REPORT

OF THE

COMPTROLLER

AND

AUDITOR GENERAL OF INDIA

FOR THE YEAR 1976–77

REVENUE RECEIPTS

GOVERNMENT OF MAHARASHTRA

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GOVERNMENT OF MAHARASHTRA

REVENUE RECEIPTS, 1976-77

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REVENUE RECEIPTS

GOVERNMENT OF MAHARASHTRA

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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Maharashtra for the year 1976-77 is presented in a separate volume. The material in the Report has been arranged in the following order:—

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

(*ii*) Chapters II to VIII set out certain cases and points of interest which came to notice in the audit of Sales Tax, State Excise, Land Revenue, Taxes on Vehicles, Stamp Duty and Registration Fee, and other Tax and Non-tax Receipts.

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

CHAPTER I

GENERAL

1.1. Trend of revenue receipts

The total receipts of the Government of Maharashtra for the year 1976-77 were Rs. 1204·83 crores against the Budget estimates of Rs. 1121·74 crores. The receipts during the year registered an increase by 50·09 per cent over those of 1974-75 (Rs. 802·72 crores) and 14·81 per cent over those of 1975-76 (Rs. 1049·38 crores). Of the total receipts of Rs. 1204·83 crores, revenue raised by the State Government amounted to Rs. 983·64 crores, of which Rs. 679·97 crores were from ' Tax Revenue ' and Rs. 303·67 crores from ' Non-Tax Revenue '. Receipts from the Government of India amounted to Rs. 221·19 crores.

1.2. Analysis of revenue receipts

An analysis of receipts during 1976-77 along with the corresponding figures for the preceding two years is given below :—

	1974-75	1975-76	1976-77
	(In crores of rupees)		
I. *Revenue raised by the State Government—*			
(*a*) Tax Revenue	497·88	585·96	679·97
(*b*) Non-tax Revenue	143·72	252·95	303·67
Total ..	641·60	838·91	983·64
II. *Receipts from the Government of India—*			
(*a*) States' share of divisible Union Taxes	123·26	161·53	168·36
(*b*) Grants-in-aid	37·86	48·94	52·83
Total ..	161·12	210·47	221·19
III. Total receipts of the State ..	802·72	1049·38	1204·83
IV. Percentage of I to III	79·93	79·94	81·64

Of the State's total receipts during 1976-77, 18·36 per cent came from the Union Government. The State mobilised 81·64 per cent.

1.3. Tax revenue raised by the State

Receipts from tax revenue constituted about 69·13 per cent of the State's own revenue receipts during 1976-77. An analysis of tax revenue under different heads for the year 1976-77 and the preceding two years is given below :—

		1974-75	1975-76	1976-77	Increase (+) Decrease (—) with reference to 1975-76
		(In crores of rupees)			
1.	Taxes on Agricultural Income ..	0·33	0·24	0·09	(—) 0·15
2.	Land Revenue	21·32	15·64	18·59	(+) 2·95
3.	State Excise	29·36	34·92	40·99	(+) 6·07
4.	Taxes on Vehicles	20·35	23·21	25·83	(+) 2·62
5.	Sales Tax	308·72	369·09	439·10	(+) 70·01
6.	Stamp Duty and Registration Fees ..	18·96	20·19	22·43	(+) 2·24
7.	Taxes on Goods and Passengers ..	29·66	30·40	29·10	(–) 1·30
8.	Taxes and Duties on Electricity ..	29·98	27·84	31·98	(+) 4·14
9.	Other Taxes and Duties on Commodities and Services.	39·20	50·67	54·63	(+) 3·96
10.	Other Taxes on Income and Expenditure		13·76	17·23	(+) 3·47
	Total ..	497·88	585·96	679·97	(+) 94·01

1.4. Non-Tax revenue of the State

Forest, Interest receipts, Irrigation, Navigation, Drainage and Flood Control Projects, Power Projects, Mines and Minerals, Housing, Co-operation, Dairy Development, Medical, Public Health, Sanitation and Water Supply and Police are the principal sources of non-tax revenue of the State. Receipts from the non-tax revenue constituted about 30·87

per cent of the revenue raised by the State during 1976-77. An analysis of the non-tax revenue under the principal heads for the year 1976-77 and the preceding two years is given below :—

	1974-75	1975-76	1976-77	Increase (+) Decrease (−) with reference to 1975-76
	(In crores of rupees)			
1. Forest	21·00	27·08	37·32	(+) 10·24
2. Interest	42·62	45·63	60·38	(+) 14·75
3. Irrigation, Navigation, Drainage and Flood Control Projects.	6·93	5·90	6·19	(+) 0·29
4. Power Projects	9.36	11·64	15·62	(+) 3·98
5. Mines and Minerals	0·97	1·14	2·40	(+) 1·26
6. Housing	0·98	6·58	6·81	(+) 0·23
7. Co-operation	4·92	4·73	5·28	(+) 0·55
8. Dairy Development	0·33	75·08	83·59	(+) 8·51
9. Medical	9·22	12·69	9·29	(−) 3·40
10. Public Health, Sanitation and Water Supply.	5·36	5·81	7·32	(+) 1·51
11. Police	2·81	4·68	4·48	(−) 0·20
12. Other Non-tax Receipts	39·22	51·99	64·99	(+) 13·00
Total ..	143·72	252·95	303·67	(+) 50·72

1.5.1. Variations between Budget estimates and actuals

The comparative figures of variations between Budget estimates and actuals of tax revenue and non-tax revenue during the three years ending 1976-77 are given below :—

	Year	Budget estimates	Actuals	Variation	Percentage of variation
		(In crores of rupees)			
A—Tax Revenue ..	1974-75	392·50	497·88	(+) 105·38	26·87
	1975-76	512·46	585·96	(+) 73·50	14·34
	1976-77	621·15	679·97	(+) 58·82	9·47
B—Non-tax Revenue	1974-75	130·57	143·72	(+) 13·15	10·00
	1975-76	194·18	252·95	(+) 58·77	30·27
	1976-77	279·57	303·67	(+) 24·10	8·62

1.5.2.

(*i*) The variations between the Budget estimates and actuals under the principal heads of revenue are given below :—

	Heads of Revenue	Year	Budget estimates	Actuals	Variation (+) Increase (—) Decrease	Percentage of variation
			(In crores of rupees)			
1.	Taxes on Agricultural Income.	1974-75	0·10	0·33	(+) 0·23	230·00
		1975-76	0·10	0·24	(+) 0·14	140·00
		1976-77	0·35	0·09	(—) 0·26	74·29
2.	Land Revenue ..	1974-75	15·07	21·32	(+) 6·25	4·14
		1975-76	15·73	15·64	(—) 0·09	0·57
		1976-77	19·36	18·59	(—) 0·77	3·97
3.	State Excise ..	1974-75	25·92	29·36	(+) 3·44	13·27
		1975-76	28·59	34·92	(+) 6·33	22·14
		1976-77	32·89	40·99	(+) 8·10	24·62
4.	Taxes on Vehicles ..	1974-75	18·37	20·35	(+) 1·98	10·77
		1975-76	20·98	23·21	(+) 2·23	10·63
		1976-77	23·75	25·83	(+) 2·08	8·76
5.	Sales Tax ..	1974-75	240·19	308·72	(+) 68·53	28·53
		1975-76	329·27	369·09	(+) 39·82	12·09
		1976-77	407·94	439·10	(+) 31·16	7·64
6.	Stamps and Registration Fees.	1974-75	17·71	18·95	(+) 1·24	7·00
		1975-76	23·51	20·19	(—) 3·32	14·12
		1976-77	20·50	22·43	(+) 1·93	9·41
7.	Other Taxes and Duties on Commodities and Services	1974-75	28·44	39·20	(+) 10·76	37·83
		1975-76	43·14	50·67	(+) 7·53	17·45
		1976-77	49·05	54·63	(+) 5·58	11·38
8.	Forest ..	1974-75	20·41	21·00	(+) 0·59	2·89
		1975-76	22·24	27·08	(+) 4·84	21·76
		1976-77	29·56	37·32	(+) 7·76	26·25
9.	Interest ..	1974-75	43·30	42·62	(-) 0·68	1·57
		1975-76	47·52	45·63	(—) 1·89	3·97
		1976-77	51·16	60·38	(+) 9·22	18·02

	Heads of Revenue	Year	Budget estimates	Actuals	Variation (+) Increase (−)Decrease	Percentage of variation
			(In crores of rupees)			
10.	Irrigation, Navigation, Drainage and Flood Control Projects.	1974-75	3·97	6·93	(+) 2·96	74·56
		1975-76	6·83	5·90	(−) 0·93	13·62
		1976-77	10·96	6·19	(−) 4·77	43·52
11.	Power Projects ..	1974-75	9·70	9·36	(−) 0·34	3·51
		1975-76	12·10	11·64	(−) 0·46	3·80
		1976-77	17·33	15·62	(−) 1·71	9·87
12.	Mines and Minerals ..	1974-75	0·36	0·97	(+) 0·61	169·44
		1975-76	0·77	1·14	(+) 0·37	48·05
		1976-77	0·80	2·40	(+) 1·60	200·00
13.	Housing ..	1974-75	2·30	0·98	(−) 1·32	57·39
		1975-76	2·97	6·58	(+) 3·61	121·55
		1976-77	7·27	6·81	(−) 0·46	6·33
14.	Co-operation ..	1974-75	3·05	4·92	(+) 1·87	61·31
		1975-76	3·04	4·73	(+) 1·69	55·59
		1976-77	3·15	5·28	(+) 2·13	67·62
15.	Dairy Development ..	1974-75	3·54	0·33	(−) 3·21	90·68
		1975-76	53·71	75·08	(+) 21·37	39·79
		1976-77	96·95	83·59	(−) 13·36	13·78
16.	Medical ..	1974-75	9·15	9·22	(+) 0·07	0·76
		1975-76	7·62	12·69	(+) 5·07	66·54
		1976-77	10·73	9·29	(−) 1·44	13·42
17.	Public Health, Sanitation and Water Supply.	1974-75	5·11	5·36	(+) 0·25	4·89
		1975-76	5·34	5·81	(+) 0·47	8·80
		1976-77	5·70	7·32	(+) 1·62	28·42
18.	Police ..	1974-75	2·08	2·81	(+) 0·73	35·09
		1975-76	2·29	4·68	(+) 2·39	104·37
		1976-77	3·24	4·48	(+) 1·24	38·27

(*ii*) In the following cases, the variation between the Budget estimates and actuals for 1976-77 exceeded ten per cent:—

	Principal source	Variation Increase (+) Decrease (—) (In crores of rupees)
1.	Taxes on Agricultural Income	(—) 0·26
2.	State Excise	(+) 8·10
3.	Other Taxes and Duties on Commodities and Services.	(+) 5·58
4.	Forest	(+) 7·76
5.	Interest	(+) 9·22
6.	Irrigation, Navigation, Drainage and Flood Control Projects.	(—) 4·77
7.	Mines and Minerals	(+) 1·60
8.	Co-operation	(+) 2·13
9.	Dairy Development	(—) 13·36
10.	Medical	(—) 1·44
11.	Public Health, Sanitation and Water Supply ..	(+) 1·62
12.	Police	(+) 1·24

Reasons for variations were furnished by Government as follows :—

Taxes on Agricultural Income

The variation was due to non-recovery of Government dues from Godavari and Phaltan sugar factories amounting to Rs. 14 lakhs and less receipts than anticipated.

Reasons for variations in respect of other receipts are awaited from Government (January 1978).

1.6. Arrears in assessment

The number of assessments finalised by the Sales Tax Department during 1976-77 and those pending finalisation at the end of March 1977, as reported by the department are indicated below :—

	Number of assessments for disposal	Number of assessments completed during the year	Number of assessments pending as on 31st March 1977	Percentage of 3 to 1
	(1)	(2)	(3)	(4)
Sales Tax	7,77,676	3,51,842	4,25,834	55
Agricultural Income Tax ..	3,109	1,615	1,494	48
Purchase Tax on Sugarcane ..	332	227	105	32
Tax on Professions, Trades, Callings and Employment.	1,14,168	13,266	1,00,902	89

The following is the yearwise break-up of the pending cases :—

	Sales Tax	Agricultural Income Tax	Purchase Tax on Sugarcane	Tax on Professions, etc.
Upto 1971-72	16,112	376	....	....
1972-73	17,167	189	....	....
1973-74	37,832	769	3	....
1974-75	1,31,543	62	3	....
1975-76	1,98,110	65	15	56,084
1976-77	25,070	33	84	44,818
Total ..	4,25,834	1,494	105	1,00,902

1.7. Frauds and evasions

The following table shows the number of cases of evasions detected by the Sales Tax and the Motor Vehicles Tax Departments and assessments finalised and additional tax demand raised:—

	Sales Tax Department	Motor Vehicles Tax Department
(*i*) Number of cases pending on 31st March 1976 ..	4,957	Nil
(*ii*) Number of cases detected during 1976-77 ..	4,529	14,841
Total ..	9,486	14,841

	Sales Tax Department	Motor Vehicles Tax Department
(*iii*) Number of cases investigated	4,294	3,775
(*a*) Number of cases out of (*iii*) above in which frauds/evasions were established.	941	3,775
(*b*) Number of cases closed after investigation and scrutiny out of (*iii*) above.	3,353	3,775
(*iv*) Number of cases pending on 31st March 1977 ..	5,192	11,066
(*v*) (*a*) Number of cases in which prosecutions/penal proceedings were launched.	61	*
(*b*) (*i*) Number of cases in which penalty was imposed.	543	*
	(In lakhs of rupees)	
(*ii*) Total demand raised including penalty ..	159·60	22·80
(*iii*) Amount actually collected out of (*v*)(*b*)(*ii*) above.	37·10	22·80

(Figures are as furnished by the department.)

1.8. Uncollected revenue

Arrears as on 31st March 1977 in respect of some of the departments are given below :—

(The figures are as furnished by the department.)

Serial No.	Source of Revenue	Amount pending collection	Amount outstanding for more than five years
(1)	(2)	(3)	(4)
		(In lakhs of rupees)	
	TAX REVENUES		
1.	Land Revenue	784·67	*
2.	Sales Tax	4,418·42	1,047·68
3.	Agricultural Income Tax	241·66	36·87
4.	Purchase Tax on Sugarcane and Sugarcane Cess ..	1,073·98	26·88
5.	State Excise	287·60	61·11
6.	Taxes on Vehicles	423·16	116·14
		(Excluding Bombay Region)	

*Awaited from the department (January 1978)

Serial No.	Source of Revenue	Amount pending collection	Amount outstanding for more than five years
(1)	(2)	(3)	(4)
		(In lakhs of rupees)	
7.	Taxes on Passengers	28·75	9·04
8.	Taxes on Goods	319·44	113·22
9.	Electricity Duty	18·00	13·40
10.	Entertainments Duty	26·82	6·20
11.	Taxes on Professions, Trades, Callings and Employment.	351·00	....
	NON-TAX REVENUES		
12.	**Revenue and Forest Department**		
	(*i*) Forest	576·90	*
	(*ii*) Receipts under Mineral Concession Rules (Minor Minerals).	25·43	5·57
13.	**Irrigation and Power Department**		
	(*i*) Irrigation dues (As on 31st July 1976) ..	675·54 (Excluding Bombay Region)	83·06
	(*ii*) Non-irrigation dues (As on 31st July 1976) ..	132·34 (Excluding Bombay Region)	27·81
14.	**Home Department**		
	Prison manufacture, Canteen receipts ..	21·64	1·69
15.	**Industries, Energy and Labour Department**		
	(*i*) Fees under Indian Electricity Rules ..	47·43	3·62
	(*ii*) Receipts under Mineral Concession Rules (Major Minerals).	84·25	36·15
	(*iii*) Receipts from Nasik and Chitali Distilleries.	13·29 (Upto 31st December 1976)	2·77
	(iv) Rent of sheds in Industrial Estates ..	1·15	0·19
	(*v*) Fees for inspection of lifts	0·92	0·07
16.	**Public Works and Housing Department**		
	(*i*) Receipts from Bombay Development Scheme—Rent from Development Department Chawls.	4·41	1·03
	(*ii*) Rent of Government buildings and lands ..	17·92	6·11
	(*iii*) Testing charges	0·66	Nil
	(*iv*) One-third share of Bombay Road Development Works.	72·62	Nil

*Awaited from the department (January 1978).

Serial No.	Source of Revenue	Amount pending collection	Amount outstanding for more than five years
(1)	(2)	(3)	(4)
		(In lakhs of rupees)	
17.	**Agriculture and Co-operation Department**		
	(*i*) Audit fees	103·02	11·23
	(*ii*) Supervision charges	22·52	1·16
	(*iii*) Sale proceeds of fish seeds, fish, lease amounts of tanks.	6·56	1·14
	(*iv*) Sale of sera and vaccine by the Institute of Veterinary Biological Products, Pune.	40·80	14·16
18.	**Urban Development and Public Health Department**		
	(*i*) Water rates and miscellaneous charges ..	457·94	4·45
	(*ii*) Receipts on account of town planning schemes and development plans.	2·08	....
	(*iii*) Receipts from E.S.I. Corporation of 7/8ths share of expenditure incurred by the State Government.	102·72	....
	(*iv*) Sale of Ayurvedic medicines, college fees and hospital receipts.	21·76	0·48
	(*v*) Fees under Drugs and Cosmetics Rules, 1975 and for testing Country Liquor.	0·11	....
	(*vi*) Tuition and other fees for Medical Education.	2·47	0·01
	(*vii*) Receipts from patients for Hospital Dispensary Services.	3·20	0·58
	(*viii*) Other receipts	2·37	1·41
19.	**Education and Youth Services Department**		
	(*i*) Tuition and other fees of colleges and technical institutes.	0·98	0·13
	(*ii*) Recovery of cost of training and other receipts.	1·07	0·21
20.	**Social Welfare, Cultural Affairs, Sports and Tourism Department**		
	Rent of Ravindra Natya Mandir, Rang Bhawan, Keshavrao Bhosale Natya Griha and Canteens therein.	0·79	0·07

1.9.1. Analysis of arrears of revenue

An analysis of the arrears of revenue pending collection as on 31st March 1977 in respect of some of the departments is given below.

1.9.2. Taxes administered by the Sales Tax Department

The demand raised but not collected at the end of March 1977 under Sales Tax and Agricultural Income Tax amounted to Rs. 4418·42 lakhs and Rs. 241·66 lakhs respectively as against Rs. 3694·49 lakhs and Rs. 251 lakhs respectively as at the end of March 1976. The outstanding dues under sugarcane cess and purchase tax on sugarcane also rose from Rs. 681·83 lakhs as on 31st March 1976 to Rs. 1073·98 lakhs as on 31st March 1977.

Yearwise analysis of outstanding amounts is given below :—

Year	Sales Tax	Agricultural Income Tax	Purchase Tax on Sugarcane and Sugarcane Cess	Tax on Professions, etc.
		(In lakhs of rupees)		
Upto 1971-72 ..	1047·68	36·87	26·88	....
1972-73	322·11	46·99	10·85	....
1973-74	326·42	15·72	2·80	....
1974-75	323·31	29·58	8·61	....
1975-76	441·54	10·55	392·99	97·00
1976-77	1957·36	101·95	631·85	254·00
	4418·42	241·66	1073·98	351·00

According to the information furnished by the department (October 1977) the amount of arrears as on 31st March 1977 was in the following stages of action :—

Serial No.	Stage of action	Sales Tax	Agricultural Income Tax	Purchase Tax on Sugarcane and Sugarcane Cess
			(In lakhs of rupees)	
1.	Collection stayed in appeal ..	665·65	193·38	255·33
2.	Dues recoverable from Co-operative Societies.	76·79	1·88	Nil
3.	Claims pending with custodian of evacuee property, official assignee and liquidator.	344·38	33·58	0·34

Serial No.	Stage of action	Sales Tax	Agricultural Income Tax	Purchase Tax on Sugarcane and Sugarcane Cess
			(In lakhs of rupees)	
4.	Claims pending in Civil Courts, High Courts and Supreme Court.	56·90	1·04	15·55
5.	Revenue Recovery Certificates returned by the Revenue Authorities for want of attachable assets.	187·24	Nil	Nil
6.	Whereabouts of the dealers not known.	179·81	Nil	Nil
7.	Dues realisable from Government offices.	40·23	Nil	Nil
8.	Revenue Recovery Certificates still to be issued.	992·31	3·87	622·10
9.	Recovery in progress ..	1875·11	7·91	180·66
	Total ..	4418·42	241·66	1073·98

Similar information relating to Tax on Professions, etc. was not furnished by the department.

1.9.3. State Excise

The arrears of State excise amounting to Rs. 287·60 lakhs as on 31st March 1977 consist of the following items:—

	Amount (In lakhs of rupees)
(*i*) Licence fee of toddy shops	59·90
(*ii*) Arrears under the Medicinal and Toilet Preparations Act, 1955.	183·27
(*iii*) Other miscellaneous arrears pertaining to the pre-prohibition period.	44·43
Total ..	287·60

1.9.4. Mineral Revenue Arrears

The arrears of Rs. 109·68 lakhs as on 31st March 1977 relating to receipts from minerals under the Mineral Concession Rules as reported by the department were in the following stages of action :—

	Amount (In lakhs of rupees)	
	Major Minerals	Minor Minerals
1. Collection stayed by Courts	2·27	0·23
2. Collection stayed by Government/matters pending with Government.	57·31	4·69
3. Defaulting Companies liquidated	1·77	0·02
4. Whereabouts of the defaulters not known	0·04	0·26
5. Revenue Recovery Certificates sent to Collectors outside the State.	1·22	0·04
6. Revenue Recovery Certificates sent to Collectors within the State.	1·31	0·36
7. Recovery in progress	20·33	19·83
	84·25	25·43
Grand Total ..	109·68	

1.9.5. Arrears of Audit Fees

The arrears of audit fees outstanding as on 31st March 1977 worked out to Rs. 103·02 lakhs. According to the department, the main reasons for accumulation of arrears were as follows :—

	Amount (In lakhs of rupees)
(*i*) Weak financial position of Societies.. ..	11·46
(*ii*) Societies running in losses	9·31
(*iii*) Societies being in stagnant condition ..	4·87
(*iv*) Societies in liquidation	7·30
(*v*) Exemption proposals from Societies under consideration.	6·08
(*vi*) Action for coercive recovery in progress ..	14·67
(*vii*) Reluctance on the part of the Societies to pay the fee which is considered heavy.	10·85

	Amount (In lakhs of rupees)
(*viii*) Inadequate liquid funds with the Societies ..	6·67
(*ix*) Assignments made by the Department disputed by the Societies.	5·04
(*x*) Indifference on the part of the Societies ..	25·78
(*xi*) Delay in assessment of audit fees ..	0·99
Total ..	103·02

1.9.6. Prison manufacture

Out of the arrears of Rs. 21·64 lakhs as on 31st March 1977 major amounts were as follows :—

	Amount (In lakhs of rupees)
(*i*) Amounts due from Government Departments.	15·95
(*ii*) Amounts due from semi-Government bodies and Zilla Parishads.	1·19
(*iii*) Amounts due from staff members and private parties.	0·41

1.9.7. Forest

Arrears of revenue collection at the end of March 1977 in the Forest Department amounted to Rs. 576·90 lakhs, as mentioned in paragraph 1·8 ante.

