सत्यमेव जयते

REPORT

OF THE

COMPTROLLER

AND

AUDITOR GENERAL OF INDIA

FOR THE YEAR 1981-82

REVENUE RECEIPTS

GOVERNMENT OF MAHARASHTRA

ERRATA

TO

The Report of the Comptroller and Auditor General of India for the year 1981-82 Revenue Reciept—Government of Maharashtra

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TABLE OF CONTENTS

PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Maharashtra for the year 1981-82 is presented in a separate volume. The material in the Report has been arranged in the following order:—

(*i*) Chapter I deals with trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Budget estimates and actuals in respect of the principal heads of revenue, the position of arrears of revenue, etc., are also discussed in this chapter.

(*ii*) Chapters II to VIII set out certain cases and points of interest which came to notice in the audit of Sales Tax, State Excise, Land Revenue, Taxes on Vehicles, Stamp Duty and Registration Fees and Other Tax and Non-tax Receipts.

2. The points brought out in this Report are those which have come to notice during the course of test audit. They are not intended to convey any general reflection on the financial administration of the departments concerned.

CHAPTER I

GENERAL

1.1. Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of Maharashtra during the year 1981-82 the share of taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below:—

	1979-80	1980-81	1981-82
	(In crores of rupees)		
I. Revenue raised by the State Government—			
(*a*) Tax Revenue	9,80.84	11,30.33	13,83.68
(*b*) Non-tax Revenue	3,92.99	4,37.34	5,02.71
Total ..	13,73.83	15,67.67	18,86.39
II. Receipts from the Government of India—			
(*a*) States' share of divisible Union Taxes.	3,01.59	3,36.41	3,68.53
(*b*) Grant-in-aid*	1,18.91	1,33.98	1,30.47
Total ..	4,20.50	4,70.39	4,99.00
III. Total Receipts of the State ..	17,94.33	20,38.06	23,85.39
IV. Percentage of I to III	77	77	79

* For details please see statement No. 11. Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Maharashtra 1981-82.

(*a*) The details of tax revenues raised during the year 1981-82 alongside figures for the preceding two years are given below:—

		1979-80	1980-81	1981-82	Percentage of (+) Increase (—) Decrease in 1981-82 over 1980-81
		(In crores of rupees)			
1.	Sales Tax	6,26.43	7,49.59	9,24.12	(+) 23
2.	State Excise	70.23	88.70	1,13.04	(+) 27
3.	Taxes on Vehicles, Goods and Passengers.	79.89	69.40	80.40	(+) 16
4.	Stamps and Registration Fees ..	34.26	42.88	49.32	(+) 15
5.	Land Revenue	19.66	16.01	21.83	(+) 36
6.	Taxes on Agricultural Income ..	0.44	0.23	0.07	(—) 70
7.	Other Taxes on Income and Expenditure.	26.01	31.59	37.86	(+) 20
8.	Other Taxes and Duties on Commodities and Services (including Taxes and Duties on Electricity).	1,23.92	1,31.93	1,57.04	(+) 19
	Total ..	9,80.84	11,30.33	13,83.68	(+) 22

(*b*) The details of the major non-tax revenues received during the year 1981-82 alongside figures for the preceding two years are given below:—

		1979-80	1980-81	1981-82	Percentage (+) Increase (—) Decrease in 1981-82 over 1980-81
		(In crores of rupees)			
1.	Dairy Development ..	1,06.10	1,20.24	1,44.55	(+) 20
2.	Interest	86.20	99.52	1,19.77	(+) 20
3.	Forest	51.83	58.24	63.70	(+) 9
4.	Medical	14.54	17.38	25.93	(+) 49
5.	Power Projects	23.85	29.14	19.83	(—) 32
6.	Irrigation, Navigation, Drainage and Flood Control Projects.	9.12	10.21	13.25	(+) 30
7.	Co-operation	5.85	6.70	8.90	(+) 33
8.	Police	3.76	5.41	6.15	(+) 14
9.	Mines and Minerals	3.04	3.62	4.92	(+) 36
10.	Public Health, Sanitation and Water Supply.	5.41	2.80	2.05	(—) 27
11.	Housing	4.98	2.59	1.27	(—) 51
12.	Other Non-tax Receipts ..	78.31	81.49	92.39	(+) 13
	Total ..	3,92.99	4,37.34	5,02.71	(+) 15

The shortfall in the receipts of Power Projects is due to less recovery in lease payments from Maharashtra State Electricity Board.

The less receipts under Public Health Sanitation and Water Supply is due to shortfall in receipts under Sewerage and Water Supply Schemes on formation of the Maharashtra Water Supply and Sewerage Board.

1.2. Variations between Budget estimates and actuals

The variations between the Budget estimates of revenue for the year 1981-82 and the actual receipts, alongside figures for the preceding two years are given in detail in Appendix I.

The tax receipts have all shown a buoyancy much above the budget estimates; except for land revenue when there was a shortfall as compared to estimates in 1980-81. The Non-tax revenues are also showing steady increase.

1.3. Cost of collection

Expenditure incurred in collecting the major revenue receipts during the year 1981-82 and the figures for the two preceding years are given in Appendix II.

1.4. Uncollected Revenue

The arrears of revenue pending collection as on 31st March 1982 in respect of certain important sources of revenue are given in Appendix III.

The following departments of State Government have not furnished complete information in respect of arrears of revenue outstanding as on 31st March 1982 indicated thereunder:—

(*i*) *Revenue and Forests Department*

(*a*) Land Revenue

(*b*) Stamp Duty and Registration Fees

(*c*) Receipts under Mineral Concession Rules (Minor Minerals)

(*ii*) *Irrigation and Power Department*

Irrigation and non-irrigation dues

(*iii*) *Public Works and Housing Department*

Rent and recoveries.

(*iv*) *Agriculture and Co-operation Department*

Receipts from sale of goods and services.

(*v*) *Urban Development and Public Health Department*

Receipts from water rates etc.

(*a*) The sales tax demands stayed by Courts and Government amounted to Rs. 11.79 crores; and other demands not collected pending decree on suits amounted to Rs. 2.09 crores. Demands pending with liquidators etc. amounted to Rs. 4.15 crores. Demands for Rs. 7.37 crores could not be realised even as arrears of land revenue for want of attachable assets or whereabouts of assessees were not known. Demands for Rs.17.71 crores were pending recovery by Revenue authorities. Recovery certificates were still to be issued to the Revenue authorities in respect of demands amounting to Rs. 5.88 crores.

(*b*) The Agricultural Income Tax demands stayed by Courts and Government in appeal amounted to Rs. 1.75 crores.

(*c*) In respect of Purchase Tax on sugarcane and sugarcane cess, demands stayed by Government in appeal or allowed to be paid by instalments amounted to Rs. 4.13 crores. Recovery of demands amounting to Rs. 1.73 crores was pending with Revenue authorities, while demands amounting to Rs. 12.90 crores were pending collection as revenue, recovery certificates were still to be issued to the revenue authorities.

(*d*) Arrears of fees under Electricity Rules 1956 and fees for inspection of cinemas increased from Rs. 0.8 crores as on 31st March 1981 to Rs. 0.9 crores as on 31st March 1982. 59 per cent of the arrears were due from the agricultural consumers of Maharashtra State Electricity Board; 16 per cent from non-agricultural consumers of Maharashtra State Electricity Board and 13 per cent from Maharashtra State Electricity Board. As regards dues from the Maharashtra State Electricity Board the department stated that the issue had been taken up with Maharashtra State Electricity Board authorities and recovery was in progress.

1.5. Frauds and evasions of tax

The number of cases of evasions of tax detected by Sales Tax, Motor Vehicles Tax, State Excise and Agricultural Income Tax Departments and assessments finalised and additional tax demand raised is given in Appendix IV.

1.6. Writes-off and waivers of revenue

During the year 1981-82 demand for Rs. 6.85 lakhs involving 670 cases under Sales Tax (local and Central) were written-off by the department, as irrecoverable.

Exemptions from payment of tax were granted by the Motor Vehicles Department during 1981-82 in respect of 43,788 cases involving a revenue of Rs. 6.11 crores for use of the vehicles for agricultural operations or for charitable purposes etc.

1.7. Outstanding Inspection Reports and Audit Objections

(*i*) Audit observations on incorrect assessments, short levy of taxes, duties, fees and other revenue receipts as also defects in initial accounts, noticed during audit and not settled on the spot are communicated to heads of offices and to the departmental authorities through audit inspections 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 report.

As at the end of September 1982, 3601 inspection reports (11896 paragraphs) involving Rs. 24.33 crores were not settled as shown below. The corresponding figures for the earlier two years have also been indicated for comparative analysis.

	As at the end of September 1980	As at the end of September 1981	As at the end of September 1982
No. of Inspection Reports	2,748	3,255	3,601
No. of audit paragraphs	10,326	10,817	11,896
Value of receipts involved (in crores of of rupees).	12.22	20.23	24.33

Year-wise break-up of the outstanding inspection reports as on 30th September 1982 together with value of receipts involved are given below:—

Year	Number of Inspection Reports	Number of Paragraphs	Value of receipts involved (in crores of rupees)
(1)	(2)	(3)	(4)
1977-78 and earlier yerars	848	2,163	0.62
1978-79	430	1,445	1.97
1979-80	581	1,933	2.88
1980-81	771	2,606	14.03
1981-82	971	3,749	4.83
Total ..	3,601	11,896	24.33

Out of 3601 inspection reports, even first replies had not been received in respect of 206 inspection reports (834 paragraphs) involving receipts amounting to Rs. 1.51 crores. (The year-wise details of outstanding audit objections in respect of the various types of receipts are given in Appendix V).

The department-wise break-up of the outstanding inspection reports and audit objections is as follows :—

Name of the Department	Number of Inspection Reports	Number of Paragraphs	Value of receipts involved (in crores of rupees)
(1)	(2)	(3)	(4)
(1) Revenue and Forest Department ..	1,587	4,924	20.82
(2) Finance Department	1,077	4,135	1.48
(3) Home Department	677	2,042	1.18
(4) Industries, Energy and Labour Department	51	104	0.01
(5) Housing and Special Assistance Department.	23	117	0.84
(6) Other Departments	186	574	....
Total ..	3,601	11,896	24.33

The outstanding audit objections reveal the following noticeable facts:—

(*a*) 2042 audit objections involving receipts amounting Rs. 1.18 crores relating mostly to state excise and motor vehicle taxes are outstanding from 1974-75 onwards.

(*b*) Short levy of road tax amounts to Rs. 0.10 crore due to failure to apply correct rates of tax.

(*c*) Incorrect grant of exemption and irregular grant of non-use certificate leading to short levy of road tax by Rs. 0.9 crore.

CHAPTER II

SALES TAX

2.1. Results of audit

The test check of sales tax assessments and other records, done in audit during the year 1981-82, revealed under-assessments of tax amounting to Rs. 39.43 lakhs in 687 cases, which broadly fall under the following categories :—

	Number of assessments	Amount (In lakhs of rupees)
(*i*) Incorrect allowance of set-off	196	10.76
(*ii*) Non-levy or short-levy of tax	228	17.44
(*ii*) Non-levy or short-levy of penalty	180	7.89
(*iv*) Irregularly collected tax not forfeited	28	0.47
(*v*) Other reasons	55	2.87
Total ..	687	39.43

Some of the important cases are mentioned in the following paragraphs.

2.2. Non-levy of tax on sales or purchases

(*i*) The Bombay Sales Tax Act, 1959, stipulates that a dealer who makes a sale or purchase by falsely representing himself as a registered dealer is liable to be penalised.

The Divisional Forest Officer, Gondia purchased between December 1979 and July 1981 'sabai string' valuing Rs. 3.33 lakhs from a dealer at Nagpur on which he was charged sales tax amounting to Rs. 26,673. The dealer was not registered with the sales tax authorities at Nagpur.

However, he had falsely represented himself as a registered dealer at Nagpur though he was registered only at Gondia and was authorised only to deal in certain other business in Sakoli tahsil (District Bhandara). Neither was the sale made to the Forest Division recorded in his account books nor was the sales tax of Rs. 25,704 collected by him credited to Government till 18th March 1982.

The failure to assess the dealer on the sales effected during his business at Nagpur was pointed out in audit (in January 1982) whereupon the department started investigation on 8th March 1982. Report on action taken is awaited.

The case was reported to Government in January 1982 ; their reply is awaited (December 1982).

(*ii*) In an assessment done in Akola, a manufacturer dealer supplying furniture to Punjabrao Krishi Vidyapeeth, Akola disclosed that under a contract entered into in April 1974 he had supplied furniture worth Rs. 4.75 lakhs during the period October 1976 to March 1977. The Assessing Officer finalised the assessment on the basis of the turnover disclosed by the dealer. It was seen in audit (October 1980) that the manufacturer dealer had, in fact, supplied furniture worth Rs. 5.53 lakhs and not Rs. 4.75 lakhs as disclosed by him. This had resulted in under-assessment of tax by Rs. 16,722.

On the mistake being pointed out in audit (April 1979/November 1980), the dealer was reassessed (March 1982) by the department raising an additional demand for Rs. 21,722 (including penalty of Rs. 5,000). Of this, an amount of Rs. 16,722 had already been recovered. Report on recovery of the balance amount is awaited.

The matter was reported to Government in June 1982; reply is awaited (December 1982).

(*iii*) Sales in the course of inter-State trade or commerce being taxable under the Central Sales Tax Act, 1956, such inter-State sales are excluded from the taxable turnover computed under the Bombay Sales Tax Act. The sales excluded are separately assessed to tax under the Central Sales Tax Act, 1956, by the same assessing officer.

In an assessment done in Nagpur in respect of sales relating to the years 1976-77 and 1977-78, a dealer was assessed (July 1978 and November 1978) under the State Sales Tax Act after deducting Rs. 7.84 lakhs and Rs. 25.49 lakhs respectively which represented turnover on account of inter-State sales. However, the Assessing Officer did not assess the said

amount of sales under the Central Sales Tax Act, 1956. On the omission being pointed out in audit (March 1980) the amounts were assessed under the Central Sales Tax Act, resulting in recovery (January 1981) of tax amounting to Rs. 31,839.

The matter was reported to Government in June 1982 ; Government accepted (December 1982) the objection and confirmed the recovery.

(*iv*) Where taxes on sales are not collected by the dealer separately but stand included in his sale price, a deduction is allowed on the sale price according to a prescribed formula to arrive at the taxable turnover.

A reduction towards sales tax was allowed to a dealer in Bombay on his sales eventhough his sale price did not include sales tax and it was collected separately. This resulted in tax being levied short by Rs. 5,448 on sales during the period July 1976 to June 1978.

On the mistake being pointed out in audit (May 1981) the department verified the facts and found that freight and octroi charges had not been included in the computation of sale price and raised additional demand for Rs. 15,220 (including penalty of Rs. 1,000). Out of this an amount of Rs. 14,220 has since been recovered by the department (January 1982). Report on recovery of the balance amount is awaited (December 1982).

The case was reported to Government in September 1982 ; their reply is awaited (December 1982).

(*v*) Under Section 13 of the Bombay Sales Tax Act, 1959 on purchase of goods effected from unregistered dealers including the Government tax is leviable in the hands of the purchasing dealer unless the goods are resold within the State.

From a dealer who had purchased ferrous metal, in an auction conducted by a Court Receiver of Bombay who is not a registered dealer, tax was not demanded. Though he transferred (between March 1975 and November 1975) goods worth Rs. 2.79 lakhs to his branch situated at Ahmedabad, the transfers to branches did not amount to sale and such transfer of goods to branches did not affect his liability to purchase tax. Similarly, in respect of two other dealers, purchase tax on specified goods purchased from unregistered dealers was either short levied or was levied incorrectly. The mistake resulted in short levy of tax by Rs. 12,311 in the aggregate.

The omissions were pointed out in audit (in June 1978, December 1979 and January 1981) to the department who revised the assessments

raising additional demand for Rs. 12,190. Out of this an amount of Rs. 2,080 was recovered from one dealer (July 1980). Report on recovery of balance amount is awaited (December 1982).

When the matter was reported to Government in June 1982, Government stated (October 1982) that a further amount of Rs. 4,514 was recovered from another dealer and balance amount is being recovered ; their further reply is awaited (December 1982).

(*vi*) Under the Bombay Sales Tax Act, 1959, on purchase of raw materials to be used for manufacture of taxable goods made by a registered dealer holding a recognition certificate, tax is leviable at a concessional rate of 3 per cent on his furnishing a declaration that it will be used accordingly. If however, the manufactured goods are despatched outside the State otherwise than as a result of sale, the dealer is liable to pay tax on the purchase at normal rates.

On purchases made by a dealer at concessional rate during the year 1972-73 even though goods were used in manufacture some of the manufactured goods were transferred to branches outside the State. On contravention of recitals of declaration, purchase tax became leviable but the same was short levied at 6 per cent instead of levying at 8 per cent. This resulted in tax being levied short by Rs. 8,238.

On the mistakes being pointed out in audit (in July 1979) the department revised the assesment (in February 1981) and raised net additional demand for Rs. 8,238. Report on recovery is awaited (December 1982).

The case was reported to Government in September 1982 ; their reply is awaited (December 1982).

2.3. Non-levy or short levy of additional tax

Under the provisions of the Bombay Sales Tax Act, 1959, a registered dealer, whose turnover of sales or purchases exceeds ten lakhs of rupees in a year is liable to pay additional tax calculated at six per cent of the sales tax payable by him for that year.

In assessing eleven dealers in Bombay, Sangli, Dhule, Thane and Amravati, additional tax amounting to Rs. 67,924 was either not levied or was levied short due to mistakes in calculation in respect of years 1974 to 1979.

On the mistakes being pointed out in audit (between January 1980 and February 1982) department raised additional demand for Rs. 35,741 in nine cases ; out of which an amount of Rs. 21,766 was recovered in

four cases. Particulars of recovery in five cases and report on rectification in two cases are awaited (December 1982).

The cases were reported to Government in September 1982; their reply is awainted (December 1982).

2.4. Set-off allowed on tax incorrectly

Under the Bombay Sales Tax Act, 1959, and rules made thereunder, a manufacturer dealer can claim to set-off taxes paid or deemed to have been paid on raw materials purchased and used in the manufacture of taxable goods within the State which goods have been sold or exported or used in the packing of goods so manufactured from the taxes payable by him. The rules *inter-alia* provide that such set-off is admissible only on purchases made from dealers registered in the State and in computing the set-off, 3 per cent of the purchase price should be deducted (with effect from 15th April 1974). In cases where manufactured goods are transferred to branches outside the State, set-off is to be reduced in proportion to the ratio which the value of goods so transferred bear to the total value of taxable goods sold.

(*i*) (*a*) In an assessment done in Bombay City, a dealer manufacturing super enamelled wires was allowed set-off of tax paid on raw materials against tax on manufactured products a portion of which was despatched to his branches outside the State. The set-off admissible to the dealer should have been reduced by 43.19 per cent on a proportionate basis as stated above. It was seen in audit that the set-off was reduced in assessment by only 15 per cent.

(*b*) A manufacturer of medicines in Bombay was allowed to set-off taxes paid in the calendar year 1977 which was incorrectly worked out. The set-off for tax paid on purchase of raw materials was to be reduced proportionately to the manufactured products transferred to branches outside the State was allowed. However, the proportion was wrongly arrived at 39 per cent instead of 42.6 per cent.

(*c*) In an assessment done in Nagpur, in respect of goods transferred to branches outside the State the amount of set-off was not reduced in the prescribed proportion.

(*d*) A dealer from Bombay was allowed to set-off tax paid on sales made during the year 1974-75 in excess of what is allowable in respect of goods not transferred to branches.

(*e*) On transfer of plastic tubes and pipes to his branches (between October 1973 and September 1975), a dealer from Bombay was allowed

to set-off tax paid on purchase of raw material used in the manufacture of such tubes and pipes, fully towards tax payable on his sales, though only a part of the tax paid was to be allowed to be set-off.

(*f*) In Chandrapur also the set-off to be allowed was not reduced in the aforesaid proportion, though some of the manufactured goods were transferred to branches outside the State.

The above mistakes in respect of six dealers resulted in under-assessment of tax by Rs. 1,72,562.

On the omissions being pointed out in audit (October 1977, October 1979, June 1980, December 1980, January 1981 and May 1981) the department revised the assessments (December 1978, September 1981, October 1981, January 1982, March 1982 and July 1982) and raised additional demand for Rs. 1,73,494 including additional tax of Rs. 932.

The above cases were reported to Government (in June 1982, July 1982, August 1982, September 1982 and October 1982), Government stated (September and October 1982) that the amount of Rs. 1,34,831 was recovered (February 1981 and October 1982) from three dealers and partly from one more dealer. Report on recovery of balance amount in respect of three dealers is awaited (December 1982).

(*ii*) A dealer manufacturing radios and electronic goods was allowed (May 1979) to set-off of Rs. 5,24,420 and Rs. 3,72,670 being tax paid on raw materials used, towards tax payable on sale of manufactured goods effected during the years 1974-75 and 1975-76 respectively. However, the percentage of manufactured goods sent on transfer to branches outside the State was incorrectly computed which resulted in set-off being granted in excess by Rs. 80,055.

