Report of the Comptroller and Auditor-General of India for the year 1974-75

Revenue Receipts (Civil)

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TABLE OF CONTENTS

	Reference to	
	Paragraphs	Pages
PREFATORY REMARKS		
CHAPTER I—		
General	1—5	1—6
CHAPTER II—		
Sales Tax	6—31	7—18
CHAPTER III—		
Agricultural Income Tax	32—36	10—21
CHAPTER IV—		
Land Revenue	37—51	22—28
CHAPTER V—		
Entry Tax	52—76	29—45
CHAPTER VI—		
Amusement Taxes	77—87	46—56
CHAPTER VII—		
Other Tax Receipts	88—92	57—59
CHAPTER VIII—		
Non-Tax Receipts	93—97	60—66
APPENDIX—		
Cost of collection of revenue		67

PREFATORY REMARKS

THE Audit Report on Revenue Receipts (Civil) of the Government of West Bengal for the year 1974-75 is presented in a separate volume as was done in the previous two years. The material in this Report has been arranged in the following order:—

(i) Chapter I deals with trends of revenue classifying them broadly under tax revenue and non-tax revenue. The variation between the Budget estimates and the actuals in respect of principal heads of revenue and the position of arrears of revenue, etc., are discussed in this Chapter.

(ii) Chapter II to VIII set out certain cases and points of interest which came to notice of Audit during test audit of Sales Tax, Agricultural Income Tax, Land Revenue, Entry Tax, Amusement Taxes, Other Tax and Non-Tax receipts.

2. The points brought out in this Report are those which have come to notice during the course of test audit. They are not intended to convey any general reflection on the financial administration by the departments concerned.

CHAPTER I

General

1. **Trend of Revenue Receipts:** The total receipts of the Government of West Bengal for the year 1974-75 was Rs.460.19 crores against the anticipated receipts of Rs.435.56 crores. The total receipts realised during the year registered an increase of 31.0 per cent over that of 1972-73 (Rs.351.22 crores) and an increase of 22.2 per cent over those in 1973-74 (Rs.376.50 crores). Of the total receipts of Rs.460.19 crores, the State raised Rs.279.52 crores of which Rs.224.84 crores represented "Tax Revenue" and Rs.54.68 crores was "Non-Tax Revenue". Receipts from the Government of India by way of share of Central taxes and grants-in-aid amounted to Rs.180.67 crores.

2. (a) **Analysis of Revenue Receipts:** An analysis of the receipts during 1974-75 along with the corresponding figures for the preceding two years is given below:

	1972-73	1973-74	1974-75
		(In crores of rupees)	
I. Revenue raised by the State Government—			
(a) Tax revenue	173·84	191·09	224·84
(b) Non-tax revenue	35·03	40·30	54·68
Total ..	208·87	231·39	279·52
II. Receipts from Government of India—			
(a) State share of divisible Union taxes ..	87·60	96·26	101·68
(b) Grants-in-aid	54·75	48·85	78·99
Total ..	142·35	145·11	180·67
III. Total receipts of the State (I+II) ..	351·22	376·50	460·19
IV. Percentage of I to III	59·5	61·4	60·7

The receipts from the Central Government by way of the State's share of Union taxes and grants-in-aid during the year 1974-75 worked out to about 39 per cent. of the total receipts of the State. The State's own mobilisation amounted approximately to 61 per cent.

2

(b) **Tax revenue raised by the State:** An analysis of the tax revenue for the year 1974-75 and for the preceding two years, is given below:

	Receipts during the year			Increase (+) or decrease (−) in 1974-75 with reference to 1973-74
	1972-73	1973-74	1974-75	
			(In crores of rupees)	
1. Taxes on Agricultural Income ..	1·01	0·92	0·90	−0·02
2. Land Revenue	5·23	7·32	8·34	+1·02
3. State Excise	18·90	20·26	22·55	+2·29
4. Taxes on Vehicles	8·71	8·96	9·39	+0·43
5. Sales Tax	91·24	101·69	125·07	+23·38
6. Stamps and Registration Fees ..	11·34	15·29	17·55	+2·26
7. Taxes and Duties on Electricity ..	11·52	11·57	10·39	−1·18
8. Taxes on Goods and Passengers ..	14·67*	14·05*	16·50*	+2 45
9. Other Taxes and Duties on Commodities and Services.	11·22	11·03	14·15	+3·12
Total ..	173·84	191·09	224·84	+33·75
Percentage of the receipts from tax revenue to the State's own revenue receipts.	83·2	82·6	80·4	−2·2

Receipts from all the different sources went up in 1974-75 except in the case of Electricity Duty and Agricultural Income Tax, which showed decrease of Rs.1.18 crores and Rs.0.02 crores respectively. In the former case, the shortfall arose inspite of an increase in the rates of duty on non-industrial power with effect from 15th May 1974.

The bulk of the increase under the State taxes was under Sales Tax (Rs.23.38 crores), other Taxes and Duties (Rs.3.12 crores), State Excise (Rs.2.29 crores), Taxes on Goods and Passengers (Rs.2.45 crores) and Stamp and Registration fees (Rs.2.26 crores). Sales Tax continued to be the principal source of revenue of the State during the year 1974-75, receipts therefrom constituting about 56 per cent of the total tax collections for the year.

*This major head, opened in the revised classification adopted from the accounts for the year 1974-75, accommodates the receipts under "Taxes on Entry of Goods in Local Areas Act, 1955" and "Taxes on Entry of Goods in Calcutta Metropolitan Area Act, 1970," previously accounted for under "Other Taxes and Duties."

(c) **Non-tax revenue of the State:** The principal sources of non-tax revenues of the State were Interest, Police, Medical, Agriculture, Forests and Industries, constituting about 64 per cent of the non-tax revenues of the State during the year 1974-75. An analysis of non-tax revenue under the principal sources for the year 1974-75 and the preceding two years, is given below:

	1972-73	1973-74	1974-75	Increase in 1974-75 with reference to 1973-74
		(In crores of rupees)		
1. Interest	5·23	8·68	10·44	1·76
2. Police	0·40	0·42	1·39	0·97
3. Medical	0·78	0·80	5·58	4·78
4. Agriculture	5 46	5·60	8·65	3·05
5. Forests	4·12	4·82	5·13	0·31
6. Industries	2·53	2·74	3·79	1·05
7. Others	16·42	17·24	19·70	2·46
Total ..	35·03	40·30	54·68	14·38

3. **Variation between the Budget estimates and the actuals:** (i) The actual receipts compared to the budget estimates during the three years from 1972-73 to 1974-75 were as under—

	Year	Budget	Actuals	Variation, excess (+) shortfall (—)
		(In crores of rupees)		
A. Tax revenue	1972-73 ..	155·08	173·84	(+) 18·76
	1973-74 ..	179·37	191·09	(+) 11·72
	1974-75 ..	194·78	224·84	(+) 30·06
B. Non-tax revenue ..	1972-73 ..	44·50	35·03	(—) 9·47
	1973-74 ..	53·73	40·30	(—) 13·43
	1974-75 ..	58·38	54·68	(—) 3·70

(ii) The variations between the Budget estimates and the actuals under the principal heads of tax revenue are given below:

Heads of revenue	Year	Budget	Actuals	Variation (+) excess (−) shortfall	Percentage of variation
(1)	(2)	(3)	(4)	(5)	(6)
			(In crores of rupees)		
1. Taxes on Agricultural income.	1972-73 ..	0·98	1·01	+0·03	(+ 33·0
	1973-74 ..	1·00	0·92	−0·08	(−) 8·0
	1974-75 ..	1·02	0·90	−0·12	(−) 10·8
2. Land Revenue ..	1972-73 ..	6·29	5·23	−1·06	(−) 16·8
	1973-74 ..	9·25	7·32	−1·93	(−) 20·9
	1974-75 ..	9·03	8·34	−0·69	(−) 7·6
3. State Excise ..	1972-73 ..	18·03	18·90	+0·87	(+) 4·8
	1973-74 ..	19·65	20·26	+0·61	(+) 3·1
	1974-75 ..	20·90	22·55	+1·65	(+) 7·9
4. Taxes on Vehicles ..	1972-73 ..	6·97	8·71	+1·74	(+) 24·9
	1973-74 ..	8·15	8·96	+0·81	(+) 9·9
	1974-75 ..	9·25	9·39	+0·14	(+) 1·5
5. Sales Tax ..	1972-73 ..	78·80	91·24	+12·44	(+) 15·7
	1973-74 ..	92·50	101·69	+9·19	(+) 9·9
	1974-75 ..	104·00	125·07	+21·07	(+) 20·2
6. Stamps and Registration Fees.	1972-73 ..	10·03	11·34	+1·31	(+) 13·1
	1973-74 ..	10·05	15·29	+5·24	(+) 52·4
	1974-75 ..	11·08	17·55	+6·47	(+) 58·4
7. Taxes and Duties on Electricity.	1972-73 ..	11·13	11·52	+0·39	(+) 3·5
	1973-74 ..	12·84	11·57	−1·27	(−) 9·7
	1974-75 ..	12·96	10·39	−2·57	(−) 19·7
8. Taxes on Goods and Passengers.	1972-73 ..	11·70	14·67	+2·97	(+) 25·8
	1973-74 ..	12·79	14·05	+1·26	(+) 9·9
	1974-75 ..	12·96	16·50	+3·54	(+) 27·3
9. Other Taxes and Duties on commodities and Services.	1972-73 ..	11·15	11·22	−0·07	(−) 0·6
	1973-74 ..	13·14	11·03	−2·11	(−) 16·1
	1974-75 ..	13·97	14·15	−0·18	(−) 1·3

In the case of Taxes on Agricultural Income, Sales Tax, Stamp and Registration fees, Taxes and Duties on Electricity and Taxes on Goods and Passengers, the variations were in excess of ten per cent. The reasons for variation in these cases are awaited (February 1976).

4. **Cost of collection:** The expenditure incurred by the State Government during 1974-75 on the collection of various taxes and the percentage of the cost of collection to the tax collected during the last three years are given in Appendix.

5. **Arrears of Revenue:** The arrears of revenue in respect of Sales Tax, Electricity Duty and Land Revenue pending realisation as on 31st March 1975 amounted to Rs.96.54 crores as indicated below:

(a) Sales Tax

	Outstanding as on 1st April, 1974	Fresh demand raised during the year	Amount collected	Amount remitted/ written off/ reduced on appeal or revision	Balance outstanding as on 31st March 1975	Remarks
	(In crores of rupees)					
1. Bengal Finance (Sales Tax) Act, 1941.	48·04	15·16	4·81	4·48	53·92	Total revenue outstanding as on 1st April 1974 have been reduced from Rs. 67·88 crores to Rs. 66·65 crores due to exclusion of figures under the Bengal Raw Jute Taxation Act, 1941.
2. West Bengal Sales Tax Act, 1954.	1·78	0·71	0·29	0·13	2·07	
3. Central Sales Tax Act, 1956.	16·52	9·57	1·88	2·14	22·06	
4. Bengal Motor Spirit Sales Taxation Act, 1941.	0·31	0·12	0·04	0·03	0·36	
Total ..	66·65	25·56	7·02	6·78	78·41	

(b) Electricity Duty

	(In crores of rupees)
Balance as on 1st April, 1974	3·55
Demand raised during the year 1974-75	15·77
Total	19·32
Collections made during the year 1974-75	10·27
Balance outstanding as on 31st March, 1975	9·05

(c) Land Revenue

	(In crores of rupees)	Remarks
Balance as on 1st Baisakh 1381 B.S. (15th April, 1974)	8·36	Arrears of Land Revenue as on 1st Baisakh 1381 B.S. has been reduced from Rs. 9·28 crores to Rs. 8·36 crores due to exemption of land revenue in respect of raiyats holding lands not exceeding 3 acres with effect from 1376 B.S. (1969-70)
Demand raised during the year (1974-75)	6·69	
Total	15·05	
Collections made during the year 1381 B.S. (i.e. 1974-75)	5·97	
Balance outstanding as on last day of 1381 B.S. (14th April, 1975)	9·08	

The departments concerned were requested (July, 1975) to furnish information regarding arrears of revenue outstanding as on 31st March, 1975 in respect of other tax and non-tax receipts; the information is awaited (February 1976).

CHAPTER II

Sales Tax

6. **Results of test audit:** During 1974-75 test audit of documents of Commercial Tax Offices revealed under-assessment of tax of Rs.41.98 lakhs in 108 cases and over-assessment of Rs.2.53 lakhs in two cases. The under-assessment was due to reasons categorised below:

	Nature of irregularity	Number of cases	Amount involved
			(In lakhs of rupees)
1.	Irregular exemption	23	22·35
2.	Omission to tax certain sales	54	8·92
3.	Incorrect determination of taxable turnover	11	4·51
4.	Incorrect computation of tax	5	0·73
5.	Allowance of irregular deductions	10	1·39
6.	Omission to levy penalty	5	4·08
		108	41·98

Some important cases of under-assessment/over-assessment are detailed in the following paragraphs.

7. **Non-levy of tax on sewing thread:** Under the Bengal Finance (Sales Tax) Act, 1941, cotton yarn is exempted from tax. However, sewing thread is not the same commodity as cotton yarn since cotton yarn passes through some manufacturing process before it becomes sewing thread. Yarn has to be manufactured in a special way and with a special finish to make it suitable for being woven into fabric or garments. Sewing thread, on the other hand, is made with a much more pronounced twist to make the strands strong enough for the purpose for which it is used, namely, stitching and sewing. Sewing thread cannot, therefore, be treated as yarn for the purpose of exemption. Moreover, according to instructions issued by the department in September 1964, when cotton yarn is dyed outside the mill or loom, the dyed yarn would not be exempt from tax.

It was, however, noticed that in the assessment for the period Kartika Bodi 2023 to 2028 (1965-66 to 1970-71) made between October 1970 and September 1974 in respect of a dealer who purchased cotton yarn, and further processed and dyed it and sold the product as sewing thread, the sales of the dealer for the six years amounting to Rs.50,66,944 were exempted from tax treating it as cotton yarn. This incorrect exemption resulted in an under-charge of tax to the extent of Rs.4,08,119.

The case was referred to Government in August 1975. Reply is awaited (February 1976).

8. **Irregular exemption of Benarasi Sarees:** Sales of "artificial silk fabrics" are exempt from tax provided they do not contain 40 per cent or more by weight of silk. Sales of Benarasi Sarees made by a dealer, were taxed since 1372 B.S. (1966-67) on the ground that the sarees were made of silk yarn and embroidered with very costly "Jari" filament of gold. On appeal against the assessment, the appellate authority directed in August 1971 that it should be examined whether the Benarasi Sarees were made of hand spun (Khadi) silk yarn, in which case, they could still be exempted from tax. In the reassessment made in December 1974, the claim of the dealer for exemption was again rejected as not proved. The exemption available for Khadi made of silk yarn was withdrawn meanwhile from 15th November 1969. The sales during the subsequent four years (1373 B.S. to 1376 B.S.) were also subjected to tax and the rejection of the claims for exemption was confirmed in appeal (January 1974) preferred in respect of one of the years (1375). However, in the assessment of the dealer for the year 1377 B.S. (1971-72) made in November 1974, the earlier decisions were apparently overlooked and the sales of such Benarasi Sarees involving a sum of Rs.11,93,537 were exempted from tax treating them as "artificial silk fabric" without any proof having been produced by the dealer in support of his claim. This resulted in an under-assessment of tax of Rs.66,668.

The case was reported to Government in June 1975; reply is awaited (February 1976).

9. **Irregular exemption of woollen carpets:** Under the Bengal Finance (Sales Tax) Act, 1941, sales of "carpets of all varieties and descriptions" were taxable at 12 per cent from 16th November 1967, and at 15 per cent from 1st April 1974. "Woollen fabrics" have been exempt from tax under the Act from December 1957. Departmental instructions were, however, issued in December 1968 wrongly treating "woollen carpets" as exempt from tax, though these fell clearly under the former item and not under the latter. Subsequently, in September 1972, Government clarified that "all wool tuft carpets are not woollen fabrics".

In assessments for the year Kartik Bodi 15, 2025 (1969) made in April 1972, a dealer was assessed to tax at 12 per cent on his sales amounting to Rs.1,67,849 under the State Act and Rs.84,198 under the Central Sales Tax Act, and it was further found that he had collected the tax from his purchasers and remitted it to the treasury. However, in appeals preferred against these two assessments, the dealer contended that the sales of woollen carpets were not taxable in terms of the departmental instructions issued in December 1968. The appellate authority remanded the assessments (May 1973) for examining the taxability of the goods with reference to the departmental instructions and for passing fresh order of assessment. In reassessments made in September 1974, the claim of the dealer about the non-taxability of the goods was allowed without taking into account the correct position and the

clarification given by Government in September 1972. Similar claims for the years Kartik Bodi 2026 to Kartik Bodi 2028 (1970 to 1972) had also been allowed in the orders of assessment passed in July 1973, September 1974 and April 1975. The total relief from tax incorrectly allowed to the dealer for the four years Kartik Bodi 2025 to 2028 (1969 to 1972) on both intra-State and inter-State sales amounted to Rs.2,14,177.

The matter was brought to the notice of Government in June 1975; reply is awaited (February 1976).

10. **Irregular exemption of Pump sets:** Mention was made in paragraph 4 of Chapter V of the Audit Report 1971-72, paragraph 11 of the Audit Report (Revenue Receipts) 1972-73 and paragraph 8 of the Audit Report (Revenue Receipts) 1973-74 of several instances of non-levy of tax on sales of pump sets due to an incorrect order treating them as agricultural implements. During 1974-75, it came to the notice of audit that in ten such cases relating to various periods between 1969 and 1971, assessed during the period February 1973 to February 1974, turnover totalling Rs.252.90 lakhs on sale of pump sets was exempted from tax leading to under-assessment of tax to the extent of Rs.14.33 lakhs.

These cases were reported to Government during the period December 1974 to August 1975. Reply is awaited (February 1976).

