



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

FOR THE YEAR ENDED 31 MARCH 1999

No. 1

REVENUE RECEIPTS

GOVERNMENT OF TAMIL NADU

PLACED BEFORE THE STATE
LEGISLATURE ON.....18 MAY 2000

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PREFATORY REMARKS

This report for the year ended 31 March 1999 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this report are among those which came to notice in the course of test-audit of records during the year 1998-99 as well as those noticed in earlier years, but could not be included in previous years' Reports.

PRELIMINARY REPORT

This report was prepared for the year ending 31 March 1955 and is intended to provide a summary of the work done during the year.

The work of the year has been divided into three main sections: the first section deals with the general work of the year, the second section deals with the work done in the laboratory, and the third section deals with the work done in the field. The first section deals with the general work of the year, the second section deals with the work done in the laboratory, and the third section deals with the work done in the field.

The work done in the laboratory has been divided into three main sections: the first section deals with the work done in the laboratory, the second section deals with the work done in the field, and the third section deals with the work done in the laboratory.

OVERVIEW



OVERVIEW

This report contains 20 paragraphs (including 2 reviews) relating to non-levy/short-levy of taxes, interest, penalty, etc., amounting to Rs.63.55 crore. Some of the major findings are mentioned below.

1. General

(i) The revenue raised by the State during 1998-99 amounted to Rs.10782.00 crore comprising Rs.9625.30 crore as tax revenue and Rs.1156.70 crore as non-tax revenue. Rs.2408.98 crore were received from the Government of India as State's share of divisible Union taxes and Rs.1069.85 crore as Grants-in-Aid. Sales Tax (Rs.6112.94 crore) formed a major portion (64 per cent) of the tax revenue of the State. Interest receipts, dividends and profits of Rs.409.24 crore accounted for 35 per cent of the non-tax revenue.

[Paragraph 1.1]

(ii) At the end of 1998-99, the arrears in respect of taxes administered by the departments of Commercial Taxes and Religious Endowments, Home, Revenue and Industries, etc. amounted to Rs.6325.02 crore of which Sales Tax and Mines and Minerals together accounted for Rs.6089.81 crore.

[Paragraph 1.5]

(iii) Test-check of records of Sales Tax, State Excise, Agricultural Income Tax, Land Revenue, Urban Land Tax, Taxes on Vehicles and other departmental offices conducted during the year 1998-99 revealed under-assessments, short-levy, loss of revenue, etc., amounting to Rs.9138.27 lakh in 2623 cases.

[Paragraph 1.10]

(iv) As at the end of June 1999, 4084 Inspection Reports issued upto December 1998 containing 15163 audit observations with money value of Rs.327.54 crore were pending settlement with various departments.

[Paragraph 1.11]

2. Sales Tax

A) A review on "Levy, Collection and Remittance of Tax by Government Departments" revealed:

(i) In 16 offices, concessional rate was incorrectly allowed on sale of pulpwood, bamboo etc. on a turnover of Rs.3302.86 lakh during 1992-93 to 1996-97. This resulted in short-collection of tax of Rs.190.77 lakh.

[Paragraph 2.2.5]

(ii) Incorrect exemption granted during the years 1992-93 to 1996-97 in 4 offices on a turnover of Rs.1451.15 lakh resulted in non-levy of tax of Rs.42.82 lakh.

[Paragraph 2.2.6]

(iii) Adoption of incorrect rate of tax resulted in short collection of tax amounting to Rs.11.50 lakh in 9 offices during the years 1992-93 to 1996-97.

[Paragraph 2.2.7]

B) (i) Incorrect classification of recombined milk, valuing Rs.304.23 crore as exempted goods in 3 assessment circles during the years 1994-95 to 1996-97 resulted in non-levy of tax of Rs.50.79 crore.

[Paragraph 2.3]

(ii) Incorrect exemption granted to 22 dealers on sales made during 1990-91, 1993-94 to 1996-97 resulted in non-levy of tax amounting to Rs.134.41 lakh.

[Paragraph 2.4]

(iii) Non/Short levy of Additional Sales Tax in respect of 9 dealers during the years 1991-92 to 1995-96 resulted in non/short realisation of Rs.35.31 lakh.

[Paragraph 2.5]

(iv) Application of incorrect rate of tax on sale of various goods in 20 assessment circles during 1990-91 to 1996-97 resulted in short-levy of tax of Rs.31.39 lakh.

[Paragraph 2.6]

(v) Incorrect computation of tax in 7 cases during the years 1991-92 to 1996-97 resulted in short levy of Rs.12.95 lakh.

[Paragraph 2.7]

(vi) In 8 assessment circles, interest of Rs. 10.52 lakh was not levied for belated payment of tax in respect of 9 dealers.

[Paragraph 2.8]

3. Other Tax Receipts

A-Taxes on vehicles

(i) Incorrect classification of 162 light Motor vehicles as maxicabs, in 2 assessment circles, resulted in short levy of Rs. 134.13 lakh.

[Paragraph 3.2]

(ii) In 9 regions, in respect of 357 vehicles during 1997-98, fine for overloading was either not levied or levied at the prerevised rates which resulted in non-levy/short levy of fine of Rs. 10.22 lakh.

[paragraph 3.3]

B. Urban Land Tax

(i) Omission to assess urban lands in 4 offices resulted in short levy of tax of Rs. 31.86 lakh.

[Paragraph 3.5]

(ii) Incorrect exemption of lands owned by Tamil Nadu Housing Board resulted in non-levy of Urban Land Tax of Rs. 16.05 lakh.

[Paragraph 3.6]

C. Agricultural Income Tax

(i). There was a short levy of Rs. 10 lakh due to computation error.

[Paragraph 3.8]

4. Non-Tax Receipts

A. Mines and Minerals

(i). Non-collection of dues from Tamil Nadu Magnesite Limited, for the years 1993-94 to 1997-98 amounted to Rs. 130.20 lakh.

[Paragraph 4.2.6]

(ii) Levy of licence fee, during the years 1992-93 to 1995-96 and 1998-99 at the rates applicable to a fresh licence instead of treating the lease as a continuation resulted in short-collection of Rs.223.10 lakh from one assessee.

[Paragraph 4.2.7]

(iii) In two districts, in respect of 5 assessees, seigniorage fee/dead rent for the period 1995-96 to 1997-98 were either not levied or levied short resulting in non/short levy of Rs.47.80 lakh.

[Paragraph 4.2.8]

(iv) In eight districts, for the belated payment of dead rent, interest amounting to Rs.24.10 lakh was not levied.

[Paragraph 4.2.9]

(v) Omission to levy local cess and local cess surcharge for the period 1 July 1990 to 4 April 1991 in respect of 22 lessees resulted in non-levy of Rs.12.13 lakh.

[Paragraph 4.2.10]

B Housing and Urban and Development and Revenue Department

Failure to ensure the collection of seigniorage fee for earth quarried from government lands led to non-collection of dues of Rs.46.92 lakh.

[Paragraph 4.3]

C Agriculture Department

Belated communication of the Government orders to the field officer led to a loss of revenue of Rs.37.52 lakh.

[Paragraph 4.4]

D Higher Education Department

Delay in finalisation of lease rent for Government buildings transferred to private polytechnics led to non-realisation of government dues of Rs.28.70 lakh.

[Paragraph 4.5]



CHAPTER 1

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GENERAL

SECRET

CHAPTER 1

GENERAL

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Tamil Nadu during the year 1998-99, the share of divisible Union 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:

(Rupees in crore)

		1996-97	1997-98	1998-99
I	Revenue raised by the State Government			
	(a) Tax revenue	7983.45	8685.64	9625.30
	(b) Non-tax revenue*	885.45 (872.08)	1121.87 (1105.86)	1156.70 (1128.00)
	Total - I	8868.90 (8855.53)	9807.51 (9791.50)	10782.00 (10753.30)
II	Receipts from the Government of India			
	(a) State's share of divisible Union taxes	2165.50	2728.30	**2408.98
	(b) Grants-in-aid	926.88	1051.14	1069.85
	Total - II	3092.38	3779.44	3478.83
III	Total receipts of the State Government [(I) + (II)]	11961.28 (11947.91)	13586.95 (13570.94)	14260.83 (14232.13)
IV	Percentage of I to III	74	72	76

* Figures in brackets representing non-tax revenue include receipts from lotteries net of expenditure on prize winning tickets.

** For details please see Statement No.11 - Detailed Accounts of Revenue by Minor Heads of the Finance Accounts of the Government of Tamil Nadu for the year 1998-99. Figures under the Head '0021 - Taxes on Income other than Corporation Tax - Share of net proceeds assigned to States' booked in the Finance Accounts under 'A - Tax Revenue' have been excluded from revenue raised by the State and included in State's share of divisible Union taxes' in this Statement.

(i) The details of tax revenue raised during the year 1998-99, alongwith the corresponding figures for the preceding two years, are given below.

(Rupees in crore)

Sl. No	Heads of revenue	1996-97	1997-98	1998-99	Percentage of increase (+) or decrease (-) in 1998-99 over 1997-98
1.	Sales Tax	5341.07	5603.79	6112.94	(+) 9
2.	State Excise	1063.07	1299.85	1709.81	(+) 32
3.	Stamp Duty and Registration Fees	590.60	631.55	672.52	(+) 6
4.	Taxes on Vehicles	425.42	469.69	518.14	(+) 10
5.	Land Revenue	18.77	60.31	28.29	(-) 53
6.	Taxes on Agricultural Income	13.86	39.36	38.53	(-) 2
7.	Taxes on Immovable Property other than Agricultural Land (Urban Land Tax)	9.97	10.96	14.18	(+) 29
8.	Others	520.69	570.13	530.89	(-) 6
	TOTAL	7983.45	8685.64	9625.30	(+) 11

No specific reasons for variations in receipts during 1998-99 as compared to 1997-98 were intimated by the Commercial Taxes department.

The reasons for variations under Urban Land Tax and Land Revenue though called for from the departments have not been received (September 1999).

(ii) The details of non-tax revenue realised during the years 1996-97 to 1998-99 are given below:

(Rupees in crore)

Sl. No	Heads of revenue	1996-97	1997-98	1998-99	Percentage of increase (+) or decrease (-) in 1998-99 over 1997-98
1	2	3	4	5	6
1.	Interest Receipts, Dividends and Profits	371.21	504.70	409.24	(-) 19
2.	Crop Husbandry	59.78	65.56	73.48	(+) 12
3.	Forestry and Wild life	52.73	43.66	64.00	(+) 47
4.	Non-Ferrous Mining and Metallurgical Industries	70.78	89.94	101.04	(+) 12
5.	Education, Sports, Art and Culture	31.57	33.13	38.29	(+) 16
6.	Others	299.38	384.88	470.65	(+) 22
	TOTAL	885.45	1121.87	1156.70	(+) 3

The decrease (19 per cent) during 1998-99 in respect of Interest Receipts, Dividends and Profits as compared to the receipts of 1997-98 was due to decrease under "Interest realised on investment of cash balances" and also non receipt of "Interest from Public Sector and other undertakings".

The reasons for variations in respect of Forestry and Wild life, Non-ferrous Mining and Metallurgical Industries, Crop Husbandry and Education and Sports, Art and Culture where it was substantial, though called for from the departments concerned, have not been received (September 1999).

1.2 Variations between budget estimates and actuals

The variations between budget estimates of revenue for the year 1998-99 and actual receipts under the principal heads are given below:

(Rupees in crore)

Sl. No	Heads of revenue	Budget estimates	Actuals	Variations increase (+) decrease (-)	Percentage of variation excess (+) shortfall (-)
1	2	3	4	5	6
1.	Sales Tax	6517.00	6112.94	(-) 404.06	(-) 6.20
2.	State Excise	1552.00	1709.81	(+) 157.81	(+) 10.17
3.	Stamp Duty and Registration Fees	675.00	672.54	(-) 2.48	(-) 0.37
4.	Taxes on Vehicles	539.00	518.14	(-) 20.86	(-) 3.87
5.	Land Revenue	35.00	28.29	(-) 6.71	(-) 19.17
6.	Taxes on Agricultural Income	18.00	38.53	(+) 20.53	(+) 114.06
7.	Taxes on Immovable Property other than Agricultural Land (Urban Land Tax)	12.00	14.18	(+) 2.18	(+) 18.17
8.	Other Taxes and Duties on Commodities and Services and Taxes and Duties on Electricity	193.00	178.08	(-) 14.18	(-) 7.35
9.	Interest Receipts	349.17	409.24	(+) 60.07	(+) 17.20
10.	Non ferrous mining and Metallurgical Industries	104.90	101.04	(-) 3.86	(-) 3.68
11.	Crop Husbandry	68.30	73.48	(+) 5.18	(+) 7.58
12.	Roads and Bridges	13.27	17.95	(+) 4.68	(+) 35.27
13.	Major and Medium Irrigation	4.82	8.25	(+) 3.43	(+) 71.17

State Excise The increase (10 per cent) was due to increase in upset prices for Indian Made Foreign Liquor shops.