On the mistake being noticed by the assessing officer in August 1980 a notice was issued to the dealer in September 1980 but this was not pursued and no further action was taken to recover the excess set-off allowed. Meanwhile the assessment records were transferred to another assessing officer.

On the omissions to recover being pointed out in audit (December 1981) the department reassessed the dealer (February 1982 and April 1982) and raised additional demand for Rs. 80,055 in respect of the two years.

When the case was reported to Government in July 1982, Government stated (October 1982) that an amount of Rs. 46,137 has been recovered. Further report is awaited (December 1982).

(*iii*) In an assessment done in Pune division, a manufacturer of automobile batteries who was also engaged in the trade of resale of parts of automobile batteries, was allowed to set-off Rs. 10,474 (in respect of the years 1975-76 and 1976-77) as tax paid on purchases by him for Rs. 1.87 lakhs from registered dealers. It was seen in audit that he was allowed to set-off tax paid on parts which he resold, though set-off was to be allowed only in respect of tax paid as parts going into manufacture of batteries by him. The set-off granted in excess amounted to Rs. 10,474.

The case was reported to Government in June 1982. Government stated (October 1982) that the entire amount of Rs. 10,474 had been recovered.

(*iv*) The provisions of Bombay Sales Tax Act, 1959 and rules made thereunder allow a dealer to set-off sales tax paid on the purchase of raw materials which are used by him within the State in the manufacture of taxable goods which are sold by him or exported by him or used by him in the packing of taxable goods manufactured by him.

An exporter of processed meat and fish was allowed to set-off tax paid on the purchase of materials during the period from 14th November 1974 to 31st December 1976 which were to be used for packing the processed meat or fish. Conversion of raw meat into processed meat which is packed in sealed containers does not amount to manufacture even if the goods have become taxable but is only the processing of the meat and the dealer was not entitled to set off the tax paid on the packing materials used for packing the meat so processed towards tax payable by him. The irregular set off resulted in tax being levied short by Rs. 66,608.

On the mistake being pointed out in audit (October 1979) the department accepted the objection and revised (August 1982) the assessment raising demand for Rs. 66,608. Report on recovery is awaited (December 1982).

The case was reported to Government (October 1982); their reply is awaited (December 1982).

(*v*) A registered dealer claiming to manufacture polythylene bags and engaging in resale of fertilizers was allowed to set off tax amounting Rs. 12,317 paid on polythylene bags purchased by him for use in manufacture of packing material. However, covering of polythylene bags with paper was done by another dealer who supplied it to a person outside the State directly under contract. The incorrect grant of credit for Rs. 12,317 resulted in tax being levied short by the same amount.

On the mistake being pointed out in audit (July 1979) the department revised the assessment raising demand for Rs. 12,317.

The case was reported to Government in September 1982. Government stated (January 1983) that the entire amount of Rs. 12,317 had been recovered in September 1982.

(*vi*) Under the Bombay Sales Tax Act, 1959 and rules made there under, on purchases of goods by a registered dealer from another registered dealer levy of tax is exempted provided goods are resold in the same form and tax is levied thereon. On purshases by a manufacturer of goods used in manufacture, rebate of tax levied or deemed levied is allowed if the manufactured articles are sold by him.

On purchases of electronic components, a manufacturer was allowed credit for tax paid on the purchases amounting to Rs. 4.85 lakhs made from registered dealers. However, tax on sale amounting to Rs. 1.62 lakhs was not levied on the sale made by the registered dealer. In the result an amount of Rs. 7,600 allowed as rebate was never realised in the first instance.

On the mistake being pointed out in audit (March 1982) the department recovered the rebate wrongly allowed.

On purchases made by another manufacturer from registered dealers but which were resold, rebate amounting to Rs. 3,326 was wrongly given to manufacturer in addition.

On the mistake being pointed out in audit (February 1982), the department rectified the assessment withdrawing the incorrect rebate.

The cases were reported to Government in October 1982 ; their reply is awaited (December 1982).

(*vii*) On purchases of raw materials for use in jobwork and in the manufacture of goods on the sale of which tax is not leviable, tax paid on purchases was set-off fully from tax payable though only a part was allowed to be set-off, resulting in tax being levied short by Rs. 12,288.

On the mistake being pointed out in audit (November 1977 and March 1979) the department revised both the assessments (July 1981 and November 1981) raising additional demand for Rs. 12,288 of which Rs. 5,845 was recovered from one dealer (August 1981); report on recovery in respect of other dealer is awaited (December 1982).

The cases were reported to Government is August 1982 ; their reply is awaited (December 1982).

(*viii*) Where the purchase price is inclusive of tax the tax to be set-off is worked out according to a prescribed formula and reduced by three per cent of the purchase price. If tax on purchases of raw materials is paid separately, it is set-off even if in excess of three per cent of the net purchase price.

A dealer in Bombay manufacturing chemicals was allowed to set-off the tax amounting to Rs. 78,300 and Rs. 66,671 paid on purchases made during the period from 1st July 1976 to 30th June 1977 and from 1st July 1977 to 30th June 1978 respectively on the basis of the statement of purchases filed by him. The tax stated to have been paid separately was at variance with what was payable. On the discrepancy being pointed out in audit (December 1981) the department verified the dealer's statement with reference to his books of accounts for both the years 1976-77 and 1977-78. The set-off allowed was thereupon reduced by Rs. 17,429 and demand for that amount raised. Report on recovery of demand is awaited (December 1982).

The case was reported to Government in August 1981, their replay is awaited (December 1982).

(*ix*) The rate of tax applicable to a commodity as enumerated in the Schedule to the Act is applied for working out the set-off admissible. If the rate of tax applied is incorrect the set-off worked out will also be incorrect.

(*a*) A manufacturer of rickshaw meters was allowed such set-off on his sales of brass sheets during the period 1 st July 1977 to 30th June 1978. But in doing so, the formula was wrongly worked out with reference to the Schedule to the Act.

(*b*) A manufacturer of vanaspati ghee was allowed to set-off tax paid on his sales during the year 1974-75 valuing Rs. 8.47 lakhs but in calculating the amount a mistake was made. Further at the request of audit, the department verified (March 1981) the correctness of the statement of taxes paid by the dealer as given by him and found that the taxes paid were Rs. 68,938 and not Rs. 83,834 as claimed by the dealer.

(*c*) On sale of ordinary timber, tax is leviable at five per cent and on sale of timber of superior quality at seven per cent. On sale of iron pipes used in the manufacture of textile machinery, tax is levied at four per cent.

Sales tax paid on purchase of ordinary timber and iron pipes which were used in manufacture of textile goods were to be set-off towards tax

payable on sale of manufactured goods but at the rate of tax at seven per cent and eight per cent respectively instead of five and four per cent.

The mistakes in respect of four dealers mentioned above, resulted in tax being assessed short by Rs, 25,839.

On the above mistakes being pointed out in audit (May 1980, March 1981, and November 1981) the department revised the assessments raising on additional demand for Rs. 25, 839 , out of which an amount of Rs. 16,049 was recovered in full from two dealers. Report on recovery on balance amount in respect of two other dealers is awaited (December 1982).

The cases were reported to Government in July 1982 and September 1982; their reply is awaited (December 1982).

(*x*) As per Bombay Sales Tax Act, 1959 and rules made thereunder a registered dealer holding a licence is entitled to set-off general sales tax paid on the goods purchased by him towards the tax payable by him on his making a declaration in a prescribed form that the goods so purchased were sold by him within the State. The set-off is, however, admissible only on the production of evidence to the effect that tax had been paid by his seller to the Government.

In an assessment done in Ahmednagar, set-off of tax paid was allowed to a dealer holding a licence in respect of the purchases of insecticides etc. made by him during the year 1977-78 and 1978-79 without verifying whether tax had been paid by his seller to Government account.

On the omission to verify being pointed out in audit (April 1980) the department finding on verification that tax had not been paid to Government, revised the assessment, raising an additional demand for Rs. 10,234. Report on recovery is awaited (December 1982).

When the case was reported to Government in June 1982, Government stated (September 1982) that the dealer had preferred appeal and the appellate authority had granted the stay (May 1982).

(*xi*) Under the Bombay Sales Tax Act, 1959 and rules made thereunder, taxes paid or deemed to have been paid on the goods purchased from a registered dealer is allowed to be set off from tax payable on goods resold in the course of inter-State trade or commerce or of export. If the goods purchased from the regstered dealer are transferred to branches outside the State the tax allowed to be set-off is reduced by four per cent of the gross purchase price i.e. purchase price inclusive of taxes.

(*a*) In assessing three dealers who had transferred goods to their branches outside the State and in allowing the amount set-off, tax paid was reduced by four per cent of net purchase price instead of the gross purchase price. This resulted in under-assessment of tax by Rs, 12,528.

On the mistake being pointed out in audit (May 1980) the department revised the assessments and raised an additional demand for Rs. 12,528. Report on recovery is awaited (December 1982).

The cases were reported to Government in June 1982; their reply is awaited (December 1982).

(*b*) A manufacturer of paper was allowed to set-off tax paid on purchases of a boiler, costing Rs. 25,00,786 which was transferred by him to his factory situated outside the State. For the purpose of computing the tax paid, the goods were classified as electrical goods on sale of which tax is payable at the rate of 10 per cent. However, on sale of boiler, tax was payable only at the rate of 8 per cent. Further tax paid in excess of four per cent of the net purchase price was allowed to be set-off instead of tax in excess of four per cent of the gross purchase price. The mistake resulted in under-assessment of tax by Rs. 47,901.

On the mistake being pointed out in audit (December 1981) the department revised the assessment (July 1982) raising the additional demand for Rs. 50,775 (including additional tax of Rs. 2,874).

When the case was reported to Government in August 1982, Government stated (November 1982) that the entire amount has been recovered from the dealer.

(*c*) In assessing a dealer in petroleum products, in Bombay who transferred the goods purchased, to his branches, sales tax paid in excess of three per cent of purchase price (exclusive of tax) was allowed to be set-off resulting in sales tax being levied short by Rs. 1,006. The short levy in such cases was discussed with the department (August 1978) who directed a review of such cases which revealed four more cases resulting in short levy amounting to Rs. 22,672. Thereupon, the department revised (in September 1979, July 1980, August 1980, November 1980 and February 1981) the assessments in the four cases and raised additional demand for Rs. 22,672. Report on recovery is awaited.

The case was reported to Government in August 1982; their reply is awaited (December 1982).

(*d*) A manufacturer of lubricants and oils who had transferred goods to his branches outside the State was allowed credit to the extent of tax

paid in excess of four per cent of the purchase price excluding taxes, which resulted in excess credit of Rs. 10,513.

On the mistake being pointed out in audit (March 1982) the department revised the assessment and raised additional demand for Rs. 10,513.

The case was reported to Government in September 1982. Government stated (January 1983) that the entire amount of Rs. 10,513 had been recovered in September 1982.

(*xii*) The Bombay Sales Tax Act, 1959 and the rules made thereunder allow a registered dealer to set-off tax paid by him to another registered dealer as part of purchase price if the goods so purchased are resold in the course of inter-State trade or commerce. The dealer making the resale and claiming the set-off in his assessment is required to produce proof of payment of the taxes at the time of purchase.

In Chandrapur sale tax amounting to Rs. 43,896 paid on the purchase of tendu leaves from three Forest Divisions was allowed to be set-off to four dealers partly on the strength of copies of certificates issued by the Divisional Forest Officers that tax amounting to Rs. 30,798 was paid during the period from 1st April 1977 to 31st March 1979 on purchase of tendu leaves and partly without obtaining any proof of payment of tax amounting to Rs. 13,098. On enquiry in audit (July/August 1982) the Divisional Forest Officers stated that no tendu leaves had been so purchased nor any certificates issued.

The failure to verify claim for set-off was pointed out in audit (January 1982); the set-off had resulted in tax being levied short on the four dealers by Rs. 43,896. The department stated (September 1982) that the matter was under investigation.

The case was reported to department/Government (August 1982); their reply is awaited (December 1982).

(*xiii*) The Bombay Sales Tax Act, 1959 and rules made thereunder provide that set-off is admissible only on purchases made from dealers registered in the State.

In an assessment done in Nagpur, set-off of Rs. 12,079 was allowed even on purchases made from outside Maharashtra State. Further, purchase price was reduced by two per cent instead of three per cent thereby allowing excess set-off of Rs. 12,307. Besides, set-off was granted in excess by Rs. 9,381 in four more cases owing to errors in calculation.

On the mistakes being pointed out in audit (November 1981) department re-assessed and disallowed excess set-off of Rs. 24,386. Recovery of Rs. 12,079 in one case is effected in February 1982. Report on recovery of the balance amount is awaited (December 1982).

The cases were reported to Government in June 1982; their reply is awaited (December 1982).

2.5. Irregular grant of exemption

(*i*) In terms of a notification issued by Government in July 1970 under the Bombay Sales Tax Act, 1959 (and as amended in June 1975) levy of sales tax is limited to 4 per cent on goods sold by a registered dealer to Central or State Government for their official use, on production of a declaration in the prescribed form given by the authorised Government Officer. Similarly, on goods on which sales tax is not levied but general sales tax is leviable the latter is so limited to 4 per cent.

In an assessment done in Khamgaon (Buldana district), a registered dealer claimed such levy limited to 4 per cent on the basis of prescribed declarations on sales (amounting to Rs. 5.96 lakhs) in respect of steel and wooden furniture and fabricated material sold during the years 1976-77 to 1978-79 to non-Government bodies such as State Bank, Co-operative Banks, Zilla Parishads, Public Sector Corporations etc. The Assessing Officer allowed the claim without verifying whether the sales in question were made to Government. Failure to verify resulted in short levy of sales tax and general sales tax by Rs. 34,240 in the aggregate.

On the mistake being pointed out (in January and February 1982) in audit, the Assessing Officer stated that the verification would be done.

The matter was reported to Government in June 1982; reply is awaited (December 1982).

(*ii*) As per a notification issued by Government in April 1964 under the Bombay Sales Tax Act, 1959, on sales of dyes and chemicals made by a registered dealer to another registered dealer who uses such dyes and chemicals in the manufacture of fabrics, levy of tax is exempt subject to a prescribed declaration to that effect from the purchasing dealer.

In Nagpur, Sales Tax amounting to Rs. 11,330 was omitted to be levied on sale of castor oil (valuing Rs. 3.78 lakhs) made by a registered dealer to a textile mill during the years 1976 and 1977 on grounds, that castor oil is an aid to dyeing. As per notification, exemption was limited to sales of dyes and chemicals and did not cover sale of aids to dyeing.

On the omission being pointed out (July 1981) in audit, the department stated that action to reassess had since been initiated. Report on rectification is awaited (December 1982).

The case was reported to Government in July 1982; their reply is awaited (December 1982).

(*iii*) Section 15-A-I of the Bombay Sales Tax Act, 1959, requires that with effect from 1st April 1975, on his annual turnover of sales or purchases exceeding Rupees ten lakhs a dealer is liable to pay additional tax at 6 per cent of the sales tax payable by him for that year. If the dealer has more than one place of business in the State, the limit of Rupees ten lakhs is applied on his total annual turnover taking into account all such places of business.

(*a*) In Chandrapur, Sales in branch offices of a dealer was assessed without ascertaining the total turnover in the main place of business (assessed in Nagpur) since the turnover in the branches were each less than Rs. 10 lakhs, additional tax was not levied at either place of assessment. This resulted in tax being levied short by Rs. 3,780.

(*b*) Government granted (in June 1977) exemption (effective from 1st April 1975) from payment of additional tax to a dealer in Nagpur in respect of his sales of truck chassis, effected to Government Departments, State Public Sector Undertakings and Bombay Electric Supply and Transport Undertaking. The Assessing Officer granted exemption from payment of additional tax on sales of Chassis to Undertakings of the Government of India and to an autonomous body not covered by the exemption order. This resulted in tax being levied short by Rs. 9,315.

On the two mistakes being pointed out (in March 1980, January 1981 and July 1981) in audit, the department rectified the mistakes (April and May 1982) and raised additional demands for Rs. 13,095. Of this, an amount of Rs. 2,422 was realised (March 1982). Report on recovery of the balance is awaited (December 1982).

The cases were reported to Government in July 1982; reply is awaited (December 1982).

2.6. Short levy due to mistakes in valuation and classification

(*i*) The Bombay Sales Tax Act, 1959, requires levy of tax on sale of goods by reference to the sale price which means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged for anything done by the dealer in respect of goods

at the time of sale or before delivery thereof, other than the cost of insurance in transit or of installation, when such cost is separately charged.

In Chandrapur, transportation charges of Rs. 8.47 lakhs were billed for separately by a dealer though it related to sale of goods and the amount was omitted to be included in the sale price resulting in tax being levied short by Rs. 36,098.

On the mistake being pointed out the department reassessed (November 1981) the dealer and demanded additional tax of Rs. 36,098. Report on recovery is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(*ii*) Under the Bombay Sales Tax Act, 1959, tax levied is on sale of goods, at the rates indicated against the entry in the schedules to the Act, under which the goods in question get classified. On goods not classified under any of the entries, tax is levied at rates indicated against the residual entry viz. entry 22 of Schedule 'E'.

Entry 23 of Schedule 'C' referring to non-ferrous goods covers "non-ferrous metal sheets, rods, bars, slabs, blocks, ingots, circles and scraps", but does not cover aluminimum slugs. Sales of aluminium slugs manufactured by a dealer were taxed at five per cent by classifying them under entry 23 of Schedule 'C'. It was pointed out in audit (September 1979) that aluminium slugs not being specifically classifiable under the entry 23 of schedule 'C' were classifiable under the residual entry 22 in Schedule 'E'. The department accepted the objection and revised the assessment for the year 1976-77 raising an additional demand of Rs. 14,564. Report on collection is awaited (December 1982).

Report on action taken to revise the assessments for the years 1974-75 and 1975-76 is awaited (December 1982).

The case was reported to Government in June 1982; their reply is awaited (December 1982).

2.7. Under-assessment due to arithmetical errors

(*i*) Under the Bombay Sales Tax Act, 1959, deduction on account of inter-state sales is allowed from the taxable turnover on production of the prescribed declaration.

In an assessment done in Sales Tax Office, Nagpur, deduction on account of inter-state sales amounting to Rs. 6,13,912 was allowed from

the taxable turnover, but such sale amounting to only Rs. 5,13,912 were supported by the prescribed declaration. This resulted in turnover of Rs. 1,00,000 escaping tax levy.

On the mistake being pointed out in audit (January 1981), the department accepted (January 1981) the mistake and revised (March 1982) the assessment raising additional demand for Rs. 15,000. Report on recovery is awaited (December 1982).

The matter was reported to Government in June 1982; reply is awaited (December 1982).

(*ii*) On his sales a manufacturer of dyes and chemicals in Bombay was allowed a refund of Rs. 16,383 instead of Rs. 4,383 due to an arithmetical mistake. Further penalties amounting to Rs. 5,114 were wrongly remitted on the ground that the assessment ultimately resulted in a refund to the dealer.

On the excess refund being pointed out in audit (March 1982) the department accepted the mistake and revised the assessment order (August 1982) withdrawing the excess refund of Rs. 12,000 and also levied a penalty of Rs. 4,214 and raised additional demand for Rs. 16,214. Report on recovery is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

2.8. Non-levy or short levy of penalty

(*i*) The Bombay Sales Tax Act, 1959, provides that if a dealer does not pay tax due within the prescribed time, he is liable to pay penalty at the prescribed rate. Similarly the amount of tax assessed or reassessed is required to be paid into a Government treasury within the date specified in the demand notice. If, however, the dealer fails to make payment by the date specified in the notice, the assessing authority may levy penalty at the prescribed rate.

In six cases penalty for belated payment of tax was leviable, but no penalty was levied by the assessing officer. In six other cases, action to levy penalty was initiated but was not completed. In one more case tax of Rs. 84,144 was demanded from a dealer for the calendar years 1975 and 1976 and he was required to pay it on or before 29th May 1980. He paid them in instalments between May 1980 and November 1981 but no penalty was levied and collected by the department for belated payment.

On the omissions being pointed out in audit (between May 1977 and March 1982) the department levied penalty in all thirteen cases raising additional demand for Rs. 1,09,730. Out of which, penalty amounting to Rs. 5,265 was recovered in two cases (June 1981). Report on recovery in the remaining cases is awaited (December 1982).

The cases were reported to Government (June, September and October 1982); their reply is awaited (December 1982).

(*ii*) The Bombay Sales Tax Act, 1959, provides for the levy of penalty if the dealer has concealed the particulars of any transaction or knowingly furnished inaccurate particulars of any transaction liable to tax. The Act also provides that if the total amount of tax paid by the dealer for the assessment year is found to be less than eighty per cent of the amount of tax assessed, reassessed or found due in revision, he is deemed to have concealed the turnover liable to tax and is liable for penalty for concealment. The maximum penalty leviable is one and one-half times the amount of tax.

Action to levy penalty was initiated but no follow-up action was taken by the department in 18 cases involving penalty of Rs. 1.29 lakhs for the aforesaid reasons. In one case in Khamgaon penal proceedings were held in abeyance but were not revived after the appeal was dismissed in October 1976. Minimum penalty leviable according to departmental instructions was Rs. 33,433 and maximum Rs. 50,619.

