

00214



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

FOR THE YEAR ENDED 31 MARCH 2008

(REVENUE RECEIPTS)

GOVERNMENT OF ASSAM



**COMPTROLLER AND AUDITOR GENERAL OF INDIA
2008**

www.cag.gov.in

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

FOR THE YEAR ENDED 31 MARCH 2008

(REVENUE RECEIPTS)

GOVERNMENT OF ASSAM

1947

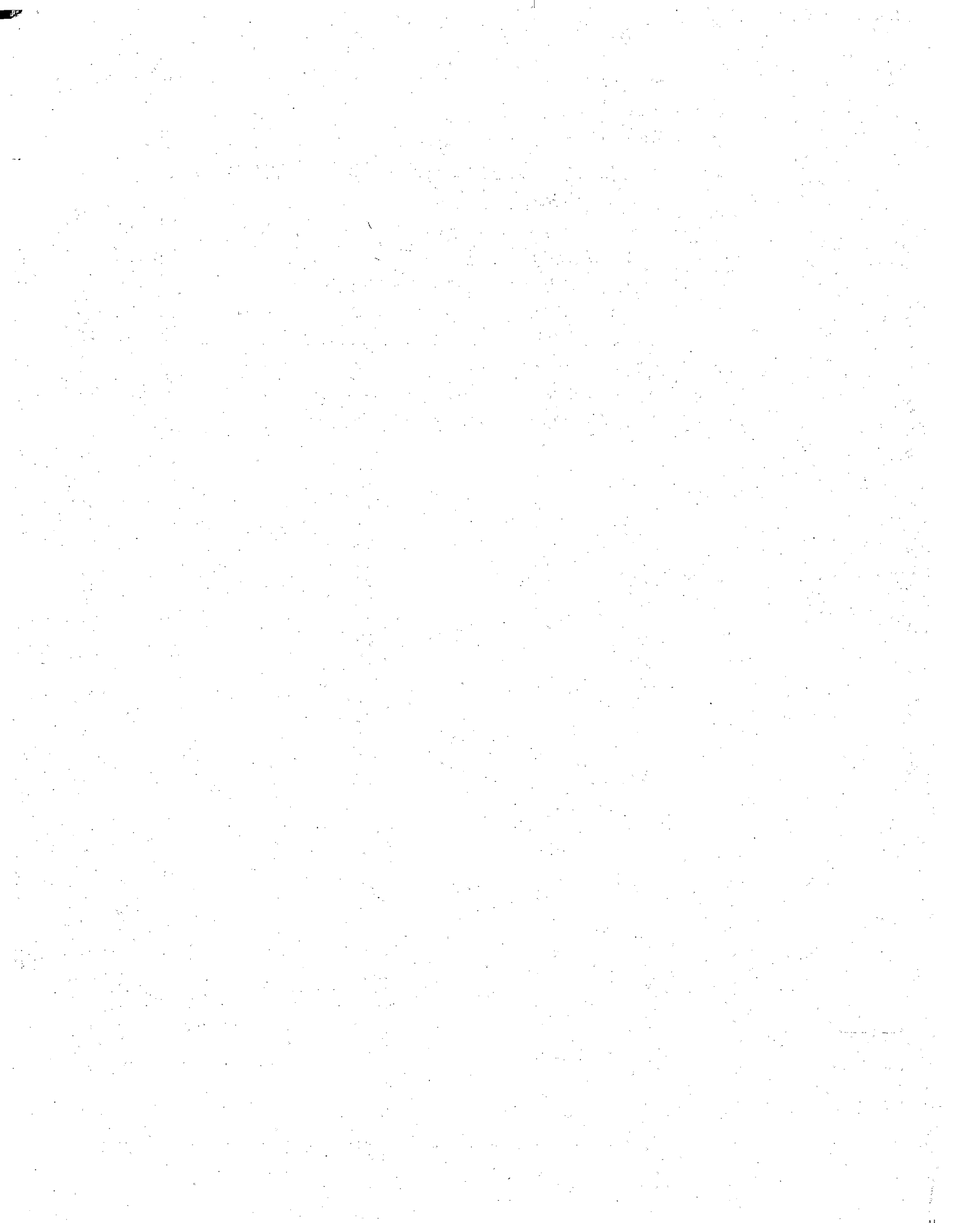
1948

TABLE OF CONTENTS

Paragraph	Particulars	Page
	Preface	v
	Overview	vii-ix
CHAPTER – I: GENERAL		
1.1	Trend of revenue receipts	1
1.2	Variations between budget estimates and actuals	4
1.3	Cost of collection	5
1.4	Analysis of arrears of revenue	6
1.5	Arrears in assessments	6
1.6	Results of audit	7
1.7	Failure to enforce accountability and protect interest of the Government	7
1.8	Departmental audit committee meetings	8
1.9	Response of the departments to draft audit paragraphs	8
1.10	Follow up on Audit Reports – summarised position	8
1.11	Compliance with the earlier Audit Reports	9
CHAPTER – II: SALES TAX		
2.1	Results of audit	11
2.2	Turnover escaped assessment	12
2.3	Short levy of interest	13
2.4	Application of lower rate of tax	14
2.5	Concealment of turnover	14
2.6	Incorrect determination of taxable turnover	15
2.7	Irregular adjustment of tax	16
2.8	Non-levy of tax on containers	16
2.9	Incorrect allowing of deduction	16
2.10	Non-levy of additional tax	17
2.11	Irregular grant of exemption to industrial units	17
2.12	Irregular grant of exemption on stock transfers not supported by form 'F'	19
2.13	Incorrect grant of concessional rate of tax on sale against form 'C'	20

Paragraph	Particulars	Page
2.14	Incorrect grant of concessional rate of tax on sale against form 'D'	22
2.15	Non-levy of penalty for misuse of form 'C'	22
2.16	Incorrect computation of VAT compensation	23
CHAPTER—III: STATE EXCISE		
3.1	Results of audit	25
3.2	Short realisation of import permit fee	26
3.3	Non-recovery of establishment cost	26
3.4	Non-realisation of renewal fee of 'brand and label' of IMFL products	27
3.5	Non-realisation of advance gallonage fee	27
CHAPTER - IV: TAXES ON MOTOR VEHICLES		
4.1	Results of audit	29
4.2	Assessment, levy and collection of motor vehicle tax	30
CHAPTER -V: OTHER TAX RECEIPTS		
5.1	Results of audit	41
A. AGRICULTURAL INCOME TAX		
5.2	Incorrect allowing of set-off	42
5.3	Short levy of interest	42
5.4	Short levy of tax due to application of lower rate	43
5.5	Short levy of tax due to mistake in computation	43
B. LAND REVENUE		
5.6	Retention of cash in hand by <i>mouzadars</i>	44
5.7	Loss of revenue due to application of lower rates	44
C. STAMP DUTY AND REGISTRATION FEE		
5.8	Short levy of stamp duty	45
D. PROFESSION TAX		
5.9	Non-realisation of profession tax	45
CHAPTER -VI: MINES AND MINERALS		
6.1	Results of audit	47
6.2	Short realisation of royalty on crude oil/natural gas	48
6.3	Non-levy of interest on delayed payment of royalty	49

Paragraph	Particulars	Page
CHAPTER -VII: FOREST RECEIPTS		
7.1	Results of audit	51
7.2	Loss of revenue due to sale of forest produce through permit system	52
7.3	Non-realisation of forest royalty	53
7.4	Locking up of revenue due to non-disposal of offence cases	53
7.5	Loss of revenue due to non-settlement of <i>mahals</i>	54
7.6	Short realisation of revenue due to sale of forest produce at pre-revised rates	54



PREFACE

This report for the year ended 31 March 2008 has been prepared for submission to the Governor under Article 151(2) of the Constitution of India.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, state excise, other tax and non-tax receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2007-08 as well as those which came to notice in earlier years but could not be included in previous year's reports.



OVERVIEW

This Report contains 35 paragraphs including one review relating to non/short levy of taxes, fees, interest and penalty etc., involving Rs. 241.77 crore. Some of the major findings are mentioned below:

I. General

- The total receipts of the State for the year 2007-08 were Rs. 15,324.92 crore against Rs. 13,666.95 crore in the previous year. Of this, 36 *per cent* was raised by the Government through tax revenue (Rs. 3,359.50 crore) and non-tax revenue (Rs. 2,134.59 crore). The balance 64 *per cent* was received from the Government of India in the form of State's share of net proceeds of divisible Union taxes (Rs. 4,918.21 crore) and grants-in-aid (Rs. 4,912.62 crore).

(Paragraph 1.1)

- The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue amounted to Rs. 756.47 crore of which Rs. 350.45 crore were outstanding for more than five years.

(Paragraph 1.4)

- In respect of taxes administered by the Finance Department, such as sales tax and other taxes, 69,829 assessments were completed during 2007-08 leaving balance of 54,134 cases pending for assessments as on 31 March 2008.

(Paragraph 1.5)

- Test check of records of sales tax, taxes on vehicles, state excise, forest receipts, other tax and non tax receipts conducted during the year 2007-08 revealed under assessment/short levy/short demand and loss of revenue amounting to Rs. 337.75 crore in 634 cases. The concerned departments accepted under assessment, short levy etc., of Rs. 19.71 lakh pointed out in 2007-08 and earlier years and recovered Rs. 12.16 lakh.

(Paragraph 1.6)

II. Sales Tax

- Taxable turnover of Rs. 111.10 crore escaped assessment resulting in short levy of tax of Rs. 25.11 crore including interest.

(Paragraph 2.2)

- In 10 cases, interest of Rs.2.96 crore was short levied by the assessing officers of five sales tax offices.

(Paragraph 2.3)

- Application of lower rate of tax by the assessing officer led to short levy of tax of Rs. 82.11 lakh including interest.

(Paragraph 2.4)

- Failure of the assessing officer to detect concealment of turnover resulted in short levy of tax of Rs. 51.85 lakh including interest and penalty.

(Paragraph 2.5)

- Incorrect determination of taxable turnover led to short levy of tax of Rs. 14.87 lakh including interest.

(Paragraph 2.6)

- Tax deducted at source amounting to Rs. 10.47 lakh without supporting *challan* was incorrectly adjusted against the tax payable by a dealer.

(Paragraph 2.7)

- Incorrect grant of exemption from payment of tax to the industrial units resulted in non-levy of tax of Rs. 13.01 crore.

(Paragraph 2.11)

- Irregular grant of exemption on stock transfer resulted in non-levy of tax of Rs. 10.84 crore including interest.

(Paragraph 2.12)

- Incorrect grant of concessional rate of tax on sale against form 'C' resulted in short levy of tax of Rs. 3.45 crore.

(Paragraph 2.13)

- Incorrect grant of concessional rate of tax on sale against form 'D' resulted in short levy of tax of Rs. 6.71 lakh.

(Paragraph 2.14)

III. State Excise

- Failure to levy and collect import permit fee at revised rates resulted in short realisation of Rs.7.01 lakh.

(Paragraph 3.2)

- Establishment cost of Rs. 2.86 lakh was not recovered from one distillery.

(Paragraph 3.3)

IV. Taxes on Motor Vehicles

- Failure of the district transport officers to review the combined registers at periodic intervals and issue demand notices to the defaulting vehicle owners for payment dues resulted in non-realisation of tax of Rs. 3.97 crore.

(Paragraph 4.2.7)

- The Enforcement Wing failed to detect 1,48,624 commercial trucks carrying excess load beyond maximum permissible limit resulting in non-levy of fine of Rs. 169.47 crore.

(Paragraph 4.2.11)

- There was non/short levy of licence fee of Rs. 29.91 lakh from 57 agents of passenger and goods vehicles.

(Paragraph 4.2.12)

V. Other Tax Receipts

A. Agricultural income tax

- Incorrect allowance of set-off of loss against future income of a company led to sort levy of tax of Rs. 36.32 lakh.

(Paragraph 5.2)

- Interest of Rs. 58.47 lakh was levied against Rs. 90.80 lakh resulting in short levy of interest of Rs. 32.33 lakh.

(Paragraph 5.3)

B. Land revenue

- Government revenue of Rs.19.55 lakh was illegally retained by the *mouzadars* instead of remitting into the Government account.

(Paragraph 5.6)

VI. Mines and Minerals

- Royalty of Rs. 1,162.50 crore was paid against Rs. 1,169.36 crore by the Oil India Limited resulting in short payment of royalty of Rs. 6.86 crore. Besides additional royalty of Rs. 2.92 crore was also leviable for non-payment of royalty.

(Paragraph 6.2)

VII. Forest Receipts

- The Government was deprived of additional revenue of Rs. 2.92 crore due to sale of forest produce through permit system

(Paragraph 7.2)

- Forest royalty of Rs. 85.82 lakh was not deducted by the drawing and disbursing officers while releasing the final bills of the contractors resulting in non-realisation of revenue of Rs. 85.82 lakh.

(Paragraph 7.3)

- Non-settlement of forest *mahals* resulted in loss of revenue of Rs. 46.16 lakh.

(Paragraph 7.5)



CHAPTER - I : GENERAL

1.1 Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of Assam during the year 2007-08, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Particulars	2003-04	2004-05	2005-06	2006-07	2007-08
I.	Revenue raised by the State Government					
	◦ Tax revenue	2,070.32	2,713.32	3,232.21	3,483.32	3,359.50
	◦ Non tax revenue	945.80	1,070.03	1,459.28	1,859.27	2,134.59
	Total	3,016.12	3,783.35	4,691.49	5,342.59	5,494.09
II.	Receipts from Government of India					
	◦ State's share of divisible Union taxes	2,162.07	2,584.33	3,056.78	3,898.99	4,918.21 ¹
	◦ Grants in aid	2,586.91	3,569.59	4,297.12	4,425.37	4,912.62
	Total	4,748.98	6,153.92	7,353.90	8,324.36	9,830.83
III.	Total receipts of the State (I+II)	7,765.10	9,937.27	12,045.39	13,666.95	15,324.92
IV.	Percentage of I to III	39	38	39	39	36

The above table indicates that during the year 2007-08, the total revenue raised by the State Government was 36 *per cent* of the total receipts (Rs. 15,324.92 crore) against 39 *per cent* in the preceding year. The balance 64 *per cent* of receipts during 2007-08 was from the Government of India.

¹ Note : For details, please see statement No.11 : Detailed accounts of revenue by minor heads in the Finance Accounts of Government of Assam for 2007-08. Figures under the "share of net proceeds assigned to States" under the major heads - 0020-corporation tax, 0021-taxes on income and expenditure, 0028-other taxes on income and expenditure, 0032-taxes on wealth, 0037-customs, 0038-union excise duties, 0044-service taxes and 0045-other taxes and duties on commodities and services booked in the Finance Accounts under 'A-tax revenue' have been excluded from revenue raised by the State Government and included in 'States' share of divisible Union taxes' in the above table.

1.1.1 The following table presents the details of tax revenue raised during the period from 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Sales tax	1,551.06	2,098.58	2,568.41	2,783.24	2691.43	(-) 3
2.	State excise	129.29	144.06	160.40	174.88	188.71	(+) 8
3.	Stamp duty and registration fees	62.02	72.31	85.88	97.32	109.91	(+) 13
4.	Taxes and duties on electricity	2.73	61.84	13.29	15.89	4.62	(-) 71
5.	Taxes on vehicles	124.00	134.72	155.91	151.15	138.62	(-) 8
6.	Taxes on goods and passengers	16.99	15.88	61.52	70.15	12.39	(-) 82
7.	Other taxes on income and expenditure – Tax on professions, trades, callings and employments	86.75	94.74	99.80	108.36	124.68	(+) 15
8.	Other taxes and duties on commodities and services	32.18	27.66	5.10	5.66	6.24	(+) 10
9.	Land revenue	62.12	58.30	74.65	74.15	79.76	(+) 8
10.	Taxes on agricultural income	3.18	5.22	7.02	2.52	3.14	(+) 25
11.	Taxes on immovable properties other than agricultural land	Nil	0.01	0.23	Nil	Nil	Nil
	Total:	2,070.32	2,713.32	3,232.21	3,483.32	3359.50	(-) 4

The reason for variation in receipt for 2007-2008 from those of 2006-2007 in respect of principal head of revenue was as follows:

State excise : The increase (eight *per cent*) was mainly due to revision of rates of licence fee and introduction of availability fee.

