



GOVERNMENT OF KARNATAKA

REPORT  
OF THE  
COMPTROLLER  
AND  
AUDITOR GENERAL OF INDIA

*For the year 1981-82*

REVENUE RECEIPTS



GOVERNMENT OF INDIA

REPORT

OF THE

COMPTROLLER

AND

AUDITOR GENERAL OF INDIA

For the year 1981-82

REVENUE DEPARTMENT

## TABLE OF CONTENTS

<i>Prefatory Remarks</i>	<i>Reference to Paragraph</i>	<i>Page (v)</i>
<b>CHAPTER 1. GENERAL</b>		
Trend of revenue receipts	1.1	1
Variation between Budget estimates and actuals	1.2	3
Cost of collection	1.3	4
Uncollected revenue	1.4	4
Frauds and evasions	1.5	5
Writes off of revenue	1.6	5
Outstanding local audit reports and audit objections	1.7	5
<b>CHAPTER 2. SALES TAX</b>		
Results of audit	2.1	7
Incorrect classification of goods	2.2	7
Irregular grant of exemptions	2.3	13
Short levy due to undervaluation	2.4	20
Tax levied at incorrect rate	2.5	21
Non-levy of additional tax and surcharge	2.6	23
Purchase escaping tax	2.7	24
Non-levy of penalty	2.8	25
Internal audit in Sales Tax Department	2.9	<u>27</u>
Assessments in arrears	2.10	29
<b>CHAPTER 3. STATE EXCISE DUTIES</b>		
Results of audit	3.1	31
Levy of duty at incorrect rates	3.2	31
Irregular grant of rebates	3.3	31
Use of alcohol in industry	3.4	32
Duty on alcohol wasted beyond limits	3.5	33
Licence fee not recovered	3.6	35
Non-recovery or short recovery of interest on belated payments	3.7	36
Recovery of supervision charges	3.8	36

## CHAPTER 4. TAXES ON MOTOR VEHICLES

Results of audit	4.1	38
Irregular remission of tax	4.2	38
National Permit Scheme	4.3	39
Irregular exemption from tax	4.4	39
Short levy of tax on certain vehicles	4.5	40
Demand and collection of tax	4.6	41
Loss of revenue due to belated action	4.7	43
Non-recovery of fee	4.8	45

CHAPTER 5. TAXES ON AGRICULTURAL  
INCOME

Results of audit	5.1	47
Under assessment due to arithmetical mistakes	5.2	47
Incorrect computation of income	5.3	48
Incorrect deduction of interest from taxable income	5.4	51
Income wrongly treated as capital receipt	5.5	53
Incorrect grant of registration to a firm	5.6	53
Incorrect deduction of expenditure from taxable income	5.7	56
Incorrect allowance of depreciation	5.8	61
Income escaping assessment	5.9	62
Income of Hindu Undivided Family after partition	5.10	63
Omission to club income of minors with that of guardian	5.11	64
Assessments in arrears	5.12	65

## CHAPTER 6. LAND REVENUE

Results of audit	6.1	66
Non-collection of betterment contribution	6.2	66
Short levy of water rates	6.3	67
Non-recovery of penal water rates	6.4	69
Non-recovery of price of encroached land	6.5	70

	<i>Reference to</i>	
	<i>Paragraph</i>	<i>Page</i>
CHAPTER 6. LAND REVENUE—(concl'd.)		
Short recovery of price for lands granted for coffee cultivation	6.6	71
Non-recovery of price in respect of lands granted	6.7	72
Short recovery of conversion fine	6.8	73
Short levy of cess	6.9	73
Recovery of sales tax and other taxes	6.10	74
CHAPTER 7. STAMP DUTY AND REGISTRATION FEES		
Results of audit	7.1	78
Incorrect classification of mortgage deeds	7.2	78
Short levy on deeds of conveyance and lease	7.3	81
Failure to detect evasion of stamp duty	7.4	84
Irregular grant of exemption	7.5	85
CHAPTER 8. FOREST RECEIPTS		
Results of audit	8.1	87
Low yield from extraction of forest to be submerged	8.2	<u>87</u>
Loss due to delay in review	8.3	89
Non-recovery of lease rent	8.4	89
Loss due to incorrect rates	8.5	90
Loss of revenue on resale of forest produce	8.6	91
Non-realisation of forest development tax	8.7	92
Short recovery of administrative charges	8.8	93
Loss due to delay in clarification	8.9	94
Loss due to delay in acceptance of tender	8.10	95
Non-recovery of loss from contractor	8.11	95
Failure to safeguard departmental timber	8.12	96
CHAPTER 9. OTHER TAX AND NON-TAX RECEIPTS		
A—TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS		
Administration of the Act	9.1	98
B—COMMERCE AND INDUSTRIES DEPARTMENT		
Non-recovery of commission for guaranteeing loans	9.2	102

	<i>Page</i>
APPENDICES :	
I Variations between Budget estimates and actual receipts	107
II Statement showing cost of collection under the principal heads of revenue	108
III Revenue collected and pending arrears	109
IV Broad categories of outstanding audit objections	111

---

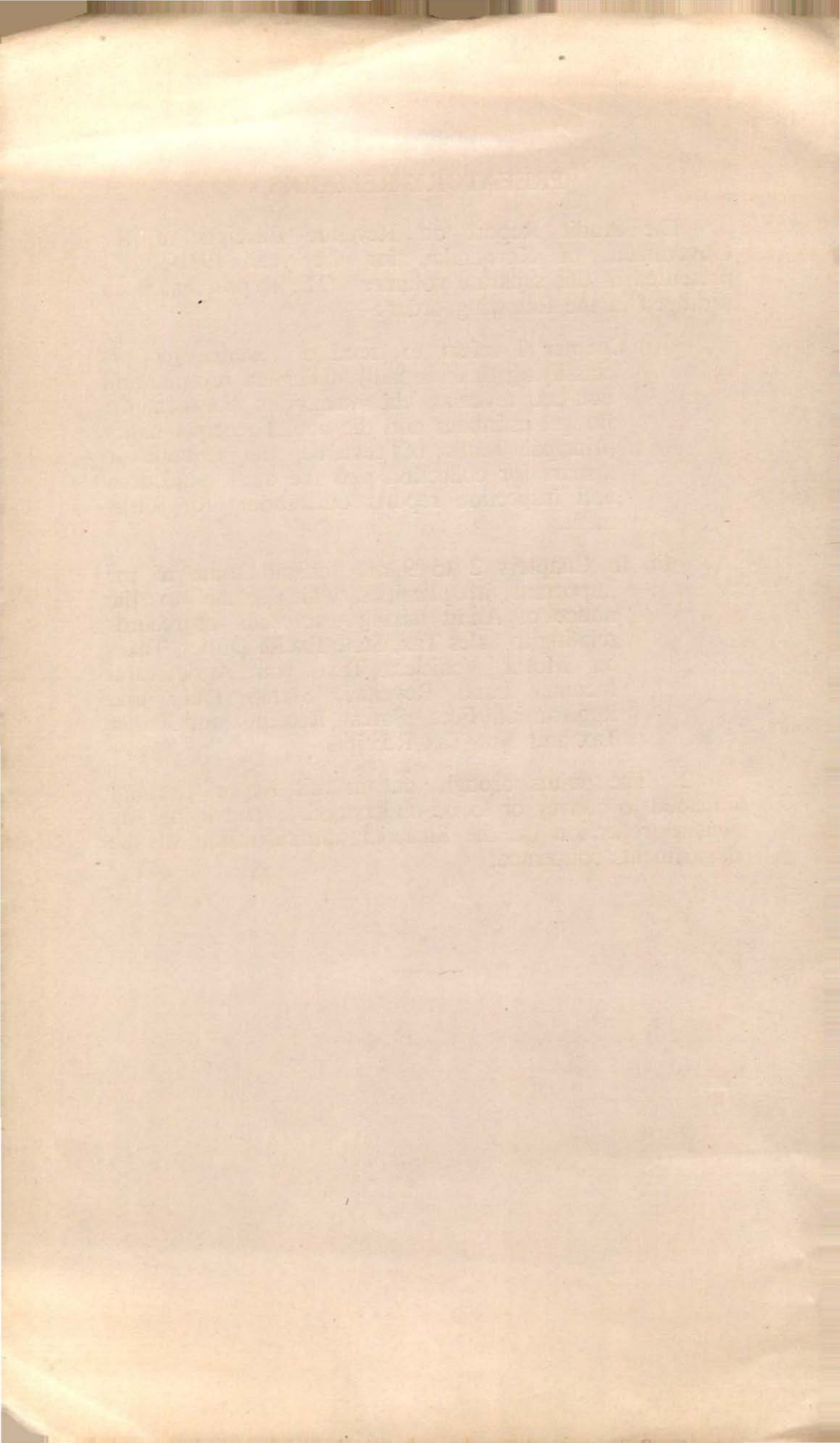
## PREFATORY REMARKS

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

- (i) Chapter 1 refers to trend of revenue receipts classifying them broadly under tax revenue and non-tax revenue, the variations between the Budget estimates and the actual receipts under principal heads of revenue, the revenue in arrears for collection and the audit objections and inspection reports outstanding for settlement.
- (ii) In Chapters 2 to 9 are set out some of the important irregularities which came to the notice of Audit during test check of records relating to Sales Tax, State Excise Duties, Taxes on Motor Vehicles, Taxes on Agricultural Income, Land Revenue, Stamp Duty and Registration Fees, Forest Receipts and Other Tax and Non-Tax Receipts.

2. The points brought out in this Report are not intended to convey or to be understood as conveying any general reflection on the financial administration of the departments concerned.

---





## CHAPTER 1

### GENERAL

#### 1.1. Trend of revenue receipts

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

	1979-80	1980-81	1981-82
<i>(In crores of rupees)</i>			
I. Revenue raised by the State Government			
(a) Tax revenue	404.86	474.68	607.04
(b) Non—Tax revenue	177.62	201.77	243.68
Total	582.48	676.45	850.72
II. Receipts from the Government of India			
(a) State's share of divisible Union Taxes	177.75	197.73	222.53
(b) Grants-in-aid	59.07	79.28	93.38*
Total	236.82	277.01	315.91
III. Total receipts of the State Government (I+II)	819.30	953.46	1,166.63
IV. Percentage of I to III	71	71	73

---

\*For details please see statement No. 11—Detailed account of revenue by minor heads in the Finance Accounts of the Government of Karnataka 1981-82.

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

	1979-80	1980-81	1981-82	Percentage Increase (+) or Decrease (—) in 1981-82 over 1980-81
<i>(In crores of rupees)</i>				
(i) Sales Tax	199.77	237.36	318.86	(+) 34
(ii) State Excise Duties	73.84	93.71	117.74	(+) 26
(iii) Taxes on Motor Vehicles	44.46	47.37	55.13	(+) 16
(iv) Stamps and Registration Fees	22.15	29.08	29.32	(+) 1
(v) Taxes on Agricultural Income	15.60	11.28	9.08	(—) 20
(vi) Other Taxes on Income and Expenditure	5.88	7.40	9.72	(+) 31
(vii) Land Revenue	6.93	6.47	8.80	(+) 36
(viii) Other Taxes and Duties	36.23	42.01	58.39	(+) 39
Total	404.86	474.68	607.04	(+) 28

Lower price of coffee in international market accounted for decrease in Taxes on Agricultural Income.

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

	1979-80	1980-81	1981-82	Percentage Increase (+) or Decrease (—) in 1981-82 over 1980-81
<i>(In crores of rupees)</i>				
(i) Interest	63.61	87.85	92.90	(+) 6
(ii) Forest	33.55	35.74	47.03	(+) 32
(iii) Industries	20.66	13.74	8.17	(—) 5
(iv) Irrigation, Navigation, Drainage and Flood Control Projects	6.50	3.93	8.32	(+) 112
(v) Education	4.87	5.00	5.80	(+) 16
(vi) Medical	4.76	3.67	5.75	(+) 57
(vii) Others	43.67	51.84	75.71	(+) 46
Total	177.62	201.77	243.68	(+) 21

(a) The increase in interest receipt was due to interest

received from irrigation works (commercial) and Karnataka Housing Board.

(b) The decrease in receipts from industries was due to conversion of three departmentally managed undertakings into a Joint Stock Company with effect from 1st October 1980.

## 1.2. Variation between Budget estimates and actuals

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

(a) The receipts from Sales Tax are increasingly buoyant over the Budget estimates, so also the receipts from State Excise Duties. The estimates of Taxes on Agricultural Income have proved low and the receipts under that head are also showing a downward trend in the last two years. The estimate of receipts from Forests and the actual receipts in the last three years show uneven variation.

(b) Some of the important taxation measures introduced in the year 1981-82 and the realisation therefrom alongside the estimates are given below :

<i>Measures</i>	<i>Amounts anticipated</i>	<i>Amounts realised</i>	<i>Reasons for variations</i>
-----------------	----------------------------	-------------------------	-------------------------------

(In lakhs of rupees)

### Sales Tax

Enhancement of rates of tax in respect of seven commodities, viz., motor cars, diesel engine and parts, batteries of motor vehicles and parts thereof, ethyl alcohol, denatured spirit, cement, component parts. Levy of sales tax at 2 per cent on handloom silk and four per cent on powerloom silk subsequently reduced to 1½ per cent and 2 per cent with effect from 1st October 1981.	268.00	386.72	Mainly due to increase in price and consumption of silk fabrics slightly offset by low level of consumption of denatured spirit.
---	--------	--------	--

<i>Measures</i>	<i>Amounts anticipated</i>	<i>Amounts realised</i>	<i>Reasons for variations</i>
	<i>(In lakhs of rupees)</i>		
Introduction of a composition scheme in lieu of tax payable by hoteliers.	150.00	1.39	Expected number did not opt for the scheme of composition.
Levy of half per cent turnover tax in lieu of additional tax.	300.00	295.61	
<b>Excise Duties</b>			
Increase of excise duty on arrack from Rs. 2.50 to Rs. 3.00 on bulk litre.	142.00	150.00	Due to more consumption of arrack.
Increase of excise duty on Indian and foreign liquors from Rs. 13.20 to Rs. 19.50 on bulk litre.	683.00	329.00	Due to low consumption of Indian made foreign liquors.
<b>Stamps and Registration</b>			
Levy of stamp duty on the market value of properties transferred in Bangalore City and other areas.	100.00	11.48	Less realisation because of appeals filed.

### 1.3. Cost of collection

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

### 1.4. Uncollected revenue

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

(a) Sales tax demands amounting to Rs. 14.62 crores had been stayed by orders of courts and Government. Demands amounting to Rs. 2.24 crores had been certified for recovery as arrears of 'land revenue. Demands amounting to Rs. 2.44 crores are held up because of grant of instalment facilities for payment.

(b) Out of outstanding demands of State Excise Duties amounting to Rs. 11.48 crores, Rs. 84.08 lakhs related to the period up to 1977-78 and Rs. 10.19 crores to 1981-82.

(c) Agricultural Income Tax demands amounting to Rs. 73.17 lakhs have been certified for recovery as arrears of land revenue.

(d) Arrears of forest receipts due from private individuals amounted to Rs. 21.27 crores and from Government departments and Companies to Rs. 3.76 crores.

### **1.5. Frauds and evasions**

(a) Up to the end of 31st March 1982, 2,427 cases of frauds and evasion of sales tax were detected and 1,632 cases were finalised during the year 1981-82. In 1,420 cases, turnover concealed amounted to Rs. 79.28 crores and sales tax demands amounting to Rs. 3.57 crores were raised. Penalties were imposed in lieu of prosecution in 1,560 cases. Prosecutions were launched for non-registration in 172 cases and the offences compounded in 2,149 cases.

(b) Cases detected in respect of entertainment tax number 1,531 including 497 cases detected prior to 1st April 1981. 959 cases were finalised during the year 1981-82. Penalties were imposed in lieu of prosecution in 364 cases and penalty amounting to Rs. 1,77,738 imposed. Prosecution was launched in 48 cases involving tax of Rs. 60,354.

### **1.6. Writes off of revenue**

During the year 1981-82, Rs. 1.38 lakhs of irrecoverable dues were written off by the Sales Tax Department due to defaulters having no property or poor financial conditions or whereabouts not known. Rupees 13.16 lakhs were written off by Forest Department as all the attempts to recover the dues proved futile.

### **1.7. Outstanding local audit reports and audit objections**

Audit observations on irregularities in assessments of revenue receipts and defects in the accounting of such receipts noticed in audit and not settled on the spot are communicated to the Heads of Offices and to the next higher departmental authorities through local audit reports. The more important and serious irregularities are reported to the Heads of Departments and Government. In addition, statements indicating the number of paragraphs outstanding for over six months are also sent to Government every quarter so that they may receive the special attention of the Govern-

ment. Government have prescribed a time limit of one month for furnishing replies to audit observations and in respect of cases requiring action at higher levels, a period of three months has been prescribed.

At the end of September 1982, local audit reports issued up to March 1982 were still to be settled as shown below. The corresponding figures for the earlier two years have also been indicated for comparison.

	<i>At the end of</i>		
	<i>September</i>	<i>September</i>	<i>September</i>
	1980	1981	1982
Number of local audit reports	926	914	987
Number of paragraphs	8,872	8,470	9,671

Year-wise break-up of the outstanding local audit reports as at the end of September 1982 is given below :

<i>Year</i>	<i>Number of local audit reports</i>	<i>Number of paragraphs</i>
Up to 1979-80	220	2,288
1980-81	289	2,627
1981-82	478	4,756
Total	987	9,671

Out of the 987 local audit reports which were pending settlement, even first replies had not been received (November 1982) in the case of 460 reports (4,318 paragraphs).

Details of the outstanding objections in the pending local audit reports have been given in Appendix IV.

## CHAPTER 2

### SALES TAX

#### 2.1. Results of audit

Test check of assessment and refund files and other records in sales tax offices done during the year 1981-82 disclosed under-assessment of tax amounting to Rs. 61.40 lakhs in 318 cases, which fall broadly, under the following categories :—

<i>Nature of irregularity</i>	<i>Number of cases</i>	<i>Under-assessment</i> <i>(In lakhs of rupees)</i>
1. Incorrect computation of taxable turnover	92	12.56
2. Incorrect computation of tax	97	32.58
3. Non-levy/short levy of penalty	104	6.30
4. Miscellaneous	25	9.96
Total	318	61.40

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

#### 2.2. Incorrect classification of goods

(i) Under the Karnataka Sales Tax Act, 1957, on sale of goods not specified in any of the schedules to the Act, tax is leviable at the general rate of 4 per cent at each point of sale with effect from 1st April 1975, unless otherwise specified. On sale of jaggery, tax is specifically leviable at the rate of 2 per cent at all points of sale. On sale of sugarcane, tax is leviable at the last point of purchase at Rs. 16 per tonne; but if sale is made to a manufacturer of jaggery, then tax is leviable at Rs. 9 per tonne. On sale of sugarcane to manufacturer of jaggery, tax at last point of purchase, may, at the option of the manufacturer, be paid at a compounded rate of Rs. 200 per annum per horse power of motor power crusher used by the manufacturer.

A company in Bijapur district, manufactured sugarcane syrup from the sugarcane purchased by it and sold the syrup to another company engaged in production of sugar, recti-

fied spirit, alcohol, etc., but not jaggery. On the syrup sold by the company during the years 1975-76 and 1976-77, tax was levied at 2 per cent treating it as jaggery instead of at 4 per cent. On the purchase of sugarcane also, tax was levied at the compounded rate which only a manufacturer of jaggery can opt for; while neither the company which purchased the cane syrup nor the company which purchased the sugarcane were manufacturers of jaggery. Accordingly on sale of sugarcane, tax was leviable at Rs. 16 per tonne. The incorrect assessments resulted in tax being levied short by Rs. 2,11,865 on sale of syrup amounting to Rs. 96,30,248 and by Rs. 7,41,558 on the purchase of 46,884 tonnes of sugarcane during the said two years.

On the mistakes being pointed out in audit in May 1979, the department stated that the assessment was done as per decision of Government communicated on 23rd January 1976 directing the syrup being termed jaggery syrup and treating it as jaggery.

On the case being reported to Government in February 1982 and August 1982, the Government accepted the objection (October 1982); report on recovery is awaited (December 1982).

(ii) With effect from 1st September 1978, on sale of straw boards, hard boards, plywood and the like, tax is leviable at 10 per cent at the point of first sale or at the point of the earliest of the successive sales in the State. Laminated sheets though not mentioned as such in the said entry, are plywood sheets with a thin coat of plastic similar to articles mentioned in that entry and, therefore, on their sale, tax is leviable at 10 per cent.

(a) In Belgaum, on sales of laminated sheets amounting to Rs. 13,17,764 (sold after 1st September 1978) during the years 1978-79 and 1979-80, the dealers were taxed only at the rate of 8 per cent as applicable to plastic sheets and not at 10 per cent. This resulted in tax being levied short by Rs. 31,135.

The mistake was noticed in audit in December 1981 but prior to that the question of classification of such plywood sheets had been referred by Audit (May 1980) to the Commissioner of Commercial Taxes, who in March 1982 confirmed that the material was classifiable like plywood.



The view was confirmed by Government (March 1982). Report on rectification is awaited (December 1982).

(b) In Mysore City, on sales of wood veneer sheets amounting to Rs. 7.84 lakhs during the years 1978-79 and 1979-80 by 3 dealers, tax was incorrectly levied at 4 per cent instead of at 8 or 10 per cent as aforesaid, which resulted in tax being levied short by Rs. 54,152.

On the mistake being pointed out in audit (February 1982), the department stated that veneer is a thin layer of wood and is not plywood. However, the Act requires rates of 8 or 10 per cent as aforesaid being levied on "plywood and the like" and in commercial practice veneer sheets, the articles though by themselves not plywood, are treated as articles of like nature by dealers in plywood as the like of plywood.

The case was brought to the notice of Government in July 1982; their reply is awaited (December 1982).

(iii) On industrial gases such as oxygen, acetylene, nitrogen and the like, tax was leviable at 6 per cent up to 31st March 1976 and thereafter at 8 per cent up to 31st August 1978.

In Bangalore City, refrigeration gas known by the trade name 'Freon' was treated as an unclassified item and on its sales during the years 1973-74 to 1977-78, tax was levied at three and a half per cent (up to 31st March 1975) and four per cent (from 1st April 1975) instead of at six per cent and eight per cent as aforesaid on the ground that it was not an industrial gas. This resulted in tax being levied short by Rs. 35,185 in respect of the years 1973-74 to 1977-78.

On the mistake being pointed out in audit in May 1978, in August 1978 and in September 1981, the department decided (December 1981) that such refrigeration gas was industrial gas. Report on revision of assessments and collection of additional demand is awaited (December 1982) from the department.

(iv) On sale of articles generally used as parts and accessories of motor vehicles, tax is leviable at 13 per cent with effect from 1st April 1974. Government also clarified in July 1978 that motor vehicle body is undoubtedly a part of motor vehicle and tax is leviable at 13 per cent.

In Belgaum, on sale of motor vehicle bodies valuing Rs. 3,20,000 during the years 1976-77 and 1977-78, tax was levied at 4 per cent as applicable to general goods instead of at 13 per cent. This resulted in tax being levied short by Rs. 28,800.

The mistake was pointed out in audit (February 1981) to the department; their reply is awaited (December 1982).

(v) On sales of batteries of motor vehicles and parts thereof, tax is leviable at 13 per cent at the point of first sale (with effect from 1st September 1978) while on sale of articles made of poly-vinyl chloride, it is leviable at 8 per cent.

(a) In Bangalore City, on sales of P.V.C. battery separators amounting to Rs. 1,97,928 during the year 1979, a dealer was taxed at 8 per cent instead of at 13 per cent, though the separators were parts of batteries of motor vehicles. This resulted in tax being levied short by Rs. 11,972.

