



REPORT
OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA

FOR THE YEAR 1983-84

REVENUE RECEIPTS

10/11

GOVERNMENT OF WEST BENGAL

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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of West Bengal for the year 1983-84 is presented in a separate volume. The material in this Report has been arranged in the following order:—

- (i) Chapter 1 deals with the trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variation between the budget estimates and the actuals in respect of principal heads of revenue and the position of arrears of revenue, etc., are discussed in this chapter,
- (ii) Chapters 2 to 6 bring out certain cases and points of interest that came to notice during the audit of Sales Tax, Taxes on Vehicles, State Excise, Land Revenue and other tax and non-tax receipts,

CHAPTER 1

GENERAL

1.1 Trend of revenue receipts

The total revenue receipts of the Government of West Bengal for the year 1983-84 amounted to Rs. 1,533.13 crores, against the anticipated receipts (including estimated net additional yield of Rs. 43.66 crores from new taxation measures) of Rs. 1,563.86 crores. The total receipts during the year 1983-84 registered an increase of 25.28 per cent over those in 1981-82 (Rs. 1,223.75 crores) and an increase of 11.16 per cent over those in 1982-83 (Rs. 1,379.26 crores). Of the total receipts of Rs. 1,533.13 crores, the revenue raised by State Government amounted to Rs. 926.78 crores, of which Rs. 780.75 crores represented tax revenue and the remaining Rs. 145.98 crores non-tax revenue. Receipts from the Government of India amounted to Rs. 606.40 crores.

1.2 Analysis of revenue receipts

(a) GENERAL ANALYSIS

An analysis of revenue receipts during the year 1983-84, along with corresponding figures for the preceding two years, is given below :

	1981-82	1982-83	1983-84
	(In crores of rupees)		
I Revenue raised by the State Government—			
(a) Tax Revenue.. ..	632.15	668.95	780.75
(b) Non-tax Revenue	123.45	133.60	145.98
Total I ..	755.60	802.55	926.73
II Receipts from the Government of India—			
(a) State's share of divisible Union taxes	348.09	379.25	433.92
(b) Grants-in-aid	120.06	197.46	172.48*
Total II	468.15	576.71	606.40
III Total receipts of the State (I + II) ..	1223.75	1379.26	1533.13
IV Percentage of I to III	61.7	58.2	60.4

*For details please see Statement No. II "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of West Bengal 1983-84.

(b) TAX REVENUE RAISED BY THE STATE

Receipts from tax revenue constituted 84 per cent of the State's own revenue receipts during the year 1983-84. An analysis of the tax revenue for the year 1983-84 and for the preceding two years is given below:

	1981-82	1982-83	1983-84	Increase(+) or Decrease(-) in 1983-84 with reference to 1982-83
(In crores of rupees)				
(1) Taxes on Agricultural Income ..	1.22	1.35	5.76	(+)4.41
(2) Other Taxes on Income and Expenditure	13.10	15.78	20.79	(+)5.01
(3) Land Revenue	22.39	35.76	58.58	(+)22.82
(4) Stamps and Registration Fees ..	34.47	39.32	42.32	(+)3.00
(5) *Taxes on Immovable Property ..	0.50	0.53	0.58	(+)0.05
(6) State Exoise	58.06	60.36	69.66	(+)9.30
(7) Sales Tax	379.04	389.63	450.06	(+)60.43
(8) Taxes on Vehicles	21.79	23.34	25.02	(+)1.68
(9) Taxes on Goods and Passengers ..	53.97	52.54	54.83	(+)2.29
(10) Taxes and Duties on Electricity ..	16.67	14.92	17.86	(+)2.94
(11) Other Taxes and Duties on Commodities and Services	30.94	35.42	35.29	(-)0.13
Total ..	632.15	668.95	780.75	(+)111.80

(c) NON-TAX REVENUE OF THE STATE

Interest, Police, Education, Medical, Housing, Social Security and Welfare, Minor Irrigation, Soil Conservation and Area Development, Dairy Development, Forest, Industries, Mines and Minerals and Roads and Bridges were the principal sources of non-tax revenue of the State.

*This head accommodates receipts under the West Bengal Multi-storeyed Buildings Tax Act, 1975.

Receipts from non-tax revenue constituted 16 per cent of the revenue raised by the State during the year 1983-84. An analysis of the non-tax revenue for the year 1983-84 and the preceding two years is given below:

	1981-82	1982-83	1983-84	Increase (+) or Decrease (-) in 1983-84 with refer- ence to 1982-83
(In crores of rupees)				
(1) Interest	17.59	24.38	32.35	(+)7.97
(2) Police	5.70	4.77	6.06	(+)1.29
(3) Education	3.46	2.92	2.92	..
(4) Medical	16.70	11.68	16.00	(+)4.32
(5) Housing	2.59	3.07	3.56	(+)0.49
(6) Social Security and Welfare ..	5.59	11.17	9.66	(-)1.51
(7) Minor Irrigation, Soil Conservation and Area Development	2.55	2.89	3.29	(+)0.40
(8) Dairy Development	18.42	15.96	16.97	(+)1.01
(9) Forest	15.61	19.29	21.47	(+)2.18
(10) Industries	2.89	2.95	3.13	(+)0.18
(11) Mines and Minerals	2.96	6.29	3.79	(-)2.50
(12) Roads and Bridges	1.73	1.83	2.33	(+)0.50
(13) Others	27.66	26.40	24.45	(-)1.95
Total ..	123.45	133.60	145.98	(+)12.38

Reasons for shortfall in collection of non-tax revenue under Social Security and Welfare and Mines and Minerals, called for from the departments, are still awaited (March 1985).

1.3 New taxation proposals

During the year 1983-84, the State introduced various new measures of taxation and also granted certain concessions. The net additional resources of the State during the year 1983-84 were estimated at Rs. 43.66 crores. Information regarding the actual net yield from these measures, called for from the departments, are still awaited (March 1985).

1.4 Variations between budget estimates and actuals

(i) The variations between budget estimates and actuals of tax revenue and non-tax revenue during the year 1983-84 are given below :

	Budget estimates	Actuals	Variation Excess (+) Shortfall(-)	Percentage of variations
(In crores of rupees)				
(a) Tax Revenue ..	860.19	780.75	(-)79.44	9
b) Non-tax Revenue ..	140.83	145.98	(+)5.15	4

(ii) The break-up of the variations under the principal heads of revenue is given below :

Head of Revenue	Budget estimates	Actuals	Variation Excess(+) Shortfall (-)	Percentage of variation
(In crores of rupees)				
(A) Tax revenue—				
(1) Taxes on Agricultural Income	1.33	5.76	(+)4.45	333
(2) Other Taxes on Income and Expenditure	18.00	20.79	(+)2.79	16
(3) Land Revenue	76.73	58.58	(-)18.15	24
(4) Stamps and Registration ..	41.52	42.32	(+)0.8	2
(5) State Excise	74.50	69.66	(-)4.84	6
(6) Sales Tax	498.81	450.06	(-)48.75	10
(7) Taxes on Vehicles	26.57	25.02	(-)1.55	6
(8) Taxes on Goods and Passengers	62.40	54.83	(-)7.57	12
(9) Taxes and Duties on Electricity	23.37	17.86	(-)5.51	24
(10) Other Taxes and Duties on Commodities and Services	36.46	35.29	(-)1.17	3
(B) Non-Tax revenue—				
(11) Interest	30.51	32.35	(+)1.84	6
(12) Police	3.25	6.06	(+)2.81	86
(13) Education	2.95	2.92	(-)0.03	1
(14) Medical.. ..	16.17	16.00	(-)0.17	1
(15) Housing	3.16	3.56	(+)0.40	13
(16) Social Security and Welfare ..	6.89	9.66	(+)2.77	40
(17) Minor Irrigation, Soil Conservation and Area Development	4.90	3.29	(-)1.61	33
(18) Dairy Development ..	20.57	16.97	(-)3.60	17
(19) Forest	18.23	21.47	(+)3.24	18
(20) Industries	3.87	3.13	(-)0.74	19
(21) Mines and Minerals ..	0.71	3.79	(+)3.08	434
(22) Roads and Bridges ..	1.83	2.33	(+)0.50	27

- (a) The increase of 333 per cent over the budget estimates under the head "Taxes on Agricultural Income" was stated to be mainly due to improvement of tea industry which contributes a major portion of the agricultural income tax revenue.
- (b) According to the department, the increase of 86 per cent over the budget estimates under the head "Police" was due to larger recovery on account of supply of police to other Governments.
- (c) The increase of 40 per cent over the budget estimates under the head "Social Security and Welfare" was stated to be on account of (i) larger recoveries from the Food Corporation of India in respect of administrative charges, godown rent, transport hiring, etc., as also value of assets transferred from the Food and Supplies Department to the Food Corporation of India, (ii) larger receipts from sale of unserviceable stores and (iii) larger receipts from Government of India on account of irrecoverable loans to displaced persons written off by the State Government.

1.5 Cost of collection

Expenditure incurred on collection under the principal heads of revenue during the year 1983-84 and the percentage of cost of collection to revenue collected during the three years 1981-82 to 1983-84 are given below:

Receipt head	Gross collection during 1983-84	Expenditure on collection during 1983-84	Percentage of cost of collection to gross collection		
			1981-82	1982-83	'1983-84
(In crores of rupees)					
1. Taxes on Agricultural Income	5.76	0.34	23.0	23.0	5.9
2. Other Taxes on Income and Expenditure	20.79	0.29	1.5	1.5	1.4
3. Land Revenue* ..	58.58	9.83	34.1	24.6	16.8
4. Stamps and Registration Fees	42.32	4.69	12.4	10.8	11.1
5. State Excise ..	69.66	4.31	5.5	6.8	6.2
6. Sales Tax ..	450.06	4.49	0.8	1.0	1.0
7. Taxes on Vehicles ..	25.02	0.91	3.3	3.4	3.6
8. Taxes on Goods and Passengers	54.83	2.17	2.6	3.9	4.0
9. Taxes and Duties on Electricity	17.86	0.44	1.7	1.8	2.5
10. Other Taxes and Duties on Commodities and Services	35.29	0.09	0.4	0.3	0.3
11. Forest*	21.47	1.95	11.1	8.7	9.1

*Forest Department has several functions not directly connected with the sale of forest produce. Only direct expenditure on forest produce has been shown. Similarly, in respect of Land Revenue, direct cost of collection only has been shown.

1.6 Outstanding Inspection Reports

(i) Audit observations on incorrect assessments, under-assessments, non-levy, or short-levy of taxes, duties, fees and other revenue receipts, etc., and deficiencies in initial accounts noticed during local audit and not settled on the spot are communicated to the heads of offices and to the next higher authorities through inspection reports for prompt action. The more important irregularities are also reported to heads of departments and Government for initiating immediate corrective actions. Government have prescribed that first replies to the inspection reports should be sent by the heads of offices to the heads of departments within three weeks from the date of receipt of the inspection reports. The heads of departments, in turn, are required to transmit such replies alongwith their comments to the Accountant General within two months from the date of receipt of replies from their subordinate offices. Half-yearly statements of audit objections, awaiting settlement for want of final replies from the departmental authorities, are forwarded to the Government in June and December every year for expediting clearance of the outstanding objections.

The number of inspection reports and audit objections issued up to March 1984, which were pending settlement by the departments as on 30th September 1984, alongside corresponding figures in the preceding two years, are given below:

	As at the end of September		
	1982	1983	1984
Number of inspection reports not settled ..	2,180	2,551	2,135
Number of outstanding audit objections ..	3,304	2,741	2,369
Money value of outstanding audit objections ..	42.20	62.05	90.72
(In crores of rupees).			

Receipt-wise break-up of the inspection reports issued up to March 1984, but outstanding as at the end of September 1984, is given below:

Head of receipts	Number of inspection reports	Number of outstanding audit objections	Amount (In lakhs of rupees)
1. Agricultural Income Tax	31	36	83.30
2. Land Revenue	117	631	5,176.57
3. Stamp Duty and Registration Fees	629	289	26.63
4. Non-judicial Stamps	35	12	1.18
5. State Excise	162	192	622.20
6. Sales Tax	167	584	1,402.38
7. Motor Vehicles Tax	237	313	263.40
8. Entry Tax	481	130	130.21
9. Electricity Duty	122	21	661.00
10. Amusement Tax	81	65	167.48
11. Departmental Receipts	73	96	538.06
	2,135	2,369	9,072.41

(ii) Out of the 2,135 inspection reports awaiting settlement as at 30th September 1984, even first replies had not been received (September 1984) in respect of 1,392 inspection reports, containing 6,774 audit objections. Receipt-wise break-up of these objections is given below:

Head of receipts			Number of inspection reports	Number of audit objections	Earliest year(s) to which inspection reports pertain
1. Agricultural Income Tax .. ..	..	..	23	88	1975-76
2. Land Revenue .. ..	..	..	84	1,489	1970-72
3. Stamp Duty and Registration Fees .. .	..	..	289	1,022	1972-73
4. Non-judicial Stamps .. ..	..	..	28	52	1977-78
5. State Excise .. ..	..	..	145	411	1973-74
6. Sales Tax .. ..	..	..	95	645	1978-79
7. Motor Vehicles Tax .. ..	..	..	153	839	1972-73
8. Entry Tax .. ..	..	..	355	1,361	1972-73
9. Electricity Duty .. ..	..	..	97	396	1975-76
10. Amusement Tax .. ..	..	..	65	186	1971-72
11. Departmental Receipts .. ..	..	..	58	285	1979-80
			<u>1,392</u>	<u>6,774</u>	

CHAPTER 2

SALES TAX

2.1 Results of Audit

During the year 1983-84, test audit of records of Commercial Tax Offices revealed under-assessment of tax, amounting to Rs. 223.69 lakhs in 62 cases, which are broadly categorised as under:—

	Number of cases	Amount (In lakhs of rupees)
1. Irregular grant of exemptions/concessions ..	15	5.73
2. Incorrect determination of gross/taxable turnover ..	11	203.76
3. Incorrect computation of tax	7	1.83
4. Incorrect classification of goods	1	0.23
5. Application of incorrect rate of tax	4	1.10
6. Non-levy of penalty	5	4.51
7. Others	19	6.53
	62	223.69

A few important cases are mentioned in the succeeding paragraphs.

2.2 Irregular allowance of deductions from turnover

Under the Central Sales Tax Act, 1956, in determining the taxable turnover of a dealer, a deduction on account of tax collected by the dealer is allowed from the aggregate of the sale prices as per a prescribed formula, provided that the tax collected has not been otherwise deducted from the aggregate of the sale prices. According to the formula, the amount of such deduction directly varies with the rate of tax leviable. As per judicial pronouncement*, the deduction shall not be available unless the dealer can prove that turnover includes Central sales tax. Sales in the course of export are not taxable under the Act, while inter-State sales made to registered dealers are taxable at the concessional rate of 4 per cent (instead of the normal rate of 10 per cent), provided such sales are supported by the prescribed declarations. An inter-branch transfer of goods does not constitute a sale, for the purpose of levy of tax, when the prescribed declaration is furnished in support.

(i) In three cases, the exemptions claimed by the dealers on account of sales in the course of export and inter-branch transfer of goods outside the State during the period from May 1978 to March 1979 (which were not

*Rallis India Limited Vs. the State of Andhra (53/STC/267).

supported by the prescribed declarations), were disallowed by the assessing authority and tax at the rate of 10 per cent was levied on the taxable turnover determined, only after allowing deductions (Rs. 74,54,014) based on the tax rate of 10 per cent. Apparently, no sales tax had been collected by the dealer as he had claimed exemptions on the ground of sales in the course of export and inter-branch transfer of goods outside the State (in which cases tax is not leviable). No deduction was, therefore, admissible to the dealers. The incorrect deductions allowed resulted in under-assessment of tax amounting to Rs. 7,45,401.

On this being pointed out in audit (June 1984), the department stated (June 1984) that steps were being taken for revision of the assessment. Report on action taken is awaited (March 1985).

(ii) In assessing (March 1980) and reassessing (February 1983) a dealer on his turnover amounting to Rs. 4,29,49,808 for the year ended March 1976, the deduction on account of tax element to be allowed for determining the taxable turnover was erroneously computed as Rs. 1,78,36,042, instead of as Rs. 31,81,467. The error resulted in under-assessment of tax amounting to Rs. 8,63,394.

On the mistake being pointed out in audit (August 1983), the department made (April 1984) a *de novo* assessment by accepting further declarations from the dealer and raised an additional demand for Rs. 1,00,384. The demand was realised in June 1984.

(iii) A dealer of Calcutta showed his taxable turnover as Rs. 2,33,41,455 for the year ending March 1979 after deducting from his gross turnover an amount of Rs. 9,28,835 on account of sales tax collected by him. But the assessing officer, while determining the amount of sales tax payable by the dealer, also allowed a deduction amounting to Rs. 9,54,987, which was not correct. The mistake resulted in under-assessment of tax amounting to Rs. 44,093.

On this being pointed out in audit (April 1983), the department admitted the mistake and agreed (June 1983) to take action in the matter. Report on action taken is awaited (March 1985).

(iv) In assessments (June 1982 and December 1982) of two other dealers for the years ended June 1978 and December 1978 respectively, claims for concessional rate of tax of 4 per cent on account of sales to registered dealers were disallowed because of non-submission of the prescribed declarations by the dealers and tax at the normal rate of 10 per cent was levied. But in determining the taxable turnover, excess deductions were allowed, based on the tax rate of 10 per cent, instead of at 4 per cent at which tax was actually collected by the dealers. The mistake resulted in tax being levied short by Rs. 29,487.