On the omissions being pointed out in audit (between August 1978 and March 1982) the department raised (between August 1978 and March 1982) additional demand for Rs. 1.29 lakhs in 18 cases and in another case the department intimated (July 1982) that action was since being taken to levy penalty.

The cases were reported to Government (August and October 1982); their reply is awaited (December 1982).

(*iii*) As per Central Sales Tax Act, 1956, as amended in September 1976, with retrospective effect from the year 1957, the provisions for levy of penalty under the law of respective State apply equally.

In nine cases of assessments under the Central Act though action to levy penalty was initiated by the department, no follow-up action was taken to levy penalty amounting to Rs. 52,578. In yet another case on default in payment of tax, penalty was not levied under Central Sales Tax Act, in respect of tax assessed under that Act (assessment done in May 1980) for the calendar years 1974 and 1975.

On the omissions being pointed out in audit (June 1979 and August 1981), the department raised demand for Rs. 94,438. Report on recovery is awaited.

The cases were reported to Government in (September and October 1982); their reply is awaited (December 1982).

2.9. Failure to demand or recover tax in time

(*i*) (*a*) Under the Bombay Sales Tax Act, 1959, rectificatory action of various types are required to be taken within 2, 3, 5, or 8 years after specified events.

Action to revise, rectify or to assess the tax due amounting to Rs. 42,429 in respect of eleven cases was required to be taken as a result of mistakes pointed out in audit between 1977 to 1982 but relevent action was not taken within the time prescribed and the cases became barred by limitation resulting in loss of revenue to Government of Rs. 42,429.

(*b*) Under the Maharashtra Purchase Tax on Sugarcane Act, 1962 an order of assessment can be revised only if the notice is served within a period of three years from the date of communication of the order of original assessment and the order in revision is made within a period of five years from the date of such notice. Owing to non-initiation of action within the prescribed time penalty of Rs. 36,429 for late payment of tax in two cases in respect of the years 1970-71 to 1975-76 could not be levied.

On the mistake being pointed out in audit (January 1977) the department stated after a lapse of five years (February 1982) that revision of these cases had become barred by limitation.

The cases were reported to Government in October 1982; their reply is awaited (December 1982).

(*ii*) The Bombay Sales Tax Act, 1959, requires that on the basis of gross turnover of purchases and sales returned by a dealer, he be assessed to tax and action taken for recovery of tax due.

A dealer in Amravati who had filed returns of his sales during the period from 18th December 1972 to 13th November 1974 in time but had not paid the tax due was not assessed till October 1979. Even though visit to the business place of the dealer in February 1974 by a departmental official had revealed discrepancies [and the dealer had voluntarily surrendered his account books and later the dealer discontinued the business and applied (November 1975) for cancellation of registration

which was granted in September 1976] the assessment was finalised and tax of Rs. 62,364 was demanded only in October and November 1979 and the tax was reported to be irrecoverable, the dealer having no moveable or immoveable property. The tax was recommended (January 1981) for write off.

The reasons for the failure to safeguard tax due to Government by timely assessment were enquired in audit (February 1982), the reply of the department is awaited.

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(*iii*) Sales taking place in the course of inter-State trade or commerce or export out of India tax are dealt with under the Central Sales Tax Act, 1956. Such sales are excluded from levy of tax under the Bombay Sales Tax Act. However, on sales taking place in the course of inter-State trade or commerce, tax is leviable under the Central Sales Tax Act.

While assessing (July 1979) a dealer to tax, sales amounting to Rs. 22.54 lakhs relating to the period 1st July 1975 to 30th June 1976 were excluded from levy of tax under the State Act, because of the sales having taken place in the course of inter-State trade or commerce. However, assessment of the sales to tax under the Central Act was omitted to be done by the sales tax officer resulting in tax amounting to Rs. 41,798 not being demanded.

On the omission being pointed out in audit (February 1982) the department accepted the mistake and completed the assessment (June 1982) raising demand for Rs. 41,798. Report on recovery is awaited.

The case was reported to Government in September 1982; their reply is awaited. (December 1982).

2.10. Incorrect summary assessment

Section 33(*2*) of the Bombay Sales Tax Act, 1959, provides that if the return furnished by a registered dealer are correct and complete, it could be assessed to tax without calling upon the dealer to produce his books of accounts. Government instructed assessing officers on 25th August 1975 to take recourse to this provision for summary assessment in assessing dealers whose turnover of sales did not exceed Rs. 3 lakhs. In subsequent instructions issued on 21st July 1979, in respect of returns showing turnover of sales in excess of Rs 3 lakhs also the summary assessment procedure was adopted provided the assessed tax in the last three assessments did not exceed what had been paid by the assessee by more than Rs. 100.

In assessing a dealer in lubricating oil in Bombay with branches all over the country assessment in respect of the three years from 1976 to 1978 were done summarily as aforesaid.

A comparison of the sales turnover, tax assessed and tax paid which was allowed to be set off against tax payable showed the following trend.—

	Gross turnover of sales	Gross tax assessed	Set off allowed for tax paid (Rupees)
1973 ..	2,99,49,491	12,31,854	5,25,776
1974 ..	4,48,24,454	16,94,369	3,02,680
1975 ..	2,84,55,468	9,41,421	3,45,540
Total for 3 years	10,32,29,413	38,67,644	11,73,996
1976 ..	2,97,39,722	9,55,284	5,14,903
1977 ..	2,79,20,124	10,86,192	5,58,616
1978 ..	4,46,02,051	17,02,165	9,31,900
Total for 3 years	10,22,61,897	37,43,641	20,05,419

On the reasons for the increase in set off towards tax paid on the subsequent 3 year period as compared to earlier 3 year period, being enquired in audit (March 1981) the department stated (March 1982) that when the returns were reassessed with reference to the dealer's books of accounts as a result of the audit query it was seen that the dealer had incorrectly computed the set off allowable on transfer to branches and miscellaneous sales amounting to Rs. 76,952 had also not been included in the returns. On reassessment in March 1982 additional demand for Rs. 2.11 lakhs was raised and recovered (March 1982) from the dealer.

The case was reported to Government in August 1982; their reply is awaited (December 1982).

2.11. Non-forfeiture of excess collection

The Bombay Sales Tax Act, 1959, provides that if any amount is collected by a dealer by way of tax of sales in excess of the amount of tax payable by him on such sales, the excess will be forfeited to Government by way of penalty. Rs. 14,103 so collected in excess by two dealers were however not forfeited. On the omission being pointed out in audit (in April 1981 and January 1982) the assessments were rectified by the department (January 1982 and April 1982) raising additional demand for Rs. 14,103. Report on recovery is awaited (December 1982).

The case was reported to Government in July 1982. Reply is awaited (December 1982).

2.12. Inter-State sales incorrectly treated as sales in course of export

Under the provisions of the Central Sales Tax Act, 1956, tax is not leviable on sale of goods taking place or deemed to take place in the course of the export of goods out of the territoiy of India. Such a sale should either occasion such export or be effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India.

On sales amounting to Rs. 11,44,240 made during the year 1975-76 by an engineering firm in Bombay to a Company in Kandla Free Trade Zone (Gujarat), tax was not levied treating the sale as made in the course of export in terms of a clarification given (August 1976) by the Development Commissioner, Kandla Free Trade Zone, Gandhidham, Kutch, to the effect that supplies made by the manufacturers in the Domestic Tarriff Area to the units in Kandla Free Trade Zone will be treated as exports. In the absence of such a definition of the term " exports " the non-levy of tax amounting to Rs. 44,013 was not covered by the provisions of the Central Sales Tax Act, 1956, since the goods had not moved out of India. On the mistake being pointed out in audit (November 1979), department accepted the mistake and revised (March 1982) the assessment and raised additinal demand for Rs. 44,013. Report on recovery is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

2.13. Arrears in assessments

The numbei of sales tax assessments finalised by the department and the number pending finalisation at the end of 1981-82 and the preceeding year are indicated below:—

	Sales Tax		Purchase Tax on Sugarcane	
	1980-81	1981-82	1980-81	1981-82
No. of assessments due for completion during the year.	9,07,916	9,18,371	1,178	1,518
No. of assessments completed ..	4,35,395	4,27,287	363	526
No. of assessments pending at the end of the year.	4,72,521	4,91,084	815	992

The year-wise break-up of the pending cases at the end of March 1982 is given below:—

		Sales Tax	Purchase Tax on Sugarcane
Upto 1976-77	...	14,156	23
1977-78	...	19,823	45
1978-79	...	52,478	111
1979-80	...	1,42,006	227
1980-81	...	2,58,839	549
1981-82	...	3,782	37
Total	...	4,91,084	992

The number of dealers registered under the Bombay Sales Tax Act, 1959, Central Sales Tax Act, 1956 and Motor Spirit Taxation Act, 1958 were as follows:—

			Number of dealers registered as on 31st March 1982
(*i*) Bombay Sales Tax Act, 1959	...	...	2,59,601
(*ii*) Central Sales Tax Act, 1956	...	...	1,55,974
(*iii*) Motor Spirit Taxation Act, 1958	...	...	1,601

Out of 4,91,084 Sales Tax assessments pending as on 31st March 1982, 3,07,401 assessments pertained to Bombay Sales Tax Act, 1959. The turnoverwise analysis of these assessments for the year 1981-82, alongwith corresponding figures for 1980-81 is as follows:—

Turnover	1980-81	1981-82
(*i*) Assessments each having sales over Rs. 1 crore.	5,956	6,482
(*ii*) Assessments each having sales over Rs. 50 lakhs but not exceeding Rs. 1 crore.	5,000	6,037
(*iii*) Assessments each having sales over Rs. 25 lakhs but not exceeding Rs. 50 lakhs.	25,175	27,329
(*iv*) Assessments each having sales over Rs. 5 lakhs but not exceeding Rs. 25 lakhs.	47,216	69,585
(*v*) Assessments each having sales below Rs. 5 lakhs.	2,16,467	1,97,968
Total ...	2,99,814	3,07,401

CHAPTER III

STATE EXCISE

3.1. Results of audit

Test check of the records relating to State Excise, conducted in audit, during the year 1981–82 revealed short levy of excise duty amounting to Rs. 7.33 lakhs in 195 cases which broadly fall under the following categories :—

	Number of cases	Amount (In lakhs of rupees)
(*i*) Non-levy and short levy of excise duty on Indian made foreign liquor and country liquor	13	1.05
(*ii*) Short levy of supervision charges ..	20	3.59
(*iii*) Non-levy of excise duty on difference in strength of Indian made foreign liquor and beer	68	0.78
(*iv*) Short recovery of escort charges	9	1.65
(*v*) Miscellaneous	85	0.26
Total ..	195	7.33

Some of the important cases are mentioned in the following paragraphs 3.2 to 3.6.

3.2. Short levy of excise duty due to incorrect application of rates

Under the Bombay Prohibition Act, 1949 and rules made thereunder any person holding a permit to import Indian made foreign liquor and beer from other States is required to pay excise duty at the rates prevailing

on the date of import. As per notification effective from 8th March 1979, the State Government increased the rates of excise duty on Indian made foreign liquor and beer from Rs 20 and Rs 8.50 per proof litre to Rs. 25 and Rs 12 per proof litre respectively. These rates were further increased by another notification, effective from 12th October 1979, to Rs 36 and Rs. 45 per proof litre respectively.

(*i*) A licensee who was granted permit before 8th March 1979, brought into the State from outside a consignment of beer after that date. Two other licensees who were granted permits before 12th October 1979, brought into the State from outside five consignments of beer after that date. However, excise duty was collected by the department only at the rates prevailing on dates of grant of permits and duty at the rates applicable on the date of import were not collected. This resulted in excise duty being levied short by Rs. 75,898.

The case was reported to Government in July 1982. Government stated that the entire amount was recovered in January 1982 and April 1982.

(*ii*) Prior to May 1981, excise duty on ale, beer, port, cider and other fermented liquors was recoverable with reference to the proof streghth of the beverage. However, under a notification issued in May 1981, effective from 17th May 1981, excise duty on such liquors with alcoholic strength not exceeding 8.75 per cent was recoverable at the rate of Rs. 4 per bulk litre.

From a licensee excise duty on fermented liquor brought into the State from outside after 17th May 1981 was recovered at Rs. 45 per proof litre instead of ar Rs. 4 per bulk litre even though the alcoholic strength of fermented liquor was less than 8.75 per cent. This resulted in short levy of excise duty by Rs. 26,787.

The case was reported to Government in July 1982. Government stated that the entire amount was recovered in March 1982.

3.3. Non-levy of excise duty on correct strength of Indian made foreign liquor and beer.

Excise duty on Indian made foreign liquor and beer is calculated on the alcoholic strength of liquor, determined by the Chemical Analyser to Government. Where the report of the Chemical Analyser is not available duty is provisionally recovered based on alcoholic strength declared by the manufacturer. On receipt of report from the Chemical Analyser, the provisional assessment is finalised.

Four manufacturers had paid excise duty during the years 1980–81 and 1981–82, on the Indian made foreign liquor as per strength declared by them and as per report of the Chemical Analyser subsequently received the liquor and beer had higher strength of alcohol. However no action was taken to recover the differential duty from the manufacturers. This resulted in short levy of duty amounting to Rs. 70,995.

On the omision being pointed out in audit (in June 1981, Novermber 1981 and December 1981) the Department revovered Rs. 65,308.21 (in May 1981, September 1981 and February 1982) from two manufacturers. Report on recovery of amounts from the remaining two is awaited.

The case was referred to Government in July 1982; reply is awaited (December 1982).

3.4. Short recovery of supervision charges

Under the Bobmbay Prohibition Act, 1949, prohibition and excise staff are required to supervise, import, storage, manufacture and vending of foreign liquor and the cost of the staff so deployed at the permises of the person holding licence for possession of liquor is recovered at rates prescribed by the Government from the licensee in advance.

During the period between May 1970 and March 1982 from six licensees in Dhulia, Kolhapur, Akola, Bombay and Thane such cost of supervision was realised short by Rs. 3.14 lakhs due to recovery being made at rates less than those prescribed by Government from time to time.

On the mistakes being pointed out in audit (in March 1979, October 1979, July 1980, December 1980, September 1981 and December 1981) the department recovered an amount of Rs. 2.52 lakhs from the licensees between June 1980 and May 1982. Report on recovery of the balance amount is awaited (December 1982.)

The case was reported to Government in August 1982; their reply is awaited (December 1982).

3.5. Short recovery of escort charges

The Bombay Foreign Liquor Rules 1953, require that conveyance of foreign liquor consignments from the licensed premises of a trade and import licensees to the premises of another licensee be made under excise supervision. Whenever excise staff supervised such movements, escort charges are recoverable from the licensee for the days the escort is provided, at rates prescribed by the department from time to time, which cover also travelling allowance payable to the staff for such journeys

fixed from time to time. The departmental instructions require that the escort charges should be recovered in advance from the licensee before the escort is provided by the department.

Escort charges in respect of such staff provided for supervising movement of goods during the period from 26th September 1978 to 31st March 1982 were however recovered short by Rs. 1.57 lakhs because of application of old rates in respect of periods when new rates came into force.

On the mistake being pointed out in audit (between July 1980 to May 1982) the department recovered Rs. 0.39 lakh (during October 1980, February 1981, May 1981, November 1981 and February 1982) from four licensees; report on the recovery of the balance amount is awaited (December 1982).

The matter was reported to Government in July 1982; reply is awaited (December 1982).

3.6. Short realisation of transfer privileges fees

Under the Bombay Prohibition (Privileges Fees) Rules, 1954, a fee is payable by a licensee, for the privilege of transferring his licence to another and the fee is the same as that charged for the grant of the licence. The privilege fee charge for admission of a partner into or the withdrawal of a partner from the licensee's partnership business is fifty per cent of the fee charged for the grant of the licence.

On transfer of lincences and on admission of partners or withdrawal of partners, fees were realised short by Rs. 11,050 in 14 cases in Thane, Jalgaon, Bombay, Pune and Ahmednagar districts.

On the mistake being pointed out in audit (in June 1977, September 1977, August 1978, November 1978, July 1980 and November 1980) the department recovered Rs. 8,050 (between September 1977 and September 1980). Report on recovery of the balance amount is awaited (December 1982).

The cases were reported to Government in September 1982; their reply is awaited (December 1982).

CHAPTER IV

LAND REVENUE

4.1. Results of audit

Test check of land revenue accounts, conducted in audit during the year 1981-82 in 158 offices out of 312 offices in the State disclosed under-assessments of Rs. 270.29 lakhs due to non-levy and short-levy of land revenue .

Some of the important cases are mentioned in paragraphs 4.2 to 4.10.

4.2. Failure to demand land revenue on non-agricultural lands correctly

Under the Maharashtra Land Revenue Code, 1966, any land has to be assessed to land revenue with reference to the purpose for which the land is used e.g. agricultural, residential, industrial, commercial etc. The code requires that if holder of a land which is assessed to land revenue for the purpose of agriculture, wishes to use it for non-agricultural purpose, permission of Collector for change in mode of its use be obtained and land revenue be reassessed as per changed mode of use.

(*i*) In Haveli tahsil (Pune district) land admeasuring 13,33,179 square yards was put to use by a public sector undertaking for locating its factory and residential houses thereon. However the land admeasuring 13,33,179 square yards was not assessed to land revenue for about 22 years. Government had directed in May 1960 that non-agricultural lands be assessed. On the failure being pointed out (in March 1980 and June 1981) in audit , the Collector, Pune stated (June 1982) that assessment of the non-agricultural land in question had since been made in respect of 13,01,113 square yards (May 1982) and demand for Rs. 2.57 lakhs raised against the undertaking in respect of the period from August 1954

to July 1982. Cess at the prescribed rates recoverable for the period from August 1954 to July 1974 is also recoverable. Report on recovery is awaited (July 1982). Assessment on the remaining area (32,066 square yards) of land was stated (June 1982) to be still under examination.

The case was reported to Government in July 1982; their reply is awaited (December 1982).

(*ii*) In Palghar (Thane district), a piece of Government land admeasuring 9 acres was made over to the Maharashtra State Electricity Board in November 1971 and occupancy price was charged. Though occupancy price was recovered in July 1979, the department had not taken any action to assess the non-atricultural land revenue realisable from this land. Failure to do so resulted in non-realisation of land revenue and cess amounting to Rs 41,887 in respect of the years 1971-72 to 1980-81.

The lapse was reported to Government in May 1982. Government stated (July 1982) that an amount of Rs. 41,887 had been recovered (January 1982) from the Electricity Board.

(*iii*) Lands acquired and handed over to the Maharashtra State Electricity Board for non-agricultural purpose are assessable to land revenue at rates applicable to non-agricultural lands from the date on which possession is given to the Board. Government clarified (January 1973) to the Revenue authorities that such lands should be assessed to land revenue.

In Bhandara tahsil, agricultural land measuring 17,600 square meters in village Ganeshpur was not assessed to land revenue at rates applicable to non-agricultural land even though the land was acquired by Government and was handed over to State Electricity Board in October 1977 for construction of administrative building and staff quarters. On the failure being pointed out in audit, the department assessed (July 1982) the land revenue and demanded from the Board an amount of Rs. 72,512 (including conversion tax) for the years 1977-78 to 1981-82. Report on recovery is awaited (December 1982).

The case was reported to Government in August 1982; their reply is awaited (December 1982).

(*iv*) In Gangakhed tahsil (Parbhani district) the Maharashtra State Electricity Board acquired private agricultural land admeasuring 4·03 hectares and used it for non-agricultural purposes, such as residential, industrial and commercial. The land revenue assessment was however not revised at rates applicable to non-agricultural lands which resulted

in land revenue being realised short by Rs 65,859 during the years 1972-73 to 1981-82.

On the failure being pointed out in audit, the department confirmed the lapse (July 1982) and initiated rectificatory action. Report on rectification is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited(December 1982).

(*v*) In Latur tahsil (Osmanabad district), Malkapur tahsil (Buldana district) and Gangakhed tahsil (Parbhani district) agricultural lands were acquired by the Maharashtra State Road Transport Corporation and put to use as bus depot or stand without obtaining the Collector's permission for the changed mode of use of land.

In Malkapur and Gangakhed tahsils the department continued to recover land revenue as assessed for use as agricultural land while in Latur, no land revenue was recovered. This resulted in land revenue being realised short by Rs. 3·19 lakhs in respect of various lands during different periods between the years 1962-63 and 1981-82.

Omission on the part of the State Government undertaking (State Transport) in observing the provisions of law and failure of revenue authorities to detect such conspicuous non-agricultural activities resulted in above lands escaping appropriate assessment causing under-assessment/ non-levy of Rs. 3·19 lakhs till 1981-82. On the failures being pointed out in audit (February 1979 and July 1982) the department stated (July 1982) that the short levy would be recovered in Latur and Gangakhed while in Malkapur demand had since been raised in May 1982.

The cases were reported to Government in July and September 1982; their reply is awaited (December 1982).

(*vi*) In Bhudargad taluka (Kolhapur district) and Jintur taluka (Parbhani district) land measuring 7·13 hectares (3·58 hectares in Bhudargad taluka and 3·55 hectares in Jintur taluka) were made over by the department to Maharashtra State Road Transport Corporation (in May 1969 and in February 1955 respectively) for commercial use. However land revenue continued to be realised on the basis of the assessment as for agricultural lands which resulted in land revenue (including local cess) being realised short by Rs. 49,282 during the years 1954-55 to 1981-82.

