

REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR 1987-88
(No. 2 of 1989)
REVENUE RECEIPTS
GOVERNMENT OF MAHARASHTRA

REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR 1911
(No. 2 of 1912)
GOVERNMENT OF INDIA
CALCUTTA: 1912

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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Maharashtra for the year 1987-88 is presented in a separate volume. The material in the Report has been arranged in the following order :—

- (i) Chapter 1 deals with trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Budget estimates and actuals in respect of the principal heads of revenue, the position of arrears of revenue, etc., are also discussed in this Chapter.
- (ii) Chapters 2 to 8 set out certain cases and points of interest which came to notice in the audit of Sales Tax, State Excise, Land Revenue, Taxes on Vehicles, Stamp Duty and Registration Fees and Other Tax and Non-tax Receipts.

STATE OF NEW YORK

In SENATE,
January 1, 1891.
REPORT
OF THE
COMMISSIONER OF THE LAND OFFICE,
IN ANSWER TO A RESOLUTION
PASSED BY THE SENATE
MAY 1, 1890.
ALBANY:
J. B. LEECH, STATE PRINTER,
1891.

ALBANY:
J. B. LEECH, STATE PRINTER,
1891.

OVERVIEW

1. General

(i) The revenue raised by the State Government during 1987-88 amounted to Rs. 4,404 crores comprising of Rs. 3,219 crores as tax revenue and Rs. 1,185 crores as non-tax revenue. Rs. 667 crores were received from the Government of India as State's share of divisible Union taxes and Rs. 507 crores as grants-in-aid. A major portion of the tax revenue of the State related to sales tax (Rs. 2,047 crores) (Para. 1.1).

(ii) With effect from April 1987, Government introduced a one time lump sum tax on motor cycles/tricycles. The rate of tax on sales of certain commodities was enhanced with effect from 26th March 1987. Operators of video libraries and video parlours were brought under the purview of profession tax during 1987-88. These taxation measures were expected to yield Rs. 87.80 crores during 1987-88 (Para. 1.2).

(iii) While 5,83,916 assessments were completed during the year, 9,56,740 assessments were reported to be pending finalisation as on 31st March 1988 in respect of sales tax, agricultural income-tax, profession tax and purchase tax on sugarcane (Para. 1.5).

(iv) At the end of 1987-88, the arrears of revenue remaining to be collected amounted to Rs. 426 crores. Arrears in respect of sales tax alone accounted for Rs. 306 crores (Para. 1.7).

(v) A case of withdrawals on forged refund payment orders involving Rs. 1.14 crores came to notice of Sales Tax Department in January 1988 [Para. 1.8(a)].

(vi) Sales Tax Department investigated and finalised during 1987-88, 1,978 cases of evasion of tax and raised demands aggregating Rs. 4.95 crores (including penalty). The Motor Vehicles Department raised demands for Rs. 10.06 crores in 2,60,171 cases investigated by them [Para. 1.8(b)].

(vii) 5,659 inspection reports (issued upto December 1987) containing 13,424 audit objections involving receipts of Rs. 52.89 crores were pending settlement at the end of June 1988 (Para. 1.11).

(viii) As a result of test audit conducted during the year 1987-88, under-assessments and losses of revenue amounting to Rs. 12.20 crores were noticed. The under-assessments/losses of revenue, relate to Sales Tax (Rs. 0.74 crore), State Excise (Rs. 0.11 crore), Land Revenue (Rs. 7.90 crores), Taxes on Vehicles (Rs. 0.08 crore), Stamp Duty and Registration Fees (Rs. 1.21 crores) and Other Tax Receipts and Non-tax Receipts (Rs. 2.16 crores).

(ix) This report includes representative cases of non-levy, short levy of tax, duty, interest, penalty, etc., involving a total financial effect of Rs. 5.58 crores noticed during test check in 1987-88 and in earlier years. Of this, under-assessment of Rs. 1.56 crores was accepted by the department, of which Rs. 0.54 crore was recovered till March 1989.

2. Sales Tax

(i) At the instance of Audit, an additional demand of Rs. 4.93 lakhs was raised in case of a dealer by disallowing incorrect set-off and levy of purchase tax, additional tax and penalty [Para. 2.2(e)(i)].

(ii) Purchase tax of Rs. 6.60 lakhs on raw material used in manufacture of goods despatched out of the State was not levied in case of a manufacturer [Para. 2.3(d)(ii)].

(iii) Non-levy of Central Sales Tax in respect of 5 dealers amounted to Rs. 9.30 lakhs [Para. 2.4 (i)].

(iv) Penalty of Rs. 6.65 lakhs was levied in 20 cases on being pointed out in audit (Para. 2.5).

3. State Excise

(i) Losses of spirit in excess of the prescribed limit on redistillation during the years 1980-81, 1983-84 and 1984-85 in the case of a distillery involved duty potential of Rs. 71.55 lakhs (Para. 3.2).

(ii) Privilege fee of Rs. 5.91 lakhs was short realised during 1984-85 and 1985-86 though licences were transferred to other persons or status of licensee firm was changed (Para. 3.4).

4. Land Revenue

(i) The review on "Assessment on lands held by Maharashtra Housing and Area Development Authority" disclosed, *inter-alia*, (a) non-levy of increase of land revenue (Rs. 46.01 lakhs), (b) non-levy of non-agricultural assessment (Rs. 30.10 lakhs), (c) non-fixation or incorrect

fixation of occupancy price (Rs. 5.52 lakhs) and (d) omission to levy fresh assessment (Rs. 4.20 lakhs) (Para. 4.2).

(ii) Failure to assess land revenue after commencement of non-agricultural use of the land resulted in non-realisation of land revenue of Rs. 14.60 lakhs, the demand for which was raised by the department at the instance of Audit (Para. 4.3).

(iii) Increase of land revenue for raising resources to finance Employment Guarantee Scheme amounting to Rs. 10.17 lakhs (including cess) was not realised. The department accepted the mistakes and raised the demand, for the entire amount (Para. 4.5).

(iv) Failure to reassess land revenue on notification of revised standard rates resulted in short realisation of revenue amounting to Rs. 16.67 lakhs, the demand for which was raised by the department on being pointed out in audit (Para. 4.6).

5. Other Tax Receipts

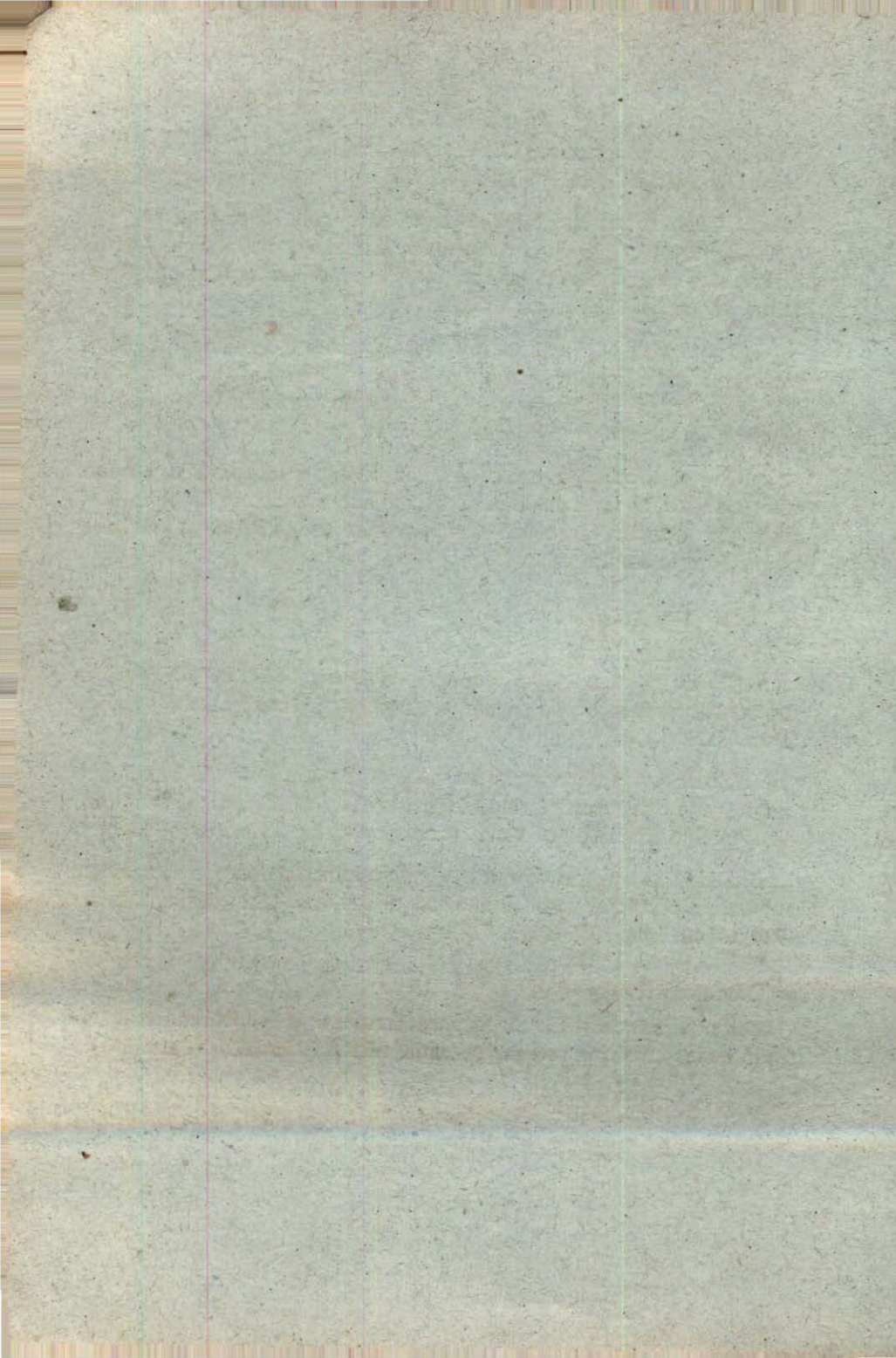
(i) Incorrect exemption from payment of education cess and employment guarantee cess resulted in non-levy of Rs. 17.25 lakhs in respect of properties belonging to Bombay Municipal Corporation (Para. 7.2).

(ii) Luxury tax amounting to Rs. 1.30 crores was not paid by 6 hotels in Bombay by due dates during the period March 1986 and March 1987. But penalty (maximum) of Rs. 1.94 crores was not levied [Para 7.3(i)].

(iii) Delay in revision of rates of entertainments duty on increase of population of a town resulted in a loss of Rs. 4.80 lakhs during January 1984 to 14th June 1985 (Para. 7.7).

6. Non-tax Receipts

Lack of vigilance by the department resulted in short collection of tendu leaves involving revenue potential of Rs. 3.36 lakhs (Para. 8.1).



CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Maharashtra during the year 1987-88, the share of 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:—

		1985-86	1986-87	1987-88
		(In crores of rupees)		
I.	<i>Revenue raised by State Government—</i>			
	(a) Tax Revenue	2377.34	2791.97	3219.04
	(b) Non-tax revenue	975.31	1117.64	1184.60
	Total	3352.65	3909.61	4403.64
II.	<i>Receipts from the Government of India—</i>			
	(a) State's share of divisible Union taxes	499.67	593.27	667.25
	(b) Grants-in-aid	321.90	475.91	507.32
		821.57	1069.18	1174.57
III.	<i>Total receipts</i>	4174.22	4978.79	5578.21
IV.	<i>Percentage of I to III</i>	80	79	79

Note.—For details, please see Statement 11. Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Maharashtra 1987-88.

(a) The details of tax revenue receipts during the year 1987-88, alongside figures for the preceding two years, are given below:—

	1985-86	1986-87	1987-88	Percentage of increase (+) or decrease (—) in 1987-88 over 1986-87
	(In crores of rupees)			
1. Sales Tax	1504.66	1756.48	2046.97	(+) 17
2. State Excise	205.69	259.94	309.05	(+) 19
3. Taxes on Vehicles	95.76	113.93	145.64	(+) 28
4. Taxes on Goods and Passengers	86.76	101.27	116.74	(+) 15
5. Stamps and Registration Fees	94.08	133.49	148.46	(+) 11
6. Land Revenue	37.57	29.82	48.74	(+) 63
7. Taxes on Agricultural Income	0.09	0.57	1.00	(+) 75
8. Other Taxes on Income and Expenditure—Taxes on Profes- sions, Trades, Callings and Employment.	74.94	85.30	93.31	(+) 9
9. Taxes and Duties on Electricity	134.79	176.00	173.09	(—) 2
10. Taxes on Immovable Property other than Agricultural Land.	0.05	0.03	0.03	....
11. Other Taxes and Duties on Com- modities and Services.	141.95	135.14	136.01	(+) 1
Total	2377.34	2791.97	3219.04	(+) 15

(b) The details of the major non-tax revenue receipts during the year 1987-88, alongside figures for the preceding two years, are given below:—

				1985-86	1986-87	1987-88	Percentage of increase (+) or decrease (—) in 1987-88 over 1986-87
				(*)	(*)		
				(In crores of rupees)			
1. Dairy Development .. .. .	..	..	..	336.10	357.14	333.33	(—) 7
2. Interest Receipts .. .. .	..	..	..	277.30	340.75	393.98	(+) 16
3. Forestry and Wild life .. .. .	..	..	..	125.23	153.35	145.29	(—) 5
4. Medical and Public Health .. .. .	..	..	..	19.03	27.26	22.47	(—) 18
5. Power .. .. .	..	..	..	18.48	16.69	20.89	(+) 25
6. Major and Medium Irrigation .. .. .	..	..	..	15.23	14.87	18.74	(+) 26
7. Co-operation .. .. .	..	..	..	11.47	11.66	11.70	(Negligible)
8. Police .. .. .	..	..	..	14.58	14.89	15.30	(+) 3
9. Non-ferrous Mining and Metallurgical Industries. .. .. .	..	..	..	11.57	13.64	18.17	(+) 33
10. Public Works .. .. .	..	..	..	13.23	19.91	21.36	(+) 7
11. Other Administrative Services .. .. .	..	..	..	13.30	15.01	24.21	(+) 61
12. Miscellaneous General Services (including lottery receipts). .. .. .	..	..	..	42.81	46.95	58.70	(+) 25
13. Other non-tax receipts .. .. .	..	..	..	76.98	85.52	100.46	(+) 17
Total				975.31	1117.64	1184.60	(+) 6

*Figures for 1985-86 and 1986-87 are based on the revised (with effect from 1st April 1987) classification of receipt heads.

1.2. Changes in tax structure

During the year 1987-88 the State Government introduced new taxation measures and increased rates of some taxes which were expected to yield a revenue of Rs. 87.80 crores during the year as detailed below:—

(i) A levy of one time lump sum tax on motor cycles/tricycles (expected yield Rs. 59 crores).

(ii) Government enhanced, with effect from 26th March 1987, the rate of tax on sale of certain commodities like readymade garments, hosiery, glassware, chinaware and glazed earthenware, milk products, lubricants, soaps and detergents, artificial silk and staple fibre yarn, *pan masala* etc. (expected yield Rs. 28.50 crores).

(iii) By bringing the operators of video libraries and video parlours under the purview of profession tax, Government expected a yield of Rs. 30 lakhs.

1.3. Variations between Budget estimates and actuals

The variations between the Budget estimates and actuals of revenue receipts for the year 1987-88 in respect of principal heads of tax and non-tax revenue are given below:—

Head of Revenue	Budget estimates	Actuals	Variation Excess (+) or Shortfall (—)	Percentage of variation
(In crores of rupees)				
1. Sales Tax	2038.74	2046.97	(+) 8.23 (Negligible)	
2. State Excise	340.60	309.05	(—) 31.55	(—) 9
3. Taxes on Vehicles	119.56	145.64	(+) 26.08	(+) 22
4. Taxes on Goods and Passengers	114.99	116.74	(+) 1.75	(+) 2
5. Stamps and Registration Fees ..	130.30	148.46	(+) 18.16	(+) 14
6. Land Revenue	30.20	48.74	(+) 18.54	(+) 61
7. Other Taxes on Income and Expenditure—Taxes on Profes- sions, Trades, Callings and Employment.	92.66	93.31	(+) 0.65	(+) 1
8. Taxes and Duties on Electricity ..	176.56	173.09	(—) 3.47	(—) 2
9. Other Taxes and Duties on Com- modities and Services.	128.31	136.01	(+) 7.70	(+) 6
10. Dairy Development	323.04	333.33	(+) 10.29	(+) 3
11. Interest Receipts	384.70	393.98	(+) 9.28	(+) 2
12. Forestry and Wild Life	130.10	145.29	(+) 15.19	(+) 12

(a) The increase (22 per cent) under Taxes on Vehicles was due to normal growth in the number of vehicles and the introduction of lump sum levy of tax on motor cycles and tricycles.

(b) The increase (14 per cent) under Stamps and Registration Fees was due to increase in value of property and increase in volume of transactions.

(c) Reasons for increase (61 per cent) under Land Revenue have not been received (March 1989).

1.4. Analysis of collections

Details of Bombay Sales Tax, Central Sales Tax, Motor Spirit Tax, Sugarcane Purchase Tax, Agricultural Income-tax and Profession Tax collected at pre-assessment stage and after regular assessments, during the year 1987-88 and preceding two years, as furnished by the department, are given in Appendix I.

1.5. Arrears in assessments

The table below indicates the number of assessments relating to Sales Tax, Agricultural Income-tax, Purchase Tax on Sugarcane and Profession Tax, which were due for completion during the year 1987-88, assessments actually completed during the year and the assessments in arrears at the end of the year, as reported by department.

Name of tax	Number of assessments due for completion		Number of assessments completed		Number of assessments pending finalisation	
	Arrear cases	Current cases	Arrear cases	Current cases	Arrear cases	Current cases
1. Sales Tax	4,59,983	5,27,395	3,24,360	1,44,031	1,35,623	3,83,364
2. Agricultural Income-tax.	341	824	212	764	129	60
3. Profession Tax	4,33,552	1,14,938	67,788	45,190	3,65,764	69,748
4. Purchase Tax on SugarCane.	1,864	1,759	919	652	945	1,107
Total	8,95,740	6,44,916	3,93,279	1,90,637	5,02,461	4,54,279

1.6. Cost of collection

Expenditure incurred in collecting the major revenue receipts during the year 1987-88 and the figures for the preceding two years are given below:—

Head of Account	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection
(In crores of rupees)				
<i>Finance Department—</i>				
1. Sales Tax	1985-86	1504.66	15.60	1.04
	1986-87	1756.48	16.91	0.96
	1987-88	2046.97	19.52	0.95
2. Taxes on Professions, Trades, Callings and Employment.	1985-86	74.94	1.38	1.84
	1986-87	85.30	1.70	1.99
	1987-88	93.31	1.97	2.11
<i>Home Department—</i>				
3. State Excise ..	1985-86	206.69	1.87	0.90
	1986-87	259.94	2.35	0.90
	1987-88	309.05	1.65	0.53
4. Taxes on Vehicles and Taxes on Goods and Passengers.	1985-86	182.52	6.15	3.37
	1986-87	215.20	6.63	3.23
	1987-88	262.38	7.75	2.95

1.7. Uncollected revenue

The arrears of revenue pending collection as on 31st March 1987 and 31st March 1988 in respect of some of the sources of revenue are given below:—

Source of revenue	Amount pending collection as on		Amount outstanding for more than 5 years as on	
	31st March 1987	31st March 1988	31st March 1987	30st March 1988
(In crores of rupees)				
<i>I. Finance Department—</i>				
(a) Sales Tax ..	265.73	306.34	22.67	24.56
(b) Purchase Tax on Sugar-cane.	45.49	58.78	7.86	9.69
(c) Tax on Agricultural Income	3.89	5.35	1.08	1.38
(d) Taxes on Professions, Trades, Callings and Employment.	19.92	24.81	5.75	4.80
(e) Luxury Tax ..	0.43	*	0.16	*
<i>II. Home Department—</i>				
(a) Taxes on Vehicles ..	13.70	15.82	7.02	6.96
(b) Further (Goods) Tax and Passengers Tax.	4.65	3.93	2.93	3.06
(c) State Excise ..	1.97	2.32	1.43	1.52
<i>III. Industries, Energy and Labour Department—</i>				
(a) Receipts under Mineral Concession Rules (Major minerals).	0.74	0.79	0.48	0.48
(b) Electricity duty and fees under Indian Electricity Rules and fees for inspection of cinema.	1.48	1.67	0.30	0.34

Source of revenue	Amount pending collection as on		Amount outstanding for more than 5 years as on	
	31st March 1987	31st March 1988	31st March 1987	31st March 1988
(In crores of rupees)				
IV. Revenue and Forests Department—				
Receipts under Mineral Concession Rules (Minor minerals).	4.52	*	0.61	*
V. Agriculture and Co-operation Department—				
(a) Receipts from Biological products.	0.48	0.70	0.01	0.04
(b) Receipts from poultry development.	0.12	0.12	....	....
(c) Receipts on account of sale of seeds, sale/hire of agricultural implements etc.	3.17	5.23	1.46	1.75
VI. Medical Education and Drugs Department—				
(a) Receipts from Employees State Insurance Corporation of 7/8th share of expenditure incurred by State Government.	7.01	*	0.69	*
(b) Sale of medicines by the Directorate of Ayurved.	0.13	*	(Negligible)	*
VII. Housing and Special Assistance Department—				
Recovery of Bombay Building Repair and Reconstruction Cess.	19.81	*	4.69	*

* Information not received from department.

The following departments of the State Government have not furnished (March 1989) information in respect of arrears of revenue (in respect of taxes/receipts indicated thereunder) pending collection as at the end

of March 1988. The year(s) for which these departments had not furnished the information is also indicated against each department.

I. *Revenue and Forests Department—*

- (a) Land revenue from 1979-80 onwards
- (b) Stamp duty and registration fees .. from 1978-79 onwards
- (c) Entertainments duty from 1983-84 onwards
- (d) Betting tax from 1983-84 onwards
- (e) Forest receipts from 1983-84 onwards

II. *Irrigation and Power Department—*

- (a) Irrigation receipts from 1977-78 onwards
- (b) Non-irrigation receipts from 1977-78 onwards

III. *Housing and Special Assistance Department/
Public Works Department—*

- (a) Recovery of compensation, service charges, administrative charges and licence fees from hutment dwellers. from 1980-81 onwards
- (b) Receipts from Bombay Development Scheme (Rent from Development Department *Chawls*). from 1982-83 onwards
- (c) Rent of residential Government buildings. from 1980-81 onwards

IV. *Agriculture and Co-operation Department—*

- Audit fees and supervision charges .. from 1985-86 onwards

V. *Medical Education and Drugs Department—*

- (a) Tuition fees and hospital fees in respect of medical education and research. from 1983-84 onwards
- (b) Prevention of food adulteration etc. .. from 1984-85 onwards

VI. *Education and Employment Department—*

- Vocational Education and Training .. from 1986-87 onwards

1.8. Frauds and evasions of tax

(a) *Frauds*.—A case of withdrawals aggregating Rs. 113.54 lakhs on forged refund payment orders came to the notice of the Sales Tax Department in January 1988 as a result of scrutiny of two refund payment orders in the Reserve Bank of India, Bombay. A criminal case was filed (25th October 1988) by police against an ex-employee of the department before a Court. Further developments have not been received (March 1989).

(b) *Evasions*.—The number of cases of evasion of tax detected by the Sales Tax and Motor Vehicles Tax Departments, cases finalised and the demands for additional tax raised are given below:—

		Sales Tax Department	Motor Vehicles Department
1. Number of cases pending finalisation as on 31st March 1987.		1,605	Nil
2. Number of cases detected during 1987-88	..	1,941	2,60,171
3. Number of cases investigated—			
(a) Out of cases at 1 above	.. ..	815	Nil
(b) Out of cases at 2 above	.. ..	1,163	2,60,171
4. Number of cases pending finalisation as on 31st March 1988—			
(a) Out of cases at 1 above	.. ..	790	Nil
(b) Out of cases at 2 above	.. ..	778	Nil
5. Number of cases in which prosecutions/penal proceedings were launched.		....	2,60,171
6. Number of cases in which penalties were imposed		....	....
7. Total demands (including penalties) raised (in lakhs of rupees).		495.23	1,005.83
8. Amount of demand actually collected out of (7) above (in lakhs of rupees).		287.82	1,005.83

1.9. Writes-off and waivers of revenue

During the year 1987-88, demands for Rs. 26.73 lakhs (in 1,087 cases) relating to Sales Tax and Rs. 89.80 lakhs (in 3,227 cases) relating to Motor Vehicles Tax and Further (Goods) Tax and Passengers Tax were written-off by the departments as irrecoverable. Reasons for the write-off of these demands are as under:—

Reasons for write-off	Sales Tax		Motor Vehicles Tax and Goods and Passengers Tax	
	Number of cases	Amount (in lakhs of rupees)	Number of cases	Amount (in lakhs of rupees)
1. Whereabouts of defaulters not known.	884	17.71	2,876	80.60
2. Defaulters no longer alive ..	22	1.93	309	6.84
3. Defaulters did not have any property	137	5.36	8	0.83
4. Defaulters adjudged insolvent ..	14	1.46	4	0.41
5. Other reasons	30	0.27	30	1.12
Total ..	1,087	26.73	3,227	89.80

1.10. Reconciliation of receipts

The Maharashtra Treasury Rules, 1968 require that when Government moneys in the custody of a Government Officer are paid into the treasury, the head of the office should as soon as possible after the end of the month, obtain from the treasury a consolidated receipt for all remittances made during the month which should be compared with the posting in his cash book.

