

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

**FOR THE YEAR ENDED  
MARCH 1989**

**NO. 1**

**REVENUE RECEIPTS**

**GOVERNMENT OF WEST BENGAL**

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## **PREFATORY REMARKS**

The Audit Report on Revenue Receipts of the Government of West Bengal for the year ended March 1989 is presented in this volume (No. 1). The contents of this report are arranged in the following order:

(i) Chapter 1 deals with the trend of receipts classifying them under tax and non-tax revenues raised by the State Government and the receipts from the Government of India. It also highlights variations between the budget estimates and the actuals under principal heads of revenue ;

(ii) Chapters 2 to 10 bring out certain cases and points of interest that came to notice during audit of Sales Tax, Land Revenue, Motor Vehicles Tax, State Excise, Entry Tax, Other Tax Receipts, Mines and Minerals, Forest Receipts and Other Non-tax Receipts.



## OVERVIEW

### 1. General

(i) Total receipts of the Government of West Bengal during 1988-89 amounted to Rs. 3337.42 crores. These comprised Rs. 1735.10 crores tax revenue, Rs. 190.51 crores non-tax revenue and the balance Rs. 1411.81 crores represented State's share of Union Taxes (Rs. 754.15 crores) and grants-in-aid (Rs. 657.66 crores) received from Government of India. State's collection of own revenues registered a growth of about 18 per cent over 1987-88. The actual collections exceeded the budgetary expectations by Rs.41.87 crores.

*(Paragraph 1.2)*

(ii) 1,261 inspection reports containing 3,423 objections with money value of Rs 85.26 crores were pending settlement at the end of June 1989.

*(Paragraph 1.8.2)*

(iii) As a result of test audit conducted during 1988-89, under-assessments and losses of revenue amounting to Rs. 3516.37 lakhs were noticed. The under-assessments/losses of revenue pertain to Sales Tax (Rs. 862.02 lakhs), Land Revenue (Rs. 718.49 lakhs), Motor Vehicles Tax (Rs. 35.71 lakhs), State Excise (Rs. 168.13 lakhs), Entry Tax (Rs. 113.56 lakhs), Other Tax Receipts (Rs. 387.34 lakhs), Mines and Minerals (Rs. 878.15 lakhs), Forest Receipts (Rs. 123.95 lakhs) and Other Non-Tax Receipts (Rs. 229.02 lakhs).

*(Paragraphs 2.1, 3.1, 4.1, 5.1, 6.1, 7.1, 8.1, 9.1 and 10.1)*

(iv) The report includes representative cases of non-levy/short levy of tax, duty, fee, royalty, cesses, interest, penalty, etc., involving a financial effect of Rs. 1576.45 lakhs noticed during test check in 1988-89 and earlier years. Of these, under-assessments of Rs. 586.50 lakhs were accepted by the departments, of which Rs. 2.88 lakhs were recovered till December 1989. In respect of the balance amount of Rs. 989.95 lakhs, comments/final replies of the departments/Government have not been received (March 1990).

## 2. Sales Tax

Audit scrutiny of 'Sales Tax' revealed the following major irregularities:

Nature	Number of cases	Amount of under-assessment (In lakhs of rupees)	Paragraph
(i) Irregular classification	5	14.40	2.2
(ii) Incorrect determination of turnover	6	8.44	2.3
(iii) Irregular exemption	6	11.55	2.4
(iv) Omission to levy turnover tax	64	53.19	2.12(i)
(v) Non-levy of interest in cases reported to certificate officer	26	112.70	2.16(i)
(vi) A review on 'Arrears of Sales Tax' revealed:			

(a) Arrears in Sales Tax showed increasing trend and as on 31st March 1988 the figures stood at Rs. 197.78 crores, which is 23.77 per cent of total collection for the year 1987-88.

(Paragraph 2.20.5)

(b) Department failed to take effective steps in realising the arrears of Rs. 40.29 lakhs in 15 cases of dealers whose registration certificates have been cancelled.

(Paragraph 2.20.7)

(c) There were inordinate procedural delays in certificate proceedings despite court and authorities' orders for the payment of tax due in instalments and consequently arrears amounting to Rs. 3.31 crores remained unrealised.

(Paragraph 2.20.8)

## 3. Land Revenue

(i) Irregular settlement of non-agricultural Government lands (measuring 31.50 acres) in 2 circle offices resulted in loss of revenue of Rs. 6.82 lakhs.

(Paragraph 3.2)



(ii) A review on 'Management of non-agricultural Government lands' revealed:

(a) Non-renewal of leases of 546.597 acres of Government lands according to the prescribed provisions resulted in short realisation of land revenue amounting to Rs. 223.73 lakhs.

*(Paragraph 3.10.5)*

(b) Unauthorised occupation of Government lands (measuring 1,380.972 acres) in 10 districts resulted in loss of revenue amounting to Rs. 1.76 crores.

*(Paragraph 3.10.8)*

(c) Due to non-initiation of any action for settlement of 174.44 acres of lands in South 24-Parganas district by the department, Government lost revenue of Rs. 33.21 lakhs.

*(Paragraph 3.10.9)*

#### **4. Motor Vehicles Tax**

(i) A review on 'Assessment and Collection of Motor Vehicles Tax' revealed:

(a) Failure of the department to apply the revised norms of maximum safe laden weight in respect of 199 vehicles resulted in short realisation of Rs. 12.37 lakhs.

*(Paragraph 4.2.6)*

(b) In respect of 228 vehicles/chassis in four regions, motor vehicle tax amounting to Rs. 3.26 lakhs was not realised for various periods from the dates of possession or control of vehicles or expiry of grace period.

*(Paragraph 4.2.8)*

(c) Tax Demand Register, which is the basic document to watch the recovery of tax by the taxing officer, was not maintained or the postings were in arrear. Out of 4,264 vehicles test checked in Calcutta region, tax payment of Rs. 21.95 lakhs in respect of 202 vehicles had not been made as per Tax Demand Register.

*[Paragraph 4.2.14(d)]*

## 5. State Excise

(i) Non-levy of excise duty of Rs. 2.76 lakhs consequent on non-receipt of verification report in respect of foreign liquor exported out of the State.

[Paragraph 5.2(i)]

(ii) Additional fee, realisable in respect of spirit distilled by a distillery from West Bengal mill molasses, was realised short by Rs. 2.17 lakhs.

(Paragraph 5.3)

## 6. Entry Tax

At 3 checkposts, irregular allowance of exemption in respect of taxable goods resulted in non-levy of entry tax amounting to Rs. 18.77 lakhs.

(Paragraph 6.2)

## 7. Other Tax Receipts

(i) In respect of 122 video hall owners who used V.C.R./V.C.P. for commercial exhibition of films, there was under-assessment of luxury-cum-amusement and entertainment tax of Rs. 29.14 lakhs due to application of incorrect rates of tax.

(Paragraph 7.4)

(ii) Irregular exemption of conveyance deeds in respect of 15 apartments transferred by a Housing Co-operative Society resulted in non-levy of stamp duty and registration fee amounting to Rs. 5.33 lakhs.

(Paragraph 7.10)

## 8. Mines and Minerals

In case of a lessee, failure to grant working permission and execute agreement resulted in non-raising of demands of royalty amounting to Rs. 118.00 lakhs.

[Paragraph 8.2(i)(a)]

## 9. Forest Receipts

A review on 'Working of forest revenue divisions in West Bengal' revealed:

(i) Irregular deduction of service charge in respect of allotment sales in 3 forest divisions resulted in short realisation of revenue by Rs. 13.11 lakhs.

(Paragraph 9.6.8)

(ii) Royalty on *Kcndu* leaves and sales tax thereon were not realised to the extent of Rs. 5.22 lakhs.

(*Paragraph 9.6.10*)

**10. Other Non-Tax Receipts**

Omission to include charges for ration concession, while determining the cost of supply of Police guards recoverable from Food Corporation of India, resulted in short recovery of Rs. 12.83 lakhs.

(*Paragraph 10.4*)



## CHAPTER 1

### GENERAL

#### 1.1 Revenue receipts

During the year 1988-89, total receipts of the Government of West Bengal amounted to Rs. 3337.42 crores, comprising revenue raised by the State Government (Rs. 1925.61 crores) and receipts from Government of India towards State's share of divisible Union taxes and grants-in-aid (Rs. 1411.81 crores). The total receipts during the year 1988-89 showed an improvement by 14.60 per cent over those in the preceding year.

#### 1.2 Analysis of revenue receipts

An analysis of the receipts during 1988-89, along with the corresponding figures for the preceding year 1987-88, is given below:

	1987-88		1988-89	
	Amount (In crores of rupees)	Percent- age of total revenue raised by State Govern- ment/ receipts from Govern- ment of India	Amount (In crores of rupees)	Percent- age of total revenue raised by State Govern- ment/ receipts from Govern- ment of India
I Revenue raised by State Government:				
1. Tax revenue ..	1448.63	88.86	1735.10	90.11
2. Non-tax revenue ..	181.61	11.14	190.51	9.89
Total	1630.24	100.00	1925.61	100.00.

	1987-88		1988-89	
	Amount (In crores of rupees)	Percent- age of total revenue raised by State Govern- ment/ receipts from Govern- ment of India	Amount (In crores of rupees)	Percent- age of total revenue raised by State Govern- ment/ receipts from Govern- ment of India
<b>II. Receipts from Government of India :</b>				
1. State's share of divisible Union taxes ..	728.66	56.84	754.15	53.42
2. Grants-in-aid ..	553.30	43.16	657.66*	46.58
<b>Total ..</b>	<b>1281.96</b>	<b>100.00</b>	<b>1411.81</b>	<b>100.00</b>
<b>III. Total receipts (I + II) ..</b>	<b>2912.20</b>		<b>3337.42</b>	
<b>IV. (a) Percentage of State's own revenue to total receipts ..</b>		<b>55.98</b>		<b>57.70</b>
<b>(b) Percentage of receipts from Government of India to total receipts</b>		<b>44.02</b>		<b>42.30</b>

### 1.3 Tax revenue

An analysis of tax receipts, which comprised 90.11 per cent of the total revenue raised by the State during 1988-89, is given

\*For details, refer to Statement no. 11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of West Bengal 1988-89.

below. The figures for the year 1987-88 have also been indicated for purposes of comparison.

Nature of tax revenue	Amount collected		*decrease in 1988-89 with reference to 1987-88
	1987-88	1988-89	
(In crores of rupees)			
1. Taxes on Agricultural Income ..	8.11	5.99	(2.12)
2. Other Taxes on Income and Expenditure** .. ..	40.20	46.18	5.98
3. Land Revenue .. ..	187.01	279.67	92.66
4. Stamps and Registration Fees .. ..	73.71	101.05	27.34
5. Taxes on Immovable Property other than Agricultural Land*** .. ..	0.83	0.84	0.01
6. State Excise .. ..	96.10	119.03	22.93
7. Sales Tax .. ..	832.09	959.34	127.25
8. Taxes on Vehicles .. ..	42.54	46.40	3.86
9. Taxes on Goods and Passengers .. ..	87.77	102.79	15.02
10. Taxes and Duties on Electricity .. ..	35.67	31.53	(4.14)
11. Other Taxes and Duties on commodities and Services**** .. ..	44.60	42.28	(2.32)
<b>Total .. ..</b>	<b>1448.63</b>	<b>1735.10</b>	<b>286.47</b>

#### 1.4 Non-tax revenue

The major sources of non-tax revenue collected by the State are Interest, Police, Education, Sports, Art and Culture, Medical and Public Health, Social Security and Welfare, Minor Irrigation, Dairy Development, Forestry and Wild Life, Industries, Non-Ferrous Mining and Metallurgical Industries and Roads and Bridges.

\*Figures in brackets indicate decrease.

\*\*This head accommodates receipts under Taxes on Professions, Trades, Callings and Employments.

\*\*\*This head accommodates receipts under the West Bengal Multi-storeyed Building Tax Act, 1975.

\*\*\*\*This head accommodates Taxes under Entertainment, Betting, Luxury and receipts under Jute Taxation Act.

Receipts of non-tax revenue during 1988-89 constituted 9.89 per cent of the total revenue raised by the State.

An analysis of non-tax revenue raised during 1988-89, along with the figures for the preceding year 1987-88, is given below:

Nature of non-tax revenue	Amount collected		Increase/ *decrease in 1988-89 with reference to 1987-88
	1987-88	1988-89	
(In crores of rupees)			
1. Interest .. .. .	32.76	43.04	10.28
2. Police .. .. .	8.01	5.19	(2.82)
3. Education, Sports, Art and Culture ..	5.94	5.77	(0.17)
4. Medical and Public Health ..	25.11	16.09	(9.02)
5. Social Security and Welfare ..	8.99	8.60	(0.39)
6. Minor Irrigation .. .. .	3.36	4.55	1.19
7. Dairy Development .. .. .	20.28	22.90	2.62
8. Forestry and Wild Life .. .. .	24.21	23.51	(0.70)
9. Industries .. .. .	5.98	7.14	1.16
10. Non-Ferrous Mining and Metallurgical Industries .. .. .	5.17	7.11	1.94
11. Roads and Bridges .. .. .	4.99	4.00	(0.99)
12. Others .. .. .	36.81	42.61	5.80
<b>Total .. .. .</b>	<b>181.61</b>	<b>190.51</b>	<b>8.90</b>

### 1.5 Variation between budget estimates and actual receipts

The table below compares the actual receipts with budget estimates for the year 1988-89:

\*Figures in brackets indicate decrease.



Nature of receipts	Budget estimates	Actuals	Variation excess/shortfall*	Percentage of variation*
(In crores of rupees)				
(A) Total Receipts				
I. State's own resources				
(a) Tax Revenue ..	1684.23**	1735.10	50.87	3.02
(b) Non-tax Revenue ..	199.51	190.51	(9.00)	(4.51)
II. Receipts from Government of India:				
(a) Share of Union Taxes	754.96	754.15	(0.81)	(0.11)
(b) Grants-in-aid ..	629.78	657.66	27.88	4.43
Total ..	3268.48	3337.42	68.94	2.11
(B) Tax Receipts				
1. Taxes on Agricultural Income .. ..	8.40	5.99	(2.41)	(28.69)
2. Other Taxes on Income and Expenditure .. ..	48.00	46.18	(1.82)	(3.79)
3. Land Revenue ..	256.45	279.67	23.22	9.05
4. Stamps and Registration Fees ..	78.53	101.05	22.52	28.68
5. Taxes on Immovable property ..	0.79	0.84	0.05	6.33
6. State Excise ..	99.88	119.03	19.15	19.17
7. Sales Tax ..	954.69	959.34	4.65	0.49
8. Taxes on Vehicles ..	46.45	46.40	(0.05)	(0.11)
9. Taxes on Goods and Passengers ..	102.64	102.79	0.15	0.15
10. Taxes and Duties on Electricity ..	40.00	31.53	(8.47)	(21.17)
11. Other Taxes and Duties on Commodities and Services ..	48.40	42.28	(6.12)	(12.64)
Total ..	1684.23	1735.10	50.87	3.02

\*Figures in brackets indicate shortfall.

\*\*This includes additional taxation measures for Rs. 56 crores.

Nature of receipts	Budget estimates	Actuals	Variation excess/shortfall*	Percentage of variation*
(In crores of rupees)				
<b>(C) Non-tax Receipts:</b>				
1. Interest ..	35.70	43.04	7.34	20.56
2. Police .. ..	7.34	5.19	(2.15)	(29.29)
3. Education, Sports, Art and Culture ..	7.04	5.77	(1.27)	* (18.04)
4. Medical and Public Health .. ..	25.58	16.09	(9.49)	(37.10)
5. Social Security and Welfare ..	9.17	8.60	(0.57)	(6.22)
6. Minor Irrigation ..	5.00	4.55	(0.45)	(9.00)
7. Dairy Development	26.43	22.90	(3.53)	(13.36)
8. Forestry and Wild Life .. ..	27.90	23.51	(4.39)	(15.73)
9. Industries ..	4.82	7.14	2.32	48.13
10. Non-Ferrous Mining and Metallurgical Industries ..	4.20	7.11	2.91	69.29
11. Roads and Bridges ..	3.12	4.00	0.88	28.21
12. Others .. ..	43.21	42.61	(0.60)	(1.39)
<b>Total ..</b>	<b>199.51</b>	<b>190.51</b>	<b>(9.00)</b>	<b>(4.51)</b>

The actual collection of revenues thus exceeded the budgetary expectations.

### 1.6 Cost of collection

The expenditure incurred on collections under the principal heads of revenue and the percentages of cost of collection to gross collection during the years 1987-88 and 1988-89 are indicated below:

\*Figures in brackets indicate shortfall.

Receipt head	Gross collection		Expenditure on collection		Percentage of cost of collection to gross collection	
	1987-88	1988-89	1987-88	1988-89	1987-88	1988-89
(In crores of rupees)						
1. Taxes on Agricultural Income	8.11	5.99	0.44	0.49	5.4	8.2
2. Other Taxes on Income and Expenditure ..	40.20	46.18	0.75	0.84	1.9	1.8
3. Land Revenue ..	187.01	279.67	10.51	12.36	5.6	4.4
4. Stamps and Registration Fees ..	73.71	101.05	7.23	8.72	9.8	8.6
5. State Excise ..	96.10	119.03	6.05	7.03	6.3	5.9
6. Sales Tax ..	832.09	959.34	8.91	10.99	1.1	1.1
7. Taxes on Vehicles	42.54	46.40	1.51	1.65	3.6	3.6
8. Taxes on Goods and Passengers ..	87.77	102.79	2.93	4.61	3.3	4.5
9. Taxes and Duties on Electricity ..	35.67	31.53	0.70	0.68	2.0	2.2
10. Other Taxes and Duties on Commodities and Services	44.60	42.28	0.23	0.24	0.5	0.6
11. Forestry and Wild Life ..	24.21	23.51	2.87	3.43	11.9	14.6

### 1.7 Uncollected revenue

The arrears of revenue pending collection in respect of Sales Tax and Electricity Duty as on 31st March 1989 (as furnished by the department) amounted to Rs. 221.32 crores as indicated below:

Revenue head	Opening balance as on 1st April 1988	Fresh demand raised during 1988-89	Amount collected during 1988-89	Amount remitted/ written off/ reduced in appeal	Balance outstanding as on 31st March 1989
(In crores of rupees)					
(i) Sales Tax ..	197.78*	137.25	78.07	51.39	205.57
(ii) Electricity Duty	7.32	39.92	31.49	—	15.75
<b>Total ..</b>					<b>221.32</b>

The departments concerned were requested (April 1989) to furnish information regarding arrears of revenue outstanding as on 31st March 1989 in respect of other tax and non-tax receipts; but the same has not been received (March 1990).

## 1.8 Outstanding inspection reports

1.8.1 Audit observations on incorrect assessments, under-assessments, non-levy or short levy of taxes, duties, fees and other revenue receipts as well as on irregularities and deficiencies in initial accounts and records of assessments noticed during local audit, which are not settled on the spot, are communicated to heads of offices and to higher authorities through inspection reports for prompt settlement. The more important financial irregularities are also brought to the notice of heads of departments and the Government for taking prompt corrective measures. Government have prescribed that first replies to the inspection reports should be sent by heads of offices to heads of departments within three weeks from the date of receipt of the inspection report. The heads of departments, in turn are required to transmit the replies, along with their comments, to the Accountant General within two months from the date of receipt of the replies from their subordinate offices. Half-yearly statements of audit objections, awaiting settlements for want of final replies from the departmental authorities are also forwarded to the Government in June and December every year for expediting clearance of outstanding objections.

\*Figure recast due to exclusion of figure under entertainment tax of Calcutta region administered by the Sales Tax Directorate.

1.8.2 The number of inspection reports and audit objections, with money values, issued upto December 1988 but not settled by the departments by the end of June 1989, together with corresponding figures for the preceding two years, are given below:

	Outstanding at the end of June		
	1987	1988	1989
Number of Inspection Reports ..	1,579	1,162	1,261
Number of audit objections ..	2,427	2,854	3,423
Money value of objections (In crores of rupees) ..	68.53	70.06	85.26

1.8.3 Receipt-wise break-up of the inspection reports and audit objections (with money values) issued upto December 1988, but remaining outstanding for settlement at the end of June 1989, is given below:

Head of receipt	Number of inspection reports	Number of audit objections	Amount (In crores of rupees)
1. Agricultural Income Tax ..	21	29	0.28
2. Land Revenue ..	71	482	15.87
3. Stamps and Registration Fees ..	121	146	0.77
4. Non-judicial Stamps ..	50	69	0.44
5. State Excise ..	38	58	4.55
6. Sales Tax ..	362	1,499	22.38
7. Professions Tax ..	52	89	0.46
8. Motor Vehicles Tax ..	166	458	4.00
9. Entry Tax ..	71	129	6.36
10. Electricity Duty ..	19	24	3.40
11. Amusement Tax ..	37	74	2.96
12. Departmental Receipts ..	179	182	10.82
13. Forest ..	60	112	2.81
14. Mines and Minerals ..	14	72	10.16
<b>Total ..</b>	<b>1,261</b>	<b>3,423</b>	<b>85.26</b>

1.8.4 Out of 1,261 inspection reports pending settlement, even first round of replies had not been received (March 1990) in respect of 1,000 reports containing 2,943 audit objections. Receipt-wise break-up of the objections is given below:

Head of receipt		Number of inspection reports	Number of audit objections	Earliest year to which reports relate
1. Agricultural Income Tax	..	21	29	1980-81
2. Land Revenue	.. ..	66	457	1980-81
3. Stamps and Registration Fees	..	93	138	1979-80
4. Non-judicial Stamps	.. ..	20	41	1979-80
5. State Excise	.. ..	10	18	1982-83
6. Sales Tax	.. ..	362	1,499	1979-80
7. Professions Tax	.. ..	52	89	1984-85
8. Motor Vehicles Tax	.. ..	41	172	1980-81
9. Entry Tax	.. ..	71	129	1981-82
10. Amusement Tax	.. ..	16	42	1983-84
11. Departmental Receipts	.. ..	179	182	1981-82
12. Electricity Duty	.. ..	1	2	1982-83
13. Forest	.. ..	60	112	1981-82
14. Mines and Minerals	.. ..	8	33	1983-84
<b>Total</b>	.. ..	<b>1,000</b>	<b>2,943</b>	

1.8.5 In the following cases, though audit objections were raised five to eight years ago, (1980-81 to 1983-84), no rectificatory action has been taken by the departments so far. The matter was reported to the Secretary to the Government of West Bengal, Finance Department in October 1989 and to the Chief Secretary, Government of West Bengal in January 1990.

Head of receipt			Number of audit objections	Amount (In lakhs of rupees)
1. Agricultural Income Tax	..	..	6	2.78
2. Land Revenue	..	..	151	417.30
3. Stamps and Registration Fees	..	..	80	3.42
4. Non-judicial Stamps	..	..	4	0.38
5. State Excise	..	..	7	4.62
6. Sales Tax	..	..	778	892.63
7. Motor Vehicles Tax	..	..	104	53.37
8. Entry Tax	..	..	35	16.27
9. Amusement Tax	..	..	2	1.03
10. Departmental Receipts	..	..	78	445.27
11. Electricity Duty	..	..	7	195.11
12. Forest	..	..	40	67.13
13. Mines and Minerals	..	..	28	639.54
<b>Total</b>	..	..	<b>1,320</b>	<b>2738.85</b>

## CHAPTER 2

### SALES TAX

#### 2.1 Results of Audit

Test check of accounts of sales tax receipts in Commercial Tax Offices, conducted during 1988-89, revealed non-assessments/under-assessments of tax amounting to Rs. 862.02 lakhs in 597 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs) of rupees)
1. Non-levy/short levy of interest .. ..	274	305.67
2. Irregular grant of exemption .. ..	65	264.40
3. Non-levy/short levy of turnover tax ..	106	61.26
4. Incorrect determination of gross/taxable turnover	23	38.26
5. Application of incorrect rate of tax ..	24	17.27
6. Under-assessment due to mistake in computation	14	11.92
7. Non-levy of purchase tax .. ..	8	3.81
8. Other cases .. ..	83	159.43
<b>Total .. ..</b>	<b>597</b>	<b>862.02</b>

Some of the important cases noticed during 1988-89 and earlier years, including findings of a review on "Arrears of Sales Tax", are mentioned in the following paragraphs.

#### 2.2 Mis-classification of goods

(i) Under the West Bengal Sales Tax Act, 1954, powdered or condensed milk, whether skimmed, unskimmed or whether mixed with any other substance or not, sold under any trade names and descriptions, such as Glaxo, Lactogen, Ostermilk, Horlicks etc. or any other name or description whatsoever was, upto 31st March 1979, a notified commodity, provided that where the powdered or condensed milk is mixed with any other substance, the milk content in the product exceeded 50 per cent by weight. From 1st April 1979, 'Horlicks' was omitted from



the list of notified commodities, and with effect from the same date powdered or condensed milk used as baby food or otherwise is a notified commodity under the Act. No tax is, however, leviable under the Act on the local sale of any notified commodity if it was purchased locally. The commodity 'Horlicks' which is a combination of wheat, flour and malt (having only 25 per cent of milk solid out of the total mixture) does not fall under the category of powdered or condensed milk which excludes powdered or condensed milk mixed with any other substance, and is, therefore, taxable from 1st April, 1979 under the Bengal Finance (Sales Tax) Act, 1941, as general goods at the prescribed rate.

(a) In assessing (between February 1986 and July 1987) a dealer of Amratola charge, Calcutta for the years ended between March 1982 and March 1984, his sales of locally purchased 'Horlicks' aggregating Rs. 124.83 lakhs were exempted from tax treating the same erroneously as a notified commodity. The misclassification of goods resulted in under-assessment of tax including turnover tax amounting to Rs. 10.51 lakhs.

This was pointed out in audit in September 1987. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in January 1988; their reply has not been received in spite of reminders issued in March 1988, November 1988 and April 1989.

(b) In assessing (April 1987) a dealer of Berhampore charge for the year ended 13th April 1984, his sale of locally purchased Horlicks valued at Rs. 11.69 lakhs was exempted from tax treating the same erroneously as a notified commodity. The misclassification resulted in under-charge of tax amounting to Rs. 86,724.

The omission was pointed out in audit in February 1989. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in May 1989; their reply has not been received despite reminder issued in September 1989.

(c) In assessing (October 1987) a dealer of Burdwan district for the year ended 4th November 1983, his sale of locally purchased Horlicks valued at Rs. 11.35 lakhs was exempted from tax treating the same erroneously as a notified commodity. The misclassification resulted in under-charge of tax amounting to Rs. 84,235.

On this being pointed out in audit (August 1988), the department stated (September 1988) that whatsoever might be the percentage of milk contents, 'Horlicks' had been specially notified under the West Bengal Sales Tax Act, 1954. The contention of the department is not tenable in view of the fact that the commodity is a mixture of flour, malt and 25 per cent milk and not purely a powdered or condensed milk as notified in the Act of 1954 from 1st April 1979.

The matter was brought to the notice of Government in January 1989; their reply has not been received in spite of reminder issued in September 1989.

(d) In an assessment (July 1987) of a dealer of Nadia district for the year ending 13th April 1984, sales of locally purchased Horlicks valued at Rs. 10.47 lakhs were exempted from tax, treating the same as a notified commodity. The mis-classification resulted in under-assessment of tax amounting to Rs. 83,795.

This was pointed out in audit in July 1988. Report on action taken has not been received (March 1990).

The matter was reported to Government in November 1988; their reply has not been received in spite of reminder issued in June 1989.

(ii) Under the West Bengal Sales Tax Act, 1954, if any dealer, who has been liable to pay tax in respect of any period, fails to get himself registered, the Commissioner shall proceed to assess the amount of tax due from the dealer in respect of such period and all subsequent periods. 'Surgical dressing' being a notified commodity is taxable under the Act at the rate of 6 per cent upto 31st March 1984 and at the rate of 4 per cent thereafter.

A dealer of North 24<sup>th</sup> Parganas district manufactured and sold 'surgical dressing' (sterilised gauze and bandage) taxable under the 1954 Act since 1977, but he neither got himself registered under the 1954 Act nor paid tax for such sale. The assessing officer while making assessment (September 1986) under the Bengal Finance (Sales Tax) Act, 1941 for the year ended June 1984, allowed exemption in respect of sales of such materials aggregating Rs. 25.64 lakhs treating the same as textile fabrics. This mistake in classification resulted in tax being not levied to the extent of Rs. 1.34 lakhs.

On this being pointed out in audit (November 1987), the department admitted (November 1987) the mistake and assessed (April 1988) his sales as Rs. 25.24 lakhs and raised demand of

Rs. 1.49 lakhs including a penalty of Rs. 1,000 as the dealer failed to get himself registered.

The matter was reported to Government in January 1988.

### **2.3 Incorrect determination of gross turnover**

In a case, involving incorrect determination of gross turnover, an amount of Rs. 25,710 was recovered on being pointed out in audit. A few other cases are mentioned below:

(i) Under the Bengal Finance (Sales Tax) Act, 1941, "sale price" means the amount payable to a dealer as valuable consideration for the sale of any goods, including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof, other than cost of freight or delivery or the cost of installation, when such cost is separately charged.

In the case of a dealer of Burdwan district, total gross turnover for the year ended March 1983 stood at Rs. 3941.52 lakhs as per consolidated and revised return filed by him. The dealer's gross turnover was determined (March 1987) at Rs. 3576.67 lakhs after allowing a deduction of Rs. 364.85 lakhs towards claim on account of freight, delivery charges and installation charges. However, it was noticed from the observations of the assessing officer in the assessment order that a deduction of Rs. 300 lakhs only was allowable on account of erection (installation) charges separately charged for, and deduction for the remaining amount of Rs. 64.85 lakhs was not admissible and was added back by the assessing officer to the gross turnover already determined (Rs. 3576.67 lakhs) for the purpose of determination of turnover tax. But this amount of Rs. 64.85 lakhs was not added to the turnover for the purpose of assessment of sales tax which led to under-assessment of sales tax to the tune of Rs. 4.81 lakhs.

The mistake was pointed out in audit in February 1988. Report on final action taken has not been received (March 1990).

The matter was reported to Government in July 1988; their reply has not been received in spite of reminder issued in June 1989.

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, a dealer is liable to pay tax at the prescribed rates on the amount of turnover that remains after allowing the permissible deductions.

In three ex-parte assessments (November 1984) of a dealer of Esplanade charge, Calcutta for the assessment years ended

December 1980, December 1981 and December 1982, the dealer's gross turnover was determined by the assessing officer at Rs. 6 lakhs in each year, i.e., aggregating Rs. 18 lakhs. It was, however, observed from the report (September 1982) of the inspecting officer placed on record, that gross turnover of the dealer as per his books of accounts actually worked out to Rs. 34,90,986 (Rs. 7,55,739 for 1980, Rs. 12,35,247 for 1981 and Rs. 15,00,000 for 1982). The short determination of gross turnover by Rs. 16,90,986 resulted in short levy of tax amounting to Rs. 1.25 lakhs.

On this being pointed out in audit (March 1986), the department revised the assessments between August 1986 and March 1987 and raised (between December 1986 and March 1987) an additional demand of Rs. 1,88,971 including purchase tax (Rs. 60,000) and penalty (Rs. 3,500).

The matter was reported to Government in August 1986.

(iii) Under the West Bengal Sales Tax Act, 1954, the term "sale price", used in relation to a dealer means the amount of money consideration for sale of notified commodities manufactured by the dealer in West Bengal or brought by him into West Bengal from any place outside West Bengal for the purpose of sale in West Bengal less any sum allowed as cash discount according to trade practice but includes any sum charged for containers or other materials for packing of notified commodities. Accordingly, handling charges, freight, transportation, octroi, etc., realised by the dealer from his customers formed part of the "sale price" and is includable in the turnover for the purpose of levy of sales tax.

(a) In a revised assessment (November 1983) of a dealer of Central Section Assessment Wing, Calcutta, for the assessment year ended October 1976, the dealer's realisation aggregating Rs. 10,36,963 from his customers on account of transportation, handling and other charges incurred by him prior to sale in West Bengal was irregularly excluded from the turnover of the dealer. This resulted in tax being levied short by Rs. 1.65 lakhs.

On this being pointed out in audit (August 1986), the department stated (July 1989) that the matter would be considered at the time of hearing of the appeal preferred by the dealer against the assessment order. Further report has not been received (March 1990).

The matter was reported to Government in August 1987; their reply has not been received in spite of reminder issued in April 1989.

(b) In assessing (December 1984) a dealer in fertiliser for the assessment year ending June 1982, in the Central Section Assessment wing, Calcutta, amounts realised by the dealer from his customers on account of equated freight aggregating Rs. 4,99,101, was irregularly excluded from the turnover of the dealer. This resulted in short levy of tax of Rs. 23,760.

The matter was pointed out in audit in September 1987. Final report on action taken by the department for rectification of the assessment has not been received (March 1990).

The case was reported to Government in June 1988; their reply has not been received in spite of reminders issued in September 1988 and April 1989.

(iv) Under the Bengal Finance (Sales Tax) Act, 1941, the sale price of the goods includes any sum charged for anything done by the dealer at the time of, or before delivery thereof. The cost of freight or delivery is excluded from the sale price, only where such cost is charged by the dealer separately. Otherwise freight and delivery charges form part of the sale price.

In four assessments of a dealer of Alipore charge, Calcutta for the years ended between December 1982 and December 1985, assessed between November 1983 and May 1987, a sum aggregating Rs. 6,05,270 shown by the dealer in his accounts as recoveries towards delivery charge of stone materials supplied to Government department was not taken into account in determining the taxable turnover although the sale price was inclusive of delivery charges as per agreement with the purchasing Government department. The non-inclusion of delivery charges in the sale price resulted in under-assessment of tax of Rs. 23,303.

On the omission being pointed out in audit (September 1987), the department stated (July 1989) that review of the assessments for the years ending December 1982 and 1983 had been initiated and the demand for the years ending December 1984 and 1985 amounting to Rs. 10,710 raised and preferred to the certificate officer for realisation. Report on further progress has not been received (March 1990).

The case was reported to Government in February 1988; their reply has not been received in spite of reminder issued in April 1989.

#### **2.4 Irregular exemptions**

(i) Under the Central Sales Tax Act, 1956 and the rules framed thereunder, transfer of goods not by reason of sale by a

registered dealer, to any place of business outside the State is exempt from levy of tax on production of declaration in Form 'F' duly filled in and signed by the Principal Officer or agent of the other places of business along with evidences of despatch of goods. Such transfer of goods, other than certain specified goods, not supported by prescribed declaration forms is taxable at the rate of 10 per cent.

(a) In assessing (March 1987) a dealer of Lyons Range charge, Calcutta for the assessment year ending March 1983, a sum of Rs. 67.50 lakhs out of the dealer's claim for Rs. 10.39 crores towards transfer of goods to his branches in other States was disallowed for non-production of declarations in Form 'F'. A scrutiny of the supporting documents in audit, however, revealed that the claim allowed included transfer of goods valued at Rs. 65.63 lakhs which were also neither supported by prescribed declaration forms nor by any evidence of despatch of such goods. The incorrect exemption in respect of transfer of goods worth Rs. 65.63 lakhs resulted in short levy of tax of Rs. 6.56 lakhs.

This was pointed out in audit in July 1988. Report on final action taken by the department, which had admitted the mistake, has not been received (March 1990).

The matter was reported to Government in January 1989; their reply has not been received in spite of reminder issued in April 1989.

(b) In assessing (April 1984) a manufacturer dealer of Park Street Charge, Calcutta for the assessment year ending April 1980, a deduction of Rs. 25.70 lakhs was allowed towards transfer of goods (refrigerators) to his branches in other States. A scrutiny of supporting records in audit, however, revealed that the said transfer of goods was neither supported by prescribed declarations in form 'F' nor any evidence of despatch. This incorrect exemption resulted in non-levy of tax including turnover tax amounting to Rs. 3.47 lakhs.

On this being pointed out in audit (March 1986), the department referred (January 1989) the matter to the appellate authority for consideration at the time of hearing appeal petition filed by the dealer against the assessment in question.

The matter was reported to Government in November 1986; their reply has not been received in spite of reminders issued in October 1987, January 1988 and April 1989.

(ii) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sales of cotton are exempt from tax but

cotton waste is taxable at the rate of 8 per cent. Sales of cotton waste was exempted prior to 10.7.1978.

In assessing (March 1987) a dealer of Esplanade Charge, Calcutta for the assessment year ending March 1983, his sales turnover of cotton waste aggregating Rs. 8,21,210 was erroneously exempted from levy of tax treating the goods as unusable inferior grade cotton. This led to short levy of tax of Rs. 69,146 including turnover tax.

On this being pointed out in audit in October 1987, the department stated (July 1989) that soft waste of cotton was an exempted article under the Act, 1941. The contention of the department is not tenable in view of the fact that the article exempted under the Act has been specified as cotton and not soft waste of cotton.

The case was reported to Government in February 1988; their reply has not been received in spite of reminders issued in June 1988, October 1988 and April 1989.

(iii) Under Central Sales Tax Act, 1956, sales of goods made in the course of export out of the territory of India are exempt from levy of tax. Last sales preceding the sale occasioning the export of goods out of the territory of India are also exempt from levy of tax provided such sales took place after and were for the purpose of complying with the agreement, or order for or in relation to such exports. As per rules framed under the West Bengal Sales Tax Act, 1954 and the Central Act, 1956, a dealer is entitled to such exemption on production of prescribed certificates in form XII and form 'H' respectively.

In assessing (June 1985) a manufacturer dealer of Central Section Assessment Wing, Calcutta for the assessment year ending June 1981, his sales turnover aggregating Rs. 4,03,85,223 was allowed exemption from levy of tax as last sale in West Bengal prior to export. An examination of the supporting certificates in Form XII revealed that sales aggregating Rs. 6,46,730 were not supported by prescribed certificates and evidence of export. The irregular grant of exemption on sale of Rs. 6,46,730 resulted in non-levy of tax of Rs. 31,376 including turnover tax.

This was pointed out in audit in May 1987. Report on final action taken by the department to rectify the mistake has not been received (March 1990).

The matter was reported to Government in April 1988; their reply has not been received despite reminder issued in April 1989.

(iv) Under the Bengal Finance (Sales Tax) Act, 1941, spices except those notified under the West Bengal Sales Tax Act, 1954, are taxable as general goods at the rate of 8 per cent.

In an ex-parte assessment (April 1987) of a dealer of Nadia district for the assessment year ended 13th April 1984, the dealer's gross turnover was determined at Rs. 5.45 lakhs and a sum of Rs. 3.68 lakhs was allowed exemption as sale of non-taxable goods. It was, however, noticed from the returns filed by the dealer that the exempted amount represented sales against commodity code no. 67 which are spices other than those notified under the Act of 1954. This erroneous exemption resulted in short levy of tax amounting to Rs. 27,305.

This was pointed out in audit (July 1988). Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in November 1988; their reply has not been received in spite of reminder issued in June 1989.

(v) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, sales of cement made by the West Bengal Essential Commodities Supply Corporation Limited are exempt from tax subject to production of prescribed declaration forms. Other dealers are not entitled to this exemption. Further, sales of mill-made rice are exempt from levy of tax since 1st June 1983, if such rice is made from paddy on which purchase tax was paid.

In assessing (June 1985) a dealer of Cooch Behar district for the year ended 13th April 1984, his sales of cement aggregating Rs. 50,000 were irregularly exempted. Further, his sales of mill-made rice aggregating Rs. 20.90 lakhs, effected from 1st June 1983 to 13th April 1984, were allowed exemption, although there was nothing in the assessment order or on record to indicate that the assessing officer satisfied himself that the rice was made from paddy on which purchase tax was paid. These irregularities resulted in non-levy of tax amounting to Rs. 24,402.

On this being pointed out in audit in January 1987, the department admitted the mistake. Report on final action taken has not been received (March 1990).

The matter was reported to Government in March 1987 followed up by several reminders between June 1987 and March 1989; their reply has not been received.



## 2.5 Turnover escaping assessment

(i) Under the Central Sales Tax Act, 1956, inter-State sales of goods other than declared goods are taxable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

(a) In assessing a dealer (July 1986) of Bhawanipore charge, Calcutta under the Central Act for the assessment period ended March 1983, the assessing authority disallowed a claim of Rs. 97,07,840 representing export sales. However, at the time of computation, tax was erroneously levied on Rs. 50,00,000 instead of on Rs. 97,07,840. This led to under-assessment of tax to the tune of Rs. 4.71 lakhs.

This was pointed out in audit in December 1987. Report on final action taken has not been received (March 1990).

The matter was reported to Government in March 1988; their reply has not been received in spite of reminders issued in September 1988 and February 1989.

(b) In finalising (December 1987) the assessment of a dealer of Shyambazar Charge, Calcutta for the year ending December 1983, under the Bengal Finance (Sales Tax) Act, 1941, the assessing officer deducted from the dealer's gross turnover an amount of Rs. 3.46 lakhs representing his inter-State sales assessable under the Central Sales Tax Act, 1956. But in the assessment under the Central Sales Tax Act, this inter-State turnover was taken as nil. This resulted in under-assessment of tax of Rs. 34,597.

On the omission being pointed out in audit (June 1988), the department admitted the mistake. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in September 1988; their reply has not been received in spite of reminder issued in April 1989.

(ii) Under the Central Sales Tax Act, 1956, on inter-State sales of declared goods to unregistered dealers, tax is leviable at 8 per cent being double the rate of tax applicable to sale of such goods inside the State.