Agricultural Income Tax The increase (114 per cent) was due to higher price of Tea Crops.

The reasons for variations in respect of other heads though called for from the State Government have not been received (September 1999).

1.3 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collections during the years 1996-97, 1997-98 and 1998-99 along with the relevant all India average percentage of expenditure on collection to gross collections for 1997-98 are given below:

(Rupees in crore)

Sl. No	Heads of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 1997-98
1.	Sales Tax	1996-97	5341.07	64.59	1.21	1.28
		1997-98	5603.79	69.69	1.24	
		1998-99	6112.94	99.45	1.62	
2.	State Excise	1996-97	1063.07	12.12	1.14	3.20
		1997-98	1299.85	11.70	0.90	
		1998-99	1709.81	15.55	0.90	
3.	Stamp Duty and Registration Fees	1996-97	590.60	34.66	5.87	3.14
		1997-98	631.55	34.27	5.43	
		1998-99	672.52	53.94	8.02	
4.	Taxes on Vehicles	1996-97	425.42	12.38	2.91	2.65
		1997-98	469.69	16.03	3.41	
		1998-99	518.14	21.69	4.19	

1.4 Arrears in Assessment

The details of assessment cases in respect of Sales Tax and Agricultural Income Tax pending at the beginning of the year, cases due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 1998-99, as furnished by the department are given below:

Sl. No.	Heads of Revenue	Opening Balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the end of the year	Percentage of Col.6 to Col.5
1	2	3	4	5	6	7	8
1	Sales Tax	50,427	1,45,633	1,96,060	1,61,854	34,206	83
2	Agricultural Income Tax	42	4,103	4,145	4,033	112	97

1.5 Arrears of revenue

As on 31 March 1999 arrears of revenue pending collection under principal heads of revenue as reported by the departments were as under:

Sl. No.	Heads of revenue	Arrears pending collection		Remarks
		Total	More than 5 years old	
(Rupees in lakh)				
1	2	3	4	5
1.	Sales Tax	510415.98	104615.63	Out of the total arrears of Rs.510415.98 lakh demands amounting to Rs.100056.84 lakh were covered under Revenue Recovery Act. Rs.214061.84 lakh were stayed by High Court and other judicial authorities/Government Recoveries amounting to Rs.252.84 lakh were held up due to rectification/review applications. Rs.5696.33 lakh could not be recovered on account of the assessee becoming insolvent. A sum of Rs.8701.84 lakh was likely to be written off and a sum of Rs.168945.66 lakh was under various stages of recovery. A sum of Rs.12700.63 lakh had since been collected (November 1999).

1	2	3	4	5
2	Mines and Minerals	98565.51	77019.68	Out of the total arrears of Rs.98565.51 lakh a sum of Rs.10462.69 lakh was covered by Revenue Recovery Act. Demands amounting to Rs.5220.06 lakh were covered by stay granted by High Court and other judicial authorities. Demands amounting to Rs.211.63 lakh were covered by stay granted by Government. A sum of Rs.0.59 lakh could not be recovered on account of the assessee becoming insolvent Rs.194.97 lakh were likely to be written off. Rs.82455.18 lakh were under various stages of recovery. A sum of Rs.20.38 lakh had since been collected (November 1999).
3.	Stamp Duty and Registration Fees	8379.78	803.09	Out of the total arrears of Rs.8379.78 lakh, demands amounting to Rs.3492 lakh were covered under Revenue Recovery Act. A sum of Rs.4698.96 lakh were under regular process of collection. A sum of Rs.188.82 lakh had since been collected (November 1999).
4.	State Excise	5253.84	5253.84	Out of the total arrears of Rs.5253.84 lakh, demands amounting to Rs.1435.37 lakh were covered under Revenue Recovery Act. A sum of Rs.664.47 lakh was stayed by High Court and other judicial authorities. Recoveries of Rs.64.24 lakh were held up due to rectification/review application. A sum of Rs.4.32 lakh could not be recovered on account of assessee becoming insolvent. Arrears of Rs.490.59 lakh were likely to be written off. A sum of Rs.2594.85 lakh was under regular process of collection.
5	Urban Land Tax	4700.36	2038.08	Out of the total arrears of Rs.4700.36 lakh, demands amounting to Rs.2243.68 lakh were stayed by High Court and other judicial authorities. Arrears amounting to Rs.102.96 lakh were likely to be written off. A sum of Rs.1475.66 lakh had since been collected. Balance amount of Rs.978.06 lakh are under various process of collection.

1	2	3	4	5
6.	Land Revenue	3309.52	NF	Out of the total arrears of Rs.3309.52 lakh arrears of Rs.1068.44 lakh were covered by stay granted by High Court and other judicial authorities. A sum of Rs.1976.47 lakh were under regular process of collection. A sum of Rs.264.61 lakh had since been collected (November 1999).
7.	Agricultural Income Tax	741.43	283.00	Out of the total arrears of Rs.741.43 lakh demands amounting to Rs.201.88 lakh were covered under Revenue Recovery Act. Recoveries amounting to Rs.205.09 lakh were stayed by High Court and other judicial authorities. Rs.83.51 lakh were likely to be written off. A sum of Rs.250.95 lakh were under various stages of recovery.
8.	Entertainment Tax	558.03	339.89	Out of the total arrears of Rs.558.03 lakh demands amounting to Rs.39.84 lakh were covered under Revenue Recovery Act. Arrears of Rs.244.61 lakh were covered by stay granted by Courts. Rs.0.47 lakh were covered by stay granted by Government. A sum of Rs.0.27 lakh were held up due to rectification/review applications. Demands amounting to Rs.0.61 lakh could not be recovered as the assessee have becoming insolvent. Rs.16.42 lakh were likely to be written off. Demands amounting to Rs.168.91 lakh were under various stages of recovery. A sum of Rs.86.90 lakh had since been collected (November 1999).
9.	Taxes on vehicles	333.06	172.71	Out of the total arrears of Rs.333.06 lakh, a sum of Rs.254.83 lakh are covered under Revenue Recovery Act. Demand amounting to Rs.12.60 lakh were stayed by High Court and other judicial authorities. Arrears amounting to Rs.8.72 lakh were likely to be written-off. A sum of Rs.48.66 lakh was under regular process of collection. A sum of Rs.8.25 lakh had since been collected (November 1999).

1	2	3	4	5
10.	Taxes and duties on electricity	309.51	167.91	Out of the total arrears of Rs.309.51 lakh a sum of Rs.208.82 lakh towards electricity duty was due from three Rural Electric Co-operative Societies. Demands amounting to Rs.55.41 lakh were due from the erstwhile Thanjavur Municipal Electrical undertaking and demands amounting to Rs.45.28 lakh were due from the erstwhile Madurai Municipal Electrical Undertaking.
11.	Luxury Tax	111.90	26.41	Out of the total arrears of Rs.111.90 lakh, demands amounting to Rs.18.61 lakh were covered under Revenue Recovery Act. Rs.18.25 lakh were stayed by High Court and other judicial authorities. Recoveries amounting to Rs.2.11 lakh were held up due to rectification/review applications. Demands amounting to Rs.47.71 lakh were under various stages of recovery. A sum of Rs.25.22 lakh had since been collected (November 1999).
12.	Betting Tax	11.61	4.75	Out of the total arrears of Rs.11.61 lakh, demands amounting to Rs.10.91 lakh were covered under Revenue Recovery Act and a sum of Rs.0.70 lakh was likely to be written off.
Total		632690.53	190724.99	

1.6 Frauds and evasions

The details of cases of frauds and evasion of taxes pending at the beginning of the year, number of cases detected by the departmental authorities (including internal audit), number of cases in which assessments/investigations were completed and additional demand (including penalties etc) of taxes raised against the assesseees during the year and the number of cases pending finalisation at the end of March 1999 as furnished (November 1999) by the Commercial Taxes and Religious Endowments Department and the Geology and Mining Department are given below:

Sl. No.	Nature of Tax	Cases pending as 31 March 1998		Cases detected during 1998-99		Cases in which assessment/investigations completed and additional demand including penalty etc. raised		Cases pending finalisation of 31 March 1999	
		No	Amount (Rs in lakh)	No	Amount (Rs in lakh)	No	Amount (Rs in lakh)	No	Amount (Rs in lakh)
1.	Sales Tax (i) Enforcement Wing	4990	57,258.56	6505	79,015.60	6621	1,19,060.31	4874	17,213.85
	(ii) Administration Wing	7506	1,42,449.10	6380	1,10,115.85	7332	61,567.21	6554	1,90,997.74
2.	Mining Receipts	7	166.60	8	8.06	15	24.44	2	150.23

1.7 Refunds

Details of amount refunded during the year 1998-99 under certain heads of receipts as furnished by the concerned departments were as follows:

S. No.	Heads of Revenue	Claims outstanding at the beginning of the year		Claims received during the year		Total		Refunds made during the year		Balance outstanding at the end of the year	
		No.	Amount (Rs. in lakh)	No.	Amount (Rs. in lakh)	No.	Amount (Rs. in lakh)	No.	Amount (Rs. in lakh)	No.	Amount (Rs. in lakh)
1.	Sales Tax	40881	1451.39	45056	6348.21	85937	7799.60	37853	4797.79	48084	3001.81
2.	Taxes on vehicles	87	12.39	185	24.14	272	36.53	256	34.15	16	2.39
3.	Agricultural Income Tax	4	2.61	---	---	4	2.61	4	2.61	---	---
4.	Mines and Minerals	30	235.60	33	25.58	63	261.18	37	253.36	26	7.83

1.8 Write-off and waiver of revenue

Demands for Rs.116.56 lakh in respect of 2486 cases were written off/waived during 1998-99 by competent authorities as indicated below:

Sl. No.	Name of the department	Write off/Waiver of revenue	
		No. of cases	Amount (Rs. in lakh)
1.	Commercial Taxes	2431	110.94
2.	Taxes on Vehicles	55	5.62
	Total	2486	116.56

1.9 Internal Audit

The number of inspection reports/audit objections issued by the internal audit wing pending settlement as on 31 March 1999 were as under:

Sl. No.	Heads of Revenue	Number of Inspection Reports	Number of objections	Amount (Rs. in lakh)
1.	Sales Tax (including Entertainments Tax, Betting Tax, etc.)	1523	27947	4198.25
2.	Taxes on vehicles	NF	NF	NF
3.	Mines and Minerals	58	816	98967.40
4.	Agricultural Income Tax	NF	689	760.39
5.	Taxes and Duties on Electricity	250	913	2.40
6.	Stamp Duty and Registration Fees	2881	15308	789.69
7.	State Excise	NF	NF	NF
8.	Land Revenue	NF	NF	NF
NF – Not furnished.				

1.10 Results of audit

Test-check of the records of Sales Tax, State Excise, Agricultural Income Tax, Land Revenue, Urban Land Tax, Taxes on Vehicles, Other Tax Receipts and Mines and Minerals under Non-Tax Receipts

conducted during the year 1998-99 revealed under-assessment/short-levy/loss of revenue amounting to Rs.8681.54 lakh in 2623 cases. During the course of the year 1998-99, the concerned departments accepted under-assessments, etc. of Rs.337.53 lakh involved in 944 cases, of which 457 cases involving Rs.55.23 lakh had been pointed out in audit during 1998-99 and the rest in earlier years. Of these, the department recovered Rs.100.96 lakh in 551 cases.

This report contains 20 paragraphs including 2 reviews involving Rs.6354.94 lakh. The department/Government have accepted audit observations involving Rs.125.17 lakh. Of this, a sum of Rs.32.94 lakh has been recovered (September 1999). Audit observations with total revenue effect of Rs.5326.65 lakh in 15 cases were not accepted by the departments/Government, but their contentions have been found at variance with facts and legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (September 1999).