Mention was made in paragraph 72 of the Report of the Comptroller and Auditor General of India for the year 1973-74 (Revenue Receipts) of instances where amount was either not remitted into the treasury or having stated to have been remitted were not traceable in the accounts of the treasury.

In order to minimise irregularities of the type pointed out in the Audit Report, the Public Accounts Committee recommended in their 18th Report for the year 1977-78 (Paragraph 9.5) that Government prescribe periodical returns to be furnished to the prescribed officer indicating, *inter alia*, the month upto which reconciliation was done, irregularities noticed and action taken to set them right.

Pursuant to the above recommendations of the Public Accounts Committee, the Government issued (September 1980) instructions prescribing the following returns covering all types of receipts and recoveries including loans and advances credited by challans and /or money orders in treasuries (including sub-treasuries) :—

(i) The head of the office should send to the head of the department concerned a quarterly return in the prescribed proforma detailing the work of reconciliation of receipt with the treasury accounts by the 15th of the month following the quarter under report ; and (ii) the head of the department should send to the Administrative department concerned in *Mantralaya*, every six months a simple certificate, certifying the completion of reconciliation work of his department by the 20th of the month following the six months under report.

Test check of records in 272 offices relating to entertainments duty (155 offices) and State excise (117 offices) conducted between August 1987 and June 1988, however, revealed that :

(i) In 97 instances (in 16 offices), credits aggregating Rs. 3.99 lakhs stated to have been remitted into the treasury during various months between December 1983 and August 1987 were not traceable under the respective head of account in the treasury accounts. The matter was reported to the respective offices between June 1987 and July 1988, but no action had been initiated by the departmental officers to locate the missing credits (October 1988) ; and (ii) in 72 offices, the reconciliation work for various periods between 1979-80 and 1985-86 was either not carried out or was in arrears. Consequently, the return/certificate as contemplated in the Government instructions was not furnished by these offices to the head of department and by the heads of departments to the concerned Administrative Department.

The above omissions were brought to the notice of the department and Government in September 1988 ; their replies have not been recieved March 1989.

1.11. Outstanding inspection reports and audit objections

Audit observations on incorrect assessments, short levy of taxes, duties, fees and other revenue receipts, as also defects in initial accounts noticed during the local audit and not settled on the spot are communicated to the heads of offices and to the departmental authorities through audit inspection reports. The more important irregularities are reported to the heads of departments and Government. Government have prescribed that first replies to inspection reports should be sent to audit within one month from the date of receipt of the inspection reports.

As at the end of June 1988, 13,424 objections (in 5,659 inspection reports) involving receipts amounting to Rs. 52.89 crores, issued upto 31st December 1987, were still to be settled as detailed below. The figures as on 30th September of 1986 and 1987 are also indicated alongside for comparison.

			As at the end of September 1986	As at the end of September 1987	As at the end of June 1988
Number of inspection reports	..	..	5,692	5,875	5,659
Number of audit objections	..	..	14,220	14,662	13,424
Amount of receipts involved (in crores of rupees)	..	..	54.19	48.82	52.89

Yearwise breakup of the outstanding inspection reports as on 30th June 1988, together with amounts of receipts involved, are given below :—

Year			Number of inspection reports	Number of objections	Amount of receipts involved (In crores of rupees)
Upto 1983-84	..	..	2,713	6,351	25.96
1984-85	..	..	616	1,406	8.14
1985-86	..	..	727	1,580	6.12
1986-87	..	..	847	1,983	5.24
1987-88 (Upto December 1987)	..	..	756	2,104	7.43
Total	..	..	5,659	13,424	52.89

In respect of 2,427 objections (in 938 inspection reports) involving receipts amounting to Rs. 4.27 crores, even the first replies had not been received.

The yearwise details of outstanding audit objections in respect of the various types of receipts are given in Appendix II. The departmentwise breakup of the outstanding inspection reports and audit objections as on 30th June 1988 is given below :—

Name of Department				Number of inspection reports	Number of objections	Amount of receipt involved (in crores of rupees).
1.	Revenue and Forests	..		2,987	6,814	45.12
2.	Finance	..	..	1,595	4,337	3.07
3.	Home	..	..	702	1,407	3.16
4.	Industries, Energy and Labour	..		73	133	0.07
5.	Housing and Special Assistance	..		63	141	0.74
6.	Agriculture and Co-operation	..		105	345	0.72
7.	Social Welfare, Cultural Affairs, Sports and Tourism.			17	38	..
8.	Urban Development	..	..	12	20	..
9.	Medical and Public Health	..		59	114	Negligible
10.	Education and Employment	..		22	35	0.01
11.	Public Works	..	..	9	18	..
12.	Rural Development	..	..	8	13	..
13.	Irrigation	..	..	3	5	..
14.	Law and Judiciary	..	..	3	3	..
15.	General Administration	..	..	1	1	..
Total				5,659	13,424	52.89

CHAPTER 2

SALES TAX

2.1. Results of Audit

Test check of sales tax assessments and other records conducted in audit during the year 1987-88, revealed under-assessments of tax amounting to Rs. 74.34 lakhs in 1,011 cases, which broadly fall under the following categories :—

			Number of cases	Amount (in lakhs of rupees)
1. Incorrect allowance of set-off	..	..	393	29.29
2. Non-levy or short levy of tax	..	..	428	32.18
3. Non-levy or short levy of penalty	..	..	64	3.31
4. Omission to forfeit tax irregularly collected		..	20	0.39
5. Other irregularities	..	..	106	9.17
Total	..		1,011	74.34

Some of the important cases noticed during the year 1987-88 and earlier years are mentioned in the following paragraphs.

2.2. Incorrect grant of set-off

In 20 cases involving under-assessment due to incorrect grant of set-off, demands aggregating Rs. 3.87 lakhs were raised by the department on being pointed out in audit, out of which an amount of Rs. 3.25 lakhs was recovered in 15 cases. A few other cases are mentioned below.

(a) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a manufacturer who has paid taxes on the purchase of goods specified in Part II of Schedule 'C' to the Act and used within the State in the manufacture of taxable goods for sale or export by him or in the packing of goods so manufactured, is allowed

(with effect from 1st July 1981), a set-off of taxes paid in excess of 4 per cent of the purchase price (3 per cent upto 30th June 1981). Where the purchase price is inclusive of taxes, the amount of set-off is worked out therefrom according to a formula prescribed in the Rules with reference to the rate of tax applicable to the goods purchased.

When the manufactured goods are transferred to branches outside the State, otherwise than by way of sale, set-off on raw materials including packing materials, is to be reduced by 5 per cent instead of 4 per cent as above, from 1st July 1981 and 6 per cent from 1st July 1982.

A manufacturer, who also manufactures goods the sale of which is not taxable, is allowed set-off only proportionately in respect of manufactured goods, on the sale of which tax is leviable.

If raw materials (including packing materials) purchased for use in manufacture or the manufactured goods, are used in job work or contract work, set-off is required to be reduced proportionately.

Further, a manufacturer who transfers manufactured taxable goods to his branches outside the State, is liable to pay additional purchase tax from 1st July 1982 at the rate of 2 per cent on the purchase price of goods specified in Part I of Schedule 'C' to the Act which are used in the manufacture of goods so transferred.

(i) In Bombay, a manufacturer of aromatic chemicals, perfumes and their compounds was allowed set-off on the purchases of aromatic chemicals aggregating Rs. 63.42 lakhs during the years 1982 and 1983 treating them as unspecified goods covered by entry 102 of Part II of Schedule 'C' to the Act. As aromatic chemicals are covered by entry 19 of Part I of Schedule 'C' to the Act, no set-off was admissible to the dealer.

On this being pointed out (December 1986 and November 1987) in audit, the department stated (June 1988) that the assessments of the dealer were revised (November 1987 and May 1988) raising an additional demand of Rs. 2.67 lakhs (including additional tax of Rs. 9,830). Report on recovery has not been received (March 1989).

The matter was reported to Government in August 1988; their reply has not been received (March 1989).

(ii) In the assessment for the period 1st July 1981 to 30th June 1982 of a textile mill at Solapur, tax on sales of cotton waste and gunny bags

valued at Rs. 27.30 lakhs was levied at the rate of 3 per cent instead of at the correct rate of 4 per cent.

Further, the dealer was allowed a set-off of Rs. 1.95 lakhs on the raw materials used in the manufacture of taxable goods including a set-off of tax paid on purchases of cotton and coal, not covered by Part II of Schedule 'C'. There was also an error in the calculation of the set-off worked out on the purchases of stores and the statutory deduction of 4 per cent was not made from the purchase price of machinery (Rs. 3,941) on which set-off was allowed.

On these mistakes being pointed out (April 1986) in audit, the department stated (January 1988) that the dealer was reassessed and additional demand of Rs. 1.75 lakhs was raised. The department stated (October 1988) that the dealer paid Rs. 1.08 lakhs and filed an appeal against recovery of balance amount. Further report has not been received (March 1989).

Government to whom the matter was reported in May 1988, accepted (January 1989) the mistake and stated that the dealer had filed an appeal.

(iii) At Pune, in the assessment of a manufacturer of oil engines for the period from 1st July 1980 to 30th June 1981, a set-off of Rs. 76,95,127 was allowed on account of tax paid purchases, which included a set-off of Rs. 3,73,705 based on debit notes for Rs. 4,35,396 issued by one of his vendors. The assessment records showed that out of these debit notes for Rs. 4,35,396, tax element of Rs. 1,93,705 was already considered in the assessment of the dealer for the previous year and thus the balance of Rs. 2,41,691 only was available for consideration in the assessment for the above period. The dealer was thus allowed excess set-off of Rs. 1.32 lakhs. The dealer was also allowed a set-off of Rs. 26,078 as against admissible set-off of Rs. 17,385 on purchases of raw materials valued at Rs. 8.69 lakhs effected from unregistered dealers and subjected to the levy of purchase tax at 5 per cent in the assessment. This mistake resulted in further grant of excess set-off by Rs. 8,693.

On the mistakes being pointed out (June 1986) in audit, the department stated (June 1987) that the dealer had filed an appeal against the original assessment order for the period 1st July 1980 to 30th June 1981. Further report has not been received (March 1989).

The case was reported to Government in July 1988; their reply has not been received (March 1989).

(iv) In Bombay, a manufacturer of dry battery cells was allowed a set-off of Rs. 95,635 on the purchases of specified goods used in the manufacture of the taxable goods in the assessment for the year 1982-83. However, the set-off admissible on the goods so used in the manufactured goods transferred to branches outside the State, otherwise than by way of sale, was incorrectly computed resulting in excess allowance of set-off of Rs. 68,815. Additional tax of Rs. 2,657 was also leviable on this amount.

On the mistakes being pointed out (February 1987) in audit, the department rectified the mistakes (July 1987) and raised additional demand of Rs. 71,472 (including additional tax). Report on recovery has not been received (March 1989).

The matter was reported to Government in March 1988; their reply has not been received (March 1989).

(v) In assessing a dealer at Kolhapur for the period 27th March 1981 to 30th September 1981 and 1st October 1981 to 30th September 1982, due to errors in computations the dealer was allowed excess set-off of Rs. 60,000 and Rs. 2,995 for the two periods respectively. Besides, purchase tax was not levied on the purchases of Rs. 4.67 lakhs and Rs. 94,164 made by the dealer by issue of declarations in Form N-15 during the above periods respectively and used in the manufacture of goods transferred to branches.

On the mistakes being pointed out (June 1987) in audit, the department stated (June 1988) that additional demand of Rs. 63,606 (including additional tax of Rs. 3,606) and Rs. 3,175 (including additional tax of Rs. 180) for the two periods respectively was raised and recovered in January 1988. Reply of the department on the question of levy of purchase tax has not been received (March 1989).

Government to whom the matter was reported in September 1988, accepted (February 1989) the mistake and confirmed the part recovery.

(vi) At Bombay, in the assessment of a manufacturer of medicines for the period 1st July 1981 to 30th June 1982, set-off of Rs. 1.23 lakhs was allowed on the purchase of goods used in the manufacture of taxable goods for sale. Out of the taxable sale valued at Rs. 364 lakhs, goods valued at Rs. 116 lakhs representing life-saving drugs were not levied to tax as their sales were not exigible to tax. But the set-off was not reduced

proportionately. Further, in respect of goods valued at Rs. 4 lakhs transferred to branches outside the State, set-off was calculated after reducing 4 per cent of purchase price, instead of correct rate of 5 per cent.

On the omissions being pointed out (October 1986) in audit, the department stated (December 1987) that assessment was revised (October 1987) raising additional demand of Rs. 40,573. Report on recovery has not been received (March 1989).

The matter was reported to Government in April 1988; their reply has not been received (March 1989).

(vii) In Bombay, a printer was allowed (July 1985) set-off of Rs. 25,295 on his purchases of paper worth Rs. 7.93 lakhs (inclusive of tax) during the year 1982-83 at a higher rate treating these as covered by entry 102 of Schedule 'C-II', instead of earlier entry 9 of Schedule 'C-II' to the Act, the rate of tax being 6 per cent. This resulted in grant of excess set-off of Rs. 14,068 and short levy of additional tax of Rs. 1,243 thereon.

On the mistake being pointed out (January 1988) in audit, the department stated (June 1988) that the dealer was reassessed raising an additional demand of Rs. 21,654 (including penalty of Rs. 3,565).

Government to whom the matter was reported in September 1988 accepted (January 1989) the mistake but stated that the dealer had filed an appeal.

(viii) In respect of purchases of mineral turpentine of Rs. 3.70 lakhs made during the calendar year 1983, the set-off admissible to a manufacturer of chemicals was incorrectly computed with reference to the rate of tax of 12 per cent. The rate of tax applicable to the goods was only 4 per cent and therefore, no set-off was admissible on its purchases.

On the mistake being pointed out (April 1987) in audit, the department stated (September 1987) that the mistake had been rectified by raising an additional demand for Rs. 20,242. Report on recovery has not been received (March 1989).

The matter was reported to Government in June 1988; their reply has not been received (March 1989).

(b) Under the Bombay Sales Tax Act 1959 and the Rules made thereunder a manufacturer of declared goods is also entitled to full set-off of the taxes paid on the purchase of raw materials specified in Schedule 'B' to the Act (declared goods) which are used by him in the manufacture of goods specified in the same entry of Schedule-B, for sale or export.

(i) In assessing (January 1985) a manufacturer of iron and steel of Bombay for the year 1981-82, set-off of Rs. 8.72 lakhs was allowed on the value of purchases of declared goods used in manufacture assuming a gross profit of 10 per cent. The gross profit of the dealer however, worked out to 24.25 per cent. This resulted in excess allowance of set-off of Rs. 1.59 lakhs. The dealer was also allowed a set-off of Rs. 13,294 in respect of tax paid on purchases of other raw materials which was inadmissible as the goods were not used by him in the process of manufacture within the State.

On the mistakes being pointed out (February 1986) in audit, the department revised (January 1988) the assessment order raising additional demand of Rs. 1.59 lakhs by disallowing the excess set-off allowed on declared goods. Report on action taken in respect of inadmissible set-off of Rs. 13,294 and on recovery has not been received (March 1989).

Government to whom the matter was reported in September 1988, accepted (January 1989) the mistake.

(ii) In assessing (March 1986) a manufacturer of castings at Pune, for the period from 1st July 1982 to 30th June 1983, the assessing authority allowed set-off Rs. 26,647 on purchases of coal. As the dealer had not manufactured goods specified in the same entry of Schedule 'B' to the Act the set-off was inadmissible.

On the mistake being pointed out (November 1986) in audit, the department stated (August 1988) that the dealer was reassessed (May 1988) raising an additional demand of Rs. 19,293 after adjusting set-off allowed in excess/less on other purchases. Report on recovery has not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

(iii) In assessing (February 1985) a manufacturer-cum-reseller of iron and steel for the year 1982, and allowing set-off of Rs. 69,584 on the purchases of Rs. 18.19 lakhs, set-off on purchases worth Rs. 4.21 lakhs

which were not used in the manufacture of goods, was also allowed. This resulted in grant of excess set-off to the extent of Rs. 16,224.

On the mistake being pointed out (November 1986) in audit, the department stated (July 1988) that the assessment of the dealer was revised (March 1988) raising an additional demand of Rs. 16,224. Report on recovery has not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

(c) Under the Bombay Sales Tax Act, 1959 and the Rules made thereunder, with effect from 1st April 1984, a manufacturer, who purchases articles specified in entry 29 of Part I of Schedule 'C' to the Act and uses them in the manufacture of articles specified in the same entry for sale or for export by him, is entitled to set-off of taxes paid by him on purchase of the specified goods.

At Satara, a manufacturer of aluminium conductors, wires etc., was erroneously allowed a set-off of Rs. 13,792 on the purchase of aluminium rods valued at Rs. 4.78 lakhs effected on 22nd August 1983 in the assessment for the period 25th August 1983 to 31st July 1984. The said purchases were used by him in the manufacture of ingots which were sold on 31st March 1984 at Rs. 5.12 lakhs. Since the transactions of purchase and sale had taken place prior to 1st April 1984, no set-off was admissible in this case.

On the mistake being pointed out (June 1987) in audit, the department stated (March 1988) that the assessment was revised disallowing the set-off of Rs. 13,792. The department further stated (September 1988) that the dealer paid Rs. 300 and filed an appeal for the balance dues of Rs. 13,492.

The matter was reported to Government in May 1988; their reply has not been received (March 1989).

(d) Under the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a registered dealer is entitled to set-off of taxes recovered from him by other registered dealers on purchases of any goods, if the goods purchased have been resold by him to dealers notified by the Government. If the taxable goods are resold to a manufacturer/processor of textiles, set-off is admissible in excess of 6 per cent of the sale price, only if the tax paid at the time of purchase has been credited to Government by the seller.

In one case, involving under-assessment due to excess grant of set-off, an amount of Rs. 12,572 allowed as set-off was withdrawn on being pointed out in audit.

In another case, in Bombay, in assessing a reseller of dyes and chemicals for the period from 5th November 1983 to 24th October 1984, the assessing authority allowed (October 1986), set-off of Rs. 98,398 in respect of tax paid purchases of Rs. 24.60 lakhs (tax recovered by sellers at Rs. 2,45,995) resold by the dealer to textile manufacturers/ processors for Rs. 28.49 lakhs. The aforesaid set-off was worked out by reducing taxes recovered by the seller by 6 per cent of purchase price (Rs. 24.59 lakhs) instead of reducing it by 6 per cent of the sale price (Rs. 28.49 lakhs). This resulted in excess allowance of set-off of Rs. 23,371.

On this being pointed out (November 1987) in audit, the department stated (August 1988) that the assessment of the dealer was revised by raising an additional demand of Rs. 23,371. Report on recovery has not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

(e) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a registered dealer is entitled to set-off of taxes paid or deemed to have been paid on his purchases made from other registered dealers provided the goods are resold by him within nine months of the date of purchase in the same form in which they were purchased either in the course of export or in the course of inter-State trade or commerce or the goods are despatched by him outside the State with the intention of reselling the goods or using them in manufacture. Where the registered dealer is not able to identify the sales with the corresponding purchases, the set-off is worked out on approximation.

A registered dealer holding authorisation is entitled to purchase goods without payment of sales tax, if he furnishes a declaration in the prescribed form that the goods purchased by him will be resold by him in the course of inter-State trade or commerce or in the course of export out of the territory of India within nine months of the date of purchase. If the goods so purchased are not disposed of within the time and in the manner prescribed or in the form in which these were purchased, purchase tax is leviable on the value of the goods. In addition, penalty is also leviable for breach of the condition of the declaration.

(i) In Bombay, an authorised dealer was allowed a set-off of Rs. 1.02 lakhs in respect of his sales in the course of inter-State trade or commerce amounting to Rs. 71.23 lakhs during the period 1st January 1982 to 30th June 1982, on the grounds that part of his tax paid purchases were resold in the course of inter-State trade or commerce. It was, however, seen that the dealer had also effected purchases of Rs. 110.14 lakhs against abovementioned declarations. In the assessment made, sales to the extent of Rs. 92.52 lakhs were determined as sales in the course of inter-State trade or commerce with a closing stock of Rs. 17.62 lakhs. Thus the dealer had not sold all the goods purchased on declarations as prescribed in the declarations and was thus liable for levy of purchase tax for contravention of recitals of declarations. Consequently, the set-off allowed in the assessment also required re-examination, as no tax-paid purchases could have gone in the sales in the course of inter-State trade or commerce.

On this being pointed out (August 1986) in audit, the department stated (June 1988) that the dealer was reassessed (April 1988) by raising a net additional demand of Rs. 4.83 lakhs, by disallowing the incorrect set-off allowed in the assessment (Rs. 1.02 lakhs), levy of purchase tax for breach of declaration (Rs. 2.60 lakhs), by levy of penalty for non-disclosure of correct tax liability in the return (Rs. 1.10 lakhs) and levy of additional tax (Rs. 21,138) and by adjusting a refund of Rs. 10,073. The department stated (December 1988) that the dealer had paid Rs. 3,73,439. Details of recovery of the balance amount have not been received (March 1989).

Government to whom the matter was reported in September 1988, accepted (January 1989) the mistake.

(ii) In Bombay, a manufacturer of gold ornaments and reseller in gold was allowed, in the assessment for the period 22nd October 1979 to 7th November 1980, a set-off of Rs. 29,748 on his purchases of standard gold bars of Rs. 59.50 lakhs on which tax of Rs. 29,748 was paid separately. As the gold so purchased was not re-sold in the course of export and/or inter-State trade or commerce but was sold after converting it into ornaments which amounts to manufacture, the dealer was not entitled to the set-off of Rs. 29,748 allowed in the assessment.

On this being pointed out (January 1985) in audit, the department stated (March 1988) that the assessment was revised by raising additional demand of Rs. 31,533 (including additional tax of Rs. 1,785). The department further stated (December 1988) that the Maharashtra Sales Tax

Tribunal had (August 1988) set aside the revision order on technical grounds and opined that the dealer was not entitled to the set-off and the revenue which was due to Government had been lost.

The matter was reported to Government in May 1988; their reply has not been received (March 1989).

(iii) At Pune, a dealer was allowed a set-off of Rs. 28,673 for the period from 12th November 1977 to 31st October 1978. The record showed that the dealer purchased goods valued at Rs. 3.94 lakhs (inclusive of taxes paid separately at Rs. 28,673) which were reported to have been resold by him in the course of inter-State trade or commerce at Rs. 3.10 lakhs. While assessing the dealer under the Central Sales Tax Act, 1956, the assessing officer determined the turnover of sales taxable at Rs. 79,827 after disallowing the goods returned valued at Rs. 2.30 lakhs. Though the value of goods returned was taken into account for purpose of levy of Central sales tax, the set-off determined at Rs. 28,673 was not proportionately reduced. The additional tax leviable under the State Act was also not levied.

On the mistakes being pointed out (March 1987) in audit, the department stated (December 1987) that the assessment was revised (August 1987) and additional demand raised for Rs. 25,542 (including additional tax and Central sales tax). Report on recovery has not been received (March 1989).

The case was reported to Government in May 1988; their reply has not been received (March 1989).

(f) Under the provisions of the Bombay Sales Tax Act, 1959 and the rules made thereunder, a registered dealer reselling goods on Form AF to Central or State Government for official use is entitled to set-off on the taxes paid in excess of four per cent of the sale price, only if the tax paid at the time of purchase has been credited to Government by the seller. Moreover, as per the Tribunal decision,* maxphalt (another trade name of moulding tar) being petroleum product is classifiable under entry 25 of old Schedule 'C' (new entry 30 of Part I of Schedule "C") to the Act, and is taxable at the rate of four per cent.

