

***Report
of the Comptroller
And
Auditor General
of India***

For the Year Ended : 31 March, 1997

**No.2
(REVENUE RECEIPTS)**



Government of Uttar Pradesh

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Preface

This Report for the year ended 31st March, 1997 has been prepared for submission to the Government of Uttar Pradesh 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 of India (Duties, Powers and Conditions of Service) Act, 1971.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 1996-97 as well as those noticed in earlier years but which could not be included in previous Audit Reports.

This Report contains nine chapters. Chapter I analyses the trend of revenue receipts in 1996-97 as compared to the previous years. It indicates the revenue realisation against the budget estimates and also presents the shortfall/excess collection of revenue pertaining to the principal heads of receipts.

Chapter II deals with Trade Tax Department and contains a review on '*Frauds and Evasion in Trade Tax*' apart from miscellaneous points of short charge of tax, non-levy of penalty and application of incorrect rates of tax in the Trade Tax department.

Chapter III deals with the State Excise Department and contains a review on '*Production, Procurement, Accounting and Sale of Poppy Straw*' besides highlighting other points of short realisation of additional duty on country liquor and non-realisation of license fee, etc.

Chapter IV deals with Taxes on Vehicles, Goods and Passengers. It contains two reviews on '*National Permit Scheme and Bilateral Agreement*' and on '*Growth in collection of Road Tax/Motor Vehicle tax*'. The chapter also includes some interesting points in regard to short realisation of passenger tax, irregular exemption of passenger tax, etc., by the department.

Preface

Chapter V deals with Stamp Duty and Registration Fees. Apart from two reviews on '*Deficiencies in valuation of buildings for levy of stamp duty and pendency of stamp cases*' and on '*Registration of transfer of property situated in Uttar Pradesh but registered in metropolitan cities*', this chapter also includes audit observations in regard to short levy of stamp duty on agricultural land.

Chapter VI deals with the Land Revenue Department. The chapter contains observations relating to non-recovery of collection charges by the department.

Chapter VII deals with the tax receipts of other departments viz. Electricity duty, Tax on Purchase of Sugarcane and Administrative Charges on Sale of Molasses.

Chapter VIII deals with Forest Receipts. This chapter highlights cases of non-recovery of royalty by the department.

Chapter IX deals with other departmental receipts in the Co-operative Department, Irrigation Department, Public Works Department and Finance Department.

Overview

Overview

This Report contains 37 paragraphs and 6 reviews (1 on Trade Tax, 1 on State Excise, 2 on Taxes on Vehicles, Goods and Passengers and 2 on Stamp Duty and Registration Fees) relating to non/short levy of taxes, duties, fees, interest and penalties etc. involving Rs. 562.86 crore. Some of the major findings are mentioned below:

I. General

- *During the year 1996-97, revenue raised by the State Government, both tax (Rs. 6305.97 crore) and non-tax (Rs. 1318.49 crore) amounted to Rs. 7624.46 crore as against Rs. 7868.33 crore during the previous year. Receipts under Trade Tax (Rs. 2827.41 crore) and State Excise (Rs. 1322.91 crore) accounted for a major portion (66 per cent) of tax-revenue receipts. Under non-tax revenue, main receipts came from Interest Receipts (Rs. 478.97 crore), Non-ferrous Mining and Metallurgical Industries (Rs. 159 crore), Forestry and Wild Life (Rs. 104.51 crore), and Major and Medium Irrigation (Rs. 100.78 crore). Receipts from Government of India including Grants-in-aid during the year aggregated Rs. 8404.11 crore.*
- *Although Tax Revenue, during the year, registered a slight increase (15 per cent) over the previous year, non-tax revenue fell drastically by 45 per cent mainly due to ban on "State Lotteries" and considerable decrease under the minor head "Other Receipts".*

(Paragraph 1.1)

- *Arrears in assessments in Trade Tax Department, decreased by 28 per cent (from 69 per cent to 41 per cent) in 1995-96 over the previous year, but increased by 55.3 per cent during 1996-97.*

(Paragraph 1.4)

- *Arrears of revenue at the end of the year under the principal heads of revenue aggregated Rs. 4421.24 crore, out of which a sum of Rs. 2322.16 crore was outstanding for more than 5 years.*

(Paragraph 1.6)

- *Test check of 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 Sugarcane, Forest Receipts and other Departmental Receipts conducted during 1996-97 revealed under-assessment, short-levy, loss of revenue etc. amounting to Rs. 64.13 crore in 2197 cases. During the course of the year 1996-97, the concerned departments accepted under-assessments etc. of Rs. 26.63 crore in 793 cases of which 86 cases involving Rs. 7.80 crore had been pointed out in audit during 1996-97 and the rest in earlier years.*

(Paragraph 1.7)

- *Inspection reports numbering 4537 (issued upto 31 December, 1996) containing 11,630 audit observations with money value of Rs. 496.68 crore were not settled upto June 1997. Of these, inspection reports numbering 1677 containing 4851 audit observations with money value of Rs. 210.70 crore were outstanding for more than 5 years.*

(Paragraph 1.8)

2. Trade Tax

A review on "Frauds and Evasions in Trade Tax" revealed the following:

- i. *Non-observance of prescribed procedure of registration of dealers and delay in assessment resulted in loss of revenue of Rs. 15.32 crore.*

(Paragraph 2.2.7)

- ii. *Procedural shortcomings in assessment and non-monitoring of issue and use of declaration forms resulted in loss of revenue of Rs. 20.28 crore.*

(Paragraph 2.2.8(I))

- iii. *Failure to take timely action for assessment of tax against new industrial units which carried on business without 'Eligibility Certificate' resulted in loss of revenue of Rs. 11.60 crore.*

(Paragraph 2.2.10)

- iv. *Non-imposition/realisation of penalty on concealed taxable turnover resulted in loss of revenue of Rs. 10.84 crore.*

(Paragraph 2.2.12 (a))

- v. *Failure to verify the complete and correct addresses of vehicle owners/drivers given on transit passes resulted in evasion of tax of Rs.10.61 crore by 440 transporters.*

(Paragraph 2.2.13)

- vi. *Application of incorrect rate of interest on admitted tax resulted in short-charge of interest amounting to Rs. 7.92 crore.*

(Paragraph 2.2.14)

- *Stock of vanaspati worth Rs. 21.90 crore, transferred to principal agent at Delhi from Ghaziabad was less accounted for by Rs. 1.01 crore.*

(Paragraph 2.3)

- *Application of incorrect rate of tax on commodities under the U.P. Trade Tax Act resulted in short-levy of tax amounting to Rs. 1.39 crore.*

(Paragraph 2.5-A)

- *Rs. 1.24 crore was loss of revenue on account of various factors like irregular grant of 'recognition certificates', non-imposition of penalty and abnormal delay in assessing the case of an Indian made foreign liquor dealer.*

(Paragraph 2.6, 2.7 & 2.9)

3. State Excise

A review on "Production, Procurement, Accounting and Sale of Poppy Straw" revealed the following:

- i. *2 District Excise Officers were not aware of cultivation of opium poppy in their districts.*

(Paragraph 3.2.9(I))

- ii. *In two districts, Etawah and Ghaziabad, permits were issued for poppy straw in contravention of Rules to drug addicts for external application and oral consumption. There was a very steep increase in the quantities of such 'issues' in the year 1995-96 and 1996-97.*

(Paragraph 3.2.10)

- *Illegal enhancement of quota of country liquor during the licensing period resulted in short-levy of additional excise duty of Rs. 2.50 crore.*

(Paragraph 3.3)

- *Irregular storage of beer in a distillery at Lucknow resulted in loss of licence fee of Rs. 20 lakh.*

(Paragraph 3.4)

4. Taxes on Vehicles, Goods and Passengers

A review on "National Permit Scheme and Bilateral Agreement" revealed the following:

- i. *Information regarding National Permits issued by other States for operating vehicles in U.P. was neither sent by them nor was it ever called for by the State Transport Authority.*

(Paragraph 4.2.5)

- ii. *Bank drafts numbering 52,134 were received at pre-revised rates from other States/ Union Territories resulting in short-realisation of Rs. 36.84 crore.*

(Paragraph 4.2.7(i))

- iii. *In 1273 cases, permit holders did not get their permits renewed on expiry of validity period. The department also did not take action in this regard. Total revenue involved in these cases amounted to Rs. 8.19 crore.*

(Paragraph 4.2.7(ii))

- iv. *Due to abolition of border check-posts, State Government was deprived of Rs. 3.74 crore in the form of passenger/goods tax during 1994-95 to 1996-97.*

(Paragraph 4.2.8)

A review on "Growth in collection of Road Tax/Motor Vehicle Tax with reference to increase in number of motor vehicles and correlation between potential Motor Vehicle Tax and actual collection" revealed the following:

- i. *50089 light vehicles (two wheelers and cars) registered during 1994-95 and 1995-96 were less than those sold by dealers. This resulted in short realisation of Registration Fees and one time tax (Road Tax) amounting to Rs. 7.04 crore.*

(Paragraph 4.3.1)

- ii. *Passenger tax amounting to Rs. 249.28 crore was realised during 1994-95 and 1995-96 against Rs. 317.23 crore which should have been realised based on minimum factors. This resulted in short realisation passenger tax of Rs. 67.95 crore.*

(Paragraph 4.3.2)

- iii. *Rs. 101.11 crore realised as passenger tax by U.P.S.R.T.C. between 1991-92 to 1996-97 was not remitted into Government account.*

(Paragraph 4.3.3)

5. Stamp duty and registration fees

A review on "Deficiencies in valuation of buildings for levy of Stamp Duty and pendency of Stamp Cases" revealed the following:

- i. *Stamp duty of Rs. 99.36 lakh was short-levied due to non-disclosure of facts in the documents.*
(Paragraph 5.2.6)
- ii. *Stamp duty amounting to Rs. 84.48 lakh was short-levied in 160 cases due to misclassification of documents.*
(Paragraph 5.2.10)
- iii. *Short-levy of stamp duty aggregated Rs. 70.91 lakh due to non-adoption of schedule rate of construction of buildings.*
(Paragraph 5.2.11)
- iv. *Non-application of rent fixation norms and assuming incorrect rental value of buildings resulted in stamp duty of Rs. 84.74 being short-levied.*
(Paragraph 5.2.12)
- v. *At NOIDA, non-levy of additional stamp duty on deeds of transfer of immovable property resulted in a loss of revenue of Rs. 12.05 crore.*
(Paragraph 5.2.13)
- vi. *Failure to initiate action within the prescribed period deprived the Government of stamp duty of Rs. 57.39 lakh.*
(Paragraph 5.2.17)
- vii. *A sum of Rs. 19.07 crore was stayed by different courts because representation of the department was not adequate.*
(Paragraph 5.2.19)

A review on "Registration of Transfer of Properties situated in Uttar Pradesh but registered in Metropolitan cities" revealed the following:

- i. *Properties situated in U.P. were disallowed to be registered in 4 Metropolitan cities by issuance of Government notification dated 1 October, 1994. However, cases were still being registered resulting in a loss of Rs. 9.35 crore.*
(Paragraph 5.3.5)

- ii. *Copies of documents registered in 4 Metropolitan cities were not received by the concerned District Registrars. Consequently, they could neither assess the valuation of the properties nor levy the deficit stamp duty amounting to Rs. 7.00 crore.*

(Paragraph 5.3.6)

- iii. *Action was not taken to revalue and levy deficit stamp duty on the basis of documents received in District Registrar's offices resulting in loss of Rs. 4.28 crore.*

(Paragraph 5.3.7)

6. Tax on Purchase of Sugarcane

- *Sugar was cleared without payment of purchase tax of Rs. 1.56 crore by 2 sugar factories at Tilhar and Powayan (Shahjahanpur).*

(Paragraph 7.4)

7. Other Departmental Receipts

- *Centage charges of Rs. 25.05 lakh on contribution work valued at Rs. 1.22 crore, undertaken on behalf of Central/State Government was not levied and realised during 1993-94 to 1995-96.*

(Paragraph 9.5)

- *Loan aggregating Rs. 56.43 crore along with interest of Rs. 122.43 crore on 117 loans sanctioned to U.P. Jal Nigam during April 1981 to March 1995 remained unrecovered.*

(Paragraph 9.9)

Chapter I

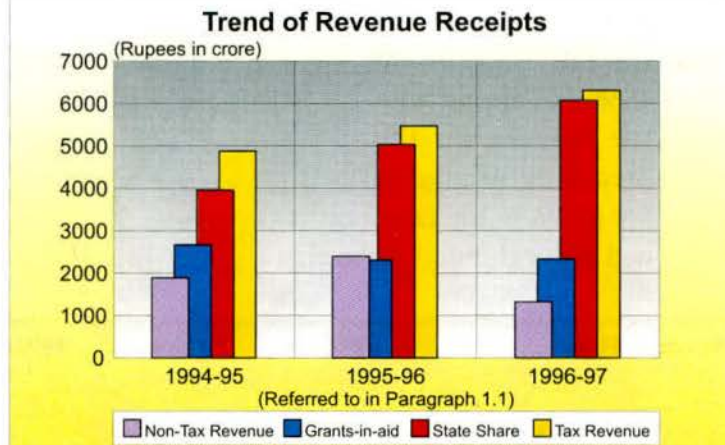
General

Chapter I : General

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1.1 Trend of revenue receipts

The tax and non-tax revenue raised by Government of Uttar Pradesh during the year 1996-97, 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 :



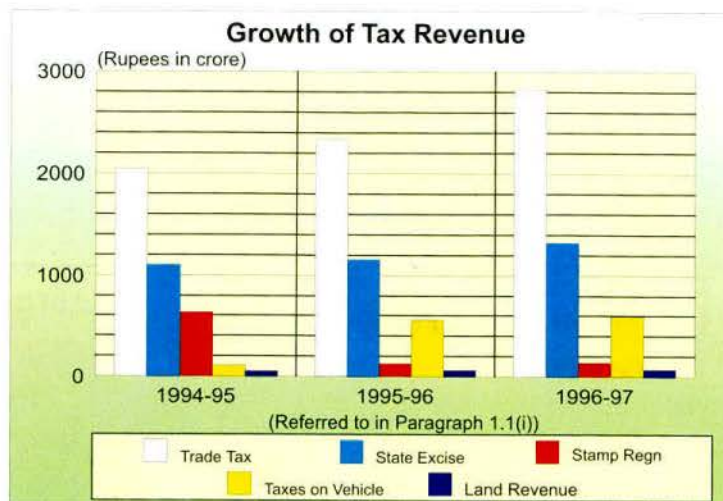
(Rupees in crore)

	1994-95	1995-96	1996-97
I. Revenue raised by the State Government			
(a) Tax revenue	4878.32	5468.92	6305.97
(b) Non-tax revenue	1889.32	2399.41	1318.49
Total	6767.64	7868.33	7624.46
II. Receipts from the Government of India			
(a) State's share of divisible Union taxes	3959.76	5034.02	6072.38*
(b) Grants-in-aid	2665.83	2312.86	2331.73
Total	6625.59	7346.88	8404.11
III. Total receipts of the State (I+II)	13393.23	15215.21	16028.57
IV. Percentage of I to III	51	52	48

* (Provisional) 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 1996-97. 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.

It would be seen from the above that the "Non-tax revenue" sharply declined from Rs. 2399.41 crore in 1995-96 to Rs. 1318.49 crore in 1996-97.

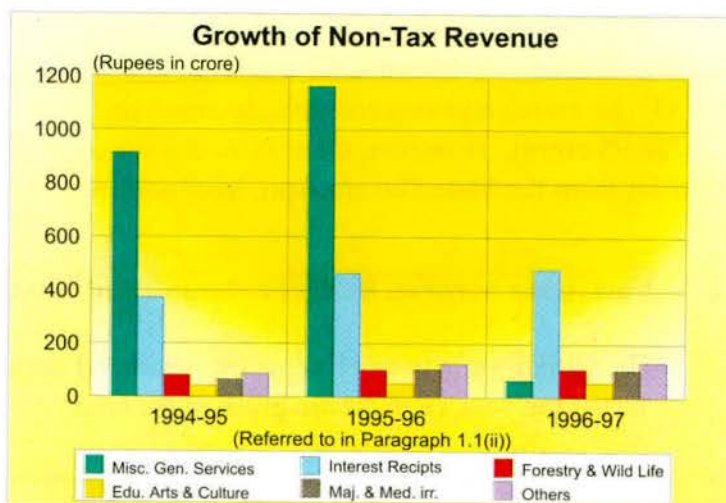
- (i) The details of tax revenue for the year 1996-97 along with the figures for the preceding two years are given in the table and also exhibited in the chart.



(Rupees in crore)					
Revenue Head	1994-95	1995-96	1996-97	Increase(+) or decrease (-) in 1996-97 with reference to 1995-96	Percentage of increase or decrease with reference to 1995-96
1. Trade Tax	2046.79	2335.38	2827.41	(+) 492.03	(+) 21.07
2. State Excise	1104.64	1158.61	1322.91	(+) 164.30	14.18
3. Stamp Duty and Registration Fees	631.54	734.78	875.06	(+) 140.28	19.09
4. Tax on Sale of Motor Spirit and Lubricants	501.00	558.52	590.77	(+) 32.25	(+) 5.78
5. Taxes on Goods and Passengers	194.79	228.37	221.43	(-)6.94	(-)3.04
6. Taxes on Vehicles	108.06	125.46	139.54	(+)14.08	11.22
7. Tax on Purchase of Sugarcane	57.64	72.87	55.01	(-) 17.86	(-) 24.51
8. Taxes and Duties on Electricity	68.69	75.71	78.32	(+) 2.61	3.45
9. Land Revenue	53.80	62.53	72.62	(+)10.11	16.15
10. Other Taxes on Income and Expenditure	2.88	0.03	—	(-) 0.03	(-) 100
11. Taxes on Immovable Property other than Agricultural Land	7.19	0.87	1.20	(+) 0.33	37.93
12. Other Taxes and Duties on Commodities and Services	101.30	112.97	115.56	(+)2.58	(+)2.28
13. Others (Hotel receipts and Corporation tax)	—	2.82	6.14	(+) 3.32	117.73
Total	4878.32	5468.92	6305.97		

The reasons for variation where it was substantial, though called for from the State Government, have not been received (October 1997).

- (ii) The details of non-tax revenue for the year 1996-97 along with the figures for the preceding 2 years are exhibited in the table :



(Rupees in crore)

Revenue Head	1994-95	1995-96	1996-97	Increase(+) or decrease (-) in 1996-97 with reference to 1995-96	Percentage of increase or decrease with reference to 1994-95
1. Misc. General Services*	914.15	1162.15	62.07	(-) 1100.08	(-)94.66
2. Interest Receipts	373.43	463.77	478.97	(+)15.20	3.28
3. Forestry and Wild Life	81.89	101.08	104.51	(+)3.43	3.39
4. Major and Medium Irrigation	65.48	103.95	100.78	(-)3.17	(-)3.05
5. Education, Sports, Art and Culture	41.24	49.38	54.65	(+)5.27	10.67
6. Other Administrative Services	70.09	83.58	33.03	(-)50.55	(-)60.48
7. Non-ferrous Mining and Metallurgical Industries	120.31	148.11	159.00	(+)10.89	7.35
8. Police	17.92	30.62	59.58	(+)28.96	94.58
9. Crop Husbandry	27.17	21.21	19.55	(-)1.66	(-)7.83
10. Social Security and Welfare	3.46	5.73	16.09	(+)10.36	180.80
11. Medical and Public Health	18.95	13.79	18.85	(+)5.06	36.69
12. Minor Irrigation	27.94	40.58	36.75	(-)3.83	(-)9.44
13. Roads and Bridges	18.18	16.02	20.09	(+)4.07	25.41
14. Public Works	13.79	25.85	17.94	(-)7.91	(-)30.60
15. Co-operation	7.30	9.21	5.96	(-)3.25	(-)35.29
16. Others	88.02	124.38	130.67	(+)6.29	5.06
Total	1889.32	2399.41	1318.49	(-)1080.92	(-)45.05

* In 1995-96 the receipt under the head '103 State Lotteries' was Rs. 377.13 crore against an expenditure of Rs. 1145.03 crore. Thus, net receipt under the head would amount to (-) Rs. 767.90 crore.

The revenue under the head "1 Misc. General Services" drastically dropped from Rs. 1162.15 crore in 1995-96 to Rs. 62.07 crore in 1996-97 due to ban on "State Lotteries" (Rs. 377.13 crore) and considerable decrease under the minor head "Other Receipts" (Rs. 722.95 crore). However, the reasons for variation where it was substantial, though called for from the State Government, have not been received (October 1997).

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 1996-97 are given in the table.

(Rupees in crore)

	Budget estimates	Actuals	Variations Increase (+) Shortfall (-)	Percentage of variation
A. Tax Revenue	6069.64	6305.97	236.33	3.89
B. Non-tax Revenue	1297.41	1318.49	21.08	1.62

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

(Rupees in crore)

Revenue Head	Budget estimates	Actuals shortfall (-)	Variation Increase (+)	Percentage of variations
A. Tax Revenue				
1. Trade Tax	2579.20	2827.41	(+) 248.21	(+) 9.62
2. State Excise	1325.50	1322.91	(-) 2.59	(-) 0.20
3. Stamp duty and Registration fee	794.25	875.06	(+) 80.81	(+) 10.17
4. Tax on Sale of Motor Spirit and Lubricants	646.86	590.77	(-) 56.09	8.67
5. Taxes on Goods and Passengers	252.89	221.43	(-) 31.46	(-) 12.44
6. Taxes on Vehicles	123.52	139.54	(+) 16.02	(+) 12.97
7. Other Taxes and Duties on Commodities and Services, Entertainment Tax	122.81	115.56	(-) 7.25	(-) 5.90
8. Tax on Purchase of Sugarcane	100.05	55.01	(-) 45.04	(-) 45.02
9. Taxes and Duties on Electricity	76.18	78.32	(+) 2.14	(+) 2.81
10. Land Revenue	44.51	72.62	(+) 28.11	(+) 63.18

(Rupees in crore)

Revenue Head	Budget estimates	Actuals	Variation Increase (+) Shortfall (-)	Percentage of variations
B. Non-Tax Revenue				
1. Misc. General Services	75.15	62.07	(-) 13.08	(-) 17.40
2. Interest Receipts	511.78	478.97	(-) 32.81	(-) 6.41
3. Forestry and Wild Life	108.88	104.51	(-) 4.37	(-) 4.01
4. Major and Medium Irrigation	105.98	100.78	(-) 5.20	(-) 4.90
5. Education, Sports, Art and Culture	48.64	54.65	(+) 6.01	(+) 12.36

The reasons for variation, where it was substantial though called for from the State Government, have not been received (October 1997).

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 1994-95, 1995-96 and 1996-97 along with the relevant all India average percentage of expenditure on collection to gross collection for 1995-96 are given below:

(Rupees in crore)

Revenue Head	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India Average for the year 1995-96
1. Trade Tax	1994-95	2046.79	45.00	2.2	1.29
	1995-96	2335.38	62.95	2.7	
	1996-97	2827.41	45.90	1.6	
2. Taxes on Vehicles	1994-95	108.06	5.78	5.3	2.57
	1995-96	125.46	8.72	6.9	
	1996-97	139.54	8.69	6.2	
3. Taxes on goods and passengers	1994-95	194.79	2.04	1.0	
	1995-96	228.37	2.42	1.1	
	1996-97	221.43	2.22	1.0	
4. State Excise	1994-95	1104.64	12.01	1.1	3.20
	1995-96	1158.61	13.40	1.2	
	1996-97	1322.91	16.36	1.2	
5. Stamp Duty and Registration fee	1994-95	631.54	9.32	1.5	3.46
	1995-96	734.78	9.54	1.3	
	1996-97	875.06	11.94	1.4	

It would be seen that the cost of collection of Taxes on vehicles was substantially higher as compared to all India average.

Chapter I

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 1992-93 to 1996-97 are the following:

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
1992-93	710790	387506	1098296	416982	681314	62.0
1993-94	741996	394868	1136864	394102	742763	65.0
1994-95	801418	411320	1212738	372718	840020	69.0
1995-96	941134	428990	1370124	807277	562847	41.0
1996-97	562847	526778	1089625	486648	602977	55.3

It is seen that the closing balance of the years 1992-93 to 1995-96 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 cases disposed of and the assessments pending as on 31 March, 1997 is given below:

Assessment year	Number of cases disposed of	Number of cases pending	Number of cases which have already become time barred
Upto			
1992-93	54521	1684	NIL
1993-94	259010	18695	NIL
1994-95	77131	231903	NIL
1995-96	88944	346312	NIL
Cases remanded by Courts for reassessment	7042	4383	NIL
Total	486648	602977	

- (I) It would be seen from the break-up of cases disposed of, as given in the table above that there is a tendency to finalise large number of cases at the fag end of the limitation period. The break-up indicates that majority of the cases disposed of were more than 3 years old which were going to become time barred, if not disposed of during 1996-97.

Finalisation of a large number of cases in 1997 i.e. 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.

- (II) A comparative position of assessments finalised during first nine months and remaining three months in the years 1995-96 and 1996-97, is also given below:

(Rupees in crore)

Period	1995-96			1996-97		
	Number of assessments finalised	Demands raised	Percentage of assessments finalised	Number of assessments finalised	Demands raised	Percentage of assessments finalised
April to December	497581	402.75	62	262798	494.88	54
January to March	309696	1795.30	38	223850	1662.71	46
Total	807277	2198.05		486648	2157.59	

It would be seen that the rate of disposal of cases during April to December was much less (average 29,200 cases per month) than that during the last quarter of the year (average 74,617 cases per month). The additional demand raised (Rs. 494.88 crore) during the first three quarters of 1996-97 was also much less than the demand raised (Rs. 1662.71 crore) during the last quarter. This indicates that pending assessment cases involving substantial amount of tax were finalised at the fag end of the year.

(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 1992-93 to 1996-97 together with the number of appeal and revision cases pending disposal at the end of 1996-97 as reported by the Department are indicated in the table given on the next page.

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
Appeal cases						
1992-93	67976	45219	113195	48765	64430	43
1993-94	64430	45017	109447	46775	62672	43
1994-95	62672	30150	92822	36520	56302	39
1995-96	56302	36715	93017	36138	56879	39
1996-97	56879	42166	99045	32913	66132	33
Revision cases						
1992-93	60427	23537	83964	19324	64640	23
1993-94	64640	22212	86852	19483	67369	22
1994-95	67369	16442	83811	16458	67353	20
1995-96	67353	14374	81727	19853	61894	24
1996-97	61894	8444	70338	13226	57112	19

It would be seen that the number of pending appeal cases declined from 67,976 at the end of 1991-92 to 66,132 at the end of 1996-97. Similarly, the number of revision cases pending disposal declined from 60,427 at the end of 1991-92 to 57,112 at the end of 1996-97.

1.5 Analysis of collection

The break-up of total collection (at pre-assessment stage and after regular assessment) of Trade Tax Department during 1996-97 and corresponding figures for preceding two years as furnished by the Department are given in the table on the next page

(Rupees in crore)

Name of tax head	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Other receipts	Amount refunded	Net collection of tax	Percentage of col. 3 to 7
1	2	3	4	5	6	7	8
Trade	1994-95	1952.92	102.09	15.54	10.50	2060.05	95
Tax	1995-96	2212.38	116.71	18.95	17.33	2330.71	95
	1996-97	2640.23	130.12	—	13.15	2757.20	96

The position of revenue collected by Trade Tax Department during the last 3 years ending March 1997 shows that collection of revenue at pre-assessment stage was ranging from 95 per cent to 96 per cent which indicates both the level of voluntary compliance by tax payers and the limited role of the tax collecting machinery in achieving the higher target of income.

