

**Report of the
Comptroller and Auditor General
of India**

for the year ended 31 March 2000

No. 4

(REVENUE RECEIPTS)

Government of Gujarat

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CHAPTER-IV
OTHER TAX RECEIPTS

1. CAPITAL GAINS TAX

As per the provisions of the Income Tax Act, 1961, the tax on capital gains is levied on the net long-term capital gains.

The tax on capital gains is levied at the rate of 20% on the net long-term capital gains.

The tax on capital gains is levied on the net long-term capital gains.

2. WEALTH TAX

As per the provisions of the Wealth Tax Act, 1957, the tax is levied on the net wealth of an individual.

The tax is levied at the rate of 1% on the net wealth of an individual.

The tax is levied on the net wealth of an individual.

The tax is levied on the net wealth of an individual.

The tax is levied on the net wealth of an individual.

CHAPTER-V
TAX RECEIPTS

As per the provisions of the Income Tax Act, 1961, the tax is levied on the income of an individual.

The tax is levied at the rate of 30% on the income of an individual.

The tax is levied on the income of an individual.

The tax is levied on the income of an individual.

The tax is levied on the income of an individual.

The tax is levied on the income of an individual.

PREFATORY REMARKS

This Report for the year ended 31 March 2000 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1999-2000 as well as those noticed in earlier years but could not be covered in previous years' Reports.

OVERVIEW

This report contains 43 paragraphs including two reviews relating to non/short levy of tax, penalty and interest etc. involving Rs.1188.45 crore. Some of the important audit findings are mentioned below :

1. General

(i) The total revenue receipts of the Government of Gujarat in 1999-2000 were Rs.13971.44 crore as against Rs. 12742.74 crore during 1998-99. The revenue raised by the State from taxes during 1999-2000 was Rs.8161.73 crore and from non-tax receipts was Rs.2990.37 crore. State's share of divisible Union taxes and grants-in-aid from Government of India were Rs.1665.04 crore and Rs.1154.30 crore respectively. The main source of tax revenue during 1999-2000 was Sales Tax (Rs.5134.47 crore). The main receipts under non-tax revenue were from Interest (Rs.1764.54 crore) and Non-ferrous Mining and Metallurgical Industries (Rs.530.78 crore).

[Para 1.1 and 1.2]

(ii) As on 31 March 2000, 1811875 cases were pending for assessment under Sales Tax Act. Out of these, 82423 cases had turnover of above Rs.1 crore in each case.

[Para 1.6]

(iii) A test check of the records in the offices of Sales Tax, Land Revenue, Motor Vehicles Tax and other departmental offices conducted during 1999-2000 revealed under assessment and loss of revenue of Rs.125753.76 lakh in 1365 cases. During the year, the concerned departments accepted under assessments etc. of Rs.787.81 lakh in 831 cases and recovered Rs.745.55 lakh in 598 cases pointed out during 1999-2000 and earlier years.

[Para 1.9]

2. Sales Tax

(i) A review on Sales Tax incentives to New Industries revealed the following :

(a) 20162 assessments involving tax exemptions of Rs.807.11 crore, 5001 assessments involving tax deferment of Rs.333.43 crore and 276 assessments involving composite benefits of Rs.2086.83 crore were pending at the end of March 2000.

(Para 2.2.6(3))

(b) A manufacturing unit at Surat which was granted ad-hoc benefit of Rs. 300 crore failed to fulfil the condition of local employment even after six years from the commencement of production.

(Para 2.2.7(A)(I)(i))

(c) A passenger car manufacturing unit at Halol was incorrectly allowed the status of prestigious unit, resulting in excess grant of composite benefit of Rs. 128.98 crore.

(Para 2.2.7(A)(2)(i)&(ii))

(d) Due to incorrect computation of fixed capital investment, a unit at Hazira was given inadmissible benefit of Rs. 212.88 crore.

(Para 2.2.7(B)(i))

(e) Due to incorrect settlement of Government dues outside the court, 2 cement units were given unintended relief of Rs. 39.81 crore in interest against the codal provision.

(Para 2.2.7 (B)(ii))

(f) Though 7 wind farms had not satisfied the condition of "running satisfactorily" for six years, the benefit of Rs. 6.17 crore granted had not been withdrawn.

(Para 2.2.8(1))

(ii) Under Sales Tax Incentive Scheme, excess exemption of sales tax of Rs.382.84 lakh was allowed to 31 dealers.

[Para 2.3.A to E]

(iii) Deferred tax of Rs.135.38 lakh was not recovered from 4 dealers eventhough the units had stopped commercial production.

[Para 2.4]

(iv) Purchase tax of Rs.350.06 lakh was not levied in the cases of 44 dealers for breach of recitals of forms.

[Para 2.5 A to E]

(v) Central Sales Tax of Rs.284.37 lakh was levied short due to incorrect application of concessional rate without 'C' forms.

[Para 2.6]

(vi) There was short levy of Sales Tax of Rs.132.49 lakh due to incorrect classification of goods and due to application of incorrect rate of tax.

[Para 2.8 and 2.13]

3. Land Revenue

(i) Failure to recover conversion tax resulted in non levy of Rs.146.15 lakh.

[Para 3.2]

(ii) Incorrect application of rate of non agricultural assessment resulted in short levy of Rs.146.52 lakh.

[Para 3.3]

(iii) Failure to recover occupancy price resulted in non levy of Rs.84.91 lakh.

[Para 3.5]

4. Taxes on Vehicles

(i) Composite tax of Rs.646.92 lakh was not recovered from operators of 629 omnibuses in 16 Regional Transport Offices.

[Para 4.2]

(ii) Motor Vehicles tax of Rs.63.82 lakh was short recovered in respect of 721 vehicles.

[Para 4.3]

(iii) For late payment of tax penalty of Rs.395.45 lakh was not recovered.

[Para 4.8]

5. Stamp Duty and Registration Fees

(i) Non levy of aggregate rate on documents containing more than one matter resulted in short levy of Rs.614.68 lakh.

[Para 5.2(i)]

(ii) Stamp duty and registration fees of Rs.787.99 lakh were short levied due to incorrect application of concessional rate.

[Para 5.3A and B]

(iii) Stamp duty and registration fees of Rs.570.88 lakh were short levied due to mis-classification of documents.

[Para 5.4]

(iv) Stamp duty and registration fees of Rs.84.20 lakh were short levied due to non levy of additional duty.

[Para 5.6]

6. Other Tax Receipts

A. Entertainments Tax

(i) Incorrect grant of exemption resulted in loss of revenue of Rs.211.75 lakh.

[Para 6.2]

(ii) Non recovery of entertainments tax from cable operators and operators of cinema houses and video parlours resulted in short levy of Rs.104.29 lakh.

[Para 6.3 and 6.4]

B. Luxury Tax

Non recovery of luxury tax from the proprietors of 41 hotels resulted in short levy of Rs.87.76 lakh.

[Para 6.5]

C. Electricity Duty

Non recovery of electricity duty and interest for delayed payment resulted in short recovery of Rs.3275.82 lakh.

[Para 6.6 and 6.7]

7. Non Tax Receipts

A. Interest Receipts

(i) There was no mechanism at Government level for periodical review of demand, collection and balance position of different kinds of loans/interest.

(Paragraph 7.2.7)

(ii) Interest of Rs.245.96 crore was short levied due to sanction of loan at the lower rates of interest.

(Paragraph 7.2.8)

(iii) Demands for principal and interest aggregating Rs. 64.23 crore were not raised due to non finalisation of terms and conditions.

(Paragraph 7.2.10)

(iv) Interest of Rs. 38.21 crore was short levied due to incorrect adjustment of repayments towards principal instead of interest.

(Paragraph 7.2.11)

(v) Interest of Rs. 33.36 crore due from GIIC was not recovered.

(Paragraph 7.2.12)

(vi) Loss of interest of Rs.6.19 crore due to unauthorised retention of interest free loan by the GIIC.

(Paragraph 7.2.13)

B. Mining Receipts

Failure to get the stay vacated resulted in blockage of Government revenue amounting to Rs.861.31 lakh.

(Paragraph 7.3)

CHAPTER-I**General****1.1 Trend of revenue receipts**

The tax and non-tax revenue raised by Government of Gujarat and the State's share of divisible Union taxes and grants-in-aid received from Government of India during 1999-2000 and the preceding two years are given below:

(Rupees in crore)

		1997-98	1998-99	1999-2000
I	Revenue raised by State Government			
	(a) Tax revenue	6591.06	7615.78	8161.73
	(b) Non-Tax revenue	2220.97	2766.49	2990.37
	Total	8812.03	10382.27	11152.10
II	Receipts from Government of India			
	(a) State's share of divisible Union taxes	1574.49	1641.60	1665.04
	(b) Grants-in-aid	738.87	718.87	1154.30
	Total	2313.36	2360.47	2819.34
III	Total receipts of the State Government (Revenue Account)	11125.39	12742.74	13971.44*
	Percentage of I to III	79	81	80

* For details, please see statement No.11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Gujarat for the year 1999-2000. Figure under the head "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.

1.2 Revenue raised by the State Government

(i) Tax revenue

The details of tax revenue raised from major taxes during the last three years upto 1999-2000 are given below :

(Rupees in crore)

Sl. No.	Heads of revenue	1997-98	1998-99	1999-2000	Percentage of increase (+) or decrease (-) in 1999-2000 over 1998-99
1	Sales Tax	4402.39	4795.84	5134.47	7
2	Taxes and Duties on Electricity	1023.54	1447.17	1401.63	(-)3
3	Stamp Duty and Registration Fees	411.01	506.23	522.38	3
4	Taxes on Vehicles	395.99	460.21	601.71	31
5	Taxes on Goods and Passengers	38.26	62.14	88.87	43
6	Land Revenue	75.13	71.98	116.64	62
7	State Excise	24.35	27.25	32.02	17
8	Other Taxes	220.39	244.96	264.01	8
	Total	6591.06	7615.78	8161.73	

(ii) Non-tax revenue

Details of revenue raised from some of the major non-tax receipts during the last three years upto 1999-2000 are given below :

(Rupees in crore)

Sl. No.	Heads of revenue	1997-98	1998-99	1999-2000	Percentage of increase (+) or decrease (-) in 1999-2000 over 1998-99
1	Non-ferrous Mining & Metallurgical Industries	460.66	470.23	530.78	13
2	Interest Receipts	1207.21	1592.69	1764.54	11
3	Major & Medium Irrigation	91.29	132.10	110.68	(-)16
4	Medical & Public Health	45.94	38.65	41.33	7
5	Others	415.87	532.82	543.04	2
	Total	2220.97	2766.49	2990.37	

1.3 Variations between Budget estimates and actuals

The variations between Budget estimates and actuals of some major revenue receipts for the year 1999-2000 are as given below:

(Rupees in crore)

Sl. no.	Heads of revenue	Budget estimates	Actuals	Variation increase(+) decrease(-)	Percentage of variation
	Tax revenue				
1.	Sales Tax	5750.00	5134.47	(-)615.53	(-)11
2.	Taxes & Duties on Electricity	1700.00	1401.63	(-)298.37	(-)18
3.	Stamp Duty & Registration Fees	520.00	522.38	(+) 2.38	0.45
4.	Taxes on Vehicles	650.00	601.71	(-) 48.29	(-)7
5.	Taxes on Goods & Passengers	150.00	88.87	(-) 61.13	(-)41
6.	Land Revenue	199.00	116.64	(-) 82.36	(-)41
7.	State Excise.	34.95	32.02	(-) 2.93	(-)8
8.	Other Taxes on Income & Expenditure	82.00	83.05	(+) 1.05	1
	Non-tax revenue				
9.	Non-ferrous Mining & Metallurgical Industries	650.00	530.78	(-)119.22	(-)18
10.	Interest Receipts	601.57	1764.54	(+)1162.97*	193
11.	Major & Medium Irrigation	250.00	110.68	(-)139.32	(-)56
12.	Medical & Public Health	60.34	41.33	(-) 19.01	(-)31
13.	Forestry & Wild Life	20.35	22.07	(+) 1.72	8
14.	Education, Sports, Arts & Culture	24.20	32.28	(+) 8.08	33
15.	Police	40.00	29.33	(-) 10.67	(-)27
16.	Public Works	14.00	25.98	(+)11.98	86
17.	Miscellaneous General Services	52.60	136.55	(+)83.95	160

* The huge variation under the head "Interest Receipts" is due to Budget Estimate being prepared without taking into account interest receipts from multi-purpose river valley projects for which adjustments are carried out annually.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1997-98, 1998-99 and 1999-2000 alongwith the relevant all India average percentage of expenditure on collection to gross collections for 1998-99 are given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to collection	All India average (percentage for the year 1998-99)
1	Sales Tax	1997-98	4402.39	41.05	0.93	1.40
		1998-99	4795.84	56.98	1.18	
		1999-2000	5134.47	58.62	1.14	
2	Stamp Duty and Registration Fees	1997-98	411.01	14.16	3.44	5.45
		1998-99	506.23	20.96	4.14	
		1999-2000	522.38	19.22	3.67	
3	Taxes on Vehicles and Goods and Passenger	1997-98	395.99	12.82	3.23	3.22
		1998-99	460.21	20.35	4.42	
		1999-2000	690.58	59.93	8.67	
4	State Excise	1997-98	24.35	3.51	14.41	3.25
		1998-99	27.25	4.57	16.77	
		1999-2000	32.02	4.31	13.46	

(i) Increase in the expenditure under the head "Taxes on Vehicles" during 1999-2000 is due to modernising the department by computerisation, introducing smart card driving licence scheme, automatic computerisation of weigh bridge in the inter-state checkposts and software designing etc.

(ii) Percentage of expenditure is more when compared to collection in "State Excise" mainly due to expenses of police personnel engaged in implementing prohibition and also propaganda expenses for enforcing prohibition in the State.

1.5 Arrears of revenue

As on 31 March 2000 arrears of revenue under principal heads of revenue, as reported by the departments were as given below:

(Rupees in lakh)

Sl. No	Heads of Revenue	Arrears pending collection	Arrears more than five years old	Remarks
1	2	3	4	5
1	Sales Tax	340306.00	31343.00	Out of arrears of Rs.340306.00 lakh, Rs.4579.00 lakh were due to demand covered by recovery certificates, Rs.2088.19 lakh were due to stay granted by judicial authorities, Rs.6919 lakh were due to dealers being insolvent, Rs.9902 lakh were to be written

				off and Rs.1100 87 lakh were due to other reasons.
2	Motor Vehicles Tax	1625.26	667.60	Out of Rs.1625.26 lakh, Rs.499.66 lakh were due to demand covered by recovery certificates, Rs.2.56 lakh were due to stay granted by High Court and other judicial authorities and Rs.1123.04 lakh were due to other reasons.
3	Profession Tax	2238.55	1411.40	Arrears of Rs.2238.55 lakh were due to demand covered by recovery certificates.
4	Goods and Passenger Tax	347.54	245.77	Out of Rs.347.54 lakh, Rs.125.06 lakh were due to demand covered by recovery certificates, Rs.1.37 lakh were pending due to stay granted by High Court and other judicial authorities and Rs.221.11 lakh were due to other reasons.
5	Entertain-ments Tax	531.11	175.48	No specific reasons were given by the department.
6	Luxury Tax	179.53	-	No specific reasons were given by the department.
7	Electricity Duty	1392.00	1392.00	The arrears of Rs.13.92 crore are to be recovered from Baroda Municipal Corporation.
8	Interest Receipts	57698.00	8019.00	No specific reasons were given by the department.
9	Irrigation	8200.00	N.A.	No specific reasons were given by the department.
10	Stamps	402.50	4.78	Due to appeals pending in courts and High Courts.

1.6 Arrears in Sales Tax assessments

The number of cases due for assessment, number of assessments completed during the year and the number of assessments pending at the end of the year under report with corresponding figures of the year 1998-99 are as under:

	1998-99	1999-2000
(a) Number of assessments due for completion during the year		
Arrear cases	2196664	1638681
Current cases	458221	798294
Remand cases	156	837

Total	2655041	2437812
(b) Number of assessments completed during the year		
Arrear cases	886603	472125
Current cases	129696	153776
Remand cases	61	36
Total	1016360	625937
(c) Number of assessments pending finalisation as at the end of the year		
Arrear cases	1310061	1166556
Current cases	328525	644518
Remand cases	95	801
Total	1638681	1811875
(d) Yearwise break-up of pending cases is as under		
Up to 1995-96	773171	655541
1996-97	273458	215637
1997-98	493753	315551
1998-99	98299	503247
1999-2000		121899
Total	1638681	1811875

The above table shows that during the year, out of 1638681 arrear cases only 28.81 per cent cases were assessed and out of 798294 current cases only 19.26 per cent cases were assessed. As on 31 March 2000, 1811875 cases were pending for assessment, out of which 153215 cases involved turnover of over Rs.50 lakh but not exceeding one crore and 82423 cases involved turnover of over Rs.1 crore and above in each case.

Though the system of deemed assessment (Summary assessments) was introduced in November 1991 as per recommendations of the Sales Tax Study Team (Subba Rao Committee-October 1990), there was no significant improvement in the clearance of arrear cases. The recommendations of the Committee regarding clearance of the pending assessments within one year of the closure of accounting year are yet to be implemented.

The assessment is in arrears mainly due to shortage of staff. As against the requirement of staff of 645, in the cadres of Assistant Commissioner and Sales Tax Officer class I and II, for the assessment of sales tax cases, 507 posts only have been filled in leaving 21 percent posts in the above cadres vacant. Since Sales Tax is the major revenue of the State, Government may consider filling up the vacancies if necessary, by diverting staff from other departments.

1.7 Internal Audit

The Internal Audit in Sales Tax Department was constituted in May 1960. During 1999-2000, assessments of 351 cases were revised at the instance of internal audit and additional demands of Rs.401.25 lakh were raised.

Internal Audit was constituted in Entertainments Tax Department in February 1989 and in Motor Vehicles Tax Department in April 1992. During 1999-2000, 117 objections were pointed out by internal audit wing of Entertainments Tax Department and additional demands of Rs.50.41 lakh were raised. Information regarding additional demands raised as a result of internal audit, though called for in April 2000, has not been furnished by Motor Vehicles Tax Department (July 2000).

1.8 Frauds and evasion of taxes

The details of cases of fraud and evasion of taxes pending at the beginning of the year, number of cases detected during the year and assessments/investigations completed during the year and the number of cases pending finalisation at the end of March 2000 as supplied by the respective departments are given below :

Sl. No.	Heads of revenue	Cases pending as on 31 March 1999	Cases detected during 1999-2000	Number of cases in which assessments/investigations completed and demand raised		Number of cases pending as on 31 March 2000
				No. of cases	Amount of demand (Rs. in lakh)	
1	Sales Tax	993	759	778	2.12	974
2	Entertainments Tax	4	--	--	--	4
3	Stamp Duty and Registration fees	562616	168007	186286	8502.97	544337
4	Taxes on Vehicles	310	--	2	0.02	308
5	Luxury Tax	39	39	66	158.06	12

1.9 Results of audit

Test check of records of Sales Tax, Land Revenue, Motor Vehicles tax and other departmental offices conducted during the year 1999-2000 revealed under-assessments/short levy/loss of revenue aggregating Rs.125753.76 lakh in 1365 cases. During the year the concerned departments accepted under-assessments etc. of Rs.787.81 lakh (831 cases) and recovered Rs.745.55 lakh (598 cases), of which Rs.7.30 lakh (40 cases) were pointed out during 1999-2000 and the rest in earlier years.

