



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

FOR THE YEAR ENDED 31 MARCH 1996

NO. 1  
(REVENUE RECEIPTS)

GOVERNMENT OF UTTAR PRADESH



## ***Table of Contents***

	<i>Reference to Paragraph</i>	<i>Page(s)</i>
<b>PREFATORY REMARKS</b>		VII
<b>OVERVIEW</b>		VIII-XIII
<b>CHAPTER 1 GENERAL</b>		
Trend of revenue receipts	1.1	2
Variations between Budget estimates and actuals	1.2	4
Cost of collection	1.3	5
Arrears in assessments	1.4	6
Analysis of collection	1.5	9
Arrears of revenue	1.6	10
Results of audit	1.7	11
Outstanding Inspection Reports and audit observations	1.8	12
<b>CHAPTER 2 TRADE TAX</b>		
Results of audit	2.1	18
Levy of Trade Tax on Foodgrains, Pulses and Oil-seeds	2.2	19

## ***Table of Contents***

Non-levy of tax	2.3	27
Non-levy of additional tax	2.4	30
Mistakes in computation of tax	2.5	31
Short-levy of tax due to application of incorrect rate	2.6	32
Turnover escaping assessment	2.7	35
Irregular exemption	2.8	36
Misuse of declaration forms	2.9	38
Non/short-levy of tax due to misclassification of goods	2.10	39
Non-imposition of penalty	2.11	40
<b>CHAPTER 3</b>		
<b>STATE EXCISE</b>		
Results of audit	3.1	51
Loss of revenue due to application of incorrect rate of export duty/ export pass fee	3.2	51
Non-levy of interest on belated payments	3.3	53
Short-levy of duty due to non-adoption of actual strength of Indian Made Foreign Liquor	3.4	54



## ***Table of Contents***

Short-realisation of additional duty	3.5	55
Short-levy of excise duty due to irregular allowance of wastage	3.6	56
Short-realisation of licence fee	3.7	56
<b>CHAPTER-4</b>		
<b>TAXES ON VEHICLES, GOODS AND PASSENGERS</b>		
Results of audit	4.1	61
Non-assessment of Passenger tax in respect of Contract Carriages	4.2	61
Short-realisation of Passenger tax due to non-adoption of prescribed minimum fare	4.3	62
Loss of revenue due to non-assignment of registration mark	4.4	64
Non/Short-realisation of Passenger tax	4.5	65
Non/Short -levy of Passenger tax due to non-adoption of approved trips	4.6	66
Non-assessment of Passenger tax in respect of vehicles plying without permits	4.7	67
Non-levy of Road Tax and Goods Tax	4.8	68

## ***Table of Contents***

---

### **CHAPTER 5 STAMP DUTY AND REGISTRATION FEES**

Results of audit	5.1	73
Short-levy of Stamp Duty due to under-valuation of agricultural/non-agricultural land	5.2	73
Short-levy of Stamp Duty due to mis-classification of instrument	5.3	75
Delay in revision of rate list	5.4	75

### **CHAPTER 6 LAND REVENUE**

Results of audit	6.1	79
Non-recovery of collection charges	6.2	80

### **CHAPTER 7 OTHER TAX RECEIPTS**

#### **A. ELECTRICITY DUTY**

Results of audit	7.1	83
Non-levy of Electricity Duty on electricity supplied to Defence personnel	7.2	83
Non-realisation of Electricity Duty due to non-observance of prescribed procedure	7.3	85

## *Table of Contents*

<b>B. TAX ON PURCHASE OF SUGAR CANE AND ADMINISTRATIVE CHARGES ON SALE OF MOLASSES</b>		
Results of audit	7.4	86
Clearance of sugar without payment of purchase tax	7.5	86
<b>CHAPTER 8 FOREST RECEIPTS</b>		
Results of audit	8.1	91
Extraction and sale of resin	8.2	92
Non-recovery of royalty	8.3	99
Non-realisation of premium and lease rent	8.4	100
Loss due to incorrect calculation of volume of timber	8.5	100
Illicit felling of trees	8.6	101
Non-realisation of royalty	8.7	102
Non-realisation of late fee	8.8	102
Loss of revenue due to non-charging of royalty on actual out turn	8.9	103
Incorrect estimation of out-turn of Khair trees	8.10	104
<b>CHAPTER 9 OTHER DEPARTMENTAL RECEIPTS</b>		
<b>A. Co-operation Department</b>		
Results of audit	9.1	107
Non-short deposit of collection charges	9.2	107
<b>B. Irrigation Department</b>		
Results of audit	9.3	108

## ***Table of Contents***

---

Receipts from Major Irrigation Projects	9.4	108
Short-levy of Stamp duty	9.5	124
Loss of revenue due to delay in repairs of State Tubewells	9.6	125
Faulty revision of demand of water rates	9.7	126
<b>C. Finance Department</b>		
Recoveries of interest on loans and advances	9.8	127

## ***PREFATORY REMARKS***

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This Report for the year ended 31 March 1996 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising Trade Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration Fee, Land Revenue, Electricity Duty, Tax on purchase of Sugarcane, Forest Receipts and Other Departmental 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 1995-96 as well as those noticed in earlier years but could not be included in previous Reports.







# OVERVIEW

*This Report contains 46 paragraphs including four reviews, relating to Non/short-levy of taxes, interest, penalties, etc. involving Rs. 436.18 crores. Some of the major findings are mentioned below:*

## **1. General**

- \* During the year 1995-96, revenue raised by the State Government, both Tax (Rs. 5468.92 crores) and Non-tax (Rs. 2399.41 crores) amounted to Rs. 7868.33 crores as against Rs. 6767.64 crores during the previous year. Receipts under Trade Tax (Rs. 2335.38 crores) and State Excise (Rs. 1158.61 crores) accounted for a major portion of receipts of tax revenue. Under Non-tax revenue, main receipts were from Miscellaneous General Services (Rs. 1162.15 crores), Interest Receipts (Rs. 463.77 crores) and Non-ferrous Mining and Metallurgical Industries (Rs. 148.11 crores). During the year receipts from Government of India, including Grants-in-aid of Rs. 2312.86 crores, aggregated to Rs. 7346.88 crores.*

*The growth rate of tax revenue during the year 1995-96 was 12 per cent as against 18 per cent during the previous year.*

**(Paragraph 1.1)**

- \* Arrears of revenue at the end of 1995-96 under principal heads of revenue amounted to Rs. 3730.67 crores, out of which Rs. 1705.59 crores were outstanding for more than five years.*

**(Paragraph 1.6)**

- \* Test check of records of Trade Tax, State Excise, Taxes on Vehicles,*

*Goods and Passengers, Stamp Duty and Registration Fee, Land Revenue, Electricity Duty, Tax on purchase of Sugarcane, Forest Receipts and Other Departmental Receipts conducted during 1995-96 revealed under-assessment, short-levy, loss of revenue amounting to Rs. 55.27 crores in 1528 cases. During 1995-96, the concerned departments accepted under-assessments etc. of Rs. 22.01 crores involved in 1237 cases, of which 92 cases involving Rs. 15.66 crores had been pointed out during 1995-96 and the rest in earlier years.*

**(Paragraph 1.7)**

- \* *3964 inspection reports (issued upto 31 December 1995) containing 11,078 audit observations with money value of Rs. 397.56 crores were not settled upto June 1996. Of these 1401 inspection reports containing 4495 observations with money value of Rs. 153.38 crores were outstanding for more than five years.*

**(Paragraph 1.8)**

## **2. Trade Tax**

- (i) *A review on 'Levy of Trade Tax on Foodgrains, Pulses and Oil-seeds' revealed the following:*

- \* *Non-observance of prescribed procedure of registration of dealers resulted in loss of revenue to the tune of Rs. 26.95 crores.*

**(Paragraph 2.2.6)**

- \* *Non-imposition of penalty on suppressed turnover resulted in loss of Rs. 13.18 crores.*

**(Paragraph 2.2.7)**



- \* *Non/Short-levy of tax on inter and intra-State sales resulted in loss of revenue and interest to the tune of Rs. 3.33 crores.*

**(Paragraph 2.2.8 and 2.2.9)**

- (ii) *Non-levy of tax on inter-State sale of Rectified Spirit / Alcohol and Denatured Spirit resulted in loss of revenue amounting to Rs. 70.17 lakhs.*

**(Paragraph 2.3 (c)(i) & (ii))**

- (iii) *Application of incorrect rate of tax resulted in short-levy of tax of Rs. 15.63 lakhs and interest amounting to Rs. 17.52 lakhs.*

**(Paragraph 2.6 A)**

- (iv) *Mis-classification of goods led to non/short-levy of tax amounting to Rs. 9.66 lakhs and interest of Rs. 5.55 lakhs in 4 cases.*

**(Paragraph 2.10)**

- (v) *Non-imposition of penalty on irregular purchase of goods from outside the State led to the loss of Rs. 98.28 lakhs.*

**(Paragraph 2.11 (B)(a))**

### **3. State Excise**

- \* *Application of incorrect rate of export duty / pass fee led to loss of revenue amounting to Rs. 13.69 lakhs.*

**(Paragraph 3.2 (a & b))**

- \* *Non-levy of interest on belated payments of excise revenue led to loss of Rs. 11.61 lakhs in 10 cases.*

**(Paragraph 3.3)**

- \* *Short-realisation of additional duty on sale of intoxicant in excess of minimum guaranteed quantity led to loss of excise revenue of Rs. 18.18 lakhs.*

**(Paragraph 3.5)**

**4. Stamp Duty and Registration Fee**

- \* *Under-valuation of agricultural / non-agricultural land by 15 registering authorities resulted in short-levy of Stamp Duty amounting to Rs. 31.37 lakhs in 19 cases.*

**(Paragraph 5.2)**

**5. Tax on Purchase of Sugarcane**

- \* *Clearance was given for sale of sugar without payment of Purchase Tax amounting to Rs. 4.41 crores on Sugarcane by the sugar factories.*

**(Paragraph 7.5)**

**6. Forest Receipts**

**(i)** *A review on 'Extraction and sale of resin' revealed the following:*

- \* *Delay in extraction and collection of resin resulted in loss of revenue amounting to Rs. 52.67 lakhs.*

**(Paragraph 8.2.5)**

- \* *Non-extraction of resin due to non-tapping of channels resulted in loss of revenue amounting to Rs. 7.21 crores.*

**(Paragraph 8.2.8)**

- \* *Non-disposal of 87 241 quintals of resin resulted in loss of revenue amounting to Rs. 10.64 crores.*

**(Paragraph 8.2.13)**

- (ii) *Incorrect calculation of volume of timber resulted in loss of revenue amounting to Rs. 33.63 lakhs.*

**(Paragraph 8.5)**

**7. Other Departmental Receipts**

**A. Irrigation Department**

*A review on 'Receipts from major irrigation projects' revealed the following:*

- \* *Lack of control measures resulted in non-utilisation of available water potential and consequential loss of revenue amounting to Rs. 56.80 crores during 1990-91 to 1994-95.*

**(Paragraph 9.4.6 (a)(b))**

- \* *Illicit cutting of canals resulted in loss of revenue amounting to Rs. 4.45 crores.*

**(Paragraph 9.4.7)**

- \* *Due to non-revision of water rates from 1983 to 1994, the State Government was deprived of additional revenue of Rs. 139.62 crores during 1990-91 to 1994-95.*

**(Paragraph 9.4.8)**

- \* *Non-execution of agreements for supply of water with user units*



*resulted in loss of revenue amounting to Rs. 10.34 crores.*

**(Paragraph 9.4.9 (b))**

- \* *Loss of water in transit beyond the prescribed norms resulted in loss of revenue amounting to Rs. 6.62 crores.*

**(Paragraph 9.4.10 (b))**

**B. Finance Department**

*A review on 'Recoveries of interest on loans and advances' revealed the following:*

- \* *Non-inclusion of penal clause in the terms and conditions of loans resulted in loss of penal interest amounting to Rs. 3.48 crores.*

**(Paragraph 9.8.3(a))**

- \* *Non-levy of penal interest resulted in loss of revenue of Rs. 3.91 crores.*

**(Paragraph 9.8.4)**

- \* *Erroneous computation of interest on loans sanctioned to PICUP during 1980-81 to 1986-87 led to loss of Rs. 1.10 crores.*

**(Paragraph 9.8.6 (b))**

- \* *Non-execution of agreements with loanes resulted in non-realisation of interest amounting to Rs. 24.19 crores.*

**(Paragraph 9.8.7)**

- \* *Erroneous conversion of loan into Grants-in aid by U.P. Jal Nigam led to loss of interest of Rs. 2.44 crores.*

**(Paragraph 9.8.8 (c))**







	<i>Reference to</i>	
	<i>Paragraph</i>	<i>Page(s)</i>
<b>CHAPTER 1</b>		
Trend of revenue receipts	1.1	2
Variations between Budget estimates and actuals	1.2	4
Cost of collection	1.3	5
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Results of audit	1.7	11
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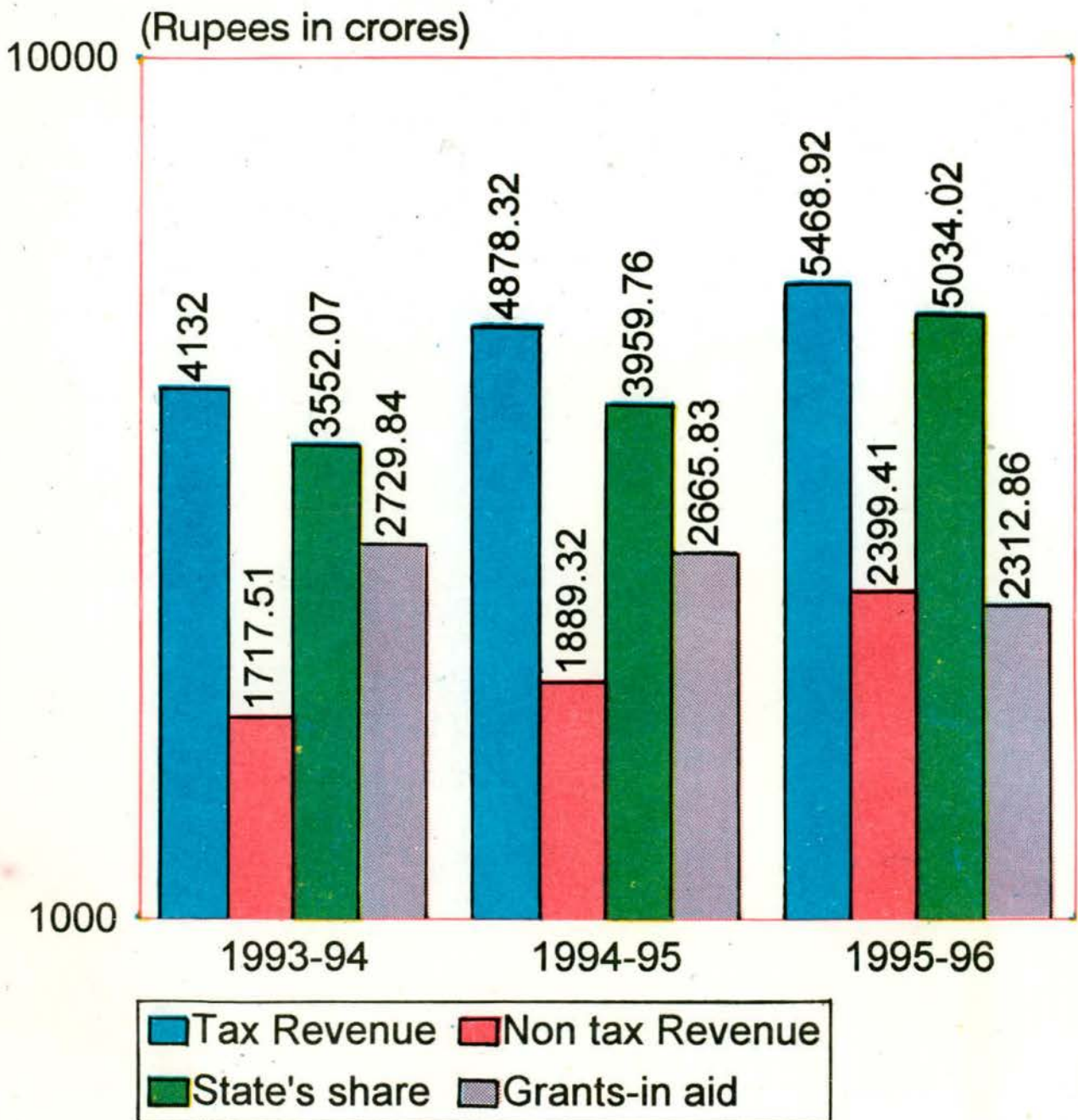




CHART I

## TREND OF REVENUE RECEIPTS

1993-94 TO 1995-96



(Reference: Prargraph 1.1; Page 2 )



## CHAPTER-1

### GENERAL

#### 1.1 Trend of revenue receipts

The tax and non-tax revenue raised by Government of Uttar Pradesh during the year 1995-96, State's share of divisible Union taxes and grants-in-aid received from Government of India during the year and corresponding figures for the preceding two years are given below and also exhibited in Chart I:

		1993-94	1994-95	1995-96
		(in crores of rupees)		
<b>I.</b>	Revenue raised by the State Government			
(a)	Tax revenue	4132.00	4878.32	5468.92
(b)	Non-tax revenue	1717.51	1889.32	2399.41
	<b>Total</b>	<b>5849.51</b>	<b>6767.64</b>	<b>7868.33</b>
<b>II.</b>	Receipts from the Government of India			
(a)	State's share of divisible Union taxes	3552.07	3959.76	*5034.02
(b)	Grants-in-aid	2729.84	2665.83	2312.86
	<b>Total</b>	<b>6281.91</b>	<b>6625.59</b>	<b>7346.88</b>
<b>III.</b>	Total receipts of the State (I+II)	12131.42	13393.23	15215.21
<b>IV.</b>	Percentage of I to III	48	51	52

(i) The details of tax revenue for the year 1995-96 along with the figures for the preceding two years are given in the table and also exhibited in Chart II:

\* For details, please see 'Statement No. 11 - Detailed Accounts of Revenue by Minor-Heads' in the Finance Accounts of the Government of Uttar Pradesh for the year 1995-96. Figures under the head "0021 - Taxes on Income other than Corporation Tax - share of net proceeds assigned to State" booked in the Finance Accounts under 'A-Tax Revenue' have been excluded from Revenue raised by the State and included in State's share of divisible Union Taxes in this Statement.

Revenue Head	1993-94	1994-95	1995-96	Increase (+) or decrease (-) in 1995-96 with reference to 1994-95	Percentage of increase or decrease with reference to 1994-95.
(in crores of rupees)					
1. Trade Tax	1755.26	2046.79	2335.38	(+) 288.59	14.10
2. State Excise	957.04	1104.64	1158.61	(+) 53.97	4.89
3. Stamp Duty and Registration Fees	531.62	631.54	734.78	(+) 103.24	16.35
4. Tax on Sale of Motor Spirit and Lubricants	336.58	501.00	558.52	(+) 57.52	11.48
5. Taxes on Goods and Passengers	194.55	194.79	228.37	(+) 33.58	17.24
6. Taxes on Vehicles	98.49	108.06	125.46	(+) 17.40	16.10
7. Tax on Purchase of Sugarcane	57.40	57.64	72.87	(+) 15.23	26.42
8. Taxes and Duties on Electricity	56.43	68.69	75.71	(+) 7.02	10.22
9. Land Revenue	47.76	53.80	62.53	(+) 8.73	16.23
10. Other Taxes on Income and Expenditure	00.001	2.88	0.03	(-) 2.85	(-) 98.96
11. Taxes on Immovable Properties other than Agricultural Land	00.06	7.19	0.87	(-) 6.32	(-) 87.90
12. Other Taxes and Duties on Commo- dities and Services	96.81	101.30	112.97	(+) 11.67	11.52
13. Others (Hotel receipts and corporation tax)	—	—	2.82	(+) 2.82	—
Total	4132.00	4878.32	5468.92	(+) 590.60	12.11

Reasons for variation where it was substantial, though called for from the State Government, have not been received (August 1996).

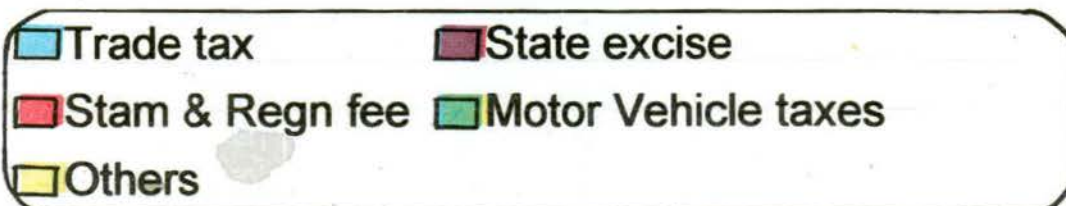
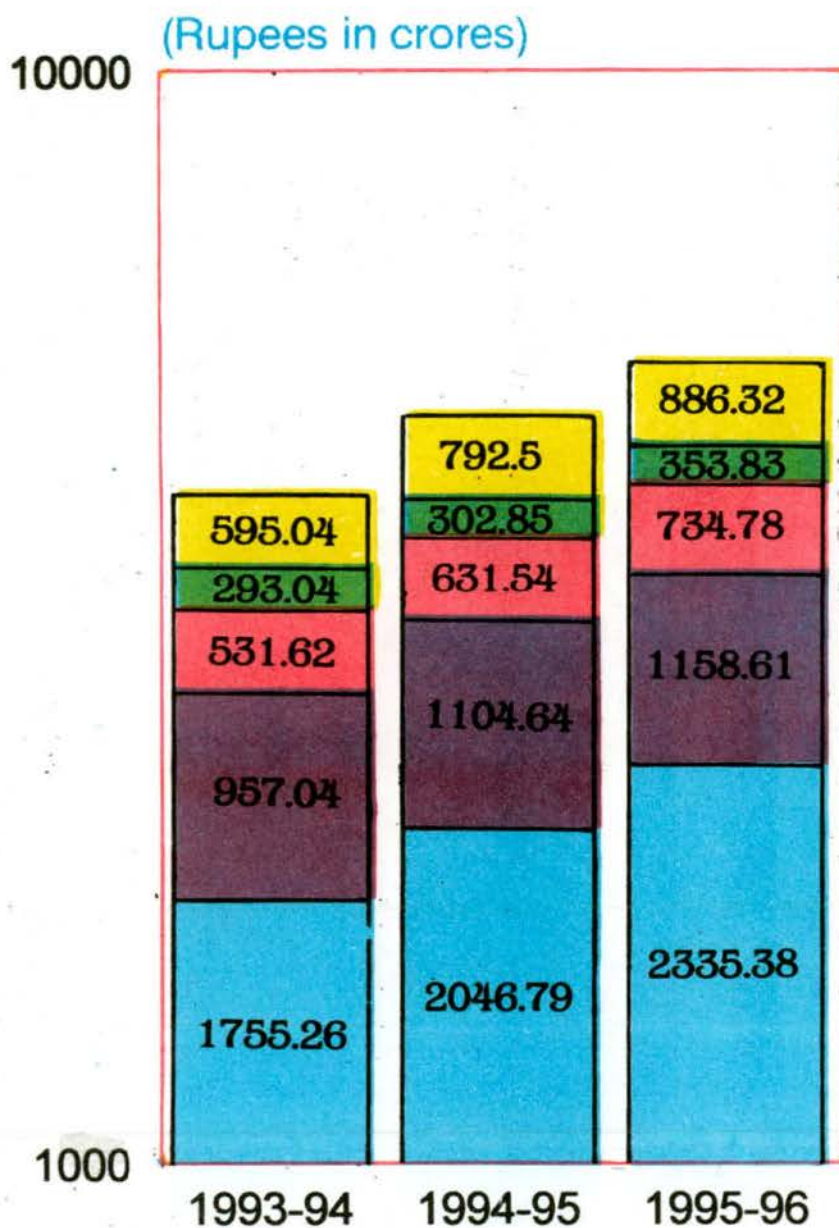
(ii) The details of non-tax revenue for the year 1995-96 alongwith the figures for the preceding 2 years are exhibited in the table and also shown in Chart III:

