



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

FOR THE YEAR ENDED 31 MARCH 2002

**(REVENUE RECEIPTS)
GOVERNMENT OF HIMACHAL PRADESH**



TABLE OF CONTENTS

Particulars	Paragraph	Page
Prefatory Remarks		(iii)
<i>Overview</i>		(v)
GENERAL		
Trend of revenue receipts	1.1.	1
Variations between Budget estimates and actuals	1.2.	3
Analysis of collections	1.3.	5
Cost of collection	1.4.	6
Arrears of revenue	1.5.	6
Arrears in appeals	1.6.	9
Frauds and evasion of tax/ duty	1.7.	9
Results of audit	1.8.	10
Outstanding inspection reports and audit observations	1.9.	10
Arrears in assessment	1.10.	11
SALES TAX		
Results of audit	2.1.	13
Working of Multipurpose Check Posts	2.2.	14
Short levy of sales tax	2.3.	20
Non-levy of tax due to non-registration of dealers	2.4.	20
Short determination of taxable turnover	2.5.	21
STATE EXCISE		
Results of audit	3.1.	22
Non-realisation of duty on excess wastage	3.2.	22
Non-realisation of assessed fee at enhanced rate	3.3.	23
Non/short levy of interest	3.4.	23
Short realisation of additional licence fee	3.5.	24
Non invoking of provisions of bonds	3.6.	24
TAXES ON VEHICLES, GOODS AND PASSENGERS		
Results of audit	4.1.	25
Non-realisation of token tax	4.2.	25
Under-assessment of special road tax	4.3.	26
Embezzlement of Government money	4.4.	26
Short realisation of composite fee	4.5.	27
Non- deposit of Government money into the treasury	4.6.	28
Non-payment of token tax by owners of Educational Institutions Vehicles	4.7.	28
Vehicles not registered with the Excise and Taxation Department	4.8.	28
Short realisation of goods tax	4.9.	29

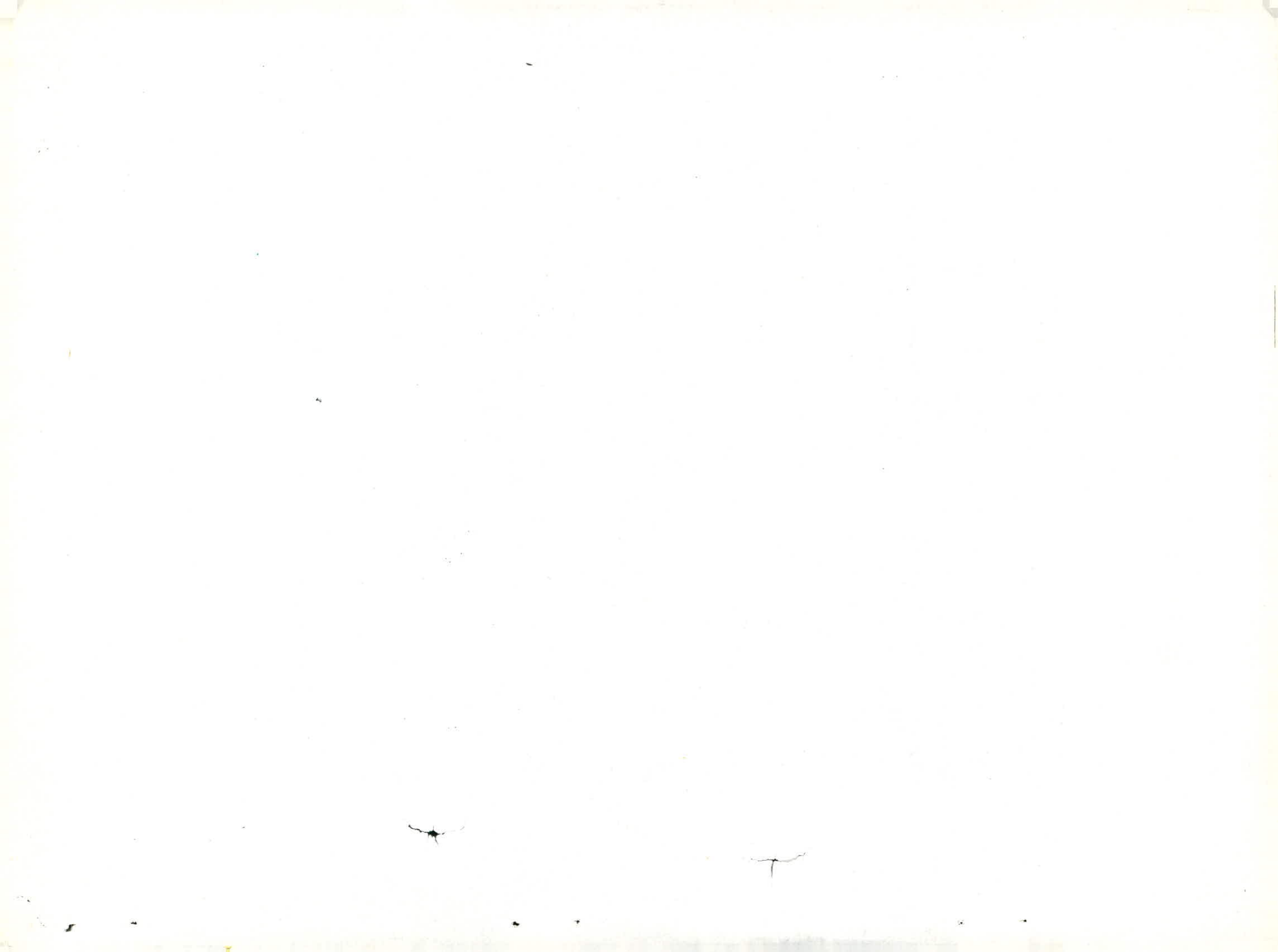
Particulars	Paragraph	Page
FOREST RECEIPTS		
Results of audit	5.1.	31
Loss of revenue due to administrative failure	5.2.	31
Non-recovery of price of trees	5.3.	32
Non-levy of extension fee	5.4.	33
Loss of revenue due to non-tapping of resin blazes	5.5.	33
Non-levy of interest and penalty	5.6.	34
Loss of revenue due to irregular grant of trees in timber distribution	5.7.	35
Non-recovery of royalty	5.8.	35
Non deposit of transportation charges into the Government account	5.9.	36
Unauthorised retention/occupation of earmarked accommodation	5.10.	36
Loss of revenue due to cases becoming time barred	5.11.	37
Less conversion of timber	5.12.	37
Short recovery of royalty on fuel wood	5.13.	38
Loss of revenue	5.14.	38
Non-recovery of royalty on unfit trees	5.15.	39
Short recovery of price of trees marked for electric poles	5.16.	40
Short recovery of royalty due to application of lower rates	5.17.	40
Non-recovery of price of drift and stranded timber	5.18.	41
OTHER TAX RECEIPTS		
TAX ON LUXURIES (In Hotels and Lodging Houses)		
Results of audit	6.1.	42
Assessment and Collection of Tax on Luxuries in Hotels and Lodging Houses	6.2.	43

PREFATORY REMARKS

This Report for the year ended 31 March 2002 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The Audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, state excise, motor vehicles tax, passengers and goods tax, forest receipts and other tax receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2001-2002 as well as those noticed in earlier years but could not be included in previous years' Reports.



OVERVIEW

This report contains 35 paragraphs including 2 reviews relating to non-levy/short levy of taxes, duties, interest and penalty etc., involving Rs.19.55 crore. Some of the major findings are mentioned below:-

1. General

(i) The total receipts of the Government for the year 2001-2002 were Rs.3,715.80 crore. The revenue receipts of Rs.1,114.83 crore consisted of Rs.916.50 crore from taxes and Rs. 198.33 crore from non-tax revenue. The State received Rs. 324.13 crore as its share of divisible Union Taxes against Rs.330.34 crore received during 2000-2001. Receipts under state excise (Rs.236.28 crore), sales tax (Rs.355.08 crore), taxes on goods and passengers (Rs. 34.27 crore) and taxes on vehicles (Rs. 132.70 crore) and stamps and registration fee (Rs. 34.27 crore) accounted for major portion of tax receipts. Under non-tax revenue, the main receipts were from non-ferrous mining and metallurgical industries (Rs.32.97 crore) and forestry and wild life (Rs. 28.98 crore).

(Paragraph 1.1.)

(ii) The arrears of revenue under principal heads of revenue as on 31 March 2002 amounted to Rs.263.50 crore, of which Rs.111.10 crore pertained to Forestry and Wild Life.

(Paragraph 1.5.)

(iii) Test check of records of sales tax, state excise, taxes on vehicles goods and passengers, forest receipts and other tax receipts conducted during the year 2001-2002, revealed under-assessments/ short levy/ loss of revenue amounting to Rs.54.45 crore, in 951 cases. During the course of the year 2001-2002, the concerned departments accepted under-assessments etc. of Rs.33.62 crore in 439 cases, of which 9 cases involving Rs.2.73 crore had been pointed out in audit during 2001-2002 and the rest in earlier years.

(Paragraph 1.8.)

(iv) 3180 audit and inspection reports containing 8,778 objections with money value of Rs.436.44 crore issued up to 31 December 2001, were not settled up to 30 June 2002.

(Paragraph 1.9.)

2. Sales Tax

A review on "Working of Multi-purpose Check Posts" revealed the following:-

(i) Test check of 11 barriers revealed that 2,68,529 goods vehicles carrying bricks, sand and *bajri* worth Rs. 62.64 crore and *Katha* valued Rs.1.16 crore were allowed to cross the barriers without obtaining the declaration forms, which resulted in revenue foregone of Rs. 5.13 crore. Consequently, the department also failed to register these dealers under the Sales Tax Act.

[Paragraph 2.2.6(i) & (ii)]

(ii) In 309 cases, goods valued at Rs.5.20 crore on which a minimum penalty of Rs.78.01 lakh was leviable, crossed the State without handing over the ST-XXVII forms by the owners of vehicles at the exit barriers.

(Paragraph 2.2.7)

(iii) 186 declaration forms submitted by the unregistered dealers were pending verification. As such these dealers were not registered and brought under tax net.

[Paragraph 2.2.9(i)]

Inadmissible exemption in respect of Inter-State sales resulted in under-assessment of tax of Rs. 40.08 lakh.

(Paragraph 2.3.)

3. Taxes on Vehicles, Goods and Passengers

(i) Token tax of Rs. 17.23 lakh recoverable in 67 cases was not deposited.

(Paragraph 4.2.)

(ii) Incorrect application of rates resulted in short realisation of special road tax of Rs. 20.01 lakh.

(Paragraph 4.3.)

(iii) Revenue of Rs. 13.88 lakh was embezzled by the counter-clerk due to failure of Registering and Licensing Authority to ensure the continuity of serial numbers of receipts while signing the cash book.

(Paragraph 4.4.)

(iv) Goods tax of Rs. 26.37 lakh was either not realised or realised short.

(Paragraph 4.8 and 4.9.)

4. Forest Receipts

(i) Timber valued at Rs.1.18 crore (including sales tax) illicitly felled could not be seized by the department due to lack of vigil and failure to take timely cognizance of offences in four divisions.

(Paragraph 5.2.)

(ii) In eight forest divisions, extension fee of Rs.52.29 lakh was not demanded by the department from the State Forest Corporation.

(Paragraph 5.4.)

(iii) In ten forest divisions, 2,01,097 resin blazes could not be tapped between tapping seasons 1997 and 2001 due to deletion of blazes from the marking lists and non-enumeration of blazes depriving the Government of revenue amounting to Rs.53.24 lakh.

(Paragraph 5.5.)

(iv) In two forest divisions, irregular grant of 71 trees in timber distribution resulted in loss of Rs. 30.38 lakh.

(Paragraph 5.7.)

(v) In a forest division, four offence cases involving Rs.14.75 lakh became time barred due to failure of the department to either compound them or to take them to the court of law within the prescribed period.

(Paragraph 5.11.)

5. Other Tax Receipts

A review on "Assessment and Collection of Tax on Luxuries in Hotels and Lodging Houses" revealed the following:-

(i) Non-levy/ under assessment of luxury tax of Rs.10.41 lakh was noticed in case of 13 hoteliers.

[Paragraph 6.2.8(i),(iii), (iv) and (v).]

(ii) The department's failure to levy luxury tax on receipts from time-share customers in two hotels resulted in loss of revenue of Rs. 47.62 lakh.

[Paragraph 6.2.8(ii)(a) and (b).]

(iii) The department allowed inadmissible benefit of luxury tax of Rs.36.77 lakh to 3 hoteliers under deferred payment schemes.

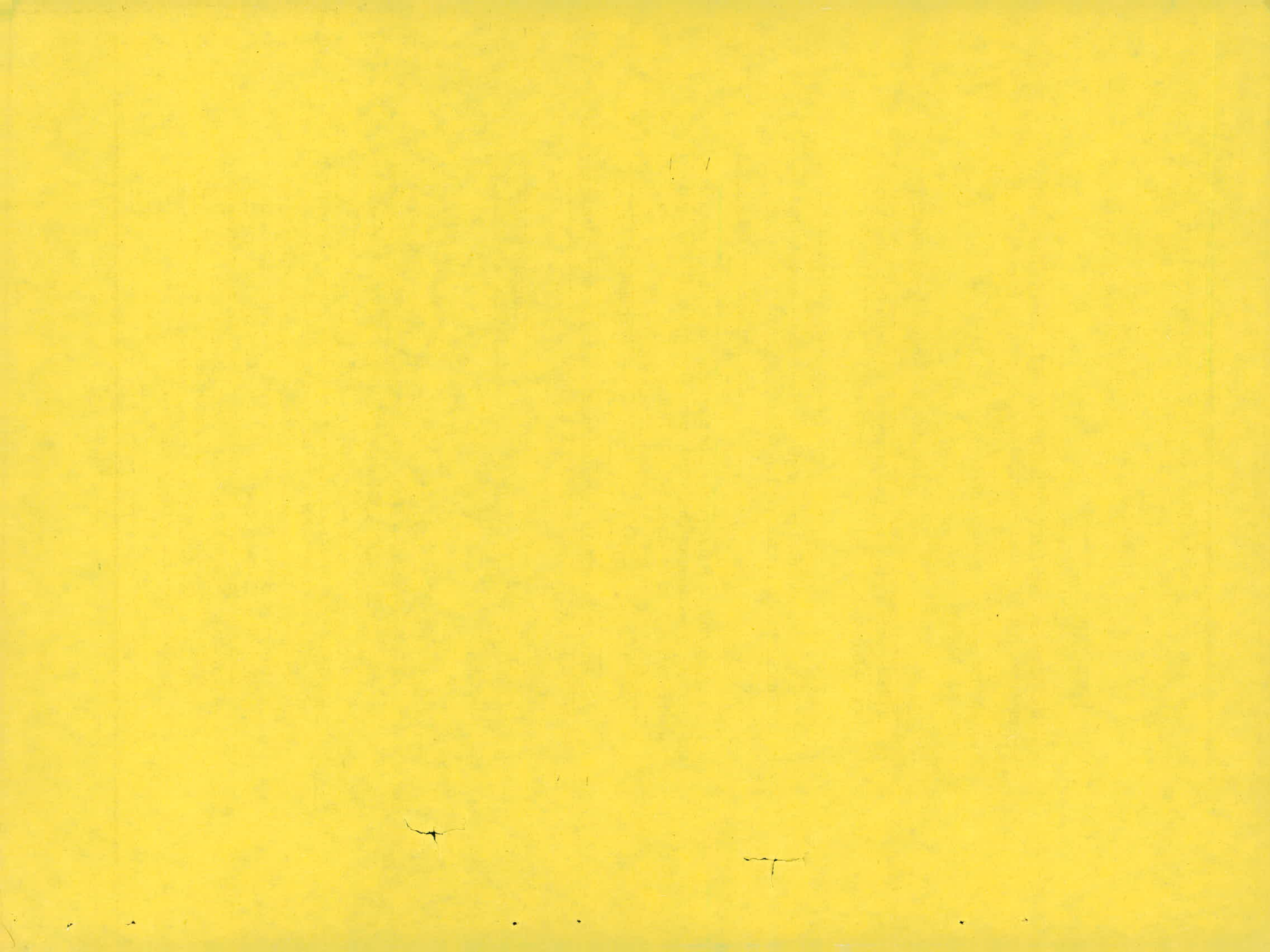
(Paragraph 6.2.9.)