On the mistakes being pointed out in audit (May and June 1984), the department agreed (May and June 1984) to take necessary action. Report on action taken is awaited (March 1985).

(v) Under the Bengal Finance (Sales Tax) Act, 1941, in determining the taxable turnover of a dealer, sales of tax-free goods specified in Schedule I to the Act are deducted from the gross turnover of the dealer. "Green tea leaves" are not included in Schedule I and accordingly their sale is taxable at the normal rate.

At Calcutta, in assessing (June 1982, and February 1983) a dealer to tax for the years ended December 1974 and December 1975, his sales of green tea leaves aggregating Rs. 2,81,276 and Rs. 90,040 respectively were wrongly deducted from his gross turnover, treating the item as tax-free goods. The incorrect deduction resulted in tax and surcharge amounting to Rs. 23,159 not being realised.

On this being pointed out in audit (May 1983), the department admitted the mistake and agreed (May 1983) to reassess the dealer. Report on reassessment is awaited (March 1985).

The above cases were reported to Government between April 1984 and August 1984; their reply is awaited (March 1985).

2.3 Irregular grant of exemption from payment of tax

(i) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sales of tea made at auctions in Calcutta and Siliguri were exempt from levy of tax under certain conditions upto August 1977. Thereafter, tax on such sales became leviable at the general rate (6 per cent upto 9th October 1977 and 7 per cent from 10th October 1977 to 31st March 1979).

In the assessment of a dealer (March 1982) for the year ended 31st March 1978, sales of tea aggregating Rs. 1,47,35,865, effected during the period from 1st September 1977 to 31st March 1978, were exempted from levy of tax, even though these sales were made after August 1977. The irregular grant of exemption resulted in under-assessment of tax and surcharge amounting to Rs. 10.50 lakhs.

On the mistake being pointed out in audit (May 1982), the department agreed (August 1983) to review the assessment. Report on action taken is awaited (March 1985).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sales of all varieties of textile fabrics made wholly or partly of cotton, staple fibre, rayon, artificial silk or wool are exempted from levy of tax. Fibre glass tapes (made of glass fibre) are not textile fabrics and their sales are accordingly assessable to tax at the rate applicable to sale of general goods.

At Calcutta, while assessing (December 1980) a dealer on his sales for the year ended 31st December 1977, sales of fibre glass tapes amounting to Rs. 44,97,318 were exempted from levy of tax. Similar sales were, however, assessed to tax during the subsequent assessment years. The irregular grant of exemption from tax on sales effected upto 31st December 1977 resulted in tax amounting to Rs. 2,80,498 (including surcharge) not being realised.

On this being pointed out in audit (November 1983), the department admitted (November 1983) the mistake and agreed to review the case. Report on action taken is awaited (March 1985).

(iii) Under section 5 of the Central Sales Tax Act, 1956, sale of goods in the course of export out of India is exempt from tax. The last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India is deemed to be the sale or purchase in the course of export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export. The Commissioner of Commercial Taxes had clarified in November 1980 that a manufacturer purchasing packing materials or boxes for use in the packing of the manufactured goods to be exported by him out of the territory of India, would not be entitled to the benefit of exemption from payment of sales tax under section 5(3) of the Central Sales Tax Act, 1956 read with section 5(2)(a)(v) of the Bengal Finance (Sales Tax) Act, 1941.

In assessing (May 1981 and September 1982) a dealer on his sales for the years ended December 1977 and December 1978 respectively, turnover amounting to Rs. 10,84,957 and Rs. 5,45,500, representing sale value of steel drums used as containers for exporting 'Sal fat oil' were exempted from levy of Central sales tax, treating the sales as in the course of export. The exemption granted was not correct in view of the aforesaid clarification given by the Commissioner of Commercial Taxes. The incorrect grant of exemption resulted in tax amounting to Rs. 1,63,045 not being realised.

On this being pointed out in audit (February 1984), the department proposed (May and August 1984) to review the assessment. Report on action taken is awaited (March 1985).

(iv) Under the Bengal Finance (Sales Tax) Act, 1941, no tax is leviable on sale of 'cotton'. However, on sale of 'absorbent cotton' (processed cotton), which is commercially different from 'cotton', tax is leviable at the general rate.

In assessing (December 1981) a dealer for the year ended March 1978, no tax was levied on sales of absorbent cotton amounting to Rs. 11,82,078. The omission resulted in under-assessment of tax and surcharge amounting to

Rs. 79,404.

On this being pointed out in audit (September 1983), the department admitted (November 1983) the mistake. Report on action taken is awaited (March 1985).

(v) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sales of cotton waste were exempt from levy of tax upto 9th July 1978. Tax at the rate of 7 per cent was leviable on such sales thereafter.

On sales of cotton waste amounting to Rs. 2,26,099, made by a dealer during the period from 10th July 1978 to 31st March 1979, tax amounting to Rs. 16,278 was leviable, but was not levied.

On this being pointed out in audit (November 1983), the department agreed (December 1983) to revise the assessment order. Report on revision is awaited (March 1985).

The above cases were reported to Government between January 1983 and July 1984; their reply is awaited (March 1985).

2.4 Irregular allowance of concessional rate

(i) Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales to Government departments are taxable at the concessional rate of 4 per cent provided such sales are supported by the prescribed declarations from the purchasing departments. Inter-State sales to co-operative societies and corporations, which are not Government departments, are, however, taxable at the rate of 10 per cent.

(a) In assessing (June 1982) a dealer of Calcutta for the year ended June 1978, sales amounting to Rs. 57,12,912, made to co-operative societies and a company, were assessed at the concessional rate of 4 per cent, instead of at 10 per cent. The mistake resulted in under-assessment of tax amounting to Rs. 3,29,591.

(b) In another case, in assessing (February 1982) a dealer of Calcutta on his sales for the year ended December 1978, sales amounting to Rs. 10,13,419, made to co-operative societies and a company, were erroneously assessed to tax at the concessional rate of 4 per cent, instead of at 10 per cent. The mistake resulted in under-assessment of tax amounting to Rs. 58,466.

The mistakes were pointed out in audit (June 1984); reply of the department is awaited (March 1985).

(ii) As per the Bengal Finance (Sales Tax) Act, 1941, read with the West Bengal Sales Tax Act, 1954 and the rules made thereunder, a registered dealer could purchase goods (other than notified commodities under the West Bengal Sales Tax Act, 1954), without payment of tax upto 6th April 1975 and at a concessional rate of tax thereafter, provided that the

goods were required by him for use directly in manufacturing, making or processing of a notified commodity, and provided also a declaration to that effect was furnished by him to the seller in the prescribed form. In the event of incorrect declaration being furnished by the dealer, he was liable to punishment, which could be compounded on payment of a sum not exceeding double the amount of tax.

At Calcutta, a dealer, engaged in the manufacture of biscuits, purchased (during the period from October 1973 to November 1977) groundnut oil valuing Rs. 49,68,804, by furnishing a declaration to the effect that the oil was intended to be used by him directly in the manufacture of biscuits. The oil so purchased was, however, given by him to another manufacturer in exchange for a different commercial product (viz., bakery grade vanaspati) having distinctive name, character and use, though derived from groundnut oil. It was confirmed by the dealer that specially-made bakery grade vanaspati only could be used for manufacturing biscuits. As the groundnut oil purchased was not directly utilised in the manufacture of biscuits, tax at the normal rate of six per cent amounting to Rs. 2,81,719 was leviable, as against Rs. 19,115 actually levied. The irregular grant of concession resulted in tax being levied short by Rs. 2,62,604. For furnishing incorrect declaration, the dealer was also liable to punishment which could be compounded on payment of an amount not exceeding Rs. 5,25,208.

On this being pointed out in audit (September 1980), the department stated (June 1983) that the groundnut oil was required by the dealer in connection with the manufacture of biscuits and that groundnut oil was converted into hydrogenated vegetable oil (by processing it at another manufacturing firm) which was used in the manufacture of biscuit. The issue of declaration form was, therefore, stated to be in order. The reply given by the department is not tenable because groundnut oil as such was not used by the dealer for the manufacture of biscuits and vanaspati which, in fact, was used by him for this purpose, was an entirely different commercial product.

(iii) As per the Bengal Finance (Sales Tax) Act, 1941, on sale of goods made by one registered dealer to another registered dealer, tax is leviable at the concessional rate of 3 per cent if the goods are to be used by the purchasing dealer directly in the manufacture (in West Bengal) of goods for sale in the State and if a declaration in the prescribed form is furnished by the purchasing dealer; otherwise, such sales are taxable at the rate of 7 per cent.

At Calcutta, on sales amounting to Rs. 82,65,721, made by a registered dealer during the year ended *Aso Bodi* 2034 GD (1977-78), tax was levied (May 1982) at the concessional rate of 3 per cent, although sales amounting to Rs. 77,29,642 only were supported by prescribed declarations. Tax levied short on sales amounting to Rs. 5,36,079, which were not supported by the prescribed declarations, amounted to Rs. 21,391.

On this being pointed out in audit (July 1983), the department admitted (August 1983) the mistake. Report on rectificatory action taken is awaited (March 1985).

The above cases were reported to Government between August 1983 and February 1984; their reply is awaited (March 1985).

2.5 Turnover escaping assessment

(i) Under the West Bengal Sales Tax Act, 1954, all dealers of notified commodities are required to compulsorily register themselves with the Sales Tax authority and all sales of such commodities, irrespective of the quantum of turnover, are liable to tax. Carrying on business without registration is an offence, punishable with simple imprisonment or with fine or both. Bricks (other than fire bricks) and roofing tiles are declared as notified commodities with effect from 1st September 1977.

Cross verification of the records of the Land Revenue department of Howrah district for the period from 1977-78 to 1983-84 with those of the Sales Tax department revealed that 89 out of 115 brick manufacturers, engaged in the business of selling bricks manufactured by them, were not registered as dealers under the Act and were, therefore, not assessed to tax. Sale value of the bricks manufactured by such manufacturers during the period from 1977-78 to 1983-84 amounted to Rs. 82,20,000 (based on the average value of bricks sold, as determined by the assessing officer in respect of other registered dealers of the district). The non-registration of these dealers resulted in tax amounting to Rs. 5.38 lakhs not being realised. The dealers were also liable to penal action for their failure to get themselves registered with the Sales Tax department.

On this being pointed out in audit (March 1984), the department stated (September 1984) that action had since been initiated for registration of the 89 dealers. Report on action taken is awaited (March 1985).

(ii) (a) In an assessment (May 1982) of a dealer of Calcutta for the year ended May 1978, sales of semi-processed and unfinished goods amounting to Rs. 19,54,776, exhibited in the certified accounts of the dealer, were omitted to be taken into account for purposes of levy of tax. The omission resulted in under-assessment of tax and surcharge amounting to Rs. 1,40,734.

On the omission being pointed out in audit (May 1984), the department agreed (May 1984) to revise the assessment. Report on action taken is awaited (March 1985).

(b) In assessing (March 1983) another dealer of Calcutta for the year ended March 1979, sales of stores valuing Rs. 3,39,000, shown in the certified accounts of the dealer, were not included in his turnover. This resulted in tax being levied short by Rs. 24,406 (including surcharge).

On the omission being pointed out in audit (May 1984), the department agreed (June 1984) to examine the case. Report on examination is awaited (March 1985).

(c) In assessing (December 1981) a dealer on his sales for the year ended December 1977, sales of inventories amounting to Rs. 2,97,363 were erroneously excluded from his gross turnover for purposes of levy of tax. The mistake resulted in under-assessment of tax and surcharge amounting to Rs. 18,547.

On the mistake being pointed out in audit (December 1982), the department agreed (February 1983) to take necessary action. Report on action taken is awaited (March 1985).

(iii) Under the Bengal Finance (Sales Tax) Act, 1941 and the Central Sales Tax Act, 1956, sales tax is levied on the aggregate of the sale prices received and/or receivable in respect of sale of any goods made during any prescribed period. The amount received or receivable on account of price difference of any goods forms part of the sale price.

(a) In assessing (April 1980 and December 1981) a dealer on his sales for the periods ended 31st March 1977 and 1978, amounts of Rs. 53,637 and Rs. 96,232 received by the dealer on account of variation in prices of goods sold within the State and those sold in the course of inter-State trade or commerce respectively in earlier years were omitted to be included in the taxable turnover of the dealer. These were also not considered for levy of tax in the assessment year to which these sales pertained. The omission resulted in tax being levied short by Rs. 12,969.

On the omission being pointed out in audit (July 1983), the department recovered the amount from the dealer in August 1983.

(b) In assessing (March 1983) a dealer on his sales for the year ended March 1979, sales of raw materials amounting to Rs. 3,08,542 were omitted to be taken into account, resulting in tax being levied short by Rs. 11,879.

On this being pointed out in audit (March 1984), the department admitted (March 1984) the mistake. Report on rectificatory action taken is awaited (March 1985).

The above cases were reported to Government between June 1983 and August 1984; their reply is awaited (March 1985).

2.6 Incorrect determination of turnover

(i) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, if a dealer fails to submit his returns within the prescribed period or submits incorrect or incomplete returns, the assessing officer shall proceed to assess the tax due to the best of his judgement after observing the formalities prescribed under the Act.

As per judicial pronouncements* in best judgement assessment, the estimation of turnover in such cases should be what the assessing officer honestly believes to be a fair estimate, after taking into consideration the circumstances and his own knowledge of the previous returns and the assessments of the assessee and all other matters which would assist him in arriving at a fair and proper estimate. The order by the assessing officer must also disclose the basis for best judgement.

The assessment of a dealer, who had failed to furnish his returns for the year ended March 1980, was completed (January 1983) on best judgement basis, determining his gross turnover at Rs. 1,00,000. The assessment order did not indicate the basis on which this figure was arrived at by the assessing officer. The average annual gross turnover of the dealer, as assessed in the previous three years, amounted to Rs. 40,95,000. There was, therefore, no rationale in determining the gross turnover of the dealer at Rs. 1,00,000 only. Based on the same annual average, gross turnover of the dealer for the year ended March 1980 was determined short by Rs. 39.95 lakhs, resulting in under-assessment of tax by Rs. 2,96,429.

On this being pointed out in audit (March 1984), the department stated (October 1984) that the assessment had since been revised and further demand for Rs. 3,75,000 (including Rs. 5,000 towards penalty) raised. The department also stated that the dealer was not traceable. Report on recovery is awaited (March 1985).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, tax is payable by a dealer on his taxable turnover, arrived at after allowing certain permissible deductions from gross turnover.

At Calcutta, in an assessment (January 1983) of a dealer, his gross turnover for the year ended March 1979 was determined on best judgement basis at Rs. 10,00,000 after rejecting the dealer's return indicating his sales as Rs. 1,27,400. The audited annual accounts of the dealer (a copy of which was available in the assessment records), however, showed that his sales during the year ended March 1979 amounted to Rs. 18,34,374. The taxable turnover had, therefore, been determined by the assessing officer short by Rs. 8,34,374. The mistake resulted in under-assessment of tax and surcharge amounting to Rs. 98,298.

On the mistake being pointed out in audit (February 1984), the department stated (October 1984) that review proceedings had since been initiated. Report on action taken is awaited (March 1985).

The above cases were reported to Government between February 1984 and June 1984; their reply is awaited (March 1985).

*NOTE—(i) *Jhagru Shaw and Others Vs. Commissioner of Commercial Taxes, West Bengal* (17/STC/1986/130).

(ii) *Dewan Hamman Manmohan Vs. State of Andhra Pradesh* (11/STC/473)

2.7 Misclassification of goods

(i) Under the West Bengal Sales Tax Act, 1954, paper of all varieties and descriptions, other than newsprint, is a notified commodity and on its sale, tax is leviable at the rate of 9 per cent (8 per cent upto 31st March 1979). 'Paper board' is a separate notified commodity under the Act and, on its sale, tax is leviable at the rate of 3 per cent with effect from 1st April 1977.

In assessing (between October 1978 and July 1982) a dealer in paper on his sales amounting to Rs. 30,27,529 made during the years ending between 30th June 1977 and 30th June 1980, tax was levied at the rate of 3 per cent, treating the commodity as "paper board", instead of at the correct rate of 8 or 9 per cent. The misclassification resulted in under-assessment of tax and surcharge amounting to Rs. 1,52,968.

On the mistake being pointed out in audit (April 1984), the department agreed (May 1984) to take necessary action. Report on action taken is awaited (March 1985).

(ii) Under the Central Sales Tax Act, 1956, certain specified items made of iron and steel are declared as goods of special importance in inter-State trade or commerce. Sales of such declared goods under the Bengal Finance (Sales Tax) Act, 1941, to registered dealers against prescribed declarations are exempt from levy of local sales tax, while such sales to unregistered dealers are liable to tax at the rate of 4 per cent. Shots and grits manufactured from iron and steel are not declared goods and, therefore, their sales are taxable at the rates prescribed for unspecified items.

In an assessment (March 1983) of a dealer of Calcutta for the year ending March 1979, sales of shots and grits amounting to Rs. 2,00,022 made to registered dealers were exempted from levy of tax and sales amounting to Rs. 45,88,891 made to unregistered dealers were assessed to tax at the rate of 4 per cent, erroneously treating them as declared goods. The misclassification resulted in under-assessment of tax and surcharge amounting to Rs. 1,55,883.