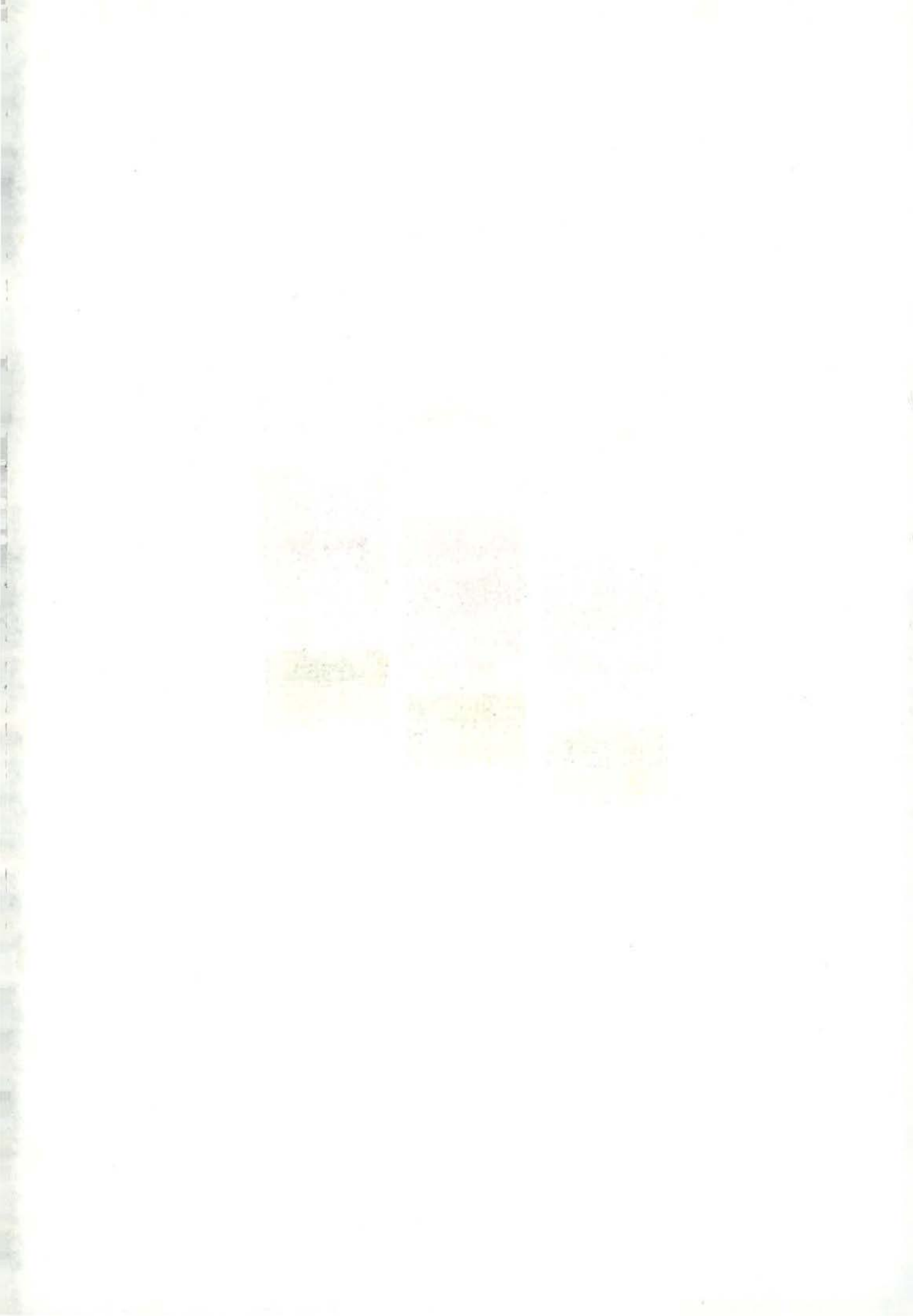


CHART II

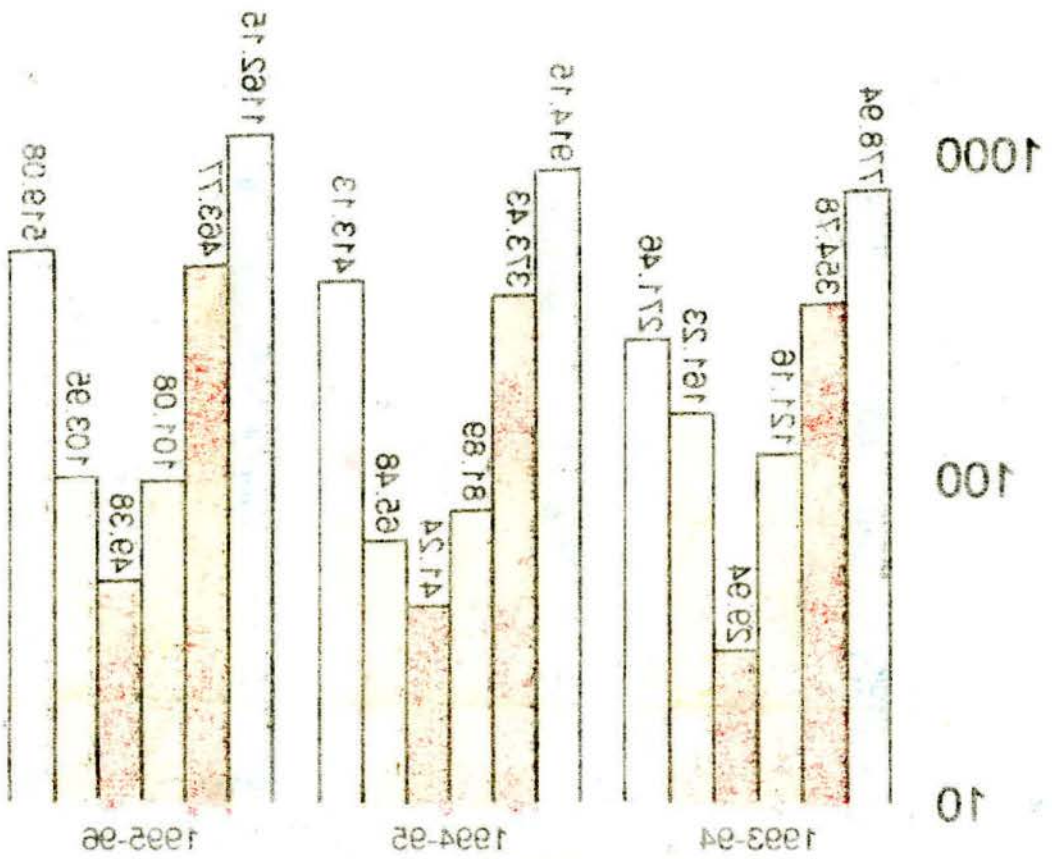
# GROWTH OF TAX REVENUE

1993-94 TO 1995-96





(Rupees in crores)

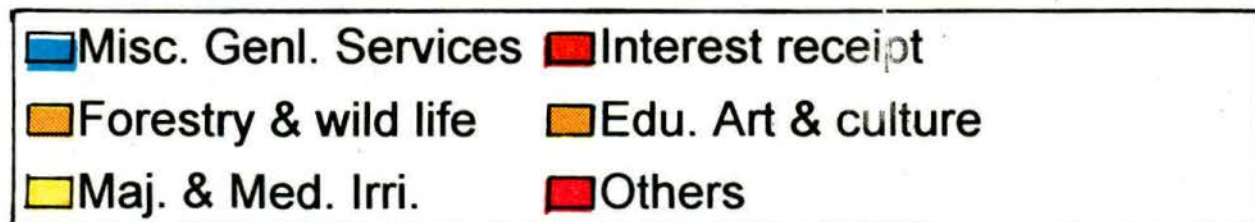
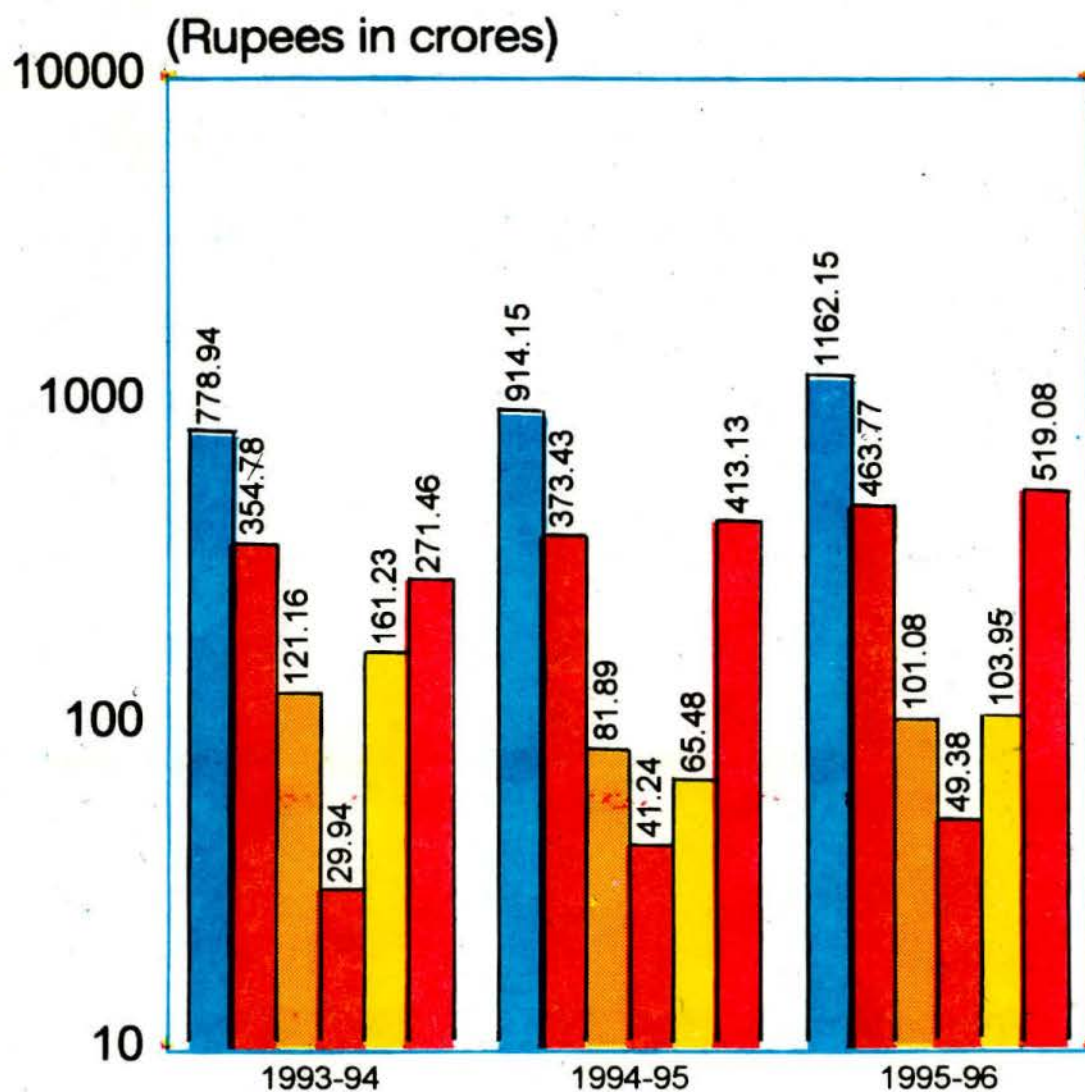


□	Maj. & Med. Inv.
□	Forestry & wild life
□	Misc. Genl. Services
□	Interest receipt

CHART III

# GROWTH OF NON-TAX REVENUE

1993-94 TO 1995-96



( Reference: Paragraph 1.1(ii); Page 4 )



Revenue Head	1993-94	1994-95	1995-96	Increase(+) or decrease(-) in 1995-96 with reference to 1994-95	Percentage of increase/decrease with reference to 1994-95
(in crores of rupees)					
1. Miscellaneous General Services	778.94	914.15	1162.15	(+) 248.00	27.13
2. Interest Receipts	354.78	373.43	463.77	(+) 90.34	24.19
3. Forestry and Wild Life	121.16	81.89	101.08	(+) 19.19	23.43
4. Major and Medium Irrigation	161.23	65.48	103.95	(+) 38.47	58.75
5. Education, Sports, Art and Culture	29.94	41.24	49.38	(+) 8.14	19.74
6. Other Administrative Services	20.72	70.09	83.58	(+) 13.49	19.25
7. Non-ferrous Mining and Metallurgical Industries	61.16	120.31	148.11	(+) 27.80	23.11
8. Police	27.41	17.92	30.62	(+) 12.70	70.87
9. Crop Husbandry	15.61	27.17	21.21	(-) 5.96	(-) 21.94
10. Social Security and Welfare	4.45	3.46	5.73	(+) 2.27	65.61
11. Medical and Public Health	14.77	18.95	13.79	(-) 5.16	(-) 27.23
12. Minor Irrigation	21.91	27.94	40.58	(+) 12.64	45.24
13. Roads and Bridges	17.32	18.18	16.02	(-) 2.16	(-) 11.88
14. Public Works	14.92	13.79	25.85	(+) 12.06	87.45
15. Co-operation	5.98	7.30	9.21	(+) 1.91	26.16
16. Others	67.21	88.02	124.38	(+) 36.36	41.31
Total	1717.51	1889.32	2399.41	510.09	27.00

Reasons for variation where it was substantial, though called for from the State Government, have not been received (August 1996).

## 1.2 Variations between Budget estimates and actuals

(a) The variations between Budget estimates and actuals of tax and non-tax revenues during the year 1995-96 are given in the table.

	Budget estimates	Actuals	Variations Increase(+)/ Shortfall(-)	Percentage of variation
(In crores of rupees)				
A. Tax Revenue	5155.46	5468.92	313.46	6.1
B. Non-tax Revenue	1815.24	2399.41	584.17	32.2



(b) The break-up of the variations under the principal heads of revenue is given below:-

Revenue Head	Budget estimates	Actuals	Variation Increase (+)/ short fall(-)	Percentage of variations
( In crores of rupees)				
<b>A. Tax Revenue</b>				
1. Trade Tax	2131.00	2335.38	(+) 204.38	(+) 9.6
2. State Excise	1167.18	1158.61	(-) 8.57	(-) 0.7
3. Stamp Duty and Registration fee	647.66	734.78	(+) 87.12	(+) 13.5
4. Tax on Sale of Motor Spirit and Lubricants	560.06	558.52	(-) 1.54	(-) 0.3
5. Taxes on Goods and Passengers	238.53	228.37	(-) 10.16	(-) 4.3
6. Taxes on Vehicles	114.64	125.46	(+) 10.82	(+) 9.4
7. Other Taxes and Duties on Commodities and Services, Entertainment tax.	113.94	112.97	(-) 0.97	(-) 0.9
8. Tax on Purchase of Sugarcane	75.05	72.87	(-) 2.18	(-) 2.9
9. Taxes and Duties on Electricity	72.56	75.71	(+)3.15	(+)4.3
10. Land Revenue	31.39	62.53	(+)31.14	(+)99.2
<b>B. Non-Tax Revenue</b>				
1. Miscellaneous General Services	805.40	1162.15	(+)356.75	(+)44.3
2. Interest Receipts	359.82	463.77	(+)103.95	(+)28.9
3. Forestry and Wild Life	105.75	101.08	(-) 4.67	(-) 4.4
4. Major and Medium Irrigation	100.94	103.95	(+)3.01	(+)3.0
5. Education, Sports, Art and Culture	47.49	49.38	(+)1.89	(+)4.0

The reasons for variation, where it was substantial though called for from the State Government, have not been received (August 1996).

### 1.3 Cost of Collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and percentage of such expenditure to the gross collection during the years 1993-94, 1994-95 and 1995-96 along with the relevant All India average percentage of expenditure on collection to gross collection for 1994-95 are given below:

Revenue Head	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India Average for the year 1994-95
(in crores of rupees)					
1. Trade Tax	1993-94	1755.26	42.85	2.4	1.2
	1994-95	2046.79	45.00	2.2	
	1995-96	2335.38	62.95	2.7	
2. Taxes on Vehicles	1993-94	98.49	4.80	4.9	2.5
	1994-95	108.06	5.78	5.3	
	1995-96	125.46	8.72	6.9	
3. Taxes on Goods and Passengers	1993-94	194.55	2.70	1.4	
	1994-95	194.79	2.04	1.0	
	1995-96	228.37	2.42	1.1	
4. State Excise	1993-94	957.04	10.85	1.1	3.1
	1994-95	1104.64	12.01	1.1	
	1995-96	1158.61	13.40	1.2	
5. Stamp Duty and Registration Fee	1993-94	531.62	1.98	0.4	3.6
	1994-95	631.54	9.32	1.5	
	1995-96	734.78	9.54	1.3	

The expenditure on collection under the head "Taxes on Vehicles" which increased from 4.9 per cent of gross collection in 1993-94 to 5.3 per cent in 1994-95, had further increased to 6.9 per cent in 1995-96.

#### 1.4 Arrears in assessments

##### (a) Performance of assessment work in Trade Tax Department

(i) The number of assessments pending at the beginning of the year, cases becoming due during the year, cases disposed of during the year and the number of cases pending finalisation at the end of the year, as reported by the Trade Tax Department for the years 1991-92 to 1995-96 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 6 to 4
1991-92	7,18,433	3,76,111	10,94,544	4,50,354	6,44,190	59.0
1992-93	7,10,790	3,87,506	10,98,296	4,16,982	6,81,314	62.0



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 6 to 4
1993-94	7,41,996	3,94,868	11,36,864	3,94,102	7,42,763	65.0
1994-95	8,01,418	4,11,320	12,12,738	3,72,718	8,40,020	69.0
1995-96*	9,41,134	4,28,990	13,70,124	8,07,277	5,62,847	41.0

It is seen that the closing balance of the years 1991-92 to 1994-95 differs from the opening balance of the succeeding years. The Department stated that this was due to scrutiny, rectification of mistakes and grant of registration from back dates. The Department needs to correct the system of maintenance of records to ensure consistency and correctness of statistics.

Year-wise break-up of the assessments pending as on 31 March 1996 was as given below:

Assessment year	Number of cases
upto	
1990-91	6,544
1991-92	16,484
1992-93	14,485
1993-94	2,31,277
1994-95	2,89,941
Cases remanded by courts for re-assessment	4,116
<b>Total</b>	<b>5,62,847</b>

(ii) A comparative position of assessments finalised during first nine months and remaining three months in the years 1994-95 and 1995-96, is also given below:

Period	Number of assessments finalised	1994-95 Demands raised (in crores of rupees)	Percentage of assessments finalised	Number of assessments finalised	1995-96 Demands raised (in crores of rupees)	Percentage of assessments finalised
April to December	1,34,790	223.67	36	4,97,581	402.75	62
January to March	2,37,928	806.88	64	3,09,696	1,795.30	38
<b>Total</b>	<b>3,72,718</b>	<b>1,030.55</b>		<b>8,07,277</b>	<b>2,198.05</b>	

The figures for 1995-96 are provisional.

\* Provisional

It would be seen that the rate of disposal of cases during April to December was much less (average 55,287 cases per month) than that during the last quarter of the year (average 1,03,232 cases per month). The additional demand raised (Rs. 402.75 crores) during the first three quarters of 1995-96 was also much less than the demand raised (Rs. 1,795.30 crores) during the last quarter. It indicates that pending assessment cases involving substantial amount of tax were finalised at the fag end of the year.

(iii) It would be seen from the break-up of cases disposed of, as given in the table that there is a tendency to finalise large number of cases at the fag end of the limitation period. The break-up indicates that 32 per cent of the cases disposed of were more than 3 years old which were going to become time barred, if not disposed of during that year:

Year ending 31 March	Break-up of cases disposed of according the year to which they pertained		
	Year	Number of cases	Percentage
1995	upto 1990-91	2,18,593	59
	1991-92	40,030	10
	1992-93	44,885	12
	1993-94	62,318	17
	Remand cases	6,892	2
	Total	3,72,718	
1996	upto 1990-91	31,321	4
	1991-92	2,28,597	28
	1992-93	2,87,649	35
	1993-94	1,24,777	16
	1994-95	1,27,557	16
	Remand cases	7,376	1
	Total	8,07,277	

Finalisation of a large number of cases in 1996 at the fag end of the limitation period could lead to hurried assessment, inadequate scrutiny of records and dealers becoming insolvent or untraceable with the lapse of time.



**(b) Appeal and revision cases**

The number of appeal and revision cases due for disposal and finalised by the Trade Tax Department during the years 1991-92 to 1995-96 together with the number of appeal and revision cases pending disposal at the end of 1995-96 as reported by the Department are indicated in the table:

Year	Opening balance	Number of appeals filed during the year	Total	Number of appeals disposed of during the year	Balance at the close of the year	Percentage of cases disposed of to the total number of cases
<b>Appeal cases</b>						
1991-92	79,122	45,957	1,25,079	57,103	67,976	46
1992-93	67,976	45,219	1,13,195	48,765	64,430	43
1993-94	64,430	45,017	1,09,447	46,775	62,672	43
1994-95	62,672	30,150	92,822	36,520	56,302	39
1995-96	56,302	36,715	93,017	36,138	56,879	39
<b>Revision cases</b>						
1991-92	54,177	25,087	79,264	18,837	60,427	24
1992-93	60,427	23,537	83,964	19,324	64,640	23
1993-94	64,640	22,212	86,852	19,483	67,369	22
1994-95	67,369	16,442	83,811	16,458	67,353	20
1995-96	67,353	14,374	81,727	19,853	61,894	24

It would be seen that while the number of pending appeal cases declined from 79122 at the end of 1990-91 to 56879 at the end of 1995-96 the number of revision cases pending disposal rose from 54177 at the end of 1990-91 to 61,894 at the end of 1995-96 registering an increase of 14 per cent during the same period.

**1.5 Analysis of collection**

The break-up of total collection (at pre-assessment stage and after regular assessment) of Trade Tax Department during 1995-96, and corresponding figures for preceding two years as furnished by the Department are given in the table.

\* Provisional



Name of tax head	Year	Amount collected at pre-assessment stage (in crores)	Amount collected after regular assessment (in crores)	Other receipts of	Amount refunded (in rupees)	Net collection of tax	Percentage of Col. 3 to 7
<b>Trade Tax</b>							
	1993-94	1699.74	121.32	23.48	7.49	1837.05	93
	1994-95	1952.92	102.09	15.54	10.50	2060.05	95
	*1995-96	2212.38	116.71	18.95	17.33	2330.71	95

The position of revenue collected by Trade Tax Department during last 3 years ending March 1996 shows that collection of revenue at pre-assessment stage was ranging from 93 per cent to 95 per cent which indicates the awareness of voluntary compliance by tax payers and limited role of tax collecting machinery in achieving the higher target of income.

#### 1.6 Arrears of revenue

As on 31 March, 1996, arrears of revenue under principal heads of revenue, as reported by the concerned Department, were as under:

Heads of Revenue	Arrears pending collection (In crores of rupees)	Arrears more than 5 years old	Remarks
1. Trade Tax	3619.54	1674.01	Out of Rs. 3619.54 crores, demand for Rs. 557.74 crores had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 493.33 crores and Rs. 67.96 crores had been stayed by the Courts and Government respectively. Recoveries amounting to Rs. 82.55 crores were held up due to rectification/review applications. For recovery of Rs. 105.92 crores recovery certificates had been issued to other States. Demand for Rs. 107.22 crores were likely to be written off. Specific action taken in respect of remaining arrears of Rs. 2204.82 crores called for (June 1996) has not been intimated (August 1996) by the Department.

\* Provisional

Heads of Revenue	Arrears pending collection (In crores of rupees)	Arrears more than 5 years old	Remarks
2. Cane Purchase Tax (Sugar Factories)	12.80	10.74	Out of Rs. 12.80 crores, demand for Rs. 2.73 crores had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 6.01 crores had been stayed by Government. Specific action taken in respect of the remaining arrears of Rs. 4.06 crore called for (July 1996) has not been intimated (August 1996) by the Department.
3. Forestry and Wild Life	11.42	7.99	Out of Rs. 11.42 crores, demand for Rs. 6.21 crores had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 0.65 crore had been stayed by the Courts and other Judicial authorities. A demand for Rs. 0.09 crore was being adjusted against securities in hand. Demand for Rs. 0.12 crore was likely to be written off. Specific action taken in respect of Rs. 4.35 crores called for (July 1996) had not been intimated (August 1996) by the Department.
4. Entertainment tax	9.27	0.24	Out of Rs. 9.27 crores, demands for Rs. 1.59 crores had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 6.92 crores had been stayed by the courts. Specific action taken in respect of the remaining arrears of Rs. 0.76 crore called for (July 1996) had not been intimated (August 1996) by the Department.
5. Electricity Duty	13.19	12.61	Out of Rs. 13.19 crores, recovery of Rs. 0.15 crore had been stayed by the Court. Demand for Rs. 0.66 crore had been certified for recovery as arrears of land revenue. The balance of Rs. 12.38 crores is under the process of recovery.
6. State Excise	64.45	—	Out of Rs. 64.45 crores demand for Rs. 13.51 crores had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 47.97 crores had been stayed by the Courts. Demand for Rs. 0.02 crore was likely to be written off. Specific action in respect of Rs. 2.95 crores called for (July 1996) had not been intimated (August 1996) by the department.

In respect of other departments the position of arrears, though called for (June 1996), has not been received (August 1996).

## 1.7 Results of audit

Test check of the records of Trade Tax, State Excise, Taxes on Vehicles, Goods and Passengers, Stamp Duty and Registration Fees, Land revenue, Electricity Duty, Tax on Purchase of Sugar Cane, Forest receipts and Other Departmental Receipts conducted during the year 1995-96 revealed under-



assessments / short-levy / loss of revenue amounting to Rs. 55.27 crores in 1,528 cases. During the course of the year 1995-96 the concerned departments accepted under-assessments etc. of Rs. 22.01 crores involved in 1,237 cases, of which 92 cases involving Rs. 15.66 crores had been pointed out in audit during 1995-96 and the rest in earlier years.

This report includes 46 paragraphs including 04 reviews relating to non-levy, short-levy of tax, duty, interest, penalty etc. involving Rs. 436.18 crores. The departments/Government have accepted audit observations involving Rs. 3.71 crores, of which Rs. 8.34 lakhs had been recovered upto August 1996. No reply has been received in the remaining cases.

#### **1.8 Outstanding Inspection Reports and audit observations**

(i) Audit observations on incorrect assessments, short-levy of taxes, duties, fees, etc. as also defects in initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. The more important irregularities are reported to the heads of departments and Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of departments within a period of two months.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December, 1995 which were pending settlement by the departments as on 30 June, 1996, along with corresponding figures for the preceding two years are given below:

		At the end of June		
		1994	1995	1996
1.	Number of inspection reports pending settlement	2746	3390	3964
2.	Number of outstanding audit observations	8964	10168	11078
3.	Amount of revenue involved (in crores of rupees)	271.99	359.82	397.56

(iii) Year-wise break-up of the outstanding (as on 30 June, 1996) inspection reports and audit observations is given below:

Year (in which Inspection Reports were issued)	Number of outstanding		Revenue involved (in crores of rupees)
	Inspection Reports	Audit observations	
upto 1991-92	1401	4495	153.38
1992-93	447	1631	57.19
1993-94	590	1454	46.17
1994-95	755	2024	99.17
1995-96	771	1474	41.65
<b>Total</b>	<b>3964</b>	<b>11078</b>	<b>397.56</b>

(iv) Department-wise break-up of the inspection reports and audit observations outstanding as on 30 June, 1996 is given below:

Nature of Receipts	Number of Outstanding		Amount of revenue involved (in crores of rupees)	Year to which the observations relate	Number of Inspection reports to which even first reply had not been received
	Inspection Reports	Audit observations			
1. Forestry and Wild Life	525	1804	253.87	1988-89 to 1995-96	Nil
2. Trade Tax	831	3448	50.25	1987-88 to 1995-96	Nil
3. Irrigation	241	638	17.92	1984-85 to 1995-96	108
4. State Excise	418	614	15.81	1984-85 to 1995-96	54
5. Land Revenue	301	730	12.29	1984-85 to 1995-96	Nil
6. Taxes on Vehicles, Goods and Passengers	277	1052	7.77	1984-85 to 1995-96	50
7. Public Works	254	551	12.52	1985-86 to 1995-96	118



Nature of Receipts	Number of outstanding Inspection Reports	Audit observa- tions	Amount of revenue involved (in crores of rupees)	Year to which the observations relate	Number of inspec- tion reports to which even first reply had not been received
8. Tax on Purchase of Sugarcane	116	133	5.73	1985-86 to 1995-96	12
9. Stamp Duty and Registration Fee	585	1484	8.79	1984-85 to 1995-96	217
<b>10. Other Depart- ments:</b>					
a. Agriculture	101	201	5.59	1985-86 to 1995-96	44
b. Electricity Duty	131	153	3.99	1985-86 to 1995-96	11
c. Food and Civil Supplies	87	148	0.77	1985-86 to 1995-96	44
d. Co-operation	54	72	1.78	1985-86 to 1995-96	13
e. Entertainment Tax	43	50	0.48	1986-87 to 1995-96	3
<b>Total</b>	<b>3964</b>	<b>11078</b>	<b>397.56</b>		<b>674</b>

This was brought to the notice of Government in April 1996; intimation regarding steps taken by the Government to clear the outstanding Inspection Reports and Audit observations has not been received (August 1996).



