



REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR
1984-85

(REVENUE RECEIPTS)
GOVERNMENT OF ORISSA



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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Orissa for the year 1984-85 is presented in this separate volume. The material in the Report has been arranged in the following order :—

(i) Chapter I deals with trends of revenue receipts, classifying them broadly under tax revenue and non-tax revenue. The variations between Budget estimates and actuals in respect of principal heads of revenue, the position of arrears of revenue, etc., are discussed in this Chapter.

(ii) Chapters 2 to 7 deal with certain cases and points of interest which came to notice in the audit of Sales Tax, Taxes on Motor Vehicles and Passengers, Land Revenue, Mining Receipts, Forest Receipts and other Tax and Non-Tax Receipts.

CHAPTER I

GENERAL

1.1. Trend of Revenue Receipts

The total receipts of Government of Orissa for the year 1984-85 amounted to Rs. 823.51 crores, against the anticipated receipts of Rs. 819.67 crores. Out of the total receipts of Rs. 823.51 crores, revenue raised by State Government amounted to Rs. 348.82 crores, of which Rs. 234.93 crores represented tax revenue and Rs. 113.89 crores non-tax revenue. Receipts from the Government of India amounted to Rs. 474.69 crores.

1.2. Analysis of Revenue Receipts

(a) An analysis of the receipts during the year 1984-85, along with the corresponding figures for the preceding two years, is given below :

	1982-83	1983-84	1984-85
(In crores of rupees)			
I. Revenue raised by the State Government—			
(a) Tax Revenue	178.68	207.07	234.93
(b) Non-Tax Revenue	99.33	120.50	113.89
Total	<u>278.01</u>	<u>327.57</u>	<u>348.82</u>
II. Receipts from the Government of India—			
(a) State's share of divisible Union Taxes	197.26	222.76	284.11
(b) Grants-in-aid	326.35	232.78	190.58
Total	<u>523.61</u>	<u>455.54</u>	<u>474.69</u>
III. Total Receipts of the State (I+II)	801.62	783.11	823.51
IV. Percentage of I to III	34.6	41.8	42.35

(b) Tax revenue raised by the State

Receipts from tax revenue constituted about 67 per cent of the State's own revenue receipts during the year 1984-85. An analysis of the tax revenue for the year 1984-85 and the preceding two years is given below :

	1982-83	1983-84	1984-85	Increase(+) Decrease(-) in 1984-85 with reference to 1983-84
(In crores of rupees)				
1. Land Revenue	10.05	15.08	13.06	(-)2.02
2. S t a m p s and Registration Fees	10.79	12.51	14.31	(+)1.80
3. State Excise	13.07	15.44	18.73	(+)3.29
4. Sales Tax	102.05	114.00	126.23	(+)12.23
5. Taxes on Vehicles	13.83	14.86	16.24	(+)1.38
6. Taxes on Goods and Passengers	1.73	3.72	9.78	(+)6.06
7. Taxes and Duties on Electricity	23.27	27.50	32.44	(+)4.94
8. Other Taxes and D u t i e s on Commodities and Services	3.89	3.96	4.14	(+)0.18
Total	178.68	207.07	234.93	(+)27.86

(c) Non-tax Revenue of the State

Interest, Education, Public Health, Sanitation and Water Supply, Forest, Mines and Minerals, Irrigation, Navigation, Drainage and Flood Control Projects and Police were the principal sources of non-tax revenue of the State. Receipts from non-tax revenue during 1984-85 constituted about 33 per cent of the total revenue raised by the State.

	1982-83	1983-84	1984-85	Increase(+) / Decrease(-) in 1984-85 with reference to 1983-84
(In crores of rupees)				
1. Interest	13.19	21.57	21.59	(+)0.02
2. Education	4.93	4.35	4.64	(+)0.29
3. Public Health, Sanitation and Water Supply	2.62	4.01	2.41	(-)1.60
4. Forest	47.32	54.94	50.22	(-)4.72
5. Mines and Minerals	6.94	7.27	7.90	(+)0.63
6. Irrigation, Navigation Drainage and Flood Control Projects	2.99	4.52	3.45	(-)1.07
7. Police	1.20	1.74	2.91	(+)1.17
8. Others	20.14	22.10	20.77	(-)1.33
Total	99.33	120.50	113.89	(-)6.61

1.3. Variations between Budget estimates and actuals

(a) The variations between the Budget estimates and actuals of tax revenue and non-tax revenue during the year 1984-85 are given below :

	Budget estimates	Actuals	Variation Increase (+) Decrease(-)	Percentage of variation
(In crores of rupees)				
A. Tax Revenue	276.87	234.93	(-)41.94	15.00
B. Non-Tax Revenue	116.63	113.89	(-)2.74	2.5

(b) Variations between Budget estimates and actuals under the principal heads of revenue are given below:

Heads of Revenue	Budget estimates	Actuals	Variation Increase(+) Decrease(-)	Percentage of variation
(In crores of rupees)				
1. Land Revenue	11.28	13.06	(+)1.78	(+)15.78
2. Stamps and Registration fees	11.72	14.31	(+)2.59	(+)22.10
3. State Excise	18.28	18.73	(+)0.45	(+)3.00
4. Sales Tax	127.02	126.23	(-)0.79	(-)0.62
5. Taxes on Vehicles	16.59	16.24	(-)0.35	(-)2.11
6. Taxes on Goods and Passengers	9.86	9.78	(-)0.08	(-)1.00
7. Taxes and Duties on Electricity	32.19	32.44	(+)0.25	(+)1.00
8. Interest	23.70	21.59	(-)2.11	(-)9.90
9. Education	4.90	4.64	(-)0.26	(-)5.51
10. Forest	53.20	50.22	(-)2.98	(-)6.00
11. Mines and Minerals	7.61	7.90	(+)0.29	(+)3.68
12. Irrigation, Navigation, Drainage and Flood Control Projects	2.98	3.45	(+)0.47	(+)15.44
13. Police	2.53	2.91	(+)0.38	(+)15.00

The actual receipts exceeded the Budget estimates by 15.78, 22.10, 15.44, and 15.00 per cent under "Land Revenue", "Stamps and Registration Fees", "Irrigation, Navigation, Drainage and Flood Control Projects" and "Police" respectively.

The increase in collection under "Stamps and Registration Fees" was attributed by the department to effective checking of the value of properties transacted.

Reasons for the wide variations in respect of other heads of revenue are awaited from the departments (January 1986).

1.4. Cost of collection

Expenditure incurred in collecting the major revenue receipts during the year 1984-85 and the corresponding figures for the preceding two years are given below :

Head of Account	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
		(In crores of rupees)		
1. Land Revenue*	1982-83	10.05	21.39	212.8
	1983-84	15.08	23.32	154.6
	1984-85	13.06	25.96	198.7
2. Stamps and Registration Fees	1982-83	10.79	1.14	10.5
	1983-84	12.51	1.08	8.6
	1984-85	14.31	1.25	8.7
3. State Excise	1982-83	13.07	1.26	9.6
	1983-84	15.44	1.47	9.5
	1984-85	18.73	1.59	8.5
4. Sales Tax	1982-83	102.05	2.56	2.5
	1983-84	114.00	2.99	2.6
	1984-85	126.23	3.32	2.5
5. Taxes on Vehicles	1982-83	13.83	0.44	3.2
	1983-84	14.86	0.47	3.2
	1984-85	16.24	0.52	3.2
6. Taxes and Duties on Electricity	1982-83	23.27	0.09	0.4
	1983-84	27.50	0.11	0.4
	1984-85	32.44	0.12	0.4
7. Forest*	1982-83	47.32	6.44	13.6
	1983-84	54.94	7.16	13.0
	1984-85	50.22	7.41	14.8

* The expenditure incurred under "Land Revenue" and "Forest" was not only for collection of revenue but also for other administrative functions. Pro rata distribution of expenditure to collection of revenue is awaited from the concerned departments (January 1986).

1.5. Arrears in Assessment of Sales Tax

The arrears in assessment of Sales Tax cases at the end of 1984-85 as compared to the position at the end of the preceding year are given below :

	1983-84	1984-85
(a) Number of assessments due for completion during the year		
Arrear cases	1,21,021	1,13,440
Current cases	1,46,623	1,52,044
Remand cases	16,277	16,546
(b) Number of assessments completed during the year		
Arrear and current cases	1,41,566	1,39,050*
Remand cases	3,639	3,551
(c) Number of assessments pending finalisation as at the end of the year		
Arrear and current cases	1,13,440	1,26,434*
Remand cases	12,638	12,995

The year-wise break-up of pending assessments was not furnished by the department (August 1985). The reasons for the upward trend in pending cases (arrear and current) were also not furnished by the department (August 1985).

1.6. Uncollected revenue

As per information furnished by the Departments, details of arrears pending collection as on 31st March 1985 in respect of some of the principal sources

* Bifurcation of arrear cases and current cases was not available.

of revenue are given below. For purposes of comparison, arrears at the end of March 1984 have also been indicated.

Source of revenue	Amount of arrears pending collection as on 31st March 1984	Amount of arrears pending collection as on 31st March 1985	Remarks
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(In lakhs of rupees)

1. Sales Tax	3,812.57	3,393.88	Out of the arrears of Rs. 3,393.88, lakhs demands for Rs. 245.50 lakhs and Rs. 735.42 lakhs had been stayed by Courts and departmental authorities respectively. In respect of demands for Rs. 805.40 lakhs, certificates had been issued for recovery as arrears of land revenue. Penalty notices or notices to third parties had been issued for recoveries amounting to Rs. 1,160.82 lakhs. Arrears of Rs. 308.08 lakhs were proposed to be written off. Action for recovery of the remaining arrears of Rs. 138.66 lakhs was yet to be taken.
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Source of revenue	Amount of arrears pending collection as on 31st March 1984	Amount of arrears pending collection as on 31st March 1985	Remarks
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(In lakhs of rupees)

2. Taxes and Duties on Electricity	1,897.99	2,746.62	The arrears at the end of March 1985 (Rs. 2,746.62 lakhs) were nearly 50 per cent more than the arrears at the end of March 1984 (Rs. 1,897.99 lakhs). The year-wise break-up of the arrears was not available with the Department. The arrears were outstanding against the Orissa State Electricity Board (Rs. 2,004.99 lakhs); Rourkela Steel Plant (Rs. 399.90 lakhs); Orient Paper Mills, Brajaraj Nagar (Rs. 200.14 lakhs); Orissa Textile Mills, Choudwar (Rs. 87.06 lakhs) Straw Products, Rayagada (Rs. 9.08 lakhs); Kalinga Iron Works (Rs. 21.41 lakhs); Titagarh Paper Mills, Choudwar (Rs. 3.82 lakhs) and other authorities (Rs. 20.22 lakhs).
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Source of revenue	Amount of arrears pending collection as on 31st March 1984	Amount of arrears pending collection as on 31st March 1985	Remarks
(In lakhs of rupees)			
3. Forest	925.73	885.14	The year-wise break-up of the arrears was not available. Arrears exceeding Rs. 2 lakhs were outstanding against each of the following Government companies and other parties- (i) Similipahar Forest Development Corporation (ii) Orissa Forest Corporation Limited (iii) Tribal Development Cooperative Corporation, Aska (iv) Titagarh Paper Mills (v) Orient Paper Mills and (vi) Orissa Straw Products Limited.
4. Land Revenue	453.72	481.84	Out of the arrears of Rs. 453.72 lakhs at the end of March 1984, arrears amounting to Rs. 137.29 lakhs only were collected during the year 1984-85, which comprises nearly 26.86

Source of revenue	Amount of arrears pending collection as on 31st March 1984	Amount of arrears pending collection as on 31st March 1985	Remarks
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(In lakhs of rupees)

per cent of the total arrears, as against 32 *per cent*, 21 *per cent* and 38 *per cent* of arrear collections in the years 1981-82, 1982-83 and 1983-84 respectively. The Board of Revenue attributed the short-fall in collection of arrears to lack of initiative on the part of the Collectors, in spite of regular instructions issued to them by the Board.

5. Mines and Minerals	126.12	161.39	Arrears amounting to Rs. 72.70 lakhs pertained to the period prior to the year 1981-82, Rs. 28.10 lakhs to the years 1981-82 to 1983-84 and Rs. 60.59 lakhs to the year 1984-85. Out of Rs. 161.39 lakhs, demands for
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Source of revenue	Amount of arrears pending collection as on 31st March 1984	Amount of arrears pending collection as on 31st March 1985	Remarks
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(In lakhs of rupees)

Government dues amounting to Rs. 16.19 lakhs had been stayed by the High Court and other judicial authorities. Certificates had been issued in respect of demands for Rs. 29.97 lakhs for recoveries as arrears of land revenue. Demands for Rs. 6.84 lakhs were under dispute and those for Rs. 37.50 lakhs were proposed to be written off. The remaining demands for Rs. 70.89 lakhs (including Rs. 43.18 lakhs due from private persons/ parties) were stated to be in process of recovery.

Source of revenue	Amount of arrears pending collection as on 31st March 1984	Amount of arrears pending collection as on 31st March 1985	Remarks
6. Police	209.40	120.82	Arrears amounting to Rs. 37.85 lakhs pertained to the period prior to the year 1980-81, Rs. 46.76 lakhs to the years 1980-81 to 1983-84 and the remaining arrears of Rs. 36.21 lakhs to the year 1984-85. Substantial arrears were outstanding against Government of Assam (Rs. 35.59 lakhs), Government of Bihar (Rs. 19.52 lakhs), Government of Andhra Pradesh (Rs. 16.37 lakhs), Orissa State Electricity Board (Rs. 13.89 lakhs), Government of West Bengal (Rs. 12.52 lakhs), Government of India (Rs. 9.18 lakhs) and State Bank of India (Rs. 5.43 lakhs).

Source of revenue	Amount of arrears pending collection as on 31st March 1984	Amount of arrears pending collection as on 31st March 1985	Remarks
7. State Excise	42.72	43.40	Arrears amounting to Rs. 33.38 lakhs pertained to the period upto 1979-80, Rs. 8.79 lakhs to the years 1980-81 to 1983-84, and Rs. 1.23 lakhs to the year 1984-85. There were six cases where more than Rs. 2 lakhs were outstanding in each case.
			Out of Rs. 43.40 lakhs recovery of Rs. 2.15 lakhs in three cases had been stayed by High Court and other judicial authorities, Rs. 34.03 lakhs in 117 cases were covered by certificate cases and Rs. 1.87 lakhs were proposed to be written off. The remaining Rs. 5.35 lakhs were stated to be in the process of recovery.
	<u>7,468.25</u>	<u>7,833.09</u>	

1.7. Frauds and evasions of tax

The number of cases of evasion of tax detected by Sales Tax Department during 1984-85, assessments finalised and demand for additional tax raised are given below. Details of pending cases detected prior to 1st April 1984 were not furnished by the department (August 1985).

