

"PLACED BEFORE THE STATE
LEGISLATURE ON... 20 JUL 1996



REPORT OF
THE COMPTROLLER AND AUDITOR
GENERAL OF INDIA

FOR THE YEAR ENDED
31 MARCH 1995

NO. 1

REVENUE RECEIPTS
GOVERNMENT OF TAMIL NADU

1901-1902



REPORT OF
THE COMPTROLLER AND AUDITOR
GENERAL OF INDIA

FOR THE YEAR ENDED
31 MARCH 1902

PART I

REVENUE RECEIPTS
GOVERNMENT OF INDIA

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PREFATORY REMARKS

PREFATORY REMARKS

This Report for the year ended 31 March 1995, has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Power and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising Sales Tax, Agricultural Income Tax, Land Revenue, Urban Land Tax, Taxes on Vehicles, Other Tax Receipts and Non-Tax Receipts.

The cases mentioned in this Report are among those which came to notice in the course of test-audit of records during the year 1994-95 as well as those noticed in earlier years but could not be covered in previous years' Reports.

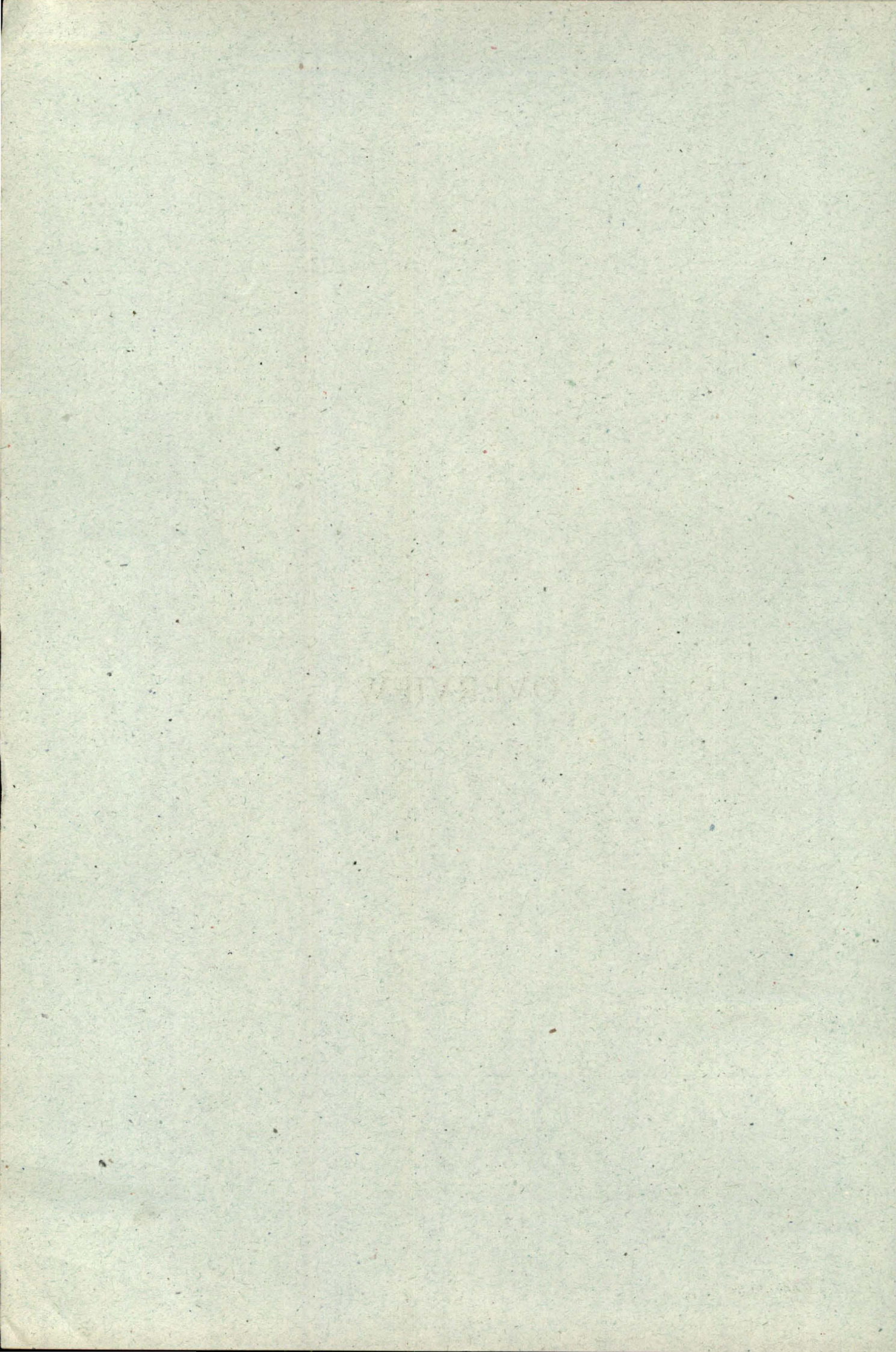
PROBATION REPORT

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2. Date of birth: [Illegible]

3. Address: [Illegible]
4. Occupation: [Illegible]
5. Family: [Illegible]

6. Character: [Illegible]
7. Conduct: [Illegible]

OVERVIEW



OVERVIEW

This report contains 29 paragraphs (including 3 reviews) relating to non-levy/short-levy of taxes, duties, interest and penalty, etc., involving Rs.6.98 crores. Some of the major findings are mentioned below:

1. GENERAL

(i) *The revenue raised by the State during 1994-95 amounted to Rs.6606.42 crores comprising Rs.5833.76 crores as tax revenue and Rs.772.66 crores as non-tax revenue. Rs.1735.40 crores were received from the Government of India as State's share of divisible union taxes and Rs.877.58 crores as grants-in-aid. Sales Tax (Rs.3913.84 crores) formed a major 67 per cent of the tax revenue of the State and Interest receipts of Rs.278.79 crores accounted for 36 per cent of the non-tax revenue.*

[Paragraph 1.1]

(ii) *At the end of 1994-95, the arrears in respect of taxes administered by the departments of Commercial Taxes and Religious Endowments, Home, Revenue and Industries etc., amounted to Rs.1714.47 crores of which Sales Tax and State Excise together accounted for Rs.1578.10 crores.*

[Paragraph 1.4]

(iii) *Test-check of records of Sales Tax, State Excise, Agricultural Income Tax, Land Revenue, Urban Land Tax, Taxes on Vehicles and other departmental offices conducted during the year 1994-95 revealed under-assessments, short-levy, loss of revenue etc., amounting to Rs.3649.09 lakhs in 2307 cases.*

[Paragraph 1.9]

(iv) *As at the end of June 1995, 2887 Inspection Reports issued upto December 1994 containing 8692 audit observations with money value of Rs.123.51 crores were pending clearance with various departments.*

[Paragraph 1.10]

2. SALES TAX

(i) *Grant of erroneous exemption to 22 dealers on the sales made between 1984-85 to 1992-93 resulted in non-levy of tax of Rs.89.28 lakhs.*

[Paragraphs 2.2 (i) & (ii)]

(ii) *Application of incorrect rate of tax on sale of various goods resulted in short-levy of Rs.18.10 lakhs.*

[Paragraph 2.3]

3. **LAND REVENUE**

Water cess amounting to Rs.3.01 lakhs was not levied in three villages for the fasli years 1393 to 1402 (1 July 1983 to 30 June 1993).

[Paragraph 4.2]

4. **TAXES ON VEHICLES**

A review on 'Working of entry check-post in Transport Department' showed:

(a) *Delay in issuing Government orders for re-introduction of spot fine system resulted in non-levy of spot fine of RS.78.90 lakhs.*

[Paragraph 5.2.2]

(b) *Short-collection of fees for temporary permits issued for other State vehicles amounted to Rs.15.06 lakhs.*

[Paragraph 5.2.3]

5. **OTHER TAX RECEIPTS**

A. URBAN LAND TAX

Omission to assess urban lands in Madurai and Tirunelveli for faslis 1391 to 1403 (1 July 1981 to 30 June 1994) resulted in non-levy of urban land tax of Rs.16.40 lakhs.

[Paragraphs 7.2(b)(i) & 7.3 (ii)]

B. ENTERTAINMENTS TAX

A review on 'Entertainments Tax' revealed the following:

(i) Omission to resort to best judgement assessment for fixing the number of shows based on consumption of electricity at the theatres resulted in loss of revenue of Rs.6.81 lakhs.

[Paragraph 7.6.5]

(ii) Excess assignment of net proceeds of Entertainments Tax to local bodies resulted in reduction of Government's share of revenue by Rs.13.63 lakhs.

[Paragraph 7.6.6]

(iii) Non-levy/short-levy of interest under the provision of Tamil Nadu Entertainments Tax Act, 1939 amounted to Rs.5.37 lakhs.

[Paragraph 7.6.7]

(iv) Delay in amendment of Tamil Nadu Entertainments Tax Act, 1939, for automatic adoption of status of local body as classified by the Department of Municipal Administration and Water Supply for the purpose of levy of Entertainments Tax resulted in avoidable loss of revenue of Rs.21.41 lakhs.

[Paragraph 7.6.9]

(v) Entertainments Tax revenue locked up in appeals amounted to Rs.40.04 lakhs.

[Paragraph 7.6.11]

C. LUXURY TAX

Non-levy of penalty for belated payment of tax in respect of 69 assesses amounted to Rs.300.27 lakhs.

[Paragraph 7.7.3(i) & (ii)]

6. NON-TAX RECEIPTS

ENVIRONMENT AND FOREST DEPARTMENT

(i) *Dues amounting to Rs.10.55 lakhs were not realised from the user industries on account of the cost of pulpwood not removed/destroyed by fire.*

[Paragraph 8.3.2 (i)]

(ii) *Penalty of Rs.28.88 lakhs leviable for non-removal of allotted quantity was not realised in 5 divisions.*

[Paragraph 8.3.2 (ii)]

(iii) *Non-disposal of softwood plantation resulted in loss of revenue of Rs.5.13 lakhs.*

[Paragraph 8.3]

CHAPTER - 1

GENERAL

1.1 Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of Tamil Nadu during the year 1994-95, the share of divisible Union taxes and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding two years are given below and also exhibited in Chart - I.

		1992-93	1993-94	1994-95
		(Rupees in crores)		
I.	Revenue raised by the State Government			
	(a) Tax revenue	4162.06	4801.37	5833.76
	(b) Non-tax revenue	612.79	703.89	772.66
Total		4774.85	5505.26	6606.42
II.	Receipts from the Government of India			
	(a) State's share of divisible Union taxes	1419.68	1552.61	1735.40*
	(b) Grants-in-aid	821.80	1008.28	877.58
Total		2241.48	2560.89	2612.98

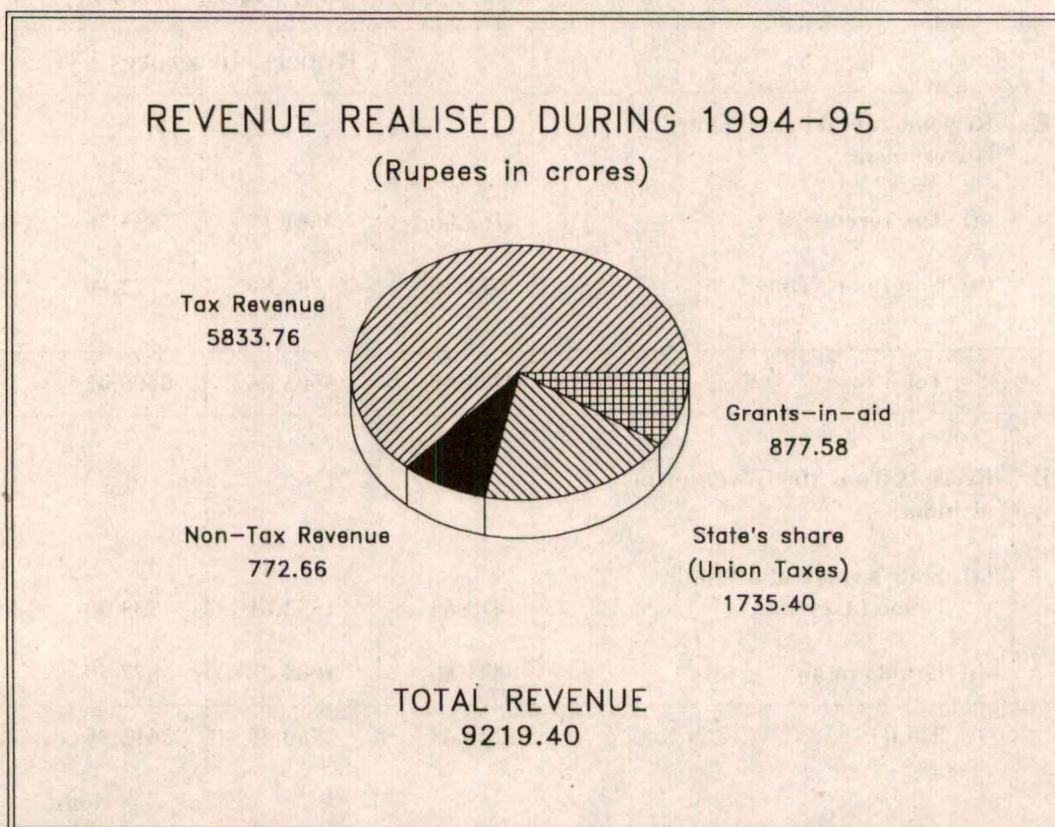
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* For details please see Statement No.II - Detailed Accounts of Revenue by minor heads of the Finance Accounts of the Government of Tamil Nadu for the year 1994-95. Figures under the `0021 - Taxes on Income other than Corporation Tax - share of net proceeds assigned to States' booked in the Finance Accounts under A - Tax Revenue have been excluded from revenue raised by the State and included in 'State's share of divisible Union taxes' in this Statement.

		1992-93	1993-94	1994-95
		(Rupees in crores)		
III.	Total receipts of the State Government [(I) + (II)]	7016.33	8066.15	9219.40
IV.	Percentage of I to III	68	68	72

CHART - I

(Para 1.1)

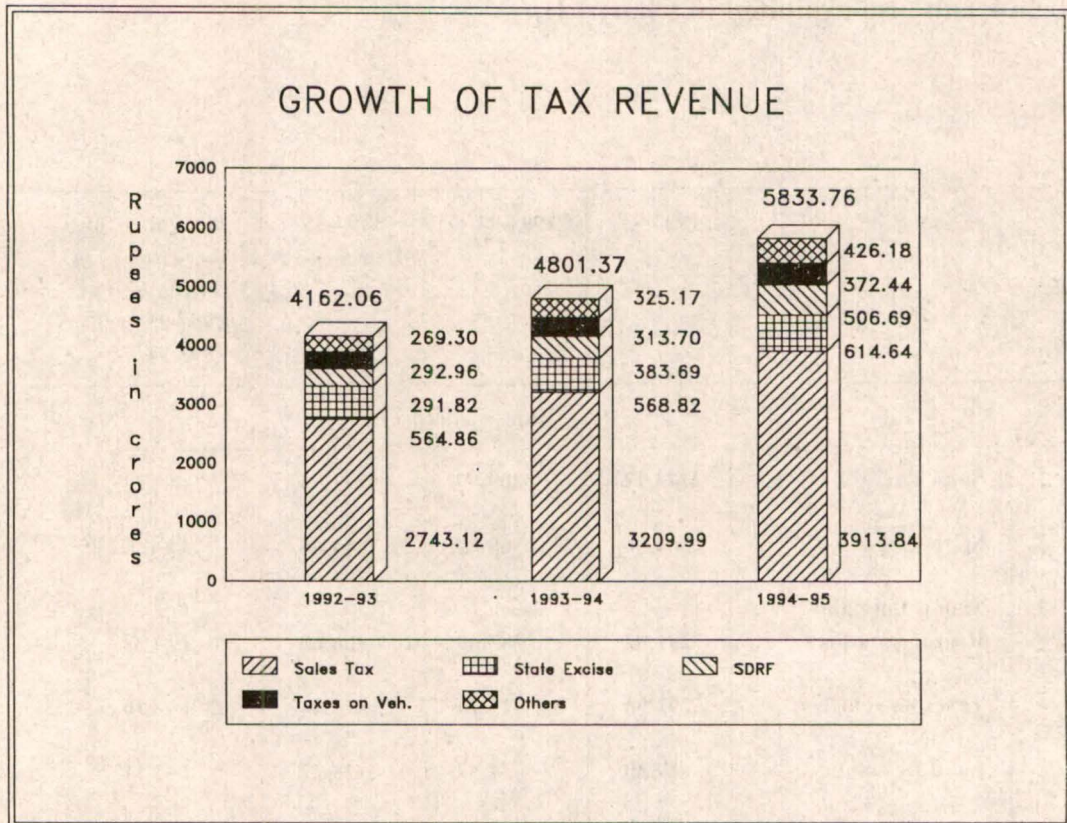


(i) The details of tax revenue raised during the year 1994-95, alongwith the corresponding figures for the preceding two years, are given below and also exhibited in Chart - II.