The break-up of the outstanding amount is as follows :—

	Amount (In lakhs of rupees)
1. Amount outstanding for want of receipted challans.	37·63
2. Amount referred to Revenue Authorities ..	39·25
3. Amount pending for finalisation of Court cases..	9·99
4. Amount due from Forest Labourers' Co-operatives.	162·09
5. Amount recoverable from forest contractors ..	293·59
6. Miscellaneous	34·35
Total ..	576·90

The arrears due from forest contractors increased from Rs. 178·27 lakhs as on 31st March 1976 to Rs. 293·59 lakhs as on 31st March 1977

and those from Forest Labourers' Co-operatives from Rs. 34·35 lakhs to Rs. 162·09 lakhs as on 31st March 1977.

1.9.8. Goods tax

Yearwise analysis of the outstanding amount of goods tax of Rs. 319·44 lakhs as on 31st March 1977 is given below :—

	Amount (in lakhs of rupees)
Upto 1971-72	113·22
1972-73	39·32
1973-74	43·30
1974-75	34·08
1975-76	40·07
1976-77	49·45
Total ..	319·44

The reasons for arrears had not been communicated by Government (January 1978).

1.10. Writes-off, waivers and remissions of revenue

Sales tax demand aggregating Rs. 8·87 lakhs in respect of 1078 cases was written off by the Sales Tax Department during 1976-77. Remission of Rs. 0·03 lakh in respect of 2 cases was also granted during the year. Reasons for the writes-off as reported by the department (July 1977) are as indicated below :—

	Bombay Sales Tax Act		Central Sales Tax Act	
	Number of cases	Amount (In lakhs of rupees)	Number of cases	Amount (In lakhs of rupees)
1. Assessees died leaving behind no assets.	52	0·40	1	Negligible
2. Assessees did not possess attachable assets.	149	2·21	6	0·01
3. Assessees not traceable ..	759	5·18	66	0·46
4. Assessees/Companies went into liquidation.	31	0·32	....	....
5. Other reasons	14	0·29	....	....
Total ..	1005	8·40	73	0·47

CHAPTER II

SALES TAX

2.1. Inadmissible concession in rate of tax

The Bombay Sales Tax Act, 1959, and the rules made thereunder provide for concessional rate of tax of 3 per cent on goods sold to the Central or State Government for official use. If the goods sold to Government have already borne tax at an earlier stage, the dealer can claim set-off of taxes paid in excess of 3 per cent.

A dealer who had sold fans to an Agricultural University was allowed set-off of tax paid by him in excess of 3 per cent at the time of purchase of the goods, treating the Agricultural University as a Government department. When it was pointed out in audit (July 1976) that the University being an autonomous body and not a Government department, the benefit of the concessional rate of tax was not admissible, the department rectified the assessment (February 1977) and raised additional demand of Rs. 15,904.

When the matter was reported to Government (April 1977), Government stated that the entire amount had since been recovered (September 1977).

2.2. Under-assessment due to arithmetical mistakes

(*i*) The amount of set-off of taxes admissible to two dealers under the provisions of the Bombay Sales Tax Rules, 1959, worked out to Rs. 54,640. But it was computed at Rs. 74,640 resulting in under-assessment of tax of Rs. 20,000. When this was pointed out in audit (October 1976 and May 1977), the department agreed to rectify the error. The omission was pointed out to Government in June 1977; Government accepted the under-assessment (November 1977).

(*ii*) In the case of a dealer the net taxable turnover under the Central Sales Tax Act, 1956, was computed at Rs. 1,55,300. The rate of tax applicable was 10 per cent as the sales were not supported by necessary declarations in the prescribed form. However, the quantum of tax payable was worked out at Rs. 1,553 only as against the correct amount of Rs. 15,530. When this was pointed out in audit (April 1977), the assessment order was rectified and additional demand of Rs. 13,977 was raised (April 1977). Particulars of recovery are awaited (January 1978).

2.3. Omission to assess under the Central Sales Tax Act

Sales in the course of inter-State trade or commerce are not liable to tax under the Bombay Sales Tax Act, 1959, but are taxable under the Central Sales Tax Act, 1956. Accordingly, while assessing a dealer under the Bombay Sales Tax Act, such sales are deducted from the taxable turnover but are simultaneously assessed to tax under the Central Sales Tax Act.

In the case of three assessees the sales of Rs. 12,86,300, Rs. 2,86,432 and Rs. 16,45,573 in the course of inter-State trade or commerce for the years 1971-71, 1970-71 and 1971-71, respectively, were excluded while completing the assessments (March 1974, November 1974 and January 1975) under the Bombay Salex Tax Act, 1959, but these sales were not assessed to tax under the Central Sales Tax Act, 1956. When the omissions were pointed out in audit (November 1974, August 1975 and March 1976), additional demand of Rs. 36,843 was raised in the aggregate (April 1976 and April 1977) towards Central sales tax.

When the matter was reported to Government in June 1977, Government accepted the under-assessment in two cases; reply in respect of the third case is awaited (January 1978).

2.4. Turnover escaping assessment

A dealer in sweetmeats having branches in Bombay City, entrusted the business at his branches to contractors with whom he entered into agreements. These agreements provided *inter alia* that wastage upto 5 per cent in the products will be allowed towards shortages and samples. In the course of audit (February 1973) it was noticed that in computing the gross turnover of the dealer for the year 1970-71, the sale price of goods transferred to the branches after deducting five per cent thereof on account of shortages and samples was taken into account. As the branches of the dealer had no independent entity and the sales effected at the branches formed part of the turnover of the dealer himself, it was pointed out in audit (February 1973) that for the purpose of determining the gross turnover the actual sale price at the branches should be taken as the basis for taxation. The department accepted this view and revised the assessment order raising additional demand of Rs. 11,870 (May 1977). Particulars of recovery are awaited (January 1978).

However, in the assessment for the subsequent period 1972-73 done in May 1977 after the aforesaid decision was taken, this point was not kept in view by the assessing officer and the gross turnover was determined after deducting 5 per cent for wastage and samples. This resulted in short

levy of tax to the extent of Rs. 11,444. In the assessment for 1971-72 done in March 1974 also the turnover was similarly determined which resulted in under-assessment of tax of Rs. 10,760.

The matter was reported to Government in August 1977. Government accepted the under-assessment (September 1977).

2.5. Non-levy and short levy of purchase tax for contravention of declarations

Under the Bombay Sales Tax Act, 1959, a manufacturing dealer can purchase raw materials at a concessional rate of tax of 2 per cent (raised to 3 per cent with effect from 15th April 1974) on furnishing a declaration that these goods would be used by him within the State in the manufacture of taxable goods for sale. If the manufactured goods are despatched outside the State otherwise than as a result of sale, it amounts to breach of declaration and purchase tax is payable on proportionate purchases used in the manufactured goods despatched outside the State. If purchase tax so payable is not disclosed in the returns filed, penalty is also leviable.

(*i*) In the course of audit of one assessment ward (Sholapur), it was noticed (December 1975) that in the case of two oil mills, levy of purchase tax was not considered though the goods manufactured out of raw materials purchased at concessional rate of tax were sent outside the State otherwise than as sale. When this was pointed out in audit (December 1975), purchase tax and penalty were levied (March 1977) to the extent of Rs. 12,030 and Rs. 7,638 in the two cases.

The matter was reported to Government in May 1977. Government accepted the under-assessment (October 1977); particulars of recovery are awaited (January 1978).

(*ii*) In another ward (Bombay) it was noticed in audit that a dealer transferred to his branches outside the State of Maharashtra the goods manufactured by him out of raw materials purchased at concessional rate of tax. As the transfer of goods to branches does not amount to sale, there was contravention of the recitals of the declaration attracting levy of purchase tax which was not, however, levied by the department. When this was pointed out in audit (October 1975), the department re-assessed the dealer (April 1977) and raised additional demand of Rs. 10,252 for the years 1970-71 to 1972-73. When the matter was reported to Government in June 1977, Government accepted the under-assessment. Particulars of recovery are awaited (January 1978).

(*iii*) When manufactured goods are consigned to agents outside the State no sale is involved and if the goods transferred were manufactured out of raw materials purchased at concessional rate of tax, purchase tax is leviable. It was noticed in audit (July 1976) that in the case of a Paper Mill in Nasik district, for the assessment years 1971-72 and 1972-73, levy of purchase tax was not considered though the goods manufactured out of raw materials purchased at concessional rate of tax were sent outside the State otherwise than as sales.

When this was pointed out in audit (July 1976), purchase tax of Rs. 11,844 was levied (November 1976), out of which Rs. 6,759 was collected (November 1976). Particulars of recovery of the balance are awaited (January 1978).

The matter was reported to Government in July 1977. Government accepted the under-assessment for 1971-72 (September 1977). Final reply in respect of assessment for 1972-73 is awaited (January 1978).

(*iv*) Short levy of purchase tax due to contravention of recitals of the declarations was also noticed in five different cases in Bombay. In one case, the contravention was due to the fact that the goods purchased at concessional rate of tax were not used in manufacture as they were either destroyed or damaged in fire, whereas in another case the contravention was due to transfer of manufactured goods to branches out of Maharashtra. In the remaining three cases though the purchase tax was levied it was levied short due to incorrect computation of tax.

When this was pointed out in audit, the department revised the assessment and raised additional demand of Rs. 24,234. Particulars of recovery are awaited (January 1978).

The matter was reported to Government in September 1977; reply is awaited (January 1978).

(*v*) Transfer of manufactured goods to branches outside the State is treated as contravention of recitals of the certificate and purchase tax is levied on the quantum of raw materials used in the manufacture of goods transferred to branches outside the State. This quantum is determined in the same proportion as the branch transfers bear to total sales.

In one case the proportion of the branch transfers to total sales was computed less by 18 per cent owing to arithmetical error and this resulted in short levy of purchase tax to the extent of Rs. 28,430. When this was

pointed out in audit (September 1975), the assessment order was rectified and an additional demand of Rs. 28,430 was raised (October 1975). Particulars of collection are awaited (January 1978).

When the matter was reported to Government in July 1977, Government accepted the under-assessment (September 1977).

2.6. Levy of purchase tax without verifying the nature of goods

A dealer manufacturing printing ink was assessed to purchase tax for having transferred raw materials purchased at concessional rate of tax outside the State instead of using them in the manufacture of printing ink. The purchase tax was levied at a lower rate of 6 per cent treating all the raw materials transferred as covered by entry 22 of Schedule E. It was pointed out in audit (February 1976) that the major items of raw materials purchased by the dealer were covered by entry 39 of Schedule C with tax liability of 12 per cent.

The department re-checked the assessments and confirmed the audit point (October 1976). The under-assessment amounted to Rs. 76,208 for the three years 1970-71 to 1972-73.

When the matter was reported to Government (April 1977), Government accepted the under-assessment and stated (October 1977) that the amount had since been recovered.

2.7. Loss of revenue on account of incorrect classification

The rates of tax applicable to different commodities are given in the Schedules to the Bombay Sales Tax Act, 1959. Entries 55-A and 64 of Schedule C to the Act, read as under before they were amended with effect from 11th May 1975.

		Rate of tax
C-55/A	Gramophones of every description (other than those specified in entry 62 or 65 of this Schedule) and component parts thereof and gramophone records (not being linguaphone language records, that is to say, gramophone records for teaching languages)	12 per cent
C-64	Typewriting machines, duplicating machines including duplicators and other apparatus for obtaining duplicate copies, teleprinters and tape recorders including tape for use in connection therewith and spare parts of any of them.	12 per cent

Gramophone needles and typewriter ribbons were not classifiable under the aforesaid entries as they were not spare parts or components. Consequently, they were being taxed under the residuary entry E-22 with tax liability of 6 per cent upto 14th April 1974 and 8 per cent thereafter.

With effect from 11th May 1973 the aforesaid two entries were amended to include ' accessories ' also. As even after this amendment gramophone needles and typewriter ribbons were continued to be taxed at the lower rate applicable to entry E-22, Government were requested (November 1975) by Audit to examine whether these should not be deemed to be accessories and taxed under the main entries C-55/A and C-64.

Government held the view (June 1976) that unless gramophone needles and typewriter ribbons were specifically included in the aforesaid two entries it would not be possible to tax them at the higher rate applicable to these entries and that this position would be duly taken into account at the time of next amendment of the Bombay Sales Tax Amendment Act, 1959.

It was again pointed out in audit (July 1976) that even without an amendment of the Act, gramophone needles and typewriter ribbons would be classifiable under the entries C-55/A and C-64 as they are accessories to a gramophone or a typewriter. The Supreme Court in the case of State of Uttar Pradesh and Another *Vs.* Kores (India) Ltd. held in October 1976 that typewriter ribbon was an accessory of a typewriter. Consequent on this judgement, the Commissioner of Sales Tax, Bombay, issued instructions for taxing gramophone needles and typewriter ribbons at the higher rate applicable for entries C-55/A and C-64. However, he stated that ' though the position in law enunciated by the Supreme Court can be made applicable in all pending proceedings by the departmental authorities, it has been decided on administrative grounds to apply the ratio of the aforesaid Supreme Court judgement to all the transactions of all the aforesaid products effected on or after the date of the Supreme Court judgement, i.e., 18th October 1976 and not earlier '. Because of this decision to apply the ratio of the judgement only from 18th October 1976, there would be loss of revenue in respect of transactions in these goods from 11th May 1973 to 17th October 1976. Though the exact quantum of loss was not ascertainable, the loss would be considerable since the difference in the rate of tax was 6 per cent from 11th May 1973 to 14th April 1974, and 4 per cent from 15th April 1974 to 18th October 1976.

Government was requested (April 1977) to clarify whether legally binding decisions affecting revenue could be stayed on administrative grounds. Reply is awaited (January 1978).

2.8. Rate of tax for ' beer '

Under the Bombay Sales Tax Act, 1959, all kinds of liquor, i.e., country liquor as well as foreign liquor, whether manufactured in India or imported, were liable to tax at the rate of 45 paise in the rupee until 18th December 1972. With effect from 19th December 1972 the rate of tax on foreign liquor manufactured in India was reduced as under :—

(*a*) Fermented liquor .. 25 paise in the rupee.

(*b*) Any other liquor .. 12 paise in the rupee.

A further amendment to the Act was made with effect from 11th May 1973 providing for the following rates of tax :—

(*a*) Fermented liquor and mild liquor. 25 paise in the rupee.

(*b*) Any other liquor .. 12 paise in the rupee.

Thus, during the period 19th December 1972 to 10th May 1973, there was no clear definition of the rate of tax that would be applicable to mild liquor. However, in the Statement of Objects and Reasons for the amendment carried out in May 1973, it was stated that mild liquor was being added to fermented liquor in order to bring out the intention of taxing both fermented and mild liquor at the same rates.

A question was raised before the Commissioner of Sales Tax by a dealer in March 1973 about the correct rate of tax applicable to beer containing alcohol less than 5 per cent on which the Commissioner issued a determination order in December 1973 that beer with less than 5 per cent alcohol would come under the category ' any other liquor and not under fermented liquor ' and was liable to tax only at 12 paise in a rupee. The decision was based on the fact that for the purposes of the Bombay Foreign Liquor Rules, 1953, as amended in 1968, foreign liquor having alcoholic strength not exceeding 5 per cent was treated as " mild liquor " and was shown as distinct from " fermented liquor " in those rules.

According to the Technical Excise Manual, however, beer of whatever strength is classifiable as fermented liquor. Beer with alcoholic strength less than 5 per cent should, therefore, have been classified as fermented liquor only and taxed at 25 paise in the rupee which was also the intention of Government as clarified in the Statement of Objects and Reasons of the amendment of May 1973.

The Supreme Court had also clarified that in interpreting taxation provisions an amendment which was by way of clarification of an earlier ambiguous provision could be useful aid in construing the earlier provision even though such amendment was not given retrospective effect.

Thus, during the period 19th December 1972 to 10th May 1973, beer with less than 5 per cent alcohol was taxed at the lower rate of 12 per cent instead of 25 per cent. Consequently, in 9 cases alone test checked in audit, the loss of revenue amounted to Rs. 1,80,446 which was confirmed by Government in July 1977.

2.9. Delay in completion of penalty proceedings

A dealer in ice cream in Bombay was assessed to tax for the years 1972-73 and 1973-74 in June 1974 and April 1975, respectively. The following omissions in the matter of levy of penalty for belated payment of dues and for concealment of turnover were noticed in audit.

(*i*) In the assessment orders of June 1974 and April 1975, it was recorded by the assessing officers that separate action would be taken to levy penalty for belated payments of tax on the basis of returns. However, no action was taken to levy penalty till the dates of audit (October 1975 and January 1976). On this being pointed out in audit (October 1975 and January 1976), the department levied penalty of Rs. 67,700 for 1972-73 and Rs. 70,880 for 1973-74 (October 1975 and September 1976).

(*ii*) As the taxes paid with the returns were less than eighty per cent of the assessed tax for the period in question, the dealer was deemed to have concealed the turnover and penal provisions were attracted. But no penalty proceedings were initiated. When this was pointed out in audit (October 1975 and January 1976), the department levied (September 1976) penalty of Rs. 1,00,000 for 1972-73 and Rs. 1,50,800 for 1973-74.

(*iii*) The payment for the assessed dues for 1972-73 was also delayed by more than 1 to 7 months but levy of penalty for this delay was not considered. On this being pointed out in audit (October 1975), the department levied penalty of Rs. 13,166 (July 1976).

When this was pointed out to Government in June 1977, Government stated that an instalment of Rs. 5,000 p.m. had been granted to the assessee to liquidate the additional total demand of Rs. 4,02,546 (August 1977). Particulars of recovery are awaited (January 1978).

2.10. Short levy of penalty for non-issue of bill or cash memorandum

The Bombay Sales Tax Act, 1959, provides that if a registered dealer sells goods to another registered dealer, he shall issue to the purchaser a bill or cash memorandum serially numbered, signed and dated by him showing full particulars thereon. Where such bills or cash memos. are not issued, penalty is leviable under Section 36 (*4*) of the Act.

In the case of a dealer, the sales suppressed were detected and assessed to tax. The penalty under Section 36(*4*) was levied by estimating the number of cash bills/memos. not issued proportionately to the sales turnover suppressed. It was noticed in audit (April 1977) that the quantum of penalty levied was worked out by estimating the cash memos./bills proportionately to the suppressed turnover detected at the first stage ignoring the turnover detected at the subsequent stages. When this was pointed out in audit (May 1975), the department levied additional penalty of Rs. 16,870 (September 1976). Particulars of recovery are awaited (January 1978).

The matter was reported to Government in July 1977; reply is awaited (January 1978).

2.11. Short levy of penalty

(*i*) The Bombay Sales Tax Act, 1959, provides for the levy of penalty if a dealer has concealed the particulars of any transaction or knowingly furnished inaccurate particulars of any transaction liable to tax. The maximum penalty leviable is one and one half times the amount of tax

Action to levy penalty is to be initiated by the assessing officer after completion of assessment proceedings by issue of a show-cause notice. It was, however, noticed during audit that in a number of cases where penalty provisions for concealment were attracted (*i*) action to levy penalty was not initiated (number of cases 14, amount Rs. 51,728), (*ii*) action having been initiated, no follow up action was taken (number of cases 11, amount Rs. 77,509), (*iii*) penalty was incorrectly deleted (number of cases 1, amount Rs. 1,500) and (*iv*) penalty was short levied (number of cases 2, amount Rs. 16,207). On these 28 cases (involving penalty of

Rs. 1,000 and above in each case) being pointed out by Audit, the department raised an additional demand of Rs. 1,46,944. Recovery particulars are awaited (January 1978).

The matter was reported to Government in September 1977; reply is awaited (January 1978).

(*ii*) Non-levy or short-levy of penalty for belated payments of tax under Section 36(*3*) of the Bombay Sales Tax Act, 1959, had been commented in successive Audit Reports of previous years. During the year 1976-77 also, a number of instances were noticed where there was such short levy or non-levy of penalty. The amount of penalty leviable exceeded Rs. 1,000 in 21 cases and the total amount of under-assessment was Rs. 1,23,864. The under-assessment was attributable to (*i*) incorrect computation of delay (number of cases 7, amount Rs. 44,929), (*ii*) errors in calculations (number of cases 5, amount Rs. 16,640), (*iii*) mistakes in taking the correct amount for levy of penalty (number of cases 2, amount Rs. 5,892) and (*iv*) non-levy of penalty (number of cases 7, amount Rs. 56,403).

When these were pointed out in audit, the assessments were revised or rectified and additional demand of Rs. 1,23,864 was raised. Recovery particulars are awaited (January 1978).

The matter was reported to Government in September 1977; reply is awaited (January 1978).

2.12. Grant of inadmissible set-off

Rule 43 AB of the Bombay Sales Tax Rules, 1959, provides for the grant of set-off of taxes paid on goods purchased by a dealer, provided those goods are used in the manufacture of fabrics (cotton, rayon or artificial silk, woollen) or sugar and when such manufactured goods are exported out of the territory of India.