	<i>Reference to Paragraph</i>	<i>Page(s)</i>
<b>CHAPTER 2</b>		
<b>TRADE TAX</b>		
Results of audit	2.1	18
Levy of Trade Tax on Foodgrains, Plses and Oil-seeds	2.2	19
Non-levy of tax	2.3	27
Non-levy of additional tax	2.4	30
Mistakes in computation of tax	2.5	31
Short-levy of tax due to application of incorrect rate	2.6	32
Turnover escaping assessment	2.7	35
Irregular exemption	2.8	36
Mis-use of declaration forms	2.9	38
Non/short-levy of tax due to mis- classification of goods	2.10	39
Non-imposition of penalty	2.11	40





## CHAPTER-2

### TRADE TAX

#### 2.1 Results of audit

Test check of assessments and other records of Trade Tax Offices conducted in audit during 1995-96 revealed under-assessments of tax and non-levy or short-levy of interest and penalty amounting to Rs. 842.14 lakhs in 576 cases which broadly fall under the following categories :

	Number of Cases	Amount (in lakhs of rupees)
1. Non-levy or short-levy of penalty/interest	207	144.85
2. Irregular exemption	71	478.69
3. Non-levy of additional tax	34	26.40
4. Incorrect rate of tax	29	36.73
5. Mis-classification of goods	21	20.76
6. Turnover escaping tax	1	0.33
7. Irregularities relating to Central Sales Tax	14	53.98
8. Under-assessment of tax	4	2.51
9. Short-levy of tax	96	8.25
10. Non-levy of purchase tax	11	2.41
11. Other irregularities	88	67.23
	576	842.14

During the year 1995-96, the Department accepted under-assessment etc. of Rs. 177.36 lakhs involved in 374 cases, of which 10 cases involving Rs. 4.76 lakhs had been pointed out in audit during 1995-96 and the rest in earlier years. A few illustrative cases including a review on "Levy of Trade Tax on Foodgrains, Pulses and

Oil-seeds" involving a financial effect of Rs. 4683.75 lakhs are mentioned in the following paragraphs:

## **2.2 Levy of Trade Tax on Food Grains, Pulses and Oil Seeds**

### **2.2.1 Introduction**

Trade Tax known as Sales Tax in other States is the major source of revenue of Uttar Pradesh (U.P.), constituting nearly 43 per cent of the total tax revenue. It is levied and collected under the UP Trade Tax Act, 1948 (U.P.T.T. Act) and the Central Sales Tax Act, 1956 (CST Act). In the case of foodgrains, pulses and Oilseeds Trade Tax is levied at the point of first purchase. In inter-State trade or commerce, tax is levied under the provisions of Central Sales Tax Act 1956.

### **2.2.2 Organisational set up**

At the apex level Commissioner with headquarters at Lucknow is the head of Trade Tax Department who is assisted by Additional Commissioners, Deputy Commissioners, Assistant Commissioners and Trade Tax Officers. For administrative control, the State is divided into 22 ranges each headed by a Deputy Commissioner (Executive). A range is further divided into circles which are subdivided into sectors each under the charge of an Assessing Officer i.e. Assistant Commissioner (Assessment)/Trade Tax Officers (T.T.O).

### **2.2.3 Scope of Audit**

With a view to ascertaining the adequacy of system to levy and collect Trade Tax on foodgrains, pulses and oil seeds and to verify compliance of the prescribed rules and procedures in this regard, a review was conducted from December 1995 to April 1996. For this purpose relevant records in 14 ranges out of 22 for the period 1990-91 to 1994-95 were test checked.

#### **2.2.4 Highlights**

- (i) Non-observance of prescribed procedure of registration of dealers resulted in loss of revenue of Rs. 26.95 crores.

**(Para 2.2.6)**

- (ii) Non-imposition of penalty on suppressed turnover resulted in loss of Rs. 13.18 crores.

**(Para 2.2.7)**

- (iii) Non/short-levy of tax on inter-State sales resulted in loss of revenue of Rs. 3.17 crores (tax Rs. 1.35 crores and interest Rs. 1.82 crores).

**(Para 2.2.8 (a) & (b))**

- (iv) Short-levy of tax on intra-State transactions resulted in loss of revenue of Rs. 15.76 lakhs.

**(Para 2.2.9)**

- (v) Irregular adjustment of Purchase Tax against Central Sales Tax resulted in loss of revenue of Rs. 12.64 lakhs.

**(Para 2.2.10)**

#### **2.2.5 Trend of revenue**

A comparative analysis of the total revenue receipts of the State from Trade Tax against the budget estimates and revenue receipts from tax on foodgrains, pulses and oilseeds during the period 1990-91 to 1994-95 is given in the table.



Year	Budget estimates	Actual receipts	Revenue from tax on foodgrains pulses and oilseeds	Percentage of column 4 to 3
	(In	crores	of	rupees)
(1)	(2)	(3)	(4)	(5)
1990-91	1159.40	1415.36	93.66	6.62
1991-92	1582.20	1641.83	92.12	5.61
1992-93	1720.00	1654.35	93.30	5.64
1993-94	1820.00	1755.26	110.81	6.31
1994-95	1929.00	2046.79	114.35	5.59

## 2.2.6 Loss of revenue due to non-observance of prescribed procedure of registration

Under the U.P.T.T. Act, 1948, and the Rules framed thereunder, a dealer, liable to pay tax under the Act, shall get himself registered. For this purpose he shall make an application in the prescribed form to T.T.O. of the concerned sector with full particulars. The T.T.O., after satisfying himself by on the spot enquiry about the bonafides of the dealer, his correct and complete local and permanent addresses, antecedents and financial status etc., shall issue a registration certificate. To safeguard the Government revenue, security and additional securities are also obtained from the dealer before issue of registration certificate. Similar procedure is prescribed for registration of a dealer under C.S.T. also.

It was noticed that in 7 circles\*, in 32 cases, the prescribed checks and verifications were not carried out by the Department before the issue of registration certificates. As a result, the dealers after getting themselves registered, obtained large number of statutory forms, carried on substantial business during a short span of time and disappeared after closing down their business. The tax payable by these dealers for the various assessment years between 1984-85 to 1994-95 worked out to Rs. 26.95 crores.

\* Allahabad, Bareilly, Jhansi, Lucknow, Mahoba, Orai (Jalaun) and Varanasi.



### **2.2.7 Non-imposition of penalty.**

Under the provisions of U.P. Trade Tax Act, 1948, if the assessing authority is satisfied that any dealer or other person has concealed the particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover, he may after necessary enquiry, direct that such dealer shall pay, by way of penalty, in addition to tax, a sum not less than fifty percent but not exceeding one and half times upto 24 April, 1990 and two times of the tax from 25 April, 1990 which would thereby have been avoided.

In 8 Trade Tax Circles\*, it was noticed that 33 dealers had suppressed the turnover of their sales and purchases of foodgrains, pulses and oilseeds during the period 1988-89 to 1994-95 on which tax amounting to Rs. 26.37 crores was levied (after detecting the suppression) by the Department. Minimum penalty of Rs. 13.18 crores, though leviable, was neither levied nor collected.

On this being pointed out in audit the Department stated (December 1995 to April 1996) that the penalty would be imposed.

### **2.2.8 Non/Short-levy of tax on inter-State sales**

(a) Under the Central Sales Tax Act, 1956 and the Rules framed thereunder, no tax is payable by a dealer on movement of goods to other states which is not by way of sale but by reasons of transfer of stock to other places of his business or to his agent or principal. The dealer claiming exemptions is required to furnish to the assessing authority a declaration in Form 'F' duly filled in and signed by the principal of the other place of business or his agent as the case may be, along with the evidence of despatch of goods.

In 5 Trade Tax Circles\*\*, it was noticed that during the period from 1990-91 and 1993-94, 17 dealers (including two whose remanded cases for the years

\* Bareilly, Varanasi, Kanpur, Mahoba, Jhansi, Allahabad, Hapur and Orai (Jalaun).  
\*\* Kanpur, Bareilly, Bulandshahar, Badaun and Jhansi

1977-78 and 1978-79 were decided in March 1995) declared that they had purchased foodgrains etc. amounting to Rs. 1,685.94 lakhs for their principals outside the State and despatched to them. However, no tax was levied by the Department, although the dealers could not furnish the requisite declarations or evidence of despatch of goods. This resulted in non-levy of tax of Rs. 132.38 lakhs and interest of Rs. 180.43 lakhs (calculated upto December 1995).

(b) Under the provisions of the Central Sales Tax Act, 1956, tax is leviable on the inter-State sale of declared goods not supported by the prescribed declaration in form 'C' or 'D' at twice the rate applicable to sale of such goods within the State. If the purchase tax has been paid under the State Act it shall be adjusted against the tax levied under Central Sales Tax. With effect from 1 April, 1992, tax on first purchase of pulses is leviable at the rate of 3.5 per cent.

In Trade Tax Circle, Shahjahanpur, it was noticed that in 1992-93, a dealer made inter-State sale of self-manufactured pulses worth Rs. 66.98 lakhs not supported by declaration in form 'C' or 'D'. Tax on this sale was to be levied at the rate of 7 per cent by adjusting Rs. 2.34 lakhs already paid as purchase tax under the State Act which was not done by the assessing officer. This resulted in short-levy of tax amounting to Rs. 2.34 lakhs and interest of Rs. 2.15 lakhs (upto February 1996).

On being pointed out (March 1996), the assessing authority stated that as the tax has already been paid on the purchase of 'Tur' in the State, no tax was leviable on the inter-State sale of pulses. The reply of the Department is not tenable as charging of tax within the State cannot substitute charge of C.S.T.

### **2.2.9 Short-levy of tax on intra-State transactions**

Every purchase made within U.P., either directly or through an agent whether on his own account or on account of any one else, is deemed to be the first purchase unless the dealer proves otherwise to the satisfaction of the assessing authority by furnishing prescribed declarations obtained from selling/purchasing



dealers. It was noticed that in the cases mentioned below the benefit of exemption / concessional rate of tax was granted without obtaining prescribed declarations which resulted in non-levy of purchase tax amounting to Rs. 7.88 lakhs and interest of Rs. 7.88 lakhs.

Sl.No.	Name of the unit	Assessment year	Turnover	Amount of tax leviable (in lakhs)	Amount of interest leviable (upto December 1995) of rupees)
1.	AC(A), T.T., Mahoba	1990-91 & 1991-92	58.50	2.20	2.50
2.	(i) AC(A), T.T., Sitapur	1992-93	35.84	1.43	1.29
	(ii) T.T.Q, Sec-1, Sitapur	1989-90 & 1992-93	9.86	0.40	0.48
3.	AC(A), T.T, Shajahanpur	1992-93	64.21	1.38	1.16
4.	T.T.O, Sec-1, Bareilly	1992-93	29.14	1.17	1.03
5.	(i) T.T.Q, Sec-3, Allahabad	1990-91 to 1992-93	15.24	0.61	0.63
	(ii) T.T.Q, Sec-7, Allahabad	1988-89 & 1989-90	1.50	0.06	0.09
6.	T.T.Q, Sec-2, Badaun	1991-92 & 1992-93	12.57	0.50	0.52
7.	T.T.Q, Sec-2, Varanasi	1990-91	3.22	0.13	0.18
	<b>Total</b>		<b>230.08</b>	<b>7.88</b>	<b>7.88</b>

### 2.2.10 Irregular adjustment of tax

Under the provisions of Central Sales Tax Act, 1956, read with U.P. Trade Tax Act, 1948, where tax has been levied under the State Act in respect of sale or purchase of declared goods which are sold in the course of inter-State trade or commerce and tax on that sale, has been paid, the tax levied under State Act shall be refunded on an application being made in writing to the assessing authority within six months from the date of deposit of such tax.

In 3 Trade Tax Circles<sup>#</sup>, it was noticed that in 7 cases, the assessing officers while making assessment in respect of sale of declared goods made in the

<sup>#</sup> Mahoba, Jhansi and Orai (Jalaun).



course of inter-State trade or commerce, had adjusted the purchase tax amounting to Rs. 12.64 lakhs levied under the State Act against the tax levied under the Central Sales Tax Act which was irregular.

#### **2.2.11 Irregular grant of exemption from tax**

With a view to increasing the production and promoting development of certain industries in the State, the Government of U.P, allowed exemption from or reduction in rate of tax for a specified period on the turnover of sale of goods manufactured by the new units. In terms of notification dated 27 July, 1991, the new units manufacturing all kinds of pulses, flour mills other than roller flour mills and huller type rice-mills are not entitled to avail of the benefit of exemption from/or reduction in rate of tax.

In Trade Tax Circle, Lucknow, it was noticed that in 1990-91 and 1991-92 two manufacturers of rice in huller-type of Rice Mills were granted Eligibility Certificates to avail the benefits of exemptions from tax, although such huller-type of rice mills were specifically excluded under the notification dated 27 July, 1991 for the purpose of such benefit. The sales turnover of Rs. 151.53 lakhs of these two dealers was exempted from payment of tax. This resulted in irregular grant of exemption from tax of Rs. 9.11 lakhs.

#### **2.2.12 Non-levy of penalty for delayed deposit of return/tax**

Every dealer liable to pay tax, shall before expiry of the next succeeding month, submit to the assessing authority, a monthly return of turnover in the prescribed form along with the chalan for deposit of tax due on admitted turnover. For failure to do so, a dealer shall be liable to pay, by way of penalty, a sum not less than ten per cent but not exceeding twenty five per cent of the tax due, if the tax due is upto ten thousand rupees and fifty per cent if the tax due is above ten thousand rupees.

In three Trade Tax Circles<sup>#</sup>, it was noticed that 21 dealers had neither

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<sup>#</sup> Allahabad, Jhansi and Orai (Jalaun).

submitted their returns within the stipulated period nor deposited the tax due amounting to Rs. 13.68 lakhs till the last date of subsequent months. For this, they were liable to pay, by way of penalty, a sum of Rs. 6.74 lakhs which was not levied and collected.

### **2.2.13 Non-observance of departmental instructions**

(a) In order to ensure the genuineness of transactions and to detect the evasion of tax, the Department issued instructions (July 1984, October 1992 and June 1993) to assessing authorities for cross-verification of transactions of sales and purchases covered by the declaration forms by sending their second copy to issuing offices. If any declaration form is found to be fake, action to levy tax/impose penalty is to be taken and F.I.R. lodged with the police.

In Trade Tax Circles Varanasi, Mahoba, Badaun and Agra, it was noticed that during 1990-91 to 1993-94, exemptions and concessions from tax on transactions of Rs. 35.91 crores were granted to the dealers without cross-verification of forms from the issuing authorities.

On being pointed out in audit (January 1996 to March 1996), the assessing authorities stated (January 1996 to March 1996), that cross-verification would be carried out and tax would be levied, if found leviable.

(b) Similarly, under the provisions of the U.P. Trade Tax Act, 1948, the Government through their authorised agency i.e. Regional Food Controller (RFC) in pursuance of Essential Commodities Act, 1955, may purchase tax free foodgrains, rice and issue certificate to that effect to enable the seller exemption from tax. Prior to allowing exemptions, such certificates require proper verification from the assessing officer of the purchasing agency.



In 10 Trade Tax Circles\* it was noticed that during the period between 1990-91 and 1993-94 exemptions on turnover of Rs. 55.17 crores were granted to 99 dealers without verification of certificates issued by R.F.C.

On being pointed out in audit, the Department stated that verification would be conducted and tax would be levied, if found leviable.

The matter was reported to the Department and Government (May 1996); their replies have not been received (August 1996).

### **2.3 Non-levy of tax**

a) According to the U.P. Trade Tax Act, 1948, tax on sale of goods not otherwise classified, is leviable at the rate of 8 per cent with effect from 7 September, 1981. Besides, additional tax at the rate of 10 per cent and 25 per cent of the tax is also leviable with effect from 1 November, 1985 and 1 August, 1990 respectively. If the tax admittedly payable is not deposited within prescribed period, the unpaid amount of such tax attracts interest at the rate of 2 per cent per month till the date of deposit of tax. It has judicially been held\*\* that import licences are goods and as such liable to be taxed.

During the audit of 5 Trade Tax Circles, it was noticed (between May and November 1994) that five dealers sold import licences during the period from 1989-90 to 1992-93. Tax on these sales was leviable at the rate of 8.8 per cent upto 31 July, 1990 and 10 per cent (including additional tax) from 1 August, 1990 which was not levied. This resulted in non-levy of tax amounting to Rs. 4.82 lakhs and interest of Rs. 5.51 lakhs as detailed below:

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\* Agra, Allahabad, Badaun, Bareilly, Lakhimpur Kheri, Lucknow, Rampur, Sitapur, Shahjahanpur and Varanasi.

\*\* M/s Bharat Fritz Warner Limited V/s. Commissioner of Commercial Taxes and another [(1992), 86,S.T.C. 170 (Karnataka)]



Sl. No.	Name of Circle	Assessment year	Sale proceeds of import licences (Rs. in lakhs)	Rate of tax leviable (including additional tax)	Amount of tax leviable (Rupees in lakhs)	Amount of interest leviable (upto the date of audit) (lakhs)
1.	Basti	1990-91	17.96	8.8	1.58	1.74
2.	Aligarh	1991-92 & 1992-93	9.38	10.00	0.93	0.75
3.	Firozabad	1989-90	7.18	10.00	0.71	0.99
4.	Moradabad	1989-90	10.43	8.8	0.91	1.20
5.	Mirzapur	1990-91	6.92	10.00	0.69	0.83
	Total		51.87		4.82	5.51

The cases were reported to the Department and Government (between April 1995 and June 1996); their replies have not been received (August 1996).

b) Section 4-B of the U.P. Trade Tax Act, 1948, provides for special relief in tax to manufacturers holding recognition certificate on purchase of raw material for use in the manufacture of notified goods on fulfilment of certain conditions. Further, where such sale is supported by declaration in Form III-B (for full exemption), the seller is not liable to pay any tax.

During audit of Trade Tax Circle, Allahabad, it was noticed (October 1994), that in 1990-91, a dealer made sale of iron and steel worth Rs. 801.40 lakhs, out of which sales turnover amounting to Rs. 601.30 lakhs was supported by the valid declarations in Form III-B, (for full exemption) and thus the remaining amount of Rs. 200.10 lakhs was taxable at the rate of 4 per cent but the assessing officer granted exemption on the entire turnover. This resulted in non-levy of tax amounting to Rs. 8 lakhs.

On this being pointed out in audit (October 1994), the Department levied the tax of Rs. 8 lakhs, out of which Rs. 7.66 lakhs had been deposited by the

dealer (October 1995). Balance amount of Rs. 34,533 and interest of Rs. 9.70 lakhs (upto 20 October 1995) were yet to be recovered (August 1996).

The matter was reported to the Government (January 1995 and July 1996); their reply has not been received (August 1996).

c) Under the Central Sales Tax Act, 1956, exemption on inter-State sale of a commodity is admissible, if the commodity is exempt under State Sales Tax laws. Rectified spirit and absolute alcohol, which were earlier taxable under U.P. Sales of Motor Spirit Diesel oil and Alcohol Taxation Act, 1939, but were exempt under U.P. Trade Tax Act, 1948, have been brought under this Act retrospectively from 1 April, 1978 and thus no exemption on inter-State sale of these commodities is admissible.

(i) During audit of Trade Tax Circle, Sitapur, it was noticed (August 1995) that a dealer made inter-State sale of rectified spirit and absolute alcohol worth Rs. 179.46 lakhs during the year 1990-91, on which no tax was levied treating the commodity as exempt under the U.P. Trade Tax Act. This resulted in non-levy of tax amounting to Rs. 40.95 lakhs.

The matter was reported to the Department and Government (December 1995 and April 1996); their replies have not been received (August 1996).

(ii) During audit of Trade Tax Circle, Saharanpur, it was noticed (August 1994) that during 1989-90 a dealer made inter-State sale of alcohol and denatured spirit worth Rs. 197.12 lakhs. Sales turnover of Rs. 110.41 lakhs and Rs. 86.71 lakhs was to be taxed at the rate of 4 per cent and 28.6 per cent respectively but it was not done. This resulted in non-levy of tax amounting to Rs. 29.22 lakhs.



On this being pointed out in audit (December 1995), the Department revised the assessment order and raised (March 1995) the additional demand for Rs. 29.22 lakhs. The dealer made an appeal in the Court of D.C.(Appeal), Saharanpur, by whom the above order was confirmed (June 1995), but stay has been granted by the second appellate authority (June 1995). The final decision of the second appellate authority is awaited (August 1996).

The case was reported to Government (December 1994 and March 1996); their reply has not been received (August 1996).

#### **2.4 Non-levy of additional tax**

Under the U.P. Trade Tax Act, 1948, additional tax at the rate of 25 per cent of the tax is leviable with effect from 1 August, 1990. Further, tax admittedly payable, if not paid by the due date, attracts interest at the rate of 2 per cent per month upto the date of deposit of tax. Whatever is payable by way of tax under the State Act, is also payable by way of Central Sales Tax in case of inter-State sales.

During audit of Trade Tax Circle, Agra, it was noticed (November, 1995) that during the year 1992-93, a dealer made inter-State sales of mustard oil worth Rs. 151.27 lakhs. Tax on that sale was levied at the rate of 2 per cent instead of correct rate of 2.5 per cent (including additional tax). Non-levy of additional tax resulted in short-levy of tax amounting to Rs. 75,635. Besides, interest amounting to Rs. 55,970 was also chargeable upto the date of audit (October 1995).

On this being pointed out in audit, the Department revised the assessment order and raised an additional demand of Rs. 75,635 (November 1995).



The dealer made an appeal against the revised assessment order in the court of D.C. (Appeal) by whom stay has been granted (January 1996).

The case was reported to the Government (December 1995); their reply has not been received (August 1996).

## 2.5 Mistakes in Computation of tax

During the course of audit of 3 Trade Tax circles, mistakes were noticed in computation of tax although the classification of goods and rates of tax applied were correct. This resulted in short-levy of tax amounting to Rs. 12.20 lakhs and interest of Rs. 15.18 lakhs as detailed in the table.

Sl. No.	Name of the Circle	Period of assessment	Taxable Turnover (Rupees in lakhs)	Nature of mistake	Amount short levied	Interest accrued upto the date of audit (Rupees in lakhs)
1.	Gorakhpur	1990-91	10.11	Figure of Rs. 1.01 lakhs crept in as Rs. 10,108	0.91	0.98
2.	Hapur	1989-90	64.61	Tax of Rs. 2.84 lakhs crept in as Rs. 2.24 lakhs	0.60	0.73
3.	Kanpur	1988-89	90.00	Tax of Rs. 11.88 lakhs crept in as Rs. 1.19 lakhs.	10.69	13.47
Total					12.20	15.18

On being pointed out in audit (between June 1994 and April 1995) the Department rectified the mistakes in all the cases and raised the additional demand of Rs. 12.20 lakhs. The report on realisation of demand and raising of demand for interest has not been received (August 1996).

The above cases were reported to the Government (between April 1994

and March 1996); their replies have not been received (August 1996).

## 2.6 Short-levy of tax due to application of incorrect rate

### A. Under the U.P. Trade Tax Act, 1948

During the audit of 8 Trade Tax Circles, it was noticed (between September 1992 and August 1995) that in 8 cases incorrect rates of tax were levied. This resulted in short-levy of tax amounting to Rs. 15.63 lakhs and interest of Rs. 17.52 lakhs as detailed in the table.

Sl. No.	Name of the Circle	Assessment year	Name of the commodity	Taxable turnover (Rs. in lakhs)	Rate of tax leviable (Per cent)	Rate of tax levied	Tax Short levied (Rupees in lakhs)	Interest accrued upto the date of audit
1.	Gorakhpur	1989-90	Laminated Jute Bags	34.67	8.8	6.6	0.76	0.90
		1990-91	---do---	139.28	10	7.5	3.48	4.10
		1991-92	---do---	121.50	10	7.5	3.04	2.80
2.	Modinagar	1986-87	Coal ash	24.25	8.8	4.0	1.15	1.63
3.	Lucknow	1988-89	Coal ash	13.54	10	4.0	0.65	0.74
4.	Muzaffarnagar	1988-89	Induction Furnace	33.00	13.2	5.5	2.54	3.25
5.	Varanasi	1989-90	Coconut	24.80	8.8	4.0	1.19	1.36
6.	Saharanpur	1992-93 &	Mosquito Repellent Coils (Agarbatti)	38.18	10	7.5	0.95	0.61
		1993-94	---do---	32.51	10	7.5	0.82	0.33
7.	Kanpur	1992-93	Monofilament Yarn	6.82	10	2.5	0.51	0.35
8.	Jhansi	1980-81	Spare Parts of Transformers	8.14	11	4.4	0.54	1.45
Total							15.63	17.52

On being pointed out in audit, tax of Rs. 2.31 lakhs was levied by the Department in respect of Sl. No. 5 & 8, out of which Rs. 0.54 lakh have been recovered.

The matters were reported to Government (between March 1993 and April 1996); their reply has not been received (August 1996).



## **B. Under the Central Sales Tax Act**

Under the Central Sales Tax Act, 1956, tax on sale of goods, not covered by declaration in Form 'C' or certificate 'D', is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher. If the goods sold are declared goods, tax is leviable at twice the rate applicable within the State. Tax admittedly payable, if not paid by due date attracts interest at the rate of 2 per cent per month up to the date of deposit of tax.

(i) During audit of Trade Tax Circle, Agra, it was noticed (November 1994) that in 1991-92, a dealer made inter-State sales of alternator and generator worth Rs. 21.95 lakhs, an item taxable at the rate of 15 per cent (including additional tax) within the State. Tax on that sales was levied at the rate of 12.5 per cent instead of correct rate of 15 per cent. Application of incorrect rate of tax resulted in short-levy of tax amounting to Rs. 54,866 and interest of Rs. 40,600 (upto October 1994).

On this being pointed out in audit (November 1994), the Department revised the assessment and issued (March 1995) a fresh demand of Rs. 54,866. However, the dealer filed an appeal (D.C. Appeal, T.T.) against the revised order and stay for the deposit of 90 per cent tax has been granted.

The case was reported to the Government (February 1995 and February 1996); their reply has not been received (August 1996).

(ii) During audit of Trade Tax Circle, Auraiya (Etawah) it was noticed (September 1993) that in 1988-89 a dealer made inter-State sale of foodgrains



amounting to Rs. 25 lakhs which was not covered by declaration in Form 'C'. Tax on this sale was levied at the rate of 4 percent instead of the correct rate of 8 per cent. This resulted in short-levy of tax amounting to Rs. 1 lakh and interest of Rs. 1.50 lakhs (upto December 1994).

On this being pointed out in audit (September 1993), the Department stated that tax amounting to Rs. 1 lakh had since been levied (December 1994). The report on recovery of tax and raising of demand for interest has not been received (August 1996).

The matter was reported to the Government (January 1994 and February 1996); their reply has not been received (August 1996).

(iii) Under section 8(5) of the Central Sales Tax Act, 1956, read with notification dated 13 September, 1990, tax on inter-State sale of Mustard Oil supported by the prescribed declaration in Form 'C', is leviable at the rate of 1 per cent with effect from 15 September, 1990, otherwise at the rate of 10 per cent. Tax admittedly payable, if not paid by due date, attracts interest at the rate of 2 per cent per month upto the date of deposit of tax.

During audit of Trade Tax Circle, Agra, it was noticed (September 1995), that during the year 1990-91 a dealer made inter-State sale of mustard oil, worth Rs. 6.99 lakhs (after 15 September 1990 ) which was not supported by the prescribed declarations. Tax on this sale was levied at the rate of 1 per cent instead of correct rate of 10 per cent. This resulted in short-levy of tax amounting to Rs. 62,873. Besides, interest amounting to Rs. 66,645 (calculated up to February

1995) was also chargeable.

The matter was reported to the Department and Government (April 1995 and June 1996); their replies have not been received (August 1996).