1. Number of cases detected during 1984-85	9,106
2. Number of cases investigated	6,100
(a) Number of cases out of (2) above in which fraud and evasion of tax were established and demand raised.	5,133
(b) Number of cases dropped	917
3. Total demand raised (in lakhs of rupees)	370.20
4. Amount actually collected (in lakhs of rupees)	145.40

1.8. Write-off and remission of claims to revenue

Details of amounts written off and remissions allowed during 1984-85, as furnished by the following departments are indicated against them:

Department	Particulars	Amount (in lakhs of rupees)
1. General Administration (Rent)	Remissions of house rent by way of allotment of rent free accommodation in 254 cases	1.66
2. Commerce and Transport (Transport)	Write-off of motor vehicles tax being irrecoverable from 38 defaulters whose whereabouts are not known	12.31

1.9. Outstanding Inspection Reports

(a) Important irregularities and defects in the assessment, demand, collection and accounting of State receipts, noticed during local audit, are intimated through inspection reports to the departmental officers, heads of departments and also to Government, where necessary, with the request to furnish replies thereto within a month of their receipt. In addition, statements showing details of audit objections remaining outstanding for more than six months are sent to Government every six months in May and November, so that these may receive special attention.

(b) At the end of September 1985, 2,466 inspection reports (containing 10,301 audit objections involving receipts of Rs. 3,784.40 lakhs), issued upto March 1985 were awaiting settlement, as shown below. The corresponding figures for the earlier two years have also been indicated.

As at the end of September	Number of outstanding		Revenue involved (In lakhs of rupees)
	Inspection Reports	Audit Objections	
1983	2,119	9,536	1,639.50
1984	2,289	9,884	2,486.43
1985	2,466	10,301	3,784.40

Year-wise break-up of the outstandings as at the end of September 1985 is given below:

Year	Number of outstanding		Revenue involved (In lakhs of rupees)
	Inspection Reports	Audit Objections	
Up to 1982-83	2,043	8,148	13,66.10
1983-84	198	985	10,39.38
1984-85	225	1,168	13,78.92
	2,466	10,301	37,84.40

(c) The departments with heavy outstandings are the following:

Department	Nature of receipts	Number of Reports	Number of Audit Objections	Revenue involved (In lakhs of rupees)
Revenue and Excise	Land Revenue	554	1,809	13,31.00
	Stamps and Registration Fees	435	726	6.22
	State Excise	95	365	6,20.02
Finance	Sales Tax	374	2,488	1,92.83
	Entertainment Tax	156	328	4.31
Commerce and Transport (Transport)	Taxes on Vehicles	255	2,530	3,54.49
	Taxes on Passengers	143	493	4,23.27
Forest, Fisheries and Animal Husbandry (Forest)	Forest	335	1,216	3,97.63
Mining and Geology	Mining Receipts	119	346	4,54.63

(d) Out of 2,466 reports, issued upto March 1985, in respect of 292 reports containing 1,610 audit objections, even first replies had not been received till 30th September 1985. The extent of delay in respect of replies in these cases is shown below:

Period of delay	Number of Inspection Reports	Number of out-standing Audit Objections	Revenue involved (In lakhs of rupees)
Upto 6 months	34	132	306.04
Over 6 months and upto 12 months	115	416	446.26
Over 12 months and upto 18 months	65	316	269.47
Over 18 months and upto 24 months	36	186	202.64
Over 24 months	42	560	175.35
Total	292	1,610	1,399.76

CHAPTER 2

SALES TAX

2.1. Results of Audit

A test check of sales tax assessment and refund cases and the connected documents of the Commercial Tax Offices, conducted in audit during the period from April 1984 to March 1985, revealed under-assessment of tax and losses of revenue, amounting to Rs. 215.83 lakhs in 1,048 cases, which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Short levy due to incorrect computation of taxable turnover	102	50.07
2. Under-assessments due to application of incorrect rates of tax	40	48.57
3. Irregular grant of exemption from tax	251	74.89
4. Non-levy of interest	420	3.46
5. Other cases	235	38.84
Total	1,048	215.83

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

2.2. Application of incorrect rate of tax

(i) Under the Orissa Sales Tax Act, 1947, on sale of minerals, tax is leviable at the rate of 12 per cent (10 per cent upto 31st March 1982). Under the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods) by one registered dealer to another or to a Government department, tax is leviable at the concessional rate of 4 per cent, if

such sales are supported by prescribed declarations. Otherwise, tax is leviable at the rate of 10 *per cent* or at the rate leviable on sale of such goods within the State under the State law, whichever is higher.

In Keonjhar Circle, on inter-State sales of minerals amounting to Rs. 1713.88 lakhs, made by a dealer during the year 1982-83, tax was levied at 10 *per cent*, instead of at the correct rate of 12 *per cent*. Further, on inter-State sales of minerals amounting to Rs. 286.90 lakhs (not supported by the prescribed declarations in Form 'C') made by the same dealer in that year, tax was levied at 10 *per cent*, instead of at the rate of 12 *per cent* (applicable to sale of such goods inside the State). Application of incorrect rate of tax in these cases resulted in under-assessment of tax amounting to Rs. 40.01 lakhs.

On this being pointed out in audit (December 1984), the department accepted the mistakes and stated (August 1985) that an additional demand for Rs. 40.01 lakhs had since been raised and that the dealer had paid (March 1985) Rs. 10.00 lakhs there-against. Report on realisation of the balance amount is awaited (January 1986).

(ii) Under the Orissa Sales Tax Act, 1947, on sale of dyes and chemicals etc., tax is leviable at the rate of 12 *per cent* (10 *per cent* prior to 1st April 1982).

In Bhubaneswar Circle, the taxable turnover of a dealer on account of sale of dyes and chemicals for the year 1982-83 amounting to Rs. 18.74 lakhs was taxed incorrectly at 10 *per cent*, instead of at the correct rate of 12 *per cent*. The mistake resulted in tax being levied short by Rs. 0.37 lakh.

On the mistake being pointed out in audit (June 1984), the assessing officer reopened the case (July 1984). Report on rectification is awaited (January 1986).

(iii) As per Government notification issued in December 1977, under the Orissa Sales Tax Act, 1947, on sale of goods, which are not specified in any of the Schedules to the Act, tax is leviable at the general rate of 7 per cent with effect from 1st January 1978.

On sale of G. I. pipes amounting to Rs. 38.83 lakhs, made during the years 1979-80 to 1982-83 by seven dealers in Puri-I Circle and Cuttack-I Central Circle, tax was levied at the rate of 4 per cent, which rate is applicable to sale of declared goods falling under the category "iron and steel". However, the various items which fall under the category "iron and steel" as specified in Section 14 of the Central Sales Tax Act, 1956, and the State Government's notification of December 1977 do not include "G. I. pipes". "G. I. pipes" are actually unspecified goods and on their sale, tax is leviable at the rate of 7 per cent. The application of the incorrect rate of tax resulted in tax being levied short by Rs. 1.63 lakhs (including additional tax).

On this being pointed out in audit (August 1984 and September 1984), the assessing officers reopened or agreed to reopen the cases. Further reports are awaited (January 1986).

(iv) By a Government notification issued in August 1978, under the Orissa Sales Tax Act, 1947, the rate of sales tax payable by a dealer on sale of spare parts of motor vehicles was revised from 12 per cent to 13 per cent from September 1978.

On sales of spare parts of motor vehicles, amounting to Rs. 15.23 lakhs, made by a dealer of Koraput-II Circle, during the year 1980-81, tax was levied at 12 *per cent*, instead of at the revised rate of 13 *per cent*. The mistake resulted in an under-assessment of tax amounting to Rs. 0.15 lakh.

On this being pointed out in audit (July 1984), the assessing officer raised (July 1984) further demand for Rs. 0.15 lakh. Report on recovery is awaited (January 1986).

(v) Under the Central Sales Tax Act, 1956, on inter-State sales of goods (other than declared goods) by one registered dealer to another registered dealer or to a Government department, tax is leviable at the concessional rate of 4 *per cent*, if such sales are supported by prescribed declarations. Otherwise, tax is leviable at the rate of 10 *per cent* or at the rate leviable on sale of such goods within the State under the State law, whichever is higher. Under the Orissa Sales Tax Act, 1947, with effect from 1st April 1982, on sale of polythene pipes within the State, tax is leviable at the rate of 12 *per cent*.

On inter-State sale of polythene pipes (non-declared goods), amounting to Rs. 6.44 lakhs, made by a dealer of Mayurbhanj Circle during the year 1982-83 to a Housing Board (non-Government body) of another State, tax was levied at 10 *per cent*, instead of at the higher rate of 12 *per cent*. The mistake resulted in tax being levied short by Rs. 0.13 lakh.

On the mistake being pointed out in audit (March 1985), the assessing officer raised (March 1985), further demand for Rs. 0.13 lakh. Report on recovery is awaited (January 1986).

The above cases were reported to Government between November 1984 and May 1985; their reply is awaited (January 1986).

2.3. Non-levy of tax

Under the Orissa Sales Tax ^{Act} 1947, a registered dealer can purchase without payment of tax, goods, which are specified in his registration certificate by furnishing the prescribed declarations to the effect that the goods would be resold in Orissa. If thereafter, he utilises those goods for any other purpose, the price of the goods so purchased shall be included in his taxable turnover and he shall be liable to pay tax thereon.

During the year 1982-83, a registered dealer of Rourkela-I Circle purchased, without payment of tax, limestone valuing Rs. 33.02 lakhs from another dealer by furnishing the prescribed declarations. However, instead of reselling the entire quantity in Orissa as declared, he sold part of the limestone for Rs. 22.85 lakhs, in the course of inter-State trade and commerce. The assessing officer omitted to include the purchase price (estimated to be Rs. 20.77 lakhs) of the limestone so sold, in the taxable turnover of the dealer for purposes of levy of tax. The omission resulted in tax amounting to Rs. 2.49 lakhs not being realised.

On the omission being pointed out in audit (April 1984), the assessing officer reopened the case. Report on action taken is awaited (January 1986).

The case was reported to Government in August 1984; their reply is awaited (January 1986).

2.4. Irregular grant of exemption from tax

(i) Under the Orissa Sales Tax Act, 1947, purchase or sale of (i) raw materials, i. e., goods which directly go into the composition of finished

products, (ii) machinery and spare parts thereof actually required for starting and maintaining a unit, and (iii) packing materials required for packing finished products in the same form as manufactured by the unit, when sold to or purchased by a registered dealer, who is certified by the Director of Industries as a village/cottage/small scale industry, starting production inside the State on or after 1st August 1980, is exempted from levy of tax, provided that the finished products of such industrial unit are sold inside Orissa or in the course of inter-State trade or export from Orissa. The exemption is allowable for a period of five years from the date of certification of the unit by the Director of Industries, Orissa provided the dealer or his authorised agent furnishes a declaration in the prescribed Form I-A. Violation of the conditions of the declaration by the dealer entails payment of tax on such purchases.

During the years 1981-82 and 1982-83, sales of raw materials amounting to Rs.15.73 lakhs, made by seven dealers in five circles (Cuttack-I East, Cuttack-I West, Cuttack-I Central, Keonjhar and Puri-I) to certain registered manufacturing dealers were exempted from levy of tax. The exemptions allowed were inadmissible for the following reasons:

(a) Sales amounting to Rs. 4.78 lakhs had been made to registered manufacturing dealers, who had started production prior to 1st August 1980.

(b) Sales amounting to Rs. 1.85 lakhs had been made prior to the certification of the units by the Director of Industries, Orissa.

(c) Sales amounting to Rs. 8.58 lakhs had been made on the strength of declarations in which dates of certification had not been noted.

(d) Sales amounting to Rs. 0.52 lakh were not supported by the prescribed declarations.

The inadmissible exemptions allowed to the dealers resulted in tax amounting to Rs. 1.13 lakhs not being realised.

On this being pointed out in audit (between April 1984 and March 1985), all the taxing officers, excepting the taxing officer of Cuttack-I Central, either reopened or agreed to reopen the cases (April 1984, May 1984, December 1984 and March 1985). The taxing officer, Cuttack-I Central, however, stated (September 1984) that the matter would be referred to the Commissioner, Commercial Taxes, Orissa, for clarification. Further reports are awaited (January 1986).

(ii) Under the Orissa Sales Tax Act, 1947, purchase of raw materials by a registered dealer for a new manufacturing unit, which started production prior to April 1977, is exempted from levy of tax for five years, provided the finished products are sold by him within the State of Orissa or in the course of inter-State trade or commerce or in the course of export outside the territory of India and he furnishes a declaration to that effect in the prescribed form. Violation of this condition makes the dealer liable to pay tax on such purchase.

(a) In Cuttack-II Circle, purchases of groundnuts amounting to about Rs.3.40 lakhs made by a registered dealer during the years 1979-80 and 1980-81 (upto December 1980), were exempted from levy of tax, based on the declaration furnished by him to the effect that the goods were purchased for use in his manufacturing unit, which had started production of groundnut oil from 1st January 1976. The assessment records of the dealer pertaining to the Central Sales Tax, however, showed that he had not produced groundnut oil, but had sent the groundnut

seeds (after removing the shell from them) outside the State on a commission basis. Since the dealer did not utilise the materials for the declared purpose, he was liable to pay purchase tax on the purchase of groundnuts. The purchase tax not levied amounted to Rs. 0.14 lakh.

On this being pointed out in audit (March 1983), the assessing officer re-opened (March 1983) the case. Report on rectification is awaited (January 1986).

(b) In Cuttack Central Circle, a registered dealer engaged in the manufacture of steel products from the year 1976, was exempted from payment of tax on purchases of furnace oil amounting to Rs. 14.02 lakhs made by him during the years 1979-80 and 1980-81. Since furnace oil did not go directly into the composition of steel products, manufactured by the dealer, the exemption allowed was irregular and resulted in tax amounting to Rs. 0.98 lakh not being realised.

On the irregularity being pointed out in audit (September 1984), the assessing officer agreed (September 1984) to initiate action for revision of the assessments. Further report is awaited (January 1986).

(iii) Under the Central Sales Tax Act, 1956, no tax is leviable on inter-State sale of any goods, if those goods are exempted from tax generally under the sales tax law of the State concerned. A sale of goods would not be deemed to be exempted from levy of tax generally under the sales tax law of the State concerned, if, under the State law, the sale of such goods is exempt only in specified circumstances or under specified conditions.

In assessing three dealers of Bolangir-II (Kantabanji) Circle for the years 1979-80, 1980-81 and 1982-83, inter-State sales of oil cakes amounting to Rs. 10.93 lakhs were exempted from levy of tax. The exemption allowed was incorrect as, according to a notification issued by Government in June 1979 under the State Act, sales of oil cakes were not exempt from levy of tax generally but were exempted only under specific circumstances, i. e., when such sales were made for use of oil cakes as feed and fodder. The exemption allowed to the dealers in respect of the above inter-State sales was, therefore, irregular and resulted in tax amounting to Rs. 1.02 lakhs not being realised.