1.6 Arrears of revenue

As on 31 March, 1997, arrears under principal heads of revenue, as reported by the concerned Department, were as under :

(Rupees in crore)

Heads of Revenue	Arrears pending collection	Arrears more than 5 years old	Remarks
1. Trade Tax	4300.89	2299.16	Out of Rs. 4300.89 crore, demand for Rs. 765.57 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 675.11 crore and Rs. 83.11 crore had been stayed by the Courts and Government respectively. Recoveries amounting to Rs. 138.09 crore were held up due to rectification/review applications. For recovery of Rs. 172.35 crore, recovery certificates had been issued to other States. Demands for Rs. 116.83 crore were likely to be written off. Specific action taken in respect of remaining arrears of Rs. 2349.83 crore called for (June 1997), has not been intimated (October 1997) by the Department.

(Rupees in crore)

Heads of Revenue	Arrears pending collection	Arrears more than 5 years old	Remarks
2. Cane Purchase tax (Sugar Factories)	13.15	11.25	Out of Rs. 13.15 crore, demand for Rs. 0.51 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 5.66 crore had been stayed by Government. Specific action taken in respect of remaining arrears of Rs. 6.98 crore called for (June 1997) had not been intimated by the Department.
3. Forestry and Wild Life	13.87	10.85	Out of Rs. 13.87 crore, demand for Rs. 7.07 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 0.62 crore had been stayed by the Courts and other judicial authorities. Demand for Rs. 0.12 crore was likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 6.06 crore called for (June 1997), had not been intimated by the Department.
4. Entertainment Tax	9.57	0.90	Out of Rs. 9.57 crore, demand for Rs. 2.04 crore had been certified for recovery as arrears of land revenue. Recoveries amounting to Rs. 6.55 crore had been stayed by the courts. Specific action taken in respect of remaining arrears of Rs. 0.98 crore called for (June 1997) had not been intimated by the Department.
5. Electricity Duty	3.28	--	Out of Rs. 3.28 crore, recovery of Rs. 0.07 crore had been stayed by the courts. The balance of Rs. 3.21 crore is under the process of recovery.
6. State Excise	80.48	--	Out of Rs. 80.48 crore, demand for Rs. 12.67 crore had been certified for recovery as arrears of land revenue. Recovery amounting to Rs. 65.84 crore had been stayed by the Courts. Recovery of Rs. 1.96 crore was held up due to dealers becoming insolvent. Specific action in respect of the remaining arrears of Rs. 0.01 crore called for (June 1997) had not been intimated by the Department.

In respect of other departments the position of arrears, though called for (June 1997), has not been received (October 1997).

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 1996-97 revealed under-assessments/short-levy/loss of revenue amounting to Rs. 64.13 crore in 2197 cases. During the course of the year 1996-97, the concerned departments accepted under-assessments etc. of Rs. 26.63 crore involved in 793 cases, of which 86 cases involving Rs. 7.80 crore had been pointed out in audit during 1996-97 and the rest in earlier years.

This report contains 43 paragraphs including 6 reviews relating to non-levy, short-levy of tax, duty, interest, penalty etc. involving Rs. 562.86 crore. The Departments/Government have accepted audit observations involving Rs. 3.24 crore, of which Rs. 0.33 crore had been recovered upto October 1997. 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 1996, which were pending settlement by the departments as on 30 June, 1997, along with corresponding figures for the preceding two years are given below:

(At the end of June)

	1995	1996	1997
1. Number of inspection reports pending settlement	3390	3964	4537
2. Number of outstanding audit observations	10168	11078	11630
3. Amount of revenue involved (in crore of rupees)	359.82	397.56	496.68

Chapter I

Year-wise break-up of the outstanding inspection reports and audit observations (as on 30 June, 1997) is given below :

(Rupees in crore)

Year (in which Inspection Reports were issued)	Number of outstanding Inspection Reports	Audit observations	Revenue involved
Upto 1992-93	1677	4851	210.70
1993-94	524	1317	78.68
1994-95	683	1806	96.24
1995-96	1037	2144	52.25
1996-97	616	1512	58.81
Total	4537	11630	496.68

(iv) Department-wise break-up of the inspection reports and audit observations outstanding as on 30 June, 1997 is given below:

(Rupees in crore)

Nature of receipts	Number of outstanding Inspection Reports	Number of outstanding Audit observations	Amount of revenue involved	Year to which the observations relate	Number of Inspection Reports to which even first reply had not been received
1. Forestry and Wild Life	801	2361	340.93	1988-89 to 1996-97	
2. Trade Tax	1129	3746	57.15	1987-88 to 1996-97	—
3. Irrigation	277	682	19.65	1984-85 to 1996-97	91
4. State Excise	448	653	17.25	1984-85 to 1996-97	53
5. Land Revenue	294	626	9.91	1984-85 to 1996-97	—
6. Taxes on Vehicles, Goods and Passengers	260	1118	8.06	1984-85 to 1996-97	—
7. Public Works	258	559	12.74	1985-86 to 1996-97	67

(Rupees in crore)

Nature of receipts	Number of outstanding Inspection Reports	Number of outstanding audit observations	Amount of revenue involved	Year to which the observations relate	Number of Inspection Reports to which even first reply had not been received
8. Tax on Purchase of Sugarcane	101	116	6.94	1985-86 to 1996-97	—
9. Stamp Duty and Registration Fee	521	1112	7.82	1984-85 to 1996-97	—
10. Other Departments					
a. Agriculture	113	216	7.88	1985-86 to 1996-97	37
b. Electricity Duty	153	176	4.28	1985-86 to 1996-97	18
c. Food and Civil Supplies	104	165	0.82	1985-86 to 1996-97	40
d. Co-operation	54	73	2.90	1985-86 to 1996-97	14
e. Entertainment Tax	24	27	0.35	1986-87 to 1996-97	—
Total	4537	11630	496.68		

This was brought to the notice of Government in April 1997; intimation regarding steps taken by the Government to clear the outstanding inspection reports and audit observations has not been received (October 1997).

Chapter II

Trade Tax

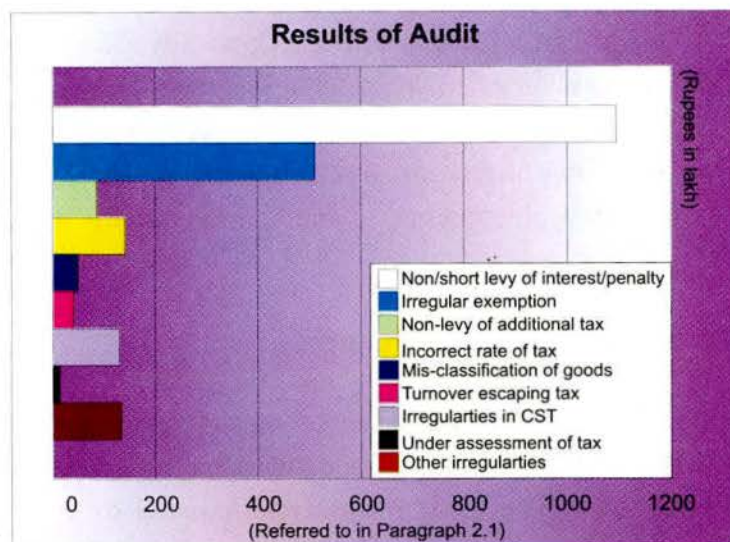
Chapter II : Trade Tax

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2.1 Results of audit

Test check of assessments and other records of Trade Tax offices conducted in audit during 1996-97 revealed under-assessments of tax and non/short-levy of penalty and interest amounting to Rs. 2192.64 lakh in 1442 cases, which broadly fall under the following categories :



(Rupees in lakh)

	No. of cases	Amount
1. Non/Short-levy of interest/penalty	628	1094.08
2. Irregular exemption	285	510.57
3. Non-levy of additional tax	55	85.17
4. Incorrect rate of tax	215	140.23
5. Mis-classification of goods	60	47.92
6. Turnover escaping tax	25	39.08
7. Irregularities relating to Central Sales Tax	26	129.81
8. Under-assessment of tax	38	13.38
9. Other irregularities	110	132.40
Total	1442	2192.64

During the year 1996-97, the Department accepted under-assessment etc. of Rs. 505 lakh involved in 271 cases, of which 16 cases involving Rs. 12 lakh had been pointed out in audit during 1996-97 and the rest in earlier years, of which a sum of Rs. 14.31 lakh involved in 12 cases had been recovered upto October 1997.

A few illustrative cases including a review on "Frauds and evasions in Trade Tax" involving a financial effect of Rs. 83.34 crore are mentioned in the following paragraphs:

2.2 Frauds and evasions in Trade Tax

2.2.1 Introduction

In Trade Tax, evasion of tax generally takes place by taking recourse to suppression of sales/purchases, misrepresentation/mis-statement of facts etc., by the dealers. Fraud is different from evasion inasmuch as it takes place through falsification of documents, such as tampering of records, production of wrong/false/fake declaration forms/certificates with the wilful intent to evade/reduce tax liability by the dealers.

2.2.2 Organisational set-up

The overall control, direction and superintendence of Trade Tax Department vests with the Commissioner, Trade Tax (Commissioner), Uttar Pradesh with headquarters at Lucknow. The Commissioner is assisted by Additional Commissioners, Deputy Commissioners, Assistant Commissioners and Trade Tax Officers. The State is divided into 22 Administrative Ranges each headed by a Deputy Commissioner (Executive) (D.C.(E)). The Range is further divided into Circles and Sectors each under the charge of departmental assessing authorities i.e., Assistant Commissioner (Assessment) (A.C.(A)) and Trade Tax Officers (T.T.O.) Grade I/II. In addition, there are 6 Ranges in the State, each headed by a Deputy Commissioner (Special Investigation Branch) (D.C. (S.I.B.)) dealing with prevention /detection of evasion of trade tax by checking the dealers through 20 units, each under the charge of a Trade Tax Officer (Special Investigation Branch) (T.T.O.(S.I.B.)). Further, agencies like Check-Posts (54) and Mobile Squads (38), each under the charge of a Trade Tax Officer, also function in the State to check evasion of trade tax.

2.2.3 Scope of audit

With a view to ascertaining the extent of compliance with the provisions of the U.P. Trade Tax Act, 1948 (Act), the Central Sales Tax Act, 1956 (C.S.T. Act), Rules made under these Acts, the U.P. Trade Tax Manual (Manual) and departmental instructions issued from time to time for prevention and detection of frauds and evasions with special attention on system failure and defects in internal control mechanism, a review was

conducted from September 1996 to May 1997. For this purpose, test-check of assessments/ records for the period from 1991-92 to 1995-96, was carried out in the offices of the Commissioner of Trade Tax, Assistant Commissioners (Assessment) and Trade Tax Officers of 12* Ranges out of 22 Ranges including 6 Ranges of Special Investigation Branch (S.I.B.), Mobile Squad units, Check-Posts and Deputy Collector (Collection), Trade Tax.

2.2.4 Highlights

- (i) Non-observance of prescribed procedure of registration of dealers and delay in assessment resulted in loss of revenue of Rs. 15.32 crore.
(Para 2.2.7)
- (ii) Procedural shortcomings in assessment and non-monitoring of issue and use of declaration forms resulted in loss of revenue of Rs. 20.28 crore.
(Para 2.2.8 (i))
- (iii) Failure to take timely action for assessment of tax against new industrial units which carried on business without "Eligibility Certificate" resulted in loss of revenue of Rs. 11.60 crore.
(Para 2.2.10)
- (iv) Failure to have vigilant watch on the business activities of Khadi Gramodyog institutions and delay in their assessments resulted in loss of revenue of Rs. 1.70 crore.
(Para 2.2.11)
- (v) Non-imposition/realisation of penalty on concealed taxable turnover resulted in loss of Rs. 10.84 crore.
(Para 2.2.12 (A))
- (vi) Failure to verify the complete and correct addresses of vehicle owners/drivers given on transit passes resulted in evasion of tax amounting to Rs. 10.61 crore by 440 transporters.
(Para 2.2.13)
- (vii) Application of incorrect rate of interest on admitted tax resulted in short-levy of interest amounting to Rs. 7.92 crore.
(Para 2.2.14)

* Agra (2), Allahabad, Bareilly, Bulandshahar, Ghaziabad, Kanpur (2), Lucknow, Meerut, Moradabad and Varanasi

2.2.5 Position of frauds and evasions

The position of cases of frauds and evasions detected by the departmental agencies during the 5 years upto 1995-96 and the cases in which investigations/assessments were completed during the said period was as under:

Year	Cases pending at the beginning of the year	Cases detected during the year	Total	Cases in which investigations/assessment completed during the year	Cases pending at the close of the year	Percentage of Column 5 to 4
1	2	3	4	5	6	7
1991-92	6403	2031	8434	1857	6577	22
1992-93	6577	2569	9146	2744	6402	30
1993-94	6402	2752	9154	3599	5555	39
1994-95	5555	2354	7909	2223	5686	28
1995-96	5686	2822	8508	2936	5572	35

It is seen that the percentage of completion of investigations/assessments which had shown an increasing trend during the period from 1991-92 to 1993-94, declined during 1994-95 and 1995-96. No reasons were given by the Department for this fall.

Neither the yearwise break-up of pending cases was available with the department nor any control register/record was maintained to ensure finalisation of old cases. Further, no norms/time limit have been prescribed by the Department for completion of investigations. The Department, therefore, needs not only to lay down norms for timely completion of investigations but also evolve a system for maintenance of control register/record to monitor progress in this regard.

2.2.6 Performance of departmental agencies

The details* relating to the performance of departmental agencies engaged in prevention/detection of frauds and evasions during the years from 1991-92 to 1995-96 are indicated on the next page:

* Source : Annual report of U.P. Trade Tax Department for the year 1995-96.

DEPARTMENTAL AGENCIES	1991-92	1992-93	1993-94	1994-95	1995-96
(I) SPECIAL INVESTIGATION BRANCH (S.I.B.):					
1. Number of units	20	20	20	20	20
2. Number of total surveys	2031	2569	2752	2354	2822
3. Number of adverse surveys	828	1111	1121	887	1349
4. Amount of turnover evaded (in crore of rupees)	478.52	816.31	1176.99	550.95	1104.32
5. Amount of tax assessed (in crore of rupees)	31.93	67.99	91.75	91.56	260.54
6. Average survey per person	51	64	69	59	71
(II) CHECK-POSTS:					
1. Number of Check-Posts	50	52	52	54	54
2. Total number of vehicles crossing the Check-Posts	4718120	4295313	3865227	4109170	4730916
3. Number of vehicles found carrying unauthorised goods	335847	369992	351029	353652	370722
4. Percentage of (3) to (2)	7.1	8.6	9.1	8.6	7.8
5. Security/penalty realised (in crore of rupees)	33.60	39.16	45.26	40.17	37.85
(III) MOBILE SQUADS:					
1. Number of Mobile Squads	33	38	38	38	38
2. Number of vehicles checked	74409	83241	79052	70649	79001
3. Number of defaulting vehicles	10801	13834	12621	7490	8051
4. Security/penalty realised (in crore of rupees)	9.15	11.73	12.53	9.82	10.15

The table shows that the average per person survey by the S.I.B. which showed an increasing trend from 1991-92 to 1993-94 (51 to 69) and in 1995-96 (71) had gone down in 1994-95 (59).

The number of cases and tax assessed on the basis of adverse survey, which had shown an increasing trend from 1991-92 to 1993-94 fell in 1994-95, and increased again in 1995-96.

Chapter II

The amount of security/penalty realised by Check-Posts which had registered an increase during the years from 1991-92 to 1993-94, had exhibited a decreasing trend during 1994-95 and 1995-96.

Similarly, whereas there was noticeable increase in the amount of security/penalty realised by Mobile Squad units during the period from 1991-92 to 1993-94, the same had gone down during 1994-95 and 1995-96.

In reply it was stated by the Department that decrease in the number of cases and the amount of tax assessed on the basis of adverse survey of the SIB in 1994-95, was due to finalisation of assessment cases pertaining to the years 1991-92 and 1992-93 in 1994-95.

The reply is not tenable insofar as the amount of tax so assessed for the years 1991-92 and 1992-93 as exhibited in the Annual Report of the Department, remained unchanged in subsequent years.

No reason for decrease in the amount of security/penalty realised by Check-Posts and Mobile Squad units during 1994-95 had been given by the Department.

2.2.7 Evasion due to non-observance of procedure prescribed for registration

Under the provisions of the U.P. Trade Tax Act, 1948 and the Rules framed thereunder and the U.P. Trade Tax Manual, every dealer whose total turnover exceeds the prescribed limit shall apply for registration within 30 days of the date on which he

becomes liable for registration. There is no monetary limit of turnover for registration under the C.S.T. Act, 1956. The registration certificate is granted to a dealer by the Trade Tax Officer after satisfying himself that the application for registration is correct and complete and after conducting spot inquiry about the bonafides of the dealer, his correct and complete local and permanent addresses, antecedents and financial position. Adequate security is also obtained from the dealer before granting registration certificate.

Non-observance of procedure prescribed for registration, non-monitoring of issue and use of declaration forms and non-finalisation of assessments in time resulted in loss of revenue of Rs. 15.32 crore.

It was noticed that in 8* Trade 'Tax Circles, in 23 cases, the prescribed checks and

* Agra (2), Bulandshahar, Ghaziabad, Kanpur (2), Lucknow and Varanasi.

verifications were not carried out by the department before granting the registration certificate. Consequently dealers who got themselves registered, obtained and mis-used a large number of statutory forms for purchase of materials tax free or at concessional rate of tax, carried on substantial business and disappeared after closing down their business before the department could finalise the assessments. Non-observance of procedure prescribed for registration, non-monitoring of the issue and the use of declaration forms and non-finalisation of assessments in time resulted in loss of revenue amounting to Rs. 15.32 crore on account of tax assessed (between January 1989 and March 1996) against such dealers for the assessment years from 1985-86 to 1993-94. Action was in progress to write off the tax so evaded by the dealers.

2.2.8 Loss of revenue due to procedural shortcomings

A registered dealer is entitled to avail of the benefit of concessional rate of tax on purchase, sale, import/export, transfer of goods relating to his business against various statutory forms issued to him by the assessing authority on demand. New forms shall not be issued to a dealer until he has rendered account of all the forms previously issued to him. The declarations/certificates are submitted by the dealers to the assessing authority at the time of final assessment.

- (i) In 10* Trade Tax Circles, it was noticed that 32 dealers who got themselves registered with the department, were issued declaration forms/certificates by the assessing authorities without obtaining account of the forms issued to them earlier. Besides, the declaration forms required to be furnished at the time of assessment in support of the claim for exemption from concessional rate of tax, were also not produced by such dealers. They did not pay the tax due and disappeared after winding up their business before the assessments were finalised at the fag end of the limitation period. Non-adherence to procedure prescribed for monitoring of the issue and the use of declaration forms and the postponement of assessments upto the end of the limitation period when the dealers became untraceable, resulted in loss of revenue amounting to Rs. 20.28 crore of tax assessed (between September 1991 and March 1996) for the various assessment years from 1985-86 to 1994-95. All these cases were under joint inquiry for write-off.

Non-adherence of procedure prescribed for monitoring of issue and use of declaration forms and postponement of assessments up to the end of limitation period resulted in loss of Rs. 20.28 crore during September 1991 to March 1996.

* Agra (2), Allahabad, Bareilly, Bulandshahar, Ghaziabad, Kanpur, Lucknow, Meerut, Varanasi.

- (ii) In 5* Trade Tax Circles, it was noticed that in case of 8 dealers, assessments were finalised after delays ranging from 1 year to 4 years from the date of receipt of intimation regarding closure of firms or adverse information

Delay in assessments ranging from one to four years from the date of receipt of intimation regarding closure of firms or adverse information from SIB resulted in loss of revenue of Rs. 59.79 lakh during March 1991 to March 1996.

from S.I.B. when the dealers became untraceable. The delay in assessment resulted in loss of revenue amounting to Rs. 59.79 lakh being the tax assessed (between March 1991 and March 1996) against such dealers for the assessment years from 1986-87 to 1993-94. Joint inquiry was going on to write off the amount as the dealers were untraceable.

- (iii) In Trade Tax Circle, NOIDA a recovery certificate for Rs. 92.40 lakh was issued on 28 January 1992 to recover the tax assessed for the year 1987-88 from a dealer, as arrears of land revenue. The recovery certificate was, however, erroneously withdrawn (29 October 1993) following stay order granted by the Hon'ble High Court, Allahabad instead of keeping it in abeyance. It was noticed (December 1996) that though the stay order was vacated by the Hon'ble High Court on 22 December 1995, no action to effect the recovery was taken.

2.2.9 Non-registration and non-assessment of unregistered dealers

Under Section 3 (3) of the U.P. Trade Tax Act, 1948, a dealer is liable to pay tax on the sale of goods either imported from outside the State or manufactured by him. For this purpose a dealer is required to get himself registered in the manner prescribed under the U.P.T.T./C.S.T. Acts.

In order to detect dealers carrying on business without registration resulting in evasion of tax, a survey was being conducted by the department upto August 1985. This was, however, discontinued from September 1985.

In case of unregistered dealers detected by various departmental agencies, action is required to be taken for their registration within 15 days as provided for in para 136 of the Manual. The assessment of such unregistered dealers is also required to be finalised, on priority basis, within one year from the date of receipt of information by the assessing authority.

* Bareilly, Kanpur (2), Meerut and Moradabad.

- (a) In 7* Trade Tax Circles, it was noticed that 13 dealers who carried on business for a period ranging from one to three years, could not be registered by the department on receipt of intimation/information from S.I.B. and Check-Posts. Priority was not attached even to their assessments which were finalised after a delay of more than one to three years from the date of receipt of intimation/information when the dealers became untraceable. Failure to take adequate action for registration of dealers and inordinate delay in their assessments resulted in loss of revenue amounting to Rs. 1.95 crore being tax levied (between August 1989 and March 1996) on such dealers for the assessment years from 1986-87 to 1993-94. Action was being taken by the department to write off the amount. There is, therefore, an imperative need to ensure that the assessments, required to be finalised on priority basis, are completed expeditiously.
- Failure to take adequate action for registration of dealers and inordinate delay in their assessment resulted in loss of revenue of Rs. 1.95 crore.***
- (b) In 7** Trade Tax Circles, it was noticed that in 726 cases, action was not taken by the department to register the dealers found unregistered at the Check-Posts or by Mobile Squad units during the period from 1991-92 to 1995-96. Even these cases were not sent by the agencies to the concerned assessing authorities for assessment. This resulted in non-levy/non-realisation of tax amounting to Rs 56.82 lakh on the goods valued at Rs. 6.68 crore imported from outside the State by such dealers.
- In 726 cases, action was not taken to register the dealers found unregistered at the Check-Post by Mobile Squad units during 1991-92 to 1995-96. This resulted in non-levy/non-realisation of tax of Rs. 56.82 lakh.***

2.2.10 Evasion by new industrial units

Section 4-A of the U.P. Trade Tax Act, 1948 provides for exemption from levy of tax to new industrial units holding Eligibility Certificate issued by the Industries Department, on sale of goods manufactured by them for

Failure to take timely action for assessment of tax or imposition of penalty on the dealers carrying on business without eligibility certificate resulted in loss of revenue of Rs. 11.60 crore.

* Agra, Bareilly, Kanpur (2), Lucknow, Moradabad and Varanasi.

** Agra, Bulandshahar, Ghaziabad, Kanpur (2), Lucknow and Varanasi.

specified period on fulfilment of certain conditions. Commissioner issued instructions (4 March 1985) to all assessing authorities to ensure prompt action for final assessment or imposition of penalty where the new industrial unit was not eligible for exemption from levy of tax.

In 6* Trade Tax Circles, it was noticed that 12 new industrial units were allowed to continue their business without payment of tax even in the absence of Eligibility Certificate. Tax amounting to Rs. 11.60 crore for the years from 1986-87 to 1993-94 was assessed (between November 1990 and March 1996) against these units at belated stage when they had wound up business and disappeared. Failure to take timely action for assessment of tax or imposition of penalty on the dealers carrying on business without Eligibility Certificate and non-finalisation of the assessments in time resulted in loss of revenue of Rs. 11.60 crore. The department was contemplating joint inquiry for write-off of the amount of tax so evaded by these units.

2.2.11 Evasion by the Khadi Gramodyog institutions

Under Government notification dated 31 January 1985, institutions certified by the All India Khadi and Village Industries Commission or the U.P. Khadi and Village Industries Board,

Failure to keep a vigilant watch on the business activity of Khadi Gramodyog institutions resulted in loss of revenue of Rs. 1.70 crore.

are exempt from payment of tax on the sale of products and the purchase of any goods connected with manufacture or purchase of products of village industries as specified in the list (mentioned under the notification). As per Commissioner's circular (October 1986) the institution is also entitled to purchase raw materials tax free on the strength of certificate issued by it and countersigned by the concerned District Industries Officer.

In Trade Tax Circle, Kanpur, it was noticed that 4 dealers (being institutions certified by the Khadi and Village Industries Board, U.P.) got themselves registered with the Trade Tax Department and purchased raw materials tax-free against the statutory forms. They also obtained declaration forms (Form XXXI) from the department and used them in purchasing goods from outside the States. The materials so purchased against these certificates/declaration forms were sold by the institutions without using them in manufacture. Besides, they concealed their taxable turnover thereby avoiding the tax liability and ultimately disappeared after winding up their business. Failure on the part of the department to keep a watch on the business activities of such institutions, non-monitoring of the issue and use of the certificates/declaration forms and non-finalisation

* Allahabad, Bulandshahar, Ghaziabad, Kanpur, Lucknow and Moradabad.

of assessments in time resulted in loss of revenue amounting to Rs. 1.70 crore being tax assessed (between February 1994 and September 1995) against the said institutions for the assessment years from 1989-90 to 1993-94. During joint inquiry, the amount of Rs. 1.70 crore outstanding against all these institutions had been found to be irrecoverable and hence awaiting write off (March 1996).

2.2.12 Non-imposition of penalty

(A) For concealment of turnover

Under Section 15-A (1)(c) of the U.P. Trade Tax Act, 1948, any dealer who has concealed the particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover, is liable for prosecution. The assessing

Penalty for concealment of turnover amounting to Rs. 10.84 crore was neither levied nor realised.

authority may, however, after necessary inquiry, direct that such dealer shall pay, in lieu of prosecution, by way of penalty, in addition to tax, a sum not less than fifty per cent but not exceeding one and one-half times upto 24 April 1990 and two hundred per cent of the amount of tax from 25 April 1990 which would thereby have been avoided.

In 10* Trade Tax Circles, it was noticed that 36 dealers had concealed the particulars of their turnover or had deliberately furnished inaccurate particulars of such turnover relating to the assessment years from 1985-86 to 1994-95. The concealment was detected by the various agencies of the department, viz, Special Investigation Branch, Check-Posts and Mobile Squads and tax amounting to Rs. 21.68 crore was levied (between August 1990 and March 1996) by the assessing authorities while finalising assessments, but the minimum penalty of Rs. 10.84 crore though leviable, was neither levied nor collected.