(iv) The department's failure to detect the suppression of room rent receipts and unauthorised operation of unregistered rooms in respect of 12 hoteliers resulted in evasion of luxury tax of Rs.27.28 lakh.

(Paragraph 6.2.10.)

(v) Interest of Rs. 13.48 lakh for non-payment of luxury tax on due dates was neither demanded nor recovered from 71 hoteliers.

(Paragraph 6.2.13)



CHAPTER 1 : GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Himachal Pradesh during the year 2001-2002, the share of divisible Union taxes and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding two years are given below:

(Rupees in crore)

		1999-2000	2000-2001	2001-2002
I.	Revenue raised by the State Government			
	(a) Tax revenue	620.26	728.41	916.50
	(b) Non-tax revenue	1056.24*	176.96	198.33
	Total	1676.50	905.37	1114.83
II.	Receipts from the Government of India			
	(a) State's share of divisible Union taxes	920.98	330.34	324.13 [@]
	(b) Grants-in-aid	1117.80	1809.86	2276.84
	Total	2038.78	2140.20	2600.97
III	Total receipts of the State Government (I and II)	3715.28	3045.57	3715.80
IV	Percentage of I to III	45	30	30

* Increase in non tax revenue mainly consisted of 2 transfer adjustments from a public account head namely 8448 -Deposits of Local Fund (i) Rs. 152.28 crore on 29th March, 2000 to 0049 -Interest receipts, and (ii) Rs. 656.04 crore on 31st March, 2000 to 0406 -Forestry and Wild Life. These amounts were deposited in earlier years by the State Electricity Board and the Forest Corporation respectively under 8448-Deposit of Local Fund, raising the amounts from the public through SLR Bonds.

@ For details, please see "Statement No.10-Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Himachal Pradesh for the year 2001-2002. Figures under the major head "0020-Corporation Tax"; "0021-Taxes on Income other than Corporation Tax"; "0028-Other Taxes on Income and Expenditure"; "0032-Taxes on Wealth"; "0037-Customs"; "0038-Union Excise Duties" and "0044-Service Tax" booked in the Finance Accounts under A-Tax Revenue have been excluded from the Revenue raised by the State Government and included in State's share of divisible Union Taxes.

- (i) The details of tax revenue raised during the year 2001-02 along with the figures for the preceding two years are given below:

(Rupees in crore)

Sr. No.	Head of revenue	1999-2000	2000-01	2001-02	Percentage of increase (+) or decrease (-) in 2001-2002 over 2000-2001
1.	State Excise	198.70	209.17	236.28	(+) 13
2.	Taxes on Sales, Trade etc.	233.07	302.05	355.08	(+) 18
3.	Taxes on Goods and Passengers	104.83	43.05	34.27	(-) 20
4.	Taxes on Vehicles	28.37	61.04	132.70	(+)117
5.	Stamps and Registration fees	24.68	29.22	34.27	(+) 17
6.	Taxes and Duties on Electricity	0.21	27.39	8.32	(-) 70
7.	Land Revenue	6.48	3.89	51.85	(+) 1233
8.	Others	23.92	52.60	63.73	(+)21
	Total	620.26	728.41	916.50	(+)26

- (ii) The details of non-tax revenue realised during the years 1999-2000 to 2001-02, are given below:

(Rupees in crore)

Sr. No.	Head of revenue	1999-2000	2000-01	2001-02	Percentage of increase (+) or decrease (-) in 2001-02 over 2000-01
1.	Forestry and Wild Life	669.37	16.54	28.98	(+) 75
2.	Interest Receipts	159.51	15.00	7.67	(-) 49
3.	Non-ferrous Mining and Metallurgical Industries	30.36	12.50	32.97	(+) 164
4.	Education, Sports, Art and Culture	10.48	13.20	15.28	(+) 16
5.	Crop Husbandry (including Horticulture)	3.12	4.06	8.06	(+) 99
6.	Others	183.40	115.66	105.37	(-)9
	Total	1056.24	176.96	198.33	(+)12

There was significant variation in receipts under the following heads and the

reasons therefor as given by the concerned departments were as under:

Under "State Excise", the increase was mainly due to increase in annual auction money and excess consumption of liquor.

Under "Taxes on Sales, Trade etc." the increase was mainly due to levy of sales tax on chemical fertilizers, insecticides, pesticides, bricks and enhancement of rate of tax on diesel etc.

Under "Taxes on Goods and Passengers", the decrease was due to levy of Special Road Tax on stage carriages by Transport Department.

Under "Land Revenue", the increase was mainly due to more deposit of receipt on account of sale proceed of waste land, deposit of lease money, copying fee, chakota, grass auction and sale of Government land.

Under "Non-Ferrous Mining and Metallurgical Industries", the increase was mainly due to receipt of advance royalty from the Cement Plants established in the State.

1.2. Variations between Budget estimates and actuals

The variations between budget estimates and actual receipts for the year 2001-2002 under the principal heads of revenue are given below:

(Rupees in crore)

Sr. No.	Head of revenue	Budget estimates	Actual receipts	Variations increase (+) decrease (-)	Percentage of variation
1.	State Excise	222.00	236.28	(+) 14.28	(+) 6
2.	Taxes on Sales, Trade etc.	329.93	355.08	(+) 25.15	(+) 8
3.	Taxes on Goods and Passengers	38.11	34.27	(-) 3.84	(-) 10
4.	Taxes on Vehicles	73.00	132.70	(+) 59.70	(+) 82
5.	Other Taxes and Duties on Commodities/ Services	53.07	63.74	(+) 10.67	(+) 20
6.	Stamps and Registration	30.16	34.27	(+) 4.11	(+) 14
7.	Taxes and Duties on Electricity	29.00	8.32	(-) 20.68	(-) 71
8.	Land revenue	0.38	51.85	(+) 51.47	(+) 13544
9.	Industries	11.20	25.71	(+) 14.51	(+) 130
10.	Village and Small Industries	0.20	0.63	(+) 0.43	(+) 215
11.	Forestry and Wild Life	43.19	28.98	(-) 14.21	(-) 33
12.	Interest Receipts	8.05	7.67	(-) 0.38	(-) 5
13.	Education, Sports, Art and Culture	13.44	15.28	(+) 1.84	(+) 14
14.	Crop Husbandry (including Horticulture)	3.26	8.06	(+) 4.80	(+) 147

Sr. No	Head of revenue	Budget estimates	Actual receipts	Variations increase (+) decrease (-)	Percentage of variation
15.	Non-ferrous, Mining and Metallurgical Industries	26.02	32.97	(+) 6.95	(+) 27
16.	Housing	0.89	2.03	(+) 1.14	(+) 128
17.	Fisheries	0.95	1.15	(+) 0.20	(+) 21
18.	Water supply and Sanitation	13.66	8.48	(-) 5.18	(-) 38
19.	Police	8.39	7.57	(-) 0.82	(-) 10
20.	Medical and Public Health	4.65	3.31	(-) 1.34	(-) 29
21.	Public Works	2.68	3.10	(+) 0.42	(+) 16
22.	Power	20.28	7.13	(-) 13.15	(-) 65

The reasons for variations between the budget estimates and the actuals as reported by the concerned departments were as under:

Under "Taxes on Vehicles", the increase was due to Government's decision to close the personal ledger account and consequent transfer of Rs. 70.04 crore to the revenue receipts.

Under "Other Taxes and Duties on Commodities/ Services", the increase was mainly due to levy of tax under the Himachal Pradesh Tolls Act, more receipt under Luxury Tax on account of more tourists visiting Himachal Pradesh during 2001-2002 and share of net proceeds assigned to the State (Rs. 0.94 crore) etc.

Under "Stamp duty and registration fee", the increase was mainly due to sale of more stamp papers, increase in the prices of land, more sale/ purchases of land/ property.

Under "Taxes and Duties on Electricity", the decrease was due to non-deposit of electricity duty due during the year 2001-2002 by the Himachal Pradesh State Electricity Board.

Under "Land Revenue", the increase was mainly due to deposit of lease money in respect of transfer of Government land for the construction of Kol dam project by the National Thermal Power Corporation, sale proceed of waste land and receipt on account of implementation of new Kissan Pass Book Rules.

Under "Industries", the increase was mainly due to more receipt from the industrial areas, recovery of overpayments and more receipt of Central Transport Subsidy from the Government of India etc.

Under "Village and Small Industries", the increase was mainly due to more receipt of rent from the industrial sheds, recovery of over payments, sale of dead stock items, receipt of guarantee fee on loans from the Himachal Pradesh Handicrafts & Handloom Corporation and more receipt of other miscellaneous revenue etc.

Under "Education, Sports, Art and Culture", the increase was due to opening of new colleges/ senior secondary schools and under estimation of new admissions in the Government colleges and senior secondary schools.

Under "Fisheries", the increase was mainly due to increase in the production of fisheries and consequently more realisation on account of sale of fish and fish seeds etc.

"The reasons for variations between budget estimates and actual receipts in respect of other heads though called for (July 2002) has not been received (September 2002)."

1.3. Analysis of collections

The break-up of the total collections (at pre-assessment stage and after regular assessment) of state excise, sales tax, passengers and goods tax and other taxes and duties on commodities and services during the year 2001-2002 and the corresponding figures for the preceding two years, as furnished by the Excise and Taxation Department is given below:

(Rupees in crore)

Name of tax head	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment		Interest	Other Penalties	Amount refunded	Net collection of taxes/ duties	Percentage of column 3 to 9
			Additional demand	Penalties for delay in payment of taxes & duties					
1	2	3	4	5	6	7	8	9	10
State Excise	1999-2000	197.82	--	0.11	0.77	0.07	0.07	198.70	99
	2000-2001	207.95	--	0.10	1.03	0.09	--	209.17	99
	2001-2002	235.34	--	0.12	0.76	0.22	0.16	236.28	99
Taxes on Sales, Trade etc.	1999-2000	230.69	4.47	0.87	1.35	0.71	5.02	233.07	99
	2000-2001	291.27	9.45	1.39	2.65	0.73	3.44	302.05	96
	2001-2002	344.11	7.53	0.98	2.30	0.29	0.13	355.08	97
Taxes on Goods and Passengers	1999-2000	100.00	4.23	0.36	0.07	0.17	--	104.83	95
	2000-2001	35.72	6.27	0.44	0.08	0.54	--	43.05	83
	2001-2002	30.46	2.99	0.38	0.06	0.38	--	34.27	89
Other Taxes and Duties on Commodities and Services	1999-2000	23.37	0.44	0.03	0.10	--	--	23.93	98
	2000-2001	52.06	0.44	0.06	0.05	--	0.01	52.60	99
	2001-2002	61.80	0.83	0.05	0.12	--	--	62.80	98

The position of revenue collected by the Excise and Taxation department as detailed above shows that the collection of revenue at the pre-assessment stage ranged between 89 and 99 percent and the percentage of additional demand raised after regular assessments ranged between 1 and 11 during the year ending March 2002.

*Excludes Rs.0.94 crore received on account of share of net proceeds assigned to the State.

1.4. Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1999-2000, 2000-2001 and 2001-2002 along with the relevant all India average percentage of expenditure on collections to gross collections for 2000-2001 are given below:

(Rupees in crore)

Sr. No.	Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of cost of collection for the year 2000-2001
1.	State Excise	1999-2000	198.70	3.71	1.87	3.10
		2000-2001	209.17	3.83	1.83	
		2001-2002	236.28	4.07	1.72	
2.	Taxes on Sales, Trade etc.	1999-2000	233.07	4.35	1.87	1.31
		2000-2001	302.05	5.53	1.83	
		2001-2002	355.08	6.13	1.72	
3.	Taxes on Vehicles, Goods and Passengers	1999-2000	133.20	2.63	1.97	3.48
		2000-2001	104.09	1.51	1.45	
		2001-2002	166.97	1.25	0.75	
4.	Stamp duty and Registration Fee	1999-2000	24.68	1.91	8	4.39
		2000-2001	29.22	0.68	2	
		2001-2002	34.27	0.56	2	

1.5. Arrears of revenue

As on 31st March 2002, arrears of revenue under principal heads of revenue, as reported by the departments, were as under:

(Rupees in crore)

Sr.No	Head of revenue	Arrears pending collection	Arrears more than five years old	Remarks
1.	Forestry and Wild Life	111.10	Awaited	Out of total arrears of Rs. 111.10 crore, the major portion of the outstanding amount (Rs. 107.25 crore) relates to Himachal Pradesh State Forest Corporation. The balance amount (Rs. 3.85 crore) relates to Forest Contractors/other Government Departments. Specific action taken by the department to effect the recoveries had not been intimated (September 2002)

Sr.No	Head of revenue	Arrears pending collection	Arrears more than five years old	Remarks
2.	Taxes on Sales, Trade etc.	65.10	18.24	Out of arrears of Rs. 65.10 crore, demands for Rs. 31.42 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 1.59 crore and Rs. 0.34 crore had been stayed by the Court/ judicial authorities and Government respectively. Recovery of Rs. 0.01 crore, was held up due to rectification/review application. Demands for Rs. 1.72 crore were likely to be written off. Specific action taken in respect of arrears of Rs. 30.02 crore though called for (May 2002) had not been intimated (September 2002).
3.	Taxes on Goods and Passengers	20.59	0.64	Out of arrears of Rs. 20.59 crore, demands for Rs. 2.82 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 0.04 crore were stayed by High Court and other judicial authorities. Demands for Rs. 0.06 crore were likely to be written off. Specific action taken in respect of arrears of Rs. 17.67 crore though called for (May 2002) had not been intimated (September 2002).
4.	Taxes and Duties on Electricity	24.42	--	The amount is recoverable from the Himachal Pradesh State Electricity Board in respect of electricity duty for the year 2001-2002.
5.	State Excise	5.69	0.46	Out of Rs. 5.69 crore, demands for Rs. 4.14 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 0.39 crore stayed by High Court and other judicial authorities. Recovery amounting to Rs. 0.01 crore was held up due to insolvency of the dealer. Demands for Rs. 0.03 crore were likely to be written off. Specific action taken in respect of arrears of Rs. 1.12 crore though called for (May 2002), had not been intimated (September 2002).
6.	Other Taxes and Duties on Commodities and Services	1.07	0.02	Out of Rs. 1.07 crore, demands for Rs. 0.12 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 0.01 crore stayed by High Court and judicial authorities. Specific action taken in respect of arrear of Rs. 0.94 crore though called for (May 2002) had not been intimated (September 2002).

Sr.No	Head of revenue	Arrears pending collection	Arrears more than five years old	Remarks
7.	Water Supply, Sanitation and Minor Irrigation	18.45	5.46	Out of the total arrears of Rs. 18.45 crore, the major portion of the outstanding amount relates to Municipal Corporation of Shimla (Rs. 15.47 crore), Nahar (Rs. 0.47 crore), Una (Rs. 0.04 crore), Dharamsala (Rs. 0.02 crore) and Sundernagar (Rs. 0.06 crore). The balance amount (Rs. 2.39 crore) relates to other institutions/ consumers. Specific action to effect the recovery by the department had not been intimated (September 2002).
8.	Industries (including village and small scale industries)	1.40	Awaited	Period to which this arrear pertains and specific action taken to effect the recovery called for (May 2002) from the department had not been intimated (September 2002).
9.	Police	11.62	1.59	Out of total arrears of Rs. 11.62 crore the major portion of the outstanding amount relates to Bhakra and Beas Management Board (Rs. 5.79 crore), National Hydro Power Corporation (Rs. 0.61 crore), Nathpa Jhakri Power Corporation (Rs. 0.81 crore), Civil Aviation Authority (Rs. 1.60 crore), Railway Authority (Rs. 1.07 crore) and Yamuna Hydel Project, Khodri Majri (Rs. 1.10 crore). The remaining arrears (Rs. 0.64 crore) relate to other departments/ institutions.
10.	Land Revenue	0.63 [@]	Awaited	Period to which this arrear pertains and specific action taken to effect the recovery called for (May 2002) from the department had not been intimated (September 2002).
11.	Stationery and Printing	0.61	--	Arrears of Rs. 0.61 crore pertained to the period from 1997-98 to 2001-2002 and is recoverable from the Director, Public Relations.
12.	Non-ferrous, Mining and Metallurgical Industries	2.61	Awaited	Period to which this arrear pertains and specific action taken to effect the recovery called for (May 2002) from the department had not been intimated (September 2002).
13.	Public Works	0.21	Awaited	Period to which this arrears pertain and specific action taken to effect the recovery called for (May 2002) from the department had not been intimated (September 2002).
	Total	263.50		

[@]Information in respect of Chamba, Sirmaur and Una districts has not been received.