11. **Irregular grant of exemption on sale of Tea:** Sales of tea made at auctions held in Calcutta under the auspices of Calcutta Tea Traders' Association to registered dealers are exempt from levy of sales tax under the Bengal Finance (Sales Tax) Act, 1941, provided 'tea' is specified in the certificates of registration of such dealers as intended either for re-sale or for manufacture of goods for sale and the dealer produces certain prescribed certificates and declarations. It was noticed that in four cases, three relating to the year 1970 and one to the year 1971, exemption from tax was also allowed to direct sales of tea by the tea gardens to the registered dealers on the strength of brokers' certificates that they had either paid, or would pay, the tax. The sales in these cases were not covered by the exemption granted under the Act, the certificates furnished were neither in accordance with the requirements of the law governing sales to registered dealers nor as prescribed in the conditions governing the exemption from tax. The exemption was stated to have been allowed on the basis of an executive instruction issued by the department in December 1969, though exemption from levy of tax can be granted only by a statutory rule framed under the provisions of the Act. The total turnover thus irregularly exempted from tax in the four cases amounted to Rs.17.37 lakhs and the amount of tax foregone worked out to Rs.98,495.

The cases were reported to Government in January 1975; reply is awaited (February 1976).

12. **Incorrect exemption:** Under the Bengal Finance (Sales Tax) Act, 1941, sale means any transfer of property in goods for cash or deferred payment or other valuable consideration including a transfer of property in goods involved in the execution of a contract. In an assessment for the period ending August 1970, made in October 1974 a sum of Rs.2,61,300 which was received by the dealer for supply of jute twine against forward contract was not assessed to tax on the ground that the transactions were not sales but forward contracts which were not liable to tax. It was however noticed that the goods (jute twine) were actually delivered by the dealer in execution of contract and in consideration of the value received and hence the transaction constituted a sale taxable under the Act. The incorrect exemption resulted in an under-assessment of tax of Rs.14,816. When this was pointed out in audit (April 1975) the department agreed to review the case (May 1975).

The case was reported to Government in June 1975; reply is awaited (February 1976).

13. **Non-levy of tax on supply of steam:** Sale of "steam" is liable to tax under the Bengal Finance (Sales Tax) Act, 1941. In the assessments of a dealer for the years 1968 and 1969, made in December 1972 and 1973, sales of steam aggregating Rs.6,07,527 were not taken into account in arriving at the taxable turnover, though such sales made by the dealer during the earlier and the succeeding years were subjected to tax and appeal on this point by the dealer in respect of the former year was rejected (December 1972). This omission to tax the sales of steam in 1968 and 1969 resulted in under-assessment of tax amounting to Rs.34,447. On this being pointed out in audit (May 1975), the department agreed to review the case (June 1975).

The case was reported to Government in September 1975. Reply is awaited (February 1976).

14. **Under-assessment of tax due to incorrect application of rate of tax:** In the case of an assessment for the year ending December 1969, made in November 1973, a dealer's total taxable turnover amounted to Rs.5,92,606 of which a sum of Rs.94,765 was admitted as sales to other registered dealers eligible for a concessional rate of tax of half per cent. Out of the balance, turnover of Rs.4,97,841 being in respect of goods included in the Schedule II of the Act was liable to tax at the rate of 12 per cent. The Assessing Officer, however, levied tax on a turnover of Rs.2,70,802 at the rate of 12 per cent, and the balance of Rs.2,27,039 at the rate of six per cent treating it as sale of unclassified goods. This resulted in an under-assessment of tax to the extent of Rs.11,443.

The case was reported to Government in January 1975; reply is awaited (February 1976).

15. **Mistake in computation of taxable turnover:** In an assessment made in July 1973 for the year ending March 1970, after allowing a deduction of Rs.23,863 from the gross turnover of Rs.59,41,021 towards

freight and other charges, the taxable turnover was wrongly computed at Rs.57,17,158 instead of Rs.59,17,158 resulting in an under-assessment of tax of Rs.11,340. On this being pointed out in audit (April 1974), the department admitted the mistake (April 1974).

The case was reported to Government in January 1975. Reply is awaited (February 1976).

16. **Irregular allowance of concessional rate of tax:** In an assessment under the Central Sales Tax Act, 1956 for the year ending February 1970, a turnover of Rs.32,96,916, out of a total taxable turnover of Rs.37,57,562, was subjected to the concessional rate of tax at three per cent admissible for sales to registered dealers and Government departments. In support of the claims for the concessional rate, the dealer filed certain statements showing particulars of "C" and "D" Forms totalling Rs.32,12,348. As against this claim, the assessing officer admitted the concessional rate of tax in respect of a turnover of Rs.32,96,916 stated to have been covered by declaration forms. No particulars were kept on record of the excess of Rs.84,568 so admitted for allowing the concessional rate of tax. On a scrutiny of these statements in audit (May 1974), it was noticed that the totals thereof did not work out even to Rs.32,12,348, but were overstated by Rs.3,44,371. The excess allowance for the concessional rate of tax resulted in an under-assessment of tax of Rs.26,500. On this being pointed out in audit (May 1974), the department stated (June 1974) that according to the assessee the copy of the statements furnished by him at the time of assessment had not taken into account certain corrections made while checking. The dealer was allowed to correct the statements already on record by inserting three new items for a total of Rs.39,859 and correcting 26 other items by increasing several of them by Rs.10,000 or more in each case. These corrections were neither attested by the dealer nor authenticated by the assessing officer and there was also no evidence on record that the latter had called for the relevant declarations and examined their genuineness before allowing the corrections to be made. Even after these corrections, the totals of the statement (32,12,011) did not work out either to the total of the statement previously noted (Rs.32,12,348) or to the total of the claim allowed (Rs.32,96,916).

The matter was brought to the notice of Government in July 1974; reply is awaited (February 1976). It was noticed in audit (May 1975) that a fresh list of declaration forms furnished by the dealer was under scrutiny of the assessing officer.

17. **Non-levy of tax on transfers of goods:** Transfers of goods from one branch of the dealer to another for business purposes do not constitute sales and hence are not taxable. Claims for non-levy of tax in such cases can be verified from the registration certificates in which the places where a dealer has branches are required to be noted. In the assessments of

four dealers for the periods ending December 1971, March 1970, Kartik Bodi 2027 (1971) and Ashar Sudi 2030 (1974), claims for deductions of Rs.23,886 and Rs.67,000 in the assessment of Central Sales Tax and of Rs.56,352 and Rs.11,07,231 in the assessment under the State Act had been allowed from the gross turnovers on account of goods claimed to have been transferred by the dealer to their branches elsewhere, without recording any reasons for allowing the claims. There was no mention of the branches in the registration certificates of the dealers. The deductions being inadmissible, resulted in an under-assessment of Rs.75,064 (State Sales Tax Rs.65,975 and Central Sales tax Rs.9,089).

All the cases were reported to Government in June 1975; reply is awaited (February 1976).

18. **Under-assessment of tax due to non-inclusion of delivery charges in the sale price of goods:** Under the provisions of the Bengal Finance (Sales Tax) Act, 1941, the sale price of goods includes any sum charged for anything done by the dealer at any time before the delivery of goods and cost of freight or delivery is excluded from sale price only when such cost is agreed to be charged separately. In an assessment for the period ending September 1969 made in September 1973, a sum of Rs.3,18,154 shown by the dealer in his accounts as recoveries towards delivery and collection charges was not taken into account in arriving at the taxable turnover though no finding was recorded that these charges were not part of the sale price as defined in the Act. The tax benefit allowed to the dealer on this account amounted to Rs.18,039.

The case was reported to Government in June 1975; reply is awaited (February 1976).

19. **Non-levy of tax on by-product of cotton:** Mention was made in paragraph 13 of Chapter III of the Audit Report on Revenue Receipts for 1973-74 of several cases of non-assessment of sales of cotton waste by incorrectly treating the article as cotton. Several more cases came to the notice of audit during 1974-75 in which sales of cotton waste had not been subjected to tax. In eight assessment cases relating to four dealers for various periods between 1968 and 1972, made during April 1972 to December 1974, turnover aggregating Rs.55.96 lakhs on sales of cotton waste was not subjected to tax, resulting in under-assessment of tax amounting to Rs.3.89 lakhs.

These cases were reported to Government during the period January 1975 to March 1975; reply is awaited (February 1976).

20. **Mistakes in allowing deduction from turnover:** In paragraph 15 and paragraph 18 of the Audit Report (Revenue Receipts) for 1972-73 and 1973-74 respectively, several cases were mentioned in which certain mistakes

in the totals of the statements filed by the dealer in support of their claims for deduction led to under-assessment of tax. A few more of such cases, which came to the notice of audit during the year under report, are detailed below:

(i) In the assessment of a dealer made in March, 1974, for the year ending 31st March, 1970, concessional rates of tax at half per cent, one per cent and two per cent were charged on sales to registered dealers amounting to Rs.12,05,064, Rs.5,28,568 and Rs.8,15,560 respectively, based on certain statements filed by the dealer. The correct totals of such statements were found to be Rs.11,15,064, Rs.4,78,568 and Rs.7,23,675 respectively. There was, thus, an irregular allowance of concessional rates of tax in respect of sales to the extent of Rs.90,000, Rs.50,000 and Rs.91,885 respectively, resulting in under-assessment of tax of Rs.10,404. There was another under-assessment of Rs.1,699 in respect of the same dealer for the same period in the assessment of Central Sales Tax in which there was a mistake of Rs.25,000 in the total of declaration forms.

(ii) In three assessments made during the period September 1974 to December 1974 in respect of three dealers for the years ending December 1970, 1971 and 1972, the totals of the statements filed by the dealers at the time of assessments in support of their sales to registered dealers eligible for concessional rates of tax, were overstated by Rs.3,93,930, Rs.2,14,940 and Rs.32,002 respectively. Under-assessment of tax in the three cases amounted to Rs.18,436, Rs.10,059 and Rs.1,977 respectively.

(iii) In two assessments made in March 1972 and February 1973 for the years ending March 1969 and 1970 in respect of a dealer, there were errors in totalling amounting to Rs.1,30,000 and Rs.59,910 respectively in the statements showing dealer's sales to the registered dealers eligible for concessional rates of tax, furnished by the dealer in support of his claim. Out of the under-assessment of tax of Rs.10,768 in these cases, a sum of Rs.3,397 is reported to have been realised (February 1974).

(iv) In the assessment of a dealer for the year ending December 1969, made in November 1973, concessional rates of tax for sales to registered dealers were allowed on a turnover of Rs.28,05,521 on the basis of certain statements filed by the dealer. The correct total of these statements was found in audit to be Rs.19,32,365. There was no evidence in the assessment records that the dealer had produced either the prescribed declarations or statements containing details thereof for the balance of Rs.8,73,156. The under-assessment of tax due to allowance of concessional rate of tax on the excess claim of Rs.8,73,156 amounted to Rs.49,608. When this was pointed out in audit (May 1974), the department stated (May 1974) that the case would be reviewed. Further development is awaited (February 1976).

All the cases were reported to Government between April, 1974 and June, 1975; reply is awaited (February, 1976).

21. **Sales not subjected to tax:** Mention was made in paragraph 9 of Chapter III of the Audit Report on Revenue Receipts for 1973-74 of several instances of non-levy of tax on transactions which were taxable by virtue of certain amendments made in 1967 to the Bengal Finance (Sales Tax) Act, 1941. In the course of audit of assessments made during the year 1974-75, it was noticed that casual and non-recurring sales involving Rs.8.23 lakhs in connection with ancillary materials and goods sold during various periods in 1969 to 1973 were not charged to tax in 35 cases resulting in under-assessment of tax to the extent of Rs.73,829.

The cases were reported to Government during the period December 1974 and February 1975; reply is awaited (February 1976).

22. **Inadequate scrutiny of claim for deduction:** In paragraph 19 of the Audit Report (Revenue Receipts) 1973-74 mention was made of cases in which tax was levied at concessional rates on sales without any evidence of the prescribed proofs having been produced in support thereof. Several more such cases came to the notice of audit, some of which are detailed below:

(i) In the assessments of a dealer for the years ending December 1969 and 1970, made in May 1973 and July 1973, respectively, claims for deductions amounting to Rs.17,879 and Rs.4,32,086 representing sales to registered dealers during the period 15th November 1969 to 31st December 1969, and for the year ending December, 1970, respectively, were rejected as the claims were not supported by prescribed proofs. However, while computing the tax payable by the assessee, the two amounts were charged at concessional rate of tax admissible for sales to registered dealers instead of at full rates, resulting in under-assessment of tax amounting to Rs.23,262. When this was pointed out in audit (August, 1974), the assessing officer admitted the mistake (September 1974) and proposed to review the case. No further report has been received (February 1976).

(ii) In an *ex parte* assessment for the year ending June 1969, made in June 1973, a sum of Rs.2,46,326 was determined as the dealer's sales to registered dealers, of which Rs.2,15,812 was charged at the concessional rate without the prescribed proofs being available in record and the balance was treated as tax-free. The allowance of Rs.2,46,326 at the concessional rates resulted in an under-assessment of tax to the extent of Rs.9,737. When this was pointed out in audit (August, 1974), the assessing officer admitted the under-assessment (August 1974) but observed that the assessment was made on the basis of the returns filed without raising a demand which had no chance of realisation.

The cases were reported to Government in December 1974; reply is awaited (February 1976).

23. **Incorrect deduction from turnover:** (i) Under the Bengal Finance (Sales Tax) Act, 1941, sales tax is charged on the amount payable to a dealer as valuable consideration for the sale less any sum allowed as cash discount according to ordinary trade practice. In the assessment of a dealer for two years ending in June 1967 and 1968, made between June 1972 and March 1974, the amounts of Rs.30,38,625 and Rs.30,66,218 being commission paid to the selling agent by the dealer, were deducted from the gross turnovers, while similar deductions claimed by the dealer in the succeeding two years were correctly disallowed. The commission forming part of the selling expenses of a dealer cannot be deducted from the gross turnover of the dealer. The incorrect deduction made in the assessments of two years resulted in an under assessment of tax of Rs.3,46,145. The matter was reported to Government in January 1975; reply is awaited (February 1976).

(ii) In seven more assessments for various periods between June 1969 and December 1972, made during 1973-74, commission paid to the selling agents by the dealers and trade discount aggregating Rs.12,97,110 were incorrectly deducted from the gross turnovers of the dealers resulting in under-assessment of tax to the extent of Rs.76,195. The case was reported to Government in December 1974; reply is awaited (February 1976).

24. **Excess deduction from turnover resulting in under-assessment of tax:** In an assessment under the Central Sales Tax Act, 1956, for the period ending March 1970, made in March 1974, claims for deductions aggregating Rs.28,79,035 were made by the dealer as labour charges included in his out turn, against which a sum of Rs.27,79,035 was allowed after disallowing Rs.1,00,000 on estimate. An examination of the detailed statements for the claim filed by the dealer disclosed that the total had been inflated by the dealer resulting in excess allowance of claim and consequent under-assessment of tax to the extent of Rs.10,000.

The case was reported to Government in June 1975. Reply is awaited (February 1976).

25. **Non-imposition of penalty for misuse of declaration forms:** Under the provisions of the Bengal Finance (Sales Tax) Act, 1941 and the rules framed thereunder, a registered dealer, on production of prescribed declarations by him to the selling dealer, is entitled to purchase goods at concessional rates of tax if he intended to sell those very goods in West Bengal. If the goods so purchased are not sold again in West Bengal, the purchasing dealer is liable to penalty for the improper use of the declarations, of an amount not exceeding double the tax which would have been levied under the Act in respect of the sale of the goods concerned.

In two assessments of a registered dealer for the years ending March 1970 and 1971, made in February 1974 and September 1974 respectively, goods valued at Rs.98,084 and Rs.30,330 were claimed by the dealer as having been transferred to his branch outside the State. However, no tax was levied thereon, though the goods shown to have been sold outside the State were

purchased at concessional rates of tax admissible on the basis of declarations. A maximum penalty of Rs.23,348 leviable in this case for breach of declaration was not levied.

The case was reported to Government in August 1975; reply is awaited (February 1976).

26. **Loss of revenue due to delay in assessment:** Information was received by an assessing officer in August 1971 that one of the dealers in his charge was trying to evade payment of tax due from him by closing down his business and starting three new businesses in another area. At that time, assessments of the dealer for the years 1968, 1969 and 1970 were pending and he had submitted his return for the first quarter of 1971 also. No action was taken on the basis of the information received to expedite the assessments and collect the tax due from the dealer. Information was received in July 1972 from the dealer that he had closed his business and transferred it to another jurisdiction. The business was subsequently wound up by an order of the Court in August 1972, information about which was received by the assessing officer in September 1972. Even then, the pending assessments were not expedited and claims preferred promptly with the official liquidator. The assessment for the year 1968 was taken up in November 1972 and for the subsequent years 1969 to 1971, the assessments were taken up much later in April 1973, April 1974 and February 1975 respectively. A total sum of Rs.2.18 lakhs was found to be due from the dealer towards tax for the four years from 1968 to 1971. On this being pointed out in audit (April 1975), the department stated (May 1975) that the official liquidator had stated that it had not been possible to realise the dues. The assessment for four years thus became infructuous and the entire amount of Rs.2.18 lakhs became irrecoverable.

The case was reported to Government in August 1975; reply is awaited (February 1976).

27. **Non-assessment of Tax due for a year from a registered dealer:** An *ex parte* assessment in respect of a dealer for the year 2023 Chaitra Sudi (1966) was completed during the year 1970-71 and those for the years 2025 (1968) and 2026 (1969) were completed in February 1972 and January 1973 respectively. According to these assessments, taxes due from the dealer for the three years were assessed at Rs.51,758, Rs.60,402 and Rs.86,339 respectively. No amount having been paid by the dealer against these demands, the cases for the years 2023 and 2026 were referred to the Certificate Officer for recovery in 1970-71, and September 1973. The amount due for Chaitra Sudi 2025 (1968) has not been referred to the Certificate Officer (August 1974) though it had been decided to do so in June 1973. The records relating to the assessment for the year Chaitra Sudi 2024 (1967) could not be traced till April 1975 when it was noticed that in respect of this year the dealer had submitted his annual return in July 1967 and that 16th March 1971 had been fixed by the assessing

officer for the dealer to produce his books of account. There was no indication whether the dealer produced his books of account on the date fixed, whether they were examined and if so with what result. Two orders of assessment were, however, found to have been passed in respect of the State and Central Acts, but as these orders did not bear any date, there was no evidence whether they were passed in 1971 or later when the file was eventually traced in April 1975. According to these assessment orders the dealer was liable to a tax of Rs.72,192, under the State Act, against which he had paid Rs.1,055 and a tax of Rs.3,036 under the Central Sales Tax Act, 1956, against which he had paid Rs.812. No demand notices were found to have been issued to the dealer for payment of these amounts due as tax from him (June 1975).