On the mistake being pointed out in audit (July 1984), the assessing officer stated (July 1984) that according to the Government notification issued in June 1979, sale of oil cake was generally tax-free, as there was no mention of any condition therein. The contention of the assessing officer is not correct, as the notification specifies the circumstances in which alone the sale of oil cake would be exempt from levy of tax. Further, according to a clarification furnished (September 1980) by the Director of Animal Husbandry and Veterinary Services, Orissa, only certain specific varieties of oil cakes are used as feed and fodder, and not all kinds of oil cakes.

(iv) As per provisions of Article 286 (i) (b) of the Constitution of India a sale or purchase of goods which takes place in the course of export of such goods out of the territory of India is exempt from levy of sales tax or purchase tax, as the case may be. Under the Central Sales Tax Act, 1956, as amended from 1st April 1976, the last sale or purchase of any goods, preceding the sale or purchase occasioning

the export of these goods out of the territory of India, shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

In Cuttack-II Circle, a dealer in prawns entered into an agreement (on 12th October 1982) with a foreign buyer for export of prawns and actually started making the exports from 23rd October 1982. While assessing the dealer for the year 1982-83, the assessing officer exempted exports valuing Rs. 70.45 lakhs from levy of tax. However, these exports included Rs. 8.83 lakhs worth of prawns, which had been purchased by the dealer in September 1982 i. e., before entering into the agreement with the foreign buyer (12th October 1982). The transactions relating to these purchases were, therefore, not made in the course of export and as such, the exemption from levy of tax thereon was not correct. The incorrect grant of exemption resulted in tax being levied short by Rs. 0.71 lakh (at the rate of 8 *per cent*).

On the mistake being pointed out in audit (June 1984), the assessing officer stated (June 1984) that prior to the actual execution of the export agreement, there was an implied agreement between the dealer and the foreign buyer, which necessitated purchase of prawns and that there was no sale also prior to such export and, therefore, the entire purchase was taken as in the course of export and exempted from levy of tax. This reply is not tenable as, under Section 5 (3) of the Central Sales Tax Act, 1956, for availing of the exemption from levy of tax, the exporter should first enter into a formal export agreement with the foreign buyer and only after that, enter into the transaction with the penultimate seller or purchaser, as the case

may be, with a view to fulfilling his commitment with the foreign buyer. In May 1985, the assessing officer further intimated that the matter was being referred to the Commissioner of Commercial Taxes, Orissa for clarification. Report on decision taken is awaited (January 1986).

(v) Under the Orissa Sales Tax Act, 1947, on sale of washing soap and detergents, tax is leviable at the rate of 8 *per cent* at the point of first sale in the State from 1st August 1981. First point sales by one registered dealer to another are not exempted from levy of tax.

In Ganjam-I Circle, on sales of soda ash amounting to Rs. 3.13 lakhs, made by a registered dealer to other registered dealers, during the year 1982-83, tax amounting to Rs. 0.25 lakh was leviable, but was not levied.

On the omission being pointed out in audit (September 1984), the assessing officer initiated (September 1984) action for reviewing the case. Report on action taken is awaited (January 1986).

(vi) Under the Orissa Sales Tax Act, 1947, sales made by one registered dealer to another registered dealer are exempt from levy of tax, provided the selling dealer furnishes a declaration in the prescribed Form XXXIV from the purchasing dealer to the effect that the goods purchased by the latter are specified in his certificate of registration and are intended for re-sale by him in Orissa.

In Cuttack-I (West), a dealer of biscuits, in his returns for the period from April 1980 to June 1980, showed his sales turnover as Rs. 3.26 lakhs, and claimed exemption from payment of tax on the entire turnover as sales to registered dealers, but did not

furnish the required declarations in support thereof. The assessing authority allowed the dealer exemption on the ground that tax had already been paid at the point of first sale in the State. No tax had actually been paid at the point of first sale. (Sale of biscuits became taxable at the first point of sale only from 1st July 1980). Further, as stated above, the sales were also not supported by the prescribed declarations. The exemption allowed was, therefore, not in order and resulted in tax amounting to Rs. 0.23 lakh not being realised.

On the irregularity being pointed out in audit in October 1984, the assessing officer agreed (November 1984) to re-examine the case. Further report is awaited (January 1986).

(vii) Under the Orissa Sales Tax Act, 1947, on sale of sewing thread, tax is leviable at four *per cent* with effect from 1st October 1980. Cotton yarn is, however, exempt from levy of tax.

On sale of sewing thread amounting to Rs. 2.91 lakhs made by a dealer of Bhubaneswar Circle during the year 1982-83 tax was not levied on the ground that sewing thread is the same as cotton yarn. Since a specific rate of tax has been prescribed for sale of sewing thread, the exemption granted was incorrect and resulted in tax amounting to Rs. 0.13 lakh (including additional sales tax) not being realised.

On the mistake being pointed out in audit (July 1984), the assessing officer re-opened (July 1984) the case. Report on rectification is awaited (January 1986).

The above cases were reported to Government between June 1983 and April 1985; their replies are awaited (January 1986).

2.5. Incorrect allowance of concessional rates of tax

Under the Central Sales Tax Act, 1956, on inter-State sales of goods made by one registered dealer to another, tax is leviable at a concessional rate of 4 *per cent*, if such sales are supported by prescribed declarations in form 'C'. On inter-State sales not supported by such declarations, tax in the case of declared goods is leviable at twice the rate applicable to sale of such goods inside the State (under the respective State Act), while in the case of non-declared goods, it is leviable at the rate of 10 *per cent* or the rate applicable to sale of such goods inside the State whichever is higher.

In Cuttack-II Circle, a dealer made inter-State sales of groundnut and groundnut seeds (declared goods) amounting to Rs. 4.50 lakhs during the year 1981-82. On inter-State sales amounting to Rs. 2.50 lakhs, which were supported by the prescribed declarations, tax at the concessional rate of 4 *per cent* was leviable, but was not levied. On the remaining sales amounting to Rs. 2.00 lakhs, which were not supported by the prescribed declaration, tax was levied but at an incorrect rate of 4 *per cent* instead of at 8 *per cent*. The mistake resulted in tax being levied short by Rs. 0.18 lakh.

On the mistake being pointed out in audit (July 1984), the department initiated (July 1984) the proceedings to reassess the dealer.

The case was reported to Government in November 1984; Government intimated (September 1985) that further demand for Rs. 0.18 lakh had since been raised against the dealer. Report on recovery is awaited (January 1986).

2.6. Loss of revenue due to non-initiation of certificate proceedings

Under the Orissa Sales Tax Act, 1947, amounts due from a dealer on account of tax, penalty and interest *etc.*, if not paid within the stipulated date, shall be recovered from him as arrears of public demand. For this purpose, the assessing authority is required to issue a certificate in the prescribed form to the concerned Tax Recovery Officer, indicating the amount of tax and other amounts, if any, due from the dealer. The Act also provides that no such proceedings for recovery of any amount can be initiated after the expiry of twelve years from the date of assessment.

In Sambalpur-I Circle, in 60 cases involving demands amounting to Rs. 0.55 lakh, pertaining to the assessments made between May 1970 and May 1972, the required certificates were not issued to the concerned Tax Recovery Officers within twelve years from the dates of completion of the respective assessments, although the dues had remained unpaid. Consequently, the recovery of Rs. 0.55 lakh became time barred, resulting in loss of revenue to Government.

On this being pointed out in audit (July 1984), the assessing officer stated (July 1984) that proposals were being submitted to Government for write-off of the dues. Further report is awaited (January 1986).

The case was reported to Government in November 1984; their reply is awaited (January 1986).

2.7. Short levy of tax due to arithmetical mistakes

(i) Under the Orissa Sales Tax Act, 1947, on sales of rice or broken rice, tax was leviable at the rate of 4 *per cent* from 1st April 1978. Sales tax so leviable was, however, to be reduced by the

amount of purchase tax, if any, paid on purchase of paddy from which such rice was obtained. Purchases of paddy were also taxable at 4 per cent from the above date.

In Bolangir-I Circle, on sales of 17,532.45 quintals of rice (including broken rice) valuing Rs. 39.84 lakhs made by a dealer (rice miller) during the year 1982-83, sales tax was assessed at Rs. 1.59 lakhs. The paddy equivalent of 17,532.45 quintals of rice, so sold, worked out to 26,564.32 quintals (ratio of conversion of paddy into rice being 100:66) and the purchase tax (at 4 per cent) paid on the purchase price (Rs. 32.66 lakhs) of the paddy amounted to Rs. 1.31 lakhs. Although the sales tax (Rs. 1.59 lakhs) payable by the dealer was to be reduced by Rs. 1.31 lakhs on account of purchase tax paid on purchase of paddy the assessing officer erroneously allowed a reduction of Rs. 1.53 lakhs. The mistake resulted in tax being levied short by Rs. 0.22 lakh.

On the mistake being pointed out in audit (September 1984), the assessing Officer reopened the case. Report on action taken is awaited (January 1986).

(ii) Under Section 12(4) of the Orissa Sales Tax Act, 1947, if a registered dealer does not furnish returns in respect of any period by the prescribed date, the assessing officer shall, after giving the dealer a reasonable opportunity of being heard, assess the dealer to tax in respect of such period to the best of his judgement.

In Ganjam-I Circle, the assessing officer assessed a registered dealer to tax for the year 1981-82 on best judgement basis after collecting figures in respect of his purchases and other expenses and sales

to other registered dealers. However, while computing the dealer's gross turnover, its total was, by mistake, struck less by Rs. 1 lakh, resulting in tax being levied short by Rs. 0.14 lakh (including additional sales tax).

On this being pointed out in audit (June 1984), the assessing officer rectified the mistake and raised (June 1984) further demand for Rs. 0.14 lakh. Report on recovery is awaited (January 1986).

The above cases were reported to Government between September 1984 and April 1985; their reply is awaited (January 1986).

2.8. Escapement of taxable turnover

Under the Orissa Sales Tax Act, 1947, and the rules made thereunder, if a dealer having furnished a return, discovers any mistake or omission in his return, he may file a revised return within three months from the due date prescribed for filing of the return.

In Keonjhar Circle, a dealer filed revised returns for the period January 1983 to March 1983, showing his taxable turnover for this period as Rs. 2,26,053, as against the turnover of Rs. 88,514 shown in the original returns. Although a note of the increase (Rs. 1,37,539) was kept on record, tax at the rate of 12 per cent due thereon was omitted to be levied. The omission resulted in tax being levied short by Rs. 0.17 lakh.

On the omission being pointed out in audit (December 1984), the assessing officer agreed (December 1984) to reopen the case. Further report is awaited (January 1986).

The case was reported to Government in May 1985; their reply is awaited (January 1986).

2.9. Irregular refund of sales tax

Under the Orissa Sales Tax Act, 1947, as amended from 12th August 1983, no claim for refund of any tax, penalty or interest, paid under the Act, shall be allowed in cases where there are orders for re-assessment, until the re-assessment is finalised.

A dealer of Ganjam-II Circle was assessed to tax with an additional demand for Rs. 0.19 lakh for the years 1978-79 and 1979-80. He paid Rs. 0.17 lakh and preferred an appeal against the order of assessment. The appellate authority, while setting aside the assessment, remanded (May 1983) the case to the assessing authority with directions for re-assessment of tax. But before re-assessment was finalised, the dealer preferred a claim for refund of Rs. 0.17 lakh, paid by him earlier and the same was allowed (January 1984) by the assessing authority, in contravention of the provisions of the Act.

On the irregularity being pointed out in audit (August 1984), the assessing officer stated (August 1984) that he had noted the point for future guidance.

The case was reported to Government in March 1985; their reply is awaited (January 1986).

2.10. Raising of incorrect demand for tax

Under the provisions of the Orissa Sales Tax Act, 1947, every dealer registered is required to furnish to the Sales Tax Officer a quarterly or, as the case may be a monthly return of sales and the tax payable, together with a treasury challan or a crossed bank draft for full payment of the admitted tax. The tax so deposited is adjusted against the tax, as finally assessed for the year and the balance, if any, is demanded.

In Cuttack-I Central Circle, a dealer filed his monthly return for August 1981, showing the admitted tax as Rs.13,159 without actually making the payment of that amount into the treasury or by sending a bank draft along with the return. While assessing the dealer for the year 1981-82, the taxing officer by mistake, took the above amount as having been paid by the dealer and adjusted the same against the tax finally assessed for that year. The mistake resulted in tax being demanded short by Rs. 0.13 lakh.

On the mistake being pointed out in audit (March 1985), the assessing officer raised further demand for Rs.0.13 lakh against the dealer. Report on recovery of the demanded tax is awaited (January 1986).

The case was reported to Government in July 1985; their reply is awaited (January 1986).

2.11. Non-levy of interest on belated payments of tax.

Under the Orissa Sales Tax Act, 1947, as amended from 1st June 1976, and the Central Sales Tax (Registration and Turnover) Rules, 1957, as amended from 1st July 1971, if a dealer defaults in making payment of any amount of tax by the due date specified in the notice issued to him, he would be liable to pay interest on the amount due at 18 per cent (6 per cent prior to 12th August 1983) per annum for the first three months and at 24 per cent (12 per cent prior to 12th August 1983) per annum thereafter, provided that no interest would be charged in respect of any amount remaining unpaid at any time prior to 1st January 1971 under the State Act and prior to 1st July 1971 under the Central Act.

In 18 Commercial Tax Circles* State sales tax demands amounting to Rs15.55 lakhs outstanding on or after 1st January 1971 (in 383 cases) and Central sales tax demands amounting to Rs. 50.10 lakhs outstanding on or after 1st July 1971 (in 37 cases) were finally settled during the year 1983-84, without collecting interest on the belated payments. Interest not levied amounted to Rs. 3.47 lakhs.

On the omission being pointed out in audit (between April 1984 and March 1985), the assessing officers agreed (between April 1984 and March 1985) to raise necessary demands. Reports on action taken are awaited (January 1986).

The cases were reported to Government (between August 1984 and July 1985); their replies are awaited (January 1986).

* Cuttack-I East, Rourkela-I, Koraput-I, Ganjam-I, Koraput-II, Cuttack-II, Dhenkanal, Sambalpur-I, Sambalpur-II, Bolangir-II, Bolangir-I, Puri-II, Bhubaneswar, Cuttack-I West, Phulbani, Sambalpur-III, Balasore-II, Puri-I

CHAPTER 3

TAXES ON MOTOR VEHICLES AND PASSENGERS

3.1. Results of Audit

Test audit of the accounts of receipts and refunds in the offices of the State Transport Authority, Orissa and other Regional Transport Offices, conducted during the period from 1st April 1984 to 31st March 1985, revealed under assessments and losses of revenue amounting to Rs. 79.53 lakhs in 4,491 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy of motor vehicles tax	634	18.09
2. Short levy of motor vehicles tax	2,196	16.12
3. Non-levy of passengers tax	188	16.27
4. Under assessment of passengers tax and composition fees	27	1.19
5. Loss of revenue due to other reasons	1,446	27.86
Total	4,491	79.53

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

3.2. Non-recovery of passengers tax

(i) Under the Orissa Motor Vehicles (Taxation of Passengers) Act, 1969 and the rules made thereunder, an operator of every stage carriage carrying passengers has to file with the tax officer, a monthly return of the tax collected and paid, within a period of fifteen days from the close of the month to which the return relates. Where no such return is submitted

or the return submitted is found to be incorrect or incomplete, the tax officer shall determine the tax due, which shall not exceed the maximum amount of tax payable, if the vehicle had carried its full complement of passengers. Default in the submission of returns is also treated as an offence, which is punishable with fine or with imprisonment or with both.