In the deemed assessment of a dealer of Howrah district for the assessment year ended March 1987, made in August 1987, it was noticed that in respect of inter-State sales of declared goods (iron and steel) to unregistered dealers amounting to Rs. 3,99,329 pertaining to 4th quarter, no tax was paid or assessed. The omission to levy tax on these sales led to short levy of tax of Rs. 31,946.

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This was pointed out in audit in January 1989. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in April 1989; their reply has not been received (March 1990).

(iii) Under the provisions of the Bengal Finance (Sales Tax) Act, 1941, sales tax is leviable on the taxable turnover arrived at after allowance of permissible deductions from the gross turnover.

(a) In making (September 1987) an ex-parte assessment of a dealer of Jalpaiguri district, for the assessment year ended 13th April 1985, his gross turnover was determined at Rs. 172 lakhs. Out of this, a deduction of Rs. 147.10 lakhs was allowed on account of sales of locally purchased commodities, notified under the West Bengal Sales Tax Act, 1954, which are not taxable under the Act of 1941. Out of the taxable turnover of Rs. 24.90 lakhs an amount of Rs. 11.14 lakhs only was taxed and the balance turnover of Rs. 13.76 lakhs was erroneously left out. The error resulted in non-levy of tax amounting to Rs. 1.02 lakhs.

This was pointed out in audit in November 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in February 1989; their reply has not been received despite reminder issued in June 1989.

(b) In assessing (March 1987) a dealer of Park Street Charge, Calcutta for the assessment year ended March 1983, the assessing authority determined taxable turnover at Rs. 24,23,224 but computed tax on Rs. 20,93,088. This resulted in escapement of taxable turnover of Rs. 3,30,136 and consequent short levy of tax of Rs. 42,843.

On this being pointed out in audit in September 1987, the department stated (August 1989) that the omission would be considered at the time of hearing of revision proceedings fixed before the Assistant Commissioner. Further development has not been intimated (March 1990).

The matter was reported to Government in January 1988; their reply has not been received in spite of reminder issued in April 1989.

(c) In case of a dealer in Murshidabad district, it was noticed from the order sheet relating to assessment for the year ended March 1983 that his gross turnover was determined (November

1984) by assessing authority at Rs. 10,57,358 on the basis of books of accounts produced by him and order was reserved after rejecting assessee's request for further time. However, while completing the assessment (24th April 1986) ex-parte, the dealer's gross turnover for the said period was estimated at Rs. 5 lakhs on best judgement basis leading to an escapement of gross turnover of Rs. 5,57,358 with consequent under-assessment of tax of Rs. 42,296.

This was pointed out in audit in July 1987. Report on final action taken by the department to review the assessment has not been received (March 1990).

The case was reported to Government in September 1987; their reply has not been received in spite of reminder issued in March 1988.

(iv) Under the Bengal Finance (Sales Tax) Act, 1941, business includes any transaction in connection with, ancillary or incidental to such trade, commerce etc., and such transaction is liable to sales tax at the prescribed rate.

(a) In assessing (June 1983) a dealer of Taltola Charge, Calcutta for the assessment period ending June 1979, sales of business assets aggregating Rs. 5,70,200 were not included in his gross turnover. This led to under-assessment of tax of Rs. 41,052 including surcharge and additional surcharge.

On this being pointed out in audit (November 1986), the department stated (November 1986) that necessary action was being taken.

The case was reported to Government in February 1987; their reply has not been received in spite of reminders issued in October 1987, January 1988, March 1988, November 1988, January 1989 and April 1989.

(b) In an assessment of a manufacturing dealer of Central Section Assessment Wing, Calcutta for the year ended March 1982, made in March 1986, sale value of furniture, office equipment and motor vehicle aggregating Rs. 2,95,053 was not included in the gross turnover of the dealer. The non-inclusion of the sale of assets in the turnover resulted in escapement of tax amounting to Rs. 29,955.

On this being pointed out in audit in March 1987, the department stated (July 1989) that the assessment order had been revised by including sale of assets and canteen sales after setting right the demand notice.

The matter was reported to Government in April 1988.

(c) In assessing (October 1987) a dealer of Radhabazar charge, Calcutta for the assessment year ended 4th November 1983, a sum of Rs. 3,10,720 realised by the dealer towards sale of imported motor car (Rs. 2,75,000) and factory shed (Rs. 35,720) was omitted to be included in his turnover. The omission resulted in under-assessment of tax of Rs. 23,055.

On this being pointed out in audit (September 1988), the department admitted (October 1988) the mistake. Report on action taken has not been received (March 1990).

The matter was reported to Government in January 1989; their reply has not been received in spite of reminder issued in April 1989.

## **2.6 Under-assessment of tax due to treatment of corporate bodies as Government departments**

(i) Under the Central Sales Tax Act, 1956 and the rules framed thereunder, inter-States sales of goods to Government are taxable at the concessional rate of 4 per cent provided such sales are supported by prescribed certificate in form 'D' issued by the purchasing government department. Co-operative Societies, not being government departments, are not eligible to issue certificates in form 'D' and accordingly sales to such organisations are taxable at the general rate of 10 per cent, or the State rate, whichever is higher.

(a) In assessing (May 1984) a dealer of Central Section Assessment wing, Calcutta for the assessment year ending March 1981, inter-State sales aggregating Rs. 16,27,717 to a Co-operative Organisation were wrongly assessed at the concessional rate of 4 per cent against certificates in form 'D' furnished by the Organisation. This irregular concession led to under-assessment of tax of Rs. 93,907.

On this irregularity being pointed out in audit (May 1987), the department stated (July 1989) that the proceedings for *suo-motu* revision of the assessment order had been initiated. Further development has not been intimated (March 1990).

The case was reported to Government in April 1988; their reply has not been received in spite of reminder issued in April 1989.

(b) In assessing (June 1986) a dealer of Central Section Assessment Wing, Calcutta for the assessment year ending June 1982, inter-State sales of general goods aggregating Rs. 4 83 lakhs to different corporate bodies were incorrectly taxed at the con-

cessional rate of 4 per cent against certificates in Form 'D' furnished by them. This resulted in under-assessment of tax of Rs. 27,852.

This was pointed out in audit in April 1988. Report on final action taken has not been received (March 1990).

The case was reported to Government in March 1989 and followed up by reminder issued in June 1989, but no reply has yet been received.

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, sales of goods to Government are taxable, with effect from 1st April 1980, at the rate of 4 per cent as against the general rate of 8 per cent applicable otherwise. The department clarified in a trade circular issued in October 1983, that the expression 'Government' would not cover local bodies, autonomous bodies, etc.

In an assessment (June 1986) of a dealer of Shyambazar Charge, Calcutta for the assessment year ended June 1982 the assessing officer levied tax at the rate of 4 per cent instead of at the rate of 8 per cent on his sales aggregating Rs. 14,77,523 to Calcutta Metropolitan Development Authority and West Bengal Housing Board, treating such sales as sales to Government. The irregular allowance of concessional rate led to tax being levied short by Rs. 52,748.

This was pointed out in audit in June 1987. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in August 1987 followed up by reminders in October 1987, January 1988 and April 1989; their reply has not been received (March 1990).

## **2.7 Incorrect allocation of gross turnover assessable under State and Central Acts**

Under the Bengal Finance (Sales Tax) Act, 1941, sales of declared goods inside the State are taxable at the rate of 4 per cent, while under the Central Sales Tax Act, 1956 inter-State sales of such goods are taxable at double the said rate if such inter-State sales are not supported by prescribed declaration/certificate.

In assessing (January 1985) a dealer of declared goods in Burdwan district for the assessment year ended March 1981, the gross turnover was determined at Rs. 27.50 lakhs on the basis of returns filed by him. While completing assessments under the State and Central Acts, the intra-State and inter-State sales

were taken as Rs. 11.37 lakhs and Rs. 16.13 lakhs instead of as Rs. 2.86 lakhs and Rs. 24.64 lakhs respectively as shown in the returns. There was nothing on record for controverting the figures returned by the dealers. The mistake resulted in under-assessment of tax amounting to Rs. 44,874.

This was pointed out in audit in December 1986. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in April 1987 followed up by reminders between June 1987 and March 1989; their reply has not been received (March 1990).

## **2.8 Loss of revenue due to operation of time-bar**

Under the Bengal Finance (Sales Tax) Act, 1941, a fresh assessment in pursuance of an order of the appellate authority is required to be completed within a period of four years from the date of such order, since assessments, thereafter, become time-barred. This provision is also applicable to the assessments made under the Central Sales Tax Act, 1956.

In disposing of (November 1981) a dealer's appeal for the assessment year ending 1976, the appellate authority directed (3rd November 1981) the assessing officer to make fresh assessment. But an examination of the records revealed that the fresh assessment was not completed till May 1988 by which time the assessment became time-barred. The failure of the assessing officer to make fresh assessment within the prescribed time limit (November 1985), resulted in loss of revenue of Rs. 92,544 (i.e. the original additional tax demand raised).

On the omission being pointed out in audit (May 1988), the department admitted (May 1988) the loss of revenue.

The matter was reported to Government in August 1988 followed up by reminders in January and April 1989; their reply has not been received (March 1990).

## **2.9 Short levy of tax due to application of incorrect rates of tax**

(i) Under the Central Sales Tax Act, 1956, inter-State sales of declared goods to a registered dealer are taxable at a concessional rate of 4 per cent, if such sales are supported by prescribed declaration forms. Otherwise, tax is leviable at twice the rate applicable to sales of such goods inside the State.

In assessing (March 1982) a dealer of Taltola Charge,

Calcutta for the assessment year ending March 1978, his claim for deduction in respect of sales turnover aggregating Rs. 72 lakhs in the course of export was disallowed and tax was levied at the concessional rate of 4 per cent treating the claim as inter-State sales of general goods to registered dealers. An examination of assessment records in audit, however, disclosed that the entire sales turnover pertained to inter-State sales of declared goods (tanned leather) which was not supported by the prescribed declaration forms in Form 'C'. In the absence of relevant declarations the entire sales were liable to be treated as sales to unregistered dealers and accordingly chargeable to tax at double the rate i.e. 8 per cent. The incorrect assessment resulted in short levy of tax of Rs. 2.99 lakhs.

On this being pointed in audit (July 1984), the department admitted the mistake and brought it to the notice of the appellate authority in April 1985. The appellate authority set aside the case in July 1987 for fresh assessment. Report on final action taken has not been received (March 1990).

The matter was reported to Government in February 1985 followed up by several reminders between March 1986 and May 1989; their reply has not been received (March 1990).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, sale of 'refrigerator and its spare parts and accessories' mentioned in Schedule II of the Act, is taxable at 15 per cent. Goods not specifically mentioned in the Act are treated as general goods and are taxable at 8 per cent.

In the assessment of a dealer of Taltola Charge, Calcutta for the year ended September 1983, made in December 1987, his sales aggregating Rs. 10,00,000 were erroneously taxed at the general rate of 8 per cent treating the sales as of general goods, although the dealer dealt exclusively in Schedule II goods, viz. refrigerator and its spare parts and accessories. The erroneous application of the lower rate led to tax amounting to Rs. 55,550 being levied short.

On this being pointed out in audit (August 1988), the department admitted the mistake. Report on final action taken for tracing out the missing Registration Certificate of the dealer has not been received (March 1990).

The matter was reported to Government in December 1988; but their reply has not been received despite reminder issued in April 1989.

(iii) Under the Bengal Finance (Sales Tax) Act, 1941 and

the rules made thereunder, sales of declared goods to a registered dealer are exempt from tax provided a dealer claiming exemption furnishes declaration in the prescribed form obtained from the purchasing dealer. Otherwise such sales are taxable at the rate of 4 per cent. Further, in terms of Section 5(1)(aa) of the Act *ibid*, tax on sales of general goods to registered reseller is leviable at 1 per cent subject to furnishing of a prescribed form.

In assessing (February 1987) a dealer of Manicktola Charge, Calcutta for the assessment year ending March 1983, the assessing officer (Manicktola charge) disallowed his claims for sales of declared goods (Iron and Steel) amounting to Rs. 16,60,760, since they were not supported by prescribed declaration forms, but while finalising the assessment, erroneously levied tax at 1 per cent treating the same as sales of general goods to registered resellers, instead of at 4 per cent as applicable to declared goods. This resulted in short levy of tax of Rs. 47,498.

On this being pointed out in audit in June 1987, the department stated (July 1989) that the matter would be considered at the time of hearing of the appeal preferred by the dealer against original assessment order. Report on further progress has not been received (March 1990).

The matter was reported to Government in September 1987; their reply has not been received in spite of several reminders issued between October 1987 and May 1989.

## **2.10 Irregular allowance of concessional rate of tax**

(i) Under the Central Sales Tax Act, 1956 and the rules made thereunder, inter-State sales of goods other than declared goods to registered dealers are taxable at the concessional rate of 4 per cent, if such sales are supported by declarations in prescribed form obtainable from the purchasing dealers; otherwise the tax is payable at the rate of 10 per cent or the rate of tax applicable under the State Act, whichever is higher.

(a) In the assessment (June 1985) of a dealer of Central Section Assessment wing, Calcutta for the year ended June 1981, claim for concessional rate of tax at 4 per cent was allowed for Rs. 237.11 lakhs on the basis of statements of declaration forms filed by the dealer. It was, however, noticed (August 1987) in audit that the total of these statements was overstated by Rs. 63.22 lakhs. The allowance of concessional rate on the overstated amount of Rs. 63.22 lakhs resulted in under-assessment of tax of Rs. 3.65 lakhs.



On this being pointed out in audit (August 1987), the department admitted the mistake. Report on final action taken has not been received (March 1990).

The case was reported to Government in June 1988; their reply has not been received in spite of reminders issued in September 1988 and April 1989.

(b) In assessing (December 1987) a dealer of Chinabazar Charge, Calcutta for the assessment year ending 4th November 1983, the assessing officer allowed concessional rate of tax on the inter-State sales turnover of Rs. 6,44,50,445. A scrutiny in audit of the statement of the declaration forms furnished by the dealer, however, revealed that sales turnover of Rs. 8,53,725 was not covered by the prescribed declaration forms. Besides, the total claims were overstated by Rs. 78,218 due to totalling mistake. Thus, sales turnover aggregating Rs. 9,31,943 was not eligible for concessional rate of tax. This resulted in short levy of tax of Rs. 55,917 calculated at the differential rate of 6 per cent.

On this being pointed out in audit (June 1988), the department stated (July 1989) that the matter would be considered at the time of hearing of appeal preferred by the dealer before the appellate authority. Report on further progress has not been received (March 1990).

The case was reported to Government in September 1988 and followed up by reminders issued in February 1989 and May 1989; their reply has not been received (March 1990).

(c) In assessing (May 1985) a dealer of Central Section Assessment Wing, Calcutta for the assessment year ending June 1981, the assessing officer levied concessional rate of tax (4 per cent) on the inter-State sales (of Jute products) turnover aggregating Rs. 1,45,54,450. However, as per declaration forms submitted by the dealer, the turnover qualifying for concessional rate of tax as covered by declaration forms was Rs. 1,33,06,039. Tax was leviable on the remaining turnover of Rs. 12,48,411 at the higher rate of 10 per cent instead of 4 per cent. The incorrect levy of concessional rate on sales of Rs. 12,48,411 resulted in a short levy of tax by Rs. 72,024.

This was pointed out in audit in May 1987. The department stated (August 1989) that the audit objection would be considered at the time of hearing of the appeal petition preferred by the dealer before the appellate authority. Further development has not been intimated (March 1990).

The case was reported to Government in April 1988; their

reply has not been received in spite of reminder issued in April 1989.

(d) In assessing (December 1985) a dealer of Central Section Assessment Wing, Calcutta for the assessment year ending December 1981, the assessing officer allowed concessional rate of tax on inter-State sales of Rs. 366.17 lakhs on the basis of the statements of declaration forms filed by the dealer. Scrutiny of the statements, however, revealed that total in the statements was overstated by Rs. 6.30 lakhs, which resulted in short levy of tax of Rs. 36,346.

On this being pointed out in audit in May 1987, the department stated (July 1989) that a proposal for *suo-motu* revision of the case had been sent to the Revisional Authority. Further development has not been intimated (March 1990).

The case was reported to Government in April 1988; their reply has not been received in spite of reminder issued in April 1989.

(e) In assessing (December 1987) a dealer of Taltola Charge, 1983, the dealer's claim for concessional rate of 4 per cent for inter-State sales turnover of Rs. 46,88,828 was allowed on the basis of covering statements of declaration forms furnished by him. Audit scrutiny of the statements of declaration forms, however, revealed that the total had been overstated by Rs. 6,29,401. Assessing authority's failure to detect the above had resulted in tax amounting to Rs. 36,312 being under-assessed.

This was pointed out in audit in August 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in December 1988; their reply has not been received despite reminder issued in April 1989.

(ii) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules framed thereunder, sales to registered manufacturer dealers of goods (other than certain specified goods) were taxable at the concessional rate of 3 per cent from 10.10.1977 to 31.3.1981 and at 1 per cent from 1.4.1981 to 30.9.1982 provided the selling dealer claiming concessional rate furnishes the prescribed declaration forms obtained from the registered purchasing dealers. Sales not supported by prescribed declarations were exigible to tax at the normal rate of 8 per cent.

(a) In assessing (December 1985) a dealer of Central Section Assessment Wing, Calcutta for the assessment year ending

December 1981, his claims towards sales to registered manufacturer dealers at the concessional rate of 3 per cent and 1 per cent on sales of Rs. 9,94,125 and Rs. 80,19,711 respectively were allowed by the assessing officer. A scrutiny of the covering statement of declaration forms, however, disclosed that sales of goods taxable at 1 per cent were overstated by Rs. 6 lakhs. Failure to detect the error resulted in short levy of tax of Rs. 38,580.

On this being pointed out in audit in February 1987, the department stated (July 1989) that audit objection would be considered at the time of fresh assessment in consequence of original assessment being set aside by the appellate authority. Further development has not been intimated (March 1990).

The matter was reported to Government in April 1988; their reply has not been received despite reminder issued in April 1989.

(b) In assessing (June 1985) a dealer of Central Section Assessment Wing, Calcutta for the year ended June 1981, his claim for concessional rate of tax was allowed for Rs. 23.44 lakhs on the basis of the totals given in the statements of declarations filed by the dealer. It was, however, noticed in audit that the total of the statements was overstated by Rs. 7.33 lakhs. The irregular allowance of concessional rate on the overstated amount resulted in an under-charge of tax amounting to Rs. 32,993.

On this being pointed out in audit in August 1987, the department admitted the mistake. Report on further action taken has not been received (March 1990).

The matter was reported to Government in June 1988; their reply has not been received in spite of reminders issued in September 1988 and April 1989.

## 2.11 Irregular deduction

(i) Under the West Bengal Sales Tax Act, 1954, the term 'sale price' used in relation to a dealer means the amount of consideration for sale of notified commodities manufactured, made or processed in West Bengal or brought by him into the State from any place outside West Bengal for sale within the State less any sum allowed as cash discount according to trade practice. Unlike the Bengal Finance (Sales Tax) Act, 1941 there is no provision in the Act of 1954 for allowance of deduction of cost of delivery charges from sale price even if it was charged separately. According to judicial pronouncement\* also, expenditure towards

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\*Supreme Court decision in the case of Dyres Meakin Ltd. Vs. State of Kerala (1970) 26-STC-248 (SC).

freight and delivery charges incurred prior to sale is a component of the price for which the goods are sold.

(a) In assessing (May 1984 and July 1984) a dealer of Central Section Assessment Wing, Calcutta for assessment years ending June 1981 and June 1982 respectively, sums aggregating Rs. 1,28,80,034, realised by the dealer from his customers on account of delivery charges for supply of soda water and non-alcoholic beverages at customers' site were irregularly excluded from the turnover (the price quoted was F.O.R. customer's site) of the dealer. This resulted in short levy of tax of Rs. 18 lakhs including turnover tax.

This was pointed out in audit in September 1986. Report on final action taken by the department for the case has not been received (March 1990).

The case was reported to Government in June 1987 and followed up by several reminders issued between October 1987 and April 1989; but their reply has not been received (March 1990).

(b) In assessing (December 1984 and June 1985) a dealer of Central Section, Assessment Wing, Calcutta for the assessment years ending April 1981 and April 1982, amounts realised by the dealer from his customers on account of distribution charges (in the nature of freight and delivery charges) aggregating Rs. 64,29,178 were irregularly excluded from the turnover of the dealer. It was noticed that sale price quoted by the dealer was F.O.R. customers' site and he had supplied 'Pure Drinks' in bottles in his own delivery van at customers' door. The distribution charges as such formed part of the turnover. Irregular exclusion of distribution charges resulted in short levy of tax of Rs.8.34 lakhs.

On this being pointed out in audit in November 1987, the department stated (August 1989) that the matter had been brought to the notice of the West Bengal, Commercial Taxes Tribunal before whom the case for the year ending April 1981 was pending for hearing while the assessment order for the year ending April 1982 had been revised *sue-motu* by the Assistant Commissioner, Commercial Taxes raising an additional demand of Rs.5.12 lakhs. Further development in the former case has not been intimated (March 1990).

The matter was reported to Government in June 1988 and followed by reminders in September 1988 and April 1989, their reply has not been received (March 1990).

(ii) Under the Bengal Finance (Sales Tax) Act, 1941, 'sale price' means the amount payable to a dealer as valuable consideration for the sale of any goods including any sum charged for anything done by the dealer in respect of goods at the time of, or before, delivery thereof but excluding cash discount according to ordinary trade practice and the cost of freight or delivery or cost of installation, when such cost is separately charged.

In assessing (April 1983) a manufacturing dealer of rolls in iron and steel in Central Section Assessment Wing, Calcutta for the assessment year ending April 1979, a deduction aggregating Rs. 5,82,723 towards claim for rebate in the nature of compensation paid by the dealer to his purchaser for supply of defective/sub-standard rolls, was allowed by the assessing officer although there was no provision for such deduction from the sale price under the Sales Tax Laws. This irregular deduction resulted in short levy of tax of Rs. 41,953 including surcharge and additional surcharge.

On this being pointed out in audit in January 1985, the department staed (July 1989) that audit objection would be considered at the time of fresh assesment in consequence of the original assessment being set aside by the appellate authority. Further development has not been intimated (March 1990).

The case was reported to Government in June 1986 followed up by several reminders between October 1986 and April 1989, their reply has not been received (March 1990).

(iii) Under the Central Sales Tax Act, 1956, in determining taxable turnover of a dealer, a deduction on account of tax collected by a dealer is allowed from the aggregate of sale prices in accordance with a prescribed formula, provided the tax collected has not otherwise been deducted from the aggregate of sale prices. As per judicial\* decision, the deduction is admissible, if the dealer proves that the turnover includes Central sales tax. Inter-State sales of declared goods to registered declares are taxable at the rate applicable to sale or purchase of such goods inside the State, provided such sales are supported by prescribed declaration in form 'C'. Tax at twice the rate inside the State is applicable if such sales are not supported by prescribed declarations.

(a) In assessing (February 1982 and March 1987) a dealer of Burdwan district, for the years ended March 1978 and March

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\*Rallis India Ltd. Vs. State of Andhra Pradesh [1983] 53 STC 267 (AP).

1983, claim for concessional rate of 4 per cent on sales of coal amounting to Rs.14612.64 lakhs to registered dealers was disallowed being not supported by declaration in form 'C'. However, while determining his taxable turnover, the deduction of tax from gross turnover was allowed on the basis of tax rate of 8 per cent although the dealer had collected tax at the rate of 4 per cent on the said sales to registered dealers. The excess allowance of deduction resulted in under-assessment of tax by Rs.41.63 lakhs.

On this being pointed out in audit (September 1988), the department admitted (September 1988) the mistake. Report on action taken has not been received (March 1990).

The case was reported to Government in January 1989, their reply has not been received in spite of reminder issued in June 1989.

(b) In assessing (June 1988) a dealer of Central Section Assessment Wing, Calcutta for the assessment year ended March 1982, sales in the course of export for Rs.1152.78 lakhs and inter-State sales to registered dealers amounting to Rs.418.57 lakhs respectively were disallowed in the absence of required documentary evidence and prescribed declarations and the sales were subjected to tax at 10 per cent treating them as inter-State sales to unregistered dealers. However, while determining the taxable turnover, deductions for tax on the basis of the prescribed formula at the rate of 10 per cent were allowed. Since no tax was collected on the export sale and concessional rate of 4 per cent was collected on sales to registered dealers, the grant of deductions at 10 per cent was irregular and resulted in under-assessment of tax to the extent of Rs.12.68 lakhs.

On this being pointed out in audit (February 1987), the department stated (August 1988) that the audit objection would be considered at the time of fresh assessment as the original assessment had been set aside in appeal by the appellate authority in July 1987. Report on final action taken has not been received (March 1990).

The matter was reported to Government in April 1988; their reply has not been received in spite of reminder issued in April 1989.

(c) In two assessment cases of a dealer of Lyons Range Charge, Calcutta, for the assessment years ended December 1982 and December 1983 (assessments completed between November 1986 and September 1987), claims of the dealer for exemption from payment of sales tax in respect of sales of jute

goods in the course of inter-State trade and in the course of export aggregating Rs.1123.55 lakhs were disallowed for want of prescribed declaration forms and evidence of export. The disallowed turnover was accordingly charged to tax at 10 per cent. However, while determining the taxable turnover, deductions amounting to Rs.102.14 lakhs on account of tax element, computed at the rate of 10 per cent on the basis of the said formula, were wrongly allowed. The irregular allowance of deductions led to under-assessment of tax amounting to Rs.10.21 lakhs.

The mistake was pointed out in audit in April 1988. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in January 1989. No reply has been received in spite of reminder issued in April 1989.

(d) In assessing (November 1985) a dealer of Central Section Assessment Wing, Calcutta for the assessment year ended March 1982, the assessing officer disallowed dealer's claims for intra-State sales of iron and steel for Rs.3,00,68,617 and treated these sales as inter-State sales taxable at 8 per cent under section 8(2)(a) of the Central Sales Tax Act, 1956. No tax was collected by the dealer on these sales. Further, inter-State sales of Rs. 2,40,911 were held taxable at 8 per cent as these were not supported by the prescribed declarations/certificates. However, while determining the taxable turnover deduction towards tax computed on the basis of the said formula appropriate to the higher rate of tax of 8 per cent was allowed, although the dealer had not collected any sales tax for inter-State sales (Rs.3,00,68,617) and had collected Central sales tax at 4 per cent on inter-State sales (Rs.2,40,911). The incorrect allowance of deduction led to a total under-assessment of tax amounting to Rs.1.79 lakhs.

On this being pointed out in audit in March 1987, the department stated (July 1989) that audit objection would be considered at the time of fresh assessment in consequence of an appellate order as preferred by the dealer against the original assessment order. Further development has not been intimated (March 1990).

The matter was reported to Government in April 1988. their reply has not been received despite reminder issued in April 1989.

(e) In assessing (May 1984) a dealer of Central Section

Assessment wing, Calcutta for the assessment year ended June 1981, the dealer's claims for concessional rate of tax on account of sales to registered dealers/Government amounting to Rs.333.93 lakhs were disallowed by the Assessing Officer for want of required documentary evidences and prescribed declarations/certificates. The sales were accordingly subjected to tax at 10 per cent. However, while determining the taxable turnover, deduction aggregating Rs.30.36 lakhs computed on the basis of the rate of tax of 10 per cent, was allowed, although the dealer had realised Central sales tax at the rate of 4 per cent. The amount of deduction allowable, on the basis of the concessional rate of tax of 4 per cent, worked out to Rs.12.84 lakhs only. The excess allowance of deduction of an amount of Rs.17.51 lakhs in this case led to an under-assessment of tax amounting to Rs.1.75 lakhs.

On this being pointed out in audit in March 1987, the department stated (July 1989) that audit objection would be considered at the time of fresh assessment in consequence of setting aside the original assessment by the appellate authority. Further development has not been intimated (March 1990).

The matter was reported to Government in April 1988; their reply has not been received despite reminder issued in April 1989.

(f) In assessing (March 1987) a dealer of Amratala Charge, Calcutta, for the assessment year ended 20th April 1983, the dealer's claim for deduction (i) on account of export sale and last sale prior to export and (ii) inter-State sales to Government departments amounting to Rs.1,05,18,997 was disallowed for non-production of required documentary evidence and prescribed declarations and these sales were subjected to tax at 10 per cent. However, while determining the taxable turnover, deductions aggregating Rs.14,37,482, computed as per prescribed formula, applicable to the rate of 10 per cent, were allowed. Since no tax was collected on the transactions of export sale and last sale prior to export and tax at 4 per cent was collected on the sale to Government departments, the grant of deductions at 10 per cent was irregular and resulted in under-assessment of tax to the extent of Rs.1.01 lakhs.

This was pointed out in audit in September 1987. Report on final action taken has not been received (March 1990).

The matter was reported to Government in January 1988; their reply has not been received despite reminders issued in April 1988, November 1988 and April 1989.



(g) In assessing (December 1985) a dealer of Central Section Assessment Wing, Calcutta for the year ended December 1981, his claim for concessional rate of tax at 4 per cent on account of sales to registered dealers amounting to Rs.120.97 lakhs was disallowed by the assessing officer and charged to tax at the general rate of 10 per cent. But, in determining the taxable turnover, deduction for tax on the basis of the prescribed formula was allowed at the rate of 10 per cent instead of at 4 per cent. The excess allowance of deduction resulted in short levy of tax of Rs.63,448.

On this mistake being pointed out in audit (October 1987), the department stated (February 1988) that the relevant assessment was under appeal and the matter had been referred to the appellate authority for necessary action. Report on final action taken has not been received (March 1990).

The matter was reported to Government in June 1988; their reply has not been received in spite of reminders issued in September 1988 and April 1989.

(h) A dealer of Central Section Assessment Wing, Calcutta in his returns for the year ended June 1982 showed inter-State sales of declared goods to unregistered dealers aggregating Rs.3,23,47,422 including tax at 8 per cent. This claim was disallowed by the assessing authority (Central Section Assessment Wing) because the dealer was dealing in non-declared goods (Electro steel castings) and the disallowed turnover was charged to tax at 10 per cent as general goods. However, while determining the taxable turnover, deduction for tax element was computed on the basis of the said formula appropriate to the higher rate of tax of 10 per cent, instead of 8 per cent (at which rate tax was collected). Allowance of incorrect deduction resulted in an under-assessment of tax amounting to Rs.54,457.

On this being pointed out in audit in March 1987, the department stated (July 1989) that audit objection would be considered at the time of hearing of appeal pending before the appellate authority. Further development has not been intimated (March 1990).

The matter was reported to Government in April 1988; their reply has not been received despite reminder issued in April 1989.

(i) In an assessment of a dealer of Central Section Assessment Wing, Calcutta for the year ended March 1982, made in November 1985, claims of the dealer for concessional rate of tax

at 4 per cent in respect of sales of declared goods and general goods were disallowed for want of prescribed declarations and certificates. The disallowed turnover was charged to tax at higher rate of 8 per cent and 10 per cent respectively. However, while determining the taxable turnover, deductions towards tax amounting to Rs. 9.80 lakhs based on higher rate (8 per cent or 10 per cent), instead of the correct amount of Rs. 4.97 lakhs computed on the basis of 4 per cent, were wrongly allowed. The irregular allowance of deductions led to an under-assessment of tax amounting to Rs. 40,032.

On this being pointed out in audit in February 1987, the department admitted the mistake. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in April 1988; their reply has not been received in spite of reminder issued in April 1989.

(j) In assessing (between March 1984 and January 1986) a dealer of Burdwan district for the years ended between March 1980 and March 1982, his claim for deduction on account of subsequent sales of declared goods, during their movement from one State to another, for Rs. 64.41 lakhs was disallowed for want of prescribed declarations and taxed at the rate of 8 per cent.

However, while determining his taxable turnover, deduction from gross turnover was allowed on the basis of the prescribed formula at the rate of 8 per cent although no tax was collected on subsequent sales claimed as exempted sales. The incorrect allowance of deduction resulted in under-assessment of tax by Rs. 38,170.

This was pointed out in audit in December 1986. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in April 1987 and followed up by reminders in June 1987, November 1987, March 1988 and June 1989, but their reply has not been received (March 1990).

(k) In assessing (between February 1986 and August 1986) a dealer in Murshidabad district for the three years ended between March 1982 and March 1984, his claim for concessional rate of tax at 4 per cent on account of inter-State sales amounting to Rs. 11.32 lakhs to registered dealers for the year ended March 1982 was disallowed due to non-production of prescribed declarations and evidences and taxed at 10 per cent. But while

determining taxable turnover, deduction for tax was allowed on the basis of rate of 10 per cent although 4 per cent tax was included in the turnover. Similarly, in the assessments for the years ended March 1983 and 1984, deduction of tax was allowed on the basis of rates of 4 per cent and 10 per cent on the turnover of Rs. 5.18 lakhs and Rs. 28.52 lakhs respectively, although no element of Central Sales Tax was included in the gross turnover. The incorrect allowance of deduction resulted in under-assessment of tax by Rs. 33,019.

This was pointed out in audit in July 1987. Final reply on action taken has not been received (March 1990).

The case was reported to Government in September 1987; their reply has not been received in spite of reminder issued in March 1988.

(l) In an assessment of a dealer of Alipore Charge, Calcutta for the year ended December 1982, made in December 1986, claims of the dealer for exemption from tax in respect of subsequent sales aggregating Rs. 66.88 lakhs were disallowed for want of prescribed declarations. The disallowed turnover was, however, charged to tax partly at 4 per cent and partly at 10 per cent. But while determining the taxable turnover, deduction amounting to Rs. 3,79,577, computed on the basis of the said formula, was allowed although no tax was included in the turnover claimed as exempted sales. The irregular allowance of deduction led to under-assessment of tax amounting to Rs. 27,980.

This was pointed out in audit in October 1987. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in February 1988; their reply has not been received in spite of reminder issued in April 1989.

(m) In assessing (July 1988) a dealer of Alipore charge for the year ended July 1982, the claim of the dealer for deduction on account of inter-State sales aggregating Rs. 42.74 lakhs made at a concessional rate of tax of 4 per cent to registered dealers, was disallowed by the assessing officer for non-production of prescribed declarations. The disallowed turnover was accordingly charged to tax at 10 per cent. However, while determining the taxable turnover, deduction aggregating Rs. 3.89 lakhs, computed on the basis of rate of 10 per cent, instead of on the basis of 4 per cent, was wrongly allowed. This resulted in under-assessment of tax amounting to Rs. 22,418.

On this being pointed out in audit in September 1987, the department admitted the mistake in October 1987. Report on final action taken has not been received (March 1990).

The matter was reported to Government in February 1988; their reply has not been received in spite of reminder issued in April 1989.

(n) In assessing (November 1985) a dealer of Central Section Assessment Wing, Calcutta for the year ended December 1981, his claims for exemption on account of 'fabrication charges' and deduction on account of inter-State sales made at a concessional rate of tax of 4 per cent to Government departments and registered dealers, aggregating Rs. 29.33 lakhs, were disallowed by the assessing authority for non-production of prescribed certificates and declarations, etc. The disallowed turnover was accordingly charged to tax at 10 per cent. However, while determining the taxable turnover, deductions aggregating Rs. 2.67 lakhs computed on the basis of higher rate of tax of 10 per cent were wrongly allowed. The amount of deduction correctly allowable on the basis of the rate of tax included in gross turnover worked out to Rs. 37,224. The incorrect allowance of excess deduction by an amount of Rs. 2.29 lakhs in this case led to an under-assessment of tax amounting to Rs. 22,942.

On the mistake being pointed out in audit in February 1987, the department admitted the mistake in April 1987. Report on final action taken has not been received (March 1990).

The matter was reported to Government in April 1988; their reply has not been received in spite of reminder issued in April 1989.

## **2.12 Non-levy or short levy of turnover tax**

A dealer, whose aggregate of gross turnovers under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954, during the last year ended on or before 31st March 1979 exceeded Rs. 50 lakhs, is liable to pay a turnover tax, from 1st April 1979, at the prescribed rates on that part of his turnover which remains after allowing the admissible deductions therefrom. Further, a dealer, whose aggregate of gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954, during any year ending on or after 1st April 1979 exceeds Rs. 50 lakhs, becomes liable to pay turnover tax from the first day of the year immediately following such year. Once a dealer becomes liable to pay turnover tax, he continues to be so

liable until the expiry of three consecutive years irrespective of whether the aggregate of his gross turnover under both the Acts during these years exceeds Rs. 50 lakhs or not. The rate of turnover tax is 1 per cent, if the aggregate of gross turnover exceeds Rs. 1 crore and  $\frac{1}{2}$  per cent, if aggregate of gross turnover does not exceed Rs. 1 crore.

In 3 cases, involving non-levy or short levy of turnover tax, an amount of Rs. 80,602 was realised on being pointed out in audit. A few other cases are mentioned below.

(i) It was noticed in audit (between July 1984 and March 1989) that the gross turnover of 64 dealers in different assessment charges for the years ending between April 1978 and April 1985 had exceeded Rs. 50 lakhs in each case. The dealers, therefore, became liable to pay turnover tax on their turnover in the subsequent years. However, turnover tax, amounting to Rs. 53.19 lakhs in the above cases was omitted to be levied and recovered by the department as detailed below:

Charge to which dealer belonged	Assessment year ended in which turnover had exceeded Rs. 50 lakhs	Subsequent assessment year(s) ended in respect of which turnover tax was leviable but not levied and the month in which the assessment was completed	Turnover liable for turnover tax	Turnover tax leviable but not levied	Reply of the Government/ department
1	2	3	4	5	6
(Rupees in lakhs)					
1. Lyons Range	December 1982	December 1983 <hr/> November 1987	650.00	6.50	The department raised (July 1989) the demand.
2. Shibpore	7th November 1980	15th November 1982 and 4th November 1983 <hr/> October 1986 and December 1987	256.00	2.56	The department admitted (January 1989) the mistake.

3. Colootola	June 1983	June 1984 <hr/> June 1988	230-00	2-30	The department admitted (September 1988) the mistake.
4. Manjcktolā	September 1982	September 1983 <hr/> December 1987	85-79	0-86	The department admitted (June 1988) the mistake.
5. Alipore	March 1982	March 1983 <hr/> March 1987	84-01	0-84	The department admitted (October 1987) the mistake.
6. Midnapore	7th November 1980	November 1983 <hr/> November 1987	70-00	0-70	The department admitted (July 1988) the mistake.
7. Kadamtala	29th October 1979	October 1980, October 1981 and October 1982 <hr/> January 1984, May 1984 and March 1986	100-00	0-50	The department admitted (March 1989) the mistake.
8. Lyons Range	June 1981	June 1983 <hr/> June 1987	90-00	0-45	The department admitted (July 1988) the mistake.

1	2	3	4	5	6
9. Amratola	11th April 1981	20th April 1983 <hr/> April 1987	70.00	0.35	The department admitted (July 1988) the mistake.
10. Chandney Chawk	4th November 1980	4th November 1983 <hr/> October 1987	50.71	0.25	The department admitted (September 1988) the mistake.
11. Lyons Range	March 1981	March 1983 <hr/> January 1987	25.00	0.25	The department admitted (July 1987) the mistake.
12. Manicktola	14th April 1985	April 1986 <hr/> January 1988	44.07	0.22	The department admitted (May 1988) the mistake.
13. Chinabazar	December 1978	December 1982 and December 1983 <hr/> December 1986 and November 1987	600.00	6.00	The department admitted (June 1988) the mistake.
14. Chinabazar	October 1980	October 1982 <hr/> October 1986	200.00	2.00	The department admitted (June 1988) the mistake.



15. Chinabazar	October 1979	November 1980 <hr/> November 1987	92-66	0-93	The department admitted (July 1988) the mistake.
16. Shyambazar	April 1978	April 1979, March 1980 and April 1981 <hr/> September 1981, March 1982 and April 1983	139-50	0-70	The department admitted (June 1988) the mistake.
17. Radhabazar	March 1980	April 1983 <hr/> April 1987	55-00	0-28	The department admitted (October 1988) the mistake.
18. Radhabazar	June 1981	June 1982 and 1983 <hr/> June 1986	70-13	0-63	The department admitted (October 1987) the mistake.
19. Radhabazar	December 1981	December 1982 <hr/> November 1986	55-11	0-28	The department admitted (November 1987) the mistake.
20. Alipore	March 1982	March 1983 <hr/> February 1987	80-00	0-40	The department admitted (October 1987) the mistake.
21. Bhowanipur	April 1980	April 1982 <hr/> April 1986	60-00	0-30	The department admitted (January 1988) the mistake.