1.11 Outstanding Inspection Reports and Audit Observations

Audit observations on incorrect assessments, short-levy of taxes, duties, fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the Heads of Offices and other departmental authorities through inspection reports. Serious financial irregularities are reported to the Heads of Departments concerned and the Government. The Heads of Offices are required to furnish replies to the inspection reports through their respective Heads of Departments within a period of two months.

(i) The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 1998, which were pending settlement by the departments as on 30 June 1999, along with corresponding figures for the preceding two years, are given below:

	Position as on 30 June		
	1997	1998	1999
Number of inspection reports pending settlement	3371	3710	4084
Number of outstanding audit observations	12160	14643	15163
Amount of revenue involved (Rupees in crore)	244.81	284.54	327.54

(ii) Revenue-wise break-up of the inspection reports and audit observations outstanding as on 30 June 1999 is given below:

Sl. No.	Revenue Head	Number of outstanding		Amount of receipts involved (Rupees in crore)	Earliest year to which reports relate
		Inspection Reports	Audit Observations		
1	2	3	4	5	6
1.	Sales Tax	1837	10380	208.24	1982-83
2.	Stamp Duty and Registration Fees	908	1406	4.67	1983-84
3.	Land Revenue	451	1203	24.11	1987-88
4.	Taxes on Vehicles	234	497	5.03	1984-85
5.	State Excise	110	186	5.50	1987-88
6.	Taxes on Agricultural Income	117	413	14.77	1984-85
7.	Mines and Minerals	118	352	54.58	1989-90
8.	Urban Land Tax	187	547	4.85	1983-84
9.	Electricity Duty	45	77	4.41	1986-87
10.	Entertainments Tax	45	53	1.20	1984-85
11.	Luxury Tax	23	29	0.09	1991-92
12.	Betting Tax	9	20	0.09	1991-92
	TOTAL	4084	15163	327.54	

The matter was brought to the notice of the Government (September 1999).

Year	1870	1880	1890	1900	1910	1920	1930	1940	1950	1960	1970	1980	1990	2000
Population	100	150	200	250	300	350	400	450	500	550	600	650	700	750
Area	100	150	200	250	300	350	400	450	500	550	600	650	700	750
...

The table shows the population and area of the country from 1870 to 2000. The population has increased from 100 in 1870 to 750 in 2000. The area has also increased from 100 in 1870 to 750 in 2000.

CHAPTER 2

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SALES TAX

CHAPTER 2

Sales Tax

2.1 Results of audit

Test-check of records in the Commercial Tax department conducted in audit during the period from April 1998 to March 1999 revealed under-assessments/non-levy of tax etc., amounting to Rs.7657.30 lakh in 1835 cases which broadly fall under the following categories:

Sl No	Category	No.of Cases	Amount (Rs. in lakh)
1.	Incorrect grant of exemption	377	5850.66
2.	Application of incorrect rate of tax	524	1001.39
3.	Incorrect computation of taxable turnover	161	177.24
4.	Non-levy of penalty	328	189.60
5.	Non-levy of Surcharge and Additional Sales Tax	144	53.59
6.	Other irregularities	301	136.42
7.	Review on "Levy, collection and Remittance of tax by Government departments"	—	248.40
	TOTAL	1835	7657.30

During the course of the year 1998-99, the department accepted under-assessment etc., of Rs.229.47 lakh in 779 cases of which 438 cases amounting to Rs.46.13 lakh were pointed out during 1998-99 and the rest in earlier years. A sum of Rs.76.28 lakh in 477 cases had been recovered upto June 1999.

A review on "Levy, Collection and Remittance of tax by Government departments" and few illustrative cases involving a financial effect of Rs.55.75 crore are mentioned in the following paragraphs.

2.2 Levy, Collection and Remittance of tax by Government Departments

2.2.1 Introduction

According to Tamil Nadu General Sales Tax Act, 1959, the Central or State Government whether or not in the course of business, buy, sell or distribute goods directly or otherwise for cash or for deferred payment or for commission, remuneration or other valuable consideration shall be deemed to be a 'dealer' for the purposes of this Act. Government Departments which are liable to pay tax under the Act should submit a return in form A-10 showing the total and taxable turnover for each quarter and the actual amount of tax collected during the quarter. The return should be submitted to the assessing officer along with proof of payment of tax on or before the 25th of the month succeeding the quarter.

Further, as per Commercial Tax Manual, the Assessing Officer, besides inspecting the accounts of the department should also verify the correctness of the return submitted to ensure that the rate of tax charged and the amount collected are correct. Defects noticed in the returns should be intimated to the Department concerned for rectification and reporting compliance.

2.2.2 Organisational set up

The Special Commissioner and Commissioner of Commercial Taxes is the head of the department and is assisted by Joint Commissioners, Deputy Commissioners, Assistant Commissioners who exercise administrative jurisdiction over the Commercial Tax Officers who are the assessing authorities.

2.2.3 Scope of audit

With a view to examining the extent to which the Government departments are observing the provisions of Tamil Nadu General Sales Tax Act, 1959, Central Sales Tax Act, 1956, and the Rules made thereunder, in regard to levy, collection, accounting and remittance of tax to Commercial Taxes Department, a review of records of various Government departments for the period from 1992-93 to 1996-97 was conducted during the period November 1998 to April 1999. Out of 38 departments of the State Government, Forest Department is the major department effecting sales and liable to pay sales tax having contributed a revenue of Rs.52.73 crore during 1996-97. Emphasis was therefore given on forest department. Among 70 forest offices, 18 forest offices having substantial sale transactions were taken up for test check.

There was no information with the Commercial Taxes department, about the number of Government departments liable to pay tax and submit A-10 returns. However as per information gathered by audit, in addition to the forest department, Central Government departments such as Southern Railway and Customs department are also collecting and remitting sales tax. These offices were also test checked.

2.2.4 Highlights

- **Incorrect grant of concessional rate of tax resulted in short-collection of tax by Rs.190.77 lakh.**

[Para 2.2.5]

- **Incorrect grant of exemption on sales resulted in non-collection of tax amounting to Rs.42.82 lakh.**

[Para 2.2.6]

- **Application of incorrect rate of tax in 9 offices during the year 1992-93 to 1996-97 on a sales turnover of Rs.293.84 lakh resulted in short collection of tax of Rs.11.50 lakh.**

[Para 2.2.7]

2.2.5 Incorrect grant of concessional rate of tax

As per Section 3(3) of the Tamil Nadu General Sales Tax Act, 1959, on sale of goods falling under the First Schedule, made by one dealer to another, tax is leviable at the concessional rate of 3 per cent under certain conditions and subject to production of valid declaration in Form XVII received from the purchaser. Accordingly, 'Pulpwood' being timber taxable at 8 per cent under the Sixth Schedule to the Act is not eligible for concessional rate.

Incorrect grant of concessional rate of tax resulted in short collection of Rs.190.77 lakh

In 16* Offices on sale of pulpwood (falling under Sixth Schedule) and other goods like bamboos amounting to Rs.3302.86 lakh during the years 1992-93 to 1996-97, concessional rate of tax was incorrectly allowed which resulted in short collection of tax amounting to Rs.190.77 lakh.

* Tiruvannamalai (AFF & TER), Thanjavur, Kodikanal, Gudalur, Ooty (North & South), Villupuram (SF & TER), Kancheepuram, Vellore, Sathyamangalam, Hosur, Salem, Dharmapuri and Park Town-II (Chennai).

2.2.6 *Incorrect grant of exemption*

The sale made in the course of export out of the territory of India is exempt from levy of tax. Under Section 5(3) of the Central Sales Tax Act, 1956, the last sale or purchase occasioning the export of the goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after and was for the purpose of complying with the agreement or order for or in relation to such export.

Incorrect grant of exemption resulted in non-collection of tax amounting to Rs.42.82 lakh

Further according to the Central Sales Tax (Registration and Turnover) Rules, 1957, a dealer may, in support of his claim for exemption furnish, a declaration in form 'H' duly filled in and signed by the exporter, indicating the agreement number and date entered into with the foreign buyer. In order to qualify for exemption under the above provision, there should be a pre-existing foreign buyer's order and the export should be in pursuance of that order.

It has been judicially held* that to avail of the exemption from levy of tax on such preceding sale, the goods exported should be the same as purchased under the agreement.

(a) In two offices (District Forest Office, Tirupattur and Salem) on sale of sandal wood logs amounting to Rs.89.82 lakh made by the Forest Department during the years 1992-93 to 1993-94 in two cases tax was not levied on the ground that the sales were made in the course of export. As the goods involved in the penultimate sale made by the Forest department were Sandal wood logs and those ordered for export were finished sandal wood goods like carvings and handicraft items, the non-collection of tax on the penultimate sale by the Forest Department was not in order. This resulted in non-realisation of tax of Rs.8.93 lakh (inclusive of surcharge).

(b) In District Forest office, Tirupattur it was further noticed that on sale of Sandal wood amounting to Rs.63.20 lakh made during 1993-94 to a dealer tax was not levied eventhough the said sales were not in the course of export as the date of purchase preceded the foreign buyer's purchase orders. This resulted in non-realisation of tax of Rs.6.31 lakh.

(c) (i) In other two offices (District Forest Offices, Sathyamangalam and Salem), on sale of Sandal wood amounting to Rs.281.11 lakh made during 1992-93, tax was not levied treating it as sales in the course of export eventhough the transactions were not covered by any documentary evidence in support of the claim of exemption. This resulted in non-realisation of tax amounting to Rs.25.86 lakh.

* Sterling foods Vs. State of Karnataka 63 STC 239 Supreme Court.

(ii) As per Section 8 of the Tamil Nadu General Sales Tax Act, 1959, the goods specified in the Third Schedule to the Act are exempt from levy of tax.

Nellikai, a forest produce, which was brought under Third Schedule with effect from 5 March 1997 was taxable prior to that date as residuary item at 8 per cent upto 16 July 1996 and at 11 per cent thereafter.

However it was noticed in the District Forest Offices, Sathyamangalam and Erode, that on the sale of Nellikai amounting to Rs.17.02 lakh during the years 1994-95 to 1996-97, tax was not levied treating it as exempted goods. This resulted in non-realisation of tax amounting to Rs.1.72 lakh (inclusive of surcharge).

2.2.7 Application of incorrect rate of tax

In 9* offices, tax was short-levied on the turnover of Rs.293.84 lakh during the years 1992-93 to 1996-97 due to application of incorrect rate of tax. The total short-levy in these cases worked out to Rs.11.50 lakh.

**Adoption of
incorrect rate of
tax resulted in
short collection of
Rs.11.50 lakh**

2.2.8 Omission to collect sales tax/surcharge

Under the Act, residuary items are taxable at 8 per cent at the point of first sale in the State upto 16 July 1996.

Further under the Tamil Nadu Sales Tax (Surcharge) Act, 1971, (as it stood upto 16 July 1996) every dealer liable to pay tax under the Tamil Nadu General Sales Tax Act, 1959, on sale or purchase of goods, shall pay surcharge at the rate of 15 per cent of such tax.

Blue Gum leaves, Gall nut and Minor Forest Produces not specified elsewhere in the Schedules to the Act are taxable as residuary item.

In two offices (District Forest Offices, Kodaikanal and Thanjavur) on sales amounting to Rs.351.35 lakh during the years 1992-93 to 1996-97 (upto 16 July 1996), sales tax and surcharge though leviable was not levied. This resulted in non-collection of sales tax and surcharge amounting to Rs.3.31 lakh.

2.2.9 Failure to watch submission of returns

Rule 18-B of Tamil Nadu General Sales Tax Act, 1959, contemplates compulsory submission of A-10 returns by Government Departments irrespective of the fact whether there were any transactions or not during a quarter.

* CTO Park Town-II, CTO Vellore, DFO Thirupattur, DFO Erode, DFO Thanjavur, DFO Kodaikanal, DFO Hosur, DE Highways (T &M) and DE Highway (S & P).

Out of 28¹ offices test checked A-10 returns were submitted only by 7² offices during the period 1992-93 to 1996-97.

In one case (Southern Railway), the returns submitted were not in proper form.

Due to the non submission of the returns by the Government departments and failure of the officials of the Commercial Taxes department to inspect those offices frequently, to ensure the submission of return and the correctness of the rate of tax adopted, it could not be ensured whether all the amount due from the Government departments had been received and accounted for properly.

