



REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR
1986-87

(REVENUE RECEIPTS)
GOVERNMENT OF ORISSA



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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Orissa for the year 1986-87 is presented in this separate volume. The material in the Report has been arranged in the following order:-

Chapter 1 constitutes an overview of the Report whereas Chapter 2 deals with trends of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Revised estimates and actuals in respect of principal heads of revenue, the position of arrears of revenue, etc., are discussed in this Chapter.

Chapter 3 to 9 deal with certain cases and points of interest which came to notice in the audit of Sales Tax, Taxes on Motor Vehicles, Land Revenue, State Excise, Forest Receipts, Mining Receipts and other Tax Receipts -

CHAPTER I

OVERVIEW

I General

1.1 The total revenue raised by the Government of Orissa during the year 1986-87 from tax and non-tax sources was Rs.496.14 crores. While the tax revenue comprised mainly of Sales Tax (Rs.176.14 crores), Motor Vehicles Tax (Rs.31.84 crores) and Electricity Duty (Rs.60.18 crores), non-tax realisation came mainly from Forest (Rs.49.94 crores), Interest (Rs.12.48 crores), and mines and minerals receipts (Rs.13.82 crores) (Paras 2.1 and 2.2).

1.2 Arrears in collection of Sales Tax revenues rose steeply from Rs.42.16 crores on 31.3.1986 to Rs.123.93 crores on 31.3.1987. This was stated to be due to increase in demand, particularly relating to works contracts most of which was pending in appeals at various stages, there being no significant clearance of the outstanding dues as on 31.3.1986 (Para 2.7).

1.3 Test audit during the year revealed a large number of cases of short-levy of taxes etc., totalling Rs.7.19 crores many of which occurred despite objections of a similar nature having been brought to the notice of Government in previous reports. The main areas were Sales Tax (Rs.1.78 crores), Motor Vehicles Tax (Rs.2.93 crores), Land Revenue and related receipts (Rs.1.81 crores), State Excise (Rs.0.05 crore), Forest Receipts (Rs.0.51 crore) and Mining Revenue (Rs.0.11 crore) (Paras 3.1, 4.1, 5.1, 6.1, 7.1 and 8.1).

1.4 This report includes 75 representative cases of non-levy/short levy of tax, duty, interest, penalty etc., involving a financial effect of about Rs.1.85 crores noticed during test check in 1986-87 and in earlier years.

The report also includes four reviews viz, (i) Registration of dealers under Orissa Sales Tax and Central Sales Tax Acts (Para 3.17) (ii) Working of reciprocal agreements in Orissa (Para 4.13), (iii) Khasmahal leases in urban areas (Para 5.7), (iv) Exploitation of minor forest produce (Para 7.9).

Some of the important irregularities brought out in the report are summarised below:

1.5 Sales Tax

1.5.1 Irregular exemptions from sales tax or purchase tax allowed in 18 cases resulted in total short levy or non-levy of tax amounting to Rs.4.19 lakhs (Paras 3.2, 3.3, 3.7, 3.9, 3.10, 3.11 and 3.13).

1.5.2 Escapement of taxable turnover in respect of sale of timber felled and removed in 83 Forest coupes resulted in a short levy of Rs.11.01 lakhs (Para 3.4(iii)).

1.5.3 In 565 cases, demands of arrear tax amounting to Rs.40.73 lakhs were treated as finally settled without levy of interest of Rs.6.18 lakhs (Para 3.16).

1.6 Taxes on Motor Vehicles

1.6.1 Short-realisation of tax from vehicles of other States plying in Orissa, detected inside the State (2,254 transport vehicles), and at the inter-State checkpost at Sohella (61 carriages), due to adoption of pre-revised rates, amounted to Rs.7.57 lakhs (Paras 4.3 and 4.4).

1.6.2 Short/non-realisation of additional tax from 102 stage carriages, 17 goods carriages and 6 town buses amounted to Rs.5.15 lakhs (Para 4.9).

1.6.3 Non-assessment of passengers tax on 30 private operators and one fleet operator in the absence

of returns led to leakage of revenue to the extent of Rs.3.01 lakhs (Para 4.10).

1.6.4 Non-levy of interest on arrear passengers tax in respect of 14 private operators (Orissa State Road Transport Corporation) and 2 fleet owners (Orissa Road Transport Corporation) amounted to Rs.12.62 lakhs (Para 4.11).

1.6.5 In the working of reciprocal agreements in Orissa, the following irregularities/deficiencies were noticed:

(i) No remedial action on the deficiencies noticed earlier as brought out in the Audit Report for 1979-80 was taken and the detailed report promised to be submitted to Public Accounts Committee has not so far been submitted.

(ii) Allotted quota of National Permits/Eastern Zone Permits remained partially unutilised for 1983-84, 1984-85 and 1985-86.

(iii) Composite tax in respect of vehicles permitted to ply in Orissa under National/Zonal Schemes was not remitted to Orissa for all the quarters resulting in a short collection of Rs.5.59 lakhs.

(iv) Penalty for belated payment of composite tax was either not recovered or short recovered to the tune of Rs.1.13 lakhs in respect of vehicles permitted to ply in Orissa under National/Zonal Schemes. The State Transport Authority, Orissa could not claim this as the State Government have not so far made any law in pursuance of the instructions of Government of India.

(v) Additional tax in respect of vehicles covered under bilateral agreement was not recovered from West Bengal-based vehicles for the period 18.10.1985

to 31.3.1986, causing a loss of Rs.3.74 lakhs (Para 4.13).

1.7 Land Revenue

1.7.1 Premium and ground rent and interest amounting to Rs.9.11 lakhs were not recovered from Orissa Maritime and Chilka Area Development Corporation for 1,440.25 acres of land given to them on advance possession (Para 5.2).

1.7.2 A review on *khasmahal* leases in urban areas granted under Bihar and Orissa Government Estate Manual 1919 revealed:

(i) Due to occupation of *khasmahal* land without lease in Puri Town, Balukhand Tehsil and Jatni Town of Bhubaneswar Tehsil, Government revenue towards premium and ground rent to the extent of Rs.7.14 lakhs could not be recovered.

(ii) Non-utilisation of leasable lands surrendered by leaseholders resulted in a loss of revenue of Rs.14.31 lakhs towards premium and ground rent.

(iii) Non-renewal of leases which expired during the period 1939-40 to 1973-74 covering an area of 365.254 acres resulted in blocking up of Government dues to the extent of Rs.5.36 lakhs (Para 5.7).

1.8 Mining Receipts

Non-levy of interest on belated payments of royalty and cess in 34 cases, amounted to Rs.3.64 lakhs (Para 6.5).

1.9 Forest Revenue

1.9.1 In a number of cases forest produce valued at Rs.10.38 lakhs was found missing mainly due to delay in actual delivery of coupes after allotment or in resale after closing the previous contract, illicit felling etc. (Paras 7.3 and 7.4).

1.9.2 Unauthorised downgradation of trees from I class to II class led to a loss of revenue of Rs.20.06 lakhs during the years 1985-86 and 1986-87 (Para 7.2).

1.9.3 Non-assessment of royalty on trees of lower girth/lower species and non-assessment of extension fee involved a sum of Rs.5.63 lakhs (Paras 7.5 and 7.6).

1.9.4 A review on the exploitation of seven types of minor forest produce (MFP) during the period 1981-82 to 1985-86 revealed:

- (i) Steep decline in quantum of extraction of the MFP and non-collection of outstanding dues from private parties, Orissa Forest Corporation Ltd., and Similipal Forest Development Corporation.
- (ii) Non-working of the coupes due to non-sale or non-exploitation through the Department resulting in a loss of Rs.13.25 lakhs (Para 7.9).

CHAPTER 2

GENERAL

2.1 Trend of Revenue Receipts

The total receipts of the Government of Orissa for the year 1986-87 were Rs.1228.22 crores against the anticipated receipts of Rs.1246.20 crores. The total receipts during the year registered an increase of 30.54 per cent over those of 1985-86 (Rs.940.84 crores). Out of the total receipts, revenue raised by State Government amounted to Rs.496.14 crores, of which tax revenue accounted for Rs.337.84 crores and balance of Rs.158.30 crores from non-tax revenue. Receipts from Government of India amounted to Rs.732.08 crores.

2.2 Analysis of Revenue Receipts

(a) An analysis of the receipts during the year 1986-87 alongwith the corresponding figures for the preceding two years, is given below:

	1984-85	1985-86	1986-87
	(In crores of rupees)		
I Revenue raised by State Government			
(a) Tax Revenue	234.93	285.90	337.84
(b) Non-Tax Revenue	<u>113.89</u>	<u>130.60</u>	<u>158.30</u>
Total	<u>348.82</u>	<u>416.50</u>	<u>496.14</u>
II Receipts from the Government of India			
(a) State's share of divisible Union Taxes	284.11	275.54	414.39
(b) Grants-in-aid	<u>190.58</u>	<u>248.80</u>	<u>317.69</u>
Total	<u>474.69</u>	<u>524.34</u>	<u>732.08</u>
III Total Receipts of the State (I+II)	823.51	940.84	1228.22
IV Percentage of I to III	42.35	44.3	40.39

Thus, the State mobilised 40.39 per cent of its total receipts for 1986-87 and the remaining 59.61 per cent came from the Union Government.

(b) *Tax revenue raised by the State*

Receipts from tax revenue constituted about 68.09 per cent of the State's own revenue receipts during the year 1986-87. An analysis of the tax revenue for the year 1986-87 and the preceding two years, is given below:

	1984-85	1985-86	1986-87	Increase(+) Decrease(-) in 1986-87 with refer- ence to 1985-86
	(In crores of rupees)			
1. Land Revenue	13.06	15.92	20.81	(+) 4.89
2. Stamp and Registra- tion Fees	14.31	17.29	20.35	(+) 3.06
3. State Excise	18.73	21.63	22.83	(+) 1.20
4. Sales Tax	126.23	148.35	176.14	(+)27.79
5. Taxes on Vehicles	16.24	25.29	31.84	(+) 6.55
6. Taxes on Goods and Passengers	9.78	2.54	0.19	(-) 2.35
7. Taxes and Duties on Electricity	32.44	49.81	60.18	(+)10.37
8. Other Taxes and Duties on Commodities and Services	4.14	5.07	5.50	(+) 0.43
Total	<u>234.93</u>	<u>285.90</u>	<u>337.84</u>	<u>(+)51.94</u>

The increase of Rs.27.79 crores under "Sales Tax" was stated to be due to increase in demands on work contracts.

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

Interest, Education, Public Health, Sanitation and Water Supply, Forest, Mines and Minerals, Irrigation, Navigation, Drainage and Flood Control Projects, Police were the principal sources of non-tax revenue during 1986-87 which constituted about 31.77 per cent of the total revenue raised by the State. An analysis of non-tax revenue under the principal heads for the year 1986-87 and the preceding two years is given below:

	1984-85	1985-86	1986-87	Increase(+) Decrease(-) in 1986-87 with refer- ence to 1985-86
(In crores of rupees)				
1. Interest	21.59	11.16	12.48	(+) 1.32
2. Education	4.64	3.69	3.69	
3. Public Health Sanitation and Water Supply	2.41	2.83	3.26	(+) 0.43
4. Forest	50.22	48.43	49.94	(+) 1.51
5. Irrigation, Navigation, Drainage and Flood Control Projects	3.45	4.71	4.43	(-) 0.28
6. Mines and Minerals	7.90	9.75	13.82	(+) 4.07
7. Police	2.91	1.81	2.92	(+) 1.11
8. Others	20.77	48.22	67.76	(+) 19.54
Total	<u>113.89</u>	<u>130.60</u>	<u>158.30</u>	<u>(+)27.70</u>

2.3 Variations between Budget/Revised estimates and actuals

(a) The variations between the Budget estimates and actuals of tax revenue and non-tax revenue during the year 1986-87 are given below:

	Budget estimate	Revised estimate	Actuals	Variation increase(+) decrease(-) with reference to Revised Estimate	Percentage of variation
(In crores of rupees)					
A. Tax Revenue	377.61	381.82	337.84	(-)43.98	(-)11.52
B. Non-Tax Revenue	151.50	157.71	158.30	(+) 0.59	(+) 0.37

The total variation between the Revised Estimate and the actuals during 1986-87 was Rs.43.39 crores and it was made up of a short fall of Rs.43.98 crores (11.52 per cent) under tax revenue and an increase of Rs.0.59 crore(0.37 per cent) under non-tax revenue.

(b) Variation between Budget/Revised estimates and actuals under the principal heads of revenue are given in the following page.

Heads of revenue	Budget estimates	Revised estimates	Actuals	Variation increase(+) decrease(-) with reference to revised estimates (5)	Percentage of variation with reference to revised estimates (6)
(1)	(2) (In crores	(3) of rupees)	(4)	(5)	(6)
1. Land Revenue	18.96	21.84	20.81	(-) 1.03	(-) 4.72
2. Stamps and Registration Fees	16.07	17.58	20.35	(+) 2.77	(+) 15.76
3. State Excise	22.85	24.29	22.83	(-) 1.46	(-) .01
4. Sales Tax	195.00	194.85	176.14	(-)18.71	(-) 9.60
5. Taxes on Vehicles	33.26	33.26	31.84	(-) 1.42	(-) 4.27
6. Taxes and Duties on Electricity	83.99	83.99	60.18	(-)23.81	(-)28.35
7. Interest	22.47	26.47	12.48	(-)13.98	(-)52.85
8. Education	4.60	4.83	3.69	(-) 0.94	(-)19.46
9. Forest	56.00	53.85	49.94	(-) 4.91	(-) 9.12
10. Mines and Minerals	10.33	12.22	13.82	(+) 1.60	(+)13.09
11. Police	2.79	2.79	2.92	(+) 0.13	(+) 4.66

The shortfall of revenue was more than 10 per cent under "Taxes and Duties on Electricity" (28.35 per cent) "Interest" (52.85 per cent) and "Education" (19.46 per cent), shortfall under "Forest" was stated to be due to a ban on the auction sale of fire-wood by Government and conservation of trees and less collection of Minor forest produce. Reasons for the shortfall under

the other heads were not given (December 1987) by the concerned departments.

The increase in collection under "Mines and Minerals" (13.09 per cent) was stated by the department (November 1987) to be due to collection of arrear dues. Reasons for increase of receipts under "Stamps and Registration Fees" (15.76 per cent) were not given by the Department (December 1987).

2.4 Cost of collection

Expenditure incurred in collecting the major revenue receipts during the year 1986-87 and the corresponding figures for the preceding two years are given below:

Head of Account	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
		(In crores of rupees)		
1. Land Revenue*	1984-85	13.06	25.96	198.7
	1985-86	15.92	28.61	179.7
	1986-87	20.81	33.68	161.8
2. Stamp and Registration Fees	1984-85	14.31	1.25	8.7
	1985-86	17.29	1.63	9.4
	1986-87	20.35	2.15	10.6
3. State Excise	1984-85	18.73	1.59	8.5
	1985-86	21.63	1.84	8.5
	1986-87	22.83	2.11	9.2
4. Sales Tax	1984-85	126.23	3.32	2.5
	1985-86	148.35	3.72	2.5
	1986-87	176.14	4.54	2.5

* The expenditure incurred under "Land Revenue" and "Forest" were not only for collection of revenue but also for other administrative functions. *Pro rata* distribution of expenditure to collection of revenue has not been received from the concerned departments (December 1987).

Head of Account	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
(In crores of rupees)				
5. Taxes on Vehicles	1984-85	16.24	0.52	3.2
	1985-86	25.29	0.59	2.3
	1986-87	31.84	0.71	2.2
6. Taxes and Duties on Electricity	1984-85	32.44	0.12	0.4
	1985-86	49.81	0.13	0.3
	1986-87	60.18	0.19	0.3
7. Forest*	1984-85	50.22	7.41	14.8
	1985-86	48.43	9.08	18.7
	1986-87	49.94	9.90	19.8

2.5 Arrears in assessment of Sales Tax

The number of assessments of Sales Tax cases finalised by the department and the assessments pending finalisation as at the end of March 1987 and the preceding year, as reported by the department, are indicated below:

Year	Number of cases due for assessment	Number of assessments completed	Number of assessments pending at the end of the year	percentage of pending cases to total cases
1985-86	Arrear cases	1,26,434		
	Current cases	1,55,495	1,38,534**	
	Remand cases	12,995		
		<u>2,94,924</u>	<u>1,38,534</u>	<u>1,56,390</u>

* The expenditure incurred under "Land Revenue" and "Forest" were not only for collection of revenue but also for other administrative functions. *Pro rata* distribution of expenditure to collection of revenue has not been received from the concerned departments (December 1987).

** Bifurcation of arrear cases, current cases and remand cases was not available.

Year	Number of cases due for assessment	Number of assessments completed	Number of assessments pending at the end of the year	Percentage of pending cases to total cases	
1986-87	Arrear cases				
	Current cases	3,29,267*	1,63,020*	1,66,247*	50.49
	Remand cases				

The arrears in assessment increased from 1,56,390 cases as at the end of March 1986 to 1,66,247 cases as at the end of March 1987. The year-wise break-up of the pending cases could not be made available by the department (October 1987).

2.6 Arrears in disposal of Sales Tax refund cases

The position of pendency of refund cases at the end of March 1987, as reported by the Department, is indicated below:

	Number of cases	Amount involved (In lakhs of rupees)
(i) Refund cases pending on 1st April 1986	1709	264.80
(ii) Claims received during the year	<u>1996</u>	<u>304.11</u>
Total	<u>3705</u>	<u>568.91</u>

* Bifurcation of arrear cases, current cases and remand cases was

	Number of cases	Amount involved (In lakhs of rupees)
(iii) Cases disposed of during the year	1607	277.55
(iv) Balance of the cases at the end of March 1987	2098	291.36

2.7 Uncollected revenue

According to the information furnished by the departments, detailed analysis of arrears of revenue pending collection at the end of March 1987 in respect of the principal sources of revenue are given below. For purposes of comparison, arrears as at the end of March 1986 have also been indicated.

Source of revenue	Amount of arrears pending collection as on 31st March 1986 (In lakhs of rupees)	Amount of arrears pending collection as on 31st March 1987 (In lakhs of rupees)	Remarks
1. Sales Tax	4216.11	12393.22	The increase in arrears was stated to be due to increase in demand particularly on works contracts and that most of the demands relating to works contracts are pending in appeals at various stages.
2. Taxes and Duties on Electricity	2207.21	3114.18	The year-wise break-up of the arrears was not available. Out of Rs.3114.18 lakhs, demand for Rs.470.64 lakhs was

Source of revenue	Amount of arrears pending collection as on 31st March 1986	Amount of arrears pending collection as on 31st March 1987	Remarks
	(In lakhs of	rupees)	<p>outstanding against M/S Orient Paper Mills which was sub-judice by 31.3.1987 and was decided in favour of Government by the Hon'ble Supreme Court of India during 1987-88. A sum of Rs.4.23 lakhs had been covered by certificate proceedings. Demands for Rs.371.79 lakhs were under dispute. Action for recovery of the remaining arrears of Rs.2267.52 lakhs was yet to be taken. The arrears were outstanding against Orissa State Electricity Board (Rs.2299.50 lakhs) other appointed authorities (Rs.24.35 lakhs) and the following captive generators (Rs.790.33 lakhs).</p>

Source of revenue	Amount of arrears pending collection as on 31st March 1986 (In lakhs of	Amount of arrears pending collection as on 31st March 1987 rupees)	Remarks
			Amount (In lakhs of rupees)
			1.Orient Paper Mills, Brajrajnagar 470.64
			2.Fertiliser Corporation of India, Talcher 164.72
			3.Orissa Textile Mills, Choudwar 119.41
			4.Titagarh Paper Mills, Choudwar 25.37
			5.Straw Products, Rayagada 10.19
3.Land Revenue	455.08	468.23	

The year-wise break up of the arrears was not available. Category-wise break-up of the arrears at the end of March 1987 is indi-

Source of Revenue	Amount of arrears pending collection as on 31st March 1986 (In lakhs of	Amount of arrears pending collection as on 31st March 1987 rupees)	Remarks
			cated below:
			Rent 116.02 lakhs
			Cess 166.23 lakhs
			Nister cess 5.19 lakhs
			Sairat 33.74 lakhs
			Miscellaneous revenue <u>147.05 lakhs</u>
			Total Rs.468.23 lakhs
4.State Excise	40.98	47.07	The arrears pertained to the period from 1947-48 onwards and the accumulated arrears upto 1984-85 amounted to Rs.39.46 lakhs. Rs.1.13 lakhs and Rs.6.48 lakhs pertained to the years 1985-86 and 1986-87 respectively. Out of the arrears, recovery of Rs.7.16 lakhs had been stayed by High Court and other judicial authorities, Rs.2.14 lakhs are proposed to be written off, Rs.33.37 lakhs are covered by certificate proceeding

Source of Revenue	Amount of arrears pending collection as on 31st March 1986 (In lakhs of	Amount of arrears pending collection as on 31st March 1987 rupees)	Remarks
5. Mines and Minerals	215.67	247.59	and the balance of arrears of Rs.4.39 lakhs are under the process of realization. The arrears as on 31st March 1987 pertained to the period pre-1962 and onwards. Out of Rs.247.59 lakhs, demands covered by certificate proceedings amounted to Rs.87.68 lakhs; demands stayed by the Highcourt amounted to Rs.17.28 lakhs, demands under dispute were Rs.8.17 lakhs; demands proposed to be written off were Rs.34.45 lakhs and demands under recovery at various stages amounted to Rs.100.01 lakhs. Of the total arrears, Rs.126.38 lakhs were outstanding against 12 parties.
6. Police	169.34	262.19	The year-wise break-up of arrears was not furnished by the department. Substantial arrears were outstanding against

Source of Revenue	Amount of arrears pending collection as on 31st March 1986 (In lakhs of	Amount of arrears pending collection as on 31st March 1987 rupees)	Remarks
			Government of Assam (Rs. 35.59 lakhs), Government of West Bengal (Rs. 12.52 lakhs), Government of Andhra Pradesh (Rs. 16.37 lakhs), South Eastern Railways (Rs. 57.94 lakhs), Machhkund Hydro-Electricity Project (Rs. 19.76 lakhs) and State Bank of India (Rs. 17.06 lakhs).
7. Interest* (a) Interest payable by Orissa State Electricity Board	8 175.28	10783.63	The arrears amounting to Rs. 10783.65 lakhs outstanding at the end of March 1987 represent interest in respect of Talcher Thermal Power Station. Year-wise break-up is furnished below: upto 1984-85 Rs. 8701.59 1985-86 Rs. 816.69 1986-87 Rs. 1265.35 <u>Rs. 10783.63</u>

* Total amount outstanding under the head Interest was not furnished by Finance Department. However, the figures under Sub-items (a) (b) and (c) were furnished by Administrative Departments.