This Report contains 43 paragraphs including two reviews involving Rs.1188.45 crore which illustrate some of the major points noticed in audit. Of these, the departments accepted audit observations amounting to Rs.63.82 crore and recovered Rs.16.76 crore. The departments did not accept audit observations involving an amount of Rs.0.64 crore but their contentions were found to be at variance with the facts or legal position. These have been commented upon in the relevant paragraphs.

1.10 Outstanding inspection reports and audit observations

(i) Audit observations on assessments, collection and accounting of receipts and defects noticed during local audit are communicated to the heads of offices and the departmental authorities through audit inspection reports. More important irregularities are also reported to the heads of departments and to the Government.

The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 1999, which were pending for settlement by the departments as on 30 June 2000 alongwith corresponding figures for the preceding two years are given below:

	As at the end of June		
	1998	1999	2000
Number of outstanding Inspection Reports	2572.00	2953.00	3303.00
Number of outstanding audit observations	7606.00	8396.00	8600.00
Amount of receipts involved (Rs. in crore)	355.93	558.27	872.69

The departments (Revenue, Information, Broadcasting and Tourism, Finance, Home, Industries and Mines and Forest department) have not even furnished first replies in respect of 199 Inspection Reports issued during 1999 involving revenue of Rs.67.07 crore.

Yearwise break-up of the outstanding Inspection Reports and audit observations as on 30 June 2000 is as given below:

Year in which Inspection Reports were issued	Number of outstanding		Amount of receipts involved (Rupees in crore)
	Inspection Reports	Audit observations	
Upto 1996-97	1795	5316	459.96
1997-98	595	1326	105.44
1998-99	523	1073	167.03
1999-2000	390	885	140.26
Total	3303	8600	872.69

The above position was brought to notice of Secretaries to Government in the concerned departments from time to time.

CHAPTER-II**SALES TAX****2.1 Results of Audit**

Test check of assessment records in various sales tax offices conducted in audit during the year 1999-2000 revealed under assessment of Rs.74335.52 lakh in 442 cases which broadly fall under the following categories:

(Rupees in lakh)			
Sl. No.	Category	No. of cases	Amount
1	Incorrect rate of tax and mistakes in computation	87	747.71
2	Incorrect grant of set off	73	153.76
3	Incorrect concession/exemption	43	601.73
4	Short levy of interest and penalty	89	168.97
5	Other irregularities	149	1271.35
6	Review on sales tax incentive to new industries	1	71392.00
	Total	442	74335.52

During the year 1999-2000, the department accepted under assessment of Rs.84.35 lakh in 354 cases and recovered Rs.66.25 lakh in 224 cases, of which 28 cases involving Rs.3 lakh were pointed out during the year 1999-2000 and the rest in earlier years. A few illustrative cases involving important audit observations and the results of review on "Sales Tax Incentive to New Industries" involving Rs.73132.55 lakh are given in the following paragraphs.

2.2 Sales Tax Incentives to New Industries**2.2.1 Introduction**

To secure balanced development of industry in the State through accelerated pace of industrial development of the less developed areas and to promote growth of industry away from the cities and for creation of large scale employment opportunities, the Government introduced sales tax incentive schemes for new industries from time to time. Under the schemes, the eligible unit is either allowed to enjoy exemption from payment of tax or allowed to defer the payment of tax collected for a prescribed period.

2.2.2 Organisational set up

The incentive schemes based on certificate of eligibility issued by the Commissioner of Industries/Commissioner of Electricity are implemented by the Commissioner of Sales Tax through his departmental officers. With effect from 11 November 1998, a new post of Deputy Commissioner of Sales Tax

(Incentive) has been created in the Sales Tax Department to monitor the various incentive schemes implemented by the department.

2.2.3 Scope of Audit

With a view to examine whether the schemes were implemented efficiently and effectively, records in the Offices of the Commissioner of Industries and the Commissioner of Electricity alongwith 9* out of 24 District Industries Centres, 12# out of 40 offices of the Assistant Commissioners of Sales Tax and 23\$ out of 139 Sales Tax Divisions were test checked in audit during the period from October 1999 to March 2000. The errors in application of law and violation of rules and other procedural lapses detected have been highlighted in the review.

2.2.4 Highlights

(i) 20162 assessments involving tax exemptions of Rs.807.11 crore, 5001 assessments involving tax deferment of Rs.333.43 crore and 276 assessments involving composite benefits of Rs.2086.83 crore were pending at the end of March 2000.

(Para 2.2.6(3))

(ii) A manufacturing unit at Surat which was granted ad-hoc benefit of Rs.300 crore failed to fulfil the condition of local employment even after six years from the commencement of production.

(Para 2.2.7(A)(I)(i))

(iii) A passenger car manufacturing unit at Halol was incorrectly allowed the status of prestigious unit, resulting in excess grant of composite benefit of Rs. 128.98 crore.

(Para 2.2.7(A)(2)(i)&(ii))

(iv) Due to incorrect computation of fixed capital investment, a unit at Hazira was given inadmissible benefit of Rs. 212.88 crore.

(Para 2.2.7(B)(i))

(v) Due to incorrect settlement of Government dues outside the court, 2 cement units were given unintended relief of Rs. 39.81 crore in interest against the codal provision.

(Para 2.2.7 (B)(ii))

(vi) Though 7 wind farms had not satisfied the condition of "running satisfactorily" for six years, the benefit of Rs. 6.17 crore granted had not been withdrawn.

(Para 2.2.8(1))

* Ahmedabad, Anand, Bharuch, Gandhinagar, Junagadh, Mehsana, Surat, Vadodara and Valsad.

2 of Surat and 1 each of Ahmedabad, Anand, Ankleshwar, Bharuch, Gandhinagar, Junagadh, Mehsana, Vadodara, Valsad and Vapi.

\$ 3 of Ahmedabad and Vapi, 2 each of Anand, Ankleshwar, Bharuch, Junagadh, Surat, Vadodara and 1 each of Gandhinagar, Kadi, Kalol, Mehsana and Valsad.

2.2.5 System and procedure for granting Sales Tax Incentives

Based on the provisions contained in the Government Resolutions issued by the Industries and Mines Department, the Finance Department issues notification under Section 49(2) of the Gujarat Sales Tax Act, 1969 authorising exemption and/or deferment of tax to the units concerned. The Industries Commissioner executes the schemes by issue of registration and eligibility certificates to large industrial units and the District Industries Centre (DIC) to small and medium scale units, specifying the category of units, kind of goods to be manufactured, investment in fixed capital assets, percentage of benefit, quantum and nature of benefit and period of avilment of benefit etc. after detailed scrutiny of the proposals and after verifying the investment made in the fixed capital assets etc. The eligibility certificate issued by the Industries Department is final and Sales Tax Department is not empowered to make any change whatsoever. Further, in process of issue of eligibility certificates, the Commissioner of Industries and the General Manager of DIC have been vested with all the powers to deal with the various functions namely, verification of fixed capital assets, scrutiny of proposals received from different sectors, feasibility etc. Audit scrutiny revealed that due to lack of expertise to carry out multifarious examination, eligibility certificates were issued in many cases without adequate scrutiny resulting in incorrect grant of huge benefits to several units. As far as Wind Power Generation is concerned, an eligible industrial unit has to apply to the Commissioner of Electricity for eligibility certificate. The Commissioner of Electricity submits the application to State Level Committee (SLC) and on the basis of decision of the Committee, the Commissioner of Electricity issues eligibility certificate.

Based on these eligibility certificates, the Assistant Commissioner of Sales Tax issues exemption/deferment certificate as the case may be.

2.2.6 (1) Quantum of benefit sanctioned under various schemes

The Sales Tax Department did not have the schemewise consolidated figures of benefit sanctioned to various units under various schemes. In the absence of this vital information, the scheme-wise revenue forgone by Government by way of exemptions and deferment could not be arrived at. However, as per information made available by the Commissioner of Industries and Commissioner of Electricity, the amount of Sales Tax Incentives granted under various schemes as per eligibility certificates issued from 1993-94 to 1998-99 to various industrial units were as given below:

(Rupees in crore)

Year	Eligibility Certificates issued by Industries Department		Eligibility Certificates issued by the Commissioner of Electricity	
	No. of units	Amount of incentives	No. of units	Amount of incentives
1993-94	1547	342.29	--	--
1994-95	1351	731.90	17	20.05

1995-96	1169	520.17	29	46.43
1996-97	1406	1083.07	40	83.16
1997-98	1569	3044.90	47	92.52
1998-99	1422	2388.51	4	9.75
Total	8464	8110.84	137	251.91

(2) Implementation of the Scheme by the Sales Tax Department

Exemption/deferment certificates issued under the various sales tax incentive schemes between the period 1993-94 and 1998-99 were test checked from the records of 12 offices of the Assistant Commissioner of Sales Tax and 23 Sales Tax Divisions in 9 districts as mentioned below:

(Rupees in crore)

Sl. No.	District	Scheme of benefit under					
		Exemption		Deferment		Composite	
		No. of units	Amount	No. of units	Amount	No. of units	Amount
1	Gandhinagar (1998-99)	40	12.74	35	16.92	--	--
2	Mehsana	356	72.41	38	13.47	--	--
3	Valsad	42	22.80	20	26.55	--	--
4	Surat	741	286.04	13	13.92	12	2789.25
5	Bharuch	47	152.58	7	5.67	10	426.27
6	Vadodara	204	145.90	101	13.01	7	309.50
7	Anand (1998-99)	16	3.73	3	0.31	--	--
8	Junagadh	422	47.03	45	9.57	--	--
9	Ahmedabad (1998-99)	4	2.46	6	1.73	--	--
	Total	1872	745.69	268	101.15	29	3525.02

(3) Arrears in assessments

Instructions of Commissioner of Sales Tax (October 1984) to complete assessments of assesseees on priority basis, who enjoyed Sales Tax Incentives seemed to be ineffective.

20162 assessments involving tax exemption of Rs. 80711.38 lakh, 5001 assessments involving tax deferment of Rs. 33342.57 lakh and 276 assessments involving tax composite benefit of Rs. 208682.60 lakh were pending for final assessment as on 31 March 2000. The year-wise break up of the pending assessment cases is as follows:

(Rupees in lakh)

Period	Exemption		Deferment		Composite	
	No. of assessments	Amount	No. of assessments	Amount	No. of assessments	Amount
Upto 1993-94	3203	6903.89	1081	4303.12	26	11955.39
1994-95	2046	6104.84	552	2957.32	27	16880.74
1995-96	2980	10394.78	710	4644.34	40	26815.62
1996-97	3653	16776.06	821	7245.90	52	30638.49
1997-98	4073	20075.26	923	6991.42	63	45993.71
1998-99	4207	20456.55	914	7200.47	68	76398.65
Total	20162	80711.38	5001	33342.57	276	208682.60

2.2.7 Grant of eligibility certificates by the Commissioner of Industries

Incentive scheme of 1990-95

(A) Government introduced Incentive Scheme 1990-95 for pioneer units/prestigious units and modified schemes for prestigious units vide Industries, Mines and Energy Department Resolution Nos. 3 and 7 of October 1990 and 7-A of July 1991. As per this scheme, the units were eligible for 75-100 per cent of the investment in fixed capital such as plant and machinery, new building, land etc. as Sales Tax Incentive benefits for 8-14 years. The incentives were further subject to fulfilment of condition regarding minimum investment of Rs. 5 crore.

During the period 1993-94 to 1998-99, the Commissioner of Industries issued 177 eligibility certificates to large industrial units of which records pertaining to 126 eligibility certificates were test checked. A few illustrative cases where such conditions had been violated, are as under:

(I) Non-adherence of employment policy of Government

As per G.R[#] No. 7-A of July 1991, industrial units availing the benefit of Sales Tax Incentives had to fulfil the condition of local employment as per the policy of the Government of Gujarat which stipulates that a minimum of 80 per cent of all posts and 50 per cent of managerial/supervisory posts should be filled from local population. These minimum requirements were subsequently enhanced to 85 per cent and 60 per cent respectively by the Government from March 1995. The incentives availed by the units were to be recovered as arrears of land revenue if they failed to implement employment policy of the Government.

[#] Government Resolution.

(i) A manufacturer in sponge iron at Surat who started commercial production in February 1993 was granted ad-hoc benefit of Rs. 300 crore under composite scheme. The unit fully utilised the incentives amounting to Rs. 300 crore by the end of 1997. The unit did not fulfil the condition of local employment (November 1999) even after a lapse of 6 years though an affidavit was filed by the management of the unit giving an undertaking to comply with the condition on or before 31 March 1999. Though, for non-fulfilling the condition of local employment, the incentive granted to the unit was required to be withdrawn, no action was taken by the department.

(ii) A steel unit at Sayla (Surendranagar district) was granted ad-hoc benefit of sales tax exemption amounting to Rs. 10 crore. The unit did not fulfil the condition of local employment of 80 per cent. Further, the unit suspended the production from October 1997 due to insufficient working capital and was registered with Board of Industrial and Financial Reconstruction (BIFR) on 30 April 1998 after availing of the incentive benefits amounting to Rs. 4.39 crore (June 1998). Though the ad-hoc benefit of Rs. 10 crore granted to the unit was required to be withdrawn for not fulfilling the condition of local employment, no action was initiated by the department in this regard.

(2) Incorrect computation of investment in fixed capital

The units which had invested Rs. 300 crore or more were only eligible for incentive benefit at 90 per cent of the eligible fixed capital investment under the scheme. However, if capital investment was less than Rs. 300 crore, tax incentive benefit admissible was 25 per cent of the capital investment. The interest capitalised, pre-operative expenses etc. were not considered as fixed capital investment. Further, eligible fixed capital investment includes the expenditure incurred on new buildings only.

(i) A unit manufacturing passenger cars at Chadrapura (Panchmahal district) was granted (November 1999) permanent prestigious registration and was also issued eligibility certificate for composite benefit amounting to Rs. 169.02 crore. The unit had already availed of incentive benefits amounting to Rs.53.54 crore (March 2000) as per the returns filed with the sales tax authorities. Audit scrutiny revealed that the total investment of Rs. 313.90 crore as certified by the statutory auditor included an amount of Rs.43.96 crore incurred as pre-operative expenses which included interest and finance charges, management fees capitalised etc. and were not to be considered as fixed capital investment. Since the fixed capital investment of the unit was only Rs. 269.94 crore which was less than Rs. 300 crore, the unit was eligible for the composite benefit of only 25 per cent as against 90 per cent resulting in excess grant of benefit of Rs.122.07 crore.

On being pointed out, the department replied that as decided by State Level High Power Committee, the qualifying limit of Rs.300 crore for the prestigious unit is applicable to total investment in fixed capital. As such, the prestigious status granted to the unit was in order. Reply of department is not acceptable

as High Power Committee is not competent to relax the condition specified in the original scheme.

(ii) An expenditure of Rs. 7.68 crore (included in eligible fixed capital investment of Rs. 187.80 crore) was incurred by the unit for modification/alteration/addition etc. to the old factory building purchased from M/s. Hindustan Motors Ltd. Since the expenditure of Rs. 7.68 crore incurred by the unit was not for construction of new building, the entire expenditure was inadmissible for working out the eligible capital investment. The benefit of Rs. 6.91 crore granted to the unit was incorrect and required to be withdrawn.

(3) Incorrect incentives on component, spare parts and accessories

As per G.R No. 3 of October 1990, the eligible fixed capital investment includes investment in fixed capital on purchases of New Plant and Machinery. It was judicially held by the Supreme Court^S that components and spare parts are different from plant and machinery.

A unit manufacturing cotton and blended yarn at Halvad (Surendranagar district) was allowed sales tax exemption of Rs. 9 crore as a pioneer unit which was availed of by the unit by March 2000. Audit scrutiny revealed that the eligible fixed capital investment on plant and machinery included cost of components, spare parts and accessories etc. which cannot be considered as cost of plant and machinery. The expenditure incurred on said purchases by the unit was required to be ignored for working out the investment in fixed capital. Thus the unit was incorrectly allowed excess benefit of Rs. 4.50 crore.

(4) Incorrect benefit to sick unit

As a matter of financial prudence, the financial viability of the unit applying for incentive benefits should be assessed by the department before grant of final eligibility certificate.

A unit manufacturing sheet glass at Gavali, taluka Jhagadia, district Bharuch was granted ad-hoc eligibility certificate for Rs. 13 crore as a pioneer unit for the period from April 1994 to April 2000 under G.R No. 3 of October 1990. Though the unit became sick and was registered with BIFR[#] in 1998, the department had enhanced the quantum of composite incentive benefits to Rs.16 crore in March 1999 and also given the permanent pioneer status to the unit in August 1999. Since the unit became sick in 1998, the enhancement of the benefit to Rs.16 crore and grant of permanent pioneer registration to the unit in August 1999 were incorrect.

On this being pointed out, the department replied that the letter from Government for BIFR registration was received (March 1999) after the issue of eligibility certificate and that since the financial viability of the unit was

^S M/s Vithal Chhagan & Sons (17 STC P.96).

[#]Board of Industrial and Financial Reconstruction

checked by ICICI⁵ in September 1994, there is no need to check the same at every stage. Reply of the department is not tenable since the certificate issued on 8 March 1999 releasing the enhanced benefit of Rs.16 crore could have been withdrawn immediately on receipt of Government letter on 10 March 1999 intimating about the unit becoming sick. Further, permanent pioneer status given to the unit in August 1999 could have been avoided.

Incentive scheme of 1980-86

(B) Under the incentive scheme 1980-86* for pioneer units introduced by the Government in Industries, Mines and Power Department, the units are eligible for the sales tax incentive benefits at 50-90 per cent of the total investment in the fixed assets namely plant and machinery, land, building etc. for a period of 7-14 years. A few illustrative cases where the conditions laid down in the above scheme had been violated, are given below.

(i) Incorrect benefit on ineligible investment on fixed capital

The Government of Gujarat vide Resolution of June 1985 approved special incentives for pioneer units- Reliance Group for their Petrochemical Project at Hazira, Surat. As per the scheme, the unit was entitled to benefits of sales tax incentives upto 90 per cent of the investment in fixed assets. Valuation of fixed assets was to be done as per the instructions contained in Government Resolution of December 1977. According to the Government Resolution, while calculating the value of plant and machinery, the cost of plant and machinery erected at site including transport charges, insurance charges, erection cost etc. were only to be considered as an eligible expenditure for granting benefits of sales tax incentives.

