# REPORT
OF THE
# COMPTROLLER AND AUDITOR GENERAL OF INDIA

**FOR THE YEAR**
## 1987-88

No. 3 of 1989

## REVENUE RECEIPTS

GOVERNMENT OF WEST BENGAL

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## PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of West Bengal for the year 1987-88 is presented separately in this volume. The contents of this report are arranged in the following order:

(*i*) Chapter 1 deals with the trend of receipts classifying them under tax and non-tax revenues raised by the State Government and the receipts from the Government of India. It also highlights variations between the budget estimates and the actuals under principal heads of revenue;

(*ii*) Chapters 2 to 11 bring out certain cases and points of interest that came to notice during audit of Sales Tax, Land Revenue, Mines and Minerals, Motor Vehicles Tax, State Excise, Entry Tax, Amusement Tax and Other Tax and Non-tax Receipts.

# OVERVIEW

## 1. General

(*i*) Total receipts of the Government of West Bengal during 1987-88 amounted to Rs. 2912·20 crores. This comprised Rs. 1448·63 crores tax revenue, Rs. 181·61 crores non-tax revenue and the balance Rs. 1281·96 crores represented share of Union Taxes (Rs. 728·66 crores) and grants-in-aid (Rs. 553·30 crores) received from Government of India.

(*Paragraph* 1.2)

(*ii*) Under Sales Tax the arrears of revenue pending collection as on 31st March 1988 amounted to Rs. 197·79 crores.

(*Paragraph* 1.7)

(*iii*) 1,162 inspection reports containing 2,854 objections with money value of Rs. 70·06 crores were pending settlement at the end of June 1988.

(*Paragraph* 1.8.2)

(*iv*) As a result of test audit conducted during 1987-88, under-assessments and losses of revenue amounting to Rs. 2017·40 lakhs were noticed. The under-assessments/losses of revenue pertain to Sales Tax (Rs. 668·50 lakhs), Land Revenue (Rs. 366·15 lakhs), Mines and Minerals (Rs. 390·90 lakhs), Motor Vehicles Tax (Rs. 38·34 lakhs), State Excise (Rs. 42·70 lakhs), Entry Tax (Rs. 195·42 lakhs), Amusement Tax (Rs. 232·84 lakhs) and Stamp Duty and Registration Fees (Rs. 82·55 lakhs).

(*Paragraphs* 2.1, 3.1, 4.1, 5.1, 6.1, 7.1, 8.1 and 9.1)

(*v*) The report includes representative cases of non-levy/short levy of tax, duty, fee, royalty, cesses, interest, penalty etc. involving a financial effect of Rs. 766·43 lakhs noticed during test check in 1987-88 and earlier years. Of these, under-assessments of Rs. 509·94 lakhs were accepted by the departments, of which Rs. 5·37 lakhs were recovered till January 1989.

## 2. Sales Tax

(*i*) Irregular classification of goods resulted in short levy of tax of Rs. 29·23 lakhs in 4 cases.

(*Paragraph* 2.2)

(*ii*) In case of 5 dealers, turnover escaped assessment resulting in under-assessment of tax of Rs. 8·01 lakhs.

(*Paragraph* 2.3)

(*iii*) There was loss of revenue amounting to Rs. 8·09 lakhs in 2 cases because assessments became time-barred.

(*Paragraph* 2.6)

(*iv*) In case of 7 dealers, due to application of incorrect rates of tax, there was under-assessment of Rs. 4·82 lakhs.

(*Paragraph* 2.7)

(*v*) In case of 20 dealers, the assessing officers omitted to levy turnover tax amounting to Rs. 21·79 lakhs.

(*Paragraph* 2.12)

(*vi*) In case of 3 jute mills, interest not levied on delay in payments worked out to Rs. 38·33 lakhs.

(*Paragraph* 2.18.11)

3. **Land Revenue**

(*i*) Transfer of non-agricultural waste lands (measuring 59·92 acres) without approval of the Board resulted in non-realisation of rent and *salami* amounting to Rs. 41·02 lakhs.

[*Paragraph* 3.2(*i*)]

(*ii*) Failure to settle 224 *sairati* interests (*Khal*/fishery/market) according to the prescribed provisions resulted in loss of revenue amounting to Rs. 66·57 lakhs.

(*Paragraph* 3.11.6)

4. **Mines and Minerals**

Failure to assess and realise royalty on the despatch of 5·26 lakh tonnes of coal from 3 new coal areas resulted in non-realisation of royalty amounting to Rs. 31·80 lakhs.

(*Paragraph* 4.4)

5. **Motor Vehicles Tax**

Assessment of 33 motor vehicles from the dates of registration instead of from their dates of purchase resulted in non-realisation of road tax amounting to Rs. 7·40 lakhs.

(*Paragraph* 5.10)

6. **State Excise**

A manufacturer of country spirit was allowed excess refund of privilege fee amounting to Rs. 2·37 lakhs due to adoption of incorrect distance.

(*Paragraph* 6.3)

7. **Entry Tax**

At 3 checkposts, entry tax amounting to Rs. 6·22 lakhs was not levied in respect of 3 taxable commodities imported into Calcutta Metropolitan Area.

(*Paragraph* 7.2)

8. **Amusement Tax**

(*i*) Application of incorrect rates of tax in respect of various amusements provided by the different establishments resulted in short realisation of taxes of Rs. 1·72 crores.

(*Paragraph* 8.6.5)

(*ii*) An amount of Rs. 14·80 lakhs had not been paid by the proprietors of 5 cinema houses in Calcutta region.

(*Paragraph* 8.6.8)

9. **Stamp Duty and Registration Fees**

(*i*) Mis-classification of 26 documents resulted in loss of stamp duty and registration fee of Rs. 24·67 lakhs.

(*Paragraph* 9.2.5)

(*ii*) Incorrect determination of consideration money in case of 2 documents resulted in loss of stamp duty and registration fee amounting to Rs. 31·12 lakhs.

(*Paragraph* 9.2.6)

10. **Other Non-tax Receipts**

(*i*) In 4 forest divisions difference amounting to Rs. 5·50 lakhs was not realised from the original bidders on resale of forest produce.

(*Paragraph* 11.1)

(*ii*) Due to non-issue of requisite notification by Government, assessment of water rate in respect of an area of 30,829·48 acres of

irrigated lands could not be made and consequently there was loss of revenue amounting to Rs. 15·41 lakhs.

(*Paragraph* 11.7)

(*iii*) Failure to assess toll tax in respect of 33 buses even after vacation of injunction order resulted in non-realisation of revenue amounting to Rs. 5·76 lakhs.

(*Paragraph* 11.11)

# CHAPTER 1

# GENERAL

## 1.1 **Revenue receipts**

During the year 1987-88, total receipts of the Government of West Bengal amounted to Rs. 2912·20 crores, comprising revenue raised by the State Government (Rs. 1630·24 crores) and receipts from Government of India towards State's share of divisible Union Taxes and grants-in-aid (Rs. 1281·96 crores). The total receipts during the year 1987-88 showed an improvement by 16·02 per cent over those in the preceding year.

## 1.2 **Analysis of revenue receipts**

An analysis of the receipts during 1987-88, along with the corresponding figures for the preceding year 1986-87, is given below:

| | 1986-87 | | 1987-88 | |
|---|---|---|---|---|
| | Amount (in crores of rupees) | Percentage of total revenue raised by State Government/ receipts from Government of India | Amount (in crores of rupees) | Percentage of total revenue raised by State Government/ receipts from Government of India |
| I. Revenue raised by State Government: | | | | |
| 1. Tax revenue .. | 1218·92 | 88·02 | 1448·63 | 88·86 |
| 2. Non-tax revenue .. | 165·84 | 11·98 | 181·61 | 11·14 |
| Total .. | 1384·76 | 100·00 | 1630·24 | 100·00 |

| | 1986-87 | | 1987-88 | |
|---|---|---|---|---|
| | Amount (in crores of rupees) | Percentage of total revenue raised by State Government/ receipts from Government of *India* | Amount (in crores of rupees) | Percentage of total revenue raised by State Government/ receipts from Government of *India* |
| II. Receipts from Government of India: | | | | |
| 1. State's share of divisible Union Taxes .. | 678·26 | 60·27 | 728·66 | 56·84 |
| 2. Grants-in-aid .. | 447·15 | 39·73 | 553·30* | 43·16 |
| Total .. | 1125·41 | 100·00 | 1281·96 | 100·00 |
| III. Total receipts (I+II) .. | 2510·17 | | 2912·20 | |
| IV. (*a*) Percentage of State's own revenue to total receipts .. | | 55·17 | | 55·98 |
| (*b*) Percentage of receipts from Government of India to total receipts | | 44·83 | | 44·02 |

## 1.3 **Tax revenue**

An analysis of tax receipts, which comprised 88·86 per cent of the total revenue raised by the State during 1987-88, is given

*For details, refer to Statement No. 11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of West Bengal 1987-88.

below. The figures for the year 1986-87 have also been indicated for purposes of comparison.

| Nature of tax revenue | Amount collected | | Increase in 1987-88 with reference to 1986-87 |
|---|---|---|---|
| | 1986-87 | 1987-88 | |
| | (In crores of rupees) | | |
| 1. Taxes on Agricultural Income .. | 6·09 | 8·11 | 2·02 |
| 2. Other Taxes on Income and Expenditure .. .. .. | 35·45 | 40·20 | 4·75 |
| 3. Land Revenue .. .. | 149·65 | 187·01 | 37·36 |
| 4. Stamps and Registration Fees .. | 63·87 | 73·71 | 9·84 |
| *5. Taxes on Immovable Property .. | 0·54 | 0·83 | 0·29 |
| 6. State Excise .. .. .. | 71·47 | 96·10 | 24·63 |
| 7. Sales Tax .. .. .. | 695·75 | 832·09 | 136·34 |
| 8. Taxes on Vehicles .. .. | 39·69 | 42·54 | 2·85 |
| 9. Taxes on Goods and Passengers .. | 82·39 | 87·77 | 5·38 |
| 10. Taxes and Duties on Electricity .. | 31·82 | 35·67 | 3·85 |
| 11. Other Taxes and Duties on commodities and Services .. .. | 42·20 | 44·60 | 2·40 |
| Total .. .. .. | 1218·92 | 1448·63 | 229·71 |

## 1.4 **Non-tax revenue**

The major sources of non-tax revenue collected by the State are interest, police, education, sports, art and culture, medical and public health, social security and welfare, minor irrigation, dairy development, forestry and wildlife, industries, non-ferrous mining and metallurgical industries and roads and bridges.

Receipts of non-tax revenue during 1987-88 constituted 11·14 per cent of the total revenue raised by the State.

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

An analysis of non-tax revenue raised during 1987-88, along with the figures for the preceding year 1986-87, is given below:

| Nature of non-tax revenue | Amount collected | | Increase/ *decrease in 1987-88 with reference to 1986-87 |
|---|---|---|---|
| | 1986-87 | 1987-88 | |
| | (In crores of rupees) | | |
| 1. Interest .. .. .. | 47·97 | 32·76 | (15·21) |
| 2. Police .. .. .. | 4·66 | 8·01 | 3·35 |
| 3. Education, Sports, Art and Culture | 3·78** | 5·94 | 2·16 |
| 4. Medical and Public Health .. | 13·07** | 25·11 | 12·04 |
| 5. Social Security and Welfare .. | 8·04** | 8·99 | 0·95 |
| 6. Minor Irrigation .. .. | 3·29** | 3·36 | 0·07 |
| 7. Dairy Development .. .. | 18·75 | 20·28 | 1·53 |
| 8. Forestry and Wild Life .. .. | 20·43 | 24·21 | 3·78 |
| 9. Industries .. .. .. | 2·12** | 5·98 | 3·86 |
| 10. Non-Ferrous Mining and Metallurgical Industries .. | 7·07 | 5·17 | (1·90) |
| 11. Roads and Bridges .. .. | 2·56 | 4·99 | 2·43 |
| 12. Others .. .. .. | 34·10** | 36·81 | 2·71 |
| Total .. .. | 165·84 | 181·61 | 15·77 |

## 1.5 **Variation between budget estimates and actual receipts**

The table below compares the actual receipts with budget estimates for the year 1987-88:

*Figures in brackets indicate decrease.

**Figures recast due to revised nomenclature from 1987-88.

| Nature of receipts | Budget estimates | Actuals | Variation excess/ short-fall* | Percentage of varia-tion* |
|---|---|---|---|---|
| | | (In crores of rupees) | | |
| (A) Total Receipts | | | | |
| I. State's own resources | | | | |
| (*a*) Tax Revenue .. | 1429·13 | 1448·63 | 19·50 | 1·36 |
| (*b*) Non-tax revenue .. | 184·51 | 181·61 | (2·90) | (1·57) |
| II. Receipts from Government of India : | | | | |
| (*a*) Share of Union Taxes | 695·81 | 728·66 | 32·85 | 4·72 |
| (*b*) Grants-in-aid .. | 552·93 | 553·30 | 0·37 | 0·07 |
| Total .. | 2862·38 | 2912·20 | 49·82 | 1·74 |
| (B) Tax Receipts | | | | |
| 1. Taxes on Agricultural Income .. .. | 8·00 | 8·11 | 0·11 | 1·38 |
| 2. Other Taxes on Income and Expenditure | 42·00 | 40·20 | (1·80) | (4·29) |
| 3. Land Revenue .. | 168·75 | 187·01 | 18·26 | 10·82 |
| 4. Stamps and Registration Fees .. | 70·40 | 73·71 | 3·31 | 4·70 |
| 5. Taxes on Immovable Property .. | 0·69 | 0·83 | 0·14 | 20·29 |
| 6. State Excise .. | 90·00 | 96·10 | 6·10 | 6·78 |
| 7. Sales Tax .. | 835·00 | 832·09 | (2·91) | (0·35) |
| 8. Taxes on Vehicles .. | 44·17 | 42·54 | (1·63) | (3·69) |
| 9. Taxes on Goods and Passengers .. | 89·74 | 87·77 | (1·97) | (2·20) |
| 10. Taxes and Duties on Electricity .. | 34·00 | 35·67 | 1·67 | 4·91 |
| 11. Other Taxes and Duties on Commodities and Services .. | 46·38 | 44·60 | (1·78) | (3·84) |
| Total .. | 1429·13 | 1448·63 | 19·50 | 1·36 |

*Figures in brackets indicate shortfall.

| Nature of receipts | Budget estimates | Actuals | Variation excess/ short-fall* | Percentage of varia-tion* |
|---|---|---|---|---|
| | | (In crores of rupees) | | |
| (C) Non-tax Receipts | | | | |
| 1. Interest .. | 33·35 | 32·76 | (0·59) | (1·77) |
| 2. Police .. .. | 6·99 | 8·01 | 1·02 | 14·59 |
| 3. Education, Sports, Art and Culture .. | 4·06 | 5·94 | 1·88 | 46·31 |
| 4. Medical and Public Health .. .. | 23·77 | 25·11 | 1·34 | 5·64 |
| 5. Social Security and Welfare .. | 8·94 | 8·99 | 0·05 | 0·56 |
| 6. Minor Irrigation .. | 4·57 | 3·36 | (1·21) | (26·48) |
| 7. Dairy Development | 25·85 | 20·28 | (5·57) | (21·55) |
| 8. Forestry and Wild-life .. .. | 27·04 | 24·21 | (2·83) | (10·47) |
| 9. Industries .. | 2·58 | 5·98 | 3·40 | 131·78 |
| 10. Non-Ferrous Mining and Metallurgical Industries .. | 4·00 | 5·17 | 1·17 | 29·25 |
| 11. Roads and Bridges .. | 2·99 | 4·99 | 2·00 | 66·89 |
| 12. Others .. .. | 40·37 | 36·81 | (3·56) | (8·82) |
| Total .. | 184·51 | 181·61 | (2·90) | (1·57) |

## 1.6 **Cost of collection**

The expenditure incurred on collections under the principal heads of revenue and the percentages of cost of collection to gross collection during the years 1986-87 and 1987-88 are indicated below:

*Figures in brackets indicate shortfall.

| Receipt head | Gross collection | | Expenditure on collection | | Percentage of cost of collection to gross collection | |
|---|---|---|---|---|---|---|
| | 1986-87 | 1987-88 | 1986-87 | 1987-88 | 1986-87 | 1987-88 |
| | (In crores of rupees) | | | | | |
| 1. Taxes on Agricultural Income .. | 6·09 | 8·11 | 0·43 | 0·44 | 7·1 | 5·4 |
| 2. Other Taxes on Income and Expenditure .. | 35·45 | 40·20 | 0·54 | 0·75 | 1·5 | 1·9 |
| 3. Land Revenue .. | 149·65 | 187·01 | 9·45 | 10·51 | 6·3 | 5·6 |
| 4. Stamps and Registration Fees .. | 63·87 | 73·71 | 6·39 | 7·23 | 10·0 | 9·8 |
| 5. State Excise .. | 71·47 | 96·10 | 5·74 | 6·05 | 8·0 | 6·3 |
| 6. Sales Tax .. | 695·75 | 832·09 | 7·07 | 8·91 | 1·0 | 1·1 |
| 7. Taxes on Vehicles | 39·69 | 42·54 | 1·26 | 1·51 | 3·2 | 3·6 |
| 8. Taxes on Goods and Passengers .. | 82·39 | 87·77 | 3·72 | 2·93 | 4·5 | 3·3 |
| 9. Taxes and Duties on Electricity .. | 31·82 | 35·67 | 0·42 | 0·70 | 1·3 | 2·0 |
| 10. Other Taxes and Duties on Commodities and Services | 42.20 | 44.60 | 0·52 | 0·23 | 1·2 | 0·5 |
| 11. Forestry and Wild Life .. | 20·43 | 24·21 | 3·20 | 2·87 | 15·7 | 11·9 |

## 1.7 **Uncollected revenue**

The arrears of revenue pending collection in respect of Sales Tax, Land Revenue and Electricity Duty as on 31st March 1988 (as furnished by respective departments) amounted to Rs. 215·38 crores as indicated below:

| Revenue heads | Opening balance as on 1st April 1987 | Fresh demand raised during 1987-88 | Amount collected during 1987-88 | Amount remitted/ written off/ reduced in appeal | Balance outstanding as on 31st March 1988 |
|---|---|---|---|---|---|
| | | (In crores of rupees) | | | |
| (*i*) Sales Tax .. | 193·35 | 135·62 | 84·08 | 47·10 | 197·79 |
| (*ii*) Land Revenue | 8·61 | 4·00* | 2·34 | — | 10·27 |
| (*iii*) Electricity Duty | 8·97 | 33·92 | 35·57 | — | 7·32 |
| Total .. | | | | | 215·38 |

The departments concerned were requested (May 1988) to furnish information regarding arrears of revenue outstanding as on 31st March 1988 in respect of other tax and non-tax receipts; but the same has not been received (February 1989).

## 1.8 **Outstanding inspection reports**

1.8.1 Audit observations on incorrect assessments, under-assessments, non-levy or short levy of taxes, duties, fees and other revenue receipts as well as on irregularities and deficiencies in initial accounts and records of assessments noticed during local audit, which are not settled on the spot, are communicated to heads of offices and to higher authorities through inspection reports for prompt settlement. The more important financial irregularities are also brought to the notice of heads of departments and the Government for taking prompt corrective measures. Government have prescribed that first replies to the inspection reports should be sent by heads of offices to heads of departments within three weeks from the date of receipt of the inspection report. The heads of departments, in turn, are required to transmit the replies, along with other comments, to the Accountant General within two months from the date of receipt of the replies from their subordinate offices. Half-yearly statements of audit objections, awaiting settlements for want of final replies from the departmental authorities are also forwarded to Government in June and December every year for expediting clearance of outstanding objections.

*Excepting 3 districts (North 24-Parganas, Malda and Darjeeling).

1.8.2 The number of inspection reports and audit objections, with money values, issued upto December 1987 but not settled by the departments by the end of June 1988, together with corresponding figures for the preceding two years, are given below:

| | Outstanding at the end of June | | |
|---|---|---|---|
| | 1986 | 1987 | 1988 |
| Number of Inspection Reports .. | 2,156 | 1,579 | 1,162 |
| Number of audit objections .. | 2,531 | 2,427 | 2,854 |
| Money value of objections (in crores of rupees) .. | 75·05 | 68·53 | 70·06 |

1.8.3 Receipt-wise break-up of the inspection reports and audit objections (with money values) issued upto December 1987 but remaining outstanding for settlement at the end of June 1988 is given below:

| Head of receipt | Number of inspection reports | Number of audit objections | Amount (in crores of rupees) |
|---|---|---|---|
| 1. Agricultural Income Tax .. | 19 | 21 | 0·29 |
| 2. Land Revenue .. .. | 69 | 376 | 11·59 |
| 3. Stamps and Registration Fees .. | 95 | 207 | 0·75 |
| 4. Non-judicial Stamps .. .. | 21 | 26 | 0·44 |
| 5. State Excise .. .. | 35 | 45 | 4·38 |
| 6. Sales Tax .. .. | 310 | 1,106 | 16·55 |
| 7. Professions Tax .. .. | 48 | 72 | 0·33 |
| 8. Motor Vehicles Tax .. .. | 178 | 458 | 3·93 |
| 9. Entry Tax .. .. | 99 | 123 | 5·28 |
| 10. Electricity Duty .. .. | 24 | 33 | 6·86 |
| 11. Amusement Tax .. .. | 28 | 51 | 0·70 |
| 12. Departmental Receipts .. | 173 | 177 | 8·58 |
| 13. Forest .. .. | 56 | 112 | 3 58 |
| 14. Mines and Minerals .. .. | 7 | 47 | 6·80 |
| Total .. .. | 1,162 | 2,854 | 70·06 |

1.8.4 Out of 1,162 inspection reports awaiting settlement, even first round of replies had not been received (June 1988) in respect of 983 reports containing 2,685 audit objections. Receipt-wise break-up of the objections is given below:

| Head of receipt | Number of inspection reports | Number of audit objections | Earliest year to which reports relate |
|---|---|---|---|
| 1. Agricultural Income Tax .. | 19 | 21 | 1980-81 |
| 2. Land Revenue .. .. | 66 | 360 | 1980-81 |
| 3. Stamps and Registration Fees .. | 85 | 119 | 1979-80 |
| 4. Non-judicial Stamps .. .. | 16 | 18 | 1979-80 |
| 5. State Excise .. .. | 30 | 36 | 1981-82 |
| 6. Sales Tax .. .. | 310 | 1,106 | 1979-80 |
| 7. Profession Tax .. .. | 41 | 50 | 1984-85 |
| 8. Motor Vehicles Tax .. .. | 93 | 458 | 1980-81 |
| 9. Entry Tax .. .. | 78 | 110 | 1981-82 |
| 10. Amusement Tax .. .. | 28 | 49 | 1980-81 |
| 11. Electricity Duty .. .. | 24 | 33 | 1979-80 |
| 12. Departmental Receipts .. | 143 | 177 | 1981-82 |
| 13. Forest .. .. | 47 | 112 | 1981-82 |
| 14. Mines and Minerals .. .. | 3 | 36 | 1983-84 |
| Total .. .. | 983 | 2,685 | |

1.8.5 In the following cases, though audit objections were raised five to eight years ago, no rectificatory action had been taken by the departments. The matter was reported to the Secretary to the Government of West Bengal, Finance Department in November 1988 and to the Chief Secretary, Government of West Bengal in March 1989.

| Head of receipt | Number of audit objections | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Agricultural Income Tax .. .. | 4 | 2·60 |
| 2. Land Revenue .. .. .. | 71 | 266·00 |
| 3. Stamps and Registration Fees .. .. | 104 | 9·22 |
| 4. Non-judicial stamps .. .. .. | 7 | 0 54 |
| 5. State Excise .. .. .. | 11 | 4·87 |
| 6. Sales Tax .. .. .. | 403 | 878·56 |
| 7. Motor Vehicles Tax .. .. .. | 105 | 92·01 |
| 8. Entry Tax .. .. .. | 28 | 18·09 |
| 9. Amusement Tax .. .. .. | 5 | 1·63 |
| 10. Electricity Duty .. .. .. | 11 | 71·57 |
| 11. Departmental Receipts .. .. | 27 | 174·00 |
| 12. Forest .. .. .. | 18 | 43·00 |
| 13. Mines and Minerals .. .. .. | 12 | 618·00 |
| Total .. .. .. | 806 | 2180·09 |

# CHAPTER 2

## SALES TAX

### 2.1 **Results of audit**

Test check of accounts of sales tax receipts in Commercial Tax Offices, conducted during 1987-88, revealed non-assessments/ under-assessments of tax amounting to Rs. 668·50 lakhs in 459 cases, which broadly fall under the following categories:

| | Number of cases | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Irregular grant of exemption .. .. | 13 | 17·57 |
| 2. Incorrect determination of gross/taxable turnover | 23 | 30·58 |
| 3. Non-levy or short levy of turnover tax .. | 96 | 80·30 |
| 4. Short levy due to irregular and excess allowance of concessional rates .. .. .. | 19 | 16·92 |
| 5. Non-levy or short levy of interest .. .. | 106 | 300·56 |
| 6. Under-assessment due to irregular deduction .. | 17 | 9·35 |
| 7. Under-assessment due to mistake in computation | 15 | 10·82 |
| 8. Others .. .. .. | 170 | 202·40 |
| Total .. .. .. | 459 | 668·50 |

Some of the important cases, including a review on "Assessment and collection of taxes from Jute Mills in West Bengal" are mentioned in the following paragraphs.

### 2.2 **Mis-classification of goods**

(*i*) Under the Bengal Finance (Sales Tax) Act, 1941, sales of goods, other than goods mentioned in Schedule II of the Act and declared goods, to unregistered dealers are taxable at 8 per cent. Sales of declared goods to such dealers are taxable at 4 per cent.

A dealer of Calcutta dealing in general goods was assessed exparte (September 1984) for the period ended December 1980 and the sale of Rs. 5·90 crores representing sales of general goods

was assessed to tax at 4 per cent treating the same as sales of declared goods. A scrutiny in audit revealed that the dealer had filed two quarterly returns only and had not disclosed any sales of declared goods even in these returns. It was also seen in respect of the assessment for the past several years neither the dealer returned any sales turnover relating to declared goods nor had been assessed in respect of such goods. Treating the general goods as declared goods resulted in undercharge of tax to the tune of Rs. 21,06,300.

On this being pointed out in audit (July 1986), the department agreed to revise the assessment (December 1986). Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*ii*) Under the West Bengal Sales Tax Act, 1954, sales of fertiliser are taxable at 5 per cent. Goods not specifically mentioned in any of the Acts attract tax at the general rate of 8 per cent under the Bengal Finance (Sales Tax) Act, 1941.

In assessing (March 1986) a dealer of Calcutta dealing in metals and minerals including rock phosphate, for the period ended 31st March 1982 under the Bengal Finance (Sales Tax) Act, 1941, the assessing authority inadvertently classified his sales of metals and minerals aggregating Rs. 8·47 lakhs as fertiliser and levied tax at the rate of 5 per cent instead of at 8 per cent. Mis-classification resulted in undercharge of tax to the tune of Rs. 22,494.

On this being pointed out in audit (November 1986), the department stated (March 1988) that proceedings to review the case had been started. Further development has not been intimated (February 1989).

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

(*iii*) Under the West Bengal Sales Tax Act, 1954, mixture of powdered or condensed milk with other substances in which the milk content exceeds 50 per cent is a notified commodity and is taxable at the prescribed rate. No tax is, however, leviable under the Act on the sale of any notified commodity, if purchased locally. Horlicks (a malted milk food), in which the milk content is less than 50 per cent (as per composition of Horlicks furnished by manufacturers) is not a notified commodity and is, therefore, taxable under the Bengal Finance (Sales Tax) Act, 1941 as general goods at the prescribed normal rate.

(*a*) In two assessments of a dealer of Burdwan district for the years ending 1980-81 and 1981-82, made between October 1985 and October 1986, his sales of locally purchased horlicks valuing Rs. 17·82 lakhs were exempted from tax treating the goods erroneously as a notified commodity. The mis-classification resulted in undercharge of tax amounting to Rs. 1,32,217.

On this being pointed out in audit (July 1987), the department agreed (September 1987) to look into the matter. Further development has not been intimated (February 1989).

The matter was reported to Government in December 1987; their reply has not been received (February 1989).

(*b*) In assessing (between March 1982 and March 1983) a dealer of Calcutta for the years ending 31st March 1978 and 31st March 1979, the assessing authority erroneously treated 'Horlicks' as a notified commodity and levied tax on total sales of Rs. 6,87,94,846 effected between October 1977 and March 1979, at the rate of 6 per cent under the West Bengal Sales Tax Act, 1954, instead of at 7 per cent under the Bengal Finance (Sales Tax) Act, 1941. This mis-classification led to an under-assessment of tax to the tune of Rs. 6,62,150.

On this being pointed out in audit (September 1986), the department agreed (September 1986) to examine the case. Further report has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

2.3 **Turnover escaping assessment**

(*i*) Under the West Bengal Sales Tax Act, 1954, sale of drug is taxable at the rate of 4 per cent with effect from 1st April 1981. Prior to that, it was taxable at the rate of 7 per cent.

In assessing (August 1985) a dealer of Calcutta for the assessment year ended 31st August 1981, his intra-State sales of drugs and medicines were assessed by the assessing authority at Rs. 3,42,89,409 and charged to tax at the appropriate prevailing rates. A scrutiny of returns filed by the dealer, however, showed that the dealer had effected intra-State sales of drugs and medicines amounting to Rs. 4,03,09,833, out of which sale amounting to Rs. 2,66,34,873 was taxable at 7 per cent and sale amounting to Rs. 1,36,74,960 was taxable at 4 per cent. Thus turnover of Rs. 60,20,424 escaped assessment and resulted in short levy of tax to the extent of Rs. 5,85,771.

On this being pointed out in audit (June 1987), the depart-

ment admitted (August 1987) the mistake and agreed to take action. Further development has not been intimated (February 1989).

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

(*ii*) While assessing (October 1986) a dealer of Calcutta for the assessment year ended KB-2039 (28th October 1981 to 15th November 1982), his gross turnover under the Bengal Finance (Sales Tax) Act, 1941 was determined at Rs. 84,00,529. But at the time of allocating this turnover for the purpose of computation of tax, the assessing officer left out a taxable turnover of Rs. 3,03,000. The omission resulted in non-levy of tax of Rs. 22,483.

On this being pointed out in audit (January 1988), the department admitted (January 1988) the mistake and agreed to take action for revision of the assessment. Further development has not been intimated (February 1989).

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

(*iii*) Under the Bengal Finance (Sales Tax) Act, 1941, a dealer is liable to pay tax on his turnover at the different prescribed rates after allowing deductions as admissible under the Act.

In the assessment (January 1987) of a dealer of Howrah district for the period ending 1389 BS (1982-83), it was noticed (November 1987) that although the turnover had been assessed at Rs. 21,94,293, tax had been computed on a turnover of Rs. 18,57,332 only leading to escapement of tax on the residual turnover of Rs. 3,36,961, with consequent under-assessment of tax of Rs. 25,003.

On this being pointed out in audit (November 1987), the department admitted the mistake and agreed (November 1987) to take action. Further development has not been intimated (February 1989).

The matter was reported to Government in December 1987; their reply has not been received (February 1989).

(*iv*) Under the Bengal Finance (Sales Tax) Act, 1941, turnover means the aggregate of the sale prices or part of sale prices receivable or actually received by a dealer during any period after deducting the amount, if any, refunded by the dealer in respect of any goods returned by the purchaser within such period.

In assessing (October 1985) a dealer of Calcutta for the period ended Kartik Bodhi (KB) 2038 SY (8th November 1980 to 27th October 1981), the assessing authority determined the gross turnover of the dealer at Rs. 30,59,207 as shown in the return instead of at Rs. 33,65,676 as disclosed by the dealer himself in his certified account of the year. The short determination of gross turnover by Rs. 3,06,469, which was assessable to tax at the rate of 8 per cent, resulted in under-charge of tax to the tune of Rs. 22,740.

On this being pointed out in audit (February 1987), the department admitted the mistake and agreed (February 1987) to revise the assessment. Further development has not been intimated (February 1989).

The matter was reported to Government in July 1987; their reply has not been received (February 1989).

(*v*) Under the Central Sales Tax Act, 1956, inter-State sales to registered dealers are taxable at concessional rate of 4 per cent provided the dealer claiming such concessions produces, in support thereof, declarations in the prescribed forms obtained from the purchasing dealers. Sales not covered by such declaration are taxable at the rate of 10 per cent.

A dealer of Murshidabad district, for the assessment year ended in March 1984, claimed that his entire inter-State sales had been made to registered dealers. The dealer did not claim any deduction from the turnover nor the assessing officer had allowed any such claim. However, the dealer had furnished 'C' form declarations in respect of a turnover of Rs. 7,83,350 only on the basis of which the concessional rate of tax was also allowed. The balance sales, aggregating Rs. 15,05,768 not being covered by declaration, were taxable at 10 per cent. But no tax was levied on this amount. The omission resulted in under-charge of tax of Rs. 1,44,785.

On this being pointed out in audit (July 1987), the department agreed (April 1988) to refer the case to appellate authority for revision. Further development has not been intimated (February 1989).

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

### 2.4 **Irregular exemptions**

(*i*) Under the Central Sales Tax Act, 1956, and the rules made thereunder, a dealer, claiming exemption from his turnover

on account of transfer of goods to his branch outside the State, is liable to furnish declarations in the prescribed forms duly filled in and signed by the principal officer of the other place of his business in proof of such transfer. Otherwise such transfer is liable to be taxed at the normal rate of 10 per cent, or at the rate applicable to sale of such goods in the State, whichever is higher.

While assessing (January 1986) a dealer of Calcutta for the period ended January 1982, the assessing authority allowed an exemption of Rs. 14,67,404 on account of branch transfer without obtaining the requisite declaration forms in support of the dealer's claim. This omission resulted in under-charge of tax to the extent of Rs. 1,08,881.

On this being pointed out in audit (March 1987), the department stated (April 1988) that the appellate authority to whom the case was referred (March 1987) set aside the same for fresh assessment and agreed to take necessary action. Further development has not been intimated (February 1989).

The matter was reported to Government in July 1987; their reply has not been received (February 1989).

(*ii*) Under the Central Sales Tax Act, 1956, State Government is empowered to exempt tax or to specify a lower rate of tax on certain specified items of goods sold to any person in Sikkim. By a notification issued in December 1980, sales of such goods were made chargeable to tax at a lower rate of 4 per cent with effect from 9th December 1980 subject to the production of prescribed certificates obtained from the purchasing dealer. Sales not covered by such certificates are exigible to tax at the normal rate.

In assessing (March 1985) a dealer of Calcutta for the year ended March 1981, sales to Sikkim dealers after 8th December 1980 aggregating Rs. 3·24 lakhs, though not covered by the required certificates, were erroneously exempted from tax. This led to under-assessment of tax of Rs. 32,351.

On this being pointed out in audit (September 1986), the department admitted (November 1986) the mistake and agreed to realise the amount. Report on realisation has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*iii*) Under the Bengal Finance (Sales Tax) Act, 1941, West Bengal Sales Tax Act, 1954 and rules and notifications

issued thereunder, sales by a newly set up Small Scale Industry, of goods manufactured by it are exempt from tax subject to fulfilment of certain prescribed condition and possession of a certificate of eligibility granted by the appropriate authority.

A dealer of Calcutta was registered as an industrial unit of Small Scale Industry for manufacture and sale of corrugated rolls, boards and boxes. In assessing the dealer (September 1986) for the period ended September 1982, the dealer's claim for exemption of sale of his manufactured product valuing Rs. 39·67 lakhs was allowed. These sales included sales of printing label, paper cutting and paper wastage worth Rs. 2·03 lakhs which was not manufactured by the dealer or covered by his eligibility certificate. The erroneous exemption resulted in under-charge of tax of Rs. 15,087.

On being pointed out in audit (June 1987), the department admitted the mistake and agreed (July 1987) to take necessary action. Further development has not been intimated (February 1989).

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

(*iv*) Under the Bengal Finance (Sales Tax) Act, 1941, 'sale' means any transfer of property in goods for cash or deferred payment or other valuable consideration.

In assessing (September 1986) a dealer of Calcutta for the period ended 30th September 1982, the assessing authority allowed exemption of Rs. 7·91 lakhs on account of 'turnkey job' executed by the dealer for a steel plant. Scrutiny of the dealer's account, however, revealed that the price received for the job included specifically the value of machinery worth Rs. 7·23 lakhs supplied in execution of the job while the cost of erection charges of Rs. 0·68 lakh has been separately charged for and deducted from the sales turnover for sales tax purposes also. The irregular exemption of this sale of machinery treating it as individual contract resulted in non-levy of tax amounting to Rs. 53,654.

On this being pointed out in audit (November 1986), the department admitted (November 1986) the mistake and issued demand notice in April 1987. Report on realisation has not been received (February 1989).

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

## 2.5 Under-assessment of tax due to treatment of local corporate bodies as Government departments

(*i*) Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales are taxable at the rate of 10 per cent or at the rate applicable to sale of such goods in the State, whichever is higher, if they are not supported by the prescribed declarations obtained from purchasing registered dealer or purchasing Government department concerned. In case of such sales to Government departments, concessional rate of 4 per cent is applicable against declaration in the prescribed form 'D' issued by authorised Government officers. Government undertakings and statutory bodies having separate legal entity, are not authorised to issue such declarations in form 'D'.

In assessing (March 1985) a dealer of Calcutta for the year ended March 1981, sales of air-conditioning parts and accessories aggregating Rs. 1,67,308 made to statutory local bodies and Government undertakings were irregularly assessed at concessional rate of 4 per cent instead of at 15 per cent without examining the validity of the declaration forms. This resulted in an under-assessemnt of tax of Rs. 17,696.

On this being pointed out in audit (September 1986), the department admitted (June 1988) the mistake and agreed to revise the assessment. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*ii*) Under a notification issued in September 1979 under the West Bengal Sales Tax Act, 1954, sales of all notified commodities inside the State to Government or to a Corporation or Undertaking established by Government under the Road Transport Corporation Act, 1950, attract tax at the concessional rate of 4 per cent. It was clarified by the department in February 1980 that the 'Government' means all State Governments as well as the Central Government, but not any local bodies such as the Calcutta Corporation, Municipalities, Zila Parishads etc.

In assesing (March 1985) a dealer of Calcutta for the period ended 31st March 1981, the assessing authority allowed concessional rate of tax at the rate of 4 per cent on sales of Rs. 16,40,099 made to different local bodies treating them as Government Departments. This resulted in short levy of tax to the tune of Rs. 44,443.