		1992-93	1993-94	1994-95	Percentage of increase (+) or decrease (-) in 1994-95 over 1993-94
		(Rupees in crores)			
1.	Sales Tax	2743.12	3209.99	3913.84	(+) 22
2.	State Excise	564.86	568.82	614.64	(+) 8
3.	Stamp Duty and Registration Fees	291.82	383.69	506.69	(+) 32
4.	Taxes on vehicles	292.96	313.70	372.44	(+) 19
5.	Land Revenue	19.30	31.87	35.27	(+) 11
6.	Taxes on Agricultural Income	20.04	12.77	16.73	(+) 31
7.	Taxes on Immovable Property other than Agricultural Land (Urban Land Tax)	4.18	7.32	10.69	(+) 46
8.	Others	225.78	273.21	363.46	(+) 33
TOTAL		4162.06	4801.37	5833.76	(+) 22

CHART - II

[Para 1.1 (i)]



Reasons for variations in receipts during 1994-95 compared to those of 1993-94 as intimated by the respective departments are given below:

- (a) 'Sales Tax' : The increase (22 per cent) was due to better collection.
- (b) 'Stamp Duty and Registration Fees' : The increase (32 per cent) was due to increase in court fees realised in stamps, increase in sale of judicial and non-judicial stamps, collection of duty on impressing of documents and miscellaneous receipts.

(c) `Taxes on Vehicles': The increase (19 per cent) was due to higher receipts under the Indian Motor Vehicles Act, Tamil Nadu Motor Vehicles Taxation Act and through miscellaneous receipts.

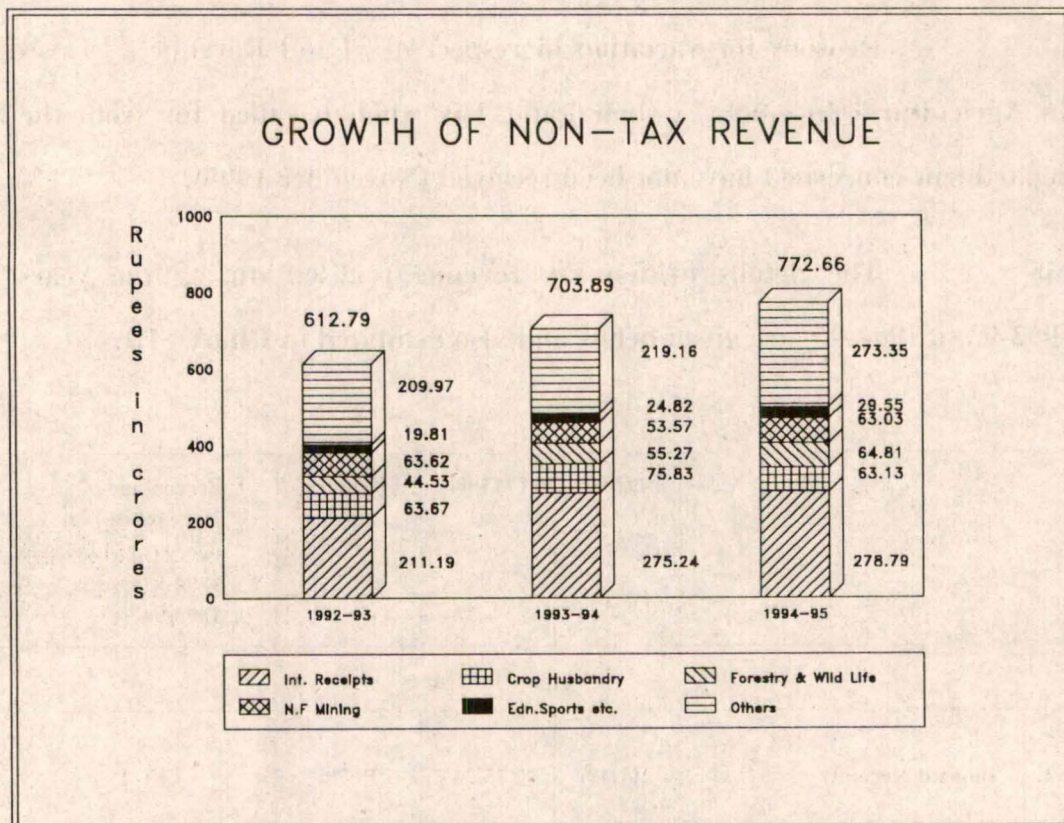
Reasons for variation in respect of `Land Revenue', `Taxes on Agricultural Income', `Urban Land Tax' though called for from the department concerned have not been received (November 1995).

(ii) The details of non-tax revenue realised during the years 1992-93 to 1994-95 are given below and also exhibited in Chart - III.

	1992-93	1993-94	1994-95	Percentage of increase (+) or decrease (-) in 1994-95 over 1993-94	
(Rupees in crores)					
1.	Interest Receipts	211.19	275.24	278.79	(+) 1
2.	Crop Husbandry	63.67	75.83	63.13	(-) 17
3.	Forestry and Wild life	44.53	55.27	64.81	(+) 17
4.	Non-Ferrous Mining and Metallurgical Industries	63.62	53.57	63.03	(+) 18
5.	Education, Sports, Art and culture	19.81	24.82	29.55	(+) 19
6.	Others	209.97	219.16	273.35	(+) 25
TOTAL		612.79	703.89	772.66	(+) 10

CHART - III

[Para 1.1 (ii)]



Reasons for variations in receipts during 1994-95 compared to those of 1993-94 as intimated by the respective departments are given below:

- (a) 'Crop Husbandry': The decrease (17 per cent) was due to decreased receipts from plant protection services and miscellaneous receipts.
- (b) 'Forestry and Wild Life': The increase (17 per cent) was due to increased receipts from sale of timber and other forest produces, social farm forestries and miscellaneous receipts.

(c) 'Non-Ferrous Mining and Metallurgical Industries': The increase (18 per cent) was due to increased receipts under Mineral Concession Fees, Royalties, Service Fees and less refunds.

The reasons for variations under Education, Sports and Culture though called for from the departments concerned have not been received (November 1995).

1.2 Variations between budget estimates and actuals

The variations between budget estimates of revenue for the year 1994-95 and actual receipts under the principal heads are given below:-

Heads of revenue		Budget estimates	Actuals	Variations increase (+)	Percentage of variation shortfall (-)
(1)		(2)	(3)	(4)	(5)
(Rupees in crores)					
1.	Sales Tax	3270.00	3913.84	(+) 643.84	(+) 20
2.	State Excise	410.00	614.64	(+) 204.64	(+) 50
3.	Stamp Duty and Registration Fees	351.75	506.69	(+) 154.94	(+) 44
4.	Taxes on Vehicles	318.00	372.44	(+) 54.44	(+) 17
5.	Interest Receipts	100.40	278.79	(+) 178.39	(+) 178
6.	Other Taxes and Duties on Commodities and Services and Taxes and Duties on Electricity	66.65	114.41	(+) 47.76	(+) 72

contd..

	(1)	(2)	(3)	(4)	(5)
7.	Crop Husbandry	45.00	63.13	(+) 18.13	(+) 40
8.	Taxes on Agricultural Income	19.00	16.73	(-) 2.27	(-) 11
9.	Land Revenue	20.00	35.27	(+) 15.27	(+) 76
10.	Taxes on Immovable property other than Agricultural Land (Urban Land Tax)	7.00	10.69	(+) 3.69	(+) 53
11.	Roads and Bridges	12.81	16.16	(+) 3.35	(+) 26
12.	Major and Medium Irrigation	2.36	3.64	(+) 1.28	(+) 54
13.	Mines and Minerals	44.05	63.38	(+) 19.33	(+) 44

The reasons for variations between budget estimates and actuals as reported (November 1995) by the concerned departments were as under:-

- (a) 'Sales Tax': The increase (20 per cent) was due to withdrawal of exemption granted on certain goods and introduction of new taxation measures during 1994-95.
- (b) 'State Excise': The increase (50 per cent) was due to revision of excise duty on Indian Made Foreign Spirits and collection of amount on account of fines and confiscations, etc.
- (c) 'Stamp Duty and Registration Fees': The increase (44 per cent) was due to revision of the guideline value of land and buildings with effect from 1 April 1994.

- (d) 'Taxes on Vehicles': The increase (17 per cent) was due to increase in the registration of new vehicles and collection of life-time tax, etc.
- (e) 'Taxes and Duties on Electricity': The increase (72 per cent) was due to collection of arrears of tax, duty and fees in respect of earlier years.
- (f) 'Taxes on Agricultural Income': The decrease (11 per cent) was due to less collection of tax.
- (g) 'Land Revenue': The increase (76 per cent) was due to effective steps taken to collect the land revenue arrears, etc.
- (h) 'Urban Land Tax': The increase (53 per cent) was due to intensive measures taken to collect the tax.
- (i) 'Mines and Minerals': The increase (44 per cent) was due to effective measures adopted in collection of revenue.

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 1992-93, 1993-94 and 1994-95 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 1993-94 are given below:-

Sl. No.	Heads of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1993-94
			(Rupees in crores)			
1.	Sales Tax	1992-93	2743.12	36.45	1.00	1.3
		1993-94	3209.99	41.32	1.00	
		1994-95	3913.84	46.19	1.18	
2.	State Excise	1992-93	564.86	6.35	1.00	2.7
		1993-94	568.82	7.13	1.00	
		1994-95	614.64	7.78	1.27	
3.	Stamp Duty & Regn. Fees	1992-93	291.82	21.34	7.00	4.8
		1993-94	383.69	23.20	6.00	
		1994-95	506.69	33.54	6.62	
4.	Taxes on Vehicles	1992-93	292.96	6.77	2.00	2.6
		1993-94	313.70	7.78	2.00	
		1994-95	372.44	9.19	2.47	
5.	Taxes on Agricultural Income	1992-93	20.04	1.18	6.00	N.A.
		1993-94	12.77	0.99	8.00	
		1994-95	16.73	1.05	6.28	
6.	Urban Land Tax	1992-93	4.18	1.69	40.00	N.A.
		1993-94	7.32	0.64	9.00	
		1994-95	10.69	3.46	32.37	
7.	Mines and Minerals	1992-93	NF*	NF*		N.A.
		1993-94	NF*	NF*		
		1994-95	63.38	2.07	3.27	
(N.A - Not Available) (NF* - Not furnished by the concerned department)						

1.4 Arrears of Revenue

As on 31 March 1995 arrears of revenue pending collection under principal heads of revenue, as reported by the concerned departments were as under:

Sl. No.	Heads of Revenue	Arrears pending collection		Remarks
		Total	More than 5 years old	
		(Rupees in lakhs)		
(1)	(2)	(3)	(4)	(5)
1.	Sales Tax	151503.37	19535.66	Out of the arrears of Rs.151503.37 lakhs, demands for Rs.25515.60 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs.47487.91 lakhs and Rs.5939.47 lakhs had been stayed by Courts and Government respectively. Recoveries amounting to Rs.1138.35 lakhs were held up pending disposal of appeals/revision petitions. Arrears amounting to Rs.1111.86 lakhs could not be recovered as the defaulters became insolvent. Rs.3875.36 lakhs were likely to be written-off. The remaining arrears of Rs.66434.82 lakhs were under regular process of recovery/collection.
2.	State Excise	6306.85	6306.85	Out of the arrears of Rs.6306.85 lakhs, demands amounting to Rs.2456.98 lakhs had been certified as arrears of land revenue. Recoveries amounting to Rs.1000.17 lakhs and Rs.5.91 lakhs had been stayed by Courts and Government respectively. Demands for Rs.1954.07 lakhs and Rs.210.28 lakhs were likely to be remitted and written off respectively. Recovery of Rs.679.44 lakhs was held up as the defaulters were residing outside the State.
3.	Urban Land Tax	5266.73	2061.13	Out of the arrears of Rs.5266.73 lakhs, recoveries amounting to Rs.1350.00 lakhs and Rs.3.31 lakhs had been stayed by Courts and Government respectively. The remaining arrears of Rs.3913.42 lakhs were under regular process of recovery/collection.
4.	Land Revenue	3313.49	1293.43	Out of the arrears of Rs.3313.49 lakhs recoveries amounting to Rs.475.59 lakhs and Rs.267.56 lakhs had been stayed by Courts and Government respectively. Demands of Rs.45.53 lakhs were likely to be written-off. The remaining arrears of Rs.2524.81 lakhs were under regular process of recovery/collection.
5.	Stamp Duty & Regn. Fees	1059.76	162.13	Out of the arrears of Rs.1059.76 lakhs, demands for Rs.829.92 lakhs had been certified as arrears of land revenue. Arrears of Rs.229.84 lakhs were pending collection for want of action required to be taken under various sections of Indian Stamp Act and Indian Registration Act.

contd..

(1)	(2)	(3)	(4)	(5)
6.	Agricultural Income Tax	565.62	97.72	Out of the arrears of Rs.565.62 lakhs, demands for Rs.12.69 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs.289.93 lakhs and Rs.22.55 lakhs had been stayed by Courts and Government respectively. Demands of Rs.1.25 lakhs were likely to be written-off. The remaining arrears of Rs.239.20 lakhs were under regular process of recovery/collection.
7.	Taxes on Vehicles	489.63	27.20	Out of the arrears of Rs.489.63 lakhs, demands amounting to Rs.84.95 lakhs had been certified for recovery as arrears of land revenue. Recoveries of Rs.18.43 lakhs and Rs.0.06 lakh had been stayed by Courts and Government respectively. Recoveries of Rs.3.74 lakhs were held up pending disposal of rectification/review applications. Demands amounting to Rs.82.51 lakhs were likely to be written-off. The remaining arrears of Rs.299.94 lakhs were under regular process of recovery/collection.
8.	Entertainments Tax and Tax leviable under Tamil Nadu Local Authorities Finance Act (1961).	245.73	136.67	Out of the arrears of Rs.245.73 lakhs, recoveries amounting to Rs.29.59 lakhs had been certified for recovery as arrears of land revenue. Recoveries of Rs.144.92 lakhs and Rs.4.01 lakhs had been stayed by Courts and Government respectively. Recoveries of Rs.11.02 lakhs were held up pending disposal of rectification/review applications. Recoveries amounting to Rs.5.79 lakhs could not be effected as the defaulters became insolvent. Demands amounting to Rs.33.35 lakhs were likely to be written-off. The remaining arrears of Rs.17.05 lakhs were under regular process of recovery/collection.
9.	Taxes and Duties on Electricity	187.72	73.86	Out of the arrears of Rs.187.72 lakhs, an amount of Rs.133.73 lakhs due from three Rural Electric Co-operative Societies and Rs.50.64 lakhs due from a Municipality were under process of recovery. Arrears of Rs.3.35 lakhs due from one Electric Supply Corporation, which was subsequently taken over by Tamil Nadu Electricity Board, is yet to be collected from the latter.

contd..

