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

FOR THE YEAR ENDED 31 MARCH 1997

**NO. 2
(REVENUE RECEIPTS)**

GOVERNMENT OF KERALA

GOVERNMENT OF INDIA

(REVENUE DEPARTMENT)

FOR THE YEAR ENDED 31 MARCH 1962

OF INDIA
AND/OR GENERAL
COMMISSIONER AND
OF THE
REVENUE



On the 1st day of
the month of
1962

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Prefatory remarks

This report for the year ended 31 March 1997 has been prepared for submission to Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1996-97 as well as those which came to notice in earlier years but could not be included in previous Reports.



Overview



OVERVIEW

This Report contains 59 paragraphs including 3 reviews relating to non-levy /short levy of tax involving Rs 154.26 crore. Some of the major findings are mentioned below:

1. General

During the year 1996-97, the Government of Kerala raised a total revenue of Rs 4412.30 crore comprising tax revenue of Rs 3898.50 crore and non-tax revenue of Rs 513.80 crore. The State Government received Rs 1242.65 crore by way of State's share of divisible Union taxes and Rs 490.13 crore as grants-in-aid from the Government of India. Sales tax (Rs 2772.28 crore) formed the biggest portion (71%) of the tax revenue of the State. Receipts from Forestry and Wild Life (Rs 162.00 crore) formed a major portion (31.53%) of the non-tax revenue.

(Paragraph 1.1)

- (ii) Test check of the records of Agricultural Income Tax and Sales Tax, State Excise, Land Revenue, Motor Vehicles, Registration and Forest Departments conducted during 1996-97, revealed under-assessments/short levy of revenue amounting to Rs 126.62 crore involved in 2,496 cases. During the course of the year 1996-97, the concerned departments accepted under-assessments etc., of Rs 107.93 crore involved in 1,233 cases of which 296 cases involving Rs 1.83 crore had been pointed out in audit during 1996-97 and the rest in earlier years.*

(Paragraph 1.8)

- (iii) *As at the end of June 1997, 3,682 inspection reports containing 15,362 audit observations involving revenue effect of Rs 305.60 crore issued up to December 1996 were outstanding for want of final replies from the departments.*

(Paragraph 1.9)

2. Sales Tax

- (i) *Application of incorrect rate of tax resulted in short levy of sales tax of Rs 18.19 lakh in thirteen cases.*

(Paragraph 2.2)

- (ii) *Turnover escaping assessments in four cases resulted in non-levy/short levy of tax of Rs 4.17 lakh.*

(Paragraph 2.3)

- iii) *Non-levy of turnover tax in twenty cases resulted in short levy of tax of Rs 14.38 lakh.*

(Paragraph 2.4)

- (iv) *Irregular grant of exemption from tax/concessional rate of tax in seven cases resulted in short levy of tax of Rs 12.83 lakh.*

(Paragraphs 2.6 and 2.7)

- (v) *Mistakes in computation resulted in short levy of tax of Rs 14.50 lakh in six cases.*

(Paragraph 2.10)

3. *Taxes on Agricultural Income*

- (i) *Grant of inadmissible deduction resulted in short levy of tax of Rs 52.87 lakh in one case.*

(Paragraph 3.2)

- (ii) *Income escaping assessment in three cases resulted in short levy of tax of Rs 6.57 lakh.*

(Paragraph 3.3)

- (iii) *Irregular extension of the benefit of compounding of agricultural income tax to assesseees not entitled to such benefit resulted in short levy of tax of Rs 13.09 lakh in the case of thirty two assesseees.*

(Paragraph 3.4)

4. *State Excise*

- (i) *Low production of spirit in a distillery at Cherthala, as a result of failure to achieve the production norm fixed by the Central Board of Molasses, involved duty effect of Rs 23.35 lakh.*

(Paragraph 4.2)

- (ii) *Interest amounting to Rs 4.22 lakh was not demanded for belated payment of vending fee by a licensee.*

(Paragraph 4.3)

5. *Land Revenue*

A review on 'Lease of land by Land Revenue Department' revealed the following.

- ❖ *Effective measures were lacking in implementing the land management policy formulated by Government in May 1994.*

(Paragraph 5.2.5)

- ❖ *Delay up to 132 years was noticed in renewal of time expired leases.*

(Paragraph 5.2.6)

- ❖ *In three cases, where government lands were in alien possession without formal lease orders, lease rent leviable but not demanded amounted to Rs 30.48 lakh.*

(Paragraph 5.2.7)

- ❖ *The department failed to revoke the lease deeds despite breach of conditions of lease and also to demand lease rent of Rs 260.72 lakh due in two such cases.*

(Paragraph 5.2.8)

- ❖ *Lease rent of Rs 520 lakh due from Public Sector Undertakings for the period from 1957 to 1996 had not been demanded.*

(Paragraph 5.2.9)

- ❖ *No action was taken to recover lease rent of Rs 69.11 lakh due in five cases where the leasehold lands were alienated.*

(Paragraph 5.2.10)

- ❖ *Incorrect fixation of market value of land leased out to a private company resulted in loss of revenue of Rs 21.08 lakh for the period*

from January 1995 to March 1996 in addition to annual loss of Rs 16.53 lakh.

(Paragraph 5.2.11)

- ❖ *Non-revision of lease rent resulted in loss of revenue of Rs 29.64 crore for the period from 1991-92 to 1995-96 in 80 cases.*

(Paragraph 5.2.12)

- ❖ *Lease rent of Rs 557.64 lakh due from a company had not been collected before assignment of the leasehold.*

(Paragraph 5.2.16)

6. Taxes on Vehicles

- (i) *1,891 vehicles were registered without collection of entry tax of Rs 228.41 lakh.*

(Paragraph 6.2)

- (ii) *Interest amounting to Rs 11.94 lakh due for the delay in crediting demand drafts to government account during 1994-95 and 1995-96 had not been demanded from banks.*

(Paragraph 6.3)

7. Stamps and Registration Fees

- (i) *Non-enforcement of an enactment of the legislature resulted in loss of revenue of Rs 226.96 lakh on 24,814 documents registered during 1994.*

(Paragraph 7.2)

- (ii) *Irregular write-off of under-valuation cases resulted in loss of revenue of Rs 74.76 lakh.*

(Paragraph 7.3)

- (iii) *Application of incorrect rate of duty resulted in short levy of stamp duty of Rs 5.68 lakh in one document.*

(Paragraph 7.4)

8. *Taxes and Duties on Electricity*

A review on 'Levy and Collection of Electricity Duty and Surcharge' revealed the following.

- ❖ *Arrears of electricity duty from consumers as on 31 March 1996 amounted to Rs 10175.84 lakh of which Rs 10138.44 lakh was due from the Kerala State Electricity Board.*

[Paragraph 8.1.6(i)]

- ❖ *Electricity duty due as on 31 March 1996 from the Kerala State Electricity Board, as per the accounts of the Chief Electrical Inspectorate was less by Rs 8673.13 lakh as compared to the dues shown in the accounts of the Kerala State Electricity Board for 1995-96.*

[Paragraph 8.1.6(ii)]

- ❖ *Duty amounting to Rs 239.91 lakh collected by the Kerala State Electricity Board on energy generated by consumers for their own consumption had not been paid to the government.*

[Paragraph 8.1.7(iii)]

- ❖ *The Kerala State Electricity Board did not remit surcharge of Rs 2221.82 lakh collected by it. Besides, no action was taken by the Board to collect surcharge of Rs 2553.07 lakh due from consumers and licensees.*

[Paragraph 8.1.7(iv)(b)]

- ❖ *For non-remittance/delayed payment to Government account of the surcharge collected, interest at one per cent per month was payable. The amount of interest payable for non-remittance/delayed payment of surcharge of Rs 2221.82 lakh calculated on the balance outstanding at the end of each year would work out to Rs 682.52 lakh upto the end of March 1997. Neither any payment was made by the Board nor any action was taken by the department in this regard.*

[(Paragraph 8.1.7(iv)(c)]

- ❖ *Penal interest of Rs 5.21 crore leviable for delayed payment of duty collected by the Kerala State Electricity Board from consumers during 1963 to 1990 was neither levied nor demanded.*

[Paragraph 8.1.7(v)]

- ❖ *Line loss during 1991-92 to 1995-96 varied between 8.04 to 38.55 per cent against the admissible loss of 8 per cent resulted in less realisation of duty of Rs 22.77 lakh.*

[Paragraph 8.1.8(ii)]

- ❖ *Failure to utilise the remittances first for liquidation of interest resulted in non-realisation of duty of Rs 11.93 lakh.*

[Paragraph 8.1.8(iii)]

9. *Forest Receipts*

- (i) *Non-implementation of the provisions of an enactment of 1980 resulted in loss of lease rent of Rs 4.30 crore.*

(Paragraph 9.2)

- (ii) *Failure to collect royalty at enhanced rate resulted in short realisation of revenue of Rs 89.67 lakh from a company.*

(Paragraph 9.3)

10. *Other Non-Tax Receipts*

A review on 'Interest Receipts' revealed the following.

- ❖ *Non-fixation/delay in fixation of terms and conditions of loans sanctioned led to non-recovery of loans amounting to Rs 70 crore.*

(Paragraph 10.1.9)

- ❖ *Interest amounting to Rs 179.40 lakh had not been demanded/realised from 625 loanees.*

(Paragraph 10.1.10)

- ❖ *There was short recovery of interest amounting to Rs 2850.23 lakh during the period from 1992-93 to 1995-96 from the loanees who had availed loans from National Co-operative Development Corporation.*

(Paragraph 10.1.14)

Chapter 1

General



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CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Kerala during the year 1996-97, the State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding two years are given below and depicted in Chart I.

		1994-95	1995-96	1996-97
		(In crore of rupees)		
I	Revenue raised by the State Government			
	a) Tax revenue	2799.10	3382.68	3898.50
	b) Non-tax revenue	396.35	535.49	513.80
	Total	3195.45	3918.17	4412.30
II	Receipts from Government of India			
	a) State's share of divisible Union taxes	838.42	1036.96	1242.65
	b) Grants-in-aid	632.55	468.43	490.13
	Total	1470.97	1505.39	1732.78
III	Total receipts of the State Government (I and II)	4666.42	5423.56	6145.08*
IV	Percentage of I to III	68	72	72

* For details please see statement No.11 - Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of Kerala for the year 1996-97. Figures 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 the revenue raised by the State and included in the State's share of divisible Union Taxes in this statement.

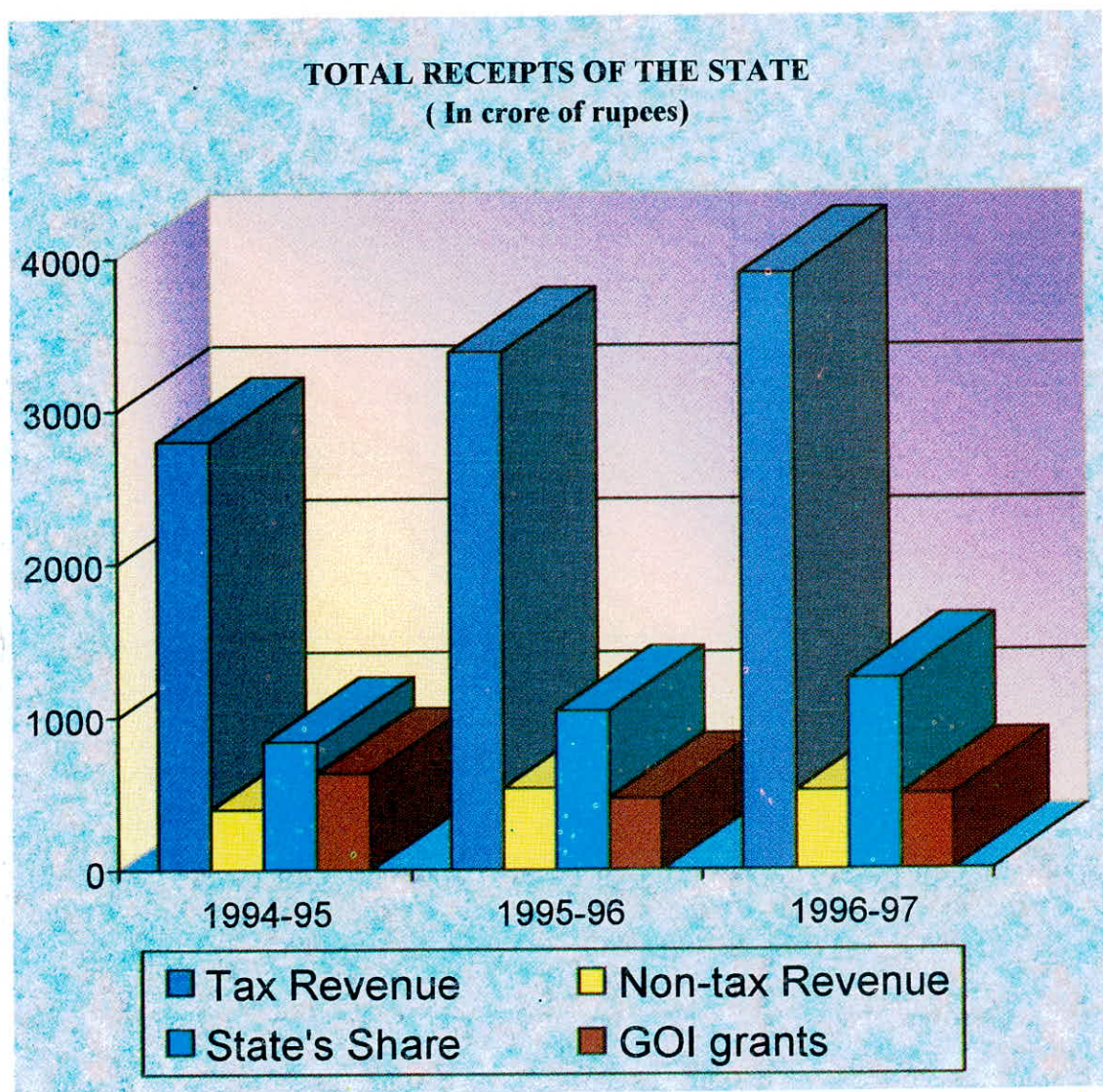


Chart I

(i) The details of the tax revenue raised during the year 1996-97, along with the figures for the preceding two years, are given below and depicted in Chart II.

Head of Revenue		1994-95	1995-96	1996-97	Percentage of increase (+) / decrease (-) in 1996-97 over 1995-96
		(In crore of rupees)			
1	Sales Tax	1864.93	2285.96	2772.28	(+) 21.27
2	State Excise	353.21	449.29	418.53	(-) 6.85
3	Stamps and Registration Fees				
	(a) Stamps -Judicial	13.05	17.82	19.58	(+) 9.88
	(b) Stamps - Non-Judicial	242.87	254.72	261.59	(+) 2.70
	(c) Registration Fees	39.89	81.25	79.13	(-) 2.61
4	Taxes and Duties on Electricity	49.99	7.51	46.75	(+) 522.50
5	Taxes on Vehicles	183.90	222.87	247.59	(+) 11.09
6	Taxes on Agricultural Income	17.24	26.08	12.10	(-) 53.60
7	Land Revenue	22.65	23.71	22.33	(-) 5.82
8	Others	11.37	13.47	18.62	(+) 38.23
Total		2799.10	3382.68	3898.50	(+) 15.25

According to the department the increase in revenue under Taxes and Duties on Electricity during 1996-97 over the revenue for 1995-96 was due to payment of Rs 44.18 crore by the Kerala State Electricity Board against Rs 5.25 crore paid during 1995-96. The increase under Taxes on Vehicles was due to upward revision of tax of motor cars and surcharge of all kinds of vehicles from 1 July 1996.

The reasons for variation called for (October 1997) from the heads of other departments have not been received (November 1997).

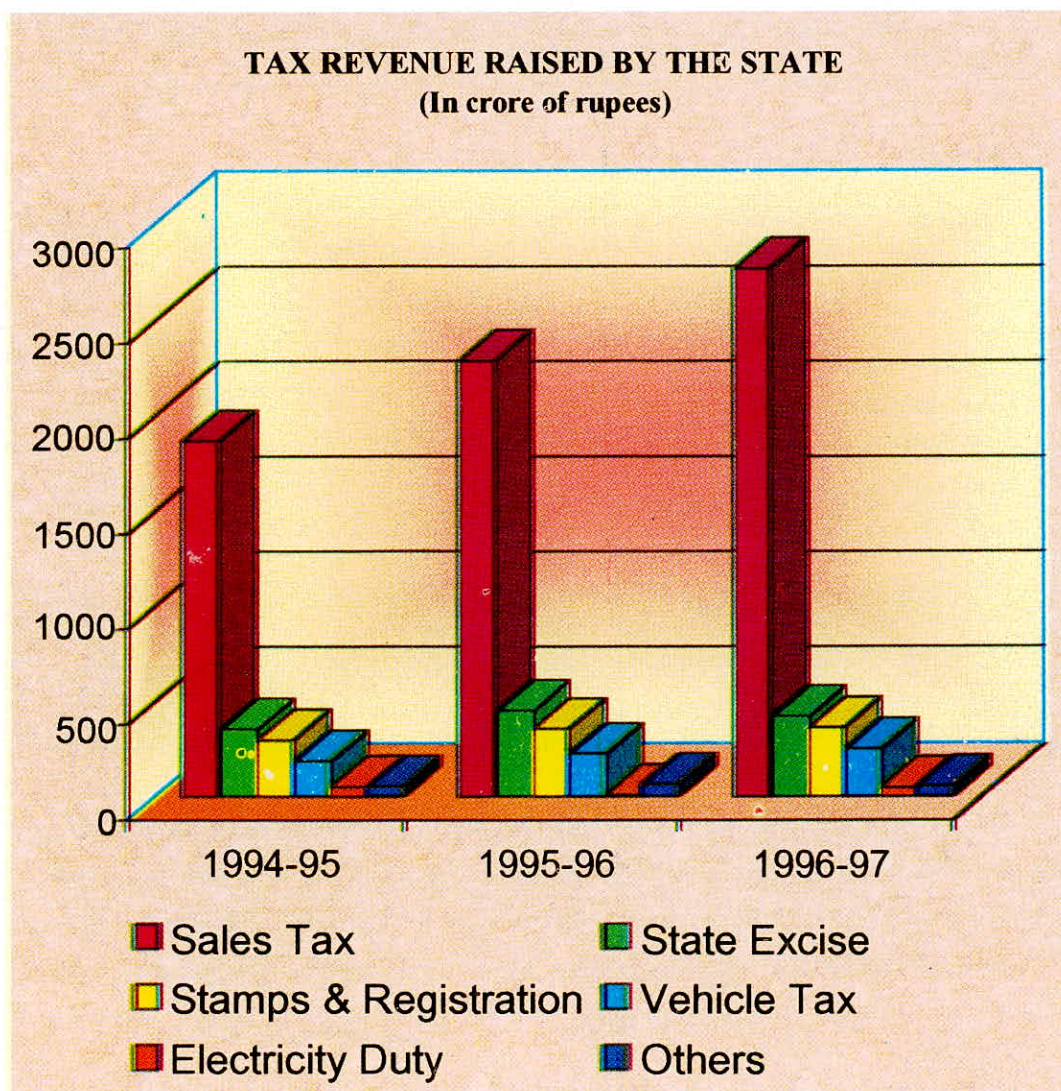


Chart II

(ii) The details of non-tax revenue realised during the years 1994-95 to 1996-97 are given below and depicted in Chart III.

Head of Revenue		1994-95	1995-96	1996-97	Percentage of increase(+)/ decrease (-) in 1996-97 over 1995-96
		(In crore of rupees)			
1	State Lotteries	72.19	92.58	106.63	(+) 15.18
2	Forestry and Wild Life	136.88	160.77	162.00	(+) 0.77
3	Interest Receipts	37.76	100.32	55.73	(-) 44.45
4	Education,Sports,Art & Culture	28.32	29.08	26.16	(-) 10.04
5	Medical and Public Health	11.38	23.53	11.73	(-) 50.15
6	Crop Husbandry	14.93	11.88	15.63	(+) 31.57
7	Animal Husbandry	3.56	4.21	4.31	(+) 2.38
8	Stationery and Printing	2.97	2.89	5.90	(+)104.15
9	Public Works	1.57	1.77	2.38	(+) 34.46
10	Others	86.79	108.46	123.33	(+) 13.71
Total		396.35	535.49	513.80	(-) 4.05

According to the department the increase in revenue during 1996-97 over the revenue for 1995-96 under State Lotteries was due to increase in sale of lottery tickets, enhancement in the value of tickets and making the prizes of lotteries attractive.

The reasons for variation called for (October 1997) from the heads of other departments have not been received (November 1997).

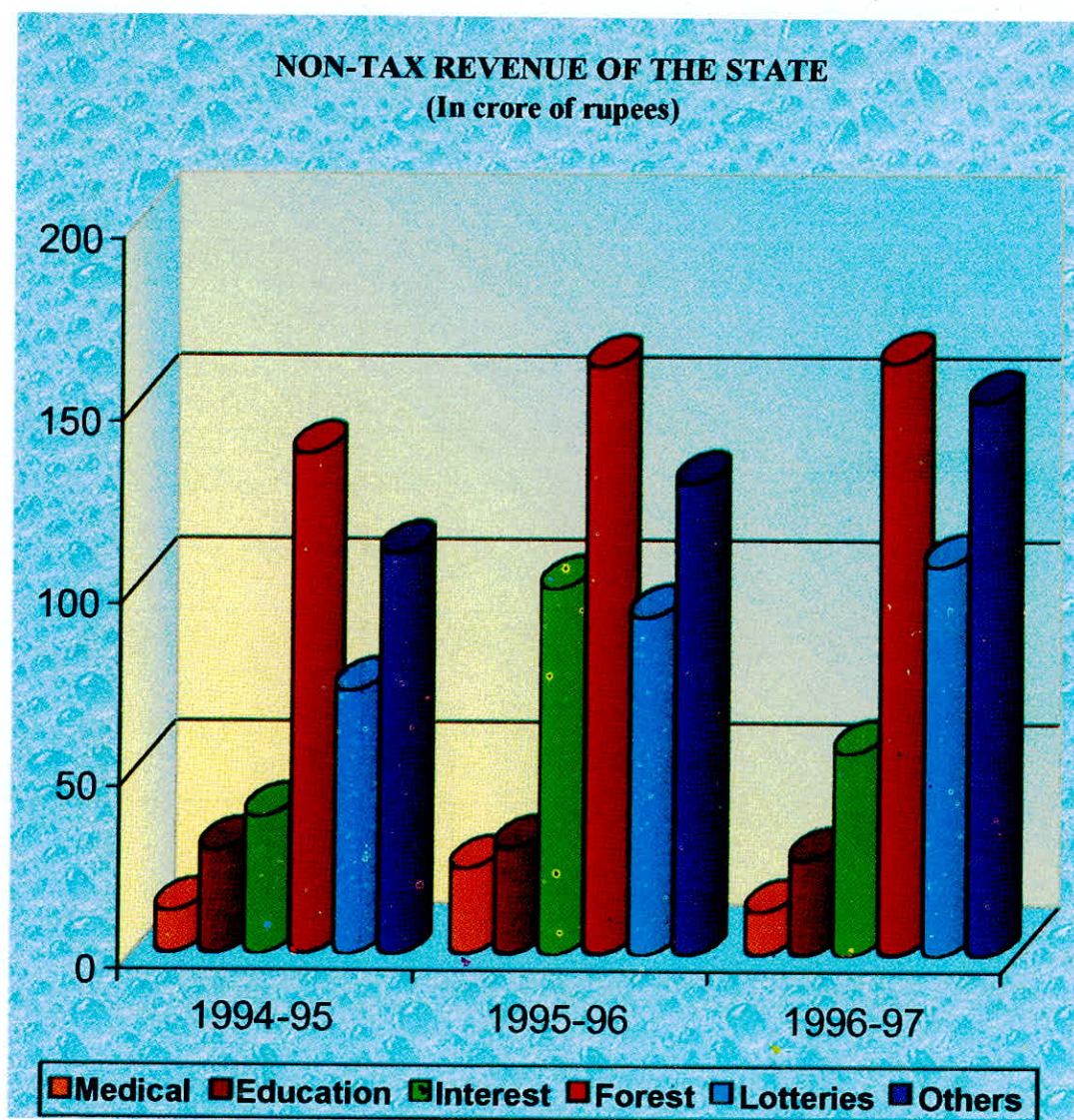


Chart III

1.2. Mobilisation of resources

The non-plan and plan requirements of the State are normally financed from four major sources, namely, (i) budgetary resources at current rates of taxation (ii) receipts from Government of India as State's share of divisible Union taxes and Grants-in-aid (iii) extra budgetary resources of State enterprises and (iv) additional resources mobilisation. Additional resources mobilisation is envisaged through enhanced rates of taxation, rationalisation of tax system, withdrawal of incentives where purpose has been fulfilled or return is not commensurate with the revenue loss and compression of non-plan expenditure etc. The additional resources mobilisation estimated by the State Government in the Budget estimates and actual achievement for the last five years ended March 1997 were as under.

Year	Budget Estimates			Actual collection of revenue	Excess	Percentage of excess
	Tax and Non- tax revenue at current rates of taxation	Additional resources mobilisation ¹	Total			
	(In crore of rupees)					
1992-93	1853.52	129.40	1982.92	2166.36	183.44	9.25
1993-94	2236.02	179.34	2415.36	2667.79	252.43	10.45
1994-95	2519.65	225.01	2744.67	3195.45	450.79	16.42
1995-96	3031.56	200.00	3231.56	3918.17	686.61	21.25
1996-97	4093.52	Nil	4093.52	4412.30	318.78	7.79

1 From the Budget speech of the Finance Minister

Chapter 1

Though, during all the five years the actual collection exceeded the Budget estimates, there was a sharp decline in the percentage of achievement in 1996-97 (7.41 *per cent*) with reference to the year 1995-96 (21.25 *per cent*).