* M/s. Modi Tar Supply Co. *versus* State of Maharashtra Second Appeal No. 87 of 1980 dated 24th November 1982.

In Amravati, a dealer sold maxphalt to Government between January 1983 and December 1983 on which a set-off of Rs. 46,389 was erroneously allowed treating the rate of tax paid by him as ten per cent. On cross verification (April 1988) in audit it was seen that the original dealer of Bombay had collected taxes at the rate of four per cent on maxphalt sold to the dealer of Amravati instead of ten per cent. The incorrect grant of set-off resulted in tax being realised short by Rs. 46,389.

On this being pointed out (February 1986) in audit, the department accepted (July 1988) the mistake and initiated action for the recovery. Report on recovery has not been received (March 1989).

The case was reported to Government in August 1988; their reply has not been received (March 1989).

2.3. Non-levy/short levy of purchase tax

(a) Under the Bombay Sales Tax Act, 1959 (as it stood upto 30th June 1981), levy of general sales tax could be postponed in the assessment of a selling dealer, if the purchasing dealer furnished a declaration in the prescribed form to the effect that the goods purchased would be resold. Failure to sell the goods so purchased amounted to contravention of recitals of declaration rendering him liable to purchase tax. Similarly, a registered dealer holding recognition certificate can purchase raw materials required for use in manufacture of taxable goods at a concessional rate of 2 per cent (raised to 3 per cent from 15th April 1974) on furnishing a declaration that these goods would be used by him within the State in the manufacture of taxable goods for sale. If the manufactured goods are despatched outside the State otherwise than as a result of sale, it amounts to breach of declaration and attracts levy of purchase tax on the proportionate purchases used in the manufacture of goods despatched outside the State, besides penalty.

In Bombay, in the assessment (September 1983) for the period 1968-69, of a manufacturer of oil, purchase tax was not levied, although the dealer had contravened recitals of declaration.

On this being pointed out (July 1984) in audit, the department stated (July 1987) that the assessment was revised (June 1987) raising additional demand of Rs. 2.96 lakhs which included penalty of Rs. 2.34 lakhs, for failure to comply with the conditions of recitals of declaration and failure to disclose transactions of sale or purchase liable to tax. Report on recovery has not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

(b) Under the Bombay Sales Tax Act, 1959, with effect from 1st July 1981, a manufacturing dealer holding recognition certificate is allowed to purchase raw materials (on which purchase tax is payable at the reduced rate of 4 per cent) by furnishing declarations to the selling dealer in the prescribed form, that the goods purchased will be used by him within the State in the manufacture of taxable goods for sale. If the goods so purchased are used in the manufacture of goods, sale of which is not taxable, purchase tax at full rate is leviable on those purchases. Further, in case the goods are used in the manufacture of goods, sale of which is subject to tax, and the manufactured goods are transferred to branches outside the State, otherwise than by way of sale, purchase tax is leviable at a total rate of 6 per cent in the hands of the purchasing dealer on the proportionate amount of purchases used in the manufacture of those goods.

Similarly, a dealer registered under Central Sales Tax Act, 1956, can purchase the class of goods specified in his registration certificate at a concessional rate of 4 per cent, on furnishing a certificate in Form 'C'. One of the recitals in the certificate is that the goods purchased are for use in manufacture of goods for sale or for packing of goods for sale. Contravention of the recitals attracts penalty not exceeding one-and-a-half times the tax leviable.

In one case, involving under-assessment due to non-levy of purchase tax at higher rate for contravention of declaration on account of branch transfer of manufactured goods, an amount of Rs. 40,359 was recovered on being pointed out in audit. A few other cases are mentioned below.

(i) In Bombay, during the period 1st July 1983 to 30th June 1984, a manufacturer of drugs and medicines purchased goods worth Rs. 40.95 lakhs after paying purchase tax at the concessional rate on the strength of declarations. The dealer had manufactured and sold life-saving drugs which are tax free and also issued free samples and replacements against date-expired products from out of manufactured goods, in contravention of recitals of declaration. The amount of proportionate purchases worked out to Rs. 11.47 lakhs on which purchase tax leviable but not levied, amounted to Rs. 68,792. Additional tax leviable amounted to Rs. 13,758. Thus, there was a total short levy of Rs. 82,550.

On this being pointed out (January 1987) in audit, the department stated (September 1987) that the mistake had been rectified (February 1987) by raising additional demand of Rs. 82,550. The department further stated (October 1988) that the dealer had paid an amount of Rs. 81,400 and preferred an appeal for balance amount. Further report has not been received (March 1989).

The matter was reported to Government in June 1988; their reply has not been received (March 1989).

(ii) In the assessments for two periods from 1st July 1981 to 30th June 1983, of a manufacturer of ice at Ratnagiri, sales of ice were not levied to tax on the basis of declarations given by the purchasing dealer who was an exporter of fish. It was pointed out (February 1986) in audit that the activity involved in the export of fish by the purchasing dealer cannot be considered as manufacture and therefore the declarations given by the purchasing dealer were not in order. The department stated (October 1987) that the assessments of the purchasing dealer were reopened and additional demand of Rs. 62,662 being the purchase tax leviable on all his purchases (Rs. 4.90 lakhs) of ice was raised (October 1987). Report on recovery has not been received (March 1989).

Government to whom the matter was reported in April 1988, accepted (January 1989) the mistake.

(iii) A manufacturing dealer in Bombay used in job work 44 per cent of his purchases effected on declarations (entitling him for concessional rate of tax under the State Act and the Central Act) during the periods 1982-83 and 1983-84. For this, purchase tax under the State Act and penalty under the Central Act were not levied.

On this being pointed out (December 1986) in audit, the department stated (November 1987) that the dealer was reassessed (March 1987) raising additional demand for Rs. 38,263 (Rs. 20,301 for 1982-83 and Rs. 17,962 for 1983-84) being the purchase tax and penalty of Rs. 13,219 (Rs. 5,373 for 1982-83 and Rs. 7,846 for 1983-84). The department further stated (July 1988) that the dealer had paid Rs. 8,879 and obtained a stay order from Court for balance amount. Further report has not been received (March 1989).

The matter was reported to Government in April 1988; their reply has not been received (March 1989).

(iv) A manufacturer of yarn in Latur had purchased asbestos sheets valued at Rs. 2.52 lakhs during the period 1st April 1982 to 31st March 1983 on furnishing declarations stating that the purchases would be used in manufacture of taxable goods for sale. As asbestos sheets are not required for manufacturing of yarn, purchase tax was leviable at full rate thereon, but was not levied, resulting in short levy of tax of Rs. 10,063 plus additional tax.

On this being pointed out (September 1985) in audit, the department stated (December 1987) that the assessment was revised (October 1987) raising additional demand of Rs. 22,329 including penalty of Rs. 11,300 and recovered (October 1987) an amount of Rs. 11,029. For the balance amount the dealer was stated to have filed an appeal before the Deputy Commissioner of Sales Tax (Appeal). Report on further developments in appeal has not been received (March 1989).

The matter was reported to Government in April 1988; their reply has not been received (March 1989).

(v) In Thane, a manufacturer of chemicals holding recognition certificate purchased raw materials worth Rs. 2.67 lakhs, during 1st July 1982 to 30th June 1983, by issuing declarations, on which he was liable to pay purchase tax at 4 per cent. But no purchase tax was levied. Purchase tax not levied amounted to Rs. 11,973 (including additional tax of Rs. 1,283).

The omission was pointed out to department in May 1987 and was reported to Government in September 1988; their replies have not been received (March 1989).

(c) Sales of goods to an authorised dealer are allowed to be deducted from the turnover of taxable sales, if the authorised dealer purchasing the goods certifies in the prescribed declaration that the goods are purchased for resale in the course of inter-State trade or commerce or in the course of export out of the territory of India or for packing of such goods. However, if any dealer or commission agent contravenes the terms and conditions of the declaration, he shall be liable to pay purchase tax on the purchase price of the goods so purchased and purchase tax shall be levied at prescribed rates.

(i) In Pune, a dealer in automobile parts had effected purchases worth Rs. 4.77 lakhs during the years 1977-78 to 1979-80, on declarations, but resold the goods locally within the State in contravention of recitals of declaration and as such, purchase tax of Rs. 57,280 was leviable, which was not levied.

On the mistake being pointed out (January 1987) in audit, the department stated (July 1988) that additional demand of Rs. 60,717 (including additional tax of Rs. 3,437) was raised. Report on recovery has not been received (March 1989).

The matter was reported to Government in August 1988; their reply has not been received (March 1989).

(ii) In Bombay, a dealer in dyes and chemicals who had effected purchases against declarations during the year 1983-84 resold a part of the goods so purchased within the State in contravention of recitals of the declaration, rendering him liable to purchase tax, which was not levied.

On this being pointed out (July 1987) in audit, the department rectified (January 1988) the assessment order for the period 1983-84 raising additional demand of Rs. 53,148 (including penalty of Rs. 36,296 for failure to disclose transactions liable to tax).

The department further stated (March 1989) that the assessment for the period 1984-85 which was assessed under the summary assessment scheme was also revised (February 1989) raising additional demand of Rs. 1.02 lakhs. Report on recovery has not been received (March 1989).

The matter was reported to Government in August 1988; their reply has not been received (March 1989).

(d) Under the Bombay Sales Tax Act, 1959, as amended from 1st July 1982, a dealer who purchases goods specified in Part I of Schedule 'C' to the Act, from a person who is or is not a registered dealer and uses such goods in the manufacture of taxable goods and despatches the goods so manufactured, to his own place of business or to his agent's place of business situated outside the State within India, is liable to pay, in addition to the sales tax paid or payable or purchase tax levied or leviable, a purchase tax at the rate of 2 per cent on the purchase price of the goods, so used in the manufacture.

The set-off provisions under the Act and the Rules made thereunder and departmental instructions provide that set-off worked out can be further reduced by the assessing officer upto one-third thereof (where taxes are not paid separately on the purchase price) if he is satisfied that the average price of similar goods sold by manufacturers or importers thereof, was less than the purchase price paid by the dealer by an amount more than

25 per cent of the purchase price or for any other reasons to be recorded in writing by the assessing officer.

(i) In two cases involving under-assessment due to failure to enforce the above requirements, demands of Rs. 53,404 were raised by the department on being pointed out in audit, out of which an amount of Rs. 51,057 was recovered.

(ii) In another case, in Akola, a manufacturer of *vanaspati* (hydrogenated vegetable oil) and soaps despatched to places situated outside the State but within India, 60.73 per cent of the total despatches of manufactured goods during 1982-83. Purchase tax leviable on 60.73 per cent of the value of the specified raw materials used in the manufacture of the goods so despatched amounted to Rs. 21.22 lakhs, as against Rs. 14.62 lakhs actually levied. The mistake resulted in short levy of purchase tax of Rs. 6.60 lakhs.

On this being pointed out (February 1987) in audit, the department accepted (May 1988) the mistake and agreed to initiate corrective action. Report on further progress of the case has not been received (March 1989).

The case was reported to Government in July 1988; their reply has not been received (March 1989).

(e) Under the Bombay Sales Tax Act, 1959, if a dealer purchases goods specified in Schedules "B" or "C" to the Act from sources other than dealers registered in the State, the resales of such goods are taxed in the hands of the reselling dealers at the rates set out against such goods in the Schedules aforesaid. However, if the goods purchased from unregistered dealers locally are not resold, the dealer is liable to pay purchase tax on such purchases.

(i) In Bombay, in assessing a manufacturer of scientific instruments, for the period from 28th October 1981 to 15th November 1982, the assessing officer levied (June 1985) purchase tax at the rate of 2 per cent on purchase of platinum and palladium (value Rs. 9.54 lakhs) from unregistered dealers, instead of the correct rate of 4 per cent. This resulted in short levy of tax amounting to Rs. 20,218 (including additional tax of Rs. 1,144). Besides, penalty for non-disclosure of correct tax liability was also attracted.

On this being pointed out (November 1986) in audit, the department revised (May 1988), the assessment of the dealer raising additional demand of Rs. 39,292 (including penalty of Rs. 19,074). The department stated (December 1988) that the dealer had paid Rs. 20,218. Details of recovery of the balance amount have not been received (March 1989).

Government to whom the matter was reported (September 1988) accepted (January 1989) the mistake.

(ii) Another dealer from Bombay, processing film and recording cassettes, purchased capital assets valued at Rs. 22.90 lakhs during the calendar year 1983, which was not considered in the assessment of the dealer. Consequently, the status of the dealer(s) from whom the capital assets were purchased was not determined and purchase tax leviable on purchases made from unregistered dealers, not resold, was not levied.

On this being pointed out (May 1986) in audit, the department stated (March 1988) that the purchase of assets worth Rs. 1.38 lakhs were from unregistered dealers and that purchase tax was paid by the dealer on the purchases worth Rs. 56,334, out of them. The department, therefore, reassessed the dealer (January 1986) and raised additional demand of Rs. 11,347, being purchase tax leviable on the balance purchases valued at Rs. 81,312. Report on recovery has not been received (March 1989).

The matter was reported to Government in May 1988; their reply has not been received (March 1989).

(f) By a notification issued on 30th June 1975, Government granted exemption from payment of sales tax in excess of four per cent on sales of goods by registered dealers to the Central or any State Government, subject to the production, by an authorised officer of the Government, a declaration in prescribed Form AF declaring that the goods purchased were for official use by Government and not for the purpose of resale or for use in the manufacture of goods for sale. Thus, on failure to comply with the conditions of the declaration, the purchasing dealer shall be liable to pay purchase tax.

The Government Milk Scheme, Akola, a registered dealer and reseller of milk and manufacturer of ghee, butter etc., purchased (between 1975-76 and 1980-81) consumable goods worth Rs. 18.23 lakhs at the concessional rate of sales tax of four per cent on production of "AF" forms. But the goods so purchased were not used for official purpose but were consumed

in the manufacture of goods for sale. Non-levy of purchase tax in respect of the above goods resulted in short realisation of revenue amounting to Rs. 1.30 lakhs for the years 1975-76 to 1980-81.

On this being pointed out (November 1987) in audit, the department accepted the omission and raised (March 1988) additional demand of Rs. 68,864 for the years 1975-76, 1976-77 and 1980-81 and further stated that the re-assessment for the years 1977-78 to 1979-80 became time-barred. Report on recovery of Rs. 68,864 has not been received (March 1989).

The case was reported to Government in August 1988; their reply has not been received (March 1989).

2.4. Non-levy of Central Sales Tax

(i) Under the provisions of the Central Sales Tax Act, 1956, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of these goods out of the territory of India shall also be deemed to be in the course of such export if such last sale or purchase took place after and for the purpose of complying with the agreement or order for or in relation to such export. But the goods exported should be the same goods as those purchased in the preceding sale or purchase. In support of such claim, a dealer is required to furnish to the authority a certificate signed by the exporter as evidence of export of such goods. It has been judicially held* that raw hides and skins and dressed hides and skins i.e. leather are commercially different commodities even if they are grouped together under one entry for purpose of taxation.

In Nagpur, 5 dealers sold rawhides and skins valued at Rs. 116.70 lakhs to dealers in Tamil Nadu between 1st April 1980 and 31st March 1984 and claimed exemption from payment of Central sales tax in four cases on the strength of certificate, obtained from the dealers in Tamil Nadu as exporters and in one case even though the sales were not supported by such certificate, the assessing authority in his best-judgement assessment exempted the sales from levy of tax. In all these cases the goods sold by the dealers in Maharashtra were raw hides and skins, whereas the goods exported by the dealers in Tamil Nadu were dressed hides and skins i.e.

* *Haji Abdul Shakoor and Co. versus State of Madras* (1964) 15 STC 719 (SC).

leather processed in Tamil Nadu before they were exported. Thus, Central Sales Tax amounting to Rs. 9.30 lakhs (as detailed below) which was leviable, was not levied :—

Period of assessment	Gross turn-over of sales	Amount of Central Sales Tax not realised
(In lakhs of Rupees)		
1. 1st April 1983 to 31st March 1984 ..	28.83	2.31
2. 1st January 1983 to 31st December 1983 ..	18.24	1.46
3. 1st January 1981 to 31st December 1981 ..	45.00	3.60
4. 1st December 1983 to 31st March 1984 ..	17.52	1.40
5. 1st April 1980 to 31st March 1981 ..	7.11	0.53
Total ..	116.70	9.30

On the omission being pointed out (between December 1984 and April 1987) in audit, the Commissioner of Sales Tax issued instructions conveying the court judgement and decided that the legal position explained above would be enforced prospectively for period starting from 1st May 1987 but would not be enforced for assessments relating to period prior to 1st May 1987. Delay in implementation of the Supreme Court decision of 1964 resulted in loss of revenue amounting to Rs. 9.30 lakhs for the above years.

The cases were reported to Government in August 1988 and September 1988; their replies have not been received (March 1989).

(ii) Under the provisions of the Central Sales Tax Act, 1956, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the general sales tax law of the appropriate State shall, on behalf of the Government of India, assess, re-assess collect and enforce payment of tax including any penalty payable by a dealer. Inter-State sales and intra-State sales are required to be assessed to tax separately under the Central Sales Tax Act, 1956 and the State Sales Tax Act respectively.

In Nagpur, while assessing (March 1984) a dealer under the State Act, the inter-State sales amounting to Rs. 1.09 lakhs relating to year 1981-82 were excluded from his total taxable turnover for being assessed separately

under the Central Act. However, these inter-State sales were omitted to be assessed to tax under the Central Act. This omission resulted in non-levy of central sales tax amounting to Rs. 9,921, besides penalty.

On the omission being pointed out (March 1985) in adult, the department accepted the mistake and raised a demand (June 1985) for Rs. 18,765 (including penalty of Rs. 8,844). Report on recovery has not been received (March 1989).

The case was reported to Government in August 1988; their reply has not been received (March 1989).

2.5. Non-levy or short levy of penalty

The Bombay Sales Tax Act, 1959 provides that if a dealer does not pay tax due along with his returns by the prescribed date, penalty should be levied at the prescribed rate after affording the dealer an opportunity of being heard.

Penalty is also leviable under the Act, if a dealer conceals the particulars of any transaction liable to tax or does not furnish any return by prescribed date. If the amount of tax paid by the dealer is found to be less than 80 per cent of the amount of tax assessed, reassessed or found due on revision of assessment, he is deemed to have concealed the turnover liable to tax or knowingly furnished inaccurate particulars of turnover liable to tax and penalty not exceeding one-and-a half times the amount of tax is leviable.

As per Central Sales Tax Act, 1956, penalty is leviable as per the corresponding provisions of the respective State Act.

In Chandrapur and Yavatmal, in two cases involving non-levy of penalty, the department levied penalty of Rs. 21,078 at the instance of Audit, out of which an amount of Rs. 6,500 had been recovered. A few other cases are mentioned below.

(a) In the cases of sixteen dealers, in Bombay, Dhule, Jalgaon, Latur, Palghar and Pune, action to levy penalty for late payments or penalty for concealment of turnover had either been initiated or deferred between August 1982 and August 1986, but no follow-up action was taken by the department.

On these being pointed out (between June 1984 and March 1988) in audit, the department levied penalty and raised demand for Rs. 5.97 lakhs. The department further stated (December 1988 and January 1989) that in two cases recovery of Rs. 34,942 was effected and in three other cases the dealers had paid Rs. 3,000 each and filed appeal. Report on recovery of the balance amount and results of appeal have not been received (March 1989).

(b) In Aurangabad in the case of a dealer, in the assessment for the calendar year 1983, penalty for belated payments of tax was not levied.

On this being pointed out (September 1985) in audit, the department levied penalty and stated (August 1988) that demand for Rs. 27,007 was raised. Report on recovery has not been received (March 1989).

(c) In Bombay, although the tax paid by a dealer with return, for the period 1st October 1982 to 30th September 1983, was less than 80 per cent of assessed dues, action to levy penalty was not considered.

On this being pointed out (February 1987) in audit, the department levied penalty (November 1987) and raised demand for Rs. 20,000. Report on recovery has not been received (March 1989).

The above omissions were reported to Government in September 1988; their reply has not been received (March 1989).

2.6. Application of incorrect rate of tax

In 6 cases involving under-assessment due to application of incorrect rate of tax, the department raised demands aggregating Rs. 1.05 lakhs at the instance of Audit, out of which an amount of Rs. 39,234 was recovered. A few other cases are mentioned below.

(a) Under the Bombay Sales Tax Act, 1959, the rate of tax leviable on the sale of any commodity is determined with reference to the entry in the Schedules to the Act.

Sales of radio parts and components and accessories are exigible to tax at the rate of 15 per cent with effect from 1st July 1982.

In Thane, sales (including inter-State sales) of radio parts aggregating Rs. 12.70 lakhs, during the period 30th August 1982 to 31st December 1983, were assessed to tax at the rate of 12 per cent, instead of 15 per cent resulting in short levy of tax of Rs. 42,135 (including additional tax).

The mistake was pointed out in audit in May 1987, reply of the department has not been received (March 1989).

The matter was reported to Government in August 1988; their reply has not been received (March 1989).

(b) By a notification issued in June 1981, Government exempted tax in excess of 10 per cent on sales of fluorescent tubes and their fittings. Accordingly, sales of these goods were exigible to tax at the rate of 7 per cent sales tax and 3 per cent general sales tax upto 30th June 1981 and 10 per cent sales tax thereafter.

(i) In Bombay, in the assessment of a manufacturer of tubelight fittings, for the year 1982-83, sales worth Rs. 22.03 lakhs of plastic cover (fittings) of fluorescent tubes were taxed at 8 per cent, instead of the correct rate of 10 per cent.

On this being pointed out (February 1987) in audit, the department stated (March 1988) that the assessment had been revised by raising additional demand for Rs. 35,618. The department further stated that the dealer had paid Rs. 5,000 in September 1987 and filed an appeal. Further developments in appeal have not been received (March 1989).

The matter was reported to Government in May 1988; their reply has not been received (March 1989).

(ii) In Bombay, tax on sales of fluorescent tube accessories sold by a dealer during the period from 1st April 1981 to 30th June 1981 was assessed at the rate of 5 per cent sales tax and 3 per cent general sales tax, treating them as items covered by entry 22 of Schedule "E" to the Act. This resulted in short levy of tax of Rs. 30,897 (including additional tax of Rs. 17,491).

On this being pointed out (February 1986) in audit, the department stated (August 1988) that the assessment of the dealer for the year 1981-82 had been revised (June 1987) raising additional demand of Rs. 30,897. The department further stated (November 1988) that the dealer had paid Rs. 7,500 and filed appeal for the balance amount. Further developments in appeal have not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

(c) A new entry 44-A was inserted in Part-II of Schedule 'C' to the Bombay Sales Tax Act, 1959, from 1st May 1982, providing for levy of tax at the rate of 10 per cent on sale/purchase of machinery operated by electricity or any other power and components, parts and accessories thereof. Prior to this, these goods were taxable at the rate of 8 per cent under residual entry in the Schedule to the Act.

The turnover of sales of a manufacturer of machinery and its spares in Bombay, for the period 28th October 1981 to 15th November 1982 (Rs. 30.64 lakhs) was taxed at the rate of 8 per cent, though the rate was increased to 10 per cent with effect from 1st May 1982. Additional tax leviable was also not levied.

On this being pointed out (March 1987) in audit, the department revised (February 1988) the assessment of the dealer and raised additional demand for Rs. 33,166 (including penalty of Rs. 20,000 for failure to disclose transactions liable to tax). Report on recovery has not been received (March 1989).

The matter was reported to Government in August 1988; their reply has not been received (March 1989).

(d) Goods which have not been specified in any of the Schedules to the Bombay Sales Tax Act, 1959, are leviable to tax under (the residual) entry 102 of Part-II of Schedule 'C' to the Act. Rate of tax applicable to this entry during the period from 1st July 1981 to 30th November 1982 was 8 per cent.

The taxable turnover of a dealer in cement in Pune for the period from 25th November 1981 to 15th November 1982 was determined at Rs. 7.60 lakhs and was taxed at the rate of 6 per cent applicable to sale of cement, though his purchases included goods other than cement which were taxable at higher rates. The dealer was also given a tax credit of Rs. 2,354 in the assessment for which no chalan was kept on record.

On these being pointed out (February 1987) in audit, the department found on reverification that the dealer had purchased "hydraulic lime binder", which was liable to be taxed at 8 per cent and that the credit of Rs. 2,354 was incorrectly allowed. Accordingly, the department revised (December 1987) the assessment, raising additional demand of Rs. 28,628 (including withdrawal of wrong credit of Rs. 2,354 and

penalty of Rs. 13,000). Report on recovery has not been received (March 1989).