1.6 Arrears in appeals

According to the information furnished by the Excise and Taxation Department, the number of appeals filed under the sales tax, passengers and goods taxation act, etc., the number of appeals disposed of and the number of cases pending with the appellate authorities at the end of each year during last five years ending March 2002 were as under:

Year	Opening balance	Number of appeals filed/transferred by other appellate authorities during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to total number of cases Col 5 to 4
1.	2.	3.	4.	5.	6.	7.
1997-98	403	431	834	339	495	41
1998-99	495	530	1025	673	352	66
1999-2000	352	557	909	651	258	72
2000-2001	258	673	931	641	290	69
2001-2002	290	659	949	638	311	67

Out of 311 cases outstanding at the end of March 2002, the oldest case relates to June 1999. There is a need to take effective steps for disposal of these cases.

1.7. Frauds and evasion of tax/ duty

The details of cases of frauds and evasion of taxes and duties pending at the beginning of the year, the number of cases detected by the departmental authorities, the number of cases in which assessments/investigations were completed and additional demands (including penalties etc.) of taxes/duties were raised against dealers during the year and the number of cases pending finalisation at the end of March 2002, as supplied (September 2002) by the Excise and Taxation Department are given as under:

(Rupees in crore)

Sr. No.	Name of tax/ duty	Cases pending as on 31 st March 2001	Cases detected during 2001-2002	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 st March 2002
				Number of cases	Amount of demand	
1.	Sales Tax	474	4521	4921	1.49	74
2.	State Excise	26	107	129	0.03	4
3.	Passengers and Goods Tax	2944	1307	2936	0.62	1315
4.	Other Taxes and Duties on Commodities and Services	46	296	289	0.34	53
	Total	3490	6231	8275	2.48	1446

1.8. Results of audit

Test check of the records of sales tax, state excise, taxes on vehicles, goods and passengers, forest receipts, other tax receipts conducted during the year 2001-2002 revealed under-assessments/ short levy/ loss of revenue amounting to Rs. 54.45 crore in 951 cases. During the course of the year 2001-2002 the concerned departments accepted under-assessments etc., of Rs. 33.62 crore in 439 cases of which 9 cases involving Rs. 2.73 crore had been pointed out in audit during 2001-2002 and the rest in earlier years.

This report contains 35 paragraphs including 2 reviews relating to non-levy, short levy of tax, interest and penalty etc. involving Rs. 19.55 crore. Department/ Government have accepted audit observations involving Rs. 7.12 crore of which Rs. 0.03 crore had been recovered up to August 2002. No replies have been received in other cases.

1.9. Outstanding inspection reports and audit observations

- (i) Audit observations on incorrect assessments, short levy of taxes, duties, fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the Heads of Offices and other departmental authorities through Inspection Reports. Serious financial irregularities are reported to the concerned Heads of Departments and the Government. The Heads of Offices are required to furnish replies to the inspection reports through the respective Heads of Departments within a period of two months.
- (ii) The number of inspection reports and audit observations relating to revenue receipts issued during the last three years up to 31st December 2001 which were pending settlement by the departments as on 30th June 2000, 30th June 2001 and 30th June 2002 is given below:

	At the end of June		
	2000	2001	2002
Number of inspection reports pending settlement	2908	2944	3180
Number of outstanding audit observations	8036	8112	8778
Amount of revenue involved (In crore of rupees)	222.21	402.51	436.44

- (iii) Department-wise break-up of the inspection reports and audit observations outstanding as on 30th June 2002 is given below:

Sr. No.	Department	Number of outstanding		Amount of receipts involved (In crore of rupees)	Year to which observations relate	Number of inspection reports to which even first replies have not been received
		Inspection reports	Audit observations			
1.	Revenue	723	1690	15.04	1976-77 to 2000-2001	82
2.	Forest Farming and Conservation	612	2149	324.07	1970-71 to 2000-2001	7
3.	Excise and Taxation	789	2427	56.96	1972-73 to 2000-2001	6
4.	Transport	484	1351	6.68	1972-73 to 2000-2001	27
5.	Other Departments (Public Works, Irrigation and Public Health, Agriculture, Soil Conservation, Horticulture, Co-operation, Food and Supplies, Industries and State Lotteries)	572	1161	33.69	1976-77 to 2000-2001	7
	Total	3180	8778	436.44		129

The issue of outstanding inspection reports was last brought to the notice of the Chief Secretary to Government in August 2002. While expressing concern over pendency, the Chief Secretary forwarded the same to the Administrative Secretaries concerned and asked the Principal Secretary (Finance) to review the position personally.

1.10 Arrears in assessment

The details of sales tax and passengers and goods tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 1997-98 to 2001-2002, as

furnished by the department are given below:

(Rupees in crore)

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalized during the year	Balance at the close of the year	Percentage of cases finalised during the year to total number of cases Col. 5 to 4.
1.	2.	3.	4.	5.	6.	7.
1997-98	60,652	45,441	1,06,093	34,279	71,814	32
1998-99	71,814	46,869	1,18,683	41,255	77,428	35
1999-2000	77,428	48,972	1,26,400	48,162	78,238	38
2000-2001	78,238	48,056	1,26,294	43,093	83,201	34
2001-2002	83,201	47,007	1,30,208	37,101	93,107	28

The above table shows that the number of cases pending at the beginning of 1997-98 were 60,652 which increased to 93,107 at the end of 2001-2002 registering an increase of 53 *per cent*. The percentage of finalisation of assessment cases, which had gone up to 38 *per cent* during 1999-2000 declined to 28 *per cent* in 2001-2002.

CHAPTER 2 SALES TAX

2.1. Results of audit

Test check of records relating to Sales Tax assessments and other records, conducted in audit during 2001-2002, revealed short assessment of tax amounting to Rs. 9.70 crore in 193 cases, which broadly fall under the following categories:-

(Rupees in crore)

	Number of cases	Amount
1. Evasion of tax as a result of suppression of purchases/sales	73	0.98
2. Non-levy/short levy of penalty	8	0.49
3. Under-assessment of tax	96	1.52
4. Other irregularities	15	0.46
5. Working of Multipurpose check posts	1	6.25
Total	193	9.70

During 2001-2002, the department accepted under-assessments etc., of Rs. 14.91 crore involved in 142 cases, of which 3 cases involving Rs. 1.54 lakh had been pointed out in audit during the year and rest in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs. 6.76 crore are given in the following paragraphs.

2.2. Working of Multipurpose Check Posts

2.2.1 Introduction

To check the evasion of sales tax by dealers in the course of inter-State trade, the State Government has established check posts/ barriers at such places in the State, as considered necessary under the Himachal Pradesh General Sales Tax Act, 1968.

The owner or person incharge of goods carriage entering or leaving the limits of the State is required to submit in triplicate a declaration in form ST XXVIA of the goods carried, to the officer incharge of the check post which form the basis for assessment of registered dealer as well as help in the identification of registrable dealers and their tax liabilities in the corresponding districts. For goods carriages bound for outside the State and passing through Himachal Pradesh, form ST XXVII in duplicate is to be submitted by the person incharge of a goods carriage. The incharge of the check post/ barrier can levy and collect the penalty.

2.2.2 Organisational set-up

Subject to the overall control of the Excise and Taxation Commissioner, the administration of check post is entrusted to an Excise and Taxation Officer. He works under the direction and control of the Assistant Excise and Taxation Commissioner/Deputy Excise and Taxation Commissioner (North Zone)/Additional Excise and Taxation Commissioner (South Zone) and Deputy Excise and Taxation Commissioner (Central Zone) stationed at Palampur, Shimla and Mandi respectively. Checking of goods transported in goods carriers through barriers/check posts or through escape routes is also conducted by Flying squads headed by the Deputy Excise and Taxation Commissioners, North, South and Central Zones, with headquarters at Palampur, Shimla and Una respectively.

2.2.3. Scope of Audit

A review on "Working of Multipurpose Check Posts" pertaining to the year 1996-97 to 2000-01 was conducted during May 2001 to March 2002. The working of 17 out of 39 check posts/ barriers and 10 out of 11 district offices was observed with a view to ascertaining the effectiveness and efficacy of check posts in checking the evasion of sales tax.

2.2.4. Highlights

(i) Test check of 10 barriers revealed that 2,68,529 goods vehicles carrying bricks, sand and bajri worth Rs. 62.64 crore and Katha valued Rs. 1.16 crore, were allowed to cross the barriers without obtaining the declaration forms, which resulted in loss of revenue of Rs. 5.13 crore. Resultantly, the department also failed to register these dealers under the Sale Tax Act.

[Para 2.2.6 (i) & (ii).]

(ii) In 309 cases, goods valued at Rs. 5.20 crore on which a minimum penalty of Rs. 78.01 lakh was leviable, crossed the State without handing over of the ST-XXVII forms by the owners of vehicles at the exit barriers.

(Para 2.2.7.)

(iii) 186 declaration forms submitted by unregistered dealers were pending verification. As such these dealers were not registered and brought under tax net.

[Para 2.2.9 (i)]

2.2.5. Trend of revenue

The revenue collected at the barriers during five years ending March 2001 is shown below:-

(In crore of rupees)

Year	Revenue collected at the barriers under Sales Tax
1996-97	0.65
1997-98	0.66
1998-99	1.14
1999-2000	1.22
2000-2001	1.20

2.2.6. Loss of revenue due to non obtaining declaration forms

(i) Under the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1991 and Himachal Pradesh Taxation (Passengers and Goods Taxation) (Amendment) Act, 1996, tax is to be paid on certain goods carried

by road. Besides, under the Himachal Pradesh General Sales Tax Act, 1968, tax is also leviable on taxable goods imported from outside the State. For this purpose, the owner or the person incharge of a goods carriage entering or leaving the limits of the State, is to give a declaration form (ST-XXVI-A) in triplicate at the barrier which is sent to concerned district for use at the time of assessment of a dealer.

Review of records of 11 barriers for the years between 1996-97 and 2000-01 revealed that though owners of 2,68,529 goods vehicles carrying bricks valued at (Rs. 47.70 crore), sand (Rs. 5.63 crore) and bajri (Rs. 9.31 crore) paid tax under the "On Certain Goods Carried by Road Act, 1991" and "Passengers and Goods Taxation (Amendment) Act 1996", the vehicles were allowed to cross the barriers without submitting declaration forms (ST XXVI-A). Since the goods were imported from outside the state, the dealers were liable to pay tax. Because of not obtaining the declaration forms, the department failed to register these dealers which resulted in non levy of tax under Sales Tax Act despite the fact that Acts viz. "Sales Tax Act", "On Certain Goods Carried by Road Act, 1991" and "Passengers and Goods Taxation (Amendment) Act" are administered by the same department. Thus, State Government had to forgo the revenue worth Rs.5.01 crore under Sales Tax.

(ii) To exercise control over the import/export of Forest produce, the State Government has established forest check posts alongside multipurpose barriers established by the Excise and Taxation Department at all the entry /exit points of the State of Himachal Pradesh. It was noticed that from the Forest Check Posts of Tunnu Hatti (Chamba) and Sansarpur Terrace (Kangra) 29 dealers had exported katha valued at Rs. 1.16 crore involving a tax effect of Rs. 11.62 lakh between 1996-97 and 2000-01. These dealers being manufacturers were registerable under the Sales Tax Act as their turnover had exceeded the taxable quantum of Rs. 40,000 upto March 1999 and Rs.2,00,000 thereafter. Correlation of the records of the Forest check posts with that of Sales Tax Barriers by audit revealed that no declarations in form ST-XXVI-A were obtained from these exporters as a result these dealers remained unregistered.

2.2.7. Incomplete Transit Slip Records

The owner or a person incharge of the goods carriage bound for outside the State and passing through Himachal Pradesh is to furnish in duplicate, a declaration in form (ST-XXVII) to the officer incharge of the barrier/check post, on his entry into the State. One copy of such declaration is to be returned to the owner/incharge of goods carriages which is to be delivered at the exit point of the State within 72 hours. In case of failure, a penalty not exceeding twenty five percent but not less than fifteen percent of the value of goods, is to be imposed by the officer incharge of the barrier at the entry point.

Review of the records of Behral, Dherowal, Kala Amb and Toki barriers showed (May and June 2001) that during the period between 1996-97 to 2000-01, 600 goods carriages carrying goods bound for outside the State of Himachal Pradesh, entered the barriers/check posts. Out of this, owners of 309 goods carriages (Behral:48, Dherowal: 39, Kala Amb: 27 and Toki: 195)

did not hand over the declaration forms at the exit barriers for which minimum penalty of Rs. 78.01 lakh on the total value of goods worth Rs. 5.20 crore was leviable but was not levied. The possibility of sale of goods within the State and consequent loss of revenue also could not be ruled out.

Absence of controls to ensure that the barrier at the entry point shall remain in touch with the exit barrier declared for crossing of vehicles bound for outside the State, within the stipulated period could lead to misuse of facility by the unscrupulous vehicle owners.

2.2.8. Non-linking of detection reports

The Excise and Taxation department had from time to time issued instructions that detection reports are to be placed in the dealer's file. It was also stressed that declaration forms collected and the information relating to imposition of penalties be transmitted to the concerned districts so that these may form a part of record of the main file of the assessee. Any adverse information against the dealer to evade the tax is utilised at the time of assessment.

(i) During the review of records of 2 district offices (Sirmour and Una) and 3 barriers (Kala Amb, Mehatpur and Parwanoo), it was noticed that the department had detected 59 cases of under billing worth Rs.15.14 lakh between June 1997 and November 2000 in respect of goods imported from outside the State through goods carriages. Though a penalty of Rs.2.28 lakh was levied and recovered from the dealers on the spot, neither the declaration forms were obtained nor the detection reports sent to the appropriate assessing authorities for placing in the assessment files of the dealers. As a result, the possibility of evasion of tax amounting to Rs.1.33 lakh leviable on the sale of these goods could not be ruled out.

(ii) During test check of records of offices of the Deputy Excise and Taxation Commissioner (Flying Squad), North Zone, Palampur, Assistant Excise and Taxation Commissioner, Una, Kala Amb barrier and Kandwal barrier, it was noticed that in 135 cases detected at barriers and in field checking during the period 1996-97 to 2000-01, penalty of Rs. 24.97 lakh on goods valued at Rs. 1.67 crore was imposed and recovered from the registered dealers on the spot/barriers. However, no declaration form (ST-XXVI-A) was obtained from these dealers and no detection reports were sent to the concerned assessing authorities. Resultantly, possibility of evasion of tax worth Rs.14.71 lakh leviable on the sale of goods could not be ruled out.

2.2.9. Evasion due to non-registration of dealers

Any dealer who does not deal exclusively in goods declared to be tax free shall be liable to pay tax under this Act, on the expiry of 30 days after the date on which his gross turnover during any year first exceeds the taxable quantum. In relation to any dealer who imports for sale or use in a manufacturing process any goods in Himachal Pradesh the taxable quantum has been fixed as "nil".

(i) During review, it was noticed (May and June 2001) that in 4 district offices (Bilaspur, Kangra, Solan and Una) 186 declaration forms relating to goods valued Rs. 72.70 lakh imported by the unregistered dealers from outside the State between 1997-98 and 2000-2001, were pending verification. No action was taken by the department to verify these forms and to bring the dealers under the tax net. The sale value of these goods worked out to Rs. 79.97 lakh on which a tax of Rs. 6.40 lakh was leviable.

