



955

✓ Stamps

REPORT

OF THE

Comptroller & Auditor General of India
for the year 1988-89

No. 1

(REVENUE RECEIPTS)

GOVERNMENT OF HARYANA



CONFIDENTIAL



P. K. Anand.

REPORT
OF THE
Comptroller & Auditor General of India
for the year 1988-89
No. 1
(REVENUE RECEIPTS)

GOVERNMENT OF HARYANA



REPORT

OF THE

Comptroller & Auditor General of India
for the year 1988-89

Vol. I

GENERAL ACCOUNTS

GOVERNMENT OF INDIA

TABLE OF CONTENTS

	Reference to	
	Paragraph	Page(s)
Prefatory Remarks		(v)
Overview		(vii)—(x)
Chapter 1 General		
Trend of revenue receipts	1.1	1—5
Variations between budget estimates and actuals	1.2	5—6
Assessments in arrears	1.3	6—8
Uncollected revenue	1.4	8—14
Frauds and evasions of taxes	1.5	14—15
Refunds	1.6	15—16
Cost of collection	1.7	16—17
Outstanding inspection reports	1.8	18—20
Chapter 2 Sales Tax		
Results of audit	2.1	21
Registration of dealers under the Sales Tax Acts	2.2	22—32
Stay of Sales Tax demands against bank guarantee by the High Court/Supreme Court	2.3	32—36
Non-levy/short levy of purchase tax	2.4	36—41

(ii)

	Reference to	
	Paragraph	Page(s)
Irregular grant of exemption to industrial units	2.5	41—42
Excess grant of rebate on paddy	2.6	42—44
Incorrect deduction on exports out of India	2.7	44—45
Application of incorrect rate of tax	2.8	45—46
Acceptance of invalid declarations	2.9	46—47
Evasion of tax	2.10	47—49
Suppression of purchases	2.11	49—51
Incorrect deduction from turnover	2.12	51—52
Mistake in computation of turnover	2.13	52—53
Incorrect determination of purchase turnover	2.14	53—54
Irregular stay of tax and interest	2.15	54—55
Non-levy of penalty	2.16	55—57
Interest not charged	2.17	57—59
Non-production of assessment files	2.18	59
Recovery at the instance of Audit	2.19	59

Chapter 3 Stamps and Registration Fees

Results of Audit	3.1	60
Under-valuation of immovable property	3.2	60—62
Evasion of stamp duty and registration fee as a result of misclassification of instruments	3.3	62—63

(iii)

	Reference to	
	Paragraph	Page(s)
Evasion of stamp duty and registration fee through power of attorney	3.4	63—64
Misclassification of instruments	3.5	64—65
Recovery at the instance of Audit	3.6	65
Chapter 4 Other Tax Receipts		
Results of Audit	4.1	66
A—State Excise		
Non-recovery of loss on re-auction of vend	4.2	66—67
Non-recovery of interest	4.3	67—70
Non/short recovery of enhanced excise duty	4.4	70—71
Loss of excise duty due to issue of forged permit	4.5	71—72
Non-levy of duty on excess storage loss	4.6	72
Recovery at the instance of Audit	4.7	73
B—Taxes on Vehicles		
Non-levy of tax	4.8	73
Non-levy of tax on combine harvesters machine	4.9	74
Recovery at the instance of Audit	4.10	74
C—Passengers and Goods Tax		
Non-levy of goods tax on vehicles belonging to State Government	4.11	74—75

	Reference to	
	Paragraph	Page(s)
Non-levy of goods tax on vehicles belonging to municipalities	4.12	75
Recovery at the instance of Audit	4.13	75
Chapter 5 Non-Tax Receipts		
Results of Audit	5.1	76
A—Industries		
Receipts from Mines and Minerals	5.2	76—88
B—Public Works (Buildings and Roads)		
Recovery of rent in respect of Government residential buildings	5.3	88—96
Sale of empty bitumen drums	5.4	96
C—Agriculture		
Interest not charged on belated payments	5.5	97

PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Haryana, for the year 1988-89, is presented in this separate volume. The Report has been arranged in the following order :—

- (i) Chapter 1 refers to trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue, the variations between the Budget estimates and the actual receipts under principal heads of revenue, the revenue in arrears for collection and the audit objections and inspection reports outstanding for settlement.
- (ii) In Chapters 2 to 5 are set out some of the important irregularities which came to the notice of Audit during test check of records relating to Sales Tax, Stamps and Registration Fees, Other Tax Receipts and Non-Tax Receipts.

EXHIBIT 10

The following is a list of the names of the persons who have been identified as having been in contact with the subject of this investigation, and who have been identified as having been in contact with the subject of this investigation, and who have been identified as having been in contact with the subject of this investigation.

(1) The following is a list of the names of the persons who have been identified as having been in contact with the subject of this investigation, and who have been identified as having been in contact with the subject of this investigation, and who have been identified as having been in contact with the subject of this investigation.

(2) The following is a list of the names of the persons who have been identified as having been in contact with the subject of this investigation, and who have been identified as having been in contact with the subject of this investigation, and who have been identified as having been in contact with the subject of this investigation.

OVERVIEW

1. General

(i) During the year 1988-89, revenue raised by the State Government, both tax (Rs. 795 crores) and non-tax (Rs. 355 crores) revenue amounted to Rs. 1150 crores as against Rs. 1042 crores during the previous year. Receipts from Government of India during the year, including grants-in-aid of Rs. 170 crores aggregated Rs. 291 crores. Receipts under Sales Tax (Rs. 371 crores) and State Excise (Rs. 193 crores) accounted for a major portion of receipts of tax revenue and under non-tax revenue, main receipts were from Road Transport (Rs. 132 crores) and Interest Receipts (Rs. 77 crores). (Para 1.1)

(ii) 63,664 assessment cases were pending finalisation under Sales Tax and Passengers and Goods Tax at the end of March 1989 as against 52,221 cases pending on 31st March 1988. (Para 1.3).

(iii) Arrears of revenue pending collection at the end of 1988-89 under some principal heads amounted to Rs. 78 crores, out of which Rs. 24 crores were outstanding for more than 5 years. (Para 1.4)

(iv) 2,223 inspection reports (issued up to December 1988) containing 7,652 audit objections of Rs. 3781.62 lakhs were not settled up to June 1989. Out of these, 798 inspection reports containing 2,422 objections of Rs. 1144.97 lakhs were outstanding for more than 5 years. (Para 1.8)

(v) As a result of test audit conducted during 1988-89, under assessments and losses of revenue amounting to Rs. 6.39 crores were noticed. The under-assessments/losses of revenue relate to Sales Tax (Rs. 3.96 crores), Stamp Duty and Registration Fees (Rs. 0.69 crore), State Excise (Rs. 0.65 crore), Taxes on Motor Vehicles (Rs. 0.15 crore), Goods and Passengers Tax (Rs. 0.30 crore) and Non-Tax Receipts (Rs. 0.64 crore). (Para 2.1,3.1,4.1 and 5.1)

(vii)

(viii)

- (vi) This report includes representative cases of non-levy/short-levy of tax, duty, interest, penalty etc., and findings of three reviews, involving a financial effect of Rs. 1.84 crores, noticed during test check in 1988-89 and earlier years. Of this, under-assessment of Rs. 1.57 crores was accepted by the department, of which Rs. 0.33 crore was recovered till August 1989.

2. Sales Tax

- (i) The review on "Registration of dealers under the Sales Tax Acts" revealed :—

—Grant of registration certificates to non-existent dealers without verifying their bonafides resulting in evasion of tax of Rs. 58.16 lakhs.

—Non-maintenance of sureties till the date of validity of registration certificates resulted in non-realisation of demand of Rs. 8.61 lakhs from sureties on behalf of a dealer, whose whereabouts are not traceable.

—Penalty of Rs. 5.35 lakhs was not levied in the case of use of registration certificates for purposes other than those provided in the registration certificates.

- (ii) As on 31st March 1988, an amount of Rs. 12.24 crores pertaining to Sales Tax demands were pending collection in view of stay orders from Courts. Test check of records in 5 districts indicated that Rs. 11.72 crores from one year to ten years were pending collection/due to stay orders and the department had not taken effective steps to get the stay vacated and realise the revenue. (Para 2.3).

- (iii) Purchase tax amounting to Rs. 5.30 lakhs had not been levied in 10 cases in respect of goods valuing 94.60 lakhs purchased by the dealers after furnishing prescribed declarations without payment of tax and who disposed of the goods in violation of these declarations. (Para 2.4)

(ix)

- (iv) Irregular grant of exemption to 4 cottage industrial units resulted in non-levy of purchase tax of Rs. 11.09 lakhs. (Para 2.5)

3. Stamps and Registration Fees

Stamps duty and registration fee amounting to Rs. 8.72 lakhs was realised short in respect of 151 deeds due to under-valuation of properties and misclassification of instruments. [Para 3.2(i) and 3.3(ii)]

4. Other Tax Receipts

State Excise

- (i) There was loss of Rs. 1.77 lakhs on cancellation of licence and re-auction of a vend as the original licensee defaulted in paying licence fee and recovery of loss was not made from him.
- (ii) In 17 cases involving non-levy of excise duty at revised rates on IMFL, beer and rum sold in April 1987 and April 1988 amounting to Rs. 2.05 lakhs was recovered at the instance of audit. (Para 4.4)

Taxes on Vehicles

- (i) In 90 cases where the vehicles had been plying without the payment of tax, an amount of Rs. 5.59 lakhs was recovered between May 1988 and February 1989 at the instance of audit.
- (ii) In the case of 28 buses of Haryana Roadways pertaining to 3 depots, the department did not levy and collect motor vehicle tax amounting to Rs. 1.83 lakhs even though these buses continued to ply beyond the periods upto which tax had been paid after deposit of registration certificates. (Para 4.8)

5. Non-Tax Receipts

Industries Department

The review on "Receipts from Mines and Minerals" revealed :—

- As on 31st March 1989, arrears of revenue under mines and minerals stood at Rs. 126.88 lakhs.

(x)

—Royalty, Contract money and Interest thereon amounting to Rs. 37.05 lakhs on major and minor minerals for the period April 1984 to January 1989 was either not recovered or was short recovered by the department.

—Weighing machines were not found installed by the lessees at the pit head of 69 mines sites and the royalty was being paid by the lessees on truck load basis without actual weighing. (Para 5.2.4)

6. Public Works Department (Buildings and Roads)

Review on "Recovery of rent in respect of Government residential buildings" revealed :—

- Rent at normal rate instead of at market rate was recovered from Government employees who did not vacate Government accommodation within the prescribed period of 4 months after their retirement or transfer to other stations.
- In 75 cases, in 9 divisions test checked, where recovery at market rate was to be enforced, department had not even assessed the market rent.
- Standard rent required to be revised after 5 years from the date of its last fixation was not revised in any of the 4 divisions test checked.
- Basic records were not maintained properly. In two divisions, 346 Government residential buildings were not entered in register of buildings. (Para 5.3.4)

CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Haryana during the year 1988-89, the share of taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below :—

	1986-87	1987-88	1988-89
	(In crores of rupees)		
I. Revenue raised by the State Government			
(a) Tax revenue	565.86	664.40	795.41
(b) Non-tax revenue	296.62	378.00	354.71
Total (I)	<u>862.48</u>	<u>1042.40</u>	<u>1150.12</u>
II. Receipts from Government of India			
(a) State's share of net proceeds of divisible Union Taxes	97.21	107.51	120.62
(b) Grants-in-aid	170.49	153.93	170.34
Total (II)	<u>267.70</u>	<u>261.44</u>	<u>290.96</u>
III Total receipts of the State (I+II)	1130.18	1303.84	1441.08
IV. Percentage of I to III	76	80	80

(i) The details of the tax revenue raised during the year 1988-89, alongside figures for the preceding two years, are given below :—

	1986-87	1987-88	1988-89	Percentage of Increase (+) or Decrease (—) in 1988-89 over 1987-88
	(In crores of rupees)			
	(1)	(2)	(3)	(4)
1. Sales Tax	256.24	314.93	370.56	(+)18
2. State Excise	132.74	158.54	192.87	(+)22
3. Taxes on Goods and Passengers	73.31	80.64	94.46	(+)17
4. Stamps and Registration Fees	45.68	50.23	70.71	(+)41
5. Taxes and Duties on Electricity	27.21	27.67	33.36	(+)21
6. Taxes on Vehicles	15.57	16.25	19.11	(+)18
7. Land Revenue	2.33	0.52	0.73	(+)40
8. Other Taxes and Duties on Commodities and Services	12.78	15.62	13.61	(—)13
Total	565.86	664.40	795.41	(+)20

Reasons for variations as stated by the respective depart-

ments are given below :—

- (a) Increase (18 per cent) in receipts under 'Sales Tax' was due to (i) effective supervision by the department and (ii) levy of Sales Tax at first stage on 25 more items with effect from 1st January 1988.
 - (b) Increase (22 per cent) under 'State Excise' was due to (i) more consumption of Indian made foreign liquor and beer and (ii) higher bids received on auction of country liquor and Indian made foreign liquor vends.
 - (c) Increase (17 per cent) in receipts under 'Taxes on Goods and Passengers' was due to more realisation of freight charges.
 - (d) Increase (41 per cent) in receipts under 'Stamps and Registration Fees' was due to (i) increase in number of registration of deeds and (ii) effective measure taken by Government against under-valuation of properties.
 - (e) Increase (21 per cent) in receipts under 'Taxes and Duties on Electricity' was due to more realisation of electricity duties by Haryana State Electricity Board.
 - (f) Increase (18 per cent) in receipts under 'Taxes on Vehicles' was due to registration of more vehicles and higher receipts from road tax.
 - (g) Increase (40 per cent) in 'Land Revenue' receipts was due to higher realisation of arrears.
 - (h) Decrease (13 per cent) under 'Other Taxes and Duties on Commodities and Services' receipts was due to lesser collection from Entertainment Tax.
- (ii) The details of major non-tax revenue received during the year 1988-89, alongside figures for the preceding two

years, are given below :—

	1986-87	1987-88	1988-89	Percentage of Increase (+) or Decrease (—) in 1988-89 over 1987-88
	(1)	(2)	(3)	(4)
	(In crores of rupees)			
1. Road Transport	107.95	119.96	131.85	(+)10
2. Interest Receipts	80.71	161.94	77.33	(—)52
3. Miscellaneous General Services	34.20	38.38	72.41	(+)89
4. Medical and Public Health	5.79	5.17	5.15	Negligible
5. Non-ferrous Mining and Metallurgical Industries	5.07	5.69	6.59	(+)16
6. Others	62.90	46.86	61.38	(+)31
	296.62	378.00	354.71	(—)6

Reasons for variations as stated by the revenue department are given below :—

(a) Increase (10 per cent) in receipts under "Road Transport" was due to increase in fares with effect from 23rd December 1987 and more traffic.

(b) Decrease (52 per cent) in receipts under "Interest Receipts" was due to lower realisation of interest from departmental commercial undertakings, public sector and other undertakings.

(c) Increase (89 per cent) in receipts under "Miscellaneous General Services" was due mainly to introduction of new lottery schemes and sale of more lottery tickets.

(d) Increase (16 per cent) in receipts under "Non-ferrous Mining and Metallurgical Industries" was due to more realisation of royalty on various minerals.

1.2. Variations between Budget estimates and actuals

The variations between the Budget estimates of revenue for the year 1988-89 and actual receipts, in respect of principal heads of tax and non-tax revenue and the reasons thereof as stated by the respective departments are given below :—

Heads of revenue	Budget estimates	Actuals	Variations Increase (+) or Decrease (—)	Percentage of variation
(1)	(2)	(3)	(4)	(5)
(In crores of rupees)				
1. Sales Tax	372.98	370.56	(—)2.42	Negligible
2. State Excise	186.20	192.87	(+)6.67	(+)4
3. Taxes on Goods and Passengers	93.18	94.46	(+)1.28	Negligible
4. Stamps and Registration Fees	57.43	70.71	(+)13.28	(+)23
5. Taxes and Duties on Electricity	33.88	33.36	(—)0.52	Negligible
6. Taxes on Vehicles	20.00	19.11	(—)0.89	(—)4

	(1)	(2)	(3)	(4)	(5)
7. Land Revenue		0.65	0.73	(+)0.08	(+)12
8. Other Taxes and Duties on Commodities and Services		16.95	13.61	(—)3.34	(—)20
9. Road Transport		139.58	131.85	(—)7.73	(—)6
10. Interest Receipts		119.53	77.33	(—)42.20	(—)35
11. Non-ferrous Mining and Metallurgical Industries		5.00	6.59	(+)1.59	(+)32
12. Medical and Public Health		4.91	5.15	(+)0.24	(+)5

(a) Increase (23 per cent) in receipts under "Stamps and Registration Fees" was due to more transactions in the sale/purchase of properties.

(b) Increase (12 per cent) in receipts under "Land Revenue" was due to more realisation of arrears than anticipated.

(c) Decrease (20 per cent) in receipts under "Other Taxes and Duties on Commodities and Services" was due to lesser collection of Entertainment tax than anticipated.

(d) Decrease (35 per cent) in receipts under "Interest Receipts" was due to lower realisation of interest from departmental commercial undertakings, public sector and other undertakings.

(e) Increase (32 per cent) in receipts under "Non-ferrous Mining and Metallurgical Industries" was due to more realisation of royalty on various minerals.

1.3. Assessments in arrears

The number of assessment cases finalised during the year 1988-89 and pending at the end of 1988-89, alongside figures

for the preceding year, are given below :

	Sales Tax		Passengers and Goods Tax	
	1987-88	1988-89	1987-88	1988-89
(i) Number of assessments due for completion during the year				
(a) Arrear cases	45,876	51,994	141	227
(b) Current cases	1,26,053	1,36,664	372	389
(c) Remand cases	—	1,381	4	4
(ii) Number of assessments completed during the year				
(a) Arrear cases	32,614	34,393	66	184
(b) Current cases	87,321	91,117	224	259
(c) Remand cases	—	1,038	—	4
(iii) Number of assessments pending finalisation at the end of the year				
(a) Arrear cases	13,262	17,601	75	43
(b) Current cases	38,732	45,547	148	130
(c) Remand cases	—	343	4	—

Year-wise break-up of the pending assessments as at the

end of 1988-89 is given below :—

		Number of cases	
		Sales Tax	Passengers and Goods Tax
Upto	1983-84	135	3
	1984-85	664	4
	1985-86	3,613	11
	1986-87	15,999	25
	1987-88	43,080	130
	Total	63,491	173

1.4. Uncollected revenue

As on 31st March 1989, arrears of revenue pending collection under principal heads of revenue, as reported by the departments, were as under :—

Heads of revenue	Total arrears	Arrears outstanding for more than 5 years
(1)	(2)	(3)
	(In crores of rupees)	
1. Sales Tax	52.96	11.41
2. Taxes and Duties on Electricity	15.46	6.82
3. Excise	3.97	3.61
4. Other Taxes and Duties on Commodities and Services—		
(i) Receipts under the Sugar-cane (Regulations, Supply and Purchase Control) Act	1.14	0.83

	(1)	(2)	(3)
(ii) Receipts under Punjab Entertainment (cinematograph shows) Act		0.12	0.01
5. Non-ferrous Mining and Metallurgical Industries		1.27	0.71
6. Taxes on Goods and passengers		1.50	0.07
7. Co-operation		0.53*	0.15
8. Road Transport		0.57	0.01
		<u>77.52</u>	<u>23.65</u>

Year-wise break-up of uncollected revenue was as under :—

Year	Amount
	(In crores of rupees)
Upto 1983-84	23.65
1984-85	3.66
1985-86	8.84**
1986-87	5.14
1987-88	15.26
1988-89	20.97
	<u>77.52</u>

*Excludes amount of arrears pertaining to Assistant Registrar, Co-operative Societies, Jind for which information was not supplied.

**Increase in figures as compared with those shown in Audit Report for the year 1987-88 is due to certain arrears under Sales Tax which were not shown in the information supplied by the department for the Audit Report 1987-88.

