

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

FOR THE YEAR ENDED 31 MARCH 2006

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

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Preface

This report for the year ended 31 March 2006 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, State excise, land revenue, taxes on motor vehicles, stamp duty and registration fees, other tax and non tax 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 2005-06 as well as those noticed in earlier years, which could not be included in previous reports.

Preface

This report for the year ended 31 March 2000 has been prepared for submission to the Governor under Article 141 of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (States) Powers and Conditions of Service Act, 1971. This report presents the results of audit of receipts comprising sales tax, excise and revenue taxes on motor vehicles, stamp duty and transaction fees, other tax and non tax receipts of the State.

The errors mentioned in this report are among those which came to notice in the course of test audit of receipts during the year 2002-03 as well as those reported in earlier years which could not be included in previous reports.

Overview

This Report contains 35 paragraphs including two reviews relating to non/short levy of taxes, duties, interest and penalty, etc., involving Rs 1,332.03 crore. Some of the major findings are mentioned below:

1. General

- Total receipts of the State during the year 2005-06 amounted to Rs 47,671.16 crore, of which revenue raised by the State Government was Rs 38,708.16 crore and receipts from the Government of India were Rs 8,963 crore. The revenue raised constituted 81 *per cent* of the total receipts of the State. The receipts from the Government of India included Rs 4,982 crore on account of the State's share of divisible Union taxes and Rs 3,981 crore as grants in aid and registered an increase of 38.58 *per cent* and 47.79 *per cent* respectively over 2004-05.

{Paragraph 1.1}

- At the end of 2005-06, arrears in respect of some taxes administered by the departments of Finance and Home amounted to Rs 15,236.56 crore, of which sales tax etc., alone accounted for Rs 15,226.79 crore.

{Paragraph 1.6}

- In respect of the taxes administered by the Finance Department, such as sales tax, motor spirit tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts etc., 4.31 lakh assessments were completed during 2005-06, leaving a balance of 44.19 lakh assessments as on 31 March 2006.

{Paragraph 1.7}

- Test check of records of sales tax, State excise, motor vehicles tax, stamp duty and registration fees, land revenue and other departmental offices conducted during the year 2005-06 revealed underassessment, short levy and loss of revenue, etc., amounting to Rs 1,607.49 crore in 11,296 cases. The departments concerned accepted underassessment, short levy, etc., of Rs 27.74 crore in 4,87 cases pointed out in 2005-06 and earlier years and recovered Rs 21.18 crore.

{Paragraph 1.11}

- At the end of June 2006, 13,113 paragraphs involving Rs 1,072.83 crore relating to 5,244 inspection reports issued upto 31 December 2005 remained outstanding.

{Paragraph 1.12}

2. Sales Tax

- Non/short accountal of goods, incorrect claims for concessional rate of tax and claims supported by bogus/invalid declarations relating to interstate sales of Rs 12.55 crore resulted in underassessment of Rs 2.09 crore.

{Paragraph 2.2.3}

- Incorrect allowance of deduction of interstate sales as sales in the course of transit without supporting prescribed declarations resulted in underassessment of Rs 1.32 crore.

{Paragraph 2.3}

- Due to application of incorrect rate of tax, incorrect exemption, incorrect levy of concessional rate of tax and incorrect deduction from the turnover of sales, there was underassessment of tax of Rs 6.27 crore.

{Paragraph 2.7}

- Non/short levy of turnover tax/additional tax resulted in underassessment of Rs 1.02 crore.

{Paragraph 2.8}

- Incorrect grant of set off under various provisions of Act resulted in underassessment of Rs 1.58 crore.

{Paragraph 2.9}

3. Stamp Duty and Registration Fees

- Due to misclassification of instruments of conveyance, power of attorney, transfer of development rights and transfer of lease, there was short levy of stamp duty of Rs 59.06 crore.

{Paragraph 3.2}

4. Land Revenue

- Review on 'Encroachment on Government Land in Urban Areas' revealed the following:

Government share of Rs 20.47 crore on account of consolidated charges was not realised.

{Paragraph 4.2.12}

Penal occupancy price of Rs 20.41 crore was not levied in two cases of unauthorised retention of Government land.

{Paragraph 4.2.13}

5. Other Tax Receipts

- Non remittance of repairs and reconstruction cess collected by the Brihan Mumbai Municipal Corporation (BMC) into the Government account amounted to Rs 38.28 crore.

{Paragraph 5.2.2}

- Non prescription of the rate of cess for enhanced cost of repairs by the Mumbai Repairs and Reconstruction Board resulted in foregoing of revenue of Rs 27.18 crore at proposed rates.

{Paragraph 5.2.4}

- Short/non remittance of education and employment guarantee cess collected by BMC, Nagpur and Pune Municipal Corporations into the Government account amounted to Rs 19.77 crore.

{Paragraph 5.5}

- Non remittance of tax on buildings (with larger residential premises) collected by BMC, Pune and Solapur Municipal Corporations amounted to Rs 3.52 crore.

{Paragraph 5.6}

- Interest of Rs 73.15 crore was not levied and demanded from the Maharashtra State Electricity Board for delay in remittance of electricity duty collected between August 2005 and March 2006.

{Paragraph 5.8}

6. Non Tax Receipts

- Review on 'Levy and Collection of Mineral Receipts' revealed the following:

Failure to adhere to the norms for inspections indicated lack of proper monitoring and internal control.

{Paragraph 6.2.9.1}

Non functioning of Central Flying Squad in the Directorate of Geology and Mining upto 2003-04 and non functioning in the Deputy Director offices indicated inadequate vigilance on mining activities in the State.

{Paragraph 6.2.9.2}

Irregular adjustment of royalty towards surface rent resulted in short recovery of royalty of Rs 2.92 crore.

{Paragraph 6.2.10}

Non/short recovery of royalty resulted in non realisation of Rs 13.37 crore.

{Paragraphs 6.2.11 & 6.2.15}

Interest of Rs 2.53 crore was not levied on belated payments of royalty.

{Paragraph 6.2.12}

Penalty of Rs 796.53 crore for illicit extraction of minor minerals by five irrigation development corporations was not levied and demanded.

{Paragraph 6.2.14.1}

- Guarantee fees of Rs 222.21 crore was not paid by seven corporations and an autonomous body for various periods between April 2003 and April 2006.

{Paragraph 6.3}

- Failure to collect in advance the cost of police force supplied to the Aurangabad Municipal Corporation amounted to Rs 1.39 crore for the period from April 2000 to November 2005.

{Paragraph 6.4}

- The Godavari Marathwada Irrigation Development Corporation, Aurangabad unauthorisedly retained cess on water charges of Rs 32.28 crore, collected on supply of water from irrigation projects without crediting it to Government account.

{Paragraph 6.5}

CHAPTER I: GENERAL

1.1 Trend of revenue receipts

Tax and non tax revenue raised by Government of Maharashtra during the year 2005-06, State's share of divisible Union taxes and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

Sl. no.	Particulars	2001-02	2002-03	2003-04	2004-05	2005-06
I.	Revenue raised by the State Government					
	• Tax revenue	21,287.64	22,799.45	25,162.16	30,605.75	33,540.24*
	• Non tax revenue ¹	4,538.66 (4,655.08)	4,249.48 (4,517.47)	2,964.76 (3,548.94)	3,505.22 (4,118.83)	5,167.92 (5,935.05)
	Total	25,826.30 (25,942.72)	27,048.93 (27,316.92)	28,126.92 (28,711.10)	34,110.97 (34,724.58)	38,708.16 (39,475.29)
II.	Receipts from Government of India					
	• State's share of divisible Union taxes	2,468.76	2,279.97	3,389.49	3,595.03	4,982.00**
	• Grants in aid	1,681.47	1,506.15	2,269.93	2,693.72	3,981.00
	Total	4,150.23	3,786.12	5,659.42	6,288.75	8,963.00
III.	Total receipts of the State	29,976.53 (30,092.95)	30,835.05 (31,103.04)	33,786.34 (34,370.52)	40,399.72 (41,013.33)	47,671.16 (48,438.29)
IV.	Percentage of I to III	86	88	83	84	81

* Includes Rs 159.16 crore collected by various agencies/banks on 31 March 2005 pertaining to 2004-05 and accounted for in 2005-06.

¹ Lottery receipts included in non tax revenue are net of expenditure on prize winning tickets.

Figures in brackets indicate gross receipts.

Note: For details, please see Statement No. 11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Government of Maharashtra for the year 2005-06. Figures under the head "0020-Corporation tax, 0021 - Taxes on Income other than corporation tax, 0028- Other taxes on income and expenditure, 0032 - Wealth tax, 0037 - Customs, 0038 - Union excise duties, 0044- Service tax, 0045- Other taxes and duties on commodities and services" - share of net proceeds assigned to the State booked in the Finance Accounts under tax revenue have been excluded from revenue raised by the State and included in the State's share of divisible Union taxes in this Statement.

** Includes Rs 260.19 crore pertaining to the year 2004-05 adjusted during the year.

1.1.1 The details of tax revenue raised during the year 2005-06 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. no.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+)/decrease (-) in 2005-06 over 2004-05
1.	Sales tax						
	• State sales tax etc.	10,071.89	11,746.21	12,795.01	16,399.62	17,358.56 ²	(+) 5.85
	• Central sales tax	2,059.50	1,742.14	2,530.95	2,417.10	2,318.18 ³	(-) 4.09
2.	State excise	1,787.26	1,938.68	2,324.42	2,218.87	2,823.85	(+) 27.27
3.	Stamp duty and registration fees	2,442.68	2,823.11	3,354.06	4,116.49	5,265.86 ⁴	(+) 27.92
4.	Taxes and duties on electricity	1,034.26	1,149.18	629.72	1,673.76	1,660.87	(-) 0.77
5.	Taxes on vehicles	947.79	941.23	1,205.97	1,177.14	1,309.11 ⁵	(+) 11.21
6.	Taxes on goods and passengers	1,027.39	245.03	231.91	427.75	504.63	(+) 17.97
7.	Other taxes on income and expenditure- tax on professions, trades, callings and employments	981.98	1,028.56	1,018.77	1,076.57	1,157.70 ⁶	(+) 7.54
8.	Other taxes and duties on commodities and services	674.27	798.90	710.86	737.73	712.40 ⁷	(-) 3.43
9.	Land revenue	260.46	386.41	360.49	360.72	428.97	(+) 18.92
10.	Taxes on agricultural income	0.16	--	--	--	--	
11.	Service tax	--	--	--	--	0.11	--
	Total	21,287.64	22,799.45	25,162.16	30,605.75	33,540.24	

The reasons for variations in receipts during 2005-06 over the receipts during 2004-05 were as under:

State excise: The increase was mainly due to more receipts under country liquor and other receipts.

Stamp duty and registration fees: The increase was mainly due to more receipts under duty on impressing of documents.

² Includes Rs 130.70 crore collected by various agencies/banks on 31 March 2005 pertaining to 2004-05 and accounted for in 2005-06.

³ Includes Rs 13.47 crore collected by various agencies/banks on 31 March 2005 pertaining to 2004-05 and accounted for in 2005-06.

⁴ Includes Rs 3.14 crore collected by various agencies/banks on 31 March 2005 pertaining to 2004-05 and accounted for in 2005-06.

⁵ Includes Rs 2.48 crore collected by various agencies/banks on 31 March 2005 pertaining to 2004-05 and accounted for in 2005-06.

⁶ Includes Rs 6.98 crore collected by various agencies/banks on 31 March 2005 pertaining to 2004-05 and accounted for in 2005-06.

⁷ Includes Rs 2.39 crore collected by various agencies/banks on 31 March 2005 pertaining to 2004-05 and accounted for in 2005-06.

Land revenue: The increase was mainly due to more receipts from sale of Government estates.

The reasons for variations in respect of other receipts have not been received from departments concerned (December 2006).

1.1.2 The details of major non tax revenue raised during the year 2005-06 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. no.	Head of revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage of increase (+)/ decrease (-) in 2005-06 over 2004-05
1.	Interest receipts	1,845.60	1,777.27	356.91	737.46	1,737.24	(+) 135.57
2.	Dairy development	885.83	800.51	774.73	676.10	612.25	(-) 9.44
3.	Other non tax receipts	616.08	245.07	547.93	584.56	614.21	(+) 5.07
4.	Forestry and wild life	134.14	104.58	86.33	88.62	92.02	(+) 3.84
5.	Non ferrous mining and metallurgical industries	347.17	400.61	475.50	574.80	698.00	(+) 21.43
6.	Miscellaneous general ⁸ services (including lottery receipts)	125.55	290.14	113.65	117.17	390.69	(+) 233.44
7.	Power	85.70	85.79	1.32	5.16	174.61	(+) 3,283.91
8.	Major and medium irrigation	86.03	113.05	230.69	335.68	372.39	(+) 10.94
9.	Medical and public health	109.78	95.89	91.53	107.98	126.92	(+) 17.54
10.	Co-operation	71.26	63.01	60.06	48.86	55.76	(+) 14.12
11.	Public works	62.71	54.31	65.26	64.29	88.82	(+) 38.16
12.	Police	110.78	152.77	102.75	96.63	106.60	(+) 10.32
13.	Other administrative services	58.03	66.48	58.10	67.91	98.41	(+) 44.91
	Total	4,538.66	4,249.48	2,964.76	3,505.22	5,167.92	

The reasons for significant increase in receipts during 2005-06 over the receipts during 2004-05 were as under:

Interest receipts: The increase was mainly due to more receipts on loans given to the Maharashtra State Electricity Board.

Miscellaneous general services: The increase was mainly due to more receipts from State lotteries and guarantee fees.

⁸ Figure is net of expenditure on prize winning lottery tickets.

Power: The increase was due to more receipts under hydro electric works and other receipts.

Public works: The increase was mainly due to more receipts under the head, "Recovery of centage charges".

Reasons for variations in respect of other receipts have not been received from departments concerned (December 2006).

1.2 Variations between the budget estimates and actuals

The variations between budget estimates and actuals of revenue receipts for the year 2005-06 in respect of principal heads of tax and non tax revenue are given below:

(Rupees in crore)

Sl. no.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Sales tax and other taxes*	22,128.41	19,676.74	(-) 2,451.67	(-) 11.08
2.	State excise	2,800.00	2,823.85	(+) 23.85	(+) 0.85
3.	Stamp duty and registration fees	4,500.00	5,265.86	(+) 765.86	(+) 17.02
4.	Taxes and duties on electricity	1,454.00	1,660.87	(+) 206.87	(+) 14.23
5.	Taxes on vehicles	1,350.00	1,309.11	(-) 40.89	(-) 3.03
6.	Taxes on goods and passengers	511.00	504.63	(-) 6.37	(-) 1.25
7.	Other taxes on income and expenditure- tax on professions, trades, callings and employments	1,072.00	1,157.70	(+) 85.70	(+) 7.99
8.	Other taxes and duties on commodities and services	1,058.20	712.40	(-) 345.80	(-) 32.68
9.	Land revenue	424.07	428.97	(+) 4.90	(+) 1.16
10.	Interest receipts	784.24	1,737.24	(+) 953.00	(+) 121.52
11.	Dairy development	553.08	612.25	(+) 59.17	(+) 10.70
12.	Other non tax receipts	556.15	614.21	(+) 58.06	(+) 10.44
13.	Forestry and wild life	126.46	92.02	(-) 34.44	(-) 27.23
14.	Non ferrous mining and metallurgical industries	525.00	698.00	(+) 173.00	(+) 32.95
15.	Miscellaneous general services				
	• Lottery receipts ⁹	127.19	29.16	(-) 98.03	(-) 77.07
	• Other receipts	117.92	361.53	(+) 243.61	(+) 206.59
16.	Power	86.77	174.61	(+) 87.84	(+) 101.23
17.	Major and medium irrigation	343.78	372.39	(+) 28.61	(+) 8.32

* Other taxes amounting to Rs 238.09 crore, include tax on sale of motor spirits and lubricants, surcharge on sales tax, tax on purchase of sugarcane and other receipts.

⁹ Net of expenditure on prize winning tickets.

Sl. no.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
18.	Medical and public health	129.96	126.92	(-) 3.04	(-) 2.34
19.	Co-operation	87.41	55.76	(-) 31.65	(-) 36.21
20.	Public works	90.68	88.82	(-) 1.86	(-) 2.05
21.	Police	294.00	106.60	(-) 187.40	(-) 63.74
22.	Other administrative services	68.19	98.41	(+) 30.22	(+) 44.32
23.	Service tax	--	0.11	(+) 0.11	
	Total	39,188.52	38,708.16		

The reasons for variations between the budget estimates and actuals have not been received (December 2006).

1.3 Analysis of collection

Break up of the total collection at preassessment stage and after regular assessments of sales tax, motor spirit tax, profession tax, entry tax and luxury tax for the year 2005-06 and the corresponding figures for the preceding two years as furnished by the department was as follows:

(Rupees in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales tax	2003-04	11,016.07	599.33	19.70	518.92	11,116.18	99
	2004-05	13,213.18	826.32	34.58	368.14	13,705.93	96
	*2005-06	20,771.12	342.81	23.89	1,661.76	19,476.06	107
Motor spirit tax	2003-04	4,194.98	Nil	0.03	Nil	4,195.01	100
	2004-05	4,978.04	Nil	Nil	Nil	4,978.04	100
	*2005-06	**					
Profession tax	2003-04	1,003.24	9.65	0.23	0.06	1,013.06	99
	2004-05	1,061.34	8.99	Nil	0.06	1,070.27	99
	*2005-06	1,123.26	27.66	Nil	0.20	1,150.72	98
Entry tax	2003-04	11.99	2.26	Nil	Nil	14.25	84
	2004-05	6.80	4.86	0.02	Nil	11.68	58
	*2005-06	8.81	2.87	0.03	0.01	11.70	75
Luxury tax	2003-04	145.46	1.65	0.04	0.33	146.82	99
	2004-05	142.33	4.64	0.37	0.02	147.33	97
	*2005-06	113.47	0.47	0.05	0.02	113.97	100

* Figures as furnished by the department are at variance with the Finance Accounts.

** Motor spirit tax merged in Maharashtra Value Added Tax with effect from 1 April 2005.

The table above shows that collection of revenue at the preassessment stage ranged between 58 and 107 per cent during 2003-04 to 2005-06.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2003-04, 2004-05 and 2005-06 along with the relevant all India average percentage of expenditure on collection to gross collection for 2004-05 were as follows:

(Rupees in crore)

Sl. no.	Head of revenue	Year	Collection ¹⁰	Expenditure on collection of revenue ¹¹	Percentage of expenditure on collection	All India average percentage for the year 2004-05
1.	Sales tax	2003-04	15,325.96	110.83	0.72	0.95
		2004-05	18,816.72	122.01	0.65	
		2005-06	19,676.74	135.92	0.69	
2.	State excise	2003-04	2,324.42	29.87	1.29	3.34
		2004-05	2,218.87	30.12	1.35	
		2005-06	2,823.85	31.98	1.14	
3.	Motor vehicles taxes	2003-04	1,205.97	35.03	2.90	2.74
		2004-05	1,177.14	41.06	3.49	
		2005-06	1,309.11	38.91	2.97	

The table above shows that the percentage of expenditure on collection under motor vehicles taxes was higher than the all India average percentage.

