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

FOR THE YEAR ENDED 31 MARCH 2002

**(REVENUE RECEIPTS)
GOVERNMENT OF KERALA**

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CONTENTS

	Paragraph	Page
<i>Prefatory Remarks</i>		v
<i>Overview</i>		vii
CHAPTER 1		
GENERAL		
<i>Trend of revenue receipts</i>	1.1	1
<i>Variation between budget estimates and actuals</i>	1.2	3
<i>Cost of collection</i>	1.3	3
<i>Arrears of revenue</i>	1.4	4
<i>Arrears in assessment of sales tax and agricultural income tax</i>	1.5	5
<i>Write-off, waiver and remission of revenue</i>	1.6	5
<i>Internal Audit</i>	1.7	6
<i>Results of audit</i>	1.8	6
<i>Outstanding Inspection Reports and Audit Observations</i>	1.9	7
<i>Follow up action on Audit Reports – Summarised position</i>	1.10	8
<i>Response of the departments to draft audit paragraphs</i>	1.11	8
CHAPTER 2		
SALES TAX		
<i>Results of audit</i>	2.1	11
<i>Arrears of Sales Tax</i>	2.2	12
<i>Underassessment of turnover</i>	2.3	24
<i>Incorrect grant of concessional rate of tax</i>	2.4	26
<i>Short/non-realisation of interest</i>	2.5	27
<i>Application of incorrect rate of tax</i>	2.6	28
<i>Incorrect grant of exemption/reduction of tax</i>	2.7	30
<i>Non-imposition of penalty</i>	2.8	31
<i>Short raising of demand</i>	2.9	32
<i>Non-withdrawal of concession granted on misuse of declaration</i>	2.10	33
<i>Suppression of sales turnover on branch transfer</i>	2.11	34
<i>Incorrect computation of tax</i>	2.12	34
<i>Non/short-levy of entry tax</i>	2.13	36
<i>Incorrect accounting of tax paid</i>	2.14	37
<i>Non-recovery of tax from awarder of works contract</i>	2.15	38
<i>Short levy of surcharge</i>	2.16	39
<i>Short levy of turnover tax</i>	2.17	39
<i>Non-forfeiture of excess collection of tax</i>	2.18	40

CHAPTER 3		
TAXES ON AGRICULTURAL INCOME		
<i>Results of audit</i>	3.1	43
<i>Short levy of tax due to allowance of inadmissible deduction</i>	3.2	43
<i>Non/short-realisation of interest/penalty</i>	3.3	45
<i>Incorrect determination of taxable income</i>	3.4	47
<i>Loss of revenue due to time-bar of assessments</i>	3.5	48
<i>Incorrect exemption from tax</i>	3.6	48
<i>Short levy due to inadmissible composition of tax</i>	3.7	49
CHAPTER 4		
STATE EXCISE		
<i>Results of audit</i>	4.1	51
<i>Disposal of confiscated vehicles and other articles in Excise Department</i>	4.2	52
<i>Low production of spirit from molasses</i>	4.3	57
<i>Short collection of cost of establishment</i>	4.4	57
<i>Short demand of rental</i>	4.5	58
CHAPTER 5		
LAND REVENUE AND BUILDING TAX		
<i>Results of audit</i>	5.1	59
<i>Non/short-realisation of collection charges</i>	5.2	59
<i>Non-levy of luxury tax on residential buildings</i>	5.3	60
<i>Underassessment of building tax</i>	5.4	60
CHAPTER 6		
TAXES ON VEHICLES		
<i>Results of audit</i>	6.1	63
<i>Short levy of fee for permit/reservation of fancy registration number</i>	6.2	63
<i>Short levy of fee on temporary contract carriage permits</i>	6.3	64
<i>Incorrect classification of private service vehicles</i>	6.4	65
<i>Non-realisation of vehicle tax</i>	6.5	65
<i>Short collection of composite tax on multi-axled goods carriages</i>	6.6	66
<i>Short levy of tax on omni bus for private use</i>	6.7	67
<i>Non/short levy of additional tax</i>	6.8	67

CHAPTER 7

OTHER TAX RECEIPTS

<i>Results of audit</i>	7.1	69
A. Taxes and Duties on Electricity		
<i>Short assessment of electricity duty</i>	7.2	69
B. Stamps and Registration Fee		
<i>Incorrect remission of stamp duty</i>	7.3	70
C. Luxury Tax		
<i>Exclusion of turnover from assessment</i>	7.4	71

CHAPTER 8

NON-TAX RECEIPTS

A. Forest Receipts		
<i>Results of audit</i>	8.1	73
<i>Non-realisation of re-auction loss</i>	8.2	73
B. Other Non-Tax Receipts		
Text Book Receipts		
<i>Non-recovery of liability from Store Keepers</i>	8.3	74
<i>Payment of inadmissible commission</i>	8.4	75

PREFATORY REMARKS

This report for the year ended 31 March 2002 has been prepared for submission to Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2001-02 as well as those which came to notice in earlier years but could not be included in previous Reports.

THE GREAT WALL OF CHINA

The Great Wall of China is one of the most famous and longest man-made structures in the world. It stretches over 13,000 miles across the northern part of the country.

The wall was built by the Chinese to protect their land from invasions by nomadic tribes from the north.

The wall is made of stone and brick, and it is surrounded by a series of watchtowers and fortifications.

The wall is a symbol of the strength and power of the Chinese Empire, and it is a testament to the ingenuity and perseverance of the Chinese people.

The wall is a masterpiece of Chinese architecture, and it is a source of pride for the Chinese people.

The wall is a symbol of the Chinese people's determination to protect their land and their way of life.

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Overview

Overview

Overview

This Report contains 43 paragraphs including 2 reviews relating to non-levy/short levy/loss of tax involving Rs 454.15 crore. Some of the major findings are mentioned below.

1. General

i) During the year 2001-02, the Government of Kerala raised a total revenue of Rs 6466.80 crore comprising tax revenue of Rs 5923.42 crore and non-tax revenue of Rs 543.38 crore. The State Government received Rs 1614.26 crore by way of State's share of divisible Union Taxes and Duties and Rs 975.33 crore as grants-in-aid from the Government of India. Sales Tax (Rs 4440.85 crore) formed a major portion (75%) of the tax revenue of the State. Receipts from Forestry and Wild Life (Rs 113.70 crore) formed a major portion (21%) of the non-tax revenue. Compared to previous year, the total revenue raised by the State Government registered a decrease of one per cent, the State's share of divisible Union Taxes and Duties registered increase of two per cent while grants-in-aid from Government of India recorded an increase of 58 per cent during 2001-02.

(Paragraph 1.1)

ii) Test check of the records of Agricultural Income Tax and Sales Tax, State Excise, Land Revenue, Motor Vehicles, Registration, Power, Forest, etc., Departments conducted during 2001-02, revealed underassessments/short levy of revenue amounting to Rs 470.79 crore in 1,866 cases. During the course of the year 2001-02, the departments concerned accepted underassessments, etc., of Rs 10.04 crore involved in 944 cases of which 198 cases involving Rs 3.05 crore had been pointed out in audit during 2001-02 and the rest in earlier years.

(Paragraph 1.8)

iii) As at the end of June 2002, 4,493 inspection reports containing 15,967 audit observations involving revenue effect of Rs 1118.82 crore issued up to December 2001 were outstanding for want of final replies from the departments.

(Paragraph 1.9)

2. Sales Tax

i) A review on "Arrears of Sales Tax" revealed the following.

** Test check of records revealed understatement of arrears by Rs 546.91 crore and overstatement of arrears by Rs 80.48 crore. The department does not have the details of the cases relating to an amount of Rs 39.84 crore shown as to be written off.*

(Paragraph 2.2.5)

** There was failure to take follow up action for recovery of arrears of Rs 227.65 crore.*

(Paragraph 2.2.7)

- * *Security given by the dealers were not invoked for realisation of revenue of Rs 6.33 crore.*

(Paragraph 2.2.9)

- * *Arrears amounting to Rs 6.27 crore due from firms were not recovered from the partners.*

(Paragraph 2.2.10)

- ii) *Underassessment of turnover in 39 cases resulted in short levy of tax of Rs 12.86 crore.*

(Paragraph 2.3)

- iii) *Incorrect grant of concessional rate of tax resulted in short levy of tax of Rs 4.82 crore from an assessee.*

(Paragraph 2.4)

- iv) *Short/non-levy of interest of Rs 4.22 crore was noticed in 23 cases.*

(Paragraph 2.5)

- v) *Application of incorrect rate of tax resulted in short levy of tax of Rs 2.08 crore in 36 cases.*

(Paragraph 2.6)

3. Taxes on Agricultural Income

- i) *Allowance of inadmissible deductions resulted in short levy of tax of Rs 57.08 lakh in four cases.*

(Paragraph 3.2)

- ii) *Short/non-levy of interest/penalty of Rs 28.72 lakh was noticed in four cases.*

(Paragraph 3.3)

4. State Excise

- i) *A review on "Disposal of confiscated vehicles and other articles in Excise Department" revealed the following.*

- * *Of the 2,156 vehicles involved in excise offences and seized by the department during 1996-97 to 2000-01 the department completed confiscation proceedings only in 36 per cent of the vehicles resulting in delay in realisation of revenue.*

(Paragraph 4.2.5)

- * *Confiscated spirit worth Rs 54.84 lakh was pending disposal.*

(Paragraph 4.2.6)

- * *Delay in disposal of the confiscated vehicles resulted in loss of Rs 39.11 lakh in 96 cases.*

(Paragraph 4.2.7)

- * Lack of storage facilities resulted in loss of spirit worth Rs 9.25 lakh.

(Paragraph 4.2.9)

- ii) *Low production of spirit in a distillery as a result of failure to achieve the norm fixed by the Central Board of Molasses involved excise duty of Rs 72.07 lakh.*

(Paragraph 4.3)

5. Land Revenue and Building Tax

- i) *Collection charge of Rs 1.59 crore for recovery of arrears was not collected from the defaulters.*

(Paragraph 5.2)

- ii) *Luxury tax on residential buildings amounting to Rs 25.62 lakh was not collected in 20 Taluk Offices.*

(Paragraph 5.3)

6. Taxes on Vehicles

Fee for permit/reservation of fancy registration number was short levied by Rs 54.47 lakh.

(Paragraph 6.2 and 6.3)

7. Other Tax Receipts

Electricity duty for 1998-99 was short assessed by Rs 14.67 crore.

(Paragraph 7.2)

8. Non-Tax Receipts

Liability of Rs 91.66 lakh towards shortage in stock of text books remains to be recovered from 36 Store Keepers.

(Paragraph 8.3)

Chapter 1

General

Chapter I
General

CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Kerala during the year 2001-02, the State's share of net proceeds of the divisible Union Taxes and Duties assigned to States and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding two years are given below.

		1999-2000	2000-01	2001-02
		(In crore of rupees)		
I	Revenue raised by the State Government			
	a) Tax revenue	5193.50	5870.26	5923.42
	b) Non-tax revenue*	530.72 (487.21)	659.08 (610.12)	543.38 (477.73)
	Total *	5724.22 (5680.71)	6529.34 (6480.38)	6466.80 (6401.15)
II	Receipts from Government of India			
	a) Share of net proceeds of the divisible Union Taxes and Duties	1535.22	1585.61	1614.26
	b) Grants-in-aid	682.31	615.90	975.33
	Total	2217.53	2201.51	2589.59
III	Total receipts of the State Government (I and II) *	7941.75 (7898.24)	8730.85 (8681.89)	9056.39* (8990.74)
IV	Percentage of I to III	72	75	71

i) The details of the tax revenue raised during the year 2001-02, along with the figures for the preceding two years are given below.

* The figures shown in brackets are the figures net of expenditure on prize winning tickets of the lotteries conducted by the Government.

* For details please see statement No. 11 – Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Kerala for the year 2001-02. 'Share of net proceeds assigned to States' under the Major Heads 0020, 0021, 0028, 0032, 0037, 0038, 0044 and 0045 booked in the Finance Accounts under 'A-Tax Revenue' have been excluded from the revenue raised by the State and included in the State's share of divisible Union Taxes in this statement.

Sl. No.	Head of Revenue	1999-2000	2000-01	2001-02	Percentage of Increase (+)/ decrease (-) in 2001-02 over 2000-01
		(In crore of rupees)			
1	Sales Tax	3853.54	4344.33	4440.85	(+ 2
2	State Excise	591.10	688.94	541.46	(-) 21
3	Stamps and Registration Fees				
	a) Stamps- Judicial	23.21	26.65	24.04	(-) 10
	b) Stamps - Non- Judicial	164.98	210.89	262.87	(+) 25
	c) Registration Fees	91.46	103.56	107.37	(+ 4
4	Taxes and Duties on Electricity	3.33	14.92	5.18	(-) 65
5	Taxes on Vehicles	380.83	394.85	452.18	(+) 15
6	Taxes on Agricultural Income	14.19	3.83	1.87	(-) 51
7	Land Revenue	34.67	39.35	34.93	(-) 11
8	Others	36.19	42.94	52.67	(+)23
Total		5193.50	5870.26	5923.42	(+) 1

The reasons attributed by the departments for the variation in receipts during 2001-2002 over the receipts during 2000-01 were as follows.

State Excise : The decrease was due to entrusting toddy shops to the toddy workers' Co-operatives instead of selling the shops in public auction.

Stamps (Non-judicial) : The increase was due to effective steps taken by the department to check undervaluation of properties in documents.

Taxes and Duties on Electricity : The decrease was due to non-remittance of dues by the Kerala State Electricity Board.

Taxes on Agricultural Income : The decrease was due to exempting (August 2001) all assesseees other than companies from payment of agricultural income tax and fall in prices of agricultural commodities.

The reasons for variation though called for (May 2002) from heads of other departments have not been received (November 2002).

ii) The details of non-tax revenue realised during the years 1999-2000 to 2001-02 are given below.

Sl. No.	Head of Revenue	1999-2000	2000-01	2001-02	Percentage of Increase(+) / decrease (-) in 2001-02 over 2000-01
		(In crore of rupees)			
1	State Lotteries	57.31	85.21	55.94▲	(-) 34
2	Forestry and Wild Life	109.88	141.24	113.70	(-) 19
3	Interest Receipts	37.31	36.81	31.08	(-) 16
4	Education, Sports, Art & Culture	39.18	44.98	53.56	(+)19
5	Medical and Public Health	18.82	20.66	19.85	(-) 4
6	Crop Husbandry	5.25	40.53	7.58	(-) 81
7	Animal Husbandry	5.08	5.28	5.03	(-) 5
8	Public Works	1.82	2.17	1.56	(-) 28
9	Others	212.56	233.24	189.43	(-) 19
Total		487.21	610.12	477.73	(-)22

[▲] From gross receipts of Rs 121.59 crore expenditure of Rs 65.65 crore on prize winning tickets has been deducted, but expenditure of Rs 48.56 crore on commission to agents and establishment expenses of Rs 1.66 crore have not been deducted

The reasons for variation though called for (May 2002) from the heads of respective departments have not been received (November 2002).

1.2. Variation between budget estimates and actuals

The variation between budget estimates of revenue for the year 2001-02 and the actual receipts under principal heads of revenue are given below.

Revenue Head	2001-02			Percentage of variation
	Budget estimates	Actual receipts	Variation Increase (+)/ Shortfall (-)	
	(In crore of rupees)			
Sales Tax	5568.41	4440.85	(-) 1127.56	(-) 20
State Excise	744.22	541.46	(-) 202.76	(-) 27
Stamps and Registration Fees				
a) Stamps- Non-Judicial	327.00	262.87	(-) 64.13	(-) 20
b) Registration Fee	104.92	107.37	(+) 2.45	(+) 2
Taxes on Vehicles	491.17	452.18	(-) 38.99	(-) 8
Forestry and Wild Life	150.00	113.70	(-) 36.30	(-) 24
Taxes and Duties on Electricity	2.00	5.18	(+) 3.18	(+) 159
Taxes on Agricultural Income	27.00	1.87	(-) 25.13	(-) 93
Land Revenue	45.00	34.93	(-) 10.07	(-) 22

The reasons attributed by the departments for the variation between budget estimates and actuals for 2001-02 are as follows.

Sales Tax : The decrease was due to reduction in rates of tax on tea, coffee, arecanut, fall in sale of vehicles and general recession in trade during 2001-02.

State Excise : The decrease was due to entrusting toddy shops to the toddy workers' Co-operatives instead of selling the shops in public auction.

Taxes on Agriculture Income : The decrease was due to exempting (August 2001) all assesseees other than companies from payment of agricultural income tax and drastic fall in prices of major agricultural commodities.

The reasons for variation called for (May 2002) from the heads of other departments have not been received (November 2002).

1.3. Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections

during the years 1999-2000, 2000-01 and 2001-02 along with the relevant all India average percentage of expenditure on collection to gross collections for 2000-01 are given below.

Sl. No.	Head of Revenue	Year	Gross collection	Expenditure On collection	Percentage of expenditure to gross collection	All India average percentage
			(In crore of rupees)			
1.	Sales Tax	1999-2000	3853.54	46.51	1.21	
		2000-01	4344.33	45.89	1.05	1.31
		2001-02	4440.85	40.04	0.90	
2.	Stamps [#] (Non- Judicial) and Registration Fees	1999-2000	256.44	33.94	13.24	
		2000-01	314.45	35.44	11.27	4.39
		2001-02	370.24	32.57	8.80	
3.	State Excise [#]	1999-2000	591.10	33.93	5.74	
		2000-01	688.94	34.02	4.94	3.10
		2001-02	541.46	30.77	5.68	
4.	Taxes on Vehicles [#]	1999-2000	380.83	13.23	3.47	
		2000-01	394.85	14.04	3.56	3.48
		2001-02	452.18	12.69	2.81	

1.4. Arrears of revenue

As on 31 March 2002, arrears of revenue under principal heads of revenue, as reported by the departments were as under.