(ii) Review of the records of Sirmour and Una district offices along with the records of 7 barriers (Baddi, Dherowal, Gagret, Kala Amb, Mehatpur, Parwanoo and Swarghat) showed that goods worth Rs. 71.84 lakh were imported by 236 unregistered dealers between 1997-98 and 2000-01. A penalty of Rs. 12.88 lakh was levied and recovered from them. These dealers being importers were liable for registration irrespective of their turnover. However, no action to register them was initiated. Sales tax of Rs.5.75 lakh on the sale value of these goods was leviable.

(iii) A review of records of STXXVI-A forms of Kangra District revealed that 7 dealers had exported katha valued at Rs. 18.80 lakh between April and May 1999 by filing declaration forms. Even though the turnover of all these dealers being manufacturers, had exceeded the prescribed limit of taxable quantum, no action had been taken by the concerned district office to register the dealers under the sales tax law. Sales Tax in these cases amounted to Rs. 1.88 lakh.

2.2.10. Non accounting of transactions

Under the Himachal Pradesh General Sales Tax Rules, 1970 and instructions issued by the Excise and Taxation Commissioner from time to time, separate white and pink registers in form ST-XXVI-D and ST-XXVI-E in respect of registered and unregistered dealers respectively are to be maintained at the barriers, separately for each district, in which particulars of each consignment passing through the barrier is recorded. A copy of the white and pink register along with declaration forms is to be sent to the Assistant Excise and Taxation Officers of the concerned district twice a week for cross verification with the books of the dealers at the time of finalisation of assessments.

(i) Cross check of the declaration forms sent by 14 barriers to the district offices at Bilaspur, Chamba, Hamirpur, Kangra, Sirmour and Solan revealed that against 6,84,697 declaration forms for the period falling between 1996-97 and 2000-01 sent from the barriers, only 5,65,376 forms were actually received in the district offices. This resulted into a difference of 1,19,321 forms. No efforts to reconcile the differences were made by the department.

(ii) Delay in submission of ST-XXVI- Forms

According to the records of 22 barriers, 59,22,272 forms were filed by the dealers during the years 1996-97 to 2000-01. It was noticed in audit that their submission to the concerned district officers were delayed, which ranged between 1 week and 110 weeks. This would result in delay in finalisation of assessment or finalisation of assessments without verification.

(iii) Non verification of declaration forms lying in the files of other dealers

According to the departmental instructions (January 1990), every assessing authority while finalising the assessments, is required to verify the transaction noticed in declaration forms received from the barriers from the books of the dealers, to ensure proper accountal and payment of tax.

Review of records of 5 district offices* showed that in case of 42 dealers, 89 declaration forms valued at Rs. 45.12 lakh, were found in the assessment files of other dealers. These were required to be sorted out and handed over to the concerned assessing authorities for verification from the books of the concerned dealers but this was not done and thus these forms remained unverified. Evasion of tax of Rs 3.61 lakh in these cases could not be ruled out.

(iv) Non-verification of declaration forms (ST-XXVI-A) by the Inspectorate Staff

With a view to detecting unregistered dealers, the officers incharge of the multipurpose barriers are required to collect declaration forms (ST-XXVI-A) in respect of imports/exports made by the unregistered dealers and transmit the same to the concerned assessing authorities to register such dealers. The department has neither fixed any time limit for verification of such cases nor does there exists any system to monitor their timely verification in order to register the unregistered dealers.

Test check of records of Bilaspur district revealed that 18381 declaration forms pertaining to unregistered dealers were handed over to the circle inspectors for verification during the year from 1996-97 to 1999-2000. Of these, only 13,360 forms could be verified. The remaining 5021 forms were pending verification.

2.2.11. Non maintenance of records

Himachal Pradesh General Sales Tax Rules, 1970 provide that bills of lading (declaration forms) are required to be sorted out under the supervision of the assessing authority entered in the dealer-wise register (Form ST-XXVI-F) maintained for the purpose. The bills of lading in respect of registered dealers are to be handed over to the concerned assessing authorities at the end of each month to place in the assessment file of the dealers to ensure cent per cent accounting of declaration forms.

Test check of records of Hamirpur, Kullu, Mandi, Sirmour, Solan and Una district offices showed that the dealer wise registers were not maintained in these offices.

2.2.12. Internal Audit

As a part of internal control mechanism, there exists an internal audit system in the Excise and Taxation Department which inter-alia lays down audit of

* Bilaspur: 16, Hamirpur: 7, Mandi: 1, Shimla: 8 and Solan: 10.

district offices as also of barriers. During review, it was noticed that there had been a huge shortfall in the internal audit. As against 195 units which were due for audit during the period falling between 1996-97 and 2000-01, only 13 units were audited. No specific reasons were advanced by the department for the shortfall.

2.2.13 Conclusion

It is evident that the functioning of the multipurpose check posts and obtaining declaration forms was beset with operational deficiencies and lapses which defeated the primary purpose of checking evasion of tax. There is no system of monitoring movement of vehicles, coordination between entry and exit check post and quick communication which would have enabled detection of tax evasion. The department failed to register the dealers on the basis of declaration forms obtained from them. There is no system to reconcile whether the declaration forms sent to the respective Assistant Excise and Taxation Officers have been accounted for by them. Urgent action is required to review the functioning of the check posts.

The above points were reported to the department and Government in June 2002; their replies have not been received.

2.3. Short levy of sales tax

As per notification dated 28 July 1978, the Small Scale Industries registered with Industries Department which manufacture goods would be entitled to sale/purchase tax holiday in respect of goods purchased by them and used in manufacture of goods for sale in the State. As per the provisions of the Central Sales Tax Act, 1956, the inter-State sales of declared goods, not supported by declaration form 'C' is leviable to tax at twice the rate applicable to the sale or purchase of such goods inside the State under the State Sales Tax Laws.

During audit of the office of the Assistant Excise and Taxation Commissioner, Nahan, it was noticed that an industrial unit engaged in the manufacturing of hand brite wire (declared goods) transferred the stock valued at Rs.5.01 crore during the year 1996-97 to 1998-99. However, the assessing authority while assessing the dealer (April 2000) exempted the turnover from levy of sales tax treating the sales as inter State whereas the sales was on account of branch transfer. As such the exemption was inadmissible. This resulted in short levy of sales tax of Rs. 40.08 lakh.

On this being pointed out, the department stated (February 2001) that notices have been issued to the dealer. Further report has not been received (August 2002).

This was reported to Government in March 2001; their reply has not been received (August 2002).

2.4. Non levy of tax due to non-registration of dealers

Under the Himachal Pradesh General Sales Tax Act, 1968, 'dealer' includes any department, or subordinate office of a Government which whether or not in

the course of business buys, sells, supplies or distributes goods for commission, remuneration or other valuable consideration. If a dealer liable to pay tax, carries on business without getting himself registered, he is liable to penalty not exceeding two thousand rupees and where such failure is continuing one, a daily penalty not exceeding fifty rupees is to be levied during the period of continuance of the contravention or failure.

According to the information collected in audit from the Himachal Pradesh Public Works Division, Sunder Nagar, it was noticed (September 2000) that material worth Rs. 1.25 crore was issued to the contractors for execution of works contracts without charging sales tax during the period between 1994-95 and 1998-99. No action was taken by the department to register the division as a dealer under Sales Tax Act. This resulted in non-levy of tax amounting to Rs.9.17 lakh. Besides, penalty at prescribed rate was leviable.

On this being pointed out (September 2000) in audit, the assessing authority assessed (June 2001) the case and a demand of Rs. 9.17 lakh (excluding penalty) was raised. Report of recovery had not been received (August 2002).

2.5. Short determination of taxable turnover

Under the Himachal Pradesh General Sales tax Act, 1968, 'turnover' includes the aggregate of the amounts of sales and purchases actually made by the dealer during the given period. At the time of finalising the assessment, the assessing authority is required to check the accounts of the dealer to satisfy himself that all purchases and sales made by him have been properly accounted for. If a dealer fails to pay the tax due by the prescribed date, he has to pay interest at the rate of one per cent per month for a period of one month and at the rate of one and a half per cent per month thereafter so long as the default continues.

During audit of the Assistant Excise and Taxation Commissioner, Shimla, it was noticed (October 2001) that assessments of a dealer for the years 1998-99 and 1999-2000 were finalised (March 1995 and November 2000) on the basis of the sales worth Rs 1.89 crore as disclosed by the dealer in the trading accounts. A scrutiny in audit of the assessment records revealed that during these years the dealer had actually sold goods valued at Rs. 2.12 crore. Thus the dealer's taxable turnover amounting to Rs. 23.15 lakh had escaped levy of tax. This resulted in short levy of tax of Rs. 2.46 lakh (including interest). The matter was pointed out (October 2001) in audit to the department and reported to the Government in November 2001; their replies have not been received (August 2002).

CHAPTER 3: STATE EXCISE

3.1. Results of audit

Test check of records relating to State Excise, conducted in audit during the year 2001-2002, revealed non-levy of import fee/ excise duty and other irregularities involving revenue amounting to Rs.4.55 crore in 48 cases which broadly fall under the following categories:-

(Rupees in crore)

	Number of cases	Amount
1. Non-levy of import fee	7	3.42
2. Non-levy of excise duty	11	0.57
3. Other irregularities	30	0.56
Total	48	4.55

During 2001-2002, the department accepted under-assessments etc., of Rs.20.29 lakh involved in 13 cases, of which one case involving Rs. 2.55 lakh had been pointed out in audit during the year and the rest in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs. 0.65 crore are given in the following paragraphs.

3.2. Non realisation of duty on excess wastage

The Excise and Taxation Commissioner, Himachal Pradesh vide notification dated 20 September 1965 prescribed the norms of wastage allowance in the mature spirit warehouse/warehouses during the period of storage in Kasauli distillery/Spirit bottling section at Solan brewery.

During test check of records of Solan district, it was noticed that against admissible maturation wastage of 11,564.200 proof litres of spirit, the actual wastage was 17,329.700 proof litres. This resulted in excess wastage of 5,765.500 proof litres of spirit during 1998-99 and 2000-2001, in Kasauli Distillery on which excise duty of Rs. 1.64 lakh was not realised from the licensee .

On this being pointed out in audit, the Assistant Excise and Taxation Commissioner, Solan district stated (January 2002) that the cases of excess wastage had been submitted to the Collector, Excise (South Zone) (May and October 2001) for issue of notice to the distillery. Further report has not been received (August 2002).

3.3. Non realization of assessed fee at enhanced rate

Annual Excise Auction Announcements provide for the levy of assessed fee at the prescribed rates on the sale of liquor to the serving troops and ex-servicemen by the Canteen Stores Department. The licences for running excise vends are granted on annual basis. Therefore, the opening stocks of liquor held at the beginning of a year by any licensee were liable to the assessed fee at the differential rates whenever there was an increase in the rate of assessed fee. The rates of assessed fee of Rs. 22.50 per bulk litre on IMFS and of Rs. 0.25 per bulk litre on beer for the year 1998-99 were enhanced to Rs.25 per bulk litre and Rs. 3 per bulk litre for 1999-2000 and thereafter to Rs.35 per bulk litre and Rs. 4.50 per bottle for 2000-2001 respectively.

During test check of records of three district Excise offices (Hamirpur, Kangra and Kullu), it was noticed that 37,255.50 bulk litres of IMFS and 520 bottles of beer were held as opening stocks for the years 1999-2000 and 2000-2001 by the Canteen Stores Department but the assessed fee of Rs. 3.10 lakh at the differential rates was not recovered.

On this being pointed out (December 2001) in audit, the Assistant Excise and Taxation Commissioners, Hamirpur and Kangra stated (February and May 2002) that an amount of Rs. 1.40 lakh had been recovered. Reply in respect of Kullu district had not been received (August 2002).

3.4. Non/ short levy of interest

Condition No. 21 of the Annual Excise Auction Announcements envisages that in the event of failure to pay an instalment of licence fee or part thereof by the due date (25th of the month in case of monthly instalment), the licensee shall pay interest at the rate of 18 *per cent* per annum for a period of one month or part thereof from the date of default and at the rate of 24 *per cent* per annum thereafter till the default continues. Besides, the payment of licence fee is also linked to the release of advance monthly quota of country liquor, which shall in no case be released without payment of license fee for the corresponding month.

During test check of records of 6 district offices (Kangra, Kinnaur, Kullu, Mandi, Sirmour and Una) it was noticed that interest amounting to Rs.8.65 lakh on belated payments of instalments of licence fee by the licensees for the period of delay ranging between 2 and 441 days, was either short realised or not realised. In respect of Una district, it was further noticed that advance monthly quota of country liquor was released during the months of April 2000 to January 2001 without payment of monthly licence fee at the rate of Rs. 9.72 lakh for the corresponding months on the dates of release of advance quota. Interest of Rs.1.94 lakh due on such belated payments of licence fee was also not levied.

On this being pointed out in audit, the Excise and Taxation Officer, Kangra and Kinnaur stated (July 2001) that an amount of Rs. 0.55 lakh had been

recovered. Report of recovery in respect of balance amount had not been received (August 2002).

3.5. Short realisation of additional licence fee

Annual Excise Auction Announcements for the years 1998-99, 1999-2000 and 2000-2001 provided for the levy of additional licence fee at the rate of Rs.2 per quart bottle of Country liquor and IMFS sold by any retail excise licensee. (L2 and L 14 vends)

Test check of records of five district Excise offices* revealed that (June and December 2001) additional licence fee amounting to Rs. 5.56 lakh pertaining to the period between 1999-2000 and 2000-2001 recoverable from 8 licensees, was short realised.

The matter was reported to department (June and December 2001) and to Government (June 2002); their replies have not been received (August 2002).

3.6. Non invoking of provisions of bonds

The Punjab Liquor Permit and Pass Rules, 1932, as applicable to the State of Himachal Pradesh, lays down that no permit shall be granted for despatch of any consignment of liquor /beer without payment of duty unless the manufacturer/manager has executed a bond in form L-37, binding himself in respect of the consignment to be despatched to produce within reasonable time a certificate in form L-38 showing the quantity of liquor received at the destination and to pay such duty as may be demanded from him.

During test check of records of the Excise offices of Sirmaur, Solan and Una districts, it was noticed (August to November 2001) that the manufacturers of three distilleries were allowed to despatch consignments of 12,150 proof litres of IMFS and 4,70,225.160 bulk litres of beer between 1998-99 and 2000-2001 under bonds executed in form L-37 without payment of duty of Rs. 43.98 lakh. The department neither demanded the production of certificates in form L-38 ensuring that the consignments had reached the destination nor invoked the provisions of bonds for recovery of duty of Rs. 43.98 lakh from the consignors even after a lapse of 7 to 42 months.

On this being pointed out in audit, the department stated (October 2001) that the cases had been submitted to the Collector for issuance of notices to the licensees of Solan district and that the matter was under action in respect of Una district. Further report and reply relating to Sirmour district had not been received (August 2002).

The matter was reported to Government in June 2002; their replies have not been received (August 2002).

* Kangra, Kullu, Mandi, Solan and Una.

CHAPTER 4 TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1. Results of audit

Test check of records of the departmental offices, conducted in audit during the year 2001-2002, revealed non-realisation or short realisation of tax and other irregularities amounting to Rs. 11.49 crore in 280 cases, which broadly fall under the following categories:-

(Rupees in crore)

		No. of cases	Amount
1.	Non-realisation or short realisation of		
	(i) Token tax and Composite fee	106	1.31
	(ii) Passengers and Goods Tax	38	0.40
2.	Evasion of		
	(i) Token Tax	40	0.83
	(ii) Passengers Tax	12	2.58
3.	Other irregularities		
	(i) Vehicles Tax	60	2.50
	(ii) Passengers and Goods Tax	24	3.87
	Total	280	11.49

During the course of the year 2001-2002, the concerned departments accepted under assessments of Rs.4.81 crore in 61 cases pointed out in audit during 2001-2002. A few illustrative cases highlighting important observations involving financial effect of Rs.1.28 crore are given in the following paragraphs.