Source of Revenue	Amount of arrears pending collection as on 31st March 1986 (In lakhs of	Amount of arrears pending collection as on 31st March 1987 rupees)	Remarks
(b) Interest on loans for community development	46.58	61.17	The outstanding amount pertains to the 13(thirteen) types of loans granted prior to 1968-69. No overdue amount has been written off. A sum of Rs.15.58 lakhs was under certificate proceedings.
(c) Interest on loans by Industries Department	185.04	408.13	Year-wise break-up Upto 1984-85 Rs.304.88 1985-86 Rs. 47.57 1986-87 Rs. 55.68 <u>Rs.408.13</u>

The amounts are recoverable from Cooperative Societies (Rs.69.27 lakhs), Orissa Small Industries Corporation (Rs.65.70 lakhs), Orissa Agro Industries Corporation (Rs.66.97 lakhs), Industrial Promotion & Investment Corporation Ltd. (Rs.6.88 lakhs), Orissa State Financial Corporation (Rs.74.41 lakhs) and other bodies (Rs.124.90 lakhs).

Source of Revenue	Amount of arrears pending collection as on 31st March 1986 (In lakhs of rupees)	Amount of arrears pending collection as on 31st March 1987 (In lakhs of rupees)	Remarks
8. Stationery and printing	63.23	58.98	<p>The arrears of Rs.5.47 lakhs pertained to the period upto 1974-75, Rs.31.87 lakhs for the years 1975-76 to 1984-85 and Rs.21.64 lakhs for the year 1985-86. The item-wise break-up of the arrears as furnished by the Department (July 1987) is given below:</p> <p>i) Stationery receipts Rs.23.26 lakhs</p> <p>ii) Sale of Gazettes etc., Rs. 0.37 lakh</p> <p>iii) Press receipts Rs.33.74 lakhs</p> <p>iv) Other receipts Rs. 1.61 lakhs</p> <p style="text-align: right;"><u>Rs.58.98 lakhs</u></p>
9. Forest	Not available	1175.66	<p>The year-wise break-up of arrears was not available. Arrears exceeding Rs.2 lakhs were outstanding against each of the following Government Companies and other parties.</p>

Source of Revenue	Amount of arrears pending collection as on 31st March 1986 (In lakhs of rupees)	Amount of arrears pending collection as on 31st March 1987 (In lakhs of rupees)	Remarks
			(i) Similipahar Forest Development Corporation (ii) Orissa Forest Corporation Limited (iii) Tribal Development Co-operative Corporation, Aska, (iv) Multi-purpose Co-operatives (v) Titagarh Paper Mills (vi) Orient Paper Mills and (vii) Orissa Straw Product Limited. Of the arrears, Rs. 107.25 lakhs is said to have been covered under certificate proceedings and Rs. 1068.41 lakhs under disputes.

Information regarding the arrears of revenue pending collection at the end of March 1987 and their year-wise break-up etc., in respect of Interest and Taxes on Vehicles, called for from the Department (May 1987) has not been received (December 1987).

2.8 Outstanding Inspection Reports

(a) Important irregularities and defects in assessment, demand, collection and accounting of State receipts, noticed during local audit, are intimated through Inspection

Reports to the departmental officers, heads of departments and also to Government, where necessary, with the request to furnish replies thereto within a month of their receipts. In addition, statements showing details of audit objections remaining outstanding for more than six months are sent to Government every six months in May and November, so that these may receive special attention.

(b) At the end of September 1987, 2,772 Inspection Reports (containing 10,920 audit objections involving receipts of Rs.5408.72 lakhs) issued upto March 1987 were awaiting settlement, as shown below. The corresponding figures for the earlier two years have also been indicated.

As at the end of September	Number of outstanding Inspection Reports	Audit objections	Revenue involved (In lakhs of rupees)
1985	2,466	10,301	37,84.40
1986	2,647	10,555	47,60.29
1987	2,772	10,920	54,08.72

Year-wise break-up of the outstandings as at the end of September 1987 is given below:

Upto 1984-85	2,240	8,352	35,21.42
1985-86	291	1,292	10,31.24
1986-87	241	1,276	8,56.06
	<u>2,772</u>	<u>10,920</u>	<u>54,08.72</u>

(c) the department-wise break-up is given below:

Department	Nature of receipts	Number of reports	Number of Audit objections	Revenue involved (In lakhs of rupees)
Revenue and Excise	Land Revenue	641	1927	2170.49
	Stamp and Registration Fees	446	714	6.94
	State Excise	118	485	615.40
Finance	Sales Tax	509	3445	555.12
	Entertainment Tax	217	458	7.49
Commerce and Transport (Transport)	Taxes on Vehicles	217	1887	395.47
	Taxes on Passengers	128	413	631.45
Forest, Fisheries and Animal Husbandry (Forest)	Forest	366	1318	541.02
Mining and Geology	Mining Receipts	130	273	485.34

(d) Out of 2,772 reports, issued upto March 1987 in respect of 205 reports containing 1073 audit objections even first replies had not been received till 30th September 1987. The extent of delay in receipt of replies in these cases is shown below:

Period of delay	Number of Inspection Reports	Number of outstanding Audit objections	Revenue involved (In lakhs of rupees)
Upto 6 months	50	154	2,84.56
Over 6 months and upto 12 months	59	316	1,71.03
Over 12 months and upto 18 months	55	275	2,48.02
Over 18 months and upto 24 months	23	163	1,52.27
Over 24 months	18	165	52.48
Total	<u>205</u>	<u>1,073</u>	<u>9,08.36</u>

The position referred to in the foregoing paragraphs was reported to Government in December 1987 their reply has not been received (December 1987).

CHAPTER 3 SALES TAX

3.1. Results of Audit

A test check of sales tax assessment and refund cases and the connected documents of the Commercial Tax Offices, conducted in audit during the period from April 1986 to March 1987, revealed under-assessment of tax and losses of revenue amounting to Rs. 178.17 lakhs in 1,415 cases, which may be broadly categorised as under:

	Number of cases	Number (In lakhs of rupees)
1. Short-levy due to incorrect computation of taxable turnover	116	29.25
2. Under-assessments due to application of incorrect rates of tax	233	40.44
3. Irregular grant of exemption from tax	417	46.99
4. Non-levy of interest	565	6.18
5. Other cases	84	55.31
	1,415	178.17

Some of the important cases are mentioned in the succeeding paragraphs.

3.2 Irregular exemption from tax

(i) As per entry 26 of the Rate Chart of tax-free goods, purchase/sale of raw materials (i.e. goods which directly go into the composition of finished products) made by/to a registered dealer who is a manufacturer

inside the State and who started production prior to the 1st April 1977, is exempted from tax for a period of 5 years provided that a declaration in the prescribed form (i.e. Form-I) indicating that the goods shall be used as raw materials for the purpose of manufacture and that the finished product shall be sold inside Orissa or in the course of inter-State trade or commerce or export, is furnished. As per entry 8A of the Rate Chart of tax-free goods, the sale of *dal* and *besan* obtained from pulses that have met tax under the Orissa Sales Tax Act is exempted from tax. As per entry 27 of the Rate Chart of goods liable to sales tax, *dal* and *besan* when obtained from pulses that have not suffered tax earlier, is subject to tax at 4 per cent.

(a) In Puri-II Circle, it was noticed (March 1987) that in the original assessment of a manufacturing dealer for the year 1978-79 sales turnover of *dal* valuing Rs.7.03 lakhs was exempted (June 1980) on the ground that the pulses from which the said *dal* was obtained had suffered tax as per entry 8A. Later on, based on the orders (September 1983) of Appellate Authority the dealer was re-assessed (February 1986) and the purchase turnover of pulses was exempted from tax accepting declarations in Form I furnished by the dealer. The purchase value of *dal* was not, however, brought to tax at this stage as per Entry 27. This resulted in under-assessment of tax of Rs.0.28 lakh (@ 4 per cent), computed on the purchase value of *dals* only in the absence of sale turnover.

On this being pointed out in audit (March 1987) the Assessing authority stated (March 1987) that reassessment was done according to the directions of the Appellate Authority, and that this point would be referred to higher authorities.

The matter was reported to Government in May 1987; their reply has not been received (February 1988).

(b) In Cuttack I (Central Circle) it was noticed (September 1986) that sale of *besan* valuing Rs.3.26 lakhs effected by a dealer during the year 1984-85 was exempted from levy of tax though it was obtained from pulses that had not suffered tax. This irregular exemption resulted in short levy of tax amounting to Rs.0.15 lakh (including additional sales tax).

On this being pointed out in Audit (September 1986), the assessing officer raised (March 1987) a demand of Rs.0.13 lakh excluding additional sales tax. Report regarding levy of additional sales tax has not been received (February 1988).

The matter was reported to Government in March 1987; their reply has not been received (February 1988).

(ii) As per Item 26-A of Rate Chart of Tax-free goods, purchase or sale of raw material i.e. goods which directly go into the composition of finished products when sold to or purchased by a registered dealer who is certified by the Director of Industries as a village/cottage/small scale industry starting production on or after 1st August 1980 is exempt from tax provided, the finished product is sold inside the State or in the course of inter-State trade or export as per declaration furnished in Form I-A by the manufacturing dealer. The exemption is allowable for a period of five years from the date of certification of the unit by the Director of Industries. Purchase tax on oil seeds is 4 per cent with effect from 1st April 1982.

(a) In Dhenkanal Circle, an assessee's purchases of oil seeds valuing Rs.5,96,710 during 1984-85 from cultivators for extraction of oil were allowed as tax free against the prescribed declarations in Form I-A. However, the relevant declarations revealed that the dealer was certified by the Director of Industries as a small scale industry only with effect from 16th

February 1985. The above purchases were inclusive of Rs.3,17,610 being purchases made prior to the said date. The irregular exemption resulted in tax being levied short by Rs.14,292 (inclusive of additional sales tax).

On this being pointed out in audit (September 1986), the assessing officer re-opened (October 1986) the case. Further report has not been received (February 1988).

The matter was reported to Government in January 1987; their reply has not been received (February 1988)

(a) In Sambalpur I Circle, sale of "sisal fibre" valued at Rs.5.72 lakhs effected during 1982-83 to a small scale industry which started production prior to 1st August 1980 was exempted from levy of tax. The irregular exemption resulted in a short-levy of tax of Rs.0.49 lakh (including additional sales tax).

On this being pointed out in audit (August 1986), the assessing officer agreed (August 1986) to reopen the case. Further report has not been received (February 1988).

The matter was reported to Government in November 1986; their reply has not been received (February 1988).

3.3 Short levy of tax due to incorrect determination of the taxable turnover

(i) Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of a works contract shall be deemed to be the gross sale value received and receivable by the dealer for carrying out such contract, less the amount of labour charges incurred for the execution

of the contract. Under the Orissa Additional Sales Tax Act 1975, as amended from 1st April 1979 additional sales tax at 0.5 per cent is leviable on the annual gross turnover of the dealer, provided that no such tax shall be leviable on that part of the gross turnover, which relate to sale or purchase of declared goods and tax-free goods.

In Ganjam I Circle, it was noticed (February 1987) that, in the assessment of a dealer (works contractor) for the year 1984-85, a sum of Rs.3.95 lakhs was deducted from the gross value of the work towards cost of materials supplied by the contractee (a Government of India Undertaking). This inadmissible deduction resulted in sales tax being levied short by Rs.0.16 lakhs.

Further it was noticed that the dealer was allowed deduction of a total sum of Rs.4.78 lakhs from the gross turnover towards cost of materials supplied and labour charges, for the purpose of determining the liability to pay additional sales tax. The irregular deduction resulted in an underassessment of additional sales tax amounting to Rs.0.02 lakh.

On this being pointed out in audit (February 1987), the assessing officer agreed (March 1987) to re-examine the case. Further report has not been received (February 1988).

The matter was reported to Government in July 1987; their reply has not been received (February 1988).

(ii) Under the Central Sales Tax Act 1956, in determining the turnover of a dealer for the purpose of levying tax, deduction of the amount of sales tax collected by him shall be made from the aggregate of the sale price by applying a formula prescribed therein. It has been judicially held* that the formula has no

* Rallis India Ltd, is State of Andhra Pradesh(1983) 53-51c-267 (AP).

application when the aggregate sale price does not include the central sales tax.

In Kalahandi Circle, in the assessment of two dealers for the years 1983-84 and 1984-85, the turnover was determined by allowing a deduction of Rs.4.30 lakhs towards central sales tax collected by applying this formula; even though, the aggregate sale prices did not include the element of central sales tax. This resulted in short determination of the turnover, involving an under-assessment of central sales tax amounting to Rs.0.17 lakh.

On this being pointed out in audit, (January 1987), the Assessing Officer agreed (February 1987) to reopen the case. Further report has not been received (February 1988).

The cases were reported to Government in May 1987; their reply has not been received (February 1988).

3.4 Escapement of taxable turnover resulting in under-assessment of tax

(i) Under Section 12(4) of the Orissa Sales Tax Act, 1947, if a registered dealer does not furnish returns in respect of any period by the prescribed date, the assessing officer shall, after giving the dealer a reasonable opportunity of being heard, assess the dealer to tax in respect of such period to the best of his judgement.

In Cuttack-I (East) Circle, the assessing officer assessed a registered dealer in grocery goods to tax for the year 1983-84 *ex-parte* on best judgement basis with the help of the materials available in the assessment record. In doing so, the taxable turnover was reckoned as Rs.103.00 lakhs instead of the correctly determined turnover of Rs.106.00 lakhs. This resulted in escapement of taxable turnover of Rs.3.00 lakhs and consequential under-assessment of tax of Rs.0.24 lakh.

On the mistake being pointed out in audit (July 1986) the assessing officer raised (July 1986) additional demand of Rs.0.24 lakh. Report on recovery has not been received (February 1988).

The matter was reported to Government in October 1986; their reply has not been received (February 1988).

(ii) Under Section 4(2) of the Orissa Sales Tax Act, 1947 the tax-liability of an unregistered dealer commences with effect from the month following a period not exceeding twelve months during which his gross turnover exceeds Rs.50,000. The term 'sale' includes transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract. Under the provisions of the Act, the 'taxable turnover' in respect of "works contract" shall be determined by deducting the amount of labour charges and service charges incurred for the execution of the contract from the gross value of the works contract. The turnover so arrived at is taxable at a flat rate of 4 per cent.

In Ganjam-I Circle, an assessee undertook two works contracts - one in 1982-83 and the other in 1983-84. The records of the circle revealed that the assessee was assessed (28th September 1985 and 8th January 1986 in respect of the 1983-84 contract only) to tax as a case of escaped turnover relating to an un-registered dealer under Section 12(5) of the Act for the quarters ending 31st December 1984 to 31st December 1985; the payment of Rs.5,26,000 received by the assessee in November 1984 relating to 1983-84 contract was not considered for assessment as his liability to pay tax was fixed only with effect from 1st December 1984.

Further, the assessment records revealed that the Vigilance Wing of the Department had intimated

(6th September 1985) that the assessee had executed another contract in 1982-83 and had received a total payment of Rs.1,02,14,000 during 28th April 1984 to 31st March 1985 (the first payment of Rs.10,99,000 was received on 28th April 1984 by the assessee) and thus the liability of the dealer to pay tax ensued with effect from 1st May 1984. But the report was not considered by the assessing authority stating that the dealer was already assessed upto December 1985. This resulted in fixation of liability with effect from 1st December 1984 instead of from 1st May 1984 resulting in an escapement of taxable turnover amounting to Rs.57.85 lakhs (60 per cent of Rs.96.41 lakhs). The short levy of sales tax relating to both the contracts aggregated to Rs.2.79 lakhs (including additional sales tax).

On the omission being pointed out in audit (September 1986), the assessments for both the years (1984-85 and 1985-86) were reopened, deduction of 32 per cent only was allowed on account of labour charges from the gross value of the work as against 40 per cent allowed earlier. A demand of Rs.3.77 lakhs (including Rs.0.73 lakh towards additional sales tax) was also raised as intimated (June 1987) by the department.

The matter was reported to Government in January 1987; their reply has not been received (February 1988).

(iii) Under Section 5(1) of the Orissa Sales Tax Act, 1947, the State Government can notify the rate of tax subject to the conditions prescribed. Accordingly, under notification (22nd March 1982), purchase tax is payable at 10 per cent on standing trees agreed to be severed. However, it has been held* by the Hon'ble Supreme Court that timber contracts were not transactions

* State of Orissa Vrs.M/s. Titagarh Paper Mills Ltd. and another
1985-60-STC-213(S.C.)

of sale or purchase of standing trees agreed to be severed; they were mere agreements for sale of such trees. In Orissa each stage of felling and removal operations was governed by the Forest Contract Rules and was under the control and supervision of the Forest Officers. Tax on sale of timber after such felling and removal operations is leviable at 8 per cent under the residual item 101 of another notification dated 22nd March 1982.

In the course of audit of Kalahandi Circle, it was noticed (January 1987) that the consideration money amounting to Rs.129.52 lakhs received by the Divisional Forest Officer during 1982-83 in respect of a sale of 83 forest coupes where the timber available therefrom had been removed, was not assessed to sale tax, though the assessment for this year was completed on 24th February 1986. The escapement of this turnover had resulted in a short levy of tax amounting to Rs.11.01 lakhs (including additional sales tax of Rs.0.65 lakh).

On the omission being pointed out in audit (January 1987) the case was reopened (February 1987) Further report has not been received (February 1988).

The matter was reported to Government in May 1987 and in their reply (November 1987), it was stated that demand for Rs.11.01 lakhs were raised under both the Acts (i.e. O.S.T. & O.A.S.T) on 31.7.1987 against the Divisional Forest Officer, Kalahandi Division and the notices had been served on 7th August 1987.

(iv) In Sambalpur-I Circle, it was noticed (August 1986) that an assessee, (a manufacturer of iron rods) omitted to include a portion of the sale turnover of finished goods valuing Rs.3.65 lakhs in respect of the year 1984-85 in his returns which he disclosed in a separate sale statement of finished goods for the year 1984-85. While completing the assessment, the Assessing Officer also did not take into account the turnover reported separately for assessment which resulted in

escapement of taxable turnover of Rs.3.65 lakhs and short-levy of tax of Rs.0.15 lakh.

(v) In Rourkela-I Circle, it was noticed (July 1986), that a dealer in grocery, had sold empty tins valuing Rs.1.46 lakhs during the year 1983-84 as per sale statement filed by the dealer separately. This sales turnover was neither included by the dealer in the gross turnover, nor was it taken into consideration by the assessing officer at the time of assessment for the year 1983-84, and escaped assessment, resulting in an under-assessment of tax of Rs.0.12 lakh (8 per cent as an unspecified item).

On the omissions being pointed out in audit (July and August 1986), the assessing officers agreed (July-September 1986) to reopen the case. Further report has not been received (February 1988).

The cases were reported to Government in December 1986; their reply has not been received (February 1988).

3.5 Allowance of fictitious sales to a registered dealer

Under the Orissa Sales Tax Act 1947, sales by one registered dealer to another registered dealer are allowed as deduction from the gross turnover of the seller, if he furnishes declarations in Form XXXIV obtained from the purchasing dealer to the effect that the goods purchased by him were meant for resale in Orissa. It has been further provided that if any dealer knowingly produces incorrect accounts, registers, or documents or knowingly furnishes, incorrect information, he/she shall be punishable with imprisonment of either description for a term which may extend to two years or with fine or both. Executive Instructions were issued during 1963 impressing upon all the Assessing Officers to take up prompt cross verification of sales to registered dealers with reference to the books of accounts of the purchasing dealers to prevent deduction being allowed in respect of fictitious sales if any.