## **2.7 Turnover escaping assessment**

(a) Under the Uttar Pradesh Trade Tax Act, 1948, tax on turnover of Indian Made Foreign Liquor (IMFL) is leviable at the rate of 26 per cent with effect from 7 September, 1981. Besides, additional tax at the rate of 10 per cent and 25 per cent of the tax is also leviable with effect from 1 November, 1985 and 1 August, 1990 respectively. Excise duty, Licence fee, business expenses etc., form part of the turnover of the dealer of Indian Made Foreign Liquor.

During audit of Trade Tax Circle, Varanasi, it was noticed (April 1993) that a dealer had sold 'beer' worth Rs. 218.34 lakhs during the year 1988-89 to 1990-91. Tax on this sale was levied by excluding the licence fee amounting to Rs. 3.30 lakhs. This resulted in short-levy of tax amounting to Rs. 94,380. Besides, interest amounting to Rs. 66,768 (calculated up to March 1995) was also chargeable.

On this being pointed out in audit (April 1993), the Department revised the assessment and raised (November 1993) additional demand of Rs. 94,380. The report on recovery has not been received (August 1996).

The matter was reported to the Government (July 1993 and February 1996); their reply has not been received (August 1996).

(b) Under section 8 of the Central Sales Tax Act 1956, on inter-State sale

of goods, other than declared goods, not supported by prescribed declarations, tax is leviable at the rate of 10 per cent or the rate applicable to sale or purchase of such goods inside the State, whichever is higher.

During audit of Trade Tax Circle, Lucknow, it was noticed (July 1993) that in 1989-90 a dealer made inter- State sale of water meters and its parts worth Rs. 68.20 lakhs. Tax was levied on sales turnover of Rs. 47.70 lakhs only leaving the turnover of Rs. 20.50 lakhs unassessed. This resulted in short-levy of tax amounting to Rs. 2.05 lakhs. Besides, interest amounting to Rs. 1.89 lakhs (calculated up to July 1993) was also chargeable.

On this being pointed out in audit (July 1993) the Department rectified the mistake (July 1993) and raised an additional demand of Rs. 2.05 lakhs.

The case was reported to Government (February 1994 and April 1996); their reply has not been received (August 1996).

## **2.8 Irregular exemption**

(i) Under the Uttar Pradesh Trade Tax Act , 1948, on sale of goods not otherwise classified, tax is leviable at the rate of 8 per cent from 7 September, 1981. Additional tax at the rate of 10 per cent of the tax is also leviable with effect from 1 November, 1985. If the goods purchased within the State are processed and a new commercial commodity emerges, or not, tax is leviable on the sale of such commodity.

During audit of Trade Tax Circle, Firozabad, it was noticed (October



1994), that in 1989-90 a dealer purchased glass 'beads' worth Rs. 89.49 lakhs and after processing sold for Rs. 90.65 lakhs leaving a balance of Rs. 10.57 lakhs. Tax on that sale was to be levied at the rate of 8.8 per cent (including additional tax) but it was not done, treating it as exempted sale. This irregular exemption allowed by the Department resulted in loss of Rs. 7.98 lakhs.

On this being pointed out in audit (October 1994), the Department stated that stay for the proceedings of assessment under Sec. 21 has been granted by the Hon'ble High Court, Allahabad on 24 February, 1995.

The case was reported to the Department and Government (February 1995 and November 1995); their replies have not been received (August 1996).

(ii) Under the U.P. Trade Tax Act, 1948, tax on sale of H.B. wire is leviable at the rate of 4 per cent w.e.f. 1 April, 1982. If, the sale is supported by Form-III B, no tax is levied.

During audit of Trade Tax Circle, Allahabad, it was noticed (November 1992) that in 1985-86, a dealer had sold H.B. wire valued at Rs. 49.16 lakhs, out of which sales turnover of Rs. 25.93 lakhs was supported by Form-III B. As the turnover of Rs. 23.23 lakhs was not supported by any declaration, tax was to be levied at the rate of 4 per cent, which was not levied. This resulted in non-levy of tax amounting to Rs. 92,939.

On this being pointed out in audit (November 1992), the Department levied the tax of Rs. 92,939 and raised the additional demand of above amount (December 1993).

The matter was reported to the Government (March 1994); their reply has not been received (August 1996).

## **2.9 Mis-use of declaration forms**

Section 3-B of U.P. Trade Tax Act, 1948 provides that in the event of issue of false or wrong declaration forms by reason of which tax on sale or purchase of goods ceases to be leviable, the dealer shall be liable to pay a sum equal to the amount of relief in tax secured by him on the purchase of raw materials etc. Besides, interest at the rate of 2 per cent per month is also chargeable upto the date of deposit of such amount.

(a) During audit of Trade Tax Circle, Firozabad, it was noticed (August 1994) that a dealer holding recognition certificate for manufacture of glassware and bangles made purchase of kerosene oil worth Rs. 11.76 lakhs at concessional rate of tax during the years 1988-89 and 1989-90, although he was not authorised to do so. Mis-use of declaration forms for concessional rate of tax resulted in short-levy of amount of Rs. 51,737 equal to tax saved. Besides, interest amounting to Rs. 65,719 was also chargeable upto the date of audit (July 1994).

The case was reported to the Department and Government (November 1994 and April 1996); their replies have not been received (August 1996).

(b) During audit of Trade Tax Circle, Meerut, it was noticed (October 1994) that a dealer, holding recognition certificate for the manufacture of P.V.C. Pipes was authorised to purchase P.V.C. Granules, P.V.C. Compound etc. at concessional rate of tax. During 1989-90 to 1991-92 he had purchased Indovin and P.V.C. resin

valuing Rs. 14.68 lakhs at concessional rate of tax while he was not authorised to do so. The dealer was, therefore, liable to pay an amount of Rs. 68,264 equal to relief in tax secured by him. Besides, interest amounting to Rs. 69,812 was also chargeable upto the date of audit (February 1995).

On this being pointed out in audit (October 1994) the Department passed an order raising the demand of Rs. 68,264 (March 1995). Report on recovery has not been received (August 1996)

The case was reported to the Government (January 1995); their reply has not been received (August 1996).

## **2.10 Non/short-levy of tax due to mis-classification of goods**

Under the U.P. Trade Tax Act 1948, tax is levied as per the Schedule of Rates notified by the Government from time to time. In case the goods which are not classified, tax is leviable at the rate of 8 per cent with effect from 7 September, 1981. Besides, additional tax is also leviable at the rate of 10 per cent and 25 per cent of tax with effect from 1 November, 1985 and 1 August, 1990 respectively.

During the audit of 4 Trade Tax Circles, it was noticed that due to mis-classification of goods, correct rates of tax were not applied which resulted in short-levy of tax. Details are given below :

Sl. No.	Name of Circle	Year of Assessment	Name of Goods	Taxable Turnover (Rupees in lakhs)	Rate of Tax leviable ( Per cent )	Rate of Tax levied	Tax short-levied (Rupees in lakhs)	Amount of interest leviable up to the date of audit
1.	Varanasi	1989-90 and 1990-91	Nylon Mono filament Yarn	14.82	8.8 and 10	2.2 and 2.5	1.05	1.23



Sl. No.	Name of Circle	Year of Assessment	Name of Goods	Taxable Turnover (Rupees in lakhs)	Rate of Tax leviable ( Per cent )	Rate of Tax levied	Tax short-levied (Rupees in lakhs)	Amount of interest leviable up to the date of audit (Rupees in lakhs)
2.	Lucknow	1992-93	Mosquito repellent coils	66.72	10	7.5	1.67	1.24
3.	Baraut (Meerut)	1993-94	H.D.P.E. bags	82.27	10	2.5	6.17	2.47
4.	Kanpur	1990-91 1991-92	Rubberised niwar	15.70	4.4 and 5	---	0.77	0.61
Total				179.51			9.66	5.55

On being pointed out in audit (between January 1995 and April 1996) the Department revised the assessment in case of serial number 1 and 4 and levied tax of Rs. 1.82 lakhs.

Cases were reported to the Government (between January 1995 and April 1996); their reply has not been received (August 1996).

## **2.11 Non imposition of penalty**

### **A. Under the U.P. Trade Tax Act**

#### **(I) For mis-use of raw material**

Under the U.P. Trade Tax Act, 1948, read with Government notifications dated 31 December, 1976 and 29 August, 1987, provision for special relief has been made in tax to manufacturers on purchase of raw material required for use in the manufacture of notified goods on fulfilment of certain conditions. In case of use of raw material for a purpose other than that for which recognition certificate was granted or otherwise disposed of, the dealer shall be liable to pay, by way of penalty, a sum which shall not be less than the amount of relief in tax secured by him,

but shall not exceed three times of such relief. As per Commissioner Trade Tax, U.P., circular dated 17 May, 1983 element of interest is also to be considered while levying penalty.

(i) During audit of Trade Tax Circle, Kanpur, it was noticed (February 1992) that in 1987-88 a dealer holding recognition certificate for the manufacture of P.V.C. pipes and sheets, purchased P.V.C. resin for Rs. 7.85 lakhs at the concessional rate of tax and used it in the manufacturing of P.V.C compound and sold it as such for which he was not authorised. The dealer was, therefore, liable to pay penalty upto Rs. 1.04 lakhs which was not imposed.

On this being pointed out in audit (July 1992), the Department imposed the penalty (September 1994) amounting to Rs. 1.04 lakhs.

The case was reported to Government (July 1992); their reply has not been received (August 1996).

(ii) During audit of Trade Tax Circle, Fatehpur, it was noticed (June 1994) that in 1989-90 a dealer holding recognition certificate for the manufacture of rice, purchased tax-free paddy for Rs. 19.45 lakhs, out of which paddy amounting to Rs. 14.86 lakhs was sold to other rice manufacturers against Form III-B. As the dealer had otherwise disposed of the said goods, he was liable to pay a minimum penalty of Rs. 59,433 which was not levied. Besides, interest amounting to Rs. 77,262, (calculated upto May 1994) was also chargeable.

On this being pointed out in audit the Department imposed the penalty of Rs. 59,433 (March 1995). The report on recovery and raising demand of interest

has not been received (August 1996).

The case was reported to the Government (September 1995); their reply has not been received (August 1996).

(iii) During audit of Trade Tax Circle, Kanpur, it was noticed (January 1996) that between the years 1989-90 and 1991-92 a dealer, holding recognition certificate for the manufacture of 'rubber sheets' purchased tax-free raw material valuing Rs. 18.60 lakhs and utilised it in the manufacturing of Micro-cellular sheet. The dealer was therefore, liable to pay penalty upto Rs. 2.71 lakhs which was not imposed.

The case was reported to the Department and Government (April 1996); their replies have not been received (August 1996).

## **(II) For irregular export of goods**

Under the U.P. Trade Tax Act, 1948, read with Government notification dated 29 August, 1987, provision for special relief in tax to manufacturers on purchase of raw material and packing material for use in manufacture of certain notified goods on fulfilment of certain conditions, have been made. Goods so manufactured are required to be sold within the State or in the course of inter-State trade or Commerce or export out of India. In the event of violation of any of these conditions, the dealer shall be liable to pay penalty, which shall not be less than the amount of tax payable on sale or purchase of such goods, but not more than two times of tax, less the amount of tax which has already been paid on purchase of such goods.



During audit of Trade Tax Circle, Ghaziabad, it was noticed (May 1995) that in 1992-93 a dealer holding recognition certificate for the manufacture of 'thinner', purchased tax-free methanol for Rs. 9.13 lakhs and manufactured thinner worth Rs. 88.78 lakhs, out of which thinner worth Rs. 23.68 lakhs was transferred outside the State on consignment basis in which methanol amounting to Rs. 2.46 lakhs was used in manufacturing. As the dealer was not authorised to consign the thinner, he was liable to pay a minimum penalty of Rs. 79,821, which was not imposed.

The matter was reported to the Department and Government (April 1996); their replies have not been received (August 1996).

### **(III) For concealment of turnover**

Under the U.P. Trade Tax Act, 1948, if during the course of any assessment proceedings, the assessing officer is satisfied that a dealer has concealed any sale or purchase turnover with an intention to reduce the amount of tax payable, he may impose, by way of penalty, which shall not be less than 50 per cent but not exceeding 150 per cent of the tax that would have been avoided by him, if the concealment had not been detected.

During audit of Trade Tax Circle, Kasganj (Etah), it was noticed (October 1993) that on the basis of information collected by the Department from various sources, the concealed turnover of foodgrains of a dealer was determined at Rs. 44.50 lakhs during the year 1989-90 and tax amounting to Rs. 3.73 lakhs was levied. In this case, the dealer was also liable to pay a minimum penalty -of Rs. 1.86 lakhs which was not levied

On this being pointed out in audit (October 1993), the Department investigated and found further concealment of turnover and levied tax amounting to Rs. 5.25 lakhs. The dealer was, therefore, liable to pay minimum penalty of Rs. 2.62 lakhs. However, the Department imposed penalty (March 1994) of Rs. 2.64 lakhs. Report on recovery has not been received (August 1996).

The case was reported to Government (January 1994 and April 1996); their reply has not been received (August 1996).

**(IV) For unauthorised import of goods**

Under the U.P. Trade Tax Act 1948, a registered dealer, desiring to import goods from outside the State, shall furnish a declaration in Form XXXI to the assessing authority where such goods are intended to be imported from outside the State by road, rail, river, air or post. The importer shall not obtain delivery thereof unless he furnishes to the assessing officer, the declaration in duplicate duly filled in and signed by him for endorsement by such officer. In the event of violation of these provisions, the assessing authority may direct that such dealer or person shall pay, by way of penalty, a sum not exceeding 40 per cent of the value of goods imported.

During audit of Trade Tax Circle, Gorakhpur, it was noticed (March 1993), that in 1987-88 a dealer imported gunny bags worth Rs. 1.75 lakhs from outside the State by rail without furnishing declaration in Form XXXI to the assessing officer. The dealer was, therefore, liable to pay penalty upto Rs. 69,816 which was not imposed.

On this being pointed out in audit (March 1993), the Department imposed the penalty (December 1993) of Rs. 80,000. The report on recovery has not



been received (August 1996).

The case was reported to the Government (May 1995 and May 1996); their reply has not been received (August 1996).

**B. Under the Central Sales Tax Act**

(a) Under the Central Sales Tax Act, 1956, a registered dealer may purchase goods from a dealer in another State at a concessional rate of tax by furnishing declaration in prescribed Form 'C' provided such goods have been specified in his certificate of registration as being intended for resale/use in manufacture, processing of goods for sale etc. Issue of Form 'C' for purchasing goods which are not covered by the registration certificate constitutes an offence for which the dealer is liable for prosecution. The registering authority may, however, impose, in lieu of prosecution, a penalty not exceeding one-and a-half times the amount of tax which would have been levied.

During the audit of 13 Trade Tax Circles, it was noticed that in 16 cases the dealers had purchased against declarations in Form 'C' goods, other than those covered by their certificate of registration, valued at Rs. 616.03 lakhs. They were, therefore, liable to pay penalty amounting upto Rs. 98.28 lakhs, which was not imposed. Details are given below:

Sl. No.	Name of Circle	Assessment year	Goods Purchased	Value of goods	Amount of penalty leviable
( Rupees in lakhs )					
1.	Bareilly	1990-91	Sulphur	4.70	0.61
2.(i)	Lucknow	1988-89	Chemicals and Machinery	6.00	0.90
(ii)	Lucknow	1987-88 and 1988-89	Mosquito repellent mats	16.82	2.52
(iii)	Lucknow	1991-92	M.C.I. inserts	26.58	3.99
3.	Bijnore	1988-89 and 1989-90	Screen, Nickle Screen and weigh-bridge	4.49	0.67
4.	Meerut	1989-90	Iron and Steel, Steel Tubes, etc.	4.36	0.62
5.	Deoria	1987-88	Brass Tubes	6.79	1.02
6.	Etawah	1990-91	Chemical, Generator Sets, Laminated Sheets and tools	7.60	1.24
7.(i)	Aligarh	1988-89	Fire extinguishers, buckets, isolators, Jeep and Part of Car	3.64	0.55



Sl. No.	Name of Circle	Assessment year	Goods Purchased	Value of goods	Amount of penalty leviable ( Rupees in lakhs )
(ii)	Aligarh	1987-88	Electrodes, Steel balls, Yamaha 350, Steel wire rope, Rubber Sheets etc.	65.48	9.82
8.	Mathura	1986-87 and 1987-88	Damaged cans, Soda Ash, MS Sheet and Stone Powder	4.01	0.60
9.	Ghaziabad	1990-91 and 1991-92	Methanol	17.71	8.63
10.	Fatehgarh	1987-88 and 1988-89	Machinery Parts, Stores Materials and Spare Parts	215.19	32.20
11.	Farukhabad	1989-90	Store spares and store material	15.58	2.34
12.	Pallia Kalan (Kheri)	1986-87	Thinner, Rubber sheet, Exhaust fan, Electric fittings, etc.	14.51	2.18
13.	Agra	1981-82 to 1983-84	RCC Pipes, LPG Cylinder, Fire Extinguisher etc.	202.57	30.39
Total				616.03	98.28

On this being pointed out in audit (between July 1988 to December 1994), the Department stated that except in case of Sl. No. 2(i), 2(ii), 9, 10 and 14, penalties amounting to Rs. 51.66 lakhs have been imposed. In case of Sl. No. 1 stay has been granted by the Trade Tax Tribunal, Bareilly (October 1994).

The matters were reported to the Government (between June 1992 to March 1996); their replies have not been received (August 1996).

(b) Under The Central Sales Tax Act, 1956, if a registered dealer purchases any goods from outside the State at concessional rate of tax and uses it for a purpose other than that for which registration was granted, the assessing authority may impose penalty upto one-and a-half times the tax payable on such goods.

(i) During the audit of Trade Tax Circle , Lucknow it was noticed (November 1994) that in 1988-89 a dealer imported cement for Rs. 4.85 lakhs on the strength of form 'C' and utilised it for his own use. This fact was admitted by the

dealer. Since the dealer was authorised to buy it only for resale, he was liable to pay penalty amounting to Rs. 80,025 which was not imposed.

The matter was reported to the Department and Government (November 1995); their replies have not been received (August 1996).

(ii) In Trade Tax Circle, Bharthana (Etawah), it was noticed (July 1994) that a dealer imported timber worth Rs. 3.19 lakhs during 1989-90 on the strength of declaration in Form 'C' and used the same in the manufacture of timber products, although he was authorised to import it for resale only. The dealer was, therefore, liable to pay penalty upto Rs. 63,130 which was not imposed.

On this being pointed out in audit (July 1994), the assessing officer imposed penalty (July 1995) of Rs. 63,130. The report on recovery has not been received (August 1996).

The case was reported to the Government (December 1995); their reply has not been received (August 1996).

(iii) During audit of Trade Tax Circle, Etawah, it was noticed (September 1993) that three dealers imported timber worth Rs. 15.77 lakhs during the years 1988-89 and 1989-90 at concessional rate of tax for resale and used it in the manufacture of timber products. The dealers were, therefore, liable to pay penalty upto Rs. 3.13 lakhs which was not imposed.

On this being pointed out in audit (September 1993), the Department imposed the penalty of Rs. 3.13 lakhs (June 1995).

The cases were reported to the Government (January 1994 and April 1996); their reply has not been received (August 1996).





	<i>Reference to Paragraph</i>	<i>Page(s)</i>
<b>CHAPTER 3</b>		
<b>STATE EXCISE</b>		
Results of audit	3.1	51
Loss of revenue due to application of incorrect rate of export duty/ export pass fee	3.2	51
Non-levy of interest on belated payments	3.3	53
Short-levy of duty due to non- adoption of actual strength of Indian Made Foreign Liquor	3.4	54
Short-realisation of additional duty	3.5	55
Short-levy of excise duty due to irregular allowance of wastage	3.6	56
Short-realisation of licence fee	3.7	56





## CHAPTER-3

### STATE EXCISE

#### 3.1 Results of audit

Test check of the accounts and relevant records of the State Excise Offices, conducted in audit during the year 1995-96 revealed non-levy or short-levy of duties and fees amounting to Rs. 245.06 lakhs in 151 cases which broadly fall under the following categories:

	No. of cases	Amount (in lakhs of rupees)
1. Excess transit/storage wastage	11	14.26
2. Short-levy of export pass fee	9	27.11
3. Non-levy of interest	23	56.55
4. Non-levy of compounding fee / penalties	27	72.65
5. Irrational fixation of Minimum Guaranteed Quantity (M.G.Q.) of country liquor	5	1.36
6. Non-maintenance of minimum prescribed yield	11	5.87
7. Non-realisation of licence fee	11	36.89
8. Other irregularities	54	30.37
<b>Total</b>	<b>151</b>	<b>245.06</b>

During the course of the year 1995-96 the concerned Department accepted under-assessments etc. of Rs. 15.23 lakhs involved in 131 cases pointed out in audit in earlier years. A few illustrative cases involving Rs. 54.36 lakhs are mentioned in succeeding paragraphs:

#### 3.2 Loss of revenue due to application of incorrect rate of export duty/export pass fee

(a) Under the U.P. Excise Act, 1910 and the Rules made thereunder, for the purpose of levying excise duty, liquor is categorised either as country liquor or as

foreign liquor. Spirit having strength below 60° over proof (alcohol less than 91.27 per cent volume by volume) is termed as plain spirit and that having strength of 60° over proof and above is termed as rectified spirit (foreign liquor). Plain spirit of the strength below 60° over proof whether obtained from distillation of molasses, grape or malt is categorised as country liquor for the purpose of levying excise duty. The prescribed rates of duty on export of country liquor (excluding tari and fermentable alcohol) and foreign liquor were Rs. 7 and 4 per alcoholic litre upto 30 March, 1994 and Rs. 8 and 7 per alcoholic litre from 31 March, 1994 respectively.

During audit of 2 distilleries-Mohan Nagar (Ghaziabad) and Rampur, it was noticed (February 1995 and June 1995) that the distilleries during the period between December 1993 and January 1995 exported out of Uttar Pradesh 5.17 lakhs of alcoholic litres of plain spirit of the strength below 60° over proof (56.8 per cent volume by volume to 87.9 per cent volume by volume) which is categorised as country liquor. On the export of the above spirit, duty at the rate of Rs. 4 per alcoholic litre upto 30 March 1994 and Rs. 7 per alcoholic litre thereafter was realised against the correct rate of Rs. 7 and 8 per alcoholic litre respectively. This resulted in loss of revenue of Rs. 9 lakhs.

The matter was reported to the Department and Government (between May 1995 and November 1995); their replies have not been received (August 1996).

(b) Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, any licensee, shall export, denatured spirit/special denatured spirit, absolute alcohol or rectified spirit for industrial use and rectified spirit for potable use, only after depositing export pass fee at the prescribed rate. The rates of export pass fee were enhanced from Re. 0.75, Rs. 2.50 and Rs. 5 to Rs. 2, Rs. 4 and Rs. 6 per bulk litre respectively by the Government Notification dated 24 March, 1994.

During audit of two distilleries-Hargaon (Sitapur) and Shimbhauli



(Ghaziabad), it was noticed (July 1995 and November 1995) that the distilleries during the period from 24 March 1994 to 31 March 1994, exported out of Uttar Pradesh 2.90 lakh bulk litres of Denatured Spirit (D.S) and Special Denatured Spirit (S.D.S.), 46000 bulk litres of Rectified Spirit (Industrial) and 12680 bulk litres of Rectified Spirit (potable). On the export of the above spirit, duty at the rate of Re. 0.75, Rs. 2.50 and Rs. 5.00 per bulk litre was realised against the correct rate of Rs. 2, Rs. 4 and Rs. 6 per bulk litre respectively. This resulted in loss of revenue to the tune of Rs. 4.69 lakhs.

The cases were reported to the Department and Government (between August 1995 and May 1996); their replies have not been received (August 1996).

### **3.3 Non-levy of Interest on belated payment**

Under the provisions of the Uttar Pradesh Excise Act, 1910, as amended from 29 March, 1985, where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate of 18 per cent per annum is recoverable from the date of such excise revenue had become payable till the date of actual payment. In respect of excise revenue which had become payable prior to the date of amendment to the Act and not paid within three months of date of amendment, interest at the rate of 18 per cent per annum was required to be charged from 29 March, 1985.

During the audit of 9 District Excise Offices and a distillery, it was noticed (between April 1995 and December 1995) that excise revenue of Rs. 17.89 lakhs was paid after delay of 13 to 125 months from the date it became payable reckoned from 29 March, 1985. Interest amounting to Rs. 11.61 lakhs was, thus, leviable on these belated payments of excise revenue which was not levied and realised as detailed below:



Sl. No.	Name of District Excise Office/ Distillery	Excise revenue payable (in lakhs of rupees)	Period of delay (in months)	Amount of interest not levied/ realised (in lakhs of rupees)
1.	Allahabad	2.86	23 to 31	1.12
2.	Sultanpur	4.50	21	1.44
3.	Muzaffarnagar	0.40	118	0.71
4.	Azamgarh	0.48	120	0.86
5.	Dehradun	0.43	115	0.75
6.	Mirzapur	6.82	81	1.21
7.	Kayamganj Distillery (Farrukhabad)	4.95	36	2.74
8(a).	Pratapgarh	0.73	119	1.31
(b)	Pratapgarh (i)	0.03	122	0.06
	(ii)	0.42	19 to 32	0.14
	(iii)	1.58	13	0.31
9.	Lucknow (i)	0.15	124	0.28
	(ii)	0.36	125	0.68
	Total	23.71		11.61

**Note:** In respect of Sl. No. 6, against the payable amount of Rs. 6.82 lakhs, only Rs. 1 lakh was paid.

The cases were reported to the Department/ Government (between August 1995 and May 1996); their replies have not been received (August 1996).

### **3.4 Short-levy of duty due to non-adoption of actual strength of Indian Made Foreign Liquor**

Under the U.P. Excise Act, 1910 and the Rules made thereunder, read with the U.P. Bottling of Foreign Liquor Rules, 1969, the sale strength prescribed for whisky, brandy, rum and gin is the apparent strength of spirit as indicated by the hydrometer after addition of the colouring and flavouring material. The strength so indicated, is to be mentioned on labels to be affixed on the sealed and capsuled

bottles. The minimum strength of whisky, brandy and rum is 25° under proof (42.8 per cent volume by volume). The duty chargeable per litre of alcohol contained in the Indian made foreign liquor in sealed and capsuled bottles is Rs. 45.00 from 1993.

During the audit of a distillery at Rampur, it was noticed (June 1995) that 50.05 lakh bulk litres of IMFL were manufactured and issued during the period from December 1993 to March 1995. The labels affixed on the bottles indicated the alcoholic content of whisky, brandy and rum as 25° under proof (42.8 per cent volume by volume) and the excise duty was levied on that basis. However, the actual apparent strength of spirit in the liquor after addition of colouring and flavouring material as indicated by the hydrometer was 43 per cent volume by volume (as per records of the distillery) which exceeded the prescribed strength by 0.2 per cent volume by volume. The alcoholic content as per actual sale strength comes to 21.52 lakhs A.L., while as per strength indicated on the label was 21.42 lakhs A.L. As a result, the duty on differential A.L. of 0.10 lakh was short-levied by Rs. 4.50 lakhs.

The matter was reported to the Department and Government in May 1996, their replies have not been received (August 1996).