1.5 Collection of sales tax per assessee

According to the information furnished by the department, the sales tax collection per assessee during the years from 2001-02 to 2005-06 was as follows:

(Rupees in crore)

Year	No. of assessees	Sales tax revenue ¹²	Revenue/assessee
2001-02	4,37,889	12,131.39	0.03
2002-03	6,04,275	13,488.35	0.02
2003-04	10,35,655	15,325.96	0.01
2004-05	10,44,152	18,816.72	0.02
2005-06	9,42,696	19,676.74	0.02

¹⁰ Figures as per Finance Accounts

¹¹ Figures as furnished by the department are at variance with the Finance Accounts.

¹² Figures as per Finance Accounts

1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2006 in respect of some principal heads of revenue amounted to Rs 15,236.56 crore of which Rs 4,107.74 crore were outstanding for more than five years as detailed in the following table:

(Rupees in crore)

Sl. no.	Head of revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than five years as on 31 March 2006	Remarks
1.	Sales tax etc.	15,226.79	4,102.68	Stay orders were granted by the appellate authorities for Rs 5,427.03 crore, recovery proceedings for Rs 6,441.46 crore were not initiated as the time limit was not over and the remaining amount was under different stages of recovery.
2.	State excise	4.76	3.46	Recoveries amounting to Rs 3.54 crore were pending in the courts. For the balance amount of Rs 1.22 crore, recovery was in progress.
3.	Sale of jail articles	5.01	1.60	Suitable instructions were issued for speedy recovery of arrears to the subordinate offices.
	Total	15,236.56	4,107.74	

The Revenue and Forest, Home (Transport), Irrigation and Public Works departments responsible for collection of some of the major receipts had not furnished details of arrears of revenue (December 2006).

1.7 Arrears in assessment

The details of cases pending assessment at the beginning of the year 2005-06, cases due for assessment during the year, cases disposed of during the year and the number of cases pending finalisation at the end of the year 2005-06 as furnished by the Sales Tax Department in respect of sales tax, motor spirit tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts were as follows:

Name of tax	Opening balance	New cases due for assessment during 2005-06	Total assessments due	Cases disposed of during 2005-06	Balance at the end of the year	Percentage of Column 6 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Finance Department						
Sales tax	22,81,914	14,81,169	37,63,083	2,47,176	35,15,907	93
Motor spirit tax	7,451	1,357	8,808	475	8,333	95
Profession tax	6,58,736	2,20,750	8,79,486	1,72,393	7,07,093	80
Purchase tax on sugarcane	1,000*	162	1,162	58	1,104	95
Entry tax	22	68	90	51	39	43
Lease tax	5,668	1,398	7,066	606	6,460	91
Luxury tax	7,051	1,888	8,939	1,456	7,483	84
Tax on works contracts	1,43,174	38,236	1,81,410	8,438	1,72,972	95
Total	31,05,016	17,45,028	48,50,044	4,30,653	44,19,391	

It would be seen from the table that cases pending as on 31 March 2006 ranged from 43 to 95 per cent of the total cases due for assessment under the various heads.

1.8 Evasion of tax

The details of cases of evasion of tax detected by the Sales tax and the State excise departments, cases finalised and the demands for additional tax raised as reported by the departments were as follows:

(Rupees in crore)

Sl. no	Name of tax/duty	Cases pending as on 31 March 2005	Cases detected during 2005-06	Total	No. of cases in which assessments/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2006
					No. of cases	Amount of demand	
1.	Sales tax	4,290	600	4,890	1,078	96.50	3,812
2.	State excise	--	1	1	1	0.01	--

* Reconciled position furnished by the department.

1.9 Write off and waiver of revenue

During the year 2005-06, demands for Rs 321.10 lakh in 12,587 cases, Rs 3.59 lakh in 29 cases relating to sales tax and State excise respectively were written off by the departments as irrecoverable. Reasons for write off of these demands as reported by the departments were as follows:

(Rupees in lakh)

Sl. no.	Reasons	Sales tax		State excise	
		No. of cases	Amount	No. of cases	Amount
1.	Whereabouts of defaulters not known	9,876	123.95	10	1.41
2.	Defaulters no longer alive	--	--	9	0.74
3.	Defaulters not having any property	3	2.08	3	0.56
4.	Defaulters adjudged insolvent	--	--	2	0.30
5.	Other reasons	2,630	18.92	5	0.58
6.	Remission of penalty	78	176.15	--	--
	Total	12,587	321.10	29	3.59

1.10 Refunds

The number of refund cases pending at the beginning of the year 2005-06, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2005-06, as reported by the departments were as follows:

(Rupees in lakh)

Sl. no.	Particulars	Sales tax and works contracts		Taxes and duties on electricity		State excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1,800	14,106.00*	26	2.80	84	62.20
2.	Claims received during the year	23,167	1,61,819.00	147	7.38	97	40.94
3.	Refunds made during the year	22,040	1,66,079.00	142	6.02	60	47.48
4.	Balance outstanding at the end of the year	2,927	9,846.00	31	4.16	121	55.66

* Reconciled position furnished by the department.

1.11 Results of audit

Test check of records of sales tax, land revenue, State excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax receipts, forest receipts and other non tax receipts conducted during the year 2005-06 revealed underassessment/short levy/loss of revenue amounting to Rs 1,607.49 crore in 11,296 cases. During the course of the year, the departments accepted underassessment of Rs 27.74 crore in 4,873 cases pointed out in 2005-06 and earlier years and recovered Rs 21.18 crore. No replies have been received in respect of the remaining cases.

This report contains 35 paragraphs including two reviews relating to non levy/short levy of taxes, duties, interest and penalties etc., involving Rs 1,332.03 crore. The departments/Government accepted audit observations involving Rs 123.15 crore, of which Rs 1.94 crore had been recovered upto December 2006. No replies have been received in the other cases.

1.12 Response of Government to audit objections

The Principal Accountant General (Audit)-I, Mumbai and the Accountant General (Audit)-II, Nagpur arrange to conduct periodical inspections of the various offices of the Government departments to test check transactions of tax and non tax receipts and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed by inspection reports (IRs) issued to the heads of offices with copies to the next higher authorities. Government of Maharashtra, Finance Department's circular dated 10 July 1967 provides for response within one month by the executive to the IRs issued by the Accountants General (AsG), after ensuring action in compliance of the objections made during audit inspections. Serious irregularities are also brought to the notice of the heads of departments by the office of the AsG. Half yearly reports are sent to the secretaries of the departments concerned in respect of pending IRs to facilitate monitoring of audit observations.

Inspection reports issued upto 31 December 2005 pertaining to offices under Finance, Home, Revenue and Forest, Industries, Energy and Labour, Housing, Urban Development, Co-operation and Textiles, Irrigation, Agriculture, Animal Husbandry, Dairy Development and Fisheries, Public Health, disclosed that 13,113 objections relating to 5,244 IRs involving Rs 1,072.83 crore remained outstanding at the end of June 2006. Of these, 2,072 IRs containing 4,000 objections involving Rs 390.07 crore had not been settled for more than four years. The yearwise position of the outstanding IRs and paragraphs is detailed in the Annexure.

In respect of 2,267 paragraphs relating to 702 IRs involving Rs 120.51 crore issued upto December 2005, even the first replies, which were required to be received from the heads of offices within one month, had not been received.

A review of IRs which were pending due to non receipt of replies in respect of various departments, revealed that the heads of the offices and the heads of the departments (secretaries) failed to send replies to a large number of IRs/paragraphs, indicating that no action was taken to rectify the defects,

omissions and irregularities pointed out in the IRs issued by the AsG. The secretaries of the departments, who were informed of the position through half yearly reports, did not ensure prompt and timely action. Such inaction would result in continuation of serious financial irregularities and loss of revenue to the Government despite these having been pointed out in audit.

The details of outstanding IRs were reported to Government in August 2006; their reply had not been received (December 2006).

1.13 Departmental audit committee meetings

In order to expedite settlement of outstanding audit observations contained in the IRs, departmental audit committees are constituted by Government. These committees are chaired by the joint secretary/deputy secretary of the administrative department concerned and attended among others by the concerned officers of the State Government and offices of the AsG.

In order to expedite clearance of outstanding audit observations, it is necessary that the audit committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 2005-06, seven meetings by the Finance Department, five meetings by the Home Department and one meeting by the Revenue and Forest Department, out of eight Government departments concerned, were convened. This indicated that Government departments did not make effective use of the machinery created for settling outstanding audit observations.

1.14 Response of departments to draft audit paragraphs

The Finance Department issued directions to all departments in July 1967 to send their responses to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs were always forwarded by the respective audit offices to the secretaries of the departments concerned through demi official letters drawing their attention to the audit findings and requesting them to send their response within the time prescribed. The fact of non receipt of replies from Government was invariably indicated at the end of each paragraph included in the Audit Report.

Draft paragraphs included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2006 were forwarded to the secretaries of the respective departments between March 2006 and August 2006 through demi official letters. Replies to most of the paragraphs had not been received. Such paragraphs (clubbed into 35 paragraphs) have been included in this report.

1.15 Follow up on Audit Reports-summarised position

According to the instructions issued by the Finance Department, all the departments were required to furnish explanatory memoranda duly vetted by audit to the Maharashtra legislative secretariat, in respect of paragraphs

included in the Audit Reports within one month of their being laid on the table of the House.

Review of outstanding explanatory memoranda on paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) which were still to be discussed by the PAC, disclosed that as on 30 September 2006 the departments had not submitted remedial explanatory memoranda on 58 paragraphs for the years from 1997-98 to 2003-04 (excluding 1999-2000)¹³ as detailed below:

Sl. no.	Name of the department	1997-98	1998-99	2000-01	2001-02	2002-03	2003-04	Total
1.	Revenue and forest	5	4	1	6	2	6	24
2.	Finance	--	--	--	1	--	2	3
3.	Home	1	--	--	2	1	1	5
4.	Urban development	--	--	1	2	2	2	7
5.	Industries, energy & labour	--	--	--	1	2	1	4
6.	Housing	--	--	--	2	2	2	6
7.	Relief and rehabilitation	--	3	--	1	1	--	5
8.	Public works	--	1	--	--	1	--	2
9.	Medical and public health	--	--	--	--	--	1	1
10.	Co-operation	--	--	--	--	--	1	1
	Total	6	8	2	15	11	16	58

With a view to ensure accountability of the executive in respect of all the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) lays down in each case, the period within which action taken notes (ATNs) on its recommendations should be sent.

The PAC discussed 124 selected paragraphs pertaining to Audit Reports for the years from 1986-87 to 1996-97 and 1999-2000 and their recommendations on 80 paragraphs were received and incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th, 14th and 18th Report (1996-97), 21st Report (1997-98), 5th Report (2000-01) and 12th Report (2002-03). However, ATNs had not been received in respect of 49 recommendations of the PAC from the departments concerned as detailed as follows:

¹³ 1999-2000 – Explanatory memoranda received and Audit Report is already discussed.

Year	Name of the department					Total
	Home	Finance	Revenue and forest	Industries, energy and labour	Relief and rehabilitation	
1986-87	--	--	1	--	--	1
1987-88	--	1	--	--	--	1
1988-89	--	1	--	--	--	1
1989-90	1	2	4	--	--	7
1990-91	7	4	2	--	--	13
1991-92	1	--	--	1	1	3
1992-93	1	--	5	1	4	11
1993-94	3	1	4	--	--	8
1996-97	--	--	1	--	2	3
1999-2000	--	--	--	--	1	1
Total	13	9	17	2	8	49

1.16 Recovery of revenue of accepted cases

During the years between 2000-01 and 2004-05, the departments/Government accepted audit observations involving Rs 2,010.68 crore, out of which an amount of Rs 47.27 crore was recovered till 31 March 2006 as follows:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2000-01	655.26	222.88	2.67
2001-02	493.85	206.13	24.57
2002-03	1,999.22	553.98	2.34
2003-04	1,246.50	693.77	5.20
2004-05	555.47	333.92	12.49
Total	4,950.30	2,010.68	47.27

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CHAPTER II : SALES TAX

2.1 Results of audit

Test check of the records of the Sales Tax Department conducted during the year 2005-06, revealed underassessment/short levy/loss of revenue amounting to Rs 40.78 crore in 1,093 cases which broadly fall under the following categories.

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of tax.	600	12.93
2.	Incorrect allowance of set off.	275	3.61
3.	Non/short levy of interest/penalty.	42	0.64
4.	Omission to forfeit tax collected in excess.	18	0.07
5.	Other irregularities.	157	10.16
6.	Sales/purchases made against declaration forms under BST/CST Act	1	13.37
	Total	1,093	40.78

During 2005-06, the department accepted underassessment etc., of Rs 8.41 crore involved in 860 cases, out of which 49 cases involving Rs 0.11 crore were pointed out during 2005-06 and the rest in earlier years. The department recovered Rs 1.85 crore.

A few illustrative cases involving financial effect of Rs 19.60 crore are given in the following paragraphs:

2.2 Sales/purchases on declarations under BST/CST Act

2.2.1 Introduction:

Under the provisions of the Central Sales Tax Act (CST Act) 1956, every dealer, who in interstate trade or commerce, sells any goods against declarations in form C duly filled in and signed by the authorised person is liable to pay tax at the concessional rate of four *per cent*. Interstate sales not supported by declarations in form C are taxable at twice the rate applicable to sale or purchase of the goods inside the appropriate State in respect of declared goods and in respect of other goods at 10 *per cent* or at the rate applicable to sale or purchase of such goods under the State law, whichever is higher. Further, the last sale or purchase of any goods preceding the sale or purchase, occasioning the export of goods out of the territory of India is deemed to be in the course of export, provided the selling dealer produces a certificate in form 14B/H¹ duly filled along with evidence of export of the goods.

With a view to ascertain the correctness of interstate sales claimed by various dealers against declaration forms, 2,555 assessments of selling dealers for the periods between 2000-01 and 2004-05, completed by six Senior Assistant Commissioners, 39 Assistant Commissioners and 50 out of 163 sales tax officers (Class I) in seven² out of 16 divisions in the State were test checked. Data collected from the assessment records in these offices were crossverified with the records in the sales tax offices located at Daman, Delhi, Ghaziabad, Hyderabad and Silvassa, outside Maharashtra, during August 2005 and April 2006.

2.2.2 Irregular grant of exemption on incomplete 'C' forms.

The Commissioner of Sales Tax, by a trade circular dated 14 October 1998, clarified that details of transactions relating to a financial year between the buyer and seller covered by a declaration in form C are to be furnished, duly authenticated by the signature of the purchasing dealer. Incomplete declarations are to be treated as invalid and differential tax and penalty or interest not less than the differential tax as per provisions of the CST Act read with the Bombay Sales Tax (BST) Act, 1959 is leviable.

Test check of assessment records of 34 dealers in seven divisions for the period between 1999-2000 and 2002-03, assessed between 2001-02 and 2004-05, revealed that tax was levied at concessional rate on declarations in form C which were not authenticated involving transactions of Rs 69.10 crore. These forms were to be treated as invalid and differential tax and penalty levied as per orders of Commissioner of Sales Tax. This resulted in short levy of tax of Rs 5.61 crore. Besides, minimum penalty of Rs 5.61 crore was also leviable.

After this was pointed out, in 31 cases, the assessing authorities (AA) stated that the points would be verified. In two cases, the AA stated that the audit observation was technical in nature. In the remaining case, final reply was

¹ Form H – For deemed export of goods purchased from dealers outside Maharashtra.

Form 14B – For deemed export of goods purchased from dealers in Maharashtra.

² Aurangabad, Bandra, Churchgate, Kolhapur, Mandvi, Pune-II and Thane.

awaited. The reply of the AAs in two cases was not acceptable as the Commissioner's instructions had not been observed and tax should have been levied on turnover not supported by valid declarations.

2.2.3 Incorrect allowance of sales on declarations

2.2.3.1 In six divisions³, in the assessments of 16 dealers for the periods between 2000-01 and 2002-03 assessed between June 2003 and March 2006, concessional rate of tax was levied on interstate sales of Rs 7.03 crore supported by declarations in form C.

Cross verification of transactions with reference to the records maintained by the AAs of the purchasing dealers in Daman, Delhi, Hyderabad and Silvassa, revealed that purchases aggregating Rs 2.99 crore only were accounted for as interstate purchases. The balance sales of Rs 4.04 crore had not been accounted for as purchases but were included in the declaration forms furnished to the selling dealers to avail the concessional rate of tax. This resulted in underassessment of Rs 95.74 lakh, including penalty.

2.2.3.2 In the assessment of two other dealers of Aurangabad and Churchgate divisions for the period 2000-01 assessed in December 2003 and February 2004, it was noticed that as against the interstate sales of Rs 52.34 lakh to New Delhi, the corresponding interstate purchases recorded by the purchasing dealers aggregated Rs 66.73 lakh. Thus, sales of Rs 14.39 lakh were concealed by the selling dealers in Maharashtra, resulting in underassessment of Rs 3.44 lakh including penalty.

2.2.3.3 In case of four dealers in three divisions⁴ assessed between January 2004 and October 2005 for the periods between 2000-01 and 2002-03, interstate sales of Rs 7.59 crore supported by declarations in form C effected to five dealers were subjected to tax at the concessional rate of four *per cent*. Cross verification of records of dealers at Delhi, Hyderabad and Silvassa however, revealed that the dealer in Hyderabad discontinued business in 1995-96 while in the case of the dealers registered in Silvassa, it was noticed that the form C had not been issued by the department. Out of the remaining three cases pertaining to Delhi, in two cases it was noticed that the forms were not issued by the department and in the third case, the form was issued by the purchasing dealer of Delhi to a dealer of Rohtak. The underassessment due to acceptance of these declarations amounted to Rs 96.50 lakh, including penalty.

2.2.3.4 In Aurangabad division, in the assessment of a dealer for the period 2000-01 finalised in June 2003, sale of mixers of Rs 10.71 lakh supported by declaration in form 14B, were exempted from tax. On perusal of the case records of the purchasing dealer, it was however noticed that there was no purchase of mixers supported by declaration in form 14B or export (sale) of the commodity. Incorrect allowance of exemption thus resulted in underassessment of tax of Rs 3.28 lakh, including penalty.

2.2.3.5 Under the provisions of the CST (Delhi) Rules, declaration forms are to cover interstate transactions relating to the year for which they are issued.

³ Aurangabad, Bandra, Churchgate, Mandvi, Pune-II and Thane.

⁴ Ghatkopar, Pune-II and Thane.

In three cases, crossverification of interstate transactions relating to the period 2000-01 and 2001-02 assessed between September 2003 and October 2004 revealed that the AAs allowed exemption/concessional rate of tax on transactions of Rs 66.83 lakh on C/H forms which were issued between 1992-93 and 1994-95 and were thus invalid. This resulted in underassessment of Rs 9.88 lakh, including penalty.