According to the information furnished by the departments (July 1989), the amount of arrears as on 31st March 1989 was in the following stages of action :—

	Amount (In crores of rupees)
1. Recoveries stayed by Appellate Authorities/Courts	26.45
2. Amount covered by recovery certificates	5.47
3. Amount likely to be written off	4.13
4. Other stages	41.47
Total	<u>77.52</u>

Analysis of arrears

(a) Sales Tax

Sales tax demand raised but not collected as on 31st March 1989 amounted to Rs. 52.96 crores as against Rs. 47.00 crores outstanding on 31st March 1988. The increase in arrears by Rs. 5.96 crores (13 per cent) was stated to be mainly due to assessment of more cases during end of 1988-89 against which recoveries of additional demands fell due after 31st March 1989 and stay granted by High Court on account of levy of Sales Tax on paddy purchased by the dealers for manufacturing rice for export purposes. Year-wise break-up of outstanding amount as on 31st March 1989 is given below :—

Year	Amount (In crores of rupees)
Upto 1983-84	11.41
1984-85	3.01
1985-86	7.14*
1986-87	3.84
1987-88	13.18
1988-89	14.38
	<u>52.96</u>

*Increase in figure as compared with that shown in Audit Report for the year 1987-88 is due to certain arrears which were not shown in the information supplied by the department for the Audit Report 1987-88.

Recovery of Government dues exceeding Rs. 2 lakhs was outstanding in 185 cases involving an amount of Rs. 35.84 crores.

District-wise position of individual cases with recovery due exceeding Rs. 5 lakhs was as under :—

District	Number of cases	Amount
		(In lakhs of rupees)
1. Karnal	9	1824.84
2. Faridabad (E)	30	569.18
3. Faridabad (W)	30	522.28
4. Sonapat	9	164.88
5. Jagadhari	7	67.60
6. Ambala	6	61.32
7. Rohtak	5	53.51
8. Sirsa	2	31.26
9. Gurgaon	3	29.66
	<hr/> 101	<hr/> 3324.53 <hr/>

(i) Assessment of a dealer of Ambala for the year 1983-84 was finalised *ex-parte* in November 1987 creating an additional demand of Rs. 8.61 lakhs. The dealer had closed down his business in April 1987. His certificate of registration was cancelled with effect from 1st April 1987 and the recovery certificate was issued to the Collector, Delhi in January 1989. Recovery has not yet been made (July 1989).

(ii) Assessments for the year 1981-82 in respect of two dealers of liquor at Faridabad were finalised between July 1981 and December 1982 creating additional demands of Rs. 22.96 lakhs. An amount of Rs. 45,000 has been recovered from the surety and proceedings to recover Rs. 25,000 from surety are going on. Balance amount has been declared

recoverable as arrear of land revenue in June 1982 and recovery certificates were sent to the Collector Delhi and Gaziabad in June 1982 but the dealers were stated to be not traceable on the given address. Thereafter no action was taken by the department. Recovery has not been made (July 1989).

(iii) Assessments of a dealer of Faridabad (East) for the years 1981-82 and 1982-83 were finalised *ex-parte* in September 1985 and March 1988 creating additional demands of Rs. 9.11 and Rs. 22.24 lakhs respectively. The dealer had closed down his business in January 1983 and did not pay the tax. The department also failed to recover the amount from the sureties as they were not traceable. Recovery certificates were issued to the Assistant Collector, Delhi in September 1988 and July 1988. Amount is yet to be recovered (July 1989).

(iv) Assessment of a dealer of Faridabad for the year 1981-82 was finalised *ex-parte* in September 1985 creating an additional demand of Rs. 5.26 lakhs. The dealer and the sureties are stated to be not traceable. The recovery certificate was sent to the Collector, Delhi in February 1986. Recovery has not been made (July 1989).

(b) Taxes and Duties on Electricity

The amount of arrears of taxes and duties on electricity to be realised at the end of March 1989 was Rs. 15.46 crores, as against Rs. 10.64 crores outstanding at the end of March 1988. Year-wise details of the outstanding dues are given below :—

Year		Amount
		(In crores of rupees)
Upto	1983-84	6.82
	1984-85	0.23
	1985-86	1.43
	1986-87	0.88
	1987-88	1.28
	1988-89	4.82
		<hr/> 15.46 <hr/>

The arrears were stated to be outstanding against the Haryana State Electricity Board. Non-recovery was attributed to the following reasons :—

- (i) Duty of Rs. 3.02 crores due from M/s Haryana Concast Limited was deferred by the State Government.
- (ii) Duty of Rs. 30.03 lakhs due from the Dadri Cement Factory, Dadri was likely to be written off.
- (iii) The balance amount was outstanding partly due to non-adjustment of misclassified amount by the Board and partly due to non-recovery from the consumers.
- (iv) Pendency of cases in the Civil Courts and with Arbitrators.

(c) State Excise

Arrears of revenue under State Excise as on 31st March 1989 amounted to Rs. 3.97 crores as against Rs. 4.18 crores outstanding on 31st March 1988. Year-wise details of the outstanding dues are given below :—

Year	Amount
	(In crores of rupees)
(1)	(2)
Upto	
1983-84	3.61*
1984-85	0.22
1986-87	0.04
1987-88	0.02
1988-89	0.08
Total	3.97

*Increase in figures as compared with those shown in Audit Report for the year 1987-88 is due to certain arrears under State Excise which were not shown in the information supplied by the department for the Audit Report 1987-88.

According to the information supplied (July 1989) by the department, the amount of arrears as on 31st March 1989 was in the following stages of action :—

	Amount
	(In crores of rupees)
(i) Recoveries stayed by Appellate Authorities/Courts	0.95
(ii) In process of recovery by issue of recovery certificate	0.81
(iii) Amount likely to be written off	0.08
(iv) Other stages	2.13
Total	<hr/> 3.97 <hr/>

(d) Other Taxes and Duties on Commodities and Service-Receipts under the Sugarcane (Regulations, Supply and Purchase Control) Act.

The uncollected amount on account of purchase tax on sugarcane at the end of March 1989 was Rs. 1.14 crores. The entire amount was recoverable from four sugarmills (Panipat : Rs. 0.94 crore; Rohtak : 0.08 crore; Karnal : Rs. 0.06 crore, and Sonapat : Rs. 0.06 crore). Reasons for non-recovery have not been furnished (July 1989) by the department.

1.5. Frauds and evasions of taxes

The table below indicates the amount of taxes/receipts assessed during the year 1988-89 in cases of frauds and evasions of taxes/receipts detected by the departments con-

cerned during 1988-89 and earlier years :—

Nature of tax/ receipt	Cases pending as on 1st April 1988	Number of cases detected during the year	Number of cases finalised	Number of cases pending as on 31st March 1989	Amount of tax, interest and penalty levied		
(1)	(2)	(3)	(4)	(5)	(6)		
			Out of Col. 2	Out of Col. 3	Out of Col. 2	Out of Col. 3	(In lakhs of rupees)
1. Sales Tax	310	8,159	209	7,753	101	406	184.25
2. Passengers and Goods Tax	220	3,068	60	2883	160	185	31.17
3. Entertainment Duty and Show Tax	11	17	11	17	—	—	0.40
4. State Excise	—	80	—	80	—	—	0.60
5. Medical	1	—	—	—	1	—	—

1.6 Refunds

Position of refunds allowed during the year 1988-89 is

given below :—

Sales Tax		State Excise		Passengers and Goods		Entertainment Duty and Show Tax		
Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	
(Amount in lakhs of rupees)								
1. Claims outstanding on 1st April 1988	453	107.17	2	0.07	2	0.03	2	1.70
2. Claims received during the year 1988-89	1,530	132.68	26	4.49	1	0.09	4	0.42
3. Refunds made during the year 1988-89	1,386	177.70	24	4.54	3	0.12	3	0.38
4. Balance outstanding at the end of the year	597	62.15	4	0.02	—	—	3	1.74

1.7. Cost of collection

Expenditure incurred on collection of the major revenue receipts during the year 1988-89 (with figures for the preceding

two years) is given below :—

Heads of revenue	Year	Gross Collect- tion	Expen- diture	Percent- age of expendi- ture to gross col- lection
------------------	------	------------------------	------------------	---

(In crores of rupees)

1. Sales Tax	1986-87	256.24	5.03	1.96
	1987-88	314.93	6.24	1.98
	1988-89	370.56	7.34	1.98
2. State Excise	1986-87	132.74	0.53	0.40
	1987-88	158.54	0.65	0.41
	1988-89	192.87	0.80	0.41
3. Stamps and Registrarion Fees	1986-87	45.68	0.47	1.03
	1987-88	50.23	0.33	0.66
	1988-89	70.71	0.33	0.47
4. Taxes on Vehicles	1986-87	15.57	0.70	4.50
	1987-88	16.25	0.45	2.77
	1988-89	19.11	0.59	3.09
5. Other Taxes and Duties*	1986-87	113.30	0.43	0.38
	1987-88	123.93	0.39	0.31
	1988-89	141.43	0.46	0.33

*Figures against Other Taxes and Duties comprise collections and expenditure under the following heads of revenue :—

(i) Taxes on Goods and Passengers

(ii) Taxes and Duties on Electricity

(iii) Other Taxes and Duties on Commodities and Services.

1.8. Outstanding inspection reports

Audit observations on financial irregularities, defects in initial accounts and under-assessments of tax, noticed during local audit are communicated to the heads of the offices and to the next higher departmental authorities through local audit inspection reports, and first replies thereto are required to be sent within six weeks from the date of issue. The more important irregularities are also reported to the heads of departments and to the Government. Half-yearly reports of audit objections outstanding for more than six months are also forwarded to Government to expedite their settlement.

(i) At the end of June 1989, 2,223 inspection reports (issued upto December 1988) containing 7,652 audit objections of Rs. 3781.62 lakhs remained outstanding, out of which 798 inspection reports containing 2,422 objections of Rs. 1144.97 lakhs were outstanding for more than 5 years. This is a very high pendency.

(ii) Relatively large number of audit objections were outstanding under the following major heads :—

		Year	Number of in- spection	Number of audit objections	Amount (In lakhs of rupees)
		(1)	(2)	(3)	(4)
1. Sales Tax	Upto	1983-84	99	171	23.79
		1984-85	20	44	107.01
		1985-86	22	175	137.43
		1986-87	22	200	35.26
		1987-88	22	328	93.55
		1988-89	6	181	178.42
		Ttoal	191	1,099	575.46
2. Taxes on Vehicles	Upto	1983-84	59	289	70.22
		1984-85	8	31	0.85
		1985-86	14	75	0.40
		1986-87	37	169	21.13
		1987-88	46	207	70.14
		1988-89	13	60	6.45
		Total	177	831	169.19

		(1)	(2)	(3)	(4)
3. Stamps and Registration Fees	Upto	1983-84	44	131	15.01
		1984-85	58	139	10.46
		1985-86	41	141	23.38
		1986-87	84	169	23.12
		1987-88	80	237	26.26
		1988-89	67	262	52.53
		Total	374	1,079	150.76
4. State Excise	Upto	1983-84	37	95	157.40
		1984-85	9	25	300.97
		1985-86	9	26	84.56
		1986-87	16	46	13.14
		1987-88	9	30	259.97
		1988-89	19	75	160.56
		Total	99	297	976.60
5. Taxes on Goods and Passengers	Upto	1983-84	47	87	9.84
		1984-85	10	26	3.45
		1985-86	11	33	3.44
		1986-87	16	51	2.15
		1987-88	15	53	8.51
		1988-89	13	89	3.27
		Total	112	339	30.66
6. Major and Medium irrigation	Upto	1983-84	158	598	342.76
		1985-86	34	90	46.13
		1987-88	25	132	48.00
		Total	217	820	436.89

		(1)	(2)	(3)	(4)
7. Public Works	Upto	1983-84	94	372	63.11
		1984-85	12	29	4.25
		1985-86	24	40	15.79
		1986-87	21	75	44.69
		1987-88	45	158	8.74
		1988-89	3	4	*
	Total		199	678	136.58
8. Co-operation	Upto	1983-84	79	163	11.27
		1984-85	17	40	4.63
		1985-86	20	48	1.30
		1986-87	21	102	19.11
		1987-88	13	45	2.93
		1988-89	6	22	*
	Total		156	420	39.24
9. Non-ferrous Mining Metallurgical Industries	Upto	1983-84	35	185	359.99
		1984-85	11	34	45.91
		1985-86	2	2	61.42
		1986-87	22	80	53.44
		1987-88	10	48	63.65
		1988-89	11	61	21.92
	Total		91	410	606.33
10. Land Revenue	Upto	1983-84	45	156	21.60
		1984-85	5	33	2.05
		1985-86	8	53	4.39
		1986-87	17	28	1.74
		1987-88	25	60	2.81
		1988-89	9	15	0.45
	Total		109	345	33.04

*Audit objections are of procedural nature without money value.

CHAPTER 2

SALES TAX

2.1. Results of Audit

Test check of sales tax assessments and other records of 23 units, conducted during the year 1988-89, revealed under-assessment of tax of Rs. 396.21 lakhs in 846 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/short levy of penalty	96	159.78
2. Interest not charged	203	84.40
3. Incorrect computation of turnover	301	55.49
4. Under-assessment of tax under Central Sales Tax Act	18	44.17
5. Application of incorrect rate of tax	26	4.11
6. Other irregularities	202	48.26
Total	846	396.21

Out of 846 cases, the department, in 177 cases, raised additional demand amounting to Rs. 6.36 lakhs. A few important cases noticed during 1988-89 and earlier years and findings of audit review on 'Registration of dealers under the Sales Tax Acts' are mentioned in the succeeding paragraphs.

2.2. Registration of dealers under the Sales Tax Acts

2.2.1. Introduction

The Haryana General Sales Tax Act, 1973 and the Central Sales Tax Act, 1956 forbid carrying on of business by any dealer except one dealing exclusively in goods declared to be tax free, who is liable to pay tax under the Acts, unless he is duly registered and possesses a valid registration certificate which specifies the class or classes of goods in which the dealer carries on business. Three types of registration viz, compulsory, voluntary and provisional, are available to the dealer under the State Act. Whereas a trader is required to register himself and pay tax, if his gross turnover exceeds Rs. 1,00,000 in a year, a manufacturer is required to register himself if his turnover exceeds Rs. 25,000 (Rs. 1,00,000 with effect from 1st April 1985). A dealer who runs a hotel, restaurant, halwai shop, bakery and other similar establishment wherein Indian food preparations including tea are served, is liable for registration if his turnover exceeds Rs. 40,000 (Rs. 1,00,000 with effect from 1st April 1985). A dealer whose turnover during a year exceeds Rs. 15,000 may apply for voluntary registration. Similarly, a dealer who intends to establish a business in the State for the purpose of manufacturing goods of value exceeding Rs. 10,000 a year for sale may apply for provisional registration. The dealers are required to get themselves registered under the Central Sales Tax Act also, if they engage themselves in inter-State sales or purchases for any amount.

The registration process enables the department to ensure, *inter alia*, that persons liable to pay tax are assessed to tax and amounts due are recovered from them. It is, thus, necessary for the department to carry out an extensive survey to find out the persons who are liable to be registered as dealers under the provisions of the Act. In July 1982, the department issued instructions to district officers that regular surveys should be conducted from time to time by all the assessing authorities and District Officers incharge of the Sales Tax (Deputy Excise and Taxation Commissioner) should supervise the work personally. These instructions were re-iterated in April 1983 requiring each assessing authority to undertake a complete and extensive survey within respective territorial jurisdiction and give a completion certificate by 2nd May 1983 to the District Officer who in turn would forward it by 10th May 1983 to the

Excise and Taxation Commissioner certifying that survey had been conducted in the entire district. All cases detected during survey were to be finalised by all the assessing authorities by 30th June 1983.

When a dealer liable to pay tax has failed to apply for registration, the assessing authority can, within five years after the expiry of such period, proceed to assess, to the best of judgement, the amount of tax due from the dealer.

2.2.2. Scope of audit

Out of the fourteen sales tax districts, records in respect of eight districts viz. Ambala, Yamunanagar, Karnal, Sonapat, Faridabad, Gurgaon, Rohtak and Hisar for the years from 1983-84 to 1987-88 were test checked (February 1989 to May 1989) with a view to ensuring that the dealers liable to be registered were actually registered and the relevant rules had been complied with and the registration certificates were granted by the assessing authority after verifying the bonafides, relevant particulars and financial position of the dealers and genuineness of persons standing as surety in order to safeguard the recovery of sales tax dues.

2.2.3. Organisational set up

The overall control and superintendence of the sales tax organisation vests with the Excise and Taxation Commissioner who is assisted by the Deputy Excise and Taxation Commissioner, Excise and Taxation Officers, Assistant Excise and Taxation Officers, Taxation Inspectors and other allied staff in the administration of the State Sales Tax Act, 1973 and Central Sales Tax Act, 1956.

2.2.4. Highlights

(i) Grant of registration certificates to non-existent dealers without verifying their bonafides resulted in evasion of tax of Rs. 58.16 lakhs on turnover of Rs. 1050.09 lakhs.

(ii) Non-maintenance of sureties till the date of validity of registration certificates resulted in non-realisation of demand of Rs. 8.61 lakhs from sureties on behalf of a dealer whose whereabouts are not traceable.

(iii) Use of registration certificates for purposes other than those provided in the registration certificates, resulted in non-levy of penalty of Rs. 5.35 lakhs.

(iv) Recording inadmissible items in the registration certificates of two dealers resulted in non-levy of tax of Rs. 2.20 lakhs.

(v) 444 certificates of registration were issued after a period ranging between 2 to 12 months instead of being issued within two months of receipt of application as required under departmental instructions.

2.2.5. Survey

Survey is one of the most effective tools in the hands of the department for registering the dealers who are liable for registration under the Acts. Department issued instructions in July 1982 that every assessing authority of a circle should undertake survey in his circle to unearth unregistered dealers who are liable for registration under the Haryana General Sales Tax Act and Central Sales Tax Act and maintain regular register of this survey indicating the name of the business premises, particulars of ownership, commodities dealt in, details of account books maintained, particulars of annual turnover and the facts whether the concerned dealer is registerable or is already registered. These registers were to be checked by District Officers personally. These instructions were re-iterated in April, 1983, emphasising the District Officers to ensure that all the Assistant Excise and Taxation officers incharge of the circles undertake survey in their respective area during April 1983 and give a completion certificate to them by 2nd May 1983. District Officers were to give certificate by 10th May 1983 to the department that survey had been conducted in the entire district. It was also to be ensured that all the cases detected during the survey are finalised by all the assessing authorities by 30th June 1983.

Since July 1982 the assessing authorities, however, had not conducted any survey (March 1988) even after issue of general instructions by the department.

2.2.6. Trend in Registration of dealers

Table below indicates the trend of number of dealers registered under the State Sales Tax Act and Central Sales Tax Act from 1983-84 to 1987-88.

Year	Name of the Act	Number of registered dealers at the beginning of the year	Number of dealers registered during the year	Number of registered dealers whose registration were cancelled during the year	Number of dealers at the end of the year
(1)	(2)	(3)	(4)	(5)	(6)
1983-84	State Act Central Act	58923 51271	6291 6056	2299 2184	62915 55143
1984-85	State Act Central Act	62915 55143	6610 6012	2348 2350	67177 58805
1985-86	State Act Central Act	67177 58805	6160 7251	3945 2387	69392 63669
1986-87	State Act Central Act	69392 63669	6580 6514	5474 5084	70498 65099
1987-88	State Act Central Act	70498 65099	6273 6261	4231 3953	72540 67407

It was, however, seen that the trend of increase in the number of registration was due to dealers applying for registration voluntarily. The assessing officers had not conducted any survey even after issue (July 1982) of general instructions by the department.