The unit was granted final eligibility certificate for incentive benefits amounting to Rs. 1161.98 crore based on investment in fixed capital. The investments considered for grant of incentives included an expenditure of Rs.230.47 crore towards interest paid on term loans/debentures and Rs.6.06 crore of letter of credit charges as an eligible investment in fixed assets. Since the expenditure incurred on the above items cannot be considered as investment on fixed capital, the sales tax benefits granted to the unit based on such investment was not in order. This resulted in grant of excess composite benefit of Rs. 212.88 crore at 90 per cent of Rs. 236.53 crore to the unit.

The department replied (November 1999) that the contention of audit in similar cases which were earlier pointed out was brought to the notice of State Level Pioneer Committee (SLPC) but still the SLPC specifically approved these incentives. The reply was not tenable since the SLPC can not deviate from the conditions of eligibility prescribed in the Government Resolution.

⁵ Industrial Credit and Investment Corporation of India

* Vide Resolution No. INC-1580-1766/PPD of August 1980 and Resolution No. INC-1-1084-2130-I of June 1985 read with Resolution No. MSC-1076-7637 (1)-J of December 1977.

(ii) Incorrect settlement of Government dues

As per Section 47 (4A) of the Gujarat Sales Tax Act, 1969, interest at 24 per cent per annum is required to be levied for non/late payment of tax to Government.

Applications of two cement units viz. M/s. Saurashtra Cement Ltd. and Shree Digvijay Cement Co. Ltd. situated at Ranavav and Jamnagar respectively for the grant of Pioneer Registration were rejected (February 1986 and April 1988) by the Industries Department as the units did not fulfil the conditions stipulated for such registration. Both the cement units thereafter filed (June 1990 and January 1991) writ petitions in the Honourable High Court challenging the decision of the department.

Even before the matter was decided by the Honourable High Court, the unit at Ranavav (Junagadh district) approached (September 1992) the Government for an out of the court settlement. According to the agreement reached by the unit with the Government (September 1992), the unit was allowed to pay the tax arrears of Rs.51.32 crore in 12 instalments alongwith interest at 12 per cent per annum as against 24 per cent prescribed in the Act. The unit, though paid (between September 1992 and February 1998) the principal amount of Rs.51.32 crore, did not pay the interest even at the concessional rate as agreed and was in arrears of Rs. 20.54 crore on this account.

While the cases were pending in the High Court/Supreme Court, the other unit of Jamnagar approached the Government in December 1997 for an out of court settlement on the matter. Government **considered** the request and according to a settlement reached (November 1998) **both the parties** agreed to withdraw the pending court cases and the unit agreed to **pay** the arrears of Rs.49.40 crore in 12 instalments alongwith interest at the concessional rate of 9 per cent.

Allowance of concessional rate of interest of 12 and 9 per cent against 24 per cent in both cases in contravention / provisions of the Act *ibid* resulted in revenue loss of Rs.39.81 crore.

The matter was referred to Government in December 1999. The Government stated (May 2000) that the agreement was entered into with the units with a view to expedite recovery of Government dues which was held up for a long period due to litigation and in view of uncertainty of the outcome of litigation in favour of the Government. The views of the Government are not acceptable as the recovery of dues from these units related to tax collected from customers and retained by them without any authority. Further, rate of interest prescribed in the Act cannot be reduced by an executive decision.

(iii) Incorrect grant of benefit

Under Government Resolution of August 1980 as amended from time to time, an industrial unit will be eligible for sales tax incentives for a specified amount sanctioned by the competent authority based on the capital invested by the units on fixed assets.

A unit manufacturing plant and equipment and modules for nuclear power project, heavy water projects etc. at Choryasi taluka which was granted eligibility certificate for composite benefit of sales tax amounting to Rs. 29.74 crore on the basis of project cost availed of (March 1998) the entire benefit. Based on a request received from the unit to increase the eligible amount of composite benefit in view of increase in project cost, the Additional Industries Commissioner (Dev.) submitted a proposal to the SLPC[#] in January 1995 for revision of project cost in respect of building, electrification, site development etc. Though the SLPC approved (February 1995) the proposal for the revision of only building cost from Rs. 589.81 lakh to Rs. 1064.44 lakh, revised eligibility certificate was issued by the department including Rs.100.98 lakh towards increase in cost of electrification and site development. The benefit of Rs. 90.88 lakh being 90 per cent of Rs. 100.98 lakh allowed to the unit for these items was not in order and required withdrawal.

The department replied that the SLPC had discussed the revised cost of building and approved the same with other cost as per agenda note submitted. Reply of department is not acceptable as the SLPC had approved the proposal for revision of building cost only.

(C) Change of option

Under industrial policy of 1980-86, 1986-91 and 1990-95, an industrial unit was to apply for eligibility certificate alongwith a written option for deferment/exemption. The option once exercised is final.

Contrary to this condition, ten units were allowed (between February 1996 and November 1998) to change their option from exemption to deferment and vice versa. Such change of option from exemption to deferment was allowed incorrectly in respect of 3 units involving benefit of Rs. 30.48 lakh and 7 units involving benefit of Rs. 445.07 lakh from deferment to exemption.

The department stated (December 1999) in respect of one case that the change of option was allowed in view of the decision of SLC*. Reply of the department is not acceptable as the SLC* is not competent to permit the units to change their options once exercised.

2.2.8 Grant of eligibility certificate by Commissioner of Electricity

Under the incentive scheme for wind power generation introduced[§] by the Government in Energy and Petrochemicals Department, the units are eligible for sales tax incentive benefits at 50 per cent of the eligible investment as exemption/deferment/composite benefit for six years. The grant of incentive was subject to the condition that the units (i) keep the wind farm running satisfactorily at least for six years (ii) convey their options either for exemption

[#] State Level Pioneer Committee

^{*} State Level Committee

[§] Vide Resolution No. EDA-1092-M (I)-8(2)-E of January 1993 and No.EDA-1092-M(I)-8(2)-E of June 1994.

or for deferment or for composite benefits in writing which was not subject to any change (iii) specify the unit which would avail of the sales tax incentives and (iv) follow the employment policy of the State Government.

During the period 1993-94 to 1998-99, the Commissioner of Electricity had issued 137 eligibility certificates to various industrial units. Of these, records relating to 113 eligibility certificates granted to units were test checked. The major findings are mentioned below :

(1) Incorrect grant of benefit to wind farms not running satisfactorily

The term "running satisfactorily" has not been defined by the Government, it was decided by the State Level Committee that if average electricity generated by the wind farm per kilowatt of installed capacity over a period of six months is not less than 50 per cent it can be considered as running satisfactorily and that this limit of 50 per cent can be further relaxed by 10 per cent for indigenously developed Wind Turbine Generators.

As per the details given by the department, performance of 7 units was found not to be satisfactory between the period 1994-95 and 1997-98 with reference to norms prescribed by the State Level Committee, no action was taken by the Commissioner of Electricity to withdraw the benefit of Rs. 616.87 lakh granted (between October 1994 and June 1997) to these units. No reasons were advanced by the department for the poor performance of these units.

(2) Incorrect availment of deferment benefit

Under G.R of January 1993 of Energy and Petrochemicals Department, an industrial undertaking setting up a Wind Farm in the State is entitled to avail of either sales tax exemption or deferment or composite benefit. The option once exercised is final.

A unit at Anand was issued (October 1995) eligibility certificate for incentive benefit of Rs. 83 lakh which was amended (July 1996) to Rs. 89.97 lakh by the Commissioner of Electricity. The unit had opted in writing for entire benefit as sales tax exemption. The unit, however, availed of deferment benefit of Rs.75.14 lakh and exemption benefit of Rs. 14.79 lakh upto March 1997. Since the unit had opted only for exemption benefit under composite benefit scheme, the deferment benefit of Rs.75.14 lakh availed of by the unit was not in order.

On this being pointed out, Assistant Commissioner of Sales Tax replied that the unit had opted for composite benefit and as such, the unit was at liberty to enjoy either exemption or deferment or both. Reply of department is not acceptable as the eligibility certificate issued by the Commissioner of Electricity was as per the specific option exercised by the unit in writing.

(3) Incorrect benefit given on purchase of second hand wind farm

As per Condition No. 6 of Government Resolution of June 1994, any industrial undertaking setting up a wind farm in Gujarat will be permitted to nominate any individual unit of its own located in the State as a beneficiary for

the benefits under the scheme. There is no provision in the approved scheme to pass on the incentive benefits to the purchaser in the event of sale of the wind farm.

A unit at Ahmedabad had established (September 1993) wind farm and invested Rs. 3.21 crore in eligible fixed assets. This unit sold (December 1997) the wind farm to another unit in Ahmedabad and the entire sales tax benefit of Rs. 1.60 crore being 50 per cent of the eligible fixed capital investment of Rs.3.21 crore was availed of by the purchasing unit (March 1999). Since transfer of the incentive benefits was not permissible, the benefit of Rs. 1.60 crore passed on to the purchasing unit was required to be withdrawn.

The department replied that permission in this regard was granted by Government in February 1997. Reply of the department was not acceptable as it was against the provisions prescribed by Government in its Resolution of 1994.

2.2.9 Implementation of the scheme by the Sales Tax Department

(1) Non-levy of interest on deferred tax

Under different incentive schemes, the units which opt for deferment benefit are allowed to collect and retain the tax and pay it after a specified period. This deferred amount was recoverable in six annual instalments after 12 years from the date of commencement of production. From June 1987, commencement of recovery was changed from 12 years to expiry of the relevant deferment period. This condition was further modified to commence the recovery from the year in which the unit reaches the maximum limits of incentive granted to it or after the expiry of the relevant period of benefit granted whichever is earlier. As per the scheme, interest at the rate of 24 per cent per annum is leviable when the deferred tax is not paid as per the period specified in the scheme.

During test check of records it was noticed that 7 units had either not repaid the instalments of deferred tax or paid only part of the tax on which interest of Rs.55.60 lakh though leviable, was not levied as detailed below :

(Rupees in lakh)

Sl. No	Location	Industrial policy	Amount of instalment payable	Due date of payment	Amount of instalment paid	Actual date of payment	Interest leviable
1	Kadi	1990-95	(i)22.16	30 May 1996	22.16	Between January & April 1997	10.30
			(ii)66.48	30 May 1997,1998 & 1999	-----		23.93
2	Kadi	1990-95	(i)18.59	30 May 1997	18.59	Between Dec.1998 & July 1999	4.01
			(ii)37.18	30 May 1998 &1999	-----		7.81
3	Vapi	1986-91	6.05	30 May 1997,1998 & 1999	-----	-----	2.30

4	Vapi	1986-91	(i)3.80	30 May 1997	0.50	7 September 1998	2.27
			(ii)3.80	30 May 1998 & 1999	-----	-----	1.98
5	Vapi	1986-91	(i)6.67	30 May 1996	9.62	March & April 1996	-----
			(ii)6.67	30 May 1998	2.96	April 1996	0.96
			(iii)6.67	30 May 1999	-----	-----	0.41
6	Vapi	1980-86	3.34	30 May 1998 & 1999	-----	-----	0.87
7	Valsad	1980-86	(i)41.60	Between 30 May 1995 & 1999	39.75	Between 30 May 1995 & 1999	0.47
		1986-91	(ii)14.36	30 May 1998 & 1999	14.36	June 1998 & 1999	0.29
Total							55.60

2) Defective maintenance of register

To monitor the progress of exemption/deferment benefits availed by the units as per returns and assessments and to monitor excess availment of benefit, if any, and recovery of deferred tax on due date, departmental instructions prescribe maintenance of Register No. 55 and 56.

It was noticed that none of the sales tax divisions, except one at Valsad, had maintained such registers in prescribed form. Further, necessary details like return figures, assessment figures, due date and amount of instalment of deferred tax and payment thereof etc. were not recorded in the registers. The entries made in the registers were also not authenticated by the sales tax officers. In absence of these details, benefits availed of and effectiveness of recovery of dues etc. could not be known.

The result of review was communicated to the department and Government in May 2000. Their replies have not been received (June 2000).

2.3 Incorrect grant of exemption under incentive schemes

(A) Under the sales tax incentive schemes, the goods manufactured by an eligible unit are to be sold within the State. In the event of transfer of the manufactured goods by an eligible unit to its branch or to the place of business of its agent outside the State, 4 per cent of the sale price of the goods so transferred is to be adjusted against the total tax exemption limit admissible.

During test check of records of Sales Tax Office Ahmedabad, Godhra and Nadiad and a review conducted (December 1999) in Sales Tax Office Mehsana and Kadi, it was noticed (between October 1998 and September 1999) in the assessment of 5 dealers for the periods between 1991-92 and 1995-96 (finalised between January 1995 and May 1998) that though the dealers had consigned/transferred the manufactured goods worth Rs.7681.55 lakh to their branches outside the State, 4 percent of the sale price of the goods

so transferred was not adjusted against the ceiling limit. This resulted in short adjustment of Rs.308.07 lakh.

The above cases were pointed out to the department between January 1999 and November 1999 and reported to Government in February 2000; their replies have not been received (July 2000).

(B) Under the scheme, an eligible unit is allowed to avail the benefit of sales tax exemption for a specified amount for a specified period in purchases and sales of goods manufactured by him. The tax so saved is adjusted against the total tax exemption admissible based on the capital invested. Further, sales tax exemption admissible in respect of expansion is to be restricted to additionally manufactured goods.

During test check of records of Sales Tax Offices of Nadiad, Surat and Vadodara, it was noticed (between November 1998 and 1999) in the assessment of 12 dealers for the periods between 1991-92 and 1996-97, (finalised between June 1995 and November 1998) that as against admissible tax exemption of Rs.0.68 lakh on the additionally manufactured goods, exemption on entire goods manufactured was incorrectly allowed in one case, tax of Rs.0.27 lakh payable on sale of old machinery was incorrectly adjusted against the total tax exemption limit in another case and excess exemption of Rs.29.63 lakh over and above the total tax exemption limit was incorrectly allowed in 10 cases. This resulted in excess grant of incentive benefit of Rs. 33.71 lakh.

(C) According to sales tax incentive scheme, the eligible units are permitted to purchase raw materials after paying tax at the rate of 0.25 per cent and the balance of tax saved on purchases is calculated with reference to different rates as laid down in the Schedules to the Act and adjusted against the ceiling limit. Similarly tax saved on sale of manufactured goods is also adjusted against the ceiling limit.

During test check of records of 7* sales tax offices, it was noticed (between November 1998 and September 1999) in the assessment of 7 dealers for the periods between 1990-91 and 1995-96 (finalised between June 1997 and March 1999) that tax saved on purchases valued at Rs.76.30 lakh against declarations was not adjusted against the tax exemption limit in 2 cases, tax was calculated at incorrect rate on purchases of raw materials (valued at Rs.253.89 lakh) in 3 cases and on sales of oxygen and reprocessed grinders (valued at Rs.32.63 lakh) in 2 cases. This resulted in short levy of tax of Rs.22.57 lakh.

(D) Under the scheme, an eligible unit is not entitled to purchase goods without payment of tax. He is also not entitled to deductions on sales made against any of the prescribed certificates. Royalty paid on purchases and recovered on sales of minerals excavated from mining lease is part of purchase/sale price and liable to tax.

* 2 of Bhavnagar and 1 each of Ankleshwar, Godhra, Surat, Vapi and Vyara.

During test check of records of 4[#] Sales Tax Offices, it was noticed (between January 1990 and December 1999) in the assessments of 4 manufacturers, for the periods between 1984-85 and 1995-96 (finalised between September 1988 and April 1998), who were holding exemption/deferment certificates that the benefit of deductions on sales of manufactured goods valued at Rs.13.89 lakh were allowed to 2 dealers on various declarations and royalty paid on purchases of stones valued at Rs.64.33 lakh and sales of marbles valued at Rs.12.15 lakh were not included in the cost/sale price. This resulted in short adjustment of tax of Rs.13 lakh against their tax exemption limit.

(E) Under the scheme, the units are eligible for the benefit of exemption or deferment of tax only in respect of goods manufactured by the units for which eligibility certificate is issued by Industries Department and in respect of specified processes. The process of repacking of any goods is specifically excluded from the incentive schemes.

During test check of records of 3* Sales Tax Offices, it was noticed (between June 1994 and July 1999) in the assessment of 3 dealers for the periods between 1991-92 and 1997-98 (finalised between September 1993 and February 1998) that the benefit of incentive was incorrectly granted to one dealer in respect of the product which was not included in the eligibility certificate and the benefit was incorrectly allowed to another two dealers in respect of processes of repacking of tea (not eligible for the benefit) and for repairing of transformer (not a manufacturing process). This resulted in excess grant of exemption of Rs.5.49 lakh.

2.4 Non recovery of deferred tax

Under the deferment schemes, an eligible unit collects the tax on sale of its products and retains the tax so collected for a prescribed period and after that period pays it to Government in prescribed annual instalments. If the manufacturer discontinues the commercial production at any time within the period of deferment for a period exceeding 12 months, entire amount of tax deferred is recoverable within a period of 60 days from the date of expiry of aforesaid period of 12 months.

During test check of records of Sales Tax Office Vadodara and Veraval, it was noticed (April 1994 and July 1999) in the case of 4 dealers that the units were either closed or had stopped their commercial production for a period exceeding twelve months but recovery of deferred tax of Rs.135.38 lakh was not effected.

The above cases were pointed out to the department in March and October 1999. The department while accepting the above audit observation stated (December 1999) that claim for the recovery has been lodged with the recovery officer appointed by Bombay High Court in one case and recovery

Godhra, Navsari, Palanpur and Surat.
* Himatnagar, Surendranagar and Vadodara.

proceedings have been initiated in the remaining 3 cases. Further progress has not been received.

This was reported to Government in March 2000; their reply has not been received (July 2000).

2.5 Non/short levy of purchase tax

(A) Under the Act, where a dealer purchases any taxable goods (other than declared goods) and uses them as raw materials in the manufacture of taxable goods, purchase tax at the prescribed rate is leviable. The purchase tax so levied can be claimed as refund under Rule 42E of Gujarat Sales Tax Rules, 1970, provided the manufactured goods are sold within the State and tax is paid on their sale.

During test check of records of 4* Sales Tax Offices and 2 Assistant Commissioner's Offices Junagadh and Valsad, it was noticed (between March 1994 and January 2000) in the assessment of 8 dealers for the periods between 1988-89 and 1997-98 (finalised between December 1992 and March 1999) that in 7 cases, the dealers had transferred 4 to 88 per cent of the manufactured goods to their branches or consigned outside the State and 1 dealer used 100 per cent of the raw material valued at Rs.9.83 lakh purchased by him in job work but purchase tax was either levied short or not levied. This resulted in non/short levy of tax of Rs.137.70 lakh.