1	2	3	4	5	6
					(Rupees in lakhs)
22. Sealdah	April 1979	April 1981 and 1982	80.15	0.40	The department admitted (June 1986) the mistake.
		April 1985 and March 1986			
23. Jorasanko	March 1980	April 1981, 1982 and 1983	61.96	0.31	The department admitted (October 1987) the mistake.
		February 1987			
24. Manicktola	April 1982	April 1983	50.00	0.50	The department agreed (May 1987) to take action.
		February 1987			
25. Colootola	November 1980	October 1981	49.67	0.25	The department admitted (October 1986) the mistake.
		November 1985			
26. Chinabazar	October 1978	October 1981	700.00	7.00	The department admitted (July 1986) the mistake.
		October 1985			

27. Chinabazar	April 1980	May 1981 and April 1982 <hr/> January 1985 and April 1985	200.00	1.00	The department admitted (July 1986) the mistake.
28. Esplanade	December 1979	December 1980 <hr/> November 1984	48.82	0.24	The department admitted (March 1986) the mistake.
29. Chinabazar	October 1981	November 1982 <hr/> October 1986	206.95	2.07	The department admitted (April 1987) the mistake.
30. Chinabazar	December 1980	December 1982 <hr/> December 1986	60.63	0.30	The department admitted (July 1987) the mistake.
31. Sealdah	March 1980	March 1983 <hr/> February 1987	90.22	0.90	The department admitted (June 1987) the mistake.
32. Sealdah	December 1979	December 1982 <hr/> October 1986	50.05	0.50	The department admitted (June 1987) the mistake.
33. Sealdah	March 1979	March 1983 <hr/> January 1987	52.33	0.52	The department admitted (June 1987) the mistake.

1	2	3	4	5	6
					(Rupees in lakhs)
34. Esplanade	September 1978	September 1981 <hr/> September 1985	58.43	0.58	The department admitted (February 1987) the mistake.
35. Esplanade	December 1978	December 1979, 1980 and 1981 <hr/> August 1982, December 1984 and 1985	60.65	0.30	The department admitted (February 1987) the mistake.
36. Taltola	December 1979	December 1980 <hr/> December 1984	45.86	0.23	The department admitted (June 1987) the mistake.
37. Colootola	October 1978	October 1979 and November 1980 <hr/> January 1983 and September 1983	36.55	0.37	The department admitted (January 1986) the mistake.
38. Colootola	April 1980	April 1981 <hr/> November 1984	48.96	0.24	The department admitted (January 1986) the mistake.

39. Colootola	October 1979	October 1981 <hr/> October 1985	80-86	0-81	The department admitted (January 1986) the mistake.
40. Alipore	November 1980	October 1981 and November 1982 <hr/> October 1984 and March 1985	38-46	0-38	The department admitted (February 1987) the mistake.
41. Taltola	December 1980	December 1981 <hr/> December 1985	50-00	0-25	The department admitted (November 1986) the mistake.
42. Esplanade	March 1981	March 1982 <hr/> March 1986	55-70	0-28	The department admitted (November 1986) the mistake.
43. Central Section Assessment Wing	December 1978	December 1980 <hr/> December 1984	43 07	0-43	The department admitted (September 1986) the mistake.
44. Esplanade	April 1982	April 1983 <hr/> March 1987	46-10	0-23	The department admitted (October 1987) the mistake.

1	2	3	4	5	6
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(Rupees in lakhs)

45. Park Street	September 1981	September 1982 <u>November 1985</u>	40.18	0.20	The assessing authority stated (October 1986) that the matter would be brought to the notice of the appellate authority.
46. Kadamtala	June 1981	June 1982 <u>March 1986</u>	66.76	0.33	The department admitted (January 1987) the mistake.
47. Maniktola	March 1979	March 1980 <u>March 1984</u>	45.17	0.23	The department admitted (July 1984) the mistake.
48. Maniktola	April 1979	April 1980 <u>February 1984</u>	80.00	0.40	The department admitted (July 1984) the mistake.
49. Radhabazar	May 1979	May 1983 <u>May 1987</u>	81.04	0.41	The department admitted (October 1988) the mistake.
50. Taltola	March 1981	March 1982 <u>March 1986</u>	80.00	0.40	The department admitted (May 1988) the mistake.

51. Esplanade	September 1978	September 1983 <hr/> August 1986	115-09	1-15	The department admitted (April 1989) the mistake.
52. Siliguri	March 1984	March 1985 <hr/> February 1987	48-58	0-24	The department admitted (March 1988) the mistake.
53. Maniktola	December 1978	December 1979, 1980 and 1981 <hr/> December 1983, 1984 and 1985	112-25	0-56	The department admitted (June 1987) the mistake.
54. Sealdah	December 1979	December 1980 and 1981 <hr/> December 1984 and 1985	91-44	0-46	No reply was furnished by the department.
55. Sealdah	December 1978	December 1979, 1982 and 1983 <hr/> February 1988, November 1986 and December 1987	79-54	0-40	The department admitted (May 1988) the mistake.

1	2	3	4	5	6
				(Rupees in lakhs)	
56. Chinabazar	September 1979	September 1980 and 1982	45.00	0.23	The department admitted (July 1987) the mistake.
		July 1983 and 1986			
57. Sealdah	March 1979	March 1980 and 1983	48.81	0.24	The department admitted (May 1988) the mistake.
		March 1984 and 1987			
58. Taltola	March 1981	March 1982, 1983 and 1984	144.30	0.72	Final reply from the depart- ment has not been received.
		April 1985, November 1985 and February 1986			
59. Taltola	March 1982	March 1983	46.00	0.23	The department admitted (June 1987) the mistake.
		March 1987			
60. Colootola	March 1979	March 1982	71.80	0.36	The department admitted (January 1988) the mistake.
		February 1986			



61. Colootola	December 1978	December 1979 and 1980	72.48	0.36	The department admitted (January 1986) the mistake.
		January 1983 and November 1984			
62. Radhabazar	May 1979	May 1980 and 1982	41.05	0.21	The department admitted (October 1988) the mistake.
		June 1984 and April 1986			
63. Bally	December 1979	December 1980 and 1981	41.72	0.21	Final reply from the depart- ment has not been received.
		December 1984 and 1985			
64. Durgapur	March 1981	March 1983 and 1984	93.81	0.47	The department admitted (April 1989) the mistake.
		March 1987 June 1988			
Total				53.19	

The above cases were reported to Government between December 1984 and May 1989; their reply has not been received in spite of several reminders issued between January 1988 and September 1989.

(ii) In assessing (between March 1986 and April 1988) three dealers of Calcutta for the assessment periods ending between March 1982 and March 1984, the assessing authority while levying turnover tax, at varying rates, on the taxable turnover of Rs. 20.08 crores erroneously computed turnover tax at Rs. 1,08,673 instead of the correct amount of Rs. 19.75 lakhs. This mistake resulted in under-assessment of turnover tax of Rs. 18.67 lakhs.

On this being pointed out in audit (between January 1988 and May 1989), the department admitted (between January 1988 and May 1988) the mistake in two cases. Their final reply in respect of the remaining one case has not been received (March 1990).

The matter was reported to Government between June 1988 and May 1989; their reply has not been received in spite of reminders issued between September 1988 and April 1989.

(iii) While assessing 2 dealers of Calcutta (between March 1984 and August 1987) for the assessment periods ended (between March 1980 and June 1984), the assessing authority did not levy turnover tax though the dealer's gross turnover had exceeded Rs. 50 lakhs in each case. Also, the assessing authority allowed deductions in respect of sales of ready-made garments and sales by a newly set up small scale industry amounting to Rs. 6.45 crores though these were not exempt from tax. The total turnover tax not levied in these cases amounted to Rs. 6.07 lakhs.

On this being pointed out in audit (between December 1987 and June 1988), the department admitted (between January 1988 and July 1988) the mistake and agreed to revise the cases. Report on revision has not been received (March 1990).

The matter was reported to Government (between March 1988 and November 1988); their reply has not been received in spite of reminders issued between January 1988 and April 1989.

(iv) (a) In assessing 4 dealers of Calcutta (between November 1983 and November 1987) for the assessment periods ended between December 1979 and December 1983 and one dealer of Howrah district assessed in April 1986 for the assessment period ended April 1982, the assessing authorities levied turnover tax at the rate of  $\frac{1}{2}$  per cent instead of the correct rate of 1 per cent on taxable turnover amounting to Rs. 3.43 crores, though the gross turnover had exceeded Rs. 1 crore in each case. The application of incorrect rate resulted in under-assessment of turnover tax to the extent of Rs. 1.96 lakhs.

On this being pointed out in audit (between July 1986 and April 1989), the department admitted the mistake (between August 1986 and April 1989). Report on rectification has not been received (March 1990).

The matter was reported to Government (between February 1987 and May 1989); their reply has not been received in spite of reminders issued between January 1988 and June 1989.

(b) In assessing (June 1987) turnover tax of a dealer of Taltola charge for the year ending June 1983, the rate of turnover tax was erroneously computed at  $\frac{1}{2}$  per cent with reference to the taxable turnover of Rs. 91,60,590 although gross turnover of the dealer was Rs. 107.30 lakhs and as such higher rate of tax of 1 per cent was leviable. The mistake resulted in short levy of turnover tax of Rs. 45,803.

This was pointed out in audit in August 1988. Report on final action taken has not been received (March 1990).

The matter was reported to Government in December 1988; their reply has not been received in spite of reminder issued in April 1989.

(c) In assessing (June 1986) a dealer of Alipore Charge, Calcutta for the year ended June 1982, whose aggregate of gross turnover under both the Acts was determined at Rs. 310.50 lakhs, the assessing officer computed turnover tax at the rate of  $\frac{1}{2}$  per cent instead of at 1 per cent on the taxable turnover aggregating Rs. 50.50 lakhs under the West Bengal Sales Tax Act, 1954. The mistake led to short levy of tax amounting to Rs. 25,250.

This was pointed out in audit in September 1988. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in February 1989; their reply has not been received in spite of reminder issued in April 1989.

(v) While assessing 2 dealers of Calcutta (September 1985 and March 1987) for the assessment periods ended September 1981 and March 1983, the assessing authority incorrectly levied turnover tax on the assessed tax of Rs. 16.29 lakhs instead of on the computed turnover of Rs. 2.19 crores. The mistake resulted in short levy of turnover tax to the extent of Rs. 1.61 lakhs.

On this being pointed out in audit (between February 1987 and May 1987), the department admitted (between February 1987 and May 1987) the mistake. Report on action taken has not been received (March 1990).

The matter was reported to Government (between July 1987 and September 1987); their reply has not been received in spite of reminders issued between October 1988 and April 1989.

(vi) In assessing a dealer of Calcutta (June 1985) for the assessment periods ended April 1981 and April 1982, the assessing authority determined the turnover excluding Rs. 64.29 lakhs being the distribution charges in the nature of freight and delivery charge realised from the customers, although the assessee was responsible for supply of goods at the purchasers' place of business. This irregularity resulted in short determination of turnover and leading to under-assessment of turnover tax to the extent of Rs. 64,292.

This was pointed out in audit in November 1987. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in June 1988; their reply has not been received in spite of reminders issued in September 1988 and April 1989.

(vii) In assessing a dealer of Calcutta (December 1984) for the assessment period ended 31st December 1980, the assessing authority excluded sales of Rs. 39,05,663 representing inter-State sales, from the gross turnover. This resulted in short determination of gross turnover and consequent application of lower rate of tax at  $\frac{1}{2}$  per cent instead of at 1 per cent leading to turnover tax being under-assessed by Rs. 45,674.

This was pointed out in audit in March 1987. Report on final action taken has not been received (March 1990).

The matter was reported to Government in July 1987; their reply has not been received in spite of reminder issued in April 1989.

(viii) In assessing a dealer of Calcutta (November 1985) for the assessment period ended 27th October 1981 the assessing authority while determining the gross turnover and computing the turnover tax allowed deduction of Rs. 36.95 lakhs representing sales of clocks and watches (goods mentioned in Schedule II to the Act) to registered dealers which was not admissible. The irregular deduction resulted in under-assessment of turnover tax to the extent of Rs. 36,954.

This was pointed out in audit in January 1987. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in June 1987;

their reply has not been received in spite of reminders issued in January 1988 and April 1989.

(ix) A number of dealers in Calcutta challenged in the Calcutta High Court, in 1979 and afterwards, the validity of the law levying turnover tax. The Hon'ble High Court held on 24.2.1988 in the case of Century Spinning Manufacturing Co. and others Vs the State of West Bengal and others (case no. 271 of 1980) that there was no merit in the appeals and in the writ petitions filed by the dealers and dismissed 72 cases and by another order on 3.6.1988, vacated stay order obtained by the dealers in 25 other cases. In the course of test check in 12 offices in Calcutta it was ascertained that assessment, levy and collection of turnover tax amounting to Rs. 2.39 crores is pending in 74 cases (May 1989).

The matter was reported to Government in May 1989; their reply has not been received (March 1990).

### **2.13 Non-levy of surcharge and additional surcharge**

Under the Bengal Finance (Sales Tax) Act, 1941, a dealer is liable to pay surcharge at the rate of 2 per cent and additional surcharge at the rate of 8 per cent (where the gross turnover exceeds Rs. 5 lakhs) on the amount of tax payable by him for the period up to 31st March 1979.

In re-assessing (May 1987) a dealer of Radhabazar charge, Calcutta whose gross turnover for the year ended March 1987 was Rs. 34 lakhs, the surcharge and additional surcharge payable on the sales tax of Rs. 2,06,780 were not levied. The omission led to non-levy and non-realisation of surcharge and additional surcharge amounting to Rs. 20,678.

The mistake was pointed out in audit in September 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in January 1989; their reply has not been received in spite of reminder issued in April 1989.

### **2.14 Mistakes in computation of tax**

(a) In assessing (April 1987) a dealer of China bazar charge, Calcutta, for the assessment year ended 14th April 1983, tax leviable at the rate of 8 per cent on the turnover of Rs. 30 lakhs was erroneously computed as Rs. 22,260 instead of as Rs. 2,22,600. The mistake resulted in under-assessment of tax of Rs. 2 lakhs.

This was pointed out in audit in May 1988. Report on final action taken has not been received (March 1990).

The matter was reported to Government in September 1988; their reply has not been received in spite of reminders issued in February 1989 and May 1989.

(b) In the case of a dealer of North 24-Parganas district, the assessing authority determined his gross turnover, for the assessment year ended March 1984, at Rs. 40 lakhs (Rs. 37 lakhs taxable at 12 per cent and Rs. 3 lakhs taxable at 8 per cent) on the best judgement basis. But while calculating tax, he erroneously charged tax at 8 per cent on the whole amount of Rs. 40 lakhs. This mistake resulted in tax being levied short by Rs. 1.22 lakhs.

On this being pointed out in audit (November 1988), the department admitted (November 1988) the mistake. Report on action taken has not been received (March 1990).

The case was reported to Government in December 1988; their reply has not been received in spite of reminder issued in June 1989.

(c) In assessing (May 1986) a dealer of Park Street charge, Calcutta under the Central Sales Tax Act, 1956, for the assessment year ended June 1982, the assessing authority decided to levy tax at the rate of 4 per cent on a turnover of Rs. 20,68,756 without allowing any rebate on account of tax element as the gross turnover was exclusive of Central sales tax realised. The assessing authority, however, while computing the tax, erroneously worked out the tax at Rs. 48,018 instead of the correct tax of Rs. 82,750. This resulted in an under-assessment of tax of Rs. 34,732.

This was pointed out in audit in October 1987. Report on final action taken has not been received (March 1990).

The matter was reported to Government in January 1988; their reply has not been received in spite of reminder issued in April 1989.

### **2.15 Short realisation due to affording excess credit**

Under the Bengal Finance (Sales Tax) Act, 1941 and the rules made thereunder, a dealer is required to pay tax on the basis of self-assessment before furnishing return of his sales. The amount of tax so paid is adjusted against the demand assessed at the time of regular assessment.

In one case involving short realisation due to affording ex-

cess credit, an amount of Rs. 1.07 lakhs was realised on being pointed out in audit. A few other cases are mentioned below.

(a) In assessing (February 1988) a dealer of Alipore charge, Calcutta for the assessment year ending March 1984, adjustment towards payment of admitted tax was erroneously made for an amount of Rs. 3 lakhs as against Rs. 2.40 lakhs actually paid by the dealer. The mistake resulted in short levy of tax amounting to Rs. 60,000.

On this being pointed out in audit (September 1988) the department admitted the mistake. Report on final action taken has not been received (March 1990).

The case was reported to Government in February 1989, followed by reminder in April 1989; their reply has not been received (March 1990).

(b) While completing (March 1987) the assessment of a dealer of Park Street charge, Calcutta under the Bengal Finance (Sales Tax) Act, 1941, for the assessment year ended March 1983, adjustment towards advance payment of tax was erroneously made for an amount of Rs. 76,412 instead of Rs. 50,770 actually paid by the dealer. The mistake resulted in short realisation of tax to the extent of Rs. 25,642.

This was pointed out in audit in September 1987. The department stated (August 1989) that the above would be taken into account at the time of hearing of revision proceedings fixed before the Assistant Commissioner. Further development has not been intimated (March 1990).

The matter was reported to Government in January 1988; their reply has not been received despite reminder issued in April 1989.

(c) In assessing (December 1985) a dealer of Esplanade charge, Calcutta for the year ended December 1981, the assessing officer allowed credit for an amount of Rs. 82,857 deposited against challan dated 23.12.1981. A scrutiny of the records, however, revealed that out of the above deposit, a sum of Rs. 22,531 was already adjusted against the dues of the previous assessment year ended December 1980. Thus the credit of Rs. 22,531 was given twice, which resulted in short levy of tax to this extent.

The mistake was pointed out in audit in November 1987. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in February 1988;

their reply has not been received in spite of reminder issued in April 1989.

(d) In assessing a dealer of Park Street charge, Calcutta under the Central Sales Tax Act, 1956 for the assessment year ended June 1986, adjustment towards advance payment of tax was erroneously made for an amount of Rs. 49,791, instead of Rs. 29,791, actually paid by the dealer. The mistake resulted in short levy of tax amounting to Rs. 20,000.

The omission was pointed out in audit in September 1987. Report on action taken in the matter has not been received (March 1990).

The case was reported to Government in January 1988; their reply has not been received in spite of reminder issued in April 1989.

### **2.16 Non-levy or short levy of interest**

Under the State Sales Tax Laws, a dealer, who fails to furnish a return in respect of any period by the prescribed date or thereafter before the assessment in respect of such period or to make payment of any tax payable after assessment by the date specified in the demand notice, is liable to pay a simple interest at 2 per cent for each calendar month of default reckoned from the first day of the month next following the prescribed date for submission of returns up to the month preceding the month of full payment of tax for such period or upto the month prior to the month of assessment, whichever is earlier and in the latter case from the first day of the month next following the date specified in such notice upto the month preceding the month of full payment of tax or upto the month preceding the month of commencement of certificate proceedings, whichever is earlier.

(i) In 26 cases reported to certificate officer, interest amounting to Rs. 112.70 lakhs though leviable, was omitted to be levied and included in the recovery certificates as detailed below:



Charge to which dealer belonged	Year of assessment ended in respect of which interest was leviable and the month in which the assessment /reassessment was completed	Period of default for which interest was leviable	Amount on which interest was leviable	Interest leviable, but not levied and included in recovery certificate	Reply of the Government/ department	
1	2	3	4	5	6	
19	1. Sealdah	Between December 1979 and December 1981	Between March 1984 and January 1987	50.97	21.62	The department admitted (June 1988) the mistake. Report on action taken has not been received.
		Between December 1983 and December 1984				
	2. Central Section Assessment Wing	March 1981 and 1982	Between June 1985 and December 1986	61.47	20.80	The department requisitioned (July 1989) the amount to the certificate officer for realisation.
		March 1985 and August 1985				

(Rupees in lakhs)

1	2	3	4	5	6
					(Rupees in lakhs)
3. -Do-	March 1981 and March 1982 <hr/> March 1985 and August 1985	Between June 1985 and December 1986	50.77	17.19	The department referred (July 1989) the amount to the certificate officer for realisation.
4. Radhabazar	August 1974 and August 1980 <hr/> June 1985 and August 1984	Between November 1984 and May 1986	41.91	14.24	The department requisitioned (July 1989) to the certificate officer demand of interest for Rs. 13.01 lakhs for the year ended August 1980. Report on action taken in respect of other case has not been received.
5. Radhabazar	August 1981 <hr/> August 1985	Between November 1985 and May 1986	46.10	6.45	The department admitted (November 1987) the mistake.
6. Salkia	7th November 1980 <hr/> May 1985	Between August 1985 and May 1987	13.01	5.73	The department raised (June 1989) the demand.

7. Alipore	Between March 1981 and March 1984	Between June 1985 and May 1988	12.06	5.12	The department raised (October 1988) the demand.
	Between March 1985 and November 1987				
8. Central Section Assessment Wing	Between March 1980 and March 1982	Between May 1984 and August 1986	45.45	4.36	The department raised (July 1989) the demand.
	Between February 1984 and July 1985				
9. Budge Budge	Between November 1980 and December 1982	Between August 1984 and November 1987	7.33	2.45	The department admitted the mistake and realised (July 1989) the sum of Rs. 13,826.
	Between May 1984 and December 1986				
10. 24-Parganas	December 1981 <hr/> December 1985	March 1986 and April 1986	43.89	1.76	The department admitted (September 1988) the mistake.

1	2	3	4	5	6
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(Rupees in lakhs)

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11. Budge Budge	Between December 1980 and December 1982	Between March 1985 and November 1987	3.67	1.39	The department admitted (April 1988) the mistake.
	Between November 1984 and December 1986				
12. Alipore	July 1980 and July 1981	Between October 1984 and June 1986	10.11	2.07	The department admitted (October 1988) the mistake.
	July 1984 and July 1985				
13. Sealdah	Between March 1980 and March 1982	Between March 1984 and February 1987	3.02	1.37	The department admitted (August 1988) the mistake.
	Between November 1983 and February 1986				

14. Chinabazar	<u>December 1979</u> November 1983	Between March 1984 and September 1984	9-09	1-27	The department admitted (June 1988) the mistake.
15. Taltola	<u>April 1981</u> March 1985	Between June 1985 and April 1987	2-67	1-23	The department admitted (April 1988) the mistake.
16. Scaldah	<u>December 1980</u> September 1984	Between December 1984 and March 1987	1-85	1-04	The department admitted (August 1988) the mistake.
17. Shyambazar	<u>27th October 1981</u> October 1985	Between February 1986 and May 1988	1-79	1-00	The department admitted (June 1988) the mistake.
18. Central Section Assessment Wing	<u>June 1976</u> June 1984	Between September 1984 and August 1986	1-67	0-80	The department admitted (June 1987) the mistake.
19. Radhabazar	<u>July 1982</u> July 1986	Between October 1986 and February 1987	5-55	0-56	The department admitted (November 1987) the mistake.

1	2	3	4	5	6
					(Rupees in lakhs)
20. Behala	December 1981 and December 1982 <hr/> December 1985 and December 1986	Between March 1986 and December 1987	1.25	0.49	The department referred (March 1987) demand for realisation to the certificate officer.
21. Midnapore	December 1980 <hr/> February 1984	From April 1984 to January 1985	1.91	0.38	The department admitted (July 1988) the mistake.
22. Midnapore	December 1980 <hr/> December 1984	From March 1985 to May 1985	5.52	0.33	The department admitted (July 1988) the mistake.
23. Chinabazar	December 1982 <hr/> December 1986	From March 1987 to February 1988	1.35	0.32	The department referred (July 1989) demand for realisation to certificate officer.
24. Behala	Between March 1980 and March 1983 <hr/> Between January 1984 and January 1987	Between May 1984 and September 1987	0.83	0.28	The department referred (March 1989) demand for realisation to certificate officer.

25. Asansol	March 1980 <hr/> November 1984	From January 1985 to December 1985	0.97	0.23	The department admitted (September 1988) the mistake.
26. Asansol	Between December 1979 and December 1982 <hr/> Between November 1983 and November 1986	Between February 1984 and January 1988	0.40	0.21	The department admitted (August 1988) the mistake.

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Total

112.70 lakhs

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The above cases were reported to Government between February 1988 and April 1989 and followed-up by several reminders issued between September 1988 and September 1989; their replies have not been received (March 1990).

(ii) A dealer of Esplanade charge, Calcutta defaulted in furnishing annual return as well as payment of assessed tax dues aggregating Rs. 87,250 for the year ended December 1983 before completion of the assessment; but the assessing officer omitted to levy interest at the time of making assessment in December 1987. This resulted in non-levy of interest amounting to Rs. 78,570.

On this being pointed out in audit in October 1988, the department admitted the mistake. Report on final action taken by the department for realisation of the amount has not been received (March 1990).

The matter was reported to Government in March 1989; their reply has not been received in spite of reminder issued in June 1989.

(iii) In assessing (January 1988) a dealer of Burdwan district for the assessment year ended March 1984, the interest for delayed payment of tax aggregating Rs. 2.70 lakhs was erroneously determined at Rs. 5,406 instead of Rs. 70,278, resulting in short levy of interest amounting to Rs. 64,872.

This was pointed out in audit in August 1988. Report on final action taken by the department to realise the amount short levied has not been received (March 1990).

The above case was reported to Government in January 1989; their reply has not been received in spite of reminder issued in June 1989.

(iv) A dealer of Burdwan district failed to pay an amount of Rs. 57,138 out of the admitted purchase tax while furnishing the return for the assessment year ended March 1984. The assessing officer, while completing the assessment in January 1988, omitted to levy interest for non-payment of tax of Rs. 57,138 till the month prior to month of assessment. This omission resulted in non-levy of interest of Rs. 50,248.

On the omission being pointed out in audit in December 1988, the department admitted the mistake and raised (December 1988) the demand.

The case was reported to Government in April 1989.

(v) A dealer in Howrah district for the assessment year ended 4th November 1983, assessed in November 1987, neither furnished the return nor paid the tax payable on the basis of such returns. Tax payable amounted to Rs. 67,650. The assessing officer omitted to levy interest for non-payment of tax along with the returns. The omission resulted in non-levy of interest of Rs. 31,772.



This was pointed out in audit in October 1988. Report on final action taken has not been received (March 1990).

The matter was reported to Government in January 1989; their reply has not been received despite reminder issued in June 1989.

(vi) While assessing (between October 1987 and November 1988) 7 dealers of Calcutta for the periods ending between December 1983 and December 1984 and 2 dealers of Durgapur and Midnapore charges for the assessment periods ending between March 1984 and March 1985, the assessing authorities did not levy any interest, though the dealers failed to make payment of turnover tax along with the returns by the prescribed date. Interest not levied amounted to Rs. 7.69 lakhs.

On this being pointed out in audit (between May 1988 and May 1989), the department admitted (between May 1988 and May 1989) the omission. Report on final action taken has not been received (March 1990).

(vii) While assessing (January 1988) a dealer of Calcutta for the year ending March 1984 the assessing authority did not levy interest though the dealer failed to furnish returns upto the date of assessment. The dealer had paid normal sales tax and purchase tax but not the turnover tax. For non-payment of turnover tax he was liable to pay interest amounting to Rs. 1.72 lakhs which was not levied.

On this being pointed out in audit in May 1988, the department admitted (June 1988) the mistake. Report on realisation has not been received (March 1990).

(viii) In assessing (between December 1986 and April 1988) a dealer of Midnapore district for the years ended 24th October 1984, 12th November 1985 and 1st November 1986, the assessing officer omitted to levy interest till April 1989 though the dealer was liable to pay interest for non-payment of turnover tax by the prescribed date. Since the statutory time limit of 1 year from the date of assessment elapsed, interest could not be determined and recovered leading to loss of revenue amounting to Rs. 27,986.

On this being pointed out in audit (April 1989), the department admitted the omission.

(ix) In assessing (June 1988) a dealer of Burdwan district for the year ended March 1984, interest for default of 8 months in making payment of turnover tax of Rs. 3.25 lakhs was incorrectly computed as Rs. 26,032 instead of Rs. 52,064. The

mistake in computation resulted in short levy of interest amounting to Rs. 26,032.

On this being pointed out in audit (April 1989), the department admitted (April 1989) the mistake. Report on final action taken has not been received (March 1990).

The cases at (vi), (vii), (viii) and (ix) were reported to Government between January 1989 and May 1989; their reply has not been received in spite of reminders issued between January 1989 and June 1989.

### 2.17 **Short raising of demands of tax**

Under the Sales Tax Laws, a dealer is liable to pay additional amount of tax demand including penalty found due on final assessment, as per demand notice served upon him.

(a) In assessing (October 1987) a dealer of Lyons Range charge, Calcutta for the assessment year ending December 1983, the additional demand including penalty was determined at Rs. 2.26 lakhs. The demand notice was, however, erroneously served for Rs. 52,759 omitting dues on account of turnover tax amounting to Rs. 1.73 lakhs. This resulted in short-raising of additional tax demand by Rs. 1.73 lakhs.

On this being pointed out in audit (May 1988), the department admitted the mistake. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in January 1989; their reply has not been received in spite of reminder issued in April 1989.

(b) In assessing (October 1986) a dealer of Lyons Range Charge, Calcutta for the assessment year ending 14th October 1982, the additional dues were determined at Rs. 5.66 lakhs including purchase tax of Rs. 1 lakh and penalty of Rs. 1 lakh. The demand notice was, however, erroneously issued for Rs. 4.66 lakhs only omitting the purchase tax of Rs. 1 lakh. The mistake of non-inclusion of purchase tax resulted in short-raising of the tax demand by Rs. 1 lakh.

On this being pointed out in audit (June 1987), the department (April 1989) admitted the mistake. Report on final action taken has not been received (March 1990).

The matter was reported to Government in November 1987; their reply has not been received in spite of reminders issued in January and March 1988 and April 1989.

(c) In assessing (January 1987) a dealer of Radhabazar

Charge, Calcutta under the Central Sales Tax Act, 1956, for the years ended December 1983 and December 1984, total tax including penalty and interest was determined by the assessing officer at Rs. 7,52,481. The dealer having paid Rs. 87,993 was liable to pay the balance dues of Rs. 6,64,488. But demand notices were issued to the dealer for Rs. 5,75,495 (Rs. 1,35,074 for the year ended December 1983 and Rs. 4,40,421 for the year ended December 1984) instead of Rs. 6,64,488. The mistake resulted in short raising of demand by Rs. 88,993.

On this being pointed out in audit (September 1987), the department admitted (November 1987) the mistake. Report on action taken has not been received (March 1990).

The matter was reported to Government in February 1988; their reply has not been received in spite of reminder issued in April 1989.

## **2.18 Short levy of purchase tax**

(i) Under the Bengal Finance (Sales Tax) Act, 1941 and the rules framed thereunder, a dealer who purchases goods for use in execution of any contract and whose notified purchase price exceeds Rs. 2 lakhs, is liable to pay a purchase tax at the prescribed rate. The rate of tax is 1 per cent if the notified purchase price does not exceed Rs. 50 lakhs during any year after allowing the permissible deduction and 2 per cent if the notified purchase price after allowing admissible deduction exceeds Rs. 50 lakhs.

(a) In an assessment (December 1987) of a dealer of Lyons Range Charge, Calcutta for the year ended July 1983, the notified purchase price after allowing the permissible deduction was determined at Rs. 76,35,554. Purchase tax was wrongly levied at 1 per cent instead of at the correct rate of 2 per cent. This led to short levy of purchase tax amounting to Rs. 76,356.

On this being pointed out in audit in May 1988, the department admitted (July 1988) the mistake. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in January 1989; their reply has not been received in spite of reminder issued in April 1989.

(b) In assessing (November 1986) a dealer of Lyons Range, Calcutta for the assessment year ending December 1982, tax at the rate of 1 per cent instead of at 2 per cent was erroneously levied on his notified purchase price of Rs. 54,79,024. The appli-

cation of the incorrect rate of tax resulted in short levy of purchase tax by Rs. 54,790.

On this being pointed out in audit (June 1988), the department admitted the mistake. Report on final action taken has not been received (March 1990).

The matter was reported to Government in January 1989; their reply has not been received despite reminder issued in April 1989.

(ii) Under the West Bengal Sales Tax Act 1954, and the rules made thereunder, a dealer is not liable to pay purchase tax on purchases made by him by issuing prescribed declarations, of goods required for use by him directly in the manufacture of notified commodities within the State. However, when such notified commodities are transferred outside West Bengal or disposed of by him otherwise than by way of sale in West Bengal, he is liable to pay purchase tax, which was 2 per cent up to 31.3.1983, and is 3 per cent thereafter.

In assessing (December 1987) a manufacturing dealer of Taltola charge for the assessment year ending December 1983, on his taxable specified purchases aggregating Rs. 50 lakhs (all purchases were made after 1st April 1983 onwards), tax was erroneously levied at the rate of 2 per cent instead of at 3 per cent. This led to short levy of purchase tax of Rs. 50,000.

The mistake was pointed out in audit in July 1988. The department stated (July 1989) that audit objection would be considered at the time of hearing of appeal preferred by the dealer before the appellate authority. Report on further progress has not been received (March 1990).

The case was reported to Government in December 1988; their reply has not been received in spite of reminder issued in April 1989.

## **2.19 Non-imposition of penalty for improper use of goods**

Under Section 5(1)(*aaaa*) (omitted with effect from 1.4.1984) of the Bengal Finance (Sales Tax) Act, 1941, read with departmental circular issued in January 1980, a registered dealer of tea was entitled to purchase tea in auction on payment of concessional rate of tax at 3 per cent for re-sale by him within the State or for use by him in the manufacture of goods (blending of tea) for sale or for transfer to his branches in other States either for re-sale or for use in the manufacture of goods for sale in such States. If tea so purchased was used for any other purposes, the

dealer was liable to pay penalty not exceeding double the amount of tax, which could have been levied on sale of such goods.

In the assessment (March 1987) of a dealer of Lyons Range Charge, Calcutta for the assessment year ending March 1983, it was noticed that stock of tea valued at Rs. 1003.45 lakhs, purchased in auction at the concessional rate of tax, was transferred by the dealer to his agents outside West Bengal, which was not permissible as per aforesaid provisions. The irregular transfer of tea to agents attracted penalty up to a maximum amount of Rs. 1.69 crores, but no penalty proceedings were initiated by the assessing authority.

This was pointed out in audit in June 1988. The department admitted the mistake but report on the final action taken by the department has not been received (March 1990).

The case was reported to Government in January 1989; their reply has not been received in spite of reminder issued in April 1989.

## **2.20 Arrears of Sales Tax**

### **2.20.1 Introduction**

(i) Under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954, every dealer is required to submit to the Assessing Authority a quarterly/monthly return of turnover and pay tax on the basis of self-assessment within 30 days after the close of the quarter/month to which it relates. The dealers whose taxable turnover is not likely to exceed 10 per cent of their annual gross turnover are, however, permitted to submit annual returns within 60 days after the close of the year to which it relates. After making the final assessment, a demand notice is served on the dealer for the balance tax, if any, which is payable within the prescribed date specified in the demand notice. For belated payment of tax, a simple interest at the rate of 2 per cent per month is payable by the dealer. Penalty is also leviable at the discretion of the Assessing Authority for suppression of any sale, for misuse of declaration forms, unauthorised use of goods etc. Tax, interest and penalty which remain unpaid constitute arrears of Sales Tax.

(ii) The assessing officer may adopt any of the following measures to recover arrear dues of sales tax.

(a) Demand may be pursued through notices served upon the dealers after expiry of the due date of payment.

(b) Requisition for a certificate may be sent by the assessing officer to the certificate officer for recovery of assessed dues as arrears of land revenue.

(c) Garnishee\* proceedings may also be drawn by the assessing officer for recovery of arrear tax dues.

(iii) Under the Public Demands Recovery Act, 1913, a Certificate Officer has to execute a certificate by taking recourse to the following procedures on expiry of the period of notice served upon the debtor under section 7 of the Act.

(a) Attachment and sale of properties of a certificate debtor by the issue of distress warrant.

(b) Attachment of assets/properties through a decree of the court.

(c) Attachment of bank accounts through a notice served upon the Bankers of the certificate debtor.

### 2.20.2 *Scope of Audit*

A review of arrears of sales tax in respect of four sales tax charges, one Sales Tax Circle and Certificate Office (Covering 19 charges), all in Calcutta, for the years 1985-86 to 1988-89, was conducted between May 1989 and June 1989, with a view to analysing the causes for delay in recoveries and the system of pursuing the recovery of arrears.

### 2.20.3 *Organisational set up*

The Commercial Tax Officers under the Commissioner of Commercial Taxes, West Bengal, are entrusted with the duties of assessment and collection of sales tax under the Acts. In Calcutta and 24-Parganas districts, there is a separate certificate organisation run by six certificate courts under the Commissioner of Commercial Taxes, for administration and execution of certificates for recovery of arrear dues of sales tax as arrears of land revenue under the Public Demands Recovery Act, 1913. In other districts of West Bengal, the said function is discharged by the certificate officer under the direct control of the district collectors.

### 2.20.4 **Highlights**

#### **Audit scrutiny revealed:**

**(i) Arrears in Sales Tax showed increasing trend and as on 31st March 1988 the figures stood at Rs. 197.78 crores**

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\*Garnishee proceedings mean calling upon persons, who owe money to the dealer, to pay to the extent they owe money and to the extent of arrears due to the department.

which is 23.77 per cent of total collection for the year 1987-88.

(ii) Total number of appeal cases pending with the departmental authorities showed an increasing trend and it was seen that on an average only 22.31 per cent of cases were disposed annually.

(iii) Department failed to take effective steps in realising the arrears of Rs. 40.29 lakhs in 15 cases of dealers whose registration certificates have been cancelled.

(iv) Inordinate procedural delays were noticed in certificate proceedings like in sending requisitions by the assessing officers, in sending notice of certificates, in issuing distress warrants etc. In certain cases where the courts and the authorities had ordered for payments of tax due in instalments, department had not taken proper follow-up action. Consequent arrears amounting to Rs. 3.31 crores remained unrealised.

(v) Issue of requisitions for certificate proceedings was done piece-meal excluding the arrears for intermediate and earlier periods. In 9 cases test checked it was noticed that for the arrear dues amounting to Rs. 189.53 lakhs for the period December 1970 to June 1985 certificate proceedings were not initiated, making possibly the recovery remote.

(vi) Failure to provide complete and timely information to the certificate officers by the assessing officers led to bottlenecks, resulting in non-realisation of arrears amounting to Rs. 3.43 crores.

(vii) In the case of 7 companies, which went into liquidation, the department failed to notify the arrear demand of tax dues amounting to Rs. 26.56 crores before the official liquidator within the prescribed time thereby making the prospect of recovery remote.

(viii) In 28 certificate cases, it was noticed that Rs. 180.80 lakhs have become irrecoverable due to reasons like closure of business, non-availability of assets, change of trade name of the business etc.

(ix) The department while communicating the arrears for certificate proceedings, failed to ascertain interest recoverable and communicate to certificate officer. The amount of interest omitted in 30 cases was Rs. 1.64 crores.

### 2.20.5 Arrears pending recovery

Arrears in Sales Tax during the last three years from 1985-86 to 1987-88, as furnished by the Directorate of Commercial Taxes, were as under:

Year	Amount outstanding as on 31st March of the year (In crores of rupees)
1985-86 .. ..	187.09
1986-87 .. ..	193.35
1987-88 .. ..	197.78
1988-89 .. ..	205.57

The arrears at the end of March 1988 represented 23.77 per cent of the total collection for the year 1987-88.

The Directorate of Commercial Taxes could not furnish the yearwise break-up of total arrears of Sales Tax nor could they furnish any analysis indicating different stages of action, viz. (i) stay by the Hon'ble Courts and the Appellate, Review and Revisional authorities and (ii) other stages at which the arrears were held up.

### 2.20.6 Arrear due to delay in disposal of Appeal/Revision/Review cases

In a large number of cases, as per data given in the table below, it was noticed that appeal, revision and review of assessments, preferred by the dealers, were not disposed of promptly by the departmental authorities which resulted in postponement of recovery of arrears for long periods. The total number of such cases pending disposal, as furnished by the Directorate, was as under:

Year	Total number of cases to be disposed during the year	Cases disposed	Cases pending	Percentage of pending cases to the total cases for disposal
1985-86	34,540	7,596	26,944	78.01
1986-87	43,232	10,169	33,063	76.48
1987-88	50,228	13,548	36,680	73.03
1988-89	53,934	9,039	44,895	83.24



The above table indicates the increasing trend of pending Appeal, Revision/Review cases. The amounts involved in the above cases could not be furnished by the Directorate.

*2.20.7 Failure to take proper action for realisation of arrears in the cases where registration certificates have been cancelled*

In the course of test check of records of 5 Sales Tax charges (Lyons Range, Rajakatra, China Bazar, Central Section Assessment Wing and Bhowanipur), it was noticed that in fifteen cases where registration certificates were cancelled between 16.4.1985 and 31.3.1989, the dealers who had closed down their business, were not found traceable by the assessing officers. No effective steps for realisation of arrears such as sending of requisitions to the certificate offices were found to have been taken in these cases. Arrear dues amounting to Rs. 40.29 lakhs for various assessment years ending between December 1967 and December 1984 remained unrealised in these cases till the date of audit (June 1989).

In another case, the requisition for recovery of arrear dues amounting to Rs. 1.31 lakhs was made only after a lapse of seventeen months from the date of cancellation of registration.

*2.20.8 Procedural delay in executing certificates*

Under the provisions of State Sales Tax Acts, for default in payment of assessed dues, the assessing officer is required to send the requisition to the certificate officer for realisation of the dues under the Public Demands Recovery Act, 1913. On receipt of the requisition, the certificate officer shall initiate the certificate proceedings under the said Act.