2.2.7. Loss of revenue due to grant of certificates of registration without following proper procedure

Under the Haryana General Sales Tax Rules, 1975, the assessing authority before granting a certificate of registration is required to satisfy himself, after making an enquiry, that the applicant is a bonafide dealer and the particulars furnished by him are correct. The dealer may also be required to furnish cash security or personal bond alongwith the application for registration where it appears to be necessary to do so by the assessing authority for the proper realisation of the tax payable.

The amount of security shall in no case exceed the tax payable as estimated by the assessing authority on the turnover of the dealer for the year in which such security is required to be furnished before registering a dealer, after checking his financial position, the genuineness of persons standing as surety is also to be verified. Further if the assessing authority is satisfied that the application is in order and the fee has been paid or deposited, he shall after satisfying himself regarding the continuation of the business and genuineness of the security, renew the certificate of registration.

(i) Two coal dealers of Gurgaon were granted certificates of registration in August 1984. They returned a turnover of Rs. 97,793 for the year 1984-85 which was accepted and assessments were finalised in May 1985. The dealers closed the business in July 1985 and left the place of business. During investigation (July 1985), the department however found that the purchases of coal valued Rs. 151.50 lakhs during 1984-85 had been suppressed by these dealers. Although their assessments were re-opened and demand of Rs. 6.06 lakhs was raised (August 1985 and March 1986) on the escaped turnover but the demand could not be realised as the dealers were non-existent. However an amount of Rs. 10,825 only could be recovered from one surety. The other surety was fictitious and was defaulter in his own assessment for the year 1984-85.

(ii) A dealer of Gurgaon was granted registration certificate in September 1983 for trading in coal. He filed monthly returns disclosing a turnover of Rs. 2,99,735 for the year 1984-85 against his actual turnover of Rs. 90 lakhs. The assessment was finalised in March 1986 on turnover of Rs. 90 lakhs and a demand notice of Rs. 3.51 lakhs was issued in November 1986. But the demand could not be realised as the dealer was found bogus and was not traceable. The demand could also not be recovered from the surety as the same had withdrawn himself in August 1985 and the department had not taken any steps to obtain fresh security. The failure of the department to verify the antecedents of the dealer before the grant of Registration Certificate resulted in loss of revenue of Rs. 3.51 lakhs to the department.

(iii) A dealer of Ambala who was granted registration certificate in April 1983 for trading in sale/purchase of tea filed his return for the year 1983-84 and deposited tax of Rs. 5,209. He closed his business and got his certificate of registration cancelled from February 1984. During investigations the

department found (March 1985) that both the dealers and the firm were fictitious and non-existent. Tea worth Rs. 80 lakhs was imported by the dealer from outside the State during 1983-84 and was sold in uchanti*. The department finalised (May 1988) the assessment of the dealer for the year 1983-84 ex-parte by determining the turnover at Rs. 80 lakhs on which a demand of Rs. 12.81 lakhs was raised which could not be realised. The person against whom the demand was raised by the department refused to accept the demand and denied having any connection with the fictitious firm. The sureties furnished by the dealer denied having stood sureties for the said firm.

(iv) A dealer of Yamunanagar was granted registration certificate (April 1981) for transacting business in general goods. He filed one return on 4th August 1981 for the 1st quarter ending June 1981 showing turnover as nil. The investigation by the department, however, revealed (August 1981) that the dealer was non-existent and the registration certificate was granted through oversight which was cancelled by the department in October, 1981. A further scrutiny of records, however, revealed that the dealer had purchased vegetable ghee and tea valuing Rs. 8.85 lakhs from outside the State of Haryana in the year 1981-82 and had suppressed their sales and evaded tax of Rs. 69,258. The assessment for the year 1981-82 was finalised in July 1986 and a demand of Rs. 69,258 was raised against the dealer which could not be realised as the dealer was fictitious and non-existent. One of the two sureties furnished by the dealer was also bogus. Efforts were, however, being made by the department to trace out the second surety.

(v) A dealer of Panipat was granted (March 1984) registration certificate for transacting business in iron and steel. He purchased without payment of tax goods valued at Rs. 252.03 lakhs during the year 1984-85 (Rs. 223.59 lakhs) and 1985-86 (Rs. 28.44 lakhs) on the authority of his registration certificate from within the State, but disclosed a turnover of Rs. 167 lakhs during 1984-85 and Rs. 18 lakhs only during 1985-86 in the returns filed by him. The assessing Authority, Panipat, however, found (November 1986) that the dealer had

*Uchanti means sales and purchases without its accountal in one's accounts books.

indulged in unauthorised sales and purchases and after large scale evasion of tax, had left the State without rendering his accounts.

Although the department cancelled the certificate of registration of the dealer with effect from 24th November 1986 but tax of Rs. 10.08 lakhs could not be assessed and recovered as whereabouts of the dealer were not known to the department. One of the two sureties furnished by the dealer was also bogus and was defaulter in his own assessments for the years 1982-83 and 1983-84. The second surety was stated to be financially unsound.

(vi) A dealer of Hisar was granted certificate of registration in May 1984 for trading in foodgrains and oil cakes. The dealer purchased goods valued at Rs. 274.79 lakhs during 1984-85 on the strength of his registration certificate from within the State without payment of tax, and disposed of the same without paying any tax. He closed his business in April 1985 and left the place of business without rendering his accounts of purchases and sales. On finding out (July 1985) the unauthorised business activities of the dealer, the department cancelled his certificate of registration in August 1986 and declared him bogus. Tax amounting to Rs. 16.82 lakhs on turnover of Rs. 274.79 lakhs however, could not be assessed and recovered. The sureties furnished by the dealer were also not genuine and their own assessments for the year 1984-85 were also pending.

(vii) Three dealers of Hisar were granted certificates of registration with validity from August 1984, July 1984 and November 1983 for trading in foodgrains and oil cakes. The dealers purchased without payment of tax goods valued at Rs. 192.92 lakhs during the year 1984-85 and 1985-86 on the strength of their registration certificates from within the State and after disposing of the goods in the manner otherwise than as provided under the Act, they closed down the business and left the place of business without rendering their accounts of purchases and sales. On finding (June-July 1985) that the dealers had indulged in evasion of tax the department cancelled their certificates of registration (during June 1985 and January 1986). But turnover of Rs. 192.92 lakhs involving tax affect of Rs. 8.19 lakhs could not be assessed and recovered as the dealers were not traceable on the given address. In the case of two dealers, sureties had withdrawn in October 1984 and June 1985 and had not furnished fresh sureties.

2.2.8. Non-maintenance of security till the date of validity of registration certificate

Under the Haryana General Sales Tax Act, 1973, a dealer before the grant of Registration certificate, is required to furnish security not exceeding the amount of tax payable as estimated by the assessing authority on the turnover of the dealer. Further under the Haryana General Sales Tax Rules 1975, security furnished by the dealer is required to be maintained in full so long as his certification of registration continues to be in force.

(i) Four dealers (one each of Panchkula, Karnal and two of Gurgaon) were granted registration certificates in August 1986, June 1986, June 1987 and March 1987 respectively against security in the form of Bank guarantees for total amount of Rs. 1.85 lakhs which were valid upto June 1988, November 1987, January 1988 and May 1988 respectively. Though Act provides that the security furnished should be maintained in full till the validity of registration certificates, yet neither the bank guarantees were renewed nor were the fresh security obtained. The registration certificates were still valid without security (May 1989).

(ii) Demand of Rs. 8.61 lakhs pertaining to the year 1983-84 was raised in November 1987 against a dealer of Ambala who was granted certificate of registration with date of validity from 31st July 1979. The demand could not be realised as the dealer closed down his business in April 1987 and was not traceable. The dealer had furnished surety for Rs. 10,000 only which was recovered and adjusted against the demand for the year 1982-83. Inadequate security coupled with failure to raise demand in time resulted in non-realisation of tax of Rs. 8.61 lakhs.

(iii) Two sureties furnished by an assessee of Faridabad withdrew in June 1982 when the management of the assessee firm was changed. The department did not obtain fresh sureties. In September 1985, however, a demand of Rs. 36,446 was raised for the assessment year 1981-82 which could not be recovered because the assessee firm had gone into liquidation and there was no surety in the case. Belated action on the part of department in raising the demand and failure to obtain fresh sureties resulted in loss of tax amounting to Rs. 36,446.

2.2.9. Misuse of registration certificate

Under the Central Sales Tax Act, 1956 a registered dealer can purchase goods specified in his registration certificate at concessional rate of tax for the purpose of resale or use in the manufacture of goods for sale. If he misuses his registration certificates he renders himself liable to penalty of not exceeding one and a half times the amount of tax leviable. Similarly, under the Haryana General Sales Tax Act, 1973, a registered dealer can purchase goods, from within State without payment of sales tax, on the authority of his certificate of registration for the purpose of resale or for use in the manufacture of taxable goods for sale failing which he is liable to pay tax on the purchase of such goods.

(i) A dealer of Gurgaon made inter-State purchases of goods valued Rs. 59.47 lakhs in the year 1983-84 on the authority of his registration certificate under Central Sales Tax Act at concessional rate of 4 per cent against declarations in form C for being used in the manufacture of goods for sale. The goods so purchased were, however, used in the works contracts which were not sales but job work. As the use of form 'C' had been made for purchase of goods which were meant neither for re-sale nor for use in manufacture of goods for sale, he was liable to pay penalty under Section 10-A(i) of the Central Sales Tax Act for misuse of registration certificate. Penalty which worked out to Rs. 5.35 lakhs was not levied.

(ii) Five dealers (two of Gurgaon, one each of Panipat, Rohtak and Karnal) purchased goods valued at Rs. 6.77 lakhs on the authority of their registration certificates, without payment of tax, from within the State against declarations in form ST-15A and used them for purposes other than those specified in his registration certificates. For misuse of registration certificates, tax not levied in their cases worked out to Rs. 27,087.

2.2.10. Wrong specification of goods in the registration certificates

Under the Haryana General Sales Tax Act, 1973 a manufacturer can purchase goods from within the State, without payment of tax, on the authority of his certificates of registration, if he furnishes a declaration (form ST-15A) certifying that the goods are specified in his registration certificates and are required for use in the manufacture of taxable goods. Thus, only such goods need be specified in the registration

certificate which are to be used in the manufacture of taxable goods.

(i) In the registration certificates granted to two dealers of Sonipat and Karnal for the manufacture and sale of tax free sugar, during year 1981-82 to 1986-87, inadmissible items such as machinery and machinery parts were erroneously specified. The dealers on the strength of these certificates purchased machinery and parts thereof valued at Rs. 27.49 lakhs from within the State without payment of tax. This resulted in non-levy of tax of Rs. 2.20 lakhs.

(ii) In the registration certificates issued to nine dealers (five of Faridabad, one each of Sonapat, Panipat, Gurgaon and Karnal) during the years 1983-84, 1984-85, 1986-87 and 1987-88, inadmissible items such as raw materials and machinery in case of 4 dealers manufacturing tax free goods and building material in respect of other five dealers, were specified by the department authorising them to purchase these items without payment of tax from within the State which was irregular.

2.2.11. Delay in disposal of applications for registration

Departmental instruction issued in April 1982, provide that the registration certificate should be granted within 2 months of receipt of application from the dealer.

(i) Two dealers of Hisar and Yamunanagar applied for the grant of registration certificate in January 1982 and September 1983 which were issued to them by the department in July 1984 and May 1984 respectively. The Hisar dealer deposited the tax for the years 1982-83 and 1983-84 in August 1984. The Yamunanagar dealer however, did not deposit voluntary tax at all for the year 1983-84 on the ground that the certificate of registration was issued to him after the expiry of year 1983-84. His assessment for the year 1983-84 was finalised in March 1985 when a demand of Rs. 1.03 lakhs was raised which was realised in April 1985 and June 1985. Failure of department to issue registration certificates within specified time resulted in belated payment of tax and loss of interest of Rs. 29,398.

(ii) As per ST-5 (list of registered dealers) maintained in Faridabad, Gurgaon, Rohtak, Karnal, Hisar and Ambala

districts, registration certificates were issued late during the years 1983-84 to 1987-88 by 2 to 3 months in 61 cases, 3 to 6 months in 174 cases, 6 to 12 in 157 cases and above 12 months in 52 cases (total 444 cases). A scrutiny of receipt register of applications for grant of registration certificates revealed that out of 7,167 applications received during the years 1985-86 to 1987-88 in respect of Ambala, Karnal, Rohtak, Hisar and Gurgaon there was no indication in respect of 351 applications whether or not the registration certificates were issued.

The above points were reported to Government in July 1989 and their reply has not been received (December 1989).

2.3. Stay of Sales Tax demands against bank guarantee by the High Court/Supreme Court

The Position of collection of revenue from Sales Tax during the years 1983-84 to 1987-88 was as under :—

Year	Tax collected under Haryana General Sales Tax Act	Under Central Excise Sales Tax Act
(In crores of rupees)		
1983-84	100.23	66.29
1984-85	105.44	78.42
1985-86	138.53	95.82
1986-87	164.63	91.61
1987-88	189.57	125.36

Haryana General Sales Tax Act, 1973, provides that for any tax, penalty or interest payable in consequence of any order passed under the Act, a notice of demand shall be served upon the assessee. The amount specified in the notice of demand has to be paid within the time specified in the notice of demand or in the absence of any time being specified in the said notice, within 30 days from the date of service of such notice. An assessee dissatisfied with the assessment order, can file an appeal to the Joint Excise and Taxation Commissioner (Appeals). Further, a second appeal rests

with the Sales Tax Appellate Tribunal. After the Tribunal's decision, references on the point of law can be made to the High Court.

Total amount of tax assessed, but remaining uncollected, as on 31 March 1988 works out to Rs. 47.00 crores including Rs. 12.24 crores relating to 163 cases, in respect of which collection of demand was stayed by the High Court/Supreme Court. Year-wise details of the appeals pending with the High Court/Supreme Court, were called for from the department (February 1989) but details have not been supplied by the department (June 1989).

During test check in audit of records in five districts (Karnal, Sirsa, Hisar, Faridabad and Ambala), it was noticed (May 1989) that in the cases detailed in the table below, the tax demanded from the assessee by the department was stayed by the High Court/Supreme Court on furnishing of bank guarantees by the assessees in some cases :—

Serial number	Particulars		Demand pending with the assessee (in lakhs of rupees)	Year to which the demand relates	When stay order was obtained from High Court or Supreme Court	Whether bank guarantee was given	
(1)	(2)		(3)	(4)	(5)	(6)	
1.	A	Karnal	138.70	1977-78	December 1986	May 1985	Yes
			165.62	1978-79	February 1987		Yes
			176.33	1983-84		May 1985	Yes
			195.86	1984-85		May 1985	Yes

(1)	(2)	(3)	(4)	(5)	(6)
2.	B Karnal	89.40	1975-76	April 1987	No
		38.81	1982-83	August 1987	No
		6.38	1980-81	August 1987	
		98.34	1982-83	February 1988	No
3.	C Sirsa	2.21	1967-68 1968-69	January 1983	Yes
4.	D Sirsa	2.15	1968-69	January 1983	Yes
5.	E Sirsa	3.90	1984-85 1985-86	April 1986	Against surety bond
6.	F Fatehabad (Hisar)	3.88	1967-68 1968-69	December 1978	Yes
7.	G Fatehabad (Hisar)	2.85	1967-68 1968-69	January 1979	Yes
8.	H Dabwali (Hisar)	2.06	1968-69	April 1981	No
9.	I Hisar	9.47	1978-79 to 1980-81	March 1983	No
10.	J Faridabad	0.68	1980-81	March 1983	No
		0.69	1981-82	February 1984	No
		2.01	1982-83	October 1984	No

(1)	(2)	(3)	(4)	(5)	(6)
11. K	Faridabad	16.35	1974-75 to 1979-80	March 1985	No
12. L	Faridabad	23.50	1976-77 to 1978-79	March 1985	No
13. M	Faridabad	13.51	1981-82	July 1986	No
14. N	Faridabad	26.77	1973-74 to 1977-78	January 1986	No
		39.34	1979-80 to 1984-85	July 1986	No
15. O	Faridabad	21.48	1982-83 and 1983-84	December 1986	No.
16. P	Faridabad	9.82	1976-77 to 1982-83	March 1986	No
17. Q	Faridabad	15.30	1977-78	December 1987	Yes
		16.06	1979-80	December 1984	Yes
		1.00	1979-80	December 1984	No
		18.59	1982-83	August 1984	Yes
8. R	Hisar	9.65	1980-81 and 1981-82	December 1987 February 1988	No No
9. S	Ambala	21.26	1984-85	August 1987	No
Total		<u>1171.97</u>			

In the matter of grant of stay on acceptance of bank guarantee, the Supreme Court had observed* in May 1985 that "Government are run on public funds and if large amounts all over the country are held up during the pendency of litigations, it becomes difficult for the Government to run and become oppressive to the people. Government's expenditure can not be made on bank guarantees or securities. This court should refrain from passing any interim orders, staying the realisation of indirect taxes or passing such orders which may have the effect of non-realisation of indirect taxes. This will be healthy for the country and courts". Further, Calcutta High Court, following the ratio of Supreme Court's judgement held** that "the direction of the trial judge regarding the securing of the amount through bank guarantee was liable to be set aside".

In spite of clear and unequivocal rulings of the Supreme Court, the department has not taken any effective steps to get the stay orders vacated in 19 cases mentioned above.

This was reported to the Government in July 1989; their reply has not been received (December 1989).

2.4. Non-levy/short levy of purchase tax

As per provisions of the Haryana General Sales Tax Act, 1973, a dealer can purchase, on the strength of certificate of registration and by furnishing a declaration in the prescribed form without payment of tax, goods (other than those on which tax is leviable at first stage) for re-sale in the State or for sale in the course of inter-State trade or commerce or for the use in the manufacture of other goods (such other goods not being free of tax on sale) meant for re-sale in the State or for sale in the course of inter-State trade or commerce or for sale in the course of export out of the territory of India within the meaning of Section 5(1) of the Central Sales Tax Act, 1956. If a dealer, who has purchased goods without payment of tax, fails to use the goods so purchased for the specified purposes, he is liable to pay tax on the purchase value of such goods at the rates notified under Section 15 of the State Act. Further for failure to pay the tax due in the prescribed manner, the dealer is liable to pay penalty/interest under the State Act.

*Empire Industries Limited and others V/s Union of India (1985) (20) ELT 179(SC)

**Assistant Collector of Central Excise. Chandan Nagar, West Bengal V/S Dunlop India Limited (1985)/SCC-260.

(i) A dealer of Tohana purchased, by furnishing declaration in Form 15 without payment of tax, cotton seeds valued at Rs. 18.98 lakhs within the State during the year 1982-83, and used cotton seeds valued at Rs. 18.53 lakhs in the manufacture of cotton seed oil valuing Rs. 8.49 lakhs. Out of the oil so manufactured, oil valued at Rs. 6.21 lakhs was sent outside the State for sale on consignment basis. The assessing authority, while finalising (July 1985), the assessment, however, omitted to levy purchase tax on proportionate value (Rs. 13.55 lakhs) of cotton seeds purchased within the State and used in the manufacture of oil sent outside the State for sale on consignment basis. This resulted in short levy of purchase tax by Rs. 54,185. In addition, interest of Rs. 20,867 for non-payment of tax was also chargeable.

On the omission being pointed out (October 1987) in audit, the department raised (January 1989) the demand of Rs. 98,423 including interest.

(ii) A dealer of Tohana purchased 58,246 quintals rice bran from within the State and 1,19,863 quintals from outside the State during the year 1983-84 and used it in the manufacture of 19,749 quintals rice bran oil, of which 9,845 quintals rice bran oil was sent outside the State for sale on consignment basis. The assessing authority while finalising (June 1986) the assessment, erroneously worked out the proportionate value of rice bran, purchased within the State and used in the manufacture of rice bran oil sent outside the State for sale on consignment at Rs. 28.78 lakhs instead of Rs. 33.92 lakhs. This resulted in under-assessment of purchase tax by Rs. 20,971. Besides, interest amounting to Rs. 13,125 for short payment of tax was chargeable.