(a) In respect of a large number of vehicles belonging to the Orissa State Road Transport Corporation, there was considerable delay in receipt of monthly returns from the Corporation, or assessment of tax by the tax officers, as indicated in the table below:—

Region	Period upto which returns were received from the corporation	Period upto which assessments were completed by the department	Remarks
(1)	(2)	(3)	(4)
1. Cuttack	(i) Up to February 1984	(i) Upto September 1983	Returns for the period March 1984 to September 1984 had not been received from the corporation
	(ii) From October 1984 to March 1985	(ii) From January 1985 to March 1985	
2. Dhenkanal	(i) Upto September 1984 (Dhenkanal unit)	May 1984	
	(ii) Upto August 1984 (Angul unit)	May 1984	
3. Puri	Information not available	September 1983	
4. Sambalpur	March 1985	December 1984	
5. State Transport Authority	Information not available	March 1984	

The delay in completion of the assessments was stated to be due to receipt of incomplete returns from the Corporation. No action for imposition of penalties/fines on the Corporation had, however, been initiated by the department against the Corporation.

In cases where the assessments had been completed, recoveries of passengers tax amounting to Rs. 349.72 lakhs were found to be outstanding against the Corporation (as on 31st March 1985) as per details given below:—

Sl. No.	Transport Region	Amount outstanding against the Corporation	Period to which arrears relate
(In lakhs of rupees)			
1.	Cuttack	13.98	April 1983 to December 1984
2.	Dhenkanal	5.69	April 1982 to March 1985
3.	Kalahandi	9.79	April 1982 to February 1985
4.	Puri	0.55	April 1977 to September 1983
5.	Sambalpur	35.73	April 1979 to December 1984
6.	State Transport Authority	2,83.98	April 1982 to December 1984 (provisional)
	Total	<u>3,49.72</u>	

No effective steps had been taken by the department to recover the outstanding dues from the Corporation.

(b) Although the operators of 102 vehicles in six regions (Sundargarh, Ganjam, Phulbani, Bolangir, Koraput and Bhawanipatna) did not submit any return or pay tax pertaining to the period from April 1982 to November 1984, the assessing officers did not take any action to assess the tax due or to

initiate penal proceedings against the operators. The tax recoverable in these cases amounted to Rs. 14.20 lakhs.

On the omissions being pointed out in audit (between November 1984 and March 1985), the taxing officers stated (between November 1984 and March 1985) that action for assessment and realisation of tax was being initiated. Further reports are awaited (January 1986).

(c) A fleet owner of Keonjhar region and an operator of Baripada region filed passengers tax returns in respect of four vehicles and one vehicle respectively for various periods falling between October 1982 and March 1984 without payment of the tax collected by them into Government account. No action was taken by the assessing officers to assess the tax due in respect of these vehicles or to initiate penal proceedings against the operators concerned. The tax leviable in these cases amounted to Rs. 0.94 lakh (Rs. 0.77 lakh + Rs. 0.17 lakh).

On the omission being pointed out in audit (May and June 1984), the taxing officers agreed (June 1984) to initiate action for assessment and realisation of the tax. The taxing officer, Keonjhar also intimated (November 1985) that the assessment had been completed in July 1984. Report on action taken by the taxing officer, Baripada is awaited (November 1985).

(d) In Keonjhar region, 15 stage carriages were detected plying with passengers for hire, without any permit, on several occasions during the period between October 1981 and March 1984. The operators of these vehicles neither submitted any passengers tax returns nor paid the passengers

tax collected by them. No action was also taken by the taxing officer to determine and realise the tax due from the operators or to initiate penal proceedings against them. Passengers tax not levied in respect of such unauthorised trips only amounted to Rs. 0.13 lakh.

On the omission being pointed out in audit (June 1984), the taxing officer stated (June 1984) that since the Act did not provide for levy of passengers tax in respect of a vehicle plying without a permit, the matter would be referred to the State Transport Authority and that necessary action would be taken on receipt of clarification in the matter. The contention of the taxing officer is not correct, as the Act provides that in case a public service vehicle is used without permit, the person in whose name such vehicle is registered or the person having possession or control thereof is to be treated as the operator liable to file return and pay tax under the Act.

(ii) During the years 1980-81 to 1984-85, motor vehicles tax in respect of 680 vehicles belonging to the Orissa State Road Transport Corporation for various periods ranging from 1 month to 60 months in each case, was not recovered by the department, although the vehicles were not covered by any off-road declarations by the Corporation. Tax not levied amounted to Rs. 122.34 lakhs.

(iii) Under the Orissa Motor Vehicles (Taxation of Passengers) Act, 1969, an operator of public service vehicle may pay, in lieu of passengers tax, composition fee at a lump sum rate, fixed by Government. For permission to pay fee at the compounded rate, an operator is required to apply to the taxing officer not less than 15 days before the commencement of the period, for which tax is intended to be

compounded, and such application is required to be accompanied by a receipt evidencing payment of composition fee, payable in respect of the vehicle. In the event of failure to comply with these provisions, the taxing officer is empowered to determine and demand the tax payable not exceeding the maximum amount which would have been payable if the vehicle had carried its full complement of passengers.

(a) In Sundargarh region, operators of five public service vehicles, who had been paying composition fees in lieu of passengers tax, did not pay such fees for various spells falling between July 1982 and May 1984. These spells were also not covered by any intimations regarding temporary discontinuance of the use of those vehicles. No action was taken by the taxing officer to determine and demand the passengers tax payable for such spells on the basis of full complement of passengers in respect of these vehicles. The omission resulted in passengers tax amounting to Rs. 0.87 lakh not being realised.

On the omission being pointed out in audit (January 1985) the taxing officer agreed (January 1985) to issue show cause notices to the concerned operators and assess the tax. Report on action taken is awaited (January 1986).

(b) In Bolangir region, an operator of a public service vehicle applied for permission to pay fee at compounded rates for the first quarter of the year 1983-84 on 30th March 1983 without payment of composition fees for one month (June 1983). For the second and third quarters of the year 1983-84 he did not apply for permission to pay fee at the compounded rates, but paid fees at those rates for the months of July, September and October 1983

only. The tax at compounded rate for the months of June and August 1983 was, however, paid subsequently in June 1985. In respect of the fourth quarter of the year 1983-84 the operator applied for permission to pay fee at the compounding rates but paid passengers tax at the normal rate for two months, without making payment for the third month (March 1984). The months for which tax was not paid by him were not covered by any intimation regarding temporary discontinuance of the vehicle by the operator. No action was taken by the taxing officer to determine and demand passengers tax payable for the months of June and August 1983 (for balance of tax) and November, December 1983 and March 1984 (for which no tax had been paid) on the basis of full complement of passengers in respect of that vehicle. The omissions resulted in non-realisation of passengers tax amounting to Rs. 13,400. No action had also been taken by the taxing officer to initiate penal proceeding against the operator.

On this being pointed out in audit (March 1985) the taxing officer stated (March and July 1985) that the operator was being served with a notice to pay the balance passengers tax. Report on recovery is awaited (January 1986).

The above cases were reported to Government between November 1984 and November 1985; their reply is awaited (January 1986).

3.3. Non-realisation of tax in respect of vehicles violating off-road declarations

Under the Orissa Motor Vehicles Taxation Act, 1975, tax shall be levied on every motor vehicle used or kept for use in the State. No tax is payable on a vehicle, which is not intended to be used for any period,

if prior intimation of such non-use is given to the taxing officer on or before the date of expiry of the period for which tax has been paid, specifying *inter alia* the period of non-use and the place where the motor vehicle is to be kept during such period. If, at any time, during the period covered by such intimation, the motor vehicle is found to be plying on the road, or is not found at the declared place, it shall be deemed to have been used throughout the said period and, in such cases, the owner of the vehicle becomes liable to pay tax for the entire period for which it was declared off-road and also to pay such penalty as may be imposed by the taxing officer.

(i) In five regions (Cuttack, Balasore, Kalahandi, Puri and Keonjhar), 114 motor vehicles, which had been declared off-road for various periods between August 1981 and March 1984, were detected by the Enforcement staff as plying on the road during such off-road periods. In another region (Cuttack) 27 vehicles, declared off-road between July 1983 and August 1984, were not found at the declared places during the period covered by the off-road declarations. No action was taken by the taxing officers against these vehicles for violation of the provisions of the Act. The tax leviable on these vehicles for the above periods amounted to Rs. 11.52 lakhs.

On these lapses being pointed out in audit (between December 1983 and March 1985), all the taxing officers agreed (between December 1983 and March 1985) to realise the tax from the vehicle owners. Reports on realisation are awaited (January 1986).

(ii) In respect of 83 vehicles of seven regions (Bargarh, Mayurbhanj, Keonjhar, Rourkela, Sundargarh, Bolangir and Kalahandi), tax for various periods between January 1980 and December 1984 had not been levied

and realised, even though tax for the earlier and later periods had been collected. The intervening periods, for which tax was not collected, were neither covered by exemptions from payment of tax on account of temporary discontinuance of the use of the vehicles, nor by intimations of payment of tax in any other region. The tax involved amounted to Rs. 1.53 lakhs.

On the omission being pointed out in audit (between April 1984 and March 1985), the taxing officers of four regions (Mayurbhanj, Sundargarh, Bolangir and Kalahandi) agreed (between June 1984 and March 1985) to issue demand notices for realisation of the tax. The taxing officers of other three regions (Bargarh, Keonjhar and Rourkela) stated (May, June and December 1984) that action would be taken after verification of records. Further reports are awaited (January 1986).

The above cases were reported to Government between September 1984 and July 1985; their reply is awaited (January 1986).

3.4. Short collection of tax on vehicles plying under the National and Zonal Permit Schemes

Under the National Permit Scheme and the Zonal Permit Schemes, on a public carrier goods vehicle, which is registered in another State or Union Territory and is authorised to ply in the State of Orissa, tax is leviable at the rate of Rs. 1,000 per annum. At the option of the operator, the payment of the tax can be made in two equal instalments, the first instalment payable by 15th March and the second by 15th September. The tax is collected by the State Transport Authorities of the home States concerned and is remitted to the State Transport Authorities, Orissa by means of demand drafts.

Tax in respect of 736 vehicles, permitted to ply in Orissa during 1983-84 under the National Permit Scheme (401 vehicles) and Zonal Permit Schemes (335 vehicles) had been realised for part of the year, instead of for the full year for which the vehicles were permitted to ply. The tax recovered short amounted to Rs. 3.68 lakhs.

On the short collection being pointed out in audit (between August 1984 and September 1984), the State Transport Authority, Orissa stated (September 1984) that in respect of vehicles plying under the National Permit Scheme, the authorities of the concerned home States had since been requested to realise and remit the tax and that similar action would be taken for realisation of balance tax in respect of vehicles plying under the Zonal Permit Schemes. Report on realisation of tax is awaited (January 1986).

The matter was reported to Government in December 1984; their reply is awaited (January 1986).

3.5. Short realisation of tax on vehicles used for the purposes other than those for which these were registered

Under the Orissa Motor Vehicles Taxation Act, 1975, different rates of taxes have been prescribed for different classes of motor vehicles based on their makes and models and the purposes for which they are used. Rates of tax prescribed for motor vehicles, which are used for conveyance of passengers for hire (Class 4 of the Schedule to the Act), are higher than those applicable to motor vehicles which are not used for the above purpose (Class 6 of the Schedule to the Act). The Act also prescribes that when any motor vehicle, in respect of which tax for any period has been paid as per the registration, is proposed to be used, during such period, in a manner for which higher rate of tax is payable, the owner of the vehicle shall be liable to

pay additional tax equal to the difference between the tax already paid and the tax which is payable on account of change of user.

In four regions (Balasore, Bargarh, Cuttack and Phulbani), 86 motor vehicles (Trekkers etc.), registered as Class 6 Vehicles, were detected by the Enforcement staff as carrying passengers for hire unauthorisedly between April 1982 and September 1984. No action was, however, taken by the taxing officers to assess these vehicles as Class 4 vehicles (plying for conveyance of passengers for hire) and to demand the additional tax recoverable for the same. Additional tax not realised amounted to Rs. 2.21 lakhs.

On the omission being pointed out in audit (between December 1983 and October 1984), two taxing officers (Cuttack and Phulbani) agreed (September and October 1984) to take action for realisation of the differential tax. The taxing officer, Balasore stated (February 1984) that he would review the cases and the taxing officer (Bargarh) stated (April 1984) that since the cases as per the check reports had been otherwise disposed of, necessary action would be taken on receipt of a clarification from the State Transport Authority as to whether these cases could be reopened by him. Further reports are awaited (January 1986).

The cases were reported to Government between September 1984 and February 1985; their reply is awaited (January 1986).

3.6. Under-assessment of motor vehicles tax in respect of stage carriages plying without permits

Under the Orissa Motor Vehicles Taxation Act, 1975, tax in respect of a stage carriage is leviable on the basis of number of passengers (including standing

passengers), which the vehicle is authorised to carry, and the distance it covers in a day as per the permit. If any such vehicle is found to be plying without a permit, the tax payable is to be determined on the basis of the maximum number of passengers, which the vehicle would have been permitted to carry, reckoning the distance covered by it each day, as exceeding 320 kilometres, for which the highest rate of tax is applicable.

In seven regions (Balasore, Mayurbhanj, Dhenkanal, Cuttack, Ganjam, Sundargarh and Puri) 140 stage carriages were detected plying without any permit during various periods between May 1980 and June 1984, but tax in respect of those vehicles was not assessed and collected at the rates prescribed in respect of such vehicles. The omission resulted in short collection of tax by Rs. 1.86 lakhs.

On the omissions being pointed out in audit (between February 1984 and February 1985), the taxing officer, Balasore stated (February 1984) that ^{the} cases would be reviewed. The taxing officers of all other regions agreed (between June 1984 and February 1985) to take action for realisation of the balance amounts of tax. Further reports are awaited (January 1986).

The cases were reported to Government between October 1984 and June 1985; their reply is awaited (January 1986).