Sl. No.	Department	Arrears	Amount of arrears outstanding for more than 5 years	Remarks
		(In crore of rupees)		
1.	Power	1001.70	69.42	Rs 1000.74 crore was due from the Kerala State Electricity Board. Arrears shown does not include duty up to 31.3.1989. Government has decided to convert the arrears and interest thereon into long term loans.
2.	Local Fund Audit	22.50	1.24	The reason attributed by the department for the arrears was non-remittance by the local bodies.
3.	Stationery	11.67	5.19	Reluctance of the various departments to remit the dues.
4.	Factories and Boilers	0.54	-	The factories had stopped functioning resulting in non-remittance of Government dues.
5.	Mining and Geology	0.31	0.11	The arrears were due to dispute regarding rate of royalty on minerals consumed without permission.

Details of arrears of revenue in respect of other departments though called for in May 2002 have not been received (November 2002).

[#] According to the departments, the expenditure incurred cannot be considered as having been incurred solely for collecting revenue as the departments have several other administrative functions. The figures of expenditure on *pro rata* basis are not available.

1.5. Arrears in assessment of sales tax and agricultural income tax

The details of sales tax and agricultural income tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 2000-01 and 2001-02 as furnished by the department, are given below.

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
Sales Tax						
2000-01	1,25,438	1,64,595	2,90,033	1,61,437	1,28,596	56
2001-02	1,24,186	1,29,519	2,53,705	1,11,496	1,42,209	44
Agricultural Income Tax						
2000-01	9,949	11,446	21,395	12,614	8,781	59
2001-02	7,564	9,654	17,218	8,401	8,817	49

The above table shows that the department was able to complete between 44 and 59 *per cent* of the assessments due for completion during 2000-01 and 2001-02. The department has been addressed (June 2002) to reconcile the difference between the closing balance of 2000-01 and opening balance for 2001-02; reply has not been received (November 2002).

1.6. Write-off, waiver and remission of revenue

The table below indicates details of recovery of revenue exceeding Rs 10,000 (for each department) which was written-off, waived or remitted by some departments during the year 2001-02.

Revenue Heads	Written-off		Waived		Remitted	
	No. of cases	Amount (In lakh of rupees)	No. of cases	Amount (In lakh of rupees)	No. of cases	Amount (In lakh of rupees)
State Excise	8	1.81	-	-	2	693.80
Interest Receipts	-	-	28	5.29	-	-
Forest Receipts	1	0.87	-	-	-	-
Total	9	2.68	28	5.29	2	693.80

Remission of Rs 6.94 crore was granted on instalments of rental payable by two licensees on account of delay in allotment /opening of shops.

Arrears of instalments of rental of Rs 1.81 lakh due from assesseees in 8 cases were written off as they were either insolvent or no more in existence and Rs 0.87 lakh being the value of forest produce destroyed in forest fire was written off as no forest official was responsible for the same. Waiver of Rs 5.29 lakh

represented the interest on house building and motor car advances due from deceased Government employees.

1.7. Internal Audit

i. **Excise Department** : According to the information furnished by the department, Internal Audit Wing headed by one Deputy Commissioner had conducted internal audit of 5 offices during 2001-02 and raised 22 objections having a money value of Rs 3.89 crore. Audit of 243 offices was in arrears during 2001-02.

ii. **Motor Vehicles Department** : The Internal Audit Wing of the department audited 33 offices in 2001-02 and raised 19 objections having a money value of Rs 1.50 lakh. Audit of 11 offices was in arrears during 2001-02 due to shortage of staff.

iii. **Land Revenue Department** : The Internal Audit Wing of the department audited 21 offices in 2001-02 and raised 406 objections having a money value of Rs 30.95 lakh. Inspection of 24 offices was in arrears during 2001-02.

Details called for (May 2002) from the heads of other departments have not been received (November 2002).

1.8. Results of audit

Test check of the records of Sales Tax, Agricultural Income Tax, State Excise, Motor Vehicles, Forest and other departmental offices conducted during the year 2001-02 revealed underassessments/short levy/loss of revenue amounting to Rs 470.79 crore in 1,866 cases. During the course of the year 2001-02, the departments concerned accepted underassessments, etc., of Rs 10.04 crore involved in 944 cases, of which 198 cases involving Rs 3.05 crore had been pointed out in audit during 2001-02 and the rest in earlier years. At the instance of Audit, the departments collected an amount of Rs 0.96 crore in 261 cases during 2001-02.

This report contains 43 paragraphs including two reviews relating to short/non-levy of tax, duty and interest, penalty, etc., involving financial effect of Rs 454.15 crore. The departments/Government have so far accepted the audit observations in 206 cases involving Rs 8.66 crore and recovered Rs 0.22 crore in 26 cases included in the Report. Final reply has not been received in the remaining cases (November 2002).

1.9. Outstanding Inspection Reports and Audit Observations

Important irregularities and defects in assessments, demand and collection of State receipts, noticed during local audit but not settled on the spot, are communicated to the heads of the offices and to the next higher departmental authorities through inspection reports. The more important financial irregularities are also brought to the notice of the heads of departments and the Government for taking prompt corrective measures. According to the instructions issued by Government in November 1965, first replies to inspection reports are required to be sent within four weeks from the date of receipt of the inspection report. In order to apprise the Government of the position of pending audit observations from time to time, statements of outstanding audit observations are forwarded to Government and their replies watched in audit.

As at the end of June 2002, 4,493 inspection reports containing 15,967 audit observations having money value of Rs 1118.82 crore issued up to December 2001 were outstanding as shown below. Figures for the preceding two years are also given.

	As at the end of June 2000	As at the end of June 2001	As at the end of June 2002
Number of inspection reports	4,402	4,534	4,493
Number of audit observations	16,419	20,111	15,967
Amount involved (in crore of rupees)	1153.83	1233.96	1118.82

An analysis of the outstanding inspection reports according to the revenue heads is given below.

Sl. No.	Head of Revenue	Number of inspection reports	Number of audit observations	Amount (In crore of rupees)
		(as at the end of June 2002)		
1	Sales Tax	1,459	7,789	855.79
2	Taxes on Agricultural Income	434	2,338	59.14
3	State Excise	754	1,457	6.58
4	Taxes on Vehicles	318	1,821	9.01
5	Land Revenue	118	263	3.11
6	Forestry and Wild Life	371	912	106.85
7	Stamps and Registration Fees	1,029	1,346	6.73
8	Electricity Duty	10	41	71.61
Total		4,493	15,967	1118.82

First replies to 205 inspection reports issued up to December 2001 were not furnished by the departments till the end of June 2002. The position was brought to the notice of the Chief Secretary to Government.

1.10. Follow up action on Audit Reports - Summarised position

The instructions issued by Government from time to time for timely follow up action on the Audit Reports and matters pertaining to the Public Accounts Committee stipulate that it is imperative on the part of the Government to finalise remedial action on all audit paras and submit Action Taken Notes (ATNs) on paragraphs and reviews included in the Audit Report indicating the remedial action taken or proposed to be taken, within three months from the date of presentation of Audit Report to the Legislature without waiting for any notice or call from the Committee on Public Accounts.

Review of outstanding ATNs on paragraphs included in the 14 Audit Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years ended 31 March 1987 to 31 March 2000 disclosed that the department had not submitted remedial ATNs on 98 paragraphs on which ATNs were due as on 30 November 2002 as indicated in Appendix.

Out of the total 1,279 audit paragraphs included in the above 14 Audit Reports, department submitted remedial ATNs on 1,181 paragraphs only and none of these ATNs was furnished within the prescribed period of three months.

The Committee on Public Accounts had also expressed displeasure over the extraordinary delay on the part of the Government in furnishing statement of remedial ATNs on audit paras to the Legislature. Heads of departments/ Secretaries to Government were directed (April 1997) to give topmost priority to the work and ensure that remedial measures taken on all audit paras are furnished to the Legislature within a period of three months of the presentation of report to the Legislature. In spite of this, delay continued in furnishing ATNs.

Though the Audit Report for the year ended March 2001 was laid on the table of the Legislature in March 2002 and the time limit of three months for furnishing remedial ATNs had elapsed in June 2002, the departments had submitted ATNs only on two of the 39 paragraphs included in the above Audit Report.

1.11. Response of the departments to draft audit paragraphs

According to the instructions issued (1965) by Government of Kerala the result of verification of the facts on the draft audit paragraphs are required to be communicated to the Accountant General within six weeks from the date of receipt of the same. Draft paragraphs are always forwarded to the Secretaries by name drawing their attention to the audit findings and requesting them to send their response within six weeks. In case the final reply could not be given within six weeks, an interim reply should be given to the Accountant General and in any

case, final reply should be sent within three months from the date of receipt of the draft paragraph. The fact of non-receipt of replies from Government are invariably indicated at the end of each paragraph included in the Audit Report.

167 draft paragraphs included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2002 (Revenue Receipts), Government of Kerala were forwarded to the Secretaries to Government.

However, replies/response to 149 draft paragraphs were awaited. These 149 paragraphs have been included in this report without the response of the Government.

Chapter 2

Sales Tax

CHAPTER 2

SALES TAX

2.1. Results of audit

Test check of sales tax assessments and refund cases and connected documents of Sales Tax Offices conducted in audit during the year 2001-02 revealed underassessments of tax, non-levy of penalty, etc., amounting to Rs 443.46 crore in 1,209 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In crore of rupees)
1.	Exclusion of turnover from assessment	187	5.29
2.	Incorrect grant of exemption	136	4.69
3.	Application of incorrect rate of tax	268	2.19
4.	Excess/double accounting of remittance	17	0.09
5.	Incorrect grant of concessional rate of tax	52	1.05
6.	Non-levy of penalty/interest	205	4.88
7.	Review	1	404.77
8.	Other lapses	343	20.50
	Total	1,209	443.46

During 2001-02, the department accepted underassessments, etc., of Rs 7.39 crore involved in 632 cases of which 122 cases involving Rs 2.40 crore were pointed out during 2001-02 and the rest in earlier years. At the instance of Audit the department recovered an amount of Rs 17.01 lakh involved in 98 cases during the year. Illustrative cases involving Rs 27.71 crore and the results of a review on 'Arrears of sales tax' involving Rs 404.77 crore are given in the following paragraphs.

2.2. Arrears of Sales Tax

Highlights

- Test check of records revealed understatement of arrears by Rs 546.91 crore and overstatement of arrears by Rs 80.48 crore. The department does not have the details of the cases relating to the amount of Rs 39.84 crore shown as to be written off.

(Paragraph 2.2.5)

- There was failure to take follow up action for recovery of arrears of Rs 227.65 crore.

(Paragraph 2.2.7)

- Security given by the dealers were not invoked for realisation of revenue of Rs 6.33 crore.

(Paragraph 2.2.9)

- Arrears amounting to Rs 6.27 crore due from firms were not recovered from the partners.

(Paragraph 2.2.10)

2.2.1. Introduction

Sales tax is the major source of revenue of the State and constituted 74 *per cent* (Rs 4344.33 crore) of the total tax revenue (Rs 5870.26 crore) raised by the State during 2000-01. The Kerala General Sales Tax Act, 1963, governs the law relating to the levy and collection of sales tax in the State.

Every dealer liable to pay tax is required to submit to the assessing officer monthly/annual return(s) along with proof of payment of tax due from him. Final assessment for the previous financial year of an assessee shall commence after 1 May. A time limit of four years, from the date of expiry of the year to which the assessment relates, for completion of assessment was introduced for the first time with effect from 1 April 1993. The time limit for completion of assessments up to the assessment year 1993-94 was further extended up to 31 March 1999 and that for completion of assessments for the year 1994-95 was extended up to 31 March 2000. The tax assessed shall be paid in the manner and within the time specified in the notice of demand.

In the case of default in making payment according to the notice of demand, the whole amount outstanding shall become immediately due and recoverable. Any tax assessed or any other amount due from a dealer or other person may, without prejudice to any other mode of recovery, be recovered (a) as if it were an arrear of

land revenue (b) on application to any magistrate, by such magistrate, as if it were a fine imposed by him (c) shall be adjusted from the security furnished by such assesseees (d) shall be recovered from any court, or any officer of the Central Government or of the Government of any State or Union Territory or any other person (other than an individual) from whom money is due or shall become due to the dealer.

2.2.2. Organisational set up

The Department of Commercial Taxes which administers the sales tax law of the State was under the control and general supervision of the Board of Revenue (Taxes) up to 30 June 1998. With the abolition of the Board of Revenue from 1 July 1998, the department is under the control of the Commissioner of Commercial Taxes. The Commissioner is assisted by the Joint Commissioners, Deputy Commissioners, Inspecting Assistant Commissioners (IAC) and assessing officers. The cases of defaults in payment of sales tax revenue are reported to the District Collector for recovery under the Kerala Revenue Recovery Act, 1968.

2.2.3. Scope of audit

With a view to ascertaining the extent of arrears, adequacy and effectiveness of the system and procedure prevailing in the department for the collection of arrears, a review covering the period from 1996-97 to 2000-01 was conducted from July 2001 to March 2002 with reference to the records available in the Offices of the Commissioner of Commercial Taxes, 15 out of 16 Special Circles, 2 out of 5 Inspecting Assistant Commissioners (Assessment), 23 out of 106 Ordinary Circles, 2 out of 15 Commercial Tax Offices (Works Contract) and 5 out of 20 Taluk Offices (Revenue Recovery). The results of the review are given in the succeeding paragraphs.

2.2.4. Trend of revenue and extent of arrears

The revenue raised during 1996-97 to 2000-01 under Sales Tax against the budget estimates during 1996-97 to 2000-01 and arrears outstanding are detailed below.

Year	Budget Estimates	Actuals	Arrears	Percentage of arrears to actuals
	(In crore of rupees)			
1996-97	2500.00	2772.28	649.34	23
1997-98	3276.00	3084.09	1020.00	33
1998-99	3828.00	3366.62	1106.83	33
1999-2000	4144.10	3853.54	1312.64	34
2000-01	4516.90	4344.33	1364.27	31

The arrears at the close of each year ranged between 23 per cent to 34 per cent of the actual collection of revenue during the above period.

According to the department the arrears were under the following stages of action at the end of each year.

Year	Stay by Court	Stay by Govt.	Stay by appellate authorities	To be written off	Under revenue recovery	Under Section 23(2) (b)	Not ripe for collection	Other action	Notice issued	Total
(In crore of rupees)										
1996-97	51.71	49.01	53.37	9.75	300.33	5.85	49.75	129.57	Nil	649.34
1997-98	67.44	55.68	37.95	10.27	399.79	9.19	310.38	129.30	Nil	1020.00
1998-99	68.23	52.75	60.94	18.88	563.88	9.77	97.34	235.04	Nil	1106.83
1999-2000	49.68	49.31	25.53	36.45	787.38	15.24	227.38	121.64	Nil	1312.64
2000-01	49.82	31.95	17.29	39.84	907.88	14.30	138.05	168.14	Nil	1364.27

The above statement shows that amounts which are not ripe for collection are also incorrectly shown as arrears. Similarly the department does not have the details of cases involved under 'other action'.

2.2.5. Lack of internal control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They also help in prevention of frauds and other irregularities. Internal control also helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safe guards against evasion of tax and duties.

A test check of the records revealed that the department did not exercise a proper control over monitoring of the arrears. There was an understatement of arrears by Rs 546.91 crore and overstatement of arrears by Rs 80.48 crore. Thus, the position of arrears as on 31 March 2001 was not correct. A few instances are given below.

- As per details collected in audit in respect of 38 offices^φ (2 IAC Offices, 15 Special Circles and 21 Ordinary Circles) the arrears outstanding as on

^φ Special Circles : Alappuzha, Ernakulam I, Ernakulam II, Ernakulam III, Kannur, Kollam, Kottayam, Kozhikode I, Kozhikode II, Mattancherry, Mattancherry (Hill Produce), Palakkad, Thiruvananthapuram, Thrissur, Tirur

Office of the Inspecting Assistant Commissioner : Idukki and Pathanamthitta
Sales Tax Offices : Attingal, Changanassery I, Changanoor, Ernakulam II, Kollam I, Kollam III, Kalamassery I, Karunagappally, Kayamkulam, Kottayam I, Kottayam II, Kozhikode I, Kozhikode II, Kozhikode III, Kozhikode IV, Mavelikkara, Pala, Pathanamthitta, Thiruvalla, Thrissur I, Thrissur IV

31 March 2001 amounted to Rs 1495.15 crore, while the arrears shown by the Commissioner for the whole State as on that date was Rs 1364.27 crore.

ii) The Registers viz., Demand, Collection and Balance Register, Assessment Register, Register of Demands Created (C3 Register), Stay Register, Security Register, Remission Register, Revenue Recovery Register, Register of appeals, Register of Remanded cases, Cheque Register, etc. also help administration to monitor the sales tax dues. However, it was noticed that these registers were either not maintained or were not properly maintained. Consequently a substantial variation was noticed between the arrear statement sent to the Commissioner and the figures furnished by the assessing officers to Audit in the following six Circles.

Name of Office	Arrears as on 31 March 2001 furnished to Audit	Arrears as on 31 March 2001 reported to the Commissioner	Variation Increase (+) Decrease (-)
	(In crore of rupees)		
Special Circle II, Ernakulam	631.72	167.03	(-) 464.69
Special Circle (HP), Mattanchery	64.41	54.57	(-) 9.84
Special Circle I, Kozhikode	33.25	38.04	(+) 4.79
Sales Tax Office, I Circle, Kozhikode	2.97	3.71	(+) 0.74
Sales Tax Office, Attingal	4.07	4.61	(+) 0.54
Sales Tax Office, II Circle, Kozhikode	4.39	4.57	(+) 0.18

iii) In 2 cases of two Special Circles* interest of Rs 0.98 crore was neither shown in the Demand Created Register nor in the arrear statement. Outstanding amount of interest of Rs 0.47 crore in 158 cases in 20 Offices* was not credited to the relevant arrear statements but was incorrectly deducted from these statements.

iv) Although interest payable by the assesseees on the defaulted amount up to the date of issue of revenue recovery certificates was worked out and included in the revenue requisition slips issued to the Collector, the amount of interest was not entered in the relevant registers. Consequently interest payable in such cases was also not shown in the arrear statements prepared by the assessing authorities.