The above cases were reported to Government in June 2006; their reply had not been received (December 2006).

2.3 Incorrect allowance of sales in transit

Under the CST Act, sale in the course of interstate trade or commerce of any goods are to be effected by a transfer of documents of the title to the goods during their movement from one State to another. Subsequent sales to registered dealers made while the goods are in movement are exempt from tax, provided such goods are included in the registration certificate of the dealers and supported by declarations in form E-I/E-II and form C.

During test check of records, it was noticed in the assessments finalised in January and March 2001 of two dealers in Andheri and Nariman Point divisions for the periods 1996-97 and 1997-98 that sale of paper valued at Rs 0.60 crore and Indian made foreign liquor valued at Rs 16.05 crore were made while the goods were in transit. The AA, incorrectly exempted the sales from tax though the goods were not supported by prescribed declarations in form E-I/E-II and form C. This resulted in underassessment of tax of Rs 1.32 crore including interest and penalty.

After this was pointed out, the department revised the assessment orders in December 2004 and January 2006, raising additional demand of Rs 1.32 crore including interest and penalty. Report on recovery had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

2.4 Irregular allowance of exemption on sales in course of export

Under the provisions of the CST Act, sale of goods is deemed to have taken place in the course of export of goods, only if, the sale is occasioned by such export or is effected by transfer of documents of title to the goods after the goods have crossed the customs frontier of India. Such sales are exempt from payment of CST.

In Aurangabad division, in the assessment of a dealer in January 2002 for the period 1998-99, sales of Rs 1.90 crore were incorrectly exempted from tax as export sales though the sales were not supported by documentary evidence such as bill of lading/customs clearance certificate in relation to the export. This resulted in underassessment of tax of Rs 31.25 lakh including interest.

After this was pointed out, the department rectified the assessment in November 2004 and raised an additional demand of Rs 31.25 lakh including interest. Report on recovery had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

2.5 Short levy of CST

Under the provisions of CST Act, on sales in the course of interstate trade or commerce supported by valid declaration, tax is leviable at the rate of four *per cent* or lower if notified under the Act. Otherwise, tax is leviable at twice the rate applicable to the sales inside the State in respect of declared goods and in respect of goods other than declared goods at 10 *per cent* or at the rate of tax including turnover tax and surcharge applicable to the sale or purchase of such goods inside the State, whichever is higher. Further, interest is also leviable on unpaid amount of tax as per the relevant provisions of the Act.

It was noticed in the assessments finalised between September 2001 and March 2004 of nine dealers in five divisions⁵ for the periods between 1996-97 and 2000-01, that interstate sales of Rs 4.37 crore not supported by declarations in form C were taxed at concessional rates. This resulted in underassessment of Rs 20.80 lakh including interest.

After this was pointed out, the department revised the assessment orders in July 2003 to December 2005 raising an additional demand of Rs 20.80 lakh including interest. Four dealers paid Rs 2.65 lakh between September 2004 and December 2005. Report on recovery in the remaining cases had not been received (December 2006).

The matter was reported to Government in March and May 2006; Government concurred with the action taken by the department in two cases, their reply in the remaining cases had not been received (December 2006).

2.6 Underassessment of tax

Under the provisions of CST Act, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India is deemed to be in the course of export and exempt from tax, provided the last sale or purchase took place and was for the purpose of complying with the agreement or order for such export and the selling dealer produces a certificate in form H and form 14B in case of a dealer within the State duly filled and signed by the exporter, along with evidence of export of the goods.

It was noticed in the assessments finalised between December 2001 and July 2003 of six dealers in five divisions⁶ for periods between 1996-97 and 2000-01, that sale of goods of Rs 43.42 lakh were exempted from tax though the sales were either ineligible as the goods exported were different from the goods purchased or were not supported by certificates in form H/form 14B or other documentary evidence in relation to such export. This resulted in underassessment of Rs 7.71 lakh including interest.

⁵ Bandra (2), Borivali (2), Ghatkopar (3), Mazgaon and Nashik.

⁶ Andheri (2), Bandra, Churchgate, Ghatkopar and Worli.

After this was pointed out between March 2003 and October 2004, the department rectified/revised the assessments between May 2004 and November 2005 or reassessed the dealers raising demands for Rs 7.71 lakh including interest. In one case dealer paid Rs 0.32 lakh. Report on recovery in the remaining cases had not been received (December 2006).

The matter was reported to Government in May 2006; Government concurred with the action taken by the department in one case, their reply in the remaining cases had not been received (December 2006).

2.7 Short levy of sales tax

Under the provisions of BST Act, the rate of tax leviable on any commodity is determined with reference to the relevant entry in Schedule B or C of the Act after deducting from the gross turnover, resale of goods purchased by a dealer from other registered dealers, provided that the goods are resold in the same form in which they were purchased. Further, the State Government could by a notification, exempt any class of sales or purchases from payment of the whole or any part of the tax payable under the provisions of the Act, subject to such conditions as prescribed. Turnover tax, additional tax and interest are also leviable in addition to tax as per the provisions of the Act.

It was noticed in the assessments finalised between March 2001 and November 2004 of 31 dealers in 12 divisions⁷ for periods between 1993-94 and 2002-03 that there was underassessment of Rs 6.27 crore, including interest and penalty, due to application of incorrect rate of tax, incorrect exemption, incorrect levy of concessional rate of tax and incorrect deduction from turnover of sales on account of resales. A few illustrative cases are detailed in the following table:

Sl. No.	Division	Period Month of assessment	Name of commodity	Taxable turnover (Rupees in lakh)	Rate of tax/tax		Underassessment (Rs. in lakh)				Total
					Leviable	Levied	Tax	Turn- over tax	Addl. Tax/ surcharge	Interest	
1.	Andheri	1999-2000 March 2003	Indian made foreign liquor	24.97	20	8	2.99	--	--	3.70	6.69
2.	Bandra (i)	1997-98 March 2001	Wire	21,235.54	310.43*	Nil*	310.43	--	--	138.51	448.94
	(ii)	2000-01 May 2003	Auto parts	34.70	10	Nil	3.47	--	--	0.02	3.49
3.	Nashik	2000-01 November 2003	Adhesive	18.89	13	8	0.94	--	0.10	0.90	1.94
4.	Worli (i)	1993-94 & 1995-96 March 2004	Plastic raw material	31.43	10	8	0.63	0.39	0.43	3.25	4.70
	(ii)	1996-97, 1997-98 and 1998-99 February 2003	Lassi	764.26	10	Nil	76.42	--	--	27.52	103.94

⁷ Andheri (6), Aurangabad (2), Bandra (2), Borivali (2), Churchgate (2), Ghatkopar (5), Nashik, Nariman Point, Pune-I (2), Pune-II (2), Thane (2) and Worli (4).

* Figures represent net tax leviable and tax levied.

After this was pointed out between June 2001 and October 2005, the department revised/rectified the assessment orders between April 2003 and March 2006 raising additional demand for Rs 6.27 crore including interest and penalty. Eleven dealers paid Rs 9.84 lakh between May 2003 and November 2005. In one case Rs 1.22 lakh was adjusted against the refund due to the dealer in the subsequent year. Report on recovery in the remaining cases had not been received (December 2006).

The matter was reported to Government between March and May 2006; Government concurred with the action taken by the department in eight cases; their reply in the remaining cases had not been received (December 2006).

2.8 Non/short levy of turnover tax/additional tax

Under the provisions of the BST Act, every dealer whose annual turnover of sales or purchases ranged between Rs 12 lakh and Rs 1 crore, was liable to pay turnover tax at the rate of 1.25 *per cent* of the taxable turnover between 13 July 1986 and 30 September 1995. Besides, additional tax at the rate of 15 *per cent* (12 *per cent* upto March 1994) of the tax assessed was also leviable, if the turnover of sales or purchases exceeded Rs 10 lakh. Turnover tax and additional tax were however, not leviable during 1 October 1995 to 31 March 1999. Thereafter from 1 April 1999, turnover tax at the rate of one *per cent* was leviable on taxable turnover of sales and surcharge at the rate of 10 *per cent* of the sales tax levied in cases where the aggregate of taxes levied exceeded Rs 1 lakh in any year.

It was noticed in the assessments finalised between July 2002 and July 2004 of 10 dealers in six divisions⁸ for the periods between 1994-95 and 2001-02 that turnover tax, additional tax or surcharge though leviable were either not levied or levied short. This resulted in underassessment of Rs 1.02 crore including interest and withdrawal of interest allowed on refund.

After this was pointed out between December 2003 and September 2005, the department revised/rectified the assessment orders, raising additional demand for Rs 1.02 crore, including interest and withdrawal of interest allowed on refund. Two dealers paid Rs 4.70 lakh. Report on recovery in respect of remaining cases had not been received (December 2006).

The matter was reported to Government in April 2006; Government concurred with the action taken by the department in three cases; their reply in the remaining cases had not been received (December 2006).

2.9 Incorrect grant of set off

2.9.1 According to the BST Act and Rule 41D made thereunder, a manufacturer who had paid tax on purchases of goods specified in Schedule C and used them within the State in the manufacture of goods for sale or export or in the packing of goods so manufactured is allowed set off of tax paid at the prescribed rates. However, after 1 May 1998, when such manufacture resulted in production of goods other than taxable goods, set off was not admissible on

⁸ Andheri, Bandra (2), Borivali (2), Ghatkopar, Nashik (2) and Pune-II (2).

goods including capital goods purchased prior to 1 April 1998. Further, interest was leviable as per the provisions of the Act.

It was noticed in the assessments finalised between May 2001 and May 2004 of 27 dealers in 12 divisions⁹ for the periods between 1991-92 and 2002-03 that set off was allowed in excess due to mistake in computation or tax paid on purchase of goods including capital assets purchased prior to 1 April 1998 and used in the manufacture of tax free goods resulting in underassessment of Rs 1.43 crore including interest and withdrawal of interest allowed on refund. A few illustrative cases are detailed in the following table:

Sl. no.	Division	Period Month of assessment	Nature of irregularity	Under assessment including interest (Rs. in lakh)
1.	Nagpur	1991-92, 1994-95 to <u>1997-98</u> December 2003 and May 2004	Set off was incorrectly allowed on purchases of goods including capital assets used in the manufacture of tax free goods (sugar).	63.03
2.	Bandra	1995-96 and <u>1997-98</u> July 2003	Set off was incorrectly allowed due to mistake in computation.	2.24
3.	Mazgaon	1999-2000, 2000- <u>01 and 2001-02</u> October 2002 and November 2002	Set off was incorrectly allowed due to mistake in computation	7.59
4.	Thane	<u>1999-2000</u> September 2003	Set off on manufactured goods transferred to branches outside Maharashtra was incorrectly computed.	3.07
5.	Worli	<u>1998-99</u> March 2002	Set off including interest was incorrectly computed as Rs 89.92 lakh instead of Rs 60.83 lakh.	29.09

After this was pointed out between July 2001 and March 2005, the department rectified/revised the assessments or reassessed the dealers in 26 cases, raising additional demand of Rs 80.45 lakh including interest and withdrawal of interest allowed on refunds. In case of the dealer in Nagpur division, notice for reassessment was issued in May 2006. Eleven dealers paid Rs 32.33 lakh between July 2004 and May 2006. In four cases, Rs 31.23 lakh was adjusted against refunds due to the dealers in the subsequent years. Report on recovery in the remaining cases and action taken in the case of the dealer in Nagpur division had not been received (December 2006).

⁹ Andheri (5), Bandra, Borivali (3), Ghatkopar, Kolhapur, Mazgaon (3), Nagpur, Nashik, Nariman Point (2), Pune-II (4), Thane and Worli (4).

The matter was reported to Government in April and May 2006; Government concurred with the action taken by the department in five cases; their reply in the remaining cases had not been received (December 2006).

2.9.2 Under the provisions of the BST Act and Rule 42H made thereunder, a dealer having turnover of sales in excess of Rs 1 crore (Rs 50 lakh from 1 October 1996 and Rs 40 lakh from 15 May 1997) was entitled to a set off of tax paid on purchases of goods for the period from 1 October 1995 to 31 March 1999. The set off was admissible provided the purchase price of the goods was not allowed as deduction from turnover of sales. Set off was, however, not admissible on purchases of goods sold on declarations in form H, 14B and 15EC¹⁰.

It was noticed in the assessments finalised between March 2001 and May 2003 of four dealers in four divisions¹¹ for the periods between April 1997 and March 1999 that set off was incorrectly computed or allowed on purchases of goods sold on the aforesaid declaration forms resulting in underassessment of Rs 8.96 lakh, including interest and withdrawal of interest allowed on refunds.

After this was pointed out between February 2003 and June 2004, the department revised/rectified the assessments between June 2004 and February 2005 by withdrawing the excess set off allowed and raised additional demand for Rs 8.96 lakh including interest and withdrawal of interest allowed on refund. One dealer paid Rs 0.53 lakh. Report on recovery in the remaining cases had not been received (December 2006).

The matter was reported to Government in April 2006; their reply had not been received (December 2006).

2.9.3 Under the provisions of Rule 41F of the BST Rules, a manufacturer is entitled to full set off of tax paid on purchases of goods used by him within the State in the manufacture of specified goods for sale such as cotton thread, non ferrous metal and iron castings. Where the process of manufacture results in production of the specified goods and other goods, set off is to be apportioned between the specified goods and other goods on the basis of sale price of manufactured goods and allowed to the extent of the specified goods manufactured.

It was noticed in the assessments between August 2001 and March 2003 of four dealers in Andheri, Ghatkopar and Nariman Point divisions for the periods between 1996-97 and 1998-99 that set off of tax paid on purchases used in manufacture of non specified goods such as medicines, fire extinguisher parts, plastic raw materials, oil cakes, hydrogenated vegetable oil and edible vegetable non essential oil was incorrectly granted, treating them as specified goods. This resulted in underassessment of Rs 5.14 lakh including interest.

After this was pointed out, the department revised the assessment order/reassessed the dealers between April 2004 and February 2005 raising additional demands of Rs 5.14 lakh including interest. Report on recovery had not been received (December 2006).

¹⁰ Form 15EC – Sales to units opting for deferral of taxes under package scheme of incentive.

¹¹ Andheri, Mandvi, Nariman Point and Thane.

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

2.10 Incorrect summary assessment

Under the provisions of the BST Act and instructions of the Commissioner of Sales Tax, an assessing officer is empowered, to assess a dealer under summary assessment by accepting the returns filed by him provided the gross tax payable under the BST and the CST Acts before adjustment of set off does not exceed Rs 4 lakh and the dealer is not liable to pay Value Added Tax (VAT).

During test check of records, it was noticed that three dealers in Andheri, Borivali and Mazgaon divisions were summarily assessed between July 2000 and October 2002 for the periods between 1994-95 and 2001-02 even though in two cases, the gross tax payable by the dealers exceeded the prescribed limit while in the third case, the dealer was liable to pay VAT. The department was, therefore, requested to verify the correctness of acceptance of the returns.

After this was pointed out between May 2001 and October 2003, the department revised the assessment orders between March 2004 and March 2006 and raised an additional demand of Rs 57.85 lakh including interest and penalty. Report on recovery had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

2.11 Non forfeiture of excess collection of tax

Under the provisions of the BST Act, no registered dealer is allowed to collect any amount by way of tax in excess of the amount of tax payable by him. Excess tax collected is to be forfeited to Government.

It was noticed in the assessments finalised in April and June 2003 of a dealer in Bandra division for the periods 1999-2000 and 2001-02 that as against tax payable of Rs 51.53 lakh as determined by the AA, the dealer collected tax of Rs 71.41 lakh. The excess tax collection of Rs 19.88 lakh was to be forfeited to Government account, which was not done.

After this was pointed out in September 2004, the department rectified the assessments in April 2005 raising an additional demand of Rs 19.92 lakh including penalty. Report on recovery had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

2.12 Non levy of purchase tax

Under the provisions of the BST Act and the Rules made thereunder, during the period 1 September 1990 to 30 September 1995, when a dealer purchased any goods specified in Part-I of Schedule C, he was liable to pay, in addition to sales tax, purchase tax at the rate of two *per cent* on the turnover of such

purchases, unless the goods so purchased were resold by him. Further, with effect from 1 October 1995, purchase tax was leviable on purchases of goods used in the manufacture of taxable goods which were transferred to branches outside the State otherwise than as sale. Additional tax (upto September 1995) and interest were payable as per the provisions of the Act.

It was noticed in the assessments/appeal order finalised between October 2001 and April 2003 of four dealers in four divisions¹², for periods between 1994-95 and 2000-01 that purchase tax though leviable, was not levied/short levied on purchase of non ferrous metals and bulk drugs valued at Rs 6.16 crore used in manufacture of goods transferred to branches outside the State. This resulted in underassessment of Rs 11.74 lakh including interest and withdrawal of interest granted on refund.

After this was pointed out, the department revised between November 2004 and December 2005 the orders raising additional demands for Rs 11.74 lakh, including interest and withdrawal of interest granted on refund. Of this, three dealers paid Rs 8.80 lakh. Report on recovery of the balance amount had not been received (December 2006).

The matter was reported to Government in May 2006; Government concurred with the action taken by the department in two cases; while reply in the remaining cases had not been received (December 2006).

2.13 Incorrect deferment of tax under package scheme of incentives

As per the package scheme of incentives in the BST Act and Rules, an eligible unit is entitled to incentive in the form of deferment of local sales tax and CST on the sales of finished goods and purchase tax on the purchase of raw materials during the period covered by the eligibility and entitlement certificates subject to terms and conditions specified in the schemes. Further, taxes leviable are required to be deferred after reducing set off or refund to which the eligible unit is entitled under the Act or Rules.

In the assessments finalised between May 2001 and January 2002 of a dealer in Nashik Division for the periods between 1998-99 and 2000-01, it was noticed that, instead of adjusting the amount of set off from the gross tax levied before deferment of tax, the same was refunded to the dealer. This resulted in underassessment of Rs 9.89 lakh including interest.

After this was pointed out, department reassessed the dealer in December 2005 and raised additional demand of Rs 9.89 lakh including interest which was paid by the dealer in February 2006.

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

¹² Borivali, Ghatkopar, Pune-II and Thane

2.14 Non/short levy of interest

Under the BST Act, if any tax remains unpaid on the date prescribed for filing of the last return in respect of a period of assessment, the dealer is liable to pay simple interest at the rate of two *per cent* of the amount of tax for each month or part thereof from the date following the date of the period of assessment till the date of payment or the order of assessment, whichever is earlier.

It was noticed in the assessments between August 2001 and March 2003 of three dealers in Bandra, Churchgate and Kolhapur divisions for the period 1998-99 or 1999-2000 that interest of Rs 6.83 lakh leviable for delays ranging from 13 to 62 months in payment of tax dues of Rs 18.90 lakh was either not levied or levied short.