In the course of audit it was noticed (April 1977) that in the case of a dealer, set-off was granted in respect of purchases of goods used in the manufacture of steel wire-nettings, which was not one of the items of manufactured articles mentioned in the Rule. This resulted in under-assessment of tax of Rs. 20,514 for the assessment years 1974 and 1975.

On this being pointed out in audit (April 1977), the department accepted the objection and raised the additional demand. Particulars of recovery are awaited (January 1978).

When the matter was reported to Government in May 1977, Government confirmed the under-assessment (July 1977).

2.13. Incorrect computation of set-off

The Bombay Sales Tax Rules, 1959, provides for the grant of set-off of taxes paid or deemed to have been paid on raw materials purchased by a manufacturing dealer. When the purchase price is inclusive of tax, the quantum of set-off admissible is worked out according to a prescribed formula. The set-off so worked out is required to be reduced to an amount not less than two-thirds thereof in respect of purchases where it is noticed that the average price of similar goods sold by manufacturers, producers or importers thereof was less than the purchase price paid by the dealer by an amount equal to 10 per cent of such purchase price.

In the course of audit it was noticed (April 1975) that in one case it was stated in the assessment order for the year 1968-69 that the correct gross profit of the vendors was being ascertained to consider reduction of set-off by issue of cross check memos. Although the cross check memos. were issued in March 1974, the matter was not pursued further and set-off of Rs. 67,719 was allowed on Rs. 1,08,98,564 on purchases of iron and steel without any reduction as contemplated in the rules.

On this being pointed out in audit (March 1975), the assessment order was rectified (November 1976) raising additional demand of Rs. 17,972. The amount was recovered in December 1976.

The matter was reported to Government in June 1977; Government accepted the under-assessment (August 1977).

2.14. Excess allowance of set-off

Rule 41-A of the Bombay Sales Tax Rules, 1959, provides for the grant of set-off of taxes paid or deemed to have been paid on raw materials purchased by a manufacturing dealer where the purchase price is inclusive of tax (i.e., where tax is not charged separately in the bills). The quantum of set-off admissible is to be worked out according to the prescribed formula and reduced by two per cent of the purchase price.

(*i*) In the course of audit it was noticed (March 1976) that in two cases the set-off was allowed without effecting the reduction of two per cent of the purchase price. On this being pointed out in audit (April 1976), the assessments were rectified (November 1976 and March 1977) raising demand of Rs. 15,249 in the aggregate. Particulars of recovery are awaited (January 1978).

The matter was reported to Government in July 1977. Government accepted the under-assessment in one case. Reply in respect of the other case is awaited (January 1978).

(*ii*) Audit had come across very frequently instances of grant of excess set-off leading to under-assessment. The excess set-off arose on account of incorrect rate of tax, incorrect set-off on goods not locally sold, grant of set-off on higher purchase prices, arithmetical errors and incorrect rate of reduction. Two such cases have already been mentioned in paragraph 2.2 (*i*) and two more in (*i*) above, with total under-assessment of tax of Rs. 35,249. In 23 other cases where the under-assessment exceeded Rs. 1,000 in each case, the total under-assessment came to Rs. 51,167. Such instances were noticed in earlier years also and it emphasises the need for a closer check on calculation, particularly by the Internal Audit.

The matter was reported to Government in September 1977; reply is awaited (January 1978).

2.15. Non-forfeiture of excess collection

Under the Bombay Sales Tax Act, 1959, any amount collected by a dealer by way of tax in excess of the amount of tax payable by him is forfeited to Government by way of penalty. In the course of audit it was noticed (March 1974, May 1974, October 1975, December 1975 and May 1976) that in five cases such collections were not forfeited. When this was pointed out in audit, assessments were rectified and additional demand of Rs. 16,556 was raised. Recovery particulars are awaited (January 1978).

The matter was reported to Government in July 1977. Government accepted the under-assessment in three cases. Reply in respect of the remaining two cases is awaited (January 1978).

2.16. Excess accountal of credit

Under the Bombay Sales Tax Act, 1959, dealers are required to file periodical returns, pay tax on the basis of returns into Government treasury and submit the treasury challans along with returns. The tax so deposited is adjusted against the tax payable on the basis of final assessment. The payment of tax is watched through the Demand and Collection Register.

In one case it was noticed that a challan for Rs. 1,513 representing the tax paid on the basis of return for the year 1973-74 was accounted for as Rs. 15,131 at the time of final assessment resulting in short recovery of tax of Rs. 13,618. On this being pointed out in audit (April 1977), Government accepted the error and stated (August 1977) that the entire amount had been recovered from the dealer. The results of investigations as to how this excess credit was afforded are awaited (January 1978).

2.17. Delay in finalisation of assessments

According to the Bombay Sales Tax Act, 1959 and Rules, 1959, the assessing officer has to complete the assessments separately for each year. However, there is no limitation of period in which the assessing officer is to complete the assessments.

In one case the business of the dealer was closed in 1970 but the assessment for the period 1967-68 was completed in July 1972 and demand of Rs. 27,389 was raised. The amount of tax for the year 1968-69 was meagre but the assessment was completed in July 1973 and that for the year 1969-70 is yet to be completed (January 1978). The revenue authorities to whom the recovery certificate was issued had stated (October 1973) that whereabouts of the dealer could not be traced.

In yet another case, the dealer informed in April 1973 that he had gone in liquidation and the initial claim of Rs. 3,93,305 for the period 1968-69 was lodged only in March 1975. The assessments for 1969-70 and to the date of liquidation were completed in July 1975 raising an additional claim of Rs. 1,92,895.

The prospects of recovery of Government dues appear remote in all these cases.

The matter was reported to Government in September 1977; reply is awaited (January 1978).

2.18. Loss of revenue due to delay in taking action

By an order dated 3rd May 1969 under Section 52 of the Bombay Sales Tax Act, 1959, the Commissioner of Sales Tax decided that certain goods (paint) sold by a dealer were taxable at the rate of five per cent upto 31st December 1965 and six per cent thereafter under entry 22 of Schedule E. Till the date of the order, this item was being taxed under entry 39 of Schedule C (ten per cent tax upto 31st December 1965 and twelve per cent thereafter).

Consequent upon this order, the dealer obtained refund of Rs. 36,568 and Rs. 63,817 owing to rectification of the assessments for the years 1965-66 and 1966-67.

Owing to treatment of the goods as falling under entry 22 of Schedule E, the dealer's vendee was required to pay general sales tax on gross profit made on sale of such goods. Though the dealer's assessing officer informed the assessing officer of the vendees in June 1970 to take consequential action, action was initiated by the latter only in March 1974 and the vendees were reassessed in December 1974. The reassessment orders were, however, set aside in appeal as the orders were passed after the period of limitation.

Failure to take timely action to revise the assessments resulted in loss of revenue of Rs. 15,118. On this being pointed out in audit (February 1976), the department confirmed the facts.

The matter was reported to Government in April 1977. Government accepted the omission (July 1977).

2.19. Non-levy of penalty under the Maharashtra Purchase Tax on Sugarcane Act, 1962

Under the Maharashtra Purchase Tax on Sugarcane Act, 1962, every sugar factory is required to file monthly returns and pay tax as per the returns within thirty days from the end of the month to which the return relates. By an administrative order, Government had allowed co-operative sugar factories to pay only fifty per cent of monthly tax along with the returns and the balance in equal monthly instalments beginning from the month immediately following the end of crushing season till the month immediately preceding the next crushing season. In case of default by co-operative sugar factories, penalty is leviable as if the default commenced from the due date fixed under the Act.

In the case of one co-operative sugar factory assessed in October 1975 for the year 1974-75, though it was stated in the assessment order passed in October 1975 that separate action to levy penalty for delay in payment of tax would be taken, no action was taken for a period of about one year. When this was pointed out in audit (September 1976), action to levy penalty was initiated and demand of Rs. 3·05 lakhs was raised (March 1977). Particulars of recovery are awaited (January 1978).

The matter was reported to Government in July 1977; reply is awaited (January 1978).

CHAPTER III

STATE EXCISE

3.1. Non-collection of fee for release of special denatured spirit

Under the Bombay Denatured Spirit Rules, 1959, as amended with effect from 1st April 1974, special denatured spirit manufactured in a distillery is released on permits issued by the Excise Department, on collection of fee leviable at five paise per litre. During the audit of a warehouse in Pune, it was noticed (January 1977) that special denatured spirit manufactured in the distillery owned by it was released for certain medicinal preparations manufactured outside the distillery premises without obtaining permits and without paying the prescribed fee. The total quantity of special denatured spirit released from April 1974 to December 1976 was 2,58,980 litres on which the fee recoverable was Rs. 12,950.

The matter was reported to Government in March 1977; reply is awaited (January 1978).

3.2. Non-levy of excise duty on the excessive loss of spirit in transit

(*i*) The Bombay Rectified Spirit (Tansport in Bond) Rules, 1951, allow wastage of rectified spirit during transit upto half per cent per 160 kilometres when the transport is effected through casks, vats and drums. Wastages in excess of this limit are to be reported to the Commissioner of Prohibition and Excise, and wherever they are not satisfactorily explained, duty is payable by the licensee on the excess wastage.

In the course of audit it was noticed (December 1976) that in the case of two licensees there was loss of rectified spirit in excess of the permissible limits to the extent of 5,585 proof litres when rectified spirit was transported from the distilleries on five occasions between February 1975 and August 1976, involving excise duty of Rs. 1·40 lakhs. No action was taken to raise the demand for duty on the losses in excess of the ceiling limit.

The matter was reported to Government in March 1977; reply is awaited (January 1978).

(*ii*) One distillery in Ratnagiri district transported in May 1974 four consignments of rectified spirit of 8,000 bulk litres each. There was loss of 136·3 proof litres of spirit in transit in excess of the permissible limit of 0·5 per cent. No action was, however, taken to report the loss to the Commissioner of Prohibition and Excise. When this was pointed out in audit (March 1975), the excess loss was confirmed by the department. On further investigation the department noticed two more such instances of losses in the consignments received upto 31st May 1976. The total loss of rectified spirit in transit in excess of the permissible limit worked out to 199·03 proof litres. Demand notice for payment of duty of Rs. 5,069 on the total excess loss of 199·03 proof litres was served on the licensee (July 1976). Recovery particulars are awaited (January 1978).

Subsequently in February 1977 when the records of the distillery were again audited, excess loss in transit to the extent of 541·5 proof litres on two other consignments of 9,018 bulk litres and 3,600 bulk litres was noticed. Duty payable on this additional loss of spirit amounted to Rs. 13,754.

The matter was reported to Government in June 1977; reply is awaited (January 1978).

3.3. Non-observance of the prescribed procedure in accepting bids at the toddy auctions

Under the Maharashtra Toddy (Grant of Licences by Auction or Tender) Order, 1968, before the commencement of annual auctions for toddy shops, the District Collectors are required to fix the minimum price expected for each shop (called the upset price) considering the previous bids received for the shop and estimated realisation from the sale of toddy in the locality. Where the amount of the highest bid at any auction in respect of an individual shop does not come up to the upset price, the Collector has to reject the bid and proceed to grant licences by calling for tenders.

In the course of audit it was noticed (February 1976, January 1977, February 1977 and April 1977) that in four districts (Satara, Bhir, Dhulia and Parbhani) licences were granted in respect of 44 shops for the years 1974-75 and 1976-77 even though the bid amount (Rs. 1,29,050) was less than the upset price (Rs. 1,85,575) fixed for the shops, the extent of difference being Rs. 56,525.

The matter was reported to Government (May 1976, April 1977); reply is awaited (January 1978).

3.4. Non-recovery of excise duty on the excess losses of spirit in redistillation/evaporation

The Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, provide that in respect of spirit used for redistillation, loss of spirit in the process of redistillation should not exceed 2 per cent in any case. For other losses during transit, reduction, blending, evaporation and racking the losses are permitted to the extent of 0·5 per cent in each case. Losses in excess of these limits are required to be reported to the Commissioner of Prohibition and Excise and where the excess losses are not explained satisfactorily by the licensee, duty is payable on such excess losses.

In the course of audit of a distillery in Ratnagiri district, it was noticed (December 1974 and February 1976) that there were losses in the process of redistillation as well as on account of evaporation, in excess of the permissible limit, to the extent of 4,746·4 proof litres (4,193·7 proof litres of spirit during the period August 1972 to March 1974 and 552·7 proof litres for the period April 1974 to September 1974). These losses were not reported to the Commissioner of Prohibition and Excise. When the matter was reported to Government in March 1975 and April 1976, a special inspection of the records of the distillery was arranged by the Commissioner in June 1976 and the losses in question were confirmed. The up to date inadmissible losses were also listed by the Commissioner and the following demand notices were issued on the licensee in July 1976.

		Total excess loss in proof litres	Demand Rs.
1.	Excess evaporation losses from 1st May 1971 to 31st March 1974.	3,815·9	57,238
2.	Excess loss of spirit in redistillation of spirit during the period from 1st April 1974 to 31st May 1976.	626·4	9,396
3.	Excess losses of redistilled rectified spirit	213·09	5,327
	Total ..		71,961

In the course of the subsequent audit of the unit (February 1977), it was noticed that the excess evaporation loss computed by the department actually worked out to 5,882·3 proof litres, while demand for duty was raised only for 3,815·9 proof litres. The additional duty payable on the difference at the rate adopted by the department was Rs. 30,996.

It was also noticed that subsequent to the departmental inspection in June 1976, there was further inadmissible evaporation loss to the extent of 66·72 proof litres and redistillation loss of 280·37 proof litres for which demand notice for recovery of duty of Rs. 5,206·35 had been issued to the licensee.

In working out the duty payable for these excess losses, the department had adopted a rate of Rs. 15 per proof litre as applicable to the spirit content in Indian made foreign liquor. As, however, these are not losses in the spirit content of Indian made foreign liquor, the correct rate of duty payable is Rs. 25 per proof litre as applicable to rectified spirit. The additional duty payable by the licensee for the excess losses not taken into account by the department as well as on account of the adoption of the incorrect rate of duty worked out to Rs. 96,730 in the aggregate.

The matter was reported to Government in June 1977; reply is awaited (January 1978).

3.5. Loss of revenue due to non-affixing of court fee stamps

The Bombay Court Fees Act, 1959, provides that any application presented to the Prohibition and Excise Department by any person having dealings with Government is liable to a court fee stamp of 20 paise. According to the Manual of the Prohibition and Excise Department, it would be incorrect to grant or consider requests of the excise licensees without recovery of the court fee stamp. Accordingly, all licensees who apply for permits to transport Indian made foreign liquor or rectified spirit from the sources of supply to their licensed premises for sale to other licensees or members of the public, are required to affix a court fee stamp of 20 paise to their applications.

In the course of audit of the records of 26 Prohibition and Excise Officers, it was noticed that during 1974-75 to 1976-77, the provisions in respect of affixing of 20 paise court fee stamps were not observed, while issuing permits for transport of Indian made foreign liquor involving loss of revenue of Rs. 18,201 in the form of court fee stamps.

On this being pointed out in audit, the department stated that Rs. 485 had been recovered from 3 licensees and in respect of 14 licensees demands of Rs. 9,366 had been raised. Report of action taken in other cases is awaited (January 1978).

The matter was reported to Government in July 1977; reply is awaited (January 1978).

3.6. Working of Liquor Manufactories and Breweries in Maharashtra State

3.6.1. *Introductory*.—Indian made foreign liquor means any country liquor which is declared to be foreign liquor for the purposes of the Bombay Prohibition Act. Government had declared Brandy, Whisky, Rum and Gin which are prepared by mixing spirit with essences as foreign liquor. Beer, which is brewed from barley malt, is also classified as foreign liquor.

The manufacture of Indian made foreign liquor and beer is regulated by grant of licences under rules framed by Government. As on 1st April 1977, there were 12 manufactories of Indian made foreign liquor and 4 breweries in the State. The total production of liquors and beers and the revenue realised for the three years ending 1975-76 were as follows :—

	(Production in lakhs of litres) (Revenue in lakhs of rupees)					
	1973-74		1974-75		1975-76	
	Production	Revenue	Production	Revenue	Production	Revenue
Liquor ..	47·74	123·42	61·35	363·84	64·69	251·99
Beer ..	47·35	10·17	94·43	12·33	110·28	17·69

The rates of duty on Indian made foreign liquor had remained unchanged for the years 1974-75 and 1975-76. It is, however, seen that the revenue realised for 1974-75 and 1975-76 shows wide variation as compared to production in the respective years. Reasons for the variation are awaited (January 1978).

3.6.2. *Non-levy of duty on excess losses in the manufacture of Indian made foreign liquor*.—The types of losses normally occurring in the manufacture of Indian made foreign liquor are (*i*) reduction, (*ii*) blending, (*iii*) evaporation, (*iv*) storage and (*v*) other losses like bottling. There is no provision in the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, permitting losses of the aforesaid nature in the process of manufacture. In the case of manufacture of country liquor provision has been made under orders to allow losses of spirit upto 0·5 per cent for all stages in the manufacture excluding bottling and another 0·5 per cent exclusively to cover bottling loss. Similarly, the rules also provide for allowing a prescribed percentage of losses in the manufacture of rectified spirit.

In view of the similarity of all the processes in the manufacture of country liquor and Indian made foreign liquor, Government was requested

(August 1976) to state the reasons for the disparity in the provision for losses and also to consider whether a limit to losses in the manufacture of Indian made foreign liquor could be prescribed as that admissible in the case of country liquor. Reply is awaited (January 1978).

In two units manufacturing Indian made foreign liquor in Aurangabad and Ahmednagar districts taken up for test audit, there was loss in excess of 0·5 per cent to the extent of 60,796 proof litres in manufacture for the period September 1972 to March 1976 and 37,609 proof litres in bottling for the period April 1973 to November 1976. If the limit of 0·5 per cent in the country liquor Rules had been prescribed for losses in the manufacture of Indian made foreign liquor also, excise duty of Rs. 14·76 lakhs would have accrued to Government in respect of these two units.

3.6.3. *Non-levy of additional excise duty on the difference in strength of Indian made foreign liquor.*—Excise duty on Indian made foreign liquor is calculated on the alcoholic strength of liquor as determined by the Chemical Analyser to Government. If, however, the reports of the Government Chemical Analyser determining the exact strength of liquor are not available at the time of releasing the liquor for consumption, duty is provisionally recovered on the basis of alcoholic strength as declared by the manufacturer. When the reports of the Government Analyser are later received, excise duty on the difference, if any, in the strength is recovered from the manufacturer.

Five licensees paid duty on the liquor at a uniform strength of 75 proof strength though the liquors actually received by them according to the manufacturer's declaration had higher strength of alcohol and duty was payable on the basis of this higher strength. The short levy of duty was to the extent of Rs. 16,500.

On this being pointed out in audit (January 1976, February 1976 and October 1976), the department, while accepting the objection, recovered Rs. 3,826 in June 1976. Particulars of recovery of the balance are awaited (January 1978).

The matter was reported to Government in April 1977; reply is awaited (January 1978).

3.6.4. *Loss of excise duty on account of wastage due to negligence.*—According to the conditions prescribed for the grant of licence for manufacturing potable liquor, the licensee is required to provide in the manufactory separate rooms and compartments having their grills

embodied in cement for storing spirit and potable liquor in vats. In relaxation of these conditions Government permitted a distillery in Ratnagiri district to store spirit in wooden barrels/drums. The distillery, however, in addition to wooden barrels stored spirit in plastic containers also.

In the course of audit of the accounts of the distillery for the years 1972-73 to 1974-75, it was noticed (January 1975) that owing to storage in plastic containers (which were not approved by the department), there were losses of rectified spirit by leakage on 12th June 1972 and 19th June 1973 to the extent of 398·19 proof litres in the aggregate involving excise duty of Rs. 9,973 at the rate of Rs. 25 per proof litre. Similarly, owing to leakage of Indian made foreign liquor stored in wooden barrels, loss to the extent of 99 proof litres involving duty of Rs. 1,485 at the rate of Rs. 15 per litre, occurred on 26th June 1973.

When it was pointed out in audit (January 1975) that if the loss was attributable to the negligence of the distiller, the amount of duty should be recovered from the distiller, the department stated (February 1977) that additional demand of Rs. 11,458 had been raised. Particulars of recovery are awaited (January 1978).

The matter was reported to Government in March 1975; reply is awaited (January 1978).

3.6.5. *Non-levy of excise duty on loss of Indian made foreign liquor.*— Warehouses in Maharashtra receive and store Indian made foreign liquor for issue to the consumers and pay excise duty and vend fee thereon at the time of their release to the trade for consumption. The various types of losses of liquor normally claimed by these warehouses are (*i*) transit loss, (*ii*) loss due to accidents, (*iii*) loss due to thefts and (*iv*) loss due to breakages/shortages. Under the departmental instructions, if any losses are determined to be due to breakages/shortages, the full excise duty and vend fee on such losses are payable by the licensee.

In the course of audit of 27 warehouses in Bombay, it was noticed (1975-76 and 1976-77) that excise duty and vend fee amounting to Rs. 10·55 lakhs on losses of liquor due to breakages and shortages was not levied. On this being pointed out in audit (1975-76 and 1976-77), the department raised demand for Rs. 0·26 lakh (November 1975, June 1976 and September 1975) in respect of three warehouses. Out of this Rs. 21,250 had been paid by two warehouses in November 1975 and

April 1976 and May 1976. Reply in respect of 24 warehouses involving loss of Rs. 10·29 lakhs is awaited (January 1978).

The matter was reported to Government in May 1977. Reply is awaited (January 1978).

3.6.6. *Production of beer.*—Production of beer is dependent on the quantity of malt used, but the Maharashtra Manufacture of Beer and Wine Rules, 1966, do not prescribe the minimum quantity of beer that is expected to be produced from every tonne of raw materials, viz., malt used. In the absence of any provision in the rules, the wide variation in the output declared by the licensees could not be controlled by the department effectively.

A brewery in Maharashtra prepared malt extract from raw malt and then brewing it obtained an yield of 7,883 bulk litres of beer per tonne of malt on 23rd February 1975. Based on this yield, the production of beer on the brewing of 345 tonnes of malt during the commencement of the brewery to 31st March 1976 should be 27,19,635 bulk litres against which the beer produced was only 20,39,648 bulk litres resulting in short production of 6,79,987 bulk litres.

