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

FOR THE YEAR ENDED 31 MARCH 1993

NO. 2

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

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CONTENTS

	Reference to	
	Paragraph	Page
Prefatory Remarks	--	ix
Overview	--	xi
CHAPTER 1		
GENERAL		
Trend of Revenue Receipts	1.1	1
Variation between Budget estimates and actuals	1.2	8
Analysis of collection	1.3	9
Arrears in assessments	1.4	10
Cost of collection	1.5	12
Uncollected revenue	1.6	13
Frauds and evasions of tax	1.7	16
Write-off and waiver of revenue	1.8	17
Refunds	1.9	18
Internal audit	1.10	19
Results of audit	1.11	20
Outstanding inspection reports and audit objections	1.12	20
CHAPTER 2		
SALES TAX		
Results of audit	2.1	23
Internal Control relating to Registration and Assessment in Sales Tax Department	2.2	23
Incorrect grant of set-off	2.3	44

	Reference to	
	-----	-----
	Paragraph	Page
Chapter 2 : SALES TAX contd.		
Non-levy/short levy of tax	2.4	53
Application of incorrect rate of tax	2.5	56
Non-levy/short levy of additional tax and turnover tax	2.6	57
Non-levy/short levy of purchase tax	2.7	59
Incorrect grant of exemption	2.8	64
Incorrect allowance of sales against declaration	2.9	66
Incorrect computation of turnover during transitional accounting period	2.10	67
Incorrect allowance of sales in the course of import	2.11	68
Incorrect allowance of sales in the course of export	2.12	70
Incorrect allowance of sales in transit from one State to another	2.13	71
Short levy of penalty	2.14	72
Non-levy of interest	2.15	74
Non-review of exemptions granted under the State Act	2.16	74
CHAPTER 3		
STATE EXCISE		
Results of audit	3.1	76
Short recovery of licence fee	3.2	76

	Reference to	
	Paragraph	Page
Chapter 3 : STATE EXCISE contd.		
Loss of Revenue due to not granting licence for toddy shops	3.3	77
Non-recovery of privilege fee	3.4	79
CHAPTER 4		
LAND REVENUE		
Results of audit	4.1	80
Short levy/non-levy of land revenue, increase of land revenue, conversion tax and cesses	4.2	81
Failure to re-assess the land revenue on change in mode of use of land	4.3	83
Short recovery of land revenue from a Co-operative Housing Society	4.4	84
Failure to revise non-agricultural assessment	4.5	84
Short recovery of occupancy price and interest thereon and non-realisation of non-agricultural assessment and cess	4.6	86
Non-realisation of land revenue	4.7	86
Short recovery of land revenue	4.8	88
Non-revision of land revenue	4.9	88

	Reference to	
	Paragraph	Page
CHAPTER 5		
TAXES ON MOTOR VEHICLES		
Results of audit	5.1	90
Short recovery of motor vehicles tax	5.2	90
Non-realisation of motor vehicles tax	5.3	91
Non-recovery of tax	5.4	91
CHAPTER 6		
STAMP DUTY AND REGISTRATION FEES		
Results of audit	6.1	94
Incorrect levy of stamp duty	6.2	94
Irregular remission of stamp duty	6.3	95
Short levy of stamp duty and registration fee due to misclassification of documents	6.4	96
Short levy of stamp duty on Lease deed	6.5	96
Loss of revenue due to non-levy of stamp duty	6.6	98
Irregular remission of stamp duty and registration fees	6.7	99

Reference to

Paragraph Page

CHAPTER 7

OTHER TAX RECEIPTS

Results of audit	7.1	101
------------------	-----	-----

SECTION A - ENTERTAINMENTS DUTY

Working of the Bombay Entertainments Duty Act, 1923	7.2	102
--	-----	-----

**SECTION B - THE MAHARASHTRA STATE
TAX ON PROFESSIONS, TRADES,
CALLINGS AND EMPLOYMENTS**

Non-levy of profession tax on the conductors of video parlours	7.3	114
--	-----	-----

Non-recovery of profession tax	7.4	114
--------------------------------	-----	-----

**SECTION C - THE MAHARASHTRA
EDUCATION AND EMPLOYMENT
GUARANTEE CESS**

Incorrect grant of exemption from payment of education cess and employment guarantee cess	7.5	115
--	-----	-----

Under-assessment of State education cess	7.6	115
---	-----	-----

SECTION D - ELECTRICITY DUTY

Non-recovery of electricity duty	7.7	116
----------------------------------	-----	-----

	Reference to	
	Paragraph	Page
CHAPTER 8		
NON-TAX RECEIPTS		
Results of audit	8.1	118
Short recovery of charges for services of police personnel provided	8.2	119
Loss of revenue due to short collection of transportation licence fees	8.3	119
Non-application of revised rates	8.4	120
Non-levy/short levy of surface rent	8.5	120
APPENDIX		
Year-wise details of outstanding objections under various receipts		124-125

PREFATORY REMARKS

This Report for the year ended 31 March 1993 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1992-93 as well as those noticed in earlier years but could not be covered in previous years Reports.

2	✓	344.00
3	✓	659.51
4	✓	359.71
5	✓	63.82.00
6	✓	276.93
7	✓	470.32
8	✓	2094.29
	✓	<u>4268.63</u>

OVERVIEW

This report contains 45 paragraphs including 2 reviews relating to non-levy/short levy of taxes, duties, interest and penalty etc. involving Rs.10.64 crores. Some of the major findings are mentioned below:

1. General

(i) The revenue raised by the State Government during 1992-93 amounted to Rs.8493.88 crores comprising Rs.6560.93 crores as tax revenue and Rs.1932.95 crores as non-tax revenue. Rs.1396.64 crores were received from the Government of India as the State's share of divisible Union taxes and Rs.927.69 crores as grants-in-aid. Sales Tax (Rs.4141.20 crores) formed a major portion (63 per cent) of the tax revenue of the State. Interest receipts (Rs.828 crores) formed a major portion (43 per cent) of the non-tax revenue.

(Paragraph 1.1)

(ii) In respect of the taxes administered by the Finance Department such as Sales tax, Profession tax and tax on Works Contracts etc., 6.86 lakh assessments were completed during 1992-93 leaving a balance of 15.82 lakh assessments as on 31st March 1993.

(Paragraph 1.4)

(iii) At the end of 1992-93, the arrears in respect of taxes administered by the departments of Finance, Home, Tourism and Industries, Energy and Labour Department amounted to Rs.1660.69 crores of which sales tax alone accounted for Rs.1267.51 crores.

(Paragraph 1.6)

(iv) Test check of the records of Sales Tax, State Excise, Motor Vehicles, Land Revenue and other departmental offices conducted during the year 1992-93 revealed under-assessments, short levy, loss of revenue etc., amounting to Rs.4268.63 lakhs in 9835 cases. The concerned departments accepted under-assessments, short levy etc. of Rs.335.50 lakhs of which Rs.81.95 lakhs had been pointed out in 1992-93 and rest in earlier years. Departments recovered Rs.71.17 lakhs at the instance of audit.

(Paragraph 1.11)

(v) 3704 inspection reports (issued up to December 1992) containing 8423 objections involving revenue of Rs.59.68 crores were pending settlement at the end of June 1993.

(Paragraph 1.12)

2. Sales Tax

(i) A review on "Internal Controls in respect of registration and assessment in Sales Tax Department" revealed the following :

(a) Periodical surveys of dealers in important trade centres were not conducted to detect unregistered dealers.

(Paragraph 2.2.5 (i))

(b) 18315 applications for registration were rejected by the department during the period 1990-93, without verification of their liability to pay tax. These unregistered dealers were not asked to file returns despite provisions in the Act.

(Paragraph 2.2.5 (iv))

(c) Pendency of assessments increased from 8.44 lakhs at the end of March 1991 to 12.13 lakhs at the end of March 1993, resulting in huge revenue remaining unassessed.

(Paragraph 2.2.6(i))

(d) Non-supply by the department of declaration forms prescribed under the State Act involved risk of evasion of tax by misuse of forms.

(Paragraph 2.2.6(iii))

(e) Cross check memos were not issued by 19 assessment offices. In 101 cases, sales aggregating to Rs.96.67 crores against specified declarations were either allowed as exempt or assessed at concessional rate without issuing any cross check memo.

(Paragraph 2.2.6(iv))

(f) Delay in raising of demands aggregating Rs.66.84 crores after assessment resulted in unintended benefit to dealers in 347 cases.

(Paragraph 2.2.6(vii))

(g) There were abnormal delays ranging upto 4 years in remittance of revenue collected by banks to Government account.

(Paragraph 2.2.6(viii))

(h) Belated reconciliation of refund payment orders with the bank/treasury records resulted in delay in detection of fraudulent withdrawals amounting to Rs.37 lakhs.

(Paragraph 2.2.6(ix))

(i) Delay in fresh assessment of a remanded case resulted in loss of revenue of Rs.33.77 lakhs.

(Paragraph 2.2.6 (x-c))

(j) 130 assessments involving demands aggregating Rs.6.63 crores were irregularly set aside by revisional authorities on application from dealers in contravention of the provisions of the Act.

(Paragraph 2.2.6 (xi-b))

(ii) Incorrect grant of set-off resulted in non-realisation of revenue amounting to Rs.13.56 lakhs in 18 cases.

(Paragraph 2.3)

(iii) Non-levy/short levy of sales tax, purchase tax, additional tax and turnover tax resulted in non-realisation of revenue amounting to Rs.52.15 lakhs in 35 cases.

(Paragraph 2.4, 2.5, 2.6, & 2.7)

(iv) Government amended the provisions of the Act providing for proportionate exemption when the assessment is done for part of a year at the instance of audit.

(Paragraph 2.8)

(v) Incorrect allowance of sales in the course of import/export resulted in non-levy of tax amounting to Rs.14.75 lakhs in 4 cases.

(Paragraph 2.11 & 2.12)

(vi) Notifications issued under section 41 of the Bombay Sales Tax Act for granting exemptions from payment of tax were neither reviewed nor placed before the State Legislature in absence of provisions similar to the Central Excise and Salt Act 1944.

(Paragraph 2.16)

3. State Excise

Loss of revenue due to non-issue of licences to 12 toddy shops amounted to Rs.25.68 lakhs.

(Paragraph 3.3)

4. Land Revenue

(i) Short levy/non-levy of land revenue, increase of land revenue, conversion tax and cesses resulted in non-realisation of revenue amounting to Rs.22.48 lakhs in 8 cases.

(Paragraph 4.2)

(ii) Non-raising of demand, in 2 cases resulted in non-realisation of land revenue amounting to Rs.10.36 lakhs

(Paragraph 4.7)

5. Taxes on Vehicles

Motor vehicles tax and further tax amounting to Rs.3.70 lakhs in 17 cases remained unrealised as demands were not raised by the department, till they were pointed out in Audit.

(Paragraph 5.4)

6. Stamp duty and Registration fees

(i) Mis-classifications of instruments resulted in short levy of stamp duty amounting to Rs.7.86 lakhs in 76 cases.

(Paragraph 6.2)

(ii) In a sub-registry 30 consent decrees operating as conveyance were not charged to duty resulting in loss of revenue amounting to Rs.44.60 lakhs.

(Paragraph 6.6)

7. Other tax receipts

(i) A review on the working of Bombay Entertainments Duty Act, 1923 revealed :

(a) The recommendations made by the Public Accounts Committee in 1977 to have a unified administrative machinery for implementation of the Act have not yet been implemented.

(Paragraph 7.2.6)

(b) Lacuna in the Act permitting compounding system of payment of entertainments duty based on fixed number of shows instead of actual number of shows resulted in an estimated revenue loss of Rs.4.94 crores in 7 districts during the period 1987-1991. The Act was amended in December 1992 after this was pointed out in audit.

(Paragraph 7.2.9)

(c) Compounding payments admissible only during the currency of cinema licence were allowed without renewal of licences resulting in loss of entertainments duty of Rs.9.18 lakhs in 29 cases.

(Paragraph 7.2.10 A)

(d) Personal ledger account maintained by the Collector, Bombay, for the deposits received from organisers of charity shows, has large differences between cash book and pass book figures due to non-reconciliation.

(Paragraph 7.2.16)

Maharashtra Education & Employment guarantee cesses

(ii) Incorrect grant of exemption from payment of education cess and employment guarantee cess resulted in non-realisation of revenue to the tune of Rs.4.94 lakhs.

(Paragraph 7.5)

8. Non-tax Revenue

Short recovery of charges for services of police personnel in Bombay deployed to 11 organisations during July 1987 to June 1989 amounted to Rs.3.95 lakhs.

(Paragraph 8.2)

CHAPTER 1

GENERAL

1.1 Trend of Revenue Receipts

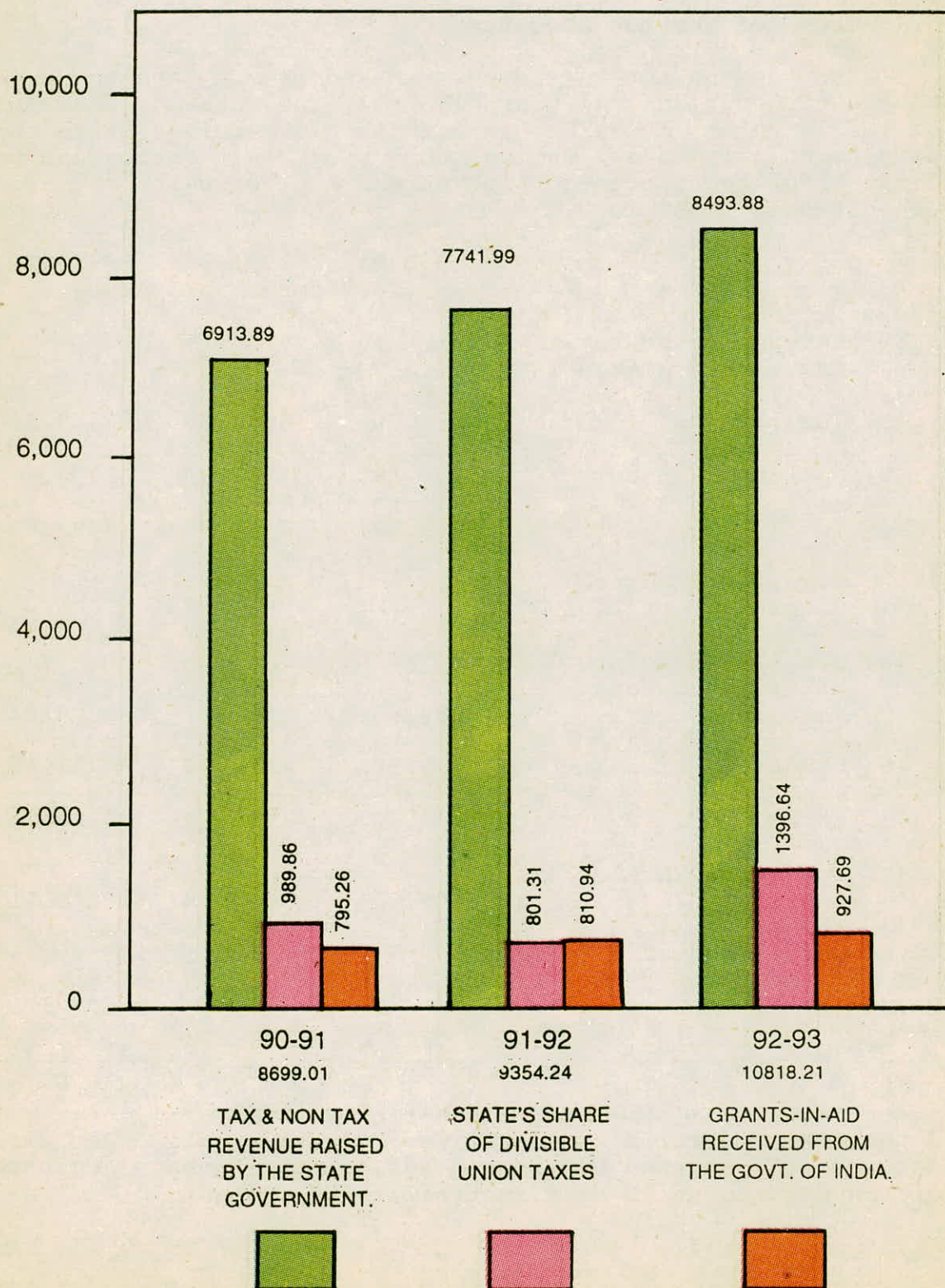
The tax and non-tax revenue raised by the Government of Maharashtra during the year 1992-93, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding two years are given below and also exhibited in Chart-I.

	1990-91	1991-92	1992-93
	(In crores of rupees)		
I. Revenue raised by the State Government			
(a) Tax revenue	5119.70	5954.30	6560.93
(b) Non-tax revenue	1794.19	1787.69	1932.95
	-----	-----	-----
Total	6913.89	7741.99	8493.88
II. Receipts from the Government of India			
(a) State's share of divisible Union Taxes.	989.86	801.31	1396.64
(b) Grants-in-aid	795.26	810.94	927.69
	-----	-----	-----
Total	1785.12	1612.25	2324.33
III. Total receipts of the State	8699.01	9354.24	10818.21
IV. Percentage of I to III	79	83	79

 Note : For details, please see statement 11, Detailed Accounts of Revenue by Minor Heads, in the Finance Accounts of the Government of Maharashtra, 1992-93.

TREND OF REVENUE RECEIPTS

(IN CRORES OF RUPEES)

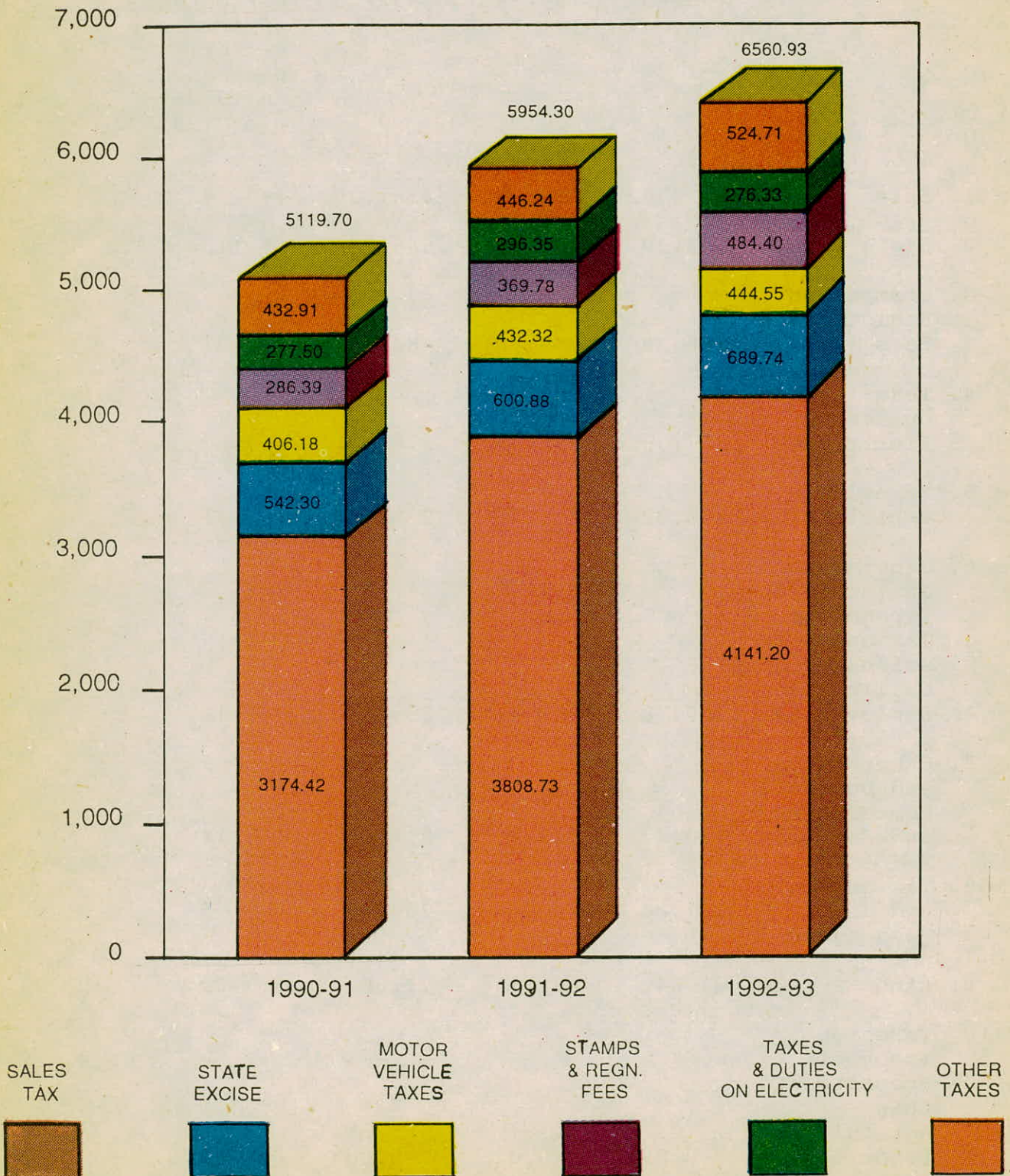


(a) The details of tax revenue during the year 1992-93 alongwith figures for the preceding two years are given below and also exhibited in Chart-II.

	1990-91	1991-92	1992-93	Percentage of increase (+) or decrease (-) in 1992-93 over 1991-92
	(In crores of rupees)			
1. Sales Tax	3174.42	3808.73	4141.20	(+) 9
2. State Excise	542.30	600.88	689.74	(+) 15
3. Stamps and Registration Fees	286.39	369.78	484.40	(+) 31
4. Taxes and Duties on Electricity	277.50	296.35	276.33	(-) 7
5. Taxes on Vehicles	204.32	233.25	235.95	(+) 1
6. Other Taxes on Income and Expenditure - Tax on Profe- ssions, Trades, Callings and Employments	190.70	212.41	235.85	(+) 11
7. Other Taxes and Duties on Commodities and Services	180.47	189.70	217.17	(+) 14
8. Tax on Goods and Passengers	201.86	199.07	208.60	(+) 5
9. Land Revenue	61.64	44.11	71.66	(+) 62
10. Taxes on Immovable Property other than Agricultural Land	0.09	0.02	0.03	(+) 50

GROWTH OF TAX REVENUE

DURING THE PERIOD 1990-91 to 1992-93



	1990-91	1991-92	1992-93	Percentage of increase (+) or decrease (-) in 1992-93 over 1991-92
	(In crores of rupees)			
11. Taxes on Agricultural Income	0.01	Negligible	Negligible	
TOTAL	5119.70	5954.30	6560.93	

It may be seen from the table that there was substantial increase over the previous year under the head State Excise, Stamps and Registration Fees, Land revenue and Taxes on Immovable property other than Agricultural Land. The reasons for increase furnished by the concerned departments are as under:

State Excise :- The increase is due to normal growth and increase in consumption of spirit and liquor.

Stamps and Registration fees :- The increase is mainly due to sale of non-judicial stamps and duty on impressing of documents.

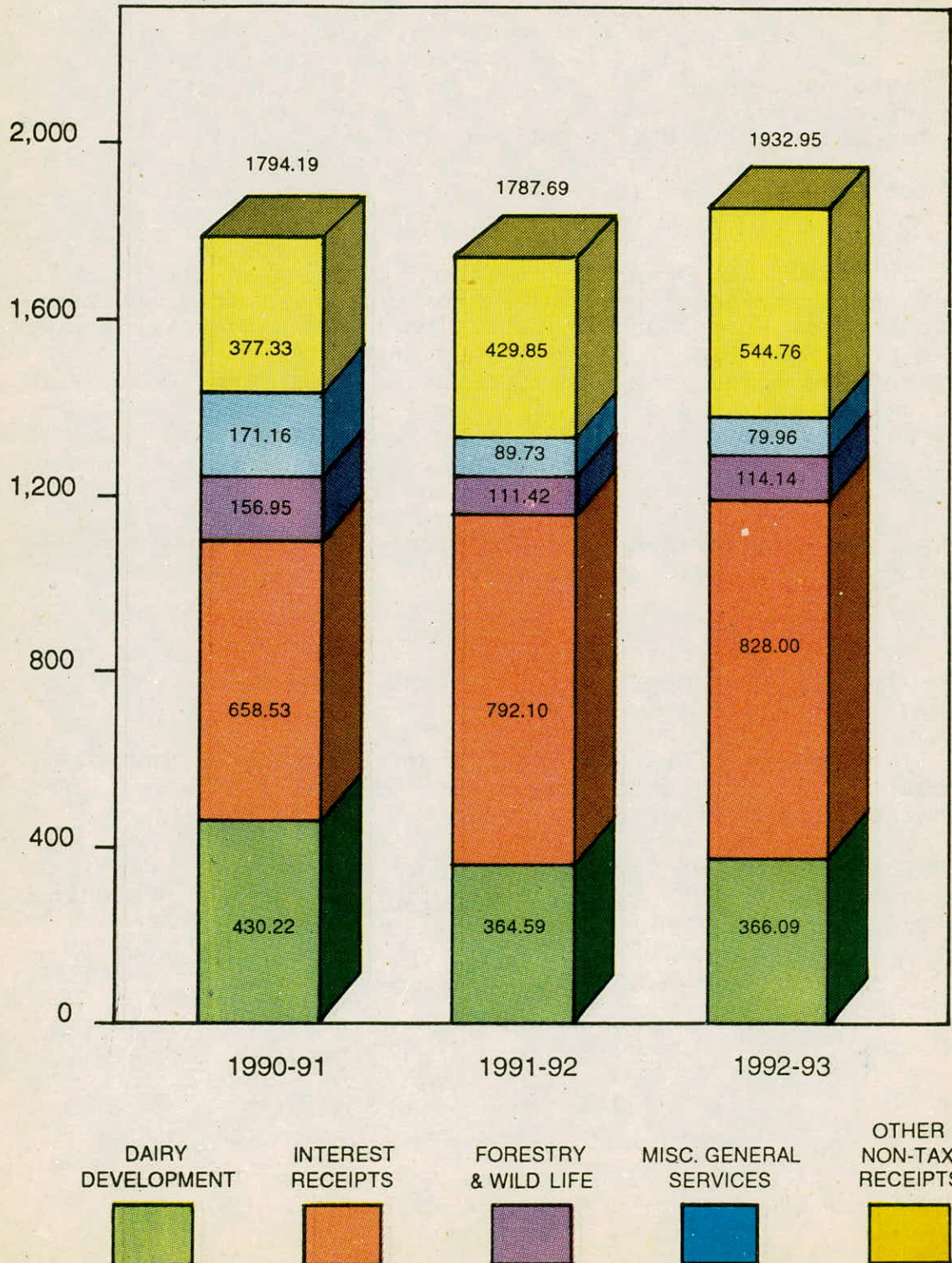
Land Revenue :- The increase is due to larger receipts from the sale of Government estates, land revenue and cess on land.