On this being pointed out in audit (August 1986), the

department stated (November 1987) that the case was set aside in October 1987 by the appellate authority for fresh assessment. Further report has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (Febrary 1989).

2.6 **Loss of revenue owing to assessments becoming time-barred**

(*i*) Under the West Bengal Sales Tax Act, 1954, if any dealer, who has been liable to pay tax in respect of any period, fails to get himself registered, the Commissioner shall proceed to assess the amount of tax due from the dealer in respect of such period and all subsequent periods to the best of his judgement after giving an opportunity to the dealer. But no assessment and determination of tax shall be made in such cases after the expiry of forty-eight months from the end of the year in respect of which or part of which the assessment and determination of tax was due.

In the course of scrutiny of assessment records (made available in January 1987), it was noticed that a dealer of North 24-Parganas district manufactured and sold surgical dressings (sterilised gauge and bandage) taxable under the Act of 1954, since 1977, but he neither got himself registered under the said Act nor paid tax in respect of such sale. The assessing officer while making assessment (between September 1980 and October 1985) under the Bengal Finance (Sales Tax) Act, 1941, for the years ending between June 1978 and June 1983, sales of such materials aggregating Rs. 108·16 lakhs were allowed exemption treating the same as textile fabrics (a tax free item), which was not correct. Tax leviable worked out to Rs. 6,13,247.

On this being pointed out in audit (January 1987), the department admitted (September 1987) the mistake and further stated (June 1988) that assessments for the years prior to the year ending June 1984 could not be done due to limitation; though department could have done assessment for the year ending June 1983 (the mistake having been pointed out in audit in January 1987). Thus Government sufferred a loss of revenue to the extent of Rs. 6,13,247 for the years ending between June 1978 and June 1983 alone.

The matter was reported to Government in May 1987; their reply has not been received (February 1989).

(*ii*) Under the West Bengal Sales Tax Act, 1954, sale of a notified commodity, imported by a dealer from outside the

State, is taxable at the prescribed rate on the first point of sale in West Bengal. 'Paper' being a notified commodity is taxable at 9 per cent from 1st April 1979. Under the said Act, an assessment is to be made within four years from the end of the year in respect of which the sale was made.

A dealer of Calcutta, registered under the Bengal Finance (Sales Tax) Act, 1941, imported paper through special permits from outside the State for manufacturing exercise books, ruled paper, laboratory note books which are tax free under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder. A report dated 30th April 1986, drawn up by the Bureau of Investigation, revealed that the dealer had effected sales of imported paper for Rs. 23,73,493 between May 1980 and March 1982 without using the same in the manufacture. These sales were, therefore, liable to be taxed under the 1954 Act.

While assessing the dealer (April 1985) under the 1941 Act for the periods ended 31st March 1981 and 31st March 1982, the said sales were, however, allowed exemption treating the sales as sales of exercise books etc. The assessing authority failed to detect the actual nature of sales while examining books of accounts at the time of assessment. The assessments were barred by limitation under the 1954 Act when the report of Bureau of Investigation was received. Thus Government suffered a loss of revenue to the extent of Rs. 1,95,991.

On this being pointed out in audit (October 1986), the department admitted (October 1986) the lapse.

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

2.7 **Short levy of tax due to application of incorrect rates**

(*i*) Under the West Bengal Sales Tax Act, 1954, "spare parts, accessories and components including storage batteries" when sold to manufacturer as original equipment of motor vehicle was taxable at the rate of 3 per cent upto 31st March 1980. By a notification issued in April 1980, rate of tax on such sale was enhanced to 9 per cent with effect from 1st April 1980.

In assessing (August 1984) a dealer of Calcutta for the year ended 31st August 1980, his sale of storage batteries aggregating Rs. 32·94 lakhs made during the period from 22nd April 1980 to 29th August 1980 was taxed at 3 per cent instead of at 9 per cent. This mistake resulted in under-charge of tax to the tune of Rs. 1,76,652.

On this being pointed out in audit (August 1986), the department admitted (May 1988) the mistake and rectified the same in *suo-motu* revision. Report on realisation has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*ii*) Under the West Bengal Sales Tax Act, 1954, sale of 'fertiliser' was taxable at the rate of 4 per cent upto 31st March 1980 and thereafter at the rate of 5 per cent.

In assessing (June 1985) a dealer of Calcutta for the period ended 30th June 1981, his sales turnover of fertiliser determined at Rs. 1,07,91,231, was assessed to tax incorrectly at 4 per cent instead of at 5 per cent. This mistake resulted in under-charge of tax to the tune of Rs. 1,00,234.

On this being pointed out in audit (February 1987), the department revised (May 1988) the assessment and raised demand for Rs. 1,00,234. Report on realisation has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*iii*) Under the Bengal Finance (Sales Tax) Act, 1941, a dealer is entitled to a concessional rate of tax of 3 per cent upto 31st March 1981 and 1 per cent thereafter till 30th September 1982 in respect of his sales to manufacturing dealers subject to production of prescribed declarations.

(*a*) In re-assessment (February 1987) of a dealer of Bankura district for the assessment year ended 2038 (corresponding to 15th July 1980 to 13th July 1981), sales upto 31st March 1981 amounting to Rs. 13,92,698 to registered manufacturers, supported by declaration forms, had wrongly been assessed to tax at 1 per cent instead of 3 per cent. The mistake resulted in short levy of tax amounting to Rs. 26,844.

On this being pointed out in audit (March 1987), the department admitted (August 1987) the mistake and agreed to revise the assessment. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*b*) In assessing (November 1985) a dealer of Calcutta for the year ending 31st December 1981, taxable turnover eligible for concessional rate was assessed at Rs. 59,93,364, out of which turnover of Rs. 14,38,346 was taxable at 3 per cent being sales

for the period upto 31st March 1981. But a turnover of Rs. 6,98,319 only was treated as relating to the period upto 31st March 1981 and was taxed at the rate of 3 per cent. This resulted in an under-charge of tax of Rs. 14,264.

On this being pointed out in audit (September 1986), the department agreed (June 1988) to revise the assessment. Report on revision has not been received (February 1989).

The matter was reported to Government in January 1987; their reply has not been received (February 1989).

(*iv*) Under the Bengal Finance (Sales Tax) Act, 1941, on sale of carpets of all varieties and descriptions, tax was leviable at the rate of 15 per cent.

In assessing (May 1986) a dealer of Calcutta for the assessment year ended 30th September 1982, the assessing authority levied tax at the rate of 8 per cent, instead of 15 per cent on sale of woollen carpets for Rs. 12,39,047. The application of lower rate of tax resulted in short levy of tax amounting to Rs. 68,829.

On this being pointed out in audit (September 1987), the department admitted (October 1987) the mistake and agreed to review the case. Report on review has not been intimated (February 1989).

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

(*v*) Under the Central Sales Tax Act, 1956, on sale of goods, other than declared goods, in the course of inter-State trade or commerce to dealers other than registered dealers or the Government, tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

In assessing (September 1984) a dealer of Calcutta ex-parte for the period ended 31st December 1980, the assessing authority charged his inter-State sales amounting to Rs. 20,00,000 to tax at the rate of 8 per cent treating the same as sale of declared goods to unregistered dealers though in the Registration Certificate the goods specified were aluminium cables, conductor etc. The dealer had no transaction of declared goods in the past or in the instant year. Accordingly, the entire amount of Rs. 20 lakhs would attract tax at the rate of 10 per cent as sales of general goods to unregistered dealers. The mistake resulted in under-charge of tax to the tune of Rs. 33,670.

On this being pointed out in audit (September 1987), the department admitted (November 1987) the mistake and agreed

to revise the assessment. Further report on revision has not been received (February 1989).

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

(*vi*) Under the West Bengal Sales Tax Act, 1954, tyres and tubes for motor vehicles when sold to the manufacturers of motor vehicle were taxable at 3 per cent upto 31st March 1980 without production of prescribed declaration forms. By a notification issued in April 1980, the general rate on tyres and tubes of motor vehicles was enhanced to 11 per cent with effect from 1st April 1980. From this date, the manufacturers are liable to pay tax at 11 per cent, if such sales are not supported by prescribed declaration forms.

In assessing (August 1984) a dealer of Calcutta for the period ended 31st October 1980, his sales of tyres and tubes aggregating Rs. 8·82 lakhs during the period from 20th September 1980 to 31st October 1980, were taxed at the rate of 3 per cent (instead of at 11 per cent), although the sale was not supported by declaration forms. This incorrect application of rate of tax resulted in under-charge of tax to the tune of Rs. 61,813.

On this being pointed out in audit (August 1986), the department admitted the mistake and agreed to take action (September 1986). Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

### 2.8 **Incorrect computation of taxable turnover**

(*i*) Under the Bengal Finance (Sales Tax) Act, 1941, the assessing authority is empowered to determine the gross turnover of a dealer to the best of his judgement in case he is not satisfied with the books of accounts produced by the dealer.

In assessing (January 1985) a dealer of Calcutta dealing in hides and skins, declared goods, for the period ended 31st July 1981, the assessing authority determined the gross turnover of the dealer at Rs. 120 lakhs to the best of his judgement. But while computing the taxable balance, gross turnover was erroneously taken at Rs. 101·20 lakhs instead of at Rs. 120 lakhs leading to short determination of taxable turnover by Rs. 18·80 lakhs. This mistake resulted in under-charge of tax at the rate of 4 per cent amounting to Rs. 72,380.

On this being pointed out in audit (August 1987), the depart-

ment admitted the mistake (September 1987) and agreed to take necessary action. Further development has not been intimated (February 1989).

The matter was reported to Government in November 1987; their reply has not been received (February 1989).

(*ii*) Under the Bengal Finance (Sales Tax) Act, 1941 and the Central Sales Tax Act, 1956, sales tax is leviable on sale price i.e. the amount paid or payable to a dealer as valuable consideration for the sale of any goods. Accordingly, any amount realised by the dealer on account of duty payable on the goods and differential balance received by the dealer on account of escalation of price also form part of the sale price.

In assessing (between March 1982 and July 1984) a dealer of Calcutta, for the years ended March 1978, March 1979 and March 1980, amounts realised by the dealer from his customers on account of price escalation and octroi duty aggregating Rs. 5,60,757 were irregularly deducted from sale price while arriving at his gross turnover. The erroneous deduction resulted in short levy of tax, surcharge and turnover tax amounting to Rs. 40,526.

On this being pointed out in audit (September 1986), the department admitted (November 1986) the mistake and agreed to realise the tax. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

## 2.9 **Irregular deductions**

(*i*) Under the Bengal Finance (Sales Tax) Act, 1941, read with the Central Sales Tax Act, 1956, coal, being declared goods, is taxable at 4 per cent.

In assessing (March 1984) a dealer of coal in Burdwan district for the assessment year ended March 1980, the gross turnover was determined at Rs. 574·95 lakhs against Rs. 615·68 lakhs disclosed by the dealer himself in his accounts. It was clarified to audit in response to the objection that the dealer's claim for quality deduction had been allowed. It was pointed out in audit that there was no such provision for allowing deduction on this account from gross sales, nor this aspect had been discussed in the assessment order. Besides, in the assessment for the previous years also no such deductions had been allowed. This

resulted in escapement of turnover by Rs. 40·73 lakhs, and consequent under-assessment of tax of Rs. 1,56,787 and indicated non-adherence of proper system of assessment.

On this being pointed out in audit (December 1985), the department revised the assessment (April 1987) and realised the tax in September 1987.

The matter was reported to Government in May 1986.

(*ii*) Under the West Bengal Sales Tax Act, 1954, sales tax is leviable on the turnover comprising sale prices realised or realisable by a dealer as valuable consideration for sale of any goods, less any cash discount allowed according to trade practice. Any amount allowed by way of 'trade offer', which is in the nature of an incentive to boost sales, does not therefore, qualify for deduction from sale price in determining the turnover.

In assessing (March 1985) a dealer of Calcutta for the assessment year ended June 1981, an amount of Rs. 6,23, 096 representing 'trade offer' allowed by the dealer to his customers, was erroneously deducted while determining his turnover. The irregular deduction resulted in under-assessment of tax by Rs. 57,683.

On this being pointed out in audit (October 1986), the department admitted (October 1986) the mistake and agreed to revise the assessment. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*iii*) Under the Central Sales Tax Act, 1956, in determining taxable turnover of a dealer, a deduction on account of tax collected by a dealer is allowed from the aggregate of sale prices in accordance with a prescribed formula provided the tax collected had not otherwise been deducted from aggregate of sale prices. According to the formula, the amount of deduction varies directly with the rate of tax collected. As per *judicial decision, the deduction is not admissible unless the dealer proves that the turnover includes elements of central sales tax. Inter-State sales made by a dealer to Government departments, registered dealers etc. are taxable at concessional rate of 4 per cent or at the prescribed special rate; while sales in the course of export out of India are exempted from tax, provided such sales are supported by declarations and evidence of despatch as the case may be. Otherwise, such sales are taxable at the normal rate of 10 per cent.

*Rallies India Limited *Vs.* State of Andhra Pradesh [1983[53-STC-267(A.P.).

In 2 cases under-assessment amounting to Rs. 22,938, due to irregular allowance of deduction of tax from turnover, was admitted by the department on being pointed out in audit. A few other important cases are mentioned below.

(*a*) In assessing (February 1987) a dealer of South 24-Parganas district for the year ended March 1983 on best judgement basis, his inter-State sales were estimated at Rs. 60,00,000 are subjected to tax at 10 per cent. However, while determining the taxable turnover, deduction at the rate of 10 per cent on the basis of the said formula was allowed. There was nothing on record to prove that turnover included central sales tax. The grant of deduction was irregular and resulted in tax amounting to Rs. 54,545 being under-assessed.

On this being pointed out in audit (October 1987), the department admitted the mistake and agreed (November 1987) to take necessary action. Further development has not been intimated (February 1989).

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

(*b*) In two assessments of a dealer of Calcutta for assessment years ended March 1983 and March 1984, both made in March 1985, the dealer's claims for concessional rate of tax on account of inter-State sales to registered dealers amounting to Rs. 656·41 lakhs, were disallowed by the assessing authority for non-production of prescribed declarations. The disallowed turnover was, accordingly, charged to tax at 10 per cent. However, while determining his taxable turnover, the deduction from gross turnover was allowed on the basis of the tax rate of 10 per cent, instead of 2 per cent at which tax was actually collected by the dealer. The excessive allowance of deduction resulted in under-assessment of tax by Rs. 4·68 lakhs.

On this being pointed out in audit (October 1986), the department admitted (November 1986) the mistake and agreed to review the assessments. Report on action taken has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*c*) In two assessment cases of a dealer of Bankura district for assessment years ended March 1981 and March 1982, made in March 1985 and March 1986, dealer's claim for deduction amounting to Rs. 5,79,918 on account of central sales tax on inter-State sales was allowed by the assessing officer though the

dealer did not realise any sales tax. The incorrect deductions led to under-assessment of tax amounting to Rs. 50,455.

On this being pointed out in audit (March 1987), the department agreed (August 1987) to revise the assessment order. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*d*) In making an assessment (March 1987) of a dealer of Calcutta for the assessment year ended March 1983, the assessing authority disallowed the dealer's claim of export sales amounting to Rs. 39 lakhs and levied tax at the rate of 10 per cent after allowing a deduction appropriate to the rate of tax of 10 per cent. Since no sales tax was collected by the dealer on his export sales, claimed as exempted sales, no deduction on account of tax was admissible. This irregular allowance of deduction resulted in under-charge of tax to the tune of Rs. 35,455.

On this being pointed out in audit (July 1987), the department stated (May 1988) that the assessing authority was free to estimate any turnover inclusive of tax, so deduction given was rightly allowed on the assumtion that central sales tax was collected at the rate of 10 per cent by the dealer. The contention of the department was not tenable as the export sales in question did not include element of sales tax and no deduction was admissible if sales tax was not included in the gross turnover. In a similar objection [subpara (*f*) below], the department has revised the assessment on being pointed out in audit.

The matter was reported to Government in November 1987; their reply has not been received (February 1989).

(*e*) In two assessment cases of a dealer of Calcutta for assessment years ended March 1978 and April 1980, assessed in March 1982 and April 1984, the dealer's claim for concessional rate of tax of 4 per cent, in respect of inter-State sales of Rs. 40,18,787 to Government department and registered dealers, was disallowed by the assessing authority and was charged to tax at 10 per cent. While determining the taxable turnover, the deductions aggregating Rs. 3·65 lakhs on the basis of the formula appropriate to rate of tax of 10 per cent were wrongly allowed. The amount of deductions correctly allowable, on the basis of the formula appropriate to rate of tax at 4 per cent at which tax was collected by the dealer, worked out to Rs. 1·55 lakhs. The incorrect allowance of excess deductions of Rs. 2·10 lakhs led to under-assessment of tax amounting to Rs. 0·21 lakh.

On this being pointed out in audit (July 1986), the department on revision realised (June 1987) a sum of Rs. 17,897. Report on realisation of the balance amount has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*f*) In the assessment of a dealer of Calcutta for assessment year ended 31st March 1983, made in March 1987, the dealer's claim for decuction on account of sales in the course of export amounting to Rs. 47,90,007 was disallowed by the assessing authority for lack of documentary evidences. The sales were, accordingly, subjected to tax at 10 per cent. However, while determining the taxable turnover, deductions aggregating Rs. 4,35,456, computed on the basis of the said formula were allowed. Since no tax was collected on the export sales claimed as exempted sales the grant of deduction was irregular and resulted in tax amounting to Rs. 43,546 being under-assessed.

On this being pointed out in audit (May 1987), the department revised (June 1988) the assessment and issued a fresh demand notice which was sent to the certificate officer for realisation. Report on realisation has not been received (February 1989).

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

(*g*) In assessing (May 1986 and February 1987) a dealer of Murshidabad district, for the years ended June 1983, 1984 and 1985, the usual deduction at the rate of 4 and 10 per cent as the case may be was allowed on the turnover of sales although, as per observations of the assessing authority in the assessment order, the turnover did not include any element of sales tax. This irregular allowance of deduction resulted in under-assessment of tax by Rs. 17,606.

On this being pointed out in audit (July 1987), the department admitted the mistake and agreed (May 1988) to revise the assessment. Result of revision has not been intimated (February 1989).

The matter was reported to Government in September 1987, their reply has not been received (February 1989).

## 2.10 **Mistakes in computation of tax**

In one case involving short levy due to mistake in computation

of tax, an amount of Rs. 29,971 was recovered on being pointed out in audit. A few other cases are mentioned below.

(*a*) In assessing (November 1986) a dealer of Calcutta, under the Bengal Finance (Sales Tax) Act, 1941, for the period ended December 1982, sales tax including leviable penalty of Rs. 20,000 was computed at Rs. 94,200 but while issuing demand notice penalty was incorrectly shown therein as Rs. 2,000. This resulted in levy of tax short by Rs. 18,000.

On this being pointed out in audit (June 1987), the department admitted the error (June 1987) and revised (May 1988) the assessment *suo-motu* and issued the revised demand notice. Report on realisation has not been received (February 1989).

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

(*b*) In assessing (February 1987) a dealer of Calcutta for the period ended 31st March 1983, the assessing authority levied tax at the rate of 4 per cent and 8 per cent on turnover of Rs. 15,00,000 and Rs. 24,80,910 respectively. The assessing authority, however, erroneously determined the total tax payable at Rs. 2,20,966 instead of at Rs. 2,41,834. This mistake in computation of tax resulted in under-charge of tax to the extent of Rs. 20,868.

On this being pointed out in audit (April 1987), the department admitted the mistake and agreed (June 1987) to revise the assessment. Further development has not been intimated (February 1989).

The matter was reported to Government in November 1987; their reply has not been received (February 1989).

(*c*) In assessing (February 1986) a dealer of Calcutta ex-parte for the year ended 31st March 1982, the assessing officer decided to levy tax at the rate of 4 per cent on a turnover of Rs. 7,00,000. But amount of tax was erroneously computed at Rs. 1,050 instead of at Rs. 26,950. This resulted in short levy of tax to the extent of Rs. 25,900.

On this being pointed out in audit (April 1986), the department rectified (April 1987) the mistake and issued (April 1987) a revised demand notice. Report on realisation has not been received (February 1989).

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

(*d*) In assessing (March 1987) a dealer of Calcutta for the

assessment year ended 31st March 1983, the assessing authority determined the gross turnover of the dealer at Rs. 15,00,000 chargeable to tax at 8 per cent. But tax was erroneously computed on Rs. 1,50,000 instead of on Rs. 15,00,000. The error in computation resulted in short levy of tax amounting to Rs. 96,709.

On this being pointed out in audit (October 1987), the department admitted (October 1987) the mistake and agreed to review the case. Further development has not been intimated (February 1989).

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

(*e*) In assessing (June 1986) a dealer of Calcutta for the assessment period ended 30th June 1982, the amount of tax at 8 per cent on the taxable turnover of Rs. 5,79,118 was erroneously computed at Rs. 21,485, instead of at Rs. 42,971. The mistake resulted in under-assessment of tax amounting to Rs. 21,486.

On this being pointed out in audit (January 1988), the department admitted (February 1988) the mistake and agreed to review the case. Report on review has not been received (February 1989).

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

(*f*) In assessing (December 1985) a dealer of Howrah district for the assessment year ended 31st December 1981, the amount of concessional rate of tax at 1 per cent on the taxable turnover of Rs. 21,01,314 in respect of sales to registered manufacturers was erroneously computed at Rs. 2,080 instead of Rs. 20,803. The mistake resulted in tax amounting to Rs. 18,723 being under-assessed.

On this being pointed out in audit (January 1988), the department admitted (February 1988) the mistake and agreed to take action for realisation. Report on realisation has not been received (February 1989).

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

### 2.11 **Irregular allowance of concessional rates of tax**

(*i*) In 3 cases, involving short levy due to irregular allowance of concessional rate of tax, an amount of Rs. 90,522 was recovered on being pointed out in audit. A few other cases are mentioned below.

(*ii*) Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales to registered dealers are taxable at a concessional rate of 4 per cent provided the dealers claiming such concessions produce, in support thereof, declarations in the prescribed forms obtainable from the purchasing dealers. Otherwise, such sales are taxable at the normal rate of 10 per cent or at the rate applicable to sale of such goods in the State, whichever is higher.

(*a*) In two assessments (for the years ending June 1979 and June 1980) of a dealer of Calcutta, made in September 1984 and February 1984 and as modified in September 1985, the assessing officer allowed concessional rate of tax on turnover amounting to Rs. 1,92,73,703 and Rs. 2,08,20,269 respectively. However, as per declarations submitted by the dealer, the actual turnover qualifying for concessional rate of tax amounted to Rs. 1,82,19,703 and Rs. 1,74,43,495 respectively. On the remaining sales aggregating Rs. 44,30,774, which were not covered by the prescribed declarations, tax was chargeable at the normal rate. The incorrect allowance of concessional rate on these sales resulted in tax being levied short by Rs. 2,55,622 for the said two assessment years.

On this being pointed out in audit (July 1986), the department admitted (August 1986) the mistake and agreed to revise the assessments. Report on assessment and realisation has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*b*) In assessing (March 1987) a dealer of Calcutta for the period ended 31st March 1983, the dealer's claim for exemption on account of subsequent sales was allowed for Rs. 72,38,929, although sales for Rs. 70,65,947 only was actually supported by prescribed certificates and declarations. Thus excess allowance of exemption for sale of Rs. 1,72,982 resulted in under-charge of tax amounting to Rs. 17,298.

On this being pointed out in audit (June 1987), the department admitted the mistake and agreed (June 1987) to review the assessment. Further development has not been intimated (February 1989).

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

(*c*) In assessing (April 1986) a dealer of Calcutta for the assessment period ended 1st Ashar 2039 (3rd July 1981 to 22nd

June 1982), the assessing authority assessed ex-parte the gross turnover of the dealer at Rs. 5,00,000 and levied tax at the concessional rate of 4 per cent on the entire amount treating the entire sales as inter-State sales to registered dealers/Government although the same were not found to have been supported by any prescribed declarations. This resulted in short levy of tax to the extent of Rs. 28,846.

On this being pointed out in audit (December 1987), the department admitted the mistake (December 1987) and agreed to take necessary action. Further development has not been intimated (February 1989).

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

(*iii*) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sale of declared goods to registered dealers is exempt from tax, provided such sales are supported by prescribed declaration forms. Otherwise, such sales are exigible to tax at 4 per cent.

In assessing (November 1985) a dealer of Calcutta for the assessment period ended 31st March 1982, the assessing authority allowed exemption from levy of tax on sale of declared goods amounting to Rs. 4,23,37,097 to registered dealers on the basis of covering statements of declaration forms filed by the dealer. A scrutiny of these statements, however, showed that the total of the sales was overstated by Rs. 19,95,690. Failure to detect this error resulted in irregular exemption of sales amounting to Rs. 19,95,690, with consequent short levy of tax of Rs. 76,834.

On this being pointed out in audit (March 1987), the department admitted the mistake and agreed (April 1987) to review the case. Report on review has not been received (February 1989).

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

(*iv*) Under the Bengal Finance Sales Tax Act, 1941, concessional rate of tax at the rate of 1 per cent is admissible on production of declaration forms. 'D' series of such declaration forms covered transactions below Rs. 30,000 upto 30th June 1981. Declaration forms of 'D' series in excess of this monetary limit were invalid in respect of transactions relating to the period prior to 1st July 1981.

In assessing (March 1982) a dealer of Calcutta for the year ended 31st March 1978, concessional rate of tax at the rate of 1 per cent was allowed by the assessing authority in respect of one

covering form of 'D' series covering transactions of Rs. 6,09,211. Allowance of concessional rate of 1 per cent against invalid declaration forms resulted in short levy of tax of Rs. 37,226.

On this being pointed out in audit (January 1986), the department revised the assessment and issued demand notice for Rs. 37,226 in July 1986. Report on recovery has not been received (February 1989).

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

(*v*) Under the West Bengal Sales Tax Act, 1954, concessional rate of tax is admissible on sales to manufacturing dealers on the basis of prescribed declaration form XXIV-A produced by the dealer. The monetary limit of declaration forms of different series of forms had been revised with effect from 1st July 1981. Accordingly, a single form of 'D' series is to cover monetary transactions of Rs. 50,000 and above but below Rs. 1,00,000. Transaction covered by a declaration of 'D' series of forms in excess of the above monetary limit is not eligible for concessional rate of tax and is taxable at normal rate.

In assessing (January 1986) a dealer of Calcutta for the assessment year ended March 1982, concessional rate of tax was allowed on his turnover of Rs. 39,14,875, although one declaration of 'D' series of form covered transactions totalling Rs. 2,58,960, which had exceeded the prescribed monetary limit. The acceptance of this invalid declaration resulted in short levy of tax of Rs. 18,820.

On this being pointed out in audit (June 1987), the department admitted (June 1987) the mistake and agreed to take action in the matter. Further development has not been intimated (February 1989).

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

(*vi*) In terms of Government of West Bengal notification dated 1st April 1974 the commodity 'Drug' when sold as raw materials to manufacturers for manufacture of finished drugs, patent or proprietary medicines, was taxable at concessional rate of tax at 3 per cent upto 31st March 1980 without production of declaration forms. Under the West Bengal Sales Tax Act, 1954, 'Drugs' were taxable at 7 per cent from 1st April 1980 to 31st March 1981 and where the manufacturers fail to produce prescribed declarations, they were liable to pay tax at 7 per cent during the said period.

In assessing (March 1985) a dealer of Calcutta for the period ended 31st March 1981, the assessing authority levied concessional rate of tax at the rate of 3 per cent on his estimated sales of Rs. 1,80,00,000 of drugs though tax was leviable at the rate of 7 per cent because sales were not supported by the prescribed declarations. This resulted in short levy of tax of Rs. 6,52,950.

On this being pointed out in audit (August 1986), the department agreed (November 1986) to review the case. Report on review has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

2.12 **Non-levy or short levy of turnover tax**

A dealer, whose aggregate of gross turnovers under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954, during the last year ended on or before 31st March 1979 exceeded Rs. 50 lakhs, is liable to pay a turnover tax, from 1st April 1979, at the prescribed rates of that part of his turnover which remains after allowing the admissible deductions therefrom. Further, a dealer, whose aggregate of gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954, during any year ending on or after 1st April 1979 exceeds Rs. 50 lakhs, becomes liable to pay turnover tax from the first day of the year immediately following such year. Once a dealer becomes liable to pay turnover tax, he continues to be so liable until the expiry of three consecutive years irrespective of whether the aggregate of his gross turnover under both the Acts during these years exceeds Rs. 50 lakhs or not. The rate of turnover tax is 1 per cent, if the aggregate of gross turnover exceeds Rs. 1 crore and $\frac{1}{2}$ per cent, if aggregate of gross turnover does not exceed Rs. 1 crore.

In 3 cases, involving non-levy or short levy of turnover tax, an amount of Rs. 85,487 was realised on being pointed out in audit. A few other cases are mentioned below.

(*i*) It was noticed in audit (between November 1985 and December 1987) that the gross turnover of 20 dealers for the years ending between June 1980 and June 1984 exceeded Rs. 50 lakhs in each case. The dealers, therefore, became liable to pay turnover tax on their turnover in the subsequent years. However, turnover tax, which amounted to Rs. 21,79,019 was omitted to be levied and recovered by the department as detailed below:

| District/place to which dealer belonged | Year in which turnover had exceeded Rs. 50 lakhs | Subsequent year of assessment in which turnover tax was leviable and the month in which the assessment was completed | Turnover liable for turnover tax | Turnover tax leviable but not levied | Reply of the Government/ department |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | Rs. | Rs. | |
| 1. Calcutta | Year ended November 1979 | Year ended 15th November 1982<br>August 1986 | 4 crores | 4,00,000 | The department admitted (March 1987) the mistake and agreed to revise the assessment. |
| 2. Calcutta | Year ended March 1979 | Years ended March 1981 and 1982<br>March 1985 and 1986 | 3,35,47,261 | 3,35,473 | The department agreed (February 1987) to revise the case. |
| 3. Asansol | Year ended between 1979-80 | Year ended between 1981-82<br>June 1986 | 1,25,00,000 | 1,25,000 | The department raised (September 1987) the demand. |

| | | | | | | |
|---|---|---|---|---|---|---|
| 4 | Midnapore | Year ended June 1981 | Year ended June 1982 and 1983<br>December 1985 and June 1986 | 44,90,235<br>47,15,129 | 46,027 | The department agreed (July 1987) to realise the amount. |
| 5. | Calcutta | Year ended September 1979 | Year ended September 1981<br>September 1985 | 55,26,420 | 27,632 | The department agreed (November 1986) to realise the tax. |
| 6. | Calcutta | Year ended October 1979 | Year ended October 1980<br>September 1984 | 54,04,308 | 27,022 | The department raised demand in July 1986. |
| 7 | Calcutta | Year ended June 1978 | Year ended June 1980<br>June 1984 | 48,64,063 | 24.320 | The department agreed (November 1986) to realise the tax. |
| 8. | Calcutta | Year ended September 1979 | Year ended September 1980<br>Reassessed March 1987 | 44 19 lakhs | 22,094 | The department agreed (March 1987) to rectify the omission. |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| | | | Rs. | Rs. | |
| 9. Calcutta | Year ended March 1979 | Year ended March 1982<br>March 1986 | 43 76 lakhs | 21,882 | The department agreed (February 1987) to review the case. |
| 10. Calcutta | Year ended March 1980 | Years ended March 1981 and 1982<br>March 1985 and 1986 | 20,85,747 | 20,857 | The department agreed (November 1986) to take action. |
| 11. Purulia | Year ended between 1981-82 | Year ended between 1983-84<br>May 1986 | 35,74,960 | 17,875 | The department agreed (November 1987) to realise the amount. |
| 12. Howrah | Year ended between 1979-80 | Years ended between 1980-81 and 1983-84<br>February 1984 and January 1987 | 8,84,806<br>21,94,293 | 15,395 | The department agreed (November 1987) to realise the amount. |

| | | | | | | |
|---|---|---|---|---|---|---|
| 13. | Calcutta | Year ended March 1979 | Year ended March 1981<br>March 1985 | 15,10,113 | 15,101 | The department raised (December 1985) the demand and initiated (October 1987) certificate proceeding for realisation. |
| 14. | Howrah | Year ended December 1982 | Year ended December 1983<br>March 1987 | 85,00,000 | 85,000 | The department agreed (February 1988) to take action. |
| 15. | Calcutta | Year ended June 1982 | Year ended June 1983<br>June 1987 | 8 50 crores | 8,50,000 | The department agreed (February 1988) to revise the assessment. |
| 16. | Howrah | Year ended March 1981 | Year ended March 1982<br>February 1986 | 70,88,911 | 35,445 | The department agreed (February 1988) to take action. |
| 17. | Calcutta | Year ended March 1984 | Year ended from 1st April 1984 to June 1984<br>March 1985 | 25,00,000 | 25,000 | The department agreed (November 1986) to review the case. |

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| | | | Rs. | Rs. | |
| 18. Siliguri | Year ended 1979-80 | Year ended 1981-82<br>April 1986 | 89,79,182 | 44,896 | The department agreed (March 1988) to revise the assessment. |
| 19. Murshida-bad | Year ended October 1979 | Year ended November 1982<br>October 1986 | 50,00,000 | 25,000 | The department agreed (July 1987) to take action. |
| 20. Howrah | Year ended December 1981 | Year ended December 1982<br>August 1986 | 30,00,000 | 15,000 | The department agreed (February 1988) to take action. |
| | | Total | | 21,79,019 | |

The above cases were reported to Government between June 1986 and February 1988; their reply has not been received (February 1989).

(*ii*) In assessing (November 1983) a dealer of Calcutta for the year ended December 1979, turnover tax was levied at the rate of $\frac{1}{2}$ per cent, instead of at 1 per cent, although his gross turnover had exceeded Rs. 1 crore. The mistake resulted in under-assessment of turnover tax of Rs. 19,270.

On this being pointed out in audit (September 1986), the department admitted (September 1986) the mistake and agreed to review the assessment. Report on review has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*iii*) In assessing (March 1985) a dealer of Calcutta for the year ended March 1983, under the Bengal Finance (Sales Tax) Act, 1941, turnover tax was assessed at Rs. 89,753, but while issuing the demand notice in March 1985, the said tax was omitted to be included in it. The omission resulted in turnover tax amounting to Rs. 89,753 not being realised.

On this being pointed out in audit (October 1986), the department admitted (November 1986) the mistake and agreed to revise the same. Report on revision has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

2.13 **Short raising of demands of tax**

(*i*) In assessing (December 1986) a dealer in Howrah district, for the year ended December 1982, additional tax and penalty payable by the dealer was assessed at Rs. 1,53,924, but erroneously, it was indicated as Rs. 53,924 while issuing the demand notice in December 1986. The mistake resulted in short raising of demand of tax by Rs. 1 lakh.

On this being pointed out in audit (October 1987), the department admitted (October 1987) the mistake and agreed to rectify the mistake at the time of hearing appeal petition filed by the dealer on some other aspect. Report on rectificatory action taken has not been received (February 1989).

The matter was reported to Government in December 1987; their reply has not been received (February 1989).

(*ii*) Under the Bengal Finance (Sales Tax) Act, 1941, in respect of a dealer turnover tax for the assessment year ended March 1983 was assessed (February 1987) at Rs. 32,257 by the assessing authority. But, while issuing the demand notice in

February 1987, the said tax was omitted to be included in the demand. This resulted in short raising of demand of tax by Rs. 32,257.

On this being pointed out in audit (December 1987), the department admitted (February 1988) the mistake and agreed to issue the revised demand notice. Further development has not been intimated (February 1989).

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

2.14 **Short levy due to allowance of double credit or excess credit for tax paid**

Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, a dealer is required to furnish along with his returns, treasury challans showing the amount of tax deposited by him on the basis of his returns. The amount so deposited by the dealer is adjusted against the tax assessed at the time of final assessment. The departmental regulations require verification of payment entries made in the collection register, and reconciliation of the monthly collection and balance figures with the challan registers and treasury figures. This is also applicable in the case of under-assessments under the Central Sales Tax Act.

(*a*) In assessing (February 1985) a dealer of Calcutta for the year ended June 1981, credit on account of tax deposited by the dealer was given by the assessing officer for Rs. 8,99,324, which was based on 48 challans marked 'triplicate' for Rs. 4,69,324 and 43 challans marked 'original' for Rs. 4,30,000. It was, however, noticed in audit that out of 48 triplicate challans, 43 challans were the same as the 43 original challans covering amount of Rs. 4,30,000. Thus credit was given for Rs. 8,99,324 against the actual deposits of Rs. 4,69,324. The allowance of excess credit led to short levy of tax of Rs. 4·30 lakhs.

On this being pointed out in audit (November 1986), the department agreed (November 1986) to revise the assessment order. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*b*) At Calcutta, in the assessment of a dealer, for the year ended June 1981 made in February 1985, treasury challans for a total amount of Rs. 1,24,581 were furnished by the dealer with the returns, but credit was erroneously allowed for Rs. 1,58,177.

Thus, allowance of excess credit resulted in short raising of demand by Rs. 33,596.

On this being pointed out in audit (November 1986), the department agreed (November 1986) to revise the assessment order. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

2.15 **Non-levy or short levy of purchase tax**

(*i*) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, a dealer is liable to pay a purchase tax at the rate of 2 per cent on all his purchases, from other registered dealers against prescribed declaration forms, for use directly in the manufacture of goods in West Bengal, if such manufactured goods are transferred by him to any place outside West Bengal or disposed of otherwise than by way of sale within the State.

(*a*) A manufacturing dealer of South 24-Parganas district, during the assessment year ended March 1983, transferred goods (manufactured out of materials purchased against declarations) valuing Rs. 77,15,747 to different branch offices outside West Bengal. For such transfer, the dealer was liable to pay a purchase tax as aforesaid. But while assessing (March 1987) the dealer, no purchase tax was levied. This resulted in non-levy of purchase tax of Rs. 68,806.

On this being pointed out in audit (November 1987), the department issued (February 1988) a revised demand notice. Report on realisation has not been received (February 1989).

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

(*b*) A manufacturer dealer of Calcutta transferred his manufactured goods valuing Rs. 5,72,61,990 outside West Bengal. In assessing the dealer (November 1984) to purchase tax the assessing authority determined the taxable specified purchase price at Rs. 1,42,78,489 instead of at Rs. 1,71,94,871 as per prescribed formula. This short determination of taxable specified purchase price by Rs. 29,16,382 led to short levy of purchase tax of Rs. 58,328. This indicated that prescribed procedure for determining purchase price was not followed.