Further, on inter-State sales of such separators amounting to Rs. 4,45,273 which were not supported by declarations from purchasers, as to their being registered dealers, tax was levied at 10 per cent instead of at 13 per cent as required under the Act. This resulted in a further short levy of tax by Rs. 19,147.

The mistakes were pointed out in audit (January 1982) to the department who agreed to examine the cases.

(b) In Mysore City, on sale of lead plates being component parts of batteries amounting to Rs. 1,76,127 during the period 1st September 1978 to 31st March 1979, a dealer was assessed to tax at 4 per cent (general rate) instead of at 13 per cent applicable to parts of batteries of motor vehicle. The fact that chemical treatment of the lead plates was necessary before their fitment into the battery did not alter their nature as parts of batteries of motor vehicles. The mistake resulted in tax being levied short by Rs. 15,851.

The mistake was pointed out in audit (January 1982); reply of the department is awaited (December 1982).

(vi) On sale of copper, bronze, brass and aluminium utensils, tax is leviable at 6 per cent. It has been judicially

held (December 1979) by the High Court of Madhya Pradesh (46 STC 30) that the word 'utensils' is sufficiently wide to include any article useful or necessary in the household.

In Belgaum, on sales of brass and alloy articles amounting to Rs. 6,70,967, tax was levied on a dealer at the general rate of 4 per cent on the ground that the articles were to be used for 'pooja'. However, the articles being only utensils, the fact that the buyer intended their use for 'pooja' purposes would not make them articles other than utensils. The incorrect classification resulted in tax being levied short by Rs. 14,761.

On the mistake being pointed out in audit (March 1982), the department stated (April 1982) that in common parlance the term 'Utensils' is understood to mean articles commonly used in the kitchen and not to 'pooja' articles. The qualification of 'kitchen' applied to utensils by the department is not allowed under the Act.

(vii) On sales of machinery and spare parts and accessories, tax is leviable at 8 per cent with effect from 1st April 1974. Tension gauges used as measuring instruments in relation to telephones, trolleys and wheel barrows were held by the Karnataka Appellate Tribunal to be machinery.

In Bangalore City, on sales of tension gauges amounting to Rs. 2,47,659 during the years 1978-79 and 1979-80, tax was levied at the general rate of 4 per cent instead of at 8 per cent as for machinery. This resulted in tax being levied short by Rs. 11,519.

The mistake was pointed out in audit (July 1981) to the department. In paragraph 2.03 (iv)(a) of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year 1979-80, also incorrect classification of 'tension gauges' was reported.

Further, on sales of pulleys, trolleys, axle wheels, steel wheels, crusher body, etc., amounting to Rs. 2,60,786 during the year 1976-77, tax was levied at the general rate of 4 per cent instead of at 8 per cent as for machinery. This resulted in tax being levied short by Rs. 11,474.

(viii) On sale of unclassified goods, tax is leviable at the general rate of 3 per cent from 1st April 1966, 3½ per cent from 1st July 1972 and 4 per cent from 1st April 1975. On sale of rice bran, tax was leviable at all points of sale at the concessional rate of 1½ per cent from 1st April 1970 to 7th September 1976 and at 4 per cent at first point of sale thereafter. On sale of deoiled rice bran, a commodity distinct from rice bran, tax was leviable at all the points of sales at the general rate (multipoint).

In Bangalore City, on sales of deoiled rice bran amounting to Rs. 1,12,553 and Rs. 1,85,593 during the years 1979-80 and 1980-81 respectively, tax was not levied treating the sales as second point sales of rice bran even though rice bran is different from deoiled rice bran. This resulted in tax amounting to Rs. 13,730 not being levied.

On the omission being pointed out (February 1982) in audit, the department stated (August 1982) that deoiled rice bran and rice bran are one and the same commodity. However, Government had reduced the rate of tax on deoiled rice bran to 2 per cent from 1st April 1969 and 1½ per cent from 10th January 1974 indicating that the two commodities are different and taxed at different rates.

(ix) On sale of chemicals of all kinds, tax is leviable at 8 per cent with effect from 1st September 1978, at the first point of sale. It has been judicially\* held in June 1975 and August 1981) that lime (calcium oxide) is a chemical.

In Belgaum, on sale of lime valuing Rs. 2.65 lakhs during the years 1977-78 and 1978-79, tax was levied at 4 per cent instead of at 8 per cent applicable to chemicals. This resulted in tax being levied short by Rs. 12,251.

The mistake was pointed out in audit to the department in December 1981; their reply is awaited (December 1982).

(x) On sale of heavy chemicals (such as sulphuric acid, hydrochloric acid, caustic soda, etc., which are produced cheaply and used in bulk in the industry), tax was leviable

\*The State of Mysore Vs. U. M. Gulam and Sons and others (1975) 36 STC 254 (Karnataka High Court).

The State of Gujarat Vs. Shah Bhagwanji Manekchand (1982) 50 STC 147 (High Court of Gujarat at Ahmedabad).

at 6 per cent up to 31st March 1976 and at 8 per cent thereafter.

In Bangalore, on sale of industrial chemicals, such as nitric acid, formaline, etc., during the years 1976 and 1977, tax was levied at 4 per cent instead of at 6 per cent and 8 per cent as aforesaid. This resulted in tax being levied short by Rs. 32,680 on sales valuing Rs. 7.79 lakhs.

On the mistake being pointed out in audit (March 1982), the department agreed to look into the case. Their acceptance of the audit objection is awaited (December 1982).

The cases in sub-paragraphs (iv) to (x) above were reported to Government (between February 1982 and July 1982); their replies are awaited (December 1982).

### 2.3. Irregular grant of exemptions

(i) As per an explanation introduced under the Fourth Schedule to the Karnataka Sales Tax Act, 1957, with effect from 1st September 1978, if a tax has been levied under the Act in respect of sale or purchase of paddy, then the tax leviable on the sale of rice produced out of such paddy shall be reduced by the amount of tax levied on such paddy.

In Chitradurga district, in assessing 11 dealers to tax leviable on sale of rice (aggregate turnover : Rs. 1,18,90,627) instead of giving rebate equal to tax levied on the paddy, the value of rice sold through the commission agents was wrongly exempted from levy of tax. This resulted in tax being levied short by Rs. 78,164.

On the mistake being pointed out in audit (July 1981), the department accepted (September 1981) the facts in principle and initiated action (September 1981) to revise the assessments; report on reassessment is awaited (December 1982).

(ii) Only specified items of 'Iron and Steel' listed in Fourth Schedule to Karnataka Sales Tax Act, 1957, based on Section 14 of the Central Sales Tax Act, are goods of special importance (declared goods) on the sale of which tax is levied at single point. Galvanised iron pipes and fittings are not one of the items specified and on their sale, tax is leviable at 4 per cent on all points of sale unless exempted.

In Tumkur and Dharwad districts, on sales of galvanised iron pipes and fittings valuing Rs. 8,58,500 during the years 1975-76 to 1979-80 by seven dealers, levy of tax was incorrectly exempted on the ground that the sales were of declared goods at second point. This resulted in tax being levied short by Rs. 36,926.

The mistakes were pointed out in audit (November 1981 and March 1982) to the department; their reply is awaited (December 1982).

(iii) Under Section 5(4) of the Karnataka Sales Tax Act, 1957, read with Section 15(b) of the Central Sales Tax Act, 1956, where tax has been paid in respect of the sale or purchase of any of the declared goods under the State Act and such goods are subsequently sold in the course of inter-State trade or commerce and tax is paid under the Central Act in respect of such sales, the tax paid under the State Act is reimbursable to the person making such inter-State sale. However, by a notification issued in May 1976 under the Central Act, the State Government has directed that no tax under the Central Act shall be payable by registered dealers in respect of inter-State sale (supported by prescribed certificates) of declared goods on which State tax has already been paid subject to the conditions that (a) the dealer effecting inter-State sales proves that the tax under the State Act has been paid in respect of such goods and (b) the dealer does not claim reimbursement of the State tax.

In Bangalore, a dealer purchasing iron and steel (declared goods) valuing at Rs. 61,18,120 from registered dealers within the State as also from dealers outside the State for Rs. 23,12,232 during the years 1977-78 and 1978-79, was assessed on his sales within the State under the State Act after exempting sales valuing Rs. 70,55,711 as being sale of iron and steel on which tax had been paid when purchased for a value of Rs. 61,18,120. When being assessed on his inter-State sales under the Central Act, sale of iron and steel amounting to Rs. 17,25,573 was again exempted though it represented sale of goods included in purchase value of Rs. 61,18,120. Tax under the State Act not having been paid on such goods when purchased, the incorrect exemption granted under the Central Act under notification of May 1976, therefore, resulted in tax being levied short by Rs. 69,023.

On the mistake being pointed out (January 1982) in audit, the department agreed to look into the case. Their acceptance of audit objection is awaited (December 1982).

(iv) A commission agent in Bidar district acting for his principals outside the State was also a dealer in his own right in the State. On sale of 'til' (gingelly), purchased by him in his own right, payment of sales tax under the State Act, had already been made at the first point of purchase in the State. On transfer of goods to his principals outside the State, the sale was viewed by the department as one made within the State by him (in his own right) to the agent (he, in his representative capacity) of the principals (outside the State). Such a view is illegal since the agent cannot purchase his own goods for transfer to his principals outside the State. The law of contract between an agent and his 'principal' does not allow of such a transfer nor is it possible in law for a person to buy his own goods nor can he sell his own goods to himself. In reality, the sales were by him as principal to principals outside the State. On this inter-State sales of gingelly (declared goods) which was not supported by prescribed declarations as a sale from a registered dealer to another, tax was leviable at 6 per cent (twice the rate of tax in the State) under the Central Sales Tax Act, 1956. On the value of sales amounting to Rs. 7,00,526, the Central sales tax leviable was Rs. 42,030 less the refund of the State sales tax already paid thereon viz., Rs. 21,015 (at 3 per cent of the purchase value of Rs. 7,00,526). In the result, tax was levied short by Rs. 21,015.

On the mistake being pointed out in audit (January 1982), the department stated (January 1982) that the matter would be looked into.

(v) As per Article 286 (i)(b) of the Constitution of India, on sales or purchases made in the course of export of goods out of the territory of India, levy of sales tax is exempt. As per the Central Sales Tax Act, 1956, on the last sale or purchase of goods preceding the sale or purchase which occasions the export of goods out of the territory of India, it being deemed to be in the course of export, levy of tax is exempt.

On sale of black granite stones (ornamental stones) valuing Rs. 2,04,100 effected during the period from 1st

July 1978 to 30th June 1979 by a dealer in Mysore to a dealer in Tamil Nadu for being resold to another dealer in that State, who was to export them, tax was omitted to be levied. The sales made by the dealer in Mysore were inter-State sales on which tax was leviable since that sale was neither a sale made in the course of export nor the sale preceding such a sale. This resulted in tax being levied short by Rs. 20,410 (at 10 per cent of the turnover for want of prescribed declarations).

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

(vi) "Hides and skins, whether in a raw or dressed state" have been declared to be goods of special importance of inter-State trade under the Central Sales Tax Act. Under the Karnataka Sales Tax Act, 1957, their sale is liable to tax at the point of purchase by the last dealer in the State who is liable to tax. However, on sales in the course of export out of the territory of India, levy of tax is exempt. As per the Central Sales Tax Act, a sale or purchase shall be deemed to take place in the course of export of goods out of the territory of India, only if the sale or purchase either occasions such export or is effected by transfer of documents of title to goods after the goods have crossed the customs frontiers of India. With effect from 1st April 1976, the last sale or purchase of goods preceding the sale occasioning the export of goods is also deemed to be in the course of such export.

(a) In assessing 12 dealers in Bangalore on their purchases of hides and skins amounting to Rs. 52,94,214 during the years 1978-79 and 1979-80, the levy of tax was exempted on the ground that they were not the last purchasers in the State. However, the three other registered dealers to whom they had made sales claimed exemption on their purchases as the last purchase preceding the sale occasioning the export of goods out of the territory of India. Consequently, the 12 dealers became the last purchasers within the State liable to tax on their purchases under the State Act. Failure to tax them resulted in tax amounting to Rs. 1,19,302 not being levied.

The mistake was pointed out in audit to the department in September 1981; their reply is awaited (December 1982).



(b) In Bangalore City, on purchase of manganese ore valuing Rs. 31,53,871 during the year 1976-77, which ore was sold to a public sector undertaking of the Government of India for export, a company was not taxed even though it was the last purchaser in the State and tax was leviable on the purchase. The tax including additional tax not levied amounted to Rs. 2,77,540.

On the omission being pointed out (October 1980) in audit, the department stated that the matter would be examined; its final reply is awaited (December 1982).

(vii) Under the Karnataka Sales Tax Act, 1957, on sale of mill yarn (excluding cotton yarn and filature silk), tax is leviable at the point of first or earliest of successive sales in the State at 3 per cent, with effect from 1st April 1974.

In Bangalore City, on sales of spun silk yarn amounting to Rs. 18,65,804 during the years 1978-79 and 1979-80, a dealer was incorrectly allowed exemption from levy of tax. Spun silk yarn is not one of the excluded yarns. This resulted in tax amounting to Rs. 67,283 including additional tax and surcharge not being levied.

On the mistake being pointed out in audit (January 1982), the department took action for rectification and stated (October 1982) that the appeal preferred by the assessee had been dismissed and that the amount of short levy was being collected from the assessee. Report on collection is awaited (December 1982).

(viii) Sale of sugar other than sugar candy, confectionery and the like is exempt from tax. In the absence of definition of 'sugar' in the Act, 'lesa sugar' which is a commodity manufactured out of sugar by mixing a percentage of glucose, essence, starch, etc., and is generally used in the preparation of sweets or confectionery not being sugar as commonly understood, its sale is taxable at the general rate.

In Belgaum district, on sales of 'lesa sugar' amounting to Rs. 19,29,830 during the years 1974-75 to 1979-80, tax was incorrectly exempted resulting in loss of revenue amounting to Rs. 77,423.

On the mistake being pointed out in audit (June 1981), the department relied on a decision of the Supreme Court and stated (July 1981) that the product was nothing but

sugar as it contained more than 90 per cent sucrose. The Karnataka Appellate Tribunal had while deciding (November 1977) a similar issue in a case held that the Supreme Court decision was not applicable to such cases as that court interpreted the Entry in the Bombay Sales Tax Act (which specified sugar to mean sugar as defined in Central Excises and Salt Act, 1944), while there was no specification for sugar in the Karnataka Act. In any case, chemical analysis revealed that percentage of sucrose in 'lesa sugar' was only 84.03 per cent.

(ix) As per the Karnataka Sales Tax Act, 1957, tax is leviable on sale of pulses at 4 per cent at the first point of sale.

In Belgaum, on sale of fried 'vatana' amounting to Rs. 2,97,100 during the year 1979-80, a dealer was omitted to be taxed considering it to be the same as raw 'vatana' (peas) on which tax had been paid. This resulted in tax amounting to Rs. 13,963 not being levied.

On the mistake being pointed out (May 1981) in audit, the department stated (June 1981) that fried 'vatana' was not different from raw 'vatana' and the commodity retained its original identity even after frying. Therefore, tax on sale of raw 'vatana' having been paid at point of first sale, no further tax was leviable. The reply is not correct since fried 'vatana' is a different commodity from raw 'vatana'. This view is supported by decision of Madhya Pradesh High Court (1982) 51 STC 126 wherein fried gram is distinguished from raw gram. There being no exemption on sale of fried 'vatana' as on fried Bengal gram, tax was leviable on sale of fried 'vatana'.

The cases in sub-paragraphs (i) to (ix) were reported to Government between July 1981 and July 1982; their replies are awaited (December 1982).

(x) Section 8A of the Karnataka Sales Tax Act, 1957, was amended on 4th April 1981 with retrospective effect by including a clause 3A in Section 8A, which reads as follows:—

“If the rate of tax payable under this Act in respect of any goods or class of goods gets modified by an amendment to this Act, notification, if any, issued in respect of such goods or class of goods under clause (a) of sub-section

(1) shall, with effect from the date from which such amendment comes into force be deemed to be cancelled to the extent it related to such goods or class of goods”.

(i) On sale of cashew shell oil, tax was leviable at the general rate but the levy was exempted with effect from 1st June 1969 by issue of a notification under Section 8A *ibid.*

Consequent on the upward revision of the general rate of tax from 3 per cent to 3½ per cent with effect from 1st July 1972, the notification of 1st June 1969 became inoperative vide sub-clause 3A of Section 8A. However, exemption was allowed even beyond 1st July 1972 in assessing two dealers in South Kanara district resulting in tax amounting to Rs. 26,192 not being levied.

On the mistake being pointed out in audit (September 1977), the department stated (March 1978) that the exemption continued to apply. This is clearly incorrect after retrospective introduction of clause 3A in Section 8A of the Act.

(ii) On sale of plastic bangles amounting to Rs. 33,78,456 made by 10 dealers in Bangalore, tax amounting to Rs. 1,67,354 was omitted to be levied. On the said goods, tax was leviable at 3½ per cent up to 31st March 1975 and at 4 per cent from 1st April 1975. By a notification issued on 17th June 1974, levy of tax on the sale of plastic bangles was exempted with effect from 1st July 1974. A fresh notification again exempting levy of tax on sale of plastic bangles was issued only on 8th June 1979 which came into force from 15th June 1979. Therefore, on sale of plastic bangles during the period from 1st April 1975 to 14th June 1979, tax was leviable at the general rate of 4 per cent.

On the omission being pointed out in audit (December 1979), the department agreed to re-examine the case (March 1980). Their reply is awaited (December 1982).

(iii) On sale of chemical fertilisers, bone meal and oil cake, tax was leviable at 2 per cent up to 31st March 1974 and at 3 per cent with effect from 1st April 1974. However, the Government of Karnataka in a notification dated 12th August 1971 (issued under Section 8A of the Karnataka Sales Tax Act, 1957) reduced the tax leviable with effect from

12th August 1971, in respect of the sale of any chemical fertiliser mixtures to an amount equal to the tax payable on the value of the individual fertilisers included in such mixtures on which the tax payable had not been paid previously. On sale of chemical fertilizer mixture amounting to Rs. 97,83,181 during the year 1974, the value of mixtures already subjected to tax was estimated at Rs. 72,41,900 and only on the balance value, tax was levied. Since the rate of tax leviable on the sale of chemical fertilizers was enhanced from 2 per cent to 3 per cent with effect from 1st April 1974 by an amendment to the Act, the notification dated 12th August 1971 referred to, ceased to have effect from that date. Therefore, on the sale of chemical fertilizer mixtures during the year 1974, after 1st April 1974, tax was leviable at 3 per cent, amounting to Rs. 1,62,943, but was not levied.

On the mistake being pointed out in audit (February 1982), the department stated that exemption was correctly given. Exemption was not in order after clause 3A of Section 8A was introduced with retrospective effect.

#### **2.4. Short levy due to undervaluation**

Under the Central Sales Tax Act, 1956, the tax is leviable on the sale price which is the amount payable to a dealer as consideration for the sale. Any sum allowed as cash discount according to the practice normally prevailing in the trade is allowed to be deducted from such price but not any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof. However, cost of freight or delivery or the cost of installation, in cases where such cost is separately charged, is not includible in sale price.

In Bangalore, on sale of cement during the year 1968-69, a dealer was taxed on the sale value after excluding Rs. 11.03 lakhs towards charges for packing the cement. The irregular deduction resulted in tax being levied short by Rs. 33,104.

On the mistake being pointed out in audit (June 1981), the department stated that action for rectification was under consideration (September 1982). Report on rectification is awaited (December 1982).

The case was reported to Government in June 1981; their reply is awaited (December 1982).

## 2.5. Tax levied at incorrect rate

(i) On sale of plastic sheets and all articles made of plastic, polythene or P.V.C. material, tax is leviable at 8 per cent with effect from 1st September 1978.

On sale of industrial plastic articles using raw materials like polystyrene, polyethylene and cellulose acetate, amounting to Rs. 4,94,133 during the period from 1st September 1978 to 31st March 1980, tax was incorrectly assessed at 4 per cent instead of 8 per cent resulting in tax being levied short by Rs. 22,981.

On the mistake being pointed out (March 1982) in audit, the assessing officer agreed to look into the case. Their acceptance of audit objection is awaited (December 1982).

(ii) On articles used generally as parts and accessories of motor vehicles, tax is leviable at 13 per cent with effect from 1st September 1978. Government issued a notification in September 1979 reducing the rate of tax on diesel engines and spare parts to 6 per cent with effect from 1st October 1979.

In Gulbarga district, on sales turnover of diesel oil engines and spare parts imported from outside the State amounting to Rs. 5,46,594 in respect of period up to 30th September 1979, three dealers of automobile parts were assessed to tax at 8 per cent, the rate applicable to machinery and spare parts instead of at 13 per cent, resulting in tax being levied short by Rs. 31,856.

On the mistake being pointed out (November 1981) in audit, the department stated that in the absence of a specific entry in the Schedule to the Act, the goods were classified as machinery and their parts. However, the notification of September 1979 made it clear that the rate applicable to parts and accessories of motor vehicles was being reduced from 13 per cent to 6 per cent if they were diesel engines and parts, implying that such diesel engines and parts were classifiable more specifically and not as general machinery and parts.

The matter was brought to the notice of Government (March 1982); their reply is awaited (December 1982).

(iii) On sale of goods to a registered dealer for use by the latter as a component part of any other goods men-

tioned in the Second Schedule to the Act, which he intends to manufacture inside the State for sale, tax is leviable at a concessional rate of 3 per cent.

It has been judicially held\* that a component part for this purpose means an article which forms an identifiable constituent of the finished product and which along with the other goes to make up the finished product.

(a) In Dakshina Kannada district, on sales of formaldehyde amounting to Rs. 51,80,547 during the years 1976-77 and 1977-78, tax was levied at concessional rate of 3 per cent because of declarations given that the formaldehyde was to be used in the manufacture of plywood. However, as formaldehyde was used only in making resin for binding plywood, the formaldehyde did not qualify to be a component. Therefore, tax was leviable on the sale of formaldehyde at the full rate of 8 per cent applicable to heavy chemical. Failure to do so resulted in tax being levied short by Rs. 2,84,930.

On the mistake being pointed out (July 1981) in audit, the department stated (December 1981) that the term 'component' was intended to be understood in a wider sense.

On reference made to it, the Government stated (September 1982) that 'formaldehyde' was not a component used in the manufacture of plywood and that the short levy be recovered. Report on rectification is awaited (December 1982).

(b) In Bangalore, on sale of alloy castings, iron and non-ferrous castings, rough castings, machine tool accessories, corrugated rolls, rubber moulded sheets and hose pipes amounting to Rs. 55.45 lakhs during the years 1978 to 1980 made by ten dealers, tax was levied at concessional rate of 3 per cent, though they were all semi-finished goods or finished input materials but not component parts. This resulted in tax being levied short by Rs. 95,996.

The mistakes were pointed out in audit to the department (January 1982 and March 1982); their reply is awaited (December 1982).

---

\*Paul Lazar Vs. State of Kerala (1977) 40 STC 437.