The above cases were pointed out to the department between January 1999 and February 2000. The department accepted (July 1999) the audit observation involving an amount of Rs.7.05 lakh in one case and recovered the amount. Reply in respect of the remaining cases has not been received (July 2000).

This was reported to Government in March 2000; their reply has not been received (July 2000).

(B) According to entry 86 of notification issued under Section 49(2) of the Act, iron and steel of the type described in entry 5 of schedule II-A purchased against Form "LL" should be used in the manufacture of iron and steel of any other type described in the said entry for sale within the State. In the event of breach of recitals of declaration, purchase tax under Section 50 of the Act is leviable.

During test check of records of 5@ sales tax offices, it was noticed (between April 1995 and December 1999) in the assessment of 5 dealers, for the periods between 1991-92 and 1995-96 (finalised between August 1994 and March 1998) that the iron and steel valued at Rs.1092 lakh purchased against Forms LL was used by 3 dealers in the manufacture of goods falling under the same sub-entry under which the raw material purchased was falling and one dealer sold the manufactured goods outside the State. Further, deduction of purchases

* 3 of Vadodara and 1 of Nadiad

@ 2 of Rajkot and 1 each of Ahmedabad, Anand and Gondal.

made against Form "OO" from 15 October 1994 onwards was allowed in one case, though Form "OO" was abolished from 4 October 1994. For breach of recitals of declarations against Form "LL" in 4 cases and for allowing deduction against abolished form in one case, purchase tax of Rs.83.52 lakh, though leviable was not levied.

This was pointed out to the department between May 1996 and December 1998. The department accepted (March 2000) the audit observations in one case and raised the demand for Rs.8.62 lakh. The dealer has, however, obtained (February 1998) a stay against the recovery from the Gujarat Sales Tax Tribunal. Further, progress and reply in respect of remaining cases have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

(C) The tax on oil seeds is leviable in the hands of the last dealer who uses the oil seeds for extracting oil or sells otherwise than against declaration. Further, purchase tax under Section 15 is leviable on the goods purchased from unregistered dealers if these are not sold.

A mention was made in paragraph 2.5A of the Report of Comptroller and Auditor General of India for the year ended 31 March 1999; No.2 (Revenue Receipts) of Government of Gujarat regarding lacuna in the Act for not providing levy of purchase tax on cotton seeds obtained after ginning the unginning cotton resulting in loss of revenue to the State. Further, test check of records of 6* sales tax offices, it was noticed (between July 1998 and September 1999) in the assessment of 19 dealers for the periods between 1988-89 and 1996-97 (finalised between April 1995 and March 1999) that the dealers had purchased unginning cotton from farmers for ginning without payment of tax. The ginned cotton obtained was sold and the cotton seeds valued at Rs.611.70 lakh obtained from ginning were either used in the manufacture of oil or consigned outside the State. No tax on the oil seeds was levied under Section 19-B. This resulted in non levy of tax of Rs.63.76 lakh.

The above cases were pointed out to the department between December 1998 and 1999. The department did not agree with the audit observation stating that the dealers had neither purchased the oil seeds nor sold and hence no tax could be levied on the oil seeds under Section 19-B. The cotton seeds obtained by the dealers after ginning the unginning cotton are either sold locally or consigned/transferred to branches outside the State or used by themselves, in the manufacture of oil. Though tax on oil seeds (cotton seeds) gets recovered when seeds are sold locally, it escapes when utilised in other two processes due to lacuna in the Act.

This was reported to Government in March 2000; their reply has not been received (July 2000).

* 3 of Ahmedabad and 1 each of Himatnagar, Kadi and Surendranagar.

(D) Under the Act, tax is leviable at the rate of 4 per cent on sale or purchase of all kinds of oil seeds. The tax leviable on oil seeds other than ground nuts and pea nuts was reduced to 2 per cent from 2 December 1991 on purchases by an oil miller, if the oil seeds are used by him in the manufacture of edible oil for sale within the State.

During test check of records of Assistant Commissioner, Junagadh and 4[#] sales tax offices, it was noticed (between February 1999 and January 2000) in the assessment of 4 dealers for the periods between 1991-92 and 1995-96 (finalised between April 1994 and March 1999) that tax was levied at incorrect rate of 2 per cent as against 4 per cent leviable on purchases of oil seeds in 4 cases though 3 dealers had consigned 9 to 41 per cent of the oil extracted from the oil seeds, outside the State and one dealer had purchased the castor seeds valued at Rs.19.62 lakh prior to 2 December 1991. This resulted in short levy of purchase tax of Rs.32.26 lakh.

The above cases were pointed out to the department between July 1999 and February 2000. The department accepted (June 2000) the audit observation involving an amount of Rs.1.08 lakh in one case and raised the demand. Recovery details and reply in the remaining cases have not been received (July 2000).

This was reported to Government in March 2000; their reply has not been received (July 2000).

(E) Under the Act, a recognised dealer, on production of certificate in Form-19, can purchase goods other than prohibited goods without payment of tax for use in the manufacture of taxable goods for sale within the State. Similarly a licensed dealer, on production of certificate in Form 17-B, can purchase goods for resale in the same form in which the goods were purchased.

During test check of records of 6* Sales Tax Offices and Assistant Commissioner, Junagadh, it was noticed (between November 1993 and December 1999) in the assessment of 8 dealers for the periods between 1986-87 and 1997-98 (finalised between December 1992 and March 1999) that 7 dealers had purchased raw materials against Form-19 without payment of tax and used them in the manufacture of goods. Part of the manufactured goods valued at Rs.952.21 lakh was either consigned outside the State or the purchases were used in the process which does not amount to manufacture or were used in the manufacture of tax free goods in contravention of the conditions of Form-19. In another case, the dealer had purchased goods (Rai, Methi and Dhana) valued at Rs.37.11 lakh against Form-17B for re-selling in the same form but sold it after converting it into split form (Kuria). For breach of conditions of the declarations the dealers were liable to pay purchase tax. This resulted in non levy of purchase tax of Rs.32.82 lakh.

Gondal, Porbandar, Rajkot and Upleta.

* Bhavnagar, Gondal, Kalol, Navsari, Patan and Vadodara.

This was pointed out to the department between May 1996 and January 2000. The department accepted (February and November 1999) the audit observation involving an amount of Rs.3.53 lakh in 2 cases and raised (November 1999) an additional demand of Rs.3.17 lakh in one case. Recovery details and reply in the remaining cases have not been received (July 2000).

This was reported to Government in March 2000; their reply has not been received (July 2000).

2.6 Short levy of Central Sales Tax

Under Section 8(1) and 8(4) of Central Sales Tax Act, 1956, production of 'C' form is mandatory for availing the benefit of concessional rate of tax of 4 per cent or at the lower rate if a notification issued under Section 8(5) of the said Act provides so. In the event of failure to produce 'C' forms, tax shall be levied at twice the rate in respect of declared goods and at the rate of 10 per cent or at the rate applicable for such goods inside the State whichever is higher in respect of other goods.

During test check of records of Assistant Commissioner, Bhavnagar and Mehsana and 9* Sales Tax Offices, it was noticed (between September 1997 and December 1998) in the assessment of 13 dealers for the periods between December 1985 and 1996-97 (finalised between May 1993 and March 1999) on inter State sales valued at Rs.119.92 lakh in 7 cases tax was levied at concessional rate either without production of 'C' forms or on invalid 'C' forms issued by a local dealer of the State. Further, in 6 cases tax at concessional rate was levied on sales valued at Rs.1351.96 lakh of airconditioners, processed sized timber and re-rolled products without 'C' forms. This resulted in short levy of Rs.284.37 lakh.

The above cases were pointed out to the department between January 1998 and October 1999 and to Government in March 2000; their replies have not been received (July 2000).

2.7 Non levy of tax on specified sales

Under the Act, sales by transfer of right to use the goods viz. " Plant and Machinery" specified in Schedule III is chargeable to tax. According to the instruction issued by Commissioner of Sales Tax in December 1985, tax on specified sales of goods, viz. hiring charges of the goods fixed on the ground, is leviable if no stamp duty is paid on the lease deed of hiring.

During test check of records of Sales Tax Office, Gandhinagar, it was noticed (June 1994) in the assessment of 4 dealers for the periods 1990-91 and 1993-94 (finalised between April 1993 and November 1995) that income of Rs.1998.32 lakh, shown in the balance sheet of the dealer as income from hiring charges of storage tank was not subjected to tax though the storage tank

* 5 of Ahmedabad and 1 each of Anand, Dhoraji, Vadodara and Vapi.

being a "Plant" falling under the item "Plant and Machinery", tax was leviable as specified sale. This resulted in non-levy of tax of Rs.212.18 lakh.

The department did not accept the audit observation in one case stating that storage tank is fixed on the ground with sand and coal etc. and being immovable no tax is leviable. The department's reply is not acceptable in view of the above instructions issued by the Commissioner of Sales Tax in December 1985. Since no stamp duty was paid on the hiring of such goods as immovable properties, sales tax was leviable. Reply in respect of remaining cases has not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

2.8 Incorrect allowance of concessional rate of tax

Tax on various goods is leviable at the rate prescribed in the Schedules to the Act. The Government by issue of notifications under section 49(2) of the Act, may exempt any goods from payment of the whole or any part of the tax payable under the provisions of the Act.

During test check of records of Assistant Commissioner Ahmedabad and Surat and 17* Sales Tax Offices, it was noticed (between July 1992 and October 1999) in the assessment of 21 dealers for the periods between July 1987 and 1997-98 (finalised between September 1991 and February 1999) that sales valued at Rs.739.10 lakh of electrical oven, reprocessed granules, twine, medicine, solar water system, chemicals, wire, nails, wooden door, paper, radiator core, bulk drugs, artsilk yarn and stainless steel furniture etc. were incorrectly taxed at concessional rates though these sales were not eligible for the concessional rates. The incorrect application of concessional rate resulted in short levy of tax of Rs.117.58 lakh.

The above cases were pointed out to the department between December 1992 and January 2000. The department accepted (April 1998 and 2000) the audit observations involving an amount of Rs.4.45 lakh in 6 cases and recovered an amount of Rs.3.17 lakh in 4 cases. Reply in respect of remaining cases has not been received (July 2000).

This was reported to Government in April 2000, their reply has not been received (July 2000).

2.9 Non/short levy of turnover tax

Under Section 10 A of Gujarat Sales Tax Act, 1969, where the sales turnover of a dealer liable to pay tax, first exceeds Rs.50 lakh, the dealer is liable to pay turnover tax at prescribed rate on the turnover of sales of goods other than declared goods after allowing permissible deductions under the Act. From April 1993, sales made against various declarations and sales exempted from

* 11 of Ahmedabad, 2 of Surat and one each of Bhavnagar, Rajkot and Vadodara.

tax under Section 49, were excluded from the items of permissible deductions making such sales liable for levy of turnover tax. Further, while working out the liability and applicability of rate of turnover tax, the taxable sales turnover in aggregate of all the branches of the dealer within the State is to be considered.

During test check of records of offices of the 2 Assistant Commissioners and 23 Sales Tax Offices, it was noticed (between October 1998 and November 1999) in the assessment of 30 dealers for the periods between 1992-93 and 1996-97 (finalised between September 1996 and February 1999) that turnover tax was either not levied or levied at incorrect rate. This resulted in non-levy of turnover tax of Rs. 52.90 lakh as given below:

(Rupees in lakh)

Sr. No.	No. of dealers (location)	Assessment Year ----- (Month/Year of assessment)	Nature of irregularity	Taxable turnover	Short levy
1	7 dealers (2 of Surat and 1 each of Gandhinagar, Godhra, Navsari and Surendranagar)	1992-93 to 1996-97 ----- Between April 97 and February 99)	Turnover of sales of all the branches of the dealers was not considered for levy of turnover tax.	1856.31	27.89
2	6 dealers (4 of Ahmedabad and 1 each of Valsad and Vadodara.)	1993-94 to 1996-97 ----- Between September 1997 and October 1998	Sales made against declarations (Form 17 B, 19, 20 and 26, etc.) from April 1993 onwards were not included for working out the liability and levy of turnover tax.	836.54	8.85
3	6 dealers (2 each of Bhavnagar and Surendranagar and one each of Rajkot and Surat.)	1993-94 to 1997-98 ----- Between September 1997 and February 1999	Sales of goods exempted under Section 49(2) of the Act were incorrectly excluded from levy of turnover tax.	393.26	6.02
4	1 dealer (Ahmedabad)	1994-95 and 1995-96 ----- July 97	Though item "cast iron casting" was deleted from the list of items of permissible deductions from April 1994, turnover tax was not levied on the sales of such goods..	488.74	5.30
5	10 dealers (5 of Ahmedabad 3 of Surat and 1 each of Bhavnagar and Vadodara.)	1993-94 to 1996-97 ----- Between September 96 and December 98	Sales turnover of crimped yarn, advance licence, exim scrip, leasing income, etc. were either not included for levy of turnover tax or turnover tax was recovered at the incorrect rate.	924.38	4.84
	Total			4499.23	52.90

The above cases were pointed out to the department between January 1999 and 2000. The department accepted (between April 1999 and January 2000) the

audit observation involving an amount of Rs.18.11 lakh in 12 cases and recovered Rs. 12.73 lakh in 9 cases. Reply in the remaining cases has not been received (July 2000).

This was reported to Government in February 2000; their reply has not been received (July 2000).

2.10 Incorrect/excess grant of set-off

Under Rule 42 of Gujarat Sales Tax Rules 1970, a dealer, who has paid tax on the raw materials used in the manufacture of taxable goods, is allowed set-off at the rate applicable to the respective goods under the Act from the tax payable on the sale of manufactured goods provided tax is paid on its sale. Further, no set-off is admissible for tax paid on the purchase of "Prohibited goods" as defined in the State Act. As per the conditions prescribed under the Rules, 4 per cent of the sale price of the manufactured goods consigned/branch transferred outside the State is to be deducted from the set-off arrived at.

(i) During test check of records of 11* Sales Tax Offices, it was noticed (between August 1996 and November 1999) in the assessment of 12 dealers for the periods between 1979-80 and 1996-97 (finalised between September 1994 and March 1999) that though the dealers had transferred the manufactured goods to their branches outside the State, the set-off of 4 per cent of the sale price of the manufactured goods so transferred was not disallowed. This resulted in excess grant of set-off of Rs.34.72 lakh.

This was pointed out to the department between June 1999 and January 2000. The department accepted (March 2000) the audit observations involving an amount of Rs.9.42 lakh in three cases and recovered Rs.3.68 lakh in two cases. Further details of recovery and reply in the remaining cases have not been received (July 2000).

(ii) During test check of records of 10# Sales Tax Offices, it was noticed (between February 1998 and November 1999) in the assessment of 11 dealers for the periods between October 1987 and 1996-97 (finalised between July 1993 and February 1999) that set-off was incorrectly allowed on the purchases of prohibited goods like bearings, control panel, switches, c.i. castings, iron scraps, printed wrapper paper, labels, packing materials, winding wires and chemicals etc. This resulted in excess grant of set-off of Rs.21.04 lakh.

This was pointed out to the department between March 1999 and February 2000. The department accepted (October 1999) the audit observations involving an amount of Rs.1.02 lakh in two cases and recovered an amount of Rs.0.77 lakh. Further details of recovery of remaining amount and reply in the remaining cases have not been received (July 2000).

* 2 each of Ahmedabad and Rajkot and 1 each of Kalol, Nadiad, Navsari, Patan, Surat, Vadodara and Valsad.

3 of Ahmedabad, 2 of Valsad and 1 each of Anand, Bhavnagar, Rajkot, Surat, and Surendranagar.

(iii) During test check of records of 8^s Sales Tax Offices, it was noticed (between September 1998 and December 1999) in the assessment of 10 dealers for the periods between 1987-88 and 1997-98 (finalised between May 1992 and February 1999) that excess set-off was allowed due to incorrect application of rate of tax in 6 cases, excess carry forward of set-off in one case and set-off allowed on goods not connected with the manufacturing activity in 3 cases. This resulted in excess grant of set-off of Rs.7.33 lakh.

The above cases were pointed out to the department between December 1998 and February 2000. The department accepted (April 2000) the audit observation involving an amount of Rs.0.82 lakh in one case and recovered the amount. Reply in the remaining cases has not been received (July 2000).

This was reported to Government in March 2000, their reply has not been received (July 2000).

2.11 Non levy of penalty

(A) Under the provisions of Section 45(6) of Gujarat Sales Tax Act, 1969, where the amount of tax assessed or reassessed exceeds the amount of tax paid with the returns by a dealer by more than 25 per cent, there shall be levied on such dealer a penalty not exceeding one and one half times the difference.

During test check of records of 11[#] Sales Tax Offices, it was noticed (between December 1997 and February 2000) in 28 assessments of 17 dealers for the assessment periods between 1990-91 and 1995-96 (finalised between March 1994 and 1999) that though the difference between the tax of Rs. 185.91 lakh assessed and tax of Rs.74.28 lakh paid with the returns exceeded 25 per cent, no penalty was levied. In 6 cases the tax paid (Rs.16.15 lakh) by the dealers in lumpsum just before the assessment was incorrectly considered as paid with the returns for working out the liability for levy of penalty though the tax paid with the returns only was required to be considered. This resulted in non-levy of penalty of Rs.58.57 lakh.

The above cases were pointed out to the department between January 1998 and February 2000. The department accepted (April 2000) the audit observation involving an amount of Rs.1.53 lakh in one case and recovered Rs.0.15 lakh. In respect of remaining cases reply has not been received (July 2000).

This was reported to Government in March 2000, their reply has not been received (July 2000).

(B) Under the Central Sales Tax Act, 1956, a registered dealer can purchase goods against Form 'C' for resale, for use in manufacture, mining, generation and distribution of power and for packing of goods. In the event of breach of

^s 3 of Ahmedabad, 2 of valsad and 1 each of Porbandar, Surat and Visnagar.

[#] 2 of Ahmedabad and Surat and 1 each of Ankleshwar, Gondal, Jamnagar, Junagadh, Porbandar, Rajkot and Veraval.

recitals of Form 'C', the dealer is liable to pay penalty to the extent of a sum not exceeding one and half times of the tax avoided.

During test check of records of Sales Tax Office Bharuch, it was noticed (June 1997) in the assessment of a dealer (manufacturer of T.V.glass) for the period 1991-92 (finalised in June 1995) that purchases of steel, cement, electrical installations, furniture and fittings, office equipments and vehicles valued at Rs.264.65 lakh were incorrectly allowed against 'C' form though the items had no connection with his manufacture of T.V.glass. This resulted in non-levy of penalty of Rs.13.04 lakh being the amount of tax avoided.

This was pointed out to the department in August 1997 and to Government in April 2000; their replies have not been received (July 2000).

2.12 Incorrect determination of turnover

Under Section 2(29) of the Act, sale price is the amount of valuable consideration paid or payable to a dealer for any sale. Further, tax is leviable on the turnover of specified sales made by transfer of right to use any goods.