The reasons for increase under the head Taxes on Immovable property other than Agricultural Land were not furnished by the department.

(b) The details of the major non-tax revenue receipts during the year 1992-93 alongwith figures for the preceding two years are given below and exhibited in Chart III.

GROWTH OF NON-TAX REVENUE

DURING THE PERIOD 1990-91 to 1992-93



	1990-91	1991-92	1992-93	Percentage of increase (+) or decrease (-) in 1992-93 over 1991-92
	(In	crores	of	rupees)
1. Interest Receipts	658.53	792.10	828.00	(+) 5
2. Dairy Development	430.22	364.59	366.09	negligible
3. Other Non-tax Receipts	136.88	159.98	171.47	(+) 7
4. Forestry and Wild Life	156.95	111.42	114.14	(+) 2
5. Non-ferrous Mining and Metallurgical Industries	33.04	32.29	110.51	(+) 242
6. Miscellaneous, General Services (including lottery receipts)	171.16	89.73	79.96	(-) 11
7. Power	51.85	51.79	51.96	negligible
8. Major and Medium Irrigation	18.17	21.42	45.77	(+) 114
9. Medical and Public Health	30.11	39.10	39.26	negligible
10. Co-operation	21.16	22.56	33.23	(+) 47
11. Public Works	30.18	29.38	31.82	(+) 8
12. Police	25.55	27.89	31.46	(+) 13
13. Other Administrative Services	30.39	45.44	29.28	(-) 36
TOTAL	1794.19	1787.69	1932.95	

The increase in receipts during the year 1992-93 over the receipts for the year 1991-92 in respect of Non-ferrous Mining and Metallurgical Industries is reported to be due to increase in rates of royalty on coal.

The increase in respect of Major and Medium Irrigation is due to larger receipts on account of sale of water from major and medium irrigation projects.

Reasons for variations in respect of other heads of receipts have not been furnished.

1.2 Variation between Budget estimates and actuals.

The variations between the Budget estimates and actuals of revenue receipts for the year 1992-93 in respect of principal heads of tax and non-tax revenue are given below :

Head of Revenue		Budget estimates	Actuals	Variations Excess (+) or short-fall (-) of	Percentage of variation
		(In	crores	of rupees)	
1.	Sales Tax	4058.00	4141.20	(+) 83.20	2
2.	Interest Receipts	854.81	828.00	(-) 26.81	3
3.	State Excise	648.55	689.74	(+) 41.19	6
4.	Dairy Development	340.00	366.09	(+) 26.09	8
5.	Stamps and Registration Fees	361.80	484.40	(+) 122.60	34
6.	Taxes and Duties on Electricity	287.80	276.33	(-) 11.47	4
7.	Taxes on Vehicles	242.98	235.95	(-) 7.03	3
8.	Taxes on Goods and Passengers	208.58	208.60	(+) 0.02	negligible

Head of Revenue	Budget estimates (In	Actuals crores	Variations Excess (+) or short- fall (-) of	Percentage of variation rupees)
9. Other taxes on Income and Expenditure Tax on Profe- ssions, Trades, Callings and Employments	215.16	235.85	(+) 20.69	10
10. Forestry and Wild Life	170.59	114.14	(-) 56.45	33
11. Land Revenue	53.00	71.66	(+) 18.66	35
12. Power	51.79	51.96	(+) 0.17	negligible
13. Non-ferrous Mining and Metallurgical Industries	89.63	110.51	(+) 20.88	23
14. Medical and Public Health	41.81	39.26	(-) 2.55	6
15. Police	29.23	31.46	(+) 2.23	8
16. Co-operation	23.15	33.23	(+) 10.08	44
17. Major and Medium Irrigation	32.42	45.77	(+) 13.35	41
18. Housing	5.17	15.79	(+) 10.62	205

Decrease in receipts of Forestry and Wild Life is due to change in the system of sale of tendu leaves.

The reasons for variation in respect of other receipts though called for (April 1993) have not been received (October 1993).

1.3 Analysis of Collections

Break-up of total collections at pre-assessment stage and after regular assessment of Sales Tax, Motor Spirit Tax, Sugarcane Purchase Tax, Agricultural Income Tax and

Profession Tax for the year 1992-93 and the corresponding figures for the preceding two years as furnished by department are given as follows:

Name of Tax head	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (addi tional demand)	Penal- ties for delay in pay- ment of taxes and duties	Amount refunded	Net coll- ect- ion	Per- cen- tage of col- umn 3 to 7
1	2	3	4	5	6	7	8
(in crores of rupees)							
Sales Tax	1990-91	2594.57	223.70	39.30	39.57	2778.70	93
	1991-92	2920.98	340.95	84.89	82.04	3179.89	92
	1992-93	3164.42	395.87	awaited	72.77	3487.52	91
Motor Spirit Tax	1990-91	357.99	--	--	--	357.99	100
	1991-92	542.57	--	--	--	542.57	100
	1992-93	604.86	--	--	--	604.86	100
Profe ssion Tax	1990-91	155.55	35.15	0.19	0.17	190.53	82
	1991-92	199.46	8.81	--	0.12	208.15	96
	1992-93	205.22	30.64	--	0.01	235.85	87
Entry Tax	1990-91	9.08	1.63	-	Nil	10.71	84
	1991-92	7.76	0.58	-	0.08	8.34	95
	1992-93	3.08	0.51	-	Nil	3.59	86
Lux- ury Tax	1990-91	8.15	0.09	-	-	8.24	99
	1991-92	19.50	0.21	-	-	19.71	94
	1992-93	19.83	0.58	-	-	20.41	97

The table above shows that collection of revenue at pre-assessment stage ranged between 82 and 100 per cent during 1990-91, between 92 and 100 per cent during 1991-92 and between 86 and 100 per cent during 1992-93. This indicates a high degree of voluntary compliance by tax payers and the limited role of tax collecting machinery in achieving the higher targets of income.

1.4 Arrears in assessments

The details of assessment cases pending at the beginning of the year 1992-93, cases becoming due for

assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 1992-93 as furnished by the department in respect of sales tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contract are given below:

Name of tax	Opening balance	Cases due for assessment during 1992-93	Total assessments due	Cases disposed of	Balance at the end of the year	Percentage of Column 6 to 4
Sales tax	9,80,793	6,87,547	16,68,340	4,55,244	12,13,096	73
Profession tax	3,63,126	1,89,366	5,52,492	2,16,452	3,36,040	61
Purchase tax on sugarcane	2,875	1,480	4,355	1,031	3,324	76
Entry Tax	2,345	1,465	3,810	1,816	1,994	52
Lease Tax	2,235	1,766	4,001	1,573	2,428	61
Luxury Tax	1,419	1,070	2,489	845	1,644	66
Tax on works contract	22,335	10,302	32,637	8,795	22,842	73
Total	13,75,128	8,92,996	22,68,124	6,85,756	15,82,368	70

The above table shows that the pendency of assessments under various Acts mentioned above has gone up from 13.75 lakhs at the end of March 1992 to 15.82 lakhs at the end of March 1993. The pendency in assessment of sales tax cases increased from 9.81 lakhs to 12.13 lakhs registering an increase of 25.4 per cent. No action was taken by the department to arrest the increase in arrears of assessment.

The arrears in assessments in respect of sales tax have been separately commented upon in para 2.2 of Chapter 2 of this Report.

The year-wise break-up of the pending cases as on 31st March 1993 is as under :

Year	Profes- sion Tax	Purchase Tax on Sugarcane	Entry Tax	Lease Tax	Luxury Tax	Contract Tax
Up to						
1988-89	83856	444	834	175	11	6267
1989-90	56850	571	457	258	101	4231
1990-91	74853	979	545	951	668	6301
1991-92	118833	1194	106	1044	864	7043
1992-93	1648	136	52	--	--	--
TOTAL	336040	3324	1994	2428	1644	23842

1.5 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 year 1990-91, 1991-92 and 1992-93 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 1991-92 are given below :-

Head of Account	Year	Collec- tion*	Expen- diture on colle- ction of re- venue**	Percent- age of expendi- ture on collec- tion	All India Average
(In crores of rupees)					
1. Sales Tax	1990-91	3174.42	28.44	0.90	1.5
	1991-92	3808.73	36.63	0.96	
	1992-93	4141.20	34.33	0.83	

* Figures as per Finance Accounts

**Figures as furnished by the department

Head of Account	Year	Collection*	Expenditure on collection of revenue**	Percentage of expenditure on collection	All India Average
(In crores of rupees)					
2. Profession Tax	1990-91	190.70	2.79	1.46	N.A.
	1991-92	212.41	3.00	1.41	
	1992-93	235.85	3.43	1.45	
3. Taxes on Vehicles and Taxes on Goods and Passengers	1990-91	406.18	10.64	2.62	3
	1991-92	432.32	12.13	2.80	
	1992-93	444.55	13.34	3.01	
4. State Excise	1990-91	542.30	3.02	0.56	2.5
	1991-92	600.88	2.29	0.38	
	1992-93	689.74	4.72	0.68	
5. Entertainments Duty, Advertisements Tax and Betting Tax	1990-91	82.12	1.63	1.98	
	1991-92	86.31	1.48	1.71	
	1992-93	90.67	1.62	1.79	
6. Non-ferrous and Metallurgical Industries	1990-91	33.04	0.28	0.85	N.A.
	1991-92	32.29	0.32	0.99	
	1992-93	110.51	0.38	0.34	
7. Taxes and duties on electricity	1990-91	277.50	4.54	1.64	N.A.
	1991-92	296.35	5.03	1.70	
	1992-93	276.33	5.11	1.85	

1.6 Uncollected Revenue

The arrears of revenue as on 31st March 1993 under principal heads of revenue and stages of action at which these are pending as furnished by some of the departments are given below :

* Figures as per Finance Accounts

** Figures as furnished by the department

Source of Revenue	Amount outstanding as on 31st March 1993 -	Amount outstanding for more than 5 years as on 31st March 1993	Stages of Action	Amount
	(Amount in crores of rupees)			
1. Sales Tax	1267.51		Details not furnished	
2. Purchase Tax on Sugarcane	116.47		Details not furnished	
3. Tax on Professions, Trades, Callings and Employments	107.82		Details not furnished	
4. Receipts under Mineral Concession Rules (Major Minerals)	73.03	0.59	i) Stay orders issued by Courts	0.61
			ii) Other stages	72.42
5. Taxes on Vehicles	47.20	18.82	i) Demand covered by Revenue Recovery Certificates	6.97
			ii) Recovery stayed by High Court and other judicial Authorities	1.98
			iii) Stayed by Government	0.06
			iv) Amount likely to be written off	0.15
			v) Other stages	4.77

Note: The above information does not include figures of Aurangabad region

Source of Revenue	Amount outstanding as on 31st March 1993	Amount outstanding for more than 5 years as on 31st March 1993	Stages of Action	Amount
(Amount in crores of rupees)				
6. Taxes on Works Contract		28.64	Details not furnished	
7. Tax on Agricultural Income	5.84		Details not furnished	
8. Lease Tax	4.98		Details not furnished	
9. Luxury Tax (Re-enacted)	3.52		Details not furnished	
10. State Excise	1.91	1.74	i) Recovery held up due to rectification/ review applications	0.80
			ii) Amount likely to be written off	0.33
			iii) Other stages	0.78
11. Taxes on goods and Passengers	1.78	1.77	i) Demand covered by Revenue Recovery Certificates	0.21
			ii) Recovery stayed by High Court and other judicial Authorities	0.12
			iii) Amount likely to be written off	0.03
			iv) Other Stages	0.05
Note: The above information does not include figures of Aurangabad region				
12. Entry Tax	1.20		Details not furnished	

Source of Revenue	Amount outstanding as on 31st March 1993	Amount outstanding for more than 5 years as on 31st March 1993	Stages of Action	Amount
	(Amount in crores of rupees)			
13. Luxury Tax	0.79	0.79	i) Recovery stayed by a) High Court and judicial authorities b) Cases with Government in appeal	0.08 0.35
			ii) Cases pending with Government for orders	0.33
			iii) Other stages	0.03
Total	1659.91			

Other departments have not furnished the details of arrears so far (October 1993).

1.7 Frauds and evasion of tax

The number of cases of evasion of tax detected by the Sales Tax, Motor Vehicles Tax and State Excise Departments, cases finalised and the demands for additional tax raised as reported by the departments are given below :

	Sales Tax	Motor Vehicles Tax	State Excise
1. Number of cases pending finalisation as on 31st March 1992	1975	NIL	23
2. Number of cases detected during 1992-93	1253	332074	

	Sales Tax	Motor Vehicles Tax	State Excise
3. Number of cases investigated			
(a) out of cases at			
1 above	449	NIL	
(b) out of cases at			
2 above	567	332074	
4. Number of cases pending finalisation as on 31st March 1993			
(a) out of cases at			
1 above	1526	--	23
(b) out of cases at			
2 above	686	--	
5. Number of cases in which prosecution/ penalty proceedings were launched	155	--	
6. Number of cases in which penalties were imposed	171	--	10
7. Total demands (including penalties) raised (in lakhs of rupees)	2052.39	1216.55	0.17
8. Amount of demand actually collected out of (7) above (in lakhs of rupees)	457.21		1216.55

1.8 Write-off and waiver of revenue

During the year 1992-93, demands for Rs.106.07 lakhs (in 3078 cases) relating to Sales Tax; Rs.89.52 lakhs (in 4659 cases) relating to Motor Vehicles Tax, Further Tax and Passengers Tax and Rs.0.88 lakh (in 29 cases) relating to State Excise were written-off by the departments as irrecoverable. Reasons for the write-off of these demands as reported by the departments are as follows:

(Amount in lakhs of rupees)

	Sales Tax		Motor Vehicles Tax, Goods Tax and Passengers Tax		State Excise	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1. Whereabouts of default- ers not known	1401	41.42	1478	34.30	23	0.22
2. Defaulters no longer alive	173	7.26	2	1.06	1	0.09
3. Defaulters did not have any property	655	27.65	6	0.15	2	0.27
4. Defaulters adjudged insolvent	25	2.00	1	0.01	1	0.27
5. Other reasons	790	11.72	3172	54.00	2	0.03
6. Remission of penalty	34	16.02				
Total	3078	106.07	4659	89.52	29	0.88

1.9 Refunds

The number of refund cases pending at beginning of the year 1992-93, claims received during the year, refunds allowed during the year and cases pending at the close of the year 1992-93 as reported by the department are given below:

(Amount in lakhs
of rupees)

	Motor Vehicles Tax		State Excise	
	No. of cases	Amount	No. of cases	Amount
1. Claims outstanding at the beginning of the year	1714	15.63	23	17.05
2. Claims received during the year	3107	38.14	57	11.19
3. Refund made during the year	3756	43.90	31	07.95
4. Balance outstanding at the end of the year	1065	9.87	49	20.29

Details as above have not been received from the Sales Tax department (October 1993).

1.10 Internal Audit

(i) Motor Vehicles Tax Department

The motor vehicles tax department has set up internal audit units in all the districts.

The staff doing internal audit work consists of 7 Senior Auditors, 62 Junior Auditors, 16 Senior clerks and 54 Junior clerks and other staff.

The number of objections raised and settled during the year were as under :

	Objections raised		Objections settled	
	Number of cases	Amount (In lakhs of rupees)	Number of cases	Amount (In lakhs of rupees)
1990-91	10367	13.27	5750	12.15
1991-92	7623	13.07	5607	11.23
1992-93	14253	19.69	14358	18.95

(ii) State Excise
Department

	Objections raised		Objections settled	
	Number of Cases	Amount (In lakhs of rupees)	Number of cases	Amount (In lakhs of rupees)
1990-91	200	24.55	23	7.55
1991-92	120	32.43	15	0.50
1992-93	65	1.96	Nil	Nil

The information in respect of internal audit in other departments though called for (April 1993) has not been received (October 1993).

1.11 Results of audit

(i) Test check of the records of Sales Tax, Land Revenue, Agricultural Income Tax, State Excise, Motor Vehicles Tax, Stamp Duty and Registration Fees, Electricity Duty, Other Tax Receipts, Forests Receipts and other Non-tax Receipts conducted during the year 1992-93 revealed under-assessment/short levy/loss of revenue amounting to Rs.4268.63 lakhs in 9835 cases. During the course of the year 1992-93, the concerned departments accepted under-assessments etc., of Rs.335.50 lakhs involved in 1924 cases of which 540 cases involving Rs.81.95 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years. Of these, departments recovered Rs.71.17 lakhs.

(ii) This Report contains 45 Paragraphs including 2 Reviews involving Rs.1063.85 lakhs. The department/Government have accepted audit observations involving Rs.245.20 lakhs. No reply has been received in 24 cases.

1.12 Outstanding inspection reports and audit objections

Audit observations on incorrect assessments, short levy of taxes, duties, fees and other revenue receipts, as also

defects in maintenance of initial records noticed during the local audit and not settled on the spot are communicated to the heads of offices and to the departmental authorities through audit inspection reports. The more important irregularities are reported to the heads of departments and Government. Government have prescribed that first replies to inspection reports should be sent to Audit within one month from the date of receipt of the inspection reports.

At the end of June 1993, 8423 objections (in 3704 inspection reports) involving Rs.59.88 crores issued up to 31st December 1992, were still to be settled as detailed below. The figures as on 30th June 1991 and 30th June 1992 are also indicated alongside for comparison.

	As at the end of		
	June 1991	June 1992	June 1993
Number of inspection reports	4497	4638	3704
Number of audit objections	9051	10245	8423
Amount of receipts (In crores of rupees)	54.31	59.76	59.68

In respect of 1086 objections (in 313 inspection reports) involving Rs.3.96 crores, even the first replies had not been received.

Year-wise break-up of the outstanding inspection reports as on 30th June 1993, together with amounts of receipts involved, is given below :

Year	Number of inspection reports	Number of objections	Amount of receipts involved(In crores of rupees)
Up to			
1988-89	1744	3118	37.38
1989-90	355	675	2.83
1990-91	463	978	2.75
1991-92	637	1754	9.32
1992-93	505	1898	7.40
Total	3704	8423	59.68

The year-wise details of the outstanding objections in respect of the various types of receipts are given in Appendix.

The above position was brought to the notice (September 1993) of the Secretaries of the respective Government Departments.

CHAPTER 2

SALES TAX

2.1 Results of audit

Test check of sales tax assessments and other records conducted in audit during the year 1992-93 revealed under-assessment of tax amounting to Rs.344.00 lakhs in 1302 cases, which broadly fall under the following categories.

Sr. No.	Category	No. of cases	Amount (In lakhs of rupees)
1.	Non-levy or short levy of tax	581	186.89
2.	Incorrect allowance of set-off	401	83.47
3.	Non-levy or short levy of interest and penalty	153	33.07
4.	Omission to forfeit tax irregularly collected	18	3.36
5.	Other irregularities	149	37.21
	Total	1302	344.00

During the course of the year 1992-93, the department accepted under-assessments etc. of Rs.57.71 lakhs involved in 403 cases of which 121 cases involving Rs.10.44 lakhs had been pointed out during 1992-93 and the rest in earlier years and recovered Rs.11.70 lakhs. A few illustrative cases noticed during 1992-93 and in earlier years including a review on "Internal controls relating to Registrations and Assessments" involving Rs.398.67 lakhs are given in following paragraphs.

2.2 Internal Controls relating to Registration and Assessment in Sales Tax Department

2.2.1. Introduction

Internal Controls are intended to provide reasonable assurance for prompt and efficient service and for adequate safeguards against evasion of taxes and duties. They are meant to promote enforcement of compliance with laws, rules and departmental instructions and help in prevention and detection of frauds and other irregularities. They also

help in creation of reliable financial and management information system.

The taxes on intra-State and inter-State sales are levied and collected under the Bombay Sales Tax (B.S.T.) Act, 1959 and Central Sales Tax (C.S.T.) Act, 1956 respectively and Rules framed thereunder. A Manual containing detailed procedures relating to registration of dealers and assessments was prepared in 1967 for the guidance of the departmental officers in the administration of the Acts. In addition, the officers are guided by circular instructions issued by the department from time to time.

2.2.2 Organisational set-up

The Sales Tax Department functions under the overall control of Commissioner of Sales Tax, who is assisted by an Additional Commissioner. The State has been divided into three zones (Bombay, Pune and Nagpur) and sub-divided into 15 divisions. Each zone is headed by an Additional Commissioner and each division by a Deputy Commissioner of Sales Tax (Admn.) assisted by Assistant Commissioners and Sales Tax Officers.

38 Sales Tax Officers are entrusted with the work of registration of dealers. The work relating to assessments which was allocated so far on the basis of turnover of sales amongst 68 Assistant Commissioners of Sales Tax (Assessment), 441 Sales Tax Officers (Class-I) and 329 Sales Tax Officers (Class-II), has been reallocated among the officers on the basis of tax liability in the reorganised set up of the department from 1993-94.

2.2.3 Scope of audit

A review on the working of internal controls relating to Registration of dealers and Assessments excluding Summary Assessments was conducted between February 1993 and June 1993 with a view to examining their effectiveness and adequacy. For this purpose records relating to 13 registration officers and 60 assessing officers in Bombay, Pune, Nagpur and Aurangabad for the years 1990-91 to 1992-93 were test checked. Relevant records maintained by the concerned divisional Deputy Commissioners and the office of the Commissioner were also reviewed.

2.2.4 Highlights

(i) Periodical surveys of dealers in important trade centres were not conducted to detect unregistered dealers.

(ii) 18315 applications for registration were rejected by the department during the period 1990-93, without verification of their liability to pay tax. These unregistered dealers were not asked to file returns despite provisions in the Act.

(iii) Pendency of assessments increased from 8.44 lakhs at the end of March 1991 to 12.13 lakhs at the end of March 1993, resulting in huge revenue remaining unassessed.

(iv) Non-supply by the department of declaration forms prescribed under the State Act involved risk of evasion of tax by misuse of forms.

(v) Cross check memos were not issued by 19 assessment offices. In 101 cases, sales aggregating Rs.96.67 crores against specified declarations were either allowed as exempt or assessed at concessional rate without issuing any cross check memo.

(vi) Delays in raising of demands aggregating Rs.66.84 crores after assessment resulted in unintended benefit to dealers in 347 cases.

(vii) There were abnormal delays ranging upto 4 years in remittance of revenue collected by banks to Government account.

(viii) Belated reconciliation of refund payment orders with the bank/treasury records resulted in delay in detection of fraudulent withdrawals amounting to Rs.37 lakhs.

(ix) Delay in fresh assessment of a remanded case resulted in loss of revenue of Rs.33.77 lakhs.

(x) 130 assessments involving demands aggregating Rs.6.63 crores were irregularly set aside by revisional authorities on application from dealers in contravention of the provisions of the Act.

2.2.5 Registration of dealers

Every dealer whose turnover of sales or purchases in a year exceeds the prescribed limit, shall be liable to pay tax under the Bombay Sales Tax Act, 1959. Similarly, under the Central Sales Tax Act, 1956, when a dealer effects sales in the course of inter-State trade or commerce, he becomes liable to pay tax. The aim of registration is to minimise avoidance/evasion of taxes by the dealers who are liable to pay tax as aforesaid.

(i) Periodical survey of dealers

(a) The Bombay Sales Tax Act and Rules do not provide for periodical surveys. A Sales Tax Enquiry Committee had recommended (1975-76) that periodical surveys should be conducted in Bombay and all important trade centres to detect dealers who were liable to pay tax but not registered. These recommendations were accepted by the Government in March 1977. However, the department did not undertake any comprehensive and organised survey and mainly relied upon voluntary registration by the dealers. On receiving information from any source, investigations are being conducted by Enforcement branch of the department. The department detected 68 cases of unregistered dealers (Clubs) during 1991-92 and 1992-93 involving tax evasion of Rs.2 crores. This underlines the need and importance for conducting periodical surveys to check evasion of tax by avoidance of registration.

Though separate staff was sanctioned (August 1992) and made available in (November 1992) for survey work, the survey branch had not started functioning till October 1993. The detailed procedure to be followed, records to be maintained and targets to be achieved by the survey branch have also not been prescribed (October 1993).