The variation between Budget estimates of revenue for the years 1995-96 and 1996-97 and the actual receipts under principal heads of revenue are given below.

	Revenue Head	1995-96				1996-97			
		Budget Estimates	Actual receipts	Variation increase (+) Short fall(-)	Percentage of variation	Budget Estimates	Actual receipts	Variation increase (+) shortfall (-)	Percentage of variation
		(In crore of rupees)				(In crore of rupees)			
1	Sales Tax	1930.16	2285.96	(+) 355.80	(+) 18.43	2500.00	2772.28	(+) 272.28	(+) 10.89
2	State Excise	370.02	449.29	(+) 79.27	(+) 21.42	250.00	418.53	(+) 168.53	(+) 67.41
3	Stamps and Registration Fees								
	(a) Stamps - Non judicial	201.82	254.72	(+) 52.90	(+) 26.21	294.00	261.59	(-) 32.41	(-) 11.02
	(b) Registration Fees	37.00	81.25	(+) 44.25	(+) 119.59	136.00	79.13	(-) 56.87	(-) 41.82
4	Taxes on Vehicles	164.73	222.87	(+) 58.14	(+) 35.29	225.00	247.59	(+) 22.59	(+) 10.04
5	Forestry and Wild Life	120.00	160.77	(+) 40.77	(+) 33.98	130.00	162.00	(+) 32.00	(+) 24.61
6	Taxes and Duties on Electricity	76.17	7.51	(-) 68.66	(-) 90.14	102.21	46.75	(-) 55.46	(-) 54.26
7	Taxes on Agricultural Income	27.00	26.08	(-) 0.92	(-) 3.41	28.35	12.10	(-) 16.25	(-) 57.32
8	Land Revenue	21.51	23.71	(+) 2.20	(+) 10.23	34.50	22.33	(-) 12.17	(-) 35.28

The following are the reasons attributed by the departments for variation between Budget estimates and actuals for 1996-97.

1. Sales Tax

The increase was due to collection of old arrears, completion of long pending assessments and hike in price and volume of trade.

2. State Excise

The increase was due to upward revision of duty on Indian Made Foreign Liquor after the finalisation of Budget estimates.

3. Stamps and Registration Fees

The shortfall under Stamp Duty was attributed to under-valuation of documents due to lack of enabling codal provision for checking under-valuation cases and to shortfall in the number of documents registered during 1996-97. The shortfall in Registration Fees was due to the high rate of estimate made by the department.

4. Taxes on Vehicles

The increase was due to upward revision of tax of motor cars and surcharge of all kind of vehicles from 1 July 1996.

5. Forestry and Wild Life

The increase was due to increase in market rates of forest produce and in the quantity of extraction.

6. Taxes and Duties on Electricity

The shortfall was due to non-remittance of full duty and surcharge by the Kerala State Electricity Board.

7. Taxes on Agricultural Income

The shortfall was caused by the steep fall in price of tea and rubber.

8. Land Revenue

The shortfall was due to stay orders.

1.3. Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1994-95, 1995-96 and 1996-97 along with the relevant all India average percentage of expenditure on collection to gross collections for 1994-95 and 1995-96 are given below.

Sl. No.	Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to Gross collection	All India average percentage
			(In crore of rupees)			
1	Sales Tax					
		1994-95	1864.93	21.42	1.15	1.25
		1995-96	2285.96	22.42	0.98	1.29
		1996-97	2772.28	25.95	0.94	
2	Stamps (Non- Judicial) and Registration Fees					
		1994-95	282.76	18.33	6.48	3.65
		1995-96	335.97	20.11	5.99	3.46
		1996-97	340.72	22.17	6.51	
3	State Excise					
		1994-95	353.21	18.37	5.20	3.12
		1995-96	449.29	20.25	4.51	3.20
		1996-97	418.53	22.98	5.49	
4	Taxes on Vehicles					
		1994-95	183.90	6.29	3.42	2.50
		1995-96	222.87	7.13	3.20	2.57
		1996-97	247.59	7.53	3.04	

1.4. Arrears of revenue

As on 31 March 1997, arrears of revenue under principal heads of revenue, as reported by the departments were as under:-

Sl. No.	Department	Arrears	Amount of arrears outstanding for more than 5 years	Remarks
		(In crore of rupees)		
1	Police	13.92	5.44	The reasons attributed by the department were non-payment of cost by the authority to whom police guard was provided.
2	Electricity	233.27	12.85	Out of Rs 233.27 crore, a sum of Rs 232.71 crore was due from the Kerala State Electricity Board
3	Local Fund Audit	4.65	1.42	The reason attributed by the department for the arrears was non-remittance by the auditee institutions.
4	Factories and Boilers	0.34	Nil	The reasons attributed by the department for the arrears were temporary closure of factories and stay order of Government and High Court.
5	Mining and Geology	0.22	0.14	The reason attributed by the department for the arrears was dispute regarding rate of royalty on minerals despatched without permits. The department stated that the matter was under correspondence with the defaulters / Government.
6	Ports	0.12	0.01	The reasons for the delay attributed by the department were delay in finalisation of cases pending in courts, procedural delay in settling revenue recovery cases and non- remittance of arrears by the parties.

Details of arrears of revenue in respect of other departments though called for in May 1997 have not been furnished (November 1997).

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

The details of sales tax and agricultural income tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 1994-95 to 1996-97, as furnished by the department, are given below.

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax						
1994-95	97,565	1,01,377	1,98,942	1,02,572	96,370	52
1995-96	96,370	1,18,623	2,14,993	1,03,706	1,11,287	48
1996-97	1,11,287	1,34,080	2,45,367	1,15,936	1,29,431	47
Agricultural Income Tax						
1994-95	12,980	13,917	26,897	15,336	11,561	57
1995-96	11,561	13,616	25,177	13,170	12,007	52
1996-97	12,007	12,113	24,120	13,229	10,891	55

The above table shows that the department was able to complete between forty seven to fifty seven *per cent* of the assessments due for completion during 1994-95 to 1996-97. The delay in finalisation of assessments resulted in delay in realisation of the revenue involved in those cases.

1.6. Write-off, waiver and remission

During the year 1996-97, an amount of Rs 4.04 lakh was written-off by Government as detailed below.

(i) State Excise Department

An amount of Rs 3.66 lakh due from three persons towards abkari arrears and interest thereon was written-off (October 1996 to February 1997) since two of the defaulters did not possess any landed property and hence there was no possibility of realising the arrears and the legal heirs of the third person who expired in 1968 obtained a prohibitory order from a court of law against revenue recovery proceedings.

(ii) Forest and Wild Life Department

(a) An amount of Rs 25,686 due to Government on account of lease rent and interest thereon was written-off (December 1996) as the defaulter who expired had no attachable property in his name.

(b) Loss of Rs 12,600 sustained by Government due to departmental delay in conducting auction sale and consequent deterioration and destruction of timber was written off (March 1997).

1.7. Internal Audit

i) Land Revenue Department

The Internal Audit Unit of the Board of Revenue (Land Revenue) consists of one Junior Superintendent, two Upper Division Clerks and one Lower Division Clerk. During 1996-97, the unit audited 26 Taluk Offices. Inspection of 121 offices was in arrears during 1996-97. The department attributed the arrears mainly to the inadequacy of staff. The department reported (July 1997) that proposal for the formation of one more audit wing in the department was pending with the Government.

During 1996-97, 530 audit observations involving money value of Rs 16.82 lakh were made, out of which 519 observations involving money value of Rs 16.76 lakh were yet to be settled as on 31 March 1997.

ii) Motor Vehicles Department

The internal audit unit of the Motor Vehicles Department consists of one Senior Superintendent and one Upper Division Clerk. During 1996-97 the unit audited 8 offices and raised 9 objections involving a money value of Rs 1.18 lakh. No objection had been settled during 1996-97. As no target for audit had been fixed the arrears on this account could not be ascertained. However, the department stated that the present staff is too inadequate for the work.

iii) Chief Electrical Inspectorate

No Internal Audit Wing has been constituted in the department so far. According to the department, the proposal for an independent audit cell put forward by the department was under consideration of the Government.

Information regarding the organisational set up of Internal Audit Wing and its functioning, called for (April 1997) from State Excise, Forest, Registration and Agricultural Income Tax and Sales Tax departments has not been furnished (November 1997).

1.8. Results of audit

Test check of the records of Sales Tax, Agricultural Income Tax, State Excise, Motor Vehicles, Forest and other departmental offices conducted during the year 1996-97 revealed under-assessments/short levy/loss of revenue amounting to Rs 126.62 crore in 2,496 cases. During the course of the year 1996-97, the concerned departments accepted under-assessments etc., of Rs 107.93 crore involved in 1,233 cases of which 296 cases involving Rs 1.83 crore had been pointed out in audit during 1996-97 and the rest in earlier years.

This report contains 59 paragraphs including 3 reviews relating to non-levy, short levy of tax, duty and interest, penalty etc., involving financial effect of Rs 154.26 crore. The departments/Government have so far accepted the audit observations in 70 cases involving Rs 429.61 lakh included in the Report. No final reply has been received in the remaining cases (November 1997).

1.9. Outstanding Inspection Reports and Audit Observations

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

As at the end of June 1997, 3,682 inspection reports containing 15,362 audit observations having money value of Rs 305.60 crore issued up to December 1996 were outstanding as shown below. Figures for the preceding two years are also given.

	As at the end of June 1995	As at the end of June 1996	As at the end of June 1997
Number of inspection reports	2,888	3,119	3,682
Number of audit observations	12,123	13,269	15,362
Amount involved (in crore of rupees)	126.18	161.44	305.60

Chapter 1

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

Sl. No.	Head of Revenue	Number of inspection reports	Number of audit observations	Amount (In crore of rupees)
1	Sales Tax	1,220	7,166	191.65
2	Agricultural Income Tax	394	2,729	20.44
3	State Excise Duties	746	1,360	29.41
4	Taxes on Vehicles	271	1,664	6.33
5	Land Revenue	178	436	2.98
6	Forestry and Wild Life	236	652	48.26
7	Stamps and Registration Fees	625	1,301	6.02
8	Electricity Duty	8	46	0.39
9	State Lotteries	4	8	0.12
	Total	3,682	15,362	305.60

Year-wise analysis of the outstanding inspection reports and audit observations is given below.

Year	Number of inspection reports	Number of audit observations	Amount (In crore of rupees)
(as at the end of June 1997)			
Up to 1992-93	1,530	5,584	77.62
1993-94	394	1,494	11.23
1994-95	411	1,882	49.15
1995-96	654	3,192	22.12
1996-97	693	3,210	145.48
Total	3,682	15,362	305.60

First replies to 314 inspection reports issued up to December 1996 were not furnished by the departments till the end of June 1997. The position was brought to the notice of the Chief Secretary to Government (July and August 1997).

Chapter 2

Sales Tax



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CHAPTER 2

SALES TAX

2.1. Results of audit

Test check of sales tax assessments and refund cases and connected documents of Sales Tax Offices conducted in audit during the year 1996-97 revealed under-assessments of tax, non-levy of penalty etc., amounting to Rs 10523.01 lakh in 1,336 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Turnover escaping assessment	261	7301.14
2	Irregular exemption from tax	222	316.67
3	Application of incorrect rate of tax	283	97.74
4	Irregular grant of concessional rate of tax	64	33.96
5	Non-levy of penalty	191	136.66
6	Other lapses	315	2636.84
	Total	1,336	10523.01

During the course of the year 1996-97 the department accepted under-assessments etc., of Rs 10574.47 lakh involved in 766 cases of which 133 cases involving Rs 32.46 lakh had been pointed out in audit during 1996-97 and the rest in earlier years. A few illustrative cases involving Rs 80.39 lakh are given in the following paragraphs.

2.2. Application of incorrect rate of tax

Under the Sales Tax laws of Kerala, rate of tax depends, *inter alia*, on the nature of sales, sales to registered dealers or registered manufacturing dealers and others and also on the kind of commodity. During the course of audit of assessment records in nine circles it was noticed that tax was levied at incorrect rates in 13 cases resulting in short levy of tax by Rs 18.19 lakh as detailed below.

Application of incorrect rate resulted in short levy of tax of Rs 18.19 lakh in 9 circles

Sl. No	Name of office	Commodity dealt in	Assessment year	Correct rate	Rate applied	Turnover	Tax short levied	Remarks
				(In per cent)				
1	Second Circle, Thripunithura	Electronic goods	1992-93	5	4	527	5.69	Department revised the assessment in March 1997 raising additional demand of Rs 5.69 lakh. Second appeal filed by the dealer was pending before the Tribunal.
2.	Special Circle II, Ernakulam	Tyres	1987-88	15	10	47.31	3.03	Department revised the assessment and collected (September 1996) the additional demand of Rs 3.03 lakh.
3.	Special Circle II, Ernakulam	Hawai Sheets	1991-92	10	8	61.22	1.63	Department revised (May 1996) the assessment raising additional demand of Rs 1.14 lakh and collected an amount of Rs 1 lakh.
4	Special Circle (Produce), Mattancherry	Ginger	1992-93	5	4	111	1.20	Final reply has not been received.
5	Special Circle, Mattancherry	Bamboo reeds	1992-93	8	6	52.04	1.12	Department revised the assessment in September 1996 and collected the additional demand of Rs 1.12 lakh.
6	Special Circle,	Plywood	1991-92	10 & 12	5 & 10	19.13	1.07	Department revised the assessment in April 1997

Sales Tax

Sl. No	Name of office	Commodity dealt in	Assessment year	Correct rate	Rate applied	Turnover	Tax short levied	Remarks
				(In per cent)				
	Malappuram							raising additional demand of Rs 1.07 lakh.
7	Sales Tax Office, Chittur	Groundnut oil	1992-93	6	5	88.26	0.95	Department revised the assessment in July 1996 raising additional demand of Rs 95,318
8	Sales Tax Office, North Paravoor	Spare parts of Motor vessels	1990-91 to 1992-93	12/15	10/8/10	14.89	0.83	Department revised the assessment in February 1996 raising additional demand of Rs 82,783. On the basis of an appeal the assessment was again revised reducing the turnover, as a result of which the additional demand was also reduced to Rs 55,309
9	Special Circle II, Ernakulam	Polish	1991-93 to 1994-95	12.5	8	16.84	0.81	Final reply has not been received.
10	Sales Tax Office, Vadakkancherry	Paint	1993-94	12.5	10	24.38	0.67	Final reply has not been received.
11	Special Circle II, Ernakulam	Turmeric	1992-93	8	6	22.64	0.49	-do-
12	Sales Tax Office, Vaikkom	Cement products	1992-93 to 1994-95	12.5	8	8.03	0.38	Department revised the assessments in July 1996 raising additional demand of Rs 37,925.
13	Special Circle (Produce), Mattancherry	REP licence	1990-91	5	4	23.87	0.32	Final reply has not been received
Total							18.19	

The above cases were reported to Government between March and July 1997; they confirmed the facts in respect of serial numbers 1,2,5,6 and 8. Their replies have not been received in the remaining cases (November 1997).

2.3. Turnover escaping assessment

(i) Under the Kerala General Sales Tax Act, 1963, tax at the rate of five *per cent* was leviable on cashew kernels and cashewnut with shell at the point of first sale and at the point of last purchase respectively in the State up to 31 March 1992. A dealer claiming a sale in the course of export, shall attach to the annual return a declaration in Form 18A received from the purchasing dealer.

In four circles turnover amounting to Rs 88.05 lakh escaped assessment resulting in short levy of tax of Rs 4.17 lakh

In Special Circle, Kollam, while finalising (September 1995) the assessment of a dealer for the year 1991-92 the assessing officer accepted the accounts of the assessee which included purchase of cashew kernels, issuing Form 18A, for Rs 9.25 lakh from another dealer of the same circle. A verification by Audit of the assessment records of the seller revealed that the seller had not disclosed this sale in his accounts and while finalising (March 1994) the assessment of the seller, the assessing authority did not consider this sale with the corresponding purchase turnover of cashewnut valued at Rs 6.17 lakh for assessment. This resulted in short levy of tax of Rs 1.03 lakh (including additional sales tax and surcharge).

The matter was pointed out to the department in June 1996 and reported to Government in June 1997; their replies have not been received (November 1997).

(ii) In other three cases turnover amounting to Rs 72.63 lakh taxable at different rates escaped assessment which resulted in non-levy of tax of Rs 3.14 lakh the details of which are given below.

Sl.No.	Name of circle	Period to which the assessment relates	Commodity dealt in	Amount of turnover (In lakh of rupees)	Nature of irregularity	Rate of tax (In per cent)	Amount of non-levy (In lakh of rupees)	Remarks
1	Special Circle II, Ernakulam	1990-91	Petroleum products	46.19	The sale effected to an industrial unit escaped assessment	2	1.23	Final reply of the department has not been received.
2	Special Circle, Thiruvananthapuram	1992-93	REP licences	11.24	Sale turnover of Exim Scrips were excluded from assessment	8	0.97	Department revised (March 1997) the assessment and the additional demand of Rs 97,086 collected in May 1997.
3	Special Circle, Kollam	1982-83, 1987-88 and 1988-89	REP licences	15.20	-do-	4/5	0.94	Department revised (May 1996) one case raising additional demand of Rs 52,219. Final reply has not been received in other cases.
Total				72.63			3.14	

The above cases were reported to Government between April and July 1997; they confirmed (August 1997) the facts reported at serial number 3. Replies have not been received in the remaining cases (November 1997).

2.4. Non-levy of turnover tax

Under the Kerala General Sales Tax Act, 1963, with effect from 1 April 1992 every dealer whose turnover exceeds Rs 50 lakh has to pay turnover tax at the rate of half *per cent* on the turnover of goods coming under the first or fifth schedule at all points of sale (except the first sale) and on the turnover of goods received on consignment or branch transfer, whereas dealers dealing in petroleum products, foreign liquor including Indian made foreign liquor, cooked food and medicines and drugs have to pay turnover tax at the rate specified for them.

In seven circles turnover tax amounting to Rs 14.38 lakh was not levied

During the course of audit of assessment records in 7 circle offices it was noticed that in 20 cases turnover tax amounting to Rs 14.38 lakh was not levied as detailed below.

Sl. No.	Name of office	Year of assessment	Commodity dealt in	Rate of turnover tax applicable	No. of cases	Turnover	Amount of turnover tax not levied	Remarks
				In per cent		(In lakh of rupees)		
1	Special Circle, Kollam	1992-93	Raw cashewnut	0.5	14	1318.00	6.59	Department stated (June 1996) that as per SRO 1401/92 no turnover tax was payable on purchase of raw cashewnut. But Government exempted the turnover at first sale point only from turnover tax. Hence raw nuts taxable at last purchase point were liable to turnover tax.
2	First Circle, Kottayam	1992-93	Foreign liquor	3	1	83.13	2.72	Department revised (August and December 1996) the assessment raising additional demand of Rs 2.72 lakh.

Sl. No.	Name of office	Year of assessment	Commodity dealt in	Rate of turnover tax applicable	No. of cases	Turnover	Amount of turnover tax not levied	Remarks
				In per cent		(In lakh of rupees)		
3	Sales Tax Office, Angamaly	1993-94	Foreign liquor	3	1	59.00	1.77	Final reply of the department has not been received.
4	Sales Tax Office, Manjeri	1992-93	Arrack	0.5	1	242.00	1.21	Assessment revised (June 1996) raising additional demand of Rs 1.21 lakh.
5	Sales Tax Office, Ponkunnam	1992-93	Arrack	0.5	1	154.00	0.77	Department revised (December 1996) the assessment raising additional demand of Rs 77,186.
6	Special Circle II, Kozhikode	1991-92 & 1992-93	Coconut oil	0.5	1	133.00	0.66	Final reply of the department has not been received.
7	Sales Tax Office, Vaikom	1991-92	Foreign liquor	2	1	32.81	0.66	Department revised (July 1996) the assessment raising additional demand of Rs 65,618.
						Total	14.38	

Government to whom the above cases were reported between April and July 1997 confirmed (July 1997) the facts at serial number 3. No reply has been received in the remaining cases (November 1997).

2.5. Short levy of turnover tax

Under the Kerala General Sales Tax Act, 1963, on sales turnover of Foreign Liquor (Indian made or Foreign made) turnover tax is leviable at the rate of three *per cent* at all points of sale. It was judicially held¹ (September 1994) that tax collected forms part of turnover.

Short levy of turnover tax of Rs 48,717 by assessing officer

¹ Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam Vs Canara Work Shop Ltd. reported in 95 STC 507 (H.C. of Kerala).

In First Circle, Thiruvananthapuram, while finalising (December 1993) the assessment of a dealer in Foreign Liquor for the year 1992-93, tax amounting to Rs 16.24 lakh collected by the dealer was omitted from levy of turnover tax resulting in short levy of turnover tax of Rs 48,717.

The Government to whom the case was reported in March 1997 stated (July 1997) that the assessment had been revised creating additional demand of Rs 48,717.

2.6. Irregular grant of exemption from tax

(i) By a notification issued (October 1980) under Section 10 of the Kerala General Sales Tax Act, 1963, Government exempted from payment of tax, goods produced and sold by new small scale industrial units for a period of five years from the date of commencement of sale of such goods, subject to certain conditions. The stipulations, *inter alia*, provide that the unit shall produce to the assessing authority the proceedings of the General Manager of the District Industries Centre declaring the eligibility of the unit for exemption from sales tax.

Irregular grant of exemption resulted in short levy of tax of Rs 6.78 lakh

In Neyyattinkara, a small scale industrial unit was declared by the General Manager, District Industries Centre, Thiruvananthapuram to be eligible for exemption from payment of tax due on 'G.I wire netting' produced and sold during the period of five years from October 1990 to September 1995. The assessing officer while finalising (between October 1992 and November 1994) the assessments for the years 1990-91 to 1993-94 exempted an aggregate sales turnover of Rs 37.52 lakh relating to 'wire mesh' produced and sold by the unit, even though 'wire mesh' was not certified by the District Industries Centre. This resulted in short levy of tax of Rs 3.19 lakh.

On this being pointed out (May 1995) in audit, the assessing authority revised (November 1996) the assessments raising additional demand of Rs 3.19 lakh.

The case was reported to Government in July 1997.

(ii) Under the Kerala General Sales Tax Act, 1963, wheat bran is taxable at four *per cent* at the point of first sale in the State up to 31 March 1992. Government by a notification (March 1990) exempted the tax payable on bran from 1 April 1989 to 31 March 1991.

In Pathanamthitta, while finalising (March 1996) the assessment of a dealer in wheat products for the year 1991-92, sales turnover amounting to Rs 50.79 lakh relating to wheat bran was irregularly exempted from tax. This resulted in short levy of tax of Rs 2.70 lakh.

The case was pointed out to the department in audit in February 1997. Final reply has not been received (November 1997).

The case was reported to Government in July 1997; their reply has not been received (November 1997).

(iii) Under the Kerala General Sales Tax Act, 1963, tax is leviable on 'cattle feed' at the rate of five *per cent* up to 31 March 1992 and at six *per cent* thereafter, at the point of first sale in the State. Government by notification (March 1989 and February 1990) exempted 'cattle feed' from payment of tax for a period of two years from 1 April 1989 to 31 March 1991.

In Special Circle, Kottayam, while finalising (October 1994) the assessment of a dealer for the year 1991-92, turnover of Rs 13.36 lakh relating to cattle feed was irregularly exempted from tax. This resulted in non-levy of tax of Rs 88,813 (including additional sales tax and surcharge)

The case was pointed out to the department in September 1995. Government to whom the case was reported in April 1997, stated (June 1997) that the assessment had been revised (September 1996) and the short levy made good in December 1996.

2.7. Irregular grant of concessional rate of tax

(i) By a notification issued in March 1992 under the Kerala General Sales Tax Act, 1963, Government reduced the tax payable on the sale of goods other than petroleum products to Central and State Government Departments and some autonomous bodies including the Kerala State Electricity Board to four *per cent* with effect from 1 April 1992. By another notification (November 1993), the notification issued in March 1992 was superseded and modified with effect from 1 January 1994 restricting the concessional rate to government departments excluding the Kerala State Electricity Board. Subsequently, the concessional rate to the Kerala State Electricity Board was restored by a notification issued in June 1995. Under the Act, on electrical goods tax is leviable at the rate of ten *per cent* with effect from 1 January 1994.

Rs 6.05 lakh was short levied due to irregular grant of concessional rate of tax

During the course of audit it was noticed that in 3 circles on goods sold to State Electricity Board the concessional rate was granted irregularly resulting in short levy of tax of Rs 5.07 lakh as detailed below.

Sl. No	Name of the circle	Assessment year	Period	Turnover (In lakh of rupees)	Correct rate (In per cent)	Rate applied (In per cent)	Short levy (In lakh of rupees)	Remarks
1	Special Circle, Thrissur	1993-94	January to March 1994	33.12	10	4	2.19	Final reply of the department has not been received.
2	Sales Tax Office, Muvattupuzha	1993-94 & 1994-95	January 1994 to March 1995	31.36	8	4	1.38	Final reply of the department has not been received
3	Special Circle, Kottayam	1993-94	January to March 1994	22.65	10	4	1.50	Final reply of the department has not been received.
Total							5.07	

The cases were reported to Government in July 1997; their reply has not been received (November 1997).