* Special Circles Alappuzha and Kottayam.

* Special Circles : Alappuzha, Ernakulam I, Ernakulam II, Ernakulam III, Kollam, Kozhikode I, Mattancherry, Palakkad, Tirur
Sales Tax Offices : Adoor, Attingal, Chenganoor, Kalammassery I, Kayamkulam, Mavelikkara, Kottayam I, Kozhikode I, Kozhikode II, Kozhikode IV, Thiruvalla

This resulted in understatement of arrears in 3,012 cases in 39 Offices[^] by Rs 68.34 crore.

v) The arrear statement available in the Office of the Commissioner of Commercial Taxes showed Rs 39.84 crore as to be written off. But no details were available in respect of the cases to be written off. In Special Circle I, Ernakulam, an assessee company (M/s KELTRON Entertainment System Ltd.) was liquidated and the Hon'ble High Court of Kerala directed (May 1997) that the liability of the company be taken over by M/s KELTRON Ltd., an assessee on the rolls of Special Circle, Thiruvananthapuram. However, the amount of Rs 0.31 crore on account of sales tax arrears due from the company was shown as to be written off in the arrear statement.

This indicates that the department is not in a position to depict the correct amount of arrears. A strong mechanism needs to be developed for proper watch and clearance of arrears.

2.2.6. Failure to take follow up action for recovery of arrears

Under the Kerala General Sales Tax Act, 1963, any tax assessed or any other amount due under the Act from a dealer or any other person may, without prejudice to any other mode of recovery, be recovered

- i. as if it were an arrear of land revenue;
- ii. on application to any Magistrate, by such Magistrate, as if it were a fine imposed by him.

Under the Kerala Revenue Recovery Act, 1968, when any amount other than public revenue due on land is due for recovery, the officer charged with its realisation may send to the Collector of the District, in which the demand arose, a written requisition in the prescribed form duly verified and certified by him. However, there is no provision in the KGST Act, 1963, stipulating the period within which arrears are to be advised for recovery under the Kerala Revenue Recovery Act, 1968.

[^] Special Circles : Alappuzha, Ernakulam I, Ernakulam II, Ernakulam III, Kannur, Kollam, Kottayam, Kozhikode I, Kozhikode II, Mattancherry, Mattancherry (Hill Produce), Palakkad, Thrissur, Thiruvananthapuram and Tirur.

Sales Tax Offices : Adoor, Attingal, Changanassery I, Chenganoor, Ernakulam II, Kalamassery I, Kayamkulam, Kollam I, Kollam III, Kottayam I, Kottayam II, Kozhikode I, Kozhikode II, Kozhikode III, Kozhikode IV, Kundara, Mavelikkara, Pala, Pathanamthitta, Thiruvalla, Thrissur I, and Thrissur IV.

Works Contract : Ernakulam and Kottayam.

(a) Arrears not advised for revenue recovery

Test check conducted in 27 Offices [#] revealed that no steps were taken to advise the arrears of Rs 85.64 crore in 543 cases as arrears of land revenue even 6 to 36 months after expiry of the due date of their payment. A few illustrations are given below.

Sl. No.	Name of Office	Name of assessee	Year to which assessment relates	Month of assessment	Amount (In crore of rupees)	Delay up to 31.3.2001
1.	Special Circle, Palakkad	Tata Keltron Ltd.	1992-93 and 1993-94	February 1999 and March 1999	0.69	2 years 1 year and 11 months
		-do-	1994-95 and 1995-96	March 2000	5.67	1 year
2.	Special Circle (Hill Produce) Mattancherry	Kesaria Tea Company	1988-89 to 1993-94	August 1998	2.64	2 years 6months
		P.C Malpani & Co.	1995-96	October 1999	0.15	1 year 4 months
		Navbharath Enterprises	1995-96	November 1999	0.23	1 year 3 months
3.	IAC, Pathanamthitta	M/s Travancore Sugars and Chemicals	1994-95	November 1999	0.87	1 year 4 months
4.	Sales Tax Office, Kalamassery I	M/s Burma Company Engineering Systems Ltd.	1998-99	January 2000	0.52	1 year
5.	Second Circle, Kottayam	Mampalath Liquors	1995-96	September 1999	0.87	1 year 6 months

(b) Non-disposal of RRCs

The revenue recovery reconciliation statements are jointly signed by the assessing officers and revenue authorities. The arrears which are free from stay orders by courts/appellate authorities/Government are classified as collectable.

A scrutiny of such statements relating to 2 Special Circles revealed that 251 RRCs issued up to 2000-01 for an amount of Rs 10.92 crore and shown as 'collectable', were still pending collection as on 31 March 2001. The age-wise analysis is given below.

[#] Special Circles : Alappuzha, Ernakulam I, Ernakulam II, Ernakulam III, Kannur, Kollam, Kottayam, Mattancherry, Mattancherry (Hill Produce), Palakkad, Thiruvananthapuram
Sales Tax Offices : Attingal, Ernakulam II, Ernakulam (Works Contract), Changanassery, Chengannur, Kalamassery I, Kollam III, Kottayam II, Kozhikode II, Kundara, Mavelikkara, Pala, Thiruvalla, Thrissur I, Thrissur IV
Office of the Inspecting Assistant Commissioner : Pathanamthitta

Name of Circle	Up to 5 years		5 to 10 years		Above 10 years	
	Number of cases	Amount (In crore of rupees)	Number of cases	Amount (In crore of rupees)	Number of cases	Amount (In crore of rupees)
Special Circle, Kollam	105	6.57	33	0.39	64	0.77
Special Circle, Thiruvananthapuram	39	3.09	6	0.04	4	0.06
Total	144	9.66	39	0.43	68	0.83

2.2.7. Revenue Recovery cases pending in other States/Districts

In the case of assesseees in arrears and possessing movable or immovable properties in districts/states other than districts/states where they had conducted business, the Collectors of the Districts concerned forwarded the RRCs to the District Collectors of the districts/states where the defaulters possess properties.

Further, the department had directed (December 1991) the departmental officers that whenever delay occurs in effecting recovery of amounts recommended for the revenue recovery the matter should be taken up with higher authorities.

(i) RRCs pending in other States

(a) Test check of 22 Offices[▼] revealed that 188 RRCs for Rs 56 crore were forwarded to seven States for collection of dues as arrears of land revenue. However, no action was taken by the assessing officers to pursue the cases once the RRCs were forwarded to them. Consequently the amount remained unrecovered. A few instances are given below.

Name of office	Name of assessee	Year to which assessment relates/Month of assessment	Amount (In crore of rupees)	Authority with which recovery is pending	Month in which RRC was sent
Special Circle II, Kozhikode	Devesh Spices	1977-78 to 1992-93 May 1997	1.02	Dy. Commissioner, Anand, Gujarat	May 1997
Sales Tax Office, Kalamassery I	Burma Co-Engineering System Ltd.	1999-2000 November 1999	3.05	Dy. Commissioner, New Mumbai	November 1999
Special Circle (Hill Produce), Mattancherry	Rajam S. Sachlecha	1985-86 to 1988-89 March 1997	1.40	Dy. Commissioner, Mumbai	March 1997

▼ Special Circles : Ernakulam I, Ernakulam II, Ernakulam III, Kannur, Kollam, Kozhikode I, Kozhikode II, Mattancherry, Mattancherry (Hill Produce), Palakkad, Thiruvananthapuram
Sales Tax Offices : Adoor, Ernakulam II, Ernakulam (Works Contract), Kalamassery I, Kollam I, Kottayam I, Kozhikode I, Kozhikode III, Pala, Thrissur I, Thrissur IV

Name of office	Name of assessee	Year to which assessment relates/Month of assessment	Amount (In crore of rupees)	Authority with which recovery is pending	Month in which RRC was sent
Special Circle (Hill Produce), Mattancherry	Syam Sundar Poddar and Suresh Kumar Poddar, Kolkotta-5	1982-83 to <u>1990-91</u> December 1998	6.57	Revenue authority, Kolkotta	December 1998
	NSA – Exports (India) Ltd.	1994-95 and <u>1995-96</u> August 2000	1.33	Dy. Commissioner, Chennai	August 2000
Special Circle, Kollam	Moolchand Export (Ltd.) Madras – 18	1994-95 and <u>1995-96</u> June 1999 and March 2000	8.35	Dy. Commissioner, Chennai	January 2001
Special Circle, Thiruvananthapuram	K. Dassayyan	1992-93 to <u>1995-96</u> Between March 1997 and February 2001	1.33	Tamil Nadu	Between March 1997 and February 2001

(b) Five revenue recovery certificates for Rs 49.12 crore due from Indian Coffee Board towards arrears of sales tax issued (August 1998 and July 1999) from Special Circle II, Kozhikode were forwarded (between August 1998 and October 1999) by the District Collector, Kozhikode to the Deputy Commissioner, Bangalore for effecting recovery with a specific direction to the assessing authority to make correspondence with the revenue authorities of Karnataka for further action. The assessing officer had pressed for payment in January 2000 and June 2001; however, no action was taken thereafter. The assessing authority also did not bring the matter to the notice of higher authorities either in Kerala or in Karnataka for pursuance at higher level.

On this being pointed out in audit, the assessing officer Special Circle, Thiruvananthapuram stated that he has no control on the collection of amount under the revenue recovery pending with revenue authorities of other states. The reply of assessing officer, Special Circle, Thiruvananthapuram is not tenable as he should have pursued the matter with the concerned Deputy Commissioners of other states and in case no response was received it should have been brought to the notice of the higher authorities.

(ii) RRCs pending in other Districts

In 21 Offices[□] 190 cases of revenue recovery having a monetary value of Rs 11.56 crore were pending in other districts without follow up action. A few illustrative cases are given below.

[□] Special Circles : Ernakulam I, Ernakulam III, Kottayam, Kozhikode I, Palakkad, Thrissur
Sales Tax Offices : Adoor, Chengannur, Ernakulam II, Ernakulam (Works Contract), Kayamkulam, Kottayam I, Kottayam II, Kozhikode I, Kozhikode II, Kozhikode III, Kozhikode IV, Pala, Pathanamthitta, Thrissur I, Thrissur IV

Name of office	Name of assessee	Year to which assessment relates/Month of assessment	Amount (In crore of rupees)	Authority with whom recovery is pending	Year of service
Second Circle, Kottayam	E.K. Shahul Hameed	<u>1996-97</u> April 1999	0.26	District Collector, Ernakulam	1999-2000
Circle Office, Pala	Choorakulam Tea Estate	1987-88 to <u>1993-94</u> June 1998	0.14	District Collector, Idukki	1998-99
	Sasikumar and Madhavan	<u>1994-95</u> August 1999	0.29	District Collector, Alappuzha	1999-2000
IV Circle, Kozhikode	Joseph Mathew	<u>1991-92</u> April 1993	0.25	RRC shown as sent outside the District	1993-94

(iii) RRCs returned by revenue authorities

In accordance with the Government instructions dated 17 December 1991, both assessing officer and revenue authorities are responsible for the collection of the amount under RRCs. A reconciliation of the pending RRC cases is required to be done by both officers.

Test check conducted in 35 Offices[¶] revealed that 539 revenue recovery certificates issued between 1996-97 and 2000-01 involving arrears of Rs 110.97 crore were returned by revenue authorities stating that either the defaulters did not possess movable or immovable property to be attached or assessee firm had become defunct or correct address of the defaulter or their property was not known, etc. No attempt was made by the assessing authority for recording the correct address/property particulars and return the RRCs to the concerned authorities for recovery of the amount in question. Besides, the defaulted amount could have been recovered by application to a magistrate as a fine imposed by him. A few illustrations are given below.

[¶] Special Circles : Alappuzha, Ernakulam I, Ernakulam III, Kannur, Kollam, Kottayam, Kozhikode I, Kozhikode II, Mattancherry, Mattancherry (Hill Produce), Thrissur, Thiruvananthapuram, Tirur
Sales Tax Offices : Adoor, Attingal, Changanassery, Chengannur, Ernakulam II, Kalamassery I, Kayamkulam, Kollam III, Kottayam I, Kottayam II, Kozhikode I, Kozhikode II, Kozhikode III, Kozhikode IV, Kundara, Mavelikkara, Pala, Pathanamthitta, Thrissur I, Thrissur IV, Thiruvalla, Office of the Inspecting Assistant Commissioner : Kattappana.

Sl. No.	Name of Circle	Name of assessee	Year to which assessment relates	Month of assessment	Amount (In crore of rupees)	Month of issue of RRC	Month of return of RRC
1.	Special Circle I, Ernakulam	Madhu Trading Agencies	1986-87 to 1991-92	December 1996	7.61	January 1998	March 1998
2.	-do-	Madhu Steel Company	1990-91 and 1991-92	December 1996	3.75	January 1998	March 1998
3.	-do-	Premier Steel Trading Company	1987-88 and 1988-89	December 1999	0.25	April 2000	July 2000
4.	Special Circle, Alappuzha	Vajra Marine Private Ltd.	1994-95	March 1999	1.88	June 1999	November 1999
5.	First Circle, Kalamassery	Denny's Pharmaceuticals	1989-90	December 1997	1.28	December 1998	July 2001

2.2.8. Demand notices received undelivered

The Kerala General Sales Tax Act, 1963, provides that when a demand notice issued by the Department is received back undelivered due to non-availability of the defaulters, the same should be affixed on some conspicuous part of his last known place of residence or business or should be tendered to some adult member of his family.

(i) Test check in 7 Offices[®] revealed that 11 cases pertaining to the years 1982-83 to 1998-99 were finalised between December 1996 and February 2001. Demand notices for Rs 14.82 crore issued by the department were received back as undelivered. Thereafter the department made no efforts to ascertain the whereabouts of the assesseees or to affix the same on some conspicuous part of his last known place of residence or business or to tender it to some adult member of his family. Instead the assessing officer forwarded these cases to the revenue authorities for recovery under Revenue Recovery Act between January 1997 and April 2001, which were again returned on account of failure to locate the assesseees.

Thus, lack of proper action resulted in non-realisation of Rs 14.82 crore.

(ii) Completion of assessment after closure of business

A time limit of four years, from the date of expiry of the year to which the assessment relates, for completion of assessment was introduced for the first time

[®] Special Circles: Ernakulam III, Kottayam, Kozhikode II, Mattancherry (Hill Produce)
Sales Tax Offices: Adoor, Kottayam I, Pala

with effect from 1 April 1993 under the Kerala General Sales Tax Act, 1963. Prior to that, there was no such provision. However, the time limit for completion of assessments up to the assessment year 1993-94 was further extended up to 31 March 1999 and that for completion of assessments for the year 1994-95 was extended up to 31 March 2000.

On test check it was revealed that in 13 Circles^m the assessment of 16 assesseees were completed after the closure of business. RRCs amounting to Rs 52.30 crore sent to the Tahsildars were received back by assessing officer with the remarks that the assesseees were either declared insolvent or had no property to be attached. Thus finalisation of the assessment after the closure of business resulted in non-realisation of Rs 52.30 crore. A few such cases are given below.

Name of Office	Name of assessee	Year to which assessment related	Year of stoppage of business	Month of assessment	Amount (In crore of rupees)	Remarks
Special Circle I, Ernakulam.	Premier Steel Trading Company	1987-88 and 1988-89	1988	November 1999	0.24	Revenue recovery certificate returned as irrecoverable
	Madhu Steel Company	1987-88 to 1991-92	1992	December 1996	8.23	No properties.
	Madhu Trading Agencies	1987-88 to 1991-92	1992	December 1996	9.76	-do-
Special Circle, Mattancherry (Hill Produce)	Sreevidya, Enterprises	1985-86 to 1987-88	1988-89	March 1998	5.42	-do-
	Alok Spices	1982-83 to 1987-88	1998	September 1998	5.46	-do-
Sales Tax Office, Pala	Bismi Rubbers	1994-95 and 1995-96	1995	December 1999	4.11	-do-
Special Circle, Kannur	Deepak Traders	1984-85 to 1988-89	1988	1990 and 1991	2.73	Revenue recovery certificate returned as irrecoverable

^m Special Circles : Ernakulam I, Ernakulam II, Alappuzha, Kottayam, Mattancherry (Hill Produce), Kollam and Kannur.

Sales Tax Offices : Kottayam I, Kollam III, Pala, Ernakulam II and Kottayam III

Office of the Inspecting Assistant Commissioner, Kattappana.

2.2.9. *Non-invoking of security for realisation of revenue*

Under the Kerala General Sales Tax Act, 1963, and Rules made thereunder the assessing authority shall have the power to demand from any registered dealer, sufficient security for the proper payment of tax by him. The security shall be maintained in full so long as the registration certificate continues to be in force and may, in the event of default of payment of any tax, be liable to adjustment towards such tax, after due intimation.

(a) *Failure to renew/revalidate bank guarantees*

(i) In 9 Offices[#], in 31 cases validity period of the bank guarantees of Rs 0.44 crore obtained as security while granting sales tax registration, expired (between June 1991 and February 2002) and fresh bank guarantees were not obtained. Allowing the bank guarantees to lapse when the units were still in arrears of revenue resulted in non-realisation of revenue of Rs 0.44 crore.