During test check of records of Assistant Commissioner, Bhavnagar and 5[#] Sales Tax Offices, it was noticed (between June 1996 and September 1999) in the assessment of 7 dealers for the periods between 1978-79 and 1995-96 (finalised between May 1995 and August 1998) that due to non-inclusion of certain charges in sales turnover, like transportation charges, sale proceeds of cars, trucks and refined raydo oil, additional amount received as damages for rejection of machinery sold and due to allowing transit loss at the rate of 1 per cent on purchases of coal and iron etc., the taxable turnovers of the dealers were determined less by Rs.311.07 lakh. This resulted in short levy of tax of Rs.23.55 lakh.

The above cases were pointed out to the department between September 1996 and 1999 and to Government in April 2000; their replies have not been received (July 2000).

2.13 Short levy of tax due to mis-classification of goods

Under the Act, tax is leviable at the rates as indicated in the Schedules to the Act, depending upon the classification of goods. However, where goods are not covered under any of the Schedules, general rate of tax applicable from time to time is leviable.

During test check of records of 9[@] Sales Tax Offices, it was noticed (between December 1994 and 1998) in the assessment of 9 dealers for the periods between 1990-91 and 1994-95 (finalised between December 1993 and June 1997) that inspite of specific decisions/orders available for classification, sales

[#] 4 of Ahmedabad and 1 of Jamnagar

[@] 3 of Ahmedabad and 1 each of Gondal, Himatnagar, Mehsana, Surat, Vadodara and Vapi

of various goods valued at Rs.187.91 lakh were misclassified. This resulted in short levy of tax of Rs.14.91 lakh.

The above cases were pointed out to the department between April 1996 and February 1999. The department accepted (April 1999 and January 2000) the audit observations involving an amount of Rs.1.70 lakh in 2 cases and recovered Rs.1.24 lakh in one case. Further details of recovery and reply in the remaining cases have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

2.14 Non/short levy of interest

Under the Act, if a dealer does not pay the amount of tax within the prescribed period, simple interest at the rate of 24 per cent per annum is leviable on the amount of the tax remaining unpaid for the period of default.

During test check of records of Assistant Commissioner Rajkot, Valsad and Gandhinagar and 5* sales tax offices, it was noticed (between July 1997 and September 1999) in the assessments of 10 dealers for the periods between 1989-90 and 1996-97 (finalised between May 1996 and March 1999) that interest amounting to Rs.10.89 lakh was either not levied or levied short on the amount of tax due and remained unpaid on the finalisation of the assessments.

The above cases were pointed out to the department between December 1998 and 1999. The department accepted (March 1999 and April 2000) the audit observations involving an amount of Rs.1.15 lakh in 3 cases and recovered the amount. Reply in respect of remaining cases has not been received (July 2000).

This was reported to Government in March 2000; their reply has not been received (July 2000).

2.15 Incorrect allowance of deduction

Under the Gujarat Sales Tax Act, 1969, the sales made on certain declarations are allowed without payment of tax subject to fulfilment of prescribed conditions. Such sales and purchases are deducted from the gross turnover to compute taxable turnover. Sales of prohibited** goods against declaration in Form 19 is not permissible.

During test check of records of Assistant Commissioner Valsad and Sales Tax Office Ahmedabad and Vadodara, it was noticed (between August 1995 and December 1999) in the assessment of 4 dealers for the periods between 1989-90 and 1994-95 (finalised during March 1994 and January 1998) that sales of prohibited goods viz. waste caustic liquor, panel control boxes and machinery

* Ahmedabad, Ankleshwar, Jamnagar, Kadi and Rajkot.

** Goods which are notified as prohibited for certain purposes.

parts valued at Rs.59.09 lakh made against declaration in Form 19 were incorrectly allowed as deductions from the sales turnover. This resulted in non-levy of tax of Rs.6.64 lakh.

This was pointed out to the department between May 1996 and February 2000. The department accepted (June 2000) the audit observation involving an amount of Rs.1.42 lakh in one case. Recovery details and reply in the remaining cases have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

2.16 Non levy of sales tax on works contract

Under the provisions of Sales Tax Act, 1969, any person responsible for paying specified sale price to a contractor, in respect of works contracts exceeding Rs.10 lakh shall deduct sales tax at the rate of 2 per cent of such payments and credit it to Government. Failure to deduct this amount shall render him liable to penalty for not exceeding 25 per cent of such amount.

During test check of records of 2* Public Works Divisional Offices it was noticed (between April and September 1999) that in 5 cases though the value of the works contracts exceeded Rs.10 lakh. sales tax amounting to Rs.14.55 lakh was not recovered while making payments of Rs.727.12 lakh between December 1997 and March 1999 to the contractors. This resulted in non-recovery of sales tax of Rs.14.55 lakh. Besides, penalty not exceeding 25 per cent of this amount is also leviable on Divisional Officers for not deducting sales tax from the payments made to the contractors.

This was pointed out to the department between April 1999 and February 2000. The department accepted (April 1999) the audit observation of Rs.3.02 lakh in four cases. Recovery details and reply in the remaining case have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

* Roads and Buildings Division Palanpur and Project Construction Division-4, Rajkot.

CHAPTER-III**LAND REVENUE****3.1 Results of Audit**

Test check of records in the offices of the Collectors, District Development Officers, Taluka Development Officers, District Inspectors of Land Records and City Survey Superintendents conducted in audit during the year 1999-2000, disclosed non/short recovery and loss of revenue amounting to Rs.1038.89 lakh in 188 cases. These cases broadly fall under the following categories:

(Rupees in lakh)			
Sr. No.	Categories	No. of cases	Amount
1	Non/short recovery of land revenue	3	12.50
2	Non/short recovery of occupancy price	9	201.92
3	Non-raising of demand for non agricultural assessment	76	260.17
4	Non-recovery of conversion tax	40	132.66
5	Other irregularities	60	431.64
	Total	188	1038.89

During the year 1999-2000, the department accepted under assessment amounting to Rs.55.63 lakh in 97 cases and recovered Rs.51.04 lakh in 82 cases. A few illustrative cases highlighting important audit observations involving Rs.493.11 lakh are given in the following paragraphs.

3.2 Non/short recovery of conversion tax

Under the Bombay Land Revenue Code(Code), 1879, as applicable to Gujarat, conversion tax is leviable on change in mode of use of the land from agricultural to non-agricultural purposes or from one non-agricultural purpose to another in respect of land situated in a city or town including its peripheral areas falling within one to five kilometres thereof. Different rates of conversion tax are prescribed for residential, industrial, commercial/other uses depending upon the population of the city/town. In case of Corporations, Boards, etc. no permission is required and conversion tax is leviable in the year in which land is acquired.

During test check of records of 20 Collectors and District/Taluka Development Offices[#], it was noticed (between February and November 1999) that in 56 cases, conversion tax for change in mode of use, though leviable, was either not levied or levied at incorrect rate on 58.64 lakh sq. mtrs. of land converted between April 1981 and March 1999. This resulted in non/short recovery of conversion tax amounting to Rs.146.15 lakh. A few illustrative cases are given below:

Sr. No.	Name of the Office	Area of land (sq.mts. in lakh)	No. of cases	Amount (Rs.in lakh)	Nature of irregularity
1	TDO Choryasi	24.59	4	58.62	Conversion tax was not levied for conversion of the lands from agricultural use to industrial/ residential use though the lands fall within the peripheral limits of 5 kms. of Surat city.
2	TDO Gandhinagar	7.98	7	33.84	Conversion tax was not levied for conversion of the lands from agricultural to commercial/ industrial/ residential purposes etc. though the lands fall within the peripheral limits of 5 kms. of Ahmedabad city.
3	TDO Viramgam	12.77	1	20.40	Conversion tax was not levied on agricultural land allotted to Sardar Sarovar Narmada Nigam Ltd. for commercial purpose.
4	TDO Rajkot	1.73	2	8.65	Thought the municipal limit of Rajkot city was extended, its peripheral area according to new limit was not notified.
5	DDO Vadodara	1.00	3	7.02	Conversion tax was levied only on built-up area of agricultural land converted for residential purpose, whereas it was leviable on entire land.

The above cases were pointed out to the department between April and December 1999. The department accepted the audit observation involving an amount of Rs.122.14 lakh in 23 cases and recovered Rs.0.31 lakh in one case. Recovery particulars and reply in the remaining cases have not been received (July 2000).

This was reported to Government in February 2000; their reply has not been received (July 2000).

3.3 Non/short recovery of non-agricultural assessment

Under the Code and Rules made thereunder, Land Revenue is payable at the

[#] Collector Bharuch & Nadiad, DDO Ahmedabad, Surendranagar & Vadodara, TDO Anand, Bhavnagar, Bhuj, Borsad, Choryasi, Dhrangadhra, Gandhinagar, Godhra, Palanpur, Radhanpur, Rajkot, Sidhpur, Songadh, Viramgam & Wadhvan.

prescribed rates on all lands unless specifically exempted from payment. For determining the rates of non-agricultural assessment (NAA), cities, towns and villages have been divided into five classes 'A' to 'E' according to population of the areas. Different rates depending on use of land are prescribed for each class of city/town/village. Peripheral areas falling within five kilometres of class 'A' city and one kilometre of class 'B' and 'C' town/village are classified along with respective cities and towns. Certain industrial and adjoining areas which are notified by the Government are also classified as class 'B' areas irrespective of the population of the concerned city.

During test check of records of 32 Taluka Offices of 16[#] districts and Mamlatdar Surat, it was noticed (between December 1996 and October 1999) that in 168 cases, land measuring 545.31 lakh sq.metres used for non-agricultural purposes during the periods between 1976-77 and 1998-99 by Gujarat Industrial Development Corporation (GIDC), Gujarat Electricity Board (GEB), Sardar Sarovar Narmada Nigam Ltd. (SSNNL), other Government/Semi-Government bodies/boards, companies and individuals etc. were either not assessed or assessed at incorrect rates which resulted in non/short recovery of non-agricultural assessment of Rs.146.52 lakh as given below :

(Rupees in lakh)

Sr. No.	Name of the Taluka	No. of cases	Area of land (Square metres in lakh)	Amount of N.A.A.	Nature of irregularity
1.	Choryasi, Jamkhambalia, Morbi, Nadiad, Palanpur, Vadodara and Viramgam	15	156.05	49.25	NAA was not levied on the entire land acquired and handed over to different corporations for non-agricultural purpose.
2.	Bharuch, Choryasi, Kalol and Waghodia	8	175.95	37.51	Though, these lands were notified by the Government as class 'B' for levy of land revenue, NAA was levied at pre-revised rates.
3.	Dhrangadhra, Gandhinagar, Keshod, Khambhat, Nadiad and Mamlatdar Surat	34	26.59	29.18	Non-agricultural assessment was not levied on land used for industrial and other purposes.
4.	Bharuch and Jafarabad	9	50.49	8.03	Though the land falls within the periphery of villages/towns NAA was not levied.
5.	Choryasi, Danta, Dwarka, Godhra,	39	71.37	7.82	Though villages/towns were required to be

[#] Ahmedabad, Amreli, Banaskantha, Bharuch, Bhavnagar, Gandhinagar, Jamnagar, Junagadh, Kheda, Mehsana, Panchmahal, Rajkot, Sabarkantha, Surendranagar, Surat & Vadodara.

	Rajkot and Valod				upgraded as per the latest census for the purpose of recovery of NAA, it was not done.
6.	Botad, Kadi, Khambhat, Khedbrahma, Mehsana, Sanand, Savli, Visnagar and Zalod	51	8.40	6.07	NAA was leviable at higher rate as per the use of the land but levied at lower rate.
7.	Bharuch, Modasa, Nadiad and Vadodara	6	43.07	4.94	Non-agricultural assessment was not recovered according to the purpose for which the land was used.
8.	Wadhwan	6	13.39	3.72	Though the city was classified as Class 'B', NAA continued to be recovered at the rate applicable to Class 'C'.
	Total	168	545.31	146.52	

The above cases were pointed out to the department between April 1997 and December 1999. The department accepted (January and December 1999) the audit observations involving an amount of Rs.111.90 lakh in 116 cases and recovered Rs.5.03 lakh in 3 cases. Recovery details and reply in the remaining cases have not been received (July 2000).

This was reported to the Government in March 2000; their reply has not been received (July 2000).

3.4 Transfer of ownership/title in records of rights without registration of documents under Registration Act

Under the Code, the Talati of a village is authorised to correct the village records by changing the ownership of the property on receipt of an intimation in writing from any person within 3 months of acquiring a property. Section 17 of the Registration Act, 1908 provides that registration of every document of sale, mortgage or lease of property of the value of Rs.100 or more is compulsory.

During test check of records of Mamlatdar, Songadh and 5* Taluka Development Offices, it was noticed (between December 1998 and September 1999) that 19 cases of transfer of properties worth Rs.1300.91 lakh, due to sale, dissolution of firms and mortgage etc., was carried out by the talaties during 1997-98 and 1998-99 in the village records of right by transfer/creating charge in favour of other persons. This was done on the basis of intimations received from them though no deeds were executed and registered for such

* Jamkambalia, Kalol (Mehsana), Mehmadaabad, Palanpur & Sanand

transfers. Non-inclusion of corresponding provision in Land Revenue Code making the production of registered documents as compulsory for carrying out corrections in the village records (though provision existed in Registration Act for compulsory registration of such documents) resulted in loss of revenue in the form of stamp duty and registration fees amounting to Rs.100.15 lakh.

This was pointed out to the department between April 1999 and December 1999 and reported to Government in February 2000; their replies have not been received (July 2000).

3.5 Non/short recovery of occupancy price

Under the Code, and Rules made thereunder, Government can dispose off available land to needy persons for any purpose on payment of occupancy price on such terms and conditions as may be specified by the Government. The occupancy price in respect of non agricultural land is to be determined by the Collector with reference to the value of land fixed by the Town Planner.

During test check of the records of Collector Rajkot, District Development Officer, Amreli and 2 Taluka Development Offices*, it was noticed (between April and September 1999) that land measuring 7.33 lakh sq.mts. was allotted (between November 1991 and May 1998) by the Collector to four units viz. Gujarat Electricity Board, (February 1994) Gujarat Water Supply and Sewerage Board, (December 1997) a Company (May 1998) and a Co-operative Mandali (November 1991) subject to payment of occupancy price. The occupancy price though recoverable before the allotment of land, it was yet to be recovered. This resulted in non/short recovery of occupancy price of Rs.84.91 lakh as detailed below:

Sr. no.	Name of the Taluka	Year of allotment	Area of land (Sq. mts. in lakh)	Amount of short levy (Rs. in lakh)	Nature of irregularity
1	Dhrangadhra	May 1998	0.88	43.76	Though the market value as determined by the town planner was Rs.150 per sq.mts., the land was allotted by the Collector to a cotton ginning factory at the rate of Rs.100 per sq. mts. without any speaking order for fixing the price at lower rate.
2	Rajkot	February 1994	0.05	33.93	Though possession of the land was handed over to Gujarat Electricity Board in February 1994, no action for the recovery of occupancy price was taken so far.
3	Radhanpur	November	6.39	4.66	The occupancy price

* Dhrangadhra and Radhanpur.

		1991			though recoverable, was yet to be fixed in respect of land allotted to Anujati Samuhik Agricul-tural Co-operative Mandali in November 1991.
4	Amreli	December 1997	0.01	2.56	No occupancy price was recovered from Gujarat Water Supply and Sewerage Board in respect of land allotted for residential purpose.
	Total		7.33	84.91	

The above cases were pointed out to the department between October and December 1999 and reported to Government in February 2000. Final reply of the department and the Government has not been received (July 2000).

3.6 Short recovery of premium

Government decided in July 1983 to permit the land holders, holding the land under the new and restricted tenure under Bombay Tenancy and Agricultural Lands Act, 1948, to convert their land into old tenure and to sell/transfer their land subject to payment of premium computed on the difference between the estimated sale price of the land and the occupancy price recovered at the time of allotment of land (difference on actual sale price to be made later). The rate of premium recoverable is based on the period for which the land was held and the purpose of use. The premium recoverable is 70 per cent of the difference when the land is converted for non-agricultural purpose and 50 per cent when converted for agricultural purpose.

During test check of records of Taluka Development Offices Chotila, Kamrej and Nadiad, it was noticed (between December 1998 and February 1999) in 6 cases that land measuring 1.28 lakh square metres held by agriculturists, under new and restricted tenure, was permitted to be converted into old tenure for non agricultural purposes in 5 cases and for agricultural purpose in one case, after payment of premium price but premium at prescribed rate of 70 per cent for non-agricultural use and 50 per cent for agricultural use was not recovered on the differential amount of sale price. This resulted in short levy of premium of Rs.15.38 lakh.

The above cases were pointed out to the department between February and October 1999. The department accepted the audit observation involving an amount of Rs.3.12 lakh in one case. Recovery particulars and reply in the remaining cases have not been received (July 2000).

This was reported to Government in February 2000; their reply has not been received.(July 2000).

CHAPTER-IV

TAXES ON VEHICLES

4.1 Results of Audit

Test check of records in the offices of the Commissioner of Transport, Regional Transport and Assistant Regional Transport Offices in the State, conducted in audit during the year 1999-2000, disclosed under assessments, etc. amounting to Rs.1642.28 lakh in 116 cases. These cases broadly fall under the following categories:

(Rupees in lakh)			
Sr. No.	Category	No. of cases	Amount
1	Short/non-levy of composite tax	41	882.43
2	Short/non-levy of motor vehicles tax	27	64.05
3	Other irregularities	48	695.80
	Total	116	1642.28

During the year 1999-2000, the department accepted and recovered an amount of Rs.150.36 lakh in 92 cases. Out of these, one case involving Rs.0.30 lakh was pointed out during the year 1999-2000 and the rest in earlier years. A few illustrative cases involving revenue of Rs.1218.32 lakh highlighting important observations are given in the following paragraphs.

4.2 Non/short levy of composite tax

Under the Bombay Motor Vehicles Tax Act, 1958 (Act) and Rules made thereunder, as applicable to Gujarat, an additional tax commonly known as composite tax is leviable in lieu of **passenger tax** with effect from 1 May 1982 on all omnibuses/ luxury buses exclusively used or kept for use as contract carriage in the State. According to the **Rules**, if a non-use declaration is filed by the operator in advance and is accepted by the taxation authority, no tax is payable for the period of non-use.

During test check of records of 16* taxation authorities, it was noticed (between June 1998 and October 1999) that operators of 629 omnibuses, who kept these vehicles for exclusive use as contract carriage, had neither paid the tax nor filed non-use declarations for various periods between April 1996 and March 1999. The tax recoverable in these cases worked out to Rs.646.92 lakh.