(1)	(2)	(3)	(4)	(5)
10.	Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act	73.16	0.09	Out of the arrears of Rs.73.16 lakhs, recoveries amounting to Rs.45.23 lakhs had been certified for recovery as arrears of land revenue. Recoveries of Rs.19.98 lakhs had been stayed by Courts. The remaining arrears of Rs.7.95 lakhs were under regular process of recovery/collection.
11.	Luxury Tax	71.98	22.31	Out of the arrears of Rs.71.98 lakhs, recoveries of Rs.26.57 lakhs had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs.22.21 lakhs and Rs.0.53 lakh had been stayed by Courts and Government respectively. Recoveries of Rs.1.74 lakhs were held up pending disposal of rectification/review applications. Demands of Rs.0.24 lakh were likely to be written-off. The remaining arrears of Rs.20.69 lakhs were under regular process of recovery/collection.
12.	Betting Tax	14.90	4.96	Out of the arrears of Rs.14.90 lakhs, recoveries amounting to Rs.6.27 lakhs had been certified for recovery as arrears of land revenue. Demands amounting to Rs.8.63 lakhs were likely to be written-off.
13.	Mines and Minerals	2347.56	778.13	Out of the arrears of Rs.2347.56 lakhs, demands amounting to Rs.1073.68 lakhs had been certified for recovery as arrears of land revenue. Recoveries of Rs.126.92 lakhs and Rs.1.18 lakhs had been stayed by Courts and Government respectively. Recoveries of Rs.0.25 lakh were held up pending disposal of rectification/review applications. Demands amounting to Rs.421.26 lakhs were likely to be written-off. The remaining arrears of Rs.724.27 lakhs were under regular process of collection.
TOTAL		171446.50	30,500.14	

1.5 Frauds and evasion of Tax

The details of cases of frauds and evasion of taxes pending at the beginning of the year, number of cases detected by the departmental

authorities (including Internal audit), number of cases in which assessments/investigations were completed and additional demand (including penalties, etc.) of taxes raised against the assesseees during the year and the number of cases pending finalisation at the end of March 1995 in respect of Agricultural Income Tax and Geology and Mining receipts as furnished by the concerned departments (November 1995) are given below:

Sl. No.	Name of tax	Cases pending as on 31 March 1994		Cases detected during 1994-95		Cases in which assessment/ investigations completed and additional demand including penalty etc. raised		Cases pending finalisation as on 31 March 1995	
		No.	Amount (Rs.in lakhs)	No.	Amount (Rs.in lakhs)	No.	Amount (Rs.in lakhs)	No.	Amount (Rs.in lakhs)
1.	Sales Tax	5901	32703.49	13849	43173.62	10739	40981.48	9011	34895.63
2.	Agricultural Income Tax	--	--	55	0.71	55	0.71	-	-
3.	Mines and Minerals	23	0.86	634	49.06	545	19.71	112	30.21
4.	Entertainments Tax	28	2.88	2096	14.57	2096	14.57	28	2.88
5.	Luxury Tax	1	0.12	--	--	--	-	1	0.12

1.6 Refunds

Details of amount refunded during the year 1994-95 under certain heads of receipts, as furnished by the concerned departments were as follows:

		Claims out-standing at the beginning of the year		Claims received during the year		Total (1 + 2)		Refunds made during the year		Balance out-standing at the end of the year	
		No. of cases	Amount (Rs.in lakhs)	No. of cases	Amount (Rs.in lakhs)	No. of cases	Amount (Rs.in lakhs)	No. of cases	Amount (Rs.in lakhs)	No. of cases	Amount (Rs.in lakhs)
1.	Sales Tax	21528	750.25	32164	1374.63	53692	2124.88	31693	1348.99	21999	775.89
2.	State Excise	---	---	1517	544.96	1517	544.96	1517	544.96	---	---
3.	Taxes on Vehicles	270	44.15	1100	92.59	1370	136.74	1217	109.92	153	26.82
4.	Urban Land Tax	---	---	6	1.18	6	1.18	5	1.02	1	0.16
5.	Agricultural Income Tax	2	0.15	1	0.32	3	0.47	2	0.09	1	0.38
6.	Stamp Duty & Regn. Fees	2	0.01	4	0.44	6	0.45	4	0.44	2	0.01
7.	Entertainments Tax	38	0.54	---	---	38	0.54	---	---	38	0.54

1.7 Write-off of Revenue

Under Sales Tax an amount of Rs.9.31 lakhs involving 3940 cases were written-off. This included an amount of Rs.6.88 lakhs pertaining to 3731 defaulters whose whereabouts were not known.

1.8 Internal Audit

The number of inspection reports/audit objections issued by the internal audit wing pending settlement as on 31 March 1995 was as under:

Heads of Revenue	Number of Inspection Reports	Number of Objections	Amount (Rs. in lakhs)
Sales Tax (including Entertainments Tax, Betting Tax etc.)	1802	22779	681.82
Agricultural Income Tax	642	642	482.62
State Excise *	230	2562	566.65
Stamp Duty and Registration Fees	3496	12212	415.72
Taxes on Vehicles	110	9433	104.07
Electricity Duty	510	1432	11.07
Urban Land Tax	85	149	57.32
Land Revenue	NF	228	49.23
Mines and Minerals	17	182	279.98

* Out of 83 offices to be audited, internal audit is yet to be taken up in respect of 48 offices, due to shortage of manpower

1.9 Results of Audit

Test-check of the records of Sales Tax, State Excise, Agricultural Income Tax, Land Revenue, Urban Land Tax, Taxes on Vehicles, Other Tax Receipts and Mines and Minerals under Non-tax Receipts conducted during the year 1994-95 revealed under-assessment/short-levy/loss of revenue amounting to Rs.3649.09 lakhs in

2307 cases. During the course of the year 1994-95, the concerned departments accepted underassessments etc. of Rs.105.69 lakhs involved in 768 cases, of which 414 cases involving Rs.35.86 lakhs had been pointed out in audit during 1994-95 and the rest in earlier years. Of these, the departments recovered Rs.46.87 lakhs in 498 cases.

This report contains 29 paragraphs including 3 reviews involving Rs.698.27 lakhs. The department/Government have accepted audit observations involving Rs.82.23 lakhs. Of this, a sum of Rs.1.14 lakhs has been recovered (November 1995). Audit observations with total revenue effect of Rs.102.69 lakhs in 18 cases were not accepted by the departments/Government, but their contention have been found at variance with facts and legal position and these have been appropriately commented upon in relevant paragraphs. No reply has been received in the remaining cases (November 1995).

1.10 Outstanding Inspection Reports and Audit Observations

(i) Audit observations on incorrect assessments, short levy of taxes, duties, fees etc. as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through Inspection Reports. Serious financial irregularities are reported to the heads of departments concerned and the Government. The heads of offices are required to furnish replies to the Inspection Reports through their respective heads of departments within a period of two months.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 1994, which were pending settlement by the department as on 30 June 1995, alongwith corresponding figures for the preceding two years are given below:

Position as on 30 June			
	1993	1994	1995
Number of inspection reports pending settlement	2584	2884	2887
Number of outstanding audit observations	6722	7952	8692
Amount of revenue involved (Rupees in crores)	82.96	133.78	123.51

(iii) Year-wise break-up of the outstanding inspection reports and audit observations as at the end of June 1995 together with amount of receipts involved is given below:

Year	Number of outstanding		Amount of receipts involved (Rupees in crores)
	Inspection Reports	Audit Observations	
Upto 1991-92	1427	2752	49.28
1992-93	426	1314	17.24
1993-94	589	2433	27.83
1994-95 (Upto 31 December 1994)	445	2193	29.16
Total	2887	8692	123.51

(iv) Department-wise break-up of the inspection reports and audit observations outstanding as on 30 June 1995 is given below:

Sl. No.	Department	Number of outstanding		Amount of receipts involved (Rupees in crores)	Earliest year to which reports relate
		Inspection Reports	Audit observations		
1.	Sales Tax	1212	5534	76.53	1991-92
2.	Stamp Duty and Registration Fees	722	904	3.29	1989-90
3.	Land Revenue	254	813	9.68	1989-90
4.	Taxes on Vehicles	259	397	10.58	1985-86
5.	State Excise	159	249	8.87	1989-90
6.	Taxes on Agricultural Income	115	394	5.65	1984-85
7.	Mines and Minerals	57	148	3.10	1988-89
8.	Urban Land Tax	59	160	2.08	1990-91
9.	Electricity Duty	27	67	3.57	1987-88
10.	Entertainments Tax	23	26	0.16	1990-91
Total		2887	8692	123.51	

The matter was brought to the notice of the Government in September 1995.

CHAPTER - 2

SALES TAX

2.1 Results of Audit

Test-check of the records in the departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessments/non-levy of tax etc., amounting to Rs.3006.89 lakhs in 1707 cases which broadly fall under the following categories:

Sl. No.		No. of cases	Amount (Rs. in lakhs)
1.	Incorrect grant of exemption	437	676.26
2.	Application of incorrect rates of tax	696	1484.98
3.	Incorrect computation of taxable turnover	136	117.87
4.	Non-levy of penalty	254	254.03
5.	Non-levy of surcharge/ additional surcharge/ additional sales tax	68	20.06
6.	Others	116	453.69
TOTAL		1707	3006.89

During the course of the year 1994-95, the department accepted under-assessments etc. of Rs.47.75 lakhs involved in 624 cases of which 394 cases involving Rs.27.62 lakhs had been pointed out in audit during 1994-95 and the rest in earlier years. A sum of Rs.28.10 lakhs involved in 383 cases had been recovered upto September 1995.

A few illustrative cases highlighting important audit observations involving a financial effect of Rs.152.59 lakhs are mentioned in the following paragraphs.

2.2 *Incorrect grant of exemption from levy of tax*

(i) As per entry 80(b) of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, as it stood prior to 12 March 1993, on sales of dhalls or pulses and grams (whether whole or split), parched and fried, their brokens and flour which have not suffered tax under entry 80(a) of the First Schedule or entry 6-A of the Second Schedule to the Act, tax was leviable at four per cent at the point of first sale in the State. As per amended First Schedule which took effect from 12 March 1993, parched or fried gram is not covered under any of the items in the Schedule and is therefore taxable as a general item at eight per cent at the point of first sale in the State.

It has been judicially held* that gram or gulab gram which had undergone the process of parching or frying would no longer be gram and become a new and distinct commodity. Accordingly, first sale of 'fried gram' made out of tax suffered gram would again be liable to tax under the Act.

In the following three assessment circles, sales of 'fried gram' made out of tax suffered gram amounting to Rs.1024.52 lakhs made by six dealers during 1992-93 were erroneously exempted as second sales instead of levying tax at four per cent upto 11 March 1993 and eight per cent thereafter. The omission resulted in non-levy of tax amounting to Rs.68.68 lakhs (inclusive of surcharge and additional sales tax).

* 95/STC/358(1994) *Gopuram Gram Mill Co. and others Vs. State of Andhra Pradesh (Supreme Court)*

S.No.	Name of the circle	No.of dealers	Total taxable turnover	Sales turnover of grams	Tax effect
*(Rupees in lakhs)					
1.	Kamarajar Salai Circle, Madurai	four	1204.61	926.32	62.32
2.	Chitrakara St. Circle, Madurai	one	170.68	75.02	4.98
3.	Munichalai Road Circle, Madurai	one	23.18	23.18	1.38
TOTAL				1024.52	68.68

On this being pointed out (March 1995) the Special Commissioner and Commissioner of Commercial Taxes stated (April 1995) that the levy of tax on sales of 'fried grams' made out of tax suffered grams would take effect from 23 August 1994 (i.e., the date of Supreme Court's judgement). He further added that action was being taken to get the demand waived in respect of earlier periods.

The case was reported to Government (May/July 1995). Their reply has not been received (November 1995).

(ii) In 13 assessment circles, exemptions were erroneously granted to 16 dealers on a turnover of Rs.166.01 lakhs, during the years 1984-85, 1986-87 and 1989-90 to 1992-93, resulting in non-levy/short-levy of tax amounting to Rs.20.60 lakhs as detailed below:-

Sl. No.	Name of assessment circle	Year of assessment/ No. of dealers involved	Name of goods	Taxable turnover involved	Amount of tax (including surcharge/ additional surcharge/ additional sales tax) short-levied	Remarks
				(Rupees in lakhs)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Central Assessment Circle-II, Coimbatore	1992-93 1 dealer	Pumpsets	33.93	3.97	By issue of notification dated 19 March 1993 exemption of sale of 3 and 5 H.P. pumpsets was made conditional from that date, but the department gave effect to it under CST from 1 April 1993.
2.	Mettupalayam Road, Coimbatore	1989-90 & 1991-92 2 dealers	Agricultural implements	18.20	3.52	The department revised (August/September 1994) the assessment in respect of both the dealers and levied tax and penalty of Rs.1.41 lakhs and Rs.2.11 lakhs respectively. In both the cases on appeal the levy of penalty was set-aside but the levy of tax was sustained by the Appellate Assistant Commissioner (Commercial Taxes). In one case the Government accepted (October 1995) the audit observation and recovered the entire amount of tax (October 1995). Report on recovery in another case is awaited (November 1995).
3.	Moore Market (South), Madras	1991-92 1 dealer	Stainless Steel utensils	12.81	3.08	Exemption was granted on sales turnover of stainless steel utensils as second sales. A cross-verification of purchases made within the State revealed that the purchases effected had not suffered tax. This resulted in short-levy of tax and penalty.

contd..

(1)	(2)	(3)	(4)	(5)	(6)	(7)
						The department replied (November 1994) that since the appeal preferred before the Appellate Assistant Commissioner (Commercial Taxes) in a similar case was still pending and the registration certificate of the trader was cancelled in July 1992, the assessment made was in order. The assessment was not in order as the dealer was not registered for transactions relating to steel utensils. Further, on the basis of an earlier audit objection relating to the dealer, his registration was cancelled.
4.	Avinashi Road, Coimbatore	1991-92 1 dealer	Photo prints	26.72	2.76	The sale of photo prints was erroneously exempted as works contract. The department revised (March 1995) the assessment and raised a demand for Rs.2.76 lakhs. Report on recovery has not been received (November 1995).
5.	Uthamapalayam	1989-90 & 1990-91 3 dealers	Tea	26.10	1.83	The department revised the assessment (November 1994). Report on recovery is awaited (November 1995).
6.	Central Assessment Circle-III, Madras	1984-85 & 1986-87 1 dealer	Machinery	13.26	1.36	The department revised the assessment (June 1994) and raised a demand for Rs.1.36 lakhs. The assessee preferred an appeal before the Appellate Assistant Commissioner (Commercial Taxes). Further report has not been received (November 1995).

contd..

(1)	(2)	(3)	(4)	(5)	(6)	(7)
7.	Kuzhi-thurai	1990-91 1 dealer	Cashew-nuts	11.67	0.90	The department revised the assessment (November 1994) and raised a demand for Rs.90,205. Report on recovery has not been received (November 1995).
8.	Muni-chalai Road, Madurai	1992-93 1 dealer	Aluminium scrap	13.01	0.77	The sale of 'aluminium scrap' made out of purchases effected from TNEB was erroneously exempted as second sales. The department contended (January 1995) that as per Government's instructions revision of assessment was made from the date of court decision. The contention of department was not tenable in view of judicial decision* of Madras High Court that any interpretation of statutory provision in regard to precise ambit will have effect from the date of inception of the statutory provision.
9.	Vadapalani-I.	1991-92 1 dealer	Steel ingots	21.30	0.75	The department issued notice for revision (July 1994). Further report has not been received (November 1995).
10.	Ariyalur	1989-90 1 dealer	Freight charges for Gypsum	3.22	0.58	The department revised the assessment (February 1995) and raised a demand for Rs.57,746 towards tax and penalty. Report on recovery has not been received (November 1995).

* 35 STC 170 - Appellate Assistant Commissioner (Commercial Taxes), Salem Vs. Kuppan Gounder.

contd..

