



89-90

REPORT
OF THE
COMPTROLLER
AND
AUDITOR GENERAL OF INDIA
FOR THE YEAR
ENDED 31 MARCH 1990
No. 1

(REVENUE RECEIPTS)
GOVERNMENT OF INDIA



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PREFATORY REMARKS

The Audit Report on Revenue Receipts of the Government of Orissa for the year 1989-90 is presented in this separate volume. The material in the Report has been arranged in the following order:

Chapter I deals with trends of revenue receipts classifying them broadly under tax revenue and non-tax revenue. The variations between Revised Estimates and actuals in respect of principal heads of revenue, the position of arrears of revenue etc. are discussed in this chapter.

Chapter 2 to 8 deal with certain cases and points of interest which came to notice in the audit of Sales tax, Taxes on Motor vehicles and passengers, Forest Receipts, Land Revenue, State Excise and Mining Receipts etc.

OVERVIEW

1. General

(i) The total revenue raised by the Government of Orissa during the year 1989-90 from tax and non-tax sources was Rs.723.48 crores. While the tax revenue comprised mainly Sales Tax (Rs.297.20 crores), Motor Vehicles Tax (Rs.43.90 crores), Land Revenue (Rs.78.95 crores) and State Excise (Rs.38.29 crores), non-tax realisation came mainly from forest (Rs.109.05 crores) and Mines and Mineral receipts (Rs.21.20 crores).

[Paragraphs 1.1 and 1.2]

(ii) Arrears in collection of Sales Tax revenues registered an increase from Rs.244.56 crores as on 31.3.1989 to Rs.333.54 crores as on 31.3.1990.

[Paragraph 1.8]

(iii) As a result of test audit conducted during 1989-90, under assessment and losses of revenue amounting to Rs.12.41 crores, many of which occurred despite objections of a similar nature having been brought to the notice of Government in previous audit reports, were noticed. The cases of under assessments etc. pertained to Sales Tax (Rs.2.34 crores), Motor Vehicle Tax (Rs.3.35 crores), Forest Receipts (Rs.0.46 crore), Land Revenue (Rs.2.16 crores), State Excise (Rs.0.67 crore) and Mining Receipts (Rs.3.43 crores).

(iv) This report includes representative cases of non-levy/short levy of tax, duty, interest, penalty etc, involving a financial effect of Rs.365.14 lakhs noticed during test check in 1989-90 and in earlier years. Of these, under-assessments of Rs.83.95 lakhs were accepted and demands raised by the departments, of which Rs.7.14 lakhs were recovered till February 1991. In respect of

the cases of under-assessments amounting to Rs.16.71 lakhs, the departments have contested the audit points, for which refutations based on tax laws, facts/Government instructions have been incorporated in the relevant paragraphs. In respect of the balance amount of Rs.264.48 lakhs comments/final replies of the departments/State Government have not been received (February 1991).

2. Sales Tax

(i) Non-assessment of taxable turnover in respect of sale of timber felled and removed from the Forest Coupes in 4 Forest divisions resulted in a short levy of tax of Rs.49.88 lakhs.

[Paragraph 2.7]

(ii) Application of incorrect rates of tax in the assessments of 6 registered dealers led to short levy of tax of Rs.4.09 lakhs.

[Paragraph 2.8(a)(b)(c)]

(iii) In the case of one registered dealer in Ganjam-I circle incorrect determination of the purchase value of goods not utilised for declared purposes, resulted in escape-ment of taxable turnover of Rs.88.45 lakhs involving short levy of tax of Rs.7.07 lakhs.

[Paragraph 2.10]

(iv) In the case of a works contractor in Cuttack-I East Circle, the incorrect treatment of divisible contract as indivisible resulted in under-assessment of tax of Rs.6.78 lakhs.

[Paragraph 2.11]

(v) In 680 cases, demands of arrear tax amounting to Rs.146.69 lakhs were treated as finally settled without levy of interest of Rs.9.59 lakhs.

[Paragraph 2.17]

3. Taxes on Motor Vehicles and Passengers

(i) Audit Review on "Inadequate control on collection of arrears of taxes" indicated:

(a) The correct amount of arrears of Motor Vehicles Taxes outstanding at any given time could not be worked out by the Department in the absence of proper maintenance of the prescribed registers.

[Paragraph 3.2.6 & 3.2.7]

(b) Certificate cases filed (in 4 regions) for realisation of arrear taxes amounting to Rs.8.08 lakhs were dropped by certificate courts for non-supply of required information by the taxing authorities.

[Paragraph 3.2.8]

(c) Demand notices in respect of 438 vehicles involving arrears of tax amounting to Rs.32.93 lakhs relating to the period from April 1985 to March 1989 were not issued.

[Paragraph 3.2.9]

(ii) Tax amounting to Rs.11.34 lakhs in respect of 52 stage carriages having valid permits was not realised.

[Paragraph 3.3]

(iii) Short-realisation of tax and additional tax in respect of 150 stage carriages due to adoption of incorrect distances or incorrect rates of tax amounted to Rs.5.24 lakhs.

[Paragraph 3.4]

(iv) Non-realisation of tax at the appropriate rate in respect of 187 stage carriages found plying without permits amounted to Rs.7.90 lakhs.

[Paragraph 3.5]

(v) Non-realisation of tax/additional tax in respect of 88 motor vehicles belonging to Government of India amounted to Rs.6.23 lakhs.

[Paragraph 3.9]

(vi) In respect of 192 goods vehicles of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement, composite tax and penalty amounting to Rs.5.18 lakhs was not collected.

[Paragraph 3.12]

(vii) Non-realisation of tax and penalty from the owners of 119 motor vehicles for violating off-road declarations, amounted to Rs.77.52 lakhs.

[Paragraph 3.13(i)(ii)]

(viii) Non-raising of demands in respect of 21 vehicles found plying without payment of tax amounted to Rs.7.25 lakhs.

[Paragraph 3.18]

(ix) Non-levy of tax for intervening periods in respect of 298 vehicles amounted to Rs.23.69 lakhs.

[Paragraph 3.20]

Forest Receipts

(i) Audit Review on "Departmental working of timber coupes and sale of firewood in Angul Division" indicated:

(a) Neither the accounting procedure has been formulated nor proforma accounts prepared through the scheme was in existence from 1981-82.

[Paragraph 4.12.5]

(b) Average annual yield of timber envisaged in the scheme has not been achieved.

[Paragraph 4.12.6]

(c) There was a loss of revenue to the tune of Rs.26.98 lakhs on account of shortage of timber during transit from coupes to depots.

[Paragraph 4.12.9]

(d) Substantial quantity of stock estimated at Rs.50.85 lakhs was lying in the coupes without being transported to Depots.

[Paragraph 4.12.10]

(ii) Fixation of lesser royalty in respect of coupes settled with the Orissa Forest Corporation Limited resulted in under assessment of Rs.12.45 lakhs.

[Paragraph 4.2]

(iii) Non-levy of royalty at the revised rates on minor minerals extracted from forest lands resulted in short-realisation of Rs.2.10 lakhs.

[Paragraph 4.3]

(iv) Non-assessment of compensation for damage caused by the Orissa Forest Corporation, on account of illicit fellings within the contracted area, amounted to Rs.1.53 lakhs.

[Paragraph 4.4]

(v) In 220 cases of belated payment of consideration money, interest amounting to Rs.3.03 lakhs was not levied.

[Paragraph 4.11]

5. Land Revenue

(i) A review on "Compulsory Basic Water Rate in respect of command area of Minor Irrigation Projects" indicated:

(a) Short accountal of certified ayacuts by Tahsildars resulted in loss of revenue of Rs.1.43 lakhs.

[Paragraph 5.6.8]

(b) Non-assessment of certified ayacuts resulted in loss of revenue of Rs.3.50 lakhs.

[Paragraph 5.6.9]

(c) Misclassification of projects resulted in loss of revenue of Rs.4.16 lakhs.

[Paragraph 5.6.11]

(ii) Premium, ground rent, cess and interest amounting to Rs.65.26 lakhs were not recovered from various corporations and other local bodies for occupation of Government lands.

[Paragraph 5.2 and 5.3]

(iii) In 952 cases, court fee and process fee amounting to Rs.3.76 lakhs were levied short.

[Paragraph 5.4]

6. State Excise

(i) In one case of a brewery, due to allowance of excess wastage in manufacture of beer, there was a loss of excise duty amounting to Rs.3.64 lakhs.

[Paragraph 6.2]

(ii) Export pass fee on mohua flower at revised rates, amounting to Rs.7.32 lakhs was not realised from 7 dealers.

[Paragraph 6.7]

CHAPTER I

GENERAL

1.1 Trend of Revenue Receipts

The total receipts of the Government of Orissa for the year 1989-90 were Rs.1740.72 crores against the anticipated receipts of Rs.1895.34 crores. The total receipts during the year registered an increase of 12.24 per cent over those of 1988-89 (Rs.1550.94 crores). Out of the total receipts, revenue raised by State Government amounted to Rs.723.48 crores, of which tax revenue accounted for Rs.524.84 crores while the balance of Rs.198.64 crores was from non-tax revenue. Receipts from Government of India amounted to Rs.1017.24 crores.

1.2 Analysis of Revenue Receipts

(a) An analysis of the receipts during the year 1989-90 alongwith the corresponding figures for the preceding two years is given below:

| | 1987-88 | 1988-89 | 1989-90 |
|--|-------------------------|---------------|---------------|
| | (in crores of rupees) | | |
| (i) Revenue raised by State Government | | | |
| a) Tax Revenue | 386.74 | 442.73 | 524.84 |
| b) Non-tax Revenue | <u>156.10</u> | <u>193.26</u> | <u>198.64</u> |
| Total | <u>542.84</u> | <u>635.99</u> | <u>723.48</u> |

1987-88 1988-89 1989-90
(in crores of rupees)

| | | | | |
|-------|---|---------------|---------------|----------------|
| (ii) | Receipts from the Govern- ment of India | | | |
| | a) State's share of divisible union taxes | 402.14 | 428.71 | 572.59 |
| | b) Grants-in-aid | 388.10 | 486.24 | 444.65 |
| | Total | <u>790.24</u> | <u>914.95</u> | <u>1017.24</u> |
| (iii) | Total receipts of the State [(i) + (ii)] | 1333.08 | 1550.94 | 1740.72 |
| (iv) | Percentage of (i) to (iii) | 40.72 | 41.01 | 41.56 |

Thus, the State mobilised 41.56 per cent of its total receipts for 1989-90 and the remaining 58.44 per cent came from the Union Government.

(b) Tax revenue raised by the State Government constituted about 72.54 per cent of the State's own revenue receipts during the year 1989-90. An analysis of the tax revenues for the VIIth Plan period, and the percentage in respect each item of revenue with reference to the total tax revenue is given below:

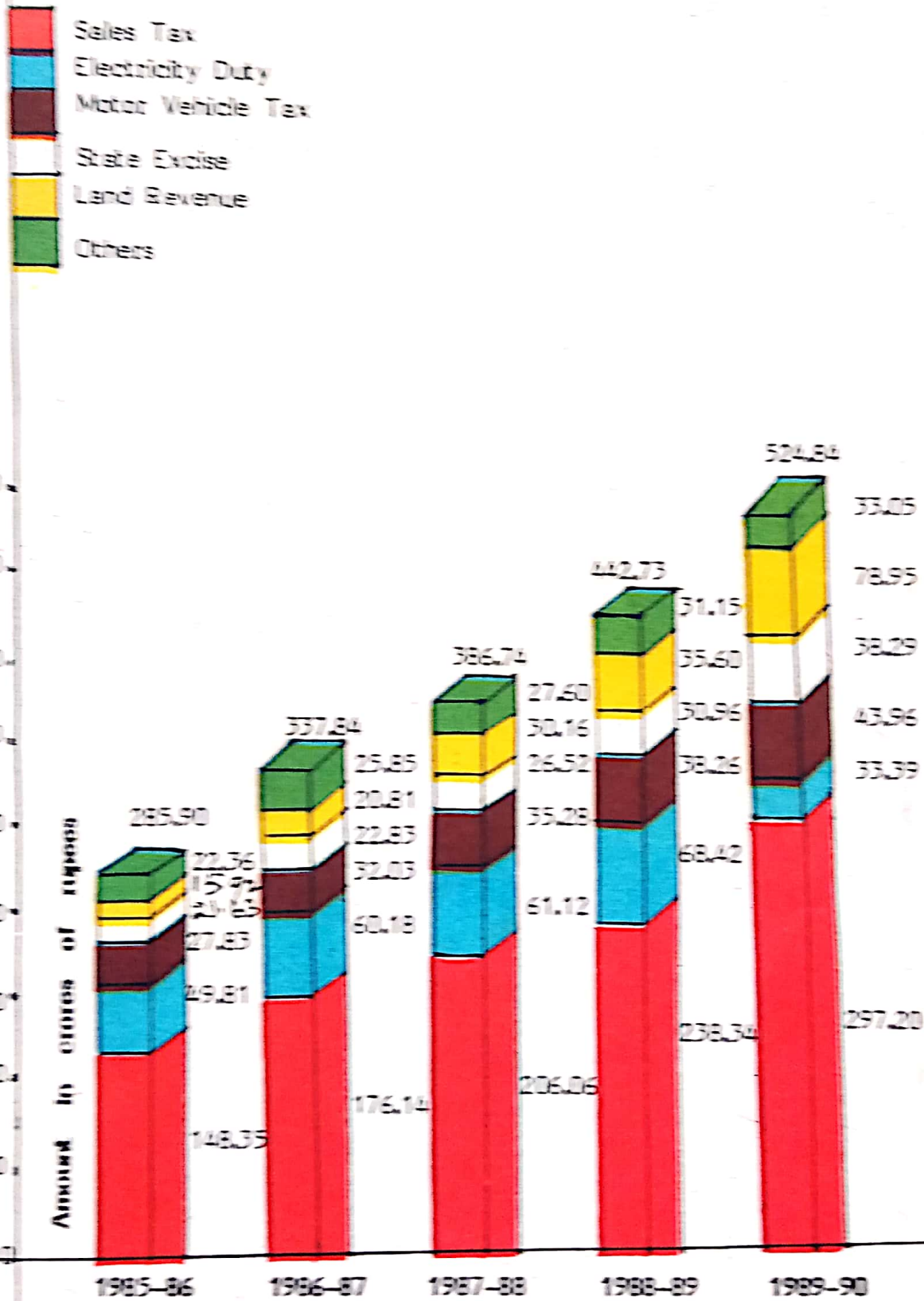
[Statement

| Nature of revenue | 1985-86 | | 1986-87 | | 1987-88 | | 1988-89 | | 1989-90 | |
|-----------------------------------|-----------------|--|-----------------|--|-----------------|--|-----------------|--|-----------------|--|
| | (Rs. in crores) | Percentage with reference to total tax revenue | (Rs. in crores) | Percentage with reference to total tax revenue | (Rs. in crores) | Percentage with reference to total tax revenue | (Rs. in crores) | Percentage with reference to total tax revenue | (Rs. in crores) | Percentage with reference to total tax revenue |
| Total Tax Revenue | 285.90 | | 337.84 | | 386.74 | | 442.73 | | 524.84 | |
| 1) Sales Tax | 148.35 | 52 | 176.14 | 52 | 206.06 | 53 | 238.34 | 54 | 297.20 | 57 |
| 2) Land Revenue | 15.92 | 6 | 20.81 | 6 | 30.16 | 8 | 35.60 | 8 | 78.95 | 15 |
| 3) Taxes on Vehicles & Passengers | 27.83 | 9 | 32.03 | 9 | 35.28 | 9 | 38.26 | 9 | 43.96 | 8 |
| 4) State Excise | 21.63 | 8 | 22.83 | 7 | 26.52 | 7 | 30.96 | 7 | 38.29 | 7 |

3

| Nature of Revenue | 1985-86 | | 1986-87 | | 1987-88 | | 1988-89 | | 1989-90 | |
|---|-----------------|--|-----------------|--|-----------------|--|-----------------|--|-----------------|--|
| | (Rs. in crores) | Percentage with reference to total tax revenue | (Rs. in crores) | Percentage with reference to total tax revenue | (Rs. in crores) | Percentage with reference to total tax revenue | (Rs. in crores) | Percentage with reference to total tax revenue | (Rs. in crores) | Percentage with reference to total tax revenue |
| 5) Taxes & Duties on Electricity | 49.81 | 17 | 60.18 | 18 | 61.12 | 16 | 68.42 | 15 | 33.39 | 7 |
| 6) Stamp & Registration Fees | 17.29 | 6 | 20.35 | 6 | 22.18 | 6 | 25.62 | 6 | 27.98 | 5 |
| 7) Other Taxes and Duties on Commodities and Services | 5.07 | 2 | 5.50 | 2 | 5.42 | 1 | 5.53 | 1 | 5.07 | 1 |

CHART - I
GROWTH OF TAX REVENUE DURING THE FIFTH PLAN PERIOD
1985-86 TO 1989-90



Scale : 1 cm = 60 CRORES
 [PARAGRAPH 1.2(b)]

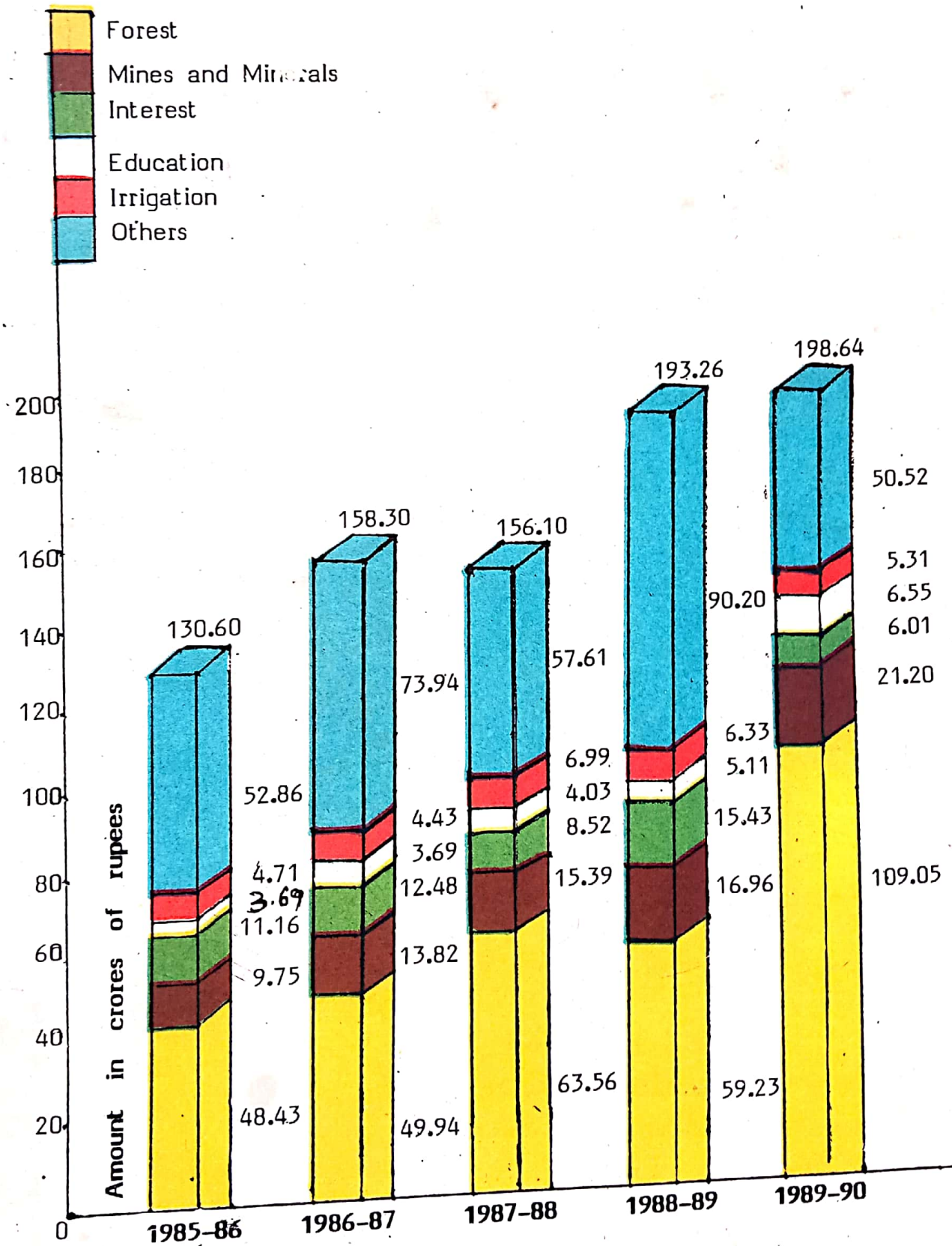
(c) Interest, Education, Public Health, Sanitation and Water Supply, Forest, Mines and Minerals, Irrigation, Navigation, Drainage and Flood control projects and Police were the principal sources of non-tax revenue during 1989-90 which constituted about 27.46 per cent of total revenue raised by the State. An analysis of non-tax revenue under the principal heads of revenue for the VIIth Plan period and the percentages in respect of each head of revenue with reference to the total non-tax revenue is given below:

[Statement

| Nature of Revenue | 1985-86 | | 1986-87 | | 1987-88 | | 1988-89 | | 1989-90 | |
|---|-----------------|--|-----------------|--|-----------------|--|-----------------|--|-----------------|--|
| | (Rs. in crores) | Percentage with reference to total non-tax revenue | (Rs. in crores) | Percentage with reference to total non-tax revenue | (Rs. in crores) | Percentage with reference to total non-tax revenue | (Rs. in crores) | Percentage with reference to total non-tax revenue | (Rs. in crores) | Percentage with reference to total non-tax revenue |
| Total non-tax Revenue | 130.60 | | 158.30 | | 156.10 | | 193.26 | | 198.64 | |
| 1) Forest | 48.43 | 37 | 49.94 | 32 | 63.56 | 41 | 59.23 | 31 | 109.05 | 55 |
| 2) Mines & Minerals | 9.75 | 7 | 13.82 | 9 | 15.59 | 10 | 16.96 | 9 | 21.20 | 11 |
| 3) Education | 3.69 | 3 | 3.69 | 2 | 4.03 | 3 | 5.11 | 3 | 6.55 | 3 |
| 4) Interest | 11.16 | 9 | 12.48 | 8 | 8.52 | 5 | 15.43 | 8 | 6.01 | 3 |
| 5) Public Health, Sanitation and Water Supply | 2.83 | 2 | 3.26 | 2 | 3.17 | 2 | 4.64 | 2 | 6.00 | 3 |

| Nature of Revenue | 1985-86 | | 1986-87 | | 1987-88 | | 1988-89 | | 1989-90 | |
|---|-----------------|--|-----------------|--|-----------------|--|-----------------|--|-----------------|--|
| | (Rs. in crores) | Percentage with reference to total non-tax revenue | (Rs. in crores) | Percentage with reference to total non-tax revenue | (Rs. in crores) | Percentage with reference to total non-tax revenue | (Rs. in crores) | Percentage with reference to total non-tax revenue | (Rs. in crores) | Percentage with reference to total non-tax revenue |
| 6)Irrigation, Navigation, Drainage and Flood control projects | 4.71 | 4 | 4.43 | 3 | 6.99 | 4 | 6.33 | 3 | 5.31 | 3 |
| 7)Police | 1.81 | 1 | 2.92 | 2 | 4.43 | 3 | 3.29 | 2 | 3.88 | 2 |
| 8)Others | 48.22 | 37 | 67.76 | 42 | 50.01 | 32 | 82.27 | 42 | 40.64 | 20 |

CHART - II
GROWTH OF NON-TAX REVENUE DURING THE VIITH PLAN PERIOD
1985-86 TO 1989-90

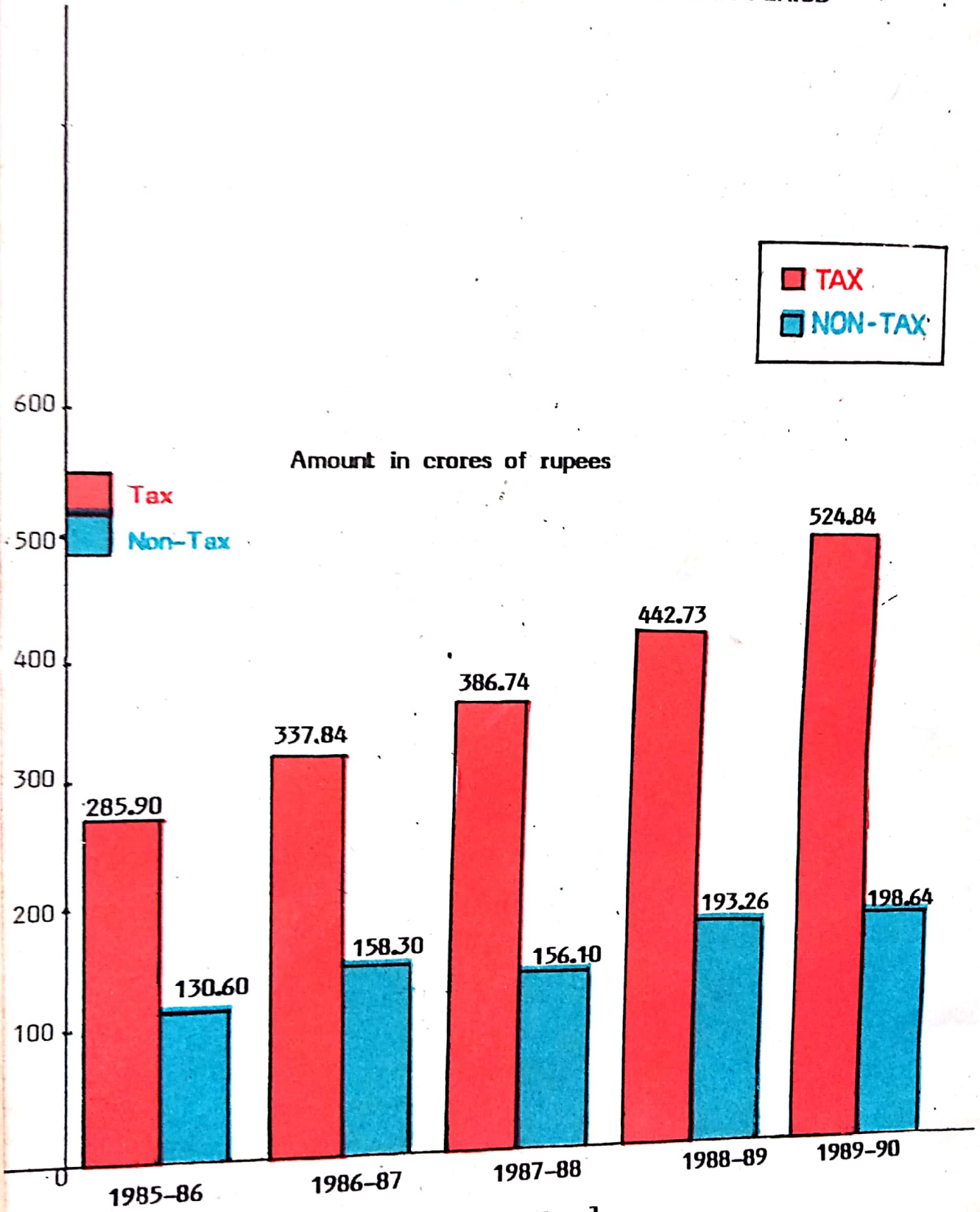


Scale : 1 cm = 20 crores

[PARAGRAPH 1.2(c)]

CHART - III

TAX AND NON-TAX REVENUE DURING THE VIITH PLAN PERIOD



[PARAGRAPH 1.3]

1.3 Variations between Budget/Revised estimates and actuals

The growth of tax revenue/non-tax revenue during the VIIth Plan period is indicated below:

| Year | Budget estimates | Revised estimates | Actuals | Percentage growth of actual revenue over the previous year |
|-------------------------|------------------------|-------------------|---------|--|
| (1) | (2) | (3) | (4) | (5) |
| (in crores of rupees) | | | | |
| 1985-86 | Tax Revenue 304.54 | 359.57 | 285.90 | 21.70 |
| | Non-Tax Revenue 122.47 | 132.55 | 130.60 | 14.67 |
| 1986-87 | Tax Revenue 377.61 | 381.82 | 337.84 | 18.17 |
| | Non-Tax Revenue 151.50 | 157.71 | 158.30 | 21.21 |
| 1987-88 | Tax Revenue 422.51 | 394.31 | 386.74 | 14.47 |
| | Non-Tax Revenue 184.78 | 153.29 | 156.10 | (-) 1.39 |
| 1988-89 | Tax Revenue 486.40 | 476.11 | 442.73 | 14.48 |
| | Non-Tax Revenue 208.83 | 196.89 | 193.26 | 23.81 |
| 1989-90 | Tax Revenue 536.14 | 523.10 | 524.84 | 18.55 |
| | Non-Tax Revenue 215.22 | 193.44 | 198.64 | 2.78 |

(a) The variations between the Budget estimates and actuals of tax revenue and non-tax revenue during the year 1989-90 are given below:

| | Budget estimate | Revised estimate | Actuals | Variations Increase(+) Decrease(-) with refer- ence to re- vised esti- mate | Percent- tage of varia- tions |
|-------------------------|-----------------|------------------|---------|--|--|
| (in crores of rupees) | | | | | |
| A. Tax | | | | | |
| Revenue | 536.14 | 523.10 | 524.84 | (+) 1.74 | (+) 0.33 |
| B. Non-Tax | | | | | |
| Revenue | 215.22 | 193.44 | 198.64 | (+) 5.20 | (+) 2.69 |

The total variations between the revised estimates and the actuals during 1989-90 was Rs.6.94 crores and it comprised excess of Rs.1.74 crores (0.33 per cent) under tax revenue and excess of Rs.5.20 crores (2.69 per cent) under non-tax revenue.

