



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

**FOR THE YEAR ENDED
31 MARCH 1998
NO. 1 (REVENUE RECEIPTS)**

GOVERNMENT OF ASSAM



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PREFATORY REMARKS

This Report for the year ended 31 March 1998 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, agricultural income tax, taxes on motor vehicles, other tax and non-tax receipts and forest receipts of the State.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1997-98 as well as those which came to notice in earlier years but could not be included in previous Reports.

PRELIMINARY REMARKS

The first part of the report (Chapters I-III) is devoted to a general survey of the situation in the country at the end of 1958 and to the main trends of development for the period 1959-60.

The second part of the report (Chapters IV-VI) deals with the main economic sectors: agriculture, industry and construction, and foreign trade. The third part (Chapters VII-IX) is devoted to the social and cultural aspects of the country's development.

The final part of the report (Chapter X) contains the conclusions and recommendations of the Commission, based on the findings of the previous chapters.

OVERVIEW

OVERVIEW

OVERVIEW

This report contains 38 paragraphs including 1 review, relating to under-assessment, non-levy/short levy of tax, interest and penalty etc. involving Rs.56.65 crore. Some of the important findings are mentioned below:

1. GENERAL

(i) The State Government's receipts for the year 1997-98 amounted to Rs.4325.65 crore as against Rs.3855.81 crore for the year 1996-97. While the revenue raised by the Government amounted to Rs.1263.15 crore (tax revenue : Rs.881.94 crore and non-tax revenue : Rs.381.21 crore), the balance (Rs.3062.50 crore) was received from Government of India as the State's share of divisible Union taxes (Rs.1475.25 crore) and grants-in-aid (Rs.1587.25 crore) during the year 1997-98.

[Paragraph 1.1]

(ii) Test check of records of Offices of Sales Tax, Agricultural Income Tax, Taxes on Motor Vehicles, Land Revenue, State Excise, Forest Receipts and Other Tax and Non-Tax Receipts conducted during 1997-98, revealed under-assessment/short levy/loss of revenue amounting to Rs.6207.38 lakh in 625 cases. The concerned departments accepted under assessments etc. of Rs.71.99 lakh in 37 cases of which 7 cases involving Rs.6.09 lakh pertaining to the year 1997-98 and the rest to earlier years.

[Paragraph 1.8]

(iii) At the end of June 1998, 757 Inspection Reports issued up to December 1997 containing 2513 audit observations involving revenue effect of Rs.183.90 crore were outstanding for want of replies from the departments.

[Paragraph 1.9]

2. SALES TAX

(i) Taxable turnover of Rs.836.85 lakh in respect of four dealers escaped assessment resulting in under-assessment of tax of Rs.57.34 lakh.

[Paragraph 2.2]

(ii) For delayed payment of tax by five dealers, interest of Rs.23.47 lakh though leviable, was not levied.

[Paragraph 2.3]

- (iii) *Incorrect exemption of taxable turnover of Rs.272.41 lakh resulted in non-levy of tax of Rs.21.79 lakh.*

[Paragraph 2.4]

- (iv) *Incorrect allowance of concessional rate of tax on the turnover of Rs.281.36 lakh, resulted in under-assessment of tax of Rs.16.23 lakh.*

[Paragraph 2.6]

- (v) *Fraudulent use of declaration in Form 'C' resulted in evasion of tax of Rs.1.92 lakh.*

[Paragraph 2.10]

3. **AGRICULTURAL INCOME TAX**

- (i) *For delayed payment of assessed tax, penalty of Rs.12.50 lakh though leviable, was not levied.*

[Paragraph 3.2]

- (ii) *For delayed payment of tax by two assesseees, interest of Rs.15.01 lakh though leviable, was not levied.*

[Paragraph 3.3]

4. **GEOLOGY AND MINING**

- (i) *Incorrect deduction of transport cost and collection charges by the OIL, from the published price resulted in loss of revenue of Rs.16.81 crore.*

[Paragraph 4.2.6(E)]

- (ii) *Failure of the department to operate mines resulted in loss of royalty of Rs.1.68 crore.*

[Paragraph 4.2.7(A)]

- (iii) *Payment of royalty on the quantity of coal despatched from the leased area instead of actual quantity of coal extracted at pit mouth resulted less payment of royalty of Rs.9.31 crore.*

[Paragraph 4.2.7(C)]

5. STAMP DUTY AND REGISTRATION FEE

Short-levy of stamp duty of Rs.6.92 lakh due to non-charging of instrument of conveyance.

[Paragraph 5.2]

6. OTHER TAX AND NON TAX RECEIPTS

(i) *Failure to monitor minimum stock balance of country spirit in 3 warehouses led to a revenue loss of Rs.56.06 lakh.*

[Paragraph 6.2]

(ii) *Government revenue of Rs.11.23 lakh retained by the mouzadars for 3 to 20 years beyond the permissible limit.*

[Paragraph 6.6]

7. FOREST RECEIPTS

(i) *Loss of revenue of Rs.531.03 lakh due to non-recovery of royalty as well as non-imposition of monopoly fee.*

[Paragraph 7.2]

(ii) *Illicit removal of 8909.872 cu.m. of timber from reserved forest resulted in loss of revenue of Rs.288.20 lakh.*

[Paragraph 7.3]

(iii) *Un-intended benefit to the departmental contractors resulted in blocking up of Government revenue to the extent of Rs.117.56 lakh.*

[Paragraph 7.4]

(iv) *Selective, negotiation of a mahal in contravention of the judicial pronouncement resulted in loss of revenue of Rs.12.19 lakh.*

[Paragraph 7.5]

STAMP DUTY AND REGISTRATION FEE

Short levy of stamp duty of Rs. 0.25 shall be levied on the registration of transfers in accordance with the provisions of the Act.

Paragraph 5.2

OTHER TAX AND NON TAX RECEIPTS

Provision to monitor minimum stock balance of commodity kept in 3 warehouses and the revenue of Rs. 20 lakh.

Paragraph 5.3

Government revenue of Rs. 12.5 lakh retained by the mandals for 3 to 50 years based on the provisions of the Act.

Paragraph 5.4

FOREST RECEIPTS

Levy of revenue of Rs. 24.10 lakh to be levied on the non-revenue of revenue as well as the revenue of Rs. 24.10 lakh.

Paragraph 5.5

Short levy of Rs. 2000 on the levy of stamp duty on transfers resulting in the revenue of Rs. 20 lakh.

Paragraph 5.6

The provided benefit to the department of mandals resulted in the revenue of Rs. 20 lakh.

Paragraph 5.7

The defective operation of a market in consequence of the industrial revolution resulted in the revenue of Rs. 1.1 lakh.

Paragraph 5.8

GENERAL

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CHAPTER 1

GENERAL

1.1 Trend of Revenue Receipts

The tax and non-tax revenues raised by the Government of Assam during the year 1997-98, State's share of divisible union 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 and also exhibited in Chart I.

(In crore of rupees)

		1995-96	1996-97	1997-98
I	Revenue raised by the State Government :			
	a) Tax Revenue	702.45	766.90	881.94*
	b) Non-Tax Revenue	335.60	322.13	381.21
	<i>Total</i>	<i>1038.05</i>	<i>1089.03</i>	<i>1263.15</i>
II	Receipts from the Government of India :			
	a) State's share of divisible Union Taxes	913.49	1175.56	1475.25*
	b) Grants-in-aid	1424.20	1591.22	1587.25
	<i>Total</i>	<i>2337.69</i>	<i>2766.78</i>	<i>3062.50</i>
III	Total receipts of the State Government(I&II)	<i>3375.74</i>	<i>3855.81</i>	<i>4325.65**</i>
IV	Percentage of I to III	<i>31</i>	<i>28</i>	<i>29</i>

* Figures under the Head '0021'- Taxes on income other than Corporation Tax-Share of net proceeds assigned to States' booked in the Finance Accounts under 'A- Tax Revenue' have been excluded from 'Revenue raised, by the State Government' & included in 'State's share divisible Union Taxes' in this statement.

** For details, please see "Statement No.10-Detailed Accounts by Minor Heads" in the Finance Accounts of the Government of Assam for the year 1997-98.

CHAPTER I

TOTAL RECEIPTS OF THE STATE
(In crore of rupees)

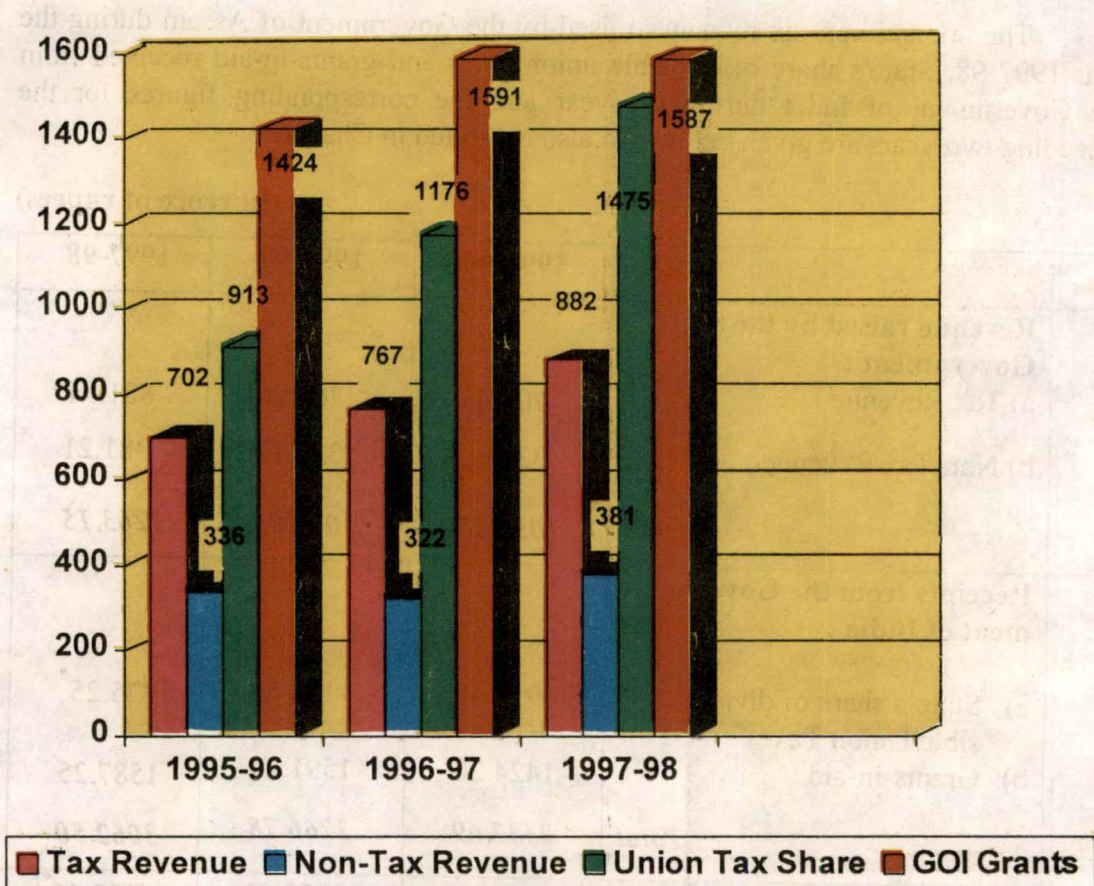


CHART I (Paragraph 1.1)

(i) The details of the tax revenue raised during the year 1997-98 along with corresponding figures for the preceding two years are given below and also exhibited in Chart II.

(In crore of rupees)

Sl. No.	Heads of revenue	1995-96	1996-97	1997-98	Percentage of increase(+)/ decrease(-) in 1997-98 over 1996-97
1.	Sales Tax	464.05	517.41	507.66	(-) 02
2.	Land Revenue	40.51	38.97	60.89	(+) 56
3.	Taxes on Agricultural Income	46.97	35.36	84.31	(+) 138
4.	Taxes on Motor Vehicles	39.98	51.98	43.26	(-) 17
5.	State Excise	28.95	29.42	77.73	(+) 164
6.	Other Taxes on Income and Expenditure	29.96	35.02	39.48	(+) 13
7.	Stamp Duty and Registration Fees	21.42	22.56	24.50	(+) 09
8.	Taxes on Goods and Passengers	16.08	20.54	22.43	(+) 09
9.	Other Taxes and Duties on Commodities and Services	12.88	13.35	19.82	(+) 48
10.	Taxes and Duties on Electricity	1.65	2.29	1.86	(-) 19
Total		702.45	766.90	881.94	(+)15

GROWTH OF TAX REVENUE
(In crore of rupees)

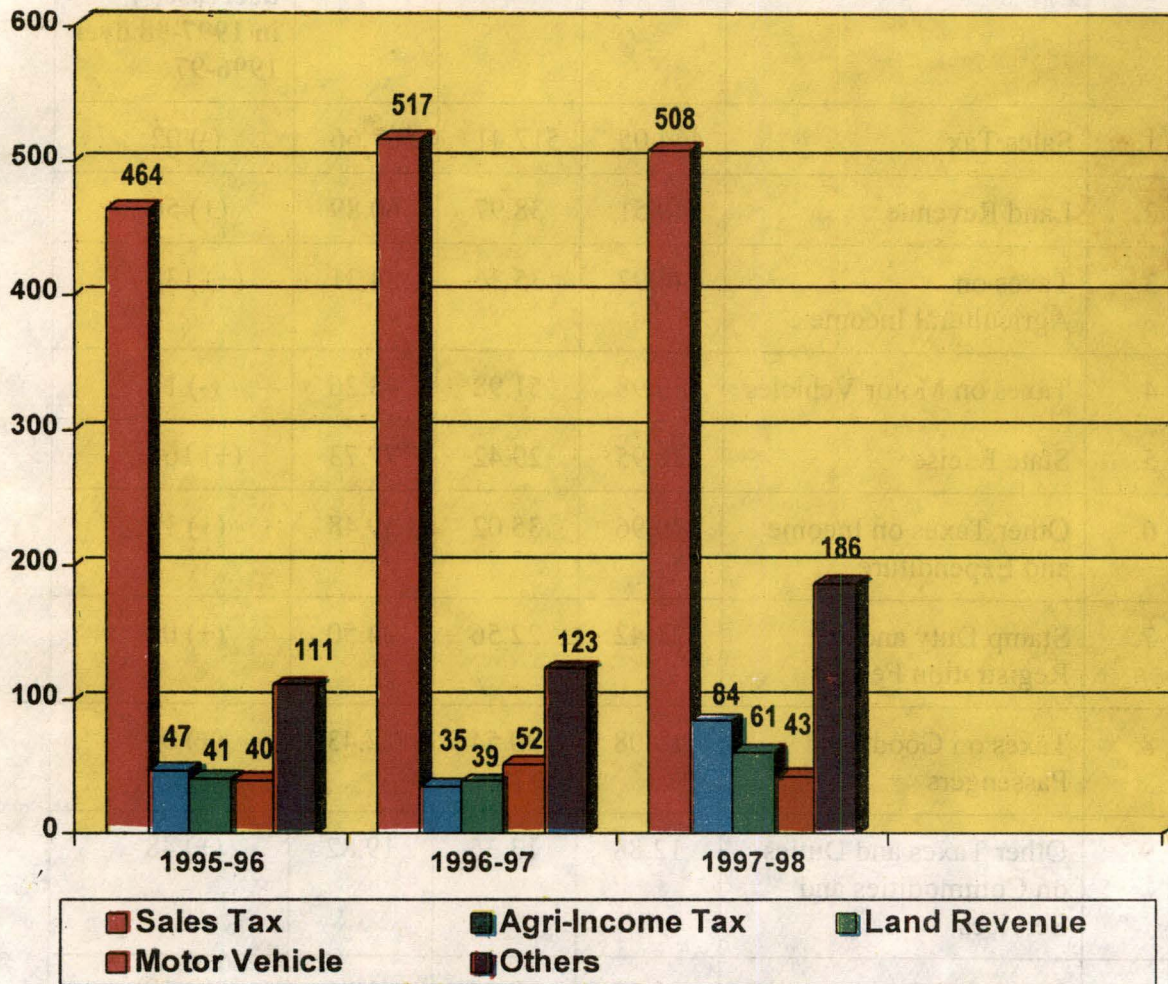


CHART II {PARAGRAPH 1.1(i)}

The reasons for variations in receipt during 1997-98 compared to those of 1996-97 as intimated by the respective departments are given below:

- (a) **Land Revenue** - Increase (56 percent) due to better collection of revenue during the year.

(b) **Taxes on Agricultural Income-** Increase (138 percent) due to better collection of taxes during the year.

(c) **Taxes on Motor Vehicles** – Decrease (17 percent) due to less collection of fees under MVT.

(d) **State Excise** - Increase (164 percent) due to merger of sales tax of IMFL and country spirit with excise duty.

(e) **Other taxes and duties on commodities & services** – Increase (48 percent) due to high collection of taxes on entertainment.

(ii) The details of non-tax revenue realised during the year 1997-98 along with the corresponding figures for preceding two years are given below and also depicted in Chart III:

(In crore of rupees)

Sl. No.	Heads of revenue	1995-96	1996-97	1997-98	Percentage of increase(+)/ decrease(-) in 1997-98 over 1996-97
1.	Petroleum	254.45	243.80	301.96	(+) 24
2.	Forestry and Wildlife	18.49	17.43	7.80	(-) 55
3.	Other Administrative Services	11.57	10.05	18.19	(+) 81
4.	Roads and Bridges	1.01	5.62	1.16	(-) 79
5.	Other Industries	5.36	0.80	8.56	(+) 970
6.	Miscellaneous General Service	7.44	3.54	3.07	(-) 13
7.	Others*	37.28	40.89	40.47	(-) 01
	Total	335.60	322.13	381.21	(+)18

* 'Others' represent 41 other Heads of Revenue.