3.7. Short collection of tax on vehicles of other States plying temporarily in Orissa

According to a notification dated 1st October 1975, issued under the Orissa Motor Vehicles Taxation Act, 1975, temporary tax tokens may be issued in respect of transport vehicles of other States plying temporarily in the State of Orissa on payment of tax at

prescribed rates. The rates of quarterly tax in respect of contract carriages and goods vehicles were revised from 1st July 1981 and 1st January 1982 respectively. As per the procedure prescribed (September 1967), such tax should be paid by the vehicle owner in cash or by bank draft to the licensing authority of the home State, who, in turn, is to remit it to the State Transport Authority, Orissa. The latter is to check the correctness of the remittance received and account for it.

In respect of 727 goods vehicles and 20 contract carriages of other States, which were permitted to ply temporarily in Orissa for various periods during January 1982 to April 1984 and March 1983 to July 1983 respectively, tax was realised (and remitted to the Orissa State) by the licensing authorities of the home States at the pre-revised lower rates, resulting in short realisation of tax by Rs. 1.14 lakhs (Rs. 0.74 lakh in the case of goods vehicles and Rs. 0.40 lakh in respect of contract carriages). The State Transport Authority, Orissa also did not take any action to demand the differential amount of tax from the vehicle-owners through the licensing authorities of the home States concerned.

On the short realisation of tax being pointed out in audit (September 1984), the State Transport Authority, Orissa stated (September 1984) that the matter would be taken up with the concerned authorities for realisation of the balance amount of tax. Report on recovery is awaited (January 1986).

The matter was reported to Government in December 1984; their reply is awaited (January 1986).

3.8. Issue of tax tokens without realisation of arrears of tax

Under the Orissa Motor Vehicles Taxation Act, 1975, tax tokens are to be issued only when all arrear taxes and penalties are paid along with the tax for the current period. Where the tax for any period has not been paid and continues to remain unpaid for a period of 15 days from the due date of payment, the taxing officer may in respect of such vehicles, impose penalty at the rate prescribed in the Act.

In five regions (Dhenkanal, Ganjam, Kalahandi, Mayurbhanj and Sundargarh) tax tokens in respect of 68 vehicles had been issued (between May 1984 and March 1985) without realising the arrear taxes amounting to Rs. 1.30 lakhs relating to various periods falling between April 1981 and June 1984. No action had also been taken to invoke the penal provisions of the Act for non-payment of tax.

On this being pointed out in audit (between May 1984 and March 1985), the taxing officer of one region (Ganjam) issued (December 1984) demand notices and the taxing officers of other four regions agreed (between June 1984 and March 1985) to initiate action for realisation of the arrear dues. Further reports are awaited (January 1986).

The cases were reported to Government between October 1984 and July 1985; their reply is awaited (January 1986).

3.9. Short collection of tax in respect of stage carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, the tax payable in respect of a stage carriage is to be determined on the basis of number of

passengers (including standing passengers), which the vehicle is permitted to carry and the total distance it covers in a day as per the permit.

In seven regions (Balasore, Mayurbhanj, Keonjhar Ganjam, Sundargarh, Puri and Kalahandi), in respect of 90 stage carriages tax for various periods between October 1981 and March 1985 was computed wrongly due to adoption of incorrect seating or standing capacity or distance permitted to be covered by the vehicles in a day or application of incorrect rates of tax. The mistakes resulted in short collection of tax amounting to Rs. 0.97 lakh.

On the mistakes being pointed out in audit (between January 1984 and March 1985), the taxing officers of Keonjhar and Ganjam regions issued (June and December 1984) demand notices for recovery of the amount due. The taxing officers of Sundargarh, Puri and Kalahandi regions also agreed (January, February and March 1985) to initiate action for realisation of the differential tax. The taxing officers of Balasore and Mayurbhanj regions, however, stated (February and June 1984) that the cases would be reviewed. Further reports are awaited (January 1986).

The cases were reported to Government between October 1984 and July 1985; their reply is awaited (January 1986).

3.10. Non-levy of tax in respect of standing passengers

Under the Orissa Motor Vehicles Taxation Act, 1975, read with the Orissa Motor Vehicles Rules, 1940, passengers may be carried standing on the

deck of any public service vehicle. The taxing authority should examine the vehicle and fix the number of standees permitted to be carried and levy tax in respect of the standees as per the rates prescribed in the taxation schedule.

In five regions (Phulbani, Ganjam, Rourkela, Puri and Kalahandi), the taxing authorities fixed standing capacity in respect of 42 vehicles, but did not assess and realise tax in respect of the standing passengers for the period from January 1982 to March 1985. Tax not realised amounted to Rs. 0.60 lakh.

On the omission being pointed out in audit (between October 1984 and March 1985), the taxing officers agreed (between October 1984 and March 1985) to initiate action for realisation of the tax due. Reports on recoveries are awaited (January 1986).

The cases were reported to Government between January 1985 and July 1985; their reply is awaited (January 1986).

3.11. Non-levy of interest on belated payments of passengers tax

Under the Orissa Motor Vehicles (Taxation of passengers) Act, 1969, as amended from 1st September 1983, if an operator of a taxable vehicle fails to pay the whole or any part of the tax payable by him within the prescribed date, he shall be liable to pay interest at the rate of 12 *per cent* per annum on the amount of tax in default from the date following the date prescribed for payment of tax.

In Kalahandi region the passengers tax (Rs. 8.53 lakhs) in respect of 99 Vehicles pertaining to the period 1980-81 to 1982-83, which was payable

before September 1983, was actually paid by the operators on 19th March 1984. For belated payment of tax, interest amounting to Rs. 0.56 lakh was chargeable from the operators, but was not charged.

On the non-levy of interest being pointed out in audit (March 1985), the taxing officer stated (March 1985) that steps would be taken to recover the interest, after verification. Report on action taken is awaited (January 1986).

The case was reported to Government in June 1985; their reply is awaited (January 1986).

3.12. Evasion of motor vehicles tax

According to the provisions of the Orissa Motor Vehicles Taxation Act, 1975, there shall be levied on every motor vehicle used or kept for use within the State, a tax at the rate specified in the Schedule to the Act, except for the period covered by non-use (off-road) declaration. Where tax for any period in respect of a vehicle has not been paid and continues to remain unpaid for a period of fifteen days from the due date of payment, the taxing officer may, in respect of such vehicle impose a penalty equal to the amount of quarterly tax for the first quarter and at twice the amount of quarterly tax for every subsequent quarter, as may be comprised within the said period. Further, using a motor vehicle or keeping it for use without payment of tax is an offence for which the operator shall, on conviction, be punishable with fine not exceeding, for the first offence, twice and, for every subsequent offence, four times the amount of annual tax payable for the vehicle, in respect of which the offence is committed.

An operator of a vehicle, which was registered as a contract carriage on 16th June 1982 in Keonjhar region, paid motor vehicles tax for the periods from 16th to 30th June 1982 and 16th July to 31st October 1982. He did not pay tax for the periods from 1st June to 15th June 1982, 1st July to 15th July 1982 and 1st November 1982 to 30th June 1984. During these periods the vehicle was not off the road, as it was detected by the Enforcement staff as plying on road without permit during November 1982 to September 1983. The department also did not take any action to recover tax for these periods or to impose penalty on the operator for non-payment of tax. The failure resulted in non-realisation of tax amounting to Rs. 0.53 lakh. Penalty and fine up to Rs. 1.13 lakhs and Rs. 0.60 lakh respectively could also be recovered from him.

On this being pointed out in audit (June 1984) the taxing officer issued (June 1984) a demand notice for Rs. 1.58 lakhs (tax: Rs. 0.53 lakh and penalty Rs. 1.05 lakhs). Further report is awaited (January 1986).

The matter was reported to Government (November 1984); their reply is awaited (January 1986).

3.13. Short realisation of composition fee

Under the Orissa Motor Vehicles (Taxation of passengers) Act, 1969, an operator of public service vehicle may, with the permission of the taxing officer, pay composition fee in lieu of passenger tax. Government notified in November 1975 that fee in respect of ordinary stage carriage would be payable on the daily permitted distance at the rate of Rs. 1.85 per passenger per year per kilometre. This rate was enhanced (September 1981) to Rs. 2.62 with effect from 1st October 1981.

In Sundargarh region, composition fee in respect of eleven vehicles for various periods between August 1982 and December 1984 was assessed incorrectly, resulting in short recovery of fee by Rs. 0.18 lakh.

On the short recovery being pointed out in audit (January 1985), the taxing officer stated (January 1985) that notices were being issued to the concerned operators for payment of the balance amount of fee. Report on recovery is awaited (January 1986).

The case was reported to Government in April 1985; their reply is awaited (January 1986).

3.14. Short levy of motor vehicles tax

Under the Orissa Motor Vehicles Taxation Act, 1975, tax payable in respect of stage carriages is to be determined on the basis of permitted seating capacity and the total distance permitted to be covered by the vehicles in a day. According to the clarifications/instructions issued by the State Transport Authority in October 1974 (i) route-wise operation of each vehicle should be indicated in the permits issued to vehicle operators and (ii) if a fleet operator opted to pay tax on the basis of longest distance for all his vehicles, he would be at liberty to change his vehicles from one route to other as per his convenience. Further, where a motor vehicle plied without a permit, the distance covered for purposes of levy of tax shall be reckoned as exceeding 320 Kms. per day. The plying of vehicle without a valid permit is also an offence under the Motor Vehicles Act, 1939.

However, 546 regular stage carriage permits issued to the Orissa State Road Transport Corporation, showed only the total number of vehicles covered by

each permit without indicating the registration numbers of the vehicles. Route-wise particulars regarding operation of the vehicles and the distances to be covered by each of them had also not been indicated in the permits. The vehicles were used on any route at the convenience of the Corporation, irrespective of the distance involved. In 2,022 other cases, where temporary permits had been granted to vehicles of the Corporation during the period from April 1980 to March 1985, although registration numbers of the vehicles had been shown in the permits, a test check in audit revealed that in many cases the vehicles were actually used by the Corporation on routes other than those on which they were permitted to ply. The Corporation thus used the vehicles in violation of the permit conditions as prescribed in the Act and was, therefore, liable to pay tax at the maximum rate prescribed therein in respect of the permits issued to it. However, the Corporation paid (and the department accepted) tax at normal lower rates, resulting in tax being realised short by Rs.48.90 lakhs.

The matter was reported to the department and Government in October 1985; their replies are awaited (January 1986).

CHAPTER 4

LAND REVENUE

4.1. Results of Audit

A test check of assessment and collection of land revenue, conducted in audit during the period from April 1984 to March 1985, revealed non-assessment or under-assessment and non-realisation of revenue amounting to Rs. 534.54 lakhs in 1,225 cases, which may be broadly categorised as under:—

	Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of premium and rent on conversion of agricultural lands	91	12.32
2. Non-collection of premium and rent etc. for lands occupied by local bodies/Government undertakings/private parties and individuals	70	371.10
3. Non-assessment/short assessment/delay in assessment of land revenue and cess	630	36.38
4. Non-assessment or short assessment of water rates	72	16.77
5. Non-lease/irregular lease of <i>sairat</i> or other miscellaneous revenue	126	2.01
6. Non-lease/non-realisation of revenue from surplus Government lands	171	3.79
7. Other cases	65	92.17
Total	<u>1,225</u>	<u>534.54</u>

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

4.2. Non-settlement of lease

According to Government orders issued in October 1961, May 1963 and February 1966, Government land can be leased out to local bodies, public undertakings, etc., on payment of premium fixed on the basis of market value *plus* annual ground rent at the rate of one *per cent* of the market value. Interest at the rate of six *per cent* per annum is also chargeable on belated payments of Government dues.

In Panposh Tahasil, advance possession of Government land admeasuring 52.16 acres was given to the Orissa State Electricity Board in June 1975 for construction of a 220/132 K. V. sub-station in Tarkera and Raghunathpalli villages under the Rourkela Civil Township. Although the Board had applied for lease of the said land in November 1976 and the Tahasildar had recommended the grant of lease in October 1982, the lease had not been sanctioned by the department till August 1984. Based on the rate recommended by the Tahasildar, the dues recoverable from the Board amounted to Rs. 311.75 lakhs (Premium Rs. 188.14 lakhs, ground rent Rs. 16.93 lakhs and interest Rs. 106.68 lakhs) upto March 1984 alone.

On this being pointed out in audit (August 1984), the Tahasildar stated (August 1984) that steps would be taken to realise the dues after sanction of the lease. Further report is awaited (January 1986).

The case was reported to Government in December 1984; their reply is awaited (January 1986).

4.3. Non-recovery of premium and other dues from the Orissa Cashew Development Corporation

According to Government orders issued in January 1980 (in partial modification of the approved lease principles issued in 1961) Government waste land would be leased out in favour of the Orissa

Cashew Development Corporation (a Government Company) for cashew plantations on payment of premium and rent and the Corporation would also execute a lease deed in the prescribed form. With a view to obviating the procedural delays in determining the market value of the land through the normal processes, Government, in their order dated 11th March 1980, fixed the market value at Rs. 250 per acre of land (irrespective of its location) and ground rent at 1 *per cent* of the market value for the first five years, at 7 *per cent* for the next five years and at 14 *per cent* for the next 10 years. The rate of ground rent beyond that period was to be in consonance with the laws for the time being in force.

In three Tahsils (Ranpur in Puri district, Sukinda in Cuttack district and Kamakhyanagar in Dhenkanal district), the respective Collectors sanctioned (between March 1980 and June 1983) lease of land, aggregating 8201.14 acres, to the Corporation subject to payment of premium amounting to Rs. 20.50 lakhs and cost of the trees (on the allotted land) amounting to Rs. 0.66 lakh. The Corporation was given possession of the land between June 1981 and June 1983. No lease agreement was, however, executed with the Corporation, nor did the Corporation pay the premium, ground rent or cost of trees, till the date of audit (November 1984). The amount due from the Corporation upto 31st March 1984 alone amounted to Rs. 23.85 lakhs (premium:Rs. 20.50 lakhs ; cost of trees : Rs. 0.66 lakh; annual ground rent : Rs. 0.36 lakh and interest:Rs. 2.33 lakhs).

On this being pointed out in audit (December 1983, April and November 1984), the Tahasildars stated (between December 1983 and November 1984) that the Corporation was being requested to make the payments. Reports on realisation are awaited (January 1986).

The matter was reported to Government (between July 1984 and February 1985); their reply is awaited (January 1986).

4.4. Non-recovery of premium and rent for conversion of agricultural lands

Under the Orissa Land Reforms Act, 1960, where a *raiyat** uses agricultural land for any non-agricultural purpose, without prior permission of the competent authority, he is liable to eviction. However, as per Government orders issued in December 1970, such land, on the request of the *raiyat*, can be resettled with him, on non-agricultural lease basis, (i) on payment of premium equal to two-thirds of the amount of increment in value of the land, arising out of the commercial or industrial use, and (ii) on re-fixation of the rent at one *per cent* of the market value of the non-agricultural holding. If the *raiyat* does not apply for fresh settlement within a period of three months from the date of the notice to him in this behalf, the land can be settled with another person on non-agricultural lease basis.