The matter was reported to Government in April 1988; their reply has not been received (March 1989).

(e) In Bombay, in the assessment for the calendar year 1982 of a manufacturer-cum-reseller in footwear, sales of accessories costing Rs. 2.92 lakhs were subjected to tax at the rate of 5 per cent. The assessment records were, however, silent regarding the nature of accessories sold and the relevant entry in the Schedule to the Act, as per which tax was levied at the above rate. Further, sale of footwear worth Rs. 27,869 made to a private company was taxed incorrectly at the rate of 4 per cent instead of 12 per cent.

On the mistakes being pointed out (July 1986) in audit, the department stated (March 1987) that the dealer had been re-assessed (December 1986) for the calendar year 1982 raising an additional demand for Rs. 12,276 in respect of the sales of Rs. 2.92 lakhs and subjecting the sales of footwear costing Rs. 27,869 to tax at the rate of 12 per cent instead of 4 per cent. The assessee paid the amount in April 1987. The department also re-assessed the dealer for the calendar year 1983 in respect of sales valued at Rs. 3.02 lakhs, incorrectly taxed at the rate of 5 per cent instead of 10 per cent and raised an additional demand for Rs. 16,911 (including additional tax). Report on recovery has not been received (March 1989).

The case was reported to Government in July 1988 ; their reply has not been received (March 1989).

(f) Under the Central Sales Tax Act, 1956, on inter-State sales of goods, tax is leviable at 4 per cent, provided the sales are supported by valid prescribed declarations from the purchasing dealers. On inter-State sale of goods, other than declared goods, which are not supported by such declarations, tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods within the State, whichever is higher.

At Bombay, inter-State sales of goods worth Rs. 10.66 lakhs not supported by declarations, made by a dealer during the period 1st November 1978 to 7th November 1980, was erroneously levied to tax at the rate of 4 per cent, instead of 10 per cent. The mistake resulted in tax being levied short by Rs. 55,903.

On this being pointed out (September 1986), the department stated (February 1988) that additional demand for Rs. 55,903 was raised. Report on recovery has not been received (March 1989).

The matter was reported to Government in July 1988 ; their reply has not been received (March 1989).

2.7. Mistakes in computation of tax

Under the Bombay Sales Tax Act, 1959 and Central Sales Tax Act, 1956 and the Rules made thereunder, dealers are required to file their returns periodically and pay tax on the basis of these returns. On finalisation of the assessment, demand for the tax due is raised after giving credits for the tax already paid.

In three cases involving excess allowance of credit for tax payment, the department raised demands of Rs. 88,777 at the instance of Audit, out of which an amount of Rs. 77,520 was recovered. A few other cases are mentioned below.

(i) In the assessment for the year 1976-77 of a reseller in Indian made foreign liquor and beer of Thane district (assessed in February 1983), a credit of Rs. 25,000 was given towards tax paid on 26th August, 1976. Another credit for the same amount was also given in the assessment order on the basis of an uncertified copy of chalan dated 26th August 1976 (indicating payment into the bank on 26th April 1976). The two credits given were apparently against only one payment made on 26th August 1976. Further, credits for Rs. 39,415 and Rs. 43,657 were also given in the assessments for the year 1975-76 and 1976-77 respectively, as penalty paid with returns for which no supporting documents were on record.

The incorrect credits aggregating Rs. 1.08 lakhs given in the assessments for the year 1975-76 and 1976-77 therefore needed reverification. The mistakes were due to non-observance of the prescribed procedure.

On this being pointed out (May 1984) in audit, the department stated (November 1987) that the assessments were revised (September 1985) raising additional demand of Rs. 39,475 for 1975-76 and Rs. 68,557 for 1976-77 (total Rs. 1.08 lakhs) by disallowing incorrect credits mentioned above and rectification of other minor mistakes. Report on recovery has not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

(ii) In assessing a dealer of Palghar, for the calendar year 1981, the assessing authority allowed a credit of Rs. 12,590 (paid under chalan on 18th August 1983) in the assessment. The said chalan pertained to the period 1st January 1982 to 31st March 1982. Further the turnover of sales/purchases of the dealer had exceeded Rs. 10 lakhs, but no additional tax was levied. The additional tax leviable was Rs. 4,005.

On these mistakes being pointed out (June 1985) in audit, the department stated (July 1988) that the assessment of the dealer was rectified, resulting in net additional demand of Rs. 15,876, on reduction of the amount of penalty by Rs. 719. Report on recovery has not been received (March 1989).

Government to whom the matter was reported in September 1988; accepted (February 1989) the mistake.

(iii) In Pandharkawada of Yavatmal district, a manufacturer of cotton yarn paid the sum of Rs. 61,909, towards sales tax as per his returns for the year 1980-81. But while assessing the dealer (April 1983) a credit of Rs. 1,07,629 was allowed which resulted in excess credit of Rs. 45,720 and eventual loss of revenue.

On this being pointed out (April 1987) in audit, the department accepted the mistake but intimated (April 1988) that recovery could not be enforced as the case was barred by limitation.

The matter was reported to Government in June 1988; their reply has not been received (March 1989).

2.8. Non-levy/short levy of additional tax

Under the provisions of Bombay Sales Tax Act, 1959, a dealer whose turnover of sales or of purchases exceeds ten lakhs of rupees in any year is liable to pay additional tax calculated at the rate of 12 per cent (6 per cent prior to 1st December 1982) of the sales tax and purchase tax payable by him for that year. According to the departmental instructions issued in March 1983, for the periods on or after 1st April 1983, the additional tax is to be calculated on the gross tax payable without deducting set-off.

In three cases involving non-levy/short levy of additional tax, an amount of Rs. 39,228 was recovered on being pointed out in audit. A few other cases are mentioned below.

(i) In Nagpur, in the case of a manufacturer and assembler of chassis of trucks, the additional tax for the period from April 1983 to December

1983 was calculated erroneously on the net tax payable after deducting set-off of Rs. 10.96 lakhs, instead of on the gross tax. This resulted in short levy of revenue amounting to Rs. 1.32 lakhs.

On the mistake being pointed out (June 1986) in audit, the department accepted the mistake and initiated action to rectify it. Further report has not been received (March 1989).

The case was reported to Government in August 1988; their reply has not been received (March 1989).

(ii) At Nagpur, although the gross turnover of a dealer in beverages for each of the calendar years 1984 and 1985 exceeded Rs. 10 lakhs, additional tax was not levied on his assessed tax of Rs. 1.06 lakhs and Rs. 87,979 respectively. Additional tax not levied amounted to Rs. 23,369.

On this being pointed out (February 1988) in audit, the department accepted the omissions and raised (June 1988 and July 1988) further demand for Rs. 23,369. Report on recovery has not been received (March 1989).

The case was reported to Government in July 1988; their reply has not been received (March 1989).

(iii) In the assessment for the year 1983-84 of a dealer in Dhule, whose turnover of sales exceeded ten lakhs of rupees, additional tax amounting to Rs. 20,204 was not levied.

On the mistake being pointed out (December 1987) in audit, the department stated (June 1988) that additional tax of Rs. 20,204 had been raised. Report on recovery has not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

2.9. Incorrect allowance of deduction from turnover

(a) Under the Bombay Sales Tax Act, 1959, sales of goods to an authorised dealer are allowed to be deducted from the turnover of sales, if the authorised dealer purchasing the goods certifies in the prescribed declaration that the goods are purchased for resale in the course of inter-State trade or commerce or in the course of export out of the territory of India, or for packing of such goods.

In the assessments of three dealers of Thane pertaining to the periods between 1977 and 1980, sales of wooden boxes valued at Rs. 24.79 lakhs on

prescribed declarations were allowed (November 1980 and December 1980) as deduction from the sales turnover. The assessments had resulted in refund aggregating Rs. 70,710. Though action was initiated (April 1981) by the department by issue of cross-check memos to the assessing officers of the respective vendees, no follow-up action was taken till March 1982. In response to enquiry made by audit in April 1982, one of the Deputy Commissioner's of Sales Tax intimated (February 1984) that three out of four vendees falling under his jurisdiction had not made any such purchases on declarations and in respect of one vendee the registration certificate had not been correctly quoted. Nothing was mentioned then that action was initiated to reopen/check the assessments of the selling dealers on the basis of this finding. As no final reply was received from the other Deputy Commissioner of Sales Tax and the Deputy Commissioner of Sales Tax holding administrative jurisdiction over the three assessee vendors, who were requested (April 1984) to review the sales and to take appropriate action, till February 1986, the matter was brought (March 1986) to the notice of the Commissioner of Sales Tax.

The department intimated (May 1986 and March 1987) that the three selling dealers were re-assessed resulting in raising of additional demands aggregating Rs. 58,216 in addition to recovery of inadmissible refund of Rs. 70,710 granted as per the original assessment orders. While penalty aggregating Rs. 9,034 was levied on two dealers, penal action was deferred in the case of the third dealer. Further report on penal action and report on recovery of Rs. 67,250 has not been received (March 1989).

Government to whom the matter was reported in June 1988; accepted (January 1989) the mistake.

(b) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, there shall not be deducted from the turnover of sales of goods to a recognised dealer as provided in the Act unless the recognised dealer certifies in the prescribed declaration Form (N-15) that (i) the goods purchased by him are covered by Part II of Schedule 'C' to the Act and (ii) the said goods are purchased by him for use by him within the State in the manufacture of taxable goods for sale, which will in fact be so used and sold by him or in the packing of goods so manufactured.

In Nagpur, a dealer in empty glass bottles was allowed (February 1987) deduction from the turnover of sales of empty glass bottles worth Rs. 4.19 lakhs during the year 1984-85 against the declarations in Form N-15. As the glass bottles are covered by Part I of Schedule 'C' and not by Part II of Schedule 'C' to the Act, the declarations tendered by the purchaser were redundant and the sales were liable for tax. The incorrect allowance of deduction resulted in short levy of tax of Rs. 18,050 (including additional tax).

On this being pointed out (January 1988) in audit, the department reassessed the case and raised (February 1988) an additional demand of Rs. 18,050. Report on recovery has not been received (March 1989).

The case was reported to Government in June 1988; their reply has not been received (March 1989).

2.10. Incorrect computation of taxable turnover

(a) Under the Bombay Sales Tax Act, 1959, liability to pay tax arises when there is a sale of goods. However, if the supply of goods is in the nature of job work, there being no sale, liability to pay tax does not arise.

While assessing a dealer in Nagpur, supplying ballast to Railways, the assessing authority reduced the turnover of sales for the years 1981-82 and 1982-83 by Rs. 6.34 lakhs and Rs. 10.29 lakhs respectively, treating these amounts as received by the dealer towards jobwork for extracting ballast from Railways quarries at Chandrapur.

On cross-checking by Audit in May 1983, the District Collector, Chandrapur stated (August 1984) that there was no quarry (for ballast) belonging to Railways in the said area and that the dealer had actually extracted ballast unauthorisedly from certain quarries belonging to State Government, for which royalty and penalty had been recovered from the contractor. There being no jobwork on behalf of Railways, the erroneous reduction of sales had thus resulted in short levy of tax to the extent of Rs. 64,028 for the years 1981-82 and 1982-83.

This was pointed out (September 1985) in audit; the final reply of department has not been received (March 1989).

The case was reported to Government in September 1988; their reply has not been received (March 1989).

(b) Under the Bombay Sales Tax Act, 1959, tax shall be levied on the turnover of sales of goods specified in the relevant Schedule to the Act after reducing resales of goods purchased from other registered dealers which had suffered tax at any earlier stage. Where the dealer is not able to identify taxable sales or resales separately, the sales or resales are determined by adding gross profit to the purchase price of goods sold or resold.

In two cases involving under-assessment due to incorrect computation of taxable turnover, an amount of Rs. 40,359 was recovered on being pointed out in audit.

2.11. Irregular grant of exemption

Under the Bombay Sales Tax Act, 1959 and a notification issued in July 1980 thereunder, sales of raw material by a dealer to another dealer, being an industrial unit set-up in the developing region of the State and duly certified as an eligible industrial unit by designated authorities and to whom a certificate of entitlement has been granted by the Commissioner of Sales Tax, are exempted from payment of tax leviable thereon provided such sales are supported by prescribed declarations issued by the purchasing dealer.

In one case involving under-assessment due to irregular grant of exemption an amount of Rs. 14,560 was recovered on being pointed out in audit.

(i) In Bombay, in the assessment for the period 1st October 1984 to 30th September 1985, of a manufacturer of printing machinery, sales of machinery worth Rs. 2.60 lakhs were not levied to tax treating it as exempt from levy being supported by prescribed declarations issued by an industrial unit, although only sale of raw materials was eligible for such exemption. The tax not levied amounted to Rs. 29,071 (including additional tax of Rs. 3,114).

Government to whom the matter was reported in September 1988, accepted (January 1989 and February 1989) the mistake. Particulars of recovery have not been received (March 1989).

(ii) In the assessment for the year 1983-84 of a manufacturer of machinery for PVC cables, tax on sales of machinery valued at Rs. 1.50 lakhs, was not levied although sale of raw material only to the eligible industrial unit was exempted from payment of tax.

On the mistake being pointed out (February 1987) in audit, the department stated (March 1988) that the assessment was revised (November 1987) by raising additional demand for Rs. 20,000 (including penalty of Rs. 5,000). The dealer has made part payment of Rs. 8,000 (February 1988) and obtained stay order for the balance amount. Report on further developments has not been received (March 1989).

The matter was reported to Government in May 1988; their reply has not been received (March 1989).

2.12. Irregular grant of concession

As per Government notification issued in April 1985 under the Bombay Sales Tax Act, 1959, sales of any goods made by a registered dealer to the Maharashtra Water Supply and Sewerage Board, Bombay for their official use, were exempted from levy of sales tax to the extent such tax exceeded 4 per cent provided the sales were supported by prescribed declaration. This concession was admissible in respect of sales made between 1st November 1979 and 31st March 1982.

In one case involving under-assessment due to irregular grant of concession, an amount of Rs. 66,090 was recovered on being pointed out in audit.

2.13. Under-assessments

In 173 cases, pointed out in Audit during the period 1st April 1987 to 31st March 1988 (where money value of each case was less than Rs. 10,000), under-assessments/losses of revenue amounting to Rs. 3.53 lakhs were accepted by the department, out of which an amount of Rs. 42,264 was recovered between September 1987 and March 1988.

CHAPTER 3

STATE EXCISE

3.1. Results of Audit

Test check of records relating to State Excise, conducted in audit during the year 1987-88, revealed short levy of excise duty amounting to Rs. 10.87 lakhs in 149 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short levy of excise duty on liquor ..	36	3.35
2. Short recovery of licence fee and privilege fee ..	111	7.14
3. Non-levy of excise duty on excess loss of spirit ..	1	0.24
4. Other irregularities	1	0.14
Total ..	149	10.87

Some of the important cases noticed in 1987-88 and in earlier years are mentioned in the following paragraphs.

3.2. Excess loss of spirit on redistillation

As per the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, loss of spirit in the process of redistillation is allowed upto 2 per cent. Where the distillation loss exceeds 2 per cent in any case, full details of spirit issued for redistillation and that obtained after redistillation and the exact reasons for the excess loss are to be reported to the Commissioner of Prohibition and Excise every month. The Commissioner is authorised to write-off the excess losses, if on receipt of advice from the Industries Commissioner, he finds the reasons assigned to be satisfactory.

A mention regarding the inadmissible loss of 2.41 lakh proof litres having a duty potential of Rs. 60.29 lakhs pertaining to a distillery in Aurangabad district during the year 1978-79 was made in paragraph 3.2 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) Government of Maharashtra for the year 1980-81.

In the course of subsequent audit of the State excise records of the same unit it was noticed (between December 1981 and January 1986) that the distillery incurred losses during redistillation of rectified spirit to obtain natural spirit. During the years 1980-81, 1983-84 and 1984-85, the distillery sustained losses over and above the limit of 2 per cent. The losses ranged between 2.99 per cent and 12 per cent in certain months of each year. The total inadmissible loss worked out to 2.82 lakh proof litres involving duty potential of Rs. 71.55 lakhs. No action was initiated by the department to regularise the excess loss as required in the Rules framed by Government. Even after the excess losses were brought (between December 1981 and January 1986) to the notice of the department in audit, no compliance has been received (March 1989).

The matter was reported to Government in April 1988; their reply has not been received (March 1989),

3.3 Short recovery/non-recovery of licence fee

(a) Under the Bombay Foreign Liquor Rules, 1953, licence to sell foreign liquor by retail to permit holders residing or boarding in a hotel is granted on payment of the prescribed fee. The Government increased the rates of licence fee chargeable with effect from 10th September 1985. The licence fee payable varied from Rs. 20,000 to Rs. 50,000 depending upon the number of rooms in the hotel.

In 15 cases, involving short levy of licence fee, an amount of Rs. 70,000 was recovered on being pointed out in audit.

In Dhule Nanded, Jalgaon, Solapur and Thane districts, in respect of 17 hotels having less than 50 rooms each, licence fee was not levied correctly at revised rates. This resulted in short recovery of licence fee of Rs. 84,000 for the years 1985-86 and 1986-87.

On this being pointed out (between October 1986 and December 1987) in audit, the department stated (between March 1987 and April 1988) that differential amount of licence fee of Rs. 40,000 (Nanded, Jalgaon and Solapur, from 6 licensees had been recovered and that demand notice had been issued for Rs. 35,000 in respect of 7 licensees at Dhule and Nanded. Reports on recovery of Rs. 35,000 and action taken in respect of 4 hotels at Thane have not been received (March 1989).

The matter was reported to Government in June 1988 ; their reply has has not been received (March 1989).

(b) Similarly, the Rules provide that no licence shall be granted for a period beyond the 31st March next following the date of commencement of the licence to sell foreign liquor by retail to licence or permit holders for possession, consumption or use. On its expiry, a licence is required to be renewed. If a trade or import licence is not renewed on its expiry, the licensee shall forthwith surrender the entire stock of unsold foreign liquor to the Collector.

In one case, involving non-recovery of renewal fee, an amount of Rs. 30,000 was recovered on being pointed out in audit.

(c) Under the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, a licence to construct and work a distillery for the manufacture of spirit and its renewal is granted on payment of a prescribed fee of Rs. 50,000 (prior to 10th September 1985). The licence is granted for a period of five years at a time and in no case such period can extend beyond 31st March of the fifth year following the date of commencement of the licence. Government revised, with effect from 10th September 1985, the rate of licence fee, which varies from Rs. 50,000 to Rs. 1.50 lakhs depending on the licenced capacity of the distilleries.

In one case, involving short recovery of licence fee, an amount of Rs. 25,000 was recovered on being pointed out in audit.

(d) Under the provisions of the Maharashtra Country Liquor Rules, 1973, a fee is payable for grant of licence to sell country liquor in retail. The rate of fee payable is based on the population of the town or village in which the shop is located.

In Kolhapur, Nagpur and Pune districts, in respect of 38 licensees, for selling country liquor in retail, licence fee for the years 1982-83 to 1985-86 was not revised on the basis of the population as per 1981 census and also revised rates of licence fee effective from September 1985. The mistake resulted in short recovery of licence fee amounting to Rs. 61,000.

On the omissions being pointed out (September 1984, June 1986 and September 1986) in audit, the department stated (March 1988) that an amount of Rs. 28,000 has been recovered from 13 licensees of Kolhapur

district. Report on action taken in respect of the remaining 25 cases has not been received (March 1989).

The matter was reported to Government in May 1988; their reply has not been received (March 1989).

3.4. Short recovery of privilege fees

Under the Bombay Prohibition (Privilege Fees) Rules, 1954, for the privilege of transferring his licence to another person, a licensee is required to pay a fee equal to the fee prescribed for grant of the licence. The privilege fee payable for admission of a partner into or withdrawal of a partner from the licensee's partnership business is fifty per cent of the fee payable for the grant of the licence. However, on change of a proprietary concern into a partnership firm or vice versa, a privilege fee equal to full licence fee is payable, as the status of the licensee is changed.

In 64 cases in the offices of the Superintendents of Prohibition and Excise, Buldhana, Chandrapur, Jalgaon, Thane, Amravati, Bombay and Pune, licences were transferred from one name to another and conversions of proprietary concern into partnership or *vice versa* were also carried out, but privilege fee was erroneously realised during 1984-85 and 1985-86 at the rate of fifty per cent of the annual licence fee instead of full fee. The privilege fee realised short amounted to Rs. 5.91 lakhs.

On the short realisation being pointed out (between June 1986 and January 1987) in audit, the department recovered (between August 1986 and August 1987) Rs. 43,250 in 10 cases. Report on recovery in respect of the remaining 54 cases has not been received (March 1989).

The matter was reported to Government in July and August 1988; their reply has not been received (March 1989).

3.5. Short levy of duty due to incorrect declaration of strength of liquor

Excise duty on Indian made foreign liquor is calculated on its alcoholic strength, as determined by the Chemical Analyser to Government. Where the report of the Chemical Analyser is not available, duty based on the alcoholic strength declared by the manufacturer is provisionally recovered. On receipt of the report from the Chemical Analyser, the provisional assessment is finalised and additional demand raised, if so warranted

In one case, involving under-assessment owing to incorrect declaration of strength, an amount of Rs. 30,190 was recovered on being pointed out in audit. A few other cases are mentioned below.

(i) In the case of a licensee in Ahmednagar district, excise duty on Indian made foreign liquor manufactured and cleared by him during May 1985 to June 1986 was levied on the alcoholic strength declared by the manufacturer. As per reports of the Chemical Analyser received subsequently, 42 batches of the liquor contained higher strength of alcohol. But, no action was taken by the department to recover the differential excise duty amounting to Rs. 82,472 from the manufacturer.

On the omission being pointed out (February 1987) in audit, the department stated (October 1987) that a demand notice had been issued. Report on recovery has not been received (March 1989).

The matter was reported to Government in May 1988; their reply has not been received (March 1989).

(ii) In the case of four licensees in Nagpur, New Bombay, Raigad and Solapur districts, excise duty on Indian made foreign liquor/beer manufactured and cleared by them during 1983-84 and 1986-87 was levied on the alcoholic strength declared by the manufacturer. As per reports of the Chemical Analyser received subsequently, 28 batches of the liquor/beer contained higher strength of alcohol. But, no action was taken by the department to recover the differential excise duty amounting to Rs. 1.38 lakhs from the manufacturers.

These omissions were pointed out (between April 1985 and April 1988) in audit, final reply of the department has not been received (March 1989).

The matter was reported to Government in June 1988; their reply has not been received (March 1989).

3.6. Non-recovery of toddy instalments and interest

Licences for running toddy shops in the State are generally issued to the highest bidder in public auctions held for the purpose. Under the Maharashtra Toddy Shops (Grant of Licences by Auction or Tender) Order, 1968 every successful bidder or tenderer is required to pay on the spot or on the next working day, one-fourth of the amount of highest bid and also to pay to the Collector a security deposit equal to the amount of one monthly instalment before the commencement of the year for

which his bid or tender has been accepted for the due observance of the terms and conditions of the licence granted. The amount of security deposit thus paid, unless it is forfeited for the breach of the terms and conditions of the licence, shall be adjusted towards the payment of the last monthly instalment. The balance amount is required to be paid in six equal monthly instalments within the time prescribed in the Rules. If any monthly instalment is not paid on the due date, interest is chargeable at 18.5 per cent per annum on the instalments paid late. The Rules also provide for reauction of the shops of the licensees who defaulted the payment of monthly instalments.

In Chandrapur district, 18 licensees had defaulted the payment of instalments between December 1985 and February 1987. However, department did not take action for recovery of the delayed instalment with interest and/or reauction of the shops of the defaulters. The amount of instalments not recovered amounted to Rs. 81,771 for the years 1985-86 and 1986-87.

On this being pointed out (May 1986 and July 1987) in audit, the department stated (November 1987 and May 1988) that arrears of instalments amounting to Rs. 68,602 and interest amount of Rs. 7,131 had since been recovered from 14 licensees. Report on recovery in respect of the remaining 4 licensees had not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

3.7. Non-recovery of import fee on import of Indian made foreign liquor

Under the provisions of the Maharashtra Foreign Liquor (Import and Export) Rules, 1963, as amended with effect from 14th January 1987, an import fee at the rate of Rs. 2 per bulk litre is recoverable for grant of an import pass for import of spirits, wines, malt liquor and at the rate of twenty five paise per bulk litre for ale, beer, porter, cider and other fermented liquor. The Commissioner of Prohibition and Excise clarified (January 1987) that the said fee was recoverable in respect of consignments for which import permits were issued prior to 14th January 1987 but were received after that date.