The department stated (May 1993) that full-fledged organised survey could not be conducted for want of staff and that the tendency of dealers to remain unregistered was checked to a great extent by the introduction of the scheme of first point tax. The department further stated that in the reorganised set-up from the year 1993-94, the assessing officers would be entrusted with cases of a compact geographical area and would be expected to detect unregistered dealers. However, the department admitted that there was tendency in certain areas like clubs and restaurants to remain unregistered.

(b) Under the provisions of the Bombay Sales Tax Act, 1959, as amended with effect from 16th August 1985, municipal corporations, local authorities, financial/insurance corporations, air-transport companies, shipping companies, Port Trust, any other company/corporation/body/authority owned or set up by Central/State Government etc. who dispose of any goods whether by auction or otherwise, directly or through an agent for cash or for deferred payment or for valuable consideration are deemed to be a dealer to the extent of such disposals. However, after the aforesaid amendment, the department did not make any effort to ensure that the organisations mentioned above which were liable to pay tax

had, in fact, obtained registration certificate. It was seen in audit (March 1993) that Maharashtra State Financial Corporation which regularly disposes of seized assets for recovery of loans and Aurangabad Municipal Corporation had not yet been registered (May 1993).

The department stated (April 1993) that the Aurangabad Municipal Corporation has already applied for registration and Maharashtra State Financial Corporation has applied to the Commissioner to determine their eligibility for registration. It further stated (May 1993) that the fact whether other organisations were registered or not would be verified after the survey branch started functioning.

(ii) Application for registration

The dealers liable to pay tax under the Bombay Sales Tax Act and Central Sales Tax Act are required to apply for registration in the prescribed forms within 30 days from the day on which they become liable to pay tax. There is no provision in the Act/Rules fixing the time limit within which registration certificate should be granted after receipt of application. Further, the form of application prescribed under the Bombay Sales Tax Act does not provide for furnishing all the information about the sales/purchases at the time of application. The required information is obtained in a statement at the time of verification.

Applications received in registration branches of the department are entered in the prescribed register of applications. Though the details of registration certificate granted, rejected or pending are required to be entered and attested in the register of applications, this was not being done by two registration offices in Bombay. The monthly abstract does not indicate the details of pending applications. The monthly reports indicate pendency position but do not indicate month-wise break-up of applications pending beyond three months. In the absence of these details in the control register, no effective monitoring can be done in respect of disposal and pendency of applications.

The department stated (October 1993) that the registration officers were directed to obtain the statement alongwith the form of application which is now being received accordingly. It further stated that control registers had been modified considering various requirements.

(iii) Grant of registration certificate

The registration certificate is granted in the prescribed form after the Sales Tax Officer is satisfied about the correctness of the application. Details of the certificate are entered in prescribed register. Under the provisions of the Act, the registration is required to be granted from the date of liability if applied for within time, otherwise from the date of application for registration. After granting registration, the registration file is transferred to the concerned assessing officer.

A review of records in Bombay, Pune, Aurangabad and Nagpur revealed that in the absence of a time limit for disposal of applications for registration, a number of applications was disposed of after a period of 3 months. The number of applications under the two Acts which were disposed of after 3 months in the four divisions test checked is shown below:-

Years	Total No. of cases granted Registra- tion	Registrations granted after 3 months					Perce- ntage of Col. 7 to 2
(1)	(2)	Bombay (3)	Pune (4)	Aurangabad (5)	Nagpur (6)	Total (7)	
1990-91	43250	4755	703	309	290	6057	14
1991-92	42516	4475	314	250	307	5346	13
1992-93	39131	4678	1103	205	281	6267	16

The percentage of delayed cases beyond 3 months to the total number of cases registered during 1990-91 to 1992-93 ranged between 13 and 16. Besides, the delay in grant of registration results in belated realisation of revenue from such dealers for the intervening period.

Though the details of pending cases were reported periodically to higher authorities, no action had been taken to improve the system so as to avoid delay in disposal of applications for registration.

The department attributed the delay in disposal to non-compliance of the requirements by dealers in time and their seeking adjournment for complying with one or the other requirement. It further stated (May 1993) that though no time limit was prescribed, the registration officers were advised to dispose of the applications as far as possible within 3 months.

(iv) Rejection of applications

The Bombay Sales Tax Act, 1959 does not specify the circumstances under which application of a dealer can be rejected. However, under the provisions of the Central Sales Tax Rules, 1957, the applications can be rejected after affording the dealer an opportunity of being heard. The year-wise details of applications rejected in Bombay, Pune, Aurangabad and Nagpur are shown below :-

Year	Total Number of applications disposed of	Number of applications rejected	Percentage of applications rejected (Col.3 to Col 2) (4)
(1)	(2)	(3)	(4)
1990-91	47732	4482	9
1991-92	48132	5616	12
1992-93	47348	8217	17

The percentage of applications rejected to total applications disposed of during 1990-91, 1991-92 to 1992-93 was 9, 12 and 17 respectively.

The applications were rejected mainly due to non-attendance by the dealers with books of accounts for verification. Since the dealers applied for registration declaring that their turnover of sales/purchases had exceeded the prescribed limit, rejection of applications without verifying whether they were in fact carrying on the business or not was against the revenue interest of the Government. Though the matter was being reported to higher authorities through periodical returns, no action had been taken to evolve suitable procedure/machinery for verification of such cases. Further, provisions contained in Bombay Sales Tax Act, 1959 to ask such unregistered dealers to file returns was also not being invoked.

The department accepted the audit point and stated (October 1993) that these cases would be allotted to concerned assessing officers to ascertain whether those applicants were carrying on business without obtaining registration certificates. The department also stated that it was not administratively acceptable to invoke provisions of the Bombay Sales Tax Act, 1959 to ask such unregistered dealers to file returns. However the contention of the department is at variance with the provisions of the Act.

(v) Cancellation of certificates of registration

Under the provisions of the Bombay Sales Tax Act, 1959, if any business has been discontinued, transferred or otherwise disposed of, or the turnover of sales/purchases in any year does not exceed the prescribed limit, a dealer's registration certificate shall be cancelled with effect from the date of discontinuance of business or from such date as the authority may fix in accordance with the rules. If the dealer fails to apply for cancellation of registration, the department may, after affording him an opportunity of being heard, cancel the registration. Similar provisions exist under the Central Sales Tax Act, 1956. The applications for cancellation are required to be disposed of within a period of one month.

A test check of records relating to 560 dealers of Bombay, Pune, Nagpur and Aurangabad revealed the following :

(a) Registration Certificates were cancelled retrospectively after a lapse of periods ranging from 6 months to more than 5 years from the date of discontinuance of business. The age-wise break-up of registrations cancelled after a lapse of period over 6 months is shown below :

Division	Extent of delay in cancellation of registration certificates (Number of cases)			
	6 to 12 months	1 to 3 years	3 to 5 years	more than 5 years
Bombay	5	10	12	--
Pune	24	73	51	15
Nagpur	--	17	44	9
Aurangabad	--	--	3	11
Total	29	100	110	35

The master list of live dealers indicated existence of such dealers until their registrations were cancelled. The abnormal delay in cancellation of registration certificates leaves room for misuse of declaration forms during the intervening periods and thereby for evasion of taxes.

(b) In Bombay 19,18 and 6 applications for cancellation of registration certificates were pending with 13 offices at the end of June 1993 for a period ranging from 3 to 6

months, 6 to 12 months and more than 12 months respectively. Though, the facts were being reported to higher authorities, no action was taken to expedite their disposal. As a result, the misuse of certificates and balance forms issued under Central Sales Tax Act, 1956 and available with such dealers to evade taxes could not be ruled out.

2.2.6 Assessment of taxes

Under the provisions of Sales Tax Act, every registered dealer is required to assess his tax liability and furnish periodical returns in prescribed forms to the prescribed authority. Taxes payable as per returns are required to be paid in the nationalised banks/treasuries. About 80 per cent of the revenue is realised through returns by way of self assessment. The department proceeds to verify the correctness of the returns with reference to books of accounts and assesses the amount of additional dues payable, if any, by the dealers.

(i) Arrears in assessments

The position of arrears of assessments during the years 1990-91 to 1992-93 is shown below :

Year	Opening balance	Cases becoming due for assessments during the year	Total (2+3)	No. of assessments completed during the year	Addi- tional demand raised (In crores of rupees)	No. of assessments pending finalisa- tion	Per-centage of (Col. 7 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1990-91	766697	668245	1434942	590970	394.22	843972	59
1991-92	843972	658557	1502529	521736	671.46	980793	65
1992-93	980793	687547	1668340	455244	649.46	1213096	73

The year-wise break-up of assessments pending finalisation under the Sales Tax Act as on 31st March 1993 is as follows :-

Year of pendency	Number of Assessments
Up to	
1987-88	2,514
1988-89	9,101
1989-90	51,578
1990-91	5,18,889
1991-92	6,31,014
Total	12,13,096

A study group appointed by the department in 1982-83 observed that the root cause of mounting arrears was the lack of planning on the part of the assessing officers, unpreparedness on the part of assessees, asking the assessees to visit the offices many times and examining the books of accounts more often than necessary, thereby prolonging the assessment proceedings. The report of the study group was accepted and accordingly the department issued (November 1982) detailed instructions for expeditious assessment. The instructions issued inter-alia contained such measures as (i) various records/documents required at the time of assessment would be intimated to assessee in advance; (ii) assessing officers should be prepared with basic data about the case; and (iii) verification/scrutiny of books of accounts should be methodical and planned.

Despite these instructions the pendency had increased from 8.44 lakhs (59 per cent) at the end of 1990-91 to 12.13 lakhs (73 per cent) at the end of 1992-93. No effective action has been taken by the department to arrest the increasing trend of pendency. Huge revenue involved in these cases, therefore, remains unassessed.

The department attributed (October 1993) the increase in arrears of assessment to inadequacy of staff and increase in number of dealers. The department further stated that after more staff becoming available from September 1993 and reorganisation of cases amongst assessing authorities, the arrears would be cleared in coming months.

(ii) Assessment records

Under the provisions of the Acts, if the assessing authority is not satisfied that the returns furnished by a dealer are correct and complete, he shall serve on such dealer 15 days' notice requiring him to produce all evidence in support of his claims in the returns. Assessing Officers are required to enter the date of issue of such notice in the prescribed registers to watch the progress of assessments.

The assessing officers are required to prepare a file containing returns for the period of assessment, consolidated data as per return, Trading and Profit and Loss Account and Balance sheet, statement of sales and purchases, details of source of purchases and evidence in support of deductions/exemptions claimed. On the basis of the verification and evidence produced, assessment orders are passed and particulars entered in a prescribed register (Daily Book of Assessment) before issue to the dealer to keep watch on the dates of issue and service of demand notices and recovery of dues. A test check of control registers and assessment records disclosed the following :-

(a) Out of 60 offices test checked, 26 offices did not make entry regarding issue of notice in the register, though they issued notices to the dealers. In the absence of this entry, the department could not effectively monitor finalisation of assessments.

(b) Dates of service of demand notices were not entered in the register by 21 officers and therefore monitoring the observance of due dates and recovery of dues in time could not be exercised effectively.

(c) Though assessments are finalised after calling for books of accounts, copies thereof were not kept on the assessment records in 64 cases. In the absence of necessary documents and details, higher authorities could not exercise effective checks on such cases.

(iii) Non-supply of declaration forms

Under the provisions of the Bombay Sales Tax Act, 1959, the Government may by notification in Official Gazette direct that the prescribed forms of any of the certificates or declarations, for claiming exemptions/concessions shall be obtained from the prescribed authority subject to conditions that may be prescribed in that behalf. However, the Government has not so far (October 1993) prescribed the authority for supply of these forms since the introduction (1965) of these provisions in the Act.

Due to non-supply of forms by the Department, deductions/concessions are being allowed in the assessments on the basis of forms available from private parties and being produced before the assessing officers. In the absence of any control over the number of forms issued and transactions covered by such forms, the possibility of misuse of these forms to claim deductions/exemptions could not be ruled out.

The department agreed (March and October 1993) that the extent of evasion by furnishing false declaration forms was apparently substantial and could be minimised if the declarations were supplied by the Government. The department further stated that in view of the voluminous transactions it would not be practicable to supply all forms. Department further stated that maximum misuse was noticed in respect of Form 'BC' and that necessary amendments had been proposed to the Government. The department also stated that similar amendments would be considered in respect of other declarations as well.

(iv) Cross verification of transactions

Departmental instructions issued in May 1983, prescribed that transactions of sales/purchases exceeding specified limits or of suspicious nature are required to be cross checked with reference to the assessment records of the vendor/vendee to ascertain their genuineness. Under these instructions minimum of 4 to 10 cross check memos were required to be issued in each case with reference to turnover of sales. The cross checks were required to be completed within 3 months.

In the course of test check of records of 60 offices the following deficiencies were noticed :-

(a) 19 offices in Aurangabad, Bombay, Nagpur and Pune had not issued any cross check memos whereas three offices in Aurangabad had issued only 9 cross check memos during 1990-91 to 1992-93.

(b) In Bombay, 9 offices had issued 69 cross check memos and received 53 cross check memos during the years 1990-91 to 1992-93. In all the above cases, though the period of 3 months had lapsed, reply was received in one case only whereas replies in 5 cases only were sent by these offices. In Aurangabad, replies to 6 cross check memos issued in 1990-91 have not been furnished so far (May 1993).

(c) In Bombay, Nagpur and Sangli districts, though sales aggregating Rs.96.67 crores in 101 assessments were allowed either as exempt or assessed at concessional rates, against specified declarations, no cross check memos were issued in these cases. In Nagpur district, in other 51 cases involving sales on declarations for Rs.78.92 crores, cross check memos were issued in respect of sales of Rs.2.28 crores only, out of which confirmation was received only for transactions of Rs.0.69 crore (May 1993). Assessments in these cases were finalised without cross verification. Non-receipt of compliance to the cross check memos in time

can result in loss of revenue as revision of assessment may become time-barred.

The department stated (October 1993) that work relating to cross-check got neglected to some extent due to pressure of work load and it proposed to create a separate cross check cell.

(v) Non-verification of credits for challans obtained from dealers

As per departmental instructions (June 1990), credits in respect of copies of challans above Rs.5,000 in support of payment of tax obtained from dealers were required to be considered only after confirmation from the bank scrolls. A test check of records revealed that 32 assessing officers had accepted 231 challans for amounts ranging from Rs.5,000 to Rs.7.51 lakhs in the assessments of 97 cases during the years 1991-92 and 1992-93 without confirmation of payments from the bank scrolls.

(vi) Delays in Completion of Assessments

According to the instructions contained in the Manual of Procedure, assessments are required to be completed within a period of 3 months from the end of the month in which the first appointment for verification of records is fixed.

(a) A large number of assessments was completed in last quarter of the year resulting in delayed realisation of revenue. Details of assessments completed under the Bombay Sales Tax Act are shown below :

(Amount in crores of rupees)

Year	Total assessments completed in the year		Assessments completed during January to March			
	No. of assessments	Addl. demand raised	No. of assessments	Per-centage	Addl. demand raised	Per-centage
1990-91	3,26,718	311.99	1,40,241	43	187.70	58
1991-92	3,13,939	504.51	96,669	31	328.81	65
1992-93	2,73,260	497.45	1,59,143	58	358.29	72

Though the achievement of targets in each month is reported to higher authorities the same was not effectively monitored resulting in finalisation of a large number of assessments during January to March of the year.

(b) A test check of 1100 assessments in different divisions test checked revealed the following:-

(i) The assessments were not completed within prescribed time as indicated below:

Number of assessments	Time taken for completion	Amount of addl. demand raised (Rs. in lakhs)
583	3 to 12 months	87.64
130	Exceeding 12 months	917.67

Belated assessments resulted in blockage of revenue amounting to Rs.10.05 crores in 713 cases for a period ranging from 3 months to over a year.

(ii) Though required as per Manual instructions, assessments pending for more than 3 months were neither reported to higher officers with reasons for pendency nor was any action taken in this regard by the higher authorities to ensure compliance of the requirements. Therefore, no effective control on expediting the assessments was possible.

The department stated (October 1993) that the assessments were statutorily to be completed before 31st March and therefore a majority of assessments got concentrated and completed in the last quarter of the year. The contention of the department is at variance with the provisions contained in the Manual.

(vii) Delay in issue of demand notices

(a) Under the provisions of Sales Tax Laws, as amended from April 1987, if any tax is found due from a dealer in respect of any period as a result of an order of assessment, such dealer is liable to pay by way of simple interest at the rate of 2 per cent of such tax for each month or part thereof from the first day after the end of the period for which the dealer is assessed till the date of order of assessment. A certified copy of the order of assessment

along with the notice of demand for tax, interest and penalty is required to be furnished to the dealer.

The amount as per the notice of demand is payable by such date as may be specified in the notice being a date not earlier than 30 days from the date of notice. If notices of demand are not issued on the dealers expeditiously, this results in unintended benefit to them by postponement of recovery of demand.

A test check of 1100 assessments in Bombay, Pune, Nagpur and Aurangabad revealed that in 713 cases notices of demand were made and issued to dealers after a period ranging from 8 days to 3 months from the date of assessment. In addition in 17 cases in Bombay the delay in issue of demand notices ranged from 3 to 5 months. This amounted to allowance of unintended benefit to the dealers by postponement of collection of revenue amounting to Rs.66.84 crores in 347 cases.

The department attributed (October 1993) the delay in issue of demand notices to shortage of staff and stated that position would improve in future.

(b) In one case at Aurangabad, though the assessments for calendar years 1984, 1985 and 1988-89 were completed in March 1990 and July 1992 creating additional demand aggregating Rs.5.60 lakhs, the demand notices had not been served (May 1993). The department stated (May 1993) that the notices would be served by 'substitute method' as dealer's factory was closed. Further report in this regard has not been received (October 1993).

(viii) Delay in remittance of taxes collected by banks

The scheme of acceptance of taxes by Reserve Bank of India and treasuries/State Bank of India and its subsidiary banks was extended (April 1981) to other nationalised banks in mofussil areas also. The banks collecting taxes are required to prepare and send the scrolls alongwith related returns/challans to the treasuries as well as to the department. Instructions issued by the Reserve Bank of India envisage that the amount collected by the banks should be remitted to Government account within three days.

A test check of bank scrolls in Bombay, Nagpur and Aurangabad showed that the taxes collected by some of the banks were remitted to Government account after a lapse of period ranging from 10 days to 4 years. Some illustrative instances are given below :-

Name of the Bank	Amount (In lakhs of rupees)	Period of collection	Month of remittance	Extent of delay in remittance
State Bank of Saurashtra, Bombay.	14.51	February 1987 to June 1990	February 1991	7-48 months
Allahabad Bank, Bombay	787.87	March 1992 to January 1993	June 1992 to February 1993	1-3 months
Bank of Maharashtra, Aurangabad	12.68	December 1991 to December 1992	June 1992 to January 1993	1-7 months
State Bank of India, Nagpur	259.98	January 1991 to November 1992	February 1991 to November 1992	10-24 days
Bank of India, Nagpur	95.04	September 1990 to March 1993	October 1990 to April 1993	10-20 days

Further, the Union Bank of India, Bombay had reported (April 1991) that certain taxes collected by their branches could not be remitted for want of related challans or particulars of dealers. Details of amount not so remitted though called for (June 1993) have not been received (October 1993).

The department has not evolved any procedure to ensure that the entire amount collected by banks is remitted in time to Government account. Further, there is no enabling provision for recovery of interest if the banks remitted the amount after the prescribed period.

The department stated (October 1993) that the matter had been taken up with the Reserve Bank of India to prevail upon the concerned banks for expeditious remittance and that for failure to do so, department would be justified in demanding interest on belated remittances.

(ix) Refund Payment Orders

Under the provisions of the Act, the excess amount paid by a dealer is refundable by refund payment order or at the option of the dealer by adjustment against the amount due in respect of any other period. Refund payment orders are issued by the higher authorities on the basis of proposals received from assessing officers. The department is required to reconcile the number and amount of refund orders with reference to debit scrolls/advice notes received from the treasury/bank and with the records in the Pay and Accounts Office/Treasury.

A mention was made in the Report of the Comptroller and Auditor General of India (Revenue Receipts) - Government of Maharashtra (Para 2.4) for 1990-91 regarding persistent non-reconciliation of refund payments. A review of records in Bombay and Aurangabad revealed the following:-

(a) In Bombay, advice notes were being received by the authorised officers after a lapse of a period of 1 year and therefore the work of reconciliation of refunds with the records of the office was being done after a lapse of about 1 year.

(b) Contrary to instructions, one refund payment order book was being used for more than one treasury in Aurangabad division.

(c) Debit scrolls and advice notes were not collected from the treasury in Aurangabad upto December 1992 and hence no verification of refunds could be done.

(d) Debit scrolls from Beed, Jalna and Latur treasuries were not being received and hence no reconciliation was done.

(e) An authorised officer of the department had fraudulently withdrawn money by misusing refund payment orders during the period from July 1991 to February 1993. The fraud was initially detected by the department in June 1993 only, due to delay in reconciliation. The total amount drawn fraudulently on 35 refund payment orders upto September 1993 aggregated Rs.37 lakhs. In the absence of timely reconciliation, the possibility of such cases of fraud remaining undetected cannot be ruled out. Further progress of investigations in the matter and the details of more amount, if any, thus withdrawn has not been received (October 1993).

The department stated (October 1993) that feasibility of using computer for reconciliation was being examined.

(x) Fresh assessment of remanded cases

If an appellate authority is satisfied and considers it necessary in the interest of justice, it may set aside an assessment order and remand the case to assessing authority for fresh assessment with fresh directions. If the assessing authorities fail to complete the assessment of remanded cases within a maximum period of 3 years from the date of the order passed by the appellate authority, the cases become time-barred.

A test check of registers for watching fresh assessment of remanded cases and related records revealed the following:-

(a) No Control registers were maintained by 3 assessing officers as a result of which no monitoring was possible.

(b) The department had not evolved any procedure to ensure that remanded cases are promptly assessed. Delay in fresh assessment of such cases results in delayed realisation of revenue. In 25 cases, orders of assessment passed between July 1984 and December 1992 involving total demands of Rs.149.52 lakhs were set aside between August 1990 and December 1992 but these have not yet been assessed afresh (June 1993).

The age-wise break-up of cases pending fresh assessments as on 30th June 1993 with 14 offices test checked is shown below :

Period of Pendency (months)	No. of assessments pending fresh assessment	Additional demand as per original assessment (Rs. in lakhs)
3 to 12	10	108.47 (in 3 cases)
12 to 24	11	37.42 (in 8 cases)
24 to 36	4	3.63 (in 2 cases)
Total	25	149.52

(c) In one case where orders of assessment for the years 1976-77 to 1980-81 involving net additional demands aggregating Rs.33.77 lakhs, were set aside in February 1985, fresh assessment was required to be completed before February 1988. However, it was not made within time and had become time-barred resulting in loss of revenue to the extent of Rs.33.77 lakhs.

(xi) Corrective actions

(a) By assessing officer

Under the provisions of the Act, the assessing officer can rectify the mistakes apparent from record within a period of two years from the date of assessment after affording the dealer an opportunity of being heard. Similarly, an assessing officer can proceed to reassess a dealer within a period of 8 years from the end of the year in case of concealment and 5 years in other cases.

A control register to watch the progress of rectification/reassessment proceedings was neither prescribed nor maintained by the assessing officers. In the absence of a control register, the possibility of some cases becoming time-barred could not be ruled out. The department stated (October 1993) that a new register for keeping watch on corrective action had been prescribed from the year 1993-94.

(b) By higher authorities

The higher authorities are empowered under the Act, to call for and examine the records of any order passed by assessing officers and pass such order thereon as they think just and proper. No order under these provisions can be passed without serving a notice on the dealer, within a period of 3 years from the date of communication of the order sought to be revised and no order of revision shall be passed after expiry of 5 years from such date. Further, under the provisions of the Act, as amended from 1st September 1990, no revision order can be passed on application by dealers. The following irregularities were noticed :-

(i) The control register showed that generally the orders were being passed after a lapse of periods ranging from 1 to 3 years from the date of issue of notice.

(ii) In Bombay, 199 assessments passed by assessing officers were set aside by revisional authorities in their revision orders passed between September 1990 and March 1993, on the basis of applications from dealers which was irregular and contrary to the provisions of the Act. The amount of additional demand as per original assessment orders in 130 cases out of 199 amounted to Rs.6.63 crores.

(iii) A scrutiny of records of cases pending for revision at Pune revealed that in case of a manufacturer of frozen cattle semen, sale of semen to the tune of Rs.3.11 crores during the years 1981-82 to 1989-90, was erroneously

allowed in the assessments as tax free as against the applicable rate of 10 per cent resulting in under-assessment aggregating Rs.34.29 lakhs. Though, the action to revise the assessment for the year 1984-85 and 1987-88 was initiated in March 1990, no order was passed on the plea that the request of the dealer for retrospective amendment of a notification to exempt these sales was under consideration of the department/Government. Sales of frozen semen has been exempted by the Government from tax with effect from 6th October 1990. Non-completion of revision proceedings for 1984-85 and 1987-88 and non-initiation of action for other periods resulted in blocking up of revenue to the extent of Rs.34.29 lakhs without any justification.

The department confirmed the facts and figures (April 1993).

2.2.7 Internal Audit

(i) Structure of Internal Audit

Internal Audit is described as "control of controls" and an independent appraisal function established within an organisation to examine and evaluate its activities.