On the failure being pointed out in audit (August 1978—July 1979) the department stated (July 1982) that owing to failure on the part of

the Corporation to intimate the fact of land being put to non-agricultural use, the land revenue was not reassessed and that remedial action had since been taken in December 1981 in Bhudargad. In Jintur, similar action was being taken. Report on rectification is awaited (December 1982).

The cases were reported to Government in August 1982; their reply is waited (December 1982).

(*vii*) In Wardha tahsil, land admeasuring 3,44,500 square metres belonging to a private person in Chinchala village was made over (February 1979) to Food Corporation of India for construction of godowns. In addition, Government land admeasuring 18,000 square metres in the same village was also made over to the Food Corporation of India for the same purpose. However, land revenue was not reassessed nor realised at higher rates applicable to non-agricultural lands with the result that the land revenue during the period from February 1979 to July 1982 was realised short by Rs. 68,512. On the failure being pointed out in audit (March 1981), the department stated (March 1981) that rectificatory action was being initiated, report is awaited (December 1982).

The case was reported to Government in August 1982; their reply is awaited (December 1982).

(*viii*) In another case in Haveli tahsil (Pune district) a company put agricultural land (70,456·43 square metres) to industrial use from the year 1957-58 unauthorisedly. This use was regularised in May 1960 by the Collector. However the department did not recover land revenue at rates applicable to non-agricultural use with effect from the year 1957-58 but only at rates applicable to agricultural land. This resulted in land revenue being recovered short by Rs. 2·24 lakhs for the years 1957-58 to 1981-82. The failure was not detected by the Internal Audit Wing of the department.

On the failure being pointed out (February 1982) in audit, the department stated (July 1982) that action for recovery was being taken. Report on recovery is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(*ix*) Land measuring 11 acres and 33 gunthas in Wadgaon Sheri village was used for industrial purpose by a company after obtaining permission from the Collector. The department assessed the land so put

to non-agricultural use, to land revenue of Rs. 886.75 from the year 1949-50 onwards with a guarantee period of 30 years and land revenue was recovered accordingly. In January 1972 when the company applied for putting another piece of land, measuring 5 acres 13 gunthas in the same village to non-agricultural use, the Collector assessed the land on its changed mode of use, to land revenue of Rs. 1,508.50 recoverable from the year 1971-72 for 15 years. Instead of making a fresh entry for demand of this amount, the earlier entry for recovery of Rs 886.75 was altered to Rs 1,508.50 in the revenue records. This resulted in land revenue being realised short by Rs. 886.75 per year from the year 1971-72 onwards. The land revenue assessment on the first piece of land was due for revision from the year 1979-80 onwards. Because of the mistake, this was not done and the rate of Rs. 1,508.50 was taken to be valid till July 1986. On a third piece of land measuring 17 acres which the company had been using for residential purposes from the year 1958-59, no land revenue was assessed on the change in mode of use. The mistakes resulted in land revenue being realised short by Rs. 2.11 lakhs (including increase of land revenue of Rs. 0.56 lakh and local cess of Rs. 0.86 lakh) during the years 1971-72 to 1981-82.

On the failures being pointed out in audit (February 1982) the department stated that orders were being issued for recovery of the amount short levied. Report on recovery is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

4.3. Assessment not revised on conversion and non-recovery of conversion tax

The Maharashtra Land Revenue Code (Amendment) Act, 1979, provides that on conversion in mode of use of land, a conversion tax equal to three times the land revenue assessable on land put to non-agricultural use be levied on all lands situated within the limits of Municipal Corporation and within the limits of 'A' and 'B' class Municipal Councils. In addition, fine or penalty is leviable if land was put to altered mode of use without the prior permission of the District Collector or land is required to be restored to its original use.

(*i*) In Haveli tahsil (Pune district) lands admeasuring 15,322 square metres and 14,900 square metres which lay within the limits of Pune Municipal Corporation were put to industrial use (in one case unauthorisedly) from the year 1961-62 and 1969-70 respectively. The Department

did not reassess land revenue on the land being put to non-agricultural use. In one case department continued to recover land revenue as per assessment based on its use for agriculture, even though the lands were under industrial use during the years 1969-70 to 1981-82. The omissions resulted in land revenue being recovered short by Rs. 1,03,323 (inclusive of local cess of Rs. 2,308 upto 31st March 1974 and conversion tax of Rs. 30,715 in one case) during the years 1961-62 to 1981-82.

On the mistake being pointed out in audit (February 1982) the department stated (July 1982) that action to recover the land revenue was being taken.

The cases were reported to Government in October 1982; their reply is awaited (December 1982).

(*ii*) In Chikhli town (Buldhana District) land measuring 79,226 square metres was diverted to non-agricultural use during the years 1965-66 to 1976-77 without obtaining permission required under the Code. The unauthorised diversions in 3,627 cases were not detected by the inspectors and no action to demand land revenue at higher rates or levy fine was taken. On failure being pointed out (February 1976) in audit, Tahsildar Chikhli stated (June 1982) that in 2,879 out of 3,627 cases the altered mode of use of land was regularised during the year 1980-81 and appropriate land revenue demanded and fines levied amounted to Rs. 64,615 of which a sum of Rs. 42,634 had been recovered. Report on recovery of balance amount of Rs. 21,981 and regularisation of the altered mode of use in the remaining 748 cases is awaited (December 1982).

The reasons for the delay of about four years to regularise the cases pointed out in audit, are also awaited.

The case was reported to Government in July 1982; their reply is awaited (December 1982).

(*iii*) As per the Maharashtra Land Revenue Code (Amendment) Act, 1979, effective from 31st March 1979, when permission to put land to non-agricultural use or change in mode of use of land is granted or unauthorised use of land for non-agricultural purposes is regularised. Conversion tax is leviable at three times land revenue assessable on non-agricultural land in respect of all lands situated in the areas of Municipal Corporations (excluding city of Bombay) and A and B class Municipal Councils.

(*a*) In Kurla tahsil (Bombay Suburban district) non-agricultural use of land admeasuring 39,305 square metres which was unauthorised was regularised in June 1980 and " non-agricultural assessment " was made at the rate of Rs. 4,707 per annum but conversion tax of Rs. 14,121 was omitted to be levied.

On the omission being pointed out in audit (April/May 1981), the department revised (June 1982) the order and levied conversion tax amounting to Rs. 14,121. Report on recovery is awaited.

The case was reported to Government in July 1982; their reply is awaited (December 1982).

(*b*) In Jalna tahsil, unauthorised change in mode of use of lands situated within the area of Jalna Municipal Council (B Class) was regularised in 15 cases in May and June 1979 but conversion tax amounting to Rs. 15,808 was not levied.

On the omission being pointed out (January 1982) in audit the department stated (July 1982) that the matter would be examined.

The cases were reported to Government in August 1982; their reply is awaited (December 1982).

4.4. Non-agricultural assessments not revised

(*i*) The Maharashtra Land Revenue Code (Amendment) Act, 1979 provides that, effective from 31st March 1979, in respect of non-agricultural land assessed to land revenue before 31st March 1979 where the period during which assessment shall remain in force has been specified in the orders or sanad, the assessment shall be revised only after the expiry of the period aforesaid, but in other cases, however, the assessment is liable to revision from 1st August 1979 with reference to the standard rate fixed under the provisions of the Act. The standard rates in Thane tahsil, were fixed in September 1980 effective retrospectively from 1st August 1979.

In Thane Tahsil (Thane district) assessment of non-agricultural land in village Mire was revised after 31st march 1979 with reference to the then existing standard rates and such revised assessment was guaranteed upto 27th December 1988. Consequently, when standard rate came into force from 1st August 1979, the department took the view that the assessment could not be revised till December 1988. However the assessment having been done after 31st March 1979 the assessment was liable to be revised from 1st August 1979. Failure to do so resulted in land revenue being realised short by Rs. 5.46 lakhs during the years 1979–80 to 1981-82.

On the mistake being pointed out in audit (November 1980) the department accepted (July 1981) the audit observation. Report on action taken by the department to rectify the short levy is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(*ii*) As per the Maharashtra Land Revenue Code, 1966, on expiry of guarantee period for which non-agricultural land was assessed to land revenue, the assessment is liable to be revised and the holder of the land is liable to levy of land revenue as revised from time to time by the Collector.

(*a*) In Amravati assessment of non-agricultural land measuring 99.57 lakhs square feet to be revised with effect from 24th September 1971 but no action was taken to reassess and recover land revenue. This resulted in land revenue being realised short by Rs. 30,467.15 per annum which for the year 1971–72 to 1981–82 amounted to Rs. 3.35 lakhs.

On the failure being pointed out (September 1980) in audit, the department confirmed the short levy and stated (August 1982) that the amount was being recovered. Report on recovery is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(*b*) In Chikhli urban area the standard rates of " non-agricultural assessment " notified in March 1973 came into force with effect from 1st June 1973. In Chikhli tahsil (Buldana district), the guaranteed period, in respect of lands granted in September 1933 to Municipal Committee, Chikhli, for use as market yard, expired prior to 1st June 1973. However, recovery of land revenue continued at the old rate of Rs. 253 per annum even after 1st June 1973 and no action was taken to enforce recovery at the standard rate of Rs. 1518 per annum. Omission to note this land grant in the prescribed non-agricultural assessment register resulted in non-revision of the assessment as and when it would fall due. This resulted in short fall in land revenue amounting to Rs. 10,120 for the years 1973–74 to 1980–81.

The case was reported to Government in July 1982. Government stated (September 1982) that omission to revise non-agricultural assessment and non-recovery as per enhanced assessment had been rectified (January/March 1981) by the Sub-Divisional Officer, Buldana. Government also stated that in order to avoid recurrance of such ommissions in future a general circular had been issued.

(*iii*) In Pandharpur urban area (Solapur District) rates of assessment of land revenue in respect of non-agricultural lands was revised with effect from 20th November 1970 and 1st August 1979. In respect of 9 cases, the guarantee period had expired even perior to 20th November 1970. Of these assessment rates in respect of 8 cases, were revised in September 1974 but demands for land revenue were raised at old rates during the years 1970–71 to 1981–82. In the remaining cases, the department did not revise the assessment and continued recovery at the old rates. In respect of 5 cases the guarantee period expired after 20th November 1970 and before 1st August, 1979, but the department took no action to revise the assessments. Omission to raise demand for assessed amount of land revenue as well as failure to revise the assessments resulted in land revenue amounting to Rs. 1.15 lakhs during the years 1970–71 to 1981–82 not being collected.

On the mistake being pointed out in audit (March 1982) the department stated (July 1982) that rectificatory action would be taken. Report on rectification is awaited (December 1982).

The cases were reported to Government (September 1982); their reply is awaited (December 1982).

4.5. Incorrect revision of non-agricultural assessment

Section 116 of the Maharashtra Land Revenue Code, 1966, provides that when the " non-agricultural assessment " is revised in respect of any land, the land revenue computed on the basis of revised assessment shall not exceed twice the amount of land revenu payable immediately before the revision where the land is used for residential purpose and shall not exceed six times where the land is used for any other non-agricultural purpose.

(*i*) In Malegaon tahsil (Nashik district) in 15 cases, the land revenue based on non-agricultural assessment was revised in respect of land put to industrial and commercial use. However the revised rate was limited to twice the amount of land revenue based on non-agricultural assessment that was payable immediately before the revision, though the lands were not put to residential use. This resulted in land revenue being levied short by Rs. 27,708 in respect of the years 1976-77 to 1981-82. On the mistakes being pointed out in audit (January 1982), the Tahsildar, Malegaon, accepted (January 1982) the omission and agreed to rectify the mistakes. Report on rectification is awaited (December 1982).

(*ii*) In Karvir tahsil (Kolhapur district), assessment of lands admeasuring 58226. 2 square metres put to industrial use was revised. The revised assessment was limited to twice the assessment of land revenue payable immediately before the revision, though the revised assessment was required to be limited to only six times the pre-revised assessment. This resulted in land revenue being levied short by Rs. 36,489 during the years 1970-71 to 1981-82.

On the mistakes being pointed out in audit (August 1980) the department accepted (July 1982) the omission and stated that the amount short levied would be recovered. Report on recovery is awaited (December 1982).

Similar instances were reported also in paragraphs 54(*a*) and 4.5 of the Reports of the Comptroller and Auditor General of India (Revenue Receipts) for the years 1975-76 and 1979-80 respectively.

The above cases were reported to Government in July 1982 and September 1982; their reply is awaited (December 1982).

4.6. Non-recovery of price of land premium, rent etc.

(*i*) In Hinganghat tahsil (wardha district) as per Government orders, the Revenue Department handed over possession of 6553 quare metres of Government land to the State Road Transport Corporation in the year 1973-74 which was put to non-agricultural use from the year 1974-75. The Corporation was to pay occupancy price for the land as fixed by Government and interest thereon at $6\frac{1}{2}$ per cent per annum from the date of taking possession till date of payment of the price. The Town Planning Department estimated (May 1974) the price at Rs. 24,375 but the Revenue Department did not recover it from the Corporation nor the interest of Rs. 12,675 thereon for the period from 1974-75 to 1981-82. The land revenue was also not reassessed and recovered resulting in the same being realised short by Rs. 2,831 (including cess) for the same period.

On the failures being pointed out in audit (February 1982) the department accepted the failure and stated (August 1982) that steps were being taken to recover the dues . Report on recovery is awaited(December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(*ii*) 200 sheds and houses built by Government at Amravati on nazul land measuring 2,39,211 square feet for rehabilitation of displaced

persons were handed over to such persons during the year 1949-50. As per the provisions of the Displaced persons (Compensation and Rehabilitation) Act, 1954, the structures were transferred in favour of such persons. But the terms and conditions of transfer were not fixed till August 1969 when Government decided that the houses and shop-cum-houses be given on lease with right to transfer houses and shops on temporary leasehold. The rates of premium and ground rent were also fixed.

On enquiring in audit (October 1980) as to why no action had been taken to bring on record the lease agreements and to collect the premium and rents, the department stated (June 1982) that notices demanding payment of premium and rent amounting Rs. 1.42 lakhs for the years 1949-50 to 1981-82 had since been issued (during April and May 1981) and an amount of Rs. 0.36 lakhs had been recovered (between August 1981 and January 1982) leaving a balance of Rs. 1.06 lakhs. Further action for bringing on record lease agreements had been initiated. Report on recovery of the balance amount and taking on record the lease agreements is awaited (December 1982).

The failure was reported to Government in Junly 1982; their reply is awaited (December 1982).

(*iii*) In Bombay, the ground rent due on two plots of land in the Backbay Reclamation area for the period from 30th October 1976 to 30th June 1980 was computed wrongly by the department as Rs,1,5169,472 instead of Rs 1,53,21,157 and the recovery of quarterly instalments commenced from 1st July 1980 onwards. The short fall in demand amounted to Rs. 1,51,685. On the mistake being pointed out (November 1981) in audit, the department rectified the mistake and demanded the amount short recovered.

The case was reported to Government in August 1982; their reply s a waited (December 1982).

(*iv*) The cost of Khatepustika priced at Rs. 3 which is supplied to every holder (Khatedar) as required under Maharashtra Land Revenue Code is to be recovered from him. Recovery has been waived by Government only from land holder whose liability to pay land revenue does not exceed Rs. 7.50 per year.

In 36 tahsils, from 3,36,449 land holders whose liability to pay land revenue exceeded Rs. 7.50 per year, the cost of the booklets was not recovered; the non-recovery amouting to Rs. 10.09 lakhs.

On the failure being pointed out in audit, (between March 1981 and February 1982) the department stated that the concerned village officers were being instructed to effect recovery. Report on recovery is awaited. (December 1982).

The case was reported to Government in september 1982; their reply is awaited (December 1982).

Similar omissions in 16 other tahsils were reported in paragraph 4.22 of Report of the Comptroller and Auditor General of India for the year 1980-81, on Revenue Receipts.

4.7. Non-revision of lease rent

(*i*) In respect of Nazul lands in Nagpur Division leased out generally for 30 years with lease renewable in perpetuity and at intervals of 30 years at a revised ground rent, Government issued orders in November 1976 that the rents should be revised, when renewing lease, and fixed at fair and equitable rates. Further ground rent should be revised to three times the previous rent and the revised rent should be recovered from the day the leases fell due for renewal.

In Gadchiroli tahsil (Chandrapur district) leases on 323 nazul plots were due for renewal in the year 1973-74 and the annual rent in respect of them fixed earlier at Rs. 1,869.76 was due to be revised to Rs.5,609.28 from the year 1973-74. However the department did not take steps to renew the lease or revise the rent even after issue of the aforesaid Government orders in November 1976. This resulted in rent amounting to Rs. 33,655.68, for the years 1973-74 to 1981-82, not being realised.

On the omission being pointed out in audit (February 1980), the Department revised the annual ground rent in June 1982 to Rs. 5,609.28 making it effective from 1973-74. Report on recovery is awaited (December 1982).

The case was reported to Government in August 1982; their reply is awaited (December 1982). Similar omissions were also reported in paragraph 69 of the Report of the Comptroller and Auditor General of India for the year 1974-75 on Revenue Receipts.

(*ii*) As per the Maharashtra Land Revenue Code, 1966 and rules thereunder on Government lands which are leased out, annual ground rent chargeable is $6\frac{1}{2}$ per cent (effective from November 1969) of the market value of the land; the rent was revised to 8 per cent in May 1978.

In Washim tahsil (Akola district), lease on Government land measuring 43,750 square feet was granted to a public sector undertaking of the

Central Government in 1968-69 on the basis that the lease would be renewed yearly. However, the rent recoverable was not revised though the rent chargeable as per the rules, varied from time to time. This resulted in under-assessment of the lease rent by Rs. 17,942.50 in respect of the years 1973-74 to 1980-81.

The case was reported to Government in July 1982. Government stated (September 1982) that the Sub-Divisional Officer, Washim, was being instructed to complete the work of fixation of revised lease rents and to recover the differential amounts of the lease rents within a period of 3 months. Further developments are awaited (December 1982).

4.8. Short realisation of Zilla Parishad cess

(*i*) From the revenue year 1978-79 onwards, the agricultural land revenue assessable in respect of every holder whose entire holding in the State does not exceed 3 hectares of agricultural land (no part of which is under irrigation by any mode) or whose liability to pay agricultural land revenue in a year in respect of his entire holding (no part of which is under irrigation) in the State is more than Rs. 5 but does not exceed Rs. 10 in the aggregate was remitted by Government. However, Government clarified (May 1979) that local cess was not remitted and should continue to be levied on the basis that the land revenue had not been remitted.

In 64 tahsils, local cess was not levied and recovered in respect of the aforesaid lands on the plea that the land revenue thereon was remitted by Government. This resulted in local cess amounting to Rs. 103 lakhs during the years 1978-79 to 1980-81 not being realised.

On the failure being pointed out in audit (September 1980 to March 1982) the department stated that necessary action in the matter would be taken. In 2 tahsils, cess amounting to Rs. 3.07 lakhs had since been recovered. Report on further recovery is awaited (December 1982).

The cases were reported to Government in September 1982; their reply is awaited (December 1982).

(*ii*) Government raised in February 1975, the rate of Zilla Parishad cess from Rs. 0.60 to Rs. 1.60 per rupee of ordinary land revenue and the revision was effective from 1st August, 1974 on all lands under the jurisdiction of Osmanabad Zilla Parishad.

In Paranda taluka (Osmanabad district), in assessing increase of land revenue for the year 1974-75, revised rate of Zilla Parishad cess was adopted in respect of 32 villages, but the unrevised rate was applied in

respect of the remaining 81 villages which resulted in increase of land revenue being realised short by Rs. 14,271. The omission was pointed out in audit in April 1978; the reply of the department is awaited. The assessment had not been revised till July 1982.

The case was reported to Government in August 1982; their reply is awaited (December 1982).

4.9. Non-levy of increase of land revenue and delayed raising of demands

As per the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974, increase of land revenue was assessable on agricultural lands from 1st August 1974. In order to raise additional resources needed for implementing the Employment Guarantee Scheme of the State, the Act was amended to provide for increase of land revenue being assessable on all 'holdings' of 8 hectares and above, from 1st August 1975.

(*i*) In Indapur taluka (Pune district) and Kurla taluka (Bombay Suburban district) on holdings of land of 8 hectares and above, increase of land revenue was not assessed nor realised during the years 1975-76 to 1981-82 under the impression that the increase was assessable only in respect of agricultural lands, though the amendment in 1975 extended to all holdings. On seven such holdings the increase of land revenue not realised during the years 1975-76 to 1981-82 amounted to Rs. 8·98 lakhs. The failure was pointed out in audit (September 1980/May 1981) to the department; their reply is awaited.

The case was reported to Government in July 1982; their reply is awaited (December 1982).

(*ii*) Section 7 of the Maharashtra (Increase of Land Revenue and Special Assessment) Act, 1974, read with Government Notification, dated 31st August, 1974, requires that Tahsildars prepare before the 1st of November every year assessment lists to enable for increase of land revenue being demanded. The increase of land revenue was imposed in order to finance the State's Employment Guarantee Scheme.