(1)	(2)	(3)	(4)	(5)	(6)	(7)
11.	Tuticorin III	1989-90 1 dealer	Tea	5.94	0.39	The Government have accepted the audit observation. A proposal for waiving the amount is under consideration of Government.
12.	Shen- gottah	1991-92 1 dealer	Timber	3.32	0.36	The department revised (October 1993) the assessment and raised a demand for Rs.35,527 but the collection was stayed by the Appellate Assistant Commissioner (Commercial Taxes). Further report has not been received (November 1995).
13.	Loan- square II, Madras	1990-91 1 dealer	Paper	24.11	0.33	The department revised the assessment (September 1994) and raised a demand for Rs.33,091. The Government accepted the audit observation (October 1995). Report on recovery has not been received (November 1995).
TOTAL				166.01	20.60	

The cases were reported to Government (October 1994 - July 1995). Their replies have not been received except in the case at sl.nos.11 & 13 (November 1995).

(iii) Under Section 8(2A) of the Central Sales Tax Act, 1956, no tax is leviable on the inter-State sale of any goods, the sale or purchase of which is exempt from tax generally under the Sales Tax Law of the appropriate State. As per explanation under Section 8(2A) of the Act, a sale or purchase of any goods shall not be deemed to be exempt from tax generally under the Sales Tax Law of the appropriate State, if the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions.

`Butter' registered under the Trade and Merchandise Marks Act, 1958, is taxable at ten per cent under entry 103 of First Schedule to the Tamil Nadu General Sales Tax Act, 1959, while `Butter' not registered under the Trade and Merchandise Marks Act, 1958, being an unclassified item, is taxable at eight per cent under Section 3(1) of the Act *ibid* at the point of first sale in the State. However, by a notification dated 29 July 1977, as amended on 8 July 1987, issued under Section 17 of the Act, sale of butter not registered under the Trade and Merchandise Marks Act, 1958, was exempted, from payment of tax.

As the exemption under the local Act was restricted to sale of butter not registered under the Trade and Merchandise Marks Act, the exemption was conditional. Therefore, on inter-State sale of such butter, tax was leviable at four per cent if covered by valid `C' Forms, otherwise at ten per cent or at the local rate applicable, whichever is higher.

In four* assessment circles, inter-State sale of `butter' not registered under the Trade and Merchandise Marks Act, 1958, and also not covered by `C' forms, amounting to Rs.55.45 lakhs was made by seven dealers during 1989-90 to 1992-93, but no tax was levied thereon. This resulted in non-levy of tax of Rs.5.63 lakhs.

On this being pointed out in audit (October 1993 - November 1994), the department contended that the intention of the Legislature was to treat butter not registered under the Trade and Merchandise Marks Act, 1958, and butter registered under the said Act as two different commodities and hence the exemption granted to butter not registered under the Trade

* Tiruppur (Central) I; Gobichettipalayam; R.G. Street (Coimbatore) & Palani II.

and Merchandise Marks Act was a total exemption and not a conditional one. The department quoted certain judicial decisions* in support of their contention.

The reply of the department is not tenable in view of the following:-

(i) Butter is a single commodity and its characteristics remain the same whether registered under the Trade and Merchandise Marks Act or not. In commercial parlance also butter whether registered under the said Act or not is treated as one commodity.

(ii) The judicial decisions quoted by the department were reversed in a subsequent decision by the Supreme Court wherein it was held** that goods should be totally exempt from tax under the State Act in order to get similar exemption under Section 8(2A) of Central Sales Tax Act, 1956.

The cases were reported to Government (March/ April/June 1995); their reply has not been received (November 1995).

* 85/STC/432 *Pine Chemicals Vs. State of J & K (SC)*; 89/STC/473 *Hindustan Paper Corporation. Vs. State of Kerala (Supreme Court)*.

** 96/STC/355 *Commissioner of Commercial Taxes, Jammu and Kashmir Vs. Pine Chemicals (Supreme Court)*.

2.3 Application of incorrect rate of tax

In 8 assessment circles, tax was short-levied on a turnover of Rs.646.51 lakhs, involving 12 dealers during the years 1988-89 to 1992-93 due to application of incorrect rate of tax. The total short-levy of tax in these cases worked out to Rs.18.10 lakhs as detailed below:-

Sl. No.	Name of assessment circle	Year of assessment/ No. of dealers involved	Name of goods	Taxable turnover involved	Amount short-levied inclusive of surcharge/ additional surcharge/	Remarks
				(Rupees in lakhs)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Raja-palayam-I	1991-92 & 1992-93 2 dealers	Polypropylene sacks	212.03	9.47	The Government to whom the case was reported (May/ July 1995), stated (August 1995) that the proposal for amendment of the notification was under consideration of the Government.
2.	Kovil-patti-II	1989-90, 1991-92 & 1992-93 1 dealer	Polypropylene sacks	68.22	2.89	
3.	Tiruppur (South)	1992-93 3 dealers	Cotton lint and cotton seeds	234.40	2.35	The assessing officer agreed (March 1995) to revise the assessment after re-check of accounts.
		1992-93 1 dealer	Printed polypropylene bags	28.49	0.33	The department revised the assessment (May 1995) and raised a demand for Rs.32,768. Report on recovery has not been received (November 1995).

contd..

(1)	(2)	(3)	(4)	(5)	(6)	(7)
4.	Adayar-II, Madras	1991-92 1 dealer	Plant growth promoter	18.79	1.12	The Government to whom the case was reported (April 1994/May 1995) stated (March 1995) that the department had revised the assessment (October 1994) and raised a demand for Rs.1.12 lakhs. The dealer preferred an appeal before the Appellate Assistant Commissioner (Commercial Taxes) which is pending (November 1995).
5.	Thuckalay	1988-89 1 dealer	Softwood	18.46	0.55	The department contended (December 1994) that tax was levied at 5 per cent as per the clarification of the Commissioner of Commercial Taxes. The department's reply is not acceptable in view of the judicial decision* that 'soft wood' would fall under the item 'timber'.
6.	Ambattur, Madras	1991-92 1 dealer	Expanded polysty- rene products and scrap	11.53	0.54	The Government while accep-ting the audit observation (March 1995) stated that the department had revised the assessment (December 1994) and raised a demand for Rs.54,269. The dealer had preferred an appeal before the Appellate Assistant Commissioner (Commercial Taxes) which was pending (November 1995).

* 83 STC 338 - State of Tamil Nadu Vs. Tamil Nadu Stick Industries.

contd..

(1)	(2)	(3)	(4)	(5)	(6)	(7)
7.	Dindigul (Rural)	1992-93 1 dealer	Cotton lint and cotton seeds	48.78	0.49	The department stated (March 1995) that the assessment had been revised and additional demand raised. Report on recovery has not been received (November 1995).
8.	Nungam- bakkam, Madras	1990-91 1 dealer	Rubber patches	6.01	0.36	The department contended (August 1994) that as per judicial decisions* rubber patches are to be classified as accessories of cycle. The decisions quoted by the department have no relevance to this case as in no decision the commodity 'rubber patches' has been classified as accessories.
TOTAL				646.51	18.10	

* 32 STC 463 - EAN Meerkasim Karnatic Vs. State of Tamil Nadu, 40 STC 169 - V. Govindarajan & Bros. Vs. State of Tamil Nadu, 53 STC 429 - State of Tamil Nadu Vs. Kanniga Cycle Stores and 57 STC 167 - Premier Instruments Vs. State of Tamil Nadu.

The cases were reported to the Government (April 1994 - September 1995). Their replies have not been received (November 1995).

2.4 *Incorrect computation of taxable turnover*

In Uthamapalayam assessment circle, Madurai the turnover of a dealer for the year 1990-91 liable to tax under Section 60B of the Tamil Nadu General Sales Tax Act, 1959, was computed as Rs.41,330 instead of Rs.10.58 lakhs. Further a turnover of Rs.7.81 lakhs liable to tax under the same section for the year 1991-92 was omitted to be taxed. This resulted in short-levy of tax amounting to Rs.73,123 (inclusive of surcharge and additional sales tax).

On this being pointed out (June 1994) in audit, the department revised the assessments (June 1994) and raised an additional demand for Rs.73,092. The appeal preferred by the assessee before the Appellate Assistant Commissioner (Commercial Taxes) was dismissed for the year 1991-92 and partly allowed for the year 1990-91 which resulted in reduction of demand to Rs.29,309 for that year. Further report regarding recovery has not been received (November 1995).

The Government to whom the case was reported (October 1994) accepted the audit observation (April 1995).

2.5 *Incorrect grant of concessional rate of tax*

Under Section 3(3) of the Tamil Nadu General Sales Tax Act, 1959, concessional rate of tax at 3 per cent is applicable on sale of goods against declaration in Form XVII furnished by a selling dealer only under certain conditions. In 6 assessment circles, concessional levy of tax was erroneously allowed on a turnover of Rs.69.20 lakhs involving 6 dealers during the years 1990-91 to 1992-93 resulting in short-levy of tax amounting to Rs.4.99 lakhs as detailed below.

Sl. No.	Name of assessment circle	Year of assessment/ No. of dealers involved	Name of goods sold	Taxable turnover involved	Amount short-levied inclusive of surcharge/ additional surcharge	Remarks
				(Rupees in lakhs)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Pudu-Kottai-II	1990-91 1 dealer	Paper Tubes & Reel cores	14.14	0.76	The concessional rate of tax is applicable only for the sale of goods which are used in the manufacture of other goods and not for any other purposes. Packing of goods does not constitute manufacture. The department also clarified (September 1990) that packing materials cannot be purchased/sold against Form XVII. In these cases packing material valued at Rs.40.59 lakhs was purchased at concessional rate of tax against Form XVII, which was irregular.
2.	Thiruvottiyur, Madras	1990-91 1 dealer	Aluminium containers	9.82	0.59	
3.	Thiruverumbur	1991-92 1 dealer	Plastic containers	16.63	0.57	
4.	Central Assessment Circle-III, Madras	1991-92 1 dealer	Cement	17.80	1.91	The case was reported to the department (April 1994) and to the Government (May/June 1995); their replies have not been received (November 1995).
5.	Sali-gramam, Madras	1992-93 1 dealer	Cement	5.55	0.60	The department revised the assessment (January 1995) and raised a demand for Rs.59,936. The dealer had preferred an appeal before Appellate Assistant Commissioner which was pending (October 1995). The case was reported to the Government (February/June 1995). The Government have accepted the audit observation (October 1995).

contd..

(1)	(2)	(3)	(4)	(5)	(6)	(7)
6.	Alandur, Madras	1992-93 1 dealer	Trans- former oil	5.16	0.56	The department contended (November 1994) that the concessional rate of tax was allowed as per the clarification (May 1993 & July 1994) of the Commissioner of Commercial Taxes. The reply is not acceptable because as per proviso to Section 3(3) transformer oil is not eligible for the concessional levy of tax. The case was report to the department (April 1995) and to the Government (April/July 1995); their replies have not been received (November 1995).
TOTAL				69.20	4.99	

2.6 Turnover escaping assessment

Under Section 9(2) of the Central Sales Tax Act, 1956, read with section 16 of the Tamil Nadu General Sales Tax Act, 1959, where the whole or any part of the turnover of business of a dealer escapes assessment to tax, the assessing authority, is empowered, at any time within a period of five years from the expiry of the year to which the tax relates, to determine the turnover to the best of its judgement and to assess it to tax. Further, the assessing authority may, if it is satisfied that the escapement from assessment is due to wilful non-disclosure of assessable turnover by the dealer, also direct the dealer to pay by way of penalty a sum not less than fifty per cent and not exceeding one hundred and fifty per cent of the tax so assessed.

In Bodinayakanur assessment circle, sales turnover of 'pepper' amounting to Rs.3.25 lakhs made by a dealer during 1988-89, which was originally assessed under the Tamil Nadu General Sales Tax Act,

1959, was deleted subsequently as the Appellate authority on appeal held that the transaction was of an inter-State nature and as such assessable to tax under Central Sales Tax Act, 1956, but omitted to be assessed. Further, an inter-State sales of pepper amounting to Rs.1.75 lakhs detected and reported by Enforcement wing was also not considered for assessment under the Central Sales Tax Act, 1956. The above omissions resulted in non-levy of tax amounting to Rs.30,528. A maximum penalty of Rs.26,296 at one-and-a-half times of the tax due on the suppressed turnover though leviable was not levied.

This was pointed out to the department (December 1994) and to Government (January/May 1995). Their replies are awaited (November 1995).

2.7 *Non-levy of tax on the sale of capital assets*

As per Section 2(d)(ii) of the Tamil Nadu General Sales Tax Act, 1959, the term 'business' includes any transaction in connection with or incidental or ancillary to such trade, commerce, manufacture, adventure or concern. Accordingly, sales of capital assets made in the course of business is liable to tax. As per Entry 4 of the First Schedule to the Tamil Nadu General Sales Tax Act, 1959, air conditioners are taxable at fifteen per cent and as per entries 81 and 102 machinery and glass wares are taxable at ten per cent at the point of first sale in the State.

In Hosur (North) assessment circle, sale of capital assets such as air conditioner, plant and machinery, lab equipments (glass wares) etc. made by a dealer during the year 1990-91 amounting to Rs.5 lakhs was not assessed to tax.

On this being pointed out in audit (March 1994) the department revised the assessment (January 1995) and raised an additional demand for Rs.65,680 (including surcharge and additional sales tax). The dealer had preferred an appeal in May 1995 before the Appellate Assistant Commissioner (Commercial Taxes) against the additional demand raised. The result of appeal has not been received (November 1995).

The case was reported to the Government (July 1995); their reply has not been received (November 1995).

2.8 *Short-levy of tax on sales made to non-Government bodies*

According to a notification issued under section 17 of Tamil Nadu General Sales Tax Act, 1959, from 1 April 1981 on sale of any goods (except petrol, diesel and cement) specified in the First Schedule to the Act, to the departments of the State and Central Governments including Railways, tax was leviable at the concessional rate of 4 per cent. However, the concession was not applicable to sale made to public sector undertakings, Government companies and autonomous bodies.

In Central Assessment Circle III, Madras on sales of 'chassis' amounting to Rs.18.75 lakhs made by a dealer during 1991-92, to non-Government bodies like Municipalities and Tamil Nadu Civil Supplies Corporation, tax was levied at the concessional rate of 4 per cent instead of at 6 per cent. This resulted in short-levy of tax amounting to Rs.43,487 (inclusive of surcharge and additional surcharge).

On this being pointed out (January 1995) in audit, the department issued (January 1995) notice for revision of assessment. Further Report is awaited (November 1995).

The case was reported to Government (April/ May 1995); their reply is awaited (November 1995).

2.9 *Affording of excess credit*

According to Standing Order 55 of the Commercial Taxes Manual Volume I, assessment registers are to be maintained for each year in the assessment circles to show the tax paid by the assessee. Credits outstanding in respect of an assessee during a year are carried over to the register of the subsequent year. Further, as per Standing Order 22(b) of the Manual, the credit entries should be attested by the Superintendent of the circle. The assessing authority should also test check as many credit entries as possible.

In Aranthangi assessment circle, while finalising the assessment of a dealer for 1992-93 the total tax paid by him for that year was taken as Rs.3.13 lakhs against the actual payment of Rs.21,579. This resulted in affording of excess credit to the dealer to the tune of Rs.97,689 instead of raising an additional demand for the balance amount of Rs.1.94 lakhs.

On this being pointed out (October 1994) in audit, the department revised the assessment (January 1995) and raised an additional demand for Rs.1.94 lakhs. The department further stated (January 1995) that out of the above demand, Rs.1.92 lakhs were covered by deferral

scheme and the balance of Rs.2,446 would be collected. Report on recovery has not been received (November 1995).

The case was reported to Government (April/May 1995) and their reply has not been received (November 1995).

2.10 *Non-levy of interest for belated payment of tax*

The tax under Sub-Section (2) of Section 13 of the Act, shall become due without any notice of demand to the dealer on the date of receipt of the return or on the last due date as prescribed, whichever is later. Under Sub-Section (3) of Section 24, on any amount remaining unpaid after the date specified for its payment, the dealer or person shall pay, in addition to the amount due, interest at two per cent per month of such amount for the entire period of default. The above provisions apply *mutatis mutandis* to levy of surcharge and additional sales tax also.