In the course of review, it was noticed that abnormal delays occurred in sending requisitions as well as in initiating Certificate proceedings, and follow-up action and consequently arrears amounting to Rs. 330.72 lakhs, apart from loss of revenue to the tune of Rs. 3.73 lakhs in the shape of interest leviable on arrear certificate dues, remained unrealised. The delays which occurred in the process broadly fall into five categories as under:

*(i) Delay in sending requisitions by the assessing officer*

In the case of sixteen assessments made between March 1977 and July 1986 of six dealers as detailed below, for various periods ending between March 1973 and June 1982, the requisitions were sent to the certificate officers between November

1981 and December 1988, the extent of delay ranging from 12 months to 75 months. The tax demand involved in these cases amounted to Rs. 62.41 lakhs. Out of this no amount was recovered till the date of audit.

Sl. No.	Period of assessment	Date of assessment	Date of sending requisition to the certificate officer	Extent of delay in months and days		Amount covered by certificates (In lakhs of Rs )
				Months	Days	
1.	From 20.1.81 to 30.6.81 and 4 Q.E. 30.6.82	26.3.84	15.12.88	56	14	4.57
			15 12.88	18	21	14.92
2.	4 Q.E. 31.12.80	29.11.84	27.7.87	31	25	2.43
	4 Q.E. 31.12.81	26.12.85	27.7.87	19	23	2.80
	4 Q.E. 31.12.82	23.7.86	27.7.87	12	19	3.05
3	From 8.4.72 to 31.3.73	8.7.83	21.5.87	46	13	1.15
4	4 Q.E 31.12.79	30.12.83	24.8.87	43	23	1.56
	4 Q.E 31.12.80	30.11.84	31.8.87	33	—	6.17
5.	4 Q.E. 30.6.76	28.6.80	30.9.86	75	03	4.32
	-do-	28.6.80	24.9.86	74	26	4.54
	4 Q.E. 30.6.77	25.6.81	30.9.86	63	04	12.37
	-do-	8 9.81	24.9.86	60	16	1.72
6.	15 KB 2030	2.3.77	9.11.81	55	06	0.20
	15 KB 2033	2.9.80	5.11.86	74	—	1.70
	15 KB 2034	14.7.81	9.3.84	31	15	0.26
	15 KB 2035	7.9.82	5.11.86	49	27	0.65
Total						62.41

(ii) *Delay in serving notice of certificates*

Under the Public Demands Recovery Act, 1913, a certificate debtor is liable to pay interest at the rate of 6.25 per cent per annum on belated payment of certificate demand from the date of signing of the certificate by the certificate officer to the date of realisation.

During test check of records, it was noticed that seven requisitions, involving a tax demand of Rs. 49.17 lakhs as shown below, were received in a certificate office in 24-Parganas district between February 1976 and February 1980. But the certificate officer served the certificates to the debtors in these cases between January 1980 and January 1982, after delays ranging from 9 months to 71 months. The delay in receiving the certificates resulted in loss of interest to the extent of Rs. 3.73 lakhs.

Sl. No.	Certificate case	Date of requisition for certificate case	Date of filing certificate case by issue of notice under section 7	Extent of delay in months and days		Amount covered by certificate case (In lakhs of Rs.)
				Months	Days	
1.	A	5.12.79	11.9.80	9	06	6.30
2.	B	5.12.79	11.9.80	9	06	6.06
3.	C	4.8.79	11.9.80	13	06	5.24
4.	D	21.3.78	9.1.80	22	—	14.36
5.	E	15.3.79	11.2.80	10	26	7.18
6.	F	22.2.80	31.3.81	13	05	9.38
7.	G	6.2.76	18.1.82	71	09	0.65
Total						49.17

(iii) *Delay in issuing distress warrants*

In the course of certificate proceedings, distress warrants are issued by the certificate officer for attachment of properties and bank accounts of the debtors.

In issuing distress warrants in respect of eight certificates, covering a demand of Rs. 20.08 lakhs, delay occurred for periods ranging from 8 months to 26 months. In the meanwhile, the dealers had either left the place closing down their businesses or disposed of their properties and consequently demands remained unrealised (June 1989) as detailed below:

Sl. No.	Certificate case	Date of serving notice by the certificate officer	Date of issue of distress warrant	Extent of delay in months and days		Amount covered (In lakhs of rupees)	Distress certificate returned with the remarks
				Months	Days		
1.	H	2.5.84	2.8.86	26	—	6.00	That the factory was closed.
2.	I	27.12.85	1.4.87	15	04	1.19	
3.	J	23.5.86	1.4.87	10	07	3.85	
4.	K	13.6.84	18.2.86	8	04	1.56	
5.	L	3.8.83	1.2.85	17	08	1.61	That the certificate debtor had left the place.
6.	M	14.7.82	3.11.83 11.1.85 18.7.87	15	19	3.61	That the firm did not exist.
7.	N	2.8.84	30.4.87	32	29	0.94	That the firm did not exist and no movable properties were found.
8.	O	2.8.84	30.4.87	32	29	1.32	
Total						20.08	

(iv) *Delay in pursuance of instalment payments*

In seven certificate cases involving a total demand of Rs. 196.01 lakhs, instalment payments were ordered by the Hon'ble Court and certificate officer. Out of this demand, a sum of Rs. 84.35 lakhs was payable by March 1989. But the debtors paid only Rs. 3.99 lakhs, leaving a balance of Rs. 80.36 lakhs as on 31st March 1989 as detailed below. The department did not take any follow-up action to pursue the cases.

Sl. No.	Certificate case	Date of orders allowing instalment payments	Amount covered by certificate	Amount covered by March 1989	Amount paid by the certificate debtor by March 1989	Balance amount not paid by March 1989
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(In lakhs of rupces)

1. P (10 cases)	25.2.87 and 22.4.87	12.08	}	60.75	1.75	59.00
2. Q (4 cases)	-do-	79.40				
3. R (4 cases)	28.2.87	51.64	}	2.60	2.24	0.36
4. S	-do-	6.82				
5. T	19.3.87	1.36	}	21.00	Nil	21.00
6. U (10 cases)	-do-	44.71				
	Total	196.01	84.35	3.99	80.36	

(v) *Delay in taking follow up-action*

In respect of seventeen certificate cases, covering demand of Rs. 114.71 lakhs, served between August 1979 and March 1987, latest action was taken by the department between June 1980 and May 1988. Thereafter, no follow up action was taken to recover the dues as detailed below.

Sl No	Certificate Case	Amount covered by certificate (In lakhs of rupees)	Date of serving Certificates by issue of Notices under section 7 of the P.D.R Act	Action taken last as on the date
1.	AA (4 cases)	30.95	24.5.80	20.6.88
2.	BB (4 cases)	42.95	8.8.79	
3.	CC	7.16	2.6.86	11.12.87
4.	DD	1.32	2.6.86	27.8.87
5.	EE (2 cases)	2.29	19.8.86	12.11.87
6.	FF	6.97	13.3.87	2.2.88
7.	GG	9.05	13.3.87	2.2.88
8.	HH	7.65	22.6.87	30.5.88
9.	II	2.32	15.6.87	6.11.87
10.	JJ	4.05	13.2.80	30.6.80
Total		114.71		

2.20.9 *Position in respect of initiation and disposal of certificate cases*

(i) Initiation and disposal of a certificate case is to be made promptly in order to safeguard Government revenue.

The position in respect of certificate cases initiated vis-a-vis disposed of during 1985-86 to 1987-88, as furnished by the certificate office, was as under:

(1) Year	(2) Opening balance		(3) Cases initiated during the year		(4) Total of columns (2) and (3)		(5) Cases disposed of during the year		(6) Balance at the end of the year	
	No. of cases	Amount (In crores of rupees)	No. of cases	Amount (In crores of rupees)	No. of cases	Amount (In crores of rupees)	No. of cases	Amount recovered (In crores of rupees)	No. of cases	Amount (In crores of rupees)
1985-86	55,525	112.54	1,973	7.64	57,498	120.18	Nil	1.35	57,498	118.83
1986-87	57,498	118.83	3,169	23.05	60,667	141.88	58	1.71	60,609	140.17
1987-88	60,609	140.17	2,046	17.52	62,655	157.69	248	2.23	62,407	155.46

The above table indicates the increasing trend of outstanding certificate cases as well as arrear dues owing to insignificant disposal of such cases. It also shows that not a single case was disposed of during 1985-86.

(ii) Further, compared to the upward trend of growth of arrears, the percentage of recovery of certificate demand and coverage of arrear demand by certificate cases appeared low as shown below:

Year	Arrears as per assessments made by the taxing authority (As on 31st March)	Arrear dues covered by certificate cases	Percentage of coverage by certificate cases	Amount recovered through certificate cases (In crores of rupees)	Percentage of realisation through certificate cases compared to the amount covered by certificate cases
(In crores of rupees)					
1985-86	187.09	7.64	4.08	1.35	17.67
1986-87	193.35	23.05	11.92	1.71	7.41
1987-88	197.78	17.52	8.85	2.23	12.72

From the above table it is seen that during the period of three years from 1985-86 to 1987-88, collection of dues through certificate cases could not reach beyond 17.67 per cent of the arrears covered by certificate cases, while the maximum coverage made by certificate cases was only 11.92 per cent of the total arrears.

#### 2.20.10 *Irregular and unsystematic requisitions for certificates*

Requisition for a certificate in respect of a defaulting dealer shall usually cover all arrear demands realisable up to the date of sending the same to the certificate office.



In the course of test check of records, it was noticed that in nine cases, requisitions covering all arrears under the different Sales Tax Acts for the period ending between December 1970 and June 1985 were not sent to the certificate officer by the respective assessing officers. Instead, piece-meal requisitions were made excluding the arrears for intermediate and earlier periods. In one case, requisitions stated to have been sent, were not received at the certificate office. Necessary certificate proceedings for recovery of arrear dues amounting to Rs. 189.53 lakhs for the said period were not initiated in the above cases till the date of audit (June 1989). The chances of recovery are remote at such a distant date.

#### 2.20.11 *Constraints faced by the certificate office in executing certificates*

Test check of records revealed that in a large number of cases, the certificate office could not execute certificates due to (i) information deficiencies and (ii) particulars furnished by the assessing officers in the requisitions for certificates being not fool-proof and updated.

##### (i) *Non-initiation of certificate measures for want of whereabouts of the dealers*

In twenty-four certificate cases, filed during the years between 1979-80 and 1986-87, notices served by the certificate office were returned unserved with the Postal Department's comment, "Left and not known". It was seen that the certificate office made several references on different dates between 17.2.1981 and 5.1.1989 asking further whereabouts and list of assets owned by the dealers, but the requisitioning office did not furnish the said information. As a result, appropriate action for recovery of a sum of Rs. 1.73 crores could not be taken till the date of audit (June 1989).

##### (ii) *Failure to take follow-up action by the certificate office*

In twenty certificate cases involving an arrear dues of Rs. 1.39 crores, filed between 1979-80 and 1988-89, the certificate office did not take any follow-up action to obtain further information as to the assets of the dealer from the certificate holder, even after failure to serve notice upon the certificate debtors on different dates, ranging between December 1981 and February 1987. This resulted in non-realisation of revenue to the tune of Rs. 1.39 crores.

(iii) *Non-posting of information regarding revision or modification of demand*

In nine certificate cases involving arrear dues of Rs. 31.30 lakhs concerning three dealers checked in audit, it was noticed that certificate proceedings were kept in abeyance due to pendency of appeal/injunction issued by the Hon'ble Court. The revised demand arising out of the reduction or confirmation of the original demand made by the Appellate authority or the Hon'ble Courts was not, however, communicated to the certificate office for taking appropriate follow-up action. Consequently, arrear dues amounting to Rs. 31.30 lakhs remained unrealised.

2.20.12 *Failure to take action to notify the demand to the Official Liquidator*

(a) Under section 17 of the Central Sales Tax Act, 1956, the taxing authority shall notify the tax demand payable by a liquidated company to the Official Liquidator appointed by the Hon'ble Court within a period of three months from the date of issuance of a notice of appointment. Section 446(1) of the Companies Act, 1956 further lays down that the taxing authority shall take leave of the court ordering the winding up of the company before proceeding to recover arrear dues payable by such company from the Official Liquidator.

In the course of test check of records, it was noticed that certificate proceedings in respect of seven companies owing a sum of Rs. 26.56 crores (Central sales tax Rs. 9.16 crores and local sales tax Rs. 17.40 crores) were kept in abeyance on the ground that the said companies had gone into liquidation between August 1979 and October 1987 either before or during the pendency of certificates. But no action was taken by the taxing authority as contemplated in the above mentioned Acts to place the arrear demand of tax dues before the Official Liquidator. Due to failure to prefer the claim with the Official Liquidator within the prescribed period of three months, the prospect of recovery is remote.

(b) Further, a dealer liable to pay a sum of Rs. 27.84 lakhs being the assessed dues of sales tax for the assessment years ending between December 1962 and December 1981 had gone into liquidation with effect from 15.7.1982 under the orders of the Hon'ble High Court, Calcutta. The taxing authority preferred claim on 11.4.1986 i.e. after a lapse of more than three years when the statutory limit of three months had already expired. This

led to non-realisation of arrear revenue to the tune of Rs. 27.84 lakhs.

On this being pointed out, the Commercial Tax Directorate expressed (June 1989) their inability to offer comment on the matter pending consultation with their Law Section. Final report from the Directorate has not been received (September 1989).

2.20.13 *Non-pursuance of assessed dues leading to accumulation of arrears*

A manufacturing dealer of jute goods was liable to pay a sum of Rs. 13.29 lakhs being the arrear tax dues for the assessment year ending 31.12.1974. The dealer did not pay the said dues on the ground of an appeal preferred by him. The said appeal petition was rejected by the West Bengal Commercial Taxes Tribunal as per their order dated 7.1.1985. Since then, no follow-up action including institution of certificate proceedings to realise the dues was taken till the date of audit (June 1989).

2.20.14 *Irrecoverable demands*

(a) In the course of test check of records, it was noticed that in ten certificate cases relating to four dealers, a sum of Rs. 152.05 lakhs pertaining to various assessment periods ending between 31.12.1977 and 30.6.1982 could not be realised due to reasons stated below:

(i) Closure of business	Rs. 12.07 lakhs
(ii) Transfer of ownership of the business	Rs. 58.67 lakhs
(iii) Change in the trade name of the business	Rs. 81.30 lakhs

(b) A dealer defaulted in making payment of his assessed dues amounting to Rs. 17.56 lakhs pertaining to ten assessment periods, ending between December 1973 and December 1984. Out of this dues, requisitions for certificates were made between 31.3.1978 and 27.7.1987 for Rs. 11.46 lakhs leaving a balance amount of Rs. 6.10 lakhs not covered by any certificate. It was noticed that no further recovery proceedings could be initiated by the department due to non-availability of any asset. The entire dues of Rs. 17.56 lakhs thus became irrecoverable.

(c) In seventeen other cases, requisitions involving arrear dues of Rs. 11.19 lakhs pertaining to the years ending between March 1975 and March 1984 were sent to the certificate officer

for recovery of the aforesaid dues. In the course of proceedings, the certificate officer ascertained that the debtor was neither traceable nor had sufficient assets from which the said dues could be recovered by the office. As a result, the entire revenue was found irrecoverable.

2.20.15 *Non-levy and non-realisation of interest on belated payment of certificate dues*

Under the provisions of the Public Demands Recovery Act, 1913, a certificate debtor is liable to pay interest on belated payment of certificate demands at the rate of 6.25 per cent per annum from the date of serving a certificate up to the date preceding the date of payment of such demand.

In nineteen certificate cases, served between September 1979 and May 1988, interest was not levied and realised on belated payment of instalments amounting to Rs.119.39 lakhs, made between June 1980 and February 1989, out of the total certificate demands of Rs.348.70 lakhs. This had resulted in non-realisation of interest to the extent of Rs.7.56 lakhs.

2.20.16 *Non-determination /non-inclusion of interest in the certificate requisitions*

Under the Sales Tax Laws of the State, interest payable by the defaulting dealers shall be determined up to the month preceding the month of sending requisitions to the certificate officer. Delay in communication of interest dues results in further loss of interest, as such interest forms part of principal demand at certificate-end.

(a) In 4 assessment cases of 2 dealers, interest of Rs124.48 lakhs was determined for default in payment of assessed dues and demand notices were issued to the dealers concerned between October 1987 and September 1988. But no requisition for recovery of the said amount was made to the certificate officer, though requisition for recovery of arrear assessed dues (Rs.4.75 crores) was sent between February 1985 and August 1988. This had resulted in non-realisation of said assessed interest.

On this being pointed out in audit, the department admitted the omission (June 1989).

(b) In twenty-five cases relating to seven dealers, a sum of Rs.21.19 lakhs, being interest leviable on arrear demand amounting to Rs.56.73 lakhs pertaining to the years ending between March 1976 and June 1988, was neither determined nor included

in the requisitions sent between January 1984 and December 1988 to the certificate officer till the date of audit (April to June 1989). This resulted in non-realisation of interest amounting to Rs.21.19 lakhs and also loss of further interest to the tune of Rs.3.28 lakhs on the said amount to be treated as principal by certificate office.

On this being pointed out in audit, the department admitted the mistake (June 1989).

(c) Similarly, in the case of another dealer, interest to the extent of Rs. 14.51 lakhs levied for belated submission of returns and non-payment of tax as per returns by the prescribed date for the period ending 31.3.1984, was not included in the certificate requisition made in April 1988. This resulted in loss of further interest to the extent of Rs. 68,016 (upto March 1989 alone) at the certificate-end, apart from non-realisation of initial interest (Rs. 14.51 lakhs).

On this being pointed out in audit, the department admitted the lapse (June 1989).

#### 2.20.17 *Non-payment of interest within the financial year*

Under Rule 37C of the Bengal Sales Tax Rules, 1941, every dealer liable to pay interest under section 10A(3) shall pay such interest at the time of making payment of the tax. However, interest payable for any financial year, shall be paid during the month of March of that financial year, even if no tax is paid during that month.

In respect of six assessments of four dealers, for the years ending between March 1982 and December 1983, made between January 1986 and November 1987, the dealers did not even pay the interest, which amounted to Rs. 1.25 lakhs (upto March 1989), during the month of March of the respective financial year, though required to pay under the said Rule. The department also did not take any action.

#### 2.20.18 *Leakage of revenue due to different rates of interest under the Sales Tax Laws and the Public Demands Recovery Act*

Under the Sales Tax Laws, interest is leviable with effect from October 1983 at the rate of 2 per cent per month (24 per cent per annum) for default/delay in payment of tax. The cases of outstanding demands are sent to the certificate officer for recovery under the Public Demands Recovery Act, 1913, where-

upon interest at the rate of  $6\frac{1}{4}$  per cent per annum is leviable from the date of signing of certificate upto the date of realisation.

The widely different rates of interest, obtaining under the Sales Tax Act and the Public Demands Recovery Act respectively tend to put a premium on defaults and delays in payment of the demands inasmuch as by getting the cases referred to the certificate officer, the liability of the dealer/certificate debtor to pay interest on the outstandings could be brought down substantially. A review, conducted in February 1990, of the cases pending in the Certificate Office, 24-Parganas revealed that as many as 64,564 cases involving Rs 182.21 crores were pending on 31st March 1989 for realisation. It was also noticed that during the period 1986-89 as against 7,576 cases involving Rs. 71.03 crores referred to the certificate officer the total realisation by that office was only Rs. 7.06 crores, which had the effect of increasing the balance recoverable from Rs. 118.24 crores as on 31st March 1986 to Rs. 182.21 crores as on 31st March 1989. The leakage of revenue attributable to the differential interest rate, computed on the basis of average demand and at  $17\frac{3}{4}$  per cent, worked out to Rs. 4.20 crores per annum.

The anomalous position of having widely different rates of interest under the two related regulations was brought to the notice of the Government in February 1990. Their comments in the matter have not been received (April 1990).

All the foregoing points, except paragraph 2.20.18 supra, were reported to Government in July 1989; their reply has not been received (March 1990).

## CHAPTER 3

### LAND REVENUE

#### 3.1 Results of Audit

Test check of accounts of land revenue in district land reforms offices, conducted in audit during 1988-89, revealed non-realisation and short realisation of revenue amounting to Rs. 718.49 lakhs in 96 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-settlement of Government land ..	19	49.62
2. Encroachment of Government land ..	6	26.75
3. Irregular settlement/non-settlement of <i>sairati</i> interests .. ..	7	10.18
4. Non-assessment and non-realisation of land revenue and cesses .. ..	18	78.60
5. Non-assessment and short assessment of land revenue .. ..	20	115.44
6. Other irregularities .. ..	26	437.90
Total .. ..	96	718.49

Some of the important cases noticed during 1988-89 and earlier years, and findings of a review on "Management of Non-Agricultural Government Land" are given in the following paragraphs.

#### 3.2 Irregular settlement of Government non-agricultural land

(i) The West Bengal Land Management Manual, 1977, provides that if any Government non-agricultural land is in possession of an unauthorised person for more than twelve years, such person should be offered longterm settlement on payment of annual rent to be fixed at 4 per cent of the market value of the land and *salami*, in lump, at 10 times the annual rent. If an occupier

is not agreeable to enter into lease, action has to be taken for his eviction as provided in the West Bengal Non-Agricultural Tenancy Act, 1949, as amended in 1986.

In South 24-Parganas district, it was noticed (January 1986) that out of a total area of 18.71 acres of Government non-agricultural lands under Falta Land Reforms Circle, an area of 2.38 acres covering 34 holdings had been recorded as '*dakhaldars*' (Occupiers) in the settlement records, but no action was taken to correct the settlement records and evict the occupiers. The entire area of 18.71 acres was under unauthorised occupation by several persons since April 1956 and they were enjoying the benefits of the land without payment of any revenue to Government, but the department did not initiate any action to regularise the matter as per rules. On the basis of market value of the land in the vicinity during the year 1984, the loss of revenue due to annual rent worked out to Rs. 37,869 and *salami*, in lump, Rs. 3.79 lakhs.

On this being pointed out in audit (January 1986), the district administration stated (April 1989) that the matter had been referred to the Board of Revenue; but no instruction was received till April 1989.

The matter was reported to Government in August 1986 followed up by several reminders between October 1987 and March 1989; their reply has not been received (March 1990).

(ii) As per Rule 266 of the West Bengal Land Management Manual, 1977, no Government lands will be sold at anything less than full market value, or leased at concessional rate except where land is needed for Government purposes. Such transfer should be made in the form of a lease subject to realisation of annual lease rent and *salami* and execution of lease deed after obtaining approval from the Board of Revenue.

The Agricultural Produce Marketing (Regulation) Act, 1972 provides that Regulated Market Committees should be constituted as corporate bodies and that they should function independently. As such, these market committees are not departments of the Government.

In Tamluk (L.R.) district, it was noticed (January 1987) that 12.79 acres of Government non-agricultural lands were transferred to two regulated market committees without execution of lease deeds and realisation of rent and *salami*. The department treated these transfers as inter-departmental. As the market committees are corporate bodies, the transfer of Government land to them as to Government departments was irregular and



resulted in loss of revenue amounting to Rs. 1.63 lakhs as annual rent from 1973-74 to 1988-89 and Rs. 1.02 lakhs as *salami* in lump computed on the basis of market value of land furnished by the department.

On this being pointed out in audit (January 1987), the Additional District Magistrate (L.R), Tamluk stated (February 1987) that as the transfer had been effected by the Additional District Magistrate (L.R) Midnapore, the matter would be taken up with him. Further report on action taken has not been received (March 1990).

The matter was reported to Government in August 1987; their reply has not been received in spite of several reminders issued between January 1988 and December 1989.

### **3.3 Loss of revenue due to irregular possession of Government land**

Under the West Bengal Land Reforms Act, 1955, read with the West Bengal Land Reforms Rules, 1965, if any agricultural land vested with the Government under the Act, is occupied by unauthorised persons, action shall be taken for their eviction. Further, such occupiers are liable to pay damage fee for use and occupation of Government land as prescribed in the West Bengal Estates Acquisition Act, 1953, as amended in 1975. The damage fee was realisable at Rs. 10 per acre per year up to 29.6.1975 and thereafter, at 25 per cent of the value of the produce per year.

In a circle office under the Additional District Magistrate (L.R), Burdwan, it was noticed (April 1988) that an area ad-measuring 13.43 acres of vested agricultural land had been under unauthorised occupation of several persons since 1969-70. The department did not initiate any action either to evict the encroachers or to settle the lands on *raiyati* basis. This led to non-realisation of damage fee amounting to Rs. 31,023 computed at Rs. 10 per acre per year from 1969-70 to 1974-75 and at 25 per cent of the gross value of the produce per annum from 1975-76 to 1986-87, based on the rate of produce and value thereof furnished by the department.

This was pointed out in audit in April 1988. Report on final action taken by the department for realisation of the revenue has not been received (March 1990).

The matter was reported to Government in August 1988; their reply has not been received despite reminder issued in March 1989.

### 3.4 Non-assessment or short assessment of rent and cesses

(i) Under the provisions of the West Bengal Land Reforms Act, 1955 as amended in 1965, the rent of all the erstwhile rent-free holdings shall be fixed by the Revenue Officer with effect from 1.11.1965 having regard to the rent that was generally being paid immediately before coming into force of the amended Act for lands of similar description and with similar advantages in the vicinity. By a clarificatory order issued (August 1986) by the Board of Revenue, West Bengal, it was made clear that newly fixed rent was payable from the date of determination of such rent and not from a retrospective date. The Junior Land Reforms Officers were appointed as "Revenue Officers" for this purpose under a Government notification issued in October 1974.

(a) In the course of test check of records of eight districts viz. North 24-Parganas, South 24-Parganas, Burdwan East, Burdwan West, Nadia, Malda, Howrah and Midnapore, it was noticed (between January 1988 and August 1988) that no rent in respect of a total area of 43,656.04 acres of rent-free holdings had been fixed by the district offices concerned till then, although the circle officers under them were duly empowered to fix such rent. Due to non-fixation of rent, revenue amounting to Rs. 102.98 lakhs was lost by the Government being rent and cesses from 1.11.1965 to 31.10.1987, computed on the basis of average rent per acre furnished by the districts concerned and the rates of cesses applicable from time to time under the Cess Acts.

This was pointed out in audit between January 1988 and August 1988. Reply of the department has not been received (March 1990).

All these cases were reported to Government between March 1988 and December 1988; their reply has not been received in spite of several reminders issued between July 1988 and December 1989.

(b) In the course of scrutiny of records of nine land reforms circles, it was noticed (December 1988) that there were 4,946 acres of rent-free holdings held by *raiyats*. The district authorities had not taken any action to assess and realise rent of these rent-free holdings till the date of audit (December 1988). Non-fixation of rent of formerly rent-free holdings resulted in a loss of revenue to the extent of Rs. 7.76 lakhs for the periods from 1.11.1965 to 31.3.1988 alone, computed at the rates of *mouza* rent furnished by the nine concerned circle offices. Besides, different cesses amounting to Rs. 4.21 lakhs also realisable were lost by Government.

This was pointed out in audit in December 1988. Report on action taken as instructed (January 1989) by the district administration for determination of rent, has not been received (March 1990).

The matter was reported to Government in May 1989; their reply has not been received (March 1990).

(ii) Under the West Bengal Land Reforms Act, 1955, as amended in 1977, a *raiya* holding lands in excess of 4 acres in irrigated area shall pay rent at one and a half times the single rate of rent with effect from 1st Baisakh 1385 BS (1978-79). Land and Land Reforms Department, in their notification issued in July 1971 declared Amta and Jagatballavpur Police Station areas of Howrah district as irrigated areas through Damodor Canal Project from 1st day of Baisakh 1377 BS (1970-71).

It was, however, noticed (May 1988) in audit that rent of the above two circles, in respect of lands measuring 8,565.17 acres, had been demanded at single rent instead of at one and a half times the single rent from 1385 BS (1978-79). The amount of single rent was Rs. 81,813 per annum, and accordingly, the annual rent for irrigated *mouzas* would come to Rs. 1,22,719. Non-assessment of rent at the prescribed rates in the above circles led to short realisation of revenue amounting to Rs. 4.09 lakhs for 10 years from 1978-79 to 1987-88 computed at the differential rate between single rent and one and half times of the single rent. Besides, different cesses were also assessable and realisable but not levied.

On this being pointed out in audit (May 1988), the district office stated that instructions from the Board of Revenue had been sought for resolving certain issues related to the above case. Report on final action taken has not been received (March 1990).

The matter was reported to Government in September 1988, but no reply has been received despite reminders issued in October 1988 and June 1989.

(iii) Under the provisions of the West Bengal Land Reforms Act, 1955, read with the rules made thereunder, a *raiya* shall pay revenue in four equal instalments each falling due on the last day of each quarter of the agricultural year commencing from 1st day of Baisakh every year. The West Bengal Land Management Manual, 1977, read with the West Bengal *Touzi* Manual, 1940, provides that suspension or remission of land revenue may be granted by the Government in the cases of natural calamities. Before granting such remission or suspension of revenue detailed

enquiry is required to be made by the District Collector in regard to the position of agricultural condition of a particular area for a particular period.

In a circle office under the Additional District Magistrate (LR), North 24-Parganas, it was noticed (December 1987 and January 1988) that an area of 2,674.30 acres of land had been resumed by Government in 1945. The resumption order was set aside and receivers were appointed by the Court of Law. Subsequently, out of 2,674.30 acres, an area of 2,587.21 acres was recorded in the names of 15 persons in the revisional settlement records. By an order issued in 1967, Government suspended collection of revenue on the above area of 2,587.21 acres, till an enquiry into the settlement dispute was completed by the Board of Revenue, West Bengal. However, neither any report of enquiry was available nor had any rent and cesses been realised till the date of audit (January 1988). This resulted in non-realisation of rent amounting to Rs. 1,09,200 from April 1967 to March 1988, computed as per rent recorded in the settlement records. Besides, cesses amounting to Rs. 61,568 were realisable.

On this being pointed out in audit (January 1988), the district authorities only stated (January 1988) that the realisation of revenue had been stopped by the Board.

The matter was reported to Government in March 1988; their reply has not been received despite a reminder issued in June 1989.

(iv) Under the provisions of the West Bengal Land Management Manual, 1977, Government lands may be given on short term lease for a maximum period of ten years in two consecutive terms. In giving short term lease, rent should be fixed as provided in the manual and lease deed should also be executed. The lessee is required to pay six months' rent in advance as security deposit and usual yearly rent on the dates as may be specified in the lease agreement. The District Collector is required to send a report of short term leases and any violation of the terms and conditions thereof to the Board through the Divisional Commissioner. If the lessee defaults in payment of the dues, he is required to pay interest at the rate of  $6\frac{1}{4}$  per cent per annum.

In a Land Reforms Circle under the Additional District Magistrate (LR) North 24-Parganas, it was noticed (December 1987) that 16 03 acres of *char* lands had been leased out to 12 brick field owners on short term basis for 2 to 5 years between 1980-81 and 1984-85. The annual rental demand was assessed

by the department as Rs. 14,890. Total lease rent realisable from these 12 lessees worked out to Rs. 54,239. Only eight lessees had, however, paid partial rent totalling Rs. 9,282, while four other lessees did not pay such rent at all till the date of audit although the lease term had expired in 1984-85. The department did not initiate any action to regularise the matter and realise rent as assessed earlier. Thus, the irregular management of the short term lease-hold lands resulted in non-realisation of revenue amounting to Rs. 44,957. It was also noticed that the same lessees had been carrying on business on the lands without renewal of the previous leases from 1985-86 onwards. If the leases were renewed, Government could have earned additional revenue of Rs. 29,780 for two years from April 1985 to March 1987.

On this being pointed out in audit (November 1987), the local circle office stated that the lease rent had not been realised for want of specific order from the district office and that no lease could be renewed due to non-receipt of approval of the previous leases. The district administration stated (January 1988) that owing to certain Court orders in respect of 65 brick fields, including the 12 brick fields mentioned above, demand for lease rent could not be raised. The fact, however, remains that the Court orders of 1985 referred to by the district administration related to payment of royalty for minor minerals and not regarding payment of lease rent, which is executed under different Act/Rules. The omission to raise demand by the district office in this case resulted in Government losing revenue of Rs. 74,737.

The matter was reported to Government in March 1988; their reply has not been received in spite of reminders issued in July 1988, October 1988, March 1989 and June 1989.

(v) Under the provisions of the West Bengal Estates Acquisition Act, 1953, effective from 19th April 1955, if any tank, fishery or any land comprised in a tea-garden, orchard, mill, factory or workshop was held under a lease immediately before the date of vesting such lease shall be deemed to have been given by the State Government on the same terms and conditions as immediately before such date, subject to such modification therein as the State Government may think fit to make. Board of Revenue, West Bengal, issued direction in August 1982 that the term of the leases which expired on 31.12.1981 and could not be renewed, should be regularised by enhancing rent by 12½ per cent till the renewal and at 4 per cent of the market value at the

time of renewal. Besides, arrears of rent attract interest at the rate of 6½ per cent per annum.

In a Land Reforms Circle under the North 24-Parganas district, it was noticed (December 1987 and January 1988) that an area of 57 decimal of land classified as 'Karkhana' (Workshop) was held by a company on lease from the recorded tenant, for 20 years from 1st September 1951, on an annual rent of Rs. 2,400. The company discontinued payment of rent from 1968 but the department did not initiate any action to realise the rent or to get the lease renewed by the company on its expiry on 31.8.1971. Thus, the company has been occupying the lease-hold land without renewal and without paying any rent which resulted in non-realisation of rent amounting to Rs. 47,100 from 1968-69 to 1986-87 and interest of Rs. 31,500 up to 31st March 1987. Besides, had renewal been effected, Government could have realised revised annual rent on the basis of 4 per cent of the market value of the land from the date of such renewal. Annual rent for 1987-88, computed on the basis of 4 per cent of the market value of land at Rs. 18,271 per cottah ascertained from local sub-registration office, worked out to Rs. 25,123. Thus, Government lost revenue due to inaction on the part of the department.

On this being pointed out in audit (January 1988), the district administration stated (January 1988) that the local office had neither initiated any action to realise the dues nor informed the district office about the irregularity.

The matter was reported to Government in March 1988; their reply has not been received in spite of reminders issued in July 1988, October 1988, March 1989 and June 1989.

(vi) As per the provisions of the West Bengal Land Reforms Act, 1955, as amended in 1972, the annual rent of land holding was payable at single rate up to 1378 BS (1971-72) and at double the rate from 1379 BS (1972-73). Again, by an amendment of the Act made in 1978, the single rate of rent was brought back from 1385 BS (1978-79). The West Bengal Land Management Manual, 1977, lays down that arrear revenue (rent, cesses, etc.) with interest at 6½ per cent per annum is realisable as a public demand by the certificate procedure.

In South 24 Parganas district, it was noticed (January 1988) that in two certificate cases, the demand was computed at single rate of rent all through the period from 1375 BS to 1386 BS (1968-69 to 1979-80) instead of at double the rate for the period

from 1379 to 1384 BS (1972-73 to 1977-78). This resulted in short demand of rent and cesses amounting to Rs. 33,791.

This was pointed out in audit in January 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in June 1988; no reply has been received despite reminders issued in October 1988 and June 1989.

### **3.5 Non-payment of interest on delayed payment of rent and *salami***

The West Bengal Land Management Manual, 1977, provides that Government non-agricultural lands should be settled on long term basis for a maximum period of 30 years subject to realisation of annual rent and *salami*, in lump and by execution of lease deed. The lessee should pay the annual rent before the commencement of the respective year. For default in payment of annual rent and other dues within the stipulated time, interest at the rate of 6¼ per cent per annum is leviable.

In the land reforms circle at Hooghly, it was noticed (March 1989) that non-agricultural land measuring 3.07 acres had been leased out to Oil and Natural Gas Commission for 30 years with effect from 1.1.1976. The annual rent and *salami* were fixed at Rs. 1,842 and Rs. 18,420 respectively. The lessee paid the lease rent from 1.1.1976 to 31.12.1987 amounting to Rs. 22,104 and *salami* amounting to Rs. 18,420 on 25.2.1988. But no interest was charged for delayed payment of annual rent and *salami*. This resulted in non-realisation of revenue in the shape of interest amounting to Rs. 22,795 computed at 6¼ per cent for 12 years.

The omission was pointed out to the district administration in March 1989. Report on further action taken in this regard has not been received (March 1990).

The matter was reported to Government in May 1989; their reply has not been received in spite of reminder issued in September 1989.

### **3.6 Irregular conversion of agricultural land into fisheries**

Under the provisions of the West Bengal Non-Agricultural Tenancy Act, 1949, no agricultural land can be converted into or used for non-agricultural purposes unless authorised by the District Collector in writing and on payment of rent not exceed-

ing double the usual rent for the time being payable for such land. For this purpose, the holder of such agricultural land shall apply to the Collector for conversion of land into a tenancy to which the provisions of the Act apply. The West Bengal Land Reforms Act, 1955, as amended in 1969, provides that the State Government may sell the land held by agricultural *raiyat*\*, if such *raiyat* has without reasonable cause used the land comprised in the holding for any purpose other than agriculture.

By an order issued in January 1981, Board of Revenue, West Bengal opined that conversion of agricultural land into fisheries by cutting irrigation embankments and other ways had become a perennial problem particularly in the district of 24-Parganas and instructed the district administration to check this type of irregular conversion by taking recourse to the provisions of the Acts of 1949 and 1955.

In the course of review of case records of three circle offices under the district of North 24-Parganas, it was noticed (December 1987 and January 1988) that agricultural lands measuring 7,459.68 acres were being used as fisheries without obtaining permission from the Collector and they were also not paying rent at double the existing rate. This resulted in loss of revenue amounting to Rs. 3.23 lakhs being the equivalent amount of normal rent from April 1979 to March 1987, computed on the basis of area-rent demanded by the circle office.

On this being pointed out in audit (January 1988), the district administration stated (January 1988) that none of the circle offices had submitted any detailed report of conversion of paddy land into fisheries except one.

The matter was reported to Government in March 1988; their reply has not been received in spite of reminders issued in July 1988 and October 1988.

### **3.7 Short realisation of damage fee**

Under the provisions of the West Bengal Estates Acquisition Act, 1953, as amended in 1975, if the possession of lands vested in Government is not authorised by the Collector, the unauthorised occupiers shall be liable to pay such damages for use and occupation of such land as may be determined by the Collector. The rates of damage fee was payable at Rs. 10 per acre per year up to 29.6.1975 and at 10 per cent of the market value of the land

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\**Raiyat* means a person or institution holding land for purpose of agriculture.



per year in respect of non-agricultural land and at 25 per cent of the gross value of the yield per annum for agricultural land.

(i) In a land reforms circle under North 24-Parganas district, it was noticed (January 1988) that damage fee was assessed short in two cases as mentioned below:

(a) A *beel* measuring 119.60 acres vested in the State was being used and occupied by a Fishermen's Co-operative Society without authority since 1966. The department assessed damage fee amounting to Rs. 30,000 in lump assuming 25 per cent of the value of the *beel* for a sum of Rs. 1,20,000. But the damage fee realisable actually worked out to Rs. 1,44,000, computed at Rs. 10 per acre per year up to 29.6.1975 and at 10 per cent of the value of the land (Rs. 1,20,000) for eleven years from 1976 to 1986. Thus, damage fee amounting to Rs. 1.14 lakhs (Rs. 1,44,000 minus Rs. 30,000) was assessed short.

This was pointed out in audit in January 1988; reply of the department has not been received (March 1990).

(b) A Government fishery admeasuring 156.98 acres was in unauthorised possession of a Co-operative Society from 1975 to 1986. The department made no assessment of damage fee for the unauthorised use and occupation of the vested fishery. This resulted in non-realisation of revenue amounting to Rs. 53,373 computed at Rs. 10 per acre for 1975 and at 10 per cent of the market value of Rs. 300 per acre per year from 1976 to 1986.

The mistake was pointed out in audit in January 1988. Report on final action taken has not been received (March 1990).

(ii) In Nadia district, in three cases, damage fee was not assessed and realised correctly. Three individuals were in unauthorised possession of vested land measuring a total area of 0.41 decimal during different periods between 1955 and 1956 till the year of settlement with them in 1986 and 1987. Damage fee realisable worked out to Rs. 21,780 for the period of unauthorised occupation from 1955 to 1986. But the department assessed and realised only Rs. 126 from those three persons. Thus, there was short realisation of damage fee amounting to Rs. 21,654 (Rs. 21,780 minus Rs. 126).

This was pointed out in audit in September 1988. Report on final action taken has not been received (March 1990).

The above cases were reported to Government between March 1988 and November 1988; their reply has not been received in spite of several reminders issued between July 1988 and December 1989.

### 3.8 Loss of revenue due to irregularities in *sairati* interests

(i) Under the provisions of the West Bengal Land Management Manual, 1977, all tanks, fisheries, river fisheries, etc. are to be settled on year to year auction basis to the highest bidder on realisation of annual lease rent. Board of Revenue, West Bengal, in its notification issued in March 1979 directed that all *sairati* interests, viz., tanks, ferries, etc., should be transferred to the panchayat institutions with effect from 1979-80 without realising revenue from them. In May 1979, Board clarified that big water areas and river fisheries should not be transferred to the panchayats; instead, they should be managed departmentally as per rules. But no yardstick for big water area was fixed by the Board. In North 24-Parganas district, areas of 5 acres and above were treated as big water areas.

In Malda district, it was noticed (June 1988) that 25 big water areas, covering area between 10.87 acres and 59.25 acres which included tanks, *beels* and river fisheries, had been transferred to the panchayats in 1979-80 and thereafter. The irregular transfer of such big water areas to Panchayats led to loss of revenue amounting to Rs. 3.45 lakhs computed on the basis of last annual lease rent of each *sairati* interest available before the year of transfer.