In the case of four licensees involving non-recovery of import fee, an amount of Rs. 81,129 was recovered on being pointed out in audit.

3.8. Short levy of excise duty due to incorrect application of rate of duty

Under the Bombay Prohibition Act, 1949, the excise duty leviable on liquor is to be calculated at the rate of duty in force on the date of its issue from a warehouse for sale. As per notification issued by Government, with effect from 14th January 1987, the rate of excise duty on country liquor was enhanced from Rs. 20 to 33 per proof litre.

In one case involving short levy of excise duty, an amount of Rs. 44,156 was recovered on being pointed out in audit.

CHAPTER 4

LAND REVENUE

4.1. Results of Audit

Test check of land revenue records, conducted in audit during the year 1987-88, disclosed non-levy and short levy of land revenue amounting to Rs. 789.70 lakhs.

Some of the important cases noticed in 1987-88 and in earlier years and findings of a review on "Assessment on lands held by Maharashtra Housing and Area Development Authority" are mentioned in the following paragraphs.

4.2. Assessment on lands held by Maharashtra Housing and Area Development Authority

4.2.1. *Introduction.*—Lands held by the Housing Boards were subject to the assessment of land revenue as per the provisions of the respective Land Revenue Acts in force from time to time, in the three regions of the State, namely Vidarbha, Marathwada and Western Maharashtra and under the Maharashtra Land Revenue Code, 1966, from 15th August 1967, in the whole of the State.

The existing Vidarbha Housing Board and Maharashtra Housing Board were replaced by the five regional Boards formed under the Maharashtra Housing and Area Development Authority, hereinafter referred as "the Authority", which was established on 5th December 1977 under the Maharashtra Housing and Area Development Act, 1976, viz.—

- (i) Bombay Housing and Area Development Board,
- (ii) Nagpur Housing and Area Development Board,
- (iii) Aurangabad Housing and Area Development Board,
- (iv) Pune Housing and Area Development Board and
- (v) Konkan Housing and Area Development Board.

4.2.2. *Scope of Audit.*—A check of the assessments relating to the Authority was undertaken to see that the lands held by the Authority were brought to assessment correctly, and dues realised promptly and accounted

for properly. A test check of records was conducted (between March 1988 and June 1988) and covered land held in 18 tahsils (12 districts) out of 39 tahsils (19 districts).

4.2.3. *Organisational set-up.*—Under the provisions of the Maharashtra Land Revenue Code, 1966, the assessment and realisation of land revenue in respect of land held by the former Housing Boards or the Authority is made by the officers of the Revenue Department. The other levies, like cesses and lease money, are also included in the term “land revenue”.

The appeal, if any, with reference to the assessment order, lies with the next higher authority in the Revenue Department.

4.2.4. *Highlights.*—(i) Non-agricultural assessment amounting to Rs. 30.10 lakhs was not levied on land held by the Authority. The delay in levy of assessment ranged upto 16 years.

(ii) Non-levy of increase of land revenue for 1975-76 to 1987-88 amounted to Rs. 46.01 lakhs.

(iii) Short levy due to land which escaped assessment amounted to Rs. 2.99 lakhs.

(iv) Omission to levy fresh assessment amounted to short realisation of Rs. 4.20 lakhs.

(v) Failure to fix occupancy price resulted in non-realisation of revenue amounting to Rs. 1.85 lakhs.

(vi) Incorrect fixation of occupancy price due to a clerical error resulted in short realisation of Rs. 3.67 lakhs.

4.2.5 *Non-levy of non-agricultural assessment.*—Under the provisions of the Bombay Land Revenue Code, 1879, the Maharashtra Land Revenue Code, 1966 and the Rules made thereunder, no non-agricultural assessment on land held by Housing Board, shall be levied for three years subsequent to the date on which possession of the land was taken or till the date on which non-agricultural use of the land begins, whichever is later.

In 85 cases in 15 tahsils, on land held by the Authority, non-agricultural assessment of Rs. 30.10 lakhs was not levied even on expiry of the period of three years from the date of possession and commencement of the non-agricultural use. The delay in levy of assessment ranged from 1 year

to 16 years (between 1971-72 and 1987-88). The extent of delay in assessment is indicated below :—

Period of delay	Number of cases involved	Amount of non-agricultural assessment leviable (In lakhs of rupees)
1 year to 5 years	35	7.83
Above 5 years and upto 10 years ..	40	20.19
Above 10 years and upto 16 years ..	10	2.08
Total ..	85	30.10

4.2.6. *Non-levy of increase of land revenue.*—Under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 (in force from 1st August 1974), a tax called “increase of land revenue” is leviable on agricultural land. In order to raise additional resources needed for implementing the Employment Guarantee Scheme, the Act was amended with effect from 1st August 1975, to provide for increase of land revenue being leviable on all holdings of 8 hectares and above. After the amendment, the increase of land revenue is payable at 50 per cent of land revenue by persons holding land of 8 hectares and above and at 100 per cent by persons holding land of 12 hectares and above in the State. ‘Holding’ includes agricultural as well as non-agricultural lands, as clarified by Government in August 1982.

During the test check in 17 tahsils, it was noticed that increase of land revenue was not levied in 122 cases (including the 85 cases cited in paragraph 4.2.5. above) for the period from 1975-76 to 1987-88 resulting in non-realisation of revenue amounting to Rs. 46.01 lakhs.

4.2.7. *Non-determination of lease money.*—Under the provisions of the Madhya Pradesh Land Revenue Code, 1954 and the Rules made thereunder, Government is empowered to grant lease of Government lands on payment of premium and lease money (ground rent) to be determined by the Collector at the standard rates approved by Government for the locality.

In Amravati, Government, granted on lease two pieces of land admeasuring 15,362.30 square metres and 16,343.80 square metres in September 1964 and February 1969, to the former Vidarbha Housing Board for residential purpose under the Low Income Group Housing Scheme and levied premium of Rs. 46,302 and Rs. 49,260 respectively. Lease money was, however, not determined by the Collector, Amravati. No standard rates were fixed under Madhya Pradesh Land Revenue Code, 1954 for Amravati till 1970-71. The lease money calculated at the standard rate of assessment was not levied and recovered from 1971-72 which resulted in short levy of Rs. 73,668 for the years 1971-72 to 1987-88. Further, the non-levy of increase of land revenue resulted in short realisation of revenue amounting to Rs. 56,342 for the period 1975-76 to 1987-88.

4.2.8. *Land escaped assessment.*—(a) Government granted, in December 1977, to the former Vidarbha Housing Board, land admeasuring 6,109.20 square metres, which was held by the Board since 1964 at Amravati, for residential purpose under Low Income Group Housing Scheme. Out of the above, land admeasuring 1,829.66 square metres and 2,359.66 square metres were brought under non-agricultural use (residential or commercial) from 1974-75 and September 1986 respectively. But non-agricultural assessment in respect of land admeasuring 790.60 square metres was only levied from 1974-75 and land admeasuring 3,398.72 square metres escaped assessment resulting in non-realisation of revenue amounting to Rs. 16,289 (including increase of land revenue) for the years 1974-75 to 1987-88.

(b) Land admeasuring 1,95,537.87 square metres was held by the Authority at Majas (Andheri tahsil) during 1968 to 1975. Out of this land admeasuring 78,631 square metres was brought under non-agricultural use between March 1979 and April 1981, but the land admeasuring 36,221.36 square metres only was assessed to land revenue. Thus, the land admeasuring 42,409.64 square metres escaped assessment amounting to Rs. 1.25 lakhs (including increase of land revenue of Rs. 62,580) for the years 1978-79 to 1987-88.

(c) The Authority took possession of land admeasuring 2,12,456 square metres at Parvati (Pune district) in August 1961. Out of this, land admeasuring 86,494 square metres was put to non-agricultural use* between September 1962 and September 1985.

Total non-agricultural assessment leviable for the period from 1964-65 to 1987-88, was Rs. 1.91 lakhs as indicated below:—

Serial No.	Date from which brought under non-agricultural use	Area in square metres	Period for which non-agricultural assessment leviable (after 3 years of taking over possession)	Total non-agricultural assessment leviable
				Rs.
1	1st September 1962	.. 61,530	1964-65 to 1987-88	.. 11,039
2	1st October 1980 ..	.. 19,496	1980-81 to 1987-88	.. 1,44,270
3	1st October 1983 ..	.. 2,768	1983-84 to 1987-88	.. 12,802
4	1st September 1985	.. 2,700	1985-86 to 1987-88	.. 22,437
	Total	.. 86,494		1,90,548

But, the department levied non-agricultural assessment of Rs. 33,009 in respect of land admeasuring 6,751.80 square metres for the period from 1961-62 to 1987-88. This resulted in short levy of non-agricultural assessment of Rs. 1.58 lakhs.

4.2.9. *Non-levy of cess.*—Under the provisions of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, as amended from 1st April 1974, and the Bombay Village Panchayats Act, 1958, a cess at prescribed rate is leviable on land revenue payable in respect of lands situated in rural areas coming under Zilla Parishad and Village Panchayat, but outside the Municipal/Corporation Cantonment/notified area committee limits.

In respect of land admeasuring 56,025 square metres held by the Authority at Majiwade village (Thane district) and assessed to land revenue from March 1979, local cess for the period 27th March 1979 to 30th September 1982 (the date after which the village Majiwade is included within the limits of Thane Municipal Corporation) was not levied, which resulted in non-realisation of revenue amounting to Rs. 92,421.

4.2.10. *Short levy due to incorrect application of residential rate instead of commercial rate.*—Under the provisions of the Maharashtra Land Revenue Code, 1966, land revenue leviable on any land has to be assessed with reference to the purpose for which the land is used.

Land admeasuring 2,898.82 square metres at Hariyali village (Kurla tahsil) was put to commercial use as shopping centre in February 1983. But non-agricultural assessment thereof was made at the lower rate applicable for residential purpose instead of at the higher rate for commercial purpose. Application of incorrect rate, thus, resulted in short levy of Rs. 40,656 (including increase of land revenue of Rs. 20,328) for the period 1983-84 to 1987-88.

4.2.11. *Failure to assess at prevailing rate and failure to raise correct demand.*—The Authority took possession of two pieces of land admeasuring 1,18,095 square metres and 2,10,087 square metres at village Manjuri and Bhamburda (Pune district) in August 1961 and January and June 1965 respectively. The lands admeasuring 69,948 square metres and 38,179 square metres were put to non-agricultural use from the years 1962 to 1979 and 1965 to 1986 respectively. However, the non-agricultural assessment was levied uniformly at the lower rate of rupee one per 100 square yards applicable for the year 1965-66 instead of the higher rate applicable on the date each piece of land was subjected to assessment, i.e. at the standard rate of Re. 0.925 per square metre and Re. 0.478 per square metre applicable from 1979-80. The demand for 1965-66 was also not correctly raised. This resulted in short levy of revenue amounting to Rs. 1.33 lakhs for the period from 1965-66 to 1987-88.

4.2.12. *Omission to levy fresh assessment*—Land admeasuring 4,08,140 square metres under non-agricultural use, situated at Pimpriwaghari (Haveli tahsil) was acquired by Government and possession was handed over to the Authority in April 1963. Land admeasuring 29,856 square metres at Hadapsar (Haveli tahsil) under non-agricultural use, was purchased by the Authority in March 1966. The non-agricultural assessment on these lands ceased from the date of acquisition/purchase. The non-agricultural use on 1,76,948 square metres and 22,573 square metres was commenced by the Authority on these lands between January 1964 and July 1987 and January 1981 and October 1987 respectively. The land was not subjected to assessment at the hands of the Authority under the provisions of the Maharashtra Land Revenue Code, 1966, but the demands were raised at the rate applicable to the ex-holders immediately before the possession was taken over by the Authority. This had resulted in short realisation of revenue amounting to Rs. 4.20 lakhs for the period 1965-66 to 1987-88 (including increase of land revenue of Rs. 1.61 lakhs for the period 1975-76 to 1987-88.)

4.2.13. *Non-fixation of occupancy price.*—In February 1985, Government ordered that when Government lands in urban agglomeration limits or lands declared as surplus under the Urban Lands (Ceiling and Regulation) Act, 1976 are granted to the Authority on or after 1st February 1976, occupancy price should be charged at acquisition rate sanctioned under the Act plus Rs. 2 per square metre (towards administrative expenses).

In five cases, surplus land admeasuring 62,878.68 square metres was granted and possession was handed over to the Authority between June 1984 and June 1987. But the occupancy price was not fixed by the Collector which resulted in non-realisation of revenue amounting to Rs. 1.85 lakhs.

4.2.14. *Non-levy of interest on occupancy price.*—In July 1972, Government issued orders levying interest at the rate of six-and-a half per cent per annum from the date of handing over possession to the date of payment of occupancy price in all the cases where possession of the land was handed over in advance of payment of occupancy price. In May 1978, Government enhanced the rate of interest to eight per cent per annum.

In the five cases cited in the paragraph 4.2.13 above, possession of the land was handed over in advance of payment of occupancy price. As such, interest is also leviable in all these cases from the date of handing over possession. The interest not levied (upto 31st March 1988) amounted to Rs. 35,130.

4.2.15. *Short realisation of occupancy price due to clerical error.*—In July 1986, Government granted to the Authority, land admeasuring 11 hectares at Kamptee (Nagpur district) for construction of houses for *bidi* workers and other economically weaker sections and for low income group and directed the Collector, Nagpur to fix the occupancy price of the land under the Government order issued in February 1985. The Collector, however, fixed the occupancy price for 11 acres instead of 11 hectares of land. The error resulted in short realisation of Rs. 3.27 lakhs towards occupancy price and Rs. 39,877 towards interest for the period from October 1986 to March 1988.

The above points were reported to Government in July 1988; their reply has not been received (March 1989).

4.3. Failure to assess land revenue

Under the Maharashtra Land Revenue Code, 1966, rate of assessment of land revenue is linked with the use to which the land is put, such as agricultural, residential, industrial or commercial. On change in mode of use of land from one purpose to another, land revenue is required to be reassessed. The liability to pay non-agricultural assessment is not only on the holder of the land but also on other persons claiming through or under him. Further, under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 (as amended on 1st August 1975), a tax called 'increase of land revenue' is also payable on all holdings of 8 hectares and above. The term 'holding' includes agricultural as well as non-agricultural lands. Under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and Bombay Village Panchayats Act, 1958, a cess at prescribed rate is leviable. In cases, where such lands are, situated in the areas of municipal corporation and municipal council ('A' and 'B' classes only) or any peripheral area thereof, conversion tax equal to three times the amount of non-agricultural assessment is also leviable when permission for non-agricultural use or change of user is granted under the Maharashtra Land Revenue Code (Amendment) Act, 1979.

In Dhule, Sirala, Nagpur, Aurangabad, Vijapur and Pauni, in 6 cases of failure to assess land revenue, an amount of Rs. 3.52 lakhs was recovered on being pointed out in audit. A few other cases are mentioned below.

(i) A piece of land admeasuring 16,856 square metres was leased by the Nashik Municipal Corporation in May 1976 to a Government undertaking for a period of 30 years for commercial use as bus stand. Besides lease rent, the lessee was to pay the land revenue. But the land had not been assessed to land revenue and increase of land revenue leviable thereon. The omission resulted in short realisation of land revenue of Rs. 2.31 lakhs and increase of land revenue of Rs. 2.31 lakhs for the period from March 1977 to July 1988.

On this being pointed out (September 1986) in audit, the department accepted the omission and raised (April 1987) the demand. Report on recovery has not been received (March 1989).

(ii) In Nilanga tahsil (Latur district), land admeasuring 32,300 square metres situated within the area of Municipal Council, Nilanga was acquired by the Government and handed over to a Government undertaking in

October 1982 for commercial purpose. The land was, however, not assessed to land revenue. Increase of land revenue was also not levied. The omission resulted in non-realisation of revenue amounting to Rs. 1.22 lakhs (including increase of land revenue of Rs. 61,242) for the years from 1982-83 to 1987-88.

On the omission being pointed out (January 1985) in audit, the department recovered (April 1987 and February 1988) Rs. 69,660. Report on recovery of balance amount of Rs. 52,823 has not been received (March 1989).

(iii) In Tuljapur tahsil (Osmanabad district), possession of Government land admeasuring 24,000 square metres was handed over to a Government Corporation in January 1979 for commercial purpose. But land revenue including increase of land revenue, was not assessed and recovered. The omission resulted in revenue amounting to Rs. 2.65 lakhs not being realised for the years 1978-79 to 1987-88.

On the omission being pointed out (September 1986) in audit, the department raised the demand (July 1987). The report on recovery has not been received (March 1989).

(iv) In Tuljapur tahsil (Osmanabad district), land admeasuring 66,700 square metres under residential use from December 1972 was subjected to non-agricultural assessment from that date, but no demand was raised. The revision of non-agricultural assessment due in August 1979 at the revised standard rate, notified in July 1981 and effective from 1st August 1979, was also not done and the revised non-agricultural assessment recovered. The omissions resulted in short realisation of revenue amounting to Rs. 1.06 lakhs.

On this being pointed out (September 1986) in audit, the department recovered (March 1987 to May 1988) Rs. 64,910. Report on recovery of the balance amount of Rs. 41,543 has not been received (March 1989).

(v) In Chopda (Jalgaon district), land admeasuring 56,700 square metres situated within the periphery of the municipal limits of Chopda was acquired and possession handed over to the Maharashtra State Electricity Board in May 1980. But the non-agricultural assessment thereof for the year 1979-80 was omitted to be levied together with the cesses and the increase in land revenue, which resulted in short levy of land revenue amounting to Rs. 33,101. The conversion tax was also not

levied and recovered, which resulted in further short realisation of revenue of Rs. 47,288.

On this being pointed out (August 1987) in audit, the department accepted the mistake and raised the demand (June 1988) for Rs. 80,389. Report on recovery has not been received (March 1989).

(vi) Under the Maharashtra Land Revenue Code, 1966, no land revenue shall be levied on residential building sites situated within the site of a village, town or city. Government clarified (January 1981) that in cases where there is a change of use of lands in *gaathan** area from residential to any other purpose, non-agricultural assessment is payable.

In one case involving non-assessment of land revenue due to change in use of land an amount of Rs. 19,544 was recovered on being pointed out in audit.

In another case in tahsil Aurangabad (Aurangabad district), land measuring 41,204 square metres situated in *gaathan* area within Aurangabad municipal limits, used for industrial purpose from 1971-72 escaped assessment and was not subjected to levy of non-agricultural assessment. This resulted in short realisation of revenue amounting to Rs. 52,542 for the period from 1971-72 to 1987-88.

On this being pointed out (July 1985) in audit, the department recovered (May 1987) Rs. 35,343. Report on recovery of balance amount has not been received (March 1989).

The above cases were reported to Government between May 1988 and September 1988; their reply has not been received (March 1989).

4.4. Non-revision of assessment

(a) Under the Maharashtra Land Revenue Code, 1966, an assessment or reassessment of non-agricultural land, when done, remains in force for the guaranteed period, if any, mentioned in the assessment orders or *sanad*. Thereafter, the assessment is liable to be revised. The Maharashtra Land revenue Code (Amendment) Act, 1979 also provides that, with effect from 31st March 1979, the non-agricultural assessments done after 31st March 1979 are liable to be revised after 1st August 1979, with reference to standard rates

* *Gaathan* means the lands included within the site of a village, town or city for residential purposes.

fixed under the provisions of the Act. However, in respect of non-agricultural lands assessed to land revenue before 31st March 1979, where the period during which assessments are to remain in force have been specified in the orders or *sanad*, the assessment shall be revised only after the expiry of those periods. Further, under the provisions of Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and Bombay Village Panchayats Act, 1958, cesses at prescribed rates are also leviable on land revenue. However, no cess is leviable if the land is situated within municipal limits. Further, as per the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 (as amended with effect from 1st August 1975) a tax called 'increase of land revenue' is also payable at 50 per cent of land revenue by persons holding land of 8 hectares and above and at 100 per cent of land revenue by persons holding land of 12 hectares and above.

In 10 cases of non-revision or incorrect revision of assessment, the department raised demands aggregating Rs. 2.72 lakhs at the instance of Audit, out of which an amount of Rs. 2.33 lakhs was recovered in 2 cases. A few other cases are mentioned below.

(i) Two pieces of land admeasuring 8.99 hectares and 2.00 hectares situated at Hatkanangale tahsil (Kolhapur district) were put to industrial use by a spinning mill prior to the year 1969. The land was assessed to land revenue. The assessment was not guaranteed nor any *sanad* was issued. The standard rates were revised in April 1970 (effective from August 1970) and in September 1980 (effective from 1st August 1979). However, the assessment was not revised resulting in short realisation of revenue of Rs. 1.35 lakhs (including local cess of Rs. 72,898 upto 31st July 1983 when levy of cess ceased as the land was included in municipal limits) for the period 1970-71 to 1987-88. Increase of land revenue of Rs. 30,129 leviable was also not levied for the years 1975-76 to 1987-88.

On this being pointed out (September 1984) in audit, the department accepted the omission and recovered (December 1987) Rs. 41,739. Report on recovery of the balance amount of Rs. 1.23 lakhs has not been received (March 1989).

(ii) In Hatkanangale tahsil (Kolhapur district), land admeasuring 80,940 square metres used for industrial purpose from 1976-77 was assessed, without specifying guarantee period, at Rs. 809.40 per annum instead of at Rs. 1,618.80 per annum at the revised standard rate notified

in April 1970. By a notification issued in September 1980, the standard rates were revised retrospectively from 1st August 1979, but non-agricultural assessment was not revised from that date. The omissions resulted in land revenue being recovered short by Rs. 2.08 lakhs (including cess and increase of land revenue) for the years 1976-77 to 1987-88.

On this being pointed out (September 1986) in audit, the department accepted (March 1988) the mistakes. Report on recovery has not been received (March 1989).

(iii) In Chalisgaon tahsil (Jalgaon district) the standard rates for assessment of lands under non-agricultural use were revised in November 1972 and again in January 1981 (with retrospective effect from 1st August 1979). However, assessment in three cases involving land admeasuring 4.08 hectares situated in urban area under commercial and industrial use, were not revised on the expiry of the guarantee periods. Further, increase of land revenue leviable on land held by the Maharashtra State Electricity Board (One case) with effect from 1st August 1975 was also not levied. The omissions resulted in land revenue amounting to Rs. 2.00 lakhs (including increase of land revenue) being realised short during the period from 1972-73 to 1987-88.

On the omissions being pointed out (November 1985) in audit, the department raised (March 1988) demand for full amount. Report on recovery has not been received March 1989.

(iv) In Hatkanangale tahsil, assessments in respect of non-agricultural lands admeasuring 5.19 hectares (guaranteed period upto 31st July 1979) and 6.02 hectares (guaranteed period upto 31st July 1985) situated within urban area of Ichalkaranji and used for industrial and commercial purposes were not revised on expiry of guaranteed periods, although the revised standard rates were notified in September 1980 with retrospective effect from 1st August 1979. The omissions resulted in short realisation of revenue by Rs. 1.62 lakhs for the year 1979-80 to 1987-88.

On this being pointed out (September 1986) in audit, the department initiated action to revise the assessment. Further report has not been received (March 1989).

(v) In Niphad tahsil (Nashik district) non-agricultural assessment in respect of land admeasuring 4070.68 square metres at Lasalgaon village

used for commercial purpose was revised on 1st August 1978 without specifying the guarantee period. The non-agricultural assessment rate was further revised from 1st August 1979, but the revised land revenue was not assessed and recovered from that date. The omission resulted in short realisation of revenue amounting to Rs. 38,124 (including cesses) for the years 1979-80 to 1987-88.

On the omission being pointed out (November 1987) in audit, the department raised an additional demand (March 1988) for Rs. 38,124 and recovered Rs. 10,210. Report on recovery of balance amount of Rs. 27,914 has not been received (March 1989).

(b) Under the Maharashtra Land Revenue Code (Amendment) Act, 1979, the non-agricultural assessment in respect of lands of which unauthorised non-agricultural use is regularised, with effect from 31st March 1979, the non-agricultural assessment shall remain in force till 31st July 1979 and thereafter it shall be liable for revision in accordance with the standard rates of non-agricultural assessment fixed under the provisions of the Act. When the non-agricultural assessment is revised, the revised assessment shall not exceed two times the land revenue payable immediately before the revision, if the land is used for residential purpose and shall not exceed six times the land revenue payable immediately before revision if the land is used for any other non-agricultural purpose.

In two cases involving under-assessment due to application of incorrect rate, additional demand of Rs. 37,938 was raised on being pointed out in audit, of which an amount of Rs. 23,552 was recovered.