Internal Audit Wing of the department functions under the overall control of the Additional Commissioner of Sales Tax, Maharashtra. There is a Deputy Commissioner (Audit), Bombay Zone, who co-ordinates the functions of Internal Audit. In Pune and Nagpur Zones, Assistant Commissioners (Audit) work under the control of respective Zonal Additional Commissioners. A Manual of procedure for Internal Audit has not been prepared so far (October 1993).

(ii) Coverage by Internal Audit

A general review on the functioning of Internal Audit revealed the following :-

(a) Registration branch

Internal Audit has not taken up any test check of records relating to registration branch. The department stated (April 1993) that the working of Registration branch was checked by administrative officers of the respective branches and therefore these areas were not covered by Internal Audit. The contention of the department was not correct as the supervisory functions cannot replace the functions of an independent check by Internal Audit.

(b) Internal Audit of assessments

The internal audit of assessments was allocated between Deputy Commissioner/Assistant Commissioner (Audit), Deputy Commissioner/Assistant Commissioner (Admn) on the basis of tax liability. All cases of tax/refund of more than Rs.1 lakh were required to be audited by Deputy Commissioner/Assistant Commissioner (Audit) and Deputy Commissioner (Admn). All other cases were required to be audited by Assistant Commissioner (Admn). Performance of Internal Audit in respect of important cases involving tax/refund of more than Rs.1 lakh is shown below :-

Particulars	1989-90	1990-91	1991-92
(i) Cases required to be audited	10,545	13,001	15,456
(ii) Target fixed for audit out of above cases	6,000	5,550	5,100
(iii) Cases audited	3,928	4,616	5,030
(iv) Percentage of target to total number of cases	57	43	33
(v) Percentage of actual coverage to target	65	83	99

Eventhough achievement with reference to the target fixed has improved over the period, the targets fixed have come down from 57 per cent of the total cases in 1989-90 to 33 per cent in 1991-92 and also in actual numbers from 6000 to 5100.

The department stated (April 1993) that the poor coverage was mainly due to shortage of manpower. The department expected to improve the situation with additional manpower sanctioned from the year 1993-94.

(c) Cases checked by administrative Deputy Commissioners/Assistant Commissioners were not subjected to Internal Audit.

(iii) Delay in settlement of audit objections

On receipt of audit objections, assessing officers and higher authorities are required to examine the points and take remedial action without loss of time. However, the records showed that as on 31st December 1992, 3399 paras

relating to the period 1988-89 onwards involving under-assessment to the tune of Rs.10.02 crores were still outstanding for want of compliance from the assessing units.

The above points were brought to the notice of Government/department (July 1993). The reply of the department has been received (October 1993) and incorporated at relevant places. No reply has been received from Government so far (October 1993).

2.3 Incorrect grant of set-off

(a) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a manufacturer who has paid taxes on the purchases of goods specified in Part II of Schedule C to the Act and used them within the State in the manufacture of taxable goods for sale or export or in the packing of goods is allowed a set-off of taxes paid in excess of four per cent of the purchase price. Where the purchase price is inclusive of taxes, the amount of set off is worked out according to the prescribed formula. When the manufactured goods are transferred outside the State otherwise than by way of sale, set-off on raw materials including packing materials is allowed in excess of six per cent instead of four per cent. If the manufactured goods include goods other than the taxable goods, the set-off is admissible proportionately in respect of taxable goods.

Additional tax at the rate of 12 per cent of the tax payable is also leviable if the turnover either of all sales or of all purchases exceeds Rs. 10 lakhs in any year. For failure to disclose in the returns the appropriate tax liability, a penalty equal to a sum not exceeding one-and-a-half times the amount of tax (not exceeding the amount of tax from 21st April 1987) found due is also leviable. Further, with effect from 21st April 1987, simple interest at the rate of 2 per cent for each month or part thereof of the tax found due on assessment is leviable.

(i) By a Government notification dated 30th June 1986 the rate of tax on sale or purchase of chemicals (covered by entry 102 of Part II of Schedule C) was reduced from 10 per cent to 4 per cent with effect from 1st July 1986. The Commissioner of Sales Tax determined (May 1988) that Plastic powder/granules was petro-chemical covered by entry 102 of Part II of Schedule C with a rate of tax of 10 per cent which by virtue of the notification was reduced to 4 per cent. Thus no set-off was admissible without verification of actual tax paid on earlier transactions of purchases.

It was noticed in audit (between November 1991 and June 1992) that in assessing five dealers for the period after

1st July 1986 in Bombay and Pune districts (between April 1989 and November 1990), set off on purchases of chemicals including plastic powder was erroneously allowed though no set-off was admissible as no tax in excess of 4 per cent was paid on purchase of these commodities. This resulted in under-assessment of Rs. 2.78 lakhs as detailed below :

Sr. No.	District in which assess-ment done	Nature of business of the dealer	Assess-ment period	Commodity on which set-off allowed	Under asse-ssment due to in- correct grant of set-off/int-erest/ penalty (In lakhs of rupees)	Reply of the Deptt./ Govern-ment
1.	Bombay	Manufa-cturer of plastic containers	1st July 1986 to 30th June 1987	Plastic powder	0.78	The case was repo-rted to department (January 1992) their reply has not been received.
2.	Bombay	Reseller and manu-cturer of torches, stationery etc.	3rd November 1986 to 22nd October 1987	--do--	0.65	The department revised (March 1993) the order and raised demand for Rs.0.65 lakh.

Sr. No.	District in which assess-ment done	Nature of business of the dealer	Assess-ment period	Commodity on which set-off allowed	Under asse-ssment due to in-correct grant of set-off/int-erest/penalty (In lakhs of rupees)	Reply of the Deptt./ Govern-ment
3.	Bombay	Manufact-urer of electrical and elect-ronic goods and their parts	1st January 1988 to 30th June 1988	--do--	0.38	The department revised (October 1992) the assessment and raised demand for Rs.0.38 lakh.
4.	Bombay	Manufactu-rer of Carbon electrodes	1st November 1986 to 31st October 1987	Stearic Acid (chemical)	0.35	The case was repo-rted to department (December 1991); their reply has not been received.
5.	Pune	Manufactu-rer of Plastic articles	1st January 1987 to 31st December 1987 1st January 1988 to	Plastic Granules	0.62	The department raised (March 1992) the demand for Rs.0.62 lakh and further stated (May 1993)

Sr. No.	District in which assess-ment done	Nature of business of the dealer	Assess-ment period	Commodity on which set-off allowed	Under asse-ssment due to inco-rrect grant of set-off/int-erest/penalty (In lakhs of rupees)	Reply of the Deptt./ Govern-ment
			31st March 1989			that dealer paid Rs.6,200 and preferred appeal against the order.
Total					2.78	

The above cases were reported to Government between March 1993 and June 1993, their reply has not been received (October 1993).

(ii) In respect of 5 dealers (assessed between August 1990 and March 1992) in Bombay, Nagpur and Jalgaon districts, it was noticed (between April 1991 and March 1993) in audit that though the dealers manufactured taxable goods as well as goods other than taxable goods, the set-off was allowed in full instead of allowing in proportion of taxable goods sold within the State. Further in respect of other 2 dealers of Bombay district (assessed in May 1990 and March 1992) who had transferred part of manufactured goods to their branches outside the State otherwise than by way of sale, the set-off was allowed after reduction of 4 per cent of purchase price instead of restricting it to an amount in excess of 6 per cent of the purchase price. This resulted in under-assessment of Rs.3.99 lakhs as detailed below :

Sr. No.	District in which assess-ment done	Nature of business of the dealer	Assess-ment period	Reasons for incorr-ect grant of set-off	Under- asses- sment due to incor- rect grant of set-off/int-erest/penalty (In lakhs of rupees)	Reply of the depa-rtment/ Government
1.	Bombay	Manufact-urer of medicines	1st July 1988 to 31st March 1989	set-off on branch transfers not properly worked out	0.99	The case was repo-rted to department (December 1992); their reply has not been received.
2.	Bombay	Manufact-urer of Sulphuric acid	1st November 1986 to 31st October 1987	set-off on non-taxable manufactu-red-goods wrongly allowed.	0.68	The department stated (April 1991) that the point would be examined.
3.	Bombay	Manufact-urer of Plastic goods	1st April 1987 to 31st March 1988 1st April 1988 to 31st March 1989	As above	0.65	The case was repor-ted to department (March 1993); their reply has not been received.

Sr. No.	District in which assess-ment done	Nature of business of the dealer	Assess-ment period	Reasons for incorr-ect grant of set-off	Under- asses- sment due to incor- rect grant of set-off/int-erest/penalty (In lakhs of rupees)	Reply of the depa-rtment/ Government
4.	Jalgaon	Manufact-urer of Paints	1st May 1988 to 31st March 1989	As above	0.65	The department stated (November 1992) that the point would be verified.
5.	Bombay	Manufact-urer of bulk drugs	1st July 1987 to 31st March 1989	As above	0.30	The department raised (July 1993) additional demand for Rs.0.30 lakh.
6.	Bombay	Manufact-urer of S.S. Ingots and slabs	1st October 1986 to 30th September 1987	set-off on branch transfers not properly worked out	0.42	The department revised (June 1992) the asses-sment and raised demand for Rs.0.42 lakh of which Rs.20,000 has been recovered.

Sr. No.	District in which assess-ment done	Nature of business of the dealer	Assess-ment period	Reasons for incorr-ect grant of set-off	Under- asses- sment due to incor- rect grant of set-off/int-erest/ penalty (In lakhs of rupees)	Reply of the depa-rtment/ Government
7.	Nagpur	Manufact-urer of industrial solvents.	1987-88 to 1989-90	set-off on non-taxable goods wrongly allowed	0.30	The department revised (September 1992) the assess-ments and raised demand of Rs.0.30 lakh.
Total					3.99	

All the above cases were reported to Government between June 1992 and May 1993; their reply has not been received (October 1993).

(iii) A registered dealer holding a certificate of entitlement, can purchase raw-material without paying tax by furnishing a declaration in the prescribed form 'BC' declaring, inter-alia, that the raw material so purchased shall be used in his own industrial unit for manufacture of goods for sale. For failure to comply with the aforesaid conditions, the Act provides for levy of purchase tax.

In Raigad district, in assessment of a manufacturer of wheat products i.e. maida, suji, atta etc. holding a certificate of entitlement with effect from 6th March 1986 for the year 1985-86, set-off at Rs.65,228 of purchase tax levied on purchases made on Form 'BC' prior to the date of entitlement was allowed. As the purchases were used for packing of tax-free goods (viz. wheat products), the dealer was not entitled to the set-off.

On this being pointed out (February 1991) in audit, the department stated (January 1993) that the assessment was set aside in appeal and the appellate authority in exercise of revisional powers raised (October 1992) demand of Rs.1.95 lakhs (including additional tax of Rs.10,203, purchase tax and sales tax on other items at Rs.19,800 and penalty of Rs.1 lakh). An amount of Rs.55,000 has been recovered from the dealer during the appeal proceedings. Report on the recovery of balance amount of Rs.1.40 lakhs has not been received (October 1993).

The matter was reported to Government in April 1993; their reply has not been received (October 1993).

(b) Under the provision of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, with effect from 1st April 1984, a registered dealer is entitled to full set-off of taxes paid on the purchases of raw materials specified in one group of entry 6 of Schedule 'B' to the Act (iron and steel) which are used in the process of manufacture of goods (not being waste goods, scrap goods or bye-products) falling in another group (specified in clause XVIII - a of rule 3) of the same entry for sale or export, provided that, no set-off would be admissible if the sales of goods thus manufactured are allowed as resale in the State.

(i) In Pune, in the assessments (October 1988) for the periods between October 1984 and September 1988 of a manufacturer of brass and stainless steel utensils set-off of Rs.55,809 was allowed. As the dealer manufactured stainless steel utensils which do not fall under entry 6 of Schedule 'B' to the Act, no set-off was admissible.

On this being pointed out (June 1989) in audit, the department revised (November 1992) the assessments and raised additional demand of Rs.55,809. Report on recovery has not been received (October 1993).

The matter was reported to Government in April 1993; their reply has not been received (October 1993).

(ii) In the assessment (December 1988 and January 1989) of another manufacturer of stainless steel utensils at Pune for the periods 25th October 1984 to 12th November 1985 and 13th November 1985 to 2nd November 1986, set-off of Rs.45,897 was incorrectly allowed in respect of scrap goods produced during the process of manufacture resulting in under-assessment of Rs.45,897.

On this being pointed out (December 1989) in audit, the department revised (February 1992) assessment orders for

both periods raising additional demand of Rs.45,897. The department further stated (April 1993) that the dealer preferred an appeal against the revision order. Further report on developments in appeal has not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

(c) Under the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a registered dealer is entitled to set-off of taxes recovered from him by other registered dealers on purchase of any goods, provided the goods are resold by him to certain classes of dealers. The Canteen Stores Department was one such dealer and the registered dealer claiming set-off was required to obtain a declaration in form 'A - I' furnished by an authorised official of the Canteen Stores Department. This set-off was withdrawn with effect from 21st October 1988 by an amendment to Rule 42-A. The inadmissibility of set-off was also confirmed by the Commissioner of Sales Tax in his circular dated 16th January 1989.

In Bombay, in the assessments (November 1991) of a reseller of kitchenware, stainless steel utensils and novelties for the period 1st April 1989 to 31st March 1990, a set-off of Rs.1.82 lakhs was allowed on purchases of Rs.20.44 lakhs which were resold to the Canteen Stores Department. The allowance of set-off of Rs.1.82 lakhs under the Rule after 21st October 1988 was inadmissible. Interest on this amount was also leviable at Rs.69,252.

The matter was reported to the department (February 1993) and to Government in May 1993; their replies have not been received (October 1993).

(d) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a manufacturer of certain specified goods such as textile fabrics and sugar is entitled to full set-off of taxes paid on purchases of raw materials which are used in the manufacture of such specified goods or in packing of goods so manufactured, provided the manufactured goods are exported out of the territory of India by the claimant dealer or by another dealer to whom the claimant dealer sells the said manufactured goods subject to the production of a certificate in Form 31-E. In case the purchase price is inclusive of taxes, the set-off is calculated in accordance with the prescribed formula.

A dealer in Bombay exported cloth worth Rs.4.75 crores, during the calendar year 1987, out of total manufacture of

cloth and yarn worth Rs.36.19 crores (cloth Rs.31.06 crores and yarn Rs.5.13 crores). A set-off of Rs.5.12 lakhs in respect of above exports was allowed in the assessment (September 1990) in the ratio of cloth exported to total cloth manufactured. As the raw materials were used in manufacture of cloth as well as yarn, the set-off was admissible at Rs.4.23 lakhs in the ratio of cloth exported to total cloth and yarn manufactured. This resulted in grant of excess set-off of Rs.88,783.

On this being pointed out (April 1991) in audit, the department initiated reassessment proceedings (December 1992) for quantification of the excess set-off erroneously allowed. Further reply has not been received (October 1993).

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

(e) Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a registered dealer is entitled to set off of taxes paid or deemed to have been paid on the purchases made within the State from other registered dealers subject to fulfillment of the conditions prescribed in the rules. Further simple interest at the rate of 2 per cent for each month or part thereof of the tax found due on assessment is leviable.

In Bombay, in the assessment (November 1989) for the period 1st July 1985 to 30th June 1986, of a dealer engaged in importing and reselling non-ferrous metals, set off of Rs.32,075 was erroneously granted on the purchases made in the course of inter-State trade or commerce. Besides, interest of Rs.39,773 was also leviable on this amount till the date of revision of order.

On this being pointed out (September 1991) in audit, the department revised (June 1992) the assessment raising an additional demand of Rs.41,697 (including interest of Rs.9,622). Report on recovery has not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

2.4 Non-levy/short levy of tax

(a) Under the Bombay Sales Tax Act, 1959, the rate of tax leviable on any commodity is determined with reference to the relevant entry in the Schedule to the Act. The Government of Maharashtra, by a notification issued on 25th June 1981 granted exemption from payment of sales tax in excess of 4 per cent on sale of goods by registered dealers

to an electrical undertaking subject to production of declaration by the purchaser in the prescribed form 'AA' declaring that the goods purchased are intended for use by the said undertaking within the State in the generation or distribution of electrical energy. The exemption was revised to the extent of tax payable in excess of 6 per cent with effect from 26th March 1987. Besides additional tax is also leviable under the provisions of the Act.

In respect of 3 dealers (assessed between April 1990 and March 1992) in Bombay and Nasik districts, it was noticed (between August 1992 and March 1993) that in case of 2 dealers sales to electrical undertakings were erroneously assessed to sales tax at the rate of 4 per cent instead of the correct rate of 6 per cent. In remaining case though the sales to electrical undertaking were taxable at the rate of 6 per cent, no tax was levied in the assessment. This resulted in underassessment of Rs.10.67 lakhs as detailed below:

District in which assessment done	Nature of business of the dealer	Assessment period	Under-assessment including additional tax and interest (in lakhs of rupees)	Reply of the deptt./ Government
Bombay	Manufacturer of art silk yarn, tyre cord, fabrics conveyor belt, v.belts	1st October 1987 to 31st March 1989	9.78	The department raised (April 1993) the demand for Rs.9.78 lakhs
Nashik	Manufacturer of material handling equipments	1st July 1988 to 31st March 1989	0.58	The department stated (August 1992) that the point would be examined.
Bombay	Manufacturer of electric control panel	1st July 1986 to 30th June 1987	0.31	The department stated (March 1993) that the matter would be examined.
Total			10.67	

The above cases were reported to Government (between April 1993 and June 1993); their reply has not been received (October 1993).

(b) Under the provisions of the Bombay Sales Tax Act, 1959, sales of any goods by a dealer to an authorised dealer who certifies in the prescribed Form N-14-I that the goods purchased will be despatched by him in the same form and without manufacturing activity within six months to his place of business outside the State, are taxable at a concessional rate of 4 per cent. Besides, additional tax and interest are also leviable under the provisions of the Act.

In Bombay, in the assessment (March 1992) of a manufacturer of electric motors, electric pumps, transformers etc. for the period 1st July 1987 to 31st March 1989, sales of Rs.34.73 lakhs were effected on declaration on Form N-14-I. Though the sales were liable to be taxed at 4 per cent at Rs.1.34 lakhs, no tax was levied by the assessing authority. Further additional tax of Rs.16,030 and interest were also not levied resulting in under-assessment of Rs.2.57 lakhs.

On this being pointed out (March 1993) in audit, the department raised additional demand of Rs.3.72 lakhs (including interest of Rs.2.35 lakhs and considering remission of Rs.12,340 admissible to the dealer). Report on recovery has not been received (October 1993).

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

(c) Under the provisions of the Bombay Sales Tax Act, 1959 and a notification issued thereunder, sales of electric pumping sets and oil engine pump sets having capacity of not more than 7.5 H.P., are liable to tax at the rate of 4 per cent. Further, additional tax and turnover tax is also leviable under the provisions of the Act.

In Bombay, while assessing (November 1990) a manufacturer in water pumps, spares and motor pumps (covered by Part II of Schedule 'C' to the Act) for the period 1st July 1986 to 30th June 1987, sales of Rs.13.02 lakhs were allowed as deduction for arriving at net turnover of sales liable to tax instead of taxing these sales at 4 per cent in view of notification issued by Government. This resulted in under-assessment of tax of Rs.74,600 (including turnover tax of Rs.16,274 and additional tax of Rs.6249).

This was pointed out to Department (November 1992) in audit, their final reply has not been received (October 1993).

The matter was reported to Government in April 1993; their reply has not been received (October 1993).

2.5 Application of incorrect rate of tax.

Under the Bombay Sales Tax Act, 1959, the rate of tax leviable on any commodity is determined with reference to the relevant entry in the schedule to the Act. Besides, additional tax, turnover tax, interest and penalty are also leviable under relevant provisions of the Act.

In assessing 3 dealers in Ahmednagar, Thane and Bombay districts it was noticed (between July 1991 and May 1992) that due to application of incorrect rate of tax, the dealers were underassessed to the extent of Rs.2.01 lakhs as detailed below:

District in which assessed	Period for which assessment is done	Nature of commodity sold	Reason for short levy of tax	Under-assessment (Amount in lakhs of rupees)	Reply of deptt./ Government
Ahmednagar	23rd October 1987 to 31st March 1989	Submersible pumps	Tax levied at 4 per cent instead of 10 per cent	0.70	The department raised (February 1993) additional demand of Rs.0.70 lakh.
Thane	1st July 1985 to 30th June 1986	Umbrellas and its parts	Tax levied at 4 per cent instead of 6 per cent	0.68	The department raised (August 1992 and March 1993) additional demand of Rs.0.68 lakh.

District in which assessed	Period for which assess- ment is done	Nature of commodity sold	Reason for short levy of tax	Under- assess- ment (Amount in lakhs of rupees)	Reply of deptt./ Government
Bombay	3rd November 1986 to 22nd October 1987	Seat and back frames of chairs (used as parts of steel chairs)	Tax levied at 10 per cent instead of 15 per cent	0.63	The department raised (April 1993) additional demand of Rs.0.63 lakh.
Total				----- 2.01	

The above cases were reported to Government (between March 1993 and June 1993); their reply has not been received (October 1993).

2.6 Non-levy/short levy of additional tax and turnover tax

Under the provisions of the Bombay Sales Tax Act, 1959, a dealer whose turnover either of all sales or of all purchases exceeds Rs.10 lakhs in any year, is liable to pay additional tax at the rate of 12 per cent of the tax payable for that year.

Every dealer who is liable to pay tax under the Act and whose turnover either of all sales or of all purchases exceeds Rs.12 lakhs in any year, is also liable to pay turnover tax at the rate of one-and-a-quarter per cent of the taxable turnover of sale of goods specified in Schedule 'C' to the Act after allowing permissible deductions from the turnover of sales with effect from 13th July 1986. By an amendment, with effect from 17th March 1988, turnover tax is also leviable on turnover of sales effected against declarations issued under Section 12 of the Act. Further, penalty for non-disclosure of tax liability in returns and simple interest at 2 per cent per month is leviable if the assessment results in a demand.

It was noticed in audit (between April 1992 and December 1992) that the gross turnover of 18 dealers in different assessment districts for the years ending between November 1985 and March 1990 had exceeded the prescribed limits for levy of additional tax/turnover tax in each case. The dealers therefore became liable to pay additional

tax/turnover tax. However additional tax/turnover tax was not levied in the assessments.

This resulted in under-assessment amounting to Rs.27.57 lakhs (including interest) as detailed below :

Name of the district in which assessed	No. of cases	Non-levy/ short levy including Interest and Penalty (Amount in lakhs of rupees)	Reply of the department/Government
Bombay	9	18.60	The department raised additional demand of Rs.15.40 lakhs in 4 cases of which Rs.8.05 lakhs in 2 cases were partly recovered and accepted the audit observation in other cases amounting to Rs. 1.86 lakhs but particulars of demand raised are awaited. In one case involving Rs.1.34 lakhs the point has been referred to appellate authority for consideration while deciding other points in appeal.
Thane	2	0.90	The department agreed to take action.
Nagpur	1	0.50	Additional demand for Rs.0.50 lakh has been raised.
Chandrapur	1	4.36	Additional demand for Rs.4.36 lakhs has been raised.
Wardha	3	2.06	Additional demand for Rs.2.06 lakhs has been raised.

Name of the district in which assessed	No. of cases	Non-levy/short levy including Interest and Penalty (Amount in lakhs of rupees)	Reply of the department/Government
Satara	1	0.77	The department accepted the point, however, details of demand raised are awaited.
Amravati	1	0.38	Additional demand for Rs.0.38 lakh has been raised.
Total	18	27.57	

All the above cases were reported to Government between May 1992 and June 1993, their reply has not been received (October 1993).

2.7 Non-levy/short levy of purchase tax

(a) Under the provisions of the Bombay Sales Tax Act, 1959, and the rules made thereunder, with effect from 1st July 1981, a manufacturer holding Recognition Certificate can purchase certain specified goods without payment of sales tax by furnishing a declaration in Form N-15 to the selling dealer that the goods purchased will be used within the State in the manufacture of taxable goods for sale or in packing of goods so manufactured. The purchaser is, however, liable to pay purchase tax at a concessional rate of 4 per cent. If the goods so purchased are used in the manufacture of goods or packing of goods so manufactured, which are not taxable or when the conditions, recitals and undertakings of such declarations are not complied with or when the manufactured goods are transferred to branches outside the State, purchase tax for contravention of recitals of declaration is leviable at the rates specified in the Act. The dealer is, however, entitled to set off of tax paid on purchase at concessional rate of 4 per cent. Further, with effect from 21st April 1987, the term "taxable goods" means goods other than those on the sale of which payment of tax is wholly exempted.

Besides, additional tax, interest and penalty are also leviable under the provisions of the Act.

Similarly under the provisions of the Central Sales Tax Act, 1956, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India is deemed to be a sale in the course of export of those goods if such last sale or purchase is effected for the purpose of complying with the pre-existing agreement or order for sale for or in relation to an export of those goods out of the territory of India.

