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

FOR THE YEAR ENDED 31 MARCH 1999

**NO. 1
(REVENUE RECEIPTS)**

GOVERNMENT OF KERALA

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PREFATORY REMARKS

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

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

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

Overview

Overview

This Report contains 41 paragraphs including one review relating to non-levy/short levy/loss of tax involving Rs 152.21 crore. Some of the major findings are mentioned below.

1. General

i) *During the year 1998-99, the Government of Kerala raised a total revenue of Rs 5207.22 crore comprising tax revenue of Rs 4649.56 crore and non-tax revenue of Rs 557.66 crore. The State Government received Rs 1382.30 crore by way of State's share of divisible Union taxes and Rs 608.60 crore as grants-in-aid from the Government of India. Sales Tax (Rs 3366.62 crore) formed a major portion (72%) of the tax revenue of the State. Receipts from Forestry and Wild Life (Rs 121.03 crore) formed a major portion (22%) of the non-tax revenue.*

(Paragraph 1.1)

ii) *Test check of the records of Agricultural Income Tax and Sales Tax, State Excise, Land Revenue, Motor Vehicles, Registration, Power, Forest, etc., Departments conducted during 1998-99, revealed under-assessments/short levy of revenue amounting to Rs 278.32 crore involved in 2,703 cases. During the course of the year 1998-99, the concerned departments accepted under-assessments etc., of Rs 9.06 crore involved in 1,873 cases of which 217 cases involving Rs 3.72 crore had been pointed out in audit during 1998-99 and the rest in earlier years.*

(Paragraph 1.8)

iii) *As at the end of June 1999, 4,101 inspection reports containing 15,590 audit observations involving revenue effect of Rs 1068.06 crore issued up to December 1998 were outstanding for want of final replies from the departments.*

(Paragraph 1.9)

2. Sales Tax

i) *Under assessment of turnover in 6 cases resulted in short levy of tax of Rs 80.09 lakh*

(Paragraph 2.2)

ii) *Interest amounting to Rs 78.96 lakh was not levied for belated remittance/non-remittance of collected tax in 8 cases*

(Paragraph 2.3)

- iii) *Mistakes in computation of tax resulted in short demand of tax of Rs 64.93 lakh in 7 cases*

(Paragraph 2.4)

- iv) *Application of incorrect rate of tax resulted in short levy of tax of Rs 122.53 lakh in 15 offices.*

(Paragraph 2.5)

3. Taxes on Agricultural Income

- i) *Excess allowance of expenditure resulted in short levy of tax of Rs 55.76 lakh in one case*

(Paragraph 3.2)

- ii) *Omission to revise assessment in one case resulted in short levy of tax of Rs 28.55 lakh*

(Paragraph 3.3)

- iii) *Grant of inadmissible/excess deduction resulted in short levy of tax of Rs 26.43 lakh in 9 cases.*

(Paragraph 3.4)

- iv) *In 4 cases interest was levied short by Rs 22.41 lakh.*

(Paragraph 3.5)

4. State Excise

- i) *Fee for inter-district transportation of toddy was collected short by Rs 325.11 lakh in two districts*

(Paragraph 4.2)

- ii) *Low production of spirit from molasses resulted in loss of excise duty of Rs 62.15 lakh*

(Paragraph 4.3)

5. Land Revenue and Building Tax

Incorrect computation resulted in short levy of building tax of Rs 95.24 lakh in 36 Taluk Offices

(Paragraph 5.2)

6. Taxes on Vehicles

- i) *Tax and surcharge of Rs 8131.94 lakh was short demanded from the Kerala State Road Transport Corporation*

(Paragraph 6.2)

- ii) *Entry tax of Rs 98.95 lakh was not realised before registration of 248 vehicles*

(Paragraph 6.3)

- iii) *Interest of Rs 64.47 lakh due for delay in crediting the proceeds of demand drafts to Government account was not demanded*

(Paragraph 6.4)

7. Stamps and Registration Fees

Stamp duty of Rs 42.91 lakh was evaded on sale deeds executed by a co-operative society

(Paragraph 7.2)

8. Taxes and Duties on Electricity

Duty of Rs 24.19 lakh due on the electricity consumed by the Cochin Port Trust was not demanded

(Paragraph 8.2)

9. Forest Receipts

Loss of Rs 162.25 lakh in re-auction was not demanded from defaulting bidders in auction

(Paragraph 9.2)

10. Other Non-Tax Receipts

A review of receipts from guarantee commission revealed the following.

- ◆ *Guarantee commission of Rs 3152.32 lakh was pending realisation as on 31 March 1998 from 28 institutions.*

(Paragraph 10.1.5)

- ♦ *The commission payable on guaranteed interest component of loan was not assessed by any of the beneficiary institutions. The commission short assessed in respect of 5 institutions alone amounted to Rs 121.67 lakh.*

(Paragraph 10.1.6)

- ♦ *Rs 1433.46 lakh paid by Government to discharge its liabilities on guarantees due to invocation of guarantees has not been recovered from the defaulters. Interest of Rs 753.25 lakh due from defaulters has also not been demanded.*

(Paragraph 10.1.7)

- ♦ *Rebate of Rs 70.28 lakh for prompt payment of guarantee commission availed suo motu in violation of Government instructions has not been recovered and Rs 9.79 lakh was refunded towards rebate to an institution which did not remit guarantee commission within due date.*

(Paragraph 10.1.8)

Chapter 1

General

CHAPTER 1

GENERAL

1.1. Trend of revenue receipts

The tax and non-tax revenue raised by Government of Kerala during the year 1998-99, the State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and the corresponding figures for the preceding two years are given below.

	1996-97	1997-98	1998-99
	(In crore of rupees)		
I Revenue raised by the State Government			
a) Tax revenue	3898.50	4501.05	4649.56
b) Non-tax revenue*	513.80	552.11	557.66
	(469.17)	(505.56)	(509.52)
Total *	4412.30	5053.16	5207.22
	(4367.67)	(5006.61)	(5159.08)
II Receipts from Government of India			
a) State's share of divisible Union taxes	1242.65	1271.74	1382.30
b) Grants-in-aid	490.13	793.31	608.60
Total	1732.78	2065.05	1990.90
III Total receipts of the State Government (I and II) *	6145.08	7118.21	7198.12*
	(6100.45)	(7071.66)	(7149.98)
IV Percentage of I to III	72	71	72

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

* The figures shown in brackets are the figures net of expenditure on prize winning tickets of the lotteries conducted by the Government.

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

Sl. No.	Head of Revenue	1996-97 (In crore of rupees)	1997-98	1998-99	Percentage of increase(+)/ decrease(-) in 1998-99 over 1997-98
1	Sales Tax	2772.28	3084.09	3366.62	(+) 9.16
2	State Excise	418.53	543.41	529.62	(-) 2.54
3	Stamps and Registration Fees				
	a) Stamps- Judicial	19.58	20.59	19.32	(-) 6.17
	b) Stamps - Non- Judicial	261.59	236.28	205.36	(-) 13.09
	c) Registration Fees	79.13	74.49	76.47	(+) 2.66
4	Taxes and Duties on Electricity	46.75	168.56	39.06	(-) 76.83
5	Taxes on Vehicles	247.59	301.63	323.31	(+) 7.19
6	Taxes on Agricultural Income	12.10	21.38	27.02	(+) 26.38
7	Land Revenue	22.33	23.75	32.73	(+) 37.81
8	Others	18.62	26.87	30.05	(+) 11.83
	Total	3898.50	4501.05	4649.56	(+) 3.30

The increase in the receipt of Taxes and Duties on Electricity in 1997-98 over the receipt of 1996-97 was mainly due to remittance of arrears of electricity duty by the Kerala State Electricity Board. For 1998-99 the decrease was stated to be due to non-remittance of electricity duty by the Board.

The reasons for increase/decrease in respect of other receipts for 1998-99 over the receipts during 1997-98 though called for (May 1999) from the heads of departments have not been received (October 1999).

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

Sl. No.	Head of Revenue	1996-97 (In crore of rupees)	1997-98	1998-99	Percentage of increase(+)/ decrease (-) in 1998-99 over 1997-98
1	State Lotteries▲	62.00	58.96	64.17	(+) 26.34
2	Forestry and Wild Life	162.00	144.91	121.03	(-) 16.48
3	Interest Receipts	55.73	53.48	70.96	(+) 32.69
4	Education, Sports, Art & Culture	26.16	30.48	35.34	(+) 15.94
5	Medical and Public Health	11.73	21.94	21.44	(-) 2.28
6	Crop Husbandry	15.63	15.52	15.81	(+) 1.87
7	Animal Husbandry	4.31	5.02	5.71	(+) 13.75
8	Public Works	2.38	1.84	1.80	(-) 2.17
9	Others	129.23	173.41	173.26	(-) 0.09
	Total	469.17	505.56	509.52	(+) 0.78

▲ The figures are net of expenditure on prize winning tickets

The reasons attributed by the departments for the variation in receipts during 1998-99 over the receipts during 1997-98 are as follows.

1. State Lotteries

The increase was due to restructuring of onam bumper 1998 draw.

2. Forestry and Wild Life

The decrease was due to absence of regular felling operations because of non-approval of working plan in many divisions by the Government of India, boycotting of timber auction by timber merchants and non-receipt of lease rent in time from public sector undertakings.

The reasons for increase/decrease called for (May 1999) from the heads of other departments have not been received (October 1999).

1.2. Mobilisation of resources

Additional resources mobilisation is envisaged through enhanced rates of taxation, rationalisation of tax system, withdrawal of incentives where purpose has been fulfilled or return is not commensurate with the revenue loss and compression of non-plan expenditure, etc. The additional resources mobilisation estimated by the State Government in the Budget estimates and actual achievement for the last five years ended March 1999 were as under.

Year	Budget Estimates			Actual collection of revenue	Excess (+)/ Deficit (-)	Percentage of excess (+)/ deficit (-)
	Tax and Non-tax revenue at current rates of taxation	Additional resources mobilisation ♦	Total			
(In crore of rupees)						
1994-95	2519.65	225.01	2744.67	3195.45	(+)450.79	(+) 16.42
1995-96	3031.56	200.00	3231.56	3918.17	(+)686.61	(+) 21.25
1996-97	4093.52	Nil	4093.52	4412.30	(+)318.78	(+) 7.79
1997-98	5048.63	225.70	5274.33	5053.16	(-)221.17	(-) 4.19
1998-99	5757.36	317.00	6074.36	5207.22	(-)867.14	(-) 14.28

During 1998-99 the actual resources mobilised by State Government was even less than Rs 5757.36 crore contemplated in Budget Estimate at current rates of taxation itself.

♦ From the Budget speech of the Finance Minister

1.3. Variation between Budget estimates and actuals

The variation between Budget estimates of revenue for the year 1998-99 and the actual receipts under principal heads of revenue are given below.

Revenue Head	Budget estimates	1998-99		Percentage of variation
		Actual receipts	Variation increase (+) shortfall (-)	
(In crore of rupees)				
Sales Tax	3828.00	3366.62	(-)461.38	(-) 12.05
State Excise	614.25	529.62	(-) 84.63	(-) 13.77
Stamps and Registration Fees				
a) Stamps- Non-Judicial	251.30	205.36	(-) 45.94	(-) 18.28
b) Registration Fee	109.60	76.47	(-) 3.13	(-) 30.23
Taxes on Vehicles	425.00	323.31	(-)101.69	(-) 23.93
Forestry and Wild Life	135.00	121.03	(-) 13.97	(-) 10.35
Taxes and Duties on Electricity	114.84	39.06	(-) 75.78	(-) 66.00
Taxes on Agricultural Income	26.00	27.02	(+) 1.02	(+) 3.92
Land Revenue	34.50	32.73	(-) 1.77	(-) 5.13

The reasons attributed by the departments for variation between Budget estimates and actuals for 1998-99 are as follows.

1. Sales Tax

The decrease was due to economic recession, short fall in collection compared to estimates from petroleum products, foreign liquor and motor vehicles and fall in price of steel, cement, rubber, etc.

2. State Excise

The decrease was due to decrease in rental of toddy and foreign liquor shops in public auction.

3. Forestry and Wild Life

The decrease was due to absence of regular felling operations because of non-approval of working plan in many divisions by Government of India, boycotting of timber auctions by timber merchants and non-realisation of lease rent in time from public sector undertakings.

4. Taxes and Duties on Electricity

The decrease was mainly due to non-remittance of electricity duty in full by the Kerala State Electricity Board.

5. Taxes on Vehicles

The decrease was due to unexpected fall in the registration of motor vehicles, paucity of staff for field work, grant of instalment facility for payment of tax, increase in grant of exemption from tax for non-use period and sanctioning of concessional rate of tax to contract carriages of Vikram Sarabhai Space Centre.

6. Stamps and Registration Fees

The short fall was due to decrease in the transaction of landed property.

1.4. 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 1996-97 and 1997-98 are given below.