On this being pointed out in audit (September 1986), the

department revised (April 1987) the assessment and realised the amount in June 1987.

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*ii*) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, manufacturing dealer is liable to pay a purchase tax on all his purchases from unregistered dealers, of goods intended for use in manufacture, in West Bengal, of other goods for sale. Such tax is leviable at 4 per cent on the taxable purchase price determined after allowing the permissible deductions.

(*a*) In assessing (June 1986) a dealer of Calcutta for the assessment year ended 31st August 1982, the assessing authority determined the dealer's taxable specified purchase price at Rs. 10,00,000, but tax was erroneously calculated as Rs. 10,000, instead of Rs. 40,000. The error in computation resulted in short levy of purchase tax of Rs. 30,000.

On this being pointed out in audit (November 1987), the department admitted (November 1987) the mistake and agreed to rectify the mistake. Further development has not been intimated (February 1989).

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

(*b*) In assessing (February 1987) a dealer of Calcutta for the assessment year ended on June 1983, purchase tax was not levied by the assessing officer though his taxable specified purchase price was determined at Rs. 5 lakhs. This omission resulted in under-charge of tax of Rs. 20,000.

On this being pointed out in audit (June 1987), the department admitted (June 1987) the mistake and agreed to reopen the case for rectification of the same. Further development has not been intimated (February 1989).

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

### 2.16 **Non-levy or short levy of interest**

Under the Sales Tax Laws, a dealer, who fails to furnish a return in respect of any period by the prescribed date or thereafter before the assessment in respect of such period or to make payment of any tax payable after assessment by the date specified in the demand notice, is liable to pay a simple interest at 2 per cent for each calendar month of default reckoned from the first

day of the month next following the prescribed date for submission of returns upto the month prior to the month of assessment and in the latter case from the first day of the month next following the date specified in such notice upto the month preceding the month of the full payment of tax or upto the month preceding the month of commencement of certificate proceeding, whichever is earlier.

(*a*) A dealer in North 24-Parganas district failed to pay assessed tax amounting to Rs. 1,88,000, Rs. 2,11,800 and Rs. 1,81,600 for the years ended December 1979, 1980 and 1981 payable on or before 24.12.1983, 23.12.1984 and 11.3.1986 respectively. Since the taxes due were not paid, certificate proceedings were initiated in July 1984 and May 1986 for realising the amount due, but the interest realisable from the dealer for non-payment of the assessed tax dues was neither worked out nor reported to the certificate officer. This resulted in non-inclusion of interest of Rs. 93,968 in the certificate demand.

On this being pointed out in audit (August 1987), the department admitted (October 1987) the omission and sent the demand for interest to the certificate officer for realisation. Further development has not been intimated (February 1989).

The matter was reported to Government in November 1987; their reply has not been received (February 1989).

(*b*) On completion of assessments of a dealer in Bankura district for the assessment year ended 31st March 1980 and 31st March 1981, demands for tax amounting to Rs. 95,483 and Rs. 1,02,316 were raised in March 1984 and March 1985 for payment by 30th April 1984 and 30th April 1985 respectively. The dealer paid the amount in 5 instalments between March 1985 and January 1987. For belated payments, he was liable to pay interest amounting to Rs. 65,300 but no interest was charged from him.

On this being pointed out in audit (March 1987), the department admitted (August 1987) the mistake and agreed to take necessary action. Further report on action taken has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*c*) A dealer in South 24-Parganas district failed to pay assessed tax for the years ended December 1980, 1981 and 1982 payable on or before 20.5.1984, 20.2.1985 and 20.4.1986 respectively. Since the taxes due were not paid, certificate proceedings

were initiated in June 1986 for realising the amount due, but the interest realisable from the dealer for non-payment of the assessed tax dues by the prescribed date was neither worked out nor reported to the certificate officer. This resulted in non-inclusion of interest aggregating Rs. 52,092 in the certificate demand.

On this being pointed out in audit (October 1987), the department admitted (October 1987) the mistake and agreed to take necessary action. Report on levy of interest and recovery thereof has not been received (February 1989).

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

(*d*) In assessing (between February 1984 and July 1986) six dealers of Calcutta for the assessment periods ended between April 1979 and December 1983, demands for tax amounting to Rs. 2,78,600 were served during the periods between April 1984 and October 1986, for payment between August 1985 and June 1987. For the belated payment of these demands, the dealers were liable to pay interest amounting to Rs. 51,896 for the periods of default varying from two months to thirtysix months, but no interest was levied on them. This led to non-assessment and non-realisation of interest of Rs. 51,896.

On the omission being pointed out in audit (May and June 1987), the department admitted (June 1987 and July 1987) the mistake and agreed to issue demand notices. Further development has not been intimated (February 1989).

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

(*e*) As per revised assessment of a dealer, in Burdwan district for the assessment year ended March 1980, made in April 1985, a demand for tax amounting to Rs. 12,52,500 was payable on or before August 1985. Due to non-payment of tax, the case was referred to the certificate officer in December 1985, erroneously charging interest for one month only instead of three months from September 1985 to November 1985. The mistake resulted in under-charge of interest by Rs. 50,100.

On this being pointed out in audit (August 1987), the department admitted (September 1987) the mistake and agreed to take action in the matter. Further development has not been intimated (February 1989).

The matter was reported to Government in December 1987; their reply has not been received (February 1989).

(*f*) A dealer in Hooghly district failed to pay assessed tax for the years ended June 1980 and 1981 payable on or before 4th July 1984 and 23rd July 1985 respectively. Since the taxes due were not paid, certificate proceedings were initiated in June 1986 for realising the amount due, but the interest realisable from the dealer for non-payment of assessed tax dues upto the month preceding the month of commencement of certificate proceedings was neither worked out nor reported to the certificate officer. This resulted in non-inclusion of interest of Rs. 35,404 in the certificate demand.

On this being pointed out in audit (July 1987), the department admitted (July 1987) the omission and sent the amended demand to certificate officer. Report on recovery has not been received (February 1989).

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

(*g*) On completion of assessment of a dealer of Calcutta for the year ended September 1980, a demand for tax amounting to Rs. 92,875 was made in February 1984 for payment by 3rd March 1984. The dealer, however, paid the amount in November 1985. For the belated payment, he was liable to pay interest amounting to Rs. 35,302 for nineteen months from April 1984 to October 1985, but no interest was charged from him.

On this being pointed out in audit (April 1987), the department agreed (May 1987) to realise the amount. Further development has not been intimated (February 1989).

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

(*h*) On completion (December 1983) of assessment of a dealer of Calcutta for the year ended December 1979, a demand for tax amounting to Rs. 1,34,947 was made in December 1983 for payment by February 1984. The dealer, however, paid the amount in March 1985. For the belated payment, he was liable to pay interest amounting to Rs. 32,376, but no interest was levied.

On this being pointed out in audit (February 1987), the department agreed (February 1987) to realise the interest from the dealer. Further development has not been intimated (February 1989).

The matter was reported to Government in July 1987; their reply has not been received (February 1989).

(*i*) In assessing (August 1984) a dealer of Calcutta for the

4th quarter ending 31st December 1983 and 1st quarter ending 31st March 1984, the assessing authority did not levy any interest though the dealer had failed to furnish returns upto the date of assessment. This led to non-levy of interest to the extent of Rs. 21,054.

On this being pointed out in audit (May 1986), the department admitted (March 1987) the mistake and raised the demand for interest. Report on realisation has not been received (February 1989).

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

(*j*) A dealer in Hooghly district failed to pay assessed tax for the year ended December 1979 payable on or before 27th February 1984. Since the tax due was not paid, certificate proceeding was initiated in November 1985 for realising the amount due, but the interest realisable from the dealer for non-payment of assessed tax dues was neither worked out nor reported to the certificate officer. This resulted in non-inclusion of interest of Rs. 14,480 in the certificate demand.

On this being pointed out in audit (July 1987), the department admitted (July 1987) the omission and an amended demand was sent to certificate officer. Report on recovery has not been received (February 1989).

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

(*k*) In assessing (August 1984) a dealer of Calcutta for the period from 6th January 1984 to 27th June 1984, the assessing authority did not levy interest for non-submission of returns for the months from January 1984 to May 1984. This resulted in non-levy of interest amounting to the extent of Rs. 84,000.

On this being pointed out in audit (May 1986), the department reviewed the case and issued demand notice for the interest in March 1987. Report on realisation has not been received (February 1989).

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

(*l*) In assessing (March 1985) a dealer of Calcutta for the period between 1st April 1984 and 1st June 1984, the assessing authority estimated gross turnover of the dealer at Rs. 1,25,00,000 for non-submission of the return due in July 1984 and assessed tax at Rs. 1,84,500. No interest was, however, levied for the period of delay from 1st August 1984 to 28th February 1985 for non-

submission of the return and non-payment of tax. Interest amount not levied amounted to Rs. 25,970.

On this being pointed out in audit (October 1986), the department admitted the mistake (November 1986) and agreed to review the case. Report on review has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*m*) In assessing (March 1985) a dealer of Calcutta for the assessment period from 1st April 1984 to 1st June 1984, the dealer was assessed to tax of Rs. 9,09,091 on the best judgement of the assessing officer, as neither any return was submitted by the dealer nor any tax was paid by him. Non-submission of return rendered the dealer liable to pay interest to the extent of Rs. 1,27,274 for the period from August 1984 to February 1985, but it was not levied.

On this being pointed out in audit (October 1986), the department admitted the omission and agreed (November 1986) to review the case. Report on reivew has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*n*) On completion of assessments (December 1983 and December 1984) of a dealer of Calcutta for two years ended on December 1979 and December 1980, demand notices were issued instructing the dealer to pay the additional tax of Rs. 48,300 due for the year ending December 1979 by February 1984 and that of Rs. 42,600 due for the year ending December 1980 by January 1985. As the dealer deposited the due tax after the lapse of twelve to nineteen months, he was liable to pay interest amounting to Rs. 27,780, but it was not assessed and demanded from him.

On this being pointed out in audit (May 1987), the department admitted (June 1987) the mistake and agreed to raise the demands accordingly. Further development has not been intimated (February 1989).

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

(*o*) In an ex-parte assessment of a dealer of Murshidabad district under both the Acts for the year ending March 1984, made in June 1986, the interest was erroneously determined at

Rs. 21,200 instead of Rs. 67,200 for non-submission of returns and non-payment of average tax for the second, third and fourth quarters which fell due in October 1983, January 1984 and April 1984 respectively. The mistake resulted in short levy of interest amounting to Rs. 46,000.

On this being pointed out in audit (July 1987), the department admitted (July 1987) the mistake and proposed to take necessary action. Further development has not been intimated (February 1989).

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

(*p*) In assessment of a dealer of Murshidabad district under both the Acts for the year ending March 1984, made in April 1986, the interest was not charged for non-submission of return and non-payment of average quarterly tax of Rs. 32,700 for each of the second, third and fourth quarters which fell due in October 1983, January 1984 and April 1984 respectively. The omission resulted in non-levy of interest amounting to Rs. 51,012.

On this being pointed out in audit (July 1987), the department admitted (July 1987) the mistake and agreed to take necessary action. Further development has not been intimated (February 1989).

The case was reported to Government in September 1987; their reply has not been received (February 1989).

2.17 **Non-imposition of penalty**

Under the Bengal Finance (Sales Tax) Act, 1941, if a registered dealer, after purchasing goods at concessional rates of tax on production of prescribed declarations for the purpose of manufacture of goods for sale in West Bengal, uses the goods for any different purpose, the prescribed authority may, after giving the dealer a reasonable opportunity of being heard, impose a penalty not exceeding double the amount of tax that could be levied on sale of the goods.

At Calcutta, while assessing (July 1985) a dealer for the year ended March 1977, claim of deduction on account of indivisible works contract was allowed at Rs. 79·51 lakhs. This claim, however, included indigenous materials valuing Rs. 35,41,028 purchased by the dealer for manufacturing purpose, at a concessional rate of tax by furnishing the prescribed declarations to the effect that the goods would be used directly in the manufacture of goods for sale in West Bengal. For breach of the declaration,

he became liable to pay penalty not exceeding Rs. 4,41,708; but no penalty was imposed.

On this being pointed out in audit (April 1986), the department reviewed (March 1987) the assessment and imposed penalty of Rs. 92,500 and issued demand notice. Report on recovery has not been received (February 1989).

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

## 2.18 Assessment and collection of taxes from Jute Mills in West Bengal

2.18.1 *Introduction*

The Jute Mills in West Bengal are liable to taxes at two stages once at the point of purchase of raw jute and again on the sale of their products under the different Acts.

The Bengal Raw Jute Taxation Act, 1941 provides for levying tax on the purchase of raw jute by the occupiers of jute mills and by the shippers of jute with effect from 1st January 1942. 'Raw Jute' was, however, exempted from sales tax under the Bengal Finance (Sales Tax) Act, 1941.

The Bengal Finance (Sales Tax) Act, 1941 provides for levy and collection of multipoint tax on sale of jute products. Certain jute products namely (*i*) Hessian (*ii*) Sacking and (*iii*) Carpet backing were, however, taxable as notified commodity under the West Bengal Sales Tax Act, 1954 on the first point of sale in West Bengal during the period from 1st April 1980 to 31st March 1984.

Taxes on inter-State sale of jute and jute goods is levied under the Central Sales Tax Act, 1956.

There is no prescribed limitation of time for assessments under the Bengal Raw Jute Taxation Act, 1941, whereas the assessments under the Bengal Finance (Sales Tax) Act, 1941 and the Central Sales Tax Act, 1956 are to be completed within four years and that under West Bengal Sales Tax Act, 1954 within 48 months from the end of the year in respect of which or part of which the assessment is made.

Total number of occupiers (jute mills) and shippers in West Bengal as on 31st March 1988 was not furnished by the Commercial Tax Directorate. Of the total 62 occupiers in the central section of the assessment wing of the department, cases of 61 occupiers were reviewed upto the assessment year 1987-88.

2.18.2 *Scope of Audit*

A review on assessment and collection of taxes from Jute Mills in West Bengal was conducted (April 1988 and June 1988) in the office of the Commissioner of Commercial Taxes, West Bengal, Calcutta. Major irregularities noticed in the review are given below.

2.18.3 *Organisational set up*

Commercial Tax Officers are the authorities competent to make assessment, collection and refund, if any, of sales tax under different Acts except Bengal Raw Jute Taxation Act, 1941, in which case Commercial Tax Officer, being designated as Jute Tax Officer, is entrusted with the assessment, collection and refund, if any, of purchase tax on raw jute.

2.18.4 **Highlights**

- **In respect of 61 jute mills, out of 2,915 quarterly returns due for submission for various periods between March 1963 and March 1987, 1,037 numbers have been assessed leaving about 65 per cent in arrears at the end of March 1987.**
- **Total outstanding tax as on 31st March 1986 stood at Rs. 2,240.67 lakhs, out of which only Rs. 1,349.51 lakhs were covered by certificate proceedings leaving about 40 per cent yet to be covered by any recovery proceedings.**
- **Application of lower rate of tax and wrong computation resulted in under-assessment of tax amounting to Rs. 3·06 lakhs.**
- **Allowance of excess deductions of claims led to under-assessment of tax amounting to Rs. 2·51 lakhs.**
- **Escapement of sales from levy of tax led to non-levy of tax amounting to Rs. 0·74 lakh.**
- **Interest amounting to Rs. 38·33 lakhs was not levied for delay in payments of tax.**
- **Non-inclusion of entry tax in purchase price led to under-assessment of tax of Rs. 0·92 lakh.**
- **Irregular exemption resulted in under-assessment of tax amounting to Rs. 0·95 lakh.**

— **Claims amounting to Rs. 971·93 lakhs in respect of assessees under liquidation were not filed with the official liquidator.**

2.18.5 *Trend of revenue*

(*i*) The actual revenue collected from the jute mills under the different Acts for the periods from 1983-84 to 1986-87 as furnished by the local office is as follows:

| Name of the Act | 1983-84 (from July 1983) | 1984-85 | 1985-86 | 1986-87 |
|---|---|---|---|---|
| | (In lakhs of rupees) | | | |
| B.R.J.T. Act, 1941 .. | 288·82 | 741·37 | 929·35 | 675·03 |
| B.F. (Sales Tax) Act, 1941 .. | 1066·03 | 940·53 | 888·94 | 1048·16 |
| W.B.S.T. Act, 1954 .. | 375·17 | 513·77 | 378·52 | 684·42 |
| C.S.T. Act, 1956 .. .. | 891·95 | 1503 53 | 2230·45 | 1834·41 |

(*ii*) Estimated revenue under the Bengal Raw Jute Taxation Act, 1941 and collection thereagainst as per Budget and Finance Accounts were as under:

| Year | Budget estimates | Actuals | Shortfall (−) Excess (+) | Remarks |
|---|---|---|---|---|
| | (In lakhs of rupees) | | | |
| 1983-84 .. .. | 600·00 | 369·27 | (−)230·73 | |
| 1984-85 .. .. | 650·00 | 440·36 | (−)209·64 | |
| 1985-86 .. .. | 682·00 | 722·35 | (+) 40·35 | |
| 1986-87 .. .. | 682·00 | 613·09 | (−) 68·91 | |

It would, thus appear from the above that collection of revenue as intimated by the Commissioner of Commercial Taxes in sub-para (*i*) under Bengal Raw Jute Taxation Act, 1941 differs widely with the figures in the Finance Accounts. No reconciliation was, however, made by the department to settle the discrepancy.

2.18.6 *Arrears in assessment*

Under the Bengal Raw Jute Taxation Act, 1941 and the rules made thereunder, every occupier of jute mill shall submit to the appropriate officer a return for each quarter in Form V by the end of the month following the quarter. The return shall also be accompanied by a receipted treasury challan and supporting documents in respect of purchases and despatches of jute.

On a review of the records in respect of 61 jute mills, it was noticed that the occupiers of the mills were required to furnish 2,915 quarterly returns in respect of various periods ranging between March 1963 and March 1987. Out of these, actually 1,138 numbers of quarterly returns were submitted and the assessments in respect of 1,037 quarterly returns had been completed till 31st March 1987 as shown below:

| Number of jute mills | Group | Total numbers of quarterly returns due for submission | Numbers of quarterly returns actually submitted | Numbers of quarters in respect of which assessments completed |
|---|---|---|---|---|
| 4 | 'P' | 340 | 189 | 40 |
| 19 | 'D' | 974 | 317 | 368 |
| 14 | 'E' | 544 | 250 | 188 |
| 17 | 'B' | 797 | 261 | 358 |
| 4 | 'Q' | 91 | 48 | 54 |
| 3 | 'R' | 169 | 73 | 29 |
| 61 | | 2,915 | 1,138 | 1,037 |

Above statistics revealed that the percentage of actual submission of quarterly returns to the total number of quarterly returns due as on 31st March 1987, is 36·77 per cent and that of number of quarterly returns already assessed to the total number of quarterly returns due is 35·02 per cent.

On the non-completion of assessment being pointed out in audit (October 1987), one of the Jute Tax Officers stated that absence of legal provision to complete the cases within a specific time frame, past administrative difficulties and non-availability

of the records of the jute mills were the main reasons for this heavy backlog.

Thus, about 65 per cent of the assessments are in arrears. Absence of legal provision in the Bengal Raw Jute Taxation Act, 1941 regarding limitation of time for completion of assessment was found to be the main reason behind these arrears and a very substantial amount of Government revenue is held up for this reason. A few cases where revenue is held up for non-submission of returns and non-assessment of tax are cited below.

(*i*) Under Section 6(*b*) of the Bengal Raw Jute Taxation Act, 1941 read with section 8 *ibid*, every occupier of a jute mill shall in respect of such jute mill submit to the competent authority a return duly supported with challans showing payment of tax for each quarter in the prescribed form and before the prescribed date.

In respect of 9 dealers whose cases were test-checked, 50 quarterly returns with challans in respect of various periods between quarter ending September 1968 and December 1985 had not been submitted till the date of audit (May 1988). Consequently no tax was collected from the jute mills in respect of those quarters. In the absence of the returns and challans it was not possible to ascertain the actual amount of tax inolved in respect of those quarters. However, if the tax liability is calculated on the basis of the average of the remaining quarters of the year, the tax liability would work out to the tune of Rs. 86·00 lakhs.

(*ii*) The Jute Corporation of India (a shipper) was registered under the Bengal Raw Jute Taxation Act, 1941 on 28th September 1972. The shipper was assessed (November 1973) only once for the pre-registration period from 17th February 1972 to 27th September 1972 and the tax assessed was Rs. 10·03 lakhs. On appeal by the assessee, the Hon'ble High Court in its judgement dated 11th March 1980 directed the Jute Tax Officer to make a fresh assessment for the said period in accordance with the law, but the local office failed to indicate the present position of the case.

Further, it was noticed that the above shipper furnished 'nil' returns for the periods, 28.9.1972 to 30.11.1976, 1.1.1977 to 30.6.1980, 1.9.1981 to 31.12.1982 and 1.12.1984 to 28.2.1985 and accordingly paid no tax for these periods. The shipper furnished following returns with supporting challans on self-assessment.

| Period | | | Amount deposited (in rupees) |
|---|---|---|---|
| 1.12.1976 | to | 31.12.1976 | 507·69 |
| 1.7.1980 | to | 31.12.1980 | 58,755·00 |
| 1.1.1981 | to | 31.8.1981 | 77,702·77 |
| 1.1.1983 | to | 31.12.1983 | 9,48,641·00 |
| 1.1.1984 | to | 30.11.1984 | 2,74,193·00 |
| 1.3.1985 | to | 31.12.1985 | 9,52,438·00 |
| 1.1.1986 | to | 31.12.1986 | 2,43,045·00 |
| 1.1.1987 | to | 31.3.1987 | 1,36,964·00 |
| | | | 29,92,246·46 |

The shipper was neither assessed for the period since the date of registration onwards nor the genuineness of 'nil' returns investigated by the assessing officer.

No reasons for non-assessment of the shipper, which is a Government of India Undertaking, for the period since the date of registration (28.9.1972) onwards were indicated by the assessing officer.

2.18.7 *Arrears in collection*

Under section 9 of the Bengal Raw Jute Taxation Act, 1941, the occupier of a jute mill or a shipper of jute shall pay the assessed dues into a Government Treasury or Reserve Bank of India within fourteen days after demand is made therefor.

According to the statistics furnished by the Commissioner of Commercial Tax Office, total assessed tax outstanding as on 31st March 1986 was Rs. 2240·67 lakhs, out of which Rs. 436·32 lakhs related to Bengal Raw Jute Taxation Act, 1941. The total amount of tax outstanding as on 31st March 1987 could not be furnished by the department.

However, on a test-check of records of 73 assessments for the period ranging from 1968 to 1985, completed between 15th November 1978 and 31st August 1987 in respect of 21 jute mills under the Bengal Raw Jute Taxation Act, 1941, it was noticed that a sum of Rs. 563·28 lakhs was outstanding against them as on the date of audit (May 1988).

Apart from the above outstandings under Bengal Raw Jute Taxation Act, 1941, a sum of Rs. 1347·05 lakhs was out-

standing against 3 jute mills as on the date of audit (May 1988) under the State Sales Tax Acts of 1941 and 1954 and Central Sales Tax Act, 1956.

Arrear tax is recoverable under Public Demand Recovery Act, 1913. Out of the above dues, only a sum of Rs. 1349·51 lakhs was stated to be covered by the certificate proceedings.

2.18.8 *Under-assessment due to application of lower rate of tax and mistake in computation*

(*i*) Under the Bengal Raw Jute Taxation Act, 1941, the rate of tax on the turnover of purchase of raw jute was increased from 3 per cent to 4 per cent with effect from 1st April 1980.

In assessing (May 1980) an occupier of jute mill at Calcutta for the assessment period from 1st April 1980 to 26th April 1980, the turnover of purchase of Rs. 76 lakhs was erroneously charged to tax at 3 per cent instead of 4 per cent resulting in under-assessment of tax of Rs. 76,000.

On this being pointed out in audit (May 1988), the department admitted (June 1988) the mistake and agreed to take action. Further development has not been intimated (February 1989).

(*ii*) Under the Bengal Finance (Sales Tax) Act, 1941, sales tax is payable by a dealer on his taxable turnover at different rates depending on the class of goods sold.

In making (June 1985) an ex-parte assessment of a jute mill for the assessment year ended March 1982, the amount of turnover, taxable at 8 per cent, was determined at Rs. 250 lakhs. However, while computing the tax, the assessing officer erroneously took the taxable turnover at Rs. 248 lakhs instead of Rs. 250 lakhs and also mis-calculated the amount of deduction on account of rebate. This resulted in under-assessment of tax of Rs. 24,760.

On this being pointed out in audit (February 1987), the department admitted the mistake and agreed (April 1987) to take action. Further report has not been received (February 1989).

(*iii*) (*a*) In assessing (February 1987) an occupier of jute mill under the West Bengal Sales Tax Act, 1954 for the assessment year ended March 1984, tax including penalty payable by him was erroneously worked out as Rs. 9,72,611 instead of Rs. 10,47,611. This led to short demand of tax of Rs. 75,000.

(*b*) In another case, a dealer was assessed (December 1983) for the assessment year ended December 1968. The dealer had paid Rs. 30,000 against the assessed dues of Rs. 69,549. However, while issuing the demand notice in September 1984, the dealer

was directed to pay only Rs. 9,549 instead of Rs. 39,549, resulting in short demand of tax of Rs. 30,000.

On these cases being pointed out in audit (April 1988 and May 1988), the department admitted the mistake in one case and agreed (July 1988) to revise the assessment. Further report has not been received (February 1989).

(*iv*) Under the Central Sales Tax Act, 1956, sale of goods made in the course of export outside India are exempt from levy of tax. Such sales, if not supported with evidence of export and prescribed certificates are, however, taxable at the normal rate of 10 per cent or State rate, whichever is higher.

In re-assessing (July 1986) a dealer of jute goods at Calcutta for the year ended June 1980, export sale amounting to Rs. 1,52,29,198 were exempted from levy of tax although sales amounting to Rs. 1,42,29,198 only were supported by the prescribed certificates. This resulted in excess allowance of exemption towards export for Rs. 10,00,000 and consequent non-assessment of tax of Rs. 1,00,000.

On this being pointed out in audit (June 1988), the department agreed (July 1988) to look into the matter. Further report has not been received (February 1989).

2.18.9 *Excess allowance of deduction/claims from turnover*

(*i*) Under the Central Sales Tax act, 1956 and notification issued (April 1980) thereunder by State Government, inter-State sale of jute goods viz, hessian, sacking and carpet backing, which are not manufactured, made or processed by the selling dealer, to a registered dealer or Government in another State is exempted from tax under the Act.

In assessing (March 1986) two occupiers of jute mills for the assessment year ended March 1982, sales of said jute goods for Rs. 647·69 lakhs were allowed exemption, though the actual sale as reflected in the statements furnished by them worked out to Rs. 627·96 lakhs. This resulted in excess allowance of claim to the extent of Rs. 19·73 lakhs, resulting in non-levy of tax of Rs. 1,97,295 (10 per cent of Rs. 19·73 lakhs).

On this being pointed out in audit (March and April 1987) the department admitted the omission and agreed (April 1987), to revise the assessments. Further report has not been received (February 1989).

(*ii*) Under the Central Sales Tax Act, 1956 and the rules made thereunder, transfer of stock made by a dealer to his

branch outside the State is exempt from tax provided the claims for such transfer are supported with the prescribed declarations in form 'F' signed by the principal officer of the branch to prove that such transfer was effected otherwise than by reasons of sale.

In assessing (September 1987) a jute mill in Calcutta for the period from April 1983 to December 1983, the dealer's claim on account of his transfer of jute goods to branch outside the State was allowed for Rs. 130·88 lakhs on the basis of statements of 'F' forms filed by the dealer. A scrutiny of these statements, however, revealed that total value of the goods covered by 'F' forms worked out to Rs. 125·52 lakhs and the balance of Rs. 5·36 lakhs represented expenses for consignment which was separately added to the statements. It was also noticed from the dealer's audited 'Profit and Loss Account' that gross turnover (sale figures) was arrived at after deducting selling expenses, which included expenses for consignment. Allowance of consignment expenses resulted in under-assessment of tax of Rs. 53,602.

On this being pointed out in audit (May 1988), the department stated (June 1988) that as the gross turnover included sale value of the stock transferred that sale value should be deducted from gross turnover in allowing a claim for stock transfer which may include expenses.

The department's contention is not acceptable as deduction on account of selling expenses, which included expenses for consignment, has already been allowed, while arriving at sale figures as exhibited in the audited Profit and Loss Account.

2.18.10 *Under-assessment due to escapement of taxable sale*

Under the Bengal Finance (Sales Tax) Act, 1941, 'business' includes any trade, commerce or manufacture or execution of contract or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce or manufacture etc. is carried on with the motive to make profit and any transaction in connection with, ancillary or incidental to such trade etc.

A manufacturer of jute goods in Calcutta effected sales of tea, sweets etc. (other than cooked food) for a total amount of Rs. 9,91,671 during the year ended March 1981 and March 1982 through canteen which he runs under the statutory obligation under the Factories Act, 1948. These sales were not taken into account while making assessment in March 1985 and March

1986. The omission to include the canteen sales of Rs. 9·92 lakhs resulted in non-levy of tax of Rs. 73,582.

On this being pointed out in audit (March 1987), the department agreed (May 1987) to take rectificatory measures. Further report has not been received (February 1989).

2.18.11 *Non-levy of interest on belated payment of tax*

Under the Bengal Finance (Sales Tax) Act, 1941 as amended with effect from 1st October 1983, if a dealer fails to make payment of any tax payable after assessment, by the date specified in the demand notice, he shall pay simple interest at the rate of 2 per cent for each calendar month of default, from the first day of the month next following the date of payment specified in the demand notice upto the month preceding the month of payment of such tax or preceding the month of commencement of proceedings under the Public Demand Recovery Act, 1913 whichever is earlier.

In fifteen assessments, made between March 1984 and March 1986, of three dealers in occupation of jute mills for the assessment period ended between June 1980 and June 1982, a demand of tax amounting to Rs. 130·14 lakhs was directed to be paid between April 1984 and May 1986. The dealers, however, paid tax of only Rs. 22·32 lakhs after a delay of four to twenty months and the balance amount of Rs. 107·82 lakhs was referred to the Certificate Officer for recovery after lapse of eight to twenty months, but no interest was levied on them. This led to non-assessment and non-realisation of interest of Rs. 38·33 lakhs.

On the omission being pointed out in audit (May and June 1987), the department admitted the lapse and agreed (June 1987) to take necessary action. Further report has not been received (February 1989).

2.18.12 *Non-inclusion of entry tax in the purchase price*

'Purchase price' as defined in Section 2(6*a*) of the Bengal Raw Jute Taxation Act, 1941 means the amount payable by the occupier of a jute mill or a shipper of jute as valuable consideration for the purchase of any raw jute, less any sum allowed by the seller as cash discount according to ordinary trade practice but including any sum charged for anything done by the seller in respect of raw jute at the time of or before, delivery thereof. Accordingly, entry tax payable by the jute mills on import of

jute inside the Calcutta Metropolitan Area before the delivery of the goods at the mill's gate forms part of the purchase price.

In course of examination of assessment records under the Bengal Raw Jute Taxation Act, 1941, it came to notice that in most cases entry tax paid/payable at the time of entry of raw jute in Calcutta Metropolitan Area where the jute mills are located was not inluded in the purchase price of raw jute determined for assessment of tax. This resulted in short determination of purchase price with consequent under-assessment of tax. In 9 assessments cases of 4 occupiers alone for the years ended between December 1980 and June 1985, assessments completed between November 1986 and October 1987, it was noticed that entry tax amounting to Rs. 23·13 lakhs was not included in the purchase price of raw jute determined for levy of tax. This resulted in an under-assessment of tax of Rs. 92,164 in these cases. The other similar cases need to be reviewed by the department.

On this being pointed out in audit (May and June 1988), the department agreed (June and July 1988) to revise the assessment in 7 cases out of 9 cases. Their comments in respect of the remaining 2 cases and reviewing the similar cases have not been received (February 1989).

2.18.13 *Under-assessment due to allowing irregular deductions*

(*i*) Under the Bengal Raw Jute Taxation Act, 1941, 'raw jute' means the fibre of jute which has not been subjected to any process of spinning or weaving and includes "jute cuttings", whether loose or packed in drums or bales.

In three assessments of two dealers for the assessment years ended December 1968, 1984 and 1985, made between September 1980 and April 1987, the assessing authority erroneously allowed deductions in respect of purchase of jute cuttings amounting to Rs. 10,39,982, resulting in under-assessment of tax of Rs. 39,704.

On this being pointed out in audit (May 1988), the department agreed (July 1988) to look into the matter. Further report has not been received (February 1989).

(*ii*) Under the Bengal Raw Jute Taxation Act, 1941 and the rules made thereunder, an occupier of jute mill is entitled to deduct from his gross purchase price, his claim on account of short weight and excess moisture in raw jute purchased, provided the quantity for which such claim is made, is included in his gross purchase.

In two assessment cases of an occupier for the years ending

31st December 1982 (for two quarters) and 31st December 1983 (assessed in August 1986 and September 1986 respectively), an amount of Rs. 6·81 lakhs was allowed as short weight and excess moisture though no such claim was preferred by the occupier in his quarterly returns. On scrutiny of purchase statement (Form 'C'), it transpired that the purchase price was net of short weight and excess moisture in view of the fact that jute was delivered first and the invoices were prepared at a later date after adjustment of short weight etc. Further allowance of claim on this score resulted in an under-assessment of tax amounting to Rs. 27,226.

On this being pointed out in audit (June 1988), the department agreed (July 1988) to take necessary action. Further report has not been received (February 1989).

(*iii*) Under the Bengal Raw Jute Taxation Act, 1941, no tax is leviable on purchase of raw jute which has taken place outside the State of West Bengal. From the turnover of purchase in West Bengal, an occupier of jute mill is entitled to deduct purchase price of raw jute sold and despatched by him subsequent to his purchase thereof to any place inside West Bengal.

In assessing (May 1985) an occupier of jute mill for the year ending 31st December 1983, his claim for subsequent sale in West Bengal was allowed for Rs. 14·61 lakhs on the basis of a statement of jute despatch (Form 'D') filed by the occupier. A cross-verification of this statement with the statement of purchase (Form 'C') however, revealed that subsequent sales amounting to Rs. 5·64 lakhs were made out of purchase from outside West Bengal which was not included in his returned turnover of purchases. The irregular exemption resulted in under-ssessment of tax of Rs. 22,575.

On this being pointed out in audit (June 1988), the department agreed (July 1988) to look into the matter. Further development has not been intimated (February 1989).

2.18.14 *Non-filing of claim with the official liquidator*

A jute mill of Calcutta registered under the Bengal Raw Jute Taxation Act, 1941, Bengal Finance (Sales Tax) Act, 1941, West Bengal Sales Tax Act, 1954 and the Central Sales Tax Act, 1956 went into liquidation with effect from 21st March 1985 and an official liquidator was appointed from the same date under an order of the Hon'ble High Court, Calcutta.

On a review of assessment cases it was noticed that 35 numbers of assessments (31 under the said Sales Tax Acts for

the years ended between July 1968 and July 1984 and 4 under Bengal Raw Jute Taxation Act, 1941 for the years ended between December 1972 and December 1980) had been completed between June 1974 and February 1988 raising a tax demand of Rs. 979·54 lakhs. Out of the assessed dues, a sum of Rs. 7·61 lakhs in respect of only 6 assessments had been referred to the certificate officer for recovery and the balance dues of Rs. 971·93 lakhs had neither been referred to the Certificate Officer nor to the official liquidator after the company went into liquidation.

Moreover, assessments under Bengal Raw Jute Taxation Act, 1941 for the period from 1st January 1981 and that under the Sales Tax Acts from 1st August 1984 to the date prior to the date of liquidation had not been completed and as such, the dues relating to the above period could not be determined.

On this being pointed out in audit (April 1986 and June 1988), the department stated that necessary action would be taken to file the claim before the official liquidator. Further report has not been received (February 1989).

2.18.15 *Delay in disposal of appeals*

Under the Bengal Raw Jute Taxation Act, 1941, 44 appeal cases, relating to the period from 1961 to 1985, were pending as on 31st March 1987. The amount of tax involved in these appeals stood at Rs. 481·68 lakhs, out of which an amount of Rs. 124·10 lakhs was disputed. As the disputed cases were not finalised at the level of the appellate officer, realisation of the entire amount of Rs. 481·68 lakhs was held up.

2.18.16 *Non-renewal of registration by the occupiers of the jute mills*

Rule 8 of the Bengal Jute Tax Rules, 1941 read with section 4 and 5 of Bengal Raw Jute Taxation Act, 1941, stipulates that every certificate of registration shall be valid for one year only and shall be renewed annually before expiry of that period on presentation to the appropriate Jute Tax Officer. The Bengal Raw Jute Taxation Act, 1941 also prescribes that any person who acts in contravention of any of the provisions of this Act, shall on conviction be punishable with fine which may extend to one thousand rupees, and in the case where the failure or contravention is a continuing one, with a further fine which may extend to one hundred rupees for every day after the first during which such failure, or contravention continues subsequent to such conviction.

Out of 26 files test-checked in respect of jute mills, it was noticed that renewals of registration were made in respect of only three cases upto June 1988. No action was taken to prosecute the defaulters in the remaining 23 cases, although renewals in these cases were due in respect of various periods between January 1975 and January 1985.

On this being pointed out in audit (May 1988), the department agreed (July 1988) to look into the cases. Further report has not been received (February 1989).

All the foregoing points were reported to Government between February 1987 and June 1988; their reply has not been received (February 1989).

# CHAPTER 3

## LAND REVENUE

### 3.1 **Results of audit**

Test-check of accounts of land revenue in certain district land reforms offices, conducted in audit during 1987-88, revealed non-realisation and short realisation of revenue amounting to Rs. 366·15 lakhs in 62 cases, which broadly fall under the following categories:

| | Number of cases | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Non-settlement of Government land .. .. | 7 | 215·47 |
| 2. Encroachment of Government land .. .. | 6 | 36·21 |
| 3. Irregular settlement/non-settlement of *sairati* interests .. .. .. | 3 | 3·21 |
| 4. Non-assessment and non-realisation of land revenue and cesses .. .. .. | 11 | 63·72 |
| 5. Non-assessment and short assessment of land revenue .. .. .. | 25 | 37·46 |
| 6. Other irregularities .. .. .. | 10 | 10·08 |
| Total .. .. . | 62 | 366·15 |

Some of the important cases, including review on "Management and control of *sairati* interests", are mentioned in the succeeding paragraphs.