In Opannakara Street assessment circle, Coimbatore, it was noticed in Audit (August 1991 and August 1992) that tax, surcharge and additional sales tax payable along with the returns for the months of April 1989 to August 1989 and February 1990 were paid by a dealer belatedly, the delay ranging from 6 days to 3 months and 7 days. Further, the balance of tax amounting to Rs.2 lakhs due from the dealer after the final assessment, was also paid by him belatedly, the delay ranging from 19 days to 1 month and 2 days. Interest amounting to Rs.91,254 was leviable for the delay but was not levied.

On this being pointed out (November 1991 and October 1992) in audit, the department raised demand towards interest (June 1994). Report on recovery has not been received (November 1995).

The case was reported to the Government (June 1995); their reply has not been received (November 1995).

2.11 *Non-levy of penalty*

(i) Under the Central Sales Tax Act, 1956, a registered dealer, buying goods from other State is entitled to a concessional rate of tax at four per cent, provided he furnishes to the seller, a declaration in Form 'C'. If the goods indicated in the declaration are not covered by the certificate of registration, the assessee renders himself liable to penalty not exceeding one and a half times of the tax due in lieu of prosecution.

(a) In the Central Assessment circle III, Madras a dealer had purchased 'high speed diesel oil' and 'light diesel oil' valued Rs.97.42 lakhs during 1990-91 to 1992-93 from other States by issue of 'C' Forms eventhough the commodities were not covered by his certificate of registration at the time of purchase. For misuse of 'C' Forms, though penalty upto a maximum of Rs.23.01 lakhs was leviable, this was not levied.

On this being pointed out (January 1995) during the local audit, the department replied (January 1995) that the high speed diesel oil and light diesel oil were purchased for running the generator and boilers and that there was no misuse of 'C' Forms. Further the department stated that the commodities were included in the certificate of registration from 18 June 1993.

The reply of the department is not tenable in view of the fact that since the commodities were not included in the registration certificate during the period 1990-91 to 1992-93 the penalty was leviable for the purchases made during the period.

The case was reported to the Government (April/June 1995); and their reply is awaited (November 1995).

(b) In Harbour-I assessment circle, Madras, a dealer purchased Rigid Poly Vinyl Chloride Pipe plant with accessories and a high speed cooler of 130/400 liters capacity with accessories for Rs.20.68 lakhs during 1989-90 from other States against declaration in Form 'C' eventhough the goods were not covered by his certificate of registration. For misuse of 'C' Form the penalty upto a maximum of Rs.3.10 lakhs was leviable but was not levied.

On this being pointed out (March 1992) in audit, the department imposed (October 1994) a penalty of Rs.3.10 lakhs. However, on an appeal preferred by the dealer, the penalty was reduced to Rs.1.03 lakhs by the Appellate Authority. Report on recovery has not been received (November 1995).

The case was reported to the Government (June 1995); their reply has not been received (November 1995).

(c) In Avadi assessment circle, Madras, a dealer purchased 'Jersey' (knitted woollen pullover) valued at Rs.11.51 lakhs during 1988-89 and 1989-90 from another State by issue of 'C' Forms, eventhough the commodity was not covered by his certificate of registration. For misuse of 'C' Form, penalty upto a maximum of Rs.1.73 lakhs was leviable but not levied.

On the omission being pointed out (March 1992) the department levied (March 1995) a penalty of Rs.1.01 lakhs only, stating that the value of purchase of 'Jersey' was only Rs.6.76 lakhs and the remaining purchases consisted of items other than 'Jersey' such as woollen handgloves, beret caps etc. As these items were also not covered by his certificate of registration, the department was addressed to levy penalty for those purchases also (June 1995). Report on collection of Rs.1.01 lakhs and action taken to levy balance penalty is awaited (November 1995).

The case was reported to the Government (July 1995); their reply has not been received (November 1995).

(ii) Under Section 9 (2A) of the Central Sales Tax Act, 1956, read with Section 12 (5) (iii) of the Tamil Nadu General Sales Tax Act, 1959, if the return submitted by a dealer is found to be incorrect or incomplete, the assessing authority may, if it is satisfied that the accounts maintained by the dealer are correct, assess the dealer on the basis of such accounts and levy a penalty which shall not be less than 50 per cent and not more than 150 per cent of the difference in tax payable on the turnover disclosed in the return and that determined by the authority concerned.

In Adayar I assessment circle, Madras an assessee omitted to include a part of his taxable inter-State sales turnover amounting to Rs.17.97 lakhs in his return for the year 1988-89. The department however, after checking the assessee's accounts included the turnover in the assessment for the year 1988-89 and levied tax but failed to impose penalty for submission of incorrect returns by the assessee.

On the omission being pointed out (June 1991) in audit, the department revised (March 1994) the assessment and imposed a penalty of Rs.69,845. Report on recovery has not been received (November 1995).

The case was reported to the Government (July 1995); their reply has not been received (November 1995).

CHAPTER - 3

AGRICULTURAL INCOME TAX

3.1 Results of Audit

Test-check of the records of the departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessments/short-levy of tax amounting to Rs.99.55 lakhs in 35 cases which broadly fall under the following categories:

		No. of cases	Amount (Rs. in lakhs)
1.	Short-levy due to errors in computation of income	16	80.06
2.	Short-levy due to incorrect exemption	17	19.39
3.	Short-levy due to errors in computation of holdings of agricultural lands	2	0.10
TOTAL		35	99.55

During the course of the year 1994-95, the department accepted under-assessments etc. of Rs.5.98 lakhs involved in 28 cases of which one case involving Rs.1.35 lakhs had been pointed out in audit during 1994-95 and the rest in earlier years. A sum of Rs.1.99 lakhs involved in 25 cases had been recovered.

A few illustrative cases highlighting important audit observations involving Rs.4.43 lakhs are mentioned in the following paragraphs.

3.2 *Incorrect computation of taxable income*

In terms of Rule 7 of the Tamil Nadu Agricultural Income Tax Rules, 1955 read with Rule 8 of the Income Tax Rules, 1962 (Central), sixty per cent of the income derived from tea grown and manufactured by a seller in the State is assessable under the Tamil Nadu Agricultural Income Tax Act, 1955. Further, the computation made by the Income Tax Officer shall be accepted by the Agricultural Income Tax Officer and the agricultural income so computed assessed after allowing admissible deductions, if any, under the Agricultural Income Tax Act.

(a) In Pollachi assessment division, while finalising the assessment of a company for the assessment year 1990-91, a sum of Rs.9.46 lakhs representing loss from cardamom and other minor produces as claimed by the assessee was allowed by the Agricultural Income Tax Officer as deduction instead of the actual loss of Rs.7.19 lakhs incurred by him as per the annual balance sheet. The excess deduction of Rs.2.27 lakhs resulted in short-levy of Rs.1.48 lakhs.

On this being pointed out to the department (December 1992) the department revised (January 1995) the assessment raising an additional demand of Rs.1.48 lakhs. Report on recovery has not been received (November 1995).

The department further stated (May 1995) that the assessee has preferred an appeal before the Tribunal against the revised assessment order. The result of the appeal has not been received (November 1995).

The case was reported to the Government (June 1995); their reply has not been received (November 1995).

(b) In Nagercoil assessment division, owing to incorrect calculation, the income of an assessee from rubber for the year 1990-91 was incorrectly computed as Rs.27,545 instead of Rs.2.75 lakhs which resulted in under assessment of income by Rs.2.48 lakhs for the assessment year 1990-91. This also resulted in erroneous carry forward of loss of Rs.46,985 for the year 1991-92. The short-levy of tax for the assessment year 1990-91 and 1991-92 worked out to Rs.1.35 lakhs.

On this being pointed out to the department (March 1995) and to the Government (May/July 1995), the Government accepted the audit observation and stated (August 1995) that the assessment orders were revised (July 1995) raising an additional demand of Rs.1.35 lakhs. Report regarding recovery has not been received (November 1995).

3.3 *Incorrect allowance of deduction*

Under the Tamil Nadu Agricultural Income Tax Act, 1955, any expenditure other than capital expenditure, incurred in the year of raising the crop from which agricultural income is derived and laid out or expended wholly and exclusively for the purpose of deriving such income is allowable as a deduction in computing the taxable agricultural income for that year. In terms of the amended Act, 1991, which has come into force on 1 April 1992, income derived from lands grown with non-plantation crops shall not be treated as agricultural income and accordingly no expenditure shall be allowed in raising such crops.

(i) In Pollachi assessment circle, while computing the net agricultural income of a registered firm for the assessment year 1988-89, the assessing officer erroneously allowed deduction of Rs.1.76 lakhs representing cost of construction of a new stone wall which was a protective wall. Since this was in the nature of a capital expenditure, deduction allowed on this account resulted in short-levy of tax of Rs.95,862.

On this being pointed out (September 1993) in audit, the department stated (April 1995) that the inadmissible deduction allowed earlier had been withdrawn and assessment revised (February 1995) under Section 35 of the Agricultural Income Tax Act raising an additional demand of Rs.95,862. It was brought to the notice of the department (June 1995) that the revision made after the expiry of the statutory period for revision under Section 35 of the Act had no legal validity and *suo-motu* revision under Section 34 had also become time-barred which ultimately resulted in loss of revenue of Rs.95,862.

The case was reported to the Government (June 1995). Further report has not been received (November 1995)

(ii) In the same assessment circle, while finalising the assessment of a company for the assessment year 1992-93 a sum of Rs.1.33 lakhs representing non-plantation expenses incurred during 1991-92 was erroneously allowed as an admissible expenditure.

On this omission being pointed out (September 1993) in audit, the department revised (February 1995) the assessment raising an additional demand of Rs.63,555, out of which a sum of Rs.44,396 was adjusted towards excess payment. Report on recovery of the balance amount of Rs.19,159 has not been received (November 1995).

The case was reported to the Government (June 1995); their reply has not been received (November 1995).

CHAPTER - 4

LAND REVENUE

4.1 *Results of Audit*

Test-check of the records of the departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessments/short-levy of tax amounting to Rs.88.78 lakhs in 87 cases which broadly fall under the following categories:

		No. of cases	Amount (Rs. in lakhs)
1.	Non-levy/short-levy of local cess and local cess surcharge	12	35.28
2.	Non-levy of water cess and betterment contribution	7	3.86
3.	Non-recovery of penalty and interest	15	17.00
4.	Short-recovery in respect of Government lands	24	27.47
5.	Other irregularities	29	5.17
TOTAL		87	88.78

During the course of the year 1994-95, the department accepted under-assessments etc. of Rs.16.93 lakhs involved in 58 cases. A sum of Rs.12.27 lakhs involved in 57 cases has been recovered upto September 1995.

A few illustrative cases highlighting important audit observations involving Rs.5.78 lakhs are mentioned in the following paragraphs.

4.2 *Non-levy of water cess*

Water cess on dry lands irrigated from the Government sources which are not covered by the Special Water Cess Rules, is leviable as per the standard scale of water cess. By a notification dated 6 November 1987, Government enhanced the standard scale of water cess for different kinds of crops effective from fasli 1397 (i.e., 1 July 1987).

In three villages of Sankarankoil Taluk, it was noticed in audit (January 1990) that in respect of dry lands irrigated from the Government sources, water cess was not levied from the fasli year 1393 to fasli 1396 (i.e., 1 July 1983 to 30 June 1987) at old rates and from fasli year 1397 to 1402 (i.e., 1 July 1987 to 30 June 1993) at revised rates.

On this being pointed out (March 1990) in audit, the department stated (November 1993 & September 1994) that demand of Rs.3.01 lakhs towards water cess in respect of all the three villages had been raised for the entire period of 10 years from fasli 1393 to fasli 1402 (i.e., 1 July 1983 to 30 June 1993) at old rates of which a sum of Rs.24,596 had been collected. The omission to raise additional demand of water cess at the revised rates for the fasli years 1397 to 1402 (i.e., 1 July 1987 to 30 June 1993), as per Government notification (November 1987) was again pointed out (March 1995) to the department. Report on the recovery of the balance amount and raising of additional demand at the revised rates from fasli 1397 (1 July 1987) has not been received (November 1995).

The case was reported to Government (April and May 1995) ; their reply has not been received (November 1995).

4.3 *Non-levy of lease rent for the encroached lands*

The Tamil Nadu Land Encroachment Act, 1905, provides for imposition of penal/ prohibitory assessment or charge on encroachers of Government land so as to enable the Government to check unauthorised occupation of Government land. However, where the encroachments have been in existence for a long time and the encroachers have utilised the lands for commercial purposes, the lands can either be assigned to the encroacher on collection of double the market value or leased out for temporary occupation in terms of Board's Standing Order 24A.

In Saidapet Taluk (Madras), an extent of 21 cents* in a village was under unauthorised occupation of a distillery from March 1982. The encroached land was neither assigned nor leased out to the encroacher.

On this being pointed out to the department (December 1985) and to the Government (May 1992), the Government issued (December 1994) orders granting lease of the said land to the distillery for a period of six years from 1 July 1987 to 30 June 1993 on collection of an annual lease rent of Rs.1.36 lakhs (at the rate of Rs.19,504 for the period from July 1987 to June 1990 and at the rate of Rs.25,954 for the period from July 1990 to June 1993). The reasons for not charging the lease amount from the date of encroachment (i.e.) March 1982, the report on recovery of

* One Cent is an area equal to 435.6 square feet of land

Rs. 1.36 lakhs towards lease amount for the period from 1 July 1987 to 30 June 1993 and on further extension of lease beyond 30 June 1993 have not been received (November 1995).

The case was reported to the Government (May 1992/June 1995); their reply has not been received (November 1995).

4.4 *Non-revision of lease rent*

Under the Standing Orders of Board of Revenue, when Government land is leased out to private bodies, companies, associations or local bodies for use by them for commercial purposes, full competitive rent* is to be levied. The rent can also be enhanced during the period of lease where warranted.

In Aranthangi Taluk, 0.17 and 0.15 acre of Government land was leased out to two private parties in January, 1970 for a period of 20 years on an annual lease rent of Rs.595 and Rs.525 respectively. The order sanctioning the lease contemplated review of adequacy of the lease amount after 3 years. The department did not, however, revise the rent in respect of the above land at any stage after its allotment in January, 1970.

When the non-revision of lease rent was pointed out (October 1988) in audit, the department replied (July 1994 & June 1995) that the lease rent had been revised (June 1995) for every spell of three years from 1975 onwards and that an additional demand of Rs.47,324 had been raised for the fasli years 1385 to 1399 (i.e., from 1 July 1975 to 30 June 1990). The department further stated that a sum of Rs.23,491 has since been collected (June 1995).

* *'Competitive rent' means the rent which the site would fetch, if offered in the open market.*

Report on collection of the balance amount and revision of lease rent for the period subsequent to fasli 1399 (i.e., from 1 July 1990 onwards) has not been received (November 1995).

The case was reported to the Government (July 1995); their reply has not been received (November 1995).

4.5 *Non-revision of settlement rate for lands raised with plantation crops*

In the settlement notification issued in respect of Tirunelveli District (February 1966), the right of the Government was reserved for the levy of higher rate of assessment of Rs.2.81 per acre (Rs.6.94 per hectare) on lands newly brought under plantation crops during the currency of settlement.

In Sengottai Taluk of Tirunelveli District, it was noticed (August 1989) in audit that lands which were originally undeveloped and later developed with plantation crops in respect of three villages during the fasli year 1395 (1 July 1985 to 30 June 1986) were not reclassified and assessed to land revenue at the higher rates for the faslis 1395 to 1398 (i.e., from 1 July 1985 to 30 June 1989). Instead, land revenue as applicable to undeveloped lands was levied resulting in short-levy/short-collection of Rs.93,906 for the fasli years 1395 to 1404 (1 July 1985 to 30 June 1995).

On this being pointed out to the Government (October 1992), Government stated (March 1995) that a sum of Rs.8,933 had been collected. Recovery particulars of the balance amount had not been received (November 1995).