4.2. Non-realisation of token tax

Under the Himachal Pradesh Motor Vehicles Act, 1972, and rules made thereunder token tax levied is payable in advance and is collected annually or quarterly in the prescribed manner. Token tax at the rate of Rs. 500 per seat per annum subject to a maximum of Rs. 25000 per annum for stage carriage and Rs. 200 per seat per annum subject to a maximum of Rs. 8000 per annum for contract carriage is to be levied and collected. In case of default the taxation authority may direct the owner of the vehicle to deposit the arrears of token tax alongwith penalty not exceeding the annual tax payable or twice the amount of tax due whichever is higher.

During audit of the records of Five* Regional Transport Authorities, it was noticed (October 2000- July 2001) that 65 stage carriages and two contract carriage owners did not deposit token tax of Rs. 17.23 lakh for the period

* Amb, Dalhousie, Nalagarh, Palampur and Theog.

falling between April 1995 and March 2001. Besides, non payment of tax, maximum penalty amounting to Rs.34.46 lakh was also leviable.

This was pointed out to the department/ Government between November 2000 and August 2001, their replies have not been received (August 2002).

4.3. Under- assessment of special road tax

Through a notification dated 6th January 2000, issued under the Himachal Pradesh Motor Vehicles Taxation Act, 1972, (as amended in 1999) special road tax was levied and collected in advance at specified rates, for the stage carriage transport vehicles plying on the National Highways, Intra-State/Inter-State routes, State Highways, rural roads and local buses/mini-buses within a radius of 30 kilometers (point to point i.e. originating and terminating points).

During audit of the Regional Transport Authorities, Shimla and Solan, it was noticed (June-August 2001) that Shimla-Kangra road and Nahan-Poanta Sahib Section of road of Himachal Pradesh territory was declared (prior to January 2000) as National Highways-88 and 72 respectively. However, the special road tax for the period falling between January 2000 and March 2001 was realised from the stage carriage transport vehicles (plying on these National Highways) incorrectly at the rates applicable to State Highways. This resulted in short realisation of special road tax of Rs. 20.01 lakh.

On this being pointed out in audit (between June and August 2001), the Regional Transport Authorities stated that efforts would be made to realise the amount under-assessed. Further report had not been received (August 2002).

The matter was reported to the department/Government in July-September 2001; their reply had not been received (August 2002).

4.4. Embezzlement of Government money

The Himachal Pradesh Financial Rules, 1971, stipulate that the departmental receipts collected during the day should be credited into the treasury on the same day or latest by the morning of the next working day. Every officer receiving money on behalf of the Government should maintain a cash book in the prescribed form. All monetary transactions should be entered in the cash book as soon as they occur and attested by the Head of office or the officer authorised in this behalf, in token of check. The cash book should be closed daily and completely checked on the same day.

During audit of the office of the Registering and Licensing Authority, Dharamshala, it was noticed (January-February 2002) that daily summary sheets for 45 days were missing and these were got regenerated by audit. While reconciling the figures of the Government money collected by the office during the period between October 1998 and October 2000 with the deposit records of the District Treasury, Dharamshala, it was noticed that Government revenue of Rs. 13.88 lakh was not deposited by the counter clerk

in the Treasury. The embezzled amount pertained to October 1998 (3 days: 111 receipts: Rs. 0.23 lakh), between May-September 1999 (5 days: 391 receipts: Rs. 1.26 lakh) and between May-October 2000 (37 days: 2403 receipts: Rs. 12.39 lakh).

The embezzlement was facilitated due to the failure of the Registering and Licensing Authority to ensure the continuity of serial numbers of receipts, while signing the day's summary sheets (cash book). The head of the office had thus not ensured that the Government receipts collected were deposited into the treasury.

While admitting the audit observation, the Deputy Commissioner, Kangra at Dharamshala stated (12 February 2002) that an amount of Rs. 2.18 lakh had been recovered and deposited on 1st February 2002 into the District Treasury, Dharamshala and that as no further recovery was forthcoming, FIR was registered on the 4th of February, 2002 with the police and the official has been arrested and placed under suspension and a fact finding inquiry had been ordered and on receipt of the report, departmental inquiry would be initiated. The police investigations were also stated to be under way. Further report had not been received (August 2002).

The matter was reported to the department /Government in March 2002; their reply had not been received (August 2002).

4.5. Short realisation of composite fee

Under the National Permit Scheme, an amendment of December 1999 in the Himachal Pradesh Motor Vehicles Taxation Rules, 1999, provides for levy of composite fee at the rate of Rs. 2500 for each six months commencing from 1st April and 1st September every year, payable by goods carriages which are authorised to ply in the State of Himachal Pradesh by an appropriate authority of any other State or Union Territory.

During audit of the records of the State Transport Authority, Shimla, it was noticed (June 2001) that in 542 cases, composite fee pertaining to the period falling between April 2000 and March 2001 payable to Himachal Pradesh State was not charged at correct rates by the concerned authorities of the States of Punjab, Haryana, Uttar Pradesh, Rajasthan, Andhra Pradesh and Jammu & Kashmir. As a result, composite fee of Rs. 8.42 lakh was realised short. The State Transport Authority had not taken any action to recover the differential amount from the sponsoring States.

On this being pointed out the department stated (May 2002) that action for realisation of outstanding composite fee had been taken up with the concerned State Transport authorities. Further report has not been received (August 2002).

The matter was reported to the Department/Government in July 2001; their reply had not been received (August 2002).

4.6. Non deposit of Government money into the treasury

Under the National Permit Scheme, vehicles registered in one State are authorised to ply in other State on payment of prescribed composite fee. The composite fee is initially received by the home State from the owner of the vehicle in the form of cross bank draft, which is transmitted to the transport authorities of the State in which the vehicle is authorised to ply. A bank draft is valid for six months from the date of issue unless it is revalidated.

During audit of the State Transport Authority, Shimla it was noticed (June 2001) in audit that 306 bank drafts amounting to Rs.5.40 lakh, pertaining to the period falling between 1998 and March 2000 on account of composite fee, were not encashed within the validity period and were therefore, sent (May 2000) to the banks concerned, for revalidation. After revalidation, 224 bank drafts amounting to Rs.4.03 lakh were deposited into the Government treasury between August 2001 and May 2002. The delays ranged between 15 months and 24 months. The remaining 82 bank drafts of Rs.1.37 lakh had not been received back after revalidation so far (August 2002).

The matter was reported to the Government in July 2001; their reply had not been received (August 2002).

4.7. Non payment of token tax by owners of Educational Institutions Vehicles

Under the Himachal Pradesh Motor Vehicles Taxation (Amendment) Act, 1992, a token tax at the rate of Rs. 200 per seat per annum subject to a maximum of Rs.8,000 is to be charged on the buses belonging to educational institution.

During audit of Registering and Licensing Authority, Amb and Kullu, it was noticed (April 2001-March 2002) that 16 vehicles owned by various educational institutions though registered with the licensing authorities had not paid token tax of Rs. 3.16 lakh for the period falling between 1993-94 and 2000-2001, for which no action was taken by the Department.

The matter was reported to the Government between May 2001 and March 2002; their reply has not been received (August 2002).

4.8. Vehicles not registered with the Excise and Taxation Department

As per Motor Vehicles Act, 1988, read with the Himachal Pradesh Motor Vehicles Taxation Act, 1972, the owners of stage/contract carriages and goods carriers are required to register their vehicles with the concerned Excise and Taxation Officers under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, and pay passenger tax, surcharge and goods tax at the prescribed rates on all fares and freights in respect of passengers carried and

goods transported by motor vehicles. For failure to apply for registration, penalty not exceeding five times the amount of tax or surcharge so assessed, subject to a minimum of five hundred rupees is also leviable.

While the motor vehicles tax is administered by the Transport Department, the passenger and goods tax is administered by the Excise and Taxation Department. According to Excise and Taxation Commissioner instructions (December 1984), Excise and Taxation Officers are required to ensure registration of all vehicles liable to pay passenger and goods tax under the Himachal Pradesh Passengers and Goods Taxation Act, 1955, in close co-ordination with the Registering and Licensing Authority in the Transport Department.

During test check of the records of Nine* Assistant Excise and Taxation Commissioners, it was noticed (June 2001 and March 2002) that 662 goods vehicles registered with the concerned Registering and Licensing Authorities, were not registered with the Excise and Taxation Department. As a result goods tax of Rs.16.18 lakh for the period falling between 1997 and 2001 was not paid by the owners of the vehicles to the concerned taxation authorities. A minimum penalty of Rs. 3.31 lakh was also leviable.

On this being pointed out (between June 2001 and March 2002), the department stated that goods tax amounting to Rs. 0.59 lakh (Chamba: Rs. 0.33 lakh, Nahan: Rs. 0.20 lakh and Mandi: Rs. 0.06 lakh) had been recovered. Final replies in respect of remaining cases have also not been received (August 2002).

The matter was referred to the Department/Government between 26 June 2001 and 14 August 2002 but their reply has not been received.

4.9. Short realisation of goods tax

Under the provisions of the Himachal Pradesh Passengers and Goods Taxation (Amendment) Rules, 1997, for the carriage of goods, the owner of a transport vehicle or a private carrier, may pay goods tax in lump sum at the rate of Rs. 7,000 per annum per vehicle having loading capacity of more than 30 quintals with effect from 1st October 1996. The tax was reduced to Rs.4000 per annum with effect from 1st April 1997, provided that lump sum goods tax on the 1st day of April of each following financial year shall automatically be increased by 10 per cent of the rates applicable on 31st day of March of the preceding financial year. No fresh option was required in that behalf.

During audit of the offices of Assistant Excise and Taxation Commissioners, Bilaspur, Kangra at Dharamsala, Mandi, Solan and Shimla, it was noticed (between August 2001 and February 2002) that goods tax amounting to

* *Bilaspur, Chamba, Hamirpur, Mandi, Nahan, Shimla, Solan, Kangra at Dharamsala and Una.*

Rs.10.19 lakh was short realised in respect of 602 vehicles during the period between October 1996 and March 2000, as per details given below:-

(Rupees in lakh)

Sr. No.	Name of Assistant Excise and Taxation Commissioner	No. of vehicles	Goods tax chargeable	Goods tax deposited	Goods tax short realised
1.	Bilaspur	305	9.66	4.42	5.24
2.	Kangra at Dharmsala	85	2.71	1.24	1.47
3.	Mandi	79	2.79	1.41	1.38
4.	Solan	70	2.54	1.48	1.06
5.	Shimla	63	2.10	1.06	1.04
	Total	602	19.80	9.61	10.19

On this being pointed out in audit, the department stated (January 2002) that an amount of Rs.0.16 lakh had been recovered in respect of 8 vehicles pertaining to Solan district. Further report and reply in respect of Bilaspur, Kangra, Mandi and Shimla had not been received (August 2002).

The matter was reported to the Government in September 2001-March 2002; their reply has not been received (August 2002).

CHAPTER 5 : FOREST RECEIPTS

5.1. Results of audit

Test check of the records of forest receipts, conducted in audit during the year 2001-02, revealed non-recoveries, short recoveries and other losses of revenue amounting to Rs. 18.76 crore, in 110 cases, which broadly fall under the following categories:-

(Rupees in crore)

		No. of cases	Amount
1.	Non-recovery of royalty	5	0.17
2.	Short recovery of royalty	3	0.10
3.	Non-levy of extension fee	12	0.83
4.	Non-levy of interest	13	0.96
5.	Other irregularities	77	16.70
	Total	110	18.76

During 2001-2002, the department accepted under-assessments etc., of Rs.24.19 crore involved in 74 cases, of which 3 cases involving Rs.2.67 crore had been pointed out in audit during the year and the rest in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs. 9.45 crore are given in the following paragraphs.

5.2. Loss of revenue due to administrative failure

Any act of causing damage by negligence or deliberately felling a tree or clearing of land for cultivation or for any other purpose in any protected forest etc., is an offence under the Indian Forest Act, 1927 and is punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both. It is the duty of every Forest Officer to immediately take cognizance of a forest offence, arrest the offender and seize the implements used in committing the offence and the forest produce. In order to curb the menace of illicit felling and timber smuggling, flying squads have also been formed.

The Divisional Forest Officers were conferred (June 1994) powers of the Collector and were required to detect the encroachment in the forest land and evict the encroachers.

During audit of the records of the four[§] Divisional Forest Officers, it was noticed that in 9 cases involving 828 coniferous trees containing 1,305.20 cubic metres of standing volume of timber and 148 broad leaved trees were felled illicitly by the offenders. Scrutiny of the records revealed that no damage report in respect of 976 trees were issued, and only 47.80 cubic metres standing volume of timber could be seized by the inspection parties during checking of the forests. Lack of vigil on the part of the department and failure to take timely cognizance of offences resulted in loss of revenue amounting to Rs. 1.18[®] crore to the Government on account of 1,257.40 cubic metres timber and 148 broad leaved trees not seized as detailed in Appendix-A.

On this being pointed out (between February 2000 and October 2001) in audit, the department stated that cases were under investigations either with the department (4 cases) or with the Police (5 cases). Further progress and replies in two cases had not been received (August 2002).

The cases were reported to the Government between March 2000 and November 2001; their replies had not been received (August 2002).

5.3. Non-recovery of price of trees

According to the Himachal Pradesh Financial Rules, 1971, Volume I, the departmental controlling officers should see that all sums due to the Government are regularly and promptly assessed, realised and credited into the treasury. As and when the sanction to transfer any forest land for non forestry purposes under the Forest Conservation Act, 1980 is received from the Government of India, the trees standing on such land which are required to be felled and removed are marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation. The price of the trees so marked is recovered from the user Agency (the agency in whose favour the land is transferred) at the prevailing market rates and deposited as revenue of the forest department.

During the course of audit of the records of 5* Divisional Forest Officers, it was noticed (between July 2000 and September 2001) that the Government of India accorded (September 1994) approval for the diversion of forest land to the Power Grid Corporation of India for erection of transmission lines (Jhakri Abdullapur). Accordingly, 22,525 standing green trees were marked and handed over to the Forest Corporation for exploitation between the years 1999-2000 and 2000-01. Scrutiny of the records, however, revealed that price of trees of Rs. 5.30 crore had either not been demanded or demanded but not paid by the Power Grid Corporation of India. This resulted in non-recovery of revenue of Rs. 5.30 crore (including sales tax).

[§] Ani at Luhri, Chamba, Churah, and Rampur.

[®] Value worked out at the rates fixed by the Government for the year 1993-94 as the market rates thereafter have not been fixed.

* Bilaspur, Rajgarh, Rohroo, Suket and Theog.

The cases were reported to the department/ Government between August 2000 and September 2001; their replies had not been received (August 2002).

5.4. Non-levy of extension fee

Clause 3 of the standard agreement deed for the lease of forests for felling of marked trees, their conversion and extraction of timber provide that if a lessee fails to fell, convert and carry trees outside the leased area within the contract period, he may seek extension in the working period, failing which he shall have no right on the standing/ felled trees and scattered/ stacked timber lying in the leased forest. If extension is applied for and granted, the lessee is required to pay extension fee at the prescribed rates on the amount of royalty of the lot concerned.

During audit of records of 8* Divisional Forest Officers, it was noticed (between February 2001 and November 2001) that 30 lots with lease periods between 31 March 1999 and 31 March 2001 were handed over to the State Forest Corporation for exploitation. As the exploitation work of these lots could not be completed within the lease periods, the Corporation sought extension of the working periods of 29 lots whereas no extension was sought in one lot. No action was also taken to forfeit the forest produce where extension was not granted and to recover extension fee of Rs. 52.29 lakh as detailed in the Appendix-B.

These cases were reported to the Government between March 2001 and December 2001; their replies had not been received (August 2002).