GROWTH OF NON-TAX REVENUE
(In crore of rupees)

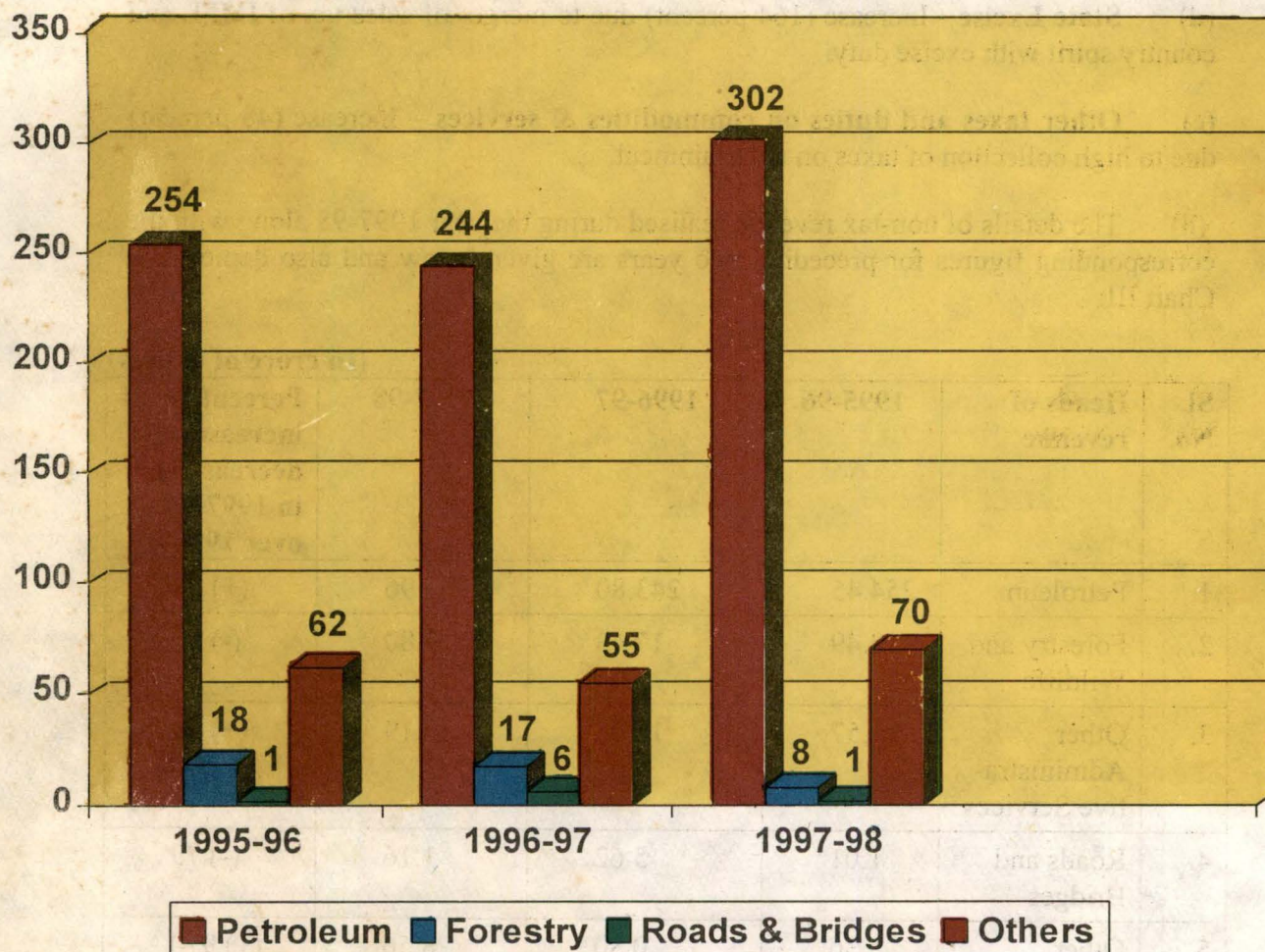


CHART III {Paragraph 1.1(ii)}

The reasons for variations in receipt during 1997-98 compared to those of 1996-97 as intimated by the respective departments are given below:

- (a) **Petroleum-** Increase (24 percent) due to increase in collection of receipts.
- (b) **Roads and Bridges** –Decrease (79 percent) due to less collection from receipts.

(c) **Other Industries**-Increase (970 percent) due to increase in collection of receipts.

(d) **Forestry & wild life**-Decrease (55 percent) due to reduction in sale of timber and other forest produce.

1.2 Variation between Budget estimates and actual

The variations between Budget estimates of revenue and actual receipts under some of the principal heads are given below:

(In crore of rupees)					
Sl. No.	Heads of revenue	Budget estimates	Actual	Variations increase(+)/shortfall(-)	Percentage of variation
Tax Revenue					
1.	Sales Tax	586.77	507.66	(-) 79.11	(-) 13
2.	Land Revenue	80.00	60.89	(-) 19.11	(-) 24
3.	Taxes on Agricultural Income	40.48	84.31	(+) 43.83	(+) 108
4.	Taxes on Motor Vehicle	68.04	43.26	(-) 24.78	(-) 36
5.	State Excise	75.00	77.73	(+) 2.73	(+) 04
6.	Other Taxes on Income and Expenditure	40.00	39.48	(-) 0.52	(-) 01
7.	Stamp Duty and Registration Fees	25.83	24.50	(-) 1.33	(-) 05
8.	Taxes on Goods and Passengers	16.81	22.43	(+) 5.62	(+) 33
9.	Other Taxes and Duties on Commodities and Services	30.00	19.82	(-) 10.18	(-) 34
10.	Taxes and Duties on Electricity	2.10	1.86	(-) 0.24	(-) 11
Non-Tax Revenue					
1.	Petroleum	289.00	301.96	(+) 12.96	(+)04
2.	Forestry and Wildlife	8.00	7.80	(-) 0.20	(-) 03
3.	Other Administrative Services	10.51	18.19	(+)7.68	(+)73
4.	Roads and Bridges	5.90	1.16	(-)4.74	(-)80

The reasons for variation where it was substantial though called for has not been intimated (December 1998).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1995-96 , 1996-97 and 1997-98 along with the relevant all India average percentage of expenditure on collection to gross collection for 1996-97 are given below:-

(In crore of rupees)

Sl. No.	Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India Average percentage for the year 1996-97
1.	Sales Tax	1995-96	464.05	7.35	1.6	1.19
		1996-97	517.41	8.24	1.6	
		1997-98	507.66	9.13	1.8	
2.	Taxes on Motor Vehicles	1995-96	39.98	2.78	7.0	2.60
		1996-97	51.98	3.22	6.2	
		1997-98	43.26	2.99	6.9	

It may be seen from the table that in respect of Sales Tax and Taxes on Motor Vehicles the percentage of expenditure on collection to gross collection was higher than the all India average.

1.4 Arrears in assessment

The number of assessments due for completion, those actually completed and the number pending finalisation at the end of 31 March 1998 and the corresponding figures for preceding three years in respect of Agricultural Income Tax as reported (October 1998) by the departments is as under:

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of Column 5 to 4
1	2	3	4	5	6	7
Agricultural Income Tax						
1994-95	462	818	1,280	633	647	49.
1995-96	647	834	1,481	775	706	52
1996-97	706	834	1,540	1,113	427	72
1997-98	427	840	1,267	1,023	244	81

DISPOSAL OF ASSESSMENT CASES
(Percentage of cases finalised during the year to the total no. of cases)

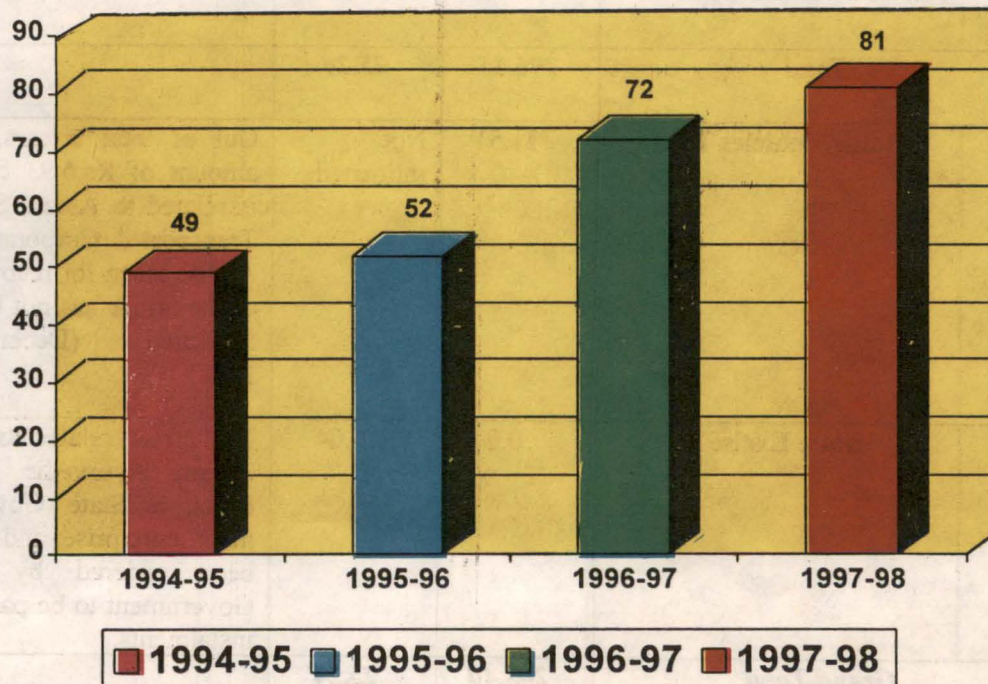


CHART IV (PARAGRAPH 1.4)

1.5 Arrears of revenue

As on 31 March 1998, arrears of revenue pending collection under principal heads of revenue, as reported by some of the departments, were as under:

(In crore of rupees)				
Sl. No.	Head of Revenue	Arrears pending collections	Arrears more than five years old	Remarks
1.	Finance (Taxation) Department			
	(i) Sales Tax	138.58	7.38	Action taken for their recovery has not been intimated.
	(ii) Specified Land Tax	6.10	Nil	
	(iii) Agricultural Income Tax	30.41	16.18	
	(iv) Electricity Duty	20.40	1.62	
	(v) Professional Tax	1.11	0.02	
	(vi) Entertainment Tax	0.25	Nil	
	Total	196.85	25.20	
2.	Motor Vehicles Tax	11.51	Not intimated	Out of total arrears, an amount of Rs.6.93 crore is related to Assam State Transport Corporation. Action taken for recovery of the arrear has not been intimated (December 1998).
3.	State Excise	0.04	0.04	The arrear relates to the Assam Ayurvedic Products, a State Government enterprise and has been ordered by the Government to be paid in instalments.
	Grand Total	208.40	25.24	

1.6 Frauds and evasions

The details of cases of fraud and evasion of taxes and duties pending finalisation at the beginning of the year, number of cases detected by the departmental authorities, number of cases in which assessments/investigations were completed and additional demands (including penalties etc.) raised during the year and the number of cases pending finalisation at the end of March 1998 as furnished (October 1998) by the Finance (Taxation) Department, are given below:

		Number of cases	Amount involved (In lakh of rupees)
A.	(i) Number of cases pending as on 31 March 1997	203	363.38
	(ii) Number of cases detected during the year 1997-98	85	168.56
B.	Number of cases in which investigations/assessments were completed during the year 1997-98		
	(i) Out of cases at A(i) above	15	3.90
	(ii) Out of cases at A(ii) above	40	76.57
C.	Number of cases pending as on 31 March 1998		
	(i) Out of cases at A(i) above	188	359.48
	(ii) Out of cases at A(ii) above	45	91.99

1.7 Pending appeals

Number of appeal cases pending at the beginning of the year, number of cases filed during the year, number of cases disposed of during the year and number of cases pending at the end of the year together with percentage of disposal to the total number of cases for the years 1993-94 to 1997-98 in respect of Sales Tax and Other Taxes as reported (October 1998) by the Finance (Taxation) Department are given below:

Name of the Acts	Year	No. of appeals pending at the beginning of the year	No. of appeals filed during the year	Total	No. of appeals disposed of during the year	No. of appeals pending at the close of the year	Percentage of appeals disposed out of the total
The Assam Sales Tax and other Taxation Acts	1993-94	729	738	1467	486	981	33
	1994-95	981	476	1457	517	940	35
	1995-96	940	394	1334	529	805	40
	1996-97	805	398	1203	431	772	36
	1997-98	772	567	1339	691	648	52

1.8 Results of Audit

Test check of records of Sales Tax, Agricultural Income Tax, Taxes on Motor Vehicles, State Excise, Forest Receipts and Other Taxes and Non-Tax Receipts conducted during the year 1997-98 revealed under-assessment/short-levy/loss of revenue amounting to Rs.6207.38 lakh in 625 cases. During the course of the year 1997-98, the departments concerned accepted under-assessment etc. of Rs.71.99 lakh involved in 37 cases, of which 7 cases involving Rs.6.09 lakh were pointed out in audit during 1997-98 and the rest in earlier years.

This report contains 38 paragraphs including 1 review involving financial effect of Rs. 5665.20 lakh. The departments/Government had accepted the audit observations involving Rs.213.31 lakh, of which Rs. 10.02 lakh have been recovered. Audit observations with a total revenue effect of Rs.22.65 lakh have not been accepted by the Government/department but their contention having been found to be at variance with facts or legal position have been appropriately commented upon in the relevant paragraphs. No replies have been received in other cases (December 1998).

1.9 Outstanding inspection reports and audit observations

(i) Audit observations on irregularities relating to incorrect assessments, short levy of taxes, duties, fees, etc. and also defects in the maintenance of initial records noticed during local audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. The more important irregularities are also reported to the heads of departments and Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of one month.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued up to 31 December 1997 and which were pending settlement by the departments as on 30 June 1998 along with corresponding figures for the preceding two years are given below :-

	At the end of June		
	1996	1997	1998
Number of Inspection reports pending settlement	727	712	757
Number of outstanding audit observations	2436	2441	2513
Amount of revenue involved (in crore of rupees)	140.56	182.15	183.90

(iii) Year-wise break-up of the outstanding inspection reports (as on 30 June 1998) and audit observations is given below :

Year in which inspection reports were issued	Number of outstanding		Amount of receipts involved (in crore of rupees)
	Inspection reports	Audit observations	
Up to 1993-94	201	627	32.83
1994-95	159	473	22.50
1995-96	91	348	22.49
1996-97	191	651	62.70
1997-98	115	414	43.38
Total	757	2513	183.90

(iv) Department-wise break-up of the inspection reports and audit observations outstanding as on 30 June 1998 is given below :

Department	Number of outstanding		Amount of receipts involved (in crore of rupees)	Year to which audit observations relates	Number of inspection reports to which even first replies had not been received
	Inspection reports	Audit observations			
1. Forestry & Wild life	146	774	96.42	1988-89 to 1997-98	NIL
2. Revenue	292	762	19.28	1993-94 to 1997-98	264
3. Taxation	114	368	15.23	1986-87 to 1997-98	NIL

Department	Number of outstanding		Amount of receipts involved (in crore of rupees)	Year to which audit observations relates	Number of inspection reports to which even first replies had not been received
	Inspection reports	Audit observations			
4.Geology and Mining	5	24	30.24	1989-90 to 1997-98	NIL
5.Transport	70	331	8.19	1987-88 to 1997-98	NIL
6.Agricultural Income Tax	3	41	3.83	1995-96 to 1997-98	NIL
7.Other departments (including State Excise and Registration)	127	213	10.71	1990-91 to 1997-98	NIL
Total	757	2513	183.90		264

The matter was also brought to the notice of Chief Secretary to Government (October 1998); intimation regarding steps taken by the Government to clear the outstanding inspection reports and audit observations has not been received (December 1998).

CHAPTER 2

SALES TAX

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SALES TAX

2.1 Results of Audit

Test check of assessment records of Sales Tax department conducted during the year 1997-98, revealed under-assessment of taxes and losses of revenue etc., amounting to Rs. 468.34 lakh in 119 cases, which broadly fall under the following categories:

Sl. No.	Particulars	No. of cases	Amount (Rs. in lakh)
1.	Turnover escaping assessment	8	19.36
2.	Irregular exemption	11	47.23
3.	Under-assessment of tax	48	254.71
4.	Loss of revenue	7	37.25
5.	Non levy/Short levy of interest	11	25.10
6.	Non levy/Short levy of penalty	4	26.86
7.	Others	30	57.83
TOTAL		119	468.34

During the course of the year 1997-98, the department accepted under-assessment etc. of Rs. 9.78 lakh involving 20 cases pointed out in audit prior to the year 1997-98 and the entire amount was recovered. A few illustrative cases involving Rs. 184.35 lakh highlighting important audit observations are mentioned in the following paragraphs:

2.2 Turnover escaping assessment

(a) Under the Assam Finance (Sales Tax) Act, 1956, the authority which makes an assessment may at any time within three years from the date of such assessment and of its own motion rectify any mistake apparent from the records of the case provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice of its intention to do so and has allowed to the dealer a reasonable opportunity of being heard. Where any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum payable. This provision of the State Act applies mutatis mutandis in the case of assessment of escaped turnover under the Central Sales Tax Act, 1956.