(B) For non-deposit of tax

Every dealer liable to pay tax is required to submit to the assessing authority, periodical returns of turnover alongwith the challan of tax paid by him

Penalty for non-deposit of tax amounting to Rs. 1.72 crore was not levied/realised.

* Agra (2), Bareilly, Bulandshahar, Ghaziabad, Kanpur (2), Lucknow, Meerut and Varanasi.

within the time allowed and in the manner prescribed. For violation of these conditions, a dealer is liable to be prosecuted. The assessing authority may, however, after necessary inquiry, direct that such dealer shall pay, in lieu of prosecution, by way of penalty, in addition to the tax, a sum not less than ten per cent but not exceeding 25 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 7* Trade Tax Circles, it was noticed that 11 dealers had not deposited the tax amounting to Rs. 3.44 crore which was admittedly payable by them on a taxable turnover of Rs. 27.79 crore relating to the assessment years from 1986-87 to 1992-93. The dealers were, therefore, liable to pay penalty amounting to Rs. 1.72 crore which was not levied/realised.

(C) For unauthorised import of goods

Under Section 28-A of the U.P. Trade Tax Act, 1948 read with Rule 85 of the U.P. Trade Tax Rules, 1948, a registered dealer desirous of importing goods from outside the State by road, rail, river, air or post, shall obtain declaration Form (XXXI) from the assessing authority. One copy of the declaration in the form so received, shall be delivered by the person-in-charge of the vehicle importing the goods to the officer-in-charge of the Check-Post before crossing it and one copy of the same is produced before the assessing authority at the time of assessment. For violation of these provisions, the assessing authority may direct that such dealer shall pay, by way of penalty, a sum not exceeding forty per cent of the value of the goods involved upto 13 April 1994 (thereafter forty per cent or three times of the tax whichever is higher).

In 2 Trade Tax Circles (Agra and Lucknow), it was noticed that in the case of 2 dealers, electronic/electrical goods worth Rs. 13.95 lakh were shown to have been imported from outside the State during the assessment years 1991-92 and 1993-94 against declaration in Form XXXI. A scrutiny in audit revealed that in one case the declaration was originally issued for Rs. 4.00 lakh only which was later tampered with and figures changed to Rs. 12.63 lakh and in another case no declaration was furnished by the dealer. Thus, for importing goods worth Rs. 9.95 lakh without declaration/valid declaration forms, the dealers were liable to pay penalty for Rs. 3.98 lakh which was not imposed.

* Agra, Allahabad, Bulandshahar, Ghaziabad, Kanpur (2) and Lucknow.

(D) Penalty under the Central Sales Tax Act

Under the Central Sales Tax Act, 1956, a registered dealer may purchase any goods from outside the 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, for use in manufacture or processing of goods for sale etc. If goods purchased from outside the State at concessional rate of tax are used for a purpose other than that for which registration was granted, the dealer is liable for prosecution. The assessing authority may, however, impose upon him in lieu of prosecution, penalty upto one-and-a-half times the tax which would have been levied under Section 8 (2) of the Act.

In Trade Tax Circle, Lucknow, it was noticed that 2 dealers had purchased transformers worth Rs. 4.54 lakh (taxable rate 15 per cent) and sponge iron valued at Rs. 26.23 lakh (taxable rate 10 per cent) against declarations in Form 'C', though not specified in their certificate of registration. The dealers were, therefore, liable to pay penalty up to Rs. 4.95 lakh (Rs. 1.02 lakh in case of transformers and Rs. 3.93 lakh in respect of sponge iron).

2.2.13 Evasion by transporters

Under U.P. Trade Tax Act, 1948 and U.P. Trade Tax Rules, 1948, when a vehicle coming from any place outside the State and bound for any other place outside the State, passes through the

Evasion by untraceable transporters led to a loss of Rs. 10.61 crore during the years 1984-85 to 1995-96.

State, the driver or other person-in-charge of the vehicle is required to obtain a transit pass (Form XXXIV) from the officer-in-charge of the Check-Post or barrier after his entry into the State and deliver it to the officer-in-charge of the last Check-Post or barrier before his exit from the State, failing which it shall be presumed that the goods carried thereby have been sold within the State by the owner or the person-in-charge of the vehicle. Manual of Trade Tax Check-Post and Mobile Squad provides for the verification of the name and complete address of the driver and the owner of the vehicle as mentioned on the transit pass from the licence of the driver and the registration book of the vehicle. After necessary verification at the exit Check-Post, the transit pass is sent, through Commissioner's office, to the entry Check-Post for its clearance. In case of its non-clearance, assessment in respect of unregistered transporters, is made by the officer-in-

charge of the Check-Posts as authorised by the Commissioner. In case of registered transporters, assessment is made by the assessing authorities of the concerned circles. After the assessment of tax in such cases, the recovery certificates against the transporters on the address given on transit passes, are issued to the revenue authorities of the concerned district of the State for its realisation.

In 11* Trade Tax Circles, it was noticed that in view of incomplete and incorrect names and addresses having been mentioned by the transporters on the transit passes and failure on the part of the department to get them verified from the licences of the drivers and the registration book of the vehicles, tax amounting to Rs. 10.61 crore assessed on 440 transporters for the assessment years from 1984-85 to 1995-96 stood evaded by them as they were untraceable.

2.2.14 Short-levy of interest on admitted tax

Every dealer liable to pay tax under the U.P. Trade Tax Act, 1948, is required to submit return of his turnover at prescribed intervals and deposit the amount of tax due within the time prescribed. Under the Act, the tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of 2 per cent per month. Tax other than the tax admittedly payable, however, attracts interest at the rate of one and half per cent per month if it remains unpaid for three months after expiry of the period specified in the notice of demand. Tax not paid by a dealer within the time prescribed, is recoverable as arrears of land revenue.

Application of incorrect rate of interest on admitted tax resulted in short levy of interest of Rs. 7.92 crore.

In 8** Trade Tax Circles, it was noticed that in 27 cases while issuing recovery certificates relating to the assessment years from 1986-87 to 1994-95, the rate of interest on the admitted tax of Rs. 7.06 crore was charged at one and half per cent per month instead of 2 per cent. Failure to apply the correct rate of interest on the admitted tax resulted in short-levy of interest amounting to Rs. 7.92 crore between October 1996 and May 1997.

* Agra (2), Allahabad, Bulandshahar, Ghaziabad, Kanpur (2), Lucknow, Meerut, Moradabad and Varanasi.

** Agra, Allahabad, Bulandshahar, Ghaziabad, Kanpur, Lucknow, Meerut and Varanasi.

2.2.15 Maintenance of records

(1) Register of vehicle owners/drivers

With a view to reducing arrears and ensuring realisation of tax assessed against transporters for non-clearance of transit passes, Commissioner issued instructions (16 December 1992) to maintain a register of vehicle owners/drivers at the Check-Posts where the Forms XXXIV remained unverified. In this register, Statewise list of registration of vehicles and driving licences, was to be kept and quarterly verification thereof carried out from the Transport Department of the concerned district of the State and F.I.R. was to be lodged with the police where the addresses of the vehicle owners and licences of drivers were found to be fake.

It was observed that this register was not maintained in all the 4 Check-Posts* test-checked.

(2) Panji-5 Register

According to the provisions of the Manual of Trade Tax Check-Posts and Mobile Squad, Panji-5 Register is required to be maintained at all the Check-Posts and Mobile Squad units in the prescribed proforma. This register contains the details of vehicles, transporters, the result of daily checking and physical verification, seizure of goods, realisation of security etc.

Test check of records of Check-Posts and Mobile Squad units of 10** Trade Tax Circles revealed that this register was not maintained properly inasmuch as full particulars of physical verification of the vehicles, details of goods found during verification (name and quantity), the dealer/transporter whether registered or unregistered etc., were not found noted in many cases.

2.2.16 Other points of interest

(A) Misuse of declaration forms

Section 3-B of the 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, packing materials etc. Besides, interest at the rate of 2 per cent per month is also chargeable from the date of purchase of such goods to the date of deposit of such amount.

* Transport Nagar (Ghaziabad), Naubatpur (Varanasi), Tamakuhi Raj (Padrauna) and Sonauli (Maharajganj).

** Agra (2), Bulandshahar, Ghaziabad, Kanpur (2), Lucknow, Meerut, Maharajganj, Padrauna and Varanasi.

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It was noticed that in 4 Trade Tax Circles, 3 dealers purchased raw materials/ machinery free of tax by issuing declarations in Form III-B for which they were not authorised. The dealers were, therefore, liable to pay an amount of Rs. 2.20 lakh equal to relief in tax secured by them. Besides, interest amounting to Rs. 3.46 lakh was also chargeable up to date of audit (September to December 1996). The details are given as under :-

(rupees in lakh)							
Sl. No.	Name of circle	Assessment year	Goods purchased	Value of goods purchased	Amount involved	Interest	Total
1	2	3	4	5	6	7	8
(1)	NOIDA	1991-92	Machinery	65.75	0.82	1.02	1.84
(2)	KANPUR	1984-85 (Prior to 29.1.85)	Iron & Steel	11.42	0.46	1.32	1.78
(3)	KANPUR	1992-93	Rubber products	4.89	0.49	0.53	1.02
(4)	VARANASI	1988-89 to 1993-94	Tin sheets/ plates	9.12	0.43	0.59	1.02
Total				91.18	2.20	3.46	5.66

(B) Irregular exemption on export

Under the provisions of the Central Sales Tax Act, 1956 and the Rules framed thereunder, no tax shall be payable on sale or purchase of goods in the course of export out of the territory of India, only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India. The last sale or purchase of any goods, preceding the sale or purchase occasioning the export of those goods, shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export. For this purpose, the penultimate seller is required to furnish a certificate in Form 'H' duly filled and signed by the exporter alongwith the evidence of export of such goods.

Irregular exemption on export of goods resulted in non-levy of tax of Rs. 8.61 lakh during 1990-91 to 1992-93.

It was noticed that in 3 Trade Tax Circles, exemption from tax on the sales of saddlery goods, polythene bags and footwear valued at Rs. 86.10 lakh for the years from 1990-91 to 1992-93 (assessed between May 1995 and February 1996) was granted erroneously treating the sale in the course of export out of the territory of India, though

the transactions were not supported by the prescribed evidences of the export. Tax on such sales was leviable at the rate of 10 per cent being inter-State sale not covered by Form 'C' or 'D'.

The irregular exemption resulted in non-levy of tax amounting to Rs. 8.61 lakh as under:

(in lakh of rupees)

Sl. No.	Name of circle	Assessment year	Goods exported	Value	Tax leviable	Remarks
1	2	3	4	5	6	7
1.	Kanpur	1990-91 & 1991-92	Saddlery goods	45.29	4.53	Export without Bills of lading do
2.	NOIDA	1991-92 & 1992-93	Polythene bags	17.46	1.75	
3.	Agra	1992-93	Footwear	23.35	2.33	Export preceded the sale
Total				86.10	8.61	

The matter was reported to Government and Department (September 1997); their replies have not been received (October 1997).

2.3 Evasion of tax through branch/Stock transfer

Central Sales Tax Act, 1956 provides that where a dealer or manufacturer claims exemption on the grounds of Stock/Branch transfer of goods, the burden of proof that the transfer is a stock transfer and not inter-State sale is placed on the transferror. In order to claim exemption from the liability of payment of tax, the dealer is required to furnish to the Assessing Authority, within the prescribed time, a declaration in Form 'F' duly filled in and signed by the transferee containing particulars in the prescribed form alongwith the evidence of despatch of goods.

Stock of vanaspati worth Rs. 21.90 crore, transferred to principal agent at Delhi from Ghaziabad was less accounted for by Rs. 1.01 crore.

Commissioner, Trade Tax, U.P., Lucknow vide his circular dated 13 January, 1986 had also directed that while finalising the assessment cases of dealers, the Hon'ble Supreme Court's decision* that branch transfer may be treated as Central Sale until the transfer is established to be a genuine Stock/Branch transfer may be taken into consideration.

* In the case of M/s Sahni Steels & Press Works Ltd. Vs Commercial Tax Officer (STC 60 pg. 301, 1985).

A study was conducted by audit of Stock/Branch transfers between U.P. and Delhi, during August-September 1996. Scrutiny of the assessment case of a company of Ghaziabad revealed that stock of vanaspati worth Rs. 21.90 crore was transferred to their principal agent, in Delhi during 1992-93. Examination of the records of the agent at Delhi, revealed that vanaspati worth Rs. 1.01 crore was less accounted for in their trading account. The matter was reported to the Trade Tax Department of U.P. and Delhi (September 1996). Their replies have not been received.

Further scrutiny of the assessment orders of the company at Ghaziabad revealed that Forms 'F' worth Rs. 20.86 crore had been submitted by their principal agents at Delhi, whereas the consignment details of the company at Ghaziabad depicted stock transfer of goods worth Rs. 21.08 crore. Thus goods worth Rs. 22 lakh remained unaccounted for. On being pointed out by audit, Trade Tax authorities of Ghaziabad replied that Rs. 21.08 crore could have been the estimated value of the goods or the difference could be due to transit loss. Their reply is not tenable as excise records of the same company show that excise duty had been paid on goods worth Rs. 21.08 crore. There was also no possibility of transit loss as the transferrer, in his returns had not submitted any evidence of insurance claim, F.I.R lodged with the police or any other evidence regarding transit loss. The matter was reported to Trade Tax Department (September 1996); their replies have not been received (October 1997).

The investigation revealed that there exists a definite possibility of major Sales Tax evasion due to differential rates of Sales Tax in Uttar Pradesh and Delhi. The discrepancy of more than a crore of rupees only for one year in respect of one company alone and that too the investigation being limited to stock transfer between U.P. and Delhi only indicates that the possibility of evasion on a higher scale cannot be ruled out. This is because the same company is transferring its stock all over the country. This investigation also revealed that the Sales Tax department of Uttar Pradesh as well as that of Delhi had not been able to detect the above irregularity despite the circular of 13 January 1986 of the Commissioner, Trade Tax, U.P.

2.4 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 of goods which are not classified, tax is leviable at the rate of 8 per cent with effect from 7 September, 1981.

Mis-classification of goods resulted in short levy of tax amounting to Rs. 24.25 lakh.

Besides, additional tax is also leviable at the rate of 10 per cent and 25 per cent of the tax with effect from 1 November, 1985 and 1 August, 1990 respectively.

During audit of 9 Trade Tax offices, it was noticed (between December 1994 and January 1997) that due to mis-classification of goods, correct rates of tax were not applied which resulted in short-levy of tax amounting to Rs. 24.25 lakh. Details are given below:

(Rupees in lakh)

Sl. No.	Name of office	Year of assessment	Name of commodity	Taxable turn over	Rate of Tax leviable (Per cent)	Rate of tax levied (Per cent)	Tax short-levied
1	Assistant Commissioner (Assessment)-4 Trade Tax, Lucknow	1990-91	Adhesive plaster	34.80	10	7.5	0.87
2.	Assistant Commissioner (Assessment)-13, Trade Tax, Kanpur	1991-92 and 1992-93	Chewing gum	39.54	10	6.25	1.48
3.	Assistant Commissioner (Assessment)-2, Trade Tax, Meerut	1991-92 and 1992-93	Elastic yarn	87.92	10	2.5	6.59
4	Assistant Commissioner (Assessment)-2, Trade Tax, Aligarh	1991-92	Fabricated goods	159.57	10	4.4	9.57
5.	Trade Tax Officer, Sector-3, Bareilly	1989-90	Burnt Copper wire	1.31	8.8	2.2	0.75
6.	Trade Tax Officer, Sector-I, Varanasi	1990-91	Nylon monofilament yarn	22.55	8.8	2.2	1.61
7.	— do —	1992-93	— do —	7.39	10	2.5	0.55
8.	Trade Tax Officer, Sector-2, Varanasi	1989-90	Unsweated auto radiator	8.43	8.8	2.2	0.56
9.	Trade Tax Officer, Sector-6, Varanasi	1992-93	Perfumery	18.17	15	2.5	2.27
Total				389.68			24.25

On this being pointed out in audit, the Department revised the assessment orders in case of Sl. No. 1, 5 and 7 and levied tax amounting to Rs. 2.18 lakh.

The cases were reported to the Government (between December 1995 and April 1997); their replies have not been received (October 1997).

2.5 Short-levy of tax due to application of incorrect rate

A Under the U.P. Trade Tax Act

During audit of 23 Trade Tax Offices, it was noticed (between March 1995 and August 1996) that incorrect rates of tax were levied. This resulted in short-levy of tax amounting to Rs. 138.59 lakh as given below:

Application of incorrect rate of tax on commodities resulted in short levy of tax amounting to Rs. 1.39 crore.

(Rupees in lakh)

Sl. No.	Name of office	Year of assessment	Name of commodity	Taxable turn over	Rate of Tax leviable (Per cent)	Rate of tax levied (Per cent)	Tax short-levied
1.	Assistant Commissioner (Assessment)-II, Trade Tax, Jhansi	1990-91	Non-ferrous metal scrap	42.59	5	2.5	1.06
2.	Assistant Commissioner (Assessment)-III, Trade Tax, Muzaffarnagar	1990-91 and 1991-92	Copper scrap	115.73	5	2.5	2.89
3.	Assistant Commissioner (Assessment)-8, Trade Tax, Ghaziabad	1992-93 and 1993-94	Hard board	29.25	12.5	7.5	1.46
4.	Trade Tax, Officer, Grade-II, Sector-6, Varanasi	1990-91	Electronic goods	12.00	13.2 (Upto July 1990) 15.00 (after July 1990)	8.8 13.2	0.58
5.	Assistant Commissioner (Assessment)-III, Trade Tax, Varanasi	1991-92	Super enamelled copper wire	67.08	15	10	3.35

Sl. No.	Name of office	Year of assessment	Name of commodity	Taxable turn over (Rs. in lakh)	Rate of tax leviable (Percent)	Rate of tax levied (Percent)	Tax short-levied (Rs. in lakh)
6.	Assistant Commissioner (Assessment)-III Trade Tax, Varanasi	1994-95	Wheat	195.50	4	2	3.91
7.	Trade Tax Officer, Sector-21 Kanpur	1990-91	Gitti, Cement	20.00 30.00	7.5 12.5	5 10	1.25
8.	Assistant Commissioner (Assessment)-I, Trade Tax, Kanpur	1990-91 and 1991-92	Electrical goods	312.11	12	4	34.18
9.	Assistant Commissioner (Assessment), Trade Tax, Faizabad	1991-92	Burnt Copper wire old core stamping	17.93 6.29	10 4	5	1.27
10.	Assistant Commissioner (Assessment)-I, Trade Tax, Noida, (Ghaziabad)	1990-91	Television Components	300.00	13.2 (Upto July 1990) 15.00 (after July 1990)	11 12.5	6.96
11.	Trade Tax Officer, Sector-5, Lucknow	1992-93 to 1994-95	Audio Cassettes	32.57	8 wef April/92 4 wef October/94	4 2	1.43
12.	Trade Tax Officer, Sector-3, Muzaffar nagar	1992-93	Computers	14.25	15	7.5	1.07
13.	Trade Tax Officer, Sector-8, Kanpur	1988-89	Iron & Steel	20.00	8	4	0.80
14.	Trade Tax Officer, Sector- 17, Kanpur	1987-88	Steel furniture	300.00	13.2	12	3.60
15.	Trade Tax Officer, Sector- 10, Agra	1990-91 & 1991-92	Vanaspati	100.00 180.00 300.00	11 12.5 12.5	8.8 10 10	2.20 4.50 7.50

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(Rupees in lakh)

Sl. No.	Name of office	Year of assessment	Name of commodity	Taxable turn over	Rate of tax leviable (Per cent)	Rate of tax levied (Per cent)	Tax short-levied
16.	Trade Tax Officer Sector- 13, Agra	1990-91 — do — 1991-92	Oil — do — — do —	235.00 465.00 200.00	5.5 6.25 6.25	4.4 5 5	2.58 5.81 25.02
17.	Trade Tax Officer, Sector-3, NOIDA	1986-87	Colour Television	260.00	13.2	12	3.12
18.	Trade Tax Officer, Sector-2, NOIDA	1992-93	Auto parts	168.00	12.5	10	4.20
19.	Trade Tax Officer, Sector-1, NOIDA	1990-91	Motor cycle autoparts	418.00	12.5	11	6.27
20.	Trade Tax Officer, Sector-9, VARANASI	1991-92	Electrical goods	169.34	15	10	8.47
21.	Trade Tax Officer, Sector-4, Varanasi	1991-92	Cement	25.00	12.5	10	0.63
22.	Trade Tax Officer, Sector-10, Lucknow	1991-92	Oil	70.00	6.25	5	0.88
23.	—do—	1991-92 & 1992-93	Cement	240.0	12.5	11	3.60
Total							138.59

On this being pointed out in audit, tax of Rs. 46.08 lakh was levied by the Department in respect of Sl. No. 1, 2, 4, 7, 8, 10 and 11, of which a sum of Rs. 6.32 lakh has been recovered.

The cases were reported to the Government (between April 1995 and April 1997); their replies have not been received (October 1997).

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 'D', is leviable at the rate of 10 per cent (including additional tax) or at the rate applicable to the sale or purchase of such goods inside the State which is higher.

- (i) During audit of the office of Trade Tax Officer Sector-I, Varanasi, it was noticed (January 1997) that a dealer made inter-State sale of nylon monofilament yarn worth Rs. 6.41 lakh without Form 'C' during the year 1992-93. Tax on this sale was levied at the rate of 2.5 per cent (including additional tax) treating it as 'yarn' instead of at the correct rate of 10 per cent. This resulted in short-levy of tax amounting to Rs. 51,280.

The case was reported to the Department and Government (April 1997); their replies have not been received (October 1997).

- (ii) In the same sector, a dealer made inter-State sale of 'Carbon black' worth Rs. 29.75 lakh without Form 'C' during the years 1993-94 and 1994-95. Tax on this sale was levied at the rate of 4 percent instead of the correct rate of 10 per cent (including additional tax). This resulted in short-levy of tax amounting to Rs. 1.78 lakh.

The matter was reported to the Department and Government (April 1997); their replies have not been received (October 1997).

2.6 Loss of revenue due to irregular grant of recognition certificate

Section 4-B of the U.P. Trade Tax Act, 1948, read with Government notification dated 29 August, 1987, provides for special relief in tax to manufacturers on the purchase of raw material required for use in the manufacture of notified goods on fulfilment of certain conditions. For manufacture of goods not specified in the notification issued by the Government, the dealers may avail of the benefit of concessional rate of tax on purchase of raw material.

Irregular grant of recognition certificate for purchase of raw material resulted in loss of revenue of Rs. 34.76 lakh.

During audit of 11 Trade Tax Offices, it was noticed (between July 1993 and July 1996) that the goods manufactured by dealers were notified, for grant of recognition certificate for the purchase of raw material at concessional rate of tax only. The department, however, issued recognition authorising the dealers to purchase such raw material tax-free. This resulted in loss of revenue amounting to Rs. 34.76 lakh. Details are as given in the table on the next page:

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(Rupees in lakh)

Sl. No.	Name of office	Year	Recognition certificate for the manufactured items	Raw material purchased tax-free	Value of material	Loss
1	Assistant Commissioner (Assessment)-I Trade Tax, Saharanpur	1990-91 and 1991-92	Shoe Tacks	C.R. Sheets	20.54	1.03
2.	Assistant Commissioner (Assessment)-III Trade Tax, Noida (Ghaziabad)	1990-91 to 1992-93	Metal finishing chemical	Chemical and Caustic Soda	402.45	20.11
3.	Trade Tax Officer, Sector-I, Saharanpur	1986-87 and 1987-88	Enamel wares	Fabricated iron wares	16.87	1.48
4.	Assistant Commissioner (Assessment)-XII Trade Tax, Kanpur	1992-93 and 1993-94	Rolling Material	Mobil Oil, Furnace Oil, Light Diesel Oil	18.13	0.91
5.	Trade Tax Officer, Sector- 10 Lucknow	1988-89 and 1989-90	Doors and Windows	Wood, Hinges	18.01	0.79
6.	Assistant Commissioner (Assessment)-III Trade Tax, Saharanpur	1991-92 and 1992-93	Transmission Rubber Belting	Raw Rubber	33.27	1.66
7.	Assistant Commissioner (Assessment)-II Trade Tax, Saharanpur	1991-92 to 1993-94	Rubber Belting	Cotton Canvas, consumable stores and fuel	25.38	1.27
8.	Trade Tax Officer Sector-7 Allahabad	1989-90 to 1993-94	Silvered glass	Chemical, Rejected sheet glass and Silver Nitrate	53.73	2.66

9.	Assistant Commissioner (Assessment)- Trade Tax, Faizabad	1992-93	Paper	Chemical, resin, waste paper and hessian	29.61	2.62
10.	Assistant Commissioner (Assessment)-X Trade Tax, Agra	1989-90 and 1990-91	Rubber sheets and Rubber products, PVC sheets and products, PVC couplings and PVC soles	PVC Sheet, Belt, Banwar and PVC Sole	16.31	0.77
11.	Assistant Commissioner (Assessment)-X Trade Tax, Agra	1990-91	Rubber Goods	Raw rubber, Chemicals, Carbon, Residue oil, Calcium, China clay, Lubricant oil, Red oxide etc.	29.12	1.46
Total						34.76

On this being pointed out in audit, the Department raised the demand of Rs. 2.30 lakh in case of serial numbers 3 and 5.

The cases were reported to the Government (between December 1994 and January 1997); their replies have not been received (October 1997).

2.7 Non-imposition of penalty

A Under the U.P. Trade Tax Act

(i) For misuse of material

Under the U.P. Trade Tax Act, 1948, read with Government notification dated 31 December, 1976 and 29 August, 1987, provision for special relief has been made in tax to manufacturers holding recognition certificate 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 off, the dealer shall be liable to pay, by way of penalty, a

Chapter II

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.

During audit of 7 Trade Tax Offices, it was noticed (between August 1994 and August 1996) that dealers, holding recognition certificate for the manufacture of notified goods purchased raw materials tax free/at concessional rate of tax and utilised them for other purposes. The dealers were, therefore, liable to pay penalty amounting to Rs. 24.11 lakh. Details are given below :

(Rupees in lakh)

Sl. No.	Name of Office	Year	Holding recognition certificate for manufacture of	Name of raw material purchased	Tax-free/ Concessional	Value of Material	Other-wise used/ sold as such	Penalty leviable
1.	Trade Tax Officer Sector-3, Ghaziabad	1990-91	Welding Electrodes	Wire rods	Tax free	37.69	Sold as such	4.52
2.	Trade Tax Officer, Sector-3, Muzaffar-nagar	1991-92 to 1993-94	Iron and Steel	Cast iron scrap	Tax free	22.18	Used in manufacture of machinery parts and centrifugal pumps	0.89
3.	Assistant Commiss- ioner (Assessm- ent), Trade Tax, Firozabad	1988-89 and 1989-90	Glass and bangles	Glass sheet	Tax free	11.44	Used in manufacture of scientific apparatus	0.76
4.	Assistant Commiss- ioner (Assessm- ent)-XI, Trade Tax, Kanpur	1992-93	Rubber and rubber products	Raw-rubber	Tax free	28.16	Used in manufacture of Micro-cellular sheet	1.41

(Rupees in lakh)

Sl. No.	Name of Office	Year	Holding recognition certificate for manufacture of	Name of raw material purchased	Tax-free/ Concessional	Value of Material	Other-wise used/ sold as such	Penalty leviable
5.	Assistant Commissioner (Assessment)-2, Trade Tax, Kanpur	1984-85 to 1989-90	Wire	Iron and steel	Tax-free	248.64	Sold as such	9.95
6.	Trade Tax Officer, Sector-I Barabanki	1991-92 and 1992-93	Transformer	Aluminium wires Varnish etc.	Concessional rate	17.49	Used in repairs of Transformers	1.32
7.	Assistant Commissioner (Assessment)-II, Trade Tax, Aligarh	1991-92	Iron and Steel	Iron and Steel	Tax free	131.54	Used in manufacture of fabricated goods	5.26
Total						497.14		24.11

On this being pointed out in audit, the Department levied the penalty amounting to Rs. 3.42 lakh in the cases at serial No. 1 and 3.