(b) Variations between budget/revised estimates and actuals under the principal heads of revenue are given below:

| Heads of Revenue | Budget estimates | Revised estimates | Actuals | Variation Increase(+) Decrease(-) with refer- ence to re- vised estimates | Percent- age of variation with refer- ence to re- vised estimates |
|-------------------------|------------------|-------------------|---------|---|--|
| (in crores of rupees) | | | | | |
| 1. Land Revenue | 36.34 | 41.34 | 78.95 | (+) 37.61 | (+) 90.98 |

| Heads of Revenue | Budget estimates | Revised estimates | Actuals | Variation Increase(+) Decrease(-) with reference to revised estimates | Percentage of variation with reference to revised estimates |
|------------------------------------|------------------|-------------------|---------|---|---|
| (in crores of rupees) | | | | | |
| 2. Stamp and Registration fees | 27.02 | 27.02 | 27.98 | (+) 0.96 | (+) 3.55 |
| 3. State Excise | 34.00 | 34.00 | 38.29 | (+) 4.29 | (+) 12.62 |
| 4. Sales Tax | 284.99 | 293.99 | 297.20 | (+) 3.21 | (+) 1.09 |
| 5. Taxes on vehicles | 47.29 | 46.17 | 43.90 | (-) 2.27 | (-) 4.92 |
| 6. Taxes and Duties on Electricity | 99.48 | 74.61 | 33.39 | (-) 41.22 | (-) 55.25 |
| 7. Interest | 21.88 | 6.65 | 6.01 | (-) 0.64 | (-) 9.62 |
| 8. Education | 6.81 | 6.83 | 6.55 | (-) 0.28 | (-) 4.10 |
| 9. Forest | 66.79 | 96.22 | 109.05 | (+) 12.83 | (+) 13.33 |
| 10. Mines and Minerals | 20.11 | 20.11 | 21.20 | (+) 1.09 | (+) 5.42 |
| 11. Police | 2.33 | 2.33 | 3.88 | (+) 1.55 | (+) 66.52 |

Variations between Budget Estimates and actuals for 1989-90 in respect of Land Revenue, State Excise, Taxes and Duties on Electricity, Forest and Police were more than 10 per cent. The reasons for such variations as stated by the respective departments are given below:

Land Revenue : The increase (90.98 per cent) in receipts was attributed to better collection of Land Revenue through a special drive and due to enhancement of rates of cess on coal and other minerals with effect from 14 August 1989.

State Excise : The increase (12.62 per cent) in receipts was stated to be due to increased consumption of IMFL within the State and higher export of mahua flower outside the State.

Taxes and duties on Electricity : The shortfall in collection to the extent of 55.25 per cent, as compared with the revised estimates for the year 1989-90 was due to non-payment of electricity duty by private agencies and due to non-deposit of electricity duty collected by the Orissa State Electricity Board into Government account.

Forest : The increase (13.33 per cent) in Forest receipts was stated to be mainly due to realisation of higher amount under Kendu leaves from the Orissa Forest Corporation Limited.

Police : The increase (66.52 per cent) in collection was due to collection of arrear dues which were not anticipated in the budget.

1.4 Cost of collection

Expenditure incurred in collecting the major revenue receipts during the year 1989-90 and the corresponding figures for the preceding two years as also compared

to the All India average in 1988-89 are given below:

| Head of account | Year | Gross collection | Expenditure on collection | Percentage of expenditure to gross collection | All India Average (Percentage) for 1988-89 |
|-------------------------------|---------|-------------------------|---------------------------|---|--|
| (1) | (2) | (3) | (4) | (5) | (6) |
| | | (in crores of rupees) | | | |
| 1.Land Revenue | 1987-88 | 30.16 | 29.11 | 97 | - |
| | 1988-89 | 35.60 | 32.57 | 92 | - |
| | 1989-90 | 78.95 | 34.80* | 44 | - |
| 2.Forest | 1987-88 | 63.56 | 11.43 | 18 | - |
| | 1988-89 | 59.23 | 12.79 | 22 | - |
| | 1989-90 | 109.05 | 13.82** | 13 | - |
| 3.Stamp and Registration fees | 1987-88 | 22.18 | 2.31 | 10 | - |
| | 1988-89 | 25.62 | 2.21 | 10 | 6 |
| | 1989-90 | 27.98 | 3.09 | 11 | - |

* The expenditure incurred under 'Land Revenue' was not only for collection of revenue but also for other administrative functions. The Department has stated that 33 per cent of the total expenditure can be apportioned towards collection of Land Revenue and the rest for other administrative functions.

** The department has stated that a sum of Rs.1.48 crores was spent for collection of revenue which works out to 1.35 per cent. No details of expenditure towards collection of revenue were, however, furnished.

| Head of account | Year | Gross collection | Expenditure on collection | Percentage of expenditure to gross collection | All India Average (Percentage) for 1988-89 |
|-----------------------------------|---------|------------------|---------------------------|---|--|
| (1) | (2) | (3) | (4) | (5) | (6) |
| (in crores of rupees) | | | | | |
| 4.State Excise | 1987-88 | 26.52 | 2.66 | 10 | - |
| | 1988-89 | 30.96 | 2.73 | 10 | 5 |
| | 1989-90 | 38.29 | 3.10 | 8 | - |
| 5.Sales Tax | 1987-88 | 205.06 | 5.04 | 2 | - |
| | 1988-89 | 238.34 | 5.38 | 2 | 1.5 |
| | 1989-90 | 297.20 | 6.09 | 2 | - |
| 6.Taxes on Vehicles | 1987-88 | 34.61 | 0.70 | 2 | - |
| | 1988-89 | 38.03 | 0.85 | 2 | 4 |
| | 1989-90 | 43.90 | 1.03 | 2 | - |
| 7.Taxes and Duties on Electricity | 1987-88 | 61.12 | 0.14 | 0 | - |
| | 1988-89 | 68.42 | 0.21 | 0 | - |
| | 1989-90 | 33.39 | 0.87 | 2 | - |

1.5 Arrears in assessment of Sales Tax

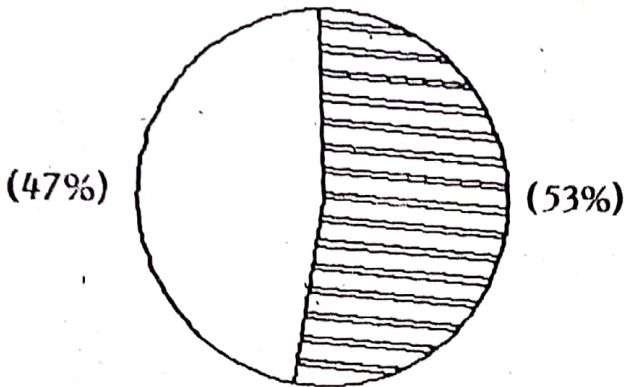
The number of assessments of Sales Tax cases finalised by the department and the assessments pending finalisation during the years 1985-86 to 1989-90 as reported

by the department are indicated below:

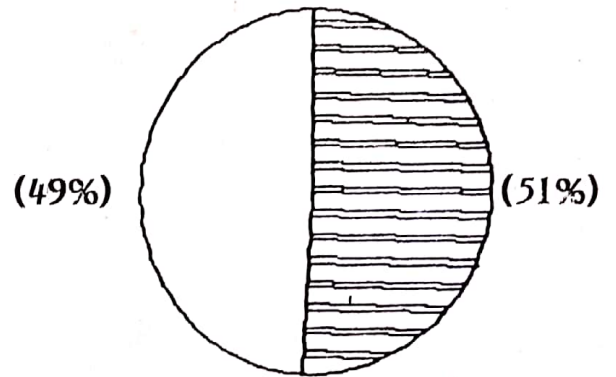
| | <u>1985-86</u> | <u>1986-87</u> | <u>1987-88</u> | <u>1988-89</u> | <u>1989-90</u> |
|---|----------------|----------------|----------------|----------------|----------------|
| (i) Number of cases due for assessment | 2,94,924 | 3,29,267 | 3,57,518 | 3,68,939 | 3,75,581 |
| (ii) Number of assessments completed | 1,38,534 | 1,63,020 | 1,81,641 | 1,82,059 | 1,84,749 |
| (iii) Number of assessments pending | 1,56,390 | 1,66,247 | 1,75,877 | 1,86,880 | 1,90,832 |
| (iv) Percentage of pending cases to total cases (i.e. percentage of column iii to column i) | 53 | 51 | 49 | 51 | 51 |

The break-up of arrear and current cases in respect of assessments completed and assessments pending as at the end of the years could not be furnished by the Department.

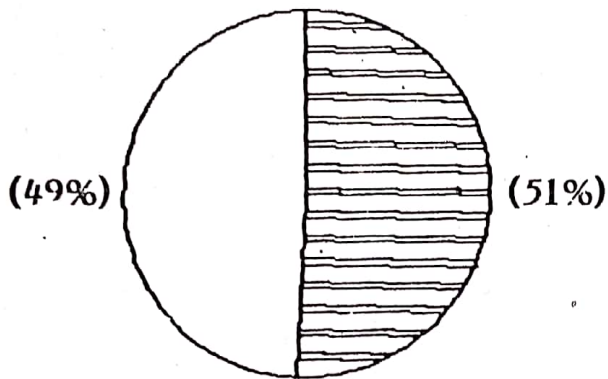
CHART - IV
(PERCENTAGE OF PENDING CASES TO TOTAL CASES DUE FOR WORK)
Arrears in assessment of Sales Tax 1985-86



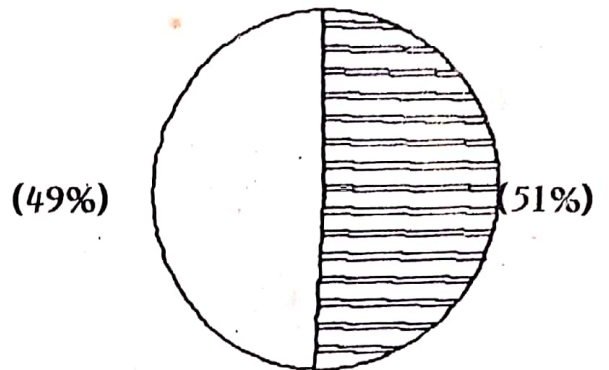
Arrears in assessment of
Sales Tax 1988-89



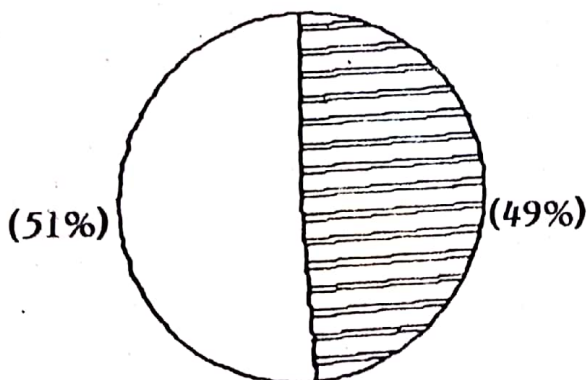
Arrears in assessment of
Sales Tax 1986-87





Arrears in assessment of
Sales Tax 1989-90



Arrears in assessment of
Sales Tax 1987-88



 PENDING
 CLEARANCE

The year-wise break-up of the pending assessments as on 31st March 1990 could not also be furnished by the Department.

1.6 Analysis of Sales Tax collection

During the year 1989-90, the total collection of tax was Rs.297.20 crores, the break-up of which is as under:

| | (in crores of rupees) |
|--|-------------------------|
| (i) Amount collected at preassessment stage | 259.44 |
| (ii) Amount collected after regular assessment | 24.59 |
| (iii) Amount of arrear demand collected | 14.93 |
| (iv) Other Miscellaneous receipts | <u>0.49</u> |
| Total | 299.45 |
| (v) Amount refunded | <u>2.25</u> |
| (vi) Net collection | <u>297.20</u> |

1.7 Arrears in disposal of sales tax refund cases

The position of pendency of sales tax refund cases at the end of March 1990 as reported by the department

is indicated below:

| | No. of cases | Amount involved (in lakhs of rupees) |
|---|--------------|--------------------------------------|
| (i) Refund cases pending on 1st April 1989 | 1957 | 221.31 |
| (ii) Claims received during the year | 1833 | 308.92 |
| (iii) Total | 3790 | 530.23 |
| (iv) Cases disposed of during the year | 1654 | 224.94 |
| (v) Claims rejected during the year | 178 | 41.78 |
| (vi) Balance outstanding at the end of March 1990 | 1958 | 263.51 |

The amount of interest paid on refunds for belated payments and for other reasons could not be furnished by the Department.

1.8 Uncollected Revenue

Based on the information furnished by the departments an analysis of arrears of revenue pending collection at the end of March 1990 in respect of the principal sources of revenue is given below. For purposes of comparison, arrears as at the end of March 1989 have also been indicated.

The year-wise break up of the arrears could not be furnished by the concerned department in respect of State Excise, Land Revenue, Forest, Police, Taxes and Duties on Electricity.

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|--|
| (1) | (2) | (3) | (4) |
| 1. Sales Tax | 24,455.69 | 33,353.70 | The increase in arrear was stated to be mainly due to large number of cases pending in appeal, the recoveries of which were stayed. The year-wise break-up of the arrears is as follows: |
| | | | (in lakhs of rupees) |
| | | | Upto |
| | | | 1984-85 |
| | | | 1985-86 |
| | | | 1986-87 |
| | | | 1987-88 |
| | | | 1988-89 |
| | | | 1989-90 |
| | | | Total |
| | | | 1,887.73 |
| | | | 738.97 |
| | | | 1,619.04 |
| | | | 3,228.38 |
| | | | 13,134.61 |
| | | | 12,744.97 |
| | | | <u>33,353.70</u> |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |

(in lakhs of rupees)

Out of the above arrears, recovery of amounts exceeding Rs.2 lakhs in each case was outstanding in 160 cases (in 23 Circles) involving an amount of Rs.17,568.28 lakhs as on 31st March 1990.

The various stages under which the arrears are pending is given below:

| | (in lakhs of rupees) |
|--|----------------------|
| a) Demands covered by certificate proceedings | 4,259.95 |
| b) Recovery stayed by | |
| (i) High courts and other judicial authorities | 5,429.84 |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|---|
| (1) | (2) | (3) | (4) |
| | (in lakhs of rupees) | | (in lakhs of rupees) |
| | | | (ii) Government/ Departmental authorities 9,148.52 |
| | | | c) Amounts likely to be written off 257.18 |
| | | | d) Other stages : |
| | | | Under third party notices 8,796.18 |
| | | | Under show cause notices 5,459.59 |
| | | | Action pending <u>2.44</u> |
| | | | Total <u>33,353.70</u> |
| 2.State Excise | 47.66 | 47.18 | Out of the arrears as on 31st March 1990 recovery of Rs.1.76 lakhs had been stayed, by High Court and other judicial authorities, Rs.2.99 lakhs |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|---|
| (1) | (2) | (3) | (4) |
| | (in lakhs of rupees) | | |
| | | | are proposed to be written off, Rs.40.94 lakhs are covered by certificate proceedings and the balance of arrears of Rs.1.49 lakhs are under the process of realisation. |
| 3.Land Revenue | 568.95 | 644.71 | Category-wise break-up of arrears at the end of March 1990 is indicated below: |
| | | | (in lakhs of rupees) |
| | | | Rent 152.12 |
| | | | Cess 196.74 |
| | | | Nistar Cess 6.58 |
| | | | Sairat 41.57 |
| | | | Miscellaneous Revenue 247.70 |
| | | | Total <u>644.71</u> |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|------------------------|--|--|--|
| (1) | (2) | (3) | (4) |
| (in lakhs of rupees) | | | |
| 4. Forests | 1,385.01 | 2,134.02 | Out of the arrears as on 31st March 1990, an amount of Rs.101.33 lakhs only was covered under certificate proceedings and the balance amount of Rs.2,032.69 lakhs is under the process of recovery. Substantial amounts were outstanding against the following corporations: |
| | | | (in lakhs of rupees) |
| | | | i) M/s Orissa Forest Corporation Ltd. 1,044.46 |
| | | | ii) M/s Similipahar Forest Development Corporation 487.69 |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |

(in lakhs of rupees)

5. Mines and Minerals

389.63

435.46

The year-wise break-up the arrears as on 31st March 1990 is as follows:

(in lakhs of rupees)

| | |
|--------------|----------------------|
| Upto | |
| 1984-85 | 69.61 |
| 1985-86 | 10.45 |
| 1986-87 | 57.30 |
| 1987-88 | 77.44 |
| 1988-89 | 96.90 |
| 1989-90 | <u>123.76</u> |
| Total | <u>435.46</u> |

Out of the arrears, recovery of Rs.199.27 lakhs was covered by certificate proceedings, Rs.16.46 lakhs had been stayed by High Court and other judicial authorities, Rs.19.13 lakhs are proposed to be written off,

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |

(in lakhs of rupees)

Rs.14.14 lakhs are under dispute, and the balance amount of Rs.186.46 lakhs was under the process of collection.

6. Interest
 (a) Interest payable by Orissa State Electricity Board

13,541.74 16,572.00

The department stated that the Board has accorded lower priority of payment of interest on the loans taken, depending on their revenue surplus as per the provisions of Indian Electricity Supply Act and the Board is incurring heavy losses every year it was not in a position to pay the interest dues.

| Source of | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-----------|--|--|---------|
| (1) | (2) | (3) | (4) |

(in lakhs of rupees)

The arrears represent the following:

| | (in lakhs of rupees) |
|--|-------------------------|
| Interest on cash loans | 1,443.02 |
| Interest on Assets loans | 7,319.62 |
| Interest on Talcher Thermal Power expansion cash loan | 3,602.69 |
| Interest on Talcher Thermal Power Station expansion perpetual loan | 3,830.54 |
| Interest recoverable from Government of Andhra Pradesh | 376.13 |
| Total | <u>16,572.00</u> |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|---------|
|-------------------|--|--|---------|

(1) (2) (3) (4)

(in lakhs of rupees)

Year-wise break-up of the arrears as on 31.3.1990 is furnished below:

(in lakhs of rupees)

| | |
|--------------|-------------------------|
| Upto | |
| 1985-86 | 9,743.96 |
| 1986-87 | 1,302.97 |
| 1987-88 | 1,356.93 |
| 1988-89 | 1,476.40 |
| 1989-90 | 2,691.74 |
| Total | <u>16,572.00</u> |

(b)Interest on loans by Industries Department

1,060.37 579.46

The year-wise break-up of the arrears as on 31st March 1990 is given below:

(in lakhs of rupees)

| | |
|--------------|----------------------|
| Upto | |
| 1987-88 | 348.57 |
| 1988-89 | 41.05 |
| 1989-90 | 189.84 |
| Total | <u>579.46</u> |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |

(in lakhs of rupees)

The amounts are recoverable from Co-operative Societies (Rs.109.54 lakhs), Industrial Development Corporation (Rs.140.00 lakhs), Industrial Promotion and Investment Corporation (Rs.5.84 lakhs), Orissa Agro Industries Corporation (Rs.79.57 lakhs), Orissa State Financial Corporation (Rs.94.64 lakhs) and other bodies (Rs.149.87 lakhs).

(c)Interest

on loans for Community Development

64.58

86.37

The year-wise break-up of the arrears as on 31st March 1990 is furnished below:

(in lakhs of rupees)

| | |
|--------------|---------------------|
| Upto | |
| 1984-85 | 70.28 |
| 1985-86 | 3.28 |
| 1986-87 | 3.25 |
| 1987-88 | 3.27 |
| 1988-89 | 3.16 |
| 1989-90 | 3.13 |
| Total | <u>86.37</u> |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks | | | | | | | | | | | | | | |
|----------------------------|--|--|--|--------------|-------|---------|------|---------|------|---------|------|---------|-------|---------|-------|--------------|----------------------|
| (1) | (2) | (3) | (4) | | | | | | | | | | | | | | |
| (in lakhs of rupees) | | | | | | | | | | | | | | | | | |
| 7. Stationery and Printing | 68.82 | 120.47 | The year-wise break-up of the arrears as on 31st March 1990 is furnished below: (in lakhs of rupees) | | | | | | | | | | | | | | |
| | | | <table border="1"> <tr> <td>Upto 1984-85</td> <td>13.53</td> </tr> <tr> <td>1985-86</td> <td>1.69</td> </tr> <tr> <td>1986-87</td> <td>0.37</td> </tr> <tr> <td>1987-88</td> <td>1.80</td> </tr> <tr> <td>1988-89</td> <td>22.27</td> </tr> <tr> <td>1989-90</td> <td>80.81</td> </tr> <tr> <td>Total</td> <td><u>120.47</u></td> </tr> </table> | Upto 1984-85 | 13.53 | 1985-86 | 1.69 | 1986-87 | 0.37 | 1987-88 | 1.80 | 1988-89 | 22.27 | 1989-90 | 80.81 | Total | <u>120.47</u> |
| Upto 1984-85 | 13.53 | | | | | | | | | | | | | | | | |
| 1985-86 | 1.69 | | | | | | | | | | | | | | | | |
| 1986-87 | 0.37 | | | | | | | | | | | | | | | | |
| 1987-88 | 1.80 | | | | | | | | | | | | | | | | |
| 1988-89 | 22.27 | | | | | | | | | | | | | | | | |
| 1989-90 | 80.81 | | | | | | | | | | | | | | | | |
| Total | <u>120.47</u> | | | | | | | | | | | | | | | | |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|-------------------|--|--|---------|
| (1) | (2) | (3) | (4) |

(in lakhs of rupees)

The item-wise break-up of the arrears as furnished by the Department (August 1990) is given below:

| | (in lakhs of rupees) |
|----------------------|----------------------|
| Stationery Receipts- | 15.11 |
| Sale of gazette etc. | 0.53 |
| Other press receipts | 101.71 |
| Other receipts | 3.12 |
| | <u>120.47</u> |

Out of the above arrears an amount of Rs.9,727 only was covered by certificate proceedings.

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|------------------------|--|--|---|
| (1) | (2) | (3) | (4) |
| (in lakhs of rupees) | | | |
| 8. Police | 450.96 | 509.71 | Substantial arrears were outstanding against the following: (in lakhs of rupees) |
| | | | Government of India (Aviation Research Centre) |
| | | | 88.07 |
| | | | South Eastern Railway |
| | | | 99.50 |
| | | | Government of Assam |
| | | | 35.59 |
| | | | Government of Bihar |
| | | | 19.52 |
| | | | Government of Andhra Pradesh |
| | | | 16.37 |
| | | | Machkund Security Force |
| | | | 64.04 |
| | | | Balimela Hydro-Electricity Project |
| | | | 121.91 |

| Source of Revenue | Amount of arrears pending collection as on 31st March 1989 | Amount of arrears pending collection as on 31st March 1990 | Remarks |
|------------------------------------|--|--|--|
| (1) | (2) | (3) | (4) |
| (in lakhs of rupees) | | | |
| 9. Taxes and Duties on Electricity | 2,400.46 | 4,408.78 | Out of the arrears as on 31st March 1990, Rs.1662.62 lakhs were outstanding against Orissa State Electricity Board, Rs.2,735.16 lakhs against private agencies and Rs.11.00 lakhs against other Appointed Authorities. Out of the arrears an amount of Rs.33.94 lakhs was covered under certificate proceedings. |

1.9 Frauds and evasion of tax

The number of cases of evasion of tax detected by Sales Tax Department during 1989-90, assessments

finalised and demand for additional tax raised are given below:

| | No. of cases |
|---|----------------------|
| A. (i) Cases pending as on 1st April 1989 | 18,385 |
| (ii) Cases detected during the year | <u>11,920</u> |
| Total | <u>30,305</u> |
| | |
| B. Cases in which investigation/ assessments were completed during the year | 12,143 |
| | |
| C. Cases which were pending at the end of the year | 18,162 |

The amount of revenue involved in the above cases could not be furnished by the Department.

1.10 Outstanding Inspection Reports

(a) Important irregularities and defects in assessment, demand, collection and accounting of State receipts, noticed during local audit, are intimated through Inspection Reports to the Departmental Officers, heads of departments and also to Government, where necessary with the request to furnish replies thereto within a month of their receipt. In addition, statements showing details of audit objections remaining outstanding for more than six months are sent to Government every six months in May and November, so that these may receive special attention.

(b) At the end of June 1990, 2651 Inspection Reports containing 9607 audit objections, involving receipts of Rs.5403.26 lakhs issued upto December 1989 were awaiting settlement.

The year-wise break-up of the outstandings as at the end of June 1990 is given below:

| | No. of outstanding | | Revenue involved |
|---------------|--------------------|------------------|------------------------|
| | Inspection Reports | Audit objections | (in lakhs of rupees) |
| Upto 1987-88 | 2284 | 7501 | 4064.03 |
| 1988-89 | 252 | 1474 | 674.35 |
| December 1989 | 115 | 632 | 664.88 |
| | <u>2651</u> | <u>9607</u> | <u>5403.26</u> |

(c) The department-wise break-up is given below:

| Department | Nature of receipts | No. of reports | No. of audit objections | Revenue involved (in lakhs of rupees) |
|--------------------|------------------------|----------------|-------------------------|---------------------------------------|
| (1) | (2) | (3) | (4) | (5) |
| Revenue and Excise | Land revenue | 640 | 1761 | 2315.01 |
| | Stamp & Registra- fees | 409 | 620 | 7.12 |
| | State Excise | 139 | 455 | 587.77 |

| Department | Nature of receipts | No. of reports | No. of audit objections | Revenue involved (in lakhs of rupees) |
|--|---------------------|----------------|-------------------------|--|
| (1) | (2) | (3) | (4) | (5) |
| Finance | Sales Tax | 522 | 3116 | 354.76 |
| | Entertainment Tax | 207 | 385 | 8.16 |
| Commerce & Transport (Transport) | Taxes on Vehicles | 139 | 1429 | 674.46 |
| | Taxes on passengers | 71 | 240 | 375.97 |
| Forest, Fisheries and Animal Husbandry (Forest) | Forest | 404 | 1374 | 519.82 |
| Steel and Mines | Mining Receipts | 120 | 227 | 560.19 |

(d) Out of reports issued upto December 1989, in respect of 248 reports containing 1609 audit objections, even first replies had not been received till 30th June 1990. The extent of delay in receipts of replies in these cases is shown below:

| Period of delay | No. of Inspection Reports | No. of outstanding Audit objections | Revenue involved (in lakhs of rupees) |
|-----------------------------------|---------------------------|-------------------------------------|---------------------------------------|
| Upto 6 months | 13 | 115 | 103.91 |
| Over 6 months and upto 12 months | 58 | 427 | 261.59 |
| Over 12 months and upto 18 months | 41 | 258 | 82.87 |
| Over 18 months and upto 24 months | 26 | 232 | 237.90 |
| Over 24 months | <u>110</u> <u>248</u> | <u>577</u> <u>1609</u> | <u>418.39</u> <u>1104.66</u> |

The above position was also brought to the notice of the Chief Secretary to the Government (October 1990 and November 1990).