Sl. No.	Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
(In crore of rupees)						
1	Sales Tax	1996-97	2772.28	25.95	0.94	1.28
		1997-98	3084.09	29.59	0.96	
		1998-99	3366.62	33.98	1.01	
2	Stamps [#] (Non- Judicial) and Registration Fees	1996-97	340.72	22.17	6.51	3.14
		1997-98	310.77	24.16	7.74	
		1998-99	281.83	27.20	9.65	
3	State Excise [#]	1996-97	418.53	22.98	5.49	3.20
		1997-98	543.41	22.87	4.21	
		1998-99	529.62	27.29	5.15	
4	Taxes on Vehicles [#]	1996-97	247.59	7.53	3.04	2.65
		1997-98	301.63	8.82	2.92	
		1998-99	323.31	10.00	3.09	

According to the departments, the expenditure incurred cannot be considered as having been incurred solely for collecting revenue as the departments have several other administrative functions. The figures of expenditure on *pro rata* basis are not available.

1.5. Arrears of revenue

As on 31 March 1999, arrears of revenue under principal heads of revenue, as reported by the departments were as under.

Sl. No.	Department	Arrears	Amount of arrears outstanding for more than 5 years (In crore of rupees)	Remarks
1	Power	367.51	30.10	Out of Rs 367.51 crore, Rs 367.04 crore was due from the Kerala State Electricity Board.
2	Police	15.36	7.20	The department stated that the agencies/individuals/organisations were delaying payments for various reasons and the matter was under correspondence with the parties concerned.
3	Local Fund Audit	9.94	1.27	The reason attributed was non-remittance by the auditee institutions.
4	Stationery	9.60	1.98	Reluctance on the part of the Government departments to make prompt payment is the reason attributed for the arrears.
5	Forest	60.35	21.42	Non-remittance of lease rent due to delay in finalisation of disputes regarding lease rent, pendency of revenue recovery cases in Courts, etc., are the reasons attributed for the arrears.

Details of arrears of revenue in respect of other departments though called for in May 1999 have not been received (October 1999).

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

The details of sales tax and agricultural income tax assessment cases pending at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of each year during 1996-97 to 1998-99 as furnished by the department, are given below.

Year	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of column 5 to 4
1	2	3	4	5	6	7
Sales Tax						
1996-97	1,11,287	1,34,080	2,45,367	1,15,936	1,29,431	47
1997-98	1,41,851	1,13,176	2,55,027	1,32,285	1,22,742	52
1998-99	1,22,742	1,29,616	2,52,358	1,30,367	1,21,991	52
Agricultural Income Tax						
1996-97	12,007	12,113	24,120	13,229	10,891	55
1997-98	14,563	9,289	23,852	15,434	8,418	65
1998-99	8,418	15,498	23,916	13,957	9,959	58

The above table shows that the department was able to complete between 47 to 65 *per cent* of the assessments due for completion during 1996-97 to 1998-99. The delay in finalisation of assessments resulted in delay in realisation of the revenue involved in these cases.

The increase in the opening balance for 1997-98 from the closing balance for 1996-97 has been attributed (October 1998) by the department to inclusion in the opening balance for 1997-98 of the cases which on exhaustive verification were found to have been not included in the closing balance for 1996-97. This shows that the department has no proper record of the cases due for assessment in a year, the assessment finalised during the year and the cases pending assessment.

1.7. Internal Audit

i) Land Revenue Department

The Internal Audit Unit of the Land Revenue Department audited 28 Taluk Offices in 1998-99 and raised 913 objections having money value of Rs 30.05 crore. Inspection of 127 offices was in arrears during 1998-99. The department attributed the arrears to insufficiency of the number of the Internal Audit staff and monthly ceiling of travelling allowance to the Internal Audit Party.

ii) Forest Department

The Internal Audit Wing of Forest Department audited 36 offices in 1998-99 and raised 156 objections having money value of Rs 13.89 lakh. Inspection of 105 offices was in arrears during 1998-99. The department attributed the arrears to scarcity of staff.

iii) Commercial Taxes Department

The Internal Audit Wing of Commercial Taxes Department audited 68 offices in 1998-99 and raised 17,556 objections having money value of Rs 3.13 crore. Inspection of 60 offices was in arrears during 1998-99. The department attributed the arrears to inadequacy of staff.

Details called for (May 1999) from the Heads of State Excise, Motor Vehicles and Registration Departments have not been received (October 1999).

1.8. Results of audit

Test check of the records of Sales Tax, Agricultural Income Tax, State Excise, Motor Vehicles, Forest and other departmental offices conducted during the year 1998-99 revealed under-assessments/short levy/loss of revenue amounting to Rs 278.32 crore in 2,703 cases. During the course of the year 1998-99, the concerned departments accepted under-assessments etc., of Rs 9.06 crore involved in 1,873 cases of which 217 cases involving Rs 3.72 crore had been pointed out in audit during 1998-99 and the rest in earlier years.

This report contains 41 paragraphs including a review relating to non-levy/short levy of tax, duty and interest, penalty, etc., involving financial effect of Rs 152.21 crore. The departments/Government have so far accepted the audit observations in 72 cases involving Rs 93 crore included in the Report. No final reply has been received in the remaining cases (October 1999).

1.9. Outstanding Inspection Reports and Audit Observations

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

observations are forwarded to Government and their replies watched in audit.

As at the end of June 1999, 4,101 inspection reports containing 15,590 audit observations having money value of Rs 1068.06 crore issued up to December 1998 were outstanding as shown below. Figures for the preceding two years are also given.

	As at the end of June 1997	As at the end of June 1998	As at the end of June 1999
Number of inspection reports	3,682	3,891	4,101
Number of audit observations	15,362	14,794	15,590
Amount involved (in crore of rupees)	305.60	865.27	1068.06

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

Sl. No.	Head of Revenue	Number of inspection reports	Number of audit observations	Amount (In crore of rupees)
(as at the end of June 1999)				
1	Sales Tax	1,370	7,018	948.41
2	Taxes on Agricultural Income	411	2,996	33.85
3	State Excise Duties	744	1,436	4.96
4	Taxes on Vehicles	312	1,887	11.86
5	Land Revenue	178	378	4.51
6	Forestry and Wild Life	268	731	56.35
7	Stamps and Registration Fees	805	1,091	6.31
8	Electricity Duty	10	43	1.15
9	State Lotteries	3	10	0.66
	Total	4,101	15,590	1068.06

First replies to 382 inspection reports issued up to December 1998 were not furnished by the departments till the end of July 1999. The position was brought to the notice of the Chief Secretary to Government (August 1999).

Chapter 2

Sales Tax

CHAPTER 2

SALES TAX

2.1. Results of audit

Test check of sales tax assessments and refund cases and connected documents of Sales Tax Offices conducted in audit during the year 1998-99 revealed under-assessment of tax, non-levy of penalty etc., amounting to Rs 20731.20 lakh in 1,859 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Under-assessment of turnover	244	17447.26
2	Incorrect grant of exemption	230	1047.74
3	Application of incorrect rate of tax	405	346.53
4	Incorrect grant of concessional rate of tax	151	284.07
5	Non-levy of penalty	223	859.91
6	Other irregularities	606	745.69
	Total	1,859	20731.20

During the course of the year 1998-99, the department accepted under-assessments, etc., of Rs 325.49 lakh involved in 1,247 cases of which 64 cases involving Rs 9.44 lakh had been pointed out in audit during 1998-99 and the rest in earlier years. At the instance of audit, the department collected an amount of Rs 152.79 lakh in 856 cases during 1998-99, out of which 64 cases involving Rs 9.44 lakh were pointed out during 1998-99. A few illustrative cases involving Rs 405.26 lakh are given in the following paragraphs.

2.2. Under-assessment of turnover

During the course of audit it was noticed that in six cases turnover amounting to Rs 1233.08 lakh taxable at different rates escaped assessment resulting in short levy of tax and penalty of Rs 80.09 lakh as shown below.

Report No. 1 (Revenue Receipts) of 1999

Sl. No.	Name of Office	Nature of irregularity	Assessment year/ Date of assessment	Turnover escaped assessment (In lakh of rupees)	Tax levied short
1	Third Circle, Kannur	Sales turnover of REP licence was not assessed to tax.	<u>1992-93</u> 24.2.1997 <u>1995-96</u> 30.3.1995	60.61	4.94
2	Special Circle, Kollam	Tax was not levied on purchase turnover of cashew kernels.	<u>1993-94</u> 1.11.1997	15.23	1.17 (penalty of Rs 1 lakh)
3	First Circle Perumbavoor	The small scale industrial unit was allowed exemption during 1993-94 though it had crossed the exemption limit in 1992-93.	<u>1993-94</u> 5.8.1996	19.32	2.13
4	Agricultural Income Tax and Sales Tax Office, Adimali	Turnover of Rs 22.54 lakh relating to purchase of old gold and silver ornaments for manufacturing was not assessed to tax.	<u>1994-95</u> 30.1.1996	22.54	0.74
5	Special Circle, Kollam	Out of total turnover of Rs 11.43 crore an amount of Rs 11.05 crore was incorrectly stated to have already been assessed to tax during 1983-84 and 1984-85.	1983-84 and <u>1984-85</u> 30.11.1996	1105.38	68.78
6	Special Circle II, Ernakulam	Total turnover was computed as Rs 2012.74 lakh instead of Rs 2022.74 lakh.	<u>1990-91</u> 31.8.1996	10.00	1.33
Total				1233.08	80.09

On these being pointed out, the department revised the assessments in all cases and collected an amount of Rs 9.03 lakh in four cases.

The cases were reported to Government in February and March 1999; their replies have not been received (October 1999).

2.3. Non-levy of interest

Under Section 23(3) of the Kerala General Sales Tax Act, 1963, for failure to make timely payment of tax or any amount assessed or due to Government, the assessee is required to pay interest at the rates prescribed in the Act.

During the course of audit it was noticed that in five circles* interest was not levied for delay ranging from 1 to 83 months in payment of tax due to Government by eight assesseees. This resulted in non-levy of interest of Rs 78.96 lakh.

*Special Circle, Alappuzha, Special Circle III, Ernakulam, Special Circle, Kollam, Special Circle, Kottayam, Special Circle, Mattancherry

On this being pointed out the department accepted the audit observations in four cases and raised an additional demand of Rs 66.69 lakh. In one case the amount of Rs 3.29 lakh has been certified for revenue recovery. No replies have been received in remaining cases.

The cases were reported to Government in March and April 1999; their replies have not been received (October 1999).

2.4. Short demand of tax due to double accounting of tax paid and mistake in computation

Instructions issued (March 1970 and June 1989) by the Board of Revenue lay down departmental procedure for verifying and checking of all calculations of turnover, tax and credits given in the assessment order.

During the course of audit it was noticed (between August 1997 and September 1998) that in 7 cases either tax was short levied or remittances were accounted for twice resulting in short demand of tax and surcharge of Rs 64.93 lakh as shown below.

Sl. No.	Name of Office	Year and month of assessment	Mistake in brief	Short demand (In lakh of rupees)
1	Special Circle, Palakkad	1988-89 September 1996	Remittance of Rs 32.57 lakh made by the assessee towards tax and surcharge was accounted for twice	32.57
2	Special Circle, Mattancherry	1991-92 March 1998	Total taxable turnover was fixed as Rs 1084.90 lakh but tax was worked out only on Rs 994.90 lakh	11.97
3	Special Circle II, Ernakulam	1988-89 August 1996	After deducting the amount of tax paid Rs 143.66 lakh from the total tax of Rs 499.60 lakh due, balance payable was incorrectly reckoned as Rs 345.94 lakh instead Rs 355.94 lakh	10.00
4	Special Circle III, Ernakulam	1988-89 March 1998	Credit of Rs 216.74 lakh was afforded towards tax paid against actual payment of Rs 212.57 lakh.	4.17
5	Special Circle, Mattancherry	1993-94 March 1998	Tax and surcharge paid was Rs 10.63 lakh against Rs 14.28 lakh due. Balance demanded was Rs 0.49 lakh against Rs 3.65 lakh to be demanded.	3.16
6	Special Circle I, Ernakulam	1993-94 August 1997	Tax @ 25% on taxable sales turnover of Rs 6,29,820 was incorrectly worked out to Rs 15,745.50 instead of Rs 1,57,455.	1.56
7	Special Circle, Kollam	1991-92 September 1997	Remittance of Rs 1.50 lakh was accounted for twice	1.50
Total				64.93

On the cases being pointed out, the department stated that the mistakes have been rectified in five cases. Final replies have not been received in two cases (October 1999).

The cases were reported to Government between February and June 1999; their replies have not been received (October 1999).

2.5. Application of incorrect rate of tax

2503
2571/7
2571/11
i) Under the Central Sales Tax Act, 1956, in the case of inter-State sales of goods, other than declared goods, not supported by declarations in Form C, tax is leviable at the rate of ten *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher. Under the Kerala General Sales Tax Act, 1963, the rate of tax depend on the nature of sales and the kind of commodity. The rates are prescribed in the Schedules modified from time to time.

a) During the course of audit, it was noticed that in 11* offices the inter-State sales turnover of Rs 1016.31 lakh, not supported by Form C declaration was taxed at the concessional rate of 4 *per cent* resulting in short levy of tax of Rs 61.04 lakh.

Final reply has not been received (October 1999).