The cases were reported to the Government (between November 1994 and January 1997); their replies have not been received (October 1997).

(ii) 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, in addition to tax, a sum not less than 50 per cent but not exceeding one and a half times the amount of tax which would, thereby, have been avoided by him, if the concealment had not been detected.

- (a) During audit of the office of Trade Tax Officer, Sector-1 Faizabad, it was noticed (February 1993) that a dealer concealed the taxable turnover of Rs. 37.80 lakh during the year 1987-88. Tax amounting to Rs. 1.51 lakh was levied on the concealed turnover but minimum penalty of Rs. 75,600 was not imposed.

On this being pointed out in audit (June 1993), the Department imposed penalty of Rs. 75,600 (February 1994). Report on recovery has not been received (October 1997).

The case was reported to the Government (June 1993); their reply has not been received (October 1997).

- (b) During audit of the office of Assistant Commissioner (Assessment), Trade Tax, Gulawati (Bulandshahar), it was noticed (September 1994) that a

Concealment of purchase/sales turnover of Gur and cereals worth Rs. 8.14 crore during 1988-89 to 1989-90 resulted in non-levy of tax of Rs. 38.19 lakh.

dealer concealed purchases/sales turnover of Gur and cereals worth Rs. 312 lakh and Rs. 502 lakh during the years 1988-89 and 1989-90 respectively. Tax amounting to Rs. 29.38 lakh and Rs. 46.99 lakh for the years 1988-89 and 1989-90 respectively was levied. The dealer was also liable to pay a minimum penalty of Rs. 14.69 lakh and Rs. 23.50 lakh respectively for the said years which was not imposed.

On this being pointed out in audit (February 1995), the Department imposed penalty of Rs. 153.40 lakh (January 1996). Report on recovery has not been received.

The case was reported to the Government (February 1995); their reply has not been received (October 1997).

(iii) For late furnishing of returns

Under the U.P. Trade Tax Act, 1948, if a dealer has not furnished the details of the turnover or has not furnished it within the time allowed and in the manner prescribed or has not deposited the tax due under the Act before furnishing the return or along with the return, he shall be liable to pay, by way of penalty, a sum not less than 10 per cent but not

exceeding 25 per cent of the tax due, if the tax due is upto Rs. 10,000 and 50 per cent, if the tax due is above Rs. 10,000.

During audit of the office of Trade Tax Officer, Sector-2, Ballia, it was observed (April 1994) that a dealer neither submitted the returns timely nor deposited the tax due for four months during the year 1989-90. The dealer was, therefore, liable to pay penalty upto Rs. 76,040 which was not imposed.

On this being pointed out in audit, the Department levied the penalty of Rs. 76,040 (November 1994). Report on recovery has not been received (October 1997).

B Under the Central Sales Tax Act

- I. 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

Penalty of Rs. 21.03 lakh under Central Sales Tax Act for irregular purchase of goods was not imposed.

'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 audit of 12 Trade Tax offices, it was noticed (between July 1992 and October 1995) that the dealers had purchased against declaration in Form 'C' goods other than those covered by their certificate of registration, valued at Rs. 132.48 lakh. They were, therefore, liable to pay penalty amounting to Rs. 21.03 lakh, which was not imposed. Details are given below:

(Rupees in lakh)

Sl. No.	Name of Office	Assessment year	Goods purchased	Value of goods	Amount of penalty leviable
1.	Assistant Commissioner (Assessment)-I Trade Tax, Ghaziabad	1983-84 to 1987-88	Wire supporting frame, chemicals, electricals goods	5.82	0.95

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(Rupees in lakh)

Sl. No.	Name of Office	Assessment year	Goods purchased	Value of goods	Amount of penalty leviable
2.	Trade Tax Officer Grade-II Sector-6, Varanasi	1990-91	Electric starter, electric motor, engine, projector spring and machinery	5.81	1.15
3.	Trade Tax Officer Grade-I, Sector-11, Pilibhit	1988-89	Diesel generating set	7.98	1.58
4.	Assistant Commissioner (Assessment)-I Trade Tax, Agra	1989-90	Copra (Oil seed)	9.01	1.08
5.	Trade Tax Officer, Grade-I, Sector-7, Allahabad	1990-91	Plastic powder, plastic granules and stabilizer	15.50	2.33
6.	Trade Tax Officer, Sector-4, Muzaffar- nagar	1992-93 & 1993-94	Iron circle and iron kamani	40.68	5.44
7.	Assistant Commissioner (Assessment)-II, Trade Tax, Varanasi	1990-91	Sports goods and refractory material	18.22	2.80
8.	—do—	1991-92	Transformer lamination	15.14	3.40
9.	Trade Tax Officer, Sector-3, Varanasi	1987-88	Chemicals and Polypropylene	4.21	0.63
10.	Trade Tax Officer, Modinagar, Ghaziabad	1988-89	Generator and Alternator	2.62	0.52
11.	Trade Tax Officer, Sector-1, Allahabad	1988-89	Phenol fibre, phenol fibre sheet and polyester films	4.15	0.62

(Rupees in lakh)					
Sl. No.	Name of Office	Assessment year	Goods purchased	Value of goods	Amount of penalty leviable
12.	Assistant Commissioner (Assessment)-III, Trade Tax, Noida (Ghaziabad)	1988-89	Spray colour	3.54	0.53
Total				132.68	21.03

On this being pointed out in audit, the Department stated that penalty in all the cases amounting to Rs. 19.37 lakh have been imposed, of which a sum of Rs. 3.50 lakh has been recovered.

The matters were reported to the Government (between December 1992 and May 1996); their replies have not been received (October 1997).

2.8 Irregular exemption from tax

- (i) Under Section 3 AAA of the U.P. Trade Tax Act, 1948 and the Rules made thereunder, a registered dealer who wishes to purchase goods, taxable at the point of sale to consumer, as tax free, is required to furnish a declaration in Form III A to the selling dealer, failing which the selling dealer would be liable to pay tax on sale of such goods. Broken glass is a classified item and taxable at the rate of 8 per cent upto 31 March, 1992 and 4 per cent with effect from 1 April, 1992. 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.

During audit of the office of Trade Tax Officer, Modinagar (Ghaziabad), it was noticed (September 1994) that a dealer sold broken glass purchased from unregistered dealers worth Rs. 53.36 lakh during the years 1990-91 to 1992-93. This sale was exempted from levy of tax by the Assessing Officer treating it as unclassified item. Since the sale was not supported by Form 3-A the selling dealer was liable to pay tax amounting to Rs.4.10 lakh.

The case was reported to the Department and Government (December 1994); their replies have not been received (October 1997).

- (ii) Under the Central Sales Tax Act, 1956, read with Government notification dated 13 September, 1990, tax on inter-State sale of cereals, if supported by declaration in Form 'C' is exempt with the condition that tax on these commodities has been paid under the U.P. Trade Tax Act, 1948.

During audit of the office of Trade Tax Officer, Sector-2 Mathura, it was noticed (August 1995) that a dealer made inter-State sale of pearl barley (manufactured from barley) worth Rs. 40.26 lakh during the years from 1990-91 to 1992-93 against declaration in Form 'C'. As pearl barley is not included in the cereals tax on its sale was leviable at the rate of 4 per cent. The Assessing Officer, however, exempted it from levy of tax, treating it as cereal. This resulted in non-levy of tax amounting to Rs. 1.61 lakh.

The case was reported to the Department and Government (March 1996); their replies have not been received (October 1997).

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

During audit of the office of Assistant Commissioner (Assessment)-3 Trade Tax, Meerut, it was noticed (October 1994) that a dealer made inter-State sale of rectified spirit and denatured spirit worth Rs. 18.17 lakh during the year 1989-90 against declaration in Form 'C'. Tax on this sale was leviable at the rate of 4 per cent. However, the assessing officer granted exemption to the dealer from payment of tax on the assumption that the aforesaid commodities are generally exempt under the U.P. Trade Tax Act. This resulted in non-levy of tax amounting to Rs. 72,697.

The case was reported to the Department and Government (January 1995); their replies have not been received (October 1997).

2.9 Loss of revenue due to abnormal delay in assessment

Under the U.P. Trade Tax Act, 1948, tax on sale of Indian made foreign liquor is leviable at the rate of 26 per

Abnormal delay in assessing the case resulted in loss of revenue of Rs. 26.24 lakh.

cent with effect from 7 September, 1981. Besides, additional tax is also leviable at the rate of 5 per cent of the tax upto 31 October, 1985 and 10 per cent with effect from 1 November, 1985.

During audit of the office of Trade Tax Officer, Grade-I Sector-4, Meerut, it was noticed (April 1993) that a dealer declared sale of Indian made foreign liquor including beer worth Rs. 229.16 lakh during the year 1985-86. The assessing officer, however, assessed the case just one week before it became time-barred and fixed the sale at Rs. 252 lakh and levied tax amounting to Rs. 70.60 lakh. On scrutiny in audit, it came to notice that the actual sale of the dealer was Rs. 346.45 lakh and the sale of Rs. 94.45 lakh escaped assessment to tax resulting in short-levy of tax amounting to Rs. 26.21 lakh.

On this being pointed out in audit, the assessing officer revised the assessment orders and raised additional demand of Rs. 26.24 lakh (March 1994). The dealer went in appeal and the appellate authority held the revised assessment orders as null and void (August 1994) as the case had become time-barred. Thus, due to abnormal delay in assessing the case, Government had to bear loss of revenue of Rs. 26.24 lakh.

The matter was reported to the Government (August 1993); their reply has not been received (October 1997).

2.10 Mistakes in computation of tax

During the course of audit of two Trade Tax offices (Ghaziabad and Bareilly) 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. 1.63 lakh.

On this being pointed out in audit (July 1995 and July 1996), the Department rectified the mistake and raised additional demand of Rs. 1.63 lakh. Report on recovery has not been received.

The cases were reported to the Government (September 1996 and December 1996); their replies have not been received (October 1997).

2.11 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. In case of inter-State sales whatever is payable by way of tax under the State Act, is also payable by way of Central Sales Tax.

- (i) During audit of the office of Trade Tax Officer, Grade-I, Mughalsarai (Varanasi), it was noticed (September 1996) that a dealer sold cooked food, biscuit and cake worth Rs. 42.17 lakh during the year 1991-92. Tax on this sale was levied at the rate of 5 per cent instead of the correct rate of 6.25 per cent (including additional tax). This resulted in non-levy of additional tax amounting to Rs. 52,715. .

On this being pointed out in audit, the Department revised the assessment order and raised the demand of Rs. 52,715. Report on recovery has not been received (October 1997).

The case was reported to the Department and Government (December 1996); their replies have not been received (October 1997).

- (ii) During audit of Assistant Commissioner (Assessment)-4 Trade Tax, Lucknow, it was noticed (November 1996), that a dealer made inter-State sale of rice bran oil worth Rs. 132.72 lakh during the year 1992-93. Tax on this sale was levied at the rate of 2 per cent but the additional tax at the rate of 25 per cent of the tax was not levied. This resulted in non-levy of additional tax amounting to Rs. 66,360.

On this being pointed out in audit (November 1996), the Department raised the additional demand of Rs. 66,360 (November 1996) of which a sum of Rs. 53,639 has been recovered.

The case was reported to the Government (January 1997); their reply has not been received (October 1997).

2.12 Loss of revenue due to irregular grant of Eligibility Certificate

Section 4-A of the U.P. Trade Tax Act, 1948 provides for exemption from levy of tax to new industrial units holding Eligibility Certificate on sale of specified goods for specified period on fulfilment of certain conditions. As per Government notification dated 27 July, 1991, units making Sweetmeat, Namkin, Reori, Gazak and commodities of like nature and restaurants established on or after 1 April 1990 are not entitled to exemption from or reduction in rate of tax.

During audit of the office of Trade Tax Officer, Grade-I Sector-5, Saharanpur, it was noticed (April 1996) that a unit was granted Eligibility Certificate with effect from 10 February, 1992 for manufacture and sale of toffee and sweet candy. The unit availed of the benefit of exemption from tax amounting to Rs. 1.46 lakh during the years 1991-92 to

1993-94. As toffee and sweet candy are sweetmeats and are classified under the entry "sweetmeat, namkin etc.", grant of Eligibility Certificate was irregular. This resulted in loss of revenue of Rs. 1.46 lakh.

The case was reported to the Department and Government (July 1996); their replies have not been received (October 1997).

2.13 Non-levy of interest

Every dealer liable to pay tax under the U.P. Trade Tax Act, 1948, is required to submit returns of his turnover at prescribed intervals and to deposit the amount of tax due within the time prescribed under the Act on the turnover disclosed in the returns. Tax admittedly payable by a dealer if not paid by the due date, attracts interest at the rate of 2 per cent per month on the unpaid amount.

During audit of the office of Trade Tax Officer, Sector-3, Dehradun, it was noticed (November 1996) that tax amounting to Rs. 11.70 lakh was deposited by a dealer after delay ranging from 13 months to 49 months. Interest amounting to Rs. 7.23 lakh was, thus, leviable for the delayed payment of tax which was not levied/realised.

The case was reported to the Department and Government (January 1997); their replies have not been received (October 1997).

2.14 Turnover escaping assessment

Under Section 3-F of the U.P. Trade Tax Act, 1948, turnover relating to the business of transfer of right to use any goods for any purpose, or transfer of the property in goods involved in the execution of works contract, is liable to tax. As per Government Notification dated 27 April, 1987, the turnover relating to transfer or right to use "Air Conditioning Plant" is liable to tax at the rate of 4 per cent with effect from 1 May, 1987. 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.

During audit of Trade Tax Officer, Sector 5, Varanasi it was noticed that a dealer did not disclose in his returns a turnover of Rs. 21.71 lakh relating to hire charges of Air Conditioning Plant received by him during the period 1989-90 to 1991-92 (as shown in the book of account) and it escaped assessment to tax (March 1995 and February 1996) by the assessing authority. This resulted in non-assessment of tax amounting to Rs. 1.02 lakh for these assessment years.

The case was reported to Department and Government (September 1997); their replies have not been received (October 1997).

Chapter III

State Excise

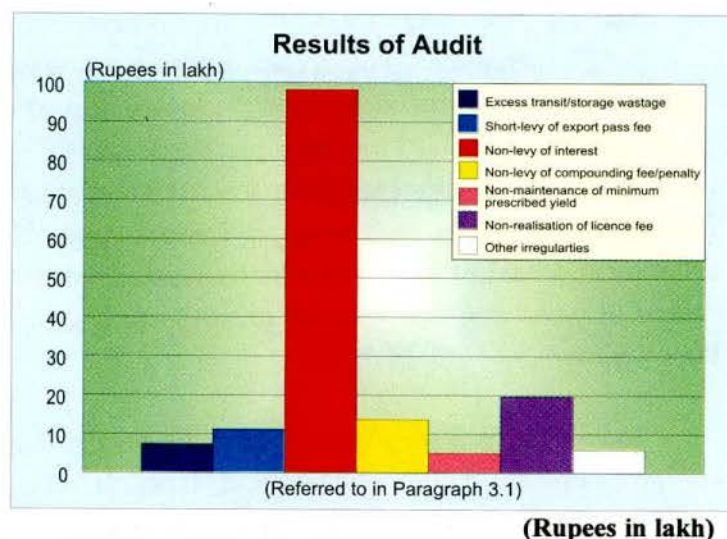


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3.1 Results of audit

Test check of the accounts and relevant records of the State Excise Offices, conducted in audit during the year 1996-97, revealed non-levy or short-levy of duties and fees amounting to Rs. 160.32 lakh in 87 cases which broadly fall under the following categories:



Sl. No.		No. of cases	Amount
1.	Excess transit/storage wastage	7	7.08
2.	Short-levy of export pass fee	6	10.92
3.	Non-levy of interest	9	98.13
4.	Non-levy of compounding fee/penalty	14	13.70
5.	Non-maintenance of minimum prescribed yield	11	5.06
6.	Non-realisation of licence fee	8	19.50
7.	Other irregularities	32	5.93
Total		87	160.32

During the course of the year 1996-97, the concerned Department accepted under-assessments etc. of Rs. 10.49 lakh involved in 71 cases pointed out in audit in earlier years of which a sum of Rs. 5.76 lakh has been recovered. A few illustrative cases and a review on 'Production, Procurement, Accountal and Sale of Poppy Straw' involving Rs. 281.03 lakh are mentioned in the succeeding paragraphs.

3.2 Production, Procurement, Accounting and Sale of Poppy Straw**3.2.1 Introduction**

In India, the cultivators of opium poppy grow it as a cash crop and is a regulated crop under the Narcotics Drugs and Psychotropic Substances (NDPS) Act, 1985 and rules framed thereunder. The opium poppy is an annual herb (rabi crop) sown in the month of October. Depending upon the location, seeding, time and genotype, it grows 50-150 cm tall with 2-15 capsules per plant, takes 75-80 days to flower and after its petals fall off, the capsules are ready for extraction of latex (raw opium). These capsules after extraction of latex are known as "Lanced Poppy Heads" (LPH) and the remaining part (except seeds) of the plant after harvesting, whether in their original form or cut, crushed or powdered and whether or not juice has been taken therefrom is known as "Poppy Straw".

India occupies an important position on the map of the world as the only licit producer of opium for international trade, 90 per cent of which is exported. The cultivation of opium poppy in India is confined to the States of Madhya Pradesh, Rajasthan and Uttar Pradesh. The year-wise area cultivated and production of opium in Uttar Pradesh for the last five years as obtained from the Narcotics Department is given below:

Year	Area (in hectares)	Production (in quintals)
1992-93	2385	773
1993-94	2182	774
1994-95	459	141
1995-96	112	19
1996-97	567	218

3.2.2 Legislation

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 and Rules framed thereunder by the Government of India regulate the cultivation of opium poppy plant. By virtue of powers vested in the State Government by the Act, the State Government have framed the Uttar Pradesh Narcotic Drugs Rules, 1986 which regulates the sale, purchase, possession, warehousing and consumption of poppy straw within Uttar Pradesh. There is, however, no excise duty on poppy straw.

Before promulgation of N.D.P.S. Act, 1985, the licensing of cultivation of poppy etc. by the Narcotics department was governed by the Opium Act, 1857.

3.2.3 Organisational set-up

The Excise Department, responsible for enforcing the laws relating to procurement, possession, sale and consumption of Poppy straw, is headed by the Excise Commissioner with Headquarters at Allahabad. He is assisted by two Additional Commissioners, Joint Commissioners, Deputy Commissioners and Collectors of the districts along with District Excise Officers.

3.2.4 Scope of Audit

Out of the 8 districts cultivating opium poppy, records of 6 (Barabanki, Budaun, Bareilly, Lucknow, Shahjahanpur and Ghazipur) District Excise offices were test checked for the period 1992-93 to 1996-97 along with the head office at Allahabad during April-May 1997. The major deficiencies and irregularities noticed are mentioned in the subsequent paragraphs.

3.2.5 Highlights

- (i) In one district, addicts were given huge quantity of poppy straw for oral consumption in contravention to provision of rules.

(Paragraph 3.2.10)

- (ii) District Excise officers of two districts were not aware of cultivation of opium poppy in their districts.

(Paragraph 3.2.9(i))

- (iii) Non-fixation of norms for production of poppy straw led to ineffective monitoring by the department.

(Paragraph 3.2.7)

- (iv) Contrary to the provision of rules in one district, cultivators were allowed to keep stock and later on sell it after 31 July.

(Paragraph 3.2.8(iii))

- (v) After expiry of licence period, the balance of 301.18 quintals of poppy straw was not disposed by dealers within the prescribed period.

(Paragraph 3.2.9(iv))

3.2.6 Trend of Revenue

As the State Government has not made any legal provisions to levy excise duty on sale, purchase and consumption of poppy straw, revenue from poppy straw is derived in the form of licence fee* for warehousing, dealers licence and permit fee for use for medical and scientific purposes. The revenue derived from poppy straw during 1992-93 to 1996-97 was Rs. 29000 only as compared to the total excise revenue of Rs. 6024.97 crore.

3.2.7 Production of poppy straw

For cultivation of opium poppy, the Central Government notifies the permissible tracts of tehsil/district and the Central Bureau of Narcotics (Narcotics department) grants licences to cultivators. In Uttar Pradesh, the cultivation of opium poppy is confined to the districts of Barabanki, Bareilly, Budaun, Shahjahanpur, Lucknow, Raebareli, Faizabad and Ghazipur. In 1991-92, the norm for minimum qualifying yield (MQY) of opium (as fixed by the Narcotics department) was 31.5 kg. per hectare, which was revised periodically and was 46 kg per hectare in 1995-96. However, the State Government never fixed any norms for production of poppy straw.

However, as per estimates of Narcotics department for the year 1995-96 the yield of poppy straw per hectare was 6 quintals. Reckoned on this basis the estimated production of poppy straw during the year 1992-93 to 1996-97 should have been as under :

Year	Area cultivated (in hectare)	Estimated production of poppy straw (in quintals)
1992-93	2385	14310
1993-94	2182	13092
1994-95	459	2754
1995-96	112	672
1996-97	567	3402

* Licence fee @ Rs. 100 per annum, permit fee @ Rs. 10 per permit

In reply to audit observation about norms and production of poppy heads, the Dy. Excise Commissioner (Headquarters) stated that the department was not concerned with production of poppy heads.

The reply is not relevant since the absence of any norm by the State Government, effective monitoring on production and sale of poppy straw could not be done during these years.

3.2.8 Disposal of poppy straw

Latex is collected from opium poppy in the month of March. According to Rule 20 of U.P. Narcotic Drugs Rules, 1986, every cultivator has to declare to the Collector of the district, the entire stock of poppy straw in his possession alongwith the manner in which he intends to dispose it of, within a fortnight of the completion of each harvest of opium and in any case not later than 15 July of the same year and obtain orders for its disposal.

Further, the cultivator may keep such poppy straw upto 31 July of the year and within this period shall either sell in the prescribed manner or destroy by burning the poppy straw or use it as manure in the presence of an officer of the Excise Department not below the rank of Excise Inspector. Therefore, for exercise of proper control on disposal of poppy straw, every cultivator should furnish a declaration immediately after 31 July of the year regarding the quantity produced, quantity sold and the quantity destroyed by him.

Poppy straw can be sold by cultivators only to licensed dealers who can sell the poppy straw to another licensed dealer or against permits issued by the Collector for scientific, medical, industrial or research purposes only.

- (i) During test check of records of District Excise Officers (Barabanki, Budaun, Bareilly, Etawah, Ghaziabad, Ghazipur, Lucknow and Shahjahanpur) it was noticed that poppy straw was sold against permits issued by Collectors of the districts of Ghaziabad and Etawah. In the remaining six districts, not even a single permit was issued. It could not be ascertained as to who were the end users of the poppy straw produced in these districts.
- (ii) In the six* districts test checked, District Excise Officers had no information about the quantity of poppy straw produced, sold and destroyed by the cultivators because

* Barabanki, Badaun, Bareilly, Shahjahanpur, Ghazipur and Lucknow

no such declarations were furnished by cultivators as no such requirements had been stipulated by the Excise Department in U.P.

Thus, the department has no control over accounting of poppy straw providing scope for illicit traffic. This was also admitted by the Excise Commissioner U.P, in his letter dated 2 June 1995 to the Deputy Narcotic Commissioner, U.P., Lucknow.

Further, the N.D.P.S. Rules, 1985 framed by the Central Government, envisage the designation of a Lambardar in each village by the District Opium Officer of the Narcotic Department who may be permitted to perform specific functions e.g. supervision of weighment of opium etc. A similar mechanism for close monitoring over the production, sale and distribution of poppy straw though desirable is not being exercised by the State Excise Department.

- (iii) In Budaun district, it was seen that during the years 1993-94 to 1996-97, 4 dealers were given 9 transit passes for purchase of 57 quintals of poppy straw from cultivators after 31 July of the year, the period in which cultivators were not supposed to possess stock of poppy straw with them.

3.2.9 Deficiencies in the control mechanism

Instructions were issued by the Joint Excise Commissioner (Excise Intelligence Bureau) in May 1995 to the District Excise Officer, Bareilly, to obtain a list of cultivators of opium poppy from the District Opium officer (Narcotic department) and to check misutilisation of poppy straw, if any.

No such list was obtained from the District Opium Officer (D.O.O.) during the period from 1992-93 to 1996-97 by the District Excise Officer, Bareilly. In other districts also, no such information was obtained from D.O.Os by the District Excise Officers.

3.2.9(i) Non-submission of declaration

No declaration of production of poppy straw by the cultivators of any district test checked (Barabanki, Budaun, Bareilly, Ghazipur, Lucknow and Shahjahanpur) were submitted during the years 1992-93 to 1996-97. It was intimated by the District Excise

Two District Excise Officers (Shahjahanpur and Lucknow) were not aware of cultivation of opium poppy in their districts.

Officers of these districts that no such declaration was received from the cultivators of opium poppy. District Excise Officers at Shahjahanpur and Lucknow were not aware of cultivation of opium poppy in their districts. Whereas, according to the records of Narcotic Department, Lucknow, opium poppy was regularly being produced during the period 1992-93 to 1996-97 in these districts :

3.2.9(ii) No arrangement for warehousing of poppy straw

Under the provisions of U.P. Narcotic Drugs Rules, 1986, the Collector of the district may declare any place as warehouse for poppy straw, where it shall be the duty of the owner to deposit all such poppy straw which he cultivates. While designating a place as warehouse, the Collector is also required to specify arrangements for the safe custody of poppy straw stored in the warehouse and the conditions for the removal of the same for sale.

During test check of records of the District Excise Officers of Barabanki, Budaun, Bareilly, Ghaziabad, Ghazipur, Lucknow and Shahjahanpur districts, it was noticed that in none of the above districts was any place declared for warehousing of poppy straw during the years 1992-93 to 1996-97. Consequently the entire stock remained with cultivators and was sold direct from the place of cultivation to the dealers. This again provides opportunity for illegal traffic of poppy straw.

3.2.9(iii) Delay in Renewal of Dealers Licence

Under the provisions of U.P. Narcotic Drugs Rules, 1986 the Collector may grant licence for purchase, or warehousing of poppy straw to a dealer on payment of a licence fee of Rs. 100 per annum. The expiry date of the licence is the next 31 March following the date of grant of licence.

In test check of records of District Excise Offices, Bareilly and Barabanki for the year 1992-93 to 1996-97, it was noticed that licences of five dealers were renewed after a delay ranging from 1 to 22 months.

3.2.9(iv) Non-destruction of balance stock

According to the terms and conditions of dealer's licence for poppy straw, at the termination of the licence, the dealer shall dispose the balance stock within two weeks in

the manner prescribed under Rule 20(3). It was noticed that in five cases, dealers were allowed to retain their stock weighing 301.18 quintals even after expiry of their licence period.