After this was pointed out between October 2002 and August 2004, the department rectified/revised the assessments between July 2004 and March 2005 and raised additional demands for Rs 6.83 lakh. In one case, the dealer paid Rs 0.21 lakh. Report on recovery in the remaining cases had not been received (December 2006).

The matter was reported to Government in April 2006; their reply had not been received (December 2006).

2.15 Excess allowance of interest on refund

Under the provisions of the BST Act, in respect of any period of assessment commencing on or after 1 April 1995 and upto 31 October 2004, a registered dealer was entitled to receive in addition to refund of tax due, simple interest at the rate of 12 *per cent* per annum from the date following the period of assessment till the date of the assessment order or for a period of 18 months, whichever was less. The interest was to be calculated on the net refund due after deducting penalty and interest levied and after adjustment of the dues under the BST/CST Act.

It was noticed in the assessments finalised between March 2001 and July 2003 of five dealers in five divisions¹³ for periods between 1995-96 and 1998-99 that interest on refund was incorrectly computed, resulting in excess refund of interest of Rs 5.05 lakh.

After this was pointed out, the department revised/rectified the assessments or reassessed the dealers between June 2004 and November 2005, raising additional demand of Rs 5.05 lakh. In one case, Rs 1.35 lakh was adjusted against the refund due to a dealer in the subsequent year. Report on recovery in the remaining cases had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

¹³ Aurangabad, Bandra, Nashik, Pune-I and Pune-II

CHAPTER III :
STAMP DUTY & REGISTRATION FEES, STATE
EXCISE AND TAXES ON MOTOR VEHICLES

3.1 Results of audit

Test check of records relating to stamp duty and registration fees, State excise and taxes on motor vehicles conducted during the year 2005-06 revealed short/non levy of duty/tax etc., amounting to Rs 197.42 crore in 3,950 cases as detailed below:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
A – STAMP DUTY AND REGISTRATION FEES			
1.	Evasion of stamp duty due to misclassification of documents	1	59.06
2.	Non levy of stamp duty on instruments executed by co-operative societies	20	18.42
3.	Incorrect grant of exemption of stamp duty and registration fees	83	4.33
4.	Short levy due to misclassification of documents	60	70.19
5.	Short levy due to undervaluation of property	436	32.94
	Total	600	184.94
B – STATE EXCISE			
6.	Non/short levy of excise duty	13	0.01
7.	Short recovery of licence/privilege fees/escort charges/interest	541	3.35
8.	Short/non recovery of supervision charges/bonus	59	0.42
9.	Non recovery of toddy instalments	184	0.42
	Total	797	4.20
C – TAXES ON MOTOR VEHICLES			
10.	Non/short levy of tax due to incorrect application of rates	2,121	8.12
11.	Short levy of tax due to incorrect exemption/ classification	4	0.01
12.	Miscellaneous	428	0.15
	Total	2,553	8.28
	Grand Total	3,950	197.42

During the year 2005-06, the department accepted underassessment in 1,016 cases and recovered Rs 2.22 crore, of which 338 cases involving Rs 73.61 lakh were pointed out during 2005-06 and the rest in the earlier years.

A few illustrative cases noticed during 2005-06 and in earlier years, involving a financial effect of Rs 61.36 crore are given in the following paragraphs:

A – STAMP DUTY AND REGISTRATION FEES

3.2 Evasion of stamp duty due to misclassification of documents

Levy of stamp duty in Maharashtra is governed by the Bombay Stamp Act, 1958 (Act). Every instrument executed in the State is chargeable with duty on the amount indicated in the instruments as classified in Schedule I of the Act. Further, if any instrument is so framed as to come within two or more classifications in Schedule I with duty chargeable at different rates, then the highest of such duty is to be charged.

3.2.1 Misclassification of instruments of conveyance

Under the provisions of the Act, instrument of conveyance includes every instrument by which moveable or immovable property or interest therein is transferred to other person and is chargeable under Article 25 of Schedule I to the Act. The stamp duty on these instruments is higher than that on development agreements¹.

Test check of 74 instruments of 15 sub registrar (SR) offices of nine² districts, revealed between November 2005 and April 2006 that owners of properties transferred/assigned/conveyed the rights/interest of the property valued at Rs 230.13 crore during the period from January 2001 to December 2005 in favour of developers/promoters on receipt of consideration. The SRs, however, classified these instruments as development agreements instead of conveyance deeds. Consequently, stamp duty of Rs 18.44 crore was leviable as against Rs 2.31 crore levied by the department resulting in short levy of stamp duty of Rs 16.13 crore.

After this was pointed out, the department during November 2005 and April 2006 accepted the audit observation in eight³ cases, six⁴ cases were referred to the Collector of Stamps of the district while in the remaining 60 cases the department did not accept the audit observation stating that stamp duty was levied correctly.

The replies were not tenable as the recitals of these instruments indicated that the rights/interest of the property were conveyed against full consideration and therefore, they were conveyance deeds and not development agreements as contended.

3.2.2 Similarly, in seven instruments registered between January 2001 and December 2005 in three⁵ SR offices of Nagpur district, it was noticed that though the vendors/owners executed the agreements to develop and sell, the SRs treated these instruments as development agreements instead of

¹ Development agreements: - Agreements giving authority or power to a promoter or a developer, by whatever name called, for construction on, development of or sale or transfer (in any manner whatsoever) of, any immovable property.

² Ahmednagar, Aurangabad, Kolhapur, Mumbai, Nagpur, Nashik, Pune, Raigad and Thane

³ One case in SR-I Andheri, Mumbai accepted by Collector of stamps, Bandra, Mumbai; five cases in SR-I Nagpur and two cases in SR Haveli – IV Pune accepted by SRs.

⁴ SR-II, Borivili, Mumbai Suburban.

⁵ SR-II, Nagpur, SR-IV Nagpur, and SR-IX, Nagpur

instruments of conveyance. Misclassification, thus, resulted in short levy of stamp duty of Rs 24.50 lakh.

After this was pointed out, the SRs stated between November 2005 and April 2006 that the instruments were correctly classified as development agreements and stamped accordingly. The replies are not tenable as the recitals of the instruments clearly indicated that the owners of the property had transferred/assigned/conveyed the rights/interest of the property in favour of the developers/promoters by receiving full consideration.

3.2.3 Misclassification of instruments of power of attorney

Under Article 48(f) of the Act, in an instrument of power of attorney, when given for consideration and authorised to sell an immovable property, stamp duty is leviable at the rate as applicable to an instrument of conveyance.

Audit scrutiny of 137 instruments in 20 SR offices of nine⁶ districts revealed that though the vendors/owners paid/received consideration authorising them to develop/construct and sell the immovable property, these instruments were misclassified as development agreements instead of power of attorney with consideration. Misclassification of instruments as development agreements resulted in short levy of stamp duty of Rs 35.46 crore.

Further, it was observed in 64 instruments executed between January 2001 and December 2005, that powers of attorney were also executed simultaneously to evade higher stamp duty. Though the owners received consideration from the developers and authorised them to enter into agreement to sell the immovable property, i.e., flats, shops, offices etc., these documents were classified as development agreements instead of power of attorney with consideration. This resulted in short levy of stamp duty of Rs 4.58 crore.

After this was pointed out, the SRs stated that the instruments were correctly classified as development agreements. The replies are not tenable as it is evident from the recitals of the instruments that the owners on receipt of consideration from the developers/promoters authorised the developer to enter into agreement to sell the constructed property to the prospective buyers and therefore, instrument should have been construed as power of attorney with consideration and stamped accordingly.

3.2.4 Misclassification of instruments of transfer of development rights

Under the provisions of the Act, instrument of transfer of development rights from one developer to another developer attracts stamp duty at the rate of three *per cent* on the true market value of the property or the consideration whichever is higher.

Test check of nine instruments registered in six SR offices⁷ of three districts between January 2001 and December 2005 revealed that the developers transferred development rights as a moveable property, which they acquired from the owners, to another developer(s) by receiving consideration of Rs 77.60 crore. The department misclassified these instruments as

⁶ Ahmednagar, Aurangabad, Kolhapur, Mumbai, Nagpur, Nashik, Pune, Raigad and Thane.

⁷ SRs Andheri II, Borivali II and Kurla II of Mumbai, Nagpur IX and Haveli I & IV.

development agreements and levied stamp duty of Rs 0.77 crore⁸ instead of Rs 2.33 crore. This resulted in short levy of stamp duty of Rs 1.56 crore.

The SRs during November 2005 and April 2006 accepted audit observation in six cases⁹. In the remaining three cases, the SRs stated that the audit observation would be referred to higher authority for final action. Further report had not been received (December 2006).

3.2.5 Misclassification of instruments of transfer of lease

As per Article 60 of the Act, in case of instruments of transfer of lease by way of assignment, stamp duty as is leviable on a conveyance shall be charged on the market value of the property which is the subject matter of transfer.

In SRs Kurla-II (Mumbai district) and Panvel-I (Raigad district), three instruments of transfer of lease of land were executed between August 2004 and December 2005, wherein the lease was transferred/assigned from the assignor to the assignee. These instruments were misclassified as lease/development agreements and stamp duty of Rs 12.82 lakh was levied instead of Rs 1.21 crore leviable on transfer of lease. This resulted in short levy of stamp duty of Rs 1.08 crore.

After this was pointed out, the SRs stated that the instruments were adjudicated by the Collector of Stamps and hence, were referred to him for final action. Reply of the Collector of Stamps had not been received (December 2006).

The cases were referred to Government in May 2006; their reply had not been received (December 2006).

3.3 Short levy of stamp duty due to undervaluation of property

As per provisions of the Act and Registration Act, stamp duty and registration fee on conveyance deed is leviable on the true market value of the property at the rates applicable to the area in which the property is situated. These rates are prescribed in the ready reckoner¹⁰.

In four¹¹ offices of the SR/joint sub registrars (JSRs), five instruments of conveyance were registered between May 2001 and July 2004 and stamp duty and registration fee of Rs 97.43 lakh was charged on consideration of Rs 16.07 crore. The true market value of the property amounted to Rs 21.15 crore as per prescribed rates on which stamp duty and registration fee of Rs 138.91 lakh was payable. Thus, undervaluation of the properties resulted in short levy of stamp duty and registration fee of Rs 41.48 lakh.

After this was pointed out between June 2002 and May 2005, the Inspector General of Registration (IGR) in February 2005 accepted the omission in the cases of JSRs, Andheri – I and III. In the cases of SRs, Andheri-II and Haveli-I, the IGR stated in February 2006 that these documents were adjudicated and

⁸ Being one percent of Rs 77.60 crore as leviable on development agreements.

⁹ SR-II, Andheri, SR-IX Nagpur and SR-Haveli –IV Pune.

¹⁰ Ready reckoner is an annual statement of rates of property prescribed by Government.

¹¹ SRs Andheri-II (Mumbai) & Haveli-I (Pune) and Joint Sub registrars Andheri-I, III (Mumbai).

the adjudicating authority (Collector of Stamps) had accepted the audit observation. The IGR was required to take further action in these cases since the revision of the Collector's order can only be done by the IGR. Further reply was awaited (December 2006).

The cases were reported to Government in March 2006; their reply had not been received (December 2006).

3.4 Short levy of stamp duty on lease deeds

3.4.1 Under the provisions of Act, where the lease purports to be for a period in excess of 29 years and granted for a premium/money advanced in addition to the rent fixed, stamp duty is leviable at the rates prescribed in the Act on 10 times of the annual average rent and amount of premium/advance.

In the office of the JSR Borivali-II, Mumbai, it was noticed in February 2005 that in an adjudicated lease deed document of July 2003, stamp duty of Rs 4.25 lakh at one *per cent* was levied by the adjudicating authority on Rs 4.25 crore instead of Rs 42.17 lakh at 10 *per cent* of Rs 4.21 crore leviable. Thus, application of incorrect rate of stamp duty resulted in short levy of stamp duty of Rs 37.92 lakh.

After this was pointed out in April 2005, the IGR while accepting the audit observation stated in February 2006 that action would be taken to revise the order of the adjudicating authority and demand raised accordingly under section 53-A¹² of the Act.

3.4.2 Under the provisions of the Act, where the lease purports to be for period between 10 and 29 years, stamp duty is leviable at five times of the annual average rent including the municipal taxes to be paid by the lessee.

In the office of the JSR Andheri-I, Mumbai, it was noticed in April 2005 that in an adjudicated lease deed document of December 2004, stamp duty of Rs 6 lakh was levied considering the lease period as five years against the lease period of 20 years¹³ on which stamp duty of Rs 14.03 lakh was leviable. Omission to reckon the correct lease period resulted in short levy of stamp duty of Rs 8.03 lakh.

After this was pointed out in April 2005, the IGR stated in February 2006 that the Collector of Stamps (adjudicating authority) had accepted the audit observation and final action under the Act would be taken. Further reply was awaited (December 2006).

The cases were reported to Government in May 2006; their reply had not been received (December 2006).

¹² Section 53-A deals with revision of Collector's decision by the IGR.

¹³ Initial period of 5 years with three options of renewal at the end of every five-year term.

B – STATE EXCISE

3.5 Short realisation of licence fees

Under the provisions of the Maharashtra Potable Liquor (periodicity and fees for grant, renewal or continuance of licences) Rules, 1996, the Commissioner of State Excise revised the rates of licence fees for storage/sale of imported foreign liquor/Indian made foreign liquor in bars (FLI, FLII and FLIII), retail sale of country liquor (CLIII) and toddy on 30 January 2001 and on 30 May 2003. Government revised licence fee for possession and use of rectified spirit (RS-I and RS-II) in March 2001. In case of default in payment of dues, interest at the prescribed rate was leviable.

During test check of records in seven offices¹⁴, it was noticed that in respect of 136 licences (FLI, FLII, FLIII, CLIII, RSI, RSII and toddy) renewed for periods between 2001-02 and 2005-06, the licensees paid licence fees at incorrect rates. This resulted in short realisation of licence fees of Rs 76.36 lakh.

After this was pointed out between October 2003 and June 2005, the department recovered Rs 49.71 lakh, along with interest in 98 cases between January 2004 and November 2006. Report on recovery of the balance amount had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

3.6 Non recovery of toddy instalments

Under the provisions of the Maharashtra Toddy Shops (grant of licence by auction or tender) Order, 1968, licence for sale of toddy in shops for the period from 1 September of a year to 31 August of the following year is issued to the highest bidder. Every successful bidder is required to pay on the spot or on the next working day, one fourth of the amount of the bid and the balance in six equal monthly instalments within the time prescribed in the order. Besides, interest is recoverable for delay in payment of instalment as per provisions in the Rules.

It was noticed during test check of records in three offices¹⁵ between April and June 2005 that 107 bidders had not paid toddy instalments amounting to Rs 16.18 lakh payable for the toddy year 2004-05 within the prescribed time.

After this was pointed out, the department recovered Rs 15.49 lakh including adjustment of Rs 1.92 lakh against excess fees recovered for the period 2004-05 along with interest of Rs 1.94 lakh from 99 bidders between April 2005 and July 2006. Report on the recovery of the balance amount had not been received (December 2006).

¹⁴ Superintendent of State Excise: Amravati, Kolhapur, Nagpur, Nashik, Pune, Raigad and Thane.

¹⁵ Superintendent of State Excise: Ahmednagar, Ratnagiri and Sindhudurg

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

C - TAXES ON MOTOR VEHICLES

3.7 Non realisation of motor vehicles tax/one time tax

Under the Bombay Motor Vehicles Tax Act, 1958 (BMVT Act) and Rules made thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State. The Act further provides that tax leviable shall be paid in advance by the registered owner of the vehicle. Payment of one time tax (OTT) was made compulsory for light motor vehicles used for carriage of goods registered on or after 1 May 2000 and extended from 1 June 2001 to existing light motor vehicles paying tax at the annual rate. Interest at the rate of two *per cent* of the amount of tax for each month or part thereof is payable in each case of default in payment of tax dues.

During test check of records in 13 offices¹⁶, it was noticed between September 2002 and September 2005 that in respect of 456 motor vehicles, tax was either not/short recovered from the vehicle owners for periods falling between 2001-02 and 2005-06, resulting in non realisation of motor vehicles tax or OTT of Rs 67.20 lakh.

After this was pointed out, the department recovered between February 2003 and May 2006 tax amounting to Rs 18.19 lakh along with interest of Rs 4.39 lakh from 161 vehicle owners. Report on recovery of the balance amount had not been received (December 2006).

The matter was reported to Government in March and May 2006; their reply had not been received (December 2006).

¹⁶ Dy. RTOs: Chandrapur, Gadchiroli, Gondia, Hingoli, Latur, Osmanabad, Pimpri-Chinchwad, Ratnagiri and Solapur.
RTOs: Nagpur, Nanded, Thane and Yavatmal.

The matter was reported to Government in May 2000, then reply had not been received (December 2000).

C. TAXES ON MOTOR VEHICLES

Non-realisation of motor vehicle tax on time tax

Under the Bombay Motor Vehicle Tax Act, 1928 (BMVT Act) and Rules thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State. The Act further provides that the tax shall be paid in advance by the registered owner of the vehicle. Payment of the tax (BY OTI) was made compulsorily for light motor vehicles in effect carried on goods registered on or after 1 May 2001 and extended from 1 June 2004 to existing light motor vehicles on or after the same date. Interest on the tax which was due for the amount of tax for each month in default is payable in such case of default in payment of tax dues.

During research, it was noticed that in 13 districts, it was noticed between 2002 and 2004, the tax was not collected in respect of 450 motor vehicles. Tax was shown as due for the period from the vehicle owners for periods falling between 2001 and 2004. The results of non-realisation of motor vehicle tax for OTI in 13 districts are as follows:

All other 4 districts in the department reported between 1997 and 2004 and the total tax amounting to Rs. 12,12,12,121 along with interest of Rs. 12,12,12,121 has been for which Government has not yet received the balance amount and a return received (December 2000).

The matter was reported to Government in May 2000, then reply had not been received (December 2000).

The Public Accounts Committee, Mumbai, Maharashtra, India, has been constituted to examine the accounts of the Government of Maharashtra for the year 2000-01.

CHAPTER IV : LAND REVENUE

4.1 Results of audit

Test check of records of land revenue conducted during the year 2005-06 revealed underassessment, short levy, loss of revenue etc., amounting to Rs 128.75 crore in 324 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Review: Encroachment on Government Land in Urban Area	1	41.34
2.	Non /short /incorrect levy of NAA, ZP/VP cess, conversion tax and royalty	179	61.32
3.	Non/short /incorrect levy of land revenue	53	7.28
4.	Non/short levy of education cess etc.	14	0.50
5.	Non/short levy of occupancy price/rent etc.	25	1.55
6.	Short levy of measurement fees, <i>sanad</i> ¹ fees etc.	52	16.76
	Total	324	128.75

During 2005-06, the department accepted underassessment, short levy etc., of Rs 3.87 crore in 301 cases which were pointed out in earlier years and recovered the same.