In Khamgaon tahsil (Buldana district) assessment lists in respect of the years 1975-76 to 1980-81 had not been prepared till March 1982 whereafter increase of land revenue was demanded for these six years amounting to Rs. 8·11 lakhs. For the revenue year 1981-82 assessments were not finalised till June 1982. Due to rush of work increase of land revenue was not demanded in time.

The non-raising of demands amounting to Rs. 8·11 lakhs was pointed out in audit as early as in August 1979. Since the delay in assessment and raising of demands and consequent short fall in collection every year would adversely affect mobilisation of resources for the Employment Guarantee Scheme the delay was reported to Government in July 1982; their reply is awaited (December 1982).

4.10. Incorrect levy based on special assessment

Under the Maharashtra Education (Cess) Act, 1962 with effect from 1st August 1962 the special assessment is to be made in respect of all agricultural lands on which commercial crops are raised The rates were revised from time to time; last revision being made on 1st August 1976. From the beginning of the year 1962-63, on perennially irrigated lands growing sugarcane special assessment is to be made at higher rates than on the other lands on which sugarcane is grown. The term " land perennially irrigated " is defined in the Act.

(*i*) In Bhudhargad tahsil (Kolhapur district) on 5,808·15 hectares of perennially irrigated lands sugarcane was raised during the years 1976-77 to 1979-80, but the special assessment was made on these lands at the lower rate of Rs. 110 per hectare instead of at the rate of Rs. 190 per hectare applicable. The Collector, Kolhapur issued instructions only in July 1980 pointing out certain principles for classification of perennially irrigated lands and the recovery was made at the rate of Rs. 190 per hectare only from the year 1980-81 onwards. This resulted in special assessment being realised short by Rs. 4,64,654 in respect of the years 1976-77 to 1979-80. On the mistake being pointed out (December 1981) in audit, the department stated that the matter would be considered. This short levy for the years 1962-63 to 1975-76 is still to be computed by the department (December 1982).

Under the Maharashtra Increase of Land Revenue and Special Assessment Act, 1974, the special assessment to be made under the Maharashtra Education (Cess) Act, 1962 was increased with effect from 1st August, 1974. Corresponding to the short levy of Rs. 4,64,654 during the years 1976-77 to 1979-80 referred to above, special assessment was also omitted to be increased. The department had taken no action to rectify this short levy nor quantified it for the years 1974-75 to 1979-80 (December 1982). The Collector, Kolhapur stated (November 1982) that the question whether restrospective effect could be given to higher rate and whether the assessment already done by the Assessing Officers, was correct had been referred to Government and that final decision was awaited.

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(*ii*) The rate of special assessment recoverable under the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, in respect of lands, other than perennially irrigated lands on which sugarcane is raised was revised from Rs. 75 to Rs. 112.50 per hectare with effect from 1st August 1974.

In Latur tahsil (Osmanabad district) the special assessment in respect of 1,732.96 hectares of land of aforesaid nature was incorrectly assessed at the rate of Rs. 75 per hectare during the year 1975-76 which resulted in revenue being realised short by Rs. 64,377.

On the omission being pointed out in audit (February 1979) the department accepted the mistake (July 1982) and agreed to rectify it. Report on rectification is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

CHAPTER V

TAXES ON VEHICLES

5.1. Results of audit

Test check of the records relating to assessment and collection of Motor Vehicles Tax, goods and passenger tax etc., conducted in audit during the year 1981-82 revealed short levy amounting to Rs. 6.56 lakhs in 1,255 cases which broadly fall under the following categories:—

	Number of cases	Amount (In lakhs of rupees)
(*i*) Non-levy or short levy of Motor Vehicles tax, goods tax, further tax and passenger tax due to incorrect application of rates etc.	234	1.75
(*ii*) Short levy of Motor Vehicles tax due to incorrect assessment.	46	1.97
(*iii*) Irregular exemption from payment of tax ...	73	1.92
(*iv*) Miscellaneous	902	0.92
Total ...	1,255	6.56

Some of the important cases are mentioned in the following paragraphs.

5.2. Non-levy of road tax in respect of forklift vehicles

As per the Motor Vehicles Act, 1939, a motor vehicle means any mechanically propelled vehicle adapted for the use upon roads, whether the power of propulsion is transmitted from an external or internal source and includes a chassis to which a body has not been attached

and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises. Prior to July 1976, forklifts were being registered and taxed. However in July 1976, it was decided that forklifts could not be classified as Motor Vehicles and forklifts need not be registered. The Transport Commissioner, Maharashtra State, Bombay in a circular issued in March 1978 held that forklifts which are used for lifting and carrying goods are motor vehicles which have the potential for being put to use upon the roads since they are not adapted for use only in a factory or in any other enclosed premises and as such forklifts that can be used which are also required to be registered under Section 22 of the Act are liable to pay road tax from the date of their registration. Opinion from technical authorities on suitability of forklifts for continued and prolonged use upon road as also such suitability cost-wise was not available on record.

In a Regional Transport Office on registration, 23 forklift vehicles, were assessed to road tax but subsequently registration was cancelled by the department in November 1976 and recovery of road tax was also discontinued from the date of cancellation of the registration. Out of these 23 vehicles, five vehicles were however, again registered (April 1981) and road tax was recovered from the date of subsequent registration. However, arrears of tax for the period prior to 1st April 1981 were not recovered.

On audit pointing out the contradictory state of the instructions issued and administration of the law in relation to forklifts, in August 1981, the department stated that the matter was under consideration. In the meanwhile, the road tax in respect of the 23 forklifts, which has not been demanded has amounted to Rs. 1.15 lakhs.

The case was reported to Government in July 1982; their reply is awaited (December 1982).

5.3. Short levy of road tax due to application of single rates instead of double rates.

By an amendment to the Bombay Motor Vehicles Tax Act, 1958, with effect from 1st April 1974, the rate of tax on motor cycles, scooters and other vehicles fixed on the basis of their unladen weight was doubled but excluding vehicles registered in the name of an individual, a local authority, a public trust, a university or an educational institution.

On 19 vehicles registered in the name of private or public limited companies, registered firms and other associations of persons for various periods between April 1974 and March 1982, tax was levied at the rate in force prior to amendment resulting in short realisation of tax by Rs. 15,153.

On the mistakes being pointed out in audit (April 1980 and June 1982), the department stated (July 1980) that in respect of five vehicles rectificatory action was being taken. Report on rectificatory action taken in respect of remaining vehicles is awaited (December 1982).

The cases were reported to Government in August 1982. Government stated (October and December 1982) that recovery in respect of two vehicles amounting to Rs. 1,838 has been effected. Further reply is awaited (December 1982).

5.4. Short levy of tax due to application of incorrect rates

(*i*) As per the Maharashtra Tax on Goods (carried by Road) Act, 1962, tax is leviable on the carrying capacity of the vehicle. To the gross weight of the vehicle as certified by the manufacturer is added 25 per cent thereof to arrive at the registered laden weight. Therefrom the actual unladen weight of the vehicle is deducted to arrive at the carrying capacity of the vehicle.

In a Regional Transport Office in Bombay the tax was levied on carrying capacity computed incorrectly and rates wear also applied incorrectly. This resulted in tax on 82 vehicles for the period from March 1978 to March 1980 being levied short by Rs. 15,107 in the aggregate.

On the omission being pointed out in audit in (May 1979), the department recovered Rs. 12,081 in respect of 54 vehicles (between May 1979 and January 1982). Report on recovery in respect of the remaining vehicles is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(*ii*) Tractors and motor vehicles not intended to carry passengers, goods or other load, but fitted with equipment such as cranes, compressors or projectors are assessable to tax at rates specified in Schedule I of the Bombay Motor Vehicles Act. By a notification issued in April 1979, the State Government fixed a specific higher rate with effect from 1st April 1979 instead of the residuary rate applicable to them prior to that date.

In the Offices of Regional Transport Officers, West and Central Zones, Bombay and Assistant Regional Transport Officers, Jalgaon and Kalyan, in respect of the years 1979-80 to 1981-82, 23 vehicles fitted with cranes were taxed at the lower rates which were in force prior to 1st April 1979. This resulted in levy of tax on the 23 vehicles short by Rs. 0.83 lakh in the aggregate.

On the mistakes being pointed out in audit (May 1981, August 1981, September 1981 and February 1982) the department recovered an amount of Rs. 0.44 lakh in respect of nine vehicles. Report on recovery in respect of the remaining vehicles is awaited (December 1982).

The case was reported to Government in July 1982; their reply is awaited (December 1982).

5.5. Irregular exemption from payment of tax

(*i*) As per notifications issued under provisions of the relevant Acts on motor vehicles belonging to Government of India or the Government of Maharashtra levies of Motor Vehicles tax and goods tax were exempted. However, the exemption did not extend to non-Government vehicles, such as those belonging to autonomous bodies, public companies or corporations.

In Jalgaon, Parbhani, Ahmednagar, Dhule, Aurangabad and Nagpur, on 54 vehicles originally purchased by the Environmental Engineering Divisions of Government of Maharashtra and transferred to the Maharashtra Water Supply and Sewerage Board, an autonomous body in November 1979, tax was omitted to be levied for the period from 1st November 1979 to 31st March 1982. The tax not levied amounted to Rs. 1,09,515.

On the mistakes being pointed out in audit (December 1981, January 1982, February 1982 and April 1982) the department recovered Rs. 54,862 in respect of twenty five vehicles. Report on recovery in respect of remaining twenty nine vehicles is awaited (December 1982).

The cases were reported to Government in July 1982 and September 1982; their reply is awaited (December 1982).

(*ii*) Similarly in Nagpur, on four vehicles belonging to three autonomous bodies tax amounting to Rs. 36,163 was leviable for different periods between April 1974 and January 1983 but was not levied.

On the failure to levy tax being pointed out, the department raised (July and August 1982) demand of which Rs. 3,124 was recovered (April 1982). Report on recovery of balance amount is awaited (December 1982).

The cases were reported to Government in September 1982; their reply is awaited (December 1982).

5.6. Short levy of passenger tax due to incorrect grant of exemption

Under the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958, tax is levied at the rate of 17.5 per cent of the gross amount of fare payable by the passengers for hire or reward. Government is, however, empowered to exempt from tax totally or partially vehicles which are plying exclusively on certain specified routes serving municipal and adjacent areas and in May 1976, it so exempted tax in excess of 3.5 per cent of the gross amount of fares payable to the operators.

Three operators transporting the staff of a company along a specified route, were exempt from levy of tax in excess of 3.5 per cent even though the operators did not follow the specified routes. Accordingly tax was leviable at the full rate of 17.5 per cent and failure to do so resulted in passenger tax being levied short by Rs. 33,600 for the different periods between December 1979 and September 1981.

On the mistake being pointed out in audit (April 1981) the department stated (July 1982) that passenger tax amounting to Rs. 24,580 had been recovered in June 1982 and July 1982.

The case was reported to Government (September 1982); Government stated (October 1982) that the balance amount of Rs. 9,020 has been recovered in August and September 1982.

5.7. Short levy of passenger tax on stage carriage

Under the Bombay Motor Vehicles (Taxation of Passgngers) Act, 1958, passenger tax is levied on the fares payable. With effect from 15th January 1981, the minimum fare for ordinary service, was fixed at 50 paise per passenger for each stage of six kilometres or part thereof. Under the Motor Vehicles Act, 1939, operators charging fare below the minimum prescribed by Government/State Transport Authority were liable to have their permits cancelled.

In Amravati and Nagpur, the minimum fare prescribed by the competent authority was not charged by the operators nor had the Transport Authority taken any action against the defaulting operators. As a result, the passenger tax leviable or payable was assessed on the fares which were below the prescribed minimum. This resulted in passenger tax amounting to Rs. 51,571 not being realised for the period from February to October 1981 from 9 operators.

The failure was pointed out in audit to the department in March 1982. The Transport Commissioner stated (September 1982) that the operators could not legally charge less than 50 paise per stage of 6 km. or part thereof. The matter was also reported to Government in September 1982. Government endorsed (November 1982) the views of the Transport Commissioner. Action taken to rectify and recover the short levied amount of passenger tax is, however, awaited (December 1982).

5.8. Short levy of tax on registered laden weight

Under the Bombay Motor Vehicles Tax Act, 1958, tax leviable is calculated by reference to the registered laden weight of the vehicle. Government notified (May 1960) that 125 per cent of the gross vehicles weight certified by the manufacturer was to be its maximum safe laden weight and was to be taken to be the registered laden weight. Effective from 2nd March 1970, the Act was amended whereby the maximum safe laden weight of the vehicle notified by Government was to be the registered laden weight.

In Nagpur, between March 1970 and March 1982, motor vehicles tax was levied on six vehicles by reference to the gross vehicles weight as certified by the manufacturer without enhancing it by 25 per cent. This resulted in tax being levied short by Rs. 14,063 in respect of the six vehicles.

On the mistake being pointed out in audit, department stated (July 1982) that the mistake had been rectified.

The cases were reported to Government in September 1982; their reply is awaited (December 1982). Similar cases were reported in paragraphs 76 and 60 of the Reports of the Comptroller and Auditor-General of India on Revenue Receipts for the years 1974-75 and 1975-76 respectively.

5.9. Non-levy of permit fees

Motor Vehicles Act, 1939, requires that no owner of a transport vehicle shall use or permit the use of the vehicle in any public place except in accordance with the conditions of a permit granted by a Regional or State Transport Authority. Such a permit, however, is not necessary in respect of a goods vehicle (a light motor vehicle with registered laden weight not exceeding 4 tonnes) and which is not used for hire or reward as also in case of a two wheeled trailor with registered laden weight not exceeding 800 kgs. The annual fee payable on each permit was Rs. 15 upto March 1979 was raised to Rs. 35 thereafter.

On 239 four-wheeled trailors with registered laden weight exceeding 4 tonnes in respect of which no permits had been issued and in 288 more cases, where permits were initially issued, but were not renewed on expiry. Fees were not charged in two regional offices, though required to be levied. The amount of permit fee leviable in these cases amounted to Rs. 18,410.

On the failure being pointed out in audit (in March 1980 and June 1980), the department recovered Rs. 2,185 in 61 cases. Report on levy and recovery in the remaining cases is awaited (December 1982).

The case was reported to Government in July 1982; reply is awaited (December 1982).

CHAPTER VI

STAMP DUTY AND REGISTRATION FEES

6.1. Results of audit

Test check of instruments and other records relating to stamp duty and registration fees, conducted in audit in 247 offices during the year 1981-82 revealed under-assessments amounting to Rs. 108.21 lakhs in 107 offices. They broadly fall under the following categories:—

	Amount (In lakhs of rupees)
(*i*) Non-levy of duty or fee on instruments executed by co-operative societies.	60.96
(*ii*) Short levy due to misclassification of agreements to sale as simple agreements.	14.62
(*iii*) Incorrect computation of duty or fee	25.01
(*iv*) Irregular remission of duty or fee	6.42
(*v*) Short levy due to undervaluation of property	1.20
	108.21

Some of the important cases are given in paragraphs 6.2 to 6.7.

6.2. Short levy of stamp duty on mortgage deed

As per article 40(*c*) of the first schedule to the Bombay Stamp Act, 1958, where a mortagage is further secured by additional security and the original mortgage deed was duly stamped, the rate of stamp duty leviable is lower than that on a separate mortgage deed.

In Bombay, a deed for additional security executed by a company, in June 1978, whereby balance loan of Rs. 12 lakhs (out of loan of Rs. 40 lakhs) and subsequent loan of Rs. 50 lakhs were secured by transfering certain specified immoveable and moveable properties, was registered and stamp duty levied. In the said deed the company recorded that in respect of the loan of Rs. 40 lakhs a mortgage deed was executed in October 1967 and that full stamp duty thereon had been paid. No mortgage deed, duly stamped had been executed in respect of the subsequent loan of Rs. 50 lakhs, save the deed executed in June 1978. Therefore stamp duty was leviable thereon also as for a mortgage deed in respect of loan of Rs. 50 lakhs. However, the duty was levied on the deed by deeming it to be a deed for providing additional security only against earlier loans already secured by mortgage deeds. This resulted in stamp duty being levied short by Rs. 99,960 and registration fee by Rs. 49,980.

On the mistake being pointed out in audit the department accepted (April 1982) the same and directed action for recovery of deficit amount of duty and fee. Report on recovery is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

6.3. Irregular remission of stamp duty and registration fees

(*i*) As per provisions in the Stamp Act, with effect from 1st August 1978, Government remitted stamp duty and registration fee payable on mortgage deeds executed by small and marginal farmers as well as certain other agriculturists for securing repayment of loans advanced for agricultural purposes by commercial banks.

In respect of 91 mortgage deeds executed by agriculturists, levy of stamp duty and collection of registration fee was remitted in six registration offices even though as per the details available in the documents, the executants did not satisfy the necessary conditions for eligibility as small or marginal farmers or other agriculturists specified in the Government order. This resulted in stamp duty being levied short by Rs. 23,010 and registration fee by Rs. 11,490.

On the mistake being pointed out in audit (between November 1981 and March 1982), department accepted the short levy of Rs. 13,270 in respect of 27 instruments. Report on action taken for rectification is awaited. Reply in respect of remaining 64 instruments is awaited (December 1982).

The cases were reported to Government in September 1982; their reply is awaited (December 1982). Similar mistakes were also reported in paragraph 6.5 of Report of the Comptroller and Auditor General of India for the year 1980-81 on Revenue Receipts.

(*ii*) Government notified in March 1939 and August 1961 that stamp duty and registration fee will be exempted on mortgage deeds executed by members of co-operative banks in respect of loans which did not exceed Rs. 2,000. On mortgage deeds relating to loans exceeding Rs. 2,000 stamp duty and registration fee are leviable.

In a Sub-Registry in Sholapur district on 78 mortgage deeds executed by members of co-operative banks the loan amounts secured by the mortgage deeds exceeded Rs. 2,000 in each case. Still, stamp duty and registration fee were remitted, resulting in short levy of duty and fee by Rs. 19,365 in the aggregate.

On the mistake being pointed out in audit (December 1981), the Inspector General of Registration accepted (March 1982) the mistakes and directed (March 1982) the Sub-Registrar to take necessary action to recover duty and fee due in these cases. Report on recovery is awaited (December 1982).

The case was reported to Government in June 1982; their reply is awaited (December 1982).

6.4. Omission to levy stamp duty on conveyance deeds

As per definition of the term " conveyance " in Bombay Stamp Act, 1958 conveyance includes a conveyance on sale and every instrument by which property whether moveable or immoveable is transferred *inter vivos*. On coveyance deeds, stamp duty is leviable at rates prescribed and based on the consideration for conveyance.

(*i*) On four deeds of sale, by which a running business was sold the goodwill alone was taken as the consideration instead of taking into account the consideration for moveable property conveyed as well by the deeds. This resulted in stamp duty being levied short by Rs. 13,840 and Registration fee by Rs. 1,990.

On the mistake being pointed out in audit (March 1980/November 1981) the department accepted the mistakes (August 1980 and April 1982). Report on rectification is awaited (December 1982).

The cases were reported to Government in July 1982; their reply is awaited (December 1982). Similar cases had been reported in paragraph 6.11 of the Report of the Comptroller and Auditor General of India

for the year 1976-77 on Revenue Receipts and the mistakes were accepted by the Government. The reasons for recurrence of such mistakes and steps taken to prevent recurrence are awaited.

(*ii*) In Bombay, on three instruments of conveyance, stamp duty was levied at rates applicable to deeds of agreement, resulting in duty being levied short by Rs. 15,660 and registration fee by Rs. 255.

On the mistake being pointed out in audit, the department accepted (March 1980) the short levy in respect of one instrument; their reply in resepct of the two remaining instruments is awaited (December 1982).

The cases were reported to Government in July 1982; their reply is awaited (December 1982).

6.5. Short-levy of duty and fee due to incorrect classification

According to the Bombay Stamp Act, 1958, settlement means any non-testamentory disposition in writing of movable or immovable property made, *inter alia,* for the purpose of distributing property of the settler among his family.

In a Sub-Registry, in Kolhapur district, an instrument by which its executant distributed his self-acquired property valued at Rs. 2.44 lakhs amongst himself, his wife and two minor sons, was classified as a partition deed for purposes of levy of stamp duty and registration fee. The parties to the instrument were not co-owners, so as to be entitled to a partition of the property. The instrument was therefore classifiable as a " settlement " in accordance with the Stamp Act. The erroneous classification of the instrument resulted in short-levy of stamp duty by Rs. 19,475 and registration fees by Rs. 1,180.

The matter was reported to Government in November 1981 and the Government stated (January 1982) that the Inspector General of Registration had accepted the audit objection and had ordered the recovery of deficit stamp duty and registration fee. Report on recovery is awaited (December 1982).

6.6. Short levy of duty on gift deeds

Under the Bombay Stamp Act, 1958, on a deed of release, stamp duty is leviable at a lower rate than on a deed of settlement for other than religious or charitable purposes as well as a deed of gift where stamp duty is leviable at rates for deeds of conveyance.

(*i*) In a Sub-registry in Bombay on a deed for release of self-acquired property duty was not levied at rates applicable to a settlement deed,

though rights, titles and interests in the property were relinquished by a person, but in favour of his son. Such a release of self-acquired property was in effect a settlement on his son. Duty was, therefore, levied short by Rs. 4,978 and registration fee by Rs. 100.