The matter was reported to Government in August 1974, reply is awaited (February 1976).

28. **Non-assessment of a dealer liable for tax:** From a report of an Inspector of Commercial Taxes received in January 1972, it came to the notice of the department that a dealer who was liable to tax under the Bengal Finance (Sales Tax) Act, 1941, had not registered himself as a dealer under the Act and had not paid the taxes due from him. In January 1973, the dealer was held liable to pay tax from January 1967 and his turnover for the year 1967 was estimated at Rs.5 lakhs. No action was taken to initiate proceedings for the assessment of the dealer till April 1973 when it was found that not only the dealer had already closed his business in February 1973 but the relevant reports of the Inspector were also not available for examination. The loss of revenue due to the non-assessment for the year 1967 alone worked out to Rs.28,350. The loss of revenue for the subsequent years could not be ascertained as the turnovers for these years had not been estimated (February 1976).

The matter was reported to Government in June 1975. Reply is awaited (February 1976).

29. **Unauthorised use of goods by registered dealers:** Under the provisions of the Bengal Finance (Sales Tax) Act, 1941, if a registered dealer, after purchasing goods mentioned in his registration certificate at a concessional rate of tax or free of tax admissible on purchases for re-sale or for manufacture of goods, makes use of the goods for any purpose other than resale or manufacture, he is liable to a penalty of a sum not exceeding double the amount of tax which could have been levied under the Act in respect of sale of the goods concerned. In three assessment cases for the year 1969 assessed between July 1973 and December 1973, goods worth Rs.5,87,916, Rs.27,94,634 and Rs.7,731 respectively purchased at concessional rates of tax for being used in the manufacture of goods for sale, were shown in the accounts of the dealer as utilised for the creation of certain assets of the business. A maximum penalty of Rs.3,84,458 could be levied in these cases on the dealer for having diverted the goods

purchased at concessional rates of tax to other purposes. When this was pointed out in audit (July 1974) the department agreed (between July 1974 and September 1974) to review these cases. No further report has been received (February 1976).

The cases were reported to Government in December 1974; reply is awaited (February 1976).

30. **Under-assessment of Central Sales Tax:** In an assessment under the Bengal Finance (Sales Tax) Act, 1941, for the year ending March 1970, made in 1973-74, a sum of Rs.4,58,632 was deducted from the dealer's gross turnover as representing his inter-State sales, taxable under the Central Sales Tax Act, 1956. In the corresponding assessment under the Central Sales Tax Act, sales to the extent of Rs.1,48,156 for the period 21st February 1970 to 31st March 1970 were taken into account on the ground that the dealer registered himself only from 21st February 1970. No attempt was made to verify the dealer's liability for the prior period when admittedly he had transactions of inter-State sales amounting to Rs.3,10,476, nor was any penal action prescribed by law for non-registration taken against the dealer. This resulted in under-assessment of Central Sales Tax of Rs.28,225 on the turnover of Rs.3,10,476. The case was reported to Government in December 1974; reply is awaited (February 1976).

31. **Overcharge of tax due to incorrect computation:** (i) In an assessment made in February 1975 for the year ending September 1971, tax at the rate of 6 per cent on a turnover of Rs.2,71,017 was wrongly determined at Rs.2,56,111 and a demand notice was issued accordingly. The correct amount of tax was only Rs.15,367. There was thus an over-assessment of tax of Rs.2,40,744. When this was pointed out in audit (April 1975), the department agreed to review the assessment (May 1975).

(ii) In another assessment made in September 1974 for the year 1377 B.S. (1970-71), tax at the rate of ½ per cent. on a turnover of Rs.1,50,875 being sales to registered dealers, was incorrectly computed at Rs.8,550 instead of the correct amount of Rs.751 resulting in an over-assessment of tax of Rs.7,799. In addition, while working out the tax due from the dealer a remittance of Rs.5,001 made by the dealer towards tax was wrongly accounted for as Rs.500, resulting in excess recovery of tax amounting to Rs.4,551. The total excess demand against the dealer, thus amounted to Rs.12,300. When this was pointed out in audit (May 1975), the department agreed to review the assessment (June 1975).

Both the cases were reported to Government in August 1975. Reply is awaited (February 1976).

CHAPTER III

Agricultural Income Tax

32. **Under-assessment of tax due to mistakes in computation of agricultural income:** Under the Bengal Agricultural Income Tax Act, 1944, the agricultural income of an assessee having income from tea is deemed to be sixty per cent of business income computed for the purpose of income tax under the Income Tax Act, 1961 and agricultural income tax is levied thereon after allowance of such deductions as may be admissible under the State Act. In six assessments for the years from 1967-68 to 1972-73 a special deduction admissible under section 80(I) of the Income Tax Act, 1961 for the purpose of computation of tax liability was also taken into consideration in arriving at the agricultural income though this rebate was not an admissible deduction from the agricultural income of the assessees for computation of taxable agricultural income under the Bengal Agricultural Income Tax Act, 1944. This irregular deduction in these six cases resulted in an under-assessment of agricultural income of Rs.1,41,182 leading to an under-charge of tax of Rs.72,947.

The cases were brought to the notice of Government in March 1975; reply is awaited (February 1976).

33. **Incorrect computation of agricultural income:** In the case of a tea estate, the total tea business income from tea assessed under the Income Tax Act, 1961 amounted to Rs.6,17,025, and 60 per cent thereof assessable under the Bengal Agricultural Income Tax Act, 1944 amounted to Rs.3,71,631, after adjusting a net income of Rs.3,540 from other agricultural properties wholly assessable under the latter Act. Instead, a sum of Rs.3,42,014 only was subjected to agricultural income tax by an assessment made in June 1972, resulting in an under-assessment of tax of Rs.14,808.

The case was reported to Government in March 1975; reply is awaited (February 1976).

34. **Irregular exemption from tax:** Government decided in July 1964 to exempt from levy of agricultural income tax all registered co-operative farming societies engaged in agricultural operation (excluding those engaged in the production of ganja, bhang, siddi, tea etc.) subject to the condition that individual members thereof would pay tax, if liable individually. Pending necessary amendments to the statute, Government also directed (July 1964) that the recovery proceedings might be stayed in respect of registered co-operative farming societies as had already been assessed and where notices had been issued to the societies for production

of records such notices might be withdrawn and further proceedings stopped. In February 1970, Government further directed that the unrealised tax demanded from the registered co-operative farming societies prior to July 1964 might not be shown as arrears of agricultural income tax and directed the write off of Rs.1,70,035 due for various periods 1956-57 to 1960-61 in respect of 9 such societies. The dues in respect of 66 more societies have not yet been ascertained or written off. The necessary amendment to the statute to give effect to the policy decision had not yet been made (July 1975), though a decision to exempt the societies from taxation was taken over 11 years ago. The matter was referred to Government in January 1975; reply is awaited (February 1976).

35. **Irregular collection of tax to make good shortfall against the budget estimates:** Under the Bengal Agricultural Income Tax Act, 1944, the tax is payable by the assessee only after its assessment is completed in accordance with the procedure prescribed in the Act and after a demand notice for payment of tax is issued to him. There is no provision in the Act for payment of tax in advance or payment of tax on the basis of self-assessment. In 43 cases relating to assessment years 1966-67 to 1973-74, agricultural income tax amounting to Rs.42,30,477 was realised in advance of assessments from the assessees mostly at the close of the financial year, without the relevant assessments having been finalised. Out of these cases, assessments in 16 cases involving tax of Rs.6,72,246 have not been completed so far (February 1976) and in the remaining 27 cases assessments were made after a month to five years after the relisation of taxes. The collection of taxes without raising any demand and where no demand is outstanding is contrary to the provisions of the law.

The matter was reported to Government in March 1975; reply is awaited (February 1976).

36. **Under-charge of tax due to irregular admission of allowances of expenditure on religious purpose:** Under the Bengal Agricultural Income Tax Act, 1944, the agricultural income derived from a property shall not be included in the total agricultural income of the assessee if that property is held under trust or other legal obligation wholly for religious and charitable purposes. Thus, if the property is not determined as *wholly debattar* (religious or charitable) any income therefrom cannot be excluded from the assessee's total agricultural income even if the income is applied for religious purposes. In the assessment year 1965-66 an assessee having failed to produce documentary evidence in support of her claim that the agricultural property was absolute *debattar*, the assessing officer held that the income therefrom was not wholly *debattar*. The assessee had not furnished any further documents to prove her claim and did not also file the prescribed returns from the assessment year 1968-69 onwards. In the assessments for the years 1969-70 to 1971-72 made by the

assessing officer according to his best judgment between January 1973 and March 1974, deductions aggregating Rs. 94,000 were allowed from the total agricultural income of the assessee as expenditure on religious purposes and *debseva* though in the facts and circumstances of the case no such claim was admissible. The wrong allowance of deduction resulted in an under-charge of tax to the extent of Rs.34,477.

The case was reported to Government in March 1975; reply is awaited (February 1976).

57596

CHAPTER IV

Land Revenue

37. **Results of test audit:** Test audit conducted during 1974-75 of the receipts relating to land revenue revealed under-assessments and loss of revenue amounting to Rs.280.88 lakhs. The details of the cases are as under:

	Nature of irregularity	Amount involved [In lakhs of rupees]
1.	Non-recovery of increase rent of land	135·40
2.	Outstanding damage fee	64·49
3.	Non-recovery and short recovery of cesses	17·04
4.	Non-recovery of revenue	13·72
5.	Loss of royalty	0·17
6.	Short recovery of royalty	0·74
7.	Loss of revenue due to delay in taking over possession of *hats* ..	4·00
8.	Royalty for sand not assessed	4·31
9.	Loss due to irregularity in settlement of fisheries	8·44
10.	Loss due to non-settlement of Char and roadside lands	31·97
		280·88

Some important cases are mentioned in the following paragraphs:

38. **Non-realisation of Public Works, Road Cess and Education Cess:** Under the provisions of the West Bengal Land Reforms Act, 1955, a raiyat holding land not exceeding 1.214 hectares (3 acres) is exempted from payment of land revenue in respect of his holding with effect from 1st Baisakh, 1376 B.S. (14th April 1969). Such an exemption is not, however, admissible in respect of Public Works Cess, Road Cess and Education Cess which are payable by such raiyats under the Cess Act IX of 1880 and Act VII of 1930. In one district the cesses were not realised for the years 1376 B.S. to 1380 B.S. (1969-70 to 1973-74) from the raiyats holding lands not exceeding 1.214 hectares on the ground that they were exempt from the levy. The unrealised cesses amounted to Rs.17,26,890. On this being pointed out in audit (November 1974), the department stated (December 1974) that action was being taken to recover the cesses for the five years in question.

The matter was reported to Government (July 1975); reply is awaited (February 1976).

39. **Non-recovery and short recovery of cesses:** (i) From 1362 B.S. to 1374 B.S. (1955-56 to 1967-68) the rate of education cess was 5¼ paise per rupee and road and public works cesses were recoverable at 6 paise per rupee. It was seen in audit that education, road and public works cesses were not realised for the period 1362 B.S. to 1374 B.S. (1955-56 to 1967-68) in one circle (out of 13 circles of a district) resulting in non-recovery of cesses to the extent of Rs.26,653. When this was pointed out in audit (February 1975) the department stated (February 1975) that cesses were not realised as these were not recorded in settlement records. However under the provisions of the West Bengal Land Reforms Act, 1955, the raiyat is liable to pay cesses leviable under the Cess Acts irrespective of whether he pays rent or is exempted therefrom.

The case was brought to the notice of Government in August 1975; reply is awaited (February 1976).

(ii) In paragraph 30 of the Audit Report (Revenue Receipts) for 1973-74, cases were mentioned relating to short recovery of public works and road cesses due to non-application of increased rates of these cesses with effect from 1375 B.S. (1968-69). It was noticed that in the district of West Dinajpur, in two out of 17 circles, there was a short recovery of cesses to the extent of Rs.10,824 during the year 1375 B.S. (1968-69) due to non-imposition of revised rates of cesses. When this was pointed out in audit (January 1975), the department stated (January 1975) that action was being taken to recover the amount.

The matter was reported to Government in April 1975; reply is awaited (February 1976).

40. **Loss of revenue due to non-realisation of increased royalty for use of minor minerals:** The rates of royalty prescribed in West Bengal Minor Minerals Rules, 1959 for use of all minor minerals, excepting brick earth, varied between a minimum of Re.1 and a maximum of Rs.2.50 per 100 cft. Under the West Bengal Minor Minerals Rules, 1973, which were promulgated on 30th January 1974, the royalty was leviable at a flat rate of Rs.4.93 per 100 cft.

(a) In the district of Jalpaiguri, leases in five cases for mining of 14,76,700 cft. minor minerals were granted during the period 31st January 1974 to July 1974 in two cases, and upto September 1974 in three cases, on payment of royalty at the rate of Rs.2 instead of at Rs.4.93 per 100 cft. resulting in loss of revenue to the extent of Rs.43,268. The non-levy at the enhanced rate was attributed by the department (March 1975) to delay in receipt of the Government notification. The case was reported to Government in August 1975; reply is awaited (February 1976).

(b) In Malda district 1,23,21,850 numbers of bricks were manufactured by a lessee between February 1974 and November 1974 on payment of royalty at the rate of Rs.1.80 per thousand bricks, though the rate of

royalty had been enhanced to Rs.4.93 per 1,382 bricks (100 cft. is equivalent to 1,382 bricks). When this was pointed out in audit (January 1975), the department stated (January 1975) that the operation of brick manufacturers from February 1974 to November 1974 was started in 1973-74 and as such the rate was fixed under the West Bengal Minor Minerals Rules, 1959. According to the terms of lease granted under West Bengal Minor Minerals Rules, 1959, in case of revision of rates of royalty during the currency of the lease, the lessee shall be required to pay royalty at a rate not exceeding 1½ times the rate mentioned in the lease. The rate of royalty payable by the lessees, therefore, worked out to Rs.2.70 per 1,000 bricks from February 1974. No attempt was made to realise the increased royalty due from the brick manufacturers. Non-realisation of royalty at the rate of Rs.2.70 per 1,000 bricks as per provisions of the agreement resulted in a loss of revenue to the extent of Rs.11,090. The matter was reported to Government in June 1975; reply is awaited (February 1976).

41. **Non-recovery of rent from lands formerly held as rent-free:** Under the provisions of the West Bengal Land Reforms Act, 1955, the raiyat shall, with effect from 14th April 1955, pay rent at such rates as may be determined on lands previously held by him as rent-free, and all rent-free holdings were abolished. In the district of Hooghly, rent of 12,912.46 acres of such lands in 14 circles out of 17 circles had not been determined upto the period of audit (December 1974) resulting in a non-recovery of rent to the extent of about Rs.13.72 lakhs from 1955 to date (April 1974). When this was pointed out in audit (November 1974), the department stated (November 1974) that assessments of rent due for these lands had not been made as the Settlement Department had not determined the rent. Three circles could not furnish total acreage of such erstwhile rent-free lands.

The matter was reported to Government (July 1975), reply is awaited (February 1976).

42. **Short recovery of royalty:** It was noticed that during the period April 1971 to February 1975, 1,35,766 cubic metres of minor minerals, comprising boulders, shingles and sand, were allowed to be raised from a forest area in the district of Jalpaiguri on payment of royalty at the rate of Rs.2 per cubic metre. The rate of royalty for raising such minor minerals was raised to Rs.4.93 per 100 cft with effect from 30th January 1974. This increased rate was, however, not enforced in the Forest Division but royalty on 19,309 cubic metres (6,81,815 cft.) of minerals raised between February 1974 and February 1975 was levied at the old rate, resulting in short recovery of royalty to the extent of Rs.19,976.

The case was reported to Government in August 1975; reply is awaited (February 1976).

43. **Loss of revenue due to non-settlement of Char lands:** (i) Under the provisions of the West Bengal Government Estates Manual, 1953, settlement of new 'Chars' must be taken up at the beginning of winter each year. It came to notice that in one district, in nine circles out of 17 circles, 938.6 acres of 'Char' lands had not been settled for a period ranging from two years to nineteen years up to 1974, resulting in loss of revenue to the extent of Rs.1,59,497 at the rate of rent of Rs.10 per acre per annum. When this was pointed out in audit (December 1974), the department stated (December 1974) that the lands were under unauthorised occupation and agreed to take action for settlement thereof.

(ii) In another district 4,000 acres of 'Char' lands in two circles, out of fifteen circles had not been settled for a period of two years to nineteen years and had been in possession of unauthorised persons. This resulted in loss of revenue to the extent of Rs.2,80,000 upto 1380 B.S. (1973-74) at the rate of rent of Rs.10 per acre per annum. On this being pointed out in audit (January 1975) the department stated (January 1975) that action would be taken for settlement after survey of land.

The cases were reported to the Government in July 1975; reply is awaited (February 1976).

44. **Royalty for sands raised by collieries not assessed:** After the nationalisation of coal mines in January 1973, the Coal Mines Authority obtained the necessary permission from the State Government for extraction of sand from the beds of the Damodar and Ajoy rivers extending over the districts of Burdwan, Purulia, Bankura and Birbhum. Under the provisions of the West Bengal Mineral Concession Rules, 1960, use of sand from river beds requires agreements with and lease by the Government and royalty is payable at the rate of 20 paise per metric tonne. Information regarding the exact number of collieries in which sand was being utilised for stowing purposes and the total quantity of sand utilised by the Coal Mines Authority could not be furnished by the department (October 1974). Information in respect of thirteen out of 315 collieries, furnished by the department in October 1974, indicated that assessments had been made for the period upto 31st March 1974 in eleven cases and upto 31st March 1973 only in two cases and a sum of Rs.4.31 lakhs was pending recovery as royalty in these cases for the sand taken from the two rivers. Information in respect of the other 302 collieries is not available (February 1976).