In Cuttack-I(East) Circle the assessment of a selling dealer of groceries for the year 1983-84 was completed (December 1984) after allowing deductions for sales of Rs.10.35 lakhs to another registered dealer in Cuttack-I(West) Circle against 4 declarations in Form XXXIV. It was, however, seen from the Assessment records of the selling dealer that a verification report (April 1984) had been sent by Cuttack-I(West) Circle indicating that barring a petty sum of Rs.228.50 no other purchases were actually made by the purchaser. It was further alleged in this report that the sales shown as made to the purchasing dealer were fictitious and that the declarations in Form XXXIV filed by the selling dealer were forged. This report was not however, taken note of by the assessing officer and the deduction was allowed. The allowance of fictitious sales taxable at the general rate of 4 per cent despite the verification report resulted in non-levy of tax of Rs.0.41 lakh.

On this being pointed out in audit (April 1986), the assessing officer agreed (August 1986) to examine the case. Further, report has not been received (February 1988).

The case was reported to Government in October 1986; their reply has not been received (February 1988).

3.6 Short levy due to irregular allowance of concessional rate of tax

Under the Central Sales Tax Act 1956, sales of declared goods made to Government department/s in the course of inter-State trade or commerce are to be taxed at the concessional rate of 4 per cent provided they furnish certificates in Form 'D'. Otherwise, tax is leviable at twice the rate.

In Cuttack-II Circle, it was noticed that inter-State sales of steel pipes (declared goods) valuing

Rs.49.17 lakhs made during 1982-83 to two non-Governmental organisations was taxed at the concessional rate of 4 per cent on the basis of certificate in Form 'D'. As the sales were made to non-Government bodies the acceptance of Form 'D' was irregular and the sales were liable to be taxed at double the rates. This had resulted in a short levy of tax amounting to Rs.1.97 lakhs.

On this being pointed out in audit (December 1986), the department reopened (December 1986) the assessment in these cases. Further report has not been received (February 1988).

The matter was reported to Government in April 1987; their reply has not been received (February 1988).

3.7 Incorrect exemption of sales turnover

(i) According to item 39 of the Schedule of Rates of sales tax, effective from 1st April 1982, sale of goods made by one registered dealer to another registered dealer are to be taxed at a concessional rate of 4 per cent provided the goods are of the class or classes covered by the certificate of registration of the purchasing dealer, and are intended to be used by him in the manufacture or packing of goods for sale or in mining or in the generation or distribution of electricity and are supported by the prescribed declarations in Form IV.

In Cuttack II Circle, sales of goods valuing Rs.2.72 lakhs made by a registered dealer to another during 1984-85 against declarations in Form IV were totally exempted from levy of tax resulting in short levy of tax amounting to Rs.0.11 lakh. This indicated non-observance of the prescribed system/procedure.

On the mistake being pointed out in audit (December 1986), the assessing officer reopened (December 1986) the case, and raised the demand (31.3.1987) which was collected barring a sum of Rs.80.

The case was reported to Government in (April 1987); their reply has not been received (February 1988).

(ii) Under Section 8 of the Orissa Sales Tax Act, 1947, Government notified certain goods to be taxed at the first point in a series of sales. The Act provides by an amendment made with effect from 11th October 1983 that in respect of goods when tax is levied at the first point of sale, a dealer who sells such goods at a subsequent point shall not be allowed to claim deduction of the sale price of such goods from the gross turnover, unless he furnishes a declaration to that effect in the prescribed manner, form and time. However, no rules have so far been framed (May 1987) prescribing the form of declaration and other conditions. Further, the Orissa Commercial Tax Manual Volume III (Part A) lays down that although the burden is on the department to show that the turnover is liable to tax under the Act, the onus of showing that a particular turnover is exempt from taxation lies on the dealer.

In three Sales Tax Circles (Cuttack-I East, Koraput-I and Cuttack-I West) the assessments of three dealers, dealing in grocery were completed (January 1985, March 1985 and February 1986) *ex-parte* for the reason that they could not produce their books of accounts for verification; sales turnover amounting to Rs.34.20 lakhs pertaining to the years 1981-82 to 1983-84 was, however, allowed as deduction towards sales of first point tax-paid goods. As the assessing officers had no scope to verify while making the *ex-parte* assessments, whether the turnover correctly related to goods liable to be taxed at the first point, the deductions allowed was irregular and had resulted in an under-assessment of tax amounting to Rs.1.52 lakhs.

On this being pointed out in audit (February and May 1986); the assessing officers reopened (February 1986, March 1986 and May 1986) the cases for reassess-

ment. Further reports have not been received (February 1988).

The matter was reported to Government in June-August 1986; their reply has not been received (February 1988).

3.8 Non-levy of tax on inadmissible branch transfer

Under the Central Sales Tax Act, 1956, transfer of goods not by reason of sale by a registered dealer, to any place of business outside the State is exempt from tax on production of declaration in Form 'F' duly filled in and signed by the Principal Officer of the other place of business alongwith evidence of despatch of goods. Otherwise, the transfer shall be considered as a sale not supported by prescribed declaration made by the registered dealer in the course of inter-State trade or commerce and tax shall be levied at 8 per cent in respect of "declared goods", and in respect of other goods at the rate of 10 per cent or the rate applicable to sale of such goods inside the State whichever is higher.

In Koraput-I Circle, in the assessment of a dealer for the year 1984-85 a sum of Rs.1.53 lakhs being the purchase value of hides, skins (declared goods) and bones was exempted towards branch transfer though this was not supported by declaration in Form 'F' or any evidence of transfer of such goods. The assessment records showed that the movement of goods was occasioned in pursuance of and was incidental to a prior agreement of sale. The sale value of these goods, outside the State was shown as Rs.2.38 lakhs. The incorrect exemption had resulted in a non-levy of tax amounting to Rs.0.19 lakh.

On this being pointed out in audit (February 1987), the assessing officer agreed (February 1987), to reopen the case. Further report has not been received (February 1988).

The case was reported to Government in June 1987; their reply has not been received (February 1988).

3.9 Suppression of sales

Under the Orissa Sales Tax Act, every registered dealer is required to keep a true account of the value of goods, bought and sold by him. He shall, in addition, also maintain an annual account of the stock of goods purchased and sold by him showing the opening and closing balances at the beginning and close of each accounting year, which he follows. While passing the assessment order, if the assessing officer finds any concealment of purchases or sales, he shall reject the books of account, and assess the dealer, to the best of his judgement.

Government had declared (March 1979) "cycle and its component parts", as goods taxable at the first point of sale inside Orissa with effect from 1st April 1979. The notification also provided that dealers other than those by whom the sales of these goods are effected at the first point may for the purpose of computing their taxable turnover deduct from their gross turnover the sale turnover of such goods.

In Cuttack-II Circle the assessment of a dealer of cycle and cycle parts for the year 1984-85 was completed in July 1985 on best judgement basis accepting the gross turnover returned by him. On scrutiny of the assessment records for the years 1983-84 and 1984-85 it was seen that the closing stock as on 31st March 1985 in respect of the dealer had been shown as valued at Rs.0.99 lakh, while the same correctly worked out to Rs.3.55 lakhs on the basis of admitted purchase valuing Rs.16.94 lakhs and admitted sales turnover amounting to Rs.15.08 lakhs plus a 10 per cent profit margin. This indicated that a sale turnover of Rs.2.56 lakhs has been suppressed. This suppressed turnover of Rs.2.56 lakhs included a turnover of Rs.1.41 lakhs

on account of goods which have to be taxed at first point of sale at the hands of this dealer who purchased the stock from outside Orissa. This resulted in a short levy of Rs.12588 on the suppressed turnover of Rs.1.44 lakhs, including additional sales tax of Rs.1281 on the escaped sum of Rs.2.56 lakhs.

On this being pointed out in audit in November 1986 the department reopened the assessment and after a further scrutiny, raised a demand of Rs.16,838, including additional sales tax, applying a rate of profit of 15 per cent. Report on recovery of the amount has not been received (February 1988).

The case was reported to Government in April 1987; in their reply (September 1987) Government accepted the factual position.

3.10 Short levy due to wrong adoption of value of turnover

Under the Orissa Sales Tax Act, 1947, the State Government declare, by issue of notification, any goods to be liable to tax on turnover of purchases. The other goods are subjected to sales tax as notified by Government from time to time. "Pesticides" was not included in the purchase tax schedule upto 31st March 1984 and the same was taxable at sale point at 8 per cent as a residual item under "all other articles".

In Bhubaneswar Circle, sale of pesticides made by a dealer during the year 1983-84 was taxed at the purchase value of Rs.29.14 lakhs instead of its sale value. Considering a minimum margin of 5 per cent thereon towards expenses and profit of the dealer, a turnover of Rs.1.46 lakhs had remained unassessed resulting in short levy of tax amounting to Rs.0.12 lakh and indicated non-observance of the prescribed system/procedure.

On the omission being pointed out in audit (December 1985), the department reopened (September 1986) the assessment and after adding 10 per cent towards the margin to cover the element of expenses and normal profit, a turnover of Rs.2.91 lakhs was taxed and an additional demand of Rs.0.24 lakh was raised (September 1986) including additional sales tax. The demand raised has been realised in January 1987.

The case was reported to Government in August 1987; their reply has not been received (February 1988).

3.11 Omission to levy tax on goods not utilised for the declared purpose.

Under the Orissa Sales Tax Act, 1947, when a registered dealer purchases goods specified in his registration certificate without payment of tax, for resale in Orissa by furnishing a declaration to that effect in the prescribed forms, but utilises those goods for any other purpose, the price of the goods so purchased shall be included in his taxable turnover and he shall be liable to pay tax thereon.

In Rourkela Circle, four registered dealers purchased during the period 1982-83 to 1984-85 iron and steel goods valuing Rs.55.13 lakhs inside the State without payment of tax on furnishing the prescribed declaration, that the goods were meant for re-sale inside the State of Orissa. However, the dealers sold part of these goods in the course of inter-State trade or commerce for Rs.20.60 lakhs, the corresponding purchase value was estimated at Rs.19.07 lakhs which was includable in the taxable turnover but was not done so. This resulted in non-realisation of tax amounting to Rs.0.76 lakh (at 4 per cent).

On the omission being pointed out in audit (September 1986), the department re-opened (September 1986) the cases for re-assessment. Further report has

not been received (February 1988).

The cases were reported to Government in January 1987; their reply has not been received (February 1988).

3.12 Application of incorrect rate of tax

(i) Under the Orissa Sales Tax Act, 1947, tax on sale of minerals and dyes is leviable at the rate of 12 per cent with effect from 1st April 1982.

In Cuttack-I(Central) Circle, the taxable turnover of a dealer on account of sale of minerals and dyes for the year 1982-83 amounting to Rs.4 lakhs was taxed incorrectly at 8 per cent, instead of at the correct rate of 12 per cent. This resulted in short levy of tax of Rs.0.16 lakh.

On the mistake being pointed out in audit (September 1986), the assessing officer re-opened the case (September 1986). Further report has not been received (February 1988).

The matter was reported to Government in March 1987; their reply has not been received (February 1988).

(ii) According to a Government notification issued in March 1982, under the Orissa Sales Tax Act, 1947, on sale of goods which are not specified in the Schedule to the Act, tax is leviable at the general rate of 8 per cent with effect from 1st April 1982.

In the course of audit of check-gate assessment records of Sohella under Sambalpur Circle, it was noticed that in January 1986 a party transported through the check-gate, hose ISI pipes (P.V.C. Pipes) valuing Rs.3.80 lakhs. Tax on these was levied at 4 per cent instead of the correct rate of 8 per cent. Application of incorrect

rate of tax resulted in short-collection of tax of Rs.0.15 lakh (including additional sales tax).

On the mistake being pointed out in audit (October 1986), the Officer-in-charge of the check-post agreed (October 1986), to re-open the case and recover the amount. The reassessment was completed (January 1987) raising an extra demand of Rs.0.16 lakh, and report on recovery has not been received (February 1988).

The case was reported to Government in March 1987; their reply has not been received (February 1988).

(iii) (a) Under Central Sales Tax Act, 1956, where a sale of any goods in the course of inter-State trade has either occasioned the movement of such goods from one State to another, or has been effected by a transfer of documents of title to such goods, during their movement from one State to another, any subsequent sale of goods during such movement, to a registered dealer shall be exempted from tax provided the dealer affecting such subsequent sales furnishes to the assessing authority, a certificate in Form E.I or E.II from the registered dealer from whom such goods were purchased, and also a declaration in Form 'C' from the registered dealer to whom these goods were subsequently sold. It is also provided that, on inter-State sale of goods (other than declared goods), by a registered dealer to another registered dealer or to Government Department, tax is leviable at the rate of 4 per cent if such sales are supported by prescribed declarations in Form 'C' or 'D' respectively, otherwise tax is leviable at the rate of 10 per cent or at the rate leviable on sale of such goods within the State, whichever is higher.

In Sambalpur I Circle, a dealer sold "rice bran oil" valuing Rs.3.52 lakhs during 1982-83 in course of inter-State trade by transfer of documents of title to the goods, during their movement from one State to another. The dealer claimed exemption from payment

of tax on such sale, which was, however, not allowed on the ground that these were not supported by declarations in Form 'C'. But, tax was levied at 6 per cent on the ground that the dealer had already paid tax at 4 per cent to the dealer from whom the stock was purchased. When the sale by the assessee dealer had been treated as a separate sale and he had failed to comply with the condition prescribed for getting total exemption, the dealer was liable to pay tax at the appropriate rate (i.e. 10 per cent), and the tax paid at the earlier stage to the seller of "rice bran oil" was not adjustable. The application of the incorrect rate of tax had resulted in a short levy of tax amounting to Rs.0.14 lakh.

As the time limit for re-opening the assessment at the assessing officer's level was already over it was suggested (February 1987) to send the case for *suo-motu* revision to higher authorities. No reply has been received.

The matter was reported to Government in June 1987; their reply has not been received (February 1988).

(iii) (b) As per entry 77 of the Schedule of rates of tax under the Orissa Sales Tax Act, 1947, on sale of refractories, tax is leviable at 12 per cent with effect from 1st April 1982.

In Dhenkanal Circle, while finalising (August 1985 and February 1986) the assessments for the years 1982-83 and 1983-84 of a dealer, turnovers amounting to Rs.6.14 lakhs (inter-State Rs.1.57 lakhs in 1982-83 and Rs.2.95 lakhs in 1984-85 not supported by the prescribed declarations, inter-State Rs.1.62 lakhs in 1982-83) were assessed to tax at the rate of 10 per cent instead of at the correct rate of 12 per cent, resulting in short levy of tax by Rs.13,077 (including additional sales tax on inter-State sales).

On the omission being pointed out in audit (September 1986) the assessing officer agreed (October 1986) to re-open the cases. Further reports have not been received (February 1988).

The case was reported to Government in January 1987; their reply has not been received (February 1988).

3.13 Incorrect classification of goods

Under the Orissa Sales Tax Act, 1947, sales of vegetable seeds are taxable at 4 per cent whereas sales of green vegetables, including potatoes and onion are tax-free.

In Bhubaneswar-I Circle, an assessee (Orissa Seeds Corporation) sold potato seeds valuing Rs.3.12 lakhs during 1982. The sale was allowed as tax-free, treating the same as ordinary potatoes. Since the potato and potato seeds are two different commodities in commercial parlance, potato seeds were taxable at 4 per cent. The incorrect classification of goods resulted in non-levy of sales tax and additional sales tax amounting to Rs.0.14 lakh.

On this being pointed out in audit (August 1986), the assessing officer stated (May 1987) that a demand of Rs.16,941 had been raised (May 1987) both on account of Orissa Sales Tax and Orissa Additional Sales Tax against the assessee. Report on recovery has not been received (February 1988).

The case was reported to Government in September 1986; their reply has not been received (February 1988).

3.14 Short levy due to arithmetical mistakes

Under Section 12(4) of the Orissa Sales Tax Act, 1947, if a registered dealer does not furnish return in respect of any period by the prescribed date, the

assessing authority shall, after giving the dealer a reasonable opportunity of being heard, assess the dealer to tax in respect of such period to the best of his judgement.

(i) In Cuttack-I(East) Circle, the assessing officer assessed (January 1986) a registered dealer in grocery to tax on best judgement on the basis of available materials in respect of the year 1982-83. However, while computing tax at 8 per cent on the taxable turnover of Rs.50 lakhs, the amount was erroneously computed as Rs.2 lakhs instead of Rs.4 lakhs. This resulted in under assessment of tax by Rs.2 lakhs.

On the mistake being pointed out in audit (July 1986), the assessing officer rectified (August 1986), the mistake and raised a further demand for Rs.2 lakhs. Report on recovery has not been received (February 1988).

(ii) In Cuttack-II Circle, in the course of audit of an assessment of a dealer for the assessment year 1983-84 it was noticed (May 1986) that tax at 8 per cent on the taxable turnover of Rs.3 lakhs was erroneously computed as Rs.0.12 lakh instead of Rs.0.24 lakh. This resulted in under-assessment of tax of Rs.12,000.00.

On this being pointed out by audit (May 1986), the assessing officer raised (May 1986) additional demand. Report on recovery has not been received (February 1988).

The above cases were reported to Government in October 1986; their reply has not been received (February 1988).

(iii) In the course of audit of Bhubaneswar-II Circle it was noticed (June 1986) that while computing the taxable turnover of a dealer, after allowing deductions permissible under the Orissa Sales Tax Act, 1947, the taxable turnover was arrived at Rs.90.92 lakhs instead

of Rs.1,00.92 lakhs. Since sales tax was leviable at the rate of 4 per cent, the short determination of taxable turnover by Rs.10 lakhs resulted in under-assessment of tax of Rs.0.40 lakh.

On the mistake being pointed out in audit (June 1986) the assessing officer rectified (June 1986) the mistake. Report on realisation has not been received (February 1988).

The case was reported to Government in October 1986; their reply has not been received (February 1988).

3.15 Short-levy of additional sales tax

Under the Orissa Additional Sales Tax Act, 1975, as amended in 1979, every dealer shall, in addition to sales tax, be liable to pay additional sales tax at the rate of 0.5 per cent of his gross turnover for that year (other than the turnover relating to the declared goods and tax-free goods). As per provision of Section 2(dd) read with Section 2(h) of the Act, gross turnover would include the amount of sales tax collected by the dealer.

In Kalahandi Circle, a dealer who collected sales tax amounting to Rs.22.40 lakhs during the years 1980-81 to 1984-85, had not included the same in the gross turnover, in any of the years. Non-inclusion of the same in the gross turnover resulted in a short levy of additional sales tax of Rs.0.11 lakh.

On the mistake being pointed out in audit (May 1986), the department re-opened (May 1986) the assessments for the years 1981-82 to 1984-85 and raised (August 1986) additional demand of Rs.0.10 lakh which was paid (between September 1986 and October 1986) by the dealer. The assessment for 1980-81 could not be re-opened being barred by limitation and Government had to sustain a loss of Rs.0.01 lakh.

The matter was reported to Government (October 1986). In their reply (August 1987) they had accepted the factual position.

3.16 Non-levy of interest on belated payment of tax

Under the Orissa Sales Tax Act, 1947 (as amended from 1st June 1976) and the Central Sales Tax Orissa Rules 1957 (as amended from 1st July 1971), if a dealer defaults in making payment of any amount of tax by the due date specified in the notice issued to him, he would be liable to pay interest on the amount due at 18 per cent (6 per cent prior to 12th August 1983) per annum for the first three months and at 24 per cent (12 per cent prior to 12th August 1983) per annum thereafter, provided that no interest would be charged in respect of any amount remaining unpaid at any time prior to 1st January 1971 under the State Act and prior to 1st July 1971 under the Central Act.

In 27 Commercial Tax Circles, local sales tax demands amounting to Rs.36.33 lakhs outstanding on or after 1st January 1971 (526 cases) and Central sales tax demands amounting to Rs.4.40 lakhs outstanding on or after 1st July 1971 (39 cases) were finally settled during the year 1985-86 without collecting interest on the belated payments. Interest not levied amounted to Rs.6.18 lakhs.

On the omission being pointed out in audit (between April 1986 to March 1987) the assessing officers agreed (between April 1986 to March 1987) to raise the demands. Reports on action taken have not been received (February 1988).

The cases were reported to Government (between June 1986 to July 1987); their reply has not been received (February 1988).

3.17 Registration of dealers under Orissa Sales Tax and Central Sales Tax Acts

3.17.1 Introduction

Under the Orissa Sales tax Act, 1947, every dealer is liable to pay tax on sales and purchases with effect from the month immediately following a period not exceeding 12 months during which his turnover exceeds Rs.50,000. The Act *inter-alia* provides for voluntary registration of dealers whose gross turnover during the same period exceeds Rs.10,000. Besides, provisional registration¹ is permissible for persons who intend to establish business in Orissa for the purpose of manufacturing or producing goods of a value exceeding Rs.50,000 per year. The certificate of registration specifies the class or classes of goods in which the dealer carries on business. The Act confers certain advantages to registered dealers like (i) tax-free purchases for resale, (ii) exemption/concession in tax on purchases of machineries, raw materials etc., for manufacture of goods for resale.

Under the Central Sales Tax Act 1956, every dealer is liable to pay tax on inter-State Sales, and is required to get himself registered. A dealer who is registered under the Central Sales Tax Act has to get himself registered under Orissa Sales Tax Act, as well irrespective of his liability. Tax leviable is payable by the registered dealers whether or not it was actually collected by him from third parties.