2.2.10 Non-checking of returns by internal audit

As per the Standing Order 213(I) of the Commercial Tax Manual, Vol.II, Internal Audit is conducted on quarterly basis. The assessments finalised and records relating to collection and refund made in the preceding quarter should be audited in the succeeding quarter. The Internal audit being the primary auditor of the department is required to conduct 100 per cent check of the records to ensure that loss or leakage of revenue was not caused due to omission or other irregularities.

However out of 20 assessment circles test checked, it was noticed in 3³ assessment circles, that the internal audit had not scrutinised the A-10 returns filed by the Government department.

Non-scrutiny of return by the Internal Audit would not only result in irregularities remaining undetected but also render rectificatory action to be taken difficult.

2.2.11 Non-maintenance of control register

As per Commercial Tax Manual, the assessing officer after receiving the original challan from the treasury in respect of sales tax remitted by the Government department, should maintain a register separately for collections made by each department. The Special Commissioner and Commissioner of Commercial Taxes had also issued instruction (December

¹ 18 Forest offices, Southern Railway, Customs Department, 2MVMO, (Chennai and Thanjavur), Telecommunication (Dharmapuri), Raffles department, Andaman Timber Depot, Chennai, Government cattle farm, Hosur, Highways (Transport & Machinery) and (Stores and Purchases).

² Forest offices, Vellore, Kanchipuram, Sathyamangalam, Ooty (North and South), Southern Railways and Customs

³ Park town-II, Vellore and Kancheepuram.

1997), that the assessing officers concerned should identify various offices of the Government departments situated in their jurisdiction and see whether A-10 returns were filed by such department and the registers on tax due being maintained properly.

It was noticed that out of 20 assessment circles test checked, 19 assessment circles, have not maintained any control register to verify the receipt of quarterly returns from the Government departments. Consequently the assessment circles could not identify the Government departments from which quarterly returns are due and the periods for which the returns are due etc.

2.2.12 Management information system

As per the instructions issued by the Government (December 1997), all the heads of department should furnish to Special Commissioner and Commissioner of Commercial Taxes the list of officers authorised to file A-10 returns.

However no such list was available with the department. This would have an adverse bearing on the effective management of the department.

The cases were reported to the Government/Department (May/June 1999); their replies have not been received (September 1999).

2.3 Incorrect classification resulting in non-levy of tax

Fresh Milk and directly reconstituted milk (without additives other than water) being goods falling under item 6 of Part B of the Third Schedule to the Tamil Nadu General Sales Tax Act, 1959, (Act) are exempt from tax.

Incorrect classification of recombined milk as exempted goods resulted in non levy of tax of Rs.50.79 crore

Recombined milk (except direct reconstitution without additives other than water) when sold under brand name, whether such brand is registered under Trade and Merchandise Marks Act, 1958 or not, is taxable at twelve per cent upto 16 July 1996 and at sixteen percent thereafter at the first point of sale in the State.

In three⁴ assessment circles, sale of recombined milk (enriched with inputs like vitamin A, fat etc.) under a brand name (viz. Aavin, Arokya) valued at Rs.304.23 crore made by three dealers during 1994-95 to 1996-97 was incorrectly exempted from tax treating it as sale of a kind of milk falling under Third Schedule to the Act. This resulted in non-levy of tax amounting to Rs.50.79 crore (inclusive of surcharge, additional surcharge and additional sales tax).

On this being pointed out (July, September and November 1998), the department replied (July, September and November 1998), that though the milk sold by the dealers was subjected to the process of pasteurisation, homogenisation and standardisation, the character of milk is not altered and even after such process, it continues to be fresh milk and quoted a judicial decision⁵ wherein it was held that condensed milk was milk only and hence the exemption allowed was in order.

The reply of the department is not tenable for the reasons: i) With effect from 1 April 1994, recombined milk was brought under Part E of the First Schedule which clearly indicates the intention of the government to levy tax on recombined milk; ii) The milk sold by the assesseees after removing the bacteria by pasteurisation and blending fat by homogenisation and fortifying it by adding vitamin 'A' becomes recombined/reprocessed milk liable to tax; iii) Two specific entries are available in the Schedules, one exempting the sale of fresh milk and directly reconstituted milk and another levying tax on sale of recombined milk and iv) The judicial decision referred to by the department related to the period when exemption was available generally for 'milk' and not for 'fresh milk' specifically.

The matter was reported to the Department (May 1999) and Government (July 1999). Their replies have not been received so far.

2.4 Incorrect grant of exemption from levy of tax

In 18 assessment circles, exemptions were incorrectly granted to 22 dealers on the turnover of Rs.1544.91 lakh during the years 1990-91, 1993-94 to 1996-97 resulting in non-levy of tax (including surcharge, additional surcharge and additional sales tax) amounting to Rs.134.41 lakh as detailed below:

Incorrect grant of exemption resulted in non-levy of tax of Rs.134.41 lakh.

⁴ Nungambakkam (Chennai), Red Hills and Vellore (South)

⁵ 45/STC/498 State of Tamil Nadu vs Indodan Milk Products

Sl. NO	Name of the assessment circle	Year of transaction/ (No. of dealers)	Taxable turnover (Rs. in lakh)	Nature of irregularity	Amount of Tax (Rs. in lakh)	Remarks
1	2	3	4	5	6	7
1.	Royalpettai-I, Amaindakarai, Luz and Adayar-II (Chennai)	1993-94 1995-96 and 1996-97 (five)	447.10	Sale of prawn seeds/shrimp seeds was incorrectly exempted treating them as sea food.	50.31	The department replied that as per the clarification issued (July 1994) by the Head of the Department. Prawn seeds/ Shrimp seeds were exempt from tax. The reply is not tenable since the relevant entry in the Schedule covers sea foods only and not sea food seeds.
2.	Mylapore (Chennai)	1994-95 (one)	220.72	Sale of Cinematographic equipments to Tamil Nadu Film Development Corporation was incorrectly exempted.	26.06	The department revised (August 1999) the assessment and raised the additional demand. Collection particulars have not been received (September 1999).
3.	Esplanade II, Nandanam and Peddunacikenpet (South)	1995-96 1996-97 (three)	155.29	Sale of filter fabrics was incorrectly exempted treating them as exempted goods.	16.54	The department contended (October/ December 1998) that the commodity being cloth is exempt. The reply is not tenable since the commodity is not mentioned in the Schedule containing exempted items.
4.	Pudukottai-I	1993-94 1994-95 (one)	240.43	Sale of oil cakes purchased from Bill Traders were incorrectly exempted as second sales.	13.11	This was noticed by the Enforcement Wing of the department. However the assessment was revised (January 1999) for the year 1993-94; and notice issued (February 1999) for the year 1994-95 after being pointed out by audit. Collection particulars for 1993-94 and followup action taken for 1994-95 have not been received (September 1999).

1	2	3	4	5	6	7
5.	Trichy Road. Coimbatore	1996-97 (one)	132.04	Sale of sized Timber to exporters was exempted treating it as packing materials.	10.66	The case was reported to the department (February 1999); their reply has not been received (September 1999).
6.	Trichy Road. Coimbatore and Thuckalay	1995-96 (two)	152.75	Last purchase of Raw hides and skins used in the manufacture of leather garments was omitted to be taxed and sales of cashewnut purchased from bill traders were incorrectly exempted as second sales.	7.35	The department in the case of Thuckalay replied (July 1998) that notice for revision of assessment had been issued (December 1997). Reply in respect of other case has not been received (September 1999).
7.	Vellore (Rural), Nethaji Road (Madurai), Sattur and Suramangalam (Salem)	1993-94 and 1996-97 (four)	77.64	First sale of buses, sales of coir ropes and sales of food and drinks by YWCA canteen were incorrectly exempted as second sales/ exempted sales.	5.20	The department collected the additional demand of Rs.0.45 lakh in one case (Nethaji Road - Madurai). In the case of Suramangalam (Salem), the department contended that coir ropes would fall under Third Schedule and therefore are exempt. This is not tenable since the commodity was brought under the Third Schedule with effect from 17 July 1996 only. In the case of Vellore (Rural) the department's contention that the sales made by the said institution were exempt even after the amendment of the Act with effect from 12 March 1993 is not tenable since the commodity had become taxable after the amendment. Reply in respect of Sattur has not been received (September 1999).

1	2	3	4	5	6	7
8.	Nungam bakkam, Palani-I and Omalur	1990-91 1993-94 and 1995-96 (five)	118.94	Sale of Computer software, Paddy husk and Coir ropes were incorrectly exempted treating them as exempted goods	5.18	The department stated (February 1999) in the case of Palani-I, that the dealer had gone into appeal before the AAC (CT) against the revision made in June 1998. Result of appeal and replies in respect of other cases have not been received (September 1999).
TOTAL			1544.91		134.41	

These cases were reported to Government (between March 1998 and May 1999); their replies have not been received (September 1999).

2.5 Non-levy/short levy of additional sales tax

Under the Tamil Nadu Additional Sales Tax Act, 1970, additional sales tax is leviable at a fixed percentage on the taxable turnover of a dealer if it exceed the limits prescribed from time to time.

Additional Sales Tax of Rs.35.31 lakh was not levied in the case of 9 dealers.

In eight assessment circles⁶, on the taxable turnover of Rs.13618.73 lakh during the years 1991-92 to 1995-96 involving nine dealers, additional sales tax was either not levied or levied short resulting in non/short realisation of additional sales tax amounting to Rs.35.31 lakh.

On this being pointed out between (November 1997 and March 1999) the department revised the assessments in 4 cases and recovered Rs.4.68 lakh. Replies in respect of other cases had not been received (September 1999).

These cases were reported to the Government (February/May 1999); their replies have not been received (September 1999).

⁶ CAC-II (Chennai), Oppanakara Street (Coimbatore), Perundurair, P.N.Palayam (Coimbatore), Ponneri, Rajapalayam-I, R.G. Street (Coimbatore) and Singanallur (Coimbatore).

2.6 Application of incorrect rate of tax

In 20 assessment circles, tax was short-levied on the turnover of Rs.759.40 lakh involving 20 dealers during the years, 1990-91 to 1996-97 due to application of incorrect rate of tax. The short-levy of tax in these cases worked out to Rs.31.39 lakh as detailed below:

Application of incorrect rate of tax resulted in short levy of Rs.31.39 lakh.

Sl. No	Name of Assessment Circle	Year of transaction (No. of dealers)	Name of goods	Taxable turnover (Rs in lakh)	Rate of tax (in %)		Amount of short-levy inclusive of SC/ASC and AST (Rs. in lakh)	Remarks
					Applicable	Applied		
1	2	3	4	5	6	7	8	9
1.	Tondiarpet, Amaindakarai (Chennai) and Sivakasi	1994-95 to 1996-97 (three)	Corn puffs, Cream and pickles sold under a brand name.	120.98	12 and 16	8 and 5	7.51	The department replied in one case that unbranded corn puffs sold in sweet stalls and theatres are taxable at 8 per cent. The reply is not tenable since the commodity was sold by the assessee under a brand name only and therefore taxable at 12 per cent upto 16 July 1996 and at 16 per cent thereafter
2.	Mylapore, Guindy, Central Assessment Circle-III (Chennai) and Ponneri	1992-93, 1994-95, 1996-97 (four)	Cinematographic equipments, Emergency lamp and electronic goods/ components.	184.62	8.4, 10 and 12	3	6.88	The department revised the assessment in three cases and collected additional demand of Rs.1.18 lakh in one case. In the case of Ponneri, the demand was covered by deferral scheme.

1	2	3	4	5	6	7	8	9
3.	Nungambakkam, Esplanade-I, Mannady (East), Park Town-I (Chennai)	1991-92 1993-94 to 1996-97 (four)	Dressed hides and skins, Ball bearings imported cigarettes and stainless steel pattis.	234.37	1.05 2.55 5.10 3.05 6.10 8. 11, 8 and 4	1 and 2 5 8 4 and 2	6.62	The department in one case replied that since ball bearings have been sold as accessories to bulldozers, the rate of tax adopted was correct. As there is specific entry for ball bearings in the schedule it cannot be taxed under a different entry. In the case of Mannady - East it was contended that the commodity would fall under declared goods. Since the cigarettes, do not find a place in the Second Schedule the same would be taxable as a residuary item. In the case of Park Town-I it was replied that as per the notification (September 1991) the assessee, as a re-roller is eligible for concessional rate of tax on his sale of stainless steel pattis (a finished product). This is not tenable since the said notification restricts the concession only to sale of raw materials to re-roller.
4.	Salem (Rural), Egmore-I (Chennai) Mylamchandai-I (Trichy) Virudunagar-II and Annasalai-III (Chennai)	1995-96 1996-97 (five)	Poultry feed supplement, polyster resin, coco-nuts, pilfer proof caps and Nylo cast	113.65	10 8 4 8 and 11	3.8, 5 2 5 and 8	5.27	The department revised the assessment (January/February 1999) in two cases, of which in one case the additional demand of Rs.0.30 lakh was also collected (February 1999).