The other departments did not intimate (October 2008) the reasons for variation in receipts from those of the previous year despite being requested.

1.1.2 The following table presents the details of non-tax revenue raised during the period from 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Petroleum	721.03	885.87	1,216.16	1,385.82	1547.88	(+) 12
2.	Interest receipts	5.89	10.06	36.41	167.49	240.72	(+) 44
3.	Dairy development	0.11	0.11	0.04	0.07	0.09	(+) 29
4.	Forestry and wild life	36.76	25.68	38.42	42.99	75.03	(+) 75
5.	Non ferrous mining and metallurgical industries	0.28	0.76	0.43	0.42	0.66	(+) 57
6.	Miscellaneous general services	0.02	Nil	(-)0.16	(-)0.01 ²	105.03	(+) 10,502
7.	Major and medium irrigation projects	0.25	0.26	0.21	0.38	0.36	(-) 5
8.	Medical and public health	4.16	4.77	3.50	5.50	7.15	(+) 30
9.	Co-operation	0.29	0.25	0.38	0.22	0.29	(+) 32
10.	Public works	5.86	4.62	4.17	3.09	2.89	(-) 6
11.	Police	11.95	11.65	14.90	14.91	13.16	(-) 12
12.	Other administrative services	9.90	45.05	11.11	9.61	13.57	(+) 41
13.	Coal and lignite	47.65	12.79	15.03	19.71	17.88	(-) 9
14.	Roads and bridges	28.53	20.10	42.00	32.04	44.08	(+) 38
15.	Others ³	73.12	48.06	76.68	177.03	65.80	(-) 63
	Total:	945.80	1,070.03	1,459.28	1,859.27	2134.59	(+) 15

The reasons for variation in receipt for 2007-08 from those of 2006-07 in respect of principal head of revenue was as follows:

Petroleum: Increase was due to revision of rates of royalty of crude oil and increase in production of natural gas.

The other departments did not intimate (October 2008) the reasons for variation in receipts from those of the previous year despite being requested.

² Minus is due to refund in excess of receipts during the year. There is no lottery receipt in Assam.

³ Others included 28 major head of accounts.

1.2 Variations between budget estimates and actuals

The variation between the budget estimates and actuals of revenue receipts for the year 2007-08 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget Estimates	Actuals	Variations increase (+) decrease (-)	Percentage of variation
Tax revenue					
1.	Sales tax	3129.51	2691.43	(-)438.08	(-) 14
2.	Land revenue	91.55	79.76	(-) 11.79	(-) 13
3.	Taxes on agricultural income	16.50	3.14	(-) 13.36	(-) 81
4.	Taxes on vehicles	191.62	138.62	(-) 53.00	(-) 28
5.	State excise	204.92	188.71	(-) 16.21	(-) 8
6.	Other taxes on income & expenditure	121.07	124.68	(+) 3.61	(+) 3
7.	Stamps duty and registration fees	102.84	109.91	(+) 7.07	(+) 7
8.	Taxes on goods & passengers	156.25	12.39	(-)143.86	(-) 92
9.	Other taxes and duties on commodities and services	8.71	6.24	(-) 2.47	(-) 28
10.	Taxes and duties on electricity	18.88	4.62	(-) 14.26	(-) 76
Non-tax revenue					
1.	Petroleum	1391.00	1547.88	(+)156.88	(+) 11
2.	Forestry & wildlife	37.50	75.03	(+) 37.53	(+) 100
3.	Police	14.54	13.16	(-) 1.38	(-) 9
4.	Other administrative services	13.33	13.57	(+) 0.24	(+) 2
5.	Coal and lignite	15.09	17.88	(+) 2.79	(+) 18
6.	Roads & bridges	27.47	44.08	(+) 16.61	(+) 60
7.	Interest receipts	128.10	240.72	(+)112.62	(+) 88
8.	Dairy development	0.14	0.09	(-) 0.05	(-) 36
9.	Non-ferrous mining & metallurgical industries	0.94	0.66	(-) 0.28	(-) 30
10.	Major and medium irrigation	0.32	0.36	(+) 0.04	(+) 12
11.	Medical & public health	5.95	7.15	(+) 1.20	(+) 20
12.	Co-operation	0.29	0.29	Nil	Nil
13.	Public works	5.76	2.89	(-) 2.87	(-) 50

The reasons for variation in the budget estimates and actuals as furnished by the departments concerned are as follows:

Petroleum: The increase was due to revision of royalty rates of crude oil and increase in production of natural gas.

State excise: The shortfall was due to low consumption of India made foreign liquor (IMFL), beer etc.

The other departments did not intimate (October 2008) the reasons for variation despite being requested.

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2005-06, 2006-07 and 2007-08 along with the relevant all India average percentage of expenditure as available were as follows:

(Rupees in crore)

Sl. No.	Heads of revenue	Year	Gross collection	Expenditure on collection ⁴	Percentage of expenditure to gross collection	All India average cost of collection for the year 2006-07
1.	Sales tax	2005-06	2,568.41	29.87	1.16	0.82
		2006-07	2,783.24	34.93	1.26	
		2007-08	2,691.43	23.39	0.87	
2.	State excise	2005-06	160.40	7.76	4.84	3.30
		2006-07	174.88	9.70	5.55	
		2007-08	188.71	10.37	5.50	
3.	Taxes on vehicles	2005-06	155.91	7.41	4.75	2.47
		2006-07	151.15	8.08	5.35	
		2007-08	138.62	8.56	6.18	
4.	Stamp duty and registration fees	2005-06	85.88	4.77	5.55	2.33
		2006-07	97.32	5.91	6.07	
		2007-08	109.91	6.28	5.71	

⁴ The figures of expenditure on collection have been worked out in accordance with the revised norms. Hence, the figures relating to the years 2005-06 and 2006-07 varies from those reported in the corresponding column of the Audit Reports for the years 2005-06 and 2006-07.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue as furnished by the departments amounts to Rs. 756.47 crore of which Rs. 350.45 crore was outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than five years as on 31 March 2008	Remarks
1	Sales tax, cess on specified land, other taxes on income & expenditure, professions etc, taxes on agricultural income, other taxes and duties on commodities & services	638.12	265.93	Arrears were due to non-payment of taxes by the dealers/Government department/undertakings/Boards etc and also due to pending cases under litigation.
2	Forestry and wildlife	11.19	2.76	Not furnished.
3	Royalty on coal, lignite and limestone	3.69	1.50	The arrears relate to non-payment of royalty on coal and limestone by the Assam Mineral Development Corporation Limited and M/s Vinay Cements Limited.
4	Land revenue	62.97	53.77	The reasons for arrears were : (i) non-partition of revenue tea gardens estates, (ii) landowners affected by flood, erosion and unable to pay land revenue timely.
5	Village and small industries	1.79	1.53	The arrears relate to non-receipt of rent from industrial units.
6	Irrigation	38.71	24.96	The arrears relate to non-payment of service charges by the cultivators as their crops were damaged by flood.
Total:		756.47	350.45	

1.5 Arrears in assessments

The details of pending assessment cases at the beginning of the year, cases becoming due for assessment during the year, cases finalised during the year and number of cases pending at the end of each year during 2005-06 to 2007-08 as furnished by the departments are mentioned below:

Year	Opening balance	Cases due for assessment during the year	Total assessment due	Cases finalised during the year	Balance at the end of the year	Arrears in percentage (against total cases)
Sales tax and other taxes						
2005-06	37,388	48,567	85,955	50,196	35,759	58
2006-07	35,759	31,241	67,000	36,610	30,390	55
2007-08	30,390	10,853	41,243	30,135	11,108	73
Profession and employment tax						
2005-06	41,620	37,525	79,145	37,573	41,572	47
2006-07	41,572	40,734	82,306	35,630	46,676	43
2007-08	46,676	33,428	80,104	38,585	41,519	48
Agricultural income tax						
2005-06	1,307	1,051	2,358	926	1,432	39
2006-07	1,432	895	2,327	606	1,721	26
2007-08	1,721	895	2,616	1,109	1,507	42

1.6 Results of Audit

Test check of records of the sales tax, agricultural income tax, taxes on vehicles, state excise, forest receipts, other tax and non-tax receipts conducted during the year 2007-08 revealed under assessment/short levy/short demand/loss of revenue amounting to Rs. 337.75 crore in 629 cases. During the course of the year, the concerned departments accepted under assessment, short levy etc., of Rs. 19.71 lakh pointed out in 2007-08 and earlier years. Rs. 12.16 lakh was recovered at the instance of audit. No replies have been received in respect of the remaining cases.

This report contains 35 paragraphs including one review relating to non/short levy of taxes, duties, interest and penalty etc. involving Rs. 241.77 crore. The department accepted audit observation involving Rs. 16.25 crore. The departments have contested paragraphs involving Rs. 8.23 crore and no reply has been furnished in other cases (October 2008).

In respect of the observations not accepted by the departments, gist of the reasons for department's non-acceptance has been included in the related paragraph itself along with further comments of audit. Replies from the Government have not been received (October 2008)

1.7 Failure to enforce accountability and protect interest of the Government

Principal Accountant General (Audit) [PAG (Audit)], Assam arranges to conduct periodical inspection of the State Government departments to test check the transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up by inspection reports (IRs). When important irregularities, etc., detected during inspection are not settled on the spot, IRs are issued to the heads of offices inspected with a copy to the next higher authorities. The orders of the State Government (March 1986) provide for prompt corrective action. The heads of offices and next higher authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the PAG (Audit). A half yearly report of pending IRs is sent to the Secretaries of the departments to facilitate monitoring of audit observations.

Inspection reports issued upto December 2007 disclosed that 3,710 paragraphs relating to 1,362 IRs remained outstanding at the end of June 2008 as mentioned in Annexure-I. The initial replies, which were required to be received from the head of offices within six weeks from the date of issue, were not received for 665 IRs issued between April 1994 and December 2007. As a result, irregularities commented upon in 1,922 paragraphs involving Rs. 255.42 crore had not been settled as of June 2008.

A review of the IRs which were pending due to non-receipt of replies revealed that the heads of offices/departments failed to discharge due responsibility as they did not send any reply to a large number of IRs/paragraphs, indicating their failure to initiate action in regard to the defects, omissions and

irregularities pointed out. The Commissioners and Secretaries of the concerned departments, who were informed of the position through half yearly reports, also failed to ensure that concerned officers of the departments took prompt and timely action.

It is recommended that the Government may look into this matter to ensure that the replies to the IRs are sent as per the prescribed time schedule, recovery of tax/underassessment is effected in a time bound manner and the system of response to the audit observations in the departments revamped.

1.8 Departmental audit committee meetings

As per instructions (May 1994) of the Finance Department, all the departments are required to constitute Audit Objection Committee (AOC) for expeditious disposal of audit observations contained in the IRs. These committees are chaired by designated officer of the concerned Administrative Department and attended among others by the concerned officers of the State Government and the office of the PAG (Audit), Assam.

In order to expedite clearance of outstanding audit observations, it is necessary that the audit committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 2007-08 three (sales tax, other taxes and state excise) out of the eight departments convened meetings of the audit committee in which 754 paragraphs were settled. This indicates that other departments did not make effective use of the machinery created for expeditious settlement of outstanding audit observations.

1.9 Response of the departments to draft audit paragraphs

As per the instruction issued (March 1986) by the Finance Department, all the departments are required to furnish replies to the audit objections within two months. The audit office forwards draft paragraphs prepared on the basis of audit objections to the Secretaries of the concerned departments through demi official letters drawing their attention to audit findings with the request to send their response within six weeks. The fact of non-receipt of replies from the Government is indicated at the end of each paragraph included in the Audit Report.

Draft paragraphs included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2008 were forwarded to the Secretaries of the departments between April and May 2008 through demi official letters with the request to furnish their replies/comments within six weeks. Out of 35 draft paragraphs/reviews incorporated in this report, replies either part or full, of the departmental officers in respect of 24 draft paragraphs had been received (October 2008).

1.10 Follow up on Audit Reports – summarised position

As per the instruction issued (May 1994) by the Finance Department, all the departments are required to furnish explanatory notes indicating action taken

or proposed to be taken and submit action taken note (ATN) to the Assembly Secretariat with a copy to the PAG (Audit), Assam, in respect of paragraphs and reviews included in the Audit Reports within 20 days from the date of receipt of the Audit Report.

Audit Report (Revenue Receipts) for the year ended 2007 was tabled in the Legislative Assembly on 3 March 2008. Though the time limit for furnishing ATNs had elapsed, no ATNs in respect of any department had been furnished. Non-furnishing of ATNs by the departments was taken up through demi official letters with the Commissioner and Secretary to the Government of Assam, Finance Department. This indicated that there was laxity in ensuring accountability on the part of the executive.

1.11 Compliance with the earlier Audit Reports

During the years from 2001-02 to 2006-07 the departments/Government accepted audit observations involving Rs. 75.39 crore of which only Rs. 2.85 crore had been recovered till March 2008 as mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2001-02	43.32	11.77	0.84
2002-03	97.69	51.54	0.34
2003-04	413.82	3.35	0.22
2004-05	71.89	4.93	1.24
2005-06	920.60	1.63	0.04
2006-07	186.03	2.17	0.17
Total	1733.35	75.39	2.85

The above table indicates that amount recovered was only four *per cent* of the accepted amount. Recovery of such meagre amount reflects apathy on the part of the departments/Government in prompt recovery of Government dues.



CHAPTER - II : SALES TAX

2.1 Result of audit

Test check of the records of the sales tax offices conducted during the year revealed irregular grant of concessional rate/exemption, loss of revenue, turnover escaping assessment, non/short levy of interest etc., amounting to Rs. 109.04 crore in 243 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Irregular grant of exemption	32	52.86
2.	Loss of revenue	5	7.82
3.	Turnover escaping assessment	18	5.20
4.	Non/short levy of interest	33	4.03
5.	Other lapses	155	39.13
Total		243	109.04

During the year 2007-08, the department accepted non-levy of tax and interest, irregular grant of concessional rate of tax, incorrect grant of exemption etc., amounting to Rs. 19.71 lakh in nine cases and recovered Rs. 12.16 lakh.

A few illustrative cases involving Rs. 57.22 crore are mentioned in the following paragraphs.

2.2 Turnover escaped assessment

Under the provisions of the Assam General Sales Tax (AGST) Act, 1993 read with section 9(2) of the Central Sales Tax (CST) Act, 1956, if any part of the turnover of a dealer in respect of any period has escaped assessment to tax, the assessing officer (AO) may within four years from the end of the relevant year make a reassessment of the dealer. Further, if a dealer fails to pay the full amount of the tax payable by him by the due date, he is liable to pay simple interest at the rate of two *per cent* for each month on the amount by which the tax paid falls short.

2.2.1 Test check of the records of the Superintendent of Taxes (ST), Morigaon between January and February 2007 revealed that a dealer disclosed sale of finished goods valued as Rs. 333.51 crore (AGST : Rs. 18.52 crore; CST : Rs. 314.99 crore) as per the annual returns of turnover for the period from 1998-99 to 2000-01. While finalising the assessments in July 2005, the AO accepted the turnover and assessed tax of Rs. 18.14 crore including interest. Verification of annexure III¹ furnished by the dealer along with the return, however, revealed that the actual turnover of the dealer during the aforesaid period was Rs. 387.69 crore. Thus, turnover of Rs. 54.18 crore (Rs. 387.69 crore – Rs. 333.51 crore) escaped assessment resulting in short levy of tax of Rs. 12.13 crore including interest.