1.11 Internal control and internal audit

Commercial Tax Department

The Internal Audit organisation of the Department started functioning from the year 1975-76. There are seven inspection parties each consisting of one Commercial Tax Officer (Inspection), one stenographer, one junior typist, one junior assistant and two peons. During the year 1989-90 only two parties were engaged for the entire year, and two parties were engaged for a part of the year while 3 parties did not function at all. The programme framed for completion of internal audit and the actual performance during the year 1989-90 is given below:

| | Programme fixed for audit during 1989-90 | | No. of years audited | Arrear as on 31.3.90 No. of years (Arrears multiplied by units) |
|---------------------|---|---|----------------------------|--|
| | No. of offices | No. of years of audits to be com- pleted (Arrears in years mul- tiplied by units) | | |
| Circles | 27 | 52 | 5 | 47 |
| Assessment units | 16 | 23 | 9 | 14 |
| Check gates | 36 | 84 | 22 | 62 |
| R.R. Units | <u>8</u> <u>87</u> | <u>22</u> <u>181</u> | <u>3</u> <u>39</u> | <u>19</u> <u>142</u> |

CHAPTER 2

SALES TAX

2.1 Results of Audit

A test check of sales tax assessments and refund cases and the connected documents in the Commercial Tax Offices, conducted in audit during the period from April 1989 to March 1990 revealed underassessment of tax and loss of revenue amounting to Rs.234.45 lakhs in 1178 cases, which may broadly be categorised as under

| | Number of cases | Amount (in lakhs of rupees) |
|---|-----------------------|-----------------------------------|
| 1. Short-levy due to incorrect computation of taxable turnover | 134 | 57.63 |
| 2. Under-assessment due to application of incorrect rate of tax | 57 | 42.13 |
| 3. Irregular grant of exemptions | 214 | 111.24 |
| 4. Non-levy of interest | 680 | 9.59 |
| 5. Other irregularities | 93 | 13.86 |
| | <u>1178</u> | <u>234.45</u> |

Some of the important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

2.2 Incorrect exemption of sales turnover

(a) Under Section 8 of the Orissa Sales Tax Act, 1947, Government notified certain goods to be taxed at the first point of sale in a series of sales. The Act provides by an amendment made with effect from 11th October 1983 that in respect of goods subject to levy of tax at the first point of sale, a dealer who sells such goods at a subsequent point shall not be allowed to claim deduction of the sale price of such goods from the gross turnover, unless he furnishes a declaration in the prescribed form obtained from the previous selling dealers to the effect that tax has been paid/will be paid by them on the goods. Though the amendment came into force with effect from 11th October 1983, Government framed rules prescribing the form of such declaration in April 1989 only. Although the burden is on the department to show that the turnover is liable to tax under the Act, the onus of showing that a particular turnover is exempt from tax lies on the dealer.

(i) In Koraput-I Circle, the assessment of a dealer dealing in grocery was completed (February 1986) *ex parte* for the reason that he could not produce his books of accounts for verification and was granted deduction of sales turnover amounting to Rs.3.36 lakhs pertaining to the year 1983-84 towards sales of first point tax paid goods. As the assessing officer had no occasion to verify, while making *ex-parte* assessment, whether the turnover correctly related to goods liable to be taxed at the first point sale or otherwise, the deduction allowed was irregular and had resulted in an under-assessment of tax amounting to Rs.26,898.

On this being pointed out in audit (February 1987) the assessing officer reopened the assessment (March 1987) and raised (August 1989) demand for Rs.26,898. Report on recovery has not been received (April 1991).

The matter was reported to Government in June 1987.

(ii) According to a Government notification issued in December 1977, under the Orissa Sales Tax Act, 1947, 'medicine' is taxable at the first point of sale with effect from 1st January 1978.

In Cuttack-I (Central) Circle, the assessment of a dealer in medicines was completed (February 1986) *ex-parte* on best of judgement basis. Since the dealer did not produce his books of accounts for verification, deductions of sales turnover of Rs.5.15 lakhs and Rs.5.20 lakhs were allowed for the years 1982-83 and 1983-84 respectively, towards sale of first point tax paid goods. As the assessing officer had no occasion to verify, while making the *ex-parte* assessment, whether the goods had suffered tax at the first point of sale, the deductions allowed were irregular and had resulted in under-assessment of tax of Rs.82,800.

On this being pointed out in audit (September 1986) the assessing officer reopened (September 1986) the case for reassessment and raised (March 1988) a demand of Rs.83,400 (including penalty). Report on recovery has not been received (April 1991).

The matter was reported to Government in March 1987.

(b) Under the Orissa Sales Tax Act, 1947, purchase or sale of (i) raw materials which directly go into the composition of finished products (ii) machinery and spare parts thereof, actually required for starting and maintaining a unit, and (iii) packing materials required for packing finished products, when sold to or purchased by a registered dealer who is certified by the Director of Industries as a village/cottage/small scale industry, starting production inside the State on or after 1st August 1980 are exempted from levy of tax, provided the finished products of such industrial unit are sold inside the State of Orissa or in the course of inter-state trade or export from Orissa. The exemption is allowable for a period of five years from the date of certification of the unit by the Director of Industries, Orissa subject to the condition that the dealer or his authorised agent furnishes a declaration to the effect that the raw materials will directly go into the composition of finished products to be manufactured in his manufacturing unit.

(i) In Mayurbhanj Circle sales of raw materials amounting to Rs.2.26 lakhs made by a registered dealer during the year 1981-82 (Rs.0.86 lakh) and 1983-84 (Rs.1.40 lakhs) to eight registered manufacturing dealers were exempted from levy of tax, although the exemptions were inadmissible for the following reasons :

(a) Sales amounting to Rs.1.65 lakhs had been made prior to the date of certification of the units as small scale industries by the Director of Industries.

(b) Sales amounting to Rs.0.44 lakh had been made to manufacturing dealers who were not registered as dealers under the Orissa Sales Tax Act on the date of purchase.

(c) Sales amounting to Rs.0.17 lakh had been made on the strength of declarations in which reference to dates of certification by Director of Industries and/or registration number and date under the Orissa Sales Tax Act had not been indicated and hence it could not be checked whether the sales were eligible for exemption.

The inadmissible deductions allowed to the dealer resulted in short realisation of tax amounting to Rs.25,411.

On this being pointed out in audit (July 1985) the assessing officer reopened the case for reassessment. The reassessment was completed in June 1988 raising a demand of Rs.26,411 (including penalty of Rs.1000), for both the years. Report of recovery has not been received (April 1991).

The matter was reported to Government in December 1985.

(ii) In Dhenkanal Circle, Sales of liquified oxygen gas worth Rs.9.71 lakhs made by a registered dealer during 1985-86 to a small scale industry of Rourkela engaged in cutting of slabs and ingots into re-rollable sizes were exempted from tax on furnishing declarations in the prescribed Form I-A. Since liquid oxygen gas is not a raw material which directly goes into the composition of finished product of cutting slabs and ingots into re-rollable sizes, the exemption allowed was irregular and resulted in short-levy of tax of Rs.82,512 (including additional sales tax).

On this being pointed out in audit (May 1989), the assessing officer reopened the case for re-assessment (May 1989). Further reply has not been received (April 1991).

The matter was reported to Government in July 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

(iii) Under the Orissa Sales Tax Act, 1947, and the Rules made thereunder, 'refractories' are subject to Sales Tax @ 12 per cent at the first point of sale with effect from 1st August 1981. It is provided in the rules that notwithstanding that the aforesaid goods are specified in the purchasing dealer's Certificate of Registration, the sale of such goods at the first point shall be included in the computation of the taxable turnover of the dealer who sells them at that point.

In Rourkela-I Circle, in the assessments of a registered dealer for the years 1985-86 and 1986-87, sales of refractory bricks amounting to Rs.99,329 and Rs.1.33 lakhs were allowed as deductions towards sales to registered dealers and as sales of raw materials to Small Scale Industries, respectively, on furnishing the prescribed declaration. The deductions were however not admissible as the subject goods are, under the Act, not only liable to tax at the first point of sale, but are also not raw materials which go into the composition of finished products.

Further, sales turnover of refractory bricks amounting to Rs.25,507 were taxed at the rate of 8 per cent instead of at the correct rate of 12 per cent.

These mistakes resulted in short-levy of tax of Rs.29,618 (including additional Sales Tax).

On these omissions being pointed out in audit (September 1989), the assessing officer re-opened (September 1989) the case for re-assessment. Further report has not been received (April 1991).

The case was reported to Government in December 1989, followed by reminder (February 1991); their reply has not been received (April 1991).

(c) Under the Orissa Sales Tax Act, 1947 sale of 'Cement' is taxable at the first point of sale in the State from 1st April 1978. Goods taxable at first point of sale by one registered dealer to another are not exempt from levy of tax. It has been judicially held* that "white cement" is not a commodity different from "Cement".

In Ganjam-I Circle on first point sales of "white cement" amounting to Rs.6.47 lakhs effected by a dealer during 1987-88 to other registered dealers under declaration in form XXXIV were allowed as deduction from gross turnover. Since white cement is taxable at the first point of sale in the State, it was irregular to exclude such sales from the taxable turnover of the dealer. This irregular deduction resulted in non-levy of tax of Rs.77,596.

On this being pointed out in audit (September 1989) the assessing officer reopened the case for re-assessment (September 1989). Further report has not been received (April 1991).

The case was reported to Government in February 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

(d) As per item 27 of the Rate Chart of goods liable to sales tax, notified under Section 5(1) of the Orissa Sales Tax Act, 1947 'dal' and 'besan' when obtained from pulses that have not suffered tax earlier, is subject

* M/s. P.Ramarao & Sons and Others - Vs. - State of Orissa (1990)-77-STC-303.

to tax at 4 per cent. According to entry 8-A of the tax free schedule, the sale of dal and besan obtained from pulses that had already suffered tax under the Orissa Sales Tax Act is exempted from tax.

In Puri-II Circle a registered dealer purchased pulses amounting to Rs.14.32 lakhs during 1987-88 on furnishing prescribed declaration in Form-IA without payment of purchase tax thereon, treating the same as raw material for processing of 'dal'. Since the conversion of pulses into dal is nothing but processing only and no manufacturing is involved, the allowance of exemption was irregular. During assessment of the return filed by him (December 1988) the sale turnover of dal obtained from such pulses exigible to tax under item 27 was, however, exempted from tax on the ground that 'pulses' and 'dal' were one and the same commodity within the meaning of Section 15(d) of the Central Sales Tax Act, 1956 and pulses having been exempted from tax, dal obtained therefrom is also to be exempted from tax. However, in view of the provisions of the Orissa Sales Tax Act, both pulses and dal obtained therefrom could not be exempted from tax. The irregular exemption resulted in short-levy of tax amounting to Rs.57,263 (@ 4 per cent) computed on the purchase value of pulses in the absence of sale turnover of 'dal'.

On this being pointed out in audit (April 1989) the assessing officer reopened the case (May 1989) for re-assessment. Further report has not been received (April 1991).

The matter was reported to Government in August 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

2.3 Short-levy of tax due to irregular exemption of sales as export sales

As per the provisions of Article 286(i)(b) of the Constitution of India, a sale or purchase of goods which takes place in the course of export is exempted from levy of tax. Under the Central Sales Tax Act, 1956, a sale or purchase of goods shall be deemed to take place in the course of export of the goods only if the sale or purchase as the case may be, occasions such export. By virtue of an amendment to the Act *ibid* effective from 1st April 1976, the last sale or purchase of goods, preceding the sale or purchase occasioning the export of these goods out of the territory of India, shall also be deemed to be in the course of export, if such last sale or purchase took place after and was for the purpose of complying with the agreement or order for or in relation to such export. The Central Sales Tax (Registration and Turnover) Rules, 1957, therefore provide that the dealer selling the goods for export and claiming exemption from tax under the Act, may produce a certificate in Form 'H' signed by the exporter, indicating the number and date of the agreement with the foreign buyer and also the purchase order, placed with the dealer for the purpose.

In the course of audit of Phulbani Circle it was noticed (December 1987) that sale of kendu leaves worth Rs.11.87 lakhs by a dealer during 1985-86 to six dealers of other States were exempted from tax on the ground that these sales were in the course of export of goods, though there was no indication of the number and date of agreement with the foreign buyer in the certificate in Form 'H' to show that the purchases actually took place to comply with any order or agreement for or in relation to export of the goods. The irregular exemption resulted in short-levy of tax of Rs.1.48 lakhs.

On this being pointed out in audit (December 1987) the assessing officer raised (October 1988) a demand of Rs.66,757 on a turnover of Rs.5.34 lakhs as the dealer had produced evidence of prior agreements for the remaining Sales turnover of Rs.6.53 lakhs. Report on realisation of the amount has not been received (April 1991):

The matter was reported to Government in August 1988.

2.4 Incorrect computation of taxable turnover

Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of a works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract, less the amount of labour and service charges incurred for the execution of the contract. The tax payable by a dealer shall be at the rate of 4 per cent on such taxable turnover.

In Sambalpur-II Circle, it was noticed (August 1989) that in the assessments of five unregistered dealers (works contractors) for the year 1987-88 a sum of Rs.11.84 lakhs was deducted from the gross value of the works towards cost of materials supplied by the State Public Works Department. This inadmissible deduction resulted in short-levy of tax of Rs.47,351.

On this being pointed out in audit (August 1989) the assessing officer reopened (August 1989) the cases. Further report has not been received (April 1991).

The matter was reported to Government in December 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

2.5 Escapement of taxable turnover

(a) Under the Orissa Sales Tax Act, 1947, 'Sale' includes any transfer of property in goods for cash or other valuable consideration and 'sale price' includes the amount payable to a dealer as consideration for the sale or supply of any goods. It has been judicially held* that if two persons mutually exchange two things (neither of which is in money), it may be an exchange or a barter and not a 'sale'. But if they mutually fix the value of the exchanged things in current coinage and exchange them as of equivalent value, they might be held to effect a sale and not merely an exchange or barter. It has further been judicially held** that where the assessee supplied gold jewellery and in consideration therefor, received equal weight of gold and labour charges for making the jewels, the transaction would be 'sale' and not 'barter'.

In Bhubaneswar-II Circle a dealer, during 1986-87, supplied to the customers, new ornaments valued at Rs.35.02 lakhs and received in exchange, old ornaments valued at Rs.7.00 lakhs and Rs.28.02 lakhs in cash. The assessing officer accepted the gross turnover of Rs.28.02 lakhs returned by the dealer, treating the differential value of the new and the old ornaments as the sale price, instead of taking the entire value of the new ornaments amounting to Rs.35.02 lakhs for the purpose of assessment of tax. This resulted in escapement of taxable turnover of Rs.7.00 lakhs leading to under-assessment of sales tax amounting to Rs.31,519.

* IM & M Corporation - Vrs. - State of Madras-14-STC--788 Madras.

** VPV Achary - Vrs. - Madras Sales Tax Tribunal-23-STC-273 Madras.

On this being pointed out in audit (April 1989), the assessing officer did not agree with the view point of audit. The matter was brought to the notice of the Commissioner of Commercial Taxes (August 1989) who instructed the assessing officer (January 1990) to take necessary action. Further report has not been received (April 1991).

The matter was reported to Government (July 1989) followed by reminder (February 1991); their reply has not been received (April 1991).

(b) Under the Orissa Sales Tax Act, 1947 sale includes transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. It has been judicially held* that supply of materials by a Company to contractors working for the Company in the construction work amounts to 'Sale'.

In Dhenkanal Circle, a Company engaged three contractors for construction works relating to an integrated water supply scheme of the Company and supplied them with materials (Cement, Iron rods etc.) worth Rs.14.49 lakhs during the year 1987-88, the cost of which was recovered from the works bills of the Contractors. Although the supply of materials by the Company to the contractors engaged in the construction work, constituted sale, this amount was not assessed to tax and escaped assessment. This resulted in non-levy of tax of Rs.73,852.

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- * (i) Hindusthan Steel Limited - Vrs. - The State of Orissa (1970)-25-STC-211(SC); and
 (ii) Commercial Taxes Officer Circle 'B' Udaipur - Vrs. - Executive Engineer, Irrigation Kankroti, District - Udaipur (1986)-62-STC-176 (Rajasthan).

On this being pointed out in audit (December 1989), the assessing officer initiated (December 1989) action against the Company to assess the escaped turnover. Further report has not been received (April 1991).

The matter was reported to Government in May 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

2.6 Incorrect determination of turnover

Under the Central Sales Tax Act, 1956, turnover means the aggregate of the sale prices received and receivable in respect of sales of any goods in the course of inter-state trade or commerce made during any prescribed period and determined in accordance with the provisions of the Act and Rules made thereunder. According to Rule 12(4) of the CST(O) Rules 1957, if a registered dealer does not furnish a return in respect of any period by the prescribed date the assessing officer shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of his judgement, the amount of tax, if any, due from the dealer.

In Puri-II Circle, a dealer was assessed exparte (March 1989) for the year 1985-86, based on the material available in the enquiry report, as the dealer did not produce his books of accounts in spite of service of notice and the case was going to be barred by limitation of time. According to the enquiry report, during the year the dealer had received an amount of Rs.2.52 lakhs towards the sale price of sleepers sold in the course of inter-state trade or commerce and collected central sales tax of Rs.0.10 lakh. The assessing officer, while completing the assessment, determined the turnover at Rs.0.10 lakh which was the element of tax instead of taxing

the sales turnover of Rs.2.52 lakhs for the purpose of assessment. The incorrect determination of turnover resulted in short-levy of tax of Rs.24,239.

On this being pointed out in audit (August 1989) the assessing officer agreed (August 1989) to send the case for suo-motu revision. Further report has not been received (April 1991).

The matter was reported to Government in December 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

2.7 Short-levy of tax due to non-assessment of taxable turnover

According to a notification issued by the State Government under Section 5(1) of the Orissa Sales Tax Act, 1947 purchase tax is payable @ 10 per cent on standing trees agreed to be severed. It has been judicially held* that timber contracts are not transactions of sale or purchase of standing trees agreed to be severed; they are mere agreements for sale of such trees. In Orissa, as each stage of felling and removal operations is governed by the Forest Contract Rules, 1966, and is carried out under the Control and supervision of Forest Officers, tax, is leviable on sale of timber after such felling and removal operations at the rate of 8 per cent, under the residual item 101 of Government notification dated 22nd March 1982.

In the course of audit of 4 circles (Phulbani, Ganjam-II, Koraput-I and Sambalpur-I) it was noticed (between January 1989 and January 1990) that consideration amounting to Rs.586.83 lakhs received by the Divisional Forest Offices during the years 1983-84, 1985-86 to 1987-88

* M/s. Titagarh Paper Mills - Vrs. - State of Orissa (1985) -60-STC-213(SC).

in respect of sale of forest Coupes to M/s. Orissa Forest Corporation Limited, where the timber available therefrom was cut and removed for subsequent sale by the Corporation, was not assessed to sales tax, though the assessments for these years were completed on various dates between 13th March 1987 and 12th February 1988. This resulted in short-levy of tax amounting to Rs.49.88 lakhs (including additional sales tax of Rs.2.93 lakhs).

On the omission being pointed out in audit (between January 1989 and January 1990) the assessing officer, Koraput-I Circle sent (August 1989) the assessment case of 1983-84 for suo-motu revision and the Assistant Commissioner of Commercial Taxes, Orissa raised (June 1990) a demand of Rs.14.15 lakhs. The assessing officer of Ganjam-II and Phulbani Circles stated (January 1989) that the cases for the years 1985-86 and 1986-87 would be re-opened for reassessment. The assessing officer, Sambalpur-I Circle, however, stated (January 1990) that the legitimate tax under the Act was to be realised from M/s. Orissa Forest Corporation Limited who sold the goods after purchasing them from the Divisional Forest Officer and that taxing the Divisional Forest Officer on the amount of royalty received by them, treating the same as consideration for sale would tantamount to double taxation. However, the reply is not tenable in as much as the Divisional Forest Officer is the seller and the Orissa Forest Corporation being the purchaser, the sales are taxable in the hands of Divisional Forest Officer.

These cases were reported to Government between April 1989 and May 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

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

In 3 (three) cases involving short-levy due to application of incorrect rate of tax, an aggregate amount of Rs.1.67 lakhs was recovered (October 1990 and November 1990), on being pointed out in audit (February 1990 and March 1990). Few more cases of short-levy are mentioned below :

(a) Under the Orissa Sales Tax Act, 1947, tax on sale of machineries and component parts is leviable at the rate of 12 per cent with effect from 1st April 1982. Prior to 1st April 1982, the rate of tax was 10 per cent.

In Cuttack-I (West) Circle, the taxable turnover of two dealers 'P' and 'O' amounting to Rs.22 lakhs and Rs.54.26 lakhs on account of sale of machineries and component parts for the years 1985-86 and 1986-87 and 1985-86 to 1987-88 respectively was taxed incorrectly at 10 per cent instead of at the correct rate of 12 per cent. This resulted in short-levy of tax of Rs.1.53 lakhs.

On the mistake being pointed out in audit (October 1989 and November 1989) the assessing officer rectified (November 1989) the mistake and raised further demands of Rs.44,000 and Rs.1.09 lakhs. Report on recovery has not been received (April 1991).

The matter was reported to Government in December 1989.

(b) Under the Central Sales Tax Act, 1956, inter-state sales of goods other than declared goods, effected by one registered dealer, to another registered dealer, are taxable at a concessional rate of 4 per cent, if such

sales are supported by prescribed declarations. Otherwise, tax is leviable at 10 per cent or at the rate applicable to sale or purchase of such goods inside the State under the State Act, whichever is higher. Under the Orissa Sales Tax Act, 1947 on sale of minerals tax was leviable at 12 per cent up to 4th April 1986 and at the rate of 13 per cent thereafter.

In Kalahandi Circle, inter-State sales of graphite powder and flakes valued at Rs.3.39 lakhs, Rs.2 lakhs and Rs.2.80 lakhs effected by a registered dealer during the year 1985-86, 1986-87 and 1987-88 respectively and not supported by declaration in Form 'C' were assessed (September 1988 and February 1989) to tax at 10 per cent instead of at the correct rate of 12 or 13 per cent as may be applicable to the sale of such goods inside the State. This resulted in a short-levy of tax of Rs.21,175.

On the mistake being pointed out in audit (October 1989); the assessing officer raised an additional demand (October 1989) for Rs.21,175. Report on recovery has not been received (April 1991).

The matter was reported to Government in February 1990.

(c) As per item 101 of the Schedule of goods subject to sales tax under the Orissa Sales Tax Act, 1947, notified by the Government in March 1982, sale of goods which are not specified in the rate chart or not declared as tax free, are taxable at the general rate of 8 per cent with effect from 1st April 1982. Under item 46 *ibid* 'Iron and Steel' including iron scrap, cast iron scrap, runner scrap and iron-skull scrap is taxable @ 4 per cent with effect from 1st April 1982. Accordingly, aluminium and copper scrap not falling under item Iron and Steel are taxable at the general rate of 8 per cent.

In Sambalpur-I Circle it was noticed (January 1990) that sales of aluminium and copper scraps worth Rs.17.11 lakhs effected by a registered dealer during the year 1985-86 were taxed at the rate of 4 per cent instead of at the correct rate of 8 per cent, resulting in short-levy of tax of Rs.68,425.

On this being pointed out in audit (January 1990) the assessing officer stated that (January 1990) the case will be reopened. Further report has not been received (April 1991).

The case was reported to Government in June 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

2.9 Short-levy/non-levy of purchase tax

In one case involving under-assessment due to non-levy of purchase tax on paddy, an amount of Rs.59,669 was recovered (March 1988 and May 1988) on being pointed out in audit. One more case is mentioned below :

Under the Orissa Sales Tax Act, 1947, Government may, by notification, declare any goods to be liable to purchase tax, provided that no tax shall be payable on the sale of such goods. The Act also provides that where a registered dealer purchases such goods from another registered dealer, who has paid or is liable to pay tax in respect of these goods, such purchases are to be deducted from his gross turnover to arrive at his taxable turnover. According to the Government notification dated 22nd March 1984, 'Cashew nuts' are subject to purchase tax @ 8 per cent with effect from 1st April 1982.

In Ganjam-I Circle, it was noticed in audit (March 1989) that a registered dealer (a Co-operative Society) purchased cashew nuts worth Rs.4.89 lakhs and Rs.7.67 lakhs during the years 1985-86 and 1986-87 respectively, from its members who were not registered dealers under the Act. The assessing officer, while completing the assessments (October 1987 and November 1987 allowed deduction of these amounts from the gross turnover to arrive at the taxable turnover. The inadmissible deduction resulted in non-levy of purchase tax of Rs.1.04 lakhs.

On this being pointed out in audit (March 1989) the department intimated (June 1990) that a demand of Rs.1.04 lakhs (including interest) had been raised against the dealer in August 1989. Report on recovery is awaited (April 1991).

The matter was reported to Government in July 1989.

2.10 Incorrect determination of the purchase value of goods not utilised for declared purpose

Under the Orissa Sales Tax Act, 1947, when a registered dealer purchases goods specified in his registration certificate, without payment of tax for resale in Orissa by furnishing a declaration to that effect in the prescribed form, but utilises those goods for any other purpose, the price of the goods so purchased shall be included in his taxable turnover and he shall be liable to pay tax thereon.

In Ganjam-I Circle a registered dealer had effected sales of sleepers valued at Rs.97.04 lakhs in the course of inter-State trade and commerce, during the year 1984-85, from out of the stock of logs purchased by him without payment of tax by furnishing the prescribed

declaration for resale inside the State of Orissa. The assessing officer estimated the purchase value of these goods adopting a profit margin of 5 per cent, but erroneously computed the purchase price of the logs as 3.73 lakhs instead of Rs.92.18 lakhs. This resulted in escapement of taxable turnover of Rs.88.45 lakhs involving short-levy of tax of Rs.7.07 lakhs.

On this being pointed out in audit (February 1988) the assessing officer raised demand (February 1988) for Rs.7.07 lakhs as decided by the Assistant Commissioner of Sales Taxes, Orissa on the basis of the orders in an appeal filed by the dealer. Further, the Commissioner of Commercial Taxes, Orissa informed (June 1990) that a second appeal had been filed by the dealer (September 1990) before Sales Tax Tribunal, Orissa.

The matter was reported to Government in June 1990; in their reply (November 1990) Government stated that a sum of Rs.3.50 lakhs had been realised and that the rest amount had been stayed by the Commissioner of Commercial Taxes, Orissa till disposal of the second appeal.

2.11 Incorrect treatment of divisible contract as indivisible

Under the Orissa Sales Tax Act, 1947, taxable turnover in respect of a works contract shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract less the amount of labour charges incurred for the execution of the contract. In the case of indivisible works contract, the component of labour charges will be determined by the assessing officer at a certain percentage of the gross value of the work executed. The tax payable on such turnover

is 4 per cent. It was judicially held* that in the case of a divisible works contract, one for sale of goods and other for work and labour, though there is a single instrument embodying them, there are really two agreements and the former is to be taken as agreement to sell the goods. Accordingly tax has to be levied at the appropriate rate as applicable to sale of such goods.

In Cuttack-I (East) Circle, a dealer (works contractor) was assessed (December 1988) to tax at the rate of 4 per cent on a taxable turnover determined at Rs.56.94 lakhs, after allowing 30 per cent of the gross value of works contract (Rs.81.35 lakhs) towards labour and services charges for the year 1985-86, treating the contract as indivisible, though, as per the terms and conditions of the agreement, the dealer had sold machinery worth Rs.74.75 lakhs which was taxable at 12 per cent. This resulted in under assessment of tax of Rs.6.78 lakhs (including additional Sales Tax).

On this being pointed out in audit (June 1989 and September 1989) the assessing officer reopened the assessment and after taking into consideration some other fraud reports received against the dealer, and ascertaining the exact nature of machinery sold, raised (February 1990) a demand for Rs.45.36 lakhs (including additional sales tax of Rs.1.23 lakhs and penalty of Rs.50,000). Report on recovery of the amount has not been received (April 1991).

The case was reported to Government in November 1989; in their reply (January 1991) Government stated that the demanded dues have been stayed by the Hon'ble High Court of Orissa till disposal of first appeal preferred by the dealer assessee. The appeals have not yet been disposed of.

* State of Madras - Vrs. - Cannon Dunkerly & Co.-9-STC-353-(SC).

2.12 Short-levy of tax due to irregular deduction

In one case, involving under-assessment due to irregular deduction towards sales to registered dealers, an amount of Rs.45,100 was recovered (between October 1989 and January 1990) on being pointed out (March 1988) in audit. One more case is mentioned below :

Under the Orissa Sales Tax Act, 1947 and the rules made thereunder, in computing the turnover of sales, the amounts, if any, refunded in respect of goods returned by the purchaser within one month from the date of purchase shall be deducted.

In the course of audit of Cuttack-I Central Circle it was noticed (January 1986) that in the assessment of a dealer for the year 1982-83, a sum of Rs.2.07 lakhs was allowed as deduction while computing the gross turnover, towards sale price of goods returned by several purchasers, without ascertaining whether the goods were returned within the stipulated period.