(*ii*) In 35 release deeds executed between 1976 and 1979 the owners of properties extinguished their rights, title or interests in or over the properties and stamp duty was levied at rates applicable to release deeds. In respect of property relating to 20 deeds which were in adverse possession, the occupiers were thus enabled to get their names entered as owners of Super-structures in the records of the City Survey Officer, Bombay. The deeds were, therefore, effectively gift deeds evidencing gift of property to occupier apparently for no consideration. Non-levy of duty, accordingly, resulted in stamp duty being levied short by Rs. 28,765 and registration fee by Rs. 2,350.

On the mistakes being pointed out in audit (January 1981) the department stated that copies of the documents were being sent to Collector for rectification. Report on rectification is awaited (December 1982).

The cases were reported to Government in September 1982; their reply is awaited (December 1982).

6.7. Short levy of photographying fees

Fee chargeable for photographying in registration offices was increased from Re. 1 to Rs. 2 per folio with effect from 5th July 1978.

In respect of 1854 documents accepted for registration during the period from 5th July to 11th August 1978, photographying fee was recovered at the old rate of Re. 1 per folio instead of at the rate of Rs. 2 per folio. This resulted in fee being realised short by Rs. 12,975.

On the mistake being pointed out in audit, the department accepted (December 1982) the short levy and stated that an amount of Rs. 4,588 had since bean recovered. Report on recovery of the balance amount is awaited (December 1982).

The cases were reported to Government in September 1982; their reply is awaited (December 1982). In paragraph 6.6 of the Report of the Comptroller and Auditor General of India on Revenue Receipts for the year 1980-81, similar short levy was reported.

CHAPTER VII

OTHER TAX RECEIPTS

SECTION A—MAHARASHTRA EDUCATION AND EMPLOYMENT GUARANTEE CESS

7.1. Levy and Collection of Cess

(*i*) *Revenue from Cess.*—Under the Maharashtra Education (Cess) Act, 1962, the State Government levied an education cess with effect from 1st April 1962 to form a Fund for promotion of education. In 1975, the State Government amended the Act whereby an additional cess became leviable, viz. " Employment Guarantee Cess " for raising resources for implementing the Employment Guarantee Scheme in the State. The State Education Cess is leviable on lands and buildings in a municipal area as well as on all agricultural lands in the State on which commercial crops are raised. The Employment Guarantee Cess is leviable on lands and buildings used for non-residential purposes and also on all agricultural lands having the benefit of irrigation for raising crops. The receipts from the two cesses for the year 1981-82 and two preceding years alongside budget estimates are given below:—

Year	Budget estimates	Actual receipts
	(In crores of rupees)	
1979-80	14.71	17.96
1980-81	16.82	14.08
1981-82	17.08	22.19

(*ii*) *Short fall in assessment and collection of cess.*—On lands and buildings in a municipal area the cesses are assessed and collected by

the municipality along with the general tax levied by it and are subsequently credited to Government. In cantonments the cesses are assessed and collected by the District Collectors. The cesses on agricultural land which are irrigated or on which commercial crops are raised are assessed and collected by the Revenue Officers of the State.

The schedule to the Act prescribes separate rates for residential as well as non-residential purpose. The rates of education cess on properties used for non-residential purposes are double the rates prescribed for residential purposes. Prior to 1st April 1974, there was no distinction in rates applicable to residential and non-residential use of lands or buildings.

(*a*) The Bombay Municipal Corporation levied education cess in respect of all the properties at rates applicable to residential properties till 1st April 1978. No action was taken by the Corporation to prepare supplementary bills for collecting the difference due to enhancement of the cess from 1st April 1974. The short fall in collection is estimated at Rs. 13 crores.

On the failure being pointed out in audit between March and September 1980 the Corporation stated (March 1980) that action to levy cess at enhanced rates could not be taken earlier as the break-up of residential and non-residential rateable value was not readily available.

(*b*) Even after 1st April 1978 the enhanced rate of education cess on non-residential premises was not systematically and uniformly applied in all cases. In respect of 728 properties checked in audit though the rateable value of the non-residential portion was available, the state education cess was levied only at the lower rate which resulted in short levy of cess by Rs. 14.31 lakhs for the years 1978-79 to 1980-81.

(*c*) On 266 properties which were described as " house with shops " only residential rates were applied. On 146 other buildings which were used as office, godown, stable or factory also only residential rates were levied. As the use of a property for the purposes of office or as a godown, stable or a shop is not a residential use, the ward offices should have bifurcated the rateable value of these properties and enhanced state education cess and employment guarantee cess should have been levied. Loss of cess due to non-levy of non-residential rates on a portion of the buildings could not be computed.

(*d*) After determining rateable value of non-residential portion of buildings which were partly used for non-residential purpose, bills

demanding the employment guarantee cess were issued only in October 1978 and thereafter. However, no action was taken to issue bills demanding the employment guarantee cess for the period from 1st April 1975 to 31st March 1978. The cess not recovered is estimated at Rs. 4.98 crores.

On the omission being pointed out in audit (between March and September 1980), the Corporation stated that approval of Government for issuing a consolidated bill for the period of three years from 1st April 1975 to 31st March 1978 was awaited. The Government however stated (June 1982) that a decision had already been taken by the Corporation in July 1980 to issue bills on yearly basis and therefore, there was no need to issue fresh orders in the matter.

No action has so far, been taken by the Corporation to issue year-wise bills for the period from 1st April 1975 to 31st March 1978 (December 1982).

(*e*) Under the Act, where more than one land or building in the Greater Bombay area is owned by the same person, the cess is leviable at rates relevant to the annual letting value of all such lands and buildings taken together. In the ward offices no registers designed to bring together the properties belonging to the same owner were maintained. Failure to club such properties having rateable value less than Rs. 6,000 results in cess being levied short by Rs. 1.04 lakhs during the years 1978-79 to 1980-81 in 16 wards.

(*iii*) *Irregular grant of exemptions.*—(*a*) The Act provides for the grant of exemptions from payment of cess in respect of certain specified properties such as lands and buildings which vest in the State Government or belong to Municipalities, Zilla Parishads or Cantonment Boards, provided that the lands and buildings are used exclusively for public purposes and are not used for purposes of profit.

On stalls in the markets rented out on monthly rent by the Corporation, cess amounting to Rs. 24.53 lakhs was not recovered for the years 1978-79 to 1980-81.

On the failure being pointed out in audit, in one ward, the Corporation levied the cess. Action taken in respect of the other wards is awaited (December 1982).

(*b*) On municipal staff quarters, open air theatres, industrial estates, dhobi-ghats, swimming pools, drama theatres, abattoirs and other slaughter houses rents on hire charges were recovered by Corporation

from occupants or users but cess was not recovered resulting in annual loss of revenue of Rs. 3.03 lakhs.

(*c*) The Act does not grant exemption to the public sector corporations and Undertakings of the Central and State Governments and private properties not owned by charitable trusts. Cess amounting to Rs. 3.37 lakhs per year, was however, not realised from five such organisations in four wards.

(*d*) Marriage halls owned by private parties were also wrongly exempted from levy of cess. On 10 such marriage halls cess not recovered amounted to Rs. 17,175 per annum.

(*iv*) *Non-levy of penalty.*—Under the Act, on failure to pay cess on demand within the period mentioned in the notice penalty is leviable not exceeding one-tenth of the amount of the cess so unpaid in addition to the amount of cess.

On payments received well beyond the due dates no penalty was levied by the Corporation. The maximum penalty that could have been levied in 132 cases in six wards amounted to Rs. 1.97 lakhs.

(*v*) *Delay in the remittance of cess by the Corporation.*—Under the Rules, cess collected by a Municipality is to be credited to Government before the expiry of the following week.

The monthly remittances required to be made by the Bombay Municipal Corporation as per then practice were delayed upto nine months (Rs. 38.86 crores) to over nine months (Rs. 3.45 crores) during the years 1974 to 1981.

The financial stringency of the Corporation was given out as the reason.

(*vi*) *Arrears in collection of cess.*—As on 31st March 1982 the arrears of State Education Cess and Employment Guarantee Cess recoverable from the property owners amounted to Rs. 10.49 crores and Rs. 1.40 crores respectively. The Corporation attributed the arrears to disputes, complaints against rateable values, attachment and sale proceeds, pending court cases, instalments granted for the recovery in some cases and recovery in respect of unauthorised properties.

(*vii*) *To sum up.*—(*a*) Non-levy of State education cess at enhanced rates on non-residential portion of the buildings during the period from 1st April 1974 to 31st March 1978 resulted in cess amounting to Rs. 13 crores not being realised.

(*b*) Employment guarantee cess amounting to Rs. 4.98 crores for the years 1974-75 to 1977-78 not being realised.

(*c*) On 728 properties used both for residential and non-residential purposes, cess amounting to Rs. 14.31 lakhs not being realised.

(*d*) In 16 wards, value of properties belonging to the same owner were not clubbed resulting in the short-realisation of cess by Rs. 1.04 lakhs.

(*e*) Irregular grant of exemption in respect of municipal market stall and other properties resulting in cess amounting to Rs. 31.09 lakhs not being realised.

(*f*) Penalty amounting to Rs. 1.97 lakhs in 132 cases of delays in payment was not levied.

(*g*) Delay in remitting cess amounting to Rs. 42.31 crores into Government treasury.

(*h*) Arrears of cess still recoverable from the property owners as on 31st March 1982 was Rs. 11.89 crores.

The above facts were reported to Government in October 1982; their reply is awaited (December 1982).

SECTION B—TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS

7.2. Failure to revise profession tax

Under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, tax of Rs. 150 per annum is leviable on professionals with a standing more than two years but less than five years and at Rs. 250 per annum if their standing is of five years or more. However on professionals outside the Corporation area, the higher rate of Rs. 250 per annum is applicable only when their standing reaches ten years or more. If the standing is of less than two years, no tax is payable by them.

From 400 professionals tax for the years 1976-77 to 1978-79 was realised short by Rs. 65,500 because of failure to demand tax at higher rates as their standing increased year to year.

The failure was pointed out in audit (between July 1979 and February 1980) to the department; their reply is awaited. The case was reported to Government in September 1982. The department stated (October 1982) that recovery of Rs. 900 in respect of nine cases is effected. Report in respect of remaining cases is awaited (December 1982).

7.3. Interest not charged on belated payments of tax

Under the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975, (as it stood before April 1982) a professional enrolled prior to 31st August of a year, is liable to pay tax before 30th September of that year and if he is enrolled after 31st August of the year, within one month from the date of his enrolment.

If he failed to pay tax within such time, he is to be charged simple interest at 2 per cent on the amount of tax due for each month or part thereof for the period of default. The levy of penal interest for delay in payment of tax is obligatory.

In nine Profession Tax Offices interest for belated payment of tax was not charged in 197 cases during the years 1976-77 to 1981-82 resulting in non-recovery of interest amounting to Rs. 38,174.

On the omission being pointed out in audit (between September 1979 and May 1982) the department recovered interest in 4 cases. Report on action taken in remaining cases is awaited.

The cases were reported to Government in September 1982; their reply is awaited (December 1982).

7.4. Short levy of tax

Under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, tax is leviable on employees and persons who are engaged in any professions, trades, callings or employments categorised in a Schedule to the Act. Where a person is liable to levy under more than one category, the Act requires that tax be recovered from him at the highest of the rates applicable.

From 102 persons who were liable to levy of the tax under more than one category the tax at the highest of the rates was not levied but at lower rates resulting in levy of tax short by Rs. 24,450 in the aggregate in respect of the years 1975-76 to 1981-82.

The mistakes were pointed out in audit (between September 1980 and September 1981) to the department which agreed to take necessary action after verification.

The cases were reported to Government in August 1982; their reply is awaited (December 1982).

7.5. Arrears in assessments

The number of assessments finalised by the department and the number pending finalisation at the end of 1981-82 and the preceding year are indicated below :—

	1980-81	1981-82
(*i*) Number of assessments due for completion during the year.	2,60,384	3,04,858
(*ii*) Number of assessments completed	60,910	45,478
(*iii*) Number of assessments pending at the end of the year.	1,99,474	2,59,380

	Number of assessments pending
Upto 1976-77	45,406
1977-78	36,828
1978-79	43,488
1979-80	60,128
1980-81	73,530
1981-82	....
Total ..	2,59,380

The number of persons enrolled under the Maharashtra Tax on Professions, Trades, Callings and Employments Act, 1975, are as follows :—

	Number of persons enrolled as on 31st March, 1982
(*i*) Number of employers registered	91 529
(*ii*) Number of self-eplmoyed persons enrolled	5,19,950

SECTION C—ELECTRICITY DUTY

7.6. Incorrect continuance of exemption from payment of electricity duty

Under the Bombay Electricity Duty Act, 1958, on electricity consumed by the State Government levy of electrictiy duty is exempt. But such exemption does not extend to electricity consumed by non-Governmental organisations, e.g. autonomous bodies.

Even after the transfer of two sub-divisions of an Environmental Engineering circle to the Maharashtra Water Supply and Sewerage Board, an autonomous body in November 1979 on electricity consumed

in the two sub-divisional offices, duty was not levied. On consumption of 28,19,583 units of electricity, the duty not levied amounted to Rs. 98,685 for the period from 1st November 1979 to 31st March 1982.

On the mistake being pointed out in audit (in July 1982), the department agreed to examine the point.

The case was reported to Government in September 1982, their reply is awaited (December 1982).

SECTION D—ENTERTAINMENTS DUTY

7.7. Exemptions from Entertainment Duty

Under Section 6 of the Bombay Entertainments Duty Act, 1923, the Government is empowered to exempt payments of admission to any entertainments from levy of entertainments duty if the whole of the takings are devoted to philanthropic or charitable purposes or if the entertainment is of a wholly educational character or is provided partly for educational or partly for scientific purposes by a society institution or committee not conducted or established for profit. However, under sub-section (3) of this section, the Government may by general or special order exempt any entertainment or class of entertainments from liability to entertainment duty. Rule 24 of the rules framed under the said Act, requires that exemption under sub-section (3) be granted in respect of cinema films which have been awarded the President's Gold medal or on a recommendation made by an Advisory Committee appointed by the State Government provided it considers the exemption as fulfilling an educational, cultural or social purpose of a high order.

(*i*) Under sub-section (3) aforesaid, the Government granted exemption from duty in respect of exhibition of five films during the years 1980-81 and 1981-82 even though recommendations of the Advisory Committee required as per the rule were not available to Government in the absence of such a Committee. Out of the five films, the entertainments duty forgone in respect of four films was upto a ceiling limit of Rs. 18 lakhs in aggregate, in respect of the remaining film for which exemption was granted without any ceiling limit, Government stated (December 1982) that the actual loss of entertainments duty was Rs. 29.51 lakhs.

The irregularity was pointed out in audit (October 1982) to the Government; their reply is awaited (December 1982).

(*ii*) A producer whose film is granted exemption from entertainment duty is required to give an undertaking that he would compensate

Government for the losses sustained by it over and above the prescribed limit in the exemption order. The loss exceeded the prescribed limit by Rs. 1·38 lakhs in respect of 2 films but excess loss was not recovered.

On being pointed out in audit (October 1982), the report on the action taken by the department to recover the excess loss from the producers of the two pictures is awaited (December 1982).

(*iii*) Six films were exhibited tax-free on dates when the films were not entitled to tax-free exhibition. This resulted in loss of duty amounting to Rs. 29,477. The producer was liable to make good the loss.

On this being pointed out in audit (October 1982); report on action taken by the department to effect recovery is awaited (December 1982).

(*iv*) *Non-submission of accounts.*—Producers and distributors of film in respect of which exemption is granted are required to report to Government and the Commissioner of Police, Nagpur and Pune and District Magistrates in other Districts and to the Collector of Bombay in case of Greater Bombay, the loss of entertainment duty at the end of each week from the commencement of the exhibition. Producers of 12 films had not submitted any accounts though failure rendered them liable for imprisonment for a term which may extend to six months or of fine which may be to the extent of one thousand rupees or both, no action was taken.

Government could not ascertain the actual loss in the case of each film nor take prompt action to cancel the exemption if it exceeded prescribed limits. On paragraphs 71.1 to 71.5 of the Receipt Report of the Comptroller and Auditor General of India for the year 1973-74 about non-submission of such weekly returns the Public Accounts Committee, in paragraph 10 of the 18th Report recommended that the revised arrangement should be finalised as expeditiously as possible and a detailed report made within three months from June 1977. No revised scheme has been formulated so far (December 1982).

The above facts were reported to Government in October 1982; their reply is awaited (December 1982).

7.8. Short collection of security deposit

The Bombay Entertainments Duty Act, 1923 and rules and orders made thereunder require that proprietors of theatres electing to make payment of entertainments duty in cash furnish security deposit equal to the fortnightly average of entertainment duty paid from January to October rounded off to the nearest hundred rupees. New cinemas were

required to deposit duty related to takings for two weeks of shows to housefull capacity. From those electing to change from payment by stamps to payment of duty by cash, the security deposit was to be recovered related to the fortnightly average of duty paid in the ten months preceeding the month in which the change over was made. The deposit was required to be reviewed annually and short falls made up.

The security deposit obtained from nineteen proprietors of cinema houses in Nasik, Sangli, Pune and Nanded districts was short by Rs. 1·07 lakhs by reference to the aforesaid norms.

On the shortfall being pointed out in audit (March 1981, May 1981 and July 1981) the department recovered additional security deposit amounting to Rs. 1·02 lakhs from fifteen proprietors. Action taken to make up the shortfall in respect of the four remaining theatre-owners is awaited (December 1982).

The case was reported to Government in October 1982; their reply is awaited (December 1982).

7.9. Non-recovery of composition fee

The Bombay Entertainments Duty Act, 1923, requires the organisers of entertainments making payments of entertainments duty in cash to do so within ten days from the date of entertainment. On the failure to do so, he is liable to be prosecuted, however on payment of composition fee which may not exceed Rs. 500 for each offence, the offence may be compounded. In December 1975, Government issued instructions that composition fee be calculated at the rate of seven paise per Rs. 100 or part thereof for each day of delay.

In Nagpur, Pune and Beed, from 28 proprietors of cinema theatres entertainments duty was not recovered by the department within ten days as aforesaid during the years 1976-77 to 1981-82. On the offences commuted thereby composition fee amounting to Rs. 17,320 was recoverable from the theatre owners. However the amount was neither demanded nor recovered.

On the omission being pointed out in audit (October 1979, November 1981 and January 1982) the department recovered composition fee amounting to Rs. 10,060 due from 17 theatre owners (between February 1980 and July 1982). Report on action taken in remaining cases is awaited (December 1982).

The case was reported to Government in September 1982; their reply is awaited (December 1982).

CHAPTER VIII

NON-TAX RECEIPTS

SECTION A—RECEIPTS FROM MINES AND MINERALS

Industries, Energy and Labour Department

8.1. Some aspects of revenue arising from Mining

(*i*) *Revenue Trends.*—Under the Mines and Minerals (Regulation and Development Act, 1957 and the Mineral Concession Rules, 1960 framed thereunder by the Government of India, revenue from mining is derived mainly as royalty, dead rent and surface rent (land revenue). The revenue realised during the years 1976-77 to 1980-81 and the number of mines leased out and the number in operation in the State are given below :—

Year	Revenue (In lakhs of rupees)	Year	Number of mines under lease	Number of mines in operation
1976-77	205	1976	250	97
1977-78	206	1977	238	131
1978-79	203	1978	243	131
1979-80	242	1979	257	119
1980-81	272	1980	275	123

The revenue realised from mining of major minerals is given below :—

	1980-81	1981-82
	(In lakhs of rupees)	
Coal	201.75	301.63
Iron ore	13.14	9.96
Manganese ore	16.27	10.27
Bauxite	13.97	9.97

(*ii*) *Short falls in recovering royalty.*—(*a*) Under section 9 of the Mines and Minerals (Regulation and Development) Act, 1957, royalty is payable in respect of the minerals removed or consumed by the lessee from the leased area. After nationalisation of coal mines in May 1973, Government of India became the lessee of the State Government but on the coal bearing areas acquired by Government of India under the Coal Bearing Areas (Acquisition and Development) Act, 1959, no royalty was payable since all rights were acquired by Government of India. However, Government of India decided to make ex-gratia payament equal to the royalty on coal extracted from such areas to avoid loss of revenue of the State Government. The coal mines in Chandrapur and Nagpur districts are presently operated by M/s. Western Coalfields Limited (public sector undertaking). The royalty on coal is payable according to its grading. The Maharashtra State Electricity Board being the main purchaser of coal from the Western Coalfields, grading of coal is done jointly at the power houses of Electricity Board which down grades the coal as compared to the grading given by Western Coalfields Limited at pithead. Demands for royalty (*ex-gratia*) amounting to Rs. 20·04 lakhs raised by the department of the State Government are under dispute which has not been settled so far (April 1982). The State Electricity Board is also a party to the dispute indirectly as price of coal to the Board will also depend on grading.