2.2.2 Test check of the records of the ST, Morigaon between January and February 2007 revealed that a dealer disclosed stock transfer and interstate sales of goods worth Rs. 349.70 crore and Rs. 294.96 crore respectively for the years 1998-99 to 2000-01. The AO while finalising the assessment in July 2005 accepted these and levied tax of Rs. 13.02 crore including interest of Rs. 4.18 lakh. Scrutiny of the annexure III submitted by the dealer along with his returns revealed that the dealer in his manufacturing account had exhibited stock transfer of Rs. 383.37 crore to outside the State during the aforesaid period. Thus, the taxable turnover was understated by Rs. 33.67 crore (Rs. 383.37 crore – Rs. 349.70 crore) which escaped assessment resulting in short levy of tax of Rs. 9.17 crore including interest of Rs. 5.81 crore.

2.2.3 Test check of the records of the ST, Hailakandi in November 2007 revealed that the AO finalised (March 2006) the assessment of a dealer for the year 2002-03 on a turnover of Rs. 310 crore under both the AGST and the CST Acts. Scrutiny of the audited accounts and annexure III submitted by the dealer along with his returns revealed that sale of finished goods during the aforesaid period was Rs. 327 crore. Thus, sales turnover of Rs. 17 crore escaped assessment resulting in short levy of tax of Rs. 3.16 crore including interest.

2.2.4 Test check of the records of the Assistant Commissioner of Taxes (ACT), Guwahati unit-D between July and September 2007 revealed that while finalising the assessment of a dealer in March 2007 for the year 2003-04, the AO determined stock receipts of the dealer as Rs. 18.05 crore on

¹ Manufacturing account of a dealer which is required to be furnished along with the return.

the basis of the annual return of turnover. Scrutiny of the utilisation statement of form 'F' submitted by the dealer, however, revealed that the dealer actually received stock worth Rs. 20.93 crore. Thus, purchase turnover of Rs. 2.88 crore escaped assessment which resulted in short levy of tax and interest of Rs. 45.09 lakh.

2.2.5 Test check of the records of the ACT, Guwahati unit-A between July and September 2007 revealed that while finalising the assessment of a dealer in July 2006 for the year 2004-05, the AO determined the gross turnover as Rs. 29.60 crore. Of this, concessional rate of tax was allowed on a turnover of Rs. 27.33 crore supported by a declaration in form 'C' and the remaining turnover of Rs. 2.27 crore was exempted from tax treating it as stock transfer. Scrutiny of the 'C' form furnished by the dealer, however, revealed that the declaration form covered sales turnover of Rs. 30.70 crore during the year 2004-05. Thus, turnover of Rs. 3.37 crore (Rs. 30.70 crore – Rs. 27.33 crore) escaped assessment resulting in short levy of tax of Rs. 19.97 lakh.

The cases were reported to the department and the Government between April 2007 and February 2008; their replies have not been received (October 2008).

2.3 Short levy of interest

Under the provisions of the AGST Act, if a dealer fails to pay the full amount of the tax payable by him by the due date, he is liable to pay interest at the rate of two *per cent* for each month on the amount by which the tax paid falls short.

2.3.1 Test check of the records of three² sales tax unit offices between February and September 2007 revealed that seven dealers failed to pay the full amount of the tax payable for the years between 1998-99 and 2003-04 by the due date. The delay in payment of tax ranged between 32 and 96 months. While finalising the assessments of these dealers between May 2005 and May 2007, the AOs levied interest of Rs. 4.14 crore against leviable interest of Rs. 5.75 crore. This resulted in short levy of interest of Rs. 1.61 crore.

After the cases were pointed out, the AO, Golaghat and Guwahati unit-C levied interest of Rs 6.72 lakh in two cases. A report on recovery and reply in the other cases have not been received (October 2008).

2.3.2 Test check of the records of three³ sales tax unit offices between June and September 2007 revealed that the AOs while referring the tax demand against three dealers for the years between 1998-99 and 2003-04 to the *bakijai* officer⁴ between June 2006 and May 2007 failed to update the interest calculation and incorrectly levied interest of Rs. 1.10 crore instead of Rs. 2.45 crore. This resulted in short levy of interest of Rs. 1.35 crore.

The cases were reported to the department and the Government between May and December 2007; their replies have not been received (October 2008).

² Golaghat, Guwahati unit-A and Guwahati, unit-C.

³ Guwahati unit-A, Guwahati, unit-D and North Lakhimpur.

⁴ Recovery officer.

2.4 Application of lower rate of tax

Under schedule IV of the AGST Act, cement is taxable at the rate of 12 *per cent* for sale to persons other than registered dealers and at the rate of eight *per cent* to a registered dealer at the point of first sale in the State. Sales at the last point within the State are taxable at the rate of four *per cent*. The sale to a registered dealer is to be supported by a declaration in form 'A'. Besides tax, an additional tax at the rate of 10 *per cent* on the amount of tax is also leviable.

Test check of the records of the ACT, Guwahati unit-A between July and September 2007 revealed that a dealer imported cement by utilising 100 delivery notes⁵ during the years 2001-02 to 2003-04. While finalising the assessments between April 2005 and March 2007, the AO determined taxable turnover of Rs. 4.43 crore and levied tax at the rate of 4.4 *per cent* treating these sales as last point sales. The assessments were irregular as the sales of cement imported by using delivery notes were first point sales and hence should have been taxed at the rate of 13.2 *per cent*. Application of lower rate of tax resulted in short levy of tax of Rs. 82.11 lakh including interest.

The case was reported to the department and the Government in December 2007; their replies have not been received (October 2008).

2.5 Concealment of turnover

Under the AGST Act read with the CST Act, if a dealer conceals the particulars of his turnover, he shall pay by way of penalty, in addition to tax, additional tax and interest, a sum not exceeding one and half times the amount of tax sought to be evaded.

2.5.1 Test check of the records of the ACT, Guwahati unit-A between July and September 2007 revealed that the AO finalised the assessments of three dealers between July and December 2006 for the years 2003-04 and 2004-05 determining a turnover of Rs. 23.19 crore based on the purchase/stock transfer of goods from outside the State as furnished in the returns by these dealers. Scrutiny of the utilisation statement of forms 'F', however, revealed that the dealers had actually received goods worth Rs. 25.41 crore through purchase/stock transfer. Thus, the dealers concealed minimum turnover of Rs. 2.22 crore (Rs.25.41 crore – Rs.23.19 crore) which escaped the notice of the AO resulting in evasion of tax of Rs. 38.78 lakh including interest and penalty.

2.5.2 Test check of the records of the ACT, Guwahati unit-D between July and September 2007 revealed that two dealers disclosed purchase of cement valuing Rs. 85,000 during the years 2002-03 and 2003-04 from other two dealers registered in Guwahati unit-A and Guwahati unit-D which were accepted by the AOs and assessed accordingly between July 2004 and March 2005. Cross verification of the records of the selling dealers, however,

⁵ Delivery note is a declaration whereby a registered dealer can import goods from outside the state.

revealed that the two dealers actually purchased cement valued as Rs. 1.59 crore. This resulted in concealment of turnover of Rs. 1.58 crore with consequential evasion of tax of Rs. 13.07 lakh including interest of Rs. 6.12 lakh.

The cases were reported to the department and the Government in December 2007; their replies have not been received (October 2008).

2.6 Incorrect determination of taxable turnover

Under the provisions of the AGST Act, taxable turnover in respect of works contract is determined by deducting the value of declared goods purchased locally in Assam on payment of tax and thereafter the labour and other charges incurred by the dealer from the gross turnover.

2.6.1 Test check of the records of the ACT, Guwahati unit A between July and September 2006 revealed that while assessing a dealer engaged as works contractor in March 2006 for the year 2004-05, the AO allowed deduction of Rs. 3.88 crore from the gross turnover of Rs. 11.25 crore. Scrutiny of the list of declared goods available in the case records of the dealer disclosed that the dealer purchased cement valued as Rs. 1.20 crore and included it in the list of declared goods. As cement is not listed under CST Act as declared goods, deduction of Rs. 1.20 crore, being the value of cement, from the gross turnover was incorrect and resulted in under assessment of taxable turnover by Rs. 1.20 crore. Thus, failure of the AO to detect the irregularity resulted in short levy of tax of Rs. 12.47 lakh including interest of Rs. 2.73 lakh.

2.6.2 Test check of the records of the ACT, Guwahati Unit-C between February and March 2007 revealed that while assessing a dealer engaged as a works contractor in January 2006 for the year 2003-04, the AO allowed deduction of Rs. 84.28 lakh being the value of declared goods purchased in Assam from the gross turnover of Rs. 2.60 crore. Scrutiny of the list of declared goods available in the case records of the dealer disclosed that the value of declared goods allowed as deduction included goods worth Rs. 17.91 lakh purchased from outside the State. Thus, allowing deduction of the value of declared goods purchased from outside the State of Assam was incorrect which resulting in short levy of tax of Rs. 2.40 lakh including interest.

After the case was pointed out, the AO stated (October 2007) that the dealer had been asked to produce the necessary documents in support of purchase of declared goods for initiating further course of action. The reply of the AO is not tenable as the relevant documents available in the case records of the dealer clearly indicate that deduction allowed includes Rs. 17.91 lakh on account of purchases made from outside the State. A report on further development has not been received (October 2008).

The above cases were reported to the department and the Government between April and September 2007, their replies have not been received (October 2008).

2.7 Irregular adjustment of tax

Under the AGST Act and the Rules made thereunder, the amount of tax payable by a supplier/works contractor shall be deducted at source by the drawing and disbursing officer who shall deposit it into the Government account within 10 days from the expiry of each calendar month. The Act provides that in the event of failure of a person to deposit the tax deducted at source, the AO may recover the same as arrears of land revenue.

Test check of the records of the ACT, Guwahati unit-C between February and March 2007 revealed that a dealer dealing in works contract was assessed to tax of Rs. 98.07 lakh in August 2005 for the years 2003-04 and 2004-05. The AO in his assessment order mentioned the payment of tax of Rs. 48.11 lakh by the dealer and finalised the assessments accordingly. Scrutiny of the assessment orders and other records disclosed that the dealer had actually deposited tax of Rs. 37.64 lakh for which treasury challans were available and the balance tax of Rs. 10.47 lakh was shown as deducted at source by the Executive Engineer (EE), Public Works Division (PWD), Tinsukia from the bills of the contractor. No treasury challan was available in support of deposit of the tax deducted at source. This resulted in irregular adjustment of tax of Rs. 10.47 lakh.

The case was reported to the department and the Government between May and September 2007; their replies have not been received (October 2008).

2.8 Non-levy of tax on containers

Under the AGST Act and the Rules made thereunder, sale price of containers or packing materials used in the sale of exempted goods where no accounts of such sales of container or packing materials are maintained or where such sales are shown at a price lower than the market price, shall be determined at the rate of one *per cent* of the sale value of the exempted goods. Since container or packing materials are not mentioned in any of the schedule attached to the AGST Act, the item is taxable at the rate of eight *per cent* as other goods.

Test check of the records of the ACT, Guwahati unit-B between January and March 2007 revealed that while finalising the assessments of two dealers between July 2005 and February 2006 for the years 2002-03 and 2003-04, the AO failed to levy tax on the containers valuing Rs. 41.83 lakh (being one *per cent* of the turnover of exempted goods worth Rs. 41.83 crore). This resulted in non-levy of tax of Rs. 7.33 lakh including interest.

The case was reported to the department and the Government (June 2007); their replies have not been received (October 2008).

2.9 Incorrect allowing of deduction

Under the AGST Act, 'taxable turnover' is determined after allowing deduction of tax included in the gross turnover according to the prescribed

formula. No such deduction is admissible where the turnover is exclusive of tax.

Test check of the records of the ACT, Guwahati unit-C between February and March 2007 revealed that while assessing a dealer in July 2005 for the years 1998-99 to 2000-01, the AO allowed deduction of Rs. 35.77 lakh as tax element from the gross turnover of Rs. 3.94 crore against Rs. 15.14 lakh actually paid by the dealer as shown in the returns. Excess allowing of deduction of Rs. 20.63 lakh (Rs. 35.77 lakh – Rs. 15.14 lakh) resulted in short levy of tax of Rs. 5.13 lakh including interest.

After the case was pointed out, the AO stated (October 2007) that the assessments have been rectified and fresh demand notices issued. A report on realisation of tax has not been received (October 2008).

The case was reported to the department and the Government in May 2007 and September 2007, their replies have not been received (October 2008).

2.10 Non-levy of additional tax

Under the AGST Act, additional tax at the rate of 10 *per cent* of the tax payable by the dealer is to be levied with effect from 5 June 1998. The provisions of the State Act apply *mutatis mutandis* in case of assessment/reassessment under the CST Act. Further, according to the clarification issued by the Commissioner of Taxes (CT), Assam on 30 March 2004, additional tax is also payable on interstate sale of goods not supported by declarations in form 'C' or 'D' at 10 *per cent* or at the State rate of tax whichever is higher. Besides, interest as applicable is also leviable on the unpaid tax.

Test check of the records of the ACT, Guwahati unit-A between July and September 2007 revealed that the AO completed the assessments of a dealer in March 2007 for the year 2003-04 on a turnover of Rs. 65.70 lakh which was not supported by declarations in form C/D under the CST Act. The AO while finalising the assessments levied tax at the rate of 12 *per cent* but failed to levy the additional tax. This resulted in non-levy of additional tax of Rs. 2.34 lakh including interest.

The case was reported to the department and the Government in December 2007; their replies have not been received (October 2008).

2.11 Irregular grant of exemption to industrial units

Under the provisions of the CST Act (as amended with effect from 11 May 2002), eligible industrial units under the Assam Industrial Sales Tax Concession Scheme, 1997 (scheme) may claim exemption from the payment of tax on their interstate sales, provided the sales are made to the registered dealers and supported by declaration in form C/D. Otherwise, tax is leviable at the rate of 10 *per cent* or at the rate applicable under the State Act, whichever is higher. To avail such exemption, the intending industrial units shall have to obtain a certificate of authorisation from the concerned sales tax authority on the basis of eligibility certificate issued by the Industries department. In

addition, interest at the prescribed rate is also leviable on the unpaid amount of tax.

Further, as per the scheme, the existing industries going for expansion/modernisation/diversification shall be entitled to the benefit of sales tax exemption, on sale of finished products and on purchase of raw materials for seven years subject to a maximum of 90 *per cent* of the additional and fixed capital investment. Under Para 8 (c) of the scheme, there shall be an increase in the production of an industrial unit over the average production of preceding three years prior to the year when the unit goes for expansion/modernisation/diversification.

2.11.1 Test check of the records of the ST, Haflong in September 2007 revealed that the assessments of a dealer for the years 2002-03 to 2004-05 were completed in January 2006. While finalising the assessment, the AO allowed exemption of tax of Rs. 12.26 crore on the turnover of Rs. 75.29 crore on the basis of eligibility certificate dated September 2005 issued by the Industries department and authorisation certificate dated January 2006 issued by the Sales Tax department. Scrutiny, however, revealed that the production after expansion/modernisation/diversification started in November 2001. The average production of the unit was 1.52 lakh MT of cement during the preceding three years before expansion/modernisation/diversification whereas the production after expansion/modernisation/diversification was 1.34 lakh MT, 1.11 lakh MT and 90,440 MT during 2002-03, 2003-04 and 2004-05 respectively. Since the production of the unit during 2002-03 to 2004-05 was lower than the average production of preceding three years, the unit was not entitled to get the benefit of sales tax exemption under the scheme. Irregular allowing of tax exemption during the years 2002-03 to 2004-05, thus, resulted in non-levy of tax of Rs. 12.26 crore.