The above cases were pointed out to the department (between December 1998 and February 1999). The department accepted (between March 1999 and 2000)

* Ahmedabad, Amreli, Bhuj, Bharuch, Bhavnagar, Bardoli, Dahod, Godhra, Gandhinagar, Junagadh, Mehsana, Nadiad, Rajkot, Surendranagar, Surat and Vadodara.

the audit observations involving an amount of Rs.333.08 lakh in 407 cases and recovered an amount of Rs.89.49 lakh in 124 cases. Further details of recovery and reply in the remaining cases have not been received.(July 2000).

This was reported to Government in March 2000; their reply has not been received (July 2000).

4.3 Non recovery of motor vehicles tax

Under the Act, tax shall be levied and collected on all the motor vehicles used or kept for use in the State. The owner of a motor vehicle, who does not intend to use the vehicle or keeps it for use in the State but desires to avail of exemption from payment of tax, has to make a declaration accordingly within the period for which tax has been paid. Such a declaration is valid only till the end of the financial year in which it is made. The declaration of non use of vehicle is noted in the tax-index-cards and registration records after its acceptance by the taxation authority.

During test check of records of 20* taxation authorities, it was noticed (between January 1998 and December 1999) that in 721 cases, motor vehicles tax was not levied for various periods between July 1993 and February 2000 despite absence of any declaration regarding non-use of the vehicles. Non levy of motor vehicles tax in respect of these vehicles worked out to Rs.63.82 lakh.

This was pointed out to the department (between February 1998 and 2000). The department accepted (between August 1998 and June 2000) the audit observations involving an amount of Rs.54.05 lakh in 622 cases and recovered an amount of Rs.18.82 lakh in 194 cases. Details of recoveries and reply in the remaining cases have not been received. (July 2000).

This was reported to Government in March 2000; their reply has not been received. (July 2000).

4.4 Incorrect grant of concession in composition amount

Under Section 200 of the Motor Vehicles Act,1988, any offence committed, which is punishable under different Sections of the Act, can be compounded for such amount as the State Government may specify by notification in the official Gazette. The Government vide notification of 1994 as amended in 1996 has fixed the rate of composition amount for different types of offences punishable under different Sections of the Act.

During test check of records of Regional Transport Office Rajkot and Nadiad, it was noticed (between October and November 1999) in respect of 8083 cases of offences punishable under different Sections of the Act, finalised during March and April 1999, that composition amount was incorrectly levied at 50 per cent of the amount fixed by Government in 1996. The incorrect grant of

Ahmedabad, Amreli, Bardoli, Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhara, Himatnagar, Junagadh, Mehsana, Nadiad, Palanpur, Rajkot, Surendranagar, Surat, Vadodara, Valsad and Commissioner of Transport, Ahmedabad.

concession resulted in short recovery of composition amount of Rs.46.11 lakh.

On this being pointed out in October and November 1999, the department stated (May 2000) that recovery at 50 per cent of the specified amount was made as per decision taken in the Board meeting of the Regional Transport Authorities. The reply is not tenable as the rate notified by the Government under section 200 of the Act can be amended only by Government and not by transport authorities.

This was reported to Government in March 2000; their reply has not been received (July 2000).

4.5 Non recovery of motor vehicles tax due to inadequate action by departmental officials

Under the Act, if tax is not paid within 15 days of serving of notice of demand, the taxation authority is required to issue revenue recovery certificate to recover the tax as arrears of land revenue. The inspectors of motor vehicles department are empowered to stop vehicles and cause them to remain stationary till the tax is paid by the defaulters. The recovery officers can recover the dues by distraining and selling the movable/immovable properties of the defaulters and by arresting and sending the defaulter in prison etc.

During test check of records of 3* Regional Transport Offices, it was noticed (between April and October 1999) in 32 cases of defaulters that after issue (between March 1995 and October 1998) of notices of demand and R R C# no action was taken by the recovery officers to recover the dues by invoking provisions either to distrain and sell the movable/immovable properties of defaulters or by stopping these vehicles while checking on roads. The R R Cs issued to the mamlatdars for initiating recovery proceedings were returned by them in 21 cases as addresses shown in the certificates were incomplete/false. The inadequate action on the part of recovery/departmental officials resulted in non-recovery of tax of Rs.43.49 lakh for various periods between December 1994 and March 1999.

This was pointed out to the department between September 1999 and January 2000. The department accepted (December 1999) the audit observation involving an amount of Rs.28.48 lakh in 15 cases and recovered an amount of Rs.5.23 lakh in 7 cases. Details of recoveries and replies in the remaining cases have not been received (July 2000).

This was reported to Government in March 2000; their reply has not been received (July 2000).

* Bhavnagar, Nadiad and Vadodara.
Revenue Recovery Certificate.

4.6 Non/short levy of motor vehicles tax on non-transport vehicles

Under the Act, the State Government specified with effect from 1987, rates of one time (lump sum) motor vehicles tax leviable on all non-transport vehicles used or kept for use in the State whose unladen weight does not exceed 2250 kgs.

(i) During test check of records of 8* taxation authorities, it was noticed (between February 1998 and December 1999) that in respect of 82 non-transport vehicles one time tax was not levied at correct rate for the periods between 1996-97 and 1998-99. This resulted in short levy of motor vehicles tax of Rs.8.16 lakh.

The above cases were pointed out to the department between September 1998 and February 2000. The department accepted (between March 1999 and 2000) the audit observations involving Rs.8.16 lakh in all the 82 cases and recovered an amount of Rs.0.69 lakh in 11 cases. Recovery details in the remaining cases have not been received (July 2000).

This was reported to Government in (March 2000); their reply has not been received.(July 2000).

(ii) From 1 August 1995, the State Government specified rates of annual motor vehicles tax leviable on all non-transport vehicles fitted with equipments such as rigs, cranes, compressors etc. whose unladen weight exceeds 2250 Kgs.

During test check of records of 4# taxation authorities, it was noticed (between March 1998 and June 1999) that in respect of 20 vehicles fitted with equipments such as rigs/cranes/ compressors etc., motor vehicles tax was not levied at correct rate based on the unladen weight of the vehicles for the periods between 1996-97 and 1998-99. This resulted in short levy of motor vehicles tax of Rs.5.85 lakh.

The above cases were pointed out to the department between May 1998 and 1999. The department accepted (between May 1998 and March 2000) the audit observations involving Rs.5.85 lakh in all the 20 cases and recovered an amount of Rs.5.25 lakh in 13 cases. Recovery details in the remaining cases have not been received (July 2000).

This was reported to Government in March 2000; their reply has not been received (July 2000).

4.7 Incorrect grant of exemption

Under the Act,tax shall be levied and collected on all motor vehicles used or kept for use in the State unless specifically exempted from payment. Tractor-cum-trailers belonging to agriculturists and used solely for agricultural

* Ahmedabad, Bharuch, Dahod, Mehsana, Nadiad, Surat, Surendranagar and Vadodara.
Ahmedabad, Gandhinagar, Mehsana and Surat.

purposes are exempted from payment of tax. However, tractor-cum-trailers belonging to non-agriculturists are not exempted.

During test check of records of 6* taxation authorities, it was noticed (between March and October 1999) that in 123 cases, exemption from payment of tax was granted for the periods between January 1995 and November 1999 to tractor-cum-trailers belonging to non-agriculturists. The incorrect grant of exemption resulted in non-levy of motor vehicles tax of Rs.8.52 lakh.

The above cases were pointed out to the department between June 1999 and February 2000. The department accepted (June 1999) the audit observation involving an amount of Rs.0.45 lakh in 6 cases. Recovery details and reply in the remaining cases have not been received (July 2000).

This was reported to Government in March 2000; their reply has not been received.(July 2000).

4.8 Loss of revenue due to non levy of penalty

Under the Act, tax is to be paid in advance by every registered owner of the vehicle either annually or in monthly instalments alongwith a declaration duly signed in prescribed form indicating full particulars of the vehicle for which tax has been paid. For non-payment of tax in time penalty not exceeding 25 per cent of the tax due is chargeable. Further, there is no provision for the levy of interest for late payment of tax.

During test check of records of 4* taxation authorities, it was noticed (between April and November 1999) that in all the cases tax was paid by the vehicle owners after the due dates during the periods between 1996-97 and 1998-99, the delay ranged between 7 and 13 days. For non-payment of tax in time though penalty was chargeable, no penalty was charged. This resulted in non-levy of penalty not exceeding Rs.395.45 lakh.

This was pointed out to the department between October 1999 and February 2000 and to Government in March 2000; their replies have not been received (July 2000).

* Ahmedabad, Bardoli, Mehsana, Nadiad, Surendranagar and Vadodara.
* Bardoli, Nadiad, Rajkot and Vadodara.

CHAPTER-V

STAMP DUTY AND REGISTRATION FEES

5.1 Results of Audit

Test check of records in the registration offices and offices of the Collectors of Stamp duty (Valuation of Properties) in the State conducted in audit during the year 1999-2000 disclosed short realisation of stamp duty and registration fees amounting to Rs.3676.79 lakh in 307 cases, which broadly fall under the following categories:

(Rupees in lakh)			
Sr. No.	Category	No. of cases	Amount
1	Misclassification of documents	117	442.90
2	Under valuation of properties	18	273.97
3	Incorrect grant of exemption	11	26.44
4	Under assessment of stamp duty on instruments of mortgage deeds	22	639.25
5	Other irregularities	139	2294.23
	Total	307	3676.79

During the year 1999-2000, the department accepted under assessments of Rs.5.56 lakh in 29 cases and recovered Rs.2.30 lakh in 2 cases pertaining to earlier years. A few illustrative cases involving Rs.2409.38 lakh highlighting important audit observations are given in the following paragraphs.

5.2 Short levy of stamp duty and registration fees on instrument comprising several distinct matters

Under the Bombay Stamp Act, 1958 (Act) as applicable to Gujarat, any instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the duties for which such separate instrument would be chargeable under the Act.

(i) During test check of records of 7* Sub-Registrar Offices, it was noticed (between January and November 1999) that 34 documents of immovable properties valued at Rs.2046.13 lakh consisting of 32 conveyance deeds, one agreement and one partition deed were registered during 1997 and 1998. In the recitals of these documents, there were mentions of earlier transactions such as partitions, gift, mortgage and release of these properties, for which no

* 2 each of Ahmedabad and Mehsana and 1 each of Anand, Bharuch and Palanpur.

registrations were made. These documents were, therefore, chargeable to duty with the aggregate amount of duty including the duty chargeable on earlier transaction. This resulted in short levy of stamp duty and registration fees of Rs.614.68 lakh as detailed below :

(Rupees in lakh)

Sr. No.	Location	No. of documents	Value of property	Duty leviable	Duty levied	Short levy	Nature of irregularity
1.	Ahmedabad, Anand and Kalol	19	923.90	522.52	37.81	484.71	As per recitals, document consisted of conveyance and partition but duty was levied only as conveyance instead of aggregate duty of both.
2.	Kalol	1	865.93	94.07	1.18	92.89	Document of agreement and release was treated as agreement only.
3.	Visnagar	6	84.17	21.18	2.06	19.12	Documents relating to conveyance, partition and gift were levied to duty only as conveyance.
4.	Ahmedabad and Bharuch	2	73.67	17.35	8.68	8.67	Transaction relating to earlier conveyance (not registered) was not considered for the payment of duty.
5.	Palanpur	1	40.00	6.20	0.33	5.87	Document relating to conveyance and mortgage treated as title deed only.
6.	Ahmedabad	1	41.70	3.88	1.04	2.84	Document of gift and partition was treated as partition only.
7.	Kalol	4	16.76	1.16	0.58	0.58	Document of gift and conveyance were levied to duty as conveyance only.
	Total	34	2046.13	666.36	51.68	614.68	

This was pointed out to the department between September 1999 and February 2000 and reported to Government in March 2000; their replies have not been received (July 2000).

(ii) During test check of records of 16^s Sub-Registrar Offices, it was noticed (between September 1997 and December 1999) that 40 documents styled as agreement to sell between G S F C [#] and various entrepreneurs were registered between 1996 and 1998 and duty was levied accordingly. The recitals of these documents, however, revealed that the GSFC took over possession of the properties valued at Rs. 537.39 lakh of the industrial concerns which had defaulted in repayment of loans and disposed these off by auction to different industrial units. Part of the sale price was collected in cash and the balance treated as loan to be paid in instalments with interest. Since the property was transferred with possession to the purchaser, the documents were required to be classified as conveyance. Further, since the documents contained provisions creating by its own force a right or interest in the property to secure repayment of loan, the documents were also classifiable as mortgage deeds. As these documents contained two distinct matters viz. (i) mortgage and (ii) conveyance, aggregate stamp duty and registration fees applicable to mortgage and conveyance were leviable. The incorrect categorization for registration resulted in short levy of stamp duty and registration fees amounting to Rs.58.57 lakh.

This was pointed out to the department (between July 1998 and February 2000). The department accepted (March 1998 and November 1999) the audit observation involving an amount of Rs.1.52 lakh in 3 cases. Recovery details and reply in the remaining cases have not been received. (July 2000).

This was reported to Government in March 2000; their reply has not been received (July 2000).

5.3 Short levy of stamp duty due to incorrect application of concessional rate

(A) By a notification issued in April 1992 under the Act, Government reduced the rate of stamp duty, to one per cent for loans upto 15 lakh and two per cent for loans exceeding Rs.15 lakh, on mortgage deeds executed by an industrial undertaking in favour of certain financial institutions. The reduced rate is applicable only to the loans granted by the financial institutions mentioned in the above notification. When the industrial unit has borrowed loan from more than one financial institutions referred to in the above notification, the total amount borrowed should be considered for assessment of stamp duty on such instrument. From November 1994, the maximum duty was restricted to Rs.2 lakh per deed.

^s 3 of Mehsana, 2 each of Sabarkantha, Surat, Surendranagar, Vadodara and Valsad and 1 each of Ahmedabad, Gandhinagar and Palanpur.

[#] Gujarat State Financial Corporation.

During test check of records of Additional Superintendent of Stamps, Gandhinagar, and Sub-Registrar Narol, Ahmedabad, it was noticed (July 1998 and April 1999) that an industrial unit had obtained a foreign loan of Deutsche Mark 30.81 million (Rs. 7517.64 lakh) from Non Resident Indians and foreign companies, not included in the list of eligible financial institutions, by mortgaging the properties in favour of ICICI[#] as a security agent, and paid stamp duty of Rs. 2 lakh on this document. Another industrial unit had borrowed a loan of Rs.84 crore in January 1998 from 8 financial institutions not included in the list of eligible financial institutions. As the loans were not from any of the financial institutions listed in the above notification, the benefit of reduced rate of stamp duty was not admissible. This resulted in short levy of stamp duty of Rs.767.94 lakh.

The above cases were pointed out to the department in January and October 1999 and to Government in March 2000; their replies have not been received (July 2000).

(B) According to the Act, concessional rate of stamp duty at the rate of 6 per cent is leviable on deeds of conveyance executed for transfer of its premises, by a registered Co-operative Housing Society, a Corporation formed and registered under the Bombay Non-Trading Corporation Act, 1959, or a Board constituted under the Gujarat Housing Board Act, 1961/ The Gujarat Rural Housing Board Act, 1972, in favour of its member or by such member in favour of another member. According to the by-laws of Co-operative Housing Societies only individual can be admitted as its members. Further, a lease deed executed by the Gujarat Industrial Development Corporation allotting industrial plots and sheds to industrialists and an unconditional sale of property to a public trust are eligible for the benefit of concessional rate of duty.

During test check of records of 11* Sub-Registrar Offices, it was noticed (between May 1998 and August 1999) in 103 documents valued at Rs. 514.55 lakh registered during 1997 and 1998 of conveyance deeds of residential premises of Housing Co-operative Societies, ownership flats, Housing Board flats, plots sold by private parties, land leased by G I D C * for residential purpose and a conditional sale of property to a public trust etc. were incorrectly levied to stamp duty at concessional rate though not admissible. This resulted in short levy of stamp duty of Rs.20.05 lakh as detailed below.

(Rupees in lakh)

Sr. no.	Location	No. of documents	Consi-deration	Short levy	Nature of irregularity
1	Ahmedabad	27	297.53	12.98	Though as per the by laws of the co-operative housing societies, only individuals can be enrolled as a member of the society, concessional duty was

Industrial Credit and Investment Corporation of India.

* 5 of Ahmedabad, 3 of Rajkot and 1 each of Kheda, Vadodara & Valsad.

* Gujarat Industrial Development Corporation

					levied on the documents of conveyance deeds of properties belonging to co-operative housing societies and sold to companies, non-trading corporations etc.
2	Rajkot	39	121.48	3.61	Though concessional duty was leviable only on the documents of conveyance executed by members of flats constructed with minimum 11 members for residential purpose under Gujarat Ownership Flats Act, 1973, concessional rate was applied on the documents of conveyance of multistoreyed buildings constructed for commercial use and in respect of flats having less than 11 members.
3	Ahmedabad	27	56.50	1.41	Benefit of concessional rate was given on subsequent sale deed of the properties of Gujarat Housing Board though initial sale of the properties only was eligible for concession.
4	Mehmadabad	1	17.29	1.21	Though unconditional sale of property to trust was eligible for concession, sale of land with several conditions was allowed at concessional rate.
5	Valsad	5	7.11	0.47	Though land leased out by GIDC was for residential purpose, the benefit of concessional rate was incorrectly allowed.
6	Vadodara	4	14.64	0.37	Plots sold to private parties by the land owners for construction of flats were levied at concessional rate though not admissible.

This was pointed out to the department between December 1998 and 1999. The department accepted (July 1999) the audit observations involving an amount of Rs.2.10 lakh in 12 cases. Recovery details and reply in the remaining cases have not been received (July 2000).

This was reported to Government in March 2000, their reply has not been received (July 2000).

5.4 Short levy of stamp duty and registration fees due to misclassification of documents

Under section 3 of the Act, every instrument mentioned in Schedule-I shall be chargeable with duty at rates as indicated in the Schedule. For the purpose of levy of stamp duty an instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title.

During test check of records of 38* Sub-Registrar Offices, it was noticed (between March 1997 and December 1999) that 316 documents registered between 1996 and 1998 were classified on the basis of their titles and stamp

* 8 of Ahmedabad, 7 of Vadodara, 3 each of Jamnagar, Mehsana and Surat, 2 each of Bharuch, Kheda, Rajkot and Valsad and 1 each of Anand, Bhavnagar, Dahod, Gandhinagar, Panchmahal and Rajpipla.

duty was levied accordingly. Scrutiny of the recitals of these documents however revealed that these documents were mis-classified. This resulted in short levy of stamp duty and registration fees of Rs.570.88 lakh.

These cases were pointed out to the department between September 1997 and February 2000. The department accepted (January and October 1999) the audit observation involving an amount of Rs.23.56 lakh in 48 cases. Further details of recovery and reply in the remaining cases have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

5.5 Short levy of stamp duty due to under valuation of properties

The Act provides that, if the officer registering the instrument has reasons to believe that the consideration set forth in the document presented for registration does not approximate to the market value of the property, he may, either before or after registering the instrument refer the document to the Collector for determining the true market value of the property. The market value of the property is to be determined in accordance with the principles laid down under the provisions of the Bombay Stamp (Determination of Market value of the Property) Rules, 1984, and instructions issued by Government from time to time.