On the omission being pointed out (August 1987) in audit, the department referred (January 1989) the case to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

(iii) A dealer of Gurgaon purchased, by furnishing declaration in Form 15, without payment of tax, raw material valued at Rs. 1.04 crores, during the year 1983-84 and used it in the manufacture of other goods. Out of the goods so manufactured, goods valued at Rs. 7 lakhs were transferred to its branches outside the State. While finalising (January 1987) the assessment, the assessing authority did not levy tax on the proportionate value (Rs. 5.51 lakhs) of the goods

consumed in the manufacture of goods transferred to branches. The omission resulted in non-realisation of tax amounting to Rs. 22,034. Besides, interest of Rs. 10,560 for non payment of tax alongwith quarterly returns was chargeable.

On the omission being pointed out (March 1988) in audit, the department raised (July 1988) an additional demand for Rs. 65,264 including interest of Rs. 14,410 and penalty of Rs. 28,820.

(iv) A dealer of Ladwa, purchased goods within the State by furnishing declarations in Form ST-15 without payment of purchase tax, and exported the same out of India through another agency during 1985-86. Such exports did not fall within the ambit of Section 5(1) of the Central Sales Tax Act, 1956 and hence purchase tax was leviable. While finalising the assessment (September 1986), the assessing authority, however, incorrectly allowed deduction of Rs. 11.69 lakhs on production of export certificate. The mistake resulted in non levy of purchase tax of Rs. 81,600 (approximately). Besides interest amounting to Rs. 18,298 (upto July 1987) was also chargeable for non payment of tax alongwith quarterly returns.

On the omission being pointed out (July 1987) in audit, the assessing authority referred (December 1988) the case to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

(v) A dealer of Ambala City purchased, without payment of tax, against declaration in Form ST-15 goods valued at Rs. 48.35 lakhs and Rs. 28.21 lakhs within the State and used them in the manufacture of other goods during the years 1984-85 and 1985-86 respectively. Out of the goods so manufactured, goods valued at Rs. 51.97 lakhs and Rs. 18.17 lakhs were transferred during the years 1984-85 and 1985-86 respectively to its branches outside the State. The proportionate purchase value of goods used in the manufacture of goods transferred to its branches outside the State during the years 1984-85 and 1985-86 worked out to Rs. 25.06 lakhs and Rs. 8.07 lakhs respectively. But, while finalising (February 1988 and March 1988) the assessments, the assessing authority erroneously worked out such purchase value at Rs. 19.85 lakhs for levy of purchase tax for the year 1984-85 and omitted to levy the purchase tax for the year 1985-86. This resulted in short realisation of purchase tax amounting

to Rs. 54,163. Besides, interest amounting to Rs. 21,889 and penalty for non payment of tax alongwith quarterly returns was also chargeable.

On the omission being pointed out (November 1988) in audit, the department stated (March 1989) that the cases were being referred to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

(vi) While finalising (March 1985) assessment of a dealer of Ambala Cantt., running a bar and hotel, deduction of his gross turnover amounting to Rs. 6.89 lakhs in the year 1981-82 on account of meals and drinks served to non resident customers during 1981-82 was allowed, being not covered as sale. It was, however, noticed (December 1985) in audit that the dealer had purchased, without payment of tax on the strength of his registration certificate, Indian made foreign liquor valued at Rs. 1.92 lakhs and food stuffs valued at Rs. 3.06 lakhs during the year 1981-82 which he disposed of otherwise than by way of sale. But the assessing authority omitted to levy tax on such purchases. This resulted in non levy of tax amounting to Rs. 51,748 besides chargeable interest of Rs. 31,668 for non payment of tax.

On this being pointed out (December 1985) in audit, the department finally accepted the case to be fit for revision and referred (January 1989) the same to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

(vii) A dealer of Faridabad purchased raw material valued at Rs. 55.94 lakhs during the year 1983-84 without payment of tax, of which purchases within the State amounted to Rs. 50.09 lakhs. The raw material was also used on the job work of the third parties and was thus disposed of otherwise than by way of sale and was liable to purchase tax. However, while finalising (October 1987) the assessment, the assessing authority erroneously adopted the incorrect figure of Rs. 37.92 lakhs instead of Rs. 50.09 lakhs to determine the raw material consumed on job work liable to purchase tax. The mistake resulted in short levy of purchase tax amounting to Rs. 87,946 besides interest and penalty for non-payment of tax due.

On the omission being pointed out (November 1988) in audit, the assessing authority raised (November 1988) a

demand of Rs. 2.77 lakhs (including interest of Rs. 62,920 and penalty of Rs. 1.26 lakhs). The department in March 1989, however, maintained that the original assessment order had been remanded (December 1988) by the Appellate Authority and the additional demand so raised automatically stood quashed. On re-examination of assessment file, it was, however, observed that the grounds of the appeal on which the assessment order was remanded had no relevance to the point of omission pointed out by Audit. The fact was pointed out to the department in May 1989. Further reply has not been received (December 1989).

(viii) A dealer of Jind district made consignment sales of *sarson* oil and *khal* valued at Rs. 6.94 crores in 2,86,554 tins and 25,440 jute bags respectively during the years 1984-85 to 1986-87. The assessing authority, while assessing (between January 1988 and March 1988) purchase tax on tins and jute bags purchased by the dealer by furnishing declaration in form ST-15 without payment of tax and used in consignment sales, erroneously adopted the price at Rs. 8 per tin and Rs. 3 per jute bag against the actual purchase price of Rs. 15.67 per tin during the years 1984-85 to 1986-87 and Rs. 6.87, Rs. 6.67 and Rs. 5.88 per jute bag during the year 1984-85, 1985-86 and 1986-87 respectively as shown by the dealer in the trading account. This resulted in less determination of taxable turnover by Rs. 22.91 lakhs involving short levy of tax of Rs. 93,465. Besides, penalty and interest for non-payment of tax along with the returns were also chargeable.

On the omission being pointed out (June 1988) in audit, the department referred (January 1989) the cases to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

(ix) A dealer of Faridabad purchased, without payment of tax, raw material and consumable stores valued at Rs. 5.43 lakhs during the year 1983-84 on furnishing the prescribed declaration in form ST-15 and used them in the job work valued at Rs. 5.31 lakhs. While finalising the assessment (March 1986), the assessing authority erroneously worked out the proportionate value of raw material and consumable stores consumed in the job work as Rs. 1.50 lakhs instead of Rs. 3.25 lakhs. The mistake resulted in short levy of tax by Rs. 24,033 including interest for non payment of tax due, along with the returns.

On the omission being pointed out (December 1988) in audit the department referred (March 1989) the case to the Revisional Authority for *suo motu* action, who remanded (August 1989) it to the assessing authority for re-examination. Further report has not been received.

(x) A dealer of Panipat purchased, without payment of tax, goods valued at Rs. 12.97 lakhs during the years 1981-82 to 1983-84 and used the same in the manufacture of other goods. Part of these manufactured goods were subsequently transferred or sent on consignment sales outside the State. A scrutiny of the assessment records revealed that as against the purchases valued at Rs. 7.12 lakhs pertaining to the years 1981-82 and 1982-83 the purchases valued at Rs. 5.22 lakhs only were assessed (September 1985 and February 1986) to tax and the remaining purchases valued at Rs. 1.90 lakhs were omitted to be assessed to tax. Further, out of purchases of Rs. 5.85 lakhs pertaining to the year 1983-84, the goods valued at Rs. 1.31 lakhs, were capitalised by the dealer. The balance purchases of Rs. 4.54 lakhs were used in the manufacture of goods but the assessing authority determined (March 1987) such purchases for assessment of tax at Rs. 1.99 lakhs only. This resulted in escapement of purchases valued at Rs. 4.45 lakhs from the assessment for the years 1981-82 to 1983-84 with consequent short realisation of tax of Rs. 66,417 including interest.

On this being pointed out (October 1987) in audit, the department after verification of dealer's accounts books raised (October 1987 and April 1989) additional demand for Rs. 39,632 including interest of Rs. 26,785 for non-payment of tax alongwith their returns.

The above cases were reported to Government between October 1987 and July 1989; their reply has not been received (December 1989).

2.5. Irregular grant of exemption to industrial units

To encourage cottage industries in Haryana Government by a notification dated 22nd November 1978, issued under Section 13 of the Haryana General Sales Tax Act, 1973, exempted from payment of tax, all classes of co-operative societies and persons running cottage industries, on the purchase or sale of any goods. The exemption is admissible from the date of submission of application for exemption to the Depart-

ment after obtaining certificate of genuineness from the Commissioner or the Board constituted under the *Khadi* and Village Industries Commission Act, 1956 and *Khadi* and Village Industries Board Act, 1955. As per notification dated 1st July 1983, exemption from payment of tax under the Haryana General Sales Tax Act, 1973, on purchase of raw material is admissible to manufacturing units on the value of raw material purchased for use in the manufacture of goods in the State for sale.

Three dealers engaged in cottage industries, at Sirsa who were granted exemption certificates during the year 1985-86 on the basis of certificate of genuineness issued by the *Khadi* and Village Industries Commission, purchased ginned cotton valued at Rs. 255.72 lakhs from within the State of Haryana against exemption certificate. The ginned cotton so purchased was, however, transferred to their head offices outside the State without undertaking any manufacturing process. No tax was, however paid by them on the transfer of the ginned cotton nor was it assessed to tax by the assessing authority on the plea that they were exempted units. Irregular grant of exemption resulted in short levy of tax of Rs. 10.23 lakhs besides chargeable interest on non payment of tax.

On this being pointed out (May 1988 and July 1988) in audit the Government accepted the mistake (June 1989). Report on levy of tax has, however, not been received (December 1989).

Similarly in another case, a dealer of Dabwali transferred cotton valued at Rs. 21.38 lakhs in the years 1985-86 and 1986-87, without using the same in any manufacturing process in the State but was exempted from payment of tax. Tax of Rs. 85,545 besides chargeable interest thereon was not levied.

On this being pointed out (February 1989) in audit, the Excise and Taxation Commissioner accepted the objection and directed (June 1989) the assessing authority to send the case to Revisional Authority for *suo motu* action.

2.6. Excess grant of rebate on paddy

Under the Haryana General Sales Tax Act, 1973, on sale of rice, tax is leviable at the point of first sale in the State and on purchase of paddy at the point of last purchase in the

State. The sales tax levied on rice, is, however, reduced by the amount of purchase tax paid in the State on paddy out of which such rice has been produced. Similar set off of purchase tax is also to be given from the tax levied on the sale of rice in the course of inter State trade or commerce under the Central Sales Tax Act 1956.

(i) A dealer of Ambala City was assessed (March 1988) to tax of Rs. 2.97 lakhs on the purchase of paddy valued at Rs. 74.31 lakhs during the year 1986-87. While determining the tax payable on the sale of rice, rebate of tax of Rs. 3.41 lakhs was, however, erroneously allowed as tax paid on paddy. This resulted in short assessment of tax of Rs. 43,332, besides interest and penalty chargeable for short payment of tax alongwith quarterly return.

(ii) In the case of two dealers of Jind district, the purchase tax on paddy for the year 1986-87 was assessed (July 1987) with reference to average purchase price of Rs. 159.59 and Rs. 159.16 per quintal. But while allowing rebate from the tax assessed on the sale of rice, the average purchase price of paddy from which the rice, was procured was erroneously taken at Rs. 173.20 and Rs. 168.34 per quintal respectively as it included expenses such as purchase tax, market fee and the element of closing stock. This resulted in short levy of tax of Rs. 41,315 besides the liability of interest and penalty for short payment of tax.

On the omission being pointed out (June 1988) in audit, the department accepted the objection and referred (January 1989) both the cases to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

(iii) A dealer of Ambala City husked 71,435 quintals of *coarse permal* paddy which was assessed to tax on its purchase value of Rs. 1.10 crores during the year 1985-86. The average purchase price of such paddy, thus, worked out to Rs. 155.10 per quintal. Accordingly, taxable turnover of rice valued at Rs. 98.62 lakhs sold to the District Food and Supplies Controller (DFSC), after allowing the rebate of purchase value of the paddy valued at Rs. 89.35 lakhs as used in milling of the rice, worked out to Rs. 9.27 lakhs. But while finalising (February 1987) the assessment, the assessing authority, allowed full rebate of Rs. 98.62 lakhs and did not levy any tax on sale of rice to DFSC. This resulted in short

assessment of tax by Rs. 37,098. Also in the year 1984-85, the taxable value of rice after allowing the rebate of tax paid on paddy worked out to Rs. 9.37 lakhs instead of Rs. 6.13 lakhs erroneously worked out (July 1986) by the assessing authority, resulting in further short levy of tax by Rs. 12,962.

On the omissions being pointed out (November 1987) in audit, the department referred (May 1988) the cases to the Revisional Authority, who confirmed (June 1988) the impropriety in the orders passed by the assessing authority and remanded the cases for *de novo* assessment. Further reports have not been received (December 1989).

(iv) In Sonipat seven dealers made sales of rice amounting to Rs. 374.38 lakhs to the District Food and Supplies Controller during 1st November 1984 to 31st March 1985. The assessing authority erroneously levied tax assuming that the sale price of rice was inclusive of sale tax. A scrutiny of assessment records however revealed (November 1986 and December 1986) that the sale price was exclusive of tax. This resulted in erroneous computation of tax with consequent short levy of tax by Rs. 63,779.

On the mistake being pointed out (November 1986 and December 1986) in audit, the Revisional Authority rectified (January 1989) the mistake in one case raising additional demand of Rs. 5,040; report on action taken in the remaining cases has not been received (December 1989).

The above cases were reported to Government between January 1988 and July 1989; their reply has not been received (December 1989).

2.7. Incorrect deduction on exports out of India

As per provisions of the Haryana General Sales Tax Act, 1973, if a dealer, liable to pay tax, purchases goods other than those specified in schedule B without payment of tax, on the strength of registration certificate, from any source in the State and exports them without involving any manufacturing process outside the territory of India within the meaning of Section 5(1) of the Central Sales Tax Act, 1956, tax is leviable on the purchase of such goods at such rates as may be notified under Section 15 of the Act.

Two dealers of Ladwa (district Kurukshetra) purchased celery seeds valued at Rs. 33.59 lakhs during 1983-84 to 1986-87 without payment of tax on the strength of their registration certificates and exported them out of India. While assessing (between January 1986 and July 1987), the assessing authority erroneously allowed deduction for the entire amount of sale under Section 5(1) of the Central Sales Tax Act on account of exports out of India to which the dealers were not entitled as the celery seeds were exported out of India without involving any manufacturing process. This resulted in non-levy of tax amounting to Rs. 2.35 lakhs. Besides, interest and penalty for non-payment of tax alongwith returns were also leviable.

On the omission being pointed out (June 1987 and May 1988) in audit, the department referred (March 1989 and April 1989) both the cases to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

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

2.8. Application of incorrect rate of tax

(i) Under the Central Sales Tax Act, 1956, on inter State sales of goods (other than declared goods) which are not supported by valid declarations in Form 'C' from the purchasing dealers, tax is leviable at the rate of ten per cent or at the rate applicable to the sale of such goods inside the State, whichever is higher. But when such sales are supported by valid declarations, tax is leviable at concessional rate of 4 per cent. Further, for failure to maintain correct accounts and to furnish correct return, a penalty, not less than twice but not more than ten times the amount of tax which would have been avoided if the turnover as returned had been accepted, is leviable.

While finalising (September 1985) the assessment of a dealer of Hisar for the year 1981-82, the assessing authority disallowed sales of gum powder and guar splits valued at Rs. 18.10 lakhs made in the course of export out of India through a third party and consignment sales amounting to Rs. 43,126 for want of proper proof and prescribed documents. Further, sales to the extent of Rs. 1.80 lakhs made in the course of inter-State sales were neither shown in the account books

nor in the sales tax returns. All these sales were treated as inter-State sales and assessed to tax at the concessional rate of four per cent instead of at the rate of 10 per cent chargeable in the absence of valid declarations. This resulted in short levy of tax by Rs. 1.22 lakhs. Further, the penalty of Rs. 14,400 was levied in default for suppression of sales of Rs. 1.80 lakhs whereas minimum penalty of Rs. 36,000 was chargeable resulting in short levy of minimum penalty amounting to Rs. 21,600.

On the mistakes being pointed out (October 1986) in audit, the department referred (May 1987) the case to the Revisional Authority for *suo motu* action. Further report has not been received (April 1989).

The case was reported to Government in March 1987 and followed up by reminders (between May 1987 and February 1989), their reply has not been received (December 1989).

(ii) As per provisions of the Haryana General Sales Tax Act, 1973, sanitary goods, covered under item No. 22 of schedule 'A' appended to Act, are taxable at the rate of twelve per cent.

A dealer of Gurgaon sold S.W. (sewerage water) pipes and its fittings worth Rs. 5.84 lakhs during the year 1983-84. The assessing authority while finalising (December 1984) the assessment, assessed the goods to tax at general rate of tax at 8 per cent treating those as unclassified goods, instead of at 12 per cent, resulting in tax of Rs. 23,836 being realised short.

On the omission being pointed out (October 1985) in audit, the department, in *suo motu* action, re-assessed, the case and raised (April 1989) additional demand of Rs. 27,293 including interest of Rs. 3,661.

The case was reported to Government in July 1989.

2.9. Acceptance of invalid declarations

The Haryana General Sales Tax Act, 1973, permits a dealer to claim deduction from his gross turnover, on account of sale of goods (other than those taxable at the point of first sale in the State) made by him to other registered dealers in the State, on furnishing prescribed declaration in form ST-15 obtained from the purchasing dealers.

(i) In Bhiwani, a dealer, on sale of goods valued at Rs. 1.92 crores during 1985-86 to other registered dealers, claimed deduction from his gross turnover of Rs. 6.97 crores by furnishing prescribed declarations from the purchasing dealers, which were accepted by the assessing authority (November 1987). A further, scrutiny of assessment records, however, revealed (November 1988) in audit that declarations on account of sale of goods valued at Rs. 27.25 lakhs made to a dealer of Panipat were not genuine as the purchasing dealer had been found by the assessing authority (Panipat) indulging in bogus transactions and this fact was intimated (February 1987) by him to all the District Excise and Taxation Commissioners in the State. Thus acceptance of bogus and incorrect declarations notwithstanding the intimation by assessing authority, Panipat, resulted in short levy of tax of Rs. 1.09 lakhs.

On the omission being pointed out (November 1988) in audit, the department stated (February 1989) that the case was being sent to the Revisional Authority for *suo motu* action. Further progress has not been received (December 1989).

(ii) In Karnal, a dealer sold aluminium utensils valued at Rs. 2.63 lakhs and Rs. 1.79 lakhs to a dealer of Jagadhari and claimed deductions thereafter from his gross turnover for the assessment years 1984-85 and 1985-86 respectively by furnishing the prescribed declarations in form ST-15 obtained from the purchasing dealer of Jagadhari. Though the Deputy Excise and Taxation Officer Jagadhari had conveyed (July 1981) that the registration certificate of the Jagadhari dealer had been cancelled on 1st July 1981, yet the deductions were allowed (August 1986 and December 1987) by the assessing authority resulting in short levy of tax of Rs. 36,126.

On this being pointed out (September 1988) in audit, the department, re-assessed the case and raised (April 1989) an additional demand of Rs. 36,175.

2.10. Evasion of tax

Under the Haryana General Sales Tax Act, 1973, 'turnover' includes the aggregate of the amounts of the sales and purchases and parts of sales and purchases made by any dealer during the given period less any sum allowable under the Act. Further, if a dealer has maintained false or incorrect accounts, with a view to suppressing his sales, purchases or stocks of

goods, he is liable to pay, by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, an amount which shall not be less than twice and more than ten times (five times from 17th April 1984) the amount of tax which would have been avoided, if the turnover as returned by such dealer, had been accepted as correct.