3.2.10 Sale to addicts

Under the provision of Rule 26 of U.P. Narcotic Drugs Rules, 1986 sale of poppy straw against permit is allowed only for scientific, medical, industrial or research purposes and such permits are granted by the Collector of the district. Permit holders can obtain poppy straw from dealers. There was no provision in the Rules for issue of permit or sale of poppy straw to addicts for oral consumption against the medical certificate issued by Chief Medical Officer. Excise Commissioner, U.P. also in his circular dated 5 October 1991 issued instructions that permits may not be issued to addicts.

In contravention of rules, huge quantity of poppy straw was issued to drug addicts for external application and oral consumption.

- (i) In Etawah, permits were issued for external application (medicinal use) of poppy straw on the recommendations of Medical Board which was irregular. The yearwise details of permits and quantity for which poppy straw was issued is as under:

Year	No. of permits	Quantity for which permits issued (in quintals)	Quantity received by permit holders from dealers
1994-95	6	3.90	NIL
1995-96	157	929.70	748.00
1996-97	151	841.80	604.80

Such a quantum jump in the number of permits issued and that too in blatant violation of rules calls for a thorough investigation.

- (ii) In Ghaziabad, permits were issued by the Collector to addicts for oral consumption of poppy straw on the recommendation of the Chief Medical Officer. The table on the next page indicates the number of addicts and quantity of poppy straw sold to them for oral consumption in Ghaziabad during the last three years :

Year	No. of addicts	Quantity of poppy straw sold (in quintals)	Average annual consumption per addict (in kg.)
1994-95	270	453.18	167.84
1995-96	422	571.77	135.49
1996-97	425	830.37	195.38

Although the table depicts that the number of addicts in 1996-97 over 1995-96 increased by just three, the increase in quantity over 1995-96 was 258.60 quintals and the overall average consumption increased by 83 per cent. The whole case needs thorough investigation.

The cases were reported to the Department and Government (August 1997); their replies have not been received (October 1997).

3.3 Short-realisation of additional duty

Under the Uttar Pradesh Excise Act, 1910 and the Rules made thereunder, as amended from 1 April, 1991, minimum guaranteed quantity (M.G.Q.) of intoxicant to be lifted during an excise year is fixed by the Excise Commissioner before auction of excise

Illegal enhancement of quota of country liquor during the licensing period resulted in short-levy of additional excise duty of Rs. 2.50 crore.

shops. If a licensee intends to lift and sell intoxicant in excess of the minimum guaranteed quantity, he is required to pay an extra amount as additional consideration at the rate (Rs. 11 per bulk litre) prescribed by the Excise Commissioner for grant of special right to sell such additional quantity of intoxicant.

During audit of 4 District Excise offices, it was noticed (between April 1995 and March 1996) that additional excise duty amounting to Rs. 250.00 lakh was short-levied. Details are given on the next page :

(Rupees in lakh)

Sl. No.	Name of office	Year	M.G.Q. fixed (in lakhs of litres)	Quantity lifted (in lakhs of litres)	Lifting in excess of M.G.Q. (in lakhs of litres)	Additional duty realisable	Additional duty realised	Additional duty short-realised
1.	D.E.O., Pilibhit	1993-94	14.00	17.00	3.00	33.00	3.00	30.00
2.	D.E.O., Firozabad	1993-94 1994-95	13.00 16.50	15.00 21.50	2.00 5.00	22.00 55.00	2.00 5.00	20.00 50.00
3.	D.E.O., Agra	1994-95	49.79	59.79	10.00	110.00	10.00	100.00
4.	D.E.O., Haridwar	1994-95	14.09	19.09	5.00	55.00	5.00	50.00
Total						275.00	25.00	250.00

On this being pointed out in audit, the Department stated that though no amendment has been made in the Act/Rules, the M.G.Q. had been increased by Government in the middle of the excise year on the basis of proposal sent by the Collectors and recommendations made by the Excise Commissioner and duty was charged accordingly. Reply of the Department is not tenable as the M.G.Q. cannot be increased in the middle of the excise year.

The matter was reported to the Government (September 1995 and November 1996); their reply has not been received (October 1997).

3.4 Non-realisation of licence fee

Under the Uttar Pradesh Foreign Liquor Bonded Warehouse Rules, 1983 read with the U.P. Excise Act, 1910 and the Rules made thereunder, Excise Commissioner may grant a

licence to a person, firm or company, which is manufacturer of foreign liquor to establish and run a foreign liquor bonded warehouse, for receipt and storage of bottled liquor, imported without payment of duty, into Uttar Pradesh from any place within the Indian Union as approved by the Government of Uttar Pradesh. The foreign liquor so stored in the bonded warehouse may either be sold on payment of duty to the wholesale vendors of foreign liquor or issued in bond to any other bonded warehouse in the State. The licence

Irregular storage of beer in a distillery at Lucknow resulted in loss of licence fee of Rs. 20 lakh.

is granted on payment of Rs. 5 lakh as licence fee for the period not exceeding one year following the date of grant of licence but ending on 31 March. Such a licence may be renewed year to year on payment of annual licence fee of Rs. 5 lakh.

During audit of a brewery at Ghaziabad, it was noticed (November 1995) that Excise Officer of the brewery granted passes permitting issue of duty-paid beer manufactured by this brewery for storage in a distillery at Lucknow which was irregular. This resulted in loss of licence fee amounting to Rs. 20 lakh as a separate licence for this purpose was required to be obtained in the name of the distillery at Lucknow for the years 1992-93 to 1995-96.

On this being pointed out in audit, the Excise Commissioner intimated (June 1997) that orders for deposit of the required licence fee have since been issued (March 1997). The report on recovery has not been received (October 1997).

The matter was reported to the Government (September 1996); their reply has not been received (October 1997).

3.5 Short-levy of excise duty due to non-adoption of actual strength of Indian made foreign liquor

Under the Uttar Pradesh 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 prescribed strength of whisky, brandy and rum is 25 degree under proof (42.8 per cent volume by volume). The duty is chargeable per litre of alcohol contained in the Indian made foreign liquor in sealed and capsuled bottles.

During audit of a distillery at Lucknow, it was noticed (February 1996 and February 1997) that 97.30 lakh bulk litres of IMFL were manufactured and issued during the period from March 1995 to January 1997. The labels affixed on the bottles indicated the alcoholic content of whisky, brandy and rum as 25 degree 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 42.9 per cent volume by volume (as per records of the distillery),

which exceeded the prescribed strength by 0.1 per cent volume by volume. Levy of excise duty on the basis of prescribed strength instead of on the actual apparent strength indicated by the hydrometer resulted in short-levy of duty amounting to Rs. 4.16 lakh.

On this being pointed out in audit (February 1996), the Department stated that the bottling of I.M.F.L. was done under the provisions of Rule 805 of the U.P. Excise Manual Volume 1 which envisaged the allowance of 0.5 degree while proving the strength of liquor. The reply of the Department is not tenable because as per provisions in the Rule, excise duty is leviable on apparent strength (actual alcoholic content).

The matter was reported to the Government (June 1996 and April 1997); their reply has not been received (October 1997).

3.6 Non-levy of interest on belated payments

Under the provisions of the U.P. 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 such excise revenue becomes 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 the date of amendment, interest at the same rate is required to be charged from 29 March 1985.

During audit of two District Excise offices (Meerut and Deoria) it was noticed (January 1996 and February 1996) that interest amounting to Rs. 2.32 lakh on the belated payment was not levied and realised though the payments were made after delay of 39 to 129 months.

The matter was reported to the Department and Government (May 1996 and November 1996); their replies have not been received (October 1997).

3.7 Non-levy of excise duty on transit wastage of spirit

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

bottles or pouches under bond within the State. Full excise duty is realisable on the transit wastage of spirit in such cases.

During audit of a distillery at Nand Ganj (Ghazipur), it was noticed (August 1996) that excise duty on transit wastage of country spirit amounting to Rs. 3.17 lakh at the rate of Rs. 33.33/32.00 per alcoholic litre (5360.5 alcoholic litres of spiced and 4311.7 alcoholic litres of plain spirit) fit for human consumption, shown to have occurred in transit while being transported in pouches under bond from the distillery to different bonded warehouses during the years 1993-94 and 1995-96, was not realised.

On this being pointed out in audit, the officer-in-charge of the distillery intimated (May 1997) that the entire excise duty of Rs. 3.17 lakh on transit wastage has since been recovered.

The matter was reported to the Department and Government (November 1996); their replies have not been received (October 1997).

3.8 Loss of revenue due to application of incorrect rate of export duty

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

During audit of a distillery at Raja-Ka-Sahaspur (Moradabad), it was noticed (March 1996) that the distillery, during the period between May 1995 and March 1996, exported out of Uttar Pradesh 1.38 lakh alcoholic litres of plain spirit of the strength below 60 degree overproof (60 per cent to 65.1 per cent volume by volume) which is categorised as country liquor. On the export of the above spirit, duty at the rate of Rs. 7 per alcoholic litre was realised against the correct rate of Rs. 8 per alcoholic litre. This resulted in loss of revenue of Rs. 1.38 lakh.

The matter was reported to the Department and Government (May 1996 and reminder issued in February 1997); their replies have not been received (October 1997).



Chapter IV

Taxes on Vehicles, Goods and Passengers

Chapter IV

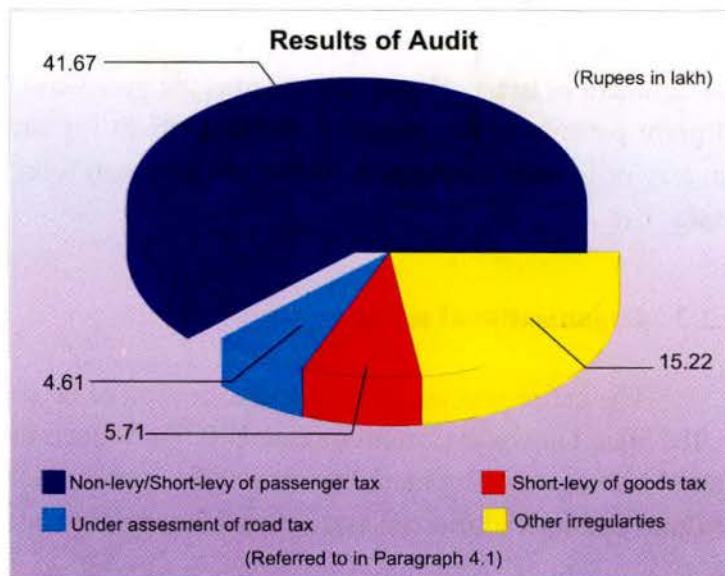
Taxes on Vehicles, Goods and Passengers

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Taxes on Vehicles, Goods and Passengers

4.1 Results of audit

Test check of the records of various offices of the Transport Department, conducted in audit during 1996-97 revealed short-levy or non-levy of taxes/fees amounting to Rs. 67.21 lakh in 91 cases which broadly fall under the following categories :



(Rupees in lakh)

Sl. No.		Number of cases	Amount
1.	Non-levy or short-levy of passenger tax/additional passenger tax	35	41.67
2.	Under-assessment of road tax	15	4.61
3.	Short-levy of goods tax	8	5.71
4.	Other irregularities	33	15.22
Total		91	67.21

During the year 1996-97, the Department accepted under-assessments etc. of Rs. 28.55 lakh involved in 44 cases, of which 25 cases involving Rs. 21.29 lakh had been pointed out in audit in 1996-97 and the rest in earlier years. Of these a sum of Rs. 4.53 lakh has been recovered. A few illustrative cases and two reviews highlighting important observations involving Rs. 244.75 crore are given in the succeeding paragraphs:

4.2 National Permit Scheme and Bilateral Agreement

4.2.1 Introduction

With a view to expedite the economic development of the country by encouraging long distance inter-state travel and transport of goods by road, the States were allowed to enter into bilateral agreements with other States on a reciprocal basis. A National Permit Scheme under the provision of Motor Vehicles Act, 1988 was introduced by the Government of India. Under this scheme, the States and Union territories are authorised to grant permits to the owner of public carriers for carriage of goods throughout the country or in such contiguous States not less than four in number including the home State.

4.2.2 Organisational set-up

The entire process of levy and collection of taxes is administered and monitored by the State Transport Commissioner, U.P. The State is divided into 17 Transport regions and 43 sub-regions. Regional Transport Officers and Assistant Regional Transport Officers (Administration) administer and manage the regions and sub-regions respectively.

4.2.3 Scope of audit

With a view to assess the performance and compliance of provisions of the Acts, Rules, and orders regarding bilateral agreement and National Permit Scheme, the records of the Transport Commissioner Lucknow, U.P., along with 6 Regional Transport Offices* and 4 Assistant Regional Transport Offices** located at the borders of the State for the period from 1991-92 to 1996-97 were test-checked (October 1996 to May 1997).

4.2.4 Highlights

- (i) Despite instruction issued by Government of Uttar Pradesh to increase the rate of composite fee with effect from 1st August 1994 from Rs. 3,000 to Rs. 5,000, the Transport Commissioner, Lucknow, continued to accept the fees at the lower rate as collected by different States resulting in short realisation of Rs. 53.26 crore.

(Paragraph 4.2.7 (i))

* R.T.O. Jhansi, Lucknow, Ghaziabad, Gorakhpur, Dehradun and Agra

** A.R.T.O. Mathura, Muzaffarnagar, Saharanpur and Mirzapur.

- (ii) Proper records were not maintained by the Transport Commissioner's office to monitor the collection of revenue. In absence of appropriate records, correctness of the revenue due to the State and its realisation could not be ensured.

(Paragraph 4.2.5)

- (iii) In the absence of records in Transport Commissioner's office regarding reconciliation of credit with treasury figures, it was not possible to ascertain the actual deposits in Government account.

(Paragraph 4.2.7 (iv))

- (iv) Countersignature quota fixed in reciprocal agreement was not fully utilised which resulted in loss of revenue of Rs. 1.13 crore.

(Paragraph 4.2.6 (i))

4.2.5 Non-observance of Internal Control Mechanism to watch recovery of composite fee

In order to keep watch over the demand, recovery and computation of arrears and for execution of follow up action for realisation of composite fee due from other States, the department is required to maintain the details of all the

Information regarding National Permits issued by other States for operating vehicles in Uttar Pradesh was neither sent by other States nor was it ever called for by the State Transport Authority.

permits issued from time to time by other States. It was however noticed in audit that the necessary intimation regarding the National Permits issued by other States for operating vehicles in U.P. was neither given by those States nor was it ever called for by the State Transport Authority. In the absence of this basic information, the composite fee due from other States could not be determined. No action was taken by the State Transport Authority in this regard.

4.2.6 Bilateral Agreement

Government of Uttar Pradesh executed bilateral agreements with States of Madhya Pradesh, Delhi, Haryana, Himachal Pradesh, Punjab, Rajasthan and Maharashtra* which provides for the following conditions :

- (1) That long term permits issued by one State should be countersigned by the reciprocating States.

* No agreement was finalised with the Government of Bihar as complication existed regarding the issue of nationalisation of roads.

- (2) That vehicle operating under countersignature is exempt only from motor vehicle tax in the reciprocating State but not from goods tax and passenger tax.
- (3) The number of vehicles for which permits can be issued should not exceed the mutually agreed number.
- (4) That temporary permits can be issued for a period not exceeding one calendar month without reference to Transport Authority of the other States.
- (i) **Deficiencies in utilisation of quota or renewal of countersignature permits under Bilateral Agreement**

It was noticed that as against a limit of 3,000 and 225 in respect of M.P. and West Bengal respectively, only 125 and 103 permits were countersigned (till August 1996) by the State Transport Authority (U.P.). Further out of 88,316

and 454 permits pertaining to Haryana, Delhi, and Punjab respectively having expired, only 41, 36 and 12 were renewed. Non-utilisation of full quota and non-renewal of countersignature permits resulted in non-realisation of countersignature fee of Rs. 1.13 crore.

Non-utilisation of full quota and non-renewal of counter signature permits resulted in non-realisation of counter signature fee of Rs. 1.13 crore.

Department replied that no applications were received from other States to issue countersignature permits. The reply was not tenable as no efforts were ever made by the Transport Commissioner, to obtain the applications by reporting to concerned States quota availability.

(ii) **Short realisation/non-realisation of passenger/goods tax**

Passenger tax is leviable in Uttar Pradesh in respect of stage carriages on the basis of fare charged for the journeys performed and number of trips allowed or expected to be made within the territories of Uttar Pradesh and goods tax on the basis of authorised pay load in respect of goods vehicles.

In respect of 5 routes, distance/trips for the purpose of levy/collection of passenger tax were taken less than provided in bilateral agreements. This resulted in short-levy of passenger tax to the tune of Rs. 0.19 crore.

- (a) In respect of five routes* distance/trips for the purpose of levy/collection of

* (1) Muzaffarnagar-Karnal, (2) Haridwar-Rohtak, (3) Mahoba-Gwalior via Naugaon, Mauranipur-Jhansi, Datia-Dabra, (4) Varanasi-Jabalpur via Rewa, (5) Mirzapur-Rewa via Hanumana.

passenger tax were taken less than provided in bilateral agreements. This resulted in short levy of passenger tax to the extent of Rs. 0.19 crore for the period falling between June 1996 and March 1997.

On this being pointed out, the Department replied that passenger tax is calculated on the basis of distance mentioned in their records and trips actually performed by the vehicles. The reply was not tenable as the distance and the trips provided in the agreement have to be taken into account.

- (b) In respect of 342 public carriers registered in Madhya Pradesh, Punjab, Delhi and Haryana plying in Uttar Pradesh under countersigned permits, goods tax was paid partly by the operators instead of for the entire period of validity (April 1992 to December 1996) to the respective Regional Transport Officers. The Department did not take any action to assess and raise demands for recovery of goods tax of Rs. 0.48 crore for the said period.

Partial payment of goods tax by operators in respect of 342 public carriers resulted in short recovery of tax amounting to Rs. 0.48 crore.

The Department in its reply stated (June 1997) that the recoveries would be effected.

- (iii) According to a notification of the Government issued in March 1980, passenger tax at the rate of Rs. 240 per day in respect of ordinary buses is payable by the operators of other States plying their vehicles on temporary permits. It was noticed in audit that the owners of the 368 buses paid road taxes for the period of permit (14 days), but they did not pay passenger tax amounting to Rs. 12.36 lakh for the period falling between July 1995 and May 1996 at all as no drafts were received with forwarding letters.

- (iv) Scrutiny of records in Transport Commissioner's office revealed that neither copies of temporary permits had been received from other States nor called for by the department to verify the correctness of taxes paid.

Copies of temporary permits had neither been received from other States nor called for by the department to verify the correctness of taxes paid.

The Department stated in its reply that necessary action would be taken to procure copies of permits from other States.

4.2.7 National Permit Scheme

The Motor Vehicles Act, 1988 and Rules made thereunder provide for issue of National Permits.

For the issue of a National Permit, intending operators are required to pay the home State the prescribed authorisation fee (Rs. 500 per annum). A composite fee is also required to be paid to the State in which permission to operate the vehicle is granted. In addition, a permit holder is also required to pay taxes and fees, if any, levied by the home State. The composite fee is received/collected by home State and remitted to the concerned State through bank draft. Test check of record by audit revealed the following:

(i) Short realisation of composite fee

Government of U.P. issued a notification in July 1994 raising the composite fee with effect from 1 August, 1994 from Rs. 3,000 to Rs 5,000 per goods carriage per annum or part thereof in respect of goods carriers authorised to ply in Uttar Pradesh covered under the National Permit Scheme.

Bank drafts numbering 52134 received at pre-revised rates from other States/Union Territories resulted in short realisation of Rs. 36.84 crore. Late fee amounting to Rs. 16.42 crore was also not levied.

It was, however, observed in audit that 52,134 bank drafts were received in the Office of the Transport Commissioner, Lucknow at old/different rates from other States/ Union Territories on account of composite fee for the period from August 1994 to December 1996 resulting in short realisation of Rs. 36.84 crore.

Further, in case of non-payment of these amounts, a sum of Rs. 16.42 crore (at the rate of Rs. 100 per month or part thereof) was also leviable as late fee. No efforts were made by Transport Commissioner, Lucknow to recover the deficit payment of composite fee/late fee.

On this being pointed out, the Department intimated that the short recovery of composite fee would be made good from all the parties concerned.

(ii) Deficiencies in renewal of authorisation of National Permit

Under the Motor Vehicles Act, 1988 a permit other than a temporary or special permit shall be effective without renewal for a period of five years. As per Rule 87(3) of the Central Motor Vehicles Rules, 1989 the period

of validity of an authorisation shall not exceed one year at a time. This authorisation is a continuous process unless the permit expires or is surrendered by the owner.

Deficiencies in renewal of authorisation of National Permits involved Rs. 8.19 crore out of which Rs. 0.16 crore related to Uttar Pradesh.

It was noticed (December 96 March 97) that in 1,273 cases of permit holders, no authorisation was got renewed by permit holder on expiry of validity period falling between October 1991 to December 1996. Though no papers regarding non-use of vehicles were surrendered by them the Department had not taken any action in this regard. Total revenue involved in these cases amounted to Rs. 8.19 crore out of which Rs.0.16 crore relate to the home State. No register for watching receipts of composite fee was being maintained by the Transport Commissioner, U.P., Lucknow.

On this being pointed out in audit, the Department stated that notices are being issued requiring the National Permit holders to get their authorisation renewed after payment of prescribed fee.

(iii) Non-levy of late fee on belated payments of composite fee

In accordance with notification dated 29.7.94 issued by the Government of U.P. in the case of non payment of composite fee on due date, a sum of Rs. 100 shall be charged from the National Permit holder as late fee for each month or part thereof.

A test-check of forwarding letters received with Bank Draft in the office of Transport Commissioner, U.P., Lucknow revealed that in most of the cases the period of validity of permit was not indicated at all. As such it was not possible to ensure whether composite fee was deposited on due date. The Department did not make any effort to ascertain the validity period of permits and to ensure the payment of composite fee on due dates. However, in as many as in 2077 cases, late fee amounting to Rs. 2.20 lakh for delayed payment was not realised during 1995 and 1996.

On this being pointed out, the Department assured to effect the recoveries.

(iv) Non-accounting of receipts, issue and disposal of bank drafts of composite fee

As per provisions of the Financial Handbook Volume V, all demand drafts as and when received should be entered in a register of bank drafts in the prescribed form and their disposal to be watched like cash.

A test check of the records of Transport Commissioner revealed (November 1996) that no such register was maintained for watching the receipts and disposal of bank drafts received from other States. In fact, bank drafts received from other States are handed over to Bank of Baroda, Lucknow by the Central Pool Section and thereafter no follow up action to ensure their credit in the Government Account is taken at all. Periodical reconciliation of credit with treasury records is also not carried out. As a result, 583 bank drafts involving Rs. 1.38 crore for the years 1994-95 and 1995-96 remained unsettled (October 1997). Records for years 1992-93, 1993-94 and 1996-97 (till October 1996) were not made available to audit.

(v) Short receipt of bank drafts

As against 295 drafts amounting to Rs. 6.54 lakh remitted by State Transport Authority, Rohtak in March 1996, only 152 drafts amounting to Rs. 3.24 lakh were received with forwarding letter in the Transport Commissioner's office, Lucknow on 8.3.96. 143 drafts amounting to Rs. 3.28 lakh were not received with forwarding letters.

No action to trace them had been initiated so far (October 1997) by the Department resulting in loss of Rs. 3.28 lakh to the Government.

4.2.8 Investigative finding of systemic deficiency

Temporary permits may be issued by other State Governments/Union Territories for plying of vehicles in Uttar Pradesh on reciprocal basis. There is no exemption from payment of any tax on vehicles plying under temporary permits (except in cases of temporary permits issued to tourist vehicles under Section 88(6)

of Motor Vehicles Act, 1988) leviable in Uttar Pradesh. Before September 1993, the tax leviable in U.P. was to be collected on a reciprocal basis by the other State Governments/

Due to abolition of border check-posts, State Government was deprived of Rs. 3.74 crore as passenger/goods tax during 1994-95 to 1996-97.

Union Territories at the time of issue of the temporary permits in the shape of bank drafts which were supposed to be handed over by the permit holders to the Transport Authorities at the check-posts established by U.P. Government at its borders.

With a view to checking the correctness of the taxes remitted by the other States/ Union Territories, their transport authorities were required to furnish copies of temporary permits to the Regional Transport Officers having jurisdiction over the check-post concerned. On abolition of check-posts with effect from September 1993, these copies were to be furnished to the Transport Commissioner, directly.

A test-check of records of State Transport Authority, Delhi conducted in December 1996 and January 1997 revealed a major systemic deficiency. In absence of check-posts of Transport Authorities at U.P. borders, the U.P. Government intimated Delhi Transport Authority to directly remit bank drafts to the office of the Transport Commissioner, Lucknow. However, at Delhi, it was found that the permits were issued without obtaining bank drafts and permit holders were directed to deposit the tax at U.P. border in contravention of the provisions of the agreement. During audit of RTO Ghaziabad, it was noticed that as a result of the enforcement activities of the Mobile Squads of the Transport Department Rs. 119.62 lakh, Rs. 131.59 lakh and Rs. 144.90 lakh were collected in 1994-95, 1995-96 and 1996-97 respectively (Total Rs. 396.11 lakh*) as compared to Rs. 256.83 lakh collected at check-post in 9 months alone in 1993-94 (upto December 1993). Despite this concerned authorities neither got alerted nor, took steps to correct the new mechanism which was practically leading to foregoing of substantial revenues.

Further, an examination of the records of Transport Commissioner U.P., revealed that no bank drafts were received from State Transport Authority, Delhi on account of special temporary permit for the period from September 1993 to March 1997. It is therefore evident that no passenger/goods tax was deposited at the borders of U.P. or in the office of the Transport Commissioner, U.P. by these vehicles due to absence of border check posts. Thus, the Uttar Pradesh Government was deprived of passenger and goods tax amounting to Rs. 3.74 crore during 1994-95 to 1996-97.

On this being pointed out in audit, the Department replied that the abolition of check posts had adversely affected the revenue collection. Moreover, cheek posts have been reinstalled as Tax Collection Centres with effect from 28 February 1997.

* Based on the trend in 1993-94, possible collection of tax from 1994-95 to 1996-97 should have been Rs. 770.49 lakh.

The cases were reported to Department and Government (September 1997); their replies have not been received (October 1997).

4.3 Growth in collection of Road Tax/Motor Vehicles Tax with reference to increase in sale of Motor Vehicles and correlation between potential Motor Vehicles Tax and actual collection

4.3.1. Inadequate control over registration of vehicles

Under Motor Vehicles Act, 1988 and Rules made thereunder, no trade certificate holder (dealer) can deliver any motor vehicle to a purchaser without temporary or permanent registration. No person shall drive any motor vehicle and no owner of a motor vehicle can cause or permit a vehicle to be driven in any public place or in any other place unless the vehicle is registered. In case of failure on the part of the dealer to get the vehicle registered before its delivery to the purchaser, the trade certificate of the dealer is liable to be cancelled.

Out of 405826 light vehicles (two wheeler and cars) sold by Trade Certificate holders (dealers) during 1994-95 and 1995-96, only 355737 vehicles were registered in the Transport Department as indicated in Annexure-I. Thus, due to less registration of 50089 vehicles, the Government was deprived of Rs. 23.32 lakh and one time tax (Road Tax) of Rs. 6.81* crore respectively.