(*b*) Records of quantity and grade of coal despatched from the mines are maintained by the Western Coalfields Limited who are also required to file royalty returns with the department. Although Government had issued instructions in March 1961 and November 1962 for checking of royalty returns and inspection of records of mines periodically, no checking/inspection had been done in respect of the mines in Chandrapur district. In Nagpur district on verification the quantity of coal despatched during the period February 1980 to Fehruary 1981 was found to be more than the quantity on which royalty was paid by Western Coalfields Limited by 9344 tonnes. Though royalty had been realised short by Rs. 41,530 the department had not initiated any action to demand the short fall.

(*c*) Coal consumed internally in collieries is not exempt from royalty but only that consumed by elegible workers at the scale of 1/3 tonne per worker per month. On 28,604 tonnes of coal consumed internally in three collieries in Nagpur district during some of the years from 1970 to 1981 royalty amounting to Rs. 1·03 lakhs was not realised. Even

though 1,49,658 tonnes of coal was separately issued to the workers department did not verify if issue of coal was according to prescribed scale and only to eligible workers.

(*d*) Royalty is recoverable on sand used in coal mines for stowing purposes. The rates of royalty were revised from 1st July 1968 and again from 12th February 1981. On 42,29,258 tonnes of sand removed for stowing during the years 1971 to 1981 by Western Coalfields Limited and an ex-lessee, royalty was recovered at old rates resulting in short levy by Rs. 7.51 lakhs. On the mistakes being pointed out in audit (February 1982) the department stated (February 1982) that the case relating to ex-lessee would be referred to Government, being barred by limitations and that demand would be raised against Western Coalfields Limited.

(*e*) As per returns submitted by two lessees alongwith payments of royalty, the quantity of iron ore mined was less than the quantity received by the Minerals and Metals Trading Corporation of India from them during the years 1973-74 to 1975-76 by 1.24 lakh tonnes. Royalty payable on the quantity under report was Rs. 0.43 lakh at the minimum and 1.86 lakhs at the maximum depending upon the iron content of the ore and whether it was in lump or in fines. No action was taken by the department to recover the royalty due.

(*f*) Under the terms of the standard lease, a lessee is required to pay on 1st of January and 1st of July every year, royalty in respect of any mineral removed by him from the leased area during the preceding half year.

In Nagpur and Bhandara districts, on removal of manganese ore from the leased area to railway yards royalty was not paid on the quantity removed but only on the quantity loaded in the railway wagons. The ore lying stacked at the railway siding ranged from 18,467 tonnes to 47,122 tonnes during the period January 1979 to December 1981 on which royalty due amounted from Rs. 92,335 to Rs. 2,35,610. This had resulted, at the minimum, in a financial accommodation of about Rs. 1 lakh to the lessee from the department on which the department was losing at the minimum Rs. 15,000 per year as interest charges at rates prevailing in commercial market.

(*g*) 4,520 tonnes of manganese ore on ground left behind by a defaulting lessee was auctioned on 12th September 1969 for Rs. 32,000. Certificate for removal of 4,520 tonnes of ore was issued to the successful bidder on 21st April 1970 by the Mining office. The auction purchaser was

however allowed to remove 14,585 tonnes of ore upto January 1971. The department neither recovered any royalty on the excess quantity removed nor levied any penalty for the unauthorised removal in excess. A maximum penalty of Rs. 27.17 lakhs was leviable.

(*h*) A lease for mining manganese ore over 3.13 acres of land in Bhandara district, granted in September 1968 was terminated in August 1973 because lessee did not pay dues amounting to Rs. 16,310. Compensation for disturbance of the surface area of a private land by the lessee amounting to Rs. 7,650 and cost of suit and interest amounting to Rs. 3,956 was paid by the Government in February 1980 to the private land-lord under a court decree. No recovery has been effected from the lessee on the plea that he has no movable or immovable property, even though he was mining under two other leases restored to him in October 1977.

(*iii*) *Lack of elasticity in revision of royalty rates* vis a vis *profit margin in mining ores.*—Rates of royalty in respect of iron ore were revised with effect from 12th June 1978. The rates before revision as well as the revised rates are mentioned below:—

Rates before revision		Revised rates	
(*i*) *Ore*		(*i*) *Ore lumps*	
(*a*) containing more than 62 per cent Fe.	Rs. 2 per tonne.	(*a*) With 65 per cent Fe or more	Rs. 4 per tonne
(*b*) Containing upto 62 per cent Fe.	Rs. 1.50 per tonne	(*b*) With 62 per cent Fe or more but less than 65 per cent Fe.	Rs. 3 per tonne.
(*ii*) Ore fines in size less than 1.25 cms. produced incidental to mining and sizing of ore.	Rs. 0.35 per tonne	(*c*) With 60 per cent Fe or more but less than 62 per cent Fe.	Rs. 2 per tonne.
		(*d*) With less than 60 per cent Fe.	Rs. 1.50 per tonne.
		(*ii*) *Ore fines*	
		(*a*) Fines (including natural fines and fines produced incidential to mining and sizing of ore).	
		(*a*) With 65 per cent Fe or more.	Rs. 2.50 per tonne
		(*b*) With 62 per cent Fe or more but less than 65 per cent Fe.	Rs. 1.50 per tonne
		(*c*) With less than 62 per cent Fe.	Re. 1 per tonne

The revised rates were based not only on the iron content but also the physical form of the ore. The notification revising the rates, however, did not define " fines " as distinct from " lumps " and mis-classification of lumps as fines affects royalty paid to Government substantially. Prior to revision ores of size less than 12.5 mm were "fines". The chemical analysis of "ore fines" shipped from Redi Port revealed that the sizes of the fines ranged upto 100 mm which were far larger in size than the standard for fines (12.5mm) in existence prior to revision in 1978. Quantity 29.87 lakh tonnes of such ore fines containing less than 62 per cent Fe were shipped from Redi Port during June 1978 to December 1980 on payment of royalty at a uniform rate of rupee one per tonne. In the absence of a definition of " ore fines " for the purpose of levy of royalty on " ore fines" of size larger than 12.5mm, royalty at Rs. 2 per tonne as for ore lumps could not be demanded by the department even though the profit margin in respect of such large size fines were not said to be substantially lower than that in respect of ore lumps.

Because royalty rates effective from 12th June 1978 lay down rate of Rs. 2.50 per tonne for fine ore with Fe content more than 65 per cent and Re 1 per tonne for fine ore with Fe content less than 62 per cent, ores with different Fe content are mixed in suitable proportion so as to obtain a resultant ore containing 60 to 62 per cent iron content on which royalty is charged at the rate of only Re. 1 per tonne. Quantity 31.28 lakh tonnes of ore shipped from Redi Port during the period from June 1978 to December 1980 consisted of less than 5 per cent quantity of lumpy ore and it was mostly (over 95 per cent) described as only ore fines having 60 to 62 per cent iron content, royalty was paid at the rate of only Re.1 per tonne. In the result, the lower rates laid down for ore fines because such fines fetched a lower margin of profit on sale were not elastic enough to suit changes in demand and profitability. Such changes in rates of royalty payable on ore lumps and fines alongside changes in demand and technological advances, (which increase demand for ore fines and even fines with lower Fe contents) were not being made. Changes in definition of ore fines were also not being made accordingly and by defining " ore fine " to their advantage the lessees were able to reduce royalty payable by them to Government.

(*iv*) *Non-recovery of surface rent.*—As per the Mineral concession Rules, 1960, the lessee is required to pay for the surface area used by him for the purpose of mining operations, surface rent and water rates at such rate as will not exceed the land revenue, water and cesses

assessable on the land, as may be specified by the State Government in the lease.

(*a*) In Kolhapur district in respect of land leased in March 1965, in 5 cases, for extraction of bauxite ore, surface rent had not been fixed so far (May 1982) and demand for surface rent estimated at Rs. 37,000 has not been raised. In four other districts surface rent in respect of 127 leases of mining land had not been fixed so far (August 1982). In respect of one manganese mine in Bhandara district surface rent had not been fixed nor recovered during the entire period of the lease from April 1951 to October 1977. Estimated surface rent not recovered amounted to Rs. 1.82 lakhs. Zilla Parishad cess amounting to Rs. 0.53 lakh for the period from July 1973 to October 1977 had also not been demanded or collected.

(*b*) In respect of nationalised coal mines, Government of India became lessee of the State Government and were liable to pay surface rent. It was noticed that in respect of two collieries in Nagpur district surface rent was not fixed. Amount of surface rent involved in respect of one of the mines was estimated to be Rs. 0.31 lakh for the years 1973 to 1980. Similarly in respect of three nationalised mines in Chandrapur district involving 6145 acres of land , the Department neither fixed nor demanded surface rent from the ex-lessees nor lodged claim for it with the Commissioner of Payments.

(*v*) *Short recovery of dead rent.*—Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, dead rent is recovered at rates prescribed per hectare of area leased out but lessee is liable to pay dead rent or the royalty in respect of minerals removed in any period, whichever is greater. The Government of India have clarified that section 9 A of the Act requires that the renewed lease should be considered to be a continuation of the old lease so far as the question of charging dead rent is concerned. Accordingly dead rent at full rate of Rs. 37.50 per hectare which is normally applicable from 11th year onwards is required to be levied right from the first year of renewal in respect of leases renewed after 12th September 1972.

In Bhandara district a lease was renewed with effect from 22nd November 1977 but the dead rent was fixed at Rs. 12.50 per hectare instead of at Rs. 37.50 per hectare. In Yavatmal district, on land leased out prior to April 1968, the dead rent was continued to be levied at Rs. 25 per hectare even beyond September 1972 instead of charging at Rs. 37.50 per hectare. Non-application of correct rates in these cases resulted in

dead rent being levied short by Rs. 16,000 for the different periods from September 1972 to December 1980.

(*vi*) *Non-recovery of interest on delayed payments.*—Section 64-A of the Mineral Concession Rules, 1960, introduced by Government of India Notification dated 22nd July 1976 was intended to enable the State Governments to recover interest at 10 per cent per annum on delayed payments of mining dues. In 7 districts on 82 delayed payments though interest amounting to Rs. 3.30 lakhs was chargeable during various periods from August 1976 to March 1982 interest was not demanded.

(*vii*) *Non-levy of penalty.*—According to the terms of the standard mining lease, the lessee is required to file the prescribed returns by due dates and also to make timely payments of the mining dues. Failure to do so renders him liable to penalty upto twice the amount of annual dead rent.

In Sindhudurg district, 82 lessees defaulted in filing half yearly returns and 24 lessees submitted them late during the years 1979-80 and 1980-81. However, no penalty was levied in any of these cases. In Chandrapur, Bhandara and Ratnagiri districts also similar defaults were noticed but no penalty was levied. Penalty leviable in eleven such cases amounted to Rs. 79,000.

(*viii*) *Non-recovery of cess.*—As per an amendment to the Zilla Parishad and Panchayat Samities Act, 1961, carried out in 1981, a cess at the rate of ten paise and five paise per rupee on royalty recovered on major and minor minerals respectively become leviable retrospectively with effect from 13th July 1973. No demands for the cess due from 13th July 1973 have so far (August 1982) been issued in any of the districts. The amount of cess on major minerals extracted during the period from July 1973 to December 1981 in the districts of Nagpur, Chandrapur, Bhandara, Yavatmal, Kolhapur and Ratnagiri is estimated to be Rs. 202 lakhs. Some of the leases which were current on 13th July 1973, have long since ceased to exist.

(*ix*) *Short recovery of stamp duty.*—The Bombay Stamp Act, 1958, provides that on instruments of lease of immovable property for periods exceeding 10 years but not exceeding 98 years stamp duty be levied as on a deed of conveyance for a consideration equal to twice the amount or value of the average annual rent reserved which included royalty on minerals extracted. In the case of mining leases, the value of the minerals

likely to be extracted being not known section 27 of the Act provides that the collector may, having regard to all the circumstances of the case, estimate the annual amount of royalty likely to be payable to the Government under the lease.

In Nagpur, Chandrapur, Bhandara, Kolhapur, Sindhudurg and Yavatmal, stamp duty on mining leases was calculated on the basis of only the dead rent and no attempt was made to estimate the annual amount of royalty that was likely to be payable to the Government under the lease. In respect of 13 leases for mining executed during the years 1974 to 1981 on the basis of the proposed programme of extractions indicated by the lessees in their applications, the estimated amount of annual royalty if included in the value of consideration would have yielded additional stamp duty amounting to Rs. 22·07 lakhs.

On the omission being pointed out in audit (between January and August 1982) the department stated that stamp duty in these cases was levied, as fixed by the Director of Geology and Mining and that these cases will be referred to that Directorate for further necessary action.

(*x*) *Non-recovery of state overheads.*—The Directorate of Geology and Mining of the State Government which started functioning in 1957 does all mineral exploration work. Before that, aspiring lessees had to do the prospecting themselves at their risk after taking a prospecting licence. As on 31st December 1981 the Directorate had six branch offices with workshop facilities and three chemical laboratories at different places in the state and a stores at Nagpur. Its annual establishment expenditure was Rs. 66 lakhs and inventory of stores Rs. 242·13 lakhs. In areas where stacks of a particular mineral have already been proved by the Directorate, the lessee is at an advantage. The Government of India issued instructions in May 1971 that in respect of areas which had already been explored in detail, the State Governments should ensure, as far as possible, the recovery of expenses incurred by the Geological Survey of India from the prospective lessees. No such orders have been issued so far (August 1982) for recovery of expenditure incurred by the Directorate of Geology and Mining in the State.

(*xi*) *Summing up.*—The short falls in recovery of royalty continue to occur due to various reasons and amounted to Rs. 29·68 lakhs in the cases noticed in audit. Instances of non-recovery of surface rent and short recovery of dead rent were also noticed, amounting to Rs. 3·19 lakhs in the cases seen in audit. Non-recovery of interest on belated payments coming to notice of audit amounted to Rs. 3·30 lakhs. Failure

to levy penalties coming to notice of audit amounted to Rs. 79,000. Cess on royalty not recovered coming to notice of audit amounted to Rs. 202 lakhs. Short recovery of stamp duty on mining leases noticed in audit amounted to Rs. 22·07 lakhs. In the absence of a definition as to what is " ore fine " as distinct from " ore lump " lessees of iron ore mines are paying less royalty to Government and the definition and the rates are not elastic to be varied with changes in demand for ore arising also from technological changes.

The points brought out in the foregoing paragraphs were reported to Government in October 1982; their reply is awaited (December 1982).

SECTION B—INTEREST RECEIPTS

(*i*) *Agriculture and Co-operation Department*

8.2. Short recovery of interest from Maharashtra State Co-operative Marketing Federation

(*i*) On loans amounting to Rs. 53,58·80 lakhs sanctioned to the Maharashtra State Co-operative Marketing Federation during the period from March 1976 to March 1982 towards margin money under the ' monopoly cotton procurement scheme ', simple interest at 10 per cent or 10·5 per cent per annum was recoverable.

On Rs. 400 lakhs paid to the Federation on 11th October 1979, interest upto 31st March 1980 (which was recovered on 31st March 1981) was short by Rs. 10 lakhs and the mistake in calculation was not detected or rectified till it was pointed out in audit (April 1982). Thereupon, the department stated (June 1982) that the Federation on being apprised of the mistake had agreed to remit Rs. 10 lakhs when its finances permitted the same. Report on recovery of the amount is awaited (December 1982).

(*ii*) On a loan of Rs. 10 lakhs paid to the Federation on 7th February 1970 in respect of a fertilizer factory at Aurangabad, the terms and conditions were finalised only in January 1972, whereunder, the rate of interest was 7½ per cent per annum and the loan was repayable in 14 equal annual instalments of Rs. 71,428.57 and interest thereon. In the event of default in repayment of loan and payment of interest on the instalment, additional interest at 2½ per cent per annum was payable on the amounts over due. No moratorium was provided for on

repayment of loan. The first of the instalments was due for payment on 7th February 1971.

The first payment was recovered from the Federation on 4th September 1974 for Rs. 4.33 lakhs covering repayment of the first four instalments of principal due and interest of Rs. 1,47,541.72. It did not include interest at 2½ per cent on the instalment and interest overdue which amounted to Rs. 2,48,722.30. For the subsequent periods also interest repayment fell short of the interest due and penal interest at 2½ per cent on payments falling due from 7th February 1971 to 7th February 1982, the short payments amounted to Rs. 2.75 lakhs which have not been demanded by the department from the Federation.

The case was reported to Government in August 1982; their reply is awaited (December 1982).

8.3. Non-recovery of interest from co-operative societies

(*a*) On loans given to Agricultural Produce Marketing Committees (A.P.M.C.) rate of interest was raised by Government from existing rates between 5 and 6 per cent to 7.5 per cent with effect from 31st March, 1976. Also penal interest at 10 per cent was recoverable on amounts of principal and interest overdue.

(*i*) Registrars in Pune and Thane did not collect interest at the higher rates on eight loans granted to 4 A.P.M.Cs. in Thane and twelve loan granted to 6 A.P.M.Cs. in Pune resulting in interest being realised short by Rs. 30,000.

(*ii*) In Thane penal interest amounting to Rs. 35,000 on amounts over due from 4 A.P.M.Cs. as at the end of March 1982 had not been realised by the department.

(*b*) On loans of Rs. 6,100 sanctioned to each of the 15 Co-operative dairy societies in Pune interest at 4.5 per cent per annum and penal interest at 8 per cent per annum on amounts over due were recoverable but recovery effect was short of the amount recoverable by Rs. 0.53 lakhs due to mistakes in calculation.

(*c*) The Registrar of Co-operative societies and his officers were required to maintain detailed accounts of loans sanctioned and disbursed by Government.

In Thane the accounts were not maintained properly with the result that principal and interest due were not demanded from the loanees.

From seventeen farming co-operative societies and three fisheries co-operative societies in Thane, interest amounting to Rs. 59,000 due up to 31st March, 1982 had not been realised or demanded.

The mistakes and failures as above were pointed out in audit (between February and April 1982); the department stated (September 1982) that recovery of Rs. 28,113.38 was effected from 6 A.P.M.Cs. in Pune. Further progress was awaited (December 1982).

The mistakes noticed were reported to the Government; their reply is also awaited (December 1982).

(ii) Industries, Enegry and Labour Department

8.4. Non-recovery of penal interest on loans given to Maharashtra State Textile Corporation

(*a*) In respect of loans amounting to Rs. 3.73 crores sanctioned by Government of Maharashtra to the Maharashtra State Textile Corporation during the period from 3rd December 1976 to 31st March 1978 towards working capital for the mills taken over by the corporation, the terms and conditions provided for the levy of penal interest at the rate of 1½ per cent above the normal rate of interest, on amounts of principal and interest overdue for repayment/payment :—

(*i*) Penal interest on overdue payments of interest not demanded or recovered from the Corporation amounted to Rs. 3.46 lakhs (February 1982), the periods for which, the amounts were overdue ranged from 2 days to 710 days.

(*ii*) On loans amounting to Rs. 65.00 lakhs and Rs. 90.00 lakhs paid to the Corporation on 18th March 1977 and 6th July 1977 respectively, repayable after a moratorium period of two years in 5 equal annual instalments (of Rs. 13 lakhs and Rs. 18 lakhs respectively) the first and second instalments (due on 18th March 1980, 18th March 1981, 5th July 1980 and 5th July 1981) amounting to Rs. 62 lakhs were not repaid by the Corporation. Interest was paid by the Corporation at the normal rates and penal interest amounting to Rs. 1.26 lakhs due on 31st March 1982 was neither received nor demanded by the department.

(*b*) On seven long term loans amounting to Rs. 49.57 lakhs sanctioned through the Corporation to its Badnera unit, the terms and conditions in respect of a loan of Rs. 5 lakhs given on 29th February 1980 were not finalised till the end of February 1982 and in respect of the remaining

six loans interest of Rs. 15.05 lakhs overdue and penal interest of Rs. 11.80 lakhs due have not been realised by the department. The principal amounts have also not been repaid though overdue.

The failure to realise the dues were pointed out to the department; whose reply was awaited (December 1982).

The cases were reported to Government in August 1982; their reply is also awaited (December 1982).

SECTION C—FOREST RECEIPTS

Revenue and Forest Department

8.5. Loss in sale of fuel stacks/beats

One of the terms and conditions attaching to sale of timber and other forest produce by public auction, is that once the bid is accepted, the material so auctioned lies in the Depot entirely at the risk of the successful bidder and Government will not in any case be responsible for the loss of the material due to fire, theft, flood, misappropriation etc.

In Chandrapur, 9,405 fuel beats were auctioned in 3 separate lots during the months of March and April 1981 of which 2,862.5 fuel beats were destroyed in fire in April 1981 after the bids were accepted and before their removal by the successful bidders. However, the department did not recover the sale price for the fuel beats destroyed by fire from the bidders and the loss by fire amounting to Rs. 66,814 was borne by the department instead.

On the non-enforcement of the sale conditions being pointed out in audit, the Divisional Forest Officer stated (June 1982) that as enforcement of the condition would cause hardship to contractor, it was proposed to write off the loss to Government and that investigation into the fire was in progress. The reasons for the condition in the sale contract being inserted, if it is not intended to be enforced on such grounds, were not intimated to audit.

The cases were reported to Government in September 1982; their reply is awaited (December 1982).