ERRATA

**Report of the Comptroller and Auditor General of India for the year  
1981-82 (Revenue Receipts) Government of Karnataka**

<i>Sl. No.</i>	<i>Page No.</i>	<i>Para No.</i>	<i>Line No.</i>	<i>For</i>	<i>Read</i>
1.	(ii)	Table of contents	21	registration to a firm	registration to firm.
2.	3	1.2 (b)	3rd from bottom	2 per cent	2 per cent respectively
3.	12	2.2 (ix)	11 th from bottom	in June 1975	(in June 1975)
4.	23	2.6	5th from bottom (heading)	Non-levy	Non-levy of
5.	39	4.4	36	trailors	trailers
6.	50	5.3(iii) (b)	12th from top	(May 1981).	(May 1981),
7.	53	5.6	27	registration to a firm	registration to firm
8.	54	5.6(ii)	15th from top	existence	existence
9.	56	5.7 (i)	Ist from bottom	form	from
10.	57	5.7(ii)	15th from bottom	One	one
11.	59	5.7(vii)	7th from bottom	Tenant-in-common	Tenants-in-common
12.	60	5.7(vii)	8th from top	2, 74, 324	Rs. 2, 74, 324
13.	64	5.11	31	during up	during the
14.	64	5.11	35	Thier	Their
15.	65	5.12	4th from bottom	over	of
16.	77	6.10(vi)	Ist from bottom	Rs. 10,000,	Rs. 10,100,
17.	92	8.6	8th from top	forefeiting	forfeiting
18.	94	8.9	7th from bottom	Rs. 66.25	Rs. 56.25
19.	107	Appendix I	16th from top (Taxes on M.V.1980-81 Col-5)	(-)9.38	(-)0.38
20.	110	Appendix III	8th from bottom	31sst March 1981	31st March 1981
21.	111	Appendix IV	7th from bottom	Tota	Total

Table 1

Summary of the data for the various sections of the study area, showing the number of specimens collected and the percentage of the total collection.

Section	Number of specimens	Percentage of total
Section I	10	10.0%
Section II	20	20.0%
Section III	30	30.0%
Section IV	40	40.0%
Section V	50	50.0%
Section VI	60	60.0%
Section VII	70	70.0%
Section VIII	80	80.0%
Section IX	90	90.0%
Section X	100	100.0%
Section XI	110	110.0%
Section XII	120	120.0%
Section XIII	130	130.0%
Section XIV	140	140.0%
Section XV	150	150.0%
Section XVI	160	160.0%
Section XVII	170	170.0%
Section XVIII	180	180.0%
Section XIX	190	190.0%
Section XX	200	200.0%
Section XXI	210	210.0%
Section XXII	220	220.0%
Section XXIII	230	230.0%
Section XXIV	240	240.0%
Section XXV	250	250.0%
Section XXVI	260	260.0%
Section XXVII	270	270.0%
Section XXVIII	280	280.0%
Section XXIX	290	290.0%
Section XXX	300	300.0%
Section XXXI	310	310.0%
Section XXXII	320	320.0%
Section XXXIII	330	330.0%
Section XXXIV	340	340.0%
Section XXXV	350	350.0%
Section XXXVI	360	360.0%
Section XXXVII	370	370.0%
Section XXXVIII	380	380.0%
Section XXXIX	390	390.0%
Section XL	400	400.0%
Section XLI	410	410.0%
Section XLII	420	420.0%
Section XLIII	430	430.0%
Section XLIV	440	440.0%
Section XLV	450	450.0%
Section XLVI	460	460.0%
Section XLVII	470	470.0%
Section XLVIII	480	480.0%
Section XLIX	490	490.0%
Section L	500	500.0%
Section LI	510	510.0%
Section LII	520	520.0%
Section LIII	530	530.0%
Section LIV	540	540.0%
Section LV	550	550.0%
Section LVI	560	560.0%
Section LVII	570	570.0%
Section LVIII	580	580.0%
Section LIX	590	590.0%
Section LX	600	600.0%
Section LXI	610	610.0%
Section LXII	620	620.0%
Section LXIII	630	630.0%
Section LXIV	640	640.0%
Section LXV	650	650.0%
Section LXVI	660	660.0%
Section LXVII	670	670.0%
Section LXVIII	680	680.0%
Section LXIX	690	690.0%
Section LXX	700	700.0%
Section LXXI	710	710.0%
Section LXXII	720	720.0%
Section LXXIII	730	730.0%
Section LXXIV	740	740.0%
Section LXXV	750	750.0%
Section LXXVI	760	760.0%
Section LXXVII	770	770.0%
Section LXXVIII	780	780.0%
Section LXXIX	790	790.0%
Section LXXX	800	800.0%
Section LXXXI	810	810.0%
Section LXXXII	820	820.0%
Section LXXXIII	830	830.0%
Section LXXXIV	840	840.0%
Section LXXXV	850	850.0%
Section LXXXVI	860	860.0%
Section LXXXVII	870	870.0%
Section LXXXVIII	880	880.0%
Section LXXXIX	890	890.0%
Section LXXXX	900	900.0%
Section LXXXXI	910	910.0%
Section LXXXXII	920	920.0%
Section LXXXXIII	930	930.0%
Section LXXXXIV	940	940.0%
Section LXXXXV	950	950.0%
Section LXXXXVI	960	960.0%
Section LXXXXVII	970	970.0%
Section LXXXXVIII	980	980.0%
Section LXXXXIX	990	990.0%
Section LXXXXX	1000	1000.0%



The cases in sub-paragraphs (i), (ii) and (iii) (b) were reported to Government in March 1982 and July 1982; their replies are awaited (December 1982).

(iv) Section 8 (2A) of the Central Sales Tax Act, 1956, provides that the tax payable by a dealer on his sales taking place during the course of inter-State trade or commerce in so far as such sales are exempt from tax generally or such sales are subject to tax at a rate which is lower than four per cent under the State Acts, whether such tax is called tax or fee or by any other name, the tax leviable under the Central Act shall be nil or as the case may be, at the lower rate.

Under the provisions of the Karnataka Sales Tax (Amendment) Act, 1979, with effect from 1st April 1979, a surcharge at the rate of ten per cent of the sales tax leviable under the State Act is recoverable provided that in the case of declared goods, if the tax payable (together with the additional tax payable) and the surcharge payable exceed four per cent, the rate of surcharge in respect of such goods shall be reduced to that extent.

In Bangalore, Shimoga and Raichur districts, sales tax, if levied, under the State Act, on the inter-State sales made by 65 dealers amounting to Rs. 8.38 crores during the period from 1st April 1979 to 7th November 1980, would have amounted to Rs. 25,82,901 inclusive of surcharge aforesaid, and still have been less than 4 per cent of the sales turnover. Therefore, tax under the Central Act was levied short by Rs. 2,34,810.

On the mistake being pointed out in audit (June 1981 and February 1982), the department recovered a sum of Rs. 1,10,326 in 29 cases; report on recovery of the balance amount is awaited (December 1982).

The cases were reported to Government (between August 1981 and August 1982); they confirmed the recovery of Rs. 65,233 in one case (Bangalore City).

## **2.6. Non-levy additional tax and surcharge**

Under the Karnataka Sales Tax Act, 1957, with effect from 1st April 1975, additional tax is leviable at the rate of ten paise per rupee of sales tax payable by every dealer whose total turnover is Rs. 10 lakhs or more. With effect

from 1st April 1977, it is leviable also on every dealer whose total turnover exceeds Rs. 5 lakhs but does not exceed Rs. 10 lakhs but at 7.5 per cent of the sales tax assessed. With effect from 15th March 1980, on dealers whose total turnover is above Rs. 25 lakhs, it is leviable at 12.5 per cent of the sales tax assessed.

With effect from 1st April 1979, the sales tax payable under the Act is to be increased by a surcharge calculated at the rate of 10 per cent of sales tax. On sale or purchase of declared goods, sales tax, additional tax and surcharge is limited to 4 per cent of the sale or purchase price of the goods.

(i) In Belgaum district additional tax and surcharge amounting to Rs. 30,627 was omitted to be levied on sales tax assessed at 4 per cent on sale of pulses by seven dealers during the years 1976-77 to 1979-80.

On the omission being pointed out in audit (December 1981), the department stated (August 1982) that rectificatory action had been taken and additional demand of Rs. 25,899 had been recovered.

(ii) In Chitradurga district and Bangalore City, additional tax amounting to Rs. 33,830 was omitted to be demanded on sales tax levied on sales effected by 8 dealers during the years 1976-77 to 1979-80.

On the mistake being pointed out (October 1981 and February 1982) in audit, the department stated that the matter would be examined and action taken.

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

## **2.7. Purchase escaping tax**

As per the Karnataka Sales Tax Act, 1957, on sale of all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned, baled, pressed or otherwise, tax is leviable at the point of last purchase in the State at 3 per cent with effect from 1st April 1974.

(i) In Raichur and Belgaum, on purchase of 'Kapas' (unginned cotton) from agriculturists and from others which kapas was then ginned and sold by the purchasing dealers, levy of tax was exempted as the sale to the pur-

chasing dealers, was apparently not the point of last purchase in the State (the ginned kapas having been sold again). However, on the quantity of kapas which was lost in the process of ginning, the purchasing dealer had become the last purchaser in the State and tax was leviable on so much quantity of 'kapas' as was lost in ginning. Tax leviable on 10 dealers in Raichur in respect of the assessment years 1977-78 to 1979-80 on kapas lost as aforesaid amounted to Rs. 16,143 and on 7 dealers in Belgaum in respect of the assessment years 1976-77 to 1978-79 to Rs. 39,356.

The omission was pointed out in audit to the department in June 1979, August 1981 and November 1981; their reply is awaited (December 1982).

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

(ii) In Bellary district during the business year 1977-78, a dealer in cotton had a net outgo of cotton which was purchased for a value of Rs. 57,98,161. Out of these, he accounted for Rs. 53,23,654, worth as sold, but paid tax at point of last purchase only on purchases worth Rs. 12,00,000. Purchases valuing Rs. 4,74,507 were not accounted for and should have been deemed to have been consumed by the last purchaser, the onus for proving otherwise being on the dealer. In the result, tax was levied short by Rs. 15,659.

On the mistake being pointed out in audit (June 1981), the department stated that the matter would be looked into and action taken. Their acceptance of the audit objection is awaited (December 1982).

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

## **2.8. Non-levy of penalty**

The Karnataka Sales Tax Act, 1957 and rules made thereunder require every dealer to submit a monthly return of sales and deposit the full amount of tax payable by him on the basis of the return. A dealer is liable to pay the tax finally assessed within twenty-one days from the date of the demand notice and in case of default in payment within the time prescribed, he shall pay a penalty equal

to one per cent of the amount of tax remaining unpaid, for each month, for the first three months of default, and two and a half per cent of such amount of tax, for each month subsequent to the first three months.

(i) From 551 dealers assessed in 57 offices during the year 1981-82, penalty as aforesaid amounting to Rs. 3.36 lakhs was not demanded and collected.

On the omission being pointed out (between April 1981 and March 1982) in audit, the department intimated (November 1982) that a sum of Rs. 42,925 had been recovered. Report on recovery of the balance amount is awaited.

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

(ii) On assessment, default in payment of tax with the return renders the dealer liable to penalty, of a sum not exceeding one and a half times the amount by which tax already paid falls short of the tax payable on assessment.

In Gulbarga district, out of a sum of Rs. 4,69,801 collected by a dealer by way of tax during the assessment years 1977-78 to 1979-80 and reflected in his returns, only a sum of Rs. 1,14,625 was paid to the department. No action was, however, taken by the department to serve notices demanding the penalty leviable which amounted to Rs. 2,21,036.

In February and August 1981, the tax due from him for the three years was assessed as Rs. 5,21,306. Penalty was, therefore, leviable at one and a half times the amount by which tax paid fell short of tax due which amounted to Rs. 6,10,021.

On the failure to levy penalty being pointed out (February 1982) in audit, the department stated that penalty would be levied. Report on recovery of penalty is awaited (December 1982).

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

## 2.9. Internal audit in Sales Tax Department

### (i) Trend of revenue

Sales tax continues to be the major source of tax revenue in the State as the trend of revenue given below indicates :

Year	Total tax revenue	Receipts from sales tax (In crores of rupees)
1975-76	237	118
1976-77	269	137
1977-78	297	151
1978-79	334	164
1979-80	405	200
1980-81	475	237

Assessments and collection of sales tax are being done by 8 Assistant Commissioners, 117 Commercial Tax Officers and 108 Assistant Commercial Tax Officers.

### (ii) Internal audit

Ten parties each with one officer and two inspectors have been engaged in internal audit from 1970. Between 1973 and 1975, all assessments of dealers having turnover in excess of Rs. 2 lakhs and refund payments exceeding Rs. 1,000 were checked in internal audit. Thereafter, all assessments are being checked in internal audit. Of the 209 offices required to be internally audited annually, 91 offices remained to be internally audited during 1979-80 and 76 offices during the year 1980-81. Arrears were attributed to lack of adequate staff strength.

### (iii) Results of internal audit

The internal audit report in respect of 14 offices in Bellary Division audited during the year 1980-81 had not been issued till June 1981 and two reports relating to Bangalore City Division were issued after a year. The pace of settlement of internal audit reports is given

below :

Year of issue	Number of internal audit reports pending settlement
1975-76	95
1976-77	88
1977-78	130
1978-79	159
1979-80	104
1980-81	110
Total ..	<u>686</u>

Even the first replies due had not been received in respect of 177 reports and there were delays ranging from two to six months in the receipt of first replies in respect of 95 reports. A record of objections raised and settled was being maintained by the Commissioner who controlled and co-ordinated internal audit at his level till the end of 1978-79, whereafter it was decentralised to the Deputy Commissioners. Out of 8,660 objections involving tax amounting to Rs. 233.71 lakhs raised up to the end of 1979, 4,844 objections (tax effect: Rs. 160.96 lakhs) were outstanding at the end of February 1982. Records of the objections raised during the years 1979-80 and 1980-81 were not being maintained systematically or pursued effectively by the Deputy Commissioners. The number and value of objections taken in internal audit and number outstanding could not be readily ascertained.

(iv) Of the 165 objections (each with tax effect in excess of Rs. 10,000) amounting to Rs. 52.84 lakhs raised in internal audit during the years 1979-80 and 1980-81, 60 objections amounting to Rs. 18.10 lakhs related to short levy or non-levy of penalties, 50 objections amounting to Rs. 15.31 lakhs related to absence of valid declaration forms for claiming exemption from sales tax and 55 objections amounting to Rs. 19.43 lakhs related to other irregular exemptions, incorrect classification of goods, etc.

(v) Internal audit pointed out in May 1975 incorrect acceptance of books of account in a case, in the absence of details of taxable and non-taxable goods in respect of the assessment year 1972-73, leading to short levy of tax amounting to Rs. 12,800. However, reassessment was

not done before it was barred by limitation. Another objection amounting to Rs. 2,77,676 related to under-assessment of a dealer's turnover for 1973-74 in the assessment done in May 1974 and amended in September 1975. However, reassessment was not done till rectification became barred by limitation in September 1979.

#### (vi) Omissions in internal audit

Double posting of credits amounting to Rs. 24,084 in demand and collection registers relating to Bangalore City benefiting 6 assesseees was not noticed in internal audit and was detected by statutory audit.

Short levies or non-levies of tax amounting to Rs. 94.48 lakhs detected by statutory audit between June 1977 and May 1980 were not noticed in internal audit done earlier.

The above facts were reported to Government in September 1981; their reply is awaited (December 1982).

#### 2.10. Assessments in arrears

The number of sales tax assessments finalised by the Commercial Tax Officers and assessments pending for finalisation as on 31st March 1982 (with year-wise break-up) are given below :—

	<i>Number of assessments for disposal</i>	<i>Number of assessments completed</i>	<i>Number of assessments pending at the end of the year</i>	<i>Percentage of pending assessments to total number of assessments due for disposal</i>
(a) Karnataka Sales Tax	2,77,897	1,26,617	1,51,280	54
(b) Central Sales Tax	1,04,107	38,300	65,807	63

Year-wise break-up of the pendency as on 31st March

1982 is as under :—

Year	Number of assessments pending	
	Karnataka Sales Tax	Central Sales Tax
Up to 1976-77	4,560	1,780
1977-78	7,112	3,180
1978-79	21,677	8,711
1979-80	37,544	17,553
1980-81	80,387	34,583
1981-82	..	..
Total	1,51,280	65,807

Category-wise break-up of the pending assessments as on 31st March 1982, as furnished by the department is as follows :—

Category	Number of cases pending		Percentage to the total number of cases pending	
	Karnataka Sales Tax	Central Sales Tax	Karnataka Sales Tax	Central Sales Tax
(i) Turnover of rupees one crore and above	913	698	0.60	1.06
(ii) Turnover of rupees 50 lakhs and above but below rupees one crore	2,316	1,361	1.53	2.06
(iii) Turnover of rupees 25 lakhs and above but below rupees 50 lakhs	6,794	3,580	4.49	5.44
(iv) Turnover of rupees 5 lakhs and above but below rupees 25 lakhs	21,228	9,486	14.03	14.42
(v) Turnover below rupees 5 lakhs	1,20,029	50,682	79.35	77.02
Total	1,51,280	65,807		

It was reported (November 1982) by the department that proposals for creation of additional sales tax officers and introduction of a summary assessment scheme in respect of dealers coming within the jurisdiction of Assistant Commercial Tax Officers were under examination.



## CHAPTER 3

### STATE EXCISE DUTIES

#### 3.1. Results of audit

Test check of the records in the departmental offices done in audit, during the year 1981-82 disclosed short levy of duty and licence fees amounting to Rs. 71.54 lakhs in 50 cases which broadly fall under the following categories :

<i>Category</i>	<i>Number of cases</i>	<i>Short levy (In lakhs of rupees)</i>
1. Errors in computation	10	0.70
2. Short levy of licence fee	7	7.78
3. Production losses and wastages	10	52.99
4. Other reasons	23	10.07
Total	50	71.54

#### 3.2. Levy of duty at incorrect rates

Excise duty leviable on Indian made liquors was raised from Rs. 17 to Rs. 17.60 per proof litre, with effect from 1st July 1980 as per a notification issued by Government under the Karnataka Excise (Excise Duties) Rules, 1968.

In a distillery in Bangalore, duty was, however, levied at the pre-revised rate on 27,230 proof litres of liquors cleared from the distillery between 1st July 1980 and 17th July 1980. This resulted in duty being levied short by Rs. 20,423.

The mistake was pointed out in audit to the department in April 1982 ; their reply is awaited (December 1982).

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

#### 3.3. Irregular grant of rebates

As per the Karnataka Excise (Excise Duties) Rules, 1968, on Indian made liquors, exported outside the State but within India, rebate of a prescribed percentage of the duty paid is allowed. However, the Rules were amended with effect from 16th August 1979 allowing for rebate only

on beer exported outside India, to the extent of duty paid in excess of 10 paise per bulk litre. No rebate is allowed on exports outside India of Indian made liquors.

(i) On 48,132 bulk litres of Indian made liquors exported by a distillery in Bangalore to places outside India, duty was levied at concessional rate of 62 paise per bulk litre, which was leviable only on exports to other States within India. On exports outside India, duty was leviable at the rate of Rs. 12.75 per bulk litre. The application of wrong rate resulted in duty being levied short by Rs. 5,83,841.

On the mistake being pointed out in audit (May 1981), Government stated (April 1981 and December 1981) that it was proposed to amend the Karnataka Excise (Excise Duties) Rules, 1968. Report on the rectification of the mistake pointed out, is awaited (December 1982).

(ii) As per the Karnataka Excise (Possession, Transport, etc.) Rules, 1967, the net duty payable, after allowing for the rebate, may be deferred for collection from an exporter till the time of the export, provided a bond is executed whereunder the goods would be warehoused or that duty would be paid in the importing State.

In Dharwad, Bellary and Bangalore, Indian made liquors and beer were exported to places outside the State. In 207 cases during the period July 1974 to May 1981, where proof of warehousing or payment of duty in the importing State was wanting, differential excise duty and cesses amounting to Rs. 25.28 lakhs had not been recovered in these cases.

The matter was reported to Government (August 1981 and February 1982); their reply is awaited (December 1982). Similar cases were reported in paragraphs 65 and 3.02 of the Audit Reports for the years 1974-75 and 1979-80 respectively.

### **3.4. Use of alcohol in industry**

As per a notification issued by Government in January 1973, on rectified spirit supplied for manufacture of solvent ether, excise duty was leviable at a concessional rate of 20 paise per bulk litre.

A firm in Raichur district manufacturing solvent ether needed 2,400 bulk litres of rectified spirit for the manufacture of 1,008 kilogrammes of solvent ether. However, during the years 1976-77 to 1979-80, the firm used 11,69,200 bulk litres of rectified spirit as against only 11,62,145 bulk litres required for production of 4,88,101 kilogrammes of solvent ether. On the excess of 7,055 bulk litres (corresponding to 11,781 proof litres), duty was leviable at non-concessional rate and the duty and cess short realised thereon amounted to Rs. 1,05,745.

On the mistake being pointed out in audit (January 1981), the department recovered the amount (September 1981) from the licensee firm.

The case was reported to Government in June 1981; they confirmed the facts (November 1981).

### 3.5. Duty on alcohol wasted beyond limits

(i) In May 1980, Government fixed the standard for waste permissible in the processing (including reduction, evaporation, blending, storage, bottling, warehousing and breakage) of Indian made liquors at five per cent; the standard was to apply to past cases also.

In a distillery in Bangalore, on 14,836 proof litres of spirit claimed as wastage in excess of the standard limit, duty was not levied during the years 1974-75 to 1976-77. The duty not levied amounted to Rs. 1,35,379.

The mistake was pointed out in audit (July 1981 and February 1982) to the department; their reply is awaited (December 1982).

(ii) As per the norms fixed by Government, allowance for wastage in redistillation of spirit is not to exceed three per cent. In a distillery in Bangalore, during the year 1979-80, 2,03,650 proof litres of rectified spirit were redistilled and the wastage claimed was 7,886.150 proof litres. Allowance was to be limited to 6,109.500 proof litres, i.e., 3 per cent. Excise duty and cesses leviable but not levied on the excess allowance amounted to Rs. 16,212. This was pointed out in audit in November 1981. Further, 18,36,624.380 proof litres of spirit were drawn by the distillery for redistillation during the year 1980-81. But only 18,31,674.390 proof litres were accounted for by the distillery. Non-levy of excise duty and cesses on the quantity short accounted amounted to Rs. 45,168.

On the above mistakes being pointed out in audit (January 1982), the department stated (February 1982) that the amount of Rs. 45,168 due on unaccounted spirit had been recovered from the distillery. Report on excess allowance for loss in redistillation is awaited.

(iii) Based on the recommendations of a technical committee, Government prescribed (May 1980) that wastage on production of beer be allowed up to 7 per cent in the first process of primary fermentation (including chilling, centrifugal separation, filtration and carbonation followed by storage in tanks) and up to six per cent in the second process of filling (including crowning, pasteurisation labelling and warehousing).

In two breweries in Bangalore, during the years 1978-79 and 1979-80, on 2,76,794 bulk litres of beer claimed as wastage in excess of the prescribed limits, duty amounting to Rs. 3,79,433 was not levied.

On the mistake being pointed out in audit (April and July 1981), the department stated (April and July 1981) that demand notice would be issued and action taken to recover the duty and cess. Report on rectification is awaited (December 1982).

(iv) As per the standards fixed by the Government, 1,000 kgs of malt should yield 6,500 litres of beer. In a brewery in Bangalore, in the year 1979-80, from 14,96,987 kgs. of malt and malt substitutes, 87,47,350 litres of wort was produced which was short by 9,83,065 litres of wort in relation to the standard for yield taking into account the yield of beer from wort. After allowing the prescribed losses of 7 and 6 per cent in the two downstream stages of manufacture and bottling, the quantity of beer manufactured short was 8,59,395 litres in relation to the standard fixed. This resulted in duty and cesses being levied short by Rs. 12,35,380.

This shortfall was pointed out in audit (August 1981); the reply of the department is awaited (December 1982).

(v) In January 1982, Government fixed the maximum wastage of alcohol permissible in the manufacture, processing and issue of arrack by distilleries at 3.5 per cent.