(ii) In 7 Offices[™], the validity period of the bank guarantee for Rs 5.48 crore furnished by 132 assesseees on the direction of the appellate authorities expired during the currency of appeal. However, the assessing authorities did not take any action to get the bank guarantees revalidated resulting in non-realisation of Rs 5.48 crore.

(b) *Non-forfeiture of security*

In 18 Offices^{*}, in case of 160 assesseees, the assessing authorities did not take any action to forfeit securities furnished by the dealers in the form of fixed deposits/National Savings Certificates or to invoke valid bank guarantees to realise arrears of Rs 41.14 lakh resulting in non-realisation of arrears to that extent relating to the assessment periods from 1977-78 to 2000-01.

2.2.10. *Failure to recover arrears from the partners*

Under the Act, where any firm is liable to pay tax, fee or other amount the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

[#] Special Circles : Ernakulam I, Ernakulam III, Mattancherry, Kollam, Palakkad, Kozhikode I Sales Tax Offices : Kozhikode I, Kalamassery I, Ernakulam (Works Contract)

[™] Special Circles : Ernakulam I, Ernakulam II, Ernakulam III, Kozhikode I, Mattancherry, Thiruvananthapuram

Sales Tax Office : Kozhikode I

^{*} Special Circles : Ernakulam I, Ernakulam III, Kottayam, Kozhikode I, Kozhikode II, Mattancherry, Palakkad, Thiruvananthapuram, Thrissur, Tirur

Sales Tax Offices : Adoor, Attingal, Chenganoor, Ernakulam (Works Contract), Kalamassery I, Kozhikode I, Kozhikode II, Thrissur IV

In 3 Circles^o in 4 cases revenue recovery certificates were required to be issued in favour of partners (two in each case) for recovering a total amount of Rs 6.27 crore. But RRCs were issued only against one partner. The same were returned by revenue authorities stating that the amount was irrecoverable due to non-availability of movable or immovable property against the defaulter. However, no action was initiated to recover the amount from other partners.

2.2.11. Conclusion

Sales tax is the major source of revenue of the State. The foregoing paragraphs show that the amount of sales tax pending collection at the end of each year recorded an increasing trend and amounted to more than 30 *per cent* of the actual sales tax collection during the last four years. However, the records maintained in the department do not show the exact amount outstanding and also the stage of action for recovery in each case. Proper follow up action is not taken even in revenue recovery cases. Security available for adjustment is not invoked. All these bring out the weakness of the system for the recovery of arrears and the necessity to develop a strong internal control machinery for the collection of the arrears from defaulters both within the State and from those who have left the State.

The matter was reported to the department/Government in May 2002; their reply has not been received (November 2002).

2.3. Underassessment of turnover

Under the Kerala General Sales Tax Act, 1963, taxable turnover means the turnover, on which a dealer shall be liable to pay tax after making the prescribed deductions from the gross turnover.

In 19 offices turnover of Rs 146.39 crore was incorrectly excluded from levy of tax in 39 cases resulting in short levy of tax and surcharge of Rs 12.86 crore. A few illustrative cases are given below.

^o Special Circles : Kottayam, Kozhikode I and Mattancherry (Hill Produce)

Sl. No.	Name of office	Assessment year/ Month of assessment	Name of commodity/ Rate of tax	Turnover excluded (In lakh of rupees)	Nature of observation	Short levy of tax (In lakh of rupees)	Remarks
1.	Sales Tax Office, Pala	1980-81 to 1986-87 between August 2000 and March 2001	Rubber <u>latex</u> 5% up to 31 March 1981 and 3% thereafter Rubber <u>products</u> 10% up to 13 October 1982 and 8% thereafter	1761.57	While finalising the assessment of a dealer, the assessing officer incorrectly excluded from levy of tax, the purchase turnover of natural latex aggregating to Rs 7.59 crore and sales turnover of centrifuged latex and allied products aggregating to Rs 10.03 crore.	134.61	On being pointed out (July 2001) in audit, the department stated that the case would be examined. Further report has not been received (November 2002).
2.	Special Circle I, Kozhikode	1980-81 to 1982-83 Between July and September 1997	Oils, chemicals and <u>perfumes</u> 4%/8%/10%	1669.29	While finalising the assessments of a dealer, the assessing officer excluded the purchase turnover of Rs 16.69 crore from levy of tax.	97.92	On this being pointed out (November 1998) in audit, the department stated (April 2001) that the assessments had been revised (February 2001) raising additional demand of Rs 96.74 lakh. Further report has not been received (November 2002).
3.	Sales Tax Special Circle, Thiruvananthapuram.	1993-94 & 1995-96 April & September 1999	Nylon <u>fishing net</u> 5%	521.24	While finalising the assessments, the assessing officer incorrectly excluded sales turnover of nylon fishing net.	28.67	This was pointed out to the department in December 2000. However, final reply has not been received (November 2002).
4.	Special Circle III, Ernakulam	1997-98 January 2001	Voltage <u>stabilizer</u> 2% on the second point	759.41	While finalising the assessment of a dealer, purchase value of voltage stabilizer was not assessed to tax.	16.71	On this being pointed out (July 2001), the department issued (September 2001) notice proposing revision of assessment. Further report has not been received (November 2002).
5.	Sales Tax Special Circle, Kollam	1995-96 February 1999	Cashewnut, cashew <u>kernel</u> 7%	172.38	While finalising the assessment the assessing officer did not reckon the purchase turnover of cashewnut corresponding to the inter-State sales, sale in the course of export and sales turnover corresponding to the cashewnut transferred from outside the State.	13.27	On being pointed out (July 1999) in audit, the department stated (April 2001) that the assessment had been revised creating additional demand for Rs 13.27 lakh. Further report has not been received (November 2002).

Sl. No.	Name of office	Assessment year/ Month of assessment	Name of commodity/ Rate of tax	Turnover excluded (In lakh of rupees)	Nature of observation	Short levy of tax (In lakh of rupees)	Remarks
6.	Office of the Deputy Commissioner, Commercial Taxes, Kollam	1995-96 March 2000	Works contract	86.25	While finalising the best of judgement assessment of an assessee, work in progress for Rs 46.98 lakh was not considered and interstate purchase for Rs 39.27 lakh was misclassified as wages and excluded from turnover.	10.81	This was pointed out by Audit in September 2000. The department has cancelled the original assessment for revision. However, details were not made available to audit.

On these being pointed out the department accepted the audit observations in 28 cases and revised assessments in 12 cases creating additional demand of Rs 1.33 crore out of which Rs 8.61 lakh has been recovered. Final report has not been received in remaining cases (November 2002).

The above cases were reported to Government between July 2001 and May 2002, their replies have not been received (November 2002) in 36 cases despite reminders (between October 2001 and January 2002).

2.4. Incorrect grant of concessional rate of tax

By notifications (between November 1993 and March 1995) Government reduced the rate of tax payable by an oil miller in the State on the purchase of coconut or copra by him which is used for producing coconut oil and coconut oil cake and on the sale of coconut oil and cake produced by him out of such coconut or copra. He was exempted from the surcharge payable by him on such reduced tax also. However, this concession/exemption is applicable to a miller only and not to one who gets his work done through a mill.

In Sales Tax Special Circle (Produce), Mattanchery it was noticed that a dealer was engaged in the procurement of copra and sale of coconut oil and cake produced by crushing the copra on job work basis on the mills which he did not own. However, the assessing officer while finalising (between January and July 1999) the assessment for 1994-95 and 1995-96 of the dealer incorrectly exempted the sale turnover of Rs 40.66 crore and levied tax at a concessional rate on the sale/purchase turnover valued at Rs 155.91 crore. This resulted in short levy of tax of Rs 4.82 crore.

The case was pointed out (September 1999 and June 2000) to the department and reported to the Government in January 2001. The Government stated (September 1999, June 2000 and June 2001) that the concessional rate applied was correct. The reply is not tenable as the agreement executed by the assessee clearly showed that the assessee was not a mill owner and he was getting his work done on job-work basis in the mill owned by the KERALED. As such he was not entitled to the exemption/concessional rate of tax. Further report has not been received (November 2002).

2.5. Short/non-realisation of interest

Under Section 23(3) of the Kerala General Sales Tax Act, 1963, if the tax or any amount due under the Act is not paid by any dealer within the time prescribed, the dealer shall pay, by way of interest, a sum equal to one *per cent* of such amount for each month or part thereof for the first three months of delay and two *per cent* of such amount for each month or part thereof for subsequent delay.

During the course of audit it was noticed (between July 2000 and June 2001) that while finalising (between January 1999 and March 2001) the assessments, the assessing officers did not levy or levied short interest amounting to Rs 4.22 crore in 23 cases in 12 offices for non/belated payment of tax. A few illustrative cases are given below.

Sl. No.	Name of office	Assessment year/Month and year of assessment	Nature of defect	Non/short levy of interest (In lakh of rupees)	Remarks
1.	Deputy Commissioner, Commercial Taxes, Thiruvananthapuram	1996-97 February 2001	While finalising the assessment of a works contractor, interest for the belated payment of tax/surcharge was computed on Rs 2.90 lakh instead of Rs 28.98 lakh. Accordingly, interest of Rs 25.21 lakh was payable instead of Rs 2.52 lakh paid by the assessee.	22.69	On being pointed out in audit, the department stated (September 2001) that rectification notice had been issued (September 2001) to the assessee. Further report has not been received (November 2002).
2.	Special Circle, Kollam	1994-95 March 2000	Penalty of Rs 22.68 lakh was imposed by Intelligence Officer and demanded in July 1997. The assessing officer while advising the amount for revenue recovery (January 2001) omitted to include interest in the RRC.	12.93	On being pointed out the department stated that separate RRC had been issued for Rs 16.56 lakh. Further report has not been received (November 2002).

Sl. No.	Name of office	Assessment year/Month and year of assessment	Nature of defect	Non/short levy of interest (In lakh of rupees)	Remarks
3.	Special Circle, Kollam	1995-96 March 2000	Assessee collected tax of Rs 13.75 lakh, which should have been remitted before May 1996. Assessee remitted Rs 13.72 lakh in March 1999 and balance Rs 0.03 lakh was not paid. Assessing officer did not levy interest.	9.21	On being pointed out the department stated (October 2000) that the case would be examined. Further report has not been received (November 2002).
4.	Office of the Deputy Commissioner, Commercial Taxes, Mattancherry	1996-97 January 2001	In the case of a works contractor, who had opted to pay tax at compounded rate, interest was not levied on the belated payment of admitted tax of Rs 7.19 lakh which was not paid in time.	6.25	On this being pointed out in audit, the department stated (May 2001) that the demand for interest of Rs 6.68 lakh for the period up to April 2001 had been issued (May 2001). Further report has not been received (November 2002).

On being pointed out the department accepted the audit observations in 16 cases and revised assessments in 14 cases raising additional demand of Rs 48.22 lakh out of which Rs 2.18 lakh has been recovered. Final report has not been received in remaining cases (November 2002).

The above cases were reported to Government between July 2001 and May 2002. Government stated that the assessments had been revised in three cases. No reply has been received (November 2002) in rest of the cases despite the reminders issued (October and November 2001).

2.6. Application of incorrect rate of tax

Under the Kerala General Sales Tax Act, 1963, rate of tax depends on the nature of sale, point of sale and also on the kind of commodity.

It was noticed during audit that tax was levied at incorrect rates in 36 cases in 27 offices resulting in short levy of tax of Rs 2.08 crore. A few illustrative cases are given below.

Sl. No.	Name of Office	Commodity	Assessment year/ Month of assessment	Rate applicable	Rate applied	Turn-over	Tax short levied / surcharge	Remarks
				(In per cent)		(In lakh of rupees)		
1.	Special Circle, Thrissur	Polyester fibre yarn (M/s. Alagappa Textiles)	1996-97 February 2001	2.5 up to 28 July 1996 and 10 thereafter	1 1	350.79 701.59	68.40 (CST)	On this being pointed out in October 2001, the department stated (October 2001) that action had been taken to revise the assessment. Further report has not been received (November 2002).
		Polyester fibre yarn	1995-96 March 2000	2.5	1	539.75	8.10 (CST)	On this being pointed out (July 2000) the assessing officer issued (January 2002) notice for revision of assessment. Further report has not been received (November 2002).
2.	Special Circle, Palakkad	Compound Rubber	1996-97 February 2001	10	5	664.75	36.56	On this being pointed out the assessing authority stated (August 2001) that the case would be examined. Further report has not been received (November 2002).
3.	Special Circle, Kollam	Liquid glucose	1994-95 to 1997-98 Between January and December 1999	8	2.5 and 3	168.45	9.83	On this being pointed out in audit, the department stated (October 2000) that the matter would be examined. Further report has not been received (November 2002).
4.	Sales Tax Office, Neyyattinkara	Water storage tank	1996-97 to 1998-99 June 2000	10	4	146.79	9.69	On this being pointed out (April 2001) in audit, the department stated (July 2001) that the assessments had been revised (May 2001) creating additional demand of Rs 9.69 lakh and after adjusting the demand against the available eligibility for exemption from tax, the balance tax of Rs 3.14 lakh had been collected.
5.	Special Circle, Thrissur	PVC Pipes	1998-99 August 2001	10	4	50	3.30	On this being pointed out, the department stated (October 2001) that notice had been issued to revise the assessment. Further report has not been received (November 2002).

On this being pointed out (between September 1998 and December 2001), the department accepted audit observations in 24 cases and revised the assessments in 16 cases creating additional demand of Rs 34.65 lakh out of which Rs 4.53 lakh has been recovered. Final report has not been received in remaining cases (November 2002).

The above cases were reported to Government between June 2001 and May 2002. Final reply has not been received in 28 cases (November 2002).

2.7. Incorrect grant of exemption/reduction of tax

Under the Kerala General Sales Tax Act, 1963, Government may grant an exemption or reduction in any rate, either prospectively or retrospectively in respect of any tax payable under the Act on the sale or purchase of any specified goods at all points or at specified point or by any specified class of persons in regard to the whole or any part of their turnover. Any exemption from tax or reduction in the rate of tax may be subject to such restrictions and conditions as may be specified.

In 21 offices, it was noticed that 23 Medium/Small Scale Units were not eligible to exemption/concessional rate of tax as these did not fulfill the conditions prescribed under the Act. This resulted in short realisation of tax of Rs 1.12 crore. A few illustrative cases are given below.

Sl. No.	Name of office	Assessment year/ Month of assessment	Commodity/ Rate of tax	Nature of irregularity	Amount of short levy (In lakh of rupees)	Remarks
1.	Sales Tax Office, II Circle, Kozhikode	1992-93 & 1993-94 January and February 1998	<u>Cattle feed</u> 6%/5%	In the case of expansion only the expanded production of a unit is liable to be exempted from tax. However, in contravention to the provision an assessing authority set off entire production of a Medium Scale Industry instead of restricting it on expanded production only. This resulted short levy of Rs 27.46 lakh.	27.46	On being pointed out (June 1998) in audit, the Deputy Commissioner (General), Commercial Taxes, Thiruvananthapuram issued (December 2001) orders for the rectification of the incorrect assessment. Further report has not been received (November 2002).
2.	Sales Tax Office, Pattambi	1995-96 to 1997-98 November 1998 and May 2000	<u>Medicines</u> 8%	A unit engaged in manufacturing Ayurvedic Medicines is entitled to exemption if all its members are registered medical practitioners. However, in contravention of the provision an assessee having only two registered medical practitioners out of six	20.13	On being pointed out (August 2001) in audit, the assessing officer stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

Sl. No.	Name of office	Assessment year/ Month of assessment	Commodity/ Rate of tax	Nature of irregularity	Amount of short levy (In lakh of rupees)	Remarks
				partners was exempted from levy of tax of Rs 20.13 lakh on turnover worth Rs 2.29 crore.		
3.	Sales Tax Office, Angamaly	1995-96 November 1997	Ghee and cream 8%/10%	The turnover of a charitable society expended for charitable purpose is exempted from payment of tax. But the assessing authority exempted the turnover to a non charitable society engaged in commercial business (collected milk from members and sold it after processing) resulting loss of Rs 5.96 lakh.	5.96	On being pointed out in audit, the department stated (January 1999) that the reply will be furnished after verification. Further report has not been received (November 2002).

On this being pointed out the department accepted audit observations in nine cases and revised assessments in four cases creating additional demand of Rs 7.44 lakh out of which Rs 1.55 lakh has been recovered. Final report has not been received in remaining cases (November 2002).

The cases were reported to Government between August 2001 and May 2002. Final reply has not been received (November 2002) despite reminders issued in October 2001 and January 2002.

2.8. Non-imposition of penalty

a) Under the Kerala General Sales Tax Act, 1963, tax was leviable on cashew kernel at the rate of seven *per cent* at the point of first sale in the State. Filing of untrue or incorrect return with the intention to evade payment of tax attracts levy of penalty up to a maximum of double the tax evaded or sought to be evaded.

In Sales Tax Special Circle, Kollam, an assessee engaged in manufacture and sale of cashew kernels did not include local purchase of Rs 7.28 crore in the returns filed by him for the year 1997-98. Although the assessing officer levied tax (January 1998) on the concealed turnover of Rs 7.28 crore, no penalty was levied for filing an incorrect return. This resulted in non-levy of penalty of Rs 1.02 crore being twice the tax evaded.

On this being pointed out (July 2001) in audit, the department stated (March 2002) that notice proposing to impose penalty had been issued to the assessee. Further report has not been received (November 2002).

The case was reported to Government in May 2002 ; their reply has not been received (November 2002).

b) Under the Kerala General Sales Tax Act, 1963, concessional rate of tax is leviable on purchase of goods declared in Form No.18 by a dealer for being used in the production of finished goods for sale in the State. If any person after purchasing any goods making use of such declaration fails to make use of the goods for the declared purpose, the assessing authority may direct that such person shall pay, by way of penalty, an amount not exceeding twice the amount of sales tax evaded or sought to be evaded.