On this being pointed out in audit (January 1986) the assessing officer re-opened the case (January 1986) and completed the assessment, *ex-parte* (May 1989) raising a demand of Rs.30,093 (including additional sales tax). Report on recovery of the amount has not been received (April 1991).

The matter was reported to Government in March 1986.

2.13 Short-levy of tax due to irregular grant of exemption from tax

According to item 81 of the Schedule of Rates of Sales Tax, 'Sal seed' is taxable at the rate of 4 per cent

at the point of sale with effect from 1st April 1982. Prior to that date tax was leviable at the point of first purchase inside the State. Under the Orissa Sales Tax Act, 1947, in respect of goods taxable at the sale point, sales by one registered dealer to another registered dealer are allowed as deduction from the gross turnover of the seller, if he furnished declaration in Form-XXXIV obtained from the purchasing dealer to the effect that the goods so purchased by him were meant for resale in Orissa.

In Koraput-I Circle, sale of Sal seeds valued at Rs.10.92 lakhs effected by a registered dealer to another registered dealer during the year 1983-84 was allowed as deduction from the gross turnover, treating the goods as liable to purchase tax. As Sal seeds are taxable at the sale point with effect from 1st April 1982 and as the sales were not supported by the prescribed declarations, the deduction allowed was irregular and resulted in short-levy of tax of Rs.43,680.

On this being pointed out in audit (July 1989) the assessing officer stated (July 1989) that the case would be re-opened for suo-motu revision to higher authorities as the time limit for re-opening the assessment at his level was already over. The Commissioner of Sales Tax stated (July 1990) that the suo-motu revision order had been passed (June 1990) by the Assistant Commissioner of Commercial Taxes, Koraput Range raising an extra demand of Rs.43,680.

The case was reported to Government in October 1989.

2.14 Under-assessment of tax due to shifting of point of taxation

As per the Government notification issued in March 1982 under the Orissa Sales Tax Act, 1947, the point of taxation of 'Sal seeds' was shifted from 'purchase' to 'sale' from 1st April 1982 without change in the rate of tax. The rate of sal seeds was 4 per cent effective from 1st July 1975.

In Kalahandi Circle a dealer had purchased 44,127.54 quintals of sal seeds valued at Rs.39.71 lakhs during the year 1983-84 and was assessed to purchase tax on this turnover. Out of this, 20,471.90 quintals of sal seeds were sold during the year in the course of inter-State trade and commerce and the purchase tax paid on purchase value thereof was refunded to the dealer. The dealer had also effected sales of 20,000 quintals of sal seeds for Rs.34.44 lakhs inside the State, on which no sales tax was levied on the ground that purchase tax was already levied on the equivalent purchase value of Rs.18 lakhs. It was pointed out in audit (May 1988) that since sal seeds were taxable at the point of sale, the levy of purchase tax was irregular and resulted in under-assessment of tax of Rs.65,760.

Further, sales turnover of boiled rice worth Rs.1.31 lakhs taxable @ 4 per cent at the 1st point of sale also had escaped assessment resulting in under-assessment of tax of Rs.5,248.

On this being pointed out in audit (May 1988), the assessing officer re-opened the case (May 1988) and raised a demand of Rs.57,347 (after adjusting the purchase tax of Rs.13,160 levied on the closing stock of sal seeds of 3,655.64 quintals as at the end of 31st March 1984) including Rs.5,248 towards tax on escaped turnover of

boiled rice valued at Rs.1.31 lakhs, taxable at 4 per cent advalorem. Report on recovery has not been received (April 1991).

The matter was reported to Government in November 1988.

2.15 Non-levy of tax for contravention of declarations

Under the Orissa Sales Tax Act, 1947, a registered dealer who purchases goods of the class or classes specified in his Certificate of Registration, as being intended for use (within the State of Orissa) by him in the manufacture or processing of goods for sale, at a concessional rate of tax after furnishing a declaration in the prescribed form (Form-IV), but utilises the same for any other purpose (or outside the State of Orissa) shall be liable to pay the difference in tax payable had not furnished the declarations. It has been judicially held (1985)* that sized wood, rafters, beams, planks and the like fall under the category as timber.

In Mayurbhanj Circle, a registered dealer purchased timber logs worth Rs.11.85 lakhs inside the State, during the year 1986-87, paying concessional rate of tax of 4 per cent, by furnishing the declaration in Form-IV, to the effect that the goods were intended for use by him in the manufacture or processing of goods for sale but converted a portion of the stock so purchased into sleepers and sold them in the course of inter-State trade and commerce. The purchase value of such timber logs converted to sleepers and sold outside the State was estimated to be Rs.8.42 lakhs. As sleepers fall under

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- * (i) State of Orissa - Vrs. - Titagarh Paper Mills Limited (1985)-6-STC-213(SC); and
 (II) Deputy Commissioner of Sales Tax - Vrs.- Kantalani & Company (1987)-66-STC-100.

the same category as timber according to the judicial decision, there was no manufacturing process involved in conversion of timber into sleepers. Thus the condition in the declaration having not been fulfilled, the dealer was required to pay the differential tax of Rs.33,676 (calculated at the differential rate of tax of 4 per cent i.e. 8 per cent - 4 per cent) on the purchase value of timber worth Rs.8.42 lakhs, which was not levied.

On this being pointed out in audit (January 1989); the assessing officer intimated (November 1989) that the case was re-opened for re-assessment. Further reply has not been received (April 1991).

The matter was reported to Government in April 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

2.16 Under-assessment of tax due to arithmetical error

Under the Orissa Sales Tax Act, 1947, the tax payable by a dealer shall be levied on his taxable turnover at such rates as may be specified by the Government from time to time by notification. As per the notification issued by Government in March 1982, tax on sale of machineries and component parts is leviable at the rate of 12 per cent with effect from 1st April 1982.

In Dhenkanal Circle, in the course of audit of an assessment of a dealer (works contractor) for the assessment year 1987-88 it was noticed (December 1989) that tax payable at 12 per cent on sale of machineries worth Rs.8.40 lakhs was erroneously computed as Rs.52,791 instead of as Rs.1,00,791. This resulted in under-assessment of tax of Rs.48,000.

On this being pointed out in audit (December 1989) the assessing officer rectified the mistake (December 1989) and raised an additional demand of Rs.48,000. Report on recovery has not been received (April 1991).

The case was reported to Government in June 1990.

2.17 Non-levy of interest on belated payment of tax

Under the Orissa Sales Tax Act, 1947, and the Central Sales Tax (Orissa) Rules, 1957, if a dealer defaults in making payment of any amount of tax by the due date specified in the notice issued to him, he would be liable to pay interest on the amount due at the prescribed rates. However, no interest shall be charged in respect of any amount which remained unpaid at any time prior to 1st January 1971 under the State Act and prior to 1st July 1971 under the Central Act.

In 21 Commercial Tax Circles*, local Sales Tax demands amounting to Rs.100.79 lakhs outstanding on or after 1st January 1971 (632 cases) and Central Sales Tax demands amounting to Rs.45.90 lakhs outstanding

*

- | | |
|------------------|-------------------|
| 1. Ganjam-II | 2. Koraput-I |
| 3. Ganjam-I | 4. Mayurbhanj |
| 5. Bhubaneswar-I | 6. Bhubaneswar-II |
| 7. Phulbani | 8. Cuttack-II |
| 9. Cuttack-I(W) | 10. Balasore-II |
| 11. Cuttack-III | 12. Puri-I |
| 13. Dhenkanal | 14. Sambalpur-I |
| 15. Bolangir-II | 16. Rourkela-I |
| 17. Cuttack-I(E) | 18. Cuttack-I(C) |
| 19. Puri-II | 20. Keonjhar |
| | 21. Rourkela-II |

on or after 1st July 1971 (48 cases) were recovered in full during the year 1988-89, but interest amounting to Rs.9.59 lakhs due for the belated payments was not levied.

On the omission being pointed out in audit (between April 1989 and March 1990) the assessing officers accepted (between April 1989 and March 1990) the mistakes. Reports on action taken have not been received (April 1991).

The cases were reported to Government between June 1989 and July 1990 ; their reply has not been received (April 1991).

CHAPTER 3

TAXES ON MOTOR VEHICLES AND PASSENGERS

3.1 Results of audit

A test check of records relating to assessment and collection and refunds of Motor Vehicles Tax in the Offices of the State Transport Authority, Orissa and Regional Transport Offices conducted in audit during the period from April 1989 to March 1990 revealed under-assessments and losses of revenue amounting to Rs.334.57 lakhs in 6577 cases, which may be broadly categorised as under :

| | Number of cases | Amount (Rupees in lakhs) |
|--|-----------------------|--------------------------------|
| 1. Short-levy/short-realisation of motor vehicle Tax/ additional tax | 763 | 20.56 |
| 2. Non-levy/non-realisation of motor vehicle tax/ additional tax | 2339 | 217.12 |
| 3. Short/non-realisation of compounding fees | 92 | 3.50 |
| 4. Short/non-realisation of composite tax | 782 | 7.31 |
| 5. Short/non-realisation of Trade Certificate fees | 55 | 0.83 |
| 6. Loss due to other irregularities | 2546 | 85.25 |
| | <u>6577</u> | <u>334.57</u> |

Some of the important cases noticed in 1989-90 and earlier years are mentioned in the succeeding paragraphs.

3.2 Inadequate control on collection of arrears of Motor Vehicle Taxes

3.2.1 *Introductory*

The levy and collection of tax on motor vehicles in Orissa was regulated from April 1936 under two Acts viz (i) the Bihar and Orissa Motor Vehicles Taxation Act, 1930 (applicable to all districts excepting Ganjam and Koraput) and (ii) the Madras Motor Vehicles Taxation Act, 1931 (applicable to Ganjam and Koraput districts). With a view to having an uniform law throughout the State, the Orissa Motor Vehicles Taxation Act, 1975, was introduced effective from October 1975. A new Act viz. the Orissa Motor Vehicles (Taxation of Passengers) Act, 1969 was also enacted, to impose tax on passengers which was withdrawn from 18th October 1985 after the introduction of Additional Motor Vehicle Tax by the Orissa Motor Vehicle Taxation (Amendment Act) 1986. The Motor Vehicle Tax including the additional tax is one of the principal sources of tax revenue of the State.

3.2.2 *Scope of audit*

With a view to verifying the systems and procedures in vogue in the Department in evaluating the position of arrears of Motor Vehicles Tax and in collection of the arrears in accordance with the provisions of the Acts and Rules, the records of the Transport Commissioner, Orissa and ten Regional Transport Officers (Balasore, Bolangir, Cuttack, Dhenkanal, Keonjhar, Ganjam, Phulbani,

Sambalpur, Sundargarh and Rourkela), out of sixteen Regional Transport Offices in the State were test checked during April 1989 to October 1990.

3.2.3 *Organisational set-up*

The Transport Commissioner of Orissa is the head of the department, who with the Regional Transport Officers functioning at the district level is responsible for enforcing the provisions of the Acts and Rules and to ensure regular collection of taxes. The Regional Transport Authority with the Collector of the District as Chairman and the Regional Transport Officer as Secretary and the State Transport Authority with Transport Commissioner as Chairman are responsible for grant of permits for plying vehicles.

3.2.4 *Highlights*

(i) The correct amount of arrears of Motor Vehicles Taxes outstanding at any given time was not available with the Department due to faulty maintenance of the prescribed registers.

(ii) Certificate cases filed (in 4 regions) for realisation of arrear Motor Vehicles Tax etc. amounting to Rs.8.08 lakhs were dropped by the Certificate Courts owing to non-supply of requisitioned information, by the taxation authorities.

(iii) Demand notices in respect of 438 vehicles involving arrears of tax amounting to Rs.32.93 lakhs relating to the period from April 1985 to March 1989 were not issued.

(iv) In violation of the provisions of the Act and Rules, enacted to facilitate speedy recovery of arrears, tax tokens, no objection certificates and permits were issued to vehicles with huge arrears of tax.

(v) Inordinate delay in encashment of demand drafts resulted in non-crediting of Rs.6.76 lakhs to Government account.

3.2.5 *Trend of Revenue*

The amounts of estimated tax and actual collections during the years 1985-86 to 1988-89 vis-a-vis number of vehicles on road (vehicles paying tax during the period) are given below :

| Year | Number of vehicles on road | Estimated income towards collection of tax | Actual amount of tax collected | Percentage of variance with reference to estimates |
|-------------------------|----------------------------|--|--------------------------------|--|
| (in crores of rupees) | | | | |
| 1986-87 | 1,64,726 | 33.26 | 31.84 | (-) 4.27 |
| 1987-88 | 1,98,189 | 35.64 | 34.61 | (-) 2.89 |
| 1988-89 | 2,26,398 | 41.02 | 38.03 | (-) 7.29 |

3.2.6 *Position of arrears of taxes*

(a) *Motor Vehicle Tax*

Mention was made in para 1.8 in the Report of Comptroller and Auditor General of India for 1977-78

(Revenue Receipts) about the arrears of motor vehicles tax as Rs.990.41 lakhs as on 31st March 1978 (tentative figures), as reported by the Department. The Sub-Committee of Public Accounts Committee during discussion held in January 1989 directed the Department to update the position till 31st March 1988 in respect of the vehicles registered up to the end of 1977-78.

The Teransport Commissioner, Orissa reported (July 1989 and January 1990) to Government that the tentative arrears of motor vehicles tax relating to 14 Regional Transport Offices excepting Cuttack region (Chandikhol region was not created then) in respect of vehicles registered up to 1977-78 was Rs.49.24 crores as on 31st March 1988. The arrear position in respect of Cuttack region had not, however, been worked out (November 1990).

Further, the department has not worked out the arrears of motor vehicle tax in respect of motor vehicles registered after 1977-78. Thus, the department is not in a position to arrive at the correct amount of Motor Vehicles Taxes outstanding at any given time and consequently it was also not in a position to take effective steps for recovery of the arrears.

(b) *Passenger tax*

The arrears of passenger tax relating to the years 1969-70 to 1985-86 (up to 18th October 1985) outstanding as on 31st March 1990 as reported by department

were as follows :

| Operator against whom outstanding | Amount of tax (Rupees | Interest in lakhs | Total |
|---|-------------------------------|-----------------------------|-------------------------------|
| 1. Orissa State Road Transport Corporation | 110.53 | 64.59 | 175.12 |
| 2. Orissa Road Transport Company Limited | 40.67 | 27.67 | 68.34 |
| 3. Private parties | | | |
| In respect of whom permits were issued by State Transport Authority | <u>23.43</u> <u>174.63</u> | <u>7.06</u> <u>99.32</u> | <u>30.49</u> <u>273.95</u> |

The position of arrears outstanding against the Orissa State Road Transport Corporation Limited and Orissa Road Transport Company Limited (both Government undertakings) was intimated by the Transport Commissioner, Orissa to the Government (January 1990) for taking recovery action, but the matter is still under correspondence (October 1990). The arrears relating to the private operators (Rs.30.49 lakhs) for whom permits were issued by State Transport Authority, relating to the period between May 1974 and October 1985, was covered under certificate proceedings (73 cases) instituted during the period between June 1983 to January 1990 and all these cases were pending in certificate courts (March 1990).

The arrears of passenger tax outstanding against private operators in respect of whom permits were issued by the Regional Transport Authorities was not available with the State Transport Authority, though the former were required to furnish the information to the State Transport Authority. At the instance of audit, the Transport Commissioner, Orissa called for the arrear position from all Regional Transport Officers in September 1990, which is yet to be provided (January 1991). However, a test check of 6 regions (Sundargarh, Bolangir, Cuttack, Sambalpur, Dhenkanal and Keonjhar) revealed that an amount of Rs.37.87 lakhs was outstanding towards passenger tax against 130 private operators as on 31st March 1990. Of these arrears, an amount of Rs.17.92 lakhs relating to 4 regions (Sundargarh, Cuttack, Sambalpur and Dhenkanal) was covered under certificate cases (55 cases). No action has been taken for realisation of the balance amount of arrears. The year-wise break-up of the above arrears was also not available with State Transport Authority or with the Regional Transport Authorities (except Cuttack region).

3.2.7 *Non-maintenance of demand, collection and balance register*

For ascertaining the arrear position of tax in respect of any vehicle on any given date, and to realise the same, it is necessary for each region to maintain a register of Demand, Collection and Balance showing therein vehicle-wise arrears of tax outstanding at any stage. In his circulars dated 7th October 1988 and 18th March 1989, the Transport Commissioner, Orissa while prescribing a format for preparation of demand, collection and balance instructed all Regional Transport Officers to maintain the Demand, Collection, Balance (DCB) Register in the prescribed proforma and to calculate the position of arrears of Motor Vehicle Taxes.

A test check of records of ten regions (out of sixteen regions) revealed that DCB Register in the prescribed format has not been maintained properly and brought upto-date in any region. In four regions (Balasore, Bolangir, Phulbani and Sundargarh) collection figures of the home region vehicles have been posted in loose sheets without any scrutiny/authentication at any stage. In six regions (Cuttack, Dhenkanal, Ganjam, Keonjhar, Rourkela and Sambalpur) the registers are yet to be maintained (October 1990). The reasons generally attributed by the Regional Transport Officers either for not maintaining the DCB Register or not bringing the same upto-date, is shortage of staff.

In view of non-maintenance/incomplete maintenance of DCB Register, the department was not able to work out the correct arrear position of Motor Vehicle Tax in respect of a vehicle on any particular date and thus was not in a position to enforce recovery thereof.

3.2.8 *Dropping of certificate cases*

Unpaid motor vehicle taxes can be recovered by certificate procedure as arrears of land revenue by sending a requisition to the certificate officer by the Taxing Authorities. The Orissa Public Demand Recovery Act, 1962, the rules made there under, and the Board's executive instructions under the Act, envisage that for execution of certificate cases, the requisitioning officer is responsible for furnishing the required information regarding correct whereabouts of the certificate debtors, statement of property proposed to be attached and should also be reasonably diligent in complying with the objections etc., raised by the Certificate Officer. Otherwise, the certificate case would be dropped.

It was noticed during the audit (between April 1989 and October 1990) that 248 certificate cases (Rs.73.20 lakhs) were instituted up to 31st March 1990 in 7 regions. In respect of 4 regions (Bolangir, Balasore, Dhenkanal and Sundargarh), 57 cases involving an amount of Rs.8.08 lakhs (out of 186 cases instituted) were dropped (between November 1975 and May 1987) by Certificate Courts for want of list of immovable properties (21 cases amounting to Rs.3.68 lakhs) and whereabouts of certificate debtors (36 cases amounting to Rs.4.40 lakhs). The percentage of failure as compared with the total number of certificate cases instituted in these 4 regions worked out to 30.64.

On this being pointed out in audit (between April 1989 and October 1990) the taxing officers stated (September 1990 and October 1990) that steps are being taken to re-institute certificate cases after collecting the required information.

3.2.9 *Non-issue of demand notices*

The Acts and the Rules prescribe the due dates for payment of Motor Vehicle Tax. The Transport Commissioner, Orissa issued (February 1966) instructions to all the taxation authorities to issue demand notices for arrear taxes and in no case should this be delayed for more than 30 days from the expiry of the grace period of 15 days from the due date of payment.

In eight regions (Phulbani, Bolangir, Ganjam, Bhubaneswar, Chandikhol, Dhenkanal, Keonjhar and Puri) demand notices were not issued in respect of 438 vehicles involving arrear tax amounting to Rs.32.93 lakhs relating to the period from April 1985 to March 1989 though the vehicles were not declared off road.

On this being pointed out in audit between April 1989 and March 1990, the taxation authorities stated that the demand notices would be issued for realisation of the dues.

3.2.10 *Delay in transmission of tax payment particulars in respect of vehicles paying tax in other regions*

The provisions of the Motor Vehicles Taxation Acts and Rules made thereunder do not prohibit payment of tax by the vehicle owner in any region and the payment need not necessarily be made in the same region in which the vehicle is registered. As this procedure is causing difficulty for the registering officers to know the exact payments of tax by the vehicle owners and to make the register of Registration Certificates upto date, instructions were issued (March 1986) by the Transport Commissioner, Orissa to all the Regional Transport Officers to intimate the tax payment particulars in respect of vehicles registered in other regions but have paid tax in their region, every month, by 10th of the succeeding month, to the respective regions where the vehicles were originally registered. On receipt of such intimations, the particulars of tax payments are required to be noted in the register of registration certificates, by the concerned taxing officers where the vehicle is registered. It was, however, noticed in audit that such particulars are not being furnished by any of the regions regularly. The delays ranged from 3 months to more than 6 months, and as a result the actual payment made and the correct amount of tax outstanding against each vehicle could not be ascertained.

3.2.11 *Omission to follow special provisions for speedy recovery of arrears*

Besides, the normal procedure for recovery of arrear taxes, special provisions such as tax clearance before issue of No Objection Certificate, tax tokens etc. have been made in the Acts and Rules to enable speedy recovery of the arrears. These provisions are followed more in breach than in observance. A few such cases noticed in audit are mentioned below :

- (i) *Issue of no objection certificates without realisation of arrear tax*

Rule 10 of the Orissa Motor Vehicles Taxation Rules, 1976 stipulates that a registered owner or a person having possession or control of a transport vehicle, desirous of paying tax/additional tax in a region, other than the region where such taxes were last paid shall produce 'no objection certificate' in form 'D' from the Taxing Officer to whom the tax/additional tax was last paid specifying therein that no arrears are outstanding against the vehicle. Such no objection certificate should not be issued if there are arrears of motor vehicle tax outstanding against such owner in respect of the vehicle in question.

It was noticed during test check that in three regions (Keonjhar, Rourkela and Sundargarh) 'no objection certificates' were issued in respect of six vehicles during the period between July 1988 and April 1990 even though arrears of motor vehicle tax amounting to Rs.2.32 lakhs relating to the period from October 1984 to April 1990 were outstanding against these vehicles.

On this being pointed out in audit (between July 1989 and October 1990) all these Regional Transport Officers issued demand notices (between June 1990 and October 1990) for realisation of arrear taxes.

(ii) *Issue of tax tokens without realisation of arrears of tax*

Under the Orissa Motor Vehicles Taxation Act, 1975, and the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, tax tokens are to be issued only when all arrear taxes and penalties are paid alongwith the tax for the current period.

In eight regions (Ganjam, Koraput, Bhubaneswar, Rourkela, Chandikhol, Dhenkanal, Baripada and Keonjhar) tax tokens in respect of 111 vehicles were issued between July 1981 and October 1989 without realising arrear tax of Rs.2.55 lakhs relating to different periods between April 1981 and June 1989 during which the vehicles were used or kept for use. No action had also been taken to invoke the penal provisions of the Act for non-payment of tax.

On this being pointed out in audit (between April 1989 and March 1990) the taxing officers agreed to initiate action to realise the arrears. The Taxing Officer, Chandikhol stated that the erroneous practice had since been discontinued, but did not initiate any action to realise the arrears in respect of past cases.

(iii) *Vehicles allowed to ply without payment of arrear tax*

Section 17(2) of the Orissa Motor Vehicle Taxation Act, 1975 read with Section 21(i) of the Orissa Motor Vehicle Rules, 1976 authorises a Taxing Authority to seize a vehicle detected plying on road without payment

of tax etc. and to book miscellaneous proceeding cases against the operators/owners of the vehicles for the offence of non-payment of tax including arrears, if any.

In four regions (Dhenkanal, Ganjam, Keonjhar and Bolangir) the enforcement staff detected (between February 1985 and January 1990) 9 vehicles plying without payment of arrear taxes amounting to Rs.3.26 lakhs relating to the period from October 1983 and March 1990. No action was, however, taken by the Taxing Officers to realise the dues, even when the vehicles were allowed to ply.

On this being pointed out in audit (between November 1989 and October 1990) the Taxing Officers issued demand notices (between July 1990 and October 1990) for realisation of arrear taxes.

(iv) *Issue of permits without realisation of arrear taxes and without verification of tax clearance certificate*

Under Rule 52 of Orissa Motor Vehicles Rules, 1976, every application for grant/issue of permit (whether permanent or temporary) shall be accompanied by a Tax Clearance Certificate obtained from the Taxing authority of the region where the tax was last paid. In other words, no permit shall be issued to any operator having arrears of tax or penalties.

In nine regions (Cuttack, Dhenkanal, Ganjam, Sambalpur, Balasore, Keonjhar, Bolangir, Sundargarh and Chandikhol) route permits were issued by the State Transport Authority/Regional Transport Authorities to ply the vehicles in respect of 124 stage carriages during different periods between November 1986 and March 1990 (in respect of 45 stage carriages were issued by

State Transport Authority and in respect of 79 stage carriages, the permits were issued by Regional Transport Authorities) even though there were arrears of taxes amounting to Rs.39.45 lakhs outstanding for the period from April 1978 to March 1990 in respect of those vehicles and without verification of tax clearance certificates.

On this being pointed out in audit (March 1990, September 1990 and October 1990) the State Transport Authority stated (October 1990) that the tax clearance certificates were not insisted upon previously, and that the correct procedure would be followed in future. The Taxing Officers (Cuttack, Dhenkanal, Balasore, Keonjhar, Bolangir and Sundargarh) stated that demand notices had been issued while the Taxing Officers (Ganjam, Chandikhol and Sambalpur) proposed to issue demand notices for realisation of arrears.

3.2.12 Delays in encashment of demand drafts

Demand drafts are received in the Office of the Transport Commissioner from other State Governments towards payments of Orissa Motor Vehicle Tax due in respect of vehicles allowed to ply in Orissa State under the National Permit and Bilateral Agreement Schemes. It was noticed that as on 31st March 1990, 958 demand drafts for an amount of Rs.6.76 lakhs received during the years 1985-86 to 1989-90, were not credited to the Government account in time and became time-barred. The year-wise break-up of these bank drafts are given below :

| Year | Number of bank drafts | Amount (in lakhs of rupees) |
|---------|-----------------------|-----------------------------|
| 1985-86 | 447 | 2.68 |
| 1986-87 | 40 | 0.20 |
| 1987-88 | 202 | 1.63 |
| 1988-89 | 82 | 0.70 |
| 1989-90 | 187 | 1.55 |
| | <u>958</u> | <u>6.76</u> |

These demand drafts were, however, sent to the issuing banks for revalidation. The Transport Commissioner clarified (November 1990) that the delay was on account of shortage of staff, and in some cases due to delay in receipt of the Bank Drafts from the taxing Authorities of other States. It was, however, noticed that the Bank Draft Receipt Register is not maintained properly, indicating the date of receipt of the Bank Drafts, in the absence of which, the delays in crediting the bank drafts in time due to late receipt of drafts from the other State Governments could not be checked.

The Transport Commissioner also stated that reminders were being issued from time to time in cases where inordinate delays in the receipt of the bank drafts were noticed. But out of 958 bank drafts sent for revalidation during the years 1985-86 to 1989-90 only 152 bank drafts as shown below had been revalidated and credited to Government account during the period from 20th June 1990 to 15th October 1990.

| Year | Number of pending demand drafts for revalidation | Amount | Number of drafts revalidated and credited to Government account | Amount | Balance drafts not revalidated | Amount |
|---------------|--|-----------------|---|-----------------|--------------------------------|-----------------|
| 1985-86 | 447 | 2,67,869 | 7 | 5,600 | 440 | 2,62,269 |
| 1986-87 | 40 | 20,170 | Nil | Nil | 40 | 20,170 |
| 1987-88 | 202 | 1,62,666 | Nil | Nil | 202 | 1,62,666 |
| 1988-89 | 82 | 69,742 | 18 | 14,626 | 64 | 55,116 |
| 1989-90 | 187 | 1,55,415 | 127 | 1,06,677 | 60 | 48,738 |
| Total= | 958 | 6,75,862 | 152 | 1,26,903 | 806 | 5,48,959 |

Thus, there was no system of proper pursuance for effecting the credit to Government account.

Under the Orissa Treasury Rules, all moneys received by Government on account of the revenues of the State shall without undue delay be paid in full into the treasury or into the bank and shall be included in Public Account of the State. But the codal provisions were not followed in encashment of demand drafts.

The above cases were reported to Government in June 1990 and November 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.3 Non-realisation of tax in respect of Stage Carriages

Under the Orissa Motor Vehicles Taxation Act, 1975 as amended in 1986, tax payable in respect of a stage carriage is to be determined on the basis of the number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit.

In four regions (Bhubaneswar, Keonjhar, Chandikhol and Cuttack), in respect of 52 stage carriages tax for various periods between April 1987 and March 1989 was not realised even though the stage carriages were issued permits. These periods were also not covered by off-road declarations. This resulted in non-realisation of tax amounting to Rs.11.34 lakhs (including additional tax).