In a distillery in Mandya district, the wastages as aforesaid exceeded the limit of 3.5 per cent by 0.18 per cent

and 0.28 per cent during the years 1979-80 and 1980-81 respectively. This resulted in duty being realised short by Rs. 1,74,512 because of non-levy of duty on the excess.

On this being pointed out in audit (April 1982), the department stated (November 1982) that the entire sum of Rs. 1,74,512 had been recovered.

The cases were reported to Government between August 1981 and August 1982; their replies are awaited (December 1982).

### 3.6. Licence fee not recovered

(i) The Karnataka Excise (Rectified Spirit) Rules, 1967, require that any person desiring to possess and use rectified spirit for **bona fide** medicinal, industrial, scientific, educational or any other similar purpose should possess a licence, for issue of which a fee of Rs. 25 is charged up to a limit of 25 litres per year and additional fee of rupee one for every extra litre per annum. The Karnataka High Court dismissed in January 1980 a writ petition filed questioning the competence of the State to license possession of rectified spirit.

For possession of spirit under licence, as aforesaid, fee amounting to Rs. 11.21 lakhs (inclusive of Rs. 1.50 lakhs from the firm which moved the High Court) was not recovered for various periods during the years 1972-73 to 1980-81, by the department in Bangalore and Gulbarga.

The omission was pointed out in audit (August 1981, December 1981 and January 1982) to the department; the department stated (August 1982) that demand notices had since been issued.

The cases were reported to Government (November 1981); their reply is awaited (December 1982).

(ii) As per the Karnataka Excise (Sale of Indian and Foreign Liquors) Rules, 1968, a licence is necessary for the possession and sale of Indian Liquor (other than arrack) or foreign liquor or both. A licence fee of Rs. 3,000 per year is payable where supplies are made to residents of tourist hotels situated in places other than cities, i.e., other than places having a population of 50,000 or more and managed by the Tourist Development Corporation of the State Government or the Central Government. The licence

fee payable, if supplies are made to residents of tourist hotels in cities (i.e., places with population of more than 50,000) was Rs. 10,000 per year up to the year 1979-80 and Rs. 14,500 per year from the year 1980-81 onwards.

In respect of a traveller's lodge (hotel run by the Tourist Development Corporation of India) in Bijapur to which city rates were applicable, the lower rate as for places other than cities, was applied. The mistake resulted in short recovery of fee by Rs. 33,500 for the years 1978-79 to 1981-82.

On the mistake being pointed out (February 1981 and January 1982), the department stated (June 1982) that demand notice had since been issued (May 1982) to the licensee for recovery; report on collection is awaited (December 1982).

### **3.7. Non-recovery or short recovery of interest on belated payments**

As per Rule 15 of the Karnataka Excise (General Conditions) Rules, 1967, interest is chargeable at  $6\frac{1}{4}$  per cent per annum on shop rentals which are not paid within the tenth day of the month to which they relate.

Cases of short recovery of interest on belated payments of shop rentals relating to the years 1973-75 and 1975-78 were reported in paragraphs 43 and 3.01 of the Audit Reports for the years 1974-75 and 1978-79 respectively. Further cases of non-recovery and short recovery of interest amounting to Rs. 42,771 were noticed in audit during the period March 1981 to January 1982.

On the non-recovery of interest being pointed out, the department stated (June, July, October and December 1982) that an amount of Rs. 40,954 had since been collected. Report on collection of the balance amount is awaited (December 1982).

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

### **3.8. Recovery of supervision charges**

The Karnataka Excise Rules require that the cost of establishment in respect of the excise officers and staff working in the premises of the excise licensees, for securing

compliance with the provisions of Excise Act and Rules, is recovered by the Government in advance from the licensees in annual, half yearly or quarterly instalments.

From licensees in nine districts, the cost of establishment which was deputed during the years 1969-70 to 1981-82 for supervision as aforesaid was not collected in full. The shortfall in recovery amounted to Rs. 1,85,816.

On the omission being pointed out in audit (May 1981 to April 1982), the department stated (October 1982) that a sum of Rs. 6,028 had since been recovered. Report on recovery of the balance amount is awaited (December 1982).

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

---

## CHAPTER 4

### TAXES ON MOTOR VEHICLES

#### 4.1. Results of audit

Test check of the records in the Regional Transport Offices and the other offices of the Motor Vehicles Department done, in audit, during the year 1981-82 disclosed under-assessment of taxes amounting to Rs. 43.16 lakhs in 34 cases, which broadly fall under the following categories :—

<i>Category</i>	<i>Number of cases</i>	<i>Under-assessment (In lakhs of rupees)</i>
1. Short levy of motor vehicles tax	23	29.27
2. Short levy of taxes on passengers and goods	3	1.64
3. Short levy of endorsement fees	8	12.25
Total	34	43.16

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

#### 4.2. Irregular remission of tax

With effect from 1st April 1980, the rates of tax payable in respect of goods vehicles were raised by an amendment to the Karnataka Motor Vehicles Taxation Act, 1957. In order to remove any difficulty in giving effect to the provisions of the Act, the State Government was empowered to issue notifications within a period of two years from 1st April 1980.

On receipt of representation from lorry owners against the increase in rates, the Government issued orders (not notification) on 12th May 1980 constituting a committee and directed the department on 14th May 1980 to collect the taxes at the existing rates pending receipt of the committee's report.

The instructions of 14th May 1980 not having the force in law as a notification, tax was required to be levied at the new rates from 1st April 1980. Even on the basis



of the report of the committee received in June 1980, no notification was issued designed to remove any difficulty in the implementation of the Act. In the result, tax was realised short by Rs. 93.68 lakhs during the years 1980-81 and 1981-82.

The short realisation was reported in audit to Government in March 1982; their reply is awaited (December 1982).

#### **4.3. National Permit Scheme**

Under the National Permit Scheme (in force from 26th September 1975), each public carrier registered in other States has to pay a tax at Rs. 700 per annum (Rs. 1,000 from April 1980) in one or two instalments (before 15th March and 15th September of every year) to the State Government for operating in the State. The Transport Commissioner of the State in which the vehicle is registered is required to collect the tax in respect of the other States also and remit it to the concerned States by demand drafts.

On 91 public carrier vehicles operating in Karnataka under the National Permit Scheme, tax for half a year had not been received from the Transport Commissioners of Andhra Pradesh, Madhya Pradesh and Haryana. The tax due amounted to Rs. 46,941 and the half years in question related to various six monthly periods during the years 1976-77 to 1980-81. No action had been taken by the department to collect the tax due.

On the omission being pointed out in audit (September 1981), the department stated (September 1981) that recovery will be pursued with the authorities of the States concerned.

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

#### **4.4. Irregular exemption from tax**

As per a notification issued by Government in October 1980, tax leviable on tractor-trailors, the registered owners of which are agriculturists and whose main source of income is from agriculture, was exempted in the first

year after its registration. In subsequent years, tax became leviable at concessional rate of Rs. 10 per year.

Tax leviable on four owners of tractor-trailers who were not agriculturists was irregularly exempted in Bangalore which resulted in non-levy of tax in respect of the vehicles for the period from November 1980 to March 1982 amounting to Rs. 32,256.

The failure was pointed out in audit to the department in March 1982 ; their reply is awaited (December 1982).

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

#### **4.5. Short levy of tax on certain vehicles**

(i) Under the provisions of the Motor Vehicles Act, 1939, on transport vehicles, tax is levied on the basis of their registered laden weight and the purpose for which and the manner in which the vehicle is to be used.

(a) In Bangalore, in respect of an articulated vehicle (a tractor bearing a portion of the weight of the trailer attached to it and allowing of relative movement between the two) registered in October 1975 as a goods vehicle, tax was assessed (from 1st October 1975) on a laden weight of 17,600 kilograms instead of on the registered laden weight of 33,020 kilograms. This was the result of applying wrongly an order of Government issued which exempted articulated vehicles from certain load restrictions from the point of view of safe loads and body building on chassis. This resulted in tax being levied short by Rs. 94,365 for the period from 1st October 1975 to 31st March 1981. No offence was also booked against the owner for plying the vehicle without a permit.

(b) In Bangalore, in respect of a vehicle registered in January 1973 for laden weight of 10,600 kilograms and used for haulage and towing of sick vehicles and also for carrying loads up to 3 tonnes, tax was levied at rates applicable to non-transport vehicles instead of at rates for transport vehicles. This resulted in tax being levied short by Rs. 27,500 during the period from January 1973 to March 1981.

The mistakes were pointed out in audit to the department in September 1980 ; their reply is awaited (December 1982).

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

(ii) Under the Karnataka Motor Vehicles Taxation Act, 1957, on autorickshaws used for hire after receiving permits, tax is leviable at rates lower than on autorickshaws used for private purposes.

In Dakshina Kannada and Mandya districts, on 335 autorickshaws used for private purposes, tax was levied at the lower rates as for autorickshaws used for hire. This resulted in tax being levied short by Rs. 29,102 in respect of various years between July 1976 and June 1981.

The mistake was pointed out in audit (September 1981 and January 1982) to the department; their reply is awaited (December 1982).

The cases were reported to Government in March 1982. In paragraph 4.06 of the Audit Report for the year 1977-78, similar short levy of Rs. 41,821 on autorickshaws used for private purposes was reported. The reply of the Government is awaited (December 1982).

#### **4.6. Demand and collection of tax**

As per provisions of the Karnataka Motor Vehicles Taxation Act, 1957, tax on motor vehicles assessed by the Regional Transport Officers is payable in advance quarterly, half yearly or annually. In the offices of the Regional Transport Authority, the demand and collection of tax is watched by reference to register of motor vehicles maintained under the Indian Motor Vehicles Act, 1939 and through postings in the tax demand and collection registers. Instructions issued by the department require the Regional Transport Officer to review that register of demand and collection is posted and correct up to date and attest the same and adequate action for recovery of the tax due is taken.

In the five districts of Bangalore, Bijapur, Chitradurga, Gulbarga and Mysore, a review of the relevant records indicated that the number of vehicles on register in the five districts was 43,192. A random check of demand, collection and recovery of tax in respect of 10,017 vehicles, on the register, in the five districts indicated the following :

(i) In Chitradurga and Bijapur, demands for tax amounting to Rs. 1.50 lakhs in 16 cases had not been raised in time and were set aside by appellate authorities as being barred by limitation and in another case, tax amounting to Rs. 84,809 leviable on a vehicle for the period from 1st April 1967 to 28th February 1978 was considered for write off, being non-realizable because of failure of the department to take action in time. In Mysore district, demands amounting to Rs. 34,000 relating to the years 1976 to 1981 had not been issued even by July 1981.

(ii) In respect of 679 vehicles, exemption from levy of tax had been granted for specified period. There was no record of the exemption having been extended for further periods nor of the continuation of the conditions subject to which exemption was granted. No system of reviewing the eligibility for exemption from tax due on vehicles before or soon after the expiry of exemption period was in vogue.

(iii) In respect of 2,370 vehicles permitted to be used as carriers, stage carriages, etc., the duration of the permit and the period for which certificate of fitness was given in respect of the vehicles after testing them, had not been brought on record.

(iv) In respect of 629 vehicles on register, on which tax had not been collected, the whereabouts of the vehicles are still to be located.

(v) In respect of 662 vehicles, the records did not indicate whether tax for the period from 1st June 1963 to 31st October 1981 had been paid. It was seen that in respect of 151 vehicles, tax amounting to Rs. 10.66 lakhs for the period from June 1966 to October 1981 was definitely still due. In respect of 100 vehicles, no action had been taken at all, to recover the dues. In respect of 152 vehicles, no further action was taken after issue of the demand notices. Action taken, if any, in respect of 314 vehicles could not be ascertained from the records and only in respect of 77 vehicles, the whereabouts of the owners were stated to be not known.

(vi) In respect of 2,077 vehicles, entries relating to payment of tax received had not been checked by reference to the treasury or bank schedules. Failure to exercise this important check had led to fictitious entries of payments

having been made in respect of 55 vehicles in Bangalore involving tax amounting to Rs. 2.63 lakhs which were detected by the department.

(vii) In respect of 426 vehicles, tax amounting to Rs. 40.12 lakhs was certified for recovery to Revenue Department for recovery as arrears of land revenue during the years 1974 to 1981. The tax due related to the years 1962 to 1981. In 57 cases, the dates of reference to the Revenue Department could not be ascertained; while 43 cases were pending with that department for more than three years and 152 cases for more than one year.

The above facts noticed in audit were reported to Government in September 1981; their reply is awaited (December 1982).

#### **4.7. Loss of revenue due to belated action**

(i) Under the Karnataka Motor Vehicles Taxation Act, 1957, if the tax leviable in respect of any motor vehicle remains unpaid and the person liable for the payment thereof before having paid the tax, has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who has possession or control of such vehicle shall be liable to pay the said tax to the taxation authority.

On a goods vehicle originally registered (October 1969) in Hassan, tax amounting to Rs. 13,588 was due in respect of the period 1st October 1972 to 31st August 1975 and the vehicle was sold in Mangalore in April 1978 under the orders of civil court. The original registering authority had not recovered the arrears before the vehicle was moved to Mangalore region. Taxes from January 1976 had been paid at Mangalore by the previous owner and from January 1979 by the owner consequent to the court sale; but no action to recover the dues in Hassan had been taken under the wrong impression that the buyer in court sale was not liable to pay the arrears of tax and that action was to be taken to recover the arrears as arrears of land revenue from the previous owner. The Act does not exempt the subsequent owner from the liability for payment of arrears of tax even if the vehicle was purchased in a court sale.

The omission was pointed out in audit (July 1981) to the department; their reply is awaited (December 1982).

(ii) To prevent default in payment of tax by the owners, the Transport Commissioner had issued (August 1966) instructions for conducting a quarterly review of the tax registers and for taking follow up action where tax had fallen due.

In Mangalore, motor vehicles tax due from April 1966 in respect of a goods vehicle was not demanded till November 1970. Subsequently, after issue (November 1970) of a demand notice and correspondence with the registered owner as also his financiers, the department referred (February 1974) the case to the Revenue Authorities to recover the tax due as arrears of land revenue. The Revenue Department, however, intimated (September 1975) its inability to recover the arrears as the registered owner of the vehicle had no moveable or immoveable property to be proceeded against. The matter was, therefore, referred (January 1976) to the Transport Commissioner for write off of the irrecoverable amount. Orders of the competent authority are awaited.

Failure on the part of the Regional Transport Officer to take adequate and timely action had resulted in non-recovery of tax amounting to Rs. 24,800 for the period from 1st April 1966 to 30th June 1975.

(iii) Under the Motor Vehicles Act, if a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall within fourteen days or as soon as may be report the fact to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration of the vehicle together with any token or card issued authorising the use of the vehicle in a public place.

In Mangalore, motor vehicle tax amounting to Rs. 18,400 due (1st July 1964 to 30th September 1970) in respect of a goods vehicle, was demanded from the owner (November 1970) and the financier of the vehicle (July 1978). The registered owner informed the department (May 1979) that the vehicle had been seized (1964) by the financier. On enquiry (September 1979), the financiers, however, stated that they had not seized the vehicle. On this being pointed out (July 1981) in audit, the department stated that the owner had reported scrapping of the vehicle in 1964, and any demand made after that date would be

fictitious. The owner had not, however, followed aforesaid procedure and the demand was required to be raised till the department had cancelled the registration. Report on cancellation of the registration is still awaited.

(iv) Under the Karnataka Motor Vehicles (Taxation on Passengers and Goods) Act, 1961, where the sums specified in the notice of demand are not paid within fifteen days from the date on which the notice was served on the operator, the stage carriage or public carrier vehicle in respect of which the tax is due and its accessories may be distrained and sold under the appropriate law relating to the recovery of arrears of land revenue, whether or not such vehicle or accessories are in the possession or control of the person liable to pay the tax.

In Dakshina Kannada, for want of timely and adequate action by the department in 28 cases, tax amounting to Rs. 80,528 had become irrecoverable because the demands were barred by limitation or the assessee possessed no property which could be attached. The cases had, therefore, been recommended for write off.

The cases were reported to Government between August 1981 and September 1981; their reply is awaited (December 1982).

#### **4.8. Non-recovery of fee**

(i) The Karnataka Motor Vehicles Rules, 1963 required the department to charge a fee of Rs. 10 (up to 24th October 1972) or Rs. 25 (from 25th October 1972 to 14th April 1979) or Rs. 50 (from 15th April 1979) for the renewing or endorsing a permit for use of vehicles for carriage, etc., and also when granting a temporary or special permit in this regard.

In respect of 73,239 temporary and special permits issued during the period from July 1963 to November 1979, the prescribed fee amounting to Rs. 15.97 lakhs was not realised.

The omissions were pointed out in audit (between September 1981 and March 1982) to the department; their reply is awaited (December 1982).

The cases were reported to Government in September 1981 and April 1982. Similar omissions were reported in paragraph 4.06 of the Audit Report for the year 1980-81. The reply of the Government is awaited (December 1982).

(ii) The Karnataka Motor Vehicles Rules allow an applicant for registration of his vehicle, asking that a particular registration number which falls in the range of 500 numbers from the number last assigned, be allotted to him on payment of a non-refundable fee of Rs. 500.

Between November 1978 and July 1981, specified registration numbers were allotted to 157 applicants but without collecting the fee of Rs. 500 in each case which resulted in loss of revenue of Rs. 78,500 to Government. Of these, 37 specified numbers had been notified by the Transport Commissioner as not available for such special allotment.

The loss of revenue was reported in audit (December 1980 and December 1981) to the department; their reply is awaited (December 1982).

The cases were reported to Government in March 1982. Similar loss of revenue amounting to Rs. 87,500 was also reported in paragraphs 4.12 and 4.08 of the Audit Reports for the years 1977-78 and 1979-80 respectively. Reply of the Government is awaited (December 1982).

---



## CHAPTER 5

### TAXES ON AGRICULTURAL INCOME

#### 5.1. Results of audit

Test check of the documents in Agricultural Income Tax Offices done in audit during the year 1981-82 revealed under assessment of tax amounting to Rs. 60.89 lakhs in 149 cases which broadly fall under the following categories:

<i>Category</i>	<i>Number of cases</i>	<i>Under- assessment (In lakhs of rupees)</i>
1. Error in computation of income and tax	26	8.68
2. Income escaping assessment	18	7.12
3. Non-levy of penalty	6	4.43
4. Irregular allowance of interest and bonus	8	6.61
5. Irregular adoption of status of assessee	18	5.97
6. Excess allowance of expenditure	51	13.40
7. Irregular registration of firm	10	9.22
8. Irregular allowance for depreciation	4	2.40
9. Miscellaneous	8	3.06
Total	149	60.89

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

#### 5.2. Under assessment due to arithmetical mistakes

As per the Karnataka Agricultural Income Tax Act, 1957, where computation of agricultural income in any year results in a loss, such loss shall be carried forward to the following year and set off against the agricultural income for that year.

In the case of an assessee in Chickmagalur district, an arithmetical error was committed in calculating the excess of expenditure over income. This resulted in the loss in respect of the assessment year 1976-77 being computed in excess by Rs. 20,000. This excess loss was set off against the total income of the assessee in respect of the year 1977-78, resulting in tax being levied short by Rs. 13,000.

Further, in computing the income for the assessment year 1979-80, the following mistakes were committed :—

(i) Total income from coffee production was incorrectly arrived at as Rs. 12,11,660 instead of Rs. 12,21,660.

(ii) In totalling amounts disallowed, the figure was wrongly arrived at as Rs. 93,962 instead of Rs. 98,962.

(iii) Value of 24,555 coffee points relating to 1976-77 amounting to Rs. 2,76,244 was partly assessed to tax in 1977-78 (Rs. 1,20,655) and partly in 1978-79 (Rs. 66,054). As against the balance of Rs. 89,535 which should have been assessed to tax during the assessment year 1979-80, only Rs. 77,580 were assessed.

The mistakes resulted in tax being levied short by Rs. 17,380.

On these mistakes being pointed out in audit (May 1981), the department revised the assessments and raised additional demands for Rs. 13,000 and Rs. 17,380 for the assessment years 1977-78 and 1979-80 respectively.

The matter was reported to Government in July 1981 ; Government stated (June 1982) that the additional demands had been collected (March 1982).

### **5.3. Incorrect computation of income**

As per the Karnataka Agricultural Income Tax Act, 1957, the income from coffee crop during the relevant previous year is computed on the basis of valuation of points (including bonus points) declared by the Coffee Board in respect of such crop.

(i) With effect from the assessment year 1976-77, income from non-commercial crops also became assessable to tax under the Karnataka Agricultural Income Tax Act, 1957.

In an assessment made in Chickmagalur district, the value of 82,359 coffee points at Rs. 5.20 per point, in respect of the coffee produced during 1974-75 season was Rs. 4,28,266. Of this, an amount of Rs. 2,67,666 received as income during the year 1974-75 was assessed to tax in respect of the assessment year 1975-76. The balance income of Rs. 1,60,600 received during the year 1975-76

should have been assessed to tax in respect of the assessment year 1976-77. Instead, only a sum of Rs. 16,471 was assessed to tax which resulted in income of Rs. 1,44,129 escaping assessment.

Further, the assessee who had income from both coffee and paddy, returned Rs. 6,278 towards income from paddy which was omitted to be assessed in respect of the assessment year 1976-77.

On the under assessment of income by Rs. 1,50,407 in the aggregate, resulting in tax being levied short by Rs. 18,175, being pointed out in audit (May 1981), the department stated that the assessments were rectified and the additional demand collected (December 1981 and February 1982).

(ii) A partnership firm in Chickmagalur district maintaining accounts on mercantile basis computed its income from 99,000 coffee points, in crop season 1976-77, in respect of the assessment year 1978-79, at the rate of Rs. 8.50 per point as against Rs. 9 per point declared by the Coffee Board. The adoption of the lower rate resulted in under assessment of agricultural income by Rs. 49,500 and consequent short levy of tax by Rs. 24,946 in assessing the firm and its partners.

On the mistake being pointed out (October 1980) in audit, the department rectified (November 1980) the assessment and raised additional demand of Rs. 24,946 which was collected.

(iii) (a) A partnership firm in Kodagu district received sums of Rs. 19,799 and Rs. 55,660 respectively during the previous years relevant to assessment years 1977-78 and 1978-79, towards value of bonus points relating to coffee crops of 1974-75 and 1975-76 seasons. The income though included in the profit and loss account, was not assessed to tax. In addition, a sum of Rs. 5,718 representing interest on sums due paid by the assessee to the Agricultural Income Tax Department, during the previous year relevant to assessment year 1977-78, which interest was not an expenditure incurred for the purpose of deriving agricultural income, was allowed as a deduction. The mistakes resulted in tax being levied short by Rs. 49,854 in respect of the assessment years 1977-78 and 1978-79.

On the mistakes being pointed out in audit (April 1981), the department stated (December 1981) that additional demand for Rs. 49,854 had since been raised and also collected in November 1981 and December 1981.

(b) In computing the income of an assessee firm for the previous year relevant to the assessment year 1977-78, an amount of Rs. 54,516 representing the value of 10,077 bonus points at the rate of Rs. 5.41 per point relating to coffee crop of 1974-75 season, which was returned by the assessee, was omitted to be included in the assessment. This resulted in tax being levied short by Rs. 35,454.

On the omission being pointed out in audit (May 1981), the department rectified (September 1981) the assessment and collected the additional demand.

(iv) Under the Karnataka Agricultural Income Tax Act, 1957, read with Rules made thereunder, the cash amount received within the accounting period in respect of the crop grown and consigned by the assessee to the Coffee Board, or the estimated value of such crop, is required to be taken into account as the income of the year, according to the method of accounting regularly employed by the assessee. However, any receipt in respect of the earlier season's coffee crop received during the accounting period in addition to the amount already taken into consideration in the assessments of the preceding years, shall be considered to be income received in the previous year to which the accounting period relates.