A review on “**Encroachment on Government Land in Urban Areas**” involving financial effect of Rs 41.34 crore and a few illustrative cases involving financial effect of Rs 11.82 lakh are given in the following paragraphs:

¹ A patent, an authority, in writing from ruling power to hold a land or an office, or to follow a certain calling or profession.

4.2 Review on "Encroachment on Government Land in Urban Areas"

4.2.1 Highlights

Results of action taken on accepted recommendations of the Public Accounts Committee (PAC) were not available in the Revenue or Housing departments.

(Paragraph 4.2.8)

Non issue of identity cards resulted in non realisation of fee of Rs 45.83 lakh.

(Paragraph 4.2.11)

Government share of Rs 20.47 crore on account of consolidated charges was not realised.

(Paragraph 4.2.12)

Penal occupancy price of Rs 20.41 crore was not levied in two cases of unauthorised retention of Government land.

(Paragraph 4.2.13)

4.2.2 Recommendations

Government may consider:

- strengthening the mechanism to check encroachments;
- introducing a system to track changes in the use of leased land in each collectorate; and
- introducing a system at Government level to ensure corrective measures as per the orders of court of law/competent authority.

4.2.3 Introduction

The Maharashtra Land Revenue (MLR) Code, 1966 and the rules framed thereunder regulate the grant of Government land on occupancy or lease hold right, as well as collection of occupancy price, lease rent and land revenue etc. The District Collectors (DCs) have been empowered to abate or remove summarily any encroachment made on any Government land. The encroacher is liable to pay, for the whole period of encroachment, the assessment for the entire survey number (if the land forms part of an assessed survey number) or if the land has not been assessed, such assessment as would be leviable for the said period, on similar land used for the purpose for which land is encroached.

4.2.4 Organisational set up

Subject to the superintendence, direction and control by the Secretary, Revenue and Forest Department at Government level, the State of Maharashtra has been divided into six² revenue divisions each headed by a Commissioner who is the chief controlling authority in all matters connected with land revenue. He is assisted by DCs at district level. The assessment and realisation of land revenue in respect of land held by the encroachers are to be

² Amravati, Aurangabad, Konkan, Nagpur, Nashik and Pune.

made by Additional Collectors (Encroachment) (AC-E), sub divisional officers (SDOs) and tahsildars etc., according to their respective delegation of powers. Occupancy price and fine are also leviable along with land revenue, which includes lease rent and cess, etc. Appeal, if any, with reference to the assessment lies with the next higher authority in the Revenue Department.

4.2.5 Scope of audit

A review of records including the cases of allotment of land on leasehold/ occupancy rights for the period 2000-01 to 2004-05 of 12³ out of 35 DCs was conducted between November 2005 and April 2006 to assess whether the provisions of MLR Code, MLR (Disposal of Government Land) Rules, 1971, allied laws and Government orders from time to time were correctly adhered to.

4.2.6 Audit objectives

The review was conducted with a view to:

- assess the efficiency in detection, eviction, regularisation and implementation of terms and conditions while granting occupancy/lease hold right;
- verify action taken on detailed instructions issued by Government in May 1999 subsequent to recommendations of the Public Accounts Committee (PAC) on paragraph 4.2 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1989 (Revenue Receipts) Government of Maharashtra;
- assess existence of internal control and monitoring mechanism to prevent encroachment, detect or evict encroachers and to verify whether cases of encroachment are regularised in accordance with the applicable provisions.

4.2.7 Non maintenance of land distribution register

Government issued instructions on 22 February 1996 that the Collector is required to maintain a land distribution register containing the details of grant of Government land, i.e. names of grantee, area, purpose and period of grant and terms and conditions etc. Further, periodic review of the said register is also required to be carried out so as to keep track of the cases of expiry of lease period/breach of conditions of lease.

In Pune and Wardha Collectorates, it was noticed that no such register was maintained. Further, Collector, Nashik had started maintaining the register only from October 2002.

Government stated in September 2006 that instructions regarding maintenance of the register had been issued in August 2006.

³ Ahmednagar, Amaravati, Kolhapur, Mumbai (City), Mumbai (suburban), Nagpur, Nashik, Pune, Sangli, Solapur, Thane and Wardha.

4.2.8 Inaction on recommendations of the PAC

The PAC in its 27th report of September 1994 on paragraph 4.2 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1989 (Revenue Receipts), Government of Maharashtra regarding encroachment of Government land recommended to take stern action against the officers and staff responsible for encroachment; not to provide basic facilities like water and electricity to the encroachers to make unauthorised occupation of Government land problematic; regularise genuine cases of encroachments; amend suitably the MLR Code with a view to curb the tendency of encroachment by increasing the amount of fine and to create machinery at the headquarters to trace out the encroachments. Failure of Government in the matter was pointed out in paragraph 4.2.6 of the Audit Report for the year ended 31 March 1999 as no action was taken by Government by end of that period. To implement the above recommendations, Government issued detailed instructions in May 1999. However, even after a lapse of seven years from the issue of instructions, the results thereof were not available either with the Revenue or the Housing Department.

4.2.9 Unauthorised retention of Government land after expiry of lease period

MLR Code provides that a person who continues to occupy Government land after expiry of lease and without completing the renewal process three months before expiry of lease period, is liable for eviction, and penalty at twice the amount of lease rent for the period of unauthorised use of land is chargeable. Government issued orders on 5 October 1999 fixing lease rent in case of expiry of lease in Mumbai city and Mumbai suburban districts. Aggrieved by the assessments in terms of the order of 5 October 1999, the parties challenged the same in the Honourable High Court of Mumbai in 2001. Government withdrew these orders on 24 August 2004 and informed court accordingly. The case was decided on 25 August 2004 and the court directed that valuation of property shall be done by the State in accordance with law and the relevant provisions and terms and conditions laid down in the respective lease deeds in the above cases. Government was at liberty to issue fresh show cause notices to decide the cases after affording an opportunity of hearing. In the meantime, all the petitioners shall continue to pay the lease rent.

During scrutiny of records of Collector, Mumbai city, it was noticed that in 33 lease cases, where the lease period expired between September 2002 and September 2003, neither notices for the assessments were issued nor any directives were given by Government to the Collector to finalise the assessments. As a result, occupants continued to occupy the land unauthorisedly even after expiry of the lease period.

Government accepted the facts and stated in September 2006 that notices in terms of the High Court order of 25 August 2004 were not issued. However, policy for action against/recovery from the lessees was being framed.

4.2.10 Non regularisation of encroachment

MLR Code provides that if the revenue authority detects any case of encroachment of Government land, the encroacher is liable for eviction and

assessment of non agricultural assessment (NAA)/land revenue and fine at prescribed rates. Government instructions issued in April 2002 provide that if the encroachment is to be regularised on occupancy right, encroacher is required to pay an amount equal to two and half times of the market value of land on the date of encroachment and interest as applicable from time to time.

Test check of records of five tahsils revealed that in 5,772 cases, encroachment of Government land admeasuring 8,06,655 sq.m were detected between 2001-02 and 2005-06. However, these encroachers were neither evicted nor any action to regularise the encroachments was taken. This resulted in non realisation of revenue of Rs 240.77 crore including interest as under :

Sr. No.	Name of the district/tahsil	Year/date of detection of encroachment	No. of encroachers	Area in sq. mtrs.	Market value of land	2.5 times of market value	Interest	Total
					(Rs. in crore)			
1.	Wardha	14 January 2005	392	52,800	3.53	8.83	12.52	21.35
2.	Khanapur Vita	24 May 2005	31	10,700	0.72	1.79	2.54	4.33
3.	Nashik	24 March 2005	650	10,500	1.40	3.51	4.97	8.48
4.	Ahmednagar	2003-04	40	20,900	2.79	6.98	9.88	16.86
5.	Kopargaon	2001-02	4,659	7,11,755	35.80	89.50	100.25	189.75
Total			5,772	8,06,655	44.24	96.48	144.29	240.77

After this was pointed out, Government accepted in September 2006, the facts and agreed to take up the matter with Collectors to inform audit about the correctness of the figures within one month.

4.2.11 Non realisation of identity card fees

Government issued instructions on 11 July 2001 to recover one time identity card fee on issue of identity cards at prescribed rates, depending on use of Government land from eligible slum dwellers within six months from the date of issue of the instructions.

Test check of records of the Additional Collector, Western Suburban, Mumbai revealed that 1,16,943 slum dwellers were eligible for issue of identity cards but only 96,945 identity cards were issued. Non issue of identity cards which were to be issued by 10 January 2002 to the remaining 19,998 eligible slum dwellers resulted in non collection of identity card fees of Rs 45.83 lakh as follows:

Sl. No.	Category	No. of slum dwellers			Rate of fee (Rs.)	Amount recoverable (Rs. in lakh)
		Eligible	To whom I. Card issued	Balance		
1.	Residential	1,15,797	96,701	19,096	200	38.19
2.	Mixed	241	34	207	600	1.24
3.	Non residential	905	210	695	800	6.40
	Total	1,16,943	96,945	19,998		45.83

4.2.12 Non realisation of Government share of consolidated charges

4.2.12.1 Government instructions dated 11 July 2001 provide that consolidated charges such as service charges, administrative charges and ground rent are to be recovered, from eligible slum dwellers with effect from 1 January 2003 if the land is used for residential purposes and from 1 August 2003 if land is used for purpose other than residential, by the Brihan Mumbai Municipal Corporation (BMC). Forty *per cent* of the consolidated charges collected by BMC are required to be credited to Government account.

Test check of records of AC-E, Western Suburban, Mumbai revealed that due to non issue of identity cards to 19,998 eligible slum dwellers, consolidated charges of Rs 6.82 crore could not be realised by BMC during the period between January 2003 and July 2005. Consequently, share of Government of Rs 2.73 crore remained unrealised as detailed below:

Sl. no.	Category	Balance number of eligible slum dwellers	Rate of consolidated charges per month (Rs.)	Period	Amount recoverable (Rs. in crore)	Government share
1	Residential	19,096	100	1 January 2003 to 31 July 2005, (31 months)	5.92	2.37
2	Mixed	207	200	1 August 2002 to 31 July 2005 (36 months)	0.15	0.06
3	Non residential	695	300	1 August 2002 to 31 July 2005 (36 months)	0.75	0.30
	Total	19,998			6.82	2.73

Government accepted in September 2006 the facts and agreed to inform about the action taken in the matter within 15 days. No reply had been received (December 2006).

4.2.12.2 Test check of records of Additional Collectors, Eastern and Western suburban, Mumbai, revealed that 1,41,841 identity cards were issued to eligible slum dwellers and BMC was required to collect consolidated charges of Rs 44.35 crore during the period between August 2002 and July

2005. Out of this, Rs 17.74 crore Government share at the rate of 40 per cent required to be deposited in Government account was not deposited by the BMC. This resulted in non realisation of Rs 4 crore as detailed below:

Sl. No.	Category	No. of slum dwellers to whom photo identity cards issued	Rate of monthly consolidated charges (Rs.)	Period	Total amount recoverable	Government share
					(Rs. in crore)	
1.	Addl. Collector (Encroachment), Eastern Suburban					
	Residential	45,184	100	1 January 2003 to 31 July 2005 (31 months)	14.01	5.60
	Mixed	13	200	1 August 2002 to 31 July 2005 (36 months)	0.01	0.004
	Non residential	258	300	1 August 2002 to 31 July 2005 (36 months)	0.28	0.11
	Total	45,455			14.30	5.72
2.	Addl. Collector (Encroachment), Western suburban					
	Residential	96,155	100	1 January 2003 to 31 July 2005 (31 months)	29.81	11.92
	Mixed	31	200	1 August 2002 to 31 July 2005 (36 months)	0.02	0.01
	Non residential	200	300	1 August 2002 to 31 July 2005 (36 months)	0.22	0.09
	Total	96,386			30.05	12.02
	Grand Total	1,41,841			44.35	17.74

Government agreed in September 2006 to intimate recovery made from BMC. No reply had been received (December 2006).

4.2.13 Unauthorised retention of Government land due to breach of conditions

Under MLR code, it shall be lawful for the collector to evict a person, who is unauthorisedly holding Government land, due to breach of any condition of the grant of such land. In case of regularisation of these cases, penal occupancy price not exceeding five times the value of the land price and penal assessment not exceeding five times the ordinary annual land revenue, subject to minimum of two and half times of penal occupancy price, is payable.

Test check of records of Collectors, Sangli and Thane districts revealed that in two cases there was breach of terms and conditions of grant of land. On breach of condition by the occupant he should have been treated as unauthorised occupant of Government land and was liable for eviction. No action was taken by the collectors either to evict the unauthorised occupants or

regularise the same. Penal occupancy price of Rs 20.41 crore including penal non agricultural assessment (NAA) was leviable as detailed below:

District	Name of the land holder	Area (in sq. mtrs.)	Purpose of grant of land	Actual use of land	Date of detection of breach	Market value	Penal occupancy price	Penal NAA	Total
							(Rs. in crore)		
Thane	Bahubali Jain charitable Trust	49,600	Charitable	Commercial and residential	8 February 2001	5.78	14.44	0.04	14.48
Sangli	Sangli Zilha Maji Sainik Sahkari Bhadekaru Gruh Nirman Sanstha	49,500	Housing society for army persons	Sold to non army persons	23 July 2003	2.35	5.88	0.05	5.93
Total						8.13	20.32	0.09	20.41

After this was pointed out, the Collector, Sangli stated in October 2006 that the tahsildar had been directed to take necessary action in the matter. Reply in the other case had not been received (December 2006).

Government in September 2006 accepted the breach of condition by the landholders and assured to take appropriate action.

4.2.14 Conclusion

Even after issue of instructions to implement recommendations of PAC, relevant data was not available with Government to measure the effectiveness of the instructions. Non availability of an effective machinery to prevent cases of encroachment led to continuance of cases of encroachment.

4.2.15 Acknowledgement

Audit findings as a result of the review were reported to the department/ Government in May 2006 with a specific request to attend the meeting of the Audit Review Committee so that the views of the department/Government could be taken into account before finalising the review. The Audit Review Committee meeting was held on 1 September 2006 and attended by the Principal Secretary, Revenue & Forest Department, the Commissioner and Collector, Nagpur. The viewpoint of Government has been taken into account while finalising the review.

4.3 Non realisation of revenue

Under the provisions of MLR Code, unauthorised extraction of minerals attracts penalty/fine amounting to three times of market rate of the minerals so extracted. The Bombay Minor Mineral Extraction Rules, 1955 (Rules), provide that any order passed in review shall on no account be further reviewed. Besides, Government instructions of August 1993 provide that Government revenue shall be recovered expeditiously either by vacating stay or deciding the appeal on priority basis in cases where substantial amount is involved and validity of stay orders shall not exceed three months, in any case, beyond which it will be deemed to be vacated.

In Palghar tahsil (district Thane), it was noticed in a case of unauthorised extraction of minerals that Government stayed the orders of the Assistant Collector, Dahanu for recovery of Rs 52.25 lakh on 6,716 brass⁴ minerals in September 2002 and ordered the sub divisional officer (SDO) Dahanu in October 2002 to review the case. SDO, Dahanu reviewed the case and issued recovery order for Rs 39.32 lakh in October 2004 by imposing penalty at three times the market rate for unauthorised extraction of 5,054 brass of minerals, including royalty. Reasons for variation in the quantity of minerals involving revenue of Rs 12.93 lakh were, however, not on record. The Additional Collector, Thane, however, stayed this order in December 2004 on the basis of an appeal by the contractor. Thus, stay given by the Additional Collector in this case which had already been reviewed by the authority nominated by Government contravened the provision that any order once reviewed shall not on any account be reviewed. The validity of the stay order issued in December 2004 expired after three months (i.e. in March 2005) as per Government instructions of August 1993. Thus, Government revenue of Rs 39.32 lakh recoverable from the contractor had not been realised (December 2006).

The matter was reported to Government in March 2006; their reply had not been received (December 2006).

4.4 Non/short levy of non agricultural tax

Under the provisions of MLR Code, non agricultural (NA) tax is levied annually with reference to the use of land and NA tax so fixed is revised whenever Government revises the rates by issue of notification subject to the expiry of the guarantee period⁵. The NA tax rates were revised by Government in September 2001 with effect from 1 August 2001.

In Haveli tahsil (district Pune), it was noticed in March 2005 in 12 cases of Hadapsar and Kothrud villages involving 1,67,199.43 sqm. of land used for residential and commercial purposes that NA tax was either not levied at revised rates or levied at pre revised rates. This resulted in non/short levy of NA tax of Rs 11.82 lakh.

After this was pointed out, the Tahsildar, Haveli accepted the omission in February 2006. Further action taken in these cases was awaited (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

⁴ Unit of measuring minerals. One brass is equal to 4 metric tonnes/2.83 cubic meters of minerals.

⁵ The standard rate of NAA remains in force for a period of five years which is called 'guarantee period'.

CHAPTER V : OTHER TAX RECEIPTS

5.1 Results of audit

Test check of records of departmental offices conducted during 2005-06 revealed short realisation or loss of revenue amounting to Rs 157.53 crore in 5,877 cases as detailed below:

(Rupees in crore)

Sl. No.	Nature of receipt	No. of cases	Amount
1.	Mumbai building repairs and reconstruction cess	26	67.31
2.	Entertainments duty	1,275	1.92
3.	State education cess and employment guarantee cess	787	19.52
4.	Tax on buildings (with larger residential premises)	519	2.40
5.	Tax on professions etc.	2,803	0.62
6.	Electricity duty	467	65.76
	Total	5,877	157.53

During 2005-06, the departments concerned accepted and recovered underassessment etc., in 2,683 cases involving Rs 11.70 crore, of which 334 cases involving Rs 0.80 crore related to 2005-06 and the rest to earlier years.

A few illustrative cases involving Rs 137.37 crore, highlighting important observations, are given in the following paragraphs:

SECTION A REPAIR CESS

5.2 Mumbai building repairs and reconstruction cess

5.2.1 Introduction

Under the provisions of the Bombay Building Repairs and Reconstruction Board Act, 1969, the Bombay building repairs and reconstruction cess (cess) was introduced with effect from 1 October 1969. Subsequently, this Act was replaced by the Maharashtra Housing and Area Development Act, (MHAD Act) 1976 (effective from 5 December 1977). Cess is being levied on buildings erected prior to October 1969 and on lands in Mumbai city only, to provide for funds for structural repairs and reconstruction of buildings in ruinous condition. Cess is being levied and collected by BMC along with general tax and is required to be credited to Government account within 15 days from the date of recovery.

The assessor and collector is the head of the assessment and collection department of the BMC. He is assisted by one assistant assessor and collector in each of the nine wards engaged in the assessment and collection of repair cess. The Mumbai Building Repairs and Reconstruction Board (board) a constituent of the Maharashtra Housing and Area Development Authority (MHADA) is headed by a chief officer who is assisted by two deputy chief engineers, a chief accounts officer and 10 executive engineers (EE) for structural repairs and reconstruction of buildings in ruinous and dangerous condition. The Secretary, Housing Department exercises administrative control at Government level.