On this being pointed out in audit (between June 1989 and March 1990) the taxing officers stated (between July 1989 and March 1990) that the cases would

be reviewed and the results would be intimated to audit. Further reports have not been received (April 1991).

The cases were reported to Government in January 1990 and May 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.4 Short-realisation of tax in respect of Stage Carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, and the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, the motor vehicles tax and additional tax payable in respect of a stage carriage is to be determined on the basis of number of passengers (including standing passengers) which the vehicle is permitted to carry and the total distance it covers in a day as per the permit.

In ten regions (Puri, Cuttack, Chandikhol, Bhubaneswar, Mayurbhanj, Dhenkanal, Balasore, Ganjam, Bolangir and Keonjhar) in respect of 150 stage carriages, tax for various periods between October 1985 and November 1989, was computed by adopting incorrect distances permitted to be covered by the vehicle in a day or by application of incorrect rate of tax. The mistakes resulted in short-realisation of motor vehicle tax and additional tax amounting to Rs.5.24 lakhs.

On the mistakes being pointed out in audit (between March 1989 and March 1990) the taxing officer, Ganjam issued (October 1989) demand notices to realise the tax dues, while the taxing authorities (Cuttack, Chandikhol, Bhubaneswar, Dhenkanal, Balasore and Puri) stated (between June 1989 and March 1990) that demand notices would be issued. Taxing Officers of Mayurbhanj, Bolangir

and Keonjhar stated (between September 1989 and December 1989) that necessary action to issue demand notices would be taken after verification of records. Further reports have not been received (April 1991).

The cases were reported to Government between June 1989 and May 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.5 Under-assessment of tax in respect of Stage Carriages found plying without permits

Under the Orissa Motor Vehicles Taxation Act, 1975, and the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, Motor Vehicles Tax and additional tax is leviable on the basis of the number of passengers (including standing passengers) which the vehicle is authorised to carry and the total distance it covers in a day under the permit. If any such vehicle is found to be plying without a permit, the tax payable shall be assessed on the basis of maximum number of passengers which the vehicle would have been permitted to carry, reckoning the distance covered by it each day as exceeding 320 kilometres for which the highest rate is applicable.

In eleven regions (Keonjhar, Cuttack, Bhubaneswar, Dhenkanal, Bolangir, Ganjam, Balasore, Sambalpur, Puri, Koraput and Phulbani), 187 stage carriages were found plying without any permit during various periods between January 1986 and June 1989 but tax in respect of these vehicles was not assessed and collected at the correct slab rates applicable in such cases. The omission resulted in under-assessment of tax amounting to Rs.7.90 lakhs.

On this being pointed out in audit (between March 1989 and April 1990) the taxing officer, Ganjam issued (October 1989) demand notice while the taxing officers of other ten regions stated (between March 1989 and April 1990) that demand notices would be issued. Further reports have not been received (April 1991).

The cases were reported to Government between June 1989 and June 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.6 Non-realisation of additional tax and non-imposition of penalty on stage carriage authorised to ply under reciprocal agreement

Where in pursuance of any agreement between the Government of Orissa and Government of any other State, a stage carriage plies on a route partly within the State of Orissa and partly in some other State, such stage carriage is liable to pay additional tax calculated on the total distance covered by the vehicle on such route in a day in the State of Orissa, at the rates and in the manner specified under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986 and the Orissa Motor Vehicles Taxation Rules, 1976 as amended. Under Section 13(i) *ibid* read with Rule 9(2) of the Orissa Motor Vehicles Taxation Rules, 1976, where the tax and additional tax has not been paid and/or continues to remain unpaid for a period of fifteen days from the due date of payment, the taxing officer shall impose penalty in respect of such vehicle, ranging from 25 per cent to 200 per cent of the tax due, depending on the number of days of delay in making payment.

In the course of audit of the records of the State Transport Authority, Orissa it was noticed (September 1989) that in respect of a Stage Carriage belonging to the Bihar State Road Transport Corporation authorised to ply in the inter-State route partly in Orissa and partly in Bihar (between Puri and Tata) under reciprocal agreement, additional tax amounting to Rs.48,708 for the period from November 1986 to February 1987 and November 1987 to June 1988 was not realised, although the

permit was valid for those periods. In addition to tax, a penalty of Rs.97,416 was also leviable.

It was further noticed in audit that in respect of another Stage Carriage plying on the same permit, though the additional motor vehicle tax for the period for July 1986 to October 1986, March 1987 to October 1987 and July 1988 to December 1988 was paid beyond the grace period (the delays ranged from 1 day to 8 months and 10 days) on different occasions no penalty was imposed for belated payment of tax. The amount of penalty leviable worked out to Rs.61,862.

On this being pointed out in audit (September 1989) the State Transport Authority, Orissa after reviewing the case raised (September 1989) a demand of Rs.48,708 as additional tax and levied a penalty of Rs.1.59 lakhs. Further report on realisation of the amount has not been received (April 1991).

The matter was reported to Government in March 1990.

3.7 Short-realisation of tax on transport vehicles of other States plying temporarily in Orissa

According to a notification (1st October 1975) issued under the provisions of the Orissa Motor Vehicle Taxation Act, 1975, temporary tax tokens may be issued in respect of transport vehicles of other States plying temporarily in the State of Orissa on payment of tax at prescribed rates (which had undergone revision twice i.e. on 1st July 1981 and 1st January 1982). Besides, additional tax is also leviable at prescribed rates on such vehicles with effect from 18th October 1985. The tax/additional tax in respect of such vehicles is required

to be collected in the form of crossed demand drafts by the State Transport Authority of the home State of the vehicles who in turn, is required to remit it to the State Transport Authority, Orissa. The latter is required to check the correctness of the remittance received and account for it.

In the course of audit of the office of the State Transport Authority, Orissa, it was noticed (August/September 1989) that motor vehicle tax and additional motor vehicle tax in respect of 181 transport vehicles of other States which were permitted to ply temporarily (between April 1988 and March 1990) in Orissa, were not realised and remitted at the appropriate rates. This resulted in short-realisation of tax/additional tax amounting to Rs.50,382 for the period from April 1988 to March 1989.

On this being pointed out in audit (August/September 1989), the State Transport Authority, Orissa stated (September 1989) that action was being taken to realise the balance dues. Further report on realisation has not been received (April 1991).

The matter was reported to Government in March 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.8 Non-realisation of additional tax in respect of goods vehicles under reciprocal agreements

Under the provisions of the reciprocal agreements with adjoining States, goods vehicles of other States covered by countersignature permits are exempted from payment of motor vehicles tax. However, additional tax under the provisions of Orissa Motor Vehicles Taxation

Act, 1975 as amended in 1986, is required to be collected at the rate of twenty five per cent of the quarterly additional tax due where such temporary period does not exceed 14 days, collection of this is to be made in this regard at the bordering check gates at the time of entry of vehicles into the State.

In respect of 407 goods vehicles of other States which entered Orissa for various periods between April 1987 and January 1989 on the strength of countersignature permits, additional tax for such entries was not collected by the check gate authorities under three regions (Rourkela, Sambalpur and Keonjhar) resulting in a loss of revenue to the extent of Rs.56,166.

On this being pointed out in audit (between June 1988 and January 1990) the officer-in-charge of the check gates under Rourkela region stated (April 1989 and January 1990) that action would be taken to realise the tax as and when the vehicles re-enter through the gate while the taxing authorities of the check gates under Keonjhar and Sambalpur regions proposed (June 1988 and January 1989) to take action to realise the tax dues. Further reports have not been received (April 1991).

The matter was reported to Government between November 1988 and May 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.9 Non-realisation of tax/additional tax in respect of vehicles belonging to Government of India

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986) tax at the prescribed rates is leviable on all motor vehicles used or kept for use within the State, unless it has been specially exempted

by Government. Under the notification dated 14th February 1965, Government of Orissa had exempted motor vehicles (other than those used for commercial purposes or hire) belonging to the Government of India, from payment of tax; but the exemption was, withdrawn from 1st June 1988 by another notification dated 17th May 1988. The Transport Commissioner, Orissa accordingly in his letter dated 7th June 1988 instructed all tax levying officers to collect the tax in respect of the motor vehicles belonging to Government of India with effect from 1st June 1988.

It was noticed in audit (between January 1990 and March 1990) that in two Regions (Rourkela and Koraput) tax and additional tax in respect of 88 motor vehicles belonging to Government of India, was not collected with effect from 1st June 1988, inspite of the withdrawal of the exemption. This resulted in non-realisation of tax/additional tax to the tune of Rs.6.23 lakhs relating to the period from 1st June 1988 to 31st March 1990.

On this being pointed out in audit (January 1990 and March 1990) the taxing officers of Rourkela and Koraput stated (January 1990 and March 1990) that steps would be taken to realise the tax due by issue of demand notices. Further reports on realisation have not been received (April 1991).

The cases were reported to Government in May 1990 and June 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.10 Short-realisation of composite tax on vehicles plying under the National Permit Scheme

Under the National Permit Scheme, the operator of a public carrier goods vehicle authorised to ply in

Orissa State but registered in another State is liable to a composite tax of Rs.1,500 per annum with effect from 1st April 1986 in Orissa State. The composite tax which is in addition to the Motor Vehicle Tax and other taxes payable in the State of registration of the vehicle, is payable in advance before the 15th March every year. The owner of a vehicle may, however, at his option, pay the tax in two equal instalments before 15th of March and 15th of September covering the periods from April to September and October to March respectively of the year. Such composite tax payable is to be deposited with the State Transport Authority of the home State in which the vehicle is registered in the form of demand drafts on behalf of the State Transport Authority of the State in which the vehicle is permitted to ply.

It was, noticed from the records of the State Transport Authority, Orissa (June 1989 to September 1989) that composite tax in respect of 590 vehicles authorised to ply in the State had been realised only for a part of the year instead of for the full year for which the vehicles were authorised to ply in Orissa. The tax recovered short in these cases amounted to Rs.4.43 lakhs.

On this being pointed out in audit (September 1989) the State Transport Authority stated (September 1989) that steps were being taken for realisation of the dues. Further report on realisation of the dues has not been received (April 1991).

The matter was reported to Government (March 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

3.11 Non-collection/short-collection of penalty for belated payment of composite tax on vehicles plying under the National Permit Scheme

According to instructions issued by Government of India in December 1980, the State Governments were required to make provisions for levy of penalty for belated payment of composite tax in respect of vehicles covered under the National Permit Scheme. Under the scheme, if the composite tax is not paid within the due date i.e. 15th March and 15th September, the holder of the composite permit is liable to pay penalty at the rate of Rs.100 per month or part thereof in addition to composite tax.

It was, noticed (June 1989 to September 1989) that in respect of 654 vehicles of other States authorised to ply in Orissa under National Permit Scheme during the period from April 1988 to March 1989, penalty for belated payment of tax amounting to Rs.1.10 lakhs was either short collected or not collected by other State Transport Authorities and remitted to the State Transport Authority, Orissa.

On this being pointed out in audit (June 1989 to September 1989) the State Transport Authority, Orissa stated (September 1989) that action was being taken for realisation of penalty. Further report has not been received (April 1991).

The matter was reported to Government (March 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

3.12 Non-realisation of Composite Tax

Under the provisions of Section 3A of the Orissa Motor Vehicles Taxation (Amendment) Act, 1986, read with Section 4 of the Orissa Motor Vehicles Taxation Act, 1975, where, in pursuance of any agreement between the Government of Orissa and Government of any other State, a goods vehicle enters the State of Orissa, such vehicle is liable to pay additional tax to be calculated for each entry into the State at the rates specified therein. In respect of goods vehicles belonging to the State of Andhra Pradesh authorised to ply in the State of Orissa under reciprocal agreement, Government of Orissa decided (August 1986) to levy Rs.1500 on each vehicle annually as composite tax (in lieu of the additional tax payable for each entry) being calculated and collected from July 1986. The composite tax is payable in advance in lump sum on or before the 15th of April every financial year to the State Transport Authority, Andhra Pradesh in the shape of crossed Bank Drafts, for onward transmission to the State Transport Authority, Orissa. In case of delay in payment of composite tax, penalty of Rs.100 for each calendar month of default is also payable in addition to the composite tax.

In respect of 192 goods vehicles of Andhra Pradesh authorised to ply in Orissa under reciprocal agreement, composite tax amounting to Rs.2.88 lakhs for the period from 1st April 1988 to 31st March 1989 was omitted (September 1989) to be collected. In addition, penalty of Rs.2.30 lakhs calculated upto March 1989 was also due for realisation.

On this being pointed out in audit (September 1989) the State Transport Authority, Orissa stated (September 1989) that State Transport Authority, Andhra Pradesh

were being moved for realisation of arrear dues in this regard. Report on realisation has not been received (April 1991).

The matter was reported to Government in March 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.13 Non-realisation of tax in respect of vehicles violating off-road declaration

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, motor vehicles tax and additional tax is not payable in respect of vehicles, which are not intended to be used for any period, if prior intimation of such non-use is given to taxing officer on or before the date of expiry of the period for which tax has been paid, specifying *inter-alia* the period of non-use and the place where the motor vehicle is to be kept during such period. If at any time during the period covered by such intimation, the vehicle is found to be plying on the road or not found at the declared place, it shall be deemed to have been used throughout the said period and in such case the owner of the vehicle would become liable to pay tax and penalty as prescribed for the entire period for which it was declared off-road.

(i) In twelve regions*, 118 motor vehicles, which had been declared off-road by the owners of the vehicles, for various periods, between January 1986 and March 1990, were detected by the enforcement staff as plying on the road or not found at the declared places during such off-road periods. But, no action was taken by the

* Keonjhar, Bhubaneswar, Mayurbhanj, Balasore, Dhenkanal, Phulbani, Ganjam, Bolangir, Puri, Koraput, Cuttack and Sambalpur

taxing officers to realise the tax and penalty in respect of such vehicles for those periods for violation of the provisions of the Act. Tax leviable on these vehicles amounted to Rs.25.34 lakhs. Besides, penalty leviable at the rate of 200 per cent on the tax due amounted to Rs.50.69 lakhs.

On this being pointed out in audit (between March 1989 and April 1990) the taxing officers Ganjam and Balasore regions stated (June 1989 and October 1989) that demand notices were issued while the taxing officers of other regions proposed (between March 1989 and April 1990) to issue demand notices after reviewing the cases. Further reports have not been received (April 1991).

The cases were reported to Government between March 1989 and April 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

(ii) In Cuttack region, the enforcement staff detected (28th July 1988) a Stage Carriage plying without permit. As the owner of the vehicle refused to compound the offence on the spot, the vehicle was seized and kept under police custody at Badachana, but was released on 29th July 1988, on payment of tax of Rs.2,742 as tax computed for the month of July 1988 (though actually it worked out to Rs.5,236). On scrutiny of the taxation records of the vehicle, it was noticed (January 1990) in audit, that the vehicle had been declared off-road for the period from October 1987 to September 1988. Since the vehicle was found plying during the off-road period, and tax and additional tax is leviable on the vehicle for the entire period from October 1987 to July 1988. The release of the vehicle by accepting payment of tax for just one month, without correlating the offence with the off-road declaration, resulted in non-realisation of tax and additional tax amounting to Rs.49,618 and penalty of Rs.99,236.

On this being pointed out in audit (January 1990), the taxing officer (January 1990) admitted the mistake and issued (January 1990) demand notice for realisation of the tax due with penalty. The enforcement officers were also directed to seize the vehicle till realisation of the tax dues. Further reports have not been received (April 1991).

The matter was reported to Government in May 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.14 Non-realisation of compounding fees at prescribed rates

As per notification dated 27th June 1984 issued by Government of Orissa under the Motor Vehicles Act, 1939, the minimum amount for compounding an offence shall not be less than half of the maximum penalty provided therefor when such offence is committed for the first time. When the same offence is committed for the second time or subsequent to it, the compounding amount shall not be less than the maximum penalty provided therefor.

In four regions (Keonjhar, Sambalpur, Mayurbhanj and Phulbani) the amount prescribed either in respect of the first offence or in cases of offences of similar nature committed for the second time or subsequent to it, had not been imposed on the vehicles committing the offences. 157 cases relating to such vehicles had, however, been closed on realisation of compounding fees for less than the prescribed amount, resulting in short realisation amounting to Rs.4.34 lakhs.

On this being pointed out in audit (between July 1988 and February 1990) the taxing officers of Keonjhar, Sambalpur, Phulbani and Mayurbhanj regions stated (between February 1989 and February 1990) that the cases were disposed of on the merits of each case and it was not possible to reopen the cases as there was no provision for reopening of such cases in the Acts/Rules. The Government Notification dated 27th June 1984 does not however, vest any discretion in the matter of levying penalty with the taxing officers, and hence their replies were not tenable.

The matter was reported to Government between April 1989 and May 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.15 Short-realisation of tax in respect of Contract Carriages

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986), the motor vehicle tax in respect of Contract Carriages is to be realised as per the rates specified at item 4(B) of the taxation schedule appended to the Act, on the basis of number of passengers permitted (excluding driver) to be carried as per the permit.

In three regions (Dhenkanal, Bhubaneswar and Rourkela) in respect of twelve Contract Carriages tax for various periods between September 1985 and June 1989 was realised short due to adoption of incorrect rate of tax. The amount of tax short realised was to the tune of Rs.54,440.

On the mistakes being pointed out in audit (between June 1989 and January 1990) the taxing officers stated (between June 1989 and January 1990) that demand notices for realisation of the tax due would be issued. Further reports have not been received (April 1991).

The cases were reported to Government between December 1989 and May 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.16 Non-realisation of tax at revised/enhanced rates

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986), Motor Vehicles Tax and Additional tax in respect of goods vehicles (Class III vehicles) is to be levied as per the rates revised on 1st January 1982, 18th October and 25th November 1985, depending on the laden weight permitted to be carried by a vehicle.

In the course of audit of six regions (Bhubaneswar, Dhenkanal, Ganjam, Cuttack, Koraput and Sambalpur) it was noticed (between June 1988 and April 1990) that in respect of 222 goods vehicles, tax and additional tax for different periods between November 1982 and June 1989 was not realised according to the rates prevalent during the relevant periods. This resulted in short-realisation of tax and additional tax amounting to Rs.2.57 lakhs.

On this being pointed out in audit (between June 1988 and April 1990) the taxing officer, Ganjam issued (October 1988) demand notices for Rs.22,249 (14 vehicles) while the taxing officers of the other five regions stated (between June 1988 and April 1990) that demand notices would be issued. Further reports regarding realisation/issue of demand notices have not been received (April 1991).

The matter was reported to Government between November 1988 and June 1990 followed by reminder (February 1991); their reply has not been received (April 1991).

3.17. Non-realisation of Trade Certificate Fees/Tax

Under the Orissa Motor Vehicles Rules, 1940 manufacturers of or dealers in motor vehicles are required to obtain a trade certificate by paying annually in advance the requisite fees prescribed in respect of such trade certificates from the registering authority within whose area they have their place of business. Under the Orissa Motor Vehicles Taxation Act, 1975, fees at the annual rate should be paid in advance as prescribed therein for different categories of motor vehicles, by such manufacturers or dealers in respect of vehicles in their possession in the course of their business under the authorisation of such trade certificates. Under the Motor Vehicles Act, 1939 dealer includes a person who is engaged in the manufacture of motor vehicles, or in building bodies for attachment to the chassis.

Mention was made in the Audit Reports of the Comptroller & Auditor General of India vide paragraph 3.17 of 1981-82, 3.15 of 1987-88 and 3.13 of 1988-89, regarding non-realisation of trade certificate fees/tax by 11 Regional Transport Officers of the State.

It was further noticed that in six regions (Chandikhola, Bhubaneswar, Rourkela, Ganjam, Dhenkanal and Bolangir) in respect of 54 dealers and body builders in motor vehicles, no trade certificate fees were collected during the period between April 1983 and April 1990 thereby resulting in non-realisation of revenue amounting to Rs.79,225.

On this being pointed out in audit (between June 1989 and March 1990) the taxing officers of Bhubaneswar, Rourkela, Ganjam, Dhenkanal and Bolangir stated (June 1989 to January 1990) that demand notices would be issued while the taxing officer, Chandikhol stated (March 1990) that the trade certificate were not insisted upon in his region as per the general practice in all the region. The reply is not tenable and is contrary to the provisions in the Acts and Rules. Further reports have not been received (April 1991).

The matter was reported to Government between January 1990 and June 1990; and reminded in October and February 1991; their reply has not been received (April 1991).

3.18 Non-raising of demands for unpaid taxes and non-imposition of penalty

Under the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986, tax due on motor vehicles should be paid in advance. Where such tax for any period is not paid and continues to remain unpaid for a period of 15 days from the due date of payment, the taxing officer may, in respect of such vehicle, impose a penalty at the rates specified in the Orissa Motor Vehicle Taxation Rules 1976. According to the instructions issued by the Transport Commissioner, Orissa (February 1966) demand notices for realisation of unpaid taxes should be issued within 30 days from the date of expiry of the grace period (15 days) of payment of tax.

In the course of audit of four regions (Puri, Bhubaneswar, Cuttack and Balasore) it was noticed (between May 1989 and March 1990) that 21 vehicles were found plying without payment of tax and additional tax for

different periods between October 1981 and March 1990 as reported (between July 1987 and March 1989) by the enforcement staff of the Department. The taxation records showed that these periods were neither covered by off-road declaration under Section 10 of the Act, nor by intimations of payment of tax in any other region. Despite this, the taxing officers did not take action to raise demands and realise the tax due from those vehicles. The amount of tax due in respect of such vehicles worked out to Rs.2.42 lakhs and the penalty leviable for the delay in payment of tax amounted to Rs.4.83 lakhs.

On this being pointed out in audit (between May 1989 and March 1990) the taxing officers Balasore, Bhubaneswar and Cuttack stated (between June 1989 and February 1990) that demand notices for realisation of the tax due would be issued while the taxing officer, Puri stated (March 1990) that tax payments would be verified in consultation with other regions and the results would be intimated. Further reports have not been received (April 1991).

The matter was reported to Government between October 1989 and May 1990. The Government intimated (October 1990) that demand notices had been issued in all the cases. Further report on realisation has not been received (April 1991).

3.19 Non-levy of tax from the date of purchase/ acquisition of motor vehicles

Under the Orissa Motor Vehicles Taxation Act, 1975, (as amended in 1986), tax at the prescribed rates is leviable on all motor vehicles used or kept for use in the State.

In the course of audit of one region (Dhenkanal) it was noticed (June 1989) that tax at the prescribed rates was not realised in respect of seven newly registered vehicles (purchased on different dates between 27th November 1971 and 28th March 1988) for different periods from November 1971 to December 1988. This resulted in non-levy and non-collection of tax to the extent of Rs.1.49 lakhs.

On this being pointed out in audit (June 1989) it was intimated by the taxing officer that demand notices were issued (July 1990) for realisation of tax due. Reports on recovery of the amount have not been received (April 1991).

The matter was reported to Government in December 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

3.20 Non-levy of tax for intervening periods

Under Section 3 and 3A of the Orissa Motor Vehicles Taxation Act, 1975, as amended in 1986 motor vehicle tax and additional tax shall be levied on every motor vehicle used or kept for use within the State at the rates specified in the taxation schedule. However, under Section 10 of the Act *ibid*, exemption from payment of such tax is allowed for the period for which necessary undertaking for discontinuance of the use of the vehicle is submitted by the owner of the vehicle provided it is on or before the date of expiry of the period for which tax has been paid.

In fourteen regions*, it was noticed (between June 1989 and April 1990) that in respect of 298 vehicles,

* Mayurbhanj, Bolangir, Keonjhar, Chandikhol, Sambalpur, Ganjam, Puri, Phulbani, Balasore, Bargarh, Dhenkanal, Cuttack, Rourkela and Koraput

tax for different periods between April 1984 and September 1989 had remained unrealised even though tax for the earlier and later periods had been collected. The taxation records showed that the intervening periods were neither covered by exemption for discontinuance of use of the vehicles nor by intimations of payment of tax in any other region. This resulted in non-levy of tax of Rs.23.69 lakhs.

On this being pointed out in audit (between June 1989 and April 1990) nine taxing officers stated (between June 1989 and April 1990) that action to realise the dues would be taken while the taxing officers of Keonjhar, Cuttack, Chandikhol, Phulbani and Bargarh regions stated that the dues would be realised after verification of the records. Further reports have not been received (April 1991).

The cases were reported to Government between (October 1989 and July 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

3.21 Acceptance of tax without production of 'no objection certificate'

Under the Orissa Motor Vehicles Taxation Rules, 1976, whenever tax/additional tax in respect of a transport vehicle is intended to be paid in a region other than the region where it was last paid, the owner of the vehicle is required to produce a 'no objection certificate' in the prescribed form from the Taxing Officer, where they were last paid, specifying therein that no arrears are outstanding against the vehicle.

During the course of audit of the records of one region (Chandikhol) tax/additional tax in respect of two stage carriages and three goods vehicles registered in other regions (Bhubaneswar, Sundargarh, Cuttack and Koraput) was accepted between March 1985 and April 1989 without production of 'no objection certificate' from the Taxing Officers, where tax/additional tax in respect of these vehicles were last paid. The Register of Registration Certificates of the region (Chandikhol) showed that tax had been paid for these vehicles for certain periods and these vehicles were declared off-road for certain other periods in other regions (Bhubaneswar, Cuttack, Koraput and Sundargarh) and these particulars were stated to have been noted from the Registration Certificates produced by the owners of the vehicles. However, cross verification by audit with the taxation records of the corresponding regions (Bhubaneswar, Cuttack, Koraput and Sundargarh) revealed that the particulars of previous tax payments and off-road declaration as noted from the Registration Certificates produced by the owners of these vehicles were not genuine.

Acceptance of tax without production of 'no objection certificate' issued by the previous taxing officers and acceptance of fictitious entries in the Registration Certificates produced by the owners, resulted in evasion of tax/additional tax to the tune of Rs.59,709 in respect of these five vehicles between the periods from April 1985 to April 1989. Besides, penalty of Rs.1.23 lakhs was also leviable for the non-payment of the tax and additional tax.

On this being pointed out in audit (March 1990) the Taxing Officer, Chandikhol stated (March 1990) that in view of the enquiry already conducted by audit, the

office had nothing to comment and the explanation of the clerk concerned had been called for such fake entries. Report on the action taken to realise the tax has not been received (April 1991).

The matter was reported to Government in May 1990 and reminder issued in October 1990 and February 1991; their reply has not been received (April 1991).

CHAPTER 4

FOREST RECEIPTS

4.1 Results of audit

A test check of the records maintained in the Forest Divisions conducted in audit during the period from April 1989 to March 1990, revealed non-recovery and short-recovery of dues and losses of revenue amounting to Rs.46.24 lakhs in 3354 cases which may broadly be categorised as under:

| | No. of cases | Amount (in lakhs of rupees) |
|---|----------------------------|-------------------------------|
| 1. Non-levy/short-levy of interest for delayed payment of consideration money/royalty | 306 | 5.22 |
| 2. Non-realisation of compensation | 427 | 8.81 |
| 3. Non-realisation of extension fee | 1 | 0.94 |
| 4. Loss of revenue due to non-disposal of forest produce by sale | 44 | 2.47 |
| 5. Non-recovery of defaulted amount in case of quashed/determined minor forest produce lots | 31 | 1.91 |
| 6. Other irregularities | <u>2545</u> <u>3354</u> | <u>26.89</u> <u>46.24</u> |

Some of the important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

4.2 Under assessment of royalty on coupes settled with the Orissa Forest Corporation Ltd.

According to the provisions of Rule 240 of the Orissa Forest Department Code and Departmental instructions issued during November 1979, allotment of coupes and fixation of royalty thereof are to be finalised by mutual discussion and agreement between the local Divisional Forest Officer and Divisional Manager of the Orissa Forest Corporation Ltd, subject to final approval of the Zonal Conservator of Forests and Principal Chief Conservator of Forests, Orissa. Taking into consideration the general trend of rise in market rate of timber and specially the rise in the cost of sleepers supplied to the Railways, the Principal Chief Conservator of Forests, Orissa ordered (December 1988) that the rise in the rates of royalty to be fixed for 1988-89 in respect of the coupes where production of railway sleepers was possible, should not be less than 20 per cent over the unit rate obtained in the previous year 1987-88.