(i) In another case in Nashik tahsil (Nashik district), standard rates of non-agricultural assessment were revised in November 1975 and in April 1983 (with retrospective effect from 1st August 1979). However, while revising the assessments from 1st August 1976, in ten cases involving urban land admeasuring 6.09 hectares used for industrial and commercial purposes, and in whose cases the guaranteed periods had already expired before 1st August 1971, the assessments with reference to the standard

rates notified in November 1975 were limited to twice the amount of land revenue as it stood before revision instead of six times thereof. The assessments were not further revised with retrospective effect from 1st August 1979 with reference to rates notified in April 1983, even though the earlier assessments were not guaranteed for any period. The incorrect revision from 1st August 1976 and omission to revise the assessment again from 1st August 1979 resulted in short realisation of revenue amounting to Rs. 2.71 lakhs for the years 1976-77 to 1987-88.

On this being pointed out (September 1986) in audit, the District Inspector of Land Records-cum-City Survey Officer, Nashik revised the assessments in May 1987. Report on recovery has not been received (March 1989).

4.5. Non-levy of increase of land revenue and cess

Under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 (in force from 1st August 1974), a tax called "increase of land revenue" is leviable on agricultural lands. In order to raise additional resources needed for implementing the Employment Guarantee Scheme, the Act was amended with effect from 1st August 1975 to provide for increase of land revenue being leviable on all holdings of 8 hectares and above including non-agricultural lands. After the amendment, the increase of land revenue is payable at 50 per cent of the land revenue by persons holding land of 8 hectares and above and at 100 per cent of land revenue by persons holding land of 12 hectares and above. "Holding" includes agricultural as well as non-agricultural lands as was also clarified by the Government in August 1982. Further, under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, a cess at prescribed rate is leviable on land revenue recoverable from every tenant or lessee in the areas covered by the Act. Cess on land revenue is leviable at 20 paise per rupee of land revenue under Bombay Village Panchayat Act, 1958.

In Sirpur, Miraj, Washim, Bokar, Vaijapur, Basmath and Mangrulpir tahsils, in 6 cases involving non-assessment of increase of land revenue, an amount of Rs. 3.04 lakhs was recovered on being pointed out in audit.

In 13 cases, increase of land revenue amounting to Rs. 6.35 lakhs and cess amounting to Rs. 78,382 were not levied during the period between 1975-76 and 1987-88 as detailed below :—

Name of tahsil	Number of cases involved	Period to which non-levy relates	Amount not levied		Amount		Remarks
			Increase of land revenue	Cess	Recovered	Balance	
(In lakhs of rupees)							
1. Thane, Akola and Amravati	5	1975-76 to 1987-88	.. 2.71	..	1.67	1.04	
2. Sangli and Hatkanangle	.. 6	1975-76 to 1987-88	.. 2.36	..	1.74	0.62	Amount of Rs. 0.62 lakh recoverable from a Government undertaking.
3. Murbad	..	1 1978-79 to 1987-88	.. 0.57	0.78	..	1.35	15,176 square metres of land was used for commercial purpose by Maharashtra State Road Transport Corporation from January 1979.
4. Paithan	..	1 1975-76 to 1987-88	.. 0.71	..	0.20	0.51	Land admeasuring 5,43,900 square metres was used by a co-operative sugar factory for industrial purpose from 1975-76.
Total	.. 13		6.35	0.78	3.61	3.52	

On the omissions being pointed out (between June 1984 and September 1987) in audit, the department accepted the mistakes and recovered Rs. 3.61 lakhs (between July 1984 and September 1988). Report on recovery of the balance amount of Rs. 3.52 lakhs has not been received (March 1989).

The cases were reported to Government between May 1988 and September 1988 ; their reply has not been received (March 1989).

4.6. Failure to reassess land revenue

Under the Maharashtra Land Revenue Code (Amendment) Act, 1979 in respect of lands for which non-agricultural permissions have been granted or deemed to have been granted with effect from 31st March 1979 or unauthorised non-agricultural use is regularised with effect from 31st March 1979, the non-agricultural assessment shall remain in force till 31st July 1979 and thereafter it shall be liable for revision in accordance with the standard rates of non-agricultural assessment fixed under the provisions of the Act. Further, conversion tax equal to three times the amount of non-agricultural assessment, is leviable on all lands situated within the areas of municipal corporations and municipal councils ('A' and 'B' classes only) when permission for non-agricultural use or change of user of land is granted or un-authorised non-agricultural use is regularised by the revenue authorities on or after 31st March 1979. A cess at prescribed rate is leviable on land revenue under Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and Bombay Village Panchayat Act, 1958. Under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 (as amended from 1st August 1975), a tax called "increase of land revenue" is also payable on all lands above the prescribed limits.

In Andheri, Nanded and Bhiwandi tahsils, in 5 cases of failure to re-assess land revenue, an amount of Rs. 1.88 lakhs was recovered on being pointed out in audit.

In other 44 cases, lands admeasuring 3,71,043 square metres and situated in nine tahsils/offices and used for various non-agricultural purposes either authorisedly or unauthorisedly were assessed to non-agricultural assessment on the basis of the prevailing rates. The non-agricultural rates were subsequently revised by notifications in *official gazette* during the period from January 1981 to April 1982, but effective from 1st August 1979. Consequently, the non-agricultural assessments done earlier were liable for revision on the basis of revised standard

rates from 1st August 1979 or the date of commencement of non-agricultural use of land, which were not revised. The omissions resulted in short levy of an amount aggregating Rs. 14.79 lakhs (including conversion tax, increase of land revenue and local cess) for the period from 1979-80 to 1987-88 as detailed below:—

Name of office/tahsil	Village	Number of cases	Area in square metres	Month in which revised standard rates were notified	Period from which *NAA leviable	(Amount in rupees)		
						Short levied	Recovered at the instance of Audit	Balance
1. Borivali	.. Kandiwali ..	1	3,132.56	July 1981	.. 1980-81 ..	35,247	..	35,247
2. Andheri	.. Malad (South)	3	3,625.22	July 1981	.. 1980-81 ..	30,986	..	30,986
3. Kurla	.. Bala ..	3	9,802.90	July 1981	.. 1979-80 ..	52,937	..	52,937
4. Andheri	.. Dahisar and Eksar.	3	13,776.14	July 1981	.. 1980-81 ..	17,271	..	17,271
5. Nanded	.. Nanded ..	1	35,200.00	October 1981	.. 1978-79 ..	1,64,384	..	1,64,384
6. Latur	.. Murud ..	3	16,668.00	September 1981	.. 1981-82, 1982-83 ..	52,342	13,460	38,882
7. Vaijapur	.. Vaijapur ..	5	37,682.00	April 1982	.. 1982-83 ..	39,009		39,009
8. Latur	.. Muraa ..	16	2,31,300.00	June 1981	.. 1978-79, 1979-80 ..	10,22,198	8,272	10,13,926
9. S. D. O. Sangamner.	Kopargaon..	9	19,856.00	January 1980	.. 1978-79, 1979-80 ..	64,173	24,934	39,239
Total ..		44	3,71,042.82			14,78,547	46,666	14,31,881

*NAA means non-agricultural assessment.

On the omissions being pointed out (between June 1980 and December 1987) in audit, the department accepted the mistakes and recovered Rs. 46,666 (between October 1987 and December 1988). Report on recovery of balance amount of Rs. 14.32 lakhs has not been received (March 1989).

The cases were reported to Government in June 1988 and September 1988, their reply has not been received (March 1989).

4.7. Incorrect levy of land revenue on change of mode of use of land

Under the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the purpose for which the land is used. The non-agricultural assessment once fixed shall remain in force for the guarantee period, if any, mentioned in the assessment orders or *sanad*. Thereafter, assessment shall be liable to be revised in accordance with standard rates notified in the gazette. When the non-agricultural assessment is revised, the revised assessment shall not exceed twice the amount of land revenue payable immediately before the revision if the land is used for residential purpose and six times the amount if the land is used for any other non-agricultural purpose. On change in mode of use of land from one non-agricultural use to another non-agricultural use, the land revenue is required to be reassessed. Further, under the Maharashtra Land Revenue Code (Amendment) Act, 1979, where permission of non-agricultural use or change of user of land is granted or unauthorised non-agricultural use is regularised by revenue authorities on or after 31st March 1979, conversion tax equal to three times the amount of non-agricultural assessment is leviable on all lands situated within the areas of municipal corporations and municipal councils ('A' and 'B' classes only).

In Jalgaon, Niphad, Latur and Phaltan tahsils in five cases of incorrect levy of land revenue on change of mode of use of land, the department raised demands of Rs. 1.16 lakhs at the instance of Audit, out of which an amount of Rs. 1.04 lakhs was recovered. A few other cases are mentioned below.

(i) In Pune, out of 3,396 square metres of land held by an assessee, the mode of use of land admeasuring 1,841 square metres was unauthorisedly changed from residential to commercial in 1969 which was regularised by the department in January 1986. But, the rate applicable for commercial purpose was not applied and non-agricultural assessment was incorrectly fixed at six times the residential rate hitherto levied which resulted in

short levy of Rs. 58,354 for the years from 1971-72 to 1987-88. Besides, the conversion tax amounting to Rs. 17,646 was also not levied.

On this being pointed out (August 1987) in audit, the department accepted the mistakes and initiated (May 1988) action to rectify the same. Further report has not been received (March 1989).

(ii) In Jalgaon tahsil (Jalgaon district) in two cases, the mode of use of land admeasuring 1,060 square metres was changed from residential to commercial purpose in January 1980. The land was however, continued to be assessed to land revenue as for residential use instead of as for commercial use. The conversion tax was also not levied. The mistakes resulted in short realisation of revenue amounting to Rs. 31,375 (inclusive of conversion tax of Rs. 8,014) for the period from 1979-80 to 1987-88.

On the mistakes being pointed out (November 1987) in audit, the department accepted the same and initiated rectificatory action. Further report has not been received (March 1989).

The above cases were reported to Government between May 1988 and September 1988 ; their reply has not been received (March 1989).

4.8. Non-recovery/short recovery of land revenue due to mistake in making entries in basic records

Register of Non-Agricultural Lands in Taluka Form II and Register of Non-Agricultural Revenue in Village Form II are basic records and the entries made therein form the basis for assessing land revenue. An error in recording the entries in the forms could result in recurring loss of land revenue or non-recovery of land revenue.

(i) In Osmanabad tahsil (Osmanabad district), in 3 cases of land admeasuring 69,332 square metres situated outside the Osmanabad municipal limits used for residential purpose were assessed to non-agricultural assessment between April 1982 and May 1982. Although entry was taken in the Village Form II the amount of annual assessment was not mentioned therein. The omission resulted in non-raising of demand of Rs. 54,519 for the years 1982-83 to 1987-88.

On this being pointed out (August 1986) in audit, the department rectified the omission and recovered (April 1988 to July 1988) Rs. 32,986. Report on recovery of the balance amount of Rs. 21,533 has not been received (March 1989).

(ii) In tahsil Ahmednagar (Ahmednagar district), in respect of land admeasuring 9,105 square metres situated within the municipal limits at the urban village (Chahurana) used for residential purpose, the non-agricultural assessment fixed in September 1979 was revised in September 1980 on the basis of the revised standard rates notified in January 1980 effective retroactively from 1st August 1979. Entry of revised assessment was not made in the Taluka Form II/Village Form II and recovery of the non-agricultural assessment at unrevised rate continued from 1st September 1979. The omission resulted in Short recovery of Rs. 22,207 for the period from 1979-80 to 1987-88. In addition, the differential amount of conversion tax amounting to Rs. 7,949 was also not levied and recovered.

On the omissions being pointed out (March 1987) in audit, the department recovered (July 1987) Rs. 27,688. Report on recovery of the balance amount of Rs. 2,468 has not been received (March 1989).

(iii) In 5 cases, involving land admeasuring 6,632 square metres situated within the limits of Sangamner municipal council (Ahmednagar district), the permissions granted during the years 1981-82 to 1983-84 for non-agricultural use for residential purposes were not entered in Taluka Form II and Village Form II. The omission resulted in non-raising of demand of Rs. 15,145 for the years 1981-82 to 1987-88.

On this being pointed out (November 1986), the department recovered (between January 1987 and June 1987) Rs. 12,727. Report on recovery of the balance amount of Rs. 2,418 has not been received (March 1989).

(iv) In 5 cases involving land admeasuring 36,943 square metres situated in Gadhinglaj municipal limits (Kolhapur district), the permission granted (1985-86) for non-agricultural use for residential purpose was not entered in Taluka Form II and Village Form II. The omission resulted in non-raising of demand of Rs. 20,745 for the years 1985-86 to 1987-88.

On this being pointed out (September 1986) in audit, the department rectified the omission and recovered (May 1987 and June 1988) Rs. 12,785. Report on recovery of the balance amount of Rs. 7,960 has not been received (March 1989).

The above cases were reported to Government in June 1988 and September 1988; their reply has not been received (March 1989).

4.9. Non-levy of conversion tax

Under the Maharashtra Land Revenue Code (Amendment) Act, 1979, (effective from 31st March 1979), a conversion tax, equal to three times

the amount of non-agricultural assessment, is leviable on all lands situated in the areas of municipal corporations and municipal councils ('A' and 'B' classes only), including the peripheral limits thereof as stated in the Code, when permission for non-agricultural use or change of user of land is granted or unauthorised non-agricultural use is regularised by the revenue authorities (on or after 31st March 1979).

In 10 cases, involving non-levy of conversion tax, the department raised demands of Rs. 2.66 lakhs at the instance of Audit, out of which an amount of Rs. 2.53 lakhs was recovered.

4.10. Non-levy of assessment including increase of land revenue

Under the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969, on the lands held immediately before the appointed day of 1st August 1971 under Inams and Special Tenures, land revenue was to be assessed at a sum equal to five per cent of the average of the market value of unbuilt plots in the relevant revenue division. But the revenue so assessed was to be demanded upto its full rate gradually over a period of 50 years from the appointed day (1st August 1971) at specified percentages. Further, under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974, as amended from 1st August 1975, a tax called "increase of land revenue" is payable at 50 per cent of land revenue on all holdings of 8 hectares and above and at 100 per cent of land revenue on holdings of 12 hectares and above.

In Mahim Revenue Division (Bombay city), land admeasuring 33,257 square metres held by a superior holder tax free under the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969 land revenue was not levied from 1971-72. This resulted in non-realisation of revenue of Rs. 2.36 lakhs for the period from 1971-72 to 1987-88 (including increase of land revenue of Rs. 1.09 lakhs).

On this being pointed out (July 1987) in audit, the department assessed (May 1988) and issued demand notice. Report on recovery has not been received (March 1989).

The case was reported to Government in September 1988; their reply has not been received (March 1989).

4.11. Short realisation of revenue due to non-revision of lease rent

According to the procedure prescribed under the Disposal of Government Land Rules, 1971, framed under the Maharashtra Land Revenue

Code, 1966, unoccupied Government land may be disposed of for any non-agricultural purpose on lease hold rent fixed at a percentage of the market value of the land as determined by the Collector and in consultation with the Town Planning Department, if necessary. By a circular issued in May 1978, Government revised the rent chargeable on lease hold land from six-and-a-half per cent to 8 per cent per annum on the full market value of the land. At the time of renewal of a lease the revised rent is similarly fixed at the prescribed percentage of the then market value.

In Kopargaon tahsil (Ahmednagar district), in 10 cases, land admeasuring 9,290.3 square metres where the temporary leases had already expired prior to 1972, ground rent was neither fixed at the prescribed percentage of the market value nor was any amount recovered from the holders which resulted in short realisation of revenue amounting to Rs. 2.48 lakhs for the period from 1972-73 to 1987-88.

On this being pointed out (June 1983) in audit, the department recovered (from November 1987 to February 1988) Rs. 77,120. Report on recovery of the balance amount has not been received (March 1989).

The case was reported to Government in September 1988; their reply has not been received (March 1989).

4.12. Non-levy of cess

Under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, a cess at prescribed rate is leviable on land revenue recoverable from every tenant or lessee in the areas covered by the Act. Cess on land revenue is leviable at 20 paise per rupee of land revenue under Bombay Village Panchayat Act, 1958.

In Katol tahsil (Nagpur district), in assessing four cases on land admeasuring 33,668 square metres put to residential and commercial use between 1980-81 and 1986-87, cess was not levied, which resulted in revenue amounting to Rs. 1.50 lakhs for the years 1980-81 to 1987-88 not being realised.

On this being pointed out (May 1987) in audit, the department accepted (June 1988) the omission. Report on recovery has not been received (March 1989).

The case was reported to Government in September 1988; their reply has not been received (March 1989).

4.13. Non-levy of interest due to non-issue of demand notice

As per Government Resolution of June 1955, the Collector is required to send a notice of demand to the lessee defaulting in payment of land revenue demanding the arrears and intimating him that interest at the rate of 6 per cent will be charged on the amount of arrears from the date the amount became due, till its payment. Thus, the payment of interest depends on the issue of demand notice.

In Bombay, in 21 cases of non-levy of interest on land revenue due to non-issue of demand notice to defaulters, an amount of Rs. 26,209 was recovered on being pointed out in Audit.

4.14. Non-levy of land revenue due to incorrect grant of exemption

Under the Bombay Land Revenue Code, 1879, land revenue leviable on any land under the provisions of the Act is required to be assessed with reference to the use of the land. The Code, however, provides for exemption in respect of lands used for public/charitable purposes, etc.

In one case, involving non-levy of land revenue due to incorrect grant of exemption to Gram Panchayat, Pathardi (Ahmednagar district) on land used by them for commercial purposes, an amount of Rs. 21,762 was recovered on being pointed out in audit.

4.15. Under-assessments

In 80 cases, pointed out by Audit during the period 1st April 1987 to 31st March 1988 (where money value of each case was less than Rs. 10,000), under-assessments/losses of revenue amounting to Rs. 3.59 lakhs were accepted by the department, out of which an amount of Rs. 96,961 was recovered between October 1987 and April 1988.

CHAPTER 5

TAXES ON VEHICLES

5.1. Results of Audit

Test check of records relating to assessment and collection of motor vehicles tax, further tax and passengers tax, conducted in audit during the year 1987-88, revealed short levy of taxes and losses of revenue amounting to Rs. 7.57 lakhs in 159 cases, which broadly fall under the following categories:—

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short levy of motor vehicles tax and further tax.	142	3.52
2. Non-levy or short levy of passengers tax ..	14	3.12
3. Irregular grant of exemption from payment of tax	1	0.85
4. Other irregularities	2	0.08
Total ..	159	7.57

Some of the important cases noticed in 1987-88 and earlier years are mentioned in the following paragraphs.

5.2. Incorrect grant of exemption from payment of tax

(a) Under the provisions of the Bombay Motor Vehicles Tax Act, 1958, motor vehicles belonging to Government of India and Government of Maharashtra are exempt from payment of motor vehicles tax. The exemption is not available in respect of vehicles belonging to autonomous bodies, public sector companies or corporations.

In the case of three vehicles involving under-assessment due to incorrect grant of exemption, an amount of Rs. 29,925 was recovered on being pointed out in audit. A few other cases are mentioned below.

Eight vehicles belonging to an Agricultural College at Dhule, which is affiliated to an autonomous agricultural university, were incorrectly

exempted from payment of tax for various periods falling between January 1976 and May 1987. This resulted in non-levy of tax amounting to Rs. 97,940 (including further tax).

On the irregularity being pointed out (January 1987) in audit, the department stated (February 1988) that demand for Rs. 97,940 had been raised. Report on recovery has not been received (March 1989).

Government to whom the matter was reported in June 1988, stated (October 1988) that as the recovery could not be effected by the motor vehicles department the cases had been referred to the Tahsildar, Nashik for recovery of taxes as arrears of land revenue. Also, the Inspectors of motor vehicles had been instructed to seize the vehicles if found plying on the road. Further report has not been received (March 1989).

(b) Under the Bombay Motor Vehicles Tax Act, 1958, as amended from 1st April 1980, a further tax (goods tax) in addition to motor vehicles tax, at prescribed rate is leviable on private goods vehicles and public goods vehicles. By a notification issued on 5th January 1977, tractor-trailors belonging to sugar mills and used exclusively for transportation of agricultural produce are exempt from payment of motor vehicles tax. However, they are not exempted from payment of further tax.

In Dhule and Latur, 26 tractor-trailors owned by sugar mills, were irregularly exempted from payment of further tax for the period between April 1973 and March 1984 resulting in non-realisation of tax amounting to Rs. 62,433.

Government to whom the matter was reported in August 1988, stated (August 1988) that it had granted stay against recovery of further tax in respect of tractor-trailors and the matter was under consideration. Final decision of Government has not been received (March 1989).

(c) Under the Bombay Motor Vehicles Tax Act, 1958 and the notification of 1st April 1980 issued thereunder, trailers registered and kept for use as an alternate trailer of an articulated vehicle are exempt from the payment of tax provided that such trailers are used with any one of the tractors as may be specified by the registering authority.

In Bombay, an additional trailer attached to a tractor was exempted from payment of tax even though it was not kept for use as an alternate trailer of an articulated vehicle. The irregular grant of exemption resulted in short levy of tax amounting to Rs. 12,865 for the period August 1981

to October 1986. The mistake was brought (November 1986) to the notice of the department for review of all such cases of additional trailers which had been irregularly exempted from payment of tax. The department reviewed the cases and raised (December 1987) a demand for Rs. 86,178 for the period between April 1980 and April 1987 in respect of 9 cases including the one pointed out by Audit, and recovered (between January 1988 and April 1988) an amount of Rs. 44,473 in respect of 4 vehicles. It was subsequently seen during audit (May 1988) that in respect of 7 cases the demand was raised short by Rs. 13,045 due to incorrect computation of tax.

On this being pointed out (May 1988) in audit, the department raised (May 1988) an additional demand for Rs. 13,045. Report on recovery of Rs. 54,750 has not been received (March 1989).

The matter was reported to Government in August 1988 ; their reply has not been received (March 1989).

5.3. Non-raising of demands in respect of vehicles kept for use

The Bombay Motor Vehicles Tax Act, 1958, and the Rules made thereunder provide for levy and collection of motor vehicles tax and further tax (goods tax) at prescribed rates on all vehicles used or kept for use in the State. The Act further provides for levy of interest at prescribed rates in addition to the tax payable, if the tax is not paid in time, the amount of interest payable being limited to the amount of tax in default. The departmental manual also provides that demand notice should be issued in each case of default in payment of tax.

In the case of nine vehicles involving non-recovery of tax, an amount of Rs. 40,638 (including interest of Rs. 6,648) was recovered on being pointed out in audit. A few other cases are mentioned below :

(i) In Nanded district in respect of 8 vehicles, motor vehicles tax and further tax amounting to Rs. 28,885 for various spells between July 1984 and March 1987 was not levied and demanded although the tax due from the vehicle owner for the earlier and subsequent periods was levied and recovered.

On the omission being pointed out (July 1987) in audit, the department recovered (between September 1987 and March 1988) an amount of

Rs. 39,193 (including interest of Rs. 12,042) in respect of 7 vehicles. The eighth vehicle had been seized and detained (March 1988) in police custody.

Government to whom the matter was reported (March 1988), while confirming the recovery in respect of the seven vehicles, stated (September 1988) that the owner of the eighth vehicle was prosecuted in the Court of law. Further developments have not been received (March 1989).

(ii) It was noticed (September 1985 and October 1986) in audit, in Beed and Jalna districts, that motor vehicles tax/further tax in respect of six vehicles was not levied and demanded for various spells between December 1982 and August 1985. The tax not demanded amounted to Rs. 25,573. The operators were also liable to pay interest for delay in payment of tax.

On this being pointed out (September 1985 and October 1986) in audit, the department stated (August 1987 and March 1988) that tax amounting to Rs. 11,778 had since been recovered from the owners of three vehicles. Report on action taken in respect of the remaining three vehicles has not been received (March 1989).

The matter was reported to Government in June 1988; their final reply has not been received (March 1989).

(iii) At Chandrapur, in respect of nineteen vehicles, road tax/further tax was not levied for various spells between 1st October 1984 and March 1986. Non-use declarations were also not received in these cases. The tax not demanded amounted to Rs. 59,155. The vehicle owners were also liable to pay interest thereon for delay in payment of tax.

On this being pointed out (March 1986) in audit, the department stated (June 1988 and October 1988) that tax amounting to Rs. 50,729 had been recovered and demand notices for remaining amount had been issued. Report on recovery of the balance amount has not been received (March 1989).

The case was reported to Government in August 1988; their reply has not been received (March 1989).