On the mistakes being pointed out in audit (April 1984), the department stated that considering the manufacturing process involved and the merits of the case, the above items were considered as declared goods. The law, however, does not permit any scope for deviating from the list of declared goods specified under the item 'iron and steel'.

(iii) Under the Bengal Finance (Sales Tax) Act, 1941, sale of calculating machines (an item specified in Schedule II to the Act) was taxable at the rate of 12 per cent, while sale of unspecified goods was taxable at the rate of 6 per cent (upto 9th October 1977).

In assessing (December 1977) a dealer of Calcutta for the year ending December 1973, sales of calculating machines amounting to Rs. 16,75,330 were assessed to tax at the rate of 6 per cent (treating these as unspecified goods), instead of at the correct rate of 12 per cent. The misclassification resulted in under-assessment of tax amounting to Rs. 86,125.

On the misclassification being pointed out in audit (May 1978), the department stated (August 1984) that this had been brought to the notice of the appellate authority, with whom the case was pending in some other connection. Report on final action taken is awaited (March 1985).

(iv) Under the West Bengal Sales Tax Act, 1954, notified commodities under the Act are subject to single point taxation. Sensitized and specially processed papers are included in the schedule of notified commodities from 1st April 1979. Photographic paper is, however, not a notified commodity and stands included in item 6 of Schedule II to the Bengal Finance (Sales Tax) Act, 1941. On its sale, tax is leviable at 12 per cent.

In assessing (July 1981) a dealer on his sales for the year ended 31st March 1980, sales of photographic paper amounting to Rs. 99,062 were exempted from levy of tax, treating it as a notified commodity, which was incorrect. The mistake resulted in tax amounting to Rs. 10,609 not being realised.

On this being pointed out in audit (April 1982), the department stated (June 1983) that photographic paper is a specially processed paper, which is a notified commodity under the West Bengal Sales Tax Act, 1954. The reply given was not correct, as sale of photographic paper continues to be taxable at 12 per cent under the Bengal Finance (Sales Tax) Act, 1941.

The above cases were reported to Government between December 1982 and September 1984; their reply is awaited (March 1985).

2.8 Application of incorrect rates of tax

(i) Under the Bengal Raw Jute Taxation Act, 1941, the occupier of a jute mill is liable to pay tax on the purchase turnover of raw jute at the rate of 4 per cent (3 per cent prior to 1st April 1980).

At Calcutta, the purchase turnover of raw jute of a dealer (occupier of a jute mill), during the period from January 1981 to December 1981, was determined (February 1983) on best judgement basis at Rs. 5,00,00,000. The assessing officer levied tax at the rate of 3 per cent on the turnover amounting to Rs. 1,02,43,084 pertaining to the period from January 1981 to March 1981 and at 4 per cent on the remaining turnover amounting to Rs. 3,97,56,916 for the period from April 1981 to December 1981, although tax on the entire turnover was leviable at the rate of 4 per cent. The mistake resulted in short levy of tax amounting to Rs. 1,02,431.

On this being pointed out in audit (June 1984), the department admitted (June 1984) the mistake. Report on action taken is awaited (March 1985).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, sales of goods included in Schedule II to the Act are liable to tax at rates higher than the rates applicable to sale of general goods.

(a) On sales of cinematographic and certain other goods (included in Schedule II) amounting to Rs. 7,00,000, made by a dealer during the year ended March 1979, tax was levied (January 1983) at 7 per cent (which rate is applicable to sale of general goods), instead of at the correct rate of 12 per cent. The mistake resulted in tax being levied short by Rs. 32,070 (including surcharge).

On the mistake being pointed out in audit (March 1983), the department agreed (March 1983) to take appropriate action in the matter. Report on action taken is awaited (March 1985).

(b) Similarly, on sales of truck mounted hydraulic cranes (included in Schedule II), made by a dealer during the period from 29th May 1978 to 31st December 1978, tax was levied (November 1982) at the rate of 7 per cent, instead of at the correct rate of 12 per cent. The mistake resulted in under-assessment of tax and surcharge amounting to Rs. 13,924.

On the mistake being pointed out in audit (March 1983), the department agreed (March 1984) to take action in the matter. Report on action taken is awaited (March 1985).

(iii) As per the Bengal Finance (Sales Tax) Act, 1941, on sales of paints and varnishes, tax is leviable at the rate of 12 per cent.

On sales of paints and varnishes aggregating Rs. 4,17,385, made by a dealer during the year ended Chaitra 1385 B.S. (14th April 1979), tax was erroneously levied at 7 per cent upto 31st March 1979 and at 8 per cent thereafter (treating the commodities as general goods) instead of at 12 per cent. The mistake resulted in tax and surcharge being levied short by Rs. 18,819.

On this being pointed out in audit (February 1984), the department admitted the mistake and agreed (February 1984) to review the case. Report on rectification is awaited (March 1985).

(iv) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules framed thereunder, sales to registered manufacturers were taxable at the rate of 2 per cent upto 9th October 1977 and at 3 per cent from 10th October 1977 to 31st March 1981, subject to production of declarations in the prescribed form from the purchasing dealers.

In assessing (November 1982) a dealer of Calcutta for the year ended December 1978, sales amounting to Rs. 15,68,465 made to registered manufacturers were taxed at the rate of 2 per cent, instead of at the correct rate of 3 per cent. The mistake resulted in under-assessment of tax amounting to Rs. 16,520.

On the mistake being pointed out in audit (May 1983), the department revised the assessment in July 1984 and raised further demand for Rs. 16,520. Report on recovery is awaited (March 1985).

(v) Under the Bengal Finance (Sales Tax) Act, 1941, on sales of fertilisers, tax is leviable at the rate of 2 per cent. 'Dolomite', being a type of mineral stone (mainly employed in making of cement and lime), is different from fertilisers and sales thereof are chargeable to tax at the rate (6 per cent upto 9th October 1977 and 7 per cent from 10th October 1977 to 31st March 1979) applicable to sale of general goods.

In the assessment of a dealer of Calcutta for the year ended Chaitra 1384 B.S. (i.e., 15th April 1977 to 14th April 1978), on sales of dolomite amounting to Rs. 2,98,938, tax was levied at 2 per cent (which rate was applicable to sale of fertilisers), instead of at the correct rate of 6 per cent upto 9th October 1977 and 7 per cent thereafter. The mistake resulted in under-assessment of tax and surcharge amounting to Rs. 14,201.

On the mistake being pointed out in audit (December 1983), the department agreed (December 1983) to review the assessment. Report on action taken is awaited (March 1985).

(vi) Under the West Bengal Sales Tax Act, 1954, with effect from 1st September 1977, on sale of fans including specified component parts thereof, tax was leviable at the rate of 12 per cent, which was raised to 13 per cent from 1st April 1979. With effect from 26th February 1980, the rate of tax on sale of specified component parts of fans was revised to 3 per cent, when these were sold to registered manufacturers and to 13 per cent, when sold to others.

In the assessment (February 1983) of a dealer for the year ended March 1979, on sales of specified component parts of fans amounting to Rs. 1,53,908 and Rs. 30,706 made to registered manufacturers and other dealers, tax was levied at the rates of 3 per cent and 7 per cent respectively, instead of at the correct rate of 12 per cent. The mistakes resulted in under-assessment of tax and surcharge amounting to Rs. 13,724.

On this being pointed out in audit (March 1984), the department agreed (March 1984) to review the assessment. Report on action taken is awaited (March 1985).

(vii) Under the Bengal Finance (Sales Tax) Act, 1941, sales of general goods were taxable at the rate of 6 per cent upto 9th October 1977 and at 7 per cent from 10th October 1977 to 31st March 1979.

In assessing (May 1982) a dealer for the year ended Ashar 1385 B.S. (17th July 1977 to 16th July 1978), his entire sales of general goods aggregating Rs. 14,67,594 were assessed to tax at the rate of 6 per cent, although part of the sales pertaining to the period from 10th October 1977 to 16th July 1978 were taxable at the rate of 7 per cent. The mistake resulted in under-assessment of tax amounting to Rs. 10,594 including surcharge.

On the mistake being pointed out in audit (November 1983), the department agreed (December 1983) to take action in the matter. Report on action taken is awaited (March 1985).

The above cases were reported to Government between August 1983 and May 1984; their reply is awaited (March 1985).

2.9 Failure to detect errors in declaration and covering statements

Under the Central Sales Tax Act, 1956 and the Bengal Finance (Sales Tax) Act, 1941, inter-State sales of goods and intra-State sales to registered dealers and manufacturers are taxable at concessional rates provided the dealer claiming such concession produces, in support thereof, declarations in the prescribed forms from the purchasing dealers.

(i) On sales amounting to Rs. 98,29,123 made by a registered dealer to a manufacturing registered dealer during the year ended December 1975, tax was levied (December 1979) at the concessional rate of one per cent. The supporting declarations contained totalling errors, as a result of which sales to the manufacturing dealers had been overstated by Rs. 15,25,488. The assessing authority's failure to detect the errors resulted in tax being levied short by Rs. 78,532.

On this being pointed out in audit, the department admitted (July 1980) the mistake and agreed to take appropriate action. Report on action taken is awaited (March 1985).

(ii) On the basis of totals of sales, as shown in the covering statements of declarations, furnished by a dealer in support of his claim for concessional rate of tax for the year ended June 1978, tax on sales amounting to Rs. 47,57,362 and Rs. 1,17,55,671 was levied at the concessional rate of 2 per cent and 3 per cent respectively. The totals in the statements were, however, overstated by Rs. 3,06,512 and Rs. 14,71,834 respectively; but the assessing authority failed to notice the same. As a result, tax was levied short by Rs. 71,239.

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On the failure being pointed out in audit (May 1984), the department agreed (May 1984) to revise the assessment. Report on rectification is awaited (March 1985).

(iii) Under the Central Sales Tax Act, 1956 and the rules made thereunder, any subsequent sale of goods in course of their movement from one State to another, effected by transfer of documents of title to such goods, is exempt from levy of tax, provided such subsequent sale is supported by prescribed declarations/certificates.

In assessing (February 1982) a dealer of Calcutta on his sales for the year ended December 1978, his claim for exemption from levy of tax on subsequent sales amounting to Rs. 21,70,187 was allowed on the basis of the total of such sales shown in the covering statement of declaration forms filed by the dealer. But the total in the statement was overstated by Rs. 5,15,104. The assessing authority's failure to detect this mistake resulted in tax amounting to Rs. 46,828 not being realised.

On the failure being pointed out in audit (May 1984), the department agreed (May 1984) to take necessary action for realisation of tax. Report on action taken is awaited (March 1985).

(iv) In the assessment (July 1982) of a dealer for the year ended October 1978, the dealer's claim for the concessional rate of tax at 4 per cent on inter-State sales of Rs. 7,47,903 was allowed on the basis of the total (Rs. 7,47,903) shown in the statement of declaration forms filed by him. It was, however, noticed in audit (September 1983) that the total of the statement was overstated by Rs. 4,32,598. The failure of the department to detect this mistake resulted in tax being levied short by Rs. 22,689.

On this being pointed out in audit (September 1983), the department admitted the mistake and agreed (November 1983) to realise the amount short assessed. Report on action taken is awaited (March 1985).

(v) In assessing (October 1981) another dealer on his sales for the year ended October 1977, the dealer's claim for concessional rates of tax on sales to registered dealers for resale and for manufacturing purposes was allowed on the basis of totals of Rs. 4,79,157 and Rs. 4,32,166 respectively shown in the statements of declarations produced by him. The totals of the statements were overstated by Rs. 99,874 and Rs. 1,21,964 respectively, which remained unnoticed during assessment. This resulted in tax being levied short by Rs. 10,119.

On this being pointed out in audit (September 1983), the department admitted the mistake and agreed (November 1983) to realise the tax short-assessed. Report on recovery is awaited (March 1985).

(vi) In the assessment of a dealer of Calcutta for the year ended June 1978, made in June 1982, tax was levied at the concessional rate of 4 per cent on sales amounting to Rs. 53,43,517 as shown in the covering list of

declarations filed by the dealer. A scrutiny of this list in audit, however, revealed that the total had been overstated by Rs. 5 lakhs. Non-verification of the total of the list by the assessing authority, thus resulted in turnover amounting to Rs. 5 lakhs escaping taxation and consequent under-assessment of tax by Rs. 26,223.

On this being pointed out in audit (May 1983), the department admitted the mistake and agreed (June 1983) to realise the tax short levied. Further development is awaited (March 1985).

(vii) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sales of goods (mentioned in Schedule II to the Act), made by one registered dealer to another registered dealer for resale inside the State, qualify for deduction from the gross turnover, provided prescribed declarations are furnished in support of such sales.

In finalising (October 1981) the assessment of a dealer for the year ended October 1977, a deduction amounting to Rs. 5,15,156 was allowed on account of sales of goods mentioned in Schedule II. A scrutiny in audit of the covering statement of declarations, however, showed that the total of the sales shown in the statement was overstated by Rs. 1,45,916, which escaped the notice of the assessing authority. This resulted in tax (including surcharge) being levied short by Rs. 17,190.

On this being pointed out in audit (September 1983), the department admitted (November 1983) the mistake and agreed to realise the tax levied short. Report on recovery is awaited (March 1985).

The above cases were reported to Government between October 1980 and August 1984; their reply is awaited (March 1985).

2.10 Mistakes in computation

(i) The sales turnover of a dealer in respect of beer, India-made foreign liquor and imported foreign liquor for the period from 1st January 1978 to December 1978 was erroneously determined at Rs. 28,75,382, Rs. 3,76,914 and Rs. 33,671 instead of at Rs. 17,74,678, Rs. 8,83,601 and Rs. 1,54,080 respectively. The mistake resulted in tax being levied short by Rs. 1,00,562 (including surcharge).

On this being pointed out in audit (February 1984), the department admitted (February 1984) the mistake. Report on rectificatory action taken is awaited (March 1985).

(ii) In the assessment of a dealer of Calcutta for the year ended 2036 R.N. (1978-79), made in March 1983, his taxable turnover was erroneously determined at Rs. 10,11,931 instead of at Rs. 20,11,931. The mistake resulted in tax and surcharge being levied short by Rs. 71,995.

On this being pointed out in audit (February 1984), the department admitted the mistake and agreed (February 1984) to take action in the matter. Report on rectification is awaited (March 1985).

(iii) In Calcutta, in finalising (July 1982) assessment of a dealer for the year ended July 1978, tax at the rate of 15 per cent leviable on his taxable turnover of Rs. 25,95,000 was wrongly computed as Rs. 3,37,350 instead of as Rs. 3,89,250. The mistake resulted in tax being levied short by Rs. 57,090 (including surcharge).

On the mistake being pointed out in audit (September 1983), the department agreed (November 1983) to review the assessment. Report on rectification is awaited (March 1985).

(iv) In reassessing (July 1983), a dealer on his sales of goods amounting to Rs. 4,57,281, tax was erroneously computed as Rs. 49,660 instead of as Rs. 59,332, resulting in short-realisation of tax amounting to Rs. 10,639 (including surcharge).

On the mistake being pointed out in audit (August 1983), the department recovered the amount in April 1984.

(v) In assessing (March 1983) a dealer on his sales amounting to Rs. 4,80,38,603 during the year ended March 1979, tax at different rates was erroneously computed as Rs. 15,46,219 instead of as Rs. 15,67,446. The mistake resulted in undercharge of tax and surcharge amounting to Rs. 21,227.

On the mistake being pointed out in audit (August 1983), the department revised the assessment in June 1984. Report on recovery is awaited (March 1985).

(vi) At Calcutta, the gross turnover of a dealer and allowable deduction therefrom for the year ended June 1978 amounted to Rs. 6,61,88,670 and Rs. 3,84,28,759 respectively. The taxable turnover thus worked out to Rs. 2,77,59,911, but by mistake, tax was levied on sales amounting to Rs. 2,74,59,911. The mistake resulted in under-assessment of sales by Rs. 3,00,000 and consequent short levy of tax and surcharge by Rs. 21,599.

On the mistake being pointed out in audit (June 1984), the department agreed (June 1984) to revise the assessment. Report on rectification is awaited (March 1985).

(vii) In respect of the assessment year 1978-79, the deductions admissible to a dealer amounted to Rs. 12,39,669, but erroneously he was allowed (January 1983) deductions amounting to Rs. 14,39,669. The excess deduction of Rs. 2,00,000 resulted in under-assessment of tax (including surcharge) amounting to Rs. 14,399.

On the mistake being pointed out in audit (May 1983), the department agreed (June 1983) to revise the assessment. Report on action taken is awaited (March 1985).

(viii) In assessing (March 1983) a dealer on his sales for the year ended March 1979, the amount of tax payable after adjustment of advance tax paid was erroneously computed as Rs. 1,20,462 instead of as Rs. 1,32,262, resulting in under-assessment of tax amounting to Rs. 11,800.

On this being pointed out in audit (August 1983), the department admitted the mistake (August 1983). Report on rectification is awaited (March 1985).

The above cases were reported to Government between March 1984 and August 1984; their reply is awaited (March 1985).

2.11 Non-levy of turnover tax

Under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954, a dealer, whose aggregate gross turnover during the last year ending on or before 31st March 1979, exceeded Rs. 50 lakhs, is liable to pay turnover tax at the prescribed rate from 1st April 1979.

(i) No turnover tax was levied and collected for the year 1979-80 in respect of a dealer of Calcutta who became liable to pay tax from 1st April 1979. Turnover tax not levied amounted to Rs. 22,424.

On this being pointed out in audit (September 1983), the department admitted the omission (September 1983). Report on rectification is awaited (March 1985).