(i) A dealer of Hansi purchased iron and steel valued at Rs. 6.66 lakhs from two dealers of Delhi during the year 1983-84 as per bills of lading etc. (placed in the assessment file), but these purchases were not accounted for in his accounts books. Besides, the assessee also did not account for in his books of accounts another 'Goods Receipt' (GR) showing his sale of Rs. 79,529 to another dealer of Delhi. The assessing authority while finalising (March 1987) the assessment, however, failed to add the purchases/sales amounting to Rs. 7.46 lakhs in the turnover of the dealer. The omission resulted in evasion of tax of Rs. 30,418, besides non levy of minimum penalty amounting to Rs. 60,836.

On this being pointed out (January 1988) in audit, the department referred (August 1988) the case to the Revisional Authority for *suo motu* action who remanded (June 1989) it to the assessing authority for re-examination. Further report has not been received (December 1989).

(ii) As per 84 bills of lading duly verified by the assessing authority, a dealer of Hansi purchased 357.63 metric tonnes of coal during the year 1983-84. Against this, he accounted for 252.20 metric tonnes of coal in his trading account which was inadvertently accepted as correct by the assessing authority while finalising (January 1986) the assessment. Consequently the short accountal of coal weighing 105.43 metric tonnes resulted in suppression of sales of 5 lakh bricks valued at Rs. 1.50 lakhs and under-assessment of tax by Rs. 12,240, besides, minimum penalty amounting to Rs. 24,480.

On the omission being pointed out (February 1987) in audit, the department raised (June 1989) an additional demand of Rs. 94,370 including interest and penalty.

(iii) A dealer of Panipat let out his machinery on hire to another dealer at Rs. 11,000 per month and Rs. 9,000 per month during the years 1984-85 and 1985-86, respectively. The dealer while filing the returns for these years, however,

did not include the amount of hire charges of Rs. 2.40 lakhs received on the gross turnover. The assessing authority while finalising (July 1987 and March 1988) the assessments also failed to include the same in the taxable turnover. This resulted in short levy of revenue amounting to Rs. 26,896 (tax and interest).

On the omission being pointed out (November 1988) in audit, the department sent the case to the Revisional Authority on 6th May 1989 for taking action to reassess under Section 40 of the Haryana General Sales Tax Act 1973. Further report has not been received (December 1989).

Above cases were reported to Government in May 1989 and July 1989; their reply has not been received (December 1989).

2.11. Suppression of purchases

Under the Haryana General Sales Tax Act, 1973, a dealer can purchase, without payment of tax by furnishing a declaration in the prescribed form, goods, other than those on which tax is leviable at first stage, for resale in the State or for sale in the course of inter-State trade or commerce. Further, if a dealer has maintained false or incorrect accounts, with a view to suppressing his sales or purchases or stocks of goods or has concealed any particulars of his sales or purchases or has furnished to or produced before any authority under the Act, any account, return or information which is false or incorrect in any material particular, he is liable to pay, by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed an amount, which shall not be less than twice and more than ten times (five times from 17th April 1984) the amount of tax which would have been avoided, if the turnover as returned by such dealer had been accepted as correct. The departmental instructions issued from time to time require the assessing authorities to conduct cross verification of transactions exceeding Rs. 1,000 with reference to the seller's and purchaser's records.

(i) A dealer of Panipat accounted for purchases of steel amounting to Rs. 4.45 lakhs during 1983-84 which were accepted without cross verification and assessed to tax by the assessing authority while finalising (April 1985) assessment.

It was however, noticed (August 1988) on cross verification in audit that during 1983-84 the dealer had purchased without payment of tax by furnishing the prescribed declarations in Form ST-15, steel valued at Rs. 9.33 lakhs from a dealer of Gurgaon. Thus, purchases amounting to Rs. 4.88 lakhs were suppressed by the dealer resulting in short levy of tax of Rs. 19,532, besides non-levy of minimum penalty of Rs. 39,064.

On this being pointed out (August 1988) in audit, the department re-assessed (September 1988) the case, determining the suppression of purchases amounting to Rs. 10.58 lakhs and raised additional demand for tax of Rs. 44,000. Besides penalty amounting to Rs. 90,000 was levied (August 1989) for suppression of purchases.

(ii) A dealer of Hisar filed returns with Nil turnover for the year 1984-85 and was assessed (February 1988) as such by the assessing authority. However, on receipt of definite information in February 1988 that the dealer had made purchases amounting to Rs. 3.67 lakhs from a dealer of Gurgaon, the assessing authority re-opened the case and assessed (February 1988) the dealer to tax of Rs. 14,683, but purchases amounting to Rs. 5.24 lakhs made by the dealer from another dealer of Faridabad, as communicated (April 1986) by the Excise and Taxation Officer, Faridabad to the assessing authority were not added and brought to tax. This resulted in short levy of tax of Rs. 20,973. Further, no action to levy minimum penalty of Rs. 71,312 for suppression of the above mentioned purchases was taken by the assessing authority.

On the omission being pointed out (April 1988) in audit, the department admitted (March 1989) that the purchases amounting to Rs. 5.24 lakhs had escaped levy of tax. It was further stated that tax and penalty, if now levied, would not be recovered from the dealer as the firm had been closed and his whereabouts were not known.

(iii) In Gurgaon, a dealer sold (March 1984) goods valued at Rs. 2.94 lakhs to a dealer of Panipat and claimed deduction thereof from his gross turnover for the assessment year 1983-84 by furnishing declarations in Form ST-15 obtained from the purchasing dealer. Cross check by Audit however, revealed that the dealer of Panipat did not account for these purchases in his gross turnover for the year 1983-84, the assessment of which was finalised in May 1984. The

failure to Cross-verify the transactions by the assessing authority resulted in short levy of tax by Rs. 11,741, besides minimum penalty of Rs. 23,482 leviable for suppression of purchases.

On this being pointed out (August 1988) in audit, the department stated (March 1989) that the firm has since closed its business, certificate of registration was cancelled on 28th November 1986 and that whereabouts of the dealer were not known.

The cases were reported to Government in June 1989; their reply has not been received (December 1989).

2.12. Incorrect deduction from turnover

(i) As per Government notification issued (May 1973) under the Haryana General Sales Tax Act, 1973, tax on corrugated boxes is leviable at the point of first stage of sale in Haryana. Thus, deduction from turnover on account of sale of such goods to registered dealers against declaration is not admissible.

In the case of a dealer of Gohana (Sonipat district), the assessing authority, while finalising (January 1988) the assessment for the year 1986-87, erroneously allowed deduction amounting to Rs. 2.42 lakhs from his gross turnover on account of sale of corrugated boxes (taxable at the first stage of sale) to the registered dealers. The incorrect deduction resulted in short assessment of tax by Rs. 20,042. Besides, interest and penalty for non payment of tax alongwith the quarterly returns were also chargeable.

On the omission being pointed out (August 1988) in audit, the department re-assessed (March 1989) the case and raised demand for Rs. 28,028 (including interest and penalty).

The case was reported to Government in May 1989.

(ii) Under the Haryana General Sales Tax Act, 1973, from gross turnover of a dealer, the deductions are allowed on account of sales to registered dealers of goods, other than those specified in Schedule C and those liable to tax at the first stage of sale.

While finalising (June 1985) the assessment of a dealer of Faridabad for the year 1982-83 the assessing authority

allowed deductions on account of sales of H.R. Coils valued at Rs. 3.15 lakhs and angle and joist valued at Rs. 78,013 to a registered dealer of Yamunanagar, vide bills number 530 dated 12th October 1982 and 561 dated 17th November 1982 respectively. On cross verification in audit (May 1988) these sales could not be co-related from the list of purchases placed on the file of Yamunanagar dealer and on Audit enquiry the assessing authority Yamunanagar confirmed (May 1988) that whereas the Yamunanagar dealer had not purchased any goods against the bill number 530 *ibid*, he had purchased goods worth Rs. 18,013 and not Rs. 78,013 against the bill No. 561. Thus, the Faridabad dealer falsified sales of Rs. 3.15 lakhs and wilfully inflated sales by Rs. 60,000 to registered dealer and evaded tax of Rs. 14,990, which attracted minimum penalty of Rs. 29,980.

On the omission being pointed out (August 1988) in audit, the assessing authority referred (January 1989) the case to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

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

2.13. Mistake in computation of turnover

Under the Haryana General Sales Tax Act, 1973, and notification dated 28th March 1980, on foreign liquor and Indian made foreign liquor, tax is leviable at the point of first sale in the State with effect from 1st April 1980. Its subsequent sales are, however, exempt from tax on production of the prescribed declaration/certificate signed by the first seller to the effect that the tax had been paid by him.

While finalising (August 1984) the assessment for the year 1980-81 in the case of a dealer of Faridabad, the assessing authority, determined the tax paid sales of Indian made foreign liquor at Rs. 60.52 lakhs and allowed deduction therefor against the declarations furnished by the dealer. A scrutiny of assessment records, however, revealed (August 1985) that while allowing deductions one declaration for Rs. 19,778 was accepted for Rs. 1,97,918. Consequently deduction from turnover was allowed in excess by Rs. 2,90,816 (Rs. 1,78,140 + Excise duty : Rs. 74,743 + Profit Rs. 37,933) resulting in tax being levied short by Rs. 59,327.

On the omission being pointed out in audit (August 1985), the Appellate Authority remanded (September 1987) the case to the assessing authority with the direction to allow deductions for correct amount of declaration viz. Rs. 19,778 instead of Rs. 1,97,918. Rectification had not been done (August 1989).

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

2.14. Incorrect determination of purchase turnover

Under the Haryana General Sales Tax Act 1973, turnover includes the aggregate of the amounts of the sales and purchases made by any dealer whether as principal, agent or in any other capacity during the given period less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for any thing done by the dealer in respect of the goods at the time of or before, delivery thereof. Further, for non-payment of tax due along with returns, the dealer is liable to pay interest.

(i) While finalising (February 1985) the assessment for the year 1983-84 of a dealer of Faridabad the assessing authority erroneously determined the turnover of *sarson* at Rs. 92.54 lakhs instead of Rs. 96.20 lakhs disclosed by the dealer as per declarations in Form ST-19 submitted along with returns. This resulted in purchase tax being assessed short by Rs. 16,586. Besides, interest of Rs. 15,355 for non payment of tax due along with returns was also chargeable.

On the omission being pointed out (August 1985) in audit, the assessing authority re-examined the case and found that incidental expenses such as market fees, *arhat* and other expenses amounting to Rs. 4.15 lakhs, including Rs. 3.66 lakhs pointed out in audit were omitted to be added in determining the purchase value of *sarson*. The Revisional Authority remanded the case for fresh assessment in August 1987. On re-assessment (December 1988) of the case a demand of Rs. 31,941 (including interest) was raised.

(ii) In the case of a dealer of Ambala City, the expenses such as transportation charges, society charges, incidental charges, loading and unloading charges amounting to Rs. 4.94 lakhs were not added back to the purchase value of paddy for the purpose of assessment of tax for the year 1985-86 (assess-

ment finalised in February 1987). This resulted in short levy of purchase tax and interest by Rs. 25,911.

On the omission being pointed out (April 1988) in audit, the department referred (April 1988) the case to the Revisional Authority for *suo motu* action. Further report has not been received (December 1989).

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

2.15. Irregular stay of tax and interest

As per provisions in the Haryana General Sales Tax Act, 1973, 'turnover' includes the aggregate of the amounts of the sales and purchases made by a dealer during the given period less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof. Further, if any dealer fails to pay the tax due, he shall be liable to pay interest on the tax due at the prescribed rate.

A dealer of Sirsa, while filing his return for the assessment years 1983-84 to 1985-86 did not return incidental charges amounting to Rs. 297.60 lakhs incurred on the sale of wheat to the Food Corporation of India during these years. The assessing authority while finalising (August 1987, October 1987 and November 1987) the assessments, however, added the amounts of incidental charges in the turnover and levied tax of Rs. 11.90 lakhs thereon, but omitted to levy interest amounting to Rs. 5 lakhs chargeable for non-payment of tax.

On this being pointed out (August 1988) in audit, the department raised (December 1988) additional demand for interest of Rs. 5 lakhs, but stayed its recovery on the basis of instructions issued on 16th January 1985 in respect of tax and interest demands relating to sales of rice to the Corporation. On audit further clarifying (October 1988 and July 1989) to the department that the instructions dated 16th January 1985 regarding stay of tax and interest related to sale of rice and not to sale of wheat, and that the stay of recovery of tax and interest amounting to Rs. 16.90 lakhs relating to wheat was irregular, the assessing authority inti-

mated (April 1989) that the matter regarding recovery of tax and interest incorrectly stayed was being examined. Further report has not been received (December 1989).

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

2.16. Non-levy of penalty

(a) Under the Haryana General Sales Tax Act, 1973 if a dealer has maintained false or incorrect accounts, with a view to suppress his sales, purchases of stocks of goods or has concealed any particulars of his sales or purchases or has furnished to or produced before any authority under the Act, any account, return or information which is false or incorrect in any material particular, he is liable to pay, by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed an amount, which shall not be less than twice and more than ten times (five times from 17th April, 1984) the amount of tax which have been avoided, if the turnover as returned by such dealer, had been accepted as correct.

(i) Two dealers of Ambala City were allowed deductions of Rs. 4.15 lakhs from their gross turnover during the years 1980-81 and 1981-82 on sales of tea against production of declarations given by Faridabad and Yamunanagar dealers to the effect that tax on tea had been paid by them. However, on a reference (January 1984) from the Deputy Excise and Taxation Commissioner that the dealers in question had issued bogus bills and the declarations so issued were not acceptable, the assessing authority reopened the cases rejecting the declaration as invalid and raised (January 1985) demand for Rs. 22,013 and Rs. 8,211 towards sales Tax. The proceedings for penal action were initiated (January 1985) by the assessing authority but were not followed up though the appeals of the dealers were rejected by the Sales Tax Tribunal in October 1987. The minimum penalty leviable worked out to Rs. 60,448.

(ii) A dealer of Hisar consumed 329.91 metric tonne (M.T.) of coal in the manufacture of 12.75 lakh of bricks during 1986-87. The coal consumption per one lakh of bricks was 25.88 M.T. in the year 1986-87 against 19.93 MT per lakh of bricks in 1985-86. The excess consumption of coal by 6.95 MT per lakh of bricks in the year 1986-87 indicated suppression of sales of 4.68 lakh of bricks valued at Rs. 1.43

lakhs involving tax of Rs. 11,646, besides minimum penalty of Rs. 23,292 leviable for suppression of sales.

On this being pointed out (May 1988) in audit, the department raised (March 1989) an additional demand of Rs. 38,890 (including penalty of Rs. 23,300 and interest of Rs. 3,944).

The above cases were reported to Government in March 1986 followed by reminders between April 1986 and July 1989; their reply has not been received (December 1989).

(b) Under the Haryana General Sales Tax Act, 1973 and the Central Tax Act, 1956, if a dealer fails to furnish to the assessing authority, his quarterly returns within 30 days of the expiry of the relevant quarter, he is liable to pay by way of penalty, a sum calculated at a rate which shall not be less than five rupees and more than ten rupees per day during the period of default. Further, for non payment of tax due as per quarterly return penalty not exceeding one and a half times of the amount of tax is leviable.

A dealer of Faridabad failed to file his return for the fourth quarter for the year 1980-81 by the prescribed date. The assessing authority, while finalising the assessment in March, 1985, passed order that penal action, for delay in furnishing the return would be taken separately, but no such action had been finalised (February 1986). Minimum penalty leviable worked out to Rs. 13,950. Besides penalty for non-payment of tax due alongwith quarterly returns was also leviable.

On the omission being pointed out (February 1986) in audit the assessing authority levied (December 1988) penalties amounting to Rs. 23,230.

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

(C) Under Section 47 of the Haryana General Sales Tax Act, 1973, if any dealer fails to pay the tax due as per his return, the prescribed authority may, after affording the dealer a reasonable opportunity of being heard, impose a penalty not exceeding one and a half times the amount of tax to which he is assessed or is liable to be assessed.

(i) While finalising the assessment (June 1986 and November 1986), in respect of two dealers of Faridabad and Gurgaon for the years 1982-83 and 1983-84.

The assessing authorities disallowed deductions aggregating Rs. 28.70 lakhs being not supported by valid declarations and assessed to tax of Rs. 1.55 lakhs. It was however, noticed (December 1987 and March 1988), that though the assessing authorities had recorded in the assessment orders that action to impose penalty for non-payment of tax due along-with returns would be taken separately, no such action was taken.

On the omission being pointed out (December 1987 and March 1988) in audit, the department levied (June 1988 and December 1988) penalty of Rs. 1.55 lakhs.

(ii) A dealer of Bahadurgarh while filling returns for the year 1984-85 did not pay, within the prescribed period, tax amounting to Rs. 2.76 lakhs alongwith the returns. The assessing authority, while finalising the assessment (November 1987) levied the tax and charged interest but omitted to impose penalty for non-payment of tax due alongwith the returns.

On the failure being pointed out (March 1989) in audit, the assessing authority imposed (May 1989) penalty amounting to Rs. 40,000.

(iii) A dealer of Faridabad did not pay tax amounting to Rs. 44,992 alongwith the third and fourth quarterly returns for the year 1984-85. While assessing (March 1988), the assessing authority demanded tax but omitted to impose penalty for non-payment of tax due alongwith the returns.

On the omission being pointed out (February 1989) in audit, the assessing authority imposed (February 1989) penalty amounting to Rs. 48,275.

The cases were reported to Government in May 1988 and July 1989, reply has not been received (December 1989).

2.17. Interest not charged

Under the Haryana General Sales Tax Act, 1973 and the Central Sales Tax Act, 1956, a dealer is required to pay the full amount of tax due from him according to his return which is to be submitted by the prescribed date. The State Act further provides that the amount specified in any demand notice is required to be paid within the period specified in such notice or in the absence of any period being specified, within thirty days from

the date of service of such notice. In the event of default, the dealer is liable to pay interest on the amount due at one per cent per month for the first month and at one and a half per cent per month thereafter, so long as the default continues. Further for failure to pay the tax due according to the returns the prescribed authority may after affording the dealer a reasonable opportunity of being heard impose a penalty not exceeding one and a half times the amount of tax to which he is assessed or is liable to be assessed.

In two cases involving non-charging of interest an amount of Rs. 61,399 was recovered (March 1989, June 1989) on being pointed out (January 1989) in audit. A few other cases are mentioned below.

In four districts, in respect of the assessment years 1980-81 to 1984-85, assessed between January 1985 and March 1988, eight dealers either did not pay the tax due or paid the tax short. The assessing authorities, however, failed to charge the interest. Interest not charged amounted to Rs. 3.21 lakhs as detailed below. Besides this, penalties also leviable.

Serial number	Name of district/ unit	Number of dealers	Assess- ment year	Date of assess- ment	Amount of tax not paid/ short paid	Interest charge- able
(In rupees)						
1.	Faridabad	5	1981-82 to 1984-85	May 1985 to March 1988	3,46,588	1,85,036
2.	Bhiwani	1	1983-84	May 1986/ July 1983	89,311	55,169
3.	Gurgaon	1	1983-84	June 1986	88,923	42,275
4.	Shahbad (Kurukshetra)	1	1980-81 and 1981-82	January 1985 and September 1985	56,703	38,070
<hr/> 8 <hr/>					<hr/> 3,20,550 <hr/>	

On the omissions being pointed out (between May 1987 and February 1989) in audit, the department raised (between June 1988 and May 1989) additional demands for interest aggregating Rs. 2.45 lakhs in 7 cases and referred (October 1988) one case to the Revisional Authorities for *suo motu* action.

The cases were reported to Government between March 1986, and June 1989, their reply has not been received (December 1989).

2.18. Non-production of assessment files

During the year 1988-89, 1539 assessment files, relating to 23 units, assessed by the assessing authorities during the year 1987-88, were not produced to Audit for scrutiny. No reasons were however assigned for non-production of these assessment files. Production of these cases to Audit at a late stage, would render audit scrutiny ineffective as recovery of under-assessments, if any in certain cases might become time barred by the time these files are produced to Audit.

The matter was reported to department between June 1988 and May 1989, reply has not been received (December 1989).