2489
b) In Special Circle, Kollam, while finalising (January 1998) the Central sales tax assessments of a dealer, additional sales tax was not calculated correctly on inter-State sales turnover of Rs 2306.25 lakh not covered by Form C declaration resulting in short levy of tax of Rs 49.21 lakh.

The case was pointed out in June 1998; final reply has not been received (October 1999).

c) An assessee of Special Circle I, Kozhikode was assessed to tax at the rate of 5 *per cent* instead of correct rate of 6 *per cent* on his turnover of Rs 6.65 crore while another assessee of Third Circle, Kannur was assessed to tax at 10 *per cent* instead of correct rate of 15 *per cent* to 20 *per cent* on his turnover of Rs 18.50 lakh. This resulted in short levy of tax of Rs 9.31 lakh.

The cases were pointed out during the period from January 1998 to October 1998. Final replies have not been received (October 1999).

* First Circle, Ernakulam, Special Circle III, Ernakulam, Third Circle, Kannur, Third Circle, Kozhikode, Sales Tax Office, Nedumangad, Sales Tax Office, Taliparamba, First Circle, Thrissur, Second Circle, Thrissur, Third Circle, Thrissur, Fourth Circle, Thrissur, Sales Tax Office, Wadakkancherry

Tread with caution

Speculation is rife that the introduction of VAT has been delayed. However, VAT is inevitable. It is imperative to analyse its impact in advance to plan business, suggest Sachin Menon and Santosh Dalvi



ALL SPECULATION about the introduction of Value Added Tax (VAT) have now been set to rest by Dr Asim Das Gupta, the chairman of the empowered committee of finance ministers. Dasgupta recently announced that 18 Indian states have agreed to introduce VAT.

Since its debut in France in '54, about 125 countries have adopted VAT for taxing goods and services.

The industry has started feeling the heat of globalization and the necessity for commodity tax reforms to galvanize the goods and service industry to face global competition. This becomes the need of the hour.

The proposal to introduce VAT gained momentum after the conference of state chief ministers and finance ministers held on November 16, '99 agreed to introduce VAT with effect from April 1, '02.

According to the agreement, almost all States and Union Territories had discontinued all sales tax-based incentive schemes from January 1, '00.

However, it was clarified that the existing incentives shall continue till its tenure under the VAT regime, except that the exemption units shall switch over to the deferral schemes.

However, the benefit may vary under exemption and deferral schemes and would depend upon the nature of transaction and its tax incidence.

VAT is a destination-based tax as against the present origin-based sales tax system. It is more logical as the consumer can enjoy the benefit of the tax he pays to his government.

Under the VAT regime, the sale of goods shall be taxed at every stage of sales and the credit of tax paid on purchase of inputs, raw materials and capital goods, may be set-off against VAT liability.

This would avoid the cascading effect of tax, which is one of the disadvantages of the present system.

The structure of levy is most simple, as under the VAT regime,

the rates of tax are limited to maximum five slabs, and there are no supplementary tax rates such as turnover tax, surcharge, additional tax.

The VAT is transparent and it recognizes the buyer's right to know the tax incidence that he bears. The invoice credit method that Indian states chose to follow, envisages that the tax shall be mentioned separately in the invoice and such invoice shall be the document for allowing input tax credit (ITC).

The VAT regime envisages self-assessment and thus, paves the way for simple and hassle-free tax administration, by reposing greater faith on the taxpayer. The sales tax returns are simplified to enable the dealer to file returns on his own.

There is also a provision for mandatory annual sales tax audit by a chartered accountant. The complexity is one of the reasons for evasions of sales tax and hence, the simplicity under VAT regime is expected to promote greater compliance. VAT being a liberal tax policy, the penal provisions are expected to be stringent.

Under an ideal VAT law, there is no scope for any discretionary

point VAT regime, all dealers are required to be registered.

This would bring buoyancy in revenue collection. VAT would also promote investments and exports. Unlike the present sales tax system, under VAT regime, investments are tax free as there is provision for full tax credit against purchase of capital goods.

Presently, a manufacturer, other than a 100 per cent EOU cannot avail full ITC, against export of goods where as under VAT, full ITC is given for all type of exports. This would definitely help the Indian exporters.

According to the consensus, all Indian states shall adopt five slab rates across the country, that is, zero for necessities, 1 per cent for precious commodities, 4 per cent for essentials and industrial inputs, 20 per cent for demerit goods such as cigarette, alcohol.

The list of commodities under these slab rates are the same across the country, whereas, all residual commodities will attract a Revenue Neutral Rate (RNR), which is not less than 10 per cent. The upper limit of RNR may be fixed by individual states so that the states will continue to collect

as it would result in huge revenue loss. Hence, CST is supposed to be continued though it will result in cascading. However, it is agreed that CST shall be phased out over a period of 3 years by reducing the tax by 1 per cent each year and by transferring the power to tax some of the services, center may compensate resultant loss to the states.

In order to empower the state government to tax services, amendment to the Constitution of India is necessary. The CST Act also provides for declared goods that cannot be taxed more than once.

For successful implementation of VAT, this restriction needs to be removed, through an amendment to the CST Act.

By now, eleven states have released the draft VAT and while reading through the provisions it gives an impression that a half hearted attempt is being made to introduce VAT.

VAT legislation is expected to take care and address the concerns of the industry. In an era of globalization, there is a greater need for uniformity in the legal provisions and business processes adopted across the country and any attempt by each state to frame their own VAT laws and procedures, would complicate the situation rather than simplifying it. The implementation of VAT will pose a significant challenge to the government, industry and consumers.

It is imperative for these stakeholders to analyze the impact of VAT in advance to plan their business and get ready to change gears swiftly.

The government as well as the industry needs to tread the path to implement VAT with commitment and caution, as the economic changes that may occur on introduction of VAT in a half hearted manner will be retrogressive in nature and magnitude.

Courtesy: Ernst and Young

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ROAD TO VAT

powers, though draft VAT bills tell you a different story. The discretionary provisions such as Section 41 of the Bombay Sales Act, lead to discrimination and provide breeding grounds for rampant corruption.

VAT is superior on various other counts as well. It has an inbuilt self policing mechanism which can guard against any potential evasion. Since, VAT is a multipoint levy, the tax collection occurs in installments at every stage of sale or resale and ITC on previous purchase is given at each stage.

The net result is outflow of tax only on value addition and reward for evasion is limited to the tax on value addition.

The risk may not justify the reward as the subsequent buyer has to shoulder the risk of paying full tax without getting any input credit.

Hence, it will be difficult to evade VAT without the connivance of first point seller to the last point retailer. As opposed to the single point levy, in a multi

the same revenue, which it was collecting earlier.

The RNR shall be calculated by applying the ratio of the total collection of taxes (including retained tax, purchase tax and net adjustment of tax on items shifted to other slabs) to turnover of sale of such goods.

Since the rates of taxes and revenue collection patterns differ from state to state, it will be certain that RNR will differ from state to state.

Unless the government demonstrates its commitment to impose a uniform rate across the country, the revenue neutral theory will continue to cause rate distortions.

In addition to the above, another hindrance in the way of implementing VAT is the existence of Central Sales Tax (CST). As CST being collected by the exporting state, the consuming states are in no mood to allow the ITC for CST purchases.

Those states whose interstate purchases are more than sales are not agreeable to give CST credit

ii) Under the Kerala General Sales Tax Act, 1963, the products sold to the Kerala State Electricity Board were not entitled to concessional rate of tax of 4 per cent from 1 January 1994 to 31 March 1994.

In two offices** while finalising the assessments for 1993-94, tax was levied at concessional rate instead of at 10 per cent on products valued at Rs 45.09 lakh sold to the Board resulting in short levy of Rs 2.97 lakh.

This was pointed out in audit in February 1998; final reply has not been received (October 1999).

The cases were reported to Government between February and June 1999; their replies have not been received (October 1999).

2.6. Incorrect grant of exemption to industrial units

Government by notifications exempted new small scale industrial units from payment of tax due on goods produced and sold by them for a period of five/seven years from the date of commencement of production. As per the notifications, exemption from sales tax is admissible only for goods manufactured and sold and for the period and up to the amount specified in the eligibility certificate-cum-exemption order.

During the course of audit it was noticed that exemption was granted incorrectly in 5 cases resulting in short demand of tax of Rs 11.64 lakh as shown below.

Sl. No.	Name of Office	Assessment year/Month of assessment	Nature of irregularity	Amount of short demand (In lakh of rupees)
1	Third Circle, Ernakulam	1994-95 December 1997	Eligibility for exemption was from 26.9.1989 to 25.9.1994. However, sales made after 26.9.1994 were also exempted from payment of tax.	6.15
2	Third Circle, Kozhikode	1993-94 to 1995-96 between November 1995 and March 1998	The unit was entitled to an exemption of Rs 4.27 lakh against which it was allowed Rs 6.97 lakh resulting in excess exemption of Rs 2.70 lakh.	2.70

** Sales Tax Office, Aluva and Special Circle, Mattancherry

Report No. 1 (Revenue Receipts) of 1999

Sl. No.	Name of Office	Assessment year/Month of assessment	Nature of irregularity	Amount of short demand (In lakh of rupees)
3	Sales Tax Office, Aluva	1989-90 to <u>1994-95</u> between November 1995 and March 1998	Against admissible exemption of Rs 4.31 lakh, the unit was allowed exemption up to Rs 5.72 lakh	1.41
4	Sales Tax Office, Chittoor	1991-92 to <u>1993-94</u> April 1994 and March 1998	Items as per certificate was rice bran oil but exemption was allowed for de-oiled rice bran.	0.99
5	First Circle, Perumbavoor	1994-95 and <u>1995-96</u> May 1997 and February 1998	Items given in exemption certificate was plastic moulded goods, but exemption was allowed for aluminium products.	0.39
Total				11.64

On this being pointed out between August 1998 and February 1999, the department accepted the audit observation in one case and stated that the mistake would be rectified. Final replies have not been received in the remaining cases (October 1999).

The cases were reported to Government in June 1999; their replies have not been received (October 1999).

2.7. Non-levy of tax

(i) As per notification issued (November 1993) by Government, Khadi and Village Industries Board has been exempted from payment of sale tax on the sales turnover of cotton supplied to spinners. No such concession has been granted to the Khadi and Village Industries Commission or to the institutions certified by it.

In Third Circle, Thrissur, while finalising (May 1997) the assessment for 1995-96 of an institution certified by the Khadi and Village Industries Commission, sales turnover of cotton sliver amounting to Rs 461.44 lakh was incorrectly exempted from tax. This resulted in non-levy of tax of Rs 18.46 lakh.

On this being pointed out (June 1998) the assessing authority stated (June 1998) that the matter has been taken up with the Commissioner of Commercial Taxes. Further report has not been received (October 1999).

The case was reported to Government in February 1999; their reply has not been received (October 1999).

(ii) On nylon fishing net and fishing net twine, the rate of tax was reduced from 6 per cent to 4 per cent from 1 April 1988 to 31 March 1992 and thereafter it was revised to 5 per cent. Under Section 8(2)(b) of the Central Sales Tax Act, 1956, the rate of tax applicable to inter-State sale of goods other than declared goods not covered by Form C is 10 per cent or the local rate which ever is higher.

In Sales Tax Office, Cherthala, while finalising (July 1994 and January 1995) the assessments of a dealer for the years 1990-91 to 1993-94, intra-State sales turnover of nylon fishing net amounting to Rs 51.27 lakh and inter-State sales turnover of Rs 14.11 lakh were incorrectly exempted from tax. This resulted in short levy of tax of Rs 4.18 lakh including surcharge.

On this being pointed out (May 1995) in audit, the department stated (October 1995) that instructions had been issued to the assessing officer to revise the assessment. Further developments have not been reported (October 1999).

The case was reported to Government in February 1999; their reply has not been received (October 1999).

(iii) By the notifications issued (August 1976 and November 1993) by Government, the manufacturers of products of Village Industries specified in the Schedule to the Kerala Village Industries Act, 1956 and who are recognised by the Khadi and Village Industries Board were exempted from payment of purchase tax on the purchase of goods which are taxable at the last purchase point and used for the manufacture of products within the State for sale.

In Third Circle, Kozhikode, while finalising (January 1996) the assessment for 1994-95 of a dealer recognised by the Khadi and Village Industries Board, the purchase turnover of aluminium scrap, amounting to Rs 8.05 lakh, from unregistered dealers was exempted from tax. As aluminium scrap was taxable at the point of first sale and the purchase was made from unregistered dealers the exemption granted was incorrect and resulted in short levy of tax and surcharge of Rs 70,869.

On this being pointed out (June 1997), the department stated (August 1997) that the assessment had been revised (June 1997) and the additional demand of Rs 70,869 had been recommended for revenue recovery. Further report has not been received (October 1999).

The case was reported to Government in March 1999; their reply has not been received (October 1999).

2.8. Application of incorrect rate of surcharge

The rate of surcharge payable under the Kerala Surcharge on Taxes Act, 1957, by a dealer whose turnover exceeds ten lakh rupees in a year was revised from 8 per cent to 10 per cent from 1 April 1993.