1	2	3	4	5	6	7	8	9
5.	Trichy Road (Coimbatore), Dindigul (Rural), Ambattur, Nandanam (Chennai)	1990-91 1993-94 1995-96 (four)	Generating sets, Paper cones/tubes, Lubricating oil additives.	105.78	12 8 16.9	8 5 4	5.11	The department in two cases revised the assessment and collected the additional demand of Rs.1.79 lakh.
TOTAL				759.40			31.39	

These cases were reported to the Government (between September 1998 and July 1999); their replies have not been received (September 1999).

2.7 Incorrect computation of taxable turnover

Under the Act, the taxable turnover of a dealer is determined on the basis of sales shown in the returns or on the basis of further evidence/records produced after allowing permissible deductions. The sales tax is leviable at the rates specified in the Schedules to the Act on the taxable turnover so determined. In addition surcharge, additional surcharge and additional sales tax are also leviable as per the provisions of the Acts.

Failure to compute the taxable turnover correctly in seven cases resulted in short levy of Rs.12.95 lakh.

In seven⁷ assessment circles the taxable turnovers in respect of seven dealers for the years 1991-92 to 1996-97 were incorrectly arrived at Rs.169.32 lakh instead of Rs.250.50 lakh resulting in short reckoning of taxable turnover by Rs.81.18 lakh. This resulted in short-levy of tax amounting to Rs.12.95 lakh (inclusive of surcharge, additional surcharge and additional sales tax).

The department revised the assessment in 6 cases and collected an amount of Rs.10.01 lakh. The position regarding recovery of the balance amount and reply in the remaining one case had not been received (August 1999).

The cases were reported to Government (July/August 1999); the replies have not been received (September 1999).

⁷ Ambattur, Egmore I (Chennai), Gandhipuram (Coimbatore), Gudalore, Nagercoil (Rural), Palayamkottai, T.Nagar -North (Chennai).

2.8 Non-levy of interest for belated payment of tax

According to sub-Section (3) of Section 24, of the Act on any amount remaining unpaid after the date specified for its payment, the dealer or person shall pay in addition to the amount due, interest at two per cent per month on such amount for the entire period of default.

Interest of Rs.10.52 lakh for belated payment of tax was omitted to be levied.

In eight⁸ assessment circles in respect of 9 dealers, the tax dues amounting to Rs.22.81 lakh for the years 1989-90 to 1993-94 were paid belatedly for which interest amounting to Rs.10.52 lakh was leviable, but not levied.

On this being pointed out (between July 1997 and March 1999), the department levied interest of Rs.3.45 lakh of which a sum of Rs.2.27 lakh was collected. Reply in respect of other cases have not been received (June 1999).

The cases were reported to Government (April/May 1999); their replies have not been received (September 1999).

2.9 Non-levy of Purchase Tax

Under the Act every dealer, who in the course of his business, purchases from a registered dealer or from any other person, any goods (the sale or purchase of which is liable to tax under the Act) in circumstances in which no tax is payable and despatches them to a place outside the State, except as a direct result of sale or purchase in the course of inter-State trade or commerce, is liable to pay, purchase tax at the prescribed rates. It has been judicially held⁹ that when goods are purchased from an agriculturist and despatched otherwise than as sale, to a place outside the State not being in the course of inter-State trade or commerce, tax under Section 7A(1)(c) would be attracted.

⁸ Alandur, Ambattur, Koyambedu, Nandanam, Royapettah-I, Thiruvanmiyur (Chennai), Thiruverambur and Valluvarkottam (Chennai)

⁹ State of Tamil Nadu Vs A.S.Raj & co 87 STC 315.

Under the Act, Coffee seeds are taxable at the rate of 5 per cent and Pepper is taxable at 3 per cent; at the point of first sale in the State.

In Gudalore Assessment Circle on purchase of Coffee seeds and Pepper from unregistered dealers amounting to Rs.156.13 lakh, made by 3 dealers during the year 1994-95 and sold to exporters outside the state, tax under Section 7A(1)(c) was leviable but was not levied, resulting in non-levy of tax amounting to Rs.9.92 lakh.

On this being pointed out (October 1996), the department contended (May 1998) that : (i) the judgement relied on by Audit related to the period prior to the introduction of Section 5(3) of the Central Sales Tax Act, 1956. and (ii) as per clarification (December 1994) given by the department exempting the transaction from tax there would be no liability under Section 7A when goods liable to tax at the sale point were purchased from unregistered dealers and sold to exporters who export them against specific order.

The reply is not tenable since it has been judicially held¹⁰ that 'under sub-Section 5(3) of the Central Sales Tax Act, 1956, only the last sale or purchase preceding the export sale is deemed to be a sale or purchase in the course of export, and the purchases made from unregistered dealer and sold to exporter were a transaction preceding the penultimate sale occasioning export of goods'. The Supreme Court have also subsequently held¹¹ that sale in the course of export would not exclude the applicability of levy of purchase tax.

The case was reported to Government/department (July 1998); their replies have not been received (September 1999).

2.10 Incorrect grant of concessional rate of tax

Under the Act goods falling under the First Schedule sold by one dealer to another, tax is leviable at the concessional rate of three per cent under certain conditions and subject to production of valid declaration (in Form XVII) from the purchaser. Accordingly, Splints, Pulpwood, and Rubber wood being timber falling under the Sixth Schedule and taxable at eight per cent are not eligible for the concessional rate

In Five¹² Assessment Circles, on sale of splints/pulpwood/ rubber wood, amounting to Rs.118.55 lakh made by five dealers during the

¹⁰ Jayalakshmi Industries Vs. Deputy Commissioner (Commercial Taxes), Tumkur 103 STC182.

¹¹ State of Karnataka Vs. B.M. Ashraf 107 STC 571.

¹² Ashok Nagar, (Chennai) Kovilpatti-I, Pudukottai-I, Thucklay and Washermanpet-I (Chennai).

years 1994-95, 1995-96, and 1996-97 (upto 16 July 1996), tax was incorrectly levied at the concessional rate of 3 per cent on the strength of declarations filed. This resulted in short-levy of tax amounting to Rs.6.99 lakh (inclusive of surcharge and additional surcharge).

On this being pointed out (between May 1998 and February 1999), the department contended (between May 1998 and February 1999) that splints are different from timber; and that Rubber wood can be used as packing material and hence the concessional rate adopted was in order. The reply is not tenable in view of the judicial decisions¹³ holding that Splints/Rubber wood/Pulpwood are timber and therefore not eligible for concessional rate.

The cases were reported to the Government (May 1999). Their reply has not been received (September 1999).

2.11 Non-levy/short-levy of penalty

Under the Act, if the return filed by a dealer is found to be incorrect or incomplete, the assessing authority shall assess the dealer to its best of judgment. In addition, it may also levy penalty depending on the percentage of difference between tax assessed and tax paid as per the returns. The above provisions would apply on surcharge also.

In six¹⁴ assessment circles, for short-payment of tax (including surcharge) by 7 dealers during the years from 1993-94 to 1995-96, penalty was either not levied or levied short. This resulted in non levy/short levy of penalty amounting to Rs.5.43 lakh.

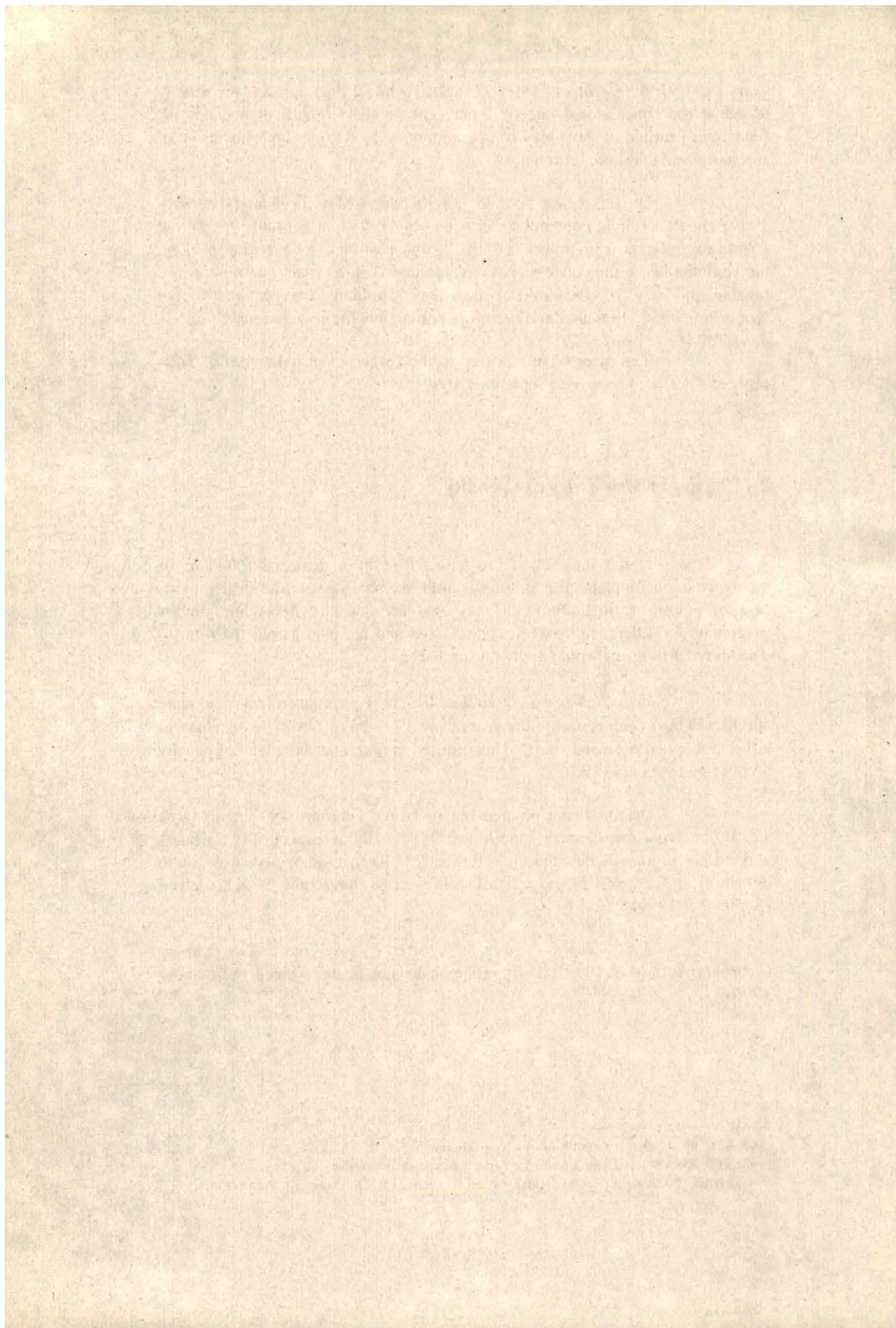
On this being pointed out (between February 1997 and March 1999), the department levied (June/July 1998) penalty in respect of two dealers and raised additional demands of Rs.92,023. Report on recovery of these demands and replies in respect of other cases have not been received (September 1999).

The cases were reported to the Government (February/April/May 1999). Their replies have not been received (September 1999).

¹³ 93 STC 87 - State of Tamil Nadu Vs.Kanchanamala

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

¹⁴ Ambattur, Peelamedu (North), Rajapalayam-I, Sivakasi I, Thuckalay, T.Nagar (East).



CHAPTER 3

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OTHER TAX RECEIPTS

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CHAPTER 3

OTHER TAX RECEIPTS

A – TAXES ON VEHICLES

3.1 Results of Audit

Test Check of records of offices under the State Transport Authorities conducted in audit during the period from April 1998 to March 1999 revealed short collection/non-collection of tax, fees and penalty, etc. amounting to Rs.86.13 lakh in 95 cases which broadly fall under the following categories.