(ii) On gross turnover of a dealer amounting to Rs. 72,50,090 for the period ended AB 2036 GD (1979-80), assessed in March 1983, turnover tax was not levied although his gross turnover in the previous year ending October 1978 exceeded Rs. 50,00,000.

Similarly, on gross turnover of another dealer amounting to Rs. 26,23,141 for the period ended Chaitra 1386 BS (1979-80), turnover tax was not levied although his turnover in the previous year ending April 1978 exceeded Rs. 50,00,000. The omissions resulted in turnover tax amounting to Rs. 49,366 not being realised in these cases.

On the omissions being pointed out in audit (January 1984), the department stated (November 1984) that the matter regarding levy of turnover tax in the case of first dealer was being taken up and in the case of the other dealer turnover tax amounting to Rs. 13,116 had since been realised (August 1984). Report on action taken in the case of first dealer is awaited (March 1985).

(iii) In Malda district, in assessments of a dealer, for the years ended March 1980 and March 1981, made in November 1982, no turnover tax was assessed and realised, though his aggregate gross turnover during the year ending on or before 31st March 1979 exceeded the specified limit. This resulted in non-realisation of turnover tax amounting to Rs. 22,000 and Rs. 23,000 respectively (calculated at the rate of one per cent on the taxable turnover of Rs. 22,00,000 and Rs. 23,00,000 during the aforesaid periods).

On this being pointed out in audit (August 1983), the department agreed (August 1983) to levy turnover tax. Report on recovery is awaited (March 1985).

The above cases were reported to Government between January 1984 and May 1984; their reply is awaited (March 1985).

2.12 Non-levy of purchase tax

Under the Bengal Finance (Sales Tax) Act, 1941, every dealer, who purchases goods for use in execution of contracts and whose notified purchase price paid or payable during the year ending on or before 31st March 1979 exceeded rupees two lakhs is liable to pay a purchase tax at the prescribed rate from 1st April 1979. The purchase tax is payable in addition to the tax payable by him under sections 5 and 6B of the Act.

(i) In respect of a ship-repairing dealer, whose purchases of goods for use in the execution of contracts during the year ended 31st May 1978 exceeded rupees two lakhs, purchase tax amounting to Rs. 35,333 on his notified purchases (amounting to Rs. 35,33,258), made during the subsequent period from June 1979 to May 1982, was omitted to be levied.

On the omission being pointed out in audit (August 1983), the department stated (September 1984) that the assessments had been reviewed (November 1983) and the demands were being pursued. Report on recovery is awaited (March 1985).

(ii) At Calcutta, a ship-repairing dealer, purchased goods for over rupees two lakhs for use in the execution of contracts during the year ending June 1978. On his notified purchases for Rs. 18,98,477, made during the period from April 1979 to June 1980, purchase tax amounting to Rs. 18,985 was leviable but was not levied.

On the omission being pointed out in audit (July 1983), the department stated (September 1984) that revision proceedings has been initiated with respect to the assessment year ended June 1979. Further development is awaited (March 1985).

The above cases were reported to Government in April 1984; their reply is awaited (March 1985).

2.13 Non-levy or short-levy of surcharge and additional surcharge

Under the Bengal Finance (Sales Tax) Act, 1941, if the annual gross turnover of a dealer exceeds Rs. 5 lakhs, he is liable to pay a surcharge (including additional surcharge) at the rate of 10 per cent on the total amount of the sales tax payable by him.

(i) Although the gross turnover of a dealer for two consecutive assessment years ended 2034 K.B. (24th October 1976 to 11th November 1977) and 2035 K.B. (12th November 1977 to 31st October 1978) amounted to Rs. 25 lakhs and Rs. 20 lakhs respectively, surcharge (including additional surcharge) was not levied resulting in surcharge amounting to Rs. 16,867 not being realised.

On the omission being pointed out in audit (March 1984), the department agreed (March 1984) to revise the assessments. Report on rectification is awaited (March 1985).

(ii) In assessing (February 1983) a dealer for the year ended March 1979, surcharge and additional surcharge on sales tax amounting to Rs. 1,62,856 was erroneously calculated at one per cent instead of at ten per cent. The mistake resulted in surcharge and additional surcharge being levied short by Rs. 14,657.

On this being pointed out in audit (November 1983), the department stated (July 1984) that assessment had been reviewed and fresh notice issued asking the dealer to deposit additional dues. Report on recovery is awaited (March 1985).

The above cases were reported to Government between February 1984 and July 1984; their reply is awaited (March 1985).

2.14 Non-levy of penalty for concealment of sales

As per the Bengal Finance (Sales Tax) Act, 1941, if a dealer, in the return submitted by him, furnishes incorrect particulars of his sales with intent to reduce the amount of tax payable by him, he is liable to pay, by way of penalty, a sum not exceeding one and a half times the amount of tax payable in respect of the sales concealed by him. The Central Sales Tax Act, 1956 provides that the same penal provisions, as are contained in the general sales tax law of the respective State, shall also be applicable in cases where incorrect particulars are furnished in the returns submitted by a dealer under the Central Act.

(i) At Calcutta, a dealer, in his returns, had shown his sales during the year ended June 1970 as Rs. 1,79,349. At the time of assessment, however, he disclosed the amount of his sales as Rs. 27,89,798. For concealment of part of his sales in the returns, penalty not exceeding Rs. 1,49,564 was leviable on the dealer, but was not levied.

On the omission being pointed out in audit (June 1983), the department stated (November 1984) that a penalty of Rs. 1,12,000 had since been imposed on the dealer, and that the matter had been referred to the Certificate Officer for realisation of the dues. Report on realisation is awaited (March 1985).

(ii) In assessing (January 1983) a dealer on his sales for the year ending *Aso Sudi* 2038 (1980-81), no penalty was imposed for suppression of sales of poppy seeds amounting to Rs. 1,10,000, although the sales were taken into account for purposes of levy of tax. Maximum amount of penalty leviable in this case amounted to Rs. 12,243.

On this being pointed out in audit (September 1983), the department admitted (May 1984) the mistake and agreed to take action. Report on action taken is awaited (March 1985).

The above cases were reported to Government between January 1984 and April 1984; their reply is awaited (March 1985).

2.15 Affording of excess credit

Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, a dealer is required to furnish, along with his returns, treasury challans showing the amount of tax deposited by him on the basis of his returns. The amount so deposited by the dealer is adjusted against the tax assessed at the time of final assessment.

At Calcutta, in the assessment (February 1982) of a dealer for the year ended Chaitra 1384 B.S. (14th April 1977 to 14th April 1978), credit on account of tax deposited by the dealer in August 1977 was allowed for Rs. 1,67,599, although as per the treasury challan submitted by him along with his first quarterly return, the tax actually deposited amounted to Rs. 1,16,599. The mistake resulted in short assessment of tax by Rs. 51,000.

On this being pointed out in audit (February 1984), the department admitted the mistake and agreed (March 1984) to realise the tax short assessed. Report on recovery is awaited (March 1985).

The case was reported to Government in July 1984; their reply is awaited (March 1985).

CHAPTER 3

TAXES ON VEHICLES

3.1 Results of Audit

Test check of the accounts on motor vehicles tax in various offices under the Home (Transport) Department, conducted in audit during the year 1983-84, revealed non-realisation or short-realisation of revenue amounting to Rs. 20.71 lakhs in 575 cases, which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation or short-realisation of road tax, penalty, and fees	235	7.79
2. Incorrect fixation of registered laden weight...	61	1.35
3. Application of incorrect rate of tax	103	0.62
4. Unauthorised plying of vehicles without payment of road tax	20	7.31
5. Others	156	3.64
	575	20.71

Besides, motor vehicles records were not produced by the departmental authorities to Audit in 1,272 cases, involving tax effect of Rs. 26.09 lakhs.

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

3.2 Non-levy of road tax from the dates of purchase of vehicles

Under the West Bengal Motor Vehicles Tax Act, 1979, every person, who owns or keeps in his possession or control any motor vehicle, is liable to pay road tax at the prescribed rate. Vehicles maintained for military purposes are, however, exempt from levy of tax. The tax is payable in advance and, when a vehicle has not been used for a certain period, on application of the owner, the taxing authority may, after satisfying itself about the non-use of the vehicle, refund or remit tax for the period for which the vehicle has not been used. Under the rules for claiming remission of tax, it is obligatory on the part of the vehicle owner to surrender the registration certificate, etc., to the department. *Ex post facto* remission of tax is not permissible where registration certificate has not been obtained for a vehicle. As per the provisions of the Motor Vehicles Act, 1939, in case of transfer of ownership of a vehicle, it is incumbent upon the transferee to report such transfer to the registering authority within 30 days of the transfer.

In three regional offices in three districts [24-Parganas (N), Howrah and Birbhum], 25 ex-army transport vehicles were purchased by various persons through auctions held between July 1975 and December 1982. Necessary information of such transfer or prescribed declarations were not furnished, nor were any application for remission of tax made by such persons to the registering authority. These vehicles were produced for registration between January 1982 and November 1983, i.e., 1½ years to 7 years after the dates of purchase. Road tax in respect of these vehicles was realised from the dates of registration instead of from the dates of purchase. The omission to levy tax from the dates of purchase resulted in tax being levied short by Rs. 1,83,400.

On this being pointed out in audit (July-August 1983), the department stated (August 1983-March 1984) that road tax could not be realised as the vehicles were not registered and were also not fit for plying on the road. The reply is not tenable as under the West Bengal Motor Vehicles Tax Act, 1979, road tax became payable as soon as the ownership of ex-military vehicles was transferred on auction sale.

The matter was reported to Government in February-March 1984. Government directed (6th March 1984) all the registering authorities that tax in such cases should be collected from the dates of purchase of the vehicles. Government also stated that the feasibility of making rules for registration of disposal vehicles was under consideration. Report on action taken is awaited (March 1985).

3.3 Short realisation of road tax on seized vehicles

Under the West Bengal Motor Vehicles Tax Act, 1979, a vehicle may be seized and detained by the authorised officer, if it plies on road without payment of road tax. The vehicle so seized may be released, if payment of the tax due, together with the prescribed penalty, is made by the vehicle owner to the taxing officer within 30 days of the detention of the vehicle. In the event of non-payment of tax and the penalty, the vehicle may be sold, unless, within a further period of 15 days, five times the annual tax due is paid by the vehicle owner.

(i) In Asansol region, two transport vehicles were seized on 15th September 1982 and 13th October 1982 respectively for non-payment of tax from February 1980 onwards. The vehicles were detained up to 24th March 1983 and 31st March 1983 respectively. As the period of detention exceeded 45 days, the vehicle owners were liable to pay Rs. 2,02,628 being five times the amount of annual tax. But the vehicles were released on realisation of Rs. 80,098 (tax Rs. 40,526 and penalty Rs. 39,572) only. This resulted in short-realisation of revenue to the extent of Rs. 1,22,530.

On this being pointed out in audit (August 1983), the taxing authority stated (August 1983) that realisation of five times the annual tax was not

mandatory. The view of the department is not tenable in view of the specific provision of the Act.

(ii) Similarly, in Midnapur region, a transport vehicle was seized by the authorised officer on 18th October 1982 for non-payment of tax from November 1980. The vehicle was detained up to 7th January 1983, but the tax due along with penalty was not paid by the registered owner of the vehicle during the period of detention. As the period of detention of vehicle exceeded 45 days, the registered owner of the vehicle was liable to pay Rs. 46,980, being five times the amount of annual tax due. But the vehicle was released on 8th January 1983 on realisation of only Rs. 18,792 (tax Rs. 9,396 and penalty Rs. 9,396) from the owner. The non-observance of the aforesaid provisions of the Act resulted in short-realisation of revenue to the extent of Rs. 28,188.

On the short realisation being pointed out in audit (July 1983), the department stated (July 1983) that the matter had been referred to the concerned registering authority for action. Report on action taken is awaited (March 1985).

The above cases were reported to Government in March 1984; their reply is awaited (March 1985).

3.4 Irregular fixation of seating capacity in respect of stage carriages

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax in respect of public service vehicles is assessed at the prescribed rates on the basis of their seating capacity. The Bengal Motor Vehicles Rules, 1940 lay down the norms for minimum seating space for each passenger. Government had instructed the registering authorities in January 1974 that the minimum seating capacity in respect of each vehicle should be fixed in accordance with the prescribed norms so that variations in seating capacity in respect of vehicles of the same make, model and wheel base should not occur.

In West Dinajpur, Midnapore (East) and Midnapore (West), the minimum seating capacity was not prescribed beforehand in respect of vehicles having the same make, model and wheel base. As a result, tax at different rates was levied, based on different seating capacities adopted by the vehicle owners. Out of the 73 cases checked in audit, the seating capacity was found to have varied between 38 and 49 seats in 34 cases and between 39 and 50 seats in 39 cases of vehicles of same categories. Taking the seating capacity of each of these vehicles as 49/50 seats, the tax levied short for the periods between July 1976 and July 1983 amounted to Rs. 1.05 lakhs.

On the omission to fix the seating capacity being pointed out in audit (June-July 1983), two registering authorities agreed (July 1983) to review

the cases and one registering authority stated (June 1983) that Government order for fixation of the minimum seating capacity had not been received by him. Report on final action taken is awaited (March 1985).

The matter was reported to Government in February-May 1984; their reply is awaited (March 1985).

3.5 Short levy of tax on articulated vehicles

As per the Motor Vehicles Act, 1939, an "articulated vehicle" means a tractor to which a trailer is attached in such a manner that a part of the trailer is superimposed on, and a part of the weight of the trailer is borne by, the tractor. The combination of the tractor and trailer is a transport vehicle as clarified (July 1975) by Government. In terms of the Bengal Motor Vehicles Rules, 1940, the registered laden weight of a transport vehicle shall be fixed at 125 per cent of the maximum laden weight, as certified by the manufacturer. Road tax is leviable on the basis of the registered laden weight. Rate of tax on transport vehicle is higher than that leviable on a trailer.

(i) On three articulated vehicles registered at Jalpaiguri between January 1980 and April 1980, road tax was levied at the rate applicable to trailers, instead of at the rate applicable to transport vehicles. The mistake resulted in under-assessment of tax amounting to Rs. 22,326 for various periods between January 1980 and December 1983.

On the mistake being pointed out in audit (January 1984), the department agreed (January 1984) to realise the tax short levied. Report on recovery is awaited (March 1985).

(ii) In Calcutta region, an articulated vehicle was registered in March 1981. The maximum laden weight of the vehicle being 32,522 kgs. (as certified by the manufacturer), the registered laden weight should have been fixed at 40,652 kgs. (i.e., at 125 per cent of 32,522 kgs.), but it was erroneously fixed at 28,450 kgs. The mistake resulted in under-assessment of road tax amounting to Rs. 15,475 during the period from March 1981 to August 1983.

On the mistake being pointed out in audit (December 1983), Government stated that the fixation of the registered laden weight was made inadvertently. The registering authority also agreed (December 1983) to take necessary action. Report on action taken is awaited (March 1985).

The above cases were reported to Government in July and August 1984; their reply is awaited (March 1985).

3.6 Escapement of road tax

The Motor Vehicles Act, 1939, provides that in case of registration of a vehicle on transfer of ownership from one region to another, the transferee shall report such transfer to the new registering authority within 30 days of the transfer and shall forward the certificate of registration to the new registering authority together with a "no objection certificate" issued by the previous registering authority. The new registering authority is required to communicate the fact of transfer of ownership to the previous registering authority.

(i) A vehicle which was registered in Howrah region was, on transfer of ownership in January 1980, registered in Calcutta region on the basis of a "no objection certificate" purporting to have been issued by the registering authority in Howrah region. The registering authority in Calcutta region, however, did not intimate the fact of registration to the previous registering authority in Howrah region. A cross checking in audit of the records of the registering authority in Howrah region with those of the registering authority in Calcutta region showed that the previous vehicle owner had not paid road tax for the period from April 1976 to December 1979, that the road permit of the vehicle had been cancelled in the year 1977 and that the registration had been suspended in the year 1978 for default in payment of tax. On an enquiry in audit, the registration authority, Howrah, also stated (April 1982) that he had not issued any "no objection certificate" in this case. The registering authority at Calcutta later reported (February 1984) that "no objection certificate", on the basis of which he had registered the vehicle in January 1980 had since been misplaced somewhere and was not available. Apparently, this "no objection certificate" was fake; but this fact went unnoticed since the registering authority at Calcutta had failed to communicate the fact of registration done by it on change of ownership of the vehicle to the previous registering authority in Howrah. The failure resulted in escapement of road tax amounting to Rs. 25,390 in respect of this vehicle for the period from April 1976 to December 1979.

The case was reported to Government in August 1984; their reply is awaited (March 1985).

(ii) A vehicle registered at Jalpaiguri was removed to Haryana in September 1976 without payment of road tax for the period from 1st January 1975 to 31st August 1976. Before issuing the "no objection certificate" for registration of the vehicle in Haryana, the registering authority at Jalpaiguri did not insist upon the realisation of road tax for the above period from the vehicle owner. The omission resulted in road tax and penalty amounting to Rs. 10,719 not being realised.

On the omission being pointed out in audit (December 1980), Government stated (January 1984) that the case had been referred to the concerned registering authority in Haryana for realisation of the dues. Report on recovery is awaited (March 1985).

3.7. Short realisation of road tax on temporary permits

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax at prescribed weekly rates is payable in respect of vehicles which are registered in other States and are brought into West Bengal under temporary permits.