(ii) Under the Kerala General Sales Tax Act, 1963, the tax payable by a dealer in respect of any sale of industrial raw materials which is liable to tax at a rate higher than two *per cent* when sold to industrial units for use in the production of finished products inside the State for sale shall be at the rate of only two *per cent* on the taxable turnover relating to such industrial raw materials. The dealer selling the raw materials shall furnish to the assessing authority a declaration in Form 18 duly filled in and signed by the purchasing dealer. Under the Act, the tax payable on Benzene sold by Indian Oil Corporation to Hindustan Organic Chemicals, Cochin from March 1989 was four *per cent*.

In Special Circle II, Ernakulam, while finalising (August 1994) the assessment of an assessee for the year 1990-91, the assessing authority levied tax at the concessional rate of two *per cent* on sale of Benzene amounting to Rs 28.14 crore though the turnover shown in the prescribed declaration was Rs 27.77 crore. This resulted in irregular granting of concessional rate on turnover of Rs 36.70 lakh with short levy of tax of Rs 97,623 (including additional sales tax and surcharge).

The case was pointed out to the department in October 1996. Final reply has not been received (November 1997).

The case was reported to Government in July 1997; their reply has not been received (November 1997).

2.8. Non-levy of additional sales tax

Under the Central Sales Tax Act, 1956, the rate of tax applicable to inter-state sale of goods other than declared goods not covered by C-form is 10 *per cent* or the local rate of tax whichever is higher. Under the Kerala Additional Sales Tax Act, 1978, the tax payable for every financial year by an assessee under the Kerala

In four circles non-levy of additional sales tax resulted in short levy of tax of Rs2.28 lakh

General Sales Tax Act, 1963 shall be increased by a prescribed percentage of tax which was 20 *per cent* up to 31 March 1988 and 25 *per cent* thereafter up to 31 March 1992. The Supreme Court had held* (January 1992) that the rate of tax applicable inside the State would include additional sales tax also.

During the course of audit it was noticed that in 4 circles additional sales tax as noted above was not levied resulting in short levy of tax of Rs 2.28 lakh as detailed below.

Sl. No.	Name of circle	Year of assessment	Tax due (In lakh of rupees)	Rate of additional sales tax (In per cent)	Amount of short levy (In lakh of rupees)	Remarks
1	Special Circle III, Ernakulam	1986-87	4.46	20	0.89	Department revised (October 1996) the assessment and collected the additional demand of Rs 89,105.
2	Sales Tax Office, Malappuram	1985-86	2.93	20	0.59	Department revised (July 1997) the assessment raising additional demand as pointed out in audit.
3	Fourth Circle, Ernakulam	1990-91	2.08	25	0.52	Department revised (December 1996) the assessment raising additional demand of Rs 51,997.
4	Sales Tax Office, Chittoor	1991-92	1.10	25	0.28	Department revised (July 1996) the assessment raising additional demand of Rs 27,518.
Total					2.28	

* Deputy Commissioner of Sales Tax Vs Aysha Hossieri Factory Pvt. Ltd and others 85 STC 106 (1992)

Government to whom the above cases were reported in March 1997 confirmed the facts.

2.9. Misclassification of goods

(i) Under the Kerala General Sales Tax Act, 1963, 'synthetic rubber products' classified under the Fifth Schedule to the Act is taxable at two points of sale in the State. First at the point of first sale in the State, if to a registered dealer (to be supported by prescribed declaration to prove that sale was to a registered dealer) at the rate of ten *per cent* and second, at the last sale point in the State at the rate of five *per cent*. If the sale at the first sale point is not to a registered dealer the rate would be fifteen *per cent*. 'Synthetic rubber' is classified under the First Schedule (single point taxable goods) and is taxable at the point of first sale in the State at twelve and a half *per cent*.

Misclassification of goods resulted in short levy of tax of Rs 3.33 lakh in two circles

In Special Circle II, Ernakulam, while finalising (between February 1994 and March 1996) the assessments of a dealer at the first sale point for the years 1992-93 to 1994-95 on sales turnover of nipples and teats amounting to Rs 50.44 lakh tax was levied at the rate of twelve and a half *per cent* classifying the commodity under synthetic rubber instead of levying tax at fifteen *per cent* under synthetic rubber products. This resulted in short levy of tax of Rs 1.78 lakh (including surcharge).

The case was pointed out in audit in October 1996. Final reply from the department has not been received (November 1997).

The case was reported to Government in July 1997; their reply has not been received (November 1997).

(ii) Under the Kerala General Sales Tax Act, 1963, tax was leviable on 'soaps other than handmade' at the rate of eight *per cent* from 1 April 1993 to 31 March 1994.

In Special Circle, Mattancherry, while finalising (February 1995) the assessment of a soap manufacturer for the year 1993-94, on turnover amounting to Rs 70.60 lakh from machine-made soap tax was levied at the rate of six *per cent* misclassifying the soap as handmade instead of at eight *per cent*. This resulted in short levy of tax of Rs 1.55 lakh (including surcharge).

On this being pointed out (September 1996) in audit, the assessing authority stated (September 1996) that notice had been issued to revise the assessment. Further report has not been received (November 1997).

The case was reported to Government in March 1997; their reply has not been received (November 1997).

2.10. Short levy of tax due to mistake in computation

Rule 20 of the Kerala General Sales Tax Rules, 1963, requires that the assessing authority while making a final assessment shall examine, *inter alia*, what amounts are due from the dealer on final assessment, after deducting the tax already paid and demand any amount found to be due from the dealer. Instructions issued (March 1970 and June 1989) by the Board of Revenue lay down departmental procedure for verifying and checking of all calculations of turnover and tax and credits given in an assessment order. Purchase turnover of copra was taxable at three *per cent* and sales turnover of coconut oil at two *per cent*.

**Computation mistake
resulted in short
levy/demand of tax of
Rs 14.50 lakh**

(a) In Special Circle, Mattancherry, while finalising (December 1995) the assessment of an oil miller with taxable turnover of Rs 7.46 crore for the year 1990-91, the quantity of oil consigned to other States was fixed at 4,851.975 quintal. The assessing authority in order to compute the purchase value of the 'copra' required to produce the quantity of oil consigned to other States, multiplied the quantity of oil (4,851.975 quintal) with the average value of copra (Rs 2,000 per quintal) instead of multiplying the quantity of copra (7,513.11 quintal) with such average value. The purchase turnover of copra so arrived at (Rs 97.04 lakh) was levied tax at three *per cent* and the balance turnover (Rs 6.49 crore) at two *per cent* reckoning it as the sales turnover of coconut oil. The mistake in computation resulted in under-assessment of a turnover of Rs 53.23 lakh by one *per cent* and consequent short levy of tax of Rs 70,791 (including additional sales tax and surcharge).

The case was pointed out to the department in August 1996 and reported to the Government in April 1997. Government stated (July 1997) that the assessment had been revised (March 1997) creating additional demand of Rs 70,791.

(b) In Special Circle, Mattancherry, while finalising (January 1996) the assessment of a dealer for the year 1994-95, the tax due was fixed at Rs 17.97 lakh. The assessee had collected an amount of Rs 18.11 lakh and remitted an amount of Rs 17.70 lakh. After giving credit for the excess remittance of Rs 23,919 made in 1993-94 the balance amount including surcharge of Rs 22,688 payable by the assessee was Rs 39,176. However, the assessing authority instead of demanding Rs 39,176 issued refund adjustment order for Rs 15,105, due to mistake in computation. This resulted in short demand of Rs 39,176 and grant of irregular refund of Rs 15,105.

On this being pointed out (September 1996) in audit, the assessing officer stated that the case would be examined. Further report has not been received (November 1997).

The case was reported to Government in July 1997; their reply has not been received (November 1997).

(c) During the course of audit of assessment records it was noticed that in 4 other cases tax/surcharge amounting to Rs 13.25 lakh was short levied due to mistake in computation as detailed below.

Sl. No.	Name of office	Year of assessment	Turnover	Correct amount of tax	Tax levied/demanded	Short levy/demand (including AST)	Remarks
			(In lakh of rupees)				
1	Special Circle (Produce) Mattancherry	1981-82	153.00	9.20	0.92	9.77	Final reply of the department has not been received
2	Special Circle, Mattancherry	1994-95	16.85	1.68	0.17	1.52	Final reply of the department has not been received.
3	First Circle, Alappuzha	1993-94	84.94	2.37	1.37	1.00	Department revised (September 1996) the assessment and collected (October 1996) the additional demand of Rs 1 lakh.
4	Special Circle, Mattancherry	1993-94	140.94	1.07	0.11	0.96	Department revised the assessment raising additional demand of Rs 96,300.
Total						13.25	

The above cases were reported to Government between March and July 1997. Government confirmed the facts at serial number 4. Final replies have not been received in the remaining cases (November 1997).

2.11. Non-levy of surcharge

Under the Kerala Surcharge on Taxes Act, 1957, the tax payable under the Kerala General Sales Tax Act, 1963, shall, in the case of a dealer whose turnover exceeds Rs 10 lakh in a year, be increased by a surcharge at the rate of ten *per cent*. Tax leviable under the Kerala General Sales Tax Act, 1963, on

Surcharge amounting to Rs 2.11 lakh was short levied in two circles

hides and skin in the case of manufacturers of leather products including processors of tanned leather was reduced (March 1994) by Government from four *per cent* to two and a half *per cent* with effect from 1 April 1994.

(a) In First Circle, Kalamasserry, while finalising (February 1996) the assessment of a dealer for the year 1994-95 the assessing authority levied sales tax on turnover of hides and skin amounting to Rs 6.89 crore at the reduced rate of two and a half *per cent*, but omitted to levy surcharge. This resulted in non-levy of surcharge of Rs 1.72 lakh.

On this being pointed out (September 1996) in audit, the assessing authority revised the assessment and collected (September 1996) an additional demand of Rs 1.72 lakh.

Government to whom the case was reported in April 1997 confirmed (July 1997) the facts.

(b) In Special Circle II, Ernakulam, while finalising (February 1995) the assessment of a dealer for the year 1993-94, on an amount of Rs 19.26 lakh payable towards tax, surcharge was levied at the rate of eight *per cent* instead of ten *per cent*. This resulted in short levy of surcharge of Rs 38,519.

The case was pointed out to the department in March 1996 and reported to the Government in March 1997. Government stated (July 1997) that the assessment had been revised and the additional demand collected in June 1996.

2.12. Non-forfeiture of tax collected irregularly

Under the Kerala General Sales Tax Act, 1963, no registered dealer shall collect any sum purporting to be by way of tax in respect of the sale of any goods, at a rate exceeding the rate at which he is liable to pay tax and if any person collects any sum in

There was short demand of tax of Rs 2.64 lakh due to non-forfeiture of tax collected illegally

contravention of the provision he shall be liable to pay penalty not exceeding five thousand rupees and any sum collected by the person by way of tax or purporting to be by way of tax shall be liable to be forfeited to Government by an order issued by the assessing authority. Under the Act, rubber is taxable at the last purchase point in the State.

(a) In Special Circle, Mattancherry, for the year 1986-87 an assessee had collected tax at the rate of eight *per cent* on stoneware pipes instead of at the correct rate of five *per cent* on a turnover of Rs 45.12 lakh. The assessing officer while finalising (September 1995) the assessment did not forfeit the excess collection made by the assessee which resulted in non-realisation of Rs 1.62 lakh.

The case was pointed out to the department in August 1996. Final reply has not been received (November 1997).

The case was reported to Government in March 1997; their reply has not been received (November 1997).

(b) In Special Circle III, Ernakulam, while finalising (June 1994) the Central Sales Tax assessment of an assessee for the year 1986-87 the assessing officer did not forfeit an amount of Rs 1.02 lakh which the assessee had illegally collected from inter-State buyers towards purchase tax and surcharge under the State Act.

On this being pointed out (January 1996) in audit, department stated (October 1996) that the assessing authority forfeited the amount through an order issued in September 1996.

Government to whom the case was reported in April 1997 confirmed (July 1997) the facts.

2.13. Irregular adjustment of cumulative tax concession

(i) By a notification issued (March 1990) under the Kerala General Sales Tax Act, 1963, Government modified the scheme of tax concession available to the small scale industrial units with effect from 1

*Irregular adjustment of
cumulative tax concession
resulted in short demand of tax
of Rs 2.36 lakh in two circles*

April 1990. The concession was also extended to existing units subject to the condition that the aggregate exemption including that availed of shall not exceed the period and monetary limit prescribed in March 1990.

In Special Circle, Kollam, an existing small scale industrial unit was granted a tax concession of Rs 2.04 lakh for the period from April 1990 to January 1992, under the scheme. The assessing authority while finalising (between December 1993 and May 1995) the assessments for the years 1990-91 and 1991-92 granted tax

concession of Rs 3.54 lakh as against the admissible limit of Rs 2.04 lakh resulting in excess grant of concession of Rs 1.50 lakh. On account of this the assessing authority refunded an amount of Rs 1,23,610 to the assessee after adjusting Rs 11,913 from the tax of Rs 1,35,523 remitted by the assessee. This mistake resulted in non-demand of tax of Rs 1.50 lakh.

The case was pointed out to the department in June 1996 and reported to the Government in July 1997; their replies have not been received (November 1997).

(ii) By a notification issued (October 1980) under Section 10 of the Kerala General Sales Tax Act, 1963, Government exempted the goods produced and sold by new small scale industrial units from payment of tax for a period of five years from the date of commencement of sale of such goods, subject to certain conditions stipulated therein. The stipulations, *inter alia*, provide that the cumulative sales tax concession granted to a unit at any point of time shall not exceed 90 *per cent* of the gross fixed capital investment of the unit.

In Adoor, a small scale industrial unit manufacturing biscuits was declared eligible for tax concession amounting to Rs 13.65 lakh for a period of five years from December 1988 to December 1993. After adjusting the sales tax due for the years from 1988-89 to 1990-91, the tax concession available for the year 1991-92 was Rs 4.77 lakh. The assessing authority, while finalising (May 1994) the assessment for the year 1991-92, fixed the tax due at Rs 5.58 lakh and completely exempted it from payment instead of limiting the exemption to Rs 4.77 lakh. This resulted in grant of excess tax concession of Rs 85,823.

On this being pointed out (August 1995) in audit, the department stated (January 1996) that the assessment had been revised (September 1995) and the additional demand of Rs 85,823 collected in December 1995.

Government to whom the case was reported (March 1997) confirmed (July 1997) the matter.

2.14. Short raising of demand

Rule 20 of the Kerala General Sales Tax Rules, 1963, requires that the assessing authority while making a final assessment shall examine, *inter alia*, what amounts are due from the dealer on final assessment, after deducting the tax already paid and demand any amount found to be due from the dealer. Instructions issued (March 1970 and June 1989) by the Board of Revenue lay down departmental procedure for verifying and checking of all calculations of turnover and tax and credits given in an assessment order.

*In second circle,
Thiruvananthapuram
interest of Rs 1.36 lakh was
short demanded*

In Second Circle, Thiruvananthapuram, while finalising (July 1995) the assessment of a dealer for the year 1993-94, the interest due on belated payment of tax was worked out as Rs 1,51,401. However, in the assessment order and in the demand notice the amount was shown as Rs 15,140. This resulted in short demand of Rs 1.36 lakh.

On this being pointed out (July 1996) in audit, the department stated that the mistake had been rectified and steps had been initiated (July 1996) to recover the amount under the Revenue Recovery Act.

The case was reported to Government in July 1997.

2.15. Incorrect accounting of remittances

Under the Kerala General Sales Tax Act and Rules, the dealer is required to furnish along with his return treasury chalans showing amounts of tax deposited by him on the basis of his returns. The amount so deposited by the dealer is adjusted against the tax assessed at the time of final assessment. Instructions issued (March 1970 and June 1989) by the Board of Revenue lay down departmental procedure for verifying and checking of all calculations of turnover and tax and credits given in an assessment order.

Incorrect accounting of remittances resulted in short demand of tax of Rs 1.75 lakh in two circles

(a) In Special Circle, Palakkad, while finalising (between August 1995 and March 1996) the assessments of two dealers A and B, two tax remittances of Rs 38,050 (1989-90) and Rs 31,876 (1990-91) made by two other dealers X and Y were accounted against the assessee 'A' and a tax remittance of Rs 27,532 (1993-94) made by another dealer P was given credit to the assessee B. The incorrect adjustment of tax resulted in short demand of tax of Rs 97,458.

Government to whom the case was reported in April 1997 stated (July 1997) that the mistakes had been set right (February 1997) raising additional demand of Rs 97,458.

(b) In Special Circle, Thrissur, while finalising (September 1995 and January 1996) the assessments of two dealers (X and Y), excess credit of Rs 40,205 was given in one case (X) for the year 1993-94 due to double accounting of two credits . In the case of the second dealer (Y) for the year 1994-95, credit of a remittance of Rs 40,891 made by third (Z) dealer was given to this dealer (Y). Besides credits for two other remittances were short by Rs 2,800 resulting in short credit of Rs 38,091 in this case. These mistakes resulted in short demand of tax by Rs 78,296.

On this being pointed out (November 1996) in audit, in the first case the assessing officer collected (November 1996) an additional demand of Rs 40,205 and in the second case the assessment was revised (December 1996).

The cases were reported to Government in March 1997.

Chapter 3

Taxes on Agricultural Income

CHAPTER 3

TAXES ON AGRICULTURAL INCOME

3.1. Results of audit

Test check of the records of the Agricultural Income Tax Offices, conducted in audit during the year 1996-97, revealed under-assessment of tax amounting to Rs 525.16 lakh in 312 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Income escaping assessment	121	263.64
2	Under-assessment due to assignment of incorrect status	2	2.06
3	Under-assessment due to failure to club income	3	5.08
4	Under-assessment due to incorrect computation of income	16	15.70
5	Under-assessment due to grant of inadmissible deduction	42	71.90
6	Under-assessment due to application of incorrect rate of tax/ incorrect computation of tax	52	6.50
7	Other irregularities	76	160.28
Total		312	525.16

During the course of the year 1996-97, the department accepted under-assessments, etc., of Rs 31.98 lakh involved in 155 cases of which 3 cases involving Rs 20,982 had been pointed out in audit during 1996-97 and the rest in earlier years. A few illustrative cases involving Rs 77.70 lakh are given in the following paragraphs.

3.2. Short levy of tax due to inadmissible deduction

Under the Agricultural Income-tax Act, 1950, agricultural income means, *inter alia*, any income derived from land by agriculture or by the sale by a cultivator of the produce raised by him, in respect of which only a process ordinarily employed by a cultivator to render the produce raised by him fit

Short levy of tax of Rs52.87 lakh in Ernakulam due to allowance of inadmissible deduction

to be taken to market has been performed. Under the Income Tax Rules, 1962, income derived from the sale of tea, grown and manufactured by the seller in India, shall be computed as if it were income derived from business and forty *per cent* of such income shall be deemed to be income liable to tax under the Income Tax Act, 1961. The remaining sixty *per cent* of the composite income so computed by the Income Tax Officer shall be reckoned as agricultural income from tea. Section 80 HHC of the Income Tax Act, 1961 envisages a deduction of the profit realised by the assessee for export business from the gross total income assessable under the Act.

In Ernakulam, while finalising (October 1993) the assessments for 1990-91 and 1991-92 of an assessee deriving income from tea, rubber, cardamom etc., sixty *per cent* of the tea income as computed by the assessee was provisionally adopted since the central income tax assessment was not completed. Deductions of Rs 58.69 lakh and Rs 76.89 lakh under Section 80 HHC of the Central Income Tax Act claimed by the assessee were allowed on the composite tea income for the above two years although these were deductions to be allowed from the forty *per cent* of the tea income assessable under the Central Income Tax Act and not from the composite tea income. Allowance of this inadmissible deduction resulted in under-estimation of income of Rs 81.34 lakh leading to a short demand of tax of Rs 52.87 lakh.

The case was pointed out in audit in February 1996. Final reply from the department has not been received (November 1997).

The case was reported to Government in February 1997; their reply has not been received (November 1997).

3.3. Income escaping assessment

Under the Kerala Agricultural Income Tax Act, 1991, the total agricultural income of an assessee comprises all agricultural income derived from land situated within the State and received by him.

*Tax of Rs 6.57 lakh short
levied due to income escaping
assessment in three cases*

(i) In Ernakulam, the assessment for 1992-93 of a domestic company deriving income from tea, rubber, etc., was finalised (December 1994) fixing the net income at Rs 2.04 crore. While computing the taxable income the gross income from rubber was reckoned at Rs 28.84 crore against Rs 28.90 crore as revealed by the accounts of the company. This resulted in short levy of tax of Rs 4.34 lakh.

The case was pointed out to the department in February 1996 and reported to the Government in May 1996; their replies have not been received (November 1997).

(ii) In Thiruvananthapuram, while finalising (March 1991) the assessment for 1985-86 of a company the assessing officer omitted to reckon the income of Rs 1.64 lakh derived from the sale of tea bushes despite the fact that similar income was assessed during the assessment year 1984-85. This resulted in short levy of tax of Rs 1.06 lakh.

On this being pointed out (September 1991) in audit, the department stated (December 1996) that the assessment had been revised (December 1995) raising additional demand for Rs 1.06 lakh.

The case was reported to Government in June 1997.

(iii) The harvesting period of pepper and arecanut is from December to March. In Kozhikode, the assessment for the year 1991-92 of a domestic company

was finalised (November 1993) estimating the income from coffee, pepper and arecanut for the accounting period from December 1989 to March 1991. Although the assessee derived income for two seasons from pepper and arecanut during the accounting period, the assessing officer estimated the income for only one season. This resulted in short levy of tax of Rs 1.17 lakh.

On this being pointed out (May 1995) in audit, the assessing authority stated (July 1996) that the assessment had been revised (May 1996) raising additional demand for Rs 1.17 lakh.

The case was reported to Government in September 1996.

3.4. Irregular compounding of agricultural income tax

As per the provision of the Kerala Agricultural Income Tax Act, 1991, any person who holds landed property within the State extending to not more than twenty hectares and deriving agricultural income may apply to the Agricultural Income Tax Officer for permission to compound agricultural income tax payable by him and to pay in lieu thereof a lumpsum at the rates specified in the Act. The benefit of compounding of tax was made applicable to persons holding property as tenants-in-common with effect from 1 April 1994 only and as such, for tenants-in-common, the tax up to the assessment year 1993-94 shall be assessed at the rate applicable to the agricultural income of each tenant-in-common.

*Irregular compounding
of tax resulted in short
levy of tax of Rs 13.09
lakh in five offices*

(i) In Chengannur, while finalising (October 1994) the assessments for 1991-92, 1992-93 and 1993-94 the tax due on the agricultural income derived by three co-tenants from tenants-in-common properties was irregularly permitted to be compounded. The irregular compounding resulted in short levy of tax of Rs 3.26 lakh.

On this being pointed out (June 1995) in audit, the assessing authority stated (July 1995 and December 1996) that action had been initiated for the revision of the assessments. Further developments in the matter have not been reported (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

(ii) In Mannarkkad, while finalising (March 1994 and April 1994) the assessments for 1991-92 to 1993-94 the tax due on the agricultural income derived by three co-tenants from tenants-in-common properties was irregularly permitted to be compounded. The irregular compounding resulted in short levy of tax of Rs 1.24 lakh.

The case was pointed out in audit in October 1995. Final reply from the department has not been received (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

(iii) In Kasaragode, while finalising the assessments for 1991-92, 1992-93 and 1993-94 the tax due on the agricultural income derived by two co-tenants from tenants-in-common properties was irregularly permitted to be compounded. The irregular compounding resulted in short levy of tax of Rs 98,309.

On this being pointed out (March 1996) in audit, the assessing authority, stated (April 1996) that action had been initiated to revise the assessments. Further developments have not been reported (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

(iv) In Vadakara, while finalising (between September 1991 and August 1995) the assessment for 1991-92 to 1993-94 the tax due on the agricultural income derived by three co-tenants from tenant-in-common properties was irregularly permitted to be compounded. The irregular compounding resulted in short levy of tax of Rs 70,614.

On this being pointed out (February 1996) in audit, the assessing officer stated (December 1996) that action had been initiated for the revision of assessments. Further developments have not been reported (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

(v) In Kasaragode, while finalising (July 1993 to November 1993) the assessments for 1991-92 to 1993-94 the tax due on the agricultural income derived from six tenants-in-common properties by 21 co-tenants was irregularly permitted to be compounded. The irregular compounding resulted in short levy of tax of Rs 6.90 lakh.

On this being pointed out (July 1994) in audit, the department stated (May 1995) that action had been initiated for the cancellation of the assessments for finalising fresh assessments. Further report has not been received (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

3.5. Incorrect computation of income

Under the Agricultural Income-tax Act, 1950, agricultural income shall be computed in accordance with the method of accounting regularly employed by the assessee.

Incorrect reckoning of yield of rubber resulted in short levy of tax of Rs 89,621

In Thiruvananthapuram, while finalising (March 1991) the assessment for 1985-86 of a domestic company, the assessing authority reckoned the yield of rubber from the assessee's holdings as 15,12,457 kg as returned by the assessee against 15,20,854 kg shown in the annual report of the company for 1984. The omission to consider 8,397 kg of rubber resulted in escapement of income of Rs 1.38 lakh and consequent short levy of tax of Rs 89,621.

On this being pointed out (October 1991) in audit, the department stated (December 1996) that the assessment had been revised (December 1995) raising additional demand for Rs 89,621.

The case was reported to Government in June 1997.