Sl. No	Categories	No.of Cases	Amount (Rs.in lakh)
1.	Non collection/short-collection of tax	53	55.08
2	Non-collection/short-collection of fee	24	23.36
3	Non-levy/short-levy of penalty	15	7.58
4	Other Categories	3	0.11
	Total	95	86.13

During the course of the year 1998-99, the concerned department accepted under-assessments of Rs.2.84 lakh involved in 31 cases out of which Rs.0.17 lakh involved in 5 cases were pointed out during the year and the rest in earlier years. An amount of Rs.2.61 lakh has been collected (upto June 1999).

Two illustrative cases involving a financial effect of Rs.144.35 lakh are mentioned below.

3.2 Short Levy due to incorrect classification of Light Motor Vehicles as Maxi Cabs

Under Motor Vehicles Act, 1988, a 'maxi cab' has been defined as any motor vehicle constructed or adopted to

Short levy of tax of Rs.134.13 lakh due to incorrect classification of Light motor vehicles as maxi cabs

carry more than six passengers, but not more than 12 passengers excluding the driver, for hire or reward. The tax leviable for the maxi cab is Rs.150 per seat per quarter. On the other hand, a minibus is a vehicle constructed or adopted to carry more than six passengers but not more than 25 passengers. When such vehicle is used as contract carriage, the tax leviable thereon is Rs.1500 per passenger per quarter (upto 31 March 1998) and Rs.2000 thereafter.

In Chennai (Central and East) Region, 162 Light Motor Vehicles (manufactured by M/S Mahindra & Mahindra Limited, Model FJ 470 DS) with a seating capacity of 16 in all (as per manufacturer's certificate) were registered during 1996-97 as maxi cab with seating capacity of 12 and permits issued accordingly. Tax had also been collected for 12 seats only. It was however, noticed (January 1998) during audit that light motor vehicles of the same model when registered as private service vehicles were registered with a seating capacity of 16 and classified as Mini Buses.

Since these vehicles were manufactured with a seating capacity of 16 and meant for carrying passengers on hire or reward, they were classifiable as mini buses (contract carriages), and leviable to tax at Rs.1500 per passenger, per quarter. The incorrect classification resulted in short levy of tax amounting to Rs.134.13 lakh for the period 1996-97.

On this being pointed out, both the Regional Transport Officers, replied (May 1998/November 1998) that the Government in their OM (dated 23 January 1990) had issued orders to register Mahindra FJ 470 range of vehicles with a wheel base of 2650 mm, as Maxi Cabs.

The reply is not acceptable because, (i) as per the Act, the classification of a passenger vehicle depends upon its seating capacity and not on wheel base and (ii) the same model when registered as Private Service Vehicle, were permitted to carry 16 passengers in all and registered as Mini Bus.

This was brought to the notice of the Government (April 1999); their reply is awaited. (September 1999).

3.3 Non-levy/short-levy of fine in respect of over loading by goods vehicles

The rates of fine leviable in the case of overloading by goods vehicles were revised by the Government of India by amending Section 194 of the Motor Vehicles Act, 1988, with effect from 14 November 1994. Accordingly, a minimum fine of Rs.2000 and an additional fine of Rs.1000 per tonne of excess load are leviable in

Fine of Rs.10.22 lakh for overloading was not levied / short levied by adopting pre-revised rates.

respect of vehicles carrying overloads. This had also been communicated by the Transport Commissioner, Chennai vide his letter No.36376/H3/97 dated May 1997 to all regional transport officers in the State.

In 9¹⁵ regions, it was noticed during 1997-98, that 357 goods vehicles were found by the department to be overloaded which were liable to pay fine at revised rates. However, the fine in these cases was not levied or levied at prerevised rates. This resulted in non-levy/short-levy of fine of Rs.10.22 lakh.

On this being pointed out (between January 1998 and June 1999), the department stated that the imposition of fine as per the Act is enforceable only by the Court of Law and not by any authority in Transport Department. The reply is not tenable because, (i) the Transport Commissioner had already issued instructions to enforce the relevant provisions of the Act in this regard and (ii) as per decision of Karnataka High Court (AIR 1998 Karnataka 213), only the officers of the Motor Vehicles Department are authorised to book cases for contravention of the Act.

The above points were brought to notice of the Transport Commissioner and to the Government (December 1998 and April 1999); their reply has not been received. (September 1999).

¹⁵ Chennai (North and West), Coimbatore (North), Madurai (North and South), Meeambakkam, Periakulam, Tiruppur and Tiruvellore.

B-URBAN LAND TAX

3.4 Results of Audit

Test-check of records of departmental offices conducted in audit during the period from April 1998 to March 1999 revealed under-assessments/non-levy/short-levy of tax amounting to Rs.122.12 lakh in 84 cases which broadly fall under the following categories:

Sl. No	Category	No. of Cases	Amount (Rs. in lakh)
1	Non-levy/short-levy of urban land tax	66	110.61
2	Incorrect grant of exemption	11	2.45
3	Other irregularities	7	9.06
	Total	84	122.12

During the course of the year 1998-99, the concerned department accepted under-assessments etc., of Rs.50.13 lakh involved in 8 cases.

Two illustrative cases involving financial effect of Rs.47.91 lakh are mentioned below:

3.5 Omission to assess urban lands

Under the Tamil Nadu Urban Land Tax Act, 1966, as amended in 1975, lands lying within 16 kilometres from the outer limits of Chennai City and Madurai are assessable to urban land tax from fasli year 1385 onwards (1 July 1975) on the basis of market value as on 1 July 1971 upto fasli 1400 (30 June 1991) and on the basis of market value as on 1 July 1981 from fasli year 1401 (1 July 1991).

Omission to assess urban lands in four offices resulted in short levy of Rs.31.86 lakh.

(a) In Valasaravakkam village of Kunrathur Assessment Division it was noticed (October 1996), that an extent of 868 grounds¹⁶ and

¹⁶ One Ground = 2400 Square feet

1258 square feet of urban lands owned by 29 assesseees spread over 29 survey numbers were omitted to be assessed from fasli year 1401 onwards.

On this being pointed out (October 1996), the department stated (January 1997) that the lands had since been assessed to tax and a demand of Rs.3.34 lakh per fasli had been raised. Report on recovery of Rs.20.05 lakh due from fasli 1401 to 1406 (1 July 1991 to 30 June 1997) had not been received (May 1999).

(b) In the assessment division of Kunrathur (Chennai), Tondiarpet (Chennai) and Madurai, urban lands measuring 494 Grounds and 1110 square feet lying in 16 survey numbers and owned by 17 individuals were omitted to be assessed to tax resulting in non levy of urban land tax amounting to Rs.6.02 lakh.

On this being pointed out in Audit (February 1996, November 1997 and January 1998), department replied that the lands were since assessed to tax (November/December 1998 and June 1999) and a sum of Rs.1.08 lakh had been collected. Details of collection for the balance amount are awaited (September 1999).

(c) In Saidapet and Velachery Villages of T.Nagar assessment division, it was noticed (February 1997), that an extent of 245 grounds and 255 square feet of urban lands owned by 9 assesseees spread over 9 survey numbers were omitted to be assessed to tax from fasli year 1401 onwards.

On this being pointed out (March 1997), the department stated (April 1998) that the land had since been assessed to tax and a demand of Rs.5.79 lakh had been raised (September 1997) for the fasli 1401 to 1407. Report on recovery has not been received (May 1999).

The matter was reported to the Government between (March and May 1999); their reply is awaited. (September 1999).

3.6 Non-levy of tax on lands owned by Tamil Nadu Housing Board

Urban lands held by Tamil Nadu Housing Board (TNHB) were exempted from the levy of urban land tax upto fasli 1400, but the exemption was withdrawn by Government from fasli year 1401 (1 July 1991).

Non levy of tax of Rs.16.05 lakh on lands owned by Tamil Nadu Housing Board.

In Thiruvanmiyur village of Alandur Assessment Division (now Mylapore division), urban lands measuring 1441 grounds and 1999

square feet comprised in several survey numbers and owned by TNHB were not assessed to tax from fasli 1401 onwards.

On this being pointed out (March 1995), the department stated (May 1997) that the entire lands were brought to assessment from fasli year 1401 raising a demand of Rs.16.05 lakh for the faslis 1401 to 1403 (i.e., from 1 July 1991 to 30 June 1994). By an order issued (April 1998), Government waived 50 per cent of urban land tax due from TNHB; the balance 50 per cent has to be recovered. Report on recovery of Rs.8.02 lakh has not been received (May 1999). However, in the absence of provision for waiver in the Act, waiver granted was incorrect.

This matter was reported to Government (May 1999), their reply has not been received (September 1999).

C-AGRICULTURAL INCOME TAX

3.7 Results of Audit

Test Check of records of departmental Offices conducted in audit during the period from April 1998 to March 1999 revealed under-assessment/short-levy of tax amounting to Rs.92.34 lakh in 32 cases which broadly fall under the following categories.

SI No	Categories	No. of Cases	Amount (Rs. in lakh)
1	Short- levy due to errors in computation of income	18	76.35
2	Short-levy due to incorrect exemption	7	11.64
3	Short-levy due to errors in computation of holdings of agricultural lands	2	0.17
4	Other irregularities	5	4.18
	Total	32	92.34

During the course of the year 1998-99, the concerned department accepted under-assessments etc. of Rs. 18.67 lakh in 6 cases.

Two illustrative cases involving financial effect of Rs.18.11 lakh are mentioned below.

3.8 Short assessment due to computation error

In terms of the Tamil Nadu Agricultural Income Tax Act, 1955, the Agricultural Income Tax Officer, after considering the evidence provided by a person or the other evidence as the officer may require on specified points, assess the total agricultural income of the assessee to determine the sum payable by him on the basis of such assessment.

Short levy of tax of Rs.10 lakh due to computation error.

In Nagarcoil assessment circle, the Agricultural Income Tax Officer finalised (March 1997), the assessment of an assessee (company) for

the assessment year 1996-97 wherein tax at 65 per cent on the taxable agricultural income of Rs.54.01 lakh was worked out as Rs.25.10 lakh instead of Rs.35.10 lakh resulting in short assessment of tax by Rs.10 lakh.

On this being pointed out (December 1997), the department revised the assessment (December 1997) rectifying the error, and recovered the amount by adjustment against advance tax paid by the assessee.

The matter was reported to the Government (February 1999); their reply is awaited (September 1999).

3.9 Non-levy of interest and penalty for the belated payment of advance tax

Under the Act, every person liable to pay agricultural income tax on the agricultural income derived by him during the previous year, shall pay the advance tax for the said previous year on or before the end of February of the said previous year. The advance tax shall not be less than 80 per cent of the tax due on the estimated total agricultural income derived by him during the said previous year. If any person fails to pay the advance tax in accordance with the Act, he shall pay interest at 15 per cent per annum for every month of delay or part thereof on the unpaid balance together with 2 per cent penalty for every month during which the default continues.

In Pollachi Assessment Circle, advance tax of Rs.127.56 lakh for the years 1995-96 and 1996-97 was paid belatedly by 4 assesseees, the delay ranging from 1 month to 5 months for which interest and penalty of Rs.8.11 lakh was leviable but not levied.

On this being pointed out (December 1997), the department levied penalty in respect of two assesseees and raised (February/March 1999) a demand of Rs.1.78 lakh. Report on collection and reply in respect of the other two cases has not been received (May 1999).