3.17.2 Scope of Audit

A review was conducted by Audit during April and July 1987 in seven Sales Tax Offices, viz., Cuttack-II, Cuttack-I(East), Dhenkanal, Balasore, Ganjam-I, Phulbani and Bhubaneswar regarding the system of registration.

3.17.3 Organisational set-up

The Commissioner of Commercial Taxes, Orissa is the head of the department. He is aided by the Commercial Tax Officers in the district units who actually accord and control the registration of dealers. Departmental instructions for survey/investigation by the Intelligence Wing and by the Inspector of Commercial Taxes have also been issued and are manualised in Chapter 4 and 10 of Orissa Commercial Taxes Manual Vol.III (Part A).

3.17.4 Highlights

(i) Cases of dealers attracting liability as detected in departmental survey/inspection were not pursued effectively to ensure their actual registration. There was undue delay in the assessment of these dealers and non-realisation of demanded dues to the extent of Rs.1408.95 lakhs pertaining to the years 1983-84 to 1986-87, in 1191 cases out of 2262 cases, detected by the department.

(ii) Registration of dealers applying for voluntary registration, without conducting thorough investigation about their bonafides led to an evasion of tax to the extent of Rs.19.32 lakhs on last point tax goods in four cases alone.

(iii) Seventy one industries granted registration certificates more than four years ago had not produced any goods for sale. No enquiry was made about their activities with a view to cancellation of their registration certificate though validity thereof had expired more than three years ago.

(iv) Registration certificates of sixty eight dealers whose gross turnover during each of the three consecutive years fell below the prescribed monetary limit of Rs.0.50 lakh were not cancelled.

3.17.5 Growth of registered dealers

The table below indicates the growth in the number of registered dealers in the State during the three years ending 1986-87 as per information furnished by the Commissioner of Commercial Taxes, Orissa.

Act under which registered	Year	Number of dealers at the commencement of the year	Number of dealers at the end of the year.
A. Orissa Sales Tax Act 1947	1984-85	25,221	25,897
	1985-86	25,897	26,679
	1986-87	26,679	29,013
B. Central Sales Tax Act 1956	1984-85	3,480	3,592
	1985-86	3,592	3,631
	1986-87	3,631	3,876

Information regarding the break-up of the figure into voluntary or obligatory categories of registration and number of registrations cancelled during the period was not available (July 1987).

3.17.6 Non-registration of dealers

1. As per the Act, no body for whom registration is obligatory can carry on business, without obtaining a registration certificate. Non-compliance of the provisions of the Act is a cognisable offence, punishable with simple imprisonment, besides, levying penalty to the extent of one and a half times the tax due on the dealer. Departmental instructions regarding survey and investigation by the intelligence wing and Inspectors of Commercial Taxes are incorporated in the Departmental Manual.

2. Survey and inspection conducted by both the agencies in seven Circles (viz., Cuttack I East, Cuttack II, Ganjam I, Bhubaneswar I, Dehkanal, Phulbani and Balasore) test checked (during May 1987 and June 1987) revealed, that during the years 1982-83 to 1986-87, there were 2,262 cases of new dealers carrying on business as unregistered dealers, though they attracted liability to registration under the Act. Subsequently 242 dealers had got themselves registered by 31st March 1987. One thousand one hundred ninety one cases were assessed raising demands (including penalty) aggregating Rs. 1764.39 lakhs by March 1987, out of which a sum of Rs. 355.44 lakhs was realised (June 1987). Decision in 829 cases was pending (October 1987)

3.17.7 *Renewal of registration certificates*

The registration certificate issued to a dealer remains in force till the end of the year, unless cancelled earlier; and is required to be renewed thereafter year to year on payment of prescribed fees and after clearance of all arrear dues. For this purpose, application in the prescribed form is to be filled not less than one month before the expiry of the year preceeding that for which it is required. In the event of his failure, to do so without any reasonable cause, and in case of refusal of renewal on the application submitted in time, the registration certificate shall be deemed to have been cancelled with effect from the date following the period for which it was valid. In such an event the dealer is not entitled to privileges extended to registered dealers after the date of expiry of original registration.

Test check of the Renewal Registers and other connected records in these seven circles revealed irregularities of the types indicated below.

(a) Declaration forms in Form XXXIV meant for use of registered dealers only, were issued to dealers,

who had not applied for renewal of registrations for several years (2 cases in Cuttack II Circle - Ward E).

(b) Declaration forms (Form XXXIV) were issued to dealers after the date of expiry of registration even though renewal had not been granted or refused (one case in Cuttack II Circle and one in Ganjam I Circle).

(c) Declaration forms in Form XXXIV were issued before grant of renewal, regularising the issues, on *post-facto* basis (Balasore Circle 14 cases, Dhenkanal 10 cases).

(d) Business had been continuing without any application for renewal being filed for the last two or three years (Cuttack-II Circle - 6 cases).

(e) Business had been continuing without order being passed on the application for renewal for previous years, followed by years, in which no such application was filed (Cuttack II Circle - 8 cases).

3.17.8 Registration of bogus dealers

As per the provisions of the Orissa Sales Tax Act, 1947, and rules made thereunder, registration certificate is issued to a dealer by the Sales Tax Officer after satisfying himself that the application for registration is correct and complete and the applicant is a *bonafide* dealer. For proper realisation of tax under the Act, reasonable security can also be demanded. There is no provision for obtaining surity when a new registration is granted.

With a view to avoiding registration of bogus and dummy dealers, the Commissioner had issued instructions in June 1982 and October 1982 urging upon all the Circle Officers to conduct thorough enquiry into the antecedents of the applicant, source of capital invested in the business, nature of transactions with the other dealers of the area, tenancy rights acquired

by the dealer in respect of the business premises and especially the nature and extent of interest, the dealer might have in other business before granting the registration certificate. Monthly returns were to be furnished by 7th of the following month indicating the progress of registrations.

Test check of registration records revealed that the dealers whose *bonafides* subsequently proved doubtful, had been issued registration certificates. The dealers concerned had made huge purchases on the strength of declarations for resale (Form XXXIV) obtaining total exemption from tax on purchases made, but failed to discharge tax liability subsequently and were reported to have closed down their business, and absconding. No evidence of any enquiry having been made as per directions of Commissioner of Commercial Taxes, Orissa before recording registration in these cases was available on record. The monthly returns prescribed by Commissioner covering these cases of registration had also not been submitted. The applications for registration were found incomplete in as much as the particulars of movable and immovable properties owned by the applicants had not been shown. Total amount of non-payment of tax in the four instances alone mentioned below was to the tune of Rs.19.32 lakhs against a meagre deposit of security amounting to Rs.2500 by the four dealers.

(a) In Kendrapara assessment unit (Cuttack-II Circle) one person 'S' obtained on 17th May 1985 voluntary registration in the name of his firm 'B' for selling "Gur". Additions of other grocery items were made on 28th May 1985 on the dealer's application. He applied for renewal for the year 1986-87 on 1st March 1986 stating that his gross turnover during the previous year was Rs.0.83 lakh only. Cross verification of sales to registered dealers conducted by Commercial Tax Officer,

Cuttack-II Circle revealed that the firm 'B' had obtained goods valuing Rs.47.35 lakhs from a wholesale dealer in Malgodown (Cuttack I East Circle). Besides, the firm was also found to have made two purchases valuing Rs.5.09 lakhs and Rs.5.99 lakhs from registered dealers of Cuttack I West Circle, on the strength of a declaration in Form XXXIV to the effect that the goods purchased were for resale in Orissa. When the genuineness of these purchases was sought to be verified by the department with reference to the books of accounts of the dealer 'B' on whose behalf 'S' had obtained the Registration Certificate it was reported by the Inspector of Commercial Taxes of Kendrapara assessment unit that there was no person bearing the name 'S' in the area and that the sales reported were only paper transactions. On the basis of this report, the Registration Certificate of the dealer 'B' was cancelled with effect from 1.4.1986. Assessment of this dealer for 1985-86 was reported to have not been completed. This led to an evasion of tax to the tune of Rs.4.67 lakhs calculated at the average rate of 8 per cent (on Rs.58.43 lakhs).

(b) In Phulbani Circle, one 'K' applied for voluntary registration on 8th February 1983 as proprietor of Firm 'M' for dealing in groceries and stationery goods etc., at village Raikia. Photograph of the dealer was called for by the Sales Tax Officer on 10th February 1983 which was submitted along with a sheet containing the specimen signature, and a certificate of another registered dealer of the area on 11th February 1983. He was asked to pay security deposit of Rs.500 which was paid on 18th February 1983 and registration certificate issued on the same day. There was no evidence on record to show whether any spot enquiry was conducted. One declaration form (XXXIV) book containing 25 forms was issued to the dealer on 22nd February 1983.

Reports received from the Sales Tax Intelligence Wing, Cuttack revealed that this dealer had made

purchases valuing Rs.29.44 lakhs from two registered dealers of Cuttack I East Circle and purchases valuing Rs.22.07 lakhs from one registered dealer of Bhubaneswar Circle, free of tax on the strength of declarations for resale. Local enquiry by Commercial Tax Officer, Phulbani Circle revealed that in addition to the above, this dealer had made purchases valuing Rs.9.05 lakh from another registered dealer of Malgodown (Cuttack I East Circle). The dealer closed down (September 1983) his business at village Raikia and absconded. His whereabouts could not be established, and in the letter addressed to Police authorities in November 1985, it was stated that the dealer who impersonated himself as one 'K' had cheated Government by not paying any tax on purchase or sales turnover of goods valuing Rs.38.49 lakhs (as per information available at the time of reporting to Police). The registration certificate of the dealer was cancelled on 24th November 1983 with effect from 1st August 1983. Assessment of the dealer for the year 1983-84 was completed exparte wherein his gross turnover was determined at Rs.2.58 crores and a demand of Rs.11.90 lakhs raised. The notice of demand could not be served. The security of Rs.500 given by the dealer formed an infinitesimal portion of the liability on account of tax due from him.

(c) One dealer named 'C' of village Jaraka falling under Jajpur Assessment unit of Cuttack-III Circle applied for voluntary registration on 22nd February 1984 showing his gross turnover at Rs.0.13 lakh during the period 1st November 1983 to 21st February 1984. Local enquiry was duly conducted by the department and on payment of security deposit of Rs.750 registration certificate was issued on 28th April 1984 enabling him to deal in grocery, stationery goods, baby food etc., and one book containing 25 declaration forms was issued on 21st May 1984.

Cross verification done (August 1984) by the department revealed that purchases valuing Rs. 14.73 lakhs had been made from another registered dealer named 'M' of Malgodown (Cuttack I East Circle) by this dealer 'C' and that the dealer 'C' could not be traced at Jaraka after closing down the business two months earlier. Though he was reported to have left for Cuttack, his address and whereabouts could not be ascertained.

Assessment for the year 1984-85 has not so far been completed (June 1987), as the show cause notice could not be served after cancellation of his registration certificate with effect from 1st July 1984. Applying the average rate of tax at the rate of 8 per cent the dealer had evaded tax to the extent of Rs. 1.18 lakhs, while the security deposited by him was Rs. 750.

(c) One dealer named 'N' hailing from Birajahat, Jajpur pertaining to the same Assessment Unit applied for voluntary registration as proprietor of a firm 'T'. He was asked to produce two attested photographs, specimen signature and identification certificates from two registered dealers of the area, which were produced along with the books of accounts. His statement that he cultivated 0.20 acre of cultivable land could not be supported with any supporting document (i.e. record of title). On completion of spot enquiry, the dealer was called upon to pay a security deposit of Rs. 750 which he paid on 25th March 1984. Registration certificate was issued to him (May 1984) for carrying on business in grocery on wholesale and retail basis, along with a book containing 25 declarations in form XXXIV.

Against these forms, the dealer had effected two purchases from registered dealers of Cuttack I West Circle and four purchases from registered dealers of Cuttack I East Circle amounting to Rs. 19.65 lakhs. Local enquiry conducted by the department to cross

verify the transactions made in Cuttack I East and Cuttack I West Circle revealed that the dealer was not present at the place of business, and another man who was conducting business was avoiding to produce the books of accounts. He did not disclose whether any such purchase was actually made. Spot enquiry revealed "the dealer 'N' had no means to purchase such huge quantity of goods nor the goods have at any time been brought to Birjahat for resale. From all the above facts there is least doubt about the clandestine activities of the dealer". The registration of the dealer was cancelled with effect from 1st October 1984 and assessment upto the quarter ending 30th September 1984 which has been initiated against him has not been completed (June 1987).

Applying the average rate of 8 per cent the amount of tax evaded stood at Rs. 1.57 lakhs against the security deposit of Rs. 750 which is all that is available for adjustment. In the absence of any provision for obtaining a surety before grant of registration and renewal of registration, the department could not realise the tax evaded in the four cases cited in the preceding subparagraphs from the sureties.

3.17.9 *Non-cancellation of registration certificate of industries who have not produced goods for sale*

As per the Act, if any business in respect of which certificate has been granted for manufacture of goods for resale has been discontinued or has been entirely transferred by the owners of business to other persons, or there is some other sufficient reasons to do so, the Registering authority shall cancel the registration certificate. Test check however revealed that 71 holders of registration granted more than 4 years ago have not produced any goods for resale. Though the validity of registration certificate had expired

more than 3 years ago, no enquiries have been made as to the existence of the "Industries", the present position of manufacture, misuse of registration certificates and declarations (in case of non-existence). On this being pointed out in audit (April to June 1987), the department stated that enquiries would be made.

3.17.10 *Delay in cancellation of registration certificates*

Registration certificates of dealers whose gross turnovers failed to exceed Rs.0.50 lakh per annum for three consecutive years are liable to be cancelled, as per the Act.

Test check of the annual record of progressive assessments of seven Circles revealed that although in 68 cases, gross turnovers did not exceed Rs.0.50 lakh per annum for three consecutive years ending 1986-87, no action was taken to cancel the certificates.

The foregoing was brought to the notice of the Commissioner of Commercial Tax in July 1987; his reply has not been received (February 1988), except as stated above.

The above points were reported to Government in July 1987; their reply has not been received (February 1988).

CHAPTER 4

TAXES ON MOTOR VEHICLES AND PASSENGERS

4.1 Results of Audit

A test check of records relating to assessment collection and refunds of motor vehicle tax and passengers tax in the offices of State Transport Authority, Orissa and other Regional Transport Offices, conducted during April 1986 to 31st March 1987 revealed under-assessment and loss of revenue amounting to Rs.293.32 lakhs in 18,685 cases which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Short levy or non-levy of motor vehicles tax	6,821	34.16
2. Short/non-realisation of additional motor vehicles tax	6,448	24.11
3. Under-assessment of passengers tax and composite fee	265	174.06
4. Other reasons	<u>5,151</u> <u>18,685</u>	<u>60.99</u> <u>293.32</u>

Some of the important cases are mentioned in the following paragraphs.

4.2 Irregular exemption of tax

Under Government Notification (14th February 1965) motor vehicles owned by the Government of India (other than those used commercially or used for

hire and reward) are exempt from payment of tax.

In Additional Regional Transport Office, Bargarh, it was noticed (February 1987) that tax exemption of Rs. 1.40 lakhs in respect of 10 trucks and 16 tractors pertaining to the Secretary, Orissa Co-operative Marketing Federation, Bhubaneswar, was allowed between May 1985 to March 1987 by the Registering Authority under an assumption that the vehicles were owned by Government of India.

On the irregular exemption being pointed out in audit (February 1987), the Taxing Authority stated (February 1987) that action would be taken to realise the dues. The Deputy Commissioner, Transport while accepting the mistake (October 1987) had stated, that the Taxing Authority was asked to pursue the matter till collection of arrear tax. Report of realisation has not been received (February 1988).

The matter was reported to Government in July 1987; their reply has not been received (February 1988).

4.3 Short realisation of tax on transport vehicles of other States plying temporarily in Orissa

According to a notification (1st October 1975) issued under the provisions of the Orissa Motor Vehicles Taxation Act, 1975, temporary tax token may be issued in respect of transport vehicles of other States plying temporarily in the State of Orissa on payment of tax at the prescribed rates. Additional tax at the prescribed rates is also leviable with effect from 18th October 1985.

In four Regional Transport Offices (Keonjhar, Baripada, Ganjam and Rourkela) and the office of State Transport Authority, (Cuttack) it was noticed (between July 1986 and October 1986), that motor vehicle tax and additional tax to the extent of Rs. 6.28 lakhs was short realised/not realised from 2,254 transport

vehicles of other States which operated temporarily (between the period October 1985 and July 1986).

On this being pointed out in audit (July 1986 to October 1986) the Regional Transport Officers stated (July 1986 to October 1986) that the short realisation/non-realisation was due to late receipt of Government notification. The reply is not tenable as the notification was issued long ago in 1975. The State Transport Authority, Cuttack stated (September 1986 to October 1986) that demand notices were being issued. Reports on realisation has not been received (February 1988).

The matter was reported to Government (between December 1986 and March 1987); their reply has not been received (February 1988).

4.4 Short-realisation/non-realisation of motor vehicles tax from contract carriages of other States

Under the Orissa Motor Vehicles Taxation Act, 1975, contract carriages of other States not covered by any reciprocal agreements and plying temporarily in the State of Orissa are liable to pay motor vehicles tax equal to thirty per cent of the quarterly tax, where the tax token relates to a period not exceeding 14 days. The rates of quarterly tax in respect of contract carriages were revised from 1st July 1981, when the passengers tax on contract carriages was abolished.

The records of the border check-gate at Sohella under Sambalpur region revealed that motor vehicles tax in respect of 61 contract carriages which were temporarily operated in the State during the period from April 1983 to January 1984 was not realised at all by the check-gate authorities or tax was realised at old rates of passenger tax which was no more existent after 1st July 1981. This resulted in non-realisation/short-realisation of motor vehicles tax amounting to

Rs. 1.29 lakhs (motor vehicles tax realisable: Rs. 1.42 lakhs less amount wrongly realised towards passenger tax: Rs. 0.13 lakh at old rates).

On this being pointed out in audit (June 1985), the taxing authority at Sohella Check-gate stated (July 1985) that action would be taken after receipt of the final audit comments. Further action taken on receipt of the Audit Inspection Report has not been received (February 1988).

The matter was reported to Government in May 1986; their reply has not been received (February 1988).

4.5 Non-realisation of tax in respect of vehicles violating off-road declarations

Under the Orissa Motor Vehicles Taxation Act, 1975, tax shall be levied on every motor vehicle used or kept for use in the State. No tax is, however, payable on a vehicle, which is not intended to be used for any period, if prior intimation of such non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid, specifying *inter-alia* the period of non-use and the place where the motor vehicle is to be kept during such period. If, at any time, during the period covered by such intimation, the motor vehicle is found to be plying on the road, or is not found at the declared place, it shall be deemed to have been used throughout the said period and in such cases the owner of the vehicle becomes liable to pay tax and penalty for the entire period for which it was declared off-road.

In ten regions (Baripada, Balasore, Kalahandi, Keonjhar, Cuttack, Bhubaneswar, Dhenkanal, Phulbani, Sundergarh and Bolangir), out of 45 motor vehicles which had been declared by the owners as off-road for various periods between January 1985 and December 1986, 30 motor vehicles were detected by the enforcement staff as plying on the road during off-road period

and 15 motor vehicles were not found at the places declared in the off-road intimations. But no action was taken by the taxing officers against these vehicle owners for violation of the provisions of the Act. Tax leviable on these vehicles amounted to Rs. 1.59 lakhs, besides penalty leviable.

On the omissions being pointed out in audit (between May 1986 and January 1987), seven taxing officers stated (between May 1986 and January 1987) that demand notices would be issued and 3 taxing officers stated (between May 1986 and September 1986) that the cases would be examined. Further report has not been received (February 1988).

The matter was reported to Government between November 1986 and July 1987; their reply has not been received (February 1988).

4.6 Under-assessment of tax in respect of stage carriages found plying without permit

Under the Orissa Motor Vehicles taxation Act, 1975, tax in respect of a stage carriage is leviable on the basis of number of passengers (including standing passengers), which the vehicle is authorised to carry and the total distance it covered in a day under the permit. If any such vehicle is found to be plying without permit, the tax shall be assessed on the basis of the maximum number of persons or passengers which the vehicle could have been permitted to carry, reckoning the distance covered by it, each day as exceeding 320 Kilometers.

In 10 regions (Beripada, Balasore, Kalahandi, Bhubaneswar, Keonjhar, Dhenkanal, Phulbani, Sundergarh, Rourkela and Bolangir) 93 stage carriages were detected plying without any permit during various periods between February 1985 and August 1986, but tax in respect of

these stage carriages was not assessed and collected at the correct slab rate applicable in such cases. The omission resulted in short realisation of tax amounting to Rs.2.58 lakhs.

On this being pointed out in audit (between April 1986 and March 1987), the taxing authorities agreed (between April 1986 to March 1987) to take action for realisation of the balance tax. Further reports have not been received (February 1988).

The cases were reported to Government between November 1986 and July 1987; their reply has not been received (February 1988).