Test check of records maintained for the years 2000-01 to 2004-05 in all the nine wards of BMC which are engaged in levy and collection of repair cess and the records of the board and the Housing Department at Mantralaya was conducted between November 2005 and January 2006. Results of test check are detailed in the following paragraphs:

5.2.2 Non remittance of cess

Under the provisions of the MHAD Act, cess recovered by BMC on behalf of the State Government is required to be credited to the Consolidated Fund of the State within 15 days from the date of recovery after deducting therefrom, rebate at five *per cent* of the amount recovered towards cost of collection. In cases of default in remittance of cess collected by the BMC, the Act empowers Government to direct the bank or treasury in which the earnings of BMC are deposited, to pay such sums to the State Government as it thinks fit. There are no checks prescribed in the Act to ascertain the correctness of cess recovered and remitted by the BMC.

It was noticed that out of Rs 215.25 crore collected during the period from 1 April 2000 to 31 March 2005, BMC remitted only Rs 99.95 crore into Government account. Out of the balance amount of Rs 115.30 crore,

BMC paid Rs 71.05 crore to MHADA and Rs 5.97 crore was adjusted against service charges payable by Government. The balance amount of Rs 38.28 crore collected during the said period was not remitted to Government account as of March 2006.

5.2.3 Irregular disbursement of funds to MHADA

Under the provisions of the MHAD Act, proceeds of cess collected by BMC is first to be credited to the Consolidated Fund of the State and thereafter, the amount is to be transferred to Mumbai Building Repairs and Reconstruction Fund (repair fund) of MHADA for meeting the expenditure on repairs.

Scrutiny of records of BMC revealed that repairs cess of Rs 46.05 crore was disbursed by BMC in February and March 2003 to MHADA directly without the instructions of Government instead of crediting the same to Government account, which was irregular.

After this was pointed out, Government stated in December 2005 that the amounts were disbursed to MHADA directly as advance to enable MHADA to complete urgent repairs. The reply of Government is not tenable because as per MHAD Act, the cess should be credited first to the Government account and then appropriated towards repair fund.

5.2.4 Forgoing of revenue due to non prescription of rate of cess

As per the MHAD Act, when a building is structurally repaired, cess is to be levied on different categories of buildings at the enhanced rates, depending on the slab of expenditure incurred by the board (limited to Rs 750 per sq. m. with effect from 1 April 1994). The permissible limit towards cost of repairs to be borne by the board was enhanced to Rs 1,000 per sq. m. with effect from 15 May 1998 and Rs 1,200 per sq. m. from 4 July 2004 but the rate of cess leviable was not revised after 1 April 1994.

The Chief Officer of the board proposed in June 2001 and July 2004 to Government the rate of cess that could be levied on the enhanced cost of repairs depending on the different categories of buildings. However, pending revision of the rates by Government, 2,468 buildings which were structurally repaired during the period from 1 April 2000 to 31 March 2005 by incurring expenditure at the enhanced cost of repairs, were continued to be assessed for repair cess at the rates applicable to the cost of expenditure on repairs of Rs 750 per sq. m. This resulted in foregoing revenue of Rs 27.18 crore worked out at the proposed rates.

5.2.5 Non levy of interest on delayed remittance of repair cess

As per the provisions of the MHAD Act, cess recovered by BMC is required to be credited to the Consolidated Fund of the State within 15 days from the date of recovery. There is no provision for levy of interest on delay in remittance, in the Act.

It was noticed that BMC remitted Rs 30 crore collected between August 2000 and March 2001, in January 2003 after a delay of 22 months. In the absence of a provision for levy of interest for delay in remittance of cess collected, no interest could be levied.

There is thus, a need for a provision to levy interest on delayed remittance to curb the tendency of retention of Government money.

5.2.6 Non levy of penalty for delayed payment

As per the MHAD Act, read with the Bombay Municipal Corporation Act, if a person liable to pay any dues does not pay it within three months of the service of the notice, he is liable to pay a penalty not exceeding 20 per cent of the amount due.

It was noticed that in 146 cases pertaining to five¹ wards, the assessee delayed payment of cess of Rs 2.64 crore on which penalty of Rs 39.60 lakh, worked out at the rate of 15 per cent of the amount being levied, was not levied and demanded by BMC.

5.2.7 Loss of revenue

When a building is structurally repaired, the rate of cess is to be enhanced to the appropriate rate from the date of completion of repairs. For this purpose, the EEs of the Board are required to send intimations to BMC in respect of buildings which are structurally repaired, furnishing details of the property to enable BMC to issue bills at the enhanced rate of cess. As per a judgment² of the Mumbai High Court, levy of tax is for every official year³ and the provision is also in respect of the current official year. It could not operate retrospectively to cover the previous years.

Test check of records of 'B' ward of BMC revealed that the EEs of the board intimated BMC during 2002-03, completion of repairs in 49 cases but the bills at enhanced rates were raised with effect from 1 April 2005 instead of during the year 2002-03 in which the intimations were sent by the EEs. This resulted in loss of revenue of Rs 76.16 lakh.

After this was pointed out, BMC stated that bills would be issued with retrospective effect. The reply is not acceptable as retrospective bills could not be issued in view of the above judgment.

The above points were reported to Government in May 2006; their reply had not been received (December 2006).

SECTION B ENTERTAINMENTS DUTY

5.3 Non/short recovery of entertainments duty from cable operators/video game operators

Under the provisions of the Bombay Entertainments Duty Act, 1923 (BED Act), entertainments duty (ED) is payable with effect from 1 May 2000 by cable operators at flat rates of Rs 30 or Rs 20 or Rs 10 per television set per month depending on whether the area is a municipal corporation (MC), A and

¹ A, C, D, E and G/North Wards.

² Writ petition No. 214 of 1984.

³ Official year means the year commencing on the first day of April.

B class municipality or other area. In respect of video games, ED payable from May 2003 onwards is Rs 1,000 or Rs 750 or Rs 500 per machine operated by one person, depending on whether the area is within the limits of BMC, all MCs other than BMC or other area.

Test check of records in 19 offices⁴ in 12 districts⁵ revealed that ED amounting to Rs 33.37 lakh was either not paid or paid short by 279 cable operators/video games operators during the period between 2001-02 to 2004-05. No demands were raised by the Resident Dy. Collectors/tahsildars against the operators. The underassessment was due to failure to review the registers containing the number of cable connections serviced by each cable operator/number of machines operated by each video operator, ED recoverable and payments made thereagainst.

After this was pointed out between September 2002 and September 2005, the Resident Dy. Collectors/tahsildars recovered between February 2003 and November 2006, ED amounting to Rs 16.65 lakh from 143 cable operators/video operators. Report on recovery of the balance amount had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

5.4 Incorrect exemption of entertainments duty to films

Under the BED Act and the rules framed thereunder, Government may, by general or special order, exempt any entertainment or class of entertainments from the liability to pay ED. The rules framed under the Act require that exemption be granted to films which have been awarded the President's Gold Medal or films which, as recommended by an advisory committee appointed by the State Government, fulfills the criteria of educational, cultural or social purposes of a high order. The proprietor of a film which is granted exemption from payment of ED, is required to give an undertaking that he would pay an amount equivalent to the amount of ED leviable on the exhibition of such film to the person or persons responsible for the educational, cultural or social contribution of such film as nominated by the advisory committee. The proprietor of the film is also required to submit a weekly return to the District Collector specifying particulars of payments made to the nominated person(s) with a copy thereof to Government. Further, any exemption from the liability to pay ED granted for the exhibition of any such film should be withdrawn, if the proprietor fails to comply with the undertaking.

Scrutiny of the records of the Revenue and Forest Department granting exemption from ED during the year 2004-05 to six films revealed that:

⁴ Resident Dy. Collector: Akola, Amravati, Beed, Kolhapur, Latur, Nanded, Solapur and Yavatmal.

Dy. Collector: BEDA Zone VII, Zone VIII, Mumbai.

Entertainments Duty Officer: Pune Zone A, B, D, J, K.

Taluka Magistrate: Ambernath; Andheri Zone IV, (Mumbai); Kurla Zone IV, (Mumbai); Chalisgaon at Jalgaon.

⁵ Akola, Amravati, Beed, Jalgaon, Kolhapur, Latur, Mumbai, Nanded, Pune, Solapur, Thane and Yavatmal.

- In none of the cases had the committee nominated any person or persons responsible for the educational, cultural or social value of the films and weekly returns as prescribed were not submitted by the proprietors of the films to the District Collectors, with copies thereof to the Government.
- Though the advisory committee had recommended against granting of exemption of ED to three films as shown at Sl. Nos. 1 to 3 of the table, these were declared tax free by the Government.

As the essential conditions subject to which exemption from payment of ED was to be granted were not fulfilled, the exemption orders declaring the films as tax free should have been withdrawn under the rules. However, no such action was taken by the Government. Consequent revenue foregone on account of exemption from ED granted to these films as furnished by the Revenue and Forest Department amounted to Rs 98.04 lakh as detailed below:

Sl. No.	Name of the film	Period of exemption	Loss of revenue (Rs, in lakh)
1.	Dil Pardesi Ho Gaya	6 months from 6 December 2003	42.30
2.	Kids No. 1	6 months from 4 June 2004	0.03
3.	Lakshya	3 months from 8 July 2004	27.69
4.	Swadesh	6 months from 27 January 2005	7.19
5.	Black	6 months from 23 March 2005	14.55
6.	Chakachak	6 months from 2 February 2005	6.28
		Total	98.04

After this was pointed out, Government stated in February 2006 that even though the criteria of educational, cultural or social purpose of high order was not fulfilled, exemption was granted after considering the subject matter of these films.

The reply of the Government is not tenable as the conditions of exemptions were not fulfilled and in the case of three films, the advisory committee had also recommended against grant of exemption from payment of ED.

SECTION C
STATE EDUCATION CESS AND EMPLOYMENT
GUARANTEE CESS

5.5 Short/non remittance of cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 and Rules made thereunder, cess and penalty recovered by the municipal corporations (MCs) are required to be credited to Government account before the expiry of the following week. If any MC defaults in payment to the State Government of any sum under the Act, the State Government may after holding such enquiry as it thinks fit, fix a period for the payment of such sum. The Act also empowers Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from the bank account, to the State Government. Any such payment made in pursuance of the orders of Government shall be sufficient discharge of such bank/treasury from all liabilities to the MC.

It was noticed that three⁶ MCs had not remitted revenue amounting to Rs 19.77 crore relating to State education cess (SEC) and employment guarantee cess (EGC) collected during the year 2004-05. The State Government had not directed the bank to pay the sum due from the MCs to them. No internal control existed at the apex level in the Revenue and Forest Department as there was no provision in the Act/Rules for furnishing of details of cess collected and remitted to Government account.

After this was pointed out between May and December 2005, the Pune Municipal Corporation and Nagpur Municipal Corporation stated that the amounts would be credited to Government account shortly. BMC stated in September 2005 that orders for adjustment of the amounts against the grant due to it were awaited. Further report had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

SECTION D
TAX ON BUILDINGS
(with larger residential premises)

5.6 Non remittance of tax

Under the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (Re enacted) Act, 1979, tax recovered by a municipal corporation (MC) on behalf of the State Government shall be credited to the Consolidated Fund of the State within 30 days from the date of its recovery. If any MC defaults in payment to the State Government of any sum due under

⁶ Brihan Mumbai (three units Mumbai City, Eastern Suburb (Chembur) and Western Suburb (Bandra)), Nagpur and Pune.

the Act, the State Government may, after holding enquiry as it thinks fit, fix a period for payment of such sum. The Act also empowers Government to direct the bank/treasury in which the earnings of the MC are deposited to pay such sum from such bank account to the State Government. Any such payment made in pursuance of the orders of the Government shall be sufficient discharge of such bank/treasury from all liabilities to the MC.

It was noticed that three MCs⁷ had not remitted revenue amounting to Rs 3.52 crore collected on account of tax on buildings (with larger residential premises) during the year 2004-05. In none of the cases, the bank/treasury was directed to pay the sum to the State Government.

After this was pointed out between May and December 2005, the Pune Municipal Corporation and the Solapur Municipal Corporation stated in August 2005 that the amount would be credited to Government account. BMC stated in September 2005 that the matter would be taken up with the Government to adjust the amount due to Government against the grants payable to them.

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

SECTION E PROFESSION TAX

5.7 Non recovery of profession tax

Under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975 and the rules made thereunder, every person liable to pay profession tax is required to obtain a certificate of enrolment from the profession tax officer and pay tax annually at the rates prescribed in the schedule to the Act.

Test check of records in 15 profession tax offices⁸, revealed that profession tax amounting to Rs 17.37 lakh in respect of 1,081 persons enrolled under the Act for various periods between 2003-04 and 2004-05 was neither paid by them nor demanded by the department.

After this was pointed out between June 2004 and August 2005, the department recovered Rs 4.97 lakh in 326 cases between June 2004 and December 2006. Report on recovery of balance amount had not been received (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

⁷ Mumbai (three units Mumbai City, Eastern Suburb (Chembur) and Western Suburb (Bandra)), Pune and Solapur.

⁸ PTO: Amravati, Aurangabad-I, Barshi, Chandrapur, Gadchiroli, Jalgaon, Kalyan, Kolhapur-II, Latur, Nagpur-I & II, Osmanabad, Ratnagiri, Solapur and Thane-II.

SECTION F
ELECTRICITY DUTY**5.8 Incorrect retention of electricity duty and non levy of interest**

Under the provisions of the Bombay Electricity Duty Act, 1958, every licensee which supplies electricity to consumers is required to collect duty from the consumers together with its own charges, if any, and pay it to Government by the prescribed date. In case of default, interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

Maharashtra State Electricity Board (MSEB) collected electricity duty aggregating Rs 704.35 crore during the period from April 2005 to March 2006 from the consumers but had not remitted the amounts to Government account. Government, by notifications dated 24 February 2006 and 31 March 2006, adjusted electricity duty of Rs 302.94 crore and Rs 372.97 crore respectively due from MSEB against the subsidy payable by Government to the board. Report on recovery of the balance amount of Rs 28.44 crore had not been received. Further, interest amounting to Rs 73.15 crore was not levied and demanded by the Chief Engineer (Electrical).

After this was pointed out in May 2006 the Chief Engineer (Electrical) stated in September 2006 that interest was recoverable from MSEB. Further action taken was awaited (December 2006).

The matter was reported to Government in May 2006; their reply had not been received (December 2006).

CHAPTER VI : NON TAX RECEIPTS

6.1 Results of audit

Test check of records of non tax receipts conducted during the year 2005-06 revealed underassessment/short levy/loss of revenue etc., of Rs 1,083.01 crore in 52 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Loss of revenue in tendu leaves	12	12.93
2.	Loss of forest revenue	9	7.79
3.	Loss of revenue due to deterioration in transit in sale, non extraction/lifting of material other than tendu leaves and bamboo	6	5.76
4.	Miscellaneous	22	16.93
5.	Others	1	1.27
6.	Review: “Levy and Collection of Mineral Receipts”	1	816.12
7.	Levy and collection of guarantee fees	1	222.21
	Total	52	1,083.01

During the course of the year 2005-06, the department accepted underassessment etc., in 14 cases involving Rs 1.56 crore and recovered the same. Of this, Rs 1.54 crore related to earlier years and Rs 0.02 crore to the year 2005-06.

A review on **“Levy and Collection of Mineral Receipts”**, involving financial effect of Rs 816.12 crore and a few illustrative cases involving Rs 256.12 crore are given in the following paragraphs:

6.2 Review on Levy and collection of mineral receipts

6.2.1 Highlights

Failure to adhere to the norms for inspections indicated lack of proper monitoring and internal control.

(Paragraph 6.2.9.1)

Non functioning of Central Flying Squad in the Directorate of Geology and Mining upto 2003-04 and non functioning in the Deputy Directors' offices indicated inadequate vigilance on mining activities in the State.

(Paragraph 6.2.9.2)

Irregular adjustment of royalty towards surface rent resulted in short recovery of royalty of Rs 2.92 crore.

(Paragraph 6.2.10)

Non/short recovery of royalty amounted to Rs 13.37 crore.

(Paragraph 6.2.11 & 6.2.15)

Interest of Rs 2.53 crore was not levied on belated payments of royalty.

(Paragraph 6.2.12)

Penalty of Rs 796.53 crore for illicit extraction of minor minerals by the five irrigation development corporations in the State was not levied and demanded.

(Paragraph 6.2.14.1)

6.2.2 Recommendations

For improvement of collection of revenue and enforcement of the provisions of the Act and the Rules, Government may consider to:

- enforce the internal control and monitoring mechanism scrupulously for plugging of leakage of revenue and timely detection of illegal extraction of mineral wealth;
- provide adequate staff for maintenance and checking of records and returns for timely and effective recovery of dues; and
- provide for levy of interest on belated payment of dues in the Maharashtra Minor Mineral Extraction Rules, 1966.

6.2.3 Introduction

The grant of concessions and leases for prospecting, mining or extracting major minerals is regulated by the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the Mineral Concession Rules, 1960, (MC Rules) framed thereunder. In so far as minor minerals are concerned, the Maharashtra Minor Minerals Extraction (MMME) Rules, 1966 and the Bombay Minor Mineral Extraction (BMME) Rules, 1955 have been framed by the State Government for regulation of mining and extraction of minor minerals. The MMDR Act, MC Rules, MMME Rules and BMME Rules, provide that no person should undertake mining operations in any area except with a licence or mining lease granted under the said Act and Rules. If any

person undertakes mining operations or removes minerals in contravention of the provisions of the Act and Rules, the same tantamounts to unauthorised extraction/despatch of minerals. In such an event, the State Government is empowered under the provisions of MLR Code to recover the minerals so extracted or where such minerals have already been disposed of, to levy penalty not exceeding three times the market value of the minerals.

Mineral receipts mainly consist of royalty, surface rent, dead rent, application fees, applicable cess, penalties and interest on belated payment of dues. Royalty is recoverable in respect of any mineral removed or consumed from the leased area. Surface rent is recoverable for the surface area used for the purposes of mining operations. Dead rent is recoverable for the entire area included in the instrument of the lease; however, a lessee is liable to pay dead rent or royalty, whichever is higher. Interest is recoverable on belated payment of royalty, rent, fees or other sums due to Government in respect of major minerals. In addition, stamp duty and registration fees are also leviable on mining lease deeds under the Indian Stamp Act, 1899 and the Indian Registration Act, 1908.

The mineral resources of the State are broadly classified as under:

- major minerals: coal, lime stone, bauxite, manganese and iron;
- minor minerals: sand, stone, murum and ordinary earth.

6.2.4 Organisational set up

At the apex level, the administration of the Act and the Rules framed thereunder is entrusted to the Secretary, Industries, Energy and Labour Department (IE&LD) for major minerals and the Secretary, Revenue and Forest Department (R&FD) for minor minerals. The Director, Geology and Mining (DGM), Nagpur is the head of the department and is assisted by six regional deputy directors for each region and district mining officers (DMOs) at the district level. The tahsildars, sub divisional officers (SDOs) and collectors grant concessions by way of permits for mining/quarrying of minor minerals as per powers delegated to them by Government. The collectors are empowered to grant leases for mining/quarrying of minor minerals.