In Calcutta region, in respect of 172 transport vehicles, which were registered in other States, and were brought into West Bengal on temporary permits between October 1981 and March 1983, tax amounting to Rs. 16,458 was recovered short owing to mistakes in calculation of tax.

On this being pointed out in audit (December 1983), the department admitted (February 1984) the mistakes and agreed to take necessary steps for realisation. Report on recovery is awaited (March 1985).

The case was reported to Government in August 1984; their reply is awaited (March 1985).

3.8 Short-realisation of road tax due to non-verification of demands

As per the West Bengal Motor Vehicles Tax Act, 1979 and the rules made thereunder, owners of motor vehicles are required to deposit such amounts of tax as are certified by the taxing officer to be correct with reference to the tax demand register in which demands and collections of tax are recorded.

In Calcutta region, in respect of 60 transport vehicles, tax was accepted without proper verification of the demands resulting in short realisation of tax amounting to Rs. 13,043.

On this being pointed out in audit (October 1983), the department admitted the mistake and realised (October 1983—August 1984) Rs. 2,154 from owners of 6 transport vehicles. Report on recovery of the balance amount is awaited (March 1985).

The matter was reported to Government in August 1984; their reply is awaited (March 1985).

3.9 Non-realisation or short-realisation of penalty for belated payment of road tax

Under the West Bengal Motor Vehicles Tax Act, 1979, the registered owner of a motor vehicle is required to pay road tax within the prescribed period, including a grace period of 15 days. In the event of delay in making the payment, penalty is leviable at varying rates, ranging from one-fourth of the amount of tax to the full amount of tax, depending upon the period of delay in payment.

In five districts (Tamluk, Darjeeling, Cooch Behar, Purulia and 24-Parganas), penalty for delay in payment of tax was not levied in 115 cases, while it was levied at incorrect rates in 2 cases. The omission resulted in non-realisation or short-realisation of penalty amounting to Rs. 29,999.

On this being pointed out in audit (between June 1983 and January 1984), the department agreed (June 1983—January 1984) to realise the penalty. Report on recovery is awaited (March 1985).

The matter was reported to Government (March 1984—May 1984); their reply is awaited (March 1985).

3.10 Irregular grant of rebate on road tax

As per the West Bengal Motor Vehicles Tax Act, 1979, the registered owner of a vehicle is required to pay road tax in respect thereof within the prescribed period, including a grace period of 15 days. If in respect of transport vehicles, road tax for a full year is paid in advance, a rebate at the rate of 5 per cent of the tax is allowed to the vehicle owner. As clarified by the department in March 1981, the rebate is not admissible in cases where road tax for full year is paid by the vehicle owner during the grace period of 15 days.

In three regional offices (Cooch Behar, Siliguri and Calcutta), 5 per cent rebate in tax was allowed in respect of 72 vehicles during May 1980 to October 1983 even though the annual road tax had been deposited by the vehicle owners during the grace period of 15 days. The rebate irregularly granted to the vehicle owners amounted to Rs. 11,972.

On this being pointed out in audit (November-December 1983), two taxing authorities admitted the mistake and agreed (December 1983) to take necessary action. Report on recovery and the action taken by the third taxing authority (at Calcutta) are awaited (March 1985).

The matter was reported to Government in April-August 1984; their reply is awaited (March 1985).

CHAPTER 4

STATE EXCISE

4.1 Results of Audit

Test check of records of the excise offices, conducted in audit during the year 1983-84, revealed short collection of excise duty amounting to Rs. 12,064.28 lakhs in 27 cases, which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short-levy of excise duty/fee ..	10	11,950.25
2. Non-levy of duty on chargeable wastage of spirit ..	4	6.77
3. Loss of spirit in redistillation '	4	94.55
4. Others	9	12.71
	27	12,064.28

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

4.2 Excise duty on rectified spirit produced in distilleries

Levy and collection of State excise duties are governed by the provisions of the Bengal Excise Act, 1901 and the rules framed thereunder. Revenue from the State excise duties during the years 1981-82, 1982-83 and 1983-84 amounted to Rs. 58.06 crores, Rs. 60.36 crores and Rs. 69.66 crores respectively. About 86 per cent of this revenue came from duty levied on liquor produced in the distilleries situated within the State or imported from outside the State.

(a) Loss of revenue due to short-fall in production of rectified spirit

Production of spirit in the distilleries is dependent on allotment and availability of molasses. The table below indicates the intake capacity of *five distilleries for consumption of molasses, quantities of molasses actually allotted by Government and quantities lifted by the distilleries for consumption during the years 1980-81 to 1982-83:

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- *1. M/s. Carew & Co. Ltd., Asansol.
 2. M/s. Shaw Wallace & Co.Ltd., Hooghly.
 3. M/s. Serampore Distillery & Chemical Co. (P) Ltd., Hooghly.
 4. M/s. Prakash Distillery & Chemical Co. (P) Ltd., Darjeeling.
 5. M/s. Eastern Distillery (P) Ltd., Calcutta.

Year	Intake capacity	Molasses allotted*	Molasses lifted for consumption*	Short fall in consumption of molasses	Percentage of allotment to capacity	Percentage of consumption to capacity
(Metric tonnes)						
1980-81	.. 50,000	12,950	10,550	2,400	26	21
1981-82	.. 50,000	30,524	23,328	7,196	61	47
1982-83	.. 50,000	50,319	13,040	37,279	101	26

No proper records showing the quantities lifted by the distilleries against allotments made by Government had been maintained by the department.

Intake capacity of the distilleries was utilised to the extent of 21 to 47 per cent only. By reference to allotment of molasses, shortfall in consumption of molasses resulted in 175.08 lakhs London proof litres of spirit not being produced by distilleries, on which duty amounting to Rs. 106.79 crores would have accrued to Government. The Excise Directorate attributed the shortfall in consumption to lack of adequate storage facilities in the distilleries and transport bottlenecks.

(b) Transit|storage loss of molasses

There is no provision in the West Bengal Molasses Control Act, 1973, or the rules made thereunder, laying down any limit for losses to be allowed on molasses in transit or in storage. The Public Accounts Committee in their Report for 1976-77 (Part II) had recommended that the department should consider the question of laying down a statutory percentage of allowable loss, in transit, of molasses and arrive at a suitable decision without any further loss of time. However, no such percentage of allowable loss has been prescribed so far (March 1985).

In one distillery (Asansol), during 1981-82, 1426.6 metric tonnes of molasses were lost in storage and 78.1 metric tonnes were received short out of 631.2 metric tonnes of molasses imported from other States. The quantities lost in storage and transit could have yielded 5.62 lakhs London proof litres of spirit at the normal yield rate, on which duty amounting to Rs. 3.43 crores could have been realised by Government.

(c) Low yield of spirit

Spirit is recovered by distillation of fermented wash (i.e., diluted molasses acidified with sulphuric acid) prepared out of molasses. The Central Board of Molasses had fixed a norm of recovery of 373.5 London proof litres of spirit from every tonne of molasses. No norm had, however, been laid down in West Bengal so far (March 1985).

*Figures as per returns furnished by the distilleries.

During the years 1980-81 to 1982-83, in the five distilleries only 124.28 lakhs* London proof litres of spirit were recovered from 37,289 metric tonnes* of molasses, as against 139.27 lakhs London proof litres of spirit recoverable as per the norms laid down by the Central Board of Molasses. The shortfall of 14.99 lakhs London proof litres of spirit involved excise duty amounting to Rs. 9.14 crores.

Similar instances of low yield of spirit from molasses having duty effect of Rs. 31.79 lakhs were also reported in paragraph 84 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1975-76.

The department stated (June 1983) that the low yield was mainly due to—

- (i) low sugar content in molasses;
- (ii) continued use of old machinery; and
- (iii) deterioration in quality of molasses due to long storage.

(d) Loss of revenue on wastage of spirit in process of re-distillation

There is no provision in the rules for allowing any wastage on account of re-distillation of rectified spirit for manufacture of India-made foreign liquor in the various distilleries in West Bengal. However, in Maharashtra a norm of 2 per cent wastage in re-distillation has been fixed for arriving at the quantity used in manufacture. In three distilleries** in West Bengal, the percentage of wastage in re-distillation during the years 1980-81 to 1982-83 ranged between 0.3 and 18.56 per cent. Even after allowing a wastage of 2 per cent, as applicable in Maharashtra, the excess wastage in these distilleries amounted to 1.50 lakhs London proof litres involving excise duty amounting to Rs. 91.62 lakhs.

(e) Under-assessment of duty on rectified spirit

(i) As per the West Bengal Excise Compilation Part II, the allowable percentage of wastage of spirit while in storage in a distillery is 1.5 per cent per annum. Any wastage beyond this limit is chargeable to duty, unless waived by the Commissioner of Excise for sufficient reasons. The rate of duty on spirit was raised from Rs. 35 to Rs. 61 per London proof litre with effect from 1st April 1980.

In a distillery (Asansol), the total wastage, allowable wastage and chargeable wastage for the year ending March 1982 were determined at 46,090, 38,471 and 7,619 London proof litres respectively. But due to an

*Excludes figures for 1980-81 in respect of Shaw Wallace & Co. Ltd., Hooghly, which were not available.

**M/s. Carew & Co.; M/s. Bengal Distillery and M/s. Eastern Distillery.

arithmetical mistake, the allowable wastage had been determined in excess by 3,235 London proof litres which, in turn, had resulted in the chargeable wastage being determined short to that extent. Further, even on the incorrect chargeable quantity of 7,619 London proof litres, duty was levied at the old rate of Rs. 35 per London proof litre, instead of at the revised rate of Rs. 61 per London proof litre. The mistake resulted in duty being realised short by Rs. 3.95 lakhs.

(ii) During the years 1980-81 and 1981-82, 45,989 and 1,32,722 London proof litres of rectified spirit were transferred from rectified spirit warehouse for re-distillation and manufacture of India-made foreign liquor. On transfer, these quantities were duly shown as issued from stock. However, after re-distillation, 31,463 and 65,685 London proof litres of re-distilled spirit were wrongly shown as receipts in the stock account of rectified spirit warehouse, thereby inflating the stock of spirit by 97,148 London proof litres. While determining the allowable wastage, the inflated quantities escaped notice of the department, resulting in the wastage being allowed in excess of the permissible limit by 1,457 London proof litres and consequent short realisation of excise duty amounting to Rs. 88,877.

On this being pointed out in audit (April 1984), the department admitted the mistake. Report on rectificatory action taken is awaited (March 1985).

(f) Loss of revenue from bottling of foreign liquor at strength higher than that declared

¹ Under the Excise Rules, duty on India-made foreign liquor is realisable on the basis of the alcoholic strength declared by the Government Chemical Examiner. For this purpose, samples of every batch of India-made foreign liquor manufactured in a distillery are sent to him. Owing to delays in receipt of the report from Government Chemical Examiner, the Commissioner of Excise permitted issue of the foreign liquor from the distillery on realisation of duty on the basis of alcoholic strength, as declared by the distillery's chemist, subject to recovery of the difference, if any, of the duty realisable on the basis of the alcoholic strength of liquor, as certified by the Government Chemical Examiner. This procedure of collection of differential duty was, however, discontinued from 1st April 1980.

Under the revised procedure, India-made foreign liquor is bottled in the bonded warehouse of the licensee at the nominal strength of either 25 U.P. or 35 U.P., which is printed on the label of the bottle (subject to 0.2 degree proof above or below the actual strength as declared by the manufacturer). The duty is finally realised on the basis of the strength as declared on the label of the bottles.

A test check of some batches of India-made foreign liquor manufactured by two distilleries during December 1980 to June 1982 revealed that the strength of the foreign liquor, as certified by the Government Chemical

Examiner, was higher than that declared by the manufacturers even after allowing for the permissible tolerance limits. This had resulted in issue of 10,331 London proof litres of liquor without payment of duty. The duty lost to Government amounted to Rs. 6.30 lakhs. No action was taken against the distillers for misdeclaration of the strength of liquor on the labels of the bottles.

The above points were reported to Government in August 1984; their reply is awaited (March 1985).

4.3 Short levy of license fee on poppy capsules

(i) Under the Opium Act, 1878, read with West Bengal Opium Rules, 1967, a person possessing or dealing in poppy capsules within the State is required to obtain a licence from the excise authority for each financial year or any shorter period on payment, in advance, of a fee of Rs. 100 per quintal of capsule authorised for possession, irrespective of actual imports. No capsule shall be imported into West Bengal by a licensee without first obtaining a pass, which is granted on realisation, in advance, of an import pass fee of Rs. 100 per quintal.

No uniform procedure regarding realisation of licence fee was followed by the department. In two districts, licences were issued or renewed at the beginning of the financial year without realisation of licence fee in advance. The licence fee was, however, realised subsequently at the time of issuing import passes. The licence fee charged was also based on the quantity covered by the import passes and not on the quantity authorised in the licence for possession or sale. The licence fee realised short (on the basis of actual imports) during 1981-82, 1982-83 and 1983-84 amounted to Rs. 3.43 lakhs.

(ii) Although there was no provision in the rules for direct export out of India, a licensee of Calcutta district imported from other States (during 1981-82 to 1983-84) 1,327.5 quintals of poppy capsules for direct export out of India through Calcutta port. Poppy capsules were imported against import permits issued by the Collector of Excise, Calcutta, without realising any import pass fees. Fees not realised amounted to Rs. 1,32,750.

In the case of another licensee in 24-Parganas (N) district (Barasat), licence fee and import pass fee during 1981-82 were realised at the old rate of Rs. 50 per quintal, instead of at the revised rate of Rs. 100 per quintal, resulting in under-realisation of revenue to the extent of Rs. 12,500.

The above cases were reported to Government in August 1984; their reply is awaited (March 1985).

4.4 Short or non-realisation of additional licence fee

(i) Under the Bengal Excise (Foreign Liquor Licence Fee) Rules, 1942, the holder of a licence for sale of foreign liquor for consumption off the licensed premises (OFF Shop) is liable to pay an additional licence fee at the

prescribed rates based on the quantity of liquor sold during a month. Prior to 1st April 1980, the additional licence fees in respect of such sales of India-made foreign liquor and imported foreign liquor were Rs. 25 and Rs. 50 per bulk litre respectively. From 1st April 1980, the rules were amended, withdrawing the fee on India-made foreign liquor, but enhancing the fee on imported foreign liquor to Rs. 200 per bulk litre.

In Siliguri, the Canteen Stores Department sold 1,184.1 bulk litres of imported foreign liquor through its various unit canteens during the period from April 1980 to February 1984, for which no additional licence fee was realised. The additional licence fee not recovered amounted to Rs. 2,36,820.

(ii) Under the Bengal Excise (Foreign Liquor Licence Fee) Rules, 1942, the holder of a licence for sale of foreign liquor for consumption on his licensed premises (ON shop) is liable to pay, besides the prescribed annual licence fee, an additional fee at the prescribed rate (based on the quantity sold) by the 20th of the month following the month of sale of such liquor. By a Government notification issued on 20th March 1980, the rate of additional licence fee was revised from Rs. 7.50 to Rs. 25 per bulk litre in respect of India-made wine and from Rs. 7.50 to Rs. 250 per bulk litre in respect of imported overseas wine.

On 694.76 bulk litres of India-made wine and 144.185 bulk litres of overseas wine sold by three "ON Shop" licensees in Darjeeling district during the period from April 1980 to March 1984, additional licence fee was levied at the old rate of Rs. 7.50 per bulk litre, instead of at the revised rates. The mistake resulted in additional licence fee being levied short by Rs. 47,123.

On this being pointed out in audit (April 1984), the department admitted the mistake (April 1984) and agreed to take necessary action. Further progress is awaited (March 1985).

The above cases were reported to Government in August 1984; their reply is awaited (March 1985).

4.5 Short realisation of storage fees

Under the provisions of the Opium Act, 1878 and the rules made thereunder, in respect of licences granted to poppy capsule dealers by an Excise Authority, a fee (called possession or storage fee) at the prescribed rates, based on the quantities authorised to be kept by the dealers during the licensing period is leviable. No dealer can possess capsules in excess of the quantity authorised in the licence.

In Burdwan (Asansol) district, licensees of poppy capsules possessed capsules in excess of the authorised quantity. Although this constituted a breach of the conditions in the licence, not only was no action taken by the department for suspension or cancellation of the licences, but the storage fee for the excess quantity was also not realised. The omission resulted in short realisation of fee amounting to Rs. 44,500 during the years 1980-81 to 1983-84.

On this being pointed out in audit (March 1984), the department agreed (March 1984) to take necessary action. Report on action taken is awaited (March 1985).

The matter was reported to Government in August 1984; their reply is awaited (March 1985).

4.6 Percentage of allowable wastage of spirit in manufacturing process not prescribed

Under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and the rules framed thereunder, excise duty is levied with reference to the spirit content of the final product and the State Government is authorised to fix the percentage of wastage of rectified spirit in the production of any particular medicinal and toilet preparation.

Mention was made in paragraph 4.7.3 of the Audit Report (Revenue Receipts) of the Comptroller and Auditor General of India for the year 1980-81 about non-fixation of the percentage of wastage of rectified spirit by the State Government. In January 1982, the department agreed to take necessary action to fix upper limits of wastage of spirit in the manufacturing process.

The allowance for wastage of spirit in the manufacturing process has, however, not been fixed so far (August 1984). In the meanwhile, in two laboratories using rectified spirit in the preparation of homoeopathic medicines, wastage of 6,212.08 London proof litres (comprising 2.54 per cent to 7.3 per cent of the quantity utilised) occurred during 1980-81 to 1983-84. The excise duty involved in respect of this wastage amounted to Rs. 3,78,937 (at Rs. 61 per London proof litre).