4.7 Non-levy of tax for the intervening periods

Under Section 3 of the Orissa Motor Vehicles Taxation Act, 1975, there shall be levied on every motor vehicle used or kept for use within the State, a tax at the rate specified in the Taxation Schedule. However, under Section 10 of the Act *ibid* exemption from payment of such tax is allowed for the period for which necessary undertaking for discontinuance of the use of the vehicle is delivered by the owner of the vehicle on or before the date of expiry of the term for which tax has been paid.

In nine regions (Mayurbhanj, Ganjam, Keonjhar, Dhenkanal, Phulbani, Sundergarh, Rourkela, Bolangir and Bhubaneswar) it was noticed (between December 1985 and March 1987) that in respect of 61 vehicles, tax for different periods between April 1979 and June 1986 had remained unrealised even though the tax for the earlier and later periods had been collected. The taxation records showed that the intervening periods were neither covered by exemptions for discontinuance of use of the vehicles nor by intimations of payments of tax in any other region. This resulted in non-levy of tax of Rs. 1.13 lakhs.

On the omission being pointed out in audit (between December 1985 and March 1987), the taxing officers agreed to realise the tax Report on recovery has not been received (February 1988).

The matter was reported to Government between December 1986 and July 1987; their reply has not been received (February 1988).

4.8 Short realisation of composition fee

Under the Orissa Motor Vehicles (Taxation of Passengers) Act, 1969, an operator of a public service vehicle may, with the permission of the taxing officer, pay composition fee in lieu of passenger tax. Government notified in September 1981 that composition fee in respect of ordinary stage carriages would be payable on the daily permitted distance at the rate of Rs.2.62 per passenger per year per kilometre, with effect from 1st October 1981.

In six regions (Sundergarh, Kalahandi, Keonjhar, Baripada, Ganjam and Dhenkanal) composition fee in respect of thirty seven vehicles for the period between January 1985 and October 1985 was calculated incorrectly which resulted in short realisation of fee of Rs.0.53 lakh.

On the short recovery being pointed out in audit (between July 1986 and January 1987), the Taxing Officers stated that; (i) demand notice had since been issued (Ganjam); (ii) demand notices were being issued (Sundergarh and Baripada); (iii) action would be taken to realise the dues (Kalahandi and Dhenkanal); (iv) the cases would be reviewed (Keonjhar). Reports on recovery has not been received (February 1988).

The cases were reported to Government between October 1986 and June 1987; their reply has not been received (February 1988).

4.9 Short/non-realisation of additional tax

Through an ordinance (since enacted as Act 2 of 1986) issued on 14th October 1985 a new Section 3-A was inserted in the Orissa Motor Vehicles Taxation Act, 1975, according to which an additional tax with effect from 18th October 1985 shall be levied on all stage carriages and goods vehicles at the rates specified in the Taxation Schedule to the Act.

(i) In two regions (Mayurbhanj and Sundergarh), additional tax amounting to Rs.4.55 lakhs was short/non-realised from 102 stage carriages and 17 goods carriages for the period between October 1985 and December 1986.

On the mistakes being pointed out in audit (between June 1986 and December 1986), the taxing authorities stated (June 1986 and December 1986) that the cases would be re-examined. Further report has not been received (October 1987).

(ii) In Regional Transport office, Cuttack, it was noticed (November 1986), that additional tax to the extent of Rs.0.60 lakh in addition to the normal motor vehicles tax, in respect of six stage carriages (town buses) was not realised by the Taxing Authority for the period between October 1985 and December 1986.

On the non-realisation of additional tax being pointed out in audit (November 1986), the Taxing Authority stated (January 1987) that action would be taken to realise the tax. Report of realisation has not been received (February 1988).

The cases were reported to Government in July 1987; their reply has not been received (February 1988).

4.10 Non-assessment of passenger tax

Under the Orissa Motor Vehicles (OMVT) (Taxation of Passengers) Act, 1969, passenger tax is leviable on all passengers carried by public service vehicles (stage carriages) at the rate of fifteen paise in the rupee on the fare payable to the operator. The Act further lays down that the operator of a stage carriage carrying passengers has to file with the taxing officer, a monthly return of tax collected and paid within a period of 15 days from the close of the month, where no return has been submitted for any month, the taxing authority shall determine as per the provision contained in Section 8(2) of the aforesaid Act and Rule 3(A) of the O.M.V.T. (Taxation of Passengers Rules) 1969 the tax due which shall not exceed the maximum amount of tax payable if the vehicle had carried its full complement of passengers.

In 8 regions (Sundergarh, Puri, Kalahandi, Keonjhar, Baripada, Balasore, Dhenkanal and Bolangir) 30 private operators and one fleet operator (a Government company) had neither filed the monthly returns nor paid passengers tax for various months falling between January 1985 and October 1985. No action was, however, taken by the taxing authority to determine and demand the passengers tax which amounted to Rs.3.01 lakhs, at the maximum rate of tax leviable under the Act.

On the omission being pointed out in audit (between July 1986 and January 1987), the taxing authorities stated (between July 1986 and January 1987) that action would be taken to assess and realise the tax. Report on action taken has not been received (February 1988).

The matter was reported to Government between August 1986 and July 1987; their reply has not been received (February 1988).

4.11 Non-levy of interest on arrear passengers tax

Under Section 10(4) of the Orissa Motor Vehicles (Taxation of Passengers) Act, 1969, (effective from 1st September 1983), if an operator of a taxable vehicle fails to pay the whole or any part of the tax payable by him within the prescribed date, he shall be liable to pay interest at the rate of 12 per cent per annum on the amount of tax in default from the date following the date prescribed for payment of tax.

In five regions (Cuttack, Bolangir, Koraput, Phulbani and Puri) passengers tax amounting to Rs.113.71 lakhs due from 14 private operators and 2 Fleet Owners (Orissa State Road Transport Corporation and Orissa Road Transport Company) was not paid on the due dates and demands were outstanding on different dates prior to and after 1st September 1983. Though the tax was not paid subsequently, interest chargeable thereon amounting to Rs.12.62 lakhs for the period subsequent to 1st September 1983 for non-payment of tax was neither levied nor realised.

On this being pointed out in audit (between October 1986 and April 1987), the taxing Officer (Phulbani) stated (December 1986) that demand notice had been issued (December 1986) to realise the interest. Report on realisation is awaited (October 1987). The Taxing Officers (Cuttack, Bolangir, Puri and Koraput) stated (October 1986 to January 1987) that action would be taken to realise the interest. Further report has not been received (February 1988).

The cases were reported to Government between February 1987 and June 1987; their reply has not been received (February 1988).

4.12 Delay in payment of tax due to cheques being dishonoured

Under the Orissa Motor Vehicles Taxation Act, 1975 and the rules made thereunder, motor vehicles tax shall be paid in advance by means of cash, bank drafts and bankers' cheques within such time as may be prescribed. Where the tax has not been paid on or before the due date of payment, the taxing officer may impose a penalty depending upon the period of delay.

In 12 cases in Puri district, personal cheques tendered in payment of tax/additional tax were dishonoured when presented to banks. The subsequent payment of tax in these cases having not been made within the prescribed time, attracted levy of penalty, which was not levied. Tax of Rs.71,073 and penalty of Rs.1,42,146 in respect of these cases was due to be paid by the operators to the Government for the period from January 1985 to March 1986.

On this mistake being pointed out in audit (December 1986), the taxing authority stated (December 1986) that action would be taken to realise the tax with penalty. Report on recovery has not been received (February 1988).

The matter was reported to Government during March - June 1987; their reply has not been received (February 1988).

4.13 Working of reciprocal agreements in Orissa

4.13.1 Introduction

Mention was made in Para 3.5 of the Report of the Comptroller and Auditor General of India for the year 1979-80 (Government of Orissa - Revenue Receipts) regarding the details of the Scheme, and irregularities noticed in the working of the Reciprocal

Agreements in Orissa during 1978-79 to 1979-80. It was brought out therein *inter-alia* that neither the other signatory States send copies of (i) authorisations issued by them for operation of vehicles in Orissa (ii) statement of composite tax due to Orissa and (iii) quarterly returns sent by the vehicle owners, nor Orissa Authorities send these documents to the other States. This irregularity is still persisting (June 1987). The Public Accounts Committee discussed this para (April 1987) and desired to know why remedial action was not taken, to which the departmental representative promised to submit a detailed report for consideration of the Committee. Report on compliance is awaited (October 1987).

4.13.2 *Scope of Audit*

With a view to see, how far the Department had been able to plug the deficiencies, the working of the scheme for the years 1983-84, 1984-85 and 1985-86 was reviewed in the office of the State Transport Authority, Orissa and the following additional deficiencies/irregularities came to notice.

4.13.3 *Organisational set-up*

The State Transport Authority, Orissa has been entrusted with the administration of National and zonal permit schemes and bilateral agreements for the State of Orissa.

4.13.4 *Highlights*

(i) Allotted quota of National Permits remained partially unutilised for the years 1983-84 to 1985-86. The allotted quota for Eastern Zone Permits remained partly unutilised during the years 1984-85 and 1985-86. Reasons for this were not available.

(ii) Composite tax in respect of vehicles permitted to ply in Orissa under National Zonal schemes

was not remitted to Orissa for all the relevant quarter of authorisation. There was short collection of composite tax of Rs.5.59 lakhs.

(iii) Penalty for belated payment of composite tax was either not recovered or short recovered in respect of vehicles permitted to ply in Orissa under National/Zonal Schemes. There was loss of revenue of Rs. 1.13 lakhs on this score.

(iv) Additional tax in respect of vehicles covered under bilateral agreement was not recovered from the West Bengal-based vehicles for the period 18.10.1985 to 31.3.1986 causing a loss of revenue of Rs.3.74 lakhs.

(v) There was short collection of road tax of Rs.0.58 lakh from other State Vehicles due to non-realisation of Orissa road tax at appropriate rate.

(vi) There was inordinate delay in receipt and realisation of Bank Drafts.

4.13.5 Issue of permits in respect of vehicles registered in Orissa and permitted to ply in other States.

The particulars of the number of permits issued in respect of vehicles registered in Orissa and permitted to ply in other States during 1983-84 to 1985-86 as collected from the records of the State Transport Authority were as follows.

	Years	Quota fixed for Orissa	Number of vehicles which took permits	Shortfall
a) National Permit Schemes	1983-84	1200	1019	181
	1984-85	1500	1037	463
	1985-86	1500	1321	179

	Years	Quota fixed for Orissa	Number of vehicles which took permits	Shortfall
b) Central Zone permit Schemes	1983-84	450	440	10
	1984-85	450	450	-
	1985-86	450	450	-
c) Eastern Zone Permit Schemes	1983-84	450	450	-
	1984-85	700	450	250
	1985-86	700	534	166

The reason for shortfall (i.e. whether attributable to delays in inviting applications for permits or non-availability of the required number of applicants) could not be furnished (June 1987).

4.13.6 Removal of quota restriction on National Permit Scheme

Government of India had authorised the States on 31st January 1986 to issue National Permits for public carriers, without restrictions in number. Simultaneously the existing zonal permit schemes have been abolished. In order to bring the zonal permit holders under the purview of National Permit Schemes, without any dislocation in the transport operations, the State Government have been requested in the same letter to take immediate action, and to ask the Zonal Permit holders to switch over to the National Permit Scheme within a stipulated period of 3 (three) months till 31st March 1986.

Accordingly, Government of Orissa, revoked the Zonal Agreements with effect from 15th April 1986. Though, no fresh permits have been issued, the

authorisations of existing zonal permits are being renewed on the ground that renewals are permissible till the validity of the permits under the agreements. No notices requesting the zonal permit holders to switch over to national Permit Scheme were however issued (June 1987).

Thus, the instructions of Government of India have not been implemented. Besides, the authorisation fee under the Zonal permit scheme was Rs.300 while the same under the National permit scheme was Rs.500; therefore, on change over to the National permit scheme, higher authorisation fee (the differential amount of Rs.200) together with fresh application fee of Rs.20 and permit fee of Rs.550 was payable to Orissa. The extent of loss owing to non-levy of above charges could not be assessed in audit as the information regarding number of vehicles involved was not available.

4.13.7 *Improper maintenance of records*

Test check of the register showing the registration number of vehicles, the State to which they belonged, and the amount of composition fee paid with bank draft revealed, the following irregularities indicative of improper maintenance of records.

(a) According to the entries made in the Register of National Permits for the years 1985-86 and 1986-87, bank drafts numbering 480 for Rs.2,71,400 were received from the State Transport Authorities of Haryana, West Bengal and Andhra Pradesh, but the particulars viz., the vehicle number, and the period of validity of authorisation in respect of vehicles of Haryana, and the vehicle number in respect of remaining States were not noted therein.

(b) The total amounts of tax/fees received from other States, as worked out from the Register

of Bank Drafts widely differed from the figures on the Registers of National Permits/Central Zone Permits/East Zone Permits as mentioned below.

Year	Type of Permit	Total amount of tax as per Register of Permits (Rupees)	Total amount as per Bank Draft Register	Difference
1984-85	National Permit	15,66,218		
	Eastern Zone Permit	5,67,665		
	Central Zone Permit	10,28,712		
		<u>31,62,595</u>	<u>64,90,163</u>	<u>33,27,568</u>
1985-86	National Permit	26,77,079		
	Eastern Zone Permit	4,00,000		
	Central Zone Permit	9,27,110		
		<u>40,04,189</u>	60,46,703	20,42,514

The figures for 1983-84 could not be made available to Audit. No steps were taken to reconcile the differences, nor any attempt made to investigate into the matter. Correct position could not therefore be ascertained.

On this being pointed out in audit (June 1987), the department stated (June 1987) that action was being taken for reconciliation. Further development has not been intimated (October 1987).

4.13.8 Short-realisation of composite tax under National Permit Scheme

Under the National Permit Scheme, the operator of a vehicle is liable to pay a composite fee of Rs.1000 per annum in respect of each State other than the home State, in which the vehicle will operate. Such fee is payable in addition to the Motor Vehicle Tax and other taxes payable in the home State. The

composite fee is payable before 15th March every year. However, the owner of the vehicle at his option may pay the fee in two equal instalments before 15th March and 15th September covering the period from April to September and October to March respectively of the financial year. Under the Scheme, it is obligatory for the holder of the National Permit to pay the fee and obtain authorisation for plying his vehicle in other States. If authorisation is granted at any time of the first quarter of a financial year, the composition fee shall be assessed on a *pro-rata* basis for the remaining part of the financial year, including the quarter in which the authorisation is granted. The composite fee payable to other States is deposited with the home State in the shape of Bank Drafts, who in turn remits the same to the Transport authorities of respective States.

It was however, noticed (June 1987) that the composite tax in respect of 871 vehicles permitted to ply in Orissa during the period from 1st April 1985 to 31st March 1986 under the National Permit Scheme had been realised for part of the year instead of for all the relevant quarters including the quarter in which authorisation was granted. The amount of tax short-realised come to the tune of Rs.4.36 lakhs.

4.13.9. *Short-realisation of composite tax in respect of vehicles plying under zonal permits*

Under Central Zone and Eastern Zone Permit Scheme also, where similar system of payment of composite tax is obtaining, composite tax in respect of 248 vehicles permitted to ply in Orissa during the period from April 1985 to March 1986 under Zonal Permit Schemes had been realised for part of the year instead of for all the relevant quarters including the quarter in which the authorisation was granted. This led to short realisation of tax to the tune of Rs.1.23 lakhs.

4.13.10 Non-recovery/short recovery of penalty under Zonal Permit Schemes

According to the Zonal agreements under the Zonal Permit Scheme, if the holder of a composite permit, fails to pay the composite tax within the due date (15th March and 15th September), he is liable to pay in addition to the composite tax, an additional sum of Rs.100 per month or part thereof in respect of each vehicle towards penalty for late payment of composite tax. Such penalty is recoverable by the home State authorities and remitted to the respective State Transport Authorities (S.T.A) of other States.

It was however noticed that in respect of 263 cases, a sum of Rs.0.43 lakh due towards penalty was not recovered by the home State in respect of such late payments; the State Transport Authority, Orissa also did not demand the amount.

4.13.11 Non-recovery/short recovery of penalty under National Permit Scheme

According to instructions issued by Government of India in December 1980, the State Governments were required to make provisions for levy of penalty for belated payment of composite tax in respect of vehicles covered under the National Permit Scheme on the pattern of Zonal Scheme. Though, other States have made necessary provisions in their relevant tax laws, Government of Orissa have not so far (October 1987) amended their tax laws. On a reference made by Audit it was replied by the Government of Orissa (August 1983) that the case was under consideration. In the meanwhile, it was noticed that other State Transport Authorities had recovered penalty for late payment of composite tax in respect of vehicles permitted to ply in Orissa under National Permit Schemes, though no such provision has been made by Government of Orissa.

Test check of the records revealed that in a large number of cases, penalty for belated payment of composite tax in respect of vehicles permitted to ply in Orissa under National Permit Scheme was either not recovered or short-recovered in respect of 509 cases involving a sum of Rs.0.70 lakh by the other home States in respect of such late payment which could not be demanded by State Transport Authority, Orissa in absence of any provision in the law of this State.

4.13.12 *Non-realisation of additional tax from public carrier goods vehicles issued with temporary permits by the State Transport Authority, West Bengal*

Bilateral agreement executed between Orissa and West Bengal envisaged issue of temporary permits in respect of 250 vehicles for a minimum period of four weeks to ply in the reciprocating State on single point taxation basis. The State Transport Authorities are required to send copies of the temporary permits to the reciprocating State.

Under the provisions of the Orissa Motor Vehicles Taxation Act 1975, such vehicles are liable to pay additional tax to Orissa with effect from 18th October 1985.

Test check of records revealed that neither the copies of the permits nor any statement containing the details thereof were received from the State Transport Authority, West Bengal. In the absence of such information, it could not be ascertained whether additional tax payable to Orissa in respect of such vehicles was realised and the number of vehicles permitted to ply in Orissa was within the quota of 250. It was also seen from the records maintained at the border check post (at Jamsolaghat) that no additional tax was realised from such vehicles during the period from 18th October

1985 to 31st March 1986. Due to non-realisation of additional tax from these vehicles during this period, revenue to the extent of Rs.3.74 lakhs was forgone.

4.13.13 Short collection of tax

Taxes/fees payable to Orissa in respect of vehicles of other States which issued temporary permits under the bilateral agreements are required to be assessed by these other States at the rates prescribed in the Orissa Motor Vehicles Taxation Act 1975 and remitted to Orissa.

Test check of the records revealed that road taxes remitted by the other States to Orissa in respect of such vehicles of these States were less than the amounts actually payable. The under-assessment of tax in 920 cases for the period from January 1982 to June 1986 worked out to Rs.0.58 lakh.

4.13.14 Delay in encashment of bank drafts

Fees/taxes payable to Orissa in respect of vehicles of other States permitted to ply in Orissa under National Permit/Zonal Permit/Bilateral agreements are required to be collected from the owners of the vehicles by means of Bank Drafts by the home State's Transport Authority and remitted to the respective State Transport Authorities promptly.

(i) Test check of the records revealed that, there was considerable delay in receipt of bank drafts drawn in favour of State Transport Authorities, Orissa from the State of Bihar. In 42 cases, bank drafts for the years 1981-82 to 1985-86 involving a sum of Rs.25,150 were received late and the delay ranged from 5 (five) to 27 (twenty seven) months.

(ii) It was further noticed that 1,155 bank drafts for Rs.8,47,431 which were returned to other States during September 1983 to February 1987 for revalidation/making corrections/supplying omissions had not been received back (June 1987).

On this being pointed out, State Transport Authority, Orissa noted the observations, and agreed to take immediate action.

The foregoing was brought to the notice of Government in July 1987; their reply has not been received (February 1988).

CHAPTER 5

LAND REVENUE

5.1. Results of Audit

A test check of assessment and collection of land revenue conducted in audit during the period from April 1986 to March 1987 revealed non-assessment, under-assessment and non-realisation of revenue amounting to Rs. 181.03 lakhs in 193 cases which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of premium and rent on conversion of agricultural lands	22	22.82
2. Non-collection of premium and rent etc., for lands occupied by local bodies/ Government undertakings/ private parties and individuals	26	64.65
3. Non-assessment/short-assessment/delay in assessment of land revenue and cess	10	15.45
4. Non-assessment/short-assessment and collection of water rates	34	25.22
5. Non-lease/irregular lease of <i>sairat</i> or other miscellaneous revenue	55	2.43

	Number of cases	Amount (In lakhs of rupees)
6. Non-lease/non-realisation of revenue from surplus Government lands	9	3.37
7. Other cases	<u>37</u>	<u>47.09</u>
	<u>193</u>	<u>181.03</u>

Some of the important cases are mentioned in the following paragraphs.

5.2 Non-realisation of premium and rent

Under Government orders of October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public undertakings, etc., on payment of premium fixed on the basis of market value plus annual ground rent at the rate of one per cent of the market value. Interest at the rate of six per cent per annum is also chargeable on the belated payments of Government dues.

In Marshaghai Tehsil (Cuttack district), advance possession of Government land admeasuring 1,440.25 acres was given to the Orissa Maritime and Chilka Area Development Corporation (a Government Company) during August 1979 for coconut plantation. The advance possession of land had neither been regularised by way of lease till March 1987 nor the dues amounting to Rs.9.11 lakhs (premium, Rs.5.76 lakhs; ground rent, Rs.0.46 lakh and interest Rs.2.89 lakhs) up to end of March 1987, based on the rate recommended by the Tehsildar, were recovered by the department.