2488 In Special Circle, Kollam, while finalising the assessment for the year 1993-94 of an assessee, surcharge on the tax of Rs 587.60 lakh was levied incorrectly at the rate of 8 per cent instead of at 10 per cent. This resulted in short levy of surcharge amounting to Rs 11.75 lakh.

On this being pointed out (June 1998) in audit, the assessing authority stated (June 1998) that notice had been issued to rectify the error. Further developments have not been reported (October 1999).

The case was reported to Government in March 1999; their reply has not been received (October 1999).

2.9. Non-imposition of penalty for misuse of declaration

Under the provision of the Kerala General Sales Tax Act, 1963, concessional rate of tax is leviable in respect of raw materials used by a dealer in the production of finished goods for sale in the State. This concessional rate of tax is not however applicable in cases where the sale of such goods is not liable to tax in the State either under the Kerala General Sales Tax Act, 1963 or under the Central Sales Tax Act, 1956. Where any dealer, after purchasing any goods by furnishing a declaration fails to make use of the same for the purpose for which the declaration was furnished, he shall be liable to pay the tax that would have been payable by him had the declaration not been furnished.

2520 a) In First Circle, Peurmbavoor, during the year 1993-94, an assessee engaged in the business of manufacture and sale of PVC pipes, consigned to branches outside the State finished products worth Rs 85.02 lakh produced using the raw materials purchased at concessional rates by issuing Form 18 declaration. While finalising (August 1996) the assessment for 1993-94 the assessing officer did not, however, levy tax on the purchase turnover of raw materials used for manufacture of the finished products consigned to branches outside the State. This resulted in short levy of tax of Rs 3.37 lakh including surcharge.

On this being pointed out (November 1997) in audit, the department stated (May 1998) that the assessment had been revised (January 1998) creating additional demand of Rs 3.37 lakh and that the assessee had remitted (March 1998) Rs 1.5 lakh. Further report has not been received (October 1999).

The case was reported to Government in April 1999; their reply has not been received (October 1999).

b) If any dealer after purchasing raw materials/packing materials making use of Form 18 declaration fails to make use of the goods for the declared purpose the assessing authority may direct such person to pay by way of penalty an amount not exceeding twice the amount of sales tax evaded or sought to be evaded.

In Special Circle, Palakkad, a dealer after purchasing raw materials worth Rs 6.43 lakh and Rs 12.09 lakh by issuing Form 18 declaration during 1987-88 and 1988-89 respectively, violated the conditions by consigning a major portion of the finished products to outside the State on branch transfer. However, while finalising the assessments (October 1994 and March 1995) the assessing authority failed to levy any penalty. 2491

On this being pointed out (November 1995) in audit, the department stated (October 1996) that penalty amounting to Rs 2.37 lakh had been imposed (June 1996) and the assessee remitted the amount in September 1996.

The case was reported to Government in February 1999; their reply has not been received (October 1999).

2.10. Non-forfeiture of excess/illegal collection of tax

Under the Kerala General Sales Tax Act, 1963, no registered dealer shall collect any sum by way of tax on the sale of any goods in respect of which he is not liable to pay tax or at a rate exceeding the rate at which he is liable to pay tax and if any person collects any sum in contravention of the provision he shall be liable to pay penalty not exceeding five thousand rupees and any sum collected in excess shall be liable to be forfeited to Government by an order issued by the assessing authority. DP254 2494

During the course of audit it was noticed (September 1998) in three circles^s that the excess/illegal collection of tax of Rs 4 lakh was made by three dealers. The assessing officers however, while finalising the assessment in January 1998 and February 1998 did not forfeit the amount collected unauthorisedly.

On this being pointed out, the department issued notices to rectify the defect in two cases while no reply has been received in one case (October 1999).

The cases were reported to Government during March and April 1999; their replies have not been received (October 1999).

^s Sales Tax Office, Chavakkad, Special Circle III, Ernakulam, Special Circle, Mattancherry

2.11. Non-levy of additional sales tax

2473 Under the Kerala Additional Sales Tax Act, 1978, every dealer shall be liable to pay additional tax at the rate of 20 *per cent* of the tax payable under the Kerala General Sales Tax Act, 1963, up to 31 March 1988 and at 25 *per cent* from 1 April 1988 to 31 March 1992.

(i) In Third Circle, Ernakulam, while finalising (February 1998) the assessments for the years 1987-88, 1988-89 and 1991-92 of a dealer, the assessing authority did not levy additional sales tax on the tax of Rs 7.03 lakh assessed. This resulted in non-levy of additional sales tax of Rs 1.52 lakh.

On this being pointed out (May 1998) in audit, the assessing authority stated (May 1998) that the case would be examined. Further report has not been received (October 1999).

The case was reported to Government in February 1999; their reply has not been received (October 1999).

2472 ✓ (ii) In Special Circle I, Ernakulam while finalising (March 1998) the assessment for the year 1989-90 of a dealer, additional sales tax on tax of Rs 14.28 lakh was levied at the rate of twenty *per cent* instead of at twenty five *per cent*. This resulted in short levy of additional sales tax of Rs 74,913.

The case was pointed out in September 1998; final reply has not been received (October 1999).

The case was reported to Government in February 1999; their reply has not been received (October 1999).

Chapter 3

Taxes on Agricultural Income

CHAPTER 3

TAXES ON AGRICULTURAL INCOME

3.1. Results of audit

Test check of the records of the Agricultural Income Tax Offices conducted during the year 1998-99 revealed under-assessment of tax amounting to Rs 477.21 lakh in 308 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Income escaping assessment	70	226.47
2	Allowance of inadmissible expenses	78	115.10
3	Incorrect computation of income	9	8.24
4	Incorrect computation of tax	19	1.22
5	Other reasons	132	126.18
	Total	308	477.21

During the course of the year 1998-99, the department accepted under-assessments, etc., of Rs 159.95 lakh involved in 352 cases of which 36 cases involving Rs 3.76 lakh had been pointed out during 1998-99 and the rest in earlier years. At the instance of Audit, the department collected an amount of Rs 16.05 lakh in 39 cases during 1998-99. A few illustrative cases involving Rs 171.84 lakh are given in the following paragraphs.

3.2. Short levy of tax due to excess allowance of expenditure

Under the Agricultural Income-tax Act, 1950, agricultural income of an assessee shall be computed after allowing the deductions enumerated therein.

In Ernakulam, while finalising (October and December 1993) the assessment for 1990-91 of an assessee company, the expenditure for 1 July 1989 to 31 March 1990 was incorrectly reckoned by the assessing officer as Rs 1147.55 lakh against Rs 1061.77 lakh. This resulted in excess allowance of expenditure of Rs 85.78 lakh and short levy of tax of Rs 55.76 lakh.

On this being pointed out (November/December 1995) in audit, the department stated (March 1999) that the assessment had been revised (April 1997) and that the appeal filed by the assessee against the revised assessment

before the Appellate Tribunal was pending. Further report has not been received (October 1999).

The case was reported to Government in November 1998; their reply has not been received (October 1999).

3.3. Omission to revise assessment

Under the Income Tax Rules, 1962, income derived from the sale of tea grown and manufactured by the seller in India, shall be treated as income derived from business and forty *per cent* of such income shall be deemed to be income liable to tax under the Income Tax Act, 1961 and the remaining sixty *per cent* shall be reckoned as agricultural income from tea.

In Ernakulam, the agricultural income tax assessment for 1990-91 of a domestic company deriving income from tea, cardamom, etc., was finalised (August 1993) reckoning tea income of Rs 15.22 lakh as conceded by the assessee pending finalisation of their Central income tax assessment. Cross verification of the assessment records of the Office of the Deputy Commissioner of Income Tax, Special Range I, Kochi by Audit in December 1996 revealed that as per the Central income tax assessment of the company for 1990-91 finalised in May 1994 the income from tea assessable to agricultural income tax stood at Rs 59.15 lakh. But the original agricultural income tax assessment order of August 1993 was not revised resulting in excess computation of loss by Rs 43.93 lakh which when carried over to the following year resulted in short levy of tax of Rs 28.55 lakh.

On this being pointed out (December 1996) in audit, the department stated (March 1998) that necessary directions had been issued to the assessing officer to set right the revenue loss immediately. Further report has not been received (October 1999).

The case was reported to Government in May 1998; their reply has not been received (October 1999).

3.4. Short levy of tax due to grant of inadmissible/excess deduction

The agricultural income of an assessee is computed after allowing the deductions enumerated in the laws in force from time to time. Expenditure of capital nature and personal expenses of the assessee are not allowable as deductions in computing the agricultural income.

During the course of audit short levy of tax amounting to Rs 26.43 lakh was noticed in nine cases due to grant of inadmissible/excess deduction in computing the agricultural income as detailed below.

Sl. No.	Name of Office	Assessment year/date of assessment	Nature of inadmissible expenditure	Amount of incorrect/excess deduction (In lakh of rupees)	Short levy of tax
1	Inspecting Assistant Commissioner (Special), Agricultural Income Tax and Sales Tax, Ernakulam	<u>1991-92</u> December 1993	Interest on loans expended for non-agricultural purposes	12.20	7.93
2	-do-	<u>1990-91 & 1991-92</u> December 1993	Donation to funds not notified by Government/ not enumerated in the Rules	6.07	3.95
3	Inspecting Assistant Commissioner (Special), Agricultural Income Tax and Sales Tax, Ernakulam	<u>1994-95</u> December 1996	Assessee was dealing in plantations for which there was no need to pay the licence fee but the licence fee was allowed as deduction	5.28	3.43
4	-do-	<u>1987-88</u> March 1993	Rs 0.77 lakh was omitted from taxation and Rs 4.05 lakh on account of gratuity not borne by the assessee was allowed as deduction.	4.83	3.13
5	-do-	<u>1993-94</u> November 1995	Capital expenditure incurred and expenditure not relating to the assessment year 1993-94 was allowed as deduction	2.84	2.19
6	-do-	<u>1994-95</u> December 1996	Investment on assets not notified by Government	4.19	2.72
7	-do-	<u>1992-93</u> December 1994	Expenses charged twice in the accounts of 1992-93	2.77	1.80
8	-do-	<u>1993-94</u> January 1996	Deduction of expenses incurred on crops exempted from tax	0.91	0.50
9	Agricultural Income Tax and Sales Tax Office, Mananthavady	<u>1995-96</u> January 1998	Excess allowance of replantation expenses	1.41	0.78
Total					26.43

On this being pointed out (between November 1995 and October 1998) the department stated that the assessments had been revised raising additional demand of Rs 26.43 lakh. Report regarding recovery has not been received (October 1999).

The cases were reported to Government between January 1998 and May 1999; their replies have not been received (October 1999).

3.5. Non-levy/short levy of interest

Under the Kerala Agricultural Income Tax Act, 1991, any person who fails to pay tax in accordance with the provisions prescribed in the Act or in pursuance of a demand notice issued under the Act, shall pay simple interest at the rate of fifteen *per cent per annum* for every month of delay.

During the course of audit of four offices*, it was noticed that interest amounting to Rs 22.41 lakh for belated payment of tax was not levied in four cases.

On this being pointed out (between January 1994 and December 1998) the department levied and demanded interest in all the cases and realised Rs 1.09 lakh. Further report has not been received (October 1999).

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

3.6. Short levy of tax due to short computation of income

Under the Agricultural Income-tax Act, 1950, agricultural income shall be computed in accordance with the method of accounting employed by the assessee. Hence, in the case of assessee following mercantile system of accounting the entire amount receivable by the assessee on accrual basis during the relevant accounting year shall be considered for assessment irrespective of the period of actual receipt by the assessee.

(i) In Ernakulam, while finalising (March 1993) the assessment for the years 1988-89 and 1989-90 of a domestic company following mercantile system of accounting, the assessing authority reckoned the income of Rs 45.01 lakh and Rs 27 lakh respectively actually received during the relevant accounting years from rubber trees leased out for slaughter tapping instead of reckoning the income Rs 53.28 lakh and Rs 31.80 lakh disclosed as receivable on accrual basis in the annual reports of the company for the accounting years 1987-88

* Agricultural Income Tax and Sales Tax Office, Alappuzha, Inspecting Assistant Commissioner (Special), Agricultural Income Tax and Sales Tax, Ernakulam, Inspecting Assistant Commissioner (Special), Agricultural Income Tax and Sales Tax, Kozhikode and Agricultural Income Tax and Sales Tax Office, Nedumangad

and 1988-89. This resulted in short computation of income by Rs 13.07 lakh and short levy of tax of Rs 8.50 lakh.

On this being pointed out (March 1994) in audit, the department stated (April 1998) that the short levy for 1988-89 would be made good while finalising the remanded assessment for 1988-89 and that the assessment for 1989-90 had been revised (July 1997) raising additional demand for Rs 3.12 lakh. Further report has not been received (October 1999).

(ii) The Agricultural Income Tax and Sales Tax Department follows a practice of fixing average market rate, for each agricultural commodity for each accounting year based on market intelligence. The prices of commodities prevailing in the local markets are taken into consideration in determining the average market rate. The rate so fixed are generally adopted by the assessing authority for computing the agricultural income of the assessee who do not maintain proper accounts and in cases in which the income returned is not supported by proper sale bills.