Another brewery which used malt extract (instead of malt) obtained 8,726 bulk litres of beer per tonne of malt extract used. Based on this yield, the production of beer for 1973-74 and 1974-75 on consumption of 317 and 269 tonnes of malt extract should be 27,66,000 bulk litres and 23,47,000 bulk litres of beer, respectively. Against this, the production figures declared by the licensee were 21,71,000 bulk litres and 18,07,500 bulk litres only resulting in short production of 11,34,500 bulk litres. Duty involved on the total short yield in both the breweries at the minimum strength of 8·75 per cent worked out to Rs. 3·33 lakhs.

The matter was referred to Government in September 1977; reply is awaited (January 1978).

3.6.7. *Losses in the manufacture of beer.*—Losses normally occur in the manufacture of beer during filtration of the manufactured beer and during bottling. In the Maharashtra Manufacture of Beer and Wine Rules, 1966, there is no provision fixing the limits upto which such losses can be permitted without payment of duty. In the absence of such a provision no duty or vend fee is being collected for the losses occurring in the manufacture of beer. However, in specific cases where the breweries apply to the excise authorities for permission to repack or

recondition the beer already manufactured, permission to do so is given on the condition that the breweries pay excise duty and vend fee on losses due to filtration and bottling exceeding 2 per cent.

In the course of audit of the accounts of three breweries it was noticed that the loss in the manufacture of beer during filtration and bottling during the period June 1973 to March 1976 was 5,16,357 bulk litres. If the same limit upto which losses are permitted without payment of duty in the case of repacking or reconditioning had been prescribed for regular manufacture also, duty and vend fee of Rs. 80,450 would have been payable on loss of 3,59,564 bulk litres in excess of the limit of 2 per cent.

The matter was reported to Government between April 1976 and September 1976; reply is awaited (January 1978).

3.6.8. *Incorrect application of rates of duty.*—The rate of excise duty on beer was increased from Rs. 2·10 to Rs. 8·50 per proof litre with effect from 23rd March 1977. A licensee who was issued import permits before 23rd March 1977 on collection of excise duty at the then effective rate of Rs. 2·10 per proof litre actually imported 1,681·875 proof litres of beer after 23rd March 1977. Differential duty owing to the enhanced rate applicable from 23rd March 1977 was not, however, levied and collected from the licensee. This resulted in short levy of excise duty to the extent of Rs. 10,764.

When this was pointed out (June 1977), Government recovered the entire amount of Rs. 10,764 from the licensee (August 1977).

3.6.9. *Country liquor.*—Country liquor is manufactured by first reducing the strength of rectified spirit with the addition of water and then blending the reduced spirit with essences and colours. As on 1st April 1977 there were twenty-one country liquor manufactories functioning in the State.

3.6.10. *Short levy of excise duty on country liquor.*—Excise duty on country liquor is based on the strength of alcohol contained in the liquor. Under the departmental instructions the alcoholic strength of every batch of country liquor as ascertained in the prescribed manner and declared by the Excise Officer in-charge of the manufactory shall be final and excise duty should be recovered on the strength so declared by him.

In the course of audit of the accounts of two distilleries, it was noticed (February 1976 and December 1976) that the Excise Officer did not

ascertain and declare the alcoholic strength of the country liquor manufactured in 324 batches between April 1974 and February 1976 in a distillery in Satara district and 121 batches between May 1973 and June 1976 in another distillery in Ahmednagar district. Duty on these batches was collected at the uniform strength of 75 proof strength although the alcoholic strength of liquor in all these batches according to the licensee's records was well above 75 proof strength. In the absence of declaration of the correct alcoholic strength of the liquor by the Excise Officer, the short levy of excise duty involved could not be ascertained. However, the minimum additional excise duty that could be collected on the basis of the alcoholic strength according to licensee's records worked out to Rs. 1,79,270 in the aggregate. On this being pointed out in audit (February 1976 and December 1976), the department raised additional demand of Rs. 1,41,700 (June 1976) in the first case. Report of action in the second case and the particulars of collection of the additional demands are awaited (January 1978).

The matter was reported to Government in May 1976 and March 1977. Reply is awaited (January 1978).

3.6.11. *Non-levy of excise duty on excessive losses of spirit in the manufacture and bottling of country liquor.*—Under the Maharashtra Country Liquor Rules, 1973 and the orders issued thereunder, losses of spirit in the bottling of country liquor are allowed to the extent of 0·5 per cent in each case and where the actual losses exceed the aforesaid limit, excise duty is leviable on such excess losses at the rate applicable to country liquor, viz., Rs. 4·20 per proof litre. These orders were issued in August 1975. Regarding applicability of the aforesaid orders for the losses of spirit sustained prior to August 1975, the Commissioner of Prohibition and Excise clarified (March 1976) that these orders were applicable even for earlier periods, i.e., from the date of manufacture of country liquor by each manufactory.

(*a*) In the course of audit of one distillery it was noticed (December 1976) that there were 89 batches of country liquor during the period July 1973 to August 1975, wherein the bottling losses exceeded the prescribed limits involving 57,716 proof litres of spirit. However, no action had been taken to raise demand for the additional excise duty of Rs. 2·42 lakhs. In respect of another 17 batches pertaining to the period between December 1975 and November 1976, the bottling losses had exceeded the ceiling limit for which additional excise duty payable

amounted to Rs. 48,023. But no demand for this duty was raised against the licensee.

The matter was reported to Government in April 1977; reply is awaited (January 1978).

(*b*) In the course of audit of five other distilleries, it was noticed (between November 1975 and July 1976) that the manufacturing losses to the extent of 10,410·8 proof litres and bottling losses of 4,125·9 proof litres relating to the period May 1973 to May 1976 in excess of the prescribed limits were not subjected to excise duty. The amount of duty leviable was Rs. 61,054.

When this was pointed out in audit (January, April, May, July and August 1976), the department raised additional demand for Rs. 18,609 in three cases and recovered duty of Rs. 10,109 in April 1976. Report of action in the remaining cases is awaited (January 1978).

The matter was reported to Government (April 1976, May 1976, July 1976 and September 1976). Reply is awaited (January 1978).

(*c*) In the course of audit of the accounts of a distillery of Satara district, it was noticed (February 1976) that in computing the bottling loss the entire quantity of liquor issued for bottling during the period May 1973 to February 1976 was taken into account and the net loss of all the batches taken together was worked out for raising demand for additional excise duty. Actually, there was loss exceeding 0·5 per cent in 284 batches, while in the other batches the loss was less than the permissible limit of 0·5 per cent. The total loss in these 284 batches in excess of the permissible limit of 0·5 per cent was 23,175·42 proof litres as against 20,409·59 proof litres for which demand was raised by the department. The excise duty short demanded worked out to Rs. 11,616. On this being pointed out in audit (February 1976), demand for additional duty was raised (June 1976). Particulars of recovery are awaited (January 1978).

The matter was reported to Government in April 1976. Reply is awaited (January 1978).

CHAPTER IV

LAND REVENUE

4.1. Under-assessment of ground rent due to arithmetical error

A plot of land measuring 3,682·18 square metres of Malabar Hill Division had been leased out to the Bombay Municipal Corporation by the State Government in 1940 with a guarantee period of 30 years for non-agricultural assessment. The guarantee period expired on 31st March 1970. Consequently, Government revised the assessment effective from 1st April 1970 for a further period of 30 years.

In the course of audit of the accounts of the Collector, Bombay, it was noticed (April 1977) that as against the correct assessment of rent of Rs. 17,950·62 per annum according to the revised basis for assessment, the department had computed it at Rs. 1,794·88 per annum and raised demand of Rs. 12,564 only for the period April 1970 to 31st March 1977. As the correct amount recoverable for this period worked out to Rs. 1,25,654, there was under-assessment of Rs. 1·13 lakhs.

On this being pointed out in audit (April 1977), the Collector accepted the mistake and revised the demand (June 1977). Particulars of recovery are awaited (January 1978).

The matter was reported to Government in June 1977 ; reply is awaited (January 1978).

4.2. Unauthorised diversion of lands for non-agricultural purposes

According to Section 52 of the Madhya Pradesh Land Revenue Code, 1954 (as applicable to the Vidarbha districts upto 14th August 1967) and Section 67 of the Maharashtra Land Revenue Code, 1966, where land assessed for use for any purpose is diverted to any other purpose, the land revenue payable on such land is liable to be reassessed with reference to the altered use of land.

A city survey conducted in Nagpur by the Directorate of Land Records during 1972 to 1974 disclosed 39,616 cases of unauthorised diversions of land for non-agricultural purposes since 1945 within the

Nagpur Municipal Corporation limits. These were reported to the Sub-Divisional Officer, Nagpur, between 1973-1975. Of these, 35,493 cases had not even been registered by the Sub-Divisional Office. Of the 4,123 registered cases, the enquiry had been completed in respect of 300 cases only but no case had been finalised (July 1976). The under-assessment of land revenue in 39,616 cases for the period 1945 to 1972 in respect of diversion of land measuring 2,590 acres (1,048 hectares) worked out to Rs. 243 lakhs on the basis of lowest rates of assessment and without taking into account the fine leviable.

On this being pointed out in audit (April 1976), the department stated (July 1976) that the assessment work could not be taken up for want of adequate staff.

The matter was referred to Government in August 1976; reply is awaited (January 1978).

4.3. Evasion of payment of royalty

Two firms were granted permits by the Range Forest Officer, Bhiwandi, between April 1973 and July 1975, for removal of 3,348 cubic metres of earth from the protected forest area of Bhiwandi Range between April 1973 and July 1975. However, investigation by the Sub-Divisional Forest Officer, Thane, on the basis of a complaint, revealed (January 1976) that the two firms had extracted 3,48,199 cubic metres of earth and supplied it to the Central Railway. The additional royalty leviable on the unauthorised extraction worked out to Rs. 5·26 lakhs.

The maximum fine leviable under Section 24 of the Maharashtra Land Revenue Code, 1966 (on the basis of 5 times the value of the natural product so removed), worked out to Rs. 24,81,400 but no penalty had been levied. On a request from the Forest Division, the Additional Collector, Thane, had requested (December 1975) the Railway administration to withhold payments to the firms to enable the Divisional Forest Officer to recover the State Government dues. The amount had not been recovered. On this being pointed out in audit (September 1976), the Divisional Forest Officer stated (February/ March 1977) that owing to negligence of the local staff, the illegal removal of earth could not be detected earlier and that disciplinary action against them was being taken.

Government stated (October 1977) that the Commissioner, Bombay Division, had been requested to make thorough investigation into the matter and to take action against the officers found responsible for not detecting such cases in time. Further developments are awaited (January 1978).

4.4. Delay in revision of ground rent

In June 1953, the Government of Maharashtra prescribed revised rates of ground rent to be levied with effect from 1st August 1953 on leases of land in Mahabaleshwar tahsil. In respect of existing leases, the revised rates were to be applied at the time of renewals on the expiry of the periods already fixed.

In the course of audit of the accounts of the Tahsil Office, Mahabaleshwar, it was noticed (April 1976) that in 103 cases the periods of leases had expired between December 1943 and April 1976 but the leases were neither renewed nor revised ground rent was collected from lessees. The non-application of the revised rates prescribed in 1953 to these cases resulted in under-assessment of ground rent of Rs. 3,52,996 for the period August 1953 to July 1975 and the Zilla Parishad cess of Rs. 47,538 from 1962-63 to 1973-74.

When this was pointed out (April 1976) in audit, the department stated (July 1977) that arrears of ground rent and local fund cess amounting to Rs. 2,68,000 in respect of 65 cases had been recovered. Action in respect of the remaining 38 cases is awaited (January 1978). Further, the revised rates were to be in force upto July 1963 only as per the Government notification of June 1953. No orders fixing new rates from August 1963 had, however, been issued by Government (January 1978).

The matter was reported to Government in August 1977 ; reply is awaited (January 1978).

4.5. Short recovery of ground rent

A plot of land measuring 260-12 square metres in Byculla Division, Bombay, leased to an oil company for 30 years on an annual rent of Rs. 2,052 was due to expire on 14th February 1963. Before the expiry of the lease, the lessee was informed that the lease would not be renewed in his favour. However, the company obtained

several extensions of a short period at a time and finally gave up possession of the land on 4th May 1965. In June 1965, the Collector, Bombay, tentatively fixed the ground rent for the period of extension of lease at Rs. 9,334 per annum pending final fixation by Government. The recovery was made accordingly. In March 1968, Government revised the ground rent for the plot to Rs. 17,189 per annum. Consequently, the difference in rent amounting to Rs. 17,455 was recoverable from the company for the period 14th February 1963 to 3rd May 1965. But demand of this amount was not raised (June 1977).

When this was pointed out in audit (June 1977), Government stated (November 1977) that Rs. 17,411 had been recovered by the Collector.

4.6. Irregular levy of special assessment on non-Diwani villages

Under the Hyderabad Land (Special Assessment) Act, 1952, rent on the basis of special assessment which was leviable from 1st June 1952 in areas where re-settlement is due is not to be levied on the former non-Diwani* areas where rent had not been brought down to the level of adjoining Diwani areas.

In the course of audit (July 1977) of the accounts of the Kannad Tahsil (Aurangabad district), it was noticed that agricultural assessments obtaining in three former non-Diwani (Jagir) Villages (Hatnoor, Basendra and Bhokangaon) were more than thrice the rent prevailing in adjoining Diwani areas but rent on the basis of special assessment was levied and recovered in these villages. This resulted in irregular levy and collection of Rs. 31,186 for the period 1959-60 to 1975-76.

On this being pointed out in audit (July 1977), the department confirmed the facts and stated that the question of regularisation would be examined.

The matter was reported to Government in August 1977; reply is awaited (January 1978).

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*Villages administered by Government in all respects were called "Diwani" areas. In "non-Diwani" areas, administration was being governed by individuals or Jagirdars in all respects.

4.7. Non-levy of rent on the basis of special assessment on transferred villages

Under the Hyderabad Land (Special Assessment) Act, 1952, applicable to areas transferred from *ex*-Hyderabad State to *ex*-Bombay State, rent on the basis of additional special assessment is leviable on lands in specified talukas where resettlement is due from 1st June 1952. The special assessment is to continue until the assessments in pursuance of resettlement operations are imposed. The rate of such assessment is two annas and one anna per rupee of land revenue for dry and wet lands, respectively.

In the course of audit (June 1977) of Vaijapur Tahsil (Aurangabad district), it was noticed that special assessment at the prescribed rates was not made on lands in eleven villages which had been transferred from Nasik district (*ex*-Bombay State) to Aurangabad district (*ex*-Hyderabad State) from 25th January 1950 under an agreement for transfer of enclaves. According to Section 4 of the Hyderabad Absorbed Enclaves Act, 1951, all laws in force in the absorbing district before the date of transfer were extended to and brought in force from that date in the absorbed villages. Rent on the basis of special assessment was, therefore, leviable under the Act of 1952 in these villages where resettlement was due since 1946-47. However, the assessment was not made resulting in short levy amounting to Rs. 64,166 for the period 1952-53 to 1976-77.

On this being pointed out in audit (July 1977), the department confirmed the facts and stated that recovery proceedings would be initiated. Further developments are awaited (January 1978).

The matter was reported to Government in August 1977 ; reply is awaited (January 1978).

4.8. Omission to levy special assessment in ex-jagir villages

Under the Hyderabad Land Special Assessment Act, 1952, rent on the basis of special assessment is leviable from 1st June 1952 on land of former non-Diwani areas (*ex*-Jagir villages) where rent has been brought to the level of the adjoining Diwani areas and re-settlement is also due.

In the course of audit of Gangapur Tahsil (Aurangabad district), it was noticed (February 1977) that rent on the basis of special assessment had not been levied in respect of nine *ex*-jagir villages (former non-Diwani areas) of the tahsil even though rent in these villages had been brought to the level of the adjoining Diwani areas and re-settlement was due prior to June 1952. This omission resulted in non-levy of rent on the basis of special assessment amounting to Rs. 51,140 for the period 1952-53 to 1976-77.

The matter was reported to Government in September 1977 ; reply is awaited (January 1978).

4.9. Non-recovery of rent on ex-inam lands

All inams except devasthan inams were abolished from 1st August 1955 with the enactment of various Inam Abolition Acts.* Inam lands thereafter ceased to be held free of land revenue and the holders or grantees of such land were liable for payment of land revenue to the State Government.

In the course of audit of the accounts of Kalyan taluka (district Thane), it was noticed (April 1976) that one hundred and eleven plots on land measuring 52·6 acres previously held as inams were surveyed and assessed to land revenue by the City Survey Office but demands based on such assessment were not entered in the *tharavband* (total land revenue demand) of the Tahsil office. Consequently, rent on the basis of non-agricultural assessments on these plots measuring 52·6 acres amounting to Rs. 1,48,240 for the period 1st August 1955 to 31st July 1975 was not levied and recovered.

On this being pointed out in audit (April 1976), consolidated demand of arrears of rent of Rs. 1,64,840 was prepared for the period 1st August 1955 to 31st July 1977 by the department for inclusion in the *tharavband* for the revenue year 1976-77 for effecting recovery (January 1977). Particulars of recovery are awaited (January 1978).

The matter was reported to Government in July 1976 ; reply is awaited (January 1978).

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*The various Inam Abolition Acts are mentioned in the Appendix to this Report.

4.10. Diversion of land for unauthorised use

Under the Maharashtra Land Revenue Code, 1966, if any land held or assessed for one purpose is used for another purpose the holder thereof is liable to one or more of the following penalties :—

(i) to pay land revenue on the basis of non-agricultural assessment on the land leviable with reference to the altered use,

(ii) to pay fine in addition to land revenue on the basis of non-agricultural assessment, and

(iii) to restore the land to original use.

In the course of audit of the accounts of the Revenue Sub-Divisional Office, Nagpur, it was noticed (July 1976) that land measuring 11·45 acres was unauthorisedly diverted by a holder for non-agricultural use from 1965-66. The case which came to the notice of the department in August 1966 was decided in August 1972, by levying fine of Rs. 300, while ordering restoration of the land to its original use even though such levy of fine only was not permissible under the Code. Land revenue on the basis of non-agricultural assessment amounting to Rs. 59,850 should have been levied in this case in addition to fine. On this being pointed out in audit (July 1976), the department agreed to recover the amount due on assessment. Further developments are awaited (January 1978).

The matter was reported to Government in June 1977 ; reply is awaited (January 1978).

4.11. Delay in revision of assessment

By a notification dated 19th September 1964, issued under Sections 93 and 94 of the Madhya Pradesh Land Revenue Code, 1954 (which was applicable to the Vidarbha districts upto 14th August 1967), the State Government approved the standard rates of non-agricultural assessment for Daryapur urban area effective from 1st January 1965. Accordingly, in cases where the earlier term of settlement had expired prior to that date, the assessment was required to be revised from that date.

In the course of test check of the accounts of Daryapur tahsil (Amravati district), it was noticed (February 1976) that in 35 cases where assessments were to be revised with effect from 1st January 1965, consequent upon the expiry of the earlier non-agricultural assessment, the revision was omitted to be done. On this being

pointed out in audit (February 1976), the department confirmed the facts and stated that action would be taken to revise the assessment. Actual revision was, however, made by the department in August 1976 only leaving the land revenue assessments for the period upto 1975-76 at the unrevised rate. Consequently, Government had forgone land revenue to the extent of Rs. 48,978 being the difference between the land revenue on the basis of old and revised assessments for the period 1965-66 to 1975-76.

The matter was reported to Government in June 1977 ; final reply is awaited (January 1978).

4.12. Non-agricultural assessment on change of use not done

Under Section 52(*2*) of the Madhya Pradesh Land Revenue Code, 1954 and corresponding provisions of the Maharashtra Land Revenue Code, 1966, where land assessed for use for any one purpose is diverted to any other purpose, the land revenue payable upon such land is liable to be altered and assessed in accordance with the purpose for which it has been diverted. Diversion without permission of the Collector entails penalty as laid down in the respective codes.

(i) In the course of audit of Khamgaon Tahsil records (Buldhana district), it was noticed (February 1976) that agricultural land measuring 6 acres 36 gunthas lying within Khamgaon Municipal area was unauthorisedly diverted to non-agricultural use in 1960-61 but rent on the basis of non-agricultural assessment was not levied and recovered (June 1977). Even after making an allowance for 50 per cent of this area being used for general purposes like roads, paths, lanes, playgrounds and parks (being a residential colony) and exempt from non-agricultural assessment for that reason, the rent on the basis of non-agricultural assessment leviable on the remaining 3 acres 18 gunthas of land for the period 1961-62 to 1976-77 worked out to over Rs. 34,000 at the rate of Rs. 629 per annum per acre which is the rate fixed by the department for a neighbouring area.

On this being pointed out in audit (February 1976), the department stated (February 1976) that necessary recovery proceedings had been initiated and action was in progress. Further developments are awaited (January 1978).

The matter was reported to Government in August 1977 ; reply is awaited (January 1978).

(ii) In the course of audit of the Tahsil Office, Gondia (Bhandara district), it was noticed (December 1973) that two pieces of land measuring 25·75 acres and 38·58 acres and forming part of Gondia municipal area were surveyed in 1937-38 and 1950-51, respectively, and rent on the basis of non-agricultural assessment on the land was fixed in 1951-52. The rent so fixed was, however, not levied and recovered but rent on the basis of agricultural assessment only was continued to be recovered year after year resulting in loss of revenue of Rs. 4·84 lakhs for the period 1952-53 to 1976-77.

The matter was reported to Government in August 1977 ; reply is awaited (January 1978).

4.13. Omission to levy rent on the basis of agricultural assessment

Under the Bombay Land Revenue Code, 1879 and the Maharashtra Land Revenue Code, 1966 and the Rules issued thereunder, any unoccupied survey number in a village can be granted by the Collector to any person for agricultural use on payment of the price fixed. Such land is to be assessed by the Collector at the rates applicable to similar soils in the same or neighbouring villages subject to revision at the time of the next general settlement.