In Sales Tax Special Circle I, Ernakulam, an assessee exported finished products valued at Rs 35.77 lakh produced using the raw materials purchased at concessional rate of tax furnishing the declaration during 1993-94. However, while finalising (February 1998) the assessment, the assessing officer failed to impose any penalty. Though concession of Rs 2.68 lakh availed on the raw material used to produce the goods exported was disallowed, the penalty of Rs 5.38 lakh was not imposed.

On this being pointed out (July 1998) in audit, the department imposed (August 2001) penalty of Rs 5 lakh on the assessee. Further report has not been received (November 2002).

The case was reported to Government in November 2001; they stated (October 2002) that penalty had been imposed and the demand advised for revenue recovery.

2.9 Short raising of demand

As per the provisions of the Kerala General Sales Tax Act, 1963, and Rules made thereunder, the assessing authority shall issue a notice of demand for the amount due as per final assessment for an year, specifying the period within which the amount has to be paid.

In the office of the Inspecting Assistant Commissioner, Pathanamthitta, an assessee (M/s. Travancore Sugars and Chemicals Ltd.) was assessed (August 1999) for the assessment year 1995-96 for a tax of Rs 55.16 lakh (including surcharge). However, demand notice was issued incorrectly for Rs 0.56 lakh resulting in short demand of Rs 54.60 lakh.

On this being pointed out in audit, the department issued (April 2002) fresh demand notice for the entire amount. Further report has not been received (November 2002).

2.10. Non-withdrawal of concession granted on misuse of declaration

Under the Kerala General Sales Tax Act, 1963, a manufacturer shall not avail concessional rate of tax on purchase of raw materials if the product is not taxable either under the Kerala General Sales Tax Act, 1963 or the Central Sales Tax Act, 1956. Further, if the goods purchased by issuing declaration are not used for the declared purpose, the assessee shall pay the differential tax on such goods. Chemicals not elsewhere mentioned in the Schedule are taxable at 10 *per cent*.

a) In Sales Tax Special Circle III, Ernakulam, while finalising (March 2000) the assessment for 1995-96 of a company, which either transferred the goods outside the State otherwise than by way of sale or exported its products valued at Rs 33.82 crore, the assessing officer did not levy tax at differential rate on raw materials valued at Rs 3.95 crore purchased at concessional rate of tax. This resulted in short levy of tax and surcharge of Rs 30.45 lakh.

On this being pointed out (January 2001) in audit, the department rectified (July 2001) the mistake and raised a demand of Rs 40.34 lakh.

The case was reported to Government in July 2001; their reply has not been received (November 2002) despite the reminder issued in October 2001.

b) In Sales Tax First Circle, Mattancherry, while finalising (September 1998) the assessment for the year 1993-94 of a dealer engaged in the manufacture and sale of plastic sheets, tax at differential rate was not levied on raw materials purchased on concessional rate of tax and used for the production of goods which were exported. This resulted in short levy of Rs 1.73 lakh.

On this being pointed out (January 2001) in audit, the department stated (November 2001) that proposal for cancellation of assessment had been sent to Deputy Commissioner in July 2001. Further report has not been received (November 2002).

The case was reported to Government in December 2001; their reply has not been received (November 2002).

2.11. Suppression of sales turnover on branch transfer

Under the provisions of the Kerala General Sales Tax Act, 1963, every dealer is required to file an annual return before the assessing authorities showing all the transaction made in a financial year. However, if the prescribed authority is satisfied that the dealer has submitted an untrue or incorrect return, the said authority may direct that the dealer shall pay, by way of penalty, an amount not exceeding twice the amount of sales tax evaded.

In Sales Tax Special Circle, Kannur, while finalising (March 1999) the assessment for the year 1994-95 of a manufacturer in plywood, a turnover of Rs 26 crore relating to transfer of plywood to the assessee's branch in Andhra Pradesh was exempted from levy of tax on the basis of the declarations in Form F. A cross verification of declarations available in the assessment file of the dealer with the counter foils available in the assessment file of the branch at Hyderabad revealed that by manipulating the entries in 15 original F forms the assessee concealed turnover of Rs 58.60 lakh. This resulted in short levy of tax of Rs 7.74 lakh including surcharge. Besides, penalty of Rs 14.06 lakh was leviable.

On this being pointed out (December 2001) in audit, the department stated (December 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in January 2002; their reply has not been received (November 2002).

2.12. Incorrect computation of tax

Under Section 7 (1) (a) of the Kerala General Sales Tax Act, 1963, a dealer in gold and silver ornaments who opts to pay tax at compounded rate shall pay tax at

150 *per cent* of the maximum amount of tax payable under the Act by him for a period of 12 months in a financial year, as conceded by him in any of the three financial years immediately preceding the assessment year. Where a dealer has paid tax at compounded rate during the preceding year, the compounded rate of tax to be paid by him during the succeeding year shall be at 150 *per cent* of such tax paid or the tax calculated as above whichever is higher.

a) In Sales Tax Office, Vythiri, while finalising the assessments (July 1999) for the years 1995-96 to 1997-98 of a dealer in gold, tax payable at the compounded rate for 1995-96 was computed at 150 *per cent* of the compounded tax paid for 1994-95 even though the tax payable on the turnover conceded by him for 1994-95 was higher. Consequently in the subsequent years tax was computed incorrectly. The dealer for the year 1995-96 to 1997-98 was as such liable to pay tax of Rs 4.39 lakh against which Rs 1.14 lakh was only paid resulting in short levy of tax of Rs 3.57 lakh (including surcharge of Rs 0.32 lakh).

On this being pointed out (March 2001) in audit, the department stated (October 2001) that the assessment had been revised (May 2001) creating an additional demand of Rs 3.57 lakh towards tax and Rs 2.94 lakh towards interest for failure to pay tax on due dates. Further report has not been received (November 2002).

The case was reported to the Government in August 2001; they stated (March 2002) that the assessment for 1995-96 had been revised and the additional demand of Rs 3.59 lakh raised was pending collection. Further report has not been received (November 2002).

b) In Sales Tax Special Circle, Kottayam, while finalising (January 2000) the assessment for the year 1998-99 of an assessee who opted to pay tax at the compounded rate, the compounded rate of tax was worked out at Rs 32.83 lakh being 125 *per cent* of the compounded tax paid for 1997-98 against the correct amount of Rs 39.38 lakh, being the higher amount of 125 *per cent* of compounded tax paid in the previous year and 150 *per cent* of the maximum tax payable for the financial year 1997-98 as conceded in the return. This resulted in short levy of tax and surcharge of Rs 7.20 lakh.

On this being pointed out (October 2000) in audit, the department stated (October 2000) that the assessment proceedings were in order. The reply is not tenable as the assessment is not based on the provisions of the Act. Further report has not been received (November 2002).

The case was reported to Government in November 2001; their reply has not been received (November 2002) despite the reminder issued in March 2002.

2.13. Non/short levy of entry tax

Under Section 3 of the Kerala Tax on Entry of goods into Local Areas Act, 1994, tax shall be levied and collected on the entry of any goods into local area for consumption, use or sale therein at such rate or rates as may be fixed by the Government by notification on the purchase value of the goods but not exceeding the rates specified for the goods in the First Schedule to the Kerala General Sales Tax Act, 1963. No tax shall be levied and collected in respect of any motor vehicles which was registered in any Union Territory or any other State under the provisions of the Motor Vehicles Act, 1988 prior to a period of fifteen months or more from the date on which it is registered in the State. The entry tax payable on motor vehicles up to 31 March 1997 was 12 *per cent* of its purchase value.

a) In Sales Tax Office, III Circle, Kozhikode, while completing (July 1997), the entry tax assessment for 1997-98 of the Executive Engineer, Master Plan Division, Kerala State Electricity Board, Kozhikode no tax was levied on a light goods vehicle purchased for Rs 42.84 lakh from Delhi and registered and brought to Kerala within fifteen months from the date on which it was registered in Delhi. This resulted in non-levy of entry tax amounting to Rs 5.14 lakh.

On this being pointed out (July 1999) in audit, the department stated (January 2001) that the assessment had been revised. Further report has not been received (November 2002).

The case was reported to Government in July 2001; their reply has not been received (November 2002).

b) At Sales Tax Check Post, Amaravila, no entry tax was levied on an excavator valued at Rs 27.22 lakh transported (January 2000) through the check post. This resulted in non-levy of entry tax of Rs 3.27 lakh.

On this being pointed out (February 2001) in audit, the check post authorities reported (October 2001) the matter to the assessing officer of the assessee for finalising the assessment. Further report has not been received (November 2002).

The case was reported to Government in November 2001; their reply has not been received (November 2002).

c) Test check of Sales Tax Office, Second Circle, Perumbavoor, revealed that while finalising (January 1998) the entry tax assessment of an importer, tax at three *per cent* only was levied instead of 12 *per cent* on excavator. This resulted in short levy of entry tax of Rs 1.20 lakh.

On this being pointed out (November 1999) in audit, the department stated (March 2000) that an additional demand of Rs 1.20 lakh has been raised (March 2000). Further report has not been received (November 2002).

The case was reported to Government (July 2001); their reply has not been received (November 2002) despite being reminded in October 2001.

2.14. Incorrect accounting of tax paid

Rule 20 of the Kerala General Sales Tax Act, 1963 and the instructions issued (June 1989) by the Board of Revenue lay down the procedure for verifying and checking of all calculations of turnover, tax and credits given in an assessment order.

During the course of audit, it was noticed that incorrect accounting of tax paid by dealers resulted in excess affording of credit of Rs 9.22 lakh in 3 cases in 3 offices of which Rs 1.26 lakh has been recovered in one case as detailed below.

Sl. No.	Name of Office	Assessment year/ Month of assessment	Nature of irregularity	Excess credit afforded (In lakh of rupees)	Remarks
1.	Sales Tax Office, Ettumanoor	1995-96 July 1999	While finalising the assessment of a dealer in arrack, a remittance of Rs 3.32 lakh made (August 1995) by the assessee towards tax was accounted for twice and another remittance (September 1995) of Rs 0.34 lakh was reckoned as Rs 3.40 lakh, for computing the balance tax due from him.	6.38	On this being pointed out in audit, the department stated (October 2000) that the case would be examined. Further report has not been received (November 2002).

Sl. No.	Name of Office	Assessment year/ Month of assessment	Nature of irregularity	Excess credit afforded (In lakh of rupees)	Remarks
2.	Sales Tax Office, Kundara	1997-98 May 1999 and June 2000	While finalising the assessment of an assessee engaged in the business of running a bar and restaurant, credit was afforded for Rs 12.48 lakh against the actual remittance of Rs 10.98 lakh made by the assessee towards tax, surcharge and turnover tax	1.50	On this being pointed out (August 2000) in audit, the department stated (October 2001) that the assessment had been revised (December 2000). Further report has not been received (November 2002).
3.	Special Circle III, Ernakulam	1996-97 December 2000	While finalising the assessment of a small scale industrial unit, tax of Rs 1.34 lakh collected and remitted by the assessee was given credit twice for arriving at the balance tax payable.	1.34	On this being pointed out (August 2001) in audit, the department stated (September 2001) that Rs 1.26 lakh had since been paid/adjusted. Further report has not been received (November 2002).
Total				9.22	

The above cases were reported to Government between August and November 2001; they stated (September and October 2002) that the assessments had been revised in two cases and additional demand collected. Reply in respect of the remaining case has not been received (November 2002).

2.15. Non-recovery of tax from awarder of works contract

Under the Kerala General Sales Tax Act, 1963, every awarder of works contract shall deduct tax at the rate of two *per cent* in respect of civil contract and five *per cent* in respect of other contracts from the payments including advance payments made by him to any contractor liable to tax and remit it to Government. If the awarder makes any payment without deduction of tax, the whole amount of tax payable shall be recovered from the awarder.

Two awardees did not deduct tax from the payment of Rs 2.24 crore made to contractors for the years 1992-93, 1994-95 and 1995-96. The assessing officer while finalising the assessments between April 1999 and March 2000 also failed to recover the same from the awardee. This resulted in short realisation of tax of Rs 6.90 lakh.

On this being pointed out (October and November 2000) in audit, the assessing authority stated (November 2000) that the matter would be examined. Further report has not been received (November 2002).

The case was reported to Government in August 2001; their reply has not been received (November 2002) despite the reminder issued in October 2001.

2.16. Short levy of surcharge

Under the Kerala Surcharge on Taxes Act, 1957, the tax payable under the Kerala General Sales Tax Act, 1963, shall, in the case of a dealer whose turnover exceeds rupees ten lakh in a year, be increased by a surcharge of ten *per cent*.

In Sales Tax Special Circle, Thiruvananthapuram, while finalising (December 2000) the assessment for the year 1996-97 of a dealer in rubber and tea the assessing officer levied surcharge of Rs 0.34 lakh only against Rs 3.37 lakh due on sales tax of Rs 33.64 lakh. This resulted in short levy of surcharge of Rs 3.03 lakh.

On this being pointed out (October 2001) in audit, the assessing officer stated (October 2001) that the assessment had been revised creating additional demand of Rs 3.03 lakh. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

2.17. Short levy of turnover tax

Under Section 5(2A) of the Kerala General Sales Tax Act, 1963, every dealer in foreign liquor (Indian made and foreign made) shall pay turnover tax at the rate of five *per cent* on the turnover at all points of sale from 1 April 1995. In case of cement dealer it is payable at the rate of half *per cent* if turnover exceeds Rs 50 lakh a year.

a) In Sales Tax Office, Irinjalakuda, while finalising (March 2000) the assessment for the year 1995-96 of a dealer on the estimated turnover of foreign liquor amounting to Rs 1.87 crore, turnover tax was levied only on a turnover of Rs 1.51 crore. This resulted in exclusion of turnover of Rs 36.06 lakh and short levy of turnover tax of Rs 1.80 lakh.

On this being pointed out (October 2000) in audit, the department stated (September 2001) that the original assessment had been got remanded (February 2001) for making good the short levy and accordingly the assessment had been finalised (January 2001) creating additional demand of Rs 1.14 lakh. Further report has not been received (November 2002).

b) In Sales Tax Office, Ettumanoor, suppression of turnover of Rs 2.49 crore by a dealer in Indian made foreign liquor, who had returned (April 1996) a turnover of Rs 92.56 lakh for 1995-96 was detected by the Intelligence Squad making the total turnover for the year of the assessee equal to Rs 3.42 crore. However, while finalising (July 1999) the assessment, the assessing officer levied turnover tax on Rs 3.12 crore as returned (August 1997) by the assessee in his revised return instead of levying tax on the total turnover of Rs 3.42 crore. This resulted in exclusion of turnover of Rs 30 lakh and consequent short levy of turnover tax of Rs 1.50 lakh.

On this being pointed out in audit, the department stated (October 2001) that the case would be examined. Further report has not been received (November 2002).

The cases were reported to Government in August and September 2001; they stated (May 2002) that the assessment had been revised and additional demand collected in the first case. In the second case their reply has not been received (November 2002).

2.18. Non-forfeiture of excess collection of tax

Under Section 46A of the Kerala General Sales Tax Act, 1963, if any person collects any sum by way of tax in excess of what is due, such sum shall be forfeited to Government by an order issued by the assessing authority.

In Sales Tax Special Circle I, Ernakulam, while finalising (October 1999) the assessment for the year 1993-94 of a dealer, who had remitted to Government the

collected tax of Rs 19.76 lakh against Rs 17.51 lakh due, the assessing officer, instead of forfeiting the excess collection adjusted the same against surcharge due. This resulted in non-forfeiture of excess collection of tax amounting to Rs 2.25 lakh.

On this being pointed out (August 2000) in audit, the department stated (February 2001) that notice had been issued to the assessee. Further report has not been received (November 2002).

The case was reported to Government in August 2001; their reply has not been received (November 2002) despite the reminder issued in October 2001.

Chapter 3

Taxes on Agricultural Income

Chapter 3 Taxes on Agricultural Income

CHAPTER 3

TAXES ON AGRICULTURAL INCOME

3.1. Results of audit

Test check of the records of the Agricultural Income Tax Offices conducted in audit during the year 2001-02 revealed underassessment of tax amounting to Rs 6.67 crore in 185 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In crore of rupees)
1.	Short levy due to grant of inadmissible expenses	46	1.58
2.	Exclusion of income from assessment	42	1.43
3.	Incorrect computation of income	2	0.52
4.	Short/non-levy of interest/penalty	7	0.38
5.	Incorrect computation of tax	7	0.05
6.	Other items	81	2.71
	Total	185	6.67

During 2001-02, the department accepted underassessments, etc., of Rs 74.28 lakh involved in 69 cases of which two cases involving Rs 2.51 lakh were pointed out during 2001-02 and the rest in earlier years. At the instance of audit, the department collected an amount of Rs 3.07 lakh in 11 cases during 2001-02. A few illustrative cases involving Rs 1.14 crore are given in the following paragraphs.

3.2. Short levy of tax due to allowance of inadmissible deduction

(a) Under the Kerala Agricultural Income Tax Act, 1991, an assessee shall be entitled to a deduction on account of deposits under Investment Deposit Scheme at the rate of eight *per cent* of the agriculture income liable to be taxed. However, this deduction along with the share of deduction under Section 33 AB of the Income Tax Act, 1961, shall not exceed 20 *per cent* of the income under Rule 8 (1) of Income Tax Rules, 1962.

Assessment records (1998-99) of a tea company engaged in manufacture and sale of tea in the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, revealed that an assessee who had already availed of a deduction of Rs 4.46 crore out of total income of Rs 22.33 crore computed

under Central Scheme was further allowed a deduction of Rs 85.73 lakh on account of Investment Deposit Allowance under the Kerala Agricultural Income Tax Act. As further deduction allowed exceeded 20 *per cent* of the income computed under Rule 8 (1) of the Income Tax Rules, the deduction of Rs 85.73 lakh allowed was incorrect and resulted in short levy of tax of Rs 51.44 lakh.