In reply to audit query, the department stated that registration fees shall be realised and the vehicles registered only on receipt of application from the owners of vehicles.

Government was deprived of revenue of Rs. 7.04 crore in the form of registration fee and road tax due to inadequate control over registration of vehicles.

The reply is not tenable on the ground that the responsibility of registration of the vehicle rests with the Trade Certificate Holder (dealer) as required under Rule 42 of the Central Motor Vehicles Rules, 1989. Further, the department's reply was silent as regards action initiated, if any, to strengthen the administrative machinery to avoid such major lapses.

* For motor cycle Rs. 750 to 800, for moped Rs. 350 to 450, for cars Rs. 2500 to 3000

In reply to audit query, the Transport Commissioner's office stated that under Section 44, action can be taken against the concerned dealers but as the responsibility of getting the registration rests with the owners of the vehicles, any action taken under Section 44 shall have no meaning.

4.3.2 Loss of passenger tax

Under the Uttar Pradesh Motor Gadi (Yatrikar) Adhiniyam, 1962 and the rules framed thereunder, passenger tax at the prescribed rate of 16 per cent is leviable on the fare payable to the operator by a passenger in respect of his journey in the State by a stage carriage. The tax is collected by the operator and paid to the State Government. The State Government may accept or agree to accept a lump sum amount in lieu of the amount of tax that may be payable by the operator. Further, lump sum agreement depends on the total fare normally payable for the entire route on which the stage carriage plies, number of one way trips allowed or expected to be made by the stage carriage during a particular period and on the authorised load factor (occupancy ratio seats).

During test check of the office of the Transport Commissioner, it was noticed (May 1997) that 22131 buses and 5164 mini buses in 1994-95; 21094 buses and 4922 mini buses in 1995-96 were stated to be on the road. Against the potential revenue (passenger tax) of Rs.317.23 crore pertaining to the years 1994-95 and 1995-96 in respect of on road vehicles based on minimum factors* only Rs. 249.28 was realised. This resulted in loss of revenue of passenger tax amounting to at least Rs. 67.95 crore.**

Loss of revenue of passenger tax amounted to Rs. 67.95 crore on account of defective lump sum agreement.

The department in reply to the audit query confirmed the correctness of the number of vehicles which according to audit were plying on road and stated that passenger tax is levied only on those vehicles which are covered with road permit. The reply of the department is vague and does not offer any convincing explanation for not collecting passenger tax in respect of vehicles plying on road. It neither states the number of vehicles plying without permits nor does it indicate the measures adopted to collect the entire passenger tax due.

* Minimum factors :

Minimum load factors (75%); Distance to be covered (150 km); Route (Special class or A) Taxable seats - Buses: 50 seats; Mini Buses: 12 seats.

** Excluding information relating to 4 regions viz. Lucknow, Agra, Aligarh and Jhansi for the year 1995-96.

4.3.3 Unauthorised retention of passenger tax

According to Financial Handbook Vol. V all revenue realised should be remitted into the treasury or bank without undue delay. Under Motor Gadi (Yatrikar) Niyamawali, 1962 the passenger tax collected by the operator for any month is payable on or before 15th day of the immediately succeeding month.

The Uttar Pradesh Road Transport Corporation realised Rs. 101.11 crore as passenger tax during the period from 1991-92 to 1996-97, but it was not remitted into the treasury till

the date of audit (May 1997). Thus, due to non-observance of prescribed procedure, an amount of Rs. 101.11 crore remained out of Government account. The balance sheet for the year 1996-97 of U.P.S.R.T.C. is under finalisation (November 1997). However, the outstanding passenger tax has been shown in their books of accounts as liability as confirmed by U.P.S.R.T.C.

Due to non-observance of prescribed procedure over retention of passenger tax, an amount of Rs. 101.11 crore remained out of Government account.

The matter was reported to Department and Government (October 1997); replies were awaited (November 1997).

4.4 Non-assessment of passenger tax in respect of contract carriages

Under the Uttar Pradesh Motor Gadi (Yatrikar) Adhiniyam, 1962 and the Rules made thereunder, 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 having option to pay passenger tax either on way bill (on the basis of actual amount of tax collected) or on lump-sum basis. 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 covered during a month. It has been further provided that the fare to be reckoned for levy of passenger tax shall not be less than 85 per cent of the maximum rate prescribed under the Motor Vehicles Act, 1988 and the distance expected to be covered in a month shall not be less than 4000 kilometres.

- (i) During audit of 4 Regional/Sub-Regional offices, it was noticed (between July 1996 and February 1997) that the passenger tax was assessed neither on way bill basis nor on lump-sum basis. This resulted in non-realisation of revenue amounting to Rs.5.95 lakh as detailed on the next page :

Taxes on Vehicles, Goods and Passengers

(Rupees in lakh)

Sl. No.	Name of office	No. of vehicles	Period	Amount
1.	Sub-regional Office, Azamgarh	13	February 1996 to July 1996	1.02
2.	Sub-regional Office, Raebareli	4	March 1995 to October 1996	2.60
3.	Sub-regional Office, Bhadohi	1	April 1995 to November 1996	1.59
4.	Regional Transport Office, Agra	2	January 1994 to June 1996	0.74
Total		20		5.95

The matter was reported to the Department and Government (between September 1996 and May 1997); their replies have not been received (October 1997).

- (ii) During audit of the Sub-Regional Transport Office, Unnao, it was noticed (May 1996) that 9 stage carriages carrying passengers on hire during various periods from August 1994 to December 1995 were found by Assistant Regional Transport Officer (Enforcement) to be plying without permits. Passenger tax was not assessed by the Department on such vehicles even for the month in which these vehicles were detected plying without permits. This resulted in non-levy of tax of Rs. 73,899.

On this being pointed out in audit, the Department replied (January 1997) that notices were issued to the owners of the motor vehicles. Report on recovery of the tax has not been received (October 1997).

The matter was reported to the Government (September 1996 and again in January 1997); their reply has not been received (October 1997).

4.5 Short-realisation of passenger tax

- (a) Under the Uttar Pradesh Motor Gadi (Yatrikar) 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.

During audit of Sub-Regional Office, Rampur, it was noticed (December 1995) that as per the survey report of Assistant Regional Transport Officer (Enforcement) the fares for Rampur Patawai, Rampur-Shahabad, Rampur-Chandausi and Shahabad-Chandausi were being charged at Rs. 4.50, Rs. 10, Rs. 18 and Rs. 7 (including taxes) respectively by the operators of Rampur-Shahabad-Chandausi route. The net fares worked out to Rs. 3.75, Rs. 8.50, Rs. 15.35 and Rs. 6.75. However, the assessment and realisation of passenger tax in respect of sub-route Rampur-Shahabad was made at Rs. 8.10, instead of Rs. 8.50, and in respect of sub-route Rampur-Chandausi at Rs. 15.10 instead of Rs. 15.35 during the period from June 1994 to December 1995. This resulted in short-realisation of revenue amounting to Rs. 68,079.

The matter was reported to the Department and Government (December 1996); their replies have not been received (October 1997).

- (b) 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 passengers carried by a stage carriage is leviable in respect of their 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 each passenger carried in a stage carriage. By a notification dated 8 June, 1994, the State Government fixed the minimum rate of fare in respect of the stage carriages with the provision that the fare would be rounded off to nearest multiple of fifty paise including the amount of passenger tax, additional passenger tax, insurance and surcharge. The passenger tax and the surcharge are to be rounded off to the nearest paise.

During audit of Regional Transport Office, Lucknow, it was noticed (January 1996) that the Regional Manager, U.P. State Transport Corporation, Lucknow had fixed (June 1994) the fare for Lucknow-Mahmoodabad route at Rs. 13.50 including taxes and surcharge. The net fare worked out to Rs. 12.80 instead of Rs. 11.45 adopted by the department. This resulted in short-levy of passenger tax and surcharge amounting to Rs. 1.01 lakh for the period from June 1994 to January 1996.

On this being pointed out in audit (January 1996), the Regional Transport Officer, Lucknow stated (March 1997) that the whole amount has since been recovered during March 1996 to February 1997.

The matter was reported to the Department and Government (November 1996); their replies have not been received (October 1997).

4.6 Irregular exemption of passenger tax

By a notification dated 30 September, 1962, stage carriages owned by recognised educational institutions have been exempted from payment of passenger tax.

During audit of Sub-Regional Transport Office, Siddharthnagar it was noticed (October 1996) that a vehicle with seating capacity of 23 seats and registered as school bus in the name of President, Madarsa Issa Siddiqui, Madhuwara, was being used to carry children from their residence to the Madarsa and back. The recognition certificate of the institution was, however, not produced at the time of registration. Hence, they were not entitled for exemption. This resulted in non-levy of passenger tax amounting to Rs. 51,865 for the period from 12 March, 1996 to 24 October, 1996.

The matter was reported to the Department and Government (May 1997); their replies have not been received (October 1997).

4.7 Short-realisation of revenue due to non-assignment of registration mark

Under the Motor Vehicles 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 with a fee of Rs. 300 per vehicle in case of heavy vehicle and Rs. 100 per vehicle for light vehicle, in the prescribed form to the registering authority, within whose jurisdiction the vehicle is kept, for assignment of a new registration mark. If he fails to do so, the registering authority may take penal action against him.

During audit of the Regional Transport Office, Kanpur (City), it was noticed (August 1996) that 192 heavy vehicles registered in other States arrived in Uttar Pradesh with "No objection certificate" between January 1988 and June 1994 and were registered in Regional Transport office, Kanpur (City) for the purpose of payment of taxes. Road Tax from such vehicles was continuously assessed and realised. However, no action to assign registration mark of Uttar Pradesh after realisation of prescribed fees, was taken by the department, although the vehicles had been plying in the State for more than twelve months and six of them had already left the State without getting new registration mark. This resulted in short-realisation of revenue amounting to Rs. 55,800.

The matter was reported to the Department and Government (February 1997); their replies have not been received (October 1997).

4.8 Irregular grant of certificate of fitness

Under the provisions of the Motor Vehicles Act, 1988 and the Central Motor Vehicles Rules, 1989, no vehicle is deemed as validly registered unless a certificate of fitness is granted by the Motor Vehicle Department or by the authorised testing stations and a tax clearance certificate produced by the owner of the vehicle.

During audit of the Regional Transport office, Kanpur (City), it was noticed (July 1995) that certificates of fitness were issued on different dates between 5 September, 1992 and 6 September, 1994 in respect of three contract carriages, the owners of which had not paid passenger tax amounting to Rs. 2.24 lakh for the period from September 1992 to December 1994. This resulted in irregular grant of certificates of fitness.

On this being pointed out in audit, the Department intimated (March 1997) that the entire amount was recovered between November 1995 and March 1997. However, no reasons for irregular grant of certificates of fitness were stated by the Department.

The matter was reported to the Government (November 1996); their reply has not been received (October 1997).

Annexure

ANNEXURE

I

(Referred to in Paragraph 4.3.1)

Year	No of vehicles				Difference		Money value in Rs.	
	Sold		Registered		Two	Car	Two	Car
	Two	Car	Two	Car	Wheeler		Wheeler	
	Wheeler		Wheeler					
1994-95	171020	14825	168257	9957	2763	4868	82890	486800
1995-96	199818	20163	164344	13179	35474	6984	1064220	698400
						Total	1147110	1185200
Grand Total							2332310	

ANNEXURE II

(Referred to in Paragraph 4.3.1)

Year	Name of vehicles	No. of vehicles		Difference	Rate of tax	Amount
		Sold	Registered			
1994-95	Motor cycle	46490	168257	2763	850	2348550
	Scooter	101652	-----	-----	-----	-----
	Moped	22878	-----	-----	-----	-----
	Cars	14825	9957	4868	3000	14604000
1995-96	Motor cycle	58665	164344	35474	850	30152900
	Scooter	114107	-----	-----	-----	-----
	Moped	27046	-----	-----	-----	-----
	Cars	20163	13179	6984	3000	20952000
Total				50089		68057450

Chapter V

Stamp Duty and Registration Fees

Chapter V

Stamp Duty and Registration Fees

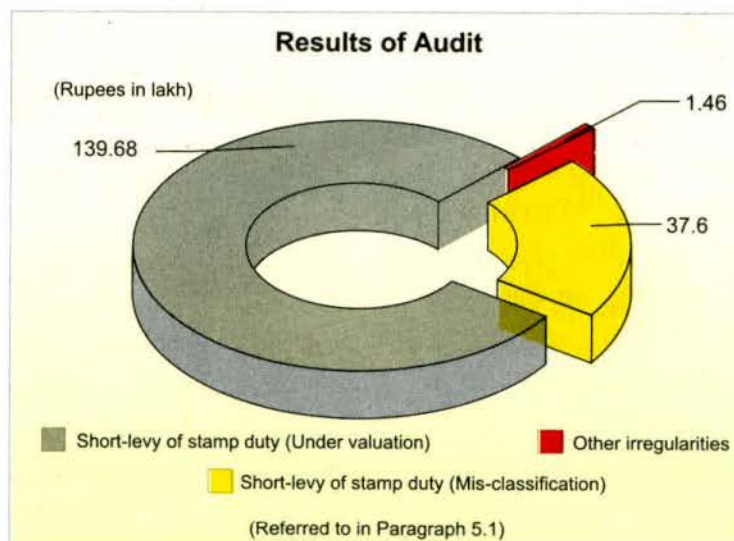
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Stamp Duty and Registration Fees

5.1 Results of audit

Test check of records of District Registrars, Sub-Registrars and District Stamp Officers, conducted in audit during the year 1996-97, revealed short-levy of stamp duty and registration fee amounting to Rs. 178.74 lakh in 217 cases which broadly fall under the following categories :



(Rupees in lakh)

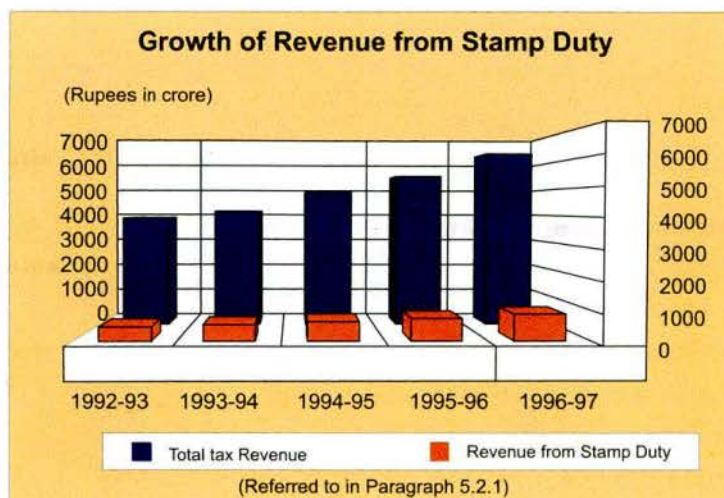
Sl.No.		Number of cases	Amount
1	Short-levy of stamp duty and registration fee due to undervaluation of properties	200	139.68
2.	Short-levy of stamp duty due to mis-classification of documents	10	37.60
3.	Other irregularities	7	1.46
Total		217	178.74

During the year 1996-97, the Department accepted under-assessment etc. of Rs. 67.89 lakh involved in 186 cases pointed out in audit in 1996-97. A few illustrative cases and two reviews highlighting important observations involving Rs. 102.26 crore are mentioned in the paragraphs on next pages :

5.2 Deficiencies in valuation of buildings for levy of stamp duty and pendency of stamp cases

5.2.1 Introduction

Stamp law is a fiscal law which imposes a tax on instruments for the purpose of revenue known as stamp duty. Different instruments are chargeable to stamp duty under the Indian Stamp Act, 1899. An instrument of conveyance is chargeable to stamp duty on the value of consideration set forth in the document or the market value of the property, whichever is higher. The market value is fixed by the Collector for different localities and is notified for the guidance of registering authorities biennially. In cases of under valuation, registering authorities initiate action under Section 33 and/or 47-A of the Indian Stamp Act, 1899.



Stamp duty is one of the principal sources of revenue of the State as indicated in the table below :

(Rupees in crore)

Years	Total tax revenue of the state	Revenue from stamp duty	Percentage of stamp duty to total tax revenue
1992-93	3886.34	460.47	11.84
1993-94	4132.00	531.62	12.86
1994-95	4878.32	631.54	12.94
1995-96	5468.92	734.78	13.43
1996-97	6305.97	875.06	13.87

5.2.2 Organisational Set-Up

The Inspector General of Registration is the organisational head of the Registration Department. He also discharges the function of Joint Secretary, Board of Revenue, Uttar

Pradesh. The Additional District Magistrates (Finance and Revenue) have been designated as District Registrars as well as District Stamp Officers and they exercise the powers of Collector of Stamps. The I.G. Registration is assisted by Sub-Registrars at each Registration Sub-District i.e. Tehsil. The Collector and other officers designated by the State Government under Section 2(9) as Collectors of Stamps decide on cases of deficient stamp duty when referred to them by the Sub-Registrars for determination of actual market value of the subject matter of instruments and proper duty payable thereon.

5.2.3 Scope of Audit

A review of the system of determination of market value of buildings and pendency of final valuation of instruments for the purpose of levy of stamp duty for the year 1992-93 to 1996-97 was conducted during the period October 1996 to May 1997 and out of 159 offices comprising Sub-Registrars and District Stamp Officers, situated at district headquarters, 69 offices were test checked. The results are contained in paragraphs below.

5.2.4 Highlights

- (i) Stamp duty amounting to Rs. 99.36 lakh was short-levied due to non-disclosure of facts affecting stamp duty.

(Paragraph 5.2.6)

- (ii) Stamp duty amounting to Rs. 17.18 lakh was short-levied due to non-valuation of land of buildings as per circle rates.

(Paragraph 5.2.7)

- (iii) Irregular remission in stamp duty amounting to Rs. 11.09 lakh was allowed to Cooperative Housing Societies.

(Paragraph 5.2.9)

- (iv) Stamp duty amounting to Rs. 84.48 lakh was short-levied due to mis-classification of documents.

(Paragraph 5.2.10)

- (v) Stamp duty amounting to Rs. 70.91 lakh was short-levied due to non-adoption of scheduled rates of construction issued by Public Works Department.

(Paragraph 5.2.11)

- (vi) Incorrect application of Rule 341 of U.P. Stamp Rules, 1942 resulted in short levy of stamp duty aggregating Rs 84.74 lakh.

(Paragraph 5.2.12)

- (vii) Additional stamp duty amounting to Rs. 1205.00 lakh was not levied at NOIDA.

(Paragraph 5.2.13)

- (viii) Determination of market value was delayed.

(Paragraph 5.2.15)

- (ix) Disposal of stamp cases was far below the target fixed by the Government.

(Paragraph 5.2.16)

- (x) Government was deprived of revenue to the tune of Rs. 57.39 lakh due to failure to initiate stamp cases within the prescribed period.

(Paragraph 5.2.17)

- (xi) Collection of Rs. 1907 lakh as stamp duty was pending on account of stay and appeals.

(Paragraph 5.2.18)

- (xii) Recovery of stamp duty amounting to Rs 3259 lakh was in arrears.

(Paragraph 5.2.19)

5.2.5 Trend of Revenue

The trend of revenue of stamp duty during the last five years was as under:

(Rupees in crore)

Year	Budget Estimates	Actuals (in crore)	Variations Increase(+) Decrease(-)	Percentage of variations
1992-93	489.78	460.47	(-)29.31	(-)6
1993-94	516.98	531.62	(+)14.64	(+)3
1994-95	588.18	631.54	(+)43.36	(+)7.3

Stamp Duty and Registration Fees

(Rupees in crore)

Year	Budget Estimates	Actuals (in crore)	Variations Increase(+) Decrease(-)	Percentage of variations
1995-96	647.66	734.78	(+)87.12	(+)13.50
1996-97	794.25	875.06	(+)80.81	(+)10.17

A. Deficiencies in valuation of buildings

5.2.6 Due to non-disclosure of facts affecting stamp duty

Under the provisions of the Indian Stamp Act, 1899 all facts and circumstances affecting the chargeability of an instrument have to be fully and truly set forth therein by the executant.

In 16 Sub-Registrars' offices it was noticed that 51 instruments relating to transfer of buildings were registered although the full and true facts were not indicated. Failure to detect deficiencies like the age of building and covered area thereof in documents resulted in the short levy of stamp duty aggregating Rs.99.36 lakh.

5.2.7 Due to non-valuation of land of buildings as per circle rates

Under Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh) stamp duty on a deed of conveyance is chargeable either on the market value of property forming the subject matter of the deed or on the value of consideration set forth therein, whichever is higher. As per U.P. Stamp Rules, 1942, market rates of various categories of land in a district are to be fixed biennially by the Collector concerned for the guidance of registering authorities.

In test check of records of 18 Sub-Registrars, it was noticed that 31 documents relating to transfer of buildings registered during the period from 1992 to 1996 in which the buildings were constructed, were not made as per circle rates fixed and notified by the Collector. As a result, stamp duty amounting to Rs. 17.18 lakh was short-levied.

Non-Valuation of land and buildings as per circle rates by 18 Sub-Registrars resulted in loss of Rs. 17.18 lakh.

5.2.8 Due to incorrect computation of lease period

Under Article 35 of Schedule I-B of Indian Stamp Act, 1899, the stamp duty on a lease or an agreement to lease is chargeable on the same rates. While computing the period of lease, the express period of lease and period of agreement to lease is to be clubbed for the levy of stamp duty.

In 9 Sub-Registrar offices 12 instruments of lease of buildings were registered in favour of certain banks and insurance companies but the Sub-Registrars had not computed the period of lease as per provisions of the Act. As a result, stamp duty amounting to Rs. 2.23 lakh was short-levied.

5.2.9 Irregular remission of Stamp Duty

According to notification dated 12th July 1990 issued by the Uttar Pradesh Government, the exemption of Stamp duty on purchase of land by Co-operative Housing Societies was withdrawn w.e.f. 15 July, 1990.

Irregular remission of stamp duty in favour of Co-operative Housing Societies resulted in loss of revenue of Rs. 11 lakh.

It was noticed that during the period from 1992-93 to 1995-96 in 3 Sub-Registrar offices 19 documents were executed in favour of Co-operative Housing Societies without charging stamp duty. This resulted in irregular grant of remission of stamp duty of Rs. 11 lakh.

5.2.10 Due to mis-classification of documents

Under the provisions of the Indian Stamp Act, 1899, the stamp duty on an instrument depends upon the real nature or substance of the transactions recorded in the instrument and not on any title, description or nomenclature given to it by the parties which execute the instrument.

In the offices of 15 Sub-Registrars, an amount aggregating Rs. 84.48 lakh was noticed to have been short-levied in 160 cases of misclassification of documents as detailed on the next page :

Stamp Duty and Registration Fees

(Rupees in lakh)

Sl.No.	Name of office	No. of Instruments Misclassified	Short levy of stamp duty	Nature of Misclassification
1.	S.R.-I NOIDA	51	12.80	Agreement to sale instead of agreement to lease
2.	S.R.-II NOIDA	41	20.79	— do —
3.	S.R.-III NOIDA	32	11.94	— do —
4.	S.R.-I GHAZIABAD	1	0.67	— do —
5.	S.R.-II GHAZIABAD	5	2.03	— do —
6.	S.R.-III GHAZIABAD	18	3.04	— do —
7.	S.R.-III KANPUR	1	16.30	Lease instead of conveyance
8.	S.R.-I BAREILLY	1	0.39	— do —
9.	S.R. MUSSOORIE	1	4.93	Release instead of conveyance
10.	S.R.-II AGRA	1	0.26	Power of Attorney instead of conveyance
11.	S.R.-I MORADABAD	1	3.99	— do —
12.	S.R.-I ALLAHABAD	2	0.92	— do —
13.	S.R.-I AGRA	1	3.29	Correction deed instead of conveyance
14.	S.R.-III MEERUT	1	0.43	Correction deed instead of lease
15.	S.R.-I AGRA	1	0.20	Agreement instead of conveyance
16.	S.R.-I MEERUT	1	2.26	— do —
17.	S.R.-III MEERUT	1	0.24	Deposit of title instead of mortgage

5.2.11 Undervaluation of buildings due to non-adoption of scheduled rates of construction

Government notification dated 3 January 1991 provided for adoption of "land and depreciated value of construction" method for determination of market value of buildings. By circular dated September 25, 1991, the Government clarified that the schedule rates of construction notified by the Public Works Department may be made the basis for valuation of construction.

Short-levy of stamp duty aggregated Rs. 70.91 lakh due to non-adoption of schedule rate of construction of buildings.

In test-check of records of 36 Sub-Registrars, it was noticed that 221 documents relating to the transfer of buildings were registered during 1993 to 1996 in which the valuation of construction in building was not made as per schedule rates of construction notified by the Public Works Department. As a result, stamp duty aggregating Rs. 70.91 lakh was short levied.

5.2.12 Due to incorrect application of Rule 341 of U.P. Stamp Rules, 1942

According to Rule 341 (iii) of U.P. Stamp Rules, 1942 for the purpose of payment of stamp duty, the minimum market value of a building shall be deemed to be not less than that arrived at on the basis of the multiples given below:-

- (a) Where the building is assessed to house tax and is occupied by the owner or is wholly or partly let out to tenants -- 25 times of the actual or assumed annual rental value, whichever is higher as the case may be.
- (b) Where the building is not assessed to house tax and is occupied by the owner or is wholly or partly let out to tenants -- 25 times of the actual or assumed annual rental value, whichever is higher as the case may be.

Due to non-application of rent fixation norms and assuming incorrect rental value of buildings stamp duty aggregating Rs. 84.74 lakh was short-levied.

The rent fixation norms as adopted in Uttar Pradesh Urban Building (Regulation of Letting, Rent and Eviction) Act, 1972* provides that 10 per cent of cost of a building

* Under section 9-2-A of Uttar Pradesh Urban Building (Regulation of Letting, Rent and Eviction) Act, 1972.

is the annual rent of the building. During audit of 36 Sub-Registrars involving 210 instruments, it was noticed that due to non-application of rent fixation norms and assuming incorrect rental value of buildings, stamp duty aggregating Rs. 84.74 lakh was short levied.

5.2.13 Non-levy of additional stamp duty at NOIDA

Under the provisions of U.P. Urban Planning and Development Act, 1973, the duty imposed by the Indian Stamp Act, 1899 on any deed of transfer of immovable property situated within the

At NOIDA, no additional stamp duty had been levied on the deeds of transfer of immovable properties which led to a loss of revenue of Rs. 12.05 crore.

area of any development authority shall be increased by two per cent on the amount of value of consideration with reference to which the duty is calculated.

During the audit of Sub-Registrars stationed at NOIDA, it was noticed that no additional stamp duty is being levied on the deeds of transfer of immovable properties situated in the developed area of NOIDA. As a result, additional stamp duty of Rs. 1205 lakh was not levied on the transfer of immovable properties registered during the period from April 1993 to December 1996. It was further noticed that the additional stamp duty (@ 2 per cent) was being levied in four revenue villages (Hasonpur-Bhavpur, Mohiuddenpur-Kanwasi, Chhajarssi and Makanpur) situated under the administrative jurisdiction of NOIDA.

On this being pointed out, the Commissioner of Stamps stated (June 1997) that reasons for non-levy of additional stamp duty at NOIDA despite being a developed area were being ascertained from the District Registrar, Ghaziabad.