Two assessees in Chikmagalur district, keeping accounts according to mercantile method returned income from the estimated value of their crop for taxation. The value of 2,69,877 final coffee points at the rate of Rs. 4.35 per point declared by the Coffee Board in respect of coffee crop of 1972-73 season worked out to Rs. 11,73,967, whereas tax had been assessed only on a sum of Rs. 11,42,923 in respect of the assessment years 1973-74 to 1976-77. Consequently, balance income of Rs. 31,044 was not assessed resulting in tax being levied short by Rs. 16,596 in respect of the assessment year 1976-77.

On the mistake being pointed out in audit (May 1981), the assessments were rectified and the amount of Rs. 16,596 was demanded and collected (December 1981 and March 1982).

The above cases were reported to Government (between February 1981 and July 1981); their reply is awaited (December 1982).

#### 5.4. Incorrect deduction of interest from taxable income

Under the Karnataka Agricultural Income Tax Act, 1957, any interest paid by the assessee in the previous year, on the borrowings actually spent on the land from which agricultural income is derived, is allowable as an item of expenditure provided there was **bona fide** need for such borrowings, having regard to the assets of the assessee at the relevant time. The deduction of such expenditure from interest is limited to interest at 12 per cent simple interest if the debt is secured and 15 per cent if unsecured.

(i) In Mysore district, in assessing a company, interest paid on unsecured loans was allowed to be deducted in computing the income of the company in respect of assessment years 1976-77 to 1979-80, but deduction was not restricted to fifteen per cent as aforesaid. This resulted in income being under assessed by Rs. 88,769 and tax levied short by Rs. 57,700.

The mistake was pointed out in audit (September 1981); the reply of the department is awaited (December 1982).

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

(ii) A partnership firm in Hassan district had paid interest of Rs. 1,31,323 on secured and unsecured loans which were allowed to be deducted in respect of the assessment year 1976-77. However, deduction was not restricted to the prescribed limits. This resulted in agricultural income computed less by Rs. 48,947.

Further, the firm was required to raise loans amounting to Rs. 1,35,726 on account of moneys having been advanced by it to the partners, as evidenced by debit balances in the accounts of the partners which exceeded even the capital contributed by them. To this extent, the loans raised by the firm were not utilised for deriving agricultural income and accordingly an amount of Rs. 17,644 should have been disallowed from the interest payment allowed to be deducted.

The mistakes resulted in tax being levied short by Rs. 19,526.

On the mistakes being pointed out in audit (March 1979), the department revised the assessment (September 1981) creating an additional demand of Rs. 19,526 which was collected in October 1981.

The case was reported to Government in August 1981. Government have confirmed the facts (January 1982). Similar cases were reported also in paragraph 5.05 of Audit Report 1978-79.

(iii) Three partners of a firm in Kodagu district had borrowed Rs. 1.20 lakhs, Rs. 1.60 lakhs and Rs. 1.20 lakhs respectively at rates of interest ranging from 6 per cent to 12 per cent for investment as capital in the firm. The interest claimed and allowed as deduction during the assessment years 1976-77 to 1978-79 exceeded the amounts actually payable at the stipulated rates in respect of each partner by Rs. 18,733, Rs. 39,765 and Rs. 9,825 respectively. This resulted in under assessment of the income and consequent short levy of tax in the three cases by Rs. 6,087, Rs. 13,997 and Rs. 3,306 respectively, aggregating to Rs. 23,390.

On the mistakes being pointed out in audit (April 1981), the department agreed to look into the cases. Report on action taken is awaited (December 1982).

The case was reported to Government in June 1981 ; their reply is awaited (December 1982).

(iv) Interest payments aggregating Rs. 46,881 were allowed as deduction in computing the taxable agricultural income of two assesseees for the assessment years 1977-78 and 1978-79. The assesseees had given interest free loans to their parents and resorted to borrowings on which they paid interest. The need for borrowings was not, therefore, **bona fide** and the interest paid thereon was inadmissible as deduction. Deductions towards replantation expenses without exercising requisite option (Rs. 26,849), bonus in excess of 20 per cent of salary (Rs. 1,806) and excess depreciation (Rs. 6528) were also irregularly allowed. The mistakes resulted in under assessment of income by Rs. 82,064 with consequential short levy of tax by Rs. 53,340 in the aggregate, in respect of both the assesseees.

On the mistakes being pointed out in audit (March 1980), the assessing authority stated (August 1980) that the cases were under examination.

The cases were reported to Government in June 1980. Government stated (October 1980) that revision of the assessments was under examination by the Commissioner of Agricultural Income Tax, Bangalore. No further action has been reported so far (December 1982).

### **5.5. Income wrongly treated as capital receipt**

An assessee in Hassan district sold a portion of his estate during the previous year relevant to the assessment year 1974-75 along with the standing crops. The purchaser was to reimburse Rs. 1,92,231 towards cultivation expenses incurred by the vendor on the standing crops up to the date of sale, of which, Rs. 1,41,478 only was reimbursed leaving a balance of Rs. 50,753 which was the amount due to be received. The amount was allowed as a deduction from taxable income of the assessee for the year 1974-75. Allowance of above expenditure as deduction without the corresponding income from sale of standing crop being included in his income resulted in incorrect deduction of expenditure and tax being levied short by Rs. 20,031.

On the mistake being pointed out in audit (July 1981), the department agreed to examine the point.

The case was reported to Government (November 1981); their reply is awaited (December 1982).

### **5.6. Incorrect grant of registration to a firm**

Under the Karnataka Agricultural Income Tax Act, 1957, and the Rules made thereunder, an application for registration of a firm as also for renewal thereof, should be signed by all the partners (not being minors) separately in respect of each assessment year and be accompanied by the original instrument of partnership. It has been judicially held\* that a minor cannot be admitted to benefits of partnership without an agreement signed by his guardian.

(i) In Chickmagalur district, the application for the renewal of registration made by a firm in respect of the

---

\*CIT Vs. Dwarakadas Khetan & Co., 41 ITR 528 (SC). Additional CIT Vs Uttam Kumar Pramod Kumar 97 ITR 730 (Allahabad),

assessment years 1975-76 and 1976-77 was signed by only one partner on behalf of himself and his major son who was the other partner in the firm. There was also a change in the profit sharing ratio of the two partners from 75 per cent and 25 per cent to 50 per cent each in respect of the assessment year 1976-77. Failure to assess the firm, as un-registered resulted in tax being levied short by Rs. 21,525 in respect of the assessment years 1975-76 and 1976-77.

On the mistake being pointed out in audit (May, June 1978), the department stated that the relevant assessment records were being examined to consider revision of the assessments. Information regarding final action taken in the matter is still awaited (December 1982).

(ii) In Kodagu district, an assessee firm with six partners which came into existence with effect from 6th April 1973, admitted three more partners and nine minors to benefits from firm by resolution passed on 1st May 1973 without any revised deed of partnership being drawn up. According to the resolution, the profits were to be shared by all the 18 members equally and the losses by the 9 major partners. The Agricultural Income Tax Officer granted registration to the reconstituted firm for the assessment year 1975-76 on the basis of an application for registration filed on 18th March 1976. The grant of registration for the reconstituted firm on the basis of a resolution without a deed of partnership of the reconstituted firm with 3 new partners, in respect of the assessment year 1975-76 and its renewal for the subsequent assessment years was contrary to the provisions of the Act, and the assessment as a registered firm resulted in tax being levied short by Rs. 6,18,187 in respect of the assessment years 1975-76 to 1978-79.

On the mistake being pointed out in audit (May 1979), the department issued notice to the assessee. Report on rectification is awaited (December 1982).

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

(iii) In Chickmagalur, a firm consisting of three partners was granted registration in respect of the assessment year 1970-71 for purposes of assessment of agricultural income derived from carrying on the business of growing coffee and cardamom and selling the same.



The registration was made with reference to a partnership deed dated 1st December 1970. The registration was renewed year after year up to the assessment year 1977-78. However, as per the deed dated 1st December 1970, the partnership was constituted for the sole purpose of carrying on business in timber, firewood and other allied business and the business was to run under a given name as "Saw Mill". The deed was silent on activity of growing coffee and cardamom and selling the same under the name and style of an 'Estate' which was how the income was assessed from 1970 to 1978. One of the partners entered into a partnership with his wife for the management of the estate and for obtaining additional finance under a new partnership deed dated 1st March 1978. This deed did not refer to any earlier partnership or its dissolution in relation to the estate.

The agricultural income derived by the individual from the estate was liable to be assessed in the status of 'Individual' in respect of assessment years 1970-71 to 1977-78 and tax amounting to Rs. 73,272 was leviable.

On the failure to assess the tax as mentioned above being pointed out in audit (May and June 1981), the department stated (November 1981) that the matter was under examination.

The case was reported to Government (July 1981); their reply is awaited (December 1982).

(iv) In Chickmagalur district, registration of a partnership firm in respect of the assessment year 1974-75 and renewal of registration for the subsequent assessment years 1975-76 to 1978-79 were granted in one case and registration in respect of the assessment year 1978-79 was granted in another case, though in both cases, there was no evidence that the minors were admitted to the benefits of partnership as per an agreement with their guardian. The registration should, accordingly, have been refused.

Assessment of the two firms as registered instead of as unregistered firms resulted in tax being levied short by Rs. 1, 15,193 in respect of the assessment years 1974-75 to 1978-79 in one case and by Rs. 1,00,958 in respect of the assessment year 1978-79 in the other case.

On the mistakes being pointed out in audit, the department stated (October 1981) that the matter was being exa-

mined. Report on rectification is awaited (December 1982).

The cases were reported to Government in July 1981; their reply is awaited (December 1982).

(v) In Bangalore, a minor was admitted to the benefits of partnership in a firm consisting of three major partners by a deed dated 27th February 1974 but the agreement admitting the minor to the benefit of the partnership was not signed by the guardian of the minor. Therefore, the registration granted for the assessment year 1973-74 and its renewal for the subsequent years from 1974-75 to 1976-77 were not in order and the assessments should have been, therefore, made treating the firm as unregistered. Since the loss suffered by 'Tenants-in-common' cannot be set off against the income of unregistered firm, loss of Rs. 90,691 from the agricultural operations being apportioned equally among the four members and the loss being carried forward and set off against the share income of each partner for the assessment years 1974-75 and 1975-76 was not in order. The incorrect grant of registration to the firm and consequent incorrect set off of loss of 'Tenants-in-common' resulted in tax being levied short by Rs. 22,122 in respect of the assessment years 1974-75 to 1976-77.

On the mistake being pointed out in audit (April and June 1981), the department agreed to examine the points. Report on rectification is awaited (December 1982).

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

### **5.7. Incorrect deduction of expenditure from taxable income**

Under the Karnataka Agricultural Income Tax Act, 1957, any expenditure, other than capital expenditure, incurred in the year of raising of the crop from which agricultural income is derived and laid out or expended wholly and exclusively for the purpose of deriving such income is allowable as deduction in computing the taxable agricultural income for that year.

(i) A partnership firm was dissolved on 5th September 1976 and one of its partners took over the estate and converted it into a private limited company. In assessing the income (for the period from 1st July 1976 to 4th

September 1976) of the dissolved firm, the Agricultural Income Tax Officer, Mercara disallowed a sum of Rs 31,402, representing cultivation expenses incurred by the firm up to the date of its dissolution in respect of the assessment year 1978-79. The expenditure was not relatable to any income derived in that assessment year. However, while assessing the tax on the income of the newly formed company in respect of the assessment year 1978-79, the same expenditure was allowed, even though it was not actually incurred by the company. As the estate was taken over by the company along with the standing crops, any expenditure incurred on cultivation by the dissolved firm became a part of the sale consideration which was capital in nature. The incorrect allowance resulted in tax being levied short by Rs. 20,411.

On the mistake being pointed out in audit (April 1981), the department stated (October 1981) that the assessments had since been rectified and the additional tax collected (January 1982).

The case was reported to Government in June 1981 ; their reply is awaited (December 1982).

(ii) In Chickmagalur district, an assessee purchased an estate on 1st October 1978 for Rs. 10 lakhs, the whole of which was capital expenditure incurred in the previous year relating to the assessment year 1979-80. He claimed an expenditure of Rs. One lakh out of it to be towards earning of agricultural income. The assessing officer allowed the expenditure claimed as deduction from income which resulted in tax being levied short by Rs. 13,201.

On the mistake being pointed out in audit (March 1982), the department agreed to look into the case. Acceptance of the objection or rebuttal is awaited (December 1982).

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

(iii) In an assessment done on 28th March 1981 in Mysore district, though an expenditure of Rs. 4,91,324 towards salaries, wages and bonus in respect of the assessment year 1977-78 was allowed as deduction, the details appended to the return worked out to only Rs. 4,31,755.

Further, expenditure on account of payment of bonus amounting to Rs. 94,462 was allowed to be deducted and a provision for Rs. 1,37,645 towards bonus was also allowed to be deducted in respect of the assessment years 1978-79 to 1980-81. The mistakes resulted in tax being levied short by Rs. 1,31,376.

On the mistakes being pointed out in audit (September 1981), the department agreed to examine the cases.

The case was reported to Government in March 1981 ; their reply is awaited (December 1982).

(iv) In assessing a firm in Kodagu district, provision for 'retirement benefits to staff' amounting to Rs. 44,301, made by the assessee, was allowed as a deduction in the computation of agricultural income for the assessment years 1973-74 and 1974-75 even though it was not approved as per provisions in the Act in regard to the manner for making such provision. This resulted in tax being levied short by Rs. 26,075 in respect of the two assessment years.

On the mistake being pointed out in audit (October 1976), the department stated (December 1981) that the assessments were rectified and the short levy recovered.

The case was reported to Government in October 1976 ; their reply is awaited (December 1982).

(v) In assessing a firm in Chickmagalur district on its income from coffee and paddy in respect of the assessment year 1978-79, the assessing officer allowed expenditure of Rs. 75,966 incurred towards paddy cultivation (included in the total expenditure of Rs. 10,95,801 claimed by the assessee) to be deducted. Subsequently, the assessment was revised (16th October 1979) and the assessing officer allowed an expenditure of Rs. 32,400 towards paddy cultivation on estimation and best judgement basis without writing back the expenditure of Rs. 75,966 already allowed in the original assessment. This resulted in allowance of expenditure amounting to Rs. 75,966 twice and consequently, tax being levied short by Rs. 40,043.

On the mistake being pointed out (March 1982) in audit, the department stated (March 1982) that additional demand for Rs. 40,043 has since been raised. Report on recovery is awaited (December 1982).

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

(vi) As per the Karnataka Agricultural Income Tax Act, 1957, ten per cent of the expenditure incurred on maintenance of young and immature coffee plants is allowed as deduction from income while computing the agricultural income.

(a) In assessing a company in Kodagu district to agricultural income tax for the year 1965-66, the whole of the expenditure incurred on maintenance of young and immature coffee plants over an area of 59 acres was allowed to be deducted from the income at the rate of Rs. 400 per acre instead of limiting it to Rs. 40 per acre. But in respect of the assessment year 1966-67, while the deduction was allowed at 10 per cent on coffee plants over an area of 62 acres, it was given at 100 per cent on an additional area of 23.5 acres. In the result, allowance was given in excess by Rs. 8,460 on 23.5 acres and by Rs. 21,240 over 59 acres, resulting in tax being levied short by Rs. 17,820 in respect of the two assessment years.

(b) In Chickmagalur district, the whole of the expenditure incurred on maintenance of young and immature coffee plants was allowed as deduction in assessing income for the years 1976-77 and 1977-78, resulting in allowance being given in excess by Rs. 40,500 in each of the two years, and tax being levied short by Rs. 10,428.

On the mistakes being pointed out in audit (May 1978 and June 1981) in the above cases, the department agreed to look into the cases. Nothing further has been heard so far (December 1982).

The under assessments were reported to Government in April 1981; their reply is also awaited (December 1982).

(vii) Certain persons in Chickmagalur district assessed as Tenant-in-common sold their coffee estate together with the standing crop and all other appurtenances as on 1st December 1978 for a total consideration of Rs. 60,86,000. As per the terms of the sale deed, the purchasers were, *inter alia* entitled to receive the coffee pool payment for the season 1978-79, while the vendors (assesseees) were entitled to receive all supplementary payments relating to the earlier

seasons up to 1977-78. For the assessment year 1979-80, the assessee offered the balance payments relating to 1976-77 and 1977-78. However, expenditure of Rs. 6,17,432 claimed by him as relating to their income out of which the assessing officer allowed expenditure to the extent of Rs. 6,07,959 was not an admissible deduction since it was not incurred in the relevant previous year. This resulted in tax being levied short by 2,74,324.

On this being pointed out in audit (February-March 1982), the assessing officer agreed to examine the case.

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

(viii) In Chickmagalur, an estate owned by a firm was sold to another firm on 1st October 1978 for Rs. 10 lakhs and the vendor was responsible for payment of all outstanding claims on the estate. In returning residuary income relating to the estate received in the year 1978-79, the assessee claimed expenditure of Rs. 54,815 as incurred for earning the income but as per details furnished only an amount of Rs. 13,062 was to be allowed as related to payment of bonus, gratuity, provident fund contribution and family pension relating to the estate. Excess allowance of expenditure for deduction resulted in tax being levied short by Rs. 18,789.

On the mistake being pointed out in audit (February and March 1982), the department agreed to look into the case. Acceptance of audit objection is awaited (December 1982).

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

(ix) In Chickmagalur district, a firm sold two of the three estates owned by it in April 1978 for Rs. 33.50 lakhs. As per the terms of sale, the firm was entitled to receive the balance of coffee pool payments for the coffee seasons of 1977-78 and earlier years from the Coffee Board and the purchaser from the season of 1978-79 onwards. The firm claimed expenditure of Rs. 61,311 relating to the estate as incurred during the year 1978-79 relevant to the assessment year 1979-80 and the expenditure was allowed in assessments as deduction. But this expenditure was not incurred for purpose of earning agricultural income. This

resulted in tax being levied short by Rs. 39,852 in assessing the seven partners of the firm. Further, a sum of Rs. 19,800 paid to partners towards travel expenses was not a deductible expenditure under the provisions of Karnataka Agricultural Income Tax Act and its allowance resulted in tax being levied further short by Rs. 12,870 in the hands of the partners.

On the mistake being pointed out in audit (March 1982), the department agreed to look into the cases. Their acceptance of the audit objections is awaited (December 1982).

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

### **5.8. Incorrect allowance of depreciation**

Under the Karnataka Agricultural Income Tax Act, 1957, depreciation allowance is deducted from agricultural income in respect of assets which are owned by the assessee and are required for the purpose of deriving agricultural income. In the context of the Indian Income Tax Act, it has been held by the Allahabad High Court (81 ITR 171) that where an asset is owned by several persons, depreciation allowance to be deducted cannot be computed on the proportionate share of the assessee in the value of the asset and cannot be allowed.

(i) In Hassan, 16 assesseees were allowed to deduct depreciation on assets not wholly owned by them in respect of assessment years 1978-79 and 1979-80 which resulted in tax being levied short by Rs. 18,190 in the aggregate in the 16 cases.

On the mistake being pointed out in audit (October 1981), the department took steps for rectification of assessments. Report on rectification is awaited (December 1982).

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

(ii) Initial depreciation at prescribed rates in respect of capital assets which are the property of the assessee and are acquired and installed during the previous year relevant to the assessment year is allowed to be deducted from the agricultural income.

In Kodagu district, initial depreciation at 20 per cent for sprinkler was allowed in respect of assessment year

1978-79 because the instalments of payments for it were completely paid during the previous year relevant to the assessment year 1978-79. But the asset was installed in an earlier year and therefore the depreciation was not admissible in that year. In the earlier year, it was not admissible as it had not become the property of the assessee because the instalment had not been paid. This resulted in tax being levied short by Rs. 31,160 in assessing 17 assesseees for the years 1978-79 and 1979-80.

On the mistakes being pointed out in audit (November 1981), the department did not accept the objection.

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

### 5.9. Income escaping assessment

(i) In computing the income of an assessee maintaining accounts on cash basis, all amounts received either in cash or by cheque in any year, should be reckoned as income of that year irrespective of whether the cheques are encashed within that year or not.

In Chickmagalur district, an assessee maintaining account on cash basis received two amounts of Rs. 15,182 and Rs. 63,654 during the previous year relevant to the assessment year 1979-80 which were not included in the total income assessable to tax on the ground that the relevant cheques were not encashed before the close of the previous year 1978-79. This resulted in tax being levied short by Rs. 51,243.

On the mistake being pointed out in audit (March 1982), the department revised the assessment and raised an additional demand of Rs. 51,243. Report on recovery is awaited (December 1982).

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

(ii) In Chickmagalur district, income from coffee estate was being assessed as that of an individual up to the assessment year 1968-69 and was thereafter shown as income of a firm constituted on 1st April 1968 by the individual and his five sons. The firm adopted cash basis in its account. But coffee pool payment amounting to



Rs. 1,98,298 received during the year 1969-70 was omitted to be included in the income of the firm while computing its income (May 1979) in respect of the assessment year 1970-71. This resulted in excess carry forward of loss to subsequent years and consequent short levy of tax by Rs. 19,612 in respect of the assessment years 1971-72 to 1976-77.

On the mistake being pointed out in audit (March 1982), the department revised the assessment and raised an additional demand of Rs. 22,479. Report on collection is awaited (December 1982).

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

#### **5.10. Income of Hindu Undivided Family after partition**

The Karnataka Agricultural Income Tax Act, 1957, requires that validity of a partition or maintenance division of a Hindu Undivided Family having been ascertained to the satisfaction of the assessing officer, the income of the undivided family for the period prior to partition is to be assessed to tax as if it were still in existence and the divided members are liable for such tax.

(i) In Chickmagalur district, on partition of a Hindu Undivided Family on 1st April 1978 by metes and bounds, the assessing officer satisfied himself of its validity on 22nd May 1979 but income of Rs. 61,505 from coffee pool payments for the coffee years 1976-77 and 1977-78 received during the year 1978-79 were assessed in the hands of individual members in proportion to their share of property instead of as the income of the Hindu Undivided Family. This resulted in tax being levied short by Rs. 15,192.

On the mistake being pointed out in audit (March 1982), the department agreed to look into the case. The acceptance of audit objection is awaited (December 1982).

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

(ii) In Chikmagalur district, on partition of a Hindu Undivided Family in March 1977 by metes and bounds, all pool payments towards coffee pertaining to the year 1976-77 and earlier seasons as might be received subse-

quently were to be received by the father as his property and he was to pay, **in lieu**, Rs. 30,000 in lump to his minor son. However, the income for past years were to be assessed as income of Hindu Undivided Family still deemed to be in existence. (It was open to the father to exclusively pay the tax as per terms of partition, though liability of son was not discharged till payment of tax as per provisions of the Act). Failure to do so and apportioning the income between the father and minor son in their individual assessments for the assessment years 1978-79 and 1979-80 resulted in tax being levied short by Rs. 24,488.

On the mistake being pointed out in audit (March 1982), the department accepted the objection (August 1982) and raised demand for Rs. 24,488. Report on collection is awaited (December 1982).

The case was reported to Government in July 1982.

#### **5.11. Omission to club income of minors with that of guardian**

As per the Karnataka Agricultural Income Tax Act, 1957, while computing the total agricultural income of an individual, so much of the agricultural income of wife or minor child of such individual, as arises directly or indirectly from the admission of the wife or minor to the benefits of partnership in a firm of which such individual is a partner, has to be included.

In Chickmagalur district, a firm constituted by a deed executed on 31st March 1972 consisted of five partners and four minors, who were sons of two of the five partners. However, the incomes of the minors were not clubbed and assessed in the hands of their fathers. In the result, on the income (Rs. 2,03,014) of the four minors during up accounting year 1978-79 relevant to assessment year 1979-80, tax was levied short by Rs. 36,876.