In the course of audit of Borivli Tahsil Office (Bombay suburban district), it was noticed (February 1977) that in a village 131 acres and 27 gunthas of reserved forest land had been granted by Government to a person for agricultural use from August 1944. The possession was later taken back by the Collector in October 1951, owing to breach of conditions by the grantee. Later in compliance with an order of a court, possession of land measuring 57 acres 18 gunthas was restored to the grantee between February and March 1965 and the remaining area of 74 acres 9 gunthas in April 1976. Rent on the basis of agricultural assessment was not, however, levied and collected in respect of these lands.

On this omission being pointed out in audit (February 1974), rent of Rs. 10,805 was provisionally fixed (August 1976) and recovered in respect of the period 1953 to 1976. Details of final assessment and recovery are awaited (January 1978).

Government confirmed (September 1977) the facts.

4.14. Loss of revenue due to belated notification

Under the Maharashtra Land Revenue Code, 1966 and the Rules made thereunder, the standard rates of rent on the basis of non-agricultural assessment in the urban areas, which are fixed by the Collector with the approval of Government, come into force on the expiry of three months from the date of notification thereof in the *Official Gazette.*

In the course of audit of accounts of two Tahsil offices (September 1975/February 1976), it was noticed that the standard rates of rent approved by Government in 1972 for the urban areas of Achalpur (Amravati district) and Basmatnagar (Parbhani district), were published in the *Official Gazette* after a delay of two and three years, respectively. In a third case in Chikhali urban area (Buldhana district), the rates approved by Government in June 1972 had not been published (January 1978). Delay in notifying the revised higher rates had resulted in loss of revenue of Rs. 11,208 for the period 7th December 1972 to 28th November 1974 relating to 4,00,820 square metres in the case of Achalpur alone.

The matter was reported to Government in September 1977; reply is awaited (January 1978).

4.15. Irregular collection of increased cess on land revenue

Under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, a minimum cess of 20 paise on every rupee of land revenue is leviable both in urban and non-urban areas. The Act provides that a zilla parishad can, with the approval of Government, increase the rate of this cess but such increased cess is leviable only within the area under the jurisdiction of the zilla parishad concerned.

In the couse of audit of the accounts of Maval taluka in Pune district, it was noticed (August 1976) that the increased cess was also levied and collected from some Municipal areas resulting in irregular collection of Rs. 22,030 during 1968-69 to 1974-75 and the amount was paid to the Municipal Councils concerned.

On this being pointed out in audit (August 1976), the department accepted (April 1977) the irregular levy and stated that such collection was discontinued from 1st August 1976.

The matter was reported to Government in May 1977; reply is awaited (January 1978).

4.16. Short levy of cesses on land revenue

Under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, as applicable to the Vidarbha Region of the State and the Bombay Village Panchayats Act, 1958, Zilla Parishad cess and Village Panchayat cess, respectively, are leviable as a percentage of every rupee of land revenue in respect of the area within the jurisdiction of a Zilla Parishad/Panchayat. The aforesaid Acts do not provide that fractions of a rupee in the amounts of land revenue should be ignored for calculating the amounts of cess to be levied.

In the course of audit of Mehkar Taluka Office (district Buldhana), it was noticed (February 1977) that cess at the prescribed percentages was calculated and levied only on whole rupees of land revenue and fractions of a rupee were disregarded. This had resulted in short levy of cess amounting to Rs. 22,090 during the period 1962-63 to 1975-76. This practice of ignoring fractions of a rupee was stated to be followed in the tahsil as per the old instructions contained in the Patwari Manual of Berar, which, however, had no bearing on the cesses in question.

Government stated (October 1977) that the Collector, Buldhana, was asked to work out the amount of cess ignored. Further developments are awaited (January 1978).

4.17. Irregular remission of water assessment

Under the Bombay Land Revenue Rules, 1929, agricultural lands which are benefited by water received from irrigation works completed or improved upon after the last settlement between 1897-98 and 1942-43 are liable to assessment of additional land revenue for water advantages besides ordinary land revenue. If in a year the water supply fails and consequently not more than one-fourth of irrigated crop could be grown, the whole of the additional assessment is to be remitted. In case irrigated crop between 1/4th and 3/8ths of the normal yield could only be grown, remission to the extent of half the additional assessment is admissible. Moreover, when more than half the land could be irrigated in a year, the water assessment is not to be remitted even though the crop might have failed owing to other reasons.

During audit of the Collectorate, Nasik, it was noticed (April 1977) that full remission of water assessment in fourteen cases where the irrigated crop grown was between 1/4th and 3/8ths (Baglan taluka—revenue years 1971-72, 1972-73, 1974-75 and Chandor taluka—revenue year 1971-72) was granted whereas remission of only half the revenue was permissible. This resulted in excess remission of Rs. 6,682. Further, in 34 other cases (Baglan taluka revenue year—1972-73) inspite of the area irrigated being more than half of what was normally irrigable, the separate water assessment of Rs. 41,330 was fully remitted, though no remission was admissible.

The matter was reported to Government in August 1977; final reply is awaited (January 1978).

4.18. Unauthorised levy and collection of Zilla Parishad Cess in urban areas

Zilla Parishad cess at the rate of 20 paise on every rupee of land revenue recoverable under Sections 144 and 152 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, was discontinued within the areas of any Municipal Corporation, Municipality, Cantonment or a Notified Area Committee in the Western Maharashtra and Marathwada regions with effect from April 1974 by an amendment to the Act.

In the course of audit conducted in Western Maharashtra between April 1975 and May 1977, it was noticed that levy and collection of Zilla Parishad cess was continued even after April 1974 in urban areas of 13 tahsils including Jalgaon town resulting in unauthorised and irregular collection of Rs. 1·40 lakhs. Details of similar collections of cess, if any, in respect of urban areas of other tahsils and refund of the amount already collected are awaited (January 1978).

The matter was reported to the Government in June 1977; reply is awaited (January 1978).

4.19. Non-levy of cess on royalty for extraction of minor minerals

Under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, Zilla Parishad cess at the rate of 20 paise is leviable on every rupee of royalty payable to the State Government in respect of minerals extracted from areas covered by the Act.

In the course of audit of land revenue receipts of seven Tahsils, it was noticed (May 1976 to June 1977) that no cess was levied on royalty of Rs. 70,100 collected from 1973-74 to 1976-77 on extraction of minor minerals. Non-recovery of cess at 20 paise in a rupee of royalty prescribed in the Act amounted to Rs. 14,020.

The matter was reported to Government in September 1977 ; reply is awaited (January 1978).

4.20. Non-levy of royalty on extraction of minor minerals

Under the Bombay Minor Mineral Extraction Rules, 1955, the Collector is empowered to permit extraction of minor minerals from lands on payment of royalty at the rates specified in Schedule I to the said Rules and of such land revenue and cesses assessable on the lands. Rent on the basis of non-agricultural assessment on surface area of the land used is also recoverable under the Bombay Land Revenue Code.

In North Solapur Tahsil, the Collector granted permission to an occupant of agricultural land to use his land for a term of 30 years from 1st August 1955 for quarrying stone. Rent on the basis of non-agricultural assessment was imposed on the land so diverted but no royalty or cess was levied and collected on 12,120 brass (100 cft.) of stone extracted by the occupant between August 1955 and July 1971. The department had no record of minerals extracted by him after July 1971.

On this being pointed out in audit (March 1976), the department raised (August 1976) demand for royalty of Rs. 36,864 for the period August 1955 to July 1971. Demand for Local Fund Cess/Zilla Parishad Cess had not been raised (January 1978).

The matter was reported to Government in July 1977 ; reply is awaited (January 1978).

4.21. Non-levy of water rate

In respect of water drawn by consumers from rivers not notified under the Central Provinces and Berar Regulation of Waters Act, 1949 and the Maharashtra Irrigation Act, 1976, the Collector is required to charge for use of water by consumers for different purposes. The rates for non-agricultural use of such water were fixed by Government for the first time in June 1972.

In the course of audit of the Tahsil Office, Hinganghat (Wardha district), it was noticed (December 1972) that charges for water drawn by the Hinganghat Municipality from June 1972 onwards had not been recovered. Similarly, no charges had been recovered from two cotton mills in the same district also from June 1972. On this being pointed out in audit (December 1972), the Tahsildar raised (March 1976) demand against the mills for Rs. 44,717 for the period 1967-68 to 1973-74 and also sought Government's confirmation of the action taken by him to levy the charges with retrospective effect from 15th August 1967, the date from which the Maharashtra Land Revenue Code, 1966, came into force. No amount had, however, been recovered from the mills (January 1978). Demand against the municipality had also not been raised (January 1978).

The matter was reported to Government in September 1977 ; reply is awaited (January 1978).

4.22. Delay in fixing standard rates for non-agricultural assessment

Vihari village in Khalapur Tahsil (Kulaba district), was notified by Government as an urban area in April 1970, but the standard rates for non-agricultural assessment applicable to this area required to be fixed under the Act by the Collector with the approval of Government, had not been notified (August 1977). Permission for non-agricultural use of land admeasuring 67 acres and 14 gunthas was given in four cases in the village between 1970 and 1972. In the absence of orders fixing the rates chargeable, recoveries are being made only at the old rates fixed in 1955 and applicable to the village prior to 1970 which are very low (2 pies per square yard). With reference to the rate of 6 paise per square metre for use of land for industrial purposes recommended (August 1975) by the Tahsildar to the Collector for adoption, the short realisation of revenue in the four cases from 1971-72 to 1976-77 worked out to Rs. 93,647.

The matter was reported to Government in September 1977 ; reply is awaited (January 1978).

4.23. Non-revision of non-agricultural assessment

According to Rule 87 of the Land Revenue Rules, 1921, on the expiry of the guarantee period of 50/30 years fixed for non-agricultural assessment on land, the assessment is to be revised with reference to the standard rates for non-agricultural assessment which are in force at the time of such revision.

In the course of audit of the accounts of the Tahsildar, Thane, it was noticed (April 1976) that in forty-eight cases the guarantee period of 50/30 years fixed for non-agricultural assessment in respect of land admeasuring 20·42 acres had expired after 1939 but the rates of land revenue were not revised with reference to the standard rates fixed in 1937-39. Land revenue at the old rates continued to be levied and collected. This resulted in under-assessment of land revenue of Rs. 22,503 for the period 1939 to 1977. In addition Zilla Parishad cess amounting to Rs. 2,527 was also short realised in respect of the period 1962 to 1977.

The matter was reported to Government in August 1977; reply is awaited (January 1978).

4.24. Incorrect application of rates of non-agricultural assessment

By a notification dated 15th June 1965, Government fixed standard rates of rent on the basis of non-agricultural assessment in respect of certain blocks of Nagpur city under the Madhya Pradesh Land Revenue Code, 1954. These rates continue to be in force by virtue of the provisions of Section 336 of the Maharashtra Land Revenue Code, 1966.

In the course of audit of the accounts of Tahsil Office, Nagpur, it was noticed (June 1977) that land admeasuring 10·96 acres of *mouza* Jaripatka and forming part of block No. 18, was put to non-agricultural use from 1969-70. The rent on the basis of non-agricultural assessment of this land was fixed and recovered at the rate of Re. 0·85 paise for 100 square feet instead of at the correct rate of Rs. 1·65 for 100 square feet. This resulted in under-assessment of rent of Rs. 30,363 for the period 1969-70 to 1976-77.

On this being pointed out in audit (June 1977), the department admitted the facts and stated that the revenue short realised would be recovered. Further report is awaited (January 1978).

The matter was reported to Government in August 1977; reply is awaited (January 1978).

4.25. Delay in remittance of Government money into the treasury

Under the Maharashtra Treasury Rules, 1968, all moneys received by or tendered to Government Officers on account of revenue of the State are to be paid in full into a treasury or the Bank without undue delay, at any rate within two days of their receipt.

(*a*) In the course of audit of the accounts of Tahsil Office, Brahmapuri (Chandrapur district), it was noticed (March 1976) that moneys received on account of land revenue and other Government dues amounting to Rs. 8,442 were not credited into the treasury but were retained in the departmental cash chest for over 15 years (1961-62 to 1976-77). On this being pointed out in audit (May 1976), the amount was deposited into the treasury (April 1977).

(*b*) It was further noticed that in five Tahsils of the same district (including Brahmapuri), moneys received on account of land revenue and other Government dues amounting to Rs. 1·35 lakhs which pertained to the period 1951 to 1969 were credited in Government account as deposits instead of to the proper head of Account. Crediting of such amounts to deposits instead of to revenue or loans as the case may be was not permissible under the Treasury Rules. Further, owing to non-adjustment of the amounts to the final heads of account for over 20 years, accounts of nearly 5,000 agriculturists had remained incomplete and the departmental accounts had indicated inflated figures of arrears of land revenue and other Government dues all along.

Government stated (September 1977) that out of Rs. 1·27 lakhs credited to 'Revenue Deposit' an amount of Rs. 31,703 had been adjusted to the proper head of account leaving a balance of Rs. 94,956. Further developments are awaited (January 1978).

4.26. Agricultural Land Ceiling

4.26.1. *Introduction.*—The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, which came into force on 26th January 1962, was enacted with the object of securing the distribution of agricultural land in the State. With this purpose in view, the Act imposes a ceiling on the holding of agricultural land and provides for acquisition of land held in excess of the ceiling. Land in excess of permissible holdings thus declared surplus is to be distributed to landless and other persons in the prescribed order of priorities.

Under the Act no person (which term includes a family or a body corporate) was allowed to hold land which is used or capable of being used, for purposes of agriculture (including dairy farming, cattle breeding, etc.) in excess of the maximum limits laid down. For the purpose of fixing the ceiling all agricultural land in the State was classified into four

groups, the first three covering irrigated lands depending on the intensity, extent and source of irrigation and the last one covering dry crop land. For purposes of fixing ceiling area for dry crop land the State was divided into different local areas. In case of irrigated land, the limits were fixed uniformly for all areas of the three groups at 18, 27 and 48 acres on the basis of availability of irrigation whether perennial, two-seasonal or one-seasonal, while for dry crop land, it ranged from 66 acres to 126 acres in different local areas.

All land held by a person in excess of the ceiling was to be declared surplus and no landholder was entitled to transfer or partition of land until the surplus area had been determined.

The ceiling was lowered by an amendment to the Act effective from 2nd October 1975 with the object of making additional land available as surplus for distribution. In the case of unassured irrigated land and dry crop land, the ceiling was reduced and uniformly fixed at 36 and 54 acres, respectively, for the entire State. Similarly, the limits in case of certain categories of irrigated lands were lowered from 27 and 48 acres to 18 and 27 acres, respectively.

4.26.2. Progress made upto May 1977 in the implementation of different provisions of the Act as stated by Government in August 1977 is mentioned below :—

(*i*) Upto May 1977, 1,08,539 returns had been filed and enquiries had been completed in respect of 1,05,113 cases. Of the cases decided, 82,694 returns (70 per cent) had not yielded any surplus land.

(*ii*) Enquiries in respect of 3,426 returns were pending because —

(*a*) the returns were received late in a number of cases;

(*b*) some cases were stayed in view of Court decisions; and

(*c*) details of inter-State holdings were awaited.

(*iii*) As per figures furnished by Government in August 1977, an area of 2,72,719 hectares of land was declared surplus upto May 1977. Of this, 2,08,667 hectares had been distributed to 1,00,993 persons, 1,274 hectares were in the process of distribution and 37,370 hectares (14 per cent) were involved in litigation. Surplus land measuring 25,408 hectares (25 per cent) was not available for distribution, the reasons being —

(*a*) 6,489 hectares were uncultivable for which there was no demand;

(*b*) 1,404 hectares were required for public purposes;

(*c*) 2,668 hectares were involved in exemption claims; and

(*d*) other reasons (tank land, land reserved for the use of Forests Department, land assigned for grazing, etc.) 14,847 hectares.

(*iv*) Under the Act the Collector is required to take possession of land declared as surplus soon after such declaration. However, possession of 6,489 hectares of surplus land was not taken over (October 1977) on the ground that the land was uncultivable.

Out of 1,00,993 allottees to whom 2,08,617 hectares of surplus land had been allotted, 861 allottees refused the land (1,529 hectares) allotted to them on the ground that it was uncultivable. Government stated (October 1977) that possession of these 1,529 hectares of surplus land had not been taken by Government from the surplus landholders.

(*v*) Disposal of Government land for agricultural purposes is governed by the rules contained in Part III of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971. All grants under this rule are subject to payment of occupancy price. The surplus land vesting in the State Government is to be distributed and occupancy price payable by those to whom the land is granted is to be worked out in the manner prescribed in the Act and recovered in not more than fifteen instalments. But the work relating to fixation and recovery of occupancy price had not been completed even after the lapse of fifteen years from the date the Act came into force. Full particulars regarding fixation and recovery of occupancy price for the State as a whole were not available with Government.

4.26.3. Test check of cases in a few Collectorates further revealed that lands admeasuring 16,912 hectares were declared surplus in the hands of Joint Stock Sugar Companies under the Principal Act. According to Section 28 as it stood prior to 1970, these lands were to be eventually granted to Joint Farming Societies of ex-lessors, agricultural labourers, etc. Pending formation of these Societies the lands were handed over (between 1963 to 1969) to the Maharashtra State Farming Corporation Limited; for management as a temporary measure. Since setting up of Joint Farming Societies was not found feasible, the Ceiling Act was amended (May 1970) and the lands were finally granted (August 1970) to the Corporation in occupancy rights. According to the Government's orders of August 1970, the Corporation was required to pay occupancy price for these lands within six months from the date of demand. The demand for payment of occupancy price of Rs. 319·68 lakhs (in respect

of all but three farms of total area 5,500 hectares) was raised only on 13th of August 1977. The Corporation was asked to pay interest (amount due upto August 1977 was Rs. 145·45 lakhs approximately) at 6½ per cent per annum from August 1970 till the occupancy price was fully paid. Payment of rent for the period upto the 13th August 1970 in respect of lands handed over to the Corporation for management was also demanded by Government. The exact amount of rent was not worked out and shown in the letter of demand. Further developments regarding recovery of the amount demanded and the raising of demand in respect of the remaining three farms are awaited (January 1978).

4.26.4. *Other Topics of Interest.*—(*a*) The irrigation potential of a Medium Irrigation Project (Bor Project, Wardha district), completed in 1968 is 13,200 hectares as stated (August 1977) by the Medium Irrigation Project Division, Wardha, but maximum utilisation of water supply from it annually till 1975-76 was only 7,894 acres. It was noticed that in 18 cases the lands falling within the irrigable command area of the project were treated as dry lands, and the ceiling of 54 acres was applied as the cultivators were not actually using irrigation water. It was also noticed that the supply of water from the reservoir of this project was being made on temporary annual sanctions (August 1977). Consequently, the higher limit of 36 acres had been applied to the lands in the command area of the Project.

(*b*) Private wells numbering 324 situated within the command area of the Bor Project were irrigating perennial crops like sugar cane and plantains. The size of the relevant holdings should have been limited to 27 acres with reference to the classification of land laid down in Section 2(5)(*b*) of the Ceiling Act which applies to land irrigated perennially from such source. However, higher ceiling of 36 acres was applied to the holdings treating them as land with unassured supply of water and having seasonal cultivation.

(*c*) In Chandrapur district it was noticed that 15,015 acres of land had assured water supply from three Government tanks under irrigation agreements and, therefore, they came within the ceiling of 27 acres. However, the ceiling was fixed at 36 acres in these cases treating them as lands getting unassured water supply. When this was pointed out in audit (August 1977), the department confirmed the facts and stated (August 1977) that the cases would be scrutinised and necessary further action would be taken.

Under section 47 certain lands are exempted from the provisions of the Act. Pursuant to instructions issued by the Government in April 1976, enquiries in cases involving doubtful exemptions were to be completed, but taking over of possession of the land and distribution thereof were to be stayed till the cases were finally decided by Government. As on 31st May 1977 in 355 such cases (land held 29,980 hectares) no enquiries were held, while possession/distribution of 2,668 hectares of land in respect of which enquiries had been completed was pending for receipt of final orders from Government.

The matter was reported to Government in September 1977; reply is awaited (January 1978).

CHAPTER V

TAXES ON VEHICLES

5.1. Under-assessment of Bombay Motor Vehicles Tax

Under the Bombay Motor Vehicles Tax Act, 1958, 'fleet owner' means a person who is the registered owner of a fleet of one hundred or more transport vehicles used or kept for use in the State. A fleet owner has to deliver to the Taxation Authority within one month after the expiry of each year a declaration in the prescribed form stating the number of transport vehicles used or kept for use by him during the year for which the tax is payable and the licensed carrying capacity in the case of stage and contract carriages. He has also to make provisional payment of tax at the beginning of each year on the basis of such declaration for the preceding year. The final amount of tax payable for the year is determined by the Taxation Authority on the basis of the particulars given in such statements and a certificate of final assessment of tax for that year is issued to the fleet owner.

In the course of audit of the annual statements for 1974-75 in respect of one of the fleet owners whose final assessments had been completed, it was noticed (May 1977) that two pages of the statements furnished by the fleet owner were ignored for computing the final tax payable by him resulting in under-assessment of tax of Rs. 77,902. When this was pointed out in audit (May 1977), the department accepted the omission and stated that the amount would be recovered at the time of final assessment for the year 1975-76.

The matter was referred to Government in June 1977. Government stated (August 1977) that the entire amount of Rs. 77,902 had been recovered from the Maharashtra State Road Transport Corporation (July 1977).

5.2. Non-levy of tax on standing passengers

Motor vehicles plying for hire and used for carriage of passengers are assessed to motor vehicles tax on the basis of their licensed capacity to carry the passengers. All passenger buses belonging to the Maharashtra State Road Transport Corporation are accordingly being assessed to tax based on the carrying capacity as entered in the registration certificates.

In the course of audit of the Transport Commissioner's Office, Bombay, it was noticed (August 1974) that in respect of 556 buses shown in the returns filed by the Corporation for the year 1972-73, the number of standees allowed was not recorded in the registration certificates. Consequently, the additional road tax due on this account was not collected from the Corporation, even though other vehicles of identical make and seating capacity were registered and assessed with standees to the extent of twenty-five per cent of their seating capacity. Under Government orders of February 1951, the Corporation was also allowed to carry standees to the extent of twenty-five per cent of the licensed capacity in respect of all vehicles. The Director of Transport (now Transport Commissioner), Bombay, in his circular dated 25th April 1967 had also directed the Regional Transport Officers where the Corporation buses were registered to call for the registration certificates and make an endorsement regarding standees in all the cases so that motor vehicles tax in respect of the standees could be recovered. Inspite of these instructions, 556 buses with seating capacity of fifty and more were not registered with standees as mentioned above. Buses of this capacity are normally registered with twelve standees each. The loss of revenue calculated on this basis at Rs. 165 per vehicle worked out to Rs. 91,740 per annum for 556 buses alone.