(i) It was noticed in audit (between June 1991 and April 1993) that in assessing six dealers in different assessment districts for the years ending between 31st October 1987 and 31st March 1989, the dealers had effected purchases against declaration in Form N-15 for use within the State in the manufacture of taxable goods for sale or in packing of goods so manufactured but these purchases were either used in the manufacture or packing of such goods which are wholly exempted from payment of tax by virtue of notifications or were used in the manufacture of goods transferred to branches. As such the dealers became liable to pay purchase tax for contravention of recitals of declaration. However, purchase tax was not levied in the assessments. This resulted in under-assessment amounting to Rs.5 lakhs (including interest) as detailed below :

Sr.No.	Name of District	Nature of business of the dealer	Assessment period	Short levy of purchase tax/additional tax and interest/penalty (In lakhs of rupees)	Reply of the Department/Government
1.	Bombay	Manufacturer and Reseller in insecticides and pesticides	1st January 1988 to 31st March 1989	1.23	The matter was reported to the Department in December 1992, their reply has not been received.

Sr.No.	Name of District	Nature of business of the dealer	Assessment period	Short levy of purchase tax/additional tax and interest/penalty (In lakhs of rupees)	Reply of the Department/ Government
2.	Bombay	Manufacturer of plastic powder, chemicals, neutral spirit, Indian made foreign liquor and country liquor	1st April 1987 to 31st March 1988	0.85	The matter was reported to the Department in April 1992; their reply has not been received.
3.	Bombay	Reseller and Manufacturer of chemicals	1st July 1987 to 31st March 1989	0.52	The matter was reported to the Department in April 1993, their reply has not been received.
4.	Bombay	Manufacturer of confect-ionery	1st April 1987 to 31st March 1988	0.38	The matter was reported to the department in October 1992; their reply has not been received.
5.	Nashik	Manufacturer in soft drinks powder	1st November 1986 to 31st October 1987	0.32	The department recti-fied (August 1992) the assessment order.

Sr.Name of No.District	Nature of business of the dealer	Assessment period	Short levy of purchase tax/addi- tional tax and interest/ penalty (In lakhs of rupees)	Reply of the Department/ Government
6. Pune	Manufacturer of two and three wheeler motor vehicles	1st July 1987 to 30th June 1988 1st July 1988 to 31st March 1989	1.70	The matter was reported to the Department in November 1992; their reply has not been received.
Total			5.00	

All the above cases were reported to Government between August 1992 and July 1993; their reply has not been received (October 1993).

(ii) In Bombay, a manufacturer of readymade garments, purchased packing material worth Rs.20.99 lakhs without payment of sales tax by furnishing a declaration in Form N-15 to the selling dealer during the period 1st October 1986 to 30th September 1987 and used them in the packing of manufactured goods. Out of these, purchases estimated to the extent of Rs.5.64 lakhs were used in packing of manufactured tax free goods, for which purchase tax and consequential additional tax was leviable which was not levied in the assessment order. Besides, sales worth Rs.7.60 lakhs admitted as sales in the course of export without requisite certificate in Form H and bills of lading were irregular. These mistakes resulted in short levy of tax amounting to Rs.1.43 lakhs (including penalty of Rs.71,586.).

On this being pointed out (February 1991) in audit, the department revised (February 1993) the assessment raising additional demand of Rs.1.43 lakhs (including penalty of Rs.71,586). Report on recovery has not been received (October 1993).

The matter was reported to Government in May 1993; their reply has not been received (October 1993).

(b) Under the provisions of the Bombay Sales Tax Act, 1959, the Government may by notification exempt any specified class of sales or purchases from payment of tax payable under the Act. Accordingly, a manufacturer holding a certificate of entitlement is allowed to purchase raw material without payment of tax by furnishing a certificate in Form 'BC' to the selling dealer. Since machinery is not a raw material and hence its purchase is not permissible by issue of certificate in Form 'BC', the purchasing dealer contravening the provisions of certificate of entitlement is liable to pay purchase tax at rates specified in the Schedule to Act. Besides, additional tax and interest are also leviable under the provisions of the Act.

A manufacturer holding a certificate of entitlement issued by the Commissioner of Sales Tax is entitled to full set-off of tax paid on purchases of raw materials effected otherwise than by issue of certificate in Form 'BC'.

In Pune, a manufacturer in P.V.C. pipes holding entitlement certificate purchased machinery worth Rs.1.41 lakhs on Form 'BC' during the period 1st October 1986 to 30th September 1987 in contravention of recitals of Form 'BC'. This attracted purchase tax and consequential additional tax at Rs.15,763 which was not levied. Besides, a set-off of Rs.11,947 was granted on the purchases of plastic powder worth Rs.1.75 lakhs (inclusive of taxes) treating tax paid thereon at 10 per cent. Since the rate of tax on plastic powder being a chemical was reduced to 4 per cent from 1st July 1986, set-off on plastic powder was allowable at 4 per cent instead of 10 per cent. This resulted in excess set-off of Rs.5,893. Besides, interest was also leviable on these amounts.

On this being pointed out (November 1991) in audit, the department revised (April 1993) the assessment raising additional demand of Rs.50,342 (including additional tax and interest of Rs.28,686). Report on recovery has not been received (October 1993).

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

(c) Under the provisions of the Bombay Sales Tax Act, 1959, with effect from 1st July 1982, when purchase of goods

specified in Part- I of Schedule 'C' of the Act, are used in the manufacture of taxable goods and the manufactured goods are transferred to the dealer's own branches outside the state the dealer is liable to pay, in addition to the tax already paid on purchases, a purchase tax at the rate of 2 per cent of the purchase price of goods consumed in the manufacture of goods transferred to branches outside the State.

In Akola, a manufacturer, during the period from 13th November 1985 to 2nd November 1986 transferred manufactured refined cotton seed oil to the tune of Rs.50.28 lakhs to branches outside the State. However, the purchase tax, on the value of specified raw material worth Rs.24.95 lakhs used in the manufacture of goods so transferred was not levied which resulted in non-levy of purchase tax amounting to Rs.49,904.

On this being pointed out (August 1991) in audit, the department reassessed (August 1992) the dealer raising an additional demand of Rs.49,904. Report on recovery has not been received (October 1993).

The matter was reported to Government in September 1991; their reply has not been received (October 1993).

2.8 Incorrect grant of exemption

(a) Under the Bombay Sales Tax Act, 1959 and a notification issued in July 1980 thereunder, the sales by a registered dealer to another dealer, being an industrial unit set up in the developing region of the State of Maharashtra and duly certified as an eligible industrial unit by the designated authority and to whom a Certificate of Entitlement has been granted by the Commissioner of Sales Tax, are exempt from payment of tax leviable thereon provided such sales are supported by prescribed declarations in Form 'BC' issued by the purchasing dealer. Similarly, sales of goods manufactured by the industrial unit set up in the developing region are also exempt from tax. Such exemption was not permissible in respect of edible oil units with effect from 1st August 1985 as per amendment to the Act in May 1985.

In Bombay, in the assessment of a dealer dealing in spices, copra and betelnuts etc. for the period 1st January 1988 to 30th September 1988, sales of copra worth Rs.52,899 were made to an edible oil unit of Amravati against declaration in the prescribed form resulting in exemption of sales tax of Rs.2,116. As copra is used in the manufacture of edible oil, the exemption allowed was not correct and

cross-verification in respect of its use was suggested in audit.

On this being pointed out (June 1990) in audit, the department on re-verification disallowed the sales of Rs.41.35 lakhs effected by the industrial unit which were incorrectly exempted from tax and raised (June 1991) additional demand of Rs.2.45 lakhs (including interest of Rs.0.86 lakh). The department further stated (October 1993) that demand was reduced in appeal to Rs.61,339. Report on recovery has not been received (October 1993).

The case was reported to Government in April 1993; their reply has not been received (October 1993).

(b) Under the provisions of the Bombay Sales Tax Act, 1959 and a notification issued thereunder, sales of a dealer engaged in the activity of printing are exempted from tax if his sales during the preceding accounting year did not exceed Rs.1.50 lakhs and his turnover of sales during the current year does not exceed Rs.1.80 lakhs. Besides, interest and penalty are also leviable under the provisions of the Act.

At Ahmednagar, in the assessments of a dealer running a printing press, sales of Rs.3.08 lakhs and Rs.3.48 lakhs during the years 1987-88 and 1988-89 respectively were erroneously exempted from levy of sales tax though noexemption was admissible to the dealer. This resulted in under-assessment of tax of Rs.59,676. Besides, interest and penalty was also leviable till the date of revision of order.

On this being pointed out (May 1991) in audit, the department revised (April 1992) the assessments raising additional demand of Rs.1.21 lakhs for the accounting years 1987-88 and 1988-89 (including interest of Rs.49,687 and penalty of Rs.11,936). Details of recovery have not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

(c) Under the provisions of the Bombay Sales Tax Act, 1959 and a notification issued thereunder, sales of food served in a hotel are exempted from levy of tax to the extent of first 3 lakhs of rupees of the turnover of sales during a year. Sales exceeding Rs.3 lakhs but not exceeding Rs.10 lakhs are subject to levy of tax at a concessional rate of 2 per cent, sales exceeding Rs. 10 lakhs attract tax at 8 per cent. Further, additional tax, turnover tax and

interest on tax found due on assessment are also leviable under the provisions of the Act.

In Bombay, in case of a hotelier, the registration certificate was cancelled within six months of the commencement of business due to change in partnership. New registration certificate was obtained in the same name and style of business immediately thereafter on five consecutive occasions during the period October 1987 to March 1990 without any gap of time. The turnover of sales to the extent of Rs.3 lakhs in the five assessments under the old and new registration certificates was allowed as exempt. As the periods covered by assessments were for six months instead of one year, the allowance of exemption was contrary to intention behind grant of exemption. The loss of revenue due to such evasion in five assessments for a period of six months on each occasion was to the extent of Rs.2.47 lakhs (including additional tax at Rs.18,555, turnover tax at Rs.8,600 and interest at Rs.65,000).

On this being pointed out (July 1990) in audit, the provisions of the Act have been amended by incorporating a new Section 33 - B with effect from 1st May 1992 providing for proportionate exemption when the assessments are done for part of a year.

2.9 Incorrect allowance of sales against declaration

Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, with effect from 1st July 1981, a manufacturer holding recognition certificate can purchase goods specified in Part II of Schedule 'C' to the Act without payment of tax by furnishing declaration in Form N-15 to the selling dealer provided the certificate was valid on the date of purchase of goods. The selling dealer is not liable to pay tax on such sales.

Further, additional tax, turnover tax and interest are also leviable under the provisions of the Act.

(i) In Bombay, in the assessment (December 1990) for the calendar year 1987 of a reseller in chemicals, sales of Rs.1.65 crores were allowed on Form N-15 on which no sales tax was levied. These sales included sales worth Rs.6.21 lakhs made by the dealer to purchasing dealers who were not holding recognition at the time of purchase. The incorrect allowance of sales as sales against declarations resulted in under-assessment of tax of Rs.35,559 (including additional tax and turnover tax of Rs.2979 and Rs.7757 respectively). Besides, interest was also leviable on the above amount till the date of reassessment.

On this being pointed out (January 1992) in audit, the department reassessed the case (September 1992) raising additional demand of Rs.76,094 (including interest of Rs.40,536). Details of recovery have not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

(ii) In Bombay, in the assessment of a manufacturer of non-ferrous metal tubes for the periods from 1st July 1986 to 30th June 1987 and 1st July 1987 to 30th June 1988, the assessing authority erroneously allowed on Form N-15 sales of brass tubes covered by Part I of Schedule 'C' worth Rs.2.36 lakhs and Rs.4.17 lakhs respectively during the above periods. Since goods covered under Part II of Schedule 'C' only are eligible for sale on Form N-15, the sale of 'brass tubes' on Form N-15 was not in order as they were non-ferrous tubes. This resulted in under-assessment of Rs.62,638 (including interest of Rs.37,409).

This was brought to the notice of the department (May 1992) and reported to Government in May 1993; their replies have not been received (October 1993).

2.10 Incorrect computation of turnover during transitional accounting period

Under the provisions of the Bombay Sales Tax Act, 1959 and the Rules made thereunder, a dealer who has opted for transitional accounting year of a duration longer than his earlier accounting year to comply with the provision of Income Tax Act, 1961, then the word 'Year' used in the Act will include the transitional accounting year and the limits of turnover of sales/purchases in respect of the transitional period will be proportionately increased.

Further, additional tax, turnover tax and interest are also leviable under the provisions of the Act.

In Bombay, while assessing (September 1991) a manufacturer cum reseller of school bags, zip fasteners, buckles, P.V.C. Sheets etc. for the transitional period consisting of 21 months from 1st July 1987 to 31st March 1989, who had also prepared his trading and profit and loss account for the same period, the gross turnover of sales was determined at Rs.25.41 lakhs. Additional tax of Rs.19,891 and turnover tax of Rs.20,864 were levied correctly by the assessing authority. The assessment was subsequently revised (December 1991) by the appellate authority and a bifurcation of the transitional accounting period was made whereby the dealer was absolved of the liability to pay

additional tax of Rs.10,634 and turnover tax of Rs.11,163 for the period 1st July 1987 to 30th June 1988 as the turnover of sales during the said period was less than Rs.10 lakhs and was granted a total relief of Rs.33,346 (including interest of Rs.11,549). The action of the appellate authority in splitting the transitional accounting period and assessing the dealer on the basis of the bifurcated periods was not in order which led to under-assessment of Rs.33,346.

On this being pointed out (November 1992) in audit, the department set-aside (September 1993) the order passed by the appellate authority and confirmed the order passed by the assessing officer. Report on recovery of the amount of relief erroneously allowed in appeal has not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

2.11 Incorrect allowance of sales in the course of import

Under the provisions of the Central Sales Tax Act, 1956, a sale or purchase of goods shall be deemed to have taken place in the course of import of the goods into the territory of India only if the sale or purchase either occasioned such import or is effected by transfer of documents of title to the goods before the goods have crossed the customs frontiers of India. It has been judicially held* that airway bill is not a negotiable document of title to the goods.

Under the Bombay Sales Tax Act, 1959, the rate of tax leviable on a commodity is determined with reference to the relevant entry in the Schedule to the Act. Besides, additional tax, turnover tax, penalty and interest are also leviable under the provisions of the Act.

Further under the provisions of the Central Sales Tax Act, 1956, on inter-State sale to a registered dealer, tax is leviable at the rate of 4 per cent provided the selling dealer obtains a certificate in Form 'C' duly signed and filled by the purchasing dealer stating that the goods purchased by him are covered by his registration certificate. In absence of valid certificate in Form 'C',

*M/s. Sanjivkumar Dhanji v/s. Commissioner of Sales Tax
S A 2 of 1987

M/s. Nawrojee Wadia and Sons.
S A No. 43 of 1989
dated 4.5.1990

tax is leviable at the rate of 10 per cent or at the rate applicable to sale or purchase of that commodity inside the State whichever is higher. The original certificates in Form 'C' are also required to be kept on record by the assessing officer.

(a) In Bombay, an importer and reseller of plastic powder was allowed during the assessment for the period 1st April 1985 to 31st March 1986, a deduction of Rs.16.22 lakhs on account of high sea sales. During the scrutiny of assessment records, it was noticed (February 1989) that the dealer had incurred expenses towards the payment of custom duty and cleared the goods himself. Further, no documentary evidence of the import purchases was kept on record. The department was requested to re-examine the claims of high sea sales. Inter-State sales at Rs.44,750 were also wrongly allowed and taxed at concessional rate of 4 per cent though valid certificates in Form 'C' were not produced.

On this being pointed out (February 1989) in audit, the department reverified the claims and revised the assessment in May 1992, disallowing high sea sales claim of Rs.27.59 lakhs including custom duty and clearing charges raising additional demand of Rs.3.71 lakhs including penalty of Rs.1.20 lakhs (under Bombay Sales Tax Act) and Rs.2685 (under Central Sales Tax Act). Report on recovery has not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

(b) In Bombay, an importer in glass beads and texon materials was allowed during the assessment for the period 1st August 1986 to 31st July 1987, a deduction of Rs.7.26 lakhs on account of high sea sales. During the scrutiny of relevant documents it was pointed out (January 1991) in audit that the date of clearance of goods from the customs was not mentioned in the bill of lading. Bill of entry was also not kept on record and hence claim for high sea sales was irregular.

On this being pointed out (January 1991) in audit, the department verified the relevant documents and found that the sales worth Rs.7.26 lakhs were not admissible as sales in course of import but were taxable under Bombay Sales Tax Act (Rs.85,000) and under Central Sales Tax Act (Rs.6.41 lakhs).

Accordingly, the department reassessed (July 1992) the dealer and raised additional demand of Rs.1.44 lakhs

(Rs.4871 under Bombay Sales Tax Act and Rs.1.39 lakhs under Central Sales Tax Act, including penalty of Rs.75,000). Report on recovery has not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

(c) In Bombay, in the assessment of a dealer for the period from 1st July 1987 to 31st March 1989, sales of pneumatic tools of Rs.4.77 lakhs imported by air inclusive of custom duty of Rs.1.98 lakhs and clearing charges of Rs.4291 and sold by transfer of airway bills, were allowed as sales in the course of import. As airway bill is not a negotiable document of title to the goods, the sales of Rs.4.77 lakhs effected by transfer of such document were not allowable as sales in the course of import. Incorrect allowance resulted in short levy of tax of Rs.84,181 (including additional tax of Rs.5201, turnover tax of Rs.5418 and interest of Rs.30,219).

This was pointed out to the department (February 1993) in audit; their final reply has not been received. (October 1993).

The matter was reported to Government (May 1993); their reply has not been received (October 1993).

2.12 Incorrect allowance of sales in the course of export

Under the provisions of the Central Sales Tax Act, 1956, a sale or purchase of goods shall be deemed to take place in the course of export of the goods out of the territory of India only if the sale or purchase occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India. Such sales are exempt from payment of Central Sales Tax.

Further, under the provisions of the Bombay Sales Tax Act, 1959, rate of tax leviable on a commodity is determined with reference to the entry in Schedule to the Act. Additional tax and penalty are also leviable under the provisions of the Act.

In Bombay, in the assessment (March 1986) of a reseller of handicrafts for the period 1st April 1983 to 31st March 1984, sales worth Rs.59.02 lakhs were taxed at 10 per cent. However, on an appeal filed by the dealer, these sales were allowed (December 1987) by the appellate authority as sales in the course of export being sales to foreign tourists and an amount of Rs.3.34 lakhs paid by the dealer as tax was

refunded. It was pointed out (February 1989) in audit, that sales to foreign tourists made locally for which payment has been received in foreign exchange cannot be treated as sales in the course of export and that these were local sales and were required to be taxed. The refund allowed at appellate stage was thus irregular.

On this being pointed out (February 1989) in audit, the department verified and revised (December 1992) the appeal order raising additional demand of Rs.7.37 lakhs (including additional tax, penalty and recovery of refund allowed in appeal at Rs.64,387, Rs.1.37 lakhs and Rs.3.34 lakhs respectively). Report on recovery has not been received (October 1993).

The matter was reported to Government in May 1993; their reply has not been received (October 1993).

2.13 Incorrect allowance of sale in transit from one State to another

Under the Central Sales Tax Act, 1956, when a sale in the course of inter-State trade or commerce is made by transfer of documents of title to such goods, during their movement from one State to another, subsequent sales to registered dealers made while the goods are in movement, are exempt from tax provided such goods are included in the registration certificate of the vendee and supported by E-I/E-II and 'C' Forms.

For failure to disclose in the returns the appropriate tax liability, penalty not exceeding the amount of tax (a sum not exceeding one-and-a-half times of tax upto 20th April 1987) is also leviable.

In Bombay, while assessing (October 1989) a dealer for the period 1st November 1985 to 31st October 1986, sales of Rs.4.98 lakhs were allowed as exempted from tax being sales made by transfer of documents of title to goods during their movement from one State to another on the basis of certificates in Form E-I produced by the dealer.

However, 'C' forms in support of subsequent sales to registered dealers were not produced. In the absence of 'C' forms the sales were taxable at 10 per cent under the Act. This resulted in short levy of tax amounting to Rs.49,764. Besides penalty not exceeding Rs.74,645 was also leviable.

On this being pointed out (September 1991) in audit, the department revised (October 1992) the assessment raising additional demand of Rs.1.20 lakhs (including penalty of

Rs.70,000). Report on recovery has not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

2.14 Short levy of penalty

Under the provisions of the Central Sales Tax Act, 1956 and the rules made thereunder, every registered dealer is entitled to purchase goods included in his registration certificate, in the course of inter-State trade or commerce by paying tax at the concessional rate of 4 per cent provided he furnishes a declaration in Form 'C' to the selling dealer that the goods purchased by him are intended for resale/use in the manufacture of goods for sale. Failure to make use of the goods so purchased for the purpose specified in the declaration, entails simple imprisonment upto six months or fine or both. However, the authority empowered to grant registration can impose upon him by way of penalty, in lieu of prosecution, a sum not exceeding one-and-a-half times the tax, which would have been paid under the Act, if such purchases were made without furnishing declaration in Form 'C'. On inter-State sales/purchases of cement, Central Sales Tax is leviable at 10 per cent where such sales/purchases are not supported by declaration in Form 'C'.

As per definition contained in the Act, the term 'goods' does not include newspapers. It has been judicially* held that the materials required for printing of newspapers cannot be purchased at concessional rate of 4 per cent by furnishing 'C' forms.

(a) In Nagpur, a registered dealer engaged in the activity of printing daily newspaper purchased by using 'C' Forms, newspaper printing materials costing Rs.151.68 lakhs between 1st July 1986 and 31st March 1990 at a concessional rate of 4 per cent. Since the 'newspaper' is not covered by the term 'goods' as defined in the Act, the dealer was not entitled to purchase material required for printing of newspapers against 'C' forms by paying tax at concessional rate of 4 per cent. The wrongful use of 'C' Forms thus, rendered the assessee liable to pay penalty under the Act. However, the same was not levied resulting in non-levy of penalty amounting to Rs.9.10 lakhs.

*M/s. Printers (Mysore) Limited and another v/s Assistant Commercial Tax Officer, VII, Circle Bangalore (59 S.T.C. Page 306).

On this being pointed out in audit (May 1992) the department stated (February 1993) that revision orders were passed (December 1992) creating additional demand of Rs.9.10 lakhs. The details of recovery have not been received (October 1993).

The case was reported to Government (July 1992); their reply has not been received (October 1993).

(b) A registered dealer at Nagpur purchased printing machinery, ink, films, spare parts etc. costing Rs.15.08 lakhs by furnishing 'C' Forms during the period July 1985 and June 1986 for the purpose of printing newspapers. The misuse of 'C' Forms thus, rendered the assessee liable to pay penalty under the Act. However, the same was not levied which resulted in non-levy of penalty amounting Rs.79,105.

On this being pointed out (September 1989) in audit, the department stated (November 1992) that revision order was passed (October 1992) creating additional demand of Rs.90,497. The details of recovery have not been received (October 1993).

The case was reported to Government (March 1990); their reply has not been received (October 1993).

(c) In Nanded, an assessee (a co-operative sugar factory) had made purchases of cement worth Rs.11.18 lakhs (Rs.4.97 lakhs during the period 21st March 1986 to 30th September 1986 and Rs.6.21 lakhs during 1st October 1986 to 30th September 1987) against declarations in 'C' form. The assessment record showed that the assessee used the cement in the construction of factory buildings, staff quarters and godown. As the purchases effected against declaration could not be used in the construction of factory buildings, staff quarters and godowns, the assessee was liable to penalty not exceeding Rs.1.68 lakhs. The assessing officer erroneously levied a penalty of Rs.22,674 on purchases of Rs.3.78 lakhs as against purchases of Rs.11.18 lakhs.

On this being pointed out (August 1991) in audit, the department re-verified the case and noticed (March 1993) that besides using part of cement in construction of factory building, the dealer also supplied cement (estimated sales Rs.14.78 lakhs) to contractors on which tax was leviable. The department accordingly revised (March 1993) the assessment raising demand of Rs.2.79 lakhs. Report on recovery has not been received (October 1993).

The matter was reported to Government in April 1993; their reply has not been received (October 1993).

2.15 Non-levy of interest

Under the Bombay Sales Tax Act, 1959, if any tax payable is found due from a dealer or a person in respect of any period as a result of an order of assessment or re-assessment passed under the Act, such dealer or person is liable to pay by way of simple interest a sum equal to two per cent of such tax, for each month or part thereof from the first date after the end of the period for which the dealer or person has been so assessed till the date of order of assessment. The provision is also applicable to the Central Sales Tax assessment under Section 9(2) of the Central Sales Tax Act, 1956.

In Bombay, in the assessment of a manufacturer of tins for the period from 3rd November 1986 to 22nd October 1987, under Bombay Sales Tax Act as well as under Central Sales Tax Act, resulted in dues of Rs.2.73 lakhs and Rs.37,630 respectively. However no interest was levied.

On this being pointed out (April 1992) in audit, the department raised demand for Rs.1.83 lakhs under Bombay Sales Tax and Rs.25,995 under Central Sales Tax. Report on recovery has not been received (October 1993).

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

2.16 Non-review of exemptions granted under the State Act

Section 17 of the Act empowers the Government to reduce the rate of tax and to amend entries in schedule B or C by issue of a notification with the approval of State Legislature. Section 41 of the Act empowers the Government to exempt by notification, in public interest, any specified class of sales or purchases from payment of whole or part of any tax subject to conditions as it may impose.

Government has not issued any notification under Section 17 since inception of the Act but have issued 359 notifications under Section 41 upto March 1993. These exemptions were granted either generally or subject to certain conditions but without specifying time upto which they were to continue. Age-wise break-up of notifications issued upto 31st March 1993 is given below :-

Period of continuation	Number of notifications
(i) Upto 3 years	73
(ii) 3 to 5 years	34
(iii) 5 to 10 years	71
(iv) more than 10 years	111
Total	289

Unlike provisions in the Central Excise and Salt Act, 1944, there is no provision in the Bombay Sales Tax Act, 1959 to lay notifications issued under Section 41 before the State Legislature for approval.