On this being pointed out, the department stated that the deduction allowed was correct as it was admissible under the Kerala Agricultural Income Tax Act. The reply of the department is not tenable as the deduction on account of Investment Deposit Allowance was required to be restricted to 20 *per cent* of the income computed under Central Scheme under Rule 8(1) of the Income Tax Rules.

The case was reported to Government in April 2002; their reply has not been received (November 2002).

(b) In computing the agricultural income of an assessee, any expenditure enumerated in the Act incurred wholly and exclusively for deriving the agricultural income but not for personal expenditure is an allowable deduction. Income tax paid by an assessee under Income Tax Act, 1961, is not a permissible deduction under the Kerala Agricultural Income Tax Act, 1991.

(i) In Ernakulam, while finalising (December 2000) the assessment of a company for the assessment year 1998-99, the assessing officer incorrectly allowed deduction of Rs 4.39 lakh claimed by the assessee towards expenses on income tax paid under Income Tax Act, 1961. This resulted in short levy of tax of Rs 2.63 lakh.

On this being pointed out (August 2001) in audit, the department stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

(ii) In the Office of the Inspecting Assistant Commissioner (Special), Commercial Taxes, Ernakulam, an assessee was allowed a deduction of Rs 2.87 lakh on account of expenditure on cattle feed though this was not related with the activities of the business from which the income was derived. This resulted in short levy of tax of Rs 1.52 lakh.

On this being pointed out in audit, the department stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

(iii) In Thiruvananthapuram, while finalising (March 2001) the assessment of a company for the assessment year 1996-97, the assessing officer allowed a deduction of Rs 3.40 lakh towards expenditure on weeding against Rs 0.73 lakh allowed during 1995-96 without recording any reason for such abnormal increase during 1996-97. This resulted in short levy of tax of Rs 1.49 lakh.

On this being pointed out (April 2001) in audit, the department stated (July 2001) that the assessment had been revised (July 2001) raising additional demand of Rs 1.49 lakh. Further report has not been received (November 2002).

The case was reported to Government in August 2001; their reply has not been received (November 2002).

3.3. Non/short realisation of interest/penalty

(a) Under the Kerala Agricultural Income Tax Act, 1991, any person who fails to pay tax in pursuance of a demand notice, shall pay simple interest at the rate of 15 *per cent per annum* for every month of delay or part thereof, on the unpaid tax. The Act further provides that the assessing officer may forward to the Collector a certificate under his signature, specifying the arrears due which should include element of interest payable by an assessee, and the Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as if it were arrears of land revenue.

(i) In Ernakulam, in the certificates issued (June 1995 and May 1996) by the assessing officer to the Collector for the recovery of arrears of Rs 80.08 lakh due from a domestic company for the assessment years 1990-91 and 1991-92, interest of Rs 17.32 lakh due for non-payment of tax was not included.

On this being pointed out in audit, the department stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

(ii) The Inspecting Assistant Commissioner, Ernakulam, while recommending (February 2001) revenue recovery proceedings against a company for non-payment of balance tax of Rs 2.27 crore for the assessment year 1998-99, advised recovery of interest of Rs 2.83 lakh for one month against interest of

Rs 5.66 lakh due for two months. This resulted in short demand of interest of Rs 2.83 lakh.

On this being pointed out in audit, the assessing officer stated (July 2001) that the revenue authorities would collect the interest for the period from the date of service of demand notice till date of recovery and hence there was no loss of revenue. The reply is not tenable as the revenue authorities are liable to collect that amount which has been shown in the revenue recovery certificates. As such interest which became due for two months i.e. up to the date of issue of certificate should have been advised. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

(iii) The Inspecting Assistant Commissioner, Ernakulam, issued (January 1999) a certificate to the Collector for the recovery of an amount of Rs 69.93 lakh from a domestic company towards arrears of tax for the assessment year 1995-96 and interest up to December 1998. On receipt of chalan for Rs 69.93 lakh realised in March 1999, the assessing officer removed the item from the revenue recovery register treating the case as closed without recovery of interest for the period January 1999 to March 1999. This resulted in non-realisation of interest of Rs 2.28 lakh.

On this being pointed out in audit, the department stated (September 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

(b) The Kerala Agricultural Income Tax Act, 1991, requires every assessee to pay advance tax on the estimated total agricultural income which shall not be less than 80 *per cent* of the total agricultural income as per return before the end of February of the previous year failing which the assessee shall pay interest at the rate of 15 *per cent per annum* for every month of delay or part thereof. In addition he shall be liable to pay a penalty at rate of two *per cent* of such amount.

In the Office of the Inspecting Assistant Commissioner (Special), Ernakulam, it was noticed (August 2001) that interest/penalty for non-payment of advance tax of Rs 40 lakh by a domestic company for the assessment year 1998-99 was levied short by Rs 6.29 lakh.

On this being pointed out in audit, the department stated (August 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

3.4. Incorrect determination of taxable income

(a) Under the Income Tax Rules, 1962, income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived from business and 40 *per cent* of such income shall be deemed to be income liable to tax under the Income Tax Act, 1961. The remaining 60 *per cent* of the composite income so computed by the Income Tax Officer shall be reckoned as agricultural income from tea.

In Ernakulam, while finalising (December 2000) the assessment for 1998-99 of a domestic company deriving income from tea and other agricultural products, the assessing officer erroneously reckoned income from tea as Rs 61.90 lakh instead of income of Rs 82.51 lakh as determined (March 2000) by the Central Income Tax Authority. This resulted in exclusion of income of Rs 20.61 lakh and short levy of tax of Rs 12.37 lakh.

The case was pointed out to the department in August 2001; their final reply has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

(b) In Thiruvananthapuram, while finalising (March 2001) the assessment of a company, the assessing officer omitted to reckon the income from slaughter tapping of 3000 rubber trees. This resulted in exclusion of income of Rs 1.85 lakh and short levy of tax of Rs 1.11 lakh.

On this being pointed out (April 2001) in audit, the department stated (July 2001) that the assessment had been revised (July 2001) raising additional demand for Rs 1.11 lakh. Further report has not been received (November 2002).

The case was reported to Government in August 2001; their reply has not been received (November 2002).

(c) As per the Kerala Agricultural Income Tax Act, 1991, if any person fails to furnish the return of income as required under the Act, the assessing officer shall make the assessment to the best of his judgement after taking into account all relevant information he has gathered. The department had fixed (1996) the

price of coffee at Rs 60 per kg for the assessment year 1995-96 in case of assessee who have not maintained proper accounts.

In Agricultural Income Tax and Sales Tax Office, Mannarkad, while finalising (May 2000 and March 2001), the assessments of four individual assessee who had neither produced the accounts nor had filed their returns of income for the assessment year 1995-96, the assessing officer reckoned the value of coffee at Rs 50 per kg instead of Rs 60 per kg fixed by the department. This resulted in short computation of income by Rs 1.96 lakh and short levy of tax and surcharge of Rs 1.08 lakh.

On this being pointed out in audit, the department stated (October 2001) that the cases would be examined. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

3.5. Loss of revenue due to time-bar of assessments

As per the Kerala Agricultural Income Tax Act, 1991, all assessments shall be completed within a period of two years from the date of filing of return.

In the Agricultural Income Tax and Sales Tax Office, Kottarakara, although an assessee firm filed its returns for the assessment years 1996-97 and 1997-98 in June 1997, the assessments for these years were not been finalised till April 2001. This resulted in the assessment becoming time-barred and loss of revenue of Rs 2.57 lakh.

On these being pointed out in audit, the department stated (August 2001) that legal opinion had been sought for from the higher authorities. Further report has not been received (November 2002).

The cases were reported to Government in April 2002; their reply has not been received (November 2002).

3.6. Incorrect exemption from tax

Under the Kerala Agricultural Income Tax Act, 1991, the total agricultural income of any charitable trust does not include any agricultural income derived from property held under trust wholly for charitable or religious purposes, to the

extent to which such income is applied or set apart for application to such purposes in the State. The Rules framed under the Act require the assessee to file details of agricultural income expended for charitable purposes in the State in the prescribed form.

In Agricultural Income Tax and Sales Tax Office, Aluva, while finalising (November 1999) the assessments for the assessment years 1995-96 to 1998-99 of a Religious and Charitable Association the assessing officer did not levy tax on the total agricultural income of Rs 13.21 lakh on the ground that it had been expended for religious and charitable purposes. However, a test check (December 2000) of the returns filed by the assessee revealed that no such expenditure had been incurred by the assessee out of this income. As such the exemption granted was incorrect and resulted in short realisation of tax and surcharge of Rs 6.02 lakh.

On this being pointed out (December 2000) in audit, the department stated (June 2001) that the assessments had been revised (April 2001) raising demands for Rs 6.26 lakh. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

3.7. Short levy due to inadmissible composition of tax

(a) As per the Kerala Agricultural Income Tax Act, 1991 and the Rules made thereunder, any person eligible to opt for composition of tax payable by him for any accounting year shall file his application for the purpose to the assessing officer on or before the first day of July of the relevant assessment year and the assessing officer, after satisfying himself that the particulars specified in the application are correct, may grant permission for the same.

In Mannarkkad, the tax payable by an individual assessee for the assessment year 1997-98 was permitted to be compounded (August 1997) though the assessee had not filed application for composition of tax on or before 1 July 1997. This resulted in short levy of tax and surcharge of Rs 1.85 lakh.

On this being pointed out (August 2000) in audit, the department stated (May 2001) that the assessment had been revised (February 2001) creating additional demand of Rs 1.85 lakh. Further report has not been received (November 2002).

The case was reported to Government in August 2001; their reply has not been received (November 2002).

(b) Under the Kerala Agricultural Income Tax Act, 1991, for persons who were permitted to compound the agricultural income tax payable for any year, no tax was payable on the first three hectares of agricultural land up to 31 March 2001. This limit was increased to five hectares with effect from 1 April 2001.

In Kanjirappally, while permitting (between May 2000 and March 2001) 127 assesseees to compound the tax payable by them for the assessment year 2000-01, the assessing officer exempted the first 5 hectares from levy of tax in each case against 3 hectares permissible under the Act. This resulted in short levy of tax and surcharge of Rs 1.40 lakh.

On this being pointed out (November 2001) in audit, the department stated (May 2002) that action was being taken to revise the assessments. Further report has not been received (November 2002).

The matter was reported to Government in April 2002; their reply has not been received (November 2002).

(c) Under the Kerala Agricultural Income Tax Act, 1991, any person holding not more than 20 hectares of land and deriving agricultural income can compound the tax payable by him and pay in lieu thereof a lumpsum at the rates specified in the Act. The limit of 20 hectares was increased to 500 hectares with effect from 1 April 2000.

In Kanjirappally, although the agricultural holdings of two individual assesseees exceeded 20 hectares, the assessing officer permitted (August 1999 and October 2000) them to compound the tax payable by them for the assessment year 1999-2000. This resulted in short levy of tax and surcharge of Rs 1.30 lakh.

On this being pointed out, the department stated (January 2001 and November 2001) that the cases would be examined. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

Chapter 4

State Excise

Chapter 4
State Excess

CHAPTER 4

STATE EXCISE

4.1. Results of audit

Test check of the records of the offices of the State Excise Department conducted in audit during the year 2001-02 revealed underassessments/non-levy of duty amounting to Rs 2.36 crore in 51 cases which may be categorised as under.

Sl. No.	Category	No. of cases	Amount (In crore of rupees)
1.	Short collection of duty on Indian made foreign liquor/spirit	4	0.05
2.	Non-levy of duty on inadmissible wastage	7	0.04
3.	Review on "Disposal of confiscated vehicles and other articles in Excise Department"	1	1.12
4.	Short/non-levy of duty due to other lapses	39	1.15
	Total	51	2.36

During the year 2001-02 the department accepted underassessments, etc., of Rs 12.82 lakh involved in 22 cases of which 20 cases involving Rs 10.40 lakh were pointed out during 2001-02 and the rest in earlier years. At the instance of Audit, the department collected an amount of Rs 1.18 lakh in eight cases.

A few illustrative cases involving Rs 80 lakh and the results of a review on 'Disposal of confiscated vehicles and other articles in Excise Department' involving Rs 1.12 crore are given in the following paragraphs.

4.2. Disposal of confiscated vehicles and other articles in Excise Department

Highlights

- Of the 2,156 vehicles involved in excise offences and seized by the department during 1996-97 to 2000-01 the department completed confiscation proceedings only in 36 per cent of the vehicles resulting in delay in realisation of revenue.

(Paragraph 4.2.5)

- Confiscated spirit worth Rs 54.84 lakh was pending disposal.

(Paragraph 4.2.6)

- Delay in disposal of the confiscated vehicles resulted in loss of Rs 39.11 lakh in 96 cases.

(Paragraph 4.2.7)

- Lack of storage facilities resulted in loss of spirit worth Rs 9.25 lakh.

(Paragraph 4.2.9)

4.2.1. Introduction

The Abkari Act 1 of 1077 (ME) governs the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and drugs in the State of Kerala. The Act also deals with offences punishable under it, arrest and punishment of persons committing the offence, appeal, revision etc. If an offence is committed, the liquor, material, still, utensil, implements, apparatus, animal, cart, vessels or other conveyances (vehicles) used for carrying the material are liable to be confiscated by the Assistant Excise Commissioner. Any appeal against the orders of Assistant Excise Commissioner lies to the Additional Excise Commissioner who shall confirm, modify or annul the order appealed against. The Commissioner of Excise may *suo motu* examine the orders passed by the Assistant Commissioner or Additional Excise Commissioner and pass such orders as deemed fit. The Kerala Abkari (Disposal of Confiscated Articles) Rules, 1996 deals with the disposal of confiscated articles and vehicles through public auction.

4.2.2. Organisational set up

The general control over the administration of the Excise Department and the collection of excise revenue is vested with the Commissioner of Excise. In enforcement work, the Commissioner is assisted by an Additional Excise Commissioner with the help of a Joint Excise Commissioner. The State is divided into three zones headed by three Deputy Commissioners. There are 14 divisions under the control of Assistant Excise Commissioners who are assisted by Circle Inspectors of Excise and Excise Inspectors. The duties and responsibilities of the Excise Inspector involve detection of cases, prevention of offences, prosecution, and seizure of articles, liquor, material, animal, cart, vessels and conveyances involved in the offence, etc.

4.2.3. Scope of Audit

With a view to ascertaining the speedy disposal of confiscated vehicles and other articles and the safe custody of the vehicles seized in excise offences, a review covering the period from 1996-97 to 2000-01 was conducted from July 2001 to March 2002 with reference to the records available in the Offices of the Commissioner of Excise, Thiruvananthapuram, the Additional Excise Commissioner, Thiruvananthapuram and all the 14 offices of the Assistant Excise Commissioners. The results of audit are summarized in the succeeding paragraphs.

4.2.4. Action on the recommendations of the Public Accounts Committee

Mention was made in paragraph 5.2 of the report of the Comptroller and Auditor General of India for the year ended 31 March 1991 about the discrepancies in the disposal of confiscated vehicles and other articles in the State Excise Department. The Committee on Public Accounts which examined (August 1993) the Report, had in their ninety eighth (1993-95) Report presented to the Legislature on 1 February 1995 adversely commented about the abnormal delay in the proceedings in confiscated cases leading to deterioration of vehicles. It had recommended that the vehicles involved in excise offences might be valued at the time of confiscation to avoid further litigations and that the seized vehicles should either be released within one month under bank guarantee or auctioned for an amount higher than the upset value. The action taken by the Government on the recommendations has not so far (May 2002) been intimated to the Committee even after seven years.

4.2.5. Disposal of vehicles involved in excise offences

(a) The position of vehicles seized, confiscated, released and auctioned during the period from 1996-97 to 2000-01 is as under.

Sl No.		No. of vehicles
1.	Vehicles seized prior to 31 March 1996 but pending disposal as on 31 March 2001	66
2.	Seized during the years 1996-97 to 2000-01	2,090
3.	Total due for disposal	2,156
4.	No. of vehicles confiscated	766
5.	Disposal of vehicles up to 31 March 2001	
	(a) Released permanently	121
	(b) No. of vehicles auctioned out of confiscated (sl. no. 4)	385
	Total	506
6.	Balance pending disposal [°]	
	(a) To be confiscated out of sl. No. 3(-)4	1,390
	(b) Confiscated but not auctioned (sl.no. 4 (-) 5)	260
	Total	1,650

[°] Includes 27 cases pending action due to Court cases

Government had prescribed (September 1986) a time limit of three months for finalisation of proceedings of confiscation by Assistant Excise Commissioner. Further, three months had been provided (March 1986) for disposal of appeals from the date of filing the appeals.

It would be seen from the above that the Government instructions were not being followed as;

- (i) only 36 *per cent* of the total vehicles seized (766 out of 2,156 cases) could be confiscated. Of these, 520 cases were confiscated after a delay of 1 to 103 months after the seizure of the vehicles.
- (ii) out of the confiscated cases final disposal by way of permanent release and auction was completed in 506 vehicles while 260 vehicles remained unauctioned. Thus, revenue in respect of these 260 vehicles remained unrealised.
- (iii) 149 cases pending in appeals were not disposed of by the Additional Commissioner within the prescribed period of three months. The delay ranged between 1 to 30 months.

(b) (i) The year-wise analysis of vehicles pending disposal is given below.

Year	No. of vehicles
Up to 1995-96	66
1996-97	153
1997-98	210
1998-99	284
1999-2000	437
2000-2001	500
Total	1,650

The oldest vehicle seized and pending disposal pertains to the year 1983-84. The abnormal delay in disposal of the vehicles may result in substantial loss of revenue due to deterioration of the vehicles.