Test check of assessment records of the Superintendent of Taxes, Jalukbari check Post, Guwahati revealed (June 1996) that a coal dealer disclosed inter state sales turnover of Rs.6.93 crore in his return for the six monthly period ending

September 1992. The assessing officer rejected the dealer's returned turnover on the ground that the sale prices disclosed were lower than the prevailing market prices and determined (October 1995) aggregate sale prices at Rs.7.29 crore. But while making assessment (October 1995) Rs.72.90 lakh was incorrectly taken by mistake instead of Rs.7.29 crore as determined by him. This resulted in turnover of Rs.6.56 crore escaping assessment and under charge of tax of Rs.48.60 lakh.

On this being pointed out (July 1996), the department stated (August 1998) that the reassessment could not be made due to non-traceability of the dealer.

The case was reported to the Government (July 1996) followed by reminder (March 1998); their replies have not been received (December 1998).

(b) Under the Assam Finance (Sales Tax) Act, 1956, if upon any information which has come into his possession, the commissioner is satisfied that any turnover in respect of any goods chargeable to tax has escaped assessment during any return period or has been under assessed, he may at any time within eight years of the end of the aforesaid period serve on the dealer liable to pay tax in respect of such turnover, a notice containing all or any of the requirements and may proceed to assess or reassess the dealer accordingly. This provision of the state Act, applies mutatis mutandis in the case of assessment of escaped turnover under the Central Sales Tax Act, 1956.

Under the Central Sales Tax Act, 1956, and rules made thereunder, inter-state sales of goods to registered dealers and government departments if supported by prescribed declaration forms and certificates are taxable at the concessional rate of 4 per cent. Otherwise tax is payable at the rate of 10 percent or at the rate of tax applicable under the State Act, whichever is higher.

Test check of assessment records of the Superintendent of Taxes, Digboi, revealed (September 1996) that net inter-state sale of a registered petroleum dealer for the periods from April 1989 to September 1989 were determined (December 1995) by the assessing officer at Rs.2408.69 lakh instead of the actual inter-state sales of Rs.2466.62 lakh. Thus, a turnover of Rs.57.93 lakh with tax effect of Rs.5.93 lakh escaped assessment.

The case was reported to the department and the Government (October 1996); their replies have not been received (December 1998).

(c) Under the Assam Sales Tax Act, 1947, net turnover used in relation to any period means the aggregate of the sale prices or part of the sale prices receivable by a dealer during such period after deducting the amount, if any, refunded by him in respect of any taxable goods and their containers returned by the purchasers within such period and also the amount of tax payable by him on such turnover.

Test check of assessment records of the Superintendent of Taxes, unit-A, Guwahati revealed (April-June 1996) that total sale proceeds of taxable goods (gross

turnover instead of net turnover) in respect of a tea dealer, relating to the period from 1st April 1992 to 30th June 1993 was determined (August 1994) at Rs.5359.67 lakh, from which a deduction of Rs.105.09 lakh was allowed by the assessing officer being the element of sales tax. As the turnover disclosed by the dealer in his return was exclusive of tax element, the allowance of any further deduction on this account was incorrect. This resulted in under assessment of tax of Rs.2.10 lakh, calculated at the rate of 2 per cent.

On this being pointed out (August 1996), the department stated (August 1998) that the assessments were revised (July 1998) and a demand of Rs.2.61 lakh (including interest) was raised. The entire amount was realised at the instance of audit.

The case was reported to the Government (August 1996) followed by reminder (April 1998); their reply has not been received (December 1998).

(d) Under the Assam General Sales Tax Act, 1993 and Rules framed thereunder a registered dealer may purchase goods from another registered dealer free of tax or at concessional rate of tax, by utilising A.G.S.T. declaration Form-A, for either resale in the state or for packing of such goods for resale. Goods which are purchased after furnishing declaration Forms and used by the dealer for purpose other than those specified in such declaration, the price of such goods shall be included in his taxable turnover. The Act further provides that if any dealer fails to pay the full amount of tax payable by him by the due date, he shall pay simple interest at the rate of two percent for each month, on the amount of the tax remaining so unpaid from the first day of the month next following the date on or before which such tax was payable, up to the end of the month immediately preceding the month in which such amount is paid in full or up to the end of the month immediately preceding the month in which an assessment is made whichever is earlier.

A test check of assessment records of the Superintendent of Taxes, Barpeta Road revealed (January 1997) that a cement dealer purchased goods valued at Rs.78.64 lakh by utilising declaration Forms. Of these, goods valued at Rs.17.73 lakh were sold in course of inter state trade or commerce during the return period ending March, 1995. The assessing officer while making assessment did not add back the net inter-state sales turnover to the dealer's taxable turnover under the state Act. This resulted in turnover escaping assessment and under assessment of tax of Rs.0.71 lakh, calculated at the rate of 4 percent. Interest of Rs.0.31 lakh (up to December 1996) was also leviable.

On this being pointed out (March 1997), the Department stated (May 1998 and August 1998) that the dealer was re-assessed (December 1997) and a total demand for Rs.1.11 lakh (including interest) was raised. On the failure of the dealer to pay the demanded dues, the case was referred to the Tax Recovery Officer for realisation of dues. Report on realisation has not been received (December 1998).

The case was reported to the Government (March 1997); their reply has not been received (December 1998).

2.3 Short levy/non levy of interest

Under the provisions of Assam General Sales Tax Act, 1993 (effective from 1st July 1993), if a dealer fails to pay the full amount of tax payable by him by the due date, he is liable to pay simple interest at the rate of two percent for each month, on the amount by which the payment falls short of the tax payable, and prior to July 1993 interest at the prescribed rates (varying from 12 to 24 percent per annum) on the amount by which tax paid falls short of the tax payable.

Test check of assessment records of 4 Sales Tax unit offices revealed (between October 1996 and August 1997) that in 5 cases, interest amounting to Rs.23.47 lakh for non payment of admitted tax by the dealers was short levied by the concerned assessing officer as detailed below:-

(Rupees in lakh)

Sl. No.	Name of Unit office	Assessment period	Date of Assessment	Interest actually leviable	Interest levied	Interest short levied	Reply of the department/ Government
1.	Superintendent of Taxes, Jorhat	1993-94 to 1994-95	10-01-95 07-06-96	26.14	12.95	13.18	The case was reported to the department and the Government (May 1997); their replies have not been received (December 1998).
2.	Superintendent of Taxes, Unit-D, Guwahati	1995-96	08-11-96	14.50	6.64	7.86	The department stated (August 1998) that assessment was revised (December 1997) and demand notice was issued. On the failure of the dealer to pay the interest the case was referred (June 1998) to the Tax Recovery Officer. Report on realisation has not been received (December 1998). This was reported to the Government (February 1997); their reply has not been received (December 1998).
3.	-Do-	1993-94	07-06-95	1.11	0.48	0.63	The case was reported to the department and the Government (February 1997); their replies have not been received (December 1998).
4.	Superintendent of tax, Morigaon	1993-94	29-06-96	10.52	9.71	0.82	The entire amount was realised (September 1997) at the instance of audit.
5.	Superintendent of taxes, Barpeta Road	01.10.92 to 31.12.92	30-03-93	0.98		0.98	The department stated (July 1997 & August 1998) that a fresh arrear certificate was issued. Report on realisation has not been received. This was reported to the Government (March 1997); their reply has not been received (December 1998).
Total				53.25	29.78	23.47	

2.4 Incorrect grant of exemption from tax

As per entry 44 of schedule-I to the Assam General (Sales Tax) Act, 1993, polythene lined jute bags are exempted from tax only when used in packing fertilisers, compost manure, dry cowdung, cattle feed and calcined coke. Such exemption is not applicable, if a dealer is engaged in manufacture of polythene lined jute bags and sells these goods for other purposes.

Test check of assessment records of the Superintendent of Taxes, Bongaigaon revealed (January 1997) that a dealer engaged in the manufacture and sale of polythene lined jute bags, sold goods valued at Rs.272.41 lakh during the year 1993-94 and 1994-95 and claimed exemption from payment of tax on the entire amount. The assessing officer erroneously allowed (August 1995) exemption treating the goods as non-taxable. Since the dealer is a manufacturer of polythene lined jute bags, he is not entitled to get the exemption. This incorrect exemption resulted in non-levy of tax of Rs.21.79 lakh.

On this being pointed out (January 1997), the department stated (February 1998) that the dealer filed a revision petition against the notice of revised assessment to the Commissioner of Taxes. The Additional Commissioner of taxes quashed (October 1997) the show cause notice after observing that the item should be exempted at the first point of sale to be meaningful since otherwise the incidence of tax gets automatically transferred to subsequent buyers.

The reply of the department is not tenable as in the instant case the dealer was a manufacturer and dealt in such goods whereas the exemption was available only if these goods were used by him for packing of fertilisers etc.

The case was reported to the Government (April 1997); their reply has not been received (December 1998).

2.5 Concealment of turnover

(a) Under the Assam Sales Tax Act, 1947 a registered dealer may purchase goods as specified in his certificate of registration, free of tax, by utilising State Sales Tax declaration forms as being intended by him for either resale in the State or use in the execution of any contract. However, the price of goods which are purchased free of tax and are used by a dealer for purposes other than those specified in his certificate of registration shall be included in his net turnover. Under the Act, in case of concealment of turnover by a dealer, penalty not exceeding one-and-a-half times the tax due is also leviable.

A test check of assessment records of the Superintendent of Taxes, Unit 'B', Guwahati revealed (April to June 1996) that dealer 'A' disclosed purchase of paper valued at Rs.2.29 lakh during the period from April, 1991 to June, 1993 by utilising declaration forms as against actual purchase of Rs.54.63 lakh from 3 dealers. The

dealer 'A' thereby concealed the taxable purchase made by him for Rs.52.34 lakh. Tax payable by the dealer 'A' on the concealed purchase of Rs.52.34 lakh worked out to Rs.3.66 lakh. For concealment of turnover maximum penalty not exceeding Rs.5.49 lakh was also leviable, but not levied.

On this being pointed out (June 1996), the department stated (June 1997 and August 1998) that assessment was revised (August 1996) and demand notice for Rs.7.45 lakh (Tax: Rs.3.69 lakh and interest: Rs. 3.76 lakh) was issued. The dealer admitted his offence. However, the dealer prayed for composition of offence in lieu of prosecution which the assessing officer accepted and realised Rs.3000 (February 1997) as composition money. On the failure of the dealer to pay the demanded dues, the case was referred (October 1996) to the Tax Recovery Officer for realisation of dues. No realisation has yet been made as the dealer had permanently closed his business and had no movable or immovable properties left. The reply of the department was however silent on levy of penalty.

The case was reported to the Government (August 1996); their reply has not been received (December 1998).

(b) Under the Assam Sales Tax Act, 1947 and Rules framed thereunder sales tax declaration Forms are issued to registered dealers by the Sales Tax authorities to enable them to make intra-State purchases free of tax. The Act also provides imposition of penalty not exceeding one and a half times the tax for concealment of turnover.

Test check of assessment records of the Superintendent of Taxes, Unit 'A', Guwahati, revealed (April -June 1996) that turnover of dealer 'A' for the six-monthly period ending March 1991 was determined (May 1991) at Rs.0.10 lakh on best judgement basis against the returned turnover of Rs.0.08 lakh. A crosscheck of the records of dealer 'B' revealed that dealer 'A' made purchases of Rs. 26.34 lakh by utilising six sales tax declaration Forms during the six-monthly period ending March 1991. Dealer 'A' did not file further returns and was not traceable as reported by the area Inspector of Taxes (June 1992 and July 1994). The dealer 'A' thus concealed purchases of Rs. 26.24 lakh and evaded tax of Rs. 1.84 lakh at the rate of 7 per cent. Besides, interest and penalty of Rs. 2.24 lakh and Rs. 2.76 lakh respectively were also leviable.

On this being pointed out (July 1996), the department stated (August 1998) that the reassessment could not be made as the dealer was not traceable.

The case was reported to the Government (July 1996); their reply has not been received (December 1998).

(c) Under the taxation laws of the state, if a dealer has concealed or failed to disclose fully and truly the particulars of his turnover or furnished incorrect or incomplete particulars of his turnover, the assessing officer may, within eight years from the date of the relevant year make an assessment or reassessment of the dealer.

The provision of the State Act applies mutatis mutandis, in the case of reassessment under the Central Sales Tax Act.

A test-check of assessment records of the Superintendent of Taxes, Guwahati "A" unit, revealed (April-June 1996) that inter-state sales turnover in respect of a medicine dealer for the six monthly period ending March 1993 was determined (May 1993) by the assessing officer at Rs.1.94 lakh and assessed to tax at the rate of 10 per cent. The turnover for the subsequent periods from April 1993 to March 1995 was treated as nil. Cross verification of assessment records of the dealer with the records of the Director of the Health Services of Government of Arunachal Pradesh revealed (May 1996) that he supplied medicine valued at Rs.11.92 lakh and Rs.7.47 lakh in the course of inter-state trade or commerce to the department during the period ending March 1993 and March 1995 respectively. Thus, a turnover of Rs.17.45 lakh escaped assessment. This resulted in short levy of tax of Rs.1.75 lakh.

On this being pointed out (August 1996), the department stated (August 1998) that the dealer was reassessed and a demand of Rs.0.93 lakh was raised and the dealer paid the demanded tax. The reassessment was completed at concessional rate as the concealed turnover was supported by "D" Forms.

The case was reported to the Government (August 1996), followed by reminder (April 1998); their reply has not been received (December 1998).

(d) Under the Central Sales Tax Act, 1956, and rules framed thereunder declaration Forms 'C' are issued to registered dealers by the Sales Tax authorities to enable them to make inter-State purchases at the concessional rate. Goods so purchased attract tax under the State Sales Tax Laws when sold locally.

Test check of assessment records of the Superintendent of Taxes, Unit 'B', Guwahati, revealed (April - June 1996) that as per utilisation statement of Form 'C' of dealer 'A', he made purchases of Rs. 1.71 lakh from dealer 'B' during the six-monthly period ending September 1988. A cross-check of records of dealer 'C' however revealed that the said 'C' Form was utilised by dealer 'A' for making purchases of Rs. 14.48 lakh from dealer 'C' during the six-monthly period ending March 1990. Dealer 'A' thus concealed a turnover of Rs. 12.77 lakh and evaded tax of Rs. 1.53 lakh.

On this being pointed out (July 1996), the department stated (August 1998) that the assessment for the six-monthly period ending March 1990 was revised (February 1997) and a demand for Rs.1.53 lakh was raised. As the dealer failed to pay the dues, the case was sent to the Superintendent of Taxes (Recovery) for effecting recovery. The dealer preferred appeal against the revised assessment. The decision of the appellate authority has not been intimated (December 1998).

The case was reported to the Government (July 1996); their reply has not been received (December 1998).

2.6 Incorrect allowance of concessional rate of tax

Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-state sales of goods, other than declared goods, to registered dealers if supported by prescribed declaration forms furnished by the purchasing dealer; are taxable at the concessional rate of 4 percent. Otherwise tax is payable at the normal rate of 10 percent or at the rate of tax applicable under the State Act, whichever is higher.

While finalising assessment (February 1996) of a dealer, for the period April 1992 to March 1993, claim for concessional rate of tax of 4 per cent was allowed by the assessing officer (Superintendent of Taxes, Bongaigaon) on Rs.281.36 lakh. It was, however noticed (January 1997) that the entire sale of Rs.281.36 lakh was not covered by the prescribed declaration forms. Such incorrect allowance of concessional rate on Rs.281.36 lakh, resulted in under-assessment of tax of Rs.16.23 lakh.

On this being pointed out in audit (April 1997), the department stated (September 1997) that assessment was revised and demand notice for Rs.16.23 lakh was also issued. Report on realisation has not been received (December 1998).

The case was reported to the Government (April 1997); their reply has not been received (December 1998).

2.7 Non registration of dealers

(a) No dealer, liable to pay tax under the Assam General Sales Tax Act, 1993 and Central Sales Tax Act, 1956 shall carry on business in taxable goods unless he has been registered as a dealer and possesses a certificate of registration. Under the taxation laws of the State, supari is taxable at the rate of 8 per cent at the point of last purchase inside the State. Further, for inter-state sales of supari, not covered by the prescribed declaration as provided in the Central Sales Tax Act, 1956, tax is leviable at the rate of 10 per cent.

A scrutiny of records of the Superintendent of Taxes, Bongaigaon (January 1997) revealed that 35 unregistered dealers made sales (April 1993 to April 1994) of 42 consignments of supari valued at Rs.60.48 lakh without paying any tax. No action was taken by the department to register these dealers and to collect the tax due thereon. This resulted in loss of revenue of Rs.4.84 lakh under the State Act and Rs.6.05 lakh under the Central Act.

On this being pointed out (April 1997), the department stated (July 1998) that in all probability the goods were despatched outside the state through railways and the department had no control on the booking of supari by the bogus dealers through railways. Thus the Department failed to detect and register the dealers in time. Had the department been more vigilant, the loss incurred could have been avoided.

The case was reported to the Government (April 1997); their reply has not been received (December 1998).

(b) No dealer, liable to pay tax under the General Sales Tax Laws and Central Sales Tax Act, 1956, shall carry on business in taxable goods unless he has been registered as a dealer and possesses a certificate of registration. Under the Sales Tax Act, 1956, if any person fails to get himself registered, he shall be punishable with simple imprisonment which may extend to six months or with fine or with both and when the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.