The matter was reported to the department in July and October 1982 and to Government in April and May 1983; their replies are awaited (March 1985).

4.7 Under-assessment of duty due to application of incorrect rate

By a Government notification issued in March 1980 under the Bengal Excise Act, 1909, with effect from 1st April 1980 the rate of excise duty on rectified spirit intended to be used for manufacture of India-made foreign liquor (other than rum) was revised from Rs. 35 to Rs. 61 per London proof litre.

In a distillery-cum-foreign liquor manufacturing unit at Asansol, on 712.3 London proof litres of rectified spirit intended to be used in manufacture of foreign liquor, but reported to have been lost in storage during the year 1981-82, excise duty was levied at the old rate of Rs. 35, instead of at the revised rate of Rs. 61 per London proof litre. The mistake resulted in duty being levied short by Rs. 18,520.

The matter was reported to the department and Government in August 1984; their replies are awaited (March 1985).

4.8 Non-realisation of differential duty and import pass fee on beer

Under the Bengal Excise Act, 1909 and the rules framed thereunder, on imported liquor excise duty was leviable at the rate of Rs. 3.80 per bulk litre up to 31st October 1982 and at Rs. 4.80 per bulk litre thereafter. Besides, a privilege fee at the rate of 20 paise per bulk litre was imposed on the import of beer into West Bengal with effect from 1st November 1982. Under the law, no such beer can be imported without an import pass, which is issued on payment of the duty and fees in advance.

In Darjeeling, a consignment of 9,360 bulk litres of beer, in respect of which import pass was issued prior to 31st October 1982 on realisation of duty at the rate of Rs. 3.80 per bulk litre, was imported in the State after that date and received by the licensee on 5th November, 1982. But differential duty and import privilege fee were not realised from the licensee. The omission resulted in excise duty and privilege fee being levied short by Rs. 11,232.

The matter was reported to the department in April 1984 and to Government in August 1984; their replies are awaited (March 1985).

CHAPTER 5

LAND REVENUE

5.1 Results of Audit

Test check of the records of land reforms circles in West Bengal, conducted during the year 1983-84, revealed non-realisation or short-realisation of revenue amounting to Rs. 350.65 lakhs in 946 cases, which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of rent and salami due to non-settlement of vested khasmahal lands	88	106.39
2. Non-recovery or short recovery of cesses	260	64.48
3. Non-assessment and non-realisation of enhanced rent ..	54	0.87
4. Non-realisation of damage fee	18	39.27
5. Unauthorised extraction of minor minerals	95	29.82
6. Non-settlement or irregular settlement of sairati interests	134	33.55
7. Others	297	76.27
	946	350.65

Some important cases are highlighted in succeeding paragraphs.

5.2 Settlement of khasmahal land

“Khasmahal”, a term used for Government Estates in West Bengal, has been described as “an Estate which is managed by the Collector of the District in direct communication with raiyats.”

Mention was made in paragraph 60 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year 1975-76 about non-maintenance of proper records of khasmahal properties by the district land reforms offices. The Board of Revenue had issued (April 1979) instructions to various land reforms offices for maintenance of circle-wise record in the prescribed register (No. VIII) in respect of all kinds of Government lands, including khasmahal lands on the basis of records of rights prepared by the settlement department. Although, pursuant to these instructions, some registers were maintained, a test check in audit (February 1981 to February 1984) revealed that these records were incomplete and did not give a correct and complete position of the khasmahal lands in the various districts. For instance, in four circles of Tamruk (LR) district, only an area of 324.60 acres of non-agricultural khasmahal land had been recorded in the

prescribed register, as against 552.15 acres of such lands shown in the record of rights maintained in the circle offices. Similarly, in two circles of 24-Parganas district, no record of khasmahal land was kept in the prescribed register, while the record of rights showed existence of non-agricultural khasmahal land admeasuring 68.82 acres in those circles.

As on 31st March 1984, the position of settlement of khasmahal land in 32 circles of six districts, as furnished by the departmental offices, was as under :

District	Total area of khasmahal land	Total area settled	Area not settled from 1955 to 1984	Percentage of non-settled area to total area
	(Acres)	(Acres)	(Acres)	
1. Jalpaiguri	36,823	1,936	34,887	91.89
2. Midnapore	490	256	234	46.94
3. Tamluk (Midnapore East)	35,690	28,917	6,773	19.44
4. Darjeeling	27,716	1,342	26,374	96.30
5. Hooghly	375	366	9	2.40
6. 24-Parganas	567	196	371	65.43
	<u>1,01,661</u>	<u>33,013</u>	<u>68,648</u>	

The table shows that nearly two-thirds of the available khasmahal land remained unsettled for more than 29 years, with the result that no land revenue could be derived from these unsettled lands.

5.2.1 Non-renewal of leases

Under the West Bengal Non-agricultural Tenancy Act, 1949 and the West Bengal Land Management Manual, 1977, all non-agricultural lands are ordinarily to be settled on long-term lease basis for a period of 30 years unless any land is not sufficiently developed or suitable lessees are not forthcoming. On granting a long-term lease, rent is required to be fixed at 4 per cent of the market value of the land and, in addition, *salami* at ten times the amount of rent is chargeable. On expiry of the period of lease, the tenant has the option to get the lease renewed. On renewal, the rent for the land is required to be settled on such fair and reasonable conditions as may be agreed upon between the Collector and the tenant. The Manual *ibid* provides that "it will be fair to fix the rent at the same percentage (i.e. 4 per cent), as at the initial settlement, of the market value of the land at the time of renewal". Where long-term settlement of non-agricultural land

is not possible, either because the land is not sufficiently developed or a suitable lessee is not forthcoming, the land is to be settled on short-term lease basis, ordinarily for a period of five years subject to a maximum of ten years. Rent for a short-term lease is fixed by the Collector having regard to the principles of fixation of rent in respect of long-term leases and the prevailing rent for lands in the vicinity with similar advantages. No *salami* is, however, to be charged in the case of short-term leases.

The rules provide for maintenance of prescribed registers (Registers X and XII) with a view to watching settlement or re-settlement of land (on the expiry of lease) and for annual review of these registers by the prescribed officers.

Prior to May 1982, the prescribed registers were not maintained properly by the land reforms offices in the various districts, with the result that no action for renewal of the expired leases could be taken in a number of cases. On the omission being pointed out in audit from time to time, the Board of Revenue issued (May 1982) instructions for immediate updating and proper maintenance of the prescribed registers and also for regularisation of all expired leases by 31st August 1982.

As per the standard form for grant of long-term lease, prescribed under Rule 163 of the West Bengal Land Management Manual, 1977, "in the event of the lessee holding over after the expiration of the period of this demise, the lessee shall be held liable on account of any year subsequent to the expiry of the period of this demise for the rent at such rate as may be assessed upon the demised land at the revision of settlement".

The Board of Revenue decided (August 1982) that in respect of all leases, which had expired and had not been renewed till December 1981, rent for the period between the dates of expiry of the leases and their renewal should be realised after increasing the rent previously paid by 12½ per cent per annum. This *ad hoc* enhancement of rent was not correct, as the rules do not authorise fixation of rent (after expiry of the leases) at a rate lower than 4 per cent of the market value of the land. Mere 12½ per cent increase in the existing rent meant only a 0.5 per cent appreciation of the market value of land in 30 years, which was obviously too low.

A test check in audit showed that in six districts (Jalpaiguri, Midnapur, Tamaluk, Darjeeling and 24-Parganas) 2,033 leases covering 614.94 acres of holding area had expired, mostly by the end of the year 1981 and in some cases during the years 1982 and 1983. The leases had not been renewed, even by increasing the rent by 12½ per cent of the existing rent, as decided by the Board of Revenue.

In 1,994 cases alone, revenue amounting to Rs. 2.24 lakhs was lost to Government due to non-renewal of the long and short-term leases of non-agricultural khasmahal land (as per the instructions of the Board of Revenue), as indicated in the table below:

Name of Circle	Particulars of leases	Period during which lease expired	Loss of revenue due to non-renewal of leases even by increasing the rent by 12½ per cent of the existing rent Rs.
(A) Long-term leases :			
1. 9 circle offices in Jalpaiguri, Midnapore and 24-Parganas districts.	471.57 acres of land leased to 1683 persons during the years 1919 to 1953 at total rental of Rs. 14,643 per annum.	Between 1949 and 1983	64,050 (upto March 1984).
2. Sadar circle in Darjeeling district.	91.46 acres of land leased (during the years 1911 to 1949 at a rental of Rs. 10,551 per annum.	Between 1941 and 1979	56,717 (upto March 1984)
3. Contai Land Reforms Circle (Tamluk)	45.08 acres of land leased to 208 persons during the years 1941 to 1946 at total rental of Rs. 698 per annum.	Between 1970 and 1975	1,221 (upto March 1984)
(B) Short-term leases :			
4. Circle offices in 24-Parganas (North) L.R. district	8.81 acres of land leased to 86 persons during the years 1944 to 1964 at total rental of Rs. 4,618 per annum in 51 cases and Rs. 3591 per month in 35 cases	Between 1948 and 1969	1,02,179 (upto March 1984)

Taking the rent of the lands as 4 per cent of the market value of lands at the time of renewal, as required to be fixed under the Manual *ibid*, the loss of revenue would amount to Rs. 79.96 lakhs in the cases listed at serial nos. 2, 3 and 4 alone (market value of the lands at serial no. 1 above was not available).

On the above lapses being pointed out in audit (June 1983—February 1984), the department agreed (June 1983—February 1984) to take necessary action for renewal of leases, except in 269 cases pertaining to the circle offices mentioned at sl. no. 1 above, where no replies were furnished by the department. Report on final action taken is awaited (March 1985),

5.2.2 Lands under unauthorised occupation

Large tracts of land were reported to be under unauthorised occupation of various parties for the last several years. Action taken or proposed to be taken to get these lands vacated and for their settlement with the eligible parties were not intimated by the department. A few instances of unauthorised occupation of lands involving substantial loss of revenue are indicated below :

Name of district	Area of land under unauthorised occupation (acres)	Period for which under unauthorised occupation	Approximate loss of revenue		
			Rent	<i>Salami</i>	
			(In lakhs of rupees)		
1. 24-Parganas (South)	196.93	About 21 years	1.21 per annum	12.12	Apart from the loss of revenue the department had to pay municipal taxes amounting to Rs. 2.85 lakhs in respect of the lands under unauthorised occupation.
2. Jalpaiguri, Tamluk, Darjeeling and Hooghly	184.48	For 11 to 28 years	7.79	3.95	Government would continue to sustain loss at the rate of Rs. 0.40 lakh per annum until the lands are vacated and settled.
3. Midnapur (West)	19.18	Information not available	0.79 per annum		

On the unauthorised occupations being pointed out in audit (between March 1981 and May 1983), the department stated in June 1983 that necessary action for vacation of the unauthorised occupations and for settlement of land to the eligible parties would be taken.

5.2.3 Irregular settlement of town khasmahal land

Under the provisions of the West Bengal Land Management Manual, 1977, khasmahal land under the administration of the Land Revenue department, but placed in permissive possession of another department of the State Government, cannot be leased out by the latter department. The Board of Revenue alone is competent to grant lease of such land to a local body. There is no provision in the Manual for lease of any such land at a concessional rate of rent.

The Irrigation and Waterways department, holding permissive possession of 8.04 acres of khasmahal land in a mouza, handed over 4.02 acres to the Contai Municipality in September 1972 on annual lease basis at a nominal rent of Re. 1 per annum, for eventual allotment to unemployed youths (for opening shops by erecting temporary structures). But in violation of the conditions of allotment, the Municipality itself constructed a pucca market on this land and let out the shops to various parties on monthly rental basis and after collecting heavy amount of *salami* in lumpsum.

Leasing out of the land to the Municipality at a nominal rent, apart from being irregular, resulted in loss of revenue amounting to Rs. 4.02 lakhs by way of *salami* to Government.

On the irregularity being pointed out in audit (January 1983), the department admitted (February 1985) that the Municipality had violated the conditions of allotment and had also not executed any agreement with Government so far.

The above points were reported to Government between January 1982 and June 1984; their reply is awaited (March 1985).

5.3 Short realisation of rent and cesses

Under the West Bengal Land Reforms Act, 1955, with effect from 1379 B.S. (1972-73), a raiyat holding land exceeding 1.214 hectares shall pay land revenue in respect of irrigated area at thrice the rate and in respect of non-irrigated area at twice the rate prevailing at the end of 1378 B.S. (1971-72). In addition, various cesses at prescribed rates are leviable based on the amount of land revenue assessed.

In two land reforms circles in Midnapore district, 272 mouzas covering 68,905 acres of land were declared (September 1975) by Government as irrigated area with effect from 1381 B.S. (1st July 1974), but assessment of land revenue for the period from 1381 B.S. to 1384 B.S. (1974 to 1978) was erroneously made and realised at twice the rate of land revenue, instead of at thrice the rate prevailing at the end of 1378 B.S. (1971-72). Various cesses were also assessed short. The mistakes resulted in short realisation of rent and cesses aggregating Rs. 13,27,162.

On the mistake being pointed out in audit (March 1983), the department agreed (March 1983) to realise the amount of Rs. 13,27,162. Report on recovery is awaited (March 1985).

The matter was reported to Government in August 1983; their reply is awaited (March 1985).

5.4 Non-realisation of cesses from raiyats exempted from payment of rent

Under the provisions of the West Bengal Land Reforms Act, 1955, a raiyat is exempted from payment of land revenue in respect of his holdings not exceeding 1.214 hectares (3 acres) with effect from 1st Baisakh 1376 B.S. (14th April 1969) and not exceeding 1.619 hectares (4 acres) with effect from 1st Baisakh 1385 B.S. (14th April 1978). No exemption from payment of public works and road cesses (leviable under the Cess Act, 1880) and education cess [leviable under the Bengal (Rural) Primary Education Act, 1930 and the West Bengal Primary Education Act, 1973] is, however, admissible.

In 73 circles of six districts, viz., Cooch Behar, Bankura, Birbhum, Burdwan (East), Burdwan (West) and 24-Parganas (South), public works cess, road cess and education cess amounting to Rs. 9.85 lakhs, leviable in respect of holding up to 1.214 acres for the period from 1980-81 to 1982-83 (1387 B.S. to 1389 B.S.) were not demanded and realised.

On this being pointed out in audit (May 1983 and February 1984), the department agreed (between May 1983 and March 1984) to realise the dues. Report on action taken is awaited (March 1985).

Similar cases of non-realisation of cesses amounting to Rs. 17.26 lakhs, Rs. 8.70 lakhs, Rs. 6.88 lakhs and Rs. 6.54 lakhs were also reported in paragraphs 38, 52, 3.17 and 3.5 of the Audit Reports for the years 1974-75, 1975-76, 1977-78 and 1982-83 respectively.

The matter was reported to Government between December 1983 and July 1984; their reply is awaited (March 1985).

5.5 Short-realisation of education cess

As per Government notification issued in March 1981, provisions of Section 78 of the West Bengal Primary Education Act, 1973 came into force in the whole of West Bengal with effect from 1st April 1981. According to another notification issued (April 1981) by Government, primary education cess became leviable at the rate of 10 paise per rupee of the annual value of lands with effect from 1st day of Baisakh 1388 B.S. (14th April 1981). Prior to this, education cess was leviable at the rate of 6 paise per rupee of the annual value of lands.

In 122 circle offices in the land revenue districts of Midnapore, Tamluk, Bankura, Hooghly, Howrah, Birbhum, Burdwan (East), 24-Parganas (South) and 24-Parganas (North), during the years 1388 B.S. and 1389 B.S. (1981-82 and 1982-83), education cess was continued to be levied at the old lower rate of 6 paise per rupee on the annual value of land. The mistake resulted in short-realisation of cess amounting to Rs. 5,09,856.

On the mistake being pointed out in audit (December 1982—December 1983), the department stated (between January 1983 and February 1984) that Government's orders enhancing the rate of education cess had been received late. The department, however, agreed to assess the cess as per the revised rate. Report on action taken is awaited (March 1985).

The matter was reported to Government between July 1983 and July 1984; their reply is awaited (March 1985).

5.6 Non-assessment of rent of erstwhile rent-free lands held by a company

Under the West Bengal Land Reforms Act, 1955, as amended in 1965, all rent-free holdings were abolished with effect from 1st November 1965 and raiyats of such holdings became liable to pay rent as might be fixed by the prescribed authority, having regard to the rent that was generally being paid for lands of similar descriptions and with similar advantages in the vicinity of the respective holdings. By a notification issued in October 1974, circle officers of the Land Revenue department were empowered to function as revenue officers for the purpose of fixing rent of erstwhile rent-free holdings. On such lands, various cesses such as road cess, public works cess, education cess, etc., are also leviable, based on the rent fixed.

In 24-Parganas (South) district, an area of 287.58 acres of land held by a private company continued to be shown in the official records as "rent-free" and no assessment of rent leviable thereon was made. The omission resulted in rent amounting to Rs. 2,13,067 not being realised for the period from November 1965 to March 1984, calculated on the basis of mouza rent intimated by the department. In addition, various cesses amounting to Rs. 87,924 could not also be realised.

On this being pointed out in audit (November 1983), the department admitted (November 1983) the mistake and agreed (February 1984) to take necessary action. Report on action taken is awaited (March 1985).