### **3.5 Short-realisation of additional duty**

Under the provisions of the Uttar Pradesh Excise Act, 1910 and the Rules framed thereunder as amended from April 1991, if a licensee intends to lift and sell intoxicant in excess of the Minimum Guaranteed Quantity (M.G.Q.), he is required to pay as additional consideration, an extra amount at the rate prescribed by the Excise Commissioner for grant of special rights to sell such additional quantity of intoxicant. The rate of extra amount prescribed for the year 1993-94 was Rs. 11 per bulk litre.



During the course of audit of District Excise Office, Muzaffar Nagar, it was noticed (May 1995) that a licensee lifted and sold 1.82 lakh bulk litres of country liquor in excess of the minimum guaranteed quantity during May 1993 to August 1993. The licensee was, therefore, liable to pay an extra amount of Rs. 20 lakhs for excess lifting and selling of country liquor against which Rs. 1.82 lakhs were realised. This resulted in short-realisation of additional duty amounting to Rs. 18.18 lakhs.

The matter was reported to the Department and Government (December 1995); their replies have not been received (August 1996).

### **3.6 Short-levy of excise duty due to irregular allowance of wastage.**

Under the U.P. Excise Act, 1910, and the Rules made thereunder, on liquor fit for human consumption, transported in wooden casks, metal vessels or tankers under bond, within the State an allowance upto 0.5 per cent is admissible for actual transit wastage (due to leakage, evaporation or other unavoidable causes). No transit wastage is admissible on liquor transported in sealed bottles or pouches.

During audit of two distilleries-Nandganj (Ghazipur) and Modi Nagar (Ghaziabad), it was noticed (May 1995 and November 1995) that 13.45 lakh alcoholic litres of spiced/plain country spirit were transported in sealed bottles and pouches under bond to different bonded warehouses during the period from April 1991 to October 1995. The transit loss allowed in these cases was 16,398 alcoholic litres which was irregular and resulted in short levy of excise duty amounting to Rs. 5.38 lakhs.

The matter was reported to the Department and Government (between August 1995 and May 1996), their replies have not been received (August 1996).

### **3.7 Short-realisation of licence fee**

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, the manufacturers of Indian made foreign liquor (including beer) are



required to obtain a licence in Form F.L.-I. for wholesale vend of their own produce to wholesale vendors. The licence is granted by the Collector on payment of the prescribed fee of Rs. 1 lakh per year which was raised to Rs. 1.50 lakhs from April 1995.

During the audit of the District Excise Office, Lucknow, it was noticed (October 1995) that two licences for the year 1995-96 in form F.L.-I for wholesale vend of Indian made foreign liquor (including beer), were granted to a distillery and a brewery of Lucknow on payment of the licence-fee of Rs. 1 lakh each instead of Rs. 1.50 lakhs. This resulted in short-realisation of licence fee amounting to Rs. 1 lakh.

The matter was reported to the Department and Government (May 1996); their replies have not been received (August 1996).



	<i>Reference to Paragraph</i>	<i>Page(s)</i>
<b>CHAPTER-4</b>		
<b>TAXES ON VEHICLES, GOODS AND PASSENGERS</b>		
Results of audit	4.1	61
Non-assessment of Passenger tax in respect of Contract Carriages	4.2	61
Short-realisation of Passenger tax due to non-adoption of prescribed minimum fare	4.3	62
Loss of revenue due to non- assignment of registration mark	4.4	64
Non/Short-realisation of Passenger tax	4.5	65
Non /Short-levy of Passenger tax due to non-adoption of approved trips	4.6	66
Non-assessment of Passenger tax in respect of vehicles plying without permits	4.7	67
Non-levy of Road Tax and Goods Tax	4.8	68





## CHAPTER-4

### TAXES ON VEHICLES, GOODS AND PASSENGERS

#### 4.1 Results of audit

Test check of the records of the various offices of the Transport department conducted in audit during 1995-96 revealed short-levy or non-levy of taxes/fees amounting to Rs. 628.96 lakhs in 162 cases, which broadly fall under the following categories:-

	Number of cases	Amount (in lakhs of rupees)
1. Short-levy or non-levy of passenger tax / additional passenger tax	70	567.48
2. Under-assessment of road tax	30	7.73
3. Short-levy of goods tax	12	12.43
4. Other irregularities	50	41.32
<b>Total</b>	<b>162</b>	<b>628.96</b>

During the year 1995-96, the Department accepted under-assessments etc. of Rs. 71.96 lakhs involved in 246 cases, which had been pointed out in audit in earlier years. A few illustrative cases highlighting important observations involving Rs. 12.54 lakhs are given in the succeeding paragraphs:

#### 4.2 Non-assessment of passenger tax in respect of contract carriages

Under the Uttar Pradesh Motor Gadi (Yatrikar) Adhiniyam, 1962, passenger tax is leviable at the rate of 16 per cent of the fare payable to the operator by a passenger in respect of his journey in the State by a stage carriage (including contract carriage). The tax is collected by the operator and paid to the State

Government. Further, under the Uttar Pradesh Motor Gadi (Yatrikar) Niyamawali, 1962, assessment of passenger tax under a lump-sum agreement in respect of a contract carriage (excluding motor cab), depends on the fare payable and distance expected to be travelled during a month. It has been further provided that the fare to be taken into account for levy of passenger tax shall not be less than 85 per cent of the maximum rates prescribed under the Motor Vehicle Act, 1988 and the distance expected to be travelled in a month shall not be less than 4,000 kilometres.

During audit of Assistant Regional Transport Office, Pratapgarh, it was noticed (June 1995) that two contract carriage permits were granted for 5 years by the State Transport Authority. The operators of the contract carriages were paying road tax in sub regional office for plying their vehicles in Uttar Pradesh but passenger tax was not being paid by them. Non-assessment of passenger tax resulted in non-realisation of revenue amounting to Rs. 2.53 lakhs calculated on the basis of lump sum agreement for the period between July 1993 and June 1995, besides penalty leviable.

The matter was reported to the Department and Government (July 1995); their replies have not been received (August 1996).

#### **4.3 Short-realisation of Passenger tax due to non-adoption of prescribed minimum fare**

Under the Uttar Pradesh Motor Gadi (Yatrikar) Adhiniyam, 1962, and the Rules framed thereunder, passenger tax at the rate of 16 per cent of the fare paid or payable by the passengers carried by a stage carriage is leviable in respect of journey in the State. By a notification dated 10 June, 1992, the State Government directed the State Transport Authority/ Regional Transport Officers to fix the minimum rate of fare at 14.90, 16.30 and 19.00 paise per passenger per kilometre for stage carriages plying on special and 'A' class, 'B' class and 'C' class routes respectively. Again, by a



notification dated 8 June, 1994, the State Government enhanced the minimum rate of fare as 17.1, 18.8 and 21.9 paise respectively. Minimum rate of fare per passenger per kilometre for stage carriages specially run during melas and other special occasions was fixed at 22.90 paise.

a) During the audit of office of the Assistant Regional Transport Officer, Jaunpur, it was noticed (February 1995) that the revised minimum rates of fare were not applied in respect of three routes i.e. Newarhiya-Marhiyahu, Jaunpur-Mehnajpur and Jaunpur-Nonari and passenger tax was realised at the pre-revised rates or at the rates less than those prescribed by the Government. This resulted in short-realisation of passenger tax to the tune of Rs. 71,996 during the period between June 1992 to March 1995.

On this being pointed out in audit (February 1995), the Department realised an amount of Rs. 14,373 and raised demand (May 1996) for the balance amount.

The matter was reported to the Government (October 1995); their reply has not been received (August 1996).

b) During audit of the office of the Assistant Regional Transport Officer, Basti, it was noticed (July/August 1995) that minimum rates of fare were not applied in respect of Basti-Bishnathpur and Basti-Mahulinathnagar ('A' Class routes) and passenger tax was realised at pre-revised rates. This resulted in short-realisation of passenger tax to the tune of Rs. 79,729 during the period between June 1994 and June 1995.

The matter was reported to the Department/Government (November 1995 and again in May 1996); their replies have not been received (August 1996).

c) During audit of office of the Assistant Regional Transport Officer, Hamirpur, it was noticed (February 1995) that the Regional Transport Authority issued 7 permits to 7 stage carriages (for special occasion of Hamirpur Mahotsava) with validity ranging from 3 to 41 days between the period from 6 July 1994 to 24 August 1994. Permits were issued for carrying passengers from different places to Hamirpur and back with the condition that stage carriages will perform one return trip per day. Passenger tax from these carriages was not realised on the basis of prescribed minimum fare. This resulted in short-realisation of passenger tax of Rs. 81,406 during the period from 6 July, 1994 to 24 August, 1994.

On this being pointed out in audit (February 1995), the Assistant Regional Transport Officer, Hamirpur stated (April 1996) that demand notices have since been issued.

The matter was reported to Government (May 1995 and January 1996); their reply has not been received (August 1996).

#### **4.4 Loss of revenue due to non-assignment of registration mark**

Under the Motor Vehicle Act, 1988, when a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle is required to apply in the prescribed form to the registering authority, within whose jurisdiction the vehicle is kept, for assignment of a new registration mark.

During audit of office of the Assistant Regional Transport Officer, Kanpur (Dehat), it was noticed (November 1995) that 256 vehicles (173 heavy vehicles and 83 light vehicles) registered in other States arrived in Uttar Pradesh with "No objection Certificate" between September 1988 and November 1994 and were registered in A.R.T.O. Office, Kanpur (Dehat). Road Tax on these vehicles was



regularly being assessed and realised, but registration marks of Uttar Pradesh were neither assigned to these vehicles nor did the owners of these vehicles apply for the same, although the vehicles had been plying in the State for more than 12 months. This resulted in short-realisation of revenue amounting to Rs. 60,200 (computed on the basis of prescribed assignment fee of Rs. 300 per vehicle in case of heavy vehicles and Rs. 100 per vehicle in case of light vehicles).

The matter was reported to the Department and Government (December 1995 and again in May 1996); their replies have not been received (August 1996).

#### **4.5 Non/short-realisation of passenger tax.**

Under the Uttar Pradesh Motor Gadi (Yatri Kar) Adhiniyam, 1962 and the Rules framed thereunder, passenger tax payable under a lump sum agreement in respect of any stage carriage on a particular route is calculated, inter-alia, on the basis of the total fare payable for the entire route, the number of one way trips allowed or expected to be made by the stage carriage and the load factor. Any change in the route, number of trips, seating or standing capacity or fare, renders the lump sum agreement void from the date of such change and thereafter fresh agreement in respect of the unexpired period of the agreement is required to be executed.

a) During audit of the Regional Transport Office, Agra, it was noticed (July 1995) that by a resolution of September 1994, the Regional Transport Authority, Agra extended the route of Khairagarh-Jajampati via Kagarol-Kirawali-Runakta-Achhnera-Oab-from Kagarol to Fatehpur Sikri. The endorsement to this effect was made on permits in October 1994. But the Department failed to realise tax payable on the extended route in respect of 29 stage carriages during the period from 21 October, 1994 to 20 June, 1995 at the enhanced rate. This resulted in non-realisation of revenue amounting to Rs. 71,662.



The matter was reported to the Department and Government (November 1995 and again in May 1996); their replies have not been received (August 1996).

b) During audit of office of the Assistant Regional Transport officer, Farukhabad, it was noticed (April 1995) that, operators of Mohammadabad-Aliganj Via Nawabganj-Achara route informed the prescribed authority on 12 February, 1992 that the fares were being charged at Rs. 6.50, Rs. 4.00 and Rs. 4.00 for Hatiapur-Aliganj, Mohammadabad-Achara and Hatiapur-Achara respectively. However, the assessment and realisation of passenger tax by the Department was made at the lower rate of tax in respect of 8 vehicles plying on the routes during the period from 12 February, 1992 to 31 March, 1995. This resulted in short realisation of revenue amounting to Rs. 2.44 lakhs.

The matter was reported to the Department and Government (October 1995); their replies have not been received (August 1996).

#### **4.6 Non/short levy of passenger tax due to non-adoption of approved trips**

In terms of Section 72(2) of the Motor Vehicles Act, 1988, the Regional Transport Authority may attach a condition to the permit for the minimum and the maximum number of daily trips to be provided in relation to any route. For any deviation from the conditions of the permit, approval of the Regional Transport Authority is required. Under the Uttar Pradesh Motor Gadi (Yatrikar) Adhiniyam, 1962 and the Rules framed thereunder, passenger tax payable under lump sum agreement in respect of any stage carriage on a particular route depends, inter-alia on a number of one-way trips during a particular period and the fare payable for the entire route.

a) During audit of office of the Assistant Regional Transport Officer,

Barabanki, it was noticed (August 1995) that Regional Transport Authority, Faizabad, had approved (August 1992) 8 one-way trips per day to be performed in rotation by the vehicles on the route "Belsar-Tikaitnagar". The tax officer assessed and realised passenger tax accordingly upto 7 June, 1994 but for the period from 8 June, 1994 to 31 December, 1994, the lump sum agreements were finalised by the tax officer on the basis of 4 one-way trips without obtaining approval of the Regional Transport Authority. Further, such agreements for the period from 1 January, 1995 to 7 July, 1995, were not executed at all. This resulted in short/non-levy of passenger tax amounting to Rs. 82,126.

The matter was reported to the Department and Government (November 1995 and May 1996); their replies have not been received (August 1996).

b) During the audit of office of the Assistant Regional Transport Officer, Ballia, it was noticed (July 1995) that despite the sanction of Regional Transport Authority, Varanasi, for 36 single trips per day with effect from 22 March, 1994 the lump sum passenger tax payable in respect of 24 vehicles on the Nagra-Ballia Via Gaddha-Garhwar-Rahsarh-Ekail route was computed on the basis of 32 single trips per day. This resulted in short-levy of passenger tax amounting to Rs. 1.31 lakhs during the period from 22 March, 1994 to 30 June, 1995.

The matter was reported to the Department and Government (December 1995); their replies have not been received (August 1996).

#### **4.7 Non-assessment of passenger tax in respect of vehicles plying without permits**

Under the Motor Vehicles Act, 1988, no owner of a motor vehicle shall use or permit the use of the vehicle in any public place or any other place for carrying passenger or goods unless the vehicle is registered in accordance with the Act and is covered by a permit granted by the Regional Transport Authority on payment of the



prescribed fee. Further, under the Uttar Pradesh Motor-Gadi (Yatri kar) Adhiniyam, 1962 and the Rules framed thereunder, passenger tax at the rate equivalent to 16 per cent of the fare paid or payable by passengers carried by a stage carriage is leviable in respect of journey in the State. In addition to passenger tax, surcharge for providing insurance to passengers, in case of accidents, is also realisable at the rate of 5 per cent of passenger tax from such passengers carried in a stage carriage.

During audit of Sub-regional Transport Office, Mau, it was noticed (March 1995) that 10 passenger vehicles carrying passengers on hire during various periods from April 1994 to July 1994 were found plying without permit. Passenger tax was, however, not assessed by the Department on such vehicles even for the months in which these vehicles were detected plying without permit. This resulted in non-assessment of passenger tax amounting to Rs. 68,473 during the period between April 1994 and July 1994.

The matter was reported to the Department and Government (May 1995 and again in May 1996); their replies have not been received (August 1996).

#### **4.8 Non-levy of road tax and goods tax.**

Under the Uttar Pradesh Motor Gadi (Mal-kar) Adhiniyam, 1964 and the Rules framed thereunder, read with the U.P. Motor Vehicles Taxation Act, 1935, an operator of a goods vehicle is required to pay goods tax and road tax at the prescribed rates on the authorised pay load. Exemption from the levy of taxes is admissible to vehicles owned by Government only and not by the companies/corporations owned by Government.

During audit of the two Assistant Regional Transport Offices (Azamgarh and Etawah), it was noticed (April 1994 and September 1995) that in respect of 3 goods vehicles owned by the Government companies/corporation, goods



tax and road tax amounting to Rs. 65,880 and Rs. 44,799 respectively was not levied for the period between January 1989 and September 1995.

On this being pointed out in audit the A.R.T.O. Azamgarh stated (April 1996) that demand notice has been issued. The report on recovery has not been received (August 1996).

The cases were reported to the Department and Government (between September 1995 and January 1996); their replies have not been received (August 1996).



## ***Table of Contents***

	<b><i>Reference to Paragraph</i></b>	<b><i>Page(s)</i></b>
<b>CHAPTER 5</b>		
<b>STAMP DUTY AND REGISTRATION FEES</b>		
Results of audit	5.1	73
Short-levy of Stamp Duty due to under-valuation of agricultural/ non-agricultural land	5.2	73
Short-levy of Stamp Duty due to mis-classification of instrument	5.3	75
Delay in revision of rate list	5.4	75





## CHAPTER-5

### STAMP DUTY AND REGISTRATION FEES

#### 5.1 Results of audit

Test check of the accounts and relevant records of District Registrars, Sub-Registrars and District Stamp Officers, conducted in audit during the year 1995-96, revealed short-levy of Stamp Duty and Registration fees amounting to Rs. 96.62 lakhs in 207 cases, which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Short-levy of Stamp Duty and Registration Fees due to under valuation of properties	125	55.23
2. Short-levy due to mis-classification of documents	52	24.47
3. Other irregularities	30	16.92
<b>Total</b>	<b>207</b>	<b>96.62</b>

During the year 1995-96, the department accepted under-assessment etc. of Rs. 69.01 lakhs involved in 157 cases of which 9 cases involving Rs. 0.90 lakh had been pointed out in audit during 1995-96 and the rest in earlier years. A few illustrative cases involving Rs. 40.18 lakhs are mentioned in the following paragraphs:

#### 5.2 Short-levy of Stamp Duty due to under-valuation of agricultural / non-agricultural land

Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), Stamp Duty on a deed of conveyance in respect of agricultural land is chargeable on the market value or on the value of the consideration set-forth therein, whichever is higher. Further, Stamp Duty in respect of a deed of conveyance relating to transfer of non-agricultural land, situated within the municipal limit of any Town Area, Nagar Palika, Nagar Mahapalika is leviable on the basis of average price per square metre prevailing in the locality on the date of execution of the instrument as fixed by the Collector in his district.

During audit of 15 Sub-Registrar Offices, it was noticed (between November 1992 and August 1995) that Stamp Duty amounting to Rs. 31.37 lakhs was short-levied because land was not valued at the rates fixed by the Collectors. Details are given below:-

Sl. No.	Name of the registering office	Nature of property agricultural/ non-agricultural land	Value of the property as per rates fixed by collector (in lakhs of rupees)	Value adopted in the documents	Stamp duty short levied
1.	Sub-registrar Kasganj (Etah)	Non agricultural	5.80	1.20	0.67
2(i)	Sub-registrar Akbarpur (Faizabad)	do	9.76	0.55	1.16
(ii)	Sub-registrar Akbarpur (Faizabad)	do	8.16	0.27	0.99
(iii)	Sub-registrar Akbarpur (Faizabad)	do	5.72	0.35	0.67
3.	Sub-registrar Laharpur Sitapur	Agricultural	6.02	1.81	0.53
4.	Sub-registrar Karnailganj (Gonda)	Non agricultural	54.29	2.64	6.45
5.	Sub-registrar Bisawan Sitapur	Agricultural	6.56	1.40	0.64
6.	Sub-registrar Chandausi (Moradabad)	Non agricultural	7.24	2.62	0.90
7(i)	Sub-registrar II Meerut	Agricultural	14.06	3.97	1.46
(ii)	Sub-registrar I Meerut	do	10.72	4.21	0.94
(iii)	Sub-registrar II Meerut	do	17.79	5.02	1.85
8.	Sub-registrar Gauriganj (Sultanpur)	Non-agricultural	13.88	0.29	1.70
9.	Sub-registrar Sagri (Azamgarh)	Non-agricultural	5.95	0.10	0.72
10.	Sub-registrar Kerakat (Jaunpur)	do	16.75	0.56	2.03
11.	Sub-registrar Hasanpur (Moradabad)	do	26.06	9.85	2.03
12.	Sub-registrar Bijnor	do	8.99	4.50	0.56
13.	Sub-registrar Mau (Banda)	do	56.49	1.50	6.87
14.	Sub-registrar Chakia (Varanasi)	do	5.21	0.59	0.58
15.	Sub-registrar Ghaziabad	do	5.92	1.65	0.62
Total			285.37	43.08	31.37



On this being pointed out in audit (between November 1992 and July 1994), the Collectors concerned levied (between March 1994 and April 1996), the Stamp Duty amounting to Rs. 9.91 lakhs in 7 cases. Further report on recovery has not been received (August 1996).

The cases were reported to the Government (between July 1993 and February 1996); their replies have not been received (August 1996).

### **5.3 Short-levy of Stamp Duty due to mis-classification of instrument**

Under the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh) and the Rules made thereunder, the chargeability of an instrument with proper Stamp Duty is determined according to its subject matter and not by the title given by the executor. As per order issued by the Government of Uttar Pradesh on 28 April 1994, Stamp Duty on a hire purchase deed for lands/sheds allotted to Industrial units, is leviable on the amount of premium as deed of conveyance under the provisions of Article 35-b of Schedule 1-B of Indian Stamp Act.

During audit of Sub-Registrar office, Almora, it was noticed (April 1995) that 4 industrial sheds with possession were allotted to a private company on the premium of Rs. 4.86 lakhs payable in fifteen annual instalments, for setting up an industry, through a deed registered in June 1994. The deed was classified as "hire purchase agreement" and Stamp Duty amounting to Rs. 7,106 was levied instead of Rs. 60,812 leviable on conveyance. The mis-classification of instrument resulted in short-levy of Stamp Duty amounting to Rs. 53,706.

The matter was reported to the Department and Government (July 1995 and January 1996); their replies have not been received (August 1996)

### **5.4 Delay in revision of rate-list**

Under the Indian Stamp Act, 1899 ( as amended in its application to

Uttar Pradesh), Stamp Duty on a deed of conveyance is chargeable on the market value of the property forming the subject matter of the deed or on the value of consideration set forth therein whichever is higher. As per Uttar Pradesh Stamp Rules, 1942, market rates of various categories of land, situated in a district, are to be fixed biennially by the collector concerned for the guidance of the registering authorities in his district.

During audit of the District Stamp Officer, Almora, it was noticed (April 1995) that the existing biennial rate list for the valuation of various categories of land was revised on 10 December, 1992 which expired on 9 December, 1994. Further, it was found that new rate list was revised by the competent authority on 7 June, 1995 instead of 10 December, 1994. Had the revision of rate-list been made in time, the Government would have received additional amount of Stamp Duty to the tune of Rs. 8.27 lakhs involved in 393 documents registered in the district between the period 10 December, 1994 and 6 June, 1995.

The matter was reported to the Department and Government (June 1995 and December 1995); their replies have not been received (August 1996).

## ***Table of Contents***

	<b><i>Reference to Paragraph</i></b>	<b><i>Page(s)</i></b>
<b>CHAPTER 6 LAND REVENUE</b>		
Results of audit	6.1	79
Non-recovery of collection charges	6.2	80





## CHAPTER-6

### LAND REVENUE

#### 6.1 Results of audit

Test check of the accounts and relevant records of the offices of the Revenue Department conducted in audit during the year 1995-96 revealed short-realisation of collection charges, non-realisation / short-realisation of land revenue, non-recovery of fee for supplying Kisan Bahi\* and other irregularities amounting to Rs. 338.83 lakhs in 146 cases which broadly fall under the following categories:

	Number of cases	Amount (in lakhs of rupees)
1. Non-realisation /short-realisation of land revenue	12	13.59
2. Short realisation of collection charges	67	49.30
3. Non recovery of fee for supplying Kisan Bahi	40	216.81
4. Other irregularities	27	59.13
<b>Total</b>	<b>146</b>	<b>338.83</b>

During the year 1995-96, the concerned Department accepted under assessment etc. of Rs. 169.19 lakhs involved in 271 cases of which 23 cases involving Rs. 19.66 lakhs had been pointed out in audit during 1995-96 and the rest in earlier years. An illustrative case involving a financial effect of Rs. 1.42 lakhs is mentioned in succeeding paragraph:

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\* Kisan Bahi': A booklet containing all types of details of agricultural land, issued by the Tahsildar to Land owners.

In terms of Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972 and State Government orders issued from time to time, the revenue authorities on receipt of certificates of recovery from a Corporation or Board or Banking Company or local body, shall proceed to recover the amount stated therein together with cost of proceedings (collection charges) as arrears of land revenue. Collection charges at the rate of 10 per cent of the dues collected are realised by the revenue authorities. In case recovery certificates are returned to the concerned bodies on their own request, or the dues are deposited by the defaulters direct with the concerned bodies, even then collection charges at the same rate shall be realised.

During audit of two Tahsil offices, (Nighasan-Lakhimpur Kheri and Bijnore) it was noticed (May 1995) that collection charges amounting to Rs. 1.42 lakhs were not realised in 130 cases in which recovery certificates were returned/amount was directly deposited with the concerned bodies.

On this being pointed out in audit (May 1995) the Department stated (August 1996) that action was being taken to recover the collection charges. Further report on recovery has not been received (August 1996).

The matter was reported to the Government (July 1995); their reply has not been received (August 1996).



## ***Table of Contents***

	<i>Reference to Paragraph</i>	<i>Page(s)</i>
<b>CHAPTER 7</b>		
<b>OTHER TAX RECEIPTS</b>		
<b>A. ELECTRICITY DUTY</b>		
Results of audit	7.1	83
Non-levy of Electricity Duty on electricity supplied to Defence personnel	7.2	83
Non-realisation of Electricity Duty due to non-observance of prescribed procedure	7.3	85
<b>B. TAX ON PURCHASE OF SUGAR CANE AND ADMINISTRATIVE CHARGES ON SALE OF MOLASSES</b>		
Results of audit	7.4	86
Clearance of sugar without payment of purchase tax	7.5	86



**CHAPTER-7**  
**OTHER TAX RECEIPTS**  
**A- ELECTRICITY DUTY**

**7.1 Results of audit**

Test check of the accounts of Assistant Directors Electrical Safety/ Appointed authorities conducted in audit during the year 1995-96, revealed non-levy/ short-levy of electricity duty and inspection fees amounting to Rs. 151.89 lakhs in 23 cases, which broadly fall under the following categories:-

	No. of cases	Amount (in lakhs of rupees)
1. Non-levy of electricity duty	19	150.00
2. Non-realisation of interest	2	1.33
3. Non-realisation of inspection fees	2	0.56
<b>Total</b>	<b>23</b>	<b>151.89</b>

A few illustrative cases involving financial effect of Rs. 135.77 lakhs are mentioned in the following paragraphs:

**7.2 Non-levy of Electricity duty on electricity supplied to Defence personnel**

Under the U.P. Electricity (Duty) Act, 1952 and the Rules made thereunder, electricity duty is leviable on energy sold to a consumer at the rates notified by the State Government from time to time. The Act, further provides that, for the purpose of calculation of electricity duty, it would be deemed that energy was sold at the rates applicable to other consumers even though if it was supplied free of cost or at a concessional rate to certain categories of consumers. Government clarified in September 1984 and August 1995 that in respect of energy supplied free of



charge or at concessional rate to military officers by the appointed authority (Defence Department) the rates charged for energy consumed would be deemed to be the full rate applicable to other consumers even though the difference between the ordinary rate/free or concessional rate was being borne by the Defence Department. Director (Electrical safety) also issued (August 1986 and September 1995) a circular to all the appointed authorities of Defence Department to realise the electricity duty, in all such cases where the energy was supplied free of charge or at a concessional rate.