The matter was reported to the Government in August 1975. Reply is awaited (February 1976).

45. **Outstanding damage fee:** In paragraph 22 of the Audit Report (Revenue Receipts) for 1972-73, mention was made of non-realisation of damage fee leviable under the law in six districts of the State. In four more districts, damage fee amounting to Rs.64,49,295 was not realised in respect of 47,493 acres of land.

The matter was reported to Government between April and July 1975; reply is awaited (February 1976).

46. **Loss of revenue due to non-settlement of roadside land:** Under the provisions of the West Bengal Government Estates Manual, 1953, roadside lands are to be settled for non-agricultural purposes for a period not exceeding five years in case of short-term settlement, and thirty years in case of long-term settlement. In the case of long-term settlement the rent shall be fixed at 4 per cent of the market-value of the land proposed for settlement and salami at 10 times the rent shall be charged while in the case of short-term settlement no salami shall be charged but rent shall not be less than that prescribed for long-term settlement. In the district of Hooghly 26,377 acres of roadside lands in two of the 17 circles, valued at Rs.34,46,875 (at market rates) had been in unauthorised occupation by persons mostly for business purpose for more than ten years and applications for their settlements in many cases had been received. No settlement in respect of those roadside lands had, however, been made so far February 1976. This resulted in loss of revenue to the extent of Rs.27,57,500 on account of rent and salami for the lands. On this being pointed out in audit (December 1974) the department stated (December 1974) that the views of the Public Works Department had been sought in the matter.

The matter was reported to Government in July 1975; reply is awaited (February 1976).

47. **Loss of revenue due to delay in taking possession of hats inside tea gardens:** Under the provisions of the West Bengal Estates Acquisition Act, 1953 rights in *hats*, bazars and other *sairati* interests of intermediaries and all lands in tea gardens held in excess of requirements for garden, mill, factory or workshop had been vested in the Government, with effect from 14th April 1955. In the district of Jalpaiguri, possession of 3 *hats* in tea gardens has not been taken so far (March 1975) and possession of nine other *hats* was taken only between January 1963 and May 1970. On the basis of revenue earned by these 9 *hats* after these were leased by the Government revenue foregone owing to delay in taking possession of those 9 *hats* alone amounted to over Rs.4 lakhs. The cases were reported to Government in July and August 1975; reply is awaited (February 1976).

48. **Non-recovery of increased rent:** Under the provisions of the West Bengal Land Reforms Act, 1955, a raiyat holding lands exceeding 1.214 hectares in an irrigated area shall, with effect from 1st Baisakh, 1379 (13th April 1972), pay rent at thrice the rate prevailing at the end of 1378 B.S. (1971-72) on the area being notified by State Government as "irrigated area". In one district (Hooghly) 10 circles, out of 17 were notified by Government in July 1971 as irrigated area. A review of records of these 10 circles disclosed that the increased rent realisable but not realised up to 1380 B.S. (1973-74) stood at Rs.1,34,57,350. When this was pointed out in audit (November 1974) the department stated (December 1974) that the dues were in the process of recovery.

In another district (West Dinajpur), out of 16 circles, 9 circles had facilities for irrigation for several years under the various State Irrigation Projects. No notification has so far (February 1976) been issued declaring

those areas as irrigated. Owing to non-imposition of rent at enhanced rate there has been non-recovery of revenue to the extent of Rs.82,902 per annum. When this was pointed out in audit (December 1974), the department stated (January 1975) that Government notification issued in July 1971 in respect of one circle (Raiganj) had been received only in December 1974, and that reassessments of rent had been taken up.

The matter was reported to Government between April and July 1975; reply is awaited (February 1976).

49. **Loss of royalty on account of irregular deduction of demands:** The amount of royalty payable by 6 lessees for extraction of 14,91.370 cft. of sand at the rate of Rs.2.50 per 100 cft. was assessed at Rs.45.447 based on measurements taken by the Subdivisional Land Reforms Officer in July 1972. On objection against assessment being raised by 5 out of 6 lessees, demand of royalty in their cases was reduced to Rs.24,347 in January 1974 for raising 9,73,897 cft of sand (measured for the second time in December 1973) as against Rs.41,037 for 14,48,530 cft originally measured in respect of these five leases. No reasons were assigned for reducing the measurements originally made, after a lapse of 17 months from the date of first measurement nor was there any specific finding that the original measurements were erroneous. The fact that pits were likely to have become filled in with silt after erosion and deposit of soil during this period was not taken into consideration. This irregular reduction of demand resulted in loss of royalty to the extent of Rs.16,690. When this was pointed out in audit (December 1974), the department stated that the first measurement was taken by the Subdivisional Land Reforms Officer and the subsequent measurement was taken by the officers subordinate to the Additional District Magistrate (Land Reforms) in the presence of the members of the Sand Merchants' Association (December 1974).

The case was reported to Government in July 1975; reply is awaited (February 1976).

50. **Loss of revenue due to delay in settlement of fisheries:** Considerable delays were noticed to have occurred in the settlement of fisheries which vested with Government in 1362 B.S. (1955) under the West Bengal Estates Acquisition Act, 1953, resulting in a considerable loss of revenue. The following are some instances:

(i) In Hooghly district 19 fisheries in 5 circles were not settled for a period ranging from one year to eighteen years, resulting in a loss of Rs.4,32,251 determined on the basis of rent at which the fisheries were last leased out.

(ii) In 24-Parganas district 118 fisheries in 8 circles remained unsettled for a period varying from one year to sixteen years, resulting in a loss of revenue to the extent of Rs.1,46,499.

(iii) In Malda district 39 fisheries in 6 circles were let out for the first time after vesting between 1378 B.S. (1971-72) and 1381 B.S. (1974-75). This resulted in loss of revenue of Rs.1,72,395.

(iv) Twenty-seven fisheries in 3 circles in Burdwan district were not settled for periods from two years to sixteen years from the date of vesting, resulting in a loss of revenue of Rs.26,738.

The cases were reported to Government in August 1973, October 1974 and July 1975; reply is awaited (February 1976).

51. **Loss of revenue due to irregularities in settlement of fisheries:** "The settling of Government fisheries by open and unrestricted auction is forbidden. In settling fisheries, preference is to be given to co-operative societies of fishermen. In the absence of such societies, leases are to be given to one or more selected fishermen and failing this, to one or more carefully selected persons who are not fishermen."

A fishery in Malda district was settled with a fishermen's Co-operative Society for a period of three years from 1378 B.S. (1971-72) at an annual rent of Rs.85,000. While the society paid the lease amount for the year 1378 B.S. (1971-72), it did not pay it for the year 1379 B.S. (1972-73) in spite of repeated reminders but surrendered the lease in the month of Bhadra 1379 B.S. (August 1972). A demand for Rs.50,000 was raised (September 1972) against the society for the lease rent for the period of five months of 1379 B.S. No reasons were recorded for reducing the demand from the sum of Rs.85,000 payable according to the terms of the lease. No payment was, however, received from the Society even against this reduced demand. The lease agreement with the Society was cancelled and after holding auction the fishery was settled at Rs.25,000 with the highest bidder for the remaining part of 1379 B.S. Since the highest bidder paid only Rs.10,300 against the amount of Rs.25,000 the fishery was let out to another party for Rs.8,225. There was, thus, a loss of Rs.66,475 to the Government due to the failure of the Co-operative Society to comply with the terms of the lease. Certificate proceedings were ordered (September 1972) to be drawn up against the Society for recovery of this amount but no such proceedings have been initiated so far February 1976. The defaulter Society was, however, again allotted the lease of the fishery for the year 1381 B.S. (1974-75) on settlement basis without insisting on the payment of the outstanding lease money in respect of the earlier lease. The case was reported to Government in July 1975; reply is awaited (February 1976).

CHAPTER V

Entry Tax

52. **Results of audit:** Test audit conducted during 1974-75 of the receipts relating to Entry Tax revealed non-assessment/under-assessment of tax and other irregularities involving Rs.61.17 lakhs and over-charge of tax amounting to Rs.0.96 lakh. The details of the cases are as below:

Nature of irregularity	Amount involved (In lakhs of rupees)
1. Non-assessment of tax	44·00
2. Under-assessment of tax	0·75
3. Irregular allowance for loss	2·03
4. Commission deducted from collections	13·42
5. Defalcation	0·97
	61·17
Over-charge of tax	0·96

A few important cases are detailed in the following paragraphs:

53. **Non-assessment of tax on oil wagons:** Light diesel oil, the entry of which into Calcutta Metropolitan Area is taxable at 2 paise per litre, was being brought in wagons to the Bandel Thermal Power Station regularly from various places outside the Calcutta Metropolitan Area. A record of 318 of these wagons received during the period 4th December 1970 to 25th August 1971 was kept in the checkpost and assessments of tax due thereon were made but no demand for payment of the tax was issued. No record has been kept so far (February 1976) in the checkpost of the wagons received after 25th August 1971 nor any assessment of tax made. However on cross-verification with reference to the records of the Railways it was noticed in audit that during the years 1971-72 to 1974-75 (upto August 1975) 3,533 wagons were received. There was, however, no evidence of any assessments of tax having been made on the entry of these wagons. The amount of tax due in respect of these 3,533 wagons of oil worked out to Rs.15.54 lakhs (approximately). On this being pointed out in audit (September 1974) the department stated (September 1974) that the case had been taken up with the authorities of the power station. Further developments are awaited (February 1976). The matter was reported to Government in August 1975; reply is awaited (February 1976).

54. **Under-assessment due to incorrect application of rate of tax:** Several instances were noticed in audit in which the amount of tax payable

by the dealer on completion of assessment was under-assessed owing to incorrect application of rates of taxes. The following are some of the instances:

(i) According to scheduled rates of taxes notified by Government in April 1972 under the provisions of the Entry Tax Act, 1972, the rate of tax on rice bran oil was fixed as Rs.2 per 50 kgs. It was, however, noticed in audit that in 40 cases involving 3,75,700 kgs of rice bran oil imported in the Calcutta Metropolitan Area through two road checkposts during 1973-74, tax was levied at a reduced rate of Rs.2 per 100 kgs on 3,55,080 kgs and the remaining quantity of 20,620 kgs was subjected to tax at a further reduced rate of Re.1 per 100 kgs. This resulted in an under-assessment of tax of Rs.7,721. No reasons were, however, recorded for the levy of the tax at the reduced rates.

(ii) As per the schedule of rates of taxes notified by Government in April 1972, the rate of tax on rectified spirit was 7 per cent *ad valorem*, In one checkpost rectified spirit valued Rs.2,84,630 which entered the Calcutta Metropolitan Area during the period November 1970 to March 1972 was taxed at the rate of 3 per cent *ad valorem* treating it as industrial alcohol. This resulted in an under-assessment of tax of Rs.11,302.

The matter was reported to Government in July 1975; reply is awaited (February 1976).

55. **Under-assessment of tax on edible oils:** In terms of a notification issued by Government in April 1972 under the Entry Tax Act, 1972, edible oils which were previously not subject to tax, were classified into three categories, some specified oils like mustard oil, continuing to be exempt from tax, unrefined groundnut oil and til oil being chargeable to tax at Rs.2 per 50 kilograms, and other items not specifically mentioned being chargeable at 6 per cent *ad valorem*. Three consignments totalling 573 quintals of sun-flower oil and soyabean oil which passed through a check-post in February 1974, were charged at Rs.2 per 50 kilograms, while they were actually taxable at 6 per cent *ad valorem*. Based on the minimum market-price of these oils prevailing at the time, the under-assessment of tax amounted to Rs.18,300 (approximately).

Similarly, six consignments of refined cotton seed oil which passed through the checkpost from July 1974 to September 1974 were assessed to tax at the reduced rate of Rs.4 per metric tonne instead of 6 per cent *ad valorem*. The under-charge of tax in these cases amounted to about Rs.30,725.

2. In another case tax was levied on unrefined groundnut oil only from 13th April 1972. A total quantity of 4,614 quintals in 45 consignments of groundnut oil which passed through the checkpost from 1st to 12th April 1972 thus, escaped levy of tax amounting to Rs.18,457. On this being pointed out in audit (June 1974), the department stated (July 1974) that

action was being taken for the realisation of the tax in these cases. It was subsequently stated by the department (May 1975) that out of the amount of Rs.18,456 only Rs.5,085 could be recovered and that the balance could not be recovered as the dealers could not be traced (Rs.10,348) and that some of those who had been traced did not comply with the demand (Rs.3,023).

The cases were reported to Government in August 1975; reply is awaited (February 1976).

56. **Goods brought into Calcutta Metropolitan Area not subjected to tax:** A check of Entry Tax assessments made during the year 1973-74 at the Sealdah Railway Checkpost disclosed that the goods sent to the consignees through two sidings taking off from the particular Railway Station escaped levy of tax from November 1970 onwards, when the levy came into force. Thus during the period July 1973 to February 1974, 7,896 bales of jute and 10,719 quintals of iron and steel were delivered to the consignees without the tax having been levied thereon, resulting in non-levy of Entry Tax of Rs.11,154.

This was brought to the notice of Government in January 1975; reply is awaited (February 1976).

57. **Incorrect determination of value of goods:** In cases in which entry tax is leviable *ad valorem* the rules made under the Act provide that if the assessing officer is not satisfied about the reasonableness of the value shown or declared by the assessee, the saleable value of the goods may be determined by him according to the best of his judgment and tax may be levied thereon. In respect of 4 consignments of 187 quintals each of aluminium paste which entered the Calcutta Metropolitan Area during November 1974—March 1975, the assessee had not declared any value in 3 cases and the assessing officer was not satisfied with the value of the goods declared by the assessee in one case and determined the selling price as "not less than Rs.20" per kilogram. Instead of levying tax on those consignments by computing the value by adopting this rate, an arbitrary deduction of 25 per cent was made from this value and tax was assessed on the reduced value. This irregular deduction allowed from the sale-price determined in accordance with the law, resulted in under-assessment of tax to the extent of Rs.7,480. When this was pointed out in audit (June 1975), the department stated (June 1975) that the matter was being investigated. No further report has been received (February 1976).

The matter was reported to Government in July 1975; reply is awaited (February 1976)

58. **Non-levy of tax on goods entering Calcutta Metropolitan Area brought by container service of railways:** In respect of taxable goods brought into the Calcutta Metropolitan Area by rail, tax is leviable on entry of the goods into the area and ought to be paid before delivery of

the goods is taken from the Railways. Under the "Containerised services" in operation in the Railways, goods are imported into the Calcutta Metropolitan Area in special containers which are delivered by the Railways to the consignees at their doorstep. The Railways furnished periodical statements to the entry tax checkpost, showing details of these consignments. The procedure prescribed by law to assess and recover tax on goods arriving by rail has not been followed in these cases. No particulars or records of these cases have been maintained by the Entry Tax Department from the inception nor has any action been taken to initiate proceedings for the recovery of the tax due in respect of consignments so far delivered. In 338 such cases relating to Containerised Services for which particulars were collected in audit from Railways during 1974, the tax due amounted to about Rs.3,11 lakhs. When this was pointed out in audit (December 1974), the department stated (January 1975) that the case would be investigated under the relevant provisions of the law. No further report has been received (February 1976).

The matter was reported to Government in August 1975; reply is awaited (February 1976).

59. **Entry of goods not taxed:** No entry tax was found to have been paid by the Calcutta State Transport Corporation on the bus chassis and other vehicles brought by them into the Calcutta Metropolitan Development Area. As per Public Vehicles Department's letter, dated 23rd July 1974, addressed to the Entry Tax Department, 348 vehicles of the Corporation were registered upto July, 1974, since the date of commencement of operation of the Act (16th November 1970). This resulted in a non-assessment of tax to the extent of Rs.1,39,200 at the rate of half per cent *ad valorem* on the total value of 348 vehicles amounting to Rs.2,78,40,000 as per price list of the manufacturer of chassis. When this was pointed out in audit (February 1975), the department stated (February 1975) that in response to a notice issued to the party in December 1974 to show cause why penalty for bringing goods without payment of tax should not be imposed on them, the party had prayed for two months' time for submission of the papers and documents.

The matter was reported to Government (July 1975); reply is awaited (February 1976).

60. **Cash found short on physical verification:** The road checkposts collect large amounts of cash against orders of assessment of entry tax passed in respect of goods entering the Calcutta Metropolitan Area through the checkposts. The departmental instructions provide for daily remittances to the Zonal Treasurers of the amounts received by collecting Cashiers and for the prompt remittance of these collections to the treasury. The physical verification of these cash balance with a collecting Cashier. made by the Zonal Officer on 25th February 1975, disclosed that against a cash

balance of Rs.1,32,161.40 in the cash-book only a sum of Rs.35,382.10 was found in the cash chest, the balance of Rs.96,779.30 being held to have been misappropriated by the Cashier.

According to a report sent to the Government in May 1975 after a departmental investigation into the matter, the defalcation was committed during the period 30th December 1974 to 24th February 1975 when the Cashier remitted to the treasury considerably less amounts than the actual collections or delayed the remittances and thus retained the whole or a part of the collections from time to time. For instance, a sum of Rs.90,359 out of Rs.99,082 collected on 5th January 1975 was remitted to the treasury only on 13th of that month and out of the total collections of Rs.1,27,910 and Rs.1,58,756 on the 17th and 27th January 1975 respectively, Rs.59,505 and Rs.1,21,865 respectively were retained by the Cashier. The defalcation was facilitated, according to this report, by the following factors:

(1) While the checkpost was under the direct supervision of a gazetted officer till 30th December 1974, no such officer was posted thereafter, the supervision over the checkpost being left to four Inspectors who attended the checkpost by rotation.

(2) No order was passed till 18th January 1975 making any of the Inspectors responsible for checking or supervising the cash collections and even when such an order was passed, no particular Inspector was entrusted with the work, with the result that none of them carried out the order till 17th February 1975, when one of them was persuaded to undertake the work.

(3) There was no verification of the cash even after 17th February 1975 by any responsible official and even the Inspector entrusted with the work admitted having only verified the entries in the cash book and not the cash balance.

(4) There was no internal audit of the accounts of the checkpost during the period.