The matter was reported to Government in July 1977; reply is awaited (January 1978).

5.3. Non-recovery of taxes in respect of vehicles seized by the Maharashtra State Financial Corporation

Under the Bombay Motor Vehicles Tax Act, 1958, when the ownership of a vehicle is transferred either by way of sale or otherwise, the arrears of motor vehicles tax become the joint and several liability of the previous owner and the new owner of the vehicle. On the other hand the arrears of goods tax payable under the Goods Tax Act can be recovered only from the previous owner of the vehicle. The transfer of ownership is effected after obtaining a no objection certificate from the taxation authority.

In the course of audit in the office of the Regional Transport Officer, Aurangabad, it was noticed (October 1974) that six motor vehicles purchased by the operators by hypothecating the vehicles to the Maharashtra State Financial Corporation were in arrears in respect of motor vehicles tax and goods tax to the extent of Rs. 11,963 for periods ranging

between January 1972 and March 1973. As the owners were in default also in the repayment of loans taken by them from the Corporation, the Maharashtra State Financial Corporation seized the vehicles (October 1972) and sold them to realise their dues. In doing so, they obtained a no objection certificate from the taxation authority, which was issued on the basis of an undertaking given by the Corporation that they agreed to pay the tax due to Government if the previous owners failed to pay it.

In November 1973, Government advised the Transport Commissioner not to launch any prosecution against the Corporation but to proceed against the persons who were primarily responsible for the payment of taxes. The taxes had not been recovered (January 1978).

As the previous owners are proved defaulters of Government dues as well as of the loans taken from the Maharashtra State Financial Corporation, and as their vehicles were also seized and sold by the Corporation, the recovery of the tax from the previous owners is doubtful.

The matter was reported to Government in July 1977; reply is awaited (January 1978).

5.4. Irregular exemption from payment of motor vehicles tax and goods tax

Under the Bombay Motor Vehicles Tax Act, 1958 and notification of 31st May 1973 issued thereunder, motor vehicles used solely for agricultural operations on farms or farm lands and tractors and trailers used exclusively for the transportation of agricultural produce are exempt from payment of tax.

In the course of audit of records of the Inspector of Motor Vehicles, Chandrapur, it was noticed (June 1976) that exemption from payment of tax had been allowed in respect of 14 tractors/trailers belonging to the Forest Development Corporation of Maharashtra Limited, even though the vehicles were being used for different forestry operations including transport of forest produce and were not, therefore, eligible for such exemption. On this being pointed out in audit (June 1976), the department accepted the point and stated (July 1977) that demands of Rs. 27,684 (motor vehicles tax) and Rs. 2,750 (goods tax) for the periods 29th May 1975 to 31st January 1977 and 29th May 1975 to 30th September 1976 respectively, had since been raised against the Corporation and, in addition, penalty of Rs. 33,198 for the delay in payment of tax had also been levied. Particulars of recovery are awaited (January 1978).

5.5. Taxation of converted vehicles

Under the Bombay Motor Vehicles Tax Act, 1958, when any motor vehicle in respect of which a tax for any period has been paid is altered to become a vehicle carrying a higher rate of tax, difference between tax at the higher rate and that at the lower rate already paid is payable from the date of such alteration.

In the course of audit it was noticed (September 1976) that in respect of 120 passenger buses belonging to the Maharashtra State Road Transport Corporation and the Bombay Electric Supply and Transport Undertaking, which were altered to higher capacity during 1973-74, while calculating the additional tax payable from the date of alteration, deduction on account of tax already paid was calculated by the department at the quarterly rate instead of at the annual rate at which tax was actually paid by the fleet owners. Since the tax at quarterly rate was higher than the tax at annual rate this method of calculation of differential tax resulted in short levy of tax of Rs. 16,453.

The matter was reported to Government in July 1977; reply is awaited (January 1978).

5.6. Short levy of passenger tax

In order to meet the requirements of inter-State passenger and goods traffic, Maharashtra Government have entered into bilateral agreements with other States. Under these agreements temporary permits are issued by the Transport Commissioner, Bombay, to various operators in Maharashtra State authorising transportation of passengers on contract basis to other States. Such operators are required to pay in addition to the Bombay Motor Vehicles Tax, a passenger tax leviable under the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958, on the basis of the amount of passenger fare payable to the operator. For this purpose the actual amount of contracted fare is required to be indicated by the operators in their applications for permits.

Instructions were issued by the department in 1968 to the taxation authorities that in respect of operators outside Maharashtra State running their contract buses in this State, where the actual amount of contracted fare was not available, the minimum fare should be assumed at Rs. 2 per mile for the purpose of calculation of passenger tax. The rate of the minimum presumptive fare was revised to Rs. 2 per km. in February 1975. These instructions were intended for calculation of passenger tax

payable by operators of other States bringing contract buses into Maharashtra and were in the nature of guidelines to the departmental officers for assessment of tax when the contracted fare was not susceptible of verification. The instructions covered only operators of other States operating contract buses in this State. However, on the basis of these departmental instructions, the operators of this State also, running contract buses beyond the State, were declaring in their returns a uniform rate of Rs. 2 per mile upto February 1975 and Rs. 2 per km. thereafter.

In February 1976, for the first time the department ascertained the actual fare collected by the operators for journey from Bombay to Mangalore and passenger tax was recovered on the fare collected at Rs. 75 per seat on full capacity of the buses which worked out to Rs. 2·60 per km. (for a 35 seater bus) as against Rs. 2 per km. that was being declared by the operators. From March 1976 onwards the operators who were earlier declaring the fare calculated at a uniform rate of Rs. 2 per mile/km. started declaring the fare at a uniform rate of Rs. 75 per seat for full complement. If the higher fare of Rs. 75 per seat had been taken into account for assessment of passenger tax for periods earlier to March 1976 also, the operators would have been liable to pay additional tax to Government. For the period April 1975 to February 1976 this worked out to Rs. 11,057. The department had been requested (July 1977) to review all the returns of the earlier years and examine the possibility of recovering the additional tax from the operators. Reply is awaited (January 1978).

The matter was reported to Government in July 1977; reply is awaited (January 1978).

5.7. Over-assessment of passenger tax

The rate of tax payable under the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958, was reduced from twenty-two per cent of the inclusive amount of fare payable to the operators to twenty per cent with effect from 9th June 1975 and to seventeen and half per cent from 28th December 1975. It was noticed from the monthly returns filed by the Indore division of the Madhya Pradesh State Road Transport Corporation that even after revision in rates, tax was paid at twenty per cent for December 1975. The returns filed by the Corporation were accepted by the department. Consequently, there was over-assessment of tax of Rs. 11,289. The matter was reported to Government in July 1977. Government accepted the over-assessment and stated that necessary

instructions had been issued to the Transport Commissioner, Maharashtra State, Bombay, to refund the excess amount to the Indore Depot of the Madhya Pradesh State Road Transport Corporation (September 1977).

5.8. Working of the Maharashtra Tax on Goods (Carried by Road) Act, 1962

5.8.1. *Introductory.*—The Maharashtra Tax on Goods (Carried by Road) Act, 1962, providing for the levy and collection of tax on goods carried by road in the State came into force from 1st October 1962. The Act is administered by the Home Department through the Transport Commissioner and the Regional Transport Officers.

5.8.2. *Trend of revenue.*—The estimates of collection of goods tax and actual receipts for the three years 1974-75 to 1976-77 as furnished by the department were as follows :—

	1974-75	1975-76	1976-77
	(In lakhs of rupees)		
Estimates	463·00	563·20	599·35
Actuals	532·95	580·99	600·64

As on 1st January 1977, 94,114 transport vehicles including tractors and trailers were operating in Maharashtra State.

5.8.3. *Rate of tax.*—For the purpose of levy of tax, goods vehicles are classified as (1) private goods vehicles and (2) public goods vehicles. A private goods vehicle would mean any motor vehicle adapted or used for the carriage of goods solely or in addition to the passengers, such goods being the property of the owner of the vehicle and the carriage being necessary for the purpose of his business (not being a business of providing transport). Public goods vehicles are motor vehicles used for the carriage of goods solely or in addition to passengers for hire or reward. Goods tax on public goods vehicles is levied and collected on the freight charged for the carriage of goods in such vehicles and tax on private goods vehicles is based on the total weight of goods carried in such vehicles and the distance covered.

The tax is payable on the basis of monthly returns filed by the operators which indicate the amount of freight charged in case of public goods vehicles and total weight of goods carried and distance travelled in case of private goods vehicles. The operators, however, have an option to pay tax at lump-sum rates. A majority of the operators pay tax at lump-sum rates.

5.8.4. *Procedure for watching recovery of tax.*—The amount of goods tax due from the goods vehicles is watched by the department through

permitwise registers, commonly known as PWRs. As soon as a new goods vehicle is brought for registration a fresh folio is opened in the Register indicating the date of registration and assessment of tax.

5.8.5. *Irregularities in lump-sum payment of tax.*—For availing of the facility to make payment of goods tax at the lump-sum rates the operator is required to exercise necessary option and make an application to the Taxation Authority. Such application has to be made not less than thirty days before the commencement of the period for which lump-sum payment is to be made. Since payment of tax at the lump-sum rate is optional, unless the option is exercised within the stipulated time, the tax is payable on the basis of the freight charged as disclosed in the returns.

It was noticed that in Bombay Region even though the operators did not exercise option within the stipulated period, they were allowed to make payments of tax at the lump-sum rates. On this being pointed out in audit (August 1974), the department stated (June 1975) that the method prescribed by the Act was not insisted upon as it would entail unnecessary increase in clerical work.

5.8.6. *Loss of goods tax.*—The lump-sum rates of goods tax are based on the carrying capacity of the vehicle which is arrived at by deducting the unladen weight of the vehicle from the registered laden weight assigned at the time of registration. The registered laden weight is required to be assigned at 125 per cent of the maximum laden weight of the vehicle.

In the course of audit it was noticed (January 1977) that in two Regional Transport Offices registered laden weight in respect of 24 vehicles was assigned without increasing the maximum laden weight by 25 per cent. In consequence the carrying capacity of these vehicles worked out on the lower side resulting in loss of goods tax of Rs. 21,788 for different spells between October 1962 to March 1976. When this was pointed out in audit (January 1977), the department agreed to revise the registered laden weight assigned to these vehicles. Further developments in the matter are awaited (January 1978).

5.8.7. *Short levy of goods tax due to application of incorrect rates.*—As the rates of lump-sum tax are based on the carrying capacity of the vehicle, mistakes in calculating the carrying capacity of the vehicle and applying incorrect rates of tax result in incorrect levy of goods tax. In the course of the test check of records in nine taxation units it was noticed that owing to such mistakes goods tax was short levied to the

extent of Rs. 26,930 in respect of 124 vehicles for various spells between 1st July 1971 to 31st March 1977. The matter was reported to Government in August 1977; reply is awaited (January 1978).

5.8.8. *Tax on ' unaccompanied luggage '.*—The definition of the term ' goods ' as given in Motor Vehicles Act, 1939, has been adopted for the purposes of the Maharashtra Tax on Goods (Carried by Road) Act, 1962. As per the definition in Motor Vehicles Act, 1939, the term ' goods ' includes anything (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons but does not include luggage or personal effects carried in a motor car or the personal luggage of passengers travelling in a public goods vehicle. Thus, all parcels such as newspapers, milk cans and tiffin carriers, which are carried in stage carriage buses of the Maharashtra State Road Transport Corporation are covered by the term ' goods ' and are, therefore, liable to goods tax.

The Maharashtra State Road Transport Corporation, however, did not furnish any return declaring the freight collected by it on the carriage of such unaccompanied luggage or parcels carried in a stage carriage. After a prolonged correspondence with Government, the department finally assessed the tax liability of the Maharashtra State Road Transport Corporation on unaccompanied luggage, on the basis of the statements furnished by the Corporation at Rs. 5·26 lakhs for the period 1st October 1962 to 31st March 1972 and at Rs. 1·21 lakhs for the period 1st April 1972 to 31st March 1973 which was paid by the Corporation on 10th July 1973 and 25th October 1973, respectively. For the period subsequent to 1st April 1973 neither the department had taken any action to assess the tax liability of the Corporation nor the Corporation had filed any returns declaring the freight collected by it on unaccompanied luggage. The Corporation, however, had paid goods tax of Rs. 5·85 lakhs for the period 1st April 1973 to 31st August 1976 on unaccompanied luggage.

5.8.9. *Freight charges escaping assessment.*—The Maharashtra State Road Transport Corporation had operated a separate ' goods transport service ' during the period 1st April 1962 to 31st March 1969. From the printed copies of the accounts filed by the Corporation, it was noticed that the freight earned by the Corporation for this service during the period 1st April 1963 to 31st March 1969 amounted to Rs. 1·12 crores. While the goods tax was paid on unaccompanied luggage and parcels carried through passenger buses by the Corporation, no tax was paid on the freight

charges received for the goods carried in the goods transport service. The short levy of tax amounted to Rs. 3·37 lakhs (at 3 per cent of the freight of Rs. 1·12 crores).

The details of the freight collected during the period 1st October 1962 to 31st March 1963 were not separately available and hence the tax liability for this period could not be worked out.

When this was pointed out in audit (February 1977), the department agreed to raise additional demand for Rs. 3·37 lakhs. Further report is awaited (January 1978). The matter was reported to Government in July 1977; reply is awaited (January 1978).

5.8.10. *Short levy of permit fees in respect of trailers.*—Under the Motor Vehicles Act, 1939, the registered owner of a transport vehicle is required to obtain a permit before use of a vehicle in any public road and the fee payable is Rs. 15 for each permit. Such a permit, however, is not necessary in the case of goods vehicle which is a light motor vehicle (with registered laden weight not exceeding 4,000 kgs) and is not used for hire or reward. Trailers are also included in the definition of vehicles. In the course of audit of records in the offices of the Regional Transport Officer, Kolhapur and Inspector of Motor Vehicles, Ahmednagar, it was noticed (June 1976 and January 1977) that 928 trailers in Kolhapur region and 474 trailers in Ahmednagar region with registered laden weight exceeding 4,000 kgs were allowed to ply on the road without valid permits. The non-levy of permit fees in respect of these 1,402 vehicles at the rate of Rs. 15 per permit worked out to Rs. 21,030.

The matter was reported to Government in August 1977. Government accepted the facts and stated (August 1977) that the quantum of loss involved could be ascertained only after the verification of the vehicles. Further progress in the matter is awaited (January 1978).

5.8.11. *Irregular refund.*—The State Government had granted exemptions to the local bodies from payment of goods tax in respect of goods belonging to them, carried by road in any goods vehicle in discharge of their functions under any law for the time being in force provided that such carriage was not for the purpose of any commercial undertaking or gain. This exemption, however, was subject to the condition that the vehicle in question should not have opted for lump-sum payment of tax.

In the course of audit it was noticed that Rs. 37,714 being tax paid for the period 1st April 1961 to 31st March 1970 was refunded to the

Bombay Port Trust. Similarly, Rs. 3,084 for the period 1st April 1963 to 31st March 1965 was refunded to the Bombay Electric Supply and Transport Undertaking. But both these operators were paying goods tax at lump-sum rates. Further, the Bombay Electric Supply and Transport Undertaking is a commercial undertaking. In both the cases refund was not admissible.

5.8.12. *Non-recovery of goods tax in respect of meat vans belonging to the Bombay Municipal Corporation.*—In the course of audit it was noticed (September 1975) that out of 600 motor vehicles owned by the Bombay Municipal Corporation, 48 vehicles were used for carriage of meat from the slaughter house to the various selling centres in the city. As carriage of goods was for the purposes of a commercial transaction, the meat vans were liable to pay motor vehicles tax as well as goods tax. It was, however, noticed that although motor vehicles tax was being recovered regularly from the Corporation, no action had been taken for the recovery of goods tax. The amount of goods tax in respect of the 48 meat vans computed from the date of their registration upto 31st March 1977 worked out to Rs. 1,20,103. Maximum penalty leviable at 25 per cent of tax worked out to Rs. 30,026.

When this was pointed out in audit (September 1975), the Transport Commissioner directed the Regional Transport Officer, Bombay, to effect recovery of goods tax in respect of these vehicles. Particulars of recovery are awaited (January 1978).

The matter was referred to Government in April 1977. Government stated (October 1977) that necessary instructions had been issued to the Regional Transport Officer (Central) to recover the goods tax due from the Corporation. Further developments are awaited (January 1978).

5.8.13. *Incorrect grant of exemption.*—The tax liability under the Bombay Motor Vehicles Tax Act, 1958, is related to the vehicle itself whereas the tax liability under the Maharashtra Tax on Goods (Carried by Road) Act, 1962, is related to the goods carried in such vehicles. Vehicles belonging to the Government of India are exempt from payment of motor vehicles tax. Similarly, properties and goods belonging to the Government of India which are carried by road in public or private vehicles are also exempt from the payment of goods tax.

In the course of audit of records in one taxation unit, it was noticed (September 1977) that motor vehicles tax as well as goods tax was not

recovered in respect of 118 vehicles operated by the Central Road Transport Corporation. It was noticed that these vehicles were actually engaged in the transportation of foodgrains and allied cargo belonging to the Food Corporation of India. The goods carried in these vehicles, therefore, are liable to goods tax. Based on the carrying capacity of the vehicles the short levy of goods tax calculated at current lumpsum rates applicable to public goods vehicles worked out to Rs. 1·46 lakhs per annum.

When the matter was reported to the department in October 1976, the department agreed (October 1976) to verify the position. Further report is awaited (January 1978).

The matter was referred to Government in July 1977; reply is awaited (January 1978).

5.8.14. *Non-levy of goods tax on tractor-trailers engaged on hire.*—In terms of a Government notification issued in January 1965 under the Maharashtra Tax on Goods (Carried by Road) Act, 1962, agricultural goods carried by road in any tractor-trailer combination are exempt from the payment of goods tax provided the goods represent agricultural produce raised by the registered owner of the vehicle on land personally cultivated by him and the transport is from the farm of the cultivator to his residence or godown or warehouse or any market place.

In the course of audit of the records in the office of the Regional Transport Officer, Kolhapur, it was noticed (March 1976) that four sugar factories had hired 355 tractor-trailers on contract basis and used them for lifting sugarcane during the sugar season 1975-76. No goods tax was paid in respect of these vehicles. As the vehicles were used for carriage of goods which did not belong to the vehicle owners, the exemption from payment of tax was not applicable in these cases. On the basis of an average carrying capacity of 4 to 5 tonnes, the goods tax payable by these 355 tractor-trailers worked out to Rs. 79,875 for one quarter only.

When the matter was referred to Government in May 1976, Government stated (April 1977) that they were considering the question of granting exemption from payment of goods tax retrospectively. However, under the Act Government have no powers to issue any exemption with retrospective effect. Further developments are awaited (January 1978).

The points referred to above were reported to Government in September 1977. Reply is awaited (January 1978).

CHAPTER VI

STAMP DUTY AND REGISTRATION FEE

6.1. Irregular remission of stamp duty and registration fee

By a notification dated 30th October 1972, Government restricted with effect from 27th October 1972, the remission of stamp duty and registration fee payable on conveyances relating to purchase of building or buildings executed by or on behalf of Co-operative Housing Societies only to the extent indicated below:—

Category of building	Extent of remission
(*a*) Where the cost of each unit in a building does not exceed Rs. 50,000 and the floor area is not more than 750 square feet.	100 per cent.
(*b*) Where the cost of each unit exceeds Rs. 50,000 but does not exceed Rs. 75,000 and the floor area is not more than 1125 square feet.	60 per cent.
(*c*) Where the building consists of both types as at (*a*) and (*b*) above with or without a combination of bigger units not qualifying for remission.	The remission is to be worked out on proportionate basis of the total cost of the building and the cost of each type of unit which qualifies for full/partial exemption.

(*a*) In the course of test check of the documents registered in the City Sub-Registry, Amravati, it was noticed (July 1976) that remission of stamp duty and registration fee was granted in respect of four conveyances, even though these were not executed by or on behalf of co-operative societies. The irregular remission of stamp duty and registration fee amounted to Rs. 21,465 (stamp duty: Rs. 19,795 and registration fee : Rs. 1,670).

On this being pointed out in audit (August 1976), the department ordered (September 1976) recovery of stamp duty and registration fee short levied.

The action of the department was confirmed (June 1977) by Government.

(*b*) In the course of audit of the accounts of the Superintendent, General Stamp Office, Bombay, it was noticed (September and October 1976) that in the case of nine documents stamp duty and registration fee were not charged on proportional basis as required under the notification, dated 30th October 1972, but was assessed on the cost of each individual unit separately. This resulted in short levy of stamp duty and registration fee amounting to Rs. 22,355.

The matter was reported to the Government in January 1977; reply is awaited (January 1978).

(*c*) In the course of audit of documents registered in the Sub-Registry, Bandra (Bombay), it was noticed (January 1977) that a conveyance relating to purchase by a co-operative housing society for a consideration of Rs. 3,50,000 of land with buildings standing thereon had been exempted in full from payment of stamp duty and registration fee by the Collector, even though the prescribed conditions for grant of such exemption were not fulfilled. The exemption was allowed not on the basis of the structure existing at the time of execution of the instrument but taking into account flats proposed to be constructed on the land at a future date. The grant of exemption in this case was, therefore, incorrect and had resulted in non-collection of stamp duty and registration fee of Rs. 50,275.

The matter was reported to Government in April 1977; reply is awaited (January 1978).