5.2.14 Other points of interest

- (i) As per explanation below Section 24 of the Act, in case of sale of a property subject to mortgage or other encumbrance, any unpaid mortgage money or money charged together with interest (if any) due on the same shall be deemed to be part of the consideration for sale. During the audit of Sub-Registrar Bareilly-I and Saharanpur-II, one instrument each transferring some industrial units were registered in which property sold was under the charge of mortgage by Uttar Pradesh Financial Corporation. The unpaid mortgage money was not included as a part of consideration for sale resulting in short levy of stamp duty of Rs.1.56 lakh.

- (ii) Under Article 5(b-i) of Schedule I-B to the Act, in an agreement relating to the sale of an immovable property wherein part performance of the contract possession is admitted to have been delivered or is agreed to be delivered without executing the conveyance, the same duty as on conveyance on one half of the amount of consideration as set forth in the agreement is chargeable.

During audit of Sub-Registrar I, Allahabad it was seen that an instrument transferring a building with some open land to four persons was registered on charging stamp duty of Rs 100 only. A sum of Rs 8.10 lakh was paid against the consideration of Rs 8.35 lakh. To attract the payment of minimum stamp duty, the fact of non-delivery of possession was not established in the deed and the stamp duty amounting to Rs 0.61 lakh was short charged.

(iii) Non-maintenance of records

It was noticed that the following records required to be maintained under the Act were not being maintained in the offices detailed below :

Sl. No.	Name of office	Records not maintained	Period of non-maintenance
1.	S.R.-II Agra	Index I & II	January 94
2.	S.R.-I Agra	-do-	March 95
3.	S.R.-III Agra	(a) -do- (b) Register of references in 47-A (iv)	July 95 July 94
4.	S.R.-III NOIDA	— do —	May 94
5.	S.R.-III Meerut	Register of references in 47-A (i), (ii)	January 93
6.	S.R.-I Aligarh	Index I and II	January 97
7.	S.R.-II Allahabad	Index I and II	January 96

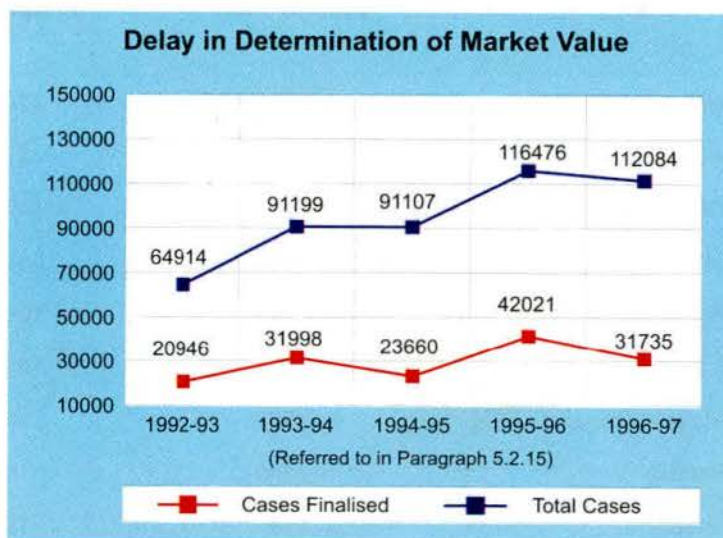
As a result, the inspecting authorities were not able to know the extract of instruments registered and the prior reference of instruments to Collector of Stamps for its valuation due to non-maintenance of Index I & II and registers of references respectively.

B. Pendency of stamp cases

5.2.15 Delay in determination of market value

Under the provisions of the Indian Stamp Act, 1899, a registering authority while registering any instrument on which duty is chargeable on the market value of the property, has reason to believe that the market value of the property which is subject matter of such instrument has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of market value of such property and proper duty payable thereon. According to Rule 349 of the U.P. Stamp Rules, 1942, documents referred to the Collector should as far as possible be adjudicated within three months.

However, it was noticed that as many as 80349 cases in 21 districts which were referred to the Collectors concerned during the years 1992-93 to 1996-97, had not been adjudicated so far, as is evident from the table given below :



Year	Opening Balance	New assessment cases referred during the year	Total	Cases finalised	Balance at close of year	Percentage of clearance (5 to 4)
1992-93	20536	44378	64914	20946	43968	32.26%
1993-94	43968	47231	91199	31998	59201	38.38%
1994-95	59201	31906	91107	23660	67447	25.97%
1995-96	67447	49029	116476	42021	74455	36.08%
1996-97	74455	37629	112084	31735	80349	28.31%

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The total number of outstanding assessments has increased by 82.74 per cent (from 43968 at the end of 1992-93 to 80349 at the end of 1996-97) during the period from 1 April 1992 to 31 March 1997. This increase is particularly disturbing in the light of the fact that the annual number of new cases due for assessment had declined in 1996-97 as compared to 1992-93.

A random test check of stamp cases showed that stamp duty amounting to Rs. 1299 lakh involved in the pending cases remained unrecovered as detailed in the table below:

(Rupees in lakh)			
Distt. Stamp Officer	Total no. of pending cases	No. of cases sampled	Extent of stamp duty involved
Dehradun	806	127	150
Agra	3081	441	188
Ghaziabad	9035	145	294
Meerut	4024	293	76
Ferozabad	3891	101	15
Rampur	2084	505	57
Muzaffarnagar	2788	374	46
Bareilly	2298	30	17
Sitapur	1169	38	10
Aligarh	1634	31	14
Moradabad	5589	248	43
Gorakhpur	4807	451	53
Bulandshahar	4079	698	118
Nainital	738	190	54
Allahabad	1850	48	25
Saharanpur	853	97	40
Haridwar	903	47	04
Azamgarh	3318	945	87
Faizabad	1417	53	08
Total	54364	4862	1299

5.2.16 Norms/quota for disposal of stamp cases

In order to ensure speedy disposal of stamp cases, the Government delegated from time to time the powers of Collector of Stamps to other officers upto the rank of Sub Divisional Officers. Further, department fixed a target of finalisation of 200 stamp cases per month by each Collector of Stamps and asked the District Stamp Officer to submit a return every month regarding disposal of stamp cases by all Stamp Collectors of districts.

The table given on the next page shows the extent of disposal in stamp cases by the Collectors of Stamp and percentage of achievement against the target :

Distt.	No. of Collectors of stamp	Disposal of stamp cases	Percentage of disposal	Period of stamp with reference to target
Kanpur	17	1878	7.89	4/96 to 10/96
Dehradun	6	565	7.85	4/96 to 9/96
Agra	12	1947	13.52	-do-
Ghaziabad	7	382	4.55	-do-
Meerut	11	2804	15.93	4/96 to 1 1/96
Ferozabad	7	294	3.50	4/96 to 9/96
Rampur	7	460	5.47	-do-
Muzaffarnagar	8	983	10.24	-do-
Varanasi	15	1507	8.37	-do-
Bareilly	9	957	8.97	-do-
Sitapur	8	424	4.42	-do-
Aligarh	13	1482	9.50	-do-
Moradabad	18	3299	15.27	-do-
Gorakhpur	12	722	5.01	-do-
Bulandshahar	8	1341	13.97	-do-
Nainital	3	92	2.55	-do-
Allahabad	11	812	6.15	-do-
Saharanpur	6	2254	31.30	-do-
Haridwar	3	625	17.63	-do-
Azamgarh	9	543	5.03	-do-
Faizabad	5	357	5.95	-do-

A perusal of the data given above would show that the disposal in the stamp cases was far below the targets fixed by the Government/Department.

On this being pointed out in audit, the Collectors replied that the target could not be achieved as they were engaged in administrative work. The reply is not tenable as the principal job of Collector of Stamps was neglected by them due to poor disposal of stamp cases as per the norms.

5.2.17 Loss of revenue due to non-instituting stamp cases within four years

Under the provisions of the Indian Stamp Act, 1899, the Collector may, on his own or on reference from any officer authorised to refer within four years from the date of registration of any instrument on which duty is chargeable on the market value of the property, not already referred to him under Sub-Section (1) or Sub-Section (2), determine the market value of such property and the duty payable thereon in accordance with the procedure provided for in Sub-Section (3).

Not instituting stamp cases within four years resulted in loss of revenue of Rs. 57.39 lakh.

A test-check in audit of records of 10* District Stamp Officers showed that in respect of 795 instruments no action was initiated by them within four years from the date of registration of the instruments referred by the registering authorities for determination of market value. Failure to initiate action within the period of four years as fixed in the Act, made the action of District Stamp Officers time-barred with the result that the Government was deprived of Stamp Duty of Rs. 57.39 lakh as indicated by the registering/referring authorities.

5.2.18 Stamp duty pending collection on account of stay and appeals

Any person aggrieved by an order of Collector regarding the insufficiency of stamp duty in the instrument may file for revision in the courts of Divisional Commissioner, Board of Revenue and appeal in the Hon'ble High Court/Supreme Court. The revising/appellate authorities may stay the operation of such orders.

A sum of Rs. 1907 lakh was stayed by different courts and the representation by the department before the revision/appellate authorities was not adequate due to shortage of staff.

* Ghaziabad (6), Firozabad (480), Bareilly (161), Sitapur (1), Aligarh (7), Moradabad (3), Nainital (1), Allahabad (50), Saharanpur (24), Faizabad (62).

A test check of data collected from 20 districts disclosed that a sum of Rs.1907 lakh (October 96 to March 97) has been stayed by the different courts and the representation of the department before the Revising/Appellate Authorities was not adequate due to shortage of staff in stamp department as admitted (March 1997) by the I.G. Registration (against 26 sanctioned posts 19 personnel are posted).

No specific provision has been made in the Stamp Act to safeguard the interest of Government revenue during the pendency of revision/appeal. While in the Trade Tax department, a security deposit equal to 1/3 of the disputed amount of tax is to be deposited before the stay is granted, in Stamp and Registration Department there is no provision for deposit of such security before a case goes into litigation.

The department in a circular dated 17 January, 1997 had directed all Additional District Magistrates (F & R) and Deputy/Asstt. Commissioners of Stamp to furnish the full details of cases in which the amount recoverable is Rs 50,000 or more, so that a caveat may be filed by the department to oppose the grant of stay by the Revising/Appellate courts.

5.2.19 Arrears of stamp duty

Apart from the recovery stayed by the courts, stamp duty, registration fees and penalties aggregating Rs. 32.59 crore levied by the Collectors in respect of cases referred to them were pending collection in 21 districts test checked.

Recovery certificates amounting to Rs. 32.59 crore were issued without provision of penal interest on belated payment in the Act.

Under the State Excise Act, 1910 provision of penal interest on belated payment was made to compensate the devaluation of money with the passage of time, but no such provision has been made in the Stamp Act. The entire amount of Rs 32.59 crore is covered by recovery certificates, but no recovery has been made.

5.2.20 Non-observance of internal control mechanism

An internal control mechanism ensures effective and efficient functioning of the department and also provides safeguards against evasion of taxes and duties.

The following points were noticed during audit:

- (1) Board of Revenue, by a circular dated January 15, 1988 directed all registering authorities to maintain registers of references under Section 47-A which was not being maintained.
- (2) No reconciliation is being made between the records of District Registrar and District Stamp Officer in respect of cases referred to registering authorities.
- (3) No proper arrangement exists in the Stamp and Registration Department for appointment of Standing Counsels to defend the interest of Government revenue in revisions and appeals.
- (4) The system of internal audit exists in the department but it is limited to the offices of Sub-Registrars. The offices of District Stamp Officers are not being audited where pendency of stamp duty is involved.

The cases were reported to the Department and Government (September 1997); their replies have not been received (October 1997).

5.3 Registration of transfer of properties situated in Uttar Pradesh but registered in metropolitan cities

5.3.1 Introduction

An instrument is chargeable with stamp duty under Section 3 of the Indian Stamp Act, 1899 read with various articles appearing in Schedule I, I-A and I-B appended to the said Act. An instrument of conveyance is chargeable to stamp duty on the value of consideration set forth in the document or the market value of the property, whichever is higher. Under sub-section 2 of Section 30 of the Registration Act, 1908, the Registrar of a district in which a Presidency town is located and the Registrar of Delhi may receive and register any document referred to in Section 28 of the Registration Act, without regard to the situation of the property in any part of India to which the documents. Registrars of these districts are required to send intimations of the same to the concerned Registrars of the districts in which the property being transferred is located.

5.3.2 Scope of Audit

Section 30 of the Registration Act, 1908 leads to a peculiar situation enabling registration of transfer of properties situated anywhere in India in the four metropolitan cities i.e., Delhi, Calcutta, Mumbai and Chennai. With a view to ascertaining any occurrence of evasion of stamp duty, determination of less stamp duty on high value property etc., the probable reasons for registration of property situated in U.P. but being registered in four metropolitan cities, a review was conducted between May-September 1997. For this purpose, test check of records for the period from 1992 to 1996 was carried out in the offices of the District Registrars and the District Stamp Officers of 13 districts.*

5.3.3 Organisational set-up

The Inspector General of Registration is the organisational head of the Registration Department. He is Additional Secretary, Board of Revenue, Uttar Pradesh as well as Commissioner of Stamps, Uttar Pradesh.

5.3.4 Highlights

1. Illegal registration of property at metropolitan towns after omission of the enabling provision resulted in a loss of Rs. 9.35 crore.

(Paragraph 5.3.1)

2. Loss of stamp duty amounted to Rs. 7.00 crore due to non-furnishing of documents registered at metropolitan cities.

(Paragraph 5.3.2)

3. There was loss of revenue to the tune of Rs. 4.28 crore due to non-observance of Rules.

(Paragraph 5.3.3)

* (1) Haridwar, (2) Saharanpur, (3) Azamgarh, (4) Varanasi, (5) Jaunpur, (6) Mirzapur, (7) Bareilly, (8) Meerut, (9) Ghaziabad, (10) Mathura, (11) Kanpur, (12) Dehradun, (13) Lucknow.

5.3.5 Illegal registrations of property

The Government of Uttar Pradesh vide notification dated September 23, 1994 stated that sub-section (2) of section 30 of the Registration Act shall be

Properties situated in U.P. but registered in 4 metropolitan cities were disallowed by issuance of Government notification dated 1.10.1994. However, cases were still being registered resulting in a loss of Rs. 9.35 crore.

treated as omitted in regard to its applicability to U.P. Though the legislature of Uttar Pradesh passed the necessary amendment to the Registration (Uttar Pradesh Amendment) Act, 1994 (U.P. Act No. 27 of 1994) and subsequently the State Government issued a notification, it was noticed that documents involving stamp duty of Rs. 9.35 crore were illegally registered. Some of the important cases are listed in Annexure-A.

On this being pointed out, the Department admitted that registration of documents from 1st October, 1994 onwards was irregular. Further inquiries revealed that though the IG (Registration) of U.P. had intimated the amendment in the Act to the Inspectors General of West Bengal, Maharashtra and Delhi and requested them to stop registration of properties situated in Uttar Pradesh. Uttar Pradesh Government had not issued any instruction to its offices on the change and its consequences of prohibiting honouring such documents which had been registered in the metropolitan cities after 1 October 1994. Further inquiries revealed that mutation had been executed in 5 cases even after omission of the enabling section from the Registration Act.

5.3.6 Loss of stamp duty due to non-furnishing of documents

During test check of records of the District Registrars of 13 districts it was noticed that documents which were registered prior to the amendment of the Act at four metropolitan cities were not received in their offices.

Copies of documents registered in 4 metropolitan cities were not received by the concerned District Registrars. Consequently, they could neither revalue the properties nor levy the deficit stamp duty amounting to Rs. 7.00 crore.

Thus, the provision of Section 19-A(i) and (ii) could not be applied and the Government

of Uttar Pradesh suffered a loss of revenue amounting to Rs. 7.00 crore. Some of the important cases have been illustrated in Annexure-B.

As copies of these instruments were not available with the District Registrars of the concerned 13 districts, proper valuation of registered properties could not be done. In their reply the department intimated that efforts would be made to obtain copies of the documents and subsequently proper valuation of the properties would be done.

5.3.7 Loss of revenue due to non-observance of Rules

As per Section 19-A (i) read with Section 6-A (1-A) of the Indian Stamp Act, 1899, where any instrument has become chargeable with duty in any part of the State other than Uttar Pradesh under this Act, or under any other law for the time being in force in any part of the States and thereafter becomes chargeable with a higher rate of duty, then the amount chargeable on such instrument shall be the amount chargeable on it less the amount of duty, if any, already paid on it in the States, and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of the duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument was an instrument received in the States for the first time at the time when it became chargeable to higher duty.

During test check of the records of the Registrars of 13 districts, it was noticed that documents registered at 4 metropolitan cities were received at the Registrars' offices of the concerned districts but no prompt action was taken to recover deficit stamp duty, of Rs. 4.28 crore. Some of the important cases have been illustrated in Annexure-C. In reply to audit query, it was stated that the documents received were pending for proper assessment and that intimation to the concerned parties would be sent after proper assessment. The reply, however, did not offer any convincing explanation for not serving even the primary notices to concerned parties despite the lapse of more than a year since the receipt of the documents.

Action was not taken to revalue and levy deficit stamp duty on the copies of documents received in District Registrars' offices resulting in loss of Rs. 4.28 crore.

5.3.8 Action not taken as per provisions of Registration Act

Section 67 of the Registration Act, 1908 provides that on any document being registered under sub-section (2) of Section 30, a copy of such document and of the endorsements and certificate thereon, shall be forwarded to every Registrar within whose district any part of the property is situated and the Registrar receiving such copy, as per Section 66 above, on registering any non-testamentary document shall forward a memorandum of such document to each Sub-Registrar in whose sub-district any part of the property is situated. It is noteworthy that the Registrar shall register the document only after valuing property and realising the deficit stamp duty as per Section 19-A(i) and (ii) of the Stamp Act, 1899.

During audit of the District Registrar, Lucknow, it was noticed that 107 documents which were registered at Mumbai for immovable properties situated at Lucknow, were sent to the Sub-Registrars of concerned regions in Lucknow by the District Registrar, Lucknow, without first taking action under Section 19-A(i) and (ii) (i.e. realising deficit stamp duty after revaluation) and under Section 66 of the Act (i.e. registration of the document by the District Registrar) as detailed in Annexure-D.

In reply to audit query, it was stated by the District Registrar, Lucknow (May 1997) that the documents were sent to the Sub-Registrars for their comments after spot verification, and on return, the documents would be sent to the District Stamp Officer, Lucknow for necessary action at his end. The reply is not tenable as the District Registrar is required, as per provision of the Act, to revalue the properties and to recover the deficit stamp duty, if any, without referring them to any other authority.

The matter was reported to Department and Government (October 1997); their replies are awaited.

5.4 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 is chargeable on the market value or on the value of the consideration set forth therein, whichever is higher. As per the 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 18 Sub-Registrar offices, it was noticed (between September 1990 and January 1997) that stamp duty amounting to Rs. 22.51 lakh was short-levied due to the fact that land was not valued at the rates fixed by the Collectors.

Stamp duty amounting to Rs. 22.51 lakh was short-levied due to undervaluation of land.

On this being pointed out in audit, the Collectors concerned levied (January 1997 and June 1995) stamp duty and penalty amounting to Rs. 6.62 lakh in 2 cases. Report on recovery has not been received (October 1997).

The matter was reported to the Department and Government (between March 1991 and March 1997); their replies have not been received (October 1997).

5.5 Short-levy of stamp duty due to mis-classification of documents

During audit of 4 Sub-Registrar offices, it was noticed (between December 1994 and December 1996) that stamp duty amounting to Rs. 40.34 lakh was short-levied due to misclassification of documents as indicated below :

Stamp duty amounting to Rs. 40.34 lakh was short levied due to mis-classification of documents.

(Rupees in lakh)

Sl. No.	Name of registering offices	Stamp duty leviable	Stamp duty levied	Stamp duty short-levied	Remarks
1.	Sub-Registrar, Nanpara (Bahraich)	1.63	0.09	1.54	Settlement deed was classified as trust deed.
2.	Sub-Registrar, Nighasan (Lakhimpur-Kheri)	29.70	only Rs. 190	29.70	Conveyance was classified as release.
3.	Sub-Registrar, Pilibhit	1.55	only Rs. 100	1.55	Conveyance was classified as power of attorney
4.	Sub-Registrar-III, Varanasi	7.60	0.05	7.55	Conveyance was classified as lease.
Total				40.34	

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The matter was reported to the Department and Government (between November 1996 and February 1997); their replies have not been received (October 1997).

Annexure

13-11-1915

ANNEXURE



(Referred to in Paragraph 5.3.5)

Illegal registration in metropolitan cities even after omission of the enabling provision in the Act

Sl. No.	Instrument No. Date of Presentation	Detail of Property	Value	Payable stamp duty (in U.P.)
1.	R-3/PBBB 28.3.95	Khasra No. 622 Khushalganj, Lucknow 55 Bigha 17 Biswa 1520237 sqf. @ Rs. 66 per sqf.	100385642	14548668 +5000
2.	R-3/PBBB 1 23.9.95	Khasra No. 622 Khushalganj, Lucknow 14 Bigha =381080 sqf. @ Rs. 66 per sqf.	25151280	3646936 +5000
3.	R-3/PBBB 5 24.8.95	Khasra No. 237, 237 (5-A) Anaura, Lucknow 12249 sqf. @ Rs. 110 per sqf.	1347390	195372 +5000
4.	R-3/PBBB-5 24.8.95	5444 sqf. Khasra No. 4 Biswa 229,229/1 Anaura, Lucknow @ Rs. 110 per sqf.	598840	86832 +5000
5.	R-3/PBBB-5 28.8.95	Khasra No. 218,245 246 Anaura 36 Bigha 1 Biswa, 1 Biswansi Lucknow 9,81,349 sqf. @ Rs. 110 per sqf.	1079483901	15652517 +5000
6.	R-3/PBBB-5 24.8.95	6,329 sqf. Khasra No. 217,345 Anaura 4 Biswa 13 Biswansi Lucknow @ Rs. 110 per sqf.	696190	100948 +5000
7.	R-3/PBBB-5 24.8.95	2314 sqf. Khasra No. 214,244 Anaura 1 Biswa 14 Biswansi Lucknow @ Rs. 110 per sqf.	468000	67860 +5000

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Sl. No.	Instrument No. ----- Date of Presentation	Detail of Property	Value	Payable stamp duty (in U.P.)
8.	R-3/PBBB-5 ----- 24.8.95	24838 sqf. Khasra No. 242, 243 Anaura 18 Biswa 5 Biswansi Lucknow @ Rs. 110 per sqf.	2732180	396166 +5000
9.	R-3/PBBB ----- 24.8.95	3539 sqf. Khasra No. 226, 232 & 237 Anaura 2 Biswa 12 Biswansi Lucknow @ Rs.110 per sqf.	498125	72228 +5000

ANNEXURE

B

(Referred to in Paragraph 5.3.6)

Documents registered in metropolitan cities but not received in Uttar Pradesh

(in Rs.)

Sl. No.	Instrument No. Date of presentation	Details of property	Value of property	Duty payable	Duty paid	Deficit
1.	BBB 246/93 10.5.93	Bungalow no. 97 survey no. 454 Cantt. Area Kanpur 5773.16 sqm. @ Rs. 3600/psm.	21283376	3086090 +5000	22000 +5000	3064090
2.	P-BBB 119/95 30.3.95	1025344 sq.ft. @ Rs. 30 Khushalganj Lucknow	61520640	8920545	37240	8883305
3.	P-BBB 127/95 31.3.95	34272 sq.ft. @ Rs. 30 Khushalganj Lucknow	20563200	2981780	37240	2944540
4.	119/95 30.3.95	1025344 sq.ft. @ Rs.60 Khushalganj Lucknow	61520640	8920545	37240	8883305
5.	127/95 31.3.95	342720 sq.ft. @ Rs. 60 Khushalganj Lucknow	20563200	2981780	37240	2944540
6.	P-BBB 396/92 2.6.92	249751 sq.ft. @ Rs. 75 Mansooranagar Lucknow	18731325	2716140	—	2716140
7.	P-BBB 165/92 1.9.92	13745 sq.ft. @ Rs. 175 Alambagh Lucknow	21649320	3139250	5880	3139250

(in Rs.)

Sl. No.	Instrument No. Date of presentation	Details of property	Value of property	Duty payable	Duty paid	Deficit
8.	P-BBB 1403/96 28.11.96	251785 sq.ft. @ Rs. 100 Ahivaranpur Lucknow	22644000	3283380	2000	3281380
9.	P-BBB 581/96 27.3.96	72400 sq.ft. @ Rs. 110 Anaura Lucknow	7964000	1154780	39600	1115180
10.	P-BBB 1378/90 20.11.96	178642 sq.ft. @ Rs. 75 Kanchanpur Matiari, Lucknow	13398150	1942855	19000	1923855
11.	P-BBB 1124/96 31.8.96	17568 sq.ft. @ Rs. 160 Asharfabad Lucknow	2810880	408755	7400	4013555
12.	P-BBB 1032/96 6.8.96	489600 sq.ft. @ Rs.35 Chaknali Lucknow	17136000	2484720	8000	2476720
13.	P-BBB 1436/96 21.6.96	190 Bigha @ Rs. 300000 Majrapara Lucknow	57000000	8265000	5400	8259600

ANNEXURE



(Referred to in Paragraph 5.3.7)

Cases received in Uttar Pradesh but revaluation not done

(in Rs.)

Sl. No.	Instrument No. Date of presentation	Details of property	Value of property	Duty payable	Duty paid	Deficit
1.	1724/93 24.11.93	8855 sq.m. village Beri, Akbarpur, Bangar Kanpur @ Rs. 250/psm.	2213750	320994 +251	3000 +10	318145
2.	1757/93 3.12.93	11891 sqm. Kalyanpur Kalan Latoosh Road, Kanpur @ Rs. 300/psm	3567300	517259 +251	3000 +100	514410
3.	555/93 26.3.93	Compound No.80/20 Cooparganj, Kanpur 1 Bigha 4 Biswa 5 Biswansi+ 61 Room @Rs. 100/pm for 25 years	1830000	265350 +251	13050 +100	252451
4.	1432/93 6.10.93	20240 sqm.(8 Bigha) Beri Akbarpur Kanpur @ Rs. 250/psm	5060000	733700 +251	4800 +100	729151
5.	1274/94 13.6.94	15500 sqm. Baghi Dandhi Kacchar, Kanpur @ Rs. 675/psm.	10462500	1517063 +251	5000 +100	1512214
6.	PBBB 38/94 4.8.94	68050 sqf. Khasra No. 80, village Begaria Lucknow (2-10-0 Bigha) @ Rs. 30/psf.	2041500	296018	12000	284018
7.	34/94 6.8.94	Barora Husanbari Lucknow 52632 Sq.ft @ Rs. 60	3157920	457898	8600	449298

(in Rs.)