5.5. Loss of revenue due to non-tapping of resin blazes

According to the "Resin Tapping Instructions and Rules" regulating the work of handing over of resin blazes to the Forest Corporation for tapping in each tapping season, enumeration work is to be taken up by the department in the month of November and lists of blazes are supplied to the Corporation by the end of January each year. Setting up of the crop is done by the Corporation during the period from 15 February to 15 March each year. Tapping of resin from chil trees can be done continuously for 20 years under the "Rill Method". As per decision (October 1980) of the Government, the Corporation was required to work all the lots in a division and would not pick and choose them. Further, the Principal Chief Conservator of Forest issued (May 2000) instructions that in case the blazes were to be deleted from tapping, full justification of such proposals would have to be given by the Divisional Forest Officer by the end of the tapping season or latest by the 15th of December every year, so that the orders of the Conservator of Forests be obtained well before commencement of the ensuing tapping season.

* Bharmour, Dalhousie, Kunihar, Mandi, Rajgarh, Rampur, Suket (Sundernagar) and Theog.

During audit of the records of 10⁵ Divisional Forest Officers, it was noticed (between January 2001 and February 2002) that 2,01,097 resin blazes were not handed over to the Corporation for resin tapping between the tapping seasons of 1997 and 2001 due to deletion of blazes from the marking lists/ non-enumeration of blazes. Prior permission of the Conservator of Forests was also not obtained before deletion of blazes. This resulted in depriving the Government of revenue of Rs. 53.24 lakh on account of royalty as given in Appendix-'C' to the paragraph.

The cases were reported to Government between February 2001 and March 2002; their replies had not been received (August 2002).

5.6. Non-levy of interest and penalty

The Himachal Pradesh State Forest Corporation which is entrusted with the responsibility of exploitation of forest lots is required to deposit instalments of royalty in respect of forest lots by due dates as fixed by the State Government. In case the royalty is not paid within 90 days after the due date, the interest at the rate of 16.5 per cent per annum is chargeable.

Further, as per clause 18 (G) of the standard agreement deed for the lease of forest for felling of marked trees, their conversion and extraction of timber, sales tax as leviable on the sale value of the lot would be payable along with royalty instalment. In case of failure to do so, the Corporation would have to pay penalty at the rate of 18 per cent per annum for the belated payment of sales tax.

During audit of records of 14* Divisional Forest Officers, it was noticed (between February 2001 and February 2002) that 197 forest lots were handed over to the Corporation for exploitation between 1991-92 and 2000-01. Though the royalty was paid between 1996-97 and 2000-01, no interest and penalty was levied for delayed payments ranging between 31 days and 2418 days. This resulted in non-levy of interest and penalty amounting to Rs. 36.81 lakh (interest: Rs. 20.91 lakh and penalty: Rs. 15.90 lakh) as per details given in Appendix-D.

The cases were reported to Government between March 2001 and March 2002; their replies had not been received (August 2002).

⁵ Ani, Churah, Hamirpur, Kunihar, Nachan, Nahan, Nalagarh, Paonta Sahib, Renukaji and Una.

* Bharmour, Dalhousie, Dharamshala, Hamirpur, Karsog, Kotgarh, Kullu, Nalagarh, Nichar, Nurpur, Rohroo, Seraj, Solan and Una.

5.7. Loss of revenue due to irregular grant of trees in timber distribution

According to the departmental instructions (December 1986), the grant of trees to the right holders has to be regulated strictly in accordance with the provisions of the forest and land revenue Settlement Reports. In these reports, only those villagers were recognized as right holders, who had land holdings and were paying land revenue to the Government. In respect of Kullu district, the Government decided that Min-Khata^s holders of Kullu who had acquired ownership of land, would enjoy the concession of getting timber for their bonafide domestic use whereas the tribal Min-Khata holders of Himachal Pradesh settled in Kullu would be allowed trees in Timber Distribution (TD) for bonafide domestic use at one place of their choice including Kullu district, after getting their rights of T.D. extinguished in other districts. The requirement of timber for the construction of new houses should be enough for the completion of a two-room house.

During the test check of Divisional Forest Officers, Parbati and Rohroo, (between May 1999 and August 2000) revealed that under Timber Distribution 71 trees containing 257.11 cubic metres of standing volume of timber was sanctioned irregularly (between September 1995 and November 1998) to villagers either for extension of houses who were already having two room houses or who were not having land holdings as per the Settlement Report or were not paying the land revenue. This resulted in loss of revenue of Rs.30.38 lakh (including sales tax).

The cases were reported to the department and the Government in May 1999 and September 2000; their replies had not been received (August 2002).

5.8. Non-recovery of royalty

The Himachal Pradesh State Forest Corporation is responsible for exploitation of all forest lots and is required to pay royalty on trees at the rates fixed by the State Government. As per the departmental instructions issued in June 1985, demand on account of royalty is to be raised by the department immediately after the lots are handed over to the Corporation for exploitation.

During audit of records of the Divisional Forest Officer, Bharmour, it was noticed (July 2001) that a salvage forest lot, containing 1,118.090 cubic metres of standing volume of timber was handed over to the Corporation for exploitation during the year 2000-2001. But the department had not demanded/ recovered royalty of Rs. 20.93 lakh which was due from the Corporation.

^s Share holders of a khasra number.

The case was pointed out (July 2001) in audit to the department and reported to Government in August 2001; their replies had not been received (August 2002).

5.9. Non deposit of transportation charges into the Government account

To meet the bonafide domestic and agricultural requirement of the people residing in tribal areas, fuel wood and timber is sold at the depots managed by the Forest Department. For this purpose, timber and fuel-wood is supplied by the Himachal Pradesh State Forest Corporation. As per departmental instructions (August 1992), transportation charges of such fuel wood from the roadside depots of the Forest Corporation to sale depots in tribal areas were to be added to the sale price if sold to Government departments and recovery so made credited to the account of the Forest Department.

During audit of the records of the Divisional Forest Officer, Pangi, it was noticed (between September 2000 and August 2001) that 7,665.31 quintals of fuel-wood was sold at Killar sale depot managed by the Forest Department to various Government departments between 1993-94 and 2000-01. Scrutiny of the records revealed that transportation charges of Rs. 17.11 lakh on account of the sale of fuel-wood was deposited into the accounts of the Corporation instead of in Government account. This resulted in non-receipt of transportation charges of Rs.17.11 lakh by the department on which interest accrued till audit amounted to Rs. 7.25 lakh.

On this being pointed out in audit, the department stated (April-August 2001) that the matter was being taken up with the Corporation. Further progress had not been received (August 2002).

The matter was reported to Government in October 2000 and August 2001; their replies had not been received (August 2002).

5.10. Unauthorised retention/ occupation of earmarked accommodation

Government accommodation is earmarked to various employees keeping in view the posts held and nature of their duties. Under the Himachal Pradesh Allotment of Government Residences (General Pool) Rules 1994, an officer occupying an earmarked accommodation, may on transfer retain the accommodation up to one month from the date of handing over charge. Thereafter, for non-vacation of the accommodation, damages for use and occupation of the residence etc., are recoverable at the rates of Rs. 4 per square foot.

During audit of the records of the Divisional Forest Officer, Kullu, it was noticed that in a case, for unauthorised retention/ occupation of earmarked accommodation during the period between November 1999 and November

2000, an amount of Rs. 13.63 lakh recoverable on account of damages was not demanded by the department.

On this being pointed out (November 2000) in audit, the department stated (September 2001) that damages of Rs. 18.55 lakh for the period from 11 November 1999 to April 2001 were demanded out of which Rs. 0.24 lakh was recovered between January and March 2001 and a case for eviction of the accommodation had been filed by the Divisional Forest Officer in the Court of the Collector-cum-Sub Divisional Magistrate Kullu. Further report has not been received (August 2002).

The case was reported to the Government in January 2001; their reply had not been received (August 2002).

5.11. Loss of revenue due to cases becoming time barred

The forest offence cases are required to be either compounded or challaned in the Court of law within one year. As per the provisions of the Criminal Procedure Code no Court can take cognizance of such cases after the expiry of one year.

During audit of the records of the Divisional Forest Officer, Parbati, it was noticed (August 2000) that 4 damage reports involving damages of Rs. 14.75 lakh were issued on 20th May 1997 against the Parbati Hydel Power Project for damaging forest plantations and land during the construction of road. Scrutiny of records in audit revealed that these cases had become time barred due to failure of the department to compound these cases or to take them to the Court of law within the prescribed period. Thus no action could be taken against the offenders. This resulted in loss of revenue of Rs. 14.75 lakh (being the amount of value of forest produce and compensation as assessed by the department) to the Government.

The case was reported to the department/ the Government in September 2000; their replies had not been received (August 2002).

5.12. Less conversion of timber

The Himachal Pradesh State Forest Corporation, entrusted with the responsibility of exploitation of all forest lots, is required to pay royalty on trees at rates fixed by the State Government on the recommendations of the Pricing Committee. The Corporation also exploits such lots which are marked for the supply of timber to the various sales depots being run by the Forest department to meet the bonafide requirements of the right holders. The out-turn percentage (including sawn timber, hakkaries, pulp-wood etc.) have been fixed (February 1986) by the department as 65 per cent of the standing volume for deodar, kail and chil trees and 50 per cent for fir and spruce trees.

During audit of the records of the Divisional Forest Officer, Nachan, it was noticed (June 2001) that a salvage lot of 177 trees of deodar and fir species, containing 426.385 cubic metres standing volume of timber was handed over to the Corporation for exploitation during the year 1999-2000 for the supply of converted timber to Khaliar sale depot of Mandi town against which minimum quantity of 272.775 cubic metres of converted timber was required to be obtained. However, the Corporation had extracted only 171.745 cubic metres, resulting in less conversion of 101.030 cubic metres of timber. Thus, less conversion and consequent short supply of converted timber resulted in loss of Rs. 9.17 lakh (including sales tax).

The case was reported to the department/ Government in June-July 2001; their reply had not been received (August 2002).

5.13. Short recovery of royalty on fuel wood

The Forest Department hand over the fuel wood to Himachal Pradesh State Forest Corporation for sale to domestic consumers at royalty rates and to commercial organisations/ Government departments at market rates. Unable to earmark the lots separately for both these categories, as fuel wood is sold from the same depot, the department decided (February 1990) to raise the demands for supply of fuel wood to commercial organisations/ Government departments initially at royalty rates fixed for domestic consumers and to prefer revised demands at market rates, on receipt of the details of quantities of fuel-wood supplied to them.

During audit of the records of the Divisional Forest Officers, Kaza and Nichar, it was noticed that 16,289.49 quintals of fuel wood was sold from depots between 1997-98 and 2000-01 to Government departments/ commercial organisations. Scrutiny of records revealed that revised demands at market rates on the aforesaid quantity had not been raised against the Forest Corporation, which resulted in short recovery of Rs. 7.76 lakh (including sales tax).

On this being pointed out (November 2000 and September 2001) the Divisional Forest Officers stated that action would be taken after reconciliation of sale of fuel-wood with the Corporation. Further progress and report of recovery had not been received (August 2002).

The cases were reported to Government in December 2000 and October 2001; their replies had not been received (August 2002).

5.14. Loss of revenue

(a) Consequent upon the nationalisation of forest exploitation work, the State Government decided (October 1980) that all trees listed in lots would be

handed over to the Himachal Pradesh State Forest Corporation for working. The Forest department should mark all the salvage trees in the forests and the lists thereof should be handed over to the Corporation within the stipulated dates so that loss of revenue due to theft, rotting etc., could be avoided. No royalty is chargeable on rotten trees.

During audit of the records of the Divisional Forest Officer, Shimla, it was noticed (May 2001) that a salvage lot containing 560.53 cubic metres of standing volume of timber was marked and the marking lists sent (November 1997) to the Corporation for exploitation during 1998-99. The volume marked by the department included 5.0 cubic metres of rotten timber. The Corporation instead of taking over the lot, requested (February 1998) joint inspection of the marked trees with the department. The department not only failed to arrange the joint inspection till April 1999 but also handed over the lot only in September 2000 i.e. after a delay of almost 3 years. The delay in handing over of the lot resulted in increase of rotten timber from 5.0 cubic metres to 142.8 cubic metres. This led to loss of revenue of Rs.6.28 lakh to the Government.

The case was reported to the department/ Government in May 2001; their replies had not been received (August 2002).

(b) The Himachal Pradesh State Forest Corporation, responsible for the exploitation of forests, is required to pay royalty on trees at the rates fixed by the State Government, for the year in which the lots are handed over for exploitation.

During audit of the records of the Divisional Forest Officer, Paonta Sahib, it was noticed that 7 salvage lots of 1,376 sal trees containing 2,460.691 cubic metres of standing volume of timber were handed over (March 2000) to the Corporation for exploitation during the year 1999-2000. Scrutiny of the records, revealed that although the exploitation work of these lots was completed within the currency of the lease period yet the Divisional Forest Officer charged the royalty at the rates fixed for the year 2000-01 (which were less than the rates for 1999-2000 by 25 per cent) instead of 1999-2000. This resulted in loss of revenue of Rs.7.41 lakh (including sales tax).

The case was pointed out (January 2002) in audit to the department and reported to the Government in February 2002; their replies had not been received (August 2002).

5.15. Non-recovery of royalty on unfit trees

According to a decision (May 1989) of the State Government, royalty for unfit trees marked and handed over to the Himachal Pradesh State Forest Corporation for exploitation in salvage lots is chargeable at 18 per cent, 15 per cent and 9 per cent of the rates of royalty fixed for standing green trees, if the intensity of the trees so marked is 15 cubic metres and above, between 5 cubic metres and 15 cubic metres and below 5 cubic metres respectively per hectare

of the total area of the forest or compartment thereof. As per the departmental instructions issued in June 1985, demand on account of royalty is to be raised by the department immediately after the lots are handed over to the Corporation for exploitation.

During audit of the records of the Divisional Forest Officers, Nahan and Paonta Sahib, it was noticed that in 30 salvage lots containing 2,661.032 cubic metres of standing volume of different species of unfit trees and 113.354 metres girth of unfit khair trees, were marked and handed over to the Corporation for exploitation during the years 1999-2001. Scrutiny of records, however, revealed that the department had not claimed royalty of Rs. 7.06 lakh (including sales tax) chargeable on these unfit trees.

On this being pointed (January 2002) in audit, the department stated (July 2002) that in respect of Nahan division royalty and sales tax had been demanded (February-March 2002) from the Corporation. Report of recovery and reply relating to Paonta Sahib division had not been received (August 2002).

The cases were reported to Government in January-February 2002; their replies had not been received (August 2002).

5.16. Short recovery of price of trees marked for electric poles

The State Government fixed (March 2001) the rates chargeable from the State Electricity Board, for the years from 1990-91 to 1999-2000 in respect of deodar wooden electric poles with specifications of 15 to 25 centimetres and 25 to 35 centimetres. Pending fixation of rates after 1989-90, bills on account of electric poles supplied thereafter were to be raised provisionally, subject to recovery of differential amount following the actual fixation of rates.

During test check of the records of the Divisional Forest Officers, Chamba and Churah, it was noticed (October 2001) that 841 deodar poles were handed over to the Himachal Pradesh State Electricity Board during the years 1997-98 (Chamba: 380 poles) and 2000-2001 (Churah: 461 poles). Against an amount of Rs. 9.72 lakh chargeable, the department had charged Rs. 3.99 lakh at the rates applicable in 1989-90. The department did not take any action to recover the differential amount. This resulted in short recovery of Rs. 5.73 lakh from the Electricity Board.

The matter was pointed out (October 2001) in audit to the department and reported to the Government (November 2001); their replies had not been received (August 2002).

5.17. Short recovery of royalty due to application of lower rates

According to a decision (April 1983) of the State Government, royalty for coniferous trees marked and handed over to the Corporation for exploitation in

salvage lots is chargeable at 60 per cent, 50 per cent and 30 per cent of the rates of royalty fixed for standing green trees, if the intensity of the trees so marked is 15 cubic metres and above, 5 cubic metres to below 15 cubic metres and below 5 cubic metres respectively per hectare of the total area of the forest or compartment thereof.

During audit of records of Divisional Forest Officer, Ani at Luhri, it was noticed that a lot involving 165 salvage trees containing 161.493 cubic metres standing volume of timber was marked and handed over to the Corporation for exploitation during the year 2000-2001. Accordingly, the demand for royalty amounting to Rs. 7.86 lakh at the prescribed rates was issued. Subsequently, revised bill for this lot claiming royalty of only Rs. 3.02 lakh was issued (July 2001) by the department to the Corporation. Reasons for the subsequent reduced claim of royalty were not on record. This resulted in short realisation of revenue of Rs. 4.84 lakh without any valid reason.