On this being pointed out in audit (June 1988), the district administration of Malda stated (June 1988) that no yardstick for big water area had been fixed either by the Board or by the Divisional Commissioner and that since such water areas would be more profitably managed by the panchayats, these areas were transferred to them. Thus, due to defective instructions, Government suffered loss of Rs. 3.45 lakhs in one district alone.

The matter was reported to Government in September 1988; their reply has not been received in spite of reminder issued in August 1989.

(ii) The West Bengal Land Management Manual, 1977, provides that all stalls situated in a Government market should be licensed out to bona fide businessmen on realisation of the prescribed fee, to be assessed at the full market rate, and on execution of agreement as per prescribed proforma appended to the Manual. The rate of licence fee prescribed (5th April 1986) by the Divisional Commissioner was 4 per cent of the market value of the land. Separate provisions exist for fixation of tolls for 'squatters' or 'casual vendors' with the approval of Divisional Commissioner.

(a) It was noticed (October 1988) from the records of a circle office under the Additional District Magistrate (L.R), Midnapore, that a market complex being managed by Government had 357 stalls licensed out to different persons. Annual licence fee in respect of 60,181 sq. ft. of the market area was assessed at Rs. 19,748.50 by the department, computed at different rates varying from 9 paise to 25 paise per day. Out of 357 stalls, 57 permanent stalls were given on licence basis which had expired between 1963-64, 274 stalls were given on temporary licence basis which expired in 1980-81 and 26 stalls were unauthorisedly occupied since 1971. The department did not take any action to renew the licences of both the permanent and temporary stalls nor regularise the unauthorised stalls by issuing new licences. Thus, all the 357 stall-holders were occupying the stalls without renewal of licence and without paying licence fee at the revised rates.

According to the Commissioner, Presidency Division, the estimated market value of the land situated in the market complex was Rs. 25,000 per cottah (720 sq. ft.) and therefore, he directed (5.4.1986) the district office to re-examine the rates of licence fee for all the stall owners. But the department did not initiate any action to renew the licences for refixing the licence fee, as per revised rate. The delay in fixation of licence fee at the revised rate resulted in a loss of revenue amounting to Rs. 2.51 lakhs from 1986-87 to 1988-89, computed at Rs. 83,585 per annum.

On this being pointed out in audit (October 1988), the district office admitted (October 1988) the omission. Report on action taken has not been received (March 1990).

(b) In another circle office, the rates of licence fee of two Government managed *hats* (weekly markets) covering 11,398 sq. ft. were revised in 1970. The revision was by Rs. 1,600 per annum in respect of one *hat* while in respect of another *hat*, it was Rs. 2,000 per annum. But the local office continued to realise licence fee at the pre-revised rate of 2 paise per sq. ft. till date of audit (October 1988). Delay in implementation of the revised rates since 1970 resulted in loss of Government revenue amounting to Rs. 68,400 computed at Rs. 1,600 and Rs. 2,000 per year respectively from April 1970 to March 1989. Due to non-availability of market value, licence fee at full market rate could not be worked out in audit in those two cases.

On this being pointed out in audit (October 1988), the department stated (April 1989) that no revenue could be realised

in all those cases due to non-fulfilment of certain formalities viz., issuing notice to the parties, engaging responsible officer to assess rent/fee in each case etc.

The matter was reported to Government in December 1988; their reply has not been received despite reminder issued in March 1989.

(c) On a review of the register maintained in a circle office under the Additional District Magistrate (L.R), Midnapore, for the period 1986-88, it was noticed (October 1988) that there were 57 permanent stall-holders in a Government-managed market. The stall-holders had been using the plots for long periods since 1953 and the agreements, which expired in 1963-64, were not renewed by the department. It was also noticed that licence fee had not been fixed and realised at the full market rate. Instead, the licence fee was fixed and realised on the basis of table of fees, rates varying between 9 paise and 25 paise per day (rate of 25 paise per day was for area exceeding 150 sq. ft.) prescribed for casual vendors in November 1953 according to the area of occupation by each stall holder. Each of the 57 permanent stalls occupied a minimum area of 360 sq. ft. Area occupied by each stall varied from 360 sq. ft. to 1,800 sq. ft. Licence fee even at the toll rate of 25 paise per day applicable to casual vendors would come to Rs. 91.25 per annum for each stall and Rs. 5,201.25 for 57 stalls, whereas the department assessed annual licence fee at Rs. 1,524.05 for 57 stalls. Thus, irregular fixation of licence fee at a rate even lower than the rate of tolls prescribed for casual vendors in November 1953 resulted in under-assessment and consequent loss of revenue amounting to Rs. 1.28 lakhs being the difference at Rs. 3,667.20 per annum (Rs. 5,201.25 minus Rs. 1,524.05) from 1954-55 to 1988-89.

On this being pointed out in audit (October 1988), the district authorities admitted (October 1988) the fact of fixation of licence fee at the lower rate in violation of the agreed principles. In April 1989, the district administration stated that no revenue could be realised due to non-fulfilment of prescribed formalities.

The matter was reported to Government (December 1988); their reply has not been received despite reminder issued in March 1989.

(iii) Under the West Bengal Estates Acquisition Act, 1953, read with the provisions of the West Bengal Land Management Manual, 1977, all Government properties including *sairati* interests viz. tanks, *beels*, *baors*, river fisheries, etc., are controlled

and managed by the Land and Land Reforms Department. The manual provides that large tanks, *beels* or *baors* may be transferred by the Collector to the State Fisheries Department for development on requisition from them for a specified period not exceeding twenty years at a time. Tanks or other reservoirs thus requisitioned but not required for the purpose of Fisheries Department are required to be relinquished in favor of Land and Land Reforms Department.

In a land reforms circle at Tamluk, it was noticed (December 1988) that a big tank fishery measuring 37.80 acres had been transferred (March 1974) to the Fisheries Department, for a period of 20 years from 1381 BS (1974-75) for development and setting up of a fish farm. But the records revealed that the Fisheries Department had developed the fishery and used it as fish farm only upto 29.7.1984 and thereafter transferred it unconditionally, without charging any lease rent etc., to the State Fisheries Development Corporation. The prospective lease rent of the said fishery was stated by the department to be Rs. 11,200 per annum. The transfer of the interest to the Corporation, without levying any lease rent, instead of relinquishing it in favour of Land and Land Reforms Department resulted in loss of revenue amounting to Rs.56,000, computed at Rs.11,200 per annum from 1984-85 to 1988-89.

The matter was reported to district administration in December 1988. Report on further action taken has not been received (March 1990).

The matter was reported to Government in May 1989; their reply has not been received in spite of reminder issued in September 1989.

(iv) As per provisions of the West Bengal Land Management Manual, 1977, Government fisheries should be settled with Fishermen's Co-operative Societies on lease basis on realisation of annual rent to be fixed by the Collector. The Manual also prescribes that large tanks, *beels* or *baors* may be temporarily transferred to Fisheries Department of the Government for development on requisition from them.

(a) In a Land Reforms Circle under the Additional District Magistrate (L.R), Midnapore, it was noticed (September 1988) that a tank fishery measuring 146.17 acres was handed over to the District Fishery Officer, Midnapore, on 3.3.1984 for development purposes. The District Fishery Officer, however, leased out the fishery to a co-operative society from 1983-84 at an annual

lease rent of Rs. 6,050. The lease was subsequently cancelled on 1.10.1984 for non-payment of the lease rent and the fishery was handed over to a statutory organisation, viz., State Fishery Development Corporation on 23.5.1985 without any authority from Government and without determining lease rent and executing lease deed. This resulted in a loss of revenue amounting to Rs. 30,250 from 1983-84 to 1987-88 computed at Rs. 6,050 per annum.

The matter was reported to the department in September 1988 and to Government in December 1988; their replies have not been received in spite of reminders issued in March 1989 and June 1989.

(b) In Midnapore district, a tank fishery was leased out to an Unemployed Youngmen's Co-operative Society for a term of 7 years from 1978-79 at an annual rent of Rs. 5,525. The lessee after paying rent for 1978-79 made no further payment and the department cancelled the lease from 15.4.1983. The realisable dues worked out to Rs. 22,100 computed at Rs. 5,525 from 15.4.1979 to 14.4.1983 and interest of Rs. 3,454 up to July 1983. A certificate case was instituted against the lessee society in August 1983, but no amount was realised till the date of audit (September 1988). It was also ascertained from the records of the Additional District Magistrate (L.R) that the society had since been dissolved. Thus, the amount of Rs. 25,554 under certificate proceedings could not be recovered.

On this being pointed out in audit (September 1988), the department confirmed the facts.

The matter was reported to Government in December 1988; their reply has not been received in spite of reminders issued in March 1989 and June 1989.

### **3.9 Non-recovery of water tax from the tenants of Government market**

Under the Calcutta Municipal Act, 1951, municipal tax and water tax are separately assessed by the Calcutta Corporation. The tenants are liable to pay fifty per cent of the assessed water tax as their share per annum to the lessor (landlord) in addition to lease rent.

In course of test check of Tenants' Ledger of a Government market situated in Calcutta under the Additional District Magistrate (L.R), South 24-Parganas for the period 1983-85, it was noticed (March 1986) that the Land Reforms Department paid

water tax amounting to Rs. 2,06,060 assessed by the Corporation in respect of the said market for the period from 1980-81 to 1984-85. But the department did not realise 50 per cent of the assessed water tax amounting to Rs. 1,03,030 from the tenants in addition to their usual shop/stall rent.

On this being pointed out in audit (March 1986), the district administration stated (March 1986) that no water tax had been collected from the monthly or daily tenants except nominal amount from the squatters. In April 1989, the district office stated that the Superintendent of the market had been instructed to realise tax arrear of Rs. 1,03,030 from the occupiers of shops/stalls.

The matter was reported to Government in August 1986 followed up by reminders between January 1988 and March 1989; their reply has not been received (March 1990).

### **3.10 Management of non-agricultural Government land**

#### **3.10.1 Introductory**

Under the provisions of the West Bengal Non-Agricultural Tenancy Act, 1949 (The Tenancy Act), as amended in 1986, any land which is used for purposes not connected with agriculture or horticulture is non-agricultural land. The West Bengal Land Management Manual, 1977 (The Manual) prescribes the principles and procedures for settlement and re-settlement of non-agricultural lands. All such lands are ordinarily to be settled on long-term basis for a maximum period of 30 years. In settling any land for the first time on long-term basis, annual rent should be fixed by the Collector at 4 per cent of the market value of the land per annum, and in addition, *salami*, in lump, at ten times the amount of annual rent is also chargeable. On expiry of the term of lease, the lessee shall have the option to renew the lease. At the time of renewal, rent should be refixed on such fair and reasonable conditions as may be agreed upon between the Collector and the lessee. The Board of Revenue, West Bengal, in their order issued in May and August 1982 directed that rent of all the old leases, which could not be renewed till 31.12.1981, should be enhanced by 12½ per cent over the existing rent per year and thereafter, the leases should be renewed from 1.1.1982 fixing rent at 4 per cent of the market value of the land obtainable at the time of renewal. No *salami* is, however, chargeable at the time of renewal of lease. The Board further directed that when

such long-term settlement was not feasible either because the land was not sufficiently developed or a suitable lessee was not forthcoming, the land might be settled on the same person on short-term lease basis for a maximum period of 10 years, in two consecutive terms. Rent for short-term lease was to be fixed by the Collector having regard to the principles of fixation of rent in respect of long-term leases. No *salami* was to be charged in the case of short-term lease. Further, the West Bengal Estates Acquisition Act, 1953, as amended in 1975, provides for realisation of damage fee for use and occupation of Government land without lawful authority, at the rates prescribed from time to time.

The manual also prescribes the procedure for maintenance of registers with a view to watching the settlement or re-settlement of non-agricultural Government lands and for annual review of these registers by the prescribed authorities. The Board of Revenue, West Bengal directed (July 1980) all district Collectors to ensure proper maintenance of the registers in order to take timely action for re-settlement.

One of the conditions enumerated in the standard form of lease for grant of long-term lease, prescribed in the manual, is that in the event of the lessee holding over the lease even after the expiry of the period of the lease, the lessee shall be liable in respect of any year subsequent to the expiry of the existing lease for the rent at such rate as may be assessed upon the leasehold land, at the time of the revision of the settlement.

### 3.10.2 *Scope of audit*

A review on the management and control of non-agricultural Government land in West Bengal was conducted in April 1989 in 15 districts viz. Burdwan (2), Birbhum, Calcutta, Cooch Behar, Howrah, Jalpaiguri, Midnapore (2), Murshidabad, Malda Nadia, West Dinajpur and 24-Parganas (2) with the objective of verifying adherence to systems and procedures laid down by Land Reforms department, Government of West Bengal.

### 3.10.3 *Organisational set up*

Under the West Bengal Estates Acquisition Act, 1953, all *khas* or vested lands shall be managed by the Land and Land Revenue Department, according to such rules as may be framed by the Government from time to time. The Board of Revenue is in direct charge of the management and control of all Government landed properties, duly assisted by the district Collectors.



### 3.10.4 Highlights

The review highlights the following important irregularities:

- (i) **Non-renewal of long-term leases owing to non-maintenance and non-pursuance of prescribed records (Rs. 223.73 lakhs)**
- (ii) **Non-observance of rules and procedure resulting in delay in settlement of Government land (Rs. 31.95 lakhs)**
- (iii) **Advance possession of land delivered without realisation of revenue and execution of lease deeds (Rs. 61.68 lakhs)**
- (iv) **Possession of Government land without lawful authority (Rs. 175.80 lakhs)**
- (v) **Irregular occupation of land (Rs. 33.21 lakhs)**

### 3.10.5 *Non-renewal of long-term leases owing to non-maintenance and non-pursuance of prescribed records*

(a) In two circles of Midnapore district, out of 569.60 acres of Government non-agricultural land available, an area of 383.93 acres was on long-term leases with 2,359 persons for 30 years in each case. Although the leases in all cases had expired as early as in 1974 and 1975, no action was taken to renew the leases until October 1988. Even then, the enhanced rent (by enhancing 12½ per cent over the existing rent) had been assessed for only 67.85 acres in respect of 327 persons. Thus 2,032 persons were in continued encroachment of the Government land measuring 316.08 acres without paying any enhanced rate of rent and also without renewal of the leases for over 14 years. Further, the district administration did not maintain the prescribed registers to watch the expiry of the lease cases, as directed by the Board of Revenue. The lease rent at original rates due in respect of 1,579 persons covering an area of 152.62 acres in one of the above two circles worked out to Rs. 8,89,378 for the period from 1.4.1975 to 31.3.1989 against which a sum of Rs. 92,670 only was realised, leaving a balance of Rs. 7,96,708. In the second circle, the realisable rent for the hold over period from 1975 to 1989 in respect of 163.46 acres worked out to Rs. 93,236 which also remained unrealised. Thus due to non-maintenance and non-pursuance of relevant records, Government could not realise Rs. 8,89,944 from 1.4.1975 to 31.3.1989. Had the leases been renewed, or the

lands leased out as fresh leases, Government could have realised rent at Rs. 22,72,742 per annum from 1.4.1989 for the said area of 383 93 acres, computed on the basis of market value obtained from the department and registration records.

Further, out of a total of 569.60 acres, an area of 3.65 acres remained unsettled and 0.53 acre was under unauthorised occupation. The market value of 0.53 acre based on the valuation of 1985-86, worked out to Rs. 5,30,000 and 4 per cent of the value worked out to Rs. 21,200 per annum as annual rent and *salami* worked out to Rs. 2,12,000.

The district administration while admitting (October 1988) lack of co-ordination with the circle offices, stated (April 1989) that the formalities could not be fulfilled and as such, no revenue could be realised.

(b) (i) In South 24-Parganas district, 16.777 acres (10,168 cottahs) of land belonging to the Government of India, covering 220 holdings, had been transferred to the district Collector in 1899-1900 for management. The holdings of the estates were settled on long-term lease basis on realisation of annual rent and *salami*, in lump. All the leases had expired on 31.3.1976. Due to possession of the land by the lessees for more than twelve years, the lessees had acquired transferable rights by virtue of the provisions of the West Bengal Non-Agricultural Tenancy Act, 1949. In February 1982, the Government obtained legal opinion to the effect that the rent of the holdings might be enhanced according to the provisions of the Government Estates Manual, 1953 (Now, West Bengal Land Management Manual, 1977). It was noticed in audit that the valuation of only 124 holdings out of the above 220 holdings was fixed by the Land Acquisition Collector in April 1983, while the valuation of the remaining 96 holdings covering 9,770 cottahs was not determined till March 1989. The annual rent as per valuation of 124 plots (398 cottahs) made by Land Acquisition Collector worked out to Rs. 3,94,035. Owing to non-renewal of the leases, Government failed to realise Rs. 22,75,128, computed at the rate of Rs. 3,79,188 per annum from April 1983 to March 1989, being the difference between the enhanced rent (Rs. 3,94,035) and old rent (Rs. 14,847) as shown in the record of rights in respect of 124 plots alone. Such rent for the period from 1976 to 1982-83 could not be ascertained in audit for want of valuation rate of land from 1976.

The district authorities stated (April 1989) that rent in respect of 124 holdings had not been assessed as per valuation of the Land

Acquisition Collector and as such, question of realisation of rent did not arise.

(ii) In Calcutta, under the jurisdiction of the Collector of South 24-Parganas district, lease of an area of 336 cottahs 7 chhataks and 30 sq. ft. of Government lands, settled in favour of 3 persons for 30 years each had expired between 31.3.1959 and 31.3.1965. Total annual lease rent was Rs. 4,894. The lessees did not request for renewal of the leases even after expiry of their respective terms; nor did the department initiate action to renew the leases at the enhanced rates. This led to non-realisation of Government revenue of Rs. 9,03,980, being annual rent at Rs. 1,29,140 from 1982-83 to 1988-89 computed as per valuation report available for 1982-83 of the district land acquisition office.

(c) In North 24-Parganas district, it was noticed (November 1987) that out of 45.47 acres of Government *khasmahal* lands available under two circle offices (Khardah and Barrackpore), 2.78 acres were under live leases and 40.47 acres were covered by expired leases, whereas remaining 2.22 acres were not covered by any lease. It was also noticed from the records of Sub-divisional Land Reforms Office, Barrackpore, that 132 bighas 1 cottah 13 chhatak 6 sq. ft. of Government lands were held by 675 persons. The leases in all cases had expired between 1961 and 1970; but the department did not renew the leases till March 1989, despite directions issued by the Divisional Commissioner in July 1983 for regularisation of the cases from 1.1.1982. The delay in renewal of the leases resulted in non-realisation of revenue amounting to a minimum of Rs. 37,16,895, computed at Rs. 12,38,965 per annum from 1986-87 to 1988-89, on the basis of valuation of land available from 1986. The loss on this account for the period 1982-83 to 1985-86 could not be worked out in audit owing to non-availability of market price of the land.

The district administration stated (April 1989) that the leases had not been renewed and as such no revenue had been realised.

Further, three long-term lease cases covering 7.13 acres were initiated by the Sub-divisional Land Reforms Officer, Barrackpore and sent to the district office between 13.1.1984 and 10.5.1984. The annual rent and *salami* realisable in the above cases were assessed at Rs. 16,801 and Rs. 1,68,014 respectively. However, the district office did not finalise the cases till April 1989. The delay resulted in non-realisation of rent amounting to Rs. 87,505 for the period from 13.1.1984 to 31.3.1989 and *salami* of Rs. 1,68,010 in lump.

The Sub-divisional Officer, Barrackpore stated that the district office had not issued any instruction to settle the case.

(d) In Burdwan (West) district, it was noticed (December 1987) that in 10 *mouzas* 30 years' lease in respect of 51.16 acres of land had expired in 1979; but the department had neither renewed the lease nor settled the land on other eligible persons. As a result, the lessees were enjoying the benefits of the land without paying any rent. As per valuation made available to audit, the annual enhanced rent for the entire lot worked out to Rs. 6,13,920 and reckoned on the basis, revenue amounting to Rs. 61,39,200 remained unrealised from 1979-80 to 1988-89.

(e) The Board of Revenue directed (May and August 1982) that the rent of long-term leases for the "hold over period", i.e. the period from the date of expiry of the leases to the date of their renewal (when the renewal of leases had not been made in time and the lessees were allowed to enjoy the land without revision of the lease rent), should be realised after increasing the rent previously paid by  $12\frac{1}{2}$  per cent till the renewal of such leases which could not be done till 31.12.1981.

In Barrackpore sub-division of 24-Parganas North district, it was noticed (December 1987) that 97 lessees held Government land (25.75 acres approximately) on long-term leases from 1942 to 1972. The existing annual rent, with hold over period enhancement, worked out to Rs. 58,408 for the period from 1972 to 1989 was not realised. Besides, due to delay in renewal of the cases, the lands were recorded in the record-of-rights as '*Dakhaldars*' (Occupiers). But no action was initiated by the department to rectify the records.

On this being pointed out in audit (January 1988), the district authority of North 24-Parganas stated (January 1988) that the concerned circle offices did not send any report of realisation for hold over period dues and also proposal for renewal although directed time and again. In April 1989, the department stated that hold over period rent would be realised from the old *khasmahal* lessees.

(f)(i) In a circle office of South 24-Parganas district, it was noticed (December 1985) that 20.87 acres of Government non-agricultural land consisting of 123 holdings (in 9 *mouzas*) were on long-term leases which expired in March 1957. Thereafter, the leases were not renewed. The lands were found to have been recorded in the settlement records under unauthorised occupation which the circle office ascertained in 1983 only. Due to non-

pursuance of relevant records, Government lands in 123 holdings remained in the possession of unauthorised persons since 1957. According to the market price available in 1984, the total value of the land worked out to Rs. 87,65,400. Annual rent would, therefore, work out to Rs. 3,50,616 and *salami*, in lump to Rs. 35,06,160. Thus, non-maintenance and non-pursuance of records led to non-realisation of revenue of Rs. 17,53,080 as rent from April 1984 to March 1989; and *salami* of Rs. 35,06,160. The revenue forgone from April 1957 to March 1984 could not be worked out in audit due to non-availability of market price.

(ii) In another circle (Mahestala), 11.92 acres of such lands existed in 9 *mouzas*. Out of 11.92 acres, 2.94 acres were acquired by the Public Works Department and 0.19 acre was leased out on long-term basis. The balance land of 8.79 acres was under the possession of 435 persons since 1955; but the department took no effective action as per rules. The valuation of land as obtained from the department was Rs. 70,000 per acre in 1984-85 and the total value worked out to Rs. 6,15,300. Annual rent at 4 per cent of the value worked out to Rs. 24,612 and *salami*, in lump, was Rs. 2,46,120. This led to loss of revenue amounting to Rs. 1,23,060 as rent from 1984-85 to 1988-89 and Rs. 2,46,120 as *salami*. Such loss for the period from 1955-56 to 1983-84 could not be ascertained in audit due to non-availability of market price.

### 3.10.6 *Non-observance of rules and procedures resulted in delay in settlement of Government lands*

The manual prescribes the procedures for initiating and settling short/long-term leases. For watching execution of the leases and its renewal, separate registers have also been prescribed. Failure to maintain these registers properly results in delay in settlement of land and thereby blocking of Government revenue.

(a) In Tamluk Zone of Midnapore district, a corporation (State Government undertaking) sought the settlement of 6.30 acres of land for construction of Industrial Estates and the Board of Revenue in their order of May 1977 directed the district authority to send a proposal on that behalf. Out of 6.30 acres, 3.45 acres were handed over to the said corporation on 31.1.1979 and one year's rent for 1978-79 was realised. Thereafter, a long-term proposal for 3.45 acres was initiated in January 1979 which was not approved by the Board till the date of audit (January 1987). Regarding balance land of 2.85 acres, no proper action was taken by the department although directed by the Board in

May 1980. The delay in settlement of the entire 6.30 acres of land resulted in non-realisation of revenue amounting to Rs. 27,000 being rent from 1979-80 to 1988-89, computed on the basis of Rs. 976.50 per annum from 1979-80 to 1988-89 in respect of 3.45 acres of land and at Rs. 1,915 per annum from 1980-81 to 1988-89 in respect of 2.85 acres of land as per value of land obtained from the Land Acquisition Collector. Besides, *salami*, in lump, of Rs. 28,915 was realisable.

(b)(i) In Midnapore Sadar district, 4 acres of Government land were under the unauthorised occupation of a recognised school since 1.1.1965. In February 1977 the district authority initiated a long-term proposal on receipt of a request from the school, who also agreed to pay damage fee for the unauthorised period. The market value of the entire land was assessed by the department at Rs. 1,00,413; but no rent and *salami* were assessed and realised till September 1988. The delay in regularising the matter resulted in non-realisation of damage fee amounting to Rs. 1,30,953 from 1.1.1965 to 31.3.1988 and annual rent amounting to Rs. 4,017 from 1988-89, besides *salami* of Rs. 40,165.

The district office stated (October 1988) that damage fee was demanded from 1973 onwards instead of 1.1.1965 as the school authority had suppressed the actual date of occupation and stated that amounts would be realised, if necessary, by initiating certificate procedure.

(ii) In Keshiery circle, a club was in possession of 1.20 acres of land since April 1953. But no action was taken by the department till 1981 when the club prayed for long-term settlement on payment of rent and *salami*. Only in 1986, the local office initiated a proposal which was not finalised till October 1988. The delay resulted in non-realisation of damage fee of Rs. 21,840 from 15.4.1955 (the date from which land vested in Government) to 14.4.1981 and rent of Rs. 30,720, computed at Rs. 3,840 per annum from April 1981 to March 1989, besides *salami* of Rs. 38,400.

The department stated (April 1989) that detailed formalities had not been fulfilled and no revenue was realised.

(c) In Behala circle under the South 24-Parganas district, it was noticed (January 1988) that a co-operative society was given advance possession of Government land measuring 45.71 acres on 10.5.1973 on execution of an agreement. The society was liable to pay Rs. 21,128 as annual rent and *salami* of Rs. 2,11,280, out of which the society paid Rs. 30,000 at the

time of execution of agreement. In default of payment of remaining amounts, payable in four equal half-yearly instalments, the society was required to pay interest at 6½ per cent per annum. It was noticed that the society had paid only a sum of Rs. 38,315 subsequently against the dues of Rs. 8,58,373 assessed by the department up to 1986-87 including interest. The dues against the society up to 1988-89 worked out to Rs. 8,62,314. The district office did not initiate any action to finalise and execute the lease. Due to delay in finalising the long-term lease, Government failed to realise dues of Rs. 8,62,314.

The department stated (April 1989) that the Board of Revenue had not sanctioned the lease.

(d) (i) In Falta circle, it was noticed from the records that 164.78 acres of non-agricultural lands relinquished (27.9.1962) by the Kalighat Falta Railway situated in 20 *mouzas*, were under unauthorised occupation of 571 persons since 1962. The department had not taken any measures either to evict the occupiers or regularise the occupation by due process. Even though a proposal for settlement of 8.30 acres out of the above land on long-term basis for 30 years was sent to the Board of Revenue in 1972, it was not approved by the Board. The omission to take early action in respect of the above land resulted in continued encroachment of the land, and non-realisation of Rs. 20,808 as possible rent from April 1972 to March 1989 and an amount of Rs. 12,240 as *salami*. In respect of the balance land of 156.48 acres, at least a damage fee of Rs. 41,467 computed at a minimum of Rs. 10 per acre per annum from October 1962 to March 1989 was realisable as per rules.

(ii) In Behala circle, district authority proposed settlement of an area of 6.36 acres of Government land on 25.1.1982 on a municipality for 30 years from 11.12.1981. The municipality took possession of the land on 11.12.1981 but settlement was not effected till April 1989 as the Board of Revenue had not approved the lease. The valuation of the land was assessed at Rs. 23,73,069 and the annual rent at 4 per cent thereon worked out to Rs. 94,923. The delay in settlement resulted in non-recovery of rent amounting to Rs. 6,92,147 from 11.12.1981 to 31.3.1989 and *salami* of Rs. 9,49,230 being 10 times of annual rent.

(e) In Burdwan (West) district, land measuring 22.81 acres was handed over to a colliery on 1.4.1985. But in spite of Board's instructions (September 1984), the district authority did not initiate any long-term lease proposal till March 1989. Based on

the valuation of land at Rs. 6,000 per acre, the annual rent worked out to Rs. 5,474.40 and *salami*, in lump, Rs. 54,744. Delay in settlement led to non-realisation of Rs. 21,898 as rent from 1.4.1985 to 31.3.1989 and also Rs. 54,744 being *salami*.

In another case in the same district, 110.82 acres of Government land were under the occupation of three collieries managed by the Eastern Coalfields Limited since 1.2.1977. Long-term lease proposals were initiated and sent to the district authority between 29.7.1977 and 4.9.1979. Annual lease rent and *salami* were computed at Rs. 12,532 and Rs. 1,25,320 respectively but lease is yet to be finalised. The delay in finalisation led to non-realisation of revenue amounting to Rs. 1,52,473 being rent from 1.2.1977 to 31.3.1989 and *salami*, in lump, of Rs. 1,25,320.

(f) In Malda district, an area of 0.56 acre of land was leased out to a municipality for 30 years from 18.10.1985 and the lease was approved by the Board of Revenue in December 1987. The department did not, however, initiate any action to realise the annual rent at Rs. 7,784 from 18.10.1985 to 31.3.1989 and *salami* of Rs. 77,840 in lump and also to execute the lease deed with the municipality. The delay led to non-recovery of Rs. 26,920 as rent from 18.10.1985 to 31.3.1989 and Rs. 77,840 as *salami*.

### 3.10.7 *Advance possession of land handed over without realisation of lease rent and execution of lease deed*

Before giving long-term lease (ordinarily for a period of 30 years) of Government non-agricultural land, rent should be fixed at 4 per cent of the market price and *salami* at ten times of annual rent. The Collector then sends the proposal for settlement to the Board of Revenue for approval. After approval, the settlement takes effect. There is no provision in the manual for handing over advance possession of Government land in anticipation of the approval of the Board of Revenue and without realisation of rent and *salami*. In a letter addressed to the district authority of Midnapore, the Board of Revenue clarified (November 1985) that handing over advance possession of land without approval of the Board was irregular as it was fraught with the risk of legal complications. The Board also suggested that prior approval should be obtained if the proposal involved an emergent project.

(a) In the course of review of records of six districts, viz, Midnapore, Murshidabad, Burdwan (East), West Dinajpur, Cooch Behar and Malda, it was noticed (between September 1987 and December 1988) that 94.25 acres of Government land



had been handed over to different persons, organisations and clubs between 31.3.1956 and 14.8.1985 by the concerned district authorities without approval of the Board and without realisation of revenue. The annual rent and *salami* assessed by the department in all these cases put together worked out to Rs. 3,02,041 and Rs. 30,20,410 respectively. The settlement proposals had not been approved by the Board till March 1989 and the occupiers were using the lands without payment of revenue. The irregular settlement and handing over advance possession to the parties led to non-realisation of lease rent amounting to Rs. 19,57,972 for the period ranging from August 1980 to March 1989 computed on the basis of market value furnished by the district offices, apart from a lump sum amount of Rs. 30,20,410 due as *salami*. Total unrealised revenue thus worked out to Rs. 49,78,382 being rent and *salami* upto March 1989.

The district authorities stated that advance possession had been given in 9 cases after obtaining Board's order and that the revenue, as stated, could not be realised for want of Board's final approval to the leases. It was, however, verified in audit that advance possession of the lands in the districts of Murshidabad, Burdwan (East) and West Dinajpur were given by the district authorities without Board's prior approval, and the fact remains that large Government revenue is held up due to inordinate delay in finalisation of the settlements by the Board.

(b) In Murshidabad district, Government land measuring 0.85 acre was transferred to a municipality in 1985 for settlement on long-term basis for construction of a market complex to be run on commercial basis. Annual rent and *salami* as assessed by the department worked out to Rs. 33,986 and Rs. 3,39,860 respectively. But the department neither realised the rent and *salami* nor did execute a lease agreement with the municipality. The department's proposal for transferring the land to the municipality through the department of local self-Government also was not approved by the Board of Revenue. The irregular transfer of Government land to the municipality without consideration led to non-realisation of revenue of Rs. 1,35,944 by way of rent from 1985-86 to 1988-89 and Rs. 3,39,860, in lump, as *salami*.

(c) It was noticed (October 1988) from the records of Midnapore district that 30.18 acres of non-agricultural lands had been transferred to four local bodies/corporation between the period 20.10.1981 to 4.3.1983 without executing lease and/or realisation

of revenue and also without prior approval of the Board of Revenue. Even no proposal for settlement was initiated by the department. Since the local bodies/corporation were not Government departments, the transfers were irregular, resulting in non-realisation of rent amounting to Rs. 2,61,584 from the dates of transfer to March 1989, computed on the basis of market value of land as furnished by the department. A *salami* of Rs. 3,62,160 was also realisable.

Further in Midnapore, a market complex was constructed on 0.33 acre (20 cottahs) of Government land by a municipality in 1984 without permission of the Land Revenue Department as revealed from the records of circle office (9.5.1984). In this case also no settlement proposal was initiated as per rules. This led to non-realisation of rent of Rs. 23,600 computed at Rs. 4,800 being annual rent from 9.5.1984 to 31.3.1989 and *salami* of Rs. 48,000.

The district administration stated (April 1989) that due to non-fulfilment of formalities, no revenue had been realised.

(d) In Midnapore district, it was noticed (October 1988) from the records that an area of 3.50 acres of land was recorded in the names of Police department (3.12 acres) and Agricultural department (0.38 acre). The entire said area was, however, under the occupation of a Bus Stand Committee (non-Government body) since 1975 who had constructed a bus stand thereon without any settlement and payment of revenue. There were no records to show that the land had been relinquished by the Police and Agricultural departments nor had the district administration initiated any action to regularise the issue (October 1988). Thus, irregular occupation of Government land and construction of the bus stand thereon resulted in loss of rent amounting to Rs. 1,42,884 computed at annual rent of Rs. 23,814 from April 1983 to March 1989 and *salami* amounting to Rs. 2,38,140, based on market value of the land furnished by the department. The loss of revenue for earlier periods could not be worked out in audit owing to non-availability of market value for earlier periods.

### 3.10.8 *Possession of Government land without lawful authority*

The Manual lays down that if possession of non-agricultural land remains with the persons without lease for a period of more than 12 years, the occupiers cannot ordinarily be evicted in view of the provisions in the Tenancy Act, whereby such occupiers acquire heritable and transferable rights. The West Bengal Estates

Acquisition Act, 1953, provides for realisation of damage fee for use and occupation of Government land without lawful authority, at the rates prescribed from time to time. Such occupiers may be offered long-term lease on payment of annual rent and *salami*. The Board of Revenue directed (January 1988) all the district Collectors that all such encroachments should be surveyed thoroughly in order to take legal action against the encroachers and regularise the cases by way of settlement whereas appropriate.

It was noticed in audit (between January 1986 and December 1988) that in 10 districts 1,380.972 acres of Government land had been under unauthorised occupation of more than 3,243 persons for various periods during 1951 to 1984 (the number of occupiers of Birbhum, Tamaluk, Burdwan (East) were not made available to audit). The occupiers were using the lands by constructing dwelling houses, shops, godowns, clubs and for similar other non-agricultural purposes without paying any revenue to Government. The district authorities concerned had not, however, initiated any action to evict them all these years nor had regularised their possession by way of settlement, on realisation of annual rent and *salami*. Annual rent, as per market value of the lands furnished by the department as well as that obtained from the registration records in the above cases worked out to Rs. 11.66 lakhs and *salami* to Rs. 1.16 crores. Besides, damage fee amounting to Rs. 5,76,434 was also realisable in respect of four districts alone (Midnapore, Burdwan (East), 24-Parganas (North) and Nadia) while that leviable in respect of remaining six districts, could not be assessed in audit in the absence of data regarding market price of the lands. Thus due to the abnormal delay in surveying the lands encroached even as early as 30 years ago, Government have lost revenue amounting to Rs. 1.76 crores being the minimum rent and *salami* receivable for the period ranging from April 1951 to March 1989.

#### 3.10.9 *Irregular occupation of land*

In South 24-Parganas district, it was noticed (January 1988) that an area of 219.34 acres found in excess of the requirement of four jute mills was declared (August 1980) surplus for non-agricultural purpose. On actual survey, the circle office took possession of 216.42 acres in January 1981. Out of 216.42 acres, an area of 174.41 acres was in unauthorised possession of 325 persons and the balance area of 42.01 acres was proposed for

lease, which was not finalised till the date of audit (March 1989). The department did not initiate any action against the encroachers in respect of land measuring 174.41 acres since 1981. As per market price, the valuation of 174.41 acres of land worked out to Rs. 63.86 lakhs in 1986-87 and the annual rent was assessable at Rs. 2,55,454 and *salami* at Rs. 25 55 lakhs. Due to non-initiation of any action for settlement, Government lost revenue of Rs. 7,66,362 being annual rent from April 1986 to March 1989 and *salami* of Rs. 25,54,540 even if the lands were settled from 1986-87. The revenue forgone for the period from 1981-82 to 1985-86 could not be ascertained owing to non-availability of valuation of land for those periods.

### 3.10.10 *Irregular management of road-side land in Court compound*

Stall/goomty situated on Government lands within *hats*/markets area etc. is settled on licence basis on realisation of licence fee on execution of agreement.

It was noticed (January 1989) from the records of Additional District Magistrate (L.R.), Tamluk, that an area of 9.27 acres of land containing stall/goomties situated in the Court compound which had been managed by the erstwhile *khasmahal* department was under the management of land revenue department. There were 143 stalls covering 22,692 sq.ft. Out of 143 stalls, 75 stalls were managed by the land revenue department and 44 stalls were managed by the *nazarath* department under the sub-divisional officer. Remaining 24 stalls were under unauthorised occupation.

Out of 75 stalls covering 15,701 sq.ft. under Contai Land Reforms Office, 45 stalls covering 6,482 sq.ft. were noted in the demand and collection register; but there was no indication of the balance 30 stalls covering 9,219 sq.ft., and as a result, these 30 stalls remained unassessed and no licence fees were levied. This led to non-realisation of revenue amounting to Rs. 82,971 from 1984-85 to 1988-89 computed at 15 paise per sq.ft. per month as fixed by the sub-divisional officer, Contai. Further, regarding 24 unauthorised stalls stated above, no specific date of construction of the stalls was available in the survey report of the department and consequently extent of revenue not realised could not be worked out in audit. However, as per rates fixed by the department, annual licence fee for 24 stalls covering 701 sq.ft. worked out to Rs. 1,268.

In respect of 44 stalls covering 6,290 sq.ft. under the management of the *nazarath* section of the sub-divisional officer, Contai,

licence fee fixed by the department was Rs. 4,330 per annum (Rs. 36 per year per 25 sq.ft. and Rs. 12 per year for every additional 25 sq.ft.) according to the rate applicable in Midnapore *cutchery* compound. Fee for 5 years from 1984-85 to 1988-89 worked out to Rs. 21,650. But the rate fixed for stalls of Contai was 15 paise per sq.ft. per month or Rs. 1.80 per sq.ft. per year which was higher than the rates of Midnapore. As per rates applicable in Contai, such fee was Rs. 11,322 per annum, which worked out to Rs. 56,610 in respect of 44 stalls for 5 years from 1984-85 to 1988-89. The fixation of licence fee at a lower rate resulted in a loss of revenue to the extent of Rs. 34,960.

The district authority stated (January 1989) that concerned circle office would be asked to report the reasons for not incorporating the entire *khasmahal* land for assessment and realisation of rent. Further report has not been received (March 1990).

### 3.10.11 *Sale of Government land without execution of deed of conveyance*

Under the provisions of the Land Management Manual, 1977, Government land may be sold with the approval of the Board of Revenue at a cost not less than the full market value. The Indian Stamp Act, 1899, provides that in case of conveyance on sale, stamp duty should be borne by the grantee, i.e., in whose favour the conveyance is made and is payable at the rates prescribed in Schedule-IA to the Act as applicable in the State.

A scrutiny of records of Midnapore district revealed (January 1987) that Government land measuring 10 acres had been sold to a municipality for a consideration of Rs. 12,22,000 without obtaining approval of the Board of Revenue. The Collector handed over the land to the municipality on 24.5.1984 on realisation of Rs. 6,11,000 and executed an agreement to the effect that the balance amount would be paid later on. Till March 1989, the case was not approved by the Board nor was the balance amount of Rs. 6,11,000 realised. The transaction was made on a plain paper without executing a sale deed. Stamp duty and registration fee payable by the municipality were thus avoided. This irregular transaction led to non-realisation of revenue amounting to Rs. 2,13,516 by way of stamp duty and Rs. 12,210 as registration fee payable on a total consideration of Rs. 12,22,000.

### 3.10.12 *Lease rent and salami remaining unrealised*

In Howrah district, 11 bighas 6 cottahs 4 chhataks and 95 sq.ft. of Government land was leased out to a State Transport

Corporation for 30 years from 1st July 1987. Annual rent was fixed at Rs. 2,58,618 and *salami* at Rs. 25,86,180 in lump. The proposal for the lease was approved by the Board of Revenue on 11.3.1988. But the lessee did not pay any amount to Government till date of audit (April 1989) nor was any action taken by the department to realise the same. Thus, an amount of Rs. 4,52,582 being rent from 1.7.1987 to 31.3.1989 and *salami* of Rs. 25,86,180 remained unrealised.