6.2.5 Audit objectives

Test check of records was conducted to ascertain whether:

- levy and collection of royalty, rent, fees, penalty and interest etc., under the Act and the Rules was correctly done; and
- adequate control and monitoring mechanisms were in place for timely detection of illegal exploitation of the mineral wealth to prevent loss/leakage of revenue.

6.2.6 Scope of audit

Test check of records was conducted between September 2005 and March 2006 with a view to examine the correctness of levy and collection of mineral receipts excluding sand. Scrutiny was carried out in the office of the DGM at

Nagpur, in 12¹ out of 34 DMOs in the State and all the five irrigation development corporations² for the period from 2000-01 to 2004-05. The selection of units was done keeping in view the revenue collection and location of deposits of major minerals in the State. The results of test check are detailed in the following paragraphs.

6.2.7 Trend of revenue

The budget estimates (BEs), actual receipts and percentage of increase/decrease of revenue under the major head "Non ferrous mining and metallurgical industries" for the years 2000-01 to 2004-05 were as under:

Year	BEs	Actual receipts	Variation increase (+) decrease (-)	Percentage of variation (Col 4 to 2)
(Rupees in crore)				
(1)	(2)	(3)	(4)	(5)
2000-01	336.00	350.47	(+) 14.47	(+) 4.31
2001-02	363.73	347.17	(-) 16.56	(-) 4.55
2002-03	382.22	400.61	(+) 18.39	(+) 4.81
2003-04	400.01	475.50	(+) 75.49	(+) 18.87
2004-05	438.50	574.80	(+) 136.30	(+) 31.08

Government stated in January 2006 that the increase in revenue during the year 2000-01 and from 2002-03 to 2004-05 was due to enhancement of the rates of royalty and increased transportation of minerals during 2003-04 and 2004-05.

6.2.8 Arrears

The arrears of revenue from major and minor minerals as on 31 March 2005 as furnished by DGM were Rs 13.36 crore. The position of arrears at the end of the years 2000-01 to 2004-05 was as follows:

(Rupees in crore)			
Year	Major minerals	Minor minerals	Total
Upto 2000-01	1.11	15.90	17.01
2001-02	1.28	17.22	18.50
2002-03	2.72	12.80	15.52
2003-04	2.51	16.17	18.68
2004-05	2.22	11.14	13.36

Stagewise position of arrears was as follows:

¹ Aurangabad, Bhandara, Chandrapur, Jalgaon, Kolhapur, Nagpur, Nashik, Pune, Ratnagiri, Satara, Thane and Yavatmal.

² Godavari Marathwada Irrigation Development Corporation (GMIDC), Aurangabad; Konkan Irrigation Development Corporation (KIDC), Thane; Maharashtra Krishna Valley Development Corporation (MKVDC), Pune; Tapi Irrigation Development Corporation (TIDC), Jalgaon and Vidarbha Irrigation Development Corporation (VIDC), Nagpur.

(Rupees in crore)

Sl. No.	Reasons for arrears	Major minerals	Minor minerals	Total
1.	Recovery under stay/pending with the court or the Government	Nil	2.44	2.44
2.	Companies in liquidation	0.01	--	0.01
3.	Whereabouts of defaulters not known	0.01	0.02	0.03
4.	Revenue Recovery Certificates (RRCs) sent to collectors of other States for recovery	0.03	0.03	0.06
5.	Intimations sent to collectors within the State for issue of RRCs	0.05	1.80	1.85
6.	Recoveries in progress	2.12	6.85	8.97
	Total	2.22	11.14	13.36

6.2.9 Lack of monitoring and internal control

6.2.9.1 Inspections

Government instructions of May 2000 prescribed norms for monthly inspections to be conducted by DGM, Dy. Directors and DMOs of offices subordinate to them. In addition, norms for monthly surprise checks of mines were also prescribed for the Dy. Directors and DMOs.

- According to the instructions, the DGM is required to inspect every month one office of a Dy. Director and one DMO. As against the requirement of inspecting 60 offices of Dy. Directors and 60 DMOs during the period 2000-01 to 2004-05, DGM had inspected only eight offices of Dy. Directors and no office of DMO was inspected.

- Dy. Directors are required to inspect DMO offices under their jurisdiction every month. The position of inspections due and conducted by five of the six Dy. Directors during the period 2000-01 to 2004-05 was as follows:

Sl. no.	Dy. Director	No. of DMOs	Total inspections due	Inspections conducted	Percentage shortfall in inspection
1.	Aurangabad	8	480	Nil	100
2.	Chandrapur	2	120	N.A.	--
3.	Jalgaon	5	300	12	96
4.	Kolhapur	10	600	Nil	100
5.	Nagpur	9	540	N.A.	--

N.A. indicates information not furnished.

The table indicates that while no inspection was conducted by Dy. Directors, Aurangabad and Kolhapur, the shortfall was 96 *per cent* in respect of Dy. Director, Jalgaon. Dy. Directors, Chandrapur and Nagpur did not furnish details of inspections carried out.

• DMOs are required to conduct 10 regular visits and 10 surprise visits to the mines every month and submit a report to Dy. Director concerned. In respect of five DMO offices dealing with major minerals, the shortfall in inspections conducted during the years 2000-01 to 2004-05 was as under:

Sl. No.	Name of DMO	No. of inspections due	No. of inspections conducted	Percentage shortfall in inspection
1.	Bhandara	1200	119	90
2.	Chandrapur	1200	196	84
3.	Nagpur	1200	N.A.	--
4.	Ratnagiri	1200	Nil	100
5.	Yavatmal	1200	N.A.	--

N.A. indicates information not furnished.

The shortfall in inspections in DMOs, Bhandara, Chandrapur and Ratnagiri varied between 84 and 100 *per cent*. DMOs, Nagpur and Yavatmal did not furnish information.

After this was pointed, DGM stated in October 2005 that 37 *per cent* of the sanctioned technical posts were vacant. Hence, the norms prescribed by Government for inspections could not be adhered to.

Government stated in August 2006 that efforts would be made to comply with the inspection norms after the organisational set up was reviewed.

6.2.9.2 *Inadequate vigilance on mining activities*

As per Government resolution dated 3 May 2000, a Central Flying Squad headed by a Joint Director/Dy. Director is to be set up in DGM office to carryout effective survey of mines, exercise check on illegal mining activities and plug leakage of revenue. The squad is to inspect the records of one Dy. Director, one DMO and 10 mines every month and submit a monthly inspection report to Government. Similarly, a flying squad headed by Sr. Geologist is to be formed in every Dy. Director's office which will pay surprise visits to DMO offices under his jurisdiction and review the position of levy and collection of royalty, dead rent and surface rent etc., in respect of all the mines and submit a monthly report to DGM.

According to information furnished by DGM, no flying squad was functioning upto 2003-04. During 2004-05, inspection of two DMOs, Nagpur and Bhandara, out of 12 DMOs was conducted by the flying squad.

No flying squads were formed in the offices of Dy. Directors due to paucity of technical staff. This indicated inadequate vigilance of the mining activities in the State.

Government stated in August 2006 that the issue of establishing a flying squad was under active consideration.

6.2.9.3 Absence of procedure for measurement of quarries and mines

Under the provisions of MMDR Act, State Government could make rules for preventing illegal mining, transportation and storage of minerals and require the maintenance of registers and records for the purpose. However it was observed that no records for noting the measurements of mines and quarries had been prescribed.

Test check of records in eight districts³ revealed that the measurements of quarries and mines were not kept on record before commencement as well as after completion of lease periods. In the absence of these measurements, no checks could be exercised on the total quantity of minerals extracted and the royalty paid by lessees during the lease periods.

6.2.9.4 Non maintenance of records

- **Major minerals**
- **Absence of challans and non submission of returns**

The amount of royalty is to be remitted into Government account by challan and a copy of challan is to be furnished to DMO along with returns by the lessee.

- In DMO, Chandrapur, two lessees paid royalty of Rs 10.94 crore during the period between June 2000 and March 2005. These remittances could not be verified in audit as challans as a proof of payments were not produced to audit.
- In DMO, Bhandara, one lessee dealing in kyanite and sillimanite had not submitted quarterly returns since August 2003 despite continued mining activity. In the absence of the returns, the amounts of royalty due and paid could not be verified in audit.

After the above was pointed out, DMOs agreed in December 2005 to update the records.

- **Non availability of lease deeds**

Test check of records in DMOs, Bhandara, Chandrapur and Yavatmal revealed that in 43 cases, the lease deeds of major minerals were not on record in the DMO offices.

After this was pointed out, DMOs stated in December 2005 that the records would be updated.

- **Minor minerals**

As per condition 16 of the quarry lease sanction orders issued by collectors under the BMME Rules, the lessees are required to keep an account of the total quantity of minerals extracted and despatched and submit periodical returns along with challans as a proof of payment of royalty into Government account.

³ Aurangabad, Bhandara, Chandrapur, Nagpur, Ratnagiri, Satara, Thane and Yavatmal

- Test check of records of five districts⁴ revealed that 62 lessees had not submitted 232 returns pertaining to the period 2000-01 to 2004-05.

After this was pointed out, DMOs, Bhandara, Chandrapur, Nagpur and Yavatmal agreed in September and December 2005 to update the records. The DMO, Pune stated in October 2005 that due to heavy workload, no action beyond serving notices to the lessees was taken.

- Tahsildars, Karad, Wai and Jawali in Satara district had claimed to have credited Rs 27.06 lakh to Government account. However, the supporting challans were not available on record. In the absence of challans, the correctness of recovery and remittance of royalty into Government account could not be verified in audit.

- Scrutiny of the records of SDO, Sillod under the jurisdiction of DMO, Aurangabad revealed that to achieve the target assigned by Government for collection of royalty, the lessees of minor minerals were instructed to pay ad hoc royalty of Rs 50,000 during 2000-01 to 2002-03, Rs 60,000 during 2003-04 and Rs 1.20 lakh during 2004-05, irrespective of the area leased out, the area under mining or the mining capacity of the lessee etc. The royalty of Rs 1.20 lakh for 2004-05 included Rs 90,000 for despatch of minerals and Rs 30,000 for crushers. Due to ad hoc recovery of royalty, no records in support of extraction and despatch of minerals were maintained. The entire system of collection of royalty followed by the SDO was not in consonance with the rules.

After this was pointed out, DMO, Aurangabad stated in November 2005 that ad hoc royalty was fixed to achieve the assigned targets of revenue and the prescribed procedure would be followed henceforth.

- As per BMME Rules, the tahsildars are authorised to issue permits for extraction of minor minerals not exceeding the specified quantity limit within their jurisdiction.

Tahsildar, Bhandara district did not produce any record of permits issued for extraction and utilisation of minor minerals during the period 2000-01 to 2004-05.

Major minerals

6.2.10 Irregular adjustment of royalty towards surface rent

Under the provisions of MMDR Act, the holder of a mining lease is liable to pay royalty in respect of any mineral removed or consumed from a leasehold area at rates specified by the Central Government from time to time. Surface rent and water rate is payable by the lessee for the surface area used by him for the purpose of mining operation.

In DMO, Yavatmal it was noticed from the monthly returns of Western Coalfields Limited (WCL) Wani North Area and Wani Area that the lessee remitted royalty aggregating Rs 26.91 crore for the months of December 2001, December 2002, November 2003 and January 2005. The DMO, Yavatmal unilaterally adjusted, Rs 2.92 crore therefrom towards surface rent payable for

⁴ Bhandara, Chandrapur, Nagpur, Pune and Yavatmal

the years 2001 to 2004. WCL was neither informed of the adjustment nor was any demand raised by DMO for the amount of Rs 2.92 crore adjusted towards surface rent.

After this was pointed out, DMO, Yavatmal stated in December 2005 that the differential amount of royalty would be recovered.

6.2.11 Non/short recovery of royalty

6.2.11.1 Under the provisions of MMDR Act, the holder of a mining lease is liable to pay royalty in respect of any mineral removed or consumed from a leasehold area at rates specified by the Central Government from time to time. The Supreme Court held⁵ that removal of any mineral from the seam of a mine and extracting the same through the pit's mouth to the surface satisfied the requirement of the Act *ibid* for the purpose of charging of royalty.

In Ratnagiri district, royalty on silica sand and bauxite was recovered on the despatched quantities of minerals instead of on the quantities of minerals removed from the seam of the mine. The royalty recoverable on the balance stock of bauxite as on 30 September 2004 and of silica sand as on 31 March 2005 amounted to Rs 20.72 lakh.

6.2.11.2 Test check of records of the DMOs, Chandrapur, Kolhapur and Yavatmal revealed that as per the quarterly returns submitted by eight lessees during the period from 2000-01 to 2004-05, the lessees were required to pay royalty of Rs 12.79 crore, whereas the lessees deposited Rs 11.50 crore. The lessees neither paid the balance royalty of Rs 1.29 crore nor was any demand raised by the DMOs due to non verification of the correctness of royalty payable/paid by the lessees. This resulted in short recovery of royalty of Rs 1.29 crore:

After this was pointed out, DMOs stated in November and December 2005 that recovery would be effected. Further reply was awaited (December 2006).

6.2.11.3 In DMO, Chandrapur it was observed that a lessee reduced the stock of limestone by 86,850.768 MT treating it as lime shell in the quarterly return for the period ending September 2001. The DMO failed to detect this mistake. This resulted in short levy of royalty of Rs 34.74 lakh.

After this was pointed out, DMO stated in October 2006 that demand had been raised against the lessee in September 2006. Report on recovery had not been received (December 2006).

6.2.12 Non levy of interest

Under the provisions of MCR, State Government may charge simple interest at the rate of 24 *per cent* per annum on any rent, royalty or fee or other sums due from the 60th day of the expiry of the date fixed by Government for payment of such dues till payment is made.

In DMOs, Chandrapur, Nagpur and Yavatmal, it was noticed that eight lessees paid royalty of Rs 148.09 crore pertaining to the period 2000-01 to 2004-05 with delays ranging between 3 to 678 days. The department failed to levy interest of Rs 2.53 crore for the period of delay.

⁵ State of Orissa v/s Steel Authority of India (SC 281 of 1998) decided on 10 August 1998.

After this was pointed out, DMOs, Chandrapur and Nagpur stated that recovery of Rs 1.30 lakh had been made in two cases. Report on recovery in the remaining cases had not been received (December 2006).

Minor minerals

6.2.13 Non execution of lease deeds

As per BMME Rules 1955, where a quarrying lease is granted, the formal lease shall be executed within three months of the orders sanctioning the lease and if no such lease is executed within the said period, the lease shall be deemed to have been revoked.

Test check of records of DMO, Pune revealed that despite continued mining activity in 218 leases for the lease periods between 1995 and 2010, sanctioned between December 1986 and September 2005, lease agreements were not executed by the lessees. Consequently, stamp duty and registration fees remained to be levied and recovered. No action had been taken to revoke the leases.

After this was pointed out, DMO, Pune stated in October 2005 that due to non measurement of the leased areas by Taluka Inspector of Land Records, Pune, the lease agreements could not be executed. On completion of the measurements, the needful would be done for collecting stamp duty and registration fees.

6.2.14 Illicit extraction of minerals

As per BMME Rules, 1955, every quarrying lessee shall pay royalty on minor minerals dispatched from the leased area at the rates specified in the rules. According to MLR Code, Government is empowered to recover illegally extracted minerals. Where minerals have already been disposed of/utilized, penalty not exceeding a sum determined at the rate of three times the market value of the minerals is to be levied.

As per an R&FD resolution dated 18 October 2001, royalty on minor minerals utilised on works of Government, Zilla Parishads, City Industrial Development Corporation and Maharashtra State Road Development Corporation is to be levied and collected at prevailing market rate. Royalty at the rate of Rs 28 per brass⁶ was recoverable on all minor minerals upto 14 January 2003 and Rs 50 per brass thereafter.

6.2.14.1 Scrutiny of information furnished by five⁷ irrigation development corporations revealed that 265.51 lakh brass of minor minerals viz. murrum, stone, crushed stone and ordinary earth were extracted and utilised on 307 schemes and projects between 2001 and March 2005, involving royalty of Rs 96.30 crore. None of the corporations produced details of permits issued by the revenue authorities for extraction and use of minerals in the schemes/projects. Based on the market value of the minor minerals at the rate of Rs 100 per brass levied by the DMOs in similar cases of illicit extraction, penalty upto a maximum of Rs 796.53 crore on 265.51 lakh

⁶ Brass: One brass is equal to 4 metric tonnes or 2.83 cubic metres of a mineral.

⁷ GMIDC Aurangabad, KIDC Thane, MKVDC Pune, TIDC Jalgaon and VIDC Nagpur.

brass of minor minerals which could have been levied, was not levied and recovered.

After the above observation was pointed out, MKVDC Pune and KIDC Thane confirmed the observation. The other corporations had not furnished their final replies.

The matter was reported to DMOs, Aurangabad, Jalgaon, Nagpur, Pune and Thane as to whether permits for excavation/removal of minerals were issued and demands raised for recovery of royalty. The Tahsildar, Thane and Additional Collector, Pune stated in December 2006 that no permits were issued by department as no permission was sought and stated that the action would be taken as per MLR Code for recovery of dues. Replies from the remaining DMOs had not been received (December 2006).

6.2.14.2 Test check of records of SDOs, Kelapur and Pusad in Yavatmal district revealed that SDOs had detected in February 2005 that a lessee and four permit holders had illicitly extracted 20,318.02 brass minor minerals. However, no demands were raised against the concerned parties. This resulted in non realisation of revenue of Rs 77.13 lakh at the market rate applicable.

After this was pointed out, DMO Yavatmal stated in December 2005 that the matter had been reported to the respective SDOs for recovery. Further, reply had not been received (December 2006).

6.2.15 Non recovery of royalty

As per MMME Rules, the holder of a mining lease is liable to pay royalty in respect of any mineral removed or consumed from the leasehold area at the rates specified by Government from time to time.

6.2.15.1 Scrutiny of six monthly returns furnished by 116 lessees in four districts⁸ revealed that as per the returns filed, the lessees were liable to pay royalty of Rs 4.69 crore on account of extraction of minor minerals during the period between December 2000 and March 2005. The DMOs failed to scrutinise the returns and raise the demands. This resulted in non realisation of royalty of Rs 4.69 crore.

6.2.15.2 Test check of records of DMO, Ratnagiri revealed that the Executive Engineer, Minor Irrigation Division, Chiplun executed 15 works departmentally and utilised 21.89 lakh brass of minor minerals involving royalty of Rs 6.83 crore during the period 2001-02 to 2004-05 but did not deposit the royalty for want of provision of funds. However, DMO did not raise any demand against the Irrigation Department.

After this was pointed out, DMOs agreed between September 2005 and March 2006 to issue demand notices to the defaulters.

6.2.16 Absence of provision for levy of interest

The MMME Rules do not contain any provision for levy of interest on belated payment of Government dues.