(i) During test check of records of 16* Sub-Registrars and 12^s Deputy Collectors (Valuation), it was noticed (between July 1996 and December 1999) that 178 documents of conveyance deeds and 1 document of exchange deed of immovable properties were presented for registration during 1995 to 1998. Though the consideration shown in the documents was much less than the market value of the properties as per Schedule of rates available with Sub-Registrars, these documents were not referred to the Collector for valuation. In another 195 documents, which were referred to the Collector, market value of these properties was determined less disregarding the valuation reports of Sub-Registrars, Rules and instructions issued by the Government etc. In these cases, valuation was done by the Deputy Collector based only on the representations made by the executors of the documents without reference to the principles of valuation contained in the Bombay Stamp (Determination of Market value of the Property) Rules, 1984. This resulted in undervaluation of the properties and consequent short levy of stamp duty and registration fees of Rs.216.53 lakh.

The above cases were pointed out to the department between September 1996 and February 2000. The department accepted (between October 1998 and 1999) the audit observations involving an amount of Rs.44.17 lakh in 24 cases. Recovery details and reply in the remaining cases have not been received (July 2000).

* 2 each of Mehsana, Surat and Vadodara, 1 each of Ahmedabad, Anand, Bharuch, Banaskantha, Gandhinagar, Jamnagar, Junagadh, Kheda, Navsari and Patan.

^s Ahmedabad (Div.II), Amreli, Bharuch, Bhavnagar, Bhuj, Gandhinagar, Jamnagar, Junagadh, Nadiad, Surat (Div.II) and Vadodara (Div.I and II).

This was reported to Government in April 2000; their reply has not been received (July 2000).

(ii) During test check of records of Deputy Collector (Valuation) Bhavnagar and Gandhinagar, it was noticed (between October and December 1999) that 4 deeds of conveyances executed for transfer of properties were referred to the Collector for determination of market value. These documents were returned by the collectors without determining the market value treating them as exempted from valuation on the grounds of difference in the market value being less than 10 per cent in 2 cases though difference was more than 10 per cent as reported by the sub registrar. The other 2 documents of vacant lands sold were incorrectly exempted from valuation though only constructed properties were eligible for exemption under Urban Land Ceiling Act. These documents were therefore not eligible for exemption from valuation. This resulted in short levy of stamp duty of Rs.16.03 lakh.

This was pointed out to the department between January and February 2000 and reported to Government in April 2000; their replies have not been received (July 2000).

5.6 Non/short levy of additional duty

Under the Act, additional duty at the rate of 50 per cent of the basic stamp duty is leviable on instrument of conveyance, exchange, gift, lease etc. of vacant land situated in urban areas (other than vacant land of less than 100 sq. metres intended for residential purpose). Additional duty at the rate of 25 per cent is also leviable on non-agricultural land exceeding 100 sq. metres situated in rural areas. An additional duty at a rate varying from 10 to 35 per cent of the basic stamp duty known as District Panchayat and Taluka Panchayat duty is also leviable in case of properties situated in rural areas falling within the jurisdiction of district/taluka panchayats.

During test check of records of 16* Sub-Registrar Offices, it was noticed (between April 1997 and October 1999) that in 140 deeds of vacant land situated in urban/rural areas registered between 1997 and 1998, additional duty leviable was not levied. In other 151 deeds of conveyance registered between 1995 and 1997, the District Panchayat and Taluka Panchayat duty though leviable at 20 and 35 per cent on basic duty were not levied. This resulted in short levy of stamp duty amounting to Rs.84.20 lakh.

The above cases were pointed out to the department between July 1997 and December 1999. The department accepted (between August 1998 and 1999) the audit observations amounting to Rs.5.59 lakh in 189 cases and recovered an amount of Rs.1.46 lakh in 40 cases. Recovery details and reply in the remaining cases have not been received (July 2000).

* 5 of Ahmedabad, 2 each of Kheda, Sabarkantha, Surat and Vadodara and 1 each of Bhuj, Mehsana and Surendranagar.

This was reported to Government in March 2000; their reply has not been received (July 2000).

5.7 Short levy of stamp duty and registration fees due to incorrect computation of consideration

The Act provides that "conveyance" includes a conveyance on sale and every instrument by which property, movable or immovable is transferred. Thus, when property is sold or transferred the total value of such property is to be taken as consideration for the purpose of levy of stamp duty and registration fees. In case of lease, the premium or money advanced in addition to annual lease rent is also to be considered for arriving at the consideration for levy of stamp duty.

During test check of records of 8* Sub-Registrar Offices, it was noticed (between June 1997 and November 1999) in 37 documents of conveyance deeds, 12 of lease deeds and 1 of transfer of lease hold rights the value of the properties were not determined properly for levy of stamp duty. This resulted in short levy of stamp duty and registration fees amounting to Rs.54.96 lakh.

The above cases were pointed out to the department between October 1997 and January 2000. The department accepted (August 1998) the audit observation amounting to Rs.1.97 lakh in 1 case. Recovery details and reply in the remaining cases have not been received (July 2000)

This was reported to Government in March 2000; their reply has not been received (July 2000).

5.8 Loss of revenue due to non-registration of documents

Under the Registration Act, 1908 any instrument, which creates, whether in present or in future any right, title or interest in immovable property is compulsorily registrable.

During cross check of a document registered in 1998 as a deposit of title deed, with the Sub-Registrar Anand, with the village records maintained by the Talati, it was noticed (June 1999) that the party had earlier obtained a loan of Rs.45 lakh in September 1993 from a co-operative bank by mortgaging his property. Though this document was compulsorily registrable under the Registration Act, it was not registered. However, entry in the village records of right was made, creating a charge over the property in respect of the loan, on the basis of this unregistered document. Non-registration of the mortgage deed on earlier occasion, resulted in loss of revenue of Rs.5.54 lakh.

This was pointed out to the department in October 1999 and reported to Government in March 2000; their replies have not been received (July 2000).

* 2 of Ahmedbad and 1 each of Ankleshwar, Gandhinagar, Kalol, Viramgam, Vyara and Waghodia.

CHAPTER-VI**OTHER TAX RECEIPTS****6.1 Results of Audit**

Test check of records in various departmental offices relating to the following receipts conducted in audit during the year 1999-2000 revealed under assessment etc. of Rs.3995.41 lakh in 244 cases as detailed below:

(Rupees in lakh)			
Sr. No.	Category	No. of cases	Amount
1	Entertainments tax	127	349.83
2	Electricity duty	64	3542.80
3	Luxury tax	15	100.98
4	Professional tax	38	1.80
	Total	244	3995.41

During the year 1999-2000, the department accepted under assessment amounting to Rs.364.12 lakh in 168 cases and recovered Rs.347.93 lakh in 133 cases, of which 10 cases involving an amount of Rs.3.92 lakh were pointed out during the year 1999-2000 and the rest in earlier years. A few illustrative cases highlighting important audit observations involving Rs.3684.72 lakh are given in the following paragraphs.

(A) ENTERTAINMENTS TAX**6.2 Incorrect grant of exemption**

Section 3 of the Gujarat Entertainments Tax Act, 1977, lays down structure of levy of entertainments tax. It provides that out of total payment made for admission to cinema house certain percentage is chargeable as tax. The Act also empowers the Government to exempt either wholly or partly any entertainments or class of entertainments by notification in the official gazette subject to such conditions as may be specified therein. A notification being in nature of subordinate legislation must be in conformity with the provisions of the Act. However a change in structure of levy of tax cannot be made by issue of a notification. The Government by issue of notifications in November 1990, August 1995 and April 1997 to support cinema industry, exempted the proprietors of cinema houses from payment of tax on the collection of an additional amount as admission fee viz. Re.0.50, Re.1 and Rs.2 respectively, subject to condition that rate of admission fee prevailing on the cut off date should not be reduced. This distorted the tax rate structure clearly spelt out in the Act. Mention was also made in para nos. 6.2.6 and 6.2.9(ii) of the Report

of the Comptroller and Auditor General of India for the year ended March 1998 (Revenue Receipts).

During test check of records of 18 Mamlatdar's offices in 18* districts, 5# collector's offices and commissioner of Entertainments tax, Gandhinagar, it was noticed (between October 1998 and February 2000) that benefit of exemption from payment of tax on additional increased amount of rate of admission by Re.0.50, Re.1 and Rs.2 was granted to 49 cinema houses based on the above notification issued by the government though it was in contravention of the provisions of the Act. Further, a film was exempted from payment of tax, eventhough the film producing company was not registered. In 2 cases exemption was allowed though the admission rates were reduced below the rate prevailing on the cut off dates. This resulted in incorrect grant of exemption of Rs.211.75 lakh.

This was pointed out to the department between January 1999 and March 2000. The department accepted (October 1998 and February 2000) the audit observations involving an amount of Rs.4.04 lakh in 2 cases and recovered Rs.0.15 lakh in 1 case. Further details of recovery and reply in the remaining cases have not been received (July 2000).

The above points were reported to Government in April 2000; their reply has not been received (July 2000).

6.3 Non/short levy of entertainments tax and interest

Under the Act and the Rules made thereunder, entertainments tax shall be paid by the proprietor of a cinema house weekly within 14 days of the end of the week and by the proprietor of a video parlour in advance every month by 15th day of the month preceding the month to which the tax relates. If the payment of tax is delayed, simple interest at the rate of twenty four per cent per annum is chargeable on the unpaid amount of tax for the periods of delay.

(i) During test check of records of 5# Collector's (ET) and 6* Mamlatdar's offices, it was noticed (between January 1998 and December 1999) that 88 operators (18 of cinema houses and 70 of video parlours) either did not pay the tax or paid late during 1996-97 to 1998-99 and the delay ranged between 1 to 27 months. The entertainments tax recoverable worked out to Rs.58.13 lakh including interest of Rs.4.54 lakh.

The above cases were pointed out to the department between July 1998 and February 2000. The department accepted (between January 1998 and 2000) the audit observations involving an amount of Rs.27.97 lakh in 45 cases and recovered Rs.1.09 lakh in 9 cases. Details of recoveries and reply in the remaining cases have not been received (July 2000).

* 3 each of Ahmedabad and Valsad, 2 each of Patan and Surat and 1 each of Banaskantha, Bhavnagar, Gandhinagar, Junagadh, Kheda, Mehsana, Sabarkantha and Vadodara.

Ahmedabad, Banaskantha, Bharuch, Sabarkantha and Valsad.

Ahmedabad, Banaskantha, Bhavnagar, Navsari and Surat.

* 2 of Surat and 1 each of Anand, Jamnagar, Junagadh and Mehsana.

(ii) Further, a touring cinema which is expected to move from place to place alongwith the apparatus, is given registration with the permission to stay for a maximum period of 2 years at one place. Tax is leviable at concessional rate in respect of touring cinemas.

During test check of records of 4[#] Mamlatdar's offices it was noticed (between October 1998 and July 1999) that though the operators of 10 touring cinemas continued to exhibit the film in the same place beyond the permissible period of 2 years, the tax was being recovered at the rate applicable to touring cinemas instead of cinema houses. This resulted in short recovery of Rs.4.12 lakh.

This was pointed out to the department between December 1998 and August 1999. The department accepted (August 1999) the audit observation involving an amount of Rs.0.32 lakh in one case. Details of recovery and reply in the remaining cases have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

6.4 Non recovery of entertainments tax from cable operators

Under the Act, tax is leviable for exhibition of programmes with the aid of antenna or cable television. Every proprietor shall pay the tax in advance in quarterly instalments at the rate of Rs.600 per month for first 100 connections plus Rs.300 for every additional 50 connections or part thereof in urban areas and at half of such rate for other areas. The proprietor has to pay the tax by 11th of the month from which the quarter begins. In case of delay in payment of tax, simple interest at the rate of twenty four per cent per annum is leviable.

During test check of records of 30^{\$} taxation authorities in 15 districts, it was noticed (between February 1998 and January 2000) that 526 cable operators either did not pay the entertainments tax or paid late between the periods 1997-98 and 1998-99. The delay ranged between 1 to 62 months. The entertainments tax recoverable worked out to Rs.42.04 lakh including interest of Rs.3.05 lakh.

This was pointed out to the department between July 1998 and February 2000. The department accepted (between March 1998 and April 2000) the audit observations involving an amount of Rs.42.04 lakh in 526 cases and recovered Rs.1.89 lakh in 25 cases. Details of recovery in the remaining cases have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

[#] Anand, Junagadh, Patan and Rajkot.

^{\$} 4 of Junagadh, 3 each of Bhavnagar, Mehsana, Rajkot and Vadodara, 2 each of Amreli, Jamnagar, Kheda and Surat and 1 each of Ahmedabad, Anand, Bharuch, Bhuj, Dahod and Gandhinagar.

(B) LUXURY TAX

6.5 Non/short levy of luxury tax

(A) Under the provisions of Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, and Rules made thereunder, the proprietor of a hotel is required to pay tax within five days and file returns within eight days after the expiry of the month to which tax collected/return relates. If the payment of tax is delayed, simple interest at the rate of two per cent per month or part thereof is chargeable on the unpaid amount of the tax for the period of delay.

During test check of records in the offices of 4* Collectors and Mamlatdar Bhavnagar, it was noticed (between December 1997 and January 2000) that proprietors of 38 hotels either did not pay the tax or paid after a delay of 2 to 43 months. This resulted in non/short recovery of tax amounting to Rs.24.17 lakh including interest of Rs.5.72 lakh.

This was pointed out to the department between July 1998 and March 2000. The department accepted (between January 1998 and February 2000) the audit observation amounting to Rs.22.78 lakh in 30 cases and recovered Rs.4.39 lakh in 4 cases. Further details of recovery and reply in the remaining cases have not been received.(July 2000).

(B) Under the new tourism policy, a person who sets up a new hotel or expands the existing hotel is eligible for exemption from payment of luxury tax upto a certain period/amount, provided he obtains an eligibility certificate from the Director of Tourism and tax exemption certificate from the Commissioner of Luxury Tax Department.

During test check of records of Collector, Ahmedabad, Ahwa and Palanpur, it was noticed (May 1999 and January 2000) in the assessment of 3 proprietors finalised during 1998-99 that one proprietor did not pay the luxury tax for the period 1999-2000 on the ground that he is exempted from payment of tax though no exemption certificate was issued. In other two cases the proprietors collected the tax of Rs.21.76 lakh for the period between 1996-97 and 1998-99 from the customers and retained the amount with them without crediting the amount in Government account on the ground that they are eligible for exemption. A proprietor exempted from payment of luxury tax as per the incentive scheme of tourism, cannot collect any tax from the customers. This resulted in short recovery of luxury tax of Rs.63.59 lakh including interest of Rs.8.87 lakh and penalty of Rs.32.83 lakh.

This was pointed out to the department in March 2000. The department accepted (June 2000) the audit observation involving an amount of Rs.0.53 lakh and recovered Rs.0.20 lakh. Further details of recovery and reply in the

* Ahmedabad, Rajkot, Surat and Vadodara.

remaining cases have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

(C) ELECTRICITY DUTY

6.6 Non recovery of electricity duty and interest

Under the Bombay Electricity Duty Act, 1958 (as applicable to Gujarat) and the Rules made thereunder, electricity duty is levied and collected on the consumption of electricity at the prescribed rates unless specifically exempted. The duty is required to be paid within 40 days after the expiry of the calendar month for which it is levied. The Rules also empower the Government to extend this period further by 15 days by a special order subject to condition that an amount equal to 80 per cent of the duty paid in the previous month is to be credited by the licensee within the prescribed period. Interest at the rate of 24 per cent per annum is leviable for non-payment of duty on due date.

During test check of records of Commissioner of Electricity Duty, Gandhinagar, it was noticed (July 1999) that two licensees* had either not paid the electricity duty or paid the same after the due dates for the periods from October 1996 to December 1998 and the delay ranged upto 233 days. One licensee paid the duty after the extended period of 30 days on the basis of a Government Order though Government is empowered to extend the period of payment upto 15 days only. Even in these cases 80 per cent of the duty paid for the previous month required to be credited in advance was not credited. Failure on the part of the department to initiate action resulted in non recovery of electricity duty of Rs.3171.05 lakh including interest.

This was pointed out to the department in October 1999. The department accepted (June 2000) the audit observation and stated that Rs.1497.80 lakh recoverable from S E C has been recovered by adjustment against the subsidy payable by Government.

This was reported to Government in April 2000; their reply has not been received (July 2000).

6.7 Non levy of interest

Under the Gujarat Tax on sale of Electricity Act, 1985, and the Rules made thereunder, tax is to be levied and collected on the turnover of sale of electricity at the prescribed rate. Such tax is to be paid by the licensees within a period of one month and seven days from the end of the month to which the tax relates. Non payment of tax within the prescribed period attracts interest at

* Ahmedabad Electricity Company and Surat Electricity Company(S E C).

the rate of 12 per cent per annum.

During test check of records of Commissioner of Electricity Duty, Gandhinagar, it was noticed (July 1999) in two cases of licensees that though the tax was not paid by them within the prescribed time limit for the periods 1997-98 to 1998-99 and the delay ranged from 4 to 174 days, no interest was levied for the delay in payment of tax. This resulted in non levy of interest of Rs.104.77 lakh from the above licensees.

This was pointed out to the department in October 1999. The department accepted (May 2000) the audit observations and taken up the matter with the electricity companies for effecting the recovery. Further reply has not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

6.8 Non realisation of inspection fee

According to the provisions of the Indian Electricity Rules, 1956 and Government notifications issued thereunder, Inspectors are required to inspect all high tension, extra high tension, medium voltage installations and low voltage electrical installations in factory premises and in public places of amusements including cinemas/theatres etc. once in a year. Inspection fee at prescribed rates is required to be recovered in advance in respect of such inspections carried out by departmental officers.

During test check of records of 3* offices of Assistant Electrical Inspectors, it was noticed (between August 1999 and January 2000) that though the inspections had been carried out by the inspectors, inspection fee amounting to Rs.5.10 lakh for the period 1997-98 to 1998-99 had not been recovered in 82 cases.

The above cases were pointed out to the department between July 1999 and March 2000. The department accepted (August and December 1999) the audit observations involving an amount of Rs.5.10 lakh in 82 cases and recovered Rs.1.34 lakh in 39 cases. Recovery particulars in the remaining cases have not been received (July 2000).

This was reported to Government in April 2000; their reply has not been received (July 2000).

* Nadiad, Vadodara and Valsad.