2.19. Recovery at the instance of Audit

In 69 cases (where money value of each case was less than Rs. 20,000), under assessments of tax and non-levy of interest and penalty amounting to Rs. 4.10 lakhs were accepted by the department out of which an amount of Rs. 3.27 lakhs was also recovered in 60 cases between March 1988 and July 1989.

CHAPTER—3

STAMPS AND REGISTRATION FEES

3.1. Results of Audit

Test check of records in departmental offices, conducted in audit during the year 1988-89, revealed short levy and non-levy of stamp duty and registration fee as also other irregularities in 1,382 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
1. Loss of stamp duty and registration fee due to under-valuation of properties	758	43.56
2. Short levy/non-levy of stamp duty and registration fee	213	11.57
3. Evasion of stamp duty and registration fee	124	10.23
4. Irregular exemption of stamp duty and registration fee	125	2.48
5. Other irregularities	162	1.41
	<hr/> 1,382	<hr/> 69.25

Some of the important cases noticed in 1988-89 and earlier years are mentioned in the following Paragraphs.

3.2 Under-valuation of immovable property

The Indian Stamps Act, 1899, as applicable to Haryana, requires that the consideration and all other facts and circum-

stances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, should be fully and truly set forth therein. Under Section 47-A of the Act, as inserted in Haryana, if the Registering Officer, while, registering any instrument transferring any property, has reason to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may after registering such instrument, refer the same to the Collector for determination of the value on the consideration and the proper duty payable, which will thereafter be decided by the Collector after giving an opportunity to the registering party. The act further provides that any person, who with intent to defraud the Government, executes any instrument in which all the facts and circumstances required to be set forth in such instrument are not fully set forth, shall be punishable with a fine which may extend to five thousand rupees.

(i) In 148 sale deeds registered in 13 registering offices in Faridabad, Karnal and Sirsa districts during the period from February 1984 to June 1987, it was noticed (between February 1986 and May 1988) in audit that the value of properties had been less set forth in the deeds than those agreed upon between the parties as per the 'agreements to sell' executed by them earlier and recorded with document writers. The omission to refer the cases to the Collector for determination of considerations and proper duty payable resulted in stamp duty and registration fee being realised short by Rs. 6.02 lakhs. Besides, penalty for under-valuation done with intent to defraud Government was also leviable, but was not levied.

On this being pointed out (between February 1986 and May 1988) in audit, the department recovered (between December 1986 and December 1988) Rs. 1.20 lakhs in 35 cases, issued notice for recovery in 3 cases and referred 33 cases (involving Rs. 2.10 lakhs) to the Collector for determination of values of the properties and proper duty payable, 11 cases were also referred (October 1988) to the Collector for declaring the recovery as arrears of land revenue. Report on recovery and decision of the Collector in 44 cases and action taken in the remaining 66 cases as also on penal action in all the 136 cases has not been received (December 1989).

(ii) On 8 sale deeds registered between December 1987 and March 1988 in Sonapat district, values of properties set forth was less than those fixed by the Deputy Commissioner, Sonapat, resulting in short levy of stamp duty of Rs. 31,757 and registration fee of Rs. 1,652.

On this being pointed out (September 1988) in audit, the department stated (May 1989) that amount of Rs. 4,567 had been recovered in two cases and the remaining 6 cases had been referred to the Collector whose decision has not been received (December 1989).

(iii) In seven sale deeds executed (June 1986 to January 1987) in registering office, Ellanabad (Sirsa district) the values of the immovable properties (agricultural land) set forth were lower than the average value of similar properties registered during the previous five years in the same areas. This resulted in stamp duty and registration fee being realised short by Rs. 28,691.

On this being pointed out (March 1988) in audit, the department recovered (between June 1988 and August 1988) Rs. 10,356 in 4 cases and referred (September 1988) the remaining 3 cases to the Collector, for determination of the value of consideration and proper stamp duty payable. Further report has not been received (December 1989).

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

3.3 Evasion of stamp duty and registration fee as a result of mis-classification of instruments

Under the Indian Stamp Act, 1899, as adopted in Haryana, stamp duty in respect of any instrument imposing further charge on property already mortgaged without possession, is chargeable as on a bond for the amount of further charge secured by such instrument.

(i) In the office of the Sub-Registrar, Rewari, a mortgage deed was executed (February 1986) through a tripartite agreement between a firm and Haryana Financial Corporation (HFC) and Haryana State Industrial Development Corporation (HSIDC) as joint mortgagees for securing a loan of Rs. 41 lakhs by the firm from HSIDC by re-depositing title deed. Such instrument imposing further charge of Rs. 41 lakhs on the property already mortgaged (March 1986) through a regular deed in favour of HFC for securing loan of Rs. 6.90 lakhs, was incorrectly viewed as memorandum of agreement instead of as a bond. This resulted in non-levy of stamp duty and registration fee amounting to Rs. 62,000.

On the omission being pointed out (February 1987) in audit the Collector directed (April 1989) the registering authority to effect the recovery of Rs. 62,000.

(ii) In the office of the Sub-Registrar, Gurgaon, three mortgages were executed (July 1987, August 1987 and December 1987) through a tripartite agreement between two firms of Gurgaon, the Haryana Financial Corporation (HFC) and the Haryana State Industrial Development Corporation (HSIDC) as Joint mortgagees for securing loans aggregating Rs. 109.60 lakhs by the firms from HSIDC by re-depositing title deeds. In another case, a mortgage deed was also executed (August 1987) through a tripartite agreement between a firm of Gurgaon, the Haryana Financial Corporation (HFC) and New Bank of India (a Nationalised Bank) Joint mortgagees for securing a loan of Rs. 70.29 lakhs by the firm from the Bank by re-depositing title deed. Such instruments imposing a further charge of Rs. 179.89 lakhs on the properties already mortgaged (May 1987) through regular deed in favour of HFC for securing loans aggregating to Rs. 161.50 lakhs were incorrectly viewed as memorandum of agreements and charged with stamp duty of Rs. 80 only instead of as mortgage deeds subjected to stamp duty of Rs. 2.70 lakhs.

On the mistake being pointed out (July 1988) in audit, the registering officer stated (March 1989) that tripartite agreements for securing loans of Rs. 179.89 lakhs were not compulsory registrable documents under Section 17 of the Indian Registration Act, 1908. The State Government Revenue Department, however in consultation with the Law department had clarified (November 1986) in a similar case that such tripartite agreement was clearly a mortgage deed requiring compulsory registration and stamp duty and registration fee was payable in terms of Article 40 of the Schedule 1-A of the Stamp Act *ibid*.

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

3.4 Evasion of stamp duty and registration fee through power of attorney

The Indian Stamp Act, 1899 and the Indian Registration Act, 1908, as applicable to Haryana, require that where power of attorney is given for a consideration and it authori-

ses the attorney to sell any immovable property, the deed is liable to stamp duty and registration fee as if it is an instrument of conveyance for the amount of consideration set forth therein.

Government instructed (October 1976) that where a person purchasing an immovable property for further sale did not get the conveyance deed executed in his favour and instead on payment of sale consideration, obtained a power of attorney from the vendor authorising him to sell the property, further to any party, at his discretion on behalf of the vendor, the power of attorney should be subjected to stamp duty and registration fee for the sale consideration in term of article 48 (f) read with Article 23 of schedule 1-A to the Indian Stamp Act, 1899.

In Sub registry Gurgaon, Faridabad and Karnal Districts, 9 agreements to sell were executed (January 1985 and January 1987) after receiving full consideration and handing over possession of properties to the purchasers. Simultaneously power of attorneys authorising the purchasers to dispose of property in any manner and sign sale deeds were also given. Stamp duty and registration fee amounting to Rs. 99,425 and Rs. 3617, respectively was leviable on consideration, as applicable to sale deed, but was not levied.

On the mistake being pointed out (between January 1987 and July 1987) in audit, department issued notices of recovery in 4 cases, and referred 2 cases to Government for decision. In regard to the remaining 3 cases, it stated that further sale deeds had been made, but the department did not recover the duty leviable on the power of attorneys.

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

3.5. Misclassification of instruments

Under the Indian Stamp Act, 1899, 'mortgage deed' includes every instrument whereby, for the purpose of securing money advanced or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to, or in favour of another, a right over or in respect of specified property on mortgage deed when possession of the property is not given or agreed to be given, stamps duty is chargeable under Article 40. (b) of

the Schedule 1-A to the Act, which is higher than that is leviable on an 'instrument of agreement'.

In Rewari, three deeds were executed (May 1986 and October 1986) for obtaining subsidy from the Haryana Industrial Development Corporation Limited by creating charge on the assets. The instruments were incorrectly classified as agreements instead of as mortgage deed without possession. The misclassification resulted in short realisation of stamp duty amounting to Rs. 41,115.

On the mistake being pointed out (March 1988) in audit, the Registering Authority referred (July 1988) the cases to the Collector for determination of the proper duty payable on these instruments. The Collector directed (April 1989) the Sub-Registrar for effecting recovery of Rs. 41,115 from the concerned parties. Report on recovery has not been received (December 1989).

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

3.6. Recovery at the instance of Audit

In 259 cases (where money value of each case was less than Rs. 20,000), short levy of stamp duty and registration fee due to under-valuation of immovable properties, irregular grant of exemption and misclassification of instruments amounting to Rs. 3.92 lakhs was accepted by the department out of which an amount of Rs. 93,685 was recovered in 73 cases.

CHAPTER—4

OTHER TAX RECEIPTS

4.1 Results of Audit

Test check of records in departmental offices, conducted in audit during the year 1988-89, revealed short recovery/non-recovery of excise duty, taxes on vehicles and Passengers Goods Tax amounting to Rs. 109.66 lakhs in 8,715 cases, which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
(A) State Excise	187	64.80
(B) Taxes on Vehicles	6,269	15.12
(C) Passengers and Goods Tax	2,259	29.74
	<hr/> 8,715	<hr/> 109.66

Some of the important cases noticed in 1988-89 and earlier years are mentioned in the following paragraphs.

A—STATE EXCISE

4.2 Non recovery of loss on re-auction of Vend

Under the Haryana Liquor Licence Rules, 1970, Licenses for vending country liquor and Indian made foreign liquor are granted by auction. From 1st April 1983, a successful bidder is required to deposit, by way of security, an amount equal to $16 \frac{2}{3}$ per cent of the annual licence fee (bid money), of which 5 per cent is payable at the fall of the hammer and the remaining $11 \frac{2}{3}$ per cent within period of ten days from the date of auction. The entire amount of security or its ninety per cent, as may be deemed proper by the Excise

and Taxation Commissioner, is required to be adjusted against the last instalment of licence fee payable by him. The remaining licence fee is payable in monthly instalment equal to one eleventh of the total annual licence fee by the 20th of the month. The Excise and Taxation Officer, incharge of the district, may authorise the licensee to deposit the amount of instalment or part thereof up to the last day of the month for which the instalment is due, on payment of interest at the rate of 15 per cent per annum for the period from the first day of the month to the date of payment of instalment or any part thereof deposited after due date. In the event of failure to pay any instalment alongwith interest, by the due date, the licence for vending is liable to be cancelled and re-auctioned at the risk and expense of the defaulting licensee which will be recoverable from the licensee as arrears of land revenue.

In Jind district, a licence was given (March 1987) for Rs. 16.72 lakh for sale of country liquor during 1987-88. The licensee after paying instalments and security aggregating Rs. 7.35 lakhs, stopped making further payments. The department cancelled (July 1987) his licence and re-auctioned (August 1987) the vend for Rs. 7.60 lakhs at the risk and cost of defaulting licensee. The re-auction resulted in loss of Rs. 1.77 lakhs, which was recoverable from the defaulting licensee. In addition, an amount of Rs. 750 on account of expenses incurred on re-auction was also recoverable from him. No recovery was, however, effected (March 1988).

On this being pointed out (May 1988) in audit, the department stated (September 1989) that recovery proceedings against the defaulters had been initiated. Report on recovery has not been received.

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

4.3 Non-recovery of interest

Under the Haryana Liquor Licence Rules, 1970, licences for vending country liquor and Indian made Foreign liquor, are granted by auction. From 1st April 1983, the bidder is required to deposit, by way of security, an amount equal to $16\frac{2}{3}$ per cent of the annual licence fee (bid money) of which 5 per cent is payable in cash at the fall of hammer and the remaining $11\frac{2}{3}$ per cent within a period of ten days from the date of auction. The Excise

and Taxation Officer, incharge of the district may authorise the licensee to deposit the amount of instalment or part thereof up to the last day of the month for which the instalment is due, on payment of interest, at the rate of 15 per cent per annum for the period from the first day of the month to the date of payment of instalment or any part thereof deposited after the due date. Further as per the Punjab Financial Rules, as applicable to Haryana, all revenue collections are required to be accounted for in Government Account and remitted into the treasury without undue delay. The Excise and Taxation Commissioner, Haryana issued (April 1984) instructions to all district offices to maintain 'Draft Collection Register' to keep a record of receipt and disposal of bank drafts and to watch early credit of money to Government Account.

(i) In Panchkula (District Ambala) a licence was granted by auction on 2nd March 1987 for Rs. 26.75 lakhs. A scrutiny of records in audit, however, revealed (May 1988) that the licensee paid Rs. 1.50 lakhs, at the fall of hammer on 2nd March 1987 towards 5 per cent security, by depositing three bank drafts payable at Ambala Cantt. The department presented (3rd March 1987) these bank drafts in bank for credit in to the Government accounts and without verifying whether or not the drafts had been credited by the bank to the Government account afforded credit to the account of the licensee. The department, however at the instance of audit, made (17th November 1988) an enquiry from the bank who reported (7th December 1988) that bank drafts had been misplaced and requested to arrange the issue of duplicate banker's cheques. Thus, the department got the amount credited to Government account only on 23rd January 1989. Thus due to failure of the department to keep effective watch over clearance of bank drafts deposited with the banks for credit to the Government account resulted in loss of interest of Rs. 42,562.

On this being pointed out (July 1988) in audit the department stated (June 1989) that the delay in crediting the amount to the Government account solely occurred in the bank and legal opinion was being sought to claim interest from the bank for the period of delay in encashment of the drafts.

(ii) During test check of records in the office of Deputy Excise and Taxation Commissioner, Karnal, it was noticed (July 1988) that five country liquor vends, were auctioned on 28th February 1987 and allotted to a licensee for total annual licence fee of Rs. 98.87 lakhs. The licensee, deposited Rs. 1,99,350 in cash and Rs. 2,95,000 by bank draft on 28th February 1987 towards 5 per cent of licence fee as security. Balance $11 \frac{2}{3}$ per cent amount of security was deposited on 10th March 1987 (Rs. 1,30,000 in cash and Rs. 10,23,485 by bank draft). Both the bank drafts sent to the bank on 28th February 1987 and 10th March 1987, were encashed and credited into Government Account on 26th March 1987 and 23rd April 1987 respectively resulting in loss of interest amounting to Rs. 21,659 which was attributable to departments failure in accepting the security by bank draft instead of in cash and subsequently to get the bank drafts encashed and credited to Government account soon by the bank.

On this being pointed out (August 1988) in audit, the department stated (July 1988) that the amount was being recovered from the licensee.

(iii) In Ambala, in respect of a foreign liquor vend auctioned on 2nd March 1987 for Rs. 18.01 lakhs, a licensee deposited Rs. One lakh by way of two out-station banker's cheques towards 5 per cent security at the fall of hammer, which were presented at bank on 3rd March 1987 for credit into Government accounts. The bank however, misplaced the cheques and the department, without verifying the encashment, credited the amount to the account of licensee and cleared his accounts for 1987-88. The cheques were actually credited to the Government account on 23rd January 1989 after obtaining fresh cheques from the licensee when pointed out (July 1988) in audit. The department's failure to exercise check on the account of Government money deposits etc. resulted in a loss of revenue of Rs. 28,375 by way of interest on account of late account of Banker's cheques.

On the omission being pointed out (July 1988) in audit, the assessing authority stated (July 1988) that legal opinion had been sought from the Excise and Taxation Commissioner to claim interest from the bank for the period of delay in encashment of the banker's cheques. Further report has not been received (December 1989).

The above cases were reported to Government in (between July and August 1989); their reply has not been received (December 1989).

4.4 Non-short recovery of enhanced excise duty

The Punjab Excise Fiscal Orders, 1932, as applicable in Haryana, provide for levy of excise duty, at the prescribed rates, per proof litre in respect of liquor or spirit and per bottle of 650 ML on beer removed from the licensed distilleries or bonded warehouses and breweries, respectively, in the State or when imported into the State from any State or Union Territory in India. The rate of excise duty was enhanced on Indian made foreign liquor (IMFL) from Rs. 36 to 40 per proof litre, on rum from Rs. 6 to Rs. 13.33 per proof litre and on beer from Rs. 2 to Rs. 2.50 per bottle from 1st April 1987. The rate of excise duty on rum was further increased to Rs. 20.33 per proof litre from 1st April 1988.

In 17 cases involving non-recovery of excise duty at revised rates on 8,193.324 proof litres of IMFL, 48112 bottles of beer and 20,956.496 proof litres of rum sold in April 1987 and April 1988, an amount of Rs. 2.05 lakhs was recovered on being pointed out (October 1988) in audit. Another case is given below :

In Gurgaon, a licensee had duty paid closing stock of 15,450.75 proof litres of IMFL and 17,207 bottles of beer on 31st March 1987. In addition to this the licensee received (31st March 1987) 27,000 bottles of beer against three permits issued on 27th March 1987 on payment of duty at Rs. 2 per bottle, which were accounted for by him on 2nd April 1987. As all these stocks were sold by the licensee on or after 1st April 1987, the excise duty was recoverable at the revised rates. The differential duty payable amounted to Rs. 83,906 against Rs. 50,406 paid by the licensee. Similarly in Karnal, two licensees on sale of closing stock of 1,572.056 proof litres of IMFL and 4009 bottles of beer on 31st March 1987, paid duty at pre-revised rates instead of at revised rates on the sale of the stock on or after 1st April 1987. This resulted in short realisation of excise duty amounting to Rs. 41,793 in the aggregate.

On the omission being pointed out (August 1988 and October 1988) in audit followed by reminders in January 1989 and June 1989, the department stated (June 1989) that notice to effect the short recovery of Rs. 33,500 had been served on the licensee of Gurgaon. Report on recovery and action taken in respect of two licensees of Karnal has not been received (December 1989).

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

4.5 Loss of excise duty due to issue of forged permit

Under the Punjab Liquor permit and Pass Rules, 1932 read with the Punjab Intoxicating Spirituous Preparations, Import, Export, Transport, Possession and Sale Rules, 1952 as applicable to Haryana, a licensee may import, export or transport intoxicating spirituous preparations on the authority of a permit and a pass granted by a competent authority. Such pass shall show in all cases the spirit strength of the preparations to be exported and that the duty at the rate prevailing in Haryana, under the Punjab Excise Act, 1914, had been paid. Further as per auction condition, the annual quota of country liquor is announced for each vend before such vend is put to auction. The licensee may obtain additional quota upto 20 per cent of the quota fixed for his vend on payment of full rate of excise duty and additional licence fee at the rate of half the incidence of licence fee calculated on the original licence fee and the original quota of that vend.

In Rohtak, permit number 966 dated 4th October 1985 was issued by the department in favour of a licensee of Rohtak District for issue of 297 proof litres of country liquor from a distillery at Hisar. Prescribed excise duty was deposited by the licensee and the country liquor was issued against this permit vide distillery excise pass number 1360 dated 5th October 1985. It was noticed (August 1986) in audit that another permit bearing identical number, 966 dated 4th October, 1985, for issue of 1089 proof litres of country liquor and bearing seal and signatures of the Excise and Taxation Officer, Rohtak was produced by another licensee of Rohtak District at the same distillery and got issued

1089 proof litres of country liquor against Excise pass number 1386 dated 7th October 1985. On payment of excise duty of Rs. 11,979 which was shown to have been deposited in Rohtak treasury on 4th October 1985. A scrutiny of records, however, revealed that no such excise duty was actually deposited into the treasury.