3.6. Short levy of tax due to incorrect allowance of expenses

Under the Kerala Agricultural Income Tax Act, 1991, agricultural income shall be computed in accordance with the method of accounting regularly employed by the assessee and after allowing the deductions specified therein.

Incorrect allowance of expenses resulted in short levy of tax of Rs 79,410

In Mananthavady, while finalising (March 1995) the assessment for 1991-92 of a domestic company the assessing officer incorrectly allowed deduction of Rs 9.29 lakh against Rs 7.10 lakh admissible towards expenditure. This resulted in short levy of tax of Rs 79,410.

On this being pointed out (January 1996) in audit, the department stated (July 1996) that the assessment had been revised in April 1996.

The case was reported to Government in June 1997.

3.7. Short assessment of income

Under the Agricultural Income-tax Act, 1950, total agricultural income of any previous year of any person comprises all agricultural income derived from land situated within the State and received by him.

Non-consideration of actual share income resulted in short levy of tax of Rs 51,056

In Changanassery, while finalising (January 1996) the assessments for 1990-91 of four individuals deriving income from certain individual properties in addition to share income from a firm, computed in another assessing office (Kottayam), the share income was reckoned short by Rs 86,184. This resulted in short levy of tax of Rs 51,056.

On this being pointed out (May 1996) in audit, the assessing officer stated (July and October 1996) that the assessment had been revised (June 1996) and the additional demand had been recommended for recovery under the Revenue Recovery Act.

The case was reported to Government in December 1996.

3.8. Short levy of tax due to grant of inadmissible expenses

Under the Kerala Agricultural Income Tax Act, 1991, agricultural income of an assessee shall be computed after allowing deductions enumerated therein.

Short levy of tax of Rs 33,121 in Chittur due to allowing inadmissible/ excess expenditure

In Chittur, while finalising (January 1994) the assessment for 1992-93 of a firm the assessing officer allowed deduction of certain items towards expenditure which were either inadmissible or were in excess of that admissible. This resulted in escapement of income of Rs 1.08 lakh and short levy of tax of Rs 33,121.

On this being pointed out (August 1995) in audit, the department stated (March and June 1996) that the assessment had been revised (March 1996) and the additional demand of Rs 33,121 had been recommended (May 1996) for recovery under the Revenue Recovery Act.

Government to whom the case was reported (October 1996) confirmed (August 1997) the position.

3.9. Short levy of tax due to the application of incorrect rate of tax

The Agricultural Income-tax Act, 1950, provides that agricultural income tax at the rates specified in the Schedule to the Act shall be charged for each financial year on the total agricultural income of the previous year of every

Short levy of Rs 55,541 due to application of incorrect rate in Changanassery

person. The rate for 1991-92 on the income of Rs 2,57,960 was Rs 27,600 plus 50 per cent of the amount by which the total agricultural income exceeded rupees one lakh, whereas the rate for 1990-91 was Rs 25,500 plus 70 per cent of the amount by which the total agricultural income exceeded Rs 70,000.

In Changanassery, while finalising (March 1996) the assessment of an individual for the year 1990-91 tax due on the net income of Rs 2,57,960 was computed incorrectly at the rate applicable for the year 1991-92. This resulted in short levy of tax of Rs 55,541.

On this being pointed out (May 1996) in audit, the assessing officer stated (July 1996) that the assessment had been revised (June 1996).

The case was reported to Government in December 1996.

3.10. Incorrect computation of tax

The Kerala Agricultural Income Tax Act, 1991, provides that agricultural income tax at the rates specified in the Schedule to the Act shall be charged on the total agricultural income of the assessee.

*Short levy of tax of
Rs 55,788 at Kozhikode due
to incorrect computation*

In Kozhikode, while finalising (August 1995 and February 1996) the assessments of two individuals the tax due in one case on the net income of Rs 1,00,560 for the year 1987-88 was incorrectly computed at Rs 28,481 against Rs 51,481 due and in the other case on the net income of Rs 3,23,170 for the year 1994-95 was incorrectly computed at Rs 1,19,095 against Rs 1,51,783. These mistakes resulted in short levy of tax of Rs 55,788.

The case was pointed out to the department in July 1996 and reported to the Government in June 1997; their replies have not been received (November 1997).

3.11. Incorrect exemption of agricultural income.

Section 4(1) of the Agricultural Income-tax Act, 1950, specifies the items of agricultural crops which are exempted from agricultural income tax. Orange is not an item included in this Section and income from orange is, therefore, taxable.

Incorrect exemption of income from orange resulted in short levy of tax of Rs 61,600

In Kottarakkara, while finalising (March 1996) the assessment for 1990-91 of a firm, the income derived from sale of oranges amounting to Rs 80,000 was incorrectly exempted from levy of agricultural income tax. This resulted in short levy of tax of Rs 61,600.

On this being pointed out (September 1996) in audit, the assessing authority stated (December 1996) that the case was under examination and that a final reply would be sent soon. Further reply has not been received (November 1997).

The case was reported to Government in January 1997; their reply has not been received (November 1997).

3.12. Omission to assess closing stock

Under the Kerala Agricultural Income Tax Act, 1991, total agricultural income of any person of any previous year comprises all agricultural income derived from land situated within the State and received by him.

Non-consideration of closing stock resulted in short levy of tax of Rs 58,616

In Chengannur, while finalising the assessment for 1992-93 of an individual the assessing officer omitted to reckon the value of closing stock of scrap

rubber for computing the taxable income. This resulted in escapement of income of Rs 1.20 lakh and short levy of tax of Rs 58,616.

On this being pointed out (April 1996) in audit, the department stated (July 1996) that notice had been issued to the assessee for the revision of the assessment. Further report has not been received (November 1997).

The case was reported to Government in January 1997; their reply has not been received (November 1997).

3.13. **Incorrect allowance of replantation expenses**

Under the Kerala Agricultural Income Tax Act, 1991 and the Rules made thereunder, actual expenses incurred on replantation during the previous year is an admissible deduction up to the prescribed limit, in computing the agricultural income of an assessee. Where the assessee had no expenses for replantation during the previous year, the deduction is allowed if the amount is deposited in the treasury in the account of the assessee for being utilised for replantation in the year of withdrawal from the treasury.

***Incorrect allowance of
replantation expenses resulted
in short levy of tax of Rs 32,305
in Chittur***

In Chittur, while finalising (January 1994) the assessment for 1993-94 of a firm, which had neither incurred any expenses for replantation during the previous year nor deposited any amount for the purpose in the treasury, deduction of Rs 73,421 towards replantation allowance was allowed. The incorrect allowance of deduction resulted in computation of loss for 1993-94 in excess by Rs 73,421, its subsequent carry forward to 1994-95 and consequent short levy of tax of Rs 32,305 for 1994-95.

Taxes On Agricultural Income

On this being pointed out (July 1996) in audit, the department stated that the assessments would be revised. Further report has not been received (November 1997).

The case was reported to Government in November 1996; their reply has not been received (November 1997).

Chapter 4

State Excise

CHAPTER 4

STATE EXCISE

4.1. Results of audit

Test check of the accounts of the Offices of the State Excise Department conducted in audit during the year 1996-97 revealed under-assessments of tax/loss of revenue amounting to Rs 198.63 lakh in 117 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short collection of duty on spirit/IMFL	11	3.53
2	Loss of revenue due to the short accounting of spirit/IMFL	4	3.45
3	Loss of revenue due to allowance of excess wastage of spirit/IMFL	8	0.80
4	Loss of revenue due to other lapses	94	190.85
	Total	117	198.63

During the course of the year 1996-97, the department accepted under-assessment etc., of Rs 79.06 lakh involved in 56 cases of which 40 cases involving Rs 77.38 lakh had been pointed out in audit during 1996-97 and the rest in earlier years. A few illustrative cases involving Rs 31.99 lakh are given in the following paragraphs.

4.2. Low production of spirit from molasses

As per the Kerala Excise Manual Vol.II, the average out-turn of spirit from every tonne of molasses used is fixed at 475 proof litres where as the norm fixed by Central Board of Molasses was 373.5 proof litres from every tonne of molasses.

In a distillery in Cherthala production of spirit was short by 1,50,628 proof litres involving excise duty of Rs 23.35 lakh

In a distillery in Cherthala, test check of the production records for the year 1994-95 revealed that the production of spirit was short by 1,50,628 proof litres, on the basis of the norm fixed by the Central Board of Molasses, involving excise duty of Rs 23.35 lakh at the rate of Rs 15.50 per proof litre.

The case was pointed out in audit in October 1995. Final reply from the department has not been received (November 1997).

The case was reported to Government in March 1997; their reply has not been received (November 1997).

4.3. Non-levy of interest on the delayed payment of vending fee

Rule 15A of the Foreign Liquor Rules provides that an FL 9 licensee has to pay, a vending fee at the rate prescribed by the Government, towards the end of each financial year. Being an abkari revenue delay in payment of

Interest of Rs 4.22 lakh due on delayed payment of vending fee was not demanded from the licensee

vending fee attracted interest at 18 *per cent per annum* under Rule 29 of the Kerala Abkari Shops (Disposal in Auction) Rules, 1974.

The vending fee payable by the FL 9 licensee in the State for the year 1995-96 was Rs 9.07 crore but Rs 2.81 crore out of this was paid in May 1996 only. However, interest payable on the belated payment of Rs 2.81 crore was not demanded. This resulted in non-demand of interest of Rs 4.22 lakh.

The matter was brought to the notice of the department and reported to the Government in March 1997; their replies have not been received (November 1997).

4.4. Short realisation of abkari arrears

Under Rule 6(25) of the Kerala Abkari Shops (Disposal in Auction) Rules, 1974, the monthly instalment of rentals of abkari shops shall be paid on or before 10th of each month. In case of failure of payment, interest at the rate of eighteen *per cent* shall be payable from 11th of the month. The amount remitted by a defaulter towards arrears shall be adjusted towards interest due, if any, at the first instance and balance shall be credited towards the principal amount.

Abkari arrears of Rs 1.83 lakh were not demanded in Excise Range Office, Neyyattinkara

In Neyyattinkara, in the case of an abkari contractor the remittances made for the year 1995-96 towards kist arrears were credited against the principal first instead of liquidating the interest portion at the first instance. This resulted in the short demand of kist and interest amounting to Rs 1.83 lakh.

The case was pointed out in audit in April 1996. Final reply from the department has not been received (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

4.5. Short realisation of cost of establishment

Under the Abkari Act, 1077 (Malabar Era), the Excise Commissioner may, with the approval of the Government, prescribe the mode of supervision that may be necessary in a distillery, brewery, winery or warehouse or in any other manufactory where preparations containing alcohol or intoxicating drugs are manufactured. The cost of establishment and other incidental charges in connection with such supervision are to be realised from the licensees concerned. According to the Kerala Service Rules, the rates of recovery of cost of establishment are to be revised whenever there is a revision of scales of pay or other conditions of service. Consequent on the pay revision of State Government employees with effect from 1st March 1992, the Board of Revenue revised (September 1994) the rate of average cost of establishment of the excise staff posted for supervision of distilleries, bonded warehouse etc., from 1st March 1992.

*Cost of establishment
amounting to Rs 1.47 lakh
was realised short in Chittur*

In a distillery in Chittur, even though the cost of establishment in respect of excise supervisory staff for March 1992 to October 1995 was realised at the revised rates, no action was initiated (November 1995) to collect the dearness allowance at the revised rates from time to time. This resulted in short realisation of cost of establishment of Rs 1.47 lakh.

On this being pointed out (November 1995) in audit, the excise officer in charge of the distillery stated that action would be taken to realise the arrear cost of establishment from the company. Further report has not been received (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

4.6. Short levy of compounding fee

In case of an offence under the provisions of the Abkari Act, 1077, the offender is either to be prosecuted or the offence be compounded by the Abkari Officer by accepting a sum of money by way of compensation for the offence.

*In Adoor, compounding
fee levied was short by
Rs 65,600*

The Board of Revenue directed (February 1995) all the excise officers that where dilution of spirit and Indian Made Foreign Liquor above the maximum limit allowed was noticed, the case should be compounded for the maximum amount of Rs 5,000 for each accused. The licensees who are not willing to compound for this should be prosecuted.

In Adoor, while compounding (July and August 1995) seven cases (16 accused) of dilution of arrack/Indian Made Foreign Liquor the compounding fee levied was short by Rs 65,600.

On this being pointed out (November 1996) in audit, the department stated that the cases were compounded before getting the orders. This reply is not

tenable as the circular to compound the offence was issued to all excise officers in February 1995. Further reply has not been received (November 1997).

The case was reported to Government in July 1997; their reply has not been received (November 1997).

4.7. Short demand of excise duty on imported foreign liquor

Under the Foreign Liquor Rules, no foreign liquor shall be imported into the State except under a permit issued by the officer in charge of the Division to which the liquor is to be imported. Such permits will be granted only on proof of payment of the excise duty and import fee, if any, payable to the State. According to the provisions in the Kerala Excise Manual Vol.II, duty is to be calculated with reference to the rate in force on the date of entry of the goods in Kerala State.

*In Kannur, excise
duty of Rs 45,940
was not demanded*

By an order issued in February 1991, Government enhanced the rate of excise duty on the Indian Made Foreign Liquor issued to defence personnel from Rs 5 to Rs 7 per proof litre with effect from 1 April 1991. In Kannur Division the Excise authorities issued (March 1991) 6 permits to defence authorities to import 22,970 proof litres of Indian Made Foreign Liquor levying excise duty at Rs 5 per proof litre. Though the defence authorities received the consignment in April 1991, Excise department did not demand the enhanced rate of excise duty resulting in short levy of excise duty of Rs 45,940.

On this being pointed out (June 1993) in audit, the department stated (February 1996) that action was in progress for the realisation of the short levy.

The case was reported to Government in July 1997.

Chapter 5

Land Revenue

CHAPTER 5

LAND REVENUE

5.1. Results of audit

Test check of the records of the Offices of the Land Revenue Department conducted in audit during 1996-97 revealed under-assessment of tax or loss of revenue amounting to Rs 65.13 lakh in 136 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short levy and losses under building tax	96	28.30
2	Short levy and losses under plantation tax	3	1.42
3	Short levy and losses under other items	37	35.41
	Total	136	65.13

During the course of the year 1996-97, the department accepted under-assessments etc., of Rs 45.11 lakh involved in 144 cases of which 96 cases involving Rs 31.45 lakh had been pointed out in audit during 1996-97 and the rest in earlier years. A few illustrative cases and the results of a review on Lease of land by Land Revenue Department involving Rs 4455.84 lakh are given in the following paragraphs.

5.2. Lease of land by Land Revenue Department

5.2.1. Introduction

Lease of government lands, not likely to be required for immediate use, would help augment the revenue of the State. Considerable area has been leased out,

on nominal lease rents, to various individuals/institutions under different tenures and conditions of lease/kuthakapattom¹/licence. The Kerala Government Land Assignment Act, 1960, enacted to provide for assignment of government lands, repealed various legislations till then in force for assignment of such lands in different regions of the State. As the provisions of the Kerala Land Assignment Rules, 1964, made under the Act were not applicable to the lands within the limits of Corporation, Municipality or Cantonment, the Rules for assignment of land in Municipal and Corporation areas, 1995, were made in November 1995. The orders revising the rates of lease rent were issued by the Government in June 1975 and December 1985. The revised rates of annual lease rent for each cent of land were as follows.

	Up to 1985	After 1985
	Rs	Rs
Dry land	0.50	1.50
Wet land (single crop)	0.75	1.50
Wet land (double crop)	1.00	2.25
Putting up shops in bazaar areas	15% of the market value of the land subject to a minimum of Rs 40.	15% of the market value of the land subject to a minimum of Rs 120.
Putting up shops in other areas	10% of the market value of the land subject to a minimum of Rs 15.	10% of the market value of the land subject to a minimum of Rs 45.

Detailed instructions and guidelines for efficient and economic utilisation and management of government lands were issued by the Government in May 1994 and March 1995.

1 Lease of government land and trees standing in government land

5.2.2. Organisational set up

The Land Revenue Department which administers government lands is under the control and supervision of the Board of Revenue. The District Collectors are responsible for the land revenue administration in the 14 Revenue Districts and the Revenue Divisional Officers in the 20 Revenue Divisions. The Tahsildars are immediate in charge of land revenue administration in the 63 Taluks and they exercise supervision and control on Village Officers who are entrusted with the work of collection of land revenue and connected matters. The Revenue Divisional Officers are the appellate authorities against the orders of the Tahsildars, the District Collectors against the orders of the Revenue Divisional Officers and the Board of Revenue against the orders of the District Collectors.

5.2.3. Scope of audit

A review on assessment and collection of lease rent was conducted (June 1996 to September 1996) covering the period from 1991-92 to 1995-96 in the office of the Board of Revenue (LR), seven District Collectorates¹ out of 14, seven Revenue Divisional Offices² out of 20, 15 Taluk Offices³ and 42 Village Offices⁴ to ascertain the implementation of the provisions of the Act, Rules instructions and guidelines issued from time to time and the functioning of the existing control mechanism in the department.

1 Alappuzha, Ernakulam, Kannur, Kottayam, Kozhikode, Pathanamthitta and Thiruvananthapuram

2 Alappuzha, Ernakulam, Kottayam, Kozhikode, Thalassery, Thiruvalla and Thiruvananthapuram

3 Aluva, Ambalapuzha, Chirayinkeezhu, Kanayannur, Kannur, Karunagappally, Kollam, Kottarakkara, Kottayam, Kozhikode, Nedumangad, Neyyattinkara, North Paravur, Ranni and Thiruvananthapuram.

4 Alappuzha, Aluva, Amboori, Aryad South, Athirampuzha, Attingal, Ayanivelikulangara, Ayyampuzha, Cheruvannur, Elamkulam, Elayavoor, Eloor, Ernakulam, Ezhukone, Kadalundi, Kallikad, Kannur, Karunagapally, Kasaba, Kodungalloor, Kollam East, Kollam West, Kottarakkara, Kottayam, Kowdiar, Manacaud, Manjapra, Mudakkal, Mullakkal, Muttampalam, Nagaram, Pallickal, Pattom, Perunad, Penumpoicadu, Sasthamangalam, Tholikodu, Thycaud, Vadasserikkara, Vanchiyoar, Velland and Vithura.

5.2.4. Highlights

- ❖ Effective measures had not been taken to implement the land management policy formulated by Government in May 1994.

(Paragraph 5.2.5)

- ❖ Delay ranging from one year to 132 years was noticed in the renewal of time expired leases.

(Paragraph 5.2.6)

- ❖ Government lands were in the possession of individuals and firms without formal lease orders. Lease rent leviable but not demanded in 3 such cases amounted to Rs 30.48 lakh.

(Paragraph 5.2.7)

- ❖ The department failed to revoke the lease deeds despite breach of conditions of lease. Lease rent of Rs 260.72 lakh due in two such cases had not been demanded.

(Paragraph 5.2.8)

- ❖ Lease rent of Rs 520 lakh due from three Central and four State Public Sector Undertakings for the period from 1957 to 1996 had not been demanded.

(Paragraph 5.2.9)

- ❖ No action was taken to resume the alienated lands and to recover the lease rent amounting to Rs 69.11 lakh due in five cases.

(Paragraph 5.2.10)

- ❖ Incorrect fixation of market value of land leased out to a private limited company resulted in loss of revenue of Rs 21.08 lakh for the period from January 1995 to March 1996 in addition to the recurring annual loss of Rs 16.86 lakh.

(Paragraph 5.2.11)

- ❖ **Non-revision of lease rent resulted in loss of revenue of Rs 2963.71 lakh for the period from 1991-92 to 1995-96 in 80 cases of lease.**

(Paragraph 5.2.12)

- ❖ **Lease rent of Rs 557.64 lakh due from a company had not been collected before assignment of the leasehold land.**

(Paragraph 5.2.16)

5.2.5. Implementation of land management policy of the Government

Government formulated a land management policy in May 1994. The revenue authorities were directed to identify the government lands with reference to the registers maintained in the revenue offices, review the leases to see whether the conditions of lease were violated and to revise all time expired leases on the basis of the prevailing market value of the land. The policy required monthly review conferences by District Collectors and Revenue Board to review the progress of implementation of the land management policy. In March 1995 Government also issued guidelines for the management of government lands in urban areas and to update all the revenue records relating to government land within a period of six months. The District Collectors were also directed to maintain a register of details of government lands in urban areas in their personal custody.

A test check of the records showed that prompt action was not taken in any of the Village/Taluk Offices test checked, to implement the land management policy. No action was initiated by the District Collectors of Kottayam and Pathanamthitta. The District Collectors, Kozhikode and Alappuzha took action to collect the details of the government land from the taluks but the same were not received from all the taluks. The basic information furnished by the Tahsildar, Kozhikode was incorrect thus making the whole exercise futile. The register of details of land in urban areas was not maintained by the District Collectors, Kozhikode, Kannur, Ernakulam, Kottayam, Alappuzha and Pathanamthitta.

5.2.6. Non-renewal of time expired leases

Government lands which are likely to be required in future for government or public purposes but not immediately were leased out for specified periods to individuals and institutions by Tahsildars, District Collectors and Board of Revenue under the Kuthakapattom Rules, 1947 and the Kerala Land Assignment Rules, 1964. These Rules contained provisions for the renewal of leases on the expiry of the lease periods.

Delay in the renewal of time expired leases ranged from 1 year to 132 years

A test check of the records in audit of the 42 Village Offices revealed that in 51 cases of nine villages⁶ time expired leases were not renewed. The delay for renewal ranged from one year to 132 years as shown below.

Period of delay	No. of cases
Up to 10 years	15
Above 10 years up to 20 years	4
Above 20 years up to 30 years	10
Above 30 years up to 40 years	13
Above 40 years up to 50 years	3
Above 50 years up to 60 years	5
Above 100 years (132 years)	1
Total	51

Thus the mechanism in the Board of Revenue, the Districts and the Taluks for the renewal of leases does not work properly.

6 Aluva, Eloor, Kannur, Manjapra, Muzhappilangad, Sasthamangalam, Thycaud, Vanchiyoore and Varapuzha

5.2.7. Land held by individuals and firms without lease orders/ agreements

The Kuthakapattom Rules, 1947 and the Rules for assignment of Land in Municipal and Corporation areas, 1995, provide for assignment of government land on lease for certain purposes. Formal orders are required to be issued for granting such leases.

Lease rent due but not demanded from lessees who were in possession of Government land without formal lease orders amounted to Rs 30.48 lakh

Test check of records on leasing of government land revealed that government land was in the possession of individuals and firms without formal lease orders. A few illustrative cases noticed during the test check are given below.

(i) 3.38 cents of land in Ernakulam village of Kanayannur taluk was encroached upon by five individuals. Though the Board of Revenue directed the District Collector in 1969 and 1988 to send proposals to lease out the land, no action was taken. The loss of lease rent at 15 *per cent* of the market value for the period from 1993-94 to 1995-96 worked out to Rs 15.72 lakh.

(ii) 6.85 cents of land in Taluk Office compound, Kanayannur was given possession to Ernakulam Horticultural Society for a period of 10 years from 1 April 1976. The lease proposal was sent to Government by the District Collector only in July 1992. In December 1993 a request for extension of lease for a further period of ten years from 1 April 1986 was forwarded to District Collector by the Tahsildar. No formal lease orders were issued even after 20 years. The amount due for the period from 1 April 1976 to 31 March 1996 from the society at the market value recommended (November 1995) by the Tahsildar worked out to Rs 10.62 lakh.

(iii) Lease rent for 69 cents of land in Kasaba village of Kozhikode taluk leased out to the officers club at a rent of Rs 124.20 *per annum* was realised up to

1985-86. But the land was omitted from the lease account though the land was not either assigned on registry or resumed by Government. Lease rent due at 10 *per cent* of the current market rate for the period 1994-95 and 1995-96 alone worked out to Rs 4.14 lakh.

5.2.8. Failure to revoke lease deeds despite breach of conditions

Cochin Land Revenue Manual provided for leasing government land on ground rent basis and the arrangement conferred on the holder only the right of occupancy and he could not claim any title, ownership or right of alienation. The holder of land on ground rent was also prevented from constructing permanent buildings without written permission from the Government.

The department failed to revoke lease deeds for breach of conditions and also to demand lease rent of Rs 260.72 lakh in two such cases

In two cases in Ernakulam Village specified below the above conditions were violated.

(i) 40.75 cents of land was given (1938) on ground rent patta to an individual on which construction of a multistoreyed building took place without the permission of the Government. The District Collector terminated the ground rent lease in February 1996 for violation of conditions of lease. On appeal filed by the transferee, the Board of Revenue set aside (March 1996) the order of the District Collector on the ground that the land had been leased out for construction purposes, that construction had been going on in the land during the past 50 years, that notice to

resume the land was issued by the Tahasildar and not by Government and that the party had already spent Rs 35 lakh for construction.

(ii) Out of 19.5 cents of land given (1932) on ground rent to an individual, 11.44 cents were alienated in 1983 and the transferee started construction of a multistoreyed building on the land without Government permission. A notice to the transferee issued by the District Collector was stayed (November 1995) by the Government on appeal filed by the transferee.

The above decisions highlight the failure to protect the interest of the revenue of the State. The department also did not raise any demand for lease rent. On the basis of the market value available the lease rent in respect of the two cases for the years 1993-94 to 1995-96 alone would work out to Rs 260.72 lakh.

5.2.9. Non-demand of lease rent from Public Sector Undertakings

Under the Rules governing assignment of government land, government land can be leased out for any scheme approved by the Government on terms and conditions fixed by the Government.