In six tahasils (Cuttack Sadar, Kakatpur, Sohela, Tihidi, Kodinga and Bhanjanagar in the districts of Cuttack, Puri, Sambalpur, Balasore, Koraput and Ganjam respectively), although in 24 cases, agricultural lands admeasuring 26.933 acres were converted and used for commercial purposes by establishing hotels, cinema halls, rice mills, saw mills etc., thereon between 1965 and 1983, no action was taken by the department either to evict the *raiyats* or to resettle the lands with them or other parties in accordance with the aforesaid Government orders. The premium realisable on resettlement of the lands amounted to Rs. 6.18 lakhs (based on the market value of lands as reported by the Tahasildars). Rent (Rs. 0.78 lakh) chargeable upto March 1984 had also not been demanded.

*"Raiyat" means a person who holds land for purposes of agriculture

On the omissions being pointed out in audit (between April 1984 and September 1984), the Tahasildars agreed (April 1984 to September 1984) to initiate action in the matter. Further report is awaited (January 1986).

The cases were reported to Government between July 1984 and February 1985; their reply is awaited (January 1986).

4.5. Non-assessment or short assessment of compulsory basic water rate

Under the Orissa Irrigation Act, 1959 and the rules made thereunder, compulsory basic water rate at the prescribed rate is leviable on the lands coming within the culturable command area of an irrigation work for irrigation of staple cereal crop (*khariff* paddy harvested between October and January) whether water is used for irrigation or not. The culturable command area, as certified by the Engineer-in-Charge, is verified by the Revenue Officer (Tahasildar) according to the prescribed procedure and the demand for water rate is raised on the basis of assessment rolls prepared after such verification. According to Government orders, issued in August 1966, water rates in respect of minor irrigation projects should be charged from the year in which the assessment is finalised and, as such, no arrears can be demanded where there is delay in finalising the assessment. The irrigation works are divided into four classes (viz. Class I, II, III and IV) on the basis of guaranteed depth and period of water supply. The water rates prescribed for Classes I, II, III and IV irrigation works were Rs. 8, Rs. 6, Rs. 4 and Rs. 2 per acre of land up to 1980-81 and Rs. 16, Rs. 12, Rs. 8 and Rs. 4 per acre from 1981-82 respectively. In case of new irrigation projects, no water-rate is, however, chargeable for the first year of supply of water, whereas 50 per cent

and 75 per cent of the prescribed rates is chargeable for the second and third years respectively and full rate is chargeable from the fourth year onwards.

(i) In four Tahasils (Khandpara, Nilgiri, Bhanjanagar and Titlagarh), out of 9812.740 acres of land falling within the culturable command area of 14 minor irrigation projects (three Class I, seven Class III and four Class IV projects), which had started supplying water for irrigation three to eighteen years back, assessments of water rate in respect of 6746.570 acres had not been made upto the end of March 1984. As no arrears of water rate in respect of such land could be demanded up to 1983-84, revenue amounting to Rs. 2 lakhs was lost to Government.

On this being pointed out in audit (between May 1984 and December 1984), the Tahasildars, Bhanjanagar and Titlagarh stated (September and December 1984) that the assessments were in progress. The Tahasildars, Khandpara and Nilgiri stated (May and July 1984) that the assessments would be done early. Further reports are awaited (January 1986).

(ii) In Cuttack Tahasil, out of the certified ayacut (culturable command area) of 20,363.54 acres, irrigated by the Mahanadi canal system (a Class I irrigation work), 17,145.75 acres were declared by the Tahasildar as assessable to water rate, excluding an area of 3,217.79 acres which was stated to be unfit for irrigation. However, the final demand collection and balance statement of the Tahasil showed that actual assessment of water rate had been made in respect of only 8,104.44 acres during the year 1982-83 and 11,134.48 acres during the year 1983-84. Thus, 9,041.31 acres and 6,011.27 acres of irrigated land remained unassessed for the years 1982-83 and 1983-84 respectively, resulting in non-realisation of water rates amounting to Rs. 2.41 lakhs.

On the short assessment being pointed out in audit (April 1984), the Tahasildar stated (April 1984) that the concerned Revenue Inspectors to whom the demand statement was sent after assessment, omitted to include it in their respective circle accounts and collect the amount. The reply is not correct as the demand was also not incorporated in the Tahasil Demand Register.

The cases were reported to Government in July and December 1984; their reply is awaited (January 1986).

4.6. Loss of revenue due to Non-changing of classification of lands

Under the Orissa Survey and Settlement Rules, 1962, the Tahasildar is empowered to order changes in the record-of-rights on various grounds by initiating *suo motu* proceedings. As per provisions of the Orissa Mutation Manual, he is authorised to take *suo motu* action for changing the record of rights through mutation proceedings, when there is change in the classification of land.

With effect from the year 1976-77, 13,844.521 acres of land in Banpur Tahasil (District Puri), which had no irrigation facilities earlier, were assessed to compulsory basic water rate consequent on supply of water from a class-I irrigation project (Salia Dam project) from 1973. Therefore, the classification of these lands, as recorded in the record-of-rights (published after completion of rent settlement in 1962), needed to be changed and rent refixed at a higher rate prescribed for irrigated lands (Sarad Dofasal-I) of the Tahasil by initiating *suo motu* mutation proceedings. The rent in respect of 'Sarad Dofasal-I' (irrigated lands) was Rs. 6.66 per acre per annum, as against the average rent of Rs. 5.90 per acre per

annum in respect of the non-irrigated lands. But due to non-initiation of any *suo motu* proceedings for changing classification of the lands, neither the record-of-rights was corrected nor was the rent at the higher rate assessed and collected. This resulted in short realisation of revenue amounting to Rs. 0.45 lakh (rent Rs. 0.11 lakh and cess Rs. 0.34 lakh) for the period 1976-77 to 1982-83.

On this being pointed out in audit (January 1984) the Tahasildar agreed (January 1984) to examine the matter. Further development is awaited (January 1986).

The matter was reported to Government in July 1984; their reply is awaited (January 1986).

4.7. Short recovery of Premium

(i) According to the Government orders issued during March 1978, Government land can be temporarily leased out to commercial departments and public undertakings on payment of premium equal to ten times the amount of the annual rental. The annual rent chargeable is one *per cent* of the market value of land.

In Daspalla tahasil (Puri district), Government land admeasuring 10.57 acres was leased out (March 1983) by the Tahasildar to the Orissa Forest Corporation Limited (a Government company) for the years 1982-83 and 1983-84 on payment of annual premium of Rs. 1585.50. The premium was not correctly fixed as the market value of land, as fixed by the Revenue Divisional Commissioner, amounted to Rs. 15,000 per acre and, based on that rate, the annual premium recoverable worked out to Rs. 15,855. The mistake resulted in short realisation of premium by Rs. 0.29 lakh for the years 1982-83 and 1983-84.

On this being pointed out in audit (June 1984), the Tahasildar agreed (June 1984) to examine the matter. Report on examination is awaited (January 1986).

(ii) As per the Orissa Prevention of Land Encroachment Act, 1972, the Tahasildar is empowered to settle unobjectionable encroached lands with landless persons. According to the principles approved by Government in 1961 and amended in September 1970, for settlement of homestead lands in semi-urban and rapidly developing areas, house sites upto the extent of four cents will be settled without charging any premium and any extra area over four cents upto 20 cents will be charged at 50 *per cent* of the prevailing market value and the area in excess of 20 cents will be charged at full market value.

In Anandapur tahasil (District Keonjhar), the Tahasildar settled encroached areas admeasuring 3.98 acres in favour of 27 families during the years 1982 and 1983, allowing 8 to 37 cents of land to each family, without collecting premium in respect of the area (admeasuring 2.90 acres) settled in excess of four cents in each case. Computed on the basis of the prevailing market value of land, as reported by the Tahasildar in November 1984, the premium forgone amounted to Rs. 0.23 lakh.

On the omission being pointed out in audit (November 1984), the Tahasildar stated (November 1984) that action was being taken to realise the amount due. Report on recovery is awaited (January 1986).

The above cases were reported to Government in March 1985; their reply is awaited (January 1986).

4.8. Sairat sources.

Sairat sources comprise miscellaneous sources like fisheries, quarries, 'hats', ferry *ghats* and orchards etc., from which Government derives revenue by grant of temporary leases.

(i) The table below indicates the demand, collection and arrears of *sairat* revenue during the years 1981-82 to 1984-85, as furnished by the Board of Revenue :

Year	Demand (including arrears)	Collection (including arrears)	Balance in arrears	Percent- age of collec- tion to demand
(In lakhs of rupees)				
1981-82	62.36	47.20	15.16	76
1982-83	64.28	39.98	24.30	62
1983-84	85.42	65.52	22.90	73
1984-85	86.74	57.10	29.64	60

Year-wise details of the arrears and of the amounts covered under recovery certificate proceedings were not available.

(ii) *Non-lease of sources*

According to Government's standing instructions *sairat* sources in each tahsil are required to be leased out every year. However, a number of sources were not leased out by the Tahsildars, as indicated in the table below:

Year	Number of sources available at the beginning of the year	New sources added during the year	Number of sources leased out during the year	Number of sources not leased out during the year
(1)	(2)	(3)	(4)	(5)
1981-82	1,038	190	803	425
1982-83	1,228	201	1,073	356
1983-84	1,429	236	1,082	583
1984-85	1,665	216	1,085	796

The non-lease of the sources mentioned in column (5) of the table was attributed to lack of bidders at the auctions held for the purpose. But no attempts had been made for settlement of the sources by negotiation, as required under the Government's instructions.

(iii) Transfer of sairats to local bodies and Gram Panchayats

During March 1962 to May 1964, Government decided to transfer some fisheries *sairats* to Gram Panchayats and local bodies to augment their income, on the condition that the *sairats* should be maintained properly by spending half of the annual lease money realised by them and that the sources should be kept free from encroachment. In cases where the Gram Panchayats were not able to make full use of the sources, the transfers were to be revoked. As reported by 33 tahsils, 12,152 *sairats*, out of 13,190 *sairats* available then were handed over to Gram Panchayats during 1962-63 to 1980-81 but the Tahasildars did not verify the upkeep, maintenance and existence of the transferred *sairats* at any time.

(iv) Non-registration of sairat leases

As per Government's instructions, in cases where lease amounts are not paid by the lessees in advance, the lessees are required to execute lease agreements and register the same at their cost.

In two tahsils (Darpan in Cuttack district and Pipli in Puri district), although four parties, to whom *sairat* sources were leased out during 1981-82 to 1984-85 did not pay the entire lease money in advance, no lease agreements were executed and

registered at the lessee's cost. This resulted in loss of revenue amounting to Rs. 0.52 lakh by way of stamp duty (Rs. 0.46 lakh) and registration fees (Rs. 0.06 lakh).

(v) *Loss due to delay in lease of sairat*

The upset price of a sand *sairat* (in Pipli tahasil) for the year 1982-83 was fixed by the Collector, Puri in March 1982 at Rs. 35,600. The *sairat* was not put up for auction after observing the prescribed formalities. Instead, the source was recommended (June 1982) by the Collector for a negotiated settlement with a High School for Rs. 26,567, which was not agreed to by the Revenue Divisional Commissioner. Eventually, the *sairat* was sold out in an auction held in November 1982 for Rs. 3,000 only. The delay in settlement of the quarry thus resulted in loss of about Rs. 32,600.

(vi) *Loss due to non-lease of resumed sairat sources.*

The Forest Department transferred seven quarries in Darpan tahasil (Cuttack district) to the control of the Revenue Department in September 1982. The Revenue Department omitted to enter these *sairat* sources in the prescribed registers. The Tahasildar proposed (September and October 1982) fixation of the upset price of these *sairat* sources at Rs. 41,960 for the entire working period from April 1982 to March 1983. As, however, half of the working period had already expired, he recommended (October 1982) fixation of the upset price for the remaining period at Rs. 20,980. But no action was taken by the Collector on the

Tahsildar's proposal, nor was the matter pursued by the Tahsildar, resulting in revenue amounting to Rs. 0.21 lakh being forgone by the department.

(vii) Non-levy of interest

The Chilka Fisheries *Sairat* in Krishnaprasad tahasil (Puri district) was leased out to the Central Fisheries Co-operative Society Ltd., Balugaon for the years 1980-81 and 1981-82 for Rs. 4,99,500 and Rs. 5,73,336 respectively. As per the conditions of the lease agreement, the sale prices were to be paid in four equal instalments on 31st December, 28th February, 30th April and 30th June and for any delay in payment beyond the stipulated dates, the lessee was liable to pay interest as leviable on arrears of land revenue. Although the Society delayed the payment of all the instalments by 1 to 124 days, no interest was demanded from it. Interest not charged amounted to Rs. 0.13 lakh.

The above points were reported to Government in October 1985; their reply is awaited (January 1986).

CHAPTER 5

MINING RECEIPTS

5.1. Results of Audit

A test check of the mining receipts in the offices of Mining Officers, conducted in audit during the period from April 1984 to March 1985, revealed non-levy or short levy of dead rent, cess and royalty and other losses of revenue amounting to Rs. 9.14 lakhs in 17 cases, which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy or short levy of dead rent, cess and royalty	4	0.87
2. Non-recovery of cost of ores found short	1	1.99
3. Non-realisation of cost price of ores on working of mines without legal authority	1	2.50
4. Non-recovery of interest	7	2.77
5. Loss of revenue due to other reasons	4	1.01
Total	17	9.14

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

5.2. Irregular allowance of deduction

Under the Mines and Minerals (Regulation and Development) Act, 1957 and the Mineral Concession Rules, 1960, the holder of a mining lease is to pay royalty on any mineral removed or

consumed from the leased area and there is no provision therein for allowing any deduction towards moisture content of the coal removed or consumed. According to the provisions of the Orissa Cess Act, 1962, the lessee is also liable to pay cess at 100 *per cent* of royalty.

A lessee of three coal mines was allowed to deduct 19,379 tonnes of coal on account of the moisture content, out of the total quantity of coal removed during the calendar years 1982 and 1983. The incorrect grant of allowance resulted in royalty and cess being realised short by Rs. 2.04 lakhs.

On this being pointed out in audit (September 1983 and March 1985), the Senior Mining Officer agreed (March 1985) to assess and demand the differential amounts of royalty and cess from the lessee. Further report is awaited (January 1986).

The matter was reported to Government (December 1983 and May 1985); their reply is awaited (January 1986).

5.3. Non-levy of interest

Under the Mineral Concession Rules, 1960, as amended in July 1976, in cases of belated payments of dead rent, royalty or other Government dues, simple interest at the rate of 15 *per cent* (10 *per cent* prior to 2nd October 1982) per annum on the amounts in default may be charged from the lessees from the sixtieth day of the expiry of the date fixed by Government for payment of such dues till the default continues. Similarly, as per the provisions of the Orissa Cess Act, 1962 and the rules made thereunder, simple interest at the rate of 6 *per cent* per annum is chargeable if the monthly cess payable for the mining area remains unpaid after the due date of payment (i.e., 15th of the following month).