### 3.2 **Non-realisation of rent and *salami* for Government lands due to irregular transfer**

Under the provisions of the West Bengal Land Management Manual, 1977, all vested non-agricultural lands should be settled on long term basis for 30 years on realisation of annual rent and *salami*, in lump, at ten times annual rent. In giving settlement on long term basis, the rent should be fixed at 4 per cent of the market value of land obtainable in the vicinity for the similar

class of lands from the records of the Registration Office. The Collector should send proposal for such settlement to the Board of Revenue for approval through Divisional Commissioner. After approval, the possession of the demised land should be handed over to the proposed lessee on realisation of first ycar's lease rent and *salami*, in lump. A lease deed should also be executed before handing over possession stipulating the terms and conditions as set forth in the Appendix-IV of the Manual including the due date for payment of lease rent. In case the land proposed to be transferred is in charge of any other department of the Government, such land is required to be relinquished in favour of the Land and Land Revenue Department first to whom the land originally belonged. The land will then be leased out by the Board in accordance with the rules in the Manual. There is however, no provision for handing over possession of proposed land without approval of the Board of Revenue, West Bengal and without realising rent and *salami*.

(*i*) In course of test-check of records of Additional District Magistrates (LR) of Midnapore, Murshidabad, Howrah and Tamluk, it was noticed (March 1986 to January 1987) that vast areas of non-agricultural vested lands had been handed over to different organisations without approval of the Board and without realisation of rent and *salami*. This resulted in non-realisation of revenue amounting to Rs. 41·02 lakhs as per instances cited below:

(*a*) In Midnapore district, an area of 20·80 acres of vested non-agricultural lands was handed over to a spinning mill on 21.9.1983 without obtaining prior approval of the Board. Board of Revenue informed (November 1985) the district authorities that delivery of advance possession of such a big quantum of land was irregular and directed not to make over possession of Government lands before approval since it was fraught with various complications. The annual rent and *salami* as assessed by the department worked out to Rs. 51,284·48 and Rs. 5,12,845 respectively. The proposal was not approved by the Board till January 1987. Thus, irregular delivery of possession resulted in non-realisation of rent amounting to Rs. 1,58,853 for the period 21.9.1983 to 20.9.1986 and *salami* for Rs. 5,12,845. Besides, an amount of Rs. 1,15,390 being interest at 6¼ per cent upto 1985-86 fell due for arrear revenue.

On this being pointed out in audit (January 1987), the district authorities of Midnapore stated (January 1987) that

being pressed hard by the proposed lessee, advance possession had been handed over. They, however, agreed to realise Government dues on receipt of sanction order from the Board.

(*b*) In Murshidabad and Howrah districts, a total area of 26·23 acres (Murshidabad—1·32 acres and Howrah—24·91 acres) of vested lands was handed over to an Industrial Corporation between 11.5.1981 and 1983 without approval of the Board and without realisation of any rent and *salami*. In the case of Murshidabad district, Board of Revenue enquired (November 1982) whether approval of the Board or Government had been taken for handing over possession of the land. But no compliance was made by the district administration till the date of audit (June 1986). Annual rent and *salami* as assessed by the department worked out to Rs. 52,736 and Rs. 5,27,360 respectively in case of Murshidabad district. Owing to irregular delivery of advance possession and non-finalisation of the settlement proposal, there occurred non-realisation of revenue in the shape of rent of Rs. 2,10,944 from 24.2.1982 to 23.2.1986 and *salami* of Rs. 5,27,360 in respect of Murshidabad district and in respect of Howrah district, the rental dues amounted to Rs. 1,48,137 from 11.5.1981 to 10.5.1986 and *salami* due was Rs. 3,06,505.

The district administration of Murshidabad stated (March 1986) that rent and *salami* would be realised in full from the date of possession on receipt of approval from Government. The district authorities of Howrah stated in September 1986 that the advance possession had been given in consideration of the fact that the corporation was a State undertaking.

(*c*) A proposal for settlement of 9·89 acres of vested non-agricultural lands was initiated on 2.7.1983 by the Land Reforms Circle Officer, Contai and forwarded to the district administration for approval. The annual rent and *salami* was fixed at Rs. 1,48,240 and Rs. 15,82,400 respectively. Without realising the assessed rent and *salami*, the district authorities, in their order dated 11.11.1983, directed the circle to hand over possession of the entire land to the proposed lessee, a Stadium Committee. Accordingly, possession was delivered on 3.2.1984. Meanwhile, on 5.1.1984, the district administration asked the Land Acquisition Department to furnish valuation of the proposed land which was not furnished till January 1987. No effective steps were taken to obtain valuation nor any proposal was sent to the Board for approval. The Stadium Committee has been enjoying the land without executing lease deed and paying rent and *salami*. Owing

to delay in finalising the settlement case and advance delivery of possession, the rent amounting to Rs. 4,74,720 from 3.2.1984 to 31.1.1987 and *salami* of Rs. 15,82,400 remained unrealised till January 1987.

Similarly, an area of 4·08 acres of vested land was irregularly handed over to a Thermal Power Station, a commercial undertaking in 1973-74. The rent and *salami* recoverable in respect of the said land worked out to Rs. 33,563 upto 1985-86 and Rs. 31,438 respectively.

On these cases being pointed out in audit (January 1987), the district authorities of Tamluk stated (January 1987) that the valuation report had not been received from land acquisition department in respect of Stadium Committee and also directed the circle office to ascertain the vested areas transferred to the Thermal Power Project for settlement on realisation of rent and *salami*.

The above cases were reported to Government (between November 1986 and August 1987); their reply has not been received (February 1989).

(*ii*) In a land reforms circle under the Additional District Magistrate (LR), Tamluk, it was noticed (January 1987) that the Chairman of a municipality prayed for long term settlement of $2\frac{1}{2}$ *decimal* (·025 acre) vested land on 23.9.1983 for construction of rickshaw stand. The municipality undertook to abide by the terms and conditions of the lease including payment of rent and *salami* as might be fixed by the Government. The possession of the land was made over to the municipal authority on 13.6.1984 and a proposal for settlement of the land forwarded to the district office on 15.6.1984 for obtaining approval of the Board of Revenue, West Bengal. The district authorities referred the matter to the Special Land Acquisition Officer (General) for assessment of valuation of the proposed land after a lapse of one year i.e. on 28.8.1985. Neither any valuation report was obtained nor any proposal to the Board was sent for approval till January 1987. This resulted in irregular transfer of Government land to an autonomous body and consequent non-realisation of rent amounting to Rs. 7,200 from 13.6.1984 to 12.6.1986 and *salami* of Rs. 36,000 based on the market value of land (Rs. 90,000) assessed by circle office.

On this being pointed out in audit (January 1987), the district administration stated (February 1987) that a reference was being made for early submission of valuation report on

receipt of which, the case would be forwarded to the competent authority for approval.

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

(*iii*) In Darjeeling district, an area of 1·07 acres of non-agricultural Government land was under the possession of the Tourism Directorate of the State Government on the basis of departmental transfer. In 1965, the said directorate handed over the land directly to the Tourism Development Corporation, a state commercial undertaking without relinquishing it in favour of the Land and Land Revenue Department as required under the rules. As a result, settlement of the land with the corporation could not be made by the Board of Revenue. This irregular transfer of Government land to a commercial corporation resulted in non-assessment of annual rent and *salami* which amounted to Rs. 3,277 and Rs. 32,770 respectively. Total amount thus recoverable from the corporation worked out to Rs. 68,817 being rent from April 1965 to March 1986 and *salami*, in lump, for Rs. 32,770.

On this being pointed out in audit (March 1986), the local office stated (March 1986) that the Land and Land Revenue Department was quite unaware of the fact of such transfer of land to the corporation.

The matter was reported to Government in October 1986; their reply has not been received (February 1989).

(*iv*) In course of test check of records of Darjeeling, Burdwan and Murshidabad districts, it was noticed that Government lands measuring 9·76 acres were handed over to different organisations and corporations without realising annual rent and *salami*. No lease deed was also executed. Even approval of the Board of Revenue was not obtained before handing over advance possession to the proposed lessees. This resulted in non-realisation of annual rent and *salami* amounting to Rs. 2,06,437 and Rs. 1,36,231 respectively as per instances cited below:

(*a*) In Darjeeling district, land measuring 3·67 acres was transferred to a State commercial corporation on 19.2.1965. No rent and *salami* was assessed and realised. Even no lease deed was executed as per rules. The annual rent assessable worked out to Rs. 8,721·16 computed on the basis of sale value of land prevailing in 1965 and *salami*, in lump, Rs. 87,222. Total amount recoverable from the corporation worked out to Rs. 1,83,165 being rent from 1965-66 to 1985-86 and *salami* Rs. 87,222.

This being pointed out in audit (February 1986), the local office agreed (March 1986) to regularise the matter. Further development has not been intimated (February 1989).

(*b*) (*i*) In Burdwan district, a total area of 3·25 acres of vested land in two cases was handed over to Asansol Mines Board of Health (a corporate body) on 11.4.1977 and 24.5.1987. Annual rent and *salami* as assessed by the department worked out to Rs. 1,175·35 and Rs. 11,754 respectively. The proposal for settlement of the case was initiated only in 1984 which was not approved by the competent authority, although the proposed lessee was enjoying the land. This resulted in non-realisation of rent amounting to Rs. 10,578 from April 1977 to March 1986 and *salami* of Rs. 11,754 in lump.

(*ii*) In another case of this district, 0·25 acre of vested land was handed over to a school authority on 16.7.1983. Annual rent and *salami* as assessed by the department worked out to Rs. 2,208·58 and Rs. 22,085·80 respectively. The proposal for settlement of the land was not even forwarded to the Board of Revenue for approval. This led to non-realisation of revenue amounting to Rs. 6,626 being rent from 16.7.1983 to 15.7.1986 and *salami* of Rs. 22,086.

On the above cases being pointed out in audit (between October 1985 and March 1986), the district authorities stated (between October 1985 and March 1986) that in respect of (*i*) formal proposal would be submitted soon and in respect of (*ii*) they agreed to realise the rent and *salami* after meeting all the formalities.

(*c*) A piece of land measuring 2·59 acres was handed over to a warehousing corporation in Murshidabad district on 2.8.1983 without realising annual rent and *salami* as per rule. The amount of annual rent and *salami* assessed by the department was Rs. 1,516·90 and Rs. 15,169 respectively. Delay in finalising the matter resulted in non-realisation of rent to the extent of Rs. 6,068 from 3.8.1983 to 2.8.1987 and Rs. 15,169 as *salami*.

On this being pointed out in audit (September 1987), the district administration stated (September 1987) that rent and *salami* could not be realised due to non-receipt of approval from the Board of Revenue.

The cases were reported to Government between July 1986 and January 1988; their reply has not been received (February 1989).

### 3.3 Short realisation/non-realisation of revenue in respect of land transferred to Central Government

Under the provisions of the West Bengal Land Management Manual 1977 read with Land Transfer Rules as embodied in Land Acquisition Manual, Part-II, in case of transfer of land in occupation of the State Government to the Central Government, a compensation would have to be paid to the State Government by the Central Government. The amount of compensation payable by the Central Government would ordinarily be the market value of the land and also the capitalised value of such land if the transfer causes actual loss of revenue to the State Government. The market value of the land should be the current sale price of land obtainable from the registration records as provided in the Manual and capitalised value is to be determined at 25 times of annual rent.

(*i*) In Murshidabad district, a piece of Government land measuring 1·35 acres was transferred to All India Radio authority in 1987. The district administration demanded and realised Rs. 26,96,732. as market value and the capitalised value of the land. The market value was determined at Rs. 13,48,366 on the basis of sale deeds and the capitalised value at Rs. 13,48,366 on the basis of 25 times of annual rent. But while determining the market price, the district authorities consulted neither the sale deeds of 1986-87 of the registration office nor the Land Acquisition Department as required under the law. As per valuation assessed by the Land Acquisition Department in January 1987 in respect of a long term settlement case with a swimming association in the vicinity, the value of land was assessed at Rs. 13,91,477 per acre in 1986. Accordingly, the value of land measuring 1·35 acres was Rs. 18,78,494 and the capitalised value was Rs. 18,78,494 computed at 25 times annual rent i.e. 4 per cent of market value multiplied by 25. But the department demanded and realised from the All India Radio authority a sum of Rs. 26,96,732 only. Incorrect determination of market value of land resulted in short realisation of revenue amounting to Rs. 10,60,256 (Rs. 18,78,494+Rs. 18,78,494 — Rs. 26,96,732).

On this being pointed out in audit (September 1987), the district authorities stated (September 1987) that the matter was being examined. Further report has not been received (February 1989).

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

(*ii*) In Tamluk district, an area of 23·015 acres of vested land was transferred to South Eastern Railway between 1968-69 and 1971-72 for construction of railway link with Haldia Port. The proposal for transfer was forwarded to the district authorities between 20.11.1971 and 13.5.1972 for approval of the competent authority. The railway authorities had already taken over possession and constructed railway link with Haldia Port. But the proposal was not forwarded to Government in the Land and Land Utilisation Department (Land Reforms Branch) for approval. Market value and capitalised value of the land as assessed by the department amounted to Rs. 1,13,626 and Rs. 5,721 respectively. The irregular transfer of land resulted in non-realisation of revenue of Rs. 1,19,347.

On this being pointed out in audit (January 1987), the district authorities of Tamluk stated (February 1987) that action was being taken to review the case for realisation of market value and capitalised value of the land transferred to railway authorities.

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

### 3.4 **Payment of compensation without realising rent and cess**

Under the provisions of the West Bengal Land Reform Act, 1955 as amended in 1965, read with the rules framed thereunder, a *raiyat** is liable to pay revenue (rent and cesses) for every agricultural year in 4 equal instalments. If any revenue remains unpaid within the stipulated period, it will be an arrear of revenue and shall bear interest at $6\frac{1}{4}$ per cent per annum. Such arrear revenue should be realised by instituting certificate case under the Public Demands Recovery Act, 1913. A tenant holding permanent right of land is entitled to compensation on acquisition of land by Government.

In Birbhum district, an area of 367·89 acres of land held by tenants had been acquired by the Land Acquisition Department in December 1980 for transfer to a chemical factory. Compensation money was assessed at Rs. 12,75,846 and realised from the company. Out of Rs. 12,75,846, a sum of Rs. 12,72,027 was paid to the affected tenants falling within two circle offices and the balance of Rs. 3,819 was lying with the Land Acquisition Department. Further, it was noticed that an amount of Rs.

*'Raiyat' means a person or institution holding land for purpose of agriculture.

44,766 being arrear rent and cesses upto 1392 BS (1985) was due to be recovered from the affected tenants of those two circles. But the said arrear dues were nither realised nor adjusted against the compensation money paid to the tenants although the acuqired land had been transferred to the company on perpetual lease basis. This payment of compensation without realising arrear rent and cesses resulted in a loss of Government revenue amounting to Rs. 44,766.

On this being pointed out in audit (June 1987), the Additional District Magistrate (LR), Birbhum admitted (June 1987) the irregularities.

The matter was reported to Government in October 1987; their reply has not been received (February 1989).

3.5 **Short realisation of rent**

Under the Calcutta Municipal Act, 1951, all tenants of Government lands falling within Calcutta Corporation area are liable to pay 50 per cent of municipal tax as their (occupiers') share. In terms of the lease agreements executed between the tenants and Orphangunj Market Authority (a Government managed market), all the tenants are to pay their share of municipal tax at the rate of 50 per cent of the tax in addition to rent already fixed.

On a review of tenants' ledger, it was noticed that the occupiers' share of municipal tax had been assessed (on ad hoc basis) at 10 per cent of rent and it was more or less equal to 50 per cent of the tax as occupiers' share. However, while collecting rent and tax from tenants, the market committee made deductions of 10 per cent from the fixed rent. This was without any authority. The market authority realised from the tenants/ stall-holders a sum of Rs. 2,80,626 in 1983-84 and Rs. 2,92,298 in 1984-85, being rent after allowing 10 perecnt deduction and municipal tax, and paid municipal tax to the corporation amounting to Rs. 35,974 in 1983-84 and Rs. 78,284 in 1984-85. It was, however, seen from the payment of tax by the market authority that the collection of municipal tax at 10 per cent of rent from the tenants was more or less equal to 50 per cent of the tax as occupiers' share. Irregular deduction of 10 per cent of the rent resulted in short-realisation of rent amounting to Rs. 57,292 during the period 1983-84 and 1984-85.

On this being pointed out (March 1986) in audit, the market authority stated (March 1986) that although there was no specific

norms or orders in this matter, municipal tax had been calculated at 10 per cent of rent, but while collecting rent and tax (through Duplicate Carbon Receipt), amount of rent was taken as rent assessed minus municipal tax. The district administration of 24-Parganas (South) to whom the case was reported in August 1986, stated (February 1988) that the matter would be examined. Report on examination has not been received (February 1989).

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

### 3.6 **Loss of revenue due to non-fixation of rent of erst-while rent-free holdings**

Under the provisions of the West Bengal Land Reforms Act, 1955 as amended in 1965, no land shall remain free of rent with effect from 1st November 1965. The *raiyats* of such holdings are liable to pay rent at such rate as the revenue officer may determine in the prescribed manner having regard to the rent that was generally being paid immediately before coming into force of the provisions of the Act for land of similar description and with similar advantages in the vicinity. By a notification issued (October 1974) by Government, Junior Land Reforms Officers were appointed to discharge the functions of 'Revenue Officers' for the purpose within their respective jurisdiction. Board of Revenue, Government of West Bengal in its circular issued in August 1986 clarified that the rent of formerly rent-free holdings was payable from the date of determination of such rent and not from retrospective date.

In the course of test check of records of eleven circle offices for the period between 1984-85 and 1986-87, under the Additional District Magistrates (LR) of Howrah, Tamluk and Birbhum, it was noticed that in respect of 8,788·45 acres of erst-while rent-free land (563·44 acres in Howrah, 5,943·34 acres in Tamluk and 2,281·67 acres in Birbhum districts), rent had not been determined till the date of audit (between September 1986 and May 1987). Non-determination of rent resulted in loss of revenue amounting to Rs. 14·42 lakhs (Rent: Rs. 9·51 lakhs and cesses: Rs. 4·91 lakhs) for the period from 1.11.1965 to 31.3.1987 computed on the basis of notional *mouza* rent per acre furnished by the district offices and rates of different cesses applicable from time to time and further there will be recurring loss till rent is determined.

On this being pointed out in audit (between September 1986 and May 1987), all the three district authorities admitted the fact of non-fixation of rent of rent-free holdings.

The matter was reported to Government between April 1987 and October 1987; their reply has not been received (February 1989).

### 3.7 Non-realisation of sale price of vested land

Under the provision of the West Bengal Land Management Manual, 1977, Government vested lands may be transferred by sale to local authorities, statutory bodies and public undertakings. In such case, the Collector should submit proposal with particulars of the land and its market value to the Board of Revenue through Commissioner of the Division.

In Midnapore district, 10 acres of Government vested land was transferred to a municipality on 24.5.1984. The market value of the land was determined at Rs. 12,22,000 (Rs. 1,22,200 per acre). Pending approval of the Board, the land was transferred on realisation of Rs. 6,11,000. Neither the sale was approved by the Board nor the balance money was realised till March 1987. This irregular transfer of Government land resulted in non-realisation of revenue amounting to Rs. 6,11,000 being 50 per cent of the balance market value. A further sum of Rs. 1,08,198 being interest at the rate of 6¼ per cent per annum was also realisable for the period from 24.5.1984 to 31.3.1987.

On this being pointed out in audit (January 1987), the district authorities stated (January 1987) that the municipality had agreed to pay the balance amount. The district authorities also agreed to raise the demand for interest. Report on realisation and raising demand for interest has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

### 3.8 Non-realisation of damage fee for unauthorised occupation of *khasmahal* land

Under the provisions of the West Bengal Estates Acquisition Act, 1953, as amended in 1975, if any non-agricultural Government land is occupied and used by any individual or organisation which is not authorised by the District Collector, such unauthorised occupier is liable to pay damage fee at the rate prescribed by Government. Such damage fee is realisable from the date of occupation till vacation of the possession at

Rs. 10 per year per acre upto 29.6.1975 and at 10 per cent of the market value of the land from 30.6.1975.

In Contai Land Reforms Circle, Tamluk, an area of 0·20 acre of non-agricultural *khasmahal* land was under the occupation of Taxi Owners' Syndicate since 1376 B.S. (1969). The land in question was covered by a Civil Rule which was subsequently dismissed (March 1986) in favour of the State. No action was, however, taken to get back possession of the said land, and also assess and realise damage fee from 1376 BS to 1393 BS (1969-70 to 1986-87). This resulted in non-assessment and consequent non-realisation of Government revenue amounting to Rs. 88,012, computed as per rate prescribed in the Rules.

On this being pointed out in audit (December 1986), the department stated (January 1987) that the land had been ear-marked for construction of administrative building; but nothing was stated about realisation of damage fee.

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

### 3.9 **Non-realisation of interest on arrears of lease rent**

Under the provisions of the West Bengal Land Management Manual, 1977 read with the terms and conditions set forth in the model lease agreement form for settlement of *sairati* interests like fisheries, *beels* etc., 25 per cent of the lease rent for the first year of settlement should be deposited at the time of settlement and the balance is to be deposited before the beginning of the year. Lease rent for the successive years is to be deposited in full before the beginning of the respective years. An arrear of lease rent is to be charged with simple interest at $6\frac{1}{4}$ per cent per annum.

In Murshidabad district, 32 *sairati* interests viz. fisheries, *beels*, etc. had been leased out to the District Fishermen Co-operative Society Limited for six years in each case commencing from 1388 BS (1981), without execution of lease agreements. The lease rent for the years 1392 BS and 1393 BS (1985-86 and 1986-87) which fell due on 15.4.1985 and 15.4.1986 respectively was realised long after their due dates of payment ranging from 3 months to 28 months. But no interest was assessed and realised in any of the cases. This resulted in non-realisation of interest amounting to Rs. 29,109.

On this being pointed out in audit (September 1987), the district administration stated (September 1987) that steps were

being taken to realise interest for late payment of lease rent. Further report has not been received (February 1989).

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

3.10 **Irregular waiver of interest realisable**

Under the provisions of the West Bengal Non-Agricultural Tenancy Act, 1949 read with the West Bengal Land Management Manual, 1977 and standard lease agreement form for long term settlement of Government land, rent should be paid yearly according to the Bengali year. Such rent falls due on the last day of the Bengali year corresponding to 14th April of each year in respect of which it is paid. The tenant or lessee may, however, be allowed to pay his rent in instalments. In default of payment of any instalment of rent on or before the last date of the Bengali year on which the rent fell due, the lessee is liable to pay, in addition to the arrear rent, interest at the said rate of 6¼ per cent per annum from the end of the Bengali year till the date of payment and the arrear with interest payable thus is realisable as public demand under the Public Demands Recovery Act, 1913.

In Murshidabad district, an area of 4·72 acres of Government land was settled with a Public Sector corporation for 30 years from 4.8.1971 at an annual rent of Rs. 19,767·36 and *salami*, in lump, for Rs. 1,97,673·60. But at the time of taking over possession of the land on 4.8.71 (1378 BS) no rent and *salami* was paid by the corporation. The department realised arrear rent for 10 years from 1378 to 1387 BS (15.4.1971 to 14.4.1981) amounting to Rs. 1,97,673·60 and *salami*, in lump, for Rs. 1,97,673·60 on 30.10.1981 and 31.10.1981 respectively. But no interest was assessed and realised at the time of realising the arrear rent and *salami*. This resulted in non-realisation of interest amounting to Rs. 1,85,319 computed at the prescribed rate for the period from 15.4.1972 to 31.10.1981.

On this being pointed out in audit (September 1987), the district administration stated (September 1987) that on consideration of a prayer from the corporation, *salami* and rent had been realised without charging interest. However, the matter had been referred to the Board of Revenue, which was pending. In absence of any specific provision for waiving the usual interest, the action taken by the district officer was irregular.

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

## 3.11 **Management and control of *sairati* interests**

3.11.1 *Introductory*

Under the provisions of the West Bengal Land Management Manual, 1977, all *sairati* interests viz. *khas* or vested tanks, ferries, fisheries, *hats*/markets etc. should be settled on auction basis with the highest bidder on realisation of annual lease rent. In settling fishery interests, preference should be given to the Fishermen's Co-operative Societies. In all cases of settlement of *sairati* interests, lease agreement in the prescribed form should be executed. Prior to the year 1979-80, all interests were being managed by the Land Revenue Department and revenues realised therefrom were credited to Government account under the head "029-Land Revenue".

By a circular issued in March 1979, Board of Revenue, West Bengal, subsequently ratified post facto by Government in June 1987, directed that all vested *hats*/tanks, ferries, fisheries etc. should be handed over to the Panchayat institutions with effect from 15.4.1979 for their management and control subject to the condition that the lease term of such interests which were to expire on the last day of *Chaitra* 14.4.1980 or thereafter, should be handed over to the panchayat bodies only after the expiry of existing lease in each case. Board also clarified (May 1979) that no rent should be realised from the panchayat bodies and the river fisheries and big water areas should not be handed over to them. But no yardstick for determining 'big water areas' had been fixed by the Board till March 1988.

3.11.2 *Scope of Audit*

A review on management and control of *sairati* interests was conducted (April 1988 and June 1988) in 4 districts viz. Birbhum, Murshidabad, Nadia and Hooghly with findings in respect of 6 other districts being updated.

3.11.3 *Organisational set up*

Board of Revenue, West Bengal is in overall charge of the management and control of *sairati* interests in the State. The work relating to settlement and realisation of revenue is dealt with by the district administration (Land Reforms); proposals for settlement are to be sent to the Board of Revenue through the Divisional Commissioner for approval. Any change in the policy of the Government in this regard is being considered by

the Land and Land Revenue Department, Land Reforms Branch, Government of West Bengal.

3.11.4 **Highlights**

**—Irregularities in the implementation of the scheme of transfer involving loss of revenue (Rs. *6·59* lakhs) and non-specifying the term 'big water areas'.**

**—Irregular management of *sairati* interests resulting in loss of Rs. *66·57* lakhs.**

**—Loss of revenue due to irregular reduction of rent/ non-revision of stall rent (Rs. *0·87* lakh).**

**—Settlement of interests with District Central Fishermen's Co-operative Societies (Rs. *5·44* lakhs).**

Irregularities noticed in the course of review are mentioned in the succeeding paragraphs.

3.11.5 *Irregularities in the implementation of scheme of transfer*

(*i*) *Transfer of interests to the panchayat bodies before expiry of the existing lease*

In five districts viz. Murshidabad, Birbhum, Nadia, Hooghly and North 24-Parganas, 147 number of tanks, ferries, *beels* etc. were transferred to the respective panchayat bodies with effect from 15.4.1979, although the period of existing leases varying three to five years in each case had not expired prior to 14.4.1980. As the transfers were effected before the expiry of existing leases and the ex-lessees were deprived of possession and benefits of the interests, Government had to forgo revenue amounting to Rs. 1,29,081 computed on the basis of existing lease rent of each interest.

On this being pointed out in audit (November 1987 to May 1988), the district authorities concerned made no specific comments except stating that those interests had been transferred as per Board's circular issued in March 1979.

(*ii*) *Arrear lease rent not realised from the ex-lessees*

In two districts (West Dinajpur and Hooghly), 30 number of interests were transferred to the panchayat bodies from 1979-80 (1386 BS). It was noticed that arrears of lease rent upto 1978-79 aggregating Rs. 32,329 were not realised from the ex-lessees. As there were no lease agreements with them for subsequent periods, there were dim chances of recovery of the dues after a lapse of 8 years, even by instituting certificate procedure.

The district authorities stated that steps would be taken to initiate certificate procedure to realise the dues.

(*iii*) *Transfer of big water areas and river fisheries*

Although Board of Revenue directed (May 1979) that big water areas and river fisheries should not be transferred to the panchayat bodies; but no yardstick for determination of big water areas was fixed. However, the district authorities of North 24-Parganas alone had fixed (August 1982) 5 acres and above as 'big water areas'. From the records of 10 districts, it was noticed that in 92 cases, water areas measuring 10 acres and above had been transferred to the panchayat bodies from 1979-80. These transfers involved a revenue amounting to Rs. 4·98 lakhs per annum.

On this being pointed out in audit (April 1987 to May 1988), the concerned district authorities stated that such water areas had been transferred in absence of specification of the term 'big water areas' in Board's order of May 1979.

3.11.6 *Irregular management of Sairati settlement*

(*i*) (*a*) *Loss of revenue due to non-leasing of khal/fishery/market*

In North 24-Parganas district a *khal* fishery measuring 7·87 acres was handed over to a panchayat body in 1979-80. Later categorising the same as a big water area, it was resumed on 17.9.1984. Auction was held for settlement of the fishery for the period from February 1985 to April 1986. The highest bidder who offered Rs. 8,000 per annum, was not given the settlement. No reasons were recorded for non-settlement of the fishery to this bidder. The fishery was again transferred to the panchayat body in April 1985 which was irregular. The irregular transfer led to loss of revenue amounting to Rs. 25,333 computed at Rs. 8,000 per annum for the period from February 1985 to March 1988 during which the area remained with the panchayat.

On this being pointed out in audit (January 1988), the district administration stated that the reasons for not taking back the fishery and non-leasing of the same would be called for from the local circle office.

(*b*) Another *khal* fishery measuring 8·11 acres (25 *bighas* approx.) was taken possession by the department on 5.7.1969; but it was not settled till December 1987. The fishery was being used and occupied by a private fishery-owner. Non-settlement of the fishery for such a long period of 18 years from 1969 to 1987 led to loss of revenue amounting to Rs. 45,000 computed on the

basis of lease rent at Rs. 100 per *bigha* as stated by the circle officer.

On this being pointed out in audit (January 1988), the department stated that action would be taken to initiate settlement proposal or for regularisation of unauthorised possession.

(*c*) A market commonly known as Badamtala Sadhur Bazar which was vested to the State, was taken over by Government in December 1971. A proposal for long term settlement for 30 years retrospectively from 15.5.1955 was initiated after fixing annual rent at Rs. 279 and *salami*, in lump, Rs. 2,790. The *bazar samity* which was in possession of the vested area since 1955, was agreeable to take the settlement on the terms and conditions of the department. But no action was taken to settle the interest till 1981-82. It was settled with a municipality from 1982-83 at an annual rent of Rs. 3,538·50 without executing formal lease agreement. The municipal authority did not pay lease rent amounting to Rs. 14,154 from 1984-85 to 1987-88. Thus, non-leasing of the vested market with the *bazar samity* from 1955-56 to 1981-82 resulted in loss of revenue amounting to Rs. 10,323 computed at Rs. 279 per annum and *salami*, in lump of Rs. 2,790. Besides, the department failed to realise lease rent of Rs. 14,154 from 1984-85 to 1987-88 from the municipal authority.

On this being pointed out in audit (November 1987), the local office while confirming the fact stated that the matter had already been brought to the notice of higher authority.

(*ii*) *Loss of revenue due to unauthorised use and occupation of khal fishery*

A *khal* fishery measuring 20·23 acres was leased out to an individual from 1966-67 to 1973-74 at an annual rent of Rs 2,145; but the lessee did not pay lease rent for the entire period of lease. A total amount of Rs. 20,914 shown as outstanding against the lessee was not realised till December 1987. No action was taken to realise the dues even by resorting to certificate procedure. The fishery was not leased out from 1974-75 to 1979-80 although it was used and occupied by unauthorised persons. In 1979-80, the fishery which covered more than 5 acres, was handed over to the panchayat body and remained with them upto 1983-84. After taking back from the panchayat (1984-85), it was not settled upto 1987-88. Thus, owing to mismanagement and unauthorised occupation, Government suffered a loss of revenue amounting to Rs. 50,944 computed at Rs. 2,145 per year from 1974-75 to 1987-88 including Rs. 20,914 recorded as outstanding upto 1973-74.

On this being pointed out in audit (January 1988), the department stated that no damage fee had been realised from 1974-75 to 1979-80 and that after resuming possession from the panchayat (1984-85), the interest could not be settled for the subsequent years due to public objection. But no records or documentary evidence in support thereof could be shown to audit.

(*iii*) *Encroachment of Government managed hat-non-realisation of stall rent*

The Land Management Manual provides that all intending stall-holders should obtain licence from Government on payment of licence fee at the prescribed rate and on execution of lease agreement.

The Collector, Cooch Behar fixed (July 1970) the rate of licence fee of Haldibari *hat* at fifty paise per sq. ft. A report on the survey conducted by the Circle Office in 1976 revealed that there were 30 first class stalls covering 2,457 sq. ft. in the *hat* which were under unauthorised occupation. The names of the stall-holders were recorded in the demand and collection register; but no licence fee had been assessed and realised by the district office. Even no action was initiated to evict those encroachers on *hat*-stalls. This led to non-realisation of revenue amounting to Rs. 14,742 from 1976 to 1988 computed at Rs. 1,228·50 per year (50p × 2457).

On this being pointed out in audit, the district authorities stated (June 1986) that the matter would be taken up with the local office for proper assessment and realisation of the dues. But no further developments were noticed till July 1988.

(*iv*) *Loss of revenue due to non-leasing of beel fisheries in Murshidabad, Nadia and Howrah districts*

(*a*) A *beel* fishery measuring 833 acres in Murshidabad district was settled with an individual at an annual rent of Rs. 46,331 from 1974-75 to 1976-77 and thereafter it was leased out to another individual for the year 1977-78 at an annual rent of Rs. 75,002. The *beel* was subject matter of several court cases. After disposal of the court cases, the possession of the *beel* was taken back by the department on 19.12.1985. On reference, the State Advocate opined (February 1986) that there was no legal bar to sell the fish of the '*beel*' through agent till the settlement was made. Accordingly, the fish was sold for the period 1.10.1986

to 31.12.1986 at an amount of Rs. 1,26,000 through an agent co-operative society against the economic sale price of the fish fixed at Rs. 2,00,000 per annum. Again, tender was called for from the agents for selling fish for the year 1987-88 and the offer of Rs. 2,75,000 for catching fish for three months of 1987-88 made by the previous agent was accepted. A sum of Rs. 68,750 was also deposited by him. He did not make further payments. The department did not initiate any action to realise the balance of Rs. 2,06,250 from the agent with whom no agreement was executed. As per order of the district authorities (September 1987) re-tendering was done for the year 1987-88 when an individual offered Rs. 3,52,000 which was not accepted as it was a single tender. Thus there was a loss of revenue amounting to Rs. 3,46,917 for the periods between December 1985 and March 1988.

On this being pointed out in audit (May 1988), the district authorities Murshidabad while admitting the facts stated that the concerned agent-society refused to pay the balance of Rs. 2,06,250. It was also stated that due to delay in obtaining legal advice after the court cases, lease for the above years could not be finalised, but this is not borne out by the facts as the advice of the advocate became available in February 1986.

(*b*) A '*beel*' popularly known as '*Kalinga Beel*' situated in Nadia district measuring 146·88 acres was put to auction on 20.2.1980 for settlement for five years from 15.4.1980 and the only tender of Rs. 2,751 per annum submitted by the district central co-operative society was not accepted. Economic rent was fixed at Rs. 2,889 per year and the society was asked whether it was agreeable to take the settlement for ten years from 15.4.1980. After obtaining consent of the society, proposal was sent to the Divisional Commissioner on 15.9.1982 for approval which was not received till May 1988 and the *beel* fishery remained unsettled. Owing to unsual delay in finalising the settlement, Government suffered a loss of revenue amounting to Rs. 23,112 computed at Rs. 2,889 per year from 1980-81 to 1987-88.

The loss was pointed out in audit in May 1988; reply of the department has not been received (February 1989).

(*c*) In Howrah district, a tank fishery with an area of 0·30 acre was last leased out in 1977-78 at an annual lease rent of Rs. 225. Thereafter, the fishery was neither leased out nor taken back from the ex-lessee who had been enjoying it without paying revenue. Another tank fishery measuring 0·45 acre was leased out from 1976-77 to 1980-81 at an annual rent of Rs. 1,425

without executing any lease agreements as required under the rules. The proposed lessee paid lease rent in full for 1976-77 and 1977-78 and Rs. 712·50 being 50 per cent of the demand for 1978-79. Thereafter no payment was made till April 1988. The department did not initiate any action to realise the dues. Even after expiry of the lease period, the possession of the fishery was not resumed in 1981-82 and the ex-lessee had all along been enjoying the benefits without payment of rent. As there was no agreements in both the cases cited above, Government have suffered loss of revenue amounting to Rs. 15,788.

On this being pointed out in audit (April 1988), the department admitted (May 1988) that possession of the fisheries had not been resumed. It was also stated that instructions from higher authorities had been sought for.

(*v*) *Loss of revenue due to delay in taking possession of a beel fishery*

By an order issued in July 1966, Government (Land and Land Revenue Department) transferred a *beel* fishery in Murshidabad district to the fishery department of the Government for pisciculture and fish farm. In October 1979, the fishery department intimated the Collector that the *beel* fishery was no longer required for pisciculture and requested him to resume possession immediately. After a lapse of six years the Collector resumed possession of the fishery (May 1985) though the Divisional Commissioner had issued order in June 1983. The fishery was not leased out from 1985-86 to 1987-88 also. This resulted in a loss of revenue of Rs. 19,500 for three years from 1985-86 to 1987-88 computed at the old rate of lease rent of Rs. 6,500 per year. Besides, due to lack of co-ordination and delay in issuing order for resumption from the fishery department after receipt of relinquishment proposal (October 1979), there occurred further loss of revenue of Rs. 32,500 for the period 1980-81 to 1984-85, computed at the old rate of Rs. 6,500 per annum prevailing in 1962-63.

On this being pointed out in audit (May 1988), the district authorities stated that the matter was referred to the Commissioner, Presidency Division and sanction from Government for settlement of the *jalkar* had not been received (February 1989).