(*d*) A deed of conveyance for sale of land with a building containing 12 flats and 12 garages to a co-operative housing society for a consideration of Rs. 6,04,000 (including Rs. 16,000 for the garages) was registered in the Sub-Registry, Haveli-I (Pune), in 1975. Though the value of a unit (including a garage) worked out to Rs. 50,333, it was shown in the deed as only Rs. 49,000 (by excluding cost of the garage) and thus fully exempted from stamp duty and registration fee by the Collector, on the basis of notification of 30th October 1972, under which the entire stamp duty as well as registration fee was remitted, if the cost was less than Rs. 50,000. The incorrect exemption resulted in loss of revenue Rs. 22,418.

The matter was reported to Government in August 1977; reply is awaited (January 1978).

6.2. Irregular remission on stamp duty and registration fee by advancing the date of execution

Under Section 3(*a*) of the Bombay Stamp Act, 1958, the date which determines the chargeability or otherwise of an instrument is the date of its execution within the State. By a notification dated 30th October 1972, Government withdrew with effect from 27th October 1972, the remission of stamp duty and registration fee payable on conveyance relating to purchase of land only executed by or on behalf of co-operative housing societies.

During the test audit (May 1976) of records of the Sub-Registry, Haveli-II, Pune, it was noticed that in an instrument of conveyance relating to purchase of land actually executed on 31st October 1972 by a society the date of execution was advanced and shown as 18th October 1972 and remission of stamp duty and registration fee amounting to Rs. 4,963 was allowed.

On this being pointed out in audit (September 1976), Government stated (June 1977) that the amounts of duty/fee short levied would be recovered. Further developments are awaited (January 1978).

6.3. Non-levy of stamp duty and registration fee on full consideration

Under the Bombay Stamp Act, 1958, the term ' conveyance ' includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos*. A tangible movable property may be sold orally and delivered to the purchaser on receipt of the price without an actual conveyance but intangible property such as plant and machinery in a running electric supply undertaking has to be transferred by a written instrument and stamp duty as well as registration fee is leviable thereon.

(*a*) In the course of audit (May 1976) of the accounts of the Sub-Registry, Gondia (Bhandara district), it was noticed that in a sale deed, the entire assets of an electrical undertaking were transferred to the Maharashtra State Electricity Board, as a running concern, for consideration of Rs. 15 lakhs. Though by this deed all the assets were to stand transferred only Rs. 1·53 lakhs, representing the value of land and buildings, was subjected to stamp duty and registration fees. Thus, consideration of Rs. 13·47 lakhs being the purchase price of plant and machinery, etc., escaped levy of stamp duty and registration fee to the extent of Rs. 1·14 lakhs.

The matter was reported to Government in June 1976; final reply is awaited (January 1978).

(*b*) In the course of audit of the documents of the Sub-Registry, Bhiwandi (Thane district), it was noticed (September 1976) that a sale deed relating to a running business of foundry and re-rolling mills covered lands, buildings and structures (Rs. 1·75 lakhs) and plant, machinery, fixtures and movable articles (Rs. 5·25 lakhs). Duty and fee were collected only on the consideration of Rs. 1·75 lakhs instead of on the total consideration of Rs. 7 lakhs. This resulted in short realisation of stamp duty and registration fee amounting to Rs. 22,305.

The matter was reported to Government in September 1977; final reply is awaited (January 1978).

6.4. Stamp duty/registration fee assessed on incorrect amount of consideration

According to Section 29(*3*) of the Bombay Stamp Act, 1958, where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the property to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

In the course of audit of the accounts of the Sub-Registry, Bombay, it was noticed (October 1976) that in one case a property was contracted to be sold for Rs. 1,65,522. Before obtaining a conveyance in pursuance of the initial agreement, the original purchaser sold the property to a sub-purchaser for Rs. 2,56,605. But stamp duty and registration fee were levied on the consideration of Rs. 1,65,522 initially agreed to by the purchaser and not on the consideration of Rs. 2,56,605 which was actually paid by the sub-purchaser. This resulted in short collection of stamp duty (Rs. 13,650) and registration fee (Rs. 455) on the instrument.

On this being pointed out in audit (October 1976), the Sub-Registrar accepted the short levy of stamp duty and registration fee and agreed to take necessary action to recover the deficit amount. Further developments are awaited (January 1978).

Government stated (October 1977) that action was being taken to recover the deficit duty and fee.

6.5. Short levy of registration fee

According to the table of fees prescribed by Government under the Indian Registration Act, 1908, an agreement for the sale of immovable property which contains a recital of handing over the possession of the property to the person contracting to buy it, is liable to *ad valorem* fee on the amount of purchase money. When the sale deed is executed later, it is treated as a supplementary document on which only a fee of Rs. 3·25 is levied.

In the course of audit of the documents in the Sub-Registry, Bandra, it was noticed (January 1977) that in respect of 64 agreements for sale of immovable property *ad valorem* fee on the amount of purchase money was not levied even though they contained recitals of handing over possession of the property. Instead, lower rates of fee which are applicable to agreements for sale where possession is not handed over were levied resulting in short realisation of revenue amounting to Rs. 7,074.

The matter was reported to Government in May 1977; reply is awaited (January 1978).

6.6. Incorrect remission of stamp duty

Government remitted with effect from 3rd November 1972, the stamp duty and registration fee in respect of any mortgage deed executed by a person for securing repayment of loan obtained from specified financial agencies for the purpose of starting of any industrial undertaking or small scale industries or for extending or expanding an existing industrial/ small scale industrial undertaking.

(*a*) In the course of audit of documents at the Sub-Registries, Chiplun (Ratnagiri district), Phaltan (Satara district) and Karad (Satara district), it was noticed (June 1976-December 1976) that remission of stamp duty and registration fee was allowed on mortgage deeds for securing loans aggregating Rs. 4·63 lakhs advanced for financing lodging and boarding establishments and restaurants even though these were neither industrial undertakings nor small scale industries units registered with the Directorate of Industries but were purely commercial establishments. Owing to this incorrect remission, stamp duty and registration fee amounting to Rs. 11,650 was not levied and collected. On this being pointed out in audit (April 1977), the department accepted the facts and stated that deficit duty and fee would be recovered. Further developments are awaited (January 1978).

The matter was reported to Government in April 1977; reply is awaited (January 1978).

(*b*) In the course of a test check of the documents at the Sub-Registries, Khed (Pune district) and Dhule, it was noticed (June 1976 and November 1976) that four mortgage deeds (total amount of Rs. 8·57 lakhs) were treated as exempt from stamp duty even though the loans had been obtained for ' replenishment of resources ', ' payment of outstanding debt to a bank ', or ' working or rolling capital ' and these purposes were not covered by the Government notification quoted above. The short realisation of revenue in these cases amounted to Rs. 21,559.

The matter was reported to Government in September 1977; reply is awaited (January 1978).

6.7. Settlement deeds treated as trust deeds and releases

Any non-testamentary disposition in writing of movable or immovable property made for (*i*) the purpose of distributing property of the settler or (*ii*) any religious or charitable purpose, constitutes a settlement under the Bombay Stamp Act, 1958 and is liable for stamp duty at the rates prescribed in Article 55 of Schedule I to the said Act.

In the course of audit of documents registered in the Sub-Registries, Chandrapur, Biloli (Nanded district) and Latur (Osmanabad district), it was noticed (May-August 1976) that 3 documents relating to disposition of property of Rs. 2·48 lakhs were treated as declarations of trust or as releases. Consequently, stamp duty and registration fee were collected at lower rates. The revenue realised was Rs. 946 as against Rs. 6,340 leviable as settlements. On this being pointed out in audit (September 1976), the department stated (June 1977) that the amount short levied would be recovered (September 1976). Further developments are awaited (January 1978).

In another case (Sub-Registry, Karanja, district Akola), a similar omission was noticed (October 1975) wherein a document involving disposition of *nazul* lands, houses and 34 acres of agricultural land (value not specified in the document) for charitable purposes was treated as declaration of trust instead of settlements. Consequently, stamp duty and registration fee were short levied. The amount short levied had not been stated by the department (January 1978).

The matter was reported to Government in December 1975. Government stated (November 1977) that necessary action to recover the deficit amount of stamp duty and registration fee was being taken. Further developments are awaited (January 1978).

6.8. Short levy of stamp duty on a mortgage

Under Article 40 of Schedule I to the Bombay Stamp Act, 1958, stamp duty is leviable on a mortgage deed at the same rate as is applicable to a conveyance when possession of the property is also given under the instrument. Where possession is not given, a lower rate of duty which is applicable to bonds, is chargeable. It is specified in the explanation included in the said article that a mortgagor who gives a power of attorney to collect rents or a lease of the property mortgaged is deemed to give possession within the meaning of this article.

In the course of audit of the documents registered in the Sub-Registry, Bombay, it was noticed (January 1977) that in an instrument securing payment of Rs. 7·04 lakhs the mortgagee acquired the right under the instrument itself to recover monthly rent of Rs. 0·53 lakh directly from the tenant of the property and appropriate it towards interest and repayment of the loan. This instrument had been treated by the Collector as a mortgage without possession and stamp duty of Rs. 14,080 only was levied on the instrument as against Rs. 1,01,600 that was leviable as a mortgage with possession. This had resulted in short levy of stamp duty of Rs. 87,520.

The matter was reported to Government in August 1977; reply is awaited (January 1978).

6.9. Short levy of duty on a lease

Under the Bombay Stamp Act, 1958 (as amended from 1st May 1974), where, in addition to payment of rent, money is advanced or intended to be advanced for securing a lease, the relevant lease deed attracts additional stamp duty (on the amount of such advance) at the same rate as for a conveyance.

In the course of audit of the General Stamp Office, Bombay, it was noticed (June 1977) that a lease deed showed that an amount of Rs. 4 lakhs was to be advanced, as part consideration for the grant of the lease, but additional stamp duty was not levied on the advance resulting in short levy of stamp duty of Rs. 56,000.

The matter was reported to Government in July 1977; reply is awaited (January 1978).

6.10. Liabilities wrongly excluded while computing stamp duty

Under the Bombay Stamp Act, 1958, where any property is transferred to any person in consideration, wholly or in part, of any debt due to him or subject to the payment or transfer of any money or stock, such debt money or stock is to be deemed the whole or part, as the case may be, of the consideration for the transfer and *ad valorem* duty is leviable thereon.

In the course of audit of the General Stamp Office, Bombay, it was noticed (January 1977) that in the case of a conveyance registered in 1974 relating to transfer of immovable property the full consideration of Rs. 12·08 lakhs set forth included liabilities of the vendor amounting to Rs. 7·00 lakhs which the purchaser had undertaken to pay. The consideration for levy of stamp duty was taken as the net amount of Rs. 5·08 lakhs instead of Rs. 12·08 lakhs resulting in short collection of stamp duty of Rs. 35,000.

The matter was reported to Government in January 1977; reply is awaited (January 1978).

6.11. Omission to levy stamp duty on conveyance of movable property

Under the Bombay Stamp Act, 1958, 'conveyance' includes a conveyance on sale and every instrument by which property whether movable or immovable is transferred is liable to stamp duty at prescribed rates.

During audit (January 1977) of the documents registered with the Sub-Registrar, Bombay, it was noticed that in two instruments of conveyance relating to both movable and immovable property, the stamp duty was charged only on the value of the immovable property but was omitted to be levied on the value of movable property of Rs. 14·50 lakhs and Rs. 4·25 lakhs respectively included therein. The schedules of the movable property transferred were appended to both the documents. This resulted in short levy of stamp duty of Rs. 92,550.

In addition one instrument covered transfer of stores and stock without specifying the consideration for the transfer. Stamp duty chargeable on this part of the conveyance was also not collected. The actual amount of loss could not be ascertained.

The matter was reported to Government in July 1977; reply is awaited (January 1978).

6.12. Short levy of stamp duty

Section 6 of the Bombay Stamp Act, 1958, provides that when an instrument is so framed as to come within two or more of the descriptions in Schedule I, where the duties chargeable are different, the instrument is chargeable only with the highest of such duties. The instruments ' agreement to sell ' and ' power of attorney ' attract different rates of duties. However, when a ' power of attorney ' is given for consideration and authorises the attorney to sell immovable property, it attracts duty as is leviable on a conveyance.

In the course of audit of documents registered in the Sub-Registry, Bandra (Bombay), it was noticed (January 1977) that in case of six documents which the parties had styled as ' agreements ' full consideration in respect of immovable property was received, possession of the property was given and irrevocable ' power of attorney ' was granted to the prospective purchasers authorising them to sell the property. The documents were liable to stamp duty of Rs. 9,250 under Article 48(*f*) of Schedule I, whereas duty of Rs. 120 only was levied treating them as either ' agreements ' or ' powers of attorney '. There was thus short levy of stamp duty of Rs. 9,130.

The matter was reported to Government in August 1977; reply is awaited (January 1978).

6.13. Duty and fee not levied on loans for purchase of trucks

By a notification issued in February 1972, Government remitted stamp duty and registration fee payable on mortgage deeds executed by agriculturists for securing repayment of loans exceeding Rs. 5,000, if the loans had been obtained from approved financial agencies for construction of wells and/or installing electric pumps thereon. Under another notification of November 1972, similar exemptions were allowed on mortgage deeds securing loans obtained by any person from specified financial agencies for purchase of fixed assets such as machinery, lands and buildings, with a view to starting/expanding industrial undertakings/ small scale industrial undertakings in certain specified areas of the State.

In the course of audit of the documents registered in the Sub-Registry offices at Edlabad (Jalgaon district), and Gadhinglaj, Kagal and Panhala (Kolhapur district), it was noticed (June 1976 to May 1977) that remission

of stamp duty and registration fee was allowed in respect of seven mortgage deeds securing repayment of loans amounting to Rs. 5·66 lakhs obtained from nationalised banks for purchase of trucks chassis even though this item of purchase did not qualify for exemption under either of the notifications mentioned above. This resulted in irregular remission of stamp duty and registration fee of Rs. 14,340. When this was pointed out in audit (June 1976 and March-May 1977), the department initiated action for recovery of the revenue short realised. Further developments are awaited (January 1978).

The matter was reported to Government in August 1977; reply is awaited (January 1978).

6.14. Short levy of duty and fee on gift deeds

Under the Bombay Stamp Act, 1958, stamp duty on an instrument of gift is chargeable on the consideration equal to the value of the property which is the subject matter of the gift.

In the course of audit of documents registered in the Sub-Registry, Haveli-I, Pune, it was noticed (April 1977) that in the case of 16 instruments of gift, registered between October 1974 and January 1975, stamp duty and registration fee were realised on the consideration equal to the capitalised revenue value of the property instead of the market value of the property which was higher by Rs. 2,10,716 in the aggregate on the basis of the statement furnished by the Sub-Registrar, Haveli-I, Pune. Accordingly, stamp duty (Rs. 12,695) and registration fee (Rs. 1,155) amounting to Rs. 13,850 were short realised.

Government stated (November 1977) that necessary action was being taken to recover the amount. Further developments are awaited (January 1978).

6.15. Document accepted without income tax clearance certificate

Section 80 of the Registration Act, 1908, stipulates that all fees for registration of documents under the Act shall be payable on presentation of such documents. However, any document purporting to transfer or extinguish the right, title or interest in any property valued at more than Rs. 50,000 shall be registered only when accompanied by an income tax clearance certificate as enjoined in Section 230-A of the Income Tax Act, 1961.

In the course of audit of the Sub-Registries, Bombay and Bandra, it was noticed that in Greater Bombay 28 documents were presented for registration without the necessary income tax clearance certificates prior to 11th August 1972 from which date the registration fees were enhanced and registered after that date resulting in shortfall of revenue to the extent of Rs. 15,734 in these cases.

It was also noticed that 8,369 documents as detailed below, had been accepted upto 31st December 1976 without production of such certificates and registration is consequently held over.

768 documents	..	10 years and above
1,680 documents	..	5 years to 10 years
5,921 documents	..	1 to 5 years.

Since the rate of *ad valorem* fees had further been raised from 1st April 1977 from Rs. 5 per thousand to Rs. 10 per thousand, this would also amount to shortfall in revenue due to revisions of fees.

The matter was reported to Government (July 1977); reply is awaited (January 1978).

6.16. Conveyance deed treated as release

In the course of audit of the documents registered at the Sub-Registry, Haveli-I (Pune district), it was noticed (August 1976) that three plots which were purchased in January 1972/February 1973 by a company for a consideration of Rs. 1·42 lakhs were transferred in July 1974 to a co-operative housing society by executing a release. As the society did not have any interest in the property prior to the execution of the release, the instrument could not be construed as a release but a conveyance. Stamp duty and registration fee amounting to Rs. 189 only were levied on the instrument treating it as a release instead of Rs. 9,745 leviable as conveyance resulting in short collection of revenue amounting to Rs. 9,556.

The matter was reported to Government in July 1977; reply is awaited (January 1978).

Other Topics of Interest

6.17. Avoidance of stamp duty

Stamp duty on a conveyance wherein the consideration was in excess of Rs. 100 was chargeable at a fixed amount per thousand rupees upto 30th September 1972. By an amendment to the Bombay Stamp Act,

1958, which took effect from 1st October 1972, different rates of stamp duty were fixed for different slabs of consideration, the higher slabs attracting progressively higher rates of duty.

In the course of a test check (May 1976) of the documents registered in the Sub-Registry, Haveli-II, Pune, it was noticed that immovable property consisting of agricultural land jointly belonging to a group of four persons and valued at Rs. 2,66,500 was conveyed to a single purchaser in parts by executing nine different documents and registering them on the same date (13th September 1973) instead of executing a single conveyance deed. Thus, stamp duty leviable on the consideration of Rs. 2,66,500 at the progressively higher rates was avoided by bringing down the consideration of each document to a smaller amount on which only a lower rate of duty was chargeable. This resulted in short realisation of duty amounting to Rs. 8,140. Moreover, submission of Income tax clearance certificate under Section 230-A of the Income Tax Act, 1961 which is necessary before the conveyance could be registered was also avoided in these cases by bringing the consideration of each document to an amount below Rs. 50,000.

On this being pointed out in audit (September 1976), the Inspector General of Registration, Pune, stated (June 1977) that though the party had paid less stamp duty, the splitting up of the document into several documents being permissible under Section 29(*1*) of the Stamp Act, this could not be prevented or considered illegal, unless there was a provision in the stamp law to ban it.

The matter was reported to Government in September 1977; reply is awaited (January 1978).

6.18. Non-stamping of "Receipts"

Under the Indian Stamp Act, 1899, a 'receipt' given for money or property the amount or value of which exceeds Rs. 20 is liable to stamp duty of 10 paise (20 paise from 1st June 1976). 'Receipt' includes any note, memorandum or writing which signifies or imports any such acknowledgement, whether or not it is signed with the name of any person. The Act also provides for the levy of penalty or fine for any illegal act done by any person with an intention to defraud Government of proper duty.

In the course of audit of a Government Company, it was noticed (August 1975) that no revenue stamps were affixed on acquittances in respect of wages, salaries and allowances received by workers and staff.

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On this requirement being pointed out in audit (August 1977), the Company started obtaining stamped acknowledgements. The loss of stamp duty to Government for the period 1st April 1975 to 31st January 1977 in this case amounted to Rs. 6,076.

It was also noticed that the cotton textile mills in Bombay were not obtaining stamped receipts for payments to their workers. When this was pointed out in audit (April 1977), the Superintendent of Stamps, Bombay, stated that in 47 textile mills and 11 sick textile units (under Government management) in Bombay, the mills issued wage slips containing details of payments and deductions to their workers a day earlier than the day fixed for payment. On the pay day the workers exchanged the slips for their pay packets in the presence of officers of the mills. After making the payment the cashier endorsed the rubber stamp 'Paid' on the wage slip. No signature of the worker was obtained on the wage slip and no revenue stamp was got affixed and cancelled. The exact date from which this practice is being followed by the mills could not be ascertained. However, the estimated loss of stamp duty in respect of these 58 textile mills worked out to Rs. 45 lakhs approximately for the period 1962 to August 1977. Similar loss, if any, in respect of other industrial establishments in the State is not known.

The matter was reported to Government in June 1976; final reply is awaited (January 1978).

CHAPTER VII

OTHER TAX RECEIPTS

SECTION ' A '—ENTERTAINMENTS DUTY

7.1. Non-levy of entertainments duty even after withdrawal of exemption order

Under the Bombay Entertainments Duty Act, 1923, the State Government is empowered to exempt any film from the liability to pay entertainments duty subject to such conditions, if any, as may be prescribed in the exemption order. By an order issued on 27th March 1975, Government granted exemption in respect of the exhibition of the film " Jeevan Sangram " throughout the State for a period of one year commencing from 27th March 1975. However, before the completion of the period stipulated in the order the exemption was withdrawn by Government on 22nd September 1975. The film was, therefore, not eligible for tax-free exhibition in any theatre in the State with effect from that date.

In the course of test audit, it was noticed (June 1976, July 1976 and September 1976) that even after the withdrawal of the exemption order, the picture was continued to be exhibited tax-free in six theatres resulting in non-levy of entertainments duty to the extent of Rs. 12,768 for various spells in 1975-76.

The matter was reported to Government in April 1977. Government stated (May 1977) that information regarding tax-free exhibition of the film after 22nd September 1975 had been called for from all districts Further progress is awaited (January 1978).

ANOTHER TOPIC OF INTEREST

7.2. Loss of entertainments duty due to cancellation of regular shows

Under the Bombay Cinema (Regulation) Act, 1953, the licensing authorities have the discretion to permit the use of the theatre for any purpose other than exhibition of cinematograph films. In June 1974 Government issued certain guidelines to the licensing authorities to ensure that in granting such permission there should not be any loss of entertainments duty because of cancellation of regular shows.

In the course of audit conducted during 1975-76 and 1976-77, it was noticed that such permission was granted by the licensing authorities by cancelling the regular shows during 1974-75 in 208 cases involving loss of entertainments duty to the extent of Rs. 99,702 on the basis of house full capacity.

The 208 cases included elevan cases pertaining to Bombay City where such permission was granted for holding trade shows which were attended by distributors, producers, exhibitors and other persons connected with the film industry. The tax potential of these eleven shows was to the extent of Rs. 23,568 (approx.) on house full capacity. Though no fee for admission was collected, the attendance to the shows was restricted to the invitees only.

When this was pointed out in audit in November 1975, Government issued orders (November 1976) that so far as trade shows were concerned the entertainments duty lost should in future be recovered from the concerned parties treating the persons who attended the shows as holders of complimentary tickets.