The licensee had already lifted his full quota of 5500 proof litres fixed for the vend which was auctioned for Rs. 1.70 lakhs for the year 1985-86. Besides excise duty, additional licence fee of Rs. 16,830 was also chargeable due to drawal of excess quota by 1089 proof litres of country liquor for 1985-86 from the licensee but was not recovered.

On this being pointed out (October 1986) in audit, the department admitted (January 1989) that the permit against which 1089 proof litres of country liquor was issued by the distillery was forged and excise duty and additional licence fee amounting to Rs. 28,809 was payable by the licensee. Department approached (May 1989) the Police to register an F.I.R. against the licensee. Report on further developments has not been received (December 1989).

4.6 Non-levy of duty on excess storage loss

Under the Punjab Distillery Rules, 1932, as applicable to Haryana, ceiling limit prescribed for wastage of both country spirit and Indian made foreign liquor in store (spirit store room) in a distillery is 2 per cent. Excise duty on spirit wasted in excess of the prescribed limit is recoverable from the distillery.

In the case of a distillery at Hisar, wastage of 36,356.15 proof litres of Indian made foreign spirit in spirit store room was allowed against the permissible wastage of 35,261.15 proof litres during the year 1987-88. Excise duty amounting to Rs. 43,800 on excess wastage of 1095 proof litres (at the rate of 40 per proof litre) was not levied.

On the omission being pointed out (June 1988) in audit, the department recovered (July 1988) the amount from the distillery.

4.7 Recovery at the instance of Audit

In 60 cases (where money value of each case was less than Rs. 20,000), non-recovery of interest and penalty amounting to Rs. 3.50 lakhs were accepted by the department, out of which an amount of Rs. 69,378 was recovered in 45 cases.

B-TAXES ON VEHICLES

4.8 Non-levy of tax

The Punjab Motor Vehicles Taxation Act, 1924 and the rules made thereunder, as applicable to Haryana, allow a person exemption from payment of tax in respect of a vehicle for a quarter if he proves to the satisfaction of the licensing officer that he has not used or permitted the use of the vehicle throughout the said quarter and deposits the registration certificate with the licensing officer provided he sends an advance intimation of his intention not to use the vehicle during the quarter for which exemption is claimed. Further when a vehicle is found to be plying for a token period in a quarter, tax has to be paid for the entire quarter.

In 90 cases where the vehicles had been plying without payment of tax (beyond the period for which tax had been charged), an amount of Rs. 5.59 lakhs was recovered between May 1988 and February 1989 on being pointed out (between June 1985 and October 1988) in audit.

Haryana Roadways, Gurgaon, Rewari and Bhiwani did not deposit tax in respect of 28 buses for the various quarters, ending between September 1986 and March 1988, though these continued to ply after deposit of registration certificates and beyond the periods upto which tax had been paid, resulting in tax amounting to Rs. 1.83 lakhs being not realised.

The omission was pointed out to the department and Government in audit between March-April 1989; their replies have not been received (December 1989).

4.9 Non-levy of tax on combine harvesters machine

Under the provisions of Punjab Motor Vehicles Taxation Act, 1924 and the rules made thereunder, as applicable to Haryana, the State Government may by rule or by order exempt a person or class of persons from the liability to pay the whole or part of the tax in respect of any motor vehicle or class of motor vehicle and may in like manner exclude any vehicle or class of motor vehicles from the operation of this Act. As per clarification dated 12th May 1983 issued by the State Transport Controller, tractors used only for agricultural purpose were exempt from payment of tax. On combine harvesters used for hire and reward, tax was leviable at the rate of Rs. 1,500 per annum.

In Tohana, in respect of 5 combine harvesters used for hire and reward, tax amounting to Rs. 27,000 for the period from January 1985 to December, 1988 was leviable, but was not levied.

The omission was pointed out to the department in March 1989, and was reported to Government in (July 1989); their reply has not been received (December 1989).

4.10 Recovery at the instance of Audit

In 418 cases (where money value of each case was less than Rs. 20,000), non-recovery/short recovery of tax amounting to Rs. 8.04 lakhs was accepted and recovered by the department.

C-PASSENGERS AND GOODS TAX

4.11 Non-levy of goods tax on vehicles belonging to State Government Undertakings

As per orders issued on 28th July 1980 by Government under Section 10 of the Punjab Passengers and Goods Taxation Act, 1952, as applicable in the State of Haryana, Government Vehicles used for non-Commercial purposes are exempt from levy of goods tax. The exemption is, however, not admissible in respect of vehicles belonging to commercial undertakings

and autonomous bodies. Goods tax on trucks was leviable at the rate of Rs. 2000 (Rs. 2400 from 1st April 1985) per vehicle per annum.

In Karnal, on seven vehicles belonging to three State Government undertakings, goods tax amounting to Rs. 48,000 leviable for the period from April 1984 to December, 1987 was not levied.

On the omission being pointed out (October 1987) in audit, the department recovered (May 1988) Rs. 6,600. Report on recovery of the balance amount has not been received (December 1989).

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

4.12 Non-levy of goods tax on vehicles belonging to municipal committees

Under the Punjab Passengers and Goods Taxation Act, 1952, as applicable to Haryana and the Rules made thereunder, goods tax is leviable at the prescribed rates on freight realised on all goods carried by motor vehicles. Motor vehicles owned by Municipal Committees are not exempt from payment of goods tax.

On 15 vehicles belonging to Municipal Committees, Hisar and Jagadhari, goods tax amounting to Rs. 40,050 for various periods during the years 1982-83 to 1987-88 was not levied.

On the omission being pointed out (between August 1987 and November 1988) in audit, the department issued notices for recovery. Local Bodies Department, however, moved (November 1988) to Government for exemption of goods tax on such vehicles. Further report has not been received (December 1989).

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

4.13 Recovery at the instance of Audit

In 667 cases (where money value of each case was less than Rs. 20,000), non/short realisation of tax and penalty amounting to Rs. 4.59 lakhs was accepted by the department, out of which an amount of Rs. 1.12 lakhs was recovered in 149 cases.

CHAPTER-5

NON-TAX RECEIPTS

5.1 Results of Audit

Test check of records of departmental offices dealing with assessment, collection and realisation of non-tax receipts, conducted in audit during the year 1988-89, revealed under-assessment or losses of revenue amounting to Rs. 64.10 lakhs in 1,144 cases as indicated below:—

Name of department	Number of cases	Amount (In lakhs of rupees)
Industries (Mines and Minerals)	749	50.15
Agriculture	80	9.98
Medical	209	2.36
Buildings and Roads	106	1.61
Total	1,144	64.10

Some of the important cases noticed in 1988-89 and earlier years and findings of two reviews on "Receipts from Mines and Minerals" and "Recovery of rent in respect of Government residential buildings" are mentioned in the following paragraphs.

A-INDUSTRIES

5.2 Receipts from Mines and Minerals

5.2.1 Introductory

Minerals Wealth of Haryana consists mainly of lime stone, silica sand, quarts, dolomite, china clay, lime

shell slate, felspar, marble stone, building stone, ordinary sand and clay etc.

The grant of concessions for prospecting and mining operations in respect of major minerals is regulated by the Mines and Minerals (Regulation and Development) Act, 1957, enacted by Parliament and the Mineral Concession Rules, 1960 framed thereunder by the Government of India. The Punjab Minor Minerals Concession Rules, 1964 the Haryana Minerals (vesting of Rights) Rules, 1979 issued by the State Government under Section 15 of the aforesaid Central Act, regulate the extraction of minor minerals. Receipts from Mines and Minerals are realised in the form of fees, dead rent, royalty and auction money. In Haryana major receipts are from dead rent, royalty and auction money.

5.2.2 Scope of audit

A review of general efficiency of the administration of the various provisions of above Acts in the State with particular stress on levy and collection of fees, dead rent and royalty during the years 1984-85 to 1988-89, was conducted in audit between January 1989 to April 1989 with a view to examine the application of rates of royalty charged quantity of minerals reckoned for the purpose of levy of royalty and application of penal provisions in general. The review was under taken in five (out of twelve) District Industries Centres at Ambala, Narnaul, Faridabad, Gurgaon and Bhiwani in the State.

5.2.3 Organisational set up

The Director of Industries, Haryana is responsible for administration of the Acts and Rules ibid through the General Manager, District Industries Centre of the district concerned under whose supervision Mining Officer assesses and collects the royalty, auction money etc.

5.2.4 Highlights

- (i) As on 31st March 1989, arrears of revenue under Mines and Minerals pending collection stood at Rs. 126.88 lakhs.
- (ii) Dead rent amounting to Rs. 2.01 lakhs was either

not recovered or was short recovered from seven lessees during the period between January 1984 to June 1989.

(iii) Royalty, contract money and interest thereon amounting to Rs. 37.05 lakhs on major and minor minerals for the period April 1984 to January 1989 was either not recovered or was short recovered by the department.

(iv) Weighing machines were not found installed by the lessees at the pit head of 69 mines sites and the royalty was being paid by the lessees on truck load basis without actual weighing.

5.2.5 (a) Trend of revenue

The minerals revenue receipts collected during the period from 1984-85 to 1988-89 in respect of major and minor minerals is detailed as under :—

Year	In crores of rupees
1984-85	3.72
1985-86	3.89
1986-87	5.07
1987-88	5.69
1988-89	6.58

Increase in receipts during 1986-87, 1987-88 and 1988-89 was due to increase in number of major mines leased out for quarrying, higher biddings in auction of salt petre quarries, revision of rates of royalty on major minerals from May 1987, recovery of arrears.

(b) Arrears pending collection

As on 31st March, 1989, arrears of revenue pending collection as reported by the department was as

under :—

	Year to which arrears relate	Amount (In lakhs of rupees)
Upto	1984-85	78.24
	1985-86	11.36
	1986-87	7.69
	1987-88	20.72
	1988-89	8.87
	Total	126.88

Out of Rs. 126.88 lakhs recovery of Rs. 13.36 lakhs had been stayed by courts.

5.2.6 Mines in operation

The position of mines leased out and mines in operation from April 1984 to March 1989 was as under :—

(a) Major minerals

Year	Mines leased out
1984-85	21
1985-86	26
1986-87	37
1987-88	45
1988-89	47

(b) Minor minerals

Year	Total number of mines on con- tract/under lease
1984-85	556
1985-86	627
1986-87	620
1987-88	622
1988-89	546

5.2.7 Major minerals

(a) Non-recovery/short recovery of dead rent

Under the Mines and Minerals (Regulations and Development) Act, 1957, the holder of a mining lease shall pay annually dead rent at the prescribed rates. Interest at the rate of 15 per cent per annum is recoverable for the period of default in payment.

In respect of seven leases granted in Bhiwani, Faridabad, Gurgaon, and Narnaul during November 1975 and February 1986, dead rent amounting to Rs. 2.01 lakhs for the period between January 1984 to June 1989 was either not recovered or was recovered short. Besides interest amounting to Rs. 43,500 (Upto March 1989) was also chargeable.

On the omission being pointed out in audit (January 1989 to April 1989) the department issued (between January 1989 and March 1989) notices in 3 cases. Report on action taken in the remaining four cases had not been received (December 1989).

(b) Non-recovery/short recovery of royalty and interest

The Mines and Minerals (Regulations and Development) Act, 1957 provides for payment of royalty by lessee in respect of any mineral removed or consumed by him or his agent from the leased area by the dates stipulated in the deed. Under the Minerals Concession Rules, 1960, simple interest at fifteen per cent per annum is chargeable for the period of default.

In 4 cases, involving short recovery of royalty and non-levy of interest, an amount of Rs. 71,433 was recovered (between May 1988 and December 1988) on being pointed out (December 1987 and September 1988) in audit.

(i) In Gurgaon, in the case of a lease for extraction of silica sand granted (February 1980) for a period of 20 years, the lessee was required to pay royalty at the rate of Rs. 2.50 per metric tonne by the prescribed date. The lessee was also asked (September 1984) to apply for mining lease for ordinary sand along-

with silica sand. Since he did not do so, the lease was terminated (6th May 1986) and possession of the mine was taken over by the department on 19th May 1986. The lessee made an appeal, to the Tribunal and as a result of their decision (March 1988) the lease was restored to him in September 1988. But the royalty amounting to Rs. 36,465 on 16,986 metric tonnes of silica sand extracted during 1st July 1984 to 19th May 1986 was short recovered from the lessee. Besides, interest of Rs. 18,404 (Upto March 1989) was also chargeable. The department stated (April 1989) that notice had been issued to the lessee.

(ii) In Gurgaon, a mining lease, for extraction of china clay, granted in July 1980 was terminated in March 1989. The lessee had closing stock of 4532.957 MT of china clay on which royalty amounting to Rs. 36,264 was not recovered.

(iii) In Ambala, Faridabad and Narnaul, four lessees did not make payments of royalty for the period from April 1986 to March 1988 by the stipulated dates. Interest amounting to Rs. 26,009 leviable under the rules was neither levied nor recovered.

On the omission being pointed out (January-February 1989) in audit, the department issued notices for recovery of the amount.

Minor Minerals

5.2.8 Non-realisation/short realisation of royalty

(i) Ordinary sand

Under the Punjab Minor Mineral Concession Rules, 1964, as applicable to Haryana, a lessee to whom the mining lease is granted, shall pay royalty on ordinary sand despatched from the leased area at Rs. 2.50 per tonne (Rs. 5 per tonne from 16th December 1987). Further clause (3A of part III) of the lease deeds stipulates extraction of a minimum quantity of mineral failing which lessee is obliged to pay royalty on the prescribed minimum quantity.

In six cases, involving short recovery of royalty amounting to Rs. 4.50 lakhs was recovered (May 1988 and February 1989) on being pointed out (January 1988 and September 1988) in audit.

In Faridabad and Gurgaon, in the case of three mining leases for extraction of ordinary sand, granted between July 1984 and February 1986 for a period of ten years, minimum royalty payable for the period July 1985 to November 1988, worked out to Rs. 11.88 lakhs against which the department accepted royalty of Rs. 5.84 lakhs only. This resulted in short realisation of royalty by Rs. 6.04 lakhs, besides, chargeable interest of Rs. 1.59 lakhs (Upto March 1989) for short payment of royalty.

On this being pointed out in audit, the department issued (January 1989 and April 1989) demand notices for recovery.

(ii) Brick earth and brick bats

Under the Punjab Minor Mineral concession Rules, 1964, as applicable to Haryana, a brick kiln owner is required to pay royalty at the rate of rupee one per tonne of brick earth extracted from the leased area or rupees three per thousand of *pucca* bricks sold by him. Royalty on brick bats is recoverable at the rate of rupee one per thousand of brick bats sold. He is also required to submit to the department quarterly/half yearly returns in Form 'G' showing the quantity of minor mineral (brick earth) extracted from the leased area or number of bricks sold by him.

In the District Industries Centres, Ambala, Narnaul, Faridabad, Gurgaon and Bhiwani, prescribed returns showing brick earth extracted or bricks sold during the years 1984-85 to 1987-88 were neither submitted by 273 Brick kiln owners (BKO's) nor were these called for by the department. The BKO's on their own assessment, paid royalty amounting to Rs. 10.34 lakhs which was accepted by the department without verifying its correctness. A scrutiny in audit of the records in the offices of the District Food and Supplies Controllers, however, revealed that 50.04 crore bricks and 1.93 crore brick bats were reported to have been sold by these BKO's during

the years 1984-85 to 1987-88 on which royalty of Rs. 15.20 lakhs was payable. Royalty thus realised short amounted to Rs. 4.86 lakhs.

On the omission being pointed out in audit (January—February 1989) the department recovered (between January 1989 to April 1989) Rs. 56,348.

5.2.9 Non—realisation/short realisation of contract money

Under the Punjab Minor Minerals Concession Rules, 1964, as applicable to Haryana, a mining lease for quarrying is granted by auction or by inviting tenders to the highest bidder. The lessee is required to deposit 25 per cent of the annual bid money as security and another 25 per cent (one twelfth of the bid money where contract exceeds Rs. 5 lakhs) as advance payment immediately on the allotment of the contract. The balance of the contract money is payable in advance in monthly/quarterly/annual instalments. In the event of default in payment, the competent authority may by giving a notice, terminate the contract and forfeit the security and the instalments paid in advance, if any. Interest at the rate of 12 per cent (15 per cent from 16th June 1987) per annum is also recoverable for the period of default.

In one case, involving non-recovery of contract money and interest, an amount of Rs. 1.33 lakhs was recovered (August 1988) on being pointed out (January 1988) in audit.

(i) In Ambala and Gurgaon, in case of six lessees who were awarded mining contracts for seven quarries failed to pay the contract money due from them during the periods April 1984 to January 1989, the department failed to initiate action to recover the contract money of Rs. 5.20 lakhs and interest of Rs. 1.14 lakhs (worked out upto March 1989) as also to terminate the contracts. Out of seven contracts so awarded, three contracts expired on 31st March 1987 and 31st March 1988.

On this being pointed out in audit the department recovered (February 1989) Rs. 37,876 out of Rs.

45,404 in one case and issued demand notices for Rs 5.88 lakhs in remaining 6 cases.

(ii) In Ambala, Faridabad, Gurgaon and Narnaul 33 lessees who were awarded mining lease of 33 quarries between February 1983 and May 1987 failed to pay the contract money due from them for the period from December 1983 to February 1989. The department although terminated the contracts between March 1985 and February 1989, but did not take any further steps to recover the contract money amounting to Rs. 6.28 lakhs, which was due from the lessees upto the date of taking over possession of the quarries. Interest amounting to Rs. 3.13 lakhs (Upto March 1989) was also recoverable for non-payment of contract money.

5.2.10 Non-recovery of price on mineral illegally extracted

(i) Under the Mines and Minerals (Regulation and Development) Act, 1957 read with Punjab Minor Minerals Concession Rules, 1964, as applicable to Haryana, no person shall undertake any mining operation in any area except under and in accordance with terms and conditions of the mining lease obtained from the department. If mineral is extracted or removed unlawfully, price of mineral so extracted shall be recoverable in addition to royalty chargeable. In case of brick earth illegally extracted, penalty at the rate of Rs. 3.50 per thousand of bricks sold is recoverable in addition to royalty. The State Government allowed (September 1985) the brick kiln owners, extracting brick earth in an unauthorised manner but paying royalty regularly, to complete lease deeds/certificate of approval by 31st December 1985. The Government further ordered (9th February 1989) that penalty on account of not obtaining of mining lease should not be recovered from those brick kiln owners who had paid full amount of royalty. In future, however, royalty was not to be accepted without charging penalty from the defaulter who had neither taken a mining lease nor paid royalty.

In Narnaul, Faridabad and Gurgaon, 11 brick kiln owners sold 198.45 lakh bricks and 10.23 lakh brick bats during the period 1984-85 to 1987-88 but did not deposit royalty due for this period by 9th February 1989 and continued to extract brick earth in an unauthorised manner. The department, however, accepted royalty after 9th February 1989

without charging penalty for unauthorised extraction of brick earth from defaulters in contravention of the Government orders. Penalty chargeable amounted to Rs. 70,652 which was not levied.

i) Loss of revenue due to non-disposal of ordinary sand

Silica sand (major mineral) is available at about 20 to 30 feet below the ordinary sand. In Faridabad, a mining lease for silica sand (area of 175 hectares) was granted on 10th June 1980 to a lessee for a period of twenty years. As per conditions of the mining lease, the lessee was authorised to extract and dispose of silica sand only. No lease for extraction of ordinary sand, from the area was granted, either to the lessee or to any other person. The Government however, prematurely terminated (April 1984) the lease and the possession was taken over (April 1984) by the department. The lessee made an appeal to the High Court which decided (4th December 1986) the case in his favour and got back the possession of the lease on 12th December 1986. The Government in the meanwhile issued notification on 2nd July 1984 for grant of the mining lease, according to which any person interested in obtaining lease for silica sand must also apply for grant of mining lease for ordinary sand (minor mineral) available in the same plot. The lessee applied (3rd May 1988) for grant of mining lease for ordinary sand which was sanctioned (December 1988) by Government without executing any lease deed (June 1989). The department also did not recover any royalty on the ordinary sand even after December 1988 from the lessee. The minimum royalty chargeable on removal of ordinary sand during the period from 4th December 1986 to 31st March 1989 worked out to Rs. 4.72 lakhs, which was not recovered.