Test check of assessment records of the Superintendent of Taxes, Unit "A", Guwahati, revealed (April-June 1996) that two unregistered dealers sold taxable goods (medicines) valued at Rs.30.18 lakh during the period March 1993 to March 1995 to Medical as well as to Animal Husbandry and Veterinary department of the Government of Arunachal Pradesh in the course of inter-state trade or commerce. The dealer neither applied for registration nor paid taxes due thereon. This resulted in evasion of tax of Rs.3.02 lakh calculated at the rate of 10 per cent as applicable in the case of inter-state sales not supported by declaration in prescribed forms. No penal action was taken against the dealer for violation of the provision of the Act.

On this being pointed out (August 1996), the department stated (August 1998) action was being taken to assess one dealer. The other dealer was already assessed and a demand of Rs.2.32 lakh was raised. Penal action has also been initiated against the dealer. Report on realisation has not been received (December 1998).

The case was reported to the Government (August 1996), followed by reminder (April 1998); their reply has not been received (December 1998).

(c) Under the Assam General Sales Tax Act, 1993, every dealer, whose gross turnover in any year is not less than Rs.50,000/- is liable to be registered and no dealer shall, while being liable to pay tax, carry on business as a dealer unless he has been registered and possesses a certificate of registration. Under the Act, if a dealer liable to pay tax, fails to get himself registered, the assessing officer may levy penalty not exceeding the amount of assessed tax in addition to tax.

Test check of records of Director of Elementary Education, Government of Assam, Guwahati revealed (January 1995) that six Guwahati based dealers, under the jurisdiction of Superintendents of Taxes, Unit 'C' and Unit 'D', Guwahati supplied taxable goods valued at Rs.18.00 lakh to the Department during the period from May 1994 to September 1994. Test check of assessment records of those two Units revealed (July 1995 - September 1995) that none of these dealers were registered although they were liable for registration and pay the taxes so collected. Thus, the dealers evaded tax of Rs.1.33 lakh. For non-registration, penalty not exceeding Rs.1.99 lakh was also leviable to the dealers, but was not levied.

On this being pointed out (November 1995), the department stated (August 1998) that out of six unregistered dealers, one dealer was registered and assessed to tax. On failure to pay the demanded tax, the Assessing Officer issued arrear certificate to the Superintendent of Taxes (Recovery). In case of another dealer it was stated that the dealer was not traceable and tax could not be assessed. The reply on the remaining four dealers has not been received (December 1998).

The cases were reported to the Government (November 1995); followed by reminders (March, May, August, September 1996 and March 1998); their replies have not been received (December 1998).

2.8 Incorrect allowance of deduction

Under the Assam General Sales Tax Act, 1993, while determining taxable turnover, the tax included in the gross turnover is to be deducted according to the formula prescribed. No such deduction is admissible where the turnover is exclusive of tax.

Test check of assessment records of the Superintendent of Taxes, unit – 'D' Guwahati, revealed (October – December 1996) that total sale proceeds of taxable goods in respect of a Cement dealer for the period from 1st April 1994 to 31st March 1995 was determined (November 1996) at Rs.620 lakh. Even though the turnover was exclusive of Sales Tax, a deduction of Rs.66.43 lakh was incorrectly allowed by the assessing officer. This resulted in under-assessment of tax of Rs.7.97 lakh, calculated at the rate of 12 per cent.

The case was reported to the department and the Government (February 1997); their reply has not been received (December 1998).

2.9 Incorrect acceptance of declaration form

Under the provisions of the Central Sales Tax Act, 1956, and Rules made thereunder, tax is leviable at the concessional rate of 4 per cent on the inter-state sales to a Government department provided such sales are supported by valid declaration(s) in Form 'D' issued by the purchasing government department.

Test check of assessment records of the Superintendent of Taxes, Unit 'B', Guwahati, revealed (April-June 1996) that the inter-state sales valued at Rs.78.93 lakh made by a dealer to a government department for the periods ending March 1993 to June 1993 were assessed (March 1994 and December 1995) to tax at the concessional rate though these sales were covered by certificates in Form 'D' but the transactions recorded therein related to dates subsequent to the date of certification by the government department. The incorrect acceptance of declaration Forms resulted in short-levy of tax of Rs. 6.27 lakh at the state rate of 12 percent.

On this being pointed out (July 1996), the department stated (June 1997 and August 1998) that the assessments were rectified (February 1997) and a demand for Rs. 6.27 lakh was raised. As the dealer failed to pay the dues, the case was sent to the Superintendent of Taxes (Recovery Branch) for effecting recovery. The dealer preferred appeal against the revised assessments. The decision of the appellate authority has not been intimated (December 1998).

The case was reported to the Government (July 1996); their reply has not been received (December 1998).

2.10 Evasion of tax by fraudulent use of declaration in Form 'C'

Under the provisions of Central Sales Tax Act, 1956, and Rules framed thereunder, a registered dealer can purchase goods at a concessional rate of tax in the course of inter-state trade or commerce for resale provided such purchases are supported by declaration in Form 'C' and for this purpose he shall obtain from the Superintendent of Taxes of his area, a blank declaration form for furnishing it to the selling dealer. The Act further provides that if any person has in his possession any form prescribed for the purpose of availing concessional rate of purchase which has not been obtained by him from the concerned Superintendent of Taxes of his area, he shall be punishable with simple imprisonment which may extend to six months or with fine or with both, and when the offence is a continuing offence with a daily fine which may extend to fifty rupees for every day during which the offence continues.

Test check of assessment records of the Superintendent of Taxes, Unit 'B', Guwahati revealed (January 1995-March 1995) that net inter-state sales turnover in respect of timber dealer 'A' relating to the six monthly periods ending 30 September, 1992 and 31 March, 1993 were determined (June 1993) by the assessing officer at Rs.2.50 lakh and Rs.2.06 lakh respectively. On cross verification by audit of the assessment records of the dealer 'A' with that of dealer 'B' registered in Jowai Sales Tax Unit Office in Meghalaya revealed that the dealer 'A' had purchased timber valued at Rs.13.01 lakh and Rs.15.49 lakh during the aforesaid periods at concessional rate of tax by utilising three declarations in Form 'C' although not even a single Form 'C' had been issued to him by the concerned unit office. Thus, the dealer 'A' fraudulently utilised three declarations in form 'C' which were not issued to him and evaded payment of tax of Rs.1.92 lakh on a turnover of Rs.23.94 lakh.

On this being pointed out (June 1995), the department replied (August 1998) that the said 'C' Forms were declared obsolete with effect from 28 September 1995 by the Commissioner of Taxes, Assam. However, this reply does not reflect the fact that not a single form 'C' was issued by the Sales Tax Officer (Unit Office) to the dealer and therefore the form 'C' used by the dealer was bogus and hence needs action under the provisions of the Act.

The case was reported to the Government (June 1995), followed by reminders (May 1996 and March 1998); their reply has not been received (December 1998).

2.11 Short levy of tax due to incorrect treatment of taxable goods as tax paid goods

Under the Assam General Sales Tax Act, 1993, deduction from the gross turnover is allowable provided such taxable turnover had been subjected to tax in the State. Tax is payable on a turnover which has not suffered tax at any stage in the State. Further if a dealer fails to pay the full amount of tax payable by him, by the due date, he is liable to pay simple interest at the rate of two per cent for each month, on the amount by which tax paid falls short of the tax payable.

(a) Test check of assessment records of the Superintendent of Taxes Unit – “D” revealed (October 1996 to December 1996) that a dealer was allowed exemption from payment of tax on sale of locally purchased goods valued at Rs.82.76 lakh for the year 1994-95. However, cross verification of the records of the dealer from whom such goods were purchased revealed that the goods had not suffered tax at any stage of sale within the State. This incorrect exemption resulted in short levy of Rs.3.31 lakh. In addition interest of Rs.46,350 up to December 1996 was also leviable.

On this being pointed out (February 1997), the department stated (August 1998) that the dealer was reassessed and a total demand for Rs.6.15 lakh (including interest) was raised. Report on realisation has not been received (December 1998).

The case was reported to the Government (February 1997); their reply has not been received (December 1998).

(b) Test check of assessment records of the Superintendent of Taxes, Barpeta Road, revealed (January 1997) that a G.C. Sheet dealer was allowed exemption from payment of tax on sale of locally purchased goods valued at Rs. 3.45 lakh and Rs.11.37 lakh for the years 1993-94 and 1994-95 respectively. However, cross verification of the records of the first point dealer revealed that the goods had not suffered tax at any stage of sale within the state, as such goods were purchased from a dealer who was exempted from payment of tax under Assam Industries (Sales Tax) concession Scheme. This incorrect exemption resulted in short levy of tax of Rs.0.59 lakh. In addition interest of Rs.0.27 lakh (Upto December 1996) was also leviable.

On this being pointed out (March 1997), the department stated (July 1997) that as per Assam General Sales Tax (Amendment) Act, 1997 (Assam Act No. VI of 1997) taxability of second and subsequent sales of goods purchased from the sales tax exempted industrial unit was eligible to get exemption. The reply of the department is not tenable since as per Government notification dated 23 April, 1997, the amendment of the relevant section of the Act came into force from 1st May, 1997. Prior to the appointed day, dealers making such sales were liable for payment of tax.

The matter was reported to the Government (March 1997); their reply has not been received (December 1998).

2.12 Loss of revenue

Under the Assam Finance (Sales Tax) Act, 1956 no dealer shall while being liable to pay tax, carry on business as a dealer unless he has been registered and possesses a certificate of registration. As per entry 23 of the schedule attached to the Assam Finance (Sales Tax) Act, 1956, vegetable ghee is taxable @ 8% at the point of first sale within the State.

On cross verification of the records of the Superintendent of Taxes, Imphal and that of Bongaigaon, it was noticed (January 1997) that an unregistered dealer of Assam had purchased vegetable ghee valued at Rs.39.71 lakh from M/s Manipur Vanaspati and Allied Industries, Imphal during the period October, 1991 to January 1992. However, the dealer neither paid nor he was assessed to tax by the department as the dealer was not registered under the Act. This resulted in loss of revenue of Rs.3.18 lakh.

On this being pointed out (April 1997), the department stated (September 1997), that the dealer is not traceable within the jurisdiction of the Superintendent of Taxes, Bongaigaon. Further development of the case has not been intimated (December 1998).

The case was reported to Government (April 1997); their reply has not been received (December 1998).

2.13 Evasion of tax

Under the Assam General Sales Tax Act, 1993, no dealer liable to pay tax, shall carry on business unless he has been registered with the Sales Tax authorities. Every registered dealer is required to file annual return of his turnover and pay the tax due thereon. As per schedule V, Supari is taxable at the rate of 8 percent at the point of last purchase inside the State. Further, for inter-state sales of Supari, not covered by the prescribed declaration as provided in the Central Sales Tax Act, 1956, tax is leviable at the rate of 10 percent.

In the office of Superintendent of Taxes, Barpeta Road, a person engaged in Supari business, was registered as a dealer under the Assam General Sales Tax Act, 1993 and Central Sales Tax Act, 1956. Neither did the dealer file any return for the periods 1994-95 and 1995-96 nor did the assessing officer take any action for non-submission of returns. However, on further verification of the records, it was noticed (February 1997) that the dealer despatched Supari valued at Rs.12.54 lakh outside the state of Assam during the periods 1994-95 and 1995-96. As per Inspector of Tax's report (December 1996) the dealer closed down his business and could not be traced at his given address. Due to the reported non-availability of the dealer, no demand

could be raised and thereby the dealer evaded tax of Rs.1.00 lakh under the State Act and Rs.1.25 lakh under the Central Act.

On this being pointed out (March 1997), the department stated (May 1998) that the dealer was assessed and demand notices were issued. As the notices were returned from the dealer's address outside the State, the case was sent to the Bakijai Officer for effecting recovery. The report on realisation has not been received (December 1998).

The case was reported to the Government (March 1997); their reply has not been received (December 1998).

2.14. Excess allowance of credit

Under the Assam Finance (Sales Tax) Act, 1956, every registered dealer is required to deposit the amount of tax payable by him into the Government Treasury and furnish to the assessing authority, a copy of receipted treasury challan along with his tax return.

In Digboi Sales Tax unit, against its tax liability of Rs.45,11,988 for the assessment period ending September 1989, a dealer deposited into Government Treasury tax amounting to Rs.43,70,932 but the assessment order (August 1995) showed Rs.45,08,289 as tax paid by the dealer during the period ending September 1989 (April 1989 to September 1989).

It was further noticed (October 1996) that the dealer furnished a return alongwith treasury Challan No. 295 of Rs.5,00,000 dt. 16.05.89, stating that out of Rs.5,00,000, Rs.3,00,275 to be adjustable against the tax payable by him for the assessment period ending March 1989 and Rs.1,37,357 against the assessment period ending September 1989. But instead of adjusting Rs.3,00,275 for the assessment period ending March 1989, the assessing Officer adjusted Rs.5,00,000 against the assessment period ending March 1989 and while making assessment for the assessment period ending September 1989, the assessing Officer again adjusted Rs.1,37,357. As such against the deposit of Rs.5,00,000, the assessing Officer allowed credit of Rs.6,37,357. Thus credit of Rs.1,37,357 was allowed in excess.

The case was reported to the department and the Government (October 1996); their replies have not been received (December 1998).

2.15 Non Registration of Forest Mahaldars as dealers

Under the Assam Sales Tax Act, 1947 every dealer whose gross turnover from sales during the preceding twelve months exceeds Rs.20,000 shall be liable to pay tax. The taxable quantum was increased to Rs.50,000 with effect from July, 1993 under the Assam General Sales Tax Act, 1993. The Act further provides that no dealer liable to pay tax, shall carry on business unless he has been registered and possesses a certificate of registration. The Act also empowers the Commissioner of Taxes to

register a dealer compulsorily, if in his opinion, the dealer is liable for registration but has failed to apply for registration.

Cross verification of records of two Sales Tax Unit Offices with those of two Divisional Forest Officers, revealed (March 1996 & August, 1996) that seven forest mahaldars, who took settlement of sand and gravel mahals valued at Rs.13.95 lakh during March 1992 to September 1995 had neither applied for registration nor paid any tax, although tax was payable at the last stage of sale in respect of sand and gravel. This resulted in non-levy of tax of Rs.1.12 lakh calculated without taking into account profit and operation cost.

(Rupees in lakh)

Sl. No.	Name of the Sales Tax Unit Office	Name of the Divisional Forest Officers with whom cross verified	No. of Forest Mahaldars	Assessment period	Settled value of goods	Tax not levied
1.	Superintendent of Taxes, North Lakhimpur	Divisional Forest Officer, North Lakhimpur	5	December 1992 to July 1995	7.34	0.59
2.	Superintendent of Taxes, Sibsagar	Divisional Forest Officer, Sibsagar	2	March 1992 to September 1995	6.61	0.53
<i>Total</i>			7		13.95	1.12

On this being pointed out (April 1996 and November 1996), the department stated (June 1998 and August 1998) that six dealers were registered compulsorily and assessed to tax and demand notices were issued. In case of another dealer registration was not done, as the dealer could not extract materials from the forest mahal due to heavy siltation by river. Report of realisation in respect of six dealers has not been received (December 1998).

The cases were reported to the Government (April 1996 and November 1996), followed by reminder (March 1998); their reply has not been received (December 1998).

AGRICULTURAL INCOME TAX

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AGRICULTURAL INCOME TAX

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AGRICULTURAL INCOME TAX

3.1 Results of Audit

Test check of assessment records of the Agricultural Income Tax Offices, Assam conducted during the year 1997-98, revealed under-assessment of tax and short/non levy of interest etc. amounting to Rs.138.97 lakh in 13 cases, which broadly fall under the following categories:

Sl. No.	Particulars	No. of cases	Amount (Rs. In lakh)
1.	Incorrect allowance of deduction	3	12.28
2.	Incorrect computation	1	1.95
3.	Short levy/Non levy of interest	6	25.50
4.	Miscellaneous	3	99.24
TOTAL		13	138.97

Five paragraphs involving financial effect of Rs.41.31 lakh bringing out major points noticed during 1997-98 and earlier years were issued to the Department/Government for their comments and replies from them have been received. The important audit observations made in those cases are mentioned in the following paragraphs:

3.2 Non levy of penalty

Under the provisions of Assam Agricultural Income Tax Act, 1939, where no payment of tax due has been made, tax shall be paid by the assessee by such date as may be specified in the notice of demand. The Act further provides that if the demand in respect of any due is not paid on or before the date specified in the notice of demand, the assessee shall be deemed to be in default; and the Agricultural Income Tax Officer may direct that, in addition to the amount due, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

Test check of assessment records of the Agricultural Income Tax Officer, Guwahati, revealed (March 1997) that a tea company was assessed (July 1993) and a demand of Rs.12.50 lakh (tax: Rs.6.12 lakh and interest: Rs.6.38 lakh) was raised to be paid on or before August 1993. The assessee was allowed further time upto September 1995. As the assessee failed to pay the dues on or before the extended date (September 1995), a maximum penalty of Rs.12.50 lakh was leviable but was not levied. For non-payment of assessed tax, further interest of Rs.7.17 lakh was also leviable (March 1997-date of audit).

On this being pointed out (April 1997), the department stated (October 1997) that a fresh demand for Rs.40.10 lakh had been issued (June 1997) and arrear certificate executed. The report on realisation has not been received (December 1998).