The matter was reported to Government in July 1984; their reply is awaited (March 1985).

5.7 Short or non-realisation of rent and cesses due to defective maintenance of records

Under the prescribed procedure for exercising control over realisation of land revenue, rent rolls are to be maintained indicating *inter alia* names of the tenants, the area and class of land held by them, land revenue, rent, etc.

For watching demand and collection of land revenue, tenant-wise ledgers are also required to be maintained in which annual demands are to be noted from the rent rolls.

On cross verification of the tenants' ledger with rent rolls in two circles in Jalpaiguri district, it was noticed (February 1983) that in 6 cases, demands of rent and cesses had not been noted in the ledger and in 14 cases the amounts of demands recorded therein did not agree with those shown in the rent rolls. Improper maintenance of these records resulted in short or non-realisation of rent and cesses amounting to Rs. 36,864 during the years from 1362 B.S. to 1390 B.S. (calendar years 1955 to 1984).

On this being pointed out in audit (February 1983), the department agreed (February 1983) to realise the amount. Report on recovery is awaited (March 1985).

The matter was reported to Government in August 1983; their reply is awaited (March 1985).

5.8 Irregular conversion of agricultural land into non-agricultural land

Under the West Bengal Land Reforms Act, 1955, if a raiyat without any reasonable cause uses agricultural land for purposes other than agriculture, such land excluding his homestead, shall be sold in the prescribed manner. However, under the West Bengal Non-Agricultural Tenancy Act, 1949 and the West Bengal Land Management Manual, 1977, a raiyat intending to use his land for non-agricultural purposes may apply to the Collector for conversion of such land into non-agricultural land, and the Collector shall, by an order in writing, direct such conversion subject to payment of such rent, not exceeding twice the amount of rent for the time being payable for such land, as the Collector may fix.

In two circle offices under the Additional District Magistrate (LR), 24-Parganas (North) district, 160 acres of agricultural land were recorded as being unauthorisedly used for non-agricultural purposes since 1970. No action was taken by the department either to sell these lands or to regularise their use for non-agricultural purposes after recovery of the difference of rent from the raiyats concerned. Additional rent not exceeding Rs. 20,160 (for the period from April 1970 to March 1984) was recoverable in case these lands were converted into non-agricultural lands.

The matter was reported to the department in July-August 1981 and to Government in May 1982; their replies are awaited (March 1985).

CHAPTER 6

OTHER TAX AND NON-TAX RECEIPTS**A—Mines and Minerals****6.1. Under-assessment of royalty on coal consumed in collieries**

Under the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease is liable to pay royalty at the prescribed rates for any mineral removed or consumed by him, his agent, manager or employee from the leased area. As per clarifications issued by Government in May 1978, coal used in a boiler or workshop of a lessee is to be treated as coal consumed by the lessee for purposes of payment of royalty. No royalty is, however, payable on any coal consumed by the workmen engaged in a colliery, if such consumption does not exceed one third of a tonne per month per worker.

As per the returns for the quarters ending June, September and December 1982 submitted by seven collieries, 55,810 tonnes of coal were consumed partly by workmen in excess of the statutory limit and partly by the lessees in the boiler. But royalty was levied only on 24,611 tonnes of coal consumed. Royalty not levied on the remaining quantity of 31,199 tonnes amounted to Rs. 1,95,200.

On the under-assessment being pointed out in audit (October 1983), the department revised (November 1983) the assessments. Report on recovery is awaited (March 1985).

The case was reported to Government in May 1984; their reply is awaited (March 1985).

6.2 Under-assessment of royalty due to failure to detect mistakes in returns

Under the Mines and Minerals (Regulation and Development) Act, 1957 and the rules framed thereunder, royalty is payable in respect of any mineral removed or consumed by a lessee from the leased area at the rates prescribed from time to time. For assessment of royalty, the lease holders are required to furnish quarterly returns to the Mining Officer.

In the returns furnished by three collieries for the quarters ended June 1982 and September 1982, coal excavated had been accounted for short by 58,782 tonnes (owing to mistakes in arriving at the closing balances), which escaped notice of the assessing officer. The mistake resulted in royalty being charged less by Rs. 3,58,346.

On the mistakes being pointed out in audit (October-November 1983), the department revised (November 1983) the assessments. Report on recovery is awaited (March 1985).

The case was reported to Government in May 1984; their reply is awaited (March 1985).

6.3 Non-assessment of cesses on quarries

The Cess Act, 1880, as amended in 1964, provides that road cess and public works cess shall be levied (on quarries) at the prescribed rates on annual net profits of the quarries. The Act requires the Collector of the district to issue notices to the quarry-owners on or before the close of each year, requiring them to submit within two months the prescribed returns, showing the net annual profits of the quarries for purpose of assessment and levy of cesses. In the event of non-submission of the returns, the quarry-owners are liable to pay fine which may extend to Rs. 50 for each day of default after the expiration of the notice period. The Collector is also authorised to determine the value of property by such ways and means as would seem expedient to him and determine the annual net profit of the property at 6 per cent of the value of the property. Under the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, primary education cess and rural employment cess respectively are also leviable at prescribed rates on annual net profits of the quarries.

In seven districts (Malda, Tamluk, Murshidabad, Bankura, Howrah, West Dinajpur and Nadia), against 588 quarry permits issued by the district authorities to various parties during the years from 1976-77 to 1982-83 for extracting and removing brick earth and sand, about 19.16 lakh bricks were manufactured and 28,27,794 c.ft. of sand removed. As per records of the Commercial Tax Officers of the concerned districts, the value of the brick earth and sand extracted amounted to Rs. 3.41 crores. However, the district authorities did not issue any notice to the quarry owners for submission of returns of net profit.

Even if the net profit was taken to be only 6 per cent of the value of the quarry material (Rs. 3.41 crores), the net profit of the quarries amounted to Rs. 20.47 lakhs. Based on this, the public works cess, road cess, rural employment cess and primary education cess leviable amounted to Rs. 6,14,111 approximately.

On the omission to levy the cesses being pointed out in audit (January-September 1983), one district office (Malda) agreed (January 1983) to realise the dues. Four district offices (Murshidabad, West Dinajpur, Howrah and Bankura) stated (January-September 1983) that there was no scope for realisation of the arrear dues in cases where the quarry operation were already closed. Another district office (Nadia) stated (September 1983) that necessary action could not be taken pending specific instruction. The reply of the district authority (Nadia) was not tenable as the Cess Act specifically lays down the procedure for levy and recovery of the cess.

The matter was reported to Government between July 1983 and March 1984; their reply is awaited (March 1985).

6.4 Incorrect assessment of rural employment cess on despatches of coal

Under the West Bengal Rural Employment and Production Act, 1976, rural employment cess is leviable in respect of all immovable properties on which public works and road cesses are assessed according to the provisions of the Cess Act, 1880. On coal despatched from the coal mines during the year 1979-80, rural employment cess was leviable at the rate of Rs. 2.50 per tonne of coal despatched.

From three collieries in Purulia district, 4,11,781 tonnes of coal were despatched during the year 1979-80. But rural employment cess was levied only on 4,01,042 tonnes of coal, resulting in under-assessment of cess amounting to Rs. 26,847.

On the under-assessment being pointed out in audit (February 1983), the department stated (March 1983) that the levy of rural employment cess was based on the average quantity of despatches of coal made during the previous three years, as provided in the Cess Act, 1880, for recovery of public works and road cesses. The reply of the department is not correct, as the West Bengal Rural Employment and Production Act, 1976, provides for assessment of rural employment cess on actual annual despatches of coal from the coal mines. This was also confirmed by the Board of Revenue in July 1981.

The case was reported to Government in July 1983; their reply is awaited (March 1985).

B—Entry Tax

6.5 Non-levy of entry tax on sugar

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, sugar is taxable at the rate of 1.5 paise per kilogram on its entry into Calcutta Metropolitan Area for consumption, use or sale therein.

At a railway entry tax checkpost, 19,07,480 kgs. of sugar brought by the Food Corporation of India during the year 1982-83 were allowed to be removed for sale in Calcutta Metropolitan Area without assessment and collection of entry tax. Enquiries in audit from the Food Corporation of India revealed that the Corporation had also imported, without payment of tax, another 8,17,15,578 kilograms of sugar into the Calcutta Metropolitan Area through four other railway checkposts. Entry tax not collected amounted to Rs. 12,54,346.

On the omission to levy tax being pointed out in audit (October 1983), the department raised (June 1984) a demand for Rs. 28,613 in respect of the import of 19,07,480 kilograms. Report on recovery and action taken in the remaining cases is awaited (March 1985).

The matter was reported to Government in March, 1984 and September 1984; their reply is awaited (March 1985).

6.6 Non-levy of tax on entry of specified goods into Calcutta Metropolitan Area

As per Government notification issued in April 1979, under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, with effect from 20th April 1979, on entry of groundnuts (shelled or unshelled) into the metropolitan area for consumption, use or sale thereof, entry tax is leviable at the rate of one per cent *ad valorem*.

On 71 consignments of groundnuts with shell valuing Rs. 68,89,721, imported by a dealer (an oil mill company) into the Calcutta Metropolitan Area during the period from 2nd August 1979 to 16th June 1981, entry tax was not levied. The omission resulted in entry tax amounting to Rs. 68,89,721 not being realised.

On the omission being pointed out in audit (October 1983), the checkpost authorities stated (October 1983) that no amount was paid by the dealer, though he was asked to collect the demand notice and pay tax. The law provides for issue of demand notice (after assessment) before entry of the specified goods in the area, which was not done by the department.

The case was reported to Government in February and August 1984; their reply is awaited (March 1985).

6.7 Short-levy of tax due to under-valuation of specified goods

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, for the purpose of determination of value of any specified goods for assessment of tax leviable at *ad valorem* rates, if the assessing officer is not satisfied about the reasonableness of the value of the goods as declared by the dealer, their approximate saleable value in the Calcutta Metropolitan Area shall be determined by him according to the best of his judgement. From time to time, the department circulates market bulletins showing the saleable value of different specified goods in the area for information of the assessing officers.

On 26,032 kgs. of terene suiting cloth of various lengths, brought by a dealer into the Calcutta Metropolitan Area during December 1982, entry tax was levied, taking the value of the goods as Rs. 51,46,356 as declared by the dealer, working out to a rate of Rs. 198 per kg. of the material. According to the Departmental Bulletin issued in January 1976, the average market price of the materials at that time was as high as Rs. 300 per kg. Thus there was *prima facie* under-valuation of goods amounting to not less than Rs. 26,63,244, resulting in tax being levied short by Rs. 26,63,244.

On this being pointed out in audit (February 1984), the department stated (February 1984) that the assessment was made on the basis of the value declared by the dealer. The reply of the department is not tenable, since the value declared by the dealer varied substantially from the approximate saleable value of the goods as per the rates indicated in the departmental bulletins.

The case was reported to Government in May 1984; their reply is awaited (March 1985).

C—Stamps and Registration

6.8 Excess allowance of discount to the licensed stamp vendors

The non-judicial stamps are sold by Government either direct from the Treasury or through licensed vendors. As per Government notification (February 1981), licensed vendors who purchase non-judicial stamps from Government in cash are allowed discount at the rates of (i) 2.5 per cent on purchase of stamps in the municipal areas of Calcutta, Baranagar, Dum Dum, South Suburban, Garden Reach, Jadavpur, Howrah, Bally, Hooghly and Chinsurah; (ii) 4 per cent on purchase of stamps within the limits of headquarters of districts and subdivisional towns excluding those mentioned in (i); and (iii) 5.5 per cent on purchases of stamps in other areas.

In Alipur Treasury, during the period from September 1982 to March 1984, 35 licensed stamp vendors in the municipal areas mentioned at (i) above were allowed discount at the rates of 4 per cent and 5 per cent in 269 and 63 cases respectively, instead of at the correct rate of 2.5 per cent. The mistake resulted in discount being allowed in excess by Rs. 1,26,273.

On the mistake being pointed out in audit, the local office stated (April 1984) that the point required clarification from the Finance department. The reply of the local office is not tenable as there is no ambiguity in the Government notification dated 23rd February 1981.

The case was reported to Government in January-June 1984; their reply is awaited (March 1985).

6.9 Loss of non-judicial stamps

Non-judicial stamps are printed at the India Security Press, Nasik and these are supplied by the Central Stamp Store, Nasik to various State Governments according to their requirements. Consignments of stamps are despatched from Nasik by rail and, after their despatch, these stamps become the property of the State Governments concerned. Any loss of stamps during transit are required to be borne by the State Governments concerned.

Fifteen consignments containing 3,46,000 sheets of non-judicial stamps of the face value of Rs. 2,91,55,000 were despatched by the Central Stamp Store, Nasik, to various stations in West Bengal between May 1981 and February 1984. Out of these, 41,669 sheets of stamps of the total face value of Rs. 22,72,670 were accounted for short at the destination. Five Treasury Officers (Howrah, Hooghly, Arambagh, Sreerampur and Uluberia) stated that non-judicial stamps of the face value of Rs. 22,02,670 had been lost in transit, while one Treasury Officer (West Dinajpur) did not specify any reason for the short account of stamps of the face value of Rs. 70,000. Compensation for loss of stamps of the value of Rs. 3,75,000 only had been claimed from the Railways. No payment had, however, been made by the Railways so far (March 1985). The reasons for non-preferred any claim for the loss of remaining stamps of the face value of Rs. 18,97,670 were not on record.

The possibility of misuse of the stamps could not be ruled out in such cases. As per the State Government rules, in cases where stamps are transferred from one place to another by rail within the State, this is done under police protection, but no such procedure is followed in the case of despatch of stamps from the Central Stamp Store, Nasik to various places in the State.

The loss of non-judicial stamps was reported to Government in November 1984; their reply is awaited (March 1985).

D—Electricity Duty

6.10 Non-realisation of electricity duty from owners of unregistered generating sets

As per the Bengal Electricity Duty Act, 1935, in cases where any energy is generated and supplied by a person other than a licensee, electricity duty at prescribed rates is leviable on the energy so generated and supplied in excess of two and a half kilowatts. Under West Bengal Electricity Duty (Amendment) Act, 1979, with effect from 1st June 1979, energy generated by owners of private generating sets for their own consumption in any industrial or manufacturing process or for other specified purposes is exempt from levy of electricity duty, provided such generating sets are registered under the provisions of the Act.

In Calcutta, in the case of seven industrial units, which had registered their private diesel generating sets during October 1979 to December 1980, electricity duty on the energy generated and consumed by them prior to the dates of registration had not been assessed and collected.

On the omission being pointed out in audit (August 1982), the department stated (June 1984) that electricity duty had since been assessed at Rs. 1,12,558, out of which an amount of Rs. 4,623 had also been realised in May 1984. Report on recovery of the remaining amount is awaited (March 1985).

The case was reported to Government in November 1983; their reply is awaited (March 1985).

E—Irrigation

6.11 Assessment and collection of water rate

The levy of water rate in areas where water is supplied from irrigation works executed, maintained or controlled by the State Government, is regulated by the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, while the levy of water rate in areas where water is supplied by the Damodar Valley Corporation is regulated by the West Bengal Irrigation (Imposition of Water Rate for Damodar Valley Corporation Water) Act, 1958. The assessment and collection of water rate under both the Acts have been entrusted to nine Revenue Divisions and two Revenue Units, which function under the administrative control of the Irrigation and Waterways department.

6.11.1 Trend of revenue

The collection of water rate *vis-a-vis* the estimated receipts during the period 1978-79 to 1982-83 were as given below:—

Year	Estimated receipts	Actual collection	Shortfall in collection
In lakhs of Rupees			
1978-79	541.32	74.77	466.55
1979-80	471.50	70.58	400.92
1980-81	486.50	37.41	449.09
1981-82	486.50	26.95	459.55
1982-83	92.00	22.59	69.41

The actual collection of water rate fell short of the estimated receipts by 75.45 to 94.46 per cent. The reasons for the shortfall, called for (March 1984) from Government, are still awaited (March 1985).

6.11.2 Arrears of revenue pending collection

The arrears of water rate have been mounting from year to year. As at the end of 1982-83, the arrears stood at Rs. 9.36 crores, as per year-wise break-up indicated in the table below:—

Year	Opening balance	Demand raised during the year	Total demand	Collection during the year	Arrears
(In crores of rupees)					
1978-79	.. 4.69	1.29	5.98	0.40	5.58
1979-80	.. 5.58	1.04	6.62	0.44	6.18
1980-81	... 6.18	1.46	7.64	0.22	7.42
1981-82	.. 7.42	1.33	8.75	0.23	8.52
1982-83	.. 8.52	1.04	9.56	0.20	9.36

As per the provisions of the West Bengal Irrigation (Imposition of Water Rate) Act, 1974 and the West Bengal Irrigation (Imposition of Water Rate for Damodar Valley Corporation Water) Act, 1958, arrears of water rate can be recovered from the parties concerned along with interest as public demand. For this purpose, the Revenue Officers have been vested with powers of realising the arrears by resorting to certificate proceedings. But out of the aforementioned arrears of Rs. 9.36 crores, certificate proceedings has been initiated in respect of arrears amounting to Rs. 0.31 crore only. Even in those cases where the certificate proceedings had been initiated, there were inordinate delays in the disposal of those cases. For instance, out of 78,259 cases in which certificate proceedings had been initiated during 1979-80 to 1982-83, only 9,866 cases (12%) were disposed of till the end of March 1983. Further, 7,035 certificate cases relating to the period from 1964-65 to 1973-74 were transferred from one Revenue Division (Burdwan) to another Revenue Division (Hooghly) in August 1981, but these cases were not pursued by the latter Division.