The department stated (May 1989) that delay in grant of mining lease of ordinary sand is immaterial as the rate of royalty for both the minerals was the same. The department did not recover any royalty on ordinary sand even after December 1988.

2.11. Interest not charged on belated payments

The Punjab Minor Mineral Concession Rules, 1964 as applicable to Haryana, require a lessee to pay quarterly instalments of contract money, in advance, by the stipulated dates.

In the event of default, he shall be liable to pay interest at the rate of twelve per cent (fifteen from 16th June 1987) per annum so long as the default continues.

In Ambala and Faridabad, 13 licensees paid contract money/royalty after the stipulated dates during 1984-85 to 1987-88. On belated payment of amounts due, interest amounting to Rs. 2.50 lakhs was chargeable, but was not demanded.

The department stated (March 1989) that demand notices for recovery had been issued.

5.2.12. Other irregularities

(a) Non/improper maintenance of mining lease register

Under the Mineral Rules, a mining register in the prescribed proforma is required to be maintained for recording the particulars of each mining lease granted for extraction of minerals. The department also prescribed (March 1983) a proforma for maintaining a mining lease register for keeping ledger account of each lessee relating to production, despatch of mineral, royalty due and royalty paid etc. A test check of the register kept in the District Industries Centres, Narnaul and Bhiwani revealed that no ledger account was maintained in respect of 13 out of 41 leases. The ledger account of the remaining leases also was incomplete as full particulars of production, despatch of mineral, particulars of royalty paid were not recorded. In seven of these cases in Narnaul, royalty, for the months of August 1988 and December 1988, amounting to Rs. 64,359 was paid through cheques in September 1988 and January 1989, which were not credited into Government account by missing its cognisance due to non-maintenance of ledger accounts.

On the omission being pointed out (March 1989) in audit, the department obtained fresh cheques on 21st March 1989.

(b) Non reconciliation of remittances into treasuries

Under the Punjab Subsidiary Treasury Rules, as applicable to Haryana the head of office is required to maintain a remittance book, in which particulars of challans tendered by

the contractors/lessees (depositors) in proof of having made the payment of fees, rents and royalties into the treasury are to be recorded. The figures noted in the book are required to be reconciled with the treasury at the end of each month as required under the Punjab Financial Rules, Volume I, as applicable to Haryana.

(i) During test check of records in District Industries Centres, Ambala, Narnaul, Faridabad and Gurgaon it was noticed (March 1989 and April 1989) in audit that challans in support of entries made in the registers showing amounts deposited into treasury were not available with the department.

(ii) There was difference in figures of receipts from mines and mineral for the years 1984-85 to 1987-88 as supplied by the department and those appearing in the Finance Accounts of the State Government, which was as under :—

Year	Figures as supplied by the depart- ment	Figures as per the Finance Accounts	Difference
(In lakhs of rupees)			
1984-85	391.25	371.68	(+)19.57
1985-86	437.25	389.26	(+)47.99
1986-87	512.40	507.23	(+)5.17
1987-88	566.22	568.80	(—)2.58

(c) Non-observance of conditions of lease deeds

Under the terms and conditions of lease deed, unless specifically exempted by the State Government, every lessee has to provide a weighing machine at the pit head of the mine and shall weigh or caused to be weighed thereon all the said minerals from time to time brought to pit head sold, exported and converted products and shall at the close of each day cause the total weight to be entered in the books. However, weighing machines were not installed (March 1989) at the mine site in 69 (out of 71) leases. Royalty was paid by the lessees and accepted by the department on truck load basis without actual weighing.

The above facts were reported to Government in July 1989; their reply has not been received (December 1989).

B—PUBLIC WORKS (BUILDINGS AND ROADS)

5.3. Recovery of rent in respect of Government residential buildings

5.3.1. Introduction

With a view to providing residential accommodation to the employees, Government have constructed residential buildings at various places in the State. All Haryana Government employees except those on deputation with Boards or in any other Government are eligible for allotment of Government residential accommodation. Recovery of rent from employees is governed under Rules 5.29 to 5.44 of Punjab Civil Services Rules-Volume I.

5.3.2. Organisational set up

Allotment of buildings to Government employees is made by a House Allotment Committee, constituted in each district. The residential colonies are divided in the groups viz. Public Works colonies and General Pool. The allotment committee in respect of Public Works Department colonies is headed by the Superintending Engineer Public Works Department, Buildings and Roads. Deputy Commissioners of the districts concerned are responsible for allotment of General Pool houses. Government houses at Panchkula are, however, allotted by an allotment committee headed by Chief Secretary to Government of Haryana in respect of types IV and V and by the Commissioner, Public Works Department in respect of types I, II and III houses. Recovery of rent is watched by the Executive Engineer of each Public Works Department (buildings and roads) Division and he is responsible for watching recovery of rent by issuing rent rolls to the drawing and disbursing officer concerned for effecting recovery of rent from the pay of officials. The competent authority may under special circumstances reduce or waive off recovery of rent in special circumstances mentioned in Rule 5.35 of Punjab Civil Services Rules, Volume I.

5.3.3. Scope of audit

Records relating to assessment and collection of rent of residential buildings for the year 1984-85 to 1988-89 were test checked in audit in 10 out of 31 Public Works Divisions

dealing with recovery of rent in the State with a view to verifying the correctness of recoveries effected, compliance of various orders regarding allotment of houses, and the maintenance of record connected therewith.

5.3.4. Highlights

(i) Rent at normal rate instead of at market rate was recovered from Government employees who did not vacate Government accommodation within the prescribed time after their retirement or transfer to other stations. In 75 cases in 9 divisions test checked where the recovery at market rate was to be enforced, department had not even assessed the market rent.

(ii) Rent amounting to Rs. 21,600 was short recovered in 39 cases. Besides, city compensatory allowance drawn by 252 employees at Hisar was not included in emoluments determined for recovery of rent.

(iii) Standard rent required to be revised after 5 years from the date of its last fixation was not revised in any of the 4 divisions test checked.

(iv) Basic records viz., register of rents, register of buildings etc. for watching recoveries of rent were either incomplete or were not maintained properly, inasmuch as date of occupation/vacation of building and particulars of recovery of rent were not found recorded. In two divisions, 346 buildings were not found entered in register of buildings.

5.3.5. Trend of revenue

Budget estimates of revenue from residential buildings and actual receipts there against during the years 1984-85 to 1988-89 were as under :—

Year	Budget estimates	Actuals
	(In lakhs of rupees)	
1984-85	21.00	35.22
1985-86	30.83	41.43
1986-87	37.00	46.27
1987-88	48.00	49.64
1988-89	55.00	56.62

Annual expenditure incurred in the maintenance and repairs during the years 1984-85 to 1988-89 was as given below :—

Year	Expenditure
	(In lakhs of rupees)
1984-85	64.53
1985-86	59.33
1986-87	81.45
1987-88	86.46
1988-89	80.82

5.3.6. Loss of revenue due to non-assessment/non-recovery of rent at market rate

Under the Punjab Civil Services Rules, Volume-I, as applicable to Haryana, and as per instructions contained in Finance Department circular letter dated 11th September 1985, an official occupying Government accommodation is required to vacate the accommodation within 21 days of his retirement or transfer to an outstation, failing which penal rent 20 to 40 per cent of pay is recoverable from him upto four months. Thereafter rent at market rates is to be charged besides, initiating eviction proceedings in the court.

In Bhiwani, Karnal, Rohtak and Faridabad, 17 officials who were transferred to other station did not vacate Government residences allotted to them even after the expiry of four months from the date of their transfer. The rent for further period ranging from 4 to 29 months, in these cases was continued to be charged at the rate of 40 per cent of their emoluments instead of at market rent. Eviction proceedings by the competent authority were also not initiated. Amount of short recovery of rent could not be worked out as market rent of these houses was not assessed.

The department stated (March 1989) that recovery in respect of two cases would be made after assessing the market rent. Reply in respect of remaining cases has not been received (December 1989).

3.7. Failure to recover differential rent from Public Sector Corporations and Other autonomous bodies

As per instructions issued by Haryana Government in September 1976 and February 1983, corporations and other autonomous bodies are required to pay rent at market rate in respect of Government residential buildings allotted to the State Government employees on deputation with them. The employees shall pay 10 per cent of their emoluments and the balance shall be contributed by the employer body.

In Rohtak, Sonapat, Karnal, Bhiwani, Gurgaon, Hisar, Jharsa and Ambala, 46 State Government employees on deputation to Municipal Committees, Corporations and autonomous bodies were allotted Government accommodation. A scrutiny of records, however, revealed that in 19 cases the rent was covered at lower rates, applicable to Government employees and in 17 cases as standard rent. No recovery was however made in respect of remaining 10 cases.

The department stated (February 1989) that revised rent bills at market rate in 4 cases had been issued and recovery of Rs. 17,297 in 2 cases had been made. In respect of 30 cases, it was stated (January 1989 and April 1989) that market rent as being assessed and recovery would be made thereafter. In respect of the remaining 12 cases reply has not been received (December 1989).

3.8. Irregular allotment of accommodation to private persons and non recovery of rent at market rates

As per provisions of Rule 4.5 of Departmental Financial Rules read with para 3.27 of Punjab Public Works Department Code, when a Government building is let out to a person not in service of Government, rent should be recovered in advance at the market rate.

During test check of records of Divisional Offices at Hisar, Ambala, Gurgaon, Karnal, and Rohtak, it was noticed (between February 1989 and April 1989) that in 9 cases, Government houses had been allotted to individuals in private service by the House Allotment Committees headed by Deputy Commissioner/Superintending Engineer Public Works Department between February 1981 and May 1989. These

house Allotment Committees were not competent to allot houses to individuals in private service. Though rent at the market rate was recoverable in advance in these cases, yet it was being recovered at standard rent in 3 cases and at the rate of 7½ per cent of emoluments in 4 cases. In the remaining 2 cases, no recovery was being made from July 1987 and December 1987 to the date of audit (March 1989).

The concerned Divisional Officers stated that houses were allotted by the Deputy Commissioner and there were no instructions in relevant allotment letters regarding the rate at which recovery of rent was to be made. The reply of the Divisional Officer was not tenable as recovery of rent at correct rate is the sole responsibility of the Divisional Officer and the rates of recovery from private persons have already been laid in Rule 4.5 of Departmental Financial Rules and Para 3.27 of Punjab Public Works Department code.

5.3.9. Non-recovery of rent

Three employees of Haryana Tourism Corporation were allotted Government accommodation in Nabha House at New Delhi on 1st April 1972, 4th April 1974 and 1st March 1978. Although their cases for rent free accommodation were rejected by Government on 22nd September 1979, yet no action was taken either to recover rent at market rate or to get the houses vacated from the employees. One of the official, however, vacated accommodation on 15th August 1988, but the remaining two officials still continue to occupy these houses. The market rent in these cases had also not been worked out so far. Non fixation of market rent in respect of residential houses allotted to private persons/Government servants has resulted in huge short recovery of rent in the above three cases.

The Divisional Officer stated that action to assess the market rent is being taken and recovery will be effected thereafter.

5.3.10. Short recovery of rent

(i) Under Rule 5.33 of Punjab Civil Services Rules, as applicable to the State of Haryana, emoluments for the purpose of recovery of rent from Government employees shall include among others, compensatory allowance other than travelling allowance, uniform allowance and clothing allo-

advance and outfit allowance. City Compensatory allowance at the rate of 5 per cent of pay and the dearness pay subject to a maximum of Rs. 50 was admissible to Haryana Government employees stationed at Hisar with effect from 1st January 1981.

In Hisar, the element of city compensatory allowance drawn by 252 employees was not included in the emoluments upto March 1986 while working out the amount of rent recoverable. This resulted in short recovery of rent of Rs. 16,360. The Divisional Officer stated (April 1989) that the compensatory allowance was included in emoluments from April 1986, when the orders came to his notice and that matter for recovery of earlier period was being looked into.

(ii) Under Rule 5.44 of the Punjab Civil Service Rules Volume I, as applicable to the State of Haryana, rent of ceiling fans is recoverable at the rate of 17 per cent per annum on the capital cost of fans installed in residential buildings and maintained at the cost of Government.

In Faridabad and Sonapat divisions, rent for fans installed in 39 residential buildings during the period from December 1970 to August 1987 was not recovered from occupants resulting in short realisation of rent amounting to Rs. 21,600.

The department stated (January 1989 and March 1989) that efforts for recovery were being made.

5.3.11. (a) Non-revision of standard rent

As per provisions of Rule 5.24 (c) of Punjab Civil Services Rules, Volume I, as applicable to Haryana State, the standard rent of a residence shall be recalculated on the expiry of five years from the date of the last calculations and such recalculated revised rent shall take effect from 1st April next or from such other date as the competent authority may direct.

During test check of records in Divisional Offices at Rohtak, Ambala, Sirsa and Hisar, it was noticed (March 1989 and April 1989) that standard rent had not been revised in any case.

The concerned Divisional Engineers confirmed non-

revision of standard rent. Non-revision of standard rent deprived the department of potential revenue which would have accrued as a result of enhancement of standard rent.

(b) Incorrect calculation of standard rent

As per provisions of Rule 5.23 (b) of Punjab Civil Services Rules, Volume I, as applicable to Haryana State, standard rent of a residence shall be a percentage of such capital cost equal to such rate of interest as may from time to time be fixed by the competent authority plus an addition for municipal and other taxes in the nature of house and property tax in respect of the residence, payable by Government. Rule 5.23 (d) further provides that when sanitary, water supply and electric installation are not included in the capital cost of a residence, additional rent equal to ten and a half per cent of capital cost of such installation shall be recovered.

During test check of records in Divisional Offices (Rohtak, Faridabad, Karnal and Ambala) it was noticed (February 1988 and April 1989) that in sixteen cases, standard rent in respect of residential buildings was not correctly worked out inasmuch as value of sanitary, water supply and electric installation had neither been taken into account while working out the capital cost of the houses nor was additional rent equal to ten and a half per cent of capital cost of such installation recovered.

5.3.12. Improper maintenance of basic records

For watching recoveries of rent in respect of buildings, the Divisional Officer is required under Rule 4.17 of Departmental Financial Rules to maintain a register of rents showing monthly assessment, realisation and balances of rent in each case. Where however, recoveries of rents are to be made from the pay of Government employees by the Drawing and Disbursing Officer, the Divisional Officer is required to issue rent rolls to the concerned drawing and disbursing officer in triplicate. The drawing and disbursing officer will return one copy of rent roll indicating therein particulars of recoveries and also changes in incumbency for making entries in the rent register. At the end of the month total realisation shall be abstracted at the foot of the rent register so as to show separately, amount realised in the division, recoveries by other disbursing officers and recoveries at treasury etc.

It was noticed in audit that :—

(i) Rent register was not maintained properly in 10 divisions and was found defective in following aspects.

(a) In 8 divisions, date of occupation, date of vacation of building, treasury voucher number and date of recovery of rent had not been mentioned,

(b) monthly abstract showing amount of rent assessed, realised and balance due had not been worked out in any of the 10 divisions, test checked,

(c) scale of pay and date of increment were not found recorded in the register,

(d) reports from subordinate incharge (Junior Engineer) for the maintenance of buildings indicating changes of tenancy were also not called for in any division as required vide Rule 4.18 Departmental Financial Rules so as to make proper assessment of rent in each case. Such reports were also not submitted by the Junior Engineer concerned as required in rule 4.8(2) of Departmental Financial Rules, and

(e) copies of rent rolls with particulars of recovery of rent made by the drawing and disbursing officer from the employees were not being received from them. Posting in the rent register was made as per practice by deputing an assistant to various offices for collection of particulars.

(ii) Register of assessment of rent showing standard, or market rent, was required to be maintained in each division, but it was not being maintained in any of the 10 divisions, test checked.

(iii) Maintenance of register of buildings by Public Works Divisions, was found to be incomplete. In 2 divisions (Bhiwani and Sirsa), 196 buildings were not found entered in building register maintained in divisions. Entry of 150 residential houses acquired by Sirsa division was made in building register at the instance of audit. In 3 divisions (Karnal, Sirsa and Faridabad) building register was not maintained at all.

5.3.13. Arrears of rent

Information of arrears of rent as on 31st March 1989

was called for from the Department in January 1989, followed by reminder in March 1989 which has not been supplied (June 1989). In respect of 9 divisions test checked, arrears of uncollected rent, as on 31st March 1989, amounted to Rs. 15.62 lakhs.

These cases were reported to Government in July 1989; their reply has not been received (December 1989).

5.4. Sale of empty bitumen drums

The department entered (December 1982) into an agreement with a firm in Delhi to sell empty bitumen drums at the rate of Rs. 24.10 each and scrap comprising old drums at the rate of Rs. 750 per metric tonne.

In two sub-divisions of National Highway Construction Division, Sonipat, 3025 empty bitumen drums, which included 1598 drums of good quality were sold as scrap at the rate of Rs. 750 per metric tonne instead of selling the good drums at Rs. 24.10 per drum. This resulted in a loss of revenue of Rs. 30,860.

On this being pointed out (August 1985) in audit, the Superintending Engineer after conducting an enquiry informed (May 1988) the Engineer-in-Chief that the Junior Engineer responsible for the lapse had been charge-sheeted and given (July 1987) punishment of Recorded warning.

The case was reported to Government in September 1985 followed by reminders in April 1988; their reply has not been received (December 1989).

C—AGRICULTURE

5.5. Interest not charged on belated payments

As per provisions of the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 and the Rules made thereunder, as applicable to Haryana, the occupier or agent of a factory has to pay tax on sugarcane purchased by him by the prescribed date. In the event of default, interest at the rate of fifteen per cent per annum is chargeable for the period of default.

In one case involving non-charging of interest an amount

of Rs. 86,296 was recovered (January 1989) on being pointed out (March 1986) in audit.

In an other case, in Rohtak, on belated payments of purchase tax on sugarcane aggregating Rs. 48.47 lakhs during the crushing season 1986-87, interest amounting to Rs. 1.96 lakhs was chargeable from a sugar mill, but was not demanded.

On the omission being pointed out (November 1987) in audit, the department stated (March 1989) that an amount of Rs. 55.59 lakhs on account of interest was recoverable from the sugar mill for the period from 1980-81 to 1987-88, out of which a sum of Rs. 20 lakhs had been recovered (December 1988). Report on recovery of the balance amount of Rs. 35.59 lakhs has not been received (December 1989).

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

Raghbir Singh

CHANDIGARH

The

(RAGHUBIR SINGH)

Accountant General (Audit) Haryana

15 MAR 1990

Countersigned

T.N. Chaturvedi

NEW DELHI

The

(T.N. CHATURVEDI)

Comptroller and Auditor General of India

22 MAR 1990

20364—A.G.—H.G.P., Chd.

ERRATA

<u>Page No.</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
(X)	12th from top	Review	The Review
6	5th from bottom	Metallurigical	Metallurgical
26	11th from bottom	as the same	as he
29	9th from top	certification	certificate
36	Footnote	SCC - 260	ISCC-260
56	14th from top	more more ten	more than ten
57	1st from top	The	the
57	12th from top	filling	filing
58	5th from top	returnes	returns
58	19th from top	penalties	penalty is
60	2nd from bottom	stamps Act	stamp Act
63	16th from top	re-deposting	re-depositing
63	9th from bottom	payble	payable
65	7th from top	mortagage	mortgage
67	14th from top	re-auctioned	re-auctioned
71	24th from top	additonal	additional
78	6th from top	receovered	recovered
86	1st from top	beliable	be liable
86	9th from bottom	cognisance	cognisance
88	21st from top	Bulidings	Buildings