Lease rent of Rs 520 lakh due from seven PSUs had not been demanded

Vast areas of land were leased out to Public Sector Undertakings for varying periods. But in many cases no attempt was made to renew the lease after the expiry of the lease period. In one case the lease of land was not even noted in the records.

Chapter 5

A scrutiny of 7 cases revealed that lease rent was either not demanded or not realised in these cases. The amount of arrears on the above cases from 1957 to 1996 worked out to Rs 520.08 lakh as detailed below.

Name of institution	Area of land leased (acre)	Period and year of leasing	Rate of annual lease rent	Lease rent leviable (Rupee sin lakh)	Period for which amount is due	Remarks
Travancore Titanium Products, Thiruvananthapuram	25.41	25 years from 1948	Rs 3570.70 (revised rate from 1973)	285.42	1973-74 to 1993-94	Lease rent demanded but not realised.
Kerala State Road Transport Corporation	1.40	5 years from 1.5.1977	10% of market value	125.16	1977 to 1995	-do-
Hindusthan Insecticides Ltd.	18.30	25 years from 10.8.81	Rs 98,820 from 10.8.81	29.05	1981 to 1996	-do-
Steel Industrials Kerala Ltd.	5.53	10 years from 4.10.1979	Not fixed	66.77	1979-80 to 1995-96	Demand not raised
Fertilizers and Chemicals Travancore Ltd.	0.37	20 years from 1.7.1964	Rs 37	6.66	1984 to 1996	-do-
Indian Aluminium Co. Ltd.	0.21	25 years from 11.2.1957	Rs 200 per acre	1.56	1957 to 1996	-do-
-do-	0.67	30 years from 17.8.1943	Rs 133	1.99	1973 to 1996	-do-
Kerala State Civil Supplies Corporation Ltd.	0.07	October 1981	Rs 31,500	3.47	1984-85	-do-
Total				520.08		

5.2.10. Alienation of leased property

Under the provisions of the Kerala Land Assignment Rules, 1964, lease or licence granted are heritable but not alienable. The Rules also provide for resumption of the land by Government for violation of the conditions under which the land was given. Over the years Government had issued orders directing the revenue authorities to take effective measures on the directions contained in the Rules and orders.

No action was taken to resume the alienated land and to recover lease rent of Rs 69.11 lakh due

Test check of the records revealed that although violations and alienations had taken place no action was taken by the department for resumption of land in such cases. A few cases are given below.

(i) 128.54 acres of land in Aluva taluk was leased out for a period of three years in March 1943. The lease was subsequently renewed on many occasions, the latest being in April 1966 and the renewal was for a period of 12 years with retrospective effect from 1 April 1965. The lessee subleased the land to other persons for cultivation. Government ordered (April 1969) to assign the land on registry to the sublessees subject to a maximum of three acres per family and the remaining land together with another five acres to the original lessee on lease. Details regarding the extent of land assigned on registry and on lease were not available with the department and hence the lease rent due from the original lessee could not be computed.

(ii) 24 cents of land in Thycaud village was leased out to a person in 1944 and he subleased the land to a hotel. In 1973 the lease was terminated and in 1979 a portion of the land and the hotel building was transferred to the Railways. But neither the lessee vacated nor the department resumed the building (June 1996). An amount of Rs 27.99 lakh was due from the lessee towards lease rent for the period from 1973-74 to 1994-95.

(iii) 25 cents of land in Sasthamangalam village in Thiruvananthapuram taluk, leased out to Lions Club Secretary for a period of 20 years from September 1968 on annual rent of Rs 30.06, for establishing Medical Family Planning Centre was not used for the purpose. Though the lease rent was revised in September 1988 the revised order did not reach the Village Office and an amount of Rs 1 lakh by way of enhanced lease rent could not be collected from the lessee (June 1996). Further a building constructed in the land was rented out to another agency.

(iv) 4.27 acres of land acquired by Government on payment of compensation for Town Planning Department was leased out to Trivandrum Tennis Club free of rent initially for 25 years from August 1950 and for another 50 years from the date of expiry of original lease. The club rented out 20.40 cents of land to an oil company at Rs 250 per month. Though this came to the notice of Government in November 1964 no action was taken against the club for letting out government land and to recover the rent of Rs 42,000 received by the club from 1965 to 1978. In 1979 the land let out by the club was assigned on registry to the oil company.

(v) 2.57 acres of land in Pattom village in Thiruvananthapuram taluk was leased out to an organisation in 1954 for establishing an orphanage. As the land was used for the purpose other than the one for which it was leased out, Government cancelled the lease in 1985. When the lessee moved the court against the cancellation of lease, the department failed to produce before the court the relevant documents including the lease deed and the case was decided (November 1992) in favour of the lessee. Thus the Government could not resume the land for violation of conditions of lease.

The department did not revise the lease rent. The lease rent due for the period from 1994-95 and 1995-96 for which the details of market value were available worked out to Rs 38.55 lakh.

(vi) 97.12 hectares of land in Kannur District leased out (January 1990) to Pharmaceutical Corporation of Kerala Ltd., for raising medicinal plants was not used

for the purpose. A technical study conducted later proved that the land was not fit for cultivation of medicinal plants and the land was apportioned (March 1994) among various departments. However, Pharmaceutical Corporation continued to hold 40.45 hectares of land though it was not used for the purpose intended for. Lease rent amounting to Rs 1.15 lakh relating to the period from 1991-92 to 1995-96 was not, however, demanded and realised from the Corporation (July 1996).

5.2.11. Loss of revenue due to adoption of differential rates for fixation of lease rent

Under the Kerala Land Assignment Rules, 1964, applicable to areas other than Corporation, Municipality and Cantonment, Government lands can be leased out for any scheme approved by Government for a lease rent fixed by Government. Land value determined by revenue authorities are taken as basis for fixing the lease rent.

Incorrect fixation of market value of land resulted in loss of revenue of Rs 21.08 lakh for the period from January 1995 to March 1996 in addition to recurring annual loss of Rs 16.86 lakh

Government had, in December 1994, leased out 40.52 acres of land in Kadalundi village to M/s Peevees Petroleum Products Ltd. Out of this, 3.81 acres was surveyed land and the remaining unsurveyed. Based on the market value of Rs 6,124 per cent for the surveyed land and Rs 1,531 per cent for unsurveyed land the lease rent was fixed at Rs 7,95,354 *per annum* by the District Collector, Kozhikode .

The valuation of surveyed land was made on local enquiry. Unsurveyed land was valued on the basis of a settlement deed of 1992. In 1995, the Tahsildar, Kozhikode reported the market value of the land by the side of the Beypore estuary during the period from 1991-1995 as Rs 12,000 per cent. As the land in question lies in one block on the southern side of Beypore estuary and adjacent to the approach channel to the Beypore port, the land value should have been fixed at par with that of the surveyed land. Fixation of lower market value for unsurveyed land resulted in

short levy of lease rent of Rs 21.08 lakh for the period from January 1995 to March 1996 in addition to recurring annual loss of Rs 16.86 lakh.

Rule 18(2) of the Land Assignment Rules provides that the assignee in addition to the payment of lease rent shall deposit one year's lease rent as security deposit. But security deposit of Rs 7.95 lakh based on the lease rent already fixed was also not collected in this case.

5.2.12. Non-revision of lease rent

Over the years, considerable extent of government land had been leased out to various institutions/ individuals on nominal rent. Kuthakapattom Rules, 1947, under which Government lands located in Municipal/Corporation areas were leased out, till the framing of the Rules for assignment of land in Municipal and Corporation areas, 1995 on 13 September 1995, provided for revision of lease rates after every 12 year in regard to all leases whether granted for definite period or without limit of time. While issuing guidelines for efficient and economic utilisation of Government lands, Government ordered (May 1994) to revise the terms and conditions of the existing assignment/ lease etc., to get income on the basis of market value of the land. However, a test check of the records in 13 Village Offices⁵ in 7 taluks revealed that in respect of leases granted under Kuthakapattom Rules, 1947 no action was taken to revise the lease rent even after the expiry of lease period/12 year period specified for revision. Non-revision of lease rent based on prevailing market value in 80 cases test checked resulted in loss of revenue of Rs 2963.71 lakh during the period from 1991-92 to 1995-96 . Three cases are detailed below.

*Non-revision of lease
rent resulted in loss
of revenue of
Rs 2963.71 lakh in*

⁵ Aluva, Aluva West, Beypore, Eloor, Kannur, Kowdiar, Kodungalloor, Kottayam, Mullakkal, Muzhappilangad, Sasthamangalam, Thycaud and Vanchiyoar

(i) An area of 45.03 acres of land in Kowdiar village of Thiruvananthapuram taluk was leased out for indefinite period to a private educational institution during 1947 at an annual rent of Rs 98.25. Non-revision of lease rent as contemplated in the rule on the basis of the market value of the land (as no separate rate of lease rent has been fixed by the Government for educational institutions) resulted in loss of revenue of Rs 1688 lakh during 1991-92 to 1995-96.

(ii) Non-revision of lease rent on the basis of the market value on 2.5 acres of land in the same village leased out to Lions Club, Thiruvananthapuram for a period of 30 years from 1966 at an annual rent of Rs 875 per acre resulted in loss of Rs 93.75 lakh for the period 1991-92 to 1995-96.

(iii) Loss due to non-revision of lease rent on 6.30 acres of land in Muzhappilangad village in Kannur taluk leased out to the Food Corporation of India for 25 years from 1966 amounted to Rs 95.55 lakh for the period 1991-92 to 1995-96.

5.2.13. Unauthorised occupation of government land

According to Section 5 of the Land Conservancy Act, 1957, it shall be unlawful for a person to occupy government land without permission. Section 7 states that a person occupying government land in contravention of Section 5, shall be liable to pay a fine not exceeding Rs 200 and in the case of continued contravention, such additional fine not exceeding two hundred rupees for every day. As per Section 8(2), the unauthorised occupier shall pay prohibitory assessment for the whole period of occupation as may be imposed by the District Collector.

A scrutiny of the Register of Prohibitory Assessment in 14 villages⁷ showed that 47.64 acres of government land was under encroachment in 991 cases. Prohibitory assessment collected in these cases was Rs 720 only. No fine was imposed

7 Aluva, Aluva West, Athirampuzha, Ayyampuzha, Elamkulam, Karunagappally, Kottarakkara, Kottayam, Muttampalam, Nedumangad, Perunad, Perumpaikad and Vadasserikkara.

and collected as contemplated in the Land Conservancy Act. Some of the encroachments dated back to 1914, but no action was initiated either to evict the encroachers or to assign the land to them on realisation of market value under the rules. Three such cases noticed in audit are given below.

(i) In Aluva East village, an extent of 3.05 acres of land was given on lease to Kerala Co-operative Cine Society Ltd., for 12 years from October 1957. The Society encroached upon another 2.20 acres of land along with the leasehold. The encroachment was detected during 1992 but no action was taken to impose fine, to levy prohibitory assessment and to evict the encroacher from the land.

(ii) Encroachment of 12.80 acres of puzha poramboke in Mulavukad village in Kanayannur taluk by three individuals was detected in 1972. Fine of Rs 200 was imposed on each encroacher and the prohibitory assessment was worked out up to 1990 (Rs 11,042) but no further follow up action to recover the fine amount, prohibitory assessment and to evict the persons was taken thereafter..

(iii) 2.30 cents of land in Vanchiyoor village in Thiruvananthapuram taluk was leased out (February 1969) to construct therein a temporary shed for sale of textiles. The lease was renewed for 6 months for the first instance and thereafter yearly till 1983-84 and the annual rent was fixed at Rs 8,606.25. The lease was extended for a further period of 12 years from 23 May 1984 at a lower annual lease rent of Rs 6,885. The reasons for fixing the lease rent at a lower rate could not be verified in audit as the relevant file was not available in the office.

In 1988 it was reported by the Village Officer that the lessee had encroached upon 1.45 cents of adjacent land and constructed therein a permanent building. An eviction notice was issued on 14 July 1987. In April 1993 the District Collector ordered to realise the lease rent for 3.75 cents of land for the period 1993-94 to 1994-95, amounting to Rs 1.03 lakh. Even though the lessee defaulted the payment of Rs 1.03 lakh and violated the lease conditions no action was initiated to cancel the lease and to resume the land to Government.

5.2.14. Demand and collection of lease rent

Submission of proper returns and maintenance of proper records on demand, collection and the balance is essential for prompt and effective realisation of lease rent due.

A test check of records of Taluk and Village Offices revealed the following:-

(i) There was no system of sending demand notices to the lessees. Further the demand, collection and balance statements prepared by the Village Officers did not reflect the correct position of the arrears and the department did not ensure its correctness for prompt collection as is evident from the fact that the dues of Rs 51,553 from a lessee in Perunad village relating to the period 1985-86 to 1991-92 and Rs 1.04 lakh from a lessee in Vanchiyoor village relating to the period 1993-94 and 1994-95 were not included therein.

(ii) In Taluk Offices no separate demand, collection and balance statements were prepared. The amount realised by the Village Officers towards lease rent were accounted under land revenue other than basic tax along with other items.

(iii) In 17 out of 42 Village Offices dues amounting to Rs 16.57 lakh were pending collection as at the end of March 1996. In other villages though *cent per cent* collection was reported, collection of lease rent in Ernakulam village was in arrears in 11 cases which related to 1981-82 onwards. In Village Office, Nadama the collection made was from people other than the lessees and by adjustment of land tax. In other cases dues could not be ascertained due to non-maintenance of records.

5.2.15. Pendency of appeal cases

Revenue Divisional Officer is the first appellate authority against the orders of the Tahsildars on cases of lease. While issuing instructions on the land management policy, Government directed (May 1994) the revenue department to take

prompt action to get the legal proceedings disposed of at the earliest in respect of lands under litigation.

In Revenue Divisional Office, Thalassery, 25 cases were pending disposal as on 30 June 1996 and the period of pendency varied from one year to seven years. In Revenue Divisional Office, Thiruvalla, 16 cases were pending as on 31 March 1996 and the period of pendency ranged from one year to three years. Sanction for assignment of 8.5 cents of land in Ernakulam village under lease from 1962 to the lessee on realisation of market value was issued by Government in 1975. The lessee remitted the market value by December 1985. As the connected papers were missing formal orders of assignment by the Tahsildar could be issued only in August 1993. An appeal filed by the assessee before the Revenue Divisional Officer, Fort Kochi in December 1993 against the demand raised by the Tahsildar towards arrears of lease rent is still pending disposal (August 1996).

The Act and Rules do not contain any provision requiring depositing of any amount at the time of filing of appeals. Therefore, recovery of the full amount due from the appellants is delayed till the final disposal of appeals.

5.2.16. Non-collection of arrears of lease rent at the time of assignment on registry

Rule 9 of the Kerala Land Assignment Rules, 1964 and Rule 5 of the Rules for assignment of land in Municipal and Corporation areas, 1995, require that any arrears of lease rent outstanding should be cleared before the land was assigned on registry.

Lease rent of Rs 557.64 lakh due from a company was not collected before assigning the leasehold land to the company

109.23 acres of land in North Paravur taluk was held under lease from 1956 onwards by the Travancore Cochin Chemicals Ltd. In March 1996 Government decided to assign the land to the company on realisation of the market value

amounting to Rs 1.64 crore. The company remitted the amount in March 1996. As on 31 March 1994, Rs 557.64 lakh was due from the company as lease rent and interest. The amount was not realised before issuing sanction of assignment.

5.2.17. Maintenance of records

Kuthakapattom Rules, 1947, provide for the maintenance of kuthakapattom account in each Village Office in Form A in two parts. Part I for leases granted for definite periods and Part II for leases without limit of time. In Taluk Offices also a register was to be maintained in two parts in Form B, separate pages being allotted for each village. Rule 22 of the Land Assignment Rules, 1964, also stipulates that the register and accounts for the purposes of the rules shall duly be maintained by the authorities concerned. The Tahsildar shall maintain a register showing the land assignment in each taluk with particulars of the assignee and conduct periodical check to ensure that the conditions of assignment were not violated. Rule 19 of the Rules for assignment of land in the Municipal and Corporation areas, 1995, also stipulates similar conditions.

Kuthakapattom accounts/lease registers maintained in Village Offices though contained the name of the original lease holder, area, survey number, lease rent fixed etc., the details such as the period up to which the lease rent was collected, the details of the action taken on the expiry of the leases, the purpose for which the lease was granted, the conditions thereto etc., could not be ascertained. There was no system of periodical review of cases to see whether the leased land was still held by the original lessees. Other than the account/ register no other supporting document like lease deed/ agreement was available in any of the villages. As such the village authorities were not in a position to detect the violation of condition and to take suitable action.

It was also noticed that lease of land was not noted in registers concerned in some villages. A few cases are given below.

(i) Lease of 1.15 acres of land in survey number 1757 granted to Sree Sethuparvathy Bai Memorial Trust in Pattom village was not noted in the kuthakapattom register.

(ii) Lease of 128.54 acres of land in survey number 35/1 of Manjapra village, Aluva taluk granted to Sree Advaitha Ashramam, Kalady in March 1943 was not noted in the village register.

(iii) In Ernakulam village lease of 67.5 cents of land granted to Indo-Norwegian Project in November 1995 and 2 acres and 50 cents of land to Cochin Co-operative Hospital in April 1975 were not noted in the village register.

In the Taluk Offices also proper registers were not maintained to exercise control over the land leased out in the taluk. Basic information like the total extent of land leased out, lease rent recoverable, the lease due for renewal etc., were not available in any of the Taluk Offices test checked.

The above points were reported to the Board of Revenue(LR) and Government in December 1996; their replies have not been received (November 1997).

5.3. **Incorrect classification of building for assessment**

Under the Kerala Building Tax Act, 1975, building tax based on plinth area is leviable on every building the construction of which is completed on or after 10 February 1992. Where a building consists of different apartments or flats owned by different persons and cost of construction was met by all such persons jointly, each such apartment or flat shall be deemed to be a separate building. Buildings having more than one flat or apartment should be assessed as separate unit only if separate

Short levy of Rs 2.12 lakh took place in Kanayannur due to incorrect classification

ownership and joint sharing of cost of construction of entire building are proved by a registered document on sufficient stamp paper even before the construction work is started. The land on which the building is situated and permit for building construction should also be held jointly.

In Kanayannur taluk a seven storeyed building which was originally assessed (April 1993) as a single unit to tax of Rs 3.56 lakh was re-assessed (November 1994) as eleven separate units to total tax of Rs 1.44 lakh based on the orders of the revisional authority. As the conditions prescribed by Government for assessing the building as separate units were not satisfied the order of the revisional authority for reassessment was irregular and resulted in short levy of tax of Rs 2.12 lakh.

On this being pointed out (December 1995) in audit, the department stated (September 1997) that the assessment was revised (February 1997) raising additional demand for Rs 2.12 lakh and that the revised assessment was stayed (June 1997) by the High Court of Kerala on an Original Petition filed by the assessee.

The case was reported to Government in July 1997.

5.4. Under-assessment of building tax

Under the Kerala Building Tax Act, 1975, building tax based on the plinth area at the rate specified in the Schedule to the Act is leviable on every building, the construction of which is completed on or after 10 February 1992. Rates have been fixed for assessment either as residential building or as other buildings. A building in which a portion is used for residential purpose and the remaining portion is used for commercial purpose is assessable as other building as it is not used exclusively for residential purpose.

*In Chirayinkeezh
misclassification of
buildings resulted in under-
assessment of building
tax of Rs 1.44 lakh*

In Chirayinkeezh taluk, certain buildings, portions of which were used for residential purpose and the remaining portion for commercial purpose, tax was assessed (1994-95 and 1995-96) separately for residential and other portions instead of assessing the entire building at the rate applicable to other buildings. This resulted in under-assessment of building tax of Rs 1.44 lakh in 20 cases.

On this being pointed out (May 1996) in audit, the department stated (October 1996) that notices had been issued to all the assesseees for hearing. Further report has not been received (November 1997).

The case was reported to Government in April 1997; their reply has not been received (November 1997).

5.5. Failure to assess tax on the basis of plinth area

Under the Kerala Building Tax Act, 1975, as it stood up to 10 February 1992 building tax at the prescribed rate was leviable in respect of every building the construction of which was completed on or after 1 April 1973 and the capital value of which determined in accordance with the provisions of the Act exceeded Rs 75,000. From 10 February 1992 tax based on plinth area was to be charged on every building completed on or after 10 February 1992 if the plinth area of the building exceeded 100 m² in the case of residential buildings and 50 m² in the case of other buildings. From 1 April 1993, in the case of any building construction of which was completed prior to 10 February 1992 but the assessment of which had not been initiated or completed or against which appeal or revision had been filed, building tax shall be assessed on the basis of plinth area.

Failure to assess building tax on the basis of plinth area resulted in under - assessment of Rs 1.38 lakh in Kunnathunadu

In Taluk Office, Kunnathunadu, while finalising (May 1993) the remanded (September 1993) assessment of a hospital building, tax was assessed on

capital value basis instead of on plinth area basis. This resulted in under-assessment of building tax of Rs 1.38 lakh.

On this being pointed out (October 1995) in audit, the department stated (April 1996) that the revised assessment was finalised (22 May 1993) before the receipt (31 May 1993) of Government teleprinter message of 6 May 1993 communicating amendment to the Act from 1 April 1993, and that there was no short levy as assessment was finalised according to the then prevailing rules and that such kinds of revisions would cause much hardship to the public. The department's reply does not justify the delay in taking action to make good the short levy. Further report has not been received (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

5.6. Incorrect computation of building tax

Under the Kerala Building Tax Act, 1975, building tax based on plinth area is leviable on every building the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeded 100 m² in the case of residential buildings and 50 m² in the case of other buildings.

*Short levy of tax of
Rs 1.21 lakh in
Alappuzha due to
incorrect computation*

In Taluk Office, Ambalapuzha, while finalising (February 1995) the assessment of a hotel building having plinth area of 2,437.23 m² in Alappuzha Municipality, building tax was incorrectly computed as Rs 1.54 lakh against Rs 2.75 lakh. This resulted in short levy of tax of Rs 1.21 lakh.

On this being pointed out (July 1996) in audit, the department stated (July 1997) that the assessment had been revised (August 1996) demanding tax of

Rs 2.75 lakh out of which Rs 2 lakh had been collected between March 1996 and January 1997.

The case was reported to Government in April 1997.

5.7. Under-assessment of building tax due to application of incorrect rate

Under the Kerala Building Tax Act, 1975, building tax based on the plinth area at the rate specified in the Schedule to the Act, is leviable on every building, the construction of which is completed on or after 10 February 1992 and the plinth area of which exceeded 100 m² in the case of residential buildings and 50 m² in the case of other buildings. Separate rates have been specified for buildings situated in Panchayats, Special Grade Panchayats, Municipalities and Corporations.

*Application of lower rate
resulted in under-
assessment of building tax
of Rs 50,200 in 3 cases*

In Ambalapuzha taluk, buildings situated in Special Grade Panchayats were assessed to tax at the rate applicable to those situated in ordinary Panchayats. Application of incorrect rate resulted in under-assessment of building tax of Rs 50,200 in three cases.

On this being pointed out (August 1996) in audit, the department stated that the assessments had been revised in August 1996.

Government to whom the case was reported in April 1997 stated (June 1997) that additional demand of Rs 1,600 had been collected (September 1996) from one of the assesseees and implementation of revised orders in two cases had been stayed by the High Court/Revenue Divisional Officer.

Chapter 6

Taxes on Vehicles

CHAPTER 6

TAXES ON VEHICLES

6.1. Results of audit

Test check of the records of the Motor Vehicles Department conducted in audit during 1996-97 revealed non-levy/short levy of tax/fees and other lapses amounting to Rs 364.49 lakh in 196 cases, which may broadly be categorised as under.

Sl. No.	Category	No. of cases	Amount (In lakh of rupees)
1	Non-levy/short levy of tax	74	163.94
2	Non-levy/short levy of fees	34	6.43
3	Irregular exemptions/ concessions	35	61.35
4	Incorrect classification	24	20.37
5	Other lapses	29	112.40
	Total	196	364.49

During the course of the year 1996-97, the department accepted under-assessments etc., of Rs 6.92 lakh involved in 33 cases of which 3 cases involving Rs 6,640 were pointed out in audit during 1996-97 and rest in earlier years. A few illustrative cases involving Rs 243.24 lakh are given in the following paragraphs.

6.2. Registration of vehicles without collection of entry tax

The Kerala Tax on Entry of Motor Vehicles into Local Areas Act, 1994, provides for the levy of a tax on entry into any local area of the State for use or sale therein of any motor vehicle which is liable for registration in the State under the Motor Vehicles Act, 1988. Vehicles registered in other States 15 months prior to their registration in Kerala, vehicles of Central Government and vehicles used exclusively for defence purposes are exempted from the tax. The registration authority shall not register such vehicles, unless payment of such tax by the person concerned is ensured by production of proof.

*Registration granted to
1,891 vehicles without
ensuring collection of entry
tax of Rs 228.41 lakh*

In 26 registering offices¹, 1,667 vehicles which were liable to pay entry tax were granted (between June 1994 and March 1996) registration without ensuring payment of entry tax amounting to Rs 161.49 lakh. In 13 registering offices² registration was granted (between August 1994 and March 1996) to 224 such vehicles on interim orders of the High Court subject to finalisation of the Original Petitions filed by the persons liable to pay tax. Although the petitions were dismissed (August 1995) by the Court no action was taken to realise the entry tax of Rs 66.92 lakh. This resulted in non-levy of entry tax of Rs 228.41 lakh.

On this being pointed out (between May 1995 and November 1996) in audit, the department stated (March 1997) that entry tax of Rs 2.13 lakh in respect of 18 vehicles in 4 offices had since been realised (between December 1995 and January 1997).