In two mining offices (Koraput and Jajpur-Keonjhar Road) interest had not been levied in 85 cases of belated payments of royalty (42 cases) and cess (43 cases) during the years 1979-80 to 1983-84. The interest realisable on these cases amounted to Rs. 1.71 lakhs.

On the omission being pointed out in audit (June and August 1984), the Mining Officers stated (June and August 1984) that action would be taken to realise the interest due. Report on action taken is awaited (January 1986).

The cases were reported to Government in September and November 1984; their reply is awaited (January 1986).

5.4. Loss of revenue due to delay in installation of weigh bridge.

According to the terms of a mining lease, the lessee is required to instal a weighing machine for proper determination of weight of the minerals removed from the mines and calculating royalty due on the basis of such weight. In case the lessee fails to instal a weighing machine for some reason or the other, Government instals a weigh bridge at a selected point and charges weighment fees from the lessee at a prescribed rate. The prescribed fee was 25 paise per tonne during the period from June 1978 to September 1982 and 50 paise per tonne thereafter.

For weighment of minerals supplied by private mine owners to the Steel Authority of India Ltd., (SAIL), Government decided (September 1977) to instal a weigh bridge at "Vedavyas", a site under the jurisdiction of the Senior Mining Officer, Rourkela. The site was selected in February 1978 and the requisition for alienating a piece of 0.60 acre of land in favour of

the Mining Department was sent to the Tahasildar, Panposh in June 1978. However, the site which was *Gochar** land could not be alienated and this fact was intimated to the Director of Mines, Orissa by the Senior Mining Officer in January 1979. Despite this, the Director of Mines placed (March 1979) an order on a firm at Cuttack for supply of a 30 tonne capacity weigh bridge at a cost of Rs. 0.92 lakh. The firm supplied the weigh bridge in June 1979. However, the same could not be installed as the site was not alienated. Thereafter, a new site was selected (January 1981) at Baidyanathpur which was alienated in January 1982 and the weigh bridge was installed there in May 1983. During the period from June 1979 to May 1983, a quantity of 4.63 lakh tonnes of minerals was supplied by private mine owners to SAIL and others on volumetric measurement basis in the absence of a weigh bridge, which resulted in forgoing of revenue amounting to Rs.1.35 lakhs towards weighment fees. Besides, the machine purchased in June 1979 for Rs. 0.92 lakh remained idle for about four years.

On this being pointed out in audit (May 1981 and September 1983), the Senior Mining Officer (May 1981 and September 1983) and the Director of Mines (September 1982) stated that the delay in installation of the machine was due to non-alienation of land.

The case was reported to Government (June 1981 and December 1983); their reply is awaited (January 1986).

* *Gochar* land means the portion of the effective area of land of a village which is reserved for pasturage.

5.5. Non-levy of royalty and cess on excess consumption of coal in collieries

Under the Mines and Minerals (Regulation and Development) Act, 1957 (as amended from 12th December 1972), the holder of colliery lease is exempted from payment of royalty on coal consumed by workmen engaged in the colliery, upto one-third of a tonne per month per workman.

In a Mining Office (Talcher), a lease holder was exempted from payment of royalty and cess in respect of 5270.5 M. T. of coal, claimed to have been consumed by the workmen in the colliery during the year 1983. However, on the basis of quarterly return of labour employed, as furnished by the colliery, the maximum quantity of coal allowable for consumption by workmen worked out to 3105 M.T. only. The grant of excess allowance of 2165.5 M. T. of coal to the lease holder resulted in short realisation of royalty and cess amounting to Rs. 0.11 lakh.

On this being pointed out in audit (March 1985), the Senior Mining Officer agreed (March 1985) to initiate action for recovery of Rs. 0.11 lakh from the colliery. Report on recovery is awaited (January 1986).

The case was reported to the department and Government in May 1985; their replies are awaited (January 1986).

CHAPTER 6

FOREST RECEIPTS

6.1. Results of Audit

A test check of the records maintained in the Forest Divisions, conducted in audit during the period from April 1984 to March 1985, revealed non-recovery or short recovery of dues and loss of revenue amounting to Rs. 48.24 lakhs in 9,793 cases, which may be broadly categorised as under:

	Number of cases	Amount (In lakhs of rupees)
1. Non-recovery of short fall in price on resale of forest produce	7	0.17
2. Non-realisation of compensation	854	25.13
3. Non-levy of interest on belated payment of consideration money or royalty	161	11.86
4. Non-realisation of extension fees	98	6.68
5. Loss of revenue due to non-sale of forest produce	6	2.13
6. Miscellaneous	8,667	2.27
Total	9,793	48.24

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

6.2. Loss of forest produce

Under the provisions of the Orissa Forest Department Code, the Range Officer is responsible for protection and maintenance of forest and other properties under his jurisdiction.

(i) In three Forest Divisions (Ghumsur North, Nayagarh and Baripada), ten timber coupes and two lots of teak plantation with 68,841 marked trees and 111 standard trees were allotted to the Orissa Forest Corporation (one timber coupe of Ghumsur North and two teak plantation lots of Nayagarh) and the Similipahar Forest Development Corporation (nine timber coupes of Baripada) during September 1982 to April 1983. The Corporations took delivery of 58,660 marked trees and 28 standard trees during December 1982 and October 1983 to February 1984, leaving a balance of 10,181 marked trees and 83 standard trees. But on a physical verification by the department, these 10,181 marked trees and 83 standard trees (valued at Rs. 42.73 lakhs) were found to be missing. The shortage was attributed to illicit felling of trees by some unauthorised persons. The loss had not been investigated.

On this being pointed out in audit (between April 1983 and May 1984), the Divisional Forest Officers, Ghumsur North and Baripada stated (April 1983 and May 1984) that action was being taken to fix responsibility. Report on action taken is awaited (January 1986). The Divisional Forest Officer, Nayagarh stated (January 1984) that it was not possible to prevent illicit felling, which was rampant in the area, and that the division could book 74 forest offence cases, resulting in realisation of Rs. 4.87 lakhs.

(ii) In Parlakhemundi Forest Division, forest materials of different ranges, collected and stacked departmentally in 12 lots during 1975-76 to 1977-78, but kept unsold, were allotted to the Orissa Forest Corporation during the period from 1978-79 to 1980-81 subject to payment of royalty amounting to Rs. 33,250. However, due to deterioration of the

materials with passage of time, the Corporation did not take delivery of the same. During October 1981 and June 1982, the Range Officers reported that the materials, which had been completely spoiled by attack of white ants, etc., would not fetch any sale value in future. Delay in disposal of the material thus resulted in loss of revenue amounting to Rs. 0.33 lakh.

On this being pointed out in audit (May 1983), the Divisional Forest Officer stated (August 1984) that action would be taken to get the loss written off.

The above cases were reported to Government between July 1983 and August 1984; their reply is awaited (January 1986).

6.3. Loss of revenue due to non-exploitation of minor forest produce

'Hill broom' is a seasonal minor forest produce. Its collection season lasts from November to December every year.

In Bolangir Forest Division, ranges for collection of hill brooms for the year 1981-82 (crop year 1981) were not leased out in the general auction sale held in September 1981. In December 1981, the Tribal Development Co-operative Corporation of Orissa requested for lease of a particular range of the division for collection of hill brooms. However, the Chief Conservator of Forests, who did not agree to split up the produce of the division in the suggested manner, recommended (February 1982) that Government might lease out the entire produce of the division to the Corporation at a royalty of Rs. 33,110. But the Corporation declined (March 1982) to accept such a proposal. Attempts to sell the produce by supplementary auction held in June 1982 also failed, as the collection season was already over. In August

1982, the Corporation requested for lease of the produce for a period of three years (1982-83 to 1984-85) on a nominal royalty, as the potentiality of the division for this item was not much.

The lease was sanctioned by Government in May 1983. But as the work orders were issued late in July 1983 (i.e., much after the collection season for 1982-83), the Corporation did not agree (September 1983) to work out the lease from the year 1982-83. Since the general auction sale for the year 1983-84 was already over by that time, the produce was put to supplementary auction sale held in January 1984 (i.e., after the collection season) when it could fetch a price of Rs. 5,300 only. Thus, the produce for the years 1981-82, 1982-83 and part of 1983-84 remained unexploited due to department's failure to take timely action for its sale. As a result, revenue amounting to Rs. 0.94 lakh (as computed on the basis of royalty fixed for the year 1981-82) was lost to Government.

The case was reported to Government in July 1985; their reply is awaited (January 1986).

6.4. Loss of revenue due to error in computation of units

According to the procedure laid down in Government orders dated 14th November 1979, royalty in respect of a forest coupe, allotted to the Orissa Forest Corporation, is settled on the basis of the probable price of various timber lots in the coupe. The price is calculated by multiplying the number of units of each lot with the unit cost fixed in the prescribed manner. The same procedure is also followed in the case of allotment of coupes in favour of the Similipahar Forest Development Corporation.

In Karanjia Forest Division, the total number of units in three timber lots of the forest coupes allotted to Similipahar Forest Development Corporation during the year 1979-80, was erroneously computed as 650, instead of as 876 and consequently the probable price of the coupes was assessed short by Rs. 59,482, resulting in short realisation of royalty to that extent.

On the mistake being pointed out in audit (July 1983), the Divisional Forest Officer stated (July 1983) that a proposal for revision of the royalty would be submitted to the Conservator of Forests. Report on action taken is awaited (January 1986).

The case was reported to Government in November 1983; their reply is awaited (January 1986).

6.5. Non-levy of interest on belated payment of consideration money or royalty

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay, by the due date, any instalments of consideration money for sale of forest coupes to him, he is liable to pay interest at the rate of $6\frac{1}{2}$ per cent per annum on the instalments in default.

In seven Forest Divisions (Angul, Dhenkanal, Baripada, Deogarh, Khariar, Bolangir and Athmallik), in 60 cases, where payments of consideration money or royalty in respect of forest coupes sold to private contractors (including a paper mill) during the years 1982-83 to 1984-85, were delayed from 15 days to $10\frac{1}{2}$ months, interest amounting to Rs. 22,070 was chargeable, but was not charged.

On the omission being pointed out in audit between April 1984 and March 1985, the Divisional Forest Officers agreed (April 1984 to April 1985) to initiate action for realisation of the interest due. Reports on realisation are awaited (January 1986).

The cases were reported to Government between June 1984 and June 1985; their reply is awaited (January 1986).

6.6. Non-realisation of shortfall on resale of forest coupes

Under the Orissa Forest Contract Rules, 1966, a contract for sale of forest coupes can be terminated or a sale can be quashed for breach of any of the conditions laid down in the contract or in the sale notice, as the case may be, and the coupes resold. The shortfall of revenue, if any, on such resale, together with interest due thereon at the rate of $6\frac{1}{4}$ per cent per annum, is recoverable from the defaulting contractor as arrears of land revenue.

A sale of a forest coupe of Keonjhar Division, with sale value of Rs.58,000, was quashed in January 1984 for non-submission of coupe declaration certificate and the coupe was resold (April 1984) at an amount of Rs. 33,500. In Puri Forest Division, sale contracts in respect of 6 coupes were terminated between March and May 1984 for non-payment of instalments (Rs.31,901) of consideration money, and these coupes, when put to resale (April and May 1984) did not fetch any offer. The shortfalls in these cases, amounting to Rs. 56,401 were, however, not recovered from the defaulting contractors. Taking into account the available security deposits of Rs. 27,160 and the adjustment of Rs. 12,218 due to a contractor in another case, the net shortfall recoverable amounted to Rs. 17,023.

On this being pointed out in audit (June 1984), the Divisional Forest Officers stated (June 1984) that action was being taken to realise Rs. 17,023 from the contractors concerned. Report on recovery is awaited (January 1986).

The cases were reported to Government in August and November 1984; their reply is awaited (January 1986).

6.7. Working of timber coupes entrusted to the Orissa Forest Corporation Limited

(i) The Orissa Forest Corporation Limited (a Government Company) was set up in 1962 with the main object of taking up scientific exploitation of the forest resources of the State. To start with, a few coupes were allotted to the Corporation in some forest divisions for being worked by it, the other coupes being allotted to forest contractors after holding public auctions. Gradually, the Corporation expanded its timber extraction activity and by the year 1982-83, timber exploitation in 28, out of the total of 31 divisions of the Department, was allotted to the Corporation.

The table below indicates the number of forest divisions, in which working of the forest coupes was entrusted to the Corporation and other contractors.

Year	Number of forest divisions in which working of the coupes was entrusted to the corporation	Number of forest divisions in which working of the coupes was entrusted to other contractors
1978-79	20	11
1979-80	21	10
1980-81	23	8
1981-82	26	5
1982-83	28	3

(ii) *Arrears of royalty and other dues recoverable from the Corporation.*

As reported (July 1985) by the Divisional Forest Officers and the Chief Conservator of Forests,

Orissa, recoveries of Rs. 671.73 lakhs were outstanding against the Corporation, as per details given below:—

Nature of outstanding recovery	Amount of outstanding recovery	Remarks
(In lakhs of rupees)		
1. Royalty	581.41	Of this, arrears amounting to Rs. 18.31 lakhs pertained to the period prior to 1978-79; Rs. 62.24 lakhs to the years 1980-81 to 1981-82; Rs. 55.29 lakhs to the year 1982-83; and Rs. 445.49 lakhs to the year 1983-84.
2. Interest on delayed payment of royalty	47.37	Interest payable upto 1983-84.
3. Compensation for illicit felling of trees	41.48	Arrears pertained to the years 1975-76 to 1984-85.
4. Extension fees for delays in exploitation of coupes	1.47	Arrears pertained to the period 1978-79 to 1981-82
Total	671.73	

(iii) Fixation of royalty recoverable from the Corporation

Coupes earmarked for sale to contractors, other than the Corporation, were settled at the highest bid prices obtained in public auctions, with reference to the upset prices fixed by the department, taking into account (a) unit content of timber in the coupes, (b) average sale value of timber per unit obtained in the preceding three years, (c) current market trend regarding value of timber, (d) quality of the crop and (e) accessibility of the coupe area.

However, royalty recoverable from the Corporation in respect of the coupes allotted to it was not fixed on a proper basis keeping in view the market trend regarding value of timber from time to time. During the years 1969-70 and 1970-71, royalty was fixed initially at the upset price of the coupe (as worked out by the department) subject to revision on outturn basis after working of the coupe by Corporation. During 1971-72 to 1978-79, however, royalty was fixed by negotiations with the Corporation. Since this process resulted in controversies between the department and the Corporation in regard to the estimated and actual outturn of timber, Government decided, in November 1979, that the royalty payable by the Corporation should be fixed in advance every year, based on the previous year's unit price, subject to such increase or decrease as might be necessary according to the current market trend, quality of the crop and accessibility of the coupe area.