On this being pointed out in audit (April 1986), the Collector, while accepting the factual position

had stated (April 1986) that steps would be taken to regularise the case. Further report has not been received (October 1987).

The matter was reported to Government in July 1987; in their reply (December 1987), Government stated that the advance possession of land would be regularised by way of grant of lease and the amount recoverable would be realised in course of time.

5.3 Short-assessment of compulsory basic water rate

Under the Orissa Irrigation Act, 1959 and the rules made thereunder, compulsory basic water rate at the prescribed rate is leviable on the lands coming within the culturable command area of an irrigation work for irrigation of staple cereal crop (*Khariff* paddy harvested between October and January), whether water is used for irrigation or not. The irrigation works are divided into four classes (viz. class I, II, III and IV) on the basis of guaranteed depth and period of water supply. The water rate prescribed for class I, II, III, and IV irrigation works were Rs.8, Rs.6, Rs.4 and Rs.2 per acre of land up to 1980-81 and Rs.16, Rs.12, Rs.8 and Rs.4 per acre from 1981-82 and respectively. In case of new irrigation projects, no water rate is, however, chargeable for the first year of supply of water, whereas, 50 per cent and 75 per cent of the prescribed rates is chargeable for the second and third years respectively and full rate is chargeable from the fourth year onwards.

In Panposh Tehsil, out of 2,093.04 acres irrigated by thirteen minor irrigation projects, 1,551.83 acres were assessed to water rate at the pre-revised rates for the period from 1981-82 to 1985-86, resulting in a short assessment of water rate amounting to Rs.0.56 lakh.

On this being pointed out in audit (December 1986), the Tehsildar stated (December 1986) that action would be taken to reassess and collect the arrears. Further report has not been received (February 1988).

The matter was reported to Government in May 1987, their reply has not been received (February 1988).

5.4 Non-realisation of annual fee

Under the scheme of "Economic Rehabilitation of Rural Poor" various land-based schemes have been implemented in the State. For implementing the plantation programme, the scheme envisaged that after selection of land, plantations are made and when their fruit bearing stage is reached, the same are transferred to the beneficiaries. Government in their orders of July 1981 instructed that after the land is developed and made productive, the Tehsildar would settle the same with the beneficiary, confer *Dafayati* right* and levy annual fee of Re.1 per tree from each beneficiary.

In Nilagiri Tehsil, 248.50 acres of Government land, containing 5,180 trees were transferred to 68 beneficiaries during the years 1980-81 and 1984-85 (4,219 trees to 60 beneficiaries during 1980-81 and 961 trees to 8 beneficiaries during 1984-85), on conferment of *Dafayati* right, but no annual fee at Re.1 per tree was levied, resulting in non-realisation of annual fees amounting to Rs.0.27 lakh for the years 1980-81 to 1985-86.

On this being pointed out in audit (May 1986), the Tehsildar agreed to initiate action. Further report has not been received (February 1988).

* *Dafayati* right means "Usufructuary right".

The matter was reported to Government in November 1986; their reply has not been received (February 1988).

5.5 Short-realisation of royalty and cess on minor minerals

Under the provisions of Manual of Tehsil Accounts read with the provisions of the Orissa Minor Minerals concession Rules, 1983 permits are granted by Revenue Authorities on realisation of application fee at the rate of Rs.25 each to persons intending to extract earth from Government land for manufacturing bricks and tiles etc. Brick earth is a minor mineral on which royalty and cess are payable. The rate of royalty fixed from 1st July 1972 by Government Order of June, 1972 was revised from 1st June, 1983 by virtue of the Orissa Minor Minerals concession Rules, 1983 effective from 1st June, 1983. Besides, cess at the rate of 100 per cent of royalty is also leviable under the Orissa Cess (Amendment) Act, 1980.

In Nowrangpur and Lakhanpur Tehsils (Koraput and Sambalpur districts) on 181 permits (114 in 1984-85 for 17,822.11 MT and 67 in 1985-86 for 37,626.75 MT) issued for extraction of brick earth, royalty was charged at the pre-revised rates. This resulted in short levy of royalty and cess amounting to Rs.1.62 lakhs. Besides, application fee amounting to Rs.1,675 for 67 permits granted in 1985-86 was also not realised.

On the omission being pointed out in audit (December 1986 and February 1987), the Tehsildars agreed (December 1986 and February 1987) to recover the amount from the permit holders. Further report has not been received (February 1988).

The case was reported to Government in July 1987; their reply has not been received (February 1988).

5.6 Loss of revenue due to non-execution and registration of Sairat lease agreements

Under Government orders of March 1963, in cases of leases of *sairat* sources* where the lease amount is not paid by the lessee, in advance the lessee is required to execute a lease agreement and register the same at his cost.

In Dhenkanal Tehsil, two *sairat* sources were leased out to two parties for the years 1984-85 to 1988-89, who did not pay the entire lease money in advance. No lease agreements were got executed. This resulted in loss of revenue amounting to Rs.0.16 lakh by way of stamp duty (Rs.0.13 lakh) and registration fee (Rs.0.03 lakh).

On this being pointed out in audit (September 1986) the Tehsildar stated (October 1986) that on default in payment, one lease had been cancelled and settled in fresh lease for a year and the other lessee had been asked to execute agreement. Further report has not been received (February 1988).

The matter was reported to Government in February 1987; and their reply has not been received (February 1988).

5.7 Khasmahal leases in urban areas

5.7.1 Introduction

After abolition of estates and extinguishment of intermediary interests in land, all estates became

* Sairat sources comprise miscellaneous sources like fisheries, quarries, hats, ferry ghats, orchards etc., from which Government derived revenue by grant of temporary leases.

Government property like "*Khasmahal*"*. But special rules and orders which were issued in earlier days for the control and management of *Khasmahals* still hold good in some respects and the *Khasmahal* land in urban areas carved out during the British regime, is still retained as a separate entity and guided by old rules and orders with modifications issued from time to time. Grant of lease of land for agricultural purposes in *Khasmahals* is governed by the tenancy laws of the respective areas, whereas, leases for non-agricultural purposes in urban areas are guided by the special rules and orders contained in the Bihar and Orissa Government Estate Manual, 1919, and orders issued from time to time.

Under the *Khasmahal* lease principles, no lease is usually granted for a period over 30 years at a time and realisation of premium from the lessee is not binding on the Government. The cases where premium may be realised from the lessees have been laid down in rule 28-A (Sub Rule-2) of the Bihar and Orissa Government Estates Manual 1919. According to the said rules the circumstances in which it is advisable to take salami in town *Khasmahals* can not be precisely defined but will fall within one of the following cases:

- (i) Where the value of land is for some particular reasons known to be appreciating rapidly.
- (ii) Where a good site is leased out for the purpose of building a house or houses.
- (iii) Where a new area has been added to a town or an unoccupied area in a town is being developed.

* *Khasmahal* means Government estate i.e. an estate directly managed by Government.

- (iv) Where permission is taken for converting agricultural land into building sites.

Salani (premium) should not ordinarily be required when granting short leases. As per Government orders of 1975 applicable to all *Khasmahals*, except Puri Town, Balukhand *khasmahal*, which is governed by the Orders of 1979, renewal of *Khasmahal* leases is made subject to revision of ground rent. The Orders of 1975 envisaged refixation of annual ground rent at one per cent of market value for lands used for trade, commerce and industries, and at 0.25 per cent of the market value for lands used for residential, educational and charitable institution purposes, whereas, according to the orders of 1979, which has application only to Puri Town Balukhand *Khasmahals*, the ground rent chargeable at the time of renewal is to be increased by 25 per cent.

With the introduction of the new lease principles of 1961, there is no scope for grant of any fresh *Khasmahal* lease under the principles contained in the Bihar and Orissa Government Estate Manual 1919. Only the renewal of old *Khasmahal* leases are guided by the principles of the said Manual.

5.7.2 Scope of audit

An audit review of *Khasamahal* lease was conducted during April 1987 and May 1987 in three tehsils (viz., Puri Sadar, Cuttack Sadar and Bhubaneswar Tehsils) and two collectorates (Puri and Cuttack) in the State with a view to see that the revenue due to Government by grant and renewal of such leases according to the norms prescribed in Bihar and Orissa Government Estate Manual, 1919 were duly assessed and realised.

5.7.3 Organisational set up

After Orissa State was carved out of the erstwhile Bihar and Orissa Province on 1st April 1936,

the State Government and Board of Revenue have become the overall authority. The Revenue Divisional Commissioners and Collectors are in charge of implementing the Government policy. The Collectors remain responsible in regard to the sanction and renewal of *khasmahal* leases, and obtain orders of the Revenue Divisional Commissioner in specific cases. The Tehsildar works at the bottom of this hierarchy, and implements the order of Collector by way of realising the premium, ground rent and other fees fixed by him and maintains the records necessary for the purpose.

5.7.4 Highlights

- (i) Due to occupation of *khasmahal* land without obtaining leases in Puri Town, Balukhand Tehsil and Jatni Town, Government revenue to the extent of Rs.7.14 lakhs towards permit and ground rent could not be recovered.
- (ii) Non-utilisation of leasable lands surrendered by leaseholders resulted in loss of revenue to the extent of Rs.14.31 lakhs towards premium and ground rent.
- (iii) Non-renewal of leases which expired during 1939-40 to 1973-74 covering an area 7,365 acres in Cuttack, Puri and Bhubaneswar Tehsils resulted in blocking up of Government dues to the extent of Rs.5.36 lakhs, by way of premium and annual ground rent.

5.7.5 Occupation of *Khasmahal* land without lease

Under the provisions of Bihar and Orissa Government Estate Manual, 1919, lease of *Khasmahal* lands, not exceeding 30 years, through registered lease agreement might be granted subject to payment of annual

ground rent and *salami* (premium) in some cases, as assessed by the *Khasmahal* authorities. The lease is also renewable from time to time on realisation of ground rent as prescribed in Government Orders of 1975 or 1979 as the case may be. Any one occupying *Khasmahal* land without a valid lease deed is treated as an unauthorised occupant of Government land.

Scrutiny of the record of rights of Puri Town Balukhand *Khasmahal* of Puri Tehsil, and Jatni Town *Khasmahals* of Bhubaneswar Tehsil revealed (May 1987) that some persons are in occupation of 4.610 and 0.832 acres respectively of *Khasmahal Anabadi** land, which they use as house sites, without obtaining leases from *Khasmahal* Authorities (Collector). Their possessions were recorded in the settlement record of rights without conferment of title over the land. Some rent has also been assessed in these cases, but considering the benefits derived out of the land under possession, rent would appear to be nominal *vis-a-vis* the market value of the land in question in Puri and Jatni towns. The total premium realisable from these lands amounted to Rs.7,12,575 apart from Rs.1,781 towards annual ground rent, (at 0.25 per cent of the total premium such as Rs.7,12,575).

On this being pointed out (May 1987) the Collector agreed to look into the matter. Further report has not been received (February 1988).

5.7.6 *Non-utilisation of leasable lands surrendered by the leaseholders*

In Puri Town Balukhand *Khasmahals*, a total area of 16.969 acres, originally leased out to different persons, was surrendered by the leaseholders at different

* *Khasmahal Anabadi* land means uncultivated Government land in the *Khasmahal*.

times, falling between 1931-32 to 1977-78, is lying unsettled, despite pendency of a large number of applications for lease. The market value of the lowest category of land in Puri town being Rs.84,150 per acre as last fixed by the Revenue Divisional Commissioner, Central Division, in 1977-78, the revenue in the shape of premium being held up due to non-utilization of the surrendered lands, amounted to Rs.14,27,941 besides annual ground rent of Rs.3,570 at 0.25 per cent of market value (i.e. total premium).

On this being pointed out (May 1987) the Collector agreed to take action.

5.7.7 *Non-renewal of leases and their effect on revenue*

The term of lease of a total area of 365.254 acres of *Khasmahal* leasehold lands relating to Cuttack, Puri and Bhubaneswar Tehsils expired between the year 1939-40 and 1973-74 (Cuttack town *Khasmahal* 244.554 acres and Jatni town *Khasmahal* 74.40 acres, both expired since 1973-74 and Puri town Balukhand *Khasmahals* 46.300 acres expired between the year 1939-40 and 1973-74) but the leases were neither renewed so far, nor the previous leaseholders evicted from the lands. Calculating the ground rent on these lands assessable at the time of renewal, as per Government Orders of 1975 and 1979, the revenue on account of ground rent held up from the year of last expiry of lease till 1986-87, amounted to Rs.5,36,436.

On this being pointed out the authorities agreed (May 1987) to expedite action for getting the leases renewed. Further reports have not been received (February 1988).

5.7.8 Short-assessment of ground rent

Ground rent at the time of renewal is assessable at 0.25 per cent or 1 per cent of market value ruling at the time of renewal or at 25 per cent increase in the previous rent according as the *Khasmahal* lands fall in other *Khasmahals* or in Puri Town Balukhand *Khasmahals* as per Government Orders of 1975 and 1979 respectively. Government Orders of 1975 was given retrospective effect.

In Cuttack Tehsil, the market value of the land for Cuttack Town *Khasmahal* was fixed by the Collector in 1982 with retrospective effect from 1973-74 and thus, all *Khasmahal* leases due for renewal from 1.4.1973 are guided by the market value fixed by the Collector in 1982 for purpose of reassessment of ground rent. But due to delay in fixation of market value, some of the leases had been renewed between 1973 and 1982 at a lower rate of ground rent on the basis of the lower rate of market value reported by the Revenue Inspectors; this resulted in short-assessment of ground rent of Rs.41,234.

On this being pointed out the Collector stated (May 1987) that he will furnish a reply after the receipt of information from the Tehsildar. Further report has not been received (February 1988).

5.8 Loss of revenue due to non-revision of rent at the time of renewal

In Cuttack Town *Khasmahal* of Cuttack Tehsil, an institution called "Utkal Prantiya Rastrabhasa Prachar Sabha" is in occupation of 1 acre of *Khasmahal* land on payment of nominal annual ground rent of Re.1 since 1943, and without revision of ground rent at 0.25 per cent of market value from 1.4.1973 (the year of renewal)

as per Government Orders of 1975. The market value of the land in the locality where the institution is situated was Rs.2.5 lakhs per acre on 1.4.1973. The institution has been paying rent of Re.1 per year against a sum of Rs.625 payable per year, according to Government Orders of 1975. As a result of the non-revision of rent, Government had sustained a loss of revenue of Rs. 14,4 14 for 1973-74 to 1986-87, including interest at 10 per cent per annum.

On this being pointed out, the Tehsildar agreed (May 1987) to investigate and report. Further report has not been received (February 1988).

The above cases were reported to Government during 1987; their reply has not been received (February 1988).

CHAPTER 6

MINING RECEIPTS

6.1 Results of Audit

A test check of the mining receipts in offices of Mining Officers, conducted during the period from April 1986 to March 1987, revealed non-levy or short-levy of dead rent, cess and royalty, and other losses of revenue amounting to Rs.11.88 lakhs in 36 cases, which may be broadly categorised as under :

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short-levy of dead rent, cess and royalty	6	4.78
2. Non-recovery/short recovery of interest	22	6.54
3. Other cases	<u>8</u>	<u>0.56</u>
	<u>36</u>	<u>11.88</u>

Some of the important cases are mentioned in the succeeding paragraphs.

6.2 Non-assessment of royalty and cess on ore found short

Under the Mines and Minerals (Regulations and Development) Act, 1957 and the Mineral Concession Rules 1960, the holder of a mining lease is to pay royalty on any mineral removed or consumed from the leased area and there is no provision for allowing exemption on any shortage found in stock on physical verification. According to the provisions of the Orissa Cess Act, 1962,

a lessee is also liable to pay cess at 100 per cent of royalty.

In Keonjhar district, a lessee (a Government undertaking) deducted (April 1985 and September 1985) from the closing stock as on 31st March 1985 and 31st August 1985 7,320 M.T. of iron ore lump on account of shortages detected on physical verification done in April 1985 and September 1985. The shortages were neither investigated nor assessed to royalty and cess by the department. This resulted in short levy of royalty and cess amounting to Rs.0.59 lakh.

On this being pointed out in audit (September 1986), the department stated (September 1986) that the case would be examined and taken after due verification. Further report has not been received (February 1988).

The matter was reported to Government in December 1986; their reply has not been received (February 1988).

6.3 Loss of revenue due to delay in disposal of mineral

According to Rule 14 of Mineral Concession Rules, 1960, a prospecting licensee may win and carry away for experimental purposes, the specified quantity of ores, without any payment of royalty and further quantity within specified limits, on payment of royalty Rule 18 thereof requires a prospecting licensee to maintain proper account of ores extracted from the licensed area. Clause 16 of Part II of the agreement entered into by the licensee with the Government at the time of grant of prospecting licence stipulates that all minerals won by the licensee shall be removed expeditiously under the authority of the Mining department. Therefore, quantities of ore in excess of the permissible limit cannot be removed by the licensee except under authority.

In Dhenkanal District, a prospecting licence granted for 2 years from 4th July 1973, to a limited company for prospecting chromite ore in village Samal, expired on 3rd July 1975. The lessee had earlier filed (August 1974) an application for the grant of regular mining lease. The request was refused by Government on 13th December 1978 and the period of prospecting licence extended upto 12th December 1978. It was ascertained during audit (June 1979) that a quantity of 374.58 MT of chromite ore valuing Rs.1.12 lakhs was lying at the prospecting area. Since the left over minerals became the property of the State Government, Mining Officer, Talcher requested (July 1979) the Director of Mining and Geology for according his approval for disposal of the ore. The Director approved in February 1986 the lifting of the minerals by a State Government Undertaking which removed 58.35 MT during November 1986. Another 2 MT of ore was stated to be lying scattered in the area mixed with soil. The remaining 314.23 MT of ore was not found in the area. Thus, due to inordinate delay in the disposal of the left over minerals, there was loss of revenue of Rs.0.94 lakh.

The case was reported to the Government in August 1987; their replies have not been received (February 1988).

6.4 Loss of interest on outstanding royalty due to non-revision of an old lease deed form

The standard mining lease deed drawn up in Form 'K' under the Mineral Concession Rules, 1960 provides that the manner of payment of royalty or dead rent would be as prescribed by the State Government. The State Government in their orders of August 1974 had prescribed that royalty would be payable on or before 15th day of the following month and in case of default, simple interest at 15 per cent per annum

would be leviable under Mineral Concession Rules, 1960.

Section 16(i) (a) of the Mines and Minerals (Regulations and Development) Act, 1957, as amended in 1972 prescribe that all mining leases granted before the commencement of the Amendment Act, 1972, if in force, shall be brought into conformity with the provisions of this Act and the rules made thereunder, within six months from such commencement, or such further time as the Central Government may, by general or special order, specify in this regard.

In Joda mining circle (District-Keonjhar) a mining lease deed was executed with a lessee (a private limited company) on 11th April 1960 for 30 years. In the said deed it was stipulated that the lessee would pay royalty at half yearly intervals. Since the lease deed was a continuing lease, the lease deed was required to be revised to fall in line with the standard Form 'K', which was not done and the lessee (now a Government of India Undertaking) continued to pay royalty only at half-yearly intervals. No action could be taken under the 1974 orders of the Government which provided for levy of interest on default of the monthly payment of royalty due. This involved loss of interest on delayed payments of royalty. The amount of interest for the period from January 1984 to December 1985 alone works out to Rs. 1.95 lakhs.

On the omission being pointed out in audit (September 1986), the Director of Mining and Geology, Orissa stated (July 1987) that the factual position had already been communicated to Government on 4th July 1987 and a reply from Government in this regard had not been received.

The matter was reported to Government in December 1986. In their reply (September 1987), while

accepting the factual position, it was stated by Government that, without modification in the lease deed, this could not be enforced as a demand on the lessees, and the process of getting the lease deed, modified on the line of the implication of the notification dated 9.8.1974 was a little time-taking affair.

6.5 Non-levy of interest

Under the Mineral Concession Rules, 1960, as amended in October, 1982, in cases of belated payments of dead rent, royalty or other Government dues, simple interest at the rate of 15 per cent per annum on the amounts in default may be charged from the lessees from the sixteenth day of the expiry of the date fixed by Government for payment of such dues till the payment is made. Similarly, as per the provisions of the Orissa Cess Act, 1962 and the rules made thereunder, simple interest at the rate of 6 per cent per annum is chargeable if the monthly cess payable for the mining area remains unpaid after the due date of payment (i.e. 15th of the following month).

(i) In a Mining office in Cuttack district, a lessee (a State Government Undertaking in the Public Sector) did not pay the mining dues in time, but the department did not levy interest for the belated payment of royalty and cess for the period from January 1985 to December 1985, which worked out to Rs.3.06 lakhs.

(ii) In a Mining Office (Joda), interest had not been levied in 33 cases of belated payments of royalty (11 cases), dead rent (2 cases) and cess (20 cases) during the years 1983-84 to 1986-87. The interest realisable on these cases amounted to Rs.0.58 lakh.

On the omission being pointed out in audit (August and September 1986), the Mining Officers stated (August

and September 1986) that action would be taken to realise the interest due. Report of realisation has not been received (February 1988).