It was further observed in audit (March 1993) that 289 out of 359 exemptions are still in existence and department has not considered it necessary to review these exemptions so as to ascertain whether the grounds on which these exemptions were granted still exist and any public interest is served by continuation of these exemptions.

The department stated (October 1993) that there was need to undertake a review to ascertain whether exemptions should be continued/discontinued/modified and also stated that proposal has been sent to the Government for appointing a Committee for such a review.

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

CHAPTER 3

STATE EXCISE

3.1 Results of audit

Test check of records relating to State Excise conducted in audit during the year 1992-93 revealed short levy of excise duty, licence fee etc. amounting to Rs.659.51 lakhs in 234 cases, which broadly fall under the following categories :

Sr. No.	Category	No. of cases	Amount (In lakhs of rupees)
1.	Non-levy/short levy of excise duty	12	112.19
2.	Short recovery of licence fee and privilege fee	96	46.32
3.	Non-recovery/short recovery of super- vision charges	41	8.63
4.	Other irregularities	85	492.37
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	Total	234	659.51

During the course of the year 1992-93 the department accepted under-assessment etc. in 96 cases involving Rs.14.31 lakhs of which 58 cases involving Rs.9.21 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years and recovered Rs.13.53 lakhs. A few illustrative cases involving Rs.28.18 lakhs highlighting important audit observations are given in the following paragraphs.

3.2 Short recovery of Licence fee

(a) Under the provisions of the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966 and the Maharashtra Country Liquor Rules, 1973 the holder of a potable liquor licence in form PLL and country liquor licence in form CLI is required to obtain (with effect from January 1990) a separate licence in Form RS II for possession and use of rectified spirit in the manufacture of either potable liquor or country liquor on payment of a licence fee of Rs.25,000 per annum.

In Sindhudurg district, in case of a distillery holding licence for manufacture of potable liquor as well as country liquor, no separate licence in Form RS II was obtained for the years 1989-90 to 1992-93. This resulted in non-realisation of licence fee of Rs.1 lakh.

On this being pointed out (May 1992) in audit, the department stated (February 1993 and May 1993) that an amount of Rs.75,000 had been recovered. Report on recovery of the balance amount has not been received (October 1993).

The matter was reported to Government in May 1993.

(b) Under the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, a licence to manufacture potable liquor was being granted upto a maximum period of 5 years on payment of a fee of Rs.50,000. By an amendment dated 16th March 1988, the period of validity was made annual retaining the same quantum of fee. Accordingly, all existing licences were deemed to have expired on 31st March 1988 and fresh licences were deemed to have been granted from 1st April 1988 provided the licensee paid within two months of the amendment, the difference in licence fee to be calculated according to the method prescribed in the rules.

In Nagpur, in case of one distillery, the licence granted during 1985-86 was deemed to have expired on 31st March 1988. For renewal of the licence for the year 1988-89 to 1990-91, instead of recovering Rs.50,000 as licence fee per annum as per amended rules, the department recovered Rs.10,000 for the year 1990-91 as licence fee. Besides, the difference in licence fees for the years 1988-89 and 1989-90 was also not recovered, resulting in short recovery of licence fee amounting to Rs.1 lakh.

On this being pointed out (April 1992) in audit, the department raised (December 1992) demand for Rs.1 lakh. Report on recovery has not been received (October 1993).

The matter was reported to Government in March 1993; their reply has not been received (October 1993).

3.3 Loss of revenue due to not granting licence for toddy shops

Under the provisions of the Maharashtra Toddy Shops (Grant of licence by Auction or Tender) Order, 1968 licences for sale of toddy in shops for the period from 1st September of a year to 31st August of next year are granted by holding auctions in respect of each shop. Before the commencement of the annual auctions, the Collectors are required to fix

the minimum price expected for each shop (called the upset price) taking into account such factors as bids received during the previous three years, number of toddy trees taken for tapping, expected yield of toddy during the current year and estimated realisation from the sale of toddy etc. as per departmental instructions. Where the amount of the highest bid at any auction in respect of an individual shop does not exceed the upset price fixed therefor by the Collector, the Collector shall not accept any bid and shall grant licences by calling for tenders. Government is empowered to grant licence at a price less than the upset price.

(a) In Nanded district for the year 1990-91, 7 toddy shops were put to auction (July 1990) and since the highest bid amounts of Rs.38.35 lakhs were less than the upset price of Rs.43.64 lakhs fixed, the bids were not accepted by the Collector. Out of these seven shops, three shops were re-auctioned (August 1990) and even though the aggregate bid (Rs.2.62 lakhs) for these three shops was more than the upset price (Rs.2.49 lakhs) fixed, the bid was rejected without assigning any reasons. Subsequently, tenders were invited for all seven shops in September 1990, October 1990, November 1990 and December 1990 respectively. On all these occasions only one tender was received from the same party for all the seven shops for Rs.21.21 lakhs in October 1990, Rs.18.26 lakhs in November 1990 and for Rs.17.51 lakhs in December 1990 as against the upset price of Rs.43.64 lakhs. Although the bid received in December 1990 was much less than the upset price yet the Collector recommended the proposal to the Excise Commissioner for acceptance of the tender of Rs.17.51 lakhs. However, no acceptance of the proposal was received till February 1991. The Collector informed (February 1991) Commissioner that the tenderer was not willing to execute the tender as the toddy year was almost over and requested for sanction for the closure of the toddy shops for that year. Government accorded (May 1991) the sanction through Commissioner to close the toddy shops. Thus initial rejection of proposals, reauctioning and delay in communication of acceptance of bid amount has resulted in loss of revenue of atleast Rs.17.51 lakhs.

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

(b) In Aurangabad district, for the year 1989-90 eight toddy shops were put to auction by the Collector (August 1989) and since the bid amounts tendered were less than the upset price fixed, separate tenders were called for (September 1989). As the highest prices tendered by the tenderers were less than the upset price fixed, a proposal to grant licences of five toddy shops at tendered price of Rs.8.17 lakhs and to close down the remaining three shops

was made by the Collector (September 1989) to Government through the Commissioner of State Excise, Bombay. The Government accepted the proposal and intimated the same in December 1989. The acceptance of the proposal was received by the Collector, Aurangabad only in February 1990. As the toddy year was almost over, the tenderers refused to accept the offer. Thus the failure to communicate acceptance of the proposal within a reasonable time resulted in loss of revenue of Rs.8.17 lakhs.

On this being pointed out (January 1991) the department accepted (March 1993) the loss of revenue due to delay in communication.

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

3.4 Non-recovery of privilege fee

Under the Bombay Prohibition (Privilege Fees) Rules, 1954, for transfer of a licence to another person/company, a licensee is required to pay a fee equal to the fees prescribed for grant of licence. In March 1988, Government revised licence fees for grant of various excise licences.

In Thane, a partnership firm holding potable liquor licence for manufacture of potable liquor was converted into private limited company vide Government letter dated 16th October 1989 without payment of the prescribed privilege fee of Rs.50,000 even though the legal entity of the licensee was changed. This resulted in non-realisation of revenue amounting to Rs.50,000.

On this being pointed out (February 1991) in audit, the department stated (January 1992) that the matter has been referred to Government (January 1991) regarding recovery.

The matter was reported to Government in April 1993 their reply has not been received (October 1993).

CHAPTER 4

LAND REVENUE

4.1 Results of audit

Test check of the records of Land Revenue conducted during the year 1992-93 revealed under-assessment/short levy/loss of revenue/non-levy of tax etc. amounting to Rs.359.71 lakhs in 295 cases which broadly fall under the following categories:

Sr. No.	Category	No. of cases	Amount (In lakhs of rupees)
1.	Non-levy/short levy of Non-agricultural assessment/ Conversion tax/incorrect revision	248	285.17
2.	Non-levy/short levy/ incorrect levy of Increase of Land Revenue	4	41.74
3.	Non-levy/short levy of education cess etc.	34	0.61
4.	Non-levy/short levy of occupancy price etc.	8	30.01
5.	Short levy of measurement compensation/application Transfer Fee etc.	1	2.18
	Total	295	359.71

During the course of the year 1992-93 the concerned departments accepted under-assessment of Rs.172.71 lakhs involved in 226 cases of which 19 cases involving Rs.2.59 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years and recovered Rs.23.08 lakhs.

A few illustrative cases noticed during 1992-93 and earlier years involving Rs.44.80 lakhs highlighting important audit observations are mentioned in the following paragraphs.

4.2 Short levy/non-levy of land revenue, increase of land revenue, conversion tax and cesses

Under the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the purpose for which the land is used such as agricultural, residential, industrial or commercial. Further, under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 as amended with effect from 1st August 1975, a tax called "increase of land revenue" is payable at 50 per cent of land revenue by persons holding land of 8 hectares and above but less than 12 hectares and at 100 per cent by persons holding land of 12 hectares and above in the State. The term 'holding' includes agricultural as well as non-agricultural lands. Maharashtra Land Revenue Code (Amendment) Act, 1979 effective from 31st March 1979, provides for levy of conversion tax at thrice the amount of non-agricultural assessment on all lands situated in the areas of municipal corporations and municipal councils (A and B classes only) including the peripheral limits thereof, when permission for non-agricultural use or change of use of land is granted or unauthorised non-agricultural use regularised (on or after 31st March 1979). Under Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and the Bombay Village Panchayat Act, 1958 a cess at prescribed rate is also leviable in the areas covered by the Acts.

(i) In Ulhasnagar tahsil Camp III (Thane district) land measuring 38,490 square metres situated within the limits of Ulhasnagar municipal council was put to commercial use from December 1983 by the Maharashtra Water Supply and Sewerage Board. The non-agricultural assessment was erroneously levied at the rate applicable for residential use instead of the correct rate applicable for commercial use. This resulted in non-realisation of revenue amounting to Rs.8.54 lakhs for the years 1983-84 to 1992-93 (including increase of land revenue for Rs.5.70 lakhs).

On this being pointed out (March 1992) in audit, the department submitted a proposal for fixation of non-agricultural assessment to the Collector. Further report on recovery has not been received (October 1993).

(ii) In Nashik (Nashik district), Ulhasnagar (Thane district) and Haveli tahsils (Pune district) land measuring 2,20,591 square metres (5 cases) situated within the municipal corporation/municipal council limits was put to commercial, residential, industrial use by the Maharashtra State Electricity Board and private companies. Although the non-agricultural assessment was levied from time to time, the increase of land revenue at the rate of 100 per cent was

not levied and recovered thereon, eventhough the total holdings of the assessee exceeded 12 hectares in the State. This resulted in non-realisation of revenue amounting to Rs.6.39 lakhs in 5 cases as shown below:

Name of Village and Tahsil	Area of land in sq.mtrs.	Purpose	Period of non-levy	Total non-levy (In lakhs of rupees)
Deolali (Nashik)	10030	Commercial (MSEB)	1975-76 to 1992-93	1.02
Ulhasnagar Camp. III (Ulhasnagar)	17112	Residential (MSEB)	1980-81 to 1992-93	1.65
Hadapsar (Haveli)	52449	Industrial (Pvt. Co.)	1975-76 to 1992-93	2.04
Wasgaon BK (Haveli)	65800	Industrial (Pvt.Co.)	1986-87 to 1992-93	0.64
Lohgaon (Haveli)	75200	Industrial (Pvt.Co.)	1983-84 to 1992-93	1.04
Total				6.39

On this being pointed out (November 1992, March 1992 and February 1993) in audit, the department raised the demand amounting to Rs.6.39 lakhs (December 1992 and May 1993). Report on recovery has not been received (October 1993).

(iii) In Haveli tahsil (Pune district) land measuring 38,500 square metres situated within the limits of Pune municipal corporation, used for commercial purpose was erroneously assessed to land revenue at the rate applicable to land used for residential purpose. This resulted in short levy of revenue amounting to Rs.1.07 lakhs for the period June 1988 to March 1993 (including conversion tax).

On this being pointed out (February 1993) in audit, the department initiated (May 1993) action to recover the deficit amount. Further report on recovery has not been received (October 1993).

(iv) In Haveli tahsil (Pune district) land measuring 1,44,000 square metres situated outside the limits of Pune municipal corporation was put to industrial use (January 1990). The non-agricultural assessment alongwith the local cess for one year was levied and recovered but thereafter, no demand was raised for recovery of non-agricultural assessment and local cess. Although the total holding of the assessee exceeded 12 hectares, increase of land revenue was not levied. This resulted in non-realisation of revenue amounting to Rs.6.48 lakhs (including increase of land revenue and local cess) for the period from 1989-90 to 1992-93.

On this being pointed out (February 1993) in audit, the department initiated (May 1993) action for recovery. Further report on recovery has not been received (October 1993).

The cases were reported to Government in November 1988, May 1992, December 1992 and May 1993; their reply has not been received (October 1993).

4.3 Failure to re-assess the land revenue on change in mode of use of land

Under the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the purpose for which the land is used such as agricultural, residential, industrial, commercial or any other purpose. On change in mode of use of land, the land revenue is required to be reassessed.

In Pune tahsil (City) (Pune district) land measuring 5564 square metres situated within the limits of Pune municipal corporation and used earlier for residential purpose was unauthorisedly put to commercial use from 1975-76. The said land was not re-assessed to land revenue on change in mode of use of land. This resulted in non-levy of revenue amounting to Rs.1.26 lakhs for the period from 1975-76 to 1992-93. Besides, penalty upto Rs.1.25 lakhs was also leviable.

On this being pointed out (January 1991) in audit, the department stated (April 1993) that the proposal to revise the assessment at the commercial rate was being sent to the Collector and action to levy penalty would be considered separately. Further reply has not been received (October 1993).

The case was reported to Government in December 1991; their reply has not been received (October 1993).

4.4 Short recovery of land revenue from a co-operative housing society

Under the Maharashtra Land Revenue Code, 1966, land revenue is assessed with reference to the purpose for which the land is used such as agricultural, residential, industrial or commercial. The non-agricultural assessment, however, shall not be levied on lands held by co-operative societies for 3 years subsequent to the date of taking over possession or till the date on which non-agricultural use begins, whichever is later. Under the Maharashtra Land Revenue Code (Amendment) Act, 1979 effective from 31st March 1979, a conversion tax at thrice the amount of non-agricultural assessment is leviable on all lands situated in the areas of municipal corporation and municipal councils (A and B classes only) including the peripheral limits thereof, when permission for non-agricultural use or change of use of land is granted or unauthorised non-agricultural use is regularised (on or after 31st March 1979).

In Hinganghat tahsil (Wardha district) land measuring 24271.91 square metres situated within the limits of municipal council, Hinganghat, was in possession of Co-operative Housing Society from 26th April 1977. Out of the total land, land measuring 14575.27 square metres was put to residential use by the society. The land was, however, not assessed to land revenue though assessment was required to be done from 26th April 1980 i.e. after three years from the date of possession. Thus land revenue amounting to Rs.72,296 (including conversion tax) for the period from 1980-81 to 1992-93 was not collected.

On this being pointed out (May 1988) in audit, the department issued assessment order in July 1991 and recovered an amount of Rs.40,750. Report on recovery of the balance amount of Rs.31,546 has not been received (October 1993).

The cases were reported to Government in November 1988; their reply has not been received (October 1993).

4.5 Failure to revise non-agricultural assessment

Under the Maharashtra Land Revenue Code, 1966, the assessment or reassessment of non-agricultural land remains in force for the guaranteed period, if any, mentioned in the assessment order or sanad. Thereafter, the land revenue is liable to be revised in accordance with the standard rates of non-agricultural assessment notified in the gazette from time to time. Further, when a non-agricultural assessment is revised, the revised assessment should not exceed twice the amount of land revenue payable immediately before such

revision, if the land is used for residential purpose and must not exceed six times the amount if the land is used for any other purpose. Under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 (as amended with effect from 1st August 1975) a tax called "increase of land revenue" is payable at 50 per cent of land revenue by persons holding land of 8 hectares and above and at 100 per cent by those holding land of 12 hectares and above in the State. "Holding" includes agricultural as well as non-agricultural lands as clarified by the Government in August 1982.

(i) In Pune tahsil (City) (Pune district) land measuring 40,500 square metres situated within the limits of Pune municipal corporation was put to industrial use by a private company from August 1970. The standard rates of non-agricultural assessment were revised in October 1976 effective from January 1977 and in June 1980 effective from 1st August 1979. Since no guarantee period was mentioned in earlier assessment, the non-agricultural assessment was liable to be revised with effect from January 1977 and August 1979. The department, however, did not revise the non-agricultural assessment, which resulted in short realisation of revenue amounting to Rs.1.16 lakhs for the period from 1976-77 to 1992-93 (including increase of land revenue of Rs.0.43 lakh for the period 1975-76 to 1992-93).

On this being pointed out (December 1992) in audit, the department stated (April 1993) that proposal to revise the assessment at industrial rate was being sent to the Collector. Further report has not been received (October 1993).

(ii) In Pune (City) (Pune district) land measuring 10900.6 square metres situated within the limits of Pune municipal corporation was put to commercial use from 1952-53 by the Pune municipal corporation. The non-agricultural assessment thereon was made with guarantee period upto 31st July 1960. The assessment on expiry of guarantee period, however, was not revised though the revised standard rates for non-agricultural assessment were notified in gazette effective from 29th July 1971 and 1st August 1979 respectively. This resulted in short levy of non-agricultural assessment amounting to Rs.3.10 lakhs for the period from 1988-89 to 1992-93 (including increase of land revenue of Rs.1.58 lakhs from 1988-89 to 1992-93).

On this being pointed out (December 1992 and April 1993) in audit, the department stated (April 1993) that the demand would be raised on receipt of orders or revision from the assessing authority.

The cases were reported to Government in February 1993; their reply has not been received (October 1993).

4.6 Short recovery of occupancy price and interest thereon and non-realisation of non-agricultural assessment and cess

The Maharashtra Land Revenue Code, 1966 and the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 framed thereunder, govern the grant and disposal of Government land for commercial, industrial and other non-agricultural purpose. The grantee shall pay occupancy price of the land as fixed by the Government alongwith interest chargeable from the date of taking over possession of the land till the date of final payment of occupancy price. Further, the land revenue is leviable at the rates prevailing on the date of commencement of use of the land. Under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and the Bombay Village Panchayat Act, 1958, a cess at the prescribed rates is also leviable in the areas covered by the Act.

In Haveli tahsil (Pune district) a piece of land measuring 32425 square metres situated outside the limits of Pune municipal corporation was granted by the Government to a private firm from October 1986 for commercial purpose on the condition that the assessee should pay occupancy price of Rs.1.95 lakhs in three equal instalments together with interest at 8 per cent per annum from the date of taking over possession of the land till the payment of occupancy price. The possession of the land was handed over in March 1987 and the department recovered 1st instalment of occupancy price of Rs.64,850 alongwith non-agricultural assessment and cess of Rs.22,100 for one year. The department, however, did not recover the balance of 2 instalments of occupancy price, alongwith interest and non-agricultural assessment and cess. This resulted in non-realisation of revenue amounting to Rs.3.19 lakhs for the period from 1986-87 to 1992-93.

On this being pointed out (February 1993) in audit, the department raised (May 1993) the demand. Further report on recovery has not been received (October 1993).

The case was reported to Government in May 1993; their reply has not been received (October 1993).

4.7 Non-realisation of land revenue

Under the Maharashtra Land Revenue Code, 1966 land revenue is assessed with reference to the purpose for which the land is used such as agricultural, residential,

industrial, commercial or any other purpose and accordingly entries are made in the register of village and taluka for watching the recovery. Under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974 (as amended on 1st August 1975) a tax called "increase of land revenue" is payable at 50 per cent of land revenue by persons holding land in excess of 8 hectares and above but less than 12 hectares in the State and at 100 per cent by persons holding land 12 hectares and above in the State whether agricultural or non-agricultural holding. Further, a conversion tax equal to three times the amount of non-agricultural assessment is leviable on all lands situated in the areas of municipal corporation and municipal councils (A and B classes) including the peripheral limits thereof as stated in the Code. A cess at prescribed rate is leviable on land revenue under the Maharashtra Zilla Parishads and Panchayat Samities Act, 1961 and the Bombay Village Panchayat Act, 1958. As per Rule 9 of the Maharashtra Land Revenue (conversion of use of land and non-agricultural assessment) Rules, 1969 the holder shall pay such fine not exceeding 40 times the non-agricultural assessment on the land with reference to the altered use, as the Collector may fix.

(a) In Satara tahsil (Satara district) land measuring 50025.50 square metres in Survey No. 408 and 409 in Village Karanje situated in urban areas but outside the limit of Satara municipal council but within peripheral area of municipal council, Satara was unauthorisedly used for industrial purpose by Satara municipal council from 1982-83 onwards. The unauthorised non-agricultural use was regularised by the Collector in August 1989 who fixed the non-agricultural assessment of Rs.4.70 lakhs for the years from 1982-83 to 1987-88 including conversion tax and fine. The municipal council paid Rs.1.18 lakhs (July 1989) and the remaining amount was recoverable in three instalments before March 1990. Neither the municipal council paid the balance amount, nor did the department raise any demand for the balance amount of increase of land revenue and allied taxes (cess and conversion tax) payable from 1989-90 onwards. This resulted in non-realisation of revenue amounting to Rs.8.14 lakhs.

On this being pointed out (December 1992 and April 1993) in audit, the department raised the demand (January 1993) and recovered Rs.5 lakhs in March 1993. Report on recovery of the balance amount has not been received (October 1993).

(b) In Haveli tahsil (Pune district) land measuring 13640 square metres situated within limits of Pune municipal corporation used for industrial purpose by private company, was guaranteed upto August 1986. The Sub-Divisional Officer

(Revenue) revised the assessment and the Tahsildar also directed (July 1991) the concerned talathi to make necessary entries in the relevant records and effect recovery of the non-agricultural assessment accordingly. These instructions were not followed by the talathi with the result that the demand thereafter was not raised at the revised rate. Further, the increase of land revenue was also not levied and recovered. This resulted in non-realisation of revenue amounting to Rs.2.22 lakhs for the period from 1986-87 to 1992-93 (including increase of land revenue Rs.1.44 lakhs for the years 1975-76 to 1992-93).

On this being pointed out (March 1993) in audit, the department raised the demand for Rs.2.22 lakhs (May 1993).

The cases were reported to Government in February and May 1993; their reply has not been received (October 1993).

4.8 Short recovery of land revenue

Register of Non-Agricultural Lands in Taluka Form II, Register of Non-Agricultural Revenue in Village Form II and Register of Demand in Village Form VIII are basic records and the entries made therein facilitate the assessment and collection of land revenue. An error in recording the entries in the relevant forms could result in recurring loss of land revenue or non-recovery of land revenue.

In Pune tahsil (City) (Pune district) land measuring 6115.36 square metres situated within the limits of Pune municipal corporation was put to commercial use from December 1971 by the private company. On expiry of guaranteed period the assessment was revised at Rs.16,970.10 per annum from 1st August 1986. Though the entry of revised assessment was made in the Village Form II, the necessary entries in demand register were not made and the recovery of land revenue was continued at the pre-revised rate. This resulted in short realisation of revenue amounting to Rs.88,825 for the period from 1986-87 to 1992-93.

On this being pointed out (January 1991) in audit, the department raised (May 1993) the demand. Report on recovery has not been received (October 1993).

The case was reported to Government in December 1991; their reply has not been received (October 1993).

4.9 Non-revision of land revenue

Under the Maharashtra Land Revenue Code, 1966, an assessment or reassessment of non-agricultural land, remains in force for the guarantee period, if any, mentioned in the

assessment order or the sanad. Thereafter, the land revenue is liable to be revised in accordance with the standard rates of non-agricultural assessment notified in the gazette from time to time. The Maharashtra Land Revenue Code Amendment Act, 1979, provides that, with effect from 1st March 1979, assessment or reassessment done prior to 31st March 1979, shall be revised with effect from 1st August 1979, except in the cases where the periods during which assessments are to remain in force have been specified in the order or sanad. Under the Maharashtra Zilla Parishad and Panchayat Samities Act, 1961 and the Bombay Village Panchayat Act, 1958, a cess at prescribed rate is leviable on lands in the areas covered by the Act.

In Amalner tahsil (Jalgaon district) land measuring 18,200 square metres situated outside the limits of Amalner municipal council was put to industrial use by a "Co-operative ginning and Pressing Factory" with effect from August 1967. The land was assessed to land revenue without specifying guarantee period. The standard rates of non-agricultural assessment were revised in November 1972 (effective from 23rd February 1973) and in January 1981 (retrospective effect from 1st August 1979). However, the non-agricultural assessment was not revised on the basis of the revised rates on both the occasions. This resulted in short realisation of revenue amounting to Rs.1.64 lakhs (including cess) for the years 1973-74 to 1992-93.

On this being pointed out (March 1991) in audit, the department raised (August 1991) demand amounting to Rs.0.61 lakh. Particulars of demand on account of local cess amounting to Rs.1.03 lakhs are awaited. An amount of Rs.15,000 was recovered in August 1992, December 1992 and January 1993. Report on recovery of the balance amount has not been received (October 1993).

The case was reported to Government in June 1991; their reply has not been received (October 1993).