(5) Though the Zonal Officer, during his inspection of the checkpost on 17th February 1975 found the collection register incomplete, its balancing not upto date and a suspicious alteration in an entry of payment to the treasurer, no action was taken to investigate the matter further, till the defalcation came to notice a week later when the audit of the checkpost was in progress

(6) A case of short remittance of daily collections amounting to Rs.13,322 by the same cashier was noticed over 3 years earlier on 3rd July 1971 when a note of caution was recorded by the officer in charge of the checkpost at the time but no further action was taken thereafter.

(7) The treasurer was also found to have delayed considerably the remittance into Treasury of the amounts collected by him from the cashiers, the delays amounting to 11 to 19 days in some instances. No physical verification of the cash held by him was conducted at any time by any person nor the reasons for the delays investigated at any time.

The cashier and the treasurer are stated to have been arrested and crimial proceedings against them are reported to be pending (February 1976).

The matter was reported to Government in July 1975. Reply is awaited (February 1976).

61. **Collection of entry tax by the Railways:** In accordance with the procedure prescribed for the collection of entry tax on goods arriving by rail, the Railways collect the tax on goods delivered by them on the basis of the assessment orders passed in each case by the checkpost attached to each Railway Station. The collections of tax are periodically credited by the Railways to the State Government by book transfer after deducting 3 per cent thereof towards their commission. In respect of the Shalimar Railway Checkpost, the collections of tax are made by the Entry Tax Department itself but instead of remitting the tax directly to the State Government, the moneys are deposited with the Railways who subsequently pass on the credit to the State after deducting the commission. The total amount of commission deducted by the Railways from collections during the three years 1971-72 to 1973-74 amounted to Rs.13.42 lakhs. This could have been avoided if the cash collections were remitted directly to the nearby treasury at Howrah.

The matter was brought to the notice of Government in August 1975; reply is awaited (February 1976).

Other Topics of Interest

62. **Non-levy of entry tax on goods sold in auction:** Goods seized and confiscated by the Customs Department at Calcutta are periodically auctioned and as the goods entering the Calcutta Metropolitan Area are thus sold within the area, entry tax has to be levied on all the taxable goods so sold. No tax had been levied or collected on these goods from 16th November 1970, the date the entry tax came into force and it was only three years later, in November 1973 that the matter was taken up with the Customs authorities. While the tax is being levied from 26th June 1974 on these sales, no attempt has been made to ascertain the particulars of sales made earlier and levy tax thereon. The amount of loss of revenue on this account could not be determined in the absence of these particulars.

Similar auctions conducted by the Central Excise Department had also not been subjected to any scrutiny to ascertain whether tax could be levied in those cases.

In the Railways, auctions of unclaimed and unconnected goods are held periodically in railways' yards inside the Calcutta Metropolitan Area but the sales of taxable goods in these auctions had not been subjected to tax. No particulars of these cases are available with the department.

The matter was reported to Government in August 1975; reply is awaited (February 1976).

A Review of Assessments of Entry Tax on Petroleum Products

63.1. **General:** Petroleum products for sale, use and consumption in West Bengal and some parts of contiguous States are received by the Indian Oil Corporation at their installation at Mourigram through pipe lines from Haldia (port and refinery) and by all the oil companies (including I.O.C.) at their installations at Paharpur and/or Budge Budge as the case may be, by sea from the various refineries at Bombay, Cochin, Madras and Visakhapatnam as well as by imports from abroad. The supplies of these products to the consumers in the Calcutta Metropolitan Area as well as to those outside that area are made by trucks and wagons from these installations. In respect of some parts of the Calcutta Metropolitan Area supplies are also made by trucks despatched directly from the Haldia complex.

When taxes on entry of goods into the Calcutta Metropolitan Area were imposed from the 16th November 1970, sale, use or consumption of fluid petroleum products (excluding kerosene) became taxable at the rate of 2 paise per litre while grease and petroleum jelley were chargeable to tax at 2 per cent *ad valorem* and asphalt at 7 paise for 50 kilograms.

63.2. **Assessment and collection of tax:** The entry tax is payable at the point of, and immediately on the entry of the goods in the Calcutta Metropolitan Area unless it is proved that the goods were only passing through the Calcutta Metropolitan Area. During the period 16th November 1970 to 15th December 1970, tax on the petroleum products was accordingly assessed on the total quantities brought into the Calcutta Metropolitan Area by the oil companies. However, on a consideration of the conditions and circumstances in which petroleum products are brought into the Calcutta Metropolitan Area and the usage and practice of trade and commerce in respect thereof, the State Government issued an order on and effective from 16th December 1970 (subsequently replaced by a modified order dated 26th March 1973 given retrospective effect from 16th December 1970) that every one of the oil companies specified in a schedule to that order, bringing the products into the Calcutta Metropolitan Area by sea going tankers or vessels or by railway wagons or by pipe lines shall be liable to pay the tax on the entry of the products into the said area but will be allowed

exemption from tax on such quantities of the products, which after being received initially and stocked in Calcutta Metropolitan Area, are sold, exported or conveyed out of the Calcutta Metropolitan Area by any of the companies. Checkposts have been established at every one of these installations under the control of assessing officers who are charged with the responsibility of assessing the tax payable under the Act by the various companies. The oil companies bringing the products into the Calcuttta Metropolitan Area have to submit to the respective assessing officers, statements of receipts of these products in the Calcutta Metropolitan Area for sale, use or consumption, the monthly assessments of tax being made on the basis of these statements. Entry tax on the petroleum products, ordinarily leviable immediately when they enter the Calcutta Metropolitan Area by sea, rail or by pipelines, is thus levied subsequently, i.e., after the products are sold, used or consumed within the Calcutta Metropolitan Area, by the distributing companies and the levy of tax is exempted on all the products entering the Calcutta Metropolitan Area and initially stored therein but subsequently sold or despatched out of that area.

63.3. **Imports and assessments:** The following table gives a comparison of the quantities of petroleum products assessed to tax during the past four years with the total quantities actually imported into that area during that period, according to the figures furnished by the department in March 1975.

Installation	1971		1972	
	Imported	Assessed	Imported	Assessed
	(In crores of litres)			
Budge Budge	82·92	31·55	84·05	43·85
Mourigram	6·67	0·89	7·31	2·57
Paharpur	38·97	14·92	39·62	17·14
Total	128·56	47·36	130·98	63·56

Installation	1973		1974	
	Imported	Assessed	Imported	Assessed
Budge Budge	75·07	35·19	53·34	20·84
Mourigram	12·35	3·79	20·44	5·51
Paharpur	37·06	19·22	43·63	18·11
Total	124·48	58·20	117·41	44·46

It will be observed that the quantities assessed to tax have been declining after 1972 and the percentage decrease in these cases is larger than the decrease in the total quantities brought by the oil companies inside Calcutta Metropolitan Area.

63.4. **Exemptions:** The following are the important conditions subject to which exemption from the levy of tax can be granted by the State Government:

(1) While any one of the oil companies may sell or exchange or transfer, to any of the other companies, petroleum products for sale, use or consumption within the Calcutta Metropolitan Area or outside, the oil company which first effects the entry of the products into the Calcutta Metropolitan Area (called the original petroleum product importer) is liable to payment of the tax on all the quantities sold, used or consumed within the area.

(2) The original importer of the petroleum products will have to submit, to the appropriate assessing officer, daily statements showing the receipts of the products within the Calcutta Metropolitan Area as well as monthly statements of sales and despatch outside the area, the latter statements being required to be signed by both the transferor and the transferee companies.

(3) The assessments of tax will be made on the basis of the statements to be submitted by the oil companies after their verification from the books of account to be produced by the companies.

(4) Every one of the companies should make advance deposits towards tax payable of such sum and for such period as may be fixed by the department.

As the original importer of the petroleum products, thus, became liable for the tax even if the sales, use or consumption from out of the imported stock were made by another company, the assessments of tax were to be made on the former and were so made till June 1974. In September 1974 however it was decided by the department, without the approval of the Government, that the assessments of tax from 1st July 1974 would be made in favour of the company actually making the sale and not on the original importer. This deviation, besides contravening the conditions imposed by the Government while sanctioning the special procedure for assessment of petroleum products, went also against the scheme of the Act under which the person who caused the entry of goods into the Calcutta Metropolitan Area was the assessee under the Act.

63.5. **Inter-company transfer of petroleum products:** According to reciprocal arrangements entered into among the different oil companies, petroleum products received by them by sea or rail or pipe lines are exchanged or transferred among themselves according to their individual needs for sales and distribution within and outside the Calcutta Metropolitan Area. These inter-company transfers are made by—

(1) delivery of the products by the importing company from its stocks held in its installations or depots to the tank trucks or tank wagons of the other companies, or

(2) diversion of the tankers directly to the storage installations of the receiving company, or

(3) distribution of the stocks received by tankers among the different oil companies by pumping agreed quantities into their storage tanks after being initially received in the tank of the importing company or directly from the tankers. Occasionally, petroleum products are received and stored by the importing oil company in the tanks of the other companies who agree to provide temporarily accommodation (called ullage assistance) in their tanks, till such time as the former is in a position to receive them in its storage or arrange to distribute them.

64. **Shifting of incidence of tax and consequent under assessment:** As, according to the statute the incidence of the entry tax was on the person who caused the entry of the goods into the Calcutta Metropolitan Area even the special procedure for the assessment of petroleum products laid down by the State Government in December 1970 (as modified in March 1973) did not seek to shift the incidence of tax but the oil companies who were the actual importers continued to be liable to pay the tax for the entire quantity of petroleum products brought into the Calcutta Metropolitan Area and sold, used or consumed within that area, whether such sale, use or consumption was made by them or by the other companies to whom the stocks were transferred. It was, however, decided by the department in March 1974, on representation from the oil companies, that the particular company in whose tank a consignment or cargo had entered (except in the case of ullage assistance) will be liable to tax whether it be the original importer or not. That is, the company actually taking over the imported stock was made liable for the tax instead of the original importing company. This shifting of the incidence of tax from the original importer to the distributing company contravened the basic scheme of the Act, apart from deviating from the statutory orders of the Government; this deviation has not so far (February 1976) been approved by the Government. There were several cases in which the supplies received directly in the tanks of the transferee company and subsequently sold in Calcutta Metropolitan Area were totally omitted to be assessed to tax. In 21 such cases noticed in audit, 22,145 kilolitres of petroleum products received during December 1970 to March 1974 by one of the companies from vessels chartered by three other companies escaped assessment of tax amounting to Rs.4.43 lakhs. When this was pointed out in audit (October 1974) the department stated (October 1974) that the assessments were made excluding the figures of sales out of stocks transferred by other oil companies as the receiving company was not in a position at that time to pay the tax due to some anomaly regarding their transaction among themselves. It was later stated by the department (August 1975) that the assessment had since been made.

65. **Under assessment of tax and delay in assessment:** It was noticed that often the quantities shown by the original importer as delivered to other oil companies had not been accounted for by the latter with the result that they escaped assessment of tax. For instance, in 13 such cases noticed during the period May to December 1974 in the Budge Budge installation, 10,303 kilolitres of petroleum products shown by the importing companies as transferred to another company had not been shown as receipt by the latter, resulting in non-levy of tax amounting to Rs.2.06 lakhs.

66. There have also been several instances in which stocks shown by one oil company as transferred to other companies remained unassessed for considerable time in the absence of the requisite statements. For instance, in the Mourigram Installation, the following quantities of petroleum products shown as 'Inter-Company transfers' in the returns of the importing company, remained unassessed:

Year	Motor Spirit	High speed Diesel
	[In kilolitres]	
1971	34,906	4,856
1972	781	6,152
1973	6,428	24,576
1974 (up to March)	..	92,546
Total	42,115	1,28,130

On this being pointed out in audit (March 1975) the department stated (March 1975) that the transferor company had not till then submitted all the requisite papers for assessment of tax in these cases.

67. **Delay in submission of returns:** The order of the Government issued in December 1970 as modified by the order of March 1973, required that for the purposes of assessment of entry tax the original importer should submit to the appropriate assessing officer, within seven days of the close of the month, an account of stocks received, despatches outside Calcutta Metropolitan Area and the closing stock, so as to arrive at the taxable quantities each month and the despatches outside Calcutta Metropolitan Area were required to be supported by daily and monthly statements containing the prescribed details of these despatches, signed both by the original importing and the transferee companies. It was noticed in audit (March 1975) that these statements were not regularly and promptly received from the several oil companies and the assessments of tax in these cases have therefore been considerably delayed. In the absence of penal provisions no action could be taken to enforce the timely submission of the statements nor penalise their non-submission or delayed submission.

68. **Irregularities in the returns:** In several cases, the prescribed returns of stocks received, sold and despatched, furnished by the companies were also found in audit (September 1974 to July 1975) to be incorrect and incomplete. A scrutiny of a few such returns disclosed many errors, discrepancies and irregularities, some of which are mentioned below:

(a) According to the statements furnished by the Indian Oil Corporation in December 1974, 92,256 kilolitres of petroleum products were supplied by it during the period December 1970 to December 1973 at the Budge Budge installation, to the Indo-Burma Petroleum Company on consignment basis, out of which the latter had sold 61,809 kilolitres within the Calcutta Metropolitan Area. The prescribed daily statements had not been furnished by the two companies to the assessing authority (March 1975). When this was pointed out in audit (March 1975), the department stated (March 1975) that necessary assessment had been taken up and the company concerned was being reminded to submit the sales statements. The amount of tax pending assessment amounted to Rs.12.36 lakhs.

(b) One of the companies received at their Budge Budge installation during the period February 1971 to August 1972, 507 quintals of grease and 20,273 quintals of flit and lube oil in packed condition by rail. The prescribed statements for these receipts had not been filed with the assessing officer till March 1975. The department stated (March 1975) that the matter had been taken up with the company, who had assured the early submission of the statements. No further report has been received (September 1975). Similarly in Paharpur installation, one of the companies importing packed products such as lube oils, grease and wax submitted the prescribed statements for the period November 1970 to March 1971 over 4 years later only in January 1975 and the statements for the periods beyond March 1971 had not been received up to March 1975.

(c) Though asphalt is being regularly imported by the oil companies, no returns therefor had been received from any of the companies except Indian Oil Corporation, which furnished annual statements, for the years 1972 and 1973 alone, not supported by the prescribed monthly returns. The department stated (July 1975) that no intimations of daily receipts and issues had been received from the companies and that the tax due for the periods prior to January 1972 had not been assessed as no returns had been received for those periods.

(d) In the Budge Budge installation, one of the oil companies showed 22,87,894 litres of high speed diesel oil in its returns for the period 16th November 1970 to 15th December 1970 as having been received from another oil company but the transfer was not shown in the returns of the latter company. Consequently this quantity escaped assessment of tax amounting to Rs.45,758. On this being pointed out in audit (September 1974) a supplementary assessment was made in October 1974. Particulars of recovery are awaited (February 1976).

69. **Under assessment due to treatment of taxable sales as sales outside the area:** A review in audit of some of the sales and despatch statements submitted by the various oil companies disclosed several instances in which sales of petroleum products inside Calcutta Metropolitan Area were wrongly claimed and admitted as sales outside the area, resulting in non-levy of tax on these sales. In 717 such cases involving deliveries of 8,354 kilolitres of petroleum products from Budge Budge and Mourigram installations of the Indian Oil Corporation during the period January 1971 to January 1974 the tax unassessed amounted to Rs.1.67 lakhs.

In 55 other cases involving delivery of 5,76,800 litres during July 1974 and February 1975 in the Budge Budge installation, sales by the Indian Oil Corporation were completed at its Budge Budge installation by delivery of the products to the purchasers, which took them outside the Calcutta Metropolitan Area in their own transport. There being a sale of the products in the Calcutta Metropolitan Area, the deliveries were all taxable, even if the products were taken by the purchaser outside the Calcutta Metropolitan Area. Tax amounting in all to Rs.11,536 was not levied in these cases.

70. **Non-assessment of aviation gasoline:** According to the returns filed for the year 1970 by the Indian Oil Corporation in respect of the Budge Budge installation, there was no stock of "Aviation Gasoline 115/145" at the close of the year and this product did not also figures in the returns of the company for the year 1971. The returns for the year 1972 however showed an opening balance of 13,26,411 litres, indicating that there were transactions in this product in the earlier year. The department found that the assessable quantity of this product including losses during the year 1971 was 21,73,456 litres but no assessment of tax thereon had been done. The amount of tax due on this quantity worked out to Rs.43,469. On this being pointed out in audit (October 1974), the department stated (October 1974) that this product remained unassessed owing to some dispute and that step was being taken to regularise the matter. No further report has been received (February, 1976).

71. **Area of operation:** According to the provisions of the Taxes on the Entry of Goods into the Calcutta Metropolitan Area Act, 1970, the Act is operative in the areas within the Calcutta Metropolitan District and such other contiguous areas as the State Government may by notification specify.

In the course of test check it was noticed that though Kalyani falls within the Calcutta Metropolitan Area and deliveries of petroleum products there are therefore taxable, no tax has been levied thereon. On this being pointed out in audit (October 1974), the department stated (October 1974) that the quantities delivered at Kalyani "remained unassessed since inception as there was dispute whether the delivery points would be within the Calcutta Metropolitan Area or outside". The total of deliveries made from

the Budge Budge installation to various parties at Kalyani by one of the oil companies during 1972, 1973 and 1974 (up to April 1974) amounted to 605.8 kilolitres, the tax due thereon being Rs.12,116.

These defects and irregularities will indicate that the beneficiaries of the concession granted by the Government have not entirely fulfilled their obligations under the special procedure laid down by the Government and not only are the assessments of tax delayed considerably but large quantities of petroleum products liable to tax have also not been subjected to tax.

72. **Advance Deposits of Tax:** One of the terms of the order of the Government dated the 26th March 1973 (mentioned in paragraph 63.2) above was that the oil companies shall make advance deposit, towards tax payable by them, of such sum and for such period as may be fixed in each case. Under the procedure prescribed in the Act and the rules, the amount of advance deposit to be made by each assessee for certain prescribed periods, has to be estimated by the department and communicated to the assessee. When the advance deposits of tax are actually made by the assessees the amounts of tax due from them from time to time should be adjusted against these advance deposits and the aggregate amounts of tax leviable at any point of time should not exceed the amounts in deposit. The rules also provide that if the deposit at any time fell short of the estimated tax payable by an assessee, he has to make additional deposit to cover the difference or pay the tax in cash, failing which the goods in respect of which tax is payable may be seized.