(*vi*) *Non-realisation of lease rent of fisheries*

(*a*) In Burdwan district, a *beel* fishery was leased out to a person for 10 years from 1390 BS (1983-84) at an annual rent of Rs. 3,311. After realisation of the lease rent for the first year

(1983-84), the fishery became subject matter of a court case. The Government pleader opined that the directive of the court was to maintain *status quo* as on 9.9.1983 on which date, the lessee was holding the interest on valid lease. It was also opined that since the lessee was in possession of the fishery, he should be allowed to continue the possession on payment of usual rent. But the department did not initiate any action to realise rent in spite of legal advice based on court's order. This led to non-realisation of revenue amounting to Rs. 13,244 from 1984-85 to 1987-88 computed at Rs. 3,311 per year.

On this being pointed out in audit (March 1988), the district office accepted the omission and also assured to take appropriate steps for realising arrear lease rent.

(*b*) Another fishery was leased out to a *Matsajibi Samabay Samity* for 3 years from 1978-79 at an annual rent of Rs. 3,600. The lessee paid Rs. 1,800 being 50 per cent for the year 1978-79 and thereafter no payment was made till May 1988. The fishery was, however, leased out to another such society for 1981-82 at a rent of Rs. 3,605 per year. But no steps were taken to realise the dues amounting to Rs. 9,000 upto 1980-81 from the previous lessee.

On this being pointed out in audit in April 1988, the district administration agreed (May 1988) to realise the dues.

(*c*) In Murshidabad district, a fishery was leased out to a Fishermen's Co-operative Society for 7 years from 1976-77 at Rs. 8,500 per year without execution of a leasc deed. The lessee defaulted in payment of Rs. 6,000 for the last year of lease i.e. 1982-83 which was not realised till May 1988. The fishery was thereafter settled with the District Central Fishermen's Co-operative Society for 7 years from 1983-84 at an annual rent of Rs. 8,500 without execution of a lease deed. The DCFCS also defaulted in payment of Rs. 6.375 for 1983-84 and Rs. 17,000 for 1984-85 and 1987-88. Nó legal action was, however, initiated for realisation of the dues by the department against both the lessees.

On this being pointed out in audit (May 1988), the district office while confirming the facts stated that in spite of reminders, the lessees did not pay off the dues and assured to take steps for realisation of outstanding dues.

(*vii*) *Loss of revenue due to sairati interests kept out of settlement without approval of competent authority*

Under the provisions of the Land Management Manual of

1977, all *sairati* interests should be settled on yearly basis on realisation of annual lease rent. Such lease should be approved by the Divisional Commissioner as well as Board of Revenue according to the amount of lease rent in each case. If, however, any *sairati* interest is kept out of settlement for a particular year, reasons therefor should be recorded in writing on the case file/ relevant register after obtaining orders from the competent authority.

(*a*) In West Dinajpur district, 111 vested tanks/fisheries were not leased out for the period varying from 2 to 10 years and subsequently those *sairati* interests were handed over to the panchayat bodies between 1979 and 1982. Non-leasing of the interests and keeping them out of demand without approval of the competent authority resulted in loss of revenue amounting to Rs. 20,607, computed on the basis of annual lease rent realised during the year immediately preceding the year of non-leasing in each case.

On this being pointed out in audit (February 1988), the department stated that due to omission, orders of the competent authority had not been obtained.

(*b*) In Tamluk Land Revenue district, 13 fisheries were leased out to different co-operative societies upto 1981-82. But no action was taken to lease out those fisheries from 1982-83 onwards nor any order of competent authority was obtained in this regard. This resulted in loss of revenue to the extent of Rs. 18,606 for the period 1982-83 to 1987-88, computed on the basis of last rent of each fishery.

On this being pointed out in audit (February 1987), the district authorities stated that the local offices concerned would be asked to clarify the reasons under which the *sairati* interests had been kept without settlement. Further report has not been received (February 1989).

(*viii*) *Transfer of hats/markets to the Regulated Market Committees*

Board of Revenue issued (January 1980 and May 1980) instructions that some selected *hats*/markets were to be transferred to the respective Regulated Market Committees (RMCs) on lease basis as per provisions of the West Bengal Land Management Manual, 1977 initially for a period of 15 years from 15.4.1980 on realisation of economic rent to be fixed on the basis of average lease rent for the preceding three years subject to enhancement after every three years.

In seven districts (West Dinajpur, Cooch Behar, Purulia, Hooghly, Nadia, Tamluk and Midnapore), 84 Government *hats*/ markets had been transferred to the RMCs of the concerned districts with effect from 1387 BS (1980-81). In none of the cases, annual lease rent had been realised and lease agreements executed as per rules. This resulted in non-realisation of revenue amounting to Rs. 59·09 lakhs upto March 1988, computed on the basis of lease rent being equivalent to economic rent.

On this being pointed out in audit (April 1987 to May 1988), the district authorities stated that in spite of several reminders the RMCs did not pay off their dues.

(*ix*) *Other cases*

(*a*) In North 24-Parganas district, a ferry was leased out to different persons for different periods between 20.12.1978 and 14.7.1985 and the lease rent payable amounted to Rs. 1,28,215. Out of this, the lessees paid only Rs. 76,829. But the department did neither execute any lease agreement nor take any action to realise the balance amount of Rs. 51,386 though three to nine years have lapsed.

(*b*) Another three *sairati* interests of the same district were leased out for 1978-79 at an annual lease rent of Rs. 18,010; but the lessees paid only Rs. 7,150 leaving a balance of Rs. 10,860. In these cases also the department did not execute any lease agreement nor initiate any action to realise the dues. The interests were ultimately handed over to the panchayat bodies from 1979-80. Thus, owing to non-execution of lease and non-initiation of any action for realising the dues during the last seven to eight years, Government lost revenue of Rs. 10,860.

On this being pointed out in audit (January 1988), the local office confirmed the fact and stated that the district office would be informed about the loss. The district office made no comments till July 1988 though the case referred to them in January 1988.

3.11.7 *Loss of revenue due to irregular reduction of rent/non-revision of stall rent*

The West Bengal Land Management Manual, 1977 provides that before settling a fishery, the Collector should fix up economic rent which would be the annual rent of the fishery. In determining economic rent, the income from the fishery for the preceding three years should be taken into account. The intending

bidders should be asked to offer sealed tenders on the basis of reserved price which is equivalent to the economic rent.

(*i*) In Murshidabad district, a fishery was leased out to a Primary Co-operative Society for five years from 1976-77 at an annual lease rent of Rs. 11,001. After expiry of the lease term (1980-81), it was settled with DCFCS for seven years from 1981-82 at an annual rent of Rs. 11,001 without execution of any lease deed. The DCFCS paid Rs. 11,001 for the first year 1981-82 and at the rate of Rs. 8,801 per year instead of Rs. 11,001 from 1982-83 to 1986-87. The lease rent for 1987-88 was not paid till May 1988. As the lease rent was Rs. 11,001 and the society agreed to pay lease rent at that rate at the time of settlement, it was liable to pay lease rent at Rs. 11,001 for the entire period of lease for seven years. Acceptance of lease rent at a lower rate of Rs. 8,801 resulted in loss of revenue amounting to Rs. 13,200 from 1982-83 to 1987-88.

On this being pointed out in audit (May 1988), the district authorities stated that on consideration of a prayer from the society, the lease rent had been reduced. The reply is not tenable in as much as the lease rent of Rs. 11,001 was determined as per rules and reduction thereof by the district administration was made without approval of Government, which was irregular.

(*ii*) In Howrah district, a Government market falling within Uluberia municipality was under the management of Irrigation department of the Government till it was transferred to the Land Revenue Department on 7th April 1959. The Irrigation Department fixed the stall rent of the market in 1958-59 at an average of forty-nine paise per sq. ft. and the Land Revenue Department continued to realise the stall rent from 7.4.1959 at the rates fixed by the Irrigation Department. There has been no revision of rent till March 1988 although the market price of land within that municipal area has gone up by five to ten times.

On this being pointed out in audit (March 1988), the district office stated (June 1988) that the circle office would be asked to explore the possibilities of enhancement of rent.

3.11.8 *Non-realisation of interest on delayed payment of lease rent*

Under the provisions of the West Bengal Land Management Manual, 1977, 25 per cent of the rent for the first year of settlement should be deposited at the time of settlement of any fishery interest and the balance is to be deposited before the beginning of the year. Rents for the successive years are to be deposited

in full before the beginning of each year. Failure of any of these conditions will make the settlement liable to be cancelled. As per terms and conditions laid down in the model lease agreement form, all arrears of rent should be charged with interest at 6¼ per cent per annum and realised by resorting to certificate procedure, if necessary.

In Nadia district, it was noticed that 7 *khal* fisheries had been leased out to the District Central Fishermen's Co-operative Society for different periods ranging from 1980-81 to 1986-87. But the lessee-society paid lease rent of those interests, long after the due dates of payment in each case, between 15.6.1987 and 4.1.1988. The department did not levy and realise interest at the time of collection of arrear lease rent. This led to non-realisation of interest amounting to Rs. 14,536.

This was pointed out in audit in May 1988; reply of the district administration, Nadia has not been received (February 1989).

3.11.9 *Settlement of sairati interests without calling tender*

The West Bengal Land Management Manual provides that settlement of fisheries should preferably be made with Fishermen's Co-operative Societies by calling sealed tenders. The highest bidder should be given settlement, if the Collector is satisfied with the economic soundness of such society. There is, however, no provision which empowers the Collector to settle any fishery with the District Central Fishermen's Co-operative Societies by negotiations, instead of calling tenders. Board of Revenue in a circular issued in March 1986 also directed that vested water areas should be settled by the Collector preferably with the primary co-operative societies of the fishermen rather than the District Central Fishermen's Co-operative Societies.

In Murshidabad and Nadia districts, a large number of fisheries were leased out to the concerned District Central Fishermen's Co-operative Societies (DCFCS) without calling tender for years together although the societies failed to pay the annual lease rent amounting to Rs. 2,63,539 and Rs. 2,80,868 in respect of 18 and 66 *sairati* interests respectively for the varying periods between 1978-79 to 1987-88. In Murshidabad, out of 194 *sairati* interests settled with the DCFCS Ltd., only in 4 cases, lease agreements were executed till March 1988, while in Nadia district, lease agreement was not executed at all.

On this being pointed out in audit (May 1988), the district

administration of Murshidabad stated that steps would be taken to realise the dues while the district authorities of Nadia made no comments. But both the district administration were silent about the non-execution of lease agreement with the lessees.

All the foregoing matters were reported to Government in June 1988; their reply has not been received (February 1989).

# CHAPTER 4

# MINES AND MINERALS

## 4.1 Results of Audit

Test check of accounts of revenue realised in respect of mines and minerals by different Land Reforms Circle Offices and the Offices of Cess Deputy Collectors and Chief Mining Officer, conducted during 1987-88, revealed under-assessment, non-realisation and short realisation of revenue amounting to Rs. 390·90 lakhs in 36 cases, which broadly fall under the following categories:

| | Number of cases | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Non-levy and non-realisation of cesses on minor minerals .. .. .. | 10 | 112 18 |
| 2. Unauthorised extraction of minerals . .. | 10 | 45 01 |
| 3. Non-assessment/short assessment of royalty .. | 8 | 162 14 |
| 4. Non-assessment and non-realisation of surface rent | 6 | 44 21 |
| 5. Other cases .. .. .. | 2 | 27 36 |
| Total .. .. .. | 36 | 390 90 |

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

## 4.2 Non-assessment of royalty in respect of coal not accounted for

Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, the holder of a mining lease is liable to pay royalty at the prescribed rate fixed for each grade in respect of any mineral removed or consumed either by him or by his agent, manager, employee, contractor or sub-lessee from the leased area.

(*i*) In course of audit of assessment records in the office of the Chief Mining Officer, Asansol for the period 1985-86, it was noticed (January 1987) from the quarterly returns submitted by the Eastern Coalfields Limited for the period 1985-86 that in six cases, the closing stock of one quarter had not been correctly taken into the opening stock of the subsequent quarter leading to short accountal of 3,523 tonnes of coal. This resulted in non-assessment of royalties amounting to Rs. 20,098 computed at Rs. 6·50 on 722 tonnes of grade 'B' and at Rs. 5·50 on 2,801 tonnes of grade 'C' coal.

On this being pointed out in audit (January 1987), the assessing officer agreed (January 1987) to check up and revise the assessment. Further report has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

(*ii*) The Eastern Coalfields Limited had transferred 2,882 tonnes of grade 'C' coal to another colliery under their control during the quarter ending 31st December 1985. But the said transferred quantity of coal had not been accounted for in the quarterly return of the colliery to which it was transferred. This resulted in non-assessment of royalty amounting to Rs. 15,851, computed at Rs. 5·50 per tonne on 2,882 tonnes of coal.

On this being pointed out in audit (January 1987), the Chief Mining Officer, Asansol agreed (January 1987) to check up and revise the assessment. Report on revision has not been received (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

### 4.3 **Loss of revenue due to irregular auction sale of seized sand extracted unauthorisedly**

Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 as amended in 1972, no person shall undertake any mining operation in any area of the State without obtaining permission from the Collector of the district. The Act also empowers the State Government to recover the minerals raised by any person without any lawful authority. The West Bengal Financial Rules provide that when any stock materials are sold to the public, it should be done by public auction after fixation of minimum price and under the supervision of a responsible officer.

In course of test check of auction documents of a circle office in Howrah district, it was noticed (September 1986) that some unidentified persons had extracted sand measuring 45,500 cft. unanuthorisedly from Kana-Damodar river which was stacked at 29 places on the bank of the river. The district administration directed (June 1985) the circle office to sell the entire quantum of sand in public auction to be held at a conspicuous place in the presence of the Officer-in Charge of the land reforms departemnt and the police after observing necessary formalities. But the auction was held on 10th September 1985 without the presence of the Officer-in-Charge of the department and the police. The bid money offered and realised was stated to be Rs. 1,000 only for 45,500 cft. of sand which was far lower than the minimum rate of sand fixed by the department, being Rs. 35 per 100 cft. This resulted in a minimum loss of Rs. 14,925 (Rs. 15,925 minus Rs. 1,000), computed on the basis of the price of sand as fixed by the department.

On this bing pointed out in audit (September 1986), the district authorities admitted the objection (September 1986) stating that the matter could not be attended to properly due to illness of the Officer-in-Charge concerned during the period under report.

The matter was reported to Government in April 1987; their reply has not been received (February 1989).

### 4.4 **Non-assessment of royalty on coal despatched from new coal areas**

Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, the holder of a mining lease is liable to pay royalty at the prescribed rate for raising and despatch of coal.

In Asansol, the Eastern Coalfields Limited, a lessee, submitted returns for raising and despatch of different grades of coal from three new coal areas separately for the quarters ending on 30·6·1986, 30·9·1986 and 31·12·1986, but the department failed to assess and realise royalty at the prescribed rates. This led to non-realisation of royalty amounting to Rs.31·80 lakhs on the despatch of 5,26,042 tonnes of coal during the said quarters.

On this being pointed out in audit (November 1987), the assessing officer stated (November 1987) that assessment would be made after checking the position. Further report has not been received (February 1989).

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

4.5 **Non-assessment and non-realisation of surface rent**

Under the provisions of the West Bengal Minor Minerals Rules, 1973, every holder of a mining lease is also liable to pay, for the surface area used by him for the purpose of mining operation, surface rent at the rates prescribed by Government. Such rent is payable at Rs. 45 per acre per annum unless a different rate is agreed upon between the State Government and the lessee as provided in the West Bengal Estates Acquisition Act, 1953, as amended in 1977. Further, the Mineral Concession Rules, 1960 lay down that mining lease must be executed within six months from the date of granting the lease and the period of lease shall commence from the date of execution of lease deed.

(*i*) It was noticed (December 1987) from the records of the Additional District Magistrate (LR), Hooghly that eight persons had been granted mining leases for extraction of sand for 5 years in each case between 19th November 1976 and 1st April 1978. As per terms of the lease, the lessees were required to pay surface rent as may be fixed by the Government. But the department did not assess and realise surface rent although such rent had been fixed by the Government. Meanwhile, all the 8 leases had expired between 18th November 1981 and 31st March 1983. This resulted in non-assessment and non-realisation of surface rent amounting to Rs. 1·50 lakhs computed at Rs. 45 per acre per annum.

On this being pointed out in audit (December 1987), the district authorities of Hooghly, while admitting the fact of non-assessment of surface rent, stated (December 1987) that the matter would be scrutinised and action taken accordingly. Further development has not been intimated (February 1989).

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

(*ii*) In the course of test check of records and returns in the Mining Offices of Asansol and Purulia Zones for the period 1986-87, it was noticed that Government of West Bengal, Commerce and Industries Department, Mines Branch, in their orders issued in July 1978, granted two separate mining leases for 20 years each to the Eastern Coalfields Limited on the basis of their prayer subject to execution of lease deeds in the prescribed form. The leases were granted for extraction of sand for stowing purpose

from the beds of Ajoy and Damodar rivers covering a total area of 9,880·76 acres. But the district authorities of Burdwan, Bankura and Purulia did neither execute any lease deed nor assess and realise surface rent as per rates prescribed for the surface areas declared by the Eastern Coalfields Limited (3,910·66 acres in Asansol under Burdwan district and 5,970·10 acres in Bankura) till November 1987. As a result, the Eastern Coalfields Limited has been continuing extraction of sand without executing lease deeds and without payment of surface rent.

The surface rent not realised amounted to Rs. 40·02 lakhs for the period from 1st January 1979 to 31st December 1987 computed at Rs. 45 per acre on 9,880·76 acres.

On this being pointed out in audit (November 1987), the district authorities of Asansol, Bankura and Purulia stated (November 1987) that in the absence of execution of mining leases, no demand for surface rent could be made.

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

### 4.6 **Short realisation of price of minor minerals extracted unauthorisedly**

Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, whenever any person raises any minor minerals without any valid quarry permit, the State Government may recover the price of such minerals. The State Government clarified in August 1981 that if any quarry permit-holder extracts or removes any minerals in excess of the quantity permitted, such extraction should be treated as unauthorised extraction and price thereof be realised accordingly. Board of Revenue, West Bengal, in its order issued in September 1984, fixed the market price of brick-earth at Rs. 30 per 100 cft. for the year 1981 with an increase of Rs. 1·50 per 100 cft. each year for the year 1982 and 1983 till a new price is fixed by the Director of Mines and Minerals for the year 1984.

In Tamluk district, 70 persons had extracted 7·34 lakh cft. of brick-earth without obtaining quarry permits and 21 persons extracted 3·79 lakh cft. of earth in exceess of the quantity permitted during 1984-85 and 1985-86. As both the cases involved unauthorised extraction, market price at the prescribed rate should have been assessed and realised. But the district administration had assessed and realised such price at Rs. 15 per 100 cft, instead of Rs. 33 per 100 cft. (prevalent in 1983). The price assessable

on 11·13 lakh cft. of brick-earth worked out to Rs.3,65,269 against which the department assessed and realised Rs. 1,66,031. Thus, the irregular assessment of price at a rate lower than the rates prescribed by the Board resulted in short realisation of revenue amounting to Rs. 1·99 lakhs.

On this being pointed out in audit (January 1987), the district administration stated (February 1987) that they were not aware of the price of brick-earth fixed by the Director of Mines and Minerals and Board of Revenue and agreed to assess and realise price of earth as per Board's order.

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

4.7 **Non-realisation/short realisation of cesses**

(*i*) Under the provision of the Cess Act, 1880, the holders of quarry permits, granted under the West Bengal Minor Minerals Rules, 1973, were liable to pay, in addition to royalty, road cess and public works cess each at 6 paise per rupee of annual net profits earned by them. The Cess Act, 1880 as amended with effect from 12th November 1984 provides that each road cess and public works cess shall be assessed and levied at the rate of 50 paise on each tonne of coal, minerals and sand despatched from such quarries and mines.

(*a*) In Howrah district, 79 permits for brick-earth and 44 permits for sand were issued from 12th November 1984 to 14th April 1986. The extraction and removal against the permits amounted to 2,45,750 tonnes of brick-earth and 65,780 tonnes of sand. But no assessment of road cess and public works cess had been made as per amended provision of the Act although the permits were issued on or after 12th November 1984. This resulted in non-realisation of revenue amounting to Rs. 3·12 lakhs.

(*b*) In Bankura district, 302 permits (248 for brick-earth and 54 for sand) had been issued in 1985-86 and 110 permits (83 for brick-earth and 27 for sand) were issued in 1986-87. Against these permits, brick-earth measuring 1,50,125 tonnes and sand measuring 21,025 tonnes were extracted in 1985-86, and during 1986-87 extraction amounted to 36,650 tonnes of brick-earth and 11,250 tonnes of sand. But no cesses were assessed and realised either at the old rate or at the enhanced rate. This resulted in non-realisation of road cess and public works cess amounting to Rs. 2·19 lakhs each computed at 50 paise per tonne on 2,19,050 tonnes of minerals extracted.

(*c*) In Murshidabad district the new rates of cesses were not applied in case of 35 permit holders and mining lessees during 1985-86 and 1986-87. This resulted in non-realisation of road cess and public works cess amounting to Rs. 22,585 on 22,585 tonnes of brick-earth and sand extracted, against which a nominal amount of Rs. 479 only was realised.

On the omissions at (*a*), (*b*) and (*c*) above being pointed out in audit (between September 1986 and September 1987), the department agreed (between September 1986 and September 1987) to assess and realise the cess dues. Further development has not been intimated (February 1989).

The above cases were reported to Government between April 1987 and January 1988; their reply has not been received (February 1989).

(*d*) During test check of records relating to minor minerals in three districts viz. Jalpaiguri, Tamluk and Murshidabad for the period between 1984-85 and 1986-87, it was noticed that quarry permits had been issued in 319 cases between 12th November 1984 and 14th April 1986. The extraction and removal of brick-earth and sand amounted to 3,16,987 tonnes and 1,43,046 tonnes respectively. The department realised cesses (road cess and public works cess) at the old rates. The cesses assessable on the total quantity of 4,60,033 tonnes of brick-earth and sand worked out to Rs. 4,60,033 against which the department had realised only Rs. 84,204 from 12th November 1984 to 14th April 1986. This resulted in short assessment and consequent short realisation of road and public works cess amounting to Rs.3·76 lakhs.

On this being pointed out in audit (between December 1986 and September 1987), the district authorities of all the three districts stated (between December 1986 and September 1987) that assessment of the cesses at the revised rate could not be made due to late receipt of the Government order. The district authourities of Jalpaiguri and Murshidabad, however, agreed to realise the balance dues; while the district administration of Tamluk stated that the cesses at enhanced rate would be realised from 1st October 1985.

The matter was reported to Government (between May 1987 and January 1988); their reply has not been received (February 1989).

(*ii*) Under the provisions of the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and

Production Act, 1976, education cess and rural employment cess are leviable at 12 paise and 6 paise per rupee respectively on the annual net profits earned by the quarry permit holders for extraction and removal of minor minerals. According to the provisions of the Cess Act, 1880, also applicable to the assessment, levy and recovery of education cess and rural employment cess before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, manager, agent or occupier of every mine or quarry requiring to submit, within two months, a return showing annual net profit thereof for the last three years for which accounts have been made up. If no such return is furnished within the period of two months from the date of serving the notice or within any extended period of time as may be allowed, the Collector shall proceed to ascertain and determine the value thereof by ways and means as to him seem expedient and thereupon determine six per cent on such value to be the annual net profit.

(*a*) In Bankura district, 910 mining lessees and quarry permit holders had extracted different kinds of minor minerals aggregating 50,59,500 cft. during 1985-86 and 1986-87. The value of these minerals (as intimated by the department) worked out to Rs. 2·69 crores and annual net profit at 6 per cent amounted to Rs. 16·15 lakhs. The education cess and rural employment cess assessable and realisable worked out to Rs. 1·94 lakhs and Rs. 96,885 respectively. But the department neither issued any notice nor assessed the cesses till the date of audit (July 1987).

(*b*) In Midnapore district, in 20 cases in the year 1984-85 and 1985-86, there were extractions of 11,10,000 cft. of brick-earth equivalent to 1,53,40,000 numbers of brick. The value, as intimated by the department, worked out to Rs. 70·56 lakhs and annual net profit of the value amounted to Rs. 4·23 lakhs. Education cess and rural employment cess assessable and realisable amounted to Rs. 76,209, against which an amount of Rs. 6,600 only was paid voluntarily by the quarry permit holders. Neither any notice calling for the annual net profit returns was issued nor assessment was made *suo motu* till the date of audit (January 1987), resulting in short recovery of revenue of Rs. 69,549.

On the omission at (*a*) and (*b*) above being pointed out in audit (July 1987 and January 1987), the district officer of Bankura agreed (July 1987) to take action for realisation of cess; while the district administration of Midnapore stated (January 1987) that

action had already been taken to realise the cess as per existing guidelines of the Government.

(*c*) 83 quarry permits were issued in Howrah district during 1984-85 and 1985-86. The production of brick on the basis of figures of extraction of clay furnished by the department totalled 702·75 lakhs and the value thereof worked out to Rs. 252·99 lakhs. Annual net profit, as determinable under the Act, was Rs. 15·18 lakhs and the cesses leviable worked out to Rs. 2·73 lakhs. But the department did neither issue any notice calling for the returns of annual net profit nor assess the cesses for 1984-85 and 1985-86 till the date of audit (September 1986). This resulted in non-recovery of cesses amounting to Rs. 2·73 lakhs.

On this being pointed out in audit (September 1986), the district authorities stated (September 1986) that notices were being issued to each brick field owners for submission of annual net profit return for 1984-85 and 1985-86. If no returns were received, both the cesses would be assessed and realised as prescribed in the Acts.

(*d*) In Tamluk, 54 quarry permits were issued between 9th May 1984 and 8th May 1986. The number of bricks produced was 144·61 lakhs, the value of which worked out to Rs. 44·83 lakhs. Annual net profit at 6 per cent amounted to Rs. 2·69 lakhs and the cesses assessable and realisable worked out to Rs. 48,416. The department had issued (January 1987) notices under the Act for the years 1984-85 and 1985-86 but a few of the 54 permit holders had so far submitted their returns. Thereafter, no attempt was made to assess and realise the cesses. This resulted in short recovery of Government revenue amounting to Rs. 0·44 lakh over and above Rs. 4,032 realised as cesses.

On this being pointed out in audit (January 1987), the district administration admitted (February 1987) the receipt of few returns and stated that steps would be taken to assess and realise the cesses as provided in the Acts, if no returns were received from all the brick field owners.

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

(*iii*) Under the provisions of the Cess Act, 1880 read with the West Bengal Primary Education Act, 1973 and the West Bengal Rural Employment and Production Act, 1976, different kinds of cesses viz. road cess, public works cess, education cess and rural employment cess are leviable at the rates prescribed by

Government from time to time on the annual net profits earned by the quarry permit holders. The rates of cesses per rupee of the annual net profit were road cess: 6 paise, public works cess: 6 paise, rural employment cess: 6 paise and education cess: 6 paise upto 31st March 1981 and 12 paise from 1st April 1981.

(*a*) (1) In Tamluk district 202·34 lakh bricks and 23·39 lakh tiles were manufactured during the period 1982-83 and 1983-84 on the basis of quarry permits issued by the district office. The value of the minerals as assessed by the department worked out to Rs. 71·55 lakhs and annual net profit at 6 per cent of the value amounted to Rs. 4·29 lakhs. But the department did not assess and realise the cesses which worked out to Rs. 1·29 lakhs, computed at 30 paise on each rupee of annual net profit.

This being pointed out in audit (March 1985), the district authorities stated (March 1985) that attempt would be made for realisation of different kinds of cesses at 30 paise per rupee of annual net profit. However, in February 1987, the district office further stated that the demand could not be raised for non-availability of names of the brick field owners.

(2) Further, in the course of review of records of the same district in January 1987, it was noticed that during 1984-85 and 1985-86, total number of 240 quarry permits (115 in 1984-85 and 125 in 1985-86) had been issued. But none of those 240 permit holders had submitted their returns showing annual net profits as required under the Cess Act, 1880 for the purpose of assessment of cesses. However, on cross checking the records of the concerned Commercial Tax Office, Tamluk, it was noticed that annual net profits for the years between 1980-81 and 1983-84 was available in respect of 10 brick field owners only. On the basis of such annual net profits (Rs. 3·67 lakhs) cesses recoverable worked out to Rs. 1·05 lakhs for the years falling between 1979-80 and 1983-84. Cesses could not be assessed in audit in respect of the remaining 230 permit holders owing to non-availability of relevant information.

On this being pointed out in audit (January 1987), the district administration stated (February 1987) that steps were being taken to issue demand notices in respect of 10 cases. But nothing was stated about the remaining 230 permit holders.

(*b*) In Cooch Behar district, 32 brick fields were operated during 1984-85 and 1985-86 on the basis of quarry permits issued by the district office. The department did neither issue any notice calling for the return of annual net profits nor initiate any action

to assess the cesses *suo motu* as provided in the Act of 1880. Annual net profit of six brick fields covering 13 cases, as ascertained from the Commercial Tax Office concerned, amounted to Rs. 3·07 lakhs for the period between 1981-82 and 1983-84. The cesses assessable and realisable in respect of 6 brick fields worked out to Rs. 0·88 lakh.

On this being pointed out in audit (June 1986), the district authorities stated (July 1986) that steps were being taken to issue notice under section 72 of the Cess Act, 1880 to all the brick field owners. They also agreed to assess the cesses as provided in the Act if the said profit and loss accounts were not received.

(*c*) 78 quarry permits were issued in Howrah district during the period 1984-85 and 1985-86. But none of the quarry permit holders had submitted returns of annual net profit. The quantum of bricks manufactured could not be ascertained from the district office. However, on verification of records of the Commercial Tax Office concerned, annual net profits for those years could be ascertained in respect of ten brick fields only. On this basis, the amount of cesses leviable worked out to Rs. 0·77 lakh.

On this being pointed out in audit (September 1986), the district administration stated (September 1986) that no notices under section 72 of the Cess Act, 1880 were issued to the brick field owners till date. However, the same were being issued to each of the brick field owners. In case no returns were received, determination of annual net profit, and assessment and realisation of cesses would be made as per provisions of the Act, 1880.

(*d*) On test check of records of assessments made by the Cess Deputy Collector, Birbhum district, it was noticed that out of 505 number of quarry permits issued by the district office in 1982-83, cesses had been assessed in respect of 191 cases only on the basis of returns filed by the brick field owners. Out of the balance 314 cases, 49 cases were test checked in audit and it was noticed that there were extraction of brick-earth in 27 cases, black-stone in 17 cases and morrum in 5 cases. But no cesses were assessed and realised till June 1987. The annual net profit of such minerals as assessed by the department worked out to Rs. 80,000 in respect of brick, Rs. 40,005 in respect of black-stone and Rs. 1,350 in respect of morrum. Total cesses assessable and realisable at the prescribed rates amounted to Rs. 36,405 (Rs. 24,000 for brick plus Rs. 12,000 for black-stone and Rs. 405 for morrum).

On this being pointed out in audit (June 1987), the Cess

Deputy Collector, Birbhum stated (June 1987) that they were in the dark about the number of quarry permit holders since no list was supplied by the Sub-divisional Land Reforms Officer. It was, however, assured to take steps to cope with such work.

The above cases were reported to Government (between August 1985 and October 1987); their reply has not been received (February 1989).

(*e*) It was noticed (December 1985) from the records of the Cess Deputy Collector, Bankura that a mining lessee held three mining leases each for 20 years for extraction of china clay, fire clay and plastic clay respectively. The lessee had submitted consolidated audited accounts of annual net profit for five years from 1979-80 to 1983-84, but the assessing authority did not assess and realise the cesses. This resulted in non-realisation of cesses amounting to Rs. 47,368 computed at 30 paise per rupee on the annual net profit of Rs. 1,57,892 for the period from 1979-80 to 1983-84.

On this being pointed out in audit (December 1985), the assessing authority stated (December 1985) that action was being taken to determine the cesses and realise them. Further report has not been received (February 1989).

The matter was reported to Government in May 1986; their reply has not been received (February 1989).

# CHAPTER 5

# MOTOR VEHICLES TAX

## 5.1 Results of Audit

Test audit of the accounts of motor vehicles tax in different offices under the Transport department, carried out during 1987-88, revealed non-realisation and short realisation of revenue amounting to Rs. 38·34 lakhs in 85 cases, which broadly fall under the following categories:

| | Number of cases | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Non-realisation/short realisation of road tax .. | 23 | 7·59 |
| 2. Irregularity in fixation of registered laden weight | 5 | 7·53 |
| 3. Irregular remission of road tax .. .. | 8 | 3·10 |
| 4. Non-levy of tax from the date of possession or control of vehicles .. .. .. | 18 | 7·63 |
| 5. Other cases .. .. .. | 31 | 12·49 |
| Total .. .. .. | 85 | 38·34 |

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

## 5.2 Short realisation of road tax due to irregular fixation of registered laden weight

Under the West Bengal Motor Vehicles Tax Act, 1979, tax on a vehicle, used for transportation of goods, is to be assessed on its registered laden weight. Government of West Bengal clarified (May 1972) that when an ex-army vehicle is used as civilian transport vehicle, its registered laden weight, where no maker's certificate is available, shall be fixed in accordance with the registered laden weight assigned to vehicles of the same make, model and wheel base in the State of West Bengal.

In Purulia region, registered laden weight of 3 ex-army vehicles, registered between May 1976 and February 1980, were fixed at levels lower than that fixed in respect of vehicles of similar make, model and wheel base in the same region. This resulted in short realisation of tax amounting to Rs. 48,734 for various periods between May 1976 and March 1988.

On this being pointed out in audit (March 1986 and May 1988), the department stated (March 1986 and May 1988) that the registered laden weight of the vehicles was fixed at 250 per cent of their unladen weight as per provisions of the Bengal Motor Vehicles Rules, 1940. The reply of the department is not tenable in view of the fact that the make, model and wheel base of the vehicles being available in these cases, the fixation of registered laden weight in such cases was to be made in accordance with clarificatory order of May 1972.

The matter was reported to Government in July 1986; their reply has not been received (February 1989).

### 5.3 **Short realisation of road tax due to non-revision of registered laden weight**

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax on transport vehicle is payable with reference to its registered laden weight. With the concurrence of the Union Government, Government of West Bengal issued (November 1983 and May 1984) instructions to all registering authorities that registered laden weight of all two axled rigid transport vehicles having front axle with two tyres and rear axle with four tyres and registered during 1968 to March 1983, should be refixed at 150 per cent of the manufacturer's ratings or 16,200 kg whichever is less.

(*a*) In Hooghly region, registered laden weight of 22 rigid transport vehicles, registered between 1968 and December 1979, had not been refixed at the required level. This resulted in road tax, for the period from November 1983 to March 1986, being realised short by Rs. 37,789.

On this being pointed out in audit (August 1986), the registering authority agreed (August 1986) to examine the cases. However, no further report has been received (February 1989).

The matter was reported to Government in March 1987; their reply has not been received (February 1989).

(*b*) In Jalpaiguri region, registered laden weight of 25 rigid

transport vehicles, falling under above category, had not been refixed at 16,200 kg. each till March 1985.

This resulted in road tax for the period from November 1983 to March 1985 being realised short by Rs. 24,117.

On this being pointed out in audit (February 1986), the department agreed (February 1986) to look into the matter. Further development has not been intimated (February 1989). The matter was reported to Government in June 1986; their reply has not been received (February 1989).

### 5.4 **Short realisation of road tax due to grant of irregular permits**

Under the Motor Vehicles Act, 1939 and the Bengal Motor Vehicles Rules, 1940, a contract carriage means a vehicle which carries passenger or passengers, for hire or reward under a contract at a fixed or agreed rate, from one point to another without stopping to pick up or set down passengers not included in the contract. A stage carriage means a motor vehicle which carries passengers for hire or reward at separate fares paid by or for individual passengers either for the whole journey or for stages of the journey, whereas a private service vehicle is ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons in connection with his trade or business or otherwise than for hire or reward. The rate of tax on a contract carriage is higher than that on a private service vehicle and it is greater than that on a stage carriage when the seating capacity exceeds 28.

In Durgapur region of Burdwan district, some of the buses owned by the Durgapur Steel Plant were used for the purpose of carrying their own staff exclusively, from some fixed points of collection in different parts of the Durgapur Steel Plant Township to the Plant and back on realisation of a fixed sum each month. Considering from the point of view of nature of service and purpose for which the vehicles were used, contract carriage permits should have been granted in these cases. However, the said vehicles were granted either stage carriage or private service vehicle permits. This led to short realisation of tax amounting to Rs. 26,940 during the period from 1st April 1984 to 31st March 1986 in respect of 5 private service vehicles permits and 11 stage carriage permits.

On this being pointed out in audit (February 1987), the taxing authority stated that as these were fit cases for issue of

contract carriage permits, they would take up the matter with the regional transport authority, Burdwan.

The matter was reported to the regional transport authority, Burdwan and Government in June 1987. While the former agreed (May 1988) to look into the matter, the reply of the Government has not been received (February 1989).

5.5 **Loss of revenue due to irregular exemption of road tax**

Under the Bengal Motor Vehicles Tax Act, 1932 and the West Bengal Motor Vehicles Tax Act, 1979 and the rules framed thereunder, the State Government may exempt either totally or partially any motor vehicle or class of motor vehicles from payment of tax. By an order issued during January 1972, the State Government exempted all tractors and tractor-trailers used solely for agricultural purpose from payment of tax subject to the satisfaction of the taxing officer on the point of use. The taxing officer makes necessary verification on the point of use with the assistance of the Government officers at Block/District level. Persons incharge of such vehicles shall make a report to the taxing officer in the month of April every year stating whether the circumstances in consideration of which the vehicles were exempt during the preceding year exist at the time. The taxing officer makes verification on this also, with the help of the same machinery.

In Midnapore region, owners of seven tractors and eight trailers were allowed exemption for different periods between April 1982 and March 1987 without any verification on the point of use. Besides, in the case of one tractor and a trailer such exemption was allowed during April 1984 to March 1987 in spite of definite proof against the vehicles not being used solely for agricultural purpose. This led to irregular exemption of tax amounting to Rs. 75,258.

On this being pointed out in audit (April 1986 and May 1987), the taxing authority admitted (May 1986 and May 1987) the omission and agreed to realise the amount. Report on realisation has not been received (February 1989).

The cases were reported to Government in January and August 1987; their reply has not been received (February 1989).

5.6 **Loss of revenue due to non-revision/delay in revision of seating capacity of mini-buses**

Under the West Bengal Motor Vehicles Tax Act, 1979,

tax on vehicles plying for carrying passengers on hire is payable at prescribed rates, depending on their seating capacity excluding the driver's seat. Government issued (October 1980) instructions fixing the seating capacity of mini-buses, with 120" and 127" wheel bases, at 28 including the driver's seat.