CHAPTER 5

TAXES ON MOTOR VEHICLES

5.1 Results of audit

Test check of records relating to assessment and collection of Motor Vehicles Tax, Further Tax and Passengers Tax, conducted in audit during the year 1992-93 revealed short levy of taxes amounting to Rs.63.87 lakhs in 1399 cases, which broadly fall under the following categories :

Sr. No.	Category	Number of cases	Amount (In lakhs of rupees)
1.	Non-levy or short levy of motor vehicles tax, further tax and passengers tax	1360	43.55
2.	Other irregularities	39	20.32
	Total	1399	63.87

During the course of the year 1992-93, the Department accepted under-assessment etc. in 330 cases involving Rs.11.36 lakhs of which 138 cases involving Rs.5.31 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years and recovered Rs.11.36 lakhs. A few illustrative cases involving Rs.4.88 lakhs are given in the following paragraphs.

5.2 Short recovery of motor vehicles tax

Under the Bombay Motor Vehicles Tax Act, 1958 and the Rules made thereunder, motor vehicles tax at prescribed rates is leviable on all vehicles used or kept for use in the State. The rates of tax so leviable were revised from September 1991.

In Ratnagiri district, motor vehicles tax was levied and recovered at pre-revised rates in respect of 14 vehicles and at incorrect rates in respect of 6 vehicles resulting in short recovery of motor vehicles tax amounting to Rs.83,599 for different spells between September 1991 and July 1993.

On this being pointed out (November 1992) in audit, the department stated (April 1993) that an amount of Rs.49,625 had been recovered in respect of 11 vehicles. The details of recovery of the balance amount have not been received (October 1993).

The matter was reported to Government in May 1993; their reply has not been received. (October 1993).

5.3 Non-realisation of motor vehicles tax

Under the Bombay Motor Vehicles Tax Act, 1958 and the Rules made thereunder, a registered owner of a motor vehicle not intending to use or keep for use such vehicle in the State for any period and desirous of being exempted from levy of tax is required to make before the commencement of such period, a declaration in the prescribed form specifying the period of non-use and the place where the vehicle would be kept during the period. The exemption from payment of tax is granted by the department after satisfying itself that the vehicle was not used during the specified period. Interest at the rate of 2 per cent of the amount of tax for each month or part thereof is payable in case the tax due is not paid within the prescribed time limit.

In Nashik district, in the case of one vehicle, declaration of non-use for the period between January 1988 and December 1990 was received only on 22nd May 1990. Neither the tax amounting to Rs.8,418 (including interest of Rs.3,628 upto March 1992) was paid by the owner nor the demand thereof was raised by the department. In respect of two other vehicles, declarations for non-use for the periods between 1st June 1990 and 31st May 1992 were received in advance. During verification, the vehicles were not found at the declared places but no action was taken by the department to recover the tax amounting to Rs.26,050 (including interest of Rs.4,272 upto March 1992) for the period of non-use.

On this being pointed out (March 1992) in audit, the department stated (April 1993) that the demand for Rs.34,468 had been raised (March and July 1992). Report on recovery has not been received (October 1993).

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

5.4 Non-recovery of tax

Under the Bombay Motor Vehicles Tax Act, 1958 and the Rules made thereunder, road tax at prescribed rates is leviable on account of vehicles used or kept for use in the State. In the case of goods vehicles "further tax" (goods tax) is also leviable in addition to road tax. The departmental manual provides that demand notices should be issued in each case of default in payment of tax. Interest at the rate of 2 per cent of the amount of tax for each

month or part thereof is payable in case the tax due is not paid before the prescribed date.

It was noticed (between April 1991 and April 1992) in audit that in respect of 97 vehicles registered in different districts, neither tax amounting to Rs.3.70 lakhs was paid by the owners nor any demands were raised by the department for the various periods between March 1982 and May 1992 as detailed below :

Sr. Name of No. district	No. of Vehicles	Amount of tax not recovered (In lakhs of rupees)	Reply of the Government/ Department
1. Aurangabad	72	1.42	The department stated (March 1993) that an amount of Rs.1.03 lakhs had been recovered (between August 1991 and May 1992) in 52 cases.
2. Bombay (Central)	13	0.34	The department stated (May 1993) that an amount of Rs.0.21 lakh had been recovered (April 1992 and September 1992) in respect of 8 vehicles and revenue recovery certificates issued in respect of remaining 5 vehicles.
3. Bombay (West)	10	1.50	The department raised (April 1991) demands in all cases and recovered (April 1991 and May 1991) an amount of Rs.2948 in 2 cases.
4. Nashik	2	0.44	The department stated (April 1993) that demands have been raised.
Total	97	3.70	

All the above cases were reported to Government between April 1993 and June 1993; their reply has not been received (October 1993).

CHAPTER 6

STAMP DUTY AND REGISTRATION FEE

6.1 Results of audit

Test check of the records of Stamp Duty and Registration Fee conducted during the year 1992-93 revealed under-assessments/short levy/loss of revenue/non-levy of tax etc. amounting to Rs.276.93 lakhs in 1912 cases which broadly fall under the following categories.

Sr. No.	Category	No. of cases	Amount (In lakhs of rupees)
1.	Non-levy of stamp duty and registration fee on instruments executed by Co-operative Society	28	1.08
2.	Incorrect grant of exemption from duty and fee	774	104.13
3.	Short levy due to misclassification of documents	498	94.14
4.	Short levy due to under valuation of property	152	47.00
5.	Other irregularities	460	30.58
	TOTAL	1912	276.93

During the course of the year 1992-93 the concerned departments accepted under-assessment etc. in 324 cases involving Rs.12.22 lakhs of which 3 cases involving Rs.0.39 lakh had been pointed out in audit during 1992-93 and the rest in earlier years and recovered Rs.0.18 lakh.

A few illustrative cases noticed during 1992-93 and earlier years involving Rs.61.42 lakhs highlighting important irregularities are mentioned in the following paragraphs.

6.2 Incorrect levy of stamp duty

As per Explanation I below Article 25 of Schedule I to the Bombay Stamp Act, 1958 effective from 10th December

1985, an agreement to sell immovable property, the possession of which is transferred to the purchaser before the execution or at the time of the execution of such agreement or after the execution of such agreement without executing the conveyance in respect thereof shall be deemed to be a conveyance deed and stamp duty thereon shall be levied accordingly.

In Sub-Registries, Aurangabad, Bombay, Haveli II Pune, Kalyan and Nashik, in respect of 76 documents registered between January 1986 and August 1990 wherein the possession of immovable property was agreed to be handed over without executing conveyance deed, stamp duty was erroneously levied at the rates applicable to an "agreement to sell" instead of at the rate applicable to conveyance deeds. This resulted in short levy of stamp duty amounting to Rs.7.86 lakhs as detailed below:

Name of Sub-Registry Office	No. of documents	Year of registration	Consideration (In lakhs of rupees)	Stamp duty leviable (In rupees)	Stamp duty levied (In rupees)	Short levy
Aurangabad	5	1988	6.27	50040	50	49990
Bombay	1	1986	3.75	37500	10	37490
Pune II	23	1986	36.88	369050	230	368820
Kalyan	30	1985 and 1986	26.01	208640	260	208380
Nashik	17	1987 and 1990	16.53	121940	165	121775
Total	76		89.42	787170	715	786455

On this being pointed out (August 1990, September 1990, April 1991, September 1991 and April 1992) in audit, the Inspector General of Registration and Controller of Stamps, Maharashtra State, Pune accepted the audit observations (June 1992, April 1991, August 1992 and January 1993) and instructed the Sub-Registrar, Aurangabad, Bombay, Haveli II Pune, Kalyan and Nashik (January 1993 and March 1993) to initiate action for the recovery of the duty short levied.

The cases were reported to Government in October 1990, December 1990, June 1991, October 1991 and March 1992; their reply has not been received (October 1993).

6.3 Irregular remission of stamp duty

As per notification issued in March 1939 and August 1961, the members of the co-operative housing societies formed of persons other than agriculturists or backward communities are not exempted from payment of stamp duty and registration fee in respect of instruments executed by them if the value of consideration exceeds Rs.5000.

In Sub-Registry, Buldhana the stamp duty, leviable on 122 instruments of mortgage deeds executed between March 1986 and December 1991 by the members of co-operative housing societies, other than agriculturists or backward communities was wrongly exempted though the amount of consideration in each case exceeded Rs.5000. This resulted in non-realisation of stamp duty of Rs.1.54 lakhs and registration fee of Rs.0.77 lakh.

On this being pointed out (May 1992) in audit, the Inspector General of Registration and Controller of Stamps, Pune recovered stamp duty of Rs.10,640 and registration fee of Rs.7,440 in February 1993 and directed the Sub-Registrar to initiate action for recovery of the balance amount. Report on recovery has not been received (October 1993).

The cases were reported to Government in August 1992; their reply has not been received (October 1993).

6.4 Short levy of stamp duty and registration fee due to misclassification of documents

As per Article 15 of Schedule I to the Bombay Stamp Act, 1958, where immovable property is sold to another by a registered deed of conveyance, the title cannot be re-transferred to the original vendor except by a registered instrument and this instrument would be a "Conveyance" and not a mere "cancellation" and stamp duty shall be leviable accordingly.

In Sub-Registry, Nagpur (City) a document was registered on 14th February 1990 in cancellation of an original document which was earlier registered on 11th May 1983, wherein all rights, title, interest and possession of immovable property had already been transferred by a vendor. The document was classified as cancellation deed instead of classifying it as 'conveyance deed'. This resulted in short realisation of stamp duty of Rs.80,330 and registration fee of Rs.4,980.

On this being pointed out (September 1992) in audit, the Inspector General of Registration, Pune directed (February 1993) the Sub-Registrar to initiate action for recovery of the deficit amount of stamp duty and registration fee.

The case was reported to Government in December 1992; their reply has not been received (October 1993).

6.5 Short levy of stamp duty on lease deed

Under the provisions of the Bombay Stamp Act, 1958 and Schedule I appended thereto, the stamp duty on "lease deed" where it purports to be in excess of 30 years is leviable at the same rate as is leviable on "conveyance deed" based on ten times the average annual rent plus the premium.

In Sub-Registry, Nagpur (Head Quarter) 46 documents of "lease" were registered between 1989 and 1991 for a period exceeding 30 years for Rs.132.81 lakhs as premium and an average annual rent of Rs.53.31 lakhs. As the lease period exceeded 30 years the stamp duty leviable on premium and ten times of the average annual rent, worked out to Rs.14.83 lakhs against which the duty of Rs.11.41 lakhs was levied on premium and thrice the average annual rent. This resulted in short levy of stamp duty amounting to Rs.3.44 lakhs as shown below.

No. of documents	Month of registration	Premium (In lakhs)	Annual rent (lakhs)	Stamp duty leviable of	Stamp duty levied	Short levy (rupees)
15	January and August 1991	33.76	14.00	3.82	2.57	1.25
06	September and December 1991	22.23	8.65	2.47	1.99	0.48
04	May 1989 and November 1990	24.27	8.00	2.54	2.10	0.44
06	February and September 1991	21.71	8.95	2.45	1.95	0.50

No. of docu- ments	Month of registra- tion	Premium (In	Annual rent lakhs	Stamp duty leviable of	Stamp duty levied rupees)	Short levy
15	January 1989 and September 1990	30.84	13.71	3.57	2.80	0.77
TOTAL	46	132.81	53.31	14.85	11.41	3.44

On this being pointed out (August 1992) in audit, the Inspector General of Registration, Pune directed (January 1993) the sub-Registrar to initiate action for recovery of the deficit amount of stamp duty.

The cases were reported to Government in September 1992; their reply has not been received (October 1993).

6.6 Loss of revenue due to non-levy of stamp duty

Under the Bombay Stamp Act, 1958, the term "conveyance" includes instruments by which property whether movable or immovable is transferred inter-vivos. On conveyance deeds stamp duty is leviable for the consideration set forth in the deed for the transfer of property at the rates prescribed in Schedule I appended to the Act. The Act further provides that when any instrument, which was adjudicated prior to 10th December 1985 by competent authority and determined the duty paid or payable shall be final and conclusive and there lies no appeal to any higher authority.

In Sub-Registry, Bombay 30 consent decrees operating as "Conveyance" involving transfer of properties for a total consideration of Rs.310.17 lakhs were registered but not charged to duty. This resulted in non-levy of the stamp duty of Rs.44.60 lakhs (including registration fee) as shown below :

No. of docu- ments	Year of adjudication	Consideration (In lakhs	Non-levy of stamp duty and regist- ration fee of rupees)
06	Adjudicated in February 1981	171.54	24.79

No. of docu- ments	Year of adjudication	Consideration (In lakhs	Non-levy of stamp duty and regist- ration fee of rupees)
18	1981	126.49	18.26
05	1984	8.18	1.14
01	1984	3.96	0.41
Total	30	310.17	44.60

On this being pointed out (October 1984, September 1985, September 1988 and March 1989) in audit, the department stated (July 1992) that the recovery of deficit stamp duty in respect of 6 documents at serial No.1 above was not possible as the documents were adjudicated prior to 10th December 1985 and in absence of provision in the Act, no recovery is possible and in respect of remaining documents, directed the concerned Sub-Registrar to initiate necessary action for recovery of the deficit stamp duty and registration fee. Report on recovery has not been received (October 1993).

The matter was reported to Government in December 1984, October 1985, January 1989 and April 1989; their reply has not been received (October 1993).

6.7 Irregular remission of stamp duty and registration fees

By a notification issued in November 1972, Government remitted stamp duty and registration fee payable on "mortgage deeds" securing repayment of loans advanced by specified financial agencies for the purpose of acquisition of fixed assets such as lands, building and machinery for starting or expanding any industrial undertaking or small scale industries certified as such by the designated authorities in certain areas specified in the notification.

(a) In Sub-Registry offices Mehkar (Buldana district) and Murbad (Thane district) in respect of two printed documents of "mortgage deed" registered in August 1988 and August 1989, levy of stamp duty was remitted even though a loan of Rs.13.00 lakhs and Rs.59.00 lakhs respectively was advanced in 1988 and 1989 by the financial agencies to industrial organisations at Hiwara (BK) in Mehkar tahsil and Murbad to meet the "working capital" (i.e. hypothecation of stock, clean cash credit and raw material) requirements and

not for acquisition of fixed assets. The irregular grant of exemption resulted in non-realisation of revenue amounting to Rs.1.49 lakhs.

On these being pointed out (April 1992 and December 1991) in audit, the Inspector General of Registration, Pune directed (November 1992 and March 1993) the Sub-Registrars, Mehkar and Murbad to initiate action for recovery of the deficit amount of stamp duty and registration fee. The report on recovery has not been received (October 1993).

The cases were reported to Government in January 1993 and February 1992; their reply has not been received (October 1993).

(b) In Sub-Registry, Aurangabad (Aurangabad district) in respect of 6 documents of mortgage deeds registered between February 1989 and April 1989 by a limited company for securing the repayment of loan of Rs.32.70 lakhs by a specified financial agency for development of site, land and building, the levy of stamp duty and registration fees was remitted even though the industrial unit was not certified as small scale industry by the designated authority. The irregular grant of remission resulted in non-realisation of stamp duty and registration fee amounting to Rs.87,050.

On this being pointed out (February 1992) in audit, the Inspector General of Registration, Pune directed (November 1992) the Sub-Registrar, Aurangabad to initiate action for recovery of the deficit amount of stamp duty and registration fee. The report on recovery has not been received (October 1993).

The case was reported to Government in January 1993; their reply has not been received (October 1993).

CHAPTER 7

OTHER TAX RECEIPTS

7.1 Results of audit

Test check of records of departmental offices, conducted in audit during 1992-93, revealed short realisation or losses of revenue amounting to Rs.470.32 lakhs in 4597 cases as listed below :

Sr. No.	Category	No. of cases	Amount (In lakhs of rupees)
1.	Profession Tax	3184	21.23
2.	Maharashtra Education and Employment Guarantee Cess	715	307.89
3.	Entertainments Duty	313	19.32
4.	Tax on buildings (with larger residential premises)	233	2.84
5.	Electricity Duty/Tax on Sale of Electricity	30	73.53
6.	Repair Cess	122	45.51
	Total	4597	470.32

During the course of the year 1992-93, the concerned Departments accepted under-assessments etc. in 543 cases involving Rs.63.60 lakhs of which 201 cases involving Rs.54.01 lakhs had been pointed out in audit during 1992-93 and the rest in earlier years and recovered Rs.4.56 lakhs. Results of a Review on the Working of the Bombay Entertainments Duty Act, 1923 and some of the important irregularities involving financial effect of Rs.519.96 lakhs are given in the following paragraphs.

SECTION A

ENTERTAINMENTS DUTY

7.2 Working of the Bombay Entertainments Duty Act, 1923

7.2.1 Introduction

The levy and collection of entertainments duty is governed by the Bombay Entertainments Duty Act, 1923. As per the provisions of the Act and Rules made thereunder, a duty at prescribed rates is levied and paid to the State Government on all payments for admission to any entertainment. The entertainment includes any exhibition, performance, amusement, games or sports to which people are admitted on payment.

Failure to pay the entertainments duty within a prescribed period attracts penal interest at the rate of 18 per cent per annum for delay upto 30 days and 24 per cent per annum thereafter. Facility to pay the entertainments duty on compounding basis is also available to the proprietors of the place of entertainment other than those in Corporation areas.

The Act empowers the Government to exempt any entertainment from entertainments duty by general or special order, and the Commissioner of Police or the Collectors as the case may be to grant exemption to those entertainments which are organised for philanthropic or charitable purposes.

No manual has been prepared by the department for guidance of the staff so far (October 1993).

7.2.2 Organisational set-up

The implementation of the Act involves two aspects, namely, licensing and collection of duty. In Bombay, Pune, Nashik, Nagpur, and Aurangabad the Commissioner of Police is the licensing authority and District Collector is responsible for collection of duty. In other Districts both the functions of licensing and collection are carried out by District Collectors.

At Taluka level, Taluka Magistrates are declared as prescribed officers in the jurisdiction of their Talukas and are responsible for issuing licences to the touring talkies. The District Collectors are assisted by the Entertainments Duty Inspectors (EDIs) for actual recovery of the duty.

7.2.3 Scope of Audit

With a view to examining that entertainments duty has been correctly levied and collected, the records of 9* out of 30 districts pertaining to the licences and exemptions maintained in the offices of the Commissioner of Police, Bombay, Pune, Nagpur and Aurangabad were test checked during January 1993 to May 1993 for the period 1987-88 to 1991-92. Exemptions given for tax free films were reviewed in the Social Welfare, Cultural Affairs, Sports and Tourism Department. The records in the Revenue and the Forests Department were also examined.

7.2.4 Highlights

(i) The recommendations made by the Public Accounts Committee in 1977 for a unified administrative machinery for implementation of the Act have not yet been implemented.

(ii) Non-deduction of cost of collection resulted in excess grant of Rs.1.82* lakhs in 1991-92 to four municipalities

(iii) Lacuna in the act permitting compounding system of payment of Entertainments Duty based on fixed number of shows instead of actual number of shows resulted in an estimated revenue loss of Rs.4.94 crores in 7 districts during the period 1987-1991. The Act was amended in December 1992 after this was pointed out in audit.

(iv) Compounding payments admissible only during the currency of cinema licence were allowed without renewal of licences resulting in loss of entertainments duty of Rs.9.18 lakhs in 28 cases.

(v) Personal ledger account maintained by the Collector, Bombay, for the deposits received from organisers of charity shows, has large differences between Cash Book and Pass Book figures due to non-reconciliation.

7.2.5 Trend of Growth

The number of theatres/video parlours and revenue realised under Entertainments Duty for five years from 1987-88 onwards are given below:-

*Bombay City, Bombay Suburban, Thane, Pune, Kolhapur, Solapur, Nagpur, Amravati and Aurangabad

Year	Number of theatres/ video parlours	Actual Revenue realised (Rs. in crores)
1987-88	1927	59.22
1988-89	2110	63.60
1989-90	2714	66.78
1990-91	3167	71.36
1991-92	3120	78.01

It was seen that while theatres/video parlours increased by 61.90 per cent the corresponding increase in revenue was only 31.73 per cent during the period 1987-88 to 1991-92.

7.2.6 Absence of unified administrative machinery

Ref. Exempting
There is no separate organisation or department which is solely responsible for the administration of the Act despite the fact that revenue collection has grown from 59 crores in 1987-88 to Rs.78 crores in 1991-92. The staff employed for administering the Act under the control of the District Collector are also used for other duties. In cities like Bombay, Pune, Nagpur etc. where there is a Commissioner of Police, the powers to grant exemption under section 6(1) and 6(2) of the Act are exercised by them. Further, while the Revenue and Forests Departments are mainly responsible for administering the Act, the powers for granting exemption under section 6(3) of the Act are exercised by the Social Welfare, Cultural Affairs, Sports and Tourism Departments of the Government.

In their recommendations on para 62 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) Government of Maharashtra for the year 1973-74, the Public Accounts Committee in their 18th Report had said (1977) that there should be a unified administrative machinery so that the decisions could be taken and implemented with utmost efficiency.

Government in their Action Taken Note in 1978 stated that :

(i) the question of having an independent machinery for collection and enforcement of Bombay Entertainments Duty Act, 1923, Bombay Betting Tax Act, 1925 and Maharashtra Advertisement Tax Act, 1967 on the lines of machinery prevailing in Uttar Pradesh was under consideration and necessary detailed proposals were being worked out for creation of such a machinery; and

(ii) they proposed to make a provision for conferring powers of granting exemptions from payment of entertainments duty on Collectors at places where such powers are exercised by the Commissioners of Police.

It was observed in audit that no action has been taken and the old system continues for administering the Act (October 1993).

7.2.7 Cost of collection

The cost of collection for administering the Act as furnished by Government is as under:

Year	Revenue (In lakhs	Expenditure of rupees)	Percentage of Expenditure to Revenue
1990-91	8211.58	162.92	1.98
1991-92	8630.60	148.28	1.71
1992-93	9066.80	162.05	1.89

(The figures include Advertisement and Betting Tax)

As per report of Committee of Secretaries on Demands of Film Industry, grants to municipalities are given at prescribed percentage after deducting cost of collection.

It was noticed in audit (April 1993) that the grants to the municipal bodies have been given on gross collections of entertainments duty without deducting cost of collection which resulted in excess grants. The excess grants disbursed in respect of four districts for which the information was available, for 1991-92 amounted to Rs.1.82 lakhs as detailed below :

Name of the District	Entertainments duty collected during 1990-91	Net Enter-tainments duty collection after deduction of cost of collection at 1.98 per cent	Share of Enter-tainments duty due at 10 per cent of net collec-tion	Share of Enter-tainments duty sanctioned at 10 per cent of gross collection	Excess grant disbursed
	(In	lakhs	of	rupees)	
Solapur	185.61	181.94	18.19	18.56	0.37
Nagpur	431.89	423.34	42.33	43.19	0.86
Aurangabad	113.53	111.28	11.13	11.35	0.22
Kolhapur	189.91	186.15	18.62	18.99	0.37
Total	920.94	902.71	90.27	92.09	1.82

Since information regarding all the Municipal bodies is not available, the overall excess payments could not be ascertained.

7.2.8 Survey

There is neither any provision in the Act/Rule, nor are there any administrative instructions for conducting survey. Survey is an essential instrument to detect unauthorised or illegal performance of any entertainment, especially, the running of video parlours. It was observed that no survey was conducted in any district to detect unauthorised video parlours. In absence of such a survey, the department could not ensure that entertainments duty was being recovered in respect of all the video parlours.

It was noticed that the information in respect of entertainments other than cinema shows was shown as "nil" by all the Districts except Bombay and Nagpur. It was observed that Commissioner of Police, Pune gave permission for 137 entertainments other than cinema shows during 1987-1992. Out of these, 46 entertainments were such where entertainments duty was leviable as the entry to these shows was on payment.

In response to audit query, the Collector, Pune stated (September 1993) that the department had no intimation of the aforesaid entertainment and hence could not furnish the

details whether entertainments duty was leviable or not. This indicates the need for regular arrangements for survey.

7.2.9 Loss of entertainments duty due to lacuna in Act

As per the provisions of Section 3(3) of the Act, the proprietors of the theatres in the areas other than in Corporation area are given an option to pay the duty at compounding rate per week at the rate of 35 per cent, 25 per cent and 15 per cent of the gross collection multiplied by 21, 15 and 10 shows, according to the zones based on population. The compounding of the duty thus arrived at is to be paid irrespective of the actual number of shows held.

The compounding basis of duty would result in revenue loss to Government if the proprietor exhibits more shows than the specified number of the shows in the formula. This lacuna in the Act was pointed out (1990-91) during local audit. The loss of revenue on account of this in the seven districts of Pune, Kolhapur, Nagpur, Solapur, Amravati, Thane and Aurangabad was Rs.494.22 lakhs during the period 1987-91 as estimated by the District Collectors. The anomaly was rectified in December 1992 by an ordinance wherein the entertainments duty was to be worked out at the prescribed percentages of actual number of shows. Government stated in May 1993 that it had sustained a loss of Rs.5 to 6 crores per annum approximately.