In Vythiri, while finalising (October 1992) the assessment for the assessment year 1990-91 of an individual, the assessing officer computed the income from 2,250 kg of cardamom at Rs 150 per kg against the market rate of Rs 350 per kg prevailed during the accounting year 1989-90. This resulted in under-assessment of income of Rs 4.50 lakh and short levy of tax of Rs 3.47 lakh including surcharge.

On this being pointed out (March 1994) in audit, the department stated (October 1998) that the assessment had been revised (August 1994) raising additional demand of Rs 3.47 lakh and that the appeal filed by the assessee against the revised assessment was pending. Further report has not been received (October 1999).

The cases were reported to Government in May 1998 and February 1999; their replies have not been received (October 1999).

3.7. Short levy of tax due to allowance of expenditure incurred on immature areas

Under the Kerala Agricultural Income Tax Act, 1991, any expenditure laid out or expended for cultivation, upkeep or maintenance of immature plants from which no agricultural income has been derived during the previous year, is not a permissible deduction in the computation of agricultural income.

(i) In Ernakulam, while finalising (October 1993 and December 1994), the assessment of a domestic company for the assessment years 1991-92 and

1992-93 the assessing authority allowed deduction of Rs 27.48 lakh towards expenditure on immature areas*. This resulted in exclusion of income of Rs 27.48 lakh and short levy of tax of Rs 11.54 lakh.

On this being pointed out (December 1995) in audit, the department stated (October 1996) that action would be taken to set right the short levy for 1991-92 and that the matter would be examined while finalising the remanded assessment for 1992-93. Further report has not been received (October 1999).

(ii) In Mananthavady, while finalising (November 1997) the assessment for the assessment year 1996-97 of an individual, the assessing officer allowed deduction of Rs 1.14 lakh towards expenditure incurred on immature area. This resulted in exclusion of income of Rs 1.14 lakh and short levy of tax of Rs 58,447 including surcharge.

On this being pointed out (October 1998) in audit, the department stated (January 1999) that the assessment had been revised. Further report has not been received (October 1999).

The cases were reported to Government in November 1998 and February 1999; their replies have not been received. (October 1999).

3.8. Short levy of tax due to grant of inadmissible deduction towards gratuity

Under the Kerala Agricultural Income Tax Act, 1991, the total agricultural income of the previous year of an assessee comprises all agricultural income derived from land situated within the State and received by him and such income is computed after allowing deductions enumerated in the Act.

Deduction of any sum paid during the previous year to an employee as gratuity in accordance with the provision of Payment of Gratuity Act, 1972, or to any fund recognised in this behalf by Government less such amount, if any claimed in any previous year towards provision for gratuity is allowable under the Act.

In Ernakulam, while finalising (January 1997 and February 1997) the assessment of three domestic companies for the assessment year 1994-95 the assessing authority allowed deduction of Rs 13.26 lakh towards payments to funds not recognised by the Government. This resulted in excess allowance of deduction of Rs 13.26 lakh and consequent short levy of tax of Rs 8.62 lakh.

* Immature area means area which did not start yielding agricultural income

On this being pointed out (July and August 1997) in audit, the department stated (June 1998) that the assessment had been revised (February/March 1998) raising additional demand of Rs 8.62 lakh. Further report has not been received (October 1999).

The case was reported to Government in January 1998; their reply has not been received (October 1999).

3.9. Short levy of tax due to incorrect computation of depreciation

As per the provisions of the Kerala Agricultural Income Tax Act, 1991, while computing the agricultural income of an assessee, deduction towards depreciation at the specified rates on the written down value of the assets owned by the assessee and used by him for the purpose of deriving the agricultural income is admissible.

In Ernakulam, while finalising (December 1996) the assessment for 1994-95 of two domestic companies the assessing authority allowed excess depreciation of Rs 4.77 lakh on building, machinery, etc., resulting in short levy of tax of Rs 3.10 lakh.

On this being pointed out (July 1997) in audit, the department stated (June and July 1998) that the assessments had been revised in January and May 1998. Further report has not been received (October 1999).

The case was reported to Government in March 1999; their reply has not been received (October 1999).

3.10. Short levy of tax due to mistake in computation of income from tea

Under the Kerala Agricultural Income Tax Act, 1991, agricultural income of an assessee shall be computed after allowing the deductions enumerated therein. Under the Income Tax Rules, 1962, income derived from the sale of tea, grown and manufactured by the seller in India, shall be computed as if it were income derived from business and forty *per cent* of such income shall be deemed to be income liable to tax under the Income Tax Act, 1961 and the remaining sixty *per cent* shall be reckoned as agricultural income from tea.

(i) In Ernakulam, while finalising (September 1993) the assessment for 1991-92 of a domestic company the assessing officer omitted to add back, Rs 4.92 lakh shown in the return filed by the assessee as inadmissible expenses, to arrive at the net income from tea. This resulted in short

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computation of the tea income by Rs 2.95 lakh and short levy of tax of Rs 1.75 lakh.

On this being pointed out (January 1995) in audit, the department stated (October 1997) that the assessment had been revised (March 1997). Report regarding recovery has not been received (October 1999).

The case was reported to Government in October 1998; their reply has not been received (October 1999).

(ii) In Ernakulam, while finalising (April 1994) the assessment for the assessment years 1990-91 and 1991-92 of a domestic company, 60 *per cent* of the sale proceeds of tea waste was not reckoned as agricultural income. This resulted in exclusion of income of Rs 1.74 lakh and short levy of tax of Rs 1.13 lakh.

On this being pointed out (December 1994) in audit, the department revised (June 1998) the assessments for both the years raising additional demand of Rs 1.13 lakh. Report regarding recovery has not been received (October 1999).

The case was reported to Government in March 1999; their reply has not been received (October 1999).

Chapter 4

State Excise

CHAPTER 4

STATE EXCISE

4.1. Results of audit

Test check of the records of the Offices of the State Excise Department conducted in audit during the year 1998-99 revealed under assessments of tax/loss of revenue amounting to Rs 98.02 lakh in 43 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short collection of duty on spirit/IMFL	5	70.90
2	Loss of revenue due to the short accounting of spirit/IMFL	5	4.13
3	Loss of revenue due to allowance of excess wastage of spirit/IMFL	7	3.79
4	Other irregularities	26	19.20
	Total	43	98.02

During the course of the year 1998-99, the department accepted under-assessments etc., of Rs 105.46 lakh involved in 39 cases of which 23 cases involving Rs 88.24 lakh had been pointed out in audit during 1998-99 and the rest in earlier years. A few illustrative cases involving Rs 401.97 lakh highlighting important observations are given in the following paragraphs.

4.2. Short collection of fee for transportation of toddy

Government directed (March 1996) that a fee of Re 1 per bulk litre of toddy shall be levied on each permit to be issued for the inter-district transportation of toddy from 1 April 1996. As per Section 24 of the Abkari Act the fee for such permit was required to be paid in advance.

In Excise Division Offices, Palakkad and Ernakulam 178 permits valid from the date of issue to the end of the respective half years were issued for the transportation of specified quantity of toddy every day to other districts. Instead of collecting the fee in advance, on the entire quantity of 328.13 lakh bulk litres of toddy permitted to be transported during the half year, fee was collected only on 3.02 lakh litres. This resulted in short collection of permit fee of Rs 325.11 lakh.

On this being pointed out (July 1997 and February 1998) in audit, the department stated (July 1998 and January 1999) that in Palakkad Division, fee of Rs 137.26 lakh had since been collected and action under the Revenue Recovery Act had been initiated for the collection of the balance amount. Action taken by the Ernakulam Division has not been received (October 1999).

The case was reported to Government in March and July 1999; their reply has not been received (October 1999).

4.3. Low production of spirit from molasses

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

Mention was made in paragraph 4.2 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 1997 about low production of spirit involving excise duty of Rs 23.35 lakh in a distillery at Cherthala during 1994-95. Verification of the records of the same distillery for the period from April 1996 to March 1998 revealed that the production of spirit was short by 4,00,940.89 proof litres calculated on the basis of the norms fixed by the Central Board of Molasses involving excise duty of Rs 62.15 lakh.

This was pointed out in audit during November 1997 and February 1999. Final reply of the department has not been received (October 1999).

The case was reported to Government in April 1999; their reply has not been received (October 1999).

4.4. Non-levy of interest for delayed payment of gallonage fee

Rule 15A of the Foreign Liquor Rules provides that a gallonage fee at such rates as the Government may prescribe from time to time shall be paid by the FL9* licensee on the quantity of Indian Made Foreign Liquor sold by such licensee. As the licence period ends on 31 March every year the licensee is required to clear all dues to Government by that date. Being an excise revenue delay in payment of gallonage fee attracted interest at 18 per cent per annum under the Kerala Abkari Shops (Disposal in Auction) Rules, 1974.

* Licence for possession and supply of foreign liquor in wholesale by the bonded warehouse to other licensees

The gallonage fee payable by the FL9 licensee in the State for the year 1997-98 was Rs 980.95 lakh. Out of this Rs 822.81 lakh was paid on 16 April 1998 and the balance of Rs 158.14 lakh on 11 and 14 May 1998. However, interest payable for delayed payment was not demanded. This resulted in non-demand of interest of Rs 14.71 lakh.

On this being pointed out (between June 1998 and March 1999), the department stated (April 1999) that interest of Rs 14.71 lakh had been remitted (January 1999) by the licensee.

The case was reported to Government in April 1999; their reply has not been received (October 1999).

Chapter 5

Land Revenue and Building Tax

CHAPTER 5

LAND REVENUE AND BUILDING TAX

5.1. Results of audit

Test check of the records of the Offices of the Land Revenue Department conducted in audit during 1998-99 revealed under-assessment of tax, loss of revenue, etc., amounting to Rs 259.27 lakh in 133 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short levy and losses under building tax	89	106.46
2	Short levy and losses under plantation tax	2	0.54
3	Short levy and losses under other items	42	152.27
Total		133	259.27

During the course of the year 1998-99, the department accepted under-assessments etc., of Rs 76.31 lakh involved in 74 cases of which 50 cases involving Rs 72.36 lakh had been pointed out in audit during 1998-99 and the rest in earlier years. During the year the department recovered an amount of Rs 3.57 lakh in 26 cases out of which 2 cases involving Rs 40,763 had been pointed out in audit during 1998-99 and rest in earlier years. A few illustrative cases involving Rs 95.24 lakh are given in the following paragraphs.

5.2. Incorrect computation of building tax

(a) Under the Kerala Building Tax Act, 1975, building tax at the rate specified in the Schedule to the Act on the basis of plinth area is leviable on buildings completed on or after 10 February 1992. The rates of building tax were revised with effect from 29 July 1996.

During the course of audit of twenty six Taluk Offices*, it was noticed that 2,478 buildings were assessed to tax between 29 July 1996 and 30 June 1997 at pre-revised rates instead of at enhanced rates resulting in short levy of Rs 87.10 lakh.

On this being pointed out (between April 1997 and December 1998) the department stated (between October 1998 and April 1999) that the assessment had been revised in 349 cases and that Rs 2.68 lakh had been collected. Further report has not been received (October 1999).

b) It was noticed in nine Taluk Offices** that while finalising the assessments the plinth area of fourteen buildings were computed incorrectly resulting in short levy of tax of Rs 7.64 lakh.

On this being pointed out (between June 1994 and September 1998) the department stated (between October 1998 and April 1999) that building tax of Rs 3.69 lakh had been additionally demanded in three cases and that action would be taken to revise the tax in eight other cases. Final reply has not been received in the remaining cases (October 1999).

c) From 1 April 1993, building tax shall be assessed on the basis of plinth area in the case of any building construction of which was completed prior to 10 February 1992 but the assessment of which had not been initiated or completed or against which appeal or revision had been filed.

In Taluk Office, Sulthanbathery, while finalising (between January 1994 and January 1995) the assessments of 7 buildings, tax was assessed on capital value basis instead of on plinth area basis. This resulted in under-assessment of building tax of Rs 50,252.

On this being pointed out (January 1996) in audit, the department stated (August 1998 and February 1999) that the assessments had been revised and that an amount of Rs 38,681 had been recovered. Further reply has not been received (October 1999).

The above cases were reported to Government between March and May 1999; their replies have not been received (October 1999).

* Adoor, Alathur, Aluva, Ambalapuzha, Chengannoor, Cherthala, Chirayinkeezh, Eranad, Hosdurg, Kannur, Kasaragod, Kodungalloor, Kollam, Kottarakkara, Kottayam, Kozhencherry, Kozhikode, Mananthavady, Mannarkad, Mukundapuram, Thalappilly, Thiruvalla, Thiruvananthapuram, Thrissur, Udumbanchola and Vaikom

** Ambalapuzha, Chavakkad, Chengannoor, Hosdurg, Kottarakkara, Kozhikode, Thiruvalla, Thiruvananthapuram and Vaikom

Chapter 6

Taxes on Vehicles

CHAPTER 6

TAXES ON VEHICLES

6.1. Results of audit

Test check of the records of the Motor Vehicles Department conducted in audit during 1998-99 revealed short/non-levy levy of tax/fees and other lapses amounting to Rs 145.41 lakh in 129 cases, which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short/non-levy of tax	100	121.95
2	Incorrect classification	12	3.40
3	Non-levy/short levy of fees	3	0.68
4	Other lapses	14	19.38
	Total	129	145.41

During the course of the year 1998-99, the department accepted under-assessments, etc., of Rs 10.87 lakh involved in 58 cases of which 9 cases involving Rs 83,105 were pointed out in audit during 1998-99 and rest in earlier years. A few illustrative cases involving Rs 8327.89 lakh are given in the following paragraphs.