The case was pointed out (October 2001) to the department and reported to Government in November 2001; their replies had not been received (August 2002).

5.18. Non-recovery of price of drift and stranded timber

Under the Indian Forest Act, 1973, all timber found adrift beached, stranded or sunk, shall be deemed to be the property of the Government until and unless any person establishes his right and title thereto. Such timber may be collected by the Forest Officer or other person entitled to collect the same and bring to the depot declared as such by him. The Himachal Pradesh State Forest Corporation is the sole forest exploiting agency in Himachal Pradesh and therefore, in the case of waif logs collected by the Corporation, the net proceeds of revenue are required to be deposited in the Government account, after deducting the expenditure incurred on account of extraction, collection, carriage and auction etc.

During audit of the records of the Divisional Forest Officer, Churah, it was noticed (October 2001), that price of 510 cubic metres of pulp wood and 500 cubic metres of fuel-wood collected by the Corporation from the banks of the river Ravi and sold as per progress report for the month of February 1999, was neither claimed by the department nor paid by the Corporation. This resulted in non-recovery of revenue of Rs. 2.51 lakh (including sales tax).

The case was pointed out (October 2001), in audit to the department and reported to the Government in November 2001; their replies had not been received (August 2002).

CHAPTER 6: OTHER TAXES (PART 5)

TAX ON LUXURIES (On Hotels and Lodging Houses)

6.1. Results of audit

Test check of records relating to tax on luxuries (in hotels and lodging houses) conducted in audit during the year 2001-2002, revealed irregularities involving revenue amounting to Rs. 2.32 crore in 26 cases, which broadly fall under the following categories.

(Rupees in crore)

		Number of cases	Amount
1.	Evasion of tax	3	0.21
2.	Loss of revenue due to concealment of lodging receipts	14	0.38
3.	Other irregularities	8	0.32
4.	Assessment and collection of taxes on luxuries	1	1.41
	Total	26	2.32

During the year 2001-2002, the concerned department accepted under assessment of Rs. 1.10 lakh in one case which had been pointed out in audit in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs. 1.41 crore are given in the following paragraphs.

6.2. 'Assessment and Collection of Tax on Luxuries in Hotels and Lodging Houses.'

6.2.1. Introduction

The Himachal Pradesh Tax on Luxuries (In Hotels and Lodging Houses) Act, 1979, provides for the levy and collection of tax (to be called 'Luxury Tax') on luxuries provided in hotels and lodging houses. Luxury provided in a hotel means "accommodation for residence provided in a hotel, rate of charges for which (including charges for air-conditioning, telephone, television, radio, music, sports, extra beds and other amenities provided in a hotel) is fifty rupees per person per day or more".

6.2.2. Organisational set up

The Excise and Taxation Commissioner is the head of the department and is assisted by the Deputy Excise and Taxation Commissioner, the Assistant Excise and Taxation Commissioners, with the help of Excise and Taxation Officers and other allied staff in the administration of the Act. In order to assist in checking evasion of tax, flying squads headed by the Deputy Excise and Taxation Commissioner for the south zone, north zone and central zone each are also functioning in the department. The performance of district units etc., is monitored in the quarterly meetings of zonal and district level officers.

6.2.3. Scope of audit

Records of all the 11 district offices* (out of 12 district offices) relating to assessment and collection of luxury tax for the years 1996-97 to 2000-2001 were test checked in audit, between May and December 2001 with a view to assess the effectiveness of the system and procedure regulating the assessment and collection of tax on luxuries provided in hotels and lodging houses.

* Bilaspur, Chamba, Hamirpur, Kangra, Kinnaur, Kullu, Mandi, Shimla, Sirmaur, Solan and Una.

6.2.4. Highlights

(1) Non levy/ under assessment of luxury tax of Rs. 10.41 lakh was noticed in case of 13 hoteliers.

[Para 6.2.8 (i), (iii), (iv) and (v).]

(2) The department's failure to levy luxury tax on receipts from time-share customers in two hotels resulted in loss of revenue of Rs. 47.62 lakh.

[Para 6.2.8.(ii)(a) and (b).]

(3) The department allowed inadmissible benefit of luxury tax of Rs.36.77 lakh to 3 hoteliers under deferred payment scheme.

(Para 6.2.9.)

(4) The department's failure to detect the suppression of room rent receipts and unauthorised operation of unregistered rooms in respect of 12 hoteliers resulted in evasion of luxury tax of Rs. 27.28 lakh.

(Para 6.2.10.)

(5) Interest of Rs. 13.48 lakh for non-payment of luxury tax on due dates was neither demanded nor recovered from 71 hotelier.

(Para 6.2.13.)

6.2.5. Trend of revenue

The budget estimates and actual receipts for the last five years ending 2000-2001 were as below:-

(Rupees in crore)

Year	Budget estimates	Actual receipts	Excess (+) Short(-)	Percentage Col. 4 to Col. 2
1.	2.	3.	4.	5.
1996-97	4.00	4.18	(+)0.18	(+)5
1997-98	5.02	4.76	(-)0.26	(-)5
1998-99	5.02	6.00	(+)0.98	(+)20
1999-2000	6.49	6.32	(-)0.17	(-)3
2000-2001	6.75	7.61*	(+)0.86	(+)13

* Provisional

The shortfall during 1997-98 was due to the arrival of less tourists due to heavy rains whereas during the year 1999-2000 the exemption limit of luxury tax was raised from Rs 24.99 per person to Rs 49.99 per person per day with effect from 4th May 1999. The excess collection during 1998-99 and 2000-2001 was due to large number of tourists visiting the State and better tax collection.

6.2.6. Arrears of luxury tax collection

As on 31st March 2001, the year wise arrears of luxury tax pending collection were as under:-

(In lakh of Rupees)	
Year	Amount
Up to 1996-97	2.14
1997-98	5.34
1998-99	5.01
1999-2000	23.94
2000-2001	62.74
Total	99.17

In Shimla and Solan Districts, the additional demand of Rs 2.41 lakh (Shimla Rs.0.50 lakh; Solan Rs.1.91 lakh) for the period 1996-97 and 1998-99 respectively created during May 1996 and December 1999 respectively were not included in the arrears intimated to audit (January 2002).

6.2.7. Assessments

Under the Himachal Pradesh Tax on Luxuries (in hotels and lodging houses) Act, 1979, every proprietor, liable to pay luxury tax from April 1991 was to furnish a return in the prescribed form to the assessing authority quarterly within 15 days of the close of each quarter. The amount of luxury tax due from a proprietor should be assessed separately for every half financial year or part thereof. However, there was no provision in the Act/ Rules for the submission of annual accounts to the assessing authority. If the assessing authority is not satisfied without requiring the presence of proprietor who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he should serve a notice in the prescribed manner and after giving an opportunity to the proprietor of being heard, assess the amount of luxury tax due from him. If the proprietor fails to comply with the terms of notice or does not furnish his return in respect of any period by the specified date, the assessing authority should, within five years

after the expiry of such period, proceed to assess to the best of his judgement the amount of the luxury tax due.

Year-wise details of cases upto the year 1999-2000 awaiting assessments as on 31st March 2001 were as under:

Year of assessment	No. of cases pending
Up to 1995-96	141
1996-97	128
1997-98	195
1998-99	327
1999-2000	565
Total	1356

No record was maintained in the district offices which could show the amount involved in respect of pending assessment cases. Although pendency of assessments were reviewed in the quarterly meetings of the Zonal and districts incharge of the department wherein it was stressed for early finalisation of the assessments, yet 1356 cases were pending assessment as of 31st March 2001. As such no effective results could be achieved for clearance of old assessments through the periodical departmental meetings.

6.2.8. Non levy/under assessment of luxury tax

(i) As per the Himachal Pradesh Tax on Luxuries Act, 1979, "Hotel" means any premises or part of premises including a house boat, restaurant, bar or a tent where lodging with or without board or any kind of eatables or beverages or other services are by way of business provided for a monetary consideration, and includes such premises as are given on rent during any period of a financial year. Besides, if a dealer fails to pay tax due by the prescribed date, interest on the tax due at the rate of one per cent for a period of one month and at one and a half per cent per month thereafter is to be charged till the default continues.

Luxury tax of a hotel of Kullu district for the years 1996-97 to 1998-99 were assessed on 28th April 2000. As per the lease deed filed by the hotelier with the Excise and Taxation department, part of the hotel premises alongwith furniture and fixtures were leased out on 29 March 1996 and 30 July 1996 to two lessees and rentals of Rs. 18.85 lakh was received on which no tax was levied by the Assessing Authority. The assessing authority's failure to assess luxury tax on rentals resulted in non-levy of luxury tax of Rs. 3.12 lakh including interest.

(ii) The Act provides that where luxury is provided in a hotel and no charges for such luxury are made or charges are made at concessional rates, the luxury tax shall be levied and paid as if the luxury was provided at the maximum rates and charges fixed by the prescribed authority under the Himachal Pradesh Registration of Tourist Trade Act 1988. Where such charges have not been fixed by the prescribed authority, the luxury tax shall be levied at the maximum rates, as may be determined by the Assessing Authority after having due regard to the maximum rates and charges at which the luxury has been provided in such a hotel at any time during the preceding six months. Further, the liability to pay tax shall not be affected where any proprietor does not collect the luxury tax payable by him.

As per the agreement between the time-share customers and the hoteliers 'Time-share' means the right to stay in an apartment in the Holiday Resort and enjoy the amenities during the Holiday week subject to terms and conditions in the agreement.

(a) The Assessing Authority, Kullu issued (September 1996) a notice to a hotelier to furnish occupancy information under time-share scheme, which was liable to luxury tax, but was not supplied by the hotelier inspite of reminders. As per the report of the Inspector, the hotelier had evaded luxury tax amounting to Rs. 3.89 lakh on rooms under time-share scheme during April 1997 to July 1997.

While framing the assessments of the hotel from April 1994 to March 1998 between January 1999 and March 2000, no action was taken to assess luxury tax under time share scheme which resulted in non levy of luxury tax amounting to Rs. 46.72 lakh worked out on proportionate basis. Besides interest and penalty were also leviable.

(b) A hotelier of Solan District had disclosed receipts from time-share customers amounting to Rs. 2.44 lakh and 3.80 lakh during the year 1997-98 and 1998-99 respectively. While framing the assessment of the hotel for the year 1997-98, however, no action was taken by the Assessing Authority to levy luxury tax of Rs. 0.63 lakh on the time share receipts. Besides, interest of Rs. 0.27 lakh was also leviable.

(iii) The Act provides that there shall be levied and paid a tax on the amount of charges in respect of any luxury provided in a hotel. However, extra beds are chargeable according to the rates fixed by the Tourism department.

Assessments of 9 hotels (Shimla: 4, Kullu: 1, Kangra: 3 and Chamba: 1) for the years 1996-97 to 2000-2001 were framed between June 1999 to August 2001. As per returns filed by the hoteliers and assessments made by the assessing authorities, luxury tax of Rs. 2.36 lakh on the receipts of Rs. 23.60 lakh from extra beds was not assessed by the assessing authorities. Besides, interest of Rs. 1.55 lakh was also leviable.

(iv) A hotelier of Shimla district neither filed the returns nor paid the luxury tax for the years 1996-97 to 1999-2000 and the luxury tax for the years 1996-97, 1997-98 and 1999-2000 was assessed (July 2000) on best judgement basis by increasing room rent receipts over the previous year by 10 per cent for the years 1996-97 and 1997-98 and by 20 per cent for the year 1999-2000. However, no tax was assessed for the year 1998-99 and 1999-2000 on the plea that the hotel remained closed during the year as per affidavit filed by the assessee. The hotel was inspected in December 1996 by the Excise and Taxation department and the visitor book containing entries from 25.6.96 to 29.7.96 and 19.9.96 to 30.12.96 was seized. However, no action was taken by the department on the detection report. It was also noticed by the Tourism department during November 1998 that the hotel was in operation whereas no luxury tax for the year 1998-99 had been assessed by the Excise and Taxation Department. The hotel was also inspected by the Tourism department and again by the Excise and Taxation Department in June 1999 and visitors' book containing entries for 97 days pertaining to the year 1999-2000 was also seized. Thus, not framing the assessments on the basis of detection reports for the year 1996-97 onwards and non-assessment of luxury tax for the year 1998-99 and 1999-2000 resulted in non/short levy of luxury tax of Rs. 2.37 lakh including interest and penalty.

On this being pointed out in audit, the department stated that notice had been issued (December 2001) to the hotelier. Further report has not been received.

(v) A test-check of the records of the office of Assistant Excise and Taxation Commissioner, Shimla revealed (August 2001) that the taxable turnover was computed incorrectly for the period falling between 1994-95 and 2000-2001 filed by two hoteliers which resulted in short levy of luxury tax of Rs. 1.01 lakh including interest and penalty.

On this being pointed out in audit the department stated (December 2001) that notices for reassessment had been issued to the hoteliers. Further report has not been received (August 2002).

6.2.9. Inadmissible benefit of deferred payment scheme

Under the Himachal Pradesh Tax on Luxuries (In Hotels and Lodging Houses) Act, 1979 and rules made thereunder, the proprietor of new hotels who had started the operation between August 1993 and July 1998 were eligible to the scheme of deferred payment of luxury tax. The proprietor of a new hotel in respect of certificate in Form-1 issued by the Tourism department shall within a period of thirty days make an application to the Assessing Authority for concession of deferred payment of luxury tax in Form LT (D.P.-I).

(a) Two hoteliers of Shimla and Solan districts were registered with Tourism Department on 14th July 1997 and 17th May 1997 respectively. They failed to submit their applications for the benefit of deferment of luxury tax within thirty days from the date of registration with the Tourism Department

and applied in January 1998 and June 1998 respectively. The hoteliers were not eligible to deferment but the Excise and Taxation department allowed the said benefit for three years from 1st June 1996 to 31st March 1999 in first case and from 24th July 1996 to 23rd July 2000 for four years instead of three years in the second case. This resulted in undue benefit of luxury tax of Rs. 33.58 lakh.

On this being pointed out in audit, the department stated (December 2001) that the notices for reassessment had been issued in one case.

(b) Assessments of a hotel of Solan district for the years 1995-96 to 1998-99 were framed between March 1999 and December 1999. The hotelier did not pay luxury tax of Rs.1.80 lakh from April 1995 to March 1999 on the plea that he was entitled to the benefit under the deferred payment scheme. It was however, observed from the records of the Assistant Excise and Taxation Commissioner, Solan that the hotelier had neither filed any application for grant of benefit under the scheme nor any certificate authorising deferred payment of luxury tax was issued. Thus, he was liable to pay interest of Rs.1.39 lakh alongwith luxury tax of Rs.1.80 lakh.

On this being pointed out the case was reassessed (March 2002) and demand was created for Rs. 3.29 lakh (including interest of Rs. 1.50 lakh).

6.2.10. Evasion of luxury tax

Under the Himachal Pradesh Tax on Luxuries (in hotels and lodging houses) Act, 1979, every proprietor liable to pay luxury tax shall deposit the full amount of luxury tax due and payable by him within eight days after the close of the month to which the luxury tax relates. If a proprietor has maintained false or incorrect accounts with a view to suppressing any transaction or has concealed any particulars of his business or furnished false or incorrect information, he is liable to pay, by way of penalty in addition to the luxury tax, an amount not less than twenty five per cent but not exceeding one and a half times of the amount of luxury tax. However, there was no provisions in the Act/Rules for the submission of annual accounts with the assessing authority.

(a) Luxury tax payable by 10 hoteliers of Bilaspur, Chamba, Kangra, Kullu and Shimla for the year 1995-96 to 1999-2000 were assessed between March 1997 and August 2000. A correlation of accounts filed by the hoteliers with the Income Tax department revealed that they had disclosed lodging receipts of Rs. 3.44 crore in income tax returns whereas in the returns filed with respective assessing authorities the amount on account of lodging receipts were shown as Rs. 2.27 crore. As such the hoteliers had suppressed the lodging receipts amounting to Rs. 1.17 crore on which luxury tax of Rs. 23.82 lakh (including interest and penalty) was leviable.