(ii) The age-wise analysis of the above vehicles pending disposal is as given below.

More than 10 years	13
More than 5 years but less than 10 years	53
More than 3 years but less than 5 years	363
From 1 year to 3 years	1,221
Total	1,650

Pending finalisation of confiscation proceedings, the seized vehicles were kept idle causing deterioration and resultant shortfall in value. The Mechanical Engineer attached to the Office of the Additional Excise Commissioner, while

appraising the confiscated vehicles, reported invariably that the vehicles were kept idle in the open yard. The Commissioner of Excise had also admitted that there was no specific place to keep the seized vehicles safely. Thus, the value of vehicles is likely to depreciate considerably due to deterioration.

4.2.6. *Non-disposal of spirit seized in Abkari Offence*

Government had ordered (January 1994) among other things that the confiscated spirit found fit for human consumption after chemical examination would be disposed of in open auction to the Arrack Shop Contractors on an upset price of Rs 30 per bulk litre. In case the confiscated spirit was found to be not fit for human consumption, it might be sent to M/s Travancore Sugars and Chemicals, Thiruvalla for disposal. The arrack shops in the State were dispensed with from April 1996.

As per the details furnished by the Deputy Commissioners of the three zones, a total quantity of 8,78,210 bulk litre of spirit involved in various abkari offences since 1996-97 is kept in stock as on 31 March 2002, out of which a quantity of 6,95,425 bulk litre pertains to court cases. The balance quantity of 1,82,785 bulk litre of spirit valued at Rs 54.84 lakh was neither sent for chemical analysis nor sent to distilleries for disposal. This resulted in blockage of government revenue of Rs 54.84 lakh.

4.2.7. *Loss due to non-auction of vehicles in time*

After the confiscation of any cart, vessel or conveyance the upset price is to be fixed by the Mechanical Engineer of the Excise Department or any Mechanical Engineer of State Public Works Department.

During the review, it was observed that in 96 cases, the vehicles seized between 1981-82 and 1999-2000 were put to auction during the period from 1996-97 and 1999-2000. The upset price of these vehicles was determined as Rs 96.48 lakh by the Mechanical Engineer but were auctioned for Rs 57.37 lakh resulting in loss of revenue of Rs 39.11 lakh. This was attributed to deterioration caused to the vehicles due to their exposure to the vagaries of weather, delay in auction of vehicles due to non receipt of certificates, investigation reports, delay in completion of confiscation formalities, pendency of appeals/revision, auction formalities, etc. Thus all these factors led to a loss of Rs 39.11 lakh to the Government.

4.2.8. *Irregular temporary release of vehicles*

The Kerala Abkari (Disposal of Confiscated Articles) Rules, 1996, provide that the cart, vessel or other conveyance (vehicle) liable to be confiscated under the Act may be released temporarily to its owner on depositing an amount equivalent to the value assessed by the Mechanical Engineer in the Treasury Savings Account in favour of the Commissioner of Excise. The vehicle so seized shall be

produced before the authorised Officer when final order of confiscation is passed by the Competent Authority.

Test check of the records of four * districts revealed that four vehicles * valued at Rs 9.46 lakh seized between December 1996 and March 1999 were released temporarily (between January 1997 and August 1999) without obtaining deposit of an amount equivalent to the market value assessed by the Mechanical Engineer except in one case where a sum of Rs 0.25 lakh was deposited. This resulted in non realisation of Rs 9.21 lakh.

4.2.9. Loss due to lack of storage facilities

Due to lack of proper storage facilities in the department to keep the vehicles and articles seized/confiscated in abkari offences, loss sustained to Government by way of theft of parts of vehicles, damages caused by natural calamities, leakage of spirit amounted to Rs 9.25 lakh as detailed below.

Sl. No.	Name of Division	Range Office	Item	Quantity	Loss (In lakh of rupees)	Remarks
1.	Kannur	Mattannur Range Office CR Nos. 13, 21, 27, 30, 35 and 38 of 2000	Spirit	10535 B/L	3.16	These items were destroyed as a tree fell over them in June 2001.
			Fiat Car	1	value not assessed	
			Lorry	1		
2.	Kollam	Pathanapuram Range - Various crimes during the period from 1996 to 2000	Spirit	6920 B/L	2.08	Due to leakage of spirit
3.	Kozhikode	ERO, Kozhikode CR No. 175/98	Ambassador Car	1	0.25	The vehicle was destroyed due to fire in February 2000.
4.	Kannur	ERO, Mattannur CR 34/2000	Parts of Lorry (Propeller shaft, crown and pinion and joint stem)		Value not assessed	Due to theft
5.	Kozhikode	ERO, Thamarassery CR 33/96	Mini lorry	1	3.76	The lorry purchased in June 1996 for Rs 4.50 lakh was seized in July 1996. The valuation was done in September 1999 for Rs 0.80 lakh and auctioned for Rs 0.74 lakh. Due to prolonged retention of vehicle in open area, the vehicle was valued less.
	Total				9.25	

* Kollam, Alappuzha, Thrissur, Kannur

* Ambassador Car, Mini Lorry, Maruti Esteem, Mahindra Jeep

4.2.10. Delay in auction of vehicles

The Kerala Abkari (Disposal of Confiscated Articles) Rules, 1996, provide that cart, vessel or conveyance confiscated should be disposed of in public auction within one month from the date of such order becoming absolute.

The test check of records of all the division offices revealed that out of 385 cases, the auction of vehicles in 336 cases was not made within one month from the date of confiscation. The delay ranged between 1 to 100 months.

The delay was attributed by the department to the delay in valuation by the Mechanical Engineer, non-receipt of sanction for auction, pendency of appeals/revision, auction formalities, absence of bidders, etc.

The above points were referred to the department and the Government in March 2002 but no reply has been received so far (November 2002).

4.3. Low production of spirit from molasses

As per the Kerala Excise Manual, a yield of about 475 proof litres of spirit per tonne of molasses may be taken as a fair average out-turn whereas the norm fixed by the Central Board of Molasses was 373.5 proof litres.

Test check of the records of Mc Dowell Distillery, Cherthala for the period from 1 April 2000 to 31 March 2001 revealed (November 2001) that out of 9116.437 tonnes of molasses used, the actual yield accounted for was 29.40 lakh proof litre against the yield of 34.05 lakh proof litre on the basis of norms fixed by Central Board of Molasses. This resulted in low yield of spirit of 4.65 lakh proof litre involving excise duty of Rs 72.07 lakh.

On this being pointed out (November 2001) in audit, the department stated (November 2001) that the matter of low yield of spirit from molasses was under review. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

4.4. Short collection of cost of establishment

The average cost of establishment contribution towards leave salary, pension, death-cum-retirement gratuity and uniform allowances to be recovered from licensees of Bonded Warehouse, Distillery, Blending Units, etc., was revised with

effect from 1 March 1997. The Commissioner of Excise ordered (August 2000) that the average cost of establishment was recoverable based on the scale of pay of the incumbents working in the institutions.

In the case of six distilleries and two foreign liquor shops the cost of establishment for 1999-2000 and 2000-01 was recovered based on the scale of pay of the sanctioned post instead of the scale of pay of the incumbents working in the institutions. This resulted in short collection of cost of establishment of Rs 4.61 lakh. Besides, an amount of Rs 1 lakh was recovered short on account of dearness allowance.

On this being pointed out (between October 2000 and August 2001) in audit, the department stated (between October 2000 and January 2002) that demands for Rs 4.11 lakh had been raised in 5 cases out of which Rs 1 lakh has been recovered. Further report has not been received (November 2002).

The case was reported to Government in May 2002; their reply has not been received (November 2002).

4.5. Short demand of Rental

Under the Kerala Excise Manual Vol.II, and the instructions issued (May 1994) by the Board of Revenue, in the case of disposal of shops after the first of April, the responsibility of the purchaser of the shop to remit the kist shall be counted from the date of confirmation by the Board of Revenue.

Test check of records of the Office of the Assistant Excise Commissioner, Thrissur, revealed that 81 toddy shops for the year 1997-2000 and 7 foreign liquor shops for the year 1998-99 were confirmed on 8 April 1997 and 6 April 1998 but the proportionate rentals were demanded from 10 April 1997 and 8 April 1998 respectively. This resulted in short demand of rental of Rs 3.03 lakh.

On these being pointed out in audit, the department stated (February 2001) that the cases would be examined. Further report has not been received (November 2002).

The cases were reported to Government in November 2001; their reply has not been received (November 2002).

Chapter 5
Land Revenue
and
Building Tax

CHANDLER
AND REVOLVER
AND
BUILDING TOOL

CHAPTER 5

LAND REVENUE AND BUILDING TAX

5.1. Results of audit

Test check of the records of the Offices of the Land Revenue Department conducted in audit during 2001-02 revealed short/non-levy of tax, etc., amounting to Rs 1.66 crore in 82 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In crore of rupees)
1	Short levy under building tax	59	0.39
2	Short levy under other items	23	1.27
	Total	82	1.66

During 2001-02, the department accepted underassessments, etc., of Rs 19.35 lakh involved in 40 cases of which 8 cases involving Rs 6.80 lakh were pointed out in audit during 2001-02 and the rest in earlier years. During the year, the department recovered an amount of Rs 8.68 lakh in 32 cases pointed out prior to 2001-02. A few illustrative cases involving Rs 1.89 crore are given in the following paragraphs.

5.2. Non/short realisation of collection charges

Under the Kerala Revenue Recovery Rules, 1968, collection charge at the rate of five *per cent* of the arrears collected by the Government on behalf of any institution notified under the Act had to be realised from such institution up to June 1997. Thereafter, the charges were recoverable direct from all the defaulters when arrears were recovered under any of the provisions of the Act.

In 22 offices* collection charge amounting to Rs 1.59 crore was either not realised or realised short from the defaulters for recovery of arrears on behalf of various Government departments during the period from July 1997 to March 2001. This resulted in short/non-realisation of collection charge of Rs 1.59 crore.

* Taluk Office : Alathur, Kannur, Karthikappally, Karunagappally, Kunnathur, Mananthavady, Mavelikkara, Meenachil, Mukundapuram, North Paravur, Peerumedu, Ponnani and Vaikom.
Offices of the Tahsildar (RR) : Ambalapuzha, Chittur, Kollam, Kottayam, Meenachil, Neyyattinkara, Pathanamthitta, Thalassery and Thiruvananthapuram

On this being pointed out (between August 2000 and December 2001) in audit, the department stated (between August 2000 and January 2002) that action would be taken to realise the charge. Further report has not been received (November 2002).

The case was reported to Government in April 2002; their reply has not been received (November 2002).

5.3. Non-levy of luxury tax on residential buildings

Under the Kerala Building Tax Act, 1975, luxury tax at Rs 2,000 per *annum* is leviable on every residential building having a plinth area of 278.7 m² or more and completed on or after 1 April 1999. The tax is payable in advance on or before the 31 March every year.

In 20 Taluk Offices[▲] luxury tax was not demanded on 546 residential buildings of plinth area exceeding 278.7 m² and completed between April 1999 and October 2001. This resulted in non-realisation of luxury tax of Rs 25.62 lakh.

On this being pointed out (between June and November 2001) in audit, the department stated (June 2002) that assessments had been revised and Rs 2.60 lakh recovered in 82 cases. Further report has not been received (November 2002).

The matter was reported (December 2001 and April 2002) to Government; their reply has not been received (November 2002).

5.4. Underassessment of building tax

Under the Kerala Building Tax Act, 1975, building tax based on plinth area at the rate specified in the Schedule to the Act is leviable on every building the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeds 100 m² in the case of residential buildings and 50 m² in the case of other buildings. Plinth area of out-houses, garages or other structures appurtenant to the building for more convenient enjoyment of it is required to be added to the plinth area of the main building for assessment of tax.

[▲] Changanassery, Chittur, Karunagappally, Karthikappally, Kochi, Koyilandi, Kunnathunad, Kunnathur, Mavelikkara, Meenachil, Mukundapuram, Neyyattinkara, North Paravur, Ottapalam, Pathanapuram, Perinthalmanna, Peerumade, Ponnani, Ranny and Vadakara.

a) In 5 Taluk Offices*, while finalising (between May 1999 and March 2001) the building tax assessments of 7 non-residential buildings, the plinth area of structures appurtenant to the building for more convenient enjoyment was not added to the plinth area of the main buildings for the levy of tax. This resulted in short levy of tax of Rs 3.01 lakh.

On this being pointed out (between September 2000 and August 2001) in audit, the department stated that the assessments would be revised. Further report has not been received (November 2002).

b) If plinth area of a building completed on or after 10 February 1992 is subsequently increased by new extension or major repair or improvement, building tax shall be computed on the plinth area of the building including that addition and credit shall be given to the tax already levied and collected in respect of the building before such addition.

In Taluk Office, Kodungalloor, plinth area of a building assessed in September 1992 was subsequently increased by extension. While revising (March 2000) the assessment, building tax was assessed for the added portion alone instead of computing tax on the total plinth area of the building. This resulted in short levy of tax of Rs 1.19 lakh.

On this being pointed out (July 2000) in audit, the department stated (August 2001) that assessment had been revised (March 2001) raising additional demand of Rs 1.19 lakh. Further report has not been received (November 2002).

The cases were reported to Government in May 2002; their reply has not been received (November 2002).

* Kozhenchery, Kozhikode, Palakkad, Thrissur and Vadakara.

Chapter 6

Taxes on Vehicles

CHAPTER 6
TAXES ON VEHICLES

CHAPTER 6

TAXES ON VEHICLES

6.1. Results of audit

Test check of the records of the Motor Vehicles Department conducted in audit during 2001-02 revealed short/non-levy of tax/fees, incorrect exemption, etc., amounting to Rs 1.24 crore in 227 cases, which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In crore of rupees)
1.	Short/non-levy of tax	158	0.64
2.	Incorrect classification of vehicles	50	0.32
3.	Other lapses	19	0.28
	Total	227	1.24

During 2001-02, the department accepted underassessments of Rs 1.08 crore involved in 94 cases of which seven cases involving Rs 0.47 lakh were pointed out in audit during 2001-02 and the rest in earlier years. At the instance of Audit, the department recovered an amount of Rs 60.31 lakh in 78 cases during the year of which six cases involving Rs 0.36 lakh was pointed out during 2001-02 and the rest in earlier years. A few illustrative cases involving Rs 82.40 lakh are given in the following paragraphs.

6.2. Short levy of fee for permit/reservation of fancy registration number

By a notification (June 2000) Government enhanced the application fees for grant and renewal of different types of permits to transport vehicles and the fee for the reservation of fancy registration number payable under the Kerala Motor Vehicles Rules, 1989. The Transport Commissioner clarified (July 2000) that revised fee be collected with effect from 16 June 2000.

In 56 transport offices[▼] application fee for permits to transport vehicles and the fee for reservation of fancy registration numbers were realised at the pre-revised rates between 16 June 2000 and April 2001. This resulted in short realisation of fee of Rs 36.13 lakh.

On this being pointed out (between April 2001 and January 2002) in audit, the department stated (between October 2001 and June 2002) that additional demand of Rs 3.74 lakh had been raised in 9 offices of which Rs 0.55 lakh had since been realised. Further report has not been received (November 2002).

The case was reported to Government in August and September 2001; their reply has not been received (November 2002) despite the reminder issued in November 2001.

6.3. Short levy of fee on temporary contract carriage permits

Under the Kerala Motor Vehicles Rules, 1989, the application fee payable for the grant or renewal of temporary contract carriage permit was enhanced to Rs 500 for those vehicles having capacity of more than 20 seats with effect from 5 June 2000.

In 11 transport offices[▲] application fee payable on 7,307 temporary contract carriage permits issued between the period from 18 June 2000 to 31 March 2001 to transport vehicles having seating capacity of more than 20, was realised at Rs 250 per permit instead of at Rs 500. This resulted in short levy of fee of Rs 18.34 lakh.

The Government stated (December 2001) that the permits granted were not temporary permit but were special permits for which application fee was Rs 250 only. The contention of the Government is not tenable as the application received

▼ Regional Transport Offices : Alappuzha, Ernakulam, Idukki, Kannur, Kasargod, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Thiruvananthapuram, Thiruvananthapuram (Nationalised Sector), Thrissur and Wayanad.

Sub Regional Transport Offices : Adoor, Alathur, Aluva, Attingal, Changanassery, Chengannur, Cherthala, Guruvayoor, Irinjalakuda, Kanjirappally, Kanhangad, Karunagappally, Kayamkulam, Kodungallur, Koduvally, Kothamangalam, Kottarakkara, Mannarkad, Mattancherry, Mavelikkara, Muvattupuzha, Nedumangad, Neyyattinkara, North Paravur, Ottappalam, Pala, Parassala, Pattambi, Perinthalmanna, Perumbavoor, Ponnani, Punalur, Thalassery, Thaliparamba, Thiruvalla, Tirur, Thodupuzha, Vadakara, Vaikom, Vandiperiyar and Wadakkancherry.

▲ Regional Transport Offices : Alappuzha, Ernakulam, Kannur, Kasargod, Kollam, Kottayam, Malappuram, Palakkad, Pathanamthitta, Thrissur and Wayanad.

were for temporary permits only and for use in the region/State, for marriage, rally, etc., purposes to which higher rate of fee is applicable.

6.4. Incorrect classification of private service vehicles

Omni buses when used for private use are to be classified as non-transport vehicles but omni buses used for the purpose of carrying persons for or in connection with trade or business are to be classified as transport vehicles. The transport vehicles require permit and certificate of fitness for being put to use.