6.2. Short demand of tax on vehicles owned by the Kerala State Road Transport Corporation

(a) Under the Kerala Motor Vehicles Taxation Act, 1976, tax on vehicles shall be paid in advance within the period prescribed. However, in the case of fleet owner the Government may direct that tax shall be paid in monthly instalments subject to such conditions as may be specified.

During the course of audit of the records of the Regional Transport Office, (Nationalised Sector), Thiruvananthapuram, it was noticed that the Kerala State Road Transport Corporation, a fleet owner requested (April 1987) the Government for fixation of monthly rate of tax as Rs 49 lakh in respect of the vehicles owned by it against which the Government fixed (August 1987) the rate

as Rs 47 lakh. This monthly instalment remained unchanged even though the quarterly rate of tax and the number of vehicles owned by the Corporation increased substantially during the period between August 1987 and April 1997. This fact was also pointed out in audit in December 1990. The Corporation had been filing periodical and annual declarations showing details of vehicles owned by them, the tax recovered, etc., to enable the department to make final assessment of balance tax due. But the assessments based on final declarations were not done from 1991-92 to 1996-97 with the result balance tax of Rs 7091.77 lakh due from the Corporation was neither demanded nor paid by it. Besides Rs 906.24 lakh pertaining to the period 1988-89 to 1990-91 though assessed in February 1996 has not been realised so far (August 1999).

b) Under the Kerala Motor Vehicles Taxation Act, 1976, tax leviable shall be increased by a surcharge at the rate of 10 *per cent*.

On the basis of the return filed, basic tax leviable on the vehicles owned by the Corporation for 1990-91 was assessed (February 1996) at Rs 8.20 crore. But the same was not increased by surcharge at 10 *per cent*. This resulted in short demand of surcharge of Rs 82 lakh and additional tax of Rs 40.99 lakh for belated payment.

c) By a notification issued (July 1975), reduced rate of tax was prescribed on motor vehicles permitted to be used solely as a reserve stage carriage subject to the condition that tax due in respect of all route buses for which reserve bus is authorised shall be paid within the prescribed period of the quarter.

It was noticed that the Corporation did not pay tax within the prescribed period. However, while assessing (February 1996) the tax, reduced rate of tax was applied on 39 reserve stage carriages for the period 1990-91 resulting in short levy of tax of Rs 10.94 lakh.

On the above being pointed out (January 1998) the department raised a demand for Rs 8247.37 lakh in December 1998. Further report has not been received (October 1999).

The case was reported to Government in April 1999; their reply has not been received (October 1999).

6.3. Registration of vehicles without collection of entry tax

The Kerala Tax on Entry of Motor Vehicles into Local Areas Act, 1994, provides for the levy of a tax on entry into any local area of the State, for use or sale therein of any motor vehicle which is liable for registration in the State under the Motor Vehicles Act, 1988. Vehicles registered in other States 15 months prior to their registration in Kerala, vehicles of Central Government and vehicles used

exclusively for defence purposes are exempted from the tax. The registration authority shall not register the vehicles, unless proof of payment of tax is produced.

In 13 registering offices*, 92 vehicles liable to pay entry tax were granted (between February 1995 to April 1998) registration without payment of entry tax amounting to Rs 20.35 lakh. In 22 registering offices* registration was granted (between February 1995 and July 1996) to 156 vehicles without payment of entry tax of Rs 78.60 lakh on interim orders of the High Court subject to finalisation of the Original Petitions filed by the persons liable to pay tax. Although the petitions were dismissed (August 1995 and July 1996) by the Court no action was taken to levy and realise the entry tax of Rs 78.60 lakh. This resulted in non-levy of entry tax of Rs 98.95 lakh.

On this being pointed out (between October 1996 and December 1998) in audit, the department stated (December 1998 and January 1999) that entry tax of Rs 3.96 lakh had since been realised (October and December 1998) on 4 vehicles. Further report has not been received (October 1999).

The case was reported to Government in May 1999; their reply has not been received (October 1999).

6.4. Non-demand of interest for delay in crediting demand drafts to government account

In a meeting held in November 1993 by the Commissioner and Secretary (Transport) with the Convenor, State level Co-ordination Committee of Bankers, it was decided to issue demand notice for interest to concerned banks for inordinate delay in crediting demand drafts. The Transport Commissioner had directed (April 1998) the departmental officers that interest at 12 *per cent per annum* may be demanded treating the period exceeding 10 days as the delay.

In 18 Transport Offices* no interest was demanded for delay ranging from 11 to 681 days in crediting demand drafts totalling to Rs 37.53 crore to Government during 1996-97 and 1997-98. Interest not demanded works out to Rs 64.47 lakh.

* Regional Transport Offices, Ernakulam, Kottayam and Wayanad and Sub Regional Transport Offices, Adoor, Alathur, Attingal, Changanassery, Guruvayoor, Irinjalakkuda, Kanhangad, Kodungloor, Thiruvalla and Vadakara.

* Regional Transport Offices, Kannur, Kasaragod, Kottayam, Palakkad and Wayanad and Sub Regional Transport Offices, Alathur, Attingal, Changanassery, Guruvayoor, Irinjalakkuda, Kayamkulam, Koduvally, Kothamangalam, Kottarakkara, Muvattupuzha, Nedumangad, Ottappalam, Pala, Pattambi, Perumbavoor, Thodupuzha and Vaikom.

* Transport Commissioner's Office, Thiruvananthapuram

Regional Transport Offices: Ernakulam, Idukki, Kollam, Kozhikode, Malappuram and Thrissur

Sub Regional Transport Offices: Aluva, Attingal, Guruvayoor, Irinjalakkuda, Karunagapally, Kodungloor, Kothamangalam, Muvattupuzha, Parassala, Vadakara and Vadakkancherry

The cases were brought to the notice of the department between April 1997 and September 1998; final reply has not been received (October 1999).

The cases were reported to Government in May 1999; their reply has not been received (October 1999).

6.5. Failure to demand higher rate of composite tax

Under the Kerala Motor Vehicles Taxation Act, 1976, goods carriage vehicles registered and usually kept in any other State or Union Territory in India and authorised to ply in the State of Kerala under a National Permit will be liable to pay composite tax of Rs 3,000 per annum or the higher rate at which similar vehicle from Kerala is taxed in their home State, whichever is higher.

It was noticed (December 1997) during audit of the records of the Transport Commissioner's Office, Thiruvananthapuram, that 1,682 goods carriages registered in other States/Union Territory where the rate of composite tax per vehicle ranged between Rs 4,000 and Rs 5,000 were authorised to ply in Kerala under National Permit during 1995-96 and 1996-97 on payment of composite tax of Rs 3,000 per annum instead of at higher rates. No action was taken by the department to demand and collect differential tax at appropriate higher rate through the concerned State/Regional Transport Authorities. This resulted in short levy of composite tax of Rs 15.14 lakh.

The case was pointed out to the department in December 1997 and reported to Government in March 1999; their replies have not been received (October 1999).

6.6. Short levy of vehicle tax

Under the Kerala Motor Vehicles Taxation Act, 1976, tax at the rate specified in the Schedule to the Act as amended from time to time is leviable on different categories of motor vehicles.

It was noticed in audit that in 23 registering offices* failure to levy tax at the prescribed rates resulted in short levy of Rs 7.99 lakh as shown below.

* Regional Transport Offices: Alappuzha, Ernakulam, Kannur, Kasaragod, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Thiruvananthapuram and Thrissur.

Sub Regional Transport Offices: Chengannoor, Cherthala, Kanhangad, Kanjirappally, Mavelikkara, Muvattupuzha, Neyyattinkara, Ottappalam, Parassala, Thiruvallam and Vaikom.

Sl. No.	Nature of irregularity	Period	Short levy (Amount in lakh of rupees)
1	Quarterly tax on 27 private service vehicles and 13 omnibuses for private use was realised at Rs 190 per vehicle instead of at Rs 100 per seated passenger with effect from 1 April 1993 and 1 April 1994 respectively.	1 April 1993 to 31 March 1995	2.78
2	Tax on 3362 special /temporary permits was realised at the rate of Rs 250 instead of at Rs 330 per day from 1 April 1997	April to October 1997	2.75
3	Quarterly tax on 56 Educational institution buses was levied at Rs 110 per vehicle instead of at Rs 500/1000 depending upon seating capacity with effect from 1 April 1997	1997-98	1.35
4	Quarterly tax on vehicles used exclusively for imparting instructions in driving was revised to Rs 500 for light motor vehicles excluding motor car and Rs 1500 for heavy goods passenger vehicles from 1 April 1997. No tax was demanded on 32 vehicles and tax at the pre-revised rate of Rs 190 per vehicle only was collected on 3 vehicles	1997-98	1.11
Total			7.99

On these being pointed out (between October 1994 and December 1998) in audit, the department stated (between January 1997 and December 1998) that deficit tax of Rs 71,074 had since been recovered. Further report has not been received (October 1999).

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

6.7. Short levy of additional surcharge

The rate of additional surcharge payable under the Kerala Motor Vehicles Taxation Act, 1976, on all motor vehicles was enhanced by ten *per cent* with effect from 29 July 1996.

In four motor vehicle check posts*, additional surcharge at enhanced rate was not collected on 458 vehicles between 29 July and 22 November 1996. This resulted in short levy of additional surcharge of Rs 5.10 lakh.

This was pointed out in audit to the department in October and November 1997 and reported to Government in March 1999. Their replies have not been received (October 1999).

* Amaravila, Gopalapuram, Velanthavalam and Walayar

6.8. Short/ non-realisation of additional tax

Under the Kerala Motor Vehicles Taxation Act, 1976, if tax on a motor vehicle is not paid within the period prescribed in Rule 5 of the Kerala Motor Vehicles Rules, 1975, additional tax at the rates specified by the Government shall be paid in addition to tax.

In five Regional Transport offices** and in Sub Regional Transport Office, Alathur, additional tax was not realised in 46 cases and in 405 cases it was realised only at a lower rate for the delay ranging from 1 to 36 months for the payment of tax of Rs 38.34 lakh. These resulted in short/non- realisation of additional tax of Rs 4.30 lakh.

This was pointed out in audit to the department between August and November 1998 and reported to Government in January 1999. Their replies have not been received (October 1999).

** Regional Transport Offices: Kasaragod, Kozhikode, Palakkad, Pathanamthitta and Thiruvananthapuram

Chapter 7

Stamps and Registration Fees

CHAPTER 7

STAMPS AND REGISTRATION FEES

7.1. Results of audit

Test check of the records of the Registration Department conducted during 1998-99 revealed short collection/loss of revenue due to misclassification of documents, etc., amounting to Rs 99.21 lakh in 176 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Misclassification of documents	22	2.46
2	Under-valuation of documents	23	19.39
3	Other lapses	131	77.36
Total		176	99.21

During the course of the year 1998-99, the department accepted short collection of revenue due to misclassification, etc., of Rs 3.71 lakh involved in 60 cases of which 3 cases involving Rs 30,375 had been pointed out in audit during 1998-99 and the rest in earlier years. A few illustrative cases involving Rs 63.22 lakh are given in the following paragraphs.

7.2. Evasion of stamp duty on sale deeds

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

A Housing Co-operative Society at Vithura, constituted for the purpose of procurement of house sites and construction of residential and other buildings purchased 33.37 acres of land for a total consideration of Rs 2.06 crore by means of 20 documents registered (between May 1995 and January 1998) at Principal Sub Registry, Thiruvananthapuram and one document registered (December 1997) at Vithura Sub Registry. 32.34 acres of the land was transferred to joint

possession of a husband and wife who are members of the Society for a consideration of Rs 2.18 crore by means of 50 documents registered (between July 1997 and January 1998) at Vithura Sub Registry without mentioning any purpose and one acre of land was transferred to the wife of the Secretary of the Society for a consideration of Rs 5.5 lakh. Since the transactions did not relate to the bonafide business of the Society it was liable to pay a stamp duty of Rs 42.91 lakh on the document registered but was incorrectly exempted.

This was pointed out in audit to the department in January 1999 and reported to Government in February 1999. Final replies have not been received (October 1999).

7.3. Unauthorised sale of stamp papers

The Kerala Stamp Rules, 1960, stipulate that two or more stamps shall be used in an instrument only if no single stamp of the denomination covered by the duty required by the instrument is available in circulation and no stamp paper of lower denomination should be used so long as it is possible to have one of higher denomination. Under the Kerala Manufacture and Sale of Stamp Rules, 1960, the highest value of stamp, a licenced vendor is authorised to sell is Rs 10,000. Whenever the value of stamp required is higher it shall be sold at the treasury by the Treasurer who is the *ex-officio* stamp vendor and a licenced vendor shall not supply the required stamp by sale of number of stamps of lower denominations. In case, a vendor acts against this stipulation his commission on this account shall be credited to the revenue of the State.

