, Ottappalam, Palakkad, Pathanapuram and Thiruvalla.

### 8.3. Short collection of royalty on mining/quarrying leases

Under the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease in respect of a major mineral is required to pay royalty at the rate specified in Schedule II of the Act. The rates were revised by Central Government in February 1992 and April 1997. Under the Kerala Minor Mineral Concession Rules, 1967, a person licenced to remove a minor mineral is required to pay royalty at the rate specified in Schedule I to the Rules. The rates of royalty were revised by the State Government in June 1992 and April 1997.

It was observed that eight offices\* continued to collect royalty on major and minor minerals at the pre-revised rates even after the revision of rates. This resulted in short collection of royalty of Rs 20.73 lakh on 150 permits issued during the period from February 1992 to September 1997 as shown below.

Sl. No.	Name of Mineral	Number of permits	Rate of royalty		Quantity (In tonnes)	Royalty Short collected (In lakh of rupees)
			Due (Rs)	Levied (Rs)		
1	Building stone	11	8	1.60	2,375	0.15
		80	16	8	6,425	0.51
2	Lime stone	1	25	10	30,000	4.50
3	Lime shell	5	25	10	5,800	0.87
		3	28	25	1,000	0.03
4	China clay					
	Processed	5	62	35	5,500	1.49
		4	68	62	6,500	0.39
	Crude	22	14	8	6,700	0.40
7		18	14	3,950	0.16	
5	Rutile	1	225	100	400	0.50
		1	630	225	500	2.03
6	Zircon	3	180	90	2,150	1.94
		1	460	180	1,000	2.80
7	Bauxite	1	41	34	400	0.03
8	Ilmenite	3	34	10	18,500	4.44
9	Sillimanite	2	90	50	1,230	0.49
	<b>Total</b>	<b>150</b>			<b>92,430</b>	<b>20.73</b>

\* District Offices of Mining and Geology Alappuzha, Ernakulam, Kollam, Kozhikode and Palakkad and Taluk Offices, Kozhencherry, Pathanapuram and Punalur.



#### **8.4. Unauthorised quarrying of minerals**

Under Rule 58 of the Kerala Minor Mineral Concession Rules, 1967, whenever any person raises without any lawful authority any minor mineral from any land, the mineral so raised or, where such mineral has already been disposed of, the price thereof, and rent, royalty or tax have to be recovered from him.

In Vijayapuram Village in Kottayam Taluk, 11,835 m<sup>3</sup> top soil and 81,049 m<sup>3</sup> laterite were extracted without quarrying permit/lease from 1996 onwards till it was stopped by Tahsildar, Kottayam in December 1997. The Tahsildar, Kottayam, reported (July 1999) the matter to the District Collector, Kottayam with a request to direct the Mining and Geology Department to take further action in the matter.

Royalty due at the rate of Rs 20 per m<sup>3</sup> up to 31 March 1997 and Rs 40 thereafter on the laterite quarried without permit worked out to Rs 24.31 lakh. No action was taken by the Revenue/ Mining and Geology Departments to realise the royalty and the price of the mineral extracted. No complaint in writing in respect of the offence was preferred in court by any of the authorities competent to do the same.

The points in paragraphs 8.1 to 8.4 were reported to Government in February 2000; their reply has not been received (November 2000).

#### **8.5. Non-realisation of value of land due to delay in fixing the value**

Under the Kerala Land Assignment Act, 1960, Government may assign Government land either absolutely or subject to such limitations and conditions as may be prescribed. Under the Kerala Land Assignment Rules, 1964, the assignee is required to remit the land value within three months from the date of sanctioning the Registry.

In Taluk Office, Karthikappally, it was noticed (November 1999) that Government sanctioned (March and May 1989) assignment on registry of 362.90 hectares of Government land in the taluk valued Rs 21.40 crore to the National Thermal Power Corporation for setting up of a thermal power plant subject to realisation of land value fixed in consultation with the Corporation. Though the land was handed over to the Corporation in August 1989, no action has been taken (November 1999) to realise the value of the land.

*Report No. 1 (Revenue Receipts) of 2000*

On this being pointed out (November 1999) in audit, the District Collector, Alappuzha, stated (July 2000) that the value of land had been refixed at Rs 1854.47 lakh and reported to Government for further action. Further report has not been received (November 2000).

The case was reported to Government in March 2000; their reply has not been received (November 2000).

Thiruvananthapuram  
The



(R.K. VERMA)  
Accountant General (Audit), Kerala

Countersigned



New Delhi,  
The

(V.K. SHUNGLU)  
Comptroller and Auditor General of India

## Appendix

(Reference: Paragraph 1.9)

### Year-wise analysis

Year of Audit Report	Date of presentation to the Legislature	Due date for reply considering 3 months time	Delay in terms of month up to September 2000 (up to 30.9.2000)	Number of paragraph for which ATN not furnished
1985-86	30.3.1987	30.6.1987	159	59
1986-87	25.3.1988	24.6.1988	147	44
1987-88	13.6.1989	12.9.1989	133	59
1988-89	19.3.1990	18.6.1990	123	34
1989-90	26.7.1991	25.10.1991	107	27
1990-91	28.7.1992	27.10.1992	95	4
1992-93	26.5.1994	25.8.1994	73	2
1993-94	25.4.1995	24.8.1995	62	33
1994-95	4.3.1996	3.6.1996	52	35
1995-96	11.3.1997	10.6.1997	40	46
1996-97	23.4.1998	22.7.1998	26	10
1997-98	19.2.1999	18.5.1999	16	77
				<b>430</b>

### Department-wise and age-wise analysis

Period of delay	Commercial Tax		Excise	Motor Vehicles	Registration	Land Revenue	Forest	Others	Total
	Sales Tax	Agricultural Income Tax							
Between 12 months and 23 months	23	27	4	5	3	4	8	3	77
Between 24 months and 59 months	0	5	6	5	14	40	17	4	91
Between 60 months and 119 months	14	13	2	3	2	29	2	1	66
Above 119 months	67	88	7	1	0	16	8	9	196
	<b>104</b>	<b>133</b>	<b>19</b>	<b>14</b>	<b>19</b>	<b>89</b>	<b>35</b>	<b>17</b>	<b>430</b>