In Barasat region of North 24-Parganas district, seating capacity of 4 mini-buses built on 120" wheel base was kept at 23 including the driver's seat even after the issue of instructions by Government in October 1980. In case of 6 other mini-buses having same wheel base the seating capacity was revised from 23 to 28 including driver's seat on various dates after a lapse of 36 months to 58 months from the date of order. Non-revision/ delay in revision of seating capacity of mini-buses resulted in loss of revenue amounting to Rs. 16,450 for the period from October 1980 to December 1986.

On this being pointed out in audit (January 1987), the regional office agreed (January 1987) to take necessary action. Report on action taken has not been received (February 1989).

The matter was reported to Government in May 1987; their reply has not been received (February 1989).

### 5.7 **Non-realisation of tax on chassis from the date of entry into West Bengal**

The West Bengal Motor Vehicles Tax Act, 1979, requires every person, who owns or keeps in his possession or control a motor vehicle, to pay road tax on the vehicle at prescribed rate. In June 1982, the State Government clarified that in respect of vehicles registered in any other State in India, payment of tax shall have to be made from the date of its entry into West Bengal, pending its re-registration in the State.

Five numbers of chassis registered temporarily in other States were brought into West Bengal between 29th December 1984 and 4th December 1985. The vehicles were registered in Calcutta region between December 1985 and October 1986 on realisation of tax from the respective months of registration, instead of from the dates of their entry. This resulted in non-realisation of tax amounting to Rs. 16,535.

On this being pointed out in audit (December 1986), the department agreed (January 1987) to look into the cases. Further development has not been intimated (February 1989).

The matter was reported to Government in June 1987; their reply has not been received (February 1989).

## 5.8 Short realisation/non-realisation of taxes in respect of seized vehicles

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

(*a*) In Calcutta region, one truck was seized on 15th May 1986 for non-payment of tax for the period from 1st April 1985 to 31st May 1986. The vehicle was released on 5th July 1986 after realisation of an amount of Rs. 2,288 only. As the period of detention exceeded 30 days, the vehicle owner was liable to pay Rs. 36,287 being five times of tax due. This resulted in short realisation of tax of Rs. 33,999.

On this being pointed out in audit (November 1986), the authority agreed (January 1987) to realise the balance amount. Report on realisation has not been received (February 1989).

(*b*) In Jalpaiguri region, one truck was seized on 24th May 1985 for non-payment of tax amounting to Rs. 12,635 from June 1983 to May 1985. The vehicle was released on 3rd July 1985 after realisation of an amount of Rs. 25,630. As the period of detention exceeded 30 days, the owner was liable to pay Rs. 63,175 being five times of tax due. This resulted in short realisation of tax of Rs. 37,545.

On this being pointed out in audit (February 1987), the authority agreed (February 1987) to take up the matter with Public Vehicle Department, Calcutta with whom the vehicle was registered. Further development has not been intimated (February 1989).

(*c*) In Bankura region, 2 trucks were seized and detained on 31st March 1986 and 12th April 1985 for non-payment of tax amounting to Rs. 19,516 and Rs. 15,755 from 1st October 1982 to 31st January 1986 and from 1st August 1982 to 30th April 1985 respectively. Due to non-payment of tax and penalty within the said period of 30 days the vehicle owners made themselves liable to make payment of Rs. 97,580 and Rs. 78,775, being five times the amount of annual tax due. As the dues were not cleared with-

in a further period of 15 days, the vehicles were required to be sold for realisation of the dues.

On this being pointed out in audit (July 1986 and May 1988), the authority stated (May 1988) that the vehicles were awaiting sale by auction. Further report has not been received (February 1989).

The above cases were reported to government between November 1986 and June 1987; their reply has not been received (February 1989).

### 5.9 Under-assessment of tax due to mis-classification of vehicles

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax on a transport vehicle is higher than that on a trailer, but it is lower than the tax on a tractor not used solely for agricultural purpose. As per clarification given by State Government in July 1972 and July 1975 respectively, a crane is to be taxed as a tractor not used solely for agricultural purposes, and a trailer superimposed on a tractor constituting an articulated vehicle is to be taxed as transport vehicle.

In Malda region, tax in respect of two articulated trailers was realised during various periods between August 1984 and August 1987 at the rate applicable to trailers, instead of at the rate applicable to transport vehicles. In the same region, tax in respect of a crane and a tractor (not used solely for agricultural purposes) was realised for various periods between January 1986 and December 1987 at the rate applicable to transport vehicles, instead of at the rate applicable to tractors (not used solely for agricultural purposes). This resulted in under-assessment of tax amounting to Rs. 17,717.

On this being pointed out in audit (July 1987), the authority admitted (July 1987) the mistake and agreed to realise the difference of tax. Report on realisation has not been received (February 1989).

The matter was reported to Government in November 1987; their reply has not been received (February 1989).

### 5.10 Non-levy of road tax from the date of purchase, possession or control

Under the West Bengal Motor Vehicles Tax Act, 1979, every person who owns or keeps in his possession or control a motor vehicle is liable to pay tax on such vehicle at the prescribed rate. Motor vehicles in use for defence purposes are exempt from levy

of road tax. However, as soon as a military vehicle is sold, the person purchasing it becomes liable to pay tax from the date of purchase as clarified by the State Government in their notification dated 6th March 1984.

(*a*) In South 24-Parg. ıas district, 19 motor vehicles purchased between January 1968 and October 1985 in auction held for disposal of military vehicles were registered between March 1985 and October 1986. Road tax in respect of those vehicles was, however, realised from the dates of registration instead of from the dates of purchase. The omission to levy tax from the dates of purchase resulted in non-realisation of road tax amounting to Rs. 5·34 lakhs.

On this being pointed out in audit (July 1986 and April 1987), the department admitted (April 1988) the omission and agreed to issue demand notices.

The matter was reported to Government in April 1987 and August 1987; their reply has not been received (February 1989).

(*b*) In Barasat region of North 24-Parganas district, 8 motor vehicles were registered between 17th July 1985 and 7th February 1986 on realisation of road tax commencing from the respective months of their registrations. These vehicles were, however, purchased between 8th July 1974 and 10th July 1978 in auctions held for disposal of military vehicles and hence tax thereon was leviable from the dates of their purchase, instead of from the dates of their registrations. The omission to levy tax from the dates of purchase resulted in non-realisation of road tax amounting to Rs. 1,36,237.

On this being pointed out in audit (January 1987), the taxing authority agreed (May 1988) to issue demand notices for realisation of the amount. Further development has not been intimated (February 1989).

The matter was reported to Government in May 1987; their reply has not been received (February 1989).

(*c*) In Malda district, 6 motor vehicles were registered between July 1985 and March 1986 on realisation of road tax commencing from the respective months of their registration. These vehicles were, however, purchased between June 1978 and September 1983 in auctions held for disposal of military vehicles and hence tax thereon was leviable from the dates of their purchase, instead of from the dates of their registration. The omission to levy tax from the dates of purchase resulted in non-realisation of road tax amounting to Rs. 69,496.

On this being pointed out in audit (June 1986), the concerned Regional Transport Authority stated that further clarification had been sought from Government in February 1985. Further report has not been received (February 1989).

The matter was reported to Government in March 1987; their reply has not been received (February 1989).

5.11 **Non-realisation of tax on chassis**

Under the Motor Vehicles Act, 1939, a chassis, even if a body is not attached to it, is a motor vehicle. Under the West Bengal Motor Vehicles Tax Act, 1979 every person, who owns or keeps in his possession or control any motor vehicle, is liable to pay road tax at the prescribed rate from the date of acquiring ownership, possession or control and not from the date of production of the vehicle for registration as clarified by Government in their memo dated 28th June 1985. The road tax of a chassis is dependent on its maximum laden weight certified by the manufacturer.

In two regional offices of Midnapore and Malda districts, 7 chassis were registered between April 1985 and March 1986 on realisation of road tax commencing from the months of their registration. These chassis had, however, been purchased between November 1984 and June 1985. The omission to levy tax from the dates of purchase led to non-realisation of tax amounting to Rs. 30,125.

On this being pointed out in audit (June and July 1987), the regional authorities agreed (June and July 1987) to realise the tax. Report on realisation has not been received (February 1989).

The cases were reported to Government in August 1987 and November 1987; their reply has not been received (February 1989).

5.12 **Short realisation of tax**

Under the Bengal Motor Vehicles Tax Act, 1932 and the West Bengal Motor Vehicles Tax Act, 1979 (which repealed the former Act), tax on vehicles plying for carrying passengers on hire as contract or stage carriage is payable at prescribed rates depending on their seating capacity. The rate of tax on a contract carriage is, however, higher than that on a stage carriage.

In Nadia district, road tax in respect of 4 contract carriages for various periods between April 1972 and March 1986 was

realised at the rates applicable to stage carriages. This resulted in short realisation of tax amounting to Rs. 20,827.

On this being pointed out in audit (September 1986), the department agreed (September 1986) to rectify the mistake. Further report has not been received (February 1989).

The matter was reported to Government in March 1987; their reply has not been received (February 1989).

5.13 **Irregular refund/remission of tax**

Under the provisions of the West Bengal Motor Vehicles Tax Act, 1979, read with the West Bengal Motor Vehicles Tax Rules, 1957, a registered owner of a transport vehicle is entitled to claim refund or remission of proportionate tax for periods during which the vehicle has remained off the road. For this purpose, in terms of 'note' appended to Rule 24(*i*), it is obligatory on the part of the owner to surrender the certificate of registration, the related tax token and also Parts A and B of the permit in case of permit vehicle to the taxing officer on or about the date on which the vehicle goes off the road. The claim for refund or remission is also required to be supported by a prescribed declaration.

(*a*) In Purulia region, registered owners of 9 transport vehicles were allowed remission of tax for different periods falling between August 1982 and July 1986 though in those cases Part A and Part B of the permits were not surrendered. This resulted in irregular remission of tax amounting to Rs. 54,381.

On this being pointed out in audit (September 1986), the authority admitted (September 1986) the omission. Further development has not been intimated (February 1989).

The matter was reported to Government in March 1987; their reply has not been received (February 1989).

(*b*) In Barasat region (North 24-Parganas district), registered owners of 4 transport vehicles were allowed remission of road tax on the ground of non-use of their vehicles for various periods falling between July 1982 and February 1986. While in two cases, none of the prescribed documents had been surrendered, in the remaining two cases part A of the permit had not been surrendered by the owners to the tax officer. This led to irregular remission of tax amounting to Rs. 26,416.

On this being pointed out in audit (January 1987), the authority admitted (January 1987) the omission and agreed to follow the prescribed rules.

The matter was reported to Government in May 1987: their reply has not been received (February 1989).

(*c*) In Bankura region, registered owners of 13 transport vehicles were allowed remission of tax for different periods falling between January 1985 and January 1986 though in those cases Part A and Part B of the permits were not surrendered. This resulted in irregular remission of tax amounting to Rs. 18,903.

On this being pointed out in audit (July 1986), the authority admitted (July 1986) the omission. Further development has not been intimated (February 1989).

The matter was reported to Government in November 1986; their reply has not been received (February 1989).

## 5.14 **Short realisation of fees for grant of temporary permits**

Under the Bengal Motor Vehicles Rules, 1940 as amended with effect from 1st April 1985, the rate of fees for the grant of temporary permit within the State was raised from Rs. 5 to Rs. 25 per vehicle per region per week or part thereof and that for any other State from Rs. 15 to Rs. 50 per vehicle per week or part thereof. In the following cases fees amounting to Rs. 2,71,925 were short realised.

| Sl. No. | Name of region | Number of temporary permits granted | Whether within the State or outside the State | Period for which permits granted | Amount of short realisation (Rs.) |
|---|---|---|---|---|---|
| 1. | Birbhum | 29 | Within the State | 1st April 1985 to 19th April 1985 | 19,120 |
| 2. | Purulia | 57 | ,, | | |
| | | 21 | Outside the State | 1st April 1985 to 18th April 1985 | 18,705 |
| 3. | Calcutta | 60 | Within the State | 1st April 1985 to 11th April 1985 | 1,14,580 |
| 4. | Midnapore | 79 | ,, | 1st April 1985 to 12th April 1985 | 16,965 |
| 5. | Burdwan | 70 | ,, | 1st April 1985 to 17th April 1985 | 27,770 |

| Sl. No. | Name of region | Number of temporary permits granted | Whether within the State or outside the State | Period for which permits granted | Amount of short realisation (Rs.) |
|---|---|---|---|---|---|
| 6. | Durgapur | 134 | „ | 1st April 1985 to 18th April 1985 | 41,020 |
| 7. | Bankura | 33 | „ | 1st April 1985 to 16th April 1985 | 11,750 |
| 8. | Durgapur | 85 | Outside the State | 1st April 1985 to 18th April 1985 | 11,025 |
| 9. | Calcutta | 85 | „ | 3rd April 1985 to 14th April 1985 | 10,990 |
| | Total | | | | 2,71,925 |

On these being pointed out in audit (between July 1986 and August 1987), the authorities stated (between July 1986 and August 1987) that short realisation of fees were due to late receipt of the Government notification.

All the cases were reported to Government between November 1986 and November 1987; their reply has not been received (February 1989).

5.15 **Short realisation of fines**

In exercise of the power conferred under the Motor Vehicles Act, 1939, the Government of West Bengal issued notification (November 1982) vesting some officers with the powers of compounding traffic offences committed under different sections of the said Act. Rates of compounding were fixed by the Government of West Bengal at 50 per cent of the maximum fines, prescribed under the Motor Vehicles Act, 1939.

(*a*) In Murshidabad and Alipurduar regions in 22 cases of traffic offences committed between March 1984 and March 1985 fines were realised at rates lower than those fixed by Government. This resulted in fines being realised short by Rs. 18,850.

On this being pointed out in audit (June 1985 and February 1986), the Regional Transport Officer of Murshidabad agreed (June 1985) to look into the matter, while the Additional Regional

Transport Officer of Alipurduar stated (February 1986) that the mistake occurred due to late receipt of Government order.

The cases were reported to Government in September 1985 and June 1986; their reply has not been received (February 1989).

(*b*) In Calcutta region, traffic offences in 28 cases committed between May 1984 and April 1985 were compounded at rates lower than the prescribed ones. This resulted in fines being realised short by Rs. 18,300.

On this being pointed out in audit (October 1985), the regional authority admitted (October 1985) the omission. Further development has not been intimated (February 1989).

The matter was reported to Government in May 1986; their reply has not been received (February 1989).

(*c*) In Darjeeling district, compounding of traffic offences in 12 cases committed between 1st April 1984 and 31st March 1985 was made at rates lower than the prescribed ones. This resulted in fines being realised short by Rs. 11,675.

On this being pointed out in audit (May 1985), the regional authority agreed (May 1985) to review the cases for realisation of the amount. Report regarding review has not been intimated (February 1989).

The matter was reported to Government in August 1985; their reply has not been received (February 1989).

### 5.16 **Acceptance of current tax without realising arrears**

Under the West Bengal Motor Vehicles Tax Act, 1979 and the West Bengal Motor Vehicles Tax Rules, 1957, owners of motor vehicles are required to deposit, within the prescribed period, such amounts of tax as are certified by the Taxing Officer, to be correct with reference to the tax demand register. Every tax token granted in proof of payment of tax is to be returned to the Taxing Officer on its expiry or at the time of payment of tax for the subsequent year or quarter.

In two regional offices in Birbhum and Alipurduar, current taxes were realised without realisation of arrear of road tax in respect of 10 motor vehicles for different periods between October 1984 and February 1987. This resulted in taxes amounting to Rs. 21,072 remaining unrealised due to not following the prescribed procedure.

On this being pointed out in audit (February 1986 and July 1987), the department admitted (February 1986 and July 1987)

the omission and agreed to take action. Further report has not been received (February 1989).

The matter was reported to Government in June 1986 and September 1987; their reply has not been received (February 1989).

5.17 **Non-levy of penalty**

Under the provisions of the West Bengal Motor Vehicles Tax Act, 1979, road tax on a motor vehicle is payable within the prescribed period of 15 days reckoned from the date on which tax becomes payable. In the event of delay in payment, penalty at varying rates is leviable depending upon the extent of delay in payment of tax.

(*a*) In the regional offices of Jalpaiguri and Alipurduar in Jalpaiguri district and Siliguri in Darjeeling district, road tax in respect of 40 motor vehicles for various periods during the years 1983 to 1985 was paid by the vehicle owners after the expiry of the prescribed periods (delay ranging from 17 days to 10 months 3 days). No penalty was, however, levied in such cases. This resulted in non-realisation of penalty amounting to Rs. 20,723.

On this being pointed out in audit (February 1986), the authorities of Alipurduar and Jalpaiguri agreed (February 1986) to take action, while the authorities of Siliguri region stated that the matter would be referred to Government. Further developments have not been intimated (February 1989).

The cases were reported to Government between June 1986 and November 1986; their reply has not been received (February 1989).

(*b*) In Alipore region, two vehicles purchased during March 1984 and March 1985 were registered in April 1986 and March 1986 respectively. While realising road tax in respect of the former for the period from July 1984 to March 1986 and that in respect of the latter for the period from March 1985 to February 1986 during April 1986, no penalty was levied for delayed payments. This resulted in non-realisation of penalty amounting to Rs. 20,116.

On this being pointed out in audit (April 1987), the local office stated (May 1987) that as the arrear tax related to the pre-registration period of the vehicles, no penalty was realised. The stand taken by the local office is not maintainable in view of clear provisions of the Act to levy penalty for delayed payment of tax.

The matter was reported to Government in August 1987; their reply has not been received (February 1989).

# CHAPTER 6

## STATE EXCISE

### 6.1 **Results of audit**

Test audit of the accounts of State Excise revenue maintained at different district revenue wings, conducted during 1987-88, revealed non-realisation or short realisation of excise duty (including fees) amounting to Rs. 42·70 lakhs in 38 cases, which broadly fall under the following categories:

| | Number of cases | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Non-levy/short levy of duty on chargeable wastage | 11 | 6·26 |
| 2. Non-levy and non-realisation of tree tax .. | 8 | 1·25 |
| 3. Non-recovery/short recovery of privilege fee .. | 4 | 2·85 |
| 4. Other cases .. .. .. | 15 | 32·34 |
| Total .. .. .. | 38 | 42·70 |

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

### 6.2 **Non-realisation of privilege fee**

(*i*) In terms of Government notification dated 12th October 1982 for the exclusive privilege of manufacturing coloured and flavoured spirit from rectified spirit imported from outside the State, the manufacturer, unless he is a licensed distiller of the State, shall pay to the State Government, a fee of 50 paise in case of a bottling plant situated within the metropolitan area of Calcutta and a fee of 60 paise in other cases for each bulk litre of spirit imported by him from outside the State. Such fee shall be payable through a personal ledger account as soon as a consignment of imported spirit is received in a warehouse. Further the Commissioner of Excise, West Bengal, issued instructions (December 1986) that it should be ensured that local spirit meant for manufacture of country spirit is not used in the manufacture

of coloured and flavoured spirit and where it was already used, to realise the fee on the quantity thus used.

(*a*) Records of one manufacturer of coloured and flavoured spirit in Burdwan district revealed that during the years 1985-86 and 1986-87, the licensee blended 50,390 7 bulk litres of spirit received from a local supplier for manufacture of coloured and flavoured spirit and avoided payment of fee on the same. This irregularity was not detected by the official concerned and resulted in fee of Rs. 30,234 not being realised. This indicates failure of prescribed procedure.

On this being pointed out in audit (October 1987), the department realised the entire amount in January 1988.

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

(*b*) While scrutinising (December 1986), the records of a bonded warehouse in Calcutta, it was seen in audit that one manufacturer having its bottling plant situated within the metropolitan area of Calcutta imported from Maharashtra a total quantity of 68,891·7 bulk litres of spirit between April 1985 and September 1986, but fee of Rs. 34,446 recoverable from him had not been realised, which indicated the failure of prescribed system.

On this being pointed out in audit (December 1986), the department stated (June 1987) that the amount had since been realised in full in December 1986.

The matter was reported to Government in February 1987. Government confirmed the recovery in June 1987.

(*ii*) In terms of Government Notification dated 21st March 1984 with effect from 1st April 1984 a fee at the rate of Re. 1 per bulk litre for the privilege of importing India-made foreign liquor other than beer from any place in India to any place within West Bengal is to be paid by the importer. The rate of fee was enhanced to Rs. 1·50 per bulk litre with effect from 1st April 1985.

In Asansol one dealer was allowed to import 17,400 bulk litres and 5,000 bulk litres of India-made foreign liquor during the years 1984-85 and 1985-86 respectively. But the privilege fee recoverable from the importer was not assessed and realised. The omission resulted in non-realisation of privilege fee of Rs. 24,900 which indicated failure of the prescribed procedure.

On this being pointed out in audit (January 1987), the department stated (August 1987) that the amount had since been realised in April 1987.

The case was reported to Government in April 1987; their reply has not been received (February 1989).

6.3 **Excess refund of privilege fee**

For the exclusive privilege of manufacture and wholesale supply of country-spirit in labelled and capsuled bottles, a manufacturer of country-spirit is required, under the West Bengal Excise (Manufacture of Country-Spirit in Labelled and Capsuled Bottles) Rules, 1979, to pay a privilege fee at prescribed rate per bottle of country-spirit manufactured by him. He is, however, entitled to a refund of privilege fee at the prescribed rate in respect of each bottle removed from the licensed premises for sale by wholesale at a warehouse, provided the selling warehouse is located neither in the same premises nor within one kilometre of the bottling plant. The allowable rate of refund is 5 paise per bottle in cases where the distance between the bottling plant and the warehouse is upto 30 kilometres and 7 paise per bottle in all other cases.

A manufacturer of country-spirit in Hooghly district was allowed excess refund of privilege fee amounting to Rs. 2,37,470 for transportation of 1,18,73,489 bottles of country-spirit from his bottling plant to a warehouse at Calcutta for sale by wholesale between April 1982 and March 1985 treating the distance in excess of 30 kilometres although it was less than 30 kilometres.

On this being pointed out in audit in March 1986 that the distance was less than 30 km., the department stated (January 1988) that actual communicable road distance between the bottling plant and warehouse in question, as certified by Public Works Department, was 29 kilometres and accordingly, the demand for Rs. 2,37,470 towards excess refund granted during the period from 1st April 1982 to 31st March 1985 was being raised and served upon the licensee. Further development has not been intimated (February 1989).

The case was reported to Government in March 1986; their reply has not been received (February 1989).

6.4 **Non-realisation of duty on transit wastage**

Under the Bengal Excise Act, 1909, and the rules made thereunder, duty is leviable on India-made foreign liquor imported from other States. There is no provision in the State Excise Rules for allowing any transit wastage in respect of India-made foreign liquor.

A licensee in Burdwan district suffered total transit wastage of 289·5 London-proof litres of India-made foreign liquor in course of import from other States during the years 1985-86 and 1986-87. Out of this, 84·22 London-proof litres had been identified as liquor other than rum and the balance 205·28 litres including 172·9 litres of liquors for which the particulars were not available, was treated as rum. Duties were leviable for rum and other than rum at the rate of Rs. 60 and Rs. 75 per London proof litre respectively. On the total wastage, duty leviable amounted to Rs. 18,633, which was not realised.

On the omission being pointed out in audit (November 1987), the department raised demand for Rs. 18,633 in November 1987. Report on realisation has not been received (February 1989).

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

# CHAPTER 7

# ENTRY TAX

## 7.1 **Results of audit**

Test audit of the accounts of entry tax maintained at different entry tax checkposts, conducted during 1987-88, revealed non-realisation, short realisation and under-assessment of tax amounting to Rs. 195·42 lakhs in 63 cases, which broadly fall under the following categories:

| | Number of cases | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Non-realisation, short realisation and under-assessment of entry tax .. .. .. | 27 | 76·77 |
| 2. Irregular exemption .. .. .. | 9 | 70·06 |
| 3. Transport passes not returned .. .. | 11 | 21·13 |
| 4. Mis-classification of goods .. .. | 3 | 6·26 |
| 5. Non-imposition of penalty .. .. | 2 | 12·12 |
| 6. Other cases .. .. .. | 11 | 9·08 |
| Total .. .. .. | 63 | 195·42 |

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

## 7.2 **Non-levy of entry tax**

(*i*) Under the Taxes on Entry of Goods into Calcutta Metropolitan area Act, 1972, entry tax on sugar is leviable at the rate of Rs. 1·50 per 100 kilograms on its entry into Calcutta Metropolitan Area for consumption, use or sale therein.

At Kalyani Railway Station Entry Tax Checkpost, 3,30,598 MT of sugar was imported into Calcutta metropolitan area by the Food Corporation of India during the period from July 1982 to March 1987, but no entry tax was levied. Tax not levied amounted to Rs. 4,95,897.

On the omission to levy tax being pointed out in audit in July 1986 and January 1988, the department stated (February

1988) that the matter was taken up with the authority of Food Corporation of India during March 1987 and a notice for assessment of tax was issued in November 1987. Further development has not been intimated (February 1989).

The matter was reported to Government in January 1987; their reply has not been received (February 1989).

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

Through a checkpost at Hossenabad in Hooghly district, 75 consignments of groundnut seeds, valuing Rs. 47·45 lakhs were brought into Calcutta metropolitan area by seven dealers during the period from 18th June 1979 to 16th November 1980. Entry tax amounting to Rs. 0·47 lakh was leviable on these goods, but no tax was levied.

On this being pointed out in audit between September 1982 and March 1987, the checkpost authorities stated (February 1988) that steps were being taken to assess and realise the tax. Further development has not been intimated (February 1989).

The matter was reported to Government between August 1983 and June 1987; their reply has not been received (February 1989).

(*iii*) Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, tax is leviable on entry of every specified goods into Calcutta metropolitan area, for consumption, use or sale thereof from a place outside that area at the prescribed rate. Accordingly, goods brought into Calcutta metropolitan area through railway container services and directly delivered at the consignees' door attract entry tax at the prescribed rate. On television sets tax is leviable at 4 per cent *ad valorem.*

At Howrah Railway Goods and Parcel Entry Tax Checkpost, television sets valuing Rs. 19,90,000 were imported into Calcutta metropolitan area by three dealers through railway container services between February 1985 and February 1986, but no entry tax was levied. Entry tax not realised amounted to Rs. 79,600.

On this being pointed out in audit (October 1986), the assessing authority stated (October 1986) that enquiries were

being made and result thereof would be intimated shortly; no further development has been intimated (February 1989).

The matter was reported to Government in February 1987; their reply has not been received (February 1989).

### 7.3 Under-assessment of tax due to mis-classification of goods

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, entry tax on tape-recorder is leviable at 4 per cent *ad valorem* whereas on electrical goods, it is leviable at 2 per cent *ad valorem.*

At Calcutta Air-port Entry Tax Checkpost, a dealer brought into Calcutta metropolitan area during January 1985 tape-recorders valuing Rs. 11·73 lakhs and described the goods in the invoice as "tape to tape transfer equipment—high speed tape duplicating system for manufacture of pre-recorded cassette tape". The assessing officer taxed the goods at 2 per cent *ad valorem* instead of at 4 per cent *ad valorem.* This resulted in under-assessment of tax amounting to Rs. 23,457.

On this being pointed out in audit (March 1987), the department agreed to realise the tax under-assessed. Further development has not been intimated (February 1989).

The matter was reported to Government in July 1987; their reply has not been received (February 1989).

### 7.4 Short levy of tax due to application of incorrect rate

(*i*) Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, tax on fruits dried or preserved when imported into Calcutta metropolitan area for consumption, use or sale thereof is leviable at the rate of 8 per cent *ad valorem* with effect from 20th April 1979.

At Calcutta Jetty Entry Tax Checkpost, 66,487 kg. of pulp of strawberry, valuing Rs. 9,91,554, was imported into Calcutta metropolitan area by a dealer during December 1986. The commodity was taxed at 3 per cent *ad valorem* treating it as aroma instead of treating it as preserved fruit. This resulted in short levy of tax of Rs. 49,577.

On this being pointed out in audit (April 1987), the assessing authority agreed (April 1987) to take action. Further report has not been received (February 1989).

The case was reported to Government in September 1987; their reply has not been received (February 1989).

(*ii*) Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, read with Government memo dated 27th September 1985, tax on aluminium rolled sheets in coil form and aluminium extrusion is leviable at the rate of 1 per cent *ad valorem.*

Through a road checkpost in North 24-Parganas district, aluminium rolled sheets in coil form and aluminium extrusion valuing Rs. 17,50,229 were brought into the Calcutta metropolitan area by a dealer between November 1986 and January 1987. The assessing officer assessed the goods at the rate of 4 paise per kilogram, instead of at the rate of 1 per cent *ad valorem.* This resulted in short levy of tax of Rs. 15,499.

On this being pointed out in audit (September 1987), the department agreed (September 1987) to examine the matter. Report on examination has not been intimated (February 1989).

The matter was reported to Government in December 1987; their reply has not been received (February 1989).

### 7.5 **Ineffective control over goods entered into Calcutta Metropolitan Area**

(*i*) Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, goods meant for immediate export may be allowed entry into Calcutta metropolitan area without payment of tax subject to the condition that goods are exported direct from the place of entry in the Calcutta metropolitan area to the place of export. In terms of a circular issued by the department in August 1973, the proof of such export is to be submitted to the department within 60 days from the date of entry of goods into Calcutta metropolitan area or such extended time as may be allowed by the prescribed authority, failing which tax shall be payable at prescribed rates.

At a dock checkpost in Calcutta, eleven consignments of specified goods were brought into the Calcutta metropolitan area for export, on various dates falling between July 1981 and February 1985 by five dealers. There was nothing on record to indicate that the goods were actually exported out of the Calcutta metropolitan area. Entry tax amounting to Rs. 1·38 lakhs was involved in these consignments, but no action was taken by the department.

On this being pointed out in audit (September 1987), the department stated (September 1987) that the disposal of the

cases was at hand. No further developments have been intimated (February 1989).

The matter was reported to Government in November 1987; their reply has not been received (February 1989).

(*ii*) Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, where no tax is leviable under this Act on the entry of any specified goods into the Calcutta metropolitan area on the ground that such goods are not intended to be consumed, used or sold in such area, the prescribed authority shall grant a transport pass certifying non-leviability to tax. If the whole or any part of the goods so entered is consumed, used or sold in the Calcutta metropolitan area, tax shall be levied and collected on so much of goods as is consumed, used or sold. The prescribed authority is required to make two carbon copies of the transport pass, one copy is sent to the officer on duty checking outgoing consignments at the checkpost and the other copy retained. The officer of outgoing checkpost returns the copy meant for him to the issuing authority duly certifying the removal of the consignment out of the Calcutta metropolitan area.

At a dock checkpost at Calcutta, forty-three consignments of specified goods were brought into the Calcutta metropolitan area on various dates falling between April 1985 and March 1986 on the strength of transport passes. But there was nothing on record to establish that the goods were conveyed out of Calcutta metropolitan area even after the expiry of a period ranging from eighteen months to thirty months. Entry tax amounting to Rs. 16·16 lakhs was involved in these consignments.

On this being pointed out in audit in September 1987, the department agreed to take action. Further progress has not been intimated (February 1989).

The matter was reported to Government in October 1987; their reply has not been received (February 1989).

### 7.6 **Non-realisation of tax and penalty**

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, entry tax is leviable at prescribed rates on entry of the goods specified in the Act for consumption, use or sale within Calcutta Metropolitan Area (CMA) on production of prescribed declaration made by the person bringing the goods from outside the area and assessment is made after necessary verification. A dealer

bringing in specified goods may be allowed to make an advance deposit of tax against which the amount of tax assessed and payable by him from time to time is adjustable. Penalty not exceeding ten times the assessed tax may be imposed on a dealer who brings in specified goods into Calcutta metropolitan area without payment of tax. In December 1981, the department instructed that the dealers, who owned private railway sidings and who were unable to produce the related documents necessary for assessing tax at the time of delivery of specified goods, should be asked to make advance deposit of tax. In such cases, dealers were to submit the relevant records within one month from the date of release of the goods. In case of default, maximum penalty provided under the Act was to be imposed.

A dealer holding a number of private railway sidings in Howrah district brought 25,709·700 metric tonnes of pig iron into Calcutta metropolitan area between December 1982 and October 1984 without payment of entry tax. Neither did the dealer make any advance deposit of tax, nor was the tax subsequently assessed and realised. Tax amounting to Rs. 2,57,097 was leviable at the rate of Rs. 10 per metric tonne. Maximum amount of penalty that could be imposed on the dealer for not depositing advance tax nor submitting relevant records within the prescribed period of one month worked out to Rs. 25,70,970.

On this being pointed out in audit (April 1986), the local office stated (April 1986) that total tax and penalty would be realised shortly; report on realisation has not been received (February 1989).

The matter was reported to the department and Government in February 1987; their reply has not been received (February 1989).

# CHAPTER 8

## AMUSEMENT TAX

### 8.1 **Results of audit**

Test audit of the accounts of amusement tax maintained at different district revenue wings, conducted during 1987-88, revealed non-realisation and short realisation of tax amounting to Rs. 232·84 lakhs in 45 cases, which broadly fall under the following categories:

| | Number of cases | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Non-levy/short levy of amusement tax .. | 14 | 200·74 |
| 2. Non-realisation of show tax .. .. | 19 | 9·40 |
| 3. Other cases .. .. .. | 12 | 22·70 |
| Total .. .. .. | 45 | 232·84 |

Some of the important cases and audit findings of review on "Assessment and collection of entertainment tax, betting tax and luxury tax" are mentioned in the following paragraphs.

### 8.2 **Non-renewal of cinema licences**

Rule 6(2) of the West Bengal Cinemas (Regulation of Public Exhibitions) Rules, 1956 provides that permanent cinema licence granted by the licensing authority shall be valid for one year and may be renewed from year to year on payment of fee as prescribed in rule 6(1) ibid. Rule 6(3) ibid lays down that any licensee failing to apply for renewal of his licence with the requisite fee within 15 days of the expiry of the term of his licence, shall at the time of renewal be required to pay a fine of Rs. 80 if the cinema house is situated in municipal area or town and Rs. 40 in the cases falling in other locality.

A review of Permanent Cinema Licence Registers in Hooghly district during July 1987 and in Burdwan district during September 1987 revealed that in 38 and 25 cases respectively, the cinema hall owners did not get renewed their licences on

payment of requisite fees and fines, although the validity of licences had expired between September 1978 and February 1987 in case of Hooghly district and between May 1979 and October 1986 in case of Burdwan district. No action was also taken by the department against the licensees. This involved non-realisation of licence fee amounting to Rs. 18,640 and fines amounting to Rs. 3,280.

On this being pointed out in audit (July 1987 and September 1987), the department agreed to take action to renew the licences. Report on the recovery has not been received (February 1989).

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

### 8.3 **Non-realisation of show tax and penalty**

In terms of Bengal Amusement Tax Act, 1922, as amended from time to time, proprietors of cinematograph exhibition are liable to pay to the State Government, in addition to entertainment tax payable, show tax at the prescribed rates for cinematograph exhibitions to which persons are admitted for payment. The said Act, further, provides that if the proprietor of any entertainment contravenes any provision of the Act or the rules made thereunder, he shall be liable to pay by way of composition of such offence, a sum of money not exceeding rupees one thousand or double the amount of tax payable, whichever is greater.

In the course of review (July 1987) of relevant records of two cinema houses in Hooghly district, it was noticed that the cinema hall owners defaulted in payment of show tax amounting to Rs. 41,992 in one case upto January 1985 and in another case upto March 1985. The proprietors being defaulters were liable not only to payment of show tax, but also penalty of Rs. 83,984 (double the amount of tax), by way of composition of offence. Further, the show tax payable from February 1985 to March 1987 in respect of one cinema hall and from April 1985 to March 1987 in respect of another, had not been assessed and realised till the date of audit.

On this being pointed out in audit, the department stated (July 1987) that the proprietors were being directed to pay off the due show tax. But no comment was made about the penal provisions of the Act. Further development has not been intimated (February 1989).

The case was reported to Government in August 1987; their reply has not been received (February 1989).

### 8.4 Non-realisation of outstanding entertainment tax and surcharge

Under the Bengal Amusement Tax Act, 1922 and the rules framed thereunder, no person liable to pay an entertainment tax shall be admitted to any entertainment except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp issued by Government for the purpose of revenue and denoting that the proper entertainment tax has been paid. The said Act also lays down that entertainment tax shall be charged in respect of each person admitted for payment at the rates prescribed therein and shall be paid by means of the stamp on the tickets. Further, a surcharge at the rate of 10 paise on each payment for admission is also realisable in addition to entertainment tax.

At a cinema hall in Calcutta district, the proprietor of a cinema hall did not pay entertainment tax and surcharge for the period from 29.3.1982 to 30.6.1982 and from 22.11.1982 to 30.1.1983 in contravention of the provisions of the Act although such taxes for the period from 1.7.1982 to 21.11.1982 and from 31.1.1983 onwards were paid. The amount outstanding for the above period amounted to Rs. 2,63,598.

On this being pointed out in audit in April 1983, the department stated (March 1988) that the outstanding amount of tax was raised from Rs. 2,63,598 to Rs. 2,93,598 due to dishonour of two cheques aggregating Rs. 30,000 drawn earlier by the proprietor of the cinema hall towards payment of entertainment tax and that the case was referred to the certificate officer for recovery and out of the outstanding dues of Rs. 2,93,598 an amount of Rs. 18,000 had been realised from the certificate debtor till January 1988. Report on the realisation of balance amount has not been received (February 1989).

Government, to whom the case was reported in February 1984, confirmed (March 1988) the reply of the department.

### 8.5 Delay in realisation of tax due to acceptance of cheques not in required form

In terms of the Bengal Amusement Tax Act, 1922 and the rules framed thereunder, payment of entertainment tax can be accepted only when it is made by the proprietors either by pre-

validated and certified crossed cheques or by cheques against cash deposits or bank guarantees or by drafts drawn on a local scheduled bank.

The proprietors of two cinema halls in Calcutta district tendered 22 cheques between November 1985 and July 1986 amounting to Rs. 4·40 lakhs towards payment of entertainment tax, surcharge etc. The cheques were accepted by the tax collecting authority though were not in the required form. Subsequently the cheques were dishonoured on presentation with the remarks 'refer to drawer/full cover not received'. Non-observance of the prescribed conditions by the collecting authority resulted in tax of Rs. 4·40 lakhs remaining unrealised for long period which indicated failure to follow the prescribed procedure.