In 15* Sub Registry Offices, on 2,178 instruments each requiring stamp duty of over Rs 10,000 registered during 1994 to 1997, stamp papers of denominations of Rs 5,000 and below sold by licenced vendors were used instead of using stamp papers of higher denominations sold by treasury. However, no action was taken by the registering authorities to get the commission on the stamp paper so sold credited to Government. Loss of revenue due to payment of commission on these unauthorised sale worked out to Rs 9.37 lakh.

This was pointed out in audit to the department between July 1996 and January 1999 and reported to Government in February 1999. Final replies have not been received (October 1999).

*Chalai, Karakulam, Kazhakuttam, Malayinkeezh, Nedumangad, Nemom, Ooruttambalam, Pattom, Pothencode, Sulthanbathery, Sasthamangalam, Thiruvallam, Thiruvananthapuram, Vellarada and Venganoor.

7.4. Short levy of stamp duty and registration fee

As per Section 28 of the Kerala Stamp Act, 1959, the consideration, if any, and all other facts and circumstances affecting the chargeability of any instrument with duty shall be fully and truly set forth in the document. Section 45B of the Act provides that where the registering authority has reason to believe that the value of the property or the consideration has not been fully and truly set forth in the document, he may after registering such document, refer the same to the Collector for determination of the value or consideration and the proper duty payable thereon.

a) In Principal Sub Registry, Thiruvananthapuram an agreement registered (July 1997) between a company engaged in the construction and sale of apartments and commercial buildings and an individual contained another distinct matter, an exchange also. Under it, the company was given permission to construct a six storeyed commercial building complex in twenty cents[#] of land owned by the second party. The company had absolute right to sell the apartments to prospective buyers, excluding an area of 11,000 sq. ft to be assigned to the second party in exchange for the rights conferred to the company. Stamp duty and registration fee for the exchange was levied for a consideration of Rs 1 lakh shown in the document as the value of 11,000 sq. ft. of the building assigned to the second party. As the building was of first class quality construction, the minimum cost of construction worked out to Rs 55 lakh. The under-valuation resulted in short levy of stamp duty and registration fee of Rs 8.37 lakh.

This was pointed out in audit to the department in January 1999 and reported to Government in February 1999; their replies have not been received (October 1999).

b) In Sub Registry, Pattom, a document was registered (August 1997) for conveyance of 18.5 cents of land (adjacent plots of 11 cents and 7.5 cents) in Pattom village, levying stamp duty and registration fee on the consideration of Rs 1.80 lakh. However, as per the agreement executed in November 1995 for sale of 11 cents of the same land the value was Rs 90,000 per cent. Accordingly the value of 18.5 cents worked out to Rs 16.65 lakh. In another case, in Sub Registry, Pattom, by an agreement registered in April 1997, the executant agreed to sell 17 cents of land to one Smt. Sudhakumari, wife of Sri. Vidyadharan or to her nominee for a consideration of Rs 3.4 lakh. However, the conveyance deed of the land to Sri. Vidyadharan for a consideration as Rs 1.7 lakh was registered (July 1997) in Sub Registry, Thiruvananthapuram. Thus under-valuation of Rs 16.55 lakh in the two documents registered resulted in short levy of stamp duty and registration fee of Rs 2.57 lakh.

[#] 1 cent = 435.60 square feet

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On these being pointed out (November 1998) in audit, the department stated (August 1999) that final orders had been issued for realisation of the deficit amount in the first case and that the District Registrar had been directed to take *suo motu* action for realisation of the deficit amount in the second case. Further report has not been received (October 1999).

The cases were reported to Government in December 1998; their reply has not been received (October 1999).

Chapter 8

Taxes and Duties on Electricity

CHAPTER 8

TAXES AND DUTIES ON ELECTRICITY

8.1. Results of audit

Test check of the records of the Office of the Chief Electrical Inspector conducted in audit during 1998-99 revealed non-levy/short realisation of revenue amounting to Rs 140.08 lakh in 3 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Non-remittance of royalty	1	103.87
2	Non-levy of electricity duty	1	35.98
3	Other lapses	1	0.23
	Total	3	140.08

During the course of the year 1998-99, the department accepted under-assessment of Rs 24.19 lakh in one case pointed out in audit during 1998-99 and recovered the amount. One case involving Rs 24.19 lakh is given in the following paragraph.

8.2. Non-demand of electricity duty

Under the Kerala Electricity Duty Act, 1963, every consumer taking supply of energy at 11 KV and above shall pay every month to Government a duty at the rate of 10 paise per unit of energy consumed. Where a licensee to whom energy is supplied by the Kerala State Electricity Board for supply to others, himself consumes any part of the energy, he shall be deemed to be a consumer in respect of the energy so consumed.

It was noticed (January 1999) during audit of the records of the Chief Electrical Inspector, Thiruvananthapuram, that Cochin Port Trust, a licensee to whom energy is supplied by the Kerala State Electricity Board for supply to others, consumed 24.19 million units of energy during the period from 1994-95 to 1997-98, but duty on the energy so consumed was not demanded by the department. This resulted in non-demand of electricity duty of Rs 24.19 lakh.

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On this being pointed out (January 1999) the department stated (April 1999) that the licensee had remitted the duty in March 1999.

The case was reported to Government in March 1999; their reply has not been received (October 1999).

Chapter 9

Forest Receipts

CHAPTER 9

FOREST RECEIPTS

9.1. Results of audit

Test check of the records of Offices of the Forest Department conducted in audit during 1998-99 revealed non-levy/short realisation of revenue amounting to Rs 340 lakh in 51 cases which may broadly be categorised as under.

Sl. No.	Category	Number of cases	Amount (In lakh of rupees)
1	Short /non-realisation of value of forest produce	11	101.28
2	Short/non-demand of lease rent on forest land	8	145.12
3	Loss in auction/re-auction/disposal of forest produce, short/non-realisation of penalty and other charges	19	66.65
4	Other lapses	13	27.86
Total		51	340.91

During the course of the year 1998-99, the department accepted under-assessments, etc., of Rs 200.04 lakh involved in 42 cases, of which 31 cases involving Rs 172.63 lakh had been pointed out in audit during 1998-99 and the rest in earlier years. A few illustrative cases involving Rs 189.18 lakh are given in the following paragraphs.

9.2. Non-realisation of losses in re-auction from defaulting bidders

According to the terms and conditions prescribed in the notifications under which timber, firewood, etc., are sold in auction by the Forest Department through its Depots, the successful bidder has to remit the bid amount and remove the items within a specified time. In the event of breach of any of the conditions by the contractor, the items would be re-auctioned and the bidder shall be responsible for and shall make good to the Government any loss which the Government may sustain on any such re-auction.

Scrutiny of records in 20 Forest Divisions* revealed that the losses sustained by the Government in the re-auction of timber conducted between November 1993 and July 1998 were not demanded from defaulting contractors in 120 cases. This resulted in non-realisation of Rs 162.25 lakh.

On this being pointed out (June 1994 and December 1998) in audit, the department stated (between May 1996 and January 1999) that demand had since been raised in 57 cases. Further report has not been received (October 1999).

The case was reported to Government in May 1999; their reply has not been received (October 1999).

9.3. Short realisation of sales tax and incorrect release of bank guarantee

It has been judicially held* that if the movement of goods from one State to another is made independently of contract of sale then it would not attract provisions of Section 3(a) of the Central Sales Tax Act. Hence on sandalwood sold by Forest Department by auction without any contractual obligation for transportation to other States sales tax at 12 *per cent* is leviable.

a) In Forest Division, Munnar, sales tax, on sandal wood valued at Rs 1.24 crore sold in auction (February 1996) and removed out of the State without any contractual obligation was realised at 4 *per cent* instead of at 12 *per cent*. This resulted in short realisation of sales tax of Rs 9.69 lakh.

On this being pointed out the department stated that since the goods were moved to other States, it should have been treated as inter-State sale. The contention of the department is not correct since no contractual obligation was involved and the sale was completed in Kerala itself.

b) In another case in Forest Division Munnar, although sales tax at 12 *per cent* was demanded from the successful bidder from outside the State in the sandalwood auction (August 1995) the bidder obtained an interim direction from the High Court of Kerala to remit the sales tax at four *per cent* and to

* Achencoil, Chalakudy, Kannur, Konni, Kothamangalam, Malayattoor, Mannarkad, Nenmara, Nilambur, Palakkad, Thenmala, Thrissur, Vazhachal, Wayanad(North), and Wayanad(South)

Timber Sales Divisions, Kozhikode, Perumbavoor and Punalur

Wild Life Divisions, Parambikulam and Sulthanbathery

* Similipahar Forest Development Corporation Vs State of Orissa 96 STC 627 (Orissa High Court)

furnish a bank guarantee for the differential sales tax of eight *per cent* pending final decision. A decision on the OP is still pending, but the bank guarantee for Rs 1.31 lakh was released by the division in September 1996 on production of a declaration in Form C. This resulted in irregular release of bank guarantee of Rs 1.31 lakh, thereby jeopardising a chance of recovery.

The case was pointed out in audit to the department in March 1997. Final reply has not been received (October 1999).

The cases were reported to Government in November 1998; their replies have not been received (October 1999).

9.4. Unauthorised remission of revenue

Under the Kerala Forest Code, sale of timber or other forest produce without conducting an auction requires sanction of the Government. Sanction of the Government is issued in the form of a Government order under the orders of Governor and sanction involving financial implication is required to be issued with the concurrence of the Finance Department. Government as a policy do not entertain request for supply of timber from depots other than through regular sale. Supply to sister departments and public sector undertakings is made at schedule rate* or at the highest price fetched in auction in a sale depot during the period of 6 months immediately preceding, which ever is higher, plus centage charge#.

Mention was made in paragraphs 8.4 and 8.6 of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1998 (Revenue Receipts) about loss due to supply of timber without proper sanction of Government.

In Timber Sales Division, Perumbavoor, while supplying (between October 1997 and March 1998) 116.11 cubic metres of timber valuing (excluding taxes) Rs 28.30 lakh to the Kerala Tourism Development Corporation, no centage charge was realised on the basis of a direction (May 1997) in a Government letter which do not have the approval of the Finance Department and the Governor. Remission of centage charge without specific sanction of Government resulted in unauthorised remission of revenue of Rs 6.99 lakh.

This was pointed out in audit to the department in May 1998; final reply has not been received (October 1999).

* Uniform minimum price for sale from depots and other places, of timber and other forest produce collected by Forest Department taking into account seigniorage rate, collection and transport charges and other incidental charges

Percentage of value charged to cover establishment charges, supervision charges, etc.

The case was reported to Government in August 1998; their reply has not been received (October 1999).

9.5. Non-demand of penal interest

Under a lease deed executed (July 1980) between a Government company and the Government of Kerala 320.34 hectares of land under the Forest Division, Palakkad was leased out to the company for a period of fifty years from 29 November 1979 for the purpose of construction of cement factory and colony for workers subject to payment of lease rent as decided by Government from time to time. The agreement stipulated that if the lessee failed to remit the lease rent before the end of March every year, extension of time can be granted by specified authorities and that for the period of extension the lessee shall pay a penal interest at 12 per cent per annum.

In Forest Division, Palakkad, lease rent of Rs 9.03 lakh, for the period from 18 December 1987 to 31 March 1992 was remitted by the Company only on 16 August 1996, but penal interest on delayed payment pertaining to the period from 1 April 1993 to 15 August 1996 was not demanded and collected. This resulted in short realisation of penal interest of Rs 3.66 lakh.

On this being pointed out (August 1997) in audit, the department stated (October 1998) that the company had remitted the penal interest of Rs 3.66 lakh in March 1998.

The case was reported to Government in May 1999; their reply has not been received (October 1999).

9.6. Short demand of royalty

Under the agreements executed (between 1958 and 1988) between the Government of Kerala and a private limited company, the company was allowed to extract and remove a specific quantity of raw materials annually from forest lands on payment of royalty fixed from time to time. The royalty (inclusive of all taxes) of bamboo was fixed (July 1995) at Rs 350 per tonne for the supplies from 27 October 1993 to 26 October 1995 as against Rs 250 per tonne in force up to 26 October 1993.

In Forest Division, Nilambur (South), royalty was realised at the rate of Rs 250 per tonne instead of Rs 350 per tonne on 4,503.42 tonne of bamboo supplied between November 1993 and May 1994. This resulted in short demand of royalty of Rs 2.94 lakh.

On this being pointed out (September 1997) in audit, the Divisional Forest Officer while accepting the audit observation stated (July 1998) that the matter was taken up with the Chief Conservator of Forests. Further report has not been received (October 1999).

The case was reported to Government in April 1999; their reply has not been received (October 1999).

9.7. Short remittance of lease rent

On Forest lands owned by Government and leased out to autonomous bodies, corporations and other public sector undertakings, lease rent is at the rate prescribed by Government from time to time.