2.11.2 Test check of the assessment records of the ACT, Guwahati unit-A and Karimganj between June and September 2007 revealed that while finalising the assessments between March and September 2006 of two industrial units for the period falling between 2002-03 and 2004-05, exemption from payment of tax was allowed on interstate sales valued as Rs. 1.54 crore. Scrutiny, however, revealed that the exemption allowed was irregular since the sales were not supported by declaration in forms 'C'. Irregular allowing of exemption without declaration forms resulted in non-levy of tax of Rs. 31.90 lakh including interest.

2.11.3 Under the scheme, new industrial units shall be exempt from paying tax for a period of seven years on the purchase of raw materials and on the sale of finished goods manufactured by them subject to a maximum limit of 150 *per cent* of the capital investment.

Test check of the records of the ACT, Guwahati unit-C and Karimganj between February and June 2007 revealed that the AOs while finalising the assessments of four industrial units between January 2001 and March 2006 for the years falling between 1999-2000 and 2004-05 allowed exemption from payment of tax of Rs. 88.82 lakh against the maximum limit of Rs. 70.50 lakh being 150 *per cent* of the capital investment of Rs. 55.80 lakh. This resulted in

excess allowing of exemption of Rs. 17.37 lakh. In addition, interest of Rs. 15.98 lakh was also leviable.

After the cases were pointed out, the ST, Guwahati unit-C stated in October 2007 that the dealer under his unit had applied for the authorisation certificate and exemption limit had been extended upto April 2007. The reply is not tenable as the dealer had already crossed his exemption limit of Rs. 26.55 lakh i.e. 150 per cent of the capital investment during the year 2003-04 and grant of further exemption was irregular. Replies in the other cases have not been received (October 2008).

2.11.4 Test check of the records of the ACT, Guwahati unit-A between July and September 2006 revealed that the assessment of a dealer holding authorisation certificate under the scheme was finalised in March 2006 for the year 2002-03 and tax of Rs. 15.11 lakh was determined on the turnover of Rs. 3.93 crore which was supported by 19 declarations in form 'C'. Scrutiny, however, revealed that the value of these declarations in form 'C' pertaining to the assessment year 2002-03 was Rs. 6.24 crore. Thus, interstate sales turnover of Rs. 2.31 crore (Rs. 6.24 crore – Rs. 3.93 crore) escaped assessment resulting in underassessment of tax of Rs. 9.84 lakh.

The cases were reported to the department and the Government between May and September 2007; their replies have not been received (October 2008).

2.12 Irregular grant of exemption on stock transfers not supported by form 'F'

Under the CST Act, when any dealer claims exemption from the payment of tax in respect of goods by reason of transfer of such goods to any other place of his business outside the State, he may furnish to the AO, a declaration in form 'F' duly filled in and signed by the transferee along with the evidence of despatch of such goods. Further, as per the amended provision of the CST Act, declaration form 'F' is mandatory with effect from 11 May 2002. If the dealer fails to furnish such declaration, the movement of goods shall be deemed for all purposes to have been occasioned as a result of sale. As per the CST (Return and Turnover) Rules, 1957, one 'F' form is to cover the transactions of one calendar month only.

2.12.1 Test check of the records of Dhekiajulli and Haflong sales tax units between May and September 2007 revealed that while finalising the assessments between September 2004 and September 2006 in respect of three dealers for the assessment years 2002-03 to 2004-05, the AOs allowed exemption of tax on transfer of stock worth Rs. 75.59 crore. Scrutiny of declarations in form 'F' furnished by the dealers, however, revealed that stock transfer of goods worth Rs. 38.14 crore only was supported by declarations in form 'F'. Thus, allowing of exemption on stock transfer of Rs. 37.45 crore not supported by declarations in form 'F' was resulted in non-levy of tax of Rs. 8.59 crore.

After the cases were pointed out, the ST, Haflong stated in January 2008 that the assessments had been revised and demand notices issued. A report on

realisation and reply of the ST, Dhekiajuli have not been received (October 2008).

2.12.2 Test check of the records of three⁶ sales tax unit offices between June and November 2007 revealed that while finalising the assessments between March 2006 and March 2007 in respect of four dealers for the assessment years 2002-03 to 2004-05, the AOs allowed exemption of tax on transfer of stock worth Rs. 9.09 crore. Scrutiny of the declarations in form 'F' furnished by the dealers revealed that transactions of Rs. 5.64 crore supported by 20 'F' forms covered transactions beyond one calendar month and as such were not entitled to grant of exemption. This led to non-levy of tax of Rs. 1.13 crore including interest.

2.12.3 Test check of the assessment records of Hailakandi and Karimganj sales tax unit offices between June and November 2007 revealed that four dealers made stock transfer of tea valued as Rs. 6.44 crore during the years 2002-03 to 2004-05 to their agents at Kolkata/Siliguri for sale by auction and claimed exemption from payment of tax. The AO finalised the assessment between March and December 2006 after allowing exemption on the stock transfer of Rs. 6.44 crore though the transfer was not supported by form 'F'. Since submission of form 'F' for stock transfer was mandatory from 11 May 2002, the exemption allowed by the AO was incorrect and resulted in non-levy of tax of Rs. 1.12 crore.

The cases were reported to the department and the Government between July 2007 and March 2008; their replies have not been received (October 2008).

2.13 Incorrect grant of concessional rate of tax on sale against form 'C'

Under the CST Act, interstate sale of goods, other than declared goods, to the registered dealers if supported by valid declaration in form 'C' are taxable at the concessional rate of four *per cent*. Otherwise, tax is payable at the rate of 10 *per cent* or at the rate of tax applicable under the State Act, whichever is higher. In addition, interest at the prescribed rate is also leviable.

2.13.1 Test check of the records of the ACT, Guwahati unit-C and ST, Morigaon between January and March 2007 revealed that four dealers were assessed to tax between July 2005 and March 2007 for the years falling between 1998-99 and 2004-05 at the concessional rate of four *per cent* on the turnover of Rs. 229.46 crore. Scrutiny of form C/D revealed that interstate sales amounting to Rs. 215 crore only were supported by valid C/D forms. This resulted in irregular allowing of concessional rate on the turnover Rs. 14.46 crore and consequent short levy of tax of Rs. 2.43 crore including interest of Rs. 1.53 crore.

After the cases were pointed out, the AO, Guwahati unit-C stated in October 2007 that in one case, assessment had been rectified and a fresh demand for Rs. 1.32 lakh was raised. A report on recovery and replies in other cases have not been received (October 2008).

⁶ Guwahati Unit-D, Hailakandi and Karimganj.

2.13.2 The CT, Nagaland in his letter of February 2002 intimated the CT, Assam regarding cancellation of a series of declarations in form 'C' and 'F' with effect from 11 June 2001. This information was duly circulated to all the unit offices by the CT, Assam in December 2002 to take note of at the time of finalising the assessments.

Test check of the records of four⁷ sales tax unit offices between January and September 2007 revealed that while finalising the assessments of 12 dealers between August 2004 and March 2007 for the years falling between 2001-02 and 2004-05, the AOs levied tax at concessional rate on turnover amounting to Rs. 3.54 crore supported by declarations in form 'C' which were declared obsolete and invalid by the Government of Nagaland. Thus, acceptance of invalid/obsolete forms led to short levy of tax of Rs. 63.40 lakh including interest.

After the cases were pointed out, the AO, Guwahati unit-C stated in October 2007 that two dealers replaced the invalid/obsolete forms with valid ones and one dealer requested time to replace the same. The reply of the AO is not tenable as transactions supported by invalid/obsolete declaration forms can not be made validated at a later stage by substituting the valid forms. Reply in remaining cases has not been received (October 2008).

2.13.3 Test check of the records of two sales tax offices between February and September 2007 revealed that while finalising the assessments of four dealers in March 2007 for the periods falling between 2003-04 and 2004-05, the AOs irregularly allowed concessional rate of tax on interstate sales valued as Rs. 2.63 crore which resulted in short levy of tax amounting to Rs. 26.40 lakh. The details are mentioned below:

Name of the Unit No. of dealers	Period of assessment	Month of assessment	Nature of irregularities	Amount of tax including interest (Rs. in lakh)
Guwahati unit-A 1	2004-05	March 2007	Concessional rate of tax was allowed on interstate sale of Rs. 92.41 lakh against form 'C'. Scrutiny revealed that the forms were issued to a Kolkata based dealer and not to the dealer of Assam.	8.22
Guwahati unit-D 2	2003-04 and 2004-05	March 2007	Concessional rate of tax was allowed on interstate sale of Rs. 1.22 crore against form 'C'. Scrutiny revealed that the name of the dealer to whom it was issued was left blank.	10.81
Guwahati unit-A 1	2003-04	March 2007	Concessional rate of tax was allowed on Rs. 48.72 lakh against form 'C'. Scrutiny revealed that out of Rs. 48.72 lakh, only Rs. 1.26 lakh was authenticated by the purchasing dealer. Thus, transaction amounting to Rs. 47.46 lakh was not covered by a valid declaration form.	7.37
Total				26.40

2.13.4 The CT, Mizoram in his letter dated October 1999 and January 2003 intimated the CT, Assam regarding cancellation of a series of declaration forms 'C' with effect from September 1999 and January 2003 respectively.

⁷ Guwahati unit-A, Guwahati unit-B, Guwahati unit-C and Guwahati unit-D.

Test check of the records of the ACT, Guwahati unit-D between July and September 2007 revealed that the AO finalised the assessment of a dealer between March and September 2006 for the years 2001-02 to 2003-04 and levied tax at concessional rate of four *per cent* on the turnover of Rs. 70.95 lakh supported by four declarations in form 'C' which were declared invalid/obsolete by the Government of Mizoram. Acceptance of invalid/obsolete form 'C' and allowing of concessional rate of tax resulted in short levy of tax of Rs. 12.25 lakh including interest of Rs. 5.97 lakh.

The cases were reported to the department and the Government between April and December 2007; their replies have not been received (October 2008).

2.14 Incorrect grant of concessional rate of tax on sale against form 'D'

Under the CST Act, interstate sale of goods, other than declared goods, to a Government department, if supported by duly filled in form 'D', is taxable at the concessional rate of four *per cent*. Otherwise, tax is payable at the rate of 10 *per cent* or at the rate of tax applicable under the State Act, whichever is higher. In addition to tax, interest at the prescribed rate is also payable.

Test check of the records of the ACT, Guwahati unit-D between July and September 2007 revealed that while finalising the assessments of a dealer in March 2007 for the assessment year 2003-04, the AO allowed concessional rate of tax on interstate sale of goods worth Rs. 1.07 crore made to a Government department. Scrutiny of the declaration in form 'D' furnished by the dealer revealed that the dates of transactions worth Rs. 98 lakh was subsequent to the date of issue of the declaration form by the department. Thus, acceptance of defective form 'D' and allowing concessional rate of tax resulted in short levy of tax of Rs. 6.71 lakh.

The case was reported to the department and the Government in December 2007; their replies have not been received (October 2008).

2.15 Non-levy of penalty for misuse of form 'C'

Under the CST Act, if any registered dealer falsely represents that the goods purchased by him in the course of interstate trade are covered by his certificate of registration or after purchasing the goods utilises these goods for other purposes, the AO may impose by way of penalty an amount not exceeding one and a half times of the tax which would have been levied at the general rate in respect of the sale of goods.

Test check of the records of the ST, Jalukbari Check Post in February 2007 revealed that a dealer engaged in the business of manufacture and sale of coke, purchased aluminium sheet, weighing machine and stone crusher from West Bengal against declaration in form 'C' during the year 2002-03. Though these goods were not directly related to the manufacture of coke, yet the AO failed to levy penalty of Rs. 4.03 lakh for misuse of the form 'C'.

After the case was pointed out, the ST stated (September 2007) that penalty of Rs. 4.03 lakh had been imposed and demand notice served upon the dealer. A report on realisation has not been received (October 2008).

The case was reported to the department and the Government in December 2007; their replies have not been received (October 2008).

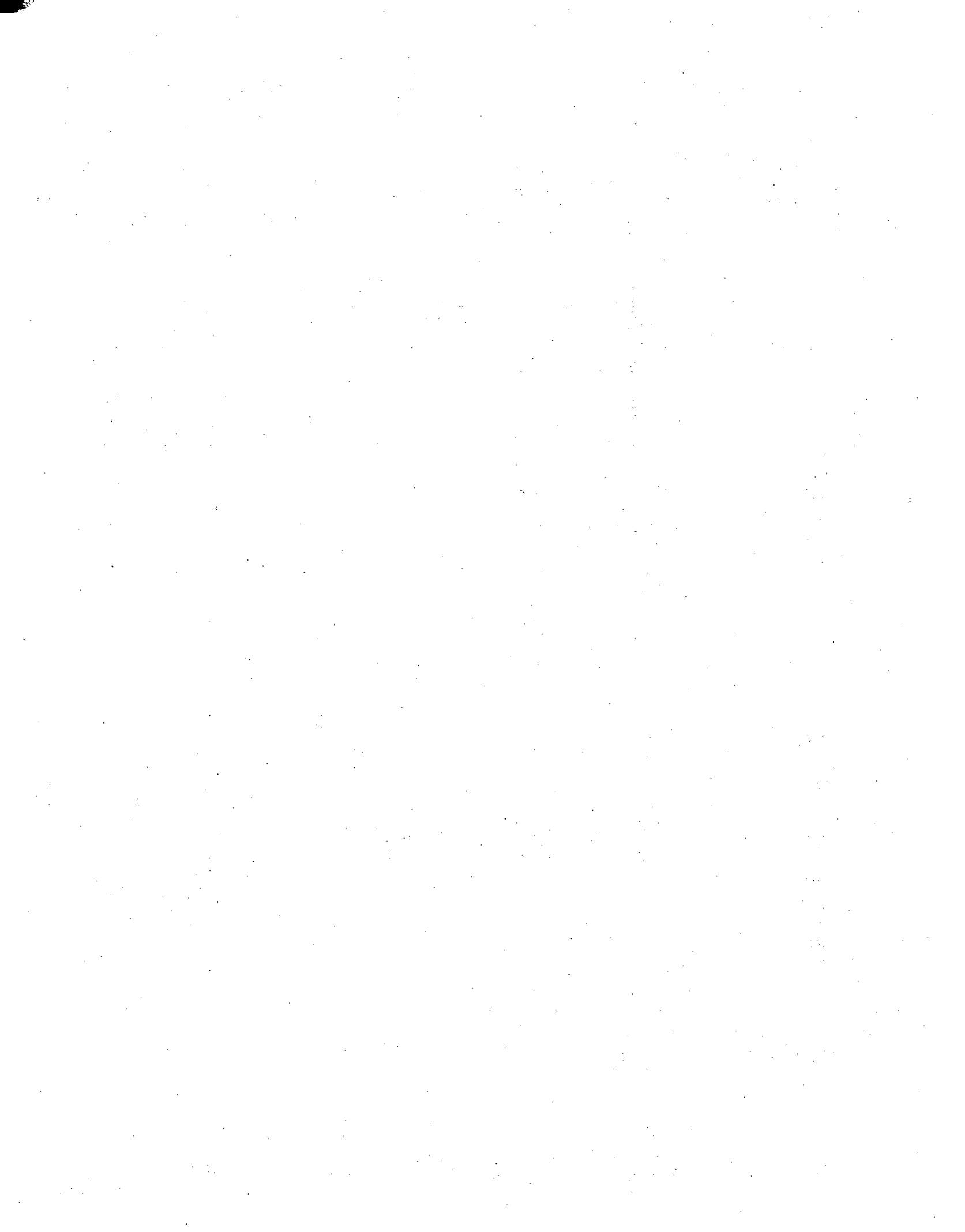
2.16 Incorrect computation of VAT compensation

The AGST Act was repealed by the Assam Value Added Tax (AVAT) Act which came into force in the State from 1 May 2005. According to the consensus arrived at between the State Government and the Government of India (GOI), the Central Government would compensate the revenue loss, if any, arising out due to the implementation of VAT, to the State Government. To arrive at such loss, the State Government would compare the revenue of pre-VAT period on the basis of average growth rate of revenue of the three out of five best preceding years.