In course of audit of two Forest Divisions (Nayagarh and Nowarangpur) during November 1989, it was noticed that out of 48 coupes (16 at Nayagarh and 32 at Nowarangpur) from the harvest of which production of railway sleepers was possible, 2 coupes (at Nayagarh) were settled at a price which was only 10 per cent higher than that of the unit price of the previous years, and 46 coupes (14 at Nayagarh and 32 at Nowarangpur) were settled at 15 per cent over the previous years unit rates, as mutually agreed upon with the Conservator and approved by Zonal Conservators as against the norms fixed for a rise of 20 per cent. Approval of the Principal Chief Conservator of Forests was not obtained in all these cases. The fixation of price at lower rates than those specified by Chief Conservator of Forests resulted in under assessment of royalty amounting to Rs.12.45 lakhs (Rs.3.68 lakhs at Nayagarh and Rs.8.77 lakhs at Nowarangpur) during 1988-89.

On this being pointed out in Audit (November 1989) the Divisional Forest Officers agreed to review the position in consultation with the conservator and Principal Chief Conservator of Forests. Further replies on the developments in the case have not been received (April 1991).

The matter was reported to Government/Principal Chief Conservator of Forests, Orissa during February 1990 followed by reminder (February 1991); their replies have not been received (April 1991).

4.3 Short-realisation of royalty on minor minerals

Under the Orissa Minor Minerals Concession Rules, 1983, the authorities of the Forest Department are empowered to issue permits for extraction of minor minerals from the forest lands. To streamline administration of minor minerals in forest areas, Government issued (December 1987) instructions to the Principal Chief Conservator of Forests, Orissa to follow the provisions of the Orissa Minor Minerals Concession Rules, 1983 from the date of issue of the order. The rate of royalty fixed by Government in June 1972, were revised from 1st June 1983, consequent upon the coming into force of the Rules in the State.

In nine Forest Divisions (Balliguda, Bolangir, Sambalpur, Kalahandi, Bonai, Athamallik, Paralakhemundi, Boudh and Jeypore) it was noticed (between December 1988 and February 1990) that a total quantity of 1,69,289.81 MT of different minor minerals viz. Boulders, Metal chips, Murram etc. were extracted during the period from December 1987 to August 1989 for which royalty was realised at the pre-revised rate. This resulted in short realisation of royalty amounting to Rs.2.10 lakhs.

On this being pointed out in audit (between December 1988 and February 1990), the Divisional Forest Officer, Kalahandi proposed to realise the dues, whereas seven Divisional Forest Officers (Paralakhemundi, Boudh, Jeypore, Athamallik, Bonai, Sambalpur and Bolangir) stated that action would be initiated for realisation of differential royalty on receipt of clarification from the Principal Chief Conservator of Forests. The Divisional Forest Officer, Balliguda stated that "the minor minerals are forest produce under Orissa Forest Act, 1972 and the rates fixed in the Orissa Mineral Concession Rules 1983 are not under the provisions of the Orissa Forest Act, 1972 and hence the revised rates would not hold good". The contention of the Divisional Forest Officer, Balliguda is not acceptable in view of the clear provisions in the Rules and Government's instruction issued in December, 1987.

The cases were reported to the Government/Principal Chief Conservator of Forests, Orissa (between March 1989 and May 1990) followed by reminder (February 1991); their replies have not been received (April 1991).

4.4 Non-assessment of compensation

Under the Orissa Forest Contract Rules 1966, a forest contractor is liable to pay compensation as may be fixed by the Divisional Forest Officer, for damages caused by him in Government forest for illicit fellings within the contracted area or within 20 chains thereof and for any other irregularities. In the event of his failure to pay compensation, the contract is liable to be terminated. The dues are recoverable from the security deposit of the contractor and the balance, if any, as arrears of land revenue.

In Ghumsur South Forest Division a forest contractor (a Government of Orissa Undertaking), while working out the coupes allotted to it during the extension period from 9th May 1989 to 7th June 1989, reportedly felled 143 unmarked trees from the coupe area. The minimum compensation leviable on the contractor, calculated at the rate of two times the unit value, in respect of the 143 illicitly felled trees was Rs.1.53 lakhs. But the Divisional Forest Officer did not assess and demand the compensation due from the contractor.

The omission was pointed out in audit (October 1989). Report on action taken has not been received (April 1991).

The matter was reported to Government/Principal Chief Conservator of Forests, Orissa (February 1990) followed by reminder (February 1991); their replies have not been received (April 1991).

4.5 Loss of revenue due to non-exploitation of minor forest produce

(i) Kusum seeds, Karanja seeds, Neem seeds, Patasa seeds, Chireita, Valianuts, Dhataki flowers and Tamarind etc. are seasonal minor forest produces. Its collection season lasts from October to September every year.

In Karanja Forest Division, the auction sale notice of the above minor forest produces for the working season 1988-89 was published on 1.9.1988 in respect of 16 divisional lots pertaining to 5 forest ranges (Rairangpur, Bisoi, Gurujunia, Karanja and Badampahar) on fixation of upset price of Rs.84,695. Prior to issue of sale notice, the Similipahar Forest Development Corporation (a Government of Orissa Undertaking) wanted (June 1988) to take all items of the minor forest produces of the division

on lease. The Divisional Forest Officer, Karanjia sought clarification from the Conservator of Forest/Principal Chief Conservator of Forests, Orissa (August 1988) on the lease of the minor forest produces to the Corporation. The Principal Chief Conservator of Forests, Orissa instructed (November 1988) the Divisional Forest Officer to deliver all the lots to the Corporation as was done in the previous years. The Divisional Forest Officer, instead of handing over the lots to the Corporation, conducted auction sale of the same on 5.12.88 and 8.3.89 on the ground that the relevant lots were not on lease to the Corporation previously, but the lots could not be sold as no bidders participated in the sale. No attempt was made by the Divisional Forest Officer to collect the Minor Forest Produce items departmentally and the collection was made by issue of permits to local collectors. An amount of Rs.5,172 was only collected during the working season of 1988-89. Non-exploitation of seasonal minor forest produces for the year 1988-89 resulted in loss of revenue amounting to Rs.79,523.

On this being pointed out in audit (February 1990) the Divisional Forest Officer stated (February 1990) that the instructions of the Principal Chief Conservator of Forests, Orissa were not followed as the lots were not previously leased out to the Corporation in the Division, and that the same were being sold in public auction sale. The reply is not however, tenable since the failure to follow the instructions has led to the loss of revenue.

The matter was reported to Government/Principal Chief Conservator of Forests, Orissa (May 1990) followed by reminder (February 1991); their replies have not been received (April 1991).

(ii) Dantari bark is a seasonal minor forest produce. Its collection season lasts from January to May every year.

In two forest divisions (Ghumusar North Division and Rairkhol) the above minor forest produce for the years 1987-88 and 1986-87 to 1988-89 (the year beginning from October and ends in September of the following year) was put to auction in July 1987 and February 1987 respectively and the highest bids of Rs.26,200 (Ghumusar North Division) and Rs.12,300 (Rairkhol Division) were accepted. The Conservators of Forests ratified the sales in March 1988 and May 1987 and the work orders were issued in April 1988 and June 1987. The lessee of Ghumusar North Division expressed (April 1988) his inability to pay the entire amount in one instalment and work the lots within a month (collection season being upto May 1988). As the lessee did not take delivery of the lot within the stipulated period the sale was cancelled and security deposit of Rs.6550 forfeited to Government (May 1988). The lessee of Rairkhol division stated (June 1987) that as the collection season (January 1987 to May 1987) was over he could not operate the same for the year 1986-87. The Conservator of Forests ordered (August 1987) to withhold the ratification for the remaining 2 years (1987-88 and 1988-89) also till receipt of clarification from the Principal Chief Conservator of Forests, Orissa which was not received upto January 1989. Thus due to delay in ratification of leases the minor forest produce for the years 1987-88 and 1986-87 to 1988-89 remained unexploited leading to a loss of revenue of Rs.31,950.

On these cases being pointed out in audit (January 1990 and January 1989) the Divisional Forest Officer, Ghumusar North Division stated (January 1990) that the dues (Rs.19,650) would be realised through certificate proceedings. The Divisional Forest Officer, Rairkhol Division stated (January 1989) that the ratification of sale was withheld as per the instructions of the Conservator of Forests, Sambalpur issued in August 1987.

The cases were reported to Principal Chief Conservator of Forests/Government (May 1990 and March 1989) followed by reminder (February 1991); their replies have not been received (April 1991).

4.6 Loss of revenue due to short delivery of trees

Under the provisions of the Orissa Forest Department Code and instructions issued from time to time by the Chief Conservator of Forests, Orissa (now redesignated as Principal Chief Conservator of Forests, Orissa), royalty in respect of coupes settled with the Similipahar Forest Development Corporation (SFDC) is to be fixed on the basis of marking lists and the trees as shown in the marking lists are to be handed over to the Corporation after a joint verification by the officials of the Corporation and the Division, who would also sign coupe delivery certificates.

In Baripada Forest Division coupe delivery certificate of one timber coupe settled (October 1987) with the SFDC for working during the period from 2.1.1987 to 30.4.1989, disclosed that 86 number of marked trees and 6 numbers of standard trees were not handed over to the Corporation, while delivering the coupes (February 1989), as the trees were stated to have been felled and removed illicitly prior to the handing over of the coupes to the Corporation. The reasons for abnormal delay in handing over the coupe and loss of 92 number of trees were not investigated. This resulted in loss of revenue of Rs.80,919 computed at the rate of royalty payable by the Corporation on the unit content of timber obtainable from those trees.

On this being pointed out in audit (July 1989) the Divisional Forest Officer proposed to investigate the matter and take action to fix responsibility and recover the loss from the persons concerned. Further report on action taken has not been received (April 1991).

The matter was reported to Government/Principal Chief Conservator of Forests, Orissa in September 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

4.7 Non-realisation of shortfall on resale of forest coupes

Under the Orissa Forest Contract Rules, 1966, a contract for sale of forest coupes can be terminated or a sale can be quashed for breach of any of the conditions laid down in the contract or in the Sale Notice as the case may be and the coupes resold. The shortfall of revenue if any on such resale, together with interest due thereon at the rate of 6 1/4 per cent per annum is recoverable from the original contractor as arrears of land revenue.

In four Forest Divisions (Baripada, Rayagada, Jeypore and Ghumsur South) contracts in respect of 10 coupes with outstanding dues of Rs.87,566 relating to the period 1988-89 and 1989-90 were terminated and sales of 3 coupes amounting to Rs.28,200 quashed owing to default in payment of consideration money and non-payment of security deposit respectively. Out of 13 coupes, 3 coupes were resold between September 1988 and July 1989 for Rs.18,100 while there was no bid for the rest of the 10 coupes. The consequent shortfall of Rs.97,666 was not, however, realised from the defaulting contractors. Taking into account the available security deposits of Rs.23,738 which are liable for forfeiture, the net shortfall worked out to Rs.73,928.

On this being pointed out in audit (between July 1989 and February 1990) the concerned Divisional Forest Officers stated (between July 1989 and February 1990) that action would be taken to realise the amount representing the shortfall through certificate proceedings after adjustment of security deposits.

The cases were reported to Government/Principal Chief Conservator of Forests, Orissa (between September 1989 and May 1990) followed by reminder (February 1991);- their replies have not been received (April 1991).

4.8 Loss of revenue due to delay in lifting of firewood stacks

Under Rule 28(1) of the Orissa Forest Department code, the Range Officer is responsible for protection, maintenance of forest and other properties under his jurisdiction.

In Ghumsur North Forest Division, Bhanjanagar (Ganjam District), 850 stacks of firewood collected departmentally in 3 ranges (Central, Tarasinga and Mujaguda) were allotted to the Orissa Forest Corporation Limited during February 1987 and March 1987 with stipulation to take delivery of the lots by 31.3.1987 on fixation of royalty of Rs.72,250. The Corporation did not take delivery of the lots despite several co-ordination meetings held between February 1988 to June 1989. On 13.6.1989, it was decided to have a joint verification of stacked firewood during the period from 16.6.89 to 23.6.89, the result of which is not on record. However, the concerned Range Officers reported (January 1990 and August 1990) that the firewood was not available at the site due to long storage. Poor protection of forest produce by the field staff and delay/non-lifting of stacks by the forest contractor ultimately resulted in loss of revenue amounting to Rs.72,250.

On this being pointed out in audit (January 1990) the Divisional Forest Officer stated (January 1990) that detailed information would be sent on receipt of reports from the concerned Range Officer. Further report has not been received (April 1991).

The matter was reported to the Principal Chief Conservator of Forests/Government (May 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

4.9 Loss of revenue due to error in computation of units

According to the procedure laid down in Orders dated 7th June, 1982 and 4th September, 1987 respectively of the Chief Conservator of Forests (now redesignated as Principal Chief Conservator of Forests) royalty in respect of Forest Coupes settled with the Orissa Forest Corporation Limited is determined with reference to the units of timber available in the coupe. The unit is computed with reference to a ratio adopted on the basis of classification of species and girth class of trees marked for felling. The price is calculated by multiplying the number of units of each coupe with the unit cost fixed in the prescribed manner.

In Sambalpur Forest Division, the total number of units in two timber coupes settled with the Orissa Forest Corporation Limited during 1988-89 was erroneously computed as 306 units instead of as 338 units and consequently the royalty of the coupes was assessed short by Rs.21,985.

On this being pointed out in audit (February 1990), the Divisional Forest Officer stated (February 1990) that demand for differential royalty would be raised. Report on action taken has not been received (April 1991).

The matter was reported to Government/Principal Chief Conservator of Forests, Orissa (May 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

4.10 Shortages of firewood in a sale depot

Under the provision of the Orissa, Forest Department Code, the Forest Range Officer is responsible for protection and maintenance of forest and other properties under his jurisdiction.

In Keonjhar Forest Division, 710.300 metric tonnes of departmentally worked firewood was brought to a sale depot during February 1984 to August 1986. 499.265 metric tonnes of firewood were sold in the Depot during the above period. Of the balance quantity of 211.035 metric tonnes of firewood lying undisposed of as per the Depots Accounts, the forester in-charge of the sale depot handed over 66.401 metric tonnes of firewood only to his successor. Thus there was a shortage of 144.634 M.T. of firewood, the cost of which worked out to Rs.21,695.

On this being pointed out in audit (September 1988), the Divisional Forest Officer stated (March 1990) that the departmental proceedings and enquiries against the concerned forester were under progress.

The matter was reported to Government and Principal Chief Conservator of Forests, Orissa in January 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

4.11 Non-levy of interest on belated payment of consideration money

Under the Orissa Forest Contract Rules, 1966, if a contractor fails to pay any instalment of consideration money for sale of forest coupes to him by the due date, he is liable to pay interest at the rate of 6 1/4 per cent per annum on the instalments of default.

According to the clarification given by the Government in February 1977 these provisions were also applicable to leases of forest coupes given to the Orissa Forest Corporation Limited (a fully owned Government Company).

In three Forest Divisions (Paralakhemundi, Keonjhar and Bamara), it was noticed (between July 1989 to September 1989) that in 220 cases of belated payment of consideration money ranging from one month to twelve months during the period 1987-88 to 1988-89, interest amounting to Rs.3.03 lakhs was not levied and realised. Of this, 109 cases involving Rs.2.15 lakhs related to the Orissa Forest Corporation Limited and 111 cases involving Rs.0.88 lakh related to the Similipal Forest Development Corporation Limited (another fully owned Government Company).

On the omission being pointed out by Audit (July 1989 to September 1989) the Divisional Forest Officers stated (July 1989 to September 1989) that action would be taken to realise the interest. Reports on realisation have not been received (April 1991).

The cases were reported to Government/Principal Chief Conservator of Forest (September 1989 to December 1989 followed by reminder (February 1991); their replies have not been received (April 1991).

4.12 Departmental working of timber coupes and sale of firewood in Angul division

4.12.1 *Introductory*

By the end of 1980-81, the annual working of timber coupes in 20 out of 27 Territorial Forest Divisions was entrusted to the Orissa Forest Corporation Limited (a Government of Orissa Undertaking) and major portions of Karanjia and Baripada divisions were allotted to Similipahar Forest Development Corporation Limited, another Government of Orissa Undertaking.

With a view to mobilising additional resources and for enabling a comparative study of the performance of working of leases given to the State Government undertakings vis-a-vis performance of departmental working of coupes, Government decided (December 1981) that all forest coupes of Angul Division and residual areas of Karanjia and Baripada Divisions be worked out departmentally. To start with, Government implemented the scheme of departmental working in Angul Division from January 1982. Subsequently the working of the remaining divisions including residual areas of Karanjia and Baripada was entrusted to the above undertakings and the area of operation of departmental working was restricted to the Angul Division only.

4.12.2 *Scope of audit*

In order to assess as to how far the objective set forth in the scheme have been achieved, a review of the accounts records maintained in Angul Division and its range offices was conducted by audit during May - June 1990.

4.12.3 *Organisational set up and procedure*

The overall control and supervision vests with the Divisional Forest Officer, Angul who is entrusted with the setting up of targets for production and its achievement thereof, cost control, monitoring, transporting and sale of timber and firewood and submission of prescribed returns. He is assisted by an Assistant Conservator of Forests. In addition 6 Forest rangers, 19 Foresters, 50 Forest Guards and 7 Junior Clerks have also been posted to look after the departmental operation works.

For implementation of the scheme an advance plan of action showing the anticipated outturn of timber and firewood, estimated on the basis of number of coupes due for working during the year as prescribed in the

working plan, the probable expenditure on their working and the expected sale value of timber and firewood to be extracted with the profitability statement is required to be prepared and submitted to Government at the commencement of each financial year for release of funds for the continuance of the scheme.

4.12.4 *Highlights*

(i) Proforma accounts required to be prepared every year were not compiled since the inception of the scheme. No accounting procedure has been formulated for the scheme so far though the scheme has been in existence for the last eight years i.e. from 1982-83 to 1989-90.

(ii) The average annual yield of 6 lakh cft of timber envisaged in the scheme was not achieved. The annual anticipated production fixed in the annual plan and the actual production of timber were very low as compared to the targets envisaged in the scheme.

(iii) Expenditure on huge establishment coupled with inadequate work load, as compared to the average annual targets set forth in the scheme, adversely affected the profitability of the scheme.

(iv) A comparative study of the performance of departmental working with the performance of coupes entrusted to other Government undertakings, as envisaged was not made. The sale rates of neighbouring Forest divisions/Orissa Forest Corporation Limited, were on the higher side as compared to the rates obtained on sale of timber obtained in the departmental working.

(v) Loss of revenue to the tune of Rs.26.98 lakhs on account of shortage of timber during transit from coupes to Depots was noticed.

(vi) Huge quantity of stock estimated at Rs.50.85 lakhs, was lying in coupes without being transported to depots from the years 1981-82 to 1989-90.

4.12.5 *Non-maintenance of proforma accounts*

With a view to assessing the financial results, Government on the suggestion made by audit directed (August 1982) the Chief Conservator of Forests, Orissa to prescribe suitable accounting procedure and forms for recording receipt/expenditure on commercial principles and to prepare proforma accounts annually in respect of the departmental working. However, it was seen in audit (May 1990) that neither had the accounting procedure been prescribed nor were the proforma accounts prepared since the inception of the scheme. Though profit and loss accounts for 1981-82 and 1982-83 were compiled, their accuracy could not be verified as the initial records were not maintained properly. Certain vital basic data including the cost of operation per cubic metre of timber and firewood were not analysed by the division due to non-maintenance of records according to commercial principles.

4.12.6 *Targets fixed for production not achieved*

The scheme for departmental working of timber in Angul division envisaged extraction of an average annual yield of 6 lakh cft (approximately 17,000 cubic metres) of timber and 6 lakh cft (approximately 17,000 cum) of firewood. The anticipated production as fixed in the annual plans and the actual production as furnished by the Division for the years 1981-82 to

1989-90 is as follows:

| Year | No. of coupes | Anticipated production | | Actual production | |
|---------|-------------------|------------------------|------------------------|-------------------------|---------------------------|
| | | Timber (in cum.) | Firewood () | Timber (in cum.) | Firewood () |
| 1981-82 | 16 | 3,600 | 850 | 4,344.74 | 6,313.53 |
| 1982-83 | 26 | 12,004 | 16,987 | 12,094.28 | 27,585.39 |
| 1983-84 | 23 | 14,156 | 22,650 | 10,231.49 | 31,004.41 |
| 1984-85 | 21 | 11,325 | 27,180 | 10,033.18 | 24,161.80 |
| 1985-86 | 22 | 10,098 | 19,818 | 10,241.49 | 25,862.54 |
| 1986-87 | 23 | 10,000 | 17,157 | 9,233.00 | 18,291.91 |
| 1987-88 | 24 | 9,000 | 11,000 | 8,424.59 | 11,901.67 |
| 1988-89 | 15 | 2,500 | 10,000 | 2,698.97 | 10,054.21 |
| 1989-90 | <u>10</u> | <u>3,500</u> | <u>10,000</u> | <u>3,060.83</u> | <u>4,711.01</u> |
| | <u>180</u> | <u>76,263</u> | <u>1,35,642</u> | <u>70,362.57</u> | <u>1,59,886.47</u> |

From the above table, it could be seen that the average target in respect of timber as envisaged in the scheme (17000 cum.) had never been achieved, so far (1989-90). Further, compared to the average annual yield envisaged in the scheme, both the annual anticipated production fixed in the annual plans and the actual production were very low and had a decreasing trend. On the other hand, it could be seen from the table above that the actual production of firewood had not only exceeded the anticipated production fixed for each year, but also exceeded the average annual yield envisaged in the scheme (17000 cum.). This indicated that the estimation made in the scheme was not realistic.

4.12.7 Establishment cost not commensurate with the revenue yield

The expenditure incurred on establishment and items other than establishment on actual production of timber and firewood, and anticipated revenue and actual amount of revenue realised during the years 1981-82 to 1989-90 was as follows:

| Year | Expenditure | | | Revenue | |
|---------|-------------------------|--|-------|------------------------|--------|
| | Estab- lish- ment | Other than establish- ment (for oper- ation) | Total | Antici- pated | Total |
| | (in lakhs of rupees) | | | (in lakhs of rupees) | |
| 1981-82 | 0.03 | 7.84 | 7.87 | 29.00 | 20.07 |
| 1982-83 | 2.77 | 26.93 | 28.70 | 137.00 | 108.19 |
| 1983-84 | 5.49 | 34.61 | 40.10 | 200.00 | 175.75 |
| 1984-85 | 7.33 | 28.26 | 35.59 | 183.00 | 169.13 |
| 1985-86 | 8.06 | 25.31 | 33.37 | 180.25 | 146.49 |
| 1986-87 | 9.45 | 25.37 | 34.82 | 150.00 | 163.31 |
| 1987-88 | 9.12 | 26.46 | 35.58 | 140.00 | 150.40 |
| 1988-89 | 11.83 | 19.24 | 31.07 | 119.03 | 107.52 |
| 1989-90 | 11.36 | 13.88 | 25.25 | 129.15 | 99.03 |

The above table indicates that the cost of establishment had been generally on the increase from the inception of the scheme (except for 1988-89), while the revenue realised indicated a descending trend from 1987-88 onwards and the actual production of timber and firewood also decreased year after year. The staff

sanctioned in the year 1982-83 basing on the estimated average yield of 17,000 cum of timber and the same quantity of firewood in the scheme was allowed to be continued till date without any reduction. The continuance of such large establishment despite decreasing work load adversely affected the profitability of the scheme.

4.12.8 Comparative study of departmental working with leases given to Government undertakings

Although the scheme was started in 1981-82 with a view to comparing its performance with the working of the State Government Undertakings so as to ascertain its profitability and to identify the deficiencies, if any, no such comparative study had been made as yet, even after a lapse of seven years (1983-84 to 1989-90). A comparative analysis conducted in audit of the sale rates of timber during the years 1987-88 and 1988-89 of different species sold by neighbouring Forest Divisions (Dhenkanal and Athgarh) to the Orissa Forest Corporation Ltd., and the sale prices of Orissa Forest Corporation Ltd. to the public, with the sale rates of timber under the scheme of departmental working revealed that the sale rates as obtaining in Angul Division 'on departmental' working were far less than those of outright sale of timber by neighbouring forest divisions to the Orissa Forest Corporation Ltd. who in turn sold the same to the public. The sale rates per cubic metre, specie-wise, during the years 1987-88 and 1988-89 were as follows:

| Year | Name of seller | Sale rates specie-wise | | |
|---------|--|------------------------|------------------------|---------------------|
| | | Sal per cum (| Kasi per cum Rupees | Dhaura per cum) |
| 1987-88 | Angul Division (Departmental working) | 1951.47 | 1160.13 | 758.16 |

| Year | Name of seller | Sale rates specie-wise | | |
|---------|---|------------------------|------------------------|---------------------|
| | | Sal per cum (| Kasi per cum Rupees | Dhaura per cum) |
| 1987-88 | Dhenkanal Forest Divisions to Orissa Forest Corporation Ltd | 1956.13 | 1339.25 | 1173.05 |
| | Orissa Forest Corporation (Angul Timber Division) | 1606.70 | 1601.40 | No sale |
| 1988-89 | Angul Division (Departmental working) | 2080.14 | 1337.05 | 943.37 |
| | Dhenkanal Forest Division to Orissa Forest Corporation Ltd. | 2150.45 | 1473.02 | 1218.33 |
| | Orissa Forest Corporation (Angul Timber Division) | 2241.05 | 2143.60 | No sale |

Even the upset price fixed by the division in respect of timber obtained by departmental working was found to be far less than the actual sale prices obtained while selling the departmental lots. The variation in upset price fixed and the actual sale price obtained, indicated wide variations ranging from 50 per cent to 200 per cent and above during the years 1986-87 to 1989-90.

From the above, it is evident that proper study of the prevailing market rates had not been made by the division while disposing of timber obtained on Departmental working.

4.12.9 *Loss in transit*

Logs of timber and firewood obtained as a result of working in the forest coupes are measured in the coupes before being transported to the sale depots and on receipt in the depots, they are measured again. The measurements recorded at these two places should not normally differ. No norm has also been prescribed by Government for any shortage on account of driage etc.

A scrutiny of the records relating to 4 Depots (Angul, Badkera-I, II & III) for the period from 1981-82 to 1989-90 revealed that as against 61,232.7664 cum of timber and 81,651.0476 cum of firewood despatched from coupes, the depots acknowledged receipt of only 59,721.5168 cum of timber and 79,539.9490 cum of firewood on re-measurement. Thus there was shortage of 1511.2496 cum of timber logs and 2111.0986 cum of firewood working out to an average percentage of 2.47 and 2.58 respectively. These shortages involved a loss of revenue of Rs.26.98 lakhs (calculated at the average sale rate of the Division prevailing in 1988-89).

On this being pointed out in audit the Divisional Forest Officer stated (June 1990) that the shortage was mainly due to shrinkage of logs and firewood and due to incorrect measurements made by illiterate/semi-literate field staff. In the absence of any norms prescribing admissible percentage of shrinkages, by the Government, and since the permits were issued for the actual quantity of timber and firewood transported, the shortage was not permissible and shows lack of control on the operations.

Further, a shortage of 30.844 cft (Rs.86,363) of firewood occurred while transporting from 43 coupes to various sale depots, during the period from February 1988 to October 1989. Even though the Divisional Forest Officer had asked the concerned range officers to intimate

the names of the foresters/guards responsible for the loss for taking further action, no reply was received from them and further follow up action has not been taken by the division (June 1990).

4.12.10 *Huge stock of timber and firewood lying in coupes*

According to the scheme, timber and firewood soon after extraction should be transported from coupes to sale depots for disposal during the same session to avoid pilferage and to achieve the targets. Delay in removal of the stock from the coupes to Depots would result in deterioration in quality and thereby affect the commercial value of material due to its exposure to the vagaries of weather.

A test check of the records of five Ranges (Jarpada, Raigoda 'A', Talcher, Puranakote 'A' and Puranakote 'C') revealed that a total quantity of 9259 logs of timber (2089.9982 cum) and 586.506 cft of firewood extracted during the years 1981-82 and 1989-90 were lying in the coupes without being transported to the Depots as on 31.3.90.

The year-wise break up of the timber and firewood lying in the coupes is as follows:

| Year | Timber | | Firewood Cft |
|--------------|--------------------|-------------------------|----------------------|
| | Logs | Cum | |
| 1981-82 | 899 | 111.2147 | 7462 |
| 1982-83 | 2859 | 464.3610 | 58522 |
| 1983-84 | 1207 | 293.0428 | 82466 |
| 1984-85 | 1195 | 176.0975 | 78939 |
| 1985-86 | 535 | 235.1699 | 26748 |
| 1986-87 | 481 | 173.5876 | 94564 |
| 1987-88 | 432 | 170.4260 | 133405 |
| 1988-89 | 1379 | 386.9152 | 52665 |
| 1989-90 | 272 | 79.1835 | 51735 |
| Total | <u>9259</u> | <u>2089.9982</u> | <u>586506</u> |

The value of these materials, calculated at the average sale rate of the division for 1988-89 worked out to Rs.50.85 lakhs.