1 Regional Transport Offices, Ernakulam, Kannur, Kottayam and Pathanamthitta and Sub Regional Transport Offices, Adoor, Attingal, Changanacherry, Chengannur, Cherthala, Guruvayoor, Irinjalakuda, Kodungalloor, Kothamangalam, Kottarakkara, Mattancherry, Mavelikkara, Moovattupuzha, Pala, Parassala, Perinthalmanna, Perumbavoor, Thaliparamba, Tirur, Thiruvalla, Thodupuzha and Vandiperiyar.

2 Regional Transport Offices, Ernakulam and Kannur and Sub Regional Transport Offices, Adoor, Aluva, Kodungalloor, Kothamangalam, Mattancherry, Moovattupuzha, North Paravur, Perumbavoor, Thaliparamba, Thiruvalla and Vandiperiyar.

The case was reported to Government in July 1997.

6.3. Loss of interest due to delay in crediting demand drafts to government account

Rule 4 of the Kerala Motor Vehicles Taxation Rules, 1975, provides, *inter alia*, that tax in respect of every transport vehicle shall be paid by crossed demand drafts payable at the local branch of State Bank of Travancore or State Bank of India or any of the nationalised banks. The demand drafts so received are presented to State Bank of Travancore/State Bank of India with chalans and descriptive statements by the concerned office for collection and credit to government account.

Failure to demand from banks interest on delay in crediting of demand drafts resulted in short levy of Rs 11.94 lakh

In Sub Regional Transport Office, Wadakkancherry, delay ranging from 36 to 127 days in crediting demand drafts for Rs 18.11 lakh by banks to government account and resultant blocking up of government's money were pointed out (May 1991) in audit. In a meeting held in November 1993 by the Commissioner and Secretary (Transport) with the Convenor, State level Co-ordination Committee of Bankers it was decided to issue demand notice for interest to concerned banks for inordinate delay in crediting demand drafts. No interest rate was fixed.

During test check in audit it was noticed that in four Regional Transport Offices (Ernakulam, Kollam, Thiruvananthapuram and Thrissur) and two Sub Regional Transport Offices (Karunagapally and North Paravur) no interest was, however, demanded for the delay ranging from 15 days to 248 days in crediting demand drafts totalling to Rs 6.98 crore to government account during 1994-95 and 1995-96. Thus due to non-raising of demand of interest the Government had incurred loss of Rs 11.94 lakh, calculated at the prevailing borrowing rate of 12 *per cent*.

On this being pointed out (between December 1995 and September 1996) in audit, the department stated (September 1997) that in most cases banks had been addressed to credit interest at bank rate to government account and that no reply had been received from the banks. Further report has not been received (November 1997).

The case was reported to Government in July 1997; their reply has not been received (November 1997).

6.4. Short levy of tax on omnibuses

Under the Motor Vehicles Act, 1988, omnibus means any motor vehicle constructed or adapted to carry more than 6 persons. Omnibuses other than those used as public service vehicles are to be classified as either private service vehicles, when used in connection with trade or business or omnibus for private use when used otherwise. These vehicles are chargeable to tax at the rate of Rs 100 per quarter for every seated passenger.

Application of incorrect rate of tax in Thrissur resulted in short levy of vehicle tax of Rs 1.08 lakh

In Regional Transport Office, Thrissur, on cessation of validity of stage carriage permit, tax on 13 omnibuses was collected at the rate of Rs 110 per quarter based on unladen weight instead of at the rate of Rs 100 per quarter for every seated passenger. This resulted in short levy of tax of Rs 1.08 lakh.

The case was pointed out to the department in September 1996 and reported to the Government in March 1997. Government stated (June 1997) that demand notices had been issued to the registered owners of the stage carriages to make good the short levy.

6.5. Irregular exemption from tax

By a notification issued (September 1975) under the Kerala Motor Vehicles Taxation Ordinance, 1975 (repealed by Kerala Motor Vehicles Taxation Act, 1976) Government had exempted all motor vehicles owned by or on behalf of Government from payment of tax.

Irregular grant of exemption resulted is short levy of vehicle tax of Rs 99,832 at 4 Regional Transport Offices

District Rural Development Agency (DRDA), being an agency registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, was not eligible for exemption from payment of tax on vehicles owned by it. Irregular grant of exemption to vehicles owned by DRDAs under the above provisions being pointed out (February 1994) in audit, Government stated (July 1995) that such vehicles were not eligible for tax exemption and directed the Transport Commissioner to withdraw the exemption already granted.

In 4 Regional Transport Offices (Ernakulam, Kannur, Malappuram and Thiruvananthapuram) exemption to vehicles owned by DRDAs was continued resulting in non-levy of tax (including surcharge) of Rs 99,832 for the period from March 1976 to March 1996.

On this being pointed out (between November 1995 and July 1996) in audit, the department stated (July 1997) that Rs 18,059 due on three vehicles at Malappuram had been collected (June 1997). Final reply in respect of the remaining cases has not been received (November 1997).

The case was reported to Government in July 1997; their reply has not been received (November 1997).

6.6. Short levy of tax on contract carriages

Under the Kerala Motor Vehicles Taxation Act, 1976, tax payable in respect of motor vehicles registered in any other State and entering the State of Kerala is one-third, two-third or whole of the quarterly tax as a contract carriage, depending on whether the date of entry is in the last, second or first month of the quarter.

But on such vehicle entering the State under the authority of special permits issued under Section 88(8) of Motor Vehicles Act, 1988, only one-tenth or one-third of the quarterly tax is payable depending on the period of use in the State.

Realisation of incorrect rate of tax on vehicles from other States resulted in short levy of Rs 49,106 in Kanhangad and Vandiperiyar

In check post, Nileswar, under the Sub Regional Transport Office, Kanhangad, on 17 vehicles of other States which entered the State during 1992-93 without valid permits, tax only at the rate applicable to those with special permits was levied and in check post at Kumily under the Sub Regional Transport Office, Vandiperiyar, no tax was collected on 5 such vehicles during 1995-96. This resulted in short levy of tax of Rs 49,106 (including surcharge).

The cases were pointed out in audit in January 1994 and November 1996. The department stated (October 1996) that primary endorsement fee and tax had not been realised in Kanhangad since the power to issue temporary endorsement was not delegated to officials at temporary check post. Further report has not been received (November 1997).

The case was reported to Government in June 1997; their reply has not been received (November 1997).

6.7. Non-levy of additional surcharge

Under the Kerala Motor Vehicles Taxation Act, 1976, additional surcharge at the rate of five *per cent* of the tax on all motor vehicles other than a stage carriage was payable from 1 April 1995.

***Surcharge of Rs 31,980
was not levied on 2,460
permits in Thrissur***

In Regional Transport Office, Thrissur, on stage carriages permitted to operate as contract carriages for one day under special or temporary permits, no additional surcharge was collected from 1 April 1995. This resulted in short levy of additional surcharge of Rs 31,980 in respect of 2,460 permits issued during 1995-96.

The case was pointed out to the department in September 1996. Final reply has not been received (November 1997).

The case was reported to Government in March 1997; their reply has not been received (November 1997).

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Chapter 7

Stamps and Registration Fees

CHAPTER 7

STAMPS AND REGISTRATION FEES

7.1. Results of audit

Test check of the records of the Registration Department conducted during 1996-97 revealed short collection/loss of revenue due to misclassification of documents etc., under stamp duty and registration fees amounting to Rs 215.63 lakh in 297 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Misclassification of documents	64	5.51
2	Under-valuation of documents	28	6.81
3	Irregular determination of separated share of partition deeds	31	3.21
4	Other lapses	174	200.10
	Total	297	215.63

During the course of the year 1996-97, the department accepted short collection of revenue due to under-valuation, etc., of Rs 4.65 lakh involved in 44 cases of which 4 cases involving Rs 1.29 lakh had been pointed out in audit during 1996-97 and the rest in earlier years. A few illustrative cases involving Rs 314.39 lakh are given in the following paragraphs.

7.2. Loss due to non-enforcement of enactment of the Legislature

A transfer of movable or immovable property by one person to another made voluntarily and without consideration is a 'gift'. A non-testamentary disposition in writing of movable or immovable property by a person (i) in consideration of marriage, or (ii) for any religious or charitable purpose, or (iii) for the purpose of distribution of property among the members of his family or those for whom he desires to provide, or for providing some one dependant on him is a 'settlement'. Under the Kerala Stamp Act, 1959, the stamp duty leviable on deeds of settlement is Rs 2.50 for every Rs 100 or part thereof of the value of property settled, whereas that leviable on deeds of gift for every Rs 100 or part thereof of the value of property is Rs 8.50 in Municipalities and Municipal Corporations and Rs 6 in other cases.

Non-enforcement of an enactment of the legislature resulted in loss of stamp duty of Rs 226.96 lakh in 182 Sub Registry Offices

Mention was made in paragraphs 82 (ii), 6.3 and 7.3 of the Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years 1974-75, 1977-78 and 1994-95 respectively about evasion of higher rate of stamp duty by misclassification of gift deeds as settlement deeds. With a view to put an end to such evasion, the Schedule to the Kerala Stamp Act, 1959 was amended by the Kerala Stamp (Amendment) Act, 1988 to make the stamp duty on settlement deeds equal to the duty on gift deeds from a date to be notified by the Government. No notification has, however, been issued by the Government to bring into force the amendment. Consequently the purpose behind the enactment passed by the legislature in 1988 still remains to be achieved and the stamp duty on settlement deeds as well as on gift deeds misclassified as settlement deeds continues to be levied at the lower rate. The loss on this account on 24,814 documents registered during 1994 in 182 Sub Registry Offices amounted to Rs 226.96 lakh.

The case was pointed out in audit between August 1995 and March 1996; final reply from the department has not been received (November 1997).

The case was reported to Government in June 1994; their reply has not been received (November 1997).

7.3. Irregular write-off of under-valuation cases

Under the Kerala Stamp Act, 1959 and the Kerala Stamp (Prevention of under-valuation of instruments) Rules, 1968, on receipt of a reference of the registering officer for determination of value or consideration and proper duty payable on a document the Collector (District Registrar) shall by following the prescribed procedure decide the deficit amount of duty payable and, on payment of the same, endorse a certificate of such payment on the instrument under his seal and signature. The Act and the Rules do not envisage the disposal of such a reference in any other manner.

Irregular write-off of 2,146 under-valuation cases in 10 Sub Registries resulted in loss of revenue of Rs 74.76 lakh

Out of 14.49 lakh cases referred to the District Registrars from 1986 to 1994, 1.83 lakh cases were settled till December 1994. On the basis of a directive issued (September 1993) by the Inspector General of Registration to scrutinise and close redundant/ low return under-valuation reports, 3 lakh cases were written-off by the District Registrars though no authorisation was available with them for writing-off the undervaluation cases. A test check (between October 1994 and April 1995) of the cases relating to 10* Sub-Registries so written-off, revealed approximate loss of revenue in 2,146 cases to the extent of Rs 74.76 lakh.

* Attingal, Cheppad, Kadambazhipuram, Kareelakulangara, Kavilampara, Kunnamkulam, Mundur, Nemom, Nooranad, Pulinkunnu.

The matter was pointed out to the department between October 1994 and October 1995; their final reply has not been received (November 1997).

The case was reported to Government in February 1997; their reply has not been received (November 1997).

7.4. Short levy of stamp duty on lease deed

Under the Kerala Stamp Act, 1959, where the lease is granted for a fine or premium or for money advanced and where no rent is reserved, the stamp duty leviable is as on a deed of conveyance, (Rs 8.50 for every Rs 100 or part thereof) on the consideration equal to the amount or value of such fine or premium or advance as set forth in the document.

Application of incorrect rate of duty resulted in short levy of stamp duty of Rs 5.68 lakh

In Sub Registry, Ernakulam, while registering (October 1995) a lease deed evidencing the receipt in advance of lease rent of Rs 69.70 lakh for the lease period of 99 years, stamp duty of Rs 23,960 at conveyance rate on the lease rent of Rs 2.82 lakh for four years was levied against Rs 5.92 lakh due on the entire rent received in advance. This resulted in short levy of stamp duty of Rs 5.68 lakh.

On this being pointed out (October 1996) in audit, the department confirmed (August 1997) the short levy and stated that the District Registrar, Ernakulam had been directed to fix the loss as the personal liability of the officer who registered the document in case the amount could not be recovered from the party concerned.

Government to whom the case was reported in January 1997 confirmed (September 1997) the position.

7.5. Evasion of stamp duty and registration fee

Under the Kerala Stamp Act, 1959, instrument of partition means any instrument whereby co-owners of any property divide or agree to divide such property in severalty. Such instrument attracts stamp duty at the rate of Rs 2.50, where the partition is among members of the family and at the rate of Rs 5 in other cases of partition, for every Rs 100 or part thereof of the amount of the value of the separated share(s) of the property. On instruments relating to gift or conveyance of properties situated in panchayat areas, besides stamp duty at the rate of Rs 6 for every Rs 100 or part thereof of the amount or value of the gift or consideration for such conveyance, duty on transfer of property at 4 *per cent* of the consideration is also leviable under the Kerala Panchayat Raj Act, 1994.

Evasion of stamp duty of Rs 2.19 lakh in the process adopted for transfer of ownership of property

In Sub Registry Office, Kuravilangad, it was noticed in audit (July 1996) that transfer of one's property to another (purchaser) was effected through a partition deed instead of through sale or gift deed thereby legally avoiding the liability to pay stamp duty at the rate applicable to conveyance deed. The *modus operandi* in the transaction was to sell 1/20th portion of a property of 1.52 hectares worth Rs 20 lakh and one half portion of another property of 0.02 hectare worth Rs 20,000 to the intending purchaser without specifying the metes and bounds so as to create co-ownership by executing (January 1995) a sale deed and paying stamp duty for conveyance deed. The intending purchaser thus having become a co-owner got the properties partitioned (February 1995) and obtained the entire property of larger extent worth Rs 20 lakh and the original owner retained one half of the other property worth Rs 20,000. By making payment of stamp duty for a property of negligible value left with the original owner the intending purchaser got a property of substantial value transferred in his name. The stamp duty, transfer duty and registration fee so evaded worked out to Rs 2.19 lakh.

On this being pointed out (July 1996) in audit, the department stated (April 1997) that there is no effective provision in the Kerala Stamp Act to prevent the *modus operandi* adopted by the parties and that at the instance of Audit the department had forwarded (July 1995) a draft bill to Government proposing amendment to the Act for levying stamp duty at the rate applicable to conveyance deeds in cases of partition deeds of similar types.

The case was reported to Government in April 1997; they endorsed (July 1997) the reply of the department. The present stage of the proposed amendment though called for (July 1997) has not been intimated so far (November 1997).

7.6. **Unauthorised exemption from stamp duty**

Under the Kerala Co-operative Societies Act, 1969, stamp duty under the Kerala Stamp Act, 1959, on instruments executed by or on behalf of any registered co-operative society on instruments executed by any officer/member of such society and relating to the business thereof shall be exempted.

*Unauthorised exemption
resulted in non-levy of
stamp duty of Rs 1.86 lakh
in Malappuram*

In Sub Registry, Malappuram, no stamp duty was levied on a document registered (September 1994) for the sale of land owned by a co-operative society to one of its members who was the highest bidder for the land quoting Rs 18.56 lakh. As the sale of land was not related to the business of the society the exemption from stamp duty allowed was unauthorised and resulted in non-levy of stamp duty of Rs 1.86 lakh.

On this being pointed out (June 1995) in audit, the department stated (October 1995) that the document attracts remission of stamp duty.

Government to whom the case was referred (February 1996) stated (April 1997) that as per the bye-law of the society buying and selling of property was not its business and hence exemption from stamp duty was not available to the document and that the District Registrar, Malappuram had been directed to recover the said amount. Further report on the recovery of the amount has not been received (November 1997).

7.7. Short levy of stamp duty on conveyance deeds

Under the Kerala Stamp Act, 1959, the stamp duty leviable, for every Rs 100 or part thereof of the amount or value of consideration for conveyances purporting to transfer of immovable property is at the rate of rupees eight and paise fifty in respect of the property situated within Municipal Corporation and Municipalities and at the rate of rupees six in respect of the property situated outside such Municipal Corporation and Municipalities. Under the Indian Registration Act, 1908, every document that affects immovable property shall be presented for registration in the Office of the Sub Registrar within whose sub- district the whole or some portion of the property to which such document relates is situated.

Rs 2.02 lakh short levied due to application of lower rate of stamp duty at Sub Registry Offices at Agali and Kulathur

(i) In Sub Registry Office, Agali, certain documents were registered for the conveyance of land situated within the limits of a Municipal Corporation in Tamil Nadu along with certain pieces of land situated within the registration sub-district of Agali. The stamp duty levied on the property situated in Tamil Nadu was at the lower rate of rupees six as against the higher rate of rupees eight and paise fifty applicable for conveyance of property situated in Municipal Corporations. This resulted in short levy of stamp duty of Rs 1.68 lakh in 31 documents registered in 1994.

The cases were pointed out to the department in March 1996 and reported to the Government in April 1997. Government stated (May 1997) that the District Registrar, Palakkad had been directed to fix the loss, of Rs 1.31 lakh on 21 documents registered after 27 June 1994, as personal liability of the Registering Officers as they ignored a circular issued by the Inspector General of Registration on that date directing the proper levy of stamp duty on such documents. Government added that there was no short levy on the remaining 10 documents as they were registered prior to the issue of the circular. As stamp duty is leviable at the rates specified in the Act from time to time and not on the basis of any circular issued by the Inspector General of Registration and as stamp duty at the rates mentioned above was leviable from 12 November 1990 the argument that there was no short levy on the 10 documents registered prior to 27 June 1994 is not tenable. This was reported to Government in July 1997.

(ii) In Sub Registry Office, Kulathur, three documents were registered (September 1995) for the conveyance of land situated within the limits of a Municipality in Tamil Nadu along with certain pieces of land situated within the registration sub-district of Kulathur. The stamp duty levied on the property situated in Tamil Nadu was at the lower rate of rupees six as against the higher rate of rupees eight and paise fifty applicable for conveyance of property situated in Municipalities. This resulted in short levy of stamp duty of Rs 33,720.

On this being pointed out (March 1996) in audit, the department stated (August 1997) that the District Registrar, Thiruvananthapuram had been directed to fix the loss as the personal liability of the officer who registered the document in case the amount could not be recovered from the party concerned. Further report on the recovery of the amount has not been received (November 1997).

The case was reported to Government in July 1997.

7.8. **Short levy of stamp duty and registration fee**

Section 45 B of the Kerala Stamp Act, 1959, provides that where the registering officer has reason to believe that the value of the property or the consideration has not been fully and truly set forth in the document, he may, after registering such document refer the same to the Collector for determination of the value or consideration and the duty payable thereon. The Collector may, *suo motu*, within two years from the date of registration of any instrument not already referred to him, call for and examine the instrument and determine its consideration and the duty payable thereon.

Stamp duty and registration fee of Rs 91,935 was short levied due to understatement of consideration in sale deeds in the Sub Registry Offices at Pattom and Sasthamangalam

(i) In the Sub Registry Office, Pattom, while executing (April 1995) a deed for sale of a property with building in Thiruvananthapuram, in pursuance of an agreement executed (February 1995), the consideration was shown as Rs 1.97 lakh against Rs 6.20 lakh agreed to. Although under-statement of consideration by Rs 4.23 lakh was evident, the document was not referred to the Collector for determination of the consideration and the duty payable thereon. The omission resulted in short levy of stamp duty and registration fee of Rs 65,585.

On this being pointed out (December 1996) in audit, the department stated (May 1997) that orders had been issued (April 1997) for the realisation of deficit stamp duty and registration fee.

Government to whom the case was reported in April 1997 confirmed the matter.

(ii) A document was registered (November 1995) in Sub Registry Office, Sasthamangalam for the conveyance of a property in Vattiyoorkavu village, levying stamp duty and registration fee on the consideration of Rs 30,000 shown in the document. Although the property was covered by an agreement, valid for one year from 27 April 1995, to sell it to another individual for Rs 2 lakh and out of which Rs 1 lakh was accepted as advance, the Sub Registrar did not refer the conveyance deed which was apparently under-valued for determination of consideration and proper duty payable thereon. This resulted in short levy of stamp duty and registration fee of Rs 26,350.

On this being pointed out (September 1996) in audit, the department stated (February 1997) that notice had been issued (January 1997) to the party for remittance of Rs 26,350 towards stamp duty and registration fee.

Government to whom the matter was reported in November 1996 confirmed (March 1997) the facts.

Chapter 8

Taxes and Duties on Electricity

CHAPTER 8

TAXES AND DUTIES ON ELECTRICITY

8.1. Levy and Collection of Electricity Duty and Surcharge

8.1.1. Introductory

Levy of duty on the sale and consumption of electrical energy from 1 April 1963 is governed by the Kerala Electricity Duty Act, 1963 and the Kerala Electricity Duty Rules, 1963. Section 3(1) of the Act envisages payment of duty to Government at the rate of six paise per unit by every licensee who sells energy at a price more than 12 paise per unit, whereas Section 4 *ibid* prescribes levy of duty on consumers at 10 paise per unit of energy consumed in respect of consumers taking energy at 11 KV and 10 *per cent* of the price of energy billed for in respect of others. The licensee has to collect this duty from consumers and remit it to Government. Consumers who generate energy for their own consumption have to pay duty at 1.2 paise per unit of energy so generated and consumed. Besides duty, Government also derives revenue by way of surcharge on electricity consumed under the provisions of the Kerala Surcharge (Levy and Collection) Act, 1989.

For the administration of the provisions of the Act and the Rules, a separate Electrical Inspectorate under a Chief Electrical Inspector was formed by Government in February 1968.

8.1.2. Scope of Audit

Mention was made in paragraph 5.3 of the Report of the Comptroller and Auditor General of India, for the year 1980-81 (Revenue Receipts) about the results of a review conducted in May 1981 about levy, collection and arrears of Electricity Duty. A further review was conducted during March- April 1997 covering

the period from 1991-92 to 1995-96 at the Office of the Chief Electrical Inspector with a view to ascertain the effectiveness of the Act and Rules for levy and collection of electricity duty and surcharge and of the implementation of the recommendations of the Public Accounts Committee on the paragraph in the 1980-81 Report. The results of the review are given in the succeeding paragraphs.

8.1.3. Organisational set up

The Chief Electrical Inspectorate which administers the provisions in the Act and Rules was formed in February 1968 and is functioning under a Chief Electrical Inspector. He is assisted by one additional Chief Electrical Inspector and one Deputy Chief Electrical Inspector to carry out his duties and powers enumerated under the Kerala Electricity Duty Act and Rules.

8.1.4. Highlights

- ❖ The actual collection of electricity duty during 1991-92 to 1995-96 was less as compared to the Budget estimates.

(Para 8.1.5)

- ❖ Arrears of electricity duty from consumers as on 31 March 1996 amounted to Rs 10175.84 lakh of which Rs 10138.44 lakh was due from the Kerala State Electricity Board.

[Para 8.1.6.(i)]

- ❖ Electricity duty due as on 31 March 1996 from the Kerala State Electricity Board, as per the accounts of the Chief Electrical Inspectorate was less by Rs 8673.13 lakh as compared to the dues shown in the accounts of the Kerala State Electricity Board for 1995-96.

[Para 8.1.6(ii)]

- ❖ The Government in July 1990 decided to convert the electricity duty due from the Kerala State Electricity Board under Section 3 of the Act into interest free loan, but the orders specifying the amount so converted have not been issued.

[Para 8.1.7.(i)(b)]

- ❖ Duty amounting to Rs 239.91 lakh collected by the Kerala State Electricity Board on energy generated by consumers for their own consumption had not been remitted to the Government.

[Para 8.1.7.(iii)]

- ❖ The Kerala State Electricity Board did not remit surcharge of Rs 2221.82 lakh collected by it. Besides, no action was taken by the Board to collect surcharge of Rs 2553.07 lakh due from licensees.

[Para 8.1.7.(iv)(b)]

- ❖ For non-remittance/delayed payment to Government account of the surcharge collected, interest at one percent was payable. The amount of interest payable for non-remittance/delayed payment of surcharge of Rs 2221.82 lakh calculated on the balance outstanding at the end of each year would work to Rs 682.52 lakh upto the end of March 1997. Neither any payment was made by the Board nor any action was taken by the department in this regard.

[Para 8.1.7.(iv)(c)]

- ❖ Penal interest of Rs 5.21 crore leviable for delayed payment of duty collected by the Kerala State Electricity Board from consumers during 1963 to 1990 was neither levied nor demanded.

[Para 8.1.7.(v)]

- ❖ Line loss during 1991-92 to 1995-96 which varied between 8.04 to 38.55 per cent against the admissible loss of 8 per cent resulted in less realisation of duty of Rs 22.77 lakh.

[Para 8.1.8.(ii)]

- ❖ Failure to utilise the remittances first for liquidation of interest resulted in non-realisation of duty of Rs 11.93 lakh.

[Para 8.1.8.(iii)]

8.1.5. Trend of Revenue

The Budget estimates and actual receipts under taxes and duties on electricity during 1991-92 to 1995-96 were as under.

The actual collection of electricity duty during 1991-92 to 1995-96 was less as compared to the Budget estimates

Year	Budget Estimates		Actuals	Shortfall	Percentage of shortfall
	Original	Revised			
	(Rupees in crore)				
1991-92	59.10	44.98	41.15	17.95	30.37
1992-93	47.10	30.20	22.15	24.95	52.97
1993-94	52.00	50.52	44.46	7.54	14.50
1994-95	73.63	74.35	49.99	23.64	32.10
1995-96	76.17	101.21	7.51	68.66	90.14

The main reason for the shortfall in actuals as stated (April 1997) by the department was non-remittance of the dues collected by the Kerala State Electricity Board, a major licensee in the State. Further no specific reasons for hike in revised estimate inspite of less collections were furnished by the Government (November 1997).