The matter was reported to Government in October-December 1986. In their reply (October 1987), Government stated, on the basis of a report from the Mining Officer, that, the amount has since been realised. In respect of sub-para (ii) it was stated (November 1987, that out of Rs.0.58 lakh, a sum of Rs.0.55 lakh has been realised, and the Senior Mining Officer, Joda has been requested to take immediate steps for realisation of the balance amount of Rs.0.03 lakh.

CHAPTER 7

FOREST RECEIPTS

7.1 Results of Audit

A test check of records maintained in the Forest Divisions, conducted in audit during the period from April 1986 to March 1987, revealed non-recovery or short recovery of dues and loss of revenue amounting to Rs.50.83 lakhs in 8,760 cases, which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of compensation	1,582	41.65
2. Non-levy/short levy of interest on belated payments of consideration money/royalty	73	2.35
3. Non-realisation/short realisation of extension fees	13	1.79
4. Non-recovery of defaulted amount in case of quashed/determined lots of minor forest produce	35	1.21
5. Loss of revenue due to non-sale of forest produce	15	1.57
6. Miscellaneous	<u>7,042</u> <u>8,760</u>	<u>2.26</u> <u>50.83</u>

Some of the important cases are mentioned in the succeeding paragraphs.

7.2 Under-assessment of royalty due to misclassification of a specie of trees

Royalty in respect of a coupe is generally fixed on the basis of units of timber determined by classifying the trees under the appropriate class of species. As per the classification of various species of trees given in the Schedule of Rates of the Orissa Forest Produce Rules, 1977, framed by Government under clause(d) of Section 36 of the Orissa Forest Act 1972 "*Kurum*" class of specie stood classified under 1st class. However, the Chief Conservator of Forests (CCF) issued instructions in June 1982 to classify the *Kurum* trees under 2nd class specie. As a result, the Field Officers who had hitherto been classifying these trees under 1st class as per the statutory rules, classified them under 2nd class and assessed a lower unit value on them resulting in lower fixation of royalty.

In 16 Forest Divisions (Balliguda, Puri, Ghumsur South, Keonjhar, Ghumsur North, Rairakhol, Dhenkanal, Nayagarh, Phulbani, Khariar, Athgarh, Deogarh, Kalahandi, Boudh, Bolangir and Athmalik) it was noticed that owing to misclassification of this specie (i.e., *Kurum*) as second class during the years 1985-86 and 1986-87, 3,448 trees were under-assessed to royalty by Rs.20.06 lakhs.

The matter was reported between August 1986 and May 1987 to the Chief Conservator of Forests (redesignated as Principal Chief Conservator of Forests) who issued (4th September 1987) a circular classifying the specie as "first class". Report on action taken to recover the amount on account of the lower classification done as a result of the 1982 orders of the then Chief Conservator of Forests has not been received (February 1988).

The matter was reported to Government in September 1987; their reply has not been received (February 1988).

7.3 Loss due to shortage in coupes

Under the Orissa Forest Contract Rules, 1966 a contract can be terminated for default in payment of consideration money and the coupe resold at the risk and expense of the defaulting contractor.

In three forest divisions (Kalahandi, Rayagada and Baripada) 9 timber coupes containing 9220 trees were sold to forest contractors during 1977-78 to 1981-82 at a total consideration of Rs.15.53 lakhs. The contracts for 7 coupes were cancelled (January 1979 to February 1984), for default in payment/non-working of the coupes. Of these, 3 coupes were resold (September 1983 to August 1985) and the remaining 4 coupes remained (June 1986) undisposed for various reasons. But during the intervening period of first sale and subsequent resale, the concerned Range Officers reported (May 1980 to November 1986) that 3605 trees were found missing in the three coupes resold. The other 2 (two) coupes were not even taken delivery by the contractor on account of shortage of trees, which on enquiry by the Range Officer was found (January 1982) to be 243. The total shortage resulted in a loss of revenue of Rs.5.20 lakhs computed at original sale value. No action was taken in seven cases to investigate and fix responsibility for loss and recover the shortfall from the original contractors under Orissa Forest Contract Rules. In the remaining two cases departmental proceedings started were stated (July 1986) to be under finalisation.

The cases were reported to the department and Government between September 1986 and April 1987; their replies have not been received (February 1988).

7.4 Loss of revenue due to illicit removal of trees

Coupes due for working as per the prescription of the working plan of a forest division are either settled with the Orissa Forest Corporation Limited or with forest contractors giving highest bids in public auction sales, after marking of the trees selected for felling and after determining the royalty/upset price thereof, basing on the units of timber available from them. Trees thus marked in a coupe and settled with the Orissa Forest Corporation/forest contractors are then handed over to them on joint verification on a coupe delivery certificate signed by the authorised agent of the Orissa Forest Corporation/forest contractors and the concerned Range Officer of the division.

(i) In two Forest Divisions (Puri and Sambalpur) coupe delivery certificates of 11 coupes settled with the Corporation for working during 1985-86 disclosed that a total number of 3,368 trees marked for felling, were not handed over to the Corporation, while delivering the coupes, due to their having been illegally felled and removed by miscreants between the dates of marking done in December 1984 to December 1985 and delivering the coupes to the Corporation. This resulted in loss of revenue amounting to Rs.4.06 lakhs.

On this being pointed out in audit (April 1986 to February 1987), the Divisional Forest Officer, Puri stated (April 1986) that since the area was very much prone to illicit felling by smugglers, protection thereof was beyond the control of the meagre staff deployed for the purpose. The Divisional Forest Officer, Sambalpur agreed to fix up responsibility on the staff for the missing trees and short-delivery. Further report has not been received (October 1987).

(ii) In Dhenkanal Forest Division, a timber coupe marked in July 1977 and containing 1070 trees was sold to a forest contractor at his highest bid amount (Rs.0.80 lakh) which was ratified by Government in January 1979. Before taking delivery of the coupe, however, the contractor complained (February 1979) that 59 trees were missing from the coupe. On being asked by the Divisional Forest Officer to conduct a joint verification in the matter, the Range Officer reported in May 1979 that 92 trees had been found illicitly felled in the coupe, out of which 40 trees had already been removed, and 52 trees were lying at the stump-site. The forest contractor did not work the coupe, and on being pressed by him, Government cancelled his lease in August 1980 and ordered resale of the balance after correcting the marking list.

As per a remarking list furnished by Range Officer in February 1981, 371 trees only were left standing in the coupe and there was no trace of even the 52 felled trees earlier reported as lying at the stump-site. Therefore the coupe remained unsold. As to the reasons for non-disposal, it was stated by the Division that permission of the Conservator of Forests has been sought for (March 1981) by it for getting the coupe remarked by an Assistant Conservator of Forests and his orders were awaited (July 1986). The loss sustained by Government on account of illicit removal of 699 trees worked out to Rs.1.12 lakhs as at the end of 1985-86.

The cases were reported to Government between February 1986 and April 1987; their reply has not been received (February 1988).

7.5 Non-assessment of royalty on trees of lower-girth/ lower species

Royalty in respect of coupes settled with Orissa Forest Corporation (a State Government Undertaking)

is determined with reference to the units of timber available in the coupes. As there was no uniformity in the procedure of reckoning such units in the various Forest Divisions, the Chief Conservator of Forests (CCF), Orissa issued (June 1982) instructions to all Divisional Forest Officers to classify all standing trees (except *Chandan*, *Teak* and *Khair*) marked for felling in a coupe, into three broad categories of species and compute their units accordingly:

<u>Girth of trees at breast height</u>	<u>Ratio of conversion of species into units</u>		
	1st class	2nd class	3rd class
Under 60 Cm	0.25	-	-
Between 60 and 90 Cm	0.50	0.25	-
Between 90 and 120 Cm	1.00	0.50	0.25
Between 120 and 150 Cm	2.00	1.00	0.50
Between 150 and 180 Cm	4.00	2.00	1.00
180 Cm and above	6.00	3.00	1.50

It will be thus seen that these instructions did not indicate as to what would be the unit value of timber for 2nd and 3rd class species below 60 Cm girth and 3rd class species below 90 Cm girth.

Mention was made in paragraph 6.7(iv) of Audit Report (Revenue Receipts) for the year 1984-85 that while in five Forest Divisions, the timber contents of such under-girth trees were being computed at half the ratios applicable to the immediately preceding species of corresponding girth class, in 20 Forest Divisions, trees with girths below 90 Cm, marked for felling, were handed over to the Corporation free of charge without converting them into units, whereby royalty amounting Rs.48.83 lakhs based on the procedure adopted

by the 5 other Divisions, was not charged. Reasons for the omission was attributed to non-issue of any instruction laying down the rate of conversion, by the Chief Conservator of Forests (C.C.F) Orissa in respect of such trees, despite, a promise held out (April 1985) to issue a revised circular to adopt an uniform procedure in this regard. A circular was, however, ultimately issued in September 1987, prescribing a ratio of 0.12 and 0.06 units for 2nd and 3rd class species respectively under 60 Cm. girth and 0.12 units for 3rd class species below 90 Cm. girth class as adopted by other charging Divisions of the State and making it effective from 1987-88. Consequently, the same procedure of handing over these trees to the Corporation without converting them into units continued upto 1986-87 without assessment of any royalty.

In five Forest Divisions (Baripada, Ghumsur North, Phulbani, Athmallik and Bolangir) trees numbering 30,482 (23,807 under 60 Cm. girth class and 6675 under 90 Cm. girth class) marked for felling and handed over to M/s. Similipahar Forest Development Corporation Limited and Orissa Forest Corporation Limited during 1983-84 to 1986-87 free of charge resulted in a loss of revenue amounting to Rs.4.02 lakhs computed by conversion of the trees at half the unit ratio of the preceding higher species.

The cases were reported to the department and Government between November 1986 and April 1987; their replies have not been received (February 1988).

7.6 Non-realisation of extension fees

Under the Orissa Forest Contract Rules, 1966, forest produce is to be extracted and removed by the contractors from the contract area within the contract period, failing which the produce shall become the

absolute property of Government. The Conservator of Forest, or the Divisional Forest Officer, as the case may be, may grant extension of time on advance payment of extension fee at one *per cent* of the consideration money of the contract, for each month of extension. As clarified by Government (September 1972 and February 1977) these provisions were also applicable to leases of coupes to Similipal Forest Development Corporation Limited (S.F.D.C.Ltd), a fully owned Government Undertaking.

In respect of 7 coupes of Baripada Forest Division allotted to the S.F.D.C.Ltd. during 1983-84 and 1984-85, extension of time ranging from 4 months to 9 months beyond the contract period were granted between October 1985 to January 1986 by the Divisional Forest Officer, but the extension fee amounting to Rs.1.61 lakhs was not demanded and realised in advance.

On this being pointed out in audit (July 1986), the Divisional Forest Officer stated (July 1986) that action was being taken to realise the extension fee. Report of realisation has not been received (February 1988).

The matter was reported to Government in November 1986; their reply has not been received (February 1988).

7.7 Under-assessment of royalty due to variation in the marking and passing list of coupes

According to the provisions of the Orissa Forest Department Code and the executive instruction issued from time to time, royalty of a coupe settled with the Orissa Forest Corporation, Limited, is assessed on the units of timber and quantity of firewood available

in that coupe as shown in the marking list*. In order to check that no trees are cut and lifted by the Forest Contractors/Corporation from the coupe area in excess of those actually marked and delivered, the departmental procedures provide that a felled tree with all its conversion should be lifted by the contractors as per passing list** duly cross-checked with the marking list. Therefore, once a felled tree has featured in a 'passing list' duly verified with the 'marking list, its number can not appear again in the passing list.

In 9 Forest Divisions, a test check of both 'marking list' and 'passing list' conducted between April 1986 to December 1986, revealed that in 95 cases, trees were allowed to be lifted by the Orissa Forest Corporation (1985-86 and 1986-87) as higher class species in the passing list. As they stood classified as lower class species in the marking list; royalty was

* Marking list contains details such as serial No., name of the species, sound or unsound, girth of the tree at breast height. The marking list forms the basis for fixation of upset price of the coupe and also enables the contractor to offer his bid according to the sale notice, wherein these trees, specie-wise with girth class are notified.

** Passing list

As soon as the felling is done by the contractor, the trees are converted into logs and the same are entered in a conversion register maintained by the contractor indicating the details of the number and size of the trees felled and those converted into logs with sizes against each tree. The Range Officer inspects the coupe, verifies the conversion register to ensure that the trees are felled according to the sale notice and passes the timber duly marked with a passing hammer seal. A list of timber so passed by the Range Officer from time to time is sent to the Forest Division for check with reference to 'marking list'. This list is called 'passing list'.

assessed on the lower class species. In another 86 cases, the same number was assigned to more than one tree in the passing list, although, these numbers were shown in the marking list only once. These mistakes resulted in under assessment of royalty amounting to Rs.0.69 lakh.

On this being pointed out in audit (April-December 1986), the Divisional Forest Officers agreed (April-December 1986) to investigate into the omissions and raise demand for realisation of differential royalty short-assessed. Further report has not been received (February 1988).

The matter was reported to Government between August 1986 and May 1987; their reply has not been received (February 1988)

7.8 Revenue forgone due to non-mention of liability towards fuel cess.

Long term leases for felling and removal of bamboos in various Forest Divisions were granted for a period of twelve years with effect from 1st October 1977 to 30th September 1989 in favour of the three working paper mills of the State. It was *inter-alia* stipulated therein that one paise per unit of "Salia" and two paise per unit of "Daba" bamboos extracted would be payable towards "fuel cess" as compensation towards the use of forest products as firewood by the employees of the mills staying in the contract areas.

In Jeypore Forest Division, Government had granted a long term lease of bamboo felling series to a paper mill named 'S' for a period of six years with effect from 1st October 1983, without including a similar condition. No reasons for non-inclusion of the condition were available on record. The paper mill

extracted a total quantity of 20,27,807 units of "Salia" bamboo during the period from 1983-84 to 1985-86 and did not pay any amount towards "fuel cess" due to absence of any such condition in the lease deed although the employees of the mill had stayed in the contract areas. This resulted in revenue amounting to Rs.0.20 lakh being forgone.

On this being pointed out by audit (November 1986), the Divisional Forest Officer agreed (November 1986) to refer the facts to higher authorities. Further report has not been received (February 1988).

The matter was reported to Government in March 1987; their reply has not been received (February 1988).

7.9 Exploitation of minor forest produce (M.F.P)

7.9.1 Introduction

Apart from bamboos and *kendu* leaves which have more commercial importance, the State's forests are also rich in minor forest produce falling under seven main categories, viz., (a) gums and resins (b) lac (c) tan stuff and dye stuff (d) plants having medicinal value (e) fibre and flosses (f) vegetable and oil seeds and (g) grass (other than fodder) having good potentialities of commercial importance.

7.9.2 Scope of Audit

A review was conducted by Audit during April 1987 to June 1987 in 15 out of 27 forest divisions to examine the exploitation of minor forest produce during the years 1981-82 to 1985-86 in the State.

7.9.3 Organisational set-up

The Chief Conservator of forests is the head of the Department and is aided by the Conservator

of Forests at the Circle level and by Divisional Forest Officer at the Division level. The collection and marketing of the produce for the most part are left in the hands of the forest contractors on auction sale basis or settled with Government agencies (Government undertakings) or co-operative societies, who have the right of collection and trade in these produce on payment of fixed royalties for each co-operative year.

7.9.4 Highlights

- (i) There has been a decline in the quantum of extraction of the produce as compared to production of earlier years.
- (ii) In twenty seven Forest Divisions, arrears amounting to Rs.28.26 lakhs are outstanding for more than five years prior to 1982-83, with the forest contractors.
- (iii) In respect of 189 MFP contracts determined and resold, Rs.4.87 lakhs are pending for recovery from the defaulting forest contractors.
- (iv) Royalty amounting to Rs.89.21 lakhs is outstanding with three Government agencies (OFC/SFDC/TDCC Ltd) out of which Rs.21.37 lakhs relate to period more than 5 years. Royalty outstanding with other co-operative societies upto 1983-84 amounted to Rs.21.05 lakhs.
- (v) M.F.P. items neither sold in the Division by auction nor worked out departmentally, involved a revenue of Rs.13.25 lakhs during the period 1975-76 to 1986-87.

7.9.5 Receipts from minor forest produce

Receipts from this source (other than bamboos and *kendu leaves*) during the five years ending 1985-86 are given below:

Year	Receipts from M.F.P. (Rupees in lakhs)
1981-82	182.51
1982-83	175.91
1983-84	403.16
1984-85	359.92
1985-86	466.92

7.9.6 Mode of harvest and disposal of the produce

Collection and marketing of produce is generally left to the forest contractors or settled with government undertakings or co-operative societies. In fixing rates of royalty to be charged from government undertakings or co-operative societies, no minimum amount of royalty chargeable is usually fixed and the royalty is paid on the basis of quantities as collected by the lessees. The quantum of collection of different items of minor forest produce during the years 1981-82 to 1982-83, for which period, figures were available shows that over the years there has been a considerable fall in the quantity of various items collected as compared to the highest production of earlier years. Figures of collections for the year 1983-84 onwards were not available.

Name of the M.F.P (Broad category)	Quantity produced during (in quintals)			Highest production during earlier year		Percen- tage colle- ction in lowest produ- ction year com- pared to the highest
	1980-81	1981-82	1982-83	Year	Quantity (Qtls.)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.Gums &Resins	5,151	5,425	5,226	1973-74	1,82,655	2.82
2.Lac	415	1,033	176	1972-73	87,976	0.20
3.Tan stuff and Dye stuff	25,627	30,189	31,330	1970-71	79,151	32.37
4.Drugs(i.e. plants having medicinal value)	3,40,816	2,83,106	4,19,461	1974-75	7,56,011	37.44
5.Fibres and Flosses	2,308	4,125	2,039	1971-72	62,518	3.26
6.Vegetable and Oil Seeds	6,36,001	5,45,783	5,56,710	1976-77	8,97,152	60.83
7.Grass (other than fodder)	10,200	59,422	17,666	1971-72	1,32,653	7.68

7.9.7 Arrears of royalty on M.F.P with collection agencies

A. Forest contractors

(i) As per rules, when a forest contractor fails to abide by the terms and conditions of the contract or defaults in payment of the consideration money, his contract shall be terminated by the competent authority, and on such a termination of the contract, the lot along with the forest produce left therein, should be sold in re-auctions. If, the price so obtained on resale falls short of the consideration money outstanding, the difference should be realised from the original contractor as arrears of land revenue by institution of certificate proceedings, if necessary.

Information received (June 1987) from all the 27 forest divisions of the State dealing with M.F.P. revealed that an amount of Rs.43.90 lakhs is outstanding for recovery till the end of 1986-87, out of which Rs.28.26 lakhs relates to arrears outstanding prior to 1982-83 (exceeding 5 years).

(ii) In 15 out of the 27 divisions it was seen that 109 M.F.P. lots, which were settled with the forest contractors during auction, were either quashed or determined for default in payment or otherwise, and were put to resale, where either no bid or very low bids were obtained, resulting in a shortfall of Rs.4.87 lakhs; the stage-wise analysis is indicated below.

Sl.No.	Stage	Number of cases	Amount (In lakhs of rupees)
1.	Under certificate cases	34	1.74
2.	Property statements not obtained so far for which certificate cases could not be instituted	36	1.02

Sl.No.	Stage	Number of cases	Amount (In lakhs of rupees)
3.	No reasons forthcoming for non-resorting to certificate proceedings	39	2.11
		<u>109</u>	<u>4.87</u>

B. Government Undertakings

A sum of Rs.89.21 lakhs was outstanding with three Government agencies i.e.(a) M/s.Orissa Forest Corporation Limited (OFC) (b) M/s Similipal Forest Development Corporation (S.F.D.C.) and M/s Tribal Development Co-operative Corporation Limited (T.D.C.C.). Out of this, a sum of Rs.21.37 lakhs relates to periods prior to 1982-83.

C. Other Co-operative Societies

Out of Rs.21.05 lakhs outstanding, an amount of Rs.20 lakhs is against Aska Multipurpose Co-operative Society and Rs.1.05 lakhs relate to 5 other Farmers' Multipurpose Co-operative Societies and three other Co-operative Societies while the outstanding amount relates to the period prior to 1982-83.

7.9.8. Loss of revenue due to non-exploitation of M.F.P items

In 13 Forest Divisions covered during audit scrutiny in May 1987 and June 1987 it was seen that 52 M.F.P. items which were sold in the Divisions earlier on royalty basis were not sold in subsequent years on account of no bid or very low bids being received in auction. These being seasonal products, the crops were allowed to go waste in the forest.

Computed with reference to the annual sale value obtained during the previous years, there was a loss of Rs.13.25 lakhs for non-sale/non-harvest of the crops during the period 1975-76 to 1986-87.

Other points of interest

7.9.9 Poor working of the lease of myrobalan granted to M/s Tribal Development Co-operative Corporation Limited (T.D.C.C. Ltd.)

Consequent on cancellation (May 1983) of a long term lease with a private agency, M/s T.D.C.C. Ltd., was requested to take up this work in 4 (four) divisions from the crop year 1982-83 (October 1982 to September 1983). Recommendations were made prescribing that they should pay the same royalty and minimum royalty as was stipulated in respect of the private agency. Government granted the lease to M/s. T.D.C.C. Ltd. in June 1983 in 4 (four) divisions (i.e. Nowrangpur, Jeypore, Khariar and Rayagada) for one year, which covered only 4 months of the season being available and that too without fixation of any royalty but with the condition that they should work out the same on giving an undertaking to abide by the terms and conditions and pay the royalty/minimum royalty as would be fixed by Government in consultation with the Finance Department.