Throughout, the average rate of royalty per unit realised from the Corporation was considerably lower than the rates realised from other forest contractors. A few instances are given in the table below :

Year	Name of the division in which coupes were allotted to the Corporation and other contractors	Average rate of royalty per unit realised from the Corporation	Average rate of royalty per unit realised from other forest contractors
		Rs.	Rs.
1975-76	Puri ..	19.28	20.55
	Dhenkanal ..	63.61	68.02
	Keonjhar ..	32.13	110.13
1976-77	Puri ..	45.16	49.23
	Dhenkanal ..	64.58	78.60
	Keonjhar ..	59.65	107.31
1977-78	Puri ..	76.17	82.52
	Dhenkanal ..	105.10	118.32
	Keonjhar ..	86.96	137.72
1978-79	Dhenkanal ..	158.21	187.45
	Keonjhar ..	92.95	154.23
1979-80	Keonjhar ..	125.81	162.02
1980-81	Keonjhar ..	148.45	290.10

As Government themselves considered the rates of royalty realised from the Corporation as on the low side, they decided in March 1984 that an *ad valorem* surcharge on royalty in the shape of additional royalty should also be realised from the Corporation from 1979-80, at such rates as might be fixed by the Government in consultation with the Chief Conservator of Forests, based on the total turnover, royalty, working cost, overhead cost and profit earned by the Corporation each year. Although nearly $1\frac{1}{2}$ years have elapsed since then, final decision on fixation of additional royalty to be realised from the Corporation has not been taken so far (July 1985).

(iv) *Non-recovery of royalty on trees of lower girth classes*

Royalty in respect of the coupes settled with the Corporation is determined with reference to the units of timber available in the Coupes. Till end of 1981-82, the Forest Divisional Officers were, however, not following any uniform procedure in determining the units of timber available in a coupe. To ensure uniformity, in June 1982, the Chief Conservator of Forests, Orissa, issued instructions to all Divisional Forest Officers to classify all standing trees (except Chandan, Teak and Khair), marked for felling in a coupe, into three broad categories of species and compute their units as under:—

Girth of trees at breast height	Ratio of conversion of species into units		
	1st class	2nd class	3rd class
1. Under 60 Cm.	0.25
2. 60 to under 90 Cm.	0.50	0.25	..
3. 90 to under 120 Cm.	1.00	0.50	0.25
4. 120 to under 150 Cm.	2.00	1.00	0.50
5. 150 to under 180 Cm.	4.00	2.00	1.00
6. 180 Cm. and above	6.00	3.00	1.50

In respect of the un-sound trees, the units were to be computed at half of the above rates. These instructions did not specify any unit value of timber for 2nd and 3rd class species below 60 Cm. girth and that for 3rd class species below 90 Cm. girth. In five forest divisions it was seen that timber contents of such under girth trees were being computed at half the quantities applicable to the immediately preceding species of corresponding girth-class. However, in 20 other forest divisions such trees numbering 2,92,072 (1,54,582 under 60 Cm. girth-class and 1,37,490 under 60 to 89 Cm. girth-class) marked for felling were handed over to the Corporation without converting them into units and consequently without assessment of any royalty on them on the ground that the instructions of the Chief Conservator of Forests did not indicate the rate of conversion in respect of those trees. Computed with reference to the principles adopted in the other five divisions and the rates of royalty per unit charged from the Corporation in the corresponding coupes of these divisions royalty not charged from the Corporation in respect of the 2,92,072 trees in 20 divisions amounted to Rs. 48.83 lakhs.

(v) Under-assessment of royalty due to misclassification of certain species

As per the classification of various species of trees given in the Schedule of Rates of the Orissa Forest Produce Rules-1977, framed by Government, under clause (d) of Section 36 of the Orissa Forest Act, 1972, 'Kurum', 'Haldu', and 'Mundi' class of species stand classified under the 1st class and that of 'Mahul', 'Kusum', 'Sirish' and 'Dhaman' class of trees under the 2nd class. However, in the instructions issued by the Chief Conservator of Forests

in June 1982 the above classes of trees were required to be classified under 2nd class and 3rd class species respectively. As a result, of this, the field officers, who had hitherto been classifying these trees under higher classes, as per the statutory rules, classified them under lower classes and assessed a lower unit value on them. Besides, in 13 divisions species like 'Sidha', 'Dhaura', 'Kendu', and 'Jamu' which were required to be classified as 2nd class species, both under the Schedule of Rates and the Chief Conservator of Forests' instructions were actually classified as miscellaneous species (3rd class). Since royalty in respect of a coupe is generally fixed based on classification of the units, this mis-classification (down-grading) of species resulted in under-assessment of royalty by Rs. 32.60 lakhs relating to the period 1979-80 to 1984-85.

(vi) Incorrect fixation of royalty

According to Government orders (November 1979) royalty in respect of coupes settled with the Corporation should be fixed on the basis of the previous years' unit price or on the basis of the average unit price, whichever is higher, with such increase or decrease as might be necessary, after taking into account the current market trend and other local factors.

(a) In Nayagarh Forest Division, 2,871 teak trees of a teak coupe were delivered to the Corporation in February 1983. The royalty was, however, not fixed on the basis of unit price of timber, but on the basis of Cft. rate for the actual quantity of timber removed.

Computed on the basis of the unit rate of Rs. 625 charged in the neighbouring coupe worked by the Corporation itself, royalty in respect of 1,759 units

(2,871 trees) worked out to Rs. 10.99 lakhs, as against Rs. 1.06 lakhs actually charged from the Corporation, resulting in short levy of royalty amounting to Rs. 9.93 lakhs.

(b) In respect of 17 regular coupes worked by the Corporation in one Forest Division (Khariar) during the year 1982-83, it was initially proposed to charge royalty at Rs. 21.39 lakhs (based on the royalty charged in the previous year) *plus 20 per cent* thereon on account of rise in market trend. The proposal was not acceptable to the Corporation on the ground that the trees were spread over hilly slopes. Eventually, the royalty was fixed at Rs. 11.83 lakhs, which was even less than the royalty charged in the previous year (1981-82) by Rs. 9.56 lakhs. The reasons for reduction in the rates of royalty were not kept on record.

(vii) *Improper waiver of extension fees recoverable from the Corporation*

According to the provisions of the Orissa Forest Contract Rules, the extraction of forest produce purchased under contract should be completed by the forest contractor during the period specified in his contract and on the completion of the period, the contractor's right under the contract shall cease and any forest produce not removed from the contracted area shall become the absolute property of the Government, unless the contractor concerned has applied in advance and obtained extension of time for a specified period on payment of an extension fee of one *per cent* per month of the total consideration money of the contract. The Conservator of Forests is, however, authorised to exempt the contractor from payment of extension fee, wholly or in part, in specific cases.

In the Rengali Dam Project Division, Deogarh, in respect of 61 divisional lots within the project submersible area allotted to the Corporation for working during the year 1983-84 (contract period between May 1983 to June 1984), extension of time for 6½ months (18th September 1984 to the 31st March 1985) was granted (November 1984) by the Conservator of Forests, Sambalpur on request (August 1984 and September 1984) of the Corporation, without charging any extension fee on the ground that the Corporation could not work out the lots within the contract period owing to non-payment of compensation by the project authorities to the villagers in whose area these lots were situated. It was, however, seen in audit that, out of the 61 lots mentioned above, 31 lots only stood on private lands, where payment of compensation to their owners was to be made. In respect of the remaining 30 lots, which stood on Government lands, no compensation was required to be paid to any party. Grant of extension to the Corporation in respect of these 30 lots without recovery of extension fees therefor lacked justification. Extension fee waived without valid reasons amounted to Rs. 2.59 lakhs.

The foregoing points were reported to Government in September 1985; their reply is awaited (January 1986).

CHAPTER 7

OTHER TAX AND NON-TAX RECEIPTS
A—STATE EXCISE

7.1. Results of Audit

A test check of the accounts of receipts in the offices of the Excise Commissioner and Superintendents of Excise, conducted in audit during the period from April 1984 to March 1985, revealed non-levy or short-levy of duty and other losses of revenue, amounting to Rs. 4.61 lakhs in 14 cases, which may be broadly categorised as under :

	Number of cases	Amount (In lakhs of rupees)
1. Loss of revenue due to application of lower rate of duty	1	0.20
2. Non-levy of duty on breakage loss in movement within the State	1	0.22
3. Escapement of duty on medicinal preparations	1	0.20
4. Non-levy of duty on excess wastage of spirit in distillery and bonded warehouses;	3	1.57
5. Loss of revenue due to other reasons	8	2.42
Total	14	4.61

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

7.2. Non-levy of excise duty on excess wastage of spirit in distillery

As per Boards' Excise Rules, 1965, loss on wastage of spirit, stored in a distillery, is allowable to the extent of 1.5 *per cent* per year. For wastage in excess of the above limit, the distiller (licensee) is liable to pay duty on such excess quantity, unless he proves to the satisfaction of the Excise Commissioner that such excess was due to accident or other unavoidable causes.

A distiller of Jharsuguda (District Sambalpur) had an opening stock of 16,877 London proof litres of rectified spirit at the beginning of the year 1983-84. Although there was no further production or issue of rectified spirit during the year 1983-84, the distiller showed the closing balance at the end of that year as 15,942.40 London proof litres only. The difference of 934.60 London proof litres was shown as wastage during the year. This wastage (934.60 LPL) exceeded the permissible allowance (of 253.16 LPL at the rate of 1.5 *per cent* per annum) by 681.44 LPL. As there was nothing on record to establish that the excess wastage was due to accident or other avoidable causes, duty amounting to Rs. 0.41 lakh was chargeable from the distiller; but it was not charged.

On the omission being pointed out in audit (January 1985), the Superintendent of Excise stated (January 1985) that steps would be taken to realise the duty on the excess wastage. Report on recovery is awaited (January 1986).

The case was reported to the Excise Commissioner and the Government in April 1985; their replies are awaited (January 1986).

7.3. Short recovery of excise duty due to application of incorrect rates

As per the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Allopathic medicinal preparations containing alcohol, not capable of being consumed as ordinary beverages and falling under the category of 'patent and proprietary medicines', are assessable to duty at the rate of 20 per cent *ad valorem* or at Rs.6.60 per litre of pure alcoholic content whichever is higher.

A pharmacy in Bhubaneswar, manufacturing 'EPINOL', (a patent and proprietary medicine) which contained alcohol ranging from 13.12 to 13.17 per cent marketed 9973.5 bulk litres of the medicine during the years 1981-82 to 1983-84 and paid excise duty amounting to Rs. 8,674 at the flat rate of Rs. 6.60 per litre of pure alcoholic content, which was accepted by the department. The duty was actually chargeable at the rate of 20 per cent *ad valorem* which amounted to Rs. 29,131 (being higher of the two rates). The mistake resulted in short realisation of duty by Rs. 20,457.

On the mistake being pointed out in audit (June 1984), the Superintendent of Excise, Puri stated (May 1985) that the amount of Rs. 20,457 had since been recovered from the pharmacy in November 1984 and February 1985.

The case was reported to Government in August 1984; their reply is awaited (January 1986).

7.4. Non-levy of excise duty on medicinal preparations manufactured using duty paid tincture

Under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Allopathic medicinal preparations containing alcohol, which are not capable of being used as ordinary alcoholic beverages, are dutiable at the rate of 20 *per cent ad valorem* or Rs. 6.60 per litre of pure alcoholic content, whichever is higher, with effect from the 1st March 1981. It has been held by the Supreme Court* that medicinal and toilet preparations manufactured by using duty paid tinctures etc., should also be classified as "dutiable goods" for levy of excise duty under the Act.

A bonded pharmacy in Cuttack, prepared outside the bond, a patent medicine 'Neo Gastroenzyme', using duty paid "Tincture-Nuxvomica" which contained 46.6 *per cent* alcohol. Although 7148.350 bulk litres of the said medicine were manufactured and released for sale during the years 1979-80 to 1983-84, no excise duty thereon was paid by the pharmacy on the ground that duty had already been paid on the tincture used in the preparation of the medicine. This contention is not correct in view of the judicial decision mentioned above. The duty leviable on the above quantity of medicine at the *ad valorem* rate (being higher) amounted to Rs. 0.20 lakh.

On the omission being pointed out in audit (June 1984), the Superintendent of Excise stated (June 1984) that the Pharmacy had been asked to pay duty amounting to Rs. 0.20 lakh. Report on recovery is awaited (January 1986).

*AIR 1971—Supreme Court—378 (V-58C—93)

The case was reported to the department and to Government in November 1984; their replies are awaited (January 1986).

B—ENTERTAINMENT TAX

7.5. Short collection of surcharge

According to the Orissa Entertainment Tax Act, 1946, as amended from 1st May 1979, where tax is paid by means of affixing stamps on the tickets, surcharge is to be levied in respect of every payment for admission to entertainment on which tax is leviable under the Act, at 30 paise per ticket, if the payment for admission (including the tax) is one rupee or less and at 45 paise per ticket in other cases.

With effect from 1st June 1982, a showhouse in Bolangir Circle revised the rate of its third class tickets to Rs. 1.50, comprising 85 paise for admission, 35 paise as entertainment tax and 30 paise as surcharge. As the payment for admission, including tax, exceeded one rupee, the surcharge was to be levied and collected at 45 paise per ticket. The proprietor of the showhouse, however, collected and paid surcharge for the period from June 1982 to March 1984 at the lower rate of 30 paise per ticket. Surcharge paid short amounted to Rs. 0.15 lakh.

On the mistake being pointed out in audit (September 1984), the taxing officer agreed (September 1984) to review the case. Further report is awaited (January 1986).

The case was reported to Government in January 1985; their reply is awaited (January 1986).

C—OTHER DEPARTMENTAL RECEIPTS
(PUBLIC WORKS RECEIPTS)

7.6. Short recovery of hire charges

In March 1978, Executive Engineer, Subarnarekha Roads and Buildings Division supplied certain machinery (B. G. rails and R. S. Joists etc.) on hire to M/S Orissa Construction Corporation Limited for use in the construction of a bridge over Subarnarekha river. The hire charges were, however, recovered at incorrect rates. In one case, cost of some quantity of B. G. rails, which was not returned by the Corporation was not recovered. The non-recovery/short-recovery of charges from the Corporation amounted to Rs. 2.51 lakhs.

The case was reported to the department and Government in November 1985; their replies are awaited (January 1986).



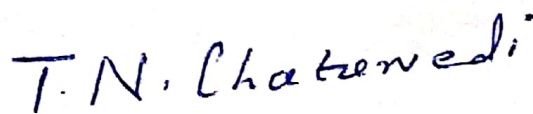
(J. K. SARMA)

Bhubaneswar

The 7th June, 1986.

Accountant General-II (Audit),
Orissa

Countersigned



(T. N. CHATURVEDI)

New Delhi

The

Comptroller and Auditor General
of India

OGP—MP-XII (A. G.) 44—1,200—20-5-1986



**COMPTROLLER AND AUDITOR
GENERAL OF INDIA, 1966**

PRINTED AT ORISSA GOVERNMENT PRESS, CUTTACK-16