CHAPTER - 5

TAXES ON VEHICLES

5.1 *Results of Audit*

Test-check of the records of the departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessments/short-levy of tax amounting to Rs.80.57 lakhs in 89 cases which broadly fall under the following categories:

		No. of cases	Amount (Rs. in lakhs)
1.	Short-collection/non-collection of tax	63	71.18
2.	Short-collection/non-collection of fees	18	2.66
3.	Non-levy/short-levy of penalty	6	0.24
4.	Incorrect/excess refund of tax	1	0.06
5.	Other irregularities	1	6.43
TOTAL		89	80.57

During the course of the year 1994-95, the department accepted under-assessments etc. of Rs.2.37 lakhs involved in 25 cases, of which five cases involving Rs.0.84 lakh had been pointed out in audit during 1994-95 and the rest in earlier years. A sum of Rs.1.29 lakhs involved in 25 cases has been recovered (October 1995).

A review on the working of entry check-posts in transport department and one case involving financial effect of Rs.94.37 lakhs highlighting important audit observations are given below:

5.2 *Working of Entry Check-posts in Transport Department*

5.2.1 *Introductory*

Transport check-posts are established at notified places to prevent evasion of tax, fee or penalty by motor vehicles entering or passing through the State. Presently there are 17 check-posts established by executive orders issued from time to time (1969-1994).

The levy and collection of taxes on motor vehicles and the conditions for the plying are governed by the Tamil Nadu Motor Vehicles Taxation Act and Rules, 1974, the Motor Vehicles Act, 1988 (Central Act) and Rules made thereunder and the Tamil Nadu Motor Vehicles Rules, 1989.

The Transport Department functions under the overall control of the Transport Commissioner, Madras. There are 34 Regional Transport Offices in the State, each headed by a Regional Transport Officer (R.T.O.). The seventeen check-posts are manned by four Motor Vehicles Inspectors each, under the superintendence of the respective Regional Transport Officers. The average expenditure on each check post established in the State works out to Rs.3.29 lakhs per annum.

The revenue realised at the check-posts increased from Rs.2.42 crores during 1989-90 to Rs.5.14 crores during 1993-94 registering an increase of 112.40 per cent over a period of 5 years.

5.2.2 *Transport offences - Incorrect extension of benefit to other State vehicles*

The system of compounding of offences provided under Section 127-B of Motor Vehicles Act, 1939 (corresponding to Section 200 of Motor Vehicles Act, 1988) was first introduced in Tamil Nadu with effect from 1 April 1986. Under the system, spot fines could be levied on all the vehicles irrespective of the place of their registration.

The trade in Tamil Nadu made a representation (September 1988) to the Government for immediate abolition of spot fine or compounding of offences. Accordingly, the Government, directed (October 1988) that the orders issued in April 1986 may be kept in abeyance for a period of three months. They also decided to review the position thereafter.

The Transport Commissioner, the Director General of Police and the Commissioner of Police, Madras, who were consulted by the Government, unanimously recommended (February, March and April 1989) re-introduction of compounding or spot fine system.

Though the proposal for re-introduction of spot fine or compounding of offences was again recommended (February 1991) by the Transport Commissioner, Government issued orders re-introducing the spot fine system in check-posts only in April 1995.

It was noticed that the number of traffic offences by other State vehicles in Tamil Nadu rose from 17980 in 1991-92 to 48858 in 1992-93 and 60589 in 1993-94. In respect of 1,27,427 check reports issued in respect of such vehicles during the period from 1991-92 to 1993-94, the department was not in a position to levy even the minimum spot fine which worked out to Rs.78.90 lakhs.

5.2.3 *Short-levy of fees for temporary permits issued to other State vehicles*

Under the Tamil Nadu Motor Vehicles Rules, 1989, the fee for grant of temporary permit for a transport vehicle (which includes a goods carriage) is Rs.100. An additional fee of Rs.100 is leviable for the grant of State-wide permit for goods carriage. When temporary permits with State-wide validity are issued to goods carriages of other States, the additional fees of Rs.100 is also to be collected. The Transport Commissioner had also issued instructions (November 1991) for the collection of additional fee in such cases.

It was noticed in seven* check-posts coming under six** Regional Transport Offices that in respect of 15056 vehicles of other States for which temporary permits were issued, the additional fee of Rs.100 per vehicle was not levied. This resulted in short-levy of fees amounting to Rs.15.06 lakhs for the period from July 1989 to 31 December 1991. A similar observation was made in respect of 3 regions (Erode, Vellore and Pollachi) in Audit Report (Revenue Receipts) 1992-93.

* Poonamallee, Puzhal, Kaliakkavilai, K.G.Chavadi, Gudalur, Hosur and Thiruchitrambalam.

** Meenambakkam, Nagercoil, Coimbatore, Ooty, Dharmapuri and Villupuram.

5.2.4 *Location of check-posts*

(a) The check-posts are to be located at such strategic points so as to enable the department to check all vehicles entering or leaving an entry check-post of the State and ensure payment of tax, fine etc., wherever due. However, the road maps showing the location of the eight check-posts indicated existence of parallel or nearby escape routes.

The existence of such routes which enabled vehicles to by-pass the regular transport check-posts, defeated the very purpose of setting up of check-posts.

From a cross-check of records in the Commercial Tax check-post at Madhavaram, it was noticed that 26833 vehicles, which had touched this check-post should normally have entered the State through the regular transport check-post at Puzhal, entered the State during 1992-93 and 1993-94 through escape route.

5.2.5(a) *Overloading of vehicles*

Motor Vehicles Act, 1988, provides that no motor vehicle, the laden weight of which exceeds the gross weight of the vehicle specified in the certificate of registration, be allowed to ply in any public place.

Out of 1395 check reports test-checked in 14* check-posts, for the period from 1991-92 to 1993-94, in 416 cases overloading was noticed which would normally entail unloading of excess weight and imposition of spot fine. But non-existence of spot fine system in the State not only enabled the vehicles of other States to proceed with the excess weight but also resulted in loss of revenue.

* *Kaliakkavilai, Ambarampalayam, Gopalapuram, K.G.Chavadi (In), K.G.Chavadi (Out), Hosur (In), Hosur (Out), Bannari, Thiruchitrambalam, Puzhal, Poonamallee, Gudalur, Katpadi and Ranipet.*

5.2.5(b) *Non-provision of departmental weigh bridges*

The correctness of the weight carried by a vehicle and the quantum of excess weight determined for the purpose of levy of compounding fee, could be ensured only when the check-posts were provided with departmental weigh bridges. However, it was noticed that eleven* out of fourteen check-posts test-checked, were functioning without departmental weigh bridges.

The fact that the check-posts with departmental weigh bridges had brought out more number of check reports on excess load (177 cases out of 294 check reports) as compared to check-posts without the above provision (242 cases out of 995 check reports) clearly indicates the need for having departmental weigh bridges.

5.2.6 *Other points of interest*

(a) *Short-term licences - Lack of systematic procedure for cross verification of tax payments*

Vehicles of other States covered by short-term licences issued by the respective State Transport Authorities are checked at an entry check-post to ensure that the tax due to the State had been paid and that the vehicles were covered by valid permits, fitness certificates and insurance certificates etc. However, no register was maintained for recording the particulars such as the vehicle number, the demand draft number through which the tax was paid and the period to which the

* Kaliakkavilai, Ambarampalayam, Gopalapuram, K.G.Chavadi (In), K.G.Chavadi (Out), Bannari, Thiruchitrambalam, Poonamallee, Gudalur, Katpadi and Ranipet.

short-term licence was issued etc. in any of the check-posts test-checked. In the absence of any such record, the correctness of the tax paid, the fact of receipt of demand draft and its realisation or otherwise could not be linked and cross verified with the records available in the office of the Transport Commissioner.

(b) *Inadequate arrangements for safe custody of cash*

Tamil Nadu Treasury Code Volume I provides that money received on behalf of Government and not remitted immediately shall be lodged in a cash chest embedded in a wall.

Test-check of 14 check-posts revealed that cash chests were not at all provided in six check-posts. In five, out of eight check-posts, where cash chests were provided, they were not embedded in the wall. The arrangements for safe custody of cash in the check-posts were therefore inadequate.

The above points were brought to the notice of the Government (June 1995); their reply has not been received (November 1995).

5.3 *Short-collection of tax*

Under Motor Vehicles Act, 1988, permit is not required for a transport vehicle owned by or used solely for the purpose of an educational institution which is recognised by Central or State Government. However, tax is leviable on such vehicles in the State at the rate specified under clause 7(e) of First Schedule of the Tamil Nadu Motor Vehicles Taxation Act, 1974.

In Madras Region, it was noticed (between October 1994 and January 1995) in audit that in respect of 45 vehicles owned by certain recognised educational institutions, annual tax for the period 1 April 1993 to 31 March 1994 was levied at a rate lower than the prescribed rate resulting in short-collection of tax of Rs.40,805.

On this being pointed out (between October 1994 and March 1995), the department accepted the objection and stated (November 1994) that a sum of Rs.10,440 had been collected. Report on recovery of the balance amount has not been received (November 1995).

The case was reported to Government (May 1995); their reply has not been received (November 1995).

CHAPTER - 6

STAMP DUTY AND REGISTRATION FEES

6.1 Results of Audit

Test-check of the records of the departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessments/short-levy of tax, etc., amounting to Rs.69.98 lakhs in 191 cases which broadly fall under the following categories:

	No. of cases	Amount (Rs. in lakhs)
1. Short-levy due to under-valuation of properties	78	34.10
2. Short-levy due to incorrect classification of documents	18	4.62
3. Other irregularities	95	31.26
TOTAL	191	69.98

During the course of the year 1994-95, the department accepted under-assessments etc. of Rs.4.72 lakhs involved in 42 cases of which nine cases involving Rs.2.13 lakhs had been pointed out in audit during 1994-95 and the rest in earlier years.

Two cases involving Rs.2.69 lakhs are mentioned in the following paragraphs.

6.2 Short-levy of Stamp Duty and Registration Fees

Under the Indian Stamp Act, 1899 and the Indian Registration Act, 1908, stamp duty and registration fees on instruments of sale are leviable on the market value of the properties sold. Guidelines have been issued by the department for determining the actual market value. Instructions were also issued (July/October 1993) by the Inspector General of Registration to all the Sub-Registrars "that in respect of sale deeds executed by the commercial concerns, (i) the Registering Officer may accept the value adopted by the Registrant Public in the document, if it was two fold or higher than two fold of the guideline value and (ii) if the value indicated in the document was less than the two fold of the guideline value, such documents would be referred to the District Registrar for fixation of value and referring such documents to Special Deputy Collector (Stamps) under Section 47 A(i) was irregular".

(a) In the Sub-Registry, T.Nagar, on three documents relating to the sale of properties to Tamil Nadu Slum Clearance Board, registered in March 1993, stamp duty and registration fees were not levied on the value as per the guidelines. Instead the value as fixed by Tamil Nadu Slum Clearance Board and indicated in the document was adopted, without any specific orders of the Government. This resulted in short-levy of stamp duty and registration fees of Rs.1.35 lakhs.

On this being pointed out (July 1993) in audit, the department replied (November 1993) that the relevant documents were referred to Special Deputy Collector (Stamps) in November 1993 for fixation of market value under Section 47(A) of the Indian Stamp Act.

The case was reported to Government (December 1994 and June 1995); their reply has not been received (November 1995).

(b) In the Sub-Registry, Sriperumbudur it was noticed (April 1994) in audit that in respect of certain documents registered during March 1994, though specific orders were obtained (February 1994) from the Inspector General of Registration for adoption of double the guideline value for registration purposes, documents were registered based on the value furnished by the executant resulting in short-levy of stamp duty and registration fees of Rs.1.34 lakhs

On this being pointed out (June 1994) in audit, the department replied (July 1994/January 1995) that the documents were referred to the Special Deputy Collector (Stamps) to determine the market value of the properties and to collect the deficit stamp duty and registration fees (April 1995).

The reply is not tenable in view of the instructions issued by the Inspector General of Registration in July/October 1993.

The case was reported to Government (May 1995); their reply has not been received (November 1995).

CHAPTER - 7
OTHER TAX RECEIPTS
A. URBAN LAND TAX

7.1 Results of Audit

Test-check of the records of the departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessments/short-levy of tax amounting to Rs.110.19 lakhs in 93 cases which broadly fall under the following categories:

		No. of cases	Amount (Rs. in lakhs)
1.	Under-assessment/non-levy of Urban Land Tax	73	100.86
2.	Incorrect grant of exemption	12	6.86
3.	Other irregularities	8	2.47
TOTAL		93	110.19

During the course of the year 1994-95, the department accepted under-assessments etc. of Rs.26.42 lakhs involved in 14 cases of which two cases involving Rs.2.65 lakhs had been pointed out in audit during 1994-95 and the rest in earlier years.

A few cases involving Rs.25.95 lakhs are mentioned in the following paragraphs.

7.2 *Non-levy of tax*

(a) Under the Tamil Nadu Urban Land Tax Act, 1966, as amended, lands lying within sixteen kilometers of the outer limits of the Madras City known as Madras City Belt Area, are assessable to urban land tax from fasli 1385 (i.e. 1 July 1975 to 30 June 1976). Urban land tax is levied on the basis of market value of the land as on 1 July 1971 upto fasli 1400 (i.e. 30 June 1991) and on the basis of market value of lands as on 1.07.1981 thereafter in terms of the Tamil Nadu Urban Land Tax (Amendment) Act, 1991.

(i) In Tambaram assessment division, urban lands measuring 101 grounds* and 1536 square feet owned by the Tamil Nadu Electricity Board were not assessed to tax from the date of application of the Urban Land Tax Act to Madras City Belt Area, on the ground that the lands were exempted under Section 29(a) of the Act as belonging to State Government. As the Tamil Nadu Electricity Board is not a State Government department, tax was leviable on the urban lands owned by it.

On the omission being pointed out (February 1994) to the department, the department assessed (August and September 1994) the urban lands levying a tax of Rs.1.36 lakhs for 19 fasli years from fasli 1385 to fasli 1403 (1 July 1975 to 30 June 1994).

Government to whom the case was reported (August 1994) have accepted the audit observation (February 1995). Report on recovery has not been received (November 1995).

* One Ground is an area equal to 2400 square feet of land

(ii) In Alandur assessment division, urban land measuring 53 grounds and 1296 square feet owned by a State Transport Corporation in a village and 271 grounds and 114 square feet owned by a registered society in three different villages was not assessed to tax.

On the omission being pointed out (February 1993) in audit, the department assessed (November 1994) the entire land and raised a demand of Rs.2.61 lakhs towards urban land tax for 17 years from fasli 1385 to fasli 1401 (from 1 July 1975 to 30 June 1992). Report on recovery of the amount has not been received (November 1995).

The case was reported to Government (April 1995); their reply has not been received (November 1995).

(b) Under the Tamil Nadu Urban Land Tax Act, 1966, as amended in 1975 the urban land in Tirunelveli urban agglomeration and peripheral areas of Salem is assessable to tax from fasli 1391 (1 July 1981 to 30 June 1982) onwards at the prescribed rates on the market value of lands.

(i) In Tirunelveli assessment division, it was noticed (January 1992) in audit that urban lands owned by different persons in different survey numbers in six villages were not assessed to tax.

On this being pointed out to the department (March 1992) the department assessed (between January 1994 and October 1994) the urban land measuring 632 grounds and 2140 square feet levying a tax of Rs.9.67 lakhs for 13 faslis from fasli 1391 to fasli 1403 (from 1 July 1981 to 30 June 1994). Report regarding collection of tax has not been received (November 1995).

The case was reported to Government (June 1995); their reply has not been received (November 1995).

(ii) In Salem assessment division, it was noticed (March 1993) that the market value of the taxable extent of 151 grounds and 1737 square feet owned by different individuals in two villages, was incorrectly computed resulting in short-levy of tax amounting to Rs.1.61 lakhs for 13 fasli years from fasli 1391 to fasli 1403 (i.e. 1 July 1981 to 30 June 1994).

On the omission being pointed out (April 1993) in Audit, the department rectified (May 1994) the mistake. The report on recovery has not been received (November 1995).

The case was reported to Government (June 1995); their reply has not been received (November 1995).