SECTION 'B'—TAXES AND DUTIES ON ELECTRICITY

7.3. Non-levy of electricity duty on energy consumed in staff quarters, commercial establishments

Under the Bombay Electricity Duty Act, 1958, energy consumed in the construction, maintenance or operation of any railway belonging to the Government of India is exempt from the payment of duty. The exemption is, however, not admissible in respect of energy consumed in residential premises of railway employees, canteens and bookstalls at railway stations.

In the course of audit, it was noticed (June 1975) that as per departmental records a part of electric energy supplied to the Aurangabad Railway Station was utilised for consumption in residential quarters of the railway staff and the canteen and bookstalls on the railway platforms, but as no separate meters were provided to record energy consumed on this account, no duty was levied and collected for such consumption. When this was pointed out in audit (June 1975), the department decided that, pending installation of separate meters and based on average estimated consumption, 555 units towards energy consumed in staff quarters and 592 units on account of consumption for commercial purposes should be deducted

out of the total units consumed per month and electricity duty recovered on this consumption. Accordingly, Rs. 13,375 for the energy consumed in staff quarters and commercial establishments at Aurangabad station for the period October 1962 to October 1975 was recovered in November 1975. Particulars of recovery of duty from November 1975 onwards and report of action taken to install separate meters are awaited (January 1978).

The matter was reported to Government in July 1977; reply is awaited (January 1978).

Section 'C'—Agricultural Income Tax

7.4. Omission to tax part of agricultural income

Under the Maharashtra Agricultural Income Tax Act, 1962, tax is payable on the total agricultural income of an assessee derived during a year from land situated within the State.

An assessee of Kaij taluka (Bhir district) cultivated cotton seeds in one acre of his land which yielded him a net income of Rs. 47,667 for the assessment year 1973-74 after deducting expenses amounting to Rs. 10,000. The income derived on other crops being Rs. 11,025, tax of Rs. 11,346 was leviable on the total agricultural income of Rs. 58,692.

In the assessment proceedings, the assessee contended that only one-third of the income of Rs. 47,667 (i.e. Rs. 15,889) belonged to him and the balance belonged to other individuals whose names were not, however, disclosed. The Agricultural Income Tax Officer accepted the contention of the assessee and worked out the total agricultural income of the assessee as Rs. 26,914 (Rs. 15,889 + 11,025) and held him not liable to tax, as income upto Rs. 36,000 was exempt from taxation.

It was pointed out in audit (February 1977) that the entire income from the land should have been taxed in the hands of the assessee only as (*i*) he had failed to declare the names of other persons to whom part of the income belonged, (*ii*) sale proceeds of the produce of the entire seeds were received by the assessee himself and (*iii*) according to Revenue records the assessee was the sole owner of the land and was cultivating it through hired labour.

The matter was reported to Government in April 1977; reply is awaited (January 1978).

7.5. Reducing tax liability by irregular transfer of agricultural lands

An assessee had agricultural land measuring 28 acres 20 gunthas and derived net agricultural income of Rs. 74,400, Rs. 47,258 and Rs. 47,650 for the assessment years 1971-72, 1972-73 and 1973-74 respectively. The assessee claimed that only part of the income belonged to her and the balance was the income of her two married daughters to whom she had transferred land measuring 19 acres 2 gunthas by executing an instrument on 14th May 1970. She also produced extracts from the revenue records in support of this contention. The department, therefore, assessed the income separately in the hands of the 3 individuals, who, accordingly, were not made liable to agricultural income tax as agricultural income upto Rs. 36,000 is exempt from taxation.

In the course of audit, it was noticed (February 1977) that the instrumen of transfer had been executed on a stamp paper of rupee one only and had not been registered. The entries in the revenue records had been made on the basis of this instrument. Thus, the documents should not have been relied upon and the entire income should have been assessed to tax of Rs. 30,654 in the hands of the assessee only.

The matter was reported to Government in September 1977; reply is awaited (January 1978).

7.6. Incorrect assessment of income of a Hindu undivided family

Under the Maharashtra Agricultural Income Tax Act, 1962, where a partition of Hindu undivided family is claimed, the Agricultural Income Tax Officer, on being satisfied, shall record an order that the Hindu undivided family has ceased to exist and where such an order has not been passed the family shall be deemed to continue to be a Hindu undivided family for the purposes of this Act.

An assessee of Pune district who submitted his return of agricultural income as the Karta of a Hindu undivided family upto the assessment year 1968-69, had filed his return for the assessment year 1969-70 for his individual income claiming that partition took place between him and his three minor sons. It was noticed in audit (July 1976) that the Agricultural Income Tax Officer had made the assessment on the basis of the return filed by the assessee without passing an order of acceptance of partition. Consequently, agricultural income of Rs. 22,646 (estimated on the basis of crops grown and income returned by the assessee) arising from 40·16 acres of land given in partition to the three minor sons escaped assessment resulting in undercharge of tax of Rs. 11,323.

On this being pointed out in audit (July 1976), the department agreed (July 1976) to initiate necessary action. Further developments are awaited (January 1978).

The matter was reported to Government in June 1977; reply is awaited (January 1978).

7.7. Under-assessment of tax in the case of partnership firms

Under the Maharashtra Agricultural Income Tax Act, 1962, agricultural income derived by a partnership firm is liable to tax in the hands of the firm.

In the course of audit of the Agricultural Income Tax Office, Bombay, it was noticed (August 1976) that a firm at Lakh (Ahmednagar district), with a limited company (sugar mill) as one of the partners, earned gross income of Rs. 11·46 lakhs by sale of sugarcane during 1967-68 to 1969-70. The firm was, however, assessed to agricultural income tax of only Rs. 3·21 lakhs (gross) for these years on the strength of affidavits filed by some of the partners, other than the limited company (sugar mill) that the remaining part of the income belonged to them in their individual capacities. The assessment file and the corresponding revenue records, however, revealed that the lands were taken on lease and cultivated by the firm itself and the entire sales of Rs. 11·46 lakhs were made by the firm to one of its partners, the limited company (sugar mill). Exclusion of part of the income of the firm resulted in under-assessment of tax amounting to Rs. 2·06 lakhs for the years 1967-68 to 1969-70.

In the case of another firm also in which the same limited company (sugar mill) happened to be one of the partners, a similar under-assessment of agricultural income tax to the extent of Rs. 1·88 lakhs was noticed for the same period.

The matter was reported to the department in August 1976 and to Government in March 1977; reply is awaited (January 1978).

CHAPTER VIII

NON-TAX RECEIPTS

SECTION ' A '—REVENUE AND FORESTS DEPARTMENT

8.1. Delay in re-auction of bamboo lots

The Divisional Forest Officer, Gondia, proposed to auction 11 lots of bamboos of two depots. The notice of auction required the bidders to pay earnest money of Rs. 5,000. The successful bidder had further to deposit an amount upto 25 per cent of bid money within 7 days and the balance within 60 days of the auction, failing which he was liable to pay penal interest. In the event of default to pay the full amount within 90 days, the department could reauction the lots at the risk and cost of the bidder after giving him 15 days' notice of such reauction.

The auction of the bamboo lots was held on 27th April 1971. The highest bidder who offered Rs. 21,000 (*plus* sales tax Rs. 1,055) for the 11 lots failed to make any payment after the initial payment of earnest money and was not allowed to remove the bamboos. However, the department did not take any further action till 16th October 1971 on which date the bamboos of 3 lots of one depot were burnt by fire. Notices were issued to the bidder on 25th October 1971, 8th May 1972 and 23rd June 1972 asking him to pay the balance amount of bid but these could not be served as the bidder was not traceable at the given address. Owing to passage of time, the remaining 8 lots of bamboos of the second depot deteriorated and no bids were received when they were reauctioned in August 1974 and January 1975. Subsequently, these lots were also stated to have been destroyed by fire in May 1975.

Government stated (September 1977) that revenue recovery certificate had been issued by the department for recovery of the balance amount of Rs. 17,155 from the bidder. Further developments are awaited (January 1978).

SECTION ' B '—INDUSTRY, ENERGY AND LABOUR DEPARTMENT

8.2. Uncollected rent

To induce new entrepreneurs to take up industrial activities in backward areas 10 worksheds were constructed at Murud (Osmanabad district) in

October 1966 at a cost of Rs. 0·62 lakh. The entrepreneurs executed written agreements to abide by the terms and conditions as would be finally fixed by Government. But the terms and conditions for occupation of the sheds had not been finally prescribed by Government (January 1978). Pending finalisation of terms and conditions, they were required to pay standard licence fee of Rs. 45 per month in respect of each shed.

It was, however, noticed that one shed remained vacant for 3 years between July 1973 and August 1976 and another was being used as a godown from November 1973. Standard licence fee due but not recovered in respect of the sheds in use is indicated below:—

Position as on	Rent due (in rupees)	Uncollected rent (in rupees)
31st March 1972	29,445	29,375
31st March 1973	34,460	32,975
31st March 1974	37,790	35,970
31st March 1975	40,290	38,760
31st March 1976	43,350	41,415

The Assistant Director of Industries, Latur, stated (January 1977) that the notices to pay the licence fee served on the allottees proved ineffective and that there was no provision in the agreement to collect the rent in advance. Action to recover the dues as arrears of land revenue had been initiated (July 1972) but no amount has been recovered (January 1978).

The matter was reported to Government in May 1977; reply is awaited (January 1978).

SECTION 'C'—SOCIAL WELFARE, CULTURAL AFFAIRS, SPORTS AND TOURISM DEPARTMENT

8.3. Loss of revenue in Government owned theatres

An open air auditorium (Rang Bhavan) established by Government in 1956 provides facilities for performance of various cultural and dramatic programmes in Bombay City.

In November 1970, Government decided to convert Rang Bhavan into an open air drama-*cum*-cinema theatre (cinetorium) for exhibition of

Marathi films. The work was completed in February 1975 at a cost of Rs. 1·87 lakhs approximately. A rent of Rs. 800 per show was prescribed from 1st March 1975 to be recovered from those who hire the theatre.

Government decided in January 1975 to set up the Maharashtra Sanskritik Vikas Mahamandal and transfer to it all the State-owned theatres. It was further decided in March 1975 that pending valuation of the assets to be transferred to the Maharashtra Sanskritik Vikas Mahamandal, the physical control of the properties should be transferred to the Mahamandal. The Mahamandal has since been registered as Maharashtra Film, Stage and Cultural Development Corporation Ltd. (September 1977).

The Mahamandal entrusted in March 1975 the work of exhibition of films in the cinetorium to a private individual. No agreement was drawn up defining the terms and conditions of the contract. The rate of hire charges for the theatre was reduced from Rs. 800 to Rs. 650 per show by the Mahamandal but approval of Government was not taken for this reduction.

The private individual who was the sole exhibitor of the films in the cinetorium exhibited 117 films between March 1975 and May 1976. Against the total rental of Rs. 93,600 (computed at the rate fixed by Government) only an amount of Rs. 11,000 was paid by him between January and April 1976 leaving a balance of Rs. 82,600 (January 1978). In the absence of any agreement, legal measures for effecting recovery of the dues could not be taken by the department. The Director of Cultural Affairs stated (August 1976) that the party incurred heavy losses in the activity and had represented to Government for reducing the rent from the very beginning. Final decision of Government is awaited (January 1978).

The matter was reported to Government in August 1977. Final reply is awaited (January 1978).

SECTION ' D '—IRRIGATION DEPARTMENT

8.4. Receipts from sale of water for industrial use

8.4.1. *Introductory.*—Water used for industrial purposes is supplied from irrigation works and rivers notified by Government. The supply of water from these sources was regulated prior to January 1977 by the Bombay Irrigation Act, 1879 (in 13 districts of Western Maharashtra), the Hyderabad Irrigation Act, 1357 *Fasli* (in 5 districts of Marathwada)

and the Central Provinces and Berar Regulation of Waters Act, 1949 (in 8 districts of Vidarbha) and the rules issued thereunder. However, from 1st January 1977, a single Act, namely the Maharashtra Irrigation Act, 1976, has come into force in substitution of all the earlier Acts. Rules under the Unifying Act of 1976 had not been framed by the Government (August 1977) and the rules and the orders issued prior to 1st January 1977 continued to be in force in so far as these were not inconsistent with the provisions of the new Act.

The results of test check (June-July 1977) of the records relating to the receipts of six irrigation divisions at Aurangabad, Nagpur, Nanded, Nasik, Pune and Thane, are given in the succeeding paragraphs.

8.4.2. *Non-execution of agreements.*—In each case of supply of water, an agreement is to be executed by the Executive Engineer of the division concerned in the prescribed form, setting forth the terms and conditions regulating the supply of water and recovery of water rates as laid down by Government from time to time. According to information received (June-July 1977) from 4 irrigation divisions, water was allowed to be drawn in 19 cases without executing any agreement even though the supply was for periods ranging between 2 and 22 years.

8.4.3. *Supply of water for condensers.*—Prior to July 1964 charges for water drawn for condensers of sugar factories were being levied in Western Maharashtra at Rs. 8 per 10,000 cubic feet for the quantity actually consumed in the condensing process and at Rs. 2 per 10,000 cubic feet for the quantity subsequently released for irrigation. It was clarified in July 1957 that the water supplied to the factories had to be charged at two different rates in proportion to the quantities used for condensers and consumed subsequently for irrigation. From July 1964, the rates for water supplied to condensers were enhanced to Rs. 12·50 per 10,000 cubic feet. However, a concessional rate of Rs. 3 per 10,000 cubic feet of water was prescribed with effect from 1st July 1965. This lower rate was actually chargeable in case of water released for irrigation purposes from initial supplies made to condensers. The rate for water consumed in condensing process ranged from Rs. 8 to Rs. 12·50 depending upon the source of water and the age of the industrial unit as clarified by Government in December 1971.

In view of the wide variation in the two rates applicable to water actually consumed in condensing process and that subsequently released for irrigation, suitable measuring device should have been fixed at the

premises of the factories to determine the quantities of water released from condensers for irrigation purposes. However, in the course of audit, it was noticed (July 1977) that no separate record of the quantities of water released from condensers was maintained and that the demand was raised at the lower rate for the entire quantity of water supplied, as indicated below :—

(*a*) In respect of water drawn by a company for the condenser of its sugar factory from the Nira river (Pune district), it was noticed that no record was kept prior to December 1971 indicating separately the quantity of water consumed in the condensing process and the quantity subsequently released for irrigation. Demand was raised against the company at the lower rate of Rs. 3 per 10,000 cubic feet for the total quantity of 507·37 million cubic feet of water drawn by it during the period March 1971 to March 1975. If no water had been released for irrigation, the entire quantity of water drawn by the company should have been charged at Rs. 12·50 per 10,000 cubic feet upto December 1974 and at Rs. 10 (revised rate from 1st January 1975) thereafter. The levy of the lower rate of Rs. 3 uniformly for the period March 1971 to March 1975 resulted in short recovery amounting to Rs. 5·60 lakhs.

In March 1975 Government, considering the practical difficulties in quantifying the water for applying two different rates, directed that with effect from 1st April 1975 the higher rate alone should be charged for the entire water drawn for the condensers irrespective of whether a portion of it was subsequently released for irrigation or not. Notwithstanding these orders, the demand was continued to be raised against the aforesaid company at the lower rate of Rs. 3 for 146·13 million cubic feet of water drawn by it during the period April 1975 to December 1976. This resulted in further short recovery of Rs. 1·23 lakhs.

(*b*) A co-operative society in Kalamber (Nanded district) was permitted (August 1968) to draw 5 lakh gallons of water per day from the Manar reservoir for the condensers of its sugar factory. Although the water drawn was not released for irrigation during February 1969 to July 1972, water charges were collected at the rate of Rs. 3 per 10,000 cubic feet against the correct rate of Rs. 8/Rs. *10*. The Division revised the demand in July 1973 but the society disputed the rate and the basis adopted for determining the quantity of water drawn by it during the period when the measuring device was out of order. Against the demand of Rs. 81,984 for the period February 1969 to December 1974, only Rs. 24,822 were paid by the society (between 1970-71 and 1974-75). The matter was stated

(July 1977) to have been referred to Government and no demand was being raised from January 1975 onwards. The minimum amount recoverable from January 1975 to May 1977 worked out to Rs. 85,960.

8.4.4. *Short recovery due to application of incorrect rates.*—(*a*) With effect from January 1975 the rate for water drawn for industrial use from notified rivers was reduced by Government from Rs. 12 to Rs. 10 per 10,000 cubic feet. The rate of Rs. 12·50 fixed from July 1964 for water drawn from irrigation works remained unchanged. However, the Pune Irrigation Division assessed the demand at the reduced rate in five cases of drawal of water from Mutha Right Bank Canal. The short recovery in these cases during different periods between January 1975 and December 1976 amounted to Rs. 13,531.

(*b*) In April 1972, the Maharashtra Industrial Development Corporation was permitted to draw from Sukhana reservoir (Aurangabad district) one million gallons of water per day. Demand for the water drawn during April 1972 to March 1976 was raised at Rs. 12 per 10,000 cubic feet against the prescribed rate of Rs. 12·50, resulting in short recovery of Rs. 8,679.

(*c*) By an agreement executed in March 1969, a company was permitted to draw 30,000 gallons of water from the Nira river for the use of its plant for twelve years at the rate of Rs. 5·50 per 10,000 cubic feet which was actually applicable for domestic use, whereas the water rate leviable in this case was Rs. 12·50 upto December 1974 and Rs. 10 from January 1975. Adoption of the incorrect rate for the period March 1969 to March 1977 resulted in forgoing of revenue of Rs. 10,446. The rate was not also revised although the agreement provided for revision from time to time.

8.4.5. *Non-recovery of minimum charges.*—Agreements with industrial undertakings entered into between 1962 and 1971 for the supply of water provide for recovery of minimum water charges based on 90 per cent of the quantity of water permitted to be drawn. However, in ten cases (3 each in Thane, Pune and Nasik Divisions and 1 in Nanded Division) such minimum charges were not levied for different periods between April 1969 and May 1977 resulting in short recovery of Rs. 2·57 lakhs in the aggregate.

In terms of an order of the High Court of Bombay (October 1974) five industrial concerns drawing water from the Ulhas river (Thane district) from different dates prior to 1966 were to execute agreements

regularising the arrangement and *inter alia* providing for the payment of water charges at the stipulated rates and for payment of minimum charges based on 90 per cent of the quantum of water allowed to be drawn. Pending execution of the agreements, demands were raised for the actual quantity of water drawn by them. The shortfall in demand as a result of non-levy of minimum charges payable for the period May 1975 to December 1975 alone amounted to Rs. 52,130. The shortfall for the period prior to May 1975 could not be ascertained.

8.4.6. *Unauthorised drawal of water.*—Under the Bombay Canal Rules, 1934, charges at a rate not exceeding treble the normal rate should be levied for the unauthorised drawal of water. Usually a penal rate of treble the normal rate is levied. In two cases, one each in Pune and Nasik Divisions, although the agreements stipulated that the supply of water was subjected to the provisions of the Irrigation Act and the Canal Rules, water charges were recovered at the normal rate even for the drawal in excess of the authorised quantity. Computed at treble the normal rate, the penal charges recoverable in these cases for the period November 1973 to February 1977 worked out to Rs. 74,744.

8.4.7. *Non-recovery of Local Fund Cess.*—Under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, local fund cess at the rate of 20 paise is leviable on every rupee of water rate with effect from 1st November 1969. The Chandrapur Irrigation Division, however, did not levy the local fund cess on water charges recovered from a paper mill. The non-levy of the cess for the period April 1971 to March 1976 amounted to Rs. 3·55 lakhs.

8.4.8. *Outstanding dues.*—The outstanding dues on account of sale of water as at the end of March 1977 as reported by 10 irrigation divisions out of 138 such divisions in the State amounted to Rs. 70·54 lakhs including Rs. 36·49 lakhs in Pune Irrigation Division alone. The arrears related to 62 cases and to periods ranging from 1964-65 to 1976-77.

8.5. Another topic of interest

Agreements between the beneficiaries and the Executive Engineer, Pune Irrigation Division, Pune, made in April 1957/April 1960 provide for installation of measuring device for determining the quantity of water drawn. The agreements further envisage that in the event of the device going out of order for a period exceeding seven days, water charges should be levied for hundred per cent of the sanctioned quantity. However, in two cases of drawal of water from the Mutha Right Bank Canal

(Pune district) where the measuring device did not function, water charges were levied for 90 per cent of the sanctioned quantity, resulting in short recovery of Rs. 11,400 for the period January 1973 to April 1977.

The points in the foregoing paragraphs were reported to Government in September 1977; reply is awaited (January 1978).

(T. NARASIMHAN)
Accountant General, Maharashtra-I.

Bombay,
The 15 MAR 1978

Countersigned

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

New Delhi,
The 18 MAR 1978

APPENDIX

(*Reference*: Chapter IV, paragraph 4.9, page 46)

List of Inam Abolition Acts

1. Bombay Khoti Abolition Act, 1949.
2. Bombay Pargana and Kulkarni Watans (Abolition) Act, 1950.
3. Bombay Watan Vajifidari Right Abolition Act, 1950.
4. Bombay Kauli and Katuban Tenures (Abolition) Act, 1953.
5. Bombay Personal Inams Abolition Act, 1952.
6. Bombay Service Inams (Useful to Community) Abolition Act, 195
7. Bombay Merged Territories (Janjira and Bhor) Khoti Tenure Abolition Act, 1953.
8. Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953.
9. Hyderabad Abolition of Cash Grants Inam Act, 1955.
10. Bombay Bhil Naik Inams Abolition Act, 1955.
11. Bombay Merged Territories Miscellaneous Alienations Abolitio Act, 1955.
12. Bombay Shilotri Rights (Kolaba) Abolition Act, 1955.
13. Bombay Land Tenures Abolition (Amendment) Act, 1955.
14. Bombay Land Tenures Abolition (Amendment) Act, 1956.
15. Bombay Shetgi Watan (Ratnagiri) Abolition Act, 1956.
16. Bombay Land Tenures Abolition Laws (Amendment) Act, 1958.
17. Bombay Inferior Village Watans Abolition Act, 1958.