8.1.6. Arrears of electricity duty and surcharge

(i) Arrears

Arrears in the collection of duty from the consumers of electricity, surcharge, penal interest on duty and surcharge (excluding inspection fee) from various licensees as at the end of March 1996 as per the records of the Chief Electrical Inspectorate amounted to Rs 10175.84 lakh as indicated below.

Arrears of electricity duty from consumers as on 31 March 1996 amounted to Rs 10175.84 lakh of which Rs 10138.44 lakh was due from the Kerala State Electricity Board

Sl. No.	Licensee	Amount of dues (Rupees in lakh)
1	The Kerala State Electricity Board	10138.44
2	Cochin Port Trust	19.77
3	Thrissur Municipality	13.47
4	Tata Tea Ltd.	0.14
5	Kottayam Electric Supply Agency (ex-licensee)	2.34
6	Cochin Electric Company (ex-licensee)	1.68
Total		10175.84

The above figures do not include duty due from the licensees. The department has also not worked out the quantum of dues in this regard which is stated to be due to non-furnishing of monthly returns in prescribed forms by the Kerala State Electricity Board. However as per the accounts of the Board for 1995-96 the amount of duty due from the licensees worked out to Rs 2861.38 lakh.

(ii) Correctness of arrears

The Act provides for keeping books of accounts by the licensees to show separately sales of electrical energy exempt from payment of duty and other sales of electrical energy and to submit monthly returns to the inspecting officer.

Electricity duty due as on 31 March 1996 from the Kerala State Electricity Board, as per the accounts of the Chief Electrical Inspectorate was less by Rs 8673.13 lakh as compared to the dues shown in the accounts of the Board for 1995-96

Test check of the records of Chief Electrical Inspectorate revealed that duty of Rs 10138.44 lakh was due from the Kerala State Electricity Board on 31 March 1996. But duty as per accounts of the Board for the year 1995-96 was shown as Rs 18811.57 lakh. Thus there is a difference of Rs 8673.13 lakh in the figures of the two sets of accounts maintained by the Chief Electrical Inspectorate and the Board.

On this being pointed out (March 1997) in audit, the Chief Electrical Inspector stated (August 1997) that the difference in figures was due to non-submission of prescribed returns by the Board.

8.1.7. Dues from the Kerala State Electricity Board

(i) Duty due from licensees

(a) Under Section 3(1) of the Act, the Board as a licensee has to pay duty at the rate of six paise per unit for the energy sold at a price of more than 12 paise per unit. As the Board is the sole distributor of energy to the consumers in the State, remittance of duty into Government account is the responsibility of the Board and the responsibility for its accountal and proper watching of remittances rests with the Chief Electrical Inspector. As the Chief Electrical Inspector was not getting regularly the prescribed returns from the Board the total arrears of duty to be remitted into Government account by the Board as at the end of March 1996 have not been worked out by Chief Electrical Inspector. On this being pointed out by Audit (May 1997) the Chief Electrical Inspector stated (May 1997) that action had been taken to obtain the prescribed returns from the Board.

(b) In July 1990, the Government decided to convert the dues towards electricity duty up to the end of March 1989 under Section 3 of the Act into interest free loan to the Board and to waive the penal interest for non-payment of the above dues up to that period. In the order conveying the above decision, it was stated that detailed orders specifying the amount of duty so converted into interest free loan and the amount of penal interest waived would be issued separately. But no such order has been issued by the Government so far (March 1997). The amount of duty payable by the Board up to the end of March 1989 which was decided to be converted into interest free loan has been worked out by the department as Rs 202.01 crore, whereas as per the records of the Board, the amount was Rs 152.06 crore. No

The Government in July 1990 decided to convert the electricity duty due from the Board under Section 3 of the Act into interest free loan, but the orders specifying the amount so converted have not been issued

action was taken to reconcile the difference. The difference, if any, in the quantum of penal interest decided to be waived could not be assessed, as the Board had not worked out the same.

(c) On 13 September 1991, the Government exempted the Board from payment of duty under Section 3 of the Act for a period of five years from 1 April 1989 which was extended (January 1997) for a further period of one year from 1 April 1994. Though Section 11 of the Act empowers Government to grant exemption to any licensee from payment of duty in whole or in part, there was no provision to grant exemption with retrospective effect. Hence the exemption granted for the period from 1 April 1989 to 12 September 1991 and for the year 1994-95 was not in order. The quantum of exemption worked out to Rs 117.69 crore, the year-wise breakup of which is given below.

Year	Amount of duty exempted (Rupees in crore)
1989-90	28.76
1990-91	31.99
1991-92 (up to 12 September 1991)	14.77
1994-95	42.17
Total	117.69

The Government had not offered any reply (November 1997).

(d) The rate of duty of six paise per unit of energy sold was fixed as early as in 1963, when the Act was enacted. This rate had not undergone any revision, though the average revenue by sale of energy had gone up from 8.10 paise per unit (in 1969-70) to 90 paise per unit (in 1994-95) indicating a ten fold increase. On this

being pointed out (April 1997) in audit, the department stated (April 1997) that necessary proposals would be sent to Government in this regard.

(ii) Duty due from the consumers

Under the Act, the Board, as a licensee has to collect monthly the duty payable by the consumers and remit it to Government account before the expiry of the succeeding month after retaining one *per cent* of the collections as collection charges. Review of the records revealed that though the duty was collected monthly by the Board from the consumers, the same was being remitted only on *ad hoc* basis periodically to Government. This resulted in accumulation of arrears of electricity duty amounting to Rs 10138.30 lakh as at the end of March 1996. However, in March 1997, the State Government adjusted Rs 4077.71 lakh against the above dues from the funds provided in the budget for 1996-97 for release to the Board.

(iii) Non-remittance of duty collected in respect of energy generated by consumers for their own consumption

As per the provisions of the Act, duty at the rate of 1.2 paise per unit is leviable on the energy generated by the consumers for their own consumption and this duty is to be collected and remitted to Government by the Kerala State Electricity Board. Details of the duty collected from consumers and remitted in the Government account during 1989-90 to 1995-96 are tabulated below.

Duty amounting to Rs 239.91 lakh collected by the Board on energy generated by consumers for their own consumption had not been remitted to Government

Year	Amount collected	Amount remitted	Balance to be remitted
	(Rupees in lakh)		
1989-90	24.29	19.08	5.21
1990-91	28.33	6.44	21.89
1991-92	34.29	..	34.29
1992-93	38.71	..	38.71
1993-94	45.71	..	45.71
1994-95	39.84	..	39.84
1995-96	54.26	..	54.26
Total	265.43	25.52	239.91

The above table shows that the remittances made during 1989-90 and 1990-91 were negligible and there was no remittance thereafter, in spite of directions from Government to the Board for early remittance of the amount collected.

It was further observed from the accounts for 1995-96 of the Board, that the amount of duty due to Government under this head was shown as Rs 49.20 lakh. The difference has not been reconciled (March 1997). On this being pointed out (March 1997) in audit, the department stated (August 1997) that the amount calculated by them was based on the demand, collection and balance statement furnished by the Board. The department further stated that the difference would be reconciled on receipt of final accounts for 1995-96 from the Board.

(iv) Surcharge

The Kerala Electricity Surcharge (Levy and Collection) Act, 1989, was enacted for levy and collection of surcharge from the Extra High Tension and High Tension consumers who are supplied energy by the Kerala State Electricity Board. The Act was given retrospective effect from 1 October 1984 to validate the levy and collection of surcharge made by the Board from 1984 onwards. The rate of surcharge leviable is 2.5 paise per unit for consumers within the State and 2 paise per unit for sale outside the State. The surcharge collected by the Board either directly or through licensees from consumers for each quarter should be remitted to Government account after retaining one *per cent* towards collection charges before 15 of the first month in the next quarter failing which interest at one *per cent* per month is payable. Further, every licensee shall keep proper books of accounts in the prescribed form and submit to the inspecting officer returns indicating, *inter alia*, all the relevant details about surcharge.

A review of the records connected with surcharge revealed the following points.

(a) Though the demand, collection and balance statements were furnished monthly by the Kerala State Electricity Board, the returns as contemplated in the Act were not furnished by the Board to the Inspectorate after June 1986. No action was taken by the Inspectorate to obtain the returns regularly from the Board.

(b) The year-wise split up of demand, collection and balance of surcharge as furnished by the Kerala State Electricity Board is given below.

The Board did not remit surcharge of Rs 2221.82 lakh collected by it. Besides, no action was taken by the Board to collect surcharge of Rs 2553.07 lakh due from licensees

Year	S u r c h a r g e				
	Demand	Collected	To be collected (2-3)	Remitted	Balance (3-5)
(Rupees in lakh)					
1	2	3	4	5	6
1984-85	247.40	180.26	67.14	173.45	6.81
1985-86	520.69	528.08	(-) 7.39	527.89	0.19
1986-87	391.56	384.41	7.15	358.35	26.06
1987-88	369.34	359.82	9.52	278.94	80.88
1988-89	270.05	197.57	72.48	188.98	8.59
1989-90	936.65	199.93	736.72	184.63	15.30
1990-91	616.60	160.84	455.76	28.64	132.20
1991-92	618.08	176.32	441.76		176.32
1992-93	592.07	182.95	409.12		182.95
1993-94	585.41	183.68	401.73		183.68
1994-95	658.74	267.10	391.64		267.10
1995-96	709.18	1141.74	(-)432.56		1141.74
Total	6515.77	3962.70	2553.07	1740.88	2221.82

The above table shows that not only no action was taken by the Board to collect Rs 2553.07 lakh out of the surcharge of Rs 6515.77 lakh due to Government but also failed to remit Rs 2221.82 lakh to Government out of Rs 3962.70 lakh collected by them; thereby Board has been utilising this amount without proper authority.

(c) For non-remittance/delayed payment to Government account of the surcharge collected, interest at one *per cent* per month was payable. The amount of interest payable for non-remittance/delayed payment of surcharge of Rs 2221.82 lakh calculated on the balance outstanding at the end of each year would work out to Rs 682.52 lakh up to the end of March 1997. Neither any payment was made by the Board nor any action was taken by the department in this regard.

Interest of Rs 682.52 lakh as on 31 March 1997 payable by the Board for delayed payment of surcharge of Rs 2221.82 lakh was not paid

(d) Apart from the Kerala State Electricity Board, other licensees to whom the Board is supplying energy in bulk for their own consumption as well as for distribution in the specified areas were also not remitting the amount of surcharge collected by them. The quantum of surcharge due from these licensees had not been worked out by the Chief Electrical Inspector.

On this being pointed out (March 1997) in audit, the department stated (April 1997) that inspecting officer as contemplated in the Act and Rules has not been appointed by Government nor the Chief Electrical Inspector has been authorised to inspect the surcharge accounts maintained by the licensees, with the result that whether the surcharge due to Government had been collected and remitted to Government account could not be ensured. The department further stated (August 1997) that the matter has been taken up with Government.

(v) Non-levy of penal interest for non-payment of duty in time

As per Rule 3 of the Kerala Electricity Duty Rules, 1963, every licensee shall pay electricity duty in respect of each month before the expiry of the following month. Section 8 of the Kerala Electricity Duty Act, 1963, as amended by the Kerala

Penal interest of Rs 5.21 crore leviable for delayed payment of duty collected by the Board from consumers during 1963 to 1990 was neither levied nor demanded

Electricity Duty (Amendment) Act, 1977, stipulates that any sum due on account of electricity duty if not paid in time, will attract penal interest as fixed by the State Government but not exceeding 18 *per cent per annum* and the State Government had fixed (May 1978) the rate of penal interest as 18 *per cent per annum* for all EHT/HT consumers including licensees and 12 *per cent per annum* for others. As at the end of March 1995, Rs 30.91 crore was due from the Board towards penal interest for delayed payment of electricity duty under Section 4 of the Act. The year-wise details are given below.

Period	Amount (Rupees in crore)
Up to March 1990	5.21
1990-91	3.24
1991-92	3.06
1992-93	4.28
1993-94	7.30
1994-95	7.82
Total	30.91

But the demand raised by the Chief Electrical Inspector was for the dues pertaining to the period from 1990-91 onwards only and no demand was raised for the dues amounting to Rs 5.21 crore relating to the period from July 1963 to March 1990.

Penal interest was also payable by the Board on the defaulted payments of electricity duty under Section 3 of the Act. The amount of penal interest has not been worked out and demanded by the Inspectorate. Audit also could not quantify this for want of details.

On this being pointed out (May 1997) in audit, the department stated (April 1997) that Government had directed (November 1995) the Board to forward proposals for adjusting the penal interest against any dues from Government to the Board, but no such proposal has been received so far (April 1997).

8.1.8. Amount due from the Tata Tea Ltd.

(i) Non-payment of duty in respect of energy consumed as licensee.

The licensee was not remitting the duty under Section 4 of the Act on the energy consumed in their Mattupetty packing unit from August 1992 onwards and in their cutting, turning, curling unit from April 1993 onwards on the ground that the first being a newly established industry and the second being cent *per cent* export oriented industry, they were entitled to exemption from payment of duty. But no exemption under Section 11 of the Act was obtained by the licensee from the Government. No action was also initiated to charge interest for the delay in remittance of the dues. This resulted in non-realisation of Rs 3.57 lakh by way of duty and Rs 0.96 lakh by way of interest.

On this being pointed out (March 1997) in audit, the department stated (April 1997) that the licensee had agreed to remit the duty following a discussion with them. Details of remittance have not been furnished (November 1997).

(ii) Short remittance of duty due to excess allowance of line loss

The duty payable was worked out on the basis of units of energy supplied to the licensee by the Kerala State Electricity Board reduced by the quantum of line loss. Though there is no specific provision in the Act to allow line loss for the purpose of arriving at the quantum of duty payable by the licensee, the State Government permitted (May 1994) to allow line loss for a maximum of 8 *per cent*. However on a test check of the records relating to the periods from 1991-92 to 1995-96, it was noticed that the line loss allowed to the licensee varied from 8.04 *per cent* to 38.55 *per cent*. Excess over eight percentage of line loss

Line loss in excess of the admissible limit resulted in less realisation of duty of Rs 22.77 lakh during 1991-92 to 1995-96

allowed to the licensee during the above period of five years resulted in short remittance of duty to the extent of Rs 22.77 lakh as detailed below.

Year	Energy purchased	Line loss availed	Line loss in excess of 8 <i>per cent</i>	Duty at the rate of 10 paise/unit for excess loss
	(in million units)			(Rupees in lakh)
1991-92	30.86	6.08	3.61	3.61
1992-93	32.23	6.32	3.74	3.74
1993-94	33.20	6.30	3.64	3.64
1994-95	35.01	8.43	5.63	5.63
1995-96	33.29	8.81	6.15	6.15
Total	164.59	35.94	22.77	22.77

(iii) **Non-levy of interest for the belated payment of duty**

The Tata Tea Ltd., a licensee owed an amount of Rs 4.07 lakh by way of duty under Section 3 of the Act in respect of energy sold to HT consumers during the period from July 1976 to December 1983 and this was paid only in May 1992. This belated payment of duty attracted interest under Section 8 *ibid.* Further, any amount paid should first be adjusted against the dues towards interest and balance, if any, should be adjusted against the dues towards duty. But the payment made in May 1992 was adjusted wrongly against the dues towards duty and no demand was made towards interest. The incorrect adjustment resulted in short collection of revenue amounting to Rs 11.93 lakh (duty Rs 4.07 lakh and interest Rs 7.86 lakh).

Failure to utilise the remittances first for liquidation of interest resulted in non-realisation of Rs 11.93 lakh

On this being pointed out (March 1997) in audit, the department stated (April 1997) that the belated payment by the licensee was on account of a case filed by the licensee in the High Court challenging the demand of duty, which was decided only in June 1991. But this was not correct, as the court case referred to was in respect

of duty on the energy used for self consumption and the duty in respect of energy sold to HT consumers should have been paid on the respective due dates itself.

8.1.9. Duty due from Cochin Port Trust

The Act provides that electrical energy consumed by the Government of India or sold to Government of India for consumption shall not be liable to electricity duty.

Test check of the records of the Board in audit revealed that since the formation (February 1964) of the Cochin Port Trust, the Trust had not paid duty either as a licensee or as a consumer on the plea of being a Government of India establishment. As no exemption from payment of duty has been obtained by the Trust it was liable to pay duty. The duty not paid as consumer for the period from 1991-92 to 1993-94 worked out to Rs 18.08 lakh. The quantum of duty payable as a licensee could not be worked out as monthly returns were not filed by the Trust regularly.

The Trust agreed in May 1994 to pay the duty, but no duty has been paid so far (March 1997).

8.1.10. Reconciliation of departmental figures with the treasury figures

As per the provisions in the Kerala Financial Code, the chief controlling officers should furnish a certificate to Government in September and March every year, after getting necessary certificates from the subordinate controlling officers in respect of the remittances made into the treasury towards departmental receipts duly reconciled with those booked in the treasury. Test check of the records revealed that the Chief Electrical Inspector has furnished such certificate up to September 1995 only. On this being pointed out (April 1997) in audit, the department stated (August and October 1997) that certificates up to March 1996 had been furnished to Government and that certificates for the remaining periods would be furnished shortly.

8.1.11. Internal control

Under the Act and the Rules made thereunder, every licensee is required to submit to the inspecting officer monthly returns in the prescribed form showing the quantity of energy sold, duty payable, duty remitted etc., and the inspecting officer may require a licensee to produce such books and records for inspection as may be necessary for ascertaining or verifying the amount of duty payable under the Act.

But test check of the records revealed that in the case of the Kerala State Electricity Board, Cochin Port Trust and Thrissur Municipality, the prescribed returns were not being received in the Chief Electrical Inspectorate. Only monthly demand, collection and balance statements were being furnished to the Inspectorate. Action to be initiated under Section 10 of the Act for non-submission of the returns was also not taken by the Chief Electrical Inspector. The department stated (August 1997) that action would be taken in this regard.

Further, the demand, collection and balance statements received from the licensees were not being checked to ensure the correctness of the figures shown therein.

The above points were pointed out to the department and reported to Government in June 1997; Government reply has not been received (November 1997).

Chapter 9

Forest Receipts

CHAPTER 9

FOREST RECEIPTS

9.1. Results of audit

Test check of the records of Offices of the Forest Department conducted in audit during 1996-97 revealed non-levy/short realisation of revenue amounting to Rs 769.72 lakh in 102 cases which may broadly be categorised as under.

Sl. No	Category of cases	Number	Amount (In lakh of rupees)
1	Short/non-realisation of value of forest produce	24	161.64
2	Short/non-realisation of sales tax and income tax	27	65.89
3	Non-demand/short demand of penalty for belated removal of raw materials	13	14.63
4	Loss in auction/re-auction, disposal of forest produce, short/non-realisation of penalty and other charges	19	58.94
5	Short/non-demand of lease rent on forest land	7	440.97
6	Other lapses	12	27.65
Total		102	769.72

During the course of the year 1996-97, the department accepted under-assessments etc., of Rs 51 lakh involved in 35 cases, of which 17 cases involving Rs 39.86 lakh had been pointed out in audit during 1996-97 and the rest in earlier years. A few illustrative cases involving Rs 524.17 lakh are given in the following paragraphs.

9.2. Non-revision of lease rent on forest lands

Under the Kerala Grants and Leases (Modification of Rights) Act, 1980, the Collector may revise from time to time, the rent stipulated in any lease deed, notwithstanding anything contained in any law for the time being in force or in any grant, lease deed, contract or agreement or in any judgement subject to the condition that any revision of the assessment or rent shall be in accordance with such principles as may be prescribed. Although the Rules to carryout the provisions of the Act were made by the Government only in March 1990, the operation of the same was stayed by the Government in October 1990 on the ground that they were found to be defective on certain grounds. No further order was issued by the Government so far (March 1997) resulting in non-implementation of the provisions of the enactment passed by the Legislature in 1980. Keeping in view the average productivity value of forest lands and other factors Government had however, been revising the lease rent of forest lands leased out to autonomous bodies and public sector undertakings. The lease rent so fixed for such lands from December 1987 was Rs 1,300 per hectare *per annum*.

Loss of lease rent of Rs 4.3 crore on account of non-implementation of the provisions of the Act promulgated in 1980

Mention was made in paragraph 5.4 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1992 (Revenue Receipts) about the delay in implementation of the provisions of the Act and consequent loss of revenue of Rs 693.65 lakh for the period from August 1980 to March 1992 on forest lands leased out in 55 cases. The Public Accounts Committee (1995-96) had in their 117th Report adversely commented (March 1996) on the inordinate delay in framing the Rules, their subsequent stay and the violation of the statutory stipulation for the revision of lease rent from time to time and called for a detailed report on the subject. The report has not so far (March 1997) been furnished by the Government.

Continued inaction on the part of the Government in implementing the provisions of the Act resulted in continuance of the leases at old nominal rates of lease rent. The loss on this account based on the rate of lease rent fixed from 1987 for autonomous bodies, etc., (Rs 1,300 per hectare *per annum*) works out to Rs 4.30 crore for the period from April 1992 to March 1996 in 46 cases in Nenmara, Thrissur, Chalakkudy, Vazhachal and Peechi Forest Divisions.

The cases were pointed out to the department in February and March 1997 and reported to Government in March 1997; their replies have not been received (November 1997).

9.3. Short collection of value of eucalyptus

An agreement executed (October 1974) between the Government of Kerala and M/s Hindustan Paper Corporation Ltd., provided for the supply, from the forests in Kerala, of raw materials such as eucalyptus, reeds etc., required by the Corporation for the manufacture of pulp/ newsprint

Royalty of Rs 89.67 lakh short realised on eucalyptus supplied to a Public Sector Company from Munnar

paper and other allied products at the value agreed upon and taxes due thereon from time to time. The value of eucalyptus was raised from Rs 11 to Rs 335 per tonne from 1 October 1991. In Munnar Division on 25,744.81 tonnes of eucalyptus supplied to the Corporation between November 1991 and April 1992 royalty was collected at the rate of Rs 11 instead of Rs 335 per tonne. This resulted in short collection of value of Rs 89.67 lakh including taxes.

On this being pointed out (January 1993) in audit, the department stated (September 1993) that the sum of Rs 89.67 lakh had been realised from the Corporation in March 1993.

The case was reported to Government in July 1997.

9.4. Failure to demand enhanced royalty

Under the agreements executed (between 1958 and 1988) between the Government of Kerala and a private limited company, the company is allowed to extract and remove a specific quantity of raw materials annually from

Failure to demand enhanced royalty resulted in short realisation of Rs 2.22 lakh

specified forest lands on payment of royalty fixed from time to time. In a meeting of the representatives of the Government and the company, convened to finalise the terms of a supplemental agreement to be effective from 27 October 1993, it was decided (July 1995) to fix the basic price of raw materials other than bamboo at Rs 360 per tonne, for the period from 27 October 1994 to 26 October 1995 as against Rs 335 per tonne in force up to 26 October 1994.

In Social Forestry Division, Wayanad and Forest Division, Thiruvananthapuram, royalty only at the rate of Rs 335 per tonne was collected against Rs 360 per tonne due on raw materials extracted and removed from 27 October 1994 to 26 October 1995. This resulted in short realisation of Rs 2.22 lakh towards royalty including taxes.

On this being pointed out (March and April 1996) in audit, the department stated (between August 1996 and January 1997) that Rs 2.08 lakh had since been realised and action had been taken for the realisation of the balance amount.

The case was reported to Government in July 1997.

9.5. Short levy of sales tax on supply of raw materials

An agreement executed (October 1974) between the Government of Kerala and M/s Hindustan Paper Corporation Ltd., provided for the supply, from the forests in Kerala, of raw materials such as eucalyptus, reeds etc., required by the Corporation for the manufacture of pulp/ newsprint paper and other allied products at the value agreed upon and taxes due thereon from time to time. The rate of sales tax payable on such industrial raw materials under the Kerala General Sales Tax Act, 1963, was enhanced from 2.5 *per cent* to 3 *per cent* from 1 April 1994.

Short collection of sales tax of Rs 1.52 lakh on industrial raw materials supplied from forest at Ranni, Munnar and Thiruvananthapuram

In four Forest Divisions (Ranni, Munnar, Thiruvananthapuram and the Agasthyavanam Biological Park at Thiruvananthapuram), on raw materials supplied from 1 April 1994 to 30 June 1995 to the Corporation, sales tax was however, levied at 2.5 *per cent* instead of at 3 *per cent*. This resulted in short collection of sales tax of Rs 1.52 lakh.

On this being pointed out (between May 1995 and March 1996) in audit, the department stated (between November 1995 and March 1997) that sales tax of Rs 25,453 had been realised in Ranni Division and that action had been taken for the realisation of the balance amount.

The case was reported to Government in July 1997.

9.6. Short levy of penalty

Under the agreements executed (between 1958 and 1988) between Government of Kerala and a private limited company, the company was allowed to extract and remove a specific quantity of raw materials annually from specified forest lands on payment of royalty. The company was required to collect and remove the raw materials by 31 May every year and for the removal of the collected material remaining on 31 May the company was required to pay penalty at the rate to be fixed.