In 33 transport offices* 512 omni buses with passenger capacity up to 12 owned by companies and other institutions were classified as non-transport vehicles instead of as transport vehicles. This resulted in short levy of tax and non-levy of fee for permit and certificate of fitness amounting to Rs 14.39 lakh during 2000-01.

The cases were pointed out in audit to the department between April 2001 and January 2002 and reported to Government in August 2001. They stated (between January and June 2002) that Rs 0.37 lakh had been realised in 10 cases. No reply has been received in the remaining cases (November 2002).

6.5. Non-realisation of vehicle tax

Under the Kerala Motor Vehicles Taxation Act, 1976, Government fixed the tax for inter-State contract carriages at a rate higher than that for intra-State contract carriages from 1 April 1994. The High Court of Kerala held (11 December 1995) that inter-State contract carriages were liable to be taxed at the same rates as for intra-State contract carriages. On appeal by the State, the Supreme Court upheld (10 August 1999) the validity of the revised rates but directed that the State should not demand the enhanced tax from the respondents for the period from 11 December 1995 to 10 August 1999.

* Regional Transport Offices – Alappuzha, Ernakulam, Kannur, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Thrissur, Thiruvananthapuram, Thiruvananthapuram (Nationalized Sector) and Wayanad.

Sub Regional Transport offices – Aluva, Attingal, Changanacherry, Cherthala, Guruvayoor, Irinjalakuda, Kodungalloor, Koduvally, Mattanchery, Nedumangad, North Parur, Pala, Perumbavoor, Ottappalam, Thalassery, Thiruvalla, Thodupuzha, Vadakara, Vaikom and Wadakkanchery.

In Sub Regional Transport Office, Irinjalakuda, no action was taken to recover the balance tax for April 1994 to March 1998 from the owner of two inter-State contract carriages, who was not a respondent in the case, despite the direction issued (September 1999) by the Transport Commissioner to expedite the recovery in such cases. This resulted in non-realisation of tax of Rs 6.79 lakh.

This was pointed out in audit to the department in January 2002 and reported to Government in April 2002. Government stated in May 2002 that revenue recovery certificate had been issued (March 2002) against the vehicle owner. Further report has not been received (November 2002).

6.6. Short collection of composite tax on multi-axled goods carriages

As per notification issued (July 1998) under the Kerala Motor Vehicles Taxation Act, 1976, on goods carriages registered in other States and authorised to ply in Kerala under a national permit, composite tax on multi-axled vehicle shall be 25 *per cent* less than the rate applicable to two axled vehicle. But this concession is not allowable in respect of such vehicles of those States which do not allow concession on multi-axled vehicles of other States or Union Territories.

In the Office of the Transport Commissioner, Thiruvananthapuram it was observed (March 2001) that during 1999-2000 in 275 cases composite tax only at 75 *per cent* the normal rate was remitted on multi-axled national permit vehicles of those States* which do not allow similar concession on multi-axled vehicles of other States or Union Territories. No action was taken by the department to demand and collect the differential tax through the concerned State/Regional Transport authorities. This resulted in short realisation of composite tax of Rs 2.98 lakh.

On this being pointed out in audit, the department stated (March 2001) that the case would be examined. Further report has not been received (November 2002).

The case was reported to Government in August and November 2001; their reply has not been received (November 2002).

* Assam, Gujarat, Haryana, Nagaland and Rajasthan

6.7. Short levy of tax on omni bus for private use

Quarterly tax leviable under the Kerala Motor Vehicles Taxation Act, 1976, on omni bus for private use with not more than 10 seats was revised to Rs 70 per passenger and on those having more than 10 seats was raised to Rs 130 per passenger from 1 April 1997.

In 13 Transport Offices* on 24 omni buses for private use with 11 seats each quarterly tax was collected between April 1997 and March 2001 at the rate of Rs 70 per passenger instead of at the rate of Rs 130 per passenger. This resulted in short levy of tax of Rs 1.93 lakh.

This was pointed out in audit to the department. The department admitted (May and June 2002) short levy of Rs 0.29 lakh. However, report on its realisation and action taken for recovery of the balance amount has not been received (November 2002).

The matter was reported to Government in August 2001 and April 2002; their reply has not been received (November 2002).

6.8. Non/short levy of additional tax

Under the Kerala Motor Vehicles Taxation Act, 1976, failure to pay tax within the period prescribed attracts additional tax ranging from 10 to 50 *per cent* of the tax due depending on the period of delay.

In 7 Registering Offices#, no additional tax for delayed payment of tax was levied on six vehicles and levied at an incorrect rate on 387 vehicles during the year 2001. These resulted in non/short levy of additional tax of Rs 1.84 lakh.

On this being pointed out, the department and Government stated (between January and June 2002) that additional demand of Rs 0.38 lakh had been raised in three offices of which Rs 0.06 lakh had been realised in 34 cases. Report on realisation of the balance amount and action taken in the remaining cases have not been received (November 2002).

* Regional Transport Offices : Kollam, Kottayam, Kozhikode, Malappuram and Thiruvananthapuram.

Sub Regional Transport Offices : Attingal, Karunagappally, Kottarakkara, Mannarkkad, Nedumangad, Vadakara, Pattambi and Vaikom

Regional Transport Offices : Alappuzha, Ernakulam, Kollam, Pathanamthitta and Thiruvananthapuram and Sub Regional Transport Offices, Adoor and Karunagappally.

THE HISTORY OF THE UNITED STATES OF AMERICA

CHAPTER I. THE DISCOVERY OF AMERICA. 1492. CHRISTOPHER COLUMBUS, an Italian navigator, sailed from Spain in search of a westward route to the Indies. He discovered the continent of America on October 12, 1492.

CHAPTER II. THE EARLY SETTLEMENTS. 1607. The first permanent English settlement in America was founded at Jamestown, Virginia, in 1607. It was the beginning of a new era in the history of the United States.

CHAPTER III. THE GROWTH OF THE COLONIES. 1700. The colonies were growing rapidly in population and power. They were becoming more and more independent of England.

CHAPTER IV. THE REVOLUTIONARY WAR. 1775-1783. The colonies fought a war for independence from England. They won the war and became a free and sovereign nation.

THE HISTORY OF THE UNITED STATES OF AMERICA

CHAPTER V. THE UNION OF THE STATES. 1787. The Constitution of the United States was adopted in 1787. It is the foundation of the government of the United States.

CHAPTER VI. THE GROWTH OF THE UNION. 1800. The United States continued to grow in size and power. It became a world power.

CHAPTER VII. THE CIVIL WAR. 1861-1865. The United States fought a civil war between the North and the South. The North won the war and the Union was preserved.

CHAPTER VIII. THE RECONSTRUCTION. 1865-1877. The United States was rebuilding after the Civil War. It was a time of great change and progress.

CHAPTER IX. THE PRESENT. 1877-Present. The United States has continued to grow and prosper. It is now a great and powerful nation.

Chapter 7

Other Tax Receipts

Chapter 7
Other Tax Receipts

CHAPTER 7

OTHER TAX RECEIPTS

7.1. Results of audit

Test check of the records of the Offices of the Chief Electrical Inspector, Registration Department and records of luxury tax on Sales Tax Offices, conducted in audit during the year 2001-02 revealed underassessments, incorrect exemption, etc., amounting to Rs 14.92 crore in 90 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In crore of rupees)
A. Taxes and Duties on Electricity			
1.	Short levy of electricity duty	1	14.67
B. Stamps and Registration Fee			
1.	Undervaluation of documents	20	0.05
2.	Incorrect exemption	36	0.07
3.	Misclassification of documents	4	0.01
4.	Other lapses	28	0.07
	Total	88	0.20
C. Luxury tax			
	Exclusion of turnover from assessment	1	0.05
	Grand Total	90	14.92

During 2001-02, the concerned departments accepted underassessments, etc., of Rs 13.39 lakh involved in 74 cases of which 29 cases involving Rs 10.62 lakh were pointed out during 2001-02 and rest in earlier years. At the instance of Audit the department recovered an amount of Rs 1.48 lakh in 31 cases during the year of which one case involving Rs 0.09 lakh was pointed out during 2001-02 and rest in earlier years. A few illustrative cases involving Rs 14.78 crore are given in the following paragraphs.

A. *Taxes and duties on Electricity*

7.2. Short assessment of electricity duty

Under the Kerala Electricity Duty Act, 1963, the Kerala State Electricity Board as a licensee has to remit the electricity duty collected from the consumers into

Government account before the expiry of the succeeding month after retaining one *per cent* of the collection as collection charge.

It was noticed that as per the audited accounts of Kerala State Electricity Board for the year 1998-99 the electricity duty payable by the Board was Rs 97.57 crore against which Chief Electrical Inspector assessed and raised a demand of Rs 82.90 crore only. This resulted in short raising demand of Rs 14.67 crore.

On this being pointed out (December 2001) in audit, the department stated (April 2002) that the issue had been taken up with the Board. Further report has not been received (November 2002).

The case was reported to Government in February 2002; their reply has not been received (November 2002).

B. Stamps and Registration Fee

7.3. Incorrect remission of stamp duty

Section 9 of the Kerala Stamp Act, 1959, provides that Government may, by order published in the Gazette reduce or remit prospectively or retrospectively the stamp duty chargeable under Section 3 of the Act. Such order as soon as it is published is required to be laid before the Legislative Assembly. Stamp duty at Rs 5 for every Rs 100 or part thereof of the amount or value secured is leviable on instrument of mortgage when possession is not given or agreed to be given.

In 32 Sub Registry offices[▼] no stamp duty was levied on 66 mortgage deeds (without possession) executed by the employees of Kerala Water Authority for securing house construction advances, on the basis of an order (March 1998) of Government which was neither issued in accordance with the provisions of the Act by any competent authority nor published in the Gazette. This resulted in incorrect remission of stamp duty of Rs 5.45 lakh.

This was pointed out in audit to the department between February 2000 and January 2002 and reported to Government in February and May 2002. They admitted (April and June 2002) the audit observation. The Government further stated (April 2002) that the incorrect order had been cancelled (January 2002) and realisation of stamp duty on all documents exempted under it had been ordered. Further report has not been received (November 2002).

[▼] Angamali, Anjarakandy Annamanada, Attingal, Chadayamangalam, Chelakkara, Chevayoor, Edachery, Ettumanoor, Irinjalakkuda, Kadapra, Kallara, Kalloorkadu, Kannanalloor, Kanyakulangara, Kavilampara, Koduvayoor, Koyilandi, Kundara, Kulathur, Kuthiathode, Malayinkeezhu, Manjeri, Mavelikara, Mavoor, Nedumangad, Nemom, Pattom, Shornur, Vadakara, Varkala and West Hill.

C. Luxury Tax

7.4. Exclusion of turnover from assessment

Under the Kerala Tax on Luxuries Act, 1976, luxury tax at 15 *per cent* is payable by a person where the rate of charges for accommodation for residence in air conditioned rooms and other amenities and services is more than Rs 500 per day per person.

In the Office of the Deputy Commissioner, Commercial Taxes, Alappuzha, while finalising (March 2001) the assessment for the year 1999-2000 of a star hotel, the assessing officer excluded from levy of tax Rs 36.39 lakh collected towards other services by the assessee. This resulted in short levy of luxury tax of Rs 5.46 lakh.

On this being pointed out (September 2001), the department stated (December 2001) that notice for revision of the assessment had been issued to the assessee. Further report has not been received (November 2002).

The case was reported (November 2001) to Government; their reply has not been received (November 2002).

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Chapter 8

Non-Tax Receipts

CHAPTER 8

NON-TAX RECEIPTS

A. Forest Receipts

8.1. Results of audit

Test check of the records of Offices of the Forest Department conducted in audit during 2001-02 revealed non-levy/short realisation of revenue amounting to Rs 0.48 crore in 22 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In crore of rupees)
1	Short/non-realisation of value of forest produces	8	0.15
2	Short/non-realisation of sales tax/income tax	3	0.04
3	Loss in auction/re-auction, disposal of forest produce, short/non-realisation of penalty and other charges	9	0.27
4	Other lapses	2	0.02
	Total	22	0.48

During 2001-02, the department accepted underassessments of Rs 38.04 lakh involved in 13 cases of which 10 cases involving Rs 33.87 lakh were pointed out in audit during 2001-02 and the rest in earlier years. During the year the department recovered an amount of Rs 4.17 lakh in 3 cases of which 2 cases involving Rs 3.65 lakh were pointed out during 2001-02 and the rest in earlier years. One case involving Rs 10.69 lakh is given in the following paragraph.

8.2. Non-realisation of re-auction loss

As per Kerala Forest Code Vol. I, sale of timber and forest produce at depots shall be effected only after proper notification and publicity. According to terms and conditions notified for auction sale of timber, firewood, etc., by Forest Department, the successful bidder in auction should remit the entire bid amount and remove the items within the specified time. In the event of breach of any of the conditions by the successful bidder, the produce shall be re-auctioned and the bidder shall make good to Government any loss due to re-auction and the expenditure incurred for such re-auction.

In Wild Life Division, Sulthanbathery, in 19 cases successful bidders in timber auctions (March and July 2000) who got auction confirmed in their names after

remitting the part value, did not remit the balance sale value. Loss of Rs 10.69 lakh sustained by Government in re-auction of the un-removed timber conducted in November 2000 was not demanded from original bidders. This resulted in non-realisation of Rs 10.69 lakh.

On this being pointed out (March 2001) in audit, the department stated (March 2001) that final action taken would be intimated in due course. Further report has not been received (November 2002).

The case was reported to Government in May 2002; their reply has not been received (November 2002).

B. Other Non-Tax Receipts

Text Book Receipts

8.3. Non-recovery of liability from Store Keepers

Paragraph 141 of the Accounting Manual of the Text Books Department stipulates that the entire stock of the Central Stores should be physically verified at least once in every half year and that of the District Depots at least once in a year by a responsible officer other than the officer in direct charge of the stores.

Test check of records in 3 Central Stores and 21 District Text Book Depots revealed (between October 2001 and January 2002) that as on 31 March 2001 shortage of books valued at Rs 91.66 lakh was found against 36 Store Keepers. This shortage could not be detected at the periodical verification of the stock but was detected only on transfer or retirement of Store Keepers. Thus belated detection of the shortage of books resulted in late fixation of the liability against the Store Keepers. This resulted in non-realisation of Rs 91.66 lakh. The various stages at which the recoveries were pending were as under

Sl. No.	Stage of action	Number of cases	Amount (In lakh of rupees)
1.	Cases pending with Government	3	3.58
2.	Cases pending with department	22	53.49
3.	RRC issued	1	0.32
4.	Cases pending in Court	10	34.27
	Total	36	91.66

Out of 36 cases, 25 cases were pending with Government/department for the period from 1983 to 2001 and RRC has been issued (December 2001) only in one case involving Rs 0.32 lakh.

The case was pointed out (December 2001) to the department and reported (March 2002) to Government; their replies have not been received (November 2002).

8.4. Payment of inadmissible commission

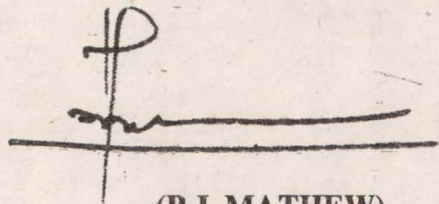
The General Education (M) Department in February 1999 ordered that all the school Co-operatives in Government schools, aided schools and unaided schools within the State will be allowed 10 *per cent* commission for purchase of text books from the Government Text Book Depots.

Audit of 21 Text Book Depots revealed (between October 2001 and January 2002) that in the case of 273 schools, the commission of Rs 9 lakh was incorrectly given during 1999-2000 and 2000-01 as the text books were not sold through the Co-operative societies. This resulted in incorrect grant of commission of Rs 9 lakh.

On this being pointed out (January 2002) in audit the Text Book Officer, Thiruvananthapuram accepted (February 2002) that only school Co-operative societies within the State were eligible for the commission. Further report has not been received (November 2002).

The case was reported to Government in March 2002; their reply has not been received (November 2002).

Thiruvananthapuram,
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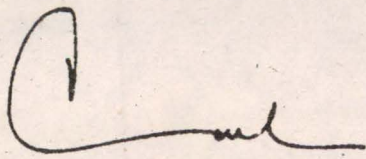


(P.J. MATHEW)
Accountant General (Audit), Kerala

15 FEB 2003

Countersigned

New Delhi,
The



(VIJAYENDRA N. KAUL)
Comptroller and Auditor General of India

7 MAR 2003

Appendix

(Reference: Paragraph 1.10)

Year wise analysis

Year of Audit Report	Date of presentation to the Legislature	Due date for ATN	Delay in terms of month up to November 2002	Number of paragraph for which ATN not furnished
1986-87	25.3.1988	24.6.1988	173	17
1987-88	13.6.1989	12.9.1989	158	6
1988-89	19.3.1990	18.6.1990	149	16
1989-90	26.7.1991	25.10.1991	133	12
1990-91	28.7.1992	27.10.1992	121	4
1993-94	25.4.1995	24.8.1995	87	2
1994-95	4.3.1996	3.6.1996	77	3
1995-96	11.3.1997	10.6.1997	65	9
1996-97	23.4.1998	22.7.1998	52	3
1997-98	19.2.1999	18.5.1999	42	7
1998-99	21.2.2000	21.5.2000	30	12
1999-2000	1.3.2001	1.6.2001	18	7
Total				98

Department wise and age wise analysis

Period of delay	Commercial Tax		Excise	Motor Vehicles	Registration	Land Revenue	Forest	Others	Total
	Sales Tax	Agricultural Income Tax							
Between 12 months and 23 months	-	-	-	-	-	2	-	5	7
Between 24 months and 59 months	-	-	3	7	-	7	-	5	22
Between 60 months and 119 months	1	-	3	-	2	9	1	2	18
Above 119 months	15	15	5	1	0	1	4	10	51
Total	16	15	11	8	2	19	5	22	98