According to the modalities prescribed by the Government of India, the revenue loss was to be worked out by excluding the tax revenues generated from commodities like petrol, diesel, aviation turbine fuel (ATF), liquor, lottery tickets which are subject to 20 *per cent* floor rate of tax and kept outside VAT and the credits on account of input tax under VAT adjusted against CST from the overall tax revenue of that year. The resultant net revenue was to be compared with the projected tax revenue for working out the loss on account of introduction of VAT. The rate of compensation would be 100 *per cent*, 75 *per cent* and 50 *per cent* during the first, second and third year respectively of the implementation of VAT.

Scrutiny of the records of the CT, Assam revealed that the State Government preferred a compensation claim for revenue loss of Rs. 23.72 crore for the year 2005-06. The compensation claim was worked out by deducting Rs. 808.68 crore (Rs. 804.31 crore as non-VAT receipts and Rs. 4.37 crore on account of input tax credit under VAT adjusted against CST) from the total AGST/VAT receipts of Rs. 1697.45 crore for the year 2005-06 and then comparing it with the projected revenue of Rs. 912.49 crore calculated on the average of the best three out of five preceding year's receipts. A scrutiny of the records, however, revealed that out of Rs. 804.31 crore, an amount of Rs. 234.17 crore only was relating to non-VAT receipts on commodities like petrol, ATF, liquor, country spirit and molasses which are subject to 20 *per cent* floor rate of tax. Thus, the actual receipts of the Government for the year 2005-06 after allowing deduction as prescribed by the GOI sum up to Rs. 1,458.91 crore (Rs. 1697.45 crore – Rs. 234.17 crore – Rs. 4.37 crore) and was much higher than the projected tax revenue of Rs. 912.49 crore for the year 2005-06. Thus, the compensation claim of Rs. 23.72 crore preferred by the State Government was irregular and inadmissible.

After the case was pointed out, the department stated that items placed in the fourth schedule (non-VAT items of commodities) of the Assam VAT Act are required to be kept away from the calculation of VAT compensation even though the rate of tax in respect of items of commodities are below 20 *per cent*. The reply of the department was not tenable as the non-VAT commodities which are subject to 20 *per cent* floor rate of tax only were to be excluded while working out the compensation claim.



CHAPTER - III : STATE EXCISE

3.1 Results of audit

Test check of the records of the state excise offices, conducted during the year revealed non/short realisation of establishment charge, non-payment of licence fee, loss due to warehouse going dry, non/short realisation of excise duty etc., amounting to Rs. 1.14 crore in 30 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short realisation of establishment charge	3	0.08
2.	Non-payment of licence fee	2	0.03
3.	Loss due to warehouse going dry	1	0.02
4.	Non/short realisation of excise duty	1	0.02
5.	Other irregularities	23	0.99
Total		30	1.14

A few illustrative cases involving Rs. 14.32 lakh are mentioned in the following paragraphs.

3.2 Short realisation of import permit fee

The Government of Assam, Excise Department in their notification dated 7 September 2005 revised the rate of import permit fee on India made foreign liquor (IMFL) at Rs. 90 per case. The revised rate came into force with effect from 9 September 2005.

Test check of the records of the Superintendent of Excise (SE), Tezpur in August 2007 revealed that 10 import permits for 16,470 cases of IMFL were issued between 9 September and 28 September 2005 on realisation of permit fee of Rs. 7.81 lakh at the pre-revised rates against Rs. 14.82 lakh realisable as per the revised rates. This resulted in short realisation of import permit fee of Rs. 7.01 lakh.

After the case was pointed out, the SE stated in August 2007 that the short realisation was due to delay in receipt of Government notification. The reply is silent regarding the action taken to recover the balance dues from the permit holders. Further reply has not been received (October 2008).

The case was reported to the department and the Government in January 2008; their replies have not been received (October 2008).

3.3 Non-recovery of establishment cost

Under the provisions of the Assam Distillery Rules, 1945, the Commissioner of Excise shall appoint such officer and establishment as he thinks fit to the charge of a distillery. The distillery shall pay to the Government at the end of each calendar month such establishment charges, the cost of which shall include pay as well as leave salary and pension contribution in respect of the excise official(s) attached to the distillery.

Test check of the records of the SE, Tinsukia in September 2007 revealed that one distillery and bottling industry¹ did not pay the establishment charges of Rs. 2.86 lakh in respect of the official appointed to the charge of the distillery for the period from March 2005 to August 2007. No demand was raised by the department to recover the dues from the licensee till September 2007. This resulted in non-recovery of establishment charges of Rs. 2.86 lakh.

After the case was pointed out, the SE, Tinsukia stated (September 2007) that demand notice would be served on the defaulter. A report on further development has not been received (October 2008).

The case was reported to the department and the Government in January 2008; their replies have not been received (October 2008).

¹ M/s Gayetri Distilleries and Bottling Industries, Leipuli, Tinsukia.

3.4 Non-realisation of renewal fee of 'brand and label' of IMFL product

The Government of Assam, Excise Department by a notification dated 21 March 1997 prescribed the rates for different 'brands and labels' of IMFL products of various sizes. As per the notification, the manufacturing units were required to pay the renewal fee at the rate as prescribed in advance.

Test check of the records of one distillery and bottling plant² under the SE, Tinsukia in September 2007 revealed that though the brand and label of 15 different sizes of bottles relating to 12 varieties of IMFL were renewed during 2007-08 yet no action was taken by the SE to realise it from the licensee. This resulted in non-realisation of advance renewal fee of Rs. 2.25 lakh as mentioned in Annexure-II.

After the case was pointed out, the SE in September 2007 stated that the matter would be brought to the notice of the higher authority. A report on further development has not been received (October 2008).

The case was reported to the department and the Government in January 2008; their replies have not been received (October 2008).

3.5 Non-realisation of advance gallonage fee

Under the Assam Excise (Amendment) Rules, 2005, notified on 18 March 2005, the holder of a retail foreign liquor (RFL) 'off' licence is required to pay a gallonage fee on the permitted quantity prior to the issue of import permit or pass at the rate of Rs. 6 per bulk litre (Rs. 54 per case) and Rs. 4 per bulk litre (Rs. 31.20 per case) in the case of IMFL and beer respectively. This fee is in addition to the annual lump fee.

Test check of the records of the SE, Dhubri in July 2007 revealed that 27 permits were issued 27 RFL 'off' licensees between 18 March 2005 and 29 March 2005. Although import permits/passes for 3,416 cases of IMFL and 1,150 cases of beer were issued by the licence issuing authority, yet advance gallonage fee was not levied and realised from the licence holders. This resulted in non-realisation of gallonage fee of Rs. 2.20 lakh as mentioned in Annexure-III.

After the case was pointed out, the SE stated (July 2007) that demand notice would be served for realisation of gallonage fees. A report on further development has not been received (October 2008).

The case was reported to the department and the Government in November 2007; their replies have not been received (October 2008).

² M/s Gayetri Distilleries and Bottling Industries Pvt. Ltd., Laipuli, Tinsukia.



CHAPTER - IV : TAXES ON MOTOR VEHICLES

4.1 Results of audit

Test check of the records of the Commissioner of Transport and district transport offices conducted during the year revealed non-realisation of motor vehicle tax, non-assignment of registration mark, non-levy of fine for overloading and other irregularities amounting to Rs. 177.66 crore in 73 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Assessment, levy and collection of motor vehicle tax (A review)	1	174.73
2.	Non/short realisation of motor vehicle taxes	20	1.59
3.	Non-assignment of registration	7	0.11
4.	Non-levy of fine for overloading	2	0.06
5.	Other irregularities	43	1.17
Total		73	177.66

A review of Assessment, levy and collection of motor vehicle tax involving Rs. 174.73 crore is mentioned in the following paragraphs.

4.2 Assessment, levy and collection of motor vehicle tax

Highlights

Failure of the district transport officers to review the combined registers at periodic intervals and issue demand notices to the defaulting vehicle owners for payment of dues resulted in non-realisation of tax of Rs. 3.97 crore.

(Paragraph 4.2.7)

The Enforcement Wing failed to detect 1,48,624 commercial trucks carrying excess load beyond maximum permissible limit resulting in non-levy of fine of Rs. 169.47 crore.

(Paragraph 4.2.11)

There was non/short levy of licence fee of Rs. 29.91 lakh from 57 agents of passenger and goods vehicles.

(Paragraph 4.2.12)

4.2.1 Introduction

The Motor Vehicle (MV) Act, 1988 and the rules made thereunder as amended from time to time regulate registration and control of motor vehicles and also levy and collection of various types of fees and fines. The Transport Department is responsible for administering and regulating the motor vehicles in accordance with the provisions of the MV Act and the Central Motor Vehicles (CMV) Rules, 1989. It also enforces the Assam Motor Vehicles Taxation (AMVT) Act, 1936 and Assam Motor Vehicle (AMV) Rules, 2003 made thereunder.

A review of receipts from the motor vehicles taxes was conducted. The review revealed a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

4.2.2 Organisational set-up

The Commissioner of Transport (COT), Assam under the administrative control of the Commissioner and Secretary, Transport Department is the overall head of the department and is responsible for overseeing the functioning of the various wings of the department and implementation of the Acts and rules governing the assessment, levy and collection of motor vehicles taxes, fees and fines. He is assisted at the headquarters by one Joint Commissioner of Transport who is also the ex-officio Secretary, State Transport Authority (STA), one Deputy Commissioner and one Assistant Commissioner of Transport. At the district level, there are 21 district transport officers (DTOs) who are also ex-officio regional transport authorities (RTAs). Besides, there are four DTOs with independent charge of registration & licencing, local plying permits¹, enforcement and pool under the jurisdiction of the Kamrup district. The Enforcement Wing of the department at the district level headed by the respective DTOs is responsible for enforcing the

¹ Other than national permit (NP) and stage carriages.

level headed by the respective DTOs is responsible for enforcing the provisions of the Acts and Rules. The Joint Commissioner of Transport in the capacity of Secretary, STA, is responsible for issue of national permit and permit for all stage carriages as specified in the MV Act.

4.2.3 Audit objectives

The review was conducted with a view to examine whether

- demands for road tax, fees and fines were correctly raised and collected within the specified time frame as per the provisions of the Acts and Rules;
- the provisions of the MV Act and CMV Rules were applied for controlling the transport vehicles especially overloading of the goods carriages;
- there was effective co-ordination between the STA, Assam and the STAs of other states for ensuring realisation of composite tax at the appropriate rates;
- steps were taken to review the combined registers and detect the vehicles of others States plying within the State for more than one year without assignment of new registration numbers; and
- the internal control mechanism in the department was adequate and effective to prevent leakage of revenue.

4.2.4 Scope of Audit

To review the assessment, levy and collection of motor vehicle tax, records of the COT and 12² out of 25 DTOs and all the three MV check gates (Srirampur, Boxirhat and Digharkhal) for the period from 2002-03 to 2006-07 were test checked during October to December 2007. Sample selection was made as per the method of simple random sampling with replacement methodology.

4.2.5 Acknowledgment

The Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department in providing the necessary information and records for audit. The findings of this review were reported to the Government on 28 April 2008 and discussed in the Audit Review Committee meeting held on 16 June 2008. The Government did not furnish any reply. However, the replies of the department have been incorporated in the respective paragraphs.

² Bongaigaon, Dibrugarh, Goalpara, , Jorhat, Kamrup (R&L), Kamrup (permit), Kamrup (enforcement), Kokrajhar, Nagaon, Sibsagar, Tezpur and Tinsukia.

Audit findings

4.2.6 Trend of revenue

The Budget Manual of Assam envisages that the estimates of revenue receipts should show the amount expected to be realised during the year. In estimating the revenue, the calculation is required to be based on the actual demand including any arrear due and advance collection for the coming years.

Budget estimates, actuals during the period from 2002-03 to 2006-07, variations between the budget estimates and actuals are mentioned below:

(Rupees in crore)

Year	Budget estimates	Actuals	Variation between budget estimates and actuals (+) excess/ (-) shortfall	Percentage of variation to budget estimates (+) excess/ (-) Shortfall
2002-03	95.30	116.28	(+) 20.98	(+) 22.01
2003-04	131.40	124.00	(-) 7.40	(-) 5.63
2004-05	140.11	134.72	(-) 5.39	(-) 3.85
2005-06	158.32	155.91	(-) 2.41	(-) 1.52
2006-07	172.63	151.15	(-) 21.48	(-) 12.44

Thus, though the collection of revenue showed an overall increasing trend except 2006-07, yet in comparison with the budget estimates, the trend was negative during the years 2003-04 to 2006-07. Reasons for the variations, though called for from the department/Government, have not been furnished (October 2008).

System deficiencies

Road Tax

4.2.7 Non-raising of demands of motor vehicle tax

Under the AMVT Act, as amended from time to time, taxes on motor vehicles are to be paid in advance on or before 15th April each year or optionally in four equal instalments payable on or before 15th of April, July, October and January respectively. Vehicles can go off-road on submission of an application in form 'H' and surrender their licence and avail exemption from payment of tax for the current period. The DTOs are required to review the combined registers/vehicles registers at periodic intervals to ensure that the tax is regularly paid. Prompt action is required to be taken to issue demand notice against the vehicle owners whose taxes are in arrears followed by suspension of the registration certificate (RC) of the violators under section 53 of the MV Act. Further, under section 5A of AMVT Act, inserted with effect from 9 May 2002, every owner of a motor vehicle who fails to pay the appropriate road tax in time shall be liable to pay a fine at a rate of Rs. 5 per day for every day of such delayed payment. **Audit scrutiny revealed that there was no system of conducting periodic review of the combined registers by the DTOs. Due to this, the DTOs failed to effectively monitor the payment of tax by the vehicle owners which led to blockage of Government revenue.**

Test check of the records of 10 DTOs³ revealed that in nine DTOs⁴ road tax amounting to Rs. 1.34 crore was due from 1,176 commercial vehicles for various periods from April 2002 to March 2007. Due to the absence of a system of periodic review of the combined registers, these vehicles continued to ply in public places without payment of tax. There was also nothing on record to show that the owners of these vehicles surrendered the licences or submitted H form. Thus, failure of the DTOs to review the combined register at periodic intervals and issue demand notice to the defaulters resulted in non-realisation of tax of Rs. 3.97 crore including fine of Rs.2.63 crore.

After the case was pointed out, the department stated (June 2008) that in most cases taxes are actually paid and endorsed accordingly in the registration certificate but not recorded in the combined registers as the owners do not bother to get the details of tax payment recorded in the combined register. It was also stated that some vehicle owners had shifted their base to the other states without obtaining the NOC from the registering authority. However, no supporting documents were furnished by the department in support of their reply.

The Government may consider making periodical review of combined registers and issuing demand notice to the defaulters, mandatory. Immediate steps may be taken for recovery of dues as arrears of land revenue in case of non-payment of dues despite notices. The DTOs may be made accountable for failure to recover the dues in time.

Control of transport vehicles

4.2.8 Short deposit of composite tax from other states under national permit scheme

As per the provisions of the CMV Rules, an intending national permit holder is required to pay to the home State prescribed authorisation fee along with the bank draft in respect of composite tax payable to the States in which the permission for operation is to be granted. Audit scrutiny revealed that there was no system of monitoring on the part of the STA, Assam regarding the number of vehicles authorised by other States to ply within the State of Assam and receipt of the composite fees. The department also did not maintain register of valuables to keep a watch over the receipt of bank drafts from other states.