The department stated (April 1989) that the corporation did not pay off the dues though directed on 29.10.1988 and 31.3.1989.

The foregoing points were reported to Government in May 1989; their reply has not been received (March 1990).

## CHAPTER 4

### MOTOR VEHICLES TAX

#### 4.1 Results of Audit

Test audit of the accounts of motor vehicles tax in different offices under the Transport department, carried out during 1988-89, revealed non-realisation and short realisation of revenue amounting to Rs. 35.71 lakhs in 73 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Short realisation/non-realisation of tax due to non-revision of registered laden weight ..	19	9.74
2. Irregular remission of road tax ..	9	5.56
3. Short realisation/non-realisation of tax on newly possessed vehicles .. ..	18	7.17
4. Short realisation/non-realisation of permit fees ..	9	2.05
5. Other cases .. ..	18	11.19
Total . . . .	73	35.71

Some of the important cases noticed during 1988-89 and earlier years and audit findings of a review on "Assessment and Collection of Motor Vehicles Tax" are mentioned in the following paragraphs.

#### 4.2 Assessment and collection of motor vehicles tax

##### 4.2.1 Introduction

The control of different types of vehicles registered in West Bengal and in respect of vehicles registered in other States, but coming to West Bengal for short stay, as well as the criteria for the levy of taxes on different types of vehicles and levy of fees payable on them for services rendered, are governed by the Motor Vehicles Act, 1939, and the Bengal Motor Vehicles Rules, 1940

made thereunder. The assessment, levy and collection of taxes on motor vehicles plying in West Bengal permanently or otherwise are governed by the West Bengal Motor Vehicles Tax Act, 1979, which replaced the earlier Act—Bengal Motor Vehicles Tax Act, 1932 from 1st June 1979, and the West Bengal Motor Vehicles Tax Rules, 1957, as amended from time to time.

#### 4.2.2 *Organisational set up*

Subject to the provisions of Motor Vehicles Act, 1939, the Transport Department, Government of West Bengal administers laws relating to motor vehicles and controls the inter-State movement of transport vehicles under the National Permit and bilateral agreements, all-India contract carriages and all-Bengal tourist luxury taxes. The Public Vehicles Department, Calcutta and the Regional Transport Authorities under the District Collectors, control the vehicles registered with them as well as collect taxes and fees in respect of such vehicles.

#### 4.2.3. *Scope of Audit*

A review on assesment, levy and collection of taxes on motor vehicles was conducted between October 1988 and May 1989 in respect of the Public Vehicles Department, Calcutta and 14 Regional Transport Authorities, out of total 26 Regional Transport Authorities in the State, viz., South 24-Parganas, Barasat, Barrackpore, Bankura, Hooghly, Midnapore, Nadia, Murshidabad, Malda, Balurghat, Siliguri, Jalpaiguri, Tamluk and Purulia.

#### 4.2.4 **Highlights**

**(i) Failure of the department to apply the revised norms of maximum safe laden weight resulted in short realisation of Rs. 12.37 lakhs.**

**(ii) In respect of 317 vehicles/chassis in 4 regions (Calcutta, Barasat, Barrackpore and Balurghat), motor vehicle tax amounting to Rs. 3.23 lakhs was not realised for various periods from the dates of possession or control of vehicles or expiry of grace period.**

**(iii) 1,044 bank drafts worth Rs. 3.45 lakhs returned to concerned authorities during 1986-87 and 1988-89 were not received back till March 1989.**

**(iv) Tax demand register, which is the basic document to watch the recovery of tax by the taxing officer, was**



not maintained or the postings were in arrear. Out of 4,264 vehicles test checked in Calcutta region an amount of Rs. 21.95 lakhs was in arrears in respect of 202 vehicles.

#### 4.2.5 *Trend of revenue*

The budget estimates vis-a-vis the actual receipts under the head Motor Vehicles Tax for the last 5 years are indicated below:

Year	Total number of motor vehicles registered in West Bengal (As on 31st March)	Budget estimates	Actuals	Excess (+) shortfall (-) over the budget estimates	Percentage of variations
(Rupees in crores)					
1984-85	4,86,400	26.75	32.82	(+)6.07	22.69
1985-86	5,18,546	34.11	37.94	(+)3.83	11.23
1986-87	5,62,331	39.08	39.69	(+)0.61	1.56
1987-88	N.A.	44.17	42.54	(-)1.63	3.69
1988-89	N.A.	46.50	N.A.	N.A.	N.A.

#### 4.2.6 *Non-revision/delay in revision of maximum safe laden weight*

Road tax on a goods vehicle is payable on the basis of its registered laden weight. On the basis of the notification of the Union Government dated 25th September 1982, the State Government issued instructions on 31st January 1983 to all registering authorities that the maximum safe laden weight and maximum safe axle weight of goods vehicles of all makes and models including multi-axled vehicles manufactured up to 31st March 1983 shall be fixed/refixed at 125 per cent of the ratings given by the manufacturers. Further, the maximum safe laden weight of a vehicle shall be restricted to the sum total of maximum safe axle weight of each axle of the vehicle, as specified in the schedule to the said notification.

It was observed that the above instructions were not followed in respect of different categories of vehicles in many regions as mentioned below:

(a) *Mini trucks*

In Calcutta, Krishnanagar and Siliguri regions, the maximum safe laden weights of 121 mini trucks (2 axles and 4 tyres), manufactured up to 31st March 1983, were not refixed at 125 per cent of the ratings given by the manufacturer. This led to short realisation of tax amounting to Rs. 5.18 lakhs during the period from April 1983 to March 1989.

(b) *Articulated vehicles*

(i) In Calcutta region, the maximum safe laden weights of 8 articulated vehicles (having 3 axles or more) manufactured prior to 31st March 1983 were not refixed at 125 per cent of the sum total of maximum safe axle weights. This led to short realisation of tax to the extent of Rs. 82,353 for various periods between April 1983 and March 1989.

(ii) In November 1983, the State Government instructed that assembled vehicles, disposal vehicles and such other types of vehicles, whose manufacturer's ratings are not generally available, should be co-related to conventional vehicles and registered laden weights of such vehicles are to be assigned accordingly as prescribed in the schedule annexed to the Notification of September 1982.

In Calcutta and Alipore (South 24-Parganas) regions, registered laden weights of 14 disposal/assembled articulated vehicles were not assigned in accordance with the said provision. In Hooghly region, however, the registered laden weights of 4 such vehicles were revised belatedly, the period of delay ranging between 29 months and 36 months. The above omissions led to short realisation of tax of Rs. 3,40,975 for varying periods falling between November 1983 and March 1989.

(c) *Two axled rigid frame vehicles*

Government of West Bengal issued instructions (November 1983), with the concurrence of the Central Government, to all registering authorities that registered laden weights of all two axled rigid frame transport vehicles, having front axle with two tyres and rear axle with four tyres and registered between 1968 and March 1983, should be fixed/refixed at 16,200 kgs. each. Subsequently, considering the incapability of certain classes of 2 axled rigid frame goods vehicles to carry heavy loads, Government revised (May 1984) its order dated November 1983 and instructed to fix the registered laden weight of such vehicles at 150 per cent

of manufacturer's ratings or at 16,200 kgs., whichever is less. Under the Bengal Motor Vehicles Rules 1940, any vehicles registered in any State and brought into West Bengal on change of address will have the same registered laden weight as assigned to similar vehicles in this State.

6 rigid frame vehicles of above category, initially registered in other States during March 1983, were re-registered in Calcutta on change of address between April 1983 and May 1983. Their registered laden weights were not refixed at 16,200 kgs. (being less than 150 per cent of manufacturer's ratings), from November 1983.

Further, registered laden weight of 20 vehicles of Malda region and 30 vehicles of Siliguri region was to be revised at 13,538 kgs. (being 150 per cent of manufacturer's ratings) in accordance with the Government instructions of May 1984, but the revision was not made. The omission led to short realisation of tax amounting to Rs. 2,96,285 for various periods falling between November 1983 and March 1989.

On this being pointed out in audit, the authority of Malda region made revision in respect of 17 vehicles and stated (April 1989) that revision in the remaining 3 cases would be done.

#### *4.2.7 Short assessment of tax due to application of incorrect rates*

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax on a motor vehicle is payable at the rates prescribed for different classes of vehicles depending on their registered laden weight, unladen weight or seating capacity, as the case may be. The rate of tax for different classes of vehicles had been revised from time to time under orders of the Government.

In respect of 9 goods vehicles in Jalpaiguri and Purulia regions, tax was realised at rates lower than the rates applicable to those vehicles and in respect of one vehicle in Midnapore region tax was recovered at the rate applicable to its pre-revised laden weight. This led to short realisation of tax amounting to Rs. 90,957 during various periods falling between June 1979 and June 1989.

#### *4.2.8 Non-realisation of tax from the dates of possession or control of a vehicle*

(a) Under the West Bengal Motor Vehicles Tax Act, 1979, every owner of a motor vehicle or every person who owns or keeps a motor vehicle under his possession or controls it, is liable to pay tax on it at rates specified in the schedule to the Act.

Remission of tax for non-use of any vehicle under the Act is, however, permissible on surrender of requisite documents.

In Calcutta, Barasat and Barrackpore regions, 117 vehicles purchased between April 1984 and August 1986 were not charged to tax, for periods ranging from 1 month to 15 months, until their dates of registration. This led to short realisation of tax to the extent of Rs. 1,49,280.

(b) As per the Motor Vehicles Act, 1939, motor vehicle includes a chassis to which a body has not been attached. Tax on a chassis is levied on its maximum laden weight.

(i) In Balurghat region, 20 chassis acquired by private individuals between February 1985 and February 1986, were charged to tax, from the dates of their registrations made between May 1985 and April 1986 instead of from the dates of acquisition. This led to non-recovery of tax of Rs. 20,842.

On this being pointed out in audit, the authority raised demand against the owners.

(ii) In Calcutta region, tax in respect of 6 temporarily registered chassis for the period from the dates of expiry of temporary registration to the dates of their final registration, was not realised though the owners of the vehicles had not claimed remission of tax for the periods. This led to non-realisation of tax of Rs. 86,452.

(iii) From 23rd October 1986, tax on a chassis is not leviable for a period of 3 months from the date of purchase/possession/control or till the completion of body on it, whichever is earlier. No further grace period after 3 months is allowable even if the body-building is not completed within the said period.

In Calcutta region, tax on 74 chassis, purchased between November 1986 and March 1988, was realised after a lapse of 1 to 6 months after completion of bodies on them. In 11 other cases of chassis procured during the same period, tax was realised after a lapse of 4 to 18 months after the expiry of the said period of 3 months. This led to short realisation of tax of Rs. 69,809.

#### 4.2.9 *Non-recovery of tax from the date of entry into West Bengal*

Under the provisions of West Bengal Motor Vehicles Tax Act, 1979, as clarified in June 1982, the tax in respect of vehicles registered in other States shall be payable from the dates of their entry in West Bengal pending their re-registration in this State.

In Calcutta region, 11 vehicles registered in other States were brought into West Bengal on various dates between February

1985 and January 1988. While tax in respect of 10 such vehicles was realised from the dates of their re-registrations between October 1985 and March 1988, instead of from the dates of their entry, the tax in respect of the remaining one vehicle was not realised at all (March 1989). These mistakes led to short realisation of tax of Rs. 86,847.

#### 4.2.10 *Short realisation of tax due to mis-classification of vehicles*

The Government clarified (July 1975) that a trailer superimposed on a tractor constituted an articulated vehicle and should be charged to tax on the registered laden weight of the tendered combination as a transport vehicle.

Tax on an articulated vehicle registered in Jalpaiguri region in February 1980 was realised at the rate applicable to a trailer instead of that applicable to a transport vehicle. Tax on another articulated vehicle registered in Malda region in August 1987 and transferred to Tamluk region in August 1988 was realised separately on the tractor and the trailer instead of on the tendered combination. This led to short realisation of tax amounting to Rs. 41,634 during the period between February 1980 and July 1989.

On this being pointed out in audit, the authority of Jalpaiguri accepted the mistakes while that of Malda region realised the differential tax of Rs. 7,769. The authority of Tamluk region stated (May 1989) that the vehicles were registered separately as a tractor and a trailer and were, therefore, taxed accordingly. The reply of the authority of Tamluk region is not tenable in view of the position clarified by the Government.

#### 4.2.11 *Irregular remission of tax on change of address*

Under the Motor Vehicles Act, 1939 and the West Bengal Motor Vehicles Tax Rules, 1957, change of address from the jurisdiction of one registering authority to another within the same State is intimated to the original authority, both by the registered owner and by the new authority. The previous registering authority, on receipt of information of such change, takes action for realisation of arrear tax, if any, from the owner. For claiming remission of tax for any period, the owner of a vehicle is required to surrender the registration certificate, tax token and Permit A and B in support of non-use on or about the date of non-use.

Owner of a transport vehicle, which was registered in

Calcutta region and tax in respect of which was paid up to October 1980, applied for change of address to the registering authority of Murshidabad on 31st October 1983, with the request for remission of tax for the period from November 1980 to September 1983, during which he was under Calcutta region. The owner, however, had not surrendered the prescribed documents required to be surrendered for tax remission. But while allowing change of address in this case, tax for the period from November 1980 to September 1983 was remitted (January 1984) by the new registering authority (Murshidabad). This led to non-realisation of tax amounting to Rs. 33,366 (including penalty of Rs. 16,683).

On this being pointed out in audit, the registering authority of Calcutta stated (January 1989) that no intimation regarding change of address was received by them and the authority of Murshidabad had been requested to realise the amount of tax and penalty.

#### 4.2.12 *Non-levy/short levy of penalty*

(a) Under the provisions of the West Bengal Motor Vehicles Tax Act, 1979, road tax on motor vehicles is payable within the prescribed period of 15 days from the date on which tax becomes payable. In the event of delay in payment of tax, penalty at varying rates is leviable depending upon the extent of delay in payment of tax. The Government clarified in June 1985 that in the cases of newly possessed vehicles and vehicles coming into West Bengal for re-registrations, no grace period is allowable for initial payment of taxes on them.

In Barrackpore and Calcutta regions, payments of road tax in respect of 52 vehicles for various periods were made on dates subsequent to the expiry of the grace period. While no penalty was levied in 51 cases penalty realised in one case, in Barrackpore region, was short. The non-realisation/short realisation of penalty in these cases amounted to Rs. 22,674.

(b) In Calcutta, Bankura, Malda, Balurghat and Siliguri regions, although initial payments of taxes in respect of 81 newly acquired vehicles were not made on the dates of their acquisition, between July 1985 and October 1986, no penalty was realised in such cases. This led to non-realisation of penalty of Rs. 55,778.

(c) In Calcutta and Siliguri regions, initial payments of taxes on 30 vehicles of other States coming into West Bengal between December 1983 and April 1988, were not made from the dates of their entry. While no penalty was realised in 16

cases in Calcutta and 9 cases in Siliguri regions, penalties on 5 such vehicles were realised short in Calcutta region. These mistakes led to non-realisation/short realisation of penalty of Rs. 25,312.

#### 4.2.13 *System of collection of tax on vehicles coming under temporary permits not followed properly*

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax in respect of vehicles which are registered in other States and brought into West Bengal under temporary permits for short stay here, is payable for their periods of stay for every week or part thereof, at the rate of 1/52nd part of annual tax. Tax is collected by the original registering States and remitted by bank drafts to the Public Vehicles Department, Calcutta, along with copies of temporary permits.

(a) In the Public Vehicles Department, Calcutta, the bank drafts are recorded in a register before they are made over to the cashier for encashment. It was noticed that in many cases, the register did not indicate the reference number and date of the office from which the drafts and temporary permits were received. It also did not indicate the details of the vehicles and the period for which the permits were issued. The copies of temporary permits received were, therefore, not susceptible to verification with reference to the entries in the register.

(b) The bank drafts received from time to time were allowed to accumulate before they were made over to the bank for encashment. No record was maintained showing the disposal of bank drafts by encashment or return to the authorities concerned for revalidation or rectification, except to the extent noted in the office copies of the memo in which they were returned. The balance of bank drafts awaiting disposal on any particular date could not, therefore, be ascertained.

(c) Unencashed or defective bank drafts are returned to the authorities concerned for revalidation. During 1986-87 to 1988-89, 1,044 nos. of such bank drafts worth Rs. 3,45,535 were returned to the concerned authorities for revalidation or rectification. But the said drafts were not received back till March 1989.

(d) In case of 316 bank drafts (details given below) sent back to the respective State Transport Authorities for rectification of defects and revalidation, the individual number of bank drafts and the amount involved in each of them were not recorded in the office copies of the memos in which they were returned. In 2 other cases (details given below), even the total number of

bank drafts returned was not recorded in the office copies of the memos.

Sl. No.	To whom sent	Memo No. and date of return	Number of drafts
1.	Secy. State Transport Authority Gwalior, M.P.	MV 950(T) dated 27th April 1988	89
2.	State Bank of India, Ridge Road Branch, M.P.	MV 933(T) dated 20th May 1986	Not mentioned
3.	Asstt. Secy., State Transport Authority, Indore, Bhopal M.P.	MV 1211(T) dated 15th October 1988	124
4.	-do-	MV 1212(T) dated 15th October 1988	103
5.	Addl. Secy., Jamsolaghat Checkpost Mayurbhanj, Orissa	MV 935(T) dated 19th April 1988	Not mentioned

The details of bank drafts could not be traced from the register of bank drafts in the absence of necessary reference number as to their original receipts in Calcutta. The return of the bank drafts could not also be checked.

(e) In respect of 167 temporary permits, issued by different States during 1986-87 and 1987-88, the road tax paid fell short by Rs. 1,23,835 due to application of incorrect rates and/or incorrect reckoning of periods. No reference was made to the authorities concerned in respect of such short payments.

#### 4.2.14 *Tax demand registers not maintained properly*

Tax demand register is the basic document where rate of tax on a vehicle based on its wheel numbers, unladen/laden weight, seating capacity, as the case may be, are noted in detail. This register is to be maintained by the taxing officer showing the details of vehicles regarding the amount and period of tax to be paid. Under the Motor Vehicles Tax Rules, 1957, the taxing officer shall review the register periodically in order to verify whether tax is regularly paid and shall take prompt action against the persons concerned who contravene the provisions of the Act/rules. The following irregularities were noticed.



(a) The tax demand registers were not maintained at all in 24-Parganas (South), Nadia and Murshidabad regions and postings in the registers of Barasat region were in arrears since 1985. In Calcutta region also, the posting in the registers was irregular; test check of 100 cases revealed that postings had been completed in only 8 cases.

In Malda and Jalpaiguri regions also, the registers were not properly maintained and there were long gaps indicating non-payment of tax in between two payments. The registers were not reviewed by the taxing officers of any region and no recovery proceedings were initiated against the defaulters.

(b) Recovery of tax and equivalent penalty totalling to Rs. 35,594 for various periods between August 1986 and December 1988 escaped notice of department in 11 cases in Malda and Jalpaiguri regions. Taxes for subsequent periods in these cases were, however, paid.

(c) In Jalpaiguri region, "no objection certificate" in respect of a transport vehicle transferred to Balurghat region, was issued without consulting the tax demand register. The tax demand register and daily collection register revealed non-payment of tax for the period from July 1981 to July 1985 to the previous authority. The short realisation of tax along with equivalent penalty, amounted to Rs. 26,402.

(d) In Calcutta region, out of 4,264 cases of transport vehicles, test checked in audit, tax payments in respect of 202 vehicles amounting to Rs. 21.95 lakhs for various periods falling between February 1986 and May 1989 had not been made as per tax demand register till date of audit (May 1989).

All the foregoing points were reported to Government in June 1989; their reply has not been received (March 1990).

#### **4.3 Irregular fixation of seating capacity of stage carriages**

Under the West Bengal Motor Vehicles Tax Act, 1979, road tax in respect of stage carriages is assessed at the prescribed rate on the basis of their seating capacity. The Bengal Motor Vehicles Rules, 1940, lay down the norms for minimum seating space for each passenger. Government had instructed the registering authorities in January 1974 that the minimum seating capacity in respect of such vehicle should be fixed before hand in accordance with the prescribed norms so the variations in seating capacity in respect of vehicles of the same make, model and wheel-base should not occur.

In Burdwan region, the minimum seating capacity was not prescribed beforehand in respect of vehicles having the same make, model and wheel-base. As a result, tax at different rates was levied, based on different seating capacities adopted by the vehicle owners. In 45 cases, the seating capacity adopted by owners varied between 36 and 49 seats. Taking the seating capacity of each of these vehicles as 49 seats, the tax levied short for different periods between September 1984 and March 1987 amounted to Rs. 32,256.

On the omission to fix the seating capacity beforehand being pointed out in audit (August 1987), the registering authority stated (August 1987) that the matter had been referred to Government. Further report has not been received (March 1990).

The matter was reported to Government in November 1987; their reply has not been received in spite of reminders issued in March 1988, November 1988 and December 1989.

#### **4.4 Non-realisation of tax on seized vehicle**

Under the West Bengal Motor Vehicles Tax Act, 1979, a vehicle may be seized and detained by the authorised officer, if it plies on road without payment of tax. The vehicle so seized may be released, if payment of the tax due, together with prescribed penalty, is made by the vehicle owner to the taxing officer within 30 days of seizure of the vehicle. In the event of non-payment of tax and penalty, the vehicles may be sold unless, within a further period of 15 days, five times the annual tax due is paid by the vehicle owner.

(a) In Calcutta region, one truck was seized and detained on 18th August 1986 for non-payment of tax amounting to Rs. 58,535 for the period from 1st October 1976 to 31st August 1986. Due to non-payment of tax and penalty within the said period of 30 days, the vehicle owner was liable to make payment of Rs. 2.93 lakhs being five times the amount of annual tax due within a further period of 15 days. As the dues were not cleared within the further period of 15 days, the vehicle was required to be sold for realisation of the dues of Rs. 2.93 lakhs. No such action was, however, taken.

This was pointed out in audit in December 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in March 1989,

followed up by reminder issued in June 1989; their reply has not been received (March 1990).

(b) In Murshidabad region, one truck was seized and detained on 23.12.1987 for non-payment of tax amounting to Rs. 25,743 from 1st January 1984 to 29th February 1988. The owner failed to make payment of tax and penalty even within the further period of 15 days as stated above. The vehicle was required to be sold in auction for realisation of the dues which amounted to Rs. 1.29 lakhs being five times of the amount of annual tax. But no such action was taken.

This was pointed out in audit in September 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in December 1988, followed up by reminder issued in June 1989; their reply has not been received (March 1990).

#### **4.5 Irregular remission of tax**

Under the provisions of the West Bengal Motor Vehicles Tax Act, 1979, and the West Bengal Motor Vehicles Tax Rules, 1957, any person claiming refund or remission of tax on ground of non-use of a vehicle for any period is required to present a declaration in prescribed form and to surrender the certificate of registration, valid tax token and in addition, parts 'A' and 'B' of permit (in case of transport vehicle) of the concerned vehicle to the taxing officer on or about the date the vehicle goes off the road.

In Calcutta and Durgapur regions, remission of tax in respect of 12 transport vehicles was allowed for various periods falling between June 1982 and July 1987 although prescribed documents were not surrendered. This resulted in irregular remission of tax amounting to Rs. 79,347.

These cases were pointed out in audit between November 1986 and October 1987. Report on final action taken has not been received (March 1990).

The cases were reported to Government between June 1987 and June 1988, followed up by reminders issued between November 1988 and June 1989; their reply has not been received (March 1990).

#### **4.6 Short realisation of tax on military disposal vehicles**

Under the provisions of West Bengal Motor Vehicles Tax

Act, 1979, every registered owner or any person, who owns or possesses a motor vehicle is liable to pay tax on it. The Government clarified (March and September 1984) that tax on a military disposal vehicle is payable from the date of its purchase in auction. The auction purchaser may, however, get tax remission for a period on proving non-use of the vehicle for such period.

(a) In Barrackpore and Barasat regions, road tax in respect of 41 disposal vehicles, purchased in auction on various dates falling between November 1980 and October 1986, was realised from the respective dates of their registration made between April 1984 and February 1987, instead of from the dates of their purchases. There was nothing on record to establish non-use of the said vehicles during intervening periods between purchase and registration. This resulted in short realisation of tax of Rs. 1.72 lakhs.

These cases were pointed out in audit between September 1985 and January 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government between February 1987 and April 1988, followed up by reminders issued between September 1987 and June 1989; their reply has not been received (March 1990).

(b) In Murshidabad and Malda regions, road tax in respect of 17 army vehicles, purchased in auction on various dates falling between March 1983 and November 1985, was realised from the respective dates of their registrations made between July 1984 and August 1986 instead of from the dates of their purchases in auction. There was nothing on record to establish non-use of the vehicles during the intervening periods between purchase and registration. This led to short realisation of tax of Rs. 57,884.

This was pointed out in audit between July and September 1987. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in November 1987 followed up by reminders in March and November 1988; their reply has not been received (March 1990).

#### **4.7 Irregular exemption of tax on tractor-trailers**

Under the West Bengal Motor Vehicles Tax Act, 1979 and the rules framed thereunder, the State Government may exempt either totally or partially any motor vehicle or class of vehicles

from payment of tax. By an order issued in January 1972, the State Government exempted all tractors and tractor-trailers, used solely for agricultural purposes from payment of tax subject to satisfaction of the taxing officer on the point of use. The taxing officer makes necessary verification with the assistance of the Government officers at Block/District level on the point of use. Persons in charge of such vehicles shall make a report in the month of April every year stating whether the circumstances in consideration of which the vehicles were exempted during the preceding year also exist at that time. The taxing officer also makes verification in this respect in the same way. In the following cases neither any report regarding use was submitted by the vehicle owner nor was there anything on record to show that necessary verification on the point of use was carried out by the taxing officer before allowing the exemption. Irregular exemption of tax allowed amounted to Rs. 1,74,164.

Sl. No.	Name of region	Number/description of vehicle for which exemption allowed	Different periods of exemption falling between	Tax involved Rs.
1.	Malda	5 tractors and 5 trailers	September 1980 and March 1988	50,423
2.	Murshidabad	20 tractors and 13 tractor-trailers	June 1983 and March 1988	44,516
3.	Burdwan	10 tractors and 17 trailers	April 1984 and March 1987	34,260
4.	Murshidabad	14 tractors and 6 trailers	April 1983 and March 1987	23,640
5.	Contai	2 tractors and 1 trailer	October 1976 and March 1987	21,325
<b>Total</b>				<b>1,74,164</b>

All these cases were pointed out in audit between June 1987 and September 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government between November 1987 and January 1989, followed up by reminders issued between March 1988 and June 1989; their reply has not been received

except for Sl. No. 5 where it stated (July 1989) that exemption of tax granted earlier to tractors and trailers had since been withdrawn.

#### **4.8 Non-realisation/short realisation of tax on pro-rata basis under National Permit Scheme**

Under the provisions of the Motor Vehicles Act, 1939, a National Permit is granted by the State Transport Authority of any State authorising a public carrier goods vehicle to ply in other States on recovery of taxes prescribed by such other States. The rate of composite tax per annum in respect of vehicles authorised to ply in West Bengal under National Permit Scheme was Rs. 1,000 upto 31st March 1986, Rs. 2,000 during the period from 1st April 1986 to 10th June 1986 and Rs. 1,500 from 11th June 1986 onwards. Where a permit is granted at anytime after the first quarter of the financial year, the tax shall be imposed on pro-rata basis for the remaining quarters of the financial year, including the quarter in which the permit is granted.

(a) In the course of scrutiny of the statements of bank drafts relating to composite tax under National Permit for the year 1986-87, received from the State Transport Authority (STA) of Bihar, Patna (29 cases) and Delhi (47 cases), it was noticed that composite tax was not recovered on pro-rata basis including the quarter in which the permits were issued or second instalment was recovered at the rate of Rs. 500 instead of Rs. 750. The composite tax short realised amounted to Rs. 32,750. This short realisation occurred because the STA did not verify the correctness of the tax realised.

This was pointed out in audit in January 1988. Report on final action taken has not been received (March 1990).

The case was reported to Government in May 1988; their reply has not been received in spite of reminder issued in November 1988.

(b) In respect of 50 transport vehicles registered in Madhya Pradesh (26), Punjab (8) and Orissa (16) and authorised to ply in West Bengal during 1987-88, the concerned transport authorities realised different instalments of tax at rates lower than the applicable ones. This led to short realisation of tax amounting to Rs. 20,750 during 1987-88.

This was pointed out in audit in September 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in February 1989 and followed up by reminder (June 1989); their reply has not been received (March 1990).

#### **4.9 Short realisation of permit fees**

(i) Under the Bengal Motor Vehicles Rules, 1940, fees for the grant or renewal of permits other than temporary and special permit are realised at the following prescribed rate per vehicle per region per annum. The rules also provide that only in respect of public carriers the regions of Calcutta and Howrah are to be treated as one region, for this purpose.

(1) In respect of stage carriages: Rs. 50 per region per vehicle per annum for the regions of Calcutta and Howrah, and Rs. 40 in respect of other regions.

(2) In respect of contract carriages: Rs. 30 per region per vehicle per annum for the regions of Calcutta and Howrah, and Rs. 20 in respect of other regions.

(a) In Calcutta region, 500 contract carriage permits in respect of taxi cabs for five years were issued between January 1988 and March 1988 to the owners of taxi cabs for plying in Calcutta and Howrah regions and permit fees were recovered for one region only. As regions of Calcutta and Howrah were to be treated as one region in respect of public carriers only, this led to short recovery of permit fees amounting to Rs. 75,000.

On this being pointed out in audit (December 1988), the authority of Calcutta region admitted (January 1989) the mistake. Report on action taken has not been received (March 1990).

Government, to whom the case was reported in February 1989 stated (July 1989) that to sort out the difficulty they have incorporated a suitable amendment in the West Bengal Motor Vehicles Rules, 1989 to be published shortly.

(b) In Calcutta region, 1,407 contract carriage permits were issued for five years during 1979-80 to 1987-88 under approval of the State Transport Authority for plying in the Calcutta Metropolitan District Area (Viz., Calcutta, Howrah, Hooghly and Nadia regions) on realisation of permit fees for home region (Calcutta) and countersignature fees for other regions. This led to short realisation of permit fees amounting to Rs. 70,350 pertaining to other regions after taking into account the irregular recoveries of countersignature fees.

On this being pointed out in audit (December 1987 and December 1988), the transport authority of Calcutta region

admitted (January 1989) the mistake. Further report on action taken has not been received (March 1990).

On the matter being reported to Government in June 1988, they issued instructions (September 1988) for realisation of the amount. Further report has not been received in spite of reminder issued in June 1989.

(c) In Calcutta region, permit fees for all categories of vehicles were realised by treating the regions of Calcutta and Howrah as one region instead of restricting the concession to public carriers only. This led to short realisation of permit fee amounting to Rs. 23,450 during 1986-87.

This was pointed out in audit in December 1987. Report on final action taken has not been received (March 1990).

Government, to whom the case was reported in February 1989, stated (July 1989) that to sort out the difficulty they have incorporated a suitable amendment in the West Bengal Motor Vehicles Rules, 1989 to be published shortly.

(ii) Under the Bengal Motor Vehicles Tax Rules, 1940 as amended with effect from 1st April, 1985, the rate of fees for the grant of temporary permit within the State was raised from Rs. 5 to Rs. 25 per vehicle per region per week or part thereof.

In Murshidabad region, in 81 cases, fees for grant of temporary permit for different regions within the State were realised at the pre-revised rates during the period from 1st April 1985 to 30th June 1985. This resulted in short realisation of fees amounting to Rs. 20,730.

On this being pointed out in audit (September 1987), the taxing authority stated (September 1987) that the short realisation was due to late receipt of Government notification. Report on final action taken has not been received (March 1990).

The matter was reported to Government in November 1987; their reply has not been received in spite of reminders issued in March 1988 and November 1988.

#### **4.10 Non-realisation of penalty for delayed payment of composite tax**

As per Government notification dated 23.10.1986 issued under the West Bengal Motor Vehicles Tax Act, 1979, a permit-holder authorised to operate in the State of West Bengal by virtue of a National Permit is liable to pay penalty with effect from 1st April 1981, at the rate of Rs. 100 per vehicle per month for delay in making payment of composite tax.



During April 1987 to November 1987, composite tax in 55 cases was accepted by the State Transport Authorities of Punjab and Madhya Pradesh without realising any penalty, even though there was delay in payment varying from 2 months to 7 months. Penalty not realised in these cases amounted to Rs. 22,600.

This was pointed out in audit in September 1988. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in February 1989, followed up by a reminder in June 1989; their reply has not been received (March 1990).

## CHAPTER 5

### STATE EXCISE

#### 5.1 Results of audit

Test audit of the accounts of State Excise revenue maintained at different district revenue wings, conducted during 1988-89, revealed non-realisation or short realisation of excise duty (including fees) amounting to Rs. 168.13 lakhs in 34 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy/short levy of duty on chargeable wastage .. ..	12	52.44
2. Non-recovery/short recovery of privilege fee/additional fee .. ..	8	5.71
3. Non-realisation/short realisation of lump fee ..	2	0.38
4. Non-levy of tree tax .. ..	2	0.33
5. Other cases .. ..	10	109.27
Total .. ..	34	168.13

Some of the important cases noticed during 1988-89 and earlier years are mentioned in the following paragraphs.

#### 5.2 Non-realisation of duty payable in the event of non-receipt of verification reports in respect of export passes by the exporting authority

(i) Under the Excise rules, an export pass which accompanies the consignment of foreign liquor, issued for export, or a true copy thereof shall be returned to the Excise Officer-in-Charge, who granted the pass with a certificate issued under the signature of the competent Excise authority of the district where the foreign liquor is exported, stating the quantity that has actually reached the destination, within two months from the date of issuing pass or such longer period, not exceeding another two months as

allowed by the Excise Officer on good grounds. In case of non-return of pass within the stipulated period, the owner of the distillery/bonded warehouse who exported foreign liquor shall pay duty at the prescribed rate.

A scrutiny of the relevant records maintained in a brewery in Nadia district revealed that verification reports in respect of export passes of six consignments of beer totalling 39,390 bulk litres issued between November 1987 and March 1988 to other States had not been received at the brewery till February 1989. The duty involved in those cases amounted to Rs. 2.76 lakhs.

On this being pointed out in audit (February 1989), the department stated (February 1989) that demand notice for payment of duty in the case of one consignment (exported to Assam) had been issued and in the remaining five cases, repayment of cash security deposit (Rs. 2.32 lakhs) made by the brewery was withheld. Report on final action taken by the department for realisation has not been received (March 1990).

The matter was reported to Government in March 1989; their reply has not been received (March 1990).

(ii) In respect of 4,365 London-proof litres of IMFL exported from a distillery in Hooghly district to other States against two export passes dated 28.3.1987 and 14.8.1987, the requisite acknowledgement and verification certificates had not been obtained till the date of audit (June 1988). The duty involved in these cases amounted to Rs. 3.30 lakhs.

This was pointed out in audit in June 1988. Report on final action taken has not been received (March 1990).

The matter was reported to Government in July 1988; their reply has not been received in spite of reminders issued in September 1988 and December 1989.

### **5.3 Short realisation of additional fee in respect of spirit distilled from West Bengal mill molasses**

Government notification dated 6.3.1987, issued under Excise Act, 1909, provides for payment of additional fee by the distillery warehouse for the exclusive privilege of manufacturing country spirit from over-proof spirit distilled from West Bengal mill molasses at the rate of Rs. 5.50 per London-proof litre and from over-proof spirit distilled from molasses purchased from open market at the rate of Rs. 2.15 per London-proof litre.

A scrutiny of relevant records of one distillery in South 24-Parganas district revealed (January 1989) that out of 296.150

M.T. of molasses lifted from West Bengal mill molasses in 1987-88, 170,044 M.T. of molasses were distilled, which yielded 64,774.4 London-proof litres of over-proof spirit. In respect of such distilled spirit, additional fee was realised at the rate of Rs. 2.15 per London-proof litre instead of at the prescribed rate of Rs. 5.50 per London-proof litre. This resulted in short realisation of additional fee at the rate of Rs. 3.35 per London-proof litre for 64,774.4 London-proof litres amounting to Rs. 2.17 lakhs.

On the omission being pointed out in audit (January 1989), the department accepted (March 1989) the mistake and raised demand accordingly. The case was reported to Government in April 1989.

#### **5.4 Non-realisation of additional fee on country spirit**

Any distillery or warehouse, established, authorised or continued under the Bengal Excise Act, 1909, supplying country spirit to retail vendors in sealed and capsuled bottles and/or in bulk, shall pay an additional fee for the exclusive privilege of manufacture of country spirit from spirit (purchased earlier at old and lower rate) held in stock at the commencement of the 7th day of March 1987, on which date the wholesale price of country spirit was revised, at a rate of Rs. 3.52 per London-proof litre (L.P.L.) in advance, before utilisation of such spirit for manufacture of country spirit.

A bottling plant in Jalpaiguri district had a stock of 93,071 L.P.L. of country spirit at the commencement of 7th March 1987. An additional fee amounting to Rs. 1,93,385 was realised on the frozen stock (i.e, stock held by the distillery prior to upward revision of the whole-sale price) of 54,938 L.P.L. (out of stock of 93,071 L.P.L.) by the Excise Authorities. A further sum of Rs. 1,34,228 was also realisable from the licensee as additional fee on the balance frozen stock of 38,133 L.P.L. at the rate of Rs. 3.52 per L.P.L., but it was not realised.

This was pointed out in audit in March 1988. Report on final action taken has not been received (March 1990).

The matter was reported to Government in April 1988; their reply has not been received in spite of reminders issued in June 1988 and August 1988.

#### **5.5 Short realisation of lump sum fee for retail vend of *pachwai***

Government of West Bengal, Excise Department notification dated 25.1.1978, provides that the holder of existing licence,

settled otherwise than by auction, for retail vend of *pachwai*\*, is liable to pay a lump sum fee in advance, at the time of renewal of the licence, at the rate of Rs. 100 for consumption of dry rice upto 50 quintals during the previous 12 months and at the rate of Rs. 100 plus Rs. 3 per quintal of dry rice consumed in excess of 50 quintals. In respect of licence granted for the first time lump sum fee payable is Rs. 100.

A scrutiny of relevant records maintained in one Excise office in the Burdwan district revealed (October 1988) that before renewal of licence for 1983-84, 71 licensees, out of the total 194 licensees, filed a writ petition before the Hon'ble High Court, Calcutta, against the imposition of lump sum fee and got an ad-interim order of injunction subject to payment of 50 per cent of lump fee and the balance 50 per cent in the event of the rule being discharged. But the local office assessed and realised lump sum fee at the rate of 50 per cent of the prescribed rate in respect of all the 194 licensees for the licensing years from 1983-84 to 1988-89 instead of assessment and realisation of lump sum fee at full rates in respect of 123 licensees who were not covered by the writ petition. This resulted in short realisation of lump sum fee from the licensees not covered by the judicial order, to the extent of Rs. 36,900 calculated on the basis of the minimum lump sum fee payable (Rs. 100) by each licensee per annum.

On this being pointed out in audit (October 1988), the local office stated (June 1989) that the total demand of arrear lump sum fees from the years 1983-84 to 1988-89 was worked out to Rs. 37,934, out of which a sum of Rs. 15,044 had since been realised.

The matter was reported to Government in December 1988.

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\*'Pachwai' means fermented rice, millet or other grain, whether mixed with any liquid or not, and any liquid obtained therefrom, whether distilled or undistilled, but does not include beer.

## CHAPTER 6

### ENTRY TAX

#### 6.1 Results of audit

Test audit of the accounts of entry tax maintained at different entry tax checkpoints, conducted during 1988-89, revealed short levy, non-levy, under-assessment and irregular exemption of tax amounting to Rs. 113.56 lakhs in 54 cases, which broadly fall under the following categories:

			Number of cases	Amount (In lakhs of rupees)
1. Short levy/non-levy of entry tax	..	..	24	44.44
2. Irregular exemption	..	..	17	57.68
3. Under-assessment of entry tax	..	..	10	10.89
4. Other cases	..	..	3	0.55
Total	..	..	54	113.56

Some of the important cases noticed during 1988-89 and earlier years are mentioned in the following paragraphs.

#### 6.2 Irregular exemption

(i) Under the provisions of the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, as amended (the Act), and the Rules made thereunder, tax on entry of specified goods into Calcutta metropolitan area for consumption, use or sale therein, from any place outside that area is leviable at the prescribed rates. Tax on aviation turbine fuel (a petroleum product) is leviable at the rate of 1 per cent *ad valorem*. There is no provision in the Act or Rules made thereunder or in Government orders issued from time to time for exemption from payment of entry tax in respect of aviation turbine fuel sold to foreign aircrafts within the Calcutta metropolitan area.

In the course of audit, it was noticed (April 1988) from entry tax assessments relating to the period from April 1987 to March 1988 that 4,81,10,456 kilolitres of aviation turbine fuel

(a petroleum product) valued at Rs. 1,670.76 lakhs sold to foreign aircrafts by two oil companies at Dum Dum Airport (within Calcutta metropolitan area) between April 1987 and March 1988 was allowed exemption from entry tax by the assessing authority at Dum Dum Airport Entry Tax Check-post, while in respect of sale of the same petroleum product (aviation turbine fuel) by another oil company at Dum Dum Airport to foreign aircrafts during the same period entry tax was assessed at the rate of 1 per cent *ad valorem*. The irregular exemption allowed in respect of sale of aviation turbine fuel by the two oil companies at Dum Dum Airport Entry Tax Check-post resulted in non-levy and non-realisation of entry tax to the extent of Rs.16.71 lakhs.