5.4. Short recovery of passengers tax

Under the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958, passengers tax is leviable at the rate of 17.5 per cent of the

amount of fare inclusive of tax collected by the operator from the passengers. By notifications issued in May 1976 and July 1981, Government exempted certain operators from payment of passengers tax in excess of 3.5 per cent of the amount of fare (inclusive of tax) in respect of vehicles plying exclusively on certain specified routes.

In the case of one vehicle involving under-assessment due to short recovery of passengers tax, an amount of Rs. 24,738 was recovered on being pointed out in audit. A few other cases are mentioned below.

(i) A public sector undertaking engaged three vehicles for transport of their staff between Nhava Sheva and Bombay. Though the vehicles were not plying exclusively on the specified route, passengers tax was recovered for the periods falling between July 1985 and October 1986 at the concessional rate of 3.5 per cent instead of 17.5 per cent. One operator, who continued to ply his vehicle by the same route started paying passengers tax at 17.5 per cent from October 1986, but the department did not review the correctness of the rate of recovery of passengers tax for the entire periods in respect of all the buses operated on the same route which was not a specified route. The mistake resulted in passengers tax being levied short by Rs. 43,623.

On this being pointed out (June 1987) in audit, the department raised demand (March 1988) for Rs.1.81 lakhs for various periods between May 1984 and March 1988 in respect of six vehicles including three vehicles mentioned above. Report on recovery has not been received (March 1989).

Government to whom the matter was reported in June 1988, stated (September 1988) that the operators had preferred an appeal before the appellate authority and obtained stay order (June 1988) against recovery of the demand pending decision of the appeal. Report on further developments has not been received (March 1989).

5.5. Non-levy of passengers tax

Under the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958, each operator of the contract carriage has to furnish a return in the prescribed form giving full particulars of the trips run and fares collected by him. Where no returns are submitted by the operators, the tax officer shall determine the sum payable by the operators by way of tax during such month. Where the whole or any portion of the tax payable to the Government is not paid in time, the tax officer may, at his discretion levy, in addition to the tax so payable, a penalty not exceeding 25 per cent of the maximum tax payable. In case of default in payment of dues, the Act empowers seizure of the vehicle and its sale under the law relating to the recovery of arrears of land revenue at the instance or with the consent of the State Government or such officer as may be authorised by the State Government in this behalf.

In Ratnagiri, it was noticed that the operators of two contract carriages had not submitted the returns for certain periods between July 1981 and March 1983. However, no action to determine the tax due and/or issue of a demand notice or action to seize the vehicles was initiated. The non-payment of passengers tax, inclusive of penalty, leviable in respect of the carriages amounted to Rs. 89,081.

On the omission being pointed out (June 1983) in audit, the department recovered (between July 1983 and March 1988) passengers tax of Rs. 65,893 including penalty. Report on recovery of the balance amount of Rs. 23,188 has not been received (March 1989).

Government to whom the matter was reported in May 1988, while confirming the non-levy of tax stated (January 1989) that the second operator had already expired and efforts were being made to recover the balance amount from the legal heirs. Further report has not been received (March 1989).

5.6. Under-assessments

In 11 cases, pointed out by Audit during the period 1st April 1987 to 31st March 1988 (where money value of each case was less than Rs. 10,000) under-assessments/losses of revenue amounting to Rs. 44,804 were accepted by the department, out of which an amount of Rs. 13,890 was recovered between June 1987 and March 1988.

CHAPTER 6

STAMP DUTY AND REGISTRATION FEES

6.1. Results of Audit

Test check of instruments and other records relating to stamp duty and registration fee, conducted in audit in 119 offices during the year 1987-88, revealed under-assessment amounting to Rs. 121.29 lakhs in 1,743 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy of duty and fee on instruments executed by co-operative societies.	671	13.79
2. Incorrect grant of exemption from duty and/or fees	309	8.59
3. Short levy due to misclassification of documents ..	199	89.36
4. Short levy due to under-valuation of properties ..	6	0.33
5. Other irregularities	558	9.22
Total ..	1,743	121.29

Some of the important cases noticed in 1987-88 and in earlier years are mentioned in the following paragraphs.

6.2. Irregular grant of remission

In Yawal, in four cases, involving non-realisation of stamp duty and registration fee due to irregular grant of remission to co-operative spinning mills, an amount of Rs. 35,698 was recovered on being pointed out in audit. A few other cases are mentioned below.

(i) By two notifications issued in November 1972, Government remitted stamp duty and registration fee payable on mortgage deeds securing loans advanced by specified financial agencies for the purpose of acquisition of fixed assets, such as land, buildings and machinery, for starting or for expanding industrial undertaking or small scale industries in specified areas.

In sub-registry, Latur, on eight mortgage deeds registered between January 1985 and August 1985, remission of stamp duty of Rs. 10,930 and registration fee of Rs. 5,470 was incorrectly allowed even though the loans amounting to Rs. 5.46 lakhs were given as "special capital incentive" or to meet "working capital" requirements and not for acquisition of fixed assets. The irregular grant of remission resulted in stamp duty and registration fee amounting to Rs. 16,400 not being realised.

On this being pointed out (December 1987) in audit, the department accepted (June 1988) the audit objection and directed the sub-registry to recover the registration fee and to refer the document to the Collector for recovery of stamp duty. Report on recovery has not been received (March 1989).

The case was reported to Government in July 1988; their reply has not been received (March 1989).

(ii) *Co-operative Housing Societies.*—By a Government notification issued in March 1939 read with another notification issued in March 1980 under the Co-operative Societies Act, 1960, superseding the existing notifications on the subject in respect of instruments executed by members of housing societies formed by persons other than agriculturists or backward communities, remission of stamp duty and registration fee was withdrawn where the value of loans or advances exceeded Rs. 5,000.

(a) In sub-registry, Parbhani, in respect of 81 mortgage deeds securing loans exceeding Rs. 5,000 in each case, which were executed in the year 1985 by members of co-operative housing societies formed by persons other than agriculturists and backward communities, registration fee were irregularly remitted. The incorrect remission resulted in non-realisation of registration fee of Rs. 36,840.

On the mistake being pointed out (July 1987) in audit, the Inspector General of Registration, accepted (November 1987) the mistake and directed recovery of the fee short levied. Report on recovery has not been received (March 1989).

(b) In the sub-registry, Latur, in respect of 66 mortgage deeds executed in the year 1985, by members of co-operative housing societies formed by persons other than agriculturists and backward communities, securing loans for amounts exceeding Rs. 5,000 in each case, registration fee was

incorrectly remitted, which resulted in non-realisation of revenue amounting to Rs. 31,150.

On this being pointed out (December 1987) in audit, the Inspector General of Registration accepted (June 1988) the omission and directed the sub-registry to initiate action for recovery of the deficient registration fee. Report on recovery has not been received (March 1989).

(c) In sub-registries at Nanded and Kannad, in respect of 34 mortgage deeds securing loans exceeding Rs. 5,000 in each case, which were executed during December 1983 to December 1985 by members of co-operative housing societies formed by persons other than agriculturists and backward communities, registration fee was irregularly remitted. The incorrect remission resulted in short realisation amounting to Rs. 13,730.

On the mistake being pointed out (June 1987 and September 1987) in audit, the Inspector General of Registration accepted the mistake and directed recovery of the short levy. Report on recovery has not been received (March 1989).

(d) In sub-registries at Aurangabad, Nilanga and Ahmedpur, in respect of 43 mortgage deeds securing loans exceeding Rs. 5,000 in each case, which were executed in the year 1985, by members of co-operative housing societies formed by persons other than agriculturists and backward communities, registration fee was incorrectly remitted, the incorrect remission of registration fee resulted in non-realisation of revenue amounting to Rs. 18,650.

On this being pointed out (between August 1987 and December 1987) in audit, the Inspector General of Registration accepted (between April 1988 and June 1988) the mistake and directed the recovery of the short levy. Report on recovery has not been received (March 1989).

The cases were reported to Government between May 1988 and September 1988; their reply has not been received (March 1989).

(iii) By a notification issued on 31st August 1955, under the Co-operative Societies Act, 1912, Government of Madhya Pradesh had remitted stamp duty payable on all instruments executed by or on behalf of or by members of co-operative societies in Vidarbha region. The notification remitting the stamp duty was withdrawn by another notification issued by Government of Maharashtra on 24th March 1980 in respect of mortgage deeds for securing loans or advances exceeding

Rs. 5,000 in each case, executed by members of housing society formed of persons belonging to classes other than agriculturists or backward communities. Similarly, by a notification issued on 10th January 1944, the Government had remitted registration fee leviable in respect of documents executed by or on behalf of any society registered under the Co-operative Societies Act, 1912 or by any officer or member of such society and relating to the business thereof. By another notification issued on 16th August 1961, the Government restricted the remission of registration fee to documents where the value of loans or advances did not exceed Rs. 5,000.

(a) In the sub-registries in Nagpur (Headquarters) and Chandrapur, on 80 mortgage deeds securing loans exceeding Rs.5,000 in each case and executed between the period July 1983 and August 1984 by members of co-operative housing societies formed of persons belonging to classes other than agriculturists or backward communities, stamp duty in all the cases and registration fee in 15 cases were incorrectly remitted. The mistakes resulted in short realisation of stamp duty and registration fee of Rs. 64,740.

On this being pointed out (February and March 1987) in audit, the Inspector General of Registration accepted the objection and directed (August and September 1987) the concerned Sub-Registrars to take action for recovery of deficient stamp duty and registration fee. Report on recovery has not been received (March 1989).

(b) In the sub-registry in Nagpur (City II), 147 mortgage deeds securing loans exceeding Rs. 5,000 in each case, were executed during 1984 by members of co-operative housing societies formed of persons belonging to classes other than agriculturists or backward communities. But the stamp duty on these documents was incorrectly remitted. This resulted in non-realisation of stamp duty amounting to Rs. 1.05 lakhs.

On this being pointed out (February 1988) in audit, the Inspector General of Registration accepted the objection and directed (April 1988) the sub-registrar to take action for recovery of deficient stamp duty. Further report has not been received (March 1989).

(c) In sub-registry at Mahad (district Raigad), in respect of 20 mortgage deeds securing loans exceeding Rs. 5,000 in each case, which were executed in the year 1985, by members of co-operative housing societies, formed of persons other than agriculturists and backward communities, irregular

remission of stamp duty of Rs. 17,680 and registration fee of Rs. 8,840 was allowed.

On the omission being pointed out (December 1987) in audit, the Inspector General of Registration, accepted (April 1988) the audit objection and directed sub-registry to initiate action for recovery of deficient stamp duty and registration fee amounting to Rs. 26,520. Report on recovery has not been received (March 1989).

The cases were reported to Government in May 1988 and June 1988; their reply has not been received (March 1989).

(iv) As per a Government notification issued on 24th March 1980 superseding the earlier notifications on the subject, grant of remission of stamp duty in respect of conveyance deeds relating to purchase of land executed by or on behalf of co-operative housing societies formed of persons belonging to classes other than agriculturists or backward communities was withdrawn (from 24th March 1980) in respect of the whole of Maharashtra, including Vidarbha.

In sub-registry at Nagpur (City), 4 instruments of conveyance relating to purchase of land for total consideration of Rs. 5.67 lakhs were executed (between March 1982 and December 1983) by co-operative housing societies formed of persons belonging to classes other than agriculturists or backward communities. But stamp duty on these documents was not charged. The incorrect grant of exemption resulted in non-realisation of stamp duty amounting to Rs. 42,738.

On this being pointed out (January 1988) in audit, the Inspector General of Registration accepted the mistake (April 1988) and directed the Sub-Registrar to take action for recovery of the stamp duty. Report on recovery has not been received (March 1989).

The case was reported to Government in June 1988; their reply has not been received (March 1989).

6.3. Short levy of stamp duty and registration fee due to misclassification of documents

(i) Under the Bombay Stamp Act, 1958, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of duties with which separate instrument, each comprising

or relating to one of such matters, would be chargeable under the Act. According to the Code Order No. 423 of the Maharashtra Registration Manual (Part II), an encumbrance is not the subject of gift and therefore be deducted from the value of the property. If a property is transferred in consideration of a donee undertaking the liability of the donor, the transaction cannot be treated as a gift.*

In a document registered (November 1978) in Sub-Registry, Haveli II (Pune), the executant (the donor) gifted his son (the donee) house property valued at Rs. 1.42 lakhs out of natural love and affection and on consideration of the condition that the donee should repay the debts amounting to Rs. 66,000 incurred by the donor for construction of the said house and should provide for monthly expenses for maintenance of the donor, his wife and mother-in-law (i.e. annuity), the capitalised value of which works out to Rs. 43,200. The document was classified as gift deed for Rs. 32,800 only after deducting the capitalised value of annuity amounting to Rs. 43,200 and debt of Rs. 66,000 even though both these deductions do not qualify as 'encumbrances', and charged stamp duty and registration fee of Rs. 2,310. As the document was executed not only out of natural love and affection, but also in consideration of repayment of donor's debt and payment of annuity, it was classifiable as a gift-cum-conveyance deed. The misclassification resulted in short levy of duty and fee aggregating Rs. 10,910.

On the mistake being pointed out (March 1982) in audit, the Inspector General of Registration, accepted (November 1983) the mistake to the extent of annuity of Rs. 43,200 only. As the reply of the department was not acceptable the matter was again taken up with them and also with the Government. After protracted correspondence the Government finally accepted (March 1988) the short levy of stamp duty and registration fee of entire amount of Rs. 10,910, out of which an amount of Rs. 3,730 was recovered in January 1988. Report on recovery of the balance amount has not been received (March 1989).

(ii) Under the Bombay Stamp Act, 1958, 'conveyance' includes a conveyance on sale and every instrument by which property, whether movable or immovable or interest in any property, is transferred from one person to another. On conveyance deeds, stamp duty is leviable on

*Kulasekaraperumal V. Pathakutty (1961), A.M. 405.

the market value of the property, at the rate prescribed in Schedule I to the Act.

(a) In Sub-Registry, Haveli II (Pune district), in 13 instruments with the aggregate consideration of Rs. 12.57 lakhs, the right, title and interest on the respective immovable properties were transferred in 1984. But the stamp duty on these instruments was levied at the lower rate than that applicable to conveyance deeds, resulting in short levy of stamp duty of Rs. 98,695.

On this being pointed out (October 1987) in audit, the Inspector General of Registration accepted (June 1988) the misclassification and directed the concerned Sub-Registrar to send the document to the Collector of Stamps for recovery of deficient stamp duty. Report on recovery has not been received (March 1989).

(b) In Sub-Registry Bombay, two instruments were executed in August 1981. The transferor conveyed two flats in Borivali worth Rs. 75,000 and Rs 63,170 to the transferees in consideration of the surrender of the tenancy rights on the tenements held by them at Malad. But, stamp-duty was levied at the rates applicable to release deed instead of that applicable for "Conveyance" resulting in short levy of stamp duty amounting to Rs. 14,576.

On this being pointed out (October 1985) in audit, the Inspector General of Registration accepted (July 1988) the omission and directed the Sub-Registrar to initiate action for recovery of the stamp duty. Report on recovery has not been received (March 1989).

The cases were reported to Government in July 1988 and September 1988; their reply has not been received (March 1989).

6.4. Short levy of stamp duty

Under the Bombay Stamp Act, 1958, a certificate of sale granted to the purchaser on any property sold by public auction by a Civil or Revenue Court is chargeable with same stamp duty as that applicable to a conveyance on the market value of the property.

In Panchapakedi (district Thane), a company manufacturing Chemicals purchased property (both movable and immovable) valuing Rs. 20.25 lakhs in public auction, for which a certificate of sale was issued (August 1981) by the High Court of Judicature, Bombay. The document was presented

(May 1982) for registration at the Sub-Registry, Bombay, paying stamp duty on the value (Rs. 11 lakhs) only of immovable property. Non-levy of duty on movable property (Rs. 9.25 lakhs) resulted in short realisation of revenue amounting to Rs. 45,650.

On this being pointed out (January 1987) in audit, the Sub-Registry impounded the document (August 1987) and forwarded the document to the Superintendent of Stamps for recovery of deficient stamp duty. Report on recovery has not been received (March 1989).

The case was reported to Government in September 1988; their reply has not been received (March 1989).

6.5. Non-levy of stamp duty

As per the Maharashtra Registration Manual, a deed by which the right acquired by an agreement to sell the property is transferred, is a sale or transfer of that right and the stamp duty and registration fee are to be levied on the consideration for the transfer.

In the Sub-Registry, Nagpur (City II), Nagpur, in three documents registered in 1982 for a consideration of Rs. 68,750 each, a firm transferred its right (acquired in October 1981 by an agreement to sell) to purchase land situated within the Nagpur Municipal Corporation, to a co-operative housing society. But the stamp duty was erroneously not levied. This resulted in non-realisation of revenue amounting to Rs. 14,160.

On the omission being pointed out (March 1985) in audit, the Inspector General of Registration, accepted (July 1988) the mistake and directed the Sub-Registrar to refer the cases to the Collector of Stamps for recovery of the stamp duty. Further report has not been received (March 1989).

The case was reported to Government in August 1988; their reply has not been received (March 1989).

6.6. Under-assessments

In 26 cases, pointed out by Audit during the period 1st April 1987 to 31st March 1988 (where money value of each case was less than Rs. 10,000) under-assessments/losses of revenue amounting to Rs. 1.10 lakhs were accepted by the department, out of which an amount of Rs. 1,180 was recovered (March 1989).

CHAPTER 7

OTHER TAX RECEIPTS

7.1. Results of Audit

Test check of the records of departmental offices, conducted in audit during 1987-88, revealed short realisation or losses of revenue amounting to Rs. 211.22 lakhs in 102 cases as listed below :—

	Number of cases	Amount (In lakhs of rupees)
A—Maharashtra Education and Employment Guarantee Cess	45	10.35
B—Luxury Tax	8	196.80
C—Electricity Duty	13	1.08
D—Entertainments Duty	34	2.30
E—Agricultural Income tax	2	0.69
Total ..	102	211.22

Some of the important cases noticed in 1987-88 and in earlier years are mentioned in the following paragraphs.

SECTION A—THE MAHARASHTRA EDUCATION AND EMPLOYMENT GUARANTEE CESS

7.2. Incorrect exemption from payment of education cess and employment guarantee cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, lands and buildings vesting in the State Government or belonging to a municipality or a zilla parishad and used exclusively for public purposes and not used or intended to be used for purposes of profit, are exempt from payment of education cess and employment guarantee cess. Government clarified (August 1986) that education cess and employment guarantee cess is recoverable on the annual rent

recovered from the stall owners in respect of public markets and buildings owned by municipal corporations/municipalities/cantonment boards.

Eighteen properties belonging to the Bombay Municipal Corporation and used for profit, such as markets, stalls, industrial estates etc., were irregularly exempted from levy of education cess and employment guarantee cess. The irregular exemption resulted in non-levy of cesses amounting to Rs. 17.25 lakhs for the period between April 1975 and March 1988.

The omissions were pointed out (between October 1982 and March 1988) in audit to the department, their reply has not been received (March 1989).

The matter was reported to Government in September 1988 ; their reply has not been received (March 1989).

SECTION B—THE MAHARASHTRA TAX ON LUXURIES (IN HOTEL AND LODGING HOUSES)

7.3 Non-payment of luxury tax and non-levy of penalty

Under the Maharashtra Tax on Luxuries (in Hotel and Lodging Houses) Act, 1974, every proprietor of a hotel or a lodging house, who is liable to pay luxury tax, has to submit a monthly return in the prescribed form to the Collector within eight days after the end of the month to which the return relates, alongwith a receipted copy of the treasury chalan for payment of tax. If the luxury tax is not paid within the prescribed period the assessing authority may levy a penalty equal to a sum not exceeding one-and-a-half times of the luxury tax payable under the Act.

In one case involving non-payment of luxury tax, an amount of Rs. 29,833 (including penalty of Rs. 10,000) was recovered on being pointed out in audit. A few other cases are mentioned below.

(i) In Bombay, six hotels had either delayed or not paid the luxury tax payable for various months between March 1986 and March 1987. The extent of delay in making payment of Rs. 1.26 crores by these hotels ranged between 6 days and 170 days. The details of payments of Rs. 3.65 lakhs were not available with the department (November 1988). The Maximum penalty leviable in these cases would work out to Rs. 1.94 crores.

Government to whom the matter was reported in February 1988, stated that notices were being issued in all the cases and action for levy of penalty would be taken as per provisions of the Act. Report on further developments has not been received (March 1989).

(ii) A hotel in Bombay was in arrears in payment of luxury tax amounting to Rs. 2.12 lakhs which was collected during the period from March 1981 to November 1986. The monthly returns for the said period were also filed late, the extent of delay ranged between 17 days and 295 days, but penalty of Rs. 50,000 only, was levied in March 1987 for the defaults. The Collector of Bombay was informed only in March 1987, although the proprietor was a defaulter for over 5 years, to recover the arrears of Rs. 2.62 lakhs as arrears of land revenue.

On this being pointed out (October 1987) in audit, the department stated (October 1988) that the proprietor had paid amounts aggregating Rs. 1.70 lakhs and the recovery of the balance amount was being pursued by the Collector of Bombay. Report on further recovery has not been received (March 1989).

Government to whom the matter was reported in September 1988, confirmed (December 1988) the reply of the department.

SECTION C—ELECTRICITY DUTY

7.4. Short levy/non-levy of electricity duty and interest

(i) By a Government notification issued in September 1984, under the Bombay Electricity Duty Act, 1958, with effect from 1st October 1984, the existing rates of electricity duty payable on energy consumed for residential and commercial purposes were revised upwards by 2.5 paise per unit in respect of all slabs.

In two cases involving short levy of electricity duty, an amount of Rs. 12,547 was recovered on being pointed out in audit.

(ii) The Bombay Electricity Duty Act, 1958 and the Rules made thereunder provide that every person who is registered as licenced generator of electrical energy exclusively for his own use, shall pay the electricity duty in respect of a calendar month (for the energy consumed by him) within the first 10 days of the succeeding month. If the duty is not paid to Government by due date, interest is chargeable on the amount of duty

in default at the rate of 18 per cent per annum for the first three months of default and at the rate of 24 per cent per annum for any period thereafter till the duty is paid.

(a) A sugar factory in Aurangabad generated energy for its own use, but did not pay the electricity duty on the energy so consumed by it during the period from January 1987 to March 1987. The electricity duty payable on 10,18,404 units of energy generated and consumed amounted to Rs. 79,488. However, the duty due was neither demanded by the department nor was any action to levy the interest on the duty due initiated.

On the omission being pointed out (October 1987) in audit, the department stated (March 1988) that the factory had been served with notice for payment of the duty and interest. Further reply has not been received (March 1989).

Government to whom the matter was reported in June 1988, stated (August 1988) that the licensee was in arrears of duty of Rs. 2.88 lakhs for the period from November 1985 to June 1987. The Electrical Inspector, Aurangabad had served notice in August 1987, but as the factory was running in loss and recovery was not possible, Government had directed (May 1988) the Collector, Aurangabad to recover the dues as arrears of land revenue. Report on recovery has not been received (March 1989).

(b) A sugar factory in Amravati district which generated energy for its own use, neither filed the monthly returns nor paid the duty for the months of January 1986 and February 1986 even though the duty for the earlier and subsequent months was paid. It was also noticed that the department had neither ascertained the units of energy consumed by the factory during these two months nor enquired the reasons for the non-payment of duty and imposed the interest.

On the omission being pointed out (March 1987) in audit, the department stated (February 1988) that the factory paid (April 1987) the duty amounting to Rs. 57,462 for 7,43,952 units of energy consumed during January 1986 and action to recover duty amounting to Rs. 39,640 for 5,21,636 units of energy consumed during February 1986 was in progress. Report on recovery of Rs. 39,640 and on action taken for the recovery of interest has not been received (March 1989).

The matter was reported to Government in July 1988 ; their reply has not been received (March 1989).

7.5. Incorrect grant of exemption from payment of electricity duty

Under the Bombay Electricity Duty Act, 1958, electricity duty is not leviable on the units of energy consumed by Government, a municipal corporation, municipal council, cantonment board, zilla parishad or a village panchayat constituted under any law for the time being in force in the State, for the purpose of or in respect of public street lighting, public water works and system of public sewers or drains. But, such exemption is not available for energy consumed by non-Government organisation or commercial undertakings. Similarly, electricity duty is not leviable on the units of energy consumed in respect of any new industrial undertaking in certain specified regions of the State during a period of five years from the date on which such undertaking begins to manufacture or produce articles for the first time.

In three cases, involving under-assessment due to incorrect grant of exemption from payment of electricity duty, an amount of Rs. 2.01 lakhs was recovered on being pointed out in audit.