The case was reported to the Government (April 1997); their reply has not been received (December 1998).

3.3 Non-levy of interest

Under the provisions of Assam Agricultural Income (Amendment) Act, 1984, if the amount of tax paid by or on behalf of any assessee in respect of any assessment year on or before the 31st day of December of the said year falls short of the assessment of tax as finally assessed for that assessment year, he shall be liable to pay simple interest on the amount of short fall at the rate of 12 percent per annum from the first day of January of the said assessment year up to the date of assessment. The Act further provides that the Agricultural Income Tax Officer shall, in the prescribed manner, refund to an assessee any sum paid in excess of the sum due from him either by cash payment or at the option of the assessee by set-off against the sum due in respect of any other assessment year.

(a) Test check of assessment records of the Agricultural Income Tax Officer, Guwahati revealed (February 1997) that tax assessed (May 1996) of an assessee for the assessment year 1991-92 was at Rs.51.91 lakh. The assessee paid Rs. 27.50 lakh by the due date and Rs.24.41 lakh remained unpaid, but while finalising (May 1996) the assessment, the assessing officer incorrectly allowed set-off of Rs.12.67 lakh being the refund of assessment year 1990-91 against the sum due for 1991-92 though no option was exercised by the assessee for such adjustment. This resulted in non-levy of interest of Rs.12.94 lakh.

On this being pointed out (April 1997), the department stated (October 1997) that the assessment had been rectified and a demand notice issued. The report on realisation has not been received (December 1998).

The matter was reported to the Government (April 1997); their reply has not been received (December 1998).

(b) Test check of assessment records of the Agricultural Income Tax Officer, Guwahati revealed (February to March 1997) that tax assessed (July 1996) of an assessee for the assessment year 1994-95 was at Rs.25.86 lakh. The assessee paid Rs.14.82 lakh by the due date.

The assessing officer incorrectly adjusted Rs.11.04 lakh being the refund of assessment years 1984-85, 1985-86, 1991-92 and 1993-94 against the dues for 1994-95. This incorrect adjustment of refund by treating the tax as paid resulted in non-levy of interest of Rs.2.07 lakh.

On this being pointed out (April 1997), the department stated (October 1997) that the assessment had been rectified and a demand notice issued. The report on realisation has not been received (December 1998).

The matter was reported to the Government (April 1997); their reply has not been received (December 1998).

3.4 Incorrect application of rate of tax

Under the Assam Agricultural Income Tax Act, 1939, agricultural income tax at the rate(s) specified in the Schedule attached to the Act, shall be charged for each assessment year on the total agricultural income of the previous year of every person/assessee. In case of a company, the rate of tax for the assessment years 1991-92 and 1992-93 on income exceeding Rs. 5 lakh was 75 percent and on income exceeding Rs. 2 lakh but upto Rs. 5 lakh was 70 percent. The rate of tax was revised and reduced to 60 percent on the income exceeding Rs 1 lakh with effect from the assessment year 1993-94

Test check of assessment records of the Agricultural Income Tax Officer, Guwahati revealed (January-February 1998) that in respect of two assessee tea companies, the rate of tax was wrongly charged at revised lower rate instead of correct rate of 75 percent and 70 percent applicable to the assessment year 1992-93. Thus incorrect application of the rate of tax resulted in under-assessment of tax of Rs. 3.48 lakh including interest.

On this being pointed out (February 1998), the department stated (July 1998) that the assessments for both the assesseees were rectified (June 1998). In respect of one assessee, after adjustment of advance tax paid for the assessment year 1992-93 and excess tax paid for the year 1991-92 'nil' demand was raised. In case of other assessee, after adjustment of advance tax paid for the assessment year 1992-93, a demand for Rs.0.36 lakh including interest was raised. Report on realisation has not been received (December 1998).

The case was reported to the Government (May 1998); their reply has not been received (December 1998).

3.5 Excess allowance of deduction and excess carry forward of loss

Under the Assam Agricultural Income Tax Act, 1939, it is obligatory on the part of Agricultural Income Tax Officer to ordinarily accept the computation made by the Income Tax Officer (ITO). However, under special circumstances, after obtaining proper sanction, the Agricultural Income Tax Officer may refuse to accept the computation made by the ITO and make his own computation.

Test check of assessment records of the Agricultural Income Tax Officer, Guwahati, revealed (March 1997) that in the Central Income Tax Assessment, composite income of an assessee Tea Company for the assessment year 1990-91 was determined (December 1992) at Rs.37.19 lakh after allowing deduction of Rs.3.84 lakh against Rs.17.03 lakh claimed by the assessee on account of depreciation and commission. The assessment was revised (December 1994) by the ITO and composite income determined at Rs.20.16 lakh to give effect to the appeal orders allowing full deduction of Rs.17.03 lakh. Since Rs.3.84 lakh had been deducted earlier, further full deduction of Rs.17.03 lakh results in excess deduction of Rs.3.84 lakh. On the basis of Central Assessment Order, assessable agricultural income of the assessee for the assessment year 1990-91 was determined at Rs.12.09 lakh (August 1995). The excess depreciation of Rs.2.30 lakh (60 per cent of Rs.3.84 lakh) allowed incorrectly was not added back to the income. The mistake resulted in under assessment of income by Rs.2.30 lakh in the assessment year 1990-91. Thus excess carry forward of loss of 1989-90 and subsequent setting off against assessment year 1991-92, led to short levy of tax of Rs.1.73 lakh.

On this being pointed out by audit (April 1997), the department stated (October 1997) that assessment had been rectified and demand notice issued. The report on realisation has not been received (December 1998).

The case was reported to the Government (April 1997); their reply has not been received (December 1998).

3.6 Agricultural income escaped assessment

Under the Assam Agricultural Income Tax Act, 1939, if for any reason any agricultural income chargeable to agricultural income tax has escaped assessment for any assessment year, the Agricultural Income Tax Officer may at any time within eight years of the end of that assessment year, serve on the person liable to pay agricultural income tax on such agricultural income a notice and may proceed to assess or reassess the assessee of such period. According to the Income Tax Rules 1962, income derived from the sale of tea grown and manufactured by the seller in India, shall be computed as if it was income from business and 40 per cent of such income shall be deemed to be income liable to income tax and the balance 60 per cent to agricultural income tax.

Test check of assessment records of the Agricultural Income Tax Officer, Guwahati, revealed (March 1997) that the Income Tax Officer while determining net composite income of an assessee tea company, disallowed deduction of Rs.1.15 lakh on account of expenses on telephone, interest, etc. but instead of adding back to composite income, wrongly allowed deduction from the composite income. The agricultural income tax officer while making assessment, did not add back Rs.1.15 lakh for the purpose of computation of assessable agricultural income. This resulted in short levy of tax of Rs.1.42 lakh including interest.

On this being pointed out in audit (April 1997) the department stated (October 1997) that assessment had been revised and the entire amount realised.

The case was reported to the Government (April 1997); their reply has not been received (December 1998).

For a check of assessment records of the Agricultural Income Tax Office
for the year 1977, the Income Tax Officer, the following information
was furnished to the assessee for comparison. The amount of tax paid
on account of agricultural income is Rs. 1,42,000. The amount of tax
paid on account of other income is Rs. 1,42,000. The amount of tax
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tax paid on account of other income is Rs. 1,42,000. The amount of
tax paid on account of agricultural income is Rs. 1,42,000. The amount of
tax paid on account of other income is Rs. 1,42,000.

For the year 1977, the assessee has not paid any tax on account of
agricultural income. The amount of tax paid on account of other income
is Rs. 1,42,000. The amount of tax paid on account of agricultural
income is Rs. 1,42,000. The amount of tax paid on account of other
income is Rs. 1,42,000. The amount of tax paid on account of
agricultural income is Rs. 1,42,000. The amount of tax paid on
account of other income is Rs. 1,42,000.

The assessee has not paid any tax on account of agricultural income
for the year 1977. The amount of tax paid on account of other income
is Rs. 1,42,000. The amount of tax paid on account of agricultural
income is Rs. 1,42,000. The amount of tax paid on account of other
income is Rs. 1,42,000. The amount of tax paid on account of
agricultural income is Rs. 1,42,000. The amount of tax paid on
account of other income is Rs. 1,42,000.

GEOLOGY AND MINING

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CHAPTER 1

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GEOLOGY AND MINING

4.1. Results of Audit

Test check of assessment records of the Geology and Mining Office, Assam, conducted in audit during the year 1997-98 revealed under assessment, loss of revenue of crude oil and less payment of royalty etc. amounting to Rs.3023.62 lakh in 11 cases, which may broadly be categorised as under:

(Rupees in lakh)

Sl.No	Particulars	Number of cases	Amount
1.	Less payment of royalty	1	869.92
2.	Under assessment	1	19.20
3.	Loss of revenue of crude oil	2	530.52
4.	Less realisation of royalty	2	1415.81
5.	Miscellaneous	5	188.17
	Total	11	3023.62

The results of a review on "Receipts from Mines and Minerals" highlighting important audit findings and involving revenue effect of Rs 43.76 crore are given in the following paragraphs:

4.2 Review on "Receipts from Mines and Minerals"

4.2.1 Introduction

The extraction of minerals is governed by the Mines and Minerals (Regulation and Development) Act., 1957 (a Central Act), the Mineral concession Rules, 1960, Petroleum and Natural Gas (P&NG) Rules, 1959 and Assam Minor Minerals Concession Rules, 1994. The extraction of oil is however governed by the Oil Fields (Regulation and Development) Act 1948 and Petroleum and Natural Gas (Amendment) Rules 1973. Coal, oil and natural gas are the major minerals available in Assam. Lime stone, boulders, shringle, sand, stone and stone dust are the minor minerals available in the state. Revenue from mines & minerals consists of royalty,

dead rent¹, surface rent² licence fee, fines etc. payable under the Rules as fixed by the Government of India.

4.2.2 Organisational set up

The Director is the head of the Geology and Mining Department and is assisted by four Joint Directors, one Chief Geologist and one Chief Drilling Engineer

4.2.3 Scope of Audit

A review of the working of the department was conducted during January 1998 to March 1998 with reference to records for the period from 1992-93 to 1996-97 in the Directorate and Resident office at Dibrugarh. Of the 37 lease agreements concerning crude oil, natural gas, coal and lime stone in operation in the state as of March 1997, 19 lease agreements (51%) were test checked. The results of audit are summarised in the succeeding paragraphs.

4.2.4 Highlights

- Geleki Oilfield Extn. No.1 remained inoperative during 1990-91 to 1996-97 due to non-receipt of clearance from the Ministry of Forest and Environment. This resulted in loss of royalty amounting to Rs.62.30 lakh.

[Paragraph 4.2.6(A)]

- Licences of seven Oilfields were granted beyond the maximum permissible limit of 6 years taking the same as "Re-grant" with realisation of lesser licence fee applicable for Ist 4 years. The loss sustained was Rs.66.53 lakh.

[Paragraph 4.2.6(B)]

- Payment of royalty by ONGCL on the quantity received by refinery instead of on the gross production at well head tank resulted in loss of revenue of Rs.639.60 lakh

[Paragraph 4.2.6(C)]

- The unwarranted deduction of transport cost and collection charges by the OIL from the published price for payment of royalty resulted in loss of revenue of Rs.16.81 crore.

[Paragraph 4.2.6(E)]

¹ Dead rent is a levy payable annually by the holder of a mining lease at specified rates for the total area included in the lease when the royalty due on minerals extracted during the year is less than such rates.

² Surface rent is a levy payable annually by the holder of a mining lease for the surface area used by him for the purpose of mining operations at such rates as may be specified in the lease but not exceeding the land revenue and cess assessable on the land.

- Failure of the department to operate mines despite obtaining no objection from Coal India Ltd. resulted in loss of royalty of Rs.1.68 crore.

[Paragraph 4.2.7(A)]

- The North Eastern Coalfields neither operated 3 coal mines in Upper Assam nor surrendered the same to the department resulting in loss of royalty of Rs.4.20 crore.

[Paragraph 4.2.7(B)]

- Payment of royalty by the North Eastern Coalfields on the quantity of coal despatched from the leased area instead of actual quantity of coal extracted at pit mouth resulted in less payment of royalty of Rs.9.31 crore.

[Paragraph 4.2.7(C)]

- Central Government revised (February 1992) the rate of royalty on lime stone excluding Assam on the wrong assumption that cess was collected from lime stone lease area. Failure of the department to intimate correct position resulted in loss of revenue of Rs.231.53 lakh.

[Paragraph 4.2.8]

- Interest of Rs.124.27 lakh on delayed payment of royalty as per Hon'ble Guwahati High Court judgement was awaited recovery from NEC.

[Paragraph 4.2.10(A)]

4.2.5 Trend of Revenue

Budget Estimates and collections

The receipts from mines and minerals vis-a-vis the total revenue receipt of the State and their percentage to total receipts during last five years ending March, 1997 are given below:-

(In crore of rupees)

Year	Total Revenue	Receipts from Mines and Minerals			Percentage of Mines and Minerals to the total revenue
		Budget Estimates	Actuals (As per Finance A/c)	Percentage of increase (+)/ shortfall (-)	
1992-93	2613.23	763.96	384.52	(-) 49.67	14.71
1993-94	3317.46	251.26	253.05	(+) 0.71	7.63
1994-95	2961.41	283.71	258.25	(-) 8.97	8.72
1995-96	3375.74	305.10	267.13	(-) 12.45	7.91
1996-97	3855.81	279.71	254.33	(-) 9.07	6.60

It would be seen that while the total revenue receipts of the State increased by 47.53 percent during 1992-93 to 1996-97 the receipts from mines and minerals decreased by 33.85 percent during this period.

Mining Operations

4.2.6 Oil and Natural Gas

(A) Non-settlement of lease

The Petroleum and Natural Gas Rules, 1959 provide that a licence or lease shall be granted for prospecting petroleum by the State Government with the approval of the Central Government, on such terms and conditions as may be agreed upon between the Central Government and the licensee or the lessee.

Test check of records revealed (April-May 1998) that Government of India accorded approval (December 1984) for mining lease of Geleki Oil fields Extension-I (Area: 3.763 Sq. Km) to Oil and Natural Gas Corporation Ltd (ONGCL) for a period of 20 years. The ONGC extracted crude oil (111170.30 tonnes) between 1980-81 and 1989-90 and paid to Government royalty of Rs.88.15 lakh. The ONGC could not extract crude oil from June 1989 as a large portion of the proposed lease area (3.184 Sq.Km) fell within a reserve forest for which necessary clearance could not be obtained from the Government of India, Ministry of Forest and Environment till November 1995. Failure of the department to obtain clearance resulted in depriving the State Government revenue of Rs.62.30 lakh for the period from 1990-91 to 1996-97 calculated on the basis of the revenue received during the earlier period for the operated part of the lease area.

On this being pointed out the Government stated (December 1998) that this had been taken up with ONGCL for latest position regarding forest clearance so that the matter may be pursued by the Directorate of Geology and Mining.

(B) Non-fixation of licence fee

Petroleum and Natural Gas (P&NG) Rules, 1959 stipulate that the term of petroleum exploration licence shall ordinarily be four years which may be renewed for a further period of two years of one year at a time. Licence fee is payable for each square mile/square km. or part thereof covered by the licence. The annual fees per square mile payable in 1st, 2nd, 3rd and 4th year are Rs.10, Rs.50, Rs.250 and Rs.500. The fee is Rs.750 (Rs.600 per Sq.Km) per Sq.mile per year for renewal period of 2 years.

In seven cases (Doom Dooma Extension, Margherita, Sibsagar, Karimganj, Cachar, Titabor, Matapani) the department granted licences for fresh period of 4 to 6 years for exploration in the same area even after expiry of 6 years (including 2 years renewal term) treating the licences as "Re-grant". Advance licence fee taken from the licensee was based on the rates applicable for 1st to 4th years of normal licence. Since P&NG Rules, 1959 have no provision for renewal of licence beyond 6 years in the same area of operation, the continuity of licence beyond 6 years attracts annual licence fee @ Rs.600 per sq.km. Loss sustained by the department for not calculating renewal fee at the rate of Rs. 600 per sq.km. per annum worked out to Rs.66.53 lakh.

On this being pointed out the department stated (March 1998) that the revised demand would be raised on receipt of Government's clarification.

(C) Transit Loss

The Petroleum and natural Gas Rules 1959 as amended from time to time provide that the licensee shall pay to the State Government on demand a royalty computed on all crude oil at well head obtained in each month from mining operations conducted pursuant to the lease.

Test Check of records of the Directorate revealed (April 1998) that Oil and Natural Gas Corporation Ltd. (ONGC) paid royalty with effect from April 1985 till date (March 1997) on the net quantity as accepted by the refinery authorities instead of the gross quantity of crude oil at the well head tank. This resulted in loss of revenue of Rs.639.60 lakh for the period from 1992-93 to 1996-97 as detailed below:

Year	Quantity treated as transit loss (In M.T.)	Rate of royalty (Rs. per M.T.)	Amount of royalty not paid (Rupees in lakh)
1992-93	11092	481.00	53.35
1993-94	22785	528.00	120.30
1994-95	32633	528.00	172.30
1995-96	36901	528.00	194.84
1996-97	17096	578.00	98.81
Total	120507		639.60

On this being pointed out in audit (January 1998), the department stated that difference in payment of royalty was due to transit loss. The department further stated (February 1998) that the State Government had already moved the Government of India proposing amendments to certain provisions of the Oil Field (Regulation and Development) Act, 1948 by including a clear definition of unavoidable loss and maximum permissible limit of such loss. Fact remains, however, that transit loss is not contemplated for calculation of royalty which is based under Section 14 of the Act on the gross value at the well head excluding only unavoidable loss at the well head operation itself.