This was pointed out in audit (April 1988); report on final action taken has not been received (March 1990).

The matter was reported to Government in August 1988 and followed up by reminders in December 1988 and June 1989; their reply has not been received (March 1990).

(ii) In terms of the Government order issued in April 1978, for the purpose of assessment of entry tax, sale of petroleum and petroleum products outside the Calcutta metropolitan area is deductible from the total quantity received by an oil company during a month. If, however, such sale is completed and the goods are delivered within the Calcutta metropolitan area to a purchaser, or his agent, or, to a transporter authorised by the purchaser for despatch outside the area, no deduction is allowable.

In the course of audit, it was noticed (July 1988) that sales of petroleum products during April 1987 by a dealer, a public sector undertaking, at Budge Budge to the Defence department of the Government of India, for onward transmission by ship to different places outside the Calcutta metropolitan area, were treated as sales outside the area and allowed exemption from payment of tax, though sale transactions were completed and the goods were delivered within Calcutta metropolitan area. This resulted in non-levy of tax to the extent of Rs. 1.70 lakhs.

On this being pointed out in audit in July 1988, the department admitted the mistake. Report on final action taken by the department for assessment and realisation of tax has not been received (March 1990).

The matter was reported to Government in October 1988; their reply has not been received in spite of reminders issued in December 1988 and December 1989.

(iii) The Director of Entry Tax, West Bengal, in his memo

dated 31st May 1980, clarified that entry tax on "whole-milk powder" shall be levied at the rate of 7 per cent *ad valorem* under serial no. 9 of the revised schedule dated 20.4.1979.

Two consignments of whole-milk powder weighing 12,440 kg. and 13,320 kg. were brought into the Calcutta metropolitan area by a dealer on 17th November 1984 through a road check-post in Hooghly district. The dealer was, however, exempted from levy of tax, but no reason for exempting the commodity from payment of tax was on records. The approximate market price of the commodity during the period as intimated by the local office was Rs. 20 per kg. Based on this rate, the irregular grant of exemption resulted in tax amounting to Rs. 36,064 not being realised.

This was pointed out in audit in January 1987. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in June 1987; their reply has not been received in spite of reminders issued in September 1987 and June 1989.

### **6.3 Short levy of tax due to mis-classification of specified goods**

As per the schedule of rates, as amended by the Taxes on Entry of Goods into Calcutta Metropolitan Area (Amendment) Act, 1979, wireless goods are taxable at the rate of 4 per cent *ad valorem*.

'Main Radio Station' comprising challenger transmitter with aerial switch and 'Marine Radar' complete with standard accessories fall under the category of wireless goods used in ships as Radio Navigational-aid apparatus.

At a check-post at Calcutta, it was noticed (April 1988) that the Main Radio Station comprising challenger transmitter with aerial switch and Marine Radar complete with standard accessories imported by two companies were erroneously treated as machinery and charged to tax at the rate of 2 per cent *ad valorem* instead of 4 per cent *ad valorem*. This resulted in short levy of tax to the extent of Rs. 34,280 computed on the value of Rs. 17.14 lakhs.

On this being pointed out in audit (April 1988), the local office admitted the mistake in mis-classification and issued demand notice for realisation of tax under-assessed.

The matter was reported to Government in August 1988.



#### **6.4 Under-assessment of tax due to application of incorrect rate of tax**

As per the Schedule to the Act, certain specified articles made of iron, steel or their alloys are liable to entry tax at the rate of Rs. 10 per metric tonne. But any other articles manufactured from iron, steel or their alloys not specified elsewhere in the Schedule, entry tax is leviable at the rate of 2 per cent *ad valorem*. Penalty not exceeding ten times the assessed tax may be imposed on a dealer who brings in specified goods into Calcutta metropolitan area without payment of tax.

In the course of audit of a Railway Check-post in Howrah district, it was noticed (March 1988) that 1,152-633 metric tonnes of crossing sleeper (a product of iron and steel) valued at Rs. 54,21,795, imported (June 1983) by a dealer for consumption within Calcutta metropolitan area, were assessed to tax at the rate of Rs. 10 per metric tonne instead of at the rate of 2 per cent *ad valorem*, though crossing sleeper is not a specified item in the Schedule. This led to under-assessment of tax to the extent of Rs. 96,909.

Further, the dealer brought the consignments into Calcutta metropolitan area and took delivery of the same in the month of June 1983 without payment of tax and the declaration form was submitted and payment of assessed tax was made in March 1985 after a lapse of about 20 months. But no penalty, as per provisions of the Act, was imposed and realised by the assessing officer.

On this being pointed out in audit (March 1988), the assessing authority stated (March 1988) that the matter would be referred to the Director of Entry Tax, West Bengal. Further development has not been intimated (March 1990).

The matter was reported to Government in August 1988; their reply has not been received in spite of reminders issued in December 1988 and December 1989.

#### **6.5 Non-levy of entry tax and penalty**

(i) Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, tax is leviable on entry of specified goods into the Calcutta metropolitan area. Every dealer of specified goods, on or before entry of such goods into the Calcutta metropolitan area, is required to furnish a declaration relating to such goods in a prescribed form (Form IV) to the assessing officer, who after proper scrutiny of the documents and verification of goods, assesses the goods to tax. When any specified goods

are brought into the Calcutta metropolitan area without payment of the tax leviable thereon, the prescribed authority may impose on the dealer a penalty not exceeding ten times the tax assessed by it. Entry tax was leviable on citric acid covered under 'all other chemicals not specified elsewhere' at 2 per cent *ad valorem* and on radios and record-players at 4 per cent *ad valorem*.

(a) It was noticed in audit (December 1985) that four consignments of citric acid valued at Rs. 1,67,232 and one consignment of radios and record-players valued at Rs. 1,74,774 were imported by two dealers through a road check-post in August 1984. The consignments were specified in the invoices furnished by the dealers/agents, but the goods in the consignments were neither declared by the dealers/agents in Form IV nor were any assessments made by the department after proper physical verification. This resulted in escapement of entry tax to the tune of Rs. 10,336. Besides, penalty upto Rs. 1.03 lakhs could be levied by the department for bringing goods into Calcutta metropolitan area without payment of tax.

This was pointed out in audit in December 1985. Report on action taken has not been received (March 1990).

The matter was reported to Government in June 1986 followed by reminders in September 1987, December 1988 and December 1989; their reply has not been received (March 1990).

(b) A scrutiny of the Wagon Register and other relevant records of Naihati Railway Station Entry Tax Check-post, in 24-Parganas (North) district, revealed that a dealer brought into Calcutta metropolitan area 99,832.00 M.T. of coal during the period from 1.4.1984 to 31.3.1986 without disclosing the particulars of delivery at the checkpoint. Consequently, entry tax leviable on coal at the rate of Re. 1 per M.T. escaped assessment. Tax not levied amounted to Rs. 99,832. Besides, the dealer was also liable to pay penalty upto Rs. 9.98 lakhs for removing the specified goods without payment of tax.

On this being pointed out in audit (March 1987), the department stated (March 1987) that action would be taken in consultation with Zonal Officer, 24-Parganas (North) Zone. Report on action taken has not been received (March 1990).

The matter was reported to Government in May 1987; their reply has not been received in spite of reminder issued in September 1987.

(ii) As per circular of August 1972, the department decided not to levy tax on such specified goods as were brought into the

Calcutta metropolitan area for purpose of repair, subject to certain condition that the goods would be taken out of the Calcutta metropolitan area, through the same check-post, within the time allowed for their return. In no case, the period allowable for return of the goods after repair was to exceed six months.

Thirty-five consignments of specified goods were brought into the Calcutta metropolitan area for repair, through a railway check-post in Howrah district, on various dates falling between May 1983 and October 1985. There was nothing on record to indicate that the goods were taken out of the Calcutta metropolitan area after repairs within the prescribed period of six months or even thereafter. Entry tax amounting to Rs. 20,594 was, accordingly, leviable on those consignments, but no action was taken by the department.

On this being pointed out in audit (April 1987), the department stated (April 1987) that follow-up action would be started and result would be intimated to audit in due course. Report on action taken has not been received (March 1990).

The matter was reported to Government in June 1987; their reply has not been received in spite of reminders issued in September 1987 and December 1989.

### **6.6 Non-realisation of tax on confiscated goods**

Under the provisions of the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972, a dealer who causes entry of any specified goods into the area is primarily liable to pay the tax. When, however, the consignee of any specified goods does not take delivery of such goods upon such entry and the goods are sold under the provisions of any law, the buyer who takes delivery of such goods upon the goods being so sold shall be deemed to be the dealer thereof.

Certain specified goods like electrical goods, machinery parts etc, which entered Calcutta metropolitan area, were confiscated and sold through retail outlets operating at the Customs House, Calcutta during the year 1986-87, but entry tax leviable on the buyers, was not charged, resulting in non-realisation of tax amounting to Rs. 1.48 lakhs.

The matter was brought to the notice of the department and Government in May 1987. The department stated (June 1988) that the check-post authority had been advised to collect particulars of sales. Government endorsed (September 1988) the reply of the department. Further report has not been received

despite reminders issued in September 1987, October 1987, December 1988 and December 1989.

#### **6.7 Ineffective control over goods entered into the Calcutta metropolitan area with transport passes**

Under the Taxes on Entry of Goods into Calcutta Metropolitan Area Act, 1972 and the rules made thereunder, where no tax is leviable under this Act on the entry of any specified goods into the Calcutta metropolitan area on the ground that such goods are not intended to be consumed, used or sold in such area, the prescribed authority shall grant a transport pass certifying non-leviability of tax. If the whole or any part of the goods so entered is consumed, used or sold, in the Calcutta metropolitan area, tax shall be levied and collected on so much of goods as is consumed, used or sold. The prescribed authority shall make two carbon copies of the transport pass, one copy of which shall be sent to the officer on duty checking the outgoing consignments at the check-post and the other copy shall be retained for record. The officer on duty checking the outgoing consignments shall initial it after verification and return the same to such authority. No time is prescribed for return of transport passes.

In the course of test check, it was noticed that 930 consignments of specified goods were brought into Calcutta metropolitan area through six check-posts in Calcutta during the period from 1980-81 to 1986-87 on the strength of transport passes. But only 72 transport passes, issued during the years 1980-81 to 1984-85, were received back till March 1987 showing that the consignments of specified goods in these cases were conveyed out of the area, while in respect of the remaining 858 consignments, there was nothing on record to establish that the goods were conveyed out of the Calcutta metropolitan area. Entry tax involved in such cases amounted to Rs. 42.98 lakhs but no action was taken by the department. This indicated failure of the system to return and correlate the transport passes.

The cases were reported to the department during July 1986 to May 1988. The department stated (July 1986 to May 1988) that necessary action was being taken either to get back the transport passes or to realise the tax due from the defaulting dealers. Further development has not been intimated (March 1990).

The matter was reported to Government (June 1986 to May 1988); their reply has not been received in spite of reminders issued in December 1988 and December 1989.

## CHAPTER 7

### OTHER TAX RECEIPTS

#### 7.1 Results of audit

Test check of the records of offices dealing with assessments, collection and realisation of other tax receipts, conducted in audit during the year 1988-89, revealed under-assessment or losses of revenue amounting to Rs. 387.34 lakhs in 72 cases as indicated below:

			Number of cases	Amount (In lakhs of rupees)
A. Agricultural Income Tax	..	..	9	2.14
B. Amusements Tax	..	..	20	250.84
C. Electricity Duty	..	..	5	115.25
D. Multi-storeyed Building Tax	..	..	4	1.33
E. Professions Tax	..	..	18	3.13
F. Stamp Duty and Registration Fees	..	..	16	14.65
Total	..	..	72	387.34

Some of the important cases noticed during 1988-89 and earlier years are mentioned in the following paragraphs.

#### A—AGRICULTURAL INCOME TAX

##### 7.2 Short levy of tax due to application of lower rate

Under the Bengal Agricultural Income Tax Act, 1944, as amended in 1980, an assessee who is a domestic company and whose taxable agricultural income does not exceed one lakh rupees, is liable to pay tax at 62 paise per rupee. Where such income exceeds rupees one lakh, tax is assessable at 69 paise per rupee.

It was noticed (November 1988) from the records of Agricultural Income Tax Officer, Jalpaiguri range, that the

taxable agricultural income of a tea company for the assessment year 1980-81 worked out to Rs.4 lakhs. The department, however, assessed the company to tax only at 62 paise per rupee, instead of at 69 paise per rupee, though his taxable income exceeded one lakh rupees. The erroneous application of the rate of tax, resulted in short levy of tax amounting to Rs. 28,000.

On this being pointed out in audit (November 1988), the assessing officer admitted the mistake (November 1988). Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in January 1989; their reply has not been received in spite of reminder issued in August 1989.

### **7.3 Non-levy of interest on arrear dues certified for recovery**

Under the Agricultural Income Tax Act, 1944, when an assessee is in default in payment of tax within the time specified in the demand notice, the assessing officer may forward to the Collector certificate demand specifying the amount of arrear dues including interest at the rate of 2 per cent for each English calendar month. The Act also prescribes that no proceedings for recovery of the tax payable shall be commenced after the expiration of three years after the last date on which tax is payable.

(a) In Bankura district, it was noticed (July 1988) that an assessee company was assessed to tax amounting to Rs. 23,956 for the assessment year 1979-80 and Rs. 22,874 for the year 1980-81 and the due dates of payments had been fixed as 29.6.1984 and 30.7.1985 respectively. But the assessee company having failed to pay the dues within due dates, the assessing officer initiated certificate proceedings and sent the same to the Collector on 29.3.1988. In computing the arrears, the interest payable by the assessee was not included in the certificate demand. This resulted in non-levy of interest amounting to Rs. 35,263 computed at 2 per cent on Rs. 23,956 for 44 months from July 1984 to February 1988 and on Rs. 22,874 for 31 months from August 1985 to February 1988. Initiation of certificate proceedings in respect of assessment year 1979-80 after a lapse of 3 years (i.e. after 30.6.1987) was irregular and consequently, arrears of Rs. 23,596 as well as interest (Rs. 21,081) were lost to the Government.

On this being pointed out in audit (July 1988), the assessing officer stated (July 1988) that since the assesseees were farmers

and ignorant of the existing laws, the provisions dealing with the application of interest had not been rigidly applied. The reply is not tenable.

(b) In Calcutta II range, it was noticed (September 1988) that in 28 cases, agricultural income tax had been assessed at Rs. 2,45,169 32 for the period ranging from 1976-77 to 1982-83 and due dates for payment fixed between 8.11.1983 and 2.5.1986. But the assessee failed to pay the dues within the fixed dates. The assessing officer initiated certificate cases between April 1984 and March 1988 and sent the same to the respective Collectors. But in none of the cases, interest was levied and incorporated in the certificate demands as per rules. This resulted in non-levy of interest amounting to Rs. 57,940.

This was pointed out in audit in September 1988. Report on final action taken has not been received (March 1990).

The above cases were reported to Government in July 1988 and November 1988; their reply has not been received in spite of reminders issued in November 1988 and August 1989.

## B—AMUSEMENTS TAX

### **7.4 Short levy of entertainment-cum-amusement tax on the video hall-owners for commercial exhibition of films through V.C.R./V.C.P.**

In a press note issued for general information by Government of West Bengal, Finance (Taxation) Department vide G.O. No. 1953-F.T., dated 31.5.1986, the rates of luxury-cum-entertainment and amusement tax leviable under the West Bengal Entertainment-cum-Amusement Tax Act, 1982 for various types of exhibition of films through V.C.R./V.C.P. were indicated. Rate for commercial exhibition of films was Rs. 500 per week in addition to tax of Rs. 250 per year payable by a holder of a V.C.R./V.C.P. set.

In the course of audit, it was noticed that there were 122 video hall-owners who conducted commercial exhibition of films through V.C.R./V.C.P. in Purulia district during 1986-87. The hall-owners were liable to pay tax at the rate of Rs. 26,250 (Rs. 250 + Rs 500 × 52) per year, which amounted to Rs. 32,02,500 during the year 1986-87. The collecting authority, however, realised Rs. 2,88,058 only towards luxury-cum-entertainment and amusement tax from the video hall-owners during

the year 1986-87, at various rates between Rs. 400 and Rs. 24,935 per year. This resulted in short levy of tax to the extent of Rs. 29.14 lakhs from the video hall-owners during 1986-87.

On this being pointed out in audit (November 1987), the district authority stated (December 1987) that the Commercial Tax Officer, Purulia, vested with the responsibility of administering the Act till 1986-87, did not levy and realise tax at the prescribed rate although he was directed to do so.

The case was reported to Government in January 1988 followed up by reminders in April and July 1988 and December 1989; their reply has not been received.

### **7.5 Non-recovery of show tax**

Under the Bengal Amusements Tax Act, 1922 and the rules made thereunder, show tax at the rate of 1.5 paise per person admitted to a cinematographic exhibition is recoverable from the proprietor of each cinema house located within a notified municipal area. The proprietor is required to submit prescribed weekly return showing the number of persons admitted into the cinema house. Failure to submit the prescribed return is punishable with imprisonment or with fine or with both.

A scrutiny in audit of the Show Tax Register and Entertainment Tax Register showed that 22,16,104 persons were admitted to the cinematographic shows held by 4 proprietors of 4 cinema houses in Howrah town during the period from April 1987 to March 1988 but they did not pay any show tax. The department also did not take any action to recover show tax, which amounted to Rs. 33,241.

Government, to whom the case was reported in June 1988, stated that the show tax from the defaulting cinema houses had since been realised.

## **C—ELECTRICITY DUTY**

### **7.6 Non-realisation of electricity duty**

Under the provision of Bengal Electricity Duty Act, 1935, a licensee shall collect and pay to the State Government at the prescribed time and in the prescribed manner, the electricity duty payable on the units of energy supplied by him to the consumer. The licensee shall not, however, be liable to pay the duty in respect of any energy supplied by him for which he has been



unable to recover the dues from the consumer. Such arrear electricity duty was, however, recoverable as a public demand at the discretion of the State Government either from the consumer or from the licensee.

One licensee of Burdwan district supplied electrical energy to 3 companies during various periods falling between January 1984 and March 1987. Electricity duty payable to Government on this energy (9,54,020 units) worked out to Rs. 31,935, but the licensee failed to recover the dues from the consumers and such duty was not paid by him to the Government. No steps were taken by the department to recover the duty as a public demand either from the consumers or licensee.

On this being pointed out in audit in December 1987, the department stated (March 1989) that certificate proceedings for Rs. 19,026 was initiated against one company which was under liquidation but notice could not be served in the absence of the owner. No action against the other two companies was initiated.

The matter was reported to Government in February 1988, and was followed up by reminder in June 1989; their reply has not been received (March 1990).

## D—MULTI-STOREYED BUILDING TAX

### **7.7 Under-assessment of tax due to non-assessment on enhanced valuation**

Under the West Bengal Multi-storeyed Building Tax Act, 1979, an annual tax is payable by an owner of a multi-storeyed building in any urban area in West Bengal, on the covered space of the building or part thereof. The rate of tax per square metre is determined on the proportionate annual value per square metre assessed by a municipal corporation or a municipality for the purpose of levying municipal tax. For any covered space used for commercial or industrial purpose, the rate of tax is enhanced by 50 per cent of the normal rate.

The annual value of one multi-storeyed building in Calcutta with covered space of 14,654 square metre (including 11,084 square metres used for commercial purposes) was determined by the municipal corporation at Rs. 13.29 lakhs and later enhanced to Rs. 21.94 lakhs with effect from the 4th quarter of 1978-79. In the appeal (filed before the Chief Judge, Small Causes Court, Calcutta) against the enhancement, the Hon'ble Court,

however, assessed the annual value at Rs. 17.70 lakhs effective from the 4th quarter of 1978-79. The assessee was, therefore, liable to pay tax on the valuation made by the Hon'ble Court with effect from the 4th quarter of 1978-79. But it was noticed (February 1988) that the department levied tax during the entire period of 1978-79 and 1979-80 adopting old annual value viz. Rs. 13.29 lakhs. This led to short levy of tax to the extent of Rs. 25,245.

On this being pointed out in audit (February 1988), the department admitted the mistake (February 1988). Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in May 1988.

## E—PROFESSIONS TAX

### **7.8 Under-assessment of tax due to non-application of enhanced rate**

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, every employer and shop-keeper is liable to pay profession tax at the prescribed rate. This rate varies according to the number of persons employed. From 1st April 1984, the rate of tax for employers having less than 5 employees was Rs. 150 per annum and for employers having more than 5 employees, the rate was Rs. 250 per annum. From 1st April 1985, the rate was reduced to Rs. 100 per annum and Rs. 200 per annum respectively. Prior to 1.4.1984, the rate was Rs. 50 per annum and Rs. 150 per annum respectively.

(a) In the course of audit (August 1987) of the profession tax office, Midnapore district, it was seen that tax was not demanded and realised, at rates effective from 1.4.1984 and 1.4.1985, from 271 employers of the categories mentioned above. This led to tax being under-assessed by Rs. 54,200 for three years ended between 1984-85 and 1986-87.

This was pointed out in audit in August 1987. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in November 1987; their reply has not been received despite reminders issued in November 1988 and December 1989.

(b) During audit of the profession tax office of Purulia district, it was noticed (November 1986) that tax was assessed at the rate of Rs. 50 instead of at the rate of Rs. 150 effective from 1st April 1984 and at the rate of Rs. 100 effective from 1st April 1985 in respect of 357 enrolled employers or shop-keepers during the period from 1st April 1984 to 31st March 1986. This led to tax being short realised by Rs. 53,550.

On this being pointed out in audit in November 1986, the department realised between September 1984 and July 1987 a sum of Rs. 12,400 from 48 persons. Report on the realisation of balance amount of Rs. 41,150 has not been received (March 1990).

The case was reported to Government in March 1987; their reply has not been received in spite of reminders issued in November 1987 and March 1988.

### **7.9 Non-realisation of profession tax due to non-enrolment of cinema house-owners**

Under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979, every person engaged in any profession, trade, calling or employment prior to 1979, shall be liable to be enrolled and to pay tax with effect from 1st April 1979 at the prescribed rate.

(a) In Murshidabad district, it was noticed from the records maintained in the office of the Collector, Murshidabad that proprietors of 37 cinema houses, out of 42, were running their business for various periods between 1979-80 and 1987-88 without enrolment under the Act and payment of the tax. This resulted in non-realisation of tax to the tune of Rs. 35,750 calculated at the rate of Rs. 250 per annum payable by them.

This was pointed out in audit in March 1989. Report on final action taken by the department has not been received (March 1990).

The case was reported to Government in May 1989; their reply has not been received (March 1990).

(b) In Bankura district, proprietors of 5 cinema houses running their business from periods prior to 1979 became liable to pay profession tax from 1st April 1979 and the other 5 were so liable from 1st April 1980, but no action was taken by the department to enrol them under the Act and realise tax from them at the prescribed rate. This resulted in non-realisation of tax amounting to Rs. 21,250 upto the year 1987-88.

This was pointed out in audit in July 1988. Report on

final action taken by the department has not been received (March 1990)

The case was reported to Government in August 1988; their reply has not been received despite reminder issued in June 1989.

## F—STAMP DUTY AND REGISTRATION FEES

### 7.10 **Irregular exemption of stamp duty and registration fee**

By an order issued on 31st July 1987, Government remitted stamp duty and registration fee with effect from 1st August 1987 in respect of any instrument executed by, or on behalf of, or in favour of a Co-operative Society by an officer or on behalf of a member thereof and relating to the business of such Co-operative Societies provided that the stamp duty and registration fee payable by a member of the Co-operative Housing Society in whose favour an apartment in a multi-storeyed building is allotted or to whom such apartment is transferred shall not be remitted if the value of such apartment exceeds Rs. 1.25 lakhs.

It was noticed (October 1988) that a Housing Co-operative Society of Calcutta transferred 15 apartments to its members at a value of Rs. 1,99,000 each on 1st August 1987 and the deeds of conveyance were executed and registered on the same day (1st August 1987), and exemption from payment of stamp duty and registration fee was allowed by the Registrar of Assurance, Calcutta on those deeds. Exemption allowed was irregular and resulted in non-levy of stamp duty and registration fee to the extent of Rs. 5.33 lakhs.

On this being pointed out in audit (October 1988), the department stated (November 1988) that the cause of non-levy was late receipt of Government order. Final report on action taken by the department has not been received (March 1990).

Government, to whom the matter was reported in January 1989, confirmed the facts in October 1989.

### 7.11 **Short levy of stamp duty and registration fee due to mistake in determination of value of consideration**

Under the provisions of the Indian Stamp Act, 1899, duty on "conveyance" is charged, as per Article 23 of the Act, on the amount or value of the consideration for such conveyance,

as set forth therein, even though part of it may be payable on a contingency which may or may not happen.

It was noticed (November 1988) from the recitals of five documents of deed of conveyance registered (October 1987) in Calcutta that as per agreement the purchasers made (June 1985) advance payment of Rs. 7,38,000 by way of earnest money and in part payment at 50 per cent of the full consideration money of Rs. 14,76,000. Thereafter, on realisation (October 1987) of balance 50 per cent of the full consideration money, the vendor conveyed the property to the respective purchasers. The purchasers paid stamp duty and registration fee on consideration money of Rs. 7,38,000 only and not on the full consideration money of Rs. 14,76,000 as set forth in the deed, and the Registering Authority admitted the documents. This resulted in short realisation of stamp duty and registration fee to the extent of Rs. 1.56 lakhs.

On this being pointed out in audit (November 1988), the department admitted (November 1988) the mistake and impounded the documents for Rs. 1.56 lakhs and forwarded the same to the Collector. Final report on the action taken by the department has not been received (March 1990).

Government, to whom the matter was reported in January 1989, confirmed the facts in October 1989.

## CHAPTER 8

### MINES AND MINERALS

#### 8.1 Results of audit

Test check of accounts of revenue realised in respect of mines and minerals by different Land Reforms Circle Offices and the Offices of Cess Deputy Collectors and Chief Mining Officer, conducted during 1988-89, revealed under-assessment, non-realisation and short realisation of revenue amounting to Rs. 878.15 lakhs in 27 cases, which broadly fall under the following categories:

	Number of cases	Amount (In lakhs of rupees)
1. Non-levy and non-realisation of cesses on minor minerals .. ..	8	142.01
2. Non-assessment/short assessment of royalty ..	8	82.19
3. Non-assessment and non-realisation of surface rent .. ..	2	0.46
4. Other cases .. ..	9	653.49
Total .. ..	27	878.15

Some of the important cases noticed during 1988-89 and earlier years are mentioned in the following paragraphs.

#### 8.2 Non-assessment or short assessment of royalty

(i) Under the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, read with the provisions of the Mineral Concession Rules, 1960 and the West Bengal Minor Minerals Rules, 1973, no person can undertake any mining operation anywhere in the State except under a lease to be granted by the competent authority on payment of royalty at the prescribed rates and execution of lease deed. The Act also empowers the State Government to realise the price of minerals removed unauthorisedly.

(a) It was noticed (November 1987) from the records of the Chief Mining Officer, Asansol that the Eastern Coalfields Limited, a lessee, prayed (June 1975) for long-term lease for 20 years for extraction of sand from the river-bed of Burdwan district. Government of West Bengal, in their Commerce and Industries Department, granted (July 1978) lease for 20 years and directed the district administration to issue temporary working permits to the lessee pending execution of the lease agreement. But the district administration did not issue such working permits nor was the lease agreement executed till the date of audit (November 1987). The lessee continued to extract sand for stowing purpose since 1st May 1973 without permission and execution of the lease agreement. The assessment of royalty on sand extracted was made by the Chief Mining Officer on the basis of returns submitted by the lessee from time to time. Subsequently, in September 1987 and November 1987, the assessments for the periods between 1.5.1973 and 31.3.1987 were revised to Rs. 1,60,04,314 on the basis of consumption figures obtained from Headquarters of the collieries. Against the assessment of Rs. 1,60,04,314, a sum of Rs. 42,43,080 was stated to have been paid by the lessee. In the absence of execution of lease agreement, the department did not raise revised demands. Thus non-execution of the lease agreement resulted in non-realisation of revenue amounting to Rs. 1.18 crores.

The matter was reported to the department in November 1987 and to Government in March 1988; their replies have not been received in spite of reminders issued in November 1988 and October 1989.

(b) In Barrackpore sub-division, it was noticed (January 1988) that 'P', an individual, had been extracting sand from the river Ganga since 1982. On the basis of his petition, Commerce and Industries Department, Government of West Bengal, asked the Additional District Magistrate (October 1980, November 1983 and April 1984) for reports on the availability of sand in the area covering 160.12 acres. The Sub-divisional Land Reforms Officer reported (March 1985) that extraction of sand was about 10 lakh cft. per year, regarding which information was sent to the Government by the district office in March 1985. Nevertheless no mining lease was granted to 'P' who continued extraction of sand without obtaining mining lease and payment of royalty as per rules. Even though the district office directed the Sub-divisional Officer to take penal measures under the rules,

no follow-up action was taken till January 1988. Reckoned at 10 lakh cft. per year, as reported by the Sub-divisional Officer, the quantity of sand unauthorisedly extracted by 'P' during the six years from 1982 to 1987 comes to 60 lakh cft. The assessable royalty alone on this quantity worked out to Rs. 6 lakhs computed at Rs. 10 per 100 cft.

On this being pointed out in audit (January 1988), the district administration admitted the facts. Report on final action taken has not been received (March 1990).

The matter was reported to Government in March 1988; their reply has not been received in spite of reminder issued in March 1989.

(ii) Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, the holder of a mining lease granted before the commencement of the Act shall, notwithstanding anything contained in the instrument of lease or in any law in force at such commencement, pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area after such commencement, at the rates prescribed by Government from time to time.

(a) On scrutiny of the assessment records of a colliery under the Chief Mining Officer, Asansol, it was noticed (November 1987) that as per terms of lease deed executed in September 1949 the lessee colliery was required to supply 24 wagons of coal or market value thereof at the option of the lessor in addition to royalty or minimum royalty, payable as the case might be. As per returns submitted by the lessee and accepted by the assessing officer, a sum of Rs. 16,783 representing the price of 24 wagons of coal, each wagon containing 20,320 tonnes of coal, was assessed to be payable for each year in addition to the royalty. The price of coal was taken at Rs. 34.41 per tonne being the controlled price fixed by the Government of India in the year 1960. But the price of coal has increased manifold since 1960-61, which had not been taken into account by the assessing officer who continued assessment upto 1986-87 at the old rate of Rs. 34.41 per tonne. This resulted in short levy of royalty amounting to Rs. 5.26 lakhs for the period from 1975-76 to 1986-87 alone computed on the basis of the selling price of coal from time to time (obtained from M/s Coal India Limited). The short levy on this score in respect of the period from 1960-61 to 1974-75 could not be ascertained



in audit owing to non-availability of data regarding prices of coal for those years.

On this being pointed out in audit (November 1987), the department stated (January 1989) that the assessment had been revised in September 1988 and sent to the realisation authority.

The matter was reported to Government in March 1988; their reply has not been received in spite of reminders issued in November 1988 and October 1989.

(b) In Prurlia district, it was noticed (January 1987) that the Eastern Coalfields Limited, a lessee opened a new colliery within its lease-hold area in May 1981. The raising of coal from the new colliery was being shown as transfer to other two collieries upto April 1985 and the new colliery started despatching coal independently from May 1985. The lessee (E.C.L.) had paid royalty in respect of two other collieries for the years 1984-85 and 1985-86. It was noticed that the new colliery had despatched 30,732 tonnes of coal and consumed 816 tonnes of coal in excess of allowable limit during the period May 1985 to July 1985 and October 1985 to March 1986. The records for August and September 1985 could not be made available to audit. The royalty payable on the said quantity worked out to Rs. 2.20 lakhs computed at the rate of Rs. 7 per tonne for 30,732 tonnes and at Rs. 6.50 per tonne for 816 tonnes, but the assessing officer made no assessment for the said quantity of coal despatched/consumed in excess by the new colliery.

On this being pointed out in audit (January 1987), the department stated (December 1988) that the assessment had since been done and sent to the realisation authority of the district for collection.

The matter was reported to Government in June 1987.

(iii) Under the Mineral Concession Rules, 1960, the holder of a mining lease is liable to be assessed to royalty as per quarterly or monthly returns submitted by him.

In Birbhum district, a lessee held four mining leases in the same *mouza* for extraction of china and fire clay. The lessee also had set up a washery plant in the premises of the mines which was functioning under a different name. The minerals removed by the lessee upto June 1986 in each mine were shown to have been despatched to the latter company for final despatch in the washed or crude form. The assessing officer assessed royalty treating the quantity of minerals despatched by the lessee to the company as internal transfers. The lessee informed the assessing

officer in April 1987 that the unit extracting minerals was different from the unit doing washery processing and as such royalty was assessable on despatches of minerals from mines to the washery plant. The lessee submitted returns from July 1986 onwards accordingly in respect of Lease No. I and II. The closing stock at the end of June 1986 at the instant leases-areas was 1,420 448 tonnes in respect of Lease No. I and 1,286·163 tonnes in respect of Lease No. II and the closing stock with the washery plant company was 37,856·535 tonnes in respect of Lease No. I and 9,648·837 tonnes in respect of Lease No. II. The assessment was made on the basis of closing stock lying at the leased areas (Lease No. I and II) but the closing stock with the washery plant company was not taken into account. This has resulted in under-assessment of royalty amounting to Rs. 1,90,021, computed at Rs. 4 per tonne on 37,856·535 tonnes and 9,648·837 tonnes being closing stock of the company in respect of Lease No. I and II respectively.

On this being pointed out in audit (November 1987), the assessing officer further intimated (April 1988) that the assessments had been revised and forwarded to the realisation authority of the district.

Government, to whom the case was reported in April 1988, confirmed (June 1988) the views of the assessing officer.

(iv) Under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 as amended in 1972, the holder of a mining lease, whether granted before or after commencement of the Act, shall not be liable to pay any royalty in respect of any coal consumed by a workman engaged in a colliery provided that such consumption by the workman does not exceed one-third of a tonne per month. No other exemption is admissible under the Act. As per Government memo, dated 17.1.1978, no exemption should be allowed if information regarding number of workmen engaged in a colliery is not furnished by the colliery.

In the course of scrutiny of assessment records together with the returns for the quarter ending December 1985 in respect of certain collieries submitted by the Eastern Coalfields Limited, a lessee, it was noticed (January 1987) that coal weighing 7,071 tonnes of coal had been allowed exemption. Out of 7,071 tonnes, 4,950 tonnes were allowed exemption for domestic consumption, for which the number of workmen engaged had not been mentioned in the returns and 2,121 tonnes of coal were allowed exemption either in excess of the permissible quantity of con-

sumption under the head 'boilers' and 'others' for which no exemption is provided. This resulted in under-assessment of royalty amounting to Rs. 39,455, computed on the basis of different rates applicable to different grades of coal.

On this being pointed out in audit (January 1987), the department stated (January 1989) that the assessments had been revised and sent to the realisation authority in September 1988. Further development on realisation has not been intimated (March 1990).

The matter was reported to Government in June 1987.

### **8.3 Non-assessment and consequent non-realisation of surface rent**

Under the West Bengal Estates Acquisition Act, 1953 as amended in 1977, effective retrospectively from 15th April 1955, read with the provisions of the Mineral Concession Rules, 1960, every holder of a mining lease is liable to pay, for the surface area used and occupied by him for the purpose of mining operation, surface rent at the rate of Rs. 45 per acre per year unless a different rate is agreed upon between the lessee and the State Government.

(i) In Bankura district, an area measuring 117.03 acres had been leased out to a company for 20 years from February 1966. As per lease agreement, the lessee was liable to pay surface rent in respect of the surface land which was under its use and occupation. But the department did not fix and realise surface rent from the lessee although the lease had expired in February 1986. This led to non-assessment and non-realisation of surface rent amounting to Rs. 1.05 lakhs, computed at Rs. 45 per acre per year for twenty years from February 1966.

This was pointed out to the department in December 1987. Report on final action taken has not been received (March 1990).

(ii) In Purulia district, in 9 cases, mining leases covering a total area of 824.68 acres had been given to nine persons for the period ranging between six years and eleven years commencing between 12th July 1967 and 26th June 1980, and the surface rent had been fixed between Re. 1 and Rs. 45 as agreed upon with the lessees. The total surface rent assessable worked out to Rs. 98,522, which was not demanded and realised by the department till December 1987.

This was pointed out in audit in December 1987. Report on final action taken has not been received (March 1990).

(iii) (a) In Birbhum district, two mining leases covering an area of 231.02 acres were given to two lessees each for 20 years from 7th January 1967 and 9th December 1966. As per agreements one lessee was required to pay surface rent at Rs. 5.50 per acre in respect of 115.60 acres and the other lessee was to pay such rent at Rs. 3.25 per acre in respect of 115.42 acres excluding the vested area of 0.28 acre and 8.35 acres respectively. Surface rent assessable worked out to Rs. 12,716 in respect of 115.60 acres for 20 years from 7th January 1967 to 6th January 1987 in the first case and Rs. 7,502 in respect of 115.42 acres from 9th December 1966 to 8th December 1986 in the other case. But the department neither raised any demand for surface rent nor realised it till their expiry leading to non-realisation of surface rent amounting to Rs. 20,218.

This was pointed out in audit in November 1987. Report on final action taken has not been received (March 1990).

(b) In another case in Birbhum district, it was noticed (November 1987) from the records of land reforms department, Suri that a lease-hold area of 122.73 acres was being used by a lessee for extraction of stowing sand and the lessee was liable to pay surface rent at Rs. 9 per acre per year. As per lease agreement, the dues were realisable from the Eastern Coalfield Ltd., Sanctoria, Dishergarh. But no surface rent was assessed, demanded and realised till December 1987. This led to non-realisation of surface rent amounting to Rs. 16,568, computed at Rs. 9 per acre per year on 122.73 acres from 1st July 1972 to 30th June 1987.

On this being pointed out in audit (November 1987), the department stated that reference would be made to the Eastern Coalfields Limited requesting them to deposit the arrear surface rent.

All the cases were reported to Government in April 1988; their reply has not been received in spite of reminders issued in November 1988 and October 1989.

#### **8.4 Non-realisation of interest on belated payment of royalty**

Under the West Bengal Minor Minerals Rules, 1973, extraction of brick-earth is permissible only on obtaining quarry permit issued by the Collector on payment of royalty in advance. Further, under section 18A *ibid*, simple interest at 10 per cent shall be charged per annum on any royalty, rent, fee or other

sum due to the State Government after the sixtieth day of the expiry of the due date of payment fixed by Government and until payment thereof is made.

In North 24-Parganas district, in 20 cases royalty for the various periods between 1973-74 and 1983-84 was paid long after its due dates of payment (delay ranging from 12 months to 120 months). No interest at the prescribed rate was, however, charged by the department. This resulted in loss of revenue to the extent of Rs. 92,802 being interest not charged and realised.

On this being pointed out in audit (January 1988), the district administration stated (January 1988) that no interest could be levied in those 20 cases in order to avoid further accumulation of arrears from the brickfield-owners who move the Court frequently and stall total collection of revenue. The reply of the department is not acceptable in view of the fact that the rules do not empower the district authorities to waive levy of interest. In the event of delay in payment charging of interest is obligatory.

The matter was reported to Government in March 1988; their reply has not been received in spite of reminder issued in March 1989.

### **8.5 Short levy of royalty due to mistake in computation**

Under the Mines and Minerals (Regulation and Development) Act, 1957, as amended in 1972, the holder of a mining lease is liable to pay royalty at the rates prescribed from time to time.

In Purulia zone, the Eastern Coalfields Limited, a lessee had despatched 94,910 tonnes of coal from one of its collieries for the period from 1st January 1987 to 31st March 1987 and consumed 2,682 tonnes of coal in excess of the allowable quantity. Thus royalty assessable on the total quantity of 97,592 tonnes worked out to Rs. 6,83,144, computed at Rs. 7 per tonne. But the assessing officer assessed royalty at Rs. 6,62,144, which led to short levy of royalty amounting to Rs. 21,000.

On this being pointed out in audit (December 1988), the assessing officers accepted the mistake. Report on action taken has not been received (March 1990).

The cases were reported to Government in January 1989; their reply has not been received in spite of reminder issued in October 1989.

### **8.6 Non-assessment or short assessment of cesses**

Under the Cess Act, 1880, as amended in 1984, effective from 12.11.1984, road cess and public works cess are assessable and realisable at 50 paise on each tonne of brick-earth extracted and despatched by the brickfield-owners.

In the course of test check of records of the Additional District Magistrate (L.R), North 24-Parganas district, it was noticed (January 1988) that 38 brickfield-owners had extracted and despatched 1,89,049 tonnes of brick-earth during 1985-86. The department assessed and realised a total amount of only Rs. 76,557 that too as cess security against Rs. 1,89,049 realisable as road cess and public works cess. As there is no provision for collection of cess security, the departmental action was irregular and this resulted in short realisation of road cess and public works cess amounting to Rs. 1,12,492, computed at Re. 1 per tonne on 1,89,049 tonnes.