7.3 *Omission to assess urban lands*

(i) Under the Tamil Nadu Urban Land Tax Amended Act, 1991, Urban Lands in Tuticorin are assessable to tax from fasli 1401 (1 July 1991 to 30 June 1992) onwards at the prescribed rates on the market value of lands as on 1 July 1981.

In Tuticorin Assessment Division, it was noticed (July 1994) that urban land measuring 282 grounds and 1401 square feet owned by different persons and lying in different survey numbers in a town and a village was not assessed to tax.

On the omission being pointed out (July and September 1994) in audit, the department assessed (between August and November 1994) the land measuring 214 grounds and 828 square feet raising a demand of Rs.2.61 lakhs for four fasli years from fasli 1401 to fasli 1404 (1 July 1991 to 30 June 1995). Report on collection of the demand and assessment of the balance 68 grounds and 573 square feet has not been received (November 1995).

The case was reported to Government (April 1995) their reply has not been received (November 1995).

(ii) Under the Tamil Nadu Urban Land Tax Act, 1966, as amended, from time to time urban land in the peripheral areas of Madurai city is liable to tax from fasli 1391 (1 July 1981 to 30 June 1982) onwards on the basis of market value of lands as on 1 July 1981.

It was noticed (June 1993) in Madurai assessment division that urban land measuring 334 grounds and 773 square feet held by various individuals and companies in different survey numbers in a village was not assessed to urban land tax from fasli 1391 (1 July 1981 to 30 June 1982) onwards.

On the omission being pointed out to the department (August 1993) and to the Government (January 1994), the department stated (August 1994) that the escaped urban lands was brought to assessment in August 1994, raising a demand of Rs.6.73 lakhs towards Urban Land Tax due for 13 fasli years from fasli 1391 to fasli 1403 (1 July 1981 to 30 June 1994). Report on recovery of the amount has not been received (November 1995).

7.4 *Non-assessment of agricultural lands converted as building sites*

Under Section 28 of the Tamil Nadu Urban Land Tax Act, 1966, in respect of agricultural land converted into building sites, the owner of such land shall be liable to pay urban land tax with effect from the fasli year in which such conversion is effected. Levy of tax shall be on the basis of market value as on 1 July 1971 upto fasli 1400 (i.e. upto 30 June 1991) and on the basis of market value as on 1 July 1981 from fasli 1401 (i.e. 1 July 1991 to 30 June 1992), in terms of the Tamil Nadu Urban Land Tax (Amendment) Act, 1991.

In Alandur assessment division agricultural lands measuring 366 grounds and 590 square feet owned by different persons in Velachery village lying in different survey numbers though converted into building sites with effect from fasli year 1387 (i.e. 1 July 1977 to 30 June 1978), were not assessed to tax after their conversion.

On the omission being pointed out (February 1993) in audit, the department assessed (July 1994) the lands and raised a demand of Rs.1.36 lakhs for 14 fasli years from fasli 1387 to fasli 1400 (i.e., 1 July 1977 to 30 June 1991), at Rs.9,705 per fasli. Report on collection of demand and particulars of assessment for the period from fasli 1401 (1 July 1991 to 30 June 1992) onwards have not been received (November 1995).

The case was reported to Government (January 1995); their reply has not been received (November 1995).

B. ENTERTAINMENTS TAX

7.5 *Results of Audit*

Test-check of the records of the departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessment of tax amounting to Rs.9.74 lakhs in 9 cases.

Findings of a review on "Implementation of Entertainments Tax Act in Tamil Nadu" involving Rs.87.01 lakhs are given below.

7.6 *Implementation of Entertainments Tax Act in Tamil Nadu*

7.6.1 *Introduction*

The levy and collection of entertainments tax in Tamil Nadu is governed by the Tamil Nadu Entertainments Tax Act, 1939 and the rules made thereunder, as amended from time to time. The tax is leviable on all payments for admission to any entertainment. With effect from 1 April 1958, the levy of tax under this Act had been restricted to cinematographic exhibitions and horse racing only. From 1 September 1994 'Television exhibition' through cable system has also been brought under the purview of this Act.

7.6.2 *Organisational set up*

The overall control of the department vests with the Special Commissioner and Commissioner of Commercial Taxes. The Commercial Tax Officers/Deputy Commercial Tax Officers designated as Entertainments Tax Officers are primarily responsible for the administration of the Act. Deputy Commissioners/ Assistant Commissioners exercise supervisory control over the implementation of the Act.

7.6.3 *Scope of audit*

With a view to examining whether the Entertainments Taxes were assessed properly and collected promptly, the records of 745 theatres out of 2836 under the jurisdiction of 79 out of 269 Entertainments Tax Offices for the period 1990-91 to 1993-94 were test-checked between January 1995 and May 1995.

The important findings are mentioned in the succeeding paragraphs.

7.6.4 *Highlights*

(i) Non-fixing of the number of shows with reference to electricity consumption of theatres resulted in loss of revenue of Rs.6.81 lakhs.

[Paragraph 7.6.5]

(ii) Excess assignment of net proceeds of Entertainments Tax to local bodies resulted in reduction of Government's share of revenue by Rs.13.63 lakhs.

[Paragraph 7.6.6]

(iii) Non-levy/short-levy of interest for belated payment of tax amounted to Rs.5.37 lakhs

[Paragraph 7.6.7]

(iv) Short-levy of Entertainments Tax on dubbed films amounted to Rs.1.59 lakhs.

[Paragraph 7.6.8]

(v) Delay in amendment of Tamil Nadu Entertainments Tax Act, 1939, for automatic adoption of status of a local body as classified by Municipal Administration and Water Supply department for the purpose of levy of Entertainments Tax resulted in avoidable loss of revenue of Rs.21.41 lakhs.

[Paragraph 7.6.9]

(vi) Entertainments Tax revenue locked up in appeals amounted to Rs.40.04 lakhs.

[Paragraph 7.6.11]

7.6.5 *Levy and collection of Entertainments Tax under Section 5-A*

According to Section 5-A of Tamil Nadu Entertainments Tax Act, 1939, the proprietors of permanent/semi-permanent/temporary (touring) theatres located in Selection Grade, 1st Grade, 2nd Grade and 3rd Grade Municipalities, Panchayat Towns and Panchayat Villages have to pay the tax at the prescribed percentage of the gross collection capacity.

Rule 34-A of the Tamil Nadu Entertainments Tax Rules, 1939 prior to its deletion from 26 December 1977 had empowered the Entertainments Tax Officer to specify in the conditions of the permit the number of shows for which the tax was payable every week. However, in the amended Section 5-A, with effect from 26 December 1977 there is no stipulation regarding minimum number of shows per day/week/year on

which Entertainments Tax is payable. It has been judicially held* that if the Entertainments Tax Officer is not satisfied with the number of shows held as indicated in the return, he is empowered to make an assessment based on the consumption of power by the theatre if there was no other explanation for larger consumption of electricity. The validity of the calculation of the actual number of shows by the Entertainments Tax Officer based on 11 units per show was also upheld.

A test-check of records of 26 theatres under the control of four** Entertainments Tax Officers showed that the number of shows as indicated by the theatre owners in the returns was far below the normal number of shows calculated on the basis of power consumption, during the years 1990-91 to 1994-95. Audit undertook an exercise of cross-checking electricity consumptions in 11 such theatres and noticed that the number of shows short-returned worked out to 8541 and the consequent revenue loss Rs.6.81 lakhs.

7.6.6 *Excess assignment of net proceeds of Entertainments Tax resulted in reduction of Government's share*

Out of Entertainments Tax collected from the proprietors of theatres under Section 5-A/5-B of the Act, such sum as may be specified by the State Government in this behalf is payable to the local bodies concerned.

* 76 STC 271(1990) - Annamalai Vs. Assistant Commissioner (Commercial Taxes) Kancheepuram and another (High Court, Madras).

** Bhavani, Ramanathapuram, Mudukulathur, Paramakudi

It was noticed in audit that the entertainments tax amounting to Rs.13.63 lakhs was allocated in excess to 13 local bodies which resulted in reduction of Government share of revenue to the extent of Rs.13.63 lakhs.

On this being pointed out (March 1995) the respective Assistant Commissioners (Commercial Taxes), passed orders for adjusting excess allocation of net proceeds of entertainment tax against the allocation of net proceeds of Entertainment Tax due for the quarter ending 31 March 1995 in respect of Myladuthurai and Coonoor Municipalities. In other cases the concerned Assistant Commissioners agreed to initiate action.

7.6.7 *Non-levy/short-levy of interest*

As per Section 10-F of the Tamil Nadu Entertainments Tax Act, 1939, if the tax assessed under the Act, or any instalment thereof is not paid by a proprietor or any person from whom such tax is due within the time specified in the notice of assessment, the proprietor or the person liable to pay such tax, shall pay by way of interest in addition to the amount due, at the rate of 2 per cent of such amount for each month. The department had clarified (November 1983) that the interest has to be calculated from the date on which arrears become due for payment as per the original order but restricted to the amount sustained by appellate/revisional authority.

A test-check of records in six assessment circles revealed that there was omission to levy interest amounting to Rs.5.37 lakhs for the belated payment of entertainments tax as indicated below:

Sl. No.	Name of the assessment circle	No. of Theatres	Amount of tax paid belatedly (Rs.)	Period of delay	Interest due at 2% per month (Rs.)	Interest levied (Rs.)	Interest short-levied (Rs.)
1.	Ambattur Madras	2	3,27,043	27.04.91 to 12.07.93	1,44,425	15,610	1,28,815
			1,24,151	27.03.92 to 12.07.93	28,601	6,695	21,906
2.	Avadi, Madras	1	39,375	10.01.83 to 28.11.94	1,12,282	---	1,12,282
3.	Kancheepuram (North)	1	74,720	18.07.83 to 18.01.93	1,57,325	---	1,57,325
4.	Salem (Rural)	1	5,19,230	14.12.92 to 27.04.94	1,11,902	56,643	55,259
5.	Thiruchengode (Rural)	2	63,078	20.04.91 to 27.12.92	19,224	---	19,224
			26,440	20.04.91 to 23.04.92	5,904	---	5,904
6.	Thiruverumbur	2	1,43,191	22.02.91 to 25.02.92	31,283	1,968	29,315
			44,995	22.02.91 to 25.02.92	7,093	489	6,604
Total		9					5,36,634

7.6.8 Short-levy of tax on dubbed films

According to amended Section 4, 4-D, 5-A and 5-B of Tamil Nadu Entertainments Tax Act, 1939, with effect from 1 September 1994, Entertainments Tax payable on films dubbed in Tamil language, the present rate of Entertainments Tax leviable was increased by 10 percentage point.

During audit, it was noticed (January 1995 - May 1995) that the proprietors of 80 theatres under the assessment control of 28 Entertainments Tax Officers had not indicated in their returns in Forms II and II A for the period from 1 September 1994 to 31 December 1994, whether a film exhibited by them was dubbed. However, on verification by audit, it was seen that in 13 theatres, dubbed films were run during this period and tax was levied on such films at the old rates instead of at the revised rates resulting in a short-levy of Rs.1.59 lakhs.

On this being pointed out (September 1995) the department agreed to raise the additional demand.

7.6.9 *Loss of Revenue due to delay in reclassification of local bodies*

According to Section 5-A of the Tamil Nadu Entertainments Tax Act, 1939, with effect from 26 December 1977, Entertainments Tax payable in respect of every show that is held in theatres situated in places other than Municipal Corporation and Special Grade Municipalities is computed as a percentage of the gross collection capacity for every show. These Municipalities and Selection Grade Panchayat Towns are specified in different schedules to the Act. However, under Section 5-B of the Act, the proprietor of a theatre is given an option of paying a compounded rate of tax every week based on the gross collection capacity for a show, irrespective of the number of shows actually held. Whenever the gradation of a Municipality or panchayat in the schedule is changed, the percentage at which tax is payable would also change. Section 16-A of the Act *ibid* empowers the Government to amend prospectively or retrospectively any of the schedules to the Act.

In six assessment circles, certain local bodies were reclassified by notifications issued by the Municipal Administration and Water Supply Department with effect from certain dates but the consequential amendment to the schedules to the Act was issued belatedly in two cases on 1 June 1992 and 24 August 1992. No amendment to the Schedule was issued till date in respect of four other cases.

The delay in amending the schedules to the Act resulted in tax at the compounded rates being levied in 22 theatres at rates applicable to the earlier gradations of the local bodies at lower rate, instead of at rates applicable to appropriate higher grades of the local bodies. Consequently, tax revenue amounting to Rs.21.41 lakhs could not be demanded or collected.

On this being pointed out (February 1995) by audit the department contended that unless the schedules to the Act were amended, automatic application of upgraded status and consequent enhancement of levy would not be possible.

7.6.10(a) *Non-registration of Television exhibition through cable systems*

As per Section 4-E, tax calculated at 40 per cent of the amount collected by way of contribution or subscription or installation or connection charges or any other charges collected in any manner whatsoever would be leviable throughout the State. Though no registration or renewal fee is payable, a security deposit of Rs.10,000 has to be paid within the reasonable time fixed by the Entertainments Tax Officer. The Territorial Assistant Commissioner of Commercial Taxes is to monitor that

all cable television operators register themselves under the Tamil Nadu Entertainments Tax Act, 1939 and start paying dues.

A test check of records in 42 Entertainments Tax Offices revealed that out of 432 cable operators, only 107 operators had got themselves registered voluntarily and 50 had paid a security deposit of Rs.10,000 each. The non-collection of security deposit from the balance 382 operators amounted to Rs.38.20 lakhs.

(b) *Non/Short-collection of security deposit*

It was noticed that in respect of 29 theatres under 14 Entertainments Tax Offices, security/additional security amounting to Rs.6.42 lakhs due on account of revision in the rates of admission/gross collection capacity was not collected.

On this being pointed out (March 1995), the department agreed to collect the additional security from the respective theatres.

7.6.11 *Revenue locked-up in appeals*

As per Section 10(I) of Tamil Nadu Entertainments Tax Act, 1939, if an amount due on account of the tax under Section 4/5-A/5-B is not paid by a proprietor or any person from whom such tax is due, within the time specified therefor in the notice of assessment, the arrears of Entertainments Tax can be recovered through any of the following methods:

- (i) As arrears of Land Revenue.
- (ii) By application to a Magistrate for recovery as a fine.

A scrutiny of Demand, Collection and Balance Statement with connected records in Audit revealed that collection of Entertainments Tax arrears of Rs.40.04 lakhs relating to the period from 1975-76 to 1991-92 in respect of 22 theatres under the control of 11 Entertainments Tax Officers was stayed by the orders of various appellate authorities. Action to get the stays vacated and expediting their disposal was not initiated till date.

The above points were brought to the notice of the Government (April 1995) and their reply has not been received (November 1995).

C. LUXURY TAX

7.7 *Implementation of the Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Act, 1981.*

7.7.1 *Introductory*

The Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Act, 1981, provides for levy and collection of tax (to be known as 'Luxury Tax') on the luxury provided in a hotel in respect of every room under occupation by any person, on daily basis. Where the luxury provided in a hotel to any person is charged otherwise than on daily basis or per room, the chargeability shall be determined as per room per day and the tax shall be levied accordingly.

7.7.2 *Inadequate provision to recover the arrears*

According to the provisions contained in Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Act, 1981, any tax or penalty which remains unpaid on the date specified in the notice of payment or after the extended date of payment and any instalment not duly paid, shall be recoverable as arrears of land revenue.

(i) In Chingleput assessment circle, a Tamil Nadu Government undertaking took over the management of a beach resort hotel in Mahabalipuram, Chingleput M.G.R. District from a Non-resident Indian from 1 April 1989 with arrears of luxury tax of Rs.52,033 relating to the assessment year 1988-89. This amount was not paid by the Tamil Nadu Government undertaking, who acquired the business, as there was no provision similar to one available in Section 27 of Tamil Nadu General

Sales Tax Act, 1959, for the recovery of arrears of tax from the transferee. Absence of provisions led to non-realisation of the amount for more than 6 years.