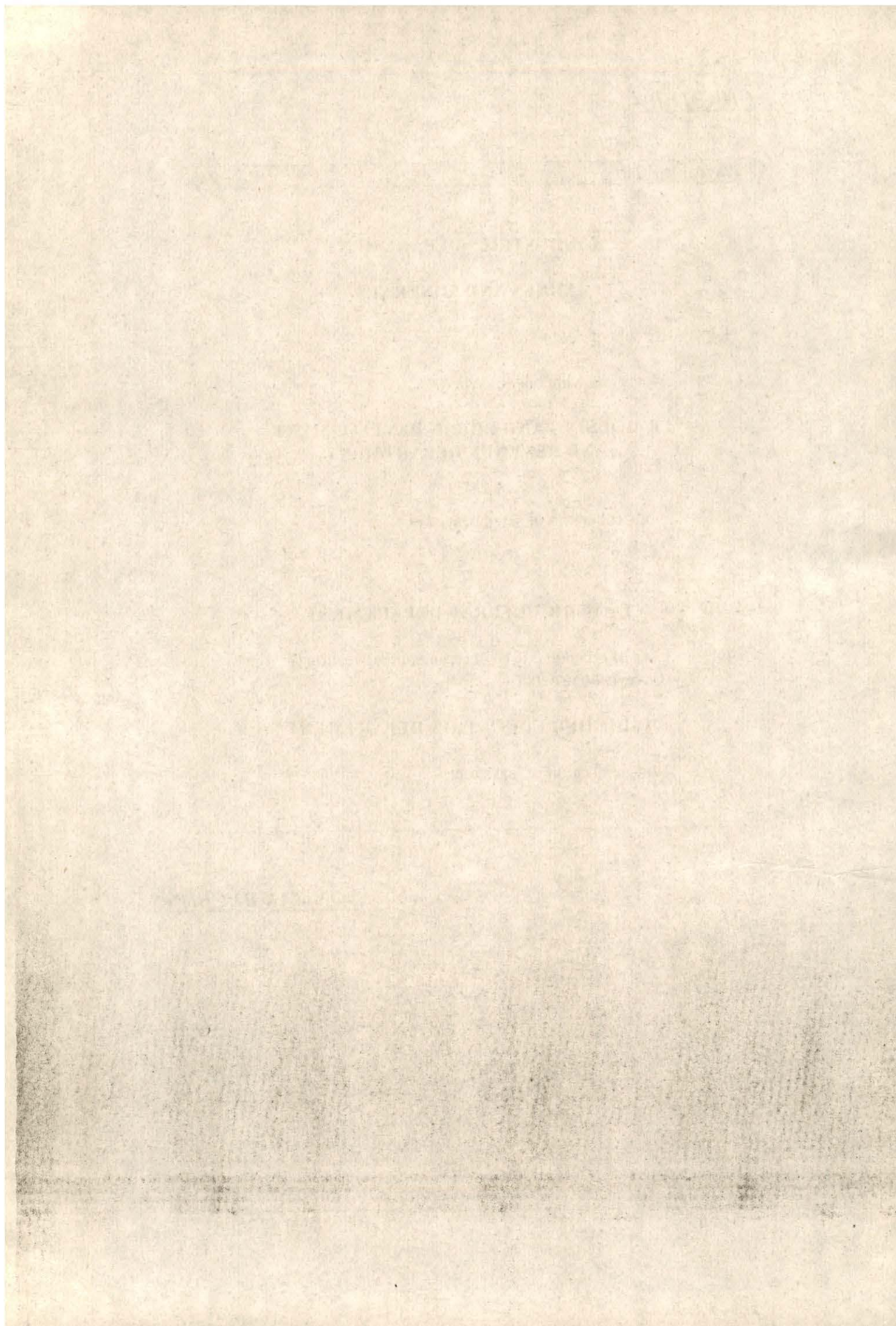
The cases were reported to the Government (April/May/July 1999). Their replies are awaited (September 1999).

CHAPTER 4

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NON-TAX RECEIPTS



CHAPTER 4

NON-TAX RECEIPTS

Industries Department

A-MINES AND MINERALS

4.1 Results of Audit

Test Check of records of departmental offices conducted in audit during the period from April 1998 to March 1999 revealed under-assessments/short-levy of dead rent, seigniorage fee, etc. amounting to Rs.934.58 lakh in 31 cases which broadly fall under the following categories.

Sl. No	Categories	No. of Cases	Amount (Rs.in lakh)
1	Non-levy /short levy of dead rent and Seigniorage fee	20	437.48
2	Other categories	11	40.37
3	Review on "Mines and Minerals Receipts"	----	456.73
	Total	31	934.58

During the course of the year 1998-99, the concerned department accepted under-assessments of Rs.0.31 lakh involved in two cases and collected the amount.

A review on "Mines and Minerals Receipts" involving Rs.456.73 lakh is given below.

4.2. Review on mines and minerals receipts

4.2.1 Introduction

The principal major minerals found in the state of Tamil Nadu are Lignite, Magnesite, Bauxite, Silica sand, Gypsum and Crude Oil. The minor

minerals like Black granite, Grey and multi coloured granite, river sand, gravel etc., are also available in the state.

Grant of licences and leases for the extraction of major minerals is governed by the Mines and Minerals (Regulation and Development) Act, 1957, and the Mineral Concession Rules, 1960, made thereunder by the Government of India. Under the Act, State Governments are empowered to make rules to regulate the grant of mining leases in respect of minor minerals. Accordingly, the Tamil Nadu Minor Minerals Concession Rules, 1959, were framed by the State Government. Prospecting or mining operations can be undertaken only with the licence or mining lease granted under the above Rules. The issue of prospecting licences and mining leases for Petroleum and Natural gas is regulated by Petroleum and Natural Gas Rules, 1959, framed under the Oil Fields (Regulation and Development) Act, 1948.

Mineral receipts mainly comprise royalty, dead rent, lease rent, surface rent, seigniorage fee, licence fee, interest and penalty etc. The holder of the mining lease shall pay royalty in respect of the minerals removed by him from the lease hold area at the rates prescribed in the Schedule to the Act. Whenever the royalty or seigniorage fee payable in a year is less than the dead rent prescribed, then dead rent is payable in place of royalty/seigniorage fee.

4.2.2 Organizational Set-up

The Commissioner of Geology and Mining is the head of the department. The District Collectors are authorised under the Rules to grant mining licences who are assisted by Joint Directors, Deputy Directors and Assistant Directors in performing their duties.

4.2.3 Scope of Audit

With a view to examining proper enforcement and administration of various provisions of the Act/Rules for levy and collection of mining dues, a review was undertaken, during December 1998 to April 1999. For this purpose, records of Commissioner of Geology and Mining, Chennai and 13 out of 21 District offices were test checked for the period 1993-94 to 1997-98.

4.2.4 Highlights

(i) Non-realisation of mining dues from a Government company resulted in unintended financial accomodation to the tune of Rs.1.30 crore.

[Paragraph 4.2.6]

(ii) Absence of provision in Petroleum and Natural Gas Rules, 1959 for fixing the license fee from seventh year treating it as a continuation of lease, resulted in revenue foregone to the extent of Rs.2.23 crore.

[Paragraph 4.2.7]

(iii) In two districts for the years 1995-96 to 1997-98 involving five assesseees, Seigniorage fee/Dead rent was either not levied or levied short resulting in non-realisation of Rs.47.80 lakh.

[Paragraph 4.2.8]

(iv) In eight districts interest amounting to Rs.24.10 lakh for the belated payment of dead rent though leviable was not levied.

[Paragraph 4.2.9]

4.2.5 Trend of revenue and position of arrears

The mineral receipts realised by the state during the last five years and the arrears outstanding for recovery were as follows:

Revenue realised		Arrears outstanding	
Year	Amount (Rs. in crore)	Year	Amount (Rs. in crore)
1993-94	53.57	upto 1993-94	745.45
1994-95	63.03	1994-95	41.40
1995-96	67.21	1995-96	35.76
1996-97	70.78	1996-97	36.82
1997-98	89.94	1997-98	47.61
TOTAL	344.53	TOTAL	907.04

It would be seen that the arrears to be collected as on 31 March 1998 were more than 3 times the receipts realised during the years 1993-94 to 1997-98.

Out of the total arrears, an amount of Rs.745.45 crore representing 82 per cent is pending collection for more than 5 years. Of this an amount of Rs.310.85 crore representing 34 per cent of total arrears is pending for more than 10 years.

4.2.6 Non-collection of Mines and Minerals Receipts

Tamil Nadu Magnesites Limited (TANMAG) was incorporated (January 1979) as a wholly owned company of Tamil Nadu State to undertake magnesite mining operations on behalf of the State Government. As per the scheme approved by the Government (October 1979) and amended (January

1998) the company is to pay, as net sale proceeds, Rs.25 lakh for the year 1994-95 with 10 per cent increase for subsequent years irrespective of actual sales and expenses.

(i) It was however noticed that the company had not paid the amount due for the period 1994-95 to 1997-98 as per the amended scheme and Rs.14.24 lakh for the year 1993-94, the total amount remaining unpaid by the company worked out to Rs.130.26 lakh besides interest at 17 per cent per annum for belated payment.

(ii) In the same order (January 1998), the Government increased the remuneration rates to be paid to TANMAG subject to the condition that it pays the amount due for the years 1987-88 to 1996-97, amounting to Rs.935.84 lakh, in 10 equal monthly instalments, starting from January 1998. Eventhough the company did not fulfil this condition, the increase in remuneration was given effect retrospectively from 1991-92 onwards.

4.2.7 Non-collection/short-collection of license fee

Petroleum and Natural Gas Rules, 1959, stipulate that the term of petroleum exploration licence shall ordinarily be for four years which may be extended on annual basis for a further period of two years. Licence fee is payable for each square kilometre or part thereof covered by the licence. No provision has been made in the Rules for the extension of licence beyond the said period of six years.

Short collection of licence fee of Rs.223.10 lakh due to treating the continuation of lease as a fresh lease

In the case of dead rent Government of India and Government of Tamil Nadu have clarified (November 1972) that a renewal of lease in the same area for the same lessee, is to be treated as continuation of the original lease and not as a new lease.

In Nagapattinam District, in respect of an assessee (Oil and Natural Gas Commission) the prospecting licences which were extended beyond six years were treated as fresh licences and charged license fee at the rate of Rs.8 for first year, Rs.40 for second year, Rs.200 for third year and Rs.400 for fourth year of extension. Since no fresh licences were issued the extension of lease should have been treated as continuation of old lease and licence fee should have been charged at the rate of Rs.600 per annum. Due to the absence of similar provision for licence fee as in respect of dead rent, the amount foregone by Government for the period from 1992-93 to 1998-99 worked out to Rs.223.10 lakh as detailed below:

Period	Area (Sq.km).	Rates Charged Rs. per Sq.km.	Amount short- collected (Rs in lakh.)
Block LI Area			
i) 1992-93	6498	8	38.47
1993-94	6493	40	36.36
1994-95	6493	200	25.97
1995-96	6321	400	12.64
ii) 1998-99	1934	8	11.45
Block LII Area			
1992-93	5924	8	35.05
1993-94	5894	40	33.01
1994-95	5612	200	22.45
1995-96	3849.4	400	7.70
TOTAL			223.10

4.2.8 Non-levy/short-levy of Seigniorage fee/Dead Rent

Under the Tamil Nadu Minor Minerals Concession Rules, (TNMMCR), 1959, the holder of a lease shall pay besides area assessment, seigniorage fee or dead rent whichever is higher at the rates as specified in Appendix II to the Rules from time to time.

**Seigniorage fee/
dead rent
non/short levied
for Rs.47.80 lakh.**

In Kancheepuram District it was noticed from Transport Permit Register maintained by the department that in respect of 4¹⁷ assessees, for the years 1995-96 to 1997-98 seigniorage fee though leviable was either not levied or levied short resulting in non/short realisation of Rs.47.27 lakh. Similarly in Dharmapuri district in respect of one assessee (Tamil Nadu Minerals Limited) dead rent for the period October 1996 to March 1997 amounting to Rs.0.53 lakh was not realised. The total non-levy/short-levy amounted to Rs.47.80 lakh.

4.2.9 Non-levy of interest for belated payments

Under the Rules, with effect from 22 June 1994, the officers authorised to collect mining dues may charge simple interest at the rate of 24 per cent per annum on any amount due to the state Government from the sixteenth day of the expiry of the date fixed by such authority to the due date of actual payment

**Interest of Rs.24.10
lakh was not levied
for belated
payment of dead
rent.**

¹⁷ Kamarajapuram labour cooperative society, S.K. Dharmalingam, Divisional Engineer, Marakkanam and Divisional Engineer, Mahabalipuram

In respect of granite quarries held by Tamil Nadu Minerals Limited in 8 districts the dead-rent amounting to Rs.143.23 lakh was paid belatedly, the delay ranging from 3 to 1135 days for which interest amounting to Rs.24.10 lakh though leviable was not levied as detailed below:

Sl. No.	Name of the District	Amount of dead rent (Rs. in lakh)	Period of delay (in days)	Amount of interest payable @ 24 % p.a. (Rs. in lakh)
1	2	3	4	5
1.	Dharmapuri	48.50	22 to 1135	8.19
2.	Dindigul	0.36	506 to 1135	0.19
3.	Madurai	3.77	130 to 485	0.53
4.	Salem	5.10	66 to 429	0.84
5.	Tiruchirapalli	3.99	40 to 221	0.35
6.	Thiruvannamalai	39.17	67 to 335	6.29
7.	Vellore	37.32	66 to 417	7.35
8.	Villupuram	5.02	3 to 209	0.36
	TOTAL	143.23		24.10

4.2.10 Non-levy of local cess and local cess surcharge

As per the Tamil Nadu Panchayat Act, 1958, local cess and local cess surcharge at the rates of 45 paise and Rs.2.50 respectively shall be levied and collected on every rupee of dues payable to the state Government on account of leasing of Government lands. However, as per the Supreme Court decision levy of local cess and surcharge had been discontinued from 4 April 1991. Based on a judgement (July 1994) of High Court of Madras the Government clarified (December 1994) that action to collect local cess and local cess surcharge for the period prior to 4 April 1991 though not already collected could be taken.