On this being pointed out in audit (January 1988), the district administration stated (January 1988) that the balance road cess and public works cess would be realised from all the brickfield-owners after final assessment and adjustment of cess security. Further development has not been intimated (March 1990).

The matter was reported to Government in March 1988; their reply has not been received in spite of reminders issued in July 1988 October 1988 and March 1989.

### **8.7 Loss of revenue due to irregular reduction in demand on minor minerals**

Under the West Bengal Minor Minerals Rules, 1973, as amended from time to time, the district authority may issue quarry permit for extraction or removal of minor minerals, viz., brick-earth, stone, gravel, morrum, etc., on pre-payment of royalty at prescribed rates.

In Midnapore district, it was noticed (October 1988) that as per report (dated 8th November 1982) of the circle officer, a brickfield-owner had extracted 6,84,500 cft. of earth from 1974-75 to 1978-79 and 5,01,900 cft. from 1979-80 to 1981-82, computed on the basis of actual measurement, without obtaining quarry permit from the district authority. On this basis, the district office issued demand notice for an amount of Rs. 69,662 for a total quantity of 11,86,400 cft. of earth. But the brickfield-owner obtained from the Commercial Tax Officer, Midnapore,

a production certificate to the effect that he had produced 38,10,000 bricks which was equal to 2,76,000 cft. of earth approximately and prayed for reduction in demand. Accordingly, the district office revised the demand which was brought down to Rs. 23,693 even though the brickfield-owner failed to produce the books of account when called for to do so by the district office. The reduction in demand without taking cognizance of the extraction report (11,86,400 cft.) made by the circle officer was irregular inasmuch as the revenue on brick-earth is assessed on extraction figure of earth and not on the basis of number of bricks produced. Irregular reduction in demand resulted in a loss of revenue of Rs. 45,968.

This was reported to the district office in October 1988. Report on final action taken in this regard has not been received (March 1990).

The matter was reported to Government in December 1988; but no reply has been received despite reminder issued in June 1989.

## CHAPTER 9

### FOREST RECEIPTS

#### 9.1 Results of audit

Test audit of the accounts of forest receipts maintained at different divisional forest offices, conducted during 1988-89, revealed non-realisation/short realisation of revenue amounting to Rs. 123.95 lakhs in 35 cases, which broadly fall under the following categories:

			Number of cases	Amount (In lakhs of rupees)
1. Non-realisation/short realisation of revenue ..			14	45.23
2. Loss of revenue due to irregularity in auction/ undue concession to saw mill .. ..			10	38.59
3. Demand not raised .. ..			1	26.84
4. Other cases .. ..			10	13.29
Total .. ..			35	123.95

Some of the important cases noticed during 1988-89 and earlier years and audit findings of a review on "working of forest revenue divisions in West Bengal" are mentioned in the following paragraphs.

#### 9.2 Loss of revenue due to sale of timber below the average auction price

According to the procedure for disposal of forest produce prescribed in Government order issued in January 1977, bulk sales of timber, logs and other forest produce are generally made in auction. Supplies of timber to Government, Government Undertakings and other wood-based industries are, however, made at a concessional price fixed by Price Fixation Committee. The benefit of concessional price is not admissible to local bodies like Zilla Parishads unless there is a specific Government order in this regard. A Zilla Parishad is, therefore, liable either



to pay the average auction price for purchase of timber from any forest office or should participate in the auction bid.

In the course of audit of Cooch Behar forest division, it was noticed (June 1987) that 246·943 cubic metres of *sal* logs and 39·385 cubic metres of *sal* sawn timber were sold to a Zilla Parishad between December 1985 and March 1986 at concessional prices much below the average auction price. This resulted in a loss of revenue of Rs. 4·71 lakhs (as compared to average auction price obtained in the division).

This was pointed out in audit in June 1987. The concerned forest division stated (July 1987) that the matter had been referred to Government for their decision. Report on decision of Government has not been received (March 1990).

The matter was brought to the notice of Government in October 1987; their reply has not been received in spite of reminders issued in February 1988, April 1988, July 1988, October 1988 and December 1989.

### **9.3 Loss of revenue due to short realisation of value of timber**

In terms of the Conservator of Forests, Northern circle memo no. 2062(8) dated 14.7.1982, the marking of trees in different "clear felling" operations would be made by the Divisional Forest Officer, Kurseong during 1982-83 and subsequent felling and stacking of timber to depots would be made by the Government Saw Mill, Siliguri. The "passing" of timber would be made jointly by the officers of the Forest Division and the Government Saw Mill, Siliguri.

Government Saw Mill at Siliguri which is a commercial concern under the management of the West Bengal Forest Development Corporation Ltd. receives its supply of timber logs from Forest Divisions at the rates fixed by a Price Fixation Committee specially constituted by the Forest Department for this purpose. In the year 1982-83, Kurseong Forest Division supplied timber logs to the Government Saw Mill at Siliguri worth Rs. 9,56,869, the value being determined on a joint measurement of the consignment by the representatives of the Forest Division and the Government Saw Mill. It was noticed from the statement of logs/timbers furnished by the Saw Mill that quantity shown to have been received by the Mill was less than the quantity jointly passed. The Forest Division accepted payment of a lesser amount of Rs. 8,22,332 against the demand

of Rs. 9,56,869 without reconciling up the discrepancy. This resulted in a loss of revenue of Rs. 1.35 lakhs to the Government.

The matter was brought to the notice of Government in December 1984 followed up by several reminders between December 1986 and December 1989; their reply has not been received (March 1990).

#### **9.4 Short realisation of revenue due to application of incorrect rate**

According to the procedure for disposal of forest produce prescribed in the notification issued by Government in January 1977, timbers are sold to forest-based industries at the rates fixed by the State Price Fixation Committee from time to time. Different rates are prescribed by the Committee for different species of timber, the lowest rate being applicable to unspecified species classified as 'E' class timber.

In Buxa Forest Division in North Bengal, two varieties of 'Lali' timber, namely, 'Dudhe Lali' and 'Hare Lali' were sold to different plywood factories during 1985-86 and 1986-87. The Price Fixation Committee fixed one rate for 'Lali' timber during those years without making any distinction between 'Dudhe Lali' and 'Hare Lali'. Divisional Forest Officer, however, while raising bills for these sales charged the rate prescribed for 'Lali' for 'Dudhe Lali' and the rate prescribed for 'E' class timber for 'Hare Lali'. The rate for 'E' class timber being much lower, there was a short realisation of revenue to the extent Rs. 1.15 lakhs on sale of 313.2 cubic metres of 'Hare Lali' timber during the aforesaid years.

This was pointed out in audit in January 1988. Report on final action taken has not been received (March 1990).

The matter was reported to Government in May 1988; their reply has not been received in spite of reminders issued in July and November 1988 and December 1989.

#### **9.5 Loss of revenue due to sale of forest produce below the market rate**

According to the procedure prescribed in the notification issued by Government in January 1977, sale of 10 per cent reserved stock of forest produce to registered co-operative societies is effected by private negotiation on the basis of market rate determined by auction etc. of other stocks of the locality, failing which by auction of comparable stock of adjacent localities.

In the course of audit of a forest division in Purulia district, it was noticed (November 1987) that out of 18 lots of Coppice Coupes ready for auction during 1984-85, one lot having an area of 7.64 hectares was reserved for sale to a co-operative society. This reserved lot was sold in November 1984 at the previous year's market rate of Rs. 4,028 per hectare although the average auction price of 17 other lots in the same locality was Rs. 9,195 per hectare. The sale of the earmarked lot at a price far below the current year's market price resulted in loss of revenue to the tune of Rs. 39,326.

This was pointed out in audit in November 1987. Final reply on action taken has not been received (March 1990).

The matter was reported to Government in March 1988; their reply has not been received in spite of reminders issued in July 1988, November 1988 and December 1989.

## **9.6 Working of forest revenue divisions in West Bengal**

### *9.6.1. Introductory*

There are 17 revenue divisions\* under Forest Directorate in West Bengal. Major revenues of the divisions are derived from sale proceeds of the major and minor forest produce grown within the forest area of the respective divisions. Collection of royalty on removal of surface materials in forest areas, licence fee from Saw Mills and Ivory traders also constitutes a part of forest revenue apart from fees, fines, etc., imposed under the Indian Forest Act, 1927 and the rules made thereunder. The provisions contained in the West Bengal Forest Manual Part I and Part II govern the procedure for disposal of forest produce and collection of revenue therefrom.

### *9.6.2 Scope of Audit*

A review on the working of 12 forest revenue divisions in West Bengal was conducted between March 1989 and May 1989. Records relating to auction and allotment of forest produce along with the relevant minutes of discussions and lease agreements etc. pertaining to the period from 1985-86 to 1988-89 were checked in audit.

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\*Excluding 2 divisions leased out to the West Bengal Forest Development Corporation Limited.

### 9.6.3 Organisational set-up

The Principal Chief Conservator of Forests (Ex-officio Secretary to Government) is the head of the Forest Directorate under the Department of Forest, West Bengal. He is assisted by 3 Additional Chief Conservators of Forests (Social Forestry, General and Wildlife) under whom there are 5 circles supervised by Conservators of Forests, while 4 other circles are under the direct control of the Principal Chief Conservator of Forests. In each circle, there are several forest divisions (territorial and non-territorial) under the charge of Divisional Forest Officers/Field Directors/Deputy Conservators of Forests. All the divisions have a number of range offices under their control.

### 9.6.4 Highlights

(i) **Lack of control over harvesting and disposal of timber and firewood.**

(ii) **Loss of revenue due to reduction of lease rent and non-revision of royalty.**

(iii) **Short-realisation of revenue of Rs. 13.11 lakhs due to irregular deduction of service charge.**

(iv) **Royalty on *kendu* leaves and interest thereon were not realised to the extent of Rs. 5.22 lakhs.**

(v) **Short-realisation of revenue of Rs. 3.36 lakhs due to application of incorrect rate for supply of forest produce.**

### 9.6.5 Trend of revenue

The following table indicates the trend of collection of forest revenue\*\* vis-a-vis the budget estimate for the last four years:

Year	Budget estimates	Actuals	Variation (short-fall)	Percentage of variation
1985-86	26.00	25.13	0.87	3.35
1986-87	23.13	20.43	2.70	11.67
1987-88	27.04	24.21	2.83	10.47
1988-89	27.90	N.A.*	N.A.	N.A.

\*\*The nomenclature of the head has been changed to "Forestry and Wild Life" from 1987-88.

\*Not available.

9.6.6 *Lack of control over harvesting and disposal of timber and firewood*  
In pursuance of decision taken in the XVIth meeting of Central Board of Forestry, Government of India, held in December 1986, a policy was adopted (July 1987) by the Government of West Bengal to eliminate contractors from all forestry operations and to achieve complete departmentalisation of harvesting operation. The object outlined in the policy was, *inter-alia*, realisation of better price for forest produce and to give fair wage to labour. The main constraints towards achievement of complete departmentalisation being lack of sufficient funds and lack of infrastructure at Directorate level, the work of harvesting of clear felling coupes in Kurseong and Buxa Divisions was entrusted to the West Bengal Forest Development Corporation Limited (W.B.F.D.C.) from the years 1986-87 and 1987-88 respectively. As per agreed arrangements, the divisions were required to hand over the marking list to the Corporation which would work as an agent of the Government. The revenues collected by them after sale of the harvested produce through auction/allotment were to be remitted to the division after deduction of their operational expenses and service charge at the prescribed rates. The arrangement was approved by the Forest Department in July 1987. On similar condition, harvesting and disposals of *sal* poles and firewood in the coupes of 4 divisions viz. Midnapore East, Midnapore West, Bankura South and Bankura North of the Southern Districts of West Bengal were entrusted with the W.B.F.D.C. from the year 1987-88 with post-facto approval of Forest Department in December 1988. No Government order was, however, issued in either case specifying the procedure for fixation of reserve price, period within which revenues are to be remitted and penalty or deposit rent/interest for late payment of revenue, nor was any agreement entered with the Corporation specifying its obligations.

In practice, it was noticed that the D.F.Os of the divisions handed over the marking list of felling to the Corporation. After felling operation, the timber and firewood arising therefrom were taken by the Corporation to its depot under the cover of 'joint passing challans' (transport documents signed jointly by the representatives of the Government and the Corporation) in respect of operation in South-Western District. Proceeds of depot lots in auction were remitted by the Corporation long after (delay ranged from 2 to 21 months) the auction through bank drafts/cheques with a forwarding letter to the concerned divisions

mentioning total quantity of timber etc. sold on auction and the revenue realised therefrom. No reports, returns or bidsheets were available to indicate species-wise sale prices of depot lots vis-a-vis their reserve prices. Nor any statement of out-turn and stock remaining unsold at the end of each auction was furnished by the Corporation. Whatever revenue was remitted by the Corporation had been accepted by the division without any scrutiny. Thus, except joint passing of timbers in South-West Bengal, Government has little control over the disposals and stock of the out-turn removed by the Corporation. Further, elimination of contractors from timber operation could not also be ensured as the Corporation engaged contractors in their harvesting operation.

The Conservator of Forests, Western Circle, stated (November 1988) that under such an arrangement, the obligation of the Corporation to pay revenue to the Directorate had been made much too flexible and it entirely depended on when and how the Corporation proposed to hold auction and expressed his difficulty in keeping proper account of the various transactions and forms. He proposed for payment of royalty by the Corporation for timbers and poles of various sizes, as well as for firewood, on the basis of a fixed tariff to be determined by the Price Fixation Committee. No decision on the proposal has, however, been taken by the Government so far (June 1989).

#### 9.6.7 *Loss of revenue due to reduction of lease rent and non-revision of royalty*

A standing forest area measuring 83,162 hectares covering two divisions in the district of Darjeeling was leased out to W.B.F.D.C. for a period of 10 years from 2.11.1974. As per terms and conditions of the lease, the lessee was required to pay a lease rent at the rate of Rs. 5 per hectare per annum (i.e. Rs. 4,15,810 per annum) and a royalty for the forest produce extracted at *ad valorem* rate, to be fixed in consultation with the Government and mutually agreed upon.

It was noticed that upto the year 1983-84, the lessee paid the lease rent at the above rate and royalty at a fixed rate of Rs. 10 lakhs per annum. The lease having expired on 2.11.1984, was extended by the Forest Department in October 1984 for a further period of 10 years at the same lease rent and royalty.

During the period of initial lease, the prices of forest produce had increased by more than 150 per cent. But while renewing the lease, neither the lease rent nor the royalty was enhanced

in spite of the sharp rise in the prices of forest produce. It was further noticed that the Corporation unilaterally revised (May 1987) the lease rent to Rs. 10 per annum and royalty to Rs. 14,15,800 per annum with effect from April 1984, keeping the total revenue payable at the same amount (Rs. 14,15,810) and accordingly paid rent and royalty from 1984-85 onwards. The Department accepted the revenue although the unilateral action of the lessee in reducing the rent to a token amount of Rs. 10 only and enhancing the royalty by 41.58 per cent against the rise in price by 150 per cent had no sanction of the Government.

On this being pointed out in audit, the Government stated (August 1989) that the matter of revision of lease rent and royalty was under consideration.

#### 9.6.8 *Short realisation of revenue due to irregular deduction of service charge*

(i) As a policy decision of Government, different species of timber are allotted to Saw Mills owned by W.B.F.D.C. and other wood-based industries at a concessional rate fixed by the State Price Fixation Committee. The rates thus fixed are ex-depot and are inclusive of harvesting cost.

The work of harvesting of timber and disposals thereof was entrusted to the W.B.F.D.C. from 1986-87 in respect of Kursong Division in Darjeeling District and from 1987-88 in respect of Buxa Division in Jalpaiguri District. As per agreed decision in the meeting between the W.B.F.D.C. and the Forest Directorate held in May 1987 and in terms of a Government order issued in July 1987, the Corporation was required to remit the revenue realised from sale proceeds to the concerned Divisional Forest Officer after deduction of the following cost and charges:

- (a) For allotment sale: Harvesting cost @ Rs. 200 per cu. metre.
- (b) For auction sale: Harvesting cost @ Rs. 300 per cu. metre and service charge @ 10 per cent of sale value in auction.

No deduction on account of service charge was admissible on allotment sale as it would reduce the allotment price fixed by the Price Fixation Committee.

It was noticed that while remitting the proceeds of allotment sales for the year 1987-88 in respect of above two divisions, the Corporation deducted service charge at the rate of 10 per cent in addition to harvesting cost. The irregular deduction of service

charge resulted in short-remittance of revenue amounting to Rs. 11.31 lakhs on 11,741.748 cu.metres of timber sold on allotment.

On this being pointed out in audit, the department accepted the mistake.

(ii) In terms of Government order issued in December 1988, for harvesting and disposal of *sal* poles and firewood in South-Western Districts of West Bengal, West Bengal Forest Development Corporation Ltd. is entitled to a service charge at the rate of 10 per cent on net revenue arrived at after deduction of operation cost at the prescribed rate and overhead charges at the rate of 10 per cent of gross revenue realised by the said Corporation on sale of the harvested forest produce.

In one division of Midnapore district and two divisions in Bankura district, sale proceeds of harvested produce of 1987-88 were remitted by the W.B.F.D.C. deducting, *interalia*, service charge at the rate of 10 per cent on gross revenue of Rs. 42.69 lakhs instead of on net revenue of Rs. 24.69 lakhs. This resulted in short remittance of revenue to the extent of Rs. 1.80 lakhs.

On this being pointed out in audit, the department admitted the mistake.

#### 9.6.9 *Irregular fixation of reserve price for auction sale of coppice coupe (standing tree)*

According to the procedure prescribed in Government order issued in January 1977, reserve price for sale of forest produce in auction is to be fixed on the basis of price obtained in the immediate previous auction sale. As per provisions laid down in the West Bengal Forest Manual, Part II, for sale of forest produce, if a purchaser fails to pay any of the instalments due as per agreement, the department may resell the lot/balance lot of forest produce and forfeit the amount of earnest money and security deposit paid by the purchaser. In case the amount fetched on resale and the amount of instalments paid together with the amount of earnest money and security deposit forfeited falls short of original sale price, the difference is recoverable from the original purchaser through certificate process.

In two divisions of Bankura district, in auction of coppice coupe (standing trees), successful bidders of different lots for the years between 1982-83 and 1985-86 failed to pay the full amount. As per terms of sale, the earnest money, security deposit and part revenue paid by them were forfeited and the lots of coppice



coupes were put to re-auction in 1987-88. But it was noticed that while determining the reserve price for the purpose of re-sale, the amount of earnest money, security deposit and part of revenue already realised aggregating Rs. 1,13,177 were deducted from the immediate last auction sale price. The irregular deduction of security money, etc., in fixing the reserve price resulted in downward realisation of auction price ultimately leading to a loss of revenue to the tune of Rs. 1.13 lakhs.

On this being pointed out in audit (March 1989), the department stated (May 1989) that as per clause 10 of the agreement, the said security deposit money and earnest money might be forfeited so as to recover the shortfall in revenue caused by failure of payment by the purchaser.

The contention was not tenable as clause 10 states that "the security deposit, earnest money and part revenue of the purchaser will be liable to forfeiture in the event of infringement of any conditions of the Sale Notice or the agreement by the said purchaser". The reserve price in subsequent auction can not be reduced in the manner adopted by the division as the forfeiture of money from the earlier purchaser has no nexus with a subsequent and different transaction of sale by auction.

#### 9.6.10 *Revenue forgone by reduction of demands of royalty on kendu leaves*

For collection of *Kendu* leaves from the forest area, a royalty is payable on the actual quantity of leaves collected. Upto 1976 *Kendu* leaves were sold in auction and thereafter monopoly right of collection was given to Large Scale Agricultural Multi-purpose Co-operative Societies (LAMPS). Under the Bengal Finance (Sales Tax) Act, 1941, sales tax at the prescribed rate is also payable on the royalty.

It was noticed that no rate of royalty was fixed from 1981 onwards. The demands were raised by the department at the rate of Rs. 30 per quintal for the years 1981 to 1987 on the basis of last auction price of 1980, although price of the leaves increased year after year. Even at this old rate, no payment was made by different LAMPS who collected the leaves in South-Western districts covering six divisions. In the meeting held in March 1985 between the representative of Forest Department and the representative of West Bengal Tribal Development Co-operative Corporation, the apex body of LAMPS, it was decided that the apex body should pay the arrear royalty, computing royalty

at the rate of Rs. 2.50 lakhs per annum for the years 1981 onwards for collection of *Kendu* leaves by LAMPS in the entire area.

The apex body, however, paid Rs. 13.35 lakhs (Rs. 10 lakhs for the years 1981 to 1984 and Rs. 3.35 lakhs for 1985 and 1986 after irregularly deducting Rs. 1.65 lakhs paid by individual LAMPS for the years 1978 and 1979) in respect of collection of *Kendu* leaves made during the period from 1981 to 1987 against the amount of Rs. 17.50 lakhs due for this period at the rate of Rs. 2.50 lakhs per annum. The amount short realised amounted to Rs. 4.15 lakhs. Besides, sales tax amounting to Rs. 1.07 lakhs calculated at the rate of 8 per cent on the amount actually paid was also not realised.

#### 9.6.11 *Short-realisation of revenue due to application of incorrect rate for supply of forest produce*

In three forest divisions under Northern Circle, it was noticed that while raising bills for supply of timber to the different units of the W.B.F.D.C. the rates of the previous year instead of revised enhanced rates of the allotment year were applied, and in some cases sawn timber attracting higher rate was billed at the lower rate applicable to round timber. In another division of the circle, logging charge on allotment sale was deducted by the Corporation @ Rs. 300 per cu. metre instead of @ Rs. 200 per cu. metre. Application of incorrect rates in these cases resulted in short realisation of revenue amounting to Rs. 3.36 lakhs including sales tax on 1,824.482 cu. metre of timber supplied between 1985-86 and 1988-89.

#### 9.6.12 *Shortfall in revenue due to sale of forest produce below the average auction price/reserve price*

According to the procedure prescribed by Government in January 1977, reserve price for sale of timber and other forest produce in auction is to be fixed on the basis of average price of the division obtained in the immediate previous auction.

(i) In a division in Bankura District, 18 lots of timber were sold in auction by the department in 1988-89 at a price of Rs. 1,14,175 against the reserve price of Rs. 1,75,915 leading to a loss of revenue amounting to Rs. 61,740. The Conservator of Forests, Western Circle, called for (September 1988) reasons and justification for sale of timber below the reserve price. But no justification was furnished by the division till the date of review (March 1989).

(ii) In a division of Purulia District, 37 lots containing 10,579 nos. of poles and 2,080 stacks of firewood were sold in auction during 1986-87 and 1987-88 at a total price of Rs. 2,91,400 against a total direct expenditure of Rs. 2,54,000 incurred by the division towards harvesting and disposal.

It was, noticed that the price obtained in auction was less than even the minimum price of firewood (Rs. 35 per quintal) intimated by the Chief Conservator of Forests in August 1985 and minimum price of pole (Rs. 10 per 'sal' pole and Rs. 7 per 'kukat' pole) fixed by the Price Fixation Committee for 1985-86. The total price of the produce at the minimum price worked out to Rs. 3,57,023. Thus, even as compared to the minimum price obtaining in 1985-86, there was a loss of revenue at least amounting to Rs. 65,623.

On this being pointed out in audit (March 1989), the department admitted the fact.

#### 9.6.13 *Lack of provision to levy interest/surcharge on delayed payments*

As per provisions contained in Government order issued in January 1977, supply and delivery of timber and other forest produce to State Government Undertakings should be made on pre-payment of price or on the basis of cash and delivery system. There is no provision in the order for levying interest/surcharge in case of delayed payments by State Government Undertakings.

In two forest divisions in the districts of Jalpaiguri and Darjeeling, it was noticed that in all cases of supplies to the different units of W.B.F.D.C. made on the basis of allotment between 1985-86 and 1987-88, payment was not made before delivery of the timbers. In 41 cases checked in the above two forest divisions, delay in payment ranged between two and twenty-one months.

The Department failed to follow the prescribed procedure to supply forest produce on payment of price or on the basis of cash and delivery system. Absence of provision in the order to levy interest/surcharge for delayed payment resulted in loss of revenue of Rs. 2,75,226 by way of interest and surcharge calculated @ 6 per cent per annum as applicable in cases of delayed payment in auction sales.

On this being pointed out in audit, the department admitted the fact and stated that no interest/surcharge could be realised in the absence of any provision to that effect in the Government order.

#### 9.6.14 *Non-raising of demand for collection of sal seeds*

As per minutes of discussion between Government and West Bengal Tribal Development Coperative Corporation (W.B.T.D.C.C.) held in April 1987, it was decided that the outstanding and current royalty on collection of *sal* seeds was to be paid by the W.B.T.D.C.C., the apex body of LAMPS, at prescribed rate. The rate of royalty for collection of *sal* seeds was enhanced to Rs. 100 per M.T. from the collection year 1986 and onwards as per decision of the State Price Fixation Committee in November 1987.

In one division in South West Bengal, the quantity of *sal* seeds collected by LAMPS during the years 1986, 1987 and 1988 was 167.3 M.T., 229.747 M.T. and 224.748 M.T. respectively. But the demand for royalty to the extent of Rs. 69,179 (excluding sales tax) was not raised against the said apex body till March 1989.

#### 9.6.15 *Non-realisation or short realisation of sales tax*

Under the West Bengal Finance (Sales Tax) Act, 1941, sales of goods, unless otherwise exempted, are taxable at the prescribed rates. A sale when made to a registered dealer is taxed at a concessional rate subject to production of declaration in proper form. Forest Directorate being a dealer registered under the Act is liable to pay tax on its sale of forest produce and accordingly is required to realise it from the purchasers.

No sales tax was realised on royalty of Rs. 8.29 lakhs on account of sale of *sal* seeds to the W.B.T.D.C.C. effected during the years from 1977 to 1987 by six divisions in South West Bengal. Sales tax not realised amounted to Rs. 0.64 lakh calculated at at 7 per cent upto 1978-79 and at 8 per cent thereafter.

On this being pointed out in audit, the department admitted the omission.

#### 9.6.16 *Loss of revenue due to delay in auction of timber*

According to Government order issued in January 1977, 10 per cent of the timber lots put to auction are kept reserved for allotment to the Co-operative Societies. The prices of these allotments are fixed on the basis of market rate determined by auction of other stocks of the locality.

In a division in Jalpaiguri district, it was noticed that some allotments of timber made between 1985-86 and 1987-88 were refused by the Co-operative Societies and when those lots

were placed in subsequent auction after delay ranging between 3 months to 12 months, revenue realised fell short of the market rate ascertained in previous auction. In 13 such cases, the short realisation amounted to Rs. 1,01,888. In the absence of any agreement with the Co-operative Society or any provision in the Government order for recovery of this shortfall from them, the amount turned into loss of revenue.

The department admitted the fact and stated that lots could not be sold in next auction due to printing mistake in the marking lists.

#### 9.6.17 *Non-realisation of fees*

##### (A) *Saw Mills*

Under the West Bengal Forest (Establishment and Regulation of Saw Mills and other wood-based Industries) Rules, 1982, the following fees are realisable with effect from July 1982 from the Saw Mills and other wood-based industries applying for licences within December 1986 to the concerned divisional forest officers:

(i) Application fee for licence	Rs. 50
(ii) Licence fee	Rs. 250
(iii) Renewal fee of licence	Rs. 100 per annum
(iv) Application fee for renewal of licence	Rs. 50 per annum

In seven forest divisions, it was noticed that excepting the initial application fee and licence fee from 24 saw mills, no fees were realised although 416 such mills applied for licences within the stipulated period and were running their business.

Total non-realisation of different kinds of fees aggregated Rs. 2.25 lakhs for the period from 1982-83 to 1988-89.

##### (B) *Ivory traders*

In terms of standing order issued in December 1987 by the Forest Directorate, under the Wild Life (Protection) Act, 1972 as amended in 1986, annual licence fee from every manufacturer and/or dealer in ivory is realisable at the rate of Rs. 200 per year.

It was noticed that licence fee was realised only from 39 traders in 1987-88 out of 57 traders and only from one trader out of 58 traders in 1988-89 as one time measure instant of realising the fees annually. This resulted in non-realisation of

ivory licence fee to the extent of Rs. 15,000 for the years 1987-88 (18) and 1988-89 (57).

9.6.18 *Non-maintenance or irregular maintenance of stock account of timber and other forest produce*

Under the provisions of the West Bengal Forest Manual, Part II, the forest divisions are required to maintain stock accounts in different forms for recording receipt of forest produce from various sources, its issues and stock in hand both categorywise and quantitative. These stock accounts prepared in each depot (forest or sale) are consolidated in the divisional office and the depot stock is required to be physically verified at such intervals as the Conservator directs.

The Conservator of Forests, Northern Circle, directed in November 1986 that the stock account of forest produce should be maintained in the form of monthly quantity statement, similar to that maintained by the W.B.F.D.C., from the year 1986-87 in the divisions under his control. No Government order was, however, obtained for this change-over.

It was noticed that in 4 divisions (1 in North Bengal and 3 in South Bengal), stock account was maintained in either of the prescribed forms upto different periods varying between February 1983 and December 1987. Thereafter no stock account was maintained in the said 4 divisions. In 3 other divisions in North Bengal, the stock account in the prescribed forms was maintained from periods varying between October 1986 and April 1987. Further, the system of periodical physical verification of stock of forest produce was not followed in any of the divisions. As a result, stock at the end of a particular period could not be ascertained and verified in audit.

Some instances of specific irregularities relating to the stock accounts are given below:

(i) From a monthly quantitative statement for the month of April 1988 submitted by the W.B.F.D.C. to a division in Northern Circle, it was noticed that 450 stacks of firewood valuing Rs. 18,000 were burnt (April 1988) by sudden fire. The entire quantity was struck off by the said Corporation from the stock.

The reduction in stock was accepted by the department without any investigation and orders of competent authority.

(ii) In another division in South West Bengal, a quantity of 2,000 *sal rollahs* (poles) valuing Rs. 27,295 allotted to M/s.

Eastern Coalfields Ltd. on realisation of price, was found (May 1986) damaged. The entire lot was, therefore, refused by the allottee who demanded replacement of the quantity by fresh stock.

In the absence of any stock account being maintained, it could not be ascertained whether the damaged *sal rollahs* were written off from the stock and replaced by fresh stock as demanded.

(iii) In a division in Northern Circle, a discrepancy of 2,165.620 cubic metres of timber as between timber felled and timber extracted was noticed in the consolidated quantitative statement of 9 clear felling coupes upto July 1988 furnished by the W.B.F.D.C. But the discrepancy remained unreconciled till the date of audit (April 1989).

(iv) It was noticed in one division of Northern Circle that the monthly quantitative statements were being maintained from April 1987 instead of from April 1986 with an opening balance of 10,829.303 cubic metres of timber. After taking into account receipts and disposal, the closing balance at the end of 1987-88 worked out to 6,329.266 cubic metres, as against the closing balance of 9,124.722 cubic metres of timber indicated in the monthly quantitative statements for the same period. The discrepancy remained unreconciled till the date of audit (April 1989).

(v) In another division in the Northern Circle, a quantity of 2,236.261 cubic metres of timber valuing Rs. 11.92 lakhs was shown in the monthly quantitative statement for February 1988 as stock in hand although there was no such quantity shown as closing balance in the previous statements. The actual source of receipt of this quantity was not stated therein.

In the said division, 567.423 cubic metres of passed logs (approved logs taken from coupes to depot) from clear felling coupes of 1986-87 were not taken to the depot and accounted for in the respective stock account.

On this being pointed out in audit (June 1988), the Government agreed (August 1989) to rationalise the system of maintaining records for timber.

All the above points were reported to Government between January 1989 and June 1989; their specific reply has not been received except for paragraphs 9.6.8 and 9.6.18.

## CHAPTER 10

### OTHER NON-TAX RECEIPTS

#### 10.1 Results of Audit

Test check of accounts of revenue realised by different Irrigation and Public Works Divisions and the offices of the Commissioner of Police, Calcutta and the Estate Manager, Housing Department, conducted during 1988-89, revealed non-realisation of revenue amounting to Rs. 229.02 lakhs in 56 cases, which broadly fall under the following categories:

			Number of cases	Amount (In lakhs of rupees)
1. Non-realisation of rent	..	..	26	119.29
2. Non-payment of restoration charges	..	..	5	38.47
3. Other irregularities	..	..	25	71.26
Total	..	..	56	229.02

Some of the important cases noticed during 1988-89 and earlier years are mentioned in the following paragraphs.

#### A—HOUSING DEPARTMENT

#### 10.2 Short realisation of licence fee due to application of incorrect rate

Under the provisions of the West Bengal Government Premises (Tenancy Regulation) Act, 1976, uniform licence fee was to be assessed and realised in respect of identical types of flats.

In the course of audit of accounts of the Estates Manager at Durgapur, it was noticed (February 1988) that two industrial units were allotted flats of identical types situated at the premises of the same Housing Estate at Bhagia Kanali, Asansol. Licence fee at the rate of Rs. 36.50 (inclusive of service charges and water charges) per month per flat was assessed and realised from one industrial unit whereas licence fee at the rate of Rs. 31.50 (inclusive



of service charges and water charges) per month per flat was assessed and realised from the other industrial unit, although the flats allotted to the latter were identical to that allotted to the former. This resulted in under-assessment and short realisation of licence fee of Rs. 1.10 lakhs in respect of 167 flats (allotted to latter unit) for the period from 1st April 1976 to 31st March 1987.

This was pointed out in audit in February 1988. Final reply on action taken has not been received (March 1990).

The matter was reported to Government in May 1988; their reply has not been received in spite of reminders issued in November 1988 and December 1989.

## B—POLICE DEPARTMENT

### 10.3 **Cost of armed guards supplied to Municipal Corporation remained unrealised**

Under orders of the Government, issued in September 1971 and onwards, the cost of armed guards supplied for guarding a pumping station of Calcutta Municipal Corporation was to be borne initially by the Commissioner of Police, Calcutta and was to be recovered from the Corporation (Calcutta Corporation) subsequently.

In the course of audit, it was noticed that the cost of armed guards guarding the pumping station during the period from 4th December 1971 to 28th February 1987, amounting to Rs. 85.28 lakhs incurred by the Commissioner of Police, Calcutta, remained unrealised due to non-payment of the demands by Calcutta Corporation. The follow-up action taken by the former did not yield any result.

On this being pointed out in audit (October 1986 and December 1987), the department stated (December 1987) that the matter had been brought to the notice of Government in March 1985. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in May 1987. No reply has been received in spite of several reminders issued upto May 1989.

### 10.4 **Omission to include charges for concessional ration in the cost for supply of police personnel**

Under Government orders issued from time to time, cost of police guards supplied to private institutions, Government

Undertakings etc. is to include, *inter alia*, charges, on account of concessional ration allowed to police personnel at the rate of Rs. 132 per head per month.

It was noticed (December 1988) that in the claims preferred by the Commissioner of Police, Calcutta, against Food Corporation of India for cost of deployment of 230 police personnel for security of their different depots for the period from 23rd August 1983 to 31st March 1987, charges on account of concessional ration allowed to police personnel were not included. This resulted in short recovery of Rs. 12.83 lakhs.

On this omission being pointed out in audit (December 1988), the department admitted (December 1988) the mistake. Report on final action taken by the department has not been received (March 1990).

The matter was reported to Government in March 1989; their reply has not been received in spite of reminder issued in September 1989.

#### **10.5 Loss of revenue due to non-application of revised rate of licence fee for fireworks**

Under the Explosive Rules, 1983, which repealed the Explosive Rules, 1940, the rate of licence fee for possession and sale of fireworks was enhanced from Rs. 4 to Rs. 150 per annum with effect from the 2nd March 1983.

In the course of audit of the accounts of the Commissioner of Police, Calcutta, it was noticed (December 1988) that fees for 1,113 licences issued during the years from 1983 to 1985 were realised at the rate of Rs. 4 per licence instead of Rs. 150 per licence. The non-application of revised rate of licence fee resulted in loss of revenue of Rs. 1.62 lakhs.

On this being pointed out in audit (December 1988), the department stated (December 1988) that the new Explosive Rules, 1983 came to their knowledge in August 1985 only and they could not enforce the revised rate before 1986.

The matter was brought to the notice of Government in March 1989; their reply has not been received in spite of reminder issued in September 1989.

### **G—PUBLIC WORKS DEPARTMENT**

#### **10.6 Rent remaining unrealised due to inaction**

One ground floor flat at 62, Syed Amir Ali Avenue, Calcutta,

hired by Government, was allotted to a Government employee on a fixed rent of Rs. 425 per month on 10th December 1965. The employee resigned from Government service with effect from 30th June 1967 but continued to occupy the flat upto 5th December 1983 without paying any rent for the period from 1st December 1972 to 5th December 1983. The total rent due from the ex-Government employee amounted to Rs. 56,168 which remained unrealised till date.

On this being pointed out in audit (October 1982), the local office stated (April 1989) that the decision of Government in the matter was awaited (March 1990).

Government, to whom the case was reported in March 1983, stated (September 1989) that an attempt was being made to realise the rent from the legal successor of the ex-Government employee, who was no more.



CALCUTTA

The

26 JUN 1990

(A. K. BANERJEE)

*Accountant General (Audit) II, West Bengal*

Countersigned



NEW DELHI

The

7-9 JUL 1990

(C. G. SOMIAH)

*Comptroller and Auditor General of India*



## ERRATA

Sl. No.	Page	Para	Line	For	Read
1.	16	2.3 (iii)	26th from top	includable	includible
2.	20	2.4 (v)	12th from bottom	2090 lakhs	20.90 lakhs
3.	20	2.4 (v)	Last line	received	received (March 1990)
4.	24	2.6 (i) (b)	2nd from bottom	483 lakhs	4.83 lakhs
5.	30	2.10 (i) (e)	18th from top	After Taitola Charge	insert 'Calcutta for the year ended September'
6.	32	2.11 (i) (b)	7th from bottom	sue-moter	Suo-motu
7.	32	2.11 (i) (b)	24th from top	excluded	excluded
8.	33	2.11 (ii)	19th from top	staed	stated
9.	33	2.11 (iii)	8th from bottom	declares	dealers
10.	35	2.11 (iii) (d)	16th from top	assessig	assessing
11.	35	2.11 (iii) (d)	15th from bottom	intera-state	intra-State
12.	38	2.11 (iii) (i)	3rd from top	turnover	turnover
13.	40	2.12	12th from bottom	turnovers	turnover
14.	42	2.12 (i)	2nd from top	dealer	dealer
15.	57	2.13	24th from top	March 1987	March 1978
16.	77	2.20.8	7th from bottom	unrealised	unrealised
17.	79	2.20.8 (ii)	5th from top	certificatate	certificate
18.	88	2.20.16	14th from bottom	Rs. 12448 lakhs	Rs. 124.48 lakhs
19.	90	2.20.18	14th from top	certificate officer	certificate office
20.	91	3.1	2nd from top	accounts	accounts
21.	92	3.3 (ii)	15th from bottom	realisation	realisation
22.	94	3.4 (i)	13th from bottom	reportetod	reported to
23.	104	3.8 (ii) (e)	13th from top	noticed	noticed
24.	105	3.8 (iii)	7th from top	favor	favour
25.	106	3.8 (iv) (b)	20th from top	Society	Society
26.	110	3.10.5 (a)	3rd from top	38393 acres	383.93 acres
27.	111	3.10 (5) (c)	21st from top	Insert 'and' after 13	chhatak
28.	112	3.10 (5) (e)	24th from top	Rs. 58,408	Rs. 58,408. Rent
29.	120	3.10.9	6th from top	Rs. 2555 lakhs	Rs. 25.55 lakhs
30.	121	3.10.12	1st line from bottom	was leased out	were leased out
31.	124	4.2.4 (iii)	4th from bottom	1986-87 and 1988-89	1986-87 to 1988-89
32.	125	4.2.5	19th line from top	46 50	46 45
			Col. 4	N.A.	46 40
			Col. 5	N.A.	(- ) 0 05
			Col. 6	N.A.	0 11
33.	130	4.2.12 (a)	11th line from bottom	non-relaisation	non-realisation
34.	143	5.3	7th-8th line from bottom	distillery warehouse	distillery/warehouse
35.	155	7.3 (b)	6th line from top	2,45,16932	2,45,169.32
36.	157	7.7	6th from bottom	metre	metres
37.	164	8.2 (ii) (a)	12th from bottom	20.320 tonnes	20.320 tonnes
38.	170	8.6	17th from bottom	July 1988	July 1988,
39.	174	9.3	1st	reconciling up	reconciling
40.	175	9.6.1	13th from bottom	constitutes	constitute
41.	175	9.6.1	14th from bottom	areas, licence	areas and licence
42.	176	9.6.5	1st line from bottom	NA*	23 51
			3rd Col.	N.A.	(4.39)
			4th Col.	N.A.	15.73
			5th Col.	N.A.	
43.	176	9.6.5	(1) All figures in columns 4 and 5 in the table may be put in bracket.		
			(2) Put an asterik (*) against (shortfall) following foot-note.		
			* Figures in bracket indicate shortfall		
44.	177	9.6.6	20th from bottom	disposals	disposals
45.	184	9.6.15	12th from bottom	at 7 per cent	at 7 per cent
46.	185	9.6.16	7th from top	revenue	revenue
47.	185	9.6.17 (B)	2nd from bottom	instant of	instant of