On the omissions being pointed out in audit (March 1984), the Revenue Divisions stated that certificate proceedings could not be initiated or pursued due to (i) non-vesting of certificate powers in the Revenue Officers in time and (ii) shortage of staff.

6.11.3 Failure to finalise assessment of water rate

(a) As per the instructions issued by Government in July 1977, the Engineering Divisions are required to forward test notes (indicating particulars of plots irrigated in each mouza) to the Revenue Division within two months from the end of each watering season and the Revenue Divisions are required to assess water rate within two months from the date of receipt of these test notes, after verifying the individual irrigated plots with the settlement records

available in the settlement office or local land reforms office. In four divisions (Midnapore, Burdwan, Birbhum and Hooghly), an area of 2,05,485.94 acres was irrigated during the three *kharij* seasons between 1971-72 and 1983-84. Due to non-maintenance of any control register in the Engineering Divisions, test notes in respect of water supplied to 61,924 acres of land were omitted to be forwarded by the Engineering Divisions to the Revenue Divisions. In respect of water supplied to certain other lands admeasuring 1,43,561.94 acres, irrigated between 1977-78 and 1982-83, the test notes were forwarded by the Engineering Divisions to the Revenue Divisions after a lapse of 1½ year to 7 years from the dates of irrigation. In one case (Burdwan Division), although the test notes were received by the Revenue Division from the Engineering Divisions in respect of water supplied to 6,04,853 acres of land during *rabi* and *boro* seasons between 1965-66 and 1980-81, the Revenue Divisions took as long as 1½ years to 7 years to verify the individual irrigated plots with the settlement records available in the settlement office or local land reforms office. As a result, the assessment of water rate in respect of the aforementioned lands was not completed till May 1984. The inordinate delay in finalisation of the assessment resulted in revenue amounting to Rs. 2.02 crores not being realised by Government.

On the omission being pointed out in audit (May 1984), the Revenue Officers agreed (May 1984) to take steps for expediting the assessment work. The report on action taken is awaited (March 1985).

(b) In Midnapore district, 4,35,940.76 acres of land were irrigated during the *kharij* seasons between 1975 and 1978. The assessment of water rate was, however, made in respect of an area of only 2,52,697.65 acres of land, leaving an area of 1,83,243.11 acres for which assessment had not been done till April 1984, although 5 to 8 years had elapsed since these lands were brought under irrigation. In another case, in the same district, assessment in respect of 21,107.23 acres of land irrigated during 1974-75 to 1978-79 had not been completed till April 1984, although 5 to 7 years had elapsed since the commencement of water supply to these lands, resulting in non-realisation of revenue amounting to Rs. 26.09 lakhs.

On the omissions being pointed out in audit (March-April 1984), the Revenue Officers agreed (April 1984) to take necessary steps for finalisation of the assessment. Reports on action taken are awaited (March 1985).

(c) In Midnapore district, about 2,655 acres of surplus agricultural and non-agricultural land were under the management of Midnapore Canal Revenue Division and upto the year 1972-73 that Division had leased out those lands on the basis of rents fixed at the public auctions. As per the Government's orders issued in January 1974, the management of those lands was to be transferred to the Midnapore Irrigation Division (East and West) and that Division was to arrange for lease of these lands on annual licence or lease basis, in consultation with the District Collector. But these lands were actually not transferred to the concerned Engineering Divisions, nor were these

leased out after the issue of the aforementioned Government orders in January 1974. Failure to hand over these lands to the Irrigation Division and to lease them out from January 1974 onwards resulted in loss of revenue amounting to Rs. 1.09 lakhs approximately for the period from 1973-74 to 1983-84 (calculated on the basis of average annual lease rent of Rs. 9,915).

On the omission being pointed out in audit (March 1984), the department stated (March 1984) that the concerned Engineering Division was reluctant to take over the surplus lands. The reply was, however, silent regarding the steps taken or proposed to be taken to sort out this matter with the Engineering Division and to lease out the lands on licence or lease basis, to avoid further loss of revenue.

(d) Assessment and collection of water rate in respect of 1,099.25 acres of land (Hooghly district), which had been receiving irrigation water for *khari* seasons from 1977-78 onwards, were stayed by the Calcutta High Court in 1976. Though the stay order was vacated in favour of the State in March 1982, no action was taken by the department for assessment and collection of water rate for the period 1977-78 to 1982-83, resulting in non-realisation of revenue amounting to Rs. 98,931.

On the omission being pointed out in audit (April 1984), the department agreed (April 1984) to take action for assessment and collection of water rate. Report on action taken is awaited (March 1985).

6.11.4 Loss of revenue due to non-issue of notifications for imposition of water rate

As per the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, whenever the State Government is of opinion that lands in any area are likely to be benefited by irrigation during *khari* season, *rabi* season or summer season by water supply from any irrigation work, the State Government may, by notification, declare its intention to impose in such area a water rate for every *khari* season, *rabi* season or summer season, as the case may be.

In Midnapore district, 48,486 acres of land were irrigated for *khari*, *rabi* and *boro* crops during the period 1974-82 (11,304 acres during 1974-77, 36,197 acres during 1977-80 and 985 acres during 1980-82). Test notes showing the area brought under irrigation were duly forwarded by the Engineering Divisions to the Revenue Division between 1975 and 1981; but no notifications for imposition of water rate were issued by Government. Non-issue of notifications resulted in revenue amounting to Rs. 26.98 lakhs not being realised in respect of water supplied to these areas during the aforementioned period.

On the omission being pointed out in audit (August 1984), the department stated (August 1984) that the necessary action would be taken. Report on action taken is awaited.

The above points were reported to Government in November 1984; their reply is awaited (March 1985).

F—Departmental Receipts

6.12 Loss of revenue due to delay in finalisation of auction bid

In Howrah Division (Construction Board), quotations for dismantling and sale of a public building (declared condemned) were invited in August 1982 and the highest offer received was for Rs. 71,000. On 21st September 1982, the bidder intimated his unwillingness to undertake the work as per the proposed offer unless its acceptance was communicated to him within seven days. However, it was in December 1982, after a lapse of 4 months, that the department forwarded the offer of Rs. 71,000 to Government for approval which was not received. Since no acceptance was communicated to the bidder by December 1982, he requested the department to refund the earnest money deposited by him. The Department cancelled (January 1983) the bid and refunded the earnest money to him. On a fresh auction held in January 1983, the highest offer received was for Rs. 30,778, which was not accepted by the department being on the low side. In January 1983, quotations were once again invited and the highest offer for Rs. 41,787 accepted in June 1983.

The non-acceptance of the highest offer of Rs. 71,000 received in the first auction thus resulted in loss of revenue amounting to Rs. 29,213.

The matter was reported to Government in October 1983; their reply is awaited (March 1985).

6.13 Non-levy of toll charges

By three notifications issued in October 1974, January 1975 and October 1974 respectively under the Indian Tolls Act, 1851, Government prescribed toll charges to be realised from 1st December 1974, 1st February 1975 and 1st December 1974 in respect of the various types of vehicles crossing the Rosulpur Bridge (Midnapore), Bhairab Bridge (Murshidabad) and Darakeswar Bridge (Bankura) respectively. The vehicle owners, however, did not pay the toll charges and obtained between December 1974 and July 1981 temporary injunction orders from the Calcutta High Court. But these injunction orders were vacated by the Court in favour of Government in July 1975 (in the case of vehicles crossing Rosulpur and Darakeswar Bridges) and March 1981 (in the case of vehicles using Bhairab Bridge). On an average, 2066 buses were allowed to cross the Rosulpur Bridge per month during the period from 1st December 1974 to July 1975, and 265 lorry owners and 33 bus owners of the Automobile Association used the Darakeswar and Bhairab Bridges per day during the periods from 7th December 1974 to 21st July 1975 and 2nd August 1975 to 18th July 1983 respectively. But no action was taken to recover toll charges from them. Toll charges not recovered amounted to Rs. 48,138, Rs. 4,59,608 and Rs. 5,75,982 in respect of the vehicles using the Rosulpur, Darakeswar and Bhairab bridges respectively.

On the omission being pointed out in audit (between November 1983 and August 1984), the department stated (between December 1983 and August 1984) that necessary demand in respect of the vehicles, which used the Bhairab Bridge was being raised and also agreed to look into the matter regarding vehicles which used the Darakeswar Bridge. Report on action taken and the reply in respect of the vehicles which used the Rosulpur Bridge are awaited (March 1985).

The matter was reported to Government in October 1984; their reply is awaited (March 1985).

6.14 State Lotteries

(i) The Government of West Bengal introduced State lotteries in January 1969 as a measure for mobilising additional resources for developmental activities in the State. The working of State lottery is regulated by the West Bengal State Lottery Rules, 1968 and is administered by the Director of State Lottery under the overall supervision of the Finance (Taxation) Department, Government of West Bengal. The tickets are sold departmentally (at sale centres in treasuries/sub-treasuries), Liaison Commissioner, New Delhi and through agents who are paid commission ranging between 20 and 25 per cent, depending upon the number of tickets purchased by them.

(ii) The financial results of 199 weekly and bumper draws held during the years 1979-80 to 1982-83 are given below:

	1979-80	1980-81	1981-82	1982-83
	(Amount in crores of rupees)			
Total number of draws held	49	50	50	50
Total receipts (less commission allowed)	4.41	4.68	4.42	3.86
Total expenditure	2.86	2.70	2.97	2.86
Net receipts	1.55	1.98	1.45	1.00
Percentage of expenditure to total receipts	75	58	68	74
Percentage of net receipts to total receipts	35	42	33	26

The percentage of net receipts came down from 42 in 1980-81 to 26 in 1982-83. The decrease in net receipts was stated to be due to difficulties in printing of tickets and keen competition offered by other State lotteries.

In respect of Bumper Draw No. 441 held in November 1983, the target for sale of tickets was fixed at 45 lakhs of Rs. 5 each, as against the target of 45 lakhs, 51 lakhs and 42 lakhs of Rupee 1 each of similar bumper draws held in 1980, 1981 and 1982 respectively. The basis on which the price per ticket of Draw No. 441 was fixed at a higher figure of Rs. 5 was not on record.

Government anticipated a profit of Rs. 56 lakhs (estimated receipts Rs. 2.25 crores less estimated expenditure Rs. 1.69 crores). Actually, however, Government sustained a loss of Rs. 27.89 lakhs (actual expenditure Rs. 103.19 lakhs less receipts Rs. 75.30 lakhs), as only 15.06 lakhs tickets could be sold against the target of 45 lakhs. The department stated that the loss was due to keen competition offered by the contemporary bumper draws of other State lotteries.

At Asansol sale centre, no tickets were supplied for draw No. 269 held in May 1980. For fifteen other subsequent draws held between May 1980 and April 1982 also, the tickets supplied were short of the actual requirement of the centre by 3,03,900 tickets (the number of tickets requisitioned by the sale centre and the tickets actually supplied to it being 9,47,900 and 6,44,000 respectively). It is not clear why full requirements of tickets of this centre were not met, specially because there was a surplus stock of 18,44,460 tickets with the Directorate in respect of these draws. Having regard to the fact that this centre had sold out all the tickets supplied to it in respect of 138 draws out of 167 draws held between May 1980 and September 1983, the short supply of tickets for the aforementioned draw No. 269 and fifteen other draws deprived Government of revenue amounting to Rs. 3.04 lakhs approximately.

6.14.1 Losses due to delays in printing of lottery tickets

(a) On 22nd August 1979, an order was placed on the Government Press for printing of 13.60 lakh tickets for draw No. 240 to be held on 22nd October 1979. The press supplied only 6 lakh tickets and that too only 2 to 5 days before the date of the draw. Due to delay in supply of tickets, the draw had to be cancelled, resulting in loss of revenue amounting to Rs. 3.04 lakhs approximately, apart from the expenditure of Rs. 0.66 lakh incurred on printing of tickets being rendered infructuous.

(b) In respect of five other draws held between 24th May 1980 and 4th November 1981, there was delay ranging between 7 days and 17 days from the stipulated dates of supply of tickets by the press. This also adversely affected the sales of tickets for these draws. Estimated loss of revenue in these cases amounted to Rs. 9.67 lakhs.

(c) In respect of eleven weekly draws held between May 1981 and August 1981, 151.80 lakh tickets were to be printed, but the press supplied 97.25 lakh tickets only. Short supply of tickets (54.55 lakhs) resulted in estimated loss of revenue of Rs. 13.85 lakhs, based on the average sale proceeds of tickets for draws held during 1981.

6.14.2 Overpayment of agency commission

As per the terms and conditions for payment of commission on sale of tickets for the 441st super bumper festival draw 1983, the selling agents were to be allowed agency commission of 20 per cent of sale proceeds for selling tickets up to 1 lakh. Additional half per cent commission was admissible for every additional sale of 1 lakh tickets, subject to maximum

commission of 25 per cent of sale proceeds, provided the selling agents furnished a guarantee for purchase of such minimum number of tickets. In the event of the agent's failure to sell the minimum guaranteed number of tickets, he was liable to pay penalty amounting to Rs. 2,000, as contemplated in the executive order dated 22nd August 1983.

At the request of two agents, the department agreed to supply 11 lakhs tickets to each of them in respect of the said bumper draw, but the agents actually purchased 3.37 lakhs and 3.48 lakhs tickets only. Nevertheless, they were allowed commission at the rate of 25 per cent of sale proceeds, as against the commission of 21 per cent admissible under the scheme, resulting in excess payment of commission of Rs. 1.37 lakhs. No penalty was also levied for the agents' failure to purchase tickets to the extent these were reserved for them.

6.14.3 Unauthorised utilisation of sale proceeds

As per the departmental instructions issued in April 1977 and May 1978, the District officer, the Subdivisional officer and Liaison Commissioner, New Delhi were authorised to retain prescribed percentage (2½ to 5 per cent) of the sale proceeds of lottery tickets sold through them, for payment of honoraria to the staff (gazetted and non-gazetted) under them, for their meritorious efforts for increasing the sale of tickets. The surplus amount, after payment of the honoraria, was required to be deposited by the officers concerned along with the sale proceeds of lottery tickets before the end of the financial year.

A test check in audit of the records of 12 sale centres revealed that the sale centres had not deposited surplus revenue amounting to Rs. 10.21 lakhs (relating to the period January 1980 to March 1984) in Government account. Of this, an amount of Rs. 8.30 lakhs was unauthorisedly spent by the sale centres for meeting expenditure on certain items, which were not covered by above instructions.

On the irregularity being pointed out in audit, the department stated (July 1984) that the expenditure had to be incurred for conducting meetings, seminars, etc., for the purpose of sale promotion, for which no separate allotment was made by the Directorate.

6.14.4 Delay in remittance of sale proceeds

Sale proceeds of lottery tickets by sale centres are required to be remitted promptly to the Directorate of State Lotteries for deposit into Government account. Some cases of delay in remittance of sale proceeds of lottery tickets by the New Delhi sale centre were pointed out in paragraph 7.6 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1977-78. Such delays, however, continued to persist. During the

period between May 1980 and December 1983, sale proceeds amounting to Rs. 22.63 lakhs were remitted by the sale centres to the Directorate after delays ranging between 18 days and 164 days.

6.14.5 Other points

As per Government orders (March 1983), some selected selling agents of tickets enjoyed the facility of getting fresh tickets for sale in exchange for prize-winning tickets of other draws, claims for bonus, additional commission, etc., subject to the condition that an amount equivalent to the value of such claims should be deposited forthwith with the prescribed authority on demand, if any such claims were subsequently found to be doubtful or invalid. There was no provision of obtaining security deposits from the agents concerned.

A test check of the records of the Directorate showed that fresh tickets for Rs. 35.80 lakhs were issued to eight agents in exchange of the said claims for the period from 1st June 1983 to 4th January 1984. But these claims had not been finally admitted by the Directorate till July 1984.

The above points were reported to Government in August 1984; their reply is awaited (March 1985).

Calcutta,
The 02 SEP 1985 1985.



(R. CHANDRASEKARAN),
Accountant General II
West Bengal.

Countersigned.

New Delhi,
The 2 SEP 1985 1985.

T. N. Chaturvedi
(T. N. CHATURVEDI),
Comptroller and Auditor General of India.

ERRATA

Sl. No.	Page	Line	Para	For	Read
1	(iii)	13th	..	electricity	electricity
2	(iii)	14th	..	setst	sets
3	3	Last	1.3	are	is
4	4	8th	1.4	....	9
5	4	26th from bottom	1.4	(+)4.45	(+)4.43
6	5	Foot Note below para	1.5	in respe	in respect
7	27	4th from bottom	2.14(i)	1970	1979
8	36	18	4.2	1901	1909
9	37	24	4.2(b)	transif	transit
10	38	Foot Note Para 4.2 (d)	**below	M/s Bengal Distillery	M/s Shaw Wallace & Co Ltd.
11	42	2	4.5	awited	awaited
12	44	11	5.1	vested khas-mahal land	vested/khas-mahal land
13	46	6th from bottom	5.2.1	six districts	five districts
14	47	23	5.2.1(A) [item 2]	delete first <u>before</u> bracket during	bracket ✓
15	54	14th from top	6.3	pimary	primary
16	54	7th from bottom	6.3	operation	operations
17	60	21st from bottom	6.11.2	has	had
18	64	11th from bottom	6.14	75	65
19	64	11th from bottom	6.14	68	67