In Forest Division, Ranni, Rs 49.73 lakh was demanded from the Plantation Corporation of Kerala towards lease rent at the rate of Rs 475 per hectare per annum on 361.61 to 699.35 hectares of forest land in the possession of the Corporation between 1 January 1981 to 31 March 1997. The Corporation remitted (March 1997) Rs 37.77 lakh after adjusting earlier payments towards lease rent made by them. However, while doing so, they adjusted the payment made from 17 April 1974 instead of adjusting the payment made from 1 January 1981. This resulted in short remittance of lease rent of Rs 2.34 lakh.

On this being pointed out (June 1998) in audit, the department stated (November 1998) that additional demand of Rs 2.34 lakh had been raised. Further report has not been received (October 1999).

The case was reported to Government in April 1999; their reply has not been received (October 1999).

Chapter 10

Other Non-Tax Receipts

CHAPTER 10

OTHER NON-TAX RECEIPTS

10.1. Receipts from guarantee commission

Highlights

- ♦ Guarantee commission of Rs 3152.32 lakh was pending realisation as on 31 March 1998 from 28 institutions.

(Paragraph 10.1.5)

- ♦ The commission payable on guaranteed interest component of loan was not assessed by any of the beneficiary institutions. The commission short assessed in respect of 5 institutions alone amounted to Rs 121.67 lakh.

(Paragraph 10.1.6)

- ♦ Rs 1433.46 lakh paid by Government to discharge its liabilities due to invocation of guarantees has not been recovered from the defaulters. Interest of Rs 753.25 lakh due from defaulters has also not been demanded.

(Paragraph 10.1.7)

- ♦ Rebate of Rs 70.28 lakh for prompt payment of guarantee commission availed *suo motu* in violation of Government instructions has not been got refunded and Rs 9.79 lakh was refunded towards rebate to an institution which did not remit guarantee commission within due date.

(Paragraph 10.1.8)

- ♦ **Non-maintenance of registers for recording transactions relating to guarantee commission by Heads of Departments/ Administrative Departments resulted in follow-up action in realisation of guarantee commission becoming ineffective.**

(Paragraph 10.1.9)

10.1.1. Introduction

Under Article 293 of the Constitution of India, the executive power of the State Government extends, *inter alia*, to the giving of guarantees on the security of consolidated fund of the State within such limits as may be fixed by the State Legislature. No law has so far been passed by the Kerala State Legislature laying down the limits up to which government may give guarantee.

Government give guarantee on funds raised by Statutory Corporations, Public Sector Undertakings, Government Companies, Local Bodies, etc., from financial institutions and open market. The guarantee given by the Government can be invoked in case of failure on the part of the principal debtor to repay the loans guaranteed by the Government. Institutions on behalf of whom guarantees are given by Government are required to pay guarantee commission at the rates prescribed by the Government from time to time.

Public Sector Undertakings, Statutory Corporations, Boards, etc., on whose behalf guarantee is issued and which are expected to work on commercial basis and make profit have to pay guarantee commission at 0.75 *per cent per annum* on the actual balance outstanding at the end of each financial year with rebate of 0.25 *per cent per annum* for prompt payment. If interest is also guaranteed, commission will be calculated on the loan amount guaranteed and the interest thereon.

10.1.2. Scope of Audit

With a view to ascertain the efficacy of the system of levy, collection and accountal of guarantee commission, a review covering the period from 1992-93 to 1997-98 was conducted between October 1998 and February 1999 in seven administrative departments, Office of the Director of Industries and Commerce and 35 beneficiary institutions. The results of the review are given in the following paragraphs.

10.1.3. Guarantees given by Government

Details of the guarantees given by government for repayment of loans etc., raised by Statutory Corporations, Government Companies, Local Bodies and other Institutions as on 31 March 1998 were as follows.

Nature of loan		Maximum amount guaranteed (Principal only)	Guaranteed sums outstanding as on 31 March 1998	
			Principal	Interest
(In lakh of rupees)				
a	Working capital raised by the Kerala Financial Corporation and dividends thereon	7900.41	7900.41	-
b	Loans, Debentures, bonds etc. raised by			
	1. Statutory Corporations and Boards	257931.09	109255.84	224.45
	2. Government Companies	187369.71	85022.00	13356.09
	3. Co-operative banks and Societies	167707.82	104392.80	155.13
	4. Municipal Corporations, Townships and Other Local Bodies	28269.50	8922.44	-
	5. Other Institutions	16510.69		-
	Total	665689.22	315493.49	13735.67

The Government have also guaranteed payment of minimum dividend of 3.5 per cent on the share capital up to Rs 10 crore and 7.5 per cent on the share capital beyond Rs 10 crore in respect of the Kerala Financial Corporation.

10.1.4. Budget estimates and actuals

The Budget estimates and actual amount of guarantee commission realised during the years from 1992-93 to 1997-98 were as under.

Year	Budget estimates	Actuals	Variation	Percentage of variation
(In lakh of rupees)				
1992-93	200.02	162.60	(-) 37.42	(-) 18.71
1993-94	177.02	118.95	(-) 58.07	(-) 32.80
1994-95	177.02	154.51	(-) 22.51	(-) 12.72
1995-96	150.02	474.61	(+) 324.59	(+) 216.36
1996-97	151.02	501.67	(+) 350.65	(+) 232.18
1997-98	160.05	2297.35	(+) 2137.30	(+) 1335.40

Huge variations ranging from (-) 32.8 *per cent* and (+) 1335.40 *per cent* between Budget estimates and actuals are evidently due to the fact that there is no scientific system of working out estimates. From 1995-96 onwards estimates were much less than the actuals of the previous years.

10.1.5. *Non-realisation of Guarantee commission*

Guarantee commission is required to be paid by the beneficiaries on half yearly basis. However, only 6[#] out of 35 beneficiary institutions whose records were test checked had paid the guarantee commission regularly. Guidelines issued (November 1989 and January 1994) for the levy of guarantee commission for various types of guarantees specify that extension/enhancement of guarantee would be considered only if the outstanding guarantee commission was remitted to government in full and if in any case relaxation is given, reason for the same should be specified in the Government order. Collection of commission from one institution was waived by Government. Guarantee commission pending realisation from the remaining 28 institutions as on 31 March 1998 worked out to Rs 3152.32 lakh. Test check of the commission pending realisation revealed the following.

(a) The Kerala State Housing Board secures loans from Housing Urban Development Corporation, Housing Development Finance Corporation and Banks on Government guarantee for the implementation of various housing schemes and cash loan schemes. Though liability for payment of commission in these cases are passed on and the amount collected from the beneficiaries of the schemes, the guarantee commission is not being remitted to Government promptly. Guarantee commission of Rs 24.28 lakh due for the period from 1985-86 to 1993-94 was remitted to Government only on 15 February 1996. Besides guarantee commission of Rs 215.94 lakh due from 1994-95 to 1997-98 has not been remitted so far (May 1997).

(b) Government in April 1984 and February 1992 provided guarantees for availing cash credit facility of Rs 13 crore and Rs 30 crore respectively by the Kerala State Co-operative Marketing Federation Ltd. The guarantee was extended from time to time without realising guarantee commission. Guarantee commission of Rs 109.53 lakh was outstanding as on 31 March 1997. Similarly, in the case of the Kerala State Handloom Development Corporation, Kannur, Government provided in May 1989 guarantee to M/s Syndicate Bank for availing cash credit accommodation of Rs 173 lakh initially for a period of 3 years. It was further extended in 1992, 1993 and 1995 without realising guarantee commission of Rs 1.86 lakh due as on 31 March 1993.

[#] Kerala Small Industries Development Corporation, Kerala State Co-operative Housing Federation, Kochi, Kerala Financial Corporation, Thiruvananthapuram, Kerala Urban Development Corporation, Kozhikode, Seetharam Mills, Thrissur and Kerala Co-operative Rubber Marketing Federation, Ernakulam

(c) Three year period of a Government guarantee, provided to M/s Syndicate Bank on behalf of the Kerala State Handloom Development Corporation Limited, for availing cash credit accommodation of Rs 173 lakh, without guarantee commission expired on 9 May 1992. While granting (September 1992, August 1993 and April 1995) extensions to the guarantee, usual terms and conditions of guarantee were made applicable from 10 May 1992. But the institution computed guarantee commission only from 1993-94. Failure to assess guarantee commission due from 10 May 1992 to 31 March 1993 on the principal and interest guaranteed resulted in short assessment of Rs 1.86 lakh.

10.1.6. Non-inclusion of interest on loan for calculation of guarantee commission

If payment of interest is also guaranteed by Government, commission had to be calculated on the loan amount guaranteed and interest thereon.

A test check of the records of 35 institutions revealed that none of the beneficiary institutions had paid the guarantee commission on the interest due on loan. The guarantee commission on the interest on loans guaranteed by Government in respect of 5 institutions worked out to Rs 121.67 lakh as detailed below.

Sl. No.	Name of institution	Number of loans	Guarantee commission due on interest (In lakh of rupees)	Period
1	Greater Cochin Development Authority ✓	11	91.66	1985-86 to 1996-97
2	Small Industries Development Corporation, Thiruvananthapuram	3	4.11	1988-89 to 1996-97
3	Kerala State Co-operative Housing Federation, Kochi ✓	10	3.76	1991-92 to 1996-97
4	Thrissur Co-operative Spinning Mills Ltd., Vazhani	2	21.36	1996-97 and 1997-98
5	Calicut Development Authority, Kozhikode ✓	2	0.78	1996-97 and 1997-98
	Total	28	121.67	

10.1.7. *Invocation of guarantee*

(i) Guarantees given by Government are invoked in cases of failure on the part of principal debtor to repay the loans guaranteed by Government.

Between 1992-93 and 1997-98 Government had paid a sum of Rs 1182.15 lakh in discharge of liabilities on behalf of the principal debtors due to invocation of guarantee against Rs 3709.69 lakh received towards commission.

Year	Amount (In lakh of rupees)
1992-93	115.26
1993-94	51.43
1994-95	20.24
1995-96	115.22
1997-98	880.00
Total	1182.15

Thus a substantial share of the guarantee commission received every year is spent on discharge of liabilities on guarantee. The amount so spent has not been recovered from the concerned defaulters.

(ii) As the payments by Government were due to the failure of the loanee institutions to repay the loans, the amounts so paid should have been treated as loans given by Government to the respective institutions from the date of discharge of liability and the amount together with interest should have been recovered from them. The amount of interest so recoverable for the period from 1992-93 to 1997-98 from the institutions for the liabilities of Rs 2068.99 lakh discharged by Government during the period from 1973-74 to 1997-98 would work out to Rs 753.25 lakh. No action has however been initiated for the purpose.

(iii) The government have also guaranteed payment of minimum dividend of 3.5 *per cent* on the share capital up to Rs 10 crore and 7.5 *per cent* on the share capital beyond Rs 10 crore in respect of the Kerala Financial Corporation. The total payment made by Government on this account was Rs 251.51 lakh of which Rs 0.20 lakh only have been recovered so far. No action is seen taken to recover the balance.

10.1.8. *Incorrect availment/refund of rebate*

The loanees who make prompt payment of the commission are entitled to refund of a rebate at 0.25 *per cent* during the next financial year. Government in December 1983 and April 1987 specified that loanees should not avail the rebate for prompt payment by themselves and that it will be refunded only in the next financial year, after the promptness of payment is got verified by the controlling

departments which were responsible for watching the payment of guarantee commission.

(a) Test check of the records of 5 beneficiary institutions revealed that while remitting guarantee commission the institutions themselves deducted rebate at the rate of 0.25 per cent from it. Rebate so incorrectly availed by these institutions amounted to Rs 70.28 lakh as given below.

Name of Institution	Rebate availed (In lakh of rupees)	Period
Kerala Urban Development Finance Corporation	48.25	Between 1991-92 and 1997-98
Cashew Development Corporation, Kollam	7.88	1992-93
Kerala State Construction Corporation, Kochi	0.21	1997-98
Keltron Crystals, Kannur	0.70	1985-86 to 1990-91
Kerala State Farming Corporation, Punalur	13.24	1985-86 to 1996-97
Total	70.28	

As the commission due was not paid in full on due dates the amount of rebate of Rs 70.28 lakh availed by them was not admissible. No action has been initiated to recover the amount.

(b) The Kerala State Co-operative Housing Federation, Kochi was incorrectly allowed (December 1997 and February 1998) a rebate of Rs 9.79 lakh for prompt payment of guarantee commission during 1993-94 to 1996-97 though the guarantee commission for that period was not remitted within the due dates prescribed.

10.1.9. *Non-maintenance of registers and records*

Government issued (1987, 1989 and 1994) circular instructions for the levy and accountal of guarantee commission and for the maintenance of necessary registers for this purpose. However, it was noticed that the Administrative Departments including Finance Department which issued the circulars and many of the beneficiary institutions had not maintained any register as required in the circulars.

In the absence of maintenance of a proper register, the departments could not assess commission due to Government on guarantees given to various institutions

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year after year and watch their realisation. Consequently, Government was also not in a position to assess the actual amount of guarantee commission due each year and the guarantee commission including arrears, if any, realisable from each institution.

The above points were reported to Government in June 1999; their reply has not been received (October 1999).



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Thiruvananthapuram,

The 18 DEC 1999

Countersigned



(V.K. SHUNGLU)

Comptroller and Auditor General of India

New Delhi,

The 27 DEC 1999