(ii) In Ooty (North) assessment circle, the owner of a mini-cottage was in arrears of tax and penalty of Rupees one lakh for the year 1985-86. The department addressed (July 1987) the Revenue authorities, Ooty to initiate action under the Revenue Recovery Act. The Collector stated (February 1992) that action under Revenue Recovery Act was not possible since the assessee had disposed of all his movable properties in 1988 and immovable properties in 1989. Therefore, the arrears of tax could not be collected.

7.7.3 *Non-levy of penalty for belated payment of tax*

The Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Act, 1981, stipulates that the tax payable shall be collected by the proprietor and be paid into the Government account within 20 days after the expiry of the month to which the return relates alongwith the prescribed return. Where a proprietor liable to pay tax under the Act fails without sufficient cause or neglects to pay into Government account the tax due from him according to the return or fails without sufficient cause to submit a return, the assessing authority may impose upon such proprietor by way of penalty a sum not exceeding one and half times the amount of tax.

(i) Test check of records in 12* assessment circles revealed that tax arrears amounting to Rs.142.48 lakhs were paid by 51 assesseees after a delay ranging from 9 to 98 days during 1990-91 to 1993-94. While assessment of tax for arrears was calculated, no penalty was levied in respect of delayed payments in all these cases. Maximum penalty at 150 per cent of the tax due amounting to Rs.213.71 lakhs was leviable in these cases.

(ii) Further test check of records in 9** assessment circles revealed that in 18 cases the cheques for an amount of Rs.57.71 lakhs tendered by the assesseees towards luxury tax during the period 1990-91 to 1994-95 were dishonored and subsequently the tax was collected in cash. For the delay in payments, maximum penalty of Rs.86.56 lakhs was leviable, but was not levied.

7.7.4 *Non-levy of interest on belated payment of arrears in instalments*

According to section 9(1) of the Act *ibid*, the amount of tax assessed for any period shall be paid by the proprietor into Government account by such date as may be specified in the notice of payment issued by the assessing authority but not later than 30 days from the date of service of notice. Where any proprietor prefers an appeal against the order of assessment before the Appellate Authority, then the assessing authority may extend the date of payment or permit to pay the tax in instalments.

* T. Nagar (East), Egmore I, Egmore II, Ooty (North), Palakkarai I, Vellore (Rural), Ooty (South), Chingleput, Tambaram I, Triplicane II, R.S.Puram (East) and Nanjappa Road circle.

** Egmore I, Ooty (North), Ooty (South), Chingleput, Vellore (Rural), T. Nagar (East), Triplicane II, Villupuram II and Ram Nagar.

The Government in their order dated 13 December 1989 provided that the outstanding arrears of luxury tax from the hoteliers shall be paid in instalments. If it was between Rs.10 lakhs and Rs.50 lakhs, Rs.50 lakhs and Rs.150 lakhs and above Rs.150 lakhs it could be paid in 2, 3 and 4 monthly instalments respectively. The arrears below Rs.10 lakhs were to be paid immediately. By a subsequent order dated 17 January 1990, the Government increased the monthly instalments from 2, 3 & 4 to 3, 5 & 10 respectively and fixed 15 January 1990 as the date for fixing the monthly instalments. Further, Government in their order dated 11 May 1990 provided for levy of interest at 16 per cent for belated payment of tax through monthly instalments.

A scrutiny of the Government records revealed that 27 lodges were in arrears of tax of Rs.470.11 lakhs as on 16th March 1990 for the period 1987-88 to 1989-90. A test check of records in three assessment circles (Anna Salai, Valluvarkottam and Mylapore) revealed the following:

(i) In Anna Salai assessment circle, Madras, the assessment in respect of a hotel for 1986-87 was not finalised eventhough assessments relating to subsequent years were finalised. The tax due as per the returns filed by the assessee for the year 1986-87 worked out to Rs.37.28 lakhs out of which Rs.33.01 lakhs were yet to be collected.

Further, the assessee was in arrears of tax of Rs.43.88 lakhs and Rs.51.74 lakhs for 1987-88 and 1988-89 respectively. Subsequently the assessee cleared the arrears in 10 monthly instalments. In the absence of relevant records relating to the assessment, audit could not verify the correctness of the interest charged, if any.

(ii) An assessee in Valluvarkottam assessment circle, Madras, did not pay the tax of Rs.278.73 lakhs for the years 1986-87 to 1988-89 alongwith monthly returns. The arrears were cleared by the assessee in 10 instalments. However, for the belated payment of instalment numbers 5 to 9, interest at 16 per cent amounting to Rs.50,625 was not levied as contemplated in Government order dated 17 January 1990.

7.7.5 *Non-levy of luxury tax*

According to Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Act, 1981, with effect from 16 June 1992, where the charges collected on luxury provided in a hotel are levied otherwise than on daily basis or per room, the charges for determining the liability to tax shall be computed for a day per room based on the period of occupation for residence, according to the rules or customs of the hotel.

In Ooty (South) assessment circle, an assessee, who had 52 double rooms in his lodging house, let out 10 double rooms to a nationalised bank, on monthly rent basis from 1 May 1991 onwards. The contract was being renewed after every 11 months since then. The monthly rent charged for 10 rooms per month was Rs.33,000 with effect from April 1992. The total rent of Rs.3.14 lakhs received by the assessee by letting out these rooms on monthly rent basis for the period from 16 June 1992 to 31 March 1993 was not included in the total and taxable turnover which resulted in short-levy of tax of Rs.47,025.

On this being pointed out in audit, the department revised the assessment and raised a demand for Rs.47,625 (September 1995). Further report regarding collection has not been received (November 1995).

7.7.6 *Absence of provision for levy of penalty for excess collection of tax*

In four* assessment circles, excess collection of tax of Rs.4.76 lakhs was noticed in 46 cases during the period 1990-91 to 1993-94. However, it was noticed that in 26 cases, out of the above, a sum of Rs.4.22 lakhs was recovered by way of penalty under the provisions of the Tamil Nadu General Sales Tax Act as there were no similar provisions in the Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Act, 1981.

The above points were brought to the notice of Government (April/June 1995). Their reply has not been received (November 1995).

* Chingelput, Ramnagar, Mettupalayam & Ooty (North).

D. BETTING TAX

7.8 *Results of Audit*

Test-check of records of departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessments of tax amounting to Rs.7.50 lakhs in 3 cases.

An illustrative case involving a financial effect of Rs.7.43 lakhs is mentioned in the following paragraph.

7.9 *Absence of provision to levy interest for belated payment of Tax*

The Tamil Nadu Betting Tax Act, which was earlier called 'The Madras Betting Tax Act', was enacted in 1935. Under this Act and Rules made thereunder tax is leviable on bettings at meetings for horse races. At the initial stage the Act was administered by the Collector of Revenue Districts. The administration of the Act was later transferred to Commercial Tax Department in 1939.

Rule 7 of the Tamil Nadu Betting Tax Rules stipulates that the tax in respect of horse race meetings held at Guindy (Madras) race course shall be paid within 14 days of each month in which the meetings have taken place. Under Rule 7(4), if the tax is not paid within the prescribed time, the same is recoverable as arrears of land revenue. There is, however, no provision for levy of interest for belated payments.

During test-check of the receipts under Betting Tax it was noticed in audit (January to April 1995) that Betting Tax amounting to Rs.281.15 lakhs for the periods from 1990-91 to 1994-95 (upto July 1994)

was paid belatedly after a delay ranging from 5 days to 3 months and 28 days, but no interest was levied.

Had a provision for levy of interest been made in the Betting Tax Act on the lines of Tamil Nadu General Sales Tax Act, 1959, and Tamil Nadu Entertainments Tax Act, 1939 , additional revenue of Rs.7.43 lakhs by way of interest at 2 per cent in respect of the belated payment referred to above, would have accrued to Government.

The department to whom the case was reported (June 1995) have stated (September 1995) that on the recommendations of the High Power Tax Reforms Committee, an amendment to the Betting Tax Act for incorporating provision for levy of interest for belated payment of tax had been sent to Government for approval.

The case was reported to the Government (June 1995); their reply has not been received (November 1995).

CHAPTER - 8
NON-TAX RECEIPTS
A. MINES AND MINERALS

8.1 Results of Audit

Test-check of the records of the departmental offices conducted in Audit during the period from April 1994 to March 1995 revealed under-assessments/short-levy of tax amounting to Rs.36.89 lakhs in 38 cases which broadly fall under the following categories:

		No. of cases	Amount (Rs. in lakhs)
1.	Non-levy/short-levy of royalty, dead rent/ seigniorage fee	25	12.68
2.	Non-levy of local cess and local cess surcharge	4	18.17
3.	Other irregularities	9	6.04
TOTAL		38	36.89

An illustrative case involving Rs.0.59 lakh is mentioned in the following paragraph.

8.2 *Levy of seigniorage fee instead of dead rent*

Under the Tamil Nadu Minor Mineral Concession Rules, 1959, as amended from time to time, the holder of a mining lease shall, effective from 9 December 1988, pay for the period of lease, seigniorage fee or dead rent whichever is higher in respect of minor minerals removed or consumed by him at such rates as may be specified in the Rules.

In Thiruvannamalai District, during the period from 1 April 1992 to 31 March 1993, in respect of four mining leases granted for mining black/multi coloured granite, the department collected seigniorage fee instead of dead rent being higher of the two. This resulted in short-levy of Rs.58,967.

On this being pointed out (July 1993) the department stated (December 1994) that notices were issued to the lessees to remit the amount and a sum of Rs.2,500 had been collected (November 1994) from one of the four lessees. The department further stated (December 1994) that action was being taken to collect the balance amount. Report on recovery is still awaited (November 1995).

The case was reported to the Government (May 1995); their reply has not been received (November 1995).

B. ENVIRONMENT AND FORESTS DEPARTMENT

8.3 *Allotment of raw material to user industries*

8.3.1 *Delayed exploitation of pulpwood*

Eucalyptus hybrid plantation available for allotment during 1989-90 had an assessed yield of 4390 MT, in Indira Gandhi Wild Life Sanctuary (IGWLS) Anamalais, but the proposals sent for allotment of raw materials during 1989-90 contained a quantity of 1925 MT only, out of which 850 MT only was allotted by Principal Chief Conservator of Forests (PCCF), Madras for exploitation. In the same division Eucalyptus hybrid coupes whose estimated yield was 1250 MT were proposed for allotment during 1992-93, but no allotment was made in that year due to merger of this item with Rosegum and the non-exploited areas were allotted in subsequent years. Thus the non-allotment of 4790 MT of available pulpwood to user industries during the year, resulted in deferment of realisable revenue of Rs.13.75 lakhs and Rs.7.55 lakhs during the respective years. Besides, further cycle of felling rotation periods were also deferred.

8.3.2 *Non-realisation of dues*

(i) In 1991-92, during the exploitation by Firm 'S' in Kodaikanal Division, fire broke out in K.K. Odai plantation on 58 hectares' on 10 March 1992 and in Berijam plantation on 27.36 hectares on 27 March 1992 which had destroyed the unremoved pulpwood allotted to the firm. The loss on account of this fire was assessed at Rs.9.08 lakhs (K.K. Odai plantation: Rs.5.26 lakhs and Berijam plantation: Rs.3.82 lakhs) and as per the terms of the agreement necessary demands were

raised against the firm in June 1992. However in September 1993, the firm made an appeal to the PCCF disputing the claim of District/Divisional Forest Officer (DFO). As of June 1995, neither the PCCF disposed the appeal nor initiated any action to recover the amount of Rs.9.08 lakhs from the firm.

Similarly, while working in "1991 Naduvattam Bit IV Eucalyptus plantation in Nilgiris South Division", by Firm 'B' fire broke out on 22 March 1993 and a demand for Rs.1.12 lakhs being the loss sustained on account of fire was raised against the firm in November 1994. An additional demand of Rs.34,506 due to the non-inclusion of 10 cubic metres of fire burnt pulp wood and 100 cubic metres of rejects (lops and tops) kept in the site was raised in March 1995, on being pointed out by Audit. Thus a total sum of Rs.1.47 lakhs was pending realisation from the firm (June 1995).

(ii) *Non-realisation of penal levy due to non-removal of allotted quantity*

Government in April 1991 ordered that the allottee would work all the areas allotted for working without any omission. If they fail to work any area allotted to them the cost of the produce assessed at the rate fixed by the Government with 5 per cent administrative charges plus 13 per cent penal interest was recoverable from them. Government also ordered that if the companies declined to work in compact and contiguous areas where the yielding in individual plantation was expected to be even less than 100 MT, action would have to be taken to recover the cost of wood.

It was seen in Audit that in five divisions* the penalty leviable in 5 cases was Rs.28.88 lakhs. However, demand was raised for Rs.22.32 lakhs only. Even this amount remained unrealised (June 1995).

The matter was reported to the Government (July 1995); their reply has not been received (November 1995).

8.4 *Loss of Revenue due to shortages*

Sales Depots under the control of Foresters are established by the Forest Department in various ranges for storing timber and other forest produces. The stock shall be counted periodically and depot books balanced. The Range Officers shall inspect all sales depots in their range atleast every six months and DFO atleast once a year and verify whether the monthly returns are correctly prepared with reference to the entries in the Depot Registers.

A test check of the records of DFO Kanyakumari Division at Nagercoil during December 1991 and January 1993 and the details collected from the Division in respect of Nagercoil Sale Depot revealed that the annual inspection of the Depot for the year 1990-91 was not taken up by the DFO since the reconciliation of the balance stock figure was not completed. However, based on the instructions (March 1992) of the Chief Conservator of Forest (Wild Life) and Chief Wild Life Warden, the DFO inspected the Depot during July 1992 and found that 916 logs (131

* Hosur, Kodaikanal, Nilgiris (North), Wild Life Warden, Pollachi and Social Forestry Division, Coimbatore.

Rosewood logs, 685 Teakwood logs and 100 miscellaneous logs) were missing. The missing logs related to the periods 1972-73 onwards and their value of shortages at Forest Schedule of Rates for the respective years was assessed at Rs.10.11 lakhs by the Department. No effective steps had been taken by the department/ Government to make the shortages good.

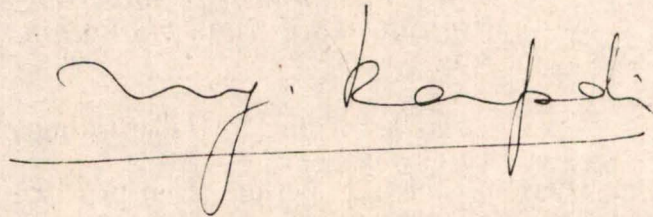
The matter was reported to the Government in April 1995 and their reply has not been received (November 1995).

8.5 *Non-realisation of revenue due to non-disposal of softwood plantations*

According to the working plan for Tirunelveli North Forest Division, for the period from April 1978 to March 1988, the softwood plantations attain the maximum growth in 20 years. Accordingly, the tree felling rotation had been fixed at 20 years.

The softwood plantations raised during 1957 and 1958 in Sivagiri series - Sankarankoil range (estimated value Rs.9.20 lakhs) were auctioned during March 1984. There was no offer for plantations in 1957 and Block I of 1958. In respect of Block II to Block IV of 1958 plantations (estimated value Rs.5.08 lakhs) offers for a total amount of Rs.5.13 lakhs were received and a part sale amount Rs.2.56 lakhs was also realised on the date of sale (March 1984). However, as the confirmation of sale was not issued within the stipulated period of 60 days from the date of sale (as per sale notice), the bidders backed out in July, August and October 1984 and the part sale amount was refunded to them (October 1985).

When the non-realisation of revenue of Rs.5.13 lakhs was pointed out by Audit (June 1992), Government replied (November 1993) that the loss was unavoidable as the contractors backed out because of a sudden deterioration in the quality of plantations due to parasitic infection and not because of delay in confirmation. Government reply is not tenable as the offers were withdrawn by the bidders during July 1984 to October 1984 itself while the parasitic attack was first reported in February 1985, by Divisional Forest Officer.

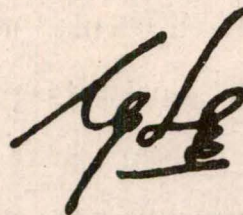


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