(a) A review by audit of the relevant records maintained by the department for watching the realisation and adjustment of the advance deposits by the oil companies disclosed that the provisions of the Act and the Rules had not been followed or enforced. The amounts of advance deposits to be made by the oil companies had not been systematically and periodically estimated by the department and demands raised therefor. Consequently, the amounts of tax due from the various oil companies assessed from time to time far exceeded the amounts held in deposit. For example, in the case of the Paharpur installation of two of the oil companies, the total tax payable till the end of March 1975 amounted to Rs.265.46 lakhs while the total of advance deposits made by them amounted only to Rs.144.08 lakhs indicating that additional deposit or cash payment of tax was not demanded as required by the rules to the extent of Rs.121.38 lakhs.

In the case of another oil company, the deficit in deposit up to April 1974 amounted to Rs.6.37 lakhs. Moreover, the assessments of the tax were carried out by the checkposts in each of the oil installations while the accounts relating to advance deposits were being maintained at the headquarters of the Entry Tax Department. Consequently, the assessing authorities were not in a position to make periodical and prompt adjustments of the tax assessed as due against the advance deposits nor did they ever become aware of the fact of adequate deposit not being available so as to recover the tax due in cash.

(b) The following table will indicate that assessments of tax for the periods November 1970 to the end of 1974-75 amounting to about Rs.2.79 crores had been finalised till March 1975 but the demands remained to be adjusted against the deposits; no demands were also raised against the oil companies for payment of these amounts in cash.

Installation	Oil company	Period assessed	Amount of tax due 31-3-1975
			[In lakhs of rupees]
Paharpur ..	Indian Oil	November 1970 to November 1974	56·96
	Caltex	Ditto	36·12
Budge Budge ..	Indian Oil	November 1970 to March 1975 ..	65·11
	Esso	Ditto	16·68
	Burma Shell ..	Ditto	25·42
	Caltex	Ditto	19·73
	I. B. P.	Ditto	3·42
Mourigram ..	Indian Oil and other oil companies from 1st July 1974.	Ditto	55·67
		Total ..	279·11

(c) It will thus appear that large quantities of the petroleum products have been allowed to be sold, used or consumed in the Calcutta Metropolitan Area without the tax due under the Act being recovered in time. The large amounts of tax pending adjustment or recovery would indicate that the intention of the law to make the entry of goods into the Calcutta Metropolitan Area conditional on payment of the tax has not been achieved in this case. Moreover in April 1975, it was decided in a meeting by the department with the representatives of the four of the oil companies that from 1st April 1975 all the companies would pay the tax only on receipt of demand notices issued after assessment of the individual cases and that no advance payment of the tax need be made. This relaxation has been made without the approval of the Government and also contravenes the conditions under which the exemption from the operation of the normal provisions of the Act had been granted by the Government.

73. **Non-assessment of bunkering supplies.** Supplies of 95,09,490 litres of furnace oil during 1971 to 1973 from the Paharpur installation to a foreign shipping company for bunkering were not subjected to tax though the supplies were made inside the Calcutta Metropolitan Area and thus amounted to sales within that area. On this being pointed out in audit (September 1974), the department admitted (September 1974) the omission. The under-assessment of tax on this account amounted to Rs.1.90 lakhs. Further report from the department is awaited (February 1976).

Similar supplies from the Budge Budge installation during July-August 1972 of 4,63,241 litres of furnace oil, 1,37,690 litres of light diesel oil and 7,234 litres of high speed diesel oil were also not subjected to tax, resulting in non-levy of tax amounting to Rs.12,163.

74. **Supplies of aviation fuel to aircrafts:** Supplies to foreign aircrafts of petroleum products viz. aviation gasoline and aviation turbine fuel are exempt from entry tax while such supplies made to domestic aircrafts are taxable. Stocks of these petroleum products required for fuelling aircrafts at Dum Dum are transferred from the Budge Budge installation to the airfield station. These transfer of stocks being within the Calcutta Metropolitan Area no tax is leviable at the initial stage but subsequently on receipt of detailed statements showing the details of supplies to the foreign and the domestic aircrafts, the tax due on the supplies to the latter is to be assessed. No statements showing the details of deliveries of fuel to the two types of aircraft have been received by the assessing authority, but the assessments have been made merely on the basis of statements of receipts and deliveries furnished by the airfield station. Consequently, the correctness of the exemptions allowed had not been checked before assessment nor could it be verified in audit. On this being pointed out (March 1975), the department stated (March 1975) that the matter had been taken up with the oil company concerned.

Discrepancies have also been noticed between the stocks of petroleum products shown by the Budge Budge installation as transferred to the airfield station and those shown as actually received by the latter. The statements' total during a test check by audit disclosed the following discrepancies:

Year	Quantity transferred from Budge Budge	Quantity received in Dum Dum	Difference
	[In kilolitres]		
1971	38,688	38,779	+ 91
1972	57,895	57,775	−120
1973	55,749	54,769	−980
1974	24,463	21,665	−2,798

These discrepancies have not been investigated by the assessing authority and reconciled so far (February 1976).

75. **Irregular allowance for transit and operational losses etc.:** There is no provision either in the Act and the rules or in the special order of the Government to exempt, from the levy of tax, losses of petroleum products in the course of storage, handling, blending or operations. In the absence

of a specific provision for exempting the losses from levy of tax they will constitute consumption and hence become liable to tax. Still, departmental instructions were issued in August 1974 stating that no tax should be levied on such losses on the ground that they did not amount to sale, use or consumption. Exemption from tax for the losses was being given even before the receipt of these instructions. A review of the assessments made in the Budge Budge installation disclosed that a total quantity of 79,45,449 litres was allowed to one company alone as blending and operational losses during the period January 1971 to March 1975 and a further quantity of 22,27,126 litres were allowed in that installation to four companies as shortages in stock during the period April 1974 to March 1975. The total amount of tax foregone in those cases worked out to Rs.2.03 lakhs.

76. **Over-charge of tax on aviation turbine fuel (ATF):** The opening stock of aviation turbine fuel at the Budge Budge installation on 16th December 1970, when the order of Government laying down the special procedure came into force, amounted to 59,44,100 litres on which tax had already been paid by the importing company in accordance with the procedure then in force. The taxable sales of this product during the period 16th December 1970 to 31st December 1970 amounted to 6,10,574 litres and the balance of tax-paid stock taken over to subsequent year amounted to 53,33,526 litres. The department however took this figure by mistake as 5,33,526 litres while giving credit for sales from tax-paid stock during the year 1971, as a result of which, there was an excess levy of tax on 48 lakh litres amounting to Rs.96,000. When this error was pointed out in audit (October 1974), the department stated (October 1974) that the company had been asked to regularise the excess levy. No further report has been received (February 1976).

The various points relating to assessment of entry tax on petroleum products, as mentioned in the foregoing paragraphs, were referred to Government in July 1975; reply is awaited (February 1976).

CHAPTER VI

Amusement taxes

77. **Results of test audit:** Test audit conducted during 1974-75 of receipts relating to amusement taxes revealed non-recovery of tax etc. amounting to Rs.17.10 lakhs. The details of the cases are as below:

	Nature of irregularity	Amount [In lakhs of rupees]
1.	Non-recovery of tax and Government's share of gate collections.	6·80
2.	Non-recovery of surcharge	8·81
3.	Short recovery of tax	0·87
4.	Irregular exemption from tax	0·62
		17·10

A few important cases are detailed in the following paragraphs:

78. **Loss of revenue due to holding of tax-free performances by organisation not eligible for such exemption:** As per orders issued by the Government in November 1962 and December 1965 organisations holding dramatic performances are exempted from payment of amusement tax subject, *inter alia*, to the conditions that the dramatic performances will be staged by the amateurs only, the cost will not include any artists engaged on remuneration, and, that the expenditure incurred on performances should not be high in comparison with the tickets sold, for which detailed accounts are to be submitted to the department. Out of seven such organisations holding performances in Calcutta without payment of amusement tax, one organisation was found in June 1974 to be ineligible for the concession as it had become a professional body. The department demanded (June 1974) from the organisation a sum of Rs.13,140 as amusement tax up to May 1974 and the Government directed (June 1974) it to deposit Rs.3,000 as security money within 2nd July 1974 for holding further shows. The organisation neither paid the tax due from it nor the security money demanded by the Government but continued to hold further shows. The total liability of the organisation towards tax for the period June 1974 to March 1975 was determined by the department at Rs.1,09,820. No recovery has been made so far on this account (February 1976).

The accounts submitted by three of the other organisations disclosed that their entire sale proceeds of tickets had been utilised in holding performances and the detailed accounts for the expenditure were not submitted in spite of repeated reminders issued by the department. The

amount of tax to be recovered from these organisations for contravening the terms for the exemption from tax amounted to Rs.1.79 lakhs up to March 1975.

The remaining 3 organisations had not submitted their accounts so far (February 1976). The department stated (June 1975) that all the above cases had been referred to Government.

This was brought to notice of Government in September 1975. Reply is awaited (February 1976).

79. **Non-recovery of surcharge:** (i) By an amendment of the Bengal Amusement Tax Act, 1922, made in January 1972 a surcharge at the rate of 10 paise on each payment for admission to any place of entertainment was levied with effect from 17th January 1972 to be paid by affixing a stamp on the ticket purchased. A review in audit (September 1974) revealed that the surcharge was not realised by 90 cinemas in Calcutta for periods ranging from 15 to 37 days from 17th January 1972, resulting in non-recovery of Rs.4,37,780. On this being pointed out in audit (September 1974) the department stated (October 1974) that action was being taken to recover the dues.

The cases were brought to notice of Government in May 1975; reply is awaited (February 1976).

(ii) Owing to shortage in supply of stamps of surcharge the proprietors of cinemas were allowed to deposit the surcharge realised by them with effect from 6th January 1974 in cash with the Reserve Bank of India, Calcutta, at the end of each week. It was noticed in audit (September 1974 and May 1975) that surcharge of Rs.4,34,798 was not deposited by twenty-two proprietors of cinemas upto October, 1974, the delay extending to 183 days in two cases and 26 to 179 days in other cases. No proceedings contemplated under section 5 of the Bengal Amusement Tax Act, 1922 have been initiated against the defaulters. On this being pointed out in audit (September 1974 and May 1975), the department stated that steps were being taken to realise the dues.

The cases were brought to notice of Government in May and September 1975; reply is awaited (February 1976).

80. **Lack of co-ordination between licencing and taxing authorities in renewals of licences to Cinema Houses:** The Collector of Calcutta is responsible for assessment and collection of Amusement Tax, Show Tax, surcharge etc., from the cinemas in Calcutta region, while licences for the cinemas are issued by the Commissioner of Police, Calcutta. These licences are renewed annually by the Police Department without any reference to the assessing officer enquiring whether any tax was in arrears. For instance 15 cinema houses which were in default of payment of Rs.81,507 on account

of surcharge and show tax during the years 1972 to 1974 got their licences renewed for those years. On this being pointed out in audit (October 1974) the department stated (October 1974) that the matter was being referred to Government.

The case was reported to Government in May 1975; reply is awaited (February 1976).

81. **Non-assessment of tax:** (i) Under the provisions of the Bengal Amusement Tax Rules, 1922, entertainment may be performed at any place by an institution or club with the prior permission of the Collector subject to submission of detailed accounts within a stipulated date for assessment of tax under the Bengal Amusement Tax Act, 1922 and on deposit of security money fixed by the Collector which is liable to be forfeited on failure to submit detailed accounts of performances. A sum of Rs.2,72,335 was deposited with the Collector of Calcutta by 469 institutions and clubs between the year 1967 and 1974 towards security deposit and in most of these cases, the deposit received was only a token amount of less than Rs.100. In none of the cases, some of which are eight years old, action had been taken either to obtain the detailed accounts from the organisers for assessment of tax payable by them or to forfeit the security deposited by them. When this was pointed out in audit (October, 1974), the department admitted (November, 1974) the lapses and agreed to take necessary action.

The matter was reported to Government in May 1975; reply is awaited (February 1976).

(ii) The admission of visitors to performances of various types of games organised by a club in Calcutta was subject to the payment of admission fees at different rates and hence they became liable to tax under the Bengal Amusement Tax Act, 1922. An ad hoc assessment of tax of Rs.19,200 was made in June 1969 by the department for the year 1968 on the basis of consolidated accounts for the year submitted by the club, pending verification of detailed vouchers, tickets etc. The ad hoc assessment was set aside by the Court in January 1971 since there was no provision in the Act to make such assessments, but the Court allowed the assessment to be made after giving due notice to the party. Government directed the department (February 1972) to re-assess the tax as per the directives of the Court, but the re-assessment for the year 1968 and the assessments for the subsequent years had not been done so far (February, 1976).

(iii) Under the rules framed under the Amusement Tax Act, organisers of entertainments were required to deposit security of such amount as might be fixed by the Collector for due payment of amusement tax that would become due on these entertainments. Several cases were, however, noticed in which entertaidments taxable under the law were allowed to be held without insisting on the prior payment of the security fixed by the Collector.

In seven such cases relating to the years 1970 to 1974, the security deposits amounting to Rs.12,125 were not recovered. As the detailed accounts of performances had not been obtained in any case so as to assess and collect the tax due (November 1974) the actual amount of loss of revenue could not be assessed.

The cases were reported to Government in May 1975; reply is awaited (February 1976).

82. **Short levy of tax:** Under the provision of the Bengal Amusement Tax Act, 1922, concessional rate of tax may be imposed for admission to any theatre or any class of entertainment (other than cinematograph exhibition) if the normal rate would impose undue burden on the industry involved. It was noticed that in the district of Burdwan such permission was granted also in the case of all entertainments organised by certain clubs and institutions which were not eligible for the concession, as they did not constitute an industry for the purpose of the Act. In six such cases in which the concession was irregularly granted during 1974-75, the total tax foregone amounted to Rs.52,444.

This was brought to the notice of Government in July 1975; reply is awaited (February 1976).

83. **Exemption from levy of tax:** In paragraph 45 of the Audit Report (Revenue Receipts) for 1972-73, mention was made of cases in which conditions attached to permission for holding entertainment free of amusement tax were not fulfilled. In a test check of cases in which conditional exemption from amusement tax was granted in the Calcutta region during the year 1972 to 1974 it was noticed that in 16 such cases the accounts and other evidence had not been submitted by organisers even after a year of the completion of performances. Tax foregone in such cases amounted to Rs.61,762. No attempt was made by the department (November 1974) to recover the tax in such cases for contravention of the terms governing the exemption.

The cases were reported to Government in May 1975; reply is awaited (February 1976).

84. **Non-levy of fine on sale of tickets without affixing stamps for Amusement Tax:** Under the provisions of the Bengal Amusement Tax Act, 1922, applicable to cinemas, no person liable to pay entertainment tax shall be admitted except with a ticket affixed with the requisite stamp issued for the purpose. It was detected during certain surprise inspections conducted by the department on various dates between October 1973 and March 1975 that 12 cinema houses in Calcutta had issued several tickets without the requisite stamps of amusement tax having been affixed. This resulted in a loss of revenue to the extent of Rs.7,426. No penalty for such deliberate evasion of tax has been provided for in the Act, except imposition of fine

upto a maximum of Rs.500 for each offence on conviction before a Magistrate. No action was, however, taken by the department either to recover the evaded tax of Rs.7,426 or to initiate prosecution proceedings provided for in the Act. When this was pointed out in audit (June 1975), the department stated (June 1975) that the matter had been referred to the proprietors of the cinemas concerned.

The case was reported to Government in September 1975; reply is awaited (February 1976).

85. **Delay in remitting tax:** Under the provisions of the Bengal Amusement Tax Rules, 1922, the amounts of tax collected by the Race Clubs should be remitted to the treasury within seven days of the last race meeting. Several instances were noticed in which there had been considerable delay in remitting the tax to the treasury. In 12 instances, spread over the period December 1972 to May 1974, delays extending from two months to more than four and a half months occurred in remitting the collections of totalisator tax including surcharge amounting to Rs.1.84 crores. Similarly in the case of betting tax and surcharge, delays ranged between a month to two and a half months in the case of collections amounting to Rs.1.15 crores during the period February 1973 to May 1974. There is no provision in the Bengal Amusement Tax Act, 1922 and the rules made thereunder for imposition of penalty or levy of interest for delay in remittances into the treasury.

The matter was reported to Government in May 1975; reply is awaited (February 1976).

86. **Assessment of entertainments tax on sports evets:**

1. *Introductory*: Under the Bengal Amusement Tax Act, 1922, sports also come under the term 'entertainment' and attract levy of tax under the Act if persons are admitted thereto on payment. Three enclosed grounds in the Maidan and the Stadium in Eden Gardens at Calcutta are under the control of the Education Department of the State Government which arranges for the allotment of the grounds for the various clubs or events, the printing and sale of tickets for admission in certain cases, and scrutiny of the accounts of the various clubs so as to recover rent for the use of the grounds. The share of Government is generally fixed at 20 per cent in the case of the three enclosed grounds and 25 per cent in the case of the stadium, of the gross collections reduced by the tax and surcharge payable thereon. No percentage has been fixed by the Government so far (February 1976) for the use of the new air-conditioned stadium constructed for indoor games such as table tennis. The assessment and collection of entertainments tax are carried out by the Collector of Calcutta, for which purpose the sports clubs, or the Education Department as the case may be, submit the tickets before sale for making endorsements regarding the tax levied or leviable and the detailed accounts after the sale of the tickets so as to finalise the assessment of tax.

86.2. **Football matches:** First Division Football Matches in Calcutta are generally held in enclosed grounds. The various football clubs are permitted to allow their members free entrance and access to a part of the stands specially reserved for them, only the remaining seats being open to the public. The tickets in the case of shield fixtures, exhibition and charity matches are sold to the public by the Indian Football Association while, in the case of other matches, sales of tickets are arranged by the Government, the proceeds being retained by it as departmental receipts. The entertainment tax and surcharge recovered on the tickets are separately remitted subject to a formal assessment by the Collector of Calcutta.