***Rs 76,439 short realised in
Forest Division North
Wayanad towards penalty
on belated removal of raw
material***

In North Wayanad Forest Division, as the company could not remove by 31 May 1995 the entire quantity of 1,100 tonnes of raw material allotted from Peria Range, the company was allowed extension of time till August 1995 subject to payment of penalty of Rs 50 per tonne per month. However, against the penalty of Rs 1,06,904 due from the company for the belated removal of 820.67 tonnes of raw material between June and August 1995, only Rs 30,465 was realised. This resulted in short levy of penalty of Rs 76,439.

On this being pointed out (December 1995) in audit, the department stated (November 1996) that Rs 76,439 had been remitted by the company in September 1996.

The case was reported to Government in July 1997.

Chapter 10

Other Non-Tax Receipts



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CHAPTER 10

OTHER NON-TAX RECEIPTS

10.1. Interest Receipts

10.1.1. Introduction

Interest on loans granted by Government through different departments to Government Commercial Undertakings, Co-operative Societies and private parties forms one of the sources of revenue to the State. Loans for different purposes are sanctioned by different administrative departments of Government and are disbursed through the Directorates or District/Taluk level Officers. Funds for this purpose are often taken as loan from various institutions like the Life Insurance Corporation, General Insurance Corporation, National Bank for Agriculture and Rural Development (NABARD) and the National Co-operative Development Corporation (NCDC). Government have to pay interest to these institutions periodically as per the terms and conditions agreed upon with these institutions. It is, therefore, very important to ensure that institutions and individuals to whom loans are disbursed, promptly repay the instalments of loans and interest thereon, according to the terms and conditions prescribed in the orders sanctioning these loans. General instructions and procedures to be followed by loan sanctioning authorities and disbursing officers are prescribed in Chapter IX of the Kerala Financial Code Volume I. Loans by State Government outstanding as on 31 March 1996 amounted to Rs 1973.84 crore out of which Rs 1501.86 crore were due from public sector and other undertakings and Rs 471.98 crore from other organisations/individuals like co-operative institutions, government servants, etc.

10.1.2. Organisational set up

Loans are sanctioned by the administrative departments in the Government Secretariat, the heads of departments and other officers empowered to sanction. In the Co-operation Department, the Registrar of Co-operative Societies is

the head of the department and the Joint Registrars and Assistant Registrars function in the district and taluk levels respectively. In the Industries Department, the Director of Industries and Commerce is the head of the department and the General Managers of District Industries Centres function at the district level. The head of the Agricultural Department is the Director of Agriculture.

10.1.3. Scope of audit

Mention was made in paragraph 8.2 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1986-87 about the results of a review on Interest Receipts covering the period from 1982-83 to 1985-86 conducted during July 1986 to January 1987 highlighting the non-demand/short demand of interest due to Government. A further review covering the period from 1992-93 to 1995-96 was conducted during November 1996 to January 1997 with a view to examining whether the defects and omissions pointed out by Audit have been rectified and how far the existing internal control mechanism for the realisation and accounting of interest receipts is effective. Records maintained in Co-operation, Industries and Agriculture Departments were test checked for this purpose. In the Co-operation Department, the Office of the Registrar of Co-operative Societies, 4¹ out of 14 offices of the Joint Registrars and 12² out of 61 offices of Assistant Registrars were inspected. In the Department of Industries, office of the Director of Industries, 4³ out of 14 District Industries Centres and 3 Taluk Industries Offices under the control of each District Industries Centre were inspected. In the Agriculture Department, the office of the Director of Agriculture was inspected. The results of the review are given in the succeeding paragraphs.

1 Ernakulam, Kottayam, Kozhikode and Thiruvananthapuram

2 Aluva, Changanassery, Kanayannur, Kottayam, Kozhikode, Kunnathunad, Nedumangad, Neyyattinkara, Pala, Quilandy, Thiruvananthapuram and Vadakara

3 Ernakulam, Kottayam, Kozhikode and Thiruvananthapuram

10.1.4. Highlights

- ❖ Loan ledgers were not being maintained properly by the offices of the loan sanctioning authorities.

(Paragraph 10.1.7)

- ❖ Demand, collection and balance statements prepared by the departments did not depict the correct position of outstanding loans.

(Paragraph 10.1.8)

- ❖ Terms and conditions of loans amounting to Rs 70 crore had not been fixed. Due to the delay of over 2 years for fixing the terms and conditions of loans for Rs 5 crore sanctioned by the Agriculture Department to a Marketing Federation, the amount could not be demanded. Interest accrued on the loans up to 31 March 1997 amounted to Rs 3.89 crore including penal interest of Rs 21.50 lakh.

(Paragraph 10.1.9)

- ❖ Interest amounting to Rs 179.40 lakh from 625 loanees had not been demanded/realised.

(Paragraph 10.1.10)

- ❖ Incorrect adjustment of remittances resulted in short realisation of principal and interest of Rs 2.80 lakh in 4 cases.

(Paragraph 10.1.11)

- ❖ Loans of Rs 26.03 lakh sanctioned to two loanees were deposited in treasury/bank without utilising them for the purpose for which they were sanctioned.

(Paragraph 10.1.12)

- ❖ Fresh loans were sanctioned to defaulters of earlier loans.

(Paragraph 10.1.13)

- ❖ Lack of prompt and efficient follow-up action led to low percentage of collection of interest. There was short recovery of interest amounting to Rs 2850.23 lakh during the period from 1992-93 to 1995-96 from the loanees who had availed loans from the N.C.D.C.

(Paragraph 10.1.14)

10.1.5. Trend of revenue

The Budget estimates and actual receipts on account of interest, total tax and non-tax revenue and the percentage of actual receipts to total receipts on account of tax and non-tax revenue for the period 1992-93 to 1995-96 are detailed below.

Year	Budget estimates	Actuals	Tax and non-tax revenue	percentage of actuals to tax and non-tax revenue
	(In crore of rupees)			
1992-93	25.74	23.10	2166.36	1.07
1993-94	35.43	27.60	2667.79	1.03
1994-95	29.13	37.76	3195.45	1.18
1995-96	34.46	100.32	3918.17	2.56

Out of the actual interest receipts shown above, Rs 10.35 crore during 1994-95 and Rs 32.65 crore during 1995-96 were credited by book adjustments by the Accountant General (A&E) and only Rs 27.41 crore during 1994-95 and Rs 67.67 crore during 1995-96 were realised in cash. The reasons for low budget estimates during 1995-96 though called for (June 1997) from the Government have not been received (November 1997).

10.1.6. Loans by Government

(a) The table below indicates the amount of loan disbursed and realised by the Co-operation, Industries and Agriculture Departments and the balance amount outstanding during the years 1992-93 to 1995-96.

Year	Opening balance	Amount disbursed	Amount realised	Closing balance
(In lakh of rupees)				
Co-operation Department				
1992-93	4324.12	639.81	152.48	4811.45
1993-94	4811.45	1509.75	674.89	5646.31
1994-95	5933.71 ⁴	1536.47	427.11	7043.07
1995-96	7043.07	622.93	277.50	7388.50
Industries Department				
1992-93	13992.03	1422.59	180.81	15233.81
1993-94	14638.27 ⁵	2530.59	242.24	16926.62
1994-95	15675.30 ⁵	6505.44	380.85	21799.89
1995-96	21417.33 ⁵	9245.62	482.37	30180.58
Agriculture Department				
1992-93	2363.15	565.00	328.48	2599.67
1993-94	2432.15 ⁶	961.65	155.74	3238.06
1994-95	3238.06	300.00	12.54	3525.52
1995-96	3525.52	128.50	0.62	3653.40

4 Increase in opening balance is due to proforma rectification of misclassification of Rs 287.40 lakh in 1990-91 accounts.

5 The short falls in opening balances are due to conversion of Rs 595.54 lakh, Rs 1251.32 lakh and Rs 382.54 lakh during the years 1992-93, 1993-94 and 1994-95 into share capital.

6 The short fall in opening balance is due to conversion of Rs 167.52 lakh into share capital.

(b) The following table shows the amounts of loan given by the financial institutions and repaid by the Government during the years 1992-93 to 1995-96.

Name of institution	Year	Opening balance	Addition	Repayment	Closing balance
	(In lakh of rupees)				
LIC of India	1992-93	6342.94	3335.00	346.91	9331.03
	1993-94	9331.03	2200.00	411.21	11119.82
	1994-95	11119.82	2521.00	503.87	13136.95
	1995-96	13136.95	2727.98	596.90	15268.03
GIC of India	1992-93	3169.33	983.00	189.09	3963.24
	1993-94	3963.24	953.00	228.41	4687.83
	1994-95	4687.83	1267.98	269.86	5685.95
	1995-96	5685.95	1360.00	323.25	6722.70
NABARD	1992-93	(-)637.21 ⁷	3112.50	1363.67	1111.62
	1993-94	1111.62	617.96	346.75	1382.83
	1994-95	1382.83	692.52	346.78	1728.57
	1995-96	1728.57	1415.95	268.06	2876.46
NCDC	1992-93	7371.05	701.36	743.41	7329.00
	1993-94	7329.00	1381.31	824.03	7886.28
	1994-95	7886.28	3647.73	861.23	10672.78
	1995-96	10672.78	2697.39	862.75	12507.42

7 The amount represents the repayment of the first two instalments of loan of Rs 28.33 crore paid by NABARD direct to two State Co-operative banks. The minus balance was due to non-adjustment of the loan in Government accounts during 1990-91 for want of Government sanction.

(c) Interest paid by Government to various financial institutions during the period from 1992-93 to 1995-96 is as shown below.

	1992-93	1993-94	1994-95	1995-96
	(In lakh of rupees)			
LIC of India	765.21	1041.19	1295.97	1496.30
NABARD	191.86	107.35	95.61	120.85
NCDC	829.96	870.50	1015.79	1304.41
GIC of India	360.30	482.10	562.34	688.89

10.1.7. Maintenance of loan ledgers

Loan ledgers are the basic records of loans in which initial information such as sanction order, date of drawal, amount, rate of interest, other terms and conditions, particulars of repayment, balance amount etc., are to be noted. In the Department of Co-operation, in the case of loans to primary co-operative societies/banks, Assistant Registrars and in case of loans to district level and apex societies, Joint Registrars are responsible for recovery of loan. Loan ledgers are to be maintained in the offices of Assistant Registrars at taluk level and Joint Registrars at district level. In the Department of Industries, the Director of Industries and Commerce, in the case of loans given to Public Sector Undertakings and the General Managers of District Industries Centres, in the case of loans granted for various industrial purposes are responsible for the maintenance of loan ledgers and watching recovery of loans. In the Department of Agriculture, the Director of Agriculture is responsible for the maintenance of loan ledgers and watching recovery of agricultural loans. Test check of the maintenance of loan ledgers revealed the following.

Loan ledgers were not properly maintained

(a) Department of Co-operation

(i) Loan ledgers were not maintained properly either by the Joint Registrars or the Assistant Registrars whose offices were subjected to audit.

The registers maintained by them did not contain details such as number and date of order sanctioning the loan, amount, rate of interest and other relevant information.

(ii) Details of remittances such as chalan number, date of remittance and amount remitted were not authenticated by any officer.

(iii) Instalments of principal, interest and penal interest due from the loanees were not worked out and demand notices issued one month in advance as required under the Kerala Financial Code.

(iv) The amounts shown in the loan ledgers maintained by the Assistant Registrars were not reconciled with that shown in the registers maintained by the Joint Registrars despite specific direction (July 1987) of the Registrar of Co-operative Societies. Though the Joint Registrar of Co-operative Societies, Thiruvananthapuram claimed that proper maintenance of ledgers was ensured at the time of annual inspection of Assistant Registrar's offices, no such inspection was conducted between 1988 and 1995.

(v) Though the Joint Registrars were responsible to maintain the accounts and watch the recovery of the loan amount and interest due, the ledgers maintained by them did not contain the details of loans issued to the Apex Societies and proper steps were not being taken by the Joint Registrars to recover the dues from Apex Societies. In the office of the Assistant Registrar, Aluva it was noticed that in ten cases the date of payment of loan and the rate of interest were not being noted in the ledgers.

(b) Department of Industries

The Director of Industries and Commerce was not maintaining loan ledgers. General Managers of District Industries Centres were maintaining loan repayment registers but these were not posted with up to date information. In District Office, Thiruvananthapuram interest due in respect of loans sanctioned from October 1992 onwards was not worked out except in those cases where remittances were made by the loanees.

(c) Department of Agriculture

Although loan ledgers were maintained, prompt action was not taken by the Director of Agriculture to realise the outstanding loan amount and interest due thereon.

In all the above departments no proper mechanism existed to watch the recovery of loans issued for various purposes and interest due thereon.

10.1.8. Demand, Collection and Balance Statements

Demand, Collection and Balance Statements are intended to indicate the exact position of the revenue due, collected and revenue outstanding during a particular period and to serve as an instrument of internal control system. But the demand, collection and balance statements prepared by the departments under review did not depict the exact position in view of the audit comments *infra* and hence did not serve the purpose for which it has been prescribed.

**DCB statements
prepared by the
departments did not
depict the correct
position**

(i) In the demand, collection and balance statement prepared by the concurrent auditor of the Kerala State Co-operative Marketing Federation the interest due as on 31 March 1996 was Rs 708.82 lakh only as against Rs 835.89 lakh as per the records of the Federation. Even the figures of the Federation did not include interest of Rs 297.27 lakh on four loans disbursed between March 1993 and October 1995.

(ii) Loans of Rs 56,250, Rs 20.25 lakh and Rs 75,000 were sanctioned to a district level society in Kozhikode District in March 1980, March 1981 and March 1982 respectively. Rs 37.12 lakh was outstanding as on 31 March 1996 by way of interest in respect of the last two loans. These loans were not entered in the ledger maintained by the Assistant Registrar, Kozhikode and as such the principal and

interest due on these loans were also not included in the demand, collection and balance statement prepared by him. Another loan of Rs 75,000 granted (March 1989) to a co-operative hospital was also not noted in the ledger maintained by the Assistant Registrar, Kozhikode and the repayment of principal and interest did not find a place in the demand, collection and balance statement sent by him to the Joint Registrar.

(iii) In the demand, collection and balance statement sent by an Assistant Registrar, Kozhikode interest due from two district level co-operative societies up to 30 September 1995 was shown as Rs 2,31,366 against Rs 2,63,430 actually due. In Kottayam district, interest of Rs 74,339 was due from 20 societies, but in the demand, collection and balance statement the amount was shown as Rs 47,448.

(iv) In the demand, collection and balance statement for the period up to 31 March 1996 prepared by the Director of Industries and Commerce, a loan of Rs 25 lakh granted (March 1995) to Forest Industries Travancore Ltd., and interest due thereon were not included.

Cases of loans relating to textile mills were transferred from the Director of Industries and Commerce to the Director of Handlooms and Textiles during 1992. Though Rs 10.74 crore were due on 31 March 1996 from 7 out of 9 textile mills/corporations by way of principal and interest, no action was taken either by the Director of Industries or by the Director of Handlooms to realise the dues. According to the Director of Handlooms and Textiles, though the subject was transferred in 1992 the files were handed over to the Directorate only in July/August 1996, i.e. after a lapse of 4 years though both the Directorates are housed in the same building. Thus no follow up action was taken to realise the outstanding principal and interest either by the Director of Industries and Commerce or by the Director of Handlooms and Textiles for the last four years ending March 1996.

On this being pointed out (November 1996) in audit, the department stated (September 1997) that demand notice had since been issued to four out of nine textile mills/companies, that demand notices were being issued to other four

mills/companies and that the terms and conditions for repayment of loan given to another mill was yet to be finalised by the Government.

(v) In Agriculture Department, demand, collection and balance statements were prepared only up to November 1987. Hence the latest arrear position in respect of principal and interest due thereon could not be ascertained.

On this being pointed out (March 1996) in audit, the department stated (August 1997) that demand, collection and balance statements up to the half year ended 30 September 1989 had been prepared. Further report has not been received (November 1997).

10.1.9. Non-fixation/delay in fixation of terms and conditions of loans

(a) A test check of the loan repayment register of the Director of Industries and Commerce showed that in 40 cases involving an amount of Rs 70 crore, terms and conditions of loans sanctioned to Public Sector Undertakings during the period from March 1991 to January 1997 were not fixed by Government till January 1997. The instalments of loan and interest payable by the loanees were not therefore worked out and included in the demand, collection and balance statements.

Terms and conditions of loans amounting to Rs 70 crore sanctioned from March 1991 to January 1997 had not been fixed

(b) In the Agriculture Department, delay of more than two years had occurred in fixing the terms and conditions of repayment of loans of Rs 5 crore sanctioned to Kerala State Co-operative Marketing Federation in 1993. This had resulted in non-raising of demands till March 1996 for its recovery. At the end of March 1997 an amount of Rs 3.89 crore was due towards interest including penal interest of Rs 21.50 lakh.

10.1.10. Non-demand / non-realisation of interest due from loanees.

(a) In the Co-operation Department, interest amounting to Rs 41.37 lakh due from 12 loanees as on 31 March 1996 on loans aggregating to Rs 50.13 lakh disbursed during March 1985 to February 1992 had neither been demanded by the department nor remitted by the loanees. As the rate of interest had not been recorded in the loan ledger, the amount of interest due from six loanees but not demanded and remitted on loans amounting to Rs 12.25 lakh disbursed during March 1989 and March 1993 could not be worked out.

Interest amounting to Rs 179.40 lakh had not been demanded/realised from loanees

(b) In the Industries Department, in 602 cases of margin money loans test checked in four selected districts (Thiruvananthapuram, Kottayam, Ernakulam and Kozhikode), the amount of interest pending collection as on 31 March 1996 amounted to Rs 100.07 lakh as shown below.

District Industries Centre	No. of cases test checked	Period of disbursement	Amount of interest due (Rupees in lakh)
Thiruvananthapuram	120	March 1980 to June 1989	19.73
Kottayam	190	March 1980 to March 1992	25.99
Ernakulam	162	March 1980 to October 1991	38.31
Kozhikode	130	March 1980 to March 1992	16.04
Total	602		100.07

Out of this, in 185 cases of loans disbursed from January 1987 onwards in three centres (Ernakulam, Kottayam and Kozhikode) no action was taken to realise principal and interest due thereon.

(c) In the Agriculture Department, the demand, collection and balance statements had not been prepared since September 1987. Demand notices were not issued to the loanees regularly for payment of principal and interest. However, it was noticed that a statement of dues on account of principal and interest was occasionally forwarded to the loanees. A few cases where interest amounting to Rs 37.96 lakh was not demanded are given below.

Loanee	Period in which disbursed	Amount of loan	Interest and penal interest levied	Remarks
		(Rupees in lakh)		
Kerala State Co-operative Marketing Federation	May 1995	50.00	1.50	Interest due on the unutilised portion till the date of refund.
Plantation Corporation of Kerala Ltd.	April 1988	25.00	3.11	
- do -	March 1975	77.50	0.15	
Kerala State Warehousing Corporation	October 1993	33.70	11.46	
Oil Palm India Limited	June 1980 to October 1983	52.41	14.31	
7 Co-operative Societies	Not available	10.50	7.43	
Total			37.96	

On this being pointed out (March and November 1996) in audit, the department stated (September 1997) that in respect of Kerala State Warehousing Corporation and Oil Palm India Ltd., requests for waiver of interest are pending with

the Government, interest due in other cases had been demanded and that in respect of some co-operative societies action had been initiated to recover the amount under the Revenue Recovery Act.

10.1.11. **Incorrect adjustment of remittances**

As per the general instructions on repayment of loans, interest, etc., issued by the Government, amount paid by the loanee shall be adjusted first towards interest dues, if any, and the balance only shall be adjusted towards principal.

Incorrect adjustment of remittances resulted in short realisation of Rs 2.80 lakh

Failure to follow these instructions by the Industries Department resulted in short realisation of principal and interest amounting to Rs 2.80 lakh in four cases test checked.

10.1.12. **Non-utilisation of loan and non-refund of unutilised loan with interest**

In the Co-operation Department, an amount of Rs 24.53 lakh sanctioned to Calicut Wholesale Co-operative Store by way of share capital contribution (Rs 12.26 lakh) and interest free loan (Rs 12.27 lakh) in July 1989 was drawn by the society in March 1990 and deposited in Treasury Public Account of the society in the District Treasury, Thiruvananthapuram. The society had neither utilised the amount nor refunded the amount to Government.

In another case, an amount of Rs 1.5 lakh granted by the Government in February 1987 to Paraspara Sahayi Printing and Publishing House was not utilised by the loanee but was deposited in the bank.

In both the above cases, no action was initiated by the department to get the loan amounts refunded with interest.

10.1.13. Payment of loans to institutions and Public Sector Undertakings without insisting on the repayment of earlier loans.

Eventhough the principal and interest of the earlier loans were outstanding, further loans were sanctioned in subsequent years without insisting on the payment of outstanding dues. This resulted in the accumulation of interest and principal due to Government. A few illustrative cases are given below.

Fresh loans were sanctioned to defaulters of earlier loans

(a) Seven loans amounting to Rs 10.96 lakh and five loans amounting to Rs 19.02 lakh were sanctioned to Trivandrum Co-operative District Wholesale Stores Ltd. No.4 during the period 1965-66 to 1971-72 and 1980-81 to 1984-85. As per the records of the stores, interest of Rs 22.05 lakh was due from them as on 31 March 1996. A loan of Rs 17.25 lakh was sanctioned to the stores in March 1992 for its revitalisation. Government have also sanctioned moratorium for the payment of interest.

(b) As per the demand, collection and balance statement for 1995-96 prepared by the Director of Industries and Commerce, an amount of Rs 75.93 crore was due from 37 Public Sector Undertakings by way of interest on loans disbursed to them. Penal interest amounting to Rs 13.14 crore was also due from these firms. Out of 37 Public Sector Undertakings to whom loans were given, 22 had not paid any amount to Government by way of interest. Further loans were granted to these institutions.

(c) The total loan amount sanctioned to Kerala Kera Karshaka Sahakarana Federation (KERAFED) during the period from 1991 to 1994, was Rs 1633.25 lakh for which interest and penal interest as on 31 March 1995 as worked out by the department was Rs 579.60 lakh. A further loan of Rs 954.72 lakh was sanctioned during 1994-95. Terms and conditions for the repayment of loans sanctioned from 1991 onwards were prescribed by Government only in January 1994. No amount was realised from KERAFED towards principal or interest so far (November 1996).

10.1.14. Low percentage of collection of interest from loanees

A test check of the records maintained by four District Industries Centres (Thiruvananthapuram, Ernakulam, Kozhikode, Kottayam) revealed that the percentage of recovery of interest due on loans, disbursed to small scale industrial entrepreneurs, ranged from 0.27 to 13.18 between 1992-93 and 1995-96, as indicated in the table given below.

There was short recovery of interest of Rs 2850.23 lakh from loanees

Percentage of collection of interest on dues				
Year	Thiruvananthapuram	Kottayam	Ernakulam	Kozhikode
1992-93	0.27	9.41	3.19	6.94
1993-94	2.89	11.07	2.79	1.70
1994-95	1.24	13.18	2.68	1.98
1995-96	1.40	2.90	3.03	4.37

The reasons for the poor collection were the following.

(i) No prompt and efficient pursuit to realise the dues were initiated by the authority responsible for watching the recovery of loans and interest thereon.

(ii) The taluk level officers who processed the payment of loan and who were in closer touch with the loanees, were not made responsible for realising the loan dues and interest thereon.

(b) The table given below indicates the amounts paid by Government to National Co-operative Development Corporation towards interest on loans given by the Corporation which was due to be realised from various co-operative institutions

who had availed loans under NCDC scheme and the interest amount actually realised by Government.

Year	Interest paid by Government to NCDC	Interest collected from loanees
	(R u p e e s i n l a k h)	
1992-93	583.41	77.33
1993-94	644.19	58.08
1994-95	894.97	61.87
1995-96	1016.10	91.16
Total	3138.67	288.44

Thus the interest collected by the Government from loanees was short by Rs 2850.23 lakh compared to the amount of interest paid by the Government.

During the period 1992-93 to 1995-96, the collection of interest on NCDC loans, has been negligible.

(c) In the case of Agriculture Department, the percentage of collection of interest could not be worked out as the department did not have the required details due to absence of demand, collection and balance statements since September 1987.

The above points were reported to the departments and Government in April 1997; their replies have not been received (November 1997).

10.2. Avoidable loss of revenue

The prices of different species of fish seeds sold by the Fisheries Department were enhanced by 17 to 67 per cent from November 1995. The cost of oxygen packing was also raised from Rs 3.50 to Rs 5 per bag.

Loss of Rs 3.05 lakh in Malampuzha due to delay in communicating the enhanced price of fish seeds

In the Office of the Deputy Director of Fisheries, Malampuzha Dam, the revised rates were implemented from 1 October 1996 as the enhanced rates were communicated only through the letter of 11 September 1996 of the Director of Fisheries. This resulted in loss of revenue of Rs 3.05 lakh on the sales from November 1995 to September 1996.

On this being pointed out (November 1996) in audit, the Deputy Director stated that the matter would be brought to the notice of the Director of Fisheries. Further report has not been received (November 1997).

The case was reported to Government in December 1996; their reply has not been received (November 1997).

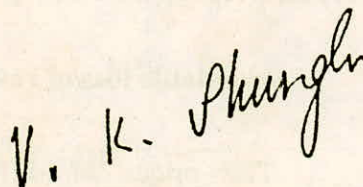
Thiruvananthapuram,
The 3 APR 1998



(M. DEENA DAYALAN)
Accountant General (Audit), Kerala.

Countersigned

New Delhi,
The 13 APR 1998



(V.K. SHUNGLU)
Comptroller and Auditor General of India.