(D) Non payment of royalty on gas supplied to Staff

The Petroleum and Natural Gas Rules, 1959 stipulate payment of royalty by the lessee to the State Government on all crude oil/natural gas obtained in each month from mining operation.

Test check of records of Directorate revealed that the ONGCL did not pay royalty on the volume of natural gas supplied to staff quarters at Sibsagar and Nazira whereas OIL did pay royalty on similar gas supplied to its staff quarters. The amount of royalty involved on gas supplied to ONGCL staff quarters during the last 5 years was as under:

Year	Quantity of Gas supplied to ONGCL Staff Quarters (In Cubic Metre)	Rate of royalty per 1000 M ³ (In rupees)	Amount of royalty involved (Rupees in lakh)
1992-93	481645	60.00	0.29
1993-94	716318	67.47	0.48
1994-95	677388	73.27	0.50
1995-96	566014	77.00	0.44
1996-97	616501	76.54	0.47
TOTAL			2.18

On this being pointed out in audit the department accepted the audit observations and stated (February 1998) that demand had been raised.

(E) Short realisation of royalty

The Petroleum and Natural Gas Rules, 1959 stipulate that a lessee shall pay to the State Government on demand a royalty computed @ 10 per cent of the gross value at the well head of all crude oil/natural gas obtained from mining operations.

The Petroleum and Natural Gas Ministry vide letter dated 31/12/1991 fixed the price of natural gas with calorific value in the range of 9000 to 9500 K cal per cu. mt. at Rs. 1000 per thousand cu.mts. with effect from 1st January 1992 for North Eastern Region. The discount available on this price on a case to case basis was limited to maximum of Rs. 400 per thousand cu.mts. It was further clarified that gas with lower or higher calorific value than the range mentioned above would continue to be governed by the formula conveyed vide Ministry's letter dated 17 February 1987.

Test check of records of the Directorate revealed that the Oil India Ltd. did not pay royalty on natural gas as per the above norms but paid as per its own formula which was much lower due to unwarranted deduction of transport cost and collection charges. This resulted in loss of revenue of Rs.1681.20 lakh to the Government during the last five years as shown below:

Year	Royalty payable 1000 m ³ gas	Royalty paid by OIL	Differe- nce of rate per 1000 m ³	Total Quantity of Gas on which royalty paid by OIL India	Less payment of royalty by OIL India
	(In Rs.)	(In Rs.)	(In Rs.)	(In M ³)	(In Rs.)
1992-93	60.00	38.48	21.52	813509382	17506721
1993-94	67.47	40.77	26.70	709707898	18949200
1994-95	73.27	30.68	42.59	756716119	32228539
1995-96	77.00	25.96	51.04	844904525	43123926
1996-97	76.54	19.22	57.32	982416059	56312088
Total					1,681,20,474

The loss of revenue arising out of incorrect pricing adopted by the OIL was pointed out (June 1995) to the Government by the department. The Government neither ratified the formula adopted by OIL nor furnished any comments thereon (December 1998). Royalty has to be levied on the sale price realised by OIL because prices of petroleum products are not cost based and the state Government should get a percentage of the actual amount realised from sale of these products.

4.2.7 Coal

(A) Non settlement of Coal Mines

The department located (1980-1985) eight coal mines with approximate deposit of 13.07 lakh tonnes in two hill districts of Assam and obtained (January 1996) a no objection certificate from the Coal India Limited (CIL) for departmental operation. Against the estimated seven lakh tonnes of coal mining found feasible during a period of five years, the department could not mine any coal during 1996-97 nor could engage any lessee for mining. The department stated (March 1998) that Government financial position did not permit huge investment in coal sector for departmental operation. Nothing was, however, on records indicating any action taken by the department for settlement of coal mines with lessee.

Thus, the departmental inaction resulted in estimated loss of royalty amounting to Rs. 1.68 crore during 1996-97 calculated @ Rs. 120 per tonne for the proportionate quantity of 1.40 lakh tonne against estimation.

(B) Non-operation of Coal Mines

Of the ten coal mines remained vested with North Eastern Coalfields (NEC), under the provisions of the Coal Mines (Nationalisation) Act, 1973, the NEC could not operate three coal mines (Sheelveta, Koilajan and Bimlapur) till March 1997. The departmental proposal (September 1995) to surrender the three non-operational coal mines to State Government was also not acceded to by the NEC nor any reason was given for non-operation of the coalfields.

According to assessment of the department, out of total coal deposit of seven lakh tonnes in three coalfields a minimum of 3.5 lakh tonnes could have been mined in a period of five years. Based on this, loss of royalty during 1992-93 to 1996-97 sustained by the Government amounted to Rs. 420 lakh (3.5 lakh tonnes / Rs. 120 per tonne). Neither the department nor the Government pursued the matter further.

(C) Non-payment of royalty

Section 9 of Mines and Minerals (Regulation and Development) Act, 1957 regulates payment of royalty from the lessee on the quantity of minerals removed or consumed from the leased area. According to the judgement of the Hon'ble Orissa High Court (Case No. 909 of 1974), removal from the seam in the mine and extracting the same through the pits mouth to the surface satisfy the requirement of Section 9 in order to give rise to liability for royalty.

Scrutiny of records of Directorate revealed that payment of royalty on coal by NEC was based on the actual quantity despatched from the leased area for sale rather than the quantity of coal extracted. In fact during the five years between 1992-93 to 1996-97 royalty was paid on 43.40 lakh M.T. which was despatched as against the 57.39 lakh M.T. actually extracted. As such, difference in the quantity actually extracted and quantity despatched escaped from the computation of royalty. The details of quantity that escaped assessment for royalty during the last five years ending 1996-97 was as under:

Year	Quantity of Coal extracted (In M.T)	Quantity on which royalty paid (In M.T)	Differential quantity on which royalty not paid (In M.T)	Rate of royalty (Per M.T.)	Amount of royalty not paid (In Rs.)
1992-93	11,00,175	8,94,284	2,05,891	6.50	13,38,292
1993-94	11,98,648	7,46,422	4,52,226	6.50	29,39,469
1994-95	11,90,287	8,47,429	3,42,858	120.00	4,11,42,960
1995-96	8,20,370	10,39,960	(-) 2,19,590	120.00	(-) 2,63,50,800
1996-97	14,29,148	8,12,238	6,16,910	120.00	7,40,29,200
Total	57,38,628	43,40,333	13,98,295		9,30,99,121

In May 1996, the department raised demand with NEC for payment of royalty including arrears from 1992-93 onwards on total quantity of coal produced. NEC held in October 1996 that the judgement was applicable within the State of Orissa unless set-aside by the Apex Court and the same could not be binding on the State of Assam. The department stated (February 1998) that clarification on the implementation of judgement had already been sought for from the Hon'ble Orissa High Court and Orissa Government. Further developments were awaited (December 1998). Scrutiny of records also revealed that the Central Government had invited (July 1992) comments of all the State Government on the aforesaid judgement.

(D) Loss of revenue

The Mines and Minerals (Regulation & Development) Act, 1957 provides that the Central Government may, by notification in the Official Gazette, amend the Second Schedule so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral with effect from such date as may be specified in the notification. The Central Government increased the rate of royalty of upgraded Run of Mine Coal from Rs.6.50 to Rs.120 per tonne with effect from 25 March 1994.

Test-check of records of the Directorate revealed that Assam Mineral Development Corporation (AMDC) Limited paid royalty at the pre-revised rate of Rs. 6.50 per tonne for 64102 tonnes of coal extracted during April 1994 to February 1995. The reason for non-payment of royalty at revised rates was attributed by the AMDC Limited to belated receipt of the notification (08/12/1994). The demand raised (March 1995) by the department for payment of Rs. 29.11 lakh, being the differential value of royalty, had not been acceded to by the AMDC Limited. The Government stated (8 September 1998) that the revised royalty was effective only from 11 October 1994 i.e. the date of Gazette notification. Delay of 7 months in issue of Gazette notification led to loss of revenue amounting to Rs.14.10 lakh.

4.2.8 Limestone

Non-enforcement of revised rate of royalty

The rate of royalty of lime stone was revised from Rs. 10/tonne to Rs. 25/tonne vide Central Government Gazette Notification dated 17/02/1992 for all states except the States of Assam and West Bengal. The details submitted (July 1996) to Government by the department for the Sixty Seventh Report of the Committee on Estimates, Assam Legislative Assembly revealed that the reason for exclusion of the State of Assam from the purview of the Notification dated 17/02/92 was on the plea of the Collection of Cess by the Government of Assam. It was, however, further clarified by the department that tax on certain categories of land viz. land used for cultivation of tea and land used for extraction of coal was levied under the Assam Taxation (on specified land) Act 1990 and not on land used for extraction of limestone.

Thus, failure of the department to bring the correct facts to the notice of the Central Government deprived the State Government of revenue totaling Rs. 231.53 lakh for 1543541 tonnes lime stone extracted during 1992-93 to 1996-97 (at differential rate of Rs. 15/tonne). Government did not furnish any replies to audit queries (April 1998) till December 1998.

4.2.9 Other Receipts

(A) Dead Rent

The Mining Rules provide that a lessee shall pay every year a fixed annual dead rent of Rs. 12.50 per hectare or part thereof for the first 100 sq.km. and Rs.25 for area exceeding first 100 sq.km. provided that lessee shall be liable to pay only the dead rent or royalty whichever is higher in amount but not both. Further, for default in payment of dues additional amount of 10 percent per month is payable under the Act.

Test check of records of the Directorate revealed that during the period 7.2.1989 to 6.2.1990 Chagmaigoar oilfield remained inoperative and as such, Oil & Natural Gas Corporation Ltd was liable to pay a dead rent amounting to Rs.0.79 lakh.

On this being pointed out in audit, department stated (February 1998) that the demand though raised had not been paid.

Further, for default in payments for 84 months, (March 1990 to March 1997) ONGCL was also liable to pay additional amount of Rs.6.63 lakh. However, the department had not raised any demand for this amount.

Similarly, dead rent for non-operation of Namti Oilfields and Sonari oilfields for the period from November 1988 to October 1995 and August 1990 to July 1995 respectively was claimed and received by the department from ONGCL but additional amount of Rs.19.21 lakh (Namti; Rs.13.89 lakh, Sonari; Rs.5.32 lakh) for default in payment by the due date was not claimed. The delay in payment ranged between 11 months to 83 months and 15 months to 62 months in respect of Namti oilfields and Sonari oilfields respectively. The department accepted the under assessment and stated (February 1998) that the claim had been raised.

(B) Surface rent

The Petroleum And Natural Gas Rules, 1959, provide that subject to approval of the Central Government, the lessee shall pay annually to the State Government surface rent for the area of land actually used by him for the purpose of the operations conducted under the lease at the rates not exceeding the land revenue and cesses assessed or assessable on the land, as may be specified by the State Government.

Test check of records of the Directorate revealed that the State Government, on the basis of prevailing and assessable rates of land revenue and cess, recommended (September 1989) to the Central Government for according approval to surface rent @ Rs.747 per hectare per year for the eight oilfields leased out to Oil & Natural Gas Corporation Ltd. (ONGCL) and Oil India Ltd. (OIL). Also consequent upon reclassification of land falling under Naharkatia Extn. Petroleum Mining (NEPM) lease area as first class trade site, the State Government further recommended to Central Government for approval of surface rent @ Rs.5597 per hectare per year for NEPM lease area with retrospective effect from 1989-90. However, approval to none

of the above two recommendations had so far been accorded by Central Government (December 1998).

Scrutiny of records revealed that no follow up action was taken either by the department or Government to obtain approval after submission of the proposal. Delay by Central Government in according approval to revision of surface rent has resulted in non-realisation of revenue to the extent of Rs.5.67 lakh per annum.

Other interesting points

4.2.10 Unpaid interest

(A) According to judgement dated 25 November 1995 of Hon'ble Guwahati High Court, North Eastern Coalfields (NEC) was to pay Rs.124.27 lakh being 15 percent interest as delayed payment of 75 percent of royalty on coal for the period from April 1994 to July 1995. As the State Government has not agreed to waive the interest, the demand was raised by the department in March 1997. Thereafter, the matter was not followed up either by the department or by the Government and the interest remained non-realised till date (December 1998).

(B) According to State Government Gazette Notification dated 22.07.1988, the last date of payment of royalty, fees etc. is the 10th day of each calendar month for mineral produced during the preceding month. Provisions of Mines and Minerals concession Rules, 1960 also empowers the State Government to charge simple interest of 24 percent per annum from the 6th day of the expiry of the last date (i.e. 10th day of the month) of monthly payment.

Test-check of records of Directorate revealed that there had been delay ranging between 101 days and 315 days in payment of royalty on coal by the Assam Minerals Development Corporation Ltd. during March 1995 to February 1996. A demand for Rs.3.15 lakh being interest for delayed payment of royalty though stated to have been raised by the department had not, however, been paid by the Corporation (December 1998).

(C) Stamp Duty and Registration Fees not levied

Stamp duty and Registration fee are leviable on an instrument of lease under Indian Stamp Act and Indian Registration Act. Indian Stamp Act also provides that it would suffice if amount of royalty is estimated by the Collector for purpose of levy of duty based on assessment of quantity of minerals expected to be mined or extracted during the period of lease.

Test-check of the Lease deeds in the Directorate revealed that quantity of minerals to be extracted was neither specified in the leased deeds executed nor assessment of royalty made and incorporated in the deeds. All the lease deeds executed so far thus remained unregistered; thereby depriving the department from levying stamp duties and registration fees. The department referred (August 1995) the matter to Government for determination of mode of assessment of stamp duty for

mining lease, whereas the Stamp Act already provides that the royalty can be estimated by the Collector for purposes of levy of duty.

4.2.11 Monitoring and evaluation

Since most of the oil and coalfields are located in Upper Assam, a Resident Geologist (R.G.) was posted at Dibrugarh. The department stated (March 1998) that no significant achievement in the field of monitoring relating to production, pilferage, assessment data etc. could be made by the R.G. due to non-availability of supporting staff. Though detection of illicit extracting and removal of minerals is one of the main functions of the department, yet no arrangement such as mineral squads existed in the department to look after illegal mining activities. Setting up of some check gates for coal and limestone were reported to have been under consideration of the department.

No evaluation study on the functioning of the department had been done.

STAMP DUTY AND REGISTRATION FEE

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STAMP DUTY AND REGISTRATION FEE

5.1 Results of Audit

Test check of records maintained in the offices of the District Registrars and Sub-Registrars, conducted during 1997-98 revealed non realisation / short realisation, splitting of deeds etc. amounting to Rs. 306.42 lakh in 27 cases, which broadly fall under following categories:

Sl. No.	Particulars	No. of cases	Amount (Rs. in lakh)
1.	Non-realisation/short realisation, splitting of deeds	7	41.46
2.	Non fixation of value/under valuation /quoting depressed value	9	259.38
3.	Expenditure from revenue collection, non-recoupment thereof	3	0.78
4	Miscellaneous	8	4.80
TOTAL		27	306.42

The important audit observations made in those cases are mentioned in the following paragraphs:

5.2 Short levy of Stamp Duty

Government of Assam notification dated 5 July 1989 regulates the rates of stamp duty on all types of deeds of conveyance. An instrument of conveyance is chargeable to stamp duty on the value of consideration expressed in the documents.

Test check of records (February 1998) in Nalbari Sub-Registry office disclosed that stamp duty to the extent of Rs.6.92 lakh in 170 cases was levied short during 1994 to 1997 as per details given below:

Year	Value of property considered	No. of cases considered	Stamp duty chargeable	Stamp duty charged	Short levied
1994	14,03,900	16	1,10,701	61,360	49,341
1995	61,92,600	97	6,62,032	2,46,730	4,15,302
1996	37,29,360	43	3,11,764	1,28,866	1,82,898
1997	11,20,000	14	82,800	38,200	44,600
Total	1,24,45,860	170	11,67,297	4,75,156	6,92,141

On this being pointed out (June 1998) in audit, the department stated (July 1998) that the matter was being examined. Further report on examination has not been received (December 1998).

The matter was reported to Government (June 1998); their replies have not been received (December 1998).

5.3 Non-levy of surcharge

Government of Assam notification dated 5 July 1989 stipulates that in addition to stamp duty, a surcharge of Rs.20 per thousand is to be levied on assessed value of property for towns like Guwahati and Bongaigaon and Rs.10. per thousand for other towns/municipal areas.

Test check (January - March 1998) of records in Tinsukia Sub-Registry office revealed that a surcharge of Rs.10 per thousand was not levied on property valued at Rs.398.42 lakh & registered during 1994, 1995 and 1996. This resulted in loss of revenue of Rs.3.98 lakh.

On this being pointed out in audit (June 1998), the department stated (July 1998) that Senior Sub-Registrar, Tinsukia was being instructed to follow the existing rule relating to the collection of such charges.

The matter was reported to the Government (June 1998); their replies have not been received (December 1998).

5.4 Short levy due to under-valuation of property

Under Indian Stamp Act, 1899 (as adopted in Assam), an instrument of conveyance is chargeable to stamp duty on the value of consideration expressed in the documents or market value of the property whichever is higher. Revenue Department of the State Government is responsible for fixation of market value of different localities. But no market value had been fixed till March 1998.