The tickets intended for sale by the Government are printed by the Government. No systematic records of the printing of the tickets, such as the indents sent for printing, the chalans showing the receipts of the ticket books have been maintained. The printed tickets are handed over by the Education Department to the Collector of Calcutta and drawn upon whenever necessary after getting them endorsed for issue. No cash book has been maintained so far (February 1976) for recording the receipt of cash after the sale of tickets and its subsequent remittance into the Bank. The unsold tickets and the counterfoils of the sold tickets were not returned to the Collector for check and scrutiny by the assessing authority for admitting the correctness of the amounts of tax and surcharge remitted. For instance, out of 2,49,700 fifty paise tickets and 1,10,000 one rupee tickets issued for sale during the period 8th April 1974 to 20th September 1974, sales of only 2,04,813 tickets and 91,743 tickets respectively were accounted for (in the accounts for the match events submitted to the assessing authority) and the remaining tickets were neither accounted for nor surrendered to the assessing authority up to May 1975.

In the case of matches in which tickets are allowed to be issued and sold by the Indian Football Association, the Government's share of collections and the entertainment tax due on tickets sold are assessed and recovered from the Association after the audited accounts of the various matches are submitted by it to the assessing authority. No checks have been exercised by the Collector over the printing of tickets and the actual receipts of the printed ticket books and no records have been maintained of any inspections to ensure that the tickets sold have only been those endorsed for the purpose or that admission to the places of entertainment had only been by valid tickets. The unsold tickets and the counterfoils of sold tickets had not been submitted to, or subject to any scrutiny or verification by, the assessing authority even in cases where certain irregularities had been pointed out in the auditors' reports. For instance, the auditors' reports in respect of six of the matches held during June 1972 to June 1973 stated that in several cases, the foils of tickets shown as unsold were missing and in respect of four of the matches held in September 1972, counterfoils of 500 tickets sold at concessional rates were not available. No attempt was made to obtain an account for these tickets or to assess and recover the Government's share of the income and the tax due in such cases.

Considerable delays occurred in the submission by the Association of the accounts of the matches held and in the payment of Government's share of gate collections and tax including surcharge. The following are some instances:

(1) In respect of a charity match held in September 1973 a sum of Rs.46,062 being the Government's share of gate collections had not been deposited by the Association so far (February, 1976) though the accounts for the event had been finalised long ago.

(2) In respect of three league matches organised by the Association in May-June 1974 neither were any accounts submitted nor any payment made towards the Government dues up to February 1976.

(3) The final audited accounts in respect of an exhibition match held in July 1974 had not been submitted so far (February 1976) and only a sum of Rs.3,020 had been remitted to Government in December 1974 towards surcharge. No payments have been made (February, 1976) towards entertainment tax or Government's share of collections.

A charity match held by the Association on 28th June 1970 was abandoned by it and a sum of Rs.84,328 out of the total collections amounting to Rs.1,16,408 was refunded to the public. The balance of Rs.32,080 was retained by the Association as there had been no claims against the amount. The Government turned down, in November 1972, the request of the Association to exempt levy of entertainment tax on the sum so retained but the Association had not remitted to the Government either the tax (Rs.6,416) or the Government's share of the gate collections (Rs.5,133). When this was pointed out in audit (November 1974) the department agreed (November 1974) to take up the matter with the Association but the amounts have not been realised so far (February 1976).

86.3. **Cricket:** Two test matches, one between India and England (from 30th December 1972 to 4th January 1973) and another between India and the West Indies (from 27th December 1974 to 1st January 1975) were organised by the Cricket Association of Bengal, at the stadium in Eden Gardens at Calcutta. The Government stipulated the following, among other conditions for the holding of the two test matches:

(1) The Cricket Association would arrange for the sale of tickets but should pay 20 per cent of gross collections reduced by the entertainment tax payable. In the case of the second match, a minimum payment of Rs.6 lakhs on this account was to be made.

(2) The Association will further pay, in both the matches, 20 per cent of the value of 1,000 seats made available by the Government for new members of the Association irrespective of the fact whether the seats were booked or not.

(3) The Association should pay to the Government a lump sum of Rs.65,000 for each of the matches, towards share of income from display of banners and stalls put up during the matches.

86.4. **Revenue foregone on issue of free passes:** While the seating capacity of the stadium is about 65,000 a restriction was placed by the Government in the case of the second match alone that the total number of tickets and free passes for members etc. issued should not exceed 63,000. The total numbers of ticket and free passes issued in the two matches were as under:

	Saleable tickets	Free passes	Total	Percentage of (2) to (3)
	(1)	(2)	(3)	(4)
First match	44,806	18,472	63,278	29·2
Second match ..	44,159	19,419	63,578	30·5

It will be observed that the total number of tickets and passes actually issued in the second match exceeded the limit of 63,000 fixed by Government. On the average, the numbers of free passes issued in both the matches constituted about 29.9 per cent of the total number of tickets sold. In a report made to the State Government in December 1974 before the commencement of the match, the Collector of Calcutta pointed out that only 10 per cent of the saleable tickets are usually allowed as complimentary cards/tickets, the number of such free passes availed of in the football matches amounting to less than 10 per cent and sought the orders of Government for fixing a limit on the number of free passes to be issued. No instructions were issued by Government either before the commencement of the match or thereafter. The revenue foregone in the second match alone owing to issue of free passes in excess of the limit of 10 per cent, was estimated by the Collector at Rs.2.34 lakhs.

While one of the constituents of the Cricket Association had asked for 1,200 free passes 1,800 such passes were issued to it. The excess issue of 600 passes was required by the Collector to be surrendered before the commencement of the match but had not been surrendered at all either before or after the match. The loss of revenue on the excess issue amounted to Rs.10,860 by way of tax and surcharge and about Rs.8,600 by way of the share of the gate collections.

The audited accounts of the two matches had not been submitted by the Association so far (February, 1976). A sum of Rs.8.34 lakhs only was provisionally deposited by it in April 1973 and March 1975 towards tax due in respect of the two matches. The bank guarantees given by the Association, as security required under the law, for the payment of tax due, had also expired in March 1973 and 1975 respectively and these have not been renewed.

Neither the Government's share of the collections nor the lump sum of Rs.65,000 for each of the matches towards share of income from display of banners have so far been realised (February, 1976). The value of the 1,000 seats allotted to new members has not so far (February, 1976) been determined and 20 per cent thereof as share of the Government has not also been realised. These 1,000 new members were accommodated in blocks 'B' and 'D' meant for season ticket holders of the denomination of Rs.60 and based on this value, the amount recoverable from the Cricket Association amounted to Rs.21,680 in each of the matches. No penal action has either been provided for or taken for the non-payment of the Government's dues in time.

86.5. **Table Tennis tournaments:** The newly constructed stadium with a capacity to accommodate 12,000 persons was made available by the Government to the Table Tennis Federation of India for conducting the 33rd World Table Tennis Championship from 6th to 16th February, 1975.

86.6. **Issue of tickets:** All the printed tickets and 876 (out of 2,230) guest cards were authorised by the Collector of Calcutta for sale/issue before payment of the tax due on the tickets. The remaining 1,354 guest cards were not produced for the endorsement by the Collector nor any detailed accounts therefor rendered to him. Further, 505 tickets of the denomination of Rs.350 were converted by the Collector on 12th and 15th February 1975 into non-saleable tickets (exempt from tax) without recording any reasons. No formal sanction of the Government for this conversion, which resulted in a loss of Rs.35,400 as tax, has been issued so far (February 1976).

Delay in accounting and assessment: The organisers of the matches undertook in January 1975 to forward to the Government the counterfoils of the tickets sold and the total unsold tickets before the commencement of the championships but these had not been received from them so far (February, 1976) with the result that the tax due from them could not be finally assessed. According to interim audited accounts furnished by the organisers in March, 1975, the tax liability was admitted as Rs.8,24,696 out of which a sum of Rs.8,15,000 had been deposited in April 1975. The balance of Rs.9,696 has not yet been remitted (February, 1976). The bank guarantee obtained by the Government for the payment of tax had also expired in March 1975.

The matter was reported to Government in September 1975; reply is awaited (February 1976).

87. **Assessment of Entertainments and Luxuries (Hotels and Restaurants) Tax:** A tax was imposed, with effect from 25th July 1972, on entertainments and luxuries provided in hotels and restaurants situated in Calcutta region, by the West Bengal Entertainments and Luxuries (Hotels and Restaurants) Tax Act, 1972.

The tax on entertainments is payable by every person who enters any air-conditioned place, within a hotel or restaurant, where an entertainment is provided in the form of game, sports, cabaret, dance or floor show. The rate of tax is 10 per cent (increased by an amendment to the Act to 15 per cent from 26th March 1974) of the total sum payable for all services including food and drinks supplied to each person and also including any fee for admission into such place of entertainment, subject to the provision that where payment is charged for admission into the place of entertainment, the rate of tax shall not be less than 25 per cent (increased to 30 per cent from 26th March 1974) of such payment for admission. According to the scheme of the Act, the liability to the tax falls on the person entertained and the hotels and restaurants have to collect the tax from those persons and remit the collections to the treasury. No provision has been made in the Act for recovery of the tax from the hotels or restaurants when they fail to recover the tax from their customers or recover at a rate lower than that prescribed. The rules made under the Act provide that the entertainment tax collected by the hotel or restaurant from its customers should be deposited by the proprietor of hotel and restaurant within three days from the date of entertainment, when such performances are casual, and within 7th of the month following the month in which entertainments take place when such performances are regular.

Luxury tax is to be paid by every air-conditioned hotel/restaurant at the rate of Rs.100 for every 10 square metres or part thereof on so much of floor area which is provided with air-conditioning. This rate of tax has been increased to Rs.150 with effect from 26th March 1974 and to Rs.200 from 7th April 1975 by amendments made to the principal Act in March 1974 and April 1975. The proprietor of hotel and restaurant in which there is a provision of luxury shall pay to the Government the total amount of luxury tax payable by him in quarterly instalments within 10 days of expiry of each quarter. The validity of the levy of luxury tax under the Act was challenged in the High Court by 14 of the hotels and the Court eventually upheld the validity in March 1975.

The department stated (June 1975) that 81 hotels and restaurants in Calcutta attract the luxury tax under this Act, of which 15 are liable to be assessed for the tax on entertainment as well. The taxes expected in the Budget to be realised from those hotels and restaurants during the year 1972-73 to 1974-75 and the amount actually realised thereagainst are given below:

Year	Luxury tax		Entertainment tax	
	Budget estimate	Actual receipts	Budget estimate	Actual receipts
			(In crores of rupees)	
1972-73	0·88	Nil	8·00	Nil
1973-74	0·80	Nil	8·00	Nil
1974-75	0·80	·05	8·55	·03

The department attributed (June 1975) the large shortfall in the collections of the taxes to the cases pending in the Court and also shortage of staff. It may be pointed out that no separate staff for the collection of the taxes under this Act was sanctioned by the Government except one post of Building Surveyor for a period of three months sanctioned in May 1973, which has not so far been filled (February 1976).

Actual measurements of air-conditioned space for the purpose of assessment of luxury tax had been made only in 15 cases out of 81 hotels and restaurants which are liable for tax under this Act and even out of these 15 cases, the final assessments of annual tax due had been made only in nine cases (June 1975). The arrears of luxury tax outstanding up to 31st March 1975 in respect of 43 out of the 81 cases calculated on the basis of floor plans filed by the assessees, amounted to Rs.3,38 lakhs. In respect of entertainments tax, the returns due in several cases had not been received within the prescribed period and the delays extended in some cases even to two years. Even the few returns received have not been subjected to any check by the assessing authority with reference to the registers and other documents prescribed under the Act to be maintained by the proprietors. The arrears up to March 1975 outstanding in 13 out of the 15 cases, on the basis of the returns so far received, amounted to Rs.15.71 lakhs. A review of some of the returns filed for entertainment tax disclosed that four of the hotels and restaurants had levied tax in respect of entertainments held between 26th March 1974 and 30th April 1975 at 10 per cent instead of at the increased rate of 15 per cent effective from 26th March 1974. The short payment of tax in these cases, amounting to Rs.34,294 was not noticed by the department. When this was pointed out in audit (May, 1975) the department stated (June, 1975) that the parties would be asked to deposit this amount of tax.

The points mentioned above were reported to Government in September 1975; reply is awaited (February 1976).

CHAPTER VII

Other Tax Receipts

State Excise

88. **Non-recovery of duty on shortage in transit:** In paragraph 62 of Chapter VIII of Audit Report (Revenue Receipts) 1973-74, mention was made of cases of non-recovery of excise duty on the loss of spirit in excess of the allowable limit during transit from distilleries to bonded warehouses.

On review of records of Burdwan district it was noticed that the loss in transit from a distillery to different bonded warehouses during 1973-74 and 1974-75 exceeded the prescribed limit by 980 L.P. litres and 2,020 L. P. litres respectively. Recovery of duty amounting to Rs.83,085 on a shortage of 3,000 L.P. litres in excess of permissible limit had not been made (July 1975). On this being pointed out in audit (July 1975), the department stated (July 1975) that the loss for 1973-74 had been reported to the Commissioner for orders while that relating to 1974-75 had not yet been reported.

The cases were reported to Government in August 1975; reply is awaited (February 1976).

89. **Loss of revenue due to non-utilisation of seized ganja:** About 80 kilograms of ganja seized by the department in September 1969 and forfeited to Government under orders of a Court in September 1970, were kept in a warehouse in a district and remained undisposed of till July 1975. The department stated (July 1975) that instructions regarding disposal of this stock had been sought from the Commissioner of Excise in April, 1974 and these instructions had not been received. Meanwhile the ganja became unfit for human consumption due to the long storage, resulting in a loss of revenue by way of cost price and excise duty, amounting to Rs.20,075.

Another stock of 120 kilograms of confiscated ganja valued at Rs.30,000 (including excise duty) had been lying in the same warehouse for several years. The details of the case could not be ascertained and it was suggested to Commissioner of Excise by the Collector of the district in April 1974 that the stock might be removed to Calcutta for utilisation. No decision has been taken in the matter so far (July 1975) nor any report on the condition of the stock or its suitability for consumption been received.

The matter was reported to Government in August 1975; reply is awaited (February 1976).

90. **Irregular grant of rebate on licence fee of country spirit:** Government sanctioned, in June 1974, grant of the following rebates to the retail vendors of country spirit in areas where the rate of excise duty and retail price of the spirit were enhanced from 1st April 1974 as an incentive for lifting larger quantities of country spirit than in the previous year:

(i) 25 per cent of the monthly licence fee payable by a retail vendor if the total quantity of country spirit issued during a month in 1974-75 was not less than that of the corresponding month of the previous year.

(ii) a further rebate of 10 per cent on the total licence fee payable by him during 1974-75 if the total quantity of country spirit issued to him during that year was not less than that of the previous year.

It was noticed in a district that several vendors took advantage of the offer of only the monthly rebates by artificially increasing their offtake in some months of the year with corresponding or larger decrease in the offtakes in other months with the result that the total quantities lifted by them during the year 1974-75 were considerably less than the total of the previous year. A sum of Rs.1,31,976 was paid as monthly rebate in respect of 180 shops though the total quantity of country spirit issued in the district fell short by 3.08 lakh L.P. litres from 16.90 lakh litres in 1973-74 to 13.82 lakh litres in 1974-75. The main object of granting the rebate had not thus been achieved. The case was reported to Government in August 1975; reply is awaited (February 1976).

Electricity Duty

91. **Non-recovery of electricity duty:** Under the provisions of the Bengal Electricity Duty Act, 1935, the licensee is required to submit monthly returns of energy consumed, in prescribed forms and pay duty thereon at the prescribed rate. A licensee started generating and consuming energy with effect from February 1958. The licensee did not submit any return up to February 1969 but during the period September 1966 to March 1968 made ad hoc payments amounting in all to Rs.14,83,171 for the period February 1958 to December 1967. From March 1969 onwards the licensee started submission of returns showing consumption of 55,540 units on an average in a month against 72,72,000 units per month as per records of the Directorate. The licensee also started receiving supplies of energy from the Damodar Valley Corporation from July 1970 and the supplies were liable to duty in terms of the Inter-State River Valley Authority Electricity Duty Act, 1973. The licensee, however, neither submitted the prescribed returns for the consumption nor paid any duty. On this being pointed out in audit in

June 1973, the department raised a demand in April 1974 for Rs.1,41,00,000 for the period from March 1969 to January 1973 which was disputed by the licensee. The demand was finally fixed (June 1974) by the State Government at Rs.1,90,80,000 for the period upto March, 1974. The amount has not yet been collected (December 1974). There is no provision for levy of interest for belated payment in the Bengal Electricity Duty Act, 1935.

The matter was reported to Government in January 1975; reply is awaited (February 1976).

Stamp and Registration Fees

92. **Loss of revenue due to short levy of Process Fees:** By a notification, the Government increased the rate of process fee leviable under West Bengal Land Revenue (Transfer of Holdings) Rules, 1965, for service of notice for transfer of holding of a raiyat from rupee one to rupee one and fifty paise with effect from 18th February 1971. This enhanced rate was communicated by the Inspector-General of Registration to the various registration offices only in January 1972. In the course of test check of five registration offices it was noticed in audit between November, 1974 and February, 1975 that process fee at the increased rate had not been levied in 38,482 cases from 18th February 1971 to January 1972 resulting in a loss of revenue of Rs.21,615.

The matter was reported to Government between March and August, 1975; reply is awaited (February, 1976).

CHAPTER VIII

Non-Tax Receipts

Forests

93. **Loss of revenue due to sale of debarked pulpwood:** The Forest Department entered into an agreement with a Paper Mill in December 1973 for supply of pulpwood for three years ending March 1976 at the rate of Rs.35 per Metric Tonne. As per agreements, the weighment of the standard stacks of pulpwood would be made within 48 hours of felling to determine the average weight for stacks for conversion of stacks into Metric Tonne. However, while the actual supplies were made, the department decided in March 1974 that the logs of wood would be debarked before weighment, though there was no stipulation in the agreement to this effect. This extra-contractual concession involved a reduction in the weight to the extent of 1,727.2 Metric Tonnes in a total supply of 25,898,056 Metric Tonnes of debarked pulpwood during 1973-74 and 1974-75, resulting in a loss of revenue of Rs.59,504. There was no information whether the barks removed from the pulpwood were sold subsequently and any amount realised. The case was reported to Government in August 1975; reply is awaited (February 1976).