No physical verification has been conducted so far (June 1990) to ascertain the existence and condition of these materials. As the materials were lying in the coupes since a very long time, heavy loss of revenue due to deterioration of those materials cannot be ruled out.

4.12.11 *Loss of revenue due to timber and firewood found short in coupes*

Due to non-removal of timber and firewood from coupes to Depots, in time, the division sustained a loss of Rs.4.09 lakhs on account of shortages/loss of stock in coupes as discussed below:

(i) In Raigoda 'A' Range timber logs measuring 248.5701 cum which were extracted during the year 1982-83 and were lying in the coupes without being transported to sale depots since then, were reported (January 1987) by the Range Officer to have been completely deteriorated. The revenue foregone by the government works out to Rs.3.59 lakhs.

No departmental action had been initiated on the loss reported by Range Officer.

On this being pointed out in audit (June 1990) the Divisional Forest Officer stated (June 1990) that the matter would be looked into.

(ii) In Puranakote 'A' Range, the Range Officer reported (August 1989) that 22.6734 cum of timber and 4431 cft of firewood obtained on working of coupes during 1983-84 were not available in the coupes thereby resulting in loss of revenue amounting to Rs.49,761 to the Government.

On this being pointed out in audit (June 1990) the Divisional Forest Officer stated (June 1990) that the matter was under investigation.

4.12.12 *Non-realisation of extra cost of transportation from the original transport contractors*

Timber and firewood extracted and stacked in the coupes are transported to different depots for sale in public auction at periodical intervals. Besides engagement of departmental trucks for the purpose, the Division entered into agreement with private transport contractors on tender call basis for transportation of specific quantity of timber and firewood from coupes to Depots. According to clause 12 of the agreement executed by the transport contractors, on their failure to transport the contracted quantity, the Divisional Forest Officer is empowered to engage other contractors for transportation of the balance quantity left over by them and recover the extra expenditure, if any, incurred on that account from the original contractors alongwith forfeiture of security deposit.

It was noticed in audit that in six cases, the division had incurred extra expenditure of Rs.31,274 on transportation of balance stock left over by the original contractors. Although, a sum of Rs.10,000 was available with the division in the form of security deposit furnished by the contractors, no action was initiated to recover the amount from the defaulting original contractors.

On this being pointed out in audit (June 1990) the Divisional Forest Officer stated (June 1990) that the matter would be looked into for taking further action.

4.12.13 *Inadequate control over the working of coupes*

The trees in coupes due for working as per the working plan of the Forest Division are scientifically marked for felling. Non-exploitation of the marked trees would effect the revenue position of the Division.

A scrutiny of the Outturn Register maintained in the Division disclosed that in 210 coupes, against the total number of 2,13,315 trees marked for felling, only 1,60,330 number of trees were felled during 1981-82 to 1989-90 leaving a balance of 52,985 trees unexploited. This indicated inadequate control over working of the coupes.

On this being pointed out in audit the Divisional Forest Officer stated (June 1990) that the trees might have been left inadvertently or due to unavoidable reasons like high/steep terrain and uneconomical for exploitation. The reply of the DFO is not tenable since these trees were due for felling according to the prescription of the working plan and were marked for felling incurring an expenditure of Rs.0.26 lakh. Non-felling of these marked trees not only adversely affected the scientific growth of forest but also revenue resources of the State.

4.12.14 *Arrears of Revenue*

As on 31st March 1990, arrears amounting to Rs.22.15 lakhs were outstanding against forest contractors towards auction sales of timber and firewood for realisation. Out of the above amount, a sum of Rs.12.70 lakhs was realised (between April 1990 to November 1990) leaving a balance of Rs.10.45 lakhs, the year-wise break-up of

which is given below:

| Year | Amount (in lakhs of rupees) |
|---------|----------------------------------|
| Upto | |
| 1977-78 | 1.64 |
| 1985-86 | 0.01 |
| 1986-87 | 0.30 |
| 1987-88 | 0.02 |
| 1988-89 | 0.88 |
| 1989-90 | <u>7.60</u> |
| | <u>10.45</u> |

Of the above arrears Rs.8.81 lakhs related to the scheme and Rs.1.64 lakhs related to period prior to the implementation of the scheme. The amount of Rs.1.64 lakhs was covered under certificate procedure. No coercive measures were taken for realisation of the arrears.

The above points were reported to the Principal Chief Conservator of Forests, Orissa and Government in July 1990 followed by reminder (February 1991); their replies have not been received (April 1991).

CHAPTER 5

LAND REVENUE

5.1 Results of audit

A test check of records relating to assessment and collection of land revenue conducted in audit during the period from April 1989 to March 1990, revealed non-assessment, under-assessment and non-realisation of revenue amounting to Rs.215.66 lakhs in 5465 cases, which may broadly be categorised as under:

| | No. of cases | Amount (in lakhs of rupees) |
|--|----------------------------|-------------------------------|
| 1) Non-collection of premium and rent etc. from lands occupied by local bodies/government undertakings/private parties and individuals | 26 | 130.09 |
| 2) Non-assessment/short assessment/delay in assessment of land revenue and cess | 1811 | 45.28 |
| 3) Non-assessment/short assessment and short collection of water rate | 35 | 19.86 |
| 4) Non-lease/irregular lease of Sairat and other miscellaneous revenue | 26 | 1.66 |
| 5) Other irregularities | <u>3567</u> <u>5465</u> | <u>18.77</u> <u>215.66</u> |

Some of the important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

5.2 Non-realisation of premium, rent etc.

According to Government orders of October 1961, May 1963 and February 1966, Government land can be leased out of local bodies, public undertakings, etc. on payment of premium fixed on the basis of market value plus annual ground rent at the rate of one per cent on the market value. In addition, cess at 50 per cent of the ground rent is also leviable as per Government orders of July 1987. Interest at the rate of six per cent per annum is chargeable on belated payment of the dues.

(i) In Krushnaprasad Tahasil (Puri District), on the basis of Government sanction advance possession of Government land, admeasuring 1426.27 acres, was given to the Orissa Maritime and Chilka Area Development Corporation Ltd. (a Government Company) during September 1981 for execution of a plantation scheme. The advance possession of the land was not however, regularised by way of lease nor had the Corporation paid the Government dues, until the date of audit (January 1990).

The amount due from the Corporation upto the end of March 1989 worked out to Rs.27.03 lakhs (premium Rs.17.74 lakhs, ground rent Rs.1.24 lakhs, cess Rs.0.27 lakh and interest Rs.7.78 lakhs).

On this being pointed out in audit (January 1990), the Department stated that action will be taken for realisation of the dues on finalisation of the lease. Report on action taken has not been received (April 1991).

The matter was reported to Government (February 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

(ii) In Berhampur Tahsil (Ganjam District), Government land measuring 1.380 acres was under unauthorised occupation of the Orissa State Electricity Board (Ac 0.450 from 1980 and Ac 0.930 from 1982) for different purposes. The land occupied had neither been regularised by way of lease (June 1990) nor were the dues amounting to Rs.11.53 lakhs (premium: Rs.6.76 lakhs, ground rent : Rs.63,063, cess: Rs.13,524 and interest on ground rent, premium and cess: Rs.4.00 lakhs) from 1980-81 to the end of March 1990, recovered by the department.

On this being pointed out in audit (July 1989) the Tahsildar replied (June 1990) that the alienation proposals were under process.

The matter was reported to Government (September 1989) followed by reminder (February 1991); their reply has not been received (April 1991).

(iii) In Pipili Tahsil (Puri District), Government land measuring 3.18 acres was under unauthorised occupation of one co-operative society from 10.4.1962 for establishment of a cold storage. The land occupied had neither been regularised by way of lease (June 1990) nor were the dues amounting to Rs.12.62 lakhs (premium: Rs.3.91 lakhs, ground rent: Rs.1.09 lakhs, cess: Rs.7,823 and interest on premium, ground rent and cess: Rs.7.54 lakhs) from 1962-63 to the end of March 1990 recovered by the department.

In another case one Panchayat Industry Co-operative Society had unauthorisedly occupied government land measuring 0.70 acres from 23.9.1964. The land so occupied had also neither been regularised by way of lease nor were the dues amounting to Rs.8.55 lakhs (Premium: Rs.2.80 lakhs, Ground Rent: Rs.72,800, Cess: Rs.5,600 and Interest on premium, ground rent and cess: Rs.4.96 lakhs) from 1964-65 to the end of March 1990 recovered.

On this being pointed out in audit (May 1989 and June 1989), the Tahsildar stated (June 1989 and June 1990) that the dues would be realised on finalisation of lease cases. Further reports have not been received (April 1991).

The matter was reported to Government (August 1989) followed by reminder (February 1991); their reply has not been received (April 1991).

5.3 Non-realisation of premium and other dues from the Orissa Cashew Development Corporation Limited

According to Government Orders issued in January 1980 in respect of Government waste land leased out in favour of the Orissa Cashew Development Corporation Limited (a Government Company) for cashew plantation on payment of premium and ground rent etc, the Corporation would execute lease deed in the prescribed form. Government in their order of March 1980 fixed the market value of waste land to be leased out to the Corporation at Rs.250 per acre (irrespective of its location) and ground rent at one *per cent* of the market value for the first five years, at seven *per cent* for the next five years and at fourteen *per cent* for the next ten years. The rate of rent beyond that period would be as per the rate applicable to land used for agriculture purposes, in consonance with the laws for the time being in force. In addition to the above dues, cess at the rate of 50 *per cent* of the ground rent is also leviable from the Corporation as per the Government order issued in July 1987. Further interest at six *per cent* is leviable on belated payment of all Government dues.

In Darpan Tahsil (Cuttack District) it was noticed (August 1989) that the Collector sanctioned lease of Government lands admeasuring 3393.90 acres between

March 1980 and June 1986, in favour of the Corporation subject to payment of premium and other dues and execution of lease deed. The Tahsildar handed over possession of the lands to the Corporation between June 1981 and June 1986, without execution of any lease agreement. The Corporation paid Rs.8.03 lakhs between March 1983 and March 1987), but defaulted in payment of Rs.5.53 lakhs (Premium : Rs.1.52 lakhs, Ground rent : Rs.1.45 lakhs, Cess : Rs.0.75 lakh and interest : Rs.1.81 lakhs) due upto the end of March 1990. The Tahsildar did not take effective steps to realise the dues in time from the Corporation.

On this being pointed out in audit (August 1989), the Tahsildar admitted the omissions and stated that (August 1989 and June 1990) the dues would be realised. Further developments in the matter had not been received (April 1991).

The matter was reported to Government (November 1989) followed by reminder (February 1991); their reply has not been received (April 1991).

5.4 Short-levy of court fee and process fee

Under the Orissa Public Demand Recovery Act, 1962 and Rules made thereunder, when any public demand payable to any person other than the Collector is due, such person may send to the Certificate Officer, a written requisition in the prescribed form. Every such requisition, except in such cases as may be prescribed, shall be chargeable by the Certificate Officer with a fee of the amount which would be payable under the Court Fees Act 7 of 1870, in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

In six Tahsils (Aska in Ganjam District, Niali and Jajpur in Cuttack District, Rayagada in Koraput District and Rampur and Tusra in Bolangir District), certificate requisitions were filed before the concerned Certificate Officers (Tahasildars) by certain Scheduled and Regional Rural Banks during the period from 1985 to 1989 for recovery of their dues in 952 cases. Against fees amounting to Rs.3.91 lakhs leviable in respect of the above, Rs.14,700 only was levied, resulting in short levy amounting to Rs.3.76 lakhs.

On this being pointed out in audit (April 1989 to December 1989), the certificate officers admitted the omission (April 1989 to December 1989). Final reply on action taken has not been received (April 1991).

The matter was reported to Government (July 1989 to March 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

5.5 Non-realisation of annual fee

Under the tree plantation schemes forming part of the scheme of 'Economic Rehabilitation of Rural Poor' trees raised under the scheme are transferred to the beneficiaries when they start bearing fruits. Government in their orders of July 1981 directed that after the land is developed and made productive, the Tahasildar would settle the same with the beneficiary, confer Dafayati right* and levy annual fee of Re.1 per tree from each beneficiary.

In Nimapara Tahsil, 15,600 coconut trees planted during 1980-81 on canal embankments which started bearing fruits during 1986-87, were transferred to 783 beneficiaries

* Dafayati right means "Unusufructuary right"

during the period from November 1981 to May 1982 on conferment of Dafayati right, but the annual fee of Re.1 per tree which was leviable was not levied, the amount so recoverable being Rs.46.980 for the years from 1986-87 to 1988-89.

On this being pointed out in audit (December 1989) the Department stated that suitable action will be initiated. Further report has not been received (April 1991).

The matter was reported to Government (February 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

5.6 Compulsory Basic Water Rate in respect of command area of Minor Irrigation Projects

5.6.1 Introduction

According to the norms laid down by the Planning Commission and accepted by the Government of Orissa in their Planning and Co-ordination Department Resolution dated 22nd November, 1978 a minor irrigation project means an irrigation project with a culturable commanded area not exceeding 2000 hectares (i.e. 4940 acres). In Orissa, the minor irrigation projects have been divided into two categories for the purpose of construction and maintenance:

- i) Projects having more than 60 acres ayacut (irrigable area);
- ii) Projects having not more than 60 acres ayacut.

The former category of projects are constructed and maintained by the Minor Irrigation Divisions headed by the Chief Engineer under the Irrigation and Power (I&P) Department of the Government whereas the latter projects are constructed and maintained by the Block

Development Officers in the Panchayat Samities under the Community Development and Rural Reconstruction (CD&RR) Department of the Government. The Executive Engineer in charge of a project or such other superior officer as the Chief Engineer may decide in any specific case is responsible for certification of the projects having more than 60 acres ayacut, in terms of Rules of procedure for certification of ayacut as laid down in Revenue Department order dated 18.3.1966. Similarly, according to Community Development and Rural Reconstruction Department order dated 30.8.1978 the Block Development Officer in charge of the Projects and the local Tahsildar are jointly responsible for certification of ayacut of the projects having not more than 60 acres ayacut. However, the Tahsildar as Irrigation Officer is responsible for assessment and collection of compulsory Basic Water rate in both the cases.

The Irrigation Projects are divided into Major, Medium and Minor projects depending upon the culturable commanded area of the projects under the Orissa Irrigation Act, 1959 and the Rules made thereunder. All Irrigation Works (Projects) are also divided into four class I, II, III and IV depending upon the guaranteed depth and period of water supply and this classification is the basis for assessment of compulsory basic water rate.

5.6.2 *Organisational set up*

Under the Orissa Irrigation Act, 1959, and the Orissa Irrigation Rules, 1961, the Tahsildars and Additional Tahsildars of the Revenue Department have been declared Irrigation Officers in respect of provisions relating to assessment, levy and collection of compulsory basic water rate as well as the penal provisions in respect of the Irrigation Works situated within their respective jurisdiction. The Tahsildars work under the supervision of the Collectors

of the districts, Revenue Divisional Commissioners of the Divisions and Board of Revenue of the State under the administrative control of the Revenue and Excise Department of the Government.

5.6.3 *Procedure of assessment*

The assessment, levy and collection of compulsory basic water rate are regulated by the provisions of the Orissa Irrigation Act, 1959 and the Orissa Irrigation Rules, 1961 and the executive instructions issued thereunder from time to time. The Irrigation Act, 1959 came into force in 1961 (7 districts) and in 1963 (6 districts). The uniform compulsory Basic Water rate was introduced throughout the State from the date of enforcement of the Act (1961). By an amendment to the Irrigation Act, in 1968, the Compulsory Basic Water Rate was abolished from 1st April 1968. By a subsequent amendment in 1974 the Compulsory Basic Water Rate was reimposed from 1st April 1975. Thus, during the period from 1968-69 to 1974-75 there was no Compulsory Basic Water Rate in the State.

The rules of procedure framed by the Government require the Engineering Authorities or the Block Development Officers, as the case may be, in charge of a project to furnish detailed particulars of ayacut to the concerned Tahsildars immediately after the project is ready for supply of water (partly or fully). This detailed ayacut report with prescribed particulars authenticated by the reporting authority is called the certified ayacut report of the project. On receipt of the certified ayacut reports, the Tahsildar, as Irrigation Officer proceeds to classify the irrigation works and to make assessment according to the procedure laid down in the Act and Rules and the executive instructions issued by the Government and the Board of Revenue from time to time. After finalisation of the assessment, demands are incorporated in the accounts

of the Tahsil. The departmental manual (Manual of Tahsil Accounts) prescribes the procedure and form in which the accounts of the demand, collection and balances of compulsory basic water rate are to be kept. Although the Irrigation Act or Rules do not place any restriction on retrospective assessment of compulsory basic water rate, the Government orders issued in August, 1966 prohibit such retrospective assessment in respect of minor irrigation projects. Thus, in case of delay in finalisation of assessment no arrears of compulsory basic water rate in respect of minor irrigation projects can be demanded for an earlier period.

5.6.4 Structure of compulsory basic water rate

According to the Irrigation Act "Compulsory Basic Water Rate" is a flat water rate per acre of land within the culturable commanded area of an irrigation work for supply of water, whether used or not for an irrigation work for irrigation of staple cereal crop (Khariff paddy harvested between October and January being declared the staple cereal crop for the whole of the State). The rates of compulsory basic water rates from 1981-82 onwards fixed by the Government are as follows:

| Class of irrigation works | Rates | |
|---------------------------|-----------------|------------------|
| | Upto 1981-82 | After 1981-82 |
| I | 8 | 16 |
| II | 6 | 12 |
| III | 4 | 8 |
| IV | 2 | 4 |

5.6.5 Scope of audit

A review of the records in the office of the Chief Engineer, Minor Irrigation, Board of Revenue, 4 Minor irrigation divisions (out of 14 divisions) 4 Collectorate (out of 13 Collectorate) and 20 Tahsils (out of 147 Tahsils) was conducted during March 1989 to June 1989 and May 1990 and June 1990 with a view to verifying whether compulsory basic water rate due to government from these sources was properly assessed and realised.

5.6.6 Extent of irrigated area in State covered by minor irrigation projects

The position of total number of minor irrigation projects (constructed and maintained by Minor Irrigation Organisation) in the State with designed ayacut and certified ayacut upto the end of March 1989 were as follows:

| Condition of the project | No. of projects | Designed ayacut (in acres) | Certified ayacut |
|----------------------------------|--------------------|---------------------------------|--------------------------|
| (a) Completed projects | 2434 | 8,03,024 | 7,43,279 |
| (b) Partly derelict projects | 750 | 1,56,316 | 99,542 |
| (c) Ongoing projects | <u>61</u> 3245 | <u>89,232</u> 10,48,572 | <u>7,524</u> 8,50,345 |
| (d) Completely derelict projects | <u>1360</u> | <u>1,62,590</u> | <u>1,158</u> |
| Total | <u>4605</u> | <u>12,11,162</u> | <u>8,51,503</u> |

Details of the amount of capital outlay invested on these projects was not made available by the Chief Engineer, Minor Irrigation Projects. Similarly, the extent of revenue realised on account of water rates from the minor irrigation projects exclusively was not made available by the Board of Revenue, as the same is not compiled separately by them.

The information in respect of projects having not more than 60 acres of ayacut was not available either in the Board of Revenue or in the Community Development and Rural Reconstruction Department of Government. Consequently, complete and comprehensive information in respect of the total irrigable/certified area under all minor irrigation projects, their capital cost and the revenue earned by the State could not be synthesized. The system of data collection and analysis in the Department would obviously need to be streamlined.

5.6.7 *Highlights*

- (i) Short accountal of certified ayacuts by the Tahsildars resulted in loss of revenue of Rs.1.43 lakhs for the period between 1975-76 and 1989-90.
- (ii) Non-assessment of certified ayacuts resulted in loss of revenue of Rs.3.50 lakhs for the periods between 1982-83 and 1989-90.
- (iii) Deletion of details of minor irrigation projects from Tahsil records resulted in loss of revenue of Rs.3.79 lakhs from 1975-76 to 1989-90.
- (iv) Misclassification of projects resulted in loss of revenue of Rs.4.16 lakhs from 1975-76 to 1989-90.
- (v) Non-assessment of projects having ayacut upto 60 acres resulted in probable loss of revenue of Rs.1.95 lakhs per annum.

5.6.8 Short accountal of certified ayacuts

On scrutiny of the records of the Chief Engineer, Minor Irrigation and the Board of Revenue, it was noticed (July 1990) that there was discrepancy of 30,883 acres between the total ayacut area certified by the Engineering Authorities and the total ayacut are accounted for by the Revenue authorities as shown below:

| Chief Engineer figures | Board of Revenue figures | Difference |
|---------------------------|-----------------------------|------------|
| (| in acres |) |
| 8,51,503 | 8,20,620 | 30,883 |

The Board of Revenue collects the figures from the Tahsildars through the District Collectors while the Chief Engineer collects the figures from the minor irrigation divisions direct. As the certified ayacut report originates from the irrigation divisions and the Tahsildars obtain figures from them (divisions), normally, there should be no difference between the figures of certified ayacut shown by the Board of Revenue and those shown by the Chief Engineer. The Board of Revenue could not furnish (July 1990) any reason for the discrepancy but agreed to reconcile the same.

Test check of records of 4 divisions and 7 Tahsils revealed that in respect of one division (Khurda Minor Irrigation Division in Puri district) and 2 corresponding Tahsils (Nayagarh and Ranpur) although the division reported to these two Tahsils between 1966-67 and 1988-89 certified ayacuts to the extent of 16,524.00 acres in respect of 11 minor irrigation project the Tahsildars accounted for only 14,0346 acres, leaving 2488 acres unaccounted for. No specific reason could be furnished by the Tahsildars for

the short accountal. Treating the entire differential area as assessable area and taking into consideration the class of irrigation works and first year of water supply (as the year in which the certified ayacut report was sent by the division) the revenue involved worked out to the tune of Rs.1.43 lakhs between 1975-76 (the year of reimposition of compulsory basic water rate) and 1989 as shown below:

[Statement

| Sl. No. | Name of Tahsil | Name of Project | Area certified by the Minor Irrigation Division (Acre) | Area taken into account by the Tahsil-dar (Acre) |
|---------|----------------|--|---|---|
| 1. | Nayagarh | (i) Baghua | 2608.32 | 1711.35 |
| | | (ii) Mahusbandna | 167.96 | - |
| | | (iii) Dianpada | 498.94 | 101.85 |
| | | (iv) Gamei | 301.34 | - |
| | | (v) Ostapada | 71.63 | - |
| | | (vi) Abhaypur | 81.51 | - |
| | | (vii) Kirialanji, Rankadeuli and weir at Odagaon | 348.27 | - |
| | | (viii) Paradhipi | 64.22 | - |
| 2. | Ranpur | (i) Andharikota (Champatipur) | 266.76 | 123.86 |
| | | (ii) Dantakhatia (Chandpur) | 239.59 | 236.14 |
| | | (iii) Upendrapur (Baghamara) | 103.74 | 90.92 |
| Total | | | <u>4752.28</u> | <u>2264.12</u> |
| Or say | | | 4752 | 2264 |

| Difference in certified area | Class of project | Treating the year of certification as the fifth year of water supply | Period of assessment | Extent of difference in certified area (Acre) | Loss of revenue (Rupees) |
|------------------------------|------------------|--|--------------------------|---|----------------------------|
| 896.97 | II | 1985-86 | 1985-86 to 1989-90 | 896.97 | 34981.83 |
| 167.96 | III | 1967-68 | 1975-76 | 565.05 | 54244.80 |
| 397.09 | III | 1966-67 | to 1989-90 | | |
| 301.34 | IV | 1966-67 | 1975-76 to 1989-90 | 802.75 | 38532.00 |
| 71.63 | IV | 1966-67 | | | |
| 81.51 | IV | 1966-67 | | | |
| 348.27 | IV | 1966-67 | 1988-89 to 1989-90 | 64.22 | 128.44 |
| 64.22 | IV | 1988-89 | | | |
| 142.90 | III | 1966-67 | 1975-76 | 146.35 | 14049.60 |
| 3.45 | III | 1969-70 | to 1989-90 | | |
| 12.82 | III | 1976-77 | 1976-77 to 1989-90 | 12.82 | 1089.70 |
| <u>2488.16</u> | | | | <u>2488.16</u> | <u>143026.37</u> |
| 2488 | | | | 2488 | 143026 |

The loss cannot be made good as retrospective assessment is not permissible in case of minor irrigation projects.

On this being pointed out by audit (May 1990) both the Tahsildars stated that the matter would be examined and final compliance furnished. As retrospective assessment is not possible in these matters, immediate action should be taken to reconcile the figures so that recurrence of loss in future years can at least be avoided.

5.6.9 *Non-assessment of certified ayacuts*

On receipt of the certified ayacut reports from the irrigation divisions the Tahsildar, as Irrigation Officer, is required to proceed to make assessment of Compulsory Basic Water Rate in accordance with the procedure laid down in the Irrigation Act and Rules and the executive instructions issued thereunder.

Test check of records (May and June 1990) of four Tahsils (Nayagarh and Khandapara in Puri district, Kuchinda in Sambalpur district and Dhenkanal in Dhenkanal district) revealed that the certified ayacut to the extent of 6458 acres, certified between 1982-83 and 1988-89 in respect of 17 minor irrigation projects were not assessed to compulsory basic water rate till the end of 1989-90 although, the Tahsil records clearly indicated that the

area was fit for assessment. Taking the class of irrigation work and the first year of water supply into consideration, the loss of revenue amounted to Rs.3.50 lakhs for the period from 1982-83 to 1989-90 as shown below:

[Statement

| Sl. No. | Name of Tahsil | No. of projects | Total certified area (in acres) | Area remaining unassessed |
|---------------|----------------|-----------------|--------------------------------------|----------------------------|
| 1. | Nayagarh | 1 | 364.38 | 354.97 |
| 2. | Khandapara | 1 | 561.73 | 561.73 |
| 3. | Kuchinda | 3 5 1 | 15497.31 | 3375.22 949.42 56.95 |
| 4. | Dhenkanal | 1 4 1 | 1159.70 | 86.39 873.86 199.45 |
| Total | | 17 | 17583.12 | 6457.99 |
| Or Say | | | 17583 | 6458 |

| Class of project | First year of water supply | Period of assessment | Amount of CBWR assessable (Rupees) |
|------------------|----------------------------|----------------------|--------------------------------------|
| III | 1986-87 | 1986-87 to 1989-90 | 6,389.46 |
| III | 1984-85 | 1984-85 to 1989-90 | 19,098.82 |
| II | 1982-83 | 1982-83 to 1989-90 | 2,53,141.50 |
| III | 1985-86 | 1985-86 to 1989-90 | 24,684.92 |
| III | 1988-89 | 1988-89 to 1989-90 | 227.80 |
| III | 1982-83 | 1982-83 to 1989-90 | 4,319.50 |
| III | 1983-84 | 1983-84 to 1989-90 | 36,702.12 |
| III | 1984-85 | 1984-85 to 1989-90 | 5,681.74 |
| | | | <u>3,50,245.86</u> |
| | | | 3,50,246 |

On this being pointed out by audit (May and June 1990) three Tahsildars (Nayagarh, Khandapada, Kuchinda) stated that the assessment was in progress, whereas, the Tahsildar, Dhenkanal replied that the assessment was held up for want of certain information (viz. Land Schedules (3 projects) and due to incomplete canal system (3 projects) from the Dhenkanal minor irrigation division.

5.6.10 Deletion of Minor Irrigation Projects from Tahsil records

Scrutiny of the records of Sambalpur Minor Irrigation Division conducted (June, 1990) revealed that there were 24 minor irrigation projects in the Sambalpur Tahsil having an ayacut area of 6887.12 acres certified during the period from January 1964 to May 1987. Against this, the Tahsildar, Sambalpur had shown 8814.29 acres as certified ayacut and assessed area of 3573 acres (out of 8814.29 acres) in his monthly returns upto February 1990. The basis on which these figures were adopted by the Tahsildar in the monthly progress reports could neither be stated by the Tahsildar, nor could be verified by audit, as the original records (Certification Reports, Project Register and case records) were not made available to audit, as these registers were stated to have been not traceable in the Tahsil. In the monthly returns for March 1990 and in subsequent monthly returns these areas were deleted, on the ground that no minor irrigation projects are existing in his Tahsil. Although this fact was intimated by the Tahsildar (May 1990) to the Collector, Sambalpur, the Collector continued to reflect the figures prevailing prior to March 1990 in his returns to the Board of Revenue, Orissa.