On the omission being pointed out in audit (March 1982), the department agreed to look into the case. Their acceptance of the audit objection is awaited (December 1982).

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

### 5.12. Assessments in arrears

The number of agricultural income tax assessments finalised by the Agricultural Income Tax Officers and assessments pending for finalisation as on 31st March 1982 (with year-wise break-up) are given below :—

<i>Number of assessments for disposal</i>	<i>Number of assessments completed</i>	<i>Number of assessments pending at the end of the year</i>	<i>Percentage of pending assessments to total number of assessments due for disposal</i>
2,18,921	13,032	2,05,889	94

Year-wise break-up of the pendency as on 31st March 1982 is as under :—

<i>Year</i>	<i>Number of assessments pending</i>
Up to 1976-77	35,999
1977-78	3,013
1978-79	40,621
1979-80	48,384
1980-81	45,247
1981-82	32,625
Total	2,05,889

Category-wise break-up of the pending assessments as on 31st March 1982, as furnished by the department is as follows :—

<i>Category</i>	<i>Number of cases pending</i>	<i>Percentage to the total number of cases pending</i>
(i) Assessee having income over Rs. 25,000	26,147	12.70
(ii) Assessee having income over Rs. 15,000 but not exceeding Rs. 25,000	29,991	14.56
(iii) Assessee having income over Rs. 7,500 but not exceeding Rs. 15,000	54,617	26.53
(iv) Assessee having income over Rs. 7,500 and below	95,131	46.21
(v) Refund cases	3	
Total	2,05,889	

## CHAPTER 6

### LAND REVENUE

#### 6.1. Results of audit

Test check of records relating to Land Revenue assessments and collections in taluk offices, etc., done in audit during the year 1981-82 revealed short levy of Land Revenue amounting to Rs. 125.62 lakhs in 172 cases, which broadly fall under the following categories:—

<i>Nature of irregularity</i>	<i>Number of cases</i>	<i>Short levy (In lakhs of rupees)</i>
(i) Short levy of land revenue, cesses, measurement fees, etc.	73	18.23
(ii) Short levy of water rate and penal water rate	49	49.53
(iii) Short levy of betterment contribution	19	41.48
(iv) Short levy of maintenance cess	31	16.38
Total	172	125.62

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

#### 6.2. Non-collection of betterment contribution

The Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957, requires the Government to levy and collect betterment contribution from holders of lands benefited by Irrigation Works maintained by Government. In December 1980, Government instructed the department to initiate action to get the relevant Act and Rules amended immediately for abolishing levy and collection of the contribution. The Act has not been amended or repealed so far (December 1982).

In eight taluk offices in the State, demands for the contribution amounting to Rs. 58.53 lakhs for the period up to 1981 were removed from the records without any legal basis. In thirteen taluk offices, demands for Rs. 44.65 lakhs for the years 1969 to 1981 had never been made or brought on record. The Act does not empower the

Government or the department to desist from raising the demand required to be raised under the Act or desist from collecting the same.

On the irregularities being pointed out in audit (February 1982) Government issued instructions on 5th March 1982 to all the Deputy Commissioners that arrears of betterment contribution may not be collected until further orders of the Government. While the Act does not empower Government to desist from levying or collecting the contribution, it makes no provision for collection by any stipulated period.

### 6.3. Short levy of water rates

As per the Karnataka Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957 and the Rules made thereunder, in respect of water made available or supplied or used from irrigation works maintained by the Government, water rates are chargeable, whether or not crops are actually grown on the land.

(i) In Bijapur, Dharwad and Chitradurga districts, though water from Irrigation works was made available to an area of 82,576 acres and 31 guntas (33,417 hectares) during the years 1977-78, 1979-80 and 1980-81, water rates amounting to Rs. 15.52 lakhs were not levied or collected.

(ii) In the three districts of Bellary, Bijapur and Mysore, during the years, 1977-78, 1978-79 and 1979-80, the Irrigation Department notified that water was supplied or made available in respect of 1,64,724 acres and 21 guntas of land and the water rate leviable on this basis worked out to Rs. 41.50 lakhs computed at the rates prescribed by the Government, for the crops to be grown on such land. However, water rate actually demanded was Rs. 16.49 lakhs based on the entries made in the **Pahanis** maintained in the Revenue Department resulting in short levy of water rates to the extent of Rs. 25.01 lakhs. Reasons for not raising the full demand in respect of the area as notified by the Irrigation Department were also not on record.

The cases were reported to Government in March 1981, June 1981, December 1981 and July 1982. The Government stated (September 1982) that short levy of water

rates for the years 1978-79 and 1979-80 amounting to Rs. 8.92 lakhs relating to Bellary and Chitradurga districts had been taken to demand to be raised during the year 1982-83. The reply in respect of Mysore, Bijapur and Dharwad districts is awaited (December 1982). Similar failure to recover water rates was reported in paragraph 6.02 of the Audit Report for the year 1980-81.

(iii) In Raichur district though water was made available from irrigation works to 11,830 acres and 36 guntas (4,787.58 hectares) of land during the years 1976-77 and 1977-78, water rates were demanded only in respect of 5,966 acres and 21 guntas (2,414.44 hectares). This resulted in water rate amounting to Rs. 1,35,400 not being realised.

On the failure being pointed out (February 1980) in audit, the department stated that action would be taken to demand the amount due after verification.

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

(iv) Under the Karnataka Irrigation (Levy of Water Rate) Rules, 1965, where water from lift irrigation is supplied by Government, water rates are chargeable at twice the normal rate fixed for supply from other forms of irrigation and at thrice the normal rate if it is used for sugarcane or paddy crop.

In Bijapur, Gulbarga and Bangalore districts, on supply of water by lift irrigation to 20,153 acres of land during the years 1976-77 to 1980-81, water rates were demanded short by Rs. 4,35,574 owing to :—

(a) adoption of lesser area for determining the water rates based on the entries made in **Pahanis** of the Revenue Department without taking into account the various notifications issued by the Irrigation Department (Rs. 1,02,643),

(b) water rates not demanded (Rs. 3,17,640), and

(c) levy of water rates at the normal rate instead of higher rate applicable to water supplied through lift irrigation works (Rs. 15,291).

On the mistakes being pointed out in audit (June 1981 to September 1981), the department stated (June 1981) that in three tahsils, the short fall would be demanded after verification and in one tahsil, the shortfall had been booked during the year 1980-81.

The cases were reported to Government in December 1981 and July 1982; their reply is awaited (November 1982). Similar short levy was reported in paragraph 6.02 (iii) of the Audit Report for the year 1980-81.

#### **6.4. Non-recovery of penal water rates**

(i) Under the Karnataka Irrigation Act, 1965, any person using water from an irrigation work without permission is liable for penal action under the law and is in addition liable to pay water rates at not less than ten times the normal rate and not exceeding thirty times such rates.

In Raichur and Kolar districts, penal action under the law was not taken and the minimum of ten times the water rate was also not levied on persons indulging in unauthorised use of water over 7,377 acres and 20 guntas (2,985.44 hectares) of land during years 1976-77 to 1979-80; the minimum amount collectable was Rs. 40,18,290.

On the omission being pointed out in audit (February 1980 and July 1981), the department stated (February 1980 and July 1981) that necessary action would be taken after verification and in consultation with the Irrigation Officers.

The cases were reported to Government in December 1981 and May 1982; their reply is awaited (December 1982).

In paragraph 6.04 of the Audit Report for the year 1980-81, non-levy of penalty for unauthorised use of water was reported. Reply on that paragraph is still awaited (December 1982).

(ii) The Karnataka Irrigation Act, 1965, provides that the Irrigation Officer may specify by notification, the kind of crop that shall be grown on any land to which water is supplied. If crop other than notified crop be

grown, then by way of penalty water rate at not less than five times the normal rate but not exceeding ten times is payable by the grower.

(a) In Manvi taluk, Raichur district, crops other than those notified were grown over an area of 14,550 acres (5,888.16 hectares) during the years 1976-77 to 1979-80, but penal rates even at minimum of five times the normal rate were not demanded. The minimum amount not demanded was Rs. 13,09,500.

On the omission being pointed out in audit (February 1980), the department stated that necessary action would be taken in consultation with the Irrigation Officer.

(b) In Hagaribommanahally taluk, Bellary district, crops other than those notified were grown over an area of 362 acres and 12 guntas (146.59 hectares) during the year 1977-78. A minimum penalty of Rs. 1,35,484 was leviable at five times the normal water rate; but only an amount of Rs. 54,194 (at twice the rate) was demanded as penalty, resulting in Rs. 81,290 being recovered less.

On the mistake being pointed out in audit (August 1981), the department stated (October 1982) that the short levy of penal water rate to the extent of Rs. 81,290 in respect of Hagaribommanahally taluk has since been taken to demands to be raised for the year 1982-83 and action is being taken to effect recovery. Report on the action taken in respect of Manvi taluk is awaited.

The cases were reported to Government in January and May 1982. Government have confirmed the position stated by the department. Their reply in respect of Manvi taluk is awaited (December 1982).

In paragraph 6.03 of the Audit Report for the year 1980-81, similar non-recovery of penal water rate amounting to Rs. 15,64,422 was reported. Reply of the Government on that paragraph is still awaited. (December 1982).

### **6.5. Non-recovery of price of encroached land**

Under the Karnataka Land Grant Rules, 1969, the grant of land for cultivation of plantation crops may be made to any person on payment of the prescribed price and subject to the condition that the total holding of such person under the plantation crops together with area to be



granted shall not exceed 50 hectares. Under the Karnataka Land Revenue (Regularisation of Unauthorised Occupation of Lands) Rules, 1970, unauthorised occupation up to 5 hectares may be regularised provided land held will not exceed 22 hectares and price at twice the market value or Rs. 5,000 per hectare, whichever is less, is charged for it. Encroachment beyond 5 hectares could be regularised under special Government orders at price to be determined by Government.

Grazing lands encroached by coffee growers covered 7,625 acres in Chickmagalur, 2,007 acres in Hassan and 3,777 acres in Kodagu districts, in January 1981. The majority of the encroachments had taken place in 1970-71. Based on the current market price (Rs. 22,000 per acre in Chickmagalur, Rs. 19,000 in Hassan and Rs. 11,600 in Kodagu), the price of the encroached lands to be recovered as aforesaid amounted to Rs. 25 crores.

In addition to the recovery of cost of land, penalties for unauthorised cultivation of land were also leviable as per Section 94 of Karnataka Land Revenue Act, 1964, at the rate of twice the land revenue payable per year. Cesses at the rate of 37 per cent up to 1975-76 and 75 per cent from 1976-77 onwards on the land revenue are also recoverable. The revenue not realised amounted to Rs. 25 lakhs approximately.

Whenever land is granted by Government, the value of the tree growth on the land is recovered from the grantee in addition to the land value. At the very least, the value of tree growth in the encroached lands which was not recovered amounted to Rs. 76 lakhs.

The loss of revenue as aforesaid was pointed out in audit to the department and Government in September 1982; their replies are awaited (December 1982).

#### **6.6. Short recovery of price for lands granted for coffee cultivation**

Under the Karnataka Land Grant Rules, 1969, the price payable in respect of lands granted for cultivation of plantation crops shall be the market value of such lands, subject to a minimum of Rs. 500 per acre. Though a rate of Rs. 800 per acre was being charged till June 1973, from

July 1973 the Government specifically fixed the price for grant of lands for coffee cultivation in Chickmagalur district at rates ranging from Rs. 500 to Rs. 800 per acre, depending on the average yield and area.

On land grants made for coffee cultivation in Chickmagalur district between October 1975 and June 1979, prices ranging from Rs. 25 to Rs. 250 per acre only were demanded in 17 cases which prices were lower than even the statutory minimum. This resulted in short recovery amounting to Rs. 48,150.

The short recovery was reported to the department in October 1980 and to Government in April 1981 and April 1982; Government agreed (April 1982) to revise the demand. Report on recovery is awaited (December 1982).

#### **6.7. Non-recovery of price in respect of lands granted**

Under the Karnataka Land Grant Rules, 1969, the price payable for grant of dry land and rain fed wet land shall be not less than fifty times and not more than two hundred times the land revenue payable on such land.

(i) In a tahsil in Mysore district, 114 persons were granted lands under the Land Grant Rules during the years 1979-80 and 1980-81 without fixing or recovering the price as aforesaid. There was nothing on record about waiver of such price by any competent authority. The minimum price recoverable amounted to Rs. 23,630 in the aggregate in these cases.

On the mistake being pointed out in audit (December 1981), the department stated (September 1982) that the sum of Rs. 23,630 had been taken to demand for the year 1982-83 and recovered from the parties concerned.

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

(ii) In Mandya district, from 68 persons who were granted 91 acres and 32 guntas of dry land and 115 acres and 24 guntas of wet land under the Land Grant Rules during the year 1979-80, only Rs. 323 were realised. The price required to be realised at the rate of 50 times of the land revenue (Rs. 4 per acre in respect of dry land and Rs. 16.27 per acre in respect of wet land) amounted to

Rs. 1,12,392. This resulted in loss of Rs. 1,12,069 to Government.

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

#### **6.8. Short recovery of conversion fine**

Under the Karnataka Land Revenue Act, 1964, read with Rules made thereunder, when any land held for the purpose of agriculture (and assessed as such) is permitted to be used for any purpose unconnected with agriculture, a conversion fine is leviable on the basis of the area of the land and the place in which the land is situated. Around Bangalore City, such fine is levied at the rate of Rs. 4,000 per acre if the land is situated within 16 kilometres of Bangalore City Corporation limits.

In a tahsil of Bangalore district, agricultural lands measuring 13 acres and 23 guntas (5 hectares 493 square metres) were converted into non-agricultural lands but conversion fine was levied only at Rs. 50 per acre even though land was situated within 16 kilometres of Bangalore City Corporation limits. This resulted in short levy of fine by Rs. 53,621.

On the mistake being pointed out in audit (January 1982), the department stated (February 1982) that action would be taken to recover the short levy.

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

#### **6.9. Short levy of cess**

(i) Under the Karnataka Irrigation Act, 1965, maintenance cess is leviable at the rate of Rs. 4 per acre of land, per year, on the area benefited by any irrigation work maintained by Government. However, no maintenance cess is leviable on lands where water is not made available for two consecutive years.

In the five districts of Bangalore, Bijapur, Mysore, Raichur and Kolar, it was noticed that maintenance cess amounting to Rs. 2,85,813 was not levied or was short levied on 84,203 acres and 5 guntas (34,076 hectares and 185 sq. metres) of land (benefited by irrigation works

maintained by Government) during the years 1976-77 to 1979-80.

On the failure being pointed out in audit (February 1980 to December 1981), the department stated (February 1980, June, July and December 1981) that the demands for the amounts due will be raised.

The cases were reported to Government in December 1981 and January and May 1982. Government stated (December 1982) that a sum of Rs. 19,750 relating to Mysore district had been taken to demand. Final reply in respect of Bangalore, Bijapur, Raichur and Kolar districts is awaited (December 1982). Similar cases were reported in paragraphs 6.07 and 6.05 of the Audit Reports for the years 1979-80 and 1980-81 respectively.

(ii) The Karnataka Land Revenue Act, 1964, provides for remission of land revenue or suspension of its recovery when there is partial or total failure or destruction of crops on account of drought or any other cause. In respect of local cess, health cess or education cess, also levied on land revenue under the provisions of other Acts, there is no such provision for remission or suspension.

In Dharwad district, recovery of cesses amounting to Rs. 3,22,155 (local and education cesses : Rs. 2,14,633 and health cess : Rs. 1,07,522) was suspended along with suspension of recovery of land revenue during the years 1965-66 to 1974-75 and continued as such till 1980-81.

The basis for suspension of recovery of cess was enquired in audit (March 1981); the department stated (November 1982) that the proposals for waiver of the amount in question have been submitted to higher authorities and final orders in this regard are awaited (November 1982). The case was reported to Government in June 1981 and May 1982. In paragraph 6.10 of the Audit Report for the year 1978-79, similar cases were reported. The basis for the suspension was not intimated to audit. Reply of the Government is awaited (December 1982).

#### **6.10. Recovery of sales tax and other taxes**

(i) Most of the fiscal Acts e.g., The Karnataka Sales Tax Act, 1957, provide for recovery of tax in arrears as

arrears of land revenue under the provisions of the Karnataka Land Revenue Act, 1964. Such recovery is effected by Tahsildars under the Revenue Department. The Karnataka Sales Tax Act, 1957, provides, in addition, that the tax dues, if not paid within the stipulated period, shall be recovered by attachment and sale of any property of such defaulters by Recovery Officers (who function separately from Tahsildars). The number of cases referred to two Recovery Officers in Bangalore and to six Tahsildars in the districts of Bangalore, Mysore, Hassan, Dharwad, Gulbarga and Bellary, the amounts recovered and balance still to be recovered were as follows :

	1979-80		1980-81		1981 -82	
	Number of cases	Amount (In lakhs of rupees)	Number of cases	Amount (In lakhs of rupees)	Number of cases	Amount (In lakhs of rupees)
<i>A. Sales tax dues outstanding for recovery with Tax Recovery Officers</i>						
(a) Opening balance	2,001	1,57	2,317	2,12	2,686	2,28
(b) Receipts	611	1,22	943	1,18	877	1,18
(c) Total	2,612	2,79	3,260	3,30	3,563	3,46
(d) Recovery	124	17	162	18	204	28
(e) Reduction in demand	171	50	412	84	164	50
(f) Closing balance	2,317	2,12	2,686	2,28	3,195	2,68
<i>B. Tax dues outstanding for recovery with Tahsildars</i>						
(a) Opening balance	761	40	1,112	63	1,490	75
(b) Receipts	561	39	465	29	369	40
(c) Total	1,322	79	1,577	92	1,859	1,15
(d) Recovery	98	5	44	14	20	4
(e) Reduction in demand	112	11	43	3	4	1
(f) Closing balance	1,112	63	1,490	75	1,835	1,10

(ii) The reduction in demands which were certified to Tax Recovery Officers for effecting recovery, through various measures, was more than the recovery of demands effected. Such reductions arose on account of appeals and revision applications decided in favour of dealers, rectification of mistakes and demands closed as irrecoverable. One of the reasons for the demands having to be closed as

irrecoverable was the delay in certifying demands to Tax Recovery Officers. Though the rules made under the Karnataka Sales Tax Act, 1957, require that dues not paid within twenty-one days from the date of notice are to be certified for recovery by the Tax Recovery Officers, it was seen in audit (March 1982) that 140 certificates for recovery in respect of tax amounting to Rs. 35.46 lakhs relating to the years 1975-76 to 1981-82 were sent after 6 months to 3 years. Further, it was seen that in respect of 603 sales tax demands amounting to Rs. 46.11 lakhs relating to the years 1963-64 to 1981-82, no certificate had been issued to the Tax Recovery Officers till June 1981. In only 8 of these cases, tax demanded amounted to Rs. 33.47 lakhs.

In the offices of the six Tahsildars, in respect of 57 tax demands amounting to Rs. 3.61 lakhs, the certificates to effect the recovery had been received after 6 months to 3 years.

(iii) To keep a watch on progress of recovery, particulars of recovery certificates are required to be posted in a register in the recovery office. The register had not been maintained in the offices of the two Tax Recovery Officers for the period prior to the year 1979-80. In the offices of the six Tahsildars, postings in the register were not complete.

In the offices of Tahsildars at Bellary, Kanakapura, Hassan and the two Recovery officers, 70 tax demands amounting to Rs. 5.11 lakhs certified for recovery during the years 1972-73 to 1981-82 and received up to the end of February 1982 had not been entered in the recovery registers. Similarly, 622 demands amounting to Rs. 88.63 lakhs had not been entered in the registers in the two recovery offices.

(iv) Notice of recovery proceedings in respect of demands amounting to Rs. 25.53 lakhs included in 484 certificates relating to the years 1978-79 to 1981-82 had not been issued till the end of February 1982. Notices in respect of demands amounting to Rs. 10.23 lakhs had been issued after 6 months to 3 years. Notices in respect of 743 demands amounting to Rs. 76.86 lakhs issued during the years 1975-76 to 1981-82 could not be served because the addresses were not correct or the addressees were not traceable or had become insolvent.

(v) Warrants for attachments of moveable and immoveable property had not been issued in respect of 428 demands amounting to Rs. 1.14 crores relating to the years 1976-77 to 1981-82 even though the notices had already been served on the defaulters. Delay in serving warrants in respect of 18 demands amounting to Rs. 1.08 lakhs ranged from six months to 3 years. In respect of 66 warrants for attachment against demands amounting to Rs. 3.60 lakhs issued during the years 1976-77 to 1981-82, reports of attachment of properties were still awaited (March 1982) from officers executing the warrants.

(vi) Moveable and immoveable property valuing Rs. 2.25 lakhs attached in June 1978 and November 1980 against 10 demands relating to the years 1976-77 to 1978-79 were still to be disposed of. Only in respect of one property valuing Rs. 10,000, disposal was stayed by court.

---

## CHAPTER 7

### STAMP DUTY AND REGISTRATION FEES

#### 7.1. Results of audit

Test audit of documents registered in the offices of the Registrars and Sub-Registrars done during the year 1981-82 disclosed under assessment of stamp duty and registration fees to the extent of Rs. 301.40 lakhs in 80 cases, which broadly fall under the following categories :—

<i>Nature of irregularity</i>	<i>Number of cases</i>	<i>Under assessment (In lakhs of rupees)</i>
1. Incorrect application of exemptions to the documents	22	5.85
2. Wrong classification of documents	33	292.04
3. Other reasons	25	3.51
Total	80	301.40

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

#### 7.2. Incorrect classification of mortgage deeds

Under the Karnataka Stamp Act, 1957, 'Mortgage Deed' includes every instrument whereby for the purpose of security of money advanced or to be advanced by way of loan or an existing or future debt, or the performance of an engagement, one person transfers, or creates to or in favour of another, a right over or in respect of a specified property. A document styled as '*inter se pari passu* agreement' confers on the 'joint mortgagees' the power to sell the company's properties in default of payment and therefore, creates a right over or in respect of the properties. The stamp duty leviable on agreements evidencing mortgage by deposit of title deeds is lower than that levied on regular mortgage deeds.

(i) A public limited company executed (March 1973) an agreement relating to deposit of title deeds in respect of equitable mortgage jointly with Industrial Development Bank of India acting for itself and as agent of



14 Commercial Banks, Industrial Credit and Investment Corporation of India and Industrial Financial Corporation of India financing the company in respect of the lands, hereditaments and premises of the company situated within the village limits at Panambur in Dakshina Kannada district, with intent to create a security therein to secure a sum of Rs. 40 crores pursuant to common loan agreements entered into earlier. The company also executed various unattested hypothecation deeds on various dates between March and November 1973 in favour of these institutions hypothecating moveable properties including machinery, spares, tools and accessories, etc., to secure the repayment of the said loans. The company also gave 'oral assent' (as alluded to in the subsequent registered document) and consent to the Industrial Development Bank of India acting for itself and as agent of Commercial Banks (excluding 2 Banks) and financial corporations that the title deeds deposited with the Industrial Development Bank of India, be held and continue to be held as and by way of constructive delivery by the company for securing the due repayment under the common and additional loan agreements, to secure a further sum of Rs. 420 lakhs. In furtherance while providing to over-ride and modify the terms and conditions previously entered into in their earlier instruments, the company, in a document titled '**inter se pari passu** agreement' registered in May 1978 authorised and empowered the joint mortgagees to sell the properties and to appoint a receiver for the realisation of any sum in default of payment.