94. **Loss of revenue due to sale of plywood at concessional rates:** The sale prices of 'C' and 'D' classes of timbers of a Forest Division under Northern Circle were increased from Rs.70 and Rs.30 per cubic metre to Rs.100 and Rs.70 per cubic metre in accordance with the modifications made to the Schedule of rates with effect from 1st July 1973. However, the Forest Department came to an agreement with plywood manufacturers of Northern Circle in August 1973 by which the two classes of timbers were sold by the former to the latter during 1973-74 at Rs.78 and Rs.25 respectively, resulting in a loss of about Rs.87,000 in respect of 3,093.83 cubic metres of timber sold during the year. No reasons have been recorded for the reduced rates being allowed in these cases. The case was reported to Government in August 1975; reply is awaited (February 1976).

95. **Loss of revenue due to irregularity in lease granted for collection of Bidi leaves:** Government sanctioned in January 1974 the lease, for a period of 3 years from 1974 to 1976, for the collection of bidi leaves in the district of Birbhum to an organisation of unemployed youths on an annual payment of Rs.5,250 towards royalty, based on a report (November 1973) of the Chief Conservator of Forest that the previous bidi merchants were not interested in the collection of leaves in that district and in Burdwan district although, according to the information available with the department, the departmental auctions of bidi leaves were attended by

several merchants and considerable increase in revenue could be anticipated due to increase in rates. The decision of Government was also not in tune with its general orders issued in November 1973 that 90 per cent of the collection of bidi leaves in Forest Divisions should be sold in public auction, the remaining 10 per cent sold to certain specified co-operative societies. The estimated quantity of bidi leaves expected to be collected during the three-year period was 2,360 quintals and the loss of revenue on this quantity amounted to Rs.1.02 lakhs based on the market price of Rs.50 per quintal prevailing in May 1974.

The matter was reported to Government in June 1975, reply is awaited (February 1976).

96. **Loss of revenue due to delay in sale of Kendu leaves:** Kendu leaves are offered for sale by the Divisional Forest Officers by public auction. The successful auction bidder is required to execute an agreement for sale of Kendu leaves. Kendu leaves are collected by the auction purchaser. Out of seven lots of Kendu leaves in a range in a Forest Division, the right to collect leaves in six lots for three years (1974-75 to 1976-77) was sold in auction in January 1975 for a sum of Rs.2,24,100. The remaining lot was offered to a Co-operative Society in terms of a Government order (December 1974) that 10 per cent of all forest produce of a Forest Division should be sold by negotiation to a registered Co-operative Society at the average auction sale price of the same kind of forest produce of the Forest Division on the same terms and conditions applicable to sale by public auction. The average price of sale of Kendu leaves for 6 lots was Rs.37,350 per lot. The seventh lot was offered to the Co-operative Society for a sum of Rs.20,995 without any reasons being recorded for reducing the price by Rs.16,355. The Co-operative Society did not however turn up for purchasing the lot and it was thereupon put to auction in March 1975. There were no bids at the auction, and on re-auction in June 1975, the highest offer of Rs.5,555 was accepted. The delay in disposal of the lot thus resulted in a loss of revenue to the extent of Rs.31,795. The case was reported to Government in August 1975; reply is awaited (February 1976).

97. **Licence fees under the Fire Services Act:**

1. *Introduction*: Under the West Bengal Fire Services Act, 1950, a licence is required to be obtained and got renewed every year in respect of every warehouse in which certain specified articles, likely to increase the risk of fire, are stored or kept, and every workshop in which processing of any article attended with the risk of fire is carried on, for the purpose of trade, or business. An annual fee is payable at rates to be prescribed under the Act, being not less than 10 per cent and not more than 25 per cent of the annual value of the building or place used as a warehouse or workshop. The licence fee is payable in advance, that is, before the licence is issued and any person who uses any building or place as a warehouse or workshop without a

licence is liable to criminal prosecution. The administration of the Act was entrusted to the municipal authorities till March 1953 and thereafter taken over by the Municipal Services Department of the State Government. The function regarding grant of licences and assessment and recovery of the licence fees are entrusted to a Special officer of that department.

97.2. **Pending applications:** According to an estimate made by the department in August, 1975, there were about 18000 cases in which licences had to be issued under the Act. The following table shows the position regarding the actual receipt of application and issue of licences during the five years ending 1974-75:

Year	Number of application received			Number of licences issued	Percentage of licences issued as compared to the total number of applications	Amount of licence fees collected (In lakhs of rupees)
	New cases	Renewals	Total			
1970-71	481	3,311	3,792	2,923	77	23·98
1971-72	589	3,554	4,143	3,266	78	29·68
1972-73	795	3,870	4,665	2,127	46	31·60
1973-74	2,078	4,482	6,560	1,614	25	25·69
1974-75	2,718	4,608	7,326	1,972	27	25·11

It will be observed that the number of applications received for issue of licences had steadily increased and almost doubled during the period of five years. But the grant of licences had not been keeping pace with this increase and had in fact shown a downward trend. The number of licences granted each year was even less than the applications for renewal alone. In terms of the Act, every application for licence or renewal thereof, has to be disposed of within thirty days from the date of its receipt. According to legal opinion obtained by Government in June 1967 and 1969, licences under the Act cannot be sanctioned or refused retrospectively, the assessment of the fees and issue of demands therefor should be completed within 30 days of the receipt of the application and if the licences are not so issued within the period of 30 days, neither can the applicants be penalised nor the recovery of the licence fee be validly enforced. The fees due in respect of the large number of applications not disposed of cannot therefore be validly realised or enforced except in cases in which the amounts of fees already remitted in advance along with the applications cover the fee due from the licensees. Thus, the effective administration of the Act and the collection of fees in all cases in which they are due depend on the promptitude with which the applications are scrutinised, fees are assessed and demands are raised.

97.3. **Defective maintenance of records for watching the receipt and disposal of applications for licences and renewal thereof:** A review by audit of the control records maintained by the department disclosed that the registers recording the receipt and disposal of applications for licence had not been correctly maintained and the entries therein were far from up-to-date. For instance, in 4 of the registers, 1,845 applications had been entered during 1971 to 1975 but in only 74 cases the disposals had been noted. Several of the applications received had been referred by the licensing authority to the Director of Fire Services for report but the return of these cases had neither been watched nor noted in the registers. Similarly, the Directorate of Fire Services had reported to the licensing authority detection of 854 cases during the period April 1972 to July 1975, where the owners of warehouses and workshops had contravened the provisions of the Act by not obtaining the licences required under the Act. Very few of these cases could be traced by audit, in the records of the licensing authority, and apparently no action had been taken in these cases to initiate either penal proceedings under the Act for the default or proceedings for the issue of licences after assessing and recovering the licence fees prescribed under the Act. A few instances are given below:

(i) A firm was found in March 1970 itself to be conducting business requiring licence under the Act but no action has been taken against the firm for not applying for the licence for the period March 1970 to February 1975. The firm applied, of its own accord, for a licence from 19th February 1975 the grant of which was pending in September 1975.

(ii) One licensee had started storing, from 1st April 1972, 20,000 litres of lubricating oil and had also mentioned this fact in the application for renewal of the licence but the licence for the year 1972-73 was renewed without assessing and levying extra licence fees for the additional storage. When this was pointed out in audit (August 1975), the department stated (September 1975) that the connected files not being available, no comments could be offered.

97.4. **Arrears of collection:** The actual amount of arrears of licence fees pending realisation (September 1975) could not be ascertained since the Demand and Collection Registers had not been properly maintained. The department stated (September 1975) that as these registers had not been maintained properly for periods before 1st April 1975, it was difficult even to prepare a complete statement of the outstandings.

It was, however, seen that in 15 cases alone a sum of Rs.15.27 lakhs was outstanding towards licence fees due for various periods dating back to 1953 and upto March, 1972 and a further sum of Rs.4.84 lakhs was outstanding from four oil companies for different periods up to March 1974. In the absence of suitable provisions in the Act for the enforcement of the recovery

of arrears either by resort to the Bengal Public Demands Recovery Act, 1913 or otherwise, no effective steps could be taken to recover the arrear dues and in some cases the licensees have just been ignoring the demands for payment. Two illustrative cases are cited below.

(i) A Jute Mill applied for a licence in January, 1955 for the period 1st February 1955 to 31st January 1957 and after the completion of all formalities, a demand for payment of the licence fee at Rs.7,727 per annum was issued in 1956. This demand was set aside by a Court and a reduced demand at Rs.5,000 per annum for the period up to March 1964 was issued in August 1964. This demand was not complied with but an application for renewal of the licence for the period 1st April 1964 to 31st March 1965 was made by the firm without any advance payment. This application was rejected in August 1966 and the firm was fined Rs.100 by a Court in November 1967 for carrying on business without the requisite licence. Still, the firm continued to carry on the business without obtaining licence under the Act for any period. The total amount of licence fee payable by the firm up to September 1966 amounted to Rs.60,000. The position for the period beyond September, 1966 upto date is not known.

(ii) In another case, a factory obtained a valid licence for periods upto 30th June 1955 but failed to renew it thereafter. Proceedings for the prosecution of the firm for its failure to renew the licence from 1st July 1955 to 31st March 1972 were initiated only after the expiry of 18 years, in September 1973, and a fine of Rs.200 was levied by a Court on the firm in January 1974. No licence has been applied for or issued to the firm till 30th June 1974 and the fee amounting to Rs.2,840 had not been realised so far (February 1976).

97.5. **Short recoveries and extra-statutory remissions:** A review by audit of some of the assessments of licence fees made by the department disclosed several cases of under-assessment and of extra statutory remission of revenue. A few such cases are indicated below:

(a) No separate rate of licence fees had been prescribed under the Act for 'spirit' and it was being charged at 10 per cent of the annual value of the place used for storage, a rate fixed for "organic solvents". In July 1969 it was held by the department that the commodity fell under the same group as "Ethyl Alcohol" and the licence fee should have been levied at 25 per cent of the annual value. Even after this finding, 'spirit' continued to be subjected to levy at 10 per cent in several cases and in 30 such cases, test checked in audit, there was a short recovery of licence fee of Rs.60,194. When this was pointed out in audit (August 1975) the department stated (September 1975) that the correct rate was intimated to the assessing officer only in 1972 and the reasons for not adopting this rate earlier were not known.

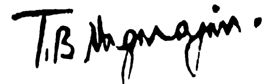
(b) Assessment of licence fee is based on the annual value at which it is assessed for payment of municipal taxes. According to the procedure followed by the department, when the annual value of the premises is not indicated in the application, 90 per cent of the annual rent actually paid by the licensee is taken as the annual value for the purpose of levy of licence fee, being the basis adopted under the municipal laws for arriving at the annual value. A firm carrying on business in paints, varnishes and chemicals had indicated Rs.4,350 as the annual value of their premises and licence fee was being levied at Rs.1,087.50 per annum, being 25 per cent of the annual value, during the period 1953-54 to 1964-65. In the subsequent annual applications for renewal of the licence, the firm did not indicate the annual value of its premises but stated that it had paid monthly rent at Rs.730.40 during 1965-66 to 1967-1968, Rs.780.45 from 1968-69 to 1970-71, Rs.935.30 from 1971-72 to 1973-74 and Rs.951.61 in the year 1974-75. The annual licence fee for the years from 1965-66 onwards continued to be levied at the old rate of Rs.1,087.50 per annum, instead of being revised on the basis of the annual rents paid by the firm. The short recovery of licence fee on this account amounted to about Rs.10,070 during the 9 years 1965-66 to 1974-75.

(c) An assessment for licence fee payable by a cotton mill for the period of 9 years from April 1952 to March 1961 was made in November 1971 and the total liability of the mill for the period was determined at Rs.49,274. The mill did not apply for renewal of the licence at any time during the period of 11 years from April 1961 to March 1972, but the provisional licence fee due for this period was determined in November, 1971 at the rate of Rs.6,165.64 per annum. The assessee applied in October, 1972 for renewal of the licence up to March 1973 by depositing a lump sum of Rs.48,000 as against a total sum of Rs.1,23,262 due from it. The licensing authority decided in October 1972 to grant the licence as applied for by the mill, forgoing the balance of Rs.75,262 due from the licensee. When this was pointed out in audit (August 1975) the department admitted (September 1975) that there was no provision in the Act empowering the authority to remit any part of the arrear licence fees.

(d) In the case of two jute mills the licence fees due for the periods April 1963 to March 1972 and April 1965 to April 1973 amounted respectively to Rs.72,104 and Rs.54,181 but the licences were renewed in 1972 after accepting payments of Rs.50,295 and Rs.24,990 from them. A total sum of Rs.51,000 was thus irregularly remitted in these two cases.

(e) The annual licence fee due from a firm from the year 1965-66 was finally determined in September 1971 as Rs.13,183, but the firm had been paying the fee from 1965-66 only at Rs.9,108 per annum upto April, 1971, except for the period April, 1969 to April 1970, for which no payment was made. The licences for the period (i) April 1965 to April 1969 and (ii) April 1970 to April 1971 were issued to the firm in February 1972 without recovering the balance of fee due for those periods amounting to Rs.20,375. No licence was granted nor the fee amounting to Rs.13,183 recovered for the intervening period of April 1969 to April, 1970. Thus, licence fee of Rs.33,559 was foregone by the Government in this case.

It, thus, appears that the administration of the West Bengal Fire Services Act, 1950, in so far as it relates to the licensing of warehouses and workshops merit considerable improvement. The matter was brought to the notice of Government in October 1975; reply is awaited (February 1976).



(T. B. NAGARAJAN)

Accountant-General, West Bengal.

CALCUTTA,

The , 1976.

Countersigned

(A. BAKSI)

Comptroller and Auditor-General of India.

NEW DELHI,

The , 1976.

APPENDIX

(Referred to in Paragraph 4)

		Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection		
				1974-75	1973-74	1972-73
		(In lakhs of rupees)				
1.	Taxes on Agricultural Income ..	90·01	12·53	13·9	13·2	11·4
2.	Land Revenue	8,33·92	8,90·66	106·8	108·2	145·0
3.	State Excise	22,55·34	1,56·87	6·9	6·9	6·9
4.	Taxes on Vehicles	9,38·41	29·24	3·1	3·0	3·0
5.	Sales Tax	1,25,06·77	1,13·03	0·9	0·9	0·9
6.	Stamps and Registration fees ..	17,54·79	1,49·53	8·5	8·6	10·5
7.	Taxes and Duties on Electricity	10,39·21	11·36	1·1	1·4	1·7
8.	Taxes on Goods and passengers ..	16,50·19	70·75	4·3	4·8	4·4
9.	Other Taxes and Duties ..	14,15·09	5·77	0·4	0·4	0·5
	Total ..	22,483·73	1,439·74	6·4	6·7	7·0

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ERRATA

Page No.	Para.	Line	For	Read
1	2(II)(*a*)	9th line from bottom	State share ..	.. State's share
2	2(*b*)	21st. ..	.. Rs. 0·02 crores	.. Rs. 0·02 crore
3	2(*c*)	1st ..	.. Non-tax revenue	.. Non-tax revenues
4	3(*ii*)	4 (Col. 6)	.. 33 ..	.. 3
6	5	1st ..	.. (July, 1975)	.. July 1975
8	8	11th ..	.. reassessment	.. re-assessment
8	9	3rd line from bottom	reassessment	.. re-assessment
9	11	3rd line from bottom	foregone ..	.. forgone
16	26	19th and 25th ..	official liquidator	.. Official Liquidator.
22	38	1st line of the para.	Road Cess and Education Cess.	Road and Education Cess.
26	46	14 ..	.. February, 1976	.. (February, 1976)
27	49	10th ..	.. 14,91·370 cft.	.. 14,91,370 cft.
27	49	11th ..	.. Rs. 45·447	.. 45,447
31	56	14th ..	.. Thus during	.. Thus, during
31	57	14th line from bottom.	Kilogram ..	.. Kilogramme
35	63·1	17th line from bottom.	Kilograms ..	.. Kilogrammes.
39	65	1st ..	.. Under assessment	.. Under-assessment
41	69	1st ..	.. Under assessment	.. Under-assessment
46	78	11th line from bottom.	up to ..	.. upto
47	78	2nd ..	.. up to ..	.. upto
47	78	7th ..	.. brought to notice	.. brought to the notice.
47	80	8th line from bottom	licencing ..	.. licensing.
47	80	2nd line from bottom	For instance	.. For instance,
48	81	15th ..	.. between the year 1967 nad 1974.	between the years 1967 and 1974.
49	82	16th ..	.. foregone ..	.. forgone
49	83	25th ..	.. the year 1972 to 1974	.. the years 1972 to 1974
49	83	27th ..	.. foregone ..	.. forgone
50	86	21st line from bottom	evets ..	.. events
52	86·2	11th ..	.. up to ..	.. upto
52	86·3	9th line from bottom	Insert comma after conditions	

Page No.	Para.	Line	For	Read
52	86·3	4th line from bottom	will ..	.. would
53	86·4	4th ..	.. foregone ..	.. forgone
53	86·4	8th ..	.. numbers of ticket	.. number of tickets
53	86·4	18th ..	.. numbers of free passes	number of free passes
53	86·4	27th ..	.. foregone ..	.. forgone
54	86·6	10th and 14th line, from bottom.	(February, 1976)	.. February 1976
57	89	19th ..	.. kilograms ..	.. Kilogrammes.
57	89	28th ..	.. kilograms ..	.. Kilogrammes.
58	91	11th line from bottom	up to ..	.. upto
59	92	12th line from bottom	Under West Bengal Land Revenue	Under the West Bengal Land Revenue
60	93	4th, 7th, 11th and 12th.	Metric Tonne	.. metric tonne
62	97·1	5th ..	.. Special officer	.. Special Officer
64	97·4	4th ..	.. cited below ..	.. cited below :—
64	97·5	15th line from bottom.	extra statutory	.. extra-statutory
66	97·5	11th ..	.. foregone ..	.. forgone,