In June 1983, the T.D.C.C. intimated Government that since the collection season (March and April) of the crop was already over, they could neither take delivery of the lots nor could collect any produce during the 1982-83 lease year. They agreed to work out the lease from 1983-84 onwards if royalty for the same was fixed at Rs.5 per quintal, since there was no market for it in India. After cancelling (July 1983) the lease for 1982-83, the views of the Chief Conservator of Forests (C.C.F.) Orissa was called for, who in turn

obtained (July 1983) the views of Conservator of Forests, Koraput. An offer was received (July 1983) from a private agency of Khariar and basing on this the Conservator of Forest, Koraput recommended the rate of Rs.11.00 per quintals. The Chief Conservator of Forests did not accept (July 1983) this rate and recommended disposal of the minor forest produce "by public auction". Government, however, agreed to settle the royalty at the rate of Rs.11.00 per quintal and granted (January 1984) lease in favour of M/s T.D.C.C. Ltd. for the years 1983-84 and 1984-85, without consulting the Finance Department, as contemplated in their order while granting the lease for the year 1982-83 which was ultimately cancelled. Though, the absence of a provision of minimum royalty was pointed out by the Chief Conservator of Forests, Orissa, who had recommended minimum royalties of Rs.2.67 lakhs and Rs.2.94 lakhs for the years 1983-84 and 1984-85, Government clarified during January 1985 that since they had already granted (January 1984) lease on payment of royalty at the rate of Rs.11.00 per quintal on actual collection, only that should be paid and no condition for payment of minimum royalty could be inserted.

Consequently, the full potential of the coupes was not exploited by M/s T.D.C.C. Ltd, apparently due to slackening of their efforts as may be seen from the following.

Name of the Division	Estimated potential quantity	Quantity collected by a private company during 1981-82	Quantity collected by T.D.C.C. Ltd. during			
			1982-83	1983-84	1984-85	1985-86
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(In quintals)						
1.Nowrangpur	35,000	6,659	No collection	3,188	1,708	3,843
2.Jeypore	10,000	1,462	- do -	No collection		
3.Kharia	20,000	3,352	- do -	177	1,200	2,616
4.Rayagada	5,000	1,960	- do -	796	984	294

Though, this position was brought (August 1985 and September 1985) to the notice of Government by Conservator of Forests, Koraput with a suggestion to fix minimum royalty, Government had granted lease for another 3 (three) years in continuation upto 1987-88 without fixation of any royalty. The C.C.F. however basing on the royalty rate of Rs.11 per quintal for 1984-85 and on the principle of 10 per cent increase thereon for each subsequent year had suggested (March 1987) a royalty of Rs.13, Rs.15 and Rs.17 per quintal for 1984-85, 1985-86 and 1986-87 respectively. Decision thereon is still awaited (June 1987). The poor performance over the past three years was brought to the notice (May 1987) of Government and Chief Conservator of Forests recommended disposal of the stock by public auction, final decision is yet to be taken (July 1987).

Computed with reference to the rates of minimum royalty approved by Government for the private parties revenue forgone by Government for non-collection

or low-collection of the produce during 1983-84 to 1985-86 (3 years) worked out to Rs.7.07 lakhs as shown below.

Name of the Division	Minimum royalty payable on the basis of rates approved for private parties			Quantity collected and royalty paid as per rates fixed/proposed by Chief Conservator of Forests		
	1983-84 (2)	1984-85 (3)	1985-86 (4)	1983-84 (5)	1984-85 (6)	1985-86 (7)
(1)	Rupees	Rupees	Rupees			
1. Nowrangpur	1,33,500	1,46,850	1,61,540	Qtls. 3188 Rs.35068	1708 Rs.18788	3843 49,959
2. Jeypore	38,130	41,940	46,130	- NIL -	- NIL -	-NIL-
3. Khariar	76,300	83,930	92,320	Qtls. 177 Rs.1947	1200 13200	2616 34008
4. Rayagada	19,100	21,000	23,100	Qtls. 796 Rs.8756	984 10,824	294 3822

Revenue forgone compared with minimum royalty			
1983-84 Rupees	1984-85 Rupees	1985-86 Rupees	Total Rupees
1. 98,432.00	1,28,062.00	1,11,581.00	3,38,075.00
2. 38,130.00	41,940.00	46,130.00	1,26,200.00
3. 74,353.00	70,730.00	58,312.00	2,03,395.00
4. 10,344.00	10,176.00	19,278.00	39,798.00
<u>2,21,259.00</u>	<u>2,50,908.00</u>	<u>2,35,301.00</u>	<u>7,07,468.00</u>

7.9.10 Exploitation of siali leaves in 1985-86 season

In Nowrangpur Forest Division, the lease for collection of "Siali leaves" falling under the broad category 'fibre and flosses' was granted (September 1984) by Government to a forest contractor for a period of five years (1984-85 to 1988-89) with the condition that

the lessee should establish a processing unit within 6 (six) months. Pending fixation of royalty, Government ordered that the lessee should pay a provisional royalty of Rs.25,301 for 1984-85 lease year (October to September) with 10 per cent increase in each subsequent year.

The forest contractor paid the provisional royalty of Rs.25,301 worked out the lease during 1984-85. On 15th December 1985 he represented to Government through Chief Conservatore of Forests to cancel his lease for the unexpired period (1985-86 to 1988-89). Though recommendation was made by Chief Conservator of Forests, Orissa on 31st December 1985 itself, Government cancelled the lease on 18th February 1986 and instructed the Chief Conservator of Forests to settle the same with T.D.C.C. for 3 years from 1985-86. The T.D.C.C., refused (5th March 1986) to work out the lease for 1985-86, in view of expiry of a major portion of the collection season (September to June). They were however agreeable to work out the same from 1986-87 onwards on payment of royalty on the basis of actual collection. Thereafter the produce of 1985-86 was put to auction on 12th June 1986, but no bid was obtained.

Due to (a) belated surrendering of the lease by the forest contractor three months after beginning of the collection season (b) time taken in cancellation of the lease by Government and delay in auction the revenue forgone worked out to a sum of Rs.27,831.00 (Rs.25,301.00 + 10 per cent increase thereon) for 1985-86.

7.9.11 Delayed ratfication of a lease

Genduligum and other gums (falling under the broad category of gums and resins) of Kalahandi Division put to auction held on 29th May 1984 for a three years' lease (1983-84 to 1985-86), obtained a highest bid of Rs.80,000 from a forest contractor. Though the sale

was recommended by the Chief Conservator of Forests in July 1984, Government ratified the sale only in March 1985. The royalty amount was to be paid in two instalments, per lease year covering six months each and all in six instalments. The forest contractor paid the first instalment (Rs.13,334 on 11th April 1985 and took delivery of the lot on 13th April 1985. But, in view of the expiry of one year of the lease period by this time, the Divisional Forest Officer at the instance of the Conservator of Forests demanded (April 1985) payment of the entire consideration money of Rs.80,000 in 4 (four) equal instalments during the remaining lease period of two years at the rate of Rs.20,000 payable in April 1985, June 1985, October 1985 and January 1986. The forest contractor represented against this and Government extended the lease upto 30th September 1987 to compensate the loss of one lease year and refixed the instalments with effect from May 1985. Despite this, the Divisional Forest Officer demanded (in December 1985 and January 1986) from the forest contractor the payment of arrear royalty of Rs.33,332 (Rs.60,000 minus Rs.26,668 already paid) in respect of instalments due up to October 1985 (3rd instalment) and Rs.53,332 due up to January 1986, calculated on 4 (four) instalments basis. This was not paid by the forest contractor in view of the Government order issued in May 1985, whereupon the contract was determined by the Conservator of Forests in February 1986 at the risk and expense of the contractor. The crop was then put to resale for two years (1985-86 and 1986-87) on 25th March 1986 with no bid. On 30th April 1986 it was reauctioned and the highest bid was obtained at Rs.13,500 but it was not sold; and lastly the crop was sold for one year (i.e. 1986-87) on 7th August 1986 for Rs.10,000 only.

Thus, due to delay in communication of Government order ratifying the sale and also due to non-implementation

of the revised lease terms Government sustained a loss of revenue to the tune of Rs.70,000 (Rs.80,000 - 10,000) for non-working of the produce during the three lease years 1983-84, 1984-85 and 1985-86.

7.9.12 Cancellation of a lease of Neem seeds and Bana tulasi seeds

The lease for collection of neem seeds and *Bana tulasi* seeds of Kalahandi Forest Division was granted (September 1984) by Government to a Forest Contractor for 5 years from 1st October 1984 to 30th August 1987 with instructions to the Divisional Forest Officer to allow him to work on realisation of necessary security deposit and after obtaining an undertaking from him to abide by the terms and conditions and to pay royalty and minimum royalty as would be fixed by Government later on. The Divisional Forest Officer fixed a security of Rs.8,000 for neem seeds and Rs.2,000 for *Bana Tulasi* seeds. A sum of Rs.2,000 was only paid for *Bana Tulasi* seeds and accordingly work order for this seed only was issued.

Basing on the average of the last 3 (three) years (1981-82 to 1983-84) collection and revenue (1,868 quintals and Rs.22,936 per annum) and pre-grant offer of Rs.50,000 received from a third party, the Divisional Forest Officer had suggested (April 1985) a royalty of Rs.50,000 for 1984-85 crop with 10 per cent increase in each subsequent year, in respect of Neem Seeds.

As regards *Bana Tulasi* basing on a sale price of Rs.45,626 obtained for three years (1981-82 to 1983-84) in the neighbouring Khariar Division (*Bala Tulasi* was not previously exploited in this Division) the Divisional Forest Officer had suggested (April 1985) a royalty of Rs.15,225 for 1984-85 lease year with usual 10 percent

increase for each subsequent year. In other words the contractor was to pay Rs.3,05,255 on account of neem seeds and Rs.92,948 on account of *Bana Tulasi* over the period of 5 years ending 1988-89 season.

The Forest Contractor represented (April 1985) against this, stating that since the last 3 (three) years revenue from neem seeds was Rs.23,000 only, he was agreeable to pay that amount as minimum royalty in respect of neem seeds and a sum of Rs.10,000 in respect of *Bana Tulasi* during 1984-85; otherwise, his lease for the above 2 crop years might be cancelled.

Taking all the factors into account, the Chief Conservator of Forests recommended (October 1985) a minimum royalty of Rs.15,000 for neem seeds and Rs.10,000 for *Bana Tulasi* seeds for 1984-85 with 10 per cent increase on both in each subsequent year suggesting (October 1985) *inter-alia* cancellation of the lease for the year 1984-85 in view of the lack of interest of the Forest Contractor, and settlement with T.D.C.C. from the years 1985-86 to 1987-88. Accordingly Government cancelled (March 1986) the lease of the above two items and ordered settlement with T.D.C.C. Ltd. from the year 1985-86.

The T.D.C.C. expressed (November 1985) their unwillingness to work out the above 2 (two) items, sequel to which, they were put to auction on 30th April 1986 and were sold for Rs.51,000, in respect of neem seeds, and at Rs.22,000, in respect of *Bana Tulasi* seeds for a 3 (three) year lease period from 1985-86 to 1987-88. Owing to non-acceptance of the offer of the Forest Contractor and the eventual settlement at lower rates, Government suffered a loss of revenue of Rs.80,000 during the years 1984-85 to 1987-88.

7.9.13 Non-working of M.F.P. items

The Aska Multipurpose Co-operative Society, Tikabali which worked 22 M.F.P. items in Boudh Forest Division during the previous year 1982-83 applied (June 1983 and January 1984) to the Divisional Forest Officer to work out four new items and two unsold items of the year during 1983-84. This was recommended (September 1983 and March 1984) by the Divisional Forest Officer to the Conservator of Forests on payment of royalty of Rs.0.35 lakh. Directions were sought for whether pending approval of the above the Society could be allowed to work out the crops. No direction was, however, received till the lease year expired on 30th September 1984 pending decision of higher authorities. The proposal was recommended to the Government by Chief Conservator of Forests, Orissa in November 1984 (i.e. after expiry of the lease year), and it was noticed that this has not been approved so far (June 1987).

Computed with reference to the rate of royalty proposed for this crop by the Divisional Forest Officer, there was a loss of revenue to the tune of Rs.0.35 lakh for non-issue of instructions by the competent authority in respect of the year 1983-84 alone.

7.9.14 Non-disposal of M.F.P. lots

In response to a tender call notice issued in March 1986 by the Divisional Forest Officer, Bamra for disposal of 9 (nine) lots (4 in Bamra Range 3 in Badrama Range and 2 in Kuchinda Range), highest bids aggregating Rs.78,522, which covered 6(six) M.F.P. items were received.

Since, there was no possibility of obtaining a better price, and pilferage not being ruled out, the Divisional Forest Officer recommended (April 1986) their sale to the bidders. But, this was not ratified

by the Conservator of Forests on the ground that the highest offers were less than the upset price of the lots (Rs.1,43,550). The lots were also not subsequently put to auction or re-tendered for disposal within the currency of the lease year up to 30th September 1986. Since the M.F.P. items remained uncollected and undisposed of during the year, Government sustained a loss of revenue to the tune of Rs.26,174 (one third of the highest offers received for 3 (three) years.

The points noticed were brought to the notice of Government in July 1987; their reply has not been received (February 1988).

CHAPTER 8

STATE EXCISE

8.1 Results of Audit

A test check of the accounts of receipts in the offices of the Excise Commissioner and Superintendents of Excise, conducted during the period from April 1986 to March 1987, revealed non-levy or short-levy of duty and other losses of revenue, amounting to Rs.4.53 lakhs in 38 cases, which may be broadly categorised as under :

	Number of cases	Amount (In lakhs of rupees)
1. Loss of revenue due to application of lower rate/short realization of duty	12	1.52
2. Non-levy of duty on quantity lost while in transit within the State	6	0.31
3. Loss of revenue due to other reasons	<u>20</u>	<u>2.70</u>
Total:	<u>38</u>	<u>4.53</u>

Some of the important cases are mentioned in the succeeding paragraphs.

8.2 Loss of revenue due to excess wastage of rectified spirit

Under Board's Excise Rules, 1965, loss on wastage of spirit, stored in a distillery, is allowable to the extent of 1.5 per cent per year. The distiller (licensee) is liable to pay duty on wastage in excess of the above limit, unless he proves to the satisfaction of the Excise Commissioner that such excess was due to accident or other unavoidable causes.

Mention was made in paragraph 7.2 of Audit Report (Revenue Receipts) for 1984-85 about excess wastage of rectified spirit by a distiller of Jharsuguda (District Sambalpur) for the year 1983-84 on which excise duty was not charged. The same distiller had shown during 1984-85, a wastage of 605.3 London proof litres of rectified spirit against permissible allowance of 239.612 LPL (1.5 per cent of 15,974.1 LPL). This resulted in excess wastage of 365.688 LPL of spirit. As there was nothing on record to establish that the excess wastage was due to accident or other unavoidable causes, duty amounting to Rs.0.22 lakh was chargeable from the distiller, but was not charged.

On this being pointed out in audit (February 1986), the Superintendent of Excise agreed (February 1986) to take action after examination of records of the distillery. Further report has not been received (February 1988).

The case was reported to the Excise Commissioner and Government in June 1986; their replies have not been received (February 1988).

8.3 Short demand of excise duty on medicinal preparation

Under the Medicinal and Toilet Preparation (Excise Duties) Act, 1955 and the Schedule of rates prescribed thereunder, allopathic medicinal preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverage and falling under the category of restricted preparations are chargeable to excise duty at the rate of 20 per cent *ad valorem* or Rs. 13.20 per litre of pure alcohol, whichever is higher.

A non-bonded pharmacy at Cuttack had manufactured "Tincture Hemidesmi I.P", a restricted preparation consuming 15,666.106 litres of pure alcohol during the

period from 1982-83 to 1984-85. Duty was paid at the rate of Rs.6.60 per litre of pure alcohol, applicable to unrestricted preparations. This was accepted by the assessing officer. The duty payable at the rate of Rs.13.20 (being higher) per litre of pure alcohol amounted to Rs.2.07 lakhs: the short realisation came to Rs.1.04 lakhs.

On the mistake being pointed out in audit (July 1986) the Excise Commissioner accepted (July 1987) the factual position, and stated that the realisation has been stayed on the ground that Government of India have been moved through State Government, seeking clarification in the matter. Further report has not been received (February 1988).

The matter was reported to Government in October 1986, their reply has not been received (February 1988).

8.4 Non-payment of excise duty due to non-accountal of IMFL in bonded warehouse

Under the provisions of Board's Excise Rules, 1965, foreign liquor to be stored for sale-to-trade, shall be transported in bulk under the cover of a pass from a distillery or bonded warehouse direct to the licensed warehouse or store room. Duty shall be assessed and realised on proof strength as ascertained from the bulk and strength before the liquor is sold. The Bihar and Orissa Excise Act, 1915 provides that in case of contravention of any provision of Act/Rule, the licensee is liable to imprisonment and also fine upto Rs.2,000.

In Sambalpur district, scrutiny of records of a licensee of India made foreign liquor (IMFL) bonded warehouse revealed that he imported (October 1984) 324 London proof litres of IMFL from his sister bonded

warehouse at Cuttack. The licensee sold the same straight away without accounting the quantity on his books of accounts. The duty evaded on the IMFL amounted to Rs.19,440. Besides this, the penalty was also leviable.

On the omission being pointed out in audit (February 1986), the Superintendent of Excise stated (February 1986) that the entire excise duty had been recovered from the licensee. However, the reply is silent about penalty leviable. Further reply has not been received (February 1988).

The matter was reported to Government in June 1986; their reply has not been received (February 1988).

8.5 Non-recovery of differential cost price of Ganja from the licensees

Under the Board's Excise Rules, 1965, the Commissioner of Excise fixes the issue price of *Ganja* when issued from the Central Warehouse and thereafter the Collector of the District fixes the cost price of the particular crop of *Ganja* to be realised from the retail licensees of the District, when that crop of *Ganja* is issued from the District Warehouse, after receipt from Central Warehouse.

It was noticed, in the District Excise Office, Puri that during the year 1985-86, the District Warehouse issued a quantity of 2660.335 Kgs. of *Ganja* to the licensees from the crop of 1984-85. Though, the issue price of that product was revised from Rs.89.30 to Rs.100.20 provisionally and was finally determined at Rs.105.25 per Kg., the differential cost amounting to Rs.0.13 lakh worked out at the final stage was not realised from the retail vendors till June 1986.

On this being pointed out in audit (June 1986), the Superintendent of Excise agreed (June 1986) to

realise the amount from the licensees. Report on recovery has not been received (February 1988).

The matter was reported to Government in September 1986; their reply has not been received (February 1988).

8.6 Non-payment of consideration money in advance

Under the Board's Excise Rules the successful bidders for liquor vends are required to deposit two months' consideration money in advance at the stage of auction itself, and pay each month's instalment commencing from 1st April to 31st January of the following year, in advance, on the basis of provisional settlement made by the Collector. The advance deposit for two months is adjusted towards monthly instalments due for the last two months i.e., February and March of the following year. Since Government reserves the right to confirm the provisional settlement made by the Collector, the advance deposit made becomes refundable if Government, for any reason, does not confirm the provisional settlement.

Although the provisional settlement had been confirmed and licences were issued, licensees had not paid the monthly dues in advance as required. The licensees in Cuttack district made payment, one month in arrear, except in one case, where the delay was more than two months involving a sum of Rs.0.11 lakh. Delay in payment beyond two months and less than six months was noticed in 259 cases involving in a sum of Rs.9.15 lakhs which covered Puri, Dhenkanal, Koraput and Ganjam districts. It was, however, noticed that the department took no action to ensure timely payments in the absence of any provision in the rules for charging interest on overdue instalments.

The foregoing were brought to the notice of Government in July 1987; their reply has not been received (October 1987).

CHAPTER 9

ENTERTAINMENTS TAX

9.1 Short payment of surcharge

Under the provisions of Orissa Entertainments Tax Act, 1946 (as amended from 17th September 1985) surcharge at the rate of Re.0.75, Rs.1.05 and Rs.1.35, when payment for admission (excluding entertainment tax) is upto Rs.1.50, exceeding Rs.1.50 but not exceeding Rs.2.50 and exceeding Rs.2.50 respectively, is payable in respect of every payment of admission to the entertainment in 'specified cities'.

In Sambalpur I Circle, the proprietors of two show houses located in a specified city paid surcharge during the period 21st September 1985 to 15th October 1985 at the rate of Re.0.60 and Re.0.90 (admission rates excluding entertainment tax being within Rs.1.50 and between Rs.1.55 and Rs.2.50 respectively), while the correct rate of surcharge payable in these cases was Re.0.75 and Rs.1.05 respectively. The payment of surcharge at lower rates had resulted in a short payment of Rs.0.12 lakh.

On this being pointed out in audit (January 1987), the Assessing Officer agreed (February 1987) to examine the cases. Further report has not been received (February 1988).

The matter was reported to Government in June 1987; their reply has not been received (February 1988).



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Countersigned

NEW DELHI
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**COMPTROLLER AND AUDITOR GENERAL
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