On this being pointed out in audit (November 1987), the department stated (June 1988) that the dues amounting to Rs. 4,39,544 have since been liquidated by the owners during June 1988.

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

## 8.6 **Assessment and collection of entertainment tax, betting tax and luxury tax**

### 8.6.1 *Introduction*

The levy and collection of entertainment tax, betting tax and luxury tax are governed by the Bengali Amusements Tax Act, 1922, the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 as amended and the rules made thereunder. The trend of collection of these taxes for the last five years ending March 1988 is given below:

| | 1983-84 | 1984-85 | 1985-86 | 1986-87 | 1987-88 |
|---|---|---|---|---|---|
| | | | (In crores of rupees) | | |
| 1. Entertainment tax .. | 27·09 | 33·21 | 34·45 | 32·81 | 35·18 |
| 2. Betting tax .. | 3·83 | 3·91 | 2·48 | 3·00 | 2·01 |
| 3. Luxury tax .. | 0·06 | 0·08 | 0·11 | 0·17 | 0·24 |

8.6.2 *Scope of Audit*

A review on assessment and collection of entertainment tax, betting tax and luxury tax was conducted (April 1988 and June 1988) in Calcutta region and 7 districts *viz.* North 24-Parganas, South 24-Parganas, Burdwan, Bankura, Murshidabad, Nadia and Purulia.

8.6.3 *Organisational set-up*

In Calcutta, the Commissioner of Commercial Taxes, West Bengal was the prescribed authority to levy and collect these taxes till March 1987; thereafter the said powers have been vested with the Commissioner of Agricultural Income Tax, West Bengal, Calcutta. In districts, the Collectors of the respective districts and Deputy Commissioners, Darjeeling and Jalpaiguri districts are the prescribed authorities for levy and collection of these taxes. Sub-divisional Officers similarly discharge these functions in their respective sub-divisions.

8.6.4 **Highlights**

**—Short realisation/non-realisation of taxes amounting to Rs. 1·72 crores.**

**—Non-completion of final assessment of entertainments tax amounting to Rs. 64,088.**

**—Exhibition of films without renewal of licences.**

**—Delay in remitting tax amounting to Rs. 2.99 crores by a Turf Club.**

**—Tax amounting to Rs. 14·80 lakhs remaining unrealised from the proprietors of cinema halls.**

Important irregularities noticed are mentioned in the succeeding paragraphs.

8.6.5 *Short realisation/non-realisation of tax*

(*i*) *Short realisation of betting tax*

Under the Bengal Amusement Tax Act, 1922, the betting tax in respect of races held outside the State of West Bengal shall be charged, levied and paid at such rates not exceeding twenty-two and a half per cent as may be fixed by the State Government by notification in this behalf. Accordingly, the betting tax in connection with inter-State betting operations was fixed by the Government at 20 per cent with effect from 1st April 1980

on the monies paid and collected by the book-makers for onward payment to the collecting agent. In December 1986, Government issued notification reducing the rate of betting tax to 10 per cent in respect of races held in West Bengal; but no such order reducing the rate of betting tax in respect of inter-State races has been issued till the date of audit (May 1988).

The statements submitted by a Turf Club at Calcutta, relating to the period 20.12.1986 to 31.12.1987, revealed that an amount of Rs. 1·25 crores being 10 per cent of total takings was levied and collected by the book-makers and the Club had also intimated to the assessing authority that the above amount had been accrued as betting tax in respect of races held outside the State of West Bengal.

The levy and collection of betting tax in respect of inter-State bettings at 10 per cent instead of the prescribed rate of 20 per cent on the total takings resulted in short recovery of betting tax amounting to Rs. 1·25 crores.

On this being pointed out in audit (May 1988), the department stated (May 1988) that the Turf Club authorities had been directed to revert to the scheduled rates of taxes in respect of inter-State betting operations and to deposit the amount short paid. Further report on realisation has not been received (February 1989).

*(ii) Short realisation of totalisator tax*

Under the Bengal Amusement Tax Act, 1922, the totalisator tax is to be charged, levied and paid in respect of races held outside the State of West Bengal at 18 per cent with effect from 1st April 1980 on all monies paid to the totalisator. In December 1986, Government issued notification reducing the rate of totalisator tax for the races held in West Bengal from 18 per cent to 5 per cent in respect of 'win and place' bets and from 18 per cent to 10 per cent in respect of 'other bets'. But no such Government notification reducing the rate of tax in respect of inter-State races has been issued till the date of audit (May 1988).

A scrutiny of records in respect of a Turf Club at Calcutta relating to the period 20.12.1986 to 31.12.1987, revealed that in respect of inter-State bets, totalisator tax had been collected and paid by the said Club at 5 per cent in respect of 'win and place' bets and at 10 per cent in respect of 'other bets' as applicable to races held in West Bengal instead of 18 per cent leviable on all the bets. Consequently, this led to short payment of totalisator

tax amounting to Rs. 40·18 lakhs on the total takings of Rs. 3·92 crores in respect of inter-State races.

On this being pointed out in audit (May 1988), the department stated (May 1988) that the Turf Club authorities had been directed to revert to the scheduled rates of taxes in respect of inter-State races and to deposit the amount short paid. Further report on realisation has not been received (February 1989).

(*iii*) *Short realisation or non-realisation of luxury tax*

(*a*) Under the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972 as amended and the rules framed thereunder, every proprietor of a hotel or restaurant having provisions for air-conditioning is to pay luxury tax annually. The total tax payable is to be deposited in quarterly instalments within 10 days of expiry of each quarter. Rate of luxury tax was Rs. 200 per annum for every 10 sq. metres or part thereof of air-conditioned floor area of a restaurant during the period from 7.4.1975 to 31.3.1985. The rate was enhanced to Rs. 300 per annum with effect from 1st April 1985.

In the course of scrutiny of records of Calcutta region, it was noticed that in 45 air-conditioned restaurants, laxury tax was either not realised at the enhanced rate or realised at the enhanced rate from a date subsequent to 1st April 1985 and this resulted in short realisation/non-realisation of luxury tax amounting to Rs. 2,91,900 for the period upto 31.3.1988.

On this being pointed out in audit (May 1988), the department stated (May 1988) that necessary steps were being taken to realise luxury tax from the concerned restaurants at appropriate rate after proper verification of records. Report on realisation has not been received (February 1989).

(*b*) Under the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Rules, 1972 as amended, the assessing authority shall assess the luxury tax in respect of a restaurant in which there is provision for luxury and for this purpose he may utilise the services of the land acquisition collectors and Government electrical inspectors or other qualified building surveyors or air-conditioning experts as may be approved by the Government on the recommendation of the assessing officer. The assessing officer shall also perform periodical inspection with a view to ascertaining if the floor area of such restaurant has undergone any change during the intervening period.

In Calcutta region, out of 105 air-conditioned restaurants,

such measurements were made only in respect of 60 restaurants some times in June 1986 and July 1986 as per enquiry reports of the inspectors. A scrutiny of relevant records of 19 such restaurants revealed that there has been short realisation of luxury tax amounting to Rs. 35,875 between June 1986 and March 1988 due to non-application of enhanced rate of tax on additions to the air-conditioned floor areas as per enquiry reports of the inspectors.

On this being pointed out in audit (May 1988), the department stated (May 1988) that steps were being taken to realise luxury tax from the concerned restaurants at appropriate rate after proper verification of records. Report on realisation has not been received (February 1989).

(*iv*) *Short realisation of entertainment tax*

Under the Bengal Amusement Tax Act, 1922, as amended, the amount of entertainments tax on the value of each ticket for admission to any cinematograph exhibition shall be equal to such value, provided that where the amount of entertainment tax is not a multiple of five paise, such tax shall be rounded off to the next higher multiple of five paise.

A scrutiny of weekly returns of cinema houses revealed that the owners of six cinema houses (one under Calcutta region, four under Collector, Burdwan district and one under Collector, Nadia district) had paid entertainment tax short by five paise per ticket for cinematograph exhibitions held between August 1986 and March 1988, resulting in short realisation of entertainment tax amounting to Rs. 32,538.

On this being pointed out in audit (April 1988 to June 1988), the department agreed (May 1988 and June 1988) to recover the amount short realised. Further report on realisation has not been received (February 1989).

(*v*) *Entertainment tax remained unrealised due to non-observance of conditions for acceptance of cheques*

Under the Bengal Amusement Tax Act, 1922, and the rules framed thereunder, payments of entertainments tax can be accepted only when it is made by the proprietors either by prevalidated and certified crossed cheques or by cheques against cash deposits or bank guarantees or by drafts drawn on a local scheduled bank.

The proprietors of two cinema houses in Calcutta district tendered seventeen cheques between June 1986 and August 1986

amounting to Rs. 2,87,489 against payment of entertainment tax. The cheques were dishonoured on presentation due to the amount being not covered in the accounts of the proprietors. Non-observance of the conditions for accepting cheques by the collecting authority resulted in tax of Rs. 2,87,489 remaining unrealised till the date of audit.

On this being pointed out in audit (May 1988), the department stated (May 1988) that the proprietor of one cinema house had been directed to show cause why penal measures as per provisions of the Bengal Amusement Tax Act, 1922, should not be taken for tendering cheques which had been dishonoured by the bank and for default in payment of tax. In the case of another cinema house, the proprietor had been directed to deposit the amount against dishonoured cheques. Report on realisation has not been received (February 1989).

8.6.6 *Exhibition of films without renewals of licence*

Under the West Bengal Cinemas (Regulation) Act, 1954 and the rules made thereunder, the renewal of annual licence by the proprietor of a cinema hall is a pre-requisite for exhibiting cinematograph films in the hall. In the course of review of licence registers in respect of Calcutta region and five other districts *viz.* South 24-Parganas, North 24-Parganas, Burdwan, Murshidabad and Nadia, it was noticed that 79, out of 280, cinema houses were exhibiting films without renewals of the annual licence. No penal action as provided in the Act was taken against the use of cinema halls without proper licence. This involved non-realisation of revenue to the tune of Rs. 38,640 in respect of 79 cinema houses in the shape of licence fee for various periods between 1982 and 1987.

On this being pointed out in audit (April 1988 to June 1988), the department stated (May 1988 and June 1988) that steps had been taken to clear the pending cases of renewal of licences. Further report has not been received (February 1989).

8.6.7 *Delay in remitting betting tax by a Turf Club*

Under the provisions of the Bengal Amusement Tax Rules, 1922, the accounts of betting tax together with a statement in the prescribed form are required to be produced by the licensed book-makers before the prescribed officer within seven days of the last day of a race meeting and the amount of betting tax found by examining of such accounts to be due to the Govern-

ment shall be paid by the licensed book-maker within seven days of the examination of accounts to the prescribed officer who shall in turn pay such tax to the credit to Government forthwith. There is no provision in the Bengal Amusement Tax Act, 1922 and the rules made thereunder for imposition of penalty or levy of interest for delay in remittances into the Treasury.

In course of scrutiny of the records it was noticed that a Turf Club at Calcutta repeatedly delayed remitting tax to the Treasury. In 18 cases, delays ranged between four months and eleven months in remitting the betting tax of Rs. 2·99 crores pertaining to the periods between August 1985 and October 1987.

On this being pointed out in audit (May 1988), the department stated (June 1988), inter-alia, that in the absence of any penal measure in the Bengal Amusement Tax Act, 1922, no concrete steps could be taken for delay in payment of betting tax by the concerned Turf Club.

The Government should consider plugging the loophole in the system as not remitting the amount to the Treasury collected as tax might lead to misappropriation and fraud.

8.6.8 *Tax remaining unrealised from the proprietors of cinema halls*

Under the Bengal Amusement Tax Act, 1922, and the rules framed thereunder, every proprietor of a cinema house is required to submit weekly returns in prescribed forms to the prescribed authority along with challans showing full payment of entertainments tax, surcharge and additional surcharge payable for such weeks. In case of non-payment or default in the payment of taxes or failure in submission of returns, the collecting authority may lodge a report recommending appropriate action to the licensing authority who may disqualify such licence-holder for any period from holding licence and shall cancel and impound the licence. Further, any sum due on account of entertainment tax, surcharge, additional surcharge and show tax shall be recoverable by the State Government as a public demand.

In the course of review of the relevant records, it was noticed that an amount of Rs. 14·80 lakhs on account of entertainment tax, surcharge, additional surcharge and show tax relating to the period ranging between April 1980 and July 1987 had not been paid by the proprietors of five cinema houses in Calcutta region.

On this being pointed out in audit (April 1988 and June

1988), the department stated (May 1988 and June 1988), inter-alia, that necessary steps were being taken to realise the outstanding dues. Further report on realisation has not been received (February 1989).

8.6.9 *Non-submission/delay in submission of returns by the proprietors of cinema halls*

Under the Bengal Amusement Tax Act, 1922, as amended and the rules framed thereunder, every proprietor in relation to a cinematograph exhibition shall submit to the assessing authority a return in the prescribed form separately for each cinema house for each week by Tuesday immediately following the week to which the return relates along with a challan showing full payment of entertainment tax. Similar weekly returns of show tax in the prescribed form are also required to be submitted to the assessing authority immediately following the week of cinematograph exhibition. If the proprietor of any entertainment fails to furnish returns, he shall be punishable with fine which may extentd to three thousand rupees besides imprisonment. If the offence is a continuing one, a daily fine not exceeding one hundred rupees is also leviable during the period of continuance of the offence.

In the course of scrutiny of relevant records of 46 cinema halls under the jurisdictions of Calcutta region and two other districts viz. Purulia and South 24-Parganas, it was noticed that no return was submitted by the proprietors of 16 cinema halls (7 under Calcutta region, 4 under Collector, Purulia and 5 under Collector, South 24-Parganas) during 1987-88. Further, a review of the relevant records of 30 cinema halls under Calcutta region revealed that weekly returns of 18 cinema halls were not submitted within the prescribed period. The proprietors of the said cinema halls also defaulted in making payment of tax in due time. The period of delay in submission of returns varied between 10 days and 3 months in 11 cases, between 4 months and 6 months in 5 cases and more than 6 months in two cases. No penal action was taken against any proprietor for non-submission or delay in submission of returns.

On this being pointed out in audit (April 1988 and May 1988), the department stated (May 1988 and June 1988) that necessary instructions were being issued shortly to the proprietors of cinema halls to submit returns and to pay up the taxes within statutory period.

8.6.10 *Irregularities in the maintenance of records relating to video cassette player set/video cassette recorder set and non-realisation of tax*

Under the West Bengal Entertainment-cum-Amusement Tax Act, 1982, the owners of video cassette recorder set or video cassette player set are liable to pay tax of Rs. 250 per annum for holding such set for domestic use with effect from 1st October 1985. Registration Register and Demand and Collection Register are required to be maintained for keeping control over the timely payment of tax due by the said owners.

A review by audit of the relevant records relating to video cassette recorder sets and video cassette player sets in Calcutta region and North 24-Parganas district revealed that adequate attention had not been paid to the maintenance of these registers with the result that no check had been or could be exercised to ensure that all video cassette recorder and video cassette player sets held for domestic use had been brought under the purview of taxation and the taxes due in all such cases had been collected. The following shortcomings were noticed:

(*a*) The registers maintained were not exhaustive and did not reflect the complete and exact position in respect of video cassette recorder/video cassette player sets.

(*b*) The taxes realised had not been posted in the registers regularly as such no correct information on the arrears of tax due in such cases could be ascertained.

(*c*) Where taxes were in arrears, there was nothing on record to show if any action was taken for realisation of the same.

(*d*) Several cases were noticed where taxes for subsequent periods were accepted without verifying the receipt of payments for the earlier periods.

On this being pointed out in audit (May 1988), the department stated (May 1988), inter-alia, that steps were being taken to maintain the registers properly.

8.6.11 *Non-reconciliation of departmental figures with Treasury records*

Under the relevant provisions of the West Bengal Treasury Rules, Volume I, reconciliation of departmental figures of revenue with those of Treasury records is required to be done by the department monthly with a view to ascertaining that the amount of every challan for payment of tax after being passed by the department had actually been credited to Government account and for this purpose a consolidated monthly statement of receipts

for all remittances of taxes made into Government Treasury is required to be obtained from the Treasury for verifying the same with those of the records maintained by the department. The discrepancy, if any, noticed should be settled forthwith to safeguard Government revenue.

In the course of audit of relevant records in respect of Calcutta region and four other districts viz., Purulia, South 24-Parganas, North 24-Parganas and Murshidabad, it was noticed that no such reconciliation was done for years together. In the absence of such reconciliation, it could not be ascertained in audit as to how the department satisfied itself that the amount of tax passed for payment into the Treasury had actually been credited to Government account.

On this being pointed out in audit (April 1988 to June 1988), the department stated (May 1988 and June 1988) that steps were being taken to reconcile departmental figures with those of treasury records. Further report has not been received (February 1989).

All the foregoing points were reported to Government in June 1988; their reply has not been received (February 1989).

# CHAPTER 9

# STAMP DUTY AND REGISTRATION FEES

## 9.1 **Results of audit**

Test-check of accounts of stamp duty and registration fees in certain district registration offices, conducted in audit during 1987-88, revealed non-levy and short levy of stamp duty and registration fees amounting to Rs. 82·55 lakhs in 97 cases, which broadly fall under the following categories:

| | Number of cases | Amount (In lakhs of rupees) |
|---|---|---|
| 1. Mis-classification of deeds resulting in loss of revenue .. .. .. | 6 | 56·49 |
| 2. Non-levy/short levy of stamp duty and registration fees .. .. .. | 23 | 10·25 |
| 3. Evasion of stamp duty due to under-valuation .. | 12 | 5·14 |
| 4. Non-realisation of surcharge .. .. | 4 | 3·47 |
| 5. Others .. .. .. | 52 | 7·20 |
| Total .. .. .. | 97 | 82·55 |

Findings of review of 'Levy and collection of stamp duty and registration fees' are mentioned in the succeeding paragraph.

## 9.2 **Levy and collection of stamp duty and registration fees**

### 9.2.1. *Introduction*

The levy and collection of stamp duty on various types of instruments is regulated under the Indian Stamp Act, 1899 whereas the levy of registration fees on the instruments presented for registration is governed by the Indian Registration Act, 1908 and the rules framed thereunder as applicable to West Bengal. Under the provisions of the Indian Stamp Act, 1899, documents of various descriptions are chargeable to duty at the rates pres-

cribed therein. Excepting the cases of adjudication of stamp duty by the Collector, duty on documents is paid by the executant on self-assessment. Under the Act, Collector is the Stamp Officer of his district. The Act empowers the Collector and other public officers including Civil Court Officers to verify the correctness of duty paid or payable in respect of documents presented to them. The public officers shall impound understamped/ unstamped documents presented to them for registration or other purpose and send them to the Collector for realisation of deficit stamp duty. Unlike other States viz. Maharashtra and Uttar Pradesh, there is no provision in the Act as applicable to West Bengal for realisation of deficit stamp duty in respect of documents already registered or adjudicated by the Collector, which indicates a system failure.

The revenue raised by the State from stamp duty and registration fees and the percentage of this revenue to the total tax revenue during the period from 1984-85 to 1987-88 are as given below:

| Year | Total tax revenue of the State | Revenue from stamp duty and registration fees | Percentage of revenue from stamp duty and registration fees to total tax revenue |
|---|---|---|---|
| | | (In crores of rupees) | |
| 1984-85 | 966·03 | 48·76 | 5·05 |
| 1985-86 | 1123·77 | 58·14 | 5·17 |
| 1986-87 | 1218·92 | 63·87 | 5·24 |
| 1987-88 | 1448·63 | 73·71 | 5·09 |

9.2.2 *Scope of audit*

A review on assessment and collection of stamp duty and registration fees was conducted between April 1988 and June 1988 in 7 Stamp Offices and 23 Registration Offices under seven districts viz. Calcutta, 24-Parganas, Howrah, Hooghly, Burdwan, Jalpaiguri and Darjeeling.

9.2.3 *Organisational set-up*

The State Government exercises control over stamp administration through the Board of Revenue and the Inspector General of Registration. The Board of Revenue controls collection of stamp duty through the Collectors as well as other public officers. The supervision and control of registration work is with the Inspector General who regulates it through the Registrars and Sub-Registrars.

9.2.4 **Highlights**

**—Loss of revenue due to mis-classification of documents (Rs. 24·67 lakhs)**

**—Loss of revenue due to incorrect determination of consideration money (Rs. 31·12 lakhs)**

**—Short realisation/non-realisation of stamp duty (Rs. 4·44 lakhs)**

**—Irregular exemption leading to loss of stamp duty and registration fees (Rs. 1·47 lakhs)**

**—Understamping in the case of documents not compulsorily registrable (Rs. 0·70 lakh)**

**—Evasion of stamp duty due to undervaluation of property (Rs. 2·60 lakhs)**

**—Loss of non-judicial stamps worth Rs. 54·77 lakhs in transit.**

The review brought out the following important irregularities:

9.2.5 *Loss of revenue due to mis-classification of documents*

Under the provisions of Indian Stamp Act, 1899, the stamp duty on an instrument depends on the real nature or substance of the transaction recorded in the instrument and not on any title or description or nomenclature given by the parties who execute the instrument.

It is the duty of the Registering Officer, as public officer, to ascertain the proper classification of a document and the duty payable thereon before registering the document. Any failure in this respect leads to loss of revenue, because under the said Act, as applicable in West Bengal, unlike other States viz. Maharashtra and Uttar Pradesh, there is no provision for realisation of deficit stamp duty on documents once registered and acted upon.

(*i*) *Mortgage mis-classified as power of attorney*

(*a*) Under the Indian Stamp Act, 1899, mortgage-deed includes any instrument whereby, for the purpose of securing money advanced or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to, or in favour of, another a right over or in respect of a specified property. It has been judicially held* that an instrument evidencing an agreement to secure the payment of a loan upon the deposit of a title deed and to give the mortgagee a right to call upon the mortgagor at any time to execute a mortgage in favour of the mortgagee, was a mortgage-deed.

According to the recitals, in seven documents registered in Calcutta, Burdwan and Durgapur during 1985-86 as "Power of Attorney", the West Bengal Financial Corporation and the West Bengal Industrial Development Corporation agreed to advance loans of Rs. 160·39 lakhs to the parties. The loanees (Private Ltd. Companies) agreed to execute first legal mortgages in English form of all their properties in favour of the corporations as security for the loans together with interest and other dues. The loanees also agreed to deposit with the corporations title-deeds of all their fixed assets, plant and machinery. The loanees further agreed to execute irrevocable powers of attorney in favour of the corporations authorising them (the corporations) to execute for and, on their behalf, the mortgages in the event of their default. The loanees, thus, created through these instruments, mortgages by deposit of title-deeds of fixed assets in favour of the corporations. The corporations were also appointed their true and lawful attorneys to execute the first legal mortgages in English form of all their movable and immovable properties and to appoint receivers of all their undertakings with the Court. From the very nature of recitals, the instruments were as such to be classified as "Mortgages" and not "Power of Attorney". Mis-classification of the deeds resulted in short levy of stamp duty and registration fees amounting to Rs. 6·23 lakhs.

These mistakes were pointed out in audit between January 1987 and May 1988. While the registering authority of Durgapur admitted the mistake, the replies given by the registering authorities of Calcutta and Burdwan were not specific.

*Kamal Ranjan Roy, Inre, ILR (1937) 2 Cal 486 : 41 CWN 961 (FB).

(*b*) In Sub-Registry Offices of Hooghly, Chandannagar and Durgapur, seven similar instruments, classified as power of attorney, were registered during January 1985 to March 1988 whereby the loanees (employees of different Government Undertakings) secured the loans and advances received from their employers. In two such instruments there was short levy of stamp duty and registration fees of Rs. 8,117. Short levy in the remaining cases could not be calculated as the amounts of advances were not set forth in the documents.

On this being pointed out in audit (between February 1988 and May 1988), the registering authorities of Hooghly and Durgapur admitted the mistake while the reply given by registering authority of Chandannagar was not specific.

(*c*) In a deed registered in Calcutta in September 1985, the executant, whose dues and owings to a firm were Rs. 2,50,000 with interest thereon, appointed the Director of that firm as his lawful attorney in respect of his rented property. The attorney was given, *inter alia*, the power to collect rent and interest of the property to appropriate the same towards the liquidation of the said dues, to sign, execute and deliver deed of sale/mortgage/exchange of lease, to present the said deed for registration and to receive the consideration.

As the attorney was given power for securing the dues, the document should have been classified as a deed of mortgage with possession and stamp duty and registration fee charged accordingly. The mis-classification of the deed resulted in short realisation of stamp duty and registration fee amounting to Rs. 38,501 and Rs. 2,435 respectively.

On this being pointed out in audit (January 1987), the registering authority admitted the mistake.

(*ii*) *Transfer of property in the guise of dissolution of partnership*

Under the provisions of the Indian Stamp Act, 1899, as applicable in West Bengal, on instruments of sale and gift stamp duty is leviable *ad-valorem* whereas on an instrument of dissolution of partnership duty is leviable at a fixed rate of Rs. 25.

(*a*) In Calcutta, a deed of dissolution of partnership was registered in August 1986 and another similar deed was registered in January 1987. The two deeds were co-related documents. According to the recitals of the deed of 1986 four members of an undivided Hindu Family owned three tea estates namely (*i*) Ambootia TE (*ii*) Konikar-Dallim and (*iii*) Boisahabi. The owners

formed a co-partnership in 1978 for dealing in tea of the three estates. By a deed of partnership dated 2nd May 1986, a corporated company was inducted and admitted as a partner of the said co-partnership firm. The said partnership was dissolved on 25th August 1986 and the outgoing partner, the corporated company, was allotted two tea estates namely (*i*) Konikar-Dallim and (*ii*) Boisahabi in lieu of its share in the assets and profits of the firm.

According to a judicial pronouncement* the said partnership deed was illegal in view of the fact that a partnership can only consist of persons; and a firm/registered company is not a person. As the partnership was not legally constituted in this case, the question of its dissolution does not arise at all. Thus the instant deed was nothing but a deed of conveyance in the guise of dissolution of partnership. The extent of evasion of stamp duty and registration fee due to mis-classification of the deed could not be calculated as valuation of the two tea estates was not recited in the deed.

According to the recitals of the deed, registered in January 1987, the same co-partnership firm again inducted another corporated company illegally as its partner through a partnership deed of 26th August 1986 which they dissolved through the instant deed executed on 31st day of December 1986. On dissolution, the outgoing corporated company was allotted Ambootia TE in lieu of its share in the assets and liabilities of the said firm which was not in order. The valuation of the TE, as recited, was Rs. 1 crore. Thus by adopting the *modus operandi* of dissolution of the illegally constituted partnership within four months of its formation, immovable property worth Rs. 1 crore was transferred and stamp duty and registration fee amounting to Rs. 15,31,995 and Rs. 1,99,989 respectively, as applicable to transaction of transfer with the third parties, evaded.

On this being pointed out in audit (August 1987), the registering authority agreed with the views of audit but expressed their inability to take any further action as these documents were adjudicated by the Collector of Stamps Revenue, Calcutta.

(*b*) According to a judicial pronouncement** where there was an absolute transfer of the share of a partner, to another partner who continued the business, on receiving specific sum of

*Dulichand *Vs.* Commissioner of Income Tax sc 354.
**Hiralal Navalram 32, Bom 505, 10 Bom LR 730.

money, the document was a "Conveyance" for the purpose of stamp duty and registration fee.

In Siliguri Sub-Registry Office, in a deed registered (in June 1987) as a deed of dissolution of partnership, the retiring partner relinquished, released, assigned and conveyed all his shares and interest to the continuing partner and in lieu thereof received Rs. 1,95,959·99 from the continuing partner. The deed should have been classified as deed of conveyance. The mis-classification resulted in short realisation of stamp duty and registration fee amounting to Rs. 30,981.

On this being pointed out in audit (June 1988) the registering authority stated that the retiring partner received the amount as his due share in the business and hence the document cannot be treated as conveyance. The reply is not tenable in view of the judicial pronouncement cited above.

(*iii*) *Deed of conveyance mis-classified as deed of release*

Under the provisions of the Indian Stamp Act, 1899, as applicable in West Bengal, stamp duty on instruments of sale, gift and partition is leviable *ad-valorem* whereas duty on instrument of release is leviable at a maximum rate of Rs. 30. In a release deed, the executant renounces a claim in favour of another person or against a specified property held by him. The essential and pre-requisite condition of 'release' is that there should be pre-existing right of the release on the property and the release should operate to enlarge the releasee's right and claim over the property.

In Calcutta, a deed of release was registered in June 1984, wherein the executant released a landed property owned by him in favour of a trust of which the executant himself was the solitary trustee. According to the recital of the release deed, the executant purchased the said property as a *benamdar* of the trustee of the said trust which was created by some other person for the benefit of his (other person) children and through the instant deed the *benami* purchase was regularised. On cross verification of two other co-related deeds of sale and declaration of trust registered in Calcutta in December 1983 and June 1984 respectively, it was noticed (February 1986) that the executant purchased the said property in December 1983 in his own name at a price of Rs. 1,50,000 and the said trust deed was executed in June 1984. So the fact of *benami* purchase, as recited, was not correct because, at the time of purchase of the property, the said trust was not in

existence. In the instant case there was a transfer of property in the guise of release which should have been classified as a conveyance. The mis-classification resulted in loss of stamp duty and registration fee amounting to Rs. 22,252.

On this being pointed out in audit (February 1986), the registering authority, *inter alia*, stated that there was no scope of verification as to the existence of the trust at the time of purchase and from the recitals the deed appeared to be a deed of release.

The reply is not tenable in view of the fact that the property was purchased in 1983 and the trust deed and the release deed were executed in 1984.

(*iv*) *Deed of partition mis-classified as deed of release*

Under the provisions of the Indian Stamp Act, 1899, as applicable in West Bengal, stamp duty on instrument of sale, gift and partition is leviable *ad-valorem* whereas duty on instrument of release is leviable at a maximum rate of Rs. 30. As per judicial pronouncement*, where parties purport to be co-owners of property and in that capacity execute documents, styled as releases dividing the property in severally, the documents really amount to an instrument of partition.

In each of the Sub-Registrar Offices of Asansol and Burdwan, 8 numbers of co-related deeds, styled as releases, were registered in July 1987 in order to get the effect of the oral partition of a property amongst 8 co-sharers legalised. Through each deed the releasee was allotted a well-defined and demarcated property released by the other. The documents taken together should have been classified as deeds of partition as per said judicial decision. The mis-classification resulted in short realisation of stamp duty and registration fee amounting to Rs. 9,724.

On this being pointed out in audit (May 1988), the registering authority of Asansol admitted the mistake, while no specific reply in respect of other office has been received.

9.2.6 *Incorrect determination of the consideration money of documents*

Under the provisions of the Indian Stamp Act, 1899, on instruments of sale, lease and partition stamp duty at *ad-valorem* rate is chargeable on the consideration money of the documents. While registering such documents, it is the duty of the Registering

*(1889) 12 Mad 198 (FB).

Officer to ascertain the proper chargeable consideration money of the document.

(*a*) In Sub-Registry Office of Chandannagar, a sale deed was registered on 29th September 1986 for transferring a jute mill in a running condition. According to the recitals, the agreed sale price of the mill was Rs. 2·25 crores, of which Rs. 66·25 lakhs was for lands and building, and Rs. 158·75 lakhs for all movable properties including plant and machinery etc. Though the registration was made on 29th September 1986, the sale was actually effected, as per recitals of the deed, retrospectively from 22nd August 1985. The executant delivered the possession of the mill as a whole prior to execution of the deed and acknowledged the receipt of the full consideration money. As per recital, the whole property (movable and immovable) valuing Rs. 2·25 crores was transferred and value of both movable and immovable property was cited in the deed but stamp duty was realised on Rs. 66·25 lakhs only (representing consideration of immovable property). Thus, stamp duty and registration fee were chargeable on the value of the whole property. The incorrect adoption of consideration money resulted in loss of stamp duty and registration fee amounting to Rs. 28·57 lakhs and Rs. 1·75 lakhs respectively.

On this being pointed out in audit (February 1988), the registering authority stated that full consideration value was not adopted as the properties were delivered earlier. The reply is not tenable as, transfer of the entire property, as recited, was effected at one time.

(*b*) In Calcutta, a deed of lease for a term of 21 years was registered in 1987. According to the recital, the lessee, in addition to the agreed monthly rent and service charges, paid Rs. 2,40,000 as advance and Rs. 2,40,000 as security deposit to be adjusted against rent. The document was charged to stamp duty under Article 35(*a*)(*v*) of the Schedule as a lease with rent reserved only, instead of charging stamp duty under Article 35(*c*) of the Schedule as a lease with money advanced in addition to rent reserved. The incorrect determination of the consideration money (not taking into account the advance payment of Rs. 4,80,000) resulted in loss of stamp duty amounting to Rs. 79,956. The registration fee was, however, realised on the amount of rent reserved as well as the money advanced.

On this being pointed out in audit (August 1987), the registering authority admitted the fact of under-stamping, but

expressed their inability to take any further action as the document was adjudicated by the Collector of Stamps, Calcutta.

9.2.7 *Short realisation/non-realisation of stamp duty*

(*i*) *Additional duty leviable under Howrah Improvement Trust Act not realised*

Under the provisions of the Howrah Improvement Trust Act, 1956, the duty imposed by the Indian Stamp Act, 1899, on instruments of sale, gift and usufructuary mortgage of immovable properties situated in Howrah Municipality area, shall be increased by 2 per cent of the value of the property or on the amount secured by the instrument. Under the Howrah Municipal Corporation Act, 1980, the Howrah Municipal Corporation was formed with effect from 10th January 1983 covering the existing area of Howrah Municipality and added area of 20 non-municipal mouzas. Accordingly, the aforesaid duty at the rate of 2 per cent shall also be leviable in respect of instruments on sale, gift and usufructuary mortgage of immovable properties situated within the added area from 10th January 1983. But the registering authority of the district admitted documents presented without payment of the said duty till 12th March 1987. This resulted in loss of duty amounting to Rs. 2,31,133 during 1st April 1986 to 12th March 1987 alone in respect of documents registered in the district office.

On this being pointed out in audit (April 1987), the registering authority stated (October 1987) that the loss was due to delayed receipt of information about the added areas.

(*ii*) *Inordinate delay in taking action on impounded documents*

Under the Indian Stamp Act, 1899, as applicable in West Bengal, if the Collector is of opinion that such instrument is chargeable with duty and is not duly stamped he shall require the payment of proper duty or deficit duty together with penalty in respect of documents impounded by him or other public officers. In case of non-payment, the Collector may recover the duty and penalty by distress and sale of the movable properties of the person from whom the same is due. The Act also provides that recovery of duty and penalty can be enforced only against the persons from whom the sums are due.

In Calcutta Collectorate, many impounded cases were lying unattended to. In 5 such cases alone relating to the years 1981 to 1984 deficit stamp duty involved worked out to Rs. 2,12,511.

This was pointed out in audit in June 1988; the reply of the Collector has not been received (February 1989).

9.2.8 *Irregular exemption leading to loss of stamp duty and registration fees*

(*i*) In accordance with the provisions of the Bengal Co-operative Societies Act, 1940, the State Government remitted stamp duty in respect of an instrument executed by or on behalf of, or in favour of, a Co-operative Society or by an officer or on behalf of a member thereof and relating to the business of such society. In cases not covered by such remission, the Co-operative Society, officer or member thereof, as the case may be, would be liable to pay the stamp duty chargeable under any law in respect of such instrument. The State Government also remitted any fee payable by a Co-operative Society for the registration of documents.

(*a*) A housing co-operative society in the district of Howrah, registered on 30th September 1982, was operating in two *mouzas**. From 17.7.1986 the society was allowed to work in another *mouza* under the order of competent authority. Purchase of land by the society in the third *mouza* was, therefore, not exempt from stamp duty and registration fee prior to 17.7.1986.

It was noticed that the said housing society purchased lands through 33 documents in the extended area (third *mouza*) between 8.10.1982 and 20.1.1984, without payment of any stamp duty. The registering authority, however, accepted those documents and registered the same without realisation of any stamp duty and registration fee. This resulted in loss of stamp duty and registration fee amounting to Rs. 72,882 and Rs. 8,803 respectively.

On this being pointed out in audit (June 1988), the registering authority admitted (July 1988) the mistake.

(*b*) A member of a housing co-operative society purchased a flat by a deed of conveyance registered on 20th December 1983. On 14th February 1986 she transferred the flat by assignment to a person not being a member of the said housing society, at a consideration of Rs. 2,26,825. The society had no role in the deal except confirming the transfer. As the housing society was not involved in this particular transaction, stamp duty and registration fee were not exempt. The registering authority of

**Mouza* means a group or block of villages regarded as an administrative unit.

Alipore (South 24-Parganas), however, accepted the document without any stamp duty and registered it without realisation of registration fee. This resulted in loss of stamp duty and registration fee amounting to Rs. 38,952 and Rs. 2,518 respectively.

Having been pointed out in audit (August 1987), the local office agreed (August 1987) to look into the matter. Further development has not been intimated (February 1989).

(*ii*) *Irregular exemption of registration fee*

Under the Indian Stamp Act, 1899, the stamp duty in respect of instruments of conveyance and lease is payable by the grantee and lessee respectively, unless there is an agreement to the contrary. There is, however, no provision in the Indian Registration Act, 1908 as to by whom the registration fee is payable. The system now in vogue is that the fee in respect of any document is paid by the persons paying the stamp duty. The State Government, by an order dated 17th August 1951, remitted the registration fee payable by a co-operative society for registration of any document. By another order issued in April 1968, the State Government further remitted registration fee in respect of documents executed in favour of a co-operative society by an officer, or a member or on behalf of a member thereof relating to the business of such a society.

In the registration officers of Alipore and Durgapur, 17 cases of sale and lease by housing co-operative societies to its members were registered during 1986 and 1987 without realisation of any registration fee on the ground that the fees were payable by the society, although fees were payable by the members (grantees) in these cases as there was no agreement that the fee would be payable by the co-operative society. This led to escapement of fees amounting to Rs. 24,068 during the said period.

On this being pointed out in audit in August 1987 and May 1988, the registering authority of Alipore agreed (August 1987) to look into the matter and the authority of Durgapur agreed (May 1988) to refer the case to the Government. Further report has not been received (February 1989).