Non-levy of local cess and local cess surcharge amounted to Rs.12.13 lakh

It was noticed in Madurai District, that in respect of 22 mining lessees for the period from 1 July 1990 to 4 April 1991, local cess and local cess surcharge was omitted to be levied and no action was taken to levy and recover the same even after issue of Government Orders. This resulted in non-levy of Rs.12.13 lakh.

4.2.11 Non-fixation/collection of lease rent.

(a) According to Rule 39 (abolished from July 1996) of TNMMCR, 1959, Government could grant quarrying licence to quarry any mineral or allow the working of any quarry for quarrying any mineral on terms

and conditions different from those laid down in the Rules. By an order (October 1996) Government issued guidelines for the fixation of lease rent for the leases granted under Rule 39.

In Pudukottai district, in respect of 19 lessees (DWCRA¹⁸ group which are labour co-operative societies of women quarry workers) quarrying lease were granted (June 1994) under Rule 39. However no lease rent was fixed in respect of the above mentioned lessees over an extent of 11.11 hectare during the period from April 1995 to March 1997 as contemplated in Government order. resulting in non-realisation of lease rent amounting to Rs.5.76 lakh.

(b) As per Rule 8 of TNMMCR, 1959 a lessee who has been granted lease for quarrying any minor mineral shall before the commencement of each year of lease pay the lease rent for that year without fail.

In Madurai district lease rent for the years 1995-96 and 1996-97, was not paid by 4 lessees resulting in non-realisation of lease rent of Rs.3.74 lakh.

4.2.12 Short-collection of royalty

Section 9(3) of the Mines and Minerals (Regulation and Development) Act, 1957, empowers the Central Government to enhance the rates of royalty for major minerals. Accordingly a notification was issued (April 1997) increasing the rates of royalty on certain major minerals with effect from 11 April 1997.

It was noticed in Salem and Tiruchirapalli districts that royalty on minerals like granite was levied during April 1997 to July 1997 at the pre-revised rates which resulted in short-collection of royalty amounting to Rs.5.60 lakh.

4.2.13 Short-levy of seigniorage fee as penalty

As per the provisions of TNMMCR, 1959, read with Mines and Minerals (Regulation and Development) Act, and Government Order, dated 28 February 1995, any person who carries a quarrying operation in contravention to the rules, shall be liable to pay enhanced seigniorage fee as penalty upto a maximum of 15 times the normal rate of seigniorage fee subject to a minimum of Rs.10,000.

¹⁸ Development of Women and Children of Rural Area

In seven districts, in respect of 65 cases where quarrying operations were carried on without license and the minerals were transported after 28 February 1995, penalty at a minimum of Rs.10,000, though leviable was not levied resulting in short-levy of enhanced seigniorage fee amounting to Rs.4.05 lakh.

The above cases were brought to the notice of the Government (July 1999); their reply is awaited (September 1999).

B-HOUSING AND URBAN DEVELOPMENT AND REVENUE DEPARTMENT

4.3 Non-collection of seigniorage fee

Tamil Nadu Minor Mineral Concession Rules, 1959 provide for collection of seigniorage fee in advance before issue of permits for transporting minerals from Government quarries. While the Deputy Directors/Assistant Directors of the Geology and Mining Department in the Districts process the applications for grant of necessary permission for quarrying the minerals, the permission is granted by the District Collectors who are also responsible for collecting fees. The Special Revenue Inspector (Mines) in the Department of Geology and mining and officers not below the rank of Deputy Tahsildar in the Revenue Department were empowered to watch the removal and transportation of the minerals.

Failure to ensure the collection of seigniorage fee for earth quarried from Government lands led to non-collection of dues of Rs.46.92 lakh.

Test check of records pertaining to two works taken up by Tamil Nadu Slum Clearance Board during October 1993 and May 1997 revealed the following.

(a) Tamil Nadu Slum Clearance Board (Board) entrusted (October 1993) the work of raising the ground level by earth filling for developing 2150 plots under Pallikaranai Pavement Dwellers Scheme to Tamil Nadu State Construction Corporation Limited. The Board while executing the agreement identified the quarry at Ozhugumalai for the purpose of quarrying earth. Tamil Nadu State Construction Corporation executed 1.93 lakh cu.m. (after compaction) of earth filling work and was paid Rs.108.40 lakh by the Board.

It was further noticed that the Board, while identifying the quarry at Ozhugumalai, did not obtain the permission from the Geology and Mining Department. The seigniorage fee for the quantity of earth quarried was also not paid either by the Board or by Tamil Nadu State Construction Corporation. The latter stated (April 1999) that they had executed the work engaging sub-contractors who had taken the earth from the quarry and were liable to pay seigniorage fee, but details of seigniorage fee paid by them were not available in their records.

However, the Assistant Director of Geology and Mining, Kancheepuram intimated (February 1999) that during the period of execution

of work by the Board, no permission had been granted for quarrying at Ozhugumalai to any agency for any purpose. Thus the entire quantity of earth removed from Ozhugumalai quarry for the above work was unauthorised involving seigniorage fee amounting to Rs.17.65 lakh which was not collected.

(b) The Tamil Nadu Slum Clearance Board approved in May 1997 a proposal for the construction of 6500 core houses at Okkiam Thuraipakkam village in Kancheepuram District. Since the site was a low lying area, it required earth filling work upto a height of 2.2 metres. For this purpose a quarry at Sirucheru and three more sources were permitted to be quarried by the Assistant Director of Geology and Mining, Kancheepuram. The total quantity of earth filling work done by six contractors upto February 1999 was 3.31 lakh cu.m. (after compaction) and the amount paid to them was Rs. 358.64 lakh. The work was in progress (September 1999).

Based on the representation of the contractors requesting not to deduct seigniorage fee from their bills as they were paying the fees direct to the Collector, the Chief Engineer, Tamil Nadu Slum Clearance Board directed (December 1998) the concerned Division not to recover the charges but to ensure that the payment of the charges by the contractors to the District Collector was made. There was however no record to indicate that the fee was paid by the contractors. The Executive Engineer stated (April 1999) that the Board was not watching the payment of seigniorage fee by the contractors and that no intimation was sent by him to the Collector of Kancheepuram regarding the total quantity of earth quarried and used in the above work.

It was further noticed that the Assistant Director (Geology and Mining), Kancheepuram had granted permission to quarry only 6344 lorry loads (35,907 cu.m.) and that as of March 1999 only Rs.0.98 lakh towards seigniorage fee had been collected. However, records of the Board showed that 3.80 lakh cu.m. earth was actually quarried and used in the filling work. Balance of Seigniorage fee recoverable from the contractors worked out to Rs.29.27 lakh. On this being pointed out, the District Collector stated (June 1999) that the Board should have watched and taken action for excess removal.

Lack of co-ordination between the Board and the District Collector, Kancheepuram in ensuring collection of seigniorage fee for the earth quarried and used in the filling work resulted in the non-collection of fee to the tune of Rs.46.92 lakh in the above two works.

The matter was referred to Government (July 1999); their reply has not been received (September 1999).

C-AGRICULTURE DEPARTMENT

4.4 Loss of revenue due to delay in communication of the revision orders.

Government ordered (June 1995) that the entrance fees, camera charges, etc. for the visitors to the Rose Garden and Government Botanical Garden, Udthagamandalam (as revised in May 1995 and June 1995) be made applicable to the visitors of the Bryant Park, Kodaikanal also with effect from 28 June 1995. However the orders were communicated to the Assistant Director of Horticulture, Kodaikanal only in October 1997, who implemented them in respect of Bryant Park from 4 November 1997.

Belated communication of the Government orders to the field officer led to a loss of revenue of Rs.37.52 lakh

Thus delay in communicating the revision orders of Government led to the belated implementation of the revised rates at Bryant Park, Kodaikanal resulting in loss of revenue to the tune of Rs.37.52 lakh.

The matter was referred to Government (April 1999); their reply has not been received (September 1999).

4.5 Non-realisation of lease rent

Based on the proposals of the Director of Technical Education, Government ordered July 1990 the closure of the Higher Secondary Schools (Vocational) attached to Government and Government aided polytechnics due to poor response of students to admission. Accordingly, the Government buildings of Higher Secondary Schools (Vocational) at Gudiyatham and Kancheepuram were ordered to be transferred to the concerned aided polytechnics viz., Rajagopal Polytechnic, Gudiyatham and Bhaktavatsalam Polytechnic, Kancheepuram respectively on a nominal rent since the land for the building had been donated by the aided private polytechnics only.

Delay in finalisation of lease rent for Government buildings transferred to private polytechnics led to non-realisation of Government dues to the tune of Rs.28.70 lakh

Test check of records revealed (December 1998) the following:

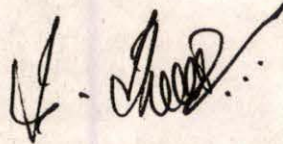
a) In respect of the building transferred (September 1990) to Rajagopal Polytechnic, Gudiyatham, the initial proposal (February 1991) of the Director of Technical Education for transferring the building on long term lease was not accepted by Government. After prolonged correspondence, Government accepted (January 1996) the revised proposal of the Director of Technical Education to collect rent as per norms, (excluding the land cost) subject to revision once in 3 years. Thereupon, Executive Engineer, Technical Education Division I, Taramani worked out the dues and demanded (February 1997) Rs.11.87 lakh towards lease rent for the period from September 1990 to January 1997 for the whole building measuring 1449.75 sq.m. The Principal of the aided polytechnic represented (January 1997) that the building had not been fully vacated and handed over to them and therefore sought for cancellation of the demand. Thereupon the Executive Engineer sent (April 1998) proposals to Superintending Engineer, Technical Education Circle, Chennai with a copy to Director of Technical Education revising the rent payable by the polytechnic after excluding the area of 138 sq. m not handed over. The matter was not pursued further by the Executive Engineer, as well as by the Director of Technical Education and no lease rent agreement had been executed so far (August 1999). The lease rent recoverable from the Polytechnic worked out to Rs.16.25 lakh for the period from September 1990 to April 1999.

b) Similarly in respect of building transferred (July 1990) to Bhakthavatsalam Polytechnic, Kancheepuram, the lease rent initially proposed (August 1993) by the Superintending Engineer, Technical Education Division, Taramani was not accepted by the Director of Technical Education. In March 1998, the Executive Engineer sent his final revised proposal fixing the lease rent at Rs.7,046 per month worked out at relevant schedule of rates for 1990-91 after excluding (i) the cost of land (ii) the portion not handed over to the polytechnic and (iii) the cost of amenities met by the polytechnic. Director of Technical Education sought (March 1998) the approval of Government for the same. Government thereupon called for (May 1998; June 1998 and October 1998) certain additional information from the Director of Technical Education. No further action was taken thereafter. Lease rent to be collected for the period from July 1990 to April 1999 worked out to Rs.12.45 lakh.

Thus delay in finalisation of lease rent payable by the two polytechnics for more than 8 years resulted in non-collection of lease rent to the tune of Rs.28.70 lakh as of April 1999.

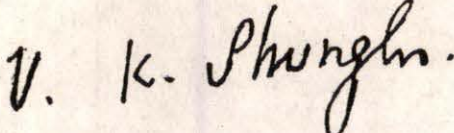
The matter was referred to Government (April/May 1999); their reply has not been received (September 1999).

Chennai
The 23 FEB 2000


(T.THEETHAN)
Accountant General (Audit)II
Tamil Nadu

Countersigned

New Delhi,
The 3 MAR 2000


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