CHAPTER-VII**NON TAX RECEIPTS****7.1 Results of Audit**

Test check of records in various departmental offices relating to the following receipts conducted during 1999-2000 revealed non/short recovery of receipts amounting to Rs.41064.87 lakh in 70 cases as detailed below:

Sr. No.	Category	No. of cases	(Rupees in lakh)
			Amount
1	Geology and Mining	51	4018.84
2	Forest receipts	18	0.03
3	Review on Interest Receipts	1	37046.00
	Total	70	41064.87

During the year 1999-2000, the departments accepted audit observations amounting to Rs.127.79 lakh in 91 cases and recovered Rs.127.67 lakh in 65 cases pertaining to earlier years. A few illustrative cases highlighting important audit observations and the results of a review on "Interest Receipts" involving Rs.37906.82 lakh are given in the following paragraphs.

(A) INTEREST RECEIPTS**7.2 Interest Receipts****7.2.1 Introduction**

In pursuance of their policies for achievement of various objectives, the State Government sanctions loans and advances to Public Sector Undertakings, local bodies, co-operative societies, private parties and Government employees etc. The loans sanctioned carry different rates of interest as fixed by the sanctioning authority keeping in view the purpose for which the loan is sanctioned. The terms and conditions specified in the orders sanctioning the loans and advances prescribe the periodicity of instalments, the rates of interest, the mode and the manner of repayment of the principal and the interest.

The rates of interest chargeable in respect of the loans sanctioned for commercial and industrial purposes and on loans given to Government companies/ undertakings were last revised by Government in April 1991 in respect of project loans and in April 1992 in respect of other loans and these rates varied from 11 to 20 per cent depending upon the periodicity of the loans. Penal interest is chargeable on instalments of principal and interest not paid as per the terms and conditions of sanction order.

7.2.2 Organisational set up

The requests received from different organisations for sanction of loans and advances are processed by the concerned Heads of the Departments of Government and then recommended to Government in the concerned administrative departments who sanction the loans with the concurrence of the Finance Department. As per instructions contained in the sanction orders issued by Government, recoveries of loans and advances alongwith interest are required to be watched by the concerned Heads of Departments.

7.2.3 Scope of audit

With a view to ascertaining the correctness and maintenance of loan records and collection of interest receipts of Government, records in seven* departments of Government for the year 1994-95 to 1998-99 were test checked from July 1999 to January 2000. Important points noticed during review are brought out in the succeeding paragraphs.

7.2.4 Highlights

(i) There was no mechanism at Government level for periodical review of demand, collection and balance position of different kinds of loans/interest.

(Paragraph 7.2.7)

(ii) Interest of Rs.245.96 crore was short levied due to sanction of loan at the lower rates of interest.

(Paragraph 7.2.8)

(iii) Demands for principal and interest aggregating Rs. 64.23 crore were not raised due to non finalisation of terms and conditions.

(Paragraph 7.2.10)

* Energy and Petrochemicals, Industries and Mines, Information Broadcasting and Tourism, Narmada and Water Resources, Ports and Fisheries, Urban Development and Urban Housing and Agriculture Co-operation and Rural Development.

(iv) Interest of Rs. 38.21 crore was short levied due to incorrect adjustment of repayments towards principal instead of interest.

(Paragraph 7.2.11)

(v) Interest of Rs. 33.36 crore due from GIIC was not recovered.

(Paragraph 7.2.12)

(vi) Loss of interest of Rs.6.19 crore due to unauthorised retention of interest free loan by the GIIC.

(Paragraph 7.2.13)

7.2.5 Trend of interest receipts

Interest receipts formed a major source of non tax revenue of the Government during the years 1994-95 to 1999-2000. Details of estimated interest receipts, actual realisation and its percentage to total non tax revenue for the six years are given below :

Year	Budget estimates	Actual realisation excluding adjustment made [*] .	Variation		Total non tax revenue	Percentage of interest receipts to the non tax revenue
			(+)increase (-)decrease	Percentage		
1994-95	356.22	347.62	(-) 8.60	(-) 2.48	1488.11	23.36
1995-96	433.49	231.27	(-)202.22	(-) 87.44	1601.17	14.45
1996-97	429.63	94.89	(-)334.74	(-)352.77	1572.74	6.04
1997-98	549.54	355.08	(-)194.46	(-) 54.77	2220.97	15.99
1998-99	539.56	436.69	(-)102.87	(-) 23.56	2766.49	15.79
1999-2000	601.57	413.06	(-)188.51	(-)45.63	2990.37	13.81

A comparison of actual interest receipts with the budget estimates revealed that actual interest receipts were far less than the estimates incorporated in the budget estimates and varied from 2 to 353 per cent during the years 1994-95 to 1999-2000. A detailed scrutiny of the back-up papers for arriving at the budget estimates on interest receipts further revealed that budget estimates were not framed with any set procedures and the figures were incorporated with inadequate assessment of the anticipated receipts and the assessment was not

* The amount does not include the adjustments made annually in terms of para 64 of Budget Manual because there is no realisation of actual interest.

supported by detailed calculation.

7.2.6 Arrears of loans and interest

At the end of 1999-2000, principal of Rs. 450.67 crore and interest of Rs. 135.20 crore were over due for recovery in respect of loans to Municipalities, Panchayati Raj institutions, Other local bodies and Public Sector Undertakings etc. This includes overdue amount of principal and interest in respect of loans, the detailed accounts of which are kept by 84 departmental officers, out of which information was made available only by eight departmental officers. The year wise break-up of the amount overdue is as follows:

Year in which due	(Rupees in crore)	
	Amount overdue as on 31 st March 2000	
	Principal	Interest
Upto 1995-96	263.97	80.19
1996-97	73.13	12.08
1997-98	24.06	7.65
1998-99	40.89	10.18
1999-2000	48.62	25.10
Total	450.67	135.20

Besides, loans amounting to Rs.3957.91 crore and interest thereon amounting to Rs.441.78 crore were outstanding against the Gujarat Electricity Board (GEB) at the end of March 2000. The year wise break-up of outstanding loan and interest was however not available.

7.2.7 Monitoring

As per the provisions of the Gujarat Financial Rules, 1971, loan sanctioning authority is responsible for ensuring timely repayment of instalments. This can be ensured only when some basic records of loan accounts are maintained by the loan sanctioning authority. However there was no system in vogue either in Finance Department or in other administrative departments for periodical review of the demand, collection and balance statements of different classes of loans and for giving appropriate directions to subordinate offices on transactions relating to loans and advances because no records were maintained by them. Finance Department while accepting the above position (August 1999) stated that the review is carried out by them at the time of examining the specific proposal for fresh loans.

7.2.8 Non/short recovery of interest due to sanction of loan at lower rates

Interest leviable in respect of project loans sanctioned to Gujarat Mineral

Development Corporation (GMDC), Gujarat Industrial Development Corporation (GIDC) and Gujarat Industrial Investment Corporation (GIIC) was revised by Government from April 1991 at a uniform rate of 19 per cent . In respect of other loans advanced to Public Sector Undertakings(PSU) and Boards, Government revised the rates of interest in April 1992 keeping in view the period and purpose of loan. The revised rates varied from 11 to 20 percent depending upon the period and purpose of loan.

A review of the loan sanction orders issued by the Departments of Industries and Mines, Energy and Petrochemicals and Narmada and Water Resources Department revealed that loans aggregating Rs.845.18 crore were sanctioned to GIIC, Gujarat Communication and Electronics Limited (GCEL), GEB and Gujarat Water Supply and Sewerage Board (GWSSB) during the period from 1991-92 to 1996-97 by these departments for projects and other purposes. Though interest rates in respect of project loans and others were revised vide aforesaid Finance Department's resolutions, the above departments continued to sanction the loan at the pre-revised rates. This resulted in non/short recovery of interest of Rs.245.96 crore for the period from 1994-95 to 1998.99. Besides penal interest of Rs.94.57 lakh was also leviable in case of GEB, GCEL and GWSSB for non repayment of instalments on due dates.

On this being pointed out, Government did not assign any specific reason for sanctioning the loan at lower rate of interest.

7.2.9 Non-recovery of interest

(i) Industries and Mines Department sanctioned three loans aggregating Rs.1.36 crore between October 1976 and 1978 to the Gujarat Small Industries Corporation (GSIC) for different purposes. As per the terms and conditions mentioned in the Government Resolutions, the loan was repayable by GSIC in 28 half yearly instalments with interest at the rate of 9 per cent for first 5 years and the rate of interest leviable thereafter was to be reviewed by Government. However, no such review of the rate of interest was conducted till date. Further, the Corporation had neither repaid the loan nor any interest from June 1983 onwards. Interest and penal interest recoverable from the Corporation worked out to Rs.108.99 lakh (Rs.90.75 lakh + Rs.18.24 lakh) besides principal of Rs.73.39 lakh.

(ii) Industries and Mines Department vide their Resolution of 21 December 1979 sanctioned a short term loan of Rs. 1 crore to GSIC. The Corporation was required to pay interest at the rate of 14 per cent per annum and penal interest at the rate of 2 per cent in the event of default in re-payment of principal or interest. The entire amount of Rs 1 crore repayable in one instalment within a period of six months i.e. by June 1980 has not been paid so far. The amount of interest including penal interest recoverable from the Corporation worked out to Rs.2.52 crore up to March 1999.

(iii) Agriculture, Co-operation and Rural Development Department sanctioned various loans aggregating Rs.21.62 crore between November 1979 and May

1989 to the Gujarat Tractor Corporation (GTC) with rates of interest varying from 6 to 12 per cent. As the GTC could not pay either the outstanding loan or interest, Government decided in January 1992 to waive the interest due on these loans up to January 1992 and converted 50 per cent of the outstanding loan amounting to Rs.10.81 crore into an equity capital of the Government in the Corporation and treat the balance as loan to the Corporation repayable in five annual equal instalments commencing from December 1996 .

Notwithstanding the rehabilitation package, it was noticed that loanee had not provided for interest payments in their annual accounts for the moratorium period of five years from January 1992 to December 1996. Further, since the corporation did not repay the principal, interest at the rate of 12 percent and penal interest at the rate of 2.5 per cent on the overdue instalment was also recoverable for the period from December 1996 to December 1998. This resulted in non recovery of interest and penal interest amounting to Rs.6.82 crore from the corporation besides the recovery of principal amount.

On this being pointed out in October 1999, the Government stated (December 1999) that since the loan was interest free upto December 1996 no interest/penal interest was leviable. The reply of the Government was not tenable because as per the orders of the Government (January 1992) no interest was recoverable during the moratorium period i.e. upto 1996 which clearly shows that recovery of interest was only postponed and loan was not interest free.

7.2.10 Non-finalisation of terms and conditions

As per the provisions contained in Gujarat Financial Rules, sanctions for payment of loans issued by Government should specify the terms and conditions of repayments of loan, rate of interest etc. The Government decided (October 1976) that in case of interest free loans, the prompt repayment of loans should be ensured. In case of default, interest at the rates prescribed from time to time will be chargeable.

Test check of loan records of Departments of Narmada & Water Resources, Industries & Mines, Agriculture, Co-operation and Rural Development revealed that loan sanction orders issued by these departments to four loanees[#] sanctioning loans aggregating Rs.33.45 crore between 1984-85 and 1997-98 did not contain any terms and conditions for the repayment of the loans. Non finalisation of terms and conditions had resulted in non-raising of demand for interest amounting to Rs.30.78 crore upto March 1999, besides the principal of Rs.33.45 crore.

The Government (May 2000) accepted the objection of Rs.19.40 crore

[#] Gujarat Water Supply and Sewerage Board, Gujarat Water Resources Development Corporation, Gujarat Industrial Investment Corporation and Gujarat Land Development Corporation.

pertaining to interest free loan in respect of GIIC and stated that action for recovery of loan could not be taken due to non-finalisation of terms and conditions of loans by Government.

7.2.11 Short levy of interest due to incorrect adjustment of repayments towards principal

According to Finance Department Resolution dated 16 October 1976, the interest and principal of loan amount should be recovered simultaneously. However, where the amount of recovery falls short of the total interest and instalment due, the credit should first be given towards the interest due and balance if any to be appropriated towards the repayment of principal.

Test check of loan records of three departments (Agriculture, Co-operation and Rural Development, Industries & Mines and Ports and Fisheries) revealed that repayments of loans made by four* loanees between the period 1985-86 and 1998-99 were adjusted first towards the principal instead of interest payable on these loans. The non adjustment of repayments against the outstanding interest first had resulted in short levy of interest to the extent of Rs.38.21 crore. Besides interest, penal interest of Rs.43.58 lakh was also leviable because Gujarat Maritime Board had not paid the loan instalments on due dates.

This was pointed out to Government in September 1999. The Government while forwarding the Tourism Corporation's reply stated that repayment of principal and interest was made in consultation with Finance Department. In case of Seeds Corporation, Government stated (January 2000) that interest could not be adjusted first because the rate of interest was finalised in November 1998. The reply of the Government was not acceptable because as per the provisions of General Financial Rules credit should first be given to the interest due and balance can only be appropriated towards principal. In case of non finalisation of rate of interest, the interest payable should have been worked out as per the Finance Department Resolution.

7.2.12 Non recovery of principal and interest due from GIIC

The Government, through their concerned administrative department, gives loans to Gujarat Industrial Investment Corporation (GIIC) for further disbursement as loan to different industrial concerns after obtaining sufficient security against the amount of loan. The terms and conditions about repayment of loan by the Corporation, rate of interest, penal interest and moratorium period etc. are incorporated in Government Resolutions sanctioning these loans to GIIC.

* Broach District Central Co-operative Bank, Gujarat State Seeds Corporation, Gujarat Tourism Corporation and Gujarat Maritime Board.

Review of loan records of GIIC revealed that Government had advanced various loans to GIIC from time to time. Repayments of these loans along with interest were due from 1994-95 onwards. However, Corporation did not pay either principal or interest to Government. No action was taken by the department to recover principal/interest from the loanee. This resulted in non recovery of interest amounting to Rs.33.36 crore for the period from 1994-95 to 1999-2000, besides principal of Rs.2.01 crore.

7.2.13 Loss of interest due to unauthorised retention of interest free loan

Under the scheme of providing assistance to Large Engineering and Electronics Projects (LEEP) in Gujarat, the Industries and Mines Department sanctioned interest free loan of Rs. 5.50 crore to Gujarat Industrial Investment Corporation (GIIC) in March 1989 for further disbursement to M/S. Hindustan Motors as interest free loan. The amount was paid to GIIC on 29 March 1989. However, GIIC did not disburse this amount to the unit as the project had not come up. Instead of refunding the entire amount to Government, the Corporation retained this amount with them upto September 1996. This resulted in loss of interest of Rs. 6.19 crore to Government for the period from 1989-90 to 27 September 1996.

Government while forwarding observation of the Corporation stated(May 2000) that the amount of loan has been advanced to General Motors in September 1996. However no reasons were assigned for retention of interest free loan.

7.2.14 Non levy of interest in the event of default in re-payment of interest free loan

According to Government Resolution, interest free loans should be repaid promptly on due dates. In the event of default in repayment of principal, interest at the rates prescribed by Government from time to time should be charged on these loans.

Test check of loan records revealed that Industries and Mines Department sanctioned interest free loan of Rs. 12.36 crore to Gujarat Industrial Investment Corporation and Gujarat State Financial Corporation (GSFC) during the period between 1979-80 and 1989-90. As per the terms and conditions contained in the sanction order, these interest free loans were repayable between 1985-86 and 1998-99 after the expiry of the initial moratorium period. Though the Corporations did not repay the single instalment of loan, interest leviable for default in repayment, as per the conditions prescribed by Government, had not been recovered from the Corporations. This resulted in non levy of interest amounting to Rs. 4.09 crore.

The Government while forwarding observation of Corporations (May 2000) did not give any specific reply. However GSFC in their explanation stated that they act as an agent of Government and are not involved in process of recovery

of loan and interest. The reply of Corporation is not acceptable in view of Government Resolution issued during the period between March 1980 and March 1987, wherein it is specifically mentioned that corporation shall recover the amounts from the loanees.

7.2.15 Non levy of penal interest

According to Government Resolution of 16 October 1976, penal interest at the rate of 2.5 per cent per annum is leviable in addition to the normal rate of interest if the repayment of instalments of principal and payment of interest on the loan is not made on due dates.

Review of loan records of Gujarat Seeds Corporation working under the administrative control of Agriculture Co-operation and Rural Development Department revealed that loan aggregating Rs.10 crore was paid to the Corporation in July 1997. As per the terms and conditions of the loan, the Corporation was required to repay the entire loan by July 1998 in three instalments. Though the Corporation did not repay the loan within the time limit, no action was taken by the department to recover penal interest as per terms and conditions of sanction order. The delay in repayment of loan ranged between 1 and 96 days. As such the penal interest of Rs.5.37 lakh was leviable but not levied.

Government stated (August 2000) that as the loan was sanctioned as short term loan as a special case the condition of G.R. of October 1976 is not applicable. Reply is not tenable since no such distinction was made in the above Government Resolution.

7.2.16 Conclusion

During test check of records of the departments mentioned in forgoing paragraphs it has been observed that departments have failed to ensure timely repayment of loans and interest as per the provisions of "The Gujarat Financial Rules, 1971". There has been system failure with regard to monitoring of overdue loans and advances, which resulted in non/short raising of demands, non levy of penal interest besides heavy accumulation of arrears of principal and interest. Further, there was no mechanism at Government level to ensure whether concerned departments have sanctioned loans in consonance with the guidelines contained in various Government Resolutions issued by Finance Department from time to time.

(B) MINING RECEIPTS

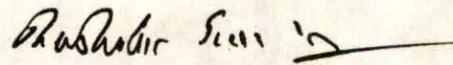
7.3 Incorrect acceptance of bank guarantee

Against hike in the rate of royalty on limestone from Rs.10 per MT to Rs.25 per MT, a company filed (1992) a petition in the honourable Gujarat High Court. The Court vide its interim order (July 1992) directed the company to

pay royalty at the rate of Rs.9.63 per MT and furnish bank guarantee for the remaining amount.

During test check of records of Geologist, Amreli, it was noticed (January 1998) that bank guarantee amounting to Rs.820.43 lakh only was obtained for the period upto December 1997 as against the requirement of Rs.861.31 lakh. The incorrect acceptance of bank guarantee for lesser amount to the extent of Rs.40.88 lakh was not only against the direction of the honourable High Court but also inadequate to safeguard the interest of the Government. Further, failure on the part of the Government to get the stay vacated resulted in blockage of Government revenue amounting to Rs.861.31 lakh.

This was reported to the department in August 1998 and Government (April 2000); their replies have not been received (July 2000).



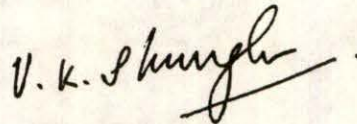
Ahmedabad

The 11 JAN 2001

(RAGHUBIR SINGH)

Principal Accountant General (Audit) Gujarat

Countersigned



New Delhi

The 12 5 JAN 2001

(V.K. SHUNGLU)

Comptroller and Auditor General of India

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

REPORT OF THE COMMITTEE ON THE PROGRESS OF CHEMISTRY IN THE UNITED STATES

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