9.2.9 *Understamping in the case of documents not compulsorily registrable*

(*i*) *Bill of exchange*

The indenture of bill of exchange is a negotiable instrument

executed between the parties and their banker for monetary transaction against supply and receipt of merchandize, which is chargeable with *ad-valorem* stamp duty at different rates depending upon the mode of payment of money agreed upon. In the Collectorate, stamps are issued on the basis of demand placed by the parties without ascertaining the purpose and money value of the instruments. In respect of negotiable instruments, registration is not compulsory. So the correctness of the value of stamps affixed on the body of the instrument cannot be ascertained by any public officer unless a claim for refund is preferred. This may also come to the notice of a Civil Court officer in case of litigation.

In the course of audit of refund cases at the office of the Collector of Stamp, Calcutta (June 1988), it was noticed that a company purchased stamps (special adhesive) of Rs. 25,530 and Rs. 14,260 for two bills of exchange payable at 90 days sight for Rs. 1·70 crores and Rs. 95·06 lakhs respectively instead of stamps of Rs. 42,547 and Rs. 23,765 leviable on these bills respectively. In the two bills there was understamping of Rs. 26,523.

In another 21 cases where bills of exchange were executed but not negotiated and refund of stamp duty was claimed and allowed, there was understamping of Rs. 30,222.

The cases cited above would go to suggest the possibility of large scale evasion of stamp duty in cases of negotiated bills of exchange to which a public officer has no access. In some of the States viz. Andhra Pradesh, Gujarat, Uttar Pradesh, however, the Stamp Act has been so amended as to give Collectors access to such documents.

This was brought to the notice of the Collector of Stamps, Calcutta (June 1988); their reply has not been received (February 1989).

*(ii) Indemnity bond*

Indemnity bond is an instrument executed between two parties whereby one party promises to save the other from loss caused to him by the conduct of the promisor himself or by the conduct of any other person. This type of documents in large numbers are executed in connection with transactions with bankers, Civil Courts, Customs and Railway offices. Under the provisions of Indian Stamp Act as applicable in West Bengal, such indemnity bond for securing a sum exceeding Rs. 1,000 is chargeable to stamp duty of Rs. 30 each.

It was noticed from the records of two Entry Tax authorities of Belur and Sealdah Railway Check-posts that the indemnity bonds, on which they assessed entry tax where railway receipts were not forthcoming, were being executed on five-rupee stamp paper instead of thirty-rupee stamp paper. During the period between April 1984 and July 1987, 511 numbers of such bonds were assessed to entry tax by the said authorities in which evasion of stamp duty worked out to Rs. 12,775.

9.2.10 *Evasion of stamp duty due to undervaluation of property*

Under the provisions of the Indian Stamp Act, 1899, as applicable in West Bengal, the consideration money, if any, and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of duty with which it is chargeable, shall be fully and truly set forth therein. Any person, who with the intent to defraud the Government executes any instrument in which all the facts and circumstances are not fully and truly set forth, shall be punishable with fine which may extend to Rs. 5,000.

The Collector is, however, empowered to compound such offences where there is sufficient and reasonable cause to do so. The said Act and rules made thereunder, however, do not provide for realisation of deficit stamp duty in such cases. Under the graduated scale of duty at *ad-valorem* rate, there is scope of evasion of stamp duty by under-stating the consideration money of a transaction. To check evasion, executive instructions have been issued from time to time, the latest on 30.1.1988, to the registering authorities to refer those instruments to the Collector where the authority has reasons to believe that the market value of the property involved therein has not been truly set forth. But neither the Collector is provided with specific guideline to determine the proper market value nor the Act was accordingly amended to realise deficit stamp duty as has been done by some other States viz, Uttar Pradesh, Tamil Nadu and Pondichery.

(*a*) The registering authorities of Burdwan, Hooghly and Howrah referred 410 cases of undervaluation to the concerned Collectors during 1979 to 1988. The Collector of Burdwan while settling 253 out of 324 cases, realised deficit stamp duty of Rs. 1·16 lakhs and penalty of Rs. 2,058 in 239 cases. In respect of 76 cases in Hooghly and 10 cases in Howrah and the remaining 71 cases in Burdwan no action had been taken up to June 1988.

On these cases being pointed out in audit (during May 1988 and June 1988), the Collector of Burdwan stated (May 1988) that the deficit stamp duty was realised as per practice prevailing in the district, while the Collectors of Hooghly and Howrah gave no specific reply.

(*b*) In 9 sub-registries, there was short levy of duty amounting to Rs. 2,59,793 due to apparent undervaluation (calculated by audit on average *mouza* rate of land of same nature and same locality) in 83 cases registered during 1985 to 1987. However, these cases were not referred to the Collector for determination of undervalue of the properties.

On these cases being pointed out in audit between April 1987 and February 1988, the authorities of 6 sub-registries agreed to refer the cases to the Collector; the authorities of 3 sub-registries, however, expressed difficulty in determination of proper valuation.

9.2.11 *Loss of non-judicial stamps in transit*

According to the rules regulating the supply and distribution of stamps, supply of such stamps is made from the Central Stamp Stores on F.O.R., Nasik Road terms. Accordingly, shortage in consignment of stamps in transit occasioned by theft, accident or other causes lie on the Government to whom the stamps are despatched, unless otherwise established. The rules also require such losses of stamps to be written off in accordance with the rules made by the State Government. The laws of the railways permit 6 months time from the date of despatch to lodge claim for compensation against transit loss of stamps.

Eight consignments of non-judicial stamps for a total face value of Rs. 155 5 lakhs, despatched from the Central Stamp Stores, Nasik by rail on various dates between March 1983 and July 1986, were received by the Treasury Officers, Barasat, Malda, Balurghat and Suri of the districts of North 24-Parganas, Malda, West Dinajpur and Birbhum respectively, on various dates between May 1983 and September 1986. Out of these eight consignments, stamps for face value of Rs. 54,76,600 were received short. The Treasury Officer, Barasat opened the cases containing the stamps after a period of 12 to 14 months thereby becoming time-barred for raising claim for compensation of Rs. 31,42,950 against the railways. The Treasury Officer, Birbhum did not lodge any claim against the railways.

On these cases being pointed out in audit (between July

1986 and May 1988), the concerned treasury officers stated (between August 1986 and May 1988) that the cases of shortages were intimated to Central Stamp Stores, Nasik. The Treasury Officer, Berhampore stated (August 1986) that claim for Rs. 1,64,100 preferred against railways was repudiated on grounds of time-bar and the disposal of the balance claim of Rs. 18,70,900 against the railways was awaited. The disposal of claims made by the Treasury Officers of Malda and West Dinajpur were also awaited.

Similar cases of loss of stamps in transit were also pointed out in para 8.5 of the Audit Report for 1985-86. Such recurring loss of stamp papers in transit has a far reaching effect on the stamp revenue of the Government as these lost stamp papers are likely to be used in execution of documents. There was no fool-proof system to guard against fraudulent use of such lost stamp papers.

The above points were reported to Government between October 1986 and June 1988; their reply has not been received (February 1989).

# CHAPTER 10

# OTHER TAX RECEIPTS

## A—AGRICULTURAL INCOME-TAX

### 10.1 Loss of revenue due to action for recovery of tax being barred by limitation

Under the provisions of the West Bengal Agricultural Income-Tax Act, 1944 read with the rules framed thereunder, agricultural income-tax shall be assessed as per prescribed rates and demand notice issued specifying the total sum payable by the assessee and the date of payment. The Act also provides that if an assessee is in default in making payment of the assessed dues, the assessing officer shall levy, in addition to interest, penalty for a sum not exceeding half the amount of tax payable. Arrears of agricultural income-tax dues are recoverable as arrears of land revenue. But in no case any proceeding for recovery of any tax payable shall be commenced after the expiration of three years after the last date fixed for payment.

In Bankura district, in respect of two assessees, tax amounting to Rs. 64,086 for the period between 1977-78 and 1980-81 had been assessed and demand notices issued specifying the dates between 31.3.1982 and 29.6.1984 as the last dates on which payments were to be made. The assessees did neither make any payment of the assessed dues nor preferred any appeals against the said demands. There were also no records to show that the recovery of tax was stayed wholly or partly by a competent court. The department did not even resort to certificate procedure for recovery of the dues as arrears of land revenue though more than three years had passed after fixing due dates of payment.

This resulted in a loss of revenue amounting to Rs. 64,086 as no action for recovery can be taken now due to bar by limitation.

On this being pointed out in audit (November 1987), the department admitted (November 1987) the mistake.

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

## B—TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS

### 10.2 **Non-realisation of profession tax due to non-enrolment of registered dealers**

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, the dealers registered under the Bengal Finance (Sales Tax) Act, 1941 are liable to pay profession tax at the rate of Rs. 150 and Rs. 250 per annum depending on the quantum of their gross turnover.

In Hooghly district, it was noticed that 162 dealers were registered under the Bengal Finance (Sales Tax) Act, 1941 during 1986-87. Out of these only 20 dealers were enrolled for levy of profession tax. The remaining 142 dealers neither applied for enrolment nor any action was taken by the department to get them enrolled. Non-enrolment of these 142 dealers resulted in non-realisation of profession tax amounting to Rs. 29,300 for the year 1986-87.

On this being pointed out in audit (July 1987), the department agreed (July 1987) to take action for enrolment and realisation of tax. Further development has not been intimated (February 1989).

The case was reported to Government in August 1987; their reply has not been received (February 1989).

### 10.3 **Interest not charged for delayed payment of tax**

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, enrolled persons and registered employers defaulting in payment of tax by the prescribed due date are liable to pay simple interest at two per cent of the amount of tax due for each month or part thereof for the period for which the tax remained unpaid.

Verification of records of enrolled persons and registered employers under a Calcutta unit showed that 42 enrolled persons and 54 registered employers defaulted in paying the profession tax for the years 1979-80 to 1982-83 (delays ranging from 1 to 49 months). Although they were liable to pay interest for the belated payments, no interest was charged. This resulted in non-realisation of interest amounting to Rs. 21,182.

On this being pointed out in audit (October 1986), the department agreed (October 1986) to take action for realisation

of interest. Report on action taken has not been received (February 1989).

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

## C—*THIKA* TENANCY

### 10.4 **Assessment and collection of *thika* tenancy revenue**

10.4.1 *Introductory*

The Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981 came into force with effect from 18th January 1982 extending over Calcutta Municipal Area and the Municipality of Howrah. Under this Act all land comprised in '*thika*' tenancies in these municipal areas vested in the State from the date of commencement of the Act.

A *thika* tenant is a person who occupies land under another person (landlord) either under a written lease or otherwise, and is liable to pay rent at a monthly rate or at any other periodical rate for that land to that another person and has erected or acquired by purchase or gift any structure on such land for residential, manufacturing or business purpose and includes successors-in-interest of such person.

The *thika* tenants, other tenants and lessees (hereafter referred to as tenants) in respect of lands which vested in the State under the aforesaid Act have come directly under the State with effect from 18th January 1982 and are liable to pay revenue to the State Government in respect of the vested lands under their use and occupation on and from that date. Pending assessment of revenue, the tenants are to pay revenue to the State Government at rates and periodicities at which they had been paying rent to the landlords immediately before the date of vesting (18th January 1982).

10.4.2 *Scope of audit*

A review on assessment and collection of *thika* tenancy revenue was conducted (February 1987) in Calcutta and Howrah.

10.4.3 *Organisational set up*

Land and Land Reforms Department of the State Government is the ultimate authority relating to *thika* tenancy matters.

Under the provisions of the Act, the State appoints by notification the Controller of *Thika* Tenancy, Calcutta to perform functions relating to *thika* tenancy in Calcutta Municipal Area and the Controller of *Thika* Tenancy, Howrah to perform functions in respect of *thika* tenancy in the Howrah Municipal Area. The office of the Controller of *Thika* Tenancy, Calcutta started functioning in September 1982 while the office of the Controller of *Thika* Tenancy, Howrah had started functioning in May 1982.

Under the Controller of *Thika* Tenancy, Calcutta four regional offices were created for proper management and control of lands vested under the Act as mentioned below:

| Name of the region | Area of operation | Date of functioning |
|---|---|---|
| 1. Cossipore .. | 19 wards | 1st November, 1985 |
| 2. Narkeldanga .. | 34 wards | -do- |
| 3. Tangra .. | 13 wards | -do- |
| 4. Belvedere .. | 34 wards | -do- |

Under the Controller of *Thika* Tenancy, Howrah, there are no such regional offices.

10.4.4 **Highlights**

**—Non-realisation of revenue amounting to Rs. 43,008.**

**—Non-realisation of interest amounting to Rs. 12,692.**

**—Non-maintenance of tenants' ledger and records of vesting of lands.**

Important irregularities noticed in the course of review are mentioned in the succeeding paragraphs.

10.4.5 *Assessment and collection of revenue*

In terms of the Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981, every tenant shall be liable to pay to the State an amount of revenue determined in accordance with the provisions of the West Bengal Land Holding Revenue Act, 1979 provided that the revenue payable by the tenant shall not be less than what he had been paying to the landlord before coming into force of the Act (the 18th January 1982). The rate of revenue as prescribed in the Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981 is as under:

(*i*) On the first Rs. 10,000 of the total rateable value — 5 paise per rupee

(*ii*) On the next Rs. 10,000 of the total rateable value — 8 paise per rupee

(*iii*) On the balance of the rateable value — 10 paise per rupee

The amount of revenue payable by the tenants was not determined even after a lapse of five years from commencement of the Act (18th January 1982). The revenue collected up to 31st March 1986 at the pre-vesting rates was as under:

| Period | Amount collected | |
|---|---|---|
| | Calcutta Municipal Area | Howrah Municipal Area |
| | (Amount in lakhs of rupees) | |
| 18.1.82-31.3.83 .. .. .. | 3·34 | 0·01 |
| 1.4.83-31.3.84 .. .. .. | 10·70 | 1·76 |
| 1.4.84-31.3.85 .. .. .. | 14·45 | 3·01 |
| 1.4.85-31.3.86 .. .. .. | 10·85 | 4·38 |

The collection of revenue in Calcutta Municipal Area was not at all verified by the local offices with the records maintained by treasury, while the collections in Howrah Municipal Area were verified with the treasury records up to July 1985 by the local office.

10.4.6 *Non-realisation of revenue from the tenants*

In the course of audit (February 1987), it was noticed that a tenant, M/s. Bharat Petroleum Corporation Limited, submitted returns in respect of three holdings within the municipality of Howrah. The local office accepted the returns and passed the challans on 11th October 1985 for payment of revenue (Rs. 43,008) for the period from 18th January 1982 to 17th January 1986. But the amount on this score was not credited into the treasury even after a year since the challans were passed by the local office nor any action was taken by the department for realisation of the said amount.

On this being pointed out in audit (February 1987), the local office agreed to take necessary steps for early realisation of the said revenue.

10.4.7 *Non-realisation of interest on arrear revenue*

Under the Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981, the annual revenue paid for any period pending determination of revenue shall be adjusted against the amount of revenue when determined. The amount of revenue, when determined, shall be paid in such instalments and on such dates as the Controller may direct. Any arrear of revenue or instalments of revenue shall bear simple interest at the rate of $6\frac{1}{4}$ per cent per annum from the date on which the revenue or the instalment thereof falls due till the date of its payment. Government issued instructions in November 1982 that the revenue which was not paid within the due date but paid after the date of its periodicity (monthly/quarterly/yearly) should be treated as arrear revenue and would attract interest accordingly.

It was noticed in audit (February 1987) that the revenue in respect of lands held by tenants in Calcutta Municipal Area and Howrah Municipal Area had been paid long after the due date, but no interest was levied by the local office. On test check of tenants' ledger, it was noticed that such interest in 15 cases payable by the tenants in Howrah Municipal Area worked out to Rs. 12,692 calculated on the basis of completed calendar month after the due date. In respect of Calcutta Municipal Area, the amount of interest leviable could not be test checked in the absence of any tenants' ledger being maintained.

10.4.8 *Non-maintenance/improper maintenance of tenants' ledger*

Government issued instructions in November 1982 that a tenants' ledger should be opened for keeping all records about the tenancy, deposit of rent and allied matters so that payment position may be available at a glance.

In the course of audit, it was noticed (February 1987) that no tenants' ledger in respect of tenants in Calcutta Municipal Area was maintained by the local office. On this being pointed out in audit (February 1987), the local office confirmed (February 1987) the fact of non-maintenance but assigned no reason for non-maintenance of the tenants' ledger.

In the course of audit (February 1987), it was further noticed that collection of revenue from the tenants in Howrah Municipal Area started with effect from 15th March 1983. The local office opened only 2 volumes of tenants' ledger comprising 387 tenants though 2,644 tenants had been paying revenue in respect of the lands they had been holding. Even the two volumes of tenants' registers, which have been opened, are not being properly posted

and maintained by the local office. In the absence of proper maintenance of tenants' ledger, it could not be ascertained in audit whether all the tenants had submitted relevant returns and had been paying revenue regularly.

On this being pointed out in audit (February 1987), the local office confirmed (February 1987) the fact but assigned no reason for improper maintenance of tenants' ledger.

10.4.9 *Non-maintenance of records of vesting of land*

Under the Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981, the concerned lands vested in the State free from all incumbrances. Such lands shall, therefore, be managed and controlled by the Government directly in accordance with the provisions of the Act and rules made thereunder. For this purpose, the Controller of *Thika* Tenancy should maintain proper land records in respect of lands vested in the State.

In the course of audit (February 1987), it was noticed that the local office in the Calcutta Municipal Area did not maintain records in respect of lands vested in the State under the Act. It was also noticed that the vesting of land within Calcutta Municipal Area had been left to the discretion of the tenants. No land could be vested in the State unless the tenants declared the same and submitted the return in this respect. On this being pointed out in audit (February 1987), the local office stated (February 1987) that there was no such record with any authority and as such no assessment could be made.

It was further noticed in audit (February 1987) that the local office in Howrah Municipal Area did not maintain complete land records. The lists of tenants sent by the Settlement Department, contained names of 7,253 tenants spreading over 5 police stations as shown in the table below, did not indicate the area of land held by them.

| Name of Police Station in Howrah Municipal Area | Number of tenants |
|---|---|
| 1. Bantra .. .. .. .. .. | 764 |
| 2. Malipanchghora .. .. .. .. | 1,556 |
| 3. Golabari .. .. .. .. .. | 1,905 |
| 4. Howrah .. .. .. .. .. | 2,247 |
| 5. Shibpur .. .. .. .. .. | 781 |
| Total .. .. .. .. | 7,253 |

The details of vested land were not obtained from Settlement Department to complete the records of vested lands.

10.4.10 *Non-maintenance of Return Register*

As per instructions contained in the letter dated 8th April 1983 of the Director of Land Records and Survey, West Bengal, the Controller of *Thika* Tenancy should maintain register of returns in respect of tenants, streetwise alphabetically along with the names of the landlords, premises number, area, total number of hut owners and *Bharatias* and related matters. From the said register the number of tenants and details of land held by them could easily be ascertained.

In the course of audit of local offices both in Calcutta Municipal Area and Howrah Municipal Area, it was noticed (February 1987) that no such register was found to have been maintained by the local offices.

On this being pointed out in audit (February 1987), the local office confirmed (February 1987) the fact and stated that due to shortage of staff, they could not maintain the return register.

10.4.11 *Non-submission of returns by tenants*

Under the Act and Rules made thereunder, every tenant was required to furnish to the Controller, a return showing the particulars of land held by him within the prescribed date i.e. 30.6.1984. It was noticed (February 1987) that in Howrah Municipal Area, out of 7,253 tenants only 5,243 tenants submitted returns till February 1987. However, no penal action whatsoever was taken against the defaulters till February 1987. In Calcutta Municipal Area, 24,552 *thika* tenants and other tenants submitted returns up to March 1986. In the absence of list of tenants from the Settlement Department, it was not known to the department, how many defaulters were there. The department could not take any action against the defaulters.

The foregoing points were reported to Government in October 1987; their reply has not been received (February 1989).

# CHAPTER 11

# OTHER NON-TAX RECEIPTS

## A—FOREST RECEIPTS

### 11.1 Non-recovery of difference on re-sale of forest produce

According to the provisions laid down in the West Bengal Forest Manual Vol II for sale of forest produce, if a purchaser fails to pay any of the instalments due as per agreement, the department may re-sell the balance lot of forest produce and forfeit the amount of security deposits paid by the purchasers. In case, the amount of instalments paid and the amount fetched on re-sale together with the amount of security deposit forfeited falls short of original sale price, the difference is recoverable from the original purchaser as arrears of land revenue through certificate proceedings.

(*i*) In the forest division in Cooch Behar district, during 1984-85, thirtytwo lots of forest produce were sold in auction for Rs. 7,15,520. Security deposits of Rs. 20,255 were paid by the bidders. The original bidders having defaulted in making the balance payment, the lots were subsequently re-sold by auctions for Rs. 4,82,240 only. As a result Government had to suffer loss of revenue of Rs. 2,13,025. No action was, however, taken against the bidders to recoup the loss by initiation of certificate proceedings.

Government, to whom the matter was reported (October 1987), stated in June 1988 that the department had been advised to start certificate cases against the original purchasers for recovery of the loss. Further development has not been intimated (February 1989).

(*ii*) In a forest division in East Midnapore district, three lots of cashew nuts were put to auction in February 1986 and the three highest bids accepted. On the failure of bidders to deposit full amounts of bid money, the lots were re-sold by tender in April 1986 to three other bidders at a price lower than the original bid by Rs. 34,100. But no action was taken by the department to recover the loss from the original bidders till March 1987.

Government, to whom the case was reported in June 1987, stated (June 1988) that security money and earnest money total-

ling Rs. 8,300 of the original bidders were forfeited and certificate cases had been instituted against them for realisation of the balance amount. Further development has not been intimated (February 1989).

(*iii*) In another forest division, in Cooch Behar district, 9 lots of timbers were put to auction during 1984-85 and were allotted to the highest bidders. In respect of 5 lots, the highest bidders did not deposit 25 per cent of the sale value as security and in 4 cases the highest bidders did not pay the balance 75 per cent of sale value within the prescribed time.

When the lots were put to re-auction in 1985-86, the lots had already deteriorated in quality and were in rotten condition as such no bid was offered by any one. The lots were withdrawn from the auction and there was no possibility of further auction. As a result, there was a loss of revenue to the extent of Rs. 1,31,855. No action was, however, taken by the department to recover the loss from the original purchasers.

The matter was reported to Government in October 1987; their reply has not been received (February 1989).

(*iv*) In a forest division in Purulia district, five lots of Coppice Coupes were put to auction in November 1984 and the same were offered to three highest bidders on receipt of earnest money of Rs. 500 in each case. The highest bidders, however, did not deposit necessary security money and sign the agreement of sale on the date of auction. The second bidder of each lot also having refused to accept the lots, these were re-sold by tender in January 1985 at a price less by Rs. 1,72,192 obtained in original bid. The Government suffered a loss of Rs. 1,70,692 after forfeiting the earnest money of Rs. 1,500. But no action was taken by the department to recover the loss from the original purchasers till November 1987.

On this being pointed out in audit (November 1987), the department stated (November 1987) that the cases were under review. Further development has not been intimated (February 1989).

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

### 11.2 **Loss of revenue due to delay in sale of forest produce to co-operative societies**

According to the procedure for disposal of forest produce prescribed by Government in a notification issued in January

1977, 10 per cent of the reserved stock of forest produce shall be sold to registered co-operative societies on the basis of market rate determined by auction etc. of other stocks of the locality.

In a forest division in Jalpaiguri district, 34 nos. of clear felling lots of timber reserved for nine co-operative societies during the auction sale for 1979-80 could not be allotted to the co-operative societies till December 1980. These lots were subsequently sold to the societies during 1980-81 at the market rate determined for 1979-80, instead of at the revised higher market rate for 1980-81. This resulted in a loss of Government revenue to the extent of Rs. 1,94,720.

On this being pointed out in audit (September 1983), Government stated in June 1988 that due to deterioration of the timbers lying in the depot during the monsoon of 1980 it would be improper to allot the produce at 1980-81 price.

### 11.3 **Loss of revenue due to non-lifting of forest produce by Government Undertaking**

According to the provisions laid down in the West Bengal Forest Manual Volume II read with notification issued in January 1977, forest produce may be allotted to Government Undertaking at an agreed price. Before making such allotment, Forest Department is required to execute an agreement with the allottee to the effect that they (Government Undertaking) will remain liable to compensate the loss, if any, sustained by Government due to their failure to lift the quantity of the produce allotted to them.

(*a*) In a forest division in Bankura district, the Divisional Forest Officer undertook departmental operation during 1981-84 for supply of 65,479 nos. of 'sal pole' allotted to a Government Undertaking without entering into the required agreement. The Undertaking failed to lift 13,867 nos. of 'sal poles' which remained unsold in the depots at the end of 1985-86 and due to prolonged storage the lots were badly damaged or became unfit for sale as poles. The said poles were sold in auction during 1986-87 at a price of Rs. 28,370, against the agreed price of Rs. 1,28,617. As a result, Government sustained a loss of revenue to the extent of Rs. 1,00,247.

On this being pointed out in audit (July 1987), the department agreed (July 1987) to scrutinise the matter. Further report has not been received (February 1989).

(*b*) In a forest division in Bankura district, the Divisional Forest Officer undertook departmental operation during 1982-84 for supply of 6,845 nos. of 'sal poles' allotted to a Government Undertaking at an agreed total price of Rs. 64,401 without entering into any agreement though required. The Undertaking failed to lift the entire lots of sal poles extracted for them during 1983-84 as per allotment. As a result unsold lots remained in depots and due to prolonged storage the lots were badly damaged or became unfit for sale as poles. The said poles were sold in auction during 1986-87 and the bid money and security deposits obtained were Rs. 5,825 only. As a result, Government sustained a loss of revenue to the extent of Rs. 58,576.

On this being pointed out in audit (July 1987), the department admitted the loss and stated (July 1987) that in the absence of any agreement with the allottee, recovery of the loss could not be enforced.

The cases at (*a*) and (*b*) were reported to Government in November 1987; their reply has not been received (February 1989).

### 11.4 **Loss of revenue due to grant of undue concession to the purchaser of forest produce**

According to the procedure for disposal of forest produce, prescribed by Government in a notification issued in January 1977, bulk sale of forest produce may be effected by private negotiation where auction and tender fail. The price in such cases will be fixed on the basis of a reserve price fixed by a Price Fixation Committee constituted for the purpose. Timber or other forest produce may be granted free or at concessional rates to local people for domestic consumption only.

In a forest division in Purulia district, it was noticed (November 1987) in audit, that 3,916 nos. of sal poles of two different girth were sold to four contractors who were entrusted with the work of barricading the road side in connection with the visit of VIP in the district. The market price of those poles of girth class 11-20 CM and 21-30 CM as communicated by the Conservator of Forest was Rs. 20 and Rs. 30 respectively. But the Divisional Forest Officer sold the poles at the concessional rate of Rs. 10 and Rs. 13·50 respectively applicable to sale of forest prodace to local people for domestic use. The Divisional Forest Officer did not even consider the cost price of the sal poles arrived at by the Division at Rs. 16 and Rs. 24 per pole

respectively. As a result, the Government sustained a loss of revenue to the extent of Rs. 41,749.

On this being pointed out in audit (November 1987), the department stated (November 1987) that the matter was being looked into. Further development has not been intimated (February 1989).

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

11.5 **Short realisation of sales tax**

Under West Bengal Forest Manual (Part II), the Forest Department, as a dealer under the Bengal Finance (Sales Tax) Act 1941, is required to collect Sales Tax on the sale value of forest produce at the time of sale of forest produce. Under the Bengal Finance (Sales Tax) Act, 1941 "sales price" means the amount payable to a dealer as valuable consideration for the sale of goods, less any sum allowed as cash discount according to ordinary trade practice but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before delivery thereof, other than the cost of freight or delivery or the cost of installation or interest, where such cost or interest is separately charged.

In one forest division in Jalpaiguri district, it was noticed in audit (November 1986) that the "incidental charges" incurred by the division for the formation of the depot lots for auction sale during 1985-86 had been erroenously deducted from the "auction sale value" while calculating sales tax realisable. This irregular deduction of "incidental charges" from the sale value resulted in short realisation of sales tax to the tune of Rs. 35,607.

On this being pointed out in audit (November 1986), the department agreed (November 1986) to look into the matter.

While confirming the facts Government stated in June 1988 that normal sales tax was realised only on price of the produce after deducting the extraction charge realised in cash at the time of sale. The contention of the Government is, however, contrary to the provisions of the Sales Tax Law.

## B—OTHER DEPARTMENTAL RECEIPTS

11.6 **Non-realisation of water rate**

(*i*) Under the West Bengal Irrigation (Imposition of Water Rates) Act, 1974, a water rate is payable by the occupiers of

land receiving supply of water for the purpose of irrigation. Under the provision of the Act, the Engineering Divisions of the Irrigation and Waterways Department are required to forward test notes mentioning the notified area, where water is supplied, to the Revenue Divisions and the Revenue Divisions are required to assess water rate in respect of such notified areas.

In Midnapore district, although the test notes for the supply of water during '*Kharif*' season in 372·55 acres of land were received by the Revenue Officer between 1977-78 and 1986-87, no assessment of water rate was made till July 1987. Non-assessment of water rate resulted in non-realisation of revenue to the tune of Rs. 52,313.

On the omissions being pointed out in audit (July 1987), the department admitted the lapse and agreed (July 1987) to raise and realise the demand. Report on realisation has not been received (February 1989).

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

(*ii*) Under the West Bengal Irrigation (Imposition of Water Rate for Damodar Valley Corporation Water) Act, 1958, occupiers of land receiving benefit of irrigation from D.V.C. canals in different crop seasons are required to pay water rate at the rate prescribed by Government from time to time. The revenue officers of the irrigation revenue division are required to assess the water rate on the basis of test notes received from the engineering divisions of the Irrigation and Waterways Department showing the areas covered by irrigation.

In an Irrigation Revenue Division in Burdwan district, it was noticed (April 1984) that 33 mouzas comprising 6,004·66 acres of land irrigated during '*Kharif*' crop season of 1982-83 were not assessed to water rate due to non-receipt of test notes from the engineering division. Similarly during 1980-81, 14 mouzas comprising 706·23 acres of land and 5 mouzas comprising 40·65 acres of land were irrigated during '*Boro*' and '*Rabi*' crop seasons respectively, but no water rate was assessed though test notes in respect thereof were duly received bythe Revenue Officer. These omissions resulted in non-realisation of water rate to the tune of Rs. 1,25,924 in respect of the years 1980-81 and 1982-83.

On this being pointed out in audit (April 1984), the department stated in May 1984, that due to non-receipt of the test notes from the engineering division, non-availability of settlement records and shortage of staff in the Revenue Divisions, no assess-

ment could be made. No further report has been received (February 1989).

The matter was reported to Government in November 1984; their reply has not been received (February 1989).

### 11.7 **Failure to issue notification for levy of water rate**

Under the West Bengal Irrigation (Imposition of Water Rate) Act, 1974, whenever the State Government is of opinion that lands in any area are benefited or are likely to be benefited by irrigation during any crop season by water supplied from any irrigation work, the State Government may, by notification, declare its intention to impose in such area, a water rate for every crop season at such rates as may be specified by Government from time to time. After publication of this notification, the Revenue Officer of the irrigation division is required to prepare and publish an assessment list containing the names of all persons who are liable to pay water rates and assess the water rate on the basis of test notes received from the engineering divisions of Irrigation and Waterways Department showing the areas actually covered by irrigation.

In a canal revenue division, in Midnapore district, it was noticed (July 1987) that an area of 30,829·48 acres of lands irrigated during '*Boro*' crop seasons between 1978-79 and 1984-85 were not assessed to water rate due to non-issue of necessary notification by Government. As a result, there was a loss of revenue to the tune of Rs. 15·41 lakhs during the period between 1978-79 and 1984-85.

On this being pointed out in audit (July 1987), the department stated (July 1987), *inter-alia*, that the division was not in a position to assess and impose water rate due to absence of notification, which was a pre-condition for such assessment.

The matter was reported to Government in September 1987; their reply has not been received (February 1989).

### 11.8 **Non-realisation of rent**

In a town-ship at Nadia district, various types of housing quarters numbering 103 were allotted to a University on monthly rental basis at varying rates depending on the types of houses. The houses were occupied by the University for different periods between December 1961 and March 1987 and rent recoverable amounted to Rs. 19,13,925. However, excepting a lump payment

of Rs. 80,000 no other payment was made by the University by way of rent.

On this being pointed out in audit (September 1986), the department stated (June 1987) that the rent could not be recovered despite repeated reminders to the University.

The matter was reported to Government in April 1987; their reply has not been received (February 1989).

11.9 **Non-realisation of interest**

Under the West Bengal Government Premises (Tenancy Regulation) Act, 1976 as amended from time to time, arrears of rent for occupation of Government premises are recovered with interest at the prescribed rate of $6\frac{1}{4}$ per cent.

A bank in Calcutta occupied a floor area of 3,228 sq. ft. of a Government premises from 4th February 1981. The rent for the space was fixed by competent authority on 21st April 1986 at Rs. 9,684 per month and the same was demanded from the bank on 5th May 1986. The bank paid the arrear rent upto September 1986 amounting to Rs. 6,57,129 in November 1986. But no interest at the prescribed rate was realised from the bank for belated payment of rent. This resulted in non-realisation of interest amounting to Rs. 19,779.

On this being pointed out in audit (June 1987), the department stated (June 1987) that the matter was under scrutiny. Further development has not been intimated (February 1989).

The matter was reported to Government in July 1987; their reply has not been received (February 1989).

11.10 **Short recovery of departmental charges against deposit works**

(*i*) Under the provisions of the West Bengal Public Works Department Code Vol. I, a departmental charge is to be recovered at twelve and a half per cent (establishment: 10 per cent, Tools and Plants: $1\frac{1}{2}$ per cent and Audit and Accounts: 1 per cent) of the works expenditure incurred on deposit works undertaken by Government.

In Howrah district, a Public Works Construction Board incurred an expenditure of Rs. 43,65,434 during 1986-87 in respect of different deposit works. It was noticed that recovery towards departmental charges was made at the rate of 11 per cent instead of $12\frac{1}{2}$ per cent. Recovery towards tools and plants charges at the rate of $1\frac{1}{2}$ per cent was not made from the con-

cerned authorities on whose behalf the work was undertaken. This resulted in non-realisation of revenue amounting to Rs. 65,482.

On this being pointed out in audit (June 1987), the department stated (June 1987) that reply would follow. Further development has not been intimated (February 1989).

The matter was reported to the Government in July 1987; their reply has not been received (February 1989).

(*ii*) An expenditure of Rs. 4,50,060 was incurred towards a deposit work, on construction of road at a township in Jalpaiguri district, by a public works construction division during 1986-87 on behalf of a Corporation. The departmental charges on the work, which worked out to Rs. 56,248 were not, however, recovered from the Corporation.

On this being pointed out in audit (January 1988), the department agreed (January 1988) to regularise the matter by realising the departmental charges. Report on realisation has not been received (February 1989).

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

### 11.11 **Non-assessment of toll tax**

Under the Indian Tolls Act, 1851, as amended in 1864, the State Government has been empowered to levy toll tax at the rates as may be prescribed in respect of bridges over any river/canal constructed or repaired at the expense of the State Government. Such tax is payable by the owner of vehicles using the bridge.

In a public works division in Murshidabad district, the assessment and realisation of toll tax in respect of 33 buses of an Automobile Association, which plied over Bhairab Bridge during the period from July 1975 to 18.7.1983, was held up because of an injunction order of the Hon'ble Court obtained in July 1975 by the Association. Although the said injunction was vacated in March 1981 in favour of the Government, assessment of toll tax was not made except for the period from July 1982 to December 1982 in respect of 27 buses and from January 1983 to 18th July 1983 in respect of 25 buses. No action also was taken for realisation of the assessed dues of Rs. 51,463 for the said periods. The amount of toll tax which was still not assessed worked out to 5·25 lakhs in respect of earlier period from July 1975 to June 1982. Thus, total toll tax realisable from July 1975 to 18th July 1983 worked out to Rs. 5·76 lakhs.

On this being pointed out in audit (August 1987), the department admitted the fact and agreed (August 1987) to take action for realisation of toll tax already assessed. Report on realisation and action taken for assessment for the earlier period has not been received (February 1989).

The matter was reported to Government in October 1987; their reply has not been received (February 1989).

C R Bhagwat

(C. R. BHAGWAT)
*Accountant General (Audit) II, West Bengal*

CALCUTTA
The 6 JUL 1989

Countersigned

T. N. Chaturvedi

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

NEW DELHI
The 18 JUL 1989

# ERRATA

| Sl. No. | Page | Para | Line | For | Read |
|---|---|---|---|---|---|
| 1. | 3 | 1.3 | 13th from bottom | commodities | Commodities |
| 2. | 8 | 1.8.1 | 8th from bottom | other | their |
| 3. | 18 | 2.4 (*iv*) | 8-9th from bottom | individual | indivisible |
| 4. | 20 | 2.6 | 7th from bottom | sufferred | suffered |
| 5. | 27 | 2.9 (*iii*) (*a*) | 8th from top | are | and |
| 6. | 28 | 2.9 (*iii*) (*d*) | 20th from top | assumtion | assumption |
| 7. | 39 | 2.12 Sl. No. 13 | 5th from top | proceeding | proceedings |
| 8. | 45 | 2.16 | 6th from top | proceeding | proceedings |
| 9. | 59 | 2.18.10 | 4th from bottom | year | years |
| 10. | 69 | 3.2 (*iii*) | 10th from top | state | State |
| 11. | 73 | 3.4 | 3rd from top | nither | neither |
| 12. | 73 | 3.4 | 5th from top | acuqired | acquired |
| 13. | 75 | 3.7 | 15th from top | was | were |
| 14. | 83 | 3.11.6 (*iv*) (*b*) | 11th from bottom | unsual | unusual |
| 15. | 85 | 3.11.6 (*vi*) (*b*) | 10th from bottom | Rs. 6.375 | Rs. 6,375 |
| 16. | 97 | 4.7 (*i*) (*d*) | 9th from bottom | authourities | authorities |
| 17. | 112 | 5.13 | 14th from top | Rule 24 (*i*) | Rule 24 (1) |
| 18. | 130 | 8.6.1 | 10th from bottom | Bengali | Bengal |
| 19. | 133 | 8.6.5 (*iii*) (*a*) | 20th from top | laxury | luxury |
| 20. | 146 | 9.2.5 (*iii*) | 18th from bottom | right of the release | right of the releasee |
| 21. | 167 | 11.4 | 3rd from bottom | prodace | produce |