During the audit of four appointed authorities, it was noticed (between September 1995 and December 1995) that 102.98 lakh units of electricity were supplied free of charge or at concessional rate to Defence personnel for domestic use between December 1993 and October 1995 but electricity duty amounting to Rs. 5.15 lakhs was not levied. The details are as under :-

Sl. No.	Name of Appointed Authority	Electrical energy consumed for domestic use (unit in lakhs)	Period of consumption	Rate	Amount of electricity duty payable (In lakhs of rupees)
1.	Garrison Engineer Air Force Works Kheria, Agra	9.61	September 1994 to July 1995	5 paise per unit	0.48
2.	Garrison Engineer M.E.S.(South) Meerut	11.20	April 1994 to March 1995	-do-	0.56
3.	Garrison Engineer Chakeri (Kanpur)	42.20	December 1993 to October 1995	-do-	2.11
4.	Ordnance Factory Kanpur	39.97	October 1994 to October 1995	-do-	2.00
<b>Total</b>		<b>102.98</b>			<b>5.15</b>

The cases were reported to the Department and Government (February 1996 and May 1996); their replies have not been received (August 1996).

Under the provisions of Uttar Pradesh Electricity (Duty) Act, 1952 and the Rules framed thereunder, a licensee is required to deposit in Government treasury the amount of duty payable by him within two calendar months following the close of the month in which the readings of meter was recorded and shall submit to the Assistant Director (electrical safety) concerned the receipted copy of the treasury chalan under intimation to the Director, Electrical Safety, so as to reach him within ten days of the expiry of the two months. Interest at the rate of 18 per cent per annum shall also be chargeable on the unpaid amount of electricity duty. Due amount of electricity duty or interest, if not paid to the Government within the prescribed period, shall be recoverable as arrears of land revenue.

During audit of Zonal Office of the Assistant Director (Electrical Safety), Mirzapur, it was noticed (June 1995), that the Electricity Duty amounting to Rs. 5.44 lakhs, payable between July 1992 and April 1994 was not paid by the three licensees (3 units of U.P. Cement Corporation of Sonbhadra district). In contravention of prescribed procedure the units were allowed to consume further electrical energy without payment of arrears of Electricity Duty which amounted to Rs. 130.62 lakhs upto June 1995. The Department did not issue recovery certificates to recover the amount of Electricity Duty and interest accrued thereon as arrears of land revenue, as required in the Rules *ibid*. Non-observance of prescribed procedure resulted in accumulation of arrears of electricity duty to that extent.

On this being pointed out in audit (June 1995), the Department stated (May 1996) that the licensee units have been declared sick and have fallen under the ambit of "Board for Industrial and Financial Reconstruction" (B.I.F.R.) in October 1992. The Industrial Development Department, Government of Uttar Pradesh, was requested to issue (March 1996) necessary instructions for effecting the recovery. The inordinate delay in seeking the instruction of Government in regard to recovery during



the period from November 1992 to February 1996, resulted in accumulation of arrears and ultimately non-realisation of Electricity Duty. Besides, permission of B.I.F.R. regarding recovery of dues was also not sought (May 1996).

The matter was reported to the Government (October 1995 and January 1996); their reply has not been received (August 1996).

## **B- TAX ON PURCHASE OF SUGAR CANE AND ADMINISTRATIVE CHARGES ON SALE OF MOLASSES**

### **7.4 Results of audit**

Test check of accounts and relevant records of sugar factories and khandsari units, conducted in audit during the year 1995-96 brought out non-levy/short levy of tax on purchase of sugar cane amounting to Rs. 129.81 lakhs in 11 cases which broadly fall under the following categories:-

	Number of cases	Amount (in lakhs of rupees)
1. Deferment of purchase tax on sugarcane	3	127.04
2. Clearance of sugar without payment of purchase tax	1	2.18
3. Other irregularities	7	0.59
<b>Total</b>	<b>11</b>	<b>129.81</b>

During the year 1995-96, the Department accepted under-assessment etc. of Rs. 2.52 lakhs in 3 cases which were pointed out in audit in earlier years. A few illustrative cases involving financial effect of Rs. 441.05 lakhs are given in the succeeding paragraph:

### **7.5 Clearance of sugar without payment of purchase tax.**

Under Section 3-A of the Sugar Cane (purchase tax) Act, 1961, no owner of a factory shall remove or cause to be removed any sugar produced in the factory until he has paid the tax leviable on the purchase of sugar cane so consumed in the manufacture of sugar. Any contravention of the above provision makes the owner



of the factory liable to pay, by way of penalty, in addition to the amount of tax, a sum not exceeding one hundred per cent of the total sum so payable. There is no provision in the Act empowering the Government to defer the payment of tax. The State Government, however, issued orders (between December 1976 and December 1988) to defer the payment of tax on new sugar factories in cooperative/public sector during the first five years of their production subject to certain conditions.

During audit of the records relating to cane purchase tax of four factories it was observed (between November 1991 and March 1996) that all these factories had cleared the sugar during the deferment period without fulfilling the conditions of deferment. Of these, three sugar factories continued to clear the sugar even beyond the deferment period without payment of regular tax which was in contravention of the provisions of the Act. The position of outstanding tax, both deferred as well as regular, was as detailed below:-

Sl. No.	District	Year of commencement of production	Month of orders of deferment	Tax of deferment period due	Tax beyond deferment period due	Total tax outstanding
				Amount (In lakhs)	Amount of rupees)	Amount
1.	Azamgarh	1975-76	March 1986	15.94	39.61	55.55
2.	Ballia	1975-76	Dec.1976	17.55	144.43	161.98
3.	Varanasi (Bhadohi)	1971-72	Dec.1976	18.15	27.95	46.10
			March.1986	42.30	63.63	105.93
4.	Nainital	1984-85	Dec.1988	71.49	Nil	71.49
Total				165.43	275.62	441.05

In three cases (Ballia, Varanasi and Nainital), the Cooperative Chini Mill Federation, Lucknow had requested the Government to issue orders for recovery of deferred tax in instalments but no action to recover the tax in instalments or

otherwise was taken by the Government so far (August 1996)..

The cases were reported to the Department and Government in March, 1996 and April 1996; their replies have not been received (August 1996).

## ***Table of Contents***

	<b><i>Reference to Paragraph</i></b>	<b><i>Page(s)</i></b>
<b>CHAPTER 8 FOREST RECEIPTS</b>		
Results of audit	8.1	91
Extraction and sale of resin	8.2	92
Non-recovery of royalty	8.3	99
Non-realisation of premium and lease rent	8.4	100
Loss due to incorrect calculation of volume of timber	8.5	100
Illicit felling of trees	8.6	101
Non-realisation of royalty	8.7	102
Non-realisation of late fee	8.8	102
Loss of revenue due to non- charging of royalty on actual out turn	8.9	103
Incorrect estimation of out-turn of Khair trees	8.10	104





## CHAPTER-8

### FOREST RECEIPTS

#### 8.1 Results of audit

Irregularities noticed during test-check of divisional records conducted by audit during 1995-96 were broadly fall under the following categories:

	Number of Cases	Amount (In lakhs of rupees)
1. Irregularities in extraction of resins	16	543.66
2. Incorrect fixation of royalty	35	771.65
3. Loss of revenue due to non-registration of saw mills	13	38.92
4. Loss of revenue due to non-levy of Stamp Duty	4	55.83
5. Non-levy/short-levy of penalty	17	41.24
6. Irregularities in collection and disposal of Tendu leaves	3	10.11
7. Non-realisation of lease rent	15	195.59
8. Other irregularities	67	1032.49
<b>Total</b>	<b>170</b>	<b>2689.49</b>

During the course of the year 1995-96, the concerned department accepted under-assessment, etc. of Rs. 1695.25 lakhs involved in 55 cases, of which 50 cases involving Rs. 1541.14 lakhs had been pointed out in audit during 1995-96 and rest in earlier years. A few illustrative cases including a review on "Extraction and sale of resin" involving a financial effect of Rs. 4,601.26 lakhs are mentioned in succeeding paragraphs:

## **8.2 Extraction and sale of Resin**

### **8.2.1 Introduction**

Resin is an important forest produce which is extracted from pine trees growing at an altitude of 1050 to 2250 meters in the hilly regions of Garhwal and Kumaon. This is the raw material for the production of rosin and turpentine oil. In Uttar Pradesh, resin is collected by the Forest Department by employing petty contractors (popularly known as mates) and also departmentally wherever mates are not available.

Of the total quantity of resin produced in the State each year, bulk portion- 60 per cent is sold to Indian Turpentine and Rosin Co. Ltd. Bareilly (ITR) and 20 per cent to two resin factories of the Garhwal Mandal Vikas Nigam and Kumaon Mandal Vikas Nigam and industrial units of Khadi Gramodyog Board. The remaining 20 per cent is sold by open auction amongst the industrial units registered with Forest Department. The prices payable by the ITR and other units are fixed each year by the State Government.

### **8.2.2 Organisational Set up**

The Principal Chief Conservator of Forests is responsible for regulation and execution of forest law. He is assisted by 11 Chief Conservators of Forests at the Zonal level, 35 Conservators of Forests at Circle level and 84 Divisional Forest Officers at the Division level. The Chief Conservator of Forests (Management and Training), Nainital is responsible for planning, monitoring and regulating procedures for exploitation of forest produce.

### **8.2.3 Scope of Audit**

Of 16 resin producing territorial forest divisions of the State, records of eight divisions\* and of the Chief Conservator of Forests, Uttarakhand, Nainital were

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\* Chakrata Division, Kalsi, Dehradun; Garhwal Division, Pauri; Kedarnath Division, Gopeshwar; Nainital Division, Nainital; Narendra Nagar Division, New Tehri; North Pithoragarh Division, Pithoragarh; Tehri Forest Division, New Tehri and Upper Yamuna Division, Barkot, (Uttarkashi).



test checked between March 1996 and July 1996 and the audit findings are mentioned in the succeeding paragraphs.

#### **8.2.4 Highlights**

- (i) Time schedule fixed for various activities in connection with the extraction of resin, were not observed by 4 forest divisions. It delayed the extraction process and ultimately resulted in loss of revenue of Rs. 52.67 lakhs due to less extraction of resin.

**(Para 8.2.5)**

- (ii) For short collection of resin valued at Rs. 204 lakhs during 1990-91 to 1994-95, fine of Rs. 6.62 lakhs only was recovered from the resin mates.

**(Para 8.2.6)**

- (iii) A sum of Rs. 1068.91 lakhs being cost of resin supplied to a Government company was outstanding against them.

**(Para 8.2.7)**

- (iv) Non-tapping of 25.51 lakh channels during 1990-91 to 1995-96 led to non-extraction of 38270 quintals of resin and consequential loss of revenue of Rs. 720.66 lakhs.

**(Para 8.2.8)**

- (v) Two Forest Divisions of Almora district did not adhere to the extraction norms revised in September 1993 by the Chief Conservator of Forests (Kumaon), Nainital; This resulted in loss of revenue of Rs. 97.08 lakhs due to short collection of resin.

**(Para 8.2.10)**

- (vi) Resin valuing Rs. 16.13 lakhs was lost due to use of undersized tin gamlas.

**(Para 8.2.11)**

- (vii) In 3 divisions, 39 coupes having an estimated yield of 1531 quintals remained untapped during the years 1990-91, 1992-93 and 1994-95 involving revenue loss of Rs. 16.50 lakhs.

(Para 8.2.12)

- (viii) Non-disposal of 87241 quintals of resin resulted in loss of revenue of Rs. 1,063.68 lakhs.

(Para 8.2.13)

### **8.2.5 Loss of revenue due to non-observance of time schedule**

Extraction of resin commences every year from the month of March by the mates contracted by the respective forest divisions and departmentally where mates are not available. The department has accordingly framed time schedule for all activities connected with the extraction of resin in order to ensure that extraction work is not delayed.

In 4 forest divisions\*, out of 8, test checked it was noticed that during the years 1990-91 to 1995-96 (crop years 1990 to 1995), the time schedule fixed for activities prior to extraction of resin, were not observed. Selection of resin mates and awarding them work orders were delayed by 3 to 4 months and finalised by the end of March every year as against the prescribed time schedule of 30 November and 31 December of the preceding year. Thokan work\* (setting up) scheduled for completion by 28 February continued till the end of April. Besides, the equipment required in extraction and collection of resin were also not made available to mates in time. The aforesaid actions caused delay in extraction process and ultimately led to short collection of resin to the extent of 4836 quintals, (total anticipated yield; 64103 quintals and actual yield; 59267 quintals) and consequential loss of revenue to the

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\* Kedar Nath Division Gopeshwar, Narendra Nagar Division, North Pithoragarh Division and Tehri Division, New Tehri

\* "Thokan" work is an operation for setting up of the crop and consists of fixing of tip and pot and cutting of initial blaze.



tune of Rs. 52.67 lakhs. The divisions stated that the delay in supply of equipments was due to their late procurement on account of belated finalisation of rate contract by the Director of Industries, U.P., Kanpur. The reply is, however, not tenable as the other four divisions test checked had supplied the equipment to the mates in time in similar circumstances. The reasons for delay in respect of other actions were not intimated.

#### **8.2.6 Inadequate imposition of fine**

The contract agreement entered into by the Forest Divisions with the contractors for extraction of resin provide imposition of fine for short collection and also for the payment of bonus to them for tapping resin in excess of the allotted quantity duly observing resin tapping rules and regulations as laid down by the Government/department. The rates of fine prescribed in the rules ranged between Rs. 10 and Rs. 25 per quintal.

It was noticed that in six divisions\* during the years 1990—91 to 1994-95, 11912.57 quintals of resin valuing Rs. 204 lakhs were short collected by the contractors with reference to the applicable norms. The amount recovered by way of fines at the above rates was however only Rs. 6.62 lakhs against the value of resin (Rs. 1330 to Rs. 2630 per quintal) short collected amounting to Rs. 204 lakhs. This resulted in a loss of Rs. 197.38 lakhs.

#### **8.2.7 Non-realisation of cost of resin from ITR - resultant arrears**

Bulk quantity of resin produced in the State is supplied by the department to ITR under the terms of a formal agreement between the company and the Government in the Forest Department and at the rates fixed by the Government from time to time. This agreement, however, does not provide for any condition regarding the periodicity and time limit of payment for the supplies made and

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\* Garhwal Forest Division, Pauri; Kedar Nath Forest Division, Gopeshwar; North Pithoragarh Division, Pithoragarh, Nainital Division, Nainital, Tehri Forest Division, New Tehri and Upper Yamuna Forest Division, Barkot (Uttarkashi).



interest/penalty for delayed payment by the ITR. As a result an amount of Rs. 1068.91 lakhs representing cost of resin supplied to ITR was still pending realisation from the company.

### 8.2.8 Untapped channels

It was noticed that in 4 forest divisions\* between the period 1990-91 and 1995-96, 80.42 lakh channels (as per the working plans of the divisions) were available for resin tapping. Of these, the divisions tapped only 54.91 lakh channels and 25.51 lakh channels remained untapped, reportedly due to difficult and inaccessible areas/locations of the trees containing these channels. As in the working plans only such areas where tapping of resin was considered practicable were included, the reasons for non-tapping are not tenable. This resulted in non-extraction of 38270 quintals of resin of the value of Rs. 720.66 lakhs.

### 8.2.9 Sale of resin at concessional rate

Sale price for the resin sold to ITR or other units is fixed by the Government from time to time. It was noticed that the prices fixed during the years 1992-93 to 1994-95 were much less than the prevailing market price (obtained from auction of leaked (Chhijjat) resin in 1992-93). The concession, in the shape of lower rates, allowed to ITR and other units amounted to Rs. 680.55 lakhs as indicated in the table.

Year	Quantity of resin sold both to ITR and others (in quintals)	Sale price as fixed by the Government (Rs. per quintal)	Average market price obtained in open auction of 'Chhijjat' resin in 1992-93 (Rs. per quintals)	Difference between market price and price fixed by the Government (Rs. per quintals)	Concession allowed in shape of lower rates (in lakhs of rupees)
1992-93	63918	1715	2475	760	485.78
1993-94	27996	1972	2475	503	140.82
1994-95	17690	2170	2475	305	53.95
Total					680.55

\* (Kedar Nath Forest Division, Gopeshwar, Nainital Forest Division, Nainital, Tehri Forest Division, New Tehri and Upper Yamuna Forest Division, Barakot (Uttar Kashi).

Justification, for allowing concessional rate to ITR were not on records. It was, however, stated by the Department (April 1996) that the rates were fixed by the Government.

#### **8.2.10 Non-adherence of extraction norms**

In order to eliminate the chances of pilferage and theft of resin, the Chief Conservator of Forests (Kumaon), Nainital, fixed (September 1993) the norms for collection of resin in the Kumaon hills as two quintals per 100 channels.

The aforesaid norms of collection of resin were however, not adopted by two forest divisions of Almora district (East Almora Division and West Almora division) and while awarding work orders for extracting resin from 21,12,754 channels of the divisions (East : 14,03,528 and West : 7,09,226) during 1994-95 they continued to fix the norm of 1.5 quintals per 100 channels, on the plea that the forests in the region were quite old and extraction of resin at the rate of 2 quintals per 100 channels, was not possible. The argument is not tenable as the revised norms of production were fixed by the CCF after taking into account all these factors.

This resulted in short-collection of resin to the extent of 7305 quintals involving revenue of Rs. 97.08 lakhs.

#### **8.2.11 Loss of resin due to use of undersized Tin Gamlas\***

Tin Gamlas of 10.1 cms diameter and 20.3 cms length are used for collection of resin from the pine trees. The resin mates collect resin from these gamlas on every seventh day by which time the gamlas get filled up to their full capacity.

Orders were placed on three Bareilly based firms for supply of 40000 tin gamlas of the aforesaid specification in January 1993 and February 1994 by the Divisional Forest Officer, Garhwal Forest Division, Pauri. The firms supplied the materials in December 1993 and April 1994. However, of 40000 tin gamlas supplied by the firms, 29000 gamlas were of lesser capacity (diameter : 8.89 cms and length :

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\* Collection pot



15.2 cms). As a consequence, when these gamlas were put to use in 1994, they were full to their capacities in only four days and the resin started overflowing and fell on the ground by the time (on seventh day) resin mates reached and collected resin from these gamlas. 743.103 quintals of resin valuing Rs. 16.13 lakhs were reportedly lost in this manner. The reason for acceptance of gamlas not conforming to the specifications mentioned in the supply orders was stated (May 1996) to be the late receipt of supply from the firm leaving no time for replacement. The reply is not tenable as 25000 gamlas were supplied by the firm in December 1993 and there was ample time for their replacement.

#### **8.2.12 Coupes remaining unworked**

It was noticed that in three forest divisions\* no tenders for extraction of resin from 39 coupes\*\*\* during the years 1990-91, 1992-93 and 1994-95 were received. The coupes were also not worked out departmentally. As a consequence, 1531 quintals of resin expected from these coupes remained unextracted resulting in loss of revenue amounting to Rs. 16.50 lakhs. Non-extraction of resin from the above-mentioned coupes was attributed to difficult and inaccessible locations of the coupes by the Department. However, this argument is not tenable as during 1991-92 and 1993-94 these coupes were worked.

#### **8.2.13 Non-disposal of resin**

As per Government's instructions issued in September 1993, eighty per cent of total resin produced is allotted to regular allottees (60 per cent to ITR and 20 per cent to Garhwal and Kumaon Mandal Vikas Nigam and Haldwani unit of PCF) and the remaining 20 per cent is required to be disposed of by open auction to the Industrial units registered with the Forest Department.

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\* Kader Nath Division, Gopeshwar,  
Nainital Division, Nainital and  
North Pithoragarh Division, Pithoragarh.

\*\*\* A coupe consists of about 10,000 channels



It was noticed that during the year 1993-94 and 1994-95 only 29914 quintals of resins were lifted by the ITR and 15772 quintals by others as against the allotted quantity of 99691 quintals and 33236 quintals respectively. The reasons for non-lifting by ITR was reported to be the adverse financial position of the company. The Department however, did not make any arrangement to dispose of this unlifted quantity resulting in loss of revenue to the extent of Rs. 1063.68 lakhs.

The Department stated (July 1996) that the proposal sent in December 1995 to the Government for disposal of resin had been accepted by the Government (June 1996). Report on actual disposal has not been received.

The matter was referred to Government in July 1996; their reply has not been received (August 1996).

### **8.3 Non recovery of royalty**

As per working plan and sale rules of Bundelkhand Circle, exploitation of Koriya\* was to be carried out by Uttar Pradesh Forest Corporation (UPFC) in the total area allotted by the Department and royalty would be paid accordingly as fixed by the royalty committee.

Test check of records of Banda Forest Division, Banda revealed (August 1995) that 3137.58 hectare area was allotted to UPFC for Koriya exploitation between 1991-92 to 1994-95 for which royalty of Rs. 9.82 lakhs was due. Of this, Rs. 4.31 lakhs were paid to the forest department. The balance of Rs. 5.51 lakhs remained unpaid (March 1996).

On this being pointed out in audit, the Department stated (March 1996) that UPFC had shown their inability to pay royalty for non-commercial area. The reply of the Department is not tenable as no classification of commercial/non-commercial area for royalty payment was envisaged under the Rules/working plan and

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\* Koriya—These are small trees used for making toys.

this was also clarified by the Forest Department in November 1994. Besides the loss of revenue, non-exploitation had also resulted into reduction in future growth of coppicing specie.

The matter was reported to the Government in May 1996, their reply has not been received (August 1996).

#### **8.4 Non realisation of premium and lease rent**

As per Government of Uttar Pradesh order (1973) 9622.50 acres of forest land were to be transferred to State Farms Corporation of India (SFCI) for improvement in the quality of seeds in Bahraich district on payment of Rs. 153.96 lakhs as premium and Rs. 7.70 lakhs per annum as lease rent after acceptance of terms and conditions of transfer of land to be laid down by the State Government.

In the audit of West Bahraich Forest Division, Bahraich it was noticed (August 1994) that 9622.50 acres of land (4020.60 acres in 1974-75, 2044.10 acres in April 1976 and 3557.80 acres in April 1977) were transferred to SFCI by the Forest Department without obtaining undertaking from the transferee, to accept terms and conditions to be laid down by the Government at the time of finalisation of lease deed. As a result, a sum of Rs. 311.55 lakhs (upto March 1996) remained unrealised (August 1996). However, the lease deed framed by the Department was not yet finalised (August 1996).

The matter was referred to the Government in May 1996; their reply has not been received (August 1996).

#### **8.5 Loss due to incorrect calculation of volume of timber**

Approved working plan of the Forest Department categorises the quality class of trees on the basis of which the volume of timber is calculated for raising demand.



Between 1992-93 and 1994-95, the three divisions (East Tarai Forest Division, Haldwani Forest Division and Rajaji National Park) allotted 32 lots of Sal trees of various quality classes to the Uttar Pradesh Forest Corporation (UPFC). While raising the demand, the Department treated the above lots as of III quality class for calculating the volume of timber. This resulted in short-calculation of volume of timber to the tune of 707.918 cubic metres and resultant loss of Rs. 33.63 lakhs.

On being pointed out by audit (April 1995 - May 1995), the Department raised the demand for Rs. 26 lakhs (November 1995 - March 1996) against U.P.F.C. The report regarding recovery and action taken for raising demand for remaining Rs. 7.63 lakhs on U.P.F.C. has not been received (August 1996).

The matter was reported to the Government in May 1996; their reply has not been received (August 1996).

#### **8.6 Illicit felling of trees**

In accordance with the provisions of the Uttar Pradesh Forest Manual, Forest Guards and other subordinate forest officers are required to report to the officer-in-charge of the range any offence including illegal felling of trees under the Forest Act within 24 hours of detection of such offence, who would report it further along with action taken thereon to the Divisional Forest Officer within 3 days.

During the course of audit of 2 Forest Divisions and one circle (West Bahraich, Agra and C.F. Faizabad), it was noticed (August 1994, February 1995 and November 1995) that 3021 trees of different species valued at Rs. 24.48 lakhs in 8 beats during the years 1991-92 to 1994-95 were found illicitly cut during combing operations carried out between February 1993 to March 1995. Reports on combing operations were submitted in the months of February and November 1993; June 1994 and May 1995 after a delay of one to three years resulting in consequent delay in taking action for recovery of loss.



The matter was reported to the Government in May 1996; their reply has not been received (August 1996).

#### **8.7 Non realisation of royalty**

As per general terms and conditions laid down in Government order of September 1978, the buyer (UPFC) will have to pay full royalty on all allotted lots of bamboo whether they had worked on the allotted lots or not. No bamboo lot would be left unexploited while working, on non-commercial grounds.

During test check of records of Mirzapur Forest Division, Mirzapur, it was noticed (November 1995) that 55 lots containing estimated number of 6,34,099 scores of bamboo were allotted to Uttar Pradesh Forest Corporation (UPFC) for extraction during the year 1994-95 and demand was raised for Rs. 166.77 lakhs against the UPFC on account of royalty. The UPFC worked 4996.75 scores of bamboo only and paid Rs. 1.37 lakhs as royalty. Remaining 6,29,102.25 scores of bamboo were not exploited and royalty of Rs. 165.46 lakhs was also not paid on the ground that the lots were non-commercial.

On this being pointed out (May 1996), the Department accepted the objection and intimated (May 1996) that the matter has been brought to the notice of higher authorities for further necessary action.

The matter was reported to the Government in May 1996; their reply has not been received (August 1996).

#### **8.8 Non realisation of late fee**

As per Government order (September 1978) the Uttar Pradesh Forest Corporation (UPFC) was required to deposit the royalty in three instalments i.e, on 1st March, 1st June and 1st September each year failing which late fee was recoverable from them at the rate of 2 paise per hundred rupees per day for delay upto 60 days and at the rate of 5 paise per hundred per day for delay beyond 60 days.

During test check of records of Social Forestry Division, Meerut it was noticed (November 1995) that UPFC had delayed payment of instalments for the period 1989-90 to 1993-94 by 58 to 1335 days and late fee aggregating Rs. 4.87 lakhs was not recovered (May 1996).

On this being pointed out (November 1995), the Department stated (November 1995) that necessary action for recovery of late fee would be taken after a meeting with UPFC.

The matter was reported to the Government in May 1996. their reply has not been received (August 1996).

#### **8.9            Loss of revenue due to non charging of royalty on actual out-turn**

As per orders (October 1992) of the Chief Conservator of Forests (Management and Training) UP, variation between estimated and actual out-turn of timber was acceptable upto 10 per cent. On the variations exceeding 10 per cent royalty was chargeable at the prescribed rate.

Test check of records of West Bahraich Forest Division, Bahraich revealed (October 1995) that actual out turn of timber extracted by UPFC exceeded by 22.53 to 470.80 per cent during the years 1991-92 to 1994-95 but the Department raised the demand of royalty on the basis of estimated out-turn only. Thus royalty on 3374.6 cubic meters of timber amounting to Rs. 107.94 lakhs remained unrecovered (August 1996).

On this being pointed out (October 1995), the Department stated (October 1995) that the matter will be examined and results reported to audit. No further report has been received (August 1996).

The matter was reported to the Government in May 1996; their reply has not been received (August 1996).