The document registered in May 1978 was incorrectly classified as 'Agreement' instead of as a regular mortgage deed and stamp duty and registration fees were assessed at lower rates. This resulted in stamp duty and registration fees being realised short by Rs. 2,43,10,000 and Rs. 44,20,000 respectively.

The matter was reported to Government (October 1979). Government replied (December 1979) that the matter had been referred to the Law Department. As no reply was received, the matter was again reviewed and taken up with the Government (July 1981). Government stated (May 1982) that the case had been sent to Advocate General for his opinion. Further reply is awaited (December 1982).

(ii) In six Sub-Registry Offices in Bangalore City and Mandya district, mortgage deeds executed by certain industrial concerns related to loans obtained from Karnataka State Financial Corporation against deposit of title deeds. However, the concerns subsequently executed "general power of attorney" in favour of the Corporation authorising it to execute a legal mortgage on behalf of the concerns when so desired, thereby creating a right over or in respect of specified property. Accordingly, in the six offices on 37 agreements involving deposits of title deeds, stamp duty was leviable as on regular mortgage deeds. The omission to so levy stamp duty resulted in duty being levied short by Rs. 7,30,981 in the aggregate.

The mistake was pointed out in audit (February 1981 to February 1982) to the department; their reply is awaited (December 1982).

The cases were reported to Government between May 1981 and April 1982 and Government stated (October 1981) that in respect of the cases in three Sub-Registry Offices (Channapatna, Bangalore North and Gandhinagar), the Special Deputy Commissioner, Bangalore had been requested to take action for recovering the balance amount of duty leviable. Report on recovery and action taken in other cases is awaited (December 1982).

(iii) According to the explanation under Article 34 of the Schedule to the Karnataka Stamp Act, 1957, a mortgagor who gives to the mortgagee a power of attorney to collect rent or lease of the property mortgaged or part thereof is deemed to give possession thereof, within the meaning of the Article, and stamp duty as applicable to deed of 'conveyance' is leviable.

In eight Sub-Registry Offices in Bangalore City, Dakshina Kannada and Chitradurga districts, the mortgage deeds executed in favour of the Life Insurance Corporation of India for obtaining loans for the purpose of construction of buildings and the power of attorney made out in favour of the mortgagee, stipulated that the mortgagee will hold the land, etc., with every one of those rights, liberties and appurtenances unto and be entitled to the use and benefit of the mortgaged properties. The mortgagee will also have the right of reconveyance of mortgaged properties. As such, the documents should have been classified as

'mortgage deeds with possession' instead of as 'simple mortgage deeds'. Government also clarified (June 1981) to the Life Insurance Corporation that once the "power of attorney" clause is included, the document ceases to be a simple mortgage and the rights accruing under the law are furthered by the right to co-perfect the titles and creates an agency to do so, warranting the application of the higher rate of duty. The incorrect classification of documents resulted in short levy of stamp duty by Rs. 4,75,555 in respect of 134 mortgage deeds.

The mistakes were pointed out in audit to the department between April 1981 and February 1982 and to Government between February 1982 and April 1982. Government stated (October 1982) that the Inspector General of Registration and Commissioner of Stamps, Bangalore had already directed the Sub-Registrars concerned to refer such cases to the Deputy Commissioner for recovery of deficit stamp duty under the provisions of the Act.

### **7.3. Short levy on deeds of conveyance and lease**

(i) Under the Karnataka Stamp Act, 1957, for purposes of levying stamp duty on conveyance deeds, the term 'conveyance' includes conveyance by sale as also every instrument by which property, whether movable or immovable, is transferred *inter vivos*.

In a Sub-Registry Office in Mysore City, 53 documents relating to allotment of ready made shop sites by the City Improvement Trust Board, on ownership basis, on payment of full value, were viewed as 'agreements' and stamp duty collected accordingly, instead of viewing them as 'conveyance deeds'. This resulted in short levy of stamp duty by Rs. 1.33 lakhs.

On the mistake being pointed out in audit in December 1978 and the department's attention being drawn to it once again in September 1981, the department accepted (February 1982) the objection and directed the Sub-Registrar to make a list of all such cases and refer them to Special Deputy Commissioner, Mysore for recovery of the short levy. Report on action taken to demand the shortfall in levy is awaited (December 1982).

The case was reported to Government in May 1980/September 1981 ; their reply is awaited (December 1982).

(ii) The Karnataka Stamp Act, 1957, requires that where a lease is granted and money advanced and rent reserved, the duty payable on the lease deed is the duty payable on a deed of conveyance for a consideration which is equal to the amount of advance set forth in the lease, in addition to the duty which would have been payable on such lease deed, if no advance had been paid.

(a) In a Sub-Registry Office in Bangalore, an advance of Rs. 1 lakh paid by a lessee as per one of the recitals in the lease deed was not included in the consideration for lease on which the stamp duty and registration fees were levied. This resulted in short levy of stamp duty by Rs. 9,980 and registration fee by Rs. 1,000.

The omission was pointed out in audit to Government in July 1981 ; their reply is awaited (December 1982).

(b) In a Sub-Registry Office in Raichur district, the recital in a lease deed which was assessed to duty referred to adjustment of rent reserved towards a loan of Rs. 1,10,000 advanced by lessee to the lessor. The amount advanced was not secured and assessed to stamp duty in any other documents and formed part of the consideration for the lease as aforesaid.

The omission to take into account the advance in assessing the amount of stamp duty resulted in short levy of stamp duty by Rs. 6,600 and registration fee by Rs. 1,100.

The omission was pointed out in audit to the department in March 1980, which stated (August 1981) that the case was being taken up for recovery action. Report on recovery is awaited (December 1982).

(c) In a Sub-Registry Office in Bangalore City, in a lease deed assessed to stamp duty, a bank guarantee for Rs. 1,44,000 given by the lessee towards an advance was mentioned. However, it was not taken into account in levying duty. This resulted in short levy of stamp duty and registration fee by Rs. 15,835 in the aggregate.

The omission was pointed out in audit to Government in April 1982 ; their reply is awaited (December 1982).

(d) In 510 cases of lease-cum-sale agreements which were executed in three Sub-Registry Offices in Shimoga, Gulbarga and Bangalore districts in favour of Karnataka Housing Board and City Improvement Trust Boards, etc., during the years 1978-79 to 1980-81 in respect of buildings and plots allotted to beneficiaries, the stamp duty was levied without taking into account the amounts of advance deposited by the lessees. This resulted in short levy of stamp duty by Rs. 1,50,905.

The omissions were pointed out in audit (May 1981 to February 1982) to the department; no reply has been received (December 1982).

The case was reported to Government in December 1981 and again in May 1982; similar cases were reported in paragraph 7.04 of the Audit Report for the year 1980-81. Reply of the Government is awaited (December 1982).

(e) A document registered in a Sub-Registry Office in Bangalore district was in acknowledgement of an amount of 'deposit' made towards rent and in furtherance of an agreement to lease. Duty was levied on it as a 'receipt' instead of advance (for Rs. 1,25,000) in consideration of a lease. This resulted in short levy of stamp duty by Rs. 12,495.

The case was pointed out in audit in January/February 1982 to the department; no reply has been received (December 1982).

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

(iii) Under the Karnataka Stamp Act, 1957, 'Settlement' means any non-testamentary disposition in writing, of moveable or immovable property made

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(c) for any religious or charitable purpose.

In a Sub-Registry Office in Kodagu district, a document was registered wherein a father and mother bestowed

their immoveable properties upon their married daughter, who was not dependent on them. It was classified as a "Settlement" deed. However, the transfer was a 'gift' because the transfer was without consideration, not made on the occasion of marriage, nor distribution of property to more than one person. This resulted in stamp duty being levied short by Rs. 57,700.

The matter was reported to Government (May 1981). Government stated (June 1982) that settlement could be effected in favour of a person who is not dependent on the settler but for whom the settler desires to provide. However, such a settlement must involve distribution which was not the case here. The final reply of the Government is awaited (December 1982).

#### **7.4. Failure to detect evasion of stamp duty**

As per Section 5 of the Karnataka Stamp Act, 1957, any instrument comprising of, or relating to several distinct matters shall be chargeable to duty at an amount which is the aggregate of the amounts of duties chargeable on separate instruments, each of which comprises or relates to one of such matters.

(i) An instrument of conveyance registered in Madikeri covered two transactions relating to plantation lands. Under an agreement to sell, two persons as vendors delivered in August 1974 possession of some plantation lands to a third person on receiving a sum of Rs. 65,000 against the consideration of Rs. 1,24,000 agreed upon. Subsequently in July 1977, the three persons concerned (two vendors and a vendee) sold under a deed the same plantation lands to a fourth person (second vendee) for a consideration of Rs. 2,20,000. In the deed, the third vendor was said to have received the full consideration of Rs. 2,20,000 from the last vendee on sale and also the first two vendors were said to have been paid Rs. 77,486.74 (balance of Rs. 59,000 against consideration of Rs. 1,24,000 together with interest of Rs. 18,486.74) by the third vendor. Since the sale deed in respect of the sale effected by the first two vendors to the third vendor in August 1974 had not been registered, nor discharged stamp duty thereon, the deed of July 1977 was to be taken also to be the sale deed transferring title on the third vendor from the first two vendors. Failure to see that the deed of July 1977 covered the earlier and the sub-

sequent sale of the same plantation lands resulted in short levy of stamp duty and registration fee by Rs. 12,400.

The case was reported to Government in August 1980. In their reply (April 1982), Government accepted the objection and intimated that the Inspector General of Registration and Commissioner for Stamps has been requested to direct the Deputy Commissioner, Kodagu, to take up recovery proceeding under the Act. Report on recovery is awaited (December 1982).

(ii) As per an agreement executed in October 1968, an immoveable property was sold by a party to a second party for Rs. 1,24,929 and part consideration of Rs. 1,15,229 was received but sale was not concluded. A portion of that property was, however, sold in May 1977 to a third party for Rs. 1,01,000 by the second party in which sale the first party was also associated with the second party. The conveyance of a portion of property to the third party by the second party as co-executant with the first party in effect conferred title over the second party who exclusively received Rs. 1,01,000 as sale consideration for the portion of the property for which he had already paid Rs. 1,15,229 to the first party. The document should, therefore, have been treated as comprising more than one transaction and stamp duty and registration fees levied on the aggregate of the separate transactions. The omission to levy stamp duty on each of the distinct transaction resulted in short levy of stamp duty and registration fee by Rs. 12,670.

The mistake was pointed out in audit in January 1979 to the department and to the Government in May 1982.

Government accepted the objection and stated (August 1982) that the Inspector General of Registration and Commissioner of Stamps had been directed to refer the case to the Special Deputy Commissioner for recovery of stamp duty and registration fee short levied.

### **7.5. Irregular grant of exemption**

(i) The Government in exercise of powers vested under the Karnataka Stamp Act, 1957, issued orders (February 1969) for remission of stamp duty in respect of instruments executed by Housing Societies or by an officer or member thereof where the amount or value specified in the instruments does not exceed rupees eight thousand.

In a Sub-Registry Office in Bangalore City, 960 sale deeds executed by a Tailoring Co-operative Society (not being a Housing Co-operative Society), in favour of its members, on the basis of general power of attorney given to it and on its own authority (as owner of sites) were incorrectly exempted from levy of stamp duty under the above orders though stamp duty was leviable as on conveyance. This resulted in stamp duty being levied short by Rs. 3,89,285 and registration fee by Rs. 29,950.

The mistake was pointed out in audit to the department in May 1982; their reply is awaited.

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

(ii) As per notification issued by the Government of Karnataka, on instruments executed by new industries located in specified districts and industrial areas, in respect of loans taken from approved financial institutions, levy of stamp duty is exempt and registration fee of only rupee one per Rs. 1,000 (as against the normal fee of Rs. 10 per Rs. 1,000) is chargeable.

In Shimoga district, levy of stamp duty was exempted and concessional rate of registration fee was charged on mortgage deeds executed by new industries located outside the specified districts and industrial areas, resulting in stamp duty of Rs. 48,350 not being levied and registration fees being short charged by Rs. 8,703.

The mistake was pointed out in audit to the department in December 1981 and to Government in June 1982; their replies are awaited (December 1982).



## CHAPTER 8

### FOREST RECEIPTS

#### 8.1. Results of audit

Test check of the records in forest divisions done in audit during the year 1981-82 revealed non-recovery and short recovery of revenue amounting to Rs. 218.44 lakhs in 138 cases, which broadly fall under the following categories :—

<i>Category</i>	<i>Number of cases</i>	<i>Amount not realised (In lakhs of rupees)</i>
1. Short collection of lease amount	22	118.27
2. Non-recovery and short recovery of receipts	51	66.80
3. Non-recovery of Forest Development Tax	24	9.48
4. Non-recovery of difference in sale value from defaulting bidders	12	7.73
5. Other reasons	29	16.16
	138	218.44

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

#### 8.2. Low yield from extraction of forest to be submerged

(i) The Varahi Hydro Electric Project in Thirthahalli taluk of Shimoga district was expected to submerge 16,800 acres of evergreen forests. A time bound programme to extract the timber, firewood and the other forest produce valuing Rs. 24 crores from the area during the period July 1979 to June 1982 before submersion and covering 5,600 acres per annum was drawn up. Material was to be extracted departmentally (without resorting to auction sale) and made over to meet the requirements of industries, Government departments and undertakings and the general public for timber, firewood, etc. A saw mill and a plant for treatment of non-durable species of wood were to be set up. Cost of salaries, vehicles, equipment and construction of road was estimated at

Rs. 1.67 crores. It did not include the cost of labour for felling trees, handling, stacking, etc.

(ii) Only 9,090 acres were worked till March 1982 of which 7,090 acres were cleared. However, coupes in 5,090 acres were sold to contractors for extraction. Out of 3,54,929 cubic metres of timber and firewood extracted during the two years 1979-80 and 1980-81 from 2,000 acres, 1,52,446 cubic metres were sold up to March 1982. As a result of delay, softwood deteriorated and fetched lower price in auctions than the reserve price or even cost of extraction (resulting in all in a loss of Rs. 25.49 lakhs). Thereafter, sale by auction of standing trees was also resorted to, in respect of 2,000 acres and in the year 1981-82, extraction by employing labour departmentally was altogether given up. Additional area of 3,090 acres was made over to contractors on tender-cum-auction basis in order to avoid loss to Government. Delay and loss in departmental working was attributed to non-availability of transport vehicles of the department, scarcity of diesel and labour and slow down in tempo of work owing to extension of time for completion of the dams and impounding of water up to June 1985.

(iii) Expenditure incurred on the programme up to March 1982 was Rs. 3.02 crores (against total estimate of Rs. 1.67 crores). The revenue realised was Rs. 5.63 crores (up to March 1982) and in addition, an amount of Rs. 2.08 crores was due for recovery (up to end of March 1982) from the contractors (as compared to Rs. 24 crores at which the produce were valued or even Rs. 15 crores approximately in respect of land worked upon). In 12 cases, interest amounting to Rs. 50,484 for belated payment of royalty instalment had not been charged by the department.

(iv) There was a difference of 13,763 cubic metres of firewood valuing Rs. 7.98 lakhs between the quantity of firewood despatched as per records of the ranges in the Extraction Division and quantity received as per depot records on despatches of departmentally extracted material received, during the years 1979-80 to 1981-82. Report on the action taken to investigate the shortages and recover loss to department, after the difference was pointed out in audit (May 1982) is awaited (December 1982).

(v) Even after the departmental extraction was discontinued, the full complement of staff sanctioned for departmental operation was entertained and expenditure of Rs. 3.05 lakhs was incurred on them during the period from December 1979 to March 1982 which included staff for the saw mill and treatment plant which were not set up.

### 8.3. Loss due to delay in review

Government issued orders in July 1974 and again in December 1975, reiterating its policy for review of all leases in respect of forest lands with a view to:

(i) terminating leases which are detrimental to the interest of forests as well as those leases where conditions prescribed in the lease have not been satisfied and with a view to charging a rent of Rs. 250 per acre per annum, till such leases terminated,

(ii) releasing lands, which are situated near villages, to the tenants on a permanent basis provided the conditions of lease had been satisfied, and

(iii) continuing from year to year, the lease of lands which though developed, were situated in the interior of forests and charging a rent of Rs. 50 per acre per annum in respect of them.

In eleven Forest Divisions, leases of forest lands were not reviewed nor rents revised as per above policy. Even on the basis of a minimum rent of Rs. 50 per acre per annum referred to above, recovery of rent in 2,289 cases for the years 1974-75 to 1980-81 amounting to Rs. 1.20 crores in the aggregate was not effected.

The omissions were pointed out in audit (May 1981 to January 1982) to the department; no reply has been received.

The cases were reported to Government between August 1981 and March 1982. In paragraph 8.05 of the Audit Report for the year 1979-80, similar losses due to delay were reported. The reply of the Government is awaited (December 1982).

### 8.4. Non-recovery of lease rent

In Forest Division, Hassan 1,000 acres of forest lands were leased by Government in October 1967 to a company

at Bangalore for a period of 30 years for the purpose of growing and processing high protein food and other food products. Lease rent was fixed at Rs. 25 per acre per year. However, the company, put only 300 acres to use for cultivation and did not pay the lease rent after June 1975. Government ordered (November 1977) resumption of the lands and the company filed a writ petition in the High Court and obtained stay orders against the resumption of the lands. The writ petition was dismissed on 16th June 1980 and the department resumed (October 1980) 400 acres of land which had not been developed at all. Rent due for the period from 17th July 1975 to 16th July 1980 on 1,000 acres of land and from 17th July 1980 to 16th July 1981 on 600 acres of land amounting to Rs. 1,40,000 as also interest at the rate of 15 per cent for the delay in payment have not so far been realised though the lease amount was required to be collected annually one month before the expiry of the previous year's lease as per agreement. The amount due was also not recorded as demand in the Demand, Collection and Balance Register relating to these years.

On the non-recovery being pointed out in audit (June and July 1981), the department stated (July 1981) that notice for recovery of the dues had been issued in September 1980. However, no recovery had been effected nor reasons given for not effecting recovery.

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

### **8.5. Loss due to incorrect rates**

(i) In regard to supply of timber by the Forest Department to the Karnataka State Forest Industries Corporation. Government laid down (September 1976) a policy that the Chief Conservator of Forests should fix the price of such timber on the basis of the rates at which timber had been sold in auction in the preceding year and adding to it a margin for upward trend in rates. Such rate was to be effective for a period of one year from the first of June of every year.

In Forest Division, Shimoga, the rates were fixed for supply of timber to the Corporation during the year 1979-80 without providing a margin to take into account upward trend in rates and further the rates fixed were less by

Rs. 200 to Rs. 893 per cubic metre, than the average rates at which timber was sold in the auctions in the preceding year. This led to short realisation of revenue by Rs. 1.47 lakhs (inclusive of short realisation of forest development tax, sales tax and surcharge).

The failure to follow the Government policy was pointed out in audit (December 1981) to the department; no reply has been received (December 1982).

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

(ii) Seigniorage rate (royalty) charged by the department on short girth logs, lops and tops of soft wood which do not exceed 3 feet in length and 24 inches in girth supplied to various industries was raised with effect from 1st June 1979 to Rs. 27 per cubic metre.

In Chickmagalur district, on 1,298 cubic metres of lops and tops as aforesaid supplied to a paper mill during the year 1980-81, royalty was charged only at the rate of Rs. 20 per cubic metre instead of Rs. 27 per cubic metre. This resulted in royalty, forest development tax, sales tax and surcharge being recovered short by Rs. 10,212.

On the mistake being pointed out in audit (December 1981), the department stated (December 1981) that the rate incorporated in the agreement executed with the paper mill had to be charged. But the agreement provided for charging higher rates in the event of revision of rates which was pointed out in audit. Thereupon, the department agreed to take necessary action in the matter.

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

#### **8.6. Loss of revenue on resale of forest produce**

One of the conditions attached to auction sale of forest produce is that any material sold and not removed within nine calendar months from the date of sale is liable to be re-sold at the risk of the original bidder and any loss arising out of such re-sale is recoverable from the original bidder. However, Karnataka High Court ruled (June 1972) that such loss may be recovered only by moving the courts and not as arrears of land revenue.

In Forest Division, Uttara Kannada, in six cases of re-sale of forest produce during the period from May 1977 to May 1980 made after delays ranging from seven months to thirty-one months, Rs. 2,67,595 were realised as against Rs. 3,82,627 due from the original bidders in auctions conducted in earlier years (between December 1974 and December 1978). Action was not taken to recover the shortfall of Rs. 1,15,032 from original bidders by forfeiting their earnest money deposit and by filing civil suits for the balance amount.

On the reasons being enquired in audit (December 1981), the department stated that the civil suits against defaulters would now be filed for enforcing sale conditions. Intimations on filing of suits had not been received (December 1982).

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

#### **8.7. Non-realisation of forest development tax**

Section 98A of the Karnataka Forest Act, 1963, requires the levy of forest development tax at the rate of 5 per cent (with effect from 24th December 1975) or 8 per cent (with effect from 15th March 1980) on the value of forest produce disposed of by the State Government by sale or otherwise and collection of it along with the consideration.

(i) In Uttara Kannada Forest Division, forest development tax amounting to Rs. 1,87,023 was not levied on the sleepers supplied by the department to railways during the years 1978-79 to 1980-81.

The mistake was pointed out in audit (December 1981) to the department; their reply is awaited (December 1982).

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

(ii) It is settled law that the value of goods or produce sold is inclusive of any Central Excise Duty which the manufactured goods or produce might have borne under the Central Excises and Salt Act, 1944.

In Uttara Kannada district, on sawn timber, saw dust, etc., sold by the department to the railways during the

period from 22nd November 1979 to 25th October 1981, value of the said sawn timber, etc., was under-valued by excluding the Central Excise Duty paid thereon for the purpose of calculating the sales tax and forest development tax leviable thereon. This resulted in the sales tax being levied short by Rs. 10,930 and forest development tax by Rs. 18,127.

The short levy and short recovery of tax was pointed out in audit (December 1981) to the department who stated (December 1981) that levy of Central Excise Duty was disputed. But once it is levied, there is no option with the department to exclude it from the valuation of the goods or produce.

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

(iii) With effect from 1st April 1981, turnover tax, at the rate of one-half per cent of the turnover of a dealer became leviable as per an amendment to the Karnataka Sales Tax Act, 1957, provided the sales turnover of a dealer in a year exceeded Rs. one lakh. It was payable in addition to the sales tax.

In Uttara Kannada district, on sale of forest produce during the months of May and June 1981, turnover tax at one-half per cent thereon, amounting to Rs. 1.27 lakhs was not recovered by the department.

On the omission being pointed out in audit (December 1981), the department stated that on the requirement under the Act to levy of turnover tax being brought to their notice in August 1981 by the Deputy Commissioner of Commercial Taxes, recovery of turnover tax was being made on sales effected thereafter.

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

### **8.8. Short recovery of administrative charges**

Administrative charges at the rate of Rs. 5 per cubic metre collected with effect from 1st June 1979 by the department on timber supplied to all wood based industries is part of the consideration recovered from the customer for the timber sold by the department to him and the charges

stand included in the value for which timber is sold to the customer. The administrative charges were recoverable on sales made during the period of three years from 1st June 1979.

(i) In Hassan, administrative charges amounting to Rs. 97,269 though recovered as part of the sale value of timber were not included in the value of the sale for purpose of levy of sales tax, surcharge and forest development tax on sale made to the industries during the years 1979-80 and 1980-81. This resulted in forest development tax being levied short by Rs. 6,796, sales tax by Rs. 3,890 and surcharge on sales tax by Rs. 389.

On the mistakes being pointed out in audit (February 1982), Government stated (April 1982) that administrative charges do not form part of the amount of consideration for sale. The view was not correct in the light of what is aforesaid and the commercial practices where sale price is inclusive of all elements of cost loaded by the dealer to the sale price.