Due to the irregular deletion of projects by the Tahsildar, 6867.12 acres of certified ayacut had escaped assessment of compulsory basic water rate involving revenue of Rs.3.78 lakhs for the period from 1975-76 to 1989-90 as shown below:

[Statement

| Sl. No. | Class of projects | No. of projects | First year of water supply | Certified area | Area remaining unassessed | Period of assessment | Amount of CBWR assessable |
|--------------|-------------------|-----------------|----------------------------|-----------------|---------------------------|----------------------|---------------------------|
| | | | | (Acre) | | | |
| | | | | | | | Rs. |
| 1. | I | 1 | 1986-87 | 182.42 | 182.42 | 1986-87 to 1989-90 | 6,567.12 |
| 2. | II | 1 | 1963-64 | 85.17 | 85.17 | 1975-76 to 1989-90 | 12,264.48 |
| 3. | II | 8 | 1983-84 | 4,019.90 | 4,019.90 | 1983-84 to 1989-90 | 2,53,253.70 |
| 4. | II | 1 | 1988-89 | 88.58 | 88.58 | 1988-89 to 1989-90 | 531.48 |
| 5. | III | 2 | 1964-65 | 351.75 | 351.75 | 1975-76 to 1989-90 | 33,768.00 |
| 6. | III | 1 | 1977-78 | 146.39 | 146.39 | 1977-78 to 1989-90 | 11,857.59 |
| 7. | III | 3 | 1983-84 | 473.90 | 473.90 | 1983-84 to 1989-90 | 19,903.80 |
| 8. | III | 5 | 1984-85 | 1,011.52 | 1,011.52 | 1984-85 to 1989-90 | 34,391.68 |
| 9. | III | 2 | 1987-88 | 507.49 | 507.49 | 1987-88 to 1989-90 | 5,074.90 |
| Total | | 24 | | 6,867.12 | 6,867.12 | | 3,77,612.75 |

5.6.11 *Misclassification of irrigation works*

Test check of records (May 1990) Khandapara and Ranpur Tahsils (Puri district) revealed that according to the data and particulars furnished by the Engineering Authorities in the certified ayacut reports of 3 projects in Khandapara Tahsil and 2 projects in Ranpur Tahsil, these projects qualified for classification as class II irrigation works. But at the time of assessment of compulsory basic water rate the Tahsildar, Khandapara classified the 3 projects as class IV irrigation works and the Tahsildar, Ranpur classified the two projects as class III irrigation works without assigning any reason and applied the rates accordingly. The former 3 projects covered 3983.56 acres of assessed area, and the latter 2 projects covered assessed area of 1088.94 acres. The first year of water supply in all these cases was between 1965-66 and 1985-86 as shown below. As a result of the misclassification done by the Tahsildars, lower rates were applied, resulting in underassessment of compulsory basic water rate amounting to rs.4.16 lakhs for the period from 1975-76 (year of reimposition of compulsory basic water rate) to 1989-90 as shown below:

[Statement

| Name of Tahsil | Name of Minor Irrigation Project | Area certified by Engineering Department | Area finally assessed to Compulsory Basic Water Rate | First year of assessment | Period of assessment | Amount of CBWR assessable treating the projects as Class II | Amount of CBWR assessed treating the projects as Class III/IV | Difference (Loss of revenue) |
|----------------|----------------------------------|--|--|--------------------------|----------------------|---|---|------------------------------|
|----------------|----------------------------------|--|--|--------------------------|----------------------|---|---|------------------------------|

| (1) | (2) | (3) (A c r e) | (4) | (5) | (6) | (7) (R u p e e s) | (8) | (9) |
|-----|-----|-----------------|-----|-----|-----|---------------------|-----|-----|
|-----|-----|-----------------|-----|-----|-----|---------------------|-----|-----|

| | | | | | | | | |
|------------|----------------------------------|-----------------|------------------------|---------|--------------------------|--------------------|---------------------------|--------------------|
| Khandapara | a) Sunamunhi | 2,461.21 | 1,602.17 $\frac{1}{2}$ | 1971-72 | 1975-76 to 1979-80 | 5,52,336.22 | 1,83,243.76 (Class IV) | 3,69,092.46 |
| | b) Modanalla (Reservoir) | 2,400.33 | 2,028.23 | 1975-76 | 1975-76 to 1989-90 | | | |
| | c) Modanalla (Diversion weir) | 613.31 | 353.15 $\frac{1}{2}$ | 1967-68 | 1975-76 to 1989-90 | | | |
| Ranapur | a) Baunshagarh | 1,250.00 | 947.80 | 1965-66 | 1975-76 to 1989-90 | 1,36,483.20 | 90,988.80 (Class III) | 45,494.40 |
| | b) Baunshagarh (additional area) | 194.73 | 141.14 | 1965-66 | 1975-76 to 1989-90 | 5,504.46 | 3,669.64 (Class III) | 1,834.82 |
| | | <u>6,929.58</u> | <u>5,072.50</u> | | | <u>6,94,323.88</u> | <u>2,77,902.20</u> | <u>4,16,421.68</u> |

Bifurcation of unassessed area: Khandapara - 3983.56 acres
Ranapur - 1088.94 acres
Total = 5072.50 acres

On this being pointed out by audit (May 1990) the Tahsildar, Khandapara stated that steps would be taken to realise the amount at the appropriate rate (class II rate), whereas, the Tahsildar, Ranpur agreed to examine the matter. But as no retrospective assessment is permissible in the case of minor irrigation projects and in the absence of specific provision regarding reassessment in the Orissa Irrigation Act, 1959 and the rules made thereunder the under-assessed amount in both the cases cannot be realised.

5.6.12 *Minor irrigation projects upto 60 acres ayacut*

Complete information regarding the minor irrigation projects having ayacut upto 60 acres is not available in the Board of Revenue, although, the Board issued instructions to the Collectors in February 1981, March 1983 and July 1985 to furnish quarterly returns in this regard. However, scrutiny of records in the Collectorates revealed that the information partly collected from some of the Blocks (Panchayat Samities) by the Collectors indicated the presence of 2353 projects with 48,794.94 acres of ayacut in the following districts:

| Name of the district | No. of projects | Extent of ayacut (in acres.) |
|----------------------|--------------------|-----------------------------------|
| Puri | 115 | 1729.28 |
| Keonjhar | 331 | 7860.88 |
| Dhenkanal | 337 | 9928.34 |
| Cuttack | 168 | 4278.00 |
| Sundargarh | 201 | 1739.32 |
| Mayurbhanj | 289 | 3391.80 |
| Sambalpur | <u>912</u> | <u>19867.32</u> |
| Total | <u>2353</u> | <u>48794.94</u> |

According to the Community Development and Rural Reconstruction (CD&RR) Department order dated 30th August, 1978 the power of certification of the ayacuts of these projects have been delegated to the Block Development Officers and local Tahsildars jointly. As the ayacuts were not certified according to the rules of procedure laid down by the Government, the assessment of compulsory basic water rate by the Tahsildars in respect of these projects were not done.

Assuming all the irrigation projects as class IV irrigation works and applying the minimum rate of Rs.4.00 per acre annual loss of revenue amounted to Rs.1.95 lakhs (48,794.94 acres x Rs.4). The exact loss could not be arrived at in the absence of 1st year of supply of water which is required to be indicated in the certification reports.

The above points were reported to Government in July 1990 followed by reminder (February 1991); their replies have not been received (April 1991).

CHAPTER 6

STATE EXCISE

6.1 Results of Audit

A test check of the accounts of receipts in the Offices of the Excise Commissioner and Superintendents of Excise, conducted during the period from April 1989 to March 1990, revealed non-realisation, short realisation, breakage and other losses of revenue amounting to Rs.66.92 lakhs in 57 cases which may broadly be categorised as under:

| | No. of cases | Amount (in lakhs of rupees) |
|--|--------------|-------------------------------|
| 1) Short-realisation/non-realisation of duty | 12 | 25.03 |
| 2) Loss of revenue due to destruction of beer/wastage of spirit in excess of the permissible limit | 7 | 9.17 |
| 3) Non-realisation of duty on transit breakage | 6 | 1.90 |
| 4) Loss of revenue due to delay in granting/issue of licences | 15 | 14.62 |
| 5) Other irregularities | <u>17</u> | <u>16.20</u> |
| | <u>57</u> | <u>66.92</u> |

Some of the important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

6.2 Loss of excise duty on allowance of excess wastage in manufacture of beer

Under the Board's Excise Rules, 1965 an allowance of 10 per cent of the monthly total charges shall be made on account of wastage which shall not be subjected to duty. In the process of manufacture of beer, the difference between 'wort' produced and beer bottled is considered as wastage.

In course of audit of accounts of the office of the Superintendent of Excise, Cuttack it was noticed in the case of a distillery-cum-brewery, (July 1989) that out of 63,10,000 bulk litres of 'wort' produced by the brewery during the year 1988-89, an allowance of 6,31,000 bulk litres was shown towards wastage (being 10 per cent of wort produced) leaving 56,79,000 bulk litres of wort available for manufacture of beer to be bottled. The brewery had however bottled 55,66,020.2 bulk litres of beer only during the year. Thus, a shortage of 1,12,979.8 bulk litres of beer (over and above the permissible limit) was noticed by the department. On an enquiry by the Superintendent of Excise in March, 1989, about the excess of shortage, the licensee stated that the wort produced on any particular day would ultimately be converted to beer for bottling after 20 to 25 days and hence the difference, which was not pursued further (July 1989). On scrutiny by audit, it was noticed that the licensee did not maintain separate accounts for each brewing, indicating the quantity of wort produced, beer bottled and the wastage occurred during the above period. Even after taking into consideration the period of 20 days required to convert wort into beer the total quantity of 56,06,107.60 bulk litres of beer was only bottled during the period from 21.4.88 to 20.4.89, out of 56,79,000 bulk litres of wort available (after allowing the admissible wastage) for conversion of beer to be bottled left a difference of 72,892.40 bulk litres on which duty is leviable. The excess shortage resulted in loss of excise duty amounting Rs.3.64 lakhs.

On this being point out in audit (July 1989) the Superintendent of Excise, Cuttack stated (July 1989) that the officer-in-charge of the brewery would be asked to review the matter for taking further action. Further report has not been received (April 1991).

The matter was reported to the Excise Commissioner, Orissa/Government in September 1989 followed by reminder (February 1991); their reply has not been received (April 1991).

6.3 Loss of revenue due to irregular closure of country spirit shop

Under the Bihar and Orissa Excise Act, 1915 and Rules made thereunder, the State Government is competent to grant exclusive privilege for such period as it may think fit to any person for selling country spirit and the authority competent to grant the licence can only cancel, or suspend such licence. In case of cancellation of the exclusive privilege, the same is put to re-auction for the unexpired period of the grant at the loss and risk of the outgoing exclusive privilege holder. Further under Rule 45 *ibid*, the licence for the retail sale of any intoxicants shall not ordinarily be granted to a former licensee who had violated the terms and conditions of his licence on an earlier occasion.

It was noticed in audit (December 1989) that a country spirit shop at 'G' in the district of Ganjam was settled in favour of the highest bidder 'D' for the year 1988-89 on grant of exclusive privilege by the State Government for a monthly consideration of Rs.13,400. Consequent upon seizure of admixed illicit distilled liquor from the exclusive privilege holder (28.9.88) which amounts to breach of privilege of the licence, the Collector, Ganjam ordered (11.10.88) for closure of the country spirit shop.

The Collector moved government (12.10.88) for cancellation of the exclusive privilege of 'D' and for re-auction of the shop at the loss and risk of the outgoing exclusive privilege holder for the remaining period of licence (11.10.88 to 31.3.89). But Government orders for cancellation of the exclusive privilege and re-auction of the shop were not received till end of the year 1988-89. This resulted in closure of the shop for over 5 months and revenue in the shape of monthly consideration amounting to Rs.76,077 was lost to Government. It was further noticed that despite breach of conditions of the Licence, the exclusive privilege was granted in favour of 'D' in respect of the same shop at 'G' for the year 1989-90 violating Rule 45 *ibid*.

On this being pointed in audit (December 1989) the Superintendent of Excise, Ganjam stated (December 1989) that due to non-receipt of Government order, the shop remained closed for the remaining period of the year and due to lack of orders from the competent authority in approving the action taken by the Collector, the provisions of Rule 45 could not be invoked.

The matter was reported to Government/Inspector General of Registration-cum-Excise Commissioner, Orissa (March 1990 followed by reminder (February 1991); their replies have not been received (April 1991).

6.4 Irregular allowance of wastage

Under Rule 79 of the Board's Excise Rules 1965 an allowance upto one *per cent* is made for wastage in a country spirit warehouse calculated on the number of proof litres of the quantity of spirit stored therein. In addition, under Rule 32(1) *ibid* an allowance at varied rates depending on the period of transit in respect of warehouses located outside a distillery is also admissible for the loss in transit by leakage or evaporation of spirit which is transported or exported in metal vessels only, under bond, by land. Rule 30(2) stipulated that the rules relating to warehouse for country spirit outside the distillery shall also

apply to all operation in a warehouse in or attached to the distillery so far as they are relevant.

In Aska country spirit warehouse (Ganjam District) attached to the Aska Co-operative Sugar Factory Limited, it was noticed (December 1989) that during the period from April 1988 to March 1989, total quantity of 3,71,048.8 proof litres of rectified spirit was obtained from the distillery, stored and reduced to country spirit in respect of four vats. Wastage of 11,255 proof litres was recorded by the excise officer in charge of the distillery for the aforesaid period against permissible wastage of 3710.49 proof litres, leading to excess wastage of 7544.51 proof litres involving excise duty of Rs.90,534 calculated at the rate of Rs.12 per proof litre. The Superintendent of Excise, Ganjam at the end of the year 1988-89 arrived at the total wastage of 13,862.40 proof litres and allowed wastage of 11780.40 proof litres at the rate of 1.5 per cent of the total issue of 7,85,360 LPL of country spirit and adjusted Rs.24,984 from the Personal Ledger account of the warehouse on excess wastage of 2082.00 proof litres. Irregular determination of 1.5 per cent wastage on the total issue of spirit instead of the allowable wastage of 1 per cent on spirit stored in the warehouse resulted in loss of excise revenue amounting to Rs.65,550.

On this being pointed out in audit (December 1989) the Superintendent of Excise, Ganjam stated (December 1989) that over the prescribed wastage of one per cent, transit wastage of 0.5 per cent for transportation of spirit is also permissible under Rule 32(1) of the Board's Excise Rules 1965 as the Rules in Chapter VI relating to warehouse of country spirit outside distillery shall apply to all operations in a warehouse in or attached to the distillery so far as they are relevant. The contention of the Superintendent of Excise is not tenable in view of the fact that the warehouse and distillery are located in the same building and no transportation in metal vessels by land (road) is involved in this case. As such, allowance of 0.5 per cent transit wastage was not admissible.

The matter was reported to Government/Inspector General of Registration-cum-Excise Commissioner, Orissa (March 1990). The Inspector General of Registration-cum-Excise Commissioner while accepting the objection intimated (November 1990) that the Superintendent of Excise, Ganjam had already been asked (July 1990) to realise Rs.0.66 lakh from the warehouse licensee. Report on realisation has not been received (April 1991).

6.5 Non-realisation of cost of establishment from the foreign liquor bonded warehouse licensees and manufactories

As per the Board's Excise Rules, 1965, framed under the Bihar and Orissa Excise Act, 1915 licensees of bonded foreign liquor warehouses including the warehouses of foreign liquor manufactories are to pay to the Government (at the end of each month) fees for the deployment of excise staff engaged on supervision of the operations carried on in such warehouses. The Excise Commissioner, Orissa in his letter dated 21.2.84 addressed to all Collectors, clarified that such fees are also required to be recovered from the licensees of the warehouses where whole time Excise Officers are not posted and the work is managed by the excise staff either as an additional duty or as a part time duty. The amount of fees payable, which shall not exceed the cost of the excise staff employed for the purpose, are to be determined in accordance with the order of the Excise Commissioner, Orissa, referred to above.

During the course of audit in the Office of the Superintendent of Excise, Puri and Koraput it was noticed (June 1989 and March 1990) that during the year 1988-89, one Inspector, one Sub-Inspector and one Constable were employed on a part time basis and two Constables were employed for full time for supervision of operations in one warehouse of a foreign liquor manufactory in the

district of Puri. Similarly one Inspector on part time basis and four constables for full time were employed during the years 1986-87 to 1988-89 in another factory in the district of Koraput for the same purpose. In both these cases, no fees towards cost of establishment, were demanded and realised by the concerned Superintendent of Excise. This resulted in non-realisation of fees amounting to Rs.1.11 lakhs relating to the period from May 1986 to March 1989.

On the omissions being pointed out in audit (June 1989 and March 1990), the Superintendent of Excise, Puri, stated (September 1990) that the fees of Rs.24,056 were realised in full from the licensee during January 1990. The Superintendent of Excise, Koraput stated (March 1990) that necessary action to realise the fees from the licensee would be taken on receipt of clear instructions and clarifications from the Excise Commissioner, Orissa.

The matter was reported to Government (September 1989 and May 1990) followed by reminder (February 1991); their reply has not been received (April 1991).

6.6 Non-levy of excise duty on transportation loss of India made foreign liquor/beer

The Bihar and Orissa Excise Act, 1915 and the Board's Excise Rules, 1965 framed by the Board of Revenue, Orissa, do not provide for any loss sustained during transportation of India made foreign liquor (IMFL) or beer at the time of import of the same from outside the State or from one bonded warehouse to another within the State. The Excise Commissioner, Orissa has also issued instructions (June 1988) to all the Superintendents of Excise to realise the duty on transportation losses except in case where the licensees had obtained stay orders from the Hon'ble High Court of Orissa.

In Puri district, 3 licensees of IMFL bonded warehouses claimed losses of 290.130 London proof litres of IMFL and 2034.600 bulk litres of beer sustained during transportation in the year 1989-90 and the same were allowed by the Superintendent of Excise, though the licensees had not obtained any stay orders from the Hon'ble High Court of Orissa. The excise duty involved in respect of these losses amounted to Rs.34,838.

On this being pointed out in audit (June 1989), the Superintendent of Excise, Puri stated (June 1989) that demand would be raised. Further report has not been received (April 1991).

The matter was reported to the Excise Commissioner/Government (September 1989) followed by reminder (February 1991); their reply has not been received (April 1991).

6.7 Non-realisation of export pass fee on Mohua flower

Under the Board's Excise (Fixation of fees on Mohua flower) Rules, 1976 export pass for export of Mohua flower outside the State can be issued on realisation of prescribed fee of Rs.5 per quintal. The Board of Revenue, Orissa by a notification (February 1984) enhanced the rate of export pass fee to Rs.25 per quintal of Mohua flower effective from 1.4.1982.

In the District Excise Office, Bolangir it was noticed in audit (January 1990) that consequent upon enhancement of export pass fee, the Mohua flower dealers filed writ petitions during 1983-84 in the Honourable High Court of Orissa and the High Court in an interim stay ordered for levy of export fee at the rate of Rs.10 per quintal pending finalisation of the cases. The writ petitions

were dismissed on 11.9.84. Consequently, the Superintendent of Excise directed (4.3.85) the dealers to pay the differential fee of Rs.15 per quintal of Mohua flower within 10 days. Despite this, seven dealers from whom differential fees amounting to Rs.8.21 lakhs was due for the period from March 1984 to September 1984 paid only Rs.0.89 lakh upto the end of December 1989 and defaulted in payment of the balance amount of Rs.7.32 lakhs. The Superintendent of Excise had neither included the fee payable in his arrear demand nor had taken effective steps to realise the dues by instituting certificate proceedings.

On this being pointed out in audit (January 1990), the Excise Superintendent stated (January 1990) that steps were being taken to institute certificate proceedings against the defaulters. It was further reported (August 1990) that the amount had been taken to demand and property statement had been called for from the Tahasildars for institution of certificate cases.

The matter was reported to the Excise Commissioner and to Government in March 1990.

CHAPTER 7

MINING RECEIPTS

7.1 Results of Audit

A test check of mining receipts in the offices of Mining Officers, conducted during the period from April 1989 to March 1990, revealed non-levy or short levy of dead rent, cess, surface rent and interest and other losses of revenue amounting to Rs.342.82 lakhs in 67 cases, which may broadly be categorised as under:

| | No. of cases | Amount (in lakhs of rupees) |
|---|------------------------|-------------------------------|
| 1) Non-levy/short levy of royalty, cess, surface rent and dead rent | 11 | 5.15 |
| 2) Non-recovery/short recovery of interest | 29 | 6.39 |
| 3) Non-realisation/under-assessment of dead rent, cess, royalty and interest | 6 | 5.97 |
| 4) Non-realisation of cost of ores in respect of mines worked without valid lease | 8 | 318.84 |
| 5) Other irregularities | <u>13</u> <u>67</u> | <u>6.47</u> <u>342.82</u> |

Some of the important cases noticed during 1989-90 and earlier years are mentioned in the succeeding paragraphs.

7.2 Non-assessment of royalty on mineral found short

Under the Mines and Minerals (Regulation and Development) Act, 1957 and the Mineral Concession Rules, 1960, the holder of a Mining lease is to pay royalty on any mineral removed or consumed from the leased area. No deduction in the quantity removed is permissible for any subsequent loss or wastage.

In Berhampur Circle (District Ganjam) a lessee (a Government Undertaking) claimed shortage of 11,003.253 MT of minerals in the monthly return for March 1988 which was incorrectly allowed by the department. Since the Act does not provide for any relief on account of shortage, royalty was payable on the entire quantity mined by the lessee. The irregular allowance resulted in a loss of revenue amounting to Rs.1.40 lakhs.

On this being pointed out in audit (March 1989), the Mining Officer stated (March 1989) that the shortage was due to reprocessing of poor quality of minerals. It was, however stated that the demand on the shortage of minerals would be raised. The Director of Mining and Geology to whom the case was reported (July 1989) intimated (March 1990) that the demand for Rs.1.40 lakhs had since been raised (August 1989) but the lessee had not paid the dues. Further report had not been received (April 1991).

The matter was reported to Government in July 1989.

7.3 Loss of revenue due to non-realisation of mining dues

Under the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease shall pay to the State Government every year Dead Rent

at such rate as may be specified in the third schedule, for all the areas included in the instrument of lease. The provision of the Act and the Minerals Concession Rules 1960 also provide that if the lessee fails to undertake the mining operation within a period of one year from the date of execution and fails to deposit the mining dues, the lease shall lapse and the mining lease is to be determined by Government after giving due notice.

In Mining Circle, Keonjhar, it was noticed (September 1989) that one soap stone mine (385 hectares) was leased out for a period of 20 years with effect from 24.6.1984. The lessee had neither worked the mine nor paid the Government dues despite issue of demand notices. The Mining Officer however referred the matter to Government to determine the lease during March 1989, only after a lapse of over 4 years without taking any effective steps to realise the dues instead of referring the matter about non-working of the mine, by the lessee, after one year from the date of execution of lease. The lease was ultimately lapsed by Government proceedings dated 28.10.1989. As a result of the delay, Government dues amounting to Rs.64,223 (Dead Rent : Rs.58,849) and Interest: Rs.5,374) for the period from June 1984 to June 1989 could not be realised (June 1990).

On this being pointed out in audit (September 1989) the Mining Officer stated (September 1989) that advice of the Government pleader had been sought regarding realisation of the dues (July 1989), in the absence of any property held by the lessee. It was further reported (February 1990) that since there was no property in the name of the lessee, it was difficult to realise the dues and proposal to waive the dues would be submitted.

The matter was reported to the Director of Mining and Geology/Government (November 1989) followed by reminder (February 1991); their reply has not been received (April 1991).

7.4 Non-raising/non-realisation of dead rent and surface rent

Under the Mines and Minerals (Regulation and Development) Act, 1957, the holder of a mining lease shall pay to the State Government, every year, dead rent at such rate as may be prescribed from time to time in the third schedule for all areas included in the instrument of lease. The dead rent was enhanced from 5th May 1987. The lessee is also liable to pay surface rent at the prescribed rate in respect of all parts of the surface of the land which shall from time to time be occupied or used by him as provided under the Mineral Concession Rules 1960.

In the Mining Circle, Talcher (Dhenkanal District) a lease of graphite mine over an area of 155.39 hectares was executed on 20.4.1971 for a period of 20 years and surface right for an area of 6.130 hectares was also granted (December 1974). It was noticed in audit (December 1988) that the Senior Mining Officer raised a demand of Rs.33,726 (Dead Rent: Rs.33,519 and Surface Rent: Rs.207) for the period from July 1975 to June 1987. The lessee did not pay the above government dues for which no effective steps were taken for realisation. No demand for the subsequent period from July 1987 was raised. The amount that escaped demand worked out to Rs.35,026 for the period from July 1987 to December 1988 and Rs.2706 being the differential dues from 5.5.1987 to 30.6.1987 (the rate of dead rent was revised from 5.5.87).

On this being pointed out in audit (December 1988) the Senior Mining Officer stated (December 1988) that the demand was not raised as the lessee had filed a revision petition with Government of India, disputing the demand. Even so, non-raising of demand was not justified in the absence of any stay order to that effect. Further

the instructions of the Director of Mining & Geology, Orissa, issued in April 1989 and February 1990, to raise demands were also not promptly attended to and the amount of dead rent and surface rent not demanded, stood at Rs.61,103 upto the end of December 1989. The Deputy Director of Mines (now redesignated) intimated (August 1990) that the assessment has been completed and the demand would be raised soon.

The matter was reported to Government (March 1989) followed by reminder (February 1991); their reply has not been received (April 1991).

7.5 Non-levy of interest on mining dues

Under the Mineral Concession Rules, 1960, as amended in October, 1982, in cases of belated payment of dead rent, royalty or other government dues, simple interest at the rate of 15 per cent per annum on the amount in default may be charged from the lessee from the sixteenth day of the expiry of the date fixed by Government for payment of such dues till the default continues.

In two Mining Offices (Jaipur Road and Talcher) interest had not been levied in 6 cases of belated payment of royalty during the period from May 1987 to December 1988. Interest realisable in these cases amounted to Rs.70,983.

On the omission being pointed out in audit (November 1989 and March 1990), the Senior Mining Officers stated (November 1989 and March 1990) that demand would be issued and interest due realised. The Director of Mining and Geology to whom the cases were reported (November 1989 and March 1990), however intimated (September 1990) that demand notices have been served. It was further reported (February 1991) that an amount of Rs.68,410 was realised in October 1990).

The cases were reported to Government in November 1989 and March 1990).

CHAPTER 8

ENTERTAINMENTS TAX

8.1 Non-realisation of surcharge

Under Section 7-A(i)(a) of the Orissa Entertainments Act, 1946 (as amended from 17th September 1985) in addition to the entertainment tax, surcharge at the prescribed rates is payable in respect of every payment of admission to the entertainment, in specified cities. The Commissioner of Commercial Taxes, Orissa in his letter dated 21st November 1988 had clarified that the proprietors of show houses who were allowed to pay a lump sum amount of tax by way of compounding, are not exempted from paying surcharge and that they have to calculate the surcharge payable on the basis of accounts maintained by them and pay the same to Government, and instructed all the assessing officers to mention clearly in the certificate of compounding that the composition money fixed is exclusive of surcharge U/s 7-A of the Act.

In Bolangir Circle, one show house which was permitted to pay tax by way of compounding, collected surcharge to the tune of Rs.2.34 lakhs in the year 1987-88 but had not paid the amount to Government. While completing the assessment (November 1988) the assessing officer also did not raise the demand.

On this being pointed out in audit (March 1990) the assessing officer stated that surcharge was not demanded according to an earlier clarification of 29th March 1988 issued by Commissioner of Commercial Taxes (Orissa) that the provisions of Section 7A of the Act regarding levy of surcharge are applicable only to cases where tax is paid depending on the payment made for admission and not by any other mode of payment. But the reply is not tenable in view of the fact that the words "admission" occurring in Section 7A of the Act also includes the cases compounded under Section 5,

which takes into account the estimated amount of payments received for admission. Further, this legal position had been clarified by the Commissioner in his letter dated 21st November 1988.

The matter was reported to Government in June 1990 followed by reminder (February 1991); their reply is awaited (April 1991).

BHUBANESWAR

The

27 JUN 1991



(D.N.PRASAD)

Accountant General (Audit)-II
Orissa

Countersigned



(C.G.SOMIAH)

Comptroller and Auditor General
of India

NEW DELHI

The

19 JUL 1991

OGP-MP-XII (A. G.) 1-1,200-31-5-1991