(b) As per the information collected by audit from the Income Tax Department it was noticed that two hoteliers (Shimla:1 and Kullu:1) were

running nine rooms and one cottage unauthorisedly for the period from December 1992 and April 1999 respectively for which no record of these rooms/ cottage were maintained by them. The offence case of Shimla hotelier was compounded by imposing a penalty of Rs. 6000 by the Tourism department. Scrutiny of the records of the hotels maintained by the Excise and Taxation department revealed that although the assessments of luxury tax of these hotels for the period 1993-94 to 1999-2000 were finalised between August 1996 and May 2000, luxury tax of Rs. 1.77 lakh (based on actual occupancy of registered rooms) in respect of unregistered room was neither paid by the hotelier nor assessed at the time of assessments. Minimum penalty of Rs. 0.44 lakh and interest of Rs. 1.25 lakh were also recoverable.

On this being pointed out (June 2001) in audit, the department stated (February 2002) that an additional demand of Rs. 10.84 lakh has been created on reassessment. Report of recovery has not been received (August 2002).

6.2.11. Lack of co-ordination between Tourism and Excise and Taxation Department

As per provisions of the Himachal Pradesh Registration of Tourist Trade Act, 1988, all hotels are required to be registered with the Tourism Department of Himachal Pradesh and the lodging rates of all the rooms require prior approval from them.

The absence of provisions in the Luxury Tax Act/ Rules for the collection of information by the Assessing Authority, relating to the detection made by the Tourism Department of unauthorised operation of rooms by the hoteliers resulted in evasion of revenue amounting to Rs.5.35 lakh by two hoteliers, as under:-

(i) During a survey conducted (August 1996) by the Tourism department, it was noticed, that a hotelier of Shimla district was operating (since 26th December 1994) six rooms added to the hotel without approval. These rooms were subsequently registered with the Tourism department on 23rd June 1997. Although the Excise and Taxation department had finalised (February 1998) the assessments of this hotel up to March 1997, luxury tax in respect of these six rooms from 26th December 1994 to 22nd June 1997, was neither paid by the hotelier nor assessed by the assessing authority which resulted in non-levy of luxury tax of Rs. 2.17 lakh based on the average rent charged on the registered rooms. Minimum penalty of Rs. 0.54 lakh and interest of Rs. 1.65 lakh were also recoverable.

On this being pointed out in audit, notice for re-assessment was issued to the hotelier by the Excise and Taxation department. Further report has not been received (August 2002).

(ii) Detections made (between May 1997 and June 2000) by the Tourism department revealed that a hotelier in Kangra district was operating 10 newly constructed rooms with effect from 21st May 1997, without the approval of the

lodging rates from the Tourism department. It was seen that no entry was made in the visitors book between May 1997 and July 2000. Due to lack of co-ordination with Tourism department, the Excise and Taxation department could not detect the operation of these unregistered rooms. Thus, there was a loss of revenue by way of non-levy of luxury tax and penalty of Rs. 0.99 lakh (tax calculated on the actual occupancy of registered rooms).

6.2.12. Hotels not brought under the tax net

(i) As per a notification issued (April 1991) under the Act, no proprietor who is liable to pay tax can carry on business as a proprietor unless he is registered and possesses a registration certificate. For registration, every proprietor has to make an application in the prescribed manner to the Assessing Authority of the district concerned and if the assessing authority is satisfied, he may grant him registration certificate in the prescribed form. In cases where the proprietor has wilfully failed to apply for registration, the assessing authority may direct the proprietor to pay by way of penalty, an amount not less than ten per cent but which shall not exceed one and a half times the amount of luxury tax.

Every person intending to operate a hotel is also required to apply for registration with the Department of Tourism under the Himachal Pradesh Registration of Tourist Trade Act, 1988 and without proper registration is liable to penal action under the Act *ibid*.

A correlation in audit of the records of the Tourism department with the Excise and Taxation department revealed that 198 hotels/lodging houses were registered with the Tourism Department under the Himachal Pradesh Registration of Tourist Trade Act, 1988. Copies of lodging charges approved by the Tourism department were invariably endorsed to the concerned assessing authority. However, it was seen that the Excise and Taxation Department failed to register these hotels /lodging houses as required under the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979, as tabulated below:-

Sr. No.	Name of District	No. of hotels not paying the luxury tax since their registration with the Tourism department.
1.	Hamirpur	3
2.	Kangra	52
3.	Kinnaur	22
4.	Kullu	34
5.	Mandi	33
6.	Shimla	30
7.	Sirmour	2
8.	Solan	18
9.	Una	4
	Total	198

(ii) A hotel of Mandi district consisting of 16 rooms was registered with the Tourism department on 15th March 1996. The hotelier paid luxury tax amounting to Rs 1.06 lakh for the period October 1999 to June 2000. On the basis of return filed by the assessee, however, the luxury tax for the period March 1996 to September 1999 was neither paid by the hotelier nor any penal action for non payment of tax was initiated against the hotelier.

(iii) The Tourism department inspected (April 1997), a hotel in Kullu district which was operating 31 double bed rooms and charging rent between Rs 800/- and Rs 1,000/- per suite per day but had not maintained the records viz. bill book/visitors book. After inspection, out of the 31 rooms, 19 rooms were registered with the Tourism department in June 1998. The hotelier however, neither paid any luxury tax nor filed any returns. The Excise and Taxation Department was also not able to detect the unauthorised operation of the hotel in the absence of provision of annual survey under the Act.

6.2.13. Non-levy of interest

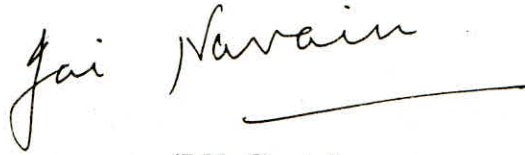
The Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 provides that if the amount of luxury tax or penalty due from a proprietor is not paid by him within the period specified in the notice or when no period is specified therein, within a period of 30 days from the service of such notice, interest is chargeable at the rate of one percent per month for a period of one month and at the rate of one and a half percent per month thereafter as long as the default continues.

During test check of the records of the Assistant Excise & Taxation Commissioner, Shimla, Kullu, Solan, Kinnaur and Kangra districts, it was noticed that in respect of 71 cases, additional demands were belatedly deposited by the defaulters with delay ranging between 1 months and 55 months. For belated deposits interest amounting to Rs 13.48 lakh was leviable, but was not levied.

6.2.14. Conclusion

The Government should review the levy and collection of luxury tax as there is no provision to submit the accounts by the assesses alongwith the returns and provision of annual survey by the department to detect the unregistered dealers under the Act. There should be co-ordination and exchange of information between Tourism and Excise and Taxation Department to check the evasion of luxury tax.

The above cases were reported to the department/ Government in June 2002; their replies had not been received (August 2002).

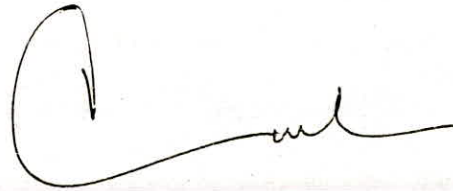


Shimla
The

14 FEB 2003

(J.N. Gupta)
Accountant General (Audit)
Himachal Pradesh

Countersigned



New Delhi
The

25 FEB 2003

(Vijayendra N. Kaul)
Comptroller and Auditor General of India

2000 03 28

2000 03 28



APPENDIX-A

(Reference: Paragraph 5.2)

(Rupees in lakh)

Name of Division	Name of Range/ Block/ Beat	Name of Forest	Dates on which		No. of trees felled illicitly/ whether damage report issued or not	Standing volume (In cubic metres)		Value of timber not seized	Illicit felling pointed out/ inquired by	Concerned official(s)/ Officer(s)/ who absented/ avoided inspection.
			Offence noticed	FIR lodged with Police		Illicitly felled	Seized			
Ani at Luhri (i)	Chowai/ Takraji/ Karsala	Raghupur Dugha	Not known	Not lodged	60/ Not	47.06	Nil	6.02*	A complainant/ Flying Squad and staff of the Range	Forest Guard and Block Officer.
(ii)	Chowai/ Khanag/ Tarala	Khaneo Kut	28 April 2001	Not lodged	6/ Not	8.20	Nil	1.05	Range Officer/ Range Officer	Forest Guard
Chamba (i)	Upper Chamba/ Kundi/ Kalwara	Kalwara Saina Padhari and Bagodhi	25 August 1998	Not lodged	20/ Not	28.54	Nil	3.40	A Complainant/ Flying Squad	Block Officer and the Assistant Conservator of Forests
(ii)	Lower Chamba/ Chhabaru/ Chhabaru	Chhabaru	20 July 1998	Lodged	5/ Not	9.33	Nil	1.20	A complainant. Block Officer (during marking of TD to fire sufferer).	The Forest Guard, Range Officer and Assistant Conservator of Forests.
(iii)	Lower Chamba/ Saho/ Chulla	Guwari, Kakeli Sanoti, Theru, Sahna, Shar, Darobhi Dhandi	Between 7 November and 22 November 2000	17 February 2001	539 (coniferous) and 148 Broad leaved trees/ Not	682.79 and 148 Broad leaved trees	Nil	55.41*	Inspection was done as a special derive to check illicit felling/ Special teams constituted by the Divisional Forest Officer	---
(iv)	Lower Chamba/ Saho/ Sahoo	Samelae and Dilla	15 November 2000	19 February 2001	143/ Not	408.16	Nil	42.45*	Amar Uzala News Paper dated 15 November 2000/ Range Officer	Forest Guard.
(v)	Masroond and Lower Chamba/ Chhatari/ Chhatari	Lindibehi Chhatari Kandh	12 September 2000	11 December 2000	49/ Not	106.66	47.80	7.08*	A Complainant/ Flying Squad	Forest Guard, Block Officer and Range Officer
Churah	Bhalai/ Bhanad/ Barka	Garjhindu	29 August 2001	Not lodged	2/ Not	5.10	Nil	0.65	Range Officer/ Range Officer	Forest Guard and the Block Officer
Rampur	Nankhari/ Gahan/ Gahan	C-75	Not known	Lodged	4/ Not	9.36	Nil	1.20	A complainant/ Block Officer	Forest Guard
Total					976	1,305.20 and 148 Broad leaved trees.	47.80	118.46		

* Figure worked out by the department.

APPENDIX-B

(Reference: Paragraph 5.4)

(Rupees in lakh)

Sl. No.	Name of Division	No. of forest lots	Year of working	Lease period up to	Extension sought for the period up to	Whether extension granted	Amount of extension fee not charged	Month in which the case was pointed out	Replies of the department
1.	Bharmour	1	2000-01	31 March 2001	30 September 2001	No	2.09	July 2001	The department stated (December 2001) that bill of extension fee had been raised (September 2001).
2.	Dalhousie	1 1 1	1999-2000 1999-2000 1999-2000	31 March 2000 31 March 2000 30 June 2000	Not sought 31 August 2000 (but worked up to 6 months thereafter) 31 August 2000 (but worked up to 3 months thereafter)	No Yes Yes	2.25	July 2001	Reply had not been received (August 2002).
3.	Kunihar	1	1999-2000	30 June 2000	30 June 2001	No	1.27	February 2001	The department stated (November 2001) that demand on account of extension fee had been raised (February 2001).
4.	Mandi	1	1998-2000	31 March 2000	31 March 2001 (but worked up to 30 June 2001).	No	1.19	June 2001	Reply had not been received.
5.	Rajgarh	4	1999-2000	31 June 2000	31 March 2001	Yes	1.12	November 2001	Reply had not been received.
6.	Rampur	6 1 1	1998-99 1998-99 1998-2000	31 March 1999 30 June 1999 31 March 2000	30 June 1999 and 31 July 2001 (but 4 lots worked between one month and 13 months thereafter).	No	23.51	August 2001	Reply had not been received.
7.	Suket	1 6 1	1998-99 1999-2000 1999-2000	31 March 1999 31 March 2000 30 June 2000	31 March 2001 31 March 2001 30 June 2001	Yes	13.87	September 2001	Reply had not been received.
8.	Theog	3 1	1998-2000 1999-2000	31 March 2000	Between 30 June and 31 December 2001	Yes	6.99	June 2001	The department stated that extension fee had been claimed (July 2001) from the Corporation.
	Total	30					52.29		

APPENDIX-'C'

(Reference: Paragraph: 5.5)

(Rupees in lakh)

Name of division	No. of blazes not handed over/ tapped in various tapping seasons.						Amount of royalty involved	Audit observations
	1997	1998	1999	2000	2001	Total		
Ani at Luhri	9084	9084	9084	-	-	27252	7.54	Reasons for non-enumeration of these blazes were not on records.
Churah	21849	21849	13333	13333	13333	83697	22.85	-do-
Hamirpur	-	-	-	5162	-	5162	1.32	Specific reasons for deletion of blazes from resin tapping were not on record.
Kunihar	-	-	6523	-	-	6523	1.60	-do-
Nachan	-	-	2970	2970	-	5940	1.49	Reasons were not forthcoming for non-enumeration of resin blazes.
Nahan	-	-	-	8580	-	8580	2.19	Specific reasons for non-enumeration of blazes were not on record.
Nalagarh	-	-	-	4407	4110	8517	2.17	Blazes were deleted without specific reasons and approval of the Conservator of Forests.
Paonta Sahib	-	-	5349	-	-	5349	1.31	The blazes were not enumerated though the same were eligible for tapping.
Renukaji	-	-	-	8005	14238	22243	5.67	Blazes were deleted without joint inspection and approval of the Conservator of Forests.
Una	-	-	-	5100	22734	27834	7.10	Blazes were deleted without joint inspection/ verification of the trees and also without prior approval of the Conservator of Forests.
Total	30933	30933	37259	47557	54415	201097	53.24	

APPENDIX-D

(Reference: Paragraph 5.6)

(Rupees in lakh)

Sl. No.	Name of division	No. of lots	Years of exploitation between	Days of delay in payment of royalty/sales tax between	Interest leviable	Penalty leviable	Total	Reply of the department/ Divisional Forest Officer.
1.	Bharmour	7	1999-2001	41 and 48	-	1.11	1.11	Bill of penalty had been raised.
2.	Dalhousie	52	1991-92 and 2000-01	41 and 2418	-	1.63	1.63	Bill had been raised in November 2001.
3.	Dharam-shala	1	2000-01	41 and 105	-	1.25	1.25	Bill had been raised in March 2002.
4.	Hamirpur	69	1999-2000 and 2000-2001	41 and 487	-	1.17	1.17	Matter would be taken up with the Corporation.
5.	Karsog	11 2	October 1994 and 1999-2000	49 and 1630	4.15	--	4.15	Bill of interest had been raised (November 2001).
6.	Kotgarh	5	1995-96	610 and 986	1.79	1.37	3.16	Bill had been raised in February 2002.
7.	Kullu	6	July 2000 and November 2000	33 and 170	1.69	-	1.69	Bill of interest had been raised (May 2001).
8.	Nalagarh	6	1994-95 and 1999-2000	320 and 2147	1.36	1.33	2.69	Bills of interest and penalty had been raised (December 2001).
9.	Nichar	7	1998-99 and 1999-2000	31 and 61	---	1.27	1.27	Reply had not been received.
10.	Nurpur	2	1999-2000 and 2000-01	41 and 487	---	1.13	1.13	-do-
11.	Ro`hroo	1	December 1999	405 and 494	1.46	---	1.46	-do-
12.	Seraj	2	1993-95 and 1995-97	112 and 1954	6.90	1.90	8.80	Bills of Rs. 7.71 lakh had been raised (June 2001) and in respect of Rs. 1.09 lakh bill would be raised.
13.	Solan	2	1994-95 and 1999-2000	319 and 2146	1.89	3.74	5.63	Bills of interest and penalty had been raised (February-October 2001).
14.	Una	24	1995-96	138 and 193	1.67	---	1.67	Reply had not been received.
Total		197			20.91	15.90	36.81	