Test-check of the records of the STA, Assam revealed that during 2002-03 to 2006-07, bank drafts for Rs. 54.36 crore were received from the STAs of other States and deposited by the STA, Assam into the bank for crediting to the Government account. Of these, bank drafts for Rs. 90.26 lakh were found defective and returned to the STA, Assam by the bank during the aforesaid

³ Bongaigaon, Dibrugarh, Goalpara, Jorhat, Kamrup (R & L), Kokrajhar, Nagaon, Sibsagar, Tezpur and Tinsukia.

⁴ Bongaigaon, Dibrugarh, Jorhat, Kamrup (R & L), Kokrajhar, Nagaon, Sibsagar, Tezpur and Tinsukia.

period. **Due to lack of monitoring on the part of the STA, Assam, no follow up action could be taken by the department for revalidation of the defective bank drafts for Rs. 90.26 lakh resulting in the revenue remaining out of the Government account. Further, the department was also not aware of the actual amount of composite fees realisable during a year as there was no monitoring on the part of the STA to obtain the number of vehicles permitted by the STAs of other States to ply in the State of Assam.**

After the cases were pointed out, the department stated in June 2008 that out of Rs. 90.26 lakh, an amount of Rs. 60.70 lakh was recovered, draft for Rs. 18.20 lakh were forwarded to the other States and Rs. 11.36 lakh was still pending with the bank. However, details of deposit of the recovered amount to the Government account and action taken for realisation of the balance amount has not been received (October 2008).

The Government may consider taking steps to strengthening the system of maintenance of records/registers relating to realisation of the composite tax. Also, co-ordination between the STA, Assam and the STAs of other states may be strengthened to ensure timely action in case of non/late receipt of bank drafts/information regarding numbers of vehicles allowed by respective STAs to ply in the State of Assam.

4.2.9 Internal audit

Internal audit is one of the tools of the internal control mechanism and functions as the 'eyes' and 'ears' of the management and evaluates the efficiency and effectiveness of the mechanism. It also independently appraises whether the activities of the organisation/department are being conducted efficiently and cost effectively.

Audit noticed that the department has an internal audit wing (IAW) consisting of one post of an Audit Officer (AO) and one post of an Assistant Audit Officer (AAO). Of these two posts, the post of AAO was lying vacant from 1999 to 2004-05. No internal audit had ever been conducted to evaluate the system of working of the department and to suggest ways and means to plug the leakage of revenue.

The Government may consider making the IAW operational so as to safeguard the interest of the revenue and avoid recurrence of the mistakes pointed out.

4.2.10 Outstanding revenue

According to the AMV Act, as amended, motor vehicle taxes are to be realised in advance. In case of default in payment of tax by the vehicle owners, the DTOs may forward to the Deputy Commissioner a certificate over his signature specifying the amount of tax due from such person and the Deputy Commissioner on receipt of such certificate shall proceed to recover such tax

including such penalty as he may deem fit, not exceeding one half of the annual tax, as if it were an arrear of land revenue.

Audit scrutiny revealed that the amount receivable, amount received and the outstanding amount at the end of the year were not worked out by the DTOs. No report/return has been prescribed for furnishing the position of the amount realisable, amount realised and amount outstanding during a particular period by the DTOs to the higher authorities. Due to the failure/deficiencies of the department at various levels to monitor the collection of arrear and non-initiation of effective steps to recover the arrear, amount of Rs. 94.77 lakh accumulated during the years 2002-03 to 2006-07 could not be realised till date. Also, no timeline has been prescribed for sending the case to the *bakijai*⁵ officer for recovery of dues as arrears of land revenue.

The consolidated position of outstanding MV revenue as on 31 March 2007 for the State as a whole was not furnished by the COT, Assam though called for. Only five⁶ out of 10 DTOs furnished the position of accumulated arrear revenue as on 31 March 2007 as mentioned below:

(Rupees in lakh)

Year	Amount outstanding at the beginning of the year	Demand for the year	Total amount	Collection during the year	Percentage of shortfall	Balance
2002-03	82.84	61.51	144.35	76.99	46.66	67.36
2003-04	67.36	57.48	124.84	55.53	55.52	69.31
2004-05	69.31	60.87	157.18	47.47	69.80	82.71
2005-06	82.71	67.49	150.20	45.55	69.67	104.65
2006-07	104.65	48.77	153.42	58.65	61.77	94.77

Thus, during the years 2003-04 to 2005-06, the concerned DTOs failed to collect even the demand for the current years. Also, none of the DTOs covered in the review were in a position to furnish the details of the cases forwarded to the *bakijai* officers for recovery of dues.

The Government may consider prescribing a specific timeline for sending the cases to the *bakijai* officer. Report/returns to be furnished by the DTOs mentioning amount due, amount realised and amount outstanding during the period of the report may be introduced for better monitoring of the recovery of the arrears.

Compliance deficiencies

4.2.11 Non-levy of fine on trucks carrying excess load of coal

Section 113 of the MV Act empowers the State Government to prescribe, *inter-alia*, the maximum weight to be carried by the transport vehicles. Section 114 provides that vehicles suspected to be carrying more than the authorised

⁵ Arrear recovery officer.

⁶ Dibrugarh, Kokrajhar, Nagaon, Tezpur and Tinsukia.

weight can be weighed by a weighing device. Further, in term of section 194 of the MV Act, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of the sections 113 and 114 of the MV Act is punishable with a minimum fine of Rs. 2,000 and an additional amount of Rs. 1,000 per tonne of excess load.

4.2.11.1 Verification of the records of the Directorate of Mineral Resources check gate at Dainadubi in Meghalaya revealed that during the period between April 2001 and March 2004, 1,45,247 commercial trucks carried 28,16,755 MT of coal against the maximum permissible limit of 14,52,470 MT from different parts of the Garo Hills in Meghalaya and entered the State of Assam. The excess load of 13,64,285 MT escaped the notice of the Enforcement Wing leading to non-levy of minimum fine of Rs. 165.48 crore⁷.

4.2.11.2 Cross verification of the records of the DTO, Enforcement, Kamrup, Guwahati with those of the Superintendent of Sales Tax, Check gate, Jalukbari revealed that 3,377 commercial trucks carried load of 67,084 MT from Beltola to Azara/New Guwahati/Byhata/Rangia railway yard against the maximum permissible limit of 33,986 MT during different periods between January 2006 and October 2006. Excess load of 33,098 MT carried by these trucks beyond the maximum permissible limit escaped the notice of Enforcement Wing resulting in irregular plying of these vehicles with excess load and non-realisation of fine of Rs. 3.99⁸ crore.

After the case was pointed out, the department stated (July 2008) that they had only three check gates located at Boxirhat, Digharkhal and Srirampur and no check gate has been erected in the other entry and exit points of the State. The enforcement staff was working during dawn to dusk and night checking is not possible due to the lack of infrastructure.

The Government may make it mandatory for the Transport Department to cross verify the records of other departments periodically to detect trucks carrying load in excess of the permissible weight and levy penalty on the offenders.

4.2.12 Non/short realisation of licence fee from agents

The AMV Rules prescribes the rates of annual licence fee for issue/renewal of agents licence for goods and passenger vehicles. Section 93 of the MV Act provides that no person shall engage himself as an agent or canvasser in the sale of tickets for travel by public service vehicles or otherwise in soliciting customers for such vehicle or as an agent in the business of collecting, forwarding or distributing goods carried by goods carriages unless he has obtained a licence from such authority prescribed by the State Government.

7	1,45,247 X Rs. 2,000 =	Rs. 29,04,94,000
	13,64,285 X Rs. 1,000=	<u>Rs.136,42,85,000</u>
		<u>Rs. 165,47,79,000</u>
8	3,377 x Rs. 2,000	Rs. 67,54,000
	33,098 x Rs. 1,000	<u>Rs.3,30,98,000</u>
		<u>Rs.3,98,52,000</u>

Further, under the provisions of Section 193 of the MV Act, whoever engages himself as an agent or canvasser in contravention of the provisions of Section 93 or of any rules made thereunder shall be punishable for the first offence with fine which may extend to Rs. 1,000 and for any second or subsequent offences with imprisonment which may extend to six months or with fine which may extend to Rs. 2,000 or with both.

Test check of the records of the COT, Assam revealed that 57 licences were issued to the agents of passengers and goods vehicles during the period from April 2003 to March 2007. Of this, 33 (30 passenger vehicles and three goods vehicles) licences were issued on realisation of Rs. 17,000 against the realisable amount of Rs. 10.40 lakh. For the remaining 24 goods vehicles, licence fee was not realised. This resulted in short/non-realisation of licence fees from agents amounting to Rs. 29.91 lakh.

After the case was pointed out, the department accepted the audit observation and stated (June 2008) that the respective DTOs were directed to take action on the defaulting licence holders with the help of district and police administration. Further development/report on realisation of tax has not been received (October 2008).

4.2.13 Non-assignment of new registration marks

Section 47 of the MV Act stipulates that a motor vehicle registered in one State and kept in another State for a period exceeding 12 months, must be registered in the later State. Rule 81 of the CMV Rules prescribes the rate of registration fee for different categories of motor vehicles. The AMV Rules prescribes that if the owner of the vehicle of other States fails to apply for assignment of new registration mark under Section 47 of the MV Act, he shall be liable to pay a fine of Rs. 100 if the application is submitted within seven days after the expiry of the prescribed period. Further, if the vehicle is not reassigned within seven days of detection, a fine of Rs. 300 shall be leviable and this procedure can be repeated after every seven days till the vehicle is assigned a new registration number.

Test check of the combined registers for the period from April 2002 to March 2007 revealed that in nine⁹ DTOs, though 742 vehicles of other States plying within the State of Assam for more than one year, yet the owners of these vehicles failed to apply for new registration marks. No action was also taken by the DTOs to review the combined registers periodically and issue notices to the vehicle owners for assignment of new registration marks. This resulted in non-realisation of reassignment fee of Rs.4 lakh. Besides, fine of Rs.74,200 was also leviable.

After the case was pointed out, the department accepted the observation and stated (June 2008) that all the DTOs have been directed to endorse on the registration certificate and permit to reassign within the stipulated period.

⁹ Bongaigaon, Goalpara, Jorhat, Kamrup, Kokrajhar, Nagaon, Sibsagar, Tezpur, and Tinsukia.

4.2.14 Non-realisation trade licence fee

Under Rule 112(1) of the AMV Rules, no person shall establish a repairing centre for body building/weigh bridges and become a dealer/sub-dealer of motor vehicles, without a licence granted by the licencing authority, on realisation of licence fee as prescribed under Rule 112 (7) of the AMV Rules. Rule 112 (3) of the AMV Rules provides that licence shall be in force for five years and thereafter may be renewed for another five years on an application not less than six days before the date of expiry of previous licence. In case of non-renewal of licence in time, a fine of Rs. 2 per day will be imposed.

Test check of the records of 10 DTOs¹⁰ revealed that in three DTOs (Bongaigaon, Kokrajhar and Tezpur), 69 repairing centres/centres for body building/weigh bridges and dealers/sub-dealers were running their business without renewal of trade licences for periods ranging from April 2003 and March 2007. The department had not taken any action towards obtaining applications and renewal of their trade licence. This resulted in non-realisation of fees and fine amounting Rs. 2.44 lakh.

4.2.15 Non-realisation of trade certificate fee

Rule 81 of the CMV Rules (as amended in November 1994), provides that dealers of motor vehicles and parts are required to obtain trade certificates annually on payment of prescribed fees.

Test check of the records of two out of 10 DTOs¹¹ (Kokrajhar and Tinsukia) revealed that though trade certificate fees was not paid in 27 cases involving Rs. 1.39 lakh, yet no action was taken by the department for realisation of the fees. This resulted in non-realisation of trade certificate fees of Rs. 1.39 lakh.

4.2.16 Conclusion

Audit noticed that a number of system and compliance deficiencies in enforcement of the provisions of the MV Act and Rules which affected the collection of revenue adversely. Due to non-conducting of periodic review of combined registers by the DTOs, the department failed to check non-registration, non-payment of road tax within the prescribed period. Failure of the STA to maintain prescribed registers/records resulted in non-monitoring of the number of vehicles permitted by the STAs of other States to ply within the State of Assam and recovery of composite tax. Lack of regular checking of overloaded vehicles by the Enforcement Wing resulted in plying of overloaded vehicles on public roads causing threat to public life and property, besides loss of revenue. The internal control mechanism of the department was abysmally weak as is evidenced by the absence of an IAW which is the control of all controls and a management tool for plugging leakages of revenue.

¹⁰ Bongaigaon, Dibrugarh, Goalpara, Jorhat, Kamrup (R & L), Kokrajhar, Nagaon, Sibsagar, Tezpur and Tinsukia.

¹¹ Bongaigaon, Dibrugarh, Goalpara, Jorhat, Kamrup, Kokrajhar, Nagaon, Sibsagar, Tezpur and Tinsukia.

4.2.17 Summary of recommendations

The Government of Assam may consider the following steps to enhance the effectiveness of the machinery for levy and collection of motor vehicle tax, fees and fines.

- making it mandatory for the DTOs to periodically review the combined registers and issue demand notice to the defaulters. In case of non-payment of dues despite notices, immediate steps may be initiated for recovery of dues as arrears of land revenue;
- strengthening the system of maintenance of records/registers relating to realisation of composite tax. Also, co-ordination between the STA, Assam and the STAs of other States may be strengthened to ensure timely action in case of non/late receipt of bank drafts/information regarding numbers of vehicles allowed by respective STAs to ply in the State of Assam;
- making the IAW operational so as to safeguard the interest of revenue and avoid recurrence of the mistakes pointed out; and
- prescribing a specific timeline for sending the cases to the *bakijai* officer. Report/returns to be furnished by the DTOs mentioning amount due, amount realised and amount outstanding may be introduced for better monitoring of the recovery of arrears.
- making it mandatory for the Transport Department to cross verify the records of other departments periodically to detect trucks carrying load in excess of the permissible weight and levy penalty on the offenders

CHAPTER – V : OTHER TAX RECEIPTS

5.1 Results of audit

Test check of the records in the offices dealing with agricultural income tax, land revenue, stamp duty and registration fee and profession tax during the year revealed short levy of tax, short levy of interest, retention of cash in hand, short levy of stamp duty and non-realisation of profession tax etc., amounting to Rs. 5.94 crore involving 156 cases which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Land revenue	94	4.38
2.	Agricultural income tax	11	1.00
3.	Stamp duty and registration fee	38	0.30
4.	Profession tax	13	0.26
Total		156	5.94

A few illustrative cases involving Rs. 1.09 crore are mentioned in the following paragraphs.

A. AGRICULTURAL INCOME TAX

5.2 Incorrect allowing of set-off

Under the provisions of the Assam Agricultural Income Tax (AAIT) Act, 1939, as amended from time to time, the loss sustained by any assessee in agricultural income for any year is allowed to be carried forward for set-off against the profits or gains of the subsequent two years. However, if any assessee fails to file his return of loss for any year by 31 December of the relevant assessment year, the claim to carry forward such loss to be set-off against future income of the assessee shall not be entertained.

Test check of the assessment records of the Agricultural Income Tax Officer (AITO), Guwahati between October and November 2007 revealed that a company¹ filed its return for the assessment year 2001-02 in January 2002 showing a loss of Rs. 84.69 lakh. The assessing officer (AO) admitted the claim to be carried forward and allowed set-off against the taxable income of the subsequent year finalised in May 2007. This irregular allowing of set-off resulted in short levy of tax of Rs. 36.32 lakh.