## **8.10                      Incorrect estimation of out-turn of Khair trees**

According to the Departmental orders, the content of wood in a khair tree is calculated by applying the volume factors specifically prescribed therefor.

Mention had been made in paragraph 8.2.8 (b) of the Report of Comptroller and Auditor General of India (Revenue Receipts) for the year 1992-93 regarding loss of revenue due to incorrect assessment of khair trees. The Department had accepted the mistake and recovered the amount.

However, during audit of West Baharaich Forest Division, Baharaich, it was noticed (October 1995) that in respect of 31 lots (20 lots in the year 1993-94 and 11 lots in the year 1994-95) allotted to Uttar Pradesh Forest Corporation (UPFC), the division had calculated the out-turn by applying the volume factor applicable to other trees resulting in short-estimation of out-turn by 80.905 cubic meters of khair wood and loss of revenue amounting to Rs. 4.14 lakhs.

On this being pointed out (May 1996) in audit, the Division accepted the mistake and stated that demand would be raised against the UPFC. No further progress has been reported (August 1996).

The matter was referred to the Government in May 1996; their reply has not been received (August 1996).



## ***Table of Contents***

	<i>Reference to Paragraph</i>	<i>Page(s)</i>
<b>CHAPTER 9</b>		
<b>A. Co-operation Department</b>		
Results of audit	9.1	107
Non/short deposit of collection charges	9.2	107
<b>B. Irrigation Department</b>		
Results of audit	9.3	108
Receipts from Major Irrigation Projects	9.4	108
Short-levy of Stamp duty	9.5	124
Loss of revenue due to delay in repairs of State Tubewells	9.6	125
Faulty revision of demand of water rates	9.7	126
<b>C. Finance Department</b>		
Recoveries of interest on loans and advances	9.8	127



## **CHAPTER-9**

### **OTHER DEPARTMENTAL RECEIPTS**

#### **A. Co-operation Department**

##### **9.1 Results of audit**

Test check of the accounts and relevant records of the offices of Assistant Registrar, Co-operative Societies conducted in audit during 1995-96, revealed irregularities involving Rs. 134.17 lakhs in 9 cases relating to non-deposit of collection charges.

An illustrative case involving a financial effect of Rs. 3.20 lakhs is mentioned below:-

##### **9.2 Non/Short-deposit of collection charges**

Under the Uttar Pradesh Cooperative Societies Act, 1965, and the Rules framed thereunder, as amended from time to time, 10 per cent of the collection charges realised by the Co-operative Societies from the beneficiaries of loans is to be deposited into the treasury under the head prescribed by the Government.

During audit of the office of Assistant Registrar Cooperative Societies, Ghazipur, it was noticed (December 1994) that during 1989-90 to 1993-94 only Rs. 10,000 was credited to Government account against Rs. 3.30 lakhs, collected as collection charges on behalf of various cooperative societies. The balance of Rs. 3.20 lakhs was kept out of Government account, which was irregular.

The matter was reported to the Department and Government (February 1995 and November 1995); their replies have not been received (August 1996).



## **B. Irrigation Department**

### **9.3 Results of audit**

Test-check of the accounts and relevant records of Irrigation Department conducted in audit during 1995-96 revealed irregularities involving Rs. 270.43 lakhs in 73 cases, which broadly fall under the following categories:

	<b>Number of Cases</b>	<b>Amount (In lakhs of rupees)</b>
1. Mis-utilisation of departmental receipts	4	1.33
2. Loss of revenue due to non-realisation of Stamp Duty	28	21.82
3. Non-recovery of tender fee at revised rates	1	0.17
4. Loss of revenue due to non-realisation of Irrigation charges	6	236.51
5. Loss of revenue due to closure of tube wells	3	5.61
6. Other irregularities	31	4.99
<b>Total</b>	<b>73</b>	<b>270.43</b>

A few illustrative cases including a review on "Receipts from Major Irrigation Projects" involving a financial effect of Rs. 29,291.54 lakhs are mentioned in the succeeding paragraphs:

### **9.4 Receipts from Major Irrigation Projects**

#### **9.4.1 Introduction**

The irrigation potential in U.P. includes canal water, water from drains, reservoirs and tubewells for agricultural purposes as also water supplied for purposes other than irrigation. The beneficiaries are required to pay water rates fixed by the State Government from time to time under the Northern India Canal and Drainage Act, 1873 (the Canal Act) and Rules made thereunder. The water rates were revised by the State Government in 1983, and thereafter in 1994.

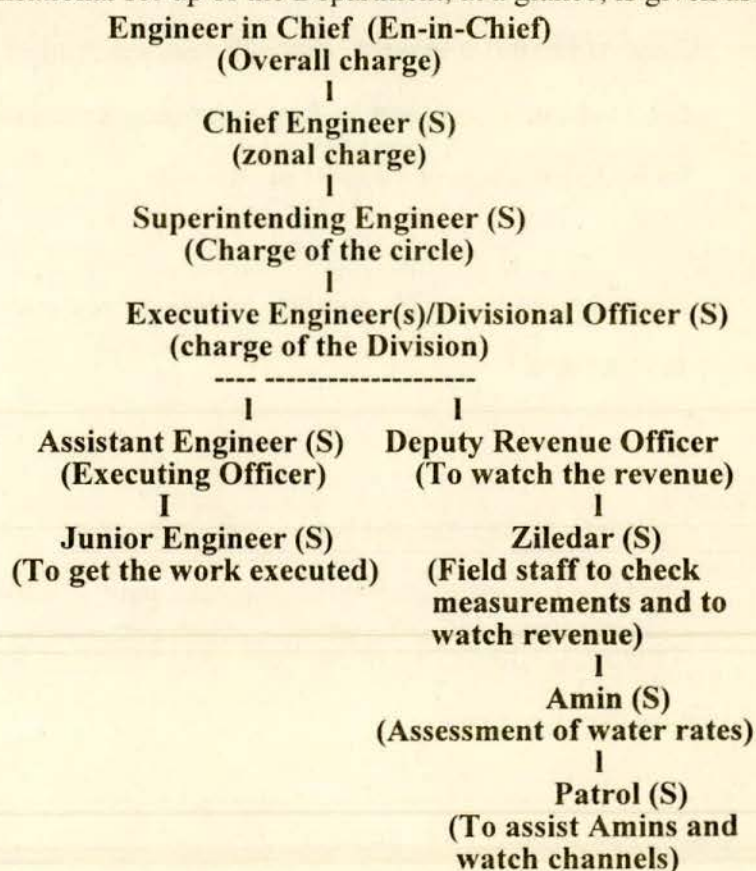
The assessment of water rates is done by the divisions of the Irrigation Department who are responsible for supply of water for irrigation purposes, whereas the collection of water rates is done by the Revenue Department on the basis of

demands (local name Jamabandi) raised by the Irrigation Department. For assessment and collection of water rates for non-irrigation purposes, the Irrigation Department has been made responsible.

#### 9.4.2 Organisational Set up

The Engineer-in-Chief(En-in-Chief) is the head of the Irrigation Department who is assisted by 12 Zonal Chief Engineers. To exercise effective control over the irrigation facilities and collection of water rates, the State is divided into 61 circles, 228 divisions and sub-divisions each headed by Superintending Engineer (S.E.), Executive Engineer (E.E.)/Divisional Officer, Assistant Engineer (A.E.)/Sub divisional Officer (S.D.O.) assisted by Junior Engineers (J.E.) respectively. Besides, under the control of the Executive Engineer, 102 posts of Deputy Revenue Officers are sanctioned to supervise revenue work. The Deputy Revenue Officer is assisted by Zileendars, Amins (Seench Paryavekshak) and Patrols (Seench Pal).

The Organisational set-up of the Department, at a glance, is given as follows:





### 9.4.3 Scope of Audit

A review on "Receipts from Major Irrigation Projects" was conducted during the period December 1995 to April 1996 covering only major canal projects which contributed about 24 percent of total receipts of irrigation department during the period 1990-91. Six\* out of 8 major projects (Commercial) were selected for test check of records for the period 1990-91 to 1994-95. Records of the offices of Engineer-in-Chief and Zonal Chief Engineers and the concerned divisions of these projects were also test checked.

### 9.4.4 Highlights

- (i) Non-preparation of budget estimates at divisional level resulted in lack of correlation between the budget estimates and irrigation potential and its submission to Government.

**(Para 9.4.5)**

- (ii) Lack of control measures resulted in non-utilisation of available water potential and consequential loss of revenue amounting to Rs. 5,679.50 lakhs during the year 1990-91 to 1994-95.

**(Para 9.4.6 (a)(b))**

- (iii) Illicit cutting of canals resulted in loss of revenue amounting to Rs. 445.28 lakhs.

**(Para 9.4.7)**

- (iv)(a) Failure to bridge the gap between the cost of maintenance incurred on canals and revenue received during the year 1990-91 to 1994-95, the Government had to incur an extra expenditure of Rs. 19,371.34 lakhs over the total receipts.

**(Para 9.4.8)**

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(i) Upper Ganga Canal, (ii) Lower Ganga Canal,  
(iii) Sarda Canal, (iv) Sarda Sahayak,  
(v) Gandak Canal and (vi) Betwa Canal



- (b) The Government was deprived of an additional revenue of Rs. 13,962.20 lakhs from 1990-91 to 1994-95 due to non-revision of water rates from 1983 to 1994, despite the recommendations of U.P. Taxation Committee.

**(Para 9.4.8)**

- (v)(a) Non-execution of agreements with other bodies for supply of water resulted in non-realisation of royalty amounting to Rs. 7,114 lakhs in three divisions alone.

**(Para 9.4.9 (a))**

- (b) Non-execution of agreement for supply of water with user unit resulted in loss of Rs. 1034 lakhs on account of seepage/wastage of water from 1977-78 to 1994-95.

**(Para 9.4.9 (b))**

- (vi) Erroneous computation of interest resulted in short-levy of interest amounting to Rs. 351.22 lakhs.

**(Para 9.4.9 (c))**

- (vii) Water loss beyond the prescribed norms resulted in loss of revenue amounting to Rs. 662.42 lakhs.

**(Para 9.4.10(b))**

**9.4.5 Non-observance of prescribed procedure in preparation of annual budget**

According to the Manual of Orders of Irrigation Department (The Manual), each Divisional Officer is required to prepare estimates of revenue from irrigation water rates and miscellaneous revenue. Such annual estimates in respect of Rabi and Kharif Crops are submitted separately to the Irrigation Department of the Government by 15 November. This must form the basis of annual estimates of

revenue of the Department as depicted in the budget presented to the Legislature.

It was noticed in audit that none of the divisions test checked, had prepared these estimates during 1990-91 to 1994-95. In the absence of these estimates the correctness/ reliability of the estimates of the Department as presented to the Legislature could not be verified.

The revenue receipts against the budget estimates during the period 1990-91 to 1994-95 were as follows:

Year	Irrigation potential available (in lakh hectares)	Budget estimates (Rupees in crores)	Decreasing percentage	Actual collection (Rupees in crores)	Variation increase (+) decrease (-)
1990-91	67.46	71.82	--	35.03	(-)36.79
1991-92	67.90	74.82	--	39.56	(-)35.26
1992-93	68.44	61.62	18	45.97	(-)15.65
1993-94	69.06	60.80	19	161.23	(+)100.43
1994-95	69.60	57.23	24	66.39	(+)9.16

It is seen from the above table that budget estimates have a decreasing trend ranging from 18 percent to 24 percent between 1992-93 to 1994-95 (base year 1991-92). This was despite the fact that irrigation potential had increased, irrigation facilities were extended and water rates enhanced (approximately 103 per cent) during 1994-95.

The reasons for the abnormal decrease in budget estimates and increase in the actual realisation were called for (February, May and September 1996) from the State Government. The same are awaited.

#### **9.4.6 Non-utilisation of available water potential**

(a) With a view to providing more irrigation facilities to cultivators, the optimum use of irrigation potential created has to be ensured by the Irrigation Department. It was, however, noticed that 16 per cent to 43 per cent of the irrigation potential available during the years 1990-91 to 1994-95 in various projects was not



utilised as detailed in the table.

Name of project	No. of division	Average annual irrigation potential			Percentage of unutilised potential	Total revenue loss from 1990-91 to 1994-95 (in lakhs of Rupees)
		Created	Utilized	Unutilized		
		( in	lakh	hectares )		
1. Sarda Canal	12	8.34	6.24	2.10	25	1270.50
2. Sarda Sahayak	30	15.17	8.61	6.56	43	3968.80
3. Gandak Canal	2	1.99	1.67	0.32	16	193.60
4. Lower Ganga Canal	2	1.67	1.30	0.37	22	223.85
Total		27.17	17.82	9.35		5656.75

The department attributed the following reasons for non-utilisation of the potential in respect of serial number 1 & 2:-

- (i) Carrying capacity of main canal and branches considerably reduced due to long and continued use,
- (ii) Tampering and illicit cutting of canal,
- (iii) Breaches and seepage and
- (iv) Non- clearance of silt.

No reply was given by the officers of the projects at serial number 3 & 4 of the table.

The reply was not tenable as these factors must have been taken into consideration at the time of fixation of potential. Non-utilisation of created potential resulted in loss of water charges amounting to Rs. 5656.75 lakhs (computed at the average rate of Rs. 121 per hectare).

- (b) During 1990-91 to 1994-95 in Sarda Sahayak Project, non-lining of the



canal led to seepage in 3762 hectares rendering the agricultural land unfit for cultivation. Further, the water loss due to seepage could have been used for irrigating at least 3762 hectares thereby earning potential revenue of Rs. 22.75 lakhs (computed at the average rate of Rs. 121 per hectare).

#### 9.4.7 Loss of revenue due to illicit cutting of canals

In order to provide sufficient water for the purpose of irrigation, canals are constructed with certain capacity and so designed that the water could reach even at the tail end of the canals.

In test check of four divisions, it was noticed that the water could not reach upto the tail ends of the canals during the period 1990-91 to 1994-95 as indicated below:

Name of Division/Canal	Length of canals ( In	Length of canals put into use running	Length of canals remaining unused kilometres)
1. Kanpur division, Lower Ganga Canal, Kanpur	12,350	11,754	596
2. Etawah division, Lower Ganga canal, Etawah	12,011	11,360	651
3. Sarda Canal division-II, Lucknow	1,689	1,012	677
4. Sarda Sahayak Khand-32, Azamgarh	4,700	4,178	522
Total	30,750	28,304	2,446

As the irrigation facility in an area of 3.68 lakh hectares at tail ends (2446 K.Ms. length) of canals could not be made available, the purpose of construction of canals was not fully achieved and the Government was deprived of revenue to the tune of Rs. 445.28 lakhs (computed at the average rate of Rs. 121 per hectare).

On being pointed out in audit, it was stated by most of the divisions that this happened due to illicit cutting of canals. Reply of the department is not

tenable as the divisions concerned had neither requested for additional staff for guarding the canal nor reported their inability to check illicit cuttings to their concerned higher authorities.

#### 9.4.8 Fixation of Water Rates

(a) In terms of Northern India Canal and Drainage Act, 1873, the State Government is empowered to fix or revise the water rates as and when necessitated. The Performance Budgets of Irrigation Department of U.P. Government also provide that the expenditure on account of annual repairs, direction and administration, miscellaneous indirect expenditure (working expenses) and interest should be met from the revenue receipts of the system. Further, the U.P. Taxation Committee had recommended the enhancement of water rates by 40 per cent in 1985 itself.

It was noticed that the water rates fixed in June 1983 were revised in October 1994. The details of revenue realized, working expenses on maintenance and operation and net receipts during the year 1990-91 to 1994-95 were as under and have also been exhibited in Chart-IV:

(Rupees in lakhs)

Year	Actual revenue receipts	Working expenses on maintenance/operation	Net receipts
1990-91	3592.64	6599.64	(-)3007.00
1991-92	3955.88	11595.91	(-)7640.03
1992-93	4596.95	10878.11	(-)6281.16
1993-94	16123.00	11122.73	(+)5000.27
1994-95	6637.03	14080.45	(-)7443.42
Total	34905.50	54276.84	(-)19371.34

Had the rates been revised as per the recommendations of the U.P. Taxation Committee even in 1990, a sum of Rs. 13962.20 lakhs would have been received by the Government as additional revenue between the period 1990-91 and



1994-95.

On this being pointed out, the Government stated (September 1996) that the file relating to the report of the U.P. Taxation Committee of 1985 is not readily available and that it was not possible to give any specific reason for the delay in revision of water rates as it constituted policy decision.

(b) The timely revision and correct fixation of water rates plays an important role in earning revenue. The periodicity regarding revision of rates has neither been prescribed in the Manual nor in any Government orders.

It was noticed that the water rates were being revised after an interval of 2 to 4 years since 1965 but after 1983 these were revised in 1994 after a lapse of 11 years.

On this issue, the Government stated (September 1996) that there is no periodicity fixed for the revision of water rates.

#### **9.4.9 Erroneous collection of charges for supply of water for non-irrigation purposes**

After 1952, the water rates for non-irrigation purposes were revised by the State Government in April 1985 with the instructions that the individual agreement would be executed for 10 years from the date of execution between Irrigation Department and the department/departments requiring the supply of water. Thereafter, fresh agreements were required to be executed.



**(a) Non-recovery of water charges due to non-execution/non-renewal of agreement**

In test check of 3 Irrigation Divisions\*, it was noticed (between September 1995 and April 1996) that water was supplied to 4 beneficiaries without executing the agreements or renewal of old agreement in contravention of the above provisions. This resulted in non-realization of royalty aggregating Rs. 7114 lakhs as detailed below:-

Sl.No.	Name of division	Stage of agreement	Period of supply	Name of beneficiary	Amount of royalty (Rupees in lakhs)
1.	Aligarh division, Ganga Canal, Aligarh	Not executed	April 1962 to March 1995	Harduaganj Power House (U.P.S.E.B.), Aligarh\	1107
2.	Etawah division, Lower Ganga Canal, Etawah	Not executed	April 1985 to March 1995	Auraiya Gas Power Plant (NTPC), Etawah	150
3.	Kanpur division, Lower Ganga Canal, Kanpur	Not executed	September 1967 to March 1995	Panki Power House, Kanpur (U.P.S.E.B.)	5429
4.	-----DO-----	Not renewed	April 1968 to March 1985 (from April 1985 free supply)	Nagar Maha Palika (Jal Sansthan), Kanpur	428
Total					7114

**(b) Loss of revenue due to wastage/seepage of water**

On the basis of Report (October 1993) of Superintending Engineer, Drainage Circle, Aligarh, while maintaining the supply of water to Harduaganj Thermal Power House, Aligarh, round the year, there was a wastage/seepage etc. of water at the rate of 150 cusecs per year. From April 1977 to March 1995 this wastage worked out to 2,700 cusecs of water costing Rs. 1034 lakhs (Rs. 284 lakhs-1.4.77 to 31.3.85 @ Rs. 3.75/5000 cft and Rs. 750 lakhs from 1.4.85 to 31.3.95 @ Rs. 50,000/cusec/year).

\*  
1. Aligarh Division, Ganga Canal, Aligarh.  
2. Etawah Division, Lower Ganga Canal, Etawah  
3. Kanpur Division, Lower Ganga Canal, Kanpur.

It was noticed that no agreement with the user unit was executed for supply of water resulting in non-realisation of potential revenue of Rs. 1034 lakhs.

On this being pointed out in audit, the Divisional Officer stated that the action will be taken after execution of agreement.

**(c) Erroneous Computation of Interest**

As per terms and conditions of agreement, Nagar Mahapalika, Kanpur was required to deposit the royalty of water within 30 days from the receipt of the demand from Irrigation Department, failing which an interest at the rate of 1 per cent per month was leviable on the defaulter.

It was noticed that the royalty on account of water charges amounting to Rs. 94.77 lakhs was not deposited by the Nagar Maha Palika, Kanpur (now Jal Sansthan) for the period April 1968 to September 1981. As the royalty was not deposited within stipulated time, interest amounting to Rs. 368.39 lakhs for the period from October 1981 to September 1995 was leviable as per claim prepared and demand raised till the date of audit, whereas the division levied the interest of Rs. 17.17 lakhs only. This resulted in short-levy of interest amounting to Rs. 351.22 lakhs.

On being pointed out in audit, the Divisional Officer stated that the demand will be revised.

**9.4.10 Distribution of Water**

(a) Canal system requires adequate control structures at different levels so as to minimize loss of water en route its flow. It has been provided in Irrigation Manual and in Government Orders that prescribed checks of outlets should be exercised by the concerned officers/staff. Executive Engineer and Assistant Engineer are required to check each year 2 per cent and 20 per cent respectively of the total outlets under their



jurisdiction. Section Officer/J.E. is required to check all the outlets of his section and percentage of checking by Dy. Revenue Officer and Zildar is fixed as 5 per cent and 20 per cent respectively.

In test check of 17 divisions, it was observed that during the period 1990-91 to 1994-95, the prescribed checks were not being carried out in two divisions<sup>@</sup> of Hardoi and Jhansi where the basic programmes of checking were not prepared at all.

In 7 divisions<sup>#</sup>, the percentage of shortfall in checking of outlets ranged from 1 per cent to 45 per cent whereas in one division of Etawah it ranged from 64 to 100 per cent.

**(b) Loss of water in transit**

During the course of supply of water through canals, loss of water in transit is inevitable by way of seepage, evaporation, etc. Keeping in view the various factors of losses, norms of transit loss were prescribed by the Engineer-in-Chief (previously Chief Engineer) vide orders issued in 1951 and reiterated from time to time (latest in 1980).

In 2 divisions<sup>\*\*</sup>, it was noticed that the main-line transit loss of water in Upper Ganga Canal was much more than the prescribed loss @ 250 Cusecs per day in one division and @ 600 Cusecs and 350 Cusecs per day for Kharif and Rabi crops respectively in other Division as stipulated in the departmental order. This loss of water beyond the prescribed norms resulted in loss of revenue amounting to Rs. 662.42 lakhs during the period 1990-91 to 1994-95 in 2 divisions alone.

<sup>@</sup>

1. Rajkiya Jal Prabandh Yojna Prakhanda, Hardoi
2. Jhansi Division, Betwa Canal, Jhansi

<sup>#</sup>

1. Irrigation Division-I, Lakhimpur Kheri; 2. Lucknow Division-II, Sarda Canal, Lucknow;
3. Betwa Canal Division-I, Orai; 4. Betwa Canal Division-II, Orai; 5. Sarda Sahayak Khand-32, Azamgarh; 6. Bulandshahar Division, Ganga Canal, Bulandshahar; 7. Anoopshahar Branch Division, Ganga Canal, Meerut.

<sup>\*\*</sup>

1. Muzaffar Nagar Division, Ganga Canal, Muzaffar Nagar.
2. Anoop Shahar Branch Division, Ganga Canal, Meerut.



On being pointed out in audit, the concerned divisions accepted the water loss and attributed it to (i) canal being very old and (ii) unauthorised use of water by cultivators.

The above reply is not tenable as the age of the canals has been taken into account while fixing the norms and the responsibility to check unauthorised use also rests with these very divisions.

**(c) Non-maintenance of water account**

In view of scarcity of the resource and to motivate economy in use of water a detailed water account is required to be prepared at the level of the Irrigation Department. Records of Betwa Canal system revealed that no such account was kept with full particulars i.e. quantity of water released in various channels, distributed and used for irrigation and loss in transit.

**9.4.11 Assessment of water rates**

**(a) Check of Measurements.**

The assessment of water rates is done by the Amins\* of irrigation divisions after the measurements of the irrigated area. The bonafides of measurements is based on the check of measurements conducted by various officers/staff as prescribed in the Manual as detailed in the table.

Designation of Officer	Prescribed norm	
	Kharif (In acres)	Rabi (In acres)
Superintending Engineer	150 (Distributed among the divisions under his control)	200
Executive Engineer	250	300
Assistant Engineer	500	700
Deputy Revenue Officer	2500	3000
Zileadar	5000	7000
Junior Engineer	250	300

Out of 17 divisions test checked, 12 divisions did not follow the prescribed

\* Carries out measurements of irrigation and prepares demand statement (Jamabandi).

norms of check of measurement. Project vis-a-vis officer-wise shortfall noticed is being given below in percentage:

### Shortfall in checking of irrigation measurements

Name of project	No of div- ision	S.E.		E.E.		A.E.		D.R.O		J.E		Zildar	
		Kharif	Rabi	Kharif	Rabi	Kharif	Rabi	Kharif	Rabi	Kharif	Rabi	Kharif	Rabi
Gandak Canal System	1	100	100	89	64	61	65	85	76	74	87	72	77
Betwa Canal System	3	100	100	66	14	66	14	77	32	83	29	89	27
Sarda Canal System	2	100	100	72	53	50	63	17	12	55	60	66	75
Lower Ganga Canal System	2	100	100	47	49	36	43	13	24	31	51	58	58
Upper Ganga Canal System	3	100	100	15	35	2	14	3	16	33	43	1	29
Sarda Sahayak System	1	100	100	--	3	37	50	75	77	57	55	75	78

Superintending Engineers had not conducted measurement checks at all in any of the projects/circles. The short-fall in respect of other categories of officers/staff ranged from 65 to 89 per cent.

The bonafides of the demand in Jamabandi\* and evasion of water charges can not be ruled out due to failure on the part of the field officers/staff for exercising the prescribed checks.

#### (b) Delay in submission of Jamabandi

According to the Irrigation Manual of Orders a Divisional Officer is required to send the Jamabandi to Tehsildar for collection of water rates 3 days before the prescribed dates viz 1 December<sup>#</sup> for Kharif and 1 May<sup>#</sup> for Rabi each year. A test

\* Statement of demand of water rates

# In some areas it is 15 November for Kharif and 15 April for Rabi.



check of records of 17 divisions revealed that the delay in submission of Jamabandis in 9 divisions ranged from 17 to 88 days resulting in delayed collection of revenue.

**(c) Loss of revenue due to non-observance of prescribed procedure.**

The Manual directs that the Lekhpal should be present at the time of completion of the final measurements by the Irrigation Department and furnish the names of owners and tenants etc. in order to enable the Amin to complete his records and also to help in settling any doubts by conducting a joint local inquiry so that there may not be any difference in records of Irrigation and Revenue Departments. For this purpose, a prescribed fee is payable by Irrigation Department to the Lekhpal.

It was, however, noticed that the Lekhpal did not attend any measurement in the divisions test checked.

While scrutinising the records of Irrigation Department with the revenue records, of 26 villages in 2 tehsils, discrepancies were noticed in 5 villages which led to loss of revenue as discussed in the succeeding paragraph.

The Irrigated area shown by the irrigation department did not agree with the figures shown in the revenue records as given in the table:

<b>As per Jamabandi</b>						
<b>Name of division/ (Tahsil)</b>	<b>No. of village checked</b>	<b>Area irrigated as per Khasra (A revenue record)</b>	<b>Area irrigated</b>	<b>Average rate of revenue per acre</b>	<b>Difference in area</b>	<b>Loss of revenue</b>
		<b>( In acres )</b>		<b>(Rupees)</b>	<b>(In acre)</b>	<b>(Rupees)</b>
Betwa Canal Division-I Orai, (Orai Sadar)	2	3424	1947	28.38	1477	41920
Jhansi Division, Betwa Canal, Jhansi(Jhansi Sadar)	3	1996	1773	73.05	223	16290
<b>Total</b>						<b>58210</b>



The non-observance of prescribed procedure resulted in loss of revenue amounting to Rs. 58,210. This indicates that the prescribed internal controls are rarely exercised in the Department.