⁸ Bhandara, Chandrapur, Pune and Yavatmal

There was a need for making a provision for levy of interest at the appropriate rate for non payment/delay in payment of dues to discourage non payment of Government dues.

After this was pointed out, Government stated in February 2006 that while finalising the revised rules, the recommendation would be considered.

6.2.17 Conclusion

It would be seen that there was lack of monitoring and internal control. Royalty was irregularly adjusted against surface rent without raising demand against the lessee. The DMOs had not exercised proper checks on the returns filed by the lessees which resulted in non/short recovery of royalty on major minerals. There was, illicit extractions of minor mineral by the corporations for which royalty as per rules was not demanded.

6.2.18 Acknowledgement

The audit findings as a result of test check of records were reported to the Government and the DGM in July 2006 with a specific request to attend the meeting of the Audit Review Committee (ARC) for State Revenue Receipts. The meeting of the ARC was held on 4 August 2006 and the views of the Government are duly incorporated in the review.

6.3 Non payment of guarantee fees

According to the powers conferred by Article 293 of the Constitution of India, the State Government gives guarantees on the Consolidated Fund of the State, to various lending institutions/bond holders to assure them repayment of principal amount of loans/investments and interest payable thereon. Such guarantees constitute contingent liabilities for the State.

As per Government resolutions dated 18 November 1988 and 15 April 1997, the rate of guarantee fees varies between 0.50 to 2 *per cent* per annum. The guarantee fees on the guaranteed sum outstanding on 31 March and 30 September is to be credited to Government account on 1 April and 1 October respectively every year by the loanee corporations/organisations. For delay in payment of guarantee fees, penal interest is payable at the rate of 16 *per cent* per annum for the first three months and at the rate of 24 *per cent* thereafter.

Detailed analysis of the records of the eight units under five administrative departments relating to the funds raised through bonds and loans on the basis of guarantees given by Government, revealed non payment of guarantee fees and penal interest aggregating Rs 222.21 crore during the period between April 2003 and April 2006 as follows:

Sl No.	Name of department Name of the unit	Amount guaranteed	Date of guarantee	Amount (Rs. in crore)		
				Due date of payment	Guarantee fees	Penal interest
I. Irrigation						
(1)	Maharashtra Krishna Valley Development Corporation, Pune (Bond series No. 2003/A)	412.33	<u>1 February 2003</u> April 2003 to April 2006	27.50	8.38	35.88
(2)	Godavari Marathwada Irrigation Development Corporation, Aurangabad (Bond series No. VI)	36.06	<u>14 February 2003</u> April 2003 to April 2006	2.37	0.70	3.07
(3)	Vidarbha Irrigation Development Corporation, Nagpur (Bond series No. VIII)	17.29	<u>7 February 2003</u> April 2003 to April 2006	1.13	0.33	1.46
(4)	Konkan Irrigation Development Corporation, Thane (Bond series No. VI)	85.48	<u>1 February 2003</u> April 2003 to April 2006	5.69	1.70	7.39
Total		551.16		36.69	11.11	47.80
II. Public Works, Maharashtra State Road Development Corporation, Mumbai						
A)	Bonds Series No. XIX to XXII	406.98	<u>30 December 2003</u> October 2003 to April 2006	20.01	3.78	23.79
	Series No. XXIII	380.00	<u>15 January 2005</u> October 2003 to April 2006	9.55	0.75	10.30
B)	Loans from banks (14 loans)	1,115.67	<u>17 November 2005</u> October 2003 to April 2006	50.93	10.17	61.10
Total		1,902.65		80.49	14.70	95.19
III. Water Supply and Sanitation, Maharashtra Jeevan Pradhikaran, Navi Mumbai						
A)	Open market borrowings	94.60	<u>7 December 1993 & 14 March 1997</u> October 2001 to April 2006	3.29	1.96	5.25
B)	Loans from Life Insurance Corporation of India	486.56	<u>27 August 2002</u> October 2003 to April 2006	21.31	11.83	33.14
Total		581.16		24.60	13.79	38.39
IV. Industry, Energy and Labour (Industry), Maharashtra State Financial Corporation, Mumbai						
	Open market borrowings	385.57	<u>25 March 1997 to 9 January 2004</u> April 2003 to April 2006	20.43	6.63	27.06
V. Rural Development and Water Conservation Maharashtra Water Conservation Corporation, Aurangabad						
	Bonds Series No. I and II	100.03	<u>22 November 2000</u> April 2001 to April 2006	9.11	4.38	13.49
	Series No. III	3.01	<u>3 September 2002</u> April 2001 to April 2006	0.21	0.07	0.28
Total		103.04		9.32	4.45	13.77
Grand Total		3,523.58		171.53	50.68	222.21

The matter was reported to Government in June 2006; their reply had not been received (December 2006).

6.4 Non realisation of cost of police

As per the Government Resolution of May 1998, an independent police force was created to provide protection to the team of the Municipal Corporation of Aurangabad (corporation) while taking action against encroachments/unauthorised construction within the corporation limits and for upkeep of law and order of the place. Further, the resolution also stipulated that the expenditure incurred on account of salary/wages of this force was to be borne by the corporation, which was to be deposited with the Commissioner of Police, Aurangabad (CP) in advance for each quarter.

During scrutiny of records of CP in March 2005, it was noticed that CP neither raised any demand nor took any action to recover the dues for the expenditure so incurred for facilitating the task of action against encroachments/unauthorised construction, from the corporation. This resulted in non recovery of Rs 1.39 crore for the period from April 2000 to November 2005 towards the cost of police force deployed for the corporation.

After this was pointed out, the CP in December 2005 stated that efforts were being made for recovery.

The matter was reported to Government in March 2006; their reply had not been received (December 2006).

6.5 Unauthorised retention of revenue receipts

Under the provisions of Maharashtra Zilla Parishad and Panchyat Samiti Act, 1961 (Act) and Government Resolution (GR) of 26 February 2001, cess at Rs 0.20 on each rupee of water charges is to be levied and collected along with water charges collected by the Irrigation Department for supply of water from irrigation projects. The cess so collected is to be credited to the revenue head after retaining half *per cent* as collection charges by the department and subsequently the amount allocated to the respective local bodies/authorities as grants by the Government.

Scrutiny of records of Godavari Marathwada Irrigation Development Corporation (GMIDC), Aurangabad revealed that GMIDC Aurangabad collected Rs 34.45 crore during the period from 2001-02 to 2004-05 as cess along with the water charges. After deducting collection charges of Rs 0.17 crore, the remaining amount of Rs 34.28 crore was to be credited into Government account. GMIDC, however, deposited (March 2005) only Rs 2 crore and unauthorisedly retained the balance amount of Rs 32.28 crore, and utilised the same to meet its own expenditure, which was not only irregular but also violative of the provisions of the Act and GR referred to above. This unauthorised retention of revenue receipts of Rs 32.28 crore had an adverse impact on Government assistance to the local bodies/ authorities.

After this was pointed out in September 2004, GMIDC accepted the omission in December 2005. Further action taken in the matter is awaited (December 2006).

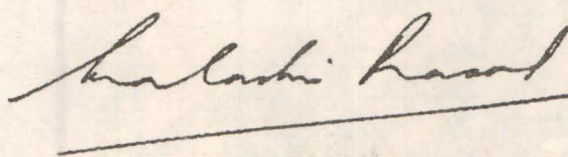
The matter was reported to Government in March 2006; their reply had not been received (December 2006).

6.6 Short recovery of service charges

As per Government resolution issued in February 2001, the rates of service charges to be recovered from employees occupying Government quarters were revised with effect from 1 April 2001. The revised rates were also applicable for personnel entitled for rent free accommodation.

Scrutiny of records of CP, Nagpur in July 2004 revealed that the CP, directed the field offices in April 2001 to recover the service charges at revised rates from the occupants of Government accommodation from April 2001. It was however, observed that recovery of service charges as per the orders of the Director General of Police of July 1997 was continued to be effected till January 2006. Information collected in July 2006 from the CP, Amravati also revealed a similar omission. This resulted in short realisation of Rs 24.33 lakh from 1,375 occupants for the period from April 2001 to February 2006.

The matter was reported to Department and Government in April 2006; their reply had not been received (December 2006).

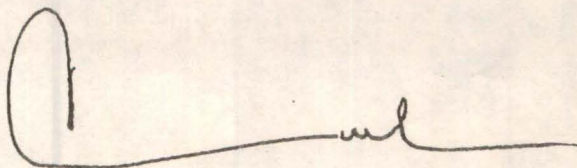


(MALASHRI PRASAD)

Principal Accountant General (Audit)-I,
Maharashtra

Mumbai,
The

Countersigned



(VIJAYENDRA N. KAUL)

Comptroller and Auditor General of India

New Delhi,
The

included in the Audit Reports of the departments concerned in the Reports of the House of Representatives.

Review of outstanding explanatory memoranda on pages 20-21 of the Reports of the Comptroller and Auditor General of India (Revenue Department) which were still to be discussed by the House, disclosed that as on 30 September 2000 the departments had not furnished memoranda in respect of 49 paragraphs (excluding 1999-2000) as detailed as follows:

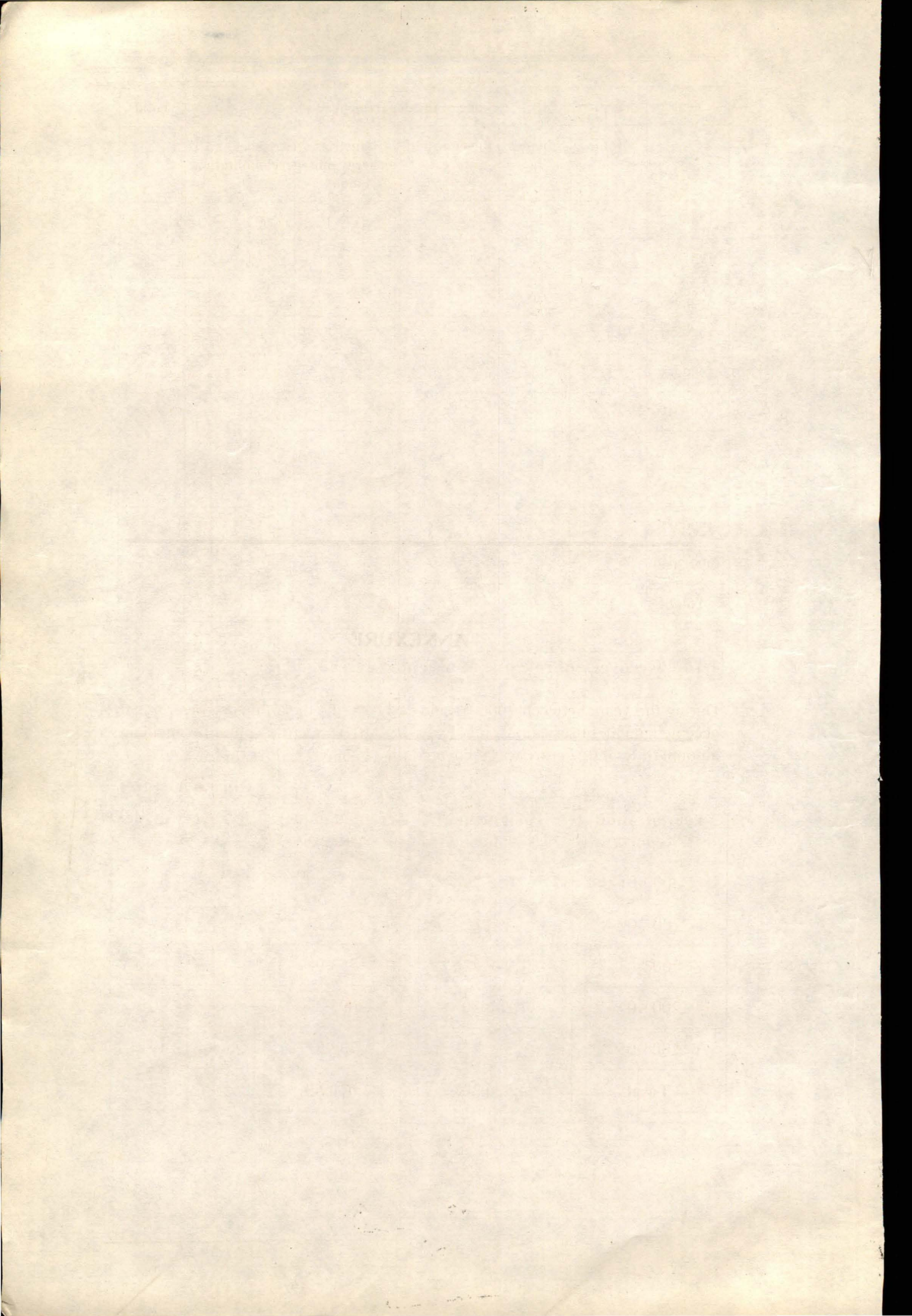
Sl. No.	Department	Paragraphs	1996-97	1997-98	1998-99	1999-00
1.	Revenue and forest					
2.	Finance					
3.	Home					
4.	Urban development					
5.	Industries, energy & labour					
6.	Education					
7.	Health and family planning					
8.	Labour					
9.	Medical and public health					
10.	Transport					
	Total					

While the PAC issues recommendations in its Reports, it does not issue orders. It only lays down in each case, the period within which such recommendations (ATNS) on its recommendations should be sent.

The PAC discussed 124 selected paragraphs pertaining to Audit Reports for the years from 1986-87 to 1996-97 and 1999-00, and their respective recommendations on 20 paragraphs were received and duly dealt in the 27th Report (1997-98), 9th Report (1998-99), 2nd, 13th, 14th and 15th Reports (1996-97), 21st Report (1997-98), 5th Report (1998-99) and 12th Report (1999-00). However, ATNS had not been received in respect of 49 recommendations of the PAC from the departments concerned as detailed as follows:

1999-2000 - Explanatory memoranda received and Audit Report is already discussed.

ANNEXURE



ANNEXURE
YEARWISE DETAILS OF OUTSTANDING INSPECTION REPORTS AND AUDIT OBSERVATIONS UNDER
VARIOUS RECEIPTS AS OF 30TH JUNE 2006

(Reference: Paragraph 1.12)

(Amount in lakh of rupees)

Sl. No.	Nature of receipt	Upto 2001-02			2002-03			2003-04			2004-05			2005-06			Total		
		IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount
1.	Sales tax	899	1,919	11,197.01	213	547	1,200.85	275	828	1,614.00	346	1,152	616.34	384	1,568	1,462.15	2,117	6,014	16,090.35
2.	Land revenue	510	931	10,612.69	128	321	4,636.25	93	332	1,796.59	108	362	3,830.31	215	620	2,588.73	1,054	2,566	23,464.57
3.	Stamp duty and registration fees	219	446	3,846.28	102	221	2,235.87	146	692	2,931.13	196	513	3,058.47	246	690	6,683.10	909	2,562	18,754.85
4.	Taxes on motor vehicles	27	39	154.76	17	36	187.37	17	37	58.05	28	48	56.05	26	83	260.17	115	243	716.40
5.	Forests receipts	123	289	9,268.49	20	41	1,077.50	15	45	1,763.15	22	69	15,523.00	25	62	4,298.10	205	506	31,930.24
6.	Entertainments duty	66	82	59.76	33	48	23.75	37	56	30.65	57	91	72.74	63	126	130.93	256	403	317.83
7.	State excise	10	10	368.98	3	3	4.56	17	22	609.31	25	38	107.81	31	62	347.67	86	135	1,438.33
8.	Electricity duty	3	3	21.25	3	5	48.11	5	5	4.08	11	16	969.18	15	21	5,896.72	37	50	6,939.34
9.	Tax on professions	55	76	75.79	19	27	17.73	2	32	15.18	38	58	61.86	43	61	47.47	176	254	218.03
10.	Tax on residential premises	14	17	40.13	4	5	2.25	--	--	--	9	9	9.83	16	18	194.60	43	49	246.81
11.	State education cess & employment guarantee cess	29	42	70.37	6	7	10.60	11	15	14.81	29	47	819.96	27	45	1,236.38	102	156	2,152.12
12.	Repair cess	--	--	--	1	1	--	2	2	22.71	3	3	21.70	--	--	--	6	6	44.41
13.	Other non tax receipts	117	146	3,291.96	12	13	1,663.35	4	5	14.33	2	2	0.24	2	2	--	138	169	4,969.88
	Total	2,072	4,000	39,007.47	561	1,275	11,108.19	624	2,071	8,873.99	874	2,408	25,147.49	1,093	3,358	23,146.02	5,244	13,113	1,07,283.16

IRs - Inspection Reports
 Objs. - Objections

Under the provision of the Central Sales Tax Act (CST Act) 1956, every dealer who is interstate trade of commodities sells any goods against declaration in form C duly filled and signed by the authorized person in the State. The said declaration is to be filled in duplicate and one copy is to be submitted to the assessing authority in the State in which the goods are sold. The dealer is to pay tax at 10 per cent or at the rate applicable to the goods under the State law, whichever is higher. Further, the interstate purchase of any goods preceding the sale or purchase of goods in the State of goods out of the territory of India is deemed to be an export, provided the selling dealer produces a certificate in form 14B/B duly filled along with evidence of export of the goods.

With a view to ascertain the correctness of interstate sales claimed by various dealers against declaration forms, 4555 assessments of selling dealers for the periods 2000-01 and 2001-02, completed by six Senior Assistant Commissioners, 39 Assistant Commissioners and 90 out of 403 sales tax officers (Class D) in seven out of 10 divisions in the State were last checked. Data collected from the assessment records in these offices were cross-verified with the records in the sales tax offices located at Daman, Delhi, Chandigarh, Hyderabad and Silvassa, outside Maharashtra, during August 2005 and April 2006.

The Commissioner of Sales Tax, by a trade circular dated 14 October 1998, clarified that details of transactions relating to a financial year between the buyer and seller covered by a declaration in form C, to be furnished, duly authenticated by the signature of the purchasing dealer. Incomplete declarations are to be treated as invalid and differential tax and penalty or interest, not less than the differential tax as per provisions of the CST Act read with the Bombay Sales Tax (BST) Act, 1959 is leviable.

That check of assessment records of 34 dealers in seven divisions for the period between 1999-2000 and 2002-03, assessed between 2001-02 and 2004-05, revealed that tax was levied at concessional rate on declaration in form C which were not authenticated involving transactions of Rs 49.10 crore. These forms were to be treated as invalid and differential tax and penalty levied as per orders of Commissioner of Sales Tax. This resulted in short levy of tax of Rs 5.61 crore. Besides, minimum penalty of Rs 6 crore was also leviable.

After this was pointed out in 31 cases, the assessing authorities (AA) stated that the points would be verified. In two cases, the AA stated that the audit observation was technical in nature. In the remaining cases, final reply was

Page 11 - For details of goods purchased from dealers outside Maharashtra.
Form 14B/B - For deemed export of goods purchased from dealers in Maharashtra.
Surat, Baroda, Chandigarh, Kathapur, Marolli, Pune and Thane.