After the case was pointed out, the AO stated (November 2007) that reassessment would be done after serving notice to the assessee and demand notice issued to realise the tax. A report on further development has not been received (October 2008).

The case was reported to the department and the Government in March 2008; their replies have not been received (October 2008).

5.3 Short levy of interest

Under the provisions of the AAIT Act, if an assessee fails to pay advance tax by 31 March of the previous year assessed during the succeeding year, simple interest at the rate of two *per cent* is leviable for each calendar month from the first day of April of the assessment year upto the month of the assessment. Further, under Section 35(B) of the said Act, when advance tax paid within the stipulated date is less than 75 *per cent* of the tax assessed, interest at the same rate for the same period is leviable on the balance tax arrived at by deducting advance tax paid from the assessed tax.

Test check of the assessment records of the AITO, Guwahati between October and November 2007 revealed that the AO while finalising the assessment of an assessee² for the year 1997-98 in May 2007 determined tax payable as Rs. 1.76 crore against which the dealer had paid Rs. 1.42 crore (Rs. 1 crore in October 1998 and Rs. 42.40 lakh in December 1998). Interest of Rs. 90.80 lakh was leviable on non/delayed payment of tax against which the AO levied Rs. 58.47 lakh. This resulted in short levy of interest of Rs. 32.33 lakh.

¹ M/s Jorehaut Group Ltd.

² M/s Andrew Yulé and Company Ltd.

After the case was pointed out, the AO stated (November 2007) that reassessment would be made and demand notice on short levy would be served on the assessee. Information on reassessment and realisation of interest has not been received (October 2008).

The case was reported to the department and the Government in March 2008; their replies have not been received (October 2008).

5.4 Short levy of tax due to application of lower rate

Under the AAIT Act, rate of tax on taxable income, for companies, upto the assessment year 1988-89 was 75 *per cent* which was revised to 83 *per cent* from the assessment year 1989-90 and was effective till 1991-92.

Test check of the assessment records of the AITO, Guwahati in October and November 2007 revealed that while determining (September 2007) the agricultural income of an assessee³ for the assessment year 1989-90 as Rs. 82.46 lakh, the AITO allowed deduction of Rs. 1.78 lakh instead of adding the same (after allowing necessary adjustment) for determining the taxable agricultural income. Besides, the AO also assessed the tax at the rate of 75 *per cent* on the taxable income so determined instead of 83 *per cent* due and applicable. This resulted in short determination of taxable turnover by Rs. 3.56 lakh and consequent short levy of tax amounting to Rs. 9.55 lakh.

After the case was pointed out, the AO stated (November 2007) that reassessment would be done and demand notice would be served on the assessee. Reply regarding reassessment and realisation of dues has not been received (October 2008).

The case was reported to the department and the Government in March 2008; their replies have not been received (October 2008).

5.5 Short levy of tax due to mistake in computation

Test check of the assessment records of the AITO, Guwahati between October and November 2007 revealed that while determining (September 2007) the agricultural income of an assessee⁴ for the assessment year 1992-93, the AITO levied tax of Rs. 1.26 crore instead of Rs. 1.28 crore due to calculation mistake resulting in short levy of tax of Rs. 2.05 lakh.

After the case was pointed out, the AO stated (November 2007) that reassessment would be done after serving notice to the assessee and demand notice to the assessee would be issued to realise the tax. A report on further development has not been received (October 2008).

The case was reported to the department and the Government in March 2008; their replies have not been received (October 2008).

³ M/s George Williamson (Assam) Ltd.

⁴ M/s Williamson & Magor Ltd.

B. LAND REVENUE

5.6 Retention of cash in hand by *mouzadars*

In accordance with the executive instruction issued by the Land Revenue Department under notification dated 29 March 1996, no *mouzadar*⁵ is allowed to retain cash in hand beyond the permissible limit of Rs. 10,000 with regard to the land revenue collected by him. Subject to this limit, the *mouzadar* should remit the land revenue, local rates and other Government revenue collected by him to the treasury at least once in a month.

Test check of the records of four⁶ *mouzadars* under the establishment of the Deputy Commissioner (DC), Lakhimpur in May 2007 revealed that these *mouzadars* retained revenue in excess of the permissible limit ranging between Rs. 3.72 lakh and Rs. 6.78 lakh relating to the periods between 1997-98 and 2006-07. As of 30 April 2007, revenue amounting to Rs.19.55 lakh was retained by the *mouzadars* in hand in excess of the permissible limit. Thus, laxity of the department to exercise control over the *mouzadars* resulted in unauthorised retention of revenue of Rs. 19.55 lakh which remained outside the Government account.

After the cases were pointed out, the DC stated (May 2007) that stern action would be taken against the *mouzadars* who fail to deposit the collected land revenue into the Government account. A report on further development and remittance of revenue by the *mouzadars* has not been received (October 2008).

The case was reported to the department and Government in November 2007; their replies have not been received (October 2008).

5.7 Loss of revenue due to application of lower rates

The Revenue (Settlement) Department issued instructions in June 1998 to all the DCs for realisation of land revenue in respect of tea estates at the rate of Rs. 15 per *bigha*⁷. Subsequently, the State Government issued another notification in October 1999 reducing the rates of land revenue from Rs. 15 to Rs. 12 per *bigha* in the revenue circles under Brahmaputra Valley and from Rs. 12 to Rs. 9 per *bigha* in the revenue circles under Barak Valley for the period from July 1998 to June 2003.

Test check of the records of the DC, Lakhimpur under the Brahmaputra Valley in May 2007 revealed that though the department did not extend the reduced rate of land revenue beyond June 2003, the DC continued to levy land revenue at the reduced rate of Rs. 12 per *bigha* on 47,518.56 *bighas* of land till March 2007. This resulted in short realisation of revenue of Rs. 8.84 lakh.

⁵ *Mouzadars* are revenue officers appointed under Section 124 of the Assam Land and Revenue Regulation, 1886.

⁶ Dhalpur Mouza, Laluk Mouza; Narayanpur Kharaj Khap Mouza and Telahi Mouza.

⁷ 14,400 sq. ft of land = 1 *bigha*.

After the case was pointed out, the DC stated (May 2007) that the matter is pending with the Government. A report on further development has not been received (October 2008).

The case was reported to the department and Government in November 2007; their replies have not been received (October 2008).

C. STAMP DUTY AND REGISTRATION FEE

5.8 Short levy of stamp duty

The Indian Stamp (Assam Amendment) Act, 2004 modified the rate of stamp duty⁸ which became effective from 18 September 2004.

Test check of the records of Senior Sub-Registrar (SSR), Cachar, Silchar and three⁹ Sub-Registrars (SRs) between January and October 2005 revealed that on 961 conveyance deeds registered between 20 September 2004 and 1 January 2005, stamp duty of Rs. 54.99 lakh instead of Rs. 70.16 lakh was levied and realised due to application of pre-revised rates. This resulted in short levy of stamp duty of Rs. 15.17 lakh.

After the cases were pointed out, the SSR Cachar and SRs, Panikhatti and Rupahi stated between May 2007 and October 2007 that short levy of stamp duty was due to late receipt of circular relating to revised rates. The SR, Madan Routa Nagar, Pathsala, stated in September 2007 that the matter would be taken up with the higher authorities. A report on further development has not been received (October 2008).

The cases were reported to the department and the Government in April 2007 and December 2007; their replies have not been received (October 2008).

D. PROFESSION TAX

5.9 Non-realisation of profession tax

Under the Assam Professions, Trade, Callings and Employments Taxation Act, 1947, every person who carries on a trade or a profession or calling or who is in employment within the State is liable to pay, for each financial year, tax at the prescribed rates. In case a non-Government employer or an enrolled person fails to pay the tax within the due date, he shall be liable to pay the assessed tax together with simple interest at the rate of two *per cent* of the amount due for each month or part thereof for the period for which the tax remained unpaid.

Value of property	Stamp duty leviable
Rs. 1000 to Rs. 10,000	Rs. 60 per 1,000
Rs. 10,001 to Rs. 50,000	Rs. 65 per 1,000
Rs. 50,001 to Rs. 1,00,000 and	Rs. 80 per 1,000
For every Rs. 1000 or part thereof in excess of Rs. 1,00,001 onwards	Rs. 120 per 1,000

⁹ SR, Madan Routa Nagar, Pathsala, Panikhatti and Rupahi.

Cross verification of the records of Assistant Commissioner of Taxes, Tezpur with those of the District Transport Officer (DTO), Tezpur between May and June 2007 revealed that though the owners of 102 four wheelers holding commercial vehicle permits paid motor vehicle tax to the Transport Department during the years 2003-04 to 2006-07, but they did not get enrolled with the Taxation Department and pay profession tax. This resulted in non-realisation of profession tax of Rs. 4.47 lakh including interest.

The cases were reported to the department and the Government in October 2007 and February 2008; their replies have not been received (October 2008).

CHAPTER - VI : MINES AND MINERALS

6.1 Results of audit

Test check of the records of the Geology and Mining Department conducted during the year 2007-08 revealed non/short-realisation of royalty, non-levy of interest on delayed payment of royalty etc., amounting to Rs. 18.03 crore in nine cases, which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short realisation of royalty	7	18.00
2.	Non-levy of interest on delayed payment of royalty	2	0.03
Total		9	18.03

A few illustrative cases involving Rs. 7.23 crore highlighting important observations are mentioned in the following paragraphs.

6.2 Short realisation of royalty on crude oil/natural gas

Under the provisions of the Petroleum and Natural Gas (PNG) Rules, 1959, a lessee shall pay to the State Government, royalty on crude oil and casing head condensate obtained from the mining operation at the rate fixed by the Central Government from time to time within 30 days of the month to which the production relates. In case of default, such payment would be increased by the prime lending rate of the State Bank of India i.e. 10.75 per cent¹ plus a penal rate of 200 basis points over the prime lending rate.

6.2.1 Test check of the records of the Director, Geology and Mining, Assam, Guwahati in July 2007 revealed that M/s Oil India Limited (OIL) extracted/produced 42.83 kilo litres (KL) of crude oil during the period from January 2006 to March 2007 on which royalty of Rs. 1,157.96 crore was due. M/s OIL, however, paid Rs. 1,153.68 crore only leaving a balance of Rs. 4.28 crore unpaid till the date of audit. The department also did not initiate any action to recover the unpaid dues which resulted in short realisation of Rs. 4.28 crore. Besides, additional royalty of Rs. 1.82 crore for non-payment of dues within the prescribed time was also leviable but not levied.

After the case was pointed out, the department stated in May 2008 that a claim for penal interest for short payment of royalty was raised in January 2008. A report on realisation of penal interest and action taken to recover the outstanding royalty has not been received (October 2008).

6.2.2 Test check of the records of the Director, Geology and Mining, Assam in July 2007 revealed that M/s OIL carrying out mining operation for extraction of natural gas in six areas², submitted monthly returns for the month of January 2006 to June 2006 showing production of natural gas aggregating 7.96 lakh cubic metre (cum) from Naharkatia extension area. As per the returns, royalty at the rate of Rs. 143.28 per cum payable for these months was Rs. 11.40 crore against which M/s OIL paid Rs. 8.82 crore only to the Government leaving a balance of Rs. 2.58 crore unpaid as of 31 July 2006. For default in payment of the balance royalty of Rs. 2.58 crore within the stipulated date, an additional royalty of Rs.1.10 crore (upto July 2006) was also leviable on the lessee but was not levied.

After the case was pointed out, the department stated (May 2008) that claims for payment of penal interest of Rs. 8.27 lakh for delay in payment of royalty for the period from February 2006 to June 2006 had been raised in January 2008. The basis on which the penal interest was calculated at Rs. 8.27 lakh instead of Rs. 1.10 crore payable as per the provisions of the PNG Rules has not been intimated (October 2008) though called for. Further reply has not been received (October 2008).

The cases were reported to the Government in October 2007; their replies have not been received (October 2008).

¹ Prime lending rate of the State Bank of India as applicable during the period from January 2006 to March 2007.

² Digboi, Doom-Dooma, Hoogrijan, Moran, Naharkatia and Naharkatia extension.

6.3 Non-levy of interest on delayed payment of royalty

The Mines and Minerals (Development and Regulation) Act 1957, regulates the payment of royalty from the lessee on the quantity of minerals removed or consumed from the leased area. The provisions of Mines and Minerals Concession Rules, 1960 (amended in January 2001) also empowers the State Government to charge simple interest at the rate of 24 *per cent* (with effect from 1 April 1991) per annum on the unpaid royalty from the 60th day of the expiry of the last date i.e. 10th day of the following month of production of monthly payment.

Test check of the records of the Director, Geology and Mining, Assam, Guwahati, in July 2007 revealed that a lessee extracted 5,08,989.91 MT of coal during the period from April 2006 to September 2006 and paid royalty of Rs. 78.89 lakh belatedly between July 2006 and January 2007. The delays ranged between 24 and 150 days. For delayed payment of dues, interest of Rs. 2.67 lakh though leviable was not levied by the department. This resulted in non-levy and consequent non-realisation of interest of Rs. 2.67 lakh.

After the case was pointed out, the department stated in May 2008 that a demand of penal interest for the period from April 2006 to September 2006 had been raised. A report on realisation has not been received (October 2008).

The case was reported to the department and the Government in October 2007; their replies have not been received (October 2008).

CHAPTER - VII: FOREST RECEIPTS

7.1 Results of audit

Test check of the records in the offices of the divisional forest officers conducted during the year revealed loss of revenue due to sale of forest produce through permit system/illicit felling and removal of timber/non-settlement of *mahals*/delay in disposal of seized timber and blockage of revenue due to non-disposal of forest offence cases etc., amounting to Rs. 25.94 crore in 123 cases, which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Blocking of revenue due to non-disposal of offence cases	28	7.75
2.	Loss of revenue due to illegal felling and removal of timber	13	3.86
3.	Loss of revenue due to non-settlement/delay in settlement of <i>mahals</i>	8	1.30
4.	Loss of revenue due to delay in disposal of timber	5	0.63
5.	Other irregularities	69	12.40
Total		123	25.94

A few illustrative cases involving Rs. 1.37 crore are mentioned in the following paragraphs.

7.2 Loss of revenue due to sale of forest produce through permit system

According to the provisions of the Assam Sale of Forest Produce, Coupes and *Mahal* Rules, forest produce is to be disposed by tender or auction at competitive rates. The quantity of forest produce in the *mahal*¹ should be carefully estimated and stipulated in the sale notice so that maximum revenue is obtained.

Test check of the records of three forest divisions between October 2007 and March 2008 revealed that seven stone/boulder quarries/*mahals* were settled through tender at the rates ranging between Rs. 9.50 lakh and Rs. 1.93 crore with the stipulated quantity of 1,03,500 cum of stone during the working period between December 2004 and March 2007. It was further noticed that an additional quantity of 1,47,586 cum of forest produce was sold from these quarries/*mahals* between December 2004 and March 2007 through permits instead of tender system.

The tender rates were higher by 157 to 359 *per cent* as compared to the permit rates. Thus, sale of 1,47,586 cum of forest produce through permit instead of tender system deprived the Government of additional revenue of Rs. 2.92 crore as mentioned below:

(Rupees in lakh)

Name of the division	Name of the <i>mahal</i>	Quantity of forest produce sold on permit (cum)	Amount realisable as per the rate at which the <i>mahal</i> was settled	Revenue realised through permit	Loss of revenue
Aie Valley	Bamuni pahar hill stone quarry (11,000 cum)	45,961	197.23	42.94	154.29
	Singari hill stone quarry No.1 (13,520 cum)				
	Singari hill stone quarry No.2 (3,910 cum)				
	Singari hill stone quarry No.3 (15,781 cum)				
	Saparakata hill stone quarry (1,750 cum)				
Cachar	Madhura stone <i>mahal</i>	86,102	207.72	86.19	121.53
Sonitpur (East)	Buroi sand gravel <i>mahal</i> No. 2	15,523	26.94	10.48	16.46
Grand Total		1,47,586	431.89	139.61	292.28

The matter was reported to the department and the Government in April 2008; their reply has not been received (October 2008).