Test check of records (January-May 1998) in four registering offices (Nagaon, Silchar, Jorhat and Golaghat) disclosed that the value of property shown in the Agreement Deeds executed on non-judicial stamp was much higher than that of the value finally set forth in the registered sale deeds. This resulted in short realisation of stamp duty and registration fees amounting to Rs.1.13 lakh (stamp duty: Rs.0.69 lakh, registration fees: Rs.0.44 lakh).

On this being pointed out (June 1998) in audit, the department stated (July 1998) that in absence of proper legislation and fixation of valuation of properties by the Government, the Registering officers of the State are not in a position to check under valuation in registering transfer deeds. The reply of the department is not acceptable as in this case the under valuation was apparent with reference to agreement deeds itself executed for the property by the parties.

The matter was reported to the Government (June 1998); their replies have not been received (December 1998).

OTHER TAX AND NON TAX RECEIPTS

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OTHER TAX AND NON TAX RECEIPTS

6.1 Results of Audit

Test check of records in departmental offices, relating to revenues of State Excise Duty, Taxes on Motor Vehicles and Land Revenue revealed under assessment of taxes and duties and blocking up of Government revenue amounting Rs.1197.82 lakh in 329 cases as depicted below:

Sl. No.	Head of Revenue	No. of cases	Amount (Rs. in lakh)
1	State Excise Duty	81	582.72
2	Taxes on Motor Vehicles	123	409.50
3	Land Revenue	125	205.60
TOTAL		329	1197.82

During the year 1997-98, the department, accepted under-assessment etc. of Rs.18.99 lakh involved in 13 cases, of which 7 cases involving Rs.6.09 lakh had been pointed out in audit during the year 1997-98 and the rest in earlier years. In 13 cases an amount of Rs.6.29 lakh had been recovered. A few illustrative cases involving Rs. 74.75 lakh highlighting important audit observations are mentioned in the following paragraphs:

A-STATE EXCISE

6.2 Loss of revenue due to Warehouse going dry

The Assam Excise Rules, 1945 make it mandatory on the part of the contractor to maintain such minimum stock of spirit in the Warehouse as may be fixed by the Excise Commissioner from time to time. The contractor shall be liable to compensate any loss to government revenue which may have incurred owing to his failure to maintain the adequate stock.

During test check of records (weekly stock returns, monthly stock reports etc.) maintained by the Commissioner of Excise, Assam, it was noticed (April 1997) that

the stock of country spirit in respect of 3 Warehouses declined to zero during various periods due to failure of the contractors to lift permitted quantities from the distilleries. Based on average daily sales (calculated on the basis of sales during the preceding 82 days to 90 days), the revenue loss amounted to Rs.56.06 lakh. The details are shown below:

(Rupees in Lakh)			
Name of the Warehouse	Year to which relates	Numbers of days	Revenue involved
Tinsukia	1996-97	14	29.52
	1997-98	25	
Silchar	1996-97	43	13.38
	1997-98	25	
Nazira	1996-97	01	13.16
	1997-98	25	
Total			56.06

No action was taken by the department to recover the loss from the contractors.

The cases were reported to the department and the Government (September 1997); their replies have not been received (December 1998).

6.3 Non-levy of excise duty

As per amended provision of the Assam Bonded Warehouse Rules, 1965, wastage not exceeding 1 percent shall be made for actual loss in transit by leakage or evaporation or breakage of bottles containing liquor. No provision, however, exists for allowing godown loss in respect of India Made Foreign Liquor (IMFL) under the Rules.

During test check of records of five warehouses under the jurisdiction of Superintendent of Excise, Guwahati, it was noticed (May 1997) that 3891.468 London Proof Litre (LPL) of IMFL were shown as godown loss during the period from April 1996 to March 1997, but no excise duty was levied thereon. This resulted in non levy of excise duty of Rs.1.17 lakh.

The cases were reported to the department and the Government (September 1997); their replies have not been received (December 1998).

B- TAXES ON MOTOR VEHICLES

6.4 Short levy of fine

Section 194 of the Assam Motor vehicles (Amendment) Act, 1994, provides that any person who drives a motor vehicle, causes or allows a motor vehicle to be driven in contravention of the provisions of sections 113, 114 and 115 of the Act shall be punishable with a minimum fine of two thousand rupees and in case of a goods vehicle an additional amount of one thousand rupees per tonne of excess load together with the charges for off-loading of the excess load will also be payable.

The records maintained by the District Transport officer, Marigaon revealed (July-August 1997) that 99 goods-vehicles carrying excess load were detected by the Department during the period from April 1994 to June 1997. Against the permissible capacity of 1033.725 MT the vehicles carried 1412.923 MT. Total fine leviable for excess load of 379.198 MT. worked out to Rs.5.77 lakh. But the department levied and collected total fine of Rs.1.40 lakh. This resulted in short levy of fine amounting to Rs.4.37 lakh.

The matter was reported to the department and the Government (December 1997); their replies have not been received (December 1998).

6.5 Non-assignment of new registration mark to vehicles from other States

Under the Motor Vehicle Act, 1988, when a Motor Vehicle registered in one State has been kept in another State for a period exceeding twelve months, the owner of such vehicle shall, within such period and in such form as may be prescribed, apply to the registering authority within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority. On assignment of a registration mark, the owner of a vehicle is required to pay the prescribed fee under the Central Motor Vehicle Rules 1989. Under the Act, if the owner of the vehicle fails to make an application within the prescribed period, the registering authority may require the owner to pay an amount not exceeding one hundred rupees by way of fine.

Test check of assessment records of five District Transport officers (DTO), revealed (July 1997-February 1998) that owners of 663 Vehicles of other states brought their vehicles to Assam but did not apply for assignment of new registration marks within the prescribed period. The D.T.Os concerned failed to impose fine on the defaulting owners of these vehicles. The details are as under:

Sl. No.	Name of DTO	Total Nos. of vehicles	Re-assignment fee leviable (Rupees)	Maximum fine @ Rs.100/-per vehicle
1.	D.T.O. Kamrup East Zone, Guwahati	94	24,380	9,400
2.	D.T.O. Morigaon	102	29,000	10,200
3.	D.T.O. Dibrugarh	217	20,250	21,700
4.	D.T.O. Goalpara	185	34,470	18,500
5.	D.T.O. Tinsukia	65	17,550	6,500
Total		663	1,25,650	66,300

This resulted in non-realisation of fees and fines amounting to Rs.1.92 lakh.

The case was reported to the department and the Government (December 1997, January, March and May 1998); their replies have not been received (December 1998).

C- LAND REVENUE

6.6 Retention of cash in hand by mouzadars

As per executive instructions issued under the Assam Land and Revenue Regulation 1886, no mouzadar* is to retain cash in hand beyond rupees ten thousand after March 1996. Subject to limit, the mouzadar is required to remit into treasury at least once a month the land revenue, local rates and other Government revenue collected by him. The Sub-Divisional Collectors, S.D.O.'s and Deputy Commissioners are required to inspect periodically the accounts of the mouzas and report to the Commissioner of Divisions about the cash in hand with the mouzadars on the date of inspection. The Deputy Commissioners send quarterly reports to the Commissioner of the Division, indicating the arrears in collection and cash in hand with the mouzadars on the date of inspection.

* A Mouzadar is a Public Servant whose primary duty is to collect land revenue and other Government dues with the collection of which he is entrusted.

During the course of audit, it was noticed (October to December 1997) that in sixteen mouzas revenue collections beyond the permissible limit were unauthorisedly retained by the mouzadars for 3 to 20 years during the period from 1977-78 to 1996-97. The amounts retained by the mouzadars ranged between Rs.0.32 lakh and Rs.2.05 lakh and in all aggregated to Rs. 11.23 lakh at the end of the year 1996-97 as tabulated below:-

(Rupees in lakh)

Sl. No.	Name of the Mouzas	Collection as on 30.6.97	Deposit as on 30.6.97	Cash in hand as on 30.6.97	Period of retention
1	Dhekiajuli	9.09	8.24	0.85	1991-92 to 1996-97
2	Sipajhar	6.52	6.05	0.47	1977-78 to 1996-97
3	Amguri	2.57	2.25	0.32	1994-95 to 1996-97
4	Simalguri	1.49	0.70	0.79	1994-95 to 1996-97
5	Jarabari	0.50	0.12	0.38	1994-95 to 1996-97
6	Uttarkhola	2.42	2.00	0.42	1991-92 to 1996-97
7	Nakachari	1.10	0.75	0.35	1988-89 to 1996-97
8	Luki	2.25	1.81	0.44	1991-92 to 1995-96
9	Gakhirkhowa	1.12	0.44	0.68	1994-95 to 1996-97
10	Lahing	0.99	0.55	0.44	1994-95 to 1996-97
11	Lakrai	2.55	2.12	0.43	1984-85 to 1996-97
12	Hindughopa	1.15	0.78	0.37	1989-90 to 1996-97
13	Missamari	1.81	1.39	0.42	1994-95 to 1996-97
14	Chahari	1.66	0.27	1.39	1992-93 to 1996-97
15	Laharighat	2.48	1.05	1.43	1992-93 to 1996-97
16	Mahabhairab	19.43	17.38	2.05	1990-91 to 1996-97
Total		57.13	45.90	11.23	

The above position indicates lack of control of the Department over the mouzadars, resulting in blockade of substantial amount of land revenue in their hands. The Deputy Commissioner/Sub-Divisional Officers failed to undertake inspection and ensure corrective steps in respect of the mouza accounts. It also amounted to violation of the recommendation made in the 46th Report of the PAC (May 1989) wherein it was stated that no mouza should be allowed to retain collected revenue in hand beyond the permissible limits. The committee had further recommended that responsibilities should be fixed on the Officers who were entrusted with the inspection of mouza accounts.

The cases were reported to the department and the Government (February-March-April 1998). In June 1998, the Government stated that in addition to placing of 21 defaulting mouzadars under suspension, necessary directives to all concerned had also been issued to ensure recovery of excess cash in hand.

The first part of the report deals with the general situation of the country and the progress of the work of the Commission. It is followed by a detailed account of the work done during the year, and a summary of the results.

The Commission has during the year been engaged in a number of important tasks, and has made considerable progress in its work. It has held several meetings, and has received many suggestions from the public. It has also been engaged in a number of investigations, and has published several reports.

No.	Name	Address	Profession
1	John Doe	123 Main St.	Teacher
2	Jane Smith	456 Elm St.	Housewife
3	Robert Brown	789 Oak St.	Businessman
4	Mary White	101 Pine St.	Student
5	James Black	202 Cedar St.	Farmer
6	Elizabeth Green	303 Birch St.	Artist
7	William Gray	404 Spruce St.	Engineer
8	Anna King	505 Willow St.	Musician
9	Charles Lee	606 Poplar St.	Lawyer
10	Sarah Hall	707 Magnolia St.	Writer
11	Thomas Young	808 Sycamore St.	Scientist
12	Patricia King	909 Dogwood St.	Journalist
13	Richard Hill	1010 Redwood St.	Historian
14	Laura Scott	1111 Cypress St.	Designer
15	George Adams	1212 Juniper St.	Physician
16	Karen Baker	1313 Fir St.	Translator
17	Edward Clark	1414 Hemlock St.	Architect
18	Michelle Evans	1515 Palm St.	Researcher
19	Christopher Lewis	1616 Cedar St.	Entrepreneur
20	Stephanie Walker	1717 Birch St.	Editor
21	Benjamin Hall	1818 Spruce St.	Engineer
22	Rebecca King	1919 Willow St.	Musician
23	Jonathan Lee	2020 Poplar St.	Lawyer
24	Christina Scott	2121 Magnolia St.	Writer
25	Gregory Adams	2222 Sycamore St.	Scientist
26	Victoria Baker	2323 Dogwood St.	Journalist
27	Timothy Clark	2424 Redwood St.	Historian
28	Deborah Evans	2525 Cypress St.	Designer
29	Robert Lewis	2626 Juniper St.	Physician
30	Elizabeth Walker	2727 Fir St.	Translator
31	William King	2828 Hemlock St.	Architect
32	Maria Hill	2929 Palm St.	Researcher
33	Joseph Scott	3030 Cedar St.	Entrepreneur
34	Christine Adams	3131 Birch St.	Editor
35	Christopher Baker	3232 Spruce St.	Engineer
36	Michelle Clark	3333 Willow St.	Musician
37	Benjamin Evans	3434 Poplar St.	Lawyer
38	Stephanie Lewis	3535 Magnolia St.	Writer
39	Gregory Walker	3636 Sycamore St.	Scientist
40	Victoria King	3737 Dogwood St.	Journalist
41	Timothy Hill	3838 Redwood St.	Historian
42	Deborah Scott	3939 Cypress St.	Designer
43	Robert Adams	4040 Juniper St.	Physician
44	Elizabeth Baker	4141 Fir St.	Translator
45	William Clark	4242 Hemlock St.	Architect
46	Maria Evans	4343 Palm St.	Researcher
47	Joseph Lewis	4444 Cedar St.	Entrepreneur
48	Christine Walker	4545 Birch St.	Editor
49	Christopher King	4646 Spruce St.	Engineer
50	Michelle Hill	4747 Willow St.	Musician
51	Benjamin Scott	4848 Poplar St.	Lawyer
52	Stephanie Adams	4949 Magnolia St.	Writer
53	Gregory Baker	5050 Sycamore St.	Scientist
54	Victoria Clark	5151 Dogwood St.	Journalist
55	Timothy Evans	5252 Redwood St.	Historian
56	Deborah Lewis	5353 Cypress St.	Designer
57	Robert Walker	5454 Juniper St.	Physician
58	Elizabeth King	5555 Fir St.	Translator
59	William Hill	5656 Hemlock St.	Architect
60	Maria Scott	5757 Palm St.	Researcher
61	Joseph Adams	5858 Cedar St.	Entrepreneur
62	Christine Baker	5959 Birch St.	Editor
63	Christopher Clark	6060 Spruce St.	Engineer
64	Michelle Evans	6161 Willow St.	Musician
65	Benjamin Lewis	6262 Poplar St.	Lawyer
66	Stephanie Walker	6363 Magnolia St.	Writer
67	Gregory King	6464 Sycamore St.	Scientist
68	Victoria Hill	6565 Dogwood St.	Journalist
69	Timothy Scott	6666 Redwood St.	Historian
70	Deborah Adams	6767 Cypress St.	Designer
71	Robert Baker	6868 Juniper St.	Physician
72	Elizabeth Clark	6969 Fir St.	Translator
73	William Evans	7070 Hemlock St.	Architect
74	Maria Lewis	7171 Palm St.	Researcher
75	Joseph Walker	7272 Cedar St.	Entrepreneur
76	Christine King	7373 Birch St.	Editor
77	Christopher Hill	7474 Spruce St.	Engineer
78	Michelle Scott	7575 Willow St.	Musician
79	Benjamin Adams	7676 Poplar St.	Lawyer
80	Stephanie Baker	7777 Magnolia St.	Writer
81	Gregory Clark	7878 Sycamore St.	Scientist
82	Victoria Evans	7979 Dogwood St.	Journalist
83	Timothy Lewis	8080 Redwood St.	Historian
84	Deborah Walker	8181 Cypress St.	Designer
85	Robert King	8282 Juniper St.	Physician
86	Elizabeth Hill	8383 Fir St.	Translator
87	William Scott	8484 Hemlock St.	Architect
88	Maria Adams	8585 Palm St.	Researcher
89	Joseph Baker	8686 Cedar St.	Entrepreneur
90	Christine Clark	8787 Birch St.	Editor
91	Christopher Evans	8888 Spruce St.	Engineer
92	Michelle Lewis	8989 Willow St.	Musician
93	Benjamin Walker	9090 Poplar St.	Lawyer
94	Stephanie King	9191 Magnolia St.	Writer
95	Gregory Hill	9292 Sycamore St.	Scientist
96	Victoria Scott	9393 Dogwood St.	Journalist
97	Timothy Adams	9494 Redwood St.	Historian
98	Deborah Baker	9595 Cypress St.	Designer
99	Robert Clark	9696 Juniper St.	Physician
100	Elizabeth Evans	9797 Fir St.	Translator

The Commission has during the year been engaged in a number of important tasks, and has made considerable progress in its work. It has held several meetings, and has received many suggestions from the public. It has also been engaged in a number of investigations, and has published several reports.

FOREST RECEIPTS

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FOURTH RECEIPTS

Particulars

Amount

1872

1873

1874

1875

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1877

1878

1879

1880

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FOREST RECEIPTS

7.1 Results of Audit

Test check of records maintained in the offices of the Divisional Forest Officers, Assam, conducted in Audit during 1997-98 revealed losses/blocking up of revenue amounting to Rs.1072.21 lakh in 126 cases, which fall into the following categories:

Sl.No.	Particulars	No. of cases	Amount (Rs. in lakh)
1.	Blocking up of revenue due to non-disposal of unclaimed seized timber	6	118.06
2.	Settlement/delay in settlement of mahal/quarry	7	21.69
3.	Loss of revenue due to non-disposal/delay in disposal of timber	4	6.59
4.	Miscellaneous	109	925.87
<i>Total</i>		<i>126</i>	<i>1072.21</i>

The Department has accepted audit observations involving Rs.43.22 lakh in 4 cases of which Rs.1.09 lakh has been recovered. A few illustrative cases involving Rs.976.61 lakh highlighting important audit observations are mentioned in the following paragraphs:

7.2 Non-recovery of royalty and monopoly fee

According to Rules framed under Assam Forest Regulations, 1891, Government Departments are permitted to extract forest produce for their departmental use on prior payment of royalty by engaging contractor or otherwise. A

transit pass should be issued by an authorised Forest Officer in token of full payment of the amount due to Government on account of forest produce. Further under the Government Notification dated 16 July 1992 monopoly fee up to 200 per cent on the royalty shall be imposed on the excess quantity of forest produce collected unauthorisedly.