7.6. Non-levy of interest on belated payments

Under the Maharashtra Tax on Sale of Electricity Act, 1963 and the Rules made thereunder, tax payable on energy sold by a bulk licensee in any billing month to a consumer shall be paid by the bulk licensee before the expiry of the succeeding calendar month. Further, where any bulk licensee is permitted to make payment of tax by cheque, the date on which the amount of the cheque is actually transferred to the credit of the State Government shall be deemed to be the date on which the licensee has paid the tax. As per the Rules amended with effect from 3rd April 1986, the date on which the cheque has actually been deposited in the Government treasury by the bulk licensee shall be deemed to be the date on which the bulk licensee has paid the tax provided that if on account of any default of the bulk licensee, the amount paid by cheque so deposited is not transferred to the credit of the Government, the date on which the said amount is actually transferred shall be deemed to be the date of payment of the tax. In case the tax is not paid by the due date, interest is chargeable on the amount of duty in default at the rate of 18 per cent per annum for first three months of default and at the rate of 24 per cent per annum for any period thereafter till the date of payment of tax.

In the course of audit in the office of the Chief Engineer (Electrical), Bombay, it was noticed (between February 1982 and February 1986)

that two licensees, who had opted to pay the tax by cheques, deposited the cheques on the last date of succeeding months, but the proceeds thereof, by transfer were, however, credited to Government account after the due dates. The delay in realisation of the proceeds of the cheque by transfer to Government account ranged between 1 and 34 days as seen from the records for the years 1980-81 to 1984-85. The department did not charge any interest on the belated payments. Interest not charged amounted to Rs. 2.02 lakhs.

On the omission being pointed out (between February 1982 and February 1986) in audit, the department stated (April 1988) that the demand notices were being issued. Report on details of demand raised and recovered has not been received (March 1989).

Government to whom the matter was reported in July 1988, stated (March 1989) that in the absence of a mention in the Rules that interest would be charged, if there is delay in actual transfer of the amount to Government account, it would not be proper to charge interest. The reply of Government is not correct in view of the aforesaid provisions.

SECTION D—ENTERTAINMENTS DUTY

7.7. Loss of revenue due to delay in revision of rates of entertainments duty

Under the Bombay Entertainments Duty (Amendment and retrospective levy of duty) Act, 1984, effective from 1st January 1984, the various places in the State have been divided into four categories depending on the population and rates of entertainments duty, also revised (effective from 1st January 1984) accordingly. As per Government orders (May 1985), if the population of any village/city is increased or decreased and there is consequent change in the civil status (classification) thereof, the Collector is to levy duty as per prescribed rates with effect from the date of issue of notification by the Urban Development Department. The Collector is also required to intimate all concerned in advance about the change in the rate of levy of duty to such village/city.

The limits of Ichalkaranji municipal area in Kolhapur district were altered by a notification issued by the Urban Development Department on 5th February 1983 and as a result of the alteration in area the population of Ichalkaranji increased by 20,495, which was conveyed to the Collector, Kolhapur by the Tahsildar, Hatkanangale on 1st March 1984.

As the Amendment Act was effective from 1st January 1984, the entertainments duty was recoverable at a higher rate from that date. But the rates of entertainments duty were revised by the Collector, Kolhapur from 15th June 1985 only. The delay in issue of orders by the Collector for recovery of the entertainments duty therefore resulted in a loss of revenue of Rs. 4.80 lakhs (approximately) recoverable from 1st January 1984 to 14th June 1985 from the theatre owners.

On the omission being pointed out (April 1986) in audit, the department referred (June 1986) the matter to Government for orders. Further report has not been received (March 1989).

The matter was reported to Government in July 1988; their reply has not been received (March 1989).

7.8. Non-recovery/short recovery of entertainments duty, surcharge and composition fee

Under the Bombay Entertainments Duty Act, 1923, as amended in 1984, and the Rules framed thereunder, the organisers of entertainments are required to submit returns and pay entertainments duty within 10 days from the date of entertainment. In the event of their failure to do so for evasion of any duty payable under the Act, in addition to duty so payable, a sum of money not exceeding Rs. 500 or double the amount of duty payable, whichever is greater, and in other cases an amount not exceeding Rs. 500, is recoverable by way of composition of such offence from any person who has committed or is reasonably suspected of having committed an offence against the Act or the Rules made thereunder.

In Nanded in the case of two theatres, involving non-recovery of entertainments duty and surcharge, an amount of Rs. 53,190 was recovered on being pointed out in audit.

In another case, a proprietor of a cinema theatre in Kolhapur district neither filed the returns for certain periods in respect of morning shows held between October 1985 and February 1986 nor paid the entertainments duty and surcharge due to Government. It was also observed that the proprietor paid lesser sums of entertainments duty and surcharge than the amount due as per return filed by him for the above period. The short payment of entertainments duty and surcharge amounted to Rs. 12,498. No action was, however, initiated by the department either to recover the dues or to levy and demand composition fees.

On the mistakes being pointed out (March 1987) in audit, the department stated (December 1987) that the entire amount of entertainments duty and surcharge (Rs.12,498) had been recovered (March 1987 and May 1987) and demand notice for payment of composition fee (Rs. 24,998) had been issued to the proprietor. Report on recovery of composition fee has not been received (March 1989).

The matter was reported to Government in August 1988; their reply has not been received (March 1989).

7.9. Short levy of entertainments duty and surcharge due to incorrect application of rates

(i) Under the Bombay Entertainments Duty Act, 1923, as amended with effect from 1st January 1984, entertainments duty is leviable on all payments for admission to any entertainment (except in the case of video games) at the prescribed rates. In the case of cabaret or discotheque entertainment, fifteen per cent of the total payment charged by the proprietor per person per show shall be deemed to be the payment for admission and duty at prescribed rates is leviable thereon. A surcharge is also payable on the entertainments duty at the rate of five to ten per cent depending on the rate of admission under the provisions of the Bombay Entertainments Duty (Amendment) Act, 1974.

In Nagpur, in the case of two restaurants, entertainments duty and surcharge were levied short by Rs. 30,860 for periods between April 1984 and September 1987 owing to incorrect application of rates of entertainments duty and surcharge.

On this being pointed out (January 1987 and October 1987) in audit, the department recovered (between August 1987 and March 1988) Rs. 26,695 from the owner of one restaurant. Further, the department stated (August 1988) that an amount of Rs. 1,842 was recovered (April 1988) from the proprietor of the second restaurant and that the proprietor had filed a writ petition against the recovery proceedings initiated by the Tahsildar and obtained stay against recovery of the balance amount. Further report has not been received (March 1989).

Government to whom the matter was reported in April 1988, while confirming the recovery stated (March 1989) that the balance amount could be recovered only after the court's decision.

(ii) Under the Bombay Entertainments Duty Act, 1923, entertainments duty is payable by every proprietor of a cinema theatre on the payments for admission realised in respect of any entertainment. The duty was revised with effect from 1st January 1987. In computing the duty under this Act, a fraction of a rupee less than 5 paise, or which is not a multiple of 5 paise, shall be rounded off to 5 paise or to next higher multiple of 5 paise as the case may be.

In Bombay, in the case of a theatre involving short levy of entertainments duty, an amount of Rs. 17,187 was recovered on being pointed out in audit.

The matter was reported to Government in April 1988; their reply has not been received (March 1989).

7.10. Omission to raise demand

The Bombay Entertainments Duty Act, 1923 empowers the Commissioner of Police, in places where a Commissioner is appointed and the District Magistrate in other places, to give exemption from levy of duty in specified circumstances. Such exemption could be given if the Commissioner of Police/District Magistrate was satisfied that the whole takings of the entertainment was devoted to philanthropic or charitable purposes without any charge on the takings for any expenses of the entertainment.

In Nagpur, a social organisation was granted exemption from liability to pay entertainments duty for organising a programme of European free style wrestling in November 1983, on the condition that the entire proceeds of the programme are utilised for promoting the welfare of the community and citizens through active constructive projects. The accounts of receipts and payments of the proceeds of the show, however, indicated that nearly the entire receipts were utilised for the purpose of meeting the administrative/organisational expenditure for conducting the programme, thus violating the condition that the entire proceeds of the programme should be used for philanthropic or charitable purposes.

On this being pointed out (February 1985) in audit, the department stated (July 1988) that the Collector had been instructed (November 1986) to recover the entertainments duty of Rs. 14,148 along with the

surcharge of Rs. 1,532 due from the organisation. Report on action taken by the Collector to recover the dues has not been received (March 1989).

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

SECTION E—AGRICULTURAL INCOME TAX

7.11. Mistake in computation of tax

In one case, involving under-assessment due to mistake in computation, an amount of Rs. 14,984 was recovered (December 1986) on being pointed out in audit (March 1986).

CHAPTER 8

NON-TAX RECEIPTS

REVENUE AND FORESTS DEPARTMENT

8.1. Loss of revenue on shortfall in yield of tendu leaves

By an Act passed in 1969, Government nationalised the trade of minor forest produce. According to the procedure prescribed in this regard, tendu leaves, fit for the manufacture of *bidis*, are collected from forest land by an appointed agent for each tendu season. The labourers engaged in collecting the leaves are paid remuneration by the agent. The agent is entitled to additional remuneration for leaves collected in excess of the notified yield and a deduction is made at prescribed rate for shortfall therefrom. Besides collecting the tendu leaves, the agent shall "if required" do pruning of tendu plants within the unit from which he collects the leaves.

In Jalgaon division, the notified yield for the tendu season 1983 in respect of tendu unit I Jamner and unit II Jalgaon were 3,500 standard bags and 750 standard bags respectively. A standard bag contains one thousand bundles and 70 leaves make a bundle. But the standard bags collected in the two units were short by 2,001 and 183 standard bags respectively for which a fine of Rs. 7,643 was recovered from the agent. On this being pointed out (August 1985) in audit, the department attributed the shortfall in collection of tendu leaves to :

- (a) failure of the agent to mobilise enough labourers,
- (b) pruning of tendu plants had not been done by any agent since nationalisation (1969) resulting in less sprouting of leaves and its undersized growth, making the leaves unfit for *bidis*,
- (c) climatic conditions,
- (d) tendu leaves could not be plucked after the setting in of rains as they rot quickly and cannot be dried in the forest, and
- (e) failure of the staff to guide the labourers in plucking.

Thus, due to lack of vigilance on the part of the agent and the departmental personnel, 2,184 standard bags of tendu leaves could not be

collected in tendu season 1983 resulting in non-realisation of revenue of Rs. 3.36 lakhs (including sales tax and forest development tax).

The case was reported to Government in July 1988; their reply has not been received (March 1989).

8.2. Loss of revenue due to incorrect application of terms of contract

State monopoly in the trade of tendu leaves was introduced in the State by an Act in 1969. According to the prescribed procedure, the tendu leaves collected at various units are sold at the rates sanctioned after calling for sealed tenders per standard bag. The purchaser is required to take delivery of leaves at the collection centre or at such other places specified in the agreement after payment of collection charges and to keep the stock in godowns belonging to Government till the full payment of purchase price is made. The stock of tendu leaves in possession of the purchaser at any depot or any godown is liable to be checked at any time. The purchaser is responsible for any stock determined as excess during such checking and is liable for penal action. The quantities assessed as excess is treated as part of the stock collected on the date of checking for the purpose of recovery of sale amount, which is to be effected at tendered rate together with sales tax and forest development tax. The purchaser is bound to purchase all tendu leaves over and above the notified bags in the agreement, but quantity in excess of notified standard bags is to be charged at reduced rate.

In Chandrapur forest division, though 451 standard bags were found excess over notified bags in 3 cases during tendu season 1986, while checking stock, the recovery was not effected at tendered rate but it was effected at reduced rate applicable for additional quantity offered to him in excess of notified bags. This resulted in short realisation of revenue of Rs. 63,679 (including sales tax and forest development tax).

On this being pointed out (January 1987) in audit, the department stated that the recovery at reduced rate was correct as the purchaser was penalised by charging reduced rate and collection charges instead of charging only at reduced rate. The reply of the department is not tenable as the purchaser was liable to pay sale amount at tendered rate for excess assessed stock and not at reduced rate.

The matter was reported to Government in September 1988; their reply has not been received (March 1989).

8.3. Short levy of royalty and cess

Under the provisions of the Maharashtra Minor Minerals Extraction (Vidharbha Region) Rules, 1966, licences for extraction of minor minerals are granted on payment of royalty chargeable at the rate prescribed by Government from time to time. Government clarified (January 1985) that in respect of temporary permits for transported stone, it should be treated as raw stone for the purpose of charging royalty even though the stone may not have been excavated. Further, under the amended Zilla Parishads and Panchayat Samitis Act, 1961, a cess at the rate of 5 paise per rupee of royalty is also recoverable on minor minerals (with effect from 13th July 1973).

(i) In Akola Collectorate, in 39 cases, royalty on raw stone extracted during October 1983 to January 1985 was levied at varying rates ranging from Rs. 3 to Rs. 6.50 per brass instead of the notified (December 1980) rate of Rs. 7.50 per brass. Application of incorrect rate resulted in short levy of revenue amounting to Rs. 49,220 (including local cess).

On this being pointed out (April 1987) in audit, the department recovered (June 1987, July 1988 and December 1988) Rs. 43,314. Report on recovery of balance amount of Rs. 5,906 has not been received (March 1989).

(ii) In Bhandara and Aheri tahsils, in 113 cases, royalty on minor mineral (brick earth) extracted during the period June 1985 to January 1987 was levied at the existing rate and not at the rates revised with effect from 1st June 1985. This resulted in short realisation of revenue amounting to Rs. 25,819 (including local cess).

On the mistake being pointed out (January 1987 and September 1987) in audit, the department recovered (November 1987 to June 1988) Rs. 16,185. Report on recovery of the balance amount of Rs. 9,634 has not been received (March 1989).

The cases were reported to Government in September 1988 ; their reply has not been received (March 1989).

EDUCATION AND EMPLOYMENT DEPARTMENT

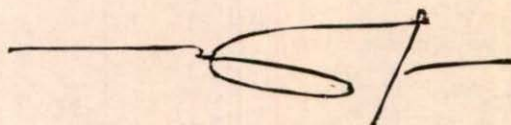
8.4. Non-recovery of rent

The canteen building of Government Polytechnic, Yavatmal, handed over, free of rent to the 'Students Co-operative Society' for running a canteen on a Co-operative basis was let out by the society in December

1980 to a contractor for running a private canteen. The rent amounting to Rs. 20,435 collected by the society from December 1980 to June 1987 was not credited to Government account, but appropriated by the society.

On this being pointed out (June 1987) in audit, the department terminated (June 1987) the private canteen and recovered (July 1988) the amount from the society. Rent at Rs. 350 per month was fixed by the Executive Engineer, Public Works Division, Yavatmal and so total rent recoverable for the above period was Rs. 27,650. Report on recovery of the balance amount of Rs. 7,215 has not been received (March 1989).

The case was reported to Government in September 1988 ; their reply has not been received (March 1989).



(M. V. BHATT)

Bombay,
The

Accountant General (Audit)-I, Maharashtra.

121 सितम्बर 1989
SEP

Countersigned

T. N. Chaturvedi

(T. N. CHATURVEDI)

New Delhi,
The

Comptroller and Auditor General of India.

-3 सितम्बर 1989
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APPENDICES

APPENDIX

ANALYSIS OF TAX COLLECTION

Reference : Paragraph 1.4

Serial No.	Name of tax	Amount collected at pre-assessment stage			Amount collected after regular assessment		
		1985-86	1986-87	1987-88	1985-86	1986-87	1987-88
1	Bombay Sales Tax ..	981.75	1142.15	1375.25	70.89	86.28	89.19
2	Central Sales Tax ..	271.90	346.35	371.03	24.29	27.16	29.76
3	Motor Spirit Tax ..	121.33	155.37	190.36	0.04	....	....
4	Sugarcane Purchase Tax	6.62	18.31	19.58	3.56	5.98	9.13
5	Agricultural income-tax	0.08	0.11	0.52	0.01	0.34	0.48
6	Profession Tax ..	57.15	75.33	80.33	3.31	8.86	12.98
Total ..		1438.83	1737.62	2037.07	102.10	128.62	141.54

(Figures are as furnished)

I

(FINANCE DEPARTMENT)

Page 5

(In crores of rupees)

Amount refunded			Net collection of tax		
1985-86	1986-87	1987-88	1985-86	1986-87	1987-88
39.56	42.24	35.87	1013.08	1186.19	1428.57
2.84	2.25	1.50	293.35	371.26	399.29
0.05	....	....	121.32	155.37	190.36
....	....	....	10.18	24.29	28.71
....	....	....	0.09	0.45	1.00
0.03	0.01	0.01	60.43	84.18	93.30
42.48	44.50	37.38	1498.45	1821.74	2141.23

by the department)

APPENDIX

YEAR-WISE DETAILS OF OUTSTANDING AUDIT

(As on 30th

Reference : Paragraph 1.11

Serial No.	Nature of receipt	Upto 1983-84			1984-85		
		I.Rs.	Objs.	Amount	I.Rs.	Objs.	Amount
1	Sales tax	199	477	58.21	161	390	16.31
2	Agricultural income-tax	22	32	2.20	2	2	0.71
3	Land revenue ..	859	2008	1929.90	118	286	454.22
4	Stamp duty and registration fees	425	1021	343.61	74	137	139.38
5	Forest receipts ..	169	298	..	24	71	..
6	Taxes on vehicles ..	63	108	95.58	22	33	190.94
7	Entertainments duty ..	160	282	0.22	62	111	0.15
8	State excise ..	250	461	2.07	57	82	3.01
9	Electricity duty ..	24	27	0.55	9	17	3.16
10	Tax on professions, etc.	190	587	20.08	57	207	2.17
11	State education cess ..	78	282	10.48	17	40	0.76
12	Repair cess ..	29	82	60.88	6	17	2.60
13	Luxury Tax ..	2	7	..	..	..	..
14	Lottery	9	19	..	1	2	..
15	Tax on residential premises	3	8	..	1	2	..
16	Other non-tax receipts	231	652	72.39	5	9	0.20
Total ..		2713	6351	2596.17	616	1406	813.61

I.Rs.—Inspection reports.

II

OBJECTIONS UNDER VARIOUS RECEIPTS

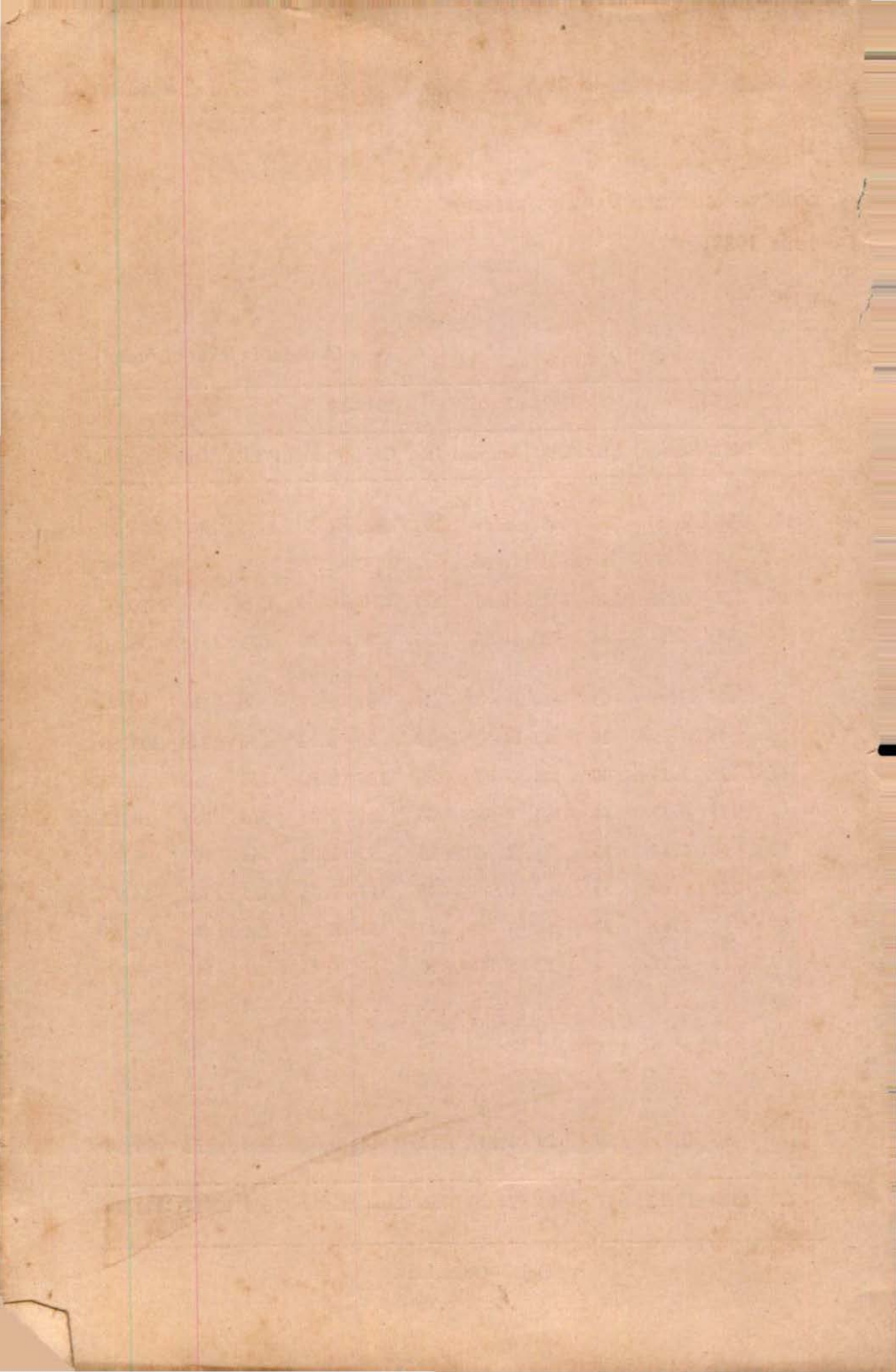
June 1988)

page 14)

(Amount in lakhs of rupees)

1985-86			1986-87			1987-88			Total		
I.Rs.	Objs.	Amount	I.Rs.	Objs.	Amount	I.Rs.	Objs.	Amount	I.Rs.	Objs.	Amount
191	388	66.73	268	648	96.59	292	963	40.53	1111	2866	278.37
4	4	0.48	8	21	0.56	2	2	..	38	61	3.95
126	232	439.96	140	372	351.61	136	410	604.38	1379	3308	3780.07
74	143	91.78	64	127	41.98	36	84	89.66	673	1512	706.41
33	121	..	43	114	..	31	97	..	300	701	..
24	45	1.39	28	77	14.52	19	80	3.13	156	343	305.56
66	122	1.33	90	148	3.47	80	120	0.90	458	783	6.07
69	115	0.33	84	184	4.36	56	126	0.45	516	968	10.22
5	10	0.19	13	23	2.76	15	30	0.09	66	107	6.75
79	283	1.04	53	165	0.31	46	118	1.38	425	1360	24.98
27	74	4.69	22	56	1.12	17	39	0.20	161	491	17.25
9	15	3.37	9	12	5.11	10	15	1.86	63	141	73.82
2	7	..	..	..	..	..	..	..	4	14	..
3	3	..	3	4	..	2	2	..	18	30	..
2	2	..	3	3	..	2	2	..	11	17	..
13	16	0.83	19	29	1.81	12	16	0.31	280	722	75.54
727	1580	612.12	847	1983	524.20	756	2104	742.89	5659	13424	5288.99

Objs.—Objections.



ERRATA

to the

Report of the Comptroller and Auditor General of India for the year 1987-88

Revenue Receipts—Government of Maharashtra

Page	Reference		For	Read
	Para	Line		
7	1.7	Table Caption	March 30 ST	March 31 ST
12	1.10	last	March 1989.	(March 1989).
20	2.2(b)(ii)	13th from below	allowed set-off	allowed set-off of
23	2.2(e)(i)	16th from below	Rs. 3,73,439	Rs. 3.73 lakhs
34	2.4(ii)	5th from top	adult	audit
44	2.11	15th from below	in audit.	in audit. A few other cases are mentioned below.
48	3.3(b)	8th from top	stock	stock
51	3.6	9th from top	defaulted the	defaulted
51	3.6	16th from below	recovery	recovery
51	3.6	15th from below	licensees had	licensees has
51	3.7	2nd from below	licensees	licensees
57	4.2.9	12th from below	Municipal/Corporation Cantonment	Municipal Corporation/Cantonment
64	4.4(a)(iii)	14th from below	March 1989.	(March 1989).
72	4.8(ii)	6th from top	retrospectively	retrospectively

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