7.2.10 (A) Short levy of entertainments duty due to incorrect application of compounding rates

The compounding permit is issued for a calendar year and is effective from the date of issue. As per Government circular dated 11th December 1987 compounding permit is not to be granted with retrospective effect. For the period not covered by the permit, the entertainments duty is payable on the basis of actual payments for admission. The permit is valid only during the currency of the cinema/video licence. If the licence of the cinema/video is not renewed on its expiry, the entertainments duty is payable on the basis of actual payment for admission from the date of expiry to the date of actual renewal. Besides, where a proprietor fails to pay the duty within the prescribed period, he is liable to pay, in addition to the amount of the duty, penal interest at the rate of 18 per cent per annum for the first thirty days and 24 per cent per annum thereafter till the amount of duty and interest is fully paid.

i) In Wardha district, licences of 4 cinema theatres and 23 video centres for the calendar years 1989 to 1992 were renewed late. However, for the period not covered by the licences upto the date of renewal, entertainments duty

was recovered at compounded rates instead of on actual payments for admission. This resulted in short recovery of entertainments duty of Rs.8.19 lakhs. Further, interest was also recoverable till the date of payment of duty.

ii) In Aurangabad district, in respect of a cinema theatre compounding permit for the calendar year 1991 was renewed on 15th July 1991. However, for the period not covered by the permit up to the date of renewal, entertainments duty was recovered at compounding rates instead of on actual payment for admission resulting in short recovery of Rs.60,427. Further, interest was also recoverable till the date of payment of duty.

iii) In Nagpur district, in respect of one cinema theatre, although the compounding permit was issued on 24th November 1989, entertainments duty of Rs.18,195 was not recovered on actual day to day collection for the period from 1st November 1989 to 23rd November 1989. Further, entertainments duty of Rs.5,580 was liable to be recovered at the compounding rates of Rs.1,860 per week for the period from 24th August 1990 to 13th September 1990 when the theatre remained closed without obtaining exemption from payment of duty. Total entertainments duty alongwith interest till August 1992 amounted to Rs. 38,826. On this being pointed out (September 1991) in audit, the department raised the demand for entire amount (August 1992).

(B) Short recovery of entertainments duty

Under the provisions of the Bombay Entertainments Duty Act, 1923, as amended with effect from 1st January 1987, proprietors of cinema theatres in non-municipal areas may opt for payment of entertainments duty weekly at compounded rates of estimated gross collection in lieu of the entertainments duty payable on actual payments for admission. Besides, where a proprietor fails to pay the duty within the prescribed period he is liable to pay in addition to the amount of duty, penal interest at the rate of 18 per cent for the first thirty days and 24 per cent per annum thereafter till the amount of duty and interest is fully paid.

In Raigad District, in respect of a cinema theatre, to which permission was granted to make payment of entertainments duty at compounded rate during the calendar years 1990 and 1991, it was noticed that for the period from 14th June 1990 to 13th June 1991, though the entertainments duty at the compounding rate of Rs.4,073 per week amounting to Rs.2.12 lakhs was recoverable, entertainments duty of Rs.1.42 lakhs only was recovered resulting in short recovery of entertainments duty of Rs.0.73 lakh inclusive of interest

of Rs.3000 upto February 1991. Further, interest was also recoverable till the date of payment of duty.

7.2.11 Loss of entertainments duty due to cancellation of regular show to accommodate charity show

The Government in Social Welfare, Cultural Affairs, Sports and Tourism Department had issued instructions in March 1978 that no charity show should be allowed by cancellation of a regular show. However, under compelling circumstances it could be done on the condition that exemption to a charity show from paying entertainments duty would be subject to payment of entertainments duty as on a regular show at normal rate of admission on houseful capacity.

Revenue and Forests Department issued instructions in April 1990 specifying the procedure to assess the entertainments duty in case of cancellation of a regular show for holding a charity show.

i) In Bombay, it was noticed that Commissioner of Police granted exemptions to various charity shows which were arranged in local cinema theatres by cancellation of regular shows. Nineteen charity shows in 1990-91 (after April 1990) and twenty-two charity shows in 1991-92 were granted exemption by cancellation of regular shows. The entertainments duty on regular rate of admission at houseful capacity was, however, not recovered which resulted in loss of revenue to the tune of Rs.3.88 lakhs.

The department stated (September 1993) that the exemption was allowed in view of the orders contained in Government in Social Welfare, Cultural Affairs, Sports and Tourism Department dated 23rd March 1978 and their subsequent clarification dated 25th April 1989. The reply of the Collector, Bombay is, however, not tenable in view of the subsequent circular issued by the administrative department viz, Revenue and Forests Department dated 30th April 1990 wherein it is clearly mentioned that entertainments duty was recoverable in case of cancellation of regular shows.

7.2.12 Incorrect application of rates for compounding of offences

Under the provisions of section 9A(1)(a) of the Act, the officer authorised by the State Government may recover from any person who has committed or is reasonably suspected of having committed an offence against this Act or the rules made there under, by way of composition of such offences :

(a) For failure to pay, or evasion of, any duty payable, in addition to duty payable, a sum of Rs. 200 or double the amount of duty payable whichever is greater.

(b) In other cases, a sum not less than five hundred rupees but not more than two thousand rupees.

In Aurangabad and Solapur districts, the composition amount was recovered at either Rs.200 or varying amounts instead of double the amount of duty payable, which resulted in short recovery of Rs. 42,825 during the period 1987-88 to 1991-92.

In Pune, Kolhapur and Solapur in the case of offences falling under section 9A(1)(b) of the Act such as selling of tickets without stamp, not writing Daily Collection Register and exhibition without licences which were liable to attract a minimum amount of Rs. 500, composition fee was levied at Rs. 200 only resulting in short recovery of Rs.74,800.

Authorities in Pune and Solapur agreed (April 1993) to recover the difference while those in Kolhapur stated that the correct rates were applied. The reply of the department in Kolhapur was not acceptable as the department had booked the offences under section 9-A-I(b) and as such the composition amount was leviable at Rs.500 for each offence.

7.2.13 Tax free films

Under the provisions of the rule 24 of the Bombay Entertainments Duty Rules 1958 an Advisory Committee consisting of 22 members (5 official and 17 non-official) was constituted in April 1983 for a period of 3 years and its tenure was extended in July 1985 till it is actually reconstituted. The reconstitution, however, has not been done so far (October 1993). It was seen that no representative of Revenue and Forests Department which is the implementing authority of the Act, has been nominated to the Committee.

On the advice of the Committee, Government declared 4 films in 1987-88 and 5 films in 1988-89 as tax free and prescribed a fixed ceiling of loss of revenue ranging from Rs.1 lakh to Rs.5 lakhs for different films. However, there was no machinery to ensure that the prescribed ceiling of loss is not exceeded.

7.2.14 Checks to be exercised by Inspecting officers of Entertainment Branch

Section 8 of the Act prescribes various checks to be exercised by the Inspecting staff of the Entertainment

Branch of the District Collectorate. The following items/documents inter-alia are to be checked :

i) payments for admission tickets or season tickets or complimentary tickets and matters relating to such entertainment.

ii) details of monthly expenses relating to conduct of the entertainment.

iii) statements of sale of tickets sent by the proprietor to the film distributor and

iv) details of orders for printing of the passes and tickets of the entertainment placed with the printing press.

In all districts test checked during the course of review, while the check in respect of serial number (i) was found to have been exercised, there was nothing on record to show whether the checks prescribed in respect of serial numbers (ii) to (iv) were being exercised. The Inspection Reports of the Inspectors were also silent on the subject. It was further noticed that proforma prescribed by the Government for conducting inspection of the theatres does not include these items of checks. Since the items at (iii) and (iv) have a revenue impact, in the absence of such checks, it is not clear how the department could safeguard the revenue interest of the Government.

7.2.15 Non-submission of quarterly returns in respect of reconciliation of the remittances into treasury

While accepting the recommendations of the 12th Report of the Public Accounts Committee, Government had issued a circular dated 8th September 1980 directing all the heads of the offices to send a quarterly return to the head of the department, who in turn had to send six-monthly return to the Administrative Department. The circular envisaged furnishing of the information inter-alia regarding the month upto which the reconciliation was completed, discrepancies noticed and action taken to reconcile the discrepancies.

In all the districts test checked it was noticed that no six monthly returns were being sent to Government.

7.2.16 Improper maintenance of personal ledger account

As per Government in Revenue and Forests Department Memorandum No.ENT/1075/224395(VS) dated 7th July 1975, Collector, Bombay was authorised to open personal ledger account in the name of Deputy Collector (Entertainment) Bombay with Reserve Bank of India for crediting the amounts

received from organisers of adhoc performances till the accounts are submitted and finally settled and adjustment of entertainments duty and refund thereof are made. In Bombay, the amount of entertainments duty and the security deposit is being recovered and kept in personal ledger account (P.L.A.) opened for this purpose with the Reserve Bank of India as stated above.

Scrutiny of this account (March 1993) revealed the following points:

i) Amounts stated to have been credited to Personal Ledger Account could not be traced in the P.L.A. pass-book.

In some cases the amounts appearing in P.L.A. pass-book were not traceable in P.L.A. cash-book. As a result, there are large differences between Cash-book figures and pass-book figures since 1987-88 as indicated below:

Year ending on 31st March	Balance as per P.L.A. cash-book (In	Balance as per P.L.A. pass-book lakhs of	Difference (+)(-) rupees)
1987	19.53	18.40	(-) 1.13
1988	15.66	14.34	(-) 1.32
1989	20.80	27.29	(+) 6.49
1990	26.32	37.61	(+) 11.29
1991	16.07	33.54	(+) 17.47
1992	19.61	35.11	(+) 15.50

No efforts have been made to reconcile the difference between the cash-book and pass-book figures. The Collector, Bombay stated (March 1993) that the reconciliation work was in progress.

ii) As per the rules of Government any unclaimed deposit lying with the treasury/Government for over three years is required to be transferred to Government revenue. It was seen that the deposits relating to 1977-1990 amounting to Rs. 55.91 lakhs, though due to be credited to Government accounts, were still shown as unclaimed (March 1993).

The Collector stated (March 1993) that steps were being taken to credit the amount to Government account.

7.2.17 Working of Vigilance squad

In order to have proper implementation of the Act, a Vigilance squad headed by Assistant Commissioner (Entertainment) has been working in the office of each Divisional Commissioner. The duties and targets to be achieved by the squad were prescribed by the Revenue and Forests Department in 1985 which inter-alia include the following:

- (1) twelve inspections of the places of entertainment in a month,
- (2) one inspection of district level offices and
- (3) two inspections of Taluka offices.

Records at Bombay division (out of six divisions) which covers six districts of Bombay City, Bombay Suburban, Thane, Sindhudurg, Raighad and Ratnagiri were scrutinised and following points were noticed :

i) No separate Control Register indicating the number of theatres visited in each district and number of cases detected, with approximate revenue evasion, was maintained.

ii) On detection of the cases the same are sent to the concerned district Collectors for necessary action. It was, however, observed that there is no register to watch the disposal by the district Collectors. There was also no follow-up action from the Commissioner's office.

iii) The Assistant Commissioner was required to pay atleast one visit to a district and two visits to a Tahsil in the division and the squad under him had to conduct a minimum of 12 visits in the division during a month. It could not be ascertained whether these norms were observed in the absence of records. Reports on the working of the squad are not being sent to the Government.

These points were reported to Government in (August 1993); their reply has not been received (October 1993).

SECTION B

**THE MAHARASHTRA TAX ON PROFESSIONS, TRADES, CALLINGS
AND EMPLOYMENTS****7.3 Non-levy of profession tax on the
conductors of video parlours**

Under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 and the Rules made thereunder, the conductors of video parlours are liable to pay profession tax at the rate of Rs.600 per annum. The Act also provides that the proprietors of the exhibitions shall apply for and obtain a certificate of enrollment.

In Ahmednagar district, conductors of 58 video centres for which licences had been issued by the Collector, neither applied for a certificate of enrollment nor paid the tax due. This resulted in non-realisation of profession tax amounting to Rs.69,600 for the years 1991-92 and 1992-93.

On this being pointed out (August 1992) in audit, the department stated (April 1993) that the action to recover the dues was in progress. Report on recovery has not been received (October 1993).

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

7.4 Non-recovery of profession tax

Under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, every person covered under the Act is liable to pay tax within the prescribed period, as per Schedule I as specified in Government notification in the official gazette, from time to time. If he fails to pay tax within the prescribed period, simple interest at 2 per cent on the amount of tax due is chargeable for each month of default or part thereof, for the period of default. The rates of tax leviable were revised with effect from 1st April 1989.

In Pune, profession tax amounting to Rs.41,400 (for the year 1989-90) remained to be recovered in respect of 69 cases eventhough the taxes for the earlier and subsequent years were levied and recovered.

On this being pointed out (November 1991) in audit, the department recovered an amount of Rs.27,600 (March 1993) and raised demand for the remaining amount of Rs.13,800. Report

on recovery of the balance amount and interest due has not been received (October 1993).

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

SECTION C

THE MAHARASHTRA EDUCATION AND EMPLOYMENT GUARANTEE CESS

7.5 Incorrect grant of exemption from payment of education cess and employment guarantee cess

Under the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 as amended in 1974 and 1975, lands and buildings vesting in the State Government or belonging to a Municipality or a Zilla Parishad or Cantonment Board and used exclusively for public purposes and not used or intended to be used for the purpose of profit, are exempt from payment of education cess and employment guarantee cess. Government, however, clarified (August 1986) that education cess and employment guarantee cess is recoverable on the annual rent recovered from the stall owners in respect of public markets owned by Municipal Corporations/Municipalities/Cantonment Boards.

In two municipal wards in Bombay, education cess and employment guarantee cess amounting to Rs.4.65 lakhs in respect of shops, stalls etc. in 8 markets belonging to Bombay Municipal Corporation which were rented out on monthly basis was not recovered for the period from 1975 to 1988 in respect of 7 markets and from 1975 to 1991 in respect of remaining market.

On this being pointed out (September 1988 and December 1990) in audit, the department raised (between September 1989 and March 1993) demands for Rs.4.94 lakhs for the period from 1975 to 1989 in respect of 7 markets and for the period from 1975 to 1991 in respect of remaining market. Report on recovery has not been received (October 1993).

The above cases were reported to Government in June 1993; their reply has not been received (October 1993).

7.6 Under-assessment of State education cess

As per the provisions of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 as amended in 1974 and 1975, State education cess at prescribed rates is leviable on lands and buildings in a municipal area. Employment guarantee cess at 25 per cent of education cess is also

leviable on lands and buildings used for non-residential purposes with effect from 1st April 1975. The Schedule to the Act prescribes separate rate of education cess on properties used or intended to be used for residential and non-residential purposes depending upon the annual letting value. In the case of properties used partly for residential purposes and partly for non-residential purposes, the annual letting value of each portion is to be segregated and subjected to cess at appropriate rate. The rates of education cess on properties for non-residential purposes are double the rates prescribed for residential purposes.

In a municipal ward in Bombay, although 6 properties were used partly for residential and partly for non-residential purposes, the cess was levied at lower rates treating the properties as residential. This resulted in short assessment of cess amounting to Rs.53,777 (State education cess of Rs.35,852 and employment guarantee cess of Rs.17,925) for the period from 1975 to 1991.

On this being pointed out (December 1990) in audit, the department stated (February 1993) that the assessments have been revised in respect of all the properties and demand raised for an amount of Rs.53,777. Details of recovery have not been received (October 1993).

The matter was reported to Government in June 1993; their reply has not been received (October 1993).

SECTION D

ELECTRICITY DUTY

7.7 Non-recovery of electricity duty

Under the provisions of the Bombay Electricity Duty Act, 1958, every person registered as licensed generator of electrical energy for his exclusive use, shall pay electricity duty for the energy consumed by him in a calendar month within 10 days of the succeeding month and forward a copy of the chalan to the Chief Engineer/Electrical Inspector as the case may be. Besides, he shall submit a quarterly return in the prescribed form to the appropriate authority. If the duty is not paid to Government by the due date, interest is chargeable on the amount of duty in default, at the rate of 18 per cent per annum for first 3 months in default and at the rate of 24 per cent per annum for the period thereafter till the duty is paid.

In Nashik district, two sugar factories which generated and consumed electrical energy during January 1992 to March 1992, had filed the returns but did not pay electricity duty amounting to Rs.2.28 lakhs. Besides, interest of Rs.8,266 was also recoverable till May 1992.

The matter was reported to the department (June 1992) and to Government (May 1993); their replies have not been received (October 1993).

CHAPTER 8

NON-TAX RECEIPTS

8.1 Results of audit

Test check of the records of non-tax receipts conducted during the year 1992-93 revealed under-assessments/short levy/loss of revenue/non-levy of tax etc. amounting to Rs.2094.29 lakhs in 96 cases which broadly fall under the following categories :

Sr. No.	Category	No. of cases	Amount (In lakhs of rupees)
1.	Loss of revenue due to non-exploitation of bamboo coupes	09	248.12
2.	Loss on account of tendu leaves	14	713.60
3.	Loss due to illicit cutting of trees	21	700.74
4.	Loss of revenue due to deterioration/in transit/ and in sale/in resale due to non extraction/non lifting of material other than tendu leaves and bamboo	24	57.83
5.	Unauthorised aid to the contractor due to non-recovery of income tax at source	07	70.47
6.	Non-recovery of establishment charges	01	1.81
7.	Miscellaneous losses	19	300.81
8.	Non-levy/short levy of surface rent	01	0.91
	TOTAL	96	2094.29

During the course of the year 1992-93 the concerned department accepted under-assessments etc. of Rs.3.59 lakhs involved in 2 cases. Recovery of Rs.6.76 lakhs pertaining to earlier years was reported by the departments.

A few illustrative cases noticed during 1992-93 and earlier years involving Rs.5.94 lakhs highlighting important audit observations are mentioned in the following paragraphs.

8.2 Short recovery of charges for services of police personnel provided

Under the provisions of the Maharashtra Contingent Expenditure Rules, 1965, a commercial department or a Government undertaking shall ordinarily charge and be charged for service rendered to/received from other departments of Government. Accordingly, the charges for deploying armed police personnel to banks for security is recoverable by the police department at rates prescribed from time to time based on average emoluments of the personnel provided.

In Bombay, in respect of police personnel deployed to 11 organisations on security duty, recovery of deployment was effected at the pre-revised rates. This resulted in short recovery to the extent of Rs.3.95 lakhs for the period from 1st July 1987 to 30th June 1989.

On this being pointed out (March 1990) in audit, the department stated (April 1993) that an amount of Rs.2.73 lakhs had been recovered (upto June 1992). Report on recovery of the balance amount has not been received (October 1993).

The matter was reported to Government in May 1993; their reply has not been received (October 1993).

8.3 Loss of revenue due to short collection of transportation licence fees

Under the provisions of the Bombay Forest Manual, permits, passes, licences are issued on payment of the prescribed fees by the applicants. As per the Government Resolution dated 20th July 1992, transportation licence fee recoverable from the applicant for issuing passes for transportation of various forest produce by truck or any other vehicle was enhanced from Re.1 to Rs.10 per truck from 1st August 1992.

In the office of the Deputy Conservator of Forests, Kolhapur, it was noticed (March 1993) that the Range Forest Officer issued 5,562 transportation passes between August 1992 and September 1992 recovering the fees at the pre-revised rate of Re.1 instead of Rs.10 per truck. This resulted in loss of revenue amounting to Rs.50,058.

On this being pointed out (March 1993) in audit, the department stated (March 1993) that the Government order communicating the revised rate of fees was received on 28th August 1992.

The reply of the department is not acceptable as it is the responsibility of the department to circulate the revised rates well in advance.

The case was reported to Government in April 1993; their reply has not been received (October 1993).

8.4 Non-application of revised rates

With a view to encouraging afforestation, the saplings are made available by the Government to the people at concessional rates during the period of Van Mohotsava every year from 15th June to 15th August. Accordingly a concessional rate of Re.0.45 per sapling was fixed (July 1991) for sale of saplings etc., during the year 1991-92 which was effective from the date of issue of Government Resolution dated 11th July 1991.

In two Social Forestry Divisions at Amravati and Chandrapur, it was noticed that between 11th July 1991 and 31st July 1991 the saplings were sold at the pre-revised rate of Re.0.10 per sapling instead of revised rate of Re.0.45. This resulted in loss of Government revenue amounting to Rs.57,700.

On this being pointed out (August 1992 and May 1993) in audit, the department stated that there was delay in communicating the Government orders, which were received in August 1991 and therefore, the saplings were sold at old rates.

The reply of the department is not acceptable as it is the responsibility of the department to communicate the revised order immediately.

The case was reported to Government in June 1993; their reply has not been received (October 1993).

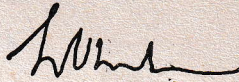
8.5 Non-levy/short levy of surface rent

According to Rule 18 of the Bombay Minor Mineral Extraction Rules, 1955, the holder of the mining lease is required to pay, for the surface area used by him for the purpose of mining, surface rent at such rate, not exceeding the land revenue and cesses assessable on the land under the lease.

In Thane district in 3 cases of leases granted between Revenue years 1984-85 and 1991-92 surface rent of Rs.41,558 was not levied and collected. In another 4 cases the surface rent for the period from March 1978 to February 1993 was levied at a rate lower than the correct rate of non-agricultural assessment resulting in short levy of surface rent amounting to Rs.49,186.

This was pointed out in audit to the department in February 1993; their final reply has not been received (October 1993).

The matter was reported to Government in February 1993; their reply has not been received (October 1993).



(S. V. UNNIKRIISHNAN)
Principal Accountant General (Audit)-I,
Maharashtra

2 फरवरी 1994
FEB 1994

Countersigned



(C. G. SOMIAH)
Comptroller and Auditor General of India

11 7 फरवरी 1994
FEB 1994

APPENDIX

APPENDIX
YEAR-WISE DETAILS OF OUTSTANDING
AS ON 30TH

Reference : Paragraph: 1.12

Sr. No.	Name of Receipt	Upto 1988-89			1989-90		
		I.Rs	Objs.	Amount	I.Rs	Objs.	Amount
1.	Sales Tax	190	330	254.35	134	237	73.63
2.	Land Revenue	708	1209	2367.39	49	92	116.30
3.	Agricultural Income Tax	31	46	3.30	--	--	--
4.	Stamp Duty and Registration Fee	424	969	648.60	27	62	16.69
5.	Forest Receipts	108	122	--	10	28	--
6.	Taxes on Vehicles	44	56	283.43	17	32	38.34
7.	Entertainments Duty	45	65	5.36	28	29	7.79
8.	State Excise	65	97	2.19	32	49	0.83
9.	Electricity Duty	5	5	--	2	3	--
10.	Tax on Professions etc.	43	89	1.11	21	52	0.72
11.	State Education Cess	37	62	13.53	20	55	25.21
12.	Repair Cess	13	19	6.79	5	8	0.43
13.	Tax on Residential Premises	--	--	--	--	--	--
14.	Other Non-tax Receipts	31	49	152.01	10	28	3.32
Total		1744	3118	3738.05	355	675	283.26

OBJECTIONS UNDER VARIOUS RECEIPTS

JUNE 1993

Page No. 20

(Amount in lakhs of rupees)

1990-91			1991-92			1992-93 (upto 31.12.1992)			TOTAL		
IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount
164	350	66.29	285	949	225.01	286	1073	166.76	1059	2939	786.04
66	143	76.56	58	147	117.36	37	151	157.37	918	1742	2834.98
--	--	--	--	--	--	--	--	--	31	46	3.30
24	61	24.12	52	162	135.40	23	295	263.13	550	1549	1087.94
20	47	--	31	62	--	30	103	--	199	362	--
23	50	37.31	21	77	264.86	14	61	18.46	119	276	642.40
28	40	1.12	34	58	0.90	30	52	9.97	165	244	25.14
37	64	9.69	48	78	4.01	26	46	31.78	208	334	48.50
2	2	0.01	6	9	1.29	7	7	52.63	22	26	53.93
40	102	15.93	56	119	13.50	20	54	4.31	180	416	35.57
19	51	26.63	25	60	45.08	19	40	31.44	120	268	141.89
4	6	1.37	9	14	1.80	5	8	0.83	36	55	11.22
--	--	--	2	5	3.18	2	2	--	4	7	3.18
36	62	15.60	10	14	119.57	6	6	3.12	93	159	293.62
53	978	274.62	637	1754	931.98	505	1898	739.80	3704	8423	5967.71

IRs - Inspection Reports
Objs - Objections

ERRATA

to the

Report of the Comptroller and Auditor General of India
on Revenue Receipts for the year ended 31st March 1993 (No.
2) - Government of Maharashtra.

Reference					
Page	Para	Chapter	Line	For	Read
xiii	2.3	Overview	15th from top	13.56	13.86
xiv	5.4	Overview	15th from top	17 cases	97 cases
3	1.1	Chapter-1	Top	--	Chapter-I
5	1.1(a)	Chapter-1	Top	--	Chapter-II
7	1.1(b)	Chapter-1	Top	--	Chapter-III
15	1.6	Chapter-1	Sl.No. 6	Taxes on Works Contract Col. 3	Taxes on Works Contract Col. 2
				28.64	28.64
				Total (at the end)	Total (at the end)
				1659.91	1660.69
36	2.2.6 (vi)(a)	Chapter-2	3rd from top	of	--
53	2.3(e)	Chapter-2	20th from top	fulfillment	fulfillment
63	2.7(b)	Chapter-2	6th from bottom	and interest	and interest
65	2.8(b)	Chapter-2	25th from top	no exemption	no exemption
66	2.8(c)	Chapter-2	7th from top	and style	and style
70	2.11(c)	Chapter-2	19th from top	received.	received
74	2.16	Chapter-2	10th from bottom	Government to	Government to
84	4.4	Chapter-4	3rd from top	residential.	residential
91	5.2	Chapter-5	2nd from top	received.	received