(i) A test check (April - May 1998) revealed that the Divisional Forest Officer, Kamrup west Division, issued permits for 1000 cu.m. of earth, 3750 cu.m. of sand and 29,650 cu.m. of Ballast (Stone materials) to the authorised contractors of the N.F.Railway, for construction of B.G. line from Mirza to Dhupdhara, against which they collected 20,57,696 cu.m. of earth, 4869 cu.m. of Sand and 38485 cu.m. of Ballast. Though the royalty of Rs.171.28 lakh on the excess quantity extracted was levied (November 1996), the same has not been recovered (December 1998). Besides, Monopoly Fee of Rs.342.56 lakh was not imposed (December 1998).

The matter was reported to the department and the Government (May 1998); but their replies have not been received (December 1998).

(ii) Test check of the records of Cachar and Hailakandi Forest divisions revealed (October-November 1996) that the department realised royalty of Rs.40.24 lakh against the due royalty of Rs.57.43 lakh for supply of 91,884 tonnes of bamboos to the Hindusthan Paper Corporation during 1994-95 and 1995-96. The department stated that the under realisation of Rs.17.19 lakh was due to excess deduction of 27,510 tonnes on account of moisture as against the admissible quantity of 10,209 tonnes. However, the department has not taken any action to recover the excess amount of royalty deducted by corporation on account of excess moisture so far (December 1998).

The matter was reported to the department and the Government (December 1996 and January 1997); but their replies have not been received (December 1998).

7.3 Loss of revenue due to illicit felling and removal of timber

Under the Assam Forest Regulation, 1891 and Rules framed thereunder felling/removal of forest produce from forest areas without valid authorisation, constitutes a forest offence punishable with fine. Forest produce removed illegally is also liable to be seized by forest officials. To prevent such illegal felling/removal of forest produce, the department has deployed Forest Protection Squads and Forest Protection Force in the forest areas.

Audit of the records of Kamrup West Division (April-May 1998) and Sonitpur West Division (November 1995) revealed that a total of 11,516.760 cu.m. of forest produce had been illegally felled by miscreants in the reserve forest of Bamunigaon and Singara Range during 1995-96 and 1996-97 and in Balipara Range during April 1994. Out of these, 2606.804 cu.m. was recovered and the remaining 8909.872 cu.m. valued at Rs. 288.20 lakh could not be recovered. Failure of the department to protect

Reserve Forest from illegal felling and prevent removal of timber resulted in loss of revenue of Rs.288.20 lakh.

The matter was reported to the department and the Government (May 1998 and February 1996); their replies have not been received (December 1998).

7.4 Blocking of revenue due to non-realisation of royalty

The Government of Assam, Forest Department, in their notification of December 1993, specified that the departmental contractors registered with the Government, engaged in the execution of works of departments such as P.W.D., Flood Control, Irrigation and Public Health Engineering, may be allowed to collect forest produce on payment of 25 per cent of royalty in advance and the balance 75 per cent to be deducted at source at the time of payment of running or final bill by the department concerned in one instalment.

(i) Test check of records of Kamrup West Division (April-May 1998) revealed that permits for sand/stone were issued to Embankment and Drainage (E&D) and Flood Control (FC) Departments during 1995-96, 1996-97 and 1997-98 on payment of 25 per cent of royalty. Balance 75 per cent of royalty amounting to Rs.83.89 lakh had, however, not been realised upto April 1998. Neither had any action been initiated nor any guidelines issued by the Forest Department for recovering the amount of royalty. This resulted in blocking of Government revenue to the extent of Rs.83.89 lakh.

The matter was reported to the department and Government (May 1998); their replies have not been received (December 1998).

(ii) Test check of records of the Divisional Forest officer, Cachar Forest Division, Silchar (November 1995) revealed that an amount of Rs.34.76 lakh being the balance of 75 per cent of the forest royalty of the forest produce was not collected by the Forest Department from 7 Public Works Divisions* of the State Government for the period from January 1994 to November 1995. No action was taken by the forest department for recovering the amounts of royalty.

On this being pointed out (January 1996), the department accepted (June 1998) that the progress of realisation of 75 percent royalty was not at all satisfactory. Out of Rs.34.76 lakh only Rs.1.09 lakh was realised. This resulted in non-realisation of Government revenue to the extent of Rs.33.67 lakh (Rs.34.76 lakh - Rs.1.09 lakh).

The matter was reported to the Government (January 1996); their reply has not been received (December 1998).

* P.W.D. Road Division, Silchar, Flood Control Division, Silchar, P.W.D. Division No.1 Silchar, P.W.D Building Division No.II, Silchar, N.E.C Division No.1, Silchar, N.E.C. Division No.2, Silchar and Irrigation Division, Karimganj.

7.5 Loss of revenue due to selective negotiations

The Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977, empower the Government to enter into settlement of mahals through private negotiations with the mahaldar at its discretion. The Supreme Court has held^{**} that the expression "private negotiation" also should fulfil the essential attributes of tender sale or public auction i.e., it must be with intimation to the intending purchasers and after giving them opportunity to make offers of negotiation, so that the negotiation might be held with them and state property disposed of in a manner so as to subserve the public weal.

(i) Audit of the East Kamrup Forest Division, revealed (February 1998) that Digaru Sand Mahal No. I was settled for the period from 1 May 1993 to 30 April 1995 at Rs. 21.11 lakh for the stipulated quantity of 25000 cu.m. of sand by tender sale. The mahal was trifurcated into three mahals by the Government in September 1995 viz Digaru Sand Mahal No.-1(A), 1(B) and 1(C) with the estimated quantities of sand of 8000 cu.m., 5000 cu.m. and 8000 cu.m. respectively for augmenting revenue. In the process, the amalgamated Digaru sand mahal No. I remained inoperative for the period from May 1995 to September 1995 resulting in loss of revenue of Rs. 4.40 lakh (calculated on the basis of the last settled value).

The trifurcated mahals for the working period 30 October 1995 to 29 October 1997, 27 October 1995 to 26 October 1997 and 22 November 1995 to 21 November 1997 respectively were settled by the Government through selective negotiation in September 1995 at Rs. 11.55 lakh for extraction of 21000 cu.m. of sand. The Government thus had foregone revenue to the tune of Rs. 6.17 lakh due to negotiated settlement at lower rates as compared with the last settlement.

The matter was reported to the department and the Government (April 1998); but their replies have not been received (December 1998).

(ii) Audit of the records of the Divisional Forest Officer, Nagaon revealed (May 1997) that the Misari Sand Mahal No. I was settled at Rs. 3.75 lakh through direct negotiation with one Mahaldar only for extraction of 2500 cu.m. of sand for the working period from 10 October 1996 to 9 October 1998. The same mahal for the previous term was settled with the same Mahaldar for the same quantity of sand at Rs. 5.37 lakh on tender sale. Thus the Government sustained a loss of revenue of Rs. 1.62 lakh (Rs. 5.37 lakh -Rs. 3.75 lakh) due to direct settlement of mahal.

On this being pointed out, the department, while accepting the audit observation, stated (March 1998) that the resultant loss of Rs. 1.62 lakh was due to Government's decision to settle the mahal directly.

^{**} Ram and Shyam Company vs. State of Haryana (1985) 3 SCC 267,283.

The matter was reported to the Government (November 1997); their reply has not been received (December 1998).

7.6 Loss of revenue due to non-acceptance of highest bid

According to the provisions of the Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977, forest produce is disposed of by tender system or auction at competitive rates. As per normal practice the highest competitive bid is accepted by the department in the interest of augmenting revenue.

Test check of the accounts of the Divisional Forest Officer, North Kamrup Division, revealed (January-February 1998) that 20 lots containing 193.453 cu.m. of timber of teak and sal species, seized during 1994-95 and 1995-96 under Barpeta Range, were put to sale on different dates between April 1995 and May 1996. But the sale was not effected, without any recorded reason, despite receipt of bid value of Rs.16.58 lakh against the government valuation of Rs.6.09 lakh. The lots were ultimately disposed of on realisation of a bid value of Rs.7.87 lakh. This resulted in loss of revenue of Rs.8.71 lakh due to non acceptance of the highest bid on the first occasion.

The matter was reported to the Government and the department (May 1998); their replies have not been received (December 1998).

7.7 Loss of revenue due to delay in disposal of timber

The Scheme of departmental operation of timber envisages expeditious disposal of soft wood species of timbers such as Hollong, Bonsum etc., which lose their commercial value after 3 months of felling due to infection and vagaries of weather. As per departmental procedure, immediately after seizure of forest produce, a detailed report thereon is required to be submitted to the Divisional Forest Officer by the concerned Range Officer, under whose jurisdiction seizure took place, to enable the former to effect speedy disposal of the seized produce.

(i) Test check of the records of the Sibsagar Forest Division revealed (August-September 1996) that 141.191 cu.m. of timbers representing soft wood trees of Hollong species were seized during July 1995. Of these 93.672 cu.m. of timber was brought to the depot while the balance of 47.519 cu.m. was not operated from the forest area. Out of the timber brought to the department, 21.467 cu.m. of timber was neither sold nor operated for conversion into plywood etc. till it lost its commercial value due to long storage. Thus non operation of 47.519 cu.m timber from the forest area and non-conversion of 21.467 cu.m of timber into plywood etc. resulted in loss of revenue of Rs.2.01 lakh.

On this being pointed in November 1996, the department admitted the loss.

(ii) A test check (October -November 1995) of records of the Sonitpur West Division revealed that 10 lots of Bonsum trees containing 90.626 cu.m. of timber valued at Rs.2.85 lakh were seized/operated departmentally during 1993-94 in Dhekiajuli Range. The lots were put to sale in July 1993 and again in May 1995 but could not be disposed of. The lots were finally handed over in May 1995 to Logging Range, Dhekiajuli for utilisation/operation in the departmental saw mill. As the timber was of soft nature it lost its commercial value due to long storage and could not be utilised/operated in the saw mills. Thus prolonged delay in transferring the lots of soft timber to the departmental saw mill for use/operation, resulted in loss of revenue of Rs.2.85 lakh being the value of this timber.

The matter was reported to the department and the Government (February 1996); but their replies have not been received (December 1998).

7.8 Loss of revenue due to grant of unauthorised extension of mahal

According to the Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977, no extension of period of lease of a mahal is ordinarily admissible. In exceptional circumstances the Government reserves to itself the power to grant extension of mahal period on the merit of the case considering the condition attached to the rule. By Judicial Pronouncement of Hon'ble High Court, Guwahati (1 GLR 399), the said power of the Government had been restricted to the extent that extension orders should be issued before the expiry of the original lease period.

(i) Scrutiny of records (April-May 1998) of the Divisional Forest officer, Kamrup West Division revealed that Government settled the Chaygaon Sand Mahal No.2 for Rs.5.51 lakh for the period from 19 April 1994 to 31 March 1996 for extraction of 10,000 cu.m. of sand. The Government extended the mahal period (August 1996) by one year to the existing mahaldar to extract the balance quantity of 595 cu.m. on payment of extension fee of .25 per cent. The extension of mahal with the existing mahaldar after the expiry of the lease of mahal (August 1996) was not in accordance with the Judicial Pronouncement of the High Court. The irregular grant of extension of mahal resulted in loss of revenue of Rs.3.36 lakh.

The matter was reported to the department and the Government (May 1998); their replies had not been received (December 1998).

(ii) It was noticed in Audit (February 1998) that in East Kamrup Forest Division, Chamata Stone Mahal No. I was settled (March 1991) for Rs. 0.66 lakh for extraction of 2800 cu.m. of stone and 280 cu.m. of stone dust within the working period from May 1991 to April 1993. The Government extended (February 1996) the working period for one year from 20 September 1996 to extract the remaining quantity of 3080 cu.m. of stone and dust on realisation of Rs.0.66 lakh against the value of Rs.2.16 lakh. As extension after the expiry of 1st settlement was in deviation of the High Court

ruling, Government order of February 1996 besides being irregular also resulted in loss of Rs.1.50 lakh.

The matter was reported to the department and the Government (April 1998); their replies have not been received (December 1998).

7.9 Loss of revenue due to extension of mahal period

According to the Assam Sale of Forest Produce, Coupes and Mahals Rules, 1977, a Mahaldar is required to pay the Mahal dues in regular quarterly instalments on due dates as provided in the agreement. Extension of Mahal period may be granted by the Government only in exceptional circumstances provided, inter alia, that the Mahal dues shall not have fallen in arrears due to lapse on the part of the Mahaldar.

Test check of the records of Sibsagar Forest Division, (August-September 1996) revealed that the Bihubor Stone Quarry No.7 was settled (January 1992) at Rs.2.80 lakh for extraction of 7000 cu.m. of stone during the period from 7 March 1992 to 6 March 1994. The Mahaldar defaulted in making payment of the last two instalments by periods ranging from ten to eleven months. He was however granted (September 1994) extension of working period for one year continued upto November 1995 for collecting the balance quantity of 1830 cu.m. of stone on realisation of Rs.0.84 lakh. He was further allowed to extract additional quantity of 3500 cu.m. of stone on realisation of royalty of Rs. 3.29 lakh (including extension fee) up to September 1997. The mahal though settled at Rs.6.72 lakh for extraction of 8000 cu.m. of stone with another mahaldar for the year 1995-97, could not be operated upon due to grant of extension to the existing Mahaldar. The grant of extension of mahal period when it had already been settled with another Mahaldar was incorrect and resulted in loss of revenue of Rs. 4.83 lakh.

On this being pointed out, the department has accepted the fact (May 1997).

The matter was reported to the department and the Government (November 1996); their replies have not been received (December 1998).

7.10 Loss of revenue due to lapse on the part of the department

According to the Assam Forest Regulation, 1891, protection of forest property is the primary responsibility of the Forest Department. For this purpose Forest Protection Force has been deployed by the Government. Scrutiny of the records of the Divisional Forest Officer, Sibsagar Division revealed that the Range Officer, Sonari Division reported (May 1995) that wind fallen trees with 94.333 cu.m. of timber

valued at Rs.1.95 lakh were lying under compartment 16 and 17 of Abheypur Reserve Forest and sought funds for operation of the same. No funds were, however, made available to the Range for meeting the operation. The Range Officer subsequently informed (July 1996) that out of 94.333 cu.m. only 40 cu.m. of timber from wind fallen trees was found lying in the forest and balance 54.333 cu.m. of timbers valued at Rs.1.31 lakh was missing. Thus inaction on the part of department for timely operation of the timber resulted in loss of Rs.1.31 lakh

On this being pointed out, the department stated (July 1997) that the wind fallen trees could not be operated in time due to non-availability of funds. This resulted in loss of revenue of Rs.1.31 lakh.

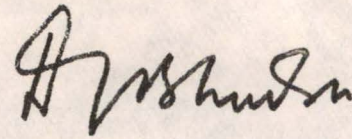
The matter was reported to the Government (August 1996); their replies have not been received (December 1998).

7.11 Loss of revenue due to sale of timber at reduced rate

According to the provision of Assam Sale of Forest Produce, Coupes and Mahals Rules, 1977, forest produce is disposed of by tender system or auction at competitive rates. The rules ibid, however, empower the Government to sell forest produce by private negotiation, but there is no provision to allow concessional rate in such sale. There is also no definite norms for determination of rate, while arranging sale by private negotiation. The normal practice followed is that the rate in such a sale is fixed by taking existing royalty rates, departmental cost and monopoly fees at variable percentage from case to case into consideration. Further by a judicial pronouncement, the Supreme Court has held that the expression 'private negotiation' also should fulfil the essential attributes of tender sale on public auction i.e., it must be with intimation to the intending purchasers and after giving them opportunity to make offers of negotiation so that negotiation might be held with them, and state property disposed of in such a manner as to subserve the public weal.

During the course of audit of the Divisional Forest Officer, Nagaon South Division (February-March 1996) it was noticed that Government issued permit (February 1995) by private negotiation to Saw Mill, M/s Lanka Timber Veneer Industries Private Ltd., Lanka, (September 1995) to lift 171.428 cu.m. of sal timber at the rate fixed on the average rate of last three sales of the division i.e, Rs.3600 per cu.m. instead of fixing the sale price by taking into account the royalty rates, departmental operation cost and monopoly fee. The Divisional records also revealed that the Mill lifted 171.238 cu.m of Sal timber on payment of Rs.6.16 lakh (Rs.3600 x 171.238 cu.m) against the Government valuation of Rs.8.13 lakh (Royalty: Rs.6.30 lakh + departmental operation cost : Rs.1.20 lakh + 10% monopoly fee : Rs.0.63 lakh). This resulted in loss of revenue to the extent of Rs.1.97 lakh.

The matter was reported to the department and the Government (May 1996); their replies have not been received (December 1998).

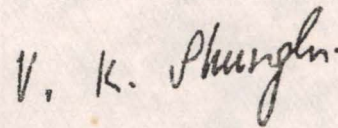


(D.J. BHADRA)
Accountant General (Audit)
Assam

GUWAHATI
The

20 JAN 1999

Countersigned



(V.K. SHUNGLU)
Comptroller and Auditor General
of India

NEW DELHI
The

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