Sl. No.	Instrument No. Date of presentation	Details of property	Value of property	Duty payable	Duty paid	Deficit
8.	33/94 6.8.94	Gram Begaria Lucknow Khasra No.80 61200 sq.ft. @ Rs. 30	1836000	266220	12000	254220
9.	2252/93 6.10.93	8 Bigha Beri Akbarpur Banger Kanpur @ Double of Rs. 250000/Acre	2500000	362500 +251	4800 +112	357839
10.	6015/93 3.12.93	4-14-0 1470000 Kalyanpur Kalan Kanpur @ Double of Rs. 250000	213150	3000 +251	210289 +112	
11.	6014/93 3.12.93	1890 sq.m. Bara Sirohi Kanpur @ Rs. 900/sq.m.	1701000	246645 +251	1000 +112	245834
12.	5400/94 13.6.94	1.55 Hect. Or 15500 sq.m. Bagdodi Kachar Kanpur @ Rs. 675/Sq.m.	10462500	1517063 +251	5000 +112	1512202

ANNEXURE

D

(Referred to in Paragraph 5.3.8)

Cases received but sent to Sub-Registrars

Sl. No.	Doc.No.	Sl. No.	Doc.No.	Sl. No.	Doc.No.	Sl. No.	Doc.No.
1.	340/93	2.	277/94	3.	29/95	4.	30/95
5.	31/95	6.	32/95	7.	33/95	8.	34/95
9.	99/95	10.	108/95	11.	111/95	12.	112/95
13.	119/95	14.	109/95	15.	127/95	16.	133/95
17.	134/95	18.	141/95	19.	155/95	20.	129/95
21.	120/95	22.	131/95	23.	132/95	24.	202/95
25.	253/95	26.	258/95	27.	263/95	28.	264/95
29.	265/95	30.	266/95	31.	267/95	32.	264/95
33.	277/95	34.	330/95	35.	399/95	36.	400/95
37.	401/95	38.	402/95	39.	403/95	40.	405/95
41.	406/95	42.	407/95	43.	408/95	44.	409/95
45.	410/95	46.	411/96	47.	412/95	48.	413/95
49.	414/95	50.	415/95	51.	416/95	52.	482/95
53.	483/95	54.	484/95	55.	485/95	56.	552/95
57.	553/95	58.	560/95	59.	561/95	60.	562/95
61.	317/95	62.	318/95	63.	324/95	64.	325/95
65.	326/95	66.	422/95	67.	423/95	68.	424/95
69.	427/95	70.	636/95	71.	637/95	72.	638/95
73.	639/95	74.	640/95	75.	641/95	76.	642/95

Chapter V

Sl. No.	Doc.No.	Sl. No.	Doc.No.	Sl. No.	Doc.No.	Sl. No.	Doc.No.
77.	643/95	78.	644/95	79.	645/95	80.	646/95
81.	647/95	82.	648/95	83.	649/95	84.	650/95
85.	686/95	86.	718/95	87.	663/95	88.	662/95
89.	688/95	90.	689/95	91.	690/95	92.	691/95
93.	692/95	94.	693/95	95.	694/95	96.	695/95
97.	721/95	98.	722/95	99.	735/95	100.	736/95
101.	737/95	102.	738/95	103.	739/95	104.	740/95
105.	741/95	106.	742/95	107.	743/95		

Chapter VI

Land Revenue

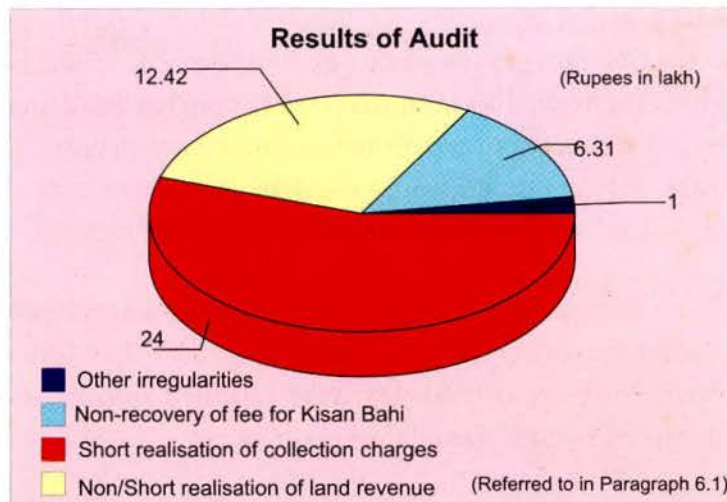
Chapter VI : Land Revenue

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6.2	Non-recovery of collection charges	144

6.1 Results of audit

Test check of records of offices of the Revenue Department conducted in audit during the year 1996-97 revealed short-realisation of collection charges, non/short-realisation of land revenue, non-recovery of fee for supplying 'Kisan Bahi' and other irregularities amounting to Rs. 43.73 lakh

in 50 cases which broadly fall under the following categories :



			(rupees in lakh)
Sl.No.		Number of cases	Amount
1.	Non/Short-realisation of land revenue	9	12.42
2.	Short-realisation of collection charges	14	24.00
3.	Non-recovery of fee for supplying Kisan Bahi	7	6.31
4.	Other irregularities	20	1.0
Total		50	43.73

During the year 1996-97, the Department accepted under-assessment etc. of Rs. 294.28 lakh involved in 162 cases, of which 5 cases involving Rs. 10.09 lakh had been pointed out in audit during 1996-97 and the rest in earlier years. Of these, a sum of Rs. 3.29 lakh has been recovered. A few illustrative cases involving a financial effect of Rs. 9.39 lakh are mentioned in the succeeding paragraph.

6.2 Non-recovery of collection charges

In terms of the 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, Board, 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 realisable from loanees concerned by the revenue authorities. In case, the 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 the collection charges at the same rate shall be realised.

During audit of 5 Tehsil offices, it was noticed (between October 1995 and October 1996) that collection charges amounting to Rs. 9.39 lakh were not realised in 245 cases in which recovery certificates were returned/amount was directly deposited with the concerned bodies. Details are given below:

(Rupees in lakh)

Sl. No.	Name of Tehsil	No. of cases	Period	Collection charges not realised
1.	Tehsildar, Hamirpur	19	1994-95 and 1995-96	3.90
2.	Tehsildar, Khair (Aligarh)	117	1993-94 to 1995-96	1.55
3.	Tehsildar, Jamania (Ghazipur)	33	1993-94 and 1994-95	1.28
4.	Tehsildar, Sagri (Azamgarh)	44	1995-96	0.79
5.	Tehsildar, Tilhar (Shahjahanpur)	32	1992-93 to 1995-96	1.87
Total		245		9.39

The matter was reported to the Department and Government (between September 1996 and March 1997); their replies have not been received (October 1997).

Chapter VII

Other Tax Receipts

Chapter VII

Other Tax Receipts

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CHAPTER

7

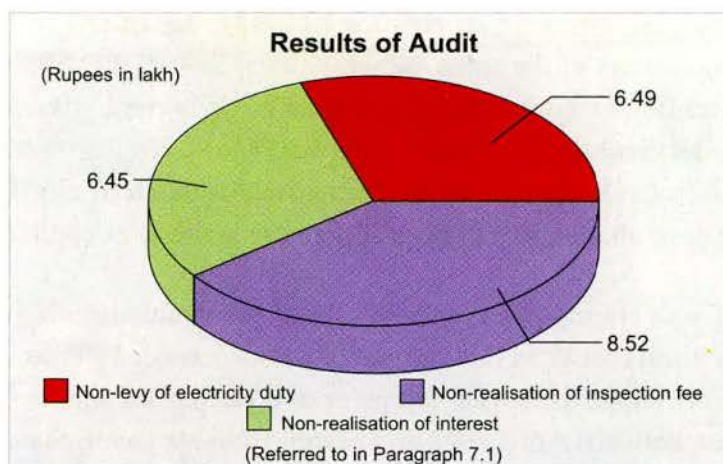
Other Tax Receipts

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 1996-97, revealed non/short levy of electricity duty and inspection fee

amounting to Rs. 21.46 lakh in 20 cases which broadly fall under the following categories



(Rupees in lakh)

Sl. No.	No. of cases	Amount
1. Non-levy of electricity duty	6	6.49
2. Non-realisation of interest	3	6.45
3. Non-realisation of inspection fee	11	8.52
Total	20	21.46

An illustrative case involving financial effect of Rs. 2.47 lakh is mentioned in the following paragraph.

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, energy supplied free of charge or at concessional rates to certain categories of consumers by a licensee or the Board, shall be deemed to be energy sold at rates applicable to other consumers of the same category. In September 1984, Government clarified that in respect of energy supplied free of charge or at concessional rates to Military Officers by the Appointed Authorities (Defence Department), the rates charged for energy consumed would be deemed to be the full rate applicable to other consumers of the same category, even though the difference between the ordinary rate and free or concessional rate was to be borne by the Defence Department. Director (Electrical Safety) issued (August 1986) a circular to all the Appointed Authorities of Defence Department asking them to realise the electricity duty, in respect of energy supplied free of charge or at concessional rate, at the rates applicable to the ordinary consumers.

During audit of the offices of 2 Appointed Authorities (Jhansi and Kanpur), it was noticed (between December 1995 and October 1996) that 49.48 lakh units of electricity were supplied free of charge or at concessional rate to defence personnel for domestic use between April 1992 and March 1996 but electricity duty amounting to Rs. 2.47 lakh was not levied.

The cases were reported to the Department and Government (between November 1996 and January 1997); their replies have not been received (October 1997).

B TAX ON PURCHASE OF SUGARCANE AND ADMINISTRATIVE CHARGES ON SALE OF MOLASSES

7.3 Results of audit

Test check of accounts and relevant records of sugar factories and khandsari units, conducted in audit during the year 1996-97, brought out non-levy/short-levy of tax on purchase of sugarcane amounting to Rs. 3.97 lakh and administrative charges on sale and supply of molasses amounting to Rs. 2.76 lakh in 20 and 6 cases respectively which broadly fall under the following categories :

(Rupees in lakh)

I	Cane Purchase Tax	Number of cases	Amount
1	Deferment of Purchase Tax on sugarcane	8	3.92
2	Other irregularities	12	0.05
	Total	20	3.97

(Rupees in lakh)

II	Administrative Charges	Number of cases	Amount
3.	Loss of administrative charges due to wastages of molasses	5	1.14
4.	Other irregularities	1	1.62
	Total	6	2.76

During the year 1996-97, the Department accepted under-assessment etc. of Rs. 2.44 lakh in 4 cases which were pointed out in audit in earlier years. A few illustrative cases involving financial effect of Rs. 155.57 lakh are given in the succeeding paragraph.

7.4 Clearance of sugar without payment of Purchase Tax

Under the provision of the Uttar Pradesh Sugarcane (Purchase Tax) Act, 1961, no owner of a sugar 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 sugarcane so consumed in the manufacture of sugar. Any contravention of this provision makes the owner of the factory liable to pay, by way of penalty, in addition to 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 (April 1982 and December 1988) to defer the payment of tax on new sugar factories in co-operative/public sector during the first five years of their production, subject to certain conditions.

During audit of the records of cane purchase tax of 2 sugar factories at Tilhar and Powayan (Shahjahanpur), it was observed (January 1994 and October 1996) that the factories had cleared the sugar during the deferment period without fulfilling the conditions of deferment. Even the deferred tax for the period from 1981-82 to 1985-86 (Tilhar) and from 1987-88 to 1991-92 (Powayan) amounting to Rs. 38.03 lakh and Rs.117.54 lakh respectively remained unpaid (October 1997).

On this being pointed out in audit, the Department stated (September 1997) that a decision had been taken (May 1997) at Government level to recover the outstanding tax against all sugar factories in 1 to 5 years according to the amount of tax outstanding and that action to recover the tax in the instant cases was under way. Report on recovery of the outstanding tax was, however, awaited (October 1997).

The cases were reported to the Government (February 1997); their reply has not been received (October 1997).

Chapter VIII

Forest Receipts

*Forest Receipts***8.1 Results of audit**

Irregularities noticed during test-check of divisional records of Forest Department conducted in audit during 1996-97, broadly fall under the following categories :

(Rupees in lakh)

	Number of cases	Amount
1 Allotment of Forest produce at concessional rate	3	101.98
2. Irregularities in extraction of resin	5	203.45
3. Incorrect fixation of royalty	18	343.48
4. Loss of revenue due to non-registration of saw mills	18	137.90
5. Loss of revenue due to non-levy of stamp duty	7	69.41
6. Non-levy/short-levy of penalty	5	68.09
7. Irregularities in collection and disposal of Tendu leaves	2	12.98
8. Non-realisation of lease rent	1	24.27
9. Misc. irregularities	117	2162.62
Total	176	3124.18

During the course of the year 1996-97, the concerned department accepted under-assessment etc. of Rs. 1655.23 lakh involved in 55 cases, of which 40 cases involving Rs. 737.42 lakh had been pointed out in audit during 1996-97 and the rest in earlier years.

Of these, a sum of Rs. 16.78 lakh has been recovered. A few illustrative cases involving Rs. 36.40 lakh are given in the following paragraphs.

8.2 Non-realisation of late fee

According to Government orders (September 1978), Uttar Pradesh Forest Corporation (UPFC) was required to deposit royalty on extraction of forest produce allotted to them in three instalments i.e. 1st March, 1st June and 1st September of the lot years failing which late fee was recoverable at the rate of 5 paise per hundred rupees per day for delay upto 60 days and 7 paise per hundred rupees per day for delay beyond 60 days.

Test check of the records of Social Forestry Division, Haridwar revealed (December 1994) that UPFC had delayed payment of instalments of royalty for the lot years 1989-90 to 1993-94 but the demand for late fee was not raised.

On this being pointed out in audit (December 1994), the Division raised demand (January 1997) of Rs. 18.52 lakh after a gap of two years. The department finally replied (September 1997) that the late fee of Rs. 16.78 lakh (1989-90 to 1995-96) had been recovered by adjustment against the excess payment of royalty made by the U.P. Forest Corporation.

8.3 Non-recovery of royalty

According to general terms and conditions of the Forest Department for sale of forest produce (1995-96) the buyer was required to pay full royalty on all allotted lots of bamboo whether work on the same had been carried out or not. No bamboo would be left unexploited on the ground of being non-commercial.

Mention was made in paragraph 8.7 of the Comptroller and Auditor General of India's report (Revenue Receipt) for the year 1995-96 regarding loss of revenue due to non-exploitation of bamboo scores and non-payment of royalty.

However, the scrutiny of the records of Sonebhadra Forest Division, Mirzapur, it was noticed (November 1996) that 21 lots having an outturn of 57491 scores of bamboo involving royalty of Rs. 22 lakh were allotted to Uttar Pradesh Forest Corporation (UPFC) for exploitation during 1995-96. Against this, UPFC paid royalty of Rs. 5.24 lakh only on

13683 scores of bamboos actually exploited. The royalty of Rs. 16.76 lakh was not paid on the ground that the remaining quantity of bamboos could not be exploited due to being non-commercial. The department had also not demanded this royalty from the Corporation.

On this being pointed out (November 1996), the Department stated (August 1997) that the demand for Rs. 16.76 lakh had been raised in May and July 1997.

The matter was referred to Government in May 1997; reply had not been received (October 1997).

8.4 Unworked lots

As per decision taken in the meeting of the officers of the Forest Department and Uttar Pradesh Forest Corporation (Corporation), the Corporation was required to inspect the condition of lots of Forest produce before taking up the exploitation work and in case of any dispute, the concerned Divisional Forest Officer was to be informed within one month from the date of receipt of the sale order who would arrange joint inspection within 15 days in case of dispute.

Test check of the records of Obra Forest Division, Obra (Sonebhadra) revealed (October 1996) that two lots of Bagai grass were allotted to the Corporation in July 1995 for exploitation during 1995-96. The Corporation had to pay royalty of Rs.1.12 lakh. However, the Corporation intimated in October 1995 that no Bagai grass was available in the lots and did not pay the royalty. Since the fact regarding non-existence of grass on the lots was not intimated within one month of receipt of order, the Corporation was liable to pay royalty. Non-payment of royalty resulted in loss of revenue of Rs. 1.12 lakh.

The matter was referred to Government and Department in May and July 1997 respectively; their replies had not been received (October 1997).

Chapter VIII : Forest Receipts

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Chapter IX

Other Departmental Receipts

Chapter IX

Other Departmental Receipts

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Other Departmental Receipts**A. Co-operation Department****9.1 Results of audit**

Test check of records of the offices of Assistant Registrar, Co-operative Societies, conducted in audit during 1996-97 revealed irregularities involving Rs. 116.58 lakh in 11 cases which broadly fall under the following categories:

(Rupees in lakh)		
	No. of cases	Amount
1. Non-deposit of collection charges	9	116.53
2. Other irregularities	2	0.05
Total	11	116.58

A few illustrative cases involving a financial effect of Rs. 51.51 lakh are mentioned below:

9.2 Non/short-deposit of collection charges

Under the Uttar Pradesh Co-operative 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 appropriate head.

During audit of 6 offices of Assistant Registrars, Co-operative Societies, it was noticed (between December 1995 and August 1996) that a sum of Rs. 3.71 lakh only was credited to Government account against Rs. 55.22 lakh (being 10 per cent of the total collection charges). Details are given on the next page :

(Rupees in lakh)

Sl. No.	Name of office	Period	Amount creditable to Government Account	Amount credited to Government Account	Amount short credited
1	Assistant Registrar, Ghaziabad	1982-83 to 1994-95	9.80	0.29	9.51
2	Assistant Registrar, Jaunpur	1990-91 to 1994-95	4.44	-	4.44
3	Assistant Registrar, Aligarh	1993-94 to 1995-96	7.25	0.18	7.07
4	Assistant Registrar, Meerut	1982-83 to 1995-96	25.36	2.54	22.82
5	Assistant Registrar, Raebareli	1992-93 to 1995-96	4.29	0.43	3.86
6	Assistant Registrar, Unnao	1992-93 and 1993-94	4.08	0.27	3.81
Total			55.22	3.71	51.51

The cases were reported to the Department and Government (between December 1996 and April 1997); their replies have not been received (October 1997).

B. Irrigation Department

9.3 Results of audit

Test-check of records of Irrigation Department conducted in audit during 1996-97 revealed irregularities involving Rs. 367.54 lakh in 57 cases which broadly fall under the following categories :

(Rupees in lakh)

	Number of cases	Amount
1. Mis-utilisation of departmental receipts	1	0.71
2. Loss of revenue due to non-realisation of stamp duty	7	2.00

Other Departmental Receipts

(Rupees in lakh)

		Number of cases	Amount
3.	Non-recovery of tender fee at revised rates	2	0.08
4.	Loss of revenue due to non-realisation of irrigation charges	3	71.14
5.	Loss of revenue due to closure of tube wells	6	21.67
6.	Other irregularities	38	271.94
	Total	57	367.54

A few illustrative cases involving a financial effect of Rs. 36.22 lakh are mentioned in the succeeding paragraphs.

9.4 Non/short-realisation of stamp duty

As per provisions of the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh), an instrument of simple agreement including work order is chargeable with stamp duty at Rs. 100 with effect from 1 November, 1991.

During audit of 8 Irrigation divisions it was noticed (between September 1995 and August 1996) that stamp duty on agreements amounting to Rs. 11.17 lakh was short-levied. Details are given below :

(Rupees in lakh)

Sl. No.	Name of Division	No. of agreement/ work order	Period	Stamp duty leviable	Stamp duty levied	Stamp duty short- levied
1.	Matatila Dam Division, Jhansi	936	November 1991 to July 1993	0.93	0.09	0.84
2.	Lower Ganga Canal	1652	July 1990	1.27	--	1.27
3.	Tubewell Division Bahraich	606	November 1991 to September 1994	0.61	0.06	0.55

(Rupees in lakh)

Sl. No.	Name of Division	No. of agreement/ work order	Period	Stamp duty leviable	Stamp duty levied	Stamp duty short- levied
4.	Aligarh Division, Ganga Canal, Aligarh	4324	November 1991 to March 1994	4.32	--	4.32
5.	Irrigation Division, Gorakhpur	2500	November 1991 to December 1993	2.50	0.25	2.25
6.	Minor Lift Canal Division, Banda	950	-do-	0.95	0.09	0.86
7.	Irrigation Division Sitapur	600	November 1991 to December 1992	0.60	0.06	0.54
8.	Irrigation Construction Division, Saharanpur	536	November 1991 to April 1992	0.54	--	0.54
Total		12104		11.72	0.55	11.17

The matter was reported to the Department and Government (between August 1996 and April 1997); their replies have not been received (October 1997).

9.5 Non-levy of centage charges on contribution works

Under the provisions of the Financial Hand Book Volume V and VI, issued by the State Government to regulate financial matters, centage charges at the uniform rate of 15 per cent of the actual outlay on works are to be levied and credited to

Centage charges of Rs. 25.05 lakh on contribution work valued at Rs. 122.13 lakh, undertaken on behalf of Central/State Government was not levied and realised during 1993-94 to 1995-96.

Government account monthly in respect of all classes of contribution works undertaken by the Public Works and Irrigation department on behalf of commercial departments, local bodies and private bodies in the State. However, the Central Government, as a

permanent arrangement, have ordered collection of centage charges at the rate of 21 per cent on all Central Government works executed through the agency of the Uttar Pradesh Public Works and Irrigation Department.

During audit of Sharda Canal Division-45, Raebareli, it was noticed (May 1996) that centage charges amounting to Rs. 25.05 lakh on contribution works, valued at Rs. 122.13 lakh, undertaken by the division on behalf of Central/State Government during the years from 1993-94 to 1995-96 were not levied and realised.

The matter was reported to the Department and Government (December 1996); their replies have not been received (October 1997).

C Public Works Department

9.6 Results of audit

Test check of the accounts and relevant records of Public Works Department, conducted in audit during the year 1996-97 revealed irregularities involving Rs. 133.12 lakh in 20 cases, which broadly fall under the following categories :

(Rupees in lakh)

Sl.No.	Number of cases	Amount
1. Loss of revenue due to non-realisation of water charges	2	0.81
2. Misutilisation of departmental receipts	2	1.15
3. Loss of revenue due to sale of tender forms at pre-revised rates	1	0.07
4. Non/short-levy of stamp duty	2	0.83
5. Non-levy of percentage charges	2	117.31
6. Loss of revenue due to non-auction of empty maxphalt drums/gunny bags	3	0.64
7. Other irregularities	8	12.31
Total	20	133.12

A few illustrative cases involving Rs. 6.52 lakh are mentioned in the following paragraphs.

9.7 Short-realisation of stamp duty on agreements

Government of Uttar Pradesh by a circular dated 30 June, 1975, issued instructions to all heads of Departments and offices that every tender form should be accompanied by an agreement in the prescribed form duly stamped in order to legalise the forfeiture of earnest money deposited by tenderers in the event of their withdrawal of offer during the validity period of tenders (time lag between the date of opening of tenders and their final acceptance by the department). Stamp duty on agreement under Article 5 [c] of Schedule 1-B to the Indian Stamp Act, 1899 (as amended in its application to Uttar Pradesh) was increased from Rs. 6 to Rs. 100 from 1 November, 1991.

During audit of Construction Division-III (Public Works Department), Aligarh, it was noticed (August 1996) that stamp duty amounting to Rs. 9335 only was realised against Rs. 73600 payable at the rate of Rs. 100 per tender in respect of 736 agreements executed between November 1991 and March 1994. This resulted in short-levy of stamp duty amounting to Rs. 64,265.

The matter was reported to the Department and Government (December 1996); their replies have not been received (October 1997).

9.8 Irregular appropriation of revenue receipts

As per provisions of the Financial Hand Book Volume VI, the profit in closing stock is credited as revenue of the Government.

During audit of Provincial Division, P.W.D. Rudraprayag (Chamoli), it was noticed (October 1995) that the profit of Rs. 5.88 lakh on account of closing stock at the end of September 1992 was not credited to the revenue of the Government but was utilised for construction of office building in contravention of the provisions of financial rules. It was also noticed that deviation statement had also not been approved by the Superintending Engineer concerned.

The matter was reported to the Department and Government (January 1996 and September 1996); their replies have not been received (October 1997).

D. Finance Department

9.9 Non-deposit of interest

For creation of assets which would be subsequently transferred to Jal Sansthan/Local Bodies in the form of loan, the Government sanctions loans to U.P. Jal Nigam. As per terms and conditions of the loans, the responsibility

Loan aggregating Rs. 56.43 crore along with interest of Rs. 122.43 crore on 117 loans sanctioned to Uttar Pradesh Jal Nigam during April 1981 to March 1995 remained un-recovered.

for deposit of interest and refund of loans rests with the Nigam. Under the Uttar Pradesh Water Supply and Sewerage Act, 1975, the Nigam is required to execute an agreement with Jal Sansthan/Local Bodies to safeguard the recovery of loan and interest thereon. In the event of breach of terms and conditions of the agreement, the Nigam would request the Government for coercive and deterrent action for effecting recovery from the defaulter loanees (Jal Sansthan/Local Bodies).

During test check of records of U.P. Jal Nigam, it was noticed (September 1996) that interest amounting to Rs. 122.43 crore accrued upto March 1996 in respect of 117 loans sanctioned during the period from April 1981 to March 1995, was not deposited into Government account by the Nigam. Loans aggregating Rs. 56.43 crore were also not refunded to Government. It was, further, noticed that the Jal Sansthan/Local bodies had defaulted in payment of interest and value of assets in the form of loan. According to terms and conditions of the agreement executed by them, the action required under Section 49 of the Act was not initiated by the Nigam to recover the dues from the defaulter loanees (Jal Sansthan/Local Bodies).

In contravention of the prescribed procedure, the Nigam sent (August 1996) a proposal to Government to write off the interest and to convert the loan into grants-in-aid on the grounds that the Jal Sansthan/Local Bodies had neither paid the interest nor refunded the loan due to their weak financial condition. However, in meeting held on 11 February, 1997, presided over by the Principal Secretary, Finance, the Government expressed its dissatisfaction over the non-deposit of interest by the loanees and disagreed with the proposal of Jal Nigam. It also directed that intensive action should be initiated by Jal Nigam to deposit the interest and ensure refund of loans. It was also desired that the concerning institutions should be held responsible for payment of interest for which an agreement between the Government, Jal Nigam and Jal Sansthan/Local Bodies should be executed. However, no final action has been taken so far (October 1997).

Chapter IX

Consequently, interest amounting to Rs. 122.43 crore was outstanding against the Nigam.

The matter was reported to the Department and Government (June 1996 and May 1997). The Government have stated (October 1997) that necessary action is being taken in the matter.

$$\begin{array}{r} 14408 \\ 7235 \\ \hline 7173 \end{array}$$

Lucknow,

The 9-4-98

$$\begin{array}{r} 3670 \\ 3565 \\ \hline 7235 \end{array}$$

$$\begin{array}{r} 7173 \\ 2467 \\ \hline 9640 \end{array}$$

Countersigned

New Delhi,
The

22-4-98

$$\begin{array}{r} 2400 \\ 770 \\ \hline 3170 \\ 3200 \end{array}$$

12000

$$\begin{array}{r} 500 \\ 9800 \\ 3200 \\ \hline 10000 \\ 8800 \\ 3200 \\ \hline 12000 \end{array}$$

172

$$\begin{array}{r} 500 \\ 30 \\ 40 \\ \hline 620 \\ 150 \\ \hline 770 \end{array}$$

$$\begin{array}{r} 8800 \\ 2467 \\ \hline 11267 \end{array}$$

(Signature)

(P. MUKHERJEE)

Accountant General (Audit)-II
Uttar Pradesh

(Signature)

(V.K. SHUNGLU)

Comptroller and Auditor General
of India

$$\begin{array}{r} 1750 \text{ H.B.} \\ 1200 \text{ G.P.F.} \\ 500 \text{ M.C.H.} \\ 150 \text{ Ren} \\ 30 \\ 40 \\ \hline 3670 \end{array}$$