8.6. Loss of revenue due to delay in disposal of fuel stacks

As per a contract entered by the Government with a paper mill in January 1978 the department was to supply 20,000 stacks of mixed

hardwood every year to the paper mill from 1977-78 for a period of three years. The mill agreed to accept all the mixed hardwood supplied from the forest areas. Such wood as might be considered unfit for pulping by the mill was to be sold by the department and loss incurred on its disposal by auction was recoverable by the department from the mill. But if, the price realised in auction was more than the contract price payable by the mill for the pulpable wood, the mill was entitled to be reimbursed for the expenditure incurred by it on transportation of such wood from the jungle site to site of the department at depot to the extent of such excess.

During the year 1977-78, out of the 20,000 stacks of mixed hardwood supplied by the department to the mill, 4,733 stacks of non-pulpable wood was unauthorisedly diverted by the mill for getting charcoal manufactured out of it through another party which made a considerable profit thereby. Non-return of such wood to the department being a breach of the contract, on coming to know of the breach, further supplies of hardwood due to be made during the year 1978-79 were stopped by the department.

10,986 stacks of mixed hardwood had been kept ready for supply to the mill in November 1979 when further supplies were stopped. These stacks were not disposed of in open auction till March 1980 when they were sold by auction for Rs. 3,72,619 at an average price of about Rs. 33.91 per stack. The average price obtained for fuel stacks sold by the Forest Labour Co-operative Societies which also auctioned their stock alongside the said 10,986 stacks, was Rs. 43.58 per stack. The lower price obtained for the stacks kept for supply to the mill was ascertained to be due to deterioration in their quality because of delay in disposal. This resulted in loss of revenue to Government amounting to Rs. 95,164.

The matter was reported to Government in July 1982; their reply is awaited (December 1982).

8.7. Loss in sale of khair timber

In may 1976 Government decided to allot khair timber and fire wood collected from forests in Thane and Nashik districts to various *Kath* Industries in the State every year at the rates of royalty fixed by Government, and subject to the industries making full payment within 30 days from the date of allotment, failing which the material was to be

disposed of by public auction and the defaulting industries disqualified for future.

In Nashik, 57 cubic metres of khair timber collected during the year 1979-80 were offered to Kath Industry in Bombay at royalty of Rs. 1,265 per cubic metre (exclusive of sales tax). The industry failed to make payment within 30 days from the date of allotment (16th January 1981). The material was sold by public auction on 26th April 1982 at a price of Rs. 996 per cubic metre. The reason for the auction price being less than the royalty rate was that the timber having been in the open for 2 years has deteriorated in quality.

Loss to Government due to deterioration of the timber amounting to Rs. 21,000 was pointed out in audit to the department (in May 1982) which had already directed (April 1982) the Divisional Forest Officer to fix responsibility for the loss.

The case was reported to Government in October 1982; their reply is awaited (December 1982).

SECTION D—RENT RECEIPTS

(*i*) *Agriculture and Co-operation Department*

8.8. Failure to recover rent

On two Government buildings at Nagpur transferred temporarily to the Maharashtra Agricultural Development and Fertilizer Promotion Corporation (MAFCO) with effect from 1st September 1974, no rent had been fixed nor recovered. Only in November 1980, rents and taxes were assessed at Rs. 1,810 per month and for the period till the vacation of the buildings by MAFCO on 25th September 1981, rent amounting to Rs. 1.54 lakhs remained to be recovered. The water and conservancy charges for the period from 1st April 1979 to 25th September 1981 were recoverable in addition.

On the omissions being pointed out in audit (November 1978) the department stated (July 1982) that while initially no action was taken, later, MAFCO was repeatedly requested even at higher levels to pay rent but MAFCO had not paid it. In March 1981 department referred the matter to Government.

The matter was reported to Government in August 1982; their reply is awaited (December 1982).

(ii) Irrigation Department

8.9. Short recovery of licence fee

As per orders of the Government issued in March 1977 and July 1979, the staff working on the projects were given rent free accommodation or accommodation at concessional rate but only to staff residing in and performing duties at a place which was more than two miles (3.2 kilometres) from the revenue limits of a taluka headquarters. However, some of the residential quarters constructed for the staff of Irrigation Projects were situated within two miles of revenue limits of taluka headquarters. In Solapur, in contravention of the said Government orders, the rent concession was allowed to Government servants residing in quarters situated within two miles of the taluka headquarters. The rent short levied amounted to Rs. 2.00 lakhs upto the end of December 1980 in 3 circles. Information in respect of remaining two circles is awaited. Recovery particulars from all the five Superintending Engineers are awaited (December 1982).

On the short recovery being pointed out in audit (May 1981) Government accepted (January 1982) the audit objection and directed the Chief Engineer to regularise the cases in accordance with the aforesaid Government orders of April 1978 and recover the arrears in suitable instalments. Report on recovery of arrears is awaited (December 1982).

(iii) Urban Development and Public Health Department

8.10. Loss of Rent

A portion of building in the premises of the Government Medical College and Hospital, Aurangabad was allotted (March 1966) to the Students' Association for running a canteen for the benefit of the students and the staff. Furniture articles were also provided by the College when the accommodation was handed over to the Association in March 1966. In the absence of any restrictions on them about sub-letting the accommodation the students association allowed a private contractor (from 15th March 1966) to use the accommodation for running a canteen and collected from him Rs. 45,675 as donation upto June 1982 at the different rates ranging from Rs. 1,000 to Rs. 4,200 per annum. Only in September 1974, rent of Rs. 350 per month was fixed for accommodation but no recovery of rent has been made from the Association so far (July 1982). For the period from March 1966 to June 1982 the rent foregone amounted to Rs. 69,000.

H 4662—8 (1,430—2-83)

On the failure being pointed out in audit (1969), the department stated (July 1982) that Government's decision, on a reference made to it was awaited.

The case was reported to Government in September 1982; their reply is awaited (December 1982).

(Y. S. DAS)
Accountant General-I, Maharashtra.

Bombay,

The 5 MAR 1983

Countersigned

(GIAN PRAKASH)
Comptroller and Auditor General of India.

New Delhi,

The 21 MAR 1983

APPENDICES

APPENDIX I

(Referred to in paragraph 1.2 page 3)

Variations between Budget estimates and Actual receipts

Heads of Revenue	Year	Budget estimates	Actuals	Variation (+) Increase (—) Decrease	Percentage of variation
		(In crores of rupees)			
(1)	(2)	(3)	(4)	(5)	(6)
1. Sales Tax	1979-80	569.53	626.43	(+) 56.90	10
	1980-81	678.95	749.59	(+) 70.64	10
	1981-82	818.08	924.12	(+) 106.04	13
2. State Excise	1979-80	45.00	70.23	(+) 25.23	56
	1980-81	69.12	88.70	(+) 19.58	28
	1981-82	89.04	113.04	(+) 24.00	27
3. Taxes on Vehicles ..	1979-80	33.90	38.07	(+) 4.17	12
	1980-81	41.69	51.51	(+) 9.82	24
	1981-82	58.16	58.03	(—) 0.13	..
4. Stamps and Registration Fees.	1979-80	32.11	34.26	(+) 2.15	7
	1980-81	43.74	42.88	(—) 0.86	2
	1981-82	44.34	49.32	(+) 4.98	11
5. Land Revenue ..	1979-80	21.98	19.66	(—) 2.32	11
	1980-81	20.50	16.01	(—) 4.49	22
	1981-82	20.50	21.83	(+) 1.33	6
6. Taxes on Agricultural Income.	1979-80	0.10	0.44	(+) 0.34	340
	1980-81	0.35	0.23	(—) 0.12	34
	1981-82	0.30	0.07	(—) 0.23	77
7. Other Taxes and Duties on Commodities and Services.	1979-80	60.90	68.79	(+) 7.89	13
	1980-81	69.69	73.37	(+) 3.68	5
	1981-82	76.33	96.12	(+) 19.79	26

APPENDIX I—*contd.*

Heads of Revenue	Year	Budget estimates	Actuals	Variation (+) Increase (—) Decrease	Percentage of variation
		(In crores of rupees)			
(1)	(2)	(3)	(4)	(5)	(6)
8. Dairy Development ..	1979-80	110.83	106.10	(—) 4.73	4
	1980-81	121.02	120.24	(—) 0.78	1
	1981-82	142.24	144.55	(+) 2.31	2
9. Interest	1979-80	79.04	86.20	(+) 7.16	9
	1980-81	92.52	99.52	(+) 7.00	8
	1981-82	114.45	119.77	(+) 5.32	5
10. Forest	1979-80	45.12	51.83	(+) 6.71	15
	1980-81	51.91	58.24	(+) 6.33	12
	1981-82	56.71	63.70	(+) 6.99	12
11. Medical	1979-80	17.64	14.54	(—) 3.10	18
	1980-81	18.39	17.38	(—) 1.01	5
	1981-82	21.75	25.93	(+) 4.18	19
12. Power Projects ..	1979-80	19.88	23.85	(+) 3.97	20
	1980-81	28.89	29.14	(+) 0.25	1
	1981-82	19.07	19.83	(+) 0.76	4
13. Irrigation, Navigation, Drainage and Flood Control Projects. ..	1979-80	11.31	9.12	(—) 2.19	19
	1980-81	8.65	10.21	(+) 1.56	18
	1981-82	9.77	13.25	(+) 3.48	36
14. Co-operation ..	1979-80	4.17	5.85	(+) 1.68	40
	1980-81	5.75	6.70	(+) 0.95	17
	1981-82	6.57	8.90	(+) 2.33	35

APPENDIX I—*contd.*

Heads of Revenue	Year	Budget estimates	Actuals	Variation (+) Increase (—) Decrease	Percentage of variation
		(In crores of rupees)			
(1)	(2)	(3)	(4)	(5)	(6)
15. Police	1979-80	4.30	3.76	(—) 0.54	13
	1980-81	3.85	5.41	(+) 1.56	41
	1981-82	4.05	6.15	(+) 2.10	52
16. Mines and Minerals ..	1979-80	2.94	3.04	(+) 0.10	3
	1980-81	2.70	3.62	(+) 0.92	34
	1981-82	2.80	4.92	(+) 2.12	76
17. Public Health, Sanitation & Water Supply.	1979-80	8.67	5.41	(—) 3.26	38
	1980-81	5.53	2.80	(—) 2.73	49
	1981-82	5.61	2.05	(—) 3.56	63
18 Housing	1979-80	5.96	4.98	(—) 0.98	16
	1980-81	5.30	2.59	(—) 2.71	51
	1981-82	5.30	1.27	(—) 4.03	76

APPENDIX II

Statement showing cost of collection under the principal heads of revenue

(Referred to in paragraph 1.3, page 3 of Chapter I)

Head of Account	Year	Collection	Expenditure on collection	Percentage of expenditure to collection
		(In crores of rupees)		
Finance Department—				
1. Sales Tax ..	1979-80	626.43	6.18	1
	1980-81	749.59	7.53	1
	*1981-82	924.12	8.71*	1
2. Tax on Professions, Trades, Callings and Employments.	1979-80	26.01	0.49	2
	1980-81	31.59	0.62	2
	*1981-82	37.86	0.76*	2
Home Department—				
3. State Excise ..	1979-80	70.23	2.12	3
	1980-81	88.70	2.51	3
	*1981-82	113.04	2.39*	2
4. Taxes on Vehicles ..	1979-80	38.07	0.74	2
	1980-81	51.51	0.84	2
	*1981-82	58.03	2.55*	4

*The figures represent actual expenditure incurred by the department as per Finance Accounts. The cost of collection has not been segregated by the department.

APPENDIX III

Revenue collection and pending arrears

(Reference : Paragraph No. 1.4, Page 3 of the Report)

Serial No.	Source of Revenue	Collection during 1981-82	Amount pending collection as on 31st March 1982	Amount outstanding for more than Five year
(1)	(2)	(3)	(4)	(5)
		(In crores of rupees)		
	TAX REVENUE			
1	(*a*) Sales Tax	902.46	53.91	13.73
	(*b*) Purchase Tax on Sugarcane and Sugarcane cess.	21.66	19.46	0.54
2	State Excise	113.04	2.57	2.47
3	(*a*) Taxes on vehicles	58.03	13.44	7.74
	(*b*) Taxes on goods and Passengers ..	22.37	52.71	1.83
4	Stamp Duty and Registration fees ..	49.32	....	....
5	Land Revenue	21.83	....	....
6	Taxes on Agricultural Income ..	0.07	2.00	1.46
7	Taxes on Professions, Trades, Callings and Employments.	37.86	14.06	2.48
8	Electricity Duty	60.92	2.49	0.06
9	Entertainments Duty	53.44	0.56 (as on 6th April 1982)	....
10	Betting Tax	7.53	....	....
11	Luxury Tax	4.48	0.17	0.07
	NON-TAX REVENUE			
12	*Revenue and Forests Department :*			
	(*i*) Receipts under Mineral Concession Rules (Minor minerals).	1.49	....	....
	(*ii*) Forest	63.70	7.04	1.08
13	*Irrigation and Power Department :*			
	(*i*) Irrigation Dues .. } (*ii*) Non-irrigation Dues .. } ..	14.46	....	....

APPENDIX III—*contd*

Serial No.	Source of Revenue	Collection during 1981-82	Amount pending collection as on 31st March 1982	Amount outstanding for more than Five years
(1)	(2)	(3)	(4)	(5)
		(In crores of rupees)		
14	*Industries, Energy and Labour Department :*			
	(*i*) Fees under Indian Electricity Rules, 1956 and Fees for Inspection of cinemas.	1.00	0.87	0.18
	(*ii*) Receipts under Mineral Concession Rules (Major Minerals).	3.24	0.64	0.50
15	*Public Works and Housing Department :*			
	(*i*) Recovery of compensation, service charges, administrative charges and Licence fees from hutment dwellers.	....	....	....
	(*ii*) Receipts from Bombay Development Scheme—Rent from Development Department chawls.	7.04	0.06	0.0033
	(*iii*) Rent of residential Government buildings.	1.24	....	....
	(*iv*) Recovery of Bombay buildings repairs and reconstruction cess.	7.40	9.25	Awaited
16	*Agriculture and Co-operation Department :*			
	(A) Director of Agriculture—			
	Receipts on account of sale of seeds, sale/hire of agricultural implements, receipts from horticulture,plant protection, soil conservation, Land development.	2.16	....	....
	(B) Registrar of Co-operative Societies—			
	(*i*) Audit fees	2.97	3.20	0.28
	(*ii*) Supervision charges	....	1.02	0.02
17	*Urban Development and Public Health Department :*			
	(*i*) Environmental Engineering Circles—			
	Water charges	0.04	....	....
	(*ii*) Director of Employees State Insurance Scheme, Bombay			
	Receipts from Employees State Insurance Corporation of 7/8th share of expenditure incurred by the State Government.	24.20	....	....

APPENDIX III—*contd.*

(*a*) The year-wise details of outstanding amounts of Sales Tax are given below:—

Year	(*i*) Sales Tax Arrears as on		(*ii*) Purchase Tax on Sugarcane and Sugarcane cess Arrears as on		(*iii*) Agricultural Income Tax Arrears as on	
	31-3-1981	31-3-1982	31-3-1981	31-3-1982	31-3-1981	31-3-1982
	(In lakhs of rupees)					
Upto 1976-77 ..	15,59.92	13,72.88	2,59.77	53.81	1,46.62	1,46.23
1977-78 ..	4,48.31	3,69.89	2,01.45	1,22.12	0.45	0.42
1978-79 ..	7,47.03	5,33.43	3,78.41	2,31.40	3.66	3.47
1979-80 ..	10,39.09	8,14.53	9,90.48	4,82.69	31.73	29.43
1980-81 ..	14,76.06	7,30.70	6,03.06	4,20.42	5.64	4.15
1981-82 ..		15,69.20		6,35.34		15.82
Total ..	52,70.41	53,90.63	24,33.17	19,45.78	1,88.10	1,99.52

(*b*) The year-wise details of oustanding amounts of State Excise arrears are given below:—

Year	Arrears as on 31st March 1981	Arrears as on 31st March 1982
	(In lakhs of rupees)	
Upto 1976-77	2,51.85	31.02
1977-78	1.24	1.16
1978-79	1.88	1.74
1979-80	1.43	1.20
1980-81	28.40	0.99
1981-82	....	2,20.97
Total ..	2,84.80	2,57.08

APPENDIX III—*contd.*

The details of the arrears as on 31st March 1982 are as follows:—

	Amount outstanding as on 31st March 1982	Amount outstanding for more than five years
	(In lakhs of rupees)	
(*i*) Licence fees for toddy shops (referred to Revenue Officers for recovery as arrears of land revenue).	40·86	31·02
(*ii*) Arrears under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.	1,80·26	1,80·26
(*iii*) Miscellaneous arrears pertaining to pre-prohibition period.	35·96	35·96
Total ..	2,57·08	2,47·24

(*c*) Out of total arrears of goods and passenger tax amounting to Rs. 52.71 crores, arrears of passenger tax recoverable from Maharashtra State Road Transport Corporation were to the tune of Rs. 48.68 crores. Further Government has also sanctioned a loan of Rs. 20.00 crores to Maharashtra State Road Transport Corporation to enable it to pay off the arrears of passenger tax.

APPENDIX IV

Frauds and Evasions of Tax

(Reference : Paragraph No. 1.5 page 4 of the Report)

	Sales Tax Department	Motor Vehicles Tax Department	State Excise Department	Agricultural Income Tax
(*i*) Number of cases pending on 31st March 1981.	5,271	Nil	5	765
(*ii*) Number of cases detected during 1981-82.	3,948	90,253	1	203
Total ..	9,219	90,253	6	968
(*iii*) Number of cases investigated ..	5,145	90,253	6	523
(*a*) Number of cases out of (*iii*) above in which frauds/evasions were established.	2,152	90,253	5	..
(*b*) Number of cases closed after investigation and scrutiny out of (*iii*) above.	2,993	....	1	523
(*iv*) Number of cases pending on 31st March 1982.	4,074	Nil	5	445
(*v*) (*a*) Number of cases in which prosecutions/penal proceedings were launched.	41	....	3	....
(*b*) (*i*) Number of cases in which penalty was imposed.	719	12,531	1	16
		(In lakhs of Rupees)		
(*ii*) Total demand raised including penalty.	515.57	60.40	0.76	15.71
(*iii*) Amount actually collected out of (*v*)(*b*)(*ii*) above.	412.11	54.91	0.04	2.35

(Figures are as furnished by the Department)

APPENDIX

Year-wise details of outstanding audit

(As on 30th

(Reference:

Serial No.	Name of receipt	1977-78 and Earlier Years			1978-79			
		No. of Inspection reports	No. of paragraphs	Amount (in lakhs of rupees)	No. of inspection reports	No. of paragraphs	Amount (in lakhs of rupees)	No. of inspection reports
1	2	3	4	5	6	7	8	9
1	Sales Tax	61	128	9.79	65	198	8.85	132
2	Agricultural Income Tax ..	8	27	0.45	3	31	1.68	2
3	Land Revenue ..	364	952	15.66	103	361	141.63	138
4	Stamp Duty and Registration fees.	47	237	25.64	12	160	34.73	20
5	Forest Receipts ..	44	94	..	28	92	..	38
6	Taxes on Vehicles ..	59	148	5.24	39	107	3.27	39
7	Entertainments Duty ..	70	139	1.03	37	75	0.02	29
8	State Excise	110	261	1.30	55	144	0.27	87
9	Electricity Duty	6	10	..	5	9	..	8
10	Tax on Professions, Trades, Callings and Employments.	24	74	3.06	44	190	6.61	38
11	State Education Cess ..	..	..	..	..	..	..	..
12	Repairs Cess	..	..	..	..	..	..	..
13	Non-tax Receipts Other than Forest Receipts.	55	93	..	39	78	..	50
	Total ..	848	2163	62.17	430	1445	197.06	581

V

objections under various receipts

September 1982)

Paragraph 1.7, page 5)

1979-80		1980-81			1981-82			Total		
No. of paragraphs	Amount (in lakhs of rupees)	No. of inspection reports	No. of paragraphs	Amount (in lakhs of rupees)	No. of inspection reports	No. of paragraphs	Amount (in lakhs of rupees)	No. of inspection reports	No. of paragraphs	Amount (in lakhs of rupees)
10	11	12	13	14	15	16	17	18	19	20
408	10.13	208	675	37.80	343	1551	35.06	809	2960	101.63
24	4.74	10	35	7.96	11	19	2.01	34	136	16.84
363	247.20	96	418	1165.64	116	527	270.29	817	2621	1840.42
178	16.66	107	182	42.62	138	254	108.21	324	1011	227.86
144	..	25	117	..	34	165	..	169	612	..
179	4.50	42	180	86.58	35	218	14.35	214	832	113.94
72	0.14	39	62	0.01	65	136	..	240	484	1.20
237	0.92	93	224	1.40	84	263	0.62	429	1129	4.51
10	..	13	21	0.03	17	42	0.59	49	92	0.62
185	4.16	45	233	6.53	68	326	9.05	219	1008	29.41
..	..	19	122	4.16	23	104	8.12	42	226	12.28
..	..	9	48	49.72	10	55	34.42	19	103	84.14
133	0.02	65	289	..	27	89	..	236	682	0.02
1,933	288.47	771	2,606	1402.45	971	3,749	482.72	3,601	11,896	2432.87