On this being pointed out, the Government stated (September 1996) that they had called for comments/suggestions from the Engineer-in-Chief regarding internal control mechanism.

#### 9.4.12 Other Points of Interest

(a) In test check of 5 divisions (Kanpur-1, Jhansi-1, Orai-2, Barabanki-1), it was noticed that 1,960 unauthorised outlets were existing at the end of March 1996. The creation of unauthorised outlets is an offence but no penal action was taken in this regard.

(b) In terms of the Canal Act, 1873, punitive charges (Tawan), in addition to water rates due, are leviable on users for misuse of canal water. The charges are investigated by the officers of canal department not below the rank of Zileदार. The Divisional Officer is required to submit to the Superintending Engineer every half year a statement showing therein the amount of punitive rates levied and details of the cases tried under the Canal Act. The investigation of such cases is required to be conducted promptly and orders issued immediately so as to include these charges in the demand statement.

In the course of scrutiny of records of 7 divisions\*, it was noticed that at the end of March 1995, 13218 Tawan cases involving an amount of Rs. 16.56 lakhs were pending for finalisation and inclusion in the demand statement.

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\* Ganga Canal:

(1) Andopshahar Branch Division, Meerut, (2) Muzaffarnagar Division, Muzaffarnagar, (3) Bulandshahre Division, Bulandshahar,

Betwa Canal:

(4) Jhansi Division, Jhansi (5) Betwa Canal Division-II, Orai,

Sarda Sahayak:

(6) Irrigation Division, Pratapgarh

Sarda Canal:

(7) Lucknow Division-II, Lucknow

(c) During the years 1990-91 to 1994-95, 590 cases of cutting of canals were detected in Irrigation Division-II, Deoria, but the penal action (Tawan) was initiated in one case only. A minimum penalty of Rs. 0.59 lakh, though leviable in other cases, was not levied.

On this being pointed out, the Division stated (March 1996) that the canal cuttings were done by anti-social elements.

In reply of the Division it was, however, not mentioned as to whether or not F.I.Rs were lodged with the Police against these elements.

The above points were reported to the Department/Government (June 1996); their replies have not been received (August 1996).

#### 9.5 Short-levy of Stamp Duty

In January 1982, Government withdrew exemption from the levy of Stamp Duty on agreements / contract bonds, executed for Government works. As per Article 5(c) of Schedule 1-B of the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), with effect from 1 November, 1991, Stamp Duty at the rate of Rs. 100 is chargeable on an agreement including work order.

During audit of 6 Irrigation Divisions, it was noticed (between September 1994 and June 1995), that Stamp Duty amounting to Rs. 4.09 lakhs in respect of 5,202 agreements (work orders), executed between November 1991 and August, 1994 was short-levied as detailed below:

Sl. No.	Name of Division	Period	No. of work orders	Amount of Stamp Duty leviable (In lakhs)	Amount of Stamp Duty levied of	Amount of Stamp Duty short-levied (Rupees)
1.	Tubewell Division, Lucknow	November 1991 to November 1993	534	0.53	0.05	0.48
2.	Tubewell Division, Varanasi	November 1991 to August 1994	993	0.99	0.52	0.47
3.	Tubewell Division, Fatehpur	November 1991 to February 1993	350	0.35	0.03	0.32



Sl. No.	Name of Division	Period	No. of work orders	Amount of Stamp Duty leviable (In lakhs)	Amount of Stamp Duty levied of	Amount of Stamp Duty short-levied (Rupees)
4.	Tubewell Division, Varanasi	November 1991 to August 1994	530	0.53	0.22	0.31
5.	Irrigation Division, Allahabad	November 1991 to June 1992	350	0.35	0.04	0.31
6.	Irrigation Division Lansdown (Pauri Garhwal)	November 1991 to November 1993	2,445	2.45	0.25	2.20
Total			5,202	5.20	1.11	4.09

On this being pointed out in audit (between September 1994 and June 1995), the Department stated (September 1994 and June 1995) that the omission was due to late receipt of orders and action for recovery of differential amount of duty was being taken.

The cases were reported to Government (between February 1995 to August 1995); their reply has not been received (August 1996).

#### **9.6 Loss of revenue due to delay in repairs of State Tubewells**

As per standing orders of the Director of Tubewells, Irrigation Department, U.P., issued in the year 1965, the maximum closure period permitted for repairs/rectification of mechanical defects in State Tubewells varies from 2 days to 7 days. Orders also envisage obligatory imposition of penalties including termination of services, reversion etc. of staff (at different levels) in the event of tubewells remaining closed beyond the maximum period allowed for repairs. The rates for supply of water from tubewells for irrigation purpose were Rs. 1.20 per 5,000 gallons and 10,000 gallons for Rabi and Kharif crops respectively.

During audit of two Tubewell Divisions (Farukhabad and Fatehpur), it was noticed (April 1995 and May 1995) that during the Kharif and Rabi seasons of



fasli year 1400 and 1401 (1992-93 and 1993-94), 403 State Tubewells remained closed for the period ranging from 14 days to 60 days due to mechanical defects. As a result of delay in repairs, cultivators were deprived of irrigation facilities during the peak period of requirement and Government suffered loss of revenue amounting to Rs. 5.25 lakhs for the period during which electric supply was available but the tubewells were out of order.

On this being pointed out in audit (April 1995 and May 1995), the delay in repairs of tubewells was attributed by the Department to old pump sets and non-availability of additional pump sets. The reply is not tenable as the Department had issued the orders/guidelines keeping in view all these factors.

The matter was reported to the Government (between June 1995 and August 1995); their reply has not been received (August 1996).

#### **9.7            Faulty revision of demand of water rates**

Under the provisions of the Northern India Canal and Drainage Act, 1873 and the Rules made thereunder, the State Government may regulate the amount of any charges and the manner of its realisation. The Government, vide their Notifications dated 18 October, 1994 and 18 September, 1995 revised the water rates with effect from Fasli year 1402 (Rabi) and 1403 (Kharif) respectively. The rates revised from Fasli year 1403 (Kharif) were lower than that of Fasli year 1402 (Rabi).

During audit of two Irrigation Divisions of Doon Canals (Dehradun & Kalsi), it was noticed (April 1996) that demands for water rates pertaining to Fasli year 1402 (Rabi) were revised as per rates applicable for Fasli year 1403 (Kharif), from Rs.34.68 lakhs to Rs. 18.83 lakhs on the basis of instructions issued by the

Government on 21 September, 1995, though, the instructions were not published in the official Gazette. This resulted in reduction of demands to the tune of Rs. 15.85 lakhs.

On this being pointed out in audit (April 1996), the Divisional Officers stated that the demand statements (Jamabandis) were revised as per instructions issued (21 September, 1995) by the Government. The reply is not tenable as it was in contravention of the provisions of the Act.

The matter was reported to the Department and Government (July 1996); their replies have not been received (August 1996).

### **C. Finance Department**

A review on "Recoveries of interest on loans and advances" involving a tax effect of Rs. 4,352.47 lakhs is mentioned in the succeeding paragraphs:

#### **9.8 Recoveries of interest on loans and advances**

Interest is realisable on loans sanctioned by Government to (i) departmental Commercial undertakings, (ii) Government companies and corporations, (iii) local bodies, (iv) Cooperative societies and (v) cultivators and other individuals including Government servants. The terms and conditions of repayment of loans and payment of interest are contained in the sanctions issued by the Government. A test-check of records during review relating to the loans granted by Government to Cooperative Department, Director Industries, Director Handlooms and Textiles, Commissioners of Cane, Sugar and Housing and Local bodies during the years 1990-91 to 1994-95 conducted during the period from December, 1995 to April, 1996 revealed the following:

##### **9.8.1 Arrears of Interest**

Government issued instructions (August 1991) to effect maximum recoveries of the principal amounts of loans and interest due thereon and reduce the



arrears in respect of three departments where arrears were substantial.

It was, however, observed that arrear of interest against three loanee departments namely-Industries (excluding apex bodies), Handlooms & Textiles (excluding apex bodies) and Cooperative Societies- which were Rs. 868.10 lakhs, Rs. 444.50 lakhs and Rs. 2110.67 lakhs at the beginning of the year 1990-91, increased to Rs. 1472.46 lakhs, Rs. 1039.25 lakhs and Rs. 3019.56 lakhs at the end of 1994-95 registering an increase of 69.62,133.80 and 43.06 per cent respectively, instead of a decrease. The details have been exhibited in Chart-V.

### 9.8.2 Loss of interest due to late disbursement of loans.

According to Financial Handbook, an amount should be drawn from the Treasury for immediate disbursement. Accordingly, the loans sanctioned by the Government and drawn by the departments are required to be paid to the loanees without any delay so as to avoid loss of interest to the Government. However, it was noticed that in the following cases the loans were disbursed to the loanees after a delay of 4 to 24 months resulting in loss of interest amounting to Rs. 123.94 lakhs as indicated below:

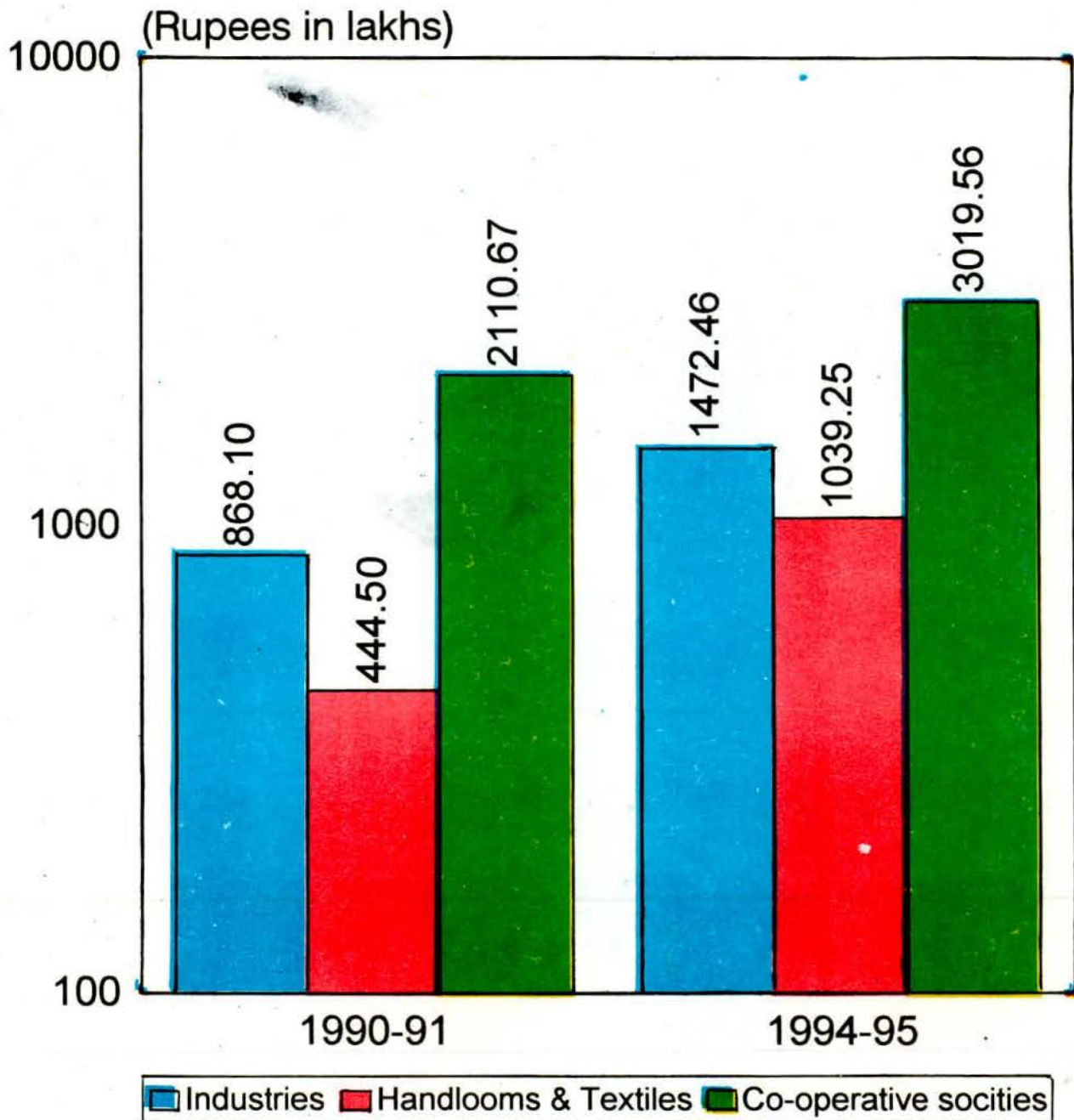
Sl. No.	Designation of drawing officer loanee	Amount of loan/rate of interest (Rs. in lakhs/percent p.a)	Date of drawal Date of disbursement	Period of delay (In months)	Amount of interest involved (In lakhs of rupees)
1.	Registrar Cooperative Societies, U.P., Lucknow	7.55	31. March 1989	9	0.77
	U.P. Cooperative Federation, Lucknow	13.25	5 January 1990		
2.	Registrar Cooperative Societies, U.P., Lucknow	136.84	August 1992	11	13.48
	U.P. Cooperative Bank Lucknow	10.75 11.75	August 1993		
3.	Registrar Cooperative Societies, U.P., Lucknow	122.00	March 1993	4	4.45
	U.P. Cooperative Bank Lucknow	10.75	August 1993		
4.	U.P. Government	45.00	March 1991	10	3.84
	U.P. Avas Avam Vikas Parishad, Lucknow	10.25	January 1992		
5.	Director of Industries U.P., Kanpur	260.00	March 1994	24	101.40
	U.P. State Textile Corporation, Kanpur	19.5	March 1996		
	Total				123.94



CHART V

## ARREARS OF INTEREST

1990-91 to 1994-95





### 9.8.3(a) Loss of interest due to defective sanctions

According to Financial Handbook, interest is to be charged at the rate higher by 2.5 per cent over the normal rate in case of default in repayment of loan. While sanctioning the loan, a penal provision is to be included in the respective sanctions issued by the State Government. However, there is no such provision in respect of interest-free loans sanctioned by the Government but not repaid by the loanee by the prescribed dates. As a result, no condition for payment of penal interest could be incorporated in the sanctions issued in respect of such loans. This resulted in non-levy of penal interest amounting to Rs. 347.63 lakhs in the following cases:

Sl. No.	Name of the loanee	Month of sanction/ drawal of loan	Amount of loan (In lakhs of rupees)	Terms of repayment	Period of delay	Penal interest involved (In lakhs of rupees)
1.	U.P.Electronics - Corpn.Ltd.,Lucknow	July 1991	300	Three years after the date of drawal	8/94 to 3/96	12.50
		Jan.1992	100	-do-	2/95 to 3/96	2.92
2.	U.P.State Textile Corpn. Ltd.,Kanpur	Nov. 1992	250	In three instalments	12/93 to 3/96	14.58
		Dec. 1992	800	-do-	1/93 to 3/96	65.00
		Jan. 1993	1000	-do-	2/94 to 3/96	54.17
3.	U.P.State Handloom Corpn., Kanpur	Jan. 1984	100	After one year of drawal	8/85 to 3/96	26.67
		Dec. 1984	100	-do	1/86 to 3/96	25.62
4.	U.P.State Sugar Corpn., Lucknow	Oct. 1991	812	By March'92	4/92 to 3/96	81.20
5.	U.P. Cooperative Sugar Mills Federation, Lucknow	Nov. 1989	40	By first anniversary from the date of drawal	12/90 to 3/96	18.67
		Nov. 1989	100	In four six monthly instalments		
		Nov. 1989	150	In three six monthly instalments after three years of drawal	12/92 to 3/96	12.50
		Oct. 1991	338	By March 1992	4/92 to 3/96	33.80
Total			4090			347.63

### (b) Incomplete/delayed issue of sanctions

In the following cases, the sanctions regarding grant of loans were issued without incorporating the terms and conditions of repayment of loans/payment of interest etc., or issued late. This resulted in loss of interest amounting to Rs. 25.07



lakhs as detailed below:

Sl. No.	Name of the loanee	Amount of loan (rupees in lakhs)	Date of issue of sanction	Date of issue of terms & conditions	Loss of interest (Rupees in lakhs)
1.	U.P. Cooperative Federation Ltd., Lucknow	9.03	May 1993	March 1995	1.82
2.	U.P. Small Industries Corporation Ltd., Kanpur	25.00	March 1989	Not yet issued	20.25
3.	U.P. Cooperative Mills Federation, Kanpur	40.00	March 1993	-do-	3.00
Total					25.07

#### 9.8.4 Non-levy of penal interest

If the repayment of loan and payment of interest is not made by a loanee by the due date as prescribed in the terms and conditions of loan, penal interest on the entire amount of loan at the rate of 2.5 per cent or 3 per cent per annum, as the case may be, is recovered.

Test check of records of Industries, Cooperative and Cane departments and Local bodies revealed that in 59 cases, the due dates of repayment were not adhered to by the loanees rendering them liable to pay penal interest at the rate of 2.5 or 3 per cent per annum, which worked out to Rs. 391.06 lakhs upto March 1996. No action to levy and recover penal interest had been taken by the above departments.

#### 9.8.5 Non-levy of interest on unutilised loans.

If a loan is refunded or retained by the loanee without utilisation or transferred to another loanee, under the orders of competent authority, the interest at the prescribed rate is chargeable for the period of retention of loan by the loanee.

During test-check it was noticed that in two cases loans were either

transferred or remained unutilised but the interest was neither levied nor recovered as indicated below:

(i) On receipt of a loan of Rs. 2.50 crores from the Government on 26 June 1987, the U.P. Cooperative Sugar Mills Federation Ltd., Lucknow credited it to its P.L.A., of which a sum of Rs. 1.50 crores was disbursed to one of its units (Puvaiya unit) leaving a balance of Rs. 1 crore with the Federation. As the Puvaiya unit was unable to utilise the amount of loan, a sum of Rs. 50 lakhs was refunded by it to Government and the remaining amount of Rs. 1 crore alongwith interest of Rs. 148.50 lakhs was converted (July 1994) into equity shares to be held by the Government. Thus, the interest amounting to Rs. 22.45 lakhs for the period 1 April, 1993 to 12 July, 1994 was not demanded.

The balance amount of Rs. 1 crore lying with the Federation was transferred on 31 March, 1989 on the same terms and conditions as laid down initially, to Kisan Sahkari Mills, Nanpara. But the interest of Rs. 30.88 lakhs for the period during which the amount remained with the Federation, was not levied and recovered by the department.

This resulted in aggregate loss of interest amounting to Rs. 53.33 lakhs.

(ii) With a view to strengthening the "Agricultural loan fund" under the Natural Calamity Scheme, the Government sanctioned (July 1992) a loan of Rs. 1.50 crores to U.P. Cooperative Bank, on the condition that the unutilised loan will be refunded immediately along with interest at the rate of 10.75 per cent per annum. The Registrar, Cooperative Societies, drew the loan in August, 1992 and kept it in his P.L.A. till July 1993 and placed it at the disposal of the bank in August 1993 only. Out of this, an amount of Rs. 94.38 lakhs only could be utilised by the bank leaving a balance of Rs. 55.62 lakhs. No action was taken to get the balance amount refunded



and levy / recover interest amounting to Rs. 14.45 lakhs for the period (September 1993 to January 1996) during which the loan amount remained with the loanee.

**9.8.6 Non/Short-recovery of interest due to application of incorrect rate/computation mistake.**

During the check of records of the Director Industries and Registrar, Cooperative Societies, it was noticed that interest amounting to Rs. 304.07 lakhs was short deposited due to various mistakes as given below :

(a) During the years 1992-93 and 1993-94, in two cases of loans - one for Rs. 9 crores and the other for Rs. 7 crores - given to U.P. Cooperative Federation Ltd., Lucknow, interest was to be charged at the rate of 18.5 per cent and 19.5 per cent per annum respectively, whereas it was charged at the rate of 6.25 per cent and 6 per cent per annum respectively. Thus, application of incorrect rate of interest resulted in short-levy of interest amounting to Rs. 71.78 lakhs (25 August, 1992 to 13 April, 1993) and Rs. 47.77 lakhs (19 August, 1993 to 14 February, 1994) respectively.

(b) During the year 1980-81 to 1986-87, 16 loans amounting to Rs. 1613 lakhs were sanctioned and paid to the Pradeshhiya Industrial and Investment Corporation Ltd., U.P. (PICUP), Lucknow. The instalments of principal were paid but interest on these loans was erroneously worked out to Rs. 815.40 lakhs instead of Rs. 925.41 lakhs. This resulted in short recovery of interest amounting to Rs. 110.01 lakhs.

(c) During the year 1970-71 to 1985-86, 9 loans amounting to Rs. 203 lakhs were sanctioned and paid to U.P. Small Industries Corporation, Kanpur. The instalments of principal were paid but interest on these loans was erroneously worked out to Rs. 259.25 lakhs instead of Rs. 281.02 lakhs. This resulted in short recovery of interest amounting to Rs. 21.77 lakhs.



(d) As per Rules, interest on loans is to be calculated from the date of drawal till the date of repayment.

It was noticed that during 1985-86 to 1989-90, 6 loans amounting to Rs. 114 lakhs were given to Bhadohi Industrial Development Authority (BIDA) Bhadohi. In all these cases, interest was calculated excluding the first year of drawal which resulted in short-levy of interest amounting Rs. 7.84 lakhs. Details are given below:

Sl. No.	Amount of loan (In lakhs of Rupees)	Rate of interest (per annum)	Date of sanction/drawal	Period omitted for calculation of interest	Amount of interest short levied (In lakhs of Rupees)
1.	31.00	6%	31.3.86	1.4.86 to 31.3.87	1.86
2.	25.00	10%	31.3.87	1.4.87 to 31.3.88	2.50
3.	10.00	6%	27.11.87	28.11.87 to 27.11.88	0.60
4.	10.00	6%	21.9.88	22.9.88 to 21.9.89	0.60
5.	20.00	6%	31.3.89	1.4.89 to 31.3.90	1.20
6.	18.00	6%	5.10.89	6.10.89 to 5.10.90	1.08
	114.00				7.84

(e) According to terms and conditions of loans sanctioned by the Government to three loanees\* the outstanding loan of Rs. 712.10 lakhs and interest of Rs. 623.49 lakhs accrued thereon upto 30 September, 1987, 31 December, 1992 and 31 March, 1993 were converted into equity. The Government, however, converted the outstanding loan of Rs. 712.10 lakhs and interest of Rs. 578.59 lakhs into equity. Thus a balance of Rs. 44.90 lakhs was neither converted into equity nor recovered from the loanees.

1. U.P. Electronics Corporation Limited., Lucknow  
 2. U.P. State Warehousing Corporation Limited., Lucknow.  
 3. U.P. Co-operative Sugar Mills Federation Limited., Lucknow (Bangara unit)

### **9.8.7 Non-realisation of interest due to non-execution of agreements**

A request by four loanees\*\* for the remission/ conversion into equity / grants-in-aid of the interest/penal interest amounting to Rs. 2419.44 lakhs accrued on various loans sanctioned to them, was made to State Government. Their requests were turned down by the Government (between February 1993 and March 1995).

In test check, it was noticed that these loans were initially disbursed without executing an agreement (containing terms and conditions) with the loanees. As a result, when their requests for remission/conversion into equity etc. were rejected, the loanees did not repay any amount and the department also could not take any legal action against them.

### **9.8.8 Loss of interest during conversion of loans into equity/grant-in-aid.**

(a) The Government converted (31 March 1993) loans aggregating Rs. 31.41 crores into equity with effect from 1 October, 1992 due to unsound financial condition of U.P. State Textile Corporation, Kanpur without ascertaining the position of paid up and authorised capital of the Corporation. By the proposed conversion, the paid up capital was to exceed the authorised capital, hence the shares could not be allotted. The Corporation, however,, enhanced its authorised capital and shares were allotted on 28 June, 1993 but the interest of Rs. 405.96 lakhs for the period from 1 October, 1992 to 27 June, 1993 was neither converted into equity nor recovered from the loanee.

(b) According to Ware-Housing Corporation Act, 1962, the State Government should not release any share capital to the Uttar Pradesh State Warehousing Corporation without prior approval of the Central Warehousing corporation as the shares are allotted only on receipt of matching share from the latter.

\*\*

1. U.P. Co-operative Bank Lucknow.
2. U.P. State Export Corporation, Kanpur
3. U.P. Industrial Cooperative Association, Kanpur
4. U.P. Co-operative Mills Federation, Kanpur



The Government converted (31 March 1994) Rs. 90.70 lakhs (loan of Rs. 50.00 lakhs and interest of Rs. 40.70 lakhs) pertaining to State Warehousing Corporation into equity with effect from 31st December, 1992 without obtaining the approval of Central Warehousing Corporation and without ascertaining the financial status of the loanee. The matching share was not released by the Central Warehousing Corporation due to authorised capital being short with the result that the shares could not be allotted. This resulted in loss of interest amounting to Rs. 20.81 lakhs for the period from January 1993 to January 1996.

(c) As per Government orders (March 1983), out of loan of Rs. 250 lakhs, given to U.P. Jal Nigam, only Rs. 100 lakhs were to be converted into Grant-in-aid by the U.P. Jal Nigam.

It was noticed (April 1996) that the entire amount of loan i.e. Rs. 250 lakhs instead of only Rs. 100 lakhs, was converted by Jal Nigam into grant-in-aid. This resulted in loss of interest of Rs. 243.75 lakhs (calculated upto March 1996).

(d) While sanctioning the conversion into equity of loan of Rs. 25 lakhs disbursed (March 1988) to Uttar Pradesh Warehousing Corporation, the Government instructed (March 1991) that the interest may be deposited till the sanction of matching share by the Central Warehousing Corporation. The matching share was sanctioned on 14 February, 1992 but the loan was transferred to "share account" on 31 March, 1991 without depositing the interest of Rs. 12.60 lakhs accrued from April, 1988 to March, 1991. Further, interest of Rs. 2.96 lakhs, for the period from 1 April, 1991 till the date of sanction (14 February, 1992) of matching share was lost due to non-observance of instruction.




### 9.8.9 Unauthorised retention of interest

According to Financial Handbook, all revenue realised should be remitted into treasury or bank without undue delay.

For implementing the scheme of "Interest free Sales Tax Loan", the Pradeshia Industrial and Investment Corporation Limited (PICUP), Lucknow was appointed (November 1972) as an agent by the State Government. During the period from April 1975 to March 1995, penal interest aggregating Rs. 5.64 crores was realised by the PICUP, from defaulting entrepreneurs but only Rs. 4.47 crores were remitted into treasury upto March 1996 leaving a balance of Rs. 1.17 crores with PICUP. Thus, due to non-observance of prescribed procedure, amount of Rs. 1.17 crores remained out of Government account.


The matter was reported to the Government (June 1996); their reply has not been received (August 1996).

Lucknow  
The 30 January, 1997

  
(P. MUKHERJEE)  
Accountant General (Audit)-II  
Uttar Pradesh

Countersigned

New Delhi  
The 4 February, 1997

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