(ii) In Hassan district, administrative charges amounting to Rs. 38,554 were not recovered on sale of 7,711 cubic metres of timber sold to wood based industries during the years 1979-80 and 1980-81.

The omission was pointed out in audit to the department in June 1981; their reply is awaited (December 1982).

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

### **8.9. Loss due to delay in clarification**

In view of the extreme scarcity of cane, in May 1978 Government tripled the seigniorage charges (royalty) on cane which was Rs. 28.12 for 100 small canes and Rs. 66.25 for 100 big canes. However, the orders were ambiguous in as much as they directed enhancement of the rates by 200 per cent. In Uttara Kannada district, 38,500 big canes and 11,300 small canes were supplied by the department to the Sports Goods Export Promotion Council, New Delhi during the year 1978-79. Pending clarification by Government as to



whether the seigniorage rate had been enhanced by 200 per cent or to 200 per cent, the department recovered royalty (October 1978) at 3 times the old rates but kept one-third of it (Rs. 29,926) in deposit. However, in April 1979 without waiting for the clarification, Rs. 20,840 were refunded to the Council. In May 1980 (after enquiry by audit), the Government clarified that their intention was to triple the rate.

On enquiry in audit (March 1980), the department stated (June 1982) that the Council has been requested to repay the amount of Rs. 20,840. Report on recovery is awaited (December 1982).

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

#### **8.10. Loss due to delay in acceptance of tender**

One of the clauses in the standard form of notice inviting tenders in relation to sale of forest produce, lays down that the tender bid will have to be accepted by the department and acceptance communicated before the expiry of 60 days from the date of opening of tenders.

In Uttara Kannada, the tenders received with reference to notice inviting tenders issued on 2nd February 1980 were opened by the department on 28th February 1980. The tender bids were for sale of standing trees. The highest bid for Rs. 1.07 lakhs was accepted by the department on 24th April 1980 and acceptance despatched by post on 26th April 1980. The tenderer received acceptance on 5th May 1980, whereupon he claimed he had withdrawn the offer since acceptance reached him only on 5th May 1980, i.e., after 60 days.

The trees were retendered on 4th October 1980 and highest bid for Rs. 82,223 accepted. Failure to communicate the acceptance of the tender within the time prescribed in the tender notification resulted in loss of revenue of Rs. 27,975 to Government.

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

#### **8.11. Non-recovery of loss from contractor**

A contract for removal of rubber seeds collected in rubber plantations of the department in Mangalore area,

during the year 1978-79 was given to the highest bidder. In the event of his defaulting on the contract, it was liable to be given to another contractor on a rebid at the risk and cost of the first contractor.

Though the highest bidder paid (October 1978/ December 1978) the prescribed security deposit of Rs. 5,000, the contractor neither paid the first instalment of the value of seeds, inspite of extension of time granted up to 15th February 1979, nor did he lift the seeds. In September 1979, he withdrew from the contract, claiming that the rates were not economical. Thereupon, the security deposit of Rs. 5,000 was forfeited (September 1979) and the contract was rebid at the risk and cost of the contractor in terms of the agreement and given to another contractor (January 1980). In the process, the department sustained loss of Rs. 15,382 after setting off the security deposit. However, no action was taken by the department against the first contractor to make good this loss as per the agreement.

The failure was pointed out in audit (January 1980) to the department ; their reply is awaited (December 1982).

The case was reported to Government in April 1981 ; their reply is also awaited (December 1982).

### **8.12. Failure to safeguard departmental timber**

In Koppa Forest Division, 249 logs of timber valuing Rs. 12,757 seized from a person who had unauthorisedly felled them were not safeguarded. The department prosecuted the person in November 1965 in a court which, however, acquitted him in February 1969. No action was taken to dispose of the timber with the permission of the court. 81 out of the 249 logs were destroyed in a fire on 31st March 1969. The Range Forest Officer reported in February 1972 that only 121 logs were, however, available on the spot and recommended their disposal. No action was taken to account for balance 47 logs. The Divisional Officer who inspected (November 1981) did not find even the 121 logs but only a few logs which were in such a deteriorated or useless condition that it was not worthwhile even transporting them.

Failure of the department to safeguard the seized material, resulted in a loss of revenue of Rs. 12,757 to the department.

The causes leading to the loss were enquired in audit in December 1981; the reply of the department on the causes and the departmental procedures violated is awaited (December 1982).

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

---

## CHAPTER 9

### OTHER TAX AND NON-TAX RECEIPTS

#### A. TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS

##### 9.1. Administration of the Act

###### (i) Trend of revenue

Under the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, employers are required to be registered with the Profession Tax Officers and persons other than employees, engaged in any profession, trade, calling and employment enrolled with the department. The numbers so registered and enrolled as on 31st March 1981 and the corresponding figures at the end of the preceding four years are given below :—

<i>As on</i>	<i>Number of employers registered</i>	<i>Number of self employed persons enrolled</i>
31st March 1977	10,605	97,276
31st March 1978	10,868	1,04,337
31st March 1979	11,321	1,09,961
31st March 1980	12,044	1,17,006
31st March 1981	12,997	1,31,300

The receipts from profession tax during the years 1976-77 to 1980-81 alongside Budget estimates are given below :

<i>Year</i>	<i>Budget estimates</i>	<i>Receipts from profession tax</i>
	<i>(In crores of rupees)</i>	
1976-77	3.25	4.43
1977-78	4.30	4.34
1978-79	4.65	4.81
1979-80	5.00	5.88
1980-81	7.00	7.39

(ii) Legal and medical practitioners and insurance agents

Within Bangalore urban limits, tax is leviable at Rs. 250 per annum on lawyers and doctors with 12 or more years of standing and 5 or more years respectively. Rates are lower in other areas and on lawyers and doctors with lesser standing. The rates applicable to medical practitioners apply also to insurance agents.

(a) In the districts of Bangalore, Tumkur, Mysore, Gulbarga, Dharwad and Belgaum, it was noticed in audit that from 227 assesseees who were liable to pay tax from the year 1976-77, their year of enrolment, no tax had been realised till the end of 1980-81. The amount of tax not realised amounted to Rs. 1,85,900. In 38 cases, tax was continued to be collected at the lower rate applicable in the first year of enrolment (1976-77) even though assessee's years of standing in the profession had increased and tax was leviable at higher rate. In 574 cases, in 7 districts similarly, rate of tax was not increased with increase in the number of years of standing. In 7 cases, the standing of legal practitioners in the profession at the time of enrolment (1976-77) did not attract tax. When their standing increased in subsequent years, they became liable to pay tax but tax was not demanded. In the 619 cases, tax not realised during the years 1977-78 to 1980-81, amounted to Rs. 1,46,880.

On the mistakes being pointed out in audit (between November 1980 and August 1981), the department recovered Rs. 6,850 in 23 cases.

(b) In Mysore district, in respect of 74 insurance agents, tax was demanded at the rate applicable to other areas instead of at rates for headquarters towns, resulting in tax being levied short by Rs. 35,500 for the years 1976-77 to 1979-80.

On the mistakes being pointed in audit (March 1981), the department reported recovery of Rs. 23,500 in 50 cases up to 31st March 1982. Report on recovery of balance is awaited (December 1982).

(iii) Dealers assessed to sales tax

The dealers registered under the Karnataka Sales Tax Act, 1957, are liable to pay profession tax on the basis of

their annual turnover. But in Bangalore, Dharwad and Tumkur districts, from 346 dealers, profession tax was continued to be recovered at the rate fixed on the basis of the turnover declared by the assessee in his year of enrolment (1976-77). The rate was not reviewed due to inadequacy of staff as stated by the assessing officers. There is no procedure of obtaining dealers' registration numbers and making reference to sales tax officers to ascertain variations in turnover. In the case of 36 dealers in Mangalore, they were liable to pay profession tax at higher rate on the basis of the annual turnover determined by the sales tax officer but they continued to pay tax at the rate fixed on the basis of annual turnover declared by them at the time of their initial enrolment during 1976-77. The profession tax levied short in these cases amounted to Rs. 10,200 for the years 1976-77 to 1980-81.

(iv) Transport permit holders

Profession tax is leviable on holders of permits, granted under the Motor Vehicles Act, 1939, at Rs. 50 per annum per taxi or 3 wheeler goods vehicles and at Rs. 100 per annum per truck or bus subject to a maximum of Rs. 250 per annum. During the year 1980-81, between 1,034 and 1,134 taxies and three wheelers and between 10,833 and 12,045 buses and trucks were registered in Bangalore and were given permits but only 82 permit holders of taxies and three wheelers and 1,308 permit holders of trucks and buses were assessed to profession tax.

(v) Short levy of tax

(a) In two educational institutions, recovery of tax from members of the staff was not made at correct rates with reference to their emoluments, resulting in tax being recovered short by Rs. 11,916 for the period from January 1979 to May 1981.

(b) From 163 contractors of Forest, Public Works Departments, transport contractors, forwarding agents, etc., tax was levied at Rs. 50 per annum instead of at Rs. 150 per annum, resulting in tax being levied short by Rs. 42,100 during the years 1978-79 to 1980-81.

(c) Though 73 enrolled persons in 2 districts paid tax at rates lower than that fixed at the time of enrolment, without approval of assessing authority, no demands for the balance amount were raised. This resulted in tax

being realised short by Rs. 27,778 during the years 1977-78 to 1979-80.

(d) Employers of establishments (as defined under the Karnataka Shops and Establishments Act) who are not dealers registered under the Karnataka Sales Tax Act, 1957, are liable to pay profession tax with reference to the number of persons employed by them. From twelve such employers in Bangalore district, tax was realised at rates lower than that applicable on the basis of the number of employees declared in the application for enrolment. This resulted in tax being levied short by Rs. 5,200 for the years 1976-77 to 1980-81.

(e) From assesseees falling under two categories, tax is realisable at the higher of the two rates. Failure to apply higher rates resulted in tax being realised short by Rs. 25,340 from 100 assesseees in nine profession tax offices.

(vi) Interest and penalty

According to the provisions of the Act, on delay in payment of tax by employer or the enrolled person, simple interest is chargeable at two per cent per month or part thereof on the tax due, for the duration the tax remains unpaid. Further, penalty not exceeding fifty per cent of the amount of tax due is leviable for non-payment in time, without reasonable cause on receipt of notice of demand. In 8 districts in respect of 657 cases, neither interest amounting to Rs. 69,058 was charged nor any penalty levied though tax payments were delayed.

On the omission being pointed out in audit (between November 1980 and August 1981), the department recovered Rs. 6,603 in 71 cases up to March 1982. Report on recovery in remaining cases is awaited (July 1982).

(vii) Arrears of tax

The arrears of tax assessed but outstanding for recovery from the commencement of the Act are given below:—

<i>Years to which demand relates</i>	<i>Tax outstanding for recovery (In lakhs of rupees)</i>
1976-77	16
1977-78	16
1978-79	28
1979-80	42
1980-81	96
Total	198

In Bangalore, arrears of tax amounting to Rs. 18,74,427 in 4,025 cases were certified to the revenue authorities for recovery as arrears of land revenue, of which only a sum of Rs. 10,298 was so recovered.

(viii) Survey

In Bangalore, 2,808 new assesseees were detected in 136 visits made by survey staff, while in Dharwad, only 1,499 new assesseees were detected in 4,346 visits made by the staff. In all, in 5 districts, 15,808 new assesseees were detected in 9,162 visits by survey staff.

## B. COMMERCE AND INDUSTRIES DEPARTMENT

### 9.2. Non-recovery of commission for guaranteeing loans

A guarantee commission at half per cent per annum of the balance of principal and interest outstanding is generally recoverable on loans raised by co-operative sugar factories from financial institutions where the loans are guaranteed by Government. The commission is recovered half yearly.

(i) On loans raised by eleven co-operative sugar factories during the years 1963 to 1981 and guaranteed by Government, guarantee commission was not demanded in full. Further, the demands amounted to Rs. 24.57 lakhs in respect of 9 factories only. The amount due from other two factories was not available on record. Commission of only Rs. 11.35 lakhs was recovered leaving a balance of Rs. 13.22 lakhs due from five factories.

(ii) The guarantee commission on loans amounting to Rs. 256.37 lakhs, raised during the period from 1970-71 to 1980-81 by three sugar factories had not been demanded (June 1982).

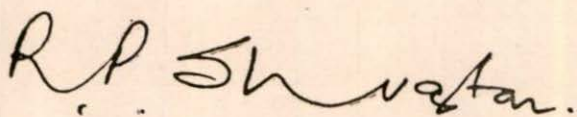
(iii) The guarantee commission which is to be charged in respect of loans amounting to Rs. 877 lakhs raised by three co-operative factories during the period 1975-76 to 1978-79 had not so far been specified by Government (June 1982).

(iv) Government stood guarantee in respect of loans amounting to Rs. 100 lakhs raised by a society in Mysore



district during the year 1973-74. The society failed to repay the loan and interest amounting to Rs. 112.37 lakhs to the lenders, who resolved (August 1978) to invoke the guarantee executed by Government. The Government decided (August 1980) to pay this sum in instalments to the society to enable it to repay the amount of loan and interest to its lenders, treating the same as loan by Government to the society. The terms and conditions attaching to the sanction of this loan are still to be finalised by Government (July 1982).

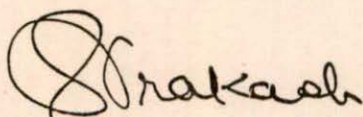
The above facts were reported to Government in July 1982; their reply is awaited (December 1982).



Bangalore,  
The

(R. P. SHRIVASTAVA)  
Accountant General-II, Karnataka.

Countersigned



New Delhi,  
The

(GIAN PRAKASH)  
Comptroller and Auditor General of India.

Faint, illegible text at the top of the page, possibly a header or introductory paragraph.

The following text is a copy of a letter from the  
[illegible] dated [illegible]

[illegible signature]

[illegible text]

[illegible text]

[illegible signature]

[illegible text]

**APPENDICES**

APR 11 1952

## APPENDIX I

## Variations between Budget estimates and actual receipts

(Reference : Paragraph 1.2, page 3)

Head of Revenue	Year	Budget estimates	Actuals	Variation Increase (+) Shortfall (—)	Percentage of variation
(In crores of rupees)					
(1)	(2)	(3)	(4)	(5)	(6)
Sales Tax	1979-80	184.00	199.77	(+) 15.77	(+) 8.57
	1980-81	211.63	237.36	(+) 25.73	(+) 12.16
	1981-82	255.00	318.86	(+) 63.86	(+) 25.04
State Excise Duties	1979-80	62.00	73.84	(+) 11.84	(+) 19.00
	1980-81	73.00	93.71	(+) 20.71	(+) 28.37
	1981-82	92.00	117.74	(+) 25.74	(+) 27.98
Taxes on Motor Vehicles	1979-80	33.00	44.46	(+) 11.46	(+) 34.73
	1980-81	47.75	47.37	(—) 9.38	(—) 0.80
	1981-82	55.30	55.13	(—) 0.17	(—) 0.31
Stamp Duty and Registration Fees	1979-80	18.25	22.15	(+) 3.90	(+) 21.36
	1980-81	21.50	29.08	(+) 7.58	(+) 35.26
	1981-82	28.00	29.32	(+) 1.32	(+) 4.71
Taxes on Agricultural Income	1979-80	10.00	15.60	(+) 5.60	(+) 56.00
	1980-81	15.50	11.28	(—) 4.22	(—) 27.23
	1981-82	12.00	9.08	(—) 2.92	(—) 24.33
Land Revenue	1979-80	7.00	6.93	(—) 0.07	(—) 1.00
	1980-81	7.00	6.47	(—) 0.53	(—) 7.57
	1981-82	6.50	8.80	(+) 2.30	(+) 35.38
Other Taxes and Duties	1979-80	33.90	36.23	(+) 2.33	(+) 6.87
	1980-81	39.00	42.01	(+) 3.01	(+) 7.72
	1981-82	51.57	58.39	(+) 6.82	(+) 13.22
Interest	1979-80	76.38	63.61	(—) 12.77	(—) 16.74
	1980-81	89.69	87.85	(—) 1.84	(—) 2.05
	1981-82	95.06	92.90	(—) 2.16	(—) 2.27
Education	1979-80	3.95	4.87	(+) 0.92	(+) 23.29
	1980-81	5.50	5.00	(—) 0.50	(—) 9.09
	1981-82	6.51	5.80	(—) 0.71	(—) 10.90
Medical	1979-80	4.78	4.76	(—) 0.02	(—) 0.41
	1980-81	5.50	3.67	(—) 1.83	(—) 33.27
	1981-82	5.50	5.75	(+) 0.25	(+) 4.55
Forest	1979-80	37.16	33.55	(—) 3.61	(—) 9.71
	1980-81	46.00	35.74	(—) 10.26	(—) 22.30
	1981-82	40.00	47.03	(+) 7.03	(+) 17.57
Industries	1979-80	25.72	20.66	(—) 5.06	(—) 19.67
	1980-81	25.46	13.74	(—) 11.72	(—) 46.03
	1981-82	8.28	8.17	(—) 0.11	(—) 1.33
Irrigation, Navigation, Drainage and Flood Control Projects	1979-80	6.50	6.50	..	—
	1980-81	7.00	3.93	(—) 3.07	(—) 43.86
	1981-82	6.00	8.32	(+) 2.32	(+) 38.67

## APPENDIX II

## Statement showing cost of collection under the principal heads of revenue

(Reference : Paragraph 1.3, page 4)

Sl. no.	Head of account	Year	Gross collection*	Expenditure on collection	Percentage of expenditure on gross collection
(1)	(2)	(3)	(4)	(5)	(6)
<i>(In crores of rupees)</i>					
1.	Sales Tax	1979-80	199.77	2.84	1.42
		1980-81	237.36	3.35	1.41
		1981-82	318.86	4.00	1.25
2.	Taxes on Agricultural Income	1979-80	15.60	0.34	2.17
		1980-81	11.28	0.33	2.93
		1981-82	9.08	0.32	3.52
3.	Land Revenue**	1979-80	6.93	5.39	77.89
		1980-81	6.47	7.78	120.25
		1981-82	8.80	8.49	96.48
4.	State Excise Duties	1979-80	73.84	2.39	3.23
		1980-81	93.71	2.49	2.66
		1981-82	117.74	3.05	2.59
5.	Stamp Duty and Registration Fees	1979-80	22.15	1.50	6.77
		1980-81	29.08	1.94	6.67
		1981-82	29.32	2.02	6.89
6.	Taxes on Motor Vehicles	1979-80	44.46	1.15	2.58
		1980-81	47.37	1.29	2.72
		1981-82	55.13	1.51	2.74
7.	Forest†	1979-80	33.55	17.43	51.95
		1980-81	35.74	21.72	60.77
		1981-82	47.03	6.30	13.40

\*Gross collection before deduction of refunds.

\*\*Expenditure on collection also includes other expenditure of the department.

†Expenditure on collection in respect of the years 1979-80 and 1980-81 also include other expenditure of the department.

## APPENDIX III

## Revenue collected and pending arrears

(Reference : Paragraph 1.4, page 4)

Sl. no.	Source of revenue	Amount pending collection	Net collection during the year	Amount of arrears more than 5 years old	Percentage of item (3) to (4)
(1)	(2)	(3)	(4)	(5)	(6)

(In crores of rupees)

1.	Sales Tax	51.78	318.86	17.00	16
2.	State Excise Duties	11.48	117.74	0.83	10
3.	Taxes on Motor Vehicles	13.48	55.13	*	24
4.	Taxes on Agricultural Income	2.14	9.08	*	24
5.	Forest	25.25	47.03	3.12	54

(a) Year-wise details of the outstanding amount of Sales Tax in arrears are given below:

Year	Arrears as on	
	31st March 1981	31st March 1982
	(In crores of rupees)	
Up to 1977-78	19.14	22.35
1978-79	7.75	10.15
1979-80	9.14	4.53
1980-81	8.03	6.75
1981-82	..	8.00
Total	44.06	51.78

\*Figures awaited from the department (November 1982).

## APPENDIX III (concl'd.)

(b) Year-wise details of the outstanding amount of State Excise Duties in arrears are given below:—

Year	Arrears as on	
	31st March 1981	31st March 1982
	(In lakhs of rupees)	
Up to 1977-78	85.15	84.08
1978-79	0.57	0.57
1979-80	10.00	7.00
1980-81	418.11	37.19
1981-82	..	1,019.10
Total	513.83	1,147.94

(c) Year-wise details of the outstanding amount of Taxes on Agricultural Income in arrears are given below:—

Year	Arrears as on	
	31st March 1981	31st March 1982
	(In lakhs of rupees)	
Up to 1977-78	58.00	61.10
1978-79	20.00	18.54
1979-80	32.00	34.67
1980-81	91.00	24.29
1981-82	..	75.22
Total	201.00	213.82

(d) Yearwise details of the outstanding amount of Forest Receipts in arrears are given below:—

Year	Arrears as on	
	31st March 1981	31st March 1982
	(In crores of rupees)	
Up to 1977-78	4.46	3.65
1978-79	0.75	0.65
1979-80	1.86	1.33
1980-81	11.87	3.34
1981-82	..	16.28
Total	18.94	25.25



## APPENDIX IV

## Broad categories of outstanding audit objections

(Reference : Paragraph 1.7, page 6)

	<i>Number of items</i>	<i>Amount (In lakhs of rupees)</i>
(i) Sales Tax—		
Error in computation of tax	215	62.56
Incorrect computation of turnover, double postings, irregular refunds, want of declaration forms, etc..	473	197.44
Non-levy or short levy of penalty	100	14.73
Total	788	274.73
(ii) Entertainment Tax—		
Short collection of entertainment tax and surcharge	5	1.51
Short collection of show tax	2	0.25
Total	7	1.76
(iii) State Excise Duties—		
Short levy of licence fee	13	11.45
Production wastage in distilleries, breweries, wineries, etc..	19	117.95
Error in computation	32	7.86
Other reasons	38	11.44
Total	102	148.70
(iv) Taxes on Motor Vehicles—		
Short levy of Motor Vehicles Tax	106	97.59
Short levy of taxes on passengers and goods	29	8.96
Short levy of endorsement fees	8	12.25
Short levy of composition fee	17	1.86
Irregular refunds	2	0.02
Other reasons	149	38.27
Total	311	158.95
(v) Agricultural Income Tax—		
Error in computation of total income	63	16.08
Income escaping assessment	29	10.72
Non-levy of penalty	23	12.28
Miscellaneous	235	86.66
Total	350	125.74

## APPENDIX IV (contd.)

	<i>Number of items</i>	<i>Amount (In lakhs of rupees)</i>
(vi) Land Revenue—		
Non-levy or short levy of land revenue, cesses, measurement fees, etc..	117	28.67
Non-levy or short levy of water rate and penal water rate	71	111.33
Non-levy or short levy of betterment contribution and interest	14	37.96
Non-levy or short levy of maintenance cess	33	22.15
Misappropriation cases	30	3.66
Total	265	203.77
(vii) Stamp Duty and Registration Fees		
Incorrect application of exemption of the documents	97	4.54
Wrong classification of documents	197	360.45
Other reasons	84	103.06
Total	378	468.05
(viii) Forest Receipts—		
Non-revision or non-fixation of appropriate rates for supply of forest produce	23	12.64
Short recovery or non-recovery of forest development tax	73	23.59
Non-recovery or short recovery of interest on belated payments	39	14.10
Non-recovery of administration charges	20	19.34
Loss recoverable on account of resale of forest produce to second and subsequent bidders	51	12.81
Non-recovery of kist amount or instalment of bid amount	21	12.68
Non-recovery of lease amount	52	115.22
Non-recovery or short recovery of sales tax	53	15.00
Other reasons	308	363.68
Total	640	589.06