¹ A defined geographical area where from certain forest produce are sold on condition of their removal within a specified period

7.3 Non-realisation of forest royalty

The Government of Assam, Forest Department, in its notification of December 1993, specified that the departmental contractors registered with the Government who are engaged in the execution of works of the departments such as Public Works, Flood Control, Irrigation and Public Health Engineering may be allowed to collect forest produce on payment of 25 per cent of royalty in advance and the balance 75 per cent to be deducted in full at source from the payment of their running account bills or final bills by the concerned departments.

Test check of the records of four divisions² between October and December 2007 revealed that permits for extraction of sand/gravel/boulder/earth/silt etc. were issued to the authorised contractors of various departments of the State Government during the period from 2002-03 to 2005-06 on payment of 25 per cent royalty of Rs. 28.59 lakh. The balance amount of Rs. 85.82 lakh being 75 per cent was, however, not deducted by the DDOs while releasing the final bills of the contractors. This resulted in non-realisation of revenue of Rs. 85.82 lakh.

After the case was pointed out, the department stated (June 2008) that the matter was being pursued with the concerned departments for speedy recovery of the outstanding dues. A report on further development has not been received (October 2008).

The matter was reported to the Government in April 2008; their reply has not been received (October 2008).

7.4 Locking up of revenue due to non-disposal of offence cases

Under the provisions of the Assam Forest Regulation (AFR), 1891, when a forest offence is detected, the forest produce involved in the offence may be seized by the forest officer and confiscated. On seizure, the forest officer shall report to the concerned magistrate for trial or get the case compounded.

Scrutiny of the offence cases register of 11³ divisions between October and December 2007 revealed that 4,975 cases were detected during the years from 2002-03 to 2006-07. Of this, 4,146 cases were compounded and 330 cases sent to the court thereby leaving 499 cases involving Rs. 57.63 lakh which were neither compounded nor sent to the court. Thus, failure of the divisions either to compound or to send the cases to the court for disposal led to locking up of revenue of Rs. 57.63 lakh. The present condition of the forest produce involved in these cases has not been intimated (October 2008) though called for.

The matter was reported to the department and the Government in April 2008; their reply has not been received (October 2008).

² Dhubri, Kachugaon, Kamrup (West) and Sonitpur (East).

³ Aie-Valley, Cachar, Dhubri, Dibrugarh, Digboi, Goalpara, Hailakandi, Kamrup (West), Nagaon, North Kamrup and Sonitpur (East).

7.5 Loss of revenue due to non-settlement of mahals

Sand/stone in a river bed is in constant process of accumulation and depletion due to river current. If a *mahal* is not worked during its specified working period, the sand/stone is carried away by the river current and will not be available for extraction. The working period so lost, thus, results in loss of revenue. It is, therefore, necessary to ensure timely action to extract sand/stone during the working periods so as to safeguard the Government revenue.

Test check of the records of five⁴ forest divisions between October and December 2007 revealed that 11 riverine *mahals* were not settled during different working periods between 2002-03 and 2006-07 due to delay in the settlement process at various levels. The delay ranged between 6 and 62 months. This resulted in loss of revenue of Rs. 46.16 lakh.

The matter was reported to the department and the Government in April 2008; their reply has not been received (October 2008).

7.6 Short realisation of revenue due to sale of forest produce at the pre-revised rate

The Government of Assam, Mines and Minerals Department in its notification dated 7 March 2005 fixed the revised royalty rate for various forest produces with immediate effect.

Test check of the records of three forest divisions between October and December 2007 revealed that 16,200 cum of boulder/sand/stone was sold by these divisions between 7 March 2005 and 21 March 2005 on realisation of royalty at pre-revised rates. This resulted in short realisation of revenue of Rs. 4.89 lakh as detailed below:

(Rupees in lakh)

Sl. No.	Name of division	Forest produce	Quantity sold (in cum)	Date/period of sale	Royalty leviable at the revised rate	Royalty levied at the pre-revised rate	Short levy of royalty
1	Aie Valley division, Bongaigaon	Stone/Boulder	8,000	21-3-05	8.00	5.60	2.40
2	Cachar division, Silchar	Gravel	3,000	10-3-05 to 14-3-05	3.00	2.10	0.90
		Sand	200	14-3-05	0.14	0.10	0.04
		Boulder	4,000	10-3-05	4.00	2.80	1.20
3	Digboi division, Digboi	Stone	1,000	7-3-05	1.00	0.65	0.35
Total			16,200		16.14	11.25	4.89

After the cases were pointed out, the DFOs of Aie Valley and Digboi division stated in December 2007 that they had initiated (December 2006 and November 2005) action to recover the balance amount. Reports on recovery in these cases and reply of DFO, Cachar division have not been received (October 2008).

⁴ Dhemaji, Dibrugarh, Kamrup (East), Nagaon and Nagaon (South).

The matter was reported to the department and the Government in April 2008; their reply has not been received (October 2008).



**GUWAHATI
THE**

**(SWORD VASHUM)
Principal Accountant General (Audit), Assam**

12 JAN 2009

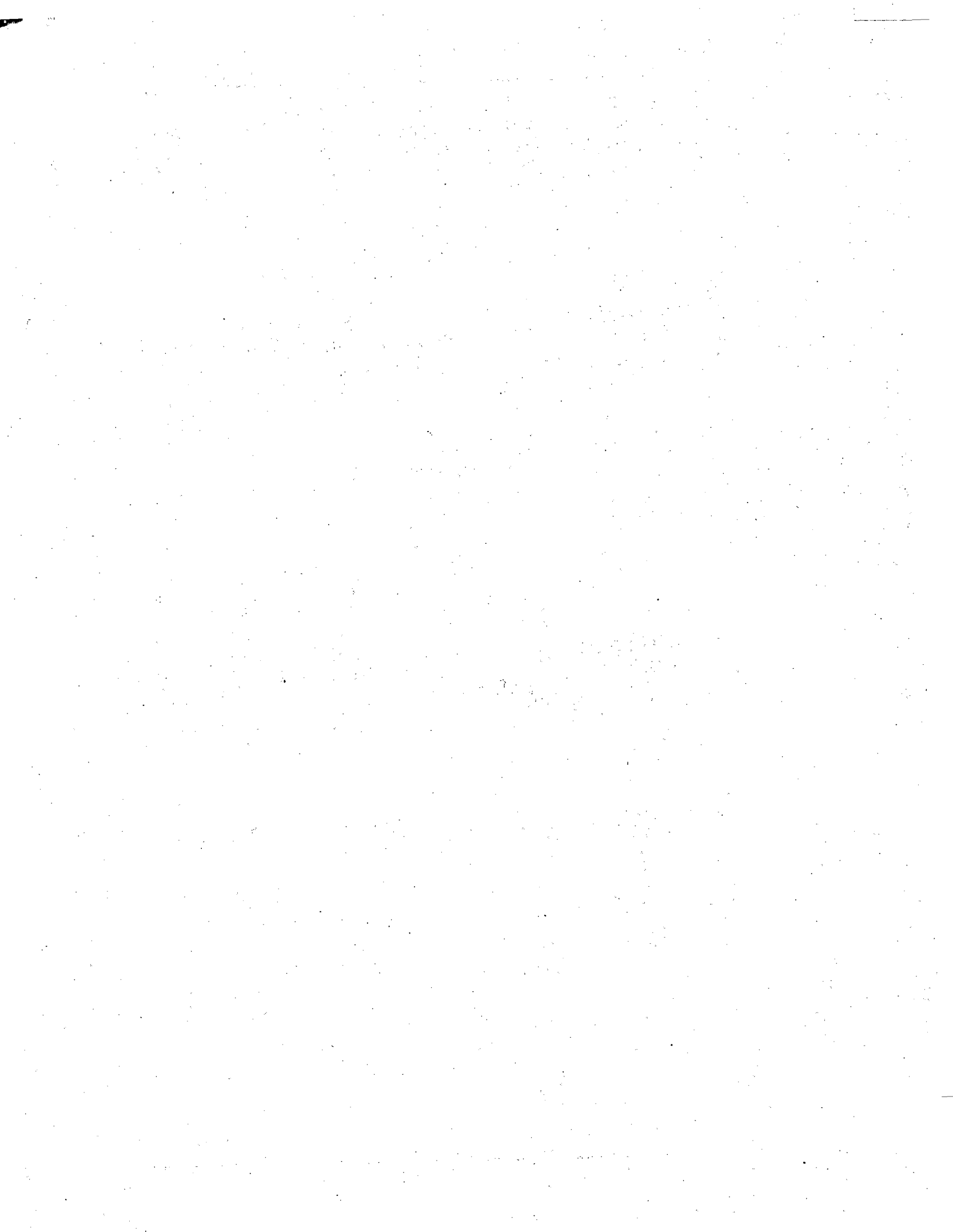
Countersigned



**NEW DELHI
THE**

**(VINOD RAI)
Comptroller and Auditor General of India**

20 JAN 2009



Annexure-I

Statement showing the Inspection Reports (IRs) and paragraphs at the end of June 2008.
(Reference : Paragraph - 1.7)

Sl. No.	Name of Department	Total number of outstanding IRs/Paragraphs at the end of June 2008			Total number of outstanding IRs/Paragraphs not settled for more than 10 years			Total numbers of IRs against which initial replies not received.			
		Year of issue	No. of IRs	No. of paragraphs	Year of Issue	No. of IRs	No. of paragraphs	Year of issue	No. of IRs	No. of paragraphs	Amount (Rupees in crore)
1	Taxation	1994-95 to December 2007	148	670	1994-95 to June 1998	18	32	2007-08 upto December 2007	NIL	NIL	NIL
2	Agricultural Income Tax	1996-97 to December 2007	6	12	1996-97 to June 1998	2	6	NIL	NIL	NIL	NIL
3	Land Revenue	1994-95 to December 2007	577	1364	1994-95 to June 1998	297	602	1994-95 to December 2007	500	1310	203.12
4	Mines and Minerals	1997-98 to December 2007	9	40	1997-98 to June 1998	2	7	NIL	NIL	NIL	NIL
5	Registration	1996-97 to December 2007	126	256	1996-97 to June 1998	26	47	2001-02 to December 2007	31	86	2.05
6	Transport	1994-95 to December 2007	196	559	1994-95 to June 1998	36	86	2003-04 to December 2007	31	134	6.79
7	State Excise	1998-99 to December 2007	28	61	1998-99 upto June 1998	1	3	2003-04 to December 2007	17	37	6.82
8	Forest and Wild life	1994-95 to December 2007	234	703	1994-95 to June 1998	36	71	2003-04 to December 2007	69	338	35.82
9	Other Taxes	1995-96 to December 2007	38	45	1995-96 to June 1998	2	3	2005-06 to December 2007	17	17	0.82
Total :			1362	3710		420	857		665	1,922	255.42

Annexure-II

Statement showing non-realisation of renewal fee of brand and labels of IMFL product
(Ref: Paragraph - 3.4)

Sl. No.	Name of Brand & Label	Size of bottles	Amount to be paid (Rs.)
1.	More brandy	750 ml.	15,000
2.	More rum	750 ml.	15,000
3.	More whisky	750 ml. 375 ml.	15,000 15,000
4.	Rangeela brandy	750 ml.	15,000
5.	Rangeela rum	750 ml.	15,000
6.	Rangeela whisky	750 ml. 375 ml.	15,000 15,000
7.	Sea Rock brandy	750 ml.	15,000
8.	Sea Rock whisky	750 ml.	15,000
9.	Solo whisky	750 ml.	15,000
10.	Solo brandy	750 ml.	15,000
11.	Solo rum	750 ml.	15,000
12.	Shola xxx rum Shola xxx rum	750 ml. 375 ml.	15,000 15,000
Total			2,25,000

Annexure-III

Statement showing non-realisation of advance gallonage fee against the IMFL licensee for the period from 18-3-05 to 29-3-05
(Ref: Paragraph - 3.5)

Sl. No.	Name of licences	Permit No. and Date	Qty. issued in cases	Rate per case (Rs.)	Amount of advance gallonage fees involved (Rs.)
1	M/s Tribeni Ch. Roy, Dhubri	394 dt.18-3-05	IMFL-40 c/s Beer -10 c/s	54.00 31.20	2,160 312
2	M/s Mridul Kr. Majumdar, Dhubri	395 dt.19-3-05	IMFL-35 c/s	54.00	1,890
3	-Do-	396 dt.19-3-05	Beer -35 c/s	31.20	1,092
4	M/s Shanti Rn. Mandal, Dhubri	397 dt.19-3-05	IMFL-110 c/s	54.00	5,940
5	M/s Dilip Kr. Das, Chagalia	398 dt.19-3-05	IMFL-257 c/s Beer -100 c/s	54.00 31.20	13,878 3,120
6	M/s Shanti Rn. Mandal, Dhubri	399 dt.21-3-05	IMFL-50 c/s	54.00	2,700
7	M/s Alok Karmakar, Gauripur	400 dt.21-3-05	IMFL-160 c/s	54.00	8,640
8	M/s Debasish Dihidar, Gauripur	401 dt.21-3-05	IMFL-132c/s	54.00	7,128
9	M/s Gopal Prasad, Dhubri	402 dt.21-3-05	IMFL-500 c/s	54.00	27,000
10	M/s Aparna Roy, Chagalia	403 dt.21-3-05	IMFL-153 c/s	54.00	8,262
11	M/s N.N Chatterjee, Dhubri	404 dt.23-3-05	IMFL-36 c/s	54.00	1,944
12	-do-	405 dt.23-3-05	Beer-20 c/s	31.20	624
13	M/s Debasish Dihidar, Gauripur	406 dt.23-3-05	IMFL-100 c/s Beer -100 c/s	54.00 31.20	5,400 3,120
14	-Do-	407 dt.23-3-05	IMFL-90 c/s Beer -100 c/s	54.00 31.20	4,860 3,120
15	-Do-	408 dt.23-3-05	IMFL-125 c/s Beer -50 c/s	54.00 31.20	6,750 1,560
16	M/s Hiran Sarmah. Dhubri	409 dt.23-3-05	IMFL-12 c/s	54.00	648
17	-Do-	410 dt.23-3-05	Beer -15 c/s	31.20	468
18	M/s Sanjib Kr. Prasad, Dhubri	411 dt.23-3-05	IMFL-267 c/s	54.00	14,418
19	-do-	412 dt.23-3-05	IMFL-55 c/s	54.00	2,970
20	-do-	413 dt.23-3-05	IMFL-255 c/s Beer-500 c/s	54.00 31.20	13,770 15,600
21	M/s Mridul Kr. Majumdar, Dhubri	414 dt.24-3-05	Beer-100 c/s	31.20	3,120
22	M/s Ashish Kr. Ghose, Dhubri	415 dt.24-3-05	IMFL-106 c/s Beer-100 c/s	54.00 31.20	5,724 3,120
23	M/s Sanjib Kr. Prasad, Dhubri	416 dt.28-3-05	IMFL-500 c/s	54.00	27,000
24	M/s Triben Ch Roy, Dhubri	417 dt.28-3-05	IMFL-48 c/s Beer-20 c/s	54.00 31.20	2,592 624
25	M/s Shshil Kr. Roy, Dhubri	418 dt.28-3-05	IMFL-39 c/s	54.00	2,106
26	M/s Minoti Saha, Dhubri	419 dt.28-3-05	IMFL-65 c/s	54.00	3,510
27	M/s Aparna Roy, Chagulia	420 dt.29-3-05	IMFL-281 c/s	